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Congressional Record

PROCEEDINGS AND DEBATES OF THE *100th* CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 14, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of Simon Browne (1680-1732):

"Come gracious Spirit, Heavenly Dove,
With light and comfort from above;
Be Thou our Guardian, Thou our Guide,
O'er every thought and step preside.
The light of touch to us display,
And make us know and choose the way;
Plant holy fear in every heart,
That we from God may ne'er depart."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1020. An act to create the Office of Librarian of Congress Emeritus; and

S. Con. Res. 53. Concurrent resolution to authorize the reprinting of Senate Report 100-9, 100th Congress, 1st session.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT, FRIDAY, MAY 15, 1987, TO FILE REPORT ON H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight on Friday, May 15, 1987, to file a report on H.R. 5, the School Improvement Act of 1987.

I have cleared this with the minority on the committee, and the gentleman from Vermont [Mr. JEFFORDS], the ranking minority member, joins with me in this request.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE HONORABLE STEWART B. McKINNEY

(Mr. GEKAS asked and was given permission to address the House for 1 minute.)

Mr. GEKAS. Mr. Speaker, as we know, the session for today is abbreviated because of the untimely passing of the gentleman from Connecticut, Stewart B. McKinney, one of our dear colleagues.

Because of the funeral arrangements that have been set for today, naturally there will be no session.

I cannot think of a better way to honor our colleague than to declare this a pro forma session, and to allow us to pause in the week's deliberations in deference to him.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. SMITH of New Jersey in two instances.

(The following Members (at the request of Mr. HAWKINS) and to include extraneous matter:)

Mr. BEILENSON.
Mr. RUSSO.
Mr. MFUME.

ADJOURNMENT

Mr. HAWKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes a.m.) under its previous order, the House adjourned until Monday, May 18, 1987, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of calendar year 1986 and the first quarter of calendar year 1987 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

NOTICE

Effective May 18, 1987, the subscription price of the Congressional Record will be increased to $225.00 per year or $112.50 for six months. Individual issues may be purchased for $1.50 per copy. The cost for the microfiche edition remains the same, $118.00 per year, or $1.50 per issue.

This price increase is necessary to meet current production and distribution costs in order for the Record subscription program to be self-sustaining.

By order of the Joint Committee on Printing.

FRANK ANNUNZIO, *Chairman.*

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. William D. Ford	11/28	12/6	England			393.64	568.60			393.64	568.60
Hon. William (Bill) Clay	11/29	12/6	England			314.91	454.88			314.91	454.88
William Danvers	11/13	11/18	Turkey								
	11/18	11/21	Austria								
Military transportation							2,738.21				2,738.21
Committee total							3,761.69				3,761.69

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, May 5, 1987.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Codel Hoyer miscellaneous	11/8	11/12	Austria				3,559,86		8,921.56		12,481.42
	11/18	11/19									
Expenses from previous quarter (to include representation funds, control room, Embassy overtime, telephone and xerox charges).	11/13	11/18	Turkey				1,135,16		262.27		1,397.43
Committee total							4,695.02		9,183.83		13,878.85

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Apr. 30, 1987.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Germany, France, Luxembourg, and Spain, Jan. 9–18, 1987:											
Hon. Ike Skelton	1/9	1/12	Germany		181.54						181.54
	1/12	1/14	France		418.13						418.13
	1/14	1/16	Germany		51.03						51.03
	1/16	1/18	Spain		107.59						107.59
Military transportation							1,174.43				1,174.43
Mr. John F. Lally	1/9	1/12	Germany		203.58						203.58
	1/12	1/14	France		380.43						380.43
	1/14	1/15	Germany		42.68						42.68
	1/15	1/16	Luxembourg		110.00						110.00
	1/16	1/16	Germany								
	1/16	1/18	Spain		113.80						113.80
Military transportation							1,174.43				1,174.43
Mr. Williston B. Cofer, Jr	1/9	1/12	Germany		221.38						221.38
	1/12	1/14	France		364.37						364.37
	1/14	1/15	Germany		50.88						50.88
	1/15	1/16	Luxembourg		162.71						162.71
	1/16	1/16	Germany								
	1/16	1/18	Spain		113.80						113.80
Military transportation							1,174.43				1,174.43
Committee total					2,521.92		3,523.29				6,045.21

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, May 7, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jerry Huckaby	1/11	1/13	Philippines	5,359.50	260.00						260.00
	1/13	1/16	Indonesia	774,900.00	474.00						474.00
	1/16	1/18	India	3,338.00	256.00						256.00
	1/18	1/21	Korea	423,120.00	492.00						492.00
Military transportation							9,528.69				9,528.69
James R. Lyons	3/25	3/26	Canada	655.72	497.78						497.78
Commercial transportation							566.79				566.79
Committee total					1,979.78		10,095.48				12,075.26

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, Apr. 30, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jim Kolbe	2/26	2/28	Mexico		150.00						150.00
Transportation (Defense)							3,060.00				3,060.00
Hon. Matt McHugh	2/12	2/13	Guatemala		80.00						80.00
	2/13	2/15	El Salvador		150.00						150.00
	2/15	2/15	Nicaragua								
	2/15	2/17	Honduras		302.00						302.00
	2/17	2/18	Costa Rica		132.00						132.00
Transportation (Defense)							1,515.00				1,515.00
Hon. John Murtha	2/11	2/13	Israel		103.00		3,099.00				3,202.00
	3/6	3/7	Honduras		126.00						126.00
	3/7	3/7	El Salvador				993.00				993.00
Hon. David Obey	2/12	2/13	Guatemala		80.00						80.00
	2/13	2/15	El Savador		150.00						150.00
	2/15	2/15	Nicaragua								
	2/15	2/17	Honduras		302.00						302.00
	2/17	2/18	Costa Rica		132.00						132.00
Transportation (Defense)							1,515.00				1,515.00
Hon. John Porter	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		83.13		670.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Transportation (Defense)							9,528.69				9,528.69
Hon. Frank Wolf	1/10	1/12	El Salvador						56.65		56.65
	1/12	1/14	Nicaragua		150.00						150.00
	1/14	1/15	Honduras		75.00						75.00
	1/15	1/16	Costa Rica		75.00						75.00
Transportation (Defense)							1,594.93				1,594.93
Robert V. Davis	1/8	1/10	California		250.00						250.00
	1/12	1/16	Australia		544.00		6,618.7				7,162.57
Sandra A. Gilbert	1/8	1/10	California		250.00						250.00
	1/12	1/16	Australia		544.00		6,539.36				7,083.36
Terry R. Peel	2/12	2/12	Guatemala		80.00						80.00
	2/13	2/15	El Salvador		150.00						150.00
	2/15	2/15	Nicaragua								
	2/15	2/17	Honduras		302.00						302.00
	2/17	2/18	Costa Rica		132.00						132.00
Transportatioin (Defense)							1,515.00				1,515.00
John G. Plashal	2/11	2/13	Israel		103.00		3,099.00				2,202.00
	3/6	3/7	Honduras		126.00						126.00
	3/7	3/7	El Salvador				993.00				993.00
William Schuerch	2/12	2/13	Guatemala		80.00						80.00
	2/13	2/15	El Salvador		150.00						150.00
	2/15	2/15	Nicaragua								
	2/15	2/17	Honduras		302.00						302.00
	2/17	2/18	Costa Rica		132.00						132.00
Tranportation (Defense)							1,515.00				1,515.00
Committee total					6,634.00		41,739.71		696.03		49,069.74
Appropriations, surveys and investigations staff:											
Sharon A. Cekala	2/4	2/9	Korea		570.00		2,154.00		30.43		2,754.43
	2/9	2/13	Japan		400.00						400.00
	2/22	2/27	Germany		708.75		1,879.00		34.26		2,622.01
George M. Delgado	2/21	3/7	Germany		1,616.50		2,009.00		38.25		3,663.75
Alfred J. Finch	3/8	3/20	Germany		960.00		2,525.00		4.20		3,489.20
	3/20	3/26	England		569.00						569.00
John A. Friel, Jr	2/5	2/9	Korea		436.50		2,799.10		25.82		3,261.42
	2/9	2/14	Japan		500.00						500.00
	2/14	2/18	Philippines		303.75						303.75
	2/18	2/20	Japan		324.00						324.00
Jerry M. Graves	3/17	3/18	Bahamas		150.00		305.00		8.40		463.40
William P. Haynes	2/16	2/26	Germany		825.00		2,348.00		16.80		3,189.80
	2/26	3/3	England		412.50						412.50
William A. Hill	3/12	3/14	Japan		486.00		2,604.53		30.66		3,121.19
	3/29	3/31	Germany		420.00						420.00
Robert E. Jamison	2/22	3/3	Italy		1,297.00		2,370.00		26.25		3,693.25
Conrad L. Janus	2/22	3/7	Germany		1,536.75		1,938.00		10.14		3,484.89
Roy T. Mason	2/21	3/7	Germany		1,536.75		2,009.00		2.10		3,907.45
Henry P. McDonald, Jr	2/22	3/3	Italy		1,428.25		2,450.00		29.20		3,907.45
Robert L. Meyer	2/21	3/4	Germany		1,151.25		2,730.00		58.22		3,939.47
	3/4	3/7	England		608.00						608.00
Douglas D. Nosik	2/22	3/3	Italy		1,411.00		2,375.00		47.00		3,833.00
Robert J. O'Brien	2/22	3/3	Italy		1,428.25		2,370.00		69.00		3,867.25
Robert H. Pearre	2/16	2/26	Germany		918.75		1,773.00		28.00		2,719.75
Clerio P. Pin	3/8	3/20	Germany		960.00		2,525.00		42.70		3,527.70
	3/20	3/28	England		855.00						855.00
Steven R. Pletcher	2/16	2/26	Germany		825.00		2,112.00		46.45		2,983.45
	2/26	3/3	England		412.50						412.50
Robert D. Pullen	2/16	2/26	Germany		862.50		1,773.00		5.01		2,640.51
Joseph M. Stehr	3/12	3/14	Japan		486.00		2,525.00				3,011.00
Martha M. Valencia	2/22	3/4	Germany		1,038.75		2,730.00		113.25		3,882.00
	3/4	3/7	England		608.00						608.00
Graham W. Van Note	2/16	2/21	Germany		487.50		1,907.00		27.79		2,422.29
	3/8	3/14	Germany		590.00		1,877.00		31.04		2,498.04
R.W. Vandergrift, Jr	3/1	3/6	England		912.00		2,329.00		52.08		3,293.08
Carlton A. Weiss	2/5	2/9	Korea		436.50		2,799.10		18.78		3,254.38
	2/9	2/14	Japan		500.00						500.00
	2/14	2/18	Philippines		303.75						303.75
	2/18	2/20	Japan		324.00						324.00
Lawrence J. Welk	3/17	3/18	Bahamas		150.00		305.00		6.30		461.30
Committee staff total					29,749.50		55,520.73		802.13		86,072.36

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Apr. 30, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Bill Richardson, MC	1/11	1/13	Phillipines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military air							9,528.69				9,528.69
Wm. M. Kitzmiller	2/6	2/13	Thailand		1,144.00						1,144.00
	2/16	2/19	Thailand		429.00						429.00
Commercial air fare							4,541.00				4,541.00
Jack Clough	1/11	1/25	Australia		1,741.50		74.91				1,816.41
Commercial air fare							5,873.60				5,873.60
Richard Frandsen	1/11	1/25	Australia		1,741.50		74.91				1,816.41
Commercial air fare							5,873.60				5,873.60
Jan Edlestein	1/11	1/25	Australia		1,741.50		74.91				1,816.41
Commercial air fare							5,873.60				5,873.60
Teresa A. Gorman	1/11	1/25	Australia		1,741.50		74.91				1,816.41
Commercial air fare							5,873.60				5,873.60
David B. Finnegan	2/22	2/26	Austria		760.00						760.00
Commercial air fare							3,707.00				3,707.00
Gerald P. Dodson	2/22	2/27	Austria		900.00						900.00
Commercial air fare							3,707.00				3,707.00
Teresa A. Gorman	2/22	2/26	Austria		760.00						760.00
Commercial air fare							3,707.00				3,707.00
Mickey Leland, MC	11/30	12/5	Taiwan		930.00						930.00
Commercial air fare							3,576.00				3,576.00
David Nelson	11/6	11/12	Brazil		675.00						675.00
	11/13	11/14	Uruguay		75.00						75.00
	11/14	11/19	Argentina		510.00						510.00
	11/19	11/21	Venezuela		150.00						150.00
	11/21	11/22	Curacoa. N.A.		187.50						187.50
Commercial air fare							2,840.00				2,840.00
Michael Bilirakis, MC[3]											
Dan Coats, MC[3]											
Gerry Sikorski, MC[3]											
Committee total					14,968.50		55,554.89		644.38		71,167.77

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Expenses will be filed on supplemental report.

JOHN D. DINGELL, Chairman, May 7, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
N. Agris	3/6	3/8	El Salvador		[3] 163.41				22.78		186.19
	3/8	3/9	Nicaragua		306.00						306.00
Military transportation							2,901.28				2,901.28
D. Bereuter	1/10	1/12	Jamaica		444.00						444.00
	1/12	1/14	Costa Rica		264.00						264.00
	1/18	1/20	Dominican Republic		385.00						385.00
	1/20	1/21	Haiti		134.00						134.00
Military transportation							831.65				831.65
Commercial transporation							1,423.00				1,423.00
H.L. Berman	1/10	1/13	Israel		396.00						396.00
No transportation cost											
K. Bolognese	2/8	2/14	Switzerland		570.00						570.00
	2/11	2/14	Austria		420.00						420.00
Commercial transportation							3,707.00				3,707.00
Total					3,082.41		8,862.93		22.78		11,968.12
D. Bonker	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
M. Bowman	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
T. Bruce	2/10	2/17	Switzerland		1,358.00						1,358.00
Commercial transportation							3,489.00				3,489.00
R. Bush	1/24	1/27	Haiti		102.00		42.00				144.00
Commercial transportation							1,196.30				1,196.30
					4,424.00		24,093.00		1,288.76		29,805.76
	2/9	2/10	Mexico		150.00						150.00
	2/10	2/12	Panama		294.00						294.00
	2/12	2/13	Guatemala		172.50						172.50
	2/13	2/15	El Salvador		250.00						250.00
	2/15	2/17	Honduras		265.00						265.00
	2/17	2/18	Costa Rica		132.00						132.00
	2/18	2/20	Nicaragua		153.00						153.00
Commercial transportation one way							1,528.00				1,528.00
Military transportation one way							1,515.00				1,515.00
K. Callwood	1/9	1/9	England		123.50						123.50
	1/10	1/13	Zimbabwe		500.00						500.00
	1/13	1/16	Botswana		375.00						375.00
	1/16	1/19	Kenya		408.00				4.85		412.85
	1/19	1/19	Germany		158.00						158.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Commercial transportation							5,244.00				5,244.00
Total					2,981.00		8,287.00		4.85		11,272.85
N. Carman	1/9	1/9	England		123.50						123.50
	1/10	1/13	Zimbabwe		500.00						500.00
	1/13	1/16	Botswana		375.00						375.00
	1/16	1/19	Kenya		408.00						408.00
	1/19	1/19	Germany		73.50						73.50
Commercial transportation							5,167.00				5,167.00
M. Chambers	1/4	1/5	England		197.00		60.00				257.00
	1/5	1/6	Bahrain		206.00						206.00
	1/6	1/8	UAE		430.00						430.00
	1/8	1/14	Pakistan		792.00						792.00
	1/14	1/18	India		548.00						548.00
	1/18	1/19	Nepal		150.00						150.00
	1/19	1/20	India		128.00						128.00
	1/20	1/21	Hong Kong		186.00						186.00
Commercial transportation							5,484.37				5,484.37
Total					4,117.00		10,711.37				14,828.37
G. Crockett	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
	3/6	3/8	El Salvador		375.00				22.78		397.78
	3/8	3/9	Nicaragua		306.00						306.00
Military transportation							2,901.28				2,901.28
M. DeWine	3/6	3/8	El Salvador		[3] 320.00				22.78		342.78
	3/8	3/9	Nicaragua		[3] 106.00						106.00
Military transportation							2,901.28				2,901.28
Total					2,589.00		15,485.41		689.94		18,764.35
A. Dunn-Mouton	1/9	1/9	England		123.50						123.50
	1/10	1/13	Zimbabwe		500.00						500.00
	1/13	1/16	Botswana		375.00						375.00
	1/16	1/19	Kenya		408.00				4.85		412.85
	1/19	1/19	Germany		73.50						73.50
Commercial transportation							5,167.00				5,167.00
B.A. Gilman	2/12	2/14	Austria		380.00						380.00
	2/14	2/17	France		657.00						657.00
Military transportation							9,846.56				9,846.56
C. Grunberg	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
Total					3,999.00		24,696.41		649.23		29,344.64
R.M. Hathaway	1/8	1/14	Pakistan		938.00						938.00
	1/14	1/18	India		548.00						548.00
	1/18	1/19	Nepal		150.00						150.00
	1/19	1/22	India		[3] 348.00						[3] 348.00
	1/22	1/28	Pakistan		[3] 800.00						[3] 800.00
Commercial transportation							5,948.00				5,948.00
K. Hughes	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
Total					4,266.00		15,630.85		644.38		20,541.23
R.M. Jenkins	1/7	1/14	Pakistan		938.00						938.00
	1/14	1/20	India		611.06						611.06
	1/18	1/19	Nepal		164.25						164.25
Commercial transportation							5,568.00				5,568.00
	3/6	3/8	El Salvador		375.00				22.78		397.78
	3/8	3/9	Nicaragua		306.00						306.00
Military transportation							2,901.28				2,901.28
W.B. Jones	3/6	3/8	El Salvador		375.00				22.78		397.78
	3/8	3/9	Nicaragua		306.00						306.00
Military transportation							2,901.28				2,901.28
R.J. Lagomarsino	3/6	3/8	El Salvador		375.00				22.78		397.78
	3/8	3/9	Nicaragua		306.00						306.00
Military transportation							2,901.28				2,901.28
R.S. Oliver	3/1	3/3	Switzerland		274.00						274.00
Commercial transportation							3,417.00				3,417.00
Total					4,030.31		17,688.84		68.34		21,787.49
A. Roberts	1/4	1/5	England		197.00						197.00
	1/6	1/6	Bahrain		206.00						206.00
	1/6	1/8	United Arab Emirates		430.00						430.00
	1/8	1/14	Pakistan		792.00						792.00
	1/14	1/18	India		548.00						548.00
	1/18	1/19	Nepal		150.00						150.00
	1/19	1/22	India		384.00						384.00
	1/22	1/27	Pakistan		813.00						813.00
Commercial transportation							4,840.00				4,840.00
	2/12	2/14	Austria		380.00						380.00
	2/14	2/17	France		657.00						657.00
Military transportation							9,846.56				9,846.56
S. Roth	1/1	1/5	Philippines		[3] 305.15						305.15

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial transportation							3,871.00				3,871.00
Total					4,862.15		18,557.56				23,419.71
T. Roth	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
M. Sletzinger	2/12	2/16	Austria		760.00						760.00
	2/16	2/17	Czechoslovakia		101.00						101.00
Military transportation							9,846.56				9,846.56
S.J. Solarz	1/24	1/27	Haiti		102.00						102.00
Commercial transportation							1,196.30				1,196.30
	2/9	2/10	Mexico		150.00						150.00
	2/10	2/12	Panama		294.00						294.00
	2/12	2/13	Guatemala		172.50						172.50
	2/13	2/15	El Salvador		250.00						250.00
	2/15	2/17	Honduras		238.00						328.00
Total					3,639.50		20,725.71		644.38		25,009.59
	2/17	2/18	Costa Rica		132.00						132.00
	2/18	2/20	Nicaragua		153.00						153.00
Commercial transportation one-way							1,528.00				1,528.00
Military transportation one-way							1,515.00				1,515.00
R. Torricelli	2/12	2/13	Turkey		156.00						156.00
	2/13	2/18	Iraq		627.90						627.90
Commercial transportation							4,676.00				4,676.00
	2/26	2/28	England		252.00						252.00
No transportation cost											
T. Verstandig	2/12	2/13	Guatemala		80.00						80.00
	2/13	2/15	El Salvador		150.00						150.00
	2/15	2/17	Honduras		302.00						302.00
	2/17	2/18	Costa Rica		132.00						132.00
Military transportation							1,515.00				1,515.00
Total					1,984.90		9,234.00				11,218.90
H. Weinberg	1/4	1/6	Bahrain		412.00						412.00
	1/6	1/8	United Arab Emirates		860.00						860.00
	1/13	1/15									
	1/8	1/11	Pakistan		410.00						410.00
	1/11	1/13	Kuwait		430.00						430.00
Commercial transportation							5,119.00				5,119.00
S. Weissman	1/9	1/9	England		123.50						123.50
	1/10	1/13	Zimbabwe		500.00						500.00
	1/13	1/16	Botswana		375.00						375.00
	1/16	1/19	Kenya		408.00				4.85		412.85
	1/19	1/19	Germany		73.50						73.50
Commercial transportation							5,167.00				5,167.00
J. White	1/11	1/13	Philippines		260.00		40.58		325.09		625.67
	1/13	1/16	Indonesia		474.00		113.58		88.13		675.71
	1/16	1/18	India		256.00						256.00
Total					4,582.00		10,440.16		418.07		15,440.23
	1/18	1/21	Korea		492.00				231.16		723.16
Military transportation							9,528.69				9,528.69
	2/8	1/20	France		338.00						338.00
	2/10	2/12	Belgium		384.00						384.00
	2/12	2/13	Italy		194.00						194.00
Commercial transportation							4,070.00				4,070.00
H. Wolpe	1/9	1/9	England		123.50						123.50
	1/10	1/13	Zimbabwe		500.00						500.00
	1/13	1/16	Botswana		375.00						375.00
	1/16	1/19	Kenya		408.00				4.85		412.85
	1/19	1/19	Germany		73.50						73.50
Commercial transportation							5,167.00				5,167.00
Total					2,888.00		18,765.69		236.01		21,889.70
Grand total for 1st quarter											255,290.94

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

DANTE B. FASCELL, Chairman, Apr. 30, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Guy Molinari	1/10	1/12	El Salvador		150.00				56.65		206.65
	1/12	1/14	Nicaragua		150.00						150.00
	1/14	1/15	Honduras		75.00						75.00
	1/15	1/16	Costa Rica		75.00						75.00
Military transportation—Air Force							1,594.93				1,594.93
Committee total					450.00		1,594.93		56.65		2,101.58

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

G.V. MONTGOMERY, Chairman, Apr. 29, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Representative Steny H. Hoyer	2/12	2/16	Austria		760.00		[3] 11,646.47				12,406.47
	2/16	2/17	Czechoslovakia		151.00						151.00
Representative Christopher Smith	2/12	2/16	Austria		760.00		[3] 11,646.47				12,406.47
	2/16	2/17	Czechoslovakia		151.00						151.00
Mary Sue Hafner	2/12	2/16	Austria		760.00		[3] 11,646.47				12,406.47
	2/16	2/17	Czechoslovakia		151.00						151.00
Judith Ingram	2/12	2/16	Austria		760.00		[3] 11,646.47				12,406.47
	2/16	2/17	Chechoslovakia		151.00						151.00
R. Spencer Oliver	2/12	2/16	Austria		760.00		[3] 11,646.47				12,406.47
			Czechoslovakia		151.00		2,131.00				151.00
Codel Hoyer transportation							2,245.48				2,245.48
Lynne Davidson	1/20	3/28	Austria		9,236.00		2,131.00		341.86		11,708.86
Robert Hand	1/25	4/11	Austria		9,456.00		2,131.00				11,587.00
Catherine Cosman	1/25	2/28	Austria		4,676.00		2,131.00				6,807.00
Samuel G. Wise	1/25	2/27	Austria		2,268.00		2,131.00				4,399.00
Meredith Brown	2/9	2/20	Austria		1,540.00		2,131.00				3,671.00
Deborah Burns	2/9	2/27	Austria		2,520.00		2,131.00				4,651.00
Samuel G. Wise	3/8	3/21	Austria		910.00		1,573.00				2,483.00
Barbara Edwards	3/15	4/11	Austria		3,780.00		2,131.00				5,911.00
Samuel G. Wise	3/26	4/11	Austria		1,120.00		1,134.00				2,254.00
Committee total					40,061.00		78,101.83		341.86		118,504.69

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Round trip military transportation.

STENY H. HOYER, Apr. 30, 1987.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1407. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 8(o)(3) of the Housing Act of 1937 to permit families assisted under title V of the Housing Act of 1949 to be eligible to receive rural housing vouchers; to the Committee on Banking, Finance and Urban Affairs.

1408. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Education and Labor.

1409. A letter from the Attorney General, Chairman, National Drug Enforcement Policy Board, U.S. Department of Justice, transmitting a report, as Chairman of the National Drug Policy Board, on the subject of narco terrorism, which summarizes contributions of several departments and agencies which have made an effort to determine if a linkage exists between drug trafficking and terrorism, pursuant to Public Law 99-570; to the Committee on Foreign Affairs.

1410. A letter from the Attorney General, Chairman, National Drug Enforcement Policy Board, U.S. Department of Justice, transmitting a report, as Chairman of the National Drug Policy Board, in response to section 7003 of the Anti-Drug Act of 1986, advising that on the basis of a thorough review of the current Federal organization for narcotics control, as established under the Board, the President has determined that no further legislation is needed in this regard, pursuant to Public Law 99-570; to the Committee on the Judiciary.

1411. A letter from the Administrator, Small Business Administration, transmitting four drafts of proposed legislation; to amend the Small Business Act; to amend the Small Business Investment Act of 1958, and for other purposes; to amend section 501(a) of the Small Business Act to increase the authority of the Administrator of the Small Business Administration to expend funds, without advertisement, for certain purposes, to simplify the method for calculating interest payments to the Department of the Treasury and for other purposes; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 12, 1987, the following report was filed on May 14, 1987]

Mr. LAFALCE: Committee on Small Business. H.R. 2166, a bill to amend the Small Business Act and the Small Business Investment Act of 1958 (Rept. 100-94). Referred to the Committee of th Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON (for himself and Mr. MONTGOMERY):

H.R. 2428. A bill to prohibit the Administrator of Veterans' Affairs from excessing certain Veterans' Administration medical centers in West Los Angeles and Sepulveda, CA; to the Committee on Veterans' Affairs.

By Mr. GLICKMAN (for himself, Mr. SYNAR, Mr. CARDIN, and Mr. HYDE):

H.R. 2429. A bill to amend title 17, United States Code, to allow the performance of audiovisual works for inpatients in health care facilities; to the Committee on the Judiciary.

By Mr. GRADISON (for himself, Mr. ANDREWS, Mr. CHANDLER, Mr. CRANE, Mr. DORGAN of North Dakota, Mr. GREGG, Mr. STARK, and Mr. VANDER JAGT):

H.R. 2430. A bill to provide an administrative procedure for certain noncontroversial suspensions of tariffs; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 2431. A bill to extend for 3 years the reduction of duty on caffeine; to the Committee on Ways and Means.

By Mrs. LLOYD:

H.R. 2432. A bill to extend until January 1, 1991 the existing suspension of duty on sulfathiazole, sulfamethazine, and sodium sulfamethazine; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN:

H.R. 2433. A bill to amend title 18, United States Code, to prohibit certain arrangements commonly called surrogate motherhood, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DENNY SMITH (for himself and Mr. BLAZ):

H.R. 2434. A bill to designate the westernmost point of Guam as Point Udall, and to provide for the placement of a plaque on such point, in honor of Morris Udall; to the Committee on Interior and Insular Affairs.

By Mr. STALLINGS (for himself, Mr. GUNDERSON, Mr. ENGLISH, Mr. BEREUTER, Mr. LEHMAN of California, Mr. CRAIG, Mr. PENNY, Mr. JONTZ, Mr. LIGHTFOOT, Mr. MORRISON of Washington, Mr. WEBER, Mr. NAGLE, Mr. EVANS, and Mr. ROBERTS):

H.R. 2435. A bill to amend the Farm Credit Act of 1971 to provide a secondary market for agricultural mortgages, and for other purposes; to the Committee on Agriculture.

By Mr. WELDON:

H.R. 2436. A bill to extend for 3 years the suspension of duty on hovercraft skirts; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. DYSON and Mr. BOEHLERT.

H.R. 344: Mr. BARTLETT.

H.R. 1349: Mr. DAVIS of Illinois, Mr. PARRIS, Mr. OWENS of New York, Mr. SCHEUER, Mr. BLILEY, Mr. BATEMAN, Mr. DORNAN of California, Mr. GREEN, Mr. ATKINS, Mr. DIOGUARDI, and Mr. BILIRAKIS.

H.R. 2272: Mr. BARTLETT.

H.R. 2273: Mr. BARTLETT.

SENATE—*Thursday, May 14, 1987*

(Legislative day of Wednesday, May 13, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

There is no power but of God, the powers that be are ordained of God.—Romans 13:1.

Almighty God, in whom is all power, save us from the presumption that power belongs to us to use as we please. Help us to understand that to be empowered is safe only when we submit to the authority of God. Protect us from the exploitation of power—using it to serve ourselves—our own ends. Keep us mindful that it is given to us to serve others and You. Grant to us mastery over the power that You delegate, that power may not master us and consume us. Receive our unspeakable gratitude for a political system in which servant leaders receive their power from the consent of the people. Give us all the grace to accept that fundamental fact of American greatness and to be accountable to the people and to You in our use of the power which comes from You through their consent. We pray in the name of Him in whom resides all power in Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 14, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

RESERVATION OF LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I reserve my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

RECESS UNTIL 9:19 A.M.

Mr. BYRD. Mr. President, it appears that no Senator wishes to speak for the present. So I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate at 9:04 a.m. recessed until 9:19 a.m.; whereupon the Senate reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Chair in his capacity as a Member of the body notes the absence of a quorum, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

AT WHAT LEVEL SHOULD THE CONGRESS FUND SDI?

Mr. PROXMIRE. At what level should the Congress fund the strategic defense initiative also known as SDI and as star wars? The House of Representatives on Tuesday took remarkable action in voting funding for SDI. Consider the record:

The President asked for an increase in SDI funding from the 1987 level of $3.7 billion to $5.7 billion in fiscal 1988. The Senate Armed Services Committee has recommended an authorization level of $4.5 billion. This would be a sharp $800 million, nearly 22-percent increase in funding in a single year and at a time when the military budget overall is being held to an increase that will barely cover the expected rise in inflation. So what was the response of the House? On Tuesday, the House of Representatives—not the House Armed Services Committee but the House as a whole not only voted for no increase, the House actually voted for a reduction and a big reduction in SDI funding. They voted to cut funding for SDI—and get this—to $3.1 billion. That represents a cut of 20 percent or $600 million in SDI funding. Chairman LES ASPIN of the House Armed Service Committee described that House reduction as "purely a matter of tactics to get a lower number on the House side so we can bargain with the Senate." The House did decisively reject an amendment proposing a reduction in star wars funding to $1.2 billion. It also rejected by an overwhelming 301 to 122 vote an amendment by Congressman JACK KEMP to deploy an initial defense against ballistic missiles by 1993.

So what should be the Senate target for funding SDI? A detailed survey of the physicists, engineers, and mathematicians who are members of the National Academy of Science found a consensus of these preeminent experts favor a funding at a $1.5 billion or far less than half of this year's—1987's—funding level. This would keep SDI research alive at a modest level. It would recognize the desirability of keeping the antimissile technology moving ahead, but more cautiously. That funding level demonstrates the overwhelming conviction of these National Academy of Sciences experts that this program is several decades away from any decision to deploy an antimissile system. Why is this? Why is this program that is so fervently championed by President Reagan and his administration as the top military priority, receiving such relatively modest support by this country's most respected and eminent scientific experts? The answer came a few weeks ago when a well-balanced panel sponsored by the American Physical Society and including top military experts from the Defense Department as well as interna-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

tionally recognized American scientific experts found the prospects of deploying an SDI system that could actually defend against a Soviet nuclear attack very unlikely indeed. This panel concentrated on the laser and particle beam weapons that are essential to the near perfect defense that would be required against a force that could launch 10,000 strategic nuclear warheads at American targets. The panel found that the development of these weapons would require an improvement that varied from a factor of 100—that is the weapons would have to improve a hundredfold to a factor of 1 million—this would require a millionfold improvement in effectiveness—to provide an adequate defense. Furthermore, the panel declared that some of the proposed weapons might not even meet sound scientific principles. The implications of the panel study were clear.

Here is a technology that may or may not succeed in the future. But that future is many decades—probably many generations away. Given our very serious fiscal problems, given our record deficits, given the fact that the rock on which our military strength is and always has been based is the strength of our economy and in view of the serious danger to our economy of immensely heavy Federal spending, the SDI program should be brought down to earth and brought under fiscal control. That means a level of funding in line with other military programs. When our most respected scientific experts tell us to proceed at a measured pace on this program, when they in fact suggest by a very large consensus a substantial reduction in the program, how can we possibly justify pushing ahead as the Senate Armed Service Committee recommends with a 22 percent, $880 million increase in a single year?

Keep in mind, Mr. President, that dollars are not the only consideration in our decision on the level of funding for SDI. Those dollars will determine where our most gifted scientists, technicians and engineers will work. A $4 billion SDI research program would absorb thousands more of this invaluable scientific technological talent than a $3 billion program. Many of these gifted scientists and engineers will come from other defense projects—developing tanks and planes, submarines and other crucial defense weapons. The Secretary and Chief of Staff of the Army testified before the Defense Appropriations Committee earlier this week that the Army will spend more this year on SDI research than they will spend on all the rest of their entire technological base.

In sum our national security will be far better served by keeping funding for SDI as close to the $3 billion level as possible instead of pouring ever more dollars into this technology that many never contribute to our national security and if it does that contribution certainly will not develop for decades to come.

Mr. President, how much time does the Senator from Florida require?

Mr. GRAHAM. Five minutes would be sufficient.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized for 5 minutes.

DEPARTMENT OF THE INTERIOR'S PROPOSED FINAL OUTER CONTINENTAL SHELF 5-YEAR PLAN

Mr. GRAHAM. Mr. President, I would like to express my deep concern regarding the Department of the Interior's proposed final 5-year plan on oil and gas leasing on the Outer Continental Shelf. On two recent occasions I joined with the Florida delegation in outlining, to Secretary Hodel, our objections to the plan.

The areas within my State of Florida which would be subject to lease under the proposed 5-year plan, include several extremely fragile and vulnerable coastal environments. They are areas of unsurpassed beauty, home to rare and endangered species, productive commercial fishing grounds, sites of historic shipwrecks, complex and thriving marine ecologies, and diverse live-bottom communities.

The largest living coral reef system in the world could be threatened—as could the precarious existence of the Florida key deer, the American crocodile and the manatee. All of those animals are on the Federal endangered species list.

The environmentally sensitive Florida locations currently included for leasing in the 5-year plan encompass:

A portion of the west coast buffer off Apalachicola Bay.

The buffer around the Florida middle ground, a rich marine habitat and the best developed reef off the gulf coast off Florida.

A portion of the South Atlantic nearshore buffer off Cape Canaveral.

But of particular concern are those lease areas adjacent to the Florida Keys, the dry tortugas and the 10,000 islands—which border the Florida Everglades along the gulf coast. Any proposals to lease property here could have adverse—even devastating effects on the Florida Keys and the Florida Everglades.

The State of Florida and the Federal Government both recognized the importance of the unique biospheres and irreplaceable marine environment of these areas. State and Federal cooperation resulted in the Save Our Everglades and Save Our Keys programs which are designed to preserve—and to the extent possible restore the natural qualities and functions of the Keys and the Everglades.

Two of the three leasing areas in question near the Keys are deferred for lease sale 116, with the southern portion of the Straits of Florida deferred until the 1992 lease sale. While I recognize and appreciate the Secretary's efforts in this regard, the plan does not go far enough to prevent potentially significant degradation of the environment.

Environmental studies were received by the State just last week. These long-awaited studies must be analyzed in an effort to determine the environmental risk involved with exploration and drilling before these sensitive areas are slated for inclusion in the 5-year plan.

Exploratory drilling, not to mention the impact in the event of a spill, could threaten these fragile ecosystems, their marine inhabitants and the commercial and recreational values which Florida's economy has traditionally depended on.

The gulf portion of the Straits of Florida is included for a lease sale in 1992. The coral reefs, as well as the Keys themselves, would be at extreme risk from any drilling for oil and gas in the area.

The final environmental impact statement shows that, at best, moderate impacts can be expected for onshore water quality and air quality in the southwest Florida area if development and production of oil and gas occur.

High impact is expected for the Keys and the Everglades. Environmental devastation there would directly and negatively affect recreation and tourism.

Possible conflicts could develop between established shipping routes and areas of potential drilling. For these reasons, this area should be deferred totally from the 5-year plan.

Recently I extended an invitation to Interior Secretary Hodel to visit the Florida Everglades and the Keys with me. I reiterate, today, my invitation to Secretary Hodel. Any intellectual appreciation of the irreplaceable nature of those regions can only be enhanced by firsthand experience.

It is incumbent upon the President and the Secretary to allow for appropriate analysis of the recently released environmental studies and ensure that the environment will not be compromised by any exploration and development activities before including these areas in the 5-year plan.

Within these 60 days we have to reflect on and review the plan before any implementation, I call upon President Reagan and Secretary Hodel to reevaluate the proposed plan and to release a revised plan, deferring these areas of environmental sensitivity,

until we can be absolutely sure that they will suffer no injury from offshore drilling.

Mr. President, I ask unanimous consent to submit a slightly more detailed statement for the Record and include, as part of my statement, editorials from several Florida newspapers which address the proposed 5-year plan.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF INTERIOR'S PROPOSED FINAL OUTER CONTINENTAL SHELF 5-YEAR PLAN

Mr. President, I would like to express my deep concern regarding the Department of Interior's proposed final 5-year plan on oil and gas leasing on the Outer Continental Shelf. I joined the Florida Delegation in outlining our objections to Secretary Hodel on April 8th. Following release of the Secretary's proposed final 5-year plan, I, members of the Florida Delegation, along with members of several other coastal delegations, held a press conference on April 29, outlining the areas in which the plan is unacceptable, in light of the need to protect environmentally-sensitive areas.

In my State of Florida, several areas have been included for one or more of the lease sales within the proposed 5-year plan. These inclusions, I believe, could have significant adverse impacts on the coastal environment. These areas contain a portion of the West Coast Buffer off Apalachicola Bay, the buffer around the Florida Middle Ground, areas in the East Gulf south of 26 degrees Latitude North, the Straits of Florida, and a portion of the South Atlantic Nearshore Buffer off Cape Canaveral.

The areas of greatest concern that have been included for leasing in the 5-year plan are those around the Florida Keys. The area south of 26 degrees North latitude and east of 82 degrees West longitude—north of the Keys in the Eastern Gulf of Mexico—is close to the sensitive Florida Everglades, Ten Thousand Islands and the lower Keys. The area south of 25 degrees North latitude represents an expansion of the Eastern Gulf of Mexico Planning Area and includes the Florida Keys and Dry Tortugas. These areas provide sensitive habitats, as well as recreational value. They hold diverse live-bottom communities, productive commercial fishing grounds and sites of historical significance. The nearby Everglades and the lower Keys are home to the endangered Florida Manatee, American Crocodile, and the Key Deer. The coral reefs off Key Largo and the life teeming in and around them are a unique international treasure.

Two of the three leasing areas in question near the Keys are deferred for Lease Sale 116, with the southern portion of the Straits of Florida deferred until the 1992 lease sale. While I recognize and appreciate the Secretary's efforts in this regard, the plan does not go far enough to prevent potentially significant degradation of the environment.

Environmental studies were received by the State just last week. These long-awaited studies must be analyzed in an effort to determine the environmental risk involved with exploration and drilling in these sensitive areas BEFORE these areas are slated for inclusion in the 5-year plan. Exploratory drilling, not to mention the impact in the event of a spill, could threaten these fragile areas and their marine inhabitants.

The Gulf Portion of the Straits of Florida is included for a lease sale in 1992. The coral reefs as well as the Keys themselves would be at extreme risk with the drilling for oil and gas in the area. The final Environmental Impact Statement shows moderate impacts can be expected for onshore water quality and air quality in the southwest Florida area if development and production of oil and gas occur. High impact is expected for the Keys and the Everglades, while moderate impacts are expected on recreation and tourism. Possible conflicts could develop between established shipping routes and areas of potential drilling. For these reasons, this area should be deferred totally from the 5-year plan.

Again, Mr. President, I appreciate the incorporation of some of our requests in the areas deferred by Secretary Hodel; however, I believe that this plan does not go far enough and is unacceptable in its current form. I would like to state for the record that I believe it is incumbent upon the President and the Secretary to allow for appropriate analysis of the recently-released environmental studies and ensure that the environment will not be compromised by any exploration and development activities before including these areas in the 5-year plan. Within this 60 day period, I call upon President Reagan and Secretary Hodel to re-evaluate the proposed plan and to release a revised plan, deferring these areas of environmental sensitivity, unless the relevant and appropriate studies, through the necessary analyses, indicate no adverse impacts.

UNITED STATES SENATE,
Washington, DC, May 8, 1987.

Hon. DONALD P. HODEL,
Secretary, U.S. Department of Interior, Washington, DC.

DEAR MR. SECRETARY: In light of your proposed final 5-year plan and the concerns which I and my Florida colleagues have in regard to that proposal, I would like to invite you to visit the Florida Keys, before the end of the 60-day period in which the President is reviewing your proposal. In this way, you would be able to experience first hand the fragile nature of the environment in and around the Keys.

The fragile area surrounding the Keys—which includes areas south of 26 degrees North latitude to the south portion of the Straits of Florida—is home to diverse live-bottom communities, productive commercial fishing grounds and sites of historical significance. The nearby Everglades and the lower Keys provide critical habitat for the endangered Florida Manatee, American Crocodile, and the Key Deer. Additionally, the coral reefs off of Key Largo and the life teeming in and around them would be at extreme risk with the drilling of oil and gas in the area.

While I appreciate your willingness to defer some of these areas for one of more lease sales within the 5-year plan, I firmly believe that these areas should be deferred in their entirety from the plan, due to their extreme evironmental sensitivity and the lack of complete environmental studies. I believe that it is incumbent upon you as Secretary of Interior to complete the necessary studies and ensure that the environment will not be compromised by any exploration and development activities *before* including these areas in the 5-year plan.

Your visiting the Florida Keys could be helpful in giving you the additional perspective necessary to establish environmentally sound leasing policy in this area. If you are able to come to Florida within this timeframe, please let me know and we will be happy to assist in making the necessary arrangements. I look forward to your response.

Sincerely,

BOB GRAHAM,
United States Senator.

[St. Petersburg Times April 28, 1987]

OIL LEASES THREATEN FLORIDA COAST

Florida and other coastal states again face the challenge of defending their coastlines—not against violent storm or alien invader, but from the federal government.

Before its time runs out, the Reagan administration has begun a final attempt to lease more than 850-million acres of the U.S. outer continental shelf to big oil companies for oil and gas exploration. Included would be some of the most environmentally sensitive coastline in the world and areas vital to marine fisheries and tourism.

Florida is particularly threatened as vast areas surrounding the Florida Keys, the Dry Tortugas and in the Florida Straits are proposed for offshore oil leases. That is a direct threat to the Everglades National Park and the Ten Thousand Islands, a unique ecosystem of international importance. Also included would be a broad strip along the Panhandle and the Florida Middle Ground, whose verdant sea-grass meadows in the Big Bend area are crucial to the survival of about 80 percent of the commercial and sports fishing species found in the eastern Gulf.

Pleas by Gov. Bob Martinez, a Republican; and Florida's congressional delegation to delete the sensitive areas, so important to the tourist and fishing industries, were for naught. Interior Secretary Donald P. Hodel seems as radical as his predecessor, environmental wrecker James G. Watt, about giving industry an open ticket to exploit natural resources at any cost.

"It isn't so much an outline for energy independence, but environmental suicide," said Rep. Andy Ireland, R-Fla., referring to Interior Department claims that the United States must develop new supplies of domestic energy to avoid dependence on the OPEC cartel.

Hodel's professed concern about national security has a curious ring when the whole record of the Reagan administration has been to retreat from Jimmy Carter's energy conservation policies, abandon the development of alternative fuels and fail to fill the strategic petroleum reserves. How can an administration that has allowed the nation to become more dependent on foreign oil use the threat of an energy crisis to justify reckless offshore drilling?

Hodel's five-year leasing plan involves such gigantic chunks of offshore territory that it is impossible to develop environmental assessments and safeguards for such delicate areas as the Keys and the Everglades. Previous administrations followed the more sensible approach of giving drillers access to much smaller, promising areas for oil exploration and keeping them away from areas that were unsuitable because of environmental, economic or other reasons.

But the administration plan will go into effect within 60 days unless Congress votes to reject it. The Florida delegation plans to join with other endangered coastal states—including California, Oregon and Washington—to fight it.

While the Congress cannot change the overall plan, it can negotiate with the Interior Department for the deletion of sensitive areas, restrict drilling in certain areas by legislation, or withhold appropriations needed for specific lease sales.

To serve Big Oil, the Reagan administration has overridden the coastal states' environmental and economic concerns. We look to Florida's congressional delegation to restore those priorities and distinguish themselves by protecting the coast.

[Tampa Tribune, May 10, 1987]

Offshore Drilling Plan Imperils Florida's Ecology

Plainly speaking, U.S. Interior Secretary Donald Hodel is sticking a knife into Florida's vitals and twisting hard. He is risking the state's economic and environmental welfare for the quick green of oil industry dollars.

A five-year plan for offshore oil leasing that Hodel has submitted to Congress would allow oil and gas exploration in areas off Florida's coast that are critical to its recreational and commercial fishing industries, together worth more than $5 billion annually to the state. And tourism, which could also be ruinously affected by the drilling, is worth $32 billion.

Congress, which can revise the plan, should do just that, deleting those areas especially important to fishlife and to Florida.

That Hodel would allow oil exploration within three miles of Florida Keys' coral reefs shows just how irresponsible the former utilities executive's plan is. The extremely sensitive reefs are endangered by the slightest reduction in water clarity and are certain to be affected by nearby drilling. An oil spill, a small but real possibility, could cause permanent damage.

But the reefs are not the only important sites endangered by Hodel's plan. He would also lease sea bottom near the Everglades National Park, the fish-rich Ten Thousand Islands, and an area off South Florida that is prime habitat for pink shrimp, lobster and endangered sea turtles. Oil exploration would be allowed in a huge slice of the Gulf near Appalachicola Bay, center of the state's oyster industry, and around the Middle Grounds, source of much of the state's grouper and snapper catches.

There is no doubt Hodel's lease proposal would result in ecological damage, even if oil was never discovered. Drilling requires the use of tons of mud to lubricate drill bits. The mud is discarded into the water. Its impact on marine organisms, says Russell Nelson, a biological scientist with Florida Marine Fisheries Commission, is enormous, particularly for wells that will be situated in shallow water.

Even the draft of the Interior Department's environmental impact study for the lease plan concedes the dangers of drilling. It estimates the potential impact on the commercial fishing industry as "high." And it rates the potential impact to "live bottom"—grassy or rocky sea bottom that is marinelife-abundant—as "very high." The study describes that impact as damage to such an extent that the resource "may not recover."

Such risks are unreasonable. Unreasonable, too, are Hodel's claims that the leases are a matter of national security. In truth, he is a member of an administration that has led a galloping retreat from energy conservation. Even the recent Energy Security Report to the President found that without energy efficiency measures, the nation would now be using about 14 million more barrels of oil a day, nearly double current usage.

It is clearly not in the interest of "national security" to quickly harvest the nation's oil—a finite resource—while not making any attempt to throttle energy consumption. Such a policy only hastens the day when we will be completely at the mercy of oil-rich nations. What is needed is a balanced and far-sighted quest not only for more oil, but for fuel conservation and other energy sources.

In any event, oil self-sufficiency may have little relationship to Hodel's decision. Of the 426 blocks of land that have been leased for oil exploration off Florida, the federal government has received more than $2 billion. The state of Florida, which suffers the consequences of any drilling mishap, has received $30,000. It is worth noting, too, that of the 84 exploratory wells that have been drilled off Florida, none has produced oil and all have been capped.

It is unlikely that sites off Florida would significantly diminish the country's energy shortage. It is likely that vital resources will be harmed. Hodel's plan desperately needs revision. So does the secretary's unconscionable disregard for the life of Florida.

[Tallahassee Democrat, April 29, 1987]

Offshore Drilling—Plan Is Environmental Suicide

Two mock 15-foot oil rigs were erected across the street from the Interior Department Monday by Greenpeace, an environmental-protection organization. "We're doing this as a joke," said spokesman Lynn Davidson, "but there was a time before (Interior Secretaries) James Watt and Donald Hodel when we might have considered drilling for oil off the Florida Keys also a joke."

No one who cares about the environment is laughing today. Watt wanted to turn the entire 1.4-billion-acre continental shelf over to oil rigs. Now Hodel has cut that absurd proposal by 46 percent. But oilmen could still drill within three miles of the Florida Keys. And although a buffer zone would keep the rigs 15 miles to 30 miles away from the Gulf Coast area stretching from Naples to Apalachicola Bay, that probably isn't far enough to protect the bay's rich shellfish beds from damage.

Florida's federal legislative delegation and Gov. Bob Martinez are adamantly opposed to the leases, and they should be. For the plan isn't, as Rep. Andy Ireland noted, "so much an outline for energy independence, but (for) environmental suicide."

The Keys are a fragile and unique natural resource. There is no compelling need to put them under the stress of oil drilling. Apalachicola Bay has been deemed so important by Florida that it has been designated an area of critical state concern. "The Bay's shellfish industry could be wiped out by one major oil spill," warned Susan Berryman, speaking for the Florida Public Interest Research Group.

If the Reagan administration is so worried about this country becoming too dependent on imported oil why has it given up development of alternative energy sources? Why has it scuttled energy-conservation programs? Why has it failed to fill the nation's petroleum reserve during times of low oil prices?

Congress should block these ill-conceived oil-lease plans.

There may come a day when the United States will need oil so badly that it will be necessary to risk damage to the Florida Keys or to Apalachicola Bay. That day is not here; it may never come.

Instead of pushing to dot our coasts with oil rigs, the administration should be working to prevent the dawn of such a day.

AND ANOTHER THING

Pity the poor Florida Keys. When the federal government isn't threatening them with oil spills, local businessmen are threatening them with gas spills.

A group of Marco Island businessmen would like to set up a sort of floating Sing Food Store, complete with gas pumps, near the Fort Jefferson National Monument, west of Key West. They want to stock a 176-foot converted supply vessel with food and beer and 100,000 gallons of gas and diesel fuel.

That's just what is needed above the delicate reefs off Dry Tortugas.

Dry Tortuga Marina Inc. asked to anchor in U.S. Park Service waters around the monument and was given a firm no. Now they are trying to get permission to operate in nearby state waters.

State officials should waste no time in following the Park Service's lead. The crystal clear waters off the Florida Keys are no place for boaters to get tanked up—on gas or beer.

[St. Petersburg Times, May 10, 1987]

Oil Slicks on Florida's Horizon

Gov. Bob Martinez and the entire Florida congressional delegation have urged Interior Secretary Donald P. Hodel to protect the state's most sensitive marine and coastal environments in his planned sale of oil leases off the nation's coast.

They might as well have been speaking to a stone.

Hodel denied their requests and ignored their concerns. Most of the nation's outer continental shelf, including some of the most beautiful and productive areas off the Florida and California coasts, will go on the auction block for lease to Big Oil. His plan directly defies a federal law requiring that the development of offshore resources be balanced with the need to protect sensitive marine environments and coastal economies.

From Florida to Alaska, the nation's endangered coastal areas can be protected only if Congress, state and local officials, environmental groups and ordinary people raise such a row that this dangerous scheme will have to be dropped or drastically amended.

Hodel is acting like a clone of James Watt, the former interior secretary who was driven from office as an enemy of the environment. That's probably because their policies follow the Reagan philosophy of letting big business exploit the nation's most precious, non-renewable natural resources, regardless of environmental damage.

In Florida, if Hodel has his way, huge chunks of offshore areas surrounding the Florida Keys, the Dry Tortugas and in the Florida Straits are proposed for offshore oil exploration. That will threaten catastrophe to the Everglades National Park, the Florida Keys and the Ten Thousand Islands.

Also up for grabs are a broad strip along the Panhandle, threatening oil spills on the white beaches, and the Florida Middle Ground, a vast sea grass meadow in the Big Bend area that produces about 80 percent of the commercial and sports fishing species found in the eastern Gulf.

Hodel's plan will put at risk many of the things that make Florida a major tourist state and a wonderful place to live. Its water quality, air quality, fish, dolphins, marine birds, sea turtles, sea grass beds, wetlands, estuaries, marshes, mangroves, coral reefs and beaches—all are threatened by oil drilling offshore.

Hodel's argument for such environmental waste is that the nation needs a major oil discovery if it is not to become dangerously dependent on foreign energy supplies by the end of the century. That is ironic coming from an administration that has increased our dependence on foreign oil and made no effort to develop a comprehensive energy policy. The Reagan administration has dropped virtually all incentives for conservation, abandoned the development of alternative fuels and failed to fill adequately the nation's strategic oil reserves.

Sometime in the next century, the national interest may require the destruction of the coastal environment to produce energy. But we are nowhere near that point now and need not be if the nation increases conservation and develops alternative energy supplies.

Five public hearings are scheduled in Florida, from May 18 to 21, on the Interior Department's destructive plan. In the Tampa Bay area, the hearing will be held from 7 to 10 p.m. Tuesday, May 19, in Plant Hall at the University of Tampa, 401 W Kennedy Blvd., Tampa.

People concerned about our beaches and marine resources need to speak out.

[Palm Beach Post, May 13, 1987]

DON'T SACRIFICE KEYS—MARTINEZ MUST FIGHT PROPOSED OIL DRILLING

The move to open up the Florida Keys for oil drilling is an outrage. State officials and the state's congressional delegation must fight it every step of the way.

There is little chance of finding any useful amounts of oil off the Keys, and the effort to do so could destroy valuable fishing grounds as well as harm the tourist industry. As Paul Johnson, an aide to Gov. Bob Martinez, put it, "If we had a spill, it would destroy the beaches, and the reefs probably would never come back."

The U.S. Interior Department doesn't seem to care, however. Its poor judgment is equalled only by its arrogance in brushing aside any views other than those of the oil drillers.

"It's a pretty much done deal," was the reaction of a department spokesman to the most recent protest.

Fortunately, U.S. Rep. Dante Fascell, a Democrat whose district includes the Keys, doesn't plan to give up. If he can't get Interior to change its mind through negotiations, he may seek to block funding during the appropriations process.

The rest of the state's delegation ought to be just as determined. So should the state government. Johnson's declaration that "the governor has done all he can" is unsatisfactory; the stakes are too high for anyone, anywhere to give up.

[Fort Myers News Press, May 1, 1987]

OUR COAST IN JEOPARDY

The federal exploration plan proposed for Florida waters is worse than it looks.

The plan affords minimal protection to the state. A 30-mile buffer zone between the coast and the nearest drilling sites is supposed to be reassuring. But the sensitive environments of the Florida Keys and Straits of Florida are left unprotected.

Interior Secretary Donald Hodel proposes to allot tracts as close as three miles to the Keys and in the narrow straits to be leased in 1992 for oil and gas exploration.

If his plan gets through Congress without changes, oil rigs could sprout in the water from near the Dry Tortugas to Key Largo.

It is better for Congress to force changes in the plan now than to risk a shipping or drilling accident that could spill large quantities of oil in this area.

Hodel's plan ignores the expressed wishes of the state's 21-member delegation to Congress and those of Gov. Bob Martinez. They fought hard and successfully for the buffer zone and to remove sensitive areas from the program.

Then Hodel turned around and submitted a plan to Congress that would jeopardize the Keys, of all places. The island chain is a national, not just a state, environmental treasure. No overriding national need exists to justify the environmental risks of exploring there.

The Florida delegation must break through Hodel's determination to drill in Florida's sensitive waters.

U.S. Rep. Connie Mack of Cape Coral and Martinez can help by utilizing their friendly ties with the president and vice president.

U.S. Sen. Lawton Chiles of Lakeland shouldn't hesitate to use his power as chairman of the Senate Budget Committee to twist Hodel's arm.

U.S. Rep. Andy Ireland of Winter Haven wants to form a coalition with other coastal state delegations with concerns about the plan. There support would be welcome if it can secure protection for the Keys and straits.

SALUTE TO DR. LOUIS MILTON THOMPSON

Mr. HARKIN. Mr. President, over the last half century, agriculture has gone through tremendous changes in this Nation and around the world. The scientific and technical advances in American agriculture have helped make the American farmer the most productive in the world. Yet while many Americans recognize the contributions made to our Nation by farmers, few may truly realize the crucial role played by the men and women who research and teach at the many excellent land grant colleges and universities.

I am taking this opportunity to draw one such individual to the attention of my colleagues. I rise to commend a wise and intelligent Iowan, Louis Milton Thompson. Dr. Thompson was born and raised in Throckmorton, TX, and graduated with a bachelors degree in agronomy from Texas A&M University. Dr. Thompson then earned both his masters and doctorate degrees from my alma mater, Iowa State University. Since 1946, Dr. Thompson has served as a professor and researcher in agriculture at Iowa State University. Although Dr. Thompson retired in December of 1983, he still maintains an office and is very active at the agricultural college at Iowa State University. Throughout his career, Dr. Thompson has established a record of distinguished and loyal service in agriculture to the people of Iowa and the United States, as well as to people all over the world.

Of all the innovations in agricultural education which Dr. Thompson has participated in, perhaps none has been as influential as his development and establishment of farm operation as an educational discipline. He molded the curriculum of this program at Iowa State to focus on personal student advising, choosing course work from many disciplines to match the students' needs and plans. Within the farm operation curriculum, Dr. Thompson developed and taught an applied course in which students manage a functioning Iowa farm. Other colleges and universities have adopted programs similar to this practical educational approach, but the program developed by Dr. Thompson remains the only self-supporting farm entirely managed by students. His development and establishment of the farm operation curriculum has given him an opportunity to influence the attitudes and aspirations of numerous young men and women as they prepare to become leaders in their own communities after leaving Iowa State University. These individuals are emerging as leaders of important companies, organizations, and agencies nationwide.

In 1958, Dr. Thompson became associate dean of agriculture in charge of faculty, and he helped to build Iowa State University into the second largest agricultural teaching institution in the United States. Dr. Thompson was a central force behind the excellence that prevails in the teaching and advisory programs in the College of Agriculture at ISU. The praise and high regard which Dr. Thompson has received from his colleagues at other colleges and universities around the United States as a result of his leadership is perhaps the greatest tribute to his impressive career.

The list of honors received by Dr. Thompson is long. It includes: fellow in American Association for the Advancement of Science, fellow in the American Society of Agronomy, and fellow in the Soil Conservation Society of America. He has also received the Distinguished Service Award by the Gamma Sigma Delta Honor Society.

Two of the highest honors that Dr. Thompson has received have been the alumni medal and the Henry A. Wallace Award. The alumni medal is given by the ISU Alumni Association to those demonstrating an outstanding record in alumni-related activities. The Henry A. Wallace Award, named after the former vice president of the United States, honors Iowa State University alumni who have made outstanding contributions to national or international agriculture in agricultural writing, teaching, research or leadership. Emphasis is placed on the individual's widespread influence in agriculture.

Dr. Louis Thompson's research in agriculture has given him worldwide recognition as an expert on cyclical weather patterns and their effect on crop yields and agricultural production. In 1974, the large area crop inventory experiment project was started at the Johnson Space Center to use satellite photography to measure wheat area in Russia. This experiment utilized a computer model developed by Dr. Thompson to estimate crop size from weather data. Additionally, his study of weather variability and crop production has been instrumental in advancing our understanding of the relationship of these factors to world food needs. This interest in world food supply is typical of Dr. Thompson's concern for his fellow humans.

Dr. Louis Thompson's greatest contribution, however, has been to the students of agriculture. His willingness to take time to counsel, stimulate, and motivate a student is truly inspiring. Dr. Thompson demonstrates tremendous understanding, caring, and enthusiasm for students which is the mark of an outstanding teacher. His words of encouragement have inspired thousands of students and faculty members to perform to their highest abilities. Dr. Louis Thompson, through the contribution of his skill and insight, is truly a great humanitarian. I extend my most sincere thanks to Dr. Louis Thompson.

CHARLES NISHIOKA: NATIONAL SMALL BUSINESSMAN OF THE YEAR

Mr. MATSUNAGA. Mr. President, it is with a great sense of pride in the people of the Aloha State, whom I am privileged to serve in this body, that I rise to note that one of their number—a 72-year-old businessman—has won national recognition.

The National Small Business Person of the Year for 1987 is Charles K. Nishioka, an Oahu entrepreneur from Waipahu, whose selection was announced last Tuesday by President Reagan at a White House ceremony. Nishioka's story is one of perseverance in the face of commercial and career setbacks, of a man whose ingenuity and willingness to accept risks are as strong today at three score and twelve as they were in his ambitious youth. Finally, it is a story of a concerned citizen who has served his community well.

Charles Nishioka, son of immigrants from Japan, learned the value of hard work at an early age. Beginning as a $2-a-week yard boy, he became a fruit and vegetable peddler and then a chicken farmer—only to have his property at Ewa, HI, confiscated shortly after the bombing of Pearl Harbor, by the Japanese nation on December 7, 1941. Earlier as an employee, he had known the "hurt and humiliation" of being passed over for the managership of a Kaneohe chicken farm, where he had worked for some years, in favor of a university graduate. Subsequently, he took engineering correspondence courses and ventured into truck farming, only to experience its financial problems.

In 1951 he was offered an opportunity to take over a Standard Oil service station in Waipahu, Oahu, and he then realized that he was "more interested in mechanical things than in grading eggs and raising chickens." The service station became the cornerstone upon which he built Charles K. Nishioka & Son, Inc., the holding company for three thriving enterprises employing more than 30 people. By 1968 he had a chain of three service stations, one operated by his son, Saxon, who persuaded him to launch Charley's Wholesale Auto Parts, which was followed by Charley's General Tire Service. Two years ago, at age 70, he capitalized upon a life-long interest in photography by opening Charley's One-Hour Photo Service, one of the first fast processors in Hawaii.

Despite the demands of his businesses, Charles Nishioka has found the time to contribute greatly to Leeward Oahu civic affairs. He has headed the Waipahu Business Association and the West Pearl Harbor Rotary Club. He also has served on the boards of the Waipahu Community Association, the Central Leeward Unit of the American Cancer Society and the Pearl Harbor Rotary Club. He is a member of the Chamber of Commerce of Hawaii, the Japanese Chamber of Commerce and the National Federation of Independent Business. He has been active in service to the Boy Scouts of America for nearly 30 years and has served in advisory capacities to the Leeward Community College and Waipahu High School, as well as to the mayor's commission on business. In 1985 he took a group of 16 local high school students on a Rotary trip to Japan, where he observed the new "instant" photo-processing service and decided to offer a similar service in his own community.

When it was announced that he had been named Hawaii's Small Business Person of the Year, Mr. Nishioka said he was "shocked" and "thought surely they had the wrong boy," as he put it. One can imagine, then, his bemusement on being named the Small Business Person of the Year for the entire Nation. To my mind, Charley Nishioka's story is far more inspiring than any written by Horatio Alger because it is not an improbable one of "onward and upward" success, but one of perseverance and resilience which was crowned with ultimate prosperity and recognition. Asked about the secret of his success, he recalled how, shortly after opening his first station, a young schoolteacher drove her car in with what proved to be a minor problem and he refused any payment for his services. He later realized that instead of an immediate return for his labors he had gained the teacher's steady business for the next 30 years. "I just try to be nice to people," he explained.

I can tell you, Mr. President, that he does not plan to rest on his national laurels. He has yet another idea for a small business, one he is not ready to talk about yet, except to say: "It's going to be fun. That's the important part."

Have fun, be nice to people and take the hard knocks of life in stride: I cannot think of a better recipe for success. That and give something back to your community as Charley has so generously done. Surely, ours will be a greater society if some of Charley's philosophy could be imparted in graduate schools of business at seminars on entrepreneurship.

Mr. President, Nishioka's story certainly demonstrates that our country is still a land of opportunity for all those who take their joy of life from hard work, and I wish to take this means to congratulate him on his recognition as the Nation's No. 1 business person of the year.

Mr. SYMMS. Mr. President, I should like to add my congratulations to the businessman of the year, and it is an inspirational story.

When a businessman such as Charles provides a service for people and makes a profit as a fringe benefit, that is the humanitarian side of capitalism that is often forgotten, and it is the strength of the United States and the free world.

I thank my friend for congratulating Charlie.

Mr. MATSUNAGA. I thank the distinguished Senator. If Charles were within hearing distance of his voice, I am sure he would be elated.

A TALENTED PLAYWRIGHT FROM KAHUKU

Mr. MATSUNAGA. Mr. President, I rise to inform my colleagues of yet another Hawaii success story, that of a prize-winning high school playwright whose play premiered here this week at the Kennedy Center to an appreciative first-night audience.

The success story of 17-year-old David Baker is a notable one. His one-act play, "Inside Al," won first prize honors in competition with a hundred other entries in a young playwrights' contest sponsored by the Very Special Arts Program for the enrichment of the lives of people with disabilities. It was performed Tuesday evening at the Kennedy Center to an enthusiastic audience in a presentation designed to be to the performing arts what Special Olympics is to sports. The play concerns several teenagers who decide to carry out their teacher's assignment to "be nice to someone" as a joint project by "being nice" to Al, a man with cerebral palsy. Al is portrayed by two actors, "Al," who has cerebral palsy, and "Inside Al," who tells us Al's inner thoughts. The young prize-winning author hails from the rural Oahu town of Laie and is a senior at Kahuku High School, an isolated, country school which can also boast of one of the finest marching bands anywhere.

"Nobody ever thought a Kahuku kid could win," he is quoted as saying, adding that upon learning the news his school principal "was in hysterics." David has also won a prize for fiction and has had an article published. He plays seven musical instruments, performs in three different bands, and is president of the school's drama club. I predict a bright future for David as a writer—or as a musician, or even as a politician, in which latter case, I am asking him not to run for the U.S. Senate until I retire. Talented and resourceful constituents such as David Baker make me proud to represent the Aloha State in this Chamber.

Mr. SYMMS. Mr. President, I say to the Senator from Hawaii that I am sure the young man who has completed so many accomplishments at his age is far too bright to ever challenge the distinguished Senator from Hawaii. [Laughter.]

Mr. MATSUNAGA. I thank the Senator.

REMARKS OF SENATOR BOB DOLE BEFORE THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the Record at this point a speech given by the distinguished minority leader, Senator Robert Dole, before the American Newspaper Publishers Association at the Waldorf-Astoria Hotel in New York, on May 5, 1987.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Speech of Senator Bob Dole, American Newspaper Publishers Association

Thank you, George for that warm introduction. It is a pleasure to be with you this afternoon, and to join my friend, Gary Hart, on your program.

On Sunday, you had the opportunity to hear President Reagan. The timing of the President's appearance could not have been better * * * nor more relevant.

FREEDOM: THE CONTINUING STORY

With the opening of the Iran/Contra hearings at ten o'clock this morning, Capitol Hill officially became ground zero for the Nation's media. So let me just underscore what Ronald Reagan told you: Don't let the megaton-coverage of the Iran/Contra hearings blow away a basic truth—whatever the select committee uncovers about the misadventures and misdeeds of a few Americans, it will not change the fact that a life-and-death struggle for the future of Central America is churning on relentlessly. At issue is whether security, stability and at least a semblance of democracy will prevail in that region. And whether, in the final analysis, the strength, influence and credibility of the United States will be enhanced—or undermined.

The hearings are today's story. The struggle in Central America is yesterday's, today's and tomorrow's. It is a continuing reality. So I hope that, as today's headlines are pasted up, you keep in mind that defending freedom is what we are all about. Whether it is in Central America, or Afghanistan, or Kampuchea, or wherever else freedom is in the vise of tyranny.

CENTENNIAL CELEBRATION

I am sure it is pure coincidence that we are celebrating—if I may join myself to this celebration—the 100th anniversary of the American Newspaper Publishers Association, in the same year as we celebrate the 200th anniversary of our Constitution. It takes little imagination to hear one of our crusty founding fathers—Benjamin Franklin is a choice that comes to mind, seeing that he was a newspaper publisher—to imagine old Ben muttering that the two celebrations are clearly linked, and that the reason we are able to have the one is because we have the other.

Our free press could not survive without our Constitution; more to the point, our Constitution could not have survived without our free press.

As far as centennial celebrations go, we don't exactly have a long history. The first came after reconstruction, which was bitter and considerably less constructive than Abraham Lincoln had hoped it would be.

The second is upon us now. It is a time which many of us saw, in a certain sense, as a time of reconstruction. I say this with no partisan intent. We had long and painful difficulties in our dear country, and these were presided over by leaders of both parties.

We had Vietnam. We had resistance to it. We had the civil rights revolution. We had resistance to it. We had assassinations. We saw our great cities burn. We had Watergate and the doubts and confusions it bred did not go away when those involved in it went away, but they lingered and troubled our politics for some time beyond.

REAGAN RECONSTRUCTION

But then Ronald Reagan helped America set herself right in the 80's, he helped reconstruct old America with her optimism, her people's confidence in each other, her citizens' trust in their Government, and gave us a firm place beneath our feet to stand as we contemplated a new century.

So as Congress begins hearings to determine if wrong has been done in the execution of public duties, it would be a mean-spirited opportunist indeed who could hope that the renewed confidence and good feeling that have been the hallmarks thus far of this decade shall prove to be a passing thing of no substance and no endurance.

LEARN FROM MISTAKES, AND MOVE ON

Nevertheless, we must look straight at the present difficulties, learn from them, make corrections where possible, make retribution where necessary, and move on with great care for the preservation of that confidence in Government which had been restored and which, if lost again, will not easily be regained in our lifetime. All America is affected by it. All must wish to avoid a relapse into cynicism.

Having said this, I think it is also true that those of us in public life—and I include the Members of this body most particularly—must resist the poll of daily sensations a little, and try to ensure that public attention moves now and then to matters not so colorful, but at least as important, as those unfolding today on Capitol Hill.

In the coming months, as various candidacies move to define themselves, we will see the emergence of certain contradictions between life as we might like it, and life as it is. There is nothing new or profound in that observation, but it might remind us that we should take care not to create illusions about the world in which we live, because they will come around to haunt us if we do.

DO NOT BE TEMPTED BY ISOLATIONISM

I have in mind, for example, the emerging notion that we ought to redirect the attention of Government away from the international arena and focus instead on domestic matters. This is tempting. We are an insular people by historical predisposition and natural inclination. Somewhere in the patheon of instructive American slogans must be an honored place for the one that says: "You mind your business and I'll mind mine." We like to think of minding our own business as a virtue. Like other virtues it isn't practiced much, but its there in the grain anyway. And it touches on our role as a power among nations. We have never liked that role.

In the past twenty-five years, most—not all, but most—of our difficulties have come from those foreign entanglements President Washington warned us against.

Yet we could not find a more dangerous time than the present to kneel to the temptations of isolationism. Nothing could be more irresponsible than to feed the false hope that we can lock our doors and close our minds to the world in which we live, and still survive in that world.

TRADE: PROBLEMS AT HOME AND ABROAD

We must, for example, move with the utmost care in managing the matter of relations with our international trading partners. We may have strains within the family but we must not, for the sake of political expediency, fail to acknowledge that the industrialized nations are a family. We don't need to be sentimental about this, and we don't have to behave like patsies. But the inherent strength and the correctable nature of our economy means that we don't have to behave like bullies either.

And as we look to such matters as our competitiveness in international markets, we should not cast all the blame for difficulties elsewhere. We do have room for improvement here at home. And some of those improvements are going to have to come from within ourselves. No candidate is going to mount much of a campaign if his positions all have a metaphysical ring to them, but at the same time we are going to have to find some way of remembering that "the fault," at least sometimes, "is not in our stars, but in ourselves."

WHAT EVER HAPPENED TO THRIFT

Thrift used to be an American virtue. It's in the Scout oath: "A scout is * * * cheerful, thrifty, brave, clean and reverent." When I was a boy in Kansas, I wanted a bicycle. It was for all of us * * * my sisters and my brother, Kenney, and me. I remember it cost $26.00 and I worked a year at Dawson's Drug Store to pay for it. Now, anybody in my generation could tell a similar recollection. We worked. We saved. That is capital, after all—savings. It is how you finance your bicycle to run your paper route so you can make some more money. And you save that for some larger purpose.

All that might sound a bit too homey for the economic realities of 1987, except that reality is what it is whether it hangs on a memory of Dawson's Drug Store or informs a theory of Heller's or Freidman's or Galbraith's. Savings is capital; capital is investment; investment is what keeps you competitive; competitiveness is what provides jobs, provides profits, provides the fuel for the cycle to renew itself continuously.

But we don't save anymore in this country. Not enough, anyway. Not as much as we borrow. Not as much as most of our competitors save—certainly not as much as the Japanese save.

BUDGET DEFICIT, PUBLIC ENEMY NO. 1

The lack of savings, however, is not the biggest domestic cause of the U.S. trade deficit—our own budget deficit is.

And to judge from the polls, and from what I hear everywhere I go in the country, there's a growing consensus that agrees with me that the deficit is the biggest threat to America's well being.

We can't go on mortgaging the Nation's future by Government spending out of all proportion to its revenues.

A Federal debt of $2.3 trillion, which is what it's currently pegged at, is unlivable. Even if we can live with it, we know that our children and grandchildren will have to pay a terrible price for our squandering if we do.

It is going to take some courage and no little patience to try to inform our people, in the months ahead leading to the election of our next President, that in the years he will serve and the few remaining in this century what we do about our economy is going to determine whether there will be a tricentennial celebration of the U.S. Constitution. And the determination will come long before the year 2087. It will come in the years immediately before us. Barring a catastrophic war, debt piled up at the current undiminishing rate will threaten all that we have marched through two centuries to create and defend.

DEFENSE AND NATIONAL SECURITY

In the past six years, we have laid the groundwork for a safer, saner 21st century—in economic and trade policies; in a stronger national defense; and in the beginnings of a serious search for a new doctrine of national security and real reductions in nuclear armaments.

But we have to get from here to there. And managing the transition through the next decade will not be easy.

We face a major new challenge from the Soviet Union—this one not solely a challenge of military might; but a challenge of a new and vigorous Soviet leadership: adroit in its alliance-busting diplomacy, appealing in its alleged commitment to glasnost at home and arms control abroad.

THE GORBACHEV CHALLENGE

Gorbachev is a Soviet phenomenon—the first truly modern Soviet leader. We cannot underestimate him or his impact. In the long run, he is more dangerous and threatening to our country and our ideals than all the brashness and bluster of a Khrushchev; all the stolid determination of a Brezhnev.

We have to understand, and convince the world, that—at the bottom—he is selling the same worn-out solutions. A more efficient statist economy, perhaps; but a statist economy all the same. A more open variant of despotism; but one in which freedom prevails only at the periphery, and stops at criticizing the fundamental policies of the state.

The kind of effort we need cannot be mounted from behind the walls of a fortress America. It can only be waged, and won, by taking our case out into the field—where the action is; where the competition is.

STAYING STRONG

And, all the while, we have to stay strong. We understand that defense costs dearly. But we know, too, that the measure of our strength is not just the level of our defense spending. We understand that a good arms control agreement is extraordinarily important. But a bad arms control agreement could be disastrous. We understand that the pursuit of SDI is vital. But that—for years of transition—we will continue to rely on deterrence.

HUMAN NEEDS TOO

At home, we need to look again at the relations between the races in this Nation, and make sure we are not sliding backward to the times of restricted opportunities, and the tragedies of human capacity lost in the land of the free. We need to look again at relations between the sexes in the private and public sectors to assure that where equality is achieved, it is preserved, and where it is threatened, it is defended.

We need to look at questions of nutrition and how to assure proper food is not merely adequate but abundant. No other standard can be acceptable in a nation God gave the capacity for food production that he gave to us. This, of course, impinges on farm policy and, here again, we must think anew.

We need to carefully reconsider educational policy in our country. Are we educating our children properly * * * our college and graduate students properly?

CONCLUSION

The wonderful, but awesome, thing about America is that it all depends on us, on "We The People." On the decisions we make, the example we set, and the practical, far-reaching leadership we provide in the years ahead. That means electing men and women who know what has to be done, and know how to get it done—like that brilliantly practical band of patriots that met in Philadelphia two centuries ago.

Between them, they wrote an inspiring first chapter in the story of America. But the beauty and the challenge of the American story is that it's a never ending one.

Its greatest pages may yet be written in the century ahead—opportunity for all * * * a world free and at peace * * * an end to the nuclear nightmare * * * and yet undreamt breakthroughs in health, education, science and the environment.

These are a few of the pages that could be written in our lifetimes.

It's up to us to write them.

Thank you.

THE KANSAI INTERNATIONAL AIRPORT

Mr. MURKOWSKI. Mr. President, I would like to speak today on a very important matter affecting the United States and its relationship with Japan and the question of market accessibility. It has been over 18 months since our Ambassador to Japan, Ambassador Mansfield, called for nondiscriminatory bidding in Japan on one of the largest construction projects in the history of the world, construction of an airport in Osaka Bay known as the Kansai International Airport. The significance of Kansai is that it marks the first of about $62 billion in major public works projects to be built in Japan over the next decade.

Now, the matter, Mr. President, is one of equity. Japanese construction firms are currently doing, in the United States, approximately 2 billion dollars' worth of construction. U.S. construction firms have not been able to penetrate the construction market in Japan for many, many reasons, but the fact remains we have this substantial differential, roughly $2 billion to zero. We have not received much encouragement from the Japanese Government to participate in Kansai despite assurances that the project would be open to competitive bidding from countries throughout the world.

What we have seen develop in Kansai is a symbolic issue of the closed markets of Japan vis-a-vis the open markets available in the United States to Japanese contractors.

So, Mr. President, we have a simple matter of equity we have been negotiating on for a long time. It is estimated that United States and Japanese negotiators have met over 40 times on the Kansai issue. We have had assurances from Prime Minister Naksone. He has assured our President that foreign firms would be able to participate in the project. I have personally had the opportunity to talk with Prime Minister Nakasone, on two occasions, once in Japan and more recently last week, and received assurances that the United States and other foreign countries would be given an opportunity to participate in this, the first of several public works projects in Japan.

Mr. President, the issue that we are addressing here, as it covers public works projects, is very important from a practical point of view. Japanese construction firms are currently building dams in this country. They are supplying major equipment for our own public works projects, whether they be transmission facilities, generators, various other items, and that is fine. That is appropriate. But they are also providing architectural engineering and design work on public works projects, water projects, various other projects in the United States. That is also fine. All we ask for is simple equity.

Now, so far we have not been very successful. On April 24, Kansai International Airport Co. issued a proposal outlining its plans to facilitate foreign participation. The proposal was not as comprehensive as we had hoped, but we saw it as a positive step. Now recent statements of the Minister of

Construction in Japan, the Minister of Transportation, and the President of Kansai International Airport Co. raise questions about Japan's real intentions with regard to foreign participation.

Mr. President, I do not stand here bashing Japan. Our relationship with Japan is the most important bipartisan relationship we have, bar none. It has been repeated time and time again. But we have seen a pattern here, and it is becoming of greater concern.

Following the Kansai International Airport construction announcement on the 24th of the month, the Minister of Construction said that the Prime Minister would not be carrying "a present to the United States" and that U.S. firms have no intentions of participating in the Kansai project. The Minister of Transportation unfortunately made similar comments.

Well, that, I think, is a part of the problem. On the one hand we are hearing the official position of the Japanese Government as enunciated by the Prime Minister that Americans should be allowed to participate in the project in the same manner in which Japanese firms are allowed to participate. However, it is the second level, the bureaucracy within Japan, that somehow makes it impossible to put out positive bids, to put out meaningful proposals so that we can come in and participate in a competitive manner.

On May 16, the headline of a front page interview with the president of the Kansai International Airport Co. in the Japan Economic Journal read, "Kansai Shunning Foreign Firms. Phase Two of the Airport Contracts To Be Handed to the Japanese."

In the interview, the president of Kansai International Airport, Mr. Takeuchi, raised doubts about the extent to which Japan will allow foreign participation. He said, "It will be difficult for foreign firms to join phase II of the airport project"—that is, involving construction of the terminal building and runways—"mainly because the work requires hiring and management of Japanese construction workers."

We understand that, Mr. President. Japanese construction workers are not doing work in the United States. We are not talking about sending American labor to Japan. We are not talking about anything more than our expertise. We know how to build airports, U.S. firms have built them all over the world. We have international construction firms that are competitive all over the world, but we are not allowed to participate in the Japanese market. We are talking about architecture, design, engineering, construction, and providing equipment. But we have had no encouragement finally from the appropriate levels of Government, from the appropriate people who are charged with the Kansai International project. I do again want to recognize the intentions of Prime Minister Nakasone which have been enunciated very eloquently in saying that foreign firms must participate.

However, one begins to wonder as to whether the various Ministers who are responsible—whether it be the Minister of Construction, the Minister of Transportation, or the president of the Kansai International Airport—really are understanding the message that the Prime Minister is giving to us in the United States as he enunciates the official position of the Japanese Government.

We have seen the promise of the Prime Minister; we have seen the promise of the Kansai International Airport Co. to thoroughly provide foreign companies the same fair and nondiscriminatory opportunities for participation as provided to Japanese companies, but that is all we have seen. We have no evidence that there is anything meaningful taking place today that would allow American firms to come in, in a competitive bid posture, and bid, as Japanese firms do in this country.

It is suggested from time to time that we do not understand the system. We can learn the system, just as they have learned our system, if we have an opportunity to participate. We have indicated that we would be happy to come in on joint ventures if we had the opportunity.

I have been so concerned that Japan is pulling back on this commitment that I have expressed my concern to Ambassador Matsunaga. I have communicated with his office and asked for an official clarification.

The United States has been patient on this. We have recognized that these changes take time, that it takes time to change a system. Our patience has been based on the assumption that Japan is acting in good faith. We will continue to monitor the efforts of the Japanese Government.

Mr. President, until we begin to see some concrete results, I think it appropriate that we continue to express our concern, our growing concern, to our Japanese friends. Therefore, I have introduced S. 1086, a bill calling for a section 302 investigation on barriers to U.S. participation in the Kansai project. I intend to offer this as an amendment to the trade bill.

Section 302 of the Trade Act initiates a formal investigation by the U.S. Trade Representative, on a request for the President to use the authority granted in section 301 to retaliate against an unfair trade practice.

If Japan is sincere in opening up the Kansai project, the first of its 62 billion dollars' worth of public works projects, they have nothing to worry about. Ultimately, the test of that sincerity is whether or not we are going to be allowed to competitively participate with Japanese firms. We do this in the vein that we offer that market accessibility in the United States to Japanese architectural, engineering, and construction firms.

It is interesting, Mr. President—to illustrate my point—that in Fairbanks, AK, we have the Sixth Light Infantry Division coming in and making a substantial impact at Fort Wainwright. The mission of this particular unit is the protection of the land mass of Alaska. That is no small item. It covers some 33,000 miles of coastline. That is the coastline of Alaska. That is their responsibility.

In association with that, there are substantial Federal funds going into upgrading the facilities at Fort Wainwright. There are American firms bidding on the construction contract. It is interesting to note that there appears to be one Japanese firm that is bidding on a portion of that contract. There is nothing wrong with that. I want to make that clear. The simple point is that we do not have the same access to their markets as they enjoy in ours.

In conclusion, Mr. President, as we reflect on the action which I intend to pursue in initiating the 302, I think my colleagues will agree that unless we keep the pressure on Japan we won't see an acceptable resolution.

When one considers Japan's dependence on market access in the United States and the fact that the United States is the largest customer of Japan, one can perhaps conclude that Japan has lost sight of the importance of a best-customer relationship. It is a common trait in business to do one thing well, and that is to take good care of your best customer.

I think we have to take a stand on an issue. I think Kansai is the appropriate stand to take, because it represents gross unfairness and gross inequity.

In every community in the United States there are construction firms; there are the general contractors, the professional engineers, the architects, all of which are affected by their inability to look to the markets of Japan for participation.

This year we have reason to believe that when the figures detailing Japanese construction activity in the United States come out, they will exceed $5 billion. So, as we begin to look from the standpoint of our domestic markets, we are seeing competitors come in. More often than not, they negotiate agreements, as a consequence, perhaps, of a Japanese automobile plant built in one State. They will bring in a Japanese architect, engineer, or construction company to build it. We see one of the largest developments in New York City being done by a Japanese construction company. We have seen our Embassy in Cairo being built by a Japanese construction company.

This, in itself, I think, represents a reference that we should take heed to when we reflect on the inability of our construction companies to participate in Japan. We did not build our Embassy in Japan. It was built by a Japanese firm. In Cairo, we put it out for bid. Kajima International, a Japanese company, formed a wholly owned United States subsidiary Kajima, U.S.A. Kajima, U.S.A. qualified to bid, receiving a 12 percent preference as a U.S. company.

It is interesting to note that when the bids were announced, Kajima, U.S.A. was the successful bidder.

Kajima, U.S.A. turned around and subcontracted the entire project to its parent company. It obviously was not the intent of the original bid proposal that they be allowed to do that. They no longer can do it. But it did occur.

In conclusion Mr. President, my purpose in expressing my intention to pursue a 302 is again, simply to communicate to the Japanese that we will initiate this investigation to ensure that they follow through on their commitment and allow us to participate in a nondiscriminatory, competitive fashion in the construction of Kansai, and future major projects.

At this time, I ask unanimous consent to have printed in the RECORD, because it is appropriate, an article from the Japan Economic Journal, which has the headline "Kansai Shunning Foreign Firms," the week ending May 16, 1987; an article from the Journal of Commerce, with the caption "U.S. Warns Japanese on Airport Commitment"; an article from the Nihon Keizai of April 21, entitled "Will Not Make Concessions to U.S. on New Kansai Airport; Construction Minister Clarifies Views."

There being no objection, the material was orderd to be printed in the RECORD, as follows:

KANSAI SHUNNING FOREIGN FIRMS—PHASE-TWO AIRPORT CONTRACTS TO BE HANDED TO JAPANESE

As the Japan-U.S. controversy over the participation of foreign firms in the construction of the ¥ 1 trillion New Kansai International Airport near Osaka continues to simmer, Yoshio Takeuchi, president of the company overseeing the airport construction, again stressed that there are certain areas where Kansai International Airport Co. (KIAC) cannot yield to U.S. demands.

It will be difficult, Takeuchi said in an interview with the *Japan Economic Journal*, for foreign firms to join Phase-Two of the airport project (involving construction of the terminal building and runways), mainly because the work requires hiring and management of Japanese construction workers. "It would be more realistic for interested foreign contractors to join hands with their Japanese counterparts if they wanted to become prime contractors in the Phase-Two work," Takeuchi said.

American officials and industry people criticize KIAC policy of a designated bidding system, which may exclude foreign firms and withhold information to U.S. firms. Some U.S. Congress members, moreover, are demanding that Japan should assure American firms an opportunity to participate in Phase-Two of the airport works as prime contractors whose participation will be 100% on its own.

Takeuchi, formerly director-general of the Transport Ministry's Ports and Harbors Bureau, was not very responsive to the idea that KIAC award a net portion of airport contracts to foreign firms. "That could be a possibility worth considering, but it is not our job to think about it—it's the Government's," he said.

Takeuchi joined with Construction Ministry officials in taking a dim view about foreign firms going it alone in participation in the airport project. In a recent interview, Kimihisa Ogawa, director of the ministry's contractors division, said that there have been a number of cases in which Japanese and foreign firms have jointly undertaken construction projects overseas. "I think this approach will be the shortcut for foreign contractors to take part in the Kansai International Airport project," Ogawa added.

Regarding the designated bidding system, which KIAC adopted in inviting bids for Phase-One (involving sea reclamation and construction of a man made island in the waters off Osaka), Takeuchi refused to change the system in spite of the strong U.S. criticism. "There are so many contractors in Japan that it will be simply impossible for KIAC to get the job done through open bidding."

Under the designated system for awarding public works contracts, the Japanese Government identifies contractors it thinks are reliable and invites them to bid. The U.S. Government and construction industry officials have complained that the system enables the Japanese Government and KIAC to effectively shut out foreign firms from bidding. The Heritage Foundation, a Washington think tank which often has a strong influence on White House policy, said in a recent report on the Kansai Airport issue that U.S. firms with no experience in Japan are not designated.

Against the Heritage's criticism, Takeuchi said KIAC does not necessarily require foreign firms to have experience in the Japanese market. "If they have expertise in airport construction overseas, they may qualify," Takeuchi said.

Takeuchi said he believed that the seminar KIAC held in October 1986 to explain the designated bidding system as well as details of the airport project enhanced U.S. firms' knowledge of the system. "It would be unreasonable for them (foreign firms) to demand that the bidding method be changed."

Takeuchi, however, emphasized that by the time Phase-Two work starts in 1990, KIAC will come up with measures to assure foreign firms that its bidding for Phase-Two jobs will be undertaken in a goldfish bowl, that is, in an understandable manner.

Takeuchi also insisted that KIAC now can provide more information than before to foreign firms on request through an international public relations division established in late April.

While showing his readiness to increase the "transparency" of KIAC's operations, Takeuchi took U.S. contractors which have been critical of KIAC to task. If U.S. firms really want to win airport contracts, he stressed, they have to demonstrate the required enthusiasm and the necessary preparedness.

"I don't think U.S. contractors have been doing enough in Japan to impress with their presence and capability," he said. Toshio Endo, director in charge of Kansai International Airport at the Transport Ministry, also was doubtful of American firms' zeal in participating in the airport project. In an interview, Endo said, "Few of them (foreign firms) so far have bothered to obtain Japanese licenses to operate as contractors, much less to establish offices in Japan," he complained.

"There isn't much voice coming from the U.S. industry, but Congress is vocal, instead," he said.

Takeuchi suggested that offering consultancy could be one of the areas of the airport project where foreign firms can actively participate. "We have already begun seeking consulting services from a number of foreign airport authorities, including the Port Authority of New York. In the next stage we will consider soliciting similar services from private consulting firms, including those from foreign countries," he said (Bechtel Civil Corp. of the U.S. has already signed a ¥ 30 million contract with a group of six Japanese firms to design the terminal building.)

"Inviting foreign consultant firms to join in of course does not mean that KIAC will give them carte blanche in terminal building construction, unlike the cases of airport construction in some countries, such as in the Arabian Peninsula," Takeuchi said.

Asked for comment on the views expressed by Takeuchi and the Transport Ministry officials, an executive of Japan Construction Contractors, Inc. said he doubted that foreign firms will be able to participate in the project on a major scale. "They can probably join in at best in supplying construction machinery and equipment and offering consulting services."

UNITED STATES WARNS JAPANESE ON AIRPORT COMMITMENT

(By A.E. Cullison)

TOKYO.—The Reagan administration hopes Japan intends to honor its promises to provide "fair, open and transparent" access for foreign companies in the $8 billion Osaka airport construction project, a United States Commerce Department official said Wednesday.

Michael Farren, deputy undersecretary of commerce, told the press the U.S. government expects that even after Prime Minister Yasuhiro Nakasone leaves office in the autumn Japanese authorities will honor commitments for allowing U.S. and other foreign corporations to play a role in the expensive project.

"Our objective is to provide a fair, open and transparent procurement process" for U.S. construction, engineering and high-tech firms interested in the airport project, he said.

Mr. Farren added that Washington considers Prime Minister Nakasone's repeated commitment to President Ronald Reagan on the airport issue as an official Japanese government policy extending beyond the tenure of the current premier.

It was apparent that Mr. Farren had expressed the same opinion during a meeting earlier in the week with Yoshio Takeuchi, president of the Kansai International Airport Co., the organization charged with construction of the costly project.

However, Mr. Takeuchi had informed U.S. and other foreign government and company representatives the same day that his firm has "no choice but to employ Japanese firms" to complete the project's first phase, which involves construction of an embankment, land reclamation and a bridge connecting the airport site with the nearby island of Honshu.

He told foreign company representatives that he would anticipate that any non-Japanese firms eventually allowed to take part in the project would do so mainly through joint ventures with domestic companies. Whatever happens, he reminded, the project is scheduled for completion in the spring of 1993.

But Mr. Farren told the press that formation of joint ventures should not be a prerequisite to foreign participation in the project. "It is in Japan's best interest to open its doors to foreign competition," he insisted. He reminded that Japanese construction firms had won more than $2 billion worth of contracts in the U.S. market last year. "The figure should be twice this amount this year," he said.

"There is no doubt," commented one U.S. company representative, "that American and other foreign firms consider this airport construction project as a test of Japan's present intentions or lack of intentions to open up its giant construction market to outsiders."

Although all appearances indicate the Japanese have no plans at the moment to allow U.S. or other foreign companies to play major roles in the construction of important projects within their country, U.S. observers noted the Osaka airport project would appear to be the only chance right now for non-Japanese corporations to have a chance for future opportunities in this domestic sector.

More than 300 U.S., Canadian, South Korean and European construction, engineering and equipment manufacturing firms have shown significant interest in participating in the Osaka airport project.

Nevertheless, KIAC president Takeuchi has continued to maintain that his firm has no plans to abandon its present designated bidding system in favor of the open bidding system that prevails in the United States.

"We have no choice but to employ Japanese firms to carry out phase one of the airport project," he explained. "Our basic policy is to give non-discriminatory treatment to all firms, either domestic or foreign."

Still, he emphasized that his company "basically employs a designated competition system and in this system we take full responsibility for designating competitors."

So far, only Bechtel Civil Corp. and several other U.S. firms have won relatively small contracts involving construction at the Osaka airport project.

Japan's continuously rising trade surpluses with its major trading partners have caused some lawmakers in the United States and Europe to threaten some sort of retaliation against Japanese construction companies if Japan fails to open its own projects to participation by foreign corporations.

The Osaka airport facility is expected to be open to traffic 24 hours a day, handling 160,000 takeoffs and landings. The airport is to boast a 3,500-meter runway, when it opens for business.

KIAC officials claim the airport will be able to serve 30 million passengers a year and about 1.4 million tons of cargo. Tokyo's international airport at Narita is only able to manage 90,000 flights annually.

WILL NOT MAKE CONCESSION TO UNITED STATES ON NEW KANSAI AIRPORT: CONSTRUCTION MINISTER CLARIFIES VIEW

Construction Minister Amano, at a press conference held after the Cabinet meeting on the 21st, referred to the problem of American enterprises' acquiring access to the New Kansai Airport construction project, and in this connection, the Construction Minister stated as follows: "I am not thinking of offering a souvenir (such as to show concession to the US while meeting Prime Minister Nakasone's scheduled visit to the US from the 29th). I cannot approve this case in particular (even if there is a request from the Prime Minister)." Thus, the Construction Minister emphasized that he does not intend to take any market-opening measures in response to the US' request.

Concerning the problem of the New Kansai Airport construction project, the Prime Minister summoned Administrative Construction Vice Minister Inoue on the 20th, and ordered him to check into concrete measures for American enterprises' access to the project. Regarding this, the Construction Minister said as follows: "A small number of (American) politicians are just saying things (about market-opening), and the American construction industry does not intend to have access to the Japanese market. In such a situation, it will be meaningless (if the market is opened)."

Meanwhile, Transport Minister Hashimoto also touched upon this problem at a press conference after the Cabinet meeting, and he said as follows: "Basically, we will not do anything going beyond what we have said so far, and we should not be able to do so."

AVIATION SAFETY

Mr. BYRD. Mr. President, it has been clear for some time that action needs to be taken immediately to improve the safety of our Nation's airways. Yesterday, the National Transportation Safety Board unanimously issued a safety recommendation that underscores the urgency of this situation.

The Safety Board recommended that the Federal Aviation Administration take immediate steps to freeze the volume of air traffic at or below existing levels. It further recommended that the FAA limit the practice of airborne holding to only unpredictable circumstances. Finally, the Board recommended that FAA permit no further relaxation of aircraft separation standards. The NTSB has classified these recommendations as urgent, requiring expeditious action by the FAA.

The NTSB made these unprecedented recommendations based on the Board's strong belief that there is undeniable evidence of a diminishing margin of safety in our air traffic control system. With the summer travel season only a few weeks away, the NTSB is calling on the FAA to take the necessary steps to prevent any further erosion in air safety.

Mr. President, I commend the Chairman of the National Transportation Safety Board, Jim Burnett, and the other members of the Board for their courage and leadership. These are not likely to be popular recommendations. The safety of the traveling public is paramount.

We all want to arrive at our destinations without delays, Mr. President. But most of all, we want to arrive.

I look forward to quick action by the FAA on the NTSB's recommendations.

I ask unanimous consent that a copy of Chairman Burnett's May 13, 1987, letter to Donald Engen, the Administrator of the Federal Aviation Administration, be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL TRANSPORTATION
SAFETY BOARD,
Washington, DC, May 13, 1987.

Hon. DONALD D. ENGEN,
Administrator, Federal Aviation Administration, Washington, DC.

The National Transportation Safety Board's investigation of several recent incidents involving operational errors committed by air traffic controllers provide cause for concern about the level of safety of the U.S. air traffic control (ATC) system. The findings from these investigations show that the nation's ATC system is at times overburdened with traffic; lacks continuously effective terminal and en route traffic flow control programs; and, at some control facilities, lacks the number of qualified controllers necessary to fully staff control positions throughout the day. Also, the Safety Board is concerned that the number of ATC operational errors, one indicator of system safety, has risen during the past few months reversing the generally decreasing trends during the preceding year. The number of runway incursions, another safety indicator, has also risen during the last 2 years. Finally, the number of reports of near midair collisions and particularly the number which involve at least one air carrier airplane increased between 1985 and 1986. These indicators suggest an erosion of safety in the ATC system which may worsen as a result of the predictable increases in air traffic and the typical convective weather during the summer season ahead.

During the course of its current investigations of accidents and incidents, the Safety Board is continuing to examine the relevant aspects of the ATC system including facility staffing levels, training, quality assurance and controller procedures, as well as the effect of the steady increase in traffic level. Findings related to these broad issues will be addressed in detail in future accident reports and safety recommendations. However, because of its strong concern about the safety of the ATC system during the summer months ahead, the Safety Board is directing this letter to the immediate need for Federal Aviation Administration (FAA) action to reduce air traffic density when and where the ATC system is operating at near saturation levels until a flow control program is developed which can meet the dynamic requirements of the system.

SYSTEM SAFETY INDICATORS

The Safety Board believes that the frequency of operational errors which lead to compromises of the separation standards for aircraft in flight or on the runway is one effective indicator of ATC system safety. The total number of operational errors increased

18 percent during the first quarter of 1987 when compared to the first quarter of 1986. This recent increase contrasts sharply with a general reduction in operational errors during 1985 and 1986. Runway incursion incidents caused by controller performance deficiencies have increased nearly 50 percent from 77 during 1984 to 115 during 1986. Near midair collision reports have also increased during the past year. The total number of near collision reports may not be a direct indication of ATC system performance since they often involve visual flight rules (VFR) traffic. However, the Safety Board finds it most significant that 57 of the reported 1986 encounters involved critical hazards [1] for air carrier aircraft, most of which are presumably operating with the protection afforded by the ATC system. This represented a 42 percent increase over 1985 occurrences.

Historically, the number of operational errors and near midair collisions has increased substantially during mid-year months. These increases are believed to be related, primarily, to increased traffic levels during the summer flying period. This year, however, the expected upturn is starting at a level already well above the comparable period in 1986. Thus, the Safety Board is concerned that the tendency for operational errors and the potential for a catastrophic accident will continue to increase during the 1987 summer months.

SAFETY BOARD INVESTIGATIONS

The Safety Board dispatched teams of investigators to examine the circumstances of several recent operational errors. These teams were staffed with an operational investigator-in-charge, two air traffic control specialists, and a human performance investigator.

On February 25, 1987, a runaway incursion accident occurred at the Los Angeles International Airport, Los Angeles, California. The accident involved a collision between Continental Airlines flight 866, a Boeing 727, and N98834, a Cessna 310R. Flight 866 had been cleared to take off on runway 25R by the tower south local controller while the Cessna had been cleared to taxi across runway 25R by the south ground controller. The aircraft collided at the intersection of runway 25R and taxiway 47J when the right main landing gear of the Boeing 727, which had just lifted off, struck the vertical stabilizer of the Cessna 310R causing substantial damage to the Cessna airplane.

On March 31, 1987, an operational error incident occurred in the airspace controlled by the Cleveland Air Route Traffic Control Center (ARTCC) near the Dryer navigational fix. The error involved Northwest flight 427, a DC-9, en route from Allentown, Pennsylvania, to Detroit, Michigan, and N52DC, a Falcon DA50, en route from Saginaw, Michigan, to Washington, D.C. Flight 427 was given a heading of 360° and a descent from flight level (FL) 290 to FL 240. The Falcon was at FL 290 and was turned to a heading of 170°, then was turned further to 210° and cleared to climb to FL 310. The two airplanes passed each other with 1½ miles horizontal and 800 feet vertical separation.

On April 3, 1987, an operational error incident occurred in the Bridgeport, Connecticut, sector of the Boston ARTCC. The error involved Pan American flight 528, a B727, en route from LaGuardia, New York, to Boston, Massachusetts, and Continental Airlines flight 602, a DC-9 en route from Dulles, Virginia, to Bradley Airport at Windsor Locks, Connecticut. The radar controller issued a climb clearance to flight 528 to 14,000 feet and provided a traffic advisory concerning flight 602. Pan American flight 528 advised he had traffic in sight. The radar controller thought that he had issued a descent clearance to 15,000 feet to flight 602 and that vertical separation would exist when the aircraft flightpaths crossed. Actually, he had issued a descent clearance to 14,000 feet which had been acknowledged. The flightcrew of Pan American flight 528 adjusted their rate of climb to avoid a potential midair collision and separation was lost when the aircraft passed with 400 feet vertical separation and 0.69 mile lateral separation.

On April 9, 1987, an operational error led to a runway incursion incident at Logan International Airport, Boston, during night VFR weather conditions. The error involved Northwest flight 35, a DC-9, taxing for takeoff on runway 9 and Precision Airlines flight 509, a BE-99 which had been cleared for a visual approach to land on runway 4L. There was training in progress on both the local and ground control positions. The local controller approved the request of flight 35 to cross on runway 4L and while it was exiting the runway, flight 509 reportedly overflew the vertical tail of the DC-9. The tower supervisor became concerned as he observed the incident developing. Although he vocalized his concern, the error still occurred.

On April 13, 1987, an operational error incident occurred at the Hampton sector of the Boston ARTCC. The error involved USAir flight 64, a B-737 en route from Philadelphia, Pennsylvania, to Boston, and Eastern Air Lines flight 695, a B-727 en route from Boston to Washington National Airport. The aircraft were on opposite direction and parallel courses, with flight 695 level at FL 280 and flight 64 level at FL 270. The radar controller issued a climb clearance to flight 64 to FL 290 as the aircraft were passing. The aircraft did not have standard separation when the conflict alert activated. The aircraft passed with 400 feet vertical separation and 2.88 miles lateral separation.

On April 16, 1987, an operational error incident occurred at the Manchester Terminal Radar Approach Control (TRACON) position which is a part of the Boston ARTCC. The error involved Bar Harbor Airlines flight 756, a BE-99 en route from Boston to Burlington, Vermont, at 8,000 feet and N456DA, a PA-31 en route from Bangor, Maine, to Teterboro, New Jersey, at 8,000 feet. Both aircraft were on instrument flight rules (IFR) flightplans, and the aircraft passed with 0 lateral and approximately 200 feet vertical separation as the BE-99 was nosed over to avoid an imminent midair collision. The radar controller was aware of the pending conflict, yet was busy issuing coordination instructions and holding aircraft in his airspace as a result of adjacent center sector saturation. The controller did issue a descent clearance to flight 756 when the aircraft were approximately 1 mile apart. Both aircraft filed a near midair collision report as a result of the near collision.

The Safety Board's recent and past investigations of operational errors (and runway incursions incidents) have disclosed that the factors and circumstances of the errors vary and that the errors cannot be attributed to one single cause. Most of the occurrences, particularly those which have involved tower personnel, were the result of a breakdown in controller procedures, poor coordination, and a general lack of supervision. In many of the cases described in a special investigation of runway incursions, [2] Safety Board investigators found that supervisors were either working a control position or performing other duties which precluded their availability to provide oversight and resolution of developing conflicts. The Safety Board's findings generally support the FAA's analysis [3] which shows that operational errors are committed by both experienced and inexperienced controllers and are just as apt to occur during periods when traffic is moderate or light as when traffic is heavy. Nonetheless, the Safety Board believes that a continual increase in daily workload can be a factor which increases a controller's vulnerability for error, that longer periods between breaks and the cyclic nature of the workload can lead to an insidious loss of attentiveness during a period of reduced traffic with serious consequences.

When Safety Board investigators interviewed randomly selected controllers in TRACON, tower, and ARTCC facilities, nearly all of those interviewed in the ARTCC facilities expressed concern about the increasing levels of traffic they were required to control during some periods of their work shifts. They stated that certain sectors become extremely busy and present complex traffic situations during some periods as air carrier airplanes operate to and from their major hubs for flight connections.

The controllers' observations of a continually growing workload are substantiated by a recent FAA report which shows that at 22 airports, the average daily operations for February 1987 have increased 10.2 percent when compared to July 1981, just before the Professional Air Traffic Controllers Organization (PATCO) walkout. Individually, these data show that Atlanta has increased 25 percent, Los Angeles has increased 17 percent, Detroit has increased 46 percent, and Newark has increased 55 percent. This same report shows that the average daily operations at the 20 ARTCC's have increased 10.4 percent when compared to 1981. Individually, these data show the average at Atlanta ARTCC has increased 28 percent, Los Angeles has increased 35 percent, and Boston, Jacksonville, and Washington ARTCC's have all increased 21 percent.

While the controllers did not believe that the current situation should be categorized as "unsafe," many believed that an unsafe situation could develop if the traffic volume continues to increase. In fact, many controllers in the facilities expressed concern that the controller staff on board will not be sufficient in terms of numbers, qualifications, and experience to cope with the needs of their facility during the coming summer. In addition, the controllers believe that overtime needs and scheduled leave will exacerbate the problem, particularly where the flexibility to use some controllers in busy positions is limited by individual qualifications. They were concerned that many of the controllers who will be staffing busy positions this summer have not had experience handling the complex air traffic control situations that develop when the circumvention of thunderstorms is required, and to do so under increased levels of traffic could lead to an unsafe condition.

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[1] *Critical:* A situation where collision avoidance was due to enhance rather than an act on the part of the pilot. Less than 100 feet of aircraft separation would be considered critical.

[2] For more detailed information, read, Special Investigation Report—"Runway Incursions at Controlled Airports in the United States" (NTSB/SIR-86/01).

[3] Profile of Operational Errors and Deviations in the U.S. Air Traffic System, Calendar Year 1985, dated May 1986.

DISCUSSION

The function of the ATC is to promote and assure the safe, orderly, and expeditious flow of aircraft from their departure to their destinations. The system has evolved with the growth of air traffic into a complex array of ground-based radar systems, computers, navigational aids, and communication equipment. The Safety Board acknowledges that the continual advancements of this system since the early 1970's including the en route and terminal radar, conflict alert logic, and airspace segregation have had significant effects on both safety and system capacity. Although there are assorted automated features, the primary element in the system remains the air traffic controller. The controllers still must mentally perceive and project the flow of aircraft as they enter their assigned airspace, decide the direction and altitude that each aircraft must fly in order to pass through the airspace while maintaining a prescribed separation from all of the other aircraft, and communicate the proper commands to the pilot. A controller may have more than 20 aircraft to track and direct at a given time. The Safety Board recognizes that it is a demanding task that requires special aptitudes, training, experience, and mental discipline.

In August 1981, over 11,000 controllers of the total staff of about 17,000 were terminated after the PATCO walkout. In anticipation of the PATCO strike, the FAA had developed a contingency plan which was initiated after the walkout. The plan permitted continued operation of the ATC system at a restricted level by the remaining controller workforce augmented by FAA supervisory staff, military controllers, and the extensive use of overtime. The ATC restrictions imposed included the allocations of slots for scheduled traffic in and out of major airports and a reservation system to limit general aviation access to the ATC system. At the same time, the FAA undertook a massive program to hire and train a replacement workforce at an accelerated pace. The combined efforts of traffic restrictions and restaffing and the dedicated performance of the working controllers sustained the system from 1981 through 1984. The Safety Board believes that the FAA's performance during that period was commendable. By 1984, the restaffing efforts had progressed to the extent that the slot allocation and general aviation reservation programs were lifted except for four major airports[4] defined as high-density traffic airports where specific limitations are still imposed on the number of IFR operations that can be scheduled or reserved during any given hour.

Access to the ATC system today is otherwise unrestricted except for the daily metering of traffic in the system provided by a limited flow control program which is managed from a Central Flow Control Facility in the FAA's Washington headquarters. The present flow control program is imposed to maintain a flow of aircraft into the major terminals which is consistent with the established acceptance rates for those airports with consideration for factors such as terminal area weather and runway configuration in use. The program is not capable of detecting or preventing a traffic overload in individual ARTCC sectors. During en route flight, the aircraft destined for the different major terminals intermix with each other and with aircraft bound for less busy airports for which there are no flow control limits. Consequently, the present flow control has no predictive capability for sector saturation and en route traffic is regulated at the ARTCC and TRACON facility level. This regulation is effected by traffic managers who are responsible for monitoring the overall situation and by individual controllers who meter the traffic by maintaining prescribed in-trail separation distances to ensure that traffic is passed from sector to sector and en route to terminal facilities in an orderly progression.

Although the level of traffic operating within the ATC system has been permitted to increase, the controller workforce has not yet reached its full strength. The total number of controller personnel on board is close to the stated objective of 15,225. However, many of these controllers still have to complete their training, and the FAA must redistribute controllers to understaffed facilities before complete stability of the workforce is achieved. Even then, it will take years to reacquire a workforce with an experience level comparable to that which existed before the 1981 PATCO walkout.

However, the strength and experience level of the controller workforce is only one of several factors which affect the ability of the ATC system to accommodate increasing levels of traffic safety. Even with a full staff of trained and experienced controllers, there is a limit to ATC system capacity imposed by the required spacing of airplanes that can be landed and departed from the airport runways available (airport acceptance rates) and the rate at which airplanes can be intermixed as they move with an orderly flow and prescribed separations through a given volume of en route airspace. Other factors affecting these rates include the complexity introduced by individual sector geographical size and characteristics, converging airways, the presence of hazardous weather, radio frequency congestion, and the wide variation of performace characteristics of different airplanes. The Safety Board believes that the peak traffic flow in some parts of the ATC system today is approaching the limits imposed by these considerations. In fact, the present staffing shortages of certain facilities notwithstanding, ATC facilities now are generally able to staff all control positions with qualified persons during the periods when peak traffic flow is anticipated. Thus, while the overall level of experience may be a factor, the staffing shortages per se are probably not a significant limitation to the maximum level of traffic that can be safely handled during the peak periods. The staffing shortages might become a factor in the total daily capacity of the ATC system if the need to handle peak traffic were extended throughout the day, thus requiring that all control positions remain staffed for prolonged periods. However, the Safety Board does not believe that arbitrary increases in the number of controllers, over the presently authorized full staffing level, would produce a corresponding increase in the number of aircraft that the ATC system could handle safely.

During the last several months airlines have experienced mounting delays for scheduled departure and arrival flights. Deregulation and airline hubbing concepts have been major factors in these delays, which have been increasing and will continue to rise with the increase in flights during the upcoming summer travel period unless corrective action is implemented. These delays occur becuase the airlines schedule more departure and arrival flights during a specific time period than the airports and ATC system can accommodate. The FAA has stated that it will continue to adhere to its policy to hold airplanes on the ground at their departure points until the ATC system capacity is capable of handling the airplanes for their entire flight routing, and the Safety Board strongly supports this policy. Theoretically, airplanes should not be required to fly holding patterns as a result of in-flight delays except for unforeseen circumstances such as weather, runway closings, or ground equipment discrepancies. However, during visits to the Boston and Cleveland ARTCC's Safety Board investigators learned that some aircraft destined for Boston Logan Airport and Chicago O'Hare Airport are required to hold in flight because airborne traffic is exceeding the airport acceptance rates. The Safety Board believes that this situation indicates limitations in the ability of the present ATC flow control program to adjust system demand to match system capacity.

The Safety Board is particularly concerned that any FAA actions to succumb to industry and public pressure to reduce delays by relaxing restrictions on access to the ATC system will overtax airport and controller capabilities. In this regard, the FAA's recent actions to relax several flow control measures, including a reduction in in-trail restrictions to as little as 10 nautical miles in some airspace, could adversely affect controller workload and compromise system safety. The Safety Board is not aware of the extent to which the FAA evaluated the potential impact of these actions and believes that a thorough analysis must consider such factors as controller workforce experience and the complexities that can arise when thunderstorms develop suddenly.

The Safety Board believes that a safer way to reduce airline delays and to alleviate the peaks in ATC system demand is to impose realistic flight scheduling by all the air carriers. Some departure and arrival times for scheduled flights must be rescheduled to times when the airports and ATC system are underused. The Safety Board understands that the recent efforts of the Office of the Secretary of Transportation (OST) and the FAA to elicit cooperation with the airlines to resolve scheduling peaks has been partially successful. The Safety Board believes that the OST and FAA should continue to encourage and coordinate voluntary actions by the air carriers to achieve schedules compatible with ATC system capacity. If voluntary measures are not successful, the FAA should review the need for other actions such as an extension in the application of the high-density traffic airport limitations.

The Safety Board believes that the key to achieving maximum ATC system capacity involves the implementation of effective and efficient traffic management programs. These traffic management or flow control programs should be automated and should include predictive capabilities based on the dynamic analysis of traffic conditions. The traffic management programs should be adequate to ensure that the workload of individual controllers does not exceed safe levels.

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[4] The high-density traffic airports are John F. Kennedy, LaGuardia, O'Hare, and Washington National.

The Safety Board's staff has been briefed on the FAA's new aircraft situation display (ASD) which has been developed for use in its Central Flow Control Facility. The Safety Board understands that this new program will provide the capability for flow control technicians to analyze real-time traffic conditions in all 20 domestic ARTCC's. The Safety Board hopes that the program will be used to conduct comprehensive analysis of individual ARTCC sectors which have been identified as reaching traffic saturation at certain times in the day. Such an analysis should enable the FAA to examine current departures and arrivals at major airports and the routes of flight in between so that traffic management solutions can be developed to alleviate the peak traffic period. The Safety Board believes this new flow control tool should significantly enhance the FAA's ability to reduce peak traffic periods in specific ATC system sectors and airspace.

As a result of its investigation, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Take immediate action to reduce the maximum acceptance rates at those airports now monitored by the Central Flow Control Facility, and place limits on en route flight-plan approval to the extent necessary: To ensure that the peak traffic in Air Route Traffic Control Center sectors resulting from the intermixing of aircraft destined for different airports remains at or below present levels; and to ensure that in-flight holding is limited to unpredictable circumstances.

Until these factors are included in an automated predictive air traffic control system flow control program based on dynamic situation analysis. (Class I, Urgent Action) (A-87-52)

Initiate a program to solicit controller views and to analyze pertinent data such as traffic count reports from the offline analysis management program (OAMP), extracted radar data, air-to-ground communication tapes, etc., and use tools such as the aircraft situation display; To identify critical Air Route Traffic Control Center and Terminal Radar Approach Control sectors; to establish criteria for the sector maximum safe traffic density in critical sectors; to develop a means for predicting periods when traffic levels might approach or exceed safe limits; and to develop procedures or actions to prevent sector overload by alternative flight routing, revised sector design, or establishing more effective flow control measures. (Class II, Priority Action) (A-87-53)

Permit no further relaxation in flow control measures including the en route miles in-trail separation restrictions prescribing the flow of traffic in those Air Route Traffic Control Center sectors and Terminal Radar Approach Control airspace that feed the major terminal facilities, and continue to analyze and monitor the effect of previously reduced in-trail separation restrictions to determine the effect on controller workload, considering controller experience and the potential impact of summer thunderstorms. (Class II, Priority Action) (A-87-54)

Publish in Notices to Airmen or in a widely circulated Advisory Circular the locations and time periods where traffic density is approaching critical limits, and encourage nonscheduled flights to select departure and arrival times and appropriate alternate routing to avoid critical areas. (Class II, Priority Action) (A-87-55)

Burnett, Chairman, Goldman, Vice Chairman, and Lauber and Nall, Members, concurred in these recommendations.

BY: JIM BURNETT,
Chairman.

THE ABM TREATY AND MAD

Mr. DOLE. Mr. President, as the legal hair-splitting over the 1972 ABM Treaty continues, we should take a step back to consider the real issues at hand. I have pointed out on several occasions that this treaty debate is really a debate on both the President's right to interpret our obligations under a treaty, and on the future of SDI.

In a recent Defense News article, the Senator from Indiana [Mr. QUAYLE] takes a look at another of the important broader aspects of this debate. He examines the strategic theory behind our adherence to the SALT I package of which the ABM Treaty is a part. We accepted the doctrine of mutual assured destruction—MAD. The Soviets never did. They never accepted limits on development and testing of future ABM systems under the treaty, and they proceeded with their strategic defense plans. Senator QUAYLE illustrates the point with a letter received from our negotiators in Geneva. The fact is that in 1985—1985—the Soviets sought a separate agreement to limit development and testing. Why would they have done this if the ABM Treaty already prohibited these activities?

Senator QUAYLE's brief article explains more about the ABM Treaty dispute than most of the discussion which has transpired on the subject to date. I commend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUT THE SPOTLIGHT ON THE SOVIETS

(By Dan Quayle)

There seems to be something missing in the national debate about the 1972 Antiballistic Missile (ABM) Treaty and whether a broad interpretation of that treaty would allow us to test exotic, space-based defensive systems more realistically.

That missing ingredient is the Soviet Union's interpretation of the ABM Treaty and the extent to which the Soviets already have built up their own strategic defenses based on that interpretation.

While we are considering limits we believe the treaty imposes on research, development and testing of ABM systems, we must also look very carefully at the treaty constraints the Soviets have acted under.

Because the Soviet Union is our partner in this nuclear deterrence pact, their actions in the nuclear arena have a profound effect on our national security efforts.

To consider limiting our own strategic defenses under the ABM Treaty without considering how the Soviets have interpreted that very same treaty is not only foolish, it is dangerous to the welfare of this nation.

When the United States signed the ABM and SALT I treaties in 1972, we did so with the understanding and the hope that the Soviets would adhere to the concept of Mutual Assured Destruction (MAD).

Well, even a brief review of history shows that not only have the Soviets rejected MAD, a strong case can be made that they used both treaties to accelerate their strategic defense technologies and to overtake our first-strike strategic offensive forces.

The Soviets have liberally interpreted the ABM Treaty for years because, as even their public statements indicate, they place a high premium on strategic defenses.

It is for this reason that the Soviets have developed and deployed extensive strategic air defenses, two generations of ABM systems around Moscow and antitactical missile systems, even as we were abandoning our own strategic defense efforts.

Now, 15 years later, the Soviets have decided that the ABM Treaty, in fact, places very strict limits on certain types of strategic defenses. Why?

The answer to that question is contained in a letter to me that I believe contains evidence demonstrating just how blind our current debate is about the ABM Treaty.

Last August, I met with our deputy defense and space group negotiator, Ambassador Henry Cooper, to talk about the Soviets' posture on the president's Strategic Defense Initiative (SDI).

What Cooper had to say about the Geneva talks and the Soviets' interpretation of the ABM Treaty was astounding, so I asked him to put his observation in writing. Three of the most significant points he made during our discussion were:

One, the Soviets were so convinced that the ABM Treaty did not limit the research, development and testing of futuristic, space-based defensive systems that in March 1985 they sought a separate accord to ban such activities.

Two, when the Soviets approached us two years ago with this proposal for a separate ban on space-based ABM systems, our negotiators in Geneva were genuinely perplexed because they assumed that such systems already were covered under the ABM Treaty.

And three, it was this Soviet proposal—and our own confusion about it—that sparked an intensive internal review of the ABM Treaty negotiating record by the Reagan administration.

As Cooper noted in his Aug. 26, 1986, letter to me, "Their proposed ban of space-based ABM systems . . . puzzled us because it seemed redundant with existing U.S.-Soviet obligations under Article V of the ABM Treaty."

As a result, our internal review of the negotiating record was not, Cooper noted, "undertaken out of the blue to 'torpedo the treaty,' as some have suggested."

It was only after a comprehensive review of the classified negotiating record that some light was shed on the puzzle.

"That review led to the conclusion that the Soviets never agreed to include ABM systems based on 'other physical principles' in the Article V prohibition," Cooper wrote to me.

In fact, the Soviets apparently agreed in 1972 to only one limit on such futuristic ABM systems: that neither side would deploy such a system without first negotiating an amendment to the treaty.

When the United States suggested in late 1985 that perhaps we would interpret the treaty broadly, the Soviets did an about-face and demanded a restrictive interpretation of the ABM Treaty.

This Soviet move was understandable, Cooper pointed out, because "our decision to constrain the SDI program to be consistent with our previously held view of the terms of the treaty puts them in the best of all worlds.

"The U.S. has legitimized the 'broader interpretation' for them . . . while continuing the narrow restraints on activities under the SDI program," according to Cooper.

Finally, Cooper made one other point: that his private conversations with Soviet negotiators have confirmed his belief that the Soviets have broadly interpreted the ABM Treaty for years.

In fact, U.S. arms control adviser Paul Nitze said recently that the Soviets are planning an experiment in which they intend to use exotic beam devices to knock pieces off the surface of one of Mars' moons.

While it is unclear whether such a space-based test would violate the ABM Treaty outright, it certainly would seem to violate our own narrow interpretation of the treaty.

Soviet plans for such a test demonstrate what we need to keep firmly in mind as we continue our debate over the ABM Treaty and the limits it places on our SDI program—namely, how the Soviet Union is acting under its own interpretation of the treaty.

For if the Soviets are aggressively developing ABM systems as a result of their own broad interpretation of the ABM Treaty, how can it be in our own best interests to continue to interpret that same treaty narrowly?

THE SENATE RULES

Mr. DOLE. Mr. President, on Wednesday morning, May 13, the Senate experienced a very troubling period. Those Senators who were trying to exercise what rights they are guaranteed under the rules were told by a majority that the rules are irrelevant, and that only the precedents being set on an "ad hoc" basis by the majority are going to determine what the Senate is going to do, and when it is going to do it.

Yesterday morning, the majority leader attempted to exercise his rights under the rules to make a nondebatable motion to proceed. At the same time, the minority attempted to use its rights under the rules to prevent this from happening. In the course of events, three rulings including two especially troublesome precedents were established. First, the clear right of a Senator to decline to vote, if excused by the Senate, was abrogated. The Chair stated that this precedent would be limited to a vote to approve the Journal.

The second precedent, that of allowing a point of order and a vote on an appeal in the middle of an ongoing roll-call vote was only qualified by an "extraordinary circumstances" test which can be applied in the future to any vote. This is a dangerous precedent for the Senate. A third statement by the Chair, made as I was attempting to explain my reasons for declining to vote, was that "we only have 7 more minutes," as justification for ending the explanation. The fact that 7 minutes remained during the morning hour was not relevant to the rights guaranteed by rule 12.

I would also like to say a word about the argument that dilatory tactics in some way force the majority leader to the wall and force him to create new precedents eliminating such tactics. No one is forced to create or vote for the creation of new precedents when dilatory tactics are being utilized. Dilatory tactics are not a violation of the Senate rules, they are protected by the Senate rules. We are a deliberative body. Deliberation takes time and it is time well spent if it prevents the Senate from taking hasty and ill-advised action. That is precisely what was at stake on yesterday morning.

The Senate rules have been in existence in very much their current form since 1884. On those occasions when the rules appeared to be inadequate to meet current problems they have been amended, as they provide within their own strictures. There are protections written into the rules which protect one-third of the Senate plus one from having debate ended on a proposed rules change without their consent. Of what use is this protection, however, if the rules can be changed without debate in the middle of a rollcall vote?

If the marble columns surrounding this Chamber collapse, they can be rebuilt. If the very desks at which we stand be consumed by flame, they can be replaced. But who is to rebuild the rules under which we serve? Once the pillars of those rules are destroyed there is little to replace them. The rules exist not alone for those times when things are going our way, but also for when we are frustrated and angry. Indeed, that is when their constraints are most valuable. Somehow this fact must be accepted by all the Senators, not just an embattled minority.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senate will now proceed to the consideration of H.R. 27, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 27) to facilitate the provision of additional financial resources to the Federal Savings and Loan Insurance Corporation and, for purposes of strengthening the reserves of the corporation, to establish a forbearance program for thrift institutions and to provide additional congressional oversight of the Federal Home Loan Bank Board and the Federal Home Loan Bank System.

The Senate proceeded to consider the bill.

AMENDMENT NO. 196

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 196.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed later under amendments submitted.)

Mr. PROXMIRE. Mr. President, this amendment would substitute the text of S. 790 as previously passed by the Senate on March 27 for the text of H.R. 27. Although the Senate has sent the House a carefully crafted bill, the House has chosen to ignore the Senate's work and has responded instead with a bill dealing with only one of the issues taken up in S. 790—the recapitalization of the Federal Savings and Loan Insurance Corporation.

Some Members of this body might argue that because the FSLIC issue is so urgent, the Senate should just roll over and accept the House bill without going to conference. There are four reasons why that course of action would be wrong:

First, the issue of nonbank banks is closely linked to the FSLIC recapitalization program. The cost of selling off ailing thrifts will be greater if prospective buyers can enter the same market through the nonbank bank loophole;

Second, the Congress needs to take immediate action to restrain the bank regulators from expanding bank powers by stretching the law far beyond congressional intent. Failure to act now abdicates congressional authority by default;

Third, because of veto threats by the Reagan administration, it will be extremely difficult for the Congress to close the nonbank bank loophole unless it is included in the FSLIC legislation; and

Fourth, even the limited House FSLIC bill cannot be accepted by the Senate because it authorizes too little funding and contains too many restrictions on the Home Loan Bank Board's ability to administer the program.

There is another reason, Mr. President, and that is that the House voted by a very strong vote, overwhelming vote in favor of a lower level of capitalization than the Senate. We in the Senate feel very strongly that at least the $7.5 billion is needed. In fact, we had a divided vote in the committee, it was a vote of 9 to 9, defeating an amendment which I supported which would have provided $10 billion for FSLIC recapitalization.

Now, the two bills will differ and therefore the House will take it up and, believe me, they will debate this very intensely, because there was strong feeling on the part of Members of the House that the FSLIC recap should not go higher than $5 billion.

The point is that in any event we are going to have a conference with the House. There is going to be a dispute with the House. There is going to be differences of opinion with the House. So that by adopting S. 790 we are not delaying at all.

Mr. President, closing the nonbank bank loophole and recapitalizing the Federal Savings and Loan Insurance Corporation are both desperately needed to help stabilize our increasingly volatile financial system. Congress needs to act promptly on both of them.

The Senate started the process in this session over a month ago when we passed the Competitive Equality Banking Act of 1987, by a vote of 79 to 11, and sent it to the House. Our bill, S. 790, addresses several key financial issues. It closes the nonbank bank loophole and recapitalizes the FSLIC. It provides the Federal Deposit Insurance Corporation with essential emergency acquisition authorities, streamlines the administration of credit unions, limits the abusive holds banks place on checks, and helps farm banks work out problems with agricultural loans. S. 790 also mandates a Treasury study of so-called junk bonds and reaffirms that Federal deposit insurance is backed by the full faith and credit of the United States.

These provisions are not new. The nonbank bank, FSLIC recapitalization, FDIC acquisition, checkhold, and full faith and credit issues have been extensively debated and considered in both Houses of Congress.

Mr. President, S. 790 is carefully structured. It halts the aggressive exploitation of loopholes in our banking laws by closing the nonbank bank loopholes as of March 5, 1987, limiting the growth of grandfathered nonbank banks, and limiting certain new activities for banks for 1 year. The House and Senate Banking Committee will now have the time needed to carefully consider new financial service legislation without continued erosion in our banking laws. More importantly, the growth and activity provisions will encourage nonbank bank owners and certain other financial industry groups to participate constructively in the reconsideration of the laws governing the ownership of federally insured depository institutions. Until now their role has been only to oppose such legislation.

S. 790 recapitalizes the FSLIC by permitting the FSLIC to obtain new funds through a federally authorized financing corporation. The funds would come from a combination of capital market borrowings and thrift industry contributions in a plan that authorizes $7.5 billion in borrowings for 2 years and requires congressional review and approval before additional funds could be borrowed. Although the time limit on the borrowing authority is less than that sought by the Treasury Department, the amount permitted is in the range indicated by the Treasury and the General Accounting Office as essential. In essence, S. 790 provides the full Treasury plan on a 2-year rather than a 5-year basis. This is done to ensure full congressional oversight over a congressional established borrowing and spending program that will ultimately involve tens of billions of dollars.

A key dimension of the Senate's FSLIC recapitalization plan is its linkage to closing the nonbank bank loophole. Federal Reserve Chairman Volcker, FDIC Chairman Seidman, and Federal Home Loan Bank Board Chairman Gray, have all testified that closing the loophole will reduce FSLIC recapitalization costs by increasing the value of a thrift institution charter.

Despite the importance to the FSLIC recapitalization of closing the nonbank bank loophole, and despite his committee having passed a nonbank bank loophole closure bill in each of the last two Congresses, House Banking Committee Chairman St Germain declared 2 weeks ago that the House is unprepared to consider S. 790 on the House floor. Instead, the House has sent to us H.R. 27, an FSLIC recapitalization bill.

Needless to say, I am concerned about this. If the nonbank bank loophole is left open, the FSLIC recapitalization will be more costly. The best explanation of why this is the case that I have ever heard was provided by my House counterpart, House Banking Committee Chairman, Fernand St Germain. Let me quote to you what he said on the House floor last July in a statement entitled "The High Cost of Not Closing the Nonbank Bank Loophole." Chairman St Germain said:

> The nonbank bank loophole provides an easy, essentially unregulated means for institutions to move interstate and expand their activity. As a result, the mergers which the Federal regulators attempt to arrange for failed and failing institutions become much less attractive and much more expensive. So long as the nonbank bank loophole remains, the market for failed and failing institutions—sought by the regulators—is greatly diminished.
>
> Thus, Mr. Speaker, the effectiveness of H.R. 4701 (FDIC emergency acquisition) and H.R. 4907 (FSLIC recapitalization) is in question if we do not close the nonbank bank loophole.

Chairman St Germain recognizes as we do that the attractiveness of purchasing a troubled thrift as a way to enter the financial services business is critical to the success of the FSLIC recapitalization and fundamental to restoring stability to the thrift industry. The House action ignores the key relationship between the FSLIC recapitalization and nonbank banks.

The heart of Chairman St Germain's statement opposing House consideration of S. 790 is that the House Banking Committee has not had a chance to address all of the issues in the Senate bill. While this may be true for a few minor issues in the Senate bill, it certainly is not the case for the major items. The House Banking Committee considered and passed nonbank bank legislation in both the 98th and 99th Congress—their last bill, H.R. 20, was even stricter than our own. The House Banking Committee acted last year on checkholds and FDIC emergency acquisition authorities, and this year the House has already passed a checkhold bill and critical parts of needed credit union legislation.

Mr. President, there is little in S. 790 that the House Banking Committee has not already considered in one form or another.

Let me now turn to the specifics of the House's FSLIC recapitalization bill, H.R. 27, and compare it with S. 790. The House bill establishes a financing corporation authorized to borrow in private capital markets and to transfer the borrowed funds to the FSLIC, and permits the financing corporation to collect funds from FSLIC-insured institutions to service the financing corporation's debt. In this and other particulars, the House and Senate recapitalization plans are virtually identical. But the House plan differs from the Senate's in two critical respects. The House bill authorizes the financing corporation to borrow only $5 billion compared to $7.5 billion in the Senate bill. The House bill also establishes a thrift forbearance program that seems to go well beyond the legitimate needs of the industry.

While the Treasury requested a $15 billion borrowing authorization over 5 years, the Senate bill reduced that amount to $7.5 billion in order to permit the Congress to maintain closer oversight over the program. Many members of the Senate Banking Committee felt the authority should have been $10 billion. The House bill, however, goes to the other extreme in authorizing only $5 billion, an amount that is clearly inadequate to the problems facing the FSLIC.

The second way in which the House recapitalization plan differs from the Senate's is in its thrift institution forbearance provisions. The Senate Banking Committee in its hearings and deliberations carefully weighed the need for forbearance. We settled upon a set of accounting and forbearance provisions that move the industry on a fixed schedule to full compliance with generally accepted accounting principles [GAAP] and that provide for the development and implementation of guidelines for dealing with troubled but viable and well-managed institutions so as to maximize the long-term viability of the thrift industry at the lowest cost to the FSLIC. The House language goes far beyond what the Senate deemed appropriate.

The House bill, in this Senator's judgment, will wreak havoc on the thrift supervision process, and further weaken already lenient thrift accounting and capital standards. With respect to thrift institution examination and supervision, H.R. 27 establishes a review and appeal process for "any determination" by "any examiner" for virtually any supervisory decision relating to loan evaluations or loss reserves. Such a process could, and would likely, be used to delay supervisory actions by institutions engaged in imprudent lending operations. The clear result of this will be an increase in the FSLIC's case resolution costs.

Regarding thrift institution accounting, the House bill appears to permit selective application of GAAP and regulatory accounting principles [RAP], depending on which is more advantageous to the S&L. Lax accounting is one of the reasons the thrift industry is in the trouble it is. If anything, Congress should be making thrift accounting standards more rigorous rather than more lax. Both the General Accounting Office and the Financial Accounting Standards Board, I am told, oppose the House-passed thrift accounting language.

On capital adequacy forbearance, the House bill specifies capital standards in law that heretofore had been left to the discretion of the regulators. The specified standards are, in this Senator's judgment, very lenient—indeed, too lenient. This should concern all of us very greatly. Clearly the problems faced by thrift institutions will take a number of years to resolve. Congress should not, however, relax thrift capital standards. We should utilize every opportunity to increase the capitalization of thrift institutions. To do otherwise will only weaken the thrift industry further and eventually cause banks to justifiably seek more lenient capital standards for themselves.

This Senator will study the provisions in title II of the House bill further and encourage his Senate colleagues to do likewise. However, if further review does not alter these initial interpretations, I will be constrained to strongly oppose Senate acceptance of the House forbearance language. My position will be the same with respect to the $5 billion borrowing authority contained in title I of the House bill.

Mr. President, it is my intention to replace the House-passed language in H.R. 27 with the text of S. 790 and ask the House to go to conference.

Mr. President, I have known my House counterpart, Chairman ST GERMAIN for many years. He is not a man to shirk his responsibilities or walk away from the best interests of his country. He understands the environment in which we must legislate and was correct when he said last July on the floor of the House that:

> Powerful interest groups—with absolutely no regard for the damage to the Federal insurance funds or the public's concern about the financial system—control many of these nonbank banks (or plan to control) and oppose enactment of H.R. 20 (nonbank bank bill). . . . The Congress must rise above these special interests or take the responsibility for potentially severe damage to our financial system and rising costs for federal regulatory operations.

Mr. President, I have also had long acquaintance with the other senior members of the House Banking Committee. They share our concerns about nonbank banks, and they are effective and responsible Members of Congress.

I have faith in our House colleagues. They have not forgotten their own efforts during the past two congressional sessions. I am confident that they will quickly convene hearings on nonbank banks if they truly feel more hearings are necessary. I am also confident that they will go to conference on the full range of issues in order to obtain a bill that meets the concerns of both Houses of Congress.

Mr. President, I see that my good friend, the distinguished ranking Republican and former chairman of the committee, Senator GARN, has arrived. I yield the floor.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Mr. President, I will only make a brief statement at this time.

Some 6 weeks ago, we debated this particular issue at rather great length over 3 days—at least 2½ days—on the floor of the Senate. Since that time, the House of Representatives has passed a clean FSLIC recap. It is not sufficient, in my opinion. It provides only $5 billion.

As I will discuss at greater length later, GAO indicates that FSLIC is $6 billion in the red. Five billion dollars is hardly adequate, plus there are some forbearance provisions in the House bill that simply negate the $5 billion. These provisions will probably cause more losses than they are actually talking about approving in the House version.

So the issue before us today is whether we add the previously passed Senate provisions to the House-passed clean FSLIC bill. I have no doubt that the distinguished chairman of the Banking Committee, the Senator from Wisconsin, has the votes to add the previously passed Senate version to the House-passed bill. Therefore, I do not see the necessity to continue to debate that particular issue.

I had offered the Senator simply a voice vote and then to proceed to my amendment, which will be the same as the one we did 6 weeks ago—strip titles I and II of what I feel are some rather onerous provisions involving moratoriums. He chooses not to do that.

In the interest of time, rather than debating it at this point, I will vote to support the addition of the Senate bill. After that vote is completed, I will offer an amendment to strip titles I and II. I would encourage everyone on my side of the aisle to vote for this, as a procedural matter, so that we can get to the heart of the debate on stripping titles I and II of the Senate-passed bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PROXMIRE. Mr. President, I am prepared to yield back my time on the bill. However, before I do that, I want to ask for the yeas and nays. I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I am ready to yield back my time on my amendment.

Mr. GARN. I yield back my time.

The ACTING PRESIDENT pro tempore. All time on the amendment is yielded back.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. McCAIN], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. McCAIN] and the Senator from

Minnesota [Mr. DURENBERGER] would each vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Wirth

NAYS—3

Lugar
Wallop
Wilson

NOT VOTING—4

Bumpers
Durenberger
McCain
Weicker

So the amendment (No. 196) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 197

(Purpose: To strike out titles I and II)

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 197.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out titles I and II and redesignate the succeeding portions of the bill accordingly.

Mr. GARN. Mr. President, the Senator from Missouri is on the floor and has a time problem. Before making my statement on the amendment, I would like to yield to the Senator from Missouri for his statement.

Mr. BOND. Mr. President, I rise in support of the amendment offered by my colleague which would, in effect, strip out the extraneous provisions in this FSLIC recapitalization bill. When we last considered it, we put materials into that bill that do not relate directly to the problem of the real and threatening crisis which faces the Federal Savings and Loan Insurance Corporation. Some of the provisions, in fact, may act to make the recapitalization, the restructuring of that agency and its depository insurance, more difficult. It is my contention that the Senate should strip out titles I and II so that we can move quickly to conference with the House and resolve the FSLIC crisis.

House Members have made it clear that they do not want to accept S. 790. The Treasury Department has recommended that the President veto the bill in its current form.

I do not know how this will all be finally resolved, but if the Senate insists on sending S. 790 back to the House it guarantees that it will take longer to recapitalize FSLIC, and according to the General Accounting Office every day that we wait will cost FSLIC another $10.4 million.

I repeat, the House has said that they will not go to conference on the Senate bill and every day delay costs FSLIC money.

These two facts make it clear that there is only one responsible thing that the Senate can do, and that is to vote for a clean FSLIC and put a stop to this endless game of chicken.

The Senate Banking Committee reported out a clean FSLIC recapitalization measure, I am told, on August 13, 1986. It still has not been enacted into law. The same controversy over unrelated issues that is tying us up today prevented a FSLIC recapitalization at the end of the last Congress. How long are we going to let this go on?

These delays and the inadequate funding level in the House bill are increasing the likelihood that the taxpayers will be called upon to bail out the insurance fund. I find this really offensive. I believe the taxpayers of this country will find it offensive as well.

Senator GARN had mentioned that he has calculated the price tag for the delays in FSLIC recapitalization thus far comes to over $2.1 billion, and since we passed this bill, S. 790, the price tag on delay since our action in March reaches into the hundreds of millions of dollars.

Who is going to pay for this? The thrifts themselves? Is FDIC? The taxpayers? The money has to come from somewhere and the longer we delay, the more money that is going to have to be.

I am disturbed that there are those who try to frame this vote as one on the question of whether or not to expand powers for banks or limit those powers. That it is not and should not be. This is and must be a vote on safety and soundness—safety and soundness of the savings and loan system and its Federal insuring agency.

I understand that the Banking Committee has held and can hold again a series of comprehensive hearings on the structure of our financial system. I would hope that we would do that this summer. I believe that the issue of whether to expand powers or narrow them can and should be discussed and debated then.

This is a vote on the very real crisis of the FSLIC insurance corporation which is in a dangerous, precarious position. It is a vote on the need to assure a health insurance fund to back the savings of millions of Americans, and to do so without prolonging this unconscionable delay threatens to take hundreds of millions of additional dollars out of the taxpayers' pockets.

I urge my colleagues to support the Garn amendment and vote to protect American taxpayers and depositors. I thank the Chair and I thank Senator GARN.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Wisconsin.

Mr. President, I rise in opposition to the so-called clean FSLIC amendment.

Mr. President, S. 790 has a careful balance. Indeed, many of the provisions of the bill are a vital complement to the FSLIC recapitalization. In particular the provisions which close the nonbank bank loophole will reduce the costs of recapitalizing the FSLIC by encouraging acquisitions of failed thrifts rather than liquidations.

Acquisitions of failed thrifts cost the FSLIC much less money than do liquidations. Even more importantly, acquisitions prevent the loss of public confidence in the FSLIC which occur when the agency must close a failed thrift.

However, if the nonbank bank loophole remains open—as would be the case if we just do a "clean FSLIC"—there would be no incentive for companies to acquire failed thrifts. Why should anyone acquire a failed thrift and assume a heavy financial and managerial burden when the company can set up a brandnew nonbank bank?

Mr. President, there are hundreds of nonbank bank applications pending approval by banking regulators. If the nonbank bank loophole is not closed now, these applications could be approved. And the effort to rebuild the FSLIC will be imperiled.

There are other reasons why we should send our bill back to the House. The moratorium provisions of the bill are extremely important. Without them, the Federal Reserve will permit banks to expand their powers immediately into the securities and real estate industries. It is possible that the Fed could also permit banks to expand into insurance. We need time to study the impact of this.

Maybe this is the way it ought to be. But I think we ought to move forward with indepth, extensive hearings involving other than those who have a vested interest in these provisions. I for one have one more serious reservation about such an expansion of bank powers. The questions of concentration of economic power and risk to the deposit insurance system which are at issue here are enormous. That is why the moratorium provision of the bill is so critical.

Decisions on such drastic changes in the banking industry should be made by Congress, I think we will all agree, and not by the regulators or highly paid loophole lawyers.

Mr. President, given the condition of the FSLIC it would be foolish for Congress not to close the nonbank bank loophole now. And considering the enormity of the question of further expansion of bank powers, we need the moratorium provisions. So I hope that the bill, S. 790, would be enacted in its entirely.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I believe it is well known by the Senate as well as the House that in my entire 12 years in the Senate I have attempted to pass comprehensive banking legislation. I think it should be evident to everyone that the financial services industry has changed even much more rapidly than I anticipated when I was a freshman Senator.

Nevertheless, the efforts of my colleague from Wisconsin and I, with the exception of two bills over those years, have really gone for naught. The marketplace continues to change rapidly, and yet Congress has been unwilling to make decisions on these admittedly controversial issues.

So last year, I had a comprehensive bill that I proposed, and in counting noses I felt that exactly the same scenario would take place as did in 1984, that I could pass a bill very narrowly out of the Banking Committee—in most cases by one vote margins on controversial provisions—and come to the floor and pass it overwhelmingly again—maybe not 89 to 5 like the 1984 bill, but when you have an 89-to-5 margin, there is plenty of room for slippage. I felt I could lose 20 to 25 votes and still pass it easily.

But I became convinced in July that the problems of the savings and loans of this country, and specifically their insurance corporation, FSLIC, were becoming so critical that no matter how strongly I felt about certain issues in my bill, it would be irresponsible of me to continue to hold hostage FSLIC recap to get my pet provisions passed.

So I held a press conference and withdrew the entire bill except a clean FSLIC recapitalization in the amount of $15 billion. And with some modifications in the last days of the session that bill passed the Senate by voice vote. It was not controversial. I want to make it very clear it was October, 8 months ago, that this body made that decision. We did not even have debate. We passed it simply by unanimous consent. And the House of Representatives, intent on approving a very large housing authorization bill, used FSLIC recap as a hostage in an attempt to pass the housing authorization bill. Even if I had been willing to accept that, there were other Members of this body who would not, and even if the Senate had been willing to accept the Housing authorization bill, the President would have vetoed it. So I thought the House of Representatives was absolutely irresponsible under the emergency conditions that existed at that time.

So we approached this year and I still felt that my decision of July of last year was the correct one and the responsible one. It put me in a position I did not like to be in because the chairman of the committee and I rarely disagree on these issues. He is for comprehensive legislation as well and has supported my efforts when I was chairman, and I supported his when he was chairman the 6 years prior to that. We do not disagree on the fundamental issues. We do not disagree that the South Dakota loophole should be closed. We do not disagree that the nonbank bank loophole should be closed.

It is not just a matter of opinion. That has been proven over a lot of votes in the committee and on the floor of this body over a number of years.

What we disagree on is the tactics of how we accomplish this. And again I made the decision last July that I could not hold on to those provisions that I valued so much with a crisis going on in the savings and loan industry of this country.

The only thing that has taken place since last July is that the condition has become far worse. I think my decision, at least in my own mind, has been proven absolutely correct. And so that is where we differ.

I feel very, very strongly that we should not encumber the recapitalization of the FSLIC with any provisions, whether I agree with them or not.

My views on this are clear cut. S. 790 is the omnibus banking bill that the Senate passed on March 27, over 6 weeks ago. It includes emergency safety and soundness provisions to recapitalize FSLIC and provide acquisition authority to the banking regulators. But it also includes two controversial provisions, titles I and II, that would close the nonbank bank loophole and impose a temporary moratorium on new products and services for banks.

I warned then that the controversial provisions would needlessly delay passage of the emergency provisions, costing FSLIC $6 million a day and $2 billion a year according to GAO, and that it would risk a severe crisis of confidence in thrift institutions. Unfortunately, events in the last 6 weeks have only confirmed my worst fears.

On May 4 the General Accounting Office—an arm of this Congress, not the administration—announced that FSLIC is even more broke than we thought. It's $6 billion in the red, not $3 billion:

I was on this floor 6 weeks ago arguing that that was a crisis. Now it is double, $6 billion in the red, and the House wants a $5 billion recap. That is not even enough to cover the current deficit.

Another statistic has also been revised: According to the Federal Home Loan Bank Board, FSLIC is losing $10.4 million a day, not $6 million, and by the end of April it had only $500 million in cash to protect $900 billion in deposits.

Mortgage interest rates jumped by nearly 2 percent, with no prospect of their coming down soon. Rising interest rates mean dramatically increased costs for FSLIC—GAO told us last year that a "2-percentage point increase in mortgage rates would increase the cost to FSLIC by over $7.1 billion" over a 2-year period. Unfortunately, that 2-percent rise in interest rates has occurred, and that is in addition to the $2 billion a year that the delay in passing FSLIC recap is already costing.

The House of Representatives has now acted by addressing only FSLIC recapitalization in its bill, and by firmly rejecting the Senate bill's inclusion of controversial provisions. In the words of the distinguished chairman of the House Banking Committee—who successfully urged the House to ignore S. 790 and send over a clean FSLIC package instead—

> The issues involved in the Senate bill are so controversial that [a conference on S. 790] would almost certainly doom chances for early action on FSLIC, something that has become very close to an emergency situation that has little room left for more delays.

So why should we pass it again? In view of all this, why should we waste more time by sending the same controversial package back to the House, knowing they will not accept it? Believe me, I know from experience what a time-consuming process this can be with the House.

With respect to the nonbank bank argument: the most recent justification for continuing down this path is the need to close the nonbank bank loophole—both because it is supposed to be more of an emergency than FSLIC recap and because it is supposed to attract new capital to the FSLIC fund. Both assertions are just plain wrong.

Closing the nonbank bank loophole is not an emergency safety and soundness issue, and it is certainly not "more important than the FSLIC rescue," as some have suggested. Yes, we need to address this issue as part of a comprehensive reform of the financial services industry—and I would support the chairman in doing that—as I have said and voted for many times. But, no, it is not critical to do it now, by itself, particularly when it generates the kind of controversy that has blocked FSLIC recap.

Closing the nonbank bank loophole deters thrift purchases. My colleague from Tennessee just talked about the need for assisted mergers, and he is right. Senator SASSER is absolutely right. It is much cheaper to find assisted mergers than it is to close down an institution and simply pay up to the $100,000 insured amount. By closing the nonbank bank loophole, we will chase away the most likely purchasers, diversified financial companies, for at least three reasons:

First, grandfathered nonbank banks and the firms that own them will not be able to buy thrifts, even failing thrifts, without giving up their nonbank bank status. This category includes virtually all the diversified financial firms that would be most likely to buy thrifts.

Second, diversified companies that buy thrifts will no longer be able to cross-market thrift products and services—even though cross-marketing is "the key to success in today's highly competitive financial services business," according to the committee report accompanying S. 790. But these same companies may continue to cross-market the products and services of their nonbank banks. Why give up a nonbank bank that permits cross-marketing for a thrift that does not?

Securities firms also cannot buy thrifts under this provision.

Third, securities firms and their affiliates—which again include many of the major diversified financial companies—are specifically barred from buying thrifts until March 1, 1988, a date which could easily get extended.

Let us face the facts. The controversial effort to close the nonbank bank loophole stopped FSLIC recap at the end of the last Congress, and it is stopping it in this one, too. The Banking Committee passed FSLIC recap legislation last August 13, a full 2 months before Congress adjourned on October 18. But the threat of a protracted nonbank bank debate prevented the bill from passing the Senate until the very last day of the session, which was far too late for the bill to have a real chance of passing both Houses. And the very same controversy is holding up FSLIC recap now.

What has this delay cost FSLIC? By failing to enact legislation by the end of the last Congress—which could have been done easily—the price tag through today is $2.12 billion. The very least I can say about that is that it is irresponsible on the part of Congress to continue to delay. Is it not time to say enough? Is it not time to say let us get on with it?

Every day we delay, we tread closer to a disastrous situation, which I do not mention lightly. I am aware of the talk that claims or crisis are "overblown" or "crying wolf" because FSLIC is still alive despite dire predictions. That is very dangerous talk. Just because a crisis has not happened yet does not mean that we have not gotten closer to that crisis. If it does occur, it may be too late for a rescue without socking the taxpayer with the bill. That is a burden we do not need to shoulder.

The Secretary of the Treasury has explicitly stated that he will recommend that the President veto a banking bill that includes "objectionable provisions that do nothing to safeguard the savings of FSLIC-insured depositors." Titles I and II clearly qualify as objectionable provisions to the President.

The distinguished chairman of the Banking Committee has made a valiant effort to pass the nonbank bank legislation in this and previous Congresses. The issue is clearly of great importance to him and myself. But as he said repeatedly in the committee markup and the floor debate of this bill, this Congress has "an absolute duty to move [FSLIC recap] along promptly. * * * It is absolutely imperative and urgent. * * * We will not allow delay. * * * In the event we have trouble on this, and it is held up for any significant time, I will certainly support the Senator from Utah's position." I will support the position of the Senator from Wisconsin in moving this along rapidly.

We obviously have had trouble because of the controversial provisions of this bill. We are bogged down. The House has made this clear, and the administration is threatening a veto. I call on all Senators to support my amendment to strip out titles I and II and send a clean FSLIC package to the House. Let's stop this $10 million a day hemorrhage now.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the distinguished Senator from Connecticut [Mr. DODD].

Mr. DODD. I thank my distinguished colleague, the chairman of the committee.

Mr. President, I want to take a few minutes this morning to support the chairman of the committee and, with all due respect to the former chairman, my good friend and colleague from Utah, to oppose his amendment.

We are plowing old ground. We have been down this road. We took the time of the Senate—2 or 3 days, as I recall—back in March to go through all these issues, and debated them thoroughly. We had extensive debate in the committee and came out of the Banking Committee with a rather strong vote that supported an FSLIC recapitalization figure. I think the figure consequently is low. I was in the minority on that vote.

We came up with a figure for recapitalization; and then the committee, although not in a unanimous vote but strong majority, thought this would be an important opportunity to set up a dynamic and a framework for next year or so, when we might try to resolve the other issues.

The way we set up the dynamic was to establish a moratorium on certain activities of commercial banks, the securities industry, and the insurance industry.

I do not know whether we will be successful in the next year in solving the thorny problems of these institutions in this country, but the users of these institutions will be the losers if we do not try to set up a framework and organize the institutions in a way which deals with these problems.

It is important, in considering this vote, that while it is important that we get to FSLIC, we should not abandon the idea of going to conference because we disagree with the House. They have said, "We won't sit down with you." Does that mean we should abandon our bill? It would be unprecedented to make a decision like that simply because the chairman of the House committee says he will not meet with us, he will not sit down. Since when do we act in this body on that kind of challenge or threat?

It is important to remember what has occurred. The Senate has come up with numbers on the recapitalization of FSLIC. We passed a bill on March 27, almost 2 months ago. The House passed its bill on May 5, only a few days ago. Chairman PROXMIRE was ready to act on May 12 and go to conference. Certainly, it is not the Senate that is slowing things down.

Chairman ST GERMAIN has been explicit in saying that the House will not go to conference on the Senate bill because it contains provisions other than those contained in the House bill. That is why we have conferences. If that were to be the standard, why have the conference? From time to time, the House passes a bill different from ours; so we set up the mechanism of conference. Now the House says, "Unless you agree with us, we won't sit down with you."

We have to sit down with them, anyway, because the number on FSLIC is different. But the suggestion that unless we comply with what they are offering, they will not go to conference, is ridiculous.

The arguments of the Senate approach remain fundamentally sound. We have to put in place a process that will enable us to deal with the future of financial institutions.

Lord knows the Senator from Utah has tried for countless hours over the last 6 or 7 years to get something moving in this regard. We were unsuccessful in doing so, in no small measure I might add, because of the same intransigence we are finding by the House of Representatives today on this issue here. We at least have an opportunity to get in the door on those questions, and it would be my hope that we would support the committee action, support what the Senate did only a few weeks ago here. The Senate instructed us to go to conference and to fight for these things, and we ought to be given an opportunity to do that and not have this bill stripped of its important titles. It enjoyed broad-based support here.

Again, I emphasize I do not know what will come out of that conference. We may find in conference we cannot resolve the issues we would like to resolve. It may be we have to come back here with a straight FSLIC bill.

I hope we would be able to convince the House to support what we have done but we may not be successful in that, but we ought to be given the opportunity to try and if the amendment of the Senator from Utah is adopted here today we do not even get the chance to try.

I certainly think the will of this body, the Senate, with their issues and determination, ought to be given a chance. That is all we are asking for is a chance to try and resolve those differences.

So I urge, with all due respect, this amendment be defeated, a conference be called and we are given an opportunity to try to resolve those differences.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. GARN. I yield time to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished Senator from Utah.

We had a lot of talk here today about the numbers: $6 billion in FSLIC as estimated by GAO, $10 million a day, billions of dollars of losses. We all know the Senate has acted. We know we have had a problem in the House. We still have one.

I would like to give an example that cuts through all the numbers and gets to the very heart of the problem.

Yesterday in my State, the Rio Grande Savings and Loan, located in Harlingen, TX, was closed by the State regulators. There are $70 million of noninsured deposits in that savings and loan. Those deposits are owned by 9,800 depositors.

FSLIC could have stepped in and insured the deposits and engaged in the sale, either assisted or unassisted, of the savings and loan, but they could not act because of their financial situation.

We have this situation because of uncertainty as to what we are going to do, uncertainty as to what the recapitalization is going to be and when it is going to come, uncertainty as to what is going to be in the bill. As a result, 9,800 people, many of whom have their life savings in this savings and loan, are affected.

So I know there are a lot of issues here. There are many provisions of the bill before us that I support. There are many things that I think we need to do. There are issues that need to be addressed: the nonbank bank loophole, the powers issue.

I think we need to move toward a fundamental reappraisal of our regulatory system, but the bottom line is we have a financial crisis in the savings and loan industry. We need to move, not just because of the $10 million a day, the $6 billion shortfall, according to GAO, but because of the very real world circumstances that are occurring every day as a result of not having a bill.

Anything we can do to hasten the coming of the day that this bill in some form providing for recapitalization is going to be signed into law is going to be very much to the interest of the people around the country who depend on savings and loans, who have deposits in savings and loans, who have loans with savings and loans, and who have savings and loans as an integral part of their community. They are people who need action.

I think it is imperative that we act. I think the bottom line is while conferences are to work out differences, and I support our ability to go to conference and work out differences with the House, the more complicated the bill is, the more issues we address that are not emergency issues, the longer it is going to be before we get the recapitalization, the thrift recovery guidelines and those things in this bill that we all support.

I thank the distinguished Senator from Utah for yielding.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado who is a brand new member of the Banking Committee. He was chairman of the Telecommunications and Securities Subcommittee in the House of Representatives and he knows a great deal about this. We are delighted to have him on the committee and happy to yield to him time.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, thank you very much.

I thank the chairman very much for his generous comments. I have been working with him and the ranking Republican member on this very important committee assignment.

I want to speak very briefly on the legislation in front of us, the Garn amendment, which I hope we will reject and stick to our amendment and go back to the House with this important business.

I have great respect for the efforts that have been made historically by the Senator from Utah, who certainly has worked very, very long and hard to attempt to rationalize this financial system which, as we all know, is changing so very rapidly.

I did not agree with everything that was in his comprehensive bill in the past but certainly I think that his efforts are to be commended as those of the chairman of the committee, but we should not stop now.

It seems to me that what the chairman has in this bill is exactly right, that we ought to continue the pressure through the moratorium; we ought to continue the pressure to attempt to rationalize this system.

We have to continue to work to get comprehensive legislation. The case has been made over and over and over again how rapidly changing these financial institutions are.

By now, we are all familiar with the highly innovative instruments and new forms of institutions that have entered the marketplace—money market funds, cash management accounts, money market deposit accounts, and super-NOW accounts, not to mention supermarkets and boutiques like Sears Financial Networks, Shearson/American Express, and Prudential/Bache. Financial inbreeding has even created the hybrid of the "nonbank bank," addressed earlier.

Increasingly, we refer to the securities business, insurance business, banking business, and their variants as the "financial services industry."

Advances in communications technologies, volatile interest rates, the high inflation rates of the 1970's, and increased consumer sophistication have spurred the creation of these new and innovative financial instruments and institutions. These innovations have caused the neatly drawn regulatory lines between financial industries to blur.

Many of these changes call into question the distinctions drawn by laws passed in the 1930's. In response to the abuses that led to the great crash, Congress separated financial markets by regulating financial services by product, price, and place. But today these lines are increasingly being crossed.

Until now, Congress has responded in piecemeal fashion, primarily to emergencies. More often, it has been paralyzed in its attempts to referee among competing financial industries.

In the absence of any clear signals from the Congress, the regulators have been issuing their own expansive interpretations of existing laws. Confusion reigns even among the regulators. And the rapid changes impact savers as well.

Regularly laws and policies affect the ways savers choose among intermediary institutions—whether pension funds, insurance companies, thrift institutions, commercial banks, mutual funds, brokers and dealers, or financial supermarkets—and on the way these intermediaries choose to invest. Regulatory policies also affect the costs and risks various institutions face in attracting capital and this, in turn, affects the costs and availability of capital to borrowers. The study to be conducted during the moratorium will allow us to understand.

Any shifts in the flows through intermediaries have significant effects not only on interest rates, but on both the level and the composition of economic activity in this country.

The examination of these relationships will help us formulate objectives that can serve as guiding forces for regulatory policy in the future.

We must explore the impact of financial innovation and deregulation on interest rates and the availability of capital to various capital users, especially for long-term investment.

We must look at how excessive concentration can be prevented, and how a healthy diversity of sources of capital in this country can be promoted.

We must determine how best to protect investors, depositors, policyholders, and pension plan participants in this new marketplace.

We must develop means to balance increased competition with the maintenance of sound institutions and markets.

And we must do this within a market place that is increasingly international without causing disruption in the marketplace during the period of transition.

Today, we will examine the long-term capital markets, and how well "users" of those markets are able to finance long-term investments.

One of the primary objectives of our capital markets is to provide a healthy supply of affordable long-term capital.

That is appropriate. There is an enormous amount of change that has gone on since the 1930's and the distinctions which we once drew in the Congress through laws in the 1930's in response to the business of the 1920's, some of those are certainly outmoded and have to be examined and that has to be done now and has to be done by the U.S. Congress and cannot be done in a piecemeal fashion.

Unfortunately, what happens within all of this change as all these pressures are on the markets, as the markets are merging one into another, the regulators are the only people who are reacting to this situation and they are reacting in very much of a piecemeal basis.

What we have to do in the Senate and in the House and in the Congress is to set the national policy: What is the relationship going to be between these various kinds of financial institutions; how are we going to assure safety and soundness; how are we going to assure that investors know what they are going to receive, that investors feel the kind of security that they have had in the past; how are we going to assure that they know that some kind of depository institutions are safe for them and some are not? These are very, very important national public policy issues which we have to address in a comprehensive way.

Unfortunately, as we try to do this we are surrounded by a whole variety of interests that have veto power. They have the ability to come in and in effect kill just about anything we want to do and that is what has happened over and over and over again. You get one package put together, whether it is the Senator from Wisconsin or the Senator from Utah, or somebody else, gets a package put together of trying to review all of this and that veto power gets exercised. That is going to continue to happen unless we put the pressure on through a moratorium like this to force action within the coming year and to force every one of those groups to say, "Hey, you've got to get on board and you are going to have to work with us in working out this important set of national policies related to our financial institutions."

We have an opportunity here by maintaining what is in this FSLIC bill, the moratorium in particular, to put the pressure on and continue to keep the pressure on so that we have the opportunity together with all the impacted interests, together with all of the public policy groups, to work out where we want this financial change to be.

So I would very much hope that our colleagues would reject the amendment offered by the Senator from Utah, stay with the provisions of the bill and ensure us the chance over the next year through the moratorium to come up with a public policy that we desperately need.

My guess is that we can find about 80 to 85 percent agreement on that pretty rapidly, that the other 15 percent is going to have to be hammered out, hammered out in the consensus of the political give and take in the committees through the kind of analysis and in this time that is available through the moratorium.

I thank the chairman very much for yielding this time. I hope we do reject this amendment.

I yield the floor.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I rise in support of the chairman of the Banking Committee and his effort to send this legislation to a conference between the two Houses and in opposition to the attempt by my friend from Utah, the ranking member of the committee, to amend this bill so that it is what we describe in the committee as a clean FSLIC bill providing $5 billion for the Federal Savings and Loan Insurance Corporation.

Let me say that I think it is time that we went to a conference between the two Houses.

I am beginning my second term. I spent a little over 6 years in the Banking Committee trying to deal with the problems of nonbank bank issue, and the question of powers for banks—the question of how the banks ought to have expanded powers in the insurance, real estate, and other areas.

Once before, several years ago, when my friend from Utah was the chairman of the committee, we passed a very substantial piece of omnibus legislation here in the Senate by a very lopsided vote of 80-something to a single digit number and sent it to the House, where the chairman of the Banking Committee in the House and his colleagues there ignored the legislation.

Earlier this session, in the Banking Committee, we again dealt at great length with these issues. We also had a serious debate on the floor of the U.S. Senate. Many of my colleagues will remember the amendment that was offered by my distinguished colleague from Louisiana, Senator BREAUX, on the whole question of the moratorium on new bank powers. We ultimately crafted a piece of legislation which is worthy of consideration by a conference committee of the two Banking Committees of the House and Senate so that we can get some worthwhile legislation in this session of the Congress.

Title I of the bill, as the Members probably know, deals with the nonbank bank issue. Now, my sense of it, when we debated this whole issue in the U.S. Senate, was that an overwhelming majority, an overwhelming majority of the Senators on both sides of the aisle, wanted to deal with the nonbank bank issue.

Nonbank banks are proliferating in the country. That will continue unless we address this problem.

Title II deals with the question of new powers for banks and puts a temporary moratorium on it. It provides that the powers may be expanded by the Fed but it will not go into effect until the end of the moratorium period.

Now this legislation, the legislation crafted by the chairman with the support of the majority of Banking Committee, essentially satisfies the insurance industry, it satisfies real estate people, it satisfies savings and loan people, and it certainly satisfies generally the small bankers in the United States. And I am tempted to say many of the larger financial institutions in the country as well are pleased with the fact that we are trying to find some kind of an area of compromise on these important and very, very contentious issues. I would remind my colleagues that the Breaux amendment now calls for a commission that will hear all of the evidence and make recommendations concerning this whole problem.

So I guess the bottom line is this: Why should we not go to a conference?

This bill, incidentally, of ours has $7.5 billion for FSLIC, more money for FSLIC than the House bill, which my friend, the ranking member, himself, concedes is inadequate at $5 billion.

I say go to a conference. We are in the 7th year that I have served here and the 7th year I have served on the Banking Committee and throughout this entire time my friends in the House, from the chairman on down, have shrunk from a conference with us on these important issues affecting the whole financial community in America. It is time that we talked.

For those who say it will not be a productive conversation, I say that is said all the time. They always say, "Well, you won't get any result in the conference between the two Houses." But we have conferred on some pretty serious and controversial matters and have come up with decent results in conferences between the two Houses.

We are going to get an FSLIC bill. For anybody here that says we have to have an FSLIC bill, I am here prepared to say that in this session before we are finished we are positively going to have an FSLIC bill. So that is not the issue. Whether we have a clean FSLIC now or whether we have an FSLIC bill as a result of the conference between the two Houses I think is unimportant. The plain fact is that a conference will probably give us more money in an FSLIC bill than the result of the House which was only $5 billion.

So I think we do everything we want to do if we support the chairman of the Banking Committee. In the end, we will get an FSLIC bill that is a stronger bill than the House bill, and in the end, we have a chance to come up with decent language on a compromise between the two Houses addressing the nonbank bank question, and the moratorium on expanded powers for banks question while creating a process to address all of the important questions that have been before our committee for so many years.

So I would hope that every Member would support the position of the distinguished chairman of the committee and oppose this amendment to strip S. 790 of titles I and II. And I would urge the membership to vote no on the amendment and support the chairman of the Banking Committee and go to a conference between the two Houses that can result in decent, solid legislation sorely needed on this issue.

I yield back the balance of my time, and I thank the Chair.

Mr. GRASSLEY. Mr. President, on March 27 the Senate Banking Committee forced members of the Senate to make a difficult, and perhaps inappropriate, choice between several banking concerns and the need for emergency funding for the Federal Savings and Loan Insurance Corporation. At that time, and now again 6 weeks later, Members of the Senate are confronted with a bill which contains extraneous provisions which bog down the emergency provisions for FSLIC.

Though it has only been 6 weeks since we passed S. 790, I have received many letters and calls from constituents who are concerned about the safety of their deposits in savings and loan associations in Iowa. They have read articles in newspapers and magazines telling them that FSLIC is not only insolvent, but seriously in the red.

As responsible public servants we cannot continue the charade of concern for the savings and loan industry if we insist of bogging it down with heavy baggage. If we pass a clean FSLIC bill in the Senate, a conference committee will probably be appointed soon and will be able to arrive at an agreement in fairly short order. But if we defeat the Garn amendment and send the House the controversial provisions in titles I and II, the House conferees will resist, balking at the Senate's insistence to include items that will encourage a veto. The Secretary of the Treasury has made it clear that his recommendation to the President will be a veto for H.R. 27 if it contains the nonbank banks and South Dakota loophole provisions. I urge my colleagues to support Senator GARN on his amendment to send a clean FSLIC package to the House and I do this even though I support many of the Proxmire initiatives.

Mr. BIDEN. Mr. President, I am going to vote today to remove titles I and II from the banking bill that the Senate is about to send back to the House of Representatives.

I agree with the authors of the Senate bill that Congress must act to sort out the issue of bank powers. Such action is in fact overdue. I have supported such efforts in the past. The deregulation process, which began many years ago, must be completed. A decision about bank powers is an essential part of that process.

However, I cannot agree with the way this bill seeks to reach a decision on bank powers. A moratorium on further changes in bank powers is simply an invitation to further procrastination that might mean the issue will be resolved by back door means in the market place, rather than by Congress.

I cannot support putting such a temporary solution in place, with full knowledge that it is no solution. We should proceed to recapitalize the FSLIC. Then we should design and approve legislation to rationalize bank powers and finish the deregulation process.

FSLIC—CONTINENTAL COMPARISON

Mr. GARN. Mr. President, the problem is absolutely crystal clear.

At this very moment the FSLIC is bankrupt. Both the Federal Home Loan Bank Board and the General Accounting Office agree on this point. Moreover, the fund must resolve problems in over 200 GAAP-insolvent institutions. According to conservative estimates this will cost the FSLIC as much as $25 billion. It must deal with these institutions soon. Every day that Congress waits to resolve the problem, another $10 million is lost. The total cost of delay, this year alone, is over a billion dollars.

Someone will have to pay this bill, and if the savings and loan industry is not willing to absorb the cost, it may well be the American taxpayer.

Yet, it is even possible to find, in this emergency situation, some who accuse the Treasury Department and the Federal Home Loan Bank Board of "deliberately exaggerating" the problem; of using this very serious situation to promote some type of "narrow agenda."

This position does not square with the mountain of evidence indicating a forthcoming crisis. The seriousness of the problem facing the FSLIC should not be underestimated.

Although the majority of depositors still have confidence in thrifts, it is clear that certain groups have lost faith in the safety and soundness of the industry. According to a recent American Banker article, these depositors tend to include large account holders, persons with deposits in excess of $100,000, persons with a college education, and the elderly. Ironically, these individuals make up the traditional deposit base of the savings and loan industry. When they make a conscious decision to move their deposits, the industry is forced to compete aggressively for a more limited pool of potential depositors. In this environment interest rates are bid up and the funds that are received are necessarily placed in more speculative assets. This vicious cycle has the potential to repeat itself, over and over again, until a majority of depositors lose faith in the system and a classic "run" takes place.

This scenario is just one of a number of unique similarities between the tragedy of Continental Illinois and the pending disaster of the FSLIC.

First, in both cases the press noted problems in each system at least 12 months prior to disaster.

In May of 1982 the American Banker linked the problems of Penn Square National Bank with Continental Illinois.

In July of 1985 the Washington Post noted the link between problems in the savings and loan industry and those plaguing the FSLIC. It also reported that FSLIC staff estimated the fund to be in the red by as much as $16 billion.

Second, in both cases high quality depositors left the system prior to the crisis, due primarily to press reports indicating potential problems.

In June and July of 1984 large depositors began to withdraw funds from Continental Illinois. Within 60 days of press reports, deposits, fed funds, and repos had fallen $10 billion.

In May of 1987, the FHLBB indicated that large depositors made up 80 percent of the total outflow of $3.1 billion that occured in the first 2 months of 1987.

At the moment it appears that the public still has confidence in the savings and loan industry. However, there are signs that this confidence is eroding from the high quality depositors which represent the traditional base of the savings and loan industry.

Treating this erosion lightly, in view of the many similar events surrounding the crisis at Continental Illinois, is a serious mistake. This situation calls for quick and decisive action, not delay and obfuscation.

Mr. **McCAIN.** Mr. President, I am supporting the Senator from Utah's amendment to strike titles I and II of this bill for one overwhelming—that is, to expedite the recapitalization of the Federal Savings and Loan Insurance Corporation.

In taking this course, I do not mean to say that there is no need to rewrite the banking laws of this Nation.

There is, in fact, a strong need to modernize those laws in order that all our financial industries are competitive and vital.

That is not the urgent issue, however. The recapitalization of the FSLIC is.

Everyone knows that the FSLIC is losing $10 million a day.

Everyone knows it is bankrupt and cannot act to close even the sickest thrift.

Everyone knows that mortgage rates have begun to edge upward, and that high interest rates were the undoing of the savings and loan industry to begin with.

By not acting swiftly and adequately, Congress is further harming the thrift industry in a variety of ways—the least of which is not the bad publicity and tarnished image congressional bickering has helped perpetuate.

Mr. President, we cannot hold the FSLIC recap hostage to another agenda that is not urgent, and in fact, has been controversially and, some say, imperfectly attempted.

It is clear that the other provisions of this bill simply confuse the issue. They have delayed a recap in the last Congress, and will cause us to delay still longer because the chairman of the House committee is adamantly opposed to titles I and II.

There is simply no way we can deny that, we cannot afford to delay now, and that delay is especially inexcusable given that the GAO has recently announced that the FSLIC is worse off than we ever thought.

For this crucial reason, Mr. President, I urge my colleagues to join me in supporting the sensible and reasonable amendment offered by the distinguished Senator from Utah.

Mr. **PROXMIRE.** Mr. President, I intended to speak for about 4 or 5 minutes. I am not going to because the speeches by the Senator from Connecticut, the Senator from Colorado, the Senator from Illinois, and the Senator from Tennessee have been so convincing that I think it is unnecessary for me to repeat what they have said or to add to what they said, except the last point made by my good friend from Illinois is the main point here.

We are going to have to go to conference anyway. The House voted to cut the amount for FSLIC to $5 billion. Senator GARN and I agree that that is much too little. I voted for $10 billion; so did he.

We have $7.5 billion in the Senate version. We are going to have to go to conference on this issue. They are not going to roll over and play dead. They had a big vote on this. They have to go to conference on it. If there is going to be any delay, that is where the delay is.

Now, as long as we are going to conference, it will take no longer to deal with these issues, believe me. And I have had a chance to discuss this with people on the House side and I am sure we can work out an accommodation and work it out rather quickly, in half a day or less.

We passed this bill on, I believe, March 27. Here it is 6 weeks later. And for us to throw in the sponge now on the ground that the FSLIC recap has to streak right through does not make any sense. My colleagues have made that point very clear and I just wanted to underline that.

Mr. President, I do earnestly hope that we will reject this amendment and go to conference, because it is very important, vital, that we have a chance to act and act now on the nonbank bank loophole, and if we do not, that we are not going to act on it; and that we have a chance to consider, at least, and discuss the moratorium, because that is also very crucial if the Congress is going to have any voice in financial policy, and we should have that voice. It should not be done on a piecemeal basis.

Mr. President, I yield back the remainder of my time, and I am ready for a vote.

The **PRESIDING OFFICER.** The Senator from Wisconsin has yielded back the remainder of his time.

The Senator from Utah.

Mr. **GARN.** Mr. President, before I yield back my time, I do have a few remarks I would like to make in conclusion, but at this time I would ask for the yeas and nays on my amendment.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. **GARN.** Mr. President, let me remind my colleagues of those who oppose S. 790. First of all, I have a letter dated May 12 from Acting Secretary of the Treasury, George Gould, explaining in great detail his opposition, a several-page letter of April 20 from the Secretary of the Treasury, James Baker, and a statement of administration policy.

I will not take the time of the body to read those statements in opposition, but I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, May 12, 1987.

Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR JAKE: On May 5, the House of Representatives passed a seriously flawed bill

(H.R. 27) to provide only $5 billion of additional nonappropriated funding for the Federal Savings and Loan Insurance Corporation (FSLIC) over two years. The House bill also includes statutory forbearance provisions that sanction S&L operations with little or no capital and without a plan to rebuild capital. Only the day before, GAO reported to Congress that its 1986 year-end audit of FSLIC would conclude that the fund already was insolvent by about $6 billion.

Frankly, I am troubled that the Congress would temporize with wishful thinking and clearly inadequate plans when expert after expert has warned that FSLIC's problems are getting worse. A year ago, we presented the Congress a realistic answer to a serious national problem. If Congress spurns it, Congress will have to confront an even bigger problem in a year or so. The costs of insolvent S&Ls losing money will not vanish. Either the industry will have to pay more latter, or Congress will have to decide who gets the bill: the taxpayer, the FDIC, or depositors. The future of the thrift industry will be in question if Congress is forced to select among these latter options.

When the Senate considers a request to go to conference, I urge you to alert your colleagues to the dangers of this shortsighted legislation. I also hope you will draw their attention to Secretary Baker's letter of April 20, and I want to affirm a sentence in it: "If the Administration is presented with an irresponsibly funded FSLIC and other objectionable provisions that do nothing to safeguard the savings of FSLIC-insured depositors, I want to assure you and your colleagues that I would not hesitate to recommend that the President veto the bill."

I hope that your colleagues will help you to repair this bill in conference and, if necessary, to stand with the President and you against it.

Sincerely,

George D. Gould,
Acting Secretary.

The Secretary of the Treasury,
Washington, April 20, 1987.

Hon. **Jake Garn,**
U.S. Senate,
Washington, DC.

Dear Jake: In the next week or so, the House of Representatives will consider a seriously inadequate FSLIC recapitalization bill (H.R. 27). This bill only authorizes a $5 billion infusion of additional funds to an insolvent FSLIC that GAO states is already over $3 billion in the red. This half-hearted infusion—of nonappropriated funds that would offset FSLIC's budgetary outlays—is far short of what FSLIC needs to protect depositors and to start to handle the worst of the approximately 450 insolvent S&Ls.

An inadequate recapitalization of FSLIC could have numerous damaging repercussions. First, FSLIC would have no hope of operating other than on a precarious edge—either insolvent or close to it. FSLIC would be unable to handle many insolvent S&Ls that are still losing billions of dollars and would be unprepared to cope with any systemic danger.

Second, while on the brink of insolvency, FSLIC would also be denied cash resources to do more than stumble from crisis to crisis. The Federal Home Loan Bank Board estimates that FSLIC's cash holdings will dwindle to about $500 million by the end of April—"protecting" about $900 billion of deposits.

Third, the costs of delay would build because FSLIC would be too weak to act. GAO estimates that losses at trouble thrifts are accumulating at a rate of $6 million per day, or over $2 billion per year, because FSLIC does not have the resources to stanch the flow. Just last week, the FHLBB reported that the bottom tier of the S&L industry lost $8.3 billion in 1986, despite most favorable interest rates. Moreover, the "brain-dead" S&Ls are bidding up deposit rates for banks and S&Ls that really do have a chance to make it.

Fourth, as a partner of Goldman Sachs testified before the House Banking Committee, a clearly insufficient FSLIC recapitalization would increase significantly the cost of drawing funds from the capital markets. Potential securities purchasers would know Congress would have to revisit the FSLIC problem in short order, and they would require a hefty "risk problem" to offset the danger to their financial interest.

Finally, Congress would be setting up the taxpayer to bail out FSLIC. It's indeed ironic that the Congress, at a time when it's struggling to meet budget targets, would accept only a fraction of a $15 billion recapitalization that would count as an offsetting collection for FSLIC outlays that are certain to be spent. Within a year, or two at most, FSLIC would again be demanding Congressional action. It would be insolvent and short on cash. It would have stumbled along, handling only a small number of the worst cases, never having built the capability to address a national problem. Some of the bigger S&Ls would have had time to shift to the FDIC, and the rest of the industry would claim it had contributed enough. Moreover, they would point to the expensive financing costs of an uncertain and inadequate recapitalization. Depositors would need immediate assurance and hundreds of fatally weakened S&Ls still would have to be sold or liquidated. Having wasted the recapitalization mechanism we proposed, Congress would need to resort to general revenues.

Some members of the S&L industry tell you that they should dictate the terms of FSLIC's recapitalization, because it's "their" money. I urge you to recall that the money insured belongs to depositors, not to the S&Ls who profit from the cost advantage of insured liabilities. I urge you to protect the taxpayers, who likely will have to step in to bail out this industry if the recapitalization is inadequate.

As you know, the House bill may be linked in conference with S. 790, the so-called Competitive Equality Banking Act. It is possible that the conference report could contain insufficient funds to protect FSLIC depositors, House amendments that effectively tie the hands of the federal regulators to supervise depository institutions properly, and the anti-consumer anti-competitive provisions in S. 790 that you wisely attempted to delete. Such a conference agreement could handicap a vital service industry at a time when competition in the international capital markets increasingly challenges U.S. financial institutions.

If the Administration is presented with an irresponsibly funded FSLIC and other objectionable provisions that do nothing to safeguard the savings of FSLIC-insured depositors, I want to assure you and your colleagues that I would not hesitate to recommend that the President veto the bill. I have discussed this with him recently, and I believe that the President will continue to veto legislation that represents bad public policy.

My personal thanks for all of your hard work to protect the depositors and taxpayers of this country.

Sincerely,

James A. Baker III.

The Secretary of the Treasury,
Washington, March 23, 1987.

Hon. **Jake Garn,**
U.S. Senate,
Washington, DC.

Dear Senator: Two weeks ago the Senate Banking Committee reported the so-called "Competitive Equality Banking Act" (S. 790) that contains a half-hearted and insufficient effort to recapitalize the Federal Savings and Loan Insurance Corporation (FSLIC), which guarantees savings and loan deposits up to $100,000. S. 790 also contains a number of controversial, anti-competitive, special interest provisions—which do nothing to protect depositors' savings, but which threaten to bog down a vital infusion of capital for FSLIC.

I strongly urge you to place safety and soundness considerations foremost by: (1) ensuring that FSLIC's recapitalization includes the $15 billion/5-year infusion of additional private capital; and (2) passing this recapitalization and the bank regulators emergency provisions swiftly and cleanly. This recapitalization is the same basic plan that passed both houses of Congress last year, but was not enacted because of controversial and extraneous amendments like those in S. 790.

FSLIC's recapitalization is necessary to protect the basic savings of depositors nationwide—$900 billion in S&Ls alone. We all are well aware of the tremendous financial costs and personal burdens imposed on depositors, industry, and taxpayers in Ohio and Maryland as a result of the failure of their insurance funds, both of which has a higher ratio of reserves to deposits than FSLIC has currently.

S. 790's FSLIC recapitalization of $7.5 billion over two years is insufficient in light of the General Accounting Office's preliminary audit requiring an $8 billion loan loss writedown which leaves FSLIC insolvent by at least $3 billion. Congress' own auditors have testified that FSLIC's known problems are far larger.

The proposal we presented in 1986 and again this year enables—but does not require—FSLIC to draw about $15 billion of funds from new sources, so it can utilize about $25 billion over about five years to resolve its caseload. This plan balances the financing burden between the Federal Home Loan Banks and the thrifts, and avoids any U.S. government guarantees or expenditures of taxpayer funds. This proposal has been certified by CBO, OMB, and GAO as budgetary neutral.

Many of the provisions included in the so-called Competitive Equality Banking Act discourage competition and are anti-consumer: they raise controversial issues, many of which are nongermane to safety and soundness concerns and have not even been introduced in the House of Representatives. They do nothing to protect depositors, who trust the government to assure that FSLIC is adequately capitalized.

The Administration presented a workable, responsibly funded FSLIC plan when others failed to do so. Now it is time for Congress to act promptly on this critical safety and soundness legislation, without inviting delay by combining it with the many controversial and unrelated provisions in S. 790.

Sincerely,

JAMES A. BAKER III.

H.R. 27—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987 (ST GERMAIN (D) RI)

The administration urges the immediate enactment of a bill to recapitalize FSLIC with funds from the private capital markets at $15 billion over five years. The administration's full self-help plan would: (1) result in a responsible level of funding that will allow FSLIC to protect depositors; and (2) avoid the risk of a budget-busting bailout of FSLIC. Insufficient funding dramatically increases the risk of being forced to use taxpayers' funds to bail out owners of insolvent savings and loans.

The administration opposes the numerous objectionable, restrictive, and extraneous provisions added to both H.R. 27 and S. 790 and urges their deletion. If the bill were presented to the President (1) without the requested resources for FSLIC or (2) with the highly objectionable provisions outlined below, the President's senior advisers would recommend the bill's disapproval.

The administration strongly opposes provisions that would: Close the non-bank bank loophole; Prohibit banking institutions from offering new products and services; Exempt the Federal financial regulatory agencies from Presidential apportionment authority; and Impose rigid statutory limitations on the authority of the regulators to supervise troubled thrift institutions.

The administration supports all efforts on the Senate floor to eliminate these highly objectionable provisions. For example, the administration strongly supports the Garn amendment to delete titles I (Financial Institutions Competitive Equality) and II (Moratorium on Certain Nonbanking Activities) from S. 790, as passed by the Senate, as a step in the right direction.

The administration recognizes the appropriateness of regulatory forbearance for well-managed institutions in regionally-depressed areas, provided that the institutions have reasonably good prospects for recovery. This can be accomplished most effectively through regulations issued by the Federal Home Loan Bank Board.

Mr. GARN. Mr. President, I also have statements by the National Governors Association—my colleagues may have forgotten since March 27. The National Governors Association opposed the bill. The National Conference of State Legislatures opposed the bill. They do so because of what they feel is the extreme violation of States rights in some of the provisions of the moratorium.

I also have statements from the Conference of State Bank Supervisors, the National Association of State Savings and Loan Supervisors, the National Association of State Treasurers, the National Conference of State Legislatures, and the American Association of Retired Persons. I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
March 24, 1987.

Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The National Governors' Association urges your opposition to the broad preemption of state authority over the activities of state-chartered financial institutions contained in S. 790, the "Competitive Equality Banking Act of 1987," recently introduced on March 27, 1987, after having been reported out of the Committee on Banking, Housing and Urban Affairs. The bill will soon be on the floor for your consideration. A century of public benefits derived from the existence of the dual banking system, based on a state-federal partnership in regulating America's financial institutions should be preserved.

The National Governors' Association opposes Title II which extends Glass-Stegall restrictions to all financial institutions, regardless of where chartered, and imposes an unnecessary moratorium on all federal approvals of state-authorized activities in the securities, insurance and real estate areas. A decentralized system of financial resource allocation requires the maintenance of a meaningful degree of flexibility. Consumers benefit from a system in which financial services are tailored to local needs, competition is enhanced at each level of the economy and progress is made responsibly without nationwide risk.

We recognize the urgent need to recapitalize FSLIC. Yet, elimination of the foregoing benefits would radically alter our dual banking system and result in very tangible and real public loss.

On behalf of our nation's Governors, I urge you to support amendments striking or significantly modifying Title II and Sections 103 and 106 of Title I.

Thank you for your support.

Sincerely,

BILL CLINTON, *Governor.*

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, March 19, 1987.

Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GARN: The members of the National Conference of State Legislatures urge you to oppose preemptive provisions in the "Competitive Equality Banking Act" reported by the Senate Banking Committee on March 10.

Although the bill contains many provisions that NCSL does support including FSLIC recapitalization and limits on check holds, NCSL is absolutely opposed to the bill so long as it contains provisions that would severely damage state authority to regulate state-chartered banks. Under the act, states would be barred for one year from granting insurance, securities, or real estate powers to state institutions. Related provisions in the bill would extend the federal Glass-Steagall Act to state institutions to bar affiliation with investment banking enterprises for the moratorium period.

In addition to upsetting our federal system of bank regulation, the bill presents a host of practical problems for states. Without the capacity to offer new powers, it would be much more difficult to sell troubled banks and thrifts and protect depositors. States attempting to cope with the liability insurance crisis by granting banks insurance powers to increase competition would be preempted by this proposal. Similarly, the cost of state and local borrowing could be increased by restrictions on bank underwriting of revenue bonds.

Again, we urge your active opposition to the banking bill until it is stripped of these preemptive, special-interest provisions. If these efforts are successful, we would then urge you to support the bill.

Sincerely,

WOODS BOWMAN,
Illinois State Representative, Chair, NCSL Committee on Commerce, Labor, and Regulation

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CONFERENCE OF STATE BANK SUPERVISORS, NATIONAL ASSOCIATION OF STATE SAVINGS AND LOAN SUPERVISORS, NATIONAL ASSOCIATION OF STATE TREASURERS, NATIONAL CONFERENCE OF STATE LEGISLATURES,
March 23, 1987.

Hon. JAKE GARN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GARN: We, the undersigned, urge your opposition to the broad preemption of state authority over the activities of state-chartered financial institutions contained in S. 790, the "Competitive Equality Banking Act of 1987". A century of public benefit, derived from the state-federal partnership in regulating America's financial institutions, should not be discarded lightly.

In particular, we are opposed to the blanket extension of Glass-Steagall restrictions to all institutions and the unnecessary moratorium on all federal approvals of state-authorized activities.

A decentralized system of financial resource allocation requires the maintenance of a meaningful degree of flexibility. Consumers benefit from a system in which financial services are tailored to local needs, competition is enhanced at each level of the economy and progress is made responsibly without nationwide risk. The elimination of the aforementioned benefits would produce a profound change in our Federal system of government and a very tangible and real public loss.

We urge you to support amendments striking or significantly modifying Title II.

Thank you for your consideration.

Sincerely,

SPEAKER IRV STOLBERG,
President, National Conference of State Legislatures.

JOHN MALARKEY,
President, Conference of State Bank Supervisors.

GEORGE KING,
President, National Association of State Savings and Loan Supervisors.

EDWARD T. ALTER,
President, National Association of State Treasurers.

AMERICAN ASSOC. OF RETIRED PERSONS,
Washington, DC, March 25, 1987.

Hon. E.J. (JAKE) GARN,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATOR GARN: During Senate consideration of S. 790, the Competitive Equality Banking Act, AARP urges you to:

Support strong check hold legislation; and

Oppose closure of the non-bank bank loopholes.

As a matter of their very survival, older consumers desperately need protection from abusive, unfair and unreasonable holds. Title VI of S. 790, while delegating responsibility to the Federal Reserve Board for devising funds availability schedules, sets forth parameters under which the Fed. must respond. AARP urges you to support Title VI and to oppose any efforts to weaken or remove the check hold title in the bill.

AARP also urges the Senate not to close the non-bank bank loophole. Any attempt by Congress solely to close this loophole, without specifically providing for the existence of consumer banks, would fail to recognize (a) the role that should be played by adequately regulated consumer banks in the delivery of services to consumers, and (b) the positive competitive impact consumer banks would necessarily have upon traditional financial institutions.

Title I of S. 790 grandfathers all existing non-banks, but fails to place adequate consumer protection upon such banks. AARP urges an approach that would place consumer protections upon current non-banks and allow for the existence of new consumer banks, provided specific safety and soundness safeguards are enacted. Older consumers would benefit through enhanced access to basic banking services as well as through increased competition.

We hope we can count on your support. If you or your staff have any questions, please contact Kent Brunette on AARP's Federal Affairs staff at 728-4734.

Thank you.

Sincerely,

CYRIL F. BRICKFIELD.

Mr. GARN. Mr. President, I also have a statement from my distinguished colleague, Senator DOMENICI, from New Mexico, former chairman of the Budget Committee, who is not able to be here. I will just read a couple of points from his statement and ask that it be included in the RECORD as well.

I want to point out to my colleagues that we are already paying the price. CBO's estimate of outlays from the Federal Savings and Loan Insurance Corporation for the current fiscal year has increased by $2.7 billion since its original February 1986 baseline.

Due to our inaction, FSLIC outlays have increased by $2.7 billion over our initial projections—and the deficit has increased by a like amount. It is interesting to note that this is almost exactly the amount which is under dispute in the Supplemental Appropriations bill.

I ask unanimous consent that Senator DOMENICI's statement be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DOMENICI IN SUPPORT OF AMENDMENT TO STRIKE TITLES I AND II

Mr. President, I support the amendment offered by my good friend, the Senator from Utah.

It is clear from the action taken by the House that they are not yet ready to deal with the regulatory provisions in the Senate bill.

Mr. President, I submit that we do not have any more time to wait.

The need to recapitalize the Federal Savings and Loan Insurance Corporation transcends any other provision in this bill.

We have already waited too long. GAO estimates that losses at troubled thrifts are accumulating at a rate of $6 million per day. The bills are mounting and, if we do not act immediately, it may be the taxpayers who are forced to pay.

Mr. President, we do not have time to wait for a conference that becomes bogged down by the issues of bank regulation and nonbank banks. If we take this course, Mr. President, we will be playing with dynamite.

I want to point out to my colleagues that we are already paying the price. CBO's estimate of outlays from the Federal Savings and Loan Insurance Corporation for the current fiscal year has increased by $2.7 billion since its original February 1986 baseline.

Due to our inaction, FSLIC outlays have increased by $2.7 billion over our initial projections—and the deficit has increased by a like amount. It is interesting to note that this is almost exactly the amount which is under dispute in the Supplemental Appropriations bill.

Mr. President, I hope we will resist the urge to encumber this vital bill with other, less urgent business. I urge my colleagues to support this amendment.

Mr. GARN. Mr. President, the one thing we do agree on here today is that $5 billion is inadequate. I would also submit that $7.5 billion is inadequate. I submit that my amendment in the committee, that was defeated on a nine-to-nine tie vote with the chairman's support, was inadequate. This body passed a $15 billion FSLIC recap out of the committee last year by unanimous consent and by voice vote in this body. I am amazed that when that took place we had no debate; that nothing was controversial; that 8 months later we are talking about $5 or $7.5 billion when the crisis has doubled. I have already stated that I do not disagree that the nonbank bank loophole should be closed. That is not at issue. What is at issue is whether we address immediately and as rapidly as possible the crisis in FSLIC.

A recent Brookings article on "The Politics of Blame" points out the negativity bias of voters. Interests harmed by legislation are more likely to act than interests that are benefited. This creates strong incentives to support legislation that prevents harm to special interests even if a majority would benefit—in other words, an abdication of leadership. S. 790 includes titles I and II to prevent harm to special interests who want to be shielded from competition, even though it means delaying FSLIC recap indefinitely. This is the same kind of abdication of leadership, the same grandstand of the negativity bias that the politics of blame is all about. That is what this is all about, and what it has been all about in all the years that the chairman and I have struggled to pass comprehensive legislation.

There are special interests who do not want to compete and so they oppose. In this instance, there is major opposition. Despite the fact that Governors, the State legislatures, the American Society of Retired People, and all the others are opposed to this legislation, the reason that it is succeeding, will pass on this vote, and my amendment will be defeated is because of the selfishness of some special interests. You have insurance agents who are worried about the South Dakota loophole. Their attitude is, "We don't care what happens to FSLIC as long as we protect ourselves." The South Dakota loophole does not exist. It exists in the laws of South Dakota but the Fed has not approved a single application, will not, and as far as I know there are no applications before it. It is the nonbank bank loophole that the thrifts and independent bankers want that is not being implemented simply because there is a court restriction in Florida against it. So there is no emergency in either one of those instances.

Despite all the scandals that are going on with the Boesky case, the insider trading, the use of corporate junk bonds in hostile takeovers and all of that scandal, I am amazed at the clout the securities people have in the House and Senate to prevent competition, to prevent banks and savings and loans from competing.

So the Brookings Institution talks about, "The Politics of Blame." It is going to pass today because of three parts of this industry who are protecting their own turf. Let us be candid about it. Let us be blunt about it. That is what they are doing. They can mouth the words that they are worried about the savings and loans of this country but because of their selfishness, greed, and protecting their own turf they are essentially saying, "We don't care what happens to FSLIC recap as long as we deal with the politices of blame and prevent harm to our own special interests."

I think that is incredibly sad that we are doing that.

So let us ask ourselves: Does the U.S. Senate want to say to the Nation that it is more important to protect industry segments from competition and to run roughshod over States' rights than it is to recapitalize FSLIC properly? If so, we are demonstrating your inability to lead and our imprisonment to special interests. I believe that instead we ought to answer, "No." I therefore call on all the Senators to act responsibly and support the amendments to strike titles I and II. And let us deal with this crisis as rapidly as we can and recapitilize FSLIC.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. All time has expired. The question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. Weicker] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—37

Armstrong
Biden
Bond
Boschwitz
Chafee
Cochran
Dole
Domenici
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Kassebaum
Lugar
McCain
McClure
Moynihan
Murkowski
Nickles
Packwood
Quayle
Roth
Rudman
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—62

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Nunn
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stennis
Wirth

NOT VOTING—1

Weicker

So the amendment (No. 197) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. PROXMIRE. Mr. President, I send a title amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the title.

The legislative clerk read as follows:

Amend the title so to read: "An Act to regulate nonbank banks, impose a moratorium on certain securities and insurance activities by banks, recapitalize the Federal Savings and Loan Insurance Corporation, allow emergency interstate bank acquisitions, streamline credit union operations, regulate consumer checkholds, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed the following conferees on the part of the Senate: Messrs. Proxmire, Cranston, Riegle, Sarbanes, Dodd, Dixon, Garn, Heinz, Armstrong, D'Amato, and Gramm.

Mr. BYRD. Mr. President, I compliment both Mr. Proxmire and Mr. Garn on the work that has been done today. Of course, it took many days and many hours prior to today, leading up to the culmination of the actions taken today by the Senate. They have done a good job, and this is important legislation.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A motion to proceed to the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personal strengths for such fiscal years for the armed forces, and for other purposes.

The Senate resumed consideration of the motion.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader may wish to take his time now which was reserved earlier. If he does, I will be glad to await his completion. I want to talk a little about the schedule.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, if there is no objection, I first yield 3 minutes of my time to the Senator from Iowa [Mr. Grassley].

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTI-TERRORISM ACT

By Mr. GRASSLEY (for himself, Mr. Lautenberg, Mr. Dole, Mr. Metzenbaum, Mr. Boschwitz, Ms. Mikulski, Mr. Symms, Mr. McCain, Mr. D'Amato, Mr. Murkowski, Mr. Karnes, Mr. Packwood, Mr. Specter, Mr. Hecht, Mr. DeConcini, Mr. Helms, Mr. Simon, Mr. Chiles, Mr. Dixon, Mr. Levin, Mr. Trible, Mr. Graham, and Mr. Gramm):

S. 1203. A bill to amend title 22, United States Code, to make unlawful the establishment of maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes; to the Committee on Foreign Relations.

Mr. GRASSLEY. Mr. President, today we are taking action long overdue—an action which is designed to put a stop to PLO activity in this country.

It might come as a surprise to many Americans that the PLO has operated freely, in an official capacity, in this country since 1978. Well, those days are past.

The action we are taking today is not because of one so-called isolated incident of terrorist activity but because of the years of documented evidence that leaves one with no doubt about the PLO's goals and what its methods are to achieve those goals.

Let us go down the list of casualties that have directly resulted from the PLO's, in Arafat's words, "armed struggle to liberate Palestine."

First. Who can forget the 1972 Black September massacre of 11 Olympic athletes—an American was among those killed.

Second. The 1973 murder of a 16-year-old American.

Third. The 1974 downing of a TWA 707 which resulted in the death of 88 people, some of whom were American.

Fourth. The 1975 bombings in Jerusalem which resulted in the death of three Americans.

Fifth. The 1976 hotel fire set by the PLO which caused the death of two Americans.

Sixth. The 1976 killing of an aide to Senator Jacob Javits.

Seventh. The 1978 killings of American Medical Student and an American photographer.

Eighth. And that brings us to the present day where we have experienced the massacres at the Rome and Athens airports, and the murder of Leon Klinghoffer aboard the *Achille Lauro.*

These instances have two things in common: Americans have been killed and the PLO has taken direct credit for the murders, or those held accountable in the courts have been members of the PLO.

Because of time, I have not gone into the evidence of other crimes carried out by the PLO such as Narcotics trafficking, kidnapping, fraud, smuggling, or murders carried out against non-U.S. citizens, not to mention the maiming of countless numbers of others, including Americans.

This is the organization which promotes its goals with the above action. How long will it take us to come to the decision that the PLO has no business operating in the United States, let alone in the rest of the world.

Egypt, Morocco, and Jordan have recently ordered PLO offices closed. I hate to admit that it is time we take our lead from certain Arab nations in the Middle East in dealing with terrorists on our own shores and shut down the PLO operation in the United States.

Mr. President, this is cosponsored by Senators Lautenberg, Dole, Metzenbaum, Boschwitz, Mikulski, Symms, McCain, D'Amato, Murkowski, Karnes, Packwood, Specter, Hecht, DeConcini, Helms, Simon, Chiles, Dixon, Levin, Trible, Graham, and Gramm.

I ask unanimous consent to have the bill printed in the Record.

The PRESIDING OFFICER (Mr. Shelby). The bill will be received and appropriately referred, and the bill will be printed in the Record, without objection.

The bill follows:

S. 1203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Anti-Terrorism Act of 1987".

FINDINGS; DETERMINATIONS

Sec. 2. (a) The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in the Act referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine. Thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

PROHIBITIONS REGARDING THE PLO

Sec. 3. It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this Act—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of the law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

ENFORCEMENT

Sec. 4. (a) The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this section.

(b) Any district court of the United States for a district in which a violation of this Act occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this Act.

EFFECTIVE DATE

Sec. 5. (a) Provisions of this Act shall take effect 90 days after the date of enactment of this Act.

(b) The provisions of this Act shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer.

I thank my friend from Iowa for his leadership in this effort.

CLOSE DOWN PLO OFFICES

I am pleased to join with Senator Grassley, and a list of other distinguished cosponsors today, in introducing legislation to close down the two offices of the Palestine Liberation Organization, the PLO, here in the United States.

One of the PLO offices in here in Washington—a so-called information office. The other office is in New York—the office of the PLO observer mission to the United Nations.

Neither of those offices belong in this country. It's high time they were shut down.

PLO IS TERRORIST ORGANIZATION

The PLO is a terrorist organization. Its leaders are terrorists.

The organization was directly responsible for the *Achille Lauro* cruise ship hijacking, and the murder of an American citizen passenger on that ship. A member of the organization's executive committee is under indictment for that murder.

The head of the PLO has been implicated in the murder of an American Ambassador.

The PLO has proudly boasted of its role in planning, carrying out and supporting terrorist acts around the world.

And within the past week, a PLO member was arrested in New York, charged with involvement in the terrorist bombing of a bus in Israel—an attack in which one person was killed.

And now I read in yesterday's paper that Abu Nidal—about as notorious a terrorist as exists in the world today, and long associated with the PLO—is threatening retaliation against this country, if we extradite the arrested person.

So the PLO has not changed its stripes. The State Department has confirmed this. The Justice Department has confirmed this. The evidence is written in the blood of Americans, Israelis and people of many nationalities around the globe.

This organization, and its personnel, have no place in America; they have no place in civilized society. It's time they were banished.

ADMINISTRATION HAS NOT MOVED

I had hoped the administration would take the lead in this effort. I personally asked the State Department to look into the possibilities of closing these offices under existing law. I'm still not sure that new law is really needed.

But the executive has not yet moved; and has not given a clear indication of its intention to move under current law.

To underscore that point, I would like to include in the record at this point an exchange of communications, I have had with Secretary Shultz on the question of the PLO offices.

So we are introducing this legislation to provide a clear legal base—and a clear congressional direction and mandate—to move against these two offices.

CONSTITUTIONAL CHALLENGE INVALID

Some may try to raise a constitutional challenge to this bill. It is not a valid challenge.

We are not seeking to prevent the consideration of political views; but we are seeking to protect our country against terrorism.

We are not seeking to undermine anyone's rights—neither the rights of any Americans, nor the rights of anyone anywhere else in the world; but we are trying to protect the right of the citizens of this country to be free from the threat of terrorism.

We are not seeking to weaken the protections of the first amendment; but we are seeking to strengthen the defenses of this country against the real, physical threat that the PLO represents. A threat whose immediacy was underscored by the arrest made last week.

PROVISIONS OF BILL

The bill finds that the PLO is a terrorist organization, and lays out the outlines of the evidence to support that finding.

On the basis of that finding, and the right of this country to protect itself and its citizens from terrorism—it prohibits the receipt or expenditure of any funds from the PLO in this country; and prohibits the establishment or maintenance of any PLO office in the United States.

And, to make clear that these prohibitions are in place because—and only because—the PLO is a terrorist organization: The bill would lift the prohibitions once the President certifies that the PLO is no longer practicing or supporting terrorism.

PLO U.N. OFFICE HAS NO SPECIAL STATUS

Let me make two final points. One, some may question whether the fact that the PLO's New York office is affiliated with the United Nations—an observer office of the United Nations—limits our right to close it down. The answer is, no. In our agreement with the United Nations, we have reserved our right to defend ourselves; to take any actions necessitated by our national security; and to see that our national laws are fully observed.

We have claimed and exercised these rights time and time again. All we are doing here, in this bill, is claiming and exercising those rights again—and for the clear and compelling reason that the office is one part of the PLO's global, terrorist network.

And the other point is: In taking this step, we would only be following the lead of three moderate Arab States—Jordan, Morocco, Egypt—that have already moved to close the PLO's office. Those are nations—especially Jordan—that are right in the middle of the peace process. They see the closing of these offices as a necessary adjunct to advancing that process. I agree with them.

TERRORISM IS THE ISSUE

So the Constitution is not at issue; the United Nations is not at issue; the Middle East peace process is not at issue.

Terrorism is the issue. The right of this country to defend itself against terrorism is the principle on which we seek legislative action—and the reason we introduce this legislation today.

So I just suggest that this is an issue that should be addressed. I thank again the distinguished Senator from Iowa who started this effort almost a year ago, and my colleagues on both sides of the aisle.

I ask unanimous consent to print in the Record the two letters I addressed to the Secretary of State and to the President.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, February 6, 1987.

Hon. George P. Shultz,
Secretary of State,
Department of State,
Washington, DC.

Dear Mr. Secretary: Thank you for your letter of January 29, 1987, responding to my earlier telegram on the status of offices of the Palestine Liberation Organization (PLO) in the United States.

While I understand the points you make, I am concerned about your response on two counts.

First, I wonder whether the Administration has explored thoroughly all of the options under existing law, and consistent with our obligations as host to the United Natiops (UN), to move against these PLO offices. In order to help me in evaluating that question, I would appreciate a detailed report on how the PLO office in Washington has responded to the requirements of the Foreign Agents Registration Act. I would also ask for an authoritative Administration position, with explanation, of whether that PLO office might not be subject to the requirements of the Voorhis Act and the Racketeer Influence Corrupt Organization Act (RICO). Finally, I request a similarly detailed report on whether and how the activities of the PLO office in New York comport with its status as a UN "observer mission." In particular, I would ask that the latter report address how the Administration is implementing our obligations to provide the PLO a permanent New York office (as opposed to a temporary office, during the periods when the UN is in session); to permit PLO representatives to remain in the United States even when the UN is not in session; and to permit PLO representatives travel outside of 25 miles from the UN.

Second, I believe it is also in the Administration's interest to explore—with me and other concerned Members of Congress—the question of whether new legal tools are needed to monitor, regulate and perhaps even close these PLO offices. While I strongly oppose and would not be party to the violation of anyone's rights, I am not satisfied to simply throw up my hands and say that nothing can be done about the fact that a known terrorist organization can maintain open and active offices in the United States.

I would appreciate your earliest consideration of these matters, and I look forward to working cooperatively with you and others in the Administration to address the concerns I have raised.

Sincerely yours,

Bob Dole,
U.S. Senate.

The Secretary of State,
Washington, DC, January 29, 1987.

Hon. Robert J. Dole,
U.S. Senate,
Washington, DC.

Dear Senator Dole: I apologize for the delay in responding to a telegram which you and nine of your colleagues sent to the President concerning the Palestine Liberation Organization Information Office in Washington and the PLO Observer Mission in the U.N. in New York.

Like all Americans, I was outraged by the bombing near the Wailing Wall in Jerusalem, which claimed the life of an Israeli soldier. I join you in condemning this reprehensible and cowardly attack.

I share your deep concern about the claims of responsibility by elements of the PLO for this attack. However, the continued existence of the PLO Information Office in Washington neither reflects nor requires the approval of the United States Government. The PLO Information Office is registered under the Foreign Agents Registration Act of 1938, as amended, with the Department of Justice and is subject to the provisions of that legislation. The Department of Justice has informed us that so long as that office regularly files reports with the Department of Justice on its activities as an agent of a foreign organization, complies with all other relevant U.S. laws, and is staffed by Americans or legal resident aliens, it is entitled to operate under the protection provided by the First Amendment of the Constitution.

The PLO Observer Mission in New York was established as a consequence of General Assembly Resolution 3237 (XXIX) of November 22, 1974, which invited the PLO to participate as an observer in the sessions and work at the General Assembly. The PLO Observer Mission represents the PLO in the U.N.; it is in no sense accredited to the U.S. The U.S. has made clear that PLO Observer Mission personnel are present in the United States solely in their capacity as "invitees" of the United Nations within the meaning of the Headquarters Agreement. While we therefore are under an obligation to permit PLO Observer Mission personnel to enter and remain in the United States to carry out their official functions at U.N. headquarters, we retain the right to deny entry to, or expel, any individual PLO representative directly implicated in terrorist acts. It is, moreover, the policy of the U.S. to restrict the travel of members of the PLO Observer Mission to within a 25-mile radius of Columbus Circle. Special permission must be received to travel beyond this area. Such permission is granted only for humanitarian purposes.

Sincerely yours,

George P. Shultz.

U.S. Senate,
Committee on the Judiciary,
Washington, DC, October 17, 1986.

Dear Mr. President: The Palestine Liberation Organization has publicly taken responsibility for the attack on Israeli soldiers and their families this week near the Western Wall in Jerusalem, and has vowed to step up such terrorist attacks. This is just the latest of a multitude of violent acts of terrorism by this outlaw organization.

You have been a leader in the fight against terrorism and condemning the PLO's long-established policy of bombings, kidnappings, hijacking, extortion and murder. Accordingly, we call upon you today to use every available legal option to order the closing of the PLO office in Washington, D.C. That office, according to its own registration statements filed with the Department of Justice, receives $250,000 a year from its parent body, the head of the terrorism empire. We are outraged that an organization whose mandate is terror is allowed to operate freely in our nation's capital.

Signed,

Senators Grassley, Dole, Kasten, McConnell, Specter, D'Amato, Laxalt, Pressler, Heinz, Quayle.

Mr. D'AMATO. Mr. President, I rise to cosponsor legislation introduced by my good friend, the distinguished senior Senator from Iowa. This legislation, the Anti-Terrorism Act of 1987, will effectively close the Palestine Liberation Organization [PLO] offices in the United States.

The act recognizes officially what we have all known for some time; that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and international law. This bill will close the New York City and the Washington, DC, offices of the PLO. It also makes it illegal to accept anything of value from the PLO and to expend funds from the PLO. Because the PLO is not afforded diplomatic immunity in the United States, this legislation does not violate any treaties or other international rules regarding the treatment of diplomatic missions or their personnel.

Mr. President, this bill is long overdue. For some time, many of us in Congress have pushed for the closing of the PLO offices in this Nation. In October of last year, several colleagues and I sent a telegram to the President urging that steps be taken to close the PLO office here in Washington. The continued presence of the PLO in the United States is convoluted policy. The PLO is not only a documented terrorist organization which consistently renounces any peaceful solution in the Mideast, but is also a sworn enemy of the United States.

That enmity toward America is well established. Since 1972, a tragic number of American citizens have been victim's of PLO terrorism. From the 1974 downing of a TWA jetliner to the senseless murder of Leon Klinghoffer aboard the *Achille Lauro,* the bloody hands of the PLO have consistently targeted innocent U.S. citizens. Over 50 Members of this body last year cosigned a letter to the Attorney General urging the Department of Justice to act upon information linking PLO leader Yasser Arafat to the brutal 1973 murders of American Ambassador Cleo Noel and G. Curtis Moore in Sudan.

Mr. President, this legislation will not stop PLO terrorism against Americans. It will, however, send a clear and unmistakable signal to PLO leaders that the United States will not accept the presence of terrorists in this Nation. How can we allow an organization inimical to the very principles of our Nation to enjoy legitimacy associated with the establishment of offices in our soil. We do not allow missions in the United States from the Red brigade, the Red army faction, direct action, M-19, the Shining Path, or other equally heinous terrorist groups. The PLO, however, is afforded this luxury.

Some might argue that the PLO, as self-declared representative of the Palestinian people, has some quasiofficial status, deserving an official presence in the United States. Mr. President, 6 years ago this month we unceremoniously expelled the Libyans for their support for terrorist activities. Even many Arab nations—Jordan, Morocco, and Egypt—have closed the doors of PLO offices in their respective nations. Why, then, do we allow the PLO to remain? It is a diplomatic charade of no value. Mr. President, we only look foolish.

I strongly urge my collegues to join me in cosponsoring this important legislation.

Thank you, Mr. President.

Mr. LAUTENBERG. Mr. President, I join Senators GRASSLEY, DOLE, METZENBAUM, SYMMS, and others in introducing legislation to close down the PLO office in Washington, DC, and the PLO Observer Mission in the United Nations. This legislation also makes it illegal to receive anything of value except informational material from the PLO or its agents in furtherance of the PLO's purposes, or to spend money from the PLO or its agents to further those purposes.

Mr. President, I have long advocated the closing of the PLO office in Washington and the observer mission in New York, both in testimony before the Senate Judiciary Subcommittee on Terrorism last year, and in questioning various witnesses before the Senate Budget and Appropriations Committees on which I sit. I have repeatedly urged the Attorney General and Secretary Shultz to investigate how this could be done.

Last year, I authored a provision in the Commerce-State-Justice appropriations bill to require that the Department of Justice investigate whether the PLO office in Washington was in compliance with the Foreign Agents Registration Act. The report I received says that the PLO is in violation of that act.

Mr. President, today we are introducing a bill that will finally close these offices. This bill hangs a sign on America's doors that says, "Terrorists not welcome here." And well it should. The time is long past when our country should hold out a welcome mat for the PLO, whose record of hijackings, murder, and kidnapings is well known and well documented. Instead, we should pull the rug out from under an organization who so clearly embodies, in rhetoric and in action, the word terrorism.

Yasser Arafat, the head of the PLO, has long been recognized by this administration as a prime culprit in terrorist crimes. On April 8, 1986, Attorney General Meese declared:

> We know that various elements of the PLO and its allies and affiliates are in the thick of international terror. And the leader of the PLO, Yasser Arafat must ultimately be held responsible for their actions.

In referring to the fight against terror, Meese stated—

> you don't make real progress until you close in on the kingpin.

Moreover, the PLO has been implicated in the murder of U.S. diplomats overseas, and has proudly taken credit for the murders of dozens of American citizens abroad. The PLO national charter states that "armed struggle is the only way to liberate Palestine," demonstrating that the dedication to violence is not a mere passing fancy but a well-thought-out strategy to achieve its goals.

Nor has the tiger shown any indication of changing its stripes of late. The recent Palestine National Council [PNC] meeting in Algiers made clear that the PLO has once again said no to peace and yes to terror. At that meeting, the PLO rededicated itself to "armed struggle," its code word for terror, in all forms. It pledged its continued rejection of the Security Council Resolution 242 and the Camp David accords.

This was not mere rhetoric. At the outset of the conference, Arafat's Fatah faction dispatched three infiltrators across the Lebanese frontier to attack Israeli border settlements. The PLO also pledged to seek better relations with Syria on the basis of the struggle for objectives hostile to imperialism and Zionism. It condemned Egypt for its peace treaty with Israel, and canceled the accord to coordinate peace efforts with Jordan.

Perhaps most revealing, the Palestine National Council reelected Abul Abbas, currently under U.S. indictment for planning and overseeing the hijacking of the *Achille Lauro* and murdering an American, to a leadership position on the PLO's 15-man executive committee.

If there were still any doubters, the meeting in Algiers made clear that the PLO is not interested in peace, only in violence.

In the wake of the PNC meeting in Algiers, both Egypt and Morocco closed the PLO offices in their countries, as Jordan had earlier. Why have we waited so long?

These offices not only legitimize the PLO's policy of terror. There is a real fear that these offices in Washington and New York might be used as bases for terror. According to an April 13, 1986 New York Times article, PLO offices in 18 non-Communist countries were put under close scrutiny by European intelligence and security officials to insure they carry out only official functions.

According to that same article, the Director General of the Israeli Foreign Ministry, people attached to PLO offices in Europe were preparing a support structure for terrorist operations. They recruited, rented safehouses, provided identity documents, chose potential targets, and collected operational intelligence.

While all PLO representatives in Europe describe their activities as political, educational, and cultural, Professor Wilkinson of Aberdeen University in Scotland, a specialist in Palestinian movements, says there are several kinds of people employed in PLO offices, and they are all ready to do violence.

With such questions about the PLO offices in Europe, can the PLO office in Washington or New York be so different? They, too, say their purposes are cultural, educational, and political. But their former head, Hatem Hasseini, is a member of the PLO Executive Committee. We should not take the chance.

If our tough talk on terror means anything, it means we should not allow a terrorist organization to operate freely in our Nation's Capital, or in New York City. For too long, this country has said one thing and done another when it comes to terror. Now is the time to put our money where our mouth is and deny the PLO a forum on our shores for practicing terror.

I urge my colleagues to act swiftly on this legislation.

CLOSING THE U.S. OFFICES OF THE PLO

Mr. KARNES. Mr. President, I rise in support of the legislation introduced by the senior Senator from Iowa and others that would provide the basis for closing the two offices maintained in the United States by the PLO.

Mr. President, the issue put forth by this bill goes beyond just the question of the terrorist actions of the PLO, although that is a critical element of the bill. It concerns whether the United States is tacitly going to extend legitimacy to an organization that by its words and deeds clearly deserves no such legitimacy. Nobody can doubt that the PLO is a terrorist organization. The cruel, execution style murder of Leon Klinghoffer is only the most visible example of the PLO's terrorist activities against the citizens of the United States. The PLO openly supports the use of terrorism. It has used the tactic of terrorism to thwart the attempts to achieve a peaceful, negotiated resolution of the Arab-Israeli conflict. The United States, due to the general policies of the PLO, including its support of terrorism, has refused to extend even the most limited level of recognition to the PLO.

Mr. President, it is this last point that is of greatest concern to this Senator. It is established U.S. policy that the United States will not extend recognition to the PLO and that no U.S. officials will meet with PLO representatives until the organization recognizes Israel's right to exist and renounces terrorism. This longstanding policy has been sound and should continue to be upheld. The presence of the two PLO offices in the country flies in the face of what should be a clear and consistent policy. The presence of the PLO offices in New York and here in Washington are a form of tacit recognition of the PLO as a legitimate international power. As I stated earlier, the PLO clearly does not deserve any such recognition by the United States. I hope that the Senate will take immediate action to clarify our policy of not recognizing the PLO. I urge my colleagues to support the bill introduced by the Senator from Iowa. By enacting this bill, we will give strength and meaning to our sound and established policy about not recognizing an organization that stands for terrorism and stands against the rule of civilized behavior in international relations.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. CHILES. I want to just join and say I am delighted to see that the Senator from Iowa has introduced this bill. I am a cosponsor of it.

It seems to me that we should not be allowing terrorist organizations to have offices or a safe haven in this country. That has been the policy of the United States. If and when the PLO decided that they wanted to strike that from being their purpose, that would be one thing. We know there are some factions within the PLO.

But I think this is a good bill and I support the Senator.

Mr. DOLE. I thank the Senator from Florida not only for his cosponsorship, but for his leadership and cooperation in this legislation.

BICENTENNIAL MINUTE

MAY 14, 1800: THE SENATE MEETS FOR THE LAST TIME IN PHILADELPHIA

Mr. DOLE. Mr. President, May 14, 1800, 187 years ago today, was the last day of the first session of the Sixth Congress. More importantly, it was the last day on which the Senate met in Philadelphia. The Chamber on the second floor of Congress Hall had been the Senate's home since December 1790. In that year the Government had moved from New York to Philadelphia under the terms of the bargain struck during the First Congress that created a new Capital City to the south and provided that Congress would meet in Philadelphia for a decade while its new home was readied.

By 1798, many Members had come to regret that bargain. They faced the grim prospect of abandoning bustling, cosmopolitan Philadelphia, with its sophisticated social life and handsome houses, for the wilds of the Potomac River's shores. Rumors that the new Capital was still a swampy morass of half-finished Federal buildings hardly lifted their spirits. Vice President Thomas Jefferson, who had supported the move, charged that John Adams and the Federalists in Congress, who opposed the transfer, were toying with the idea of merely going through the formality of moving the Government in order to comply with the law—and then moving right out again. While they did not disavow Jefferson's charges, the Senate's Federalist majority passed, and Adams signed, the construction bill for the new Capitol. That measure included an authorization of $9,000 to furnish the new Senate and House Chambers and move the records of Congress to the new site.

Within days of the May 14 adjournment, sloops carrying the Senate's records sailed out of Philadelphia harbor. In late May, they docked at Lear's wharf on the Potomac and the task of unpacking began. When the Senate reconvened in November, it met in the unfinished north wing—the only wing—of the Capitol Building, perched in lonely isolation atop Jenkins Hill. Its travels were over.

Mr. President, I thank the Chair.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 5 minutes out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE AGENDA

DEBT LIMIT EXTENSION

Mr. BYRD. Mr. President, I rise to call to the attention of the Senate a very urgent matter which requires immediate attention by the Senate, and I refer to the extension of the debt limit.

The House has passed and sent to the Senate H.R. 2360, an act to provide for a temporary increase in the public debt limit.

Mr. President, I received a letter from the Secretary of the Treasury on May 1, in which he says in part:

> I am writing to request action by the Congress on legislation to increase the public debt before May 15, 1987.

Mr. President, tomorrow, Friday, is May 15, 1987.

The Secretary says this—and I take from his letter appropriate excerpts:

> The temporary debt limit of $2.3 trillion will revert to the $2.111 trillion permanent ceiling at midnight, May 15.

That is midnight tomorrow.

> The Congress selected this date and adopted a different mechanism from that employed in recent debt limit exercises to ensure that the debt overage would be so large that no option except new legislation would permit raising new cash. This is a new ball game that permits no playing around: the statutory ceiling drops back; there is no cash maintenance flexibility; and the effects of not acting are swift and damaging. We do not support adding provisions that could imperil prompt passage of this urgently needed debt extension.

He goes on to say:

On May 28, the United States will run out of cash, default on its debt and subsequently not be able to make June benefit payments.

I ask unanimous consent to have printed in the RECORD the entire letter, addressed to me, from Mr. James A. Baker III under date of May 1, 1987.

There being no objection, the letter was ordered to be printed in the RECORD, as follows;

THE SECRETARY OF THE TREASURY,
Washington, DC, May 1, 1987.

Hon. ROBERT C. BYRD,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR BOB: I am writing to request action by the Congress on legislation to increase the public debt limit before May 15, 1987.

The temporary debt limit of $2.3 trillion will revert to the $2.111 trillion permanent ceiling at midnight May 15. The Congress selected this date and adopted a different mechanism from that employed in recent debt limit exercises to ensure that the debt overage would be so large that no option except new legislation would permit raising new cash. This is a new ball game that permits no playing around: the statutory ceiling drops back; there is no cash maintenance flexibility; and the effects of not acting are swift and damaging. We do not support adding provisions that could imperil prompt passage of this urgently needed debt extension.

Our current estimate indicates that the outstanding debt subject to limit will be about $160 billion above the permanent ceiling on May 15. Without an increase in the debt limit by that date, all issuance of Treasury securities must cease. Trust and revolving fund investments and roll-overs of maturing issues that those funds hold would halt, resulting in lost interest to those funds. We would have to notify the 44,000 issuing agents to stop selling Savings Bonds, and sales of nonmarketable securities important to state and local financing would cease.

Although we will be unable to raise any additional cash, payment of obligations—including maturing debt—must continue as long as cash remains available. Unlike recent years when Treasury has simply run out of additional borrowing room under a permanent debt ceiling, the expiring temporary debt ceiling provides no opportunity for any administrative actions to prolong the availability of cash. As a result, on May 28, the United States will run out of cash, default on its debt and subsequently not be able to make June benefit payments.

Running out of cash means that the United States would default on its obligations both domestic and foreign, with all the negative financial, legal and moral consequences that implies. Our Founding Fathers regarded the full faith and credit of the United States as a sacred trust, and for over 200 years the United States Government has upheld this fiduciary duty. The United States has never defaulted on its debt obligations. To do so would be unthinkable and irresponsible. We would seriously erode this country's premier credit position and break faith with our citizens.

In short, we request that the Congress act prior to May 15 to increase the current debt ceiling to: (a) $2,800 billion, an amount sufficient to be sure to get through May 1989, when the Congress will have had a chance to act on the FY 1990 budget resolution; or (b) $2,578 billion, the amount estimated in the President's Budget to be necessary for FY 1988, with the Treasury's conventional assumption of a $5 billion allowance for contingencies. We believe that the first option is preferable in order to remove the burden of dealing with the time-consuming debt limit issue in the midst of election year schedules.

Sincerely,

JAMES A. BAKER, III.

Mr. BYRD. Mr. President, I have been talking with the distinguished Republican leader about the necessity of having a clean bill—the House has passed a clean bill—and not having amendments thereto. The Republican leader is in accord with the necessity for doing this. And I understand that he will be having some meetings later today with White House people in the effort to keep this bill clean. And I want to help the leader in his discussions. I think I owe an obligation not only to the leader on the other side but I also owe an obligation to all Senators. And, if I may say so, I feel I owe a special obligation to the Senators on this side of the aisle.

Now, I do not know what will happen on this debt limit extension. I know that on this side of the aisle we are willing to go without an amendment. But if amendments start being offered, there are plenty of amendments on this side as well.

I have to point out how the calendar is running. Today is May 14. We have 1 more day of this week, unless we are in Saturday. And I will not rule out Saturday in this instance. We have 4 days next week—Monday, Tuesday, Wednesday and Thursday. Well, I have given my word that unless there are very extenuating circumstances amounting to an exigency, I will not have rollcall votes on Monday. I intend to stick to that word. I intend to stick to that word. We will not have any rollcall votes next Monday.

But that means we have only Tuesday, Wednesday, and Thursday next week. And then Friday, the 22d, is the beginning of the Memorial Day holiday. Now I have made no promises about that day. I do not have any commitments on that one. And if the interest of the Nation and the welfare of the Nation requires it, this Senate will be in on Friday, the 22d. And if it is serious enough for the Senate to be in on the 22d, then it is serious enough to be in on the 23d, which is Saturday and the next Monday is the 25th and then the 26th. And if we have to be in on the 26th, which is Tuesday, we will be in. That only leaves 2 days until the 28th. It leaves 27th, Wednesday, and Thursday, the 28th.

Now this is no threat. I am simply stating reality. The Senate can make up its mind as to whether or not, and Senators can make up their minds as to whether or not, we are going to play around with this debt limit or not. And every Senator is within his rights. If he wishes to offer amendments, that is his right. I do not quarrel with that.

But I want Senators to know that there will be some days canceled in this Memorial Day holiday if we have to cancel them in order to get this debt limit passed. If we are going to have amendments to it, we are going to be in session until we get the work done.

Failure to pass a debt limit extension before Friday, before tomorrow, could set in motion a series of events with damaging fiscal consequences. Congress must do all it can to avoid these events.

First, without a new debt limit, the U.S. Government will default on its obligations for the first time in history by May 28. As I have pointed out, May 28 is not very far away. And if we allow for those days that are to be marked out for the Memorial Day holiday, that would mean that after today, and if we went along in the usual normal fashion of not having sessions on Saturday, that would leave tomorrow—1 day—next Tuesday, Wednesday and Thursday—that would be 4 days—and then the holiday and then, when we get back, the 27th and 28th and we are in the soup. We are in real trouble.

So we might as well make up our minds that we are going to do this and get it done by the 28th with amendments or we can proceed to have the debt limit with no amendments to it and, hopefully, as far as I am concerned, do it by voice vote today.

But without a new debt limit, let us remember the loss of confidence in New York City during the fiscal crisis there. The city had difficulty in selling bonds and what bonds it sold commanded much higher interest rates. That financial shock took several years to overcome.

If the U.S. Government defaults on its obligations, the cost to our prestige worldwide, as well as to our pocketbook, could be very high. Cities and States will go to almost any length to preserve a good credit rating. They know the importance of meeting their financial commitments. The Senate must not allow the credit rating of the world's greatest economy to take a big hit. Yet, if we do not approve a debt ceiling increase, that is what we risk.

Mr. President, the financial markets have become nervous recently, in large measure because of the uncertainty over whether Congress would do the responsible thing and approve the debt limit increase. Uncertainty in the financial markets raises interest rates—rates which increase costs to families, businesses, and governments. Failure to increase the debt limit in a timely fashion will take a bite out of every family's budget and help make our industry just that less competitive in world markets.

For over 200 years, the U.S. Government has upheld the full faith and credit of its obligations as a sacred trust. We have never broken that trust. I ask my colleagues to consider the dire consequences—financial, legal, and moral—that a default on our debt obligations would have. We must avoid that situation by approving the debt limit increase in a responsible, forthright manner, and the sooner, the better.

Mr. President, I hope that will help the distinguished Republican leader in his efforts to get an agreement to proceed with a temporary extension without amendments.

I emphasize again, this is no threat. We simply have the responsibility to do the business of the country and to do it in a timely fashion.

Now, on this side, we will offer no amendments. But if they start coming, then it's Katie bar the door, because the May Memorial Day is out.

I yield the floor, and I thank the Republican leader.

The **PRESIDING OFFICER**. The Republican leader.

Mr. DOLE. Mr. President, I do not disagree with the majority leader. Having been the majority leader, I can think of how many debt ceiling increases we had during that time. There were always amendments coming from the other side and I always tried to prevent amendments from my side. But I know how difficult it is when amendments are offered. Everybody has one or two great ideas and they would like to have it enacted into law right away.

Fortunately, most of them never pass. But I would like to take up the debt ceiling this afternoon and whoop it through the Senate. I think we can. With the meeting taking place in my office right now with the Chief of Staff, Senator Baker, there are other Members on my side who, if not this time, I think it is fair to say the next time, will have amendments. We have advised the White House, the Treasury Secretary, and others that even though we agreed with the President, that we ought to go forward now, sooner or later we are going to have to face up to the amendment process.

I think right now, with as many things as we have to do here, that we certainly want to pass this today—not next week and not tomorrow, but today. Hopefully, at some appropriate time, the majority leader will call it up.

I think he indicated to me privately that he might do that following the White House meeting this afternoon if there was no agreement.

Mr. BYRD. Yes. If the distinguished Republican leader will yield, I will call up the debt limit bill or attempt to call it up. I hope I do not run into a problem like I did in trying to call up the defense authorization bill yesterday. I will attempt to call the debt limit bill up today unless we get assurance that today or tomorrow the debt limit bill can be taken up without amendments.

I thank the Republican leader.

Mr. DOLE. Mr. President, I think I can get consent maybe in the next 30 minutes to take it up. We want to get the debt limit behind us. I would also hope that we might take up this week the nomination of William Webster.

Mr. BYRD. Mr. President, will the Senator yield on that?

Mr. DOLE. Yes.

Mr. BYRD. I can take up the nomination of William Webster quickly. There is no holdup on that. I have one Senator I have to clear that with. So I hope that the Senator will understand there is no quid pro quo here as to William Webster.

Mr. DOLE. No. I am saying I hope we can do that following whatever happens.

Mr. BYRD. It is not being held hostage to anything. As far as I am concerned, we can take that up right this minute. We happen to have one Senator here who has been trying to get information from the FBI. If the Republican leader can help get that information, we will take the nomination up.

Mr. DOLE. I do not suggest any relationship. But I do suggest it is important. I know we have discussed it. I know the majority leader did not take it up last week. But it is a matter that was called to my attention by many of my colleagues on both sides. I think we can dispose of that, hopefully this week. So I will get together with the majority leader after the noon meeting. Hopefully we can dispose of the debt ceiling.

If the debt ceiling is disposed of today, is there any indication about what might happen for the remainder of the week?

DEFENSE AUTHORIZATION BILL

Mr. BYRD. Yes. If the distinguished Republican leader will yield, I hope the filibuster on the taking up of the defense authorization bill will end.

Mr. DOLE. It has not started yet.

Mr. BYRD. It started. It started yesterday. That was a filibuster. That was clearly a filibuster as known by anyone who knows a filibuster. I have been around here long enough to recognize one. I have been in a few of them myself.

But may I say that I hope we can get on the bill. And if Senators are disposed to, they can oppose the bill and filibuster it. We cannot produce all 60 votes on this side to shut off cloture. There will be a cloture vote tomorrow morning. The Senate will come in early.

ORDER FOR RECESS UNTIL 9 A.M.

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning. That means that the cloture vote will occur around 10 o'clock or soon thereafter.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. BYRD. If we are able to vitiate the cloture today by getting the bill up, there may be votes on amendments today. Also if we are not able to call the bill up today there will be a cloture vote tomorrow. I do not know whether or not the Senate will invoke cloture. It may not.

Beyond that, we have a supplemental appropriations bill that is on the calendar that has important items involving national defense, and foreign operations, both of which are important to the President and to the Secretary of State. There are moneys in that measure—$6.7 billion or $6.8 billion—for the Commodity Credit Corporation. There are moneys in there for pensions, and for Federal pay increases. We are ready to go on that as soon as the White House is able to get some support from the other side of the aisle for a waiver motion. Otherwise, that bill is just sitting on the calendar.

So things are beginning to back up here. I would hope that we could have help from the good offices of the distinguished Republican leader, who has been very supportive up to this point, who has done the best he could, and has done an excellent job in helping to see that the Senate transact business and that we move along. But we have suddenly hit a little stump here with the supplemental appropriations bill, and now the defense authorization bill.

So in answer to the distinguished Senator I would say that there will probably be rollcall votes tomorrow. If we run into a stump on this debt limit extension, of course, I hope we will not, I am sure the distinguished Republican leader is doing his best on that, but even with his best he may not be able to produce that result, that would spell real trouble.

Mr. DOLE. No; but I would say to the majority leader that I indicated to my colleauges that on this extension I am not going to support any amendments. You know, that day is going to come. I think we cannot avoid it. But I think at this time, with other matters here, and other matters that the President has to deal with, I do not see anybody losing with the 60-day delay. Nobody loses any rights that I can determine on this side or on the other side or downtown for that matter. But it is serious. I think the Secretary's letter indicated how serious it is at this point because of the change in the debt ceiling law last year. We would have to drop some personnel, and we would be in default around the world.

And we would not send out Social Security checks, or veterans' checks, or any other checks in the Government. So certainly we have to deal with that.

I hope we can do it today. I hope to be able to give the majority leader consent, or at least get consent to go to that bill, if nothing else, following the meeting in my office.

Mr. BYRD. Very well. Mr. President, I appreciate that assurance.

I will join the Republican leader in moving to table any amendments that are offered to that measure if that would be helpful.

Mr. NUNN. Mr. President, will the majority leader yield just for a brief question while the minority leader and the Senator from Virginia are here? On the defense bill, of course, my preference is to get the bill up, begin debating it, and have opening statements. We are going to have a lot of amendments, but I hope not too many. I hope we can do that this afternoon. I know the cloture vote is scheduled for tomorrow. It would be my hope that we would not have to have a cloture vote, that we could go ahead, and have the motion to proceed and proceed to the consideration of the bill.

All Senators have the right to extend the debate after the bill is taken up. Everyone knows their rights. There is no faulting of anything by taking the bill up. So I hope we can do that.

I would ask my friend from Virginia if that is possible. If we could go ahead and proceed with the bill, have the opening statements, begin to get to the bill, and we are going to have probably 3 or 4 hours of people wanting to explain the bill, such as subcommittee chairmen, the minority and ranking members, and so forth.

If we could begin that process today, it would greatly accelerate the overall consideration. All of us know, as the majority leader has said, that we are not going to have a defense bill if the President does not want to have one. And if the Republicans do not want to have one, we just are not going to have one. There is no way we can have one if the President of the United States does not want a defense bill, or if the Republicans in the Senate unanimously or most of them do not want a defense bill, we will not have one. So that point is made.

We concede that. We say that point is made. There is no doubt about it. There will not be a defense bill if the Senator from Virginia does not want a defense bill, if the Senator from Kansas does not want one, if the President does not want one, and if the Republicans do not want one.

Mr. WARNER. Mr. President, at the appropriate time I would like to state that the President of the United States wants a defense bill. And my dear friend, the chairman of this committee, knows that full well. But he does not want a defense bill that has on it an amendment which in his judgment, and in the judgment of many, would undercut the negotiations that are now proceeding in Geneva, negotiations directed at making this a safer world in which to live.

This afternoon I have asked my distinguished leader, who is still on the floor, if we might not meet with the Chief of Staff of the White House in fairness to the offering that was made yesterday of how we might split out from this bill the Levin-Nunn amendment.

Mr. NUNN. And the SDI funding.

Mr. WARNER. I say to my good friend that we on this side are not prepared—certainly, this Senator is not prepared—to look at a precedent-setting device which would take out a part of the defense bill and hold it hostage to a series of issues which are strictly, in my judgment, in the area of foreign relations. I think my good friend, and hopefully he will be on this committee for many years, does not want to set that precedent.

Mr. NUNN. A lot of precedents have been set in the last 2 days that I did not want set about the pending bill. But, nevertheless, I will say to the Senator from Virginia I was delighted that there was going to be that meeting.

If there is any kind of thought that in any way we would be willing to simply split out the Levin amendment from this bill and march on, there is no need in discussing that in a serious vein because that is not going to happen, unless the Senator from Virginia gets 51 votes or a majority of votes, in which case it will happen and we will march on.

Mr. WARNER. Then my friend from Georgia is saying that there will not be a defense bill because he will draw his line in the sand and will not step across.

Mr. NUNN. We have a relevant, germane amendment in the bill. If the Senator can produce the votes to strike it, then that is the way the Senate will do it, but the Senate is being deprived of the opportunity to discuss or to even debate it. It seems to me that the Senator from Virginia is trying to win for the Gipper by locking the door on the locker room and saying the other side cannot come out and play on the field. I am not sure that is the way we would want to play.

Mr. WARNER. I am glad the Senator from Georgia brought that up because in the period which intervened since we were on the floor late yesterday evening, I began to study how the Appropriations Committee dealt with basically this same issue, namely, that there were some Senators who felt very strongly, as the Senator from Georgia and the Senator from Michigan do, about the need for this body to consider arms control amendments. That is a right of the Senators and I concede that.

But the Appropriations Committee recognized the urgency of that legislation, the importance to the United States, and, by a narrow vote, turned back the efforts of those Senators, like yourself, who want to address arms control, and decided they would not put it on their bill. To me, that is a very strong precedent.

Mr. NUNN. If the Senator will yield, this is not arms control.

Mr. BYRD. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I gladly yield to our distinguished majority leader.

Mr. BYRD. Who has the floor? Who was last recognized?

The PRESIDING OFFICER. The Senator from Virginia was last recognized.

Mr. WARNER. I will be delighted to yield to the Senator from West Virginia.

Mr. BYRD. I did not know the Senator from Georgia had the floor.

Mr. NUNN. I believe the Senator from Virginia yielded to me for a question.

Mr. WARNER. I will yield to the majority leader.

Mr. BYRD. I would like the Senator from Virginia to yield to the Senator from Georgia for the purpose of the Senator from Georgia yielding to me without his losing his right to the floor.

Mr. WARNER. I am glad to yield to the majority leader.

Mr. BYRD. Mr. President, on the point just raised by Mr. WARNER, who is my dear friend and whom I value very much as one whose integrity I believe in deeply, he mentioned what went on in the Appropriations Committee and said there were those in the committee who wanted to tie arms control language to the supplemental appropriations bill.

I was one of those, and I gave my proxy to Mr. BUMPERS to do so. But when the chairman of the Appropriations Committee implored me to help get that supplemental appropriations bill out of the committee, I withdrew my proxy. I called Mr. BUMPERS on the phone and I said,

> Please withdraw my proxy. The chairman has called me and importuned me to not exercise that proxy. He needs help. I will vote for your amendment, Mr. BUMPERS, on the floor if you offer it, but in this instance I feel an obligation to help the chair get the bill out of committee.

That is why I removed my proxy. Had I not done so, I am not sure that that language would have been stricken from the bill.

I have been a supporter of the SDI. Last year we had two test votes. On both of those votes, the SDI survived by one vote.

Every Senator who voted in support of the SDI last year can say it was his vote. At least I can say that without my one vote the increase in funding probably would not have survived. So much for that.

I want to say, and place it right on the record here and now, I am with the Senator from Georgia on this matter. He is the chairman of the committee. If the President wants a defense authorization bill, then he ought to at least let his supporters in the Senate on his side of the aisle know that there would be some value in proceeding to debate the defense authorization bill.

That bill is getting nowhere. We cannot even call it up. Look what a filibuster we had yesterday when I attempted to offer a nondebatable motion to get that bill up.

Here we are today, still in a filibuster. If the President wants this defense bill, let him ask Republican Senators to let us bring it up.

We will have a cloture vote tomorrow. I do not know if we can invoke cloture or not. But if they have the votes on the floor to strike out the language, so be it. They can do that. But nobody can offer an amendment to that bill to strike that language that the President opposes until the bill is before the Senate.

We can stand here and talk about it until the crack of doom, but you cannot do anything to that bill until you have it before the Senate.

Why will they not let us bring it up, and then take their shots at the language that they do not want?

Furthermore, if the Senator will allow me, I have a little gripe in this that I want to air, too, and I might as well say it here.

The President wants this language removed, this restrictive language which he feels binds his hands at Geneva. I have been supportive of the President on SDI, and I still want to be supportive of the President.

But we heard that same song before he went to Reykjavik. There was similar restrictive arms control language, I believe, in the continuing resolution last year. The House added the language and the President implored the House to remove the language, he was getting ready to go to Reykjavik, he did not want his hands bound there, he wanted to be a completely free agent in dealing across the table with the Soviets.

That language was removed, may I say, at the request of the President, and it should have been removed. I supported its removal.

But the President said in writing,

> If you will remove that language, I will make it the first order of business to support the approval of the two treaties, the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty with verification language.

He said,

> I will support those. I will make that the first order of business, to support those in the United States Senate.

Those treaties have been languishing around here from the days of the administrations of Mr. Nixon and Mr. Ford, respectively.

All right, the House carried out their end of the bargain. The President has not yet backed up his commitment. He has not yet fulfilled his promise, not yet. He has not supported these two treaties.

The Foreign Relations Committee went to work. I urged Mr. PELL to get the treaties out of the committee and he reported them.

But the White House is not supporting them. We cannot produce a two-thirds vote on either of these treaties. We are not going to have the support of the other side if the President does not support these treaties.

The President said, "Take off that language and I will support the two treaties."

The House took off the language and the treaties are still languishing here. They will be here at the end of this 100th Congress if I do not get the support of the White House. The treaties deal with arms control and they contain verification language which the President asked for.

Mr. NUNN. Will the Senator yield for a comment on that?

Mr. BYRD. Yes, if the Senator from Virginia will yield.

Mr. WARNER. Yes, Mr. President. I would like to make a brief comment. I remember the proceeding very well. Mr. NUNN and I were both involved in that decisionmaking process.

Mr. NUNN. I say that is correct, that the Senator from Virginia and I spent approximately 3 weeks trying to work this out. There probably would not have been an authorization bill if it were not worked out. We almost lost the authorization bill last year. I was a little amused to hear the talk about the partisan split that is taking place in our committee and the partisan split here. I spent all last fall trying to be bipartisan and trying to save a bill and finally got the bill through the conference because we did work this out with the President of the United States.

I was trying to help the President. The Senator from West Virginia was trying to help the President. The Senator from Virginia was trying to help the President. We got a deal in writing, and guess what? It fell through because there was an additional proviso added in January of this year that said we had to have two votes, two ratifications, which made the whole deal absolutely futile; it made the whole spirit of the deal ridiculous.

And so there are some of us here who have had this bipartisanship talk a long time, and I responded to it virtually every time it has been posed, virtually every time on defense and foreign policy.

I went through that last fall. I said, after I saw what happened in January, which I considered—and I have told the White House—a breach of faith, a breach of the spirit of the agreement, not the letter, because nobody ever dreamed you would have to go through this twice, have two ratifications, a breach of the spirit of it, the next time someone comes and says the only way you can be bipartisan is to march right down to the White House and salute and say, "You are the Commander in Chief. Whatever you want, sir, in an effort to be bipartisan, I want to be bipartisan," I am not going to do that anymore. I am going to be bipartisan whenever I can. But just because you do not agree with the President or our Republican colleagues on something does not make it partisan. It can be just as much viewed as partisan on the other side.

Here in the committee, we have all the Republicans lined up on this issue. All the Republicans line up with the White House on this issue, march right to the—

Mr. WARNER. With the exception of one.

Mr. NUNN. With the exception of one, who was under considerable pressure and displayed amazing courage. Time and time again the Senator from Maine does that. I think we all admire him.

And then once they are all lined up on the Republican side, the President and the White House and everybody concerned on the Republican side, then if the others are left over here with another position, they are accused of being partisan. Amazing. Amazing logic. Amazing logic—particularly after it took us 9 months, 9 months to even get the negotiating record delivered over here. Nine months last year we spent trying to get that negotiating record. I remember the Senator from West Virginia wrote a letter on it to the President. The Senator from Arizona, Mr. Goldwater, helped get that record. Without his help, we probably would not have gotten it. The Senator from Virginia helped. It took us 9 months to get the record. It was declassified yesterday.

So this negotiating record which was so top secret last year, we could not get it over in the Senate, which took us 9 months to get, finally we got it in S-407—only six staff members could see it, which is still the case, only six could see it—guess what? Yesterday, in order to make the case of the administration, their portion, everything they need to make their case was declassified and given out to the public. I knew about it about an hour, 2 hours in advance, and I appreciated that courtesy. It would have helped me if I had known a couple weeks ago because I had been struggling to get a classified version completely prepared. Now, I do not know which part of it is going to be declassified. I hope all of it. So, I do not think this ring of partisanship has much validity with a lot of us here around this particular issue.

Mr. WARNER addressed the Chair.

Mr. NUNN. Although I must say I hope we can restore a bipartisan approach because the only way you are going to have an SDI program is through two or three Presidents of the United States. You are not going to have one in this Presidential administration, not deployed certainly. You are not going to have one probably in the next 4 years. And the only way you can possibly put together something that requires continuity in foreign policy and defense is to have a bipartisan approach. But that bipartisan approach has to have two parts of the street. It cannot be one way. And we are being asked for a one-way vote. We are being asked on this particular matter to give the President of the United States $4.5 billion and he will tell us later how he is going to spend it on SDI. We never would have done that on the MX. We did not do it on the MX basing mode. We did not do it on anything else.

All we are asking from the President of the United States—and if the Senator can think of another way to accomplish this rather than the amendment that is called the Levin amendment, I will be glad to listen to that proposition.

Mr. WARNER. Mr. President, I do have that thought in mind.

Mr. NUNN. All we are asking is that the President spend the money in the manner that they testified they were going to spend the money. All we are saying is carry out your program, which is the traditional interpretation of the ABM Treaty, and if you want to spend that money or other money by going in a different direction with a different testing program, first of all you have to come back and ask the Congress and we will have to approve it.

That is all we are asking. That is a very simple proposition. And we are being told that that is dabbling in foreign policy and that that undermines the President in Geneva.

I suppose if you really want to help the President in Geneva, we could just put one line in a defense budget and say, "Mr. President, here is $302 billion called defense. You just spend it any way you want." With anything like that, he would really be able to go to Geneva with muscles.

The problem is in doing that you would be forfeiting the constitutional responsibility of Congress. You would be departing from the Constitution in terms of our constitutional duty for the appropriation process.

So that is all we are asking. Maybe the Senator from Virginia can figure it out.

I want to close my brief remarks here by saying I hope we can, while these discussions are going on and while other things are happening, unless the Senator from West Virgina has a bill he would like to get up, in which case I think we ought to yield and get out of the way and let the bill come up, I hope that we can begin the opening statements this afternoon by the subcommittee chairmen, by the ranking members. I will probably take 2 or 3 hours. We would save a lot of time. At some point they are going to be made.

I have not had a chance to discuss this with the Senator from West Virginia, but my view is that I hope we can work this out and not even have a cloture vote tomorrow morning. But if we do have one—and my expectation is we will be short of 60 votes tomorrow—it would be my hope then that we could work it out before the next cloture vote. But if we cannot either work it out or have the bill start sometime Tuesday of next week, just from the majority leader's planning point of view, as the chairman, I would recommend that we forget about the authorization bill until after the recess.

As a matter of fact, I do not see any need of pursuing cloture votes on the motion to proceed for a long time because until our friends on the other side of the aisle decide they want a defense authorization bill we are not going to have one. I do not see any need in tying up the Senate, and I am prepared to basically just lay aside the defense authorization bill. As long as the President does not want it, the Senator from Virginia does not want it, the Senator from Kansas and their colleagues do not want it, I am prepared to wait.

Mr. WARNER. Mr. President, at some time I would like to join in this colloquy.

Mr. NUNN. I yield the floor.

Mr. WARNER. I thank the distinguished chairman.

Mr. BYRD. Mr. President, if the distinguished Senator from Virginia would yield briefly, without losing his right to the floor, the distinguished Senator from Georgia has said that we might lay this bill aside until after the recess. The Senate has other business after the recess. Things are beginning to pile up. We have a supplemental appropriations bill that is still on the calendar. We tried to move on that the other day. It had to go back to the calendar. We are going to have a trade bill coming along after the recess. We have a reconciliation bill coming along after the recess. We have various other equally important measures that are going to have to be brought up. We do not have all summer in which to act on the defense authorization bill. Our time is running.

As to the failure of the President to live up to his commitment, if anybody wants to take issue with that, I have his promise in writing. I wrote the President a letter several weeks ago about the treaties. I never got any answer from him, so I took occasion, not having received an answer, to take a copy of the letter down to the President. I said, "Here is the letter, Mr. President, that I wrote to you. I have not had an answer to it."

In that letter I talked about the language of the ABM Treaty also, as well as about these two treaties that are on the calendar which the President had indicated he would support in order to get the House to lift the restrictive language from the continuing resolution last year.

I said, "I haven't had an answer yet."

He said, "You will get an answer."

Well, today, 2 months and 12 days after the letter was written, I still do not have an answer.

My good friend, the chief of staff at the White House, told me on that day—I guess that has been a month ago—that I would be getting a response to my letter. I have not gotten it yet.

So when they say, "Please remove this language," it harkens back to one's memory the same "please" we heard just before Reykjavik.

Finally, may I say again that I support the SDI. But let me ask the Senator a question, if the Senator from Virginia will allow me to do so.

Mr. WARNER. I am happy to do so, but do give me an opportunity to join in this, to express a few thoughts.

Mr. BYRD. I will be very brief.

If the restrictive language in the bill ties the President's hands, how much are his hands and feet tied if he does not get this defense authorization bill?

Mr. NUNN. I think it is going to be a very bad thing for the country if we do not have a defense authorization bill.

Of course, we could limp through and get a continuing resolution at some point in the fall of the year, and I assume we would have no new starts. That would cover a lot of territory. But it seems to me that that is a likely outcome. I am not sure I favor that outcome, but I think that is where we are headed.

I think there are people here who are saying that this is a situation that we do not need an authorization bill and can do it on the appropriation. I think that is a very bad mistake. We have matters that never will even make a line in the papers that are important. We are reauthorizing the reorganization bill of last year as to the way we select officers. That cannot be done in a continuing resolution. There are all sorts of things in here that would be damaging to the Nation's security and which would be very shortsighted.

I do think the majority has to decide—by that I mean the number of people who vote on the Senate floor being the majority—they have to decide this matter. We cannot be put in the position where we have a group stand up and say, "We will never let you consider the bill unless you take that out."

Mr. WARNER. Will my colleagues allow me a few minutes?

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I wonder if the distinguished majority leader would give me the courtesy of his attention for a few minutes, as well as the chairman of the Armed Services Committee.

Mr. BYRD. Certainly.

Mr. WARNER. We have had a valuable discussion here. But we are trying, in an honest way, to bring up this bill, and there should be no doubt in anyone's mind, on behalf of the President, the Senate, and all concerned, to have an authorization bill. We simply have an honest difference of opinion in terms of the mechanics by which that is done.

When the distinguished majority leader first started here a few minutes ago, he said, quite accurately, how, as a senior member of the Appropriations Committee, that committee was faced with the same dilemma we are faced with right now.

Members of that committee, in good faith, had determined that they wanted, on the supplemental appropriations bill, arms control amendments of a similar nature to the Levin-Nunn amendment. The distinguished majority leader said that out of deference to the chairman, our senior colleague, the President pro tempore, the Senator from Mississippi [Mr. STENNIS], also a senior member of the Armed Services Committee—how, in deference to him, he told the chairman that whichever way the chairman wished to vote the proxy—the majority leader could not be there because of other work—that could be done.

The chairman, it is my understanding, voted that proxy, as well as other matters. Precisely the situation we have now—recognizing the need of the Nation to go forward with that piece of legislation, as well as the need to go forward with this.

I ask my distinguished colleague, how now can he authorize this distinguished chairman to take a course of action 180 degrees opposite to the one that the majority leader condoned in the Appropriations Committee?

Mr. BYRD. Plato thanked the gods for having let him live in the age of Socrates. I thank the gods for letting me live in an age when I can serve with the distinguished Senator from Virginia, who discharges his duties with a degree of skill and poise and wisdom that "is so rare as a day in June." I am delighted that he is asking me this question.

I wanted that appropriations bill to come out of committee so that we could get it up on the floor for debate. I did not want it stifled in committee.

It reminds me of the time when the nomination of Mr. Kleindienst came before the Judiciary Committee, and I was against Mr. Kleindienst. I said, "I am not going to be the means, however, of denying Mr. Kleindienst his appeal in the highest court"—meaning the Senate—"so I will vote to report Mr. Kleindienst's nomination out of committee, but I will not support his nomination on the floor. Let the Senate decide.

I was in a very small minority of Senators who voted against the Kleindienst nomination, but, as later events turned out, my vote was the right vote.

That is not like the situation we have here, contrary to the statement that has been made by my good friend—and, may I say, like Pope, "Thou art my guide, philosopher, and friend." I mean that. This is quite unlike the other situation.

I wanted to do there what we want to do here. I removed my proxy so that the bill could get out of committee and so that we could get it on the floor for debate.

Here, the Senator and his colleagues are striving to keep us from getting this bill up for debate. So let us apply the philosophy that I applied in removing my proxy, so that that bill, the supplemental bill, could be reported from committee and have its airing in the full Senate, be called up for debate and amended, if necessary. Let the Senate work its will on it.

The Senator from Georgia and I are saying that here. Take off the straitjacket, open up the gates, unlock the door. Let us bring up the defense bill, and let the Senate work its will.

Mr. WARNER. I say to my distinguished colleague that I appreciate his thoughtful remarks to this relatively junior Member of the body. We represent two States which are divided only by the finest lines just drawn on the map. The people we are privileged to represent here really have much the same philosophy of life, and that is why I think that, in addition to our personal and long-lasting friendship, we can work together. But every now and then, we have to go toe-to-toe, as we are doing at this moment.

I say to the Senator, let us devise a freestanding amendment to preserve this, for the Senate to discuss and address, and let the two committees in the Senate—the Judiciary Committee, of which you are a member, and the Foreign Relations Committee, of which you are a member—complete their work on these vital issues. Then the Senate as a whole, having done its work in three separate committees, could address this issue in a freestanding amendment.

The Senator from Georgia knows that he will be protected in his concern, perhaps a legitimate concern, not to give the President a free hand with these funds, because the Senate could act to rescind these funds at an appropriate time and take them away from the President so that he could not spend them in a manner inconsistent with the wishes of the Members of this body and the House of Representatives. Let us explore that option. That being done, preserving the rights of all Senators, this bill could move forward expeditiously, because it has been crafted by one of the finest Members who ever served in the Senate as a chairman, done in a sense of fairness and bipartisanship.

We had bipartisanship, did we not, I ask the chairman, until the very last hour, until this amendment, which we knew was coming, was presented? That same bipartisan spirit can carry forward, and we can craft an amendment that would meet the desires of the President and the people of this Nation.

Mr. Leader, you have the skill and the knowledge to craft such an amendment, and I implore you to do so.

Mr. BYRD. Mr. President, someone has said that "the trouble with law and government is lawyers." The distinguished Senator from Virginia is an outstanding lawyer, I am sure. I am not a practicing lawyer. I worked 10 years to get my law degree. But I have a little touch of lawyer in me.

The chairman of the committee has answered the question as to why he will not agree to taking out the so-called arms control restrictive language without at the same time pulling out and putting into a separate measure the SDI money.

When my chairman says that, I believe that is the right approach and I stand with him 100 percent. But I certainly do not subscribe to the idea that we give the President what he wants this time without at the same time putting a little leaven in that basket and saying, "OK, Mr. President, we will take this out, but we will take SDI money out with it." He did not live up to his commitment before.

Mr. WARNER. If I might ask the leader the question, there are Members of this body who have strong feelings our President should not exceed the limits of SALT II even though that treaty was never adopted and ratified by this distinguished U.S. Senate.

Would he suggest as a precedent that we pull out the money that would break the limits of SALT, which is money for airplanes and missiles and a variety of systems? Other Members of the Senate do not want to see this Nation continue, I think for wrong reasons, a testing program. Should we also reach into the bill and pull out the moneys associated with the testing of our nuclear weapons?

We would start on a parade, a series of steps in which we would suddenly disassemble the authorization bill for the Armed Forces of the United States and have almost a separate authorization appropriation for those programs related to our strategic defense.

Mr. NUNN. May I say to my friend from Virginia—

Mr. BYRD. The Senator asked me a question. The Senator asked me why not pull these things out. If the Senator will tell me how we can lift that language out of this bill when it is not before the Senate, and the Senator himself engaged in all of the hassle yesterday—which was a bunch of nonsense—in trying to keep me from getting this bill up before the Senate? I still cannot get it up.

Mr. WARNER. Mr. President, I plead guilty.

Mr. BYRD. Will the Senator tell me how, from a parliamentary standpoint, I can perform the unthinkable and the undoable? Let us get the bill up and then if the Senator wishes to offer his amendment to strike that language he has that right and who knows, I may support him on an amendment, not necessarily on the provisions Mr. NUNN is thinking about, but I may be supportive on other language.

Now if the Senator will answer my question, when is he going to let us get this bill up before the Senate so the Senate can work its will on these provisions that the Senator is so opposed to?

Mr. WARNER. I say to my distinguished friend, the majority leader, he is technically correct. We cannot work our will on this bill because I and indeed others are opposed to it being brought up, and the reasons are well-known by now to all. Fortunately, we had a constructive debate yesterday.

We will work this afternoon to see if minds can reach an accommodation, preserve the rights of those colleagues who want to see an opportunity that arms control could be discussed and those who do not want it as a part of this authorization bill. Perhaps we can have a meeting of minds. I do not know at this time.

I yield to my friend from Georgia.

Mr. NUNN. I do not have any other comments. I want to clarify there is nothing about SALT II restrictions in this bill or nothing about testing in this bill. What I am hoping is that amendments coming up on the floor on those issues, there will be a thorough debate on them before we vote on them because I have some mixed feelings on those two. The Senator from Virginia and I may end up agreeing on those.

Mr. WARNER. That is right, but it was the SALT II that was pulled off the appropriations bill recognizing full well that that bill would have been stymied on the floor and would have gone nowhere because of the strong differences of feeling on the two sides of the aisle.

Mr. NUNN. I am not sure how that is relevant to this.

Mr. WARNER. It is relevant because there was a bill to which those amendments, not unlike the one that is on our bill, were endeavored to be put on. The wisdom of the chairman having in his pocket that key vote by which that could be achieved provided by my good friend, the leader, then wisdom and strong minds prevailed and off those amendments came. Am I not correct?

Mr. BYRD. Oh, yes, "Happy is the man that findeth wisdom and the man that getteth understanding, for the merchandise of it is better than the merchandise of silver and the gain thereof than fine gold."

But may I say to my good friend it may be the better part of wisdom if we proceed with this bill and, who knows, I may have the determining vote in my pocket again.

Mr. WARNER. That is correct.

Mr. QUAYLE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nebraska.

Mr. EXON. Mr. President, if I could have the attention of the Senator from Virginia before he leaves, I have been listening to the very informative debate that has been going on. I just want to add my voice to those who are attempting to work out something with a degree of common sense and reasonableness connected with it.

The Senator from Virginia and I came into the Senate at the same time. We have worked hand in hand on more controversial subjects than one could imagine. Before the Senator from Virginia leaves the floor, I just want as a friend and a colleague, and he knows the high regard in which I hold him, to tell him that I think he is making a critically important mistake for the good of the national defense of the United States and the office of the Presidency, if the proposition that is being pushed here with a filibuster to hold up the defense authorization bill is held up any longer.

I know he feels very strongly about this issue. I think there are ways that he can express himself rather than the course of action that is presently being taken.

I would give free advice to my friend from Virginia, that if we cannot resolve it in another way, then I think the only way to do it is the method that has been suggested by the chairman of the committee, Senator NUNN from Georgia, and that is to set SDI and all its funding aside, and the Senator from Virginia knows that I have been a supporter of SDI from the very beginning, maybe not to the full funding extent as my friend from Virginia and others. I simply say that I think the bottom line of all this is that the Senator from Virginia and many associated with him are quite fearful that if the amendment that he objects to is not stricken or moderated in some significant fashion, it is going to cause embarrassment to the President of the United States and therefore harm our relations with the Soviet Union through the negotiations now being carried on.

While I understand his position, I only send a vote of caution to my friend that I think highlighting this issue at this time in this forum does far more to harm the President of the United States than if we would move ahead on the arrangement that has been suggested by taking out SDI and the funding connected with it.

One other word of caution. I think it should be clearly understood by all that the amendment in question offered by the Senator from Michigan and the Senator from Georgia is a far, far better alternative than that which has been thrusted upon us by the House of Representatives. In layman's terms—and I am not a lawyer—but in layman's terms, the House of Representatives says, "You shall not, Mr. President"—or any future President—"You shall not make any change in the previous interpretation of the ABM Treaty that was brought before the U.S. Senate."

The language offered by the Senator from Michigan and the Senator from Georgia is quite different. It says, "If you do reinterpret the language, then you have the responsibility to so notify the Senate." And the Senate, not the House of Representatives, because only the Senate has to do with treaties, would then take this up on an expedited procedure, without filibuster, and vote up or down. I think that is the key issue that is being overlooked here.

All that we are suggesting with this amendment is that the U.S. Senate discharge its duties as prescribed in the Constitution and that, if this President or any future President wants to reinterpret any treaty, before he does that he has to get the authority of the U.S. Senate, which is the body that has the responsibility for approving treaties, after all.

So I hope that we could work this out this afternoon. And I believe the Senator from Virginia knows that this Senator, certainly the majority leader, and certainly Senator NUNN, the chairman of the committee, genuinely want to lean over backward. I only offer you the caution that I think rather dangerous roads are being traveled at this juncture.

Mr. WILSON. Will the Senator yield?

Mr. EXON. I am happy to yield.

The PRESIDING OFFICER. The Senator from Nebraska yields to the Senator from California.

Mr. WILSON. Thank you, Mr. President. I thank my friend from Nebraska.

I was going to ask him how it is that he thinks this is a better provision—and by "better," he explains he means a more lenient provision in terms of the Levin-Nunn amendment—than the House version, when the House version requires only that the President certify that the national security interests requires that he override this provision?

There is no requirement in the House version for a vote of either House. I suggest that the requirement of the vote is a far more stringent, more difficult requirement, and that is precisely what is contained in the Levin-Nunn amendment.

Mr. EXON. Does the Senator from California really believe that, in the final analysis, the House of Representatives will not by some means be more restrictive on the actions of the President of the United States than the U.S. Senate?

Mr. WILSON. Will the Senator yield?

Mr. EXON. I think the answer to that question is, obviously, I do not think the House will. Their previous actions have so indicated.

Mr. WILSON. If the Secretary wishes my answer, I will be happy to give it to him.

Mr. EXON. Mr. President, I say to my friend from California that even if that is the case, it is not the House of Representatives who has authority over treaties entered into by the United States.

Mr. WILSON. Precisely true. That is one of the cardinal reasons that this amendment is so spectacularly ill-advised. The Constitution assigns no role to the House of Representatives in terms of the making of treaties or their abrogation. And yet the Levin-Nunn amendment assigns them the most direct intervention.

The Senator asked for my opinion as to whether or not the House would be more restrictive than the Senate. Certainly, if you asked me at the end of the last session I would have said that history is clearly on your side; that the House is engaged in the most irresponsible practices, one that almost brought this procedure in last year's defense authorization bill to precisely the kind of standstill that we are seeing here on this floor today.

Never in my wildest dreams did I expect that the Senate would follow suit and engage in similar irresponsibility. But, sadly, that is the case. The Senate has done just that.

We have seen attached to the defense authorization bill for fiscal years 1988 and 1989 precisely the kind of, I will have to say, arrogant effort at intrusion by the Congress that we have so many times shaken our heads at when it was the initiative of the House, instead.

So I would say to my good friend from Nebraska, whom I will be happy to acknowledge as someone not only sympathetic to the strategic defense initiative, but one of its supporters, that his support is, nonetheless, undercut and threatened, much as is the ability of our negotiators in Geneva undercut by the very amendment that is being offered to this legislation when, in fact—and I think the Senator will bear me out—at the precise moment before this amendment was offered there was virtually unanimous support on both sides of the aisle in committee for this bill, which we have all readily acknowledged to be otherwise a very good bill. We all congratulated the chairman on what is otherwise a very good bill.

What I cannot accept, Mr. President, is the characterization that is being attempted by the Senator from Georgia that it is the Republicans who do not wish a defense bill. I mean, that is, frankly, poppycock. History makes that clear. Recent history makes it very clear. The actual transcript of what occurred in the committee makes it clear that everyone was prepared to vote to send this bill to the floor with a unanimous vote and that only the addition, at last moment, of the Levin-Nunn amendment produced what, for the first time in years, unhappily, was an almost straight party line vote. Now, that is what is at stake.

And to my good friend from Georgia, to the distinguished majority leader, I would say that if they want this bill to move, it is very easy to get it moved. I would be prepared right now to enter into a unanimous-consent agreement whereby we strike the Levin-Nunn amendment and put the bill to third reading.

Mr. EXON. Well, I would simply say in response to the suggestion made by the Senator from California that I think that is not very likely to happen, considering everything that was said this morning.

Mr. WILSON. Well, I agree, it is not.

Mr. EXON. I would simply say that it is very clear right now that it is not those of us on this side of the aisle that are holding up action on the defense authorization bill. It is clearly—and it is in the record—that it is those on that side of the aisle.

Now, you are holding it up for something that I know that you very firmly believe in and that, I would suggest, is your right.

Mr WILSON. I tell my friend, it is because the Democrats are holding it hostage.

Mr. EXON. I simply say that I think that Senator NUNN is absolutely correct to be as surprised as I am that those on that side of the aisle are holding up a defense authorization bill on something of this nature. Regardless of how strongly you feel about it, let the Senate work its will. If the President of the United States is not happy with that, he can veto the bill. I see nothing wrong whatsoever with the significant offer that has been made by the chairman of the Armed Services Committee to simply set aside the whole SDI funding, the whole SDI subject, along with the language that you, I know, very sincerely object to—take it out of the bill and we will consider it later—then let the defense bill move ahead.

Nor do I understand, Mr. President, how it is that the people on that side of the aisle feel that the U.S. Senate should wink and should play as if we were not about our wits when this President of the United States decides in his own mind that he is going to reinterpret a treaty that we entered into and that he can do it and he can ignore the U.S. Senate that has constitutional responsibilities therein.

Mr. WILSON. Mr. President, will the Senator yield without losing his right to the floor?

Mr. EXON. I think if anything that is the most dangerous precedent.

I am very pleased to yield without losing my right to the floor to my friend, the Senator from California, if he cares to disagree with me which I suspect he will.

Mr. WILSON. I thank the Chair. I thank my friend from Nebraska.

He is generous in engaging me in the debate. Let me just say that I think it is very clear that the offer as it has been termed to delete funding for the strategic defense initiative with the Levin-Nunn amendment attached to it is no offer at all. It is utterly inappropriate. It is certainly appropriate. It is the very purpose of a defense authorization bill to authorize funding for America's defense. That includes authorizing programs of all kinds, from tanks, airplanes, ships, to the strategic defense initiative.

It is utterly inappropriate to make the offer that has been made because we do not do that. There is no precedent really for doing that in any other case. It is fine to talk about basing modes but to suggest that a congressional interest or prerogative with respect to the basing mode of an ICBM system is tantamount to the interference that this amendment offers.

With respect to the right and duty of the President under the Constitution to enter into treaties is to make an analogy that is utterly false, and to suggest that the cure to allow this to go forward is to remove the funding for SDI, frankly, I think is a false offer. It is one that the chairman with all due respect knows that we cannot accept.

Mr. QUAYLE. Will the Senator yield for a question?

Mr. EXON. I will be glad to yield in a moment to my friend from Indiana.

The PRESIDING OFFICER. The Senator from Nebraska has yielded to the Senator from California. Has the Senator from California concluded his use of that invitation?

Mr. WILSON. Not quite.

Mr. EXON. I thought he had, Mr. President. I am sorry.

Mr. WILSON. I thank the Chair.

Let me simply say that if there is in fact a desire to move this legislation, I think we should review the history of how we came to be precisely where we are. I made reference to the fact that in committee there was a party line or nearly a straight party line vote. And that occurred because at the conclusion of all of the subcommittee reports, and all other amendments being offered as the last step or virtually the last step, the Levin-Nunn amendment was offered.

I do not dispute the honest conviction, the good motives of any Member on this floor, at least of all those on the other side in the Armed Services Committee with whom it has been my privilege to serve. But what they have done very plainly and simply is to craft a good bill, and then hold it hostage by adding to it a totally unacceptable amendment, an amendment that is unacceptable because it is, I think, almost certain to be judged unconstitutional if it ever undergoes a court test. It certainly is one that should be. It is one that seriously undermines negotiations in Geneva at a very time when we have a working group there negotiating with the Soviets on space defenses, and one that I think not just usurps the President's authority but does so in a way that, as my friend from Nebraska has pointed out, involves the House of Representatives in a way that constitutionally they are not involved. That is not just an omission to be noted academically. It gives them, the House of Representatives, a veto over actions of the President of the United States. It usurps not only his prerogatives but our own in the Senate.

So let us recognize what has happened. An otherwise very good defense bill was amended at the last minute, and when it would otherwise have passed unanimously it suddenly became subject to a straight party line vote, almost a straight party line vote because of that amendment. It is the simple fact that the majority has in this instance held that bill hostage, and are continuing to do so. If they would like the bill to move, drop the Levin-Nunn amendment, and let us put it on third reading.

Mr. EXON. Mr. President, I reclaim my right to the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, frankly I think we have tried to keep this debate on a very high level. And we will continue to do so in the future. It seems to me that, though this Senator at least is getting a little bit weary of being told every time we have a debate that we are holding the President hostage, the President is free to move about as he wants to. Every time we have a disagreement the name of the President is invoked, and we are accused of holding him hostage. We are not holding the President of the United States hostage in any way, shape, or form. It is not fair in my opinion to use those kind of arguments. I would simply say to my friends on that side of the aisle that I think that they should recognize and realize that the worst that could happen from their point of view is that this bill would move forward, it would pass, with the language of the amendment that they object to. I understand very sincerely, and the worst that could happen is that this bill would pass the Congress with that exact language in it. Than it would go to the President. If he felt as strongly about that issue as the other side of the aisle does, he would veto it, it would come back over here. I would suspect by that time there might still not be enough votes to override a veto of the President. If he felt that strongly about it, he could eventually prevail.

It just so happens that there are those of us on this side of the aisle that feel just as strongly and just as deeply and just as sincerely as anyone over there. We are just as determined as anyone over there. I think the otherside is wrong to bring this about to the impasse where it is now.

One more comment and then I will yield the floor. Two or three times now I have heard the statement made that this was a last-minute deal, that it was party line vote. Then there is always the caveat put in there: well, almost a party line vote. The only vote from the Republican side of the table was from the ranking minority member of the Select Committee on Intelligence, and one who I think we all have a great deal of confidence in with regard to matters of this kind. It was a party line vote essentially because you made it a party line vote. It was not a last-minute addition. There was no surprise whatsoever connected with it. We held hearings especially on this issue. And it came up in other hearings when we had witnesses that we felt should be quizzed about it.

So certainly I think that my friends on this side do not mean to indicate that this was some kind of a secret out of the blue, hostage-like surprise that was sprung on you at the last moment. It is true that it was left to the last thing when we reported out our bill. But the facts of the matter are it was so left because we knew this was going to be a very difficult matter, and we wanted to get our other difficulties resolved, which we did.

So let us make it clear. This is no surprise. It was clearly indicated for the last several weeks or months and in the hearings that we held that this matter was going to be brought up. And at that time I am sure Senator LEVIN and Senator NUNN would have agreed to not push the matter any further had it not prevailed in the majority in the Armed Services Committee. It did, and with the solid Democratic bloc, and one Republican, we voted it out, and I think we are going to do everything that we can within the rules to protect it here on the floor.

Mr. President, I yield the floor.

Mr. QUAYLE and Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, let me go back on a number of statements that have been made in the last 30 or 45 minutes and see if I can identify some erroneous perceptions.

Let me tell my dear friend from Nebraska that there is absolutely no doubt—and I sort of gathered from his statement, and that is why I asked him to yield for a question—in my mind or in the mind of anybody on this side that the President will in fact veto the defense authorization bill if this language or anything close to it is in it. There is no doubt—as a matter of fact, 34 Senators have sent a letter down to the President saying that on this particular issue we will vote to sustain his veto. So there is no doubt about it. That is the political fact. That is why I am somewhat bemused by the suggestion that we just go ahead and rush the defense authorization bill through when we know it is going to be vetoed, when we know the votes are here to sustain it, cram it down the President's throat, let him go ahead and veto it, and send it back. We know what is going to happen.

That is why I am telling you that we cannot take up the idea that the Senator from Virginia is talking about in dealing with this matter. We know this is not veto bait. This is going to be vetoed.

The interesting response is, "If you are going to separate the arms control provisions off of here, we should put SDI funding with it."

That is totally unacceptable. It is a form of blackmail, really. It is saying, "If you do not go along with us as far as we want on the arms control, then we will basically hold hostage the SDI."

I want to tell the Senate we are not debating the highway bill here. This is not about what road will go through Nebraska, Idaho, Michigan, or Colorado. This is a defense authorization bill. This is a national security matter. We are not going to sit there with half linkage and holding SDI hostage. I know many who support this amendment are also strong supporters of SDI. SDI is a very important program of the administration. It is a program that will offer an increase in peace, stability, and a chance to see not only a reduction of offensive weapons, but the introduction of a strategic defense capability, so that we will have a far more tranquil and stable world than we have today.

I do not think we ought to try to politicize this and hold SDI hostage. It is too important to do that. I do not think Members on this side would be inclined to go along with that idea at all.

Obviously, we can proceed very quickly, as soon as we get some understanding that this amendment is not going to be holding up the Defense authorization bill. There has been indications this morning of, "So what if they do not pass the Defense authorization, the majority leader says we have a very, very crowded calendar." Well, maybe we will not pass the Defense authorization bill. That will be too bad. It will be very unfortunate for the country, for the Congress, and the administration. It will be very unfortunate particularly for the Senate if we are unable to pass this, and more particularly unfortunate for the members like myself on that committee. We want to see the Defense authorization bill passed.

But we will not stand by idly when we know this bill is going to be vetoed, when we know there are serious questions about this amendment, what it does to our negotiators, what it has as far as constitutional limitations.

I would say to the Senate that the role of the Senate is not one to interpret and implement ratified treaties. That is not the role of the U.S. Senate. That is a constitutional role that is fundamentally and exclusively reserved to the President of the United States. He is the one who interprets treaties and he is the one who implements the treaties. If we do not agree with the program that he is putting forward or requesting, the constitutional authority of the U.S. Congress is to deny him those funds for that specific program.

That is the constitutional role, and I believe there is a serious misunderstanding in this body of what constitutionally we can and cannot do as far as treaties.

We do not implement treaties. We ratify treaties.

It has been suggested that somehow breaking out the SDI and the arms control provision is sort of like what we did on MX and the MX basing.

That is nonsense. The MX and the MX basing was for a specific program. I do not know what the basing determination had to do with any kind of treaty. There was no reference to a treaty in the MX spending of that money. In SDI, what they are trying to do is to interpret what the ABM treaty is, an interpretation that I think is left to the executive branch of Government.

If, in fact, the administration sends up in their budget a specific request on a specific experiment or program that they are going to go ahead with, and it falls into the broad interpretation, clearly, at that time, the Congress of the United States can pass a law and say we are not going to spend money for that program, at that particular time. But not before that time. Then we will see where the votes are.

When this bill is going to come up I do not know. I think it depends on whether we can work out a sensible agreement. But it seems that we are miles apart, and perhaps getting further apart rather than narrowing. I think there are very fundamental differences.

We have had a number of discussions in the committee but as far as when we saw the amendment in committee, when the amendment was debated, I think the amendment was presented to us on a Thursday night and we finally voted on it Tuesday. That is the first time the Senator from Indiana saw it. I do not know when other Senators saw the actual amendment. There was notice that perhaps amendments would or would not be offered.

We, obviously, had a number of hearings touching on ABM Treaty matters, but I do not think we had many hearings, or I do not recall any, on what these amendments attached to a defense authorization bill would do, what the implications would be with these amendments, what it would do to our negotiators, what it would do with regard to the congressional responsibilities. I think we have had very little discussion. That is why many of us feel that since we have not had those discussions we should have a rather long discussion here.

I still go back to the basic premise, that we know this bill will be vetoed. We know the veto will be sustained. So what do we gain? We are trying to gain political points? We will give you the political points. We will have a political debate. We will have it. We will put all the arms control things in.

Some on this side think that questioning and being a good student in some of the perhaps not so good aspects of arms control is good politics. Others think that what is good politics is to be for arms control no matter what, take an arms control agreement and that is it.

There is a difference on what is going to be good politics and bad politics. If you come from different States you have different points of view.

If we want to have that political debate, which is what this is, let us have it, but let us not have it on an amendment to the defense authorization bill. Why have this political debate on a defense authorization bill?

I do not think we ought to have it. I do not think we will have it, from what the majority leader said, because the votes on this side will not go forward with this bill until we get resolution of this particular amendment which we think is an infringement on the executive branch, harmful to our negotiators, and very detrimental to national security.

We will have that debate. We will be talking today and tomorrow. We will see what happens thereafter.

Mr. President, I yield the floor.

Mr. EXON, Mr. President, will the Senator yield?

Mr. QUAYLE. I yield to the Senator from Nebraska for a question.

Mr. EXON. I heard the term hostage used. I took exception to it. I have heard the term blackmail, blackmailing the President, which has been used. Does the Senator think that the Senator from Nebraska or anyone else on this side of the aisle is a hostage taker or a blackmailer?

Mr. QUAYLE. Absolutely not. I think what you are doing, though, is blackmailing the SDI Program. I think the impact, in effect, by having the arms control agreement attached to the SDI is blackmailing the SDI.

Mr. EXON. So we are blackmailers on the SDI?

Mr. QUAYLE. Yes.

Mr. EXON. I have one other question, and then I will not debate any further at this time.

I think I heard the Senator right, but I was rather amazed to hear him say that the Senate has nothing to do with the treaty interpretations.

I would think that that would be a very interesting constitutional question.

I would ask this question of the Senator from Indiana: If this bill passes with the language that you very sincerely and very legitimately from your point of view object to, and the President votes that, would that not at least set up a situation where it would be a clear constitutional question, and might possibly end up in the Supreme Court on a court test as to whether or not the President of the United States has the right to reinterpret the treaty that has been previously agreed to and ratified by the U.S. Senate in and of its own direction?

Mr. QUAYLE. Under that kind of scenario, it would not be able to get to the courts because, in my judgment, it would never pass or have the veto overriden. The votes are not there.

I think that there probably is misunderstanding and I think a lot of the debate is going to go on as to the role of the Senate as far as the interpretation and implementation of treaties. I think that is clear—and we will get into that later. We will start citing constitutional scholars. I think that is clearly the responsibility of the executive branch, to interpret and to implement ratified treaties.

The Constitution says that the Senate, by two-thirds vote, will ratify treaties. It will not implement them. It ratifies and gives its consent on the treaties and the implementation and therein the interpretation of what that treaty is—and if there are reservations or amendments, then they have to interpret and implement those as well—that is what the executive branch does. I think there is a very fundamental misunderstanding of what our responsibility is.

Unfortunately, I think it has gotten out of the context of a substantive discussion on that and into more of a political vacuum.

Mr. LEVIN. Will the Senator yield for a question?

Mr. SYMMS. Will the Senator yield for a question?

Mr. QUAYLE. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Indiana yields to the Senator from Michigan for a question.

Mr. LEVIN. I hear the Senator talk about arms control this and arms control that. Am I correct the Senator would concede that under the Constitution the Congress of the United States has a right to control the expenditure of public funds, that we, for instance, could eliminate altogether, if we wanted to, the spending of funds for SDI?

Mr. QUAYLE. The Senator from Michigan is correct.

Mr. LEVIN. All right. I thank the Senator for that.

Mr. QUAYLE. I concede that, the power of the purse——

Mr. LEVIN. We have the power of the purse.

Mr. QUAYLE. The power of the purse to say that you are not going to spend funds for a particular program.

Mr. LEVIN. We have the power over the purse, the Senator concedes, and I am glad to know that we have not yet abdicated that because that is the critical issue here, as to whether or not we are going to write a check for $4 billion or $4.5 billion to the President of the United States and say "You spend it on SDI any way you want."

That is the issue and my question is this: Is the Senator not aware, my good friend from Indiana, that during the MX debate, the question of whether or not dense pack would violate SALT I and SALT II prohibitions on new silos was very much an issue—as a matter of fact the restriction was placed over the MX in part because of that argument by Senator Jackson—the Senator said MX had nothing to do with treaties? I am wondering whether or not my friend has forgotten the argument made during the MX debate relative to SALT I and SALT II and whether they presented a dense pack mode?

Mr. QUAYLE. Let me answer both of those questions. On the first question, there is no doubt Congress has the power of the pursue and it can say and it can deny funding for a particular program that the administration requests.

Mr. LEVIN. Or an experiment.

Mr. QUAYLE. Or an experiment that they request.

Mr. LEVIN. Or a test.

Mr. QUAYLE. They can obliterate the SDI Program if they want to: "No funds hereafter spent on SDI." If they wanted to, Congress could clearly do that. But what the Congress cannot do, and I think that there is a serious constitutional question here, is to say that you are not going to spend funds based upon an interpretation of a treaty as interpreted by not two-thirds of the Senate but a majority of the Senate and a majority of the House of Representatives. That is the essence of the pending amendment in controversy.

Mr. LEVIN. It is not, if I may correct the Senator, a pending amendment. It is part of the bill which my friend is participating in not allowing to come to the floor. So we should not call it a pending amendment.

Mr. QUAYLE. The amendment that is being objected to on this side.

Mr. LEVIN. Since this is——

Mr. QUAYLE. That will be pending.

Mr. LEVIN. Since this is a Levin-Nunn amendment, let me correct the Senator's characterization of it. It is not an amendment which says that money will not be spent in a certain way. Now, there is no use continuing to characterize this language——

Mr. QUAYLE. It certainly does.

Mr. LEVIN. If I could complete my question.

Mr. QUAYLE. All right, go ahead and finish, but it certainly does.

Mr. LEVIN. The Senator is talking to the author of the language, at least the coauthor with Senator NUNN, so let me now tell the Senator what it does, and it is clear from the language what it does.

What is says is that if the President applies, in effect, a new interpretation of the ABM Treaty—and I am trying now to put this into lay language—he must then notify us so we can decide whether or not we are going to approve the spending of money for that purpose. It leaves open the question which the Senator says it closes. We do not know whether the President is going to apply a new interpretation. The Senator does not know and I do not know. None of us know. There is no use prejudging that. He has said now for the last year and a half that even though he had the right to move to the new interpretation, he is not going to do so. He has said that for a year and a half. And he may continue to do that for very sound reasons, some of us think, but he may or may not. We do not know. We do not prejudge him.

But we are not going to abdicate the control of the purse strings of this country, because the Constitution says that the Congress has that power over the purse and we do not know whether or not he is going to decide to put into effect an experiment. We do not know because he has not decided.

The Senator wants us to basically just write the blank check, let him decide whether to move to an experiment or not, and then what, try to rescind? We do not have to do that under the Constitution.

We have the power of the purse and we can set conditions on spending. The only condition we are setting here is saying, "Mr. President, if and when you decide"—we are not prejudging—"if and when you decide to spend money on experiments which are only permitted under a new interpretation of this treaty, we then insist on congressional approval of that spending, not of the new interpretation." We are not saying Congress has to approve a new interpretation. We are saying then Congress must approve that spending. Get a joint resolution of approval for that spending.

This is a spending amendment. In the most traditional sense, it is a spending amendment. We should never abdicate that power over the purse, ever, to any President, be it a Democrat or Republican. It does not make any difference. The President has rights. We have rights. One of the rights we have is to control the purse strings and to say that we want to have a say. The President wants it to be unilateral: "Just write me the check. Write me the check, and I will decide some month, maybe June, maybe July, maybe August, whether or not I am going to apply a new interpretation. You write me the check and I will spend the funds as I want."

Congress has a right to say, "No, we are putting some conditions on that check. We are not saying that you cannot issue a new interpretation if you want to. We are not saying that. We are not saying we have to approve the words that come out of your mouth. What we are saying is we are going to approve the spending of money. We are not going to prejudge what you are going to do. We are going to preserve a role for ourselves."

He wants it unilateral. We are saying it has to be joint. We have a role in the spending of funds.

One other point. The Senator was kind enough to yield for a question and I will try to frame a question at the end of this.

The Congress decided at one point, or at least many Members, that we felt the money that was being requested by the administration for the Contras violated a treaty. That may be right, that may be wrong. There is a Rio Treaty. There are OAS agreements. Many Members of the Congress argued that they would not approve money for the Contras because that expenditure would violate a treaty.

Now, the President said it would not violate a treaty. Many Members of the Congress thought it would violate a treaty. Many Members of the Congress voted to withhold funds from the Contras because they believed it violated a treaty. Under the Senator's logic, Congress could not withhold funds from the Contras based on their interpretation of the Rio Treaty or the OAS Treaty because the President decided it was OK, it was consistent with that treaty.

Congress has no right to interpret treaties the Senator says. We have to approve funding for the Contras.

I am not arguing about the merits or demerits of funding for the Contras. I am not trying to change this argument into that.

I urge upon my friends to understand the implications of what they are saying.

So far as congressional power is concerned, clearly we have the right to say we are not putting money into MX because we think it might violate SALT I or SALT II, even though the President does not think it does. We have a right, if we wish, not to fund the Contras because we think, rightly or wrongly, that it violates the OAS or the Rio Treaty. That is a congressional power of the purse, power over spending, and this is exactly that. It is precisely that and nothing else.

While I have not been able to fashion a question to try to keep within the rules——

Mr. QUAYLE. Do I agree?

Mr. LEVIN. I will not ask that kind of softball question, because I know the Senator does not agree.

Does the Senator not concede that the fact that Members of Congress felt that Contra funding violated the Rio Treaty was a factor in the refusal of Congress to fund, directly or indirectly, for a year and a half, the Contras? Was that not a factor—the interpretation of many of us of the Rio Treaty? Even though the President said that the Rio Treaty permitted funding for the Contras, does the Senator not think that Congress was within its rights to refuse funding for the Contras, based on its understanding of the Rio Treaty?

Mr. QUAYLE. I do not know everybody's rationale or reasons why they voted for or against the Contras, and we can get into that debate some other time, but not here.

Let us try to focus on the issue at hand. The issue at hand is the Levin-Nunn amendment. It is not only a spending limitation but also an amendment that, in effect, is an interpretation and is referenced directly to the ABM Treaty. It is at least——

Mr. LEVIN. Can the Senator tell us which interpretation?

Mr. QUAYLE. Let me just read what it says here in section A:

> Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missiles or components which are sea-based, air-based, space-based, or mobile land-based.

That means——

Mr. LEVIN. Keep reading.

Mr. QUAYLE. That means that the only thing you can do is on a fixed land-based system, which is one of the big contentions in reading the ABM Treaty.

Mr. LEVIN. Will the Senator read the rest?

Mr. QUAYLE. Let me finish.

I am surprised that if, in fact, you wanted to continue the reference, there might be some reference to agreed statement D, but it is not, because the essence of this amendment is to say to the President: "You will abide by the narrow interpretation of the treaty because a simple majority in the Senate says that and a simply majority in the House says that; and if you decide down the road that you want to come forward with anything on an interpretation of the treaty, then you come back to Congress, and we are going to give you a one-House veto over what your interpretation of the treaty is."

I think that gets into a very fundamental point as to who can interpret and implement these treaties.

Let us take an example down the road, and if the President goes to the broad interpretation, which I think he will. I think it is the logical place to go to see the implementation of SDI. He will go to the broad interpretation or withdraw the ABM Treaty, if we are going to have SDI. If you are going to have a system deployed, you have to get beyond research and test and develop it. If you are going to test and develop it, you are going to get into the broad interpretation, or I think that the President, perhaps prematurely, will have to make the decision to withdraw from the ABM Treaty, and that may be an option that will be sooner rather than later.

What this amendment does and what drives the opponents of this is not just the constitutional issue, about which we feel very strongly, but what it does to our negotiators, particularly at this time in the negotiations which are going forward.

We know that the bill is going to be vetoed, so I do not know why we cannot agree and get this off here and get it on another vehicle and have a discussion, and let the bill go forward.

Mr. LEVIN. Mr. President, will the Senator yield for another question?

Mr. QUAYLE. Not on the Contras.

Mr. LEVIN. The Senator from Indiana and I are good friends. I appreciate his good nature and his willingness to engage in this kind of debate with me, even though I do not always end up my perorations with a question.

He indicated that the language says to the President, "You will abide." The language says that the funds appropriated may not be obligated. That is a very critical issue. As one of the coauthors of the amendment, I urge upon all of us to read the language, which says, "Funds appropriated may not be obligated or expended."

This is a limit on the appropriation of funds. It does not say, "You will abide." It says how the funds will be spent.

I also urge my friend not to stop the reading of that language where he did, but to continue, to indicate that the President then is told that the limitation on the expenditure of funds will cease to apply if a report is submitted and there is a joint resolution.

Why a joint resolution involving both Houses of Congress? It is because both Houses of Congress have the purse strings. It is that simple. This is a spending amendment, and both Houses of Congress have a right—indeed, a constitutional duty—to approve the expenditure of funds before they are spent. In this country, funds cannot be spent unless both Houses approve it. That is proof that this is a spending amendment.

I also ask the Senator this: In the committee report, the language reads as follows:

> The decision to authorize expenditure of funds for the armed forces is one of the most significant constitutional responsibilities assigned to Congress. This Strategic Defense Initiative is one of the most controversial and costly programs ever to be presented to the Congress. Without prejudging the wisdom and desirability of undertaking testing, development, and deployment of mobile space-based ABM, using exotic technologies, it is imperative that Congress in general and this committee in particular examine in detail any exposed expenditure that would involve such a substantial change in power.

I think that is important.

Mr. LEVIN. Mr. President, will the Senator bear with me for just one more moment?

Mr. QUAYLE. Does the Senator have a question?

Mr. LEVIN. The question is this: One of our colleagues, Senator WILSON, indicated that he thought the House amendment was an easier amendment for the President to deal with than the Senate amendment, in the particular area. My question of the Senator from Indiana, my dear friend from Indiana, is this: Would he prefer the House language to this language?

Mr. QUAYLE. I do not prefer either one, for almost the same reason. I do not think either one is accepable. I do not know which one is less injurious. I think they are both wrong.

The thing that really is conclusive that this is an interpretation is that it is stated in subsection (a) what the reference point would be, which is basically article V of the ABM Treaty. Then, in subsection (c)(1), it is stated—in fact, you do not go ahead with that literal reading of article V. You have to read article V in conjunction with article II and Agreed Statement D to get a true flavor of what the ABM Treaty says. What you are doing is not just the power of the purse, but you are putting an interpretation on it. So it is a spending limitation and an interpretation amendment.

It is an interpretation amendment. I think that is something that is fundamentally wrong.

There are all sorts of analogies that we could——

Mr. LEVIN. I wonder if the Senator could answer. He did make it clear. It is not that. The language, by the way, is not that.

But, also, the committee report says without prejudging the wisdom or desirability of undertaking. The Senator is talking, I think, about a drafting problem if I could make a suggestion to him. There is a drafting problem. People who want to have a say in how the public funds are spent want to know whether or not the President is going to apply a broad interpretation. That is called a broad or new interpretation. It does not make any difference in terms of semantics. There is an interest that many of us have, before deciding whether to approve the expenditure of funds, as to what is the assumption that they are going to be under. This is a drafting issue.

Mr. QUAYLE. I do not think it is a drafting issue. Will the Senator deny this? Is not the issue in dispute that drives this amendment the interpretation of the ABM Treaty? Is that not what we are arguing about, basically?

Mr. LEVIN. No. We are talking about funds that are spent on SDI.

Mr. QUAYLE. Beyond all the draftmanship and all the ways that you can web a particular amendment, the fundamental issue is the interpretation of the ABM Treaty. Is that not the case? Will the Senator not concede that point?

Mr. LEVIN. No. I will answer the Senator's question.

The basic gut issue is the constitutional issue of whether this Congress must write a blank check to the President and allow him to decide how funds will be spent. There are many of us—maybe not a majority——

Mr. QUAYLE. Let me ask my friend this. Does the executive branch, that is, the President, have the power to interpret and implement treaties?

Mr. LEVIN. I think the President has the power. We have the power to implement through the purse, but in any event——

Mr. QUAYLE. The power to interpret the treaty and implement. We ratify the treaty. Does the executive not have the power to interpret the treaty?

Mr. LEVIN. The executive has the power and we have the power to spend funds or not based upon his interpretation.

Mr. QUAYLE. But they have the power to interpret the treaty.

Mr. LEVIN. And we have the power to spend funds.

Mr. QUAYLE. Sure. Let us take this logically. The Supreme Court has the power to interpret the laws of the land, right?

Mr. LEVIN. The Supreme Court has the power to interpret the law. The President has the power to——

Mr. QUAYLE. Interpret treaties?

Mr. LEVIN. I am not sure it is quite that way. Clearly we follow legal guidance on this.

Mr. QUAYLE. What we are doing is we are saying we are restricting what is constitutionally allowed by the President, which is interpretation of the treaty preemptively.

Mr. LEVIN. Not at all.

Mr. QUAYLE. We can say, "You go ahead and do how you want to interpret the treaty up to a certain point. Once you interpret the way we do not like, you have to come back and get the approval of the Congress."

Mr. LEVIN. I thought the Senator said you could cut the program altogether.

Mr. QUAYLE. You could cut the program by an act of law.

Mr. LEVIN. Would that impede——

Mr. QUAYLE. I suppose by your thinking, we could take the Supreme Court, and say that we are going to go ahead and fund the Court but if the court considered cases we do not like, then it would have to go back to Congress and get a joint resolution of approval or lose funding.

Mr. LEVIN. There is a constitutional prohibition on that.

Mr. QUAYLE. But there is a constitutional issue of separation of power between the executive, congressional, judiciary. We have certain responsibilities vested in each one of those branches of government.

Mr. LEVIN. There are indeed.

Mr. QUAYLE. I think what we have come down to and this is the point and this is the constitutional issue, that you are looking for interpretation of the treaty that I think seriously impinges upon the executive which I think the Senator conceded the President has the power to interpret the treaty.

Mr. LEVIN. So do we through the expenditure of funds.

Let me make it clear if the President interprets a treaty in a way the Congress disagrees, for instance, on MX basing modes, for instance. The Rio Treaty, we need not fund the programs. We can condition the expenditure of public funds. In that sense you can probably argue we are interpreting treaties. I think it is clearly constitutionally preferable. The argument is that we are deciding whether or not to lay out taxpayers' funds for a program, and I do not think we have to just because the President says a treaty interpretation is involved.

Mr. QUAYLE. The President has the power to interpret; the Congress has the power of the purse. I do not dispute those two issues. I think what you have done in this amendment is merge the two and I think you have done it in a way that is treading on constitutional waters and particularly when you get into a joint resolution by a majority of each House.

I think we are doing another thing with all these arms control amendments. Just in general terms, we are really going to invite future Presidents not to submit treaties for the ratification of the Senate of two-thirds. Does the Senator know what we are going to do? We are going to invite future Presidents to submit executive agreements up here, and I think the Senator knows full well that former President Carter thought very long and hard about submitting an executive agreement on SALT II rather than submit it as a treaty.

I know a number of Senators—I was not in the Senate yet; I was in the House—raised their institutional hackles. But that President thought, "Perhaps I ought to send up an executive agreement."

I think Senators ought to think long and hard about what we are getting into when we start encouraging and inviting the House of Representatives to enter into this type of debate with a majority vote. You are in fact encouraging future Presidents down the road to say, "Let's not call this a treaty; let's just go ahead and call it an executive agreement, which only requires a majority of the Senate and a majority of the House."

That is precisely in this whole scheme of things the type of road that we are about to travel down, and I think it is going to be a day of reckoning for the U.S. Senate when that happens and I think it is beginning. I go on record——

Mr. LEVIN. Mr. President, will the Senator yield on that point?

Mr. QUAYLE. I yield one more time.

Mr. LEVIN. I think the Senator's problem is not with this bill language. I think his problem is with the Constitution. It is the Constitution which provides both Houses the obligation and responsibility to approve public spending.

If the House of Representatives or the Senate believes that the expenditure of funds violates the Rio Treaty or violates any other agreement, it does not have to appropriate funds or authorize funds. It can withhold it and thereby the program would not be implemented. It can condition the expenditure of funds.

Surely, if it can eliminate a program which the Senator concedes it can, he concedes we could eliminate this entire program, we can condition the expenditure of funds, surely, as we have here, simply upon the President coming back to us with a report and then getting congressional approval.

One thing about the one House or two Houses is also important. You have to have a joint resolution of disapproval under the Supreme Court rule because the President attacked the one-House veto.

Mr. QUAYLE. This is a one-House veto.

Mr. LEVIN. No, it is not. This is a constitutional requirement that both Houses approve the expenditure of public funds.

Mr. QUAYLE. If one House does not, it is dead.

Mr. LEVIN. According to the Senator; not our bill language.

Mr. QUAYLE. In effect, you have the one-House veto of a President interpreting the treaty.

Mr. LEVIN. No.

Mr. QUAYLE. Sure you do.

Mr. LEVIN. It is the Constitution, my good friend, that says both Houses have to approve spending. It is not our bill that does that for the first time. It is 200 this year now. This is 200 years old. The Constitution says it. Both Houses of the Congress have to approve the expenditure of public funds. That is the issue here. Those are the words.

Funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended.

Those are the key words. That is what the Constitution says it is our duty to carry out. This is our duty, our sworn duty. The President has his responsibility. He enters into treaties; we ratify them. He implements the laws; we write the laws. But we spend money and both Houses have to put their stamp of approval on the expenditure of funds, not one House.

So when the Senator talks about a one-House veto, his complaint is with the Constitution, not with our bill language.

Mr. QUAYLE. I am just stating what it is. I am just saying that we are giving the House of Representatives by majority vote the power to determine what the interpretation of the ABM Treaty is, pure and simple, and that is something that Senators are going to have to think about.

Senators ought to be thinking about what they in fact are doing, the Senate in this particular case. I came from the House. I tell the Senator they will be glad to get some new powers.

And they will be glad to have Executive agreements sent up rather than have treaties. They will be glad, by a majority vote, to tell you whether you are able to ratify the treaty or what the treaty is going to be. I will tell you, they will enjoy that.

But I am not so sure it is going to serve our political process any by giving them that additional responsibility, which I think is questionable constitutionally and certainly a prerogative that I do not think, at least, this Senator wants to give up very easily.

Mr. President, I shall continue with an elaboration of my remarks.

CONSTITUTIONAL IMPLICATIONS OF THE LEVIN-NUNN AMENDMENT

Mr. President, scholars of the constitutional separation of powers would find it curious that the Senate is being asked to decide whether to hold the President's strategic defense initiative hostage to a narrow interpretation of the ABM Treaty.

The reason they'd find this debate curious is that those who are proposing this scheme have apparently failed to consider that it is the President who has the constitutional authority to interpret treaties once they've been ratified by the President.

Congress has no business trying to intimidate the executive branch during such a process. It can take action once an administration has offered a treaty interpretation—but not until that point.

By trying to tie future funding of SDI to a narrow interpretation of the ABM Treaty, the Senate is on the verge of seriously damaging the constitutional separation of powers.

Mr. President, we're skating on constitutional thin ice right now, for two important reasons.

First, as I said before, it is the executive branch—not the legislative branch—that interprets treaties after they've been conditioned and then ratified by the Senate.

And second, while Congress can legislatively protest the way in which a President has interpreted a treaty, it can do so only after the White House has set its interpretation in motion.

Right now, the President can move forward with SDI research under a broad interpretation of the treaty. He has the constitutional authority to construe the treaty in this fashion.

Congress can block such a move only by enacting a law preventing him from spending money for this purpose. This, however, would first require a majority vote in both Houses and—if the President vetoed the spending bill—a two-thirds majority in both to override the veto.

Under this new scheme that we're being asked to vote on, however, no new law would be needed. If the President is forced to seek a joint resolution of approval from Congress before he implements a treaty, it would shift the balance of powers.

It would, in fact, mean that a simple majority of only one House could block the President's interpretation or implementation of a treaty. And that would clearly be a substantial erosion of the powers the executive branch now enjoys.

The SDI critics who support this infringement of the President's treaty powers argue that the Senate is only telling the President that it will wait for him to interpret the treaty and then decide how to spend money on SDI.

But it's still a fiscal threat and the Constitution doesn't give the Senate the authority to make those kinds of threats when it comes to treaty interpretation.

Consider, for instance, what the outcry would be if Congress tried something similar with the Supreme Court. Imagine what the public would think if the Senate said it would no longer pay the Justices' salaries until they agreed to consider only certain cases.

Well, the Senate is leaning toward this kind of thinking right now as it considers a fateful plunge into unconstitutional waters by tying the President's hands on ABM Treaty interpretation.

If the Senate, in fact, tells the President that he won't be able to move forward with a strategic defense program unless he adheres to a narrow interpretation of the ABM Treaty, it will damage our ability to make binding pacts with other nations.

If the Senate wants to uphold the integrity of the Constitution, it will hold off on this debate and give the President a chance to interpret the ABM Treaty without a legal ax hanging over his head.

Now, once the President makes a choice and implements his interpretation, Congress is certainly free to exercise its power of the purse.

But to do so before the President makes such a choice is to do something that's now forbidden—namely, to violate the President's exclusive power to implement the laws of this Nation.

Not only is waiting for the President to interpret and implement the treaty proper constitutional law, it's also prudent.

In fact, no one proposing this amendment has claimed that any of our negotiators believe such a law would help our bargaining position with the Soviets.

And the reason why is simple. It's obvious that it wouldn't help our negotiators. After all, what the Soviets fear most is that we might deploy defenses superior to their own.

As long as we stay within a narrow interpretation, they can be confident that we'll only expend effort on conventional ground-based systems—precisely the kind of systems that they have a lead in.

If we interpret the treaty the way the Soviets clearly did up until March of 1985—that it allowed them to test exotic, space-based systems—then they have to worry that their massive investment in strategic offenses will be made obsolete.

This of course gets to the very heart of the problem—whether limits on ABM work are still in our interest at all.

Certainly if the many billions we've spent on SDI are to be of any value, it's because they hold out the hope of cost-effective missile defenses.

That's the reason we're investing. We've known that all along. If SDI didn't hold out that hope, we'd be fools to spend the money.

Knowing that SDI has been directed to produce effective strategic defenses, this body should recognize just what it's up to.

It's not to create a bargaining chip. It's not to produce a jobs program for people who do research and development. It's to provide an alternative way of defending this country other than threatening the Soviets with highly destructive nuclear weapons.

These defenses without a doubt—if deployed—would violate the ABM Treaty.

The question before us today, though, is whether we want to limit ourselves to a highly restrictive interpretation of the treaty when we know this would only make SDI bump up against the treaty's limits sooner rather than later.

Or, on the other hand, do we want the additional time and diplomatic flexibility that would come with an interpretation that the Soviets themselves adhered to until this public debate began? The answer, I think, is clear.

If we're serious about the investment we're making in SDI, if we're serious about negotiating with the Soviets to our maximum advantage, if we're serious about our security, then we must allow the President to exercise the constitutional power that is clearly vested in him.

I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Idaho.

Mr. SYMMS. Mr. President, I first would like to compliment my two colleagues on the Armed Services Committee for a very enlightening debate. As a nonattorney, I find it most interesting to hear two obviously good students of the Constitution debating this issue.

I see this issue in a slightly different perspective. Not from the constitutional issue, but from the practical issue of the defense of this country. Whether or not we are going to deploy by the early 1990's, a system that will defend the people and the deterrent systems that we have in this country against Soviet heavy intercontinental ballistic missiles, a defense which we do not have today as we are standing here debating this issue on the floor.

I see this as whether or not there is an INF agreement reached between the Soviets and the United States in Geneva, or whether or not the Soviets are for or against us deploying the strategic defense initiative to protect this country and our freedoms and liberties.

Mr. President I am in favor of deploying the strategic defense initiative as soon as possible, and at the lowest possible cost.

It is very obvious to me, as a nonattorney listening to this debate, that the President needs to have his negotiating team first get the issue settled within the United States Senate before he has any hope of negotiating with the Soviets. I do not mean to make any inferences or to impugn the motives of any of my colleagues on either side of this issue, but only to say that we are not dealing in an arms negotiation in Geneva with a Sunday school group. We are dealing with the Soviet Union—a nation that would be a second-rate power if it were not for the fact that they have a massive military war machine with intercontinental ballistic missiles, Backfire bombers, short-range missiles, and biological and chemical warfare capability. Without that, they would not be a superpower.

If you could wave a magic wand and get rid of the threat of nuclear weapons, the Japanese, the Americans, and the West Germans would be viewed as the world's superpowers, because we have economic strength. The Soviet Union would wither and die if it were not for its ability to blackmail, to terrorize and threaten people. And that is who we are discussing an arms control agreement with.

Before we can move forward in Geneva we must first have unanimity of the American position. Whether it be the position of the Republicans, Democrats, or independents. If I were Mr. Gorbachev, I would be cheering in the aisles for the passage of some amendment that would limit America's ability to deploy the strategic defense initiative. If I were President Reagan, I would call my team back from Geneva and ask them to negotiate here in the U.S. Senate before we try to negotiate with a country that is clearly in an adversarial relationship with the United States, that it clearly has a different set of moral values than the United States, and clearly has a history of repression, of murder, of tyranny, and so forth.

Mr. President, I would like to remind everyone of the background of the Soviet Union.

Following are excerpts from the book, "The Great Terror," by Mr. Robert Conquest. At the request of the late Senator from Connecticut, Thomas J. Dodd, the book was reprinted in 1970 by the Senate Judiciary Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws.

I pulled out a few facts about the history of the people we are dealing with. That is what the discussion is about here on the floor.

Our negotiators are trying to negotiate with people who have a history of terrorism.

The idea of terror was deeply rooted in the whole Bolshevik conception of rule.

Lenin envisaged the use of terror in the style of 1793 "to settle accounts with Tsarism," and wrote:

> [R]eal, nationwide terror, which reinvigorates the country and through which the Great French Revolution achieved glory.

On the eve of the seizure of power, proposing the death penalty for whole social groups, Lenin said:

> Not a single revolutionary government can dispense with the death penalty for the exploiters (i.e., for the landlords and capitalists).

On December 20, 1917, came the founding of the Cheka, the secret police. On February 23, 1918, Pravda published an announcement that the Cheka could "see no other method of fighting counterrevolutionaries, spies, speculators, looters, hooligans, saboteurs, and other parasites, than their merciless destruction on the spot." It was the following day that the first known case of shooting without trial by the secret police took place.

The attempt on Lenin's life in 1918, was the occasion for increasing the terror and for extending the power of the Cheka. First, 500 hostages were executed. On September 5, 1918, came the famous decree "On the Red Terror." Under it the Cheka was to be strengthened by sending a large number of party members into it; concentration camps were established; anyone in contact with counterrevolutionary organizations was to be shot; and the names and reasons for executions were to be published.

Local Chekists demanded that torture be added to executions.

Prisoners were asked "to what class they belonged? What was their origin, education and profession?" It is those questions that decided the fate of the prisoners—therein lies the meaning of Red terror.

The Red terror that started in 1917 is exactly what is happening today in various places around the world, such as Afghanistan, where the Soviets are expanding their sphere of influence. They are still using the same basic terrorist tactics.

Many of the worst acts were committed on individual initiative. To waver in ruthlessness was to waver in loyalty.

Common criminals formed an important proportion of the new terror squads and killer groups: Some of them were to make high careers in the secret police.

As a matter of policy, Mr. President, people were executed who had not been involved in any way in helping their enemies, but simply because of the class that they came from. They were property owners, educators, and people able to think for themselves. Some had the appreciation of human nature to believe in life, liberty, and the pursuit of happiness. Those people were eliminated.

It was at this time, too, that the hostage system was instituted. The wives and children of officers serving in the Red army were held as sureties for the loyalty. And, in general, wives and families of bourgeois who had evaded arrest were often seized and executed in their stead.

During the revolution, battle casualties were light. The main killings were of prisoners and enemy civilian sympathizers.

A Soviet source estimates the total excess mortality in those provinces where statistics were kept to be approximately 7 million between January 1918 and July 1920.

What makes us think that the Soviet Union would not hold the people of the United States hostage in a nuclear blackmail threat? Their history teaches us that that is the way they have expanded their empire since 1917.

An estimate for the remaining areas would bring the total up to 9 million.

Most deaths were because of typhus and famine, though the great famine of 1921 with its 5 million odd deaths, had not yet come.

It is estimated that a minimum of 200,000 official executions must have taken place between 1917 and 1923. However, this figure omits two main sources of death. First, those shot in various rebellions—245 such rebellions were officially given for 1918, and those dying as a result of prison and camp treatment. Together, they account for at least twice as many lives as the executions proper; 500,000 victims for the period shall be erring on the side of underestimation.

In 1929, the decision was taken to eliminate the richer peasants and to force the remainder into collective farms, where they would be economically and physically under the control of the state. The almost complete collectivization of the bulk of the country was again attained by the end of 1932. Resistance was met by a simple method. If the peasant has produced only enough for his own subsistence, leaving none for the state, local enforcement officials reversed that procedure. The last sacks of grain were taken from the barns for export while famine raged. Butter was sent abroad while the Ukrainian infants were dying for lack of milk.

The famine can be blamed flatly on Stalin.

It is perhaps the only case in history, of a purely manmade famine.

It was clearly a manmade famine. There was no drought or anything to create it.

It is also the only major famine whose very existence was ignored or denied by the governmental authorities, and even to a large degree, successfully concealed from world opinion.

A careful examination of all the estimates, and all the accounts, seems to show that about 5 millon deaths from hunger and from the diseases of hunger are attributed to the famine.

Of the estimated 5 million who perished, more than 3 million were in the Ukraine and Kazakhstan.

The Ukraine population had sunk from 31 to 28 million between 1926 and 1939.

Figures sent to Stalin seem to have given deaths from starvation alone to be approximately 3,300,000 to 3,500,000.

The starvation was compounded by terror, and the normal process of law was Draconian. For example, a law of August 1932, imposed a sentence of 10 years imprisonment for any theft of grain.

Executions also played its part. Stalin told Winston Churchill that 10 million peasants had to be dealt with, and that the great bulk were wiped out.

Some 3 million peasants seem to have ended up in the newly expanding labor camp system.

All in all, the total death toll of famine and deportation was around 7 million.

In 1928, "Show Trials" had been established in which prisoners confessed in open court to imaginary crimes.

Torture, retrospectively authorized by a decree of the Central Committee of January 20, 1939, became a tool in breaking the will of prisoners to confess to imaginary crimes.

During his imprisonment, a Soviet general described his torture:

> I accidentally found out that my friend of an interrogator's name was Stolbunsky . . . Apart from him, two brawny torturers took part in the interrogation. Even now my ears ring with the sound of Stolbunsky's evil voice hissing "You'll sign, you'll sign!" as I was carried out, weak and covered in blood. I withstood the torture during the second bout of interrogation, but when the third started, how I longed to be able to die.

It is estimated that 7 million arrests took place between 1936 and 1938.

The prisons, during 1938 held about 1 million inmates.

Imprisoned during this period, Hungarian writer, Joszef Lengyel described his cell in a Moscow prison, then holding about 30,000 inmates, that 275 men lived in, between, and under 25 iron bedsteads.

The labor camp population during this period can be estimated at about 8 million.

The death rate throughout the whole camp system—omitting the little known extermination camps of the far north—seems to have been approximately 10 percent annually.

Over the whole Stalin period, not less than 12 million people must have died in the camps.

The usual cause of death was because of progressive starvation. Rations remained inadequate for work. For example, they were considerably lower than in the notorious Japanese prisoner-of-war camps on the River Kwai.

The number of people actually executed in this period was something over 1 million. Andrei Sakharov says that 600,000 party members alone were actually shot, quite apart from a further 550,000 to 600,000 who died in labor camps. That is, together, a total of about half the party membership.

In addition to the executions and ordinary labor camps, there was an intermediate sentence. This was forced labor without the right of correspondence. Some of those receiving it were simply shot on the spot. Others seem to have been taken to the death camps, of which very little is known to this day. Andrei Sakharov says that in them, thousands of prisoners were machinegunned because of overcrowding, or the result of special orders.

In 1935, a special category for the death penalty was implemented under the accusation of wife of an enemy of the people. Children, too, suffered under the decree, which extended the death penalty down to the age of 12. These are the roots of the people we are trying to negotiate a treaty with in the Soviet Union.

For those in this Chamber who sincerely would like to have a treaty, I would caution to say that the people with this moral background and belief are not to be dealt with in any way, except in the position of strength. The only way that we will be able to sit down in Geneva, and have any kind of hope for negotiations, is from a position of strength. And to limit our own abilities to defend our own country would be the most careless review of history that I can imagine. I cannot imagine the American people wanting to lay down their arms and hope that people with this kind of a background would be safe policemen of the world.

It is impossible to quantify the moral suffering during this reign of terror. World War II came as a relief to many Soviets. One imprisoned Soviet scholar wrote:

> It isn't only in comparison with your life as a convict, but compared to everything in the thirties, even to my favorable conditions at the university, in the midst of books and money and comfort; even to me there, the war came as a breath of fresh air, an omen of deliverance, a purifying storm . . . . And when the war broke out, its real horrors, its real dangers, its menace of real death, were a blessing compared with the inhuman power of the lie.

Having to act out, to pretend enthusiasm for a vast system of vicious falsehood, was a corruption of the heart, and perhaps, as the scholar implies, the worst thing of all for many. To die, or lose your loved ones, is bad enough. To do so under a false accusation is worse. But to be forced to denounce your father or husband, in the hope of saving the rest of the family, and, in general, to be compelled in public to express joy at the whole bloodbath, may be thought worse still.

From 1938 to 1958, terror was simply a normal institution of the established Stalinist state. During this period an influx into the labor camps of about 1 million prisoners annually, made up for continuous erosion of the camp population by starvation and execution.

The annexation of the Baltic States and the other border areas in Eastern Europe, resulted in the imposition of the Stalin penal system.

Some 200,000 Polish prisoners of war, about 400,000 civilians were sentenced to labor camps. Of this, about 270,000 died over the 2½-year period before they were released under the Polish-Soviet Treaty.

In early 1940, the Soviet Government ordered the massacre of the 15,000 Polish prisoners-of-war held in the camps at Kozielsk, Starobielsk, and Ostachkov. The approximately 5,000 held at Kozielsk were taken into the Katyn Forest in April 1940 and there shot and buried in mass graves. These were discovered when the Germans occupied the area.

It had long been Soviet practice to deport suspect minority nationalities from border areas. In 1941, and in 1943 and 1944, the politburo ordered and organized the deportation of eight national groups, totaling 1½ million people. These nations were sent en bloc, men, women, and children, to various part of Soviet Asia. The death rate ranged from about 25 percent to over 46 percent. The total death seems to be just over half a million. The highest casualties were among children and old people.

The turn to anti-Semitism in the modern style in the Soviet Union only came in 1943 and 1944. In 1949, when a new wave of arrests swept various Soviet groupings, large numbers of Jewish cultural and public figures were arrested, including almost all the members of the Jewish Anti-Fascist Committee.

In 1952, came the still obscure Crimean Affair, in connection with which all Yiddish cultural figures were executed. It is estimated that about 600 of these were shot over this period.

After Stalin's death in 1953, the laws against opposition to the state remained draconic.

The years since then have seen a progressive rehabilitation of Stalin himself, an increase in the prestige of the secret police, and the suppression—once again—of the more unpleasant facts of the Soviet past.

One method becoming more frequent nowadays is the detention of leading advocates of political reform in lunatic asylums run by the secret police. While Lenin's and Stalin's terrors destroyed whole social classes, by the late 1960's, the activity of the ever powerful secret police was directed at the population, but only at those who genuinely showed some sort of resentment at, or rejection of the system.

Mr. President, history is something we in this Chamber cannot forget and overlook.

History, it has been said, is the propaganda of the victor. One of the difficulties of dealing with Communist history is that many people have been influenced over a half a century, by versions more concerned to present the official Soviet picture rather than discover the truth, and the reality of how the Soviet system operates.

It may seem incredible that a great amount of truth, and mutually confirmatory evidence, should be rejected by large numbers of men of good will in America and elsewhere. They seem to have been deceived basically because they had accepted a picture of the world into which the true facts of life did not fit.

This discussion is about bringing forth to Congress and the country, the authorization for the security of this country.

If we tie the President's hands and show that we are not united in this Chamber as Republicans and Democrats, we give a divided picture, and our negotiator will have no chance whatsoever to negotiate with the Soviet Union in Geneva.

The President needs to negotiate this issue here before he can expect to have any success in Geneva.

The issue that is before the Senate is the interpretation of the ABM Treaty. Is it the traditional broad interpretation, or is it the limited, narrow interpretation of the treaty?

The reason, Mr. President, the interpretation is significant, with respect to the future of whether or not the SDI can move forward.

Secretary Weinberger's statement to me privately, and what he has been saying publicly, was that in the early 1990's we can expect to deploy the first phase of the strategic defense initiative. But in order to do that, they need the broad interpretation of the treaty. We can save the taxpayers $3 billion and do the testing without any violation of treaty. However, we know the Soviets have clearly violated the treaty with the Krasnoyarsk radar.

It would be more to the likings of the administration and the American citizens, if the United States were not put in the position to abrogate the treaty to test the strategic defense initiative.

If we go back to look at what was done between 1968 and 1972, and from a much publicized statement that was signed by six former Secretaries of Defense, it appears that at least four of those gentlemen have changed their minds on that issue.

If their call to "continue to adhere to the traditional interpretation of article V of the treaty" is supposed to support Senator NUNN's ABM Treaty interpretation, they no longer hold the views they held while in office.

My reading is that Secretaries Laird, Richardson, Schlesinger, and Brown supported during their tenure, what we are now calling the broad view. The question, of course, would never have arisen during the times Secretaries McNamara and Clifford held that office.

I was for a time puzzled by what seemed an epidemic memory loss. Even Paul Nitze, a member of the ABM negotiating team, said that he had "forgotten many things" about the negotiations. That appeared in the Washington Post of April 2, 1987, at page 11.

But after all, on reflection, it should not be surprising if people's minds change about the correct interpretation of a 15-year-old provision related to the development and testing of ABM technology that did not exist in

1972. It is an arcane and difficult subject. We cannot make up our minds by reading the newspapers. Concentrated study of the treaty text and the negotiating record is required. I urge every one of my colleagues to make the effort to read those documents, along with any other analyses and documentation that may be made available to the Senate. I am convinced that a study of the material now available will leave no doubt that the treaty permits development and testing of ABM systems and components based on physical principles different than the 1972 missiles, launchers, and radars. The record makes clear that this is what the other party to the treaty agreed to, and that is all that counts under international law.

The Soviet Union, whom we signed the treaty with, took the broad interpretation.

When I was in the House, General Keegan, General Graham, and others came to my office and we had meetings to talk about how we could deploy a strategic space initiative for the United States. There was a lot of evidence that the Soviet Union was moving forward at the time testing high-energy lasers, which would be able to be used against United States ballistic missiles.

So this is not a new subject. In 1983, President Reagan made the strategic defense initiative the national issue, but many of us were working on this issue as long as 10 years ago. General Graham started High Frontier; and General Keegan, the retired Air Force general who had been in charge of Air Force intelligence, was making the rounds on Capitol Hill, explaining this and briefing many of us.

During one briefing, we had 10 or 15 Members of the House of Representatives listening to General Keegan explain what the Soviets were doing with respect to high-energy laser weapons systems. It was apparent the Soviets were working toward an antiballistic missile defense system.

It is easy enough for me to understand why people might be confused. The problem we are facing now is one that there was no need to face at the time the treaty was negotiated. People did anticipate, in the abstract, development of some unknown thing. Indeed, the negotiating record shows that the U.S. negotiators were instructed to restrict work that could be done on systems based on future technologies. But it is just as plain, however, that the Soviets rejected that concept, but eventually agreed that before deployment of some kind of new system they would discuss possible limitations. We accepted that formulation. Deployment was not ruled out by the obligation to discuss, and development and testing obviously were unaffected.

Looking back over 15 years, people's memories might tell them that they succeeded in banning development, testing and deployment of futuristic technologies. They may now believe that they constructed clever relationships among the treaty articles and Agreed Statement D, or a least that their assertions might somehow have bound the Soviets by their silence during our internal ratification proceedings, as preposterous as that now seems.

But we cannot rely on those memories. We must examine the facts. And if we point to statements made by individuals then as differing radically from what they say now, we are not doing so to embarrass these distinguished men. We simply want to cite the facts.

My initial puzzlement was not about Paul Nitze's own account of his own recollections but about others who seemed to have forgotten what had been negotiated and what their positions had been before President Reagan launched the strategic defense initiative. My study tells me that the traditional interpretation is what Senator NUNN and others in the majority party through the Levin amendment are now calling a reinterpretation. The revisionists are those whose memories failed them over the years.

Mr. President, during the period of the treaty ratification, Secretary Laird was Secretary of Defense. He gave extensive testimony at hearings on the subject. If one goes through the record, it will be found that his oral testimony supported the broad view.

For example, when Senator THURMOND questioned Secretary Laird about the development of the laser-type ABM system, Secretary Laird replied:

> It is most important, I believe, that we carry out an adequate research and development program * * *. The treaty, of course, does make such deployments contingent upon treaty amendment, but it does permit research and development * * *.

Then Senator Dominick, of Colorado, asked Secretary Laird whether the U.S.S.R. is restricted in further research and development of lasers and all other new weapons of capabilities not expressly forbidden.

Secretary Laird replied, "The answer is no."

Mr. President, the distinguished chairman and the majority party, in this entire argument, are brushing aside that testimony in favor of a written insert for the record.

We in this body should know that these responses for the record are more likely to represent the work of an anonymous bureaucracy than the opinion of the man responsible for the Nation's defense policy. The written reply which is being asserted here to support the narrow view begins with the sentence:

> With reference to the development of the booster phase intercept capability of lasers, there is no specific provision in the ABM Treaty which prohibits development of such systems.

If that does not sound like a broad interpretation, I do not know what it is.

As a member of the Armed Services Committee, it is discouraging to see this debate even take place and get such a partisan division on an issue that is so important. But I think we have to have this debate. We have to confront it.

I impugn no Senator's motives. I am distressed to find myself at a crossroad of disagreement with a Senator I respect as much as I do the distinguished chairman of the Armed Services Committee. In most issues of national defense I am in general agreement with this Senator, but not on the issue we are debating today.

In my view, Mr. President, we are artificially linking the second sentence to the first in the lengthy report that the distinguished chairman of the committee presented as if it is in elaboration.

The sentence reads: "There is, however, a prohibition on the development, testing, or deployment of ABM systems which are space-based, as well as sea-based, air-based, or mobile land-based."

This sentence obviously introduces a new proposition, one with which no one has argued; that is, that the treaty prohibits development and testing, as well as deployment, of space- and other mobile-based missiles, launchers, and radars. Further, Secretary Laird points out, development and testing of lasers for fixed, land-based systems is not prohibited. He did not say that development and testing, for example, of lasers for space-based system is prohibited. He could not have done that; for his first sentence had already covered that prospect by saying that there were no limitations on such work.

Mr. President, we just cannot erase that. In my view, that is the crux of what it is we are talking about.

Suppose, however, that we agreed this written response could be read as the distinguished chairman has suggested. Given my reading, we would have to allow that the statement was ambiguous. But my understanding is consistent with the character of statements throughout the hearings; that is, they separated the questions consistently into those covering ABM systems, that is, missiles, launchers, and radars, in the body of the treaty, and those systems or components based on other physical principles, that is, something other than missiles, launchers, and radars, covered only by agreed statement D.

To confirm Secretary Laird's understanding at the time, it would help to see what parameters he and the Chairman of the Joint Chiefs, then Adm. Thomas Moorer, set for the Armed Forces. The next annual report to Congress, April 10, 1973, was submitted by another of the Defense Secretaries on the list of six, Elliot Richardson, who pledged to carry on Secretary Laird's policies. That report defended a $100 million budget for a "vigorous technology development program in the ballistic missile defense area, to prevent technological surprise, to determine the technical feasibility of new BMD concepts." This was an item separate from work on the Safeguard system and from work on the more advanced Site Defense and improved Sprint, systems based on traditional technology.

Mr. President, that is a broad interpretation of the treaty. It is a broad understanding we were accepting in April 1973 by the then Secretary of Defense.

Admiral Moorer, in his posture statement of the same time, to which Secretary Richardson refers us for detail, said:

> As a hedge against the emergence of new threats which could gravely jeopardize our national safety, we plan to continue . . . new technological approaches to even more advanced ABM systems. The strategic situation is still fraught with many uncertainties. It is only prudent, therefore, that we continue our efforts to the full extent permitted by the Treaty.

What he had in mind, he said later in this section of the statement, was "full support of a vigorous research and development program."

What is going on here? If the "broad" interpretation is not "traditional" or is a "reinterpretation," were these men, Secretaries Laird and Richardson and Admiral Moorer, out of line?

I think not. We could, I suppose, try to say that they used the terms "research and development" loosely, that these words were not totally inconsistent with the restrictive interpretation, but it would be strained reasoning in my opinion. We would have to fit that analysis into the context of vigorous research and development on advanced technologies, remembering that they spoke of an area separate from completion of treaty-authorized defense and from development aimed at upgrading those traditional capabilities.

What we are talking about is to be able to defend the United States of America from threats that would jeopardize our security.

I believe it is important that we have this history in an understanding before we make a decision on this. I think it makes a logical case for what the Senator from Virginia is asking the distinguished chairman of the committee to do: To drop the Nunn-Levin amendment from the bill and put it on a freestanding separate resolution.

To go on, Mr. President, the work is aimed at a deployment option. In the next fiscal year, then Secretary James Schlesinger picked up the theme and promised to continue advanced ballistic missile defense technology work. He said:

> If we fail to advance our ABM technology while the Soviet Union continues to pursue its ongoing ABM development programs, which are clearly permitted by the treaty, the Soviet Union might achieve a position where, by abrogating the treaty, it could shift the strategic balance drastically in its favor before we could react.

Mr. President, the point that Secretary Schlesinger made is exactly the same point that General Keegan made in my office 10 years ago. He talked about how, we were risking the security of this country if we allowed the Soviets to move forward. Now we are talking about limiting what we can do with the testing and development of the strategic defense initiative. We are talking about decision to leave the American people exposed to the threat that we have the capability and technology to avoid.

What is it Mr. Gorbachev today has on the top of his priorities? The top of his list is that the United States not have SDI. Is that not interesting? Is that not inconsistent? It is totally consistent with what has been stated by the people who negotiated the treaty 10 or 15 years ago, and where we are today.

Included in his statement of objectives was the goal to "Achieve the knowledge and skill needed to deploy an effective ABM system if that should become necessary."

Mr. President, it is necessary that we do this.

Admiral Moorer's parallel posture statement that year added the following:

> Retain the option to deploy a more advanced ABM system for the defense of the National Command Authority or to deploy a more extensive system should the ABM Treaty be abrogated for any reason.

Mr. President, it is very difficult to shoot for a deployment option if development and testing are prohibited. That is what the Levin amendment does. It will prohibit and limit the ability of this Nation to test and deploy the strategic space shield to protect the people of this country; to protect the weapons what keep the Soviets from threatening to use their weapons.

The unmistakable impression gained from these statements is that there was no such thing as a "restrictive" interpretation in play. What is behind such statements? Information is being compiled in pursuit of President Reagan's directive to complete the analysis of the ABM Treaty by April 30, 1987. I am sure that the documents being used in this analysis will, as has been reported, answer that question.

I understand that the files on this subject make an interesting collection. Behind the reports and testimony I have just cited, there are, I am told, a number of internal papers and memoranda. There is, for example, a detailed memorandum from Admiral Moorer to Secretary Laird sent several days before they both appeared before the SASC. The document is said to be explicit in its interpretation of the ABM Treaty, translating it into observations, recommendations and plans that clearly assume Soviet capabilities to develop and test "exotic" ABM systems legally within the treaty provisions. There is an internal DOD document addressing key defensive issues in connection with the interim agreement and the ABM Treaty. It lists those things prohibited and those things permitted. Among those things permitted is a heading titled "Future Systems." It states that future systems may be developed but not deployed. The paper warns that it will be necessary to pursue development so that the Soviets would not reach a position where it would be in their interests to abrogate the treaty.

The details of such documents will clarify what was behind the statements and reports of Secretaries Laird, Richardson, and Schlessiger and Admiral Moorer. We will see their conclusions: Only agreed statement D affects systems or components based on new technologies; development and testing of such systems is permitted and should be pursued vigorously.

As technologies and concepts become more sophisticated, public statements become more explicit. In his "FY 79 Annual Report", for example, Secretary of Defense Harold Brown states that our program had been completely reoriented toward "examining more advanced concepts and technologies," citing indications of a concerted Soviet effort "in technologies having potential applications for missile defense." These, he says, "are banned from deployment but not development by the ABM Treaty of 1972."

> Accordingly, a carefully structured U.S. BMD R&D effort has been maintained. It consists of two complementary efforts, an Advanced Technology Program and a System Technology Program. The evolving BMD technological base resulting from these programs could provide, if strategic arms limitation efforts lead us in that direction, cost-effective alternatives for maintaining the survivability of our strategic retaliatory elements in the ICBM threat environment.

The Systems Technology Program, he says, "maintains a responsive capability to develop and deploy BMD systems for a number of possible future roles."

In his fiscal year 1981 report, Secretary Brown describes the purposes of the BMD effort: to "search for potentially revolutionary concepts and ideas and to develop emerging technologies to a point where the Systems Technology Program can incorporate them into system design." The Systems Technology Program "integrates components and tests key system concepts. The program maintains the capability to develop and deploy a full BMD system. * * *" Harold Brown clearly supported the so-called reinterpretation, which begins to sound more like the real traditional interpretation.

There is no doubt about how the treaty was interpreted in the early days. As years went by, and the negotiations became more a thing of the past, other opinions began to creep into the equation. I am sure that the administration's file search will turn up documents that argue in favor of what is now called the restrictive interpretation. I am sure that the administration will provide these documents to us along with other interpretations. I understand, for example, that there was a 1977 DOD instruction, characterized as a general framework of guidelines in which the compliance program was to operate. I understand that it began to waffle a bit on the issue of testing. With regard to limitations on systems or components based on physical principles other than those then associated with ABM systems, it did not restrict development, but kicked the issue of testing down the road. High-level officials were to be notified if and when such systems were ready for testing.

But, this is after the fact. That was in the 1977 DOD instruction. The treaty had already been negotiated. And I think the important fact to remember is that the Soviets believed in the broad interpretation.

I am told that there was a draft of these instructions that introduced a new idea: that the treaty may have been more restrictive than thought. That draft was rejected, but it did apparently cause some doubt, postponing a decision about testing that would have seemed in any event remote at the time.

But, Mr. President, I think it is important that we get the significance of the chronology here. This happened after the fact. This position appeared somewhere in the late seventies.

Although I should know better, I was somewhat surprised to learn that the debate we are having now is not new. The debate apparently does not result from a reinterpretation by the Reagan administration. It appears, in fact, that the debate began when some in earlier administrations reinterpreted the treaty in a more restrictive way. The farther people got away from the 1972 treaty-signing, the less sure they seemed of the exact meaning of the treaty.

There was a flurry of paper in preparation for the first 5-year treaty review in 1977. We will never be able to tell from the paper trail exactly what was going on. But someone apparently raised the new idea of getting the Soviets to agree to ban development and testing as well as deployment of exotic ABM systems.

In response to a Presidential review memorandum, one agency prepared a draft paper. In the paper, a doubt was raised about new technology. Secretary of State Rogers' statement that the treaty would not permit deployment of new systems might be read, some asserted, as being consistent with an interpretation that future systems would be subject to the limitations of articles III and V. The paper concluded, however, that we could never be certain whether the Soviets interpret it that way unless and until a specific case arises. Now this is a new idea—a reinterpretation.

Agency views are on record, I understand. Some took the position that the issue should not be raised because there was need or utility at that time. Others suggested that we might consider proposing an outright ban on ABM systems based on other physical principles, though they believed that the Soviets would be unlikely to agree to ban development activities—activities, we are now told, that the "traditional" interpretation had also banned. The Secretary of Defense, I am told, suggested that we might ask the Soviets whether they thought there were any litigations on future ABM systems. He also relayed the view of the Chairman, JCS, that the treaty placed no limitations on the development of ABM systems based on other physical principles.

You will see the element of doubt about ambiguous formula creeping into the debate as the people discussing this issue are further removed from the negotiations. I am told that we will begin to see references to the United States negotiating team that is that those individuals believed they had a tighter agreement, the Soviets believed. There is a never any expression of belief, however, that the Soviets considered themselves bound to what is now called the "traditional" interpretation. And remember: this is the important part of the current debate.

Signs of the debate went on, I am told, generally at low-levels for some years. I have seen an interesting internal DOD exchange about ACDA's misinterpretation that kept creeping into the arms control impact statements despite the fact that the questions of development and testing future technologies is "clearly resolved" in that the treaty "limits application of the term 'ABM systems and components', for treaty purposes to radars, launchers, and interceptor missiles, and that possible future ABM systems based upon other principles come within the purview of Agreed Statement D." We can see that some did not agree with Senator NUNN's characterization of the ACIS as an authoritative expression by the Government as a whole.

As Senator QUAYLE said, this is a fundamental question. As Senator WILSON has pointed out, if there are any ambiguities in the treaty, then you have to go back and look at what people said.

In 1978, a Defense official professed in an unclassified note that he had "always been mystified by ACDA's firmness on asserting this position." I understand that there was an interesting recommendation in 1981 that the debate not be brought to the attention of the Defense Department's new leaders at the beginning of the Reagan administration, on the grounds that there was other pressing business and that all of this would not need to be faced anytime soon.

We are facing the issue now. It is too bad that we are doing so only after our perspective has been distorted in such a misleading way. But having regained our perspective on this one small issue, let us get on with the important work of bringing stability to the strategic offensive and defensive equation. We must get on, Mr. President, with a rational strategic defense program. We must bury the partisan politics. We must move forward with this. The one thing the Soviet Union does not want the United States to do is to develop and deploy the Strategic Defense Initiative. Now here in the Congress, efforts are being made to do their bidding for them. I find that absolutely amazing. I said earlier, Mr. President, if you remove the threat of nuclear blackmail from the Soviet Union's arsenal and remove the military power that they have, they are not a superpower. The superpowers of the world would be the Japanese, the United States of America, and Western Europe as a whole where economic opportunities are much, much more abundant for people. Where opportunities for freedom of speech and freedom of religion and freedom to move are much more abundant. Those are the countries that would be the leaders of the world.

The only thing the Soviet Union has going for it is force, terror, oppression, and the big bully image that they have developed because of their strong military. That is why the Levin-Nunn amendment should be stricken from the bill.

I would appeal to the majority leader and to the distinguished Senator from Mississippi, who is the senior member of our committee. I do not like having the Armed Services Committee on a partisan fight. One of the things I have always admired about the Armed Services Committee was it was not a partisan committee. But this is an issue that we should resolve. We should take this out of the authorization bill and move this bill forward. I think it is a good bill if we can just remove the Levin-Nunn amendment.

Mr. President, I ask unanimous consent to insert in the RECORD the "Crux of the SDI Issue," an article in the Washington Times by Joseph Sobran on December 10, 1985.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Dec. 10, 1985]

CRUX OF THE SDI ISSUE

(Joseph Sobran)

The more you think about it, the more it becomes clear that the proposed Strategic Defense Initiative—Star Wars—is one of those litmus issues that really define the differences between advocates and opponents.

Never mind for the moment whether it would actually work. Nobody could know that at this point. Given the pace of discovery and invention over the past century, however, it might be rash to rule it out. "What is now proved was once only imagined," as the poet William Blake put it.

What is more interesting than the pragmatic argument, at this point, is the way Star Wars is imagined. It ought to appeal to the pacifist left, which talks of eliminating nuclear weapons from the face of the Earth—and in fact it is said that Jonathan Schell, author of *The Fate of the Earth*, has been won over to the idea. But most of the left hates and derides it, which is why the name Star Wars has been attached to it.

We are told that the program would "destabilize" relations between the United States and the Soviet Union. Well, it would do that, all right. But there is no guarantee of permanent equilibrium anyway, and the kind of stability we now have is nothing to get sentimental about.

We are likewise told that the Soviet Union fears the program. For some reason this is thought to be an argument against the program rather than one in favor of it.

And here is the crux of the issue. The Soviet Union fears Star Wars not because it fears an American nuclear first strike, but because it fears the loss of its own nuclear threat—the only thing that makes the Soviets a superpower.

The point is elementally simple. The Soviet system is based on force and fear, all the way from the neighborhood secret police to the nuclear arsenal. As it treats its own citizens, so it treats other countries, to the extent that it can. Take away that arsenal, and its capacity for global bullying is drastically reduced.

But if both superpowers lost their nuclear capacity at the same time, the global position of the United States would be greatly enhanced. Why? Because the American system is based on consent—the carrot more than the stick. Our institutions, from the polling booth to the free market, are designed to induce voluntary action and cooperation. We need force only to defend our system, not to propel it.

If the world were relieved of the threat of nuclear war, the United States and Japan would be the two superpowers. The Soviet Union would dwindle to a secondary status. Unless it can attack, it is nothing. It has good reason to dread any reduction in the role of force and terror in international relations.

The difference between the two systems, one governed by consent, the other by force, can be clearly seen at their borders. The United States has a problem with illegal immigrants; we are flooded with people coming in voluntarily beyond our ability to absorb them. The Communist world has to arm its borders to force people to stay: its problem is illegal emigrants.

The wonder is that there are still Americans who, without really sympathizing with the Soviets, equate the two systems morally. One need not idealize free societies, but one ought to appreciate them for what they are. And yet some people feel an obvious anxiety at the prospect that the Soviets might be deprived of their superpower status. They feel a kind of familiar attachment to the status quo. This is the strange conservatism of the liberals.

People who can't distinguish between the United States and the Soviet Union are generally people who have trouble distinguishing between force and consent. They tend to favor what they call a "larger role for government," also known as "affirmative government." It boils down to more state coercion against citizens. People who favor that—liberals—are naturally made nervous by harsh criticism of the Soviet system. They are now being made especially nervous by a nuclear defense system, the very idea of which exposes the essential difference between the two political systems they would rather equate with one another.

Star Wars promises to make the world free—from the liberal point of view, a little too free.

Mr. SYMMS. Mr. President, if no other Senator is seeking the floor—does the distinguished Senator from Mississippi seek the floor? I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, briefly on a couple of issues relative to the language in the DOD bill that we have been debating this afternoon.

First, it was suggested yesterday by one of our colleagues that the Senate is not ready at this moment to consider the issues which have been debated relative to the correct interpretation of the ABM Treaty.

Indeed, I would agree with our friend that we are not in a position to decide which is the correct interpretation for a number of reasons, not the least of which is that the President has not himself decided yet what interpretation he is going to apply.

It is also true because Judge Sofaer has just recently come out with a new treatise of his own which is worthy of being read, and Senator NUNN is indeed filing his own document in the next few days relative to the negotiating record.

So there are a number of reasons why the Senate is not in a position now to choose between two interpretations.

I would like to add a couple of additional reasons for that.

No. 1, we have asked Judge Sofaer to invite the negotiators in to read the negotiating record and to give them an opportunity to go through it with him and tell him why they reached the conclusion that they did.

As a matter of fact, in my office Judge Sofaer agreed that he would seek to invite the treaty negotiators in to visit that negotiating record and to my knowledge he has never done so although he said he would.

The least we can do with treaty negotiators if we are going to revisit their work 15 years later is give them a chance to defend themselves and to defend the positions that they have taken consistent through during that period. That has not yet been done. It should be done.

There is something else that should be done, Madam President. We have asked the Joint Chiefs of Staff to open up their records to us. What was the JCS understanding of the ABM Treaty in 1972?

What was represented to them by the negotiators? We have asked the JCS to make their records available to us on a number of occasions. I have done it by letter. Senators BYRD and NUNN have done it, as a matter of fact. That request has not been answered. What we have, instead, is a piecemeal publication of the negotiating record.

Judge Sofaer does not even make public everything in the negotiating record that is relevant to this issue. He does not purport to do that. Just pieces of the negotiating record are made public by Judge Sofaer and a statement that he will make others available, if he can, upon request.

Well, we have requested for the last 6 months the JCS records in this matter. We have requested this by letter. And the majority leader and the chairman of the Armed Services Committee have requested our Joint Chiefs to allow a review of their records on a classified basis. No one is talking about making this public, just to have us look at those records to see what their understanding was at the time and what was represented to them.

So there is a number of reasons why we are not ready as a body to decide what is the correct interpretation, narrow versus broad. There are all kinds of reasons why we are not ready yet to do that. And this amendment avoids that.

We just simply maintain the status quo; just maintain the status quo, keep our options open as a Congress appropriating money for the SDI. "Do not change the status quo until you come back to use relative to the expenditure of funds that we appropriate." That is all it says. Keep the status quo; keep the options open.

This is not the time yet to decide which interpretation. We want an opportunity to see what the President decides. And he has not made that decision. And we also want the opportunity to look at those JCS records. Where is their answer to our request?

And, obviously, they are waiting for word from Judge Sofaer. When he gives them the green light, then we will be able to see those records. They should not be withholding those records from our scrutiny. It is to nobody's interest that those records not be made available to the Members of the Senate, at least on a classified basis, at this time.

I also again would publicly urge Judge Sofaer to do what we urged him to do on so many occasions in the matter, to, just in the name of common courtesy, invite the negotiators who have maintained that the narrow interpretation was agreed to and was a correct one, invite them to go through that record with him to give them a chance to defend the conclusion they reached. They represented this country in good faith. It is the least that we owe them.

Madam President, this amendment does not make the decision. It keeps open the option for a later approval of the expenditure of funds. It does not in any way decide which is correct, broad or narrow. It leaves open for our later determination whether we want to approve the expenditure of public funds after the President decides whether or not he wants to move to a new interpretation of the treaty.

Now, when that time comes—it could be a month or 2 months or 5 months from now—then the question is: Can we consider treaty compliance issues as part of a decision of whether to fund?

My good friend from Indiana and I had a colloquy and discussion and debate on this issue earlier this afternoon. I just would like to assure him, while he is on the floor, that it is common for the Senate to consider treaty interpretation issues when deciding whether to approve the funding of programs.

On the MX missile issue, let me read both to him and I see our friend from Idaho, too—he is involved in this a bit. So if he can be patient with me, I will get to something which he said a few years ago on the floor directly on point on this issue which I think shows how often the Congress does take into consideration, in appropriating funds, whether or not that appropriation is complying with the treaty or not.

But in any event first let me read from the CRS, the Congressional Research paper that they wrote to me about the MX debate. Here is what they wrote:

> On November 22, 1982, President Reagan proposed the Dense Pack basing mode for MX. Congress considered funding for MX in the continuing resolution for FY 83 appropriations. As part of that consideration, the Senate debated an amendment by Senator JACKSON and others that would prevent funds from being spent to start full-scale development of an MX basing mode until both Houses approved a basing mode. Senators argued that Dense Pack would violate the SALT I and SALT II prohibition on construction of new ICBM silos and that it would require an ABM defense which would violate the ABM Treaty. Senators also criticized the administration's use of the bargaining chip argument. The amendment was included in the final resolution. As a result, Dense Pack was soon canceled.

Going back to that debate, we find, for instance, Senator PELL saying that the MX Dense Pack would do violence to the fragile fabric of SALT.

We have Senator MITCHELL saying that a third reason for stripping this resolution of MX missile production funding relates to the fact that the Dense Pack basing arrangement may violate the letter and spirit of the SALT I agreement to which the United States is a party.

There is no doubt that Senators took into account, when deciding whether or not to fund Dense Pack, whether or not, in their view, that basing mode violated SALT I. That is a decision they made as part of their funding.

Mr. QUAYLE. Will the Senator yield?

Mr. LEVIN. If I could finish, then I would be happy to yield, because I do want to get to Senator SYMMS' quote while he is here and he may have other plans that he has to leave.

Here is what Senator SYMMS said at that time. he said:

> The Reagan administration argues incorrectly and contrary to the observable facts that MX Dense Pack is in compliance with SALT II. In some, one of MX Dense Pack's virtues is the fact that it violates the unratified SALT II Treaty. Thus, if Dense Pack is deployed, the unratified SALT II will have to be declared dead.

My point here being that in this case we had Senator SYMMS, which he had a right to do, voting for Dense Pack because it violated SALT II. We had other Senators voting against Dense Pack because, in their opinion, it violated SALT I or the ABM Treaty. But, obviously, in that vote on whether or not to approve Dense Pack funding, our colleagues took into consideration their own point of view as to whether or not it violated a treaty which had been entered into on SALT I and the ABM Treaty. I am not quarreling with that. Quite the opposite.

What I am saying is that is common and that is routine and we do that all the time as part of our obligation to spend funds consistent with the intent of the laws, treaties, and the Constitution of the United States of America. It is a funding issue. But we have to decide, each of us, whether or not the money we are approving violates the supreme law of the land, which is the Constitution, and the laws and treaties that are entered into thereof.

Mr. QUAYLE. Will the Senator yield?

Mr. LEVIN. I am happy to yield. In fact, I am happy to yield the floor if my friend from Indiana wants the floor.

Mr. QUAYLE. No. I will try to pose a question at the end of my observation. If I do not, you can ask the question and I will even throw a softball at you, like "Do you really mean this or what?," if I do not ask a question at the end.

Let me go back. I do not have the Jackson amendment in front of me, but I do recall it and I certainly recall the debate.

Let me distinguish the two issues. When was that amendment offered? Help me out, because you have the materials over there.

Mr. LEVIN. December 1982.

Mr. QUAYLE. December 1982. The amendment was debated on the floor before that. There was debate on the floor—OK, December 1982.

The Jackson amendment, the issue at that time—now, there are a lot of issues that Senators have—but the issue at that time was all of a sudden because Congress had forced the Pentagon to come forth with a basing mode. The Department of Defense came forth and said, "Hey, we have got this new basing mode that you all have never heard of up there. It is called Dense Pack."

And, as the Senator will recall, being on the Senate Armed Services Committee, as a matter of fact, there were a lot of cute names attached to Dense Pack. Some people called it "Dunce Pack." Some people were even more direct than that.

They did not think much of Dense Pack. They did not think they were going to be able to deny these missiles coming in and to limit our military targets with ICBM's because of all the potential nuclear explosions.

If you recall, the Department of Defense was under somewhat of a gun to come forth with a basing mode.

And the whole Jackson amendment and the whole discussion there was what is going to be the basing mode for the MX missile? You can argue that people brought up whether it violated SALT I or SALT II but the fundamental underlying issue, and I do not believe that the Jackson amendment—I would have to go back and look at it—referenced SALT I or II. I think it was basically a fencing amendment that said you are not going to do this until we sign off on it. The Congress and the administration have been arguing about basing mode on the MX missiles for years.

We have had about 31 different basing modes that have been coming forward. This was not a new one. As a matter of fact, when this President campaigned on the window of vulnerability and things of that sort, the first thing he did when he came in was sort of scuttled the MPS program. He scuttled it for various reasons but a lot of people said if you are going to close that window of vulnerability—I remember Senators particularly on that said, "Hey, you ought to go forward with that program." They said, "No, we are going to look for a new basing mode." Remember we looked and searched and finally came up with a basing mode. It was the Minuteman silos, the same silos that we had been having for all of these years. That was not a new basing mode. That was after Dense Pack, whatever you want to call it. We even looked at about putting these things in the air. Remember we had Big Bird. We are going to put these missiles up in the air. We are going to have the deep underground tunnel. We are going to put them on rail cars underneath the ground and shuttle them back and forth. We had a lot of basing modes. Now we have another one, rail garrison. This issue of the basing mode or the MX has been going on and on.

Finally, Congress said Congress can do this. Congress said by golly, we are going to only deploy 50 of these MX missiles in these silos that are fixed silos and have vulnerability. If you are going to deploy any more than 50 you will have to come up with basing mode. Now we have the rail garrison.

What I am telling the Senator this is apples and oranges because what you had in the debate at that particular time was the basing mode of what the MX missile was going to be. Where were you going to place the MX missile? Under this particular amendment you in fact have crafted the amendment, taking language out of title V of the ABM Treaty, and said in fact the President is not going to spend any money for the broad interpretation of the ABM Treaty unless both Houses agree.

Let me just conclude in about 1 minute because I understand the majority leader wants to get on with something else.

This issue is not with basing mode or something that Congress has been debating back and forth. This issue deals with the interpretation of the ABM Treaty. The Jackson amendment, to my knowledge, and to the best of my knowledge, does not reference SALT I or SALT II. It just says money for basing mode.

We are comparing apples and oranges whether the MX is alike with this particular amendment. This amendment and the one I am concerned about from a constitutional point of view is we are in fact interpreting whether the ABM Treaty is subject to both Houses approving. If a majority of the House of Representatives disapproves, then the President cannot go forward. I think that is a very fundamental difference between the two pictures.

Mr. LEVIN. Mr. President, I will make my remarks short. Also, I see the floor managers on the floor. I promised them I would not delay. I will just conclude with 1 minute also.

These are apples and apples, folks. They are apples and apples. Back in 1982 we adopted an amendment which said funds would not be expended for a basing mode until you come back to Congress and get approval and the reason cited by colleague after colleague was because of the fear of a conflict with the SALT I Treaty and the ABM Treaty. That is precisely what is at issue here. It is let us keep our options open, let us let the President decide this issue. Then if in fact he decides to move to a new interpretation of the ABM Treaty, we want to take a look at it and decide whether we want funds. We by constitutional law appropriate. We have control of and set limits on whether or not we want those funds to be spent for that particular kind of a program. So it is really apples and apples.

I yield the floor. I thank the Senator from Texas and the majority leader for their patience.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2360

Mr. BYRD. Madam President, I thank the distinguished Senator from Indiana and the distinguished Senator from Michigan for giving us the opportunity to proceed with the time agreement and then with the debt limit legislation.

Madam President, the distinguished majority leader and I have cleared this request on both sides of the aisle. I ask unanimous consent that when—did I say majority leader?

Mr. DOLE. I appreciate that very much.

[Laughter.]

Mr. DOLE. I must say if the majority leader will yield, I did that a lot during my 2 years.

[Laughter.]

Mr. BYRD. I am respectful of the Republican leader, but I would much rather not refer to him as the majority leader.

[Laughter.]

Mr. BYRD. Madam President, I ask unanimous consent that when the Senate considers the short-term debt limit legislation, H.R. 2360, it be considered under the following time limitations: That there be 80 minutes equally divided between the chairman of the Finance Committee, Mr. BENTSEN, and the ranking member of the committee, Mr. PACKWOOD.

Mr. DOLE. Or his designee.

Mr. BYRD. Or his designee; provided, further, that no amendment be in order; that no motions to commit or to commit with instructions be in order; that there be a limitation of 10 minutes on any debatable motion, appeal, or point of order, if submitted to the Senate by the Chair; that the time be controlled in the usual form; provided, further, that for any motions to reconsider there be no time for debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Madam President, reserving the right to object, I shall not object, I think this is a good agreement. I think we can wrap this up even before the 80 minutes expire.

I want to thank the majority leader, the distinguished chairman of the Finance Committee, others, and also Senators GRAMM, ARMSTRONG, and DOMENICI. Senator DOMENICI has been very helpful in trying to work this out, and our former colleague, now chief of staff of the White House, Senator Baker, was here earlier today.

So it is a good agreement. I thought we might be able to do this without a rollcall vote. But that may be necessary, but hopefully not.

Mr. BYRD. Madam President, I thank the Republican leader.

I also want to thank Senator HOLLINGS who had an amendment but who will abstain from offering it. I yield the floor.

The PRESIDING OFFICER. The majority leader's unanimous-consent request is agreed to without objection.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Madam President, does the Senate have before it the bill now?

DEBT LIMIT INCREASE

Mr. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2360.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2360) to provide for a temporary increase in the public debt limit.

The Senate proceeded to consider the bill.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Madam President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Madam President, the Senate has before it a bill to extend the public debt limit. It is never a pleasant exercise to do that.

We have a public debt now that is in the area of $2.3 trillion. At the beginning of this decade we were talking in billions not trillions. Since the beginning of the decade the Congress has had to act to increase the debt limit on 18 separate occasions.

The Treasury appeared before the Finance Committee approximately a week ago, and they were talking about having an extension with an increase of some one-half of a trillion dollars, and then a fallback position of one-quarter of a trillion dollars. We have not granted that. Instead, what we are talking about now is extending the temporary debt limit until July 17, with a $20 billion increase in the amount of that debt limit.

What we are faced with is a somewhat different situation than we have had in extensions of the national debt in times past. In this instance we are talking about a temporary debt limit of $2.3 trillion. If we do not extend it by May 15, it drops back. It drops back to $2.111 trillion, a reduction of $189 billion. That was done so there would not be any wiggle room, so there would not be any way around this, and so the issue could not be avoided.

What we are seeking in this instance is an extension to July 17 so we will have a chance to see what is being done on budget reconciliation, to see that we are making the kind of progress that should be made. In turn, that time will enable us to get a feeling as to whether or not this administration is going to be a part of that solution, and whether the President is going to be a part of the partnership in addressing what is an extremely serious problem for our country.

I think the House was correct in overwhelmingly rejecting the idea of debt limit increases in the magnitude that the administration had asked for.

We could not have accepted such an endorsement of a continuation of these large deficits. We had to have some demonstrated progress to show that we were addressing the concern and making some headway.

This gives us a short but a very important amount of time to take some positive action on a budget, to show our seriousness in dealing with these deficits. It also is going to give the administration a chance to show its willingness to cut those deficits in a responsible way. And it will also give us some time to look at others ways of controlling the deficit.

Passing this bill will not avoid the need for us to consider and act on larger increases this year, but it will allow us to better assess the level of commitment that we and the administration have brought to this problem of deficit reduction. I urge very strongly that the Senate adopt it.

Madam President, I would like at this point to include for the RECORD a letter addressed to me from the Secretary of the Treasury speaking to the problem they have, and to the fact that this country of ours has gone for 200 years without defaulting on any of its securities. It is terribly important that we behave in a responsible manner in this regard. This involves the sanctity of our credit and our securities. The Treasury could not renew securities on maturity, and security holders would not be earning interest during the time the debt limit was not extended. We are talking about a very serious matter. We would not have the Federal Financing Bank available to us to help defer a crisis as we have in the past. It is quite a different situation from that which we have previously experienced.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, May 1, 1987.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: I am writing to request action by the Congress on legislation to increase the public debt limit before May 15, 1987.

The temporary debt limit of $2,300 billion will revert to the $2,111 billion permanent ceiling at midnight May 15. The Congress selected this date and adopted a different mechanism from that employed in recent debt limit exercises to ensure that the debt overage would be so large that no option except new legislation would permit raising new cash. This is a new ball game that permits no playing around: the statutory ceiling drops back; there is no cash maintenance flexibility; and the effects of not acting are swift and damaging. We do not support adding provisions that could imperil prompt passage of this urgently needed debt extension.

Our current estimate indicates that the outstanding debt subject to limit will be about $160 billion above the permanent ceiling on May 15. Without an increase in the debt limit by that date, all issuance of Treasury securities must cease. Trust and revolving fund investments and roll-overs of maturing issues that those funds hold would halt, resulting in lost interest to those funds. We would have to notify the 44,000 issuing agents to stop selling Savings Bonds, and sales of nonmarketable securities important to state and local financing would cease.

Although we will be unable to raise any additional cash, payment of obligations—including maturing debt—must continue as long as cash remains available. Unlike recent years when Treasury has simply run out of additional borrowing room under a permanent debt ceiling, the expiring temporary debt ceiling provides no opportunity for any administrative actions to prolong the availability of cash. As a result, on May 28, the United States will run out of cash, default on its debt and subsequently not be able to make June benefit payments.

Running out of cash means the United States would default on its obligations both domestic and foreign, with all the negative financial, legal and moral consequences that implies. Our Founding Fathers regarded the full faith and credit of the United States as a sacred trust, and for over 200 years the United States Government has upheld this fiduciary duty. The United States has never defaulted on its debt obligations. To do so would be unthinkable and irresponsible. We would seriously erode this country's premier credit position and break faith with our citizens.

In short, we request that the Congress act prior to May 15 to increase the current debt ceiling to: (a) $2,800 billion, an amount sufficient to be sure to get through May 1989, when the Congress will have had a chance to act on the FY 1990 budget resolution; or (b) $2,578 billion, the amount estimated in the President's Budget to be necessary for FY 1988, with the Treasury's conventional assumption of a $5 billion allowance for contingencies. We believe that the first option is preferable in order to remove the burden of dealing with the time-consuming debt limit issue in the midst of election year schedules.

Sincerely,

JAMES A. BAKER III.

Mr. BENTSEN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Madam President, as the distinguished chairman of the Committee on Finance has explained, we are taking up the debt ceiling increase, another increase in it, this afternoon. I would just say a word or two about the urgency of acting on this measure.

At the close of business tomorrow, Friday, the Treasury estimates the outstanding public debt will be $2.27 trillion, and the cash balance at the same time will be between $25 and $30 billion. That sounds like we have a cushion. But tomorrow also at the close of business, the debt limit automatically reverts from the temporary ceiling of $2.3 trillion to the permanent debt limit which is $200 billion lower. That is to say that, effectively after midnight tomorrow night, Saturday morning, the Government will be roughly $160 billion over the public debt limit and will have no further borrowing authority.

Often we find a way to get along and somehow pay our bills, but this is not such a time because on May 21 and on May 28, 3- and 6-month Treasury bills totaling $14.6 billion and $14.7 billion respectively are going to mature. These are promises to pay, the Government promising to pay note holders on notes that will mature, and in the absence of any increase in the debt limit the Treasury would have to pay from their cash balances.

As I pointed out earlier, the cash balances are simply not sufficient to pay both. So on May 28, the Federal Government, if we do not deal with the extension, would be in default. It is imperative that we pass this extension.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Madam President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I thank the Senator from Pennsylvania. I intend to vote for the short-term debt ceiling. I am going to vote for it because we have worked out an agreement to proceed toward salvaging the financial position of the Nation. It will offer reassurance around the world and throughout the country that we are preventing a default, but at the same time will begin the process of working toward a restructuring and a revitalization of the Gramm-Rudman-Hollings balanced budget law.

The President made clear today that he is committed to this important restructuring of that law and a comprehensive review and reworking of the whole budget process with an objective of trying to gain control of Federal spending, to meet deficit reduction targets, to balance the budget. The President will support that effort as an amendment to the permanent debt ceiling. The vote will occur approximately on July 17. It is my hope that over the next 60 days we can work with people in both Houses of Congress and in both political parties who are interested in balancing the budget and gaining control of the budget process.

There are always people who say, "Why do you want to clutter up the debt ceiling?"

I guess my logic, Madam President, is that from my long experience in family finance and having grown up in a household that had trouble paying the bills, you never get people's attention so much as when the bill collector is at the door. Whether it is a family or whether it is a government of a great nation, if you do not get people around the kitchen table and cut up the credit cards and set out some new priorities, you have to do it when the bill collector is knocking on the door.

I think in a very real sense that is what happens every time we vote on a debt ceiling. That is why I think that while none of us like to see the vehicle used for that purpose, ultimately that is the vehicle that we have to depend on if we are going to change the financial and budgetary practices of the Federal Government.

I submit that we have made great progress in the last year in terms of deficit control. In terms of the Gramm-Rudman-Hollings Act, which was adopted almost 2 years ago, we have brought the deficit down by $45 billion of current services. That is the largest deficit reduction in American history. Federal spending grew by less last year than any year since Eisenhower was President in 1955, and yet at the same time we did not meet the deficit reduction targets.

So I think we have made progress in the recent past. But, I am concerned about what has happened thus far this year in terms of all the spending bills that have come forward. I think it is vitally important that we reinstitute the automatic mechanism of the original law, a mechanism that in essence said that if Congress and the President did not do their job, if we did not meet the targets for deficit reduction that we had agreed upon in advance, there would be an automatic, across the board cut.

Obviously, no one wants to see that happen, and I think that is the club in the closet that is required to make the process work.

There will be those who say "We ought not to encumber democracy. What are we talking about procedure for when we ought to be talking about substance?"

I submit, Madam President, that procedure produces substance. In fact, that whole argument is a strange argument to make in the one country on Earth that has put procedure at a higher level of importance than all others. In fact, our Nation is governed by little else other than procedure.

The Constitution itself is a binding constraint on Government, a limit on what Government can do. It is essential that we try legislatively to find a way to limit the ability of Government in the one area where we have a continuing problem under Democratic and Republican Presidents, under Democratic and Republican controls of both Houses of Congress, which is deficit spending. I am happy that we have an agreement with the President to support on the permanent debt ceiling a reconstitution of the Gramm-Rudman-Hollings balanced budget law. On the basis of that commitment, and with a firm resolve over the next 60 days that we will work to try to build a consensus so that we can come to both Houses of Congress with that consensus and hopefully adopt it, I am going to vote for this short-term debt extension.

I am hopeful, obviously, that we can bring the permanent debt extension up early enough so that we can have the debate, so that if there is a reconstitution of the Balanced Budget and Emergency Control Act adopted in the Senate, that we will have time to go to conference with the House to work out differences and hammer out a compromise and then to bring that compromise back to both bodies to have it voted on before we have the debt ceiling expire and before we go through all the problems that none of us wants in terms of financial fallout.

So I appreciate the distinguished Senator yielding time. I urge my colleagues to vote for this short-term debt ceiling in recognition of the fact that we will have an opportunity 60 days from now to try to deal with the deficit problem. Certainly at that time I am committed to that process and under no circumstances would vote for a debt ceiling that does not address the underlying problem. I think there has to be a point where you say, "We have to do something about the problem."

Finally, I thank the distinguished ranking member of the Budget Commitee, Senator DOMENICI, for working with me in coming up with this compromise that allows us to move forward without an amendment. I think clearly Members want to do that. I am hoping in the next 60 days we can get people in a frame of mind to address the budget issue. In this, as in all other things, Senator DOMENICI's counsel has been vitally important and I have followed it as usual.

I yield the floor.

Mr. HEINZ. Madam President, I yield 5 minutes to the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. I thank my friend from Pennsylvania.

Madam President, debt limit extensions are arduous. They are an ordeal. I note that the distinguished occupant of the chair was formerly in the House. We do not have the pleasure and luxury of being able to clear a debt limit bill as part of a budget resolution, so each and every time it is obviously a very difficult and trying time in the Senate.

Since the debt limit bill has to be signed or basically we begin to close down Government or we begin to default on our bonds or our Treasury bills or obligations, it clearly is in the Senate a very good piece of legislation to attach whatever legislation Senators think would not otherwise have a chance to get through the bodies and be signed by the President.

So we have had a week of debate down here a number of times with literally scores of amendments on everything that one could imagine. But this particular debt limit and the way it is drawn and the economic times in which we live create a very serious problem for the United States.

I am of the opinion, having talked to the Secretary of the Treasury and those who are familiar with the situation, this was not the time to run this debt limit right out to the end, because sort of a process of attrition will start. And with the currency problems in the world and the yen-dollar problem, interest going up and down, and the bond market in a state of chaos, and municipal bonds being almost nonsalable at this particular moment, it seems to me we ought to do what is common, ordinary and sensible and just go ahead and extend it. But I clearly understand that a number of Senators want to offer very important amendments. I am hopeful that sometime before the end of the year, so that we can resolve our budget dilemma, we will do some budget reform.

I am fully aware of the fact that the distinguished junior Senator from Texas [Mr. GRAMM] and his cosponsors of the original Gramm-Rudman-Hollings sequester proposal want to put their permanent enforcement and sequester legislation on this bill. I thank the distinguished junior Senator from Texas and his prime cosponsors for sitting down with us, for exchanging views and for coming to the conclusion that they will have another opportunity, that clearly we ought to do this 60-day extension tonight and get the United States out of the dilemma we would be in if we permitted ourselves to begin this terrible process of defaulting on some of our obligations and beginning to close down parts of our Government.

Obviously they have an absolute right and they feel very strong and with deep conviction that we have to fix the Gramm-Ruddman-Hollings sequester process. I believe we have reached, for the Senate, as good a solution to this problem as could be arrived at. The White House and the President want this bill passed. It is the responsibility of the Senate to pass it.

On the other hand, we have to have some assurance that they have not lost the opportunity to implement the existing budget laws of this land with their amendment, and I assume the junior Senator from Texas has explained that it is his intention and the intention of others—and that the White House supports this approach—that we use the next 60 days to develop the Gramm-Rudman-Hollings approach to sequester and hopefully in a bipartisan manner some other budget reform measures and that we take up the permanent extension of our debt, or the debt limit extension on a more permanent basis in ample time for debate on the kind of legislation I have just described and any others Senators feel compelled to attach or affix to a debt limit.

I believe that this will work. I do not think we will wait until the last minute. I think that many Senators will go to work on the process of budget reform. I think that will happen in a bipartisan manner.

Obviously, Senator GRAMM and his cosponsors and those who advocate automatic sequester mechanisms will go to work in building their momentum and support for that approach.

I think it is best to do it very open and for the House to know it is the intention of the Senate to proceed in that manner next time. I am fully confident the White House, in their statements today and in their conduct in the future, will live up to the commitment they have made, which to me indicates they do not expect a clean debt limit bill the next time, that as a matter of fact they expect it to have some legislation which affects the budget process and the Gramm-Rudman-Hollings approach to an automatic sequester if we default in our responsibility to meet the targets, that they expect that to occur and will be working with us.

I hope that can take on a broad, bipartisan approach between now and the 60 or 63 days before we have before us another one of those very ominous events of America closing down its Government and defaulting on its obligations.

I yield the floor and thank the distinguished Senator from Pennsylvania for yielding time to me.

INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAUCUS. Mr. President, I support the efforts of the President, the distinguished majority leader, and the distinguished minority leader to pass a clean debt limit bill.

We all know that, in the end, we will have to make sure that U.S. borrowing is backed by the full faith and credit of the Federal Government. Not to do so would simply be unacceptable and irresponsible.

This is not a debate about increasing the Federal deficit. We have that debate when we consider the President's budget. We debate it again when we consider the budget plans developed by Congress. And, again, when we consider appropriation bills and supplemental appropriation bills, we debate the size of the Federal deficit.

That's when the size of the deficit is decided, not today. Today's decision is about whether we are willing to live with the consequences of the decisions that we have already made. And it is about is making sure that the Federal Government honors its commitments.

On May 8, I chaired a hearing of the Taxation and Debt Management Subcommittee of the Senate Finance Committee. The administration's witness before my subcommittee was George Gould, the Under Secretary of the Treasury.

Let me just share some of what Mr. Gould told us about what happens if we do not act quickly on the debt limit.

On May 16, Treasury would have to begin delaying investments into Federal trust funds and revolving funds. That would mean that trust funds would lose interest earnings and will almost certainly set off an uproar about Congress tampering with trust fund income.

In addition, Treasury would have to immediately send notices throughout the Nation to stop issuing U.S. savings bonds, because doing so would violate the statutory debt limit.

By May 21, Treasury would no longer be able to refinance about $15 billion in bonds that are scheduled to reach maturity next week. What that means is that Treasury would have to pay off with cash those bonds that normally would simply be reinvested in new U.S. securities.

Finally, by May 28, Treasury would be in default. We would no longer be capable of raising the cash needed to meet any of our debt obligations.

As Under Secretary Gould told the subcommittee:

> For over 200 years the full faith and credit of the United States has been regarded as a sacred trust, and during that time the U.S. Government has upheld its fiduciary duty. The United States has never defaulted on its debt obligations. To do so would be unthinkable and irresponsible.

I certainly hope that we will not risk a debt crisis and jeopardize the U.S. credit standing throughout the world.

The administration has made it clear that they want a debt limit increase. Indeed, they have said that an increase is imperative. The administration has also opposed amendments that would imperil the prompt passage of a debt limit expansion.

In light of these considerations, I urge my colleagues to support the bill.

Mr. HEINZ. Mr. President, this afternoon we take up another increase in the statutory debt limit. Let me outline to my colleagues the urgency of this measure. At the close of business on Friday, tomorrow, the Treasury estimates that the outstanding public debt will be $2.27 trillion, and the cash balance of the Treasury will be between $25 and $30 billion. Tomorrow the debt limit automatically reverts from the temporary ceiling of $2.3 trillion to the permanent debt ceiling of $2.1 trillion. Thus, on Saturday the Government will be $160 billion over the public debt limit, and will have no further borrowing authority.

On May 21 and May 28, 3- and 6-month Treasury bills totaling $1.64 billion and $14.68 billion, respectively, will mature. In the absence of an increase in the debt limit, the Treasury would have to pay those obligations from its cash balance. There will not be sufficient funds on hand to pay the amount due on May 28, and the U.S. Government will be in default. So it is imperative that we pass an extension.

The bill we are considering today will provide a 64-day temporary increase in the public debt ceiling from $2.3 trillion to $2.32 trillion. This will allow the Government to meet its anticipated obligations through July 17, 1987.

Compared to $2.3 trillion, the $20 billion increase in the debt ceiling may not seem like a lot of money. However, that $20 billion is for only for 2 months. In other words, we are piling up debt at roughly $10 million per month, $120 billion per year. That is debt, too much of it.

Mr. President, at times like this we ought to stop and think about the impact of over $300 million a day in borrowed money. Although we have made many efforts previously to do something about it, it is obviously time to do more.

Mr. President, we have to get a grip on the bottom line. We need to make additional reforms which compel Congress to get a grip on these deficits and squeeze them down and out. Why? Because we are hurtling down a red-ink road, calling into question our commitment to the American people—a commitment we made to put this country back on the right economic track.

Mr. President, the American people are waiting and watching to see whether we will follow through on our promise to do something about the deficit. To paraphrase Joe Louis, Congress "can run, but can't hide." Congress can turn tail and run. That's been done before—but we do so at the risk that the economy will sink faster than we can run, leaving Congress nowhere to hide.

Mr. President, let me return to the $20 billion increase and give my colleagues an idea of what it means. This 2-month $20 billion increase in the debt limit contains sufficient authority to fund all Federal aid to mass transit, highways, Amtrak, and airports for a year. It is an amount sufficient for nearly a full year of funding for elementary and secondary education, higher education, job training, employment services, foster care, community services, and vocational rehabilitation. It could fund Medicaid for a full year, or Army pay for a full year, or Air Force procurement for a full year.

Mr. President, we all know that these facts more than make the case for institutional reform. We simply cannot continue to pile up debt at geometrically increasing rates. After taking out programs which are funded by dedicated taxes—Social Security and unemployment insurance, our general revenues only cover 70 percent—70 percent—of Federal spending. We have to borrow 30 cents on the dollar for all but a few programs. We cannot continue to do this without causing severe economic dislocation.

As the manager of this bill, it is my responsibility to do what I can to pass it today. My concern is that we cannot continually approve debt limit increase after debt limit increase without also addressing the root cause of the increases. Congress must act to address those causes.

Mr. DOLE. Mr. President, let me begin by thanking all my colleagues for their cooperation in clearing this bill for consideration. The Senator from Kansas is particularly appreciative of the assistance of both Senators GRAMM and DOMENICI, both of whom feel very strongly about the need for reform of the budget process.

Having permitted the bill to go forward with no amendments in no way indicates a lessening of our desire to engage our colleagues in a debate on budget reform.

In our conversations with our colleagues in the House and with the administration we have agreed that in the weeks ahead we will work toward developing a proposal to refine the process.

What we hope to achieve is an enforceable, constitutional fix to the Gramm-Rudman-Hollings law, along with other needed changes.

Again, my thanks to all my colleagues and to our distinguished former colleague, Howard Baker, who has been very helpful in our efforts to resolve the difficulties with this measure.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Texas.

Mr. BENTSEN. Madam President, I for one am certainly prepared to further examine the budget process to see if we cannot make some improvements. It is obvious, when at the beginning of the decade we were talking about a debt that was in the billions and now we are talking of one that is in the trillions, that something is amiss and that neither the administration nor the Congress has fully carried out their responsibilities.

We are talking about more than just a change in budget processes. We are talking about a current budget and what to do about it. We are looking at a situation where we have an enormous deficit and we want to turn that around and make some real progress on it. I think we can do that. But I do think also that it means the administration and the Congress have to sit down together and try to do that in a responsible and bipartisan way.

We will have time within this next 60 days to evaluate and to appraise the budget situation, and I do hope, as has been stated, that we do not wait until the last day and then try a shotgun approach, or a gun-held-against-the-head-of-the-Congress approach as we tackle this problem.

I am delighted that we are moving in what I think is a responsible way now and not playing brinkmanship one with the other, at a time when we have an unstable securities market that has to be of concern to us.

We have to realize that we do not have some of the debt management techniques available to us that we had in the past to delay a crisis. We have to realize that we are talking about cutting back from $2.3 trillion to about $2.1 trillion if we do not extend this. That does not give us any room to maneuver.

I strongly urge my colleagues to support this extension of the debt until July 17, with an addition of $20 billion to carry us to that time.

Madam President, I reserve the remainder of my time. At this moment, I have no requests for time on my side, and I ask my distinguished colleague who is managing the bill for the minority whether he is prepared to yield back his time.

Mr. HEINZ. Madam President, I do have one other request for time. I am advised that there may be a slight delay before that time can be claimed. So I want to reserve the remainder of my time.

With the permission of the Senator from Texas, I suggest the absence of a quorum, with the time to be charged equally to both sides, if he is agreeable to that.

Mr. BENTSEN. I understood that the delay was because of a problem on the side of the Senator from Pennsylvania.

Mr. HEINZ. If the Senator wants us to take it out of our side, I will be happy to do so.

Mr. BENTSEN. It is all right for the time to be charged equally.

Mr. HEINZ. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Madam President, we have no further requests for time on this side, and I am prepared to yield back all our time.

Mr. BENTSEN. Madam President, we have no further requests for time on this side, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. MCCLURE], and the Senator from

Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER (Mr. DIXON). Are there any other Senators in the Chamber desiring to vote?

The result was announced, yeas 58, nays 36 as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—58

Adams
Baucus
Bentsen
Biden
Bond
Boschwitz
Bradley
Breaux
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Daschle
Dole
Domenici
Durenberger
Evans
Fowler
Gore
Graham
Gramm
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pryor
Reid
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Wallop
Wilson
Wirth

NAYS—36

Armstrong
Bingaman
Boren
Bumpers
Burdick
Conrad
DeConcini
Dixon
Exon
Ford
Garn
Glenn
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Humphrey
Karnes
Kasten
Kerry
McCain
McConnell
Melcher
Nickles
Nunn
Pressler
Proxmire
Quayle
Sasser
Shelby
Symms
Trible
Warner

NOT VOTING—6

D'Amato
Dodd
Lautenberg
McClure
Riegle
Weicker

So the bill (H.R. 2360) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:31 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1177. An act to amend title 5, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrift Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limit.

The enrolled bill was subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution, which was placed on the calendar:

H.J. Res. 270. Joint resolution to recognize the 125th anniversary of the U.S. Department of Agriculture.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 14, 1987, he had presented the President of the United States the following enrolled bill:

S. 1177. An act to amend title 5, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrift Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limit.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1218. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the annual Animal Welfare Enforcement Report for fiscal year 1986; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1219. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report on Standardization of Equipment Within NATO, dated April 1987; to the Committee on Armed Services.

EC-1220. A communication from the Secretary of Defense, transmitting, pursuant to law, an unclassified report on Allied Contributions to the Common Defense; to the Committee on Armed Services.

EC-1221. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of the protective coating function at the Mather Air Force Base, California to performance by contract; to the Committee on Armed Services.

EC-1222. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of the operations, maintenance, and support of PAVE PAWS at Cape Cod Air Force Station, Massachusetts to performance by contract; to the Committee on Armed Services.

EC-1223. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report covering certain properties to be transferred to the Republic of Panama in accordance with the Panama Canal Treaty of 1977; to the Committee on Armed Services.

EC-1224. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, prescribed amendments to the Manual for Courts-Martial, United States, 1984; to the Committee on Armed Services.

EC-1225. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a determination to exercise certain exceptions to full and open competition; to the Committee on Armed Services.

EC-1226. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of certain functions at various facilities to performance by contract; to the Committee on Armed Services.

EC-1227. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Urban Mass Transportation Administration quarterly report for the first quarter of fiscal year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1228. A communication from the Chairman of the Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 to ensure that all participants in the nation's securities markets are equally regulated, to promote fair competition among those providing essentially identical services, and to ensure adequate protection for all investors; to the Committee on Banking, Housing, and Urban Affairs.

EC-1229. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving U.S. exports to Japan; to the Committee on Banking, Housing, and Urban Affairs.

EC-1230. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the collection of fees to reimburse the United States Travel and Tourism Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-1231. A communication from the Secretary of Transportation, transmitting pursuant to law, a report relative to Heavy Truck Safety; to the Committee on Commerce, Science, and Transportation.

EC-1232. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-1233. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-1234. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of certain oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-1235. A communication from the Secretary of Energy, transmitting, pursuant to law, a comprehensive report on a project negotiated under the Department's Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC-1236. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the Toxic Substances Control Act for fiscal year 1986; to the Committee on Environment and Public Works.

EC-1237. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to May 7, 1987; to the Committee on Foreign Relations.

EC-1238. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Foreign Aid: Impact of Overseas Private Investment Corporation Activities on U.S. Employment"; to the Committee on Foreign Relations.

EC-1239. A communication from the Assistant Administrator of the Environmental Protection Agency (Administration and Resource Management), transmitting, pursuant to law, a notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1240. A communication from the Administrator of General Services, transmitting, pursuant to law, a report of interagency opportunities for consolidation of motor vehicles, related equipment, and facilities; to the Committee on Energy and Natural Resources.

EC-1241. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, a report on the investigation into allegations of violations of law and regulation and creating a danger to public health by an understaffing of medical residents, inadequately documenting credentials of medical personnel, unauthorized testing of drugs for profit and misuse of federal grant monies at the Veterans' Administration Medical Center, Northport, New York and the State University of New York, Stoney Brook, New York; to the Committee on Governmental Affairs.

EC-1242. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-21 adopted by the Council on April 14, 1987; to the Committee on Governmental Affairs.

EC-1243. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-21 adopted by the Council on April 14, 1987; to the Committee on Governmental Affairs.

EC-1244. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-19 adopted by the Council on May 5, 1987; to the Committee on Governmental Affairs.

EC-1245. A communication from the Acting Director, Office of Workers' Compensation Programs, Department of Labor, transmitting, pursuant to law, a report on a proposed computer matching program; to the Committee on Governmental Affairs.

EC-1246. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to authorize appropriations for the Office of Federal Procurement Policy for an additional 4 fiscal years; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 2. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes (Rept. No. 100-58).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportion:

James L. Kolstad, of Colorado, to be a member of the National Transportation Safety Board for the term expiring December 31, 1991; and

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral: William F. Merlin, Arnold B. Beran, and Peter J. Rots.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

*In the Navy Reserve there are 8 promotions to the grade of rear admiral (lower half) (list begins with Larry Bruce Franklin) (Ref. 19)

*In the Marine Corps there are 13 promotions to the grade of brigadier general (list begins with William P. Eshelman) (Ref. 22)

*Brigadier General *William H. Gossell,* U.S. Marine Corps Reserve, to be major general (Ref. 63)

*In the Navy there are 8 promotions to the grade of rear admiral (lower half) (list begins with Robert Benson Halder) (Ref. 66)

*In the Navy there are 33 promotions to the grade of rear admiral (lower half), (list begins with Richard Charles Allen) (Ref. 67)

*In the Marine Corps Reserve there is 1 promotion to the grade of brigadier general (John F. Cronin) (Ref. 137)

**In the Naval Reserve there are 460 promotions to the grade of captain (list begins with Roy August Ackermann) (Ref. 171)

**In the Naval Reserve there are 942 appointments to the grade of captain and below (list begins with Jerry Carroll Collis) (Ref. 172)

*Lieutenant General *Clarence E. McKnight, Jr.,* U.S. Army, to be placed on the retired list in the grade of lieutenant general (Ref. 177)

*In the Army Reserve there are 9 promotions to the grade of major general and below (list begins with Vance Coleman) (Ref. 183)

**In the Army Reserve there are 28 appointments to the grade colonel and below (list begins with Richard P. Lewis) (Ref. 184)

**In the Army National Guard there are 67 promotions to the grade colonel and below (list begins with Vincent J. Barsolo) (Ref. 185)

**In the Army Reserve there are 597 promotions to the grade colonel and below (list begins with Glenn A. Carlson) (Ref. 186)

**In the Air Force there are 49 appointments with grade and rank to be determined by the Secretary of the Air Force (students of the Uniformed Services University of the Health Science Class of 1987) (list begins with Turgut Alagoz) (Ref. 193)

**In the Air National Guard there are 14 promotions to the grade of lieutenant colonel (list begins with Myron G. Ashcraft) (Ref. 194)

**In the Air Force there are 1,500 appointments to a grade no higher than captain (list begins with Ralph J. Abel) (Ref. 195)

**In the Air Force there are 993 promotions to the grade of second lieutenant (list begins with Thomas A. Abascal) (Ref. 196)

*Lieutenant General *John L. Pickitt,* U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (Ref. 205)

*Major General *Donald S. Pihl,* U.S. Army, to be lieutenant general (Ref. 206)

*Lieutenant General *William H. Schneider,* U.S. Army, to be reassigned (Ref. 207)

*In the Naval Reserve there are 8 promotions to the grade rear admiral (lower half) (list begins with John Joseph Sweeney) (Ref. 209)

**In the Marine Corps there are 223 appointments to the grade of lieutenant colonel and below (list begins with Everett W. Krantz) (Ref. 214)

*Lieutenant General *Winfield W. Scott, Jr.,* U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (Ref. 218)

*Major General *Charles R. Hamm,* U.S. Air Force, to be lieutenant general (Ref. 219)

*Lieutenant General *Frederick F. Woerner, Jr.,* U.S. Army, to be general (Ref. 220)

*Lieutenant General *Robert M. Elton,* U.S. Army, to be placed on the retired list in the grade of lieutenant general (Ref. 221)

*Lieutenant General *James E. Moore,* U.S. Army to be reassigned and Major General *Burton D. Patrick,* U.S. Army to be lieutenant general (Ref. 222)

*Major General *Allen K. Ono,* U.S. Army to be lieutenant general (Ref. 223)

*Lieutenant General *Robert W. RisCassi,* and Lieutenant General *H. Norman Schwarzkopf,* U.S. Army, to be reassigned, Major General *William H. Harrison,* U.S. Army, to be lieutenant general (Ref. 224)

**In the Air Force there are 83 appointments to the grade second lieutenant (list begins with Stephen B. Allen) (Ref. 225)

**In the Army there are three promotions to the grade of lieutenant colonel and below (list begins with Robert G. Marslender) (Ref. 226)

**In the Army there are two promotions to the grade of major (list begins with George L. Adams, III) (Ref. 227)

**Harvey R. Brown, Jr., U.S. Army, to be major (Ref. 228)

*Lieutenant General *Robert H. Forman,* U.S. Army, to be placed on retired list in the grade of lieutenant general (Ref. 235)

*Lieutenant General *Theodore G. Jenes, Jr.,* U.S. Army, to be placed on retired list in the grade of lieutenant general (Ref. 236)

*Lieutenant General *Benjamin F. Register, Jr.,* U.S. Army, to be placed on retired list in the grade of lieutenant general (Ref. 237)

*Lieutenant General *Andrew P. Chambers,* U.S. Army, to be reassigned (Ref. 238)

*Major General _Ronald L. Watts,_ U.S. Army to be lieutenant general (Ref. 239)

*In the Navy there are 24 promotions to the grade rear admiral (lower half) (list begins with Robert Heber Ailes) (Ref. 240)

*In the Navy there are four promotions to the grade rear admiral (lower half) (list begins with Lewis Mantel) (Ref. 241)

*Benjamin Franklin Montoya, U.S. Navy, to be rear admiral (lower half) (Ref. 242)

**In the Naval Reserve there are 43 appointments to the grade of lieutenant (list begins with Gregory A. Barber) (Ref. 243)

*In the Marine Corps there are 93 appointments to the grade of colonel (list begins with Eileen M. Albertson) (Ref. 244)

*General _James J. Lindsay,_ U.S. Army to be reassigned (Ref. 255)

*Vice Admiral _Lewis H. Seaton,_ U.S. Navy, to be placed on the retired list in the grade of vice admiral (Ref. 256)

*Vice Admiral _James H. Webber,_ U.S. Navy, to be placed on the retired list in the grade of vice admiral (Ref. 257)

**In the Army there are 243 promotions to the grade of lieutenant colonel (list begins with Angelo A. Armondo) (Ref. 258)

**In the Army there are 34 promotions to the grade of lieutenant colonel (list begins with William V. Adams) (Ref. 259)

**In the Army there are two promotions to the grade of colonel and below (list begins with Maynard C. Sandberg) (Ref. 260)

**In the Navy there are three promotions to the grade of lieutenant commander (list begins with Ernesto Alberto Diaz-Ordaz) (Ref. 261)

**In the Navy there are 197 promotions to the grade of captain (list begins with James William Allen) (Ref. 262)

*General _Lawrence A. Skantze,_ U.S. Air Force to be placed on retired list in the grade of general (Ref. 264)

*Lieutentant General _Bernard P. Randolph,_ U.S. Air Force, to be general (Ref. 265)

*Lieutenant General _Winston D. Powers,_ U.S. Air Force, to be placed on the retired list in the grade of lieutenant general (Ref. 266)

*Lieutenant General _Spence M. Armstrong,_ U.S. Air Force, to be reassigned (Ref. 267)

*Major General _Michael P.C. Carns,_ U.S. Air Force, to be lieutenant general (Ref. 268)

*Major General _Buford D. Lary,_ U.S. Air Force, to be lieutenant general (Ref. 269)

*Lieutenant General _George L. Monahan, Jr.,_ U.S. Air Force, to be reassigned (Ref. 270)

*Lieutenant General _Robert D. Springer,_ U.S. Air Force, to be reassigned (Ref. 271)

*General _Maxwell R. Thurman,_ U.S. Army, to be reassigned (Ref. 272)

*Lieutenant General _Arthur E. Brown, Jr.,_ U.S. Army, to be Vice Chief of Staff and Major General _Claude M. Kicklighter,_ U.S. Army, to be lieutenant general (Ref. 273)

*General _John A. Wickham, Jr.,_ U.S. Army to be placed on the retired list in the grade of general (Ref. 287-1)

*Lieutenant General _H. Norman Schwarzkopf,_ U.S. Army, to be senior Army member of the military staff committee (Ref. 288)

**Colonel _Erlind G. Royer,_ U.S. Air Force, to be Dean of Faculty, U.S. Air Force Academy (Ref. 289)

**In the Air Force there are 15 appointments to the grade of colonel and below (list begins with Upendrakumar Kharod) (Ref. 290)

**In the Air National Guard there are 31 promotions to the grade of lieutenant colonel (list begins with John H. Bubar) (Ref. 291)

**In the Marine Corps there are 193 appointments to the grade of lieutenant colonel (list begins with Paul R. Ahrens) (Ref. 292)

*General _Earl T. O'Loughlin,_ U.S. Air Force, to be placed on the retired list in the grade of general (Ref. 311)

*Lieutenant General _Alfred G. Hansen,_ U.S. Air Force, to be general (Ref. 312)

**Robert A. Stroud, U.S. Army, to be lieutenant colonel (Ref. 313)

**In the Army there are 60 appointments to the grade lieutenant colonel and below (list begins with Dennis L. May) (Ref. 314)

**In the Army there are 359 appointments to the grade colonel and below (list begins with David L. Bunner) (Ref. 315)

*Lieutenant General _Peter G. Burbules,_ U.S. Army, be placed on retired list in the grade of lieutenant general (Ref. 320)

*Major General _John T. Myers,_ U.S. Army, to be lieutenant general (Ref. 321)

*Major General _John S. Crosby,_ U.S. Army, to be lieutenant general (Ref. 322)

*Major General _Edward Honor,_ U.S. Army, to be lieutenant general (Ref. 323)

**In the Navy there are 767 promotions to the grade of commander (list begins with Austin Gray Abercrombie) (Ref. 324)

*Major General _George R. Stotser,_ U.S. Army, to be lieutenant general (Ref. 335)

*Brigadier General _Donald Burdick,_ U.S. Army, to be major general (Ref. 336)

*Brigadier General _Charles J. Wing,_ U.S. Army, to be major general (Ref. 337)

**In the Air Force Reserve there are 6 promotions to the grade lieutenant colonel (list begins with Ian R. Anderson) (Ref. 338)

**In the Air National Guard there are 19 promotions to the grade of lieutenant colonel (list begins with David H. Adams) (Ref. 339)

**In the Navy Reserve there are 47 appointments to the grade of commander and below (list begins with Gregory A. Fowler) (Ref. 340)

**In the Army there are 16 appointments to the grade lieutenant colonel and below (list begins with Gregory L. Cook) (Ref. 343)

**In the Army there are 238 promotions to the grade major and below (list begins with Kay E. Bratz) (Ref. 344)

**In the Army there are 250 appointments to the grade major and below (list begins with Tommy M. Adams) (Ref. 345)

**In the Army there are 1,060 promotions to the grade lieutenant colonel and below (list begins with Charles M. Randall) (Ref. 346)

**In the Navy there are 360 promotions to the grade of captain (list begins with Richard Lorman Affeld) (Ref. 347)

**In the Navy there are 1,034 appointments from the Naval Academy to the grade of ensign (list begins with Paul Christian Aanonsen) (Ref. 348)

*Lieutenant General _John H. Moellering,_ U.S. Army, to be placed on the retired list in the grade of lieutenant general (Ref. 352)

*Lieutenant General _Dale A. Vesser,_ U.S. Army, to be placed on retired list in the grade of lieutenant general (Ref. 353)

*Major General _Jimmy D. Ross,_ U.S. Army, to be lieutenant general (Ref. 354)

Total: 10,191.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DeCONCINI (for himself, Mr. Hatch, and Mr. Lautenberg):

S. 1200. A bill to amend title 35, United States Code, with respect to patented processes, patent misuse and licensee challenges to patent validity; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 1201. A bill to prevent consumer abuses by credit repair organizations; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS:

S. 1202. A bill to extend the temporary duty suspension for m-toluic acid; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Lautenberg, Mr. Dole, Mr. Metzenbaum, Mr. Boschwitz, Ms. Mikulski, Mr. Symms, Mr. McCain, Mr. D'Amato, Mr. Murkowski, Mr. Karnes, Mr. Packwood, Mr. Specter, Mr. Hecht, Mr. DeConcini, Mr. Helms, Mr. Simon, Mr. Chiles, Mr. Dixon, Mr. Levin, Mr. Trible, Mr. Graham, Mr. Gramm, and Mr. Kennedy):

S. 1203. A bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH (for himself and Mr. Garn):

S. 1204. A bill to amend section 339(a) of the Public Health Service Act to provide for demonstration grants relating to home health services; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself and Mr. Garn):

S. 1205. A bill to amend section 339 of the Public Health Service Act to extend support for training programs for individuals who provide home health services: to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. Garn, and Mr. Bradley):

S. 1206. A bill to amend the Public Health Service Act to establish a program for the provision of health care services in the home for individuals who are suffering from a catastrophic or chronic illness; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER (for himself, Mr. Dole, Mr. Mitchell, Mr. Lugar, Mr. Pryor, Mr. Riegle, Mr. Danforth, Mr. Heinz, Mr. Kasten, Mrs. Kassebaum, and Mr. Hatch):

S. 1207. A bill to amend title XVIII of the Social Security Act of establish a program of grants, funded from the Federal Hospital Insurance Trust Fund, to assist small rural hospitals in modifying their service mixes to meet new community needs and in providing more appropriate and cost-effective health care services to Medicare beneficiaries; to the Committee on Finance.

By Mr. HEINZ:

S. 1208. A bill to provide for the temporary suspension of the duty on triethyleneglycol dichloride; to the Committee on Finance.

By Mr. BYRD (for Mr. Leahy) (for himself, Mr. Lugar, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Bond, Mr. Boren, Mr. Boschwitz, Mr. Breaux, Mr. Bumpers, Mr. Burdick, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. Cranston, Mr.

D'Amato, Mr. Danforth, Mr. Daschle, Mr. Dixon, Mr. Dole, Mr. Durenberger, Mr. Fowler, Mr. Gore, Mr. Gramm, Mr. Hecht, Mr. Helms, Mr. Inouye, Mr. Hollings, Mr. Johnston, Mr. Karnes, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Levin, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Moynihan, Mr. Nunn, Mr. Pressler, Mr. Pryor, Mr. Rockefeller, Mr. Roth, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Stafford, Mr. Stennis, Mr. Thurmond, Mr. Trible, Mr. Warner, Mr. Wilson, and Mr. Domenici):

S.J. Res. 129. Joint resolution to recognize the 125th anniversary of the U.S. Department of Agriculture; placed on the calendar by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DeCONCINI (for himself, Mr. Hatch, and Mr. Lautenberg):

S. 1200. A bill to amend title 35, United States Code, with respect to patented processes, patent misuse and licensee challenges to patent validity; to the Committee on the Judiciary.

PROCESS PATENT AMENDMENTS ACT

● Mr. DeCONCINI. Mr. President, I join today with my colleagues, Senator Hatch and Senator Lautenberg, to offer a patent and trade package that consists of three titles: the Process Patent Amendments Act of 1987, patent misuse doctrine reform and licensee challenges to patent validity.

Title I, Process Patent Amendments Act of 1987, represents a compromise between myself, Senator Hatch and Senator Lautenberg that is the result of many hours of negotiations. The staff of Senator Hatch and Senator Lautenberg as well as the numerous industry representatives are to be commended for their dedication to achieving fair and effective process patent legislation. We recognize that this is still "work in progress" and we remain open to further refinement. We also recognize that this will be an important component of the omnibus trade package and therefore we must keep the bill moving with the trade schedule.

U.S. competitiveness depends upon an effective patent system which keeps pace with rapidly emerging technologies. Our laws must enable U.S. companies to protect themselves from the foreign manufacturers which steal American owned technology and then use American innovations to compete with U.S. manufactured products.

Under today's system, U.S. process patent owners can prevent the unauthorized use of their process in the United States. However, under the current patent law they cannot prevent the unauthorized use of their process outside the United States nor can they prevent sale in the United States of products made by their process. This legislation would give patent owners the ability to sue for damages and an injunction in Federal district court when someone uses or sells in ther United States, or imports into the United States a product made by their patented process.

The Subcommittee on Patents Copyrights and Trademarks held a hearing on process patents last month which indicated that there is basic agreement that our patent laws should be amended to provide this improved protection. Three key areas were identified which needed to be reconciled in S. 568 in order to reach a consensus bill. This new bill introduced by Senators Hatch, Lautenberg and myself reflects those changes.

First, the notice standard in S. 568 was cited as the priority concern of most of the patent holders. Not only has the notice standard been lowered in this new bill, but the number of factors which contribute to attaining notice of infringement has been increased. The notice standard has been changed from "facts which are sufficient to establish that there is a substantial likelihood that the product was made by an infringing process" to "information sufficient to persuade a reasonable person that it is likely that the product was made by an infringing process."

Second, specific time periods for disposal of prenotice goods had been characterized as "compulsory licensing" in S. 568. Those time periods have been removed from the statute and will be used in report language merely to help define abnormally large goods on hand or order.

And third, the patent owners sought a more affirmative duty for the importer receiving a patent listing from the owner. This duty is now included in the bill by requiring an importer to submit the patents to his supplier and to request a written statement that the processes claimed in the patents are not being used in the manufacture of the product.

Process patent legislation has been particularly contentious for the Congress to deal with. I am gratified that my colleagues have been so willing to work together to attempt to reach a consensus. In addition, I would like to thank Abby Kuzma of Senator Hatch's staff. Mitchell Ostrer of Senator Lautenberg's staff and Tara McMahon of my staff for all their efforts on behalf of this legislation.

I hope that this compromise bill will move us along the path toward an effective and fair system of process patent protection.

Titles II and III are non controversial issues which have previously been before the Congress. But which required some agreed upon language modifications. These modifications have been made and both titles are supported by the administration, the business community, the bar and patent owners.

Title II, patent misuse doctrine reform, provides that a patent owners licesning practices cannot be found to constitute patent misuse unless such practices violate the antitrust laws.

The doctrine of patent misuse is an equitable doctrine developed by the courts which provides that patent owners may not enforce their patent if they engage in conduct deemed "misuse." However, judicial interpretations of the doctrine have found misuse where the patent owners licensing conduct has not violated antitrust laws, has not demonstrated anticompetitive effect, and has not even injured the infringing party that raises misues as a defense. This legislation reforms and clarifies the doctrine so it will not be used to restrict the rights of patent owners when the licensing practices labeled "misuse" do not violate the antitrust laws. The language in the bill we offer today differs slightly from that contained in the administration's intellectual property package, S. 635, but is fully supported by the administration as documented in the letter from the Department of Justice printed in the Record following the bill.

Title III, licensee challenges to patent validity, is identical to the administration's proposal in S. 635. This legislation provides that a licensee cannot be estopped from challenging the validity of a patent to which it is licensed. It further provides that the parties to a licensing contract may define their respective rights regarding termination of a license and payment of royalties if the validity of the licensed patent is challenged. These two provisions codify and clarify the holding in *Lear* v. *Adkins,* 395 U.S. 653 (1969) which courts have differed over since the 1969 Lear decision.

I urge the support of my colleagues for this important patent and trade bill.

I ask unanimous consent that the text of my bill along with the letter from the Department of Justice be printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. PROCESS PATENT AMENDMENTS ACT OF 1987

SECTION. 1 That this Act may be cited as the "Process Patent Amendments Act of 1987.

SEC. 2. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 is amended by inserting after "United States," the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the

United States, products made by that process,".

SEC. 3. INFRINGEMENT FOR IMPORTATION, SALE, OR USE.

Section 271 is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the noncommercial use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other use or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a minor or nonessential component of another product.".

SEC. 4. DAMAGES FOR INFRINGEMENT

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 is amended—

(1) in the section heading by striking "Limitation on damages" and inserting "limitation on damages and other remedies";

(2) by inserting "(a)" before "Patentees"; and

(3) by adding at the end the following: "(b) (1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 6 of the Process Patent Amendments Act of 1987. The modifications of remedies provided in this subsection shall not be available to any person who—

"(A) practiced the patented process;

"(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

"(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

"(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to the infringer, or which the infringer has made a binding commitment to purchase and which has been partially or wholly manufactured, before the infringer had notice of infringement as defined in paragraph (5). The infringer shall bear the burden of proving any such possession, transit, binding commitment or manufacture. If the court finds that (i) the infringer maintained or ordered an abnormally large amount of infringing product, or (ii) the product was acquired or ordered by the infringer to take advantage of the limitation on remedies provided by this paragraph, the court shall limit the application of this paragraph to that portion of the product supply which is not subject to such a finding.

"(3)(A) In making a determination with respect to remedy in an action brought for infringement under section 271(g), the court shall consider—

"(i) the good faith and reasonable business practices demonstrated by the defendant, and

"(ii) the good faith demonstrated by the plaintiff with respect to the request for disclosure as provided in paragraph (4), and

"(iii) the need to restore the exclusive rights secured by the patent.

"(B) For purposes of paragraph (3)(A), the following are evidence of good faith—a request for disclosure by a party, a response by the party receiving the request for disclosure within 60 days, and submission of the response by the party who received the disclosed information to the manufacturer, or if not known, the supplier with a request for a written statement that the process claimed in the disclosed patent is not used. The failure to perform any such acts is evidence of absence of good faith unless there are mitigating circumstances. Mitigating circumstances shall include the case in which, due to the nature of the product, the number of sources for products, or like commercial circumstances, a request for disclosure is not necessary or practicable to avoid infringement.

"(4) For purposes of paragraph (3), a 'request for disclosure' means a written request made to a party then engaged in the manufacture of a product to identify all process patents owned by or licensed to the party as of the time of the request that the party then reasonably believes could be asserted to be infrined under section 271(g) if that product were imported into, or sold or used in, the United States by an unauthorized party. A request for disclosure is further limited to a request—

"(i) made by a party regularly engaged in the United States in the sale of the same type of products as the party to whom the request is directed, or a request which includes facts showing that the requester plans to engage in the sale of such products in the United States; and

"(ii) made prior to such party's first importation, use or sale of units of the product produced by an infringing process and prior to notice of infringement.

"(iii) which includes a representation by the requesting party that it will promptly submit the patents identified to the manufacturer, or if not known, the supplier of the product to be purchased by the requestor and will request from that manufacturer or supplier a written statement that none of the processes claimed in those patents is used in the manufacture of the product.

"(5)(A) For the purposes of this subsection, notice of infringement means actual knowledge, or receipt by a party of a written notification or a combination thereof, of information sufficient to persuade a reasonable person that it is likely that the product was made by an infringing process and not by a non-infringing process.

"(B) A written notification from the patent holder charging a party with infringement shall, in order to be a valid notification under paragraph (A), specify the patent alleged to have been used and the reasons for belief that such process, and not others, was used in the production of the product.

"(C) A party who receives a notification as described in (B) and fails to thereafter seek information from the manufacturer, or if not known, the supplier as to whether the allegations in the statements are true shall, absent mitigating circumstances, be deemed to have notice of infringement.

"(D) A party who fails to make the submission referred to in subsection (b)(4)(iii) shall be deemed to have notice of infringement.

"(E) Filing of an action for infringement shall constitute notice of infringement only if the pleadings or other papers filed in the action meet the requirements of (A)."

(b) TECHNICAL AMENDMENT. —The item relating to section 287 in the table of sections for chapter 29 is amended to read as follows:

"287. Limitations on damages and other remedies; marking and notice."

SEC. 5. PRESUMPTION IN INFRINGEMENT ACTIONS.

(a) IN GENERAL. —Chapter 29 is amended by adding at the end the following:

"§ 295. Presumption: Product made by patented process

"In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

"(1) that there is evidence establishing a substantial likelihood that the product was made by the patented process, and

"(2) that the claimant has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 is amended by adding after the item relating to section 294 the following:

"295. Presumption: Product made by patented process.

SEC. 6. EFFECTIVE DATE.

(a)(1) IN GENERAL.—The amendments made by this title shall apply only to products made or imported after the date of the enactment of this Act.

(2) EXCEPTIONS.—This Act shall not abridge or affect the right of any person or any successor in business of such person to continue to use, sell, or import any specific product already in substantial and continuous sale or use by such person in the United States on May 15, 1987, or for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date. This paragraph shall not apply to any person or any successor in business of such person using, selling, or importing a product produced by a patented process that is the subject of a patent process enforcement action commenced before January 1, 1987, including actions before the International Trade Commission, that is pending or in which an order has been entered.

(b) RETENTION OF OTHER REMEDIES.—The amendments made by this title shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

SEC. 7. REPORTS TO CONGRESS.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to the Congress on the effect of the amendments made by this title on the importation of ingredients to be used for manufacturing products in the United States in those domestic industries that submit complaints to the Department of Commerce during that 1-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this title.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which occur successively beginning on the date of the enactment of this Act and ending five years after that date.

Title II. Patent Misuse Doctrine Reform

Section 271 of title 35, United States Code, is amended—

(1) by redesignating subsection (c) as paragraph (1) of subsection (c);

(2) by redesignating subsection (d) as paragraph (2) of subsection (c); and

(3) by inserting after subsection (d) the following new subsection:

"(d) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his or her licensing practices or actions or inactions relating to his or her patent, unless such practices or actions, in view of the circumstances in which such practices or actions are employed, violate the antitrust laws."

Title III. Licensee Challenges to Patent Validity

SECTION 1. Chapter 29 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 295. Licensee challenges to patent validity

"(a) A licensee shall not be estopped from asserting in a judicial action the invalidity of any patent for which the licensee has obtained a license. Any agreement between the parties to a patent license agreement which purports to bar the licensee from asserting the invalidity of any licensed patent shall be unenforceable as to that provision.

"(b) Any patent license agreement may provide for a party or parties to the agreement to terminate the license if the licensee asserts in a judicial action the invalidity of the licensed patent, and, if the licensee has such a right to terminate, the agreement may further provide that the licensee's obligations under the agreement shall continue until a final and unappealable determination of invalidity is reached or until the license is terminated. Such agreement shall not be unenforceable as to such provisions on the grounds that such provisions are contrary to Federal law or policy."

SEC. 2. The table of sections for chapter 29 of title 35, United States Code is amended by adding at the end thereof the following new item:

"295. Licensee challenges to patent validity.".

U.S. DEPARTMENT OF JUSTICE,
Washington, DC. May 11, 1987.

Hon. DENNIS DECONCINI,
Chairman, Subcommittee on Patents, Copyrights and Trademarks, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, the Department of Justice has reviewed a draft proposal forwarded to us by your staff on May 1, 1987, for legislation that would clarify and reform the doctrines of patent and copyright misuse. This proposal is similar in purpose and effect to pending legislation introduced on behalf of the Administration as part of its overall trade and competitiveness package (S. 539), and separately introduced by Senators Thurmond and Cochrane as part of S. 635. Your proposal would prohibit the courts from depriving patent and copyright holders of their exclusive property rights in their inventions and works because of alleged misuse of these rights unless their conduct violates the antitrust laws. The Department believes that legislation in the misuse area is both important and timely, and thus strongly supports this proposal.

Misuse is a judicially created doctrine founded in the courts' equitable powers. It frequently is used to attack patent licensing practices that are alleged to be undesirable from a public policy standpoint. Because the sanction for misuse is harsh—a patent, for example, is unenforceable against anyone until the misuse has ceased and its effects purged from the marketplace—patent owners can be expected to avoid entering into patent licensing arrangements that they fear may be deemed to constitute patent misuse. In order to reassure creators of new technology that the courts will not interfere with procompetitive patent licensing, the misuse doctrine must not be applied in a manner that condemns competitively desirable licensing.

Unfortunately, misuse has been applied as a per se doctrine prohibiting conduct that careful analysis demonstrates is not necessarily anticompetitive and, in fact, often is procompetitive. Reform of the misuse doctrine is needed: Congress should make clear that licensing practices may be condemned as misuse on competitive grounds only if sound antitrust analysis demonstrates that those practices are indeed anticompetitive.[1]

The draft proposal for misuse reform that you have requested us to review would state simply that "[N]o patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his or her licensing practices or actions relating to his or her patent, unless such conduct, in view of the circumstances in which it is employed, violates the antitrust laws."[2] The Administration's proposal is to the same effect, but would go into more detail by listing five specific types of practices related to patent licensing that could not be the basis for a finding of misuse unless such conduct, in view of the circumstances, violated the antitrust laws. It would also require any other allegation that a patentee had misused its rights by "otherwise [using] the patent allegedly to suppress competition" to be evaluated under antitrust law standards.

Your generally-worded draft proposal would appear to accomplish the same result as the Administration's more detailed proposal. Both would make clear that licensing conduct may not be condemned as misuse on grounds related to competition unless analysis under antitrust standards demonstrates such conduct to be anticompetitive.[3] Accordingly, should Congress decide to take the more generalized approach embodied in your proposal, the Department would enthusiastically support the legislation.[4]

We very much appreciate the Subcommittee's interest and efforts in reporting legislation designed to encourage the development of new technologies by ensuring that procompetitive intellectual property licensing is not unreasonably discouraged by the misuse doctrine. If we can be of further assistance to the Subcommittee in this regard, please feel free to call on us.

The Office of Management and Budget has advised this Department there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.●

● Mr. HATCH. Mr. President, I am pleased to join with my colleagues, Mr. DECONCINI and Mr. LAUTENBERG, in introducing this legislation to address a problem in the U.S. patent law. This is an important bill that corrects a serious threat to American business by preventing foreign companies from pirating American process patents and then selling the products in the United States.

All of the parties involved in this process have worked hard to come to an agreement on this bill and I believe this draft reflects our best efforts at compromise. We have taken great pains to speak to all concerned and have accommodated the suggestions of the interested parties where possible.

I am pleased that the compromise bill responds to the concern that companies that import goods produced abroad are generally unable to find out what process was used in producing the goods and therefore are unable to know whether the producer infringed a U.S. process patent. However, the bill also requires the importer to take certain acts that will insure that the protections outlined in the bill are only available to innocent infringers. In short, the bill strikes a fair balance between the parties.

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[1] While reform of the misuse doctrine to track antitrust analysis would have substantial benefits, improvements in the manner in which intellectual property licensing arrangements are considered under the antitrust laws are also crucial to encouraging innovation and productivity. Congress has before it proposals for improvements in this area, including a proposal of the Administration (see S. 438, H.R. 557, S. 539, S. 635). We hope the Subcommittee's work in the misuse area will be accompanied by passage of such complementary legislation.

We also urge the Subcommittee to consider the Administration's proposal for legislation clarifying licensor and licensee rights in the event of licensee challenge to patent validity (see S. 539, S. 635).

[2] This new language would constitute 35 U.S.C. § 271(d). Existing subsections (c) and (d) of that section would be redesignated as paragraphs (c)(1) and (c)(2) respectively.

The proposal would clarify and reform the misuse doctrine in copyright law in an identical way. The Department supports that effort as well.

[3] Your proposal is essentially identical to language suggested to the Subcommittee in 1984 by the American Intellectual Property Law Association (AIPLA). AIPLA noted that its suggested language "would not alter existing law with respect to the misuse doctrine as it applies to improper practices not related to competition (e.g., fraud on the Patent and Trademark Office and the like)." Supplemental Statement of Bernarr R. Pravel, President, AIPLA, Before the Subcommittee on Patents, Copyrights and Trademarks, Committee on the Judiciary, United States Senate, April 23, 1984, on S. 1841 (Titles III and IV) at 6-7. The Administration's proposal similarly would not alter existing law with respect to such practices.

[4] You may wish to consider addition of the works "or inactions" after the word "actions" in the draft proposal. By requiring an antitrust evaluation of "licensing practices or actions or inactions relating to [a] patent", the legislation would make quite clear that neither licensing nor refusals to license could be condemned as misuse absent a finding of an antitrust violation. "[Refusal] to license the patent to any person" is one of the specific types of practices listed in the Administration's proposal. See section 115 of S. 635.

The importance of closing this gap was first recognized in the 1966 report of the President's Commission on the Patent System. More recently, it was included in the President's Competitiveness Initiative of this year and strongly endorsed by the President's Commission on Industrial Competitiveness in 1984.

Under current U.S. patent law, inventors may obtain two types of patents: product patents and process patents. The first protects the product itself; and second protects the process by which a product is made, usually a complex chemical or industrial process. Where the patented invention is a product, or tangible article, a foreign competitor cannot avoid liability to the patentholder by manufacturing the product overseas and importing it for the U.S. market since use or sale of the product in the United States would constitute infringement of the patent. In such cases, the product patentholder could obtain damages or an injunction based on this use or sale.

However, when the patent claims a process or method, only the use of the process in the United States constitutes infringement. Use of the process outside the United States will not infringe the U.S. patent, nor will sale of products made by the patented process. Therefore, while an inventor can prevent the importation of patented products, and can stop the sale of products made in the United States using his patented process, he cannot prevent the importation and sale of a product using his patented process made in another country.

When an inventor alleges an infringement of his patented process, the International Trade Commission provides the only remedy under current law. There, the inventor must show that the imported products "destroy or substantially injure" the industry in which the inventor is involved. In practice, this has required an inordinately high standard of proof, and the remedy is seldom used. In any case, the only available relief is injunctive; no award of damages is available from the ITC. The compromise bill we introduce today would provide a remedy under the patent laws for this situation, bringing our policy into line with that of our major industrial trading partners.

It is important to emphasize that this bill extending process of patent protection to the products of the process is the legal norm in many other countries. This principle is also incorporated in the European Patent Convention, the Community Patent Convention, and the World Intellectual Property Organization [WIPO] Treaty on Harmonization. The following excerpt from a 1986 memorandum on process patent law prepared by the International Bureau of WIPO outlines the rationale for including products obtained from a patented process in the scope of the protection afforded by the process patent:

> The extension [to the product of the process] seems to be an exception to the principle that the protection conferred by a patent or another title of protection for an invention is defined by the object of the invention. In the case of the said principle would mean that the owner of a process patent could only exclude others from using the patented process. The legal provisions which extend process protection to products obtained by the patented process are based on practical economic considerations. A process which leads to a specific product presents an economic value only through the product. However, it is not always possible to obtain a patent for the product; for example, the product may not be new or may—although new—lack inventive step. The invention of a new and inventive process for the production of such a product which is not patentable constitutes an important technological advance but the reward granted through a process patent is not important because—without an extension to the product—the process patent would be difficult to enforce (since infringement of the process is difficult to prove) and could even be circumvented by use of the process in another country where the process is protected. In order to make patent protection of a process meaningful, it is therefore necessary to consider the patented process and the resulting product as a whole, with the consequence that process protection is automatically extended to the resulting product even if the said product has not been claimed. [Extension of Patent Protection of a Process to the Products Obtained by that Process; Proof of Infringement of a Process Patent, "Memorandum by the International Bureau of WIPO, March 12, 1986, pp. 3-4.]

Importation, use and sale in the United States of products produced by processes patented in this country severely diminishes the value of such patents. This practice must be effectively countered by changes in the patent laws to protect the legitimate interests of U.S. inventors. Expanding the scope of our laws to bring them into conformity with the European Patent Convention and the national laws of many industrialized countries is necessary to protect the continued growth of American business.

ANALYSIS OF PROVISIONS

This proposal provides an effective remedy by applying the process patent protection to the sale, use or importation of products made in violation of the patented process. Therefore, U.S. manufacturers will be responsible for assuring that materials they receive from foreign suppliers are not made by a process that violates a U.S. patent.

In order to begin an action under this bill, the patentholder informs the importing party through a written notification that he suspects the materials are made by a process on which he holds a patent. Specifically, when the patentholder informs the importing party of his allegations through a written notification, he will specify the patent alleged to have been used and the reasons for belief that such process, and not others, was used in the production of the product. The importing party would then decide whether to demonstrate that the materials are not made with the patented process, or to seek another source for those supplies. After receipt of a notification, the importer is required to seek information from the manufacturer as to whether the allegations in the notification are true and he will be deemed to have notice of infringement if he fails to seek this information.

To prevail in his claim, the patentholder will bring in expert witnesses and circumstantial evidence to persuade a court that there is substantial likelihood that his patented process was used by the foreign supplier. If the patentholder succeeds in persuading the court that there is substantial likelihood that the product was made by the patented process, and patentholder has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine, then the product is presumed to have been made by the infringing process and the burden of establishing that the product was not made by the process is shifted to the importer.

This bill is drafted to cause minimal disruption of ongoing business. The bill would grandfather certain existing supply arrangements where equitable considerations dictate. Finally, the bill requires the Department of Commerce to examine the impact of the bill on affected domestic industries.

Under this bill, there is no liability for damages for any infringing activities—that is, any importations, uses, or sales of the product—prior to notice of infringement, which is defined as actual knowledge on the part of the importer or notification in writing to the importer or combination of language sufficient to persuade a reasonable person that it is likely that the product was made by an infringing process and not by a noninfringing process.

Importers, may limit their liability by making a request for disclosure to a process patentholder—or licensee—before purchasing goods that may have been made without authorization by his patented process. This request asks the patentholder to list all his patented processes that could be used to make a specified product that the potential infringer is considering purchasing.

When the importer receives the disclosed information, he must submit this information to the manufacturer and request a statement from the manufacturer that the process claimed in the disclosed patent is not used.

Under the compromise bill, a request for disclosure on the part of the importer and a response to a request for disclosure on the part of the patentholder are evidence of good faith. However, failure of the importer to submit the disclosed information to the manufacturer and request a statement is deemed to be notice of infringement and will result in a triggering of the availability of remedies for infringement. The failure to request disclosure or the failure to respond to a request for disclosure is evidence of bad faith, absent mitigating circumstances. However, the bill notes that the nature of the product, the number of sources for products, or like commercial circumstances may make a request for disclosure unnecessary or impracticable to avoid infringement. This provision recognizes the particular circumstances facing retailers.

Defending against patent infringement charges is a normal burden of doing business in America and around the world in the technologically sophisticated commercial conditions of the 1980's. The limitations on damages in this bill, combined with the advance disclosure procedure, should eliminate the possibility of aggressive use of process patent infringement charges to harass innocent purchasers—whether in fact infringing or not. From the beginning of congressional consideration of process patent reform in 1983 all proponents of the legislation have accepted the restriction of the scope of the bill to exclude infringing activity—other than the actual use of the process—that occurs before the infringer has notice of infringement. The remedy limitations are simply a mechanism for realizing this principle in practice by allowing the unknowing infringers, once notice is established, to sell a reasonable amount of inventory accumulated prior to notice. The description of what amount of inventory is reasonable will be carefully outlined in report language.

Mr. President, strengthening intellectual property rights is critical for the development of technologies and innovations in America's businesses. This bill is the product of many hours of negotiation and represents a fair compromise. Unlike the laws of our major trading partners, U.S. patent law does not give the holder of a process patent the right to stop the importation, use, or sale within the United States of a product made abroad by a process patented in the United States. It is imperative that Congress act quickly to correct this inequity and protect the interest of American inventors and the ability of American business to remain competitive in highly technological markets. I urge the support of my colleagues for this important measure.●

● Mr. LAUTENBERG. Mr. President, I rise to join my colleagues from Arizona and Utah in introducing revised process patent legislation. The bill represents our best efforts to date to reach a compromise between the two approaches to process patent reform embodied in S. 568 and S. 573.

The bill continues to make it an infringement to import, use, or sell products made by the unauthorized use of a patented process. However, the bill attempts to address a number of points of controversy that have stood in the way of enactment of process patent legislation.

A great deal of discussion and thought has been given to the issue of whether and to what extent parties whom one might characterize as innocent should be held liable for damages or subject to an injunction. On the other hand, a basic principle of the process patent legislation has been that an importer or seller of products shall be liable for infringement, even though the importer or seller does not actually use the patented process. Particularly where the party actually using the process may be operating abroad, the importer or seller is the only party reachable in U.S. courts. The importer or seller can then turn to the party using the process.

The bill provides, however, that for certain innocent parties, remedies would be limited with respect to a normal amount of product on hand, in transit, or for which there is a binding commitment to purchase, before a party has notice of infringement. Although it is not expressly stated in the bill, a normal amount of product would presumably be 6 months' worth in the case of an importer, and 18 months' worth in the case of a retailer.

Moreover, notice of infringement is carefully defined to include actual knowledge, or notification, or combination of the two, of information sufficient to persuade a reasonable person that it is likely that the product was made by an infringing process. This level of notice of infringement is obviously lower than that set out in S. 568, but higher than that set out in S. 573.

The definition of notice of infringement has been a major point of dispute. This is a significant matter because it could affect when a party begins to be liable for damages and when he becomes ineligible to enjoy the limitation of remedies involving product on hand, in transit, or for which there is a binding commitment. Importers argued that they should not be faced with the possibility of mounting damages upon the filing of bald claims. On the other hand, patentees argued that they should not be expected to include more facts in a notice than they could reasonably be expected to have on hand. The bill attempts to address both these concerns.

The bill includes a mechanism by which a party can request disclosure of patents owned by or licensed to a party. The proponents of this mechanism argued that it could serve as an important means of avoiding infringement. Mr. President, that is an unassailable goal. The compromise intends to pursue that goal, by requiring those who request and receive such disclosures to pass the information on to their manufacturers. Failure to do so would be deemed notice of infringement.

In order to encourage parties to take steps to avoid infringement, the bill provides that in determining whether an infringer has acted in good faith, one can consider, among other things, whether that party has made a request for disclosure, absent mitigating circumstances. The bill recognizes however that there are cases where such circumstances would apply. On the other hand, the failure of a patentee to respond to a request for disclosure could be considered as a sign of the absence of good faith of the patentee. The good faith of the infringer, and to that limited extent, the good faith of the patentee, is then considered by the court in fashioning the ultimate remedy.

Mr. President, retailers have complained that it is unfair to subject them to liability for infringement, when an adequate remedy can be secured from a party closer to the actual user of the process. Consequently, the bill provides that a party cannot seek a remedy from a retail seller, or a noncommercial user of a product, unless a remedy is not available from the importer or other seller or user.

The bill we introduce today includes a provision for a rebuttable presumption that a patented process has been used. While both S. 568 and S. 573 required the court to find that the claimant had made a reasonable, but unsuccessful effort, to determine the process actually used, S. 568 required the court to find that there is evidence to establish a "substantial likelihood" that the product was made by a patented process. S. 573 required evidence established by a "high degree of probability." While the bill we introduce today incorporates the "substantial likelihood" standard, it is understood that this standard nonetheless does not rise to the level of requiring the plaintiff to establish by a fair preponderance of the evidence the product was made a patented process.

Like S. 573 and S. 568, the bill includes the so-called grandfather clause, to allow parties to continue to use, sell, or import products already in substantial and continuous sale or use by a date certain. The compromise sets the date at May 15, 1987. The bill also adds a provision, barring the application of the grandfather clause to persons whose product involves a process that is the subject of certain cases before the courts or the International Trade Commission. That is to ensure that the bill does not undo relief already granted in another forum.

Mr. President, the compromise we have reached is not perfect. Yet, it offers what I think is the best prospect for moving process patent reform forward in the Senate. Can there be improvements or refinements? I am sure there can. And as the legislative process proceeds, there will be an opportunity for those. In a sense, this is a work in progress. But, it is also the product of a great deal of effort.

I want to applaud Senator DECONCINI and Senator HATCH for their commitment to move process patent legislation and for their hard work and effort. We still have a long way to go. I am committed to work with them.

Mr. President, the legislation we introduce today will take us that much further toward enactment of an important reform of our patent laws. It is critical, if we are to promote innovation and if we are to protect the rewards that are due those who innovate.

Mr. President, the New York Times included an article today, highlighting the importance of process patent reform. It included a discussion of cases involving two companies based in my State—Allied-Signal and Merck. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 13, 1987]

WOUNDED BY PATENT PIRACY

(By Calvin Sims)

Officials of the Corning Glass Works were outraged when they discovered that Sumitomo Electric Industries of Japan was using, without permission, their patented manufacturing process to make optical fiber, the thin glass wires widely used in telecommunications.

Corning had spent more than $200 million to develop the process. But much to the company's chagrin, there was little it could do to prevent Sumitomo from selling the fiber in the United States.

Why? Because Sumitomo was making the fiber outside the United States, and American laws that would have closed down the operations of a domestic company guilty of the same theft do not apply to foreign manufacturers.

MANY COMPANIES CONCERNED

Corning is hardly the only one concerned about the lack of applicability of American law to foreign manufacturers. So are many other companies whose products range from pharmaceuticals and chemicals to specially engineered metals and plastics.

As these manufacturers have learned the hard way, the protection of patented manufacturing processes in the United States is much weaker than in such industrialized countries as Japan, Britain and West Germany.

Washington has taken steps in recent years to broaden the protection of intellectual property—copyrights, patents and trademarks.

In 1984, Congress passed legislation that made trademark counterfeiting a criminal offense, cracking down on foreign competitors that copied names and trademarks used to identify popular products such as designer clothing, jewelry and luggage.

Other laws strengthened patent rules for drugs and phonograph records and provided manufacturers of semiconductors with copyright protection for their intricate circuit designs.

Even so, the Government has continued to ignore the protection of manufacturing processes. But with billions of dollars in lost revenues involved and the nation's trade problems a hot topic in Washington, that is now changing.

Technology-intensive industries such as pharmaceuticals, chemicals and biotechnology insist they need better protection of their processes to maintain their competitive edge, and both Congress and the Reagan Administration are listening. Amendments to the pending trade bill have been proposed that would provide better safeguards for manufacturing processes.

"Our laws must enable United States companies to protect themselves from the foreign manufacturers which steal American-owned technology and then use American innovations to compete with United States-manufactured products," Senator Dennis DeConcini said. The Arizona Democrat is one of the sponsors of legislation to strengthen patent protection.

If the laws are tightened, developing or newly industrialized countries—including Brazil, South Korea, Taiwan and Argentina—would be the biggest losers. Because they have long viewed their access to foreigh technologies as the key to their economic development, they purposely have weak patent-protection laws or simply fail to enforce the laws on their books.

In South Korea, for example, it is impossible to obtain either a patent on chemical compounds or copyright protection for computer software.

The costs to American industry have been enormous. Piracy of intellectual property—including proprietary manufacturing processes—costs American manufacturers between $8 billion and $20 billion a year, according to estimates by the International Trade Commission, a Federal agency, and the United States Chamber of Commerce.

Current law permits products made from pirated processes to be sold in the United States—as long as the company committing the infringement is not using the processes in the United States and is not seriously hurting the patent holder. Corning was unable to demonstrate serious economic damage from the Sumitomo infringement because it was able to sell all that its plants could produce.

Yet in Japan, Britain, West Germany and other industrialized countries, the sale of products made abroad with by infringing on patents is impermissible.

MAJOR SEGMENTS AFFECTED

"The impact of intellectual property abuses is being felt far beyond the well-publicized problems of counterfeit blue jeans and watches," said Wolf Brueckmann, director of international investment policy for the Chamber of Commerce. "It is affecting major segments of the economy."

American companies lose not only exports and royalties in foreign markets but also sales in third markets, where unauthorized products are exported by foreign violators, Mr. Brueckmann said.

Although the data supporting their contentions are sketchy, Government and industry officials maintain that the impact of process pirating on the United States goes way beyond the revenues lost.

For one thing, it has cost thousands of workers their jobs, they say.

A study by the International Trade Commission found that 130,000 jobs in five industries were lost in 1982 because of piracy. The industries were chemicals, wearing apparel, automobile parts, records and tapes and sporting goods.

COMPLAINTS BY UNION

The American Flint Glass Workers Union, which represents workers at Corning, estimates that about 10,000 workers have lost their jobs in the optical-fiber industry in the last four year—mainly as a result of piracy of intellectual property.

The Government's weak protection of process patents has also undermined the country's technological base by discouraging American companies from investing in research and development, according to industry and Government officials.

"Essentially, the right of a company to control the use of its invention is eliminated," said Alan F. Holmer, general counsel for the United States trade representative. "This harms consumers because the company won't be able to fund future research and development of new drugs, chemicals or other products."

Indeed, some pharmaceutical and agricultural-chemical companies say they will no longer develop products for foreign markets in which there is inadequate patent protection.

Eli Lilly & Company, for instance, refuse to develop drugs for illnesses common in Canada and some South American countries because their govenments offer little or no protection for pharmaceuticals, according to Mary Ann Tucker, the company's assistant legal counsel.

"We know that their folks are just waiting to take advantage of weak patent-protection laws," she said.

A LIMITED MANDATE

Under section 337 of the Tariff Act, American companies can bring process-patent-infringment actions before the International Trade Commission, whose mandate is to prevent foreign countries from employing unfair trading practices.

But given the time it can take to prove infringement and the meager relief available—the commission can bar the products at the border but cannot impose monetary damages—the effort hardly seems worth it.

Two years after Corning filed its case the commission ruled last August that Sumitomo had pirated Corning's process for making optical fiber. But the commission could not stop Sumitomo from selling here because Corning could not prove that it had suffered substantial economic loss.

Nor could Corning find a way to force Sumitomo to pay damages: There is no provision in the United States law for an American company to seek compensation from foreign copiers of its patented manufacturing process.

A VICTORY OF SORTS

In another patent-infringement case, Allied-Signal Inc., the aerospace, automotive and electronics company, had better luck than Corning—but not much. The Morristown, N.J., company was able to prove that West German and Japanese manufacturers had caused it serious harm by using its patented process for making an amorphous metal—an energy-saving material widely used in electrical devices.

Still, it took Allied-Signal two years to get the trade commission to prevent foreign violators of its patent from selling the product in the United States. During that time the foreign companies continued to sell the metal.

Allied, too, was unable to collect any damages.

In yet another case, Merck & Company, a pharmaceutical company based in Rahway, N.J., estimated that it had lost millions of dollars during the two and a half years it took the trade commission to stop imports of an anti-inflammatory drug called indomethacine. The drug was being produced in several countries by companies using Merck's patented manufacturing process.

When foreign companies can "walk right up and gain free use" of new processes and technologies, there is little incentive for companies to invest in developing them, said Roy Massengill, Allied-Signal's chief patent counsel.

With such complaints in mind, the House recently passed legislation that would toughen patent laws, making them comparable to those of other major industrialized countries. The Senate is considering similar measures.

Under one amendment in both the House and Senate versions of the trade bill, the owner of a United States process patent would be able to sue for damages and injunction in Federal court if a company imported or sold in the United States a product made through the protected patent process.

Another amendment would remove stipulation in Section 337 that require American companies to prove that they have suffered economic damage from the infringement.

The added protection is a matter of particular importance to the biotechnology industry, most of whose products are not patentable because they occur naturally. Biotechnology companies must therefore protect the genetic-engineering techniques they develop for making such products as insulin and growth hormone.●

By Mr. PROXMIRE:

S. 1201. A bill to prevent consumer abuses by credit repair organizations; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT SERVICES REFORM ACT

Mr. PROXMIRE. Mr. President, credit is a powerful agent, but it is addictive and easily abused. Many consumers have overextended themselves, and have failed to repay loans. As a consequence, many suffer bad credit ratings. It is then that some start to look for help and seek assistance from "credit repair organizations" which offer to improve a consumer's credit standing.

A new industry, credit repair services are springing up around the country soliciting overextended consumers with advertisements that bad credit ratings can be erased.

In many cases, however, these credit repair organizations are scam shops that bilk people who are already financially strapped.

Many credit repair organizations claim to be able to clean up an individual's credit record regardless of the individual's recorded credit history. Fees range from $75 to several hundred dollars or more. While credit history can be corrected, it cannot be repaired. Failure to meet obligations remains on a credit record for 7 years. So no matter the fee, the money is often lost to the consumer.

The Federal Trade Commission has successfully pursued some cases. In 1986, it issued a cease and desist order against a credit clinic in Michigan that misled consumers by falsely and deceptively claiming the company would improve consumers' credit records and arrange for them to receive major credit cards. But policing this industry is difficult. The Associate Director for Credit Practices at the FTC said:

> These businesses can relocate with little effort or expense, making law enforcement difficult.

Certain advertising and business practices of some companies engaged in the business of credit repair services have bled consumers, particularly those of limited economic means who are inexperienced in credit matters. Further, if left unchecked, the practices of credit repair organizations could potentially jeopardize the file integrity of the Nation's consumer reporting agencies and the safety and soundness of the consumer credit granting industry at large.

To address these problems, I am introducing the Credit Services Reform Act. Key provisions of the bill would require credit repair organizations to:

Advise consumers of their rights under the Fair Credit Reporting Act before the consumer signs a contract;

Fully disclose the services they will provide and give the consumer 3 days to cancel a contract;

Post a $10,000 bond if they accept money from consumers in advance of performing services;

Prohibit credit repair organizations from making misleading statements about their revenues;

Prohibit credit repair organizations from counseling consumers to make misleading statements to creditors and credit bureaus;

Empower the Federal Trade Commission to enforce the Credit Services Reform Act; and

Provide civil remedies for individual consumers and class action lawsuits.

Already, a number of States have considered legislation along these same lines. In 1985 and 1986, California, Utah, New York, and the State of Washington approved measures parallel to the legislation being introduced today. Already in 1987, Arkansas, Georgia, Maryland, Oklahoma, and Virginia have approved credit repair reform laws. This year, Louisiana and Nevada are expected to follow suit. Major bills are also pending in Connecticut, Florida, Massachusetts, New Mexico, Oregon, and Texas.

I have contacted several State officials regarding their measures. For example, Arkansas State Senator Doug Brandon, who sponsored the bill in his State, said he "visited with labor, education and business groups" and easily won their support. As he writes, "We have not found any of the credit organizations able to deliver the services they guaranteed the consumers." Utah State Senator Richard J. Carling replied "that the credit repair clinic problem was severe in Utah" and they were considering even further legislation.

In drafting the measure introduced today, I also worked with national consumer protection groups, including the Consumer Federation of America and the U.S. Public Interest Research Group. This bill reflects their concerns.

Under the Fair Credit Reporting Act of 1970 that I sponsored, consumers are entitled to check their credit reports and correct any inaccuracies. If a creditor rejects an individual's application for credit because of negative information in their report, the subject creditor must identify the credit bureau which provided the report at issue. The consumer may then contact that bureau requesting a copy of their file. If the consumer acts within 30 days of being denied credit, there is no cost, otherwise there is a nominal fee. If an individual disputes the accuracy of any records, they are entitled, under the Fair Credit Reporting Act, to challenge that information. If a consumer believes that there is an error or errors, creditors can be contacted directly. If this fails to correct the problem, the consumer may contact the credit bureau to dispute the information. Provided that the consumer's argument is legitimate, the credit bureau is required to reinvestigate the matter. If the information cannot be verified by the company or companies who caused it to be placed in the consumer's file, that information must be deleted from the individual's record. That is, the company claiming the faulty credit must prove the violation. If the credit bureau does find the information to be accurate—and the person disagrees with these findings—they may submit a brief statement of up to 100 words stating their position. This then becomes a part of their credit file, and is included in the report when distributed to those checking the individual's credit history. The credit bureau must also send the corrected version of their report to anyone who has used their report within the past 6 months.

Nevertheless, if information regarding credit violations proves accurate, however, this information remains on file for 7 years.

It is important to note that this legislation does not outlaw credit repair organizations. It merely requires these companies to tell consumers of their rights, and the limits of what repair agents can do. Further, it is important to note that consumers experiencing credit problems do have an alternative to credit repair organizations—they can use the services of the nonprofit Consumer Credit Counseling Service which has offices in 44 States and provides free counseling to consumers with credit difficulties.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be inserted in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended to read as follows:

"TITLE IV—CREDIT REPAIR ORGANIZATIONS

"Sec.

"401. Short title.
"402. Findings and purpose.
"403. Definitions.
"404. Advance fees prohibited; surety bond requirement.
"405. Information statement: procedure.
"406. Information statement: contents.
"407. Contracts: requirements and contents.
"408. Contracts void and unenforceable.
"409. Civil liability for willful noncompliance.
"410. Civil liability for negligent noncompliance.
"411. Jurisdiction of courts: limitation of actions.
"412. Administrative enforcement.
"413. Relation to State laws.

"§ 401. Short title

"This title may be cited as the 'Credit Reporting Reform Act'.

"§ 402. Findings and purpose

"(a) The Congress finds that—

"(1) The ability to obtain and use credit has become of great importance to consumers who have a vital interest in establishing and maintaining their creditworthiness and credit standing. As a result, consumers who have experienced credit problems may seek assistance from credit services businesses which offer to improve the credit standing of such consumers.

"(2) Certain advertising and business practices of some companies engaged in the business of credit services have worked a financial hardship upon consumers, often those who are of limited economic means and inexperienced in credit matters.

"(b) The purposes of this title are to provide prospective buyers of services of credit services companies with the information necessary to make an informed decision regarding the purchase of those services and to protect the public from unfair or deceptive advertising and business practices.

"§ 403. Definitions

"As used in this title—

"(1) 'Buyer' means any person, who is solicited to purchase or who purchases the services of a credit services organization.

"(2)(A) 'Credit services organization' means any person, corporation, partnership, joint venture, or any other business entity who, with respect to the extension of credit by others, sells, provides, or performs, or represents that he can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services:

"(i) improving a buyer's credit record, credit history, or credit rating; or

"(ii) obtaining an extension of credit for a buyer; or

"(iii) providing advice or assistance to a buyer with regard to clause (i) or (ii).

"(B) 'Credit repair services organization' does not include—

"(i) any person authorized to make loans or extensions of credit under the laws of the United States who is subject to regulation and supervision by the United States;

"(ii) any bank or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

"(iii) any nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(iv) any person licensed as a real estate broker if the person is acting within the course and scope of that license;

"(v) any person licensed to practice law if the person renders services within the course and scope of his practice as an attorney;

"(vi) any broker-dealer registered with the Securities and Exchange Commission if the broker-dealer is acting within the course and scope of the Securities and Exchange Commission or the Commodity Futures Trading Commission regulations;

"(vii) any consumer reporting agency as defined in the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

"(viii) any company of which the largest portion of assets are in one or more of the following types of receivables: sales finance (or installment paper arising from the sale of goods), personal cash loans to consumers, junior liens on real estate and short and intermediate term business credit;

"(ix) any debt collector or debt collection agency as defined in the Federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

"(x) any Federal credit union or State chartered credit union doing business within the course and scope of their charter;

"(3) 'Extension of credit' means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

"§ 404. Advance fees prohibited; surety bond requirement

"(a) A credit services organization, its salespersons, agents, and representatives, and independent contractors who sell or attempt to sell the services of a credit services organization may not—

"(1) charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for the buyer, unless the credit services organization has obtained a surety bond of $10,000 issued by a surety company admitted to do business in the State in which the credit services organization is doing business and established a trust account at a federally insured bank or savings and loan association located in the State in which the credit services organization is doing business.

"(2) charge or receive any money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer if the credit that is or will be extended to the buyer is upon substantially the same terms as those available to the general public.

"(3) make or counsel or advise any buyer to make any statement that is untrue or misleading or that should be known by the exercise of reasonable care to be untrue or misleading, to credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit with respect to a buyer's creditworthiness, credit standing, or credit capacity.

"(4) make or use any untrue or misleading representations in its advertising, promotional materials or offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice, or course of business that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization.

"(b) If a credit services organization is in compliance with subsection (a)(1), a salesperson, agent, or representative who sells the services of that organization is not required separately to obtain a surety bond and establish a trust account.

"§ 405. Information statement: procedure

"Before the execution of a contract or agreement between the buyer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer with a statement in writing, containing all the information required by section 406. The credit services organizaton shall maintain on file for a period of 2 years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a copy of the statement.

"§ 406. Information statement: contents

The information statement required under section 405 shall include all of the following:

"(1)(A) A complete and accurate statement of the buyer's right to review any file on the buyer maintained by any consumer reporting agency, as provided under the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

"(B) A statement that the buyer may review his or her consumer reporting agency file at no charge if a request is made to the consumer credit reporting agency within 30 days after receiving notice that credit has been denied.

"(C) The approximate price the buyer will be charged by the consumer reporting agency to review the information contained in his or her consumer reporting agency file.

"(2) A complete and accurate statement of the buyer's right to dispute the completeness or accuracy of any item contained in any file on the buyer maintained by any consumer reporting agency.

"(3) A complete and detailed description of the services to be performed by the credit services organization for the buyer and the total amount the buyer will have to pay, or become obligated to pay, for the services.

"(4) A statement asserting the buyer's right to proceed against the bond or trust account required under section 404 of this title.

"(5) The name and address of the surety company that issued the bond, and the name and address of the depository and the trustee and the account number of the trust account.

"(6) If any of the individuals or institutions exempted from the definition of credit services organization under section 403(2)(B) (i)-(x) offer at any time to assist a buyer in the repair or credit rating for money or other valuable consideration, these exempted individuals and institutions are required to provide the buyer with the disclosure requirements contained in Section 406 (1)(A), (1)(B), (1)(C), (2)(A) and (2)(B) of this title prior to receiving any money or other valuable consideration.

"§ 407. Contracts: requirements and contracts

"(a) Each contract between the buyer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, dated, signed by the buyer, and include all of the following:

"(1) A conspicuous statement in bold face type, in immediate proximity to the space reserved for the signature of the buyer, as follows: 'You, the buyer, may cancel this contract at any time prior to midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right.

"(2) The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to some other person.

"(3) A full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed, or estimated length of time for performing the services.

"(4) The credit services organization's principal business address and the name and address of its agent authorized to receive service of process in the State in which the credit services organization is doing business.

"(b) The contract shall be accompanied by a completed form in duplicate, captioned 'Notice of Cancellation' that shall be attached to the contract, be easily detachable, and contain in bold face type the following statement written in the same language used in the contract.

" 'Notice of Cancellation

" 'You may cancel this contract, without any penalty or obligation within 5 days from the date the contract is signed.

" 'If you cancel any payment made by you under this contract, it will be returned within 10 days following receipt by the seller of your cancellation notice.

" 'To cancel this contract, mail or deliver a signed dated copy of this cancellation notice, or any other written notice to:

(name of seller) at (address of seller)

(place of business) not later than midnight (date)

I hereby cancel this transaction,

(date)

(purchaser's signature) '.".

"(c) The credit services organization shall give to the buyer a copy of the completed contract and all other documents the credit services organization requires the buyer to sign at the time they are signed.

"§ 408. Contracts void and unenforceable

"(a) Breach of a contract under this title or of any obligation arising under it is a violation of this title.

"(b) Any waiver by a buyer of any part of this title is void. Any attempt by a credit services organization to have a buyer waive rights given by this act is a violation of this title.

"(c) Any contract for services which does not comply with the applicable provisions of this title shall be void and unenforceable as contrary to public policy.

"(d) In any proceeding involving this title, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

"§ 409. Civil Liability for willful noncompliance

Any credit services organization which willfully fails to comply with any requirement imposed under this title with respect to any buyer is liable to that buyer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure, but in no case less than the amount paid by the buyer to the credit services organization;

"(2) such amount of punitive damages as the court may allow; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 410. Civil liability for negligent noncompliance

"Any credit services organization which is negligent in failing to comply with any requirement imposed under this title with respect to any buyer is liable to that buyer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of the failure, but in no case less than the amount paid by the buyer to the credit services organization; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 411. Jurisdiction of courts: limitation of actions

"An action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within 2 years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this title, the action may be brought at any time within 2 years after discovery by the individual of the misrepresentation.

"§ 412. Administrative enforcement

"Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to credit services organization. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to credit services organizations subject to enforcement by the Federal Trade Commission pursuant to this section, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.

"§ 413. Relation to State laws

"This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.".

SECTION-BY-SECTION ANALYSIS—CREDIT SERVICES REFORM ACT

SECTION 401. SHORT TITLE

This title may be cited as the "Credit Services Reform Act".

SECTION 402. FINDINGS AND PURPOSE

(a)(1) Congress finds that consumers experiencing credit problems may seek assistance from credit services organizations which offer to "clean up" or improve a consumer's credit history.

(2) Congress finds that certain advertising and business practices of some credit services organizations have workd a financial hardship upon consumers.

(3) The purposes of this title are to ensure that consumers are provided with information regarding their rights under the Fair Credit Reporting Act prior to contracting for the services of a credit services organization and to protect the public from unfair and deceptive advertising and business practices.

SECTION 403. DEFINITIONS

(1) Buyer means any person, who is solicited to purchase or who purchases the services of a credit services organization.

(2)(A) Credit services organization means any person, corporation, partnership, joint venture, or any other business entity who, with respect to the extension of credit by others, sells, provides, or performs, or represents that he can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services:

(i) improving a buyer's credit record, credit history, or credit rating; or

(ii) obtaining an extension of credit for a buyer; or

(iii) providing advice or assistance to a buyer with regard to clause (i) or (ii).

(B) Credit repair services organization does not include:

(i) any person authorized to make loans or extensions of credit under the laws of the United States who is subject to regulation and supervision by the United States;

(ii) any bank or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(iii) any nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(iv) any person licensed as a real estate broker if the person is acting within the course and scope of that license;

(v) any person licensed to practice law if the person renders services within the course and scope of his practice as an attorney;

(vi) any broker-dealer registered with the Securities and Exchange Commission if the broker-dealer is acting within the course and scope of the Securities and Exchange Commission or the Commodity Futures Trading Commission regulations;

(vii) any consumer reporting agency as defined in the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(viii) any company of which the largest portion of assets are in one or more of the following types of receivables: sales finance (or installment paper arising from the sale of goods), personal cash loans to customers, junior liens on real estate and short and intermediate term business credit;

(ix) any debt collector or debt collection agency as defined in the Federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

(x) any Federal credit union or State chartered credit union doing business within the course and scope of their charter;

(3) Extension of credit means the right to defer payment of debt or incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

SECTION 404. ADVANCE FEES PROHIBITED; SURETY BOND REQUIREMENT

(a)(1) Prohibits a credit service organization, its agents, representatives and independent contractors from charging or receiving money or other valuable consideration prior to the complete performance of the services it has offered unless the credit service organization has obtained a $10,000 surety bond.

(2) Prohibits the charging or receiving of money or other valuable consideration by a credit services organization solely for referring a buyer to a retail seller who will or may extend credit to the buyer if the credit to be extend would be upon substantially the same terms as those available to the general public.

(3) Prohibits a credit services organization from advising or counseling any buyer to make an untrue or misleading statement to credit reporting agencies and credit granters with respect to the consumers's creditworthiness, credit standing or credit capacity.

(4) Prohibits a credit services organization from using untrue or misleading representations in their advertisements and promotional materials and from engaging in any act, practice or course of business that operates or would operate as a fraud or deception upon any person solicited by the credit service organization for business.

Surety Bond Exemption

(b) Provides that if a credit services organization is in compliance with section (a)(1) it is not required to obtain a surety bond.

SECTION 405. INFORMATION STATEMENT: PROCEDURE

Requires a credit services organization to provide a buyer of the service with an information statement in writing prior to the receipt of any money or any other valuable consideration containing all the information required under section 406. It further requires the credit service organization to maintain on file for two years an exact copy of the statement as signed by the buyer acknowledging receipt of the statement.

SECTION 406. INFORMATION STATEMENT: CONTENTS

(1)(A) Requires a complete and accurate statement of the consumer's right to review any file on the consumer maintained by any credit reporting agency as provided under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(B) Requires a statement that the buyer may review their consumer reporting agency file at no charge if a request is made to the consumer reporting agency within 30 days after receiving notice that credit has been denied.

(C) Requires that the buyer be advised of the approximate price the buyer will be charged by the credit reporting agency to review their file.

(2) Requires a complete and accurate statement of the buyer's right to dispute the completeness or accuracy of any item contained in the file.

(3) Requires a detailed description of the services to be performed by the credit services organization and the total amount the buyer will be expected to pay.

(4) Requires a statement asserting the buyer's right to proceed against the bond or trust account required under section 404.

(5) Requires that the buyer be provided with the name and address of the surety company which issued the bond and the name and address of the depository and the trustee and the account number of the trust account.

(6) If an attorney, realtor, or other firms offers credit repair services that are generally exempted from the act, they must still inform the client of the provisions of the Fair Credit Reporting Act.

SECTION 407. CONTRACTS: REQUIREMENTS AND CONTRACTS

(a) Requires that each contract between the buyer and a credit services organization be in writing, dated and signed by the buyer and include all of the following:

(1) A conspicuous statement in bold face type which states that the buyer has the right to cancel the contract within five days after the date of the transaction.

(2) Requires that the terms and conditions of all payments to be made by the buyer be disclosed.

(3) Requires a full and detailed description of the services to be performed by the credit services organization including all guarantees and all promises of full or partial refunds, the estimated date by which the services are to be performed or the estimated length of time for the performance of the services.

(4) Requires that credit services organization's principal business address and the name and address of its agent authorized to receive service of process in the state in which the business is operating by provided.

(b) Requires that the contract be accompanied by a form captioned "Notice of Cancellation" that shall be attached to the contract and be easily detachable. This section also provides the specific terms required to be contained in the "Notice of Cancellation".

(c) Requires the credit services organization to provide the buyer with copies of all documents that the buyer is required to sign in addition to a copy of the completed contract.

SECTION 408. CONTRACTS VOID AND UNENFORCEABLE

(a) Provides that breach of a contract under this title or of any obligation arising under it is a violation of this title.

(b) Provides that any waiver by a buyer of any part of this title is void, and any attempt by a credit services organization to have a buyer waive rights given in this act is a violation of this title.

(c) Provides that any contract which doesn't comply with the provisions of this title will be considered unenforceable and void as contrary to public policy.

(d) Provides that in any proceeding involving this title, the burden of proving an exemption of an exemption from a definition is upon the person claiming it.

SECTION 409. CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE

Any credit services organization which willfully fails to comply with any requirement imposed under this title with respect to any buyer is liable to that buyer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of the failure, but in no case less than the amount paid by the buyer to the credit services organization;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

SECTION 410. CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE

Any credit services organization which is negligent in failing to comply with any requirement imposed under this title with respect to any buyer is liable to that buyer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of a failure, but in no case less than the amount paid by the buyer to the credit services organization; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

SECTION 411. JURISDICTION OF COURTS: LIMITATION OF ACTIONS

Provides that an action to enforce any liability created under this title may be brought in any appropriate United States district court without to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that if a defendant has materially and willfully misrepresented any information required to be disclosed to the district court under this Act and the information misrepresented is material to the establishment of the defendant's liability, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

SECTION 412. ADMINISTRATIVE ENFORCEMENT

Provides the Federal Trade Commission with administrative enforcement of this title and further provides that a violation of any requirement imposed under this title shall also constitute an unfair or deceptive act or practice on commerce in violation of section 5(a) of the Federal Trade Commission Act.

SECTION 413. RELATION TO STATE LAW

This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any state except to the extent that those laws are inconsistent with any provision of the title, and then only to the extent of the inconsistency.

By Mr. HELMS:

S. 1202. A bill to extend the temporary duty suspension for m-toluic acid; to the Committee on Finance.

EXTENSION OF CERTAIN DUTY SUSPENSION

● Mr. HELMS. Mr. President, today I am introducing legislation to maintain the duty-free status of metatoluic acid [MTA]. The duty-free status of MTA was originally granted in 1984, when I introduced a bill at the request of Mr. Gary F. Taft, president of Morflex Chemical Co. in Greensboro, NC.

Morflex is the world's largest manufacturer of DEET, the active ingredient in mosquito repellents. MTA is the key raw material used to produce DEET. The reasons for maintaining duty-free status are the same as they were in 1984:

First, in 1987, the United States will need about 1.8 to 2 million pounds of MTA. The only U.S. producer of MTA is Argus Chemical located in Brooklyn, NY. They can only produce 500,000 pounds per year. Thus there will be a shortfall of 1.3 to 1.5 million pounds.

Second, the patented process that Morflex uses to produce DEET requires a high-purity MTA. Unfortunately, the MTA produced by Argus has not been acceptable for the process used by Morflex.

Third, there are three foreign producers of MTA: Bayer in Germany; Chatterton Chemical in Vancouver, BC; and Mitsubishi Gas Chemical Co. in Japan. Morflex currently purchases MTA from Chatterton and Mitsubishi Gas Chemical Co.

Fourth, the import tariff on MTA is 1.7 cents per pound plus 17.9 percent ad volorem. The import tariff on the finished product, DEET, is 1.5 cents per pound plus 12.5 percent ad valorem. The resulting price differential in the finished product has led some United States firms to purchase DEET from Germany rather than from the domestic producers.

Mr. President, let me take a moment to say a few words about Morflex—it is an interesting and unique company. The company was originally owned by Pfizer. In December 1983, Pfizer sold the Greensboro plant to its employees under an employee stock ownership plan. The 88 employees became the owners of the company, and Morflex Chemical Co. was born.

Mr. President, this bill will simply maintain the duty-free status of MTA through 1990, ensuring a fair and proper balance between the price of an essential ingredient and the price of the finished product.●

By Mr. HATCH (for himself and Mr. GARN):

S. 1204. A bill to amend section 339(a) of the Public Health Service Act to provide for demonstration grants relating to home health services; to the Committee on Labor and Human Resources.

S. 1205. A bill to amend section 339 of the Public Health Service Act to extend support for training programs for individuals who provide home health services; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. GARN, and Mr. BRADLEY):

S. 1206. A bill to amend the Public Health Service Act to establish a program for the provision of health care services in the home for individuals who are suffering from a catastrophic or chronic illness; to the Committee on Labor and Human Resources.

HOME HEALTH CARE LEGISLATION

Mr. HATCH. Mr. President, today I join with Senator GARN in the introduction of three of the four bills which expand the availability of home care to people who suffer from catastrophic illness. Senator BRADLEY is joining us as an original cosponsor on one of the bills.

Many of our Nation's senior citizens are suffering from catastrophic illness. Roughly 9 million elderly Americans suffer from chronic heart or lung conditions. Many have severe problems because of a stroke. And, up to 4 million Americans suffer from Alzheimer's disease. The fundamental question which Congress must answer is what kind of care and assistance should be offered and in what setting should that care be provided?

Examples of financial ruin caused by catastrophic health care costs are easy to find. We in Congress recently heard from one of our own Utah citizens, Mrs. Cleo Bowyer. Mrs. Bowyer, with courage and determination, told us about her husband, a victim of Alzheimer's disease, and their struggles to pay his rising health care debt.

Our Nation has another senior citizen who also understands these problems, President Reagan. Last year he called on Dr. Bowen, Secretary of Health and Human Services, to report on ways the public and private sector can address the problem of catastrophic health care costs. His recommendations are now being debated in Congress. So what should Congress do?

The first thing we should do is keep our commitment to ensure that the Medicare Program is safe. It is the cornerstone in providing you with health care.

We must develop a broad program to encourage insurance companies to offer coverage to help families with their long-term care needs.

We must help the States in their important role of formulating Medicaid policy for low-income citizens.

Most importantly, we must provide Americans with alternatives—especially alternatives to hospitals and nursing homes—for those who can be cared for in their own homes.

Many Utahns have sent hundreds of letters like the one Mrs. Corrodo from Salt Lake City. She wrote:

> As a concerned senior citizen, I am writing to request your support of including home health care in President Reagan's catastrophic proposals.

Mrs. Thomas from Murray, UT, recently added:

> I want home care * * * and any raise in my withheld insurance would be well worth the security I would feel as I am on limited income and quite alone in life.

I have told her she is not alone.

Since 1978, Mrs. Corrodo, Mrs. Thomas, and many others Utahns have joined Senator GARN and I in advocating increased home health care services. We have made progress—and I am going to continue fighting for my folks in Utah who will not be happy anywhere but in their own homes.

President Reagan has given Congress a window of opportunity to enact legislation for catastrophic health care. Today, I am introducing three of the four bills on home care, which I intend to make part of his effort.

One bill authorizes a demonstration project to look for new ways to pay for home health care through the savings that it generates. A second bill reauthorizes the Homemaker/Home Aid Training Grant Program. The third bill provides $100 million for States to provide health care services in the homes of people who suffer from catastrophic illnesses. This will reimburse a professional health care team to help in the home during an illness. Let a doctor and nurse develop the treatment plan; let them work on providing quality health care services in a cost-effective way. I truly believe that this approach will demonstrate how to provide effective health care services within a home. A fourth bill, which I will introduce soon, doubles the personal exemption for families that take care of an aged family member that needs medical support.

I hope these proposals will become law because Americans want home health care. A recent poll asked the American public where they would like to see more health care provided. The result was a resounding victory for home health care. Americans, by a margin of 9 to 1, prefer home care to any other kind of care.

But it not just the responsibility of Congress or the Federal bureaucracy to help our sick who want to remain home. It is everyone's responsibility—the private sector, citizens groups, health care professionals, and others. My colleagues, home health care is an important part of any catastrophic proposal. I ask unanimous consent that a description of the bills and the text of the four bills be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Health Services Demonstration Grants Act of 1987".

DEMONSTRATION GRANTS

Sec. 2. Section 339(a) of the Public Health Service Act is amended to read as follows:

"(a)(1) The Secretary shall make grants to public and nonprofit private entities for projects to demonstrate the quality and efficacy of the provision of health care services in the home under a system in which reimbursement for health care services is based on the savings from other hospital or nursing home services.

"(2) Projects supported under this section shall be designed to demonstrate the impact of using market forces to allocate resources for health services provided in the home instead of the traditional regulatory approach.

"(3) The Secretary shall conduct, or provide for the conduct of, evaluations of projects conducted with grants under this subsection.

"(4) Applications for grants under this subsection shall be submitted in such form and at such time, and shall contain such information, as the Secretary shall prescribe.

"(5) There are authorized to be appropriated for grants under this subsection $5,000,000 for each of the fiscal years 1988, 1989, and 1990.".

S. 1205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Health Care Training Extension Act of 1987".

Sec. 2. Section 339(b)(5) of the Public Health Service Act is amended to read as follows:

"(5) There are authorized to be appropriated for grants and contracts under this subsection $5,000,000 for each of the fiscal years 1988, 1989, and 1990.".

S. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Care Services in the Home Act of 1987".

Sec. 2. (a) Part A of title XIX of the Public Health Service Act is amended by adding at the end thereof the following:

"Subpart 2—Health Care Services in the Home

"AUTHORIZATIONS OF APPROPRIATIONS

"Sec. 1910C. For the purpose of allotments to States to carry out the activities described in section 1910F, there are authorized to be appropriated $100,000,000 for fiscal year 1988, $100,000,000 for fiscal year 1989, and $100,000,000 for fiscal year 1990.

"ALLOTMENTS

"Sec. 1910D. (a)(1) Except as provided in paragraph (2), the Secretary shall allot to each State for each fiscal year from the amounts appropriated under section 1910C for such fiscal year an amount equal to the product of—

"(A) the population of the State, multiplied by

"(B) the relative per capita income of the State.

For purposes of subparagraph (B), the term 'relative per capita income' has the same meaning as in the last sentence of section 1913(a)(1).

"(2) Notwithstanding paragraph (1)—

"(A) the total amount of the allotment for each of the several States, the District of Columbia, and Puerto Rico for each fiscal year shall not be less than one-half of 1 percent of the total amount appropriated under section 1910C for such fiscal year;

"(B) the total amount of the allotment for each of the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands for each fiscal year shall not be less than one-fourth of 1 percent of the total amount appropriated under section 1910C for such fiscal year; and

"(C) the total amount of the allotment for each of American Samoa and the Commonwealth of the Northern Mariana Islands for each fiscal year shall not be less than one-sixteenth of 1 percent of the total amount appropriated under section 1910C for such fiscal year.

"(b) To the extent that all the funds appropriated under section 1910C for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1910G for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend the use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this subpart pursuant to section 1910G(d)),

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved under subsection (a) as the population of the Indian tribe or tribal organization bears to the population of the State.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"Sec. 1910E. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 1910D (other than any amount reserved under subsection (c) of such section) from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the each of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"USE OF ALLOTMENTS

"Sec. 1910F. (a)(1) Except as provided in subsections (b), (c), and (d), amounts paid to a State under section 1910E from its allotment under section 1910D for any fiscal year may be used to provide health care services in the home for eligible individuals. Such amounts may be used to—

"(A) pay compensation for the services of physicians, nurses, and social workers who plan, manage or provide health care services in the home for eligible individuals;

"(B) identify and locate eligible individuals needing the provision of health care services in the home;

"(C) develop proper standards and quality assurance mechanisms for the provision of health care services in the home for eligible individuals;

"(D) coordinate health care services provided in the home for eligible individuals under this subpart with other supportive social services provided for such individuals;

"(E) coordinate other long-term care services provided for eligible individuals by public and private institutions and voluntary organizations in order to ensure the provision of such services and to maximize the use of funds provided under this subpart and under other Federal laws; and

"(F) provide training to health professionals (other than physicians, nurses, and social workers), particularly training for health professionals who work within hospitals to educate individuals who may benefit from the provision of health care services in the home, and training in advanced discharge planning.

"(2) A State may use amounts paid to it under section 1910E to provide health care services in the home for eligible individuals through grants to health care organizations. In making such grants, a State shall give priority to home care programs, including home care programs based in hospitals. As a condition of receipt of a grant under this paragraph, a State shall require a health care organization to use amounts provided under such grant only for the provision of health care services in the home for eligible individuals.

"(b) Of the total amount paid to a State under section 1910E for a fiscal year—

"(1) at least 85 percent of such total amount shall, in the case of fiscal year 1988, be used by the State to pay compensation under subsection (a)(1)(A);

"(2) not more than 10 percent of such total amount may, in the case of fiscal year 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A); and

"(3) not more than 5 percent may, in the case of a fiscal year beginning after September 30, 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A).

"(c) Not more than $2,500 per year may be used by a State, with respect to any eligible individual, to pay compensation for the services of physicians, nurses, and social workers under subsection (a)(1)(A).

"(d) A State may not use amounts paid to it under section 1910E to—

"(1) provide inpatient services, except services involving advanced discharge planning;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(5) provide services under this subpart to an individual if the total cost to the Federal Government of providing such services would exceed the total cost of institutionalization of such individual;

"(6) provide reimbursement for services performed by any individual other than a physician, nurse, or social worker; or

"(7) provide supportive social services for which planning and management is conducted under subsection (a)(1)(D).

"(e) The Secretary, if requested by a State, shall provide technical assistance to the State in planning and operating activities to be carried out under this subpart.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1910G. (a)(1) In order to receive an allotment for a fiscal year under section 1910D, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1910D for a fiscal year shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 1910D in accordance with the requirements of this subpart;

"(2) provide assurances that such chief executive officer will designate or establish a State agency to administer funds provided under this subpart;

"(3) certify that the State will coordinate the provision of health care services in the home with funds provided under this subpart with activities conducted to provide such services by voluntary, religious, and community organizations and local governments;

"(4) provide assurances that the State will make reasonable efforts to provide health care services in the home under this subpart through home care programs in the State, including home care programs based in hospitals; and

"(5) provide assurances that the State will, to the maximum extent feasible, provide health care services in the home under this subpart to individuals who are low income individuals and who are not receiving equivalent home health care services under the State's medicaid plan approved under title XIX of the Social Security Act.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1910E for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subpart, the provisions of section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this subpart in the same manner as such provisions apply to subpart 1 of this part.

"(e) Each report submitted by a State to the Secretary under section 1906(a)(1) (as such section applies to this subpart pursuant to subsection (d) of this section) shall include an analysis of the cost effectiveness of providing health care services in the home for eligible individuals under this subpart.

"EVALUATIONS

"SEC. 1910H. The Secretary shall conduct, or arrange for the conduct of, evaluations of services provided and activities carried out with payments to States under this subpart.

"DEFINITIONS

"SEC. 1910I. For purposes of this subpart—

"(1) The term 'eligible individual' means an individual who—

"(A) resides at home and is at risk of institutionalization because of medical limitations on the ability of such individual to function independently;

"(B) is a patient in a hospital who is at risk of prolonged hospitalization, and who could be cared for in a long-term care institution or who could return to the community if health care services in the home are available; or

"(C) is a patient in a skilled nursing facility or an intermediate care facility who could return to the community if health care services in the home are available.

"(2) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.".

(b) Such part is further amended—

(1) by striking out the heading of such part and inserting in lieu thereof the following:

"PART A—PREVENTIVE HEALTH SERVICES, HEALTH SERVICES, AND HEALTH SERVICES IN THE HOME";

(2) by inserting after the heading of such part the following:

"Subpart 1—Preventive Health and Health Services"; and

(3) by striking out "this part" and inserting in lieu thereof "this subpart" each place it appears in sections 1902(d)(1)(A), 1902(d)(1)(B), 1904(a)(1), 1904(a)(3), 1904(b), 1905(c)(1), 1905(c)(3), 1905(c)(2), 1905(c)(4), 1905(c)(6), and 1905(d).

SEC. 3. This Act and the amendments made by this Act shall take effect on October 1, 1988.

SUMMARY OF PROPOSAL FOR HOME HEALTH CARE LEGISLATION

This legislation expands the availability of home care services. One proposal is to establish grants to the States for health care services within the homes for people with catastrophic or chronic illness who can more effectively and efficiently be cared for within their homes. These bills have evolved from the legislation introduced by Senator Hatch in 1981 to expand the availability of home and community-based services.

Our present system of long term care is biased toward costly institutional (hospital and nursing home) health care because reimbursement is only available if the patient is admitted to hospital or placed in a nursing home. This unfortunate bias leads to increased costs when care could be provided to a patient at home at a substantially reduced cost.

This legislative package has the following elements:

Bill 1: A $100 million block grant program to states to provide health care services to people with catastrophic or chronic illness who can be cared for in their own homes. The cost would be made up through the savings of providing health care in the home rather than in a hospital or a nursing home;

Services and compensation would be provided through a team of professionals (physicians, nurses, and social workers) to provide care. These professionals would be the "gatekeepers" to not only provide health care but to coordinate other supportive social services;

Bill 2: An increase in the personal exemption for a family that care for an aged family member needing medical support in their homes;

Bill 3: A demonstration project where payments to home health care agencies are dependent upon the actual savings to the federal government, regardless of the costs of the home health care provided. These demonstration programs would show how home health care can provide quality care in a marketplace setting;

Bill 4: A reauthorization of the homemaker/home aid training grant program. This authorization provided funding for local educational training programs. This bill would also provide incentive grants to develop model quality standards for providing home care services.

EXAMPLES OF COST-EFFECTIVE HOME CARE PROGRAMS

Cost of care for ventilator-dependent persons are $270,830 per year per person in a hospital compared to $21,192 per person per year at home.

Aetna Life and Casualty has reported a $78,000 per case savings from its Individual Care Management Program by using home care for victims of catastrophic accidents.

"Project Open", five year HCFA-funded demonstration project, reported savings of $138 per participant per month as a result of its hospital based long term care services delivery system.

Blue Cross/Blue Shield reports that hospital costs average $350 to $400 per day, home care treatment costs $25 to $75 per day.

Officials have estimated if the average three-day hospital stay were reduced by one-half day, it would save between $40 million and $50 million annually.

In Utah, a statewide program of alternative services focused on persons applying for nursing home admissions for nonmedical reasons achieved a 25 percent reduction in state expenditures for nursing home care.

By Mr. DURENBERGER (for himself, Mr. DOLE, Mr. MITCHELL, Mr. LUGAR, Mr. PRYOR, Mr. RIEGLE, Mr. DANFORTH, Mr. HEINZ, Mr. KASTEN, Mrs. KASSEBAUM, and Mr. HATCH):

S. 1207. A bill to amend title XVIII of the Social Security Act to establish a program of grants, funded from the Federal Hospital Insurance Trust Fund, to assist small rural hospitals on modifying their service mixes to meet new community needs and in providing more appropriate and cost-effective health care services to medicare beneficiaries; to the Committee on Finance.

MEDICARE RURAL HEALTH SERVICES TRANSITION ACT

● Mr. DURENBERGER. Mr. President, along with my colleagues, Senators DOLE, MITCHELL, LUGAR, PRYOR, RIEGLE, DANFORTH, HEINZ, KASTEN, KASSEBAUM, and HATCH, I am pleased to introduce today the Medicare Rural Health Services Transition Act of 1987. This bill addresses one of the serious problems facing rural America—the need to assure access to high quality health care in communities that are attempting to cope with upheaval on many levels. This act will help assure that a health care presence is maintained in the community when inpatient beds are no longer needed.

In the center of Minnesota's Red River Valley, where State Highway 1 and U.S. Highway 75 intersect, is the little town of Warren—population 1,909. Beyond the streets of Warren and its population of almost 2,000 people, are thousands of farm residents who look to the Warren Community Hospital for their health care. And the health needs of this steadfast farming community are changing as the rural profile changes. But one thing that hasn't changed is the vital need to ensure access to quality health care.

Doctors and administrators at Warren Community Hospital struggle with the effects of declining population and admissions, and they face significant changes in practice patterns in a more competitive marketplace. Hospitals like this one, with less than 100 beds, represent 70 percent of all Minnesota hospitals. They are fighting to break even or are losing money while providing inpatient hospital care.

The urgency of the need to preserve access to health care in places like Warren is heightened by the fact that the typical rural resident is older and needs more medical care. Of Warren's hospital load, 69 percent are Medicare beneficiaries. And, increasingly, people in rural areas like Warren just don't have the money to pay for care. Reduced income levels have increased substantially the amount of charity care provided by rural hospitals and have increased the bad debts that have to be written off. Of course, neglect of health insurance and avoidance of routine, preventive, and diagnostic health care visits happen when family finances are severely stressed.

The point is that this population must have continued access to health care. The Medicare Rural Health Service Transition Act of 1987, will provide new resources to small, financially hard-pressed rural hospitals which will enable them to transform into another kind of health care presence while ensuring that patients have access to inpatient care. These new resources will allow hospitals and the communities they serve to examine their service areas, develop linkages with other health services, and establish an array of services more closely matched to the area's needs.

The act would provide up to $50,000 per year to eligible small rural hospitals. As long as there is preservation of access through appropriate linkages to other hospitals for inpatient services, the money may be used by the hospital in ways as varied and diverse as the hospitals and the communities they serve.

We've all seen the financial crises of American agriculture and our natural resource-based industries, such as oil, have had a dramatic impact on rural Americans, the rural business community and rural governments. But, the economic condition of rural communities is only part of the story. In Minnesota—as is typical of States with a large rural population—the average occupancy rate in rural hospitals with less than 50 beds has plummeted to 34 percent and the average length of stay has narrowed to 5 days, according to statistics of the American Hospital Association [AHA].

This means that on any given day there may be as few as 17 beds filled. Hospitals can't pay their fixed costs at those vacancy levels. And for services that require frequent use to keep skills up and retain staff, there may be serious quality questions too.

Changes in third party reimbursement and the prospective payment system [PPS] of the Medicare Program have contributed to this decline in hospital inpatient utilization. Americans should be very pleased that the increasing use of ambulatory care services and outpatient surgery, stimulated by the PPS, is helping to reduce health care costs.

But inequities in the PPS, with the economic downturn and changing admission patterns, may prove disastrous for rural hospitals' viability. Despite the actions of the Congress, which quickly and responsibly eliminated some inequities in the payment system, additional reforms clearly are needed.

A recent report from the Prospective Payment Assessment Commission documents the need to adjust payments to ensure that Medicare's payment policy does not jeopardize access to care for beneficiaries in isolated rural areas. Another report by Steven H. Sheingold in "Health Affairs" also supports the need for changes in the PPS system to improve distributional equity. Soon, I will present proposals which will address this urgent need for additional reform.

Yet, even if we are successful in our efforts to assure payment equity, other financial problems will force difficult questions. Communities are wondering, Will our hospitals close? Will our doctors leave town? Should we try to keep the hospital's doors open? How can we ensure access to quality health care?

Many hospitals already have come to the conclusion that change must occur, and occur quickly. But they must have assistance in carrying out those necessary changes. The Medicare Rural Health Services Transition Act will help rural communities decide upon and implement strategies for change.

Hospitals will convert to free-standing emergency centers, ambulatory surgery, or home health care centers and will draw heavily on improved communication and transportation capabilities. These revamped facilities will coordinate services with other hospitals, creating regional feeder systems for inpatient care and improving the occupancy rates and financial well being of hospitals receiving inpatients.

Certainly, a great deal of skill and expertise is necessary in choosing among the options. Hospitals must analyze current and future community needs and demands, and must determine potential new uses and linkages. They must assess local competition and carefully review all of their operational, legal, and financial obligations.

Once the hospital selects an option, it must explore financing for renovation, and plan for management's communication with the public and for marketing of the new service. Hospital management must select from a host of architecture and engineering firms and consulting companies which are ready to provide hospitals and expertise in implementing conversion projects. New licensing, legal, and political issues may arise as new services and arrangements are discussed.

Obviously, implementation can be costly and time-consuming, especially for a hospital hard pressed by the requirements of daily delivery of health care and already facing severe fiscal constraints. The grant provided by this act may be used by rural hospitals to assign staff and/or obtain the expertise they need to implement wise choices about the future. The modest expenditures called for in the act will be more than compensated by the substantial savings which will accrue as a result of voluntary reductions of excess inpatient capacity.

More importantly, the act will assure Medicare beneficiaries of continued access to a wide array of services. Such access might well be lost if hospital closure is allowed to occur without having worked out alternate arrangements for admission to inpatient care and for continuation of needed services. If people cannot get adequate and accessible health care—particularly for prevention and early diagnostic services—a minor problem easily may become a major, and costly, illness.

This bill is no magic bullet which will save all rural hospitals. But this bill is a strong forward step in assisting rural hospitals to become stronger health service institutions. This bill also sends a strong message to rural America: Washington cares about your problems and wants to help ensure access to quality health care. I welcome the comments and support of my colleagues as we continue efforts to improve the health of rural America.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Rural Health Services Transition Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) small rural hospitals throughout the nation are experiencing severe financial difficulties;

(2) numerous factors have contributed to the financial distress of such hospitals, including—

(A) changes in clinical practice and a resultant decline in the demand for inpatient hospital services, and

(B) changes in public and private systems of making payment for inpatient hospital services;

(3) some small rural hospitals face additional, unique demands, including—

(A) deteriorating physical plants,

(B) staff recruitment and retention problems, and

(C) the need to serve increased numbers of the elderly and poor and unemployed residents who lack health insurance;

(4) the rate of failures among small rural hospitals has increased significantly;

(5) in the absence of new arrangements for alternate care and vertical and horizontal integration of services with other health care in the region, additional small rural hospitals will fail and these failures will jeopardize access to health care for medicare beneficiaries;

(6) small rural hospitals should be encouraged to implement strategies of diversification and to provide health care services other than inpatient hospital services in order to—

(A) maintain reasonable quality of service and access for residents of rural areas, and

(B) provide a more appropriate array of services for the areas in which they are located; and

(7) delays in the implementation of the program of transitional allowances established under section 1884 of the Social Security Act have resulted in the denial of assistance that is critically needed by small rural hospitals.

SEC. 3. ESTABLISHMENT OF GRANT PROGRAM.

Title XVIII of the Social Security Act is amended by inserting after section 1884 the following new section:

"GRANTS TO RURAL HOSPITALS

"SEC. 1884A. (a) The Secretary shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

"(1) changes in clinical practice patterns,

"(2) changes in service populations,

"(3) declining demand for acute-care inpatient hospital capacity,

"(4) declining ability to provide appropriate staffing for inpatient hospitals,

"(5) increasing demand for ambulatory and emergency services,

"(6) increasing demand for appropriate integration of community health services, or

"(7) the need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

The program shall be established through the Administrator of the Health Care Financing Administration and shall be conducted by the Administrator in consultation with the Assistant Secretary for Health (or a designee).

"(b) For purposes of this section, the term 'eligible small rural hospital' means any hospital that—

"(1) is located in a rural area (as determined in accordance with subsection (d)),

"(2) has less than 100 beds,

"(3) provides patient services (diagnostic and therapeutic) for a variety of medical conditions, and

"(4) is classified as a—

"(A) government-nonfederal,

"(B) nongovernment not-for-profit, or

"(C) osteopathic-church operated or not-for-profit,

hospital under the classification codes of the American Hospital Association.

"(c)(1) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in subsection (a) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than twenty-four months) for completion of the project. The application shall be submitted on or before a date specified by the Secretary and shall be in such form as the Secretary may require.

"(2) The Governor shall transmit any application submitted pursuant to paragraph (1) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

"(3) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under paragraph (1).

"(d) A hospital shall be considered to be located in a rural area for purposes of this section if it treated as being located in a rural area for purposes of section 1886(d)(3)(D).

"(e) In determining which hospitals making application under subsection (c) will receive grants under this section, the Secretary shall take into account—

"(1) any comments received under subsection (c)(2) with respect to a proposed project;

"(2) the effect that the project will have on—

"(A) reducing expenditures from the Federal Hospital Insurance Trust Fund,

"(B) improving the access of medicare beneficiaries to health care of a reasonable quality;

"(3) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

"(A) the primary market or service area of the hospital, and

"(B) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

"(4) the degree of coordination that may be expected between the proposed project and—

"(i) other local or regional health care providers, and

"(ii) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

"(f) A grant to a hospital under this section may not exceed $50,000 a year and may not exceed a term of two years.

"(g)(1) Except as provided in paragraphs (2) and (3), a hospital receiving a grant under this section may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

"(2) A hospital receiving a grant under this section for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

"(3) Not more than one-third of any grant made under this section may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4)) of the project.

"(h)(1) A hospital receiving a grant under this section shall furnish the Secretary with such information as the Secretary may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

"(2) The Secretary shall report to the Congress at least once every six months on the program of grants established under this section. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

"(3) The Secretary shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

"(i) The provisions of section 1122 shall not apply to capital expenditures made with respect to any project for which a grant is made under this section.

"(j) For purposes of carrying out the program of grants under this section, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1988 and 1989.".●

By Mr. BYRD (for Mr. LEAHY (for himself, Mr. LUGAR, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BOND, Mr. BOREN, Mr. BOSCHWITZ, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. CHILES, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. FOWLER, Mr. GORE, Mr. GRAMM, Mr. HECHT, Mr. HELMS, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KARNES, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MELCHER, Mr. MOYNIHAN, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. STAFFORD, Mr. STENNIS, Mr. THURMOND, Mr. TRIBLE, Mr. WARNER, Mr. WILSON, and Mr. DOMENICI)):

S.J. Res. 129. A joint resolution to recognize the 125th anniversary of the U.S. Department of Agriculture, placed on the calendar by unanimous consent.

ONE HUNDRED TWENTY-FIFTH ANNIVERSARY OF THE DEPARTMENT OF AGRICULTURE

Mr. LEAHY. Mr. President, this year marks the 125th anniversary of the Department of Agriculture. As part of this celebration, today I am introducing along with Senator LUGAR and others, a joint resolution to provide for the recognition and celebration of this important occasion. A similar resolution was introduced in the House by Mr. DE LA GARZA, chairman of the House Agriculture Committee, which passed on May 8, 1987.

Since its inception in 1862, the U.S. Department of Agriculture has been an extremely important and positive force in our country. Among other things, it has helped the American farmer to provide an abundant supply of food and fiber to the people of the United States and the world, it has supplied the needy with nutritional advice and assistance, and it has provided care for America's national forests and wilderness areas.

The U.S. Department of Agriculture has played an invaluable role in helping the American farmer to attain preeminence in the world farming community. Through its scientific research into pesticide control, crop variety and production, the Department of Agriculture has helped the American farmer to consistently produce agricultural commodities of unparalleled quality and quantity.

Throughout the years, the Department of Agriculture has performed an exceptional job in preserving our national forests and wilderness areas, allowing the American public to experience the beauty and splendor of our great country in its natural state.

The Department of Agriculture has also made tremendous strides in educating the American public about the importance of a nutritionally sound diet and has worked hard to ensure that all Americans have the opportunity to receive well-balanced meals.

Mr. President, the Department of Agriculture has performed numerous functions to benefit the health and welfare of the people of our country. This joint resolution will authorize and request that the President issue a proclamation calling upon the people of the United States to commemorate the 125th anniversary of the Department of Agriculture with appropriate celebrations.

I urge the Senate to pass this joint resolution and ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 129

Whereas President Abraham Lincoln recognized the importance of the Nation's agricultural community by recommending the establishment of a Federal agriculture agency and subsequently signing the bill establishing the United States Department of Agriculture on May 15, 1862;

Whereas the importance of the United States farmer was further recognized by the adoption of the Homestead Act on May 20, 1862, and the Land-Grant College Act on July 2, 1862;

Whereas the Department of Agriculture has worked with farmers to provide a steady supply of food to the people of the United States and those in less fortunate areas of the world;

Whereas the Department of Agriculture, during the past century and a quarter, has facilitated the work of the world's foremost agricultural scientists to research and solve problems faced by the United States farmers, discover and develop new and improved plant varieties, and assist farmers in achieving extraordinary gains in production yields and quality;

Whereas the Department of Agriculture, through its extension activities, has reached homes and classrooms throughout the Nation to develop and foster an understanding, among the people and particularly the youth of the United States, of the virtues and importance of our agricultural heritage and future;

Whereas the Department of Agriculture has invested resources and technology into the development of rural United States;

Whereas the Department of Agriculture has worked with farmers and conservationsist to preserve the Nation's fertile topsoils;

Whereas the Department of Agriculture has acted to protect our borders from introduction of pests and diseases that might harm the health and well-being of the people and agricultural industries of the United States;

Whereas the Department of Agriculture has endeavored to ensure that all the people of the United States have a safe and wholesome food supply and have the opportunity to receive nutritionally well-balanced meals;

Whereas the Department of Agriculture has sought to open and maintain foreign markets for United States agricultural goods and has represented United States farmers in foreign affairs; and

Whereas the first Commissioner of Agriculture Isaac Newton stated in the first annual report to the President of the United States, "I hardly deem it necessary to attempt to convince our intelligent countrymen of the vast importance of such a department, inasmuch as whatever improves the condition and character of the farmer feeds the lifesprings of national character, wealth, and power," words that still ring true: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the United States Department of Agriculture, on the event of its one hundred and twenty-fifth anniversary, be commended for its outstanding contributions and wished a happy 125th anniversary, and such anniversary be commemorated by the Agencies of the Federal Government and the citizens of the United States.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the one hundred and twenty-fifth anniversary of the United States Department of Agriculture, and the substantial contributions made by the Department of Agriculture to the well-being of the people of the United States.

ADDITIONAL COSPONSORS

S. 54

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 54, a bill to make foreign nationals ineligible for certain agricultural program loans, payments, or benefits, and for other purposes.

S. 123

At the request of Mr. INOUYE, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 143

At the request of Mr. INOUYE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 143, a bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer.

S. 268

At the request of Mr. HUMPHREY, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 268, a bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government employees.

S. 314

At the request of Mr. PRESSLER, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 314, a bill to require certain telephones to be hearing aid compatible.

S. 346

At the request of Mr. EXON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 346, a bill to amend the Railroad Retirement Act of 1974 to allow a worker to be employed in any nonrailroad employment and still qualify for an annuity, subject to current deductions in the tier 1 benefit on account of work and new deduction in the tier 2 benefit if the employment is for his last nonrailroad employer.

S. 552

At the request of Mr. CRANSTON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government and for other purposes.

S. 617

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 617, a bill to establish labor productivity assistance loans to provide financial assistance to certain individuals, to increase job skills and productivity, and for other purposes.

S. 709

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 709, a bill to impose additional sanctions against Chile unless certain conditions are met.

S. 784

At the request of Mrs. KASSEBAUM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 784, a bill to provide that receipts and disbursements of the Highway Trust Fund and the Airport and Airway Trust Fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or the congressional budget.

S. 860

At the request of Mr. BOREN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 860, a bill to designate "The Stars and Strips Forever" as the national march of the United States of America.

S. 912

At the request of Mr. EXON, the names of the Senator from Washington [Mr. ADAMS] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 912, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment of Federal financing bank loans made to rural electrification and telephone systems, and for other purposes.

S. 972

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 972, a bill to amend the Immigration and Nationality Act to require, pending deportation proceedings, the detention of aliens who have been convicted of aggravated felonies.

S. 973

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 973, a bill to provide for additional criminal penalties for deported aliens who reenter the United States, and for other purposes.

S. 974

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 974, a bill to impose criminal penalties upon persons who neglect or refuse to appear before certain proceedings under the Immigration and Nationality Act.

S. 975

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 975, a bill to impose criminal penalties against persons aiding aliens violating certain laws to enter the United States.

S. 976

At the request of Mr. CHILES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 976, a bill to amend the Immigration and Nationality Act to establish a connection between certain computerized indexes containing information on deportable aliens.

S. 1027

At the request of Mr. HUMPHREY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1027, a bill to prohibit trade between the Soviet puppet regime in Afghanistan and the United States.

S. 1069

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1069, a bill to revise and extend the older American Indian grant program under the Older Americans Act of 1965, and for other purposes.

S. 1160

At the request of Mr. BYRD, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1160, a bill to establish constitutional procedures for the imposition of the death penalty in espionage cases, and for other purposes.

S. 1178

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1178, a bill to permit the continued vitality of various agricultural enterprises.

S. 1180

At the request of Mr. SYMMS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1180, a bill to amend the Christopher Columbus Quincentenary Jubilee Act.

S. 1182

At the request of Mr. DOLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1182, a bill to provide for a referendum in Puerto Rico on the admission of Puerto Rico into the Union as a State.

SENATE JOINT RESOLUTION 15

At the request of Mr. PRESSLER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution designating the month of November 1987 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 67

At the request of Mr. GORE, the names of the Senator from Washington [Mr. ADAMS], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 67, a joint resolution to designate the month of May 1987 as "National Digestive Diseases Awareness Month."

SENATE JOINT RESOLUTION 103

At the request of Mr. LAUTENBERG, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 103, a joint resolution to designate October 1987 as "Computer Learning Month."

SENATE JOINT RESOLUTION 104

At the request of Mr. BOREN, the names of the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 104, a joint resolution to designate the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week."

SENATE JOINT RESOLUTION 109

At the request of Mr. DURENBERGER, the names of the Senator from Illinois [Mr. SIMON], the Senator from Nebraska [Mr. EXON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 109, a joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week."

SENATE JOINT RESOLUTION 110

At the request of Mr. LEAHY, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. HATCH], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. WARNER], the Senator from Tennessee [Mr. GORE], the Senator from Missouri [Mr. BOND], the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. METZENBAUM], the Senator from California [Mr. CRANSTON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Oklahoma [Mr. BOREN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. HEFLIN], and the Senator from Florida [Mr. CHILES] were added as cosponsors of Senate Joint Resolution 110, a joint resolution to designate October 16, 1987, as "World Food Day."

SENATE JOINT RESOLUTION 117

At the request of Mr. LAUTENBERG, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 117, a joint resolution designating July 2, 1987, as "National Literacy Day."

SENATE JOINT RESOLUTION 126

At the request of Mr. PACKWOOD, the names of the Senator from Florida [Mr. CHILES], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

AMENDMENTS SUBMITTED

THRIFT INSTITUTIONS RECAPITALIZATION

PROXMIRE AMENDMENT NO. 196

Mr. PROXMIRE proposed an amendment to the bill (H.R. 27) to facilitate the provision of additional financial resources to the Federal Savings and Loan Insurance Corporation and for purposes of strengthening the reserves of the Corporation, to establish a forebearance program for thrift institutions and to provide additional congressional oversight of the Federal Home Loan Bank Board and the Federal home loan bank system; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Competitive Equality Banking Act of 1987".

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TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUALITY

AMENDMENTS TO THE BANK HOLDING COMPANY ACT

SEC. 101. (a) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) Except as provided in paragraph (2), 'bank' means—

"(A) an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act; and

"(B) any other institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties and is engaged in the business of making commercial loans.

"(2) 'Bank' does not include—

"(A) a foreign bank solely by virtue of its having an insured or uninsured branch in the United States;

"(B) an insured institution;

"(C) an organization that does not do business in the United States except as an incident to its activities outside the United States;

"(D) any institution that functions solely in a trust or fiduciary capacity, if—

"(i) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

"(ii) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

"(iii) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

"(iv) such institution does not—

"(I) obtain payment or payment related services from any Federal Reserve Bank, including any service referred to in section 11A of the Federal Reserve Act; or

"(II) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act;

"(E) any credit union described in section 19(b)(1)(A)(iv) of the Federal Reserve Act;

"(F) any institution which—

"(i) engages only in credit card operations;

"(ii) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

"(iii) does not accept any savings or time deposit of less than $100,000;

"(iv) maintains only one office; and

"(v) does not engage in the business of making commercial loans;

"(G) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

"(H) an industrial loan company, industrial bank, or other similar institution which—

"(i) is chartered under the laws of a State which on March 5, 1987, had in effect or under consideration in its legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act; and

"(I) does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties;

"(II) has total assets of less than $100,000,000; or

"(III) is not acquired by a company; or

"(ii) does not, directly or indirectly or through an affiliate, engage in any activity in which it was not lawfully engaged as of March 5, 1987.

No institution shall retain the exemption provided by this subparagraph if it permits any overdraft, including any intra-day overdraft, or incurs any such overdraft in its account at a Federal reserve bank, on behalf of an affiliate, unless such overdraft results from an inadvertent computer or accounting error that is beyond the control of the institution and affiliate.

"(3) 'District bank' means any bank operating under the Code of Law for the District of Columbia.

"(4) An institution described in subparagraph (D), (F), (G), or (H) of paragraph (2) shall be treated as a bank, and a company that controls such an institution shall be treated as a bank holding company, for the purpose of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and regulations related thereto. A company that controls an institution described in subparagraph (D), (F), (G), or (H) of paragraph (2) and any of such company's other affiliates, shall be subject to the tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 in connection with any transaction involving the products or services of such company or affiliate and those of such institution, as if such company or affiliate were a bank and such institution were a subsidiary of a bank holding company."; and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) The term 'insured institution' has the meaning ascribed to it in section 408(a)(1) of the National Housing Act.

"(2) The term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.".

(b) Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended by adding at the end thereof the following sentence: "The 2-year period referred to in this paragraph shall not apply to a company that becomes a bank holding company as a result of enactment of the Competitive Equality Banking Act of 1987 and that acquired, between March 5, 1987, and the effective date of such Act, an institution that became a bank as a result of the enactment of such Act.".

(c) Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(f)(1) Except as provided in paragraph (8), a company that, on March 5, 1987, controlled an institution that became a bank as a result of enactment of the Competitive Equality Banking Act of 1987, or that becomes a bank as a result of obtaining insurance under the Federal Deposit Insurance Act if required to do so by any State statute or regulation that is currently in effect or that may hereafter be enacted, and that was not a bank holding company on the date of enactment of the Competitive Equality Banking Act of 1987, shall not be regarded as a bank holding company solely by virtue of its control of such bank, unless—

"(A) such company directly or indirectly (i) acquires control of an additional bank or of an insured institution; or (ii) acquires control of more than 5 percent of the shares or assets of an additional bank or an insured institution, excluding shares acquired in a bona fide fiduciary capacity, shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business, shares held in an account solely for trading purposes, and loans or other accounts receivable acquired in the normal course of business; or

"(B) such company's subsidiary bank does not comply with restrictions contained in paragraph (2)(B).

For the purpose of clause (A) of the preceding sentence, an acquisition under section 408(m) of the National Housing Act shall be disregarded; but this sentence shall not apply to the acquisition of an institution located outside of a State in which the acquiring company controlled a bank on March 5, 1987, unless acquisition is specifically authorized by the statute laws of the State in which the institution to be acquired is located, by language to that effect and not merely by implication.

"(2)(A) The Congress finds that banks referred to in paragraph (1) may, because of relationships with affiliates, be involved in conflicts of interest, concentration of resources, or other effects adverse to bank safety and soundness, and may also be able to compete unfairly against banks controlled by bank holding companies by combining banking services with financial services not permissible for bank holding companies. The purpose of this paragraph is to minimize any such potential adverse effects or inequities by temporarily restricting the activities of banks referred to in paragraph (1) until such time as the Congress has enacted proposals to allow, with appropriate safeguards, all banks or bank holding companies to compete on a more equal basis with banks referred to in paragraph (1) or, alternatively, proposals to permanently restrict the activities of banks referred to in paragraph (1).

"(B) Until such time as the Congress has taken action pursuant to subparagraph (A), a bank referred to in paragraph (1) shall not—

"(i) engage in any activity in which it was not lawfully engaged as of March 5, 1987;

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;

"(iii) permit any overdraft, including an intraday overdraft, or incur any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft results from an inadvertent computer or accounting error that is beyond the control of the bank and affiliate; or

"(iv) increase its assets at an annual rate of more than 7 percent during any 12-month period beginning on or after one year after the date of enactment of the Competitive Equality Banking Act of 1987.

"(3) A company described in paragraph (1) shall divest control of each bank it controls within 180 days after such company becomes a bank holding company through failure by it or a subsidiary bank to comply with the provisions of paragraph (1).

"(4) Paragraph (1) shall not apply to a company that registers as a bank holding company under section 5(a) of this Act, immediately complies with all of the requirements of this Act, and regulations adopted pursuant thereto, including the nonbanking restrictions of this section, and does not at the time of registration control banks in more than one State, the acquisition of which would be prohibited by section 3(d) of this Act if an application for such acquisition by such company were filed under section 3(a) of this Act.

"(5) A company described in paragraph (1) shall, within 60 days after the date of enactment of this subsection, provide the Board with its name and address, the name and address of each bank that it controls, and a description of the bank's activities.

"(6) The Board may from time to time examine or require reports under oath from a company or bank described in paragraph (1) solely in order to determine whether the provisions of this subsection are being complied with and to enforce such compliance.

"(7) The Board shall have authority to initiate actions under the Financial Institutions Supervisory Act of 1966 against a company or bank described in paragraph (1), solely to assure compliance with the provisions of this Act that are applicable to such company or bank, in the same manner and to the same extent as if such company or bank were a State member insured bank. Nothing in this paragraph affects the authority of the Comptroller of the Currency or the Federal Deposit Insurance Corporation.

"(8) A company described in paragraph (1) shall—

"(A) be treated as a bank holding company for the purpose of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and regulations related thereto; and

"(B) be subject to the restrictions of section 106 of the Bank Holding Company Act Amendments of 1970, in connection with any transaction involving the products or services of such company or affiliate and those of a bank affiliate, as if such company or affiliate were a bank and such bank were a subsidiary of a bank holding company.

"(9)(A) An institution that became a bank as a result of enactment of the Competitive Equality Banking Act of 1987 and that is controlled by a bank holding company shall not—

"(i) engage in activities that would have made it a bank under the definition of bank in this Act in effect immediately prior to the date of enactment of the Competitive Equality Banking Act of 1987, or

"(ii) increase the number of locations from which it conducts business after March 5, 1987.

"(B) Subparagraph (A) shall not apply at such time as the acquisition of such bank by such bank holding company would not be prohibited under section 3(d) of this Act if an application for such acquisition were filed under section 3(a) of this Act and such bank were treated as an additional bank.".

(d) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this Act, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, which is chartered under State law, and which is or becomes a subsidiary of a bank holding company, may engage, directly or through a subsidiary, in any activity which it is permitted to conduct as a State-chartered savings bank, pursuant to express, incidental, or implied powers under State statute or regulation or under judicial interpretation of State law, except that insurance activities shall be limited to those permissible under section 4(c)(8). A savings bank that was engaged in the sale of savings bank life insurance as of March 5, 1987, may also continue to sell such insurance if such activity (A) is expressly authorized by the State of Connecticut, Massachusetts, or New York and the bank is located in one of those States that authorizes such activity; (B) is carried out by the savings bank and not by any subsidiary or holding company affiliate of the savings bank; (C) is carried out by the savings bank in accordance with the residency or employment limitations set forth in the savings bank life insurance statute in effect on March 5, 1987, in the aforementioned State where the bank is located; and (D) is otherwise carried out in the same manner as the savings bank life insurance activity of savings banks in the same State that are not subsidiaries of a bank holding company registered under this Act. The activities conducted pursuant to the preceding sentence shall be terminated within 2 years if any covered savings bank is acquired by a company which is not a savings bank or savings bank holding company unless the activity or activities are otherwise authorized pursuant to this Act. For the purpose of this subsection, the term 'savings bank' includes a cooperative bank that is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act.".

(e) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following:

"(k) The term 'savings bank holding company' means any company which owns or controls one or more State-chartered savings banks if the assets of the subsidiary (which was chartered by a State as a savings bank on or before March 5, 1987) constitute on March 5, 1987, and thereafter at least 70 percent of the total assets of the holding company. For the purpose of this subsection, the term 'savings bank' includes a cooperative bank that is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act.".

(f) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a Federal savings bank, and (4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

(g) Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows:

"(E) No company is a bank holding company by virtue of its ownership or control of any State-chartered bank or trust company which is wholly owned by thrift institutions or savings banks and which restricts itself to the acceptance of deposits from thrift institutions or savings banks, deposits arising out of the corporate business of the thrift institutions or savings banks that own the bank or trust company, or deposits of public moneys.".

AMENDMENT TO THE FEDERAL RESERVE ACT

SEC. 102. (a) The Federal Reserve Act is amended by inserting after section 23A the following:

"RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES

"SEC. 23B. (a) A member bank and its subsidiaries may engage in any of the following transactions only on terms and under circumstances, including credit standards, that are substantially the same as, or at least as favorable to, such bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those terms and circumstances that in good faith would be offered to, or would apply to, nonaffiliated companies—

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) the sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase;

"(3) the payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person; or

"(5) any transaction or series of transactions with a third party (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purpose of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchases are permitted under the instrument creating the fiduciary relationship, by court order, or by law of the jurisdiction under which the trust is administered; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an affiliate of such bank; except that this prohibition shall not apply if the purchase of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of this section—

"(1) the term 'affiliate' means an 'affiliate' as defined in section 23A of this Act (12 U.S.C. 371c) excluding a bank; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meaning given to them in section 23A of this Act (12 U.S.C. 371c).

"(e) The Board may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to (1) further define terms used in this section; (2) exempt transactions or relationships from the requirements of this section; or (3) exclude from the definition of 'affiliate' in this section any subsidiary of a bank holding company, if the Board finds such exemptions or exclusions to be in the public interest and consistent with the purposes of this section.".

(b) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

(c) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is amended by adding at the end thereof the following: "Any company, other than a 'bank' as defined in section 2 of the Bank Holding Company Act of 1956, that after March 5, 1987, directly or indirectly acquires control of a corporation organized or operating under the provisions of this section or section 25 shall be subject to the provisions of the Bank Holding Company Act of 1956 in the same manner and to the same extent that bank holding companies are subject thereto, except that such company shall not by reason of this paragraph be deemed a bank holding company for the purpose of section 3 of the Bank Holding Company Act of 1956.".

SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS

SEC. 103. Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3)(A) Beginning on March 6, 1987, and until March 1, 1988, the provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall apply to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank.

"(B) This paragraph shall not prohibit the continuation of such an affiliation or relationship which commenced before March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before March 5, 1987.

"(C) An affiliation or officer, director, or employee relationship that becomes unlawful as as result of the enactment of this paragraph may continue for a period of 2 years after the date of enactment of this paragraph.

"(D) The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank.

"(E) The provisions of this paragraph shall not apply to any trust company or credit card bank, as defined in subparagraphs (D) or (F), respectively, of section 2(c)(1) of the Bank Holding Company Act of 1956."; and

(2) by inserting after the words in the first sentence of paragraph (4)(A), as so redesignated under paragraph (1) of this section, "or any lawful regulation issued pursuant thereto," the following words: "or any provision of section 20 of the Banking Act of 1933, as amended,".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 104. (a) Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following:

"(K) 'bank holding company' and 'bank' shall have the meanings ascribed to them in section 2 of the Bank Holding Company Act of 1956.".

(b) Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c) HOLDING COMPANY ACTIVITIES.—(1) Except as otherwise provided in this subsection, no savings and loan holding company or subsidiary thereof which is not an insured institution shall—

"(A) for or on behalf of a subsidiary insured institution, engage in any activity or render any service for the purpose or with the effect of evading law or regulation applicable to such insured institution; or

"(B) commence or continue, after 2 years from the date of enactment of the Competitive Equality Banking Act of 1987 or on which it received approval under subsection (e) of this section to become a savings and loan holding company, whichever is later, any business activity other than those specified in paragraph (2) of this subsection, except that such 2-year period shall not apply to any company that received approval under subsection (e) of this section to acquire control of an insured institution between March 5, 1987, and the effective date of the Competitive Equality Banking Act of 1987. Notwithstanding the preceding sentence, any company that received approval under subsection (e) of this section to acquire control of an insured institution prior to March 5, 1987, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary (other than an insured institution subsidiary), on that date. The authority conferred by the preceding sentence shall terminate at such time, after the date of enactment of the Competitive Equality Banking Act of 1987, as (i) a savings and loan holding company referred to in the preceding sentence acquires control of a bank or an additional insured institution, except where the acquisition is pursuant to section 406(f) or section 408(m), (ii) the subsidiary insured institution of such a savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, (iii) such a savings and loan holding company engages in any activity of a financial nature not authorized pursuant to paragraph (2) for savings and loan holding companies in which it was not engaged on March 5, 1987, (iv) the subsidiary insured institution of such savings and loan holding company increases the number of locations from which it conducts business after March 5, 1987, or (v) the subsidiary insured institution of such savings and loan holding company permits any overdraft, including an intra-day overdraft, or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of the subsidiary insured institution and affiliate. Any such activity may also be terminated by the Corporation, after opportunity for hearing, if it determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interests, unsound practices, or is in the public interest.

"(2) The prohibitions of subparagraph (1)(B) of this subsection shall not apply to the following business activities—

"(A) furnishing or performing management services for a subsidiary insured institution;

"(B) conducting an insurance agency or escrow business;

"(C) holding or managing or liquidating assets owned or acquired from a subsidiary insured institution;

"(D) holding or managing properties used or occupied by a subsidiary insured institution;

"(E) acting as trustee under deed of trust; and

"(F)(i) activities determined by the Board of Governors of the Federal Reserve System (by regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto under section 4(c)(8) of the Bank Holding Company Act of 1956, except that the Corporation may (by regulation) prohibit or limit any such activity for savings and loan holding companies; and

"(ii) activities in which multiple savings and loan holding companies were authorized (by regulation) to engage directly on March 5, 1987.

"(3)(A) No savings and loan holding company shall commence, either de novo or by an acquisition in whole or in part of a going concern, any activity authorized under paragraph (2)(F) of this subsection without the prior approval of the Corporation.

"(B) In determining whether to disapprove an application under this paragraph, the Corporation shall consider whether the performance of the activity described in such application by a savings and loan holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound financial practices. The Corporation shall consider the managerial resources of the companies involved and the adequacy of their financial resources, including their capital. In orders and regulations under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of the going concern.

"(C) The Corporation shall by order set forth the reasons for any disapproval or determination not to disapprove an application under this paragraph.

"(4)(A) Notwithstanding any other provision of this subsection, no savings and loan holding company (including any subsidiary thereof which is not an insured institution and including a savings and loan holding company which would have benefit of this exemption but for its ownership of one or more subsidiary insured institutions acquired pursuant to section 408(m) of the National Housing Act if all such subsidiary insured institutions are qualified thrift lenders), the sole insured institution subsidiary of which is a qualified thrift lender, shall be subject to the limitations and prohibitions of this subsection (other than paragraph (1)(A)). Nothing in this paragraph shall exempt a bank holding company or its subsidiaries or affiliates from the provisions of the Bank Holding Company Act of 1956.

"(B) A qualified thrift lender is any insured institution that, as determined by the Corporation, has an aggregate of not less than 60 percent of its tangible assets (including investments made by any subsidiary of such an institution) invested in loans, equity positions, or securities related to domestic residential real estate or manufactured housing, and property used by an institution in the conduct of its business, and does not thereafter fall below such percentage on an average basis in 3 out of every 4 quarters and 2 out of every 3 years. For the purpose of the preceding sentence, there shall be included liquid assets of the type required to be maintained under section 5A of the Federal Home Loan Bank Act, and 50 percent of the dollar amount of the residential mortgage loans originated and sold within 90 days of origination, except that the total amount of assets which may be included pursuant to this sentence may not exceed 10 percent of the institution's tangible assets. For the 10-year period following the date of enactment of the Competitive Equality Banking Act of 1987, a qualified thrift lender shall also include any insured institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law or which acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law, if the Corporation determines that the institution does not decrease the percentage of its tangible assets invested in investments described in this subparagraph below the percentage it held on such date of enactment, and increases such percentage of its tangible assets by an amount at least equal to the following percentages of the difference between 60 percent and the percentage of its tangible assets so invested on the date of enactment of this paragraph within the following time periods from the date of enactment of this paragraph:

"(i) within 2½ years, 25 percent;

"(ii) within 5 years, 50 percent; and

"(iii) within 7½ years, 75 percent.

"(C) The Corporation may grant such temporary and limited exceptions from the 60 percent of tangible assets requirement set forth in subparagraph (B) as the Corporation deems necessary when the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirements, or when the Corporation determines that such grant will facilitate a transaction authorized under section 406(f) or 408(m) of this Act and that the acquired institution will meet the same percentage of assets requirements applicable to institutions under the last sentence of subparagraph (B).

"(D) Any insured institution that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years. For good cause shown, the Corporation may allow any company that controls such an institution up to 3 years to comply with the investment and activities restrictions contained in this subsection.

"(E) Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which controls a single insured institution on the date of enactment of the Competitive Equality Banking Act of 1987 shall not be subject to the limitations and prohibitions of this subsection with respect to the activities of such holding company conducted exclusively in a foreign country.

"(F) The Corporation may issue such rules or regulations, and conduct such examinations, as it determines to be necessary to carry out the provisions of this paragraph, and may enforce them with respect to any qualified thrift lender. With respect to a bank insured by the Federal Deposit Insurance Corporation, the Corporation shall rely to the maximum extent possible on examinations conducted by that agency.".

(c) Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is hereby amended as follows:

(1) by striking out all that precedes "(1)" and inserting in lieu thereof the following:

"(d) PROHIBITED TRANSACTIONS.—(1) Except as otherwise provided in this section, no subsidiary insured institution of a savings and loan holding company shall—";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively, and subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end thereof the following:

"(2)(A) The prohibitions of subsection (d)(1) shall not apply to the transactions of any subsidiary insured institution of a savings and loan holding company with an affiliate engaged in the business activities specified in subparagraph (F) of subsection (c)(2) of this section except for clause (ii) of subparagraph (F); unless the context otherwise requires, such transactions by an insured institution shall be subject to the limitations and prohibitions specified in sections 23A or 23B of the Federal Reserve Act in the same manner and to the same extent as if such insured institution were a member bank. The Corporation may prescribe rules or regulations for the purpose of defining and clarifying the applicability of the limitations and prohibitions described in the preceding sentence.

"(B) Notwithstanding any other provision of this section, an insured institution controlled by a diversified savings and loan holding company may not offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under section 4(c)(8) of the Bank Holding Company Act of 1956 or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c) of that Act), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date. This subparagraph does not prohibit an insured institution controlled by a diversified savings and loan holding company from offering or marketing the products or services of an affiliate or from permitting its products or services to be offered or marketed by or through an affiliate if the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984, and if a total of at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.".

(d) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding the following new subsection:

"(o) TYING RESTRICTIONS.—A State chartered insured institution that is a subsidiary of a savings and loan holding company shall be subject to the tying restrictions of section 5(q) of the Home Owners' Loan Act of 1933 and regulations related thereto to the same extent and in the same manner as a Federal association. A savings and loan holding company and any of its affiliates (other than an insured institution) shall be subject to the tie-in restrictions of section 5(q) of the Home Owners' Loan Act of 1933 and regulations related thereto in connection with transactions involving the products or services of such company or affiliate and those of an affiliated insured institution as if such company or affiliate were a Federal association.".

(e) Section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, and a cooperative bank that is an insured bank, as defined in section 3(h) of the Federal Deposit Insurance Act, upon application shall be deemed to be an 'insured institution' for the purpose of this section, if the Corporation determines that it is in compliance with section 408(c)(4)(B). Any institution so notifying the Corporation that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years.".

(f) Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)) is amended by inserting "(c)," before "(e)(2)".

(g) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by striking out subsection (n).

AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT

SEC. 105. Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) Except as the Board may prescribe, no member shall be eligible for advances unless such member meets the qualified thrift lender asset test contained in section 408(c)(4)(B) of the National Housing Act, or unless such member is an insured institution which was chartered prior to October 15, 1982, as a savings bank under State law or which acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank under State law or is currently a savings bank as defined in section 3(g) of the Federal Deposit Insurance Act.".

SECURITIES AFFILIATIONS OF FSLIC INSURED INSTITUTIONS

SEC. 106. (a) Section 408 of the National Housing Act is amended by adding at the end thereof the following:

"(p) SECURITIES AFFILIATIONS.—(1) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured institution in the same manner and to the same extent as if such insured institution were a member bank.

"(2) This subsection does not prohibit the continuation of such an affiliation or relationship which commenced prior to March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before such date.

"(3) An affiliation or officer, director, or employee relationship that becomes unlawful as a result of the enactment of this subsection may continue for a period of 2 years after the date of enactment of this subsection.

"(4) Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of—

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans;

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate;

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection, except that for the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretations with respect to savings banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

(b) The amendment made by subsection (a) shall cease to be effective on March 1, 1988.

MUTUAL HOLDING COMPANY AMENDMENT

SEC. 107. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(q) MUTUAL HOLDING COMPANIES.—(1) Notwithstanding any other provision of law, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings institution. Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the holding company.

"(2) A reorganization plan authorized under this paragraph must be approved by a majority of the board of directors of the mutual savings institution. In the case of an institution in which holders of accounts and obligors exercise voting rights, the plan of reorganization shall also be submitted for approval by a majority of such individuals at a meeting to be held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3)(A) An insured institution seeking to establish a holding company pursuant to this subsection shall provide the Federal Home Loan Bank Board with 60 days prior written notice. The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(B) Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may issue, the insured institution providing such notice may proceed with the transaction.

"(C) The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval; or

"(iii) the insured institution fails to furnish the information required under subparagraph (A).

"(D) In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

"(4) A corporation organized as a holding company under this subsection may only—

"(A) invest in the stock of an insured institution;

"(B) acquire a mutual institution through merger into an insured institution subsidiary or an interim savings institution subsidiary;

"(C) merge with or acquire another holding company, one of whose subsidiaries is an insured institution, except that the resulting holding company may only invest in assets and engage in activities authorized under this paragraph;

"(D) invest in a corporation the capital stock of which is available for purchase by an insured institution by Federal law or by the law of such State where the subsidiary insured institution or institutions have their home office; and

"(E) engage in the activities described in subsection (c)(2), except subparagraph (B). Not later than 2 years following a merger or acquisition subject to subparagraph (C) of the preceding sentence, a holding company established pursuant to this subsection shall dispose of any assets or cease any activities the exercise of which is prohibited by such subparagraph.

"(5) Unless the context otherwise requires, a holding company established pursuant to this subsection shall be subject to the other requirements of this section regarding regulation of holding companies.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of law, a savings bank or cooperative bank operating in mutual form may reorganize so as to form a holding company pursuant to the procedures specified in paragraphs (1) through (3) of section 408(q) of the National Housing Act. A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as a stock savings bank holding company.".

LEASING AUTHORITY OF NATIONAL BANKS

SEC. 108. Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 per centum of the assets of the association.".

NOW ACCOUNTS

SEC. 109. Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(c)) is amended by inserting the term "political," immediately after "educational,".

EXEMPTION FROM AFFILIATE TRANSACTION RESTRICTIONS

SEC. 110. Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(r) EXEMPTIONS.—Notwithstanding any other provision of law—

"(1) an institution, the accounts of which are insured by the Corporation, that is not controlled by any company and that is or becomes a savings and loan holding company through the acquisition of 100 per centum of the voting stock (except for directors' qualifying shares) of one or more institutions the accounts of which are so insured shall not be subject to the provisions of subsection (d) of this section, as to transactions with such subsidiaries, or to subsections (f) and (g) of this section;

"(2) an institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, that is not controlled by any company and that is or becomes a savings and loan holding company through the acquisition of 100 per centum of the voting stock (except for directors' qualifying shares) of one or more institutions the deposits of which are so insured shall not be subject to the provisions of subsection (d) of this section, as to transactions with such subsidiaries, or to subsections (f) and (g) of this section; and

"(3) the insured subsidiaries referred to in paragraphs (1) and (2) shall not be subject to the provisions of subsection (d) of this section, as to transactions with their parent institution, or to subsections (f) and (g) of this section.".

CONSIDERATION OF CERTAIN ACQUISITIONS

SEC. 111. (a) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended—

(1) by redesignating paragraph (4) as (5);

(2) by inserting a new paragraph (4) to read as follows:

"(4) In every case in which a filing of any type is required by this section or regulations hereunder prior to the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, shall consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of the insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986. The Corporation may not permit any acquisition which will increase the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carryforwards result from the insured institution's acquisition of insured institutions under section 406 of the National Housing Act, under subsection (m) of this section, or pursuant to acquisitions that are otherwise supervisory cases. Notwithstanding the above, the Corporation may permit—

"(A) acquisitions where the proposed acquirer commits in writing to inject sufficient capital into the insured institution to compensate for any future loss or reduction of the tax benefits of net operating loss carryforwards,

"(B) acquisitions which are approved by the majority of the holders of voting stock of the institution, or

"(C) acquisitions pursuant to section 406 of the National Housing Act, subsection (m) of this section or that are otherwise deemed supervisory cases by the Corporation.

In situations described in subparagraphs (A), (B), and (C), the Corporation may deny a proposed acquisition if it determines that the loss or reduction of the net operating loss carryforwards will be harmful to the insured institution involved.".

(b) Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (8) through (18), respectively;

(2) by inserting a new paragraph (8) to read as follows:

"(8) In every case in which a filing of any type is made under this subsection or the Corporation's regulations hereunder prior to the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, shall consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of the insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986. The Corporation may not permit any acquisition which will increase the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carryforwards result from the insured institution's acquisition of insured institutions under section 406 or section 408(m) of the National Housing Act or pursuant to acquisitions that are otherwise supervisory cases. Notwithstanding the above, the Corporation may permit—

"(A) acquisitions where the proposed acquirer commits in writing to inject sufficient capital into the insured institution to compensate for any future loss or reduction of the tax benefits of net operating loss carryforwards,

"(B) acquisitions which are approved by the majority of the holders of voting stock of the institution, or

"(C) acquisitions pursuant to section 406 or 408(m) of the National Housing Act or that are otherwise deemed supervisory cases by the Corporation.

In situations described in subparagraphs (A), (B), and (C), the Corporation may deny a proposed acquisition if it determines that the loss or reduction of the net operating loss carryforwards will be harmful to the insured institution involved.".

NATIONAL COMMISSION ON COMPETITIVENESS IN THE FINANCIAL SERVICES INDUSTRY

SEC. 112. (a) Not later than 15 days after the date of enactment of the Competitive Equality Banking Act of 1987, the President shall appoint a National Commission on Competitiveness in the Financial Services Industry. It shall include representatives of—

(1) the Congress;

(2) the Department of the Treasury and the Department of Justice;

(3) the Federal agencies that regulate the banking, thrift, and securities industries;

(4) organizations whose membership is comprised of State regulatory bodies charged with overseeing State-chartered depository institutions as well as insurance underwriters, brokers, and agents;

(5) organizations representing the interests of consumers and the general public; and

(6) representatives of the firms in the financial services industry.

(b) Not later than 4 months after the date of enactment of the Competitive Equality Banking Act of 1987, the Commission shall submit a report to the President and to the Congress, regarding recommendations as to whether and what type of alterations are necessary in regard to the product and service authorities and regulation of financial companies. In preparing this report, the Commission shall address at least—

(1) the impact on the relative competitive positions of commercial banks, thrifts, securities firms, insurance companies, and other financial service providers of such developments as advances in technology, ongoing changes in financial markets, and the emergence of diversified providers of financial services;

(2) the impact on the safety and soundness of depository institutions and other providers of financial services of broadening the range of products and services which they can offer to their customers;

(3) the consequences for the competitiveness of United States financial institutions vis-a-vis foreign institutions and the competitiveness of United States financial markets vis-a-vis foreign financial markets of current United States laws and regulations relating to financial structure;

(4) the benefits which could accrue to consumers, nonfinancial companies, State and local governments, and the economy as a whole as a result of any recommendations regarding changes in the authorities or regulation of companies in the financial services industry, particularly as a result of increased competition and efficiencies; and

(5) changes in the regulation, supervision, and organization of firms in the financial services industry which should accompany a broadening of the range of products and services which they can offer to their customers.

(c) The President shall provide whatever staff or other resources are necessary to facilitate the deliberations and carry out the charge of such Commission.

TITLE II—MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

SEC. 201. (a) Beginning on March 6, 1987, and until March 1, 1988—

(1) a foreign bank or other company covered by section 8(c) of the International Banking Act of 1978 shall not expand any activity in which it is engaged pursuant to that subsection, and no such bank or company shall commence any new activity pursuant to that subsection;

(2) no company organized under the laws of a foreign country shall acquire any additional shares pursuant to section 2(h)(2) of the Bank Holding Company Act of 1956;

(3) a Federal banking agency may not approve an application by any bank holding company or by any insured bank to engage to any extent whatever in the flotation, underwriting, public sale, or distribution of securities, if that approval would require the agency to determine that the entity which would conduct such activities would not be engaged principally in such activities;

(4) a Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing the insurance powers of banks or bank holding companies or banking or nonbanking subsidiaries thereof with respect to any activities in the United States, either with respect to specific banks or bank holding companies or subsidiaries thereof or generally beyond those expressly authorized for bank holding companies under subparagraphs (A) through (G) of section 4(c)(8) of the Bank Holding Company Act of 1956;

(5) except as provided in section 3(f) of the Bank Holding Company Act of 1956, the Board of Governors of the Federal Reserve System may not approve the acquisition by a bank holding company of any company, including a State-chartered bank other than a savings bank as defined in section 3(g) of the Federal Deposit Insurance Act, unless the bank holding company has agreed to limit the insurance activities of that company to those permissible under section 4(c)(8). This paragraph shall not apply to the acquisition of a State-chartered bank that upon acquisition would be subject to the Bank Holding Company Act of 1956, pursuant to a reorganization plan under which the stockholders of the bank exchange their shares for shares in a newly created bank holding company which is not

a subsidiary of any other company or to the acquisition of a State-chartered bank by a bank holding company that on March 6, 1987, controlled one or more State-chartered banks that have engaged in insurance activities identical to those of the newly acquired institution so long as the bank holding company agrees that it will (A) within 2 years of the consummation of its acquisition of the State-chartered bank, divest or terminate that bank's impermissible insurance activities, and (B) limit the bank's insurance activities during that 2-year period to the renewal of existing policies;

(6) a national bank may not expand its insurance agency activities pursuant to the Act of September 7, 1916 (12 U.S.C. 92), into places where it was not conducting such activities as of March 5, 1987; and

(7) a Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing real estate powers of banks or bank holding companies or banking or nonbanking subsidiaries thereof.

(b) As used in this section—

(1) the term "affiliate" has the same meaning as in section 2(j)(2) of the Bank Holding Company Act;

(2) the term "bank holding company" has the same meaning as in section 2(a) of the Bank Holding Company Act of 1956;

(3) the term "Federal banking agency" has the same meaning as the term "appropriate Federal banking agency" has in section 3(q) of the Federal Deposit Insurance Act; and

(4) the term "insured bank" has the same meaning as in section 3(h) of the Federal Deposit Insurance Act.

(c) Nothing in this section may be construed to increase or reduce the insurance authority of bank holding companies or banking or nonbanking subsidiaries thereof or of national banks under current law.

(d)(1) Nothing in this Act shall be construed to deny any State the authority to permit its State-chartered banks to engage in any insurance activity.

(2) In addition, neither the existence of the moratorium nor its expiration shall be construed to increase, decrease, or affect in any way the existing authority of State-chartered bank subsidiaries of bank holding companies with respect to insurance activities.

(e)(1) Nothing in this section may be construed to prevent a Federal banking agency from issuing any rule, regulation, or order pursuant to its legal authority in existence on the day preceding the date of enactment of this section to expand the securities, insurance, or real estate powers of banks or bank holding companies that are subject to the moratorium established under this section if the effective date of such rule, regulation, or order is delayed until the expiration of such moratorium.

(2) It is the intent of the Senate, through the Committee on Banking, Housing, and Urban Affairs, to conduct a comprehensive review of our banking and financial laws and to make decisions on the need for financial restructuring legislation in the light of today's changing financial environment both domestic and international.

(3) It is the intent of the Senate not to renew or extend the moratorium established under this section whether or not subsequent banking legislation is passed by the Congress.

TITLE III—RECAPITALIZATION OF FSLIC

SHORT TITLE

Sec. 301. This title may be cited as the "Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987".

FINANCING CORPORATION ESTABLISHED

Sec. 302. The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 20 the following new section:

"FINANCING CORPORATION

"Sec. 21. (a) Establishment.—Notwithstanding any other provision of law, the Board shall charter a corporation to be known as the Financing Corporation.

"(b) Management of Financing Corporation.—

"(1) Directorate.—The Financing Corporation shall be under the management of a Directorate composed of 3 members as follows:

"(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

"(B) 2 members selected by the Chairman of the Federal Home Loan Bank Board from among the presidents of the Federal Home Loan Banks.

"(2) Terms.—Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

"(3) Vacancy.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

"(4) Equal representation of banks.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

"(5) Chairperson.—The Chairman of the Federal Home Loan Bank Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

"(6) Staff.—

"(A) No paid employees.—The Financing Corporation shall have no paid employees.

"(B) Powers.—The Directorate may, with the approval of the Board, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

"(7) Administrative Expenses.—

"(A) In general.—All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

"(B) Pro rata distribution.—The amount each Federal Home Loan Bank shall pay shall be determined by the Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Board required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by

"(ii) the aggregate amount the Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

"(C) Administrative expenses defined.—For the purpose of this paragraph, the term 'administrative expenses' does not include—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A));

"(ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

"(8) Regulation by board.—The Directorate shall be subject to such regulations, orders, and directions as the Board may prescribe.

"(9) No compensation from financing corporation.—Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

"(c) Powers of Financing Corporation.—The Financing Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Board may prescribe:

"(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation under section 402(b) of the National Housing Act.

"(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

"(4) To impose assessments in accordance with subsection (f).

"(5) To adopt, alter, and use a corporate seal.

"(6) To have succession until dissolved.

"(7) To enter into contracts.

"(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

"(9) To exercise such incidental powers not inconsistent with the provisions of this section or section 402(b) of the National Housing Act as are necessary or appropriate to carry out the provisions of this section.

"(d) Capitalization of Financing Corporation.—

"(1) Purchase of capital stock by home loan banks.—

"(A) In general.—Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Board may prescribe under this subsection.

"(B) Par value; transferability.—Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Board and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Board at not less than par value.

"(2) Aggregate dollar amount limitation on all investments.—The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed $3,000,000,000.

"(3) Maximum investment amount limitation for each home loan bank.—The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and

"(B) the sum of—

"(i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits of such bank accruing after such date.

"(4) PRO RATA DISTRIBUTION OF 1ST $1,000,000,000 INVESTED IN FINANCING CORPORATION BY HOME LOAN BANKS.—With respect to the first $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by applying to the total amount of such investment by all such banks the percentage appearing in the following table for each such bank:

"Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by multiplying such excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all insured institutions which are members of such bank; by

"(B) the sum of the total assets (as of such date) held by all insured institutions which are members of any Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Board under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the 'excess amount')—

"(i) the Board shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

"(ii) the Board shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING BANKS.—The amount each remaining Federal Home Loan Bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Board by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by

"(ii) the aggregate amount of such stock held by all remaining banks at such time.

"(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Board by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to ½ of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR PURCHASE OF STOCK REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Board shall prescribe by regulations) the balance in which shall be available only for such purchases.

"(F) NET EARNINGS AVAILABLE FOR DIVIDENDS DEFINED.—For the purpose of this paragraph, the term 'net earnings available for dividends' means the net earnings of a bank for any period as computed after reducing the amount of earnings for such period by the amount required to be carried (for such period) to reserves maintained by such bank pursuant to the first two sentences of section 16 of this Act.

"(7) UNDIVIDED PROFITS DEFINED.—For the purpose of paragraph (3), the term 'undivided profits' means retained earnings minus the sum of—

"(A) that portion added to reserves maintained pursuant to the first two sentences of section 16 of this Act; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

"Bank	Dollar amount
Federal Home Loan Bank of Boston	$3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million
Federal Home Loan Bank of Seattle	33.6 million

"(e) OBLIGATIONS OF THE FINANCING CORPORATION.—

"(1) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Board) shall not exceed—

"(A) the greater of—

"(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

"(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

"(B) $7,500,000,000,

whichever is less, not more than $3,750,000,000 of which may be issued during the one-year period beginning on the date of enactment of this section, or during the one-year period thereafter.

"(2) NET PROCEEDS TO BE INVESTED IN CAPITAL OF FSLIC.—Subject to such terms and conditions as may be approved by the Board, the net proceeds of any obligation issued by the Financing Corporation shall be used to—

"(A) purchase capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act; or

"(B) refund any previously issued obligation the net proceeds of which were invested in the manner described in subparagraph (A).

"(3) LIMITATION ON TERM OF OBLIGATIONS.—No obligation of the Financing Corporation may be issued which matures—

"(A) more than 30 years after the date of issue; or

"(B) after December 31, 2026.

"(4) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Financing Corporation with the approval of the Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the

United States or any officer of the United States.

"(5) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

"(6) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the Federal Savings and Loan Insurance Corporation and the obligations shall so plainly state.

"(7) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13.

"(B) EXCEPTION.—The Financing Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for the purpose of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(8) OBLIGATIONS ARE EXEMPT SECURITIES.—Notwithstanding paragraph (6), obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

"(f) ASSESSMENT AUTHORITY OF THE FINANCING CORPORATION.—

"(1) IN GENERAL.—The Financing Corporation may, with the approval of the Board, assess semiannually on each insured institution an assessment, except that the aggregate amount assesses under this paragraph on any insured institution for any year may not exceed an amount equal to 1/12th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution for such year.

"(2) SUPPLEMENTAL ASSESSMENT AUTHORIZED.—Upon the unanimous vote of the Directorate that additional funds are needed to pay the interest on the obligations of the Financing Corporation because no other funds are available, the Financing Corporation may, with the approval of the Board and in addition to any assessment assessed under paragraph (1), assess on each insured institution an assessment, except that the aggregate amount assessed under this paragraph on any insured institution for any year may not exceed an amount equal to 1/8th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution for such year.

"(3) TOTAL AMOUNT OF ASSESSMENTS MAY NOT EXCEED INTEREST AND FINANCING COSTS.—The aggregate amount of all assessments assessed under paragraphs (1) and (2) for any year may not exceed—

"(A) the aggregate amount of—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A)) incurred with respect to obligations issued during such semiannual period;

"(ii) interest paid on (and any redemption premium paid with respect to) obligations of the Financing Corporation during such year; and

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)) incurred during such year; minus

"(B) the aggregate amount of any payments under subsection (g)(4) during such year.

"(4) PAYMENT TO FINANCING CORPORATION.—All assessments assessed by the Financing Corporation under paragraph (1) or (2) shall be paid to the Financing Corporation.

"(g) USE AND DISPOSITION OF ASSETS OF THE FINANCING CORPORATION NOT INVESTED IN FSLIC.—

"(1) IN GENERAL.—Subject to such regulations, restrictions, and limitations as may be prescribed by the Board, assets of the Financing Corporation which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act shall be invested in—

"(A) direct obligations of the United States,

"(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

"(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 305 or 306 of the Federal Home Loan Mortgage Corporation Act; or

"(D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

"(2) SEGREGATED ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ASSURE PAYMENT OF PRINCIPAL.—The Financing Corporation shall invest in, and hold in a segregated account, noninterest bearing instruments—

"(A) which are securities described in paragraph (1); and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

to assure the repayment of principal on obligations of the Financing Corporation.

"(3) DOLLAR AMOUNT LIMITATION ON INVESTMENT IN ZERO COUPON INSTRUMENTS FOR SEGREGATED ACCOUNT—The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed $2,200,000,000 (as determined on the basis of the purchase price).

"(4) EXCEPTION FOR PAYMENT OF ISSUANCE COSTS, INTEREST, AND CUSTODIAN FEES.—Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

"(A) issuance costs;

"(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

"(C) custodian fees.

"(5) DEFINITIONS.—For the purpose of this subsection—

"(A) ISSUANCE COSTS.—The term 'issuance costs'—

"(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and

"(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

"(B) CUSTODIAN FEES.—The term 'custodian fee' means—

"(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

"(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

"(h) MISCELLANEOUS PROVISIONS RELATING TO FINANCING CORPORATION.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (e)(7)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for the purpose of sections 13 and 23.

"(2) SUNSET PROVISION FOR BORROWING AUTHORITY.—No net new borrowing may be made by the Financing Corporation after the expiration of 2 years following the date of enactment of this section.

"(3) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

"(4) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATION.—Notwithstanding the fact that no government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for the purpose of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(i) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is hereby established the Federal Savings and Loan Insurance Corporation Industry Advisory Committee (hereinafter in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) APPOINTMENT.—The Committee shall consist of 13 members selected as follows:

"(i) 1 member appointed by the Chairman of the Board from among individuals who are officers of insured institutions and who are not members of the Board or employees of the Board, the Federal Savings and Loan Insurance Corporation, or the Board of Directors of any Federal Home Loan Bank.

"(ii) 1 member elected from each Federal Home Loan Bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals who are officers of insured institutions.

"(B) TERMS.—Members shall be appointed or elected for terms of 1 year.

"(C) CHAIRPERSON.—The member appointed under subparagraph (A)(i) shall be the chairperson of the Committee.

"(D) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

"(E) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed, in such manner as the Board may prescribe by regulation, by the Federal Home Loan Bank which elected such member (and, in the case of the member appointed by the Chairman of the Board, by the Board) for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(F) MEETINGS.—The Committee shall meet from time to time at the call of the chairperson or a majority of the members.

"(3) DUTIES OF THE COMMITTEE.—The duties of the Committee are as follows:

"(A) To review the reports and budgets prepared pursuant to section 402(k) of the National Housing Act and any other matter which the Board may present for the Committee's consideration.

"(B) To confer with the Board on the reports, budgets, and other matters reviewed under subparagraph (A).

"(C) To prepare written comments and recommendations for the Board and the Federal Savings and Loan Insurance Corporation with respect to the reports, budgets, and other matters reviewed under subparagraph (A) (which shall be submitted to the Board in a timely manner after each meeting).

"(4) ANNUAL REPORT.—

"(A) REQUIRED.—Not later than January 15 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) CONTENTS.—The report required under subparagraph (A) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Board and the Federal Savings and Loan Insurance Corporation during such year.

"(5) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to the Board, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Banks, and the Federal Asset Disposition Association.

"(6) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

"(7) TERMINATION.—The Committee shall terminate when the Financing Corporation terminates under subsection (j).

"(j) TERMINATION OF THE FINANCING CORPORATION.—

"(1) IN GENERAL.—The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

"(A) the date by which all stock purchased by the Financing Corporation in the Federal Savings and Loan Insurance Corporation has been retired; or

"(B) December 31, 2026.

"(2) BOARD AUTHORITY TO CONCLUDE THE AFFAIRS OF FINANCING CORPORATION.—Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Board may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Board determines to be necessary to settle and conclude the affairs of the Financing Corporation.

"(k) REGULATIONS.—The Board may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

"(l) DEFINITIONS.—For the purpose of this section—

"(1) INSURED INSTITUTION.—The term 'insured institution' has the meaning given to such term by section 401(a) of the National Housing Act.

"(2) INSURED MEMBER.—The term 'insured member' has the meaning given to such term by section 401(b) of the National Housing Act.

"(3) DIRECTORATE.—The term 'Directorate' means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.".

MIXED OWNERSHIP GOVERNMENT CORPORATION

SEC. 303. Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) The Financing Corporation.".

RECAPITALIZATION OF FSLIC

SEC. 304. Section 402(b) of the National Housing Act (12 U.S.C. 1725(b)) is amended to read as follows:

"(b) ISSUANCE AND SALE OF CAPITAL CERTIFICATES AND STOCK TO FINANCING CORPORATION.—

"(1) AUTHORIZATION TO ISSUE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Corporation may issue—

"(i) nonredeemable capital certificates; and

"(ii) redeemable nonvoting capital stock.

"(B) REQUIREMENT RELATING TO AMOUNT OF STOCK.—The aggregate amount of stock issued by the Corporation under subparagraph (A)(ii) shall be equal to the aggregate amount of the investments made by the Federal Home Loan Banks in the capital stock of the Financing Corporation under section 21 of the Federal Home Loan Bank Act.

"(C) CERTIFICATES AND STOCK MAY BE SOLD ONLY TO FINANCING CORPORATION.—Capital certificates and stock issued under subparagraph (A) may be sold only to the Financing Corporation in the manner and to the extent provided in section 21 of the Federal Home Loan Bank Act and this subsection.

"(D) PROCEEDS OF SALE ARE PART OF PRIMARY RESERVE.—The proceeds of any sale of capital certificates or stock under this subparagraph shall be considered part of the primary reserve established by the Corporation pursuant to section 404(a).

"(E) NO DIVIDENDS.—The Corporation shall pay no dividends on any capital certificates or stock issued under this subparagraph.

"(2) EQUITY RETURN ACCOUNT.—

"(A) IN GENERAL.—The Corporation shall establish and maintain (until all capital certificates and stock issued under subparagraph (A) have been paid off and retired) an equity return account—

"(i) which shall consist only of amounts contributed in accordance with the requirements of subparagraph (B);

"(ii) which shall not be treated as reserves of the Corporation; and

"(iii) the earnings accruing in which shall be transferred in the manner provided in subparagraph (D).

"(B) CONTRIBUTIONS TO ACCOUNT.—

"(i) NO CONTRIBUTION IF RESERVES-TO-ACCOUNTS RATIO IS LESS THAN 0.5 PERCENT.—No contribution shall be made to the equity reserve account established pursuant to subparagraph (A) in any year in which the reserves-to-accounts ratio is less than 0.5 percent.

"(ii) ANNUAL CONTRIBUTIONS REQUIRED.—Except as provided in clause (i), the Corporation shall make contributions to the equity reserve account established pursuant to subparagraph (A)—

"(I) at the end of each year beginning after 1996 through the final payoff year (as defined in clause (vii)); and

"(II) in amounts determined under clauses (iii), (iv), (v), and (vi) of this subparagraph.

"(iii) AMOUNT OF PRIMARY CONTRIBUTION.—The primary contribution to the equity return account for any year for which a contribution is required to be made shall be the amount determined by dividing—

"(I) the aggregate amount of capital stock issued by the Corporation and purchased by the Financing Corporation under paragraph (1)(A); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio is equal to or greater than 0.5 percent and the final payoff year (taking into account the first and last year described).

"(iv) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.25 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1 percent but less than 1.25 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount (as defined in clause (viii)) computed at an annual compound rate not to exceed 6 percent; by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1 percent and the final payoff year (taking into account the first and last year described).

"(v) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.25 percent but less than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 8 percent, minus the sum of any amounts contributed under clause (10); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.25 percent and the final payoff year (taking into account the first and last year described).

"(vi) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO EXCEEDS 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 10 percent, minus the sum of any amounts contributed under clause (iv) or (v);

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.75 percent and the final payoff year (taking into account the first and last year described).

"(vii) FINAL PAYOFF YEAR DEFINED.—For the purpose of this subparagraph, the term 'final payoff year' means the year of maturity of the last maturing obligation of the Financing Corporation which was issued under section 21 of the Federal Home Loan Bank Act and will mature before January 1, 2027.

"(viii) INVESTMENT RETURN AMOUNT.—For the purpose of clauses (iv), (v), and (vi), the term 'investment return amount' means the amount which would be realized on the aggregate amount invested by the Financing Corporation in capital stock issued by the Corporation under paragraph (1) over the period of the investment if the return on the investment is computed at the rate described in subclause (I) of the respective clauses.

"(C) Investment of amounts in account.—Amounts accumulating in the equity return account may be invested in such manner as the Corporation determines.

"(D) Transfer of earnings to primary reserve.—Earnings accruing on any investment (under subparagraph (C)) of amounts in the equity return account shall be transferred to the primary reserve account of the Corporation established pursuant to section 404(a) as such earnings are realized by the Corporation and shall not be treated as amounts in the account.

"(E) Retirement of capital stock using balance in account.—Upon maturity of all obligations of the Financing Corporation under section 21 of the Federal Home Loan Bank Act, the Corporation shall payoff and retire any capital stock issued under paragraph (1)(A)(ii) using only amounts accumulated in the equity return account.

"(F) Reserves-to-accounts ratio defined.—For the purpose of this paragraph, the term 'reserves-to-accounts ratio' means, with respect to any year, the amount determined by dividing—

"(i) the amount of reserves of the Corporation (determined as of December 31 of the preceding year); by

"(ii) the aggregate amount of all accounts of all of its insured members (determined as of such date).

"(3) Financing corporation defined.—For the purpose of this subsection, the term 'Financing Corporation' means the Financing Corporation established under section 21 of the Federal Home Loan Bank Act.

"(4) No reduction or suspension of insurance premiums while stock is outstanding.—Notwithstanding any other provision of law, the provisions of subsections (b)(2), (d)(1)(B), and (g) of section 404 shall not apply as long as any share of capital stock issued under paragraph (1)(A)(ii) is outstanding.".

FSLIC AUTHORITY TO CHARGE PREMIUMS REDUCED BY AMOUNT OF FINANCING CORPORATION ASSESSMENTS

Sec. 305. Section 404 of the National Housing Act is amended by redesignating subsections (d) through (i) as subsections (e) through (j), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Authority to Charge Premiums Reduced by Amount of Financing Corporation Assessments.—Notwithstanding any other provision of this section, the sum of—

"(1) the amount of any premium required to be paid by any insured institution under subsection (b)(1); and

"(2) the amount of any premium authorized to be assessed by the Corporation under subsection (c) with respect to such institution,

for any period shall be reduced by the amount of any assessment paid for such period by such insured institution to the Financing Corporation pursuant to section 21(f) of the Federal Home Loan Bank Act.".

MISCELLANEOUS PROVISIONS

Sec. 306. (a) Federal Home Loan Bank Dividends.—Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by adding at the end thereof the following new subsection:

"(c) Exception in Case of Losses in Connection With Financing Corporation Stock.—

"(1) In general.—Notwithstanding subsection (a) of this section, if—

"(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank's investment in the stock of the Financing Corporation under section 21;

"(B) the Board determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

"(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,

the Board may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 21(d)(7)) or the reserve account required by the first 2 sentences of subsection (a).

"(2) Requirements of section 21 not affected.—Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Board under paragraph (1), the applicable provisions of section 21 shall continue to apply with respect to such bank, and to such bank's investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.".

(b) Conforming Amendment.—Section 402(h) of the National Housing Act (12 U.S.C. 1725(h)) is amended—

(1) by striking out "After the effective date" and inserting in lieu thereof "(1) After the effective date"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The first three sentences of paragraph (1) shall not apply to stock issued by the Corporation to the Financing Corporation under subsection (b)(1)(A).".

(c) Limitation on Special Assessment.—Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) is amended—

(1) by striking out "(c) The Corporation" and inserting in lieu thereof "(c)(1) Special Assessment.—Subject to paragraph (2), the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Limitations on Amount of Assessment.—The amount of any additional premium assessed by the Corporation against any insured institution under paragraph (1) in any of the following years shall not exceed the amount listed in connection with each such year in the following table (unless the Federal Home Loan Board determines that severe pressures on the Corporation exist which necessitate an infusion of additional funds):

"For year:	The amount of the additional premium may not exceed:
1987	5/48 of 1 percent of the total amount of the accounts of the insured members of such institution.
1988	1/12 of 1 percent of the total amount of the accounts of the insured members of such institution.
1989	1/16 of 1 percent of the total amount of the accounts of the insured members of such institution.
1990	1/24 of 1 percent of the total amount of the accounts of the insured members of such institution.
1991	1/48 of 1 percent of the total amount of the accounts of the insured members of such institution.

(d) Priority of Secured Interests.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following new subsection:

"(e) Priority of Certain Secured Interests.—Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than the claims of secured parties that are secured by actual perfected security interests that would be entitled to priority under otherwise applicable law.".

(e) FSLIC Report Requirements.—Section 402 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(k) Reports and Budgets Required.—

"(1) Quarterly reports and budgets.—Before the end of the 2-week period beginning on the first day of each calendar quarter, the Corporation shall complete a detailed written report and budget describing and explaining—

"(A) planned or anticipated activities and estimates of receipts and expenditures for such calendar quarter; and

"(B) the activities, receipts, and expenditures for the preceding calendar quarter.

"(2) Semiannual report.—Before the end of the 30-day period beginning on the first day of each semiannual period, the Corporation shall complete a detailed written report and budget describing and explaining the activities, receipts, and expenditures for the preceding semiannual period.

"(3) Submission of semiannual report to congress.—The Corporation shall submit a copy of each semiannual report required under paragraph (2) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) Activities, etc., of federal asset disposition association.—Activities, receipts, and expenditures of the Federal Asset Disposition Association (or any successor thereto) shall be included in any report or budget required under this subsection.

"(5) Definitions.—For the purpose of this subsection—

"(A) Activities.—The term 'activities' includes any activity engaged in with respect to any insured institution in financial difficulty.

"(B) Semiannual period.—The term 'semiannual period' means—

"(i) the period beginning on January 1 of any calendar year and ending June 30 of such year; and

"(ii) the period beginning on July 1 of any calendar year and ending December 31 of such year.".

(f) Secondary Reserve.—Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by striking out subsection (i) (as redesignated by section 305).

THRIFT ACCOUNTING STANDARDS

SEC. 307. Title IV of the National Housing Act is amended by adding at the end thereof the following new section:

"ACCOUNTING STANDARDS

"SEC. 415. (a) The Corporation shall, not later than December 31, 1987, prescribe uniform accounting standards consistent with generally accepted accounting principles to be used by all insured institutions for the purpose of determining compliance with any rule or regulation issued by the Corporation or the Federal Home Loan Bank Board to the same degree such standards are used to determine compliance with the rules and regulations of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Corporation may suspend the application of such standards with respect to any transaction or insured institution if—

"(1) the effect of such application would result in an insured institution and its parent company being treated differently than a bank and its bank holding company considered on a consolidated basis; or

"(2) the transaction was consistent with generally accepted accounting standards when it was completed.

"(b) The standards prescribed above under subsection (a) shall become effective on December 31, 1987, with respect to each insured institution, except an insured institution that files a plan acceptable to the Corporation for achieving compliance at the earliest feasible date but in no event later than December 31, 1993.".

AUDIT OF FADA

SEC. 308. In addition to audit and examination pursuant to rules and regulations of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board, the Federal Asset Disposition Association shall submit to audit by the Comptroller General of the United States from time to time as specified by the Comptroller General.

THRIFT INDUSTRY RECOVERY GUIDELINES

SEC. 309. (a) Not later than 45 days after the date of enactment of the Act, the Federal Home Loan Bank Board shall prepare and transmit to the Congress guidelines for dealing with troubled—although well managed and viable—thrift institutions in a manner which will maximize the long-term viability of the thrift industry at the lowest cost to the Federal Savings and Loan Insurance Corporation.

(b) Guidelines transmitted under subsection (a) should also address specific programs, such as the following:

(1) Provision for classification of assets and appraisal methodology, which provides for—

(A) a new system of classification of assets that provides the Principal Supervisory Agent with the option to direct the creation of additional general loss reserves based on a review of an insured institution's overall portfolio;

(B) a new appraisal standard;

(C) GAAP criteria for determining the value of a property at foreclosure;

(D) the use of the Financial Accounting Standard ("FAS") 15 for loan restructuring, similar to that employed by the Comptroller of the Currency but applicable to all loans qualifying for restructuring under FAS 15;

(E) elimination of the present scheduled item system except as it relates to 1- to 4-family dwelling;

(F) discretion in determining whether a loan that is restructured, while already delinquent, should be classified and liberal extension of forbearance with respect to net worth requirements for institutions that have made supervisory acquisitions.

(2) Enhanced flexibility in the supervisory process, including consideration of other sources of credit of a borrower for recourse loans, and flexible approval requirements for renegotiated loans where a supervisory agreement exists.

(3) The establishment of an appeals process for supervisory agent decisions.

(4) The establishment of an appraisal review system to avoid overly conservative or optimistic appraisals.

(5) The establishment of a Capital Certificate program under which an insured institution under supervisory control of, and with the approval of the Federal Home Loan Bank Board, may issue a capital certificate only for the purpose of meeting thrifts regulatory capital requirement. When the participatory thrift achieves a workable capital level, to be determined by the Federal Home Loan Bank Board, the thrift shall redeem the certificate and pay interest or warrants in accordance with the amount of time held.

(c) Not later than January 31, 1989, the Federal Home Loan Bank Board shall transmit to Congress a detailed evaluation of the effectiveness of the guidelines in achieving the goal set forth in subsection (a). Following receipt of the evaluation, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings to review and revise, as appropriate, the guidelines.

APPLICATION OF GAAP

SEC. 310. (a) Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(s) ASSET EVALUATIONS.—The Corporation may not direct or require an insured institution to establish reserves against, or write down the value of, any asset in an amount in excess of the amount that would result from an evaluation of the asset consistent with generally accepted accounting principles.".

(b) Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

"(s) ASSET EVALUATIONS.—The Board may not direct or require an association to establish reserves against, or write down the value of, any asset in an amount in excess of the amount that would result from an evaluation of the asset consistent with generally accepted accounting principles.".

REPORT ON PREVENTION OF INSOLVENCIES

SEC. 311. Not later than 6 months after the date of enactment of this Act, the Federal Home Loan Bank Board shall transmit a report to the Congress containing a detailed description of steps that the Board has taken and will take administratively, and of any legislation necessary, to prevent additional insolvencies of thrift institutions.

PARTICIPATION IN PUBLIC OFFERINGS

SEC. 312. The Chairman of the Federal Home Loan Bank Board shall, in conjunction with the Federal Savings and Loan Insurance Corporation, ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels, shall have an opportunity to participate to a significant degree in any public offering under section 21 of the Federal Home Loan Bank Act.

TITLE IV—EMERGENCY ACQUISITIONS

SHORT TITLE

SEC. 401. This title may be cited as the "Financial Institutions Emergency Acquisitions Amendments of 1987".

EXTENSION OF GARN-ST GERMAIN ACT

SEC. 402. (a) Section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 (Public Law 97-320) is amended by striking out "October 13, 1986" and inserting in lieu thereof "March 1, 1990".

(b) Effective March 1, 1990, the amendments made by section 403 of this title are repealed.

(c) The repeal or termination by this section of any provision of law shall have no effect on any action taken or authorized while such provision was in effect or on the authority of a bank holding company, which obtained such authority prior to any such repeal, to expand within a State under paragraph (4)(D) or (4)(E) of section 13(f) of the Federal Deposit Insurance Act.

(d) Notwithstanding the repeal or termination of any provision of law referred to in section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 as a result of the date contained in such section, such provision shall be deemed to be reenacted upon the enactment of a law extending such date.

ASSISTED EXTRAORDINARY ACQUISITIONS

SEC. 403. (a) Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (9), the provisions of this subsection shall be used exclusively in connection with any acquisition by or merger with an out-of-State bank or holding company with respect to which the Corporation provides assistance under its powers in subsection (c) and shall not be applicable if the Corporation does not provide such assistance. Nothing contained in this subsection shall be construed to limit the Corporation's powers under subsection (c) to assist a transaction.";

(2) by amending paragraph (3) to read as follows:

"(3)(A)(i) Whenever the appropriate Federal or State chartering authority has certified in writing that an insured bank with total assets of $500,000,000 or more (as determined from its most recent report of condition) is in danger of closing, the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another depository institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company, or its shares may be acquired by an out-of-State bank or holding company.

"(ii) Whenever the appropriate Federal or State chartering authority has certified in writing that one or more insured bank subsidiaries of a holding company are in danger of closing and such bank or banks hold aggregate assets equal to $500,000,000 or more (as determined from their most recent reports of condition) and such bank or banks represent 33 per centum or more of the total assets of all insured bank subsidiaries (as determined from their most recent reports of condition) of such holding company, an out-of-State bank or holding company may (I) purchase all or part of the shares of or otherwise acquire the holding company that controls such bank or banks and all or part of such holding company's subsidiary banks, or (II) purchase all or part of the shares or otherwise acquire any such bank or banks in danger of closing or establish one or more newly chartered banks located in the State where such banks in danger of closing are chartered for the purpose of merging with or purchasing the assets and assuming the liabilities of such banks, if the aggregate total assets of such banks that are acquired, regardless of the number of purchasers, equal $500,000,000 or more. Any out-of-State bank or holding company which, pursuant to clause (II), purchases shares of, or establishes a newly chartered bank for the purpose of merging with or acquiring the assets and assuming the liabilities of, such bank or banks in danger of closing may purchase the shares of or otherwise acquire any bank which is affiliated with such bank or banks.

"(iii) The Corporation may assist a merger or acquisition permitted under this subparagraph (A) only where the board of directors or trustees of the insured bank has requested in writing that the Corporation assist a merger or a purchase.

"(B) If at any time after the date of enactment of the Financial Institutions Emergency Acquisitions Amendments of 1987, the Corporation provides assistance, directly or indirectly, under the authority of subsection (c), to an insured bank and such bank was eligible at the time such assistance was given to be acquired by an out-of-State bank or holding company pursuant to subparagraph (A), the bank shall remain eligible to be acquired, to the same extent that it was eligible when assistance was granted, by an out-of-State bank or holding company so long as the Corporation's assistance remains outstanding. If, at the time such assistance was granted to an insured bank or to affiliated insured banks, such bank's or banks' parent holding company or other affiliated banks were eligible also to be acquired by an out-of-State bank or holding company, pursuant to subparagraph (A)(ii), they shall remain eligible for such acquisition, to the same extent as they were when the assistance was granted, so long as such assistance remains outstanding. Any acquisition authorized under this subparagraph requires the consent of the Corporation, which may be conditioned on such terms and conditions as the Board of Directors may impose in its discretion, including but not limited to receipt of such consideration for the Corporation's assistance as the Board of Directors deems appropriate.

"(C) Where otherwise lawfully required, a transaction under this paragraph (3) must be approved by the primary Federal or State supervisor of all parties thereto.

"(D) The Corporation may not assist a merger or acquisition under subparagraph (A) or take final action under subparagraph (B) without the concurrence of the State bank supervisor of the State in which the bank in danger of closing is chartered.";

(3) by redesignating subparagraphs (i) through (iii) of paragraph (4) as subparagraphs (A) through (C), respectively;

(4) by amending redesignated paragraph (4)(A) to read as follows:

"(4)(A) Nothing in section 3(d) of the Bank Holding Company Act of 1956, section 408(e)(3) of the National Housing Act, any provision of State law, or the constitution of any State, shall bar approval, consummation, or retention of an acquisition authorized under paragraph (2) or (3), except that an out-of-State bank may make such an acquisition only if such ownership is otherwise specifically authorized.";

(5) by adding at the end of paragraph (4) the following:

"(D) An out-of-State bank holding company that acquires, directly or indirectly, a bank under paragraph (2) or (3) in any State shall, upon the expiration of two years after the acquisition or upon the expiration of such shorter period as may be prescribed by State law for an out-of-State holding company that acquires an in-State bank, have the same rights to make additional acquisitions and to establish branches in such State as an in-State bank holding company.

"(E) A holding company which, directly or indirectly, acquires control of one or more banks or a holding company under paragraph (2) or (3) or subparagraph (D) shall not, by reason of such acquisition or expansion, be required as the result of the law of any State to divest any other bank or banks or be prevented from acquiring, directly or indirectly, any other banks or holding company.";

(6) by striking out "to permit" in paragraph (5);

(7) by striking out "closed" the second time it appears and "bank" the sixth time it appears in paragraph (6)(A);

(8) by striking out clauses (i) through (iv) of paragraph (6)(B) and inserting in lieu thereof the following:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of the same type in different States which, by reciprocal laws or other arrangements specifically authorize such acquisitions, or in the absence of such laws or other arrangements, in different States which are contiguous;

"(iii) Third, between depository institutions of the same type in different States other than those referred to in clause (ii);

"(iv) Fourth, between depository institutions of different types within the same State;

"(v) Fifth, between depository institutions of different types in different States which, by reciprocal laws or other arrangements specifically authorize such acquisitions, or in the absence of such laws or other arrangements, in different States which are contiguous; and

"(vi) Sixth, between depository institutions of different types in different States other than those referred to in clause (v).";

(9) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) In the case of a minority-controlled bank, the Corporation shall seek an offer from other minority-controlled banks before proceeding with the sequence set forth in the preceding subparagraph.";

(10) by redesignating subparagraphs (B) and (C) of paragraph (8) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (A) the following:

"(B) a bank is 'in danger of closing' if—

"(i) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business and there is no reasonable prospect for it to do so without Federal assistance; or

"(ii) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for replenishment of the bank's capital without Federal assistance;

"(C) banks are 'affiliated' if each is a subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of the same holding company;"; and

(11) by adding at the end thereof the following:

"(9) Nothing in this subsection shall prevent the Corporation, in its sole discretion, from assisting, directly or indirectly, the acquisition of an open or closed insured bank by an out-of-State bank or holding company where such an acquisition is otherwise authorized under applicable State law.

"(10) In any transaction authorized under this subsection, no assistance by the Corporation shall be provided to a subsidiary of a holding company that is not an insured bank. Notwithstanding the foregoing, this paragraph is not intended to prevent an intermediate holding company from being a conduit for assistance ultimately intended for an insured bank.

"(11)(A) In its annual report to the Congress, the Corporation shall include a report on the acquisitions under this subsection during the preceding year.

"(B) The report required under subparagraph (A) shall contain the following information:

"(i) The number of transactions under this subsection with respect to which the Corporation provided assistance.

"(ii) A brief description of the transactions and the circumstances under which such transactions occurred.".

(b) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by adding at the end thereof the following:

"(F) In the event an application is filed under this paragraph in connection with an application by a bank holding company to acquire control of a bank in danger of closing or its affiliated banks pursuant to section 13(f) of the Federal Deposit Insurance Act, the Board may dispense with the notice and hearing requirement of this paragraph and the Board may approve or deny the application under this paragraph without notice or hearing. Not more than 7 days after approval of an application described in the preceding sentence, the Board shall publish in the Federal Register the order approving the application and shall identify any nonbanking activities involved in the acquisition.".

(c) Section 3(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) If the appropriate Federal or State chartering authority has certified in writing that a bank is in danger of closing pursuant to section 13(f) of the Federal Deposit Insurance Act, the Board may dispense with the notice and hearing requirements of this subsection with respect to any application received to acquire such bank or its affiliated banks and may reduce the post-approval waiting period of section 11 of this Act to 5 days with respect to such bank or its affiliated banks or, if the Board finds that immediate action is necessary to prevent the probable failure of such bank in danger of closing, further reduce or eliminate such period with respect to such bank or its affiliated banks, with the concurrence of the Attorney General of the United States.".

BRIDGE BANKS

SEC. 404. (a) Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended to read as follows:

"(i)(1) The term 'new bank' means a new national banking association, other than a bridge bank, organized by the Corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions prescribed in subsection (h) of section 11.

"(2) The term 'bridge bank' means a new national banking association organized by the Corporation pursuant to subsection (i) of section 11.".

(b) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by redesignating subsections (i), (j), (k), and (l) as paragraphs (2), (3), (4), and (5), respectively, of subsection (h).

(c) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following:

"(i)(1) If the Board of Directors determines with regard to one or more closed insured banks—

"(A) that the amount which is reasonably necessary to organize and operate a bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, the closed bank or banks;

"(B) that the continued operation of such insured bank or banks is essential to provide adequate banking services in its community; or

"(C) that the continued operation of such insured bank or banks is in the best interest of the depositors of the closed bank or banks and the public,

the Corporation in its discretion may organize a bridge bank to assume the deposits of the closed bank or banks, and to assume such other liabilities of the closed bank or banks as the Corporation in its discretion may deem advisable, and to purchase such assets of the closed bank or banks as the Corporation in its discretion may deem advisable, and to perform temporarily the functions hereinafter provided for. Upon the organization of a bridge bank, the receiver of the closed insured bank or banks may, subject to approval of a court of competent jurisdiction, transfer assets and liabilities of the closed insured bank or banks to the bridge bank. In order to prevent unnecessary hardship or losses to the previous customers of the closed bank in connection with the organization of a bridge bank, including particularly, creditworthy farmers, small businesses, and households, it is the intent of the Congress that the Corporation should continue to honor commitments to creditworthy customers, and that it should not interrupt or terminate adequately secured loans that are being repaid in accordance with their terms.

"(2) The articles of association and the organization certificate of the bridge bank shall be executed by representatives designated by the Corporation. The bridge bank shall be a national bank and shall be insured from the time of its organization. No capital stock need be paid in by the Corporation. The bridge bank shall have a 5-member board of directors who shall be selected by the Board of Directors.

"(3) The bridge bank shall have all corporate powers of a national bank, except that—

"(A) the Corporation shall have sole authority to appoint and remove the directors of the bridge bank, to fix their compensation, and to waive any requirements pertaining to their qualifications as provided in sections 5145 through 5149 of the Revised Statutes (12 U.S.C. 71 through 75) and section 31 of the Act of June 16, 1933 (12 U.S.C. 71a);

"(B) the Corporation shall have authority to indemnify the directors of the bridge bank on such terms as the Corporation deems proper;

"(C) any requirements for capital in the bridge bank as provided in section 5138 of the Revised Statutes (12 U.S.C. 51) or any other provision of law are waived;

"(D) the Comptroller of the Currency shall have authority to determine the maximum limit of indebtedness of any person to the bridge bank without regard for the amount of the bank's capital or surplus;

"(E) the board of directors of the bridge bank shall elect a chairman who shall also serve in the position of chief executive officer;

"(F) the bridge bank shall be a national member bank, but shall not be required to purchase stock of any Federal Reserve bank;

"(G) the Comptroller of the Currency shall have authority to waive any requirement for a fidelity bond; and

"(H) upon the merger of a bridge bank with another bank that is not a bridge bank, or upon the sale of all or substantially all of the stock of a bridge bank (other than a sale to the Corporation or to another bridge bank), or upon the assumption of all or substantially all of the deposits of a bridge bank by another bank that is not a bridge bank, the surviving bank shall cease to have the status of a bridge bank.

"(4) Upon the organization of a bridge bank, and thereafter as the Board of Directors may in its discretion deem necessary or advisable, the Corporation shall promptly make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Board of Directors may prescribe, sufficient funds for the bridge bank to operate. The bridge bank shall not be deemed to be an agency or establishment or instrumentality of the United States Government, nor shall the directors or officers or employees or agents of the bridge bank be deemed to be employees or agents of the United States Government, for any purpose whatever.

"(5)(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the bridge bank to be issued and offered for sale on such terms and conditions as the Corporation deems advisable in an amount sufficient, in the discretion of the Corporation, to make possible the conduct of the business of the bridge bank on a sound basis. If the bridge bank has assumed the insured deposits of a closed bank with total assets of $500,000,000 or more (as determined from the closed bank's most recent report of condition), the bridge bank shall be eligible to be acquired by or to merge with an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company, or to be acquired by an out-of-State bank or holding company, in accordance with the procedures established by subsection (f) of section 13.

"(B) Unless the capital stock of the bridge bank is sold or its assets are taken over and its deposits assumed by another insured bank within two years from the date of its organization, the Corporation shall wind up the affairs of such bank by voluntary dissolution or by the appointment of a receiver, except that if the Board of Directors finds, after consultation with the Comptroller of the Currency, that an extension of time for winding up the affairs of the bank is in the best interest of the depositors of the closed bank or banks and the public, the Corporation may extend such time for a period not exceeding one year.

"(6) In order to facilitate the sale or merger of the bridge bank with another insured depository institution the Corporation is authorized, in its sole discretion, and upon such terms and conditions as the Board of Directors may prescribe—

"(A) to make loans or contributions to, or deposits in, or to purchase assets or securities other than voting or common stock of, or to assume the liabilities of, such bridge bank or the company which will acquire control of such bank;

"(B) to guarantee the bridge bank or the company which will acquire control of the bridge bank against loss by reason of such sale or merger; or

"(C) to take any combination of the actions referred to in subparagraphs (A) and (B).

"(7) Nothing in this subsection shall be construed to limit the powers of the Corporation under section 13 to assist a transaction under this subsection.".

CONVERSIONS

SEC. 405. (a) Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the determination with respect to such application.".

(b)(1) Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming, or resulting institution is an insured Federal savings bank or an institution insured by the Federal Savings and Loan Insurance Corporation, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the application for approval, shall consult with the Corporation before disposing of the application, and shall provide notification to the Corporation of the determination with respect to said application.".

(2) Section 18(i) of such Act is amended by adding at the end thereof the following:

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1726(e)).".

APPORTIONMENT

SEC. 406. Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end thereof the following:

"(10) Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(b) The second paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by inserting after the fifth sentence the following: "Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(c) Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by adding at the end thereof the following:

"(k) Notwithstanding any other provision of law, amounts received by the Corporation pursuant to any assessment under this Act, deposits required under this section and any other monies received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(d) The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 19 (12 U.S.C. 1439) the following:

"APPORTIONMENT

"SEC. 19B. Notwithstanding any other provision of law, amounts received pursuant to any assessment under this Act and any other monies received by the Board shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(e) Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following:

"APPORTIONMENT

"SEC. 129. Notwithstanding any other provision of law, funds received by the Board pursuant to any method provided by this Act, and interest, dividend, or other income thereon, shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

LIQUIDATION PROCEEDINGS

SEC. 407. Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following:

"(m) The Corporation shall fully consider the adverse economic impact on local communities, including businesses, and farms, of actions to be taken by it during the administration and the liquidation of loans of a closed bank. The actions include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decision-making process for the acceptance of offers of settlement contingent upon third party financing. The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.".

CAPITAL POOLS

SEC. 408. (a) It is the sense of the Senate that—

(1) the Federal Deposit Insurance Corporation has the statutory authority to engage in "open bank assistance" for failing banks under section 13(c) of the Federal Deposit Insurance Act to minimize losses to the insurance fund and to provide for the stability of the community; and

(2) communities in depressed regions of the Nation have had increasing difficulty in raising capital to infuse into locally operated, failing banks; and

(3) States have the authority to establish capital pools to supplement Federal Deposit Insurance Corporation funds and outside capital in arranging open banks assistance plans; and

(4) it is not in the public interest to have a "fire sale" of assets acquired by the Federal Deposit Insurance Corporation as a part of their acquisitions of nonperforming loans of failed banks.

(b) Let it therefore be declared that the United States Senate hereby encourages the Federal Deposit Insurance Corporation to exercise its discretionary authority to work with States which authorize such capital pools to save community banks during this time of great economic distress in certain regions of the country and the United States Senate further encourages the Federal Deposit Insurance Corporation to use its discretionary authority to negotiate sale of loans to area banks to prevent further asset devaluation.

TITLE V—CREDIT UNION AMENDMENTS

PERMANENT MERGER AND CONSERVATORSHIP AUTHORITY

SEC. 501. Section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1464 note) is amended—

(1) by inserting "and" at the end of paragraph (6);

(2) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(3) by striking out paragraph (8).

SECOND MORTGAGE AND HOME IMPROVEMENT LOANS

SEC. 502. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended by striking out "fifteen years" and all that follows and inserting in lieu thereof "15 years or any longer term which the Board may allow;".

OWNERSHIP INTEREST

SEC. 503. Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting ", representing equity," after "payments".

FAITHFUL PERFORMANCE

SEC. 504. (a) Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act.".

(b) Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

MEMBERSHIP OFFICERS

SEC. 505. Section 113(1) of the Federal Credit Union Act (12 U.S.C. 1761b(1)) is amended by striking out "of the board of directors" and inserting in lieu thereof "of the credit union".

NONPARTICIPATION

SEC. 506. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "Subject to" in subsection (a) and inserting in lieu thereof "Except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

PROPERTY ACQUISITION FLEXIBILITY

SEC. 507. Section 120(i)(2) of the Federal Credit Union Act (12 U.S.C. 1766(i)(2)) is amended—

(1) by inserting after "reimbursement," the following: "acquire and dispose of, by lease or purchase, real or personal property, without regard to the provisions of any other law applicable to executive or independent agencies of the United States,"; and

(2) by inserting after "this Act" the following: ", in accordance with the rules and regulations or policies established by the Board not inconsistent with this Act".

TREATMENT OF NCUAB FUNDS

SEC. 508. Title I of the Federal Credit Union Act is amended by adding at the end thereof the following:

"TRUST FUND

"SEC. 130. Notwithstanding any other provision of law, all moneys of the Board shall be treated as trust funds for the purpose of section 256(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985. This section is effective for fiscal year 1986 and every fiscal year thereafter.".

TECHNICAL AND CLARIFYING AMENDMENTS; REMOVAL AND PROHIBITION AUTHORITY

SEC. 509. Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(1) in paragraph (1), by striking out "director, officer, or committee member" each time it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(2) in paragraph (2), by striking out "director, officer, or committee member" the first two times it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(3) in paragraph (2), by striking out "any other person" the first time it appears and inserting in lieu thereof "any agent or other person"; and

(4) in paragraph (2), by inserting "employee, agent," before "or other person" the last time it appears.

EFFECT OF REMOVAL OR SUSPENSION

SEC. 510. Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding at the end thereof the following:

"(7)(A) Any person who, pursuant to this subsection, is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured credit union shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company, any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, and any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), and any institution chartered by and subject to regulation by the Farm Credit Administration without the prior written approval of the appropriate Federal regulatory agency.

"(B) As used in subsection (g), the term 'insured institution' means an insured credit union or a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.".

IMPOSITION OF CONSERVATORSHIP

SEC. 511. Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(C) there is a willful violation of a cease-and-desist order which has become final; or

"(D) there is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the Board.".

REDUCTION IN STATE COMMENT WAITING PERIOD

SEC. 512. Section 206(h)(2)(B) of the Federal Credit Union Act (12 U.S.C. 1786(h)(2)(B)) is amended by striking out "ninety" and inserting in lieu thereof "30".

AUTHORITY AS CONSERVATOR

SEC. 513. Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) The conservator shall have all the powers of the members, the directors, the officers, and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the Board.".

LIQUIDATION PROCEEDINGS

SEC. 514. (a) Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end thereof the following:

"(B) Not later than 10 days after the date on which the Board closes a credit union for liquidation pursuant to paragraph (1), or accepts appointment as liquidating agent pursuant to subsection (b), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be prohibited from continuing such liquidation. Except as otherwise provided in this subparagraph, no court may take any action for or toward the removal of any liquidating agent or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a liquidating agent.".

(b) Section 208(c) of the Federal Credit Union Act (12 U.S.C. 1788(c)) is redesignated as subsection (j) of section 207 (12 U.S.C. 1787) and is amended by striking out "subject to the regulation of the court or other public body having jurisdiction over the matter" and inserting in lieu thereof "subject only to the regulation of the Board, or, in cases where the Board has been appointed liquidating agent solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority".

(c) Section 208(d) of the Federal Credit Union Act (12 U.S.C. 1788(d)) is redesignated as section 208(c).

TRANSFER OF FTC JURISDICTION TO NCUA

SEC. 515. (a) Sections 5(a)(2), 6(a) and 6(b) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2), 46(a) and 46(b)) are amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),".

(b) The second proviso in section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),"; and

(2) by inserting immediately after "in business as a savings and loan institution" the following: ", in business as a Federal credit union,".

(c)(1) The second sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended by inserting immediately after "paragraph (3))" the following: "and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))".

(2) The last sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking "either such" and inserting in lieu thereof "any such";

(B) by inserting "or Federal credit unions described in paragraph (4)," immediately after "paragraph (3)," each place it appears therein; and

(C) by inserting immediately after "with respect to banks" the following: ", savings and loan institutions or Federal credit unions".

(3) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

TITLE VI—DEPOSIT AVAILABILITY

SHORT TITLE

SEC. 601. This title may be cited as the "Fair Deposit Availability Act of 1987".

DEFINITIONS

SEC. 602. For the purpose of this title—

(1) the term "Board" means the Board of Governors of the Federal Reserve System;

(2) the term "depository institution" means—

(A) any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(3) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share draft accounts, savings deposits, and share accounts. Such term does not include time deposits;

(4) the term "consumer account" means a deposit account primarily used for personal, family, or household purposes;

(5) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument drawn on a depository institution located in the United States, but does not include noncash items; and

(6) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

DISCLOSURE OF FUNDS AVAILABILITY POLICIES

SEC. 603. (a)(1) Before opening a consumer account, a depository institution shall provide a written disclosure to the potential customer of its specific policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's consumer account.

(2) In the case of a consumer account which was opened prior to the effective date of this section, the depository institution shall include the disclosure required by paragraph (1) with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall—

(1) post at each location where its employees receive deposits a clear and conspicuous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument; and

(2) mail at least annually a brief reminder with respect to a consumer account that deposits by check or similar instrument may not be available for immediate withdrawal.

(c) Each owner of an automatic or electronic terminal shall provide at each terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) A depository institution shall give notice prior to implementing any change to the depository institution's policy with respect to when customers may withdraw funds deposited by check or similar instrument into consumer accounts, except that any change which expedites the availability of such funds may be disclosed after implementation.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), of its policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the request of any person.

(f) If a depository institution does not, as authorized by section 604(b), generally begin to compute interest or dividends on funds deposited by check or similar instrument to an interest-bearing deposit account or a time deposit on or before the date on which that depository institution receives provisional credit for the deposit, the depository institution shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.

(g)(1) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this title requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it—

(A) uses any appropriate model form or clause as published by the Board, or

(B) uses any such model form or clause and changes it by deleting any information which is not required by this title, or rearranging the format.

(2) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 604. (a) For the purpose of computing the amount of interest or dividends payable with respect to an interest-bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument.

(b) Subsection (a) does not apply to a depository institution which begins the computation of interest at a later date than required by subsection (a) for all deposits, including cash deposits, made to the deposit account, subject to the notice requirement of section 603(f).

(c) Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

INTERIM EXPEDITED FUNDS AVAILABILITY REGULATION

SEC. 605. (a) Not later than 12 months after the date of enactment of this Act, the Board shall promulgate regulations to expedite customer access to funds deposited by check or similar instrument into deposit accounts by expediting the process for returning all categories of unpaid items or other means in order to provide that receiving depository institutions can reasonably expect to learn of the nonpayment of items within the time periods established by the Board under subsection (b). Such regulations shall only be adopted after notice and opportunity for public comment.

(b) The regulation promulgated under subsection (a) shall provide that no more than 6 intervening business days shall pass between the day of deposit and the day of availability for funds deposited by check or similar instrument into deposit accounts at depository institutions, except that the Board may extend by one business day the time period where such extension is necessary to carry out subsection (a). In any case, the Board shall differentiate time periods based on the time necessary for a depository institution reasonably to expect to learn of the nonpayment of a check or similar instrument.

(c) The Board may, by regulation, establish reasonable exceptions to the time limits established under subsection (b)—

(1) for deposits by check or similar instrument in excess of $5,000 in any one day;

(2) for checks or similar instruments that have been returned unpaid and redeposited; and

(3) for deposit accounts which have been overdrawn repeatedly.

In no case may the length of time applicable to items described in the preceding sentence exceed 2 intervening business days beyond the time limits established by the Board under subsection (b), except that the Board shall prescribe reasonable time limits for checks and other instruments deposited into accounts other than consumer accounts for the purpose of clause (1).

EXPEDITED FUNDS AVAILABILITY RULEMAKING

SEC. 606. (a) Not later than 36 months after the date of enactment of this Act, the Board shall promulgate regulations to expedite customer access to funds deposited by check or similar instrument into deposit accounts at depository institutions either by improving the check clearing system in accordance with subsection (b) or by limiting the time period between the day of deposit and the day of funds availability in accordance with subsection (c).

(b)(1) The Board may promulgate regulations for the purpose of improving the check clearing system used by depository institutions for all categories of unpaid items by expediting the process for returning such unpaid items or other means in order to provide that receiving depository institutions can reasonably expect to learn of the nonpayment of items within the time periods established by the Board under paragraph (3).

(2) In prescribing the regulations under paragraph (1), the Board shall consider—

(A) adopting a uniform endorsement standard;

(B) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(C) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(D) providing for settlement of all returned checks and similar instruments through the Federal Reserve Banks, regardless of whether such checks or similar instruments are handled by the Federal Reserve Banks;

(E) extending limits for returns;

(F) the use of electronic means of collecting and returning checks;

(G) providing for check truncation;

(H) the establishment of an automated return system;

(I) charging a depository institution based upon notification that a check or similar instrument will be presented for payment;

(J) creating incentives for depository institutions to return unpaid items promptly to the depository institutions of first deposit;

(K) dispensing with unnecessary endorsements;

(L) automating the reading of endorsements; and

(M) competitive factors and the provision of an adequate level of such services nationwide.

In prescribing regulations under this section, the Board shall balance the costs with the benefits of any improvements to be implemented.

(3) The regulation shall provide that no more than 4 intervening business days shall pass between the day of deposit and the day of availability for funds deposited by check or similar instrument into deposit accounts at depository institutions, except that the Board may extend by one business day the time period where such extension is necessary to carry out subsection (a). The Board shall differentiate time periods based on the time necessary for a depository institution reasonably to expect to learn of the nonpayment of a check or similar instrument.

(4) The Board may, by regulation, establish reasonable exceptions to the time limits established under paragraph (3)—

(A) for deposits by check or similar instrument in excess of $5,000 in any one day;

(B) for checks or similar instruments that have been returned unpaid and redeposited; and

(C) for deposit accounts which have been overdrawn repeatedly.

In no case may the length of time applicable to items described in the preceding sentence exceed 2 business days beyond the time limits established by the Board under paragraph (3), except that the Board shall prescribe reasonable time limits for checks and other instruments deposited into accounts other than consumer accounts for the purpose of clause (A).

(c)(1) The Board may promulgate regulations limiting the length of time during which funds deposited by check or similar instrument into deposit accounts at depository institutions are not available for withdrawal, to the number of days necessary to provide provisional credit, considering such factors as the type of instrument, type of institution, and geographic location.

(2) The Board may, by regulation, establish reasonable exceptions to the time limitations established under paragraph (1)—

(A) for deposits by check or similar instrument into new accounts;

(B) for large dollar deposits by check or similar instrument in any one day;

(C) for checks or similar instruments that have been returned unpaid and redeposited;

(D) for deposit accounts which have been overdrawn repeatedly; and

(E) for any other class of checks or similar instruments if the Board finds, based on substantial evidence after notice and an opportunity for public comment, that such class poses a serious risk of loss to depository institutions and that an exception would substantially reduce such risk.

(d)(1) In accordance with regulations established by the Board, subsection (b) of this section and subsections (b) and (c) of section 605 shall not apply to—

(A) any check or similar instrument where the depository institution has reasonable suspicion to believe that funds for the check or other item are uncollectable or receives a notice of a diversion or other delay in transit; or

(B) amounts deposited by check or similar instrument in a depository institution in the case of—

(i) any interruption of communication facilities;

(ii) suspension of payments by another depository institution;

(iii) any war; or

(iv) any emergency condition beyond the control of the receiving depository institution,

if the depository institution exercises such diligence as the circumstances require. In no case may the length of time applicable to items described in subparagraph (A) exceed 2 business days beyond the time limits established by the Board under this title.

(2) The Board may, by regulation or order, suspend the applicability of this section, section 605, or any portion of either section, to any class of checks if the Board determines that—

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud; and

(B) suspension of this section, or such portion of this section, with regard to the class of checks involved in such fraud is necessary to diminish the volume of such fraud.

A regulation prescribed or order issued under this paragraph shall remain in effect for not more than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session), and shall require that funds be made available within a reasonable time.

(3)(A) Within 10 days of prescribing any regulation or issuing any order under paragraph (2), the Board shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) Each report under subparagraph (A) shall contain—

(i) the specific reason for prescribing the regulation or issuing the order;

(ii) evidence considered by the Board in making the determination under paragraph (2) with respect to such regulation or order; and

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

(e) In any case where subsection (b)(4), (c)(2), or (d)(1) or section 605(c) applies—

(1) the depository institution shall provide immediate notice for deposits in person or, in the case of any other deposit, shall mail notice to the depositor not later than the close of the next business day following receipt of the deposit, as to the day the funds shall be made available for withdrawal and the reason the exception was invoked, except that—

(A) when the facts giving rise to the applicability of subsection (c)(2) or subsection (d)(1) occur after receipt of the deposit, the depository institution shall mail notice as soon as practicable; and

(B) when subsection (d)(1)(B)(iii) or subsection (d)(2) applies, notice shall be provided in accordance with regulations of the Board; and

(2) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board.

(f)(1) The regulations prescribed under this section shall become effective not later than 36 months after the date of enactment of this section. Except for any regulation under subsection (d)(2), such regulations shall only be adopted after notice and opportunity for public comment.

(2) After such regulations become effective, the Board may, from time to time, revise the regulations to expedite further the availability of funds deposited by check or similar instrument.

AVAILABILITY OF GOVERNMENT CHECKS

SEC. 607. In accordance with regulations prescribed by the Board, which shall be issued after notice and opportunity for public comment and which shall become effective not later than 12 months after the date of enactment of this Act, funds deposited at a depository institution by check shall be available for withdrawal not later than the date when the depository institution is given provisional credit for that check; or if provisional credit is given on a nonbusiness day, on the next business day, where the check—

(1) is endorsed only by the person to whom it was issued; and

(2)(A) is drawn on the Treasury of the United States; or

(B) is drawn on the treasury of a State or unit of general local government located in the same State as the receiving depository institution, is deposited in a depository institution that is staffed by employees of that depository institution, and is deposited along with a special deposit slip that indicates that the check is drawn on the treasury of a State or unit of local government.

ADMINISTRATIVE ENFORCEMENT

SEC. 608. (a) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

CIVIL LIABILITY

SEC. 609. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 603, 604, 605, 606, or 607 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of section 603, 604, 605, 606, or 607 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

MISCELLANEOUS

SEC. 610. (a) For the purpose of this title, any deposit which is made on a Saturday, Sunday, legal holiday, or after the close of business on any business day shall be deemed to have been made on the next business day.

(b) Whenever any provision of this title requires that funds be available for withdrawal on a business day, such funds shall be available for withdrawal 2 hours after the start of such business day.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 611. (a) Nothing in this title—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this title or in regulations adopted by the Board; and

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check is accepted for deposit and the depository institution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Any law or regulation of any State which requires that funds deposited or received for deposit in an account at a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this title or in regulations prescribed by the Board under this title shall—

(1) supersede the provisions of this title and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and

(2) apply to all federally insured depository institutions located within such State.

This subsection shall apply only if the Board has promulgated a regulation under section 606(c), and the State law or regulation has taken effect prior to the date of enactment of this Act.

(c) Except as provided in subsections (a) and (b), the provisions of this title or any regulation of the Board prescribed under this title shall supersede the provisions of any State law, including the Uniform Commercial Code as in effect in any State, which the Board determines to be inconsistent with the provisions of this title or such regulation, but only to the extent of the inconsistency.

REGULATIONS

SEC. 612. The Board shall prescribe regulations after notice and opportunity for public comment to carry out this title. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, consistent with section 605(c) and subsections (b)(4), (c), and (d) of section 606 of this title, as the Board determines are necessary to effectuate this title, to prevent circumvention or evasion of this title, or to facilitate compliance with this title. The regulations of the Board shall require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood.

IMPROVING PAYMENT MECHANISMS

SEC. 613. Not later than one year after the implementation of regulations under section 606, the Board shall prepare a study and submit its findings to the Congress on—

(1) the effect of the changes made by section 606, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system, including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system provides services so as to ensure efficient and affordable services, including the possible development of additional electronic services.

PARITY IN CLEARING

SEC. 614. (a) Section 11A of the Federal Reserve Act (12 U.S.C. 248a) is amended by adding at the end thereof the following:

"(e) All depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)), may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 19(b)(1) (12 U.S.C. 461(b)(1)) from other depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)) or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.".

(b) The amendment made by subsection (a) takes effect on the date of enactment of this Act.

ADJUSTABLE MORTGAGE CAPS

SEC. 615. (a) An adjustable rate mortgage loan that is originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

(b) The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

(c) Any violation of this section shall be treated as a violation of the Truth in Lending Act and shall be subject to administrative enforcement under section 108 or civil liability under section 130 of such Act, or both.

(d) For the purpose of this section—

(1) the term "creditor" means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term "adjustable rate mortgage loan" means any loan secured by a lien on a one to four family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

PRIVATELY OPERATED PAYMENTS PROVIDERS

SEC. 616. Nothing in the first paragraph of section 13 of the Federal Reserve Act shall be construed to prohibit or exempt the Federal Reserve Board or any Federal Reserve Bank from paying fees on a non-discriminatory basis to privately operated payments providers.

EFFECTIVE DATE

SEC. 617. Except as provided in sections 605, 606, 607, and 612, this title takes effect upon the expiration of 12 months following its enactment.

TITLE VII—CHECK CASHING

SHORT TITLE

SEC. 701. This title may be cited as the "Fair Access to Check Cashing Act".

CHECK CASHING

SEC. 702. (a) A depository institution which, in the ordinary course of business, cashes checks for customers, shall cash any check issued by the United States Government, any State, any unit of local government, or any agency thereof, if the consumer presenting the check—

(1) is the individual to whom the check has been issued; and

(2) is registered with the depository institution pursuant to subsection (b).

(b) The Board shall promulgate regulations governing registration under this section. The regulations shall require, but need not be limited to, the following:

(1) Every such depository institution shall provide for registration in all of its offices.

(2) Registration shall be by means of an application containing the application date, and the name, address, date of birth, social security number, and handwritten signature of the applicant as well as any other information the Board may deem necessary, or by any other method the Board may approve.

(3) Every depository institution shall have the authority to verify the information required to be submitted by the applicant.

(4) Verification shall be completed within thirty days of receipt of the application.

(5) Upon verification, the applicant shall be considered registered, and shall be provided by the depository institution with an identification card in such form as the Board may approve.

(6) The depository institution may restrict the cashing of any check presented in accordance with subsection (a) only to the office that the application was submitted to, except that all offices of the depository institution must cash any check presented in accordance with subsection (a) if the person presenting the check also presents a reliable piece of identification which includes a photograph.

(7)(A) A depository institution may assess a charge for issuing an identification card, in an amount not in excess of the actual cost incurred in processing the application and issuing the card, as determined to be fair and reasonable by the Board.

(B) No charge may be assessed for cashing checks pursuant to subsection (a).

POSTING OF NOTICES

SEC. 703. Every depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs consumers that check cashing services pursuant to section 702 of this title are available. The notice shall clearly explain the material features and limitations of check cashing services so that consumers can reasonably be expected to understand the terms offered.

REGULATIONS

SEC. 704. The Board shall prescribe regulations necessary to carry out the provisions of this title. In promulgating such rules and regulations, the Board may obtain upon request the views of any other Federal agency that exercises regulatory or supervisory functions with respect to depository institutions subject to this title.

ADMINISTRATIVE ENFORCEMENT

SEC. 705. (a) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks) by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b)(1) For purposes of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be in violation of a requirement imposed under that Act.

(2) In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

CIVIL LIABILITY

SEC. 706. (a) Any depository institution that fails to comply with any requirement imposed under this title or any regulation adopted pursuant to this title with respect to any person shall be liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure; and

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such additional amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lessor of $500,000 or 1 percent of the net worth of the depository institution.

(b) In determining the amount of award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure to comply was intentional.

(c) Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) In the case of any successful action under subsection (a) or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such section.

(e) No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than one year after the date of the occurrence of the violation.

DEFINITIONS

SEC. 707. For the purpose of this title—

(1) the term "consumer" means a natural person;

(2) the term "check" means any check, share draft, negotiable order of withdrawal, or other similar means of making payment or transfers to third parties or other;

(3) the term "depository institution" has the meaning given such term in clauses (i), (ii), (iii), (iv), (v), and (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(4) the term "Board" means the Board of Governors of the Federal Reserve System; and

(5) the term "office" includes the home office of a depository institution and any office approved as a branch of the depository institution by its Federal or State supervisory agency, but excludes free-standing automated teller machines and other electronic terminals.

TITLE VIII—LOAN LOSS AMORTIZATION FOR AGRICULTURAL BANKS

LOAN LOSS AMORTIZATION FOR AGRICULTURAL BANKS

SEC. 801. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end thereof the following:

"(j)(1) The appropriate Federal banking agency shall permit an agricultural bank to take the actions referred to in paragraph (2) if it finds that there is no evidence that fraud or criminal abuse on the part of the bank led to the losses referred to in paragraph (2).

"(2)(A) Any loss on any qualified agricultural loan that an agricultural bank would otherwise be required to show on its annual financial statement for any year between December 31, 1983, and January 1, 1992, may be amortized on its financial statements over a period of not to exceed 10 years, as specified in regulations issued by the appropriate Federal banking agency.

"(B) An agricultural bank may reappraise the value of any real estate or other property, real or personal, that it acquired coincident to the making of a qualified agricultural loan and that it owned on January 1, 1983, and any such additional property that it acquires prior to January 1, 1992. Any loss that such bank would otherwise be required to show on its annual financial statements as the result of such reappraisal may be amortized on its financial statements over a period of not to exceed 10 years, as specified in regulations issued by the appropriate Federal banking agency.

"(3) The appropriate Federal banking agency may issue regulations implementing this subsection with respect to banks that it supervises.

"(4) As used in this subsection—

"(A) the term 'agricultural bank' means a bank—

"(i) the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(ii) which is located in an agricultural area the economy of which is dependent on agriculture;

"(iii) which has assets of $100,000,000 or less; and

"(iv)(I) which has at least 25 percent of its total loans in qualified agricultural loans; or

"(II) which has fewer than 25 percent of its total loans in qualified agricultural loans but which the appropriate Federal banking agency or State bank commissioner recommends to the Corporation for eligibility under this section, or which the Corporation, on its motion, deems eligible; and

"(B) the term 'qualified agricultural loan' means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farmland or farm machinery, or such other category of loans as the appropriate Federal banking agency may deem eligible.

"(5) As a condition of eligibility under this subsection, the agricultural bank must agree to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986.".

TITLE IX—FULL FAITH AND CREDIT OF FEDERALLY-INSURED FINANCIAL DEPOSITORY INSTITUTIONS

FULL FAITH AND CREDIT OF FEDERALLY-INSURED FINANCIAL DEPOSITORY INSTITUTIONS

SEC. 901. The Congress finds and declares that—

(a) since the 1930s, the American people have relied upon Federal deposit insurance to ensure the safety and security of their funds in federally insured depository institutions; and

(b) the security of such funds is an essential element of the American financial system.

SEC. 902. In view of the findings and declarations of subsections (a) and (b) of section 901, therefore, it is the sense of the Congress that it reaffirm that deposits up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

TITLE X—HIGH YIELD BOND STUDY

HIGH YIELD BOND STUDY

SEC. 1001. (a) The Comptroller General, in coordination and consultation with the Securities and Exchange Commission, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the Secretary of the Treasury, and the Secretary of Labor shall study on a comparative basis to other types of investments made by federally insured institutions the issuance of and investment in high yield, noninvestment grade bonds during the 5 years prior to the date of enactment of this Act, including—

(1) the identity and rating (as determined by Moody's, Standard and Poor's, or other nationally recognized bond rating house) of the issuers of these bonds;

(2) the identity of the major purchasers of these bonds, including but not limited to, federally insured depository institutions;

(3) the percentage of the total amount of high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(4) the identity of the purchasers including, but not limited to, federally insured depository institutions that invest in high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(5) the purposes for which high yield, noninvestment grade bonds are issued other than for financing corporate takeovers;

(6) a summary and analysis of the adequacy of current State and Federal laws that regulate investment in high yield, noninvestment grade bonds, by investors including, but not limited to, federally insured depository institutions and pension funds; and

(7) a review of the impact of the issuance of and investment in high yield, noninvestment grade bonds upon corporate debt as it relates to Federal monetary policy.

(b) In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) The Comptroller General shall transmit a report containing the results of the study under this section to the Congress not later than July 1, 1987.

GARN AMENDMENT NO. 197

Mr. GARN proposed an amendment to the bill H.R. 27, supra; as follows:

Strike out titles I and II and redesignate the succeeding portions of the bill accordingly.

NOTICE OF HEARINGS

Mr. JOHNSTON. Mr. President, I would like to announce a change in the committee's hearing schedule. The hearing on the Department of the Interior's report on oil and gas leasing in the Coastal Plain of the Arctic National Wildlife Refuge, AK, scheduled for June 8, has been moved to June 12. The schedule of hearings on this issue is as follows:

June 2, Department of the Interior.

June 4, State of Alaska and Alaska Natives.

June 11, conservation groups.

June 12, oil and gas industry.

As previously announced, the hearings will begin each day at 9:30 a.m. and will conclude at approximately 12.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, May 21, 1987, at 10 a.m., to mark up the request of the Committee on Agriculture, Nutrition, and Forestry for supplemental funding for 1987. The committee will also be receiving testimony from the Architect of the Capitol on the alternatives to the proposal to replace the Senate subway system.

For information on the Agriculture Committee's supplemental funding request, please contact Chris Shunk of the Rules Committee staff on 224-0277; for information on the Senate subway system, please contact John Swearingen of the Rules Committee staff on 224-0285.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on May 14, beginning at 2 p.m., to hold a hearing on allegations of improper external influence on the Nuclear Regulatory Commission's shoreham adjudicatory licensing proceeding.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, May 14, 1987, at 9 a.m., to hold a joint hearing with the House Subcommittee on Census and Population, Committee on Post Office and Civil Service, to resume hearings on the 1990 census.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES AND THE SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances and the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on May 14, beginning at 10 a.m., to hold a hearing on stratospheric ozone depletion and substitutes for ozone depleting chemicals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 14, 1987, at 10 a.m. to hold a joint hearing with the House Select Narcotics Committee on Drug Coordination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on May 14, 1987, to mark up S. 512, Agricultural Competitiveness and Trade Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 14, 1987, at 2 p.m. to continue markup of the Foreign Relations Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 14, 1987, to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE JOINT RESOLUTION 128, DISAPPROVAL OF F-5E SALE TO HONDURAS

● Mr. DODD. Mr. President, undeterred by the will of Congress and unmoved by common sense, the Reagan administration signaled this week that it is proceeding on its course of reckless militarism in Central America.

White House notification that the administration intends to sell 10 advanced F-5E fighter planes and two F-5F trainers to Honduras was no surprise. For 6 years, the guiding spirit of administration policy toward the region has been belligerence.

But the proposed sale of sophisticated warplanes to Honduras, a desperately poor country with an air force already vastly superior to that of its neighbors, is particularly inappropriate at this time. It comes just a month before the planned followup conference in Guatemala on the Arias peace initiative, just 2 months after the Senate expressed its overwhelming support for that initiative, and 3 weeks after the Foreign Relations Committee voted to bar the use of United States aid to Honduras for the purchase of the F-5 package.

The proposed sale, Mr. President, will not advance the causes of peace, freedom, and stability in Central America. This sale is not necessary to give Honduras air superiority over Nicaragua. Honduras already has that, with its fleet of Super Mystere fighter planes.

What this sale is more likely to yield, Mr. President, is increased cross-border conflict in the skies over Central America. It is likely to strengthen the role of the military, and diminish the role of civilian authorities, in the fragile internal politics of Honduras.

For an administration that has preached peace while all the while fueling the engines of war, this proposal is an arrogant and ill-advised move to escalate the arms race in Central America.

And that is what it will surely do. No country in the region now seriously challenges Honduras in the air. The only jet aircraft in Nicaragua's arsenal are T-28 and T-33 trainers we gave the Somoza regime in the 1950's. Other nearby countries are similarly equipped, or not as well.

The introduction of F-5E warplanes, with a top cruising speed of mach 1.6, an ordnance load of up to 7,000 pounds and a range of more than 1,100 miles, will sharply alter the military balance in the region. Even the most rudimentary understanding of the rivalries and jealousies in the region leads to the conclusion that if Honduras acquires a sophisticated tactical fighter, El Salvador and Guatemala—not to mention Nicaragua—are sure to demand comparable aircraft.

Before we allow this unwise sale to go through, we in Congress—charged with the responsibility to weigh such transactions under section 36 of the Arms Export Control Act—must pause to consider the consequences of introducing a new generation of warplanes into a close and unstable region. It requires no great exercise of imagination to envision the requests that the Sandinista regime in Nicaragua will make of their Soviet bloc allies for Mig or comparable aircraft, or to project the heightened level of tension—and the increased ability to convert tension into widespread destruction—that such a spiraling arms race will engender.

There are other reasons to support the resolution of disapproval of this sale that I and the chairman of the Foreign Relations Committee, Senator PELL, have introduced. For one, the Defense Department's own study of the Honduran Air Force has recommended a less sophisticated aircraft more appropriate to that country's military needs. For another, and most acutely, even the most casual observer of the Central American scene knows that Honduras is the poorest nation in the region—and can ill afford Sopwith Camels, let alone F-5E's.

The arguments are overwhelming, Mr. President, and they are not new. Nevertheless, the administration has decided to go forward with this program—despite all reason and common sense, despite the urgings and pleadings of those of us in Congress who have carefully monitored developments in Central America, and despite the moral imperative to plant the seeds of peace rather than unleash the dogs of war.

If we are to move the peace process forward rather than let it be driven into the ground, we must reverse this unwise decision, and we must do it quickly.●

NATIONAL POLICE WEEK

● Mr. DOMENICI. Mr. President, this week, May 10 through May 16, has been designated as National Police Week. I wish to express my appreciation for all the brave officers who serve our communities. They are there to protect us.

As William Schwenck Gilbert once said, "When constabulary duty's to be done, the policeman's lot is not a happy one."

No one can overstate the debt we owe to the Nation's law enforcement officers.

For a police officer, protecting citizens is more than just a profession, it becomes an extension of one's self. Providing for the needs of our citizens takes dedication—in spite of the many obstacles facing our police force.

Since 1960, more than 2,600 officers across the country have died in the line of duty of protecting their communities. In the State of New Mexico, the American Police Hall of Fame has listed 23 officers who have died in the line of duty in that time period.

In tribute to these officers, tomorrow, Friday, May 15, has been designated Police Memorial Day. Although this day will not represent a joyful occasion, I believe that we have moved in a positive direction by designating this day to recognize all the men and women who have died, protecting the lives of others.

I would now like to take this opportunity to acknowledge the dedicated officers of New Mexico who sacrificed their lives to serve their communities since 1960:

Richard Armijo, Ronald T. Baca, John Carillo, Phil Chacon, Leo Chavez, James E. Clark, Gerald Cline, David Coker, Ocie C. Gray, Ben Herrera, Lowell D. Howard, Robert P. Larson, Robert E. Lee, Kenneth S. McWethy, Emilio Maestas, Max R. Oldham, Manuel P. Olivas, Marvin R. Owen, Austin A. Roberts, Ralph J. Silva, David M. Smith, Sherman L. Toler, Charles E. Wasmer.

I want to encourage anyone who knows of an officer slain in the line of duty in New Mexico that is not on this list, to contact me to have the officer's name included in the American Police Hall of Fame.

Because of the extraordinary professionalism and dedication of many police officers, I am also very pleased to say that violent crimes have decreased 8.3 percent in Albuquerque, New Mexico's largest city, during April 1987 as compared to April 1986. Total serious crime decreased from 3,015 cases in April 1986 to 2,765 cases in April 1987.

I would like to commend the efforts of all the police officers who loyally serve our communities and pay tribute to those who have died in the line of duty.●

TRIBUTE TO THE ARMED SERVICES YMCA

● Mr. McCAIN. Mr. President, I would like to join the Armed Services YMCA in paying tribute to the fine young men and women who are serving our Nation in the Armed Forces. These young people—many still in their teens—are stationed at military installations far from their hometowns and families. They are at an age when they are forming lifetime patterns, patterns that will influence the way they perform their jobs in the military and will be part of them when they return to cilivian life. Some are single, but many of them are married and parents of one or more children.

On May 11, as a kickoff to Armed Forces Week, the YMCA will honor the senior enlisted advisers of each of the military branches. The enlisted men and women are the heart of our national defense. It should be pointed out that the YMCA's work with the military—which has continued without a break for 126 years—focuses on providing support and wholesome recreational opportunities for the young enlisted men and women and for the family members of those who are married.

Local communities appreciate opportunities to let young people assigned to bases and posts in their areas know they are welcome. Through the Armed Services YMCA, they extend a hand of greeting to these youngsters, giving them a real sense of belonging to the community. They need that. They also need the warm and friendly faces of the volunteers who make the programs work. The YMCA represents such a broad cross section of the community that it is truly an American institution, one that we can be truly proud of.

Please join me in saluting the Armed Services YMCA, as it continues to work with the fine young service men and women who come from our States and hometowns to serve wherever their country sends them.●

DEFENSE SPENDING: HOW MUCH IS ENOUGH?

● Mr. HATFIELD. Mr. President, today's issue of the Wall Street Journal contains an excellent article by Mr. Stanley Weiss on the matter of defense spending. Mr. Weiss cogently argues the essential point that the only legitimate measure of the appropriate level of defense spending is what we get for our money. Defense spending expressed as a percentage of GNP or as a percentage of the total Federal budget is simply not relevant to the fundamental question about the effectiveness of our military forces. Using such a comparison, we are saying that every time we decide to increase nondefense spending, be it Social Security or parkland acquisition or highway construction, we should also increase defense spending, lest its percentage share of the budget decline. Or, we are saying that every time our economy grows, defense spending should grow as well, regardless of military requirements, simply to maintain its share of GNP. I doubt that those who argue for maintaining defense spending as a percentage of GNP would agree that it ought to decline if the economy shrinks. Certainly that argument was not made in the recession of 1982.

The true measure of our defense dollar is what we achieve in defense capability, and the sad fact is that we are achieving less while spending more. Our enchantment with maintaining defense spending at a certain percentage of GNP, or at a certain percentage of the budget, or at a certain level of "real growth," or at a certain amount above that advocated by our political rivals, has led us to shovel trillions of dollars into defense activities with too little concern for the results.

The result, Mr. Weiss argues, is that "the real crisis in defense is not defense input but the downward spiral of defense output." He concludes by saying:

> What America really "can't afford" is to keep paying more and more for defense while getting less and less of it. It's time to insist that the Defense Department do better with what it's given. It's not a question of "less money is better" or "more money is better." Better is better.

Mr. President, I commend this excellent article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Wall Street Journal, May 14, 1987]

TRUE WORTH OF A DEFENSE DOLLAR

(By Stanley A. Weiss)

Are we spending enough on defense? How can we know? This week both houses of Congress are wrestling with that issue, the Senate in a supplemental appropriations bill for this year, and the House in a bill to authorize defense spending for next year. The House Tuesday approved only $3.1 billion in SDI funding; the president had asked for $5.2 billion.

Many in Congress and in the public are calling for a freeze or a reduction in defense spending in light of the mounting national debt and record federal budget deficits. But not Defense Secretary Caspar Weinberger. "A more appropriate way to determine whether we can indeed afford" the defense budget, Mr. Weinberger said recently, "is not the predicted deficit but rather our nation's wealth, as measured in gross national product." Mr. Weinberger went on to compare the defense-spending percentage of GNP in 1961 (8.3%) with that of 1985 (6.2%). He saw this as evidence that "we can afford to do even more" than we're doing in defense.

Mr. Weinberger is not alone in this reasoning. The "defense percentage of gross national product" argument, which apparently first appeared in the mid-1970s, has taken on a life of its own. It is now so widely accepted as a measure that it's become a perennial component of the budget debate. Indeed, that debate has increasingly featured statistics about the "percent of GNP" being spent on education, health and other government programs.

APPEALS TO BUREAUCRATS

But what does the defense percentage of GNP actually mean? If it increases, does America always become stronger? If so, then holding firm or increasing defense spending during an economic downturn will make us stronger. And if the economy expands and defense spending stays constant, America must, by this measure, become weaker. Should Americans look forward to recessions and fear prosperity?

The defense percentage of GNP argument leads to these irrational conclusions because it is an irrational measure.

The measure's appeal to bureaucrats is obvious: It shifts the debate from what Americans are getting for their money to a foggy comparison between what some government program is spending and what the whole economy is producing. It's not even comparing apples and oranges; it's trying to relate apples to farm lending.

For the percent of GNP argument to make any sense, spending a higher percent of GNP on defense should be associated with achieving defense objectives. Is it?

Let's consider as an objective "advancing U.S. geopolitical interests."

Mr. Weinberger notes that the U.S. spent 8.3% of GNP on defense in 1961. But then the U.S. was supposed to be narrowing a "missile gap," the Castro regime was consolidating its hold on Cuba, the Soviets were gaining influence in the Mideast and Africa, and the Chinese were shelling offshore islands and tightening their grip on Tibet. So if the advancement of American geopolitical interests world-wide is the goal, 8.3% apparently isn't enough.

The high-water mark since 1961 was in 1968. That was America's highest military spending year during the Vietnam War—9.6% of GNP was spent on defense. But that was also the year Soviet tanks rolled into Prague. So 9.6% of GNP doesn't seem to connect with geopolitical stability.

Indeed, if we go back to 1956, the year the Soviets crushed the Hungarians, we find U.S. defense spending equaling 10% of GNP. But the U.S. opening to China in 1972 and the U.S.-inspired peace treaty between Egypt and Israel in 1978—major advances for U.S. geopolitical goals—occurred while defense spending was at 6% and 4.8% of GNP, respectively.

The numbers and events don't connect for a simple reason. Increases or decreases in U.S. GNP are unrelated to most world political events that bear on America's national-security interests at any given moment; comparing military spending to GNP is not going to tell us anything about those events.

What does the defense percent of GNP tell us about another objective, success in war? As noted, 1968, the top year for the defense percent of GNP in recent times, was the Vietnam War spending peak. Yet, the U.S. lost that war. So 9.6% doesn't ensure success in war. Neither, it turns out, does 14.5%; that was the peak in the Korean War which ended in a tie.

The same could be said for the Soviets. They are supposed to be spending a much higher percentage of GNP on the military than the U.S. does. But seven years after their invasion of Afghanistan, it doesn't seem to have bought them a victory.

The last war the U.S. won was World War II, when military spending peaked at 39.2% of GNP, in 1944. To be confident that America's defense is capable of winning a war, then, should the U.S. be spending about two-fifths of GNP on defense? Today, that would be $1.5 trillion a year.

Another irrational result. Why? Because ultimately this whole approach comes down to asking for the Defense Department to get a dollar every time someone buys a box of Tide, lest private-sector spending increase without an equivalent increase in defense spending.

The defense percent of GNP can't tell us whether the U.S. should increase or decrease defense spending because it tells us absolutely nothing about the quantity or quality of the defense America is getting. Does anybody seriously think that a potential aggressor looks at the percent of GNP the U.S. spends on the military rather than at its forces?

A far better way of evaluating how well the U.S. is doing on defense is to relate the input of defense dollars to hard numbers on the output of defense capability. That tells us the most vital fact we need to know: what the U.S. is getting for the money it is spending to provide for the common defense.

Consider: For a four-year increase of 150% in funding for tanks in the early 1980s, the U.S. got 30% more tanks than it was getting in the late 1970s. For 70% more missile funding during the same period, it got 6% more missiles. For 75% in additional Air Force and Navy aircraft spending, it received 12% fewer airplanes. While funds for operations and maintenance rose more than one-third, Army training days per batallion rose from 161.7 to 161.9 per year. Marine flying hours dropped from 24.2 per crew per month to 23.7.

And so on. The general trend holds for almost any honest measure of procurement, readiness and sustainability one wishes to devise.

DOWNWARD SPIRAL

Occasionally we are told that the U.S. can get by with less equipment, less training and smaller stockpiles of ammunition because American equipment is so much better now. This does not square particularly well with the Pentagon's rising maintenance and repair budgets, nor with fieldtesting results in the rare cases when that "better" equipment is tested properly.

The solution to America's defense needs doesn't lie in sending the Defense Department more money because consumers are buying more laundry detergent. Nor does it rest on lame explanations about how much better all the equipment is now, even though it costs demonstrably more to operate and is hardly ever tested properly. The answer won't be found in the annual tail-chasing debate about whether the Defense Department should get 3% more this year or 3% less. And arguing about what society "can afford" (which has given us the irrational percent of GNP measure) is a red herring in this context.

The real crisis in defense is not defense input but the downward spiral of defense output. What America really "can't afford" is to keep paying more and more for defense while getting less and less of it. It's time to insist that the Defense Department do better with what it's given. It's not a question of "less money is better" or "more money is better." Better is better.●

THE CONSTITUTIONALITY OF S. 274

● Mr. HUMPHREY. Mr. President, I commend to my colleagues a memorandum of law drafted at my request by Mr. Lincoln C. Oliphant of the Republican Policy Committee. The memorandum addresses the broad questions surrounding the constitutionality of legislation restricting funding of inmate abortions, and the specific question of the constitutionality of my bill, S. 274, restricting funding for inmate abortions.

Mr. Oliphant does a fine job in analyzing the legal precedents and in portending possible rulings in the future. I encourage all my colleagues to read this memorandum, and I urge them to cosponsor S. 274.

I ask that the text of the memo be inserted in the Record.

The memo follows:

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, April 23, 1987.

MEMORANDUM

To: Honorable Gordon J. Humphrey, U.S.S.
From: Lincoln C. Oliphant, Legislative Counsel.

THE CONSTITUTION DOES NOT REQUIRE THE FEDERAL GOVERNMENT TO PAY FOR ITS PRISONERS' ABORTIONS

On January 6 of this year you introduced S. 274, a bill amending chapter 301 of Title 18 of the United States Code by adding the following new section:

"None of the funds available to the Bureau of Prisons shall be used to perform abortions, except where the life of the mother would be endangered if the fetus were carried to term."—(The quoted language constitutes the bill in its entirety.) The measure was referred to the Judiciary Committee.

Passage of S. 274 would modify and make permanent the appropriations restriction adopted for the first time last year.

"None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void."—Continuing Appropriations Act for FY 1987, Pub. L. 99-591, Title II, sec. 209, Oct. 30, 1986.

I. 99TH CONGRESS

The prohibition on funding enacted in last fall's continuing resolution was the result of legislative efforts that began a year earlier.

On October 24, 1985, on the Senate floor, Senator Helms called up amendment no. 884 (a Helms-Armstrong amendment), which provided:

"None of the funds appropriated by this Act shall be used to pay for abortions for which Federal funds are not available under the Medicaid program (title XIX of the Social Security Act)."—131 Cong. Rec. 28996 (daily ed. Oct. 24, 1985).

That amendment incorporated the Hyde Amendment, which Congress has been adopting on the appropriations bill for the Department of Health and Human Services for a number of years, and which specifies the purposes for which Federal funds are available for abortion under the Medicaid program. The Hyde Amendment reads:

"None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."—Dept. of Health and Human Services Appropriations Act, 1986, Pub. L. 99-178, title II, sec. 204, Dec. 12, 1985, 99 Stat. 1119.

With respect to the amendment, Senator Helms said:

"The motivation for the Hyde amendment [and his amendment inasmuch as it incorporated the Hyde amendment] has been a recognition that abortion takes the life of a living unborn child with a God-given right to life. Accordingly, our purpose has been and is to make sure that Federal taxpayers are never forced to participate with their tax dollars in the crime of taking innocent human life."—131 Cong. Rec., *supra*.

A motion to table the Helms amendment failed on a tie vote, 46-to-46, and the amendment was then temporarily laid aside.

On November 1, the Senate returned to the Helms amendment and Senator Rudman made a point of order that the amendment violated the Constitution. A motion to table the point of order failed on a vote of 47-to-48. 131 Cong. Rec. 30247 (daily ed. Nov. 1, 1985). The point of order was then sustained on a voice vote, and the amendment fell.

In raising the point of order against the Helms amendment, Senator Rudman said:

"[W]e have a unique situation here that is different from other cases where Congress restricted Federal funds for abortions. When the Federal Government incarcerates a woman for committing a crime, it severely limits her liberties. This, in turn, brings into play constitutional protections whereby society guarantees her shelter, food, and minimum adequate medical treatment. I believe the case law would unequivocally include an abortion under the definition of minimum adequate medical treatment. If we in Congress, pass the Helms amendment, we would prohibit her from receiving that medical care since she has no option to go elsewhere.

"For all these reasons, I believe the pending amendment would directly violate the eighth amendment of the U.S. Constitution. . . ."—131 Cong. Rec. 30244.

Although the Helms-Armstrong Amendment failed in the fall of 1985, a similar effort succeeded in the summer of 1986 when Congressman Dornan added his amendment to H.R. 5161, the Commerce, Justice, State, and Judiciary Appropriations Bill for Fiscal Year 1987. After defeating a motion to rise on a roll call vote of 148-to-189, the House accepted the Dornan amendment by voice vote. The Dornan amendment became section 205 of the bill:

"None of the funds appropriated by this title shall be available to pay for an abortion or to provide facilities for the performance of an abortion, or for expenses of travel, staff escorts, or housing related to the procuring of an abortion, except where the life of the mother would be endangered if the fetus were carried to term."

There was very little debate on the Dornan amendment, but one brief exchange is helpful in understanding its purpose:

"Mr. Hyde: '[The gentleman's amendment] will deny Federal funding for abortion within our prisons. . . . You are not denying anybody the right to get an abortion, but just not with Federal taxpayers' dollars on the theory that an abortion in a prison is the same as an abortion in a hospital.'

"Mr. Dornan: 'Exactly. . . .'."—132 Cong. Rec. 16957 (daily ed. July 17, 1986).

The bill passed the House the same day.

In the Senate, the Appropriations subcommittee struck the Dornan amendment, and on August 15, the full committee ordered H.R. 5161 reported without the Dornan amendment. The appropriations bill itself was not enacted, but money for the Bureau of Prisons (and the restriction on paying for prisoners' abortions) was included in the continuing resolution, Pub. L. 99-591.

II. ABORTION POLICY IN FEDERAL PRISONS

Abortion funding in federal prisons is now restricted by the terms of sec. 209 of Pub. L. 99-591. In your introductory remarks of January 6, you said:

"Under the policy existing prior to the passage of these appropriations measures [meaning the life of the mother and rape exceptions in sec. 209], the Bureau of Prisons reportedly paid for 37 elective—not medically necessary, but elective—abortions in fiscal year 1985, 33 in fiscal year 1984, 41 in fiscal year 1983, 21 in fiscal year 1982, 21 in fiscal year 1981 and 14 in fiscal year 1980. Dozens of additional therapeutic and spontaneous abortions were also paid for during that same period. The average cost of the abortions was between $500 and $750."—133 Cong. Rec. 740 (daily ed. Jan. 6, 1987).

The Bureau of Prisons has the statutory duty to manage federal correctional institutions and to "provide for the safekeeping, care, and subsistence of all persons" under its care. 18 U.S.C. 4042 (1982). "The expenses attendant upon the confinement of persons arrested or committed under the laws of the United States . . . shall be paid out of the Treasury of the United States in the manner provided by law." 18 U.S.C. 4007 (1982).

When Congress enacted the restriction on inmates' abortions, the Bureau had the following regulations (which have since been superseded, see below):

"Sec. 551.20 Purpose and Scope

"The Bureau of Prisons provides an inmate with medical and social services related to birth control, pregnancy, child placement, and abortion. The Warden shall ensure compliance with the applicable law regarding these matters.

"Sec. 551.23 Abortion

"(a) The inmate has the responsibility for deciding to have an abortion or bear the child.

"(b) The Warden shall provide medical, religious and social counseling to aid the inmate in making the decision to have an abortion or bear the child.

"(c) An inmate shall sign a statement of responsibility for the decision to have an abortion or bear the child.

"(d) At the inmate's request, medical staff shall arrange for the abortion to take place at a hospital or clinic outside the institution."—28 C.F.R. chapter V, subchap. C (1985) (superseded by new sec. 551.23, see below).

On December 30, 1986, in response to the Congressional restriction, the Bureau of Prisons published an interim rule. The rule was effective immediately. The Bureau believed it was justified in waiving the normal administrative procedures (notice, advance public comment, delayed effective date) to comply promptly with the Congressional command. Public comment was solicited, nevertheless. The time for comment expired February 14, 1987. 52 Fed. Reg. 3428 (Feb. 4, 1987). The new rule is:

"Sec. 551.23 Abortion

"(a) The inmate has the responsibility to decide either to have an abortion or to bear the child.

"(b) Pursuant to Congressional mandate . . ., the Bureau of Prisons may pay for an abortion only where the life of the mother would be endangered if the fetus were carried to term or if the pregnancy is the result of rape. With the exception of the two above-mentioned circumstances, an inmate may elect to have an abortion, provided that she pays for the abortion with her own funds or through the assistance of community facilities.

"(c) The Warden shall provide an interested inmate with medical, religious and social counseling to aid her in making the decision whether to have an elective abortion. If an inmate is in one of the two exception groups (see paragraph (b) of this section), and chooses to have an abortion, she shall sign a statement to that effect. Staff shall then arrange for the abortion at a hospital or clinic outside the institution. If an inmate does not fall in one of the two exception categories, but chooses to have an abortion, staff shall provide the inmate with information about the availability of community abortion facilities. The inmate shall sign a written statement acknowledging that she has been provided the counseling and information called for in this policy.

"(d) The inmate shall sign a statement of responsibility for the decision to have an elective abortion, including an indication of the plans for payment for the abortion. A copy of this documentation is to be provided to the Medical Director. In those cases where the Bureau may not pay for the abortion, Bureau of Prisons appropriated funds may still be used for escort and reasonable transportation charges.

"(e) At an inmate's written request, ordinarily submitted through the unit manager, the medical staff shall arrange for the elective abortion to take place at the appropriate clinic outside the institution."—51 Fed. Reg. 47178-79 (Dec. 30, 1987) (superseding 28 C.F.R., Chap. V Part 551, Subpart C, sec. 551.23 (1985)).

III. CONSTITUTIONAL BACKGROUND

Having set out a background of law and regulation, we turn now to the question of constitutionality. The question is always relevant, of course, but particularly so on this subject because the Senate itself has spoken on it.

Much (but not all) of the constitutional debate about your bill will be conducted within the boundaries set by three Supreme Court opinions, each of which is summarized below.

A. The abortion liberty discovered

In *Roe* v. *Wade*, 410 U.S. 113 (1973), the Supreme Court held that a Texas criminal abortion statute (with a life-of-the-mother exception) violated the Due Process Clause of the Fourteenth Amendment. The Constitution was interpreted to prohibit state regulation of abortion except according to a "trimester rule" that is widely known and little understood.

"(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.

"(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

"(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."—410 U.S., at 164-65.

Roe v. *Wade* held that the state's interest is strongest "subsequent to viability," and that abortion may be "regulate[d] and even proscribe[d]" after viability except where an abortion is "necessary" "for the preservation of the life or health of the mother." A companion case, *Doe* v. *Bolton*, explained what it means for an abortion to be "necessary" for the woman's "health":

"Whether . . . 'an abortion is necessary' is a professional judgment that the . . . physician will be called upon to make routinely.

"[T]he medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment. And it is room that operates for the benefit, not the disadvantage, of the pregnant woman."—410 U.S. 179, 192 (1973).

Thus, even after viability, a State cannot protect the unborn child from abortion if the pregnant woman asserts a health interest, which may include her mental state, family size, or age.

B. A right to privacy, not to abortion

In *Roe* v. *Wade* the Court held that the "right of [personal] privacy . . . found in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action . . . is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." 410 U.S., at 153. The Constitution guarantees her the freedom to make her abortion decision privately, in consultation with her physician, but she does not have an affirmative constitutional "right to abortion." This distinction was made clear a few years later in the abortion funding cases.

Maher v. *Roe*, 432 U.S. 464 (1977), held that the Constitution does not require a state to pay for nontherapeutic abortions even though it has chosen to pay for childbirth. The Supreme Court said:

". . . The District Court read our decisions in *Roe* v. *Wade* . . . , and the subsequent cases applying it, as establishing a fundamental right to abortion and therefore concluded that nothing less than a compelling state interest would justify Connecticut's different treatment of abortion and childbirth. We think the District Court misconceived the nature and scope of the fundamental right recognized in *Roe*.

". . . *Roe* did not declare an unqualified 'constitutional right to an abortion,' as the District Court seemed to think. *Rather, the right protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy. It implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds*."—432 U.S., at 471, 473-74 (emphasis added).

Three years later, by a margin of one vote, the Supreme Court upheld the Hyde Amendment in a opinion that elaborated on the distinctions between abortion "rights" and "liberties," and between abortion itself and childbirth. In *Harris* v. *McRae*, 448 U.S. 297 (1980), the Court said:

"[R]egardless of whether the freedom of a woman to choose to terminate her pregnancy for health reasons lies at the core or the periphery of the due process liberty recognized in *Wade*, it simply does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices. The reason why was explained in *Maher*: although government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation. Indigency falls in the latter category. The financial constraints that restrict an indigent woman's ability to enjoy the full range of constitutionally protected freedom of choice are the product not of governmental restrictions on access to abortions, but rather of her indigency. Although Congress has opted to subsidize medically necessary services generally, but not certain medically necessary abortions,[1] the fact remains that the Hyde Amendment leaves an indigent woman with at least the same range of choice in deciding whether to obtain a medically necessary abortion as she would have had if Congress had chosen to subsidize no health care costs at all. We are thus not persuaded that the Hyde Amendment impinges on the constitutionally protected freedom of choice recognized in *Wade*.

"Although the liberty protected by the Due Process Clause affords protection against unwarranted government interference with freedom of choice in the context of certain personal decisions, it does not confer an entitlement to such funds as may be necessary to realize all the advantages of that freedom. To hold otherwise would mark a drastic change in our understanding of the Constitution. It cannot be that because government may not prohibit the use of contraceptives, *Griswold* v. *Connecticut*. . . . , or prevent parents from sending their child to a private school, *Pierce* v. *Society of Sisters* . . . , government, therefore, has an affirmative constitutional obligation to ensure that all persons have the financial resources to obtain contraceptives or send their children to private schools. To translate the limitation on governmental power implicit in the Due Process Clause into an affirmative funding obligation would require Congress to subsidize the medically necessary abortion of an indigent woman even if Congress had not enacted a Medicaid program to subsidize other medically necessary services. Nothing in the Due Process Clause supports such an extraordinary result. Whether freedom of choice that is constitutionally protected warrants Federal subsidization is a question for Congress to answer, not a matter of constitutional entitlement. Accordingly, we conclude that the Hyde Amendment does not impinge on the due process liberty recognized in *Wade*."—448 U.S., at 316-18 (citations and footnotes omitted).

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[1] Later in its opinion the Court wrote, "In fact, abortion is not the only "medically necessary" service for which Federal funds under Medicaid are sometimes unavailable to otherwise eligible claimants." The Court cited the example of inpatient hospital care of patients between ages 21 and 65 for tuberculosis or mental disease. 448 U.S., at 325 n. 28.

In the majority opinion in *Harris* v. *McRae* five justices took the position that, *"Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." Id.* at 325 (emphasis added). This simple statement of the facts, more than any other single element of the opinion, may explain the division between the majority and minority. For the majority, abortion is unique because it "involves the purposeful termination of a potential life;" for the minority, abortion is not unique at all: Three of the four dissenters had earlier agreed with the propositions that, "[A]bortion and childbirth, when stripped of the sensitive moral arguments surrounding the abortion controversy, are simply two alternative medical methods of dealing with pregnancy." *Beat* v. *Doe*, 432 U.S. 438, 449 (1977) (Brennan, J., dissenting, joined by Marshall and Blackmun, JJ.).

Is abortion unique, or just another medical procedure? The answer that Congress and the courts give to his "factual" question will probably determine the fate of your bill.

C. Prisoners rights to medical care

The state has a general obligation to provide medical care for those within its custody,[2] and the belief that prisoners are entitled to free abortions is based on this general obligation. In arguing against the constitutionality of the October, 1985 Helms-Armstrong amendment, Senator Rudman relied primarily on *Estelle* v. *Gamble*, 429 U.S. 97 (1976), the leading Eighth Amendment case on medical care.[3] In *Estelle*, the Court said:

"[G]overnment [has an] obligation to provide medical care for those whom it is punishing by incarceration. An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. . . .

"[D]eliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' . . . proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed. . . .

"This conclusion does not mean, however, that every claim by a prisoner that he has not received adequate medical treatment states a violation of the Eighth Amendment. An accident, although it may produce added anguish, is not on that basis alone to be characterized as wanton infliction of unnecessary. . . .

"Similarly, in the medical context, an inadvertent failure to provide adequate medical care cannot be said to constitute 'an unnecessary and wanton infliction of pain' or to be 'repugnant to the conscience of mankind. . . ."—429 U.S., at 103, 104-06 (Marshall, J).

The Court laid down a carefully phrased two-prong test. (We know the test was carefully constructed because Justice Stevens criticized its details in his lone dissent. *Id.* at 116.) Under *Estelle*, a prisoner must first show that she had "serious medical needs" and, second, that her custodians acted in "deliberate indifference" to those needs.

Eighth Amendment medical care cases usually turn on the court's reading of the facts. Common results in post-*Estelle* cases can be seen in the following summary of one treatise's medical care cases:[4]

Claims were held to have been *stated* when (1) despite awareness of a prisoner's diabetic condition, the prison failed to provide the diet ordered by the prison medical director; (2) inadequate care of a prisoner with a circulatory problem resulted in the amputation of some of his toes; (3) surgery was delayed for nearly two years on a fracture sustained while playing basketball in prison; and (4) prisoner contracted hepatitis while participating in a blood plasma purchasing program and received no medical care for six days after the diagnosis. Claims were *denied* when (1) the prisoner did not receive physiotherapy to combat partial paralysis that had kept him in a wheelchair since his incarceration where there was no showing in the medical records that his treatment had been inadequate; (2) prison doctor had ordered consultation with an outside specialist but had not followed-up to ensure that the consultation had occurred; and (3) inmate whose back was injured while performing highway maintenance work was relieved from work and ordered to rest in bed but had not given other treatment.

Of course, unlike diabetes, circulatory problems, fractures, hepatitis, or anything else, "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." *Harris* v. *McRae*, 448 U.S., at 325.

So, the issues are joined: On the one hand we have the constitutional doctrine of *Harris* v. *McRae* that the state has no obligation to pay for abortions, even the medically necessary abortions of indigent women. On the other hand, we have a prisoner's constitutional right to medical care, a right that Senator Rudman asserts to be so broad as to require government funding of abortions, even the elective abortions of nonpoor prisoners who would be able to pay for their own abortions. *Harris* is not dispositive because in the case of prisoners, unlike in the case of Medicaid recipients, there exists an independent, substantive constitutional right to medical care. But *Estelle* v. *Gamble* and its progeny are not dispositive, either, because the Eighth Amendment right to medical care is itself narrow and must be balanced against countervailing interests.

IV. THE CONSTITUTIONALITY OF S. 274

A. The Eighth Amendment Does Not Create a Right To a Government-Funded Abortion

Estelle does not compel abortion funding. Recall the two-prong test established by the Supreme Court: "[D]eliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' . . . proscribed by the Eighth Amendment." 429 U.S., at 104. Turn now to each element of the test.

1. "Serious Medical Needs"

Pregnancy is a "serious medical need" within the meaning of *Estelle* and the government has an obligation to provide prenatal medical care to its pregnant inmates. See, *Archer* v. *Dutcher*, 733 F.2d 14 (2nd Cir. 1984); *Williams* v. *Delcambre*, 413 So.2d 324 (La Ct. App. 1982), *cert. denied*, 416 So.2d 115.

Pregnancy is also unique. Unlike other medical needs, pregnancy's duration is known and limited; it usually threatens neither life nor health. Pregnancy is a medical condition, not an illness, and neither surgery nor prescription drugs nor any other extraordinary medical care is generally required.

Elective abortion is not a serious medical need for purposes of Eighth Amendment analysis. In fact, elective abortions have nothing to do with medical needs, whether serious or not. George F. Will has written:

"A few years ago, a woman had a healthy breast removed surgically because it interfered with her golf swing. The interesting question is not whether what she did was censurable, but whether what the surgeon did was medicine. The distinction between true and false ends of medicine is germane, to the annual debate about public funding . . . of abortions.

"Opponents of funding for most abortions have a decisive argument that is logically independent of views about the general morality of abortion. The argument is that few abortions are, properly speaking, medical procedures, and so should not be subsidized by funds appropriated for medical purposes.

"Dr. Leon Kass of the University of Chicago argues for what he calls "the old-fashioned view" that health is the true goal of the physician's art. If his argument is correct (and it is not easily assailed), most abortions are not acts of medicine, properly understood. The vast majority of abortions are nonthereapeutic, in that they are not performed to ensure the health of the woman (who surely should not be called a "patient"). Although they are performed by persons licensed to practice medicine, they serve not the pursuit of health, but rather the woman's desire for convenience, absence of distress—in a word, happiness.

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[2] See, for example, J. Palmer, *Constitutional Rights of Prisoners*, sec. 10.3 (3rd ed. 1985).

[3] The Eighth Amendment provides, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Prisoners rights to medical care are sometimes grounded in other constitutional provisions such as the Due Process Clauses of the Fifth and Fourteenth Amendments. (Although S. 274 would restrict only Federal funds for Federal prisoners, note that the Eighth Amendment has been made applicable to the States by the Fourteenth Amendment. See, *Robinson* v. *California*, 370 U.S. 660 (1962).)

[4] The examples are from VII S. Rubin, *United States Prison Law* 425 (1983). Rubin's descriptions of the cases are used.

". . . Some doctors specialize in pharmacologically induced "peace of mind," and dispense amphetamines to physically healthy but discontented people seeking mood "elevation."

". . . Such practices, says Kass, 'the worthy and the unworthy alike, aim *not* at the patient's health but rather at satisfying his, albeit in some cases reasonable, wishes.' They are acts not of medicine but of gratification: for consumers, not patients."—G.F. Will, *The Pursuit of Virtue and Other Tory Notions* 115-16 (1982) (emphasis added).

Logic denies that most prisoners' abortions are "serious medical needs"—and does the law.[5] Of the few cases that can be found, most courts have required that prisoners pay for their own abortion. Presumably, the results are premised on the view that abortions are elective procedures:

". . . The Commonwealth of Massachusetts refused an inmate's request for an abortion because of a state policy not to fund abortions. . . . [T]he warden of a [Pennsylvania] county jail refused to allow an inmate to obtain a first trimester abortion without a court order. The district court ordered that the inmate be transported outside for an abortion, but that she fund the procedure. . . . [O]fficials of the Arlington County [Virginia] jail refused to allow an inmate to obtain an abortion although a clinic had agreed to perform the abortion without charge. The court ordered that the inmate be allowed to receive an abortion as long as the expense would not be borne by the county."—Note, "Inmate Abortions—The Right to Government Funding Behind the Prison Gates," 48 Fordham L. Rev. 550, 551 n. 7 (1980) (case names and docket numbers can be found in the Note).

I am aware of one recent case in which a prisoner's right to a state-provided abortion was upheld. *Monmouth Co. Correctional Institution Inmates* v. *Lanzaro,* Civil No. 82-1924, U.S.D.C.N.J. (May 29, 1986), appeal docketed, Civil No. 86-5521, 3rd Circ., July 31, 1986. See the appendix, infra.

The results in the majority of cited cases are the same results as can be expected under your bill. The prisoner would be entitled to her abortion, but she would have to bear the expense.

2. "Deliberate Indifference"

Under *Estelle,* the prisoner must show both that she had serious medical needs *and* that her needs went unmet through "deliberate indifference."

"Deliberate indifference, the second essential element, is properly pleaded by allegations of 'intentional efforts on the part of [prison officials] to delay [plaintiff's] access to medical care at a time when []he was in extreme pain[,]' and has made his medical problems known 'to the attendant prison personnel[,] of 'complete denial' of medical treatment, or of a 'reckless or callous indifference to the . . . safety of prisoners.' "—*Harding* v. *Kuhlmann,* 588 F. Supp. 1315, 1316 (S.D.N.Y. 1984) (footnotes omitted; all brackets in the original).

Refusing to pay for a prisoner's abortion does not by itself constitute deliberate indifference to her medical needs. If a prisoner's pregnancy is ignored, or medical care denied, or medical care delayed when she is in extreme pain then she may have an Eighth Amendment claim.

An inmate does not have a constitutional case if she says "I want an abortion" and a prison physician replies, "That is your right, but you'll have to pay for it yourself." *Saying "no" is not constitutional deliberate indifference.* To think otherwise is to believe that the most solicitous and competent health care in the world suddenly becomes "cruel and unusual punishment" when a prison administrator utters the magical words, "You have to pay for your own abortion." Such is not the law.

A similar view of the Eighth Amendment was recently stated in *Whitley* v. *Albers,* —— U.S. ——, 106 S.Ct. 1078 (1986), a prison discipline case, where the court said:

"To be cruel and unusual punishment, conduct that does not purport to be punishment at all must involve more than ordinary lack of due care for the prisoner's interests or safety. This reading of the [Cruel and Unusual Punishments] Clause underlies our decision in *Estelle* v. *Gamble.* . . . It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the . . . Clause, whether that conduct occurs in connection with establishing conditions of confinement [or] supplying medical needs. . . .

"The general requirement that an Eighth Amendment claimant allege and prove unnecessary and wanton infliction of pain should also be applied with due regard for differences in the kind of conduct against which an Eighth Amendment objection is lodged. The deliberate indifference standard articulated in *Estelle* was appropriate in the context presented in that case because the State's responsibility to attend to the medical needs of prisoners does not ordinarily clash with other equally important governmental responsibilities. Consequently, 'deliberate indifference to a prisoner's serious illness or injury,' [the *Estelle* standard,] can typically be established or disproved without the necessity of balancing competing institutional concerns . . . ."—106 S.Ct. at 1084 (5-to-4 decision).

Whitley v. *Albers* stands for two propositions: First, *Estelle* must be read narrowly. "Obduracy and wantonness . . . characterize the conduct prohibited by" the Eighth Amendment. A simple refusal to pay for elective abortion does not amount to obduracy and wantonness. Second, Eighth Amendment claims must be balanced against competing values. In *Whitley,* the competing value was prison security; in the case of abortion funding the competing concern is the government's interest in encouraging normal childbirth and protecting "potential human life."

V. RELATED THOUGHTS ON ABORTION AND THE CONSTITUTION

A. Executing a pregnant woman

Proponents of abortion "choice" seemed to think that within the prison walls they would find the one place where the taxpayer is required to pay for abortions, yet the prison setting provides yet another example of the singularity of abortion.

Under current federal law, "The manner of inflicting the punishment of death shall be that prescribed by the laws of the place within which the sentence is imposed." 18 U.S.C. 3566 (1982), repealed effective Nov. 1, 1987, Pub. L. 98-473, title II, sec. 212(a), 235(a)(1), 98 Stat. 1987, 2031, as amended. *More than one-half of the States prohibit the execution of a pregnant woman.*[6] New Hampshire, for example, provides that, "In no event shall a sentence of death be carried out upon a pregnant woman. . . ." N.H. Rev. Stats. Anno. sec. 630:5.IX (1983 Cumm. Supp.) (Whether *any* State can execute a pregnant woman is an intriguing constitutional question. (The answer probably is "no."[7]) Certainly *Roe* v. *Wade* is no help: That case held that a woman may kill the fetus she carries; it did not give the state a license to do it for her.)

The Senate itself has taken a unanimous position against executing pregnant women. On March 13, 1974, the Senate voted 87-to-0 to adopt a Buckley amendment to S. 1401, a capital punishment bill. (The bill passed the Senate but was never enacted.) The Buckley amendment read, "In no event shall a sentence of death be carried out upon a pregnant woman." About 20 Senators who voted for the Buckley amendment are still in the Senate today. 120 Cong. Rec. 6711-12 (Mar. 13, 1974).

B. A prisoner's right to marry

In the past, the Bureau of Prisons has insisted that taxpayers pay for prison abortions but required prisoners themselves to pay for their marriages. Bureau regulations require an inmate to obtain permission to marry (majority, competency, and consent requirements having been met, the regulations require a warden to approve a marriage if it "poses no threat to institution security or good order, or to the protection of the public," 28 C.F.R. 551.12(d) (1985)) and to pay the expenses of the marriage:

"All expenses of the marriage (for example, a marriage license) shall be paid by the inmate, the inmate's intended spouse, the inmate's family, or other appropriate source approved by the Warden. The Warden may not permit appropriated funds to be used for an inmate marriage."—28 C.F.R. 551.13(c) (1985). (Neither may the warden pay any expenses of the marriage ceremony "except for those inherent in providing the place and supervision of the event." Subsec. 551.16(b).)

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[5] Of course, the definition of "serious medical need" can itself be a medical and moral conundrum. The position of most pro-lifers is that there is one, and only one, serious medical need for which abortion is indicated, viz. (in the words of S. 274) the endangerment of the mother's life if the fetus were carried to term. Life-of-the-mother abortions are not an issue here, of course, because S. 274 does not reach such situations.

The new Bureau of Prisons regulation uses the term "elective abortion" to denominate those abortions not approved for federal funding, i.e. those which are neither life-threatening nor the result of rape.

The legal importance of this one definitional issue cannot be overstated: The perceived difference between "elective abortions" and "therapeutic abortions" changed the vote in the Supreme Court from 6-to-3 in the 1977 abortion funding cases to 5-to-4 in the 1980 cases. See, *Harris* v. *McRae,* supra at 349-357 (Stevens, J., dissenting).

[6] Twenty-five States are cited in Note, "Nine Months to Life—The Law and the Pregnant Inmate," 20 Jn. Family L. 523, 539-40 & n. 112 (1981-82). They are Alabama, Arizona, Arkansas, California, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, Ohio, Oklahoma, South Carolina, South Dakota, Virginia, and Wyoming. The Note missed at least one other State, New Hampshire, which is cited in the text.

[7] The Supreme Court once referred to the issue in a very oblique way. In a case asking whether, in a civil action for negligence, a defendant can get an order requiring the plaintiff to submit to a medical examination, the Court referred to a common law writ that was allowed "to ascertain whether a woman convicted of a capital crime was quick with child . . . in order to guard against the taking of the life of an unborn child for the crime of the mother." *Union Pacific Ry.* v. *Botsford,* 141 U.S. 250, 253 (1891).

Marriage is a constitutionally protected union. *Zablocki* v. *Redhail*, 434 U.S. 374 (1978) ("the right to marry is of fundamental [constitutional] importance for all individuals" although not "every state regulation which relates in any way to the incidents of or prerequisites for marriage must be subject to rigorous [judicial] scrutiny").[8]

Just as a prisoner's right to abortion is not identical to the nonprisoner's, so a prisoner's right to marry is not identical to the nonprisoner's. *Johnson* v. *Rockefeller*, 365 F. Supp. 377 (S.D.N.Y. 1973), aff'd sub nom. without opinion, *Butler* v. *Wilson*, 415 U.S. 953 (1974) (civil death statute); *Bradbury* v. *Wainwright*, 538 F. Supp. 377 (M.D. Fla. 1982) (prison regulation). Still, a prison regulation severely restricting an inmate's right to marry has been held unconstitutional. *Salisbury* v. *List*, 501 F. Supp. 105 (D. Nev. 1980).

The constitutional status of marriage and abortion are similar; both are fundamental, neither is absolute. Prisoners must now pay for the expenses of their marriages, your bill would require them to pay for their abortions. The idea seems equitable enough.

VI. PRISON ABORTION POLICY AFTER S. 274

If S. 274 is enacted, prisoners who want abortions, and *Roe* v. *Wade* forbids the state to deny abortions to women who want them, will be given medical furloughs to obtain them. The Bureau of Prisons regulation (of December 30, 1986) will be the model. Even before the December 30 interim regulation, however, there was, adequate precedent for a policy of abortion furloughs.

The Attorney General may permit inmates to leave prison to obtain "medical services not otherwise available. . . ." 18 U.S.C. 4082(c)(1) (1982). Effective November 1, 1987, this section will be repealed and superseded by a nearly identical new provision providing that a prisoner may be released to obtain "medical treatment not otherwise available. . . ." 18 U.S.C. 3622 (Supp. III 1985).

The new provision also allows prisoners to be released to work at paid employment in the community *if* the prisoner "agrees to pay to the Bureau such costs incident to official detention as the Bureau finds appropriate and reasonable under all the circumstances. . . ." 18 U.S.C. 3622(c)(2) (Supp. III 1985) (effective Nov. 1, 1987). Under the current but soon-to-be-superseded statute the prisoner's prepayment is optional. 18 U.S.C. 4082(c)(2) (1982).

The statutes show two things: First, Congress anticipated there would be medical services that are "not available" through the regular prison health care system. Second, there is precedent for having prisoners pay for services that are obtained outside of the prison walls.

Current regulations on furloughs are to the same effect:

"Sec. 570.32 Justification for furlough.

* * * * *

"(b) The Warden may recommend a furlough for an inmate to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available. . . .

"(1) Staff shall contact the Regional Office for approval when the cost of medical care is at the expense of the government. . . .

"(2) *When medical care expenditures are borne by the inmate, or other nongovernmental source,* the furlough request requires the approval of the Medical Director and the Assistant Director, Correctional Programs Division.

"Sec. 570.33 Expenses of furlough.

"(a) Except as provided in paragraph (b) or (c) of this section, the inmate or the inmate's family or other appropriate source approved by the Warden shall bear all expenses of a furlough, including transportation, food, lodging, and incidentals.

"(b) The government *may* bear the expense of a furlough only when the purpose of the furlough is to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available. . . ."—28 C.F.R. chap. V, subchap. D (1985) (emphasis added). See, *Bartling* v. *Ciccone*, 376 F.Supp. 200 (W.D. Mo. 1974) (inmate won an order based on 18 U.S.C. 4082(c)(1) allowing him to obtain dental care at his own expense).

Therefore, even before the new regulation was issued, federal statutes and regulations anticipated that some medical treatments would not be available within the system, and that some medical expenses would have to be borne by the inmate, her family, or others.

The Bureau of Prisons has recently established a procedure to help inmates satisfy their legitimate financial obligations. 52 Fed. Reg. 10528 (April 1, 1987).

VII. CONCLUSION

Prisoners do have rights to medical care, but they do not have a constitutional right to a tax-paid abortion, and Congress may, in its discretion, define the circumstances in which public funds will be made available. Enactment of your bill, using as it does the Court-approved Hyde Amendment language, is, in my judgment, a constitutional exercise of Congressional power.

I do not believe that Eighth Amendment analysis will change the result seen in the earlier abortion funding cases:

"The decision whether to expend state funds for . . . abortion is fraught with judgments of policy and value over which opinions are sharply divided. Our conclusion that [refusing to pay for abortions] is constitutional is not based on a weighing of its wisdom or social desirability, for this Court does not strike down . . . laws 'because they may be unwise, improvident, or out of harmony with a particular school of thought.' . . . Indeed, when an issue involves policy choices as sensitive as those complicated by public funding of . . . abortions, the appropriate forum for their resolution in a democracy is the legislature. We should not forget that 'legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' "—*Maher* v. *Roe*, 432 U.S., 479-80 (citations omitted).

APPENDIX

On May 29, 1986, United States District Judge Harold Ackerman ordered the Monmouth County, New Jersey correctional facility to pay for all of its inmates' abortions, therapeutic and elective. Judge Ackerman created three abortion theories and used them all *Monmouth Co. Correctional Institution Inmates* v. *Lanzaro*, Civil no. 82-1924, U.S.D.C.N.J. (May 29, 1986), appeal docketed, Civil no. 86-5521, 3rd Circ., July 31, 1986. (All citations herein to the district court's opinion are to the unpublished transcript.)

First, to order the funding of "nonlife-threatening" abortions (the county already provided abortions when the mother's life was threatened, Opinion at 4), the judge used the State constitution's guarantee of equal protection of the laws. Ackerman recognized that *Maher* v. *Roe* and *Harris* v. *McRae* mean that the "county's current policy[ ] cannot be successfully challenged as violative of the federal Constitution." Opinion at 14. Nevertheless, he held that the State constitution requires "funding for all requested inmate abortions which are 'medically necessary,' *i.e.*, all those necessary to protect the *life or health* of the mother." Opinion at 17 (emphasis in original).

Second, Judge Ackerman held that the Eighth Amendment to the Constitution of the United States, as interpreted in *Estelle* v. *Gamble*, requires the county to pay for the *elective* abortions of those prisoners who, for reasons of security, would not be permitted to leave the facility to obtain abortions. (The county policy was to release inmates on their own recognizance. The policy made no allowance for supervised, secure releases.) Opinion at 21.

Third, the judge used his discretionary powers in equity to order the county to pay for the elective abortions of those prisoners who would, under the county's established policy, be released to obtain their own abortions. Opinion at 21-22.

Judge Ackerman seemed particularly influenced by the precedent of the Federal prisons:

"[I]t is extremely significant to note that women in state and federal prisons are currently able to secure abortions at state and federal expense, respectively. It would produce highly inconsistent and inequitable results if funding for inmate abortions were to turn solely upon the policy of the particular institution in which these women are incarcerated. . . .

"Regarding the county's duty to provide counseling services to pregnant inmates to assist them in their decisions concerning abortion, the county should be required, at the very least, to provide assistance to the same extent as is required of federal prisons. This obligation of federal prisons is governed by 28 C.F.R. Section 551.23(b) [which the Judge quoted]. . . ."—Opinion at 22-23 (footnote omitted).

Federal policy has now been changed. Whether this will have any effect on Judge Ackerman we may never know.

Lanzaro was argued before the Court of Appeals on March 19, 1987.

ANNUAL FINANCIAL DISCLOSURE OF SENATOR STAFFORD

● **Mr. STAFFORD.** Mr. President, in each of the last 13 years, I have made public disclosures of my financial holdings, along with summaries of my Federal tax return.

I have pledged that I would issue a similar report to the citizens of Vermont each year for the remainder of my time in public office.

In keeping with that promise, I am once again issuing a public statement of financial disclosure.

The financial statement shows that my wife, Helen, and I had net assets of

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[8] See also *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942); and *Meyer* v. *Nebraska*, 262 U.S. 390 (1923).

$866,000 as of May 8, 1987, when the evaluation was made.

The statement I am making public details our holdings, including bank accounts, cash value of life insurance and Federal retirement fund, real and personal property we own, and stocks and bonds.

The majority of the stocks and bonds listed were owned by us before I entered public office in Vermont 32 years ago.

The summary of our joint Federal income tax return shows that Mrs. Stafford and I had an adjusted gross income of $137,000 last year. Of that total, $75,100 came from my salary as a U.S. Senator.

Our total tax bill for the year was more than $50,500, of which nearly $40,000 was in Federal income taxes and more than $10,500 in Vermont State income taxes.

I shall ask that details of our financial statement be printed in the CONGRESSIONAL RECORD, as in the past. And, as I have done in each of the last 13 years, I am making copies of the statement available to newspapers, radio and television stations, and other news services in Vermont.

This information is being made public because I remain convinced that those who serve in government, as well as government itself, must be as open and candid as possible with the public.

The net assets of the Staffords increased by $60,000 last year, mainly because of increased savings and appreciation of the value of our homes. A major portion of our assets continues to consist of homes in Virginia and Vermont whose estimated fair market value is $350,000.

One of the best ways Americans have to judge whether their Government and their officials are acting properly is to provide full disclosure of all interests of government and of those who make decisions in government.

Thus, I invite all Vermonters—and all other Americans—to examine my financial interests and to match those interests with my record as a public official.

We have made some progress in providing the public with more information about the interests and activities of public officials, but we have a long way to go in providing full public disclosure.

I shall continue to support legislation that provides greater ventilation of the way we do business in government. In the meantime, I shall continue to make my own full disclosure to my fellow Vermonters.

The statement follows:

Summary of 1986 joint Federal income tax return, Robert T. and Helen K. Stafford

Income:	
Salary	$75,100.00
Interest	9,334.25
Dividends	3,848.80
Honoraria	32,725.00
Other	19,318.66
Total income	140,326.71
Adjustments to income: Allowable congressional expenses not reimbursed (total)	3,143.98
Adjusted gross income	137,182.73
Deductions	14,205.03
Exemptions	4,320.00
Taxable income	118,657.70
Federal income tax due and paid	39,785.77

1986 statement of financial condition, Senator and Mrs. Robert T. Stafford

Certificates of deposit:	
Chittenden Trust Co	$10,000.00
First Vermont Bank	10,000.00
Howard Bank	10,000.00
Howard Bank	10,000.00
Marble Savings Bank	10,000.00
Proctor Bank	10,000.00
Proctor Bank	10,000.00
Vermont National Bank	10,000.00
Vermont National Bank	10,000.00
Vermont Federal Bank	10,000.00
Total	100,000.00
Checking accounts:	
First Virginia Bank	600.00
Howard Bank	200.00
Riggs National Bank	53,000.00
Total	53,800.00
Life insurance (Connecticut General, MONY, NYLIIC, NSLI, Travelers) total	20,000.00
Real estate (estimated market value):	
3541 Devon Dr., Falls Church, VA	180,000.00
27 Howard Ave., Rutland, VT	70,000.00
64 Litchfield Ave., Rutland, VT	100,000.00
Total	350,000.00
Additional assets:	
Contributions to Federal retirement (Dec. 31, 1986)	94,071.91
Law library and office furniture	2,000.00
Boat and 2 cars	80,000.00
Personal property	35,000.00
Total	211,071.91
Stock (name, shares, and value):	
AT&T (100 at 24⅞)	2,487.50
Con Edison of New York—common (200 at 42⅝)	8,525.00
Gillette Co (20 at 59)	1,180.00
Greyhound Corp (20 at 36¼)	725.00
Howard Bank (1,483 at 41)	60,803.00
Monsanto (80 at 87½)	7,000.00
NL Industries (40 at 7⅝)	305.00
National Distillers (40 at 67⅝)	2,705.00
Navistar International—formerly International Harvester (20 7⅝)	152.50
NYNEX (159 at 64½)	10,255.50
Outboard Marine (40 at 32¼)	1,290.00
Security Pacific Corp (19 at 37¼)	707.75
Time, Inc (268 at 88)	23,584.00
Vendo (10 at 8⅝)	86.25
Verbanc—formerly Bellows Falls (240 at 47½)	11,400.00
West Point—formerly Cluett Peabody (18 at 66)	1,188.00
Total	125,401.50
Keough account Howard Bank	5,929.99
Recapitulation total assets	866,203.29●

PORK BUSTER INITIATIVE

● Mr. LUGAR. Mr. President, Senator QUAYLE has written an article which merits the attention of the Senate. The remarks have been published in the "Indiana School of Public and Environmental Affairs Review" for spring, 1987. These comments make the case for his rescission proposal which is commonly referred to as "the pork buster initiative." Mr. QUAYLE expounds on the importance of an effective budget process, pointing to a biennial one as a logical alternative and demonstrating how the enhanced rescission process would improve the congressional budgetmaking system. These comments are informative, pertinent, and I ask that Senator QUAYLE's comments be printed in the CONGRESSIONAL RECORD.

The material follows:

HOW CONGRESS BUDGETS—AND HOW IT SHOULD

Earlier this year, Senator Quayle introduced in the Congress an enhanced rescission proposal, Senate Concurrent Resolution 16, which provides that the President may submit to the Congress a rescission message after signing a spending measure and requires the Congress to act on the rescissions in a timely fashion. Under existing law, if Congress fails to act on rescission requests, the funds must be spent. In his March 21, 1987 radio address, President Reagan endorsed Senator Quayle's proposal. In the following article, the Senator outlines the Congressional budget-making process, its shortcomings and how this enhanced rescission proposal would improve this process.

It is high time Congress reformed the way in which it budgets and spends money. The budget system, which has become so unwieldy and time-consuming that it barely leaves any time for normal legislative activity, has for years been perilously close to collapsing. But this year, with the first serious effort in years to reform the process—the Gramm-Rudman-Hollings balanced budget act—in jeopardy because of successful court challenges and congressional reluctance to grapple with the federal deficit, there is an even more urgent need to take action.

Obstacles that have prevented Congress from prudently allocating federal resources should be removed. A two-year budget cycle to ease some of the time pressures that have hampered the budgeting process, a constitutional amendment to require a balanced budget and a proposal to give the president line-item veto authority are proposals that are still on the congressional agenda. They would help lead Congress out of the budgeting wilderness it has created for itself.

More recently, a new spending reform has been offered. Called the "pork-buster," it would do much to help bring down the record budget deficits that have plagued Congress and the nation for years. The proposal would give the president enhanced rescission authority and force Congress to scrutinize closely many of the projects it routinely lumps into huge, omnibus spending measures.

A HISTORY OF BUDGET-PROCESS REFORM

Reforming the spending process has traditionally been a product of fiscal crisis. Prior to the Civil War, the tax-writing committees—Ways and Means in the House and Finance in the Senate—exercised jurisdiction over the federal budget. During the war, the public debt grew from $90 million to $2.7 billion. Even though this debt was halved by the end of the century, the rapid growth of the national debt prompted Congress to establish two separate appropriations committees to control the federal purse strings.

Public sentiment for a national budget system again swelled after World War I, during which federal outlays skyrocketed from $700 million to $18 billion. The cost of financing the war yielded the Budget and Accounting Act of 1921. This act provided for the president to submit budgetary recommendations to Congress through a newly established Bureau of the Budget, now the Office of Management and Budget.

The 1921 Budget Act also established the General Accounting Office and subsequently strengthened the jurisdiction of the appropriations committees. After its enactment, debate continued between those who believed that the president had been granted too much authority in budgeting and those who believed that Congress could better balance revenues and outlays if the executive branch provided recommendations and a detailed accounting of all programs.

After World War II, during the era of congressional reform and the New Deal, an ill-fated Joint Budget Committee was established under the terms of the Legislative Reorganization Act of 1946. This panel was made up of members of the Senate Finance, House Ways and Means and appropriations committees. It was charged with reviewing the president's budget and recommending its own ceilings for expenditures and appropriations. This committee reported its first budget in February of 1947 but disbanded two years later.

During the Nixon Administration, Congress was faced with a budgetary crisis of a different sort when the president refused to spend money Congress had appropriated. This was not an entirely new phenomenon, however. The first President to exercise his prerogative to impound congressionally appropriated funds was Thomas Jefferson, who withheld $50,000 meant for Navy gunboats on the Mississippi River. Presidential impoundments continued through Franklin D. Roosevelt, who was the first chief executive to impound congressionally appropriated funds to accomplish public policy objectives rather than fiscal management goals. Roosevelt, for instance, impounded $500 million Congress had earmarked for a number of public works projects.

President Kennedy and Johnson reduced federal spending through impoundments by 6 percent and 5.4 percent, respectively. However, President Nixon's impoundment of $18 billion—or about 7.3 percent of total spending—was viewed by Congress as having overstepped the bounds of executive authority. While disputing the president's ability to impound appropriated funds, Congress had also become skeptical of the accuracy of the economic and budget projections made by the OMB and desired a more systematic process under which budget policy was to be considered. In response to these concerns, the Congressional Budget and Impoundment Control Act of 1974 was adopted.

The 1974 Budget Act addressed the abovementioned issues, in part by providing a procedure for rescissions and deferrals, establishing the Congressional Budget Office (CBO) to provide independent economic forecasts and estimates, and establishing House and Senate Budget Committees to set overall revenue and spending levels for each major function of the federal government. Gone were the days when Congress would act on each of the president's spending recommendations singly under a fragmentary process irrespective of each measure's budgetary impact.

Under the new budget process, broad spending and revenue levels were to be set for 18 different categories so that Congress would have a fiscal benchmark from which to make policy decisions.[1] The budgets developed by Congress under the 1974 Act set recommended levels of spending in each of these categories, called "functions." The functional aggregate figures do not bind Congress or its committees to any policy changes implicit in the formulation of these totals, however. As in times prior to the Budget Act, the authorization committees exercise jurisdiction over developing programs to meet national needs, while the appropriations committees determine the funding for those programs.

GRAMM-RUDMAN-HOLLINGS

The notion that the 1974 Act would allow Congress to balance the budget proved false. Indeed, during the first 10 years of the act, the deficit increased over fourfold. Faced with yet another fiscal crisis in the form of a deficit in excess of $200 billion and a national debt nearing $2 trillion. Congress adopted the Gramm-Rudman-Hollings (GRH) Balanced Budget and Emergency Deficit Control Act two years ago. Although the final version of this legislation was significantly different from what the authors and original supporters had envisioned, a consensus was reached. Despite an outcry from opponents, this drastic change in the way Congress budgets and spends its money was adopted in relatively short order.

Regardless of the charges of its critics, GRH is not a budgetary meat-ax. It is simply a change in the budget process. Under GRH, for the first time, Congress is required to look for offsets to additional spending items. Any amendment to an appropriations bill or budget resolution must be proposed with an offsetting reduction of other spending or a revenue increase of equal value. Furthermore, GRH set specific limits which the deficit cannot exceed for each of five successive years, leading to a balanced budget by fiscal 1991. Should Congress fail to make reductions in the deficit necessary to meet the targets, an automatic across-the-board reduction—known as a "sequester"—is tentatively triggered. Congress has one additional month to enact changes sufficient to avoid a sequester, or else it takes effect.

The evidence to date indicates that GRH has succeeded in some measure, although the deficit targets have not been met. Since its enactment, the growth of federal spending is at its lowest level in more than 30 years, and the deficit has been reduced by the single largest amount in history—approximately $50 billion—from its high point in FY 1986.[2] As GRH is nothing more than a reform to the process that Congress must consider during deliberations of the budget, a cogent argument can be made for the important role in deficit reduction played by the legislative process under which Congress makes spending decisions.

FURTHER REFORMS NEEDED: THE QUAYLE PORK-BUSTER . . .

The 1974 Budget Act established a system for authorizing presidential deferrals and rescissions of spending approved by Congress. Under this system, Congress has 45 days to approve a rescission request or the request dies and the funds at issue must be spent. Each house of Congress must approve a rescission request separately.

However, by failing to provide a mechanism to make sure Congress considers each rescission request in a timely fashion, the system has not worked. By exploiting this loophole, Congress has consistently shirked its responsibility to review presidential rescission proposals. President Reagan has proposed 400 rescissions, totalling 0 nearly $18.5 billion, in the past three years. Not one of these requests has received a record vote in the Senate. Indeed, few have even been seriously considered by the Appropriations Committees.

Some of these rescissions were accommodated in other ways, but these efforts still amounted to less than 2 percent—or about $350 million—of what the president asked for. There is no substitute for congressional will to reduce the deficit. In order for this will to be done, it is obvious that we need a process that obliges Congress to do its job.

Under the enhanced rescission proposal—Sen. Con. Res. 16, introduced on Feb. 5—the president may transmit a rescission message on parts of a spending bill within three days of signing the measure into law. Once the Appropriations Committees in both houses have received the presidential message and determined that it meets the critieria for rescissions established under the 1974 Budget Act, the panels must report it within five days or be discharged from its further consideration. The committees may recommend approval or disapproval of the rescission in reporting it to the full House or Senate, but they may not amend the measure. The rescission bill must be voted upon by the full body within ten calendar days after it has been reported out of committee.

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[1] Functional classification provides a grouping of budgetary resources related in terms of addressing a national need, regardless of the agency administering the programs within. Originally, 18 functions were established: 050-National Defense, 150-International Affairs, 250-General Science Space and Technology, 270-Energy, 300-Natural Resources, 350-Agriculture, 370-Commerce and Housing Credit, 400-Transportation, 450-Community and Regional Development, 500-Education, Training, Employment, and Social Services, 550-Income Security, 700-Veterans benefits and Services, 750-Administration of Justice, 800-General Government, 900-Net Interest, 920-Allowances, 950-Undistributed Offsetting Receipts, Currently there are two additional functions, 570-Medicare, 650-Social Security.

[2] Congressional Budget Office. *The Economic and Budget Outlook: Fiscal Years 1988-1992.* The actual fiscal year 1986 budget deficit was $221 billion; the projected baseline deficit for fiscal year 1987 is $174 billion.

Where the current process ensures the defeat of presidential rescission measures by congressional inaction, this proposal would ensure that Congress meet its duty to vote publicly on these rescission requests. It does nothing more subversive to the legislative process or to the constitutional balance of powers than require the president and a majority of both houses of Congress to agree to a spending reduction before it becomes effective. Subjecting unnecessary, pork-barrel items not supported by a majority of legislators to an up-or-down vote on their own merits may not be politically palatable, but it is hardly a radical notion.

In testifying before the Senate Budget Committee this January, Office of Management and Budget Director James Miller had this to say about the proposal:

"So let me say I have personally come around to the view that (it) makes a lot of sense. Surely, there are things that would be picked out of appropriations measures that I do not think could begin to stand the test of an up or down vote in the Congress.

"I think for that reason it would begin for us the process of moving toward more carefully weighing these individual initiatives that are put in appropriations measures, giving the President—whether the President is a Republican or a Democrat—the chance to go through and identify pieces of appropriated matters that do not respond to the needs of the general public." [3]

Under the current budget process, it is nearly impossible for Congress to do the job of reducing the deficit. New, fiscally responsible procedures are needed. In a time of record deficits and the need—both economic and statutory—to make significant reductions in those deficits, Congress must put a stop to the pork-barrel politics of appropriations bills.

The pork-buster initiative is a means to this end. Providing serious congressional consideration of presidential rescission requests would force members of Congress to cast a recorded vote on unwarranted and wasteful spending. What's more, legislators tempted to attach their pork-barrel projects to spending bills would face the certain threat of a rescission of their unnecessary parochial riders to dissuade them.

Such a provision is clearly needed in Congress, which has a proclivity toward omnibus legislation rather than timely, individual spending bills. Indeed, at the close of business last year, the 99th Congress approved the single largest omnibus spending bill in history—$576 billion—after it had failed to pass most of the individual appropriations measures during the course of the year.

The problem with such omnibus spending legislation, of course, is that it severely restricts the oversight contemplated by the regular appropriations process with its 13 separate bills. In addition, the urgency of omnibus spending measures—coming, as they invariably do, at the end of the year and with the threat that the federal government will shut down without congressional action—camouflages the wasteful and unnecessary riders that would often not be approved if Congress had the opportunity to vote on them directly.

Furthermore, as the regular appropriations process is ignored and deadlines are missed, the urgency of the appropriations serves to dissuade legislators from voting against—or properly scrutinizing—a measure and risk defaulting on government obligations such as Social Security, pension payments and interest payments.

The president deserves the authority to have a greater voice in how Congress spends the taxpayers' money. And Congress has a duty to its constituents to spend money more prudently than it has in the past. The proposal would bring both sides a little closer in this quest to turn back the tide of red ink that has pushed our national debt well beyond the $2 trillion mark.[4]

Ironically, President Nixon remarked on the occasion of his signing the 1974 Budget Act that the previous system "did not impose sufficient disciplines on the Congress to stop the passage of pork-barrel legislation or to resist the pressure of special interest groups seeking a disproportionate share of the tax dollar." Unfortunately, the 1974 Act has done little to remedy these ailments either.

And as Senator David Reed (R-PA) was to tell his colleagues in a prophetic speech in 1931 as Congress was facing a deficit for the first time in 10 years: "The only way by which we will get results is by putting the power into the hands of somebody who will assume the responsibility and use it. Leave it to Congress and we will fiddle around here all summer trying to satisfy every lobbyist, and we will get nowhere."

AND A TWO-YEAR BUDGET?

Another needed budget reform is the adoption of a two-year budget cycle. Because the budget system has repeatedly broken down, there is the very real risk that Congress will some day abandon its effort to craft an annual budget blueprint and return to the days when no thought was given to aggregate spending. There have been moves in that direction in recent years, with several committees unhappy with the process deciding simply to pass appropriations bills before the budget has passed.

Yet however unwieldy or frustrating the process, it would be a mistake to abandon the budget process. One way to remove some of the tension between those who want a budget that tells them how much the federal government will spend each year and those who would rather move forward quickly on individual projects with little or no regard to overall spending would be to move to a two-year budget.

The 1974 Budget Act forced Congress to pass two budget resolutions each year—a first on May 15 to set targets for spending by functional categories and a second by September 15 to set binding provisions for revenues and expenditures. Yet since the passage of that act more than a decade ago, the first budget resolution deadline has been met only twice and the second just once. While GRH amended that act to provide for just one budget resolution each year, clearly there is not enough time in the space of one year to implement three separate legislative processes—budget, authorization, and appropriations. Even with just one budget resolution to work with in fiscal 1987, Congress missed its April 15 deadline by more than two months.

The present budget process is simply too time-consuming. It requires enactment not only of the annual authorization and appropriations bills, but also passage of two budget resolutions. Under this process, Congress is left with virtually no opportunity to evaluate existing government programs, consider innovative proposals or deliberate on any major issue.

There are two ways to reform the budget process in an effort to eliminate such time constraints—collapse the three-tier spending process into just two tiers, with the likelihood that the budgeting end of the process would fall by the wayside, or move to a biennial budget. Of those two choices, a two-year budget seems the more logical alternative. Congress proved prior to 1974 that it could not responsibly spend money without considering the total spending picture.

A BALANCED-BUDGET CONSTITUTIONAL AMENDMENT

A constitutional amendment requiring a balanced budget is also an idea whose time has come. In 1982, the Senate clearly recognized the need for such an amendment when it voted 69-31 to require a constitutionally balanced budget. The House refused to approve the measure. The Senate revisited the issue four years later but fell one vote short of the two-thirds majority needed to approve constitutional amendments.

Most people believe in a government that pays as it goes, however, so the issue will not fade from the scene until Congress makes substantial headway in the budget process. Congress should follow the lead of Indiana and more than 40 others states that have imposed constitutional barriers against budget deficits. Congress should be forced to live within its means just as the great majority of states—not to mention millions of individual Americans—do year in and year out.

WHAT THE FUTURE HOLDS

Meanwhile, the budget crisis continues. Congress faces a deficit of $171 billion according to the Congressional Budget Office if the current level of services are provided and adjusted for inflation. The deficit target provided by GRH for FY 1988 is $108 billion. In order to meet this and the remaining four years of GRH targets, difficult choices must be made. A number of ways in which the deficit can be reduced have been proposed in Congress, including plans to sell off federal assets, abandoning entire defense or social programs, reducing the government's role in certain sectors of the economy, or raising new revenues.

Reforming the budget and spending process may make some of those choices easier to make. If this nation is to avoid fiscal collapse, both Congress and the president must have a timely and comprehensive picture or its aggregate spending as well as the means to excise items and projects that do not fit into that picture.

CONSUMER CREDIT—ESSAY BY ANGELA SPENCE

● **Mr. DANFORTH.** Mr. President, Americans would not be able to enjoy their present standard of living without the tool of consumer credit. Consumer credit allows the purchase of goods that could not otherwise be afforded, while at the same time helping to spur the economy. But consumer credit must be used wisely. It is increasingly important for Americans to know the importance of a good credit rating and how to protect that rating by using credit wisely.

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[3] Testimony of James C. Miller III, Director, Office of Mangement and Budget, in hearings on the President's Fiscal Year 1988 Budget, before the Senate Budget Committee, January 7, 1987.

[4] The public debt subject to limit is $2.179 trillion, as provided by P.L. 99-509, the Debt Ceiling Increase. On May 15, 1987, this temporary debt ceiling increase will expire.

Each year since 1975 the Missouri Consumer Credit Association Education Foundation has sponsored an essay contest as part of a program to educate high school seniors on the use of consumer credit.

This year's winning entry is an excellent essay by Angela Spence of the Carl Junction R-1 School District in Carl Junction, MO. I am pleased today to extend my congratulations to Miss Spence on her distinction.

Mr. President, the essay by Miss Spence is an insightful discussion of the factors that must be part of any discussion of the use of consumer credit. I ask that her essay be included in the RECORD.

The essay follows:

THE WISE USE OF CONSUMER CREDIT

(By Angela Spence)

Horray for consumer credit. This privilege makes many more goods and services available to me. It gives me the opportunity to purchase "big ticket" items on a buy-now, pay-later basis. Thanks to consumer credit, my family can have a home, cars, recreational vehicles, and many other luxuries without having saved for years and years in order to pay cash. It also allows me to pursue my education by obtaining low interest student loans. As the number of charge purchases continues to grow, it becomes clearly evident that consumer credit will be the key to our future. It will eventually rub out the word "cash" and will dominate in any successful, dynamic economy.

Consumer credit stimulates the United States' free enterprise system and supports the American economy. If there were no such device as consumer credit, producers would have difficulties in planning the demand for their products and therefore, wouldn't manufacture as many expensive items. Homeowners would become nearly obsolete. Few people have $50,000 cash to purchase a house without a home-mortgage loan. These negative effects of non-credit use would only lead to larger problems. Without the use of consumer credit, it is very probable that unemployment and economic stagnation would occur.

What would our country be like without the miraculous little plastic card? Approximately 80 percent of the American population relies on credit card accounts to buy a variety of goods and services. This interdependence enhances our standard of living and helps maintain a balance between production, distribution, and consumption. But along with the many privileges offered by consumer credit also come a great deal of responsibilities required to manage our credit wisely.

Consumers' responsibilities begin with establishing their credit. They should begin by shopping around for the best interest rates. According to Elgie Holstein, a director of the Bank Cardholders of America, credit card consumers who are looking for a good deal should expect interest rates to range between ten to fifteen percent. Holstein goes on to say that "by next year, we can expect a more competitive market spurred by pressure from consumers, the legislative process, and the industry itself." Even home equity loans have entered into the competition and banks are lowering their interest rates.

After shopping around for the best leading institution, the consumer will have to submit an application for the use of credit. Credit-granting agencies are very selective in determining who will be eligible for credit. It is necessary for them to eliminate applicants whom they feel will abuse this pay-later privilege. Because of this possibility, those who apply will be asked to fill out a detailed application, giving personal and financial data about themselves. The purpose of this credit investigation is to determine if the applicant plans to use credit wisely and will have the capacity to repay his charges. It is extremely beneficial to the credit applicant that he be completely honest and not withhold pertinent data from the application. The information provided will be verified before the application is approved. Many times the completed application form is the sole determinant in whether a person will be granted credit. In cases such as this, when no interview is involved, confirmed information is the only means of decision making, and it should provide an accurate reflection of the individual's financial background and work history.

Another aspect of credit responsibility deals with preserving and maintaining your credit record. A record of all of an individual's credit transactions is compiled by credit bureaus and used by other businesses to determine the applicant's character, good sense, and past performance in debt repayment. Your credit is a valuable asset and should be preserved and maintained in a wise manner. You should remember the following points when utilizing consumer credit:

1. Shop as carefully when you buy on credit as when you pay cash. Just because you are paying for it at a later date doesn't mean you should stop hunting for those bargains!

2. Do not get carried away with your charge card purchases. It is best to limit your credit payment to 15-20 percent of your monthly take-home pay. Don't get caught up in buying items on credit that you would never purchase if the cash were available.

3. If you are unable to make your payment, explain the problem to your creditor before payment is overdue. Most credit granters will cooperate and provide alternative arrangements for payment.

4. Be sure the finance charges you pay are balanced by the advantages of buying on credit. These charges indirectly raise the original price and should be compensated by a special sale price on the item at the time the purchase was made and/or by your immediate need for the product.

5. Remember that the history of your credit account payments will become a permanent part of your credit record, so use it wisely. This information is retained on your record for a period of ten years, and as mentioned before, will be used to determine whether you will receive credit in the future.

Consumer credit is a major contributor to our American economy. It can be a valuable asset when used wisely and with common sense. Knowing your financial strengths and limitations can help in building and preserving this financial privilege. We all have the responsibility to use credit extended to us wisely. It is our key to future growth and success, both personally and nationally.●

FLORENCE S. REIZENSTEIN HUMAN RELATIONS DAY

● Mr. HEINZ. Mr. President, today I rise to acknowledge and celebrate today as Florence S. Reizenstein Human Relations Day in the city of Pittsburgh.

Mrs. Reizenstein devoted a lifetime to serving Pittsburgh and its people as a leader in the area of human relations. To honor her achievements on this day, my fellow Pittsburghers recognize the outstanding contributions of other distinguished citizens who have devoted their lives to the promotion of civil and human rights causes. The recipients of the 1987 Florence S. Reizenstein Awards are Judge Marion K. Finkelhor, Dr. Jake Milliones and Mrs. Coretta B. Ogburn. Each has played a vital role in the enrichment of the lives of all people throughout Allegheny County and the entire State and deserve to be recognized for their achievements.

I submit short summaries of their accomplishments for the RECORD.

First, Mrs. Reizenstein; second, Judge Finkelhor; third, Dr. Milliones and fourth, Mrs. Ogburn.

FLORENCE REIZENSTEIN

Florence S. Reizenstein devoted a lifetime to serving Pittsburgh and its people as a leader in the area of human relations.

Born in the Homewood section of the city in 1901, Mrs. Reizenstein was a founding member of the City of Pittsburgh Commission on Human Relations, established in 1955. She also served on its predecessor agencies, the Fair Employment Practices Commission and the Civic Unity Council.

A founder and vice-president of the Pennsylvania Human Relations Commission, Mrs. Reizenstein also helped found and served as vice-president of the Negro Educational Emergency Drive, a non-profit organization which provides financial assistance to black students seeking higher education.

Named a Distinguished Daughter of Pennsylvania by Governor William S. Scranton in 1964, Mrs. Reizenstein was active in many community causes.

She was awarded the National Association of Business Women's Sojourner Truth Citation for her work in human relations in 1966. The Health and Welfare Association of Allgeheny County, in 1969, presented Mrs. Reizenstein its Isabel P. Kennedy Award for distinguished service in human relations.

Mrs. Reizenstein, on June 8, 1970, at the age of 69, was the victim of a tragic accident.

The Pittsburgh Board of Education named Reizenstein Middle School in her honor in 1975.

JUDGE MARION K. FINKELHOR

Judge Marion K. Finkelhor has served on the Court of Common Pleas of Allegheny County since 1972. She is a native Pittsburgher and a graduate of Taylor Allderdice High School, Wells College of New York, and the University of Pittsburgh School of Law.

In the late 1960's and early 1970's Judge Finkelhor served first as Assistant City Solicitor and later as the City Solicitor for the City of Pittsburgh. As Assistant City Solicitor she was assigned to the Human Relations Commission. During that time she combined her legal knowledge and her sensitivity to aid the plight of the under-privileged and disenfranchised and successfully presented some of the nation's first fair housing litigation before the United States Supreme Court.

In addition to her numerous professional associations, Judge Finkelhor has served on many distinguished boards and commissions, including the Pennsylvania Commission for Women, the National Conference of Commissioners on Uniform State Laws, the Allegheny County Prison Board, and the Executive Board of the Pennsylvania Conference of State Trial Judges. She is also currently a member of the University of Pittsburgh Committee on Societal Response to Economic Change.

Judge Finkelhor has been honored as a Distinguished Daughter of Pennsylvania and the Campfire Girls and has received special recognition by the American Civil Liberties Union, for litigation on behalf of women; the Pittsburgh Chapter of the American Association of University Women; the Triangle Women; and the Pittsburgh Post-Gazette, as Woman of the Year.

Judge Marion K. Finkelhor is married to Dr. Howard Finkelhor and is the mother of five children.

DR. JAKE MILLIONES

Dr. Jake Milliones has had a substantial influence on the local awareness of the conditions of the people of South Africa under the system of apartheid. As President of Pittsburghers Against Apartheid, Dr. Milliones led a series of demonstrations against the establishment of a South African Consulate in the City of Pittsburgh. He and the PAA then worked to divest funds from local institutions and agencies invested in South Africa.

Dr. Milliones has been a member of the Pittsburgh Board of Public Education since 1978 and has served as its President since 1983. Under his leadership, the Pittsburgh school district has become one of the nation's finest public education systems.

Dr. Milliones was born in Marietta, Georgia, and completed his Bachelor of Science Degree and Doctorate of Clinical Psychology at the University of Pittsburgh. He currently serves as Assistant Professor of Psychiatry and Psychology at the Western Psychiatric Institute and Clinic.

Among his community activities and associations, too numerous to list, are: Board of Directors of Boys Clubs of Western Pennsylvania, Member of the Pittsburgh Peace Institute, Member of Carebreak, and Director of the Hill District Project Area Committee.

Dr. Milliones is married to Dr. Barbara Sizemore and is the father of four children.

CORETTA B. OGBURN

Coretta B. Ogburn has rendered over 40 years of hard work and dedicated service to the Pittsburgh Branch of the National Association for the Advancement of Colored People (NAACP). She has been a member of the Board of Directors for over 30 years and, at one time, served as Membership Chairperson for nine consecutive years. Mrs. Ogburn has consistently produced over 200 memberships per year and has often been the number one producer in Pennsylvania. Last year she ranked in the top five membership producers in the nation. She is also an ardent worker in the NAACP Annual Human Rights Dinner, Freedom from Hunger, and Scholarship Committees.

Mrs. Ogburn is a charter member of the Wesley Center A.M.E. Zion Church where she serves on the Altar Guild.

She is a supporter of the Negro Educational Emergency Drive (NEED), the Urban League of Pittsburgh, the YWCA, and the YMCA.

Among Mrs. Ogburn's many awards are the Sojourner Truth Community Service Award, the Societal Action Award, and the Homer S. Brown Award.

She is a life-long resident of Pittsburgh where she graduated from Schenley High School. Mrs. Ogburn has dedicated her life to helping others and has adopted as her motto: "By lifting others, I will lift myself.

Coretta B. Ogburn was happily married for many years to the late Robert Ogburn.●

NATIONAL HISTORIC PRESERVATION WEEK

● Mr. DOMENICI. Mr. President:

> Our historic shrines, our parks, our restorations, our pageants, and our monuments constitute a vast textbook across the land, wherein millions of people may deepen their experience, renew their acquaintance with the roots of their institutions, and occasionally encounter those rare moments of understanding and insight that regenerate our strength.

Those stirring words were uttered by Julian Boyd, a noted Jefferson scholar at Princeton. I repeat them during this week's observation of the 15th annual National Historic Preservation Week. This is a time when all of us should reflect on the importance of preserving our national heritage—it is the fiber that holds this great land of ours together. The landmarks that constitute our heritage renew our understanding of what has made this Nation of ours great and allow us to apply that knowledge to our future.

This year's theme for preservation week is "Preservation Is Taking Care of America." It was chosen to highlight the quality rehabilitation and maintenance work that is being done all around this country on both private and commercial buildings. Every State boasts active historic preservation offices, and there are now over 5,000 organizations nationwide involved in historic preservation.

My own State of New Mexico is rich in early, important landmarks, which many individuals in the State have worked hard to protect and preserve. There are about 1,350 listings on our State historic landmark register, which constitute approximately 2,500 individual structures. About 100 new listings are added to the list each year.

Many of our cities in New Mexico are working equally hard to document important structures. For example, in Albuquerque, a comprehensive inventory of all pre-1945 buildings was completed about 2 years ago.

As a part of this year's observation, the State is awarding for the 16th year, its annual Governor's Awards for outstanding service in the area of historic preservation. This year's recipients are a dedicated group:

First, Drs. Darlis Miller and Joan Jensen in recognition of their research in editing the book, *"New Mexico Women,"* an enlightening perspective of the contribution of women to the history of New Mexico.

Second, Plaza Vieja Partnership in recognition of efforts in coordinating and implementing the restoration of historic structures in the Plaza/Bridge Street Historic District of Las Vegas.

Third, Joe Schepps (Schepps/N.M. Development Corp), Sasaki Associates, Inc. and DeWindt/Henry Architects in recognition of the creative reuse and preservation of the Sanbusco Complex in Santa Fe.

Fourth, KNME-TV in recognition of program excellence in the area of public history, archeology, ethnology, and historic preservation.

Fifth, congregation of San Jose de Gracia Church, Mrs. Bernie Lopez (Mayordomo) and volunteers in recognition of outstanding efforts in preserving this national historic landmark in Las Trampas, NM.

Sixth, Dr. Bertha Dutton in recognition of her lifelong accomplishments and dedication to archeology in the Southwest.

Seventh, Archaeological Society of New Mexico in recognition of nearly 90 years of efforts in fostering the public's knowledge, appreciation and concern for New Mexico's unique archeological legacy.

Eighth, Margaret Powers and Byron P. Johnson in recognition of the preparation of the National Register of Historic Places' nomination for the Navajo refugee sites in the Gobernador area of northwest New Mexico.

Ninth, James Warnica in recognition of four decades of effort to protect, preserve and promote the Blackwater Draw site as a national historic landmark.

These dedicated individuals have been singled out for awards this year, but they represent only a small number of the New Mexicans involved in historic preservation. And while preservation work has often been confined to discrete neighborhoods, just 1 week ago, a statewide coalition of individuals interested in historic preservation was established. The establishment of this coalition heightens the importance assigned to historic preservation in my State.

Mr. President, this week provides us with an opportunity to thank and honor those who have been a part of this effort, to celebrate the past contributions of preservation efforts, and to recommit our support for future preservation projets.●

ISRAELI INDEPENDENCE DAY

● Mr. RIEGLE. Mr. President, today we commemorate one of the most important events of the post-World War II era—the day upon which the Jewish people proclaimed the independent sovereign State of Israel. The existence of Israel in our time is a cause for celebration. For 39 years, this state has represented hope and freedom for Jews throughout the world. It has also been a beacon of modern democracy and statesmanship in the Middle East. The great accomplishments of this young state over the years are a tribute to the patience, courage, and perseverance of the Israeli people.

In ancient times, the Jews built a nation in the region once known as Palestine. Since that nation succumbed to the first of a series of conquests nearly 2,000 years ago, the Jews lived in diaspora, at the mercy of anti-Semites, Cossacks and, most recently, Nazis. The modern turning point in Jewish history, however, took place just 90 years ago, when Theodor Herzl, a Hungarian Jew, set forth on his dream to return the Jews to Palestine.

Herzl was a dreamer and a prophet. He knew that the Jews would have to get out of Europe before they were driven out by anti-Semitism and pogroms. But Herzl could not foresee the mass extermination which followed the coming to power of the Nazis in Germany before the Second World War. After this nightmare in Jewish history, and 50 years after Herzl announced his dream, the United Nations General Assembly voted for the establishment of Israel.

The nation, surrounded by hostile neighbors, was carved out of bedrock, desert, and swampland at great sacrifice. Yet, the courage and determination forged during the centuries of exile enabled Jews to face these problems with vigor and unwavering enthusiasm.

With the exception of NATO, there has not been a more enduring relationship in the post-war era than the one between the United States and Israel. Given the wealth of common values and concerns between our nations, such a relationship is only natural. For 39 years, the maintenance of the security, territorial integrity and the independence of Israel has been one of the pillars of United States foreign policy. It must continue to be so.

The long, arduous, but successful fight for sovereignty, as well as the political and economic development of the last 39 years, give the Jewish people of Israel and the world much to be proud of.

I am, therefore, pleased to join my colleagues in paying tribute to the citizens of Israel on this special day. May the State of Israel continue to be a source of encouragement and inspiration for all peoples of the world.●

REPORT ON CENTRAL AMERICA

● Mr. LEAHY. Mr. President, last month I traveled to Central America for the Appropriations Committee to review the political and military situation respecting the Contra insurgency. On my return, I prepared a report which summarizes what I heard from various host countries and U.S. officials and military officers, and Contra leaders. My report also offers some personal views or findings about U.S. policy arising from my observations and discussions.

This report was reviewed by the State Department for classification. Assistant Secretary Fox wrote me that it contained no classified information and was suitable for public release.

I have submitted this report to the distinguished chairman of the Appropriations Committee, the Senator from Mississippi, for the information and use of the members of the committee.

So that the report might also be available to all Senators, as we approach the time when the Senate must take up and debate the President's request for more funds to support the Contras, I ask that the text of this unclassified report be printed in the RECORD.

The report follows:

INTO A DEEPENING QUAGMIRE—REPORT ON A TRIP TO CENTRAL AMERICA

(By Senator Patrick Leahy)

INTRODUCTION

Last October, after a two year cutoff, Congress approved the President's request to provide $100 million in military assistance to the "contra" rebels who are waging an insurgency against the government of Nicaragua. In this budget proposal for fiscal year 1988, President Reagan has included a request for an additional $105 million in further aid to the contra rebels. Thus, in one form or another, Congress will again address this controversial and divisive issue.

In order to assist the Appropriations Committee, and the Senate as a whole, in their consideration of this major policy issue, I visited Honduras and Costa Rica April 11-15. The primary purpose of my trip was to meet with the host country and American officials, and contra political and military leaders, to discuss the evolving situation in Central America. I wanted to evaluate the prospects for a resolution of the conflict in Nicaragua on terms conducive to the interests of the United States. I spent considerable time discussing the peace proposal offered by President Oscar Arias of Costa Rica, aimed at ending the tragic insurgency in Nicaragua and producing movement toward an open political system in that country.

In Costa Rica and Honduras, I met with President Arias, Honduran Foreign Minister Carlos Lopez Contreras, the Country Teams of the US embassies, and leaders of most contra political and military organizations. The latter included the Directorate of the FDN (Adolfo Calero, Indalecio Rodriguez and Aristides Sanchez), Marcos Hoppington and other representatives of MISURASATA, Alfredo Cesar, leader of the BOS organization, Pedro Chamorro, a member of the Directorate of UNO, and Colonel Enrique Bermudez, military commander of the FDN. In addition, in Panama I met with General James Galvin, Commander-in-Chief, Southern Command, and officers of his staff, to review the military situation in Nicaragua.

I also visited Panama on April 11. As one who voted for the Panama Canal treaties in 1978, I have retained an active interest in Panama and progress in implementing full Panamanian control of the Canal. There, I met with Philip McAuliffe, US Administrator of the Canal, and Fernando Manfredo, the Panamanian Deputy Administrator. I also had extensive discussions with the Country Team in the US embassy, as well as meetings with Panamanian political figures. Prior to the trip, I met with US Ambassador Arthur Davis here in Washington, as well as the Chief of the Office of Panamanian Affairs in the State Department. My staff were briefed by representatives of the Drug Enforcement Agency prior to our departure, and they also had discussions with members of Panamanian opposition groups living in the United States. My staff and I spent a considerable portion of our brief time in Panama discussing the issue of Panamanian government cooperation with the United States in combatting the drug trade, a subject of recent and lively interest on the floor of the Senate.

I wish to thank Eric Newsom and Luke Albee of my staff for their invaluable assistance during the trip and in the preparation of this report.

US POLICY DILEMMAS

I embarked on my fourth trip to Central America in the last six years convinced the policies of the Reagan Administration in Central America are leading toward a major foreign policy disaster for our country.

I saw and heard nothing in Central America that causes me to change that view.

It is clearer than ever that the President's policy of military confrontation with Nicaragua is sinking the United States deeper and deeper into a quagmire that will, at the very least, gravely damage our interests in that region. Conceivably, it could end in the first American military intervention in Latin America since the Dominican Republic in 1965.

By any objective standards the Reagan Administration's efforts to overthrow a sovereign government with which we have diplomatic relations have not succeeded. The blundering and ideologically-driven actions of this Administration have produced exactly the opposite result claimed for them.

They have strengthened—not weakened—the grip of the hard-line Marxist elements among the Sandinistas.

They have opened the door for increased—not reduced—Soviet and Cuban influence in Central America by leaving the Sandinistas no recourse but to turn to the Soviet bloc.

They have intensified—not lessened—tensions in a dangerously unstable area, and provided the worst possible atmosphere for the shaky democracies struggling to take root there.

They have deeply divided—not unified—the American body politic and prevented establishment of a broadly based consensus in the two major political parties that could provide the foundation for an enduring policy toward that region.

But on another level, the Reagan Administration may have succeeded more than we critics realize. If, as some have contended, the Administration's underlying aim all along has been to leave its successor with a choice between abandoning an unsuccessful Contra insurgency and tolerating a hostile regime in Central America, or direct American military intervention, it may well accomplish that goal. As a consequence of the Administration's elephantine blundering about in this poverty-stricken and tragic corner of the world, our great and decent country is not stuck firmly in a quagmire. More and more, the situation resembles that in the early 1960s in South Vietnam. Decent options for extricating ourselves from a highly destabilizing and counterproductive military policy are diminishing with each passing day.

Despite the manifest opposition of the American people and a majority of Congress to our involvement with them, the Contras are now a fait accompli. Whether or not Congress refuses further requests for funding, there are now between 10-15,000 well-armed Contras inside Nicaragua. They are deliberately attacking the economic infrastructure, and generally contributing to the suffering and misery of the Nicaraguan people, with no realistic prospect of victory to justify the human costs.

Next fall, Congress will be asked to approve another $105—or $150—million for the Contras. Administration officials will plead with us not to abandon the many thousands of Nicaraguan insurgents fighting inside their own country. Responsible opponents will have to ask themselves what they would do with this rebel army, which will certainly not be welcome inside Nicaragua or any of its neighboring states if the insurgency stops. They must also ask themselves what alternative policy they would put in place of the failed approach followed by the Administration.

It seems clear to me that, having provided Nicaragua's leaders plausible justification for an enormous military buildup using Soviet equipment, the United States will have to find a way to convincingly reassure Costa Rica, Honduras and El Salvador that their security can be maintained in the face of their powerful—and now very hostile—neighbor. This will take skill, tact, and diplomacy—virtues that have been absent from our policy for the past five years. It will also take security guarantees backed by Congress, increased and more dependable economic assistance, and unambiguous support of elected, civilian, democratic governments over supposedly "strong" military juntas.

My trip underlined the difficulties of negotiating any political solution to the conflicts in the region. In Central America today, there are as many sides and positions as there are nations and armies. The Sandinistas and the Contras are not talking, nor is it clear what they would talk about absent a basic change in attitudes. I was repeatedly told the former clearly has no interest in negotiating a surrender of power, and it is obvious to me that the latter is committed to overthrowing the present government of Nicaragua.

Central American leaders are genuinely concerned about Soviet and Cuban influence in Nicaragua. Opponents of the current policy delude themselves if they dismiss such concerns merely as products of Administration pressure. Yet, every day that we continue to support the contras, arm the Hondurans, and conduct major military exercises in the region, the Sandinistas have an excuse to bring in more and more Soviet bloc weapons. By the logic of the Administration's arguments, if the contras cannot win—and few believe they can—the only way to oust Soviet and Cuban influence is by destroying the Sandinista regime with American military power. Otherwise, the Communist bloc influence so feared by Central American leaders will remain pervasive in an embattled and beleaguered Nicaragua.

The United States and its friends in the area continue to insist that negotiations coupled with military pressure are the key to peace in Central America. Nevertheless, the Administration refuses to consider any outcome that could leave the Sandinistas in control of the Nicaraguan government. In their more candid moments, some American officials assert that the only acceptable result is the elimination of the Sandinistas. Under these circumstances, it is difficult to be optimistic about the prospect for negotiations, or even what the negotiations would be about, unless they were conducted between a conquering American army and a vanquished Sandinista leadership.

Assuming the principal parties to the conflict truly wished to find a peaceful solution—at present a dubious assumption—the peace proposal put forth by President Arias of Costa Rica could be the last opportunity to launch a process that could lead to a negotiated settlement. Barring such a fundamental change in attitudes, the Arias plan may turn out to be just a public relations prelude to some form of intensified United States pressure on the Sandinista government, including American military intervention.

If the Reagan administration's policy continues unchanged, these inherent contradictions will eventually leave us with a terrible decision: After years of war and thousands of death caused in our name, shall we concede defeat and abandon the contras to their fate? Or, unwilling to accept another foreign policy disaster, shall we once again commit American men to fight and die in a faraway place for reasons no one understands and which the American people do not support?

If there is one overarching flaw in the Reagan Administration's policy for dealing with the Sandinista regime in Nicaragua is this: Those responsible for devising our policies have utterly failed to meet the most basic tests of statesmanship. A democracy such as ours cannot and must not embark on courses which are not founded on a firm basis of support in our people and our political institutions, and which do not reflect our enduring values and traditions. To attempt to do so is to invite defeat, disaster and humiliation—so painfully demonstrated in Vietnam.

Once again, we are headed for disaster and humiliation in a tiny, impoverished Third World nation with a tragic history of foreign domination, in this case by us rather than a European colonial power. We have failed to understand our own history in that country, and to show the decency, restraint and patience which characterizes our people, and should also characterize our government.

There is still time to devise alternative policies for Central America that can allow us to draw back from this quagmire and avoid making the terrible choice this Administration apparently wants to force upon us. I only wish that I could express some optimism the President and his advisers will avail themselves of this chance to change course. Unfortunately, I cannot.

COSTA RICA/HONDURAS

Responsible political leaders in Costa Rica and Honduras are deeply concerned about the Sandinista regime, its political, military and economic links to the Soviet Union and Cuba, and its intentions in the region. They are worried about what they perceive to be our inability to fashion a consistent, coherent policy in Central America that will survive changes in administrations and partisan debates in the United States.

Officials with whom I spoke clearly regard the core of the Sandinista leadership as Marxist-Leninist, intent on strengthening its power in Nicaragua, and, if unchecked, encouraging and aiding revolutionary movements throughout, Central America. There is great skepticism that the Sandinitas can be presured into permitting an opening of the political process such that they might be ousted from power.

Nicaragua's neighbors are presently not worried about a conventional invasion by the Sandinista army. They seem confident that an overt attack on them by the Sandinistas would provide the present US administration with a politically sustainable causus belli for direct military intervention. The risk of such US intervention is viewed as an effective deterrent. The fear expressed to me is that, once outside pressure is lifted, the leaders in Nicaragua will begin to foment subversion and insurgencies throughout Central America. Those with whom I spoke believe that their political and economic institutions are vulnerable to such pressures.

In Costa Rica, the fear is of a strong, Soviet- and Cuban-backed Nicaragua undermining by stages and over time the democratic structure of that country. In Honduras, I was told that Sandinista subversion, the continued danger of a guerrilla victory in El Salvador, and the increasing military tensions in the region were the principal threats to that shaky democracy.

Leaders in Costa Rica and Honduras made clear that what they view as the lack of a consistent, broadly supported and enduring United States policy in Central America is making it impossible for them to follow coherent policies as well. While there was considerable skepticism about the value of and prospects for the contra insurgency, there was agreement that some form of pressure on the Sandinista government is essential. It was argued that the US and the Central American democracies must make a serious and sustained effort to exhaust all possibilities for a negotiated political settlement with Nicaragua, and, if possible, with the Salvadoran guerillas as well. An unspoken, but visible, concern in Costa Rica and Honduras is that the United States might adopt a passive policy or even disengage from the region as a result of a change in administrations or a clear foreign policy defeat.

Most US officials seem confident about the long term political and military prospects of the contras, although they advance different, and often contradictory arguments to support their claims. While few contend that the contras can win a conventional victory over the Sandinistas, most expect that the coming months will see some military success for the rebels, increasing support for them among the Nicaraguan peasantry, and growing political and military unity among the insurgent factions.

We were told, on the one hand, that the Nicaraguan army has become so strong that the contra insurgency and continuing US military exercises in Honduras are needed to keep it in check and off balance. At the same time, it was argued that the Nicaraguan army's morale is so poor, the militia so undependable, equipment maintenance and operation so shoddy, and leadership so shaky that it is vulnerable to contra military operations. US, contra and host government officials assert that contra success would be measured not by defeat of the Nicaraguan army in the field, but by a gradual and accelerating disintergration of resistance to the insurgency.

Our officials also contend that increasing dissatisfaction with domestic policies inside Nicaragua, and, probably more importantly, spreading economic hardship and privation, could lead to widespread support for the contras among the populace and major defections from the army in the coming year.

Obviously, given the checkered history of the contra insurgency over the last five years, such claims remain to be demonstrated.

We were repeatedly assured that the contras are a truly indigenous guerrilla movement, capable of sustaining themselves inside their own country. We heard optimistic predictious that the contras would soon dominate (though not necessarily hold) portions of Nicaraguan territory, and control a significant fraction of the population. Yet, at the same time all but the most blatantly committed American officials agree the contras would disintegrate rapidly if Congress cuts off additional funding next fall. Without American aid, the contras cannot wage a major insurgency, though some contra leaders said fighting would continue even if the US was to terminate its material support. Other contra leaders said this was nonsense, and that their military commanders would refuse to spend the lives of their troops in a hopeless struggle if US assistance ceased.

We did see strong evidence that many thousands of contras have, as reported, reentered Nicaragua. The FDN claims some 10- 12,000 fighters inside Nicaragua, with 2 or 3,000 more to move there soon. There do not appear to bo any reliable figures for the strengths of BOS, KISAN or MISURASTA forces. But these are numerically insignificant compared to the FDN.

Contra officials said their forces, overwhelmingly composed of insurgents from the FDN, are now well-armed and well-equipped, thanks to the $100 million in US military assistance. There seems little reason to doubt these claims. According to contras leaders, their troops in the field will rely on the United States for ammunition, weapons, uniforms and communications equipment, and will depend on the Nicaraguan people, principally the peasants, to provide them with food and other help. Whether the Nicaraguan campesinos actually do voluntarily aid the contras will be a critical test of the contras' claim that they enjoy substantial support in the rural areas.

While American and contras officials uniformly insisted that the insurgency has broadened its appeal inside Nicaragua, and has been improving its human rights record, there was no way to confirm these claims independently. I did meet with the human rights coordinator of the FDN, who described training in human rights behavior given FDN fighters and who showed me various printed materials distributed to the contras. There were no means to determine how seriously they are taken by contras forces. However, contra political and military leaders argued vigorously that human rights abuses would prevent them from gaining the broad popular support that is vital to their chances, and that they are making this clear to their troops.

American and contra officials downplayed the most recent upheaval in the civilian leadership of UNO, the umbrella contra political organization. All told me that progress was being made in reorganizing the political structure to enhance civilian control over the military wing, to devise a democratic political program, and to present a united front. However, in my discussions with representatives from most of the contra organizations, I saw indications of continuing divisions and rivalries among the various factions. Nevertheless, several of the contra leaders seemed to understand the importance for their cause of at least outward civilian control, some democratic symbols and a facade of unity. They say their immediate goals are to show the Nicaraguan people and the US Congress that the contras are a viable guerrilla force with a credible political and military strategy for replacing the Sandinistas. Without such proof, they see little chance of garnering any additional military and financial support from the United States.

American officials contend that a properly financed and managed Contra aid program, together with sustained diplomatic efforts by the US and the Central American democracies, will eventually force meaningful political concessions from the Sandinista government. Yet, contradictorily, all are deeply skeptical that the Sandinista leaders will ever agree to any settlement that would allow the opposition a serious opportunity to challenge them in free elections. American and Central American officials alike doubted that even if the Sandinistas did, under compulsion, sign an agreement to open up their political process, they would ever implement it in good faith. Despite my repeated requests to have these assertions reconciled in a coherent description of US policy objectives in supporting at one and the same time both the contra insurgency and the Contadora and Arias peace efforts, no US officials were ever able to do so to my satisfaction.

President Arias' peace plan has supplanted the Contadora process, at least for the time being, as the focus of discussions about a negotiated solution to the problems of Central America. President Arias himself stressed the importance of unity among El Salvador, Guatemala, Honduras and Costa Rica on his proposal. Supporters of the Arias plan are concerned that the Sandinistas would exploit disagreements among the four Cental American democracies, as they allegedly have during the Contadora process, to keep up a pretense of negotiating while continuing to cement their hold on all levers of power in Nicaragua.

The provision in the Arias plan for a ceasefire prior to any concrete steps by the Sandinistas to open the political process to the opposition is a source of potentially serious disagreement. Contra leaders were firm that they would not agree to such a sequence. Moreover, certain contra leaders seem unwilling either to accept an offer of amnesty or to be represented in the dialogue with the Sandinista government by the unarmed internal opposition. Most important, from the Honduran point of view, is that the Salvadoran guerrillas, whom they believe are completely controlled by Communists, have not agreed to participate in the plan. The Hondurans regard a Salvadoran guerrilla victory as an intolerable threat to their security. They worry that the United States may become so obsessed with the Sandinistas that it fails to pay sufficient attention to the war in El Salvador, and the massive political threats to the fragile Duarte government from both left and right. Honduras' nightmare would be to find itself confronting Marxist governments in El Salvador and Nicaragua.

PANAMA

I am pleased to report that the Canal continues to function efficiently and cost-effectively. Over the last two years there has been an increase in the total traffic passing through the Canal as measured in size of vessels. Continued utilization of the Canal is encouraging, though the increasing bulk of vessels seeking to transit is causing some difficulties, especially in the Gaillard (Culebra) Cut, where large ships can only pass in single file and only in daylight hours. The trend toward larger and larger ships may necessitate consideration of a widening of parts of the Canal.

There are some difficulties in preparing for the day, in 1999, when control of the Canal passes completely into Panamanian hands. Current plans are to have an entirely Panamanian work force operating the Canal by the late 1990s, and a training program to accomplish that goal is making good progress. Training of Panamanian pilots is a particular problem, however, and under present plans we may fall well short of the goal of a US-trained staff of Panamanian pilots by the time of complete transfer of the Canal on December 31, 1999. Congress would be well advised to monitor closely training programs to prepare Panama to maintain and operate the Canal in a scant thirteen more years.

A much larger and more important question is what steps the Panamanian government itself is taking to prepare for that day. There is cause for some concern on this score. For example, when the treaties entered into force nearly a decade ago, Panama immediately took control of the transisthmian railroad, once a model line. Virtually no maintenance or repairs have been done, the labor force has grown drastically through featherbedding and political patronage, and the track is so unsafe that American citizens are advised not to travel on these trains.

This raises a question about what attitude the government of Panama will take toward maintenance of the Canal when it takes full control. Will Panama preserve the American-trained work force of Panamanian citizens, or will political patronage become the rule in employment in the Canal administration and operation? Will the Canal be run as a national economic asset, to be maintained and operated efficiently, or will it become a "golden goose" to be plundered?

A most important and thorny question is the future US defense role in Panama after 1999. After that time, the US will have no right to maintain a military presence in Panama, either to defend the Canal or to play a regional security role. By the early 1990s, unless some sort of base agreement is worked out (or at least in prospect), it will become necessary to start taking expensive and difficult-to-reverse steps, such as base closings and transfer of units, to effect an orderly phase-out of the US presence. It is not too early now for the Executive branch to begin contingency studies and planning for this phase. The Appropriations Commitee, and other relevant committees, should keep abreast of consideration of this issue in the Executive branch, as considerable costs to the American taxpayer will be involved in whatever transpires, either a base agreement or total US military withdrawal.

The present Panamanian government, weak, divided and lacking the legitimacy of a proper election, is understandably unable to address such questions. The elections scheduled for 1989 will be crucial in this regard. If a democratically-elected government succeeds to power, establishes significant civilian control over the Panamanian Defense Forces, and begins planning for Panama's future, these and many other issues will have to be addressed. The decade of the 1990s will pass rapidly, and both the United States and Panama must not avoid resolving these very basic questions until it is too late to work cooperatively in dealing with them.

Unfortunately, there are some very disturbing signs in Panama that genuine democarcy may be slow in coming. The Panama Defense Forces are expanding substantially and assuming an ever growing role in Panamanian political, economic and social life. The Commander of the PDF, General Manuel Noriega, is the real power behind the present weak civilian government, and may dictate the outcome of the 1989 elections. If this transpires, it could be a tragedy for the hopes for democracy in Panama in the near future, and could immensely complicate the delicate task US policymakers will face in the early 1990s in working out the future US-Panama military and political relationship. I cannot report that I saw many signs, either in discussions in Washington or in Panama, that the Administration intends to exert sufficient influence to ensure a clean election and transfer of real political and economic power to civilian authorities in 1989. Timidity and hope seem to be the guiding principles of our present approach toward the military's role and the forthcoming elections.

Another serious complication in US-Panama relations is the issue of drug trafficking and money laundering via Panama. Panama has a very liberal banking system, and it is said that the financial sector is the second largest employer in Panama after the government. This reflects the importance of banking of the Panamanian economy.

There is little question that drug traffickers are taking advantage of Panama's rather "loose" banking laws to launder drug profits. Also, there is no doubt that drugs are passing through Panama from South America en route to the United States.

There have been widespread allegations in the US press and elsewhere that Panamanian officials, and General Noriega in particular, are deeply involved in both the drug trade and in money laundering. US officials insist there is no hard evidence to implicate General Noriega, officers of the PDF or members of the Panamanian government in involvement or connivance in the drug trade or money laundering. Nevertheless, the massive scale of such activities in Panama make it difficult to believe at least some high level Panamanian military and civilian authorities are not deeply involved.

The United States, facing a devastating drug epidemic among its youth, is well within its rights to demand full and effective cooperation in combatting the drug trade from all countries which receive economic or military assistance from us. Panama falls within this category. While I recently voted against a proposal in the Senate to cut US assistance to Panama in half on grounds that it is not fully cooperating with US anti-drug programs, unless I see marked improvement in Panama's efforts to stamp out massive laundering of drug profits, I will consider supporting such efforts in the future. A recently-enacted Panamanian law providing access to bank records for drug investigation purposes should provide a critical test of Panamanian sincerity. If Panamanian authorities find reasons to drag their feet on legitimate US requests for access to bank records, the Senate should return to the question of what steps to take that will convince Panamaniann political and military officials of our total determination to act against those who engage in this loathesome trade.●

NATIONAL ANTI-APARTHEID AWARENESS WEEK

● **Mr. RIEGLE.** Mr. President, I am proud to be a cosponsor of legislation marking May 10–May 16 as "National Anti-Apartheid Awareness Week." In the wake of the recent whites-only election, which has strengthened the hand of the ruling National Party government in South Africa, it is critically important that the United States continue to demonstrate its condemnation of the abhorrent system of apartheid. The time for meaningful democratic reform in South Africa is long overdue, and we must not for a moment ignore the oppression which continues to be inflicted on South Africa's black majority.

Despite congressional efforts to effect change in South Africa's racial policies, the intransigence of the Botha regime and the horrors of military and police violence continue unabated. The weeks preceding the May 6 white election were marked by repeated reports of Government violence. During the week of April 20 South African police shot dead six black railway workers on strike in the Johannesburg area and carried another 400 away in police vans. A Government sweep of the headquarters of the Congress of South African Trade Unions, the nation's largest black labor organization, resulted in the arrest of dozens of union workers alleged by the Government to be "anti-government activists."

As these events and so many like them over the past year have shown, the Afrikaner regime is interested only in cosmetic reform and is willing to use whatever means necessary to keep real change from occurring. With vague promises of power sharing, the Government has avoided any meaningful compromise with the black majority. Talk of change has not significantly improved the conditions of blacks in South Africa where banishment to barren homelands, continual violence and the threat of police detention have become facts of life. Despite the Government's claims to the contrary, apartheid is probably more entrenched today than ever before.

Under these conditions it is not surprising that black unrest has increased. With the electoral victory of the Government and rightwing parties on May 6, it seems likely that the pattern of intransigence and violence will only worsen. Even Zulu leader Gathsha Buthelezi, by far the most moderate of black leaders in South Africa, has predicted that blacks will despair from the election result. "I fear for the future," Chief Buthelezi said after the vote, "[t]he white electorate has given more justification to the arguments of those who say that only escalated violence can bring whites to their senses."

The United States must lead the efforts to improve this deplorable situation. We must continue to make clear the American people's disdain for apartheid. South Africa must repeal all discriminatory legislation, restore due process to the legal system for blacks and reincorporate the homelands into mainstream South Africa. To advance those objectives, the United States must secure the cooperation of its major trading partners for broad multilateral sanctions, along the lines of those contained in the Comprehensive Anti-Apartheid Act of 1986.

In marking "National Anti-Apartheid Awareness Week" we urge the South African Government to take bolder steps to rid itself of the apartheid system. As Americans who pride ourselves on this Nation's defense of individual rights and liberties, it is our duty to make clear our opposition to the racist policies of apartheid and to do everything to promote real change in South Africa.●

BOULDER FIRM EARNS INTERNATIONAL TRADE SUCCESS

● **Mr. WIRTH.** Mr. President, I would like to bring to my colleagues' attention the unique trade success of ROLTORQ Technology, Inc., headquartered in Boulder, CO. Amid repeated reports of America's declining economic competitiveness in world markets, we should take special note of those companies which are restoring our Nation's winning tradition through innovation, persistence, and farsighted research and development. Recently, ROLTORQ signed a $5 million deal with two Japanese firms to produce a revolutionary new mechanical drive mechanism—which we may soon see in imported Mitsubishi and Honda cars.

ROLTORQ engineers, building on a design concept they discovered in New Zealand, developed and are now marketing the idea of a gear drive without the gears. According to ROLTORQ, this unique and revolutionary drive can produce, with far less friction, the power of gear drive two-thirds larger. In addition, the elimination of gears allows their drive system to sustain almost 50 percent more stress than a traditional gear drive, which has limited durability due to potential gear-teeth breakage.

As the computer chip represented a milestone in the electronics field in the late 1960's, this new drive may one day be viewed as a breakthrough in the field of mechanical power transmission and speed reduction. The people at ROLTORQ are confident that their antifriction drive will eventually find its place in a wide variety of military, automotive, and heavy equipment uses, creating the virtual obsolescence of the worm and spur design gears. I commend the efforts of this Boulder company—a living example of the important contributions made by small business to the marketplace through their creativity and innovation.

Last year, our country recorded an incredible $170 million trade deficit—leading to demands for a variety of possible remedies, from higher tariffs on those products which have infiltrated American markets to tougher international negotiations designed to force open foreign markets. ROLTORQ's success provides us with the preferred remedy for our continued decline in foreign markets—making the best and most innovative products through strategic planning and longer term research and development. This Boulder, CO firm realized that achieving world prominence meant being willing to invest in your product. ROLTORQ spent over $18 million in research and development preparing itself to enter an $11 billion annual market worldwide. While clearly not all of our trade problems can be solved this way, Mr. President, I hope that this example will provide us all with insight when we consider legislative solutions for our international trade crisis.●

ERNEST JOSHUA, ARKANSAS SMALL BUSINESS PERSON OF THE YEAR

● Mr. PRYOR. Mr. President, as we continue to celebrate Small Business Week, designated by President Reagan as May 10–16, 1987, I would like to bring the attention of my colleagues the tremendous achievements of Mr. Ernest Joshua, the 1987 Arkansas Small Business Person of the Year.

Mr. Joshua is the owner of J & M Products, Inc., one of the leading manufacturers of black hair care items in the country. Founded in 1972, J & M Products began as a one man storefront operation. Today, the company employs 75 people, with sales of more than $4 million in the United States, Canada, Great Britain, and the Caribbean.

As my colleagues are aware, starting one's own business is a risky proposition at best, and minority entrepreneurs often face additional difficulties. Ernest Joshua has had his share of adversity—including a battle with cancer—but he has overcome the odds. His selection as Arkansas Small Business Person of the Year is a testament to his personal integrity and courage, as well as his business acumen. A crowning achievement that Mr. Joshua had been named second runner-up to the National Small Business Person of the Year.

Ernest Joshua's accomplishments are a direct result of his determination and perseverance. I extend my sincerest congratulations on his achievements, and look forward to hearing of his continued success.●

AFGHANISTAN: LETTERS FROM THE STATE OF SOUTH DAKOTA

● Mr. HUMPHREY. Mr. President, last December the brutal Soviet occupation of Afghanistan entered its 8th year. The horrible condition of human rights in Afghanistan was recently described in a United Nations report as: "A situation approaching genocide."

As chairman of the Congressional Task Force on Afghanistan, I have received thousands of letters from Americans across the Nation who are outraged at the senseless atrocities being committed today in Afghanistan. Many of these letters are from Americans who are shocked at this Nation's relative silence about the genocide taking place in Afghanistan.

In the weeks and months ahead, I plan to share some of these letters with my colleagues. I will insert into the RECORD two letters each day from various States in the Nation. Today, I submit two letters from the State of South Dakota ask that they be printed in the RECORD.

The letters follow:

DEAR SIR: I would like to express my concern over the Soviet occupation of Afghanistan. Since the Afghanistan people clearly do not want the Soviets in their country, why does the United States not do anything substantial to get the Soviets out of Afghanistan? Especially since the Soviets are inflicting such murderous torture on these people. Please do whatever you can to bring this to the concern of the American people.

Thank you!

Sincerely,

PAUL STRIKER,
Ellsworth AFB, SD.

DEAR MR. HUMPHREY, I have just finished reading the article "Agony in Afghanistan" in March 1986 Reader's Digest. I also read the article "Afghanistan: The Secret Terror" in the May 1984 issue and "Massacre in the Tunnel" in the August 1983 Reader's Digest. These articles are to say the least, appalling in every sense of the word.

The terrorism the Afghanistan people are going through should be unheard of in this day and age but since it is going on, there has to be a way of bringing it to a stop. The American people cannot and should not condone this type of atrocities by the Soviets.

Our great country cannot stand by and watch this outrage continue on.

MRS. TED RUFLEDT, SR.,
Rapid City, SD.●

RECOGNITION OF LARRY L. RISLEY

● Mr. BINGAMAN. Mr. President, today I rise in recognition of Small Business Week to acknowledge of New Mexico's Small Businessman of the Year. In 1982, Larry L. Risley and his wife, Janey, purchased a small air shuttle company. The company had one small plane and ran four daily flights between two New Mexico cities. The carrier's capital was a mere $10,000, forcing Larry Risley to carry out ticketing, refueling, baggage carrying, and bookkeeping duties on his own.

This hard work on Larry and Janey's part has transformed Mesa Air Shuttle into a low-fare commuter carrier flying to 18 cities in three States, using eight planes and employing more than 150 workers. Their perseverance has built a fine air service generating approximately $10 million per year.

Mesa is now New Mexico's No. 1 commuter airline. While 27,000 passengers flew with Mesa in its first year, 123,000 commuters chose his airline in 1985. And his figure doubled during the first 9 months of 1986. Mesa's sharp rise in passengers is a result of low fares and increased flight frequency, which have encouraged people to fly rather than drive. In its years under the Risleys, Mesa has faced competition from seven other airlines, but its service was so reliable and fares so low that no competition exists today.

Mesa Air has donated free flights to a number of fundraising organizations and for children in the Shrine Crippled Children's Program. Risley serves on Farmington's Economic Development Council and other community civic and business groups.

It is with great pride that I salute the determination and initiative of Larry L. Risley and his wife. He is a fine example of the hard work and responsibility that this Nation was built upon. The Risleys are exemplary New Mexicans who also ably represent the vitality of this Nation's small business community.●

HEADACHE FOUNDATION

● Mr. DIXON. Mr. President, I would like to call to the attention of my colleagues the outstanding work of a not-for-profit organization in Chicago called the Headache Foundation.

On May 16, the foundation will conduct its annual benefit event, with the proceeds going to sponsor nationwide public awareness seminars, to fund research into headache causes and to provide information to headache sufferers and their families.

Mr. President, more than 45 million Americans suffer from chronic headaches. They spend more than $400 million a year on headache remedies and lose more than 64 million workdays to headaches.

Migraine headaches can be hereditary, and more than 70 percent of all migraine sufferers are women. Once thought to be emotional in origin, recent research indicates that migraines have physical causes. Anyone who has ever suffered the pain associated with this condition knows how severe it can be.

Mr. President, the Headache Foundation was established in 1970 and now has 8,000 members. Its goals are to educate the public to the fact that headaches are serious disorders, to promote research into causes and treatments and to serve as an information source to the people affected.

I am pleased to be participating in the foundation's efforts. I commend the organization on the fine things it has already accomplished and wish its members the best of luck in the future.●

SMALL BUSINESS WEEK

● Mr. BINGAMAN. Mr. President, this year we are recognizing the essential contribution of small businesses to our economy with the observance of U.S. Small Business Week, May 10 through May 16. The importance of the small businessman or businesswoman to the free enterprise system cannot be understated. Small business entrepreneurs embody the determination and hard work upon which America was founded. The ability of these men and women to take advantage of business opportunities is the driving energy behind our economic growth.

We are experiencing difficult times in many parts of our economy. However, we can be grateful for the tremendous contribution of small business owners to our economy, our competitiveness, and our entire way of life. They employ millions of Americans and help fuel our economy. Their innovative ideas keep us competitive in an aggressive world market.

The impact of small business on the economy of my home State of New Mexico is very significant. According to the publication "County Business Patterns for 1985," there are 53,424 small businesses in New Mexico. This does not include the equivalent number of sole proprietorships. The florist in Carlsbad, the contractor in Farmington, the shoe storeowner in Silver City, the auto shopowner in Questa, the computer software dealer in Albuquerque, and the jewelry designer in Gallup have one thing in common. These small business people are all vital elements in the economic infrastructure of New Mexico. They are the force behind the economic growth of the State and the Nation.

I know that I am not alone in saluting the small business men and women of America. The future of our Nation's economy is dependent on the hard work and determination of the individual American entrepreneur. It is this effort and this vision of the future that will restore U.S. strength and competitiveness in the global economic environment. The creativity, initiative, confidence, and skills of small business men and women in New Mexico and throughout the United States deserve to be honored this week.●

PUBLIC/PRIVATE PARTNERSHIPS

● Mr. HEINZ. Mr. President, without proper training and guidance, many youth face long-term unemployment problems. Private/public partnerships offer excellent opportunities to provide our youth with training and experience. These efforts are essential as our ability to compete in an international economy depends, in large part, on a trained labor force that is responsive to rapidly changing industry needs. A recent Newsweek article by James M. Zimmerman provides an important example for us as we consider legislation on education and job training.

Mr. President, I ask that the article appear in the RECORD.

The article follows:

SCHOOLS ARE MY BUSINESS

(By James M. Zimmerman)

I would like to advance a modest proposal for the improvement of the nation's schools. It has little to do with curriculum, competency testing, academic standards, length of school day or any other factor in the traditional education formula. Would-be-reformers arrange and rearrange those elements and, as I see it, leave schools much as they've always been—as the private preserves of educators.

Like most business people, I thought this was the way it had to be until my company was pushed and pulled into an experiment in education that has changed my mind. I say "pushed" because a department store needs a reliable pool of educated entry-level employees, a resource we felt was seriously endangered by the flawed performance of the schools. And "pulled" because the long-term consequences of educationally disabled youth who are heading for the economic scrapheap are unpleasant to consider. But in 1982, in renovated space on the top floor of Rich's department store, the Atlanta public-school system transplanted 50 students from surrounding high schools to test an audacious proposition; that business just might represent a saving link to the "real" world for students on the verge of dropping out of school.

Without fanfare but with high expectations, we opened Rich's Academy as a "school of last resort." Since then, dropouts and dropout-prone students referred by youth workers, principals, parents and even other students have made their way to our store. In their previous school lives many of them were occasional "drop-ins" who tended to be disruptive influences on everyone else in the school. Now they are graduating, finding jobs, even going to college.

What makes the difference? Simply put, the students know that we care. The traditional building blocks of education have not been neglected—we are an accredited unit of the Atlanta Public Schools. But as we thought then and now know, change occurs when priority is given to *relationships* and *environments*. We made the facility available; our employees, 40 of them now, volunteer their time. And a nationwide organization links us as partners to the city's public-school system and human-service agencies. The organization Cities in Schools operates on the premise that the services required by potential dropouts can be delivered in an integrated fashion. Each student is the center of attention and follow-up is immediate if grades drop. Since nonschool problems often impede a student's progress, personal counselors, working with teachers and parents, help kids manage such formidable matters as health care, pregnancy, jobs—even legal problems. Existing city services are coordinated and the result is the equivalent of an extended family of professionals, the whole of whose efforts exceeds the sum of their previously separate and disjointed interventions.

Closed system: America's high schools are losing half a million students a year, an educational failure of an inexcusable magnitude. The school clock begins winding down for nearly one out of every two urban youngsters who make it as far as the ninth grade. Why? Why should kids "have to" drop out of school because of nonschool problems? Why should we tolerate the expansion of an underclass whose members once had great hopes that a "good education" would be the key to a brighter future in our free and flourishing society? Can anyone accept such a glaring social failure dispassionately?

The severity of the problem demands nothing less than a coordinated response from the entire community. Our much maligned schools by themselves can't stop the hemorrhaging. Students most at risk come to school with more problems than schools can handle. I understand why some education critics compare a school with a 50 percent dropout rate to a hospital that kills off half of its patients. What I don't understand is why we go on believing the myth that education is a closed system and only educators have a stake in what happens to kids.

The school is the one institution into which all kids are drawn for substantial periods of time. It is the one place where society can takes its best—and a united—shot at the youngsters who are on their way to becoming illiterate and unemployable. Not to do so creates another deficit of unacceptable proportions. And the consequences for business will be enormous, as New York's Gov. Mario Cuomo indicated last week when he challenged businessmen in his state to train and guide minority youths.

"The majority of the work force in this country in the 21st century is going to be minority," Cuomo said. "Now one out of two of them is being raised in poverty. What kind of work force are you going to have? Who are going to be your sophisticated people who will outthink the Japanese and the West Germans?" Those are good questions—ones that I believe are sufficiently compelling to demand an all-out effort by a society acting in its own self-interest. We need to decide to do something.

In all candor, our security people were apprehensive about bringing "a horde of future muggers" into our store each morning. But we believed that the stakes were greater than the risks. And the remarkably positive outcomes have made firm believers of all. Such business/school partnerships should become more than just a minor phenomenon of the 1980s. With more participants, we could form a national movement that would have far-reaching effects on public education. In truth, the actual out-of-pocket costs are small compared to the sizable contribution made in educating at-risk kids. The cost of responding is not high. The cost not to do so will be.●

VOTE ON CLOTURE MOTION TO OCCUR AT 10:15 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent—and I believe this is agreeable to the distinguished Republican leader and I who have discussed it, but neither at that time knew seriously whether or not it would be agreeable—I ask unanimous consent that the vote on the motion to invoke cloture occur tomorrow at the hour of 10:15 a.m., with no quorum call prior thereto.

The PRESIDING OFFICER (Mr. DIXON). Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Mr. BYRD. Mr. President, I hope it will not be necessary but I send another cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Wendell Ford, J.J. Exon, Bill Bradley, Daniel K. Inouye, Alan J. Dixon, Barbara Mikulski, Sam Nunn, Quentin Burdick, George J. Mitchell, Terry Sanford, David Pryor, Kent Conrad, John Melcher, Dale Bumpers, John Breaux, Edward M. Kennedy, Frank R. Lautenberg, Howard Metzenbaum, John D. Rockefeller, Alan Cranston, and Jim Sasser.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, has the Senate resumed consideration of the motion?

The PRESIDING OFFICER. That was automatic.

SENATE STRATEGY ON REINTERPRETATION OF THE ABM TREATY

Mr. BIDEN. Mr. President, in October 1985, when its so-called reinterpretation of the ABM Treaty was first announced, the Reagan administration began a journey down a road that is perilous both strategically and constitutionally. Although the administration has yet to conduct an ABM test that would violate the treaty, it has continued to assert that a so-called broad interpretation is legally valid, notwithstanding that such an interpretation is directly at odds with the very object and purpose of the ABM Treaty, as well as with the American national security interest. In so doing, the administration has kept open the option of violating the treaty as traditionally interpreted, while offering a theory of treatymaking that is brazenly in violation of the Constitution as traditionally interpreted.

TWO APPROACHES

In the Senate, on the part of those who would uphold the treaty and the imperatives of the Constitution, two approaches have evolved on this issue. One would use the regulation of funding to prevent programmatic action—meaning the development and testing of mobile or space-based ABM systems—under the reinterpretation. The other would address the reinterpretation issue head-on in terms of its constitutional unacceptability.

I view these two approaches not as competitive, but as complementary. Both are needed.

The Levin-Nunn amendment to the DOD authorization bill—approved by the Armed Services Committee, 12 to 8—represents the first approach. For 2 years—the remainder of the Reagan administration—it would effectively prohibit the use of funds to violate the ABM Treaty.

Senate Resolution 167—the Biden resolution, as it is called—represents the second approach. Through it, the Senate would affirm the constitutional imperative that, while the ABM Treaty may be subject to withdrawal or formal amendment, it is emphatically not subject to unilateral reinterpretation by this or any other administration. Last week a test vote in the Foreign Relations Committee showed 11 to 8 in favor of Senate Resolution 167; and on a vote on final disposition scheduled for next Tuesday, I have some reason to hope for an even better margin.

Because, in floor debate on the DOD authorization bill, there has been some apparent misunderstanding of the Foreign Relations Committee's plans, I wish to emphasize that the committee, to which Senate Resolution 167 was referred, is scheduled to act on the resolution next week.

I am aware that yesterday Judge Sofaer issued two new studies of the reinterpretation issue—one on the negotiating record and text, the other on ratification proceedings—and wishes to be heard formally defending these studies. But it should be recognized that these studies do no more than elaborate on administration arguments previously made; indeed, the summary at the beginning of the first study acknowledges that the administration's new work does not alter the basic reinterpretation arguments first developed by Judge Sofaer in October 1985, when National Security Adviser McFarlane surprised the country by announcing casually that the Reagan administration had a wholly new view of the ABM Treaty.

I should also point out that still another Sofaer study—on the "subsequent practice" of the parties—is still underway and not due until next month. Accordingly, I believe it would be wise, before scheduling another hearing for Judge Sofaer, to await that final study—lest we hear once again the admonition that no firm conclusions are possible because analysis is still ongoing. I can only point out that such an admonition would best have been heeded by the administration itself in October 1985, when it launched this elaborate effort to distort the ABM Treaty's basic meaning and purpose.

Because the Foreign Relations and Judiciary Committees have already conducted extensive joint hearings on the reinterpretation issue—including testimony from Judge Sofaer—I believe that the Foreign Relations Committee should now act on Senate Resolution 167 on schedule, and deliver that resolution to the full Senate, accompanied by a major report emphasizing the constitutional aspects of the reinterpretation issue. That report will, I believe, make a significant contribution toward refuting both the reinterpretation and the Sofaer theory of treatymaking on which the reinterpretation depends.

FLOOR ACTION

As to floor action on the two approaches, I favor a strategy that puts the Levin-Nunn amendment first chronologically. In the sense that it is mandatory, rather than a resolution, Levin-Nunn may appear the more far-reaching of the two complementary approaches I have described. But, paradoxically, it may actually be easier for certain Senators to vote for, because it does not require them to commit themselves directly on the reinterpretation issue, which has been invested with enormous ideological significance.

In that sense, conversely, the Biden resolution may be more farreaching, for while it would not directly constrain funding, it would constitute a clear and powerful Senate affirmation that the so-called reinterpretation of the ABM Treaty is simply invalid—indeed unconstitutional—and that the issue should be regarded as resolved and not as subject to repeated and recurring controversy. Passage of Senate

Resolution 167 with a substantial margin would thereby be likely to lay the issue to rest. But it could also, according to some legal opinion, enhance the prospects that the courts will find it appropriate to resolve the issue should this administration, or a future one, venture further over the threshold of unconstitutionality.

In sum, I believe that the Levin-Nunn amendment represents the best way to engage this issue and to test opinion. I hope the amendment will pass and prevail over a veto of the DOD authorization, and that it will thereby pave the way for the Senate to address the reinterpretation issue directly in the weeks ahead, through a vote on Senate Resolution 167. Ultimately, that direct vote is a vote well worth having—but only at such time as Judge Sofaer and his continuing reinterpretation studies have been accorded the full repudiation they so richly deserve; and circumstances have thereby been created for a decisive victory.

HOUSE JOINT RESOLUTION 270 PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.J. Res. 270, a joint resolution commemorating the 125th anniversary of the founding of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the joint resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT RESOLUTION PLACED ON CALENDAR—S.J. RES. 129

Mr. BYRD. Mr. President, I ask unanimous consent to introduce and place on the calendar on behalf of Mr. LEAHY, and other Senators, a joint resolution commemorating the 125th anniversary of the founding of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

URGENT RELIEF FOR THE HOMELESS ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 558.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 558) entitled "An Act to provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees:

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1 and 2, title I (except sections 101 (a), (b), (h), and (i)), and title IV of the House bill and sections 1 through 3, title IV, and title X (except sections 1003 and 1005) of the Senate amendment, and modifications committed to conference: Mr. St Germain, Mr. Gonzalez, Mr. Fauntroy, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Frank, Mr. Wylie, Mr. Wortley, Mrs. Roukema, and Mr. Ridge.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title III (except section 302) and title VI of the House bill and title I, title III (parts A and B), and section 1005 of the Senate amendment, and modifications committed to conference: Mr. St Germain, Mr. Gonzalez, Mr. Vento, Mr. Wylie, and Mr. Ridge.

From the Committee on Energy and Commerce, for consideration of section 101 (a) and (b), title II, title III (except section 302), and title VI of the House bill and title I, title III (parts A and B), title V, and section 1005 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Leland, Mr. Lent, and Mr. Madigan.

From the Committee on Education and Labor, for consideration of section 101 (h) and (i) and title VI of the House bill and title III (part C), title VI, title VII, section 1003, and section 1005 of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Jeffords, and Mr. Goodling.

From the Committee on Agriculture, for consideration of title V of the House bill and title VIII of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Panetta, Mr. Staggers, Mr. Emerson, and Mr. Lewis of Florida.

From the Committee on Government Operations, for consideration of section 302 of the House bill and title II of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mrs. Collins, and Mr. Horton.

From the Committee on Veterans' Affairs, for consideration of title IX of the Senate amendment, and modifications committed to conference: Mr. Montgomery, Mr. Edwards of California, Ms. Kaptur, Mr. Dowdy of Mississippi, Mr. Solomon, and Mr. Hammerschmidt.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendment, agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed the following conferees on the part of the Senate:

For consideration of all matters:

Mr. CRANSTON, Mr. MITCHELL, Mr. CHILES, Mr. HATFIELD, and Mr. DOMENICI.

For Titles I, II, and III:

Mr. GLENN, Mr. BINGAMAN, Mr. GORE, Mr. STEVENS, and Mr. HEINZ.

For Title IV:

Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. SASSER, Mr. HEINZ, Mr. D'AMATO, and Mr. BOND.

For Titles V, VI, and VII:

Mr. KENNEDY, Mr. METZENBAUM, Mr. DODD, Mr. MOYNIHAN, Mr. HATCH, Mr. STAFFORD, and Mr. WEICKER.

For Title VIII:

Mr. LEAHY, Mr. HARKIN, Mr. MELCHER, Mr. LUGAR, and Mr. BOSCHWITZ.

For Title IX:

Mr. CRANSTON, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MURKOWSKI, and Mr. SIMPSON.

ORDER OF PROCEDURE TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order, the remaining time between that hour and 10:15 a.m. be utilized for debate on the cloture motion or for other matters, and that the time be under the control of the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on tomorrow the Senate will come in at 9 a.m. The vote on the motion to invoke cloture on the motion to proceed to consider the defense authorization bill will occur at 10:15 a.m. That is an automatic rollcall vote. If cloture is invoked, then the Senate will stay on that motion to the exclusion of all other business until that motion is disposed of. I would assume that if cloture is invoked, a vote would occur relatively soon, if not immediately, after the cloture motion is adopted. In that event then the Senate would proceed to debate the defense authorization bill.

If the cloture motion fails, then the Senate will remain on the motion to proceed to the consideration of the defense authorization bill. I hope that during tomorrow the Senate will proceed to the bill itself and that amendments can be taken up and disposed of.

I also hope that it will be possible to dispose of the nomination of Mr. Webster. I have indicated to the Republican leader that if Mr. Webster can find it convenient to contact a certain Senator on this side of the aisle, it may very well be the Senate could take up that nomination and dispose of it tomorrow.

Mr. President, I call attention to the fact that the supplemental appropriations bill is on the calendar. I hope that it will be possible to take up the supplemental appropriations bill again at some time soon and that it might be possible to get strong support on the other side for the waiver so that the

Senate can proceed with disposing of that bill.

Mr. President, there will be at least one rollcall vote tomorrow, perhaps more—hopefully more.

Mr. President, I also express my appreciation to the Republican leader for the promptitude with which he was able to work out the agreement which enabled the Senate to take up and dispose of the temporary extension of the debt limit today.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, the Senate stand in recess until tomorrow morning at 9 o'clock.

The motion was agreed to, and at 5:43 p.m., the Senate recessed, until tomorrow, Friday, May 15, 1987, at 9 a.m.

EXTENSIONS OF REMARKS

WOMEN PARLIAMENTARIANS AT THE INTER-PARLIAMENTARY UNION

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mrs. BOGGS. Mr. Speaker, the 77th session of the Inter-Parliamentary Union [IPU] took place in Managua, Nicaragua, recently. I was very pleased to head the U.S. delegation to the IPU at the request of my good friend, the Honorable CLAUDE PEPPER, who chairs the U.S. delegation but was unable to make the trip. Although it was not possible for me to spend the entire week at the session because of obligations here in Washington and New Orleans, I attended the meeting of the Women Parliamentarians on Sunday, April 26 and the inaugural ceremonies on Monday, April 27. Both meetings were held at the attractive and newly constructed Olaf Palme Convention Center in Managua.

Sessions of Women Parliamentarians are a relatively new but important development within the IPU. During the 1983 session of the IPU in Helsinki, Finland, I addressed the issue of women and girls briefly in the IPU Committee on Education, Science, Culture and Environment, pointing out the past deficiencies in education and training of girls and young women in science and technology and the need for training and educational opportunities for women and girls so they could have access to the nontraditional, higher paying positions that modern life has made available to men. Subsequently, at the 1984 IPU meeting in Geneva, the equality between men and women was one of the topics for debate. This resulted in the adoption of a resolution, without a vote, entitled "The Need for Parliamentary and Other Actions To Formulate Initiatives That Will Achieve Equal Rights and Responsibilities for Men and Women." Among other matters, this resolution called on governments to ratify the Convention on the Elimination of Discrimination Against Women if they had not already done so; called on national groups to include women parliamentarians in their respective delegations to IPU meetings and to report on progress achieved every 3 years on measures to promote equal rights and responsibilities for men and women; and called on parliaments and governments to include women in delegations to international conferences as official representatives. Congressman JOHN PAUL HAMMERSCHMIDT, on behalf of the United States, addressed the plenary session on this same subject. I respectfully request that a copy of this 1984 resolution adopted by IPU and Mr. HAMMERSCHMIDT's statement be inserted in the CONGRESSIONAL RECORD at this point.

THE NEED FOR PARLIAMENTARY AND OTHER ACTIONS TO FORMULATE INITIATIVES THAT WILL ACHIEVE EQUAL RIGHTS AND RESPONSIBILITIES FOR MEN AND WOMEN

(Resolution adopted without a vote)

The 72d Inter-Parliamentary Conference,

Deeply concerned by the inequality that still exists between men and women with regard to rights and responsibilities in society,

Recalling the United Nations Declaration on the Elimination of Discrimination against Women of 1967, which states, inter alia, that "discrimination against women is incompatible with human dignity and with the welfare of the family and of society," and other UN resolutions and instruments relevant to this issue,

Stressing the international importance of the United Nations Convention on the Elimination of All Forms of Discrimination against Women of 1979,

Noting women's limited participation in political organizations and their numerical under-representation in all Parliaments and responsible governmental posts,

Recalling that the problem of equal rights for women, who constitute half of the world's population, is a problem of contemporary society in general and that the guarantee of equal rights for men and women in the economic, political and social fields, especially education and vocational training, must become an integral part of parliamentary and governmental activities,

Emphasizing that equality before the law and economic independence are fundamental aspects of equality between men and women,

Recognizing that in times of hardship women are usually the first victims of unemployment,

Recognizing that it is not enough to affirm in constitutional and legislative texts the principle of nondiscrimination based on sex but that it is necessary to modify attitudes and to translate non-discrimination into reality by implementing laws,

Recalling that many of the inequalities suffered by women in developing countries, are aggravated by colonialism, foreign occupation and domination, apartheid, racial discrimination, and extreme religious and cultural attitudes,

Recognizing that the improvement of the situation of women in developing countries has a positive impact on economic and social development in general and on that of the Third World in particular,

Convinced that women's full participation in all fields is necessary for the full development of countries, the well-being of the world, the establishment of a new international economic order and the strengthening of international cooperation, security and peace,

1. Supports the principles proclaimed in the 1975 Declaration of Mexico on the Equality of Women and their Contribution to Development and Peace,

2. Urges all Governments which have not yet done so to become parties to the United Nations Convention on the Elimination of All Forms of Discrimination against Women of 1979,

3. Urges Parliaments:

(a) To adopt legislation affirming the principle of equality of men and women and prohibiting all discrimination against women, as well as introduce adequate measures for the effective implementation of such legislation;

(b) To ensure equal education and training opportunities at all levels while establishing adequate literacy programmes, particularly in rural areas;

(c) To establish women's programmes relating to literacy, civic education and vocational training, including training in new technology;

(d) To ensure that women have equal opportunities in employment;

(e) To adopt and implement legislation for equal wages for equal work;

(f) To provide women with opportunities for retraining;

(g) To observe and, where necesary, to improve the working conditions and collective agreements for female employees in all sectors of work;

(h) To achieve in countries, where applicable, the representation of women both on company committees and among staff delegates, on the basis of a fair proportion of the total number of women employed;

(i) to safeguard the right to free and conscious motherhood, and to give motherhood its appropriate status and social importance which should be fully recognized in legislation and in the organization of health, social and other services;

(j) To provide child-care facilities and other supporting social services enabling women and men to fulfill their functions as parents and persons active in working, social and political life;

(k) To emphasize that equal participation by women in gainful employment and social life can only be attained if the concept of co-operation within the family is applied to the division of housework and family responsibilities;

(l) To recognize the valuabale contribution to society made by women in the house and to examine their status with view to the social and economic recognition of their work;

(m) To reaffirm the right of women to full participation in their countries' political, economic, social and cultural life, as well as in the struggle for development and international peace;

(n) To encourage the election of women to parliamentary institutions at the national and local levels;

(o) To encourage all political organizations to nominate more women as candidates for Parliament;

(p) To take into consideration the situation of women in the planning of development programmes and to increase support for actions aimed at improving their situation;

(q) To contribute to the implementation of the main United Nations documents elaborated during the UN Decade for Women (1976-1985) as well as to the preparation and successful outcome of the World Conference on the Decade to be held in Nairobi in 1985;

(r) To initiate parliamentary activities in order to draw the attention of the mass

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

media and public opinion to the eradication of prejudices and all practices which prevent progress toward equality between men and women;

(s) To examine means by which special parliamentary initiatives can contribute to the promotion and assessment, at the parliamentary level, of the implementation of the present resolution;

4. Calls upon the National Groups of the Inter-Parliamentary Union:

(a) To include women representatives in their delegations to IPU Conferences;

(b) To report the Union's Committee on Parliamentary, Juridical and Human Rights Questions every three years on the progress of their initiative and measures to promote equal rights and responsibilities for men and women;

5. Calls upon Parliaments and Governments to include women in delegations to international conferences as official representatives.

STATEMENT OF REPRESENTATIVE JOHN PAUL HAMMERSCHMIDT (U.S.A.)—SEPTEMBER 25, 1984

THE NEED FOR PARLIAMENTARY AND OTHER ACTIONS TO FORMULATE INITIATIVES THAT WILL ACHIEVE EQUAL RIGHTS AND RESPONSIBILITIES FOR MEN AND WOMEN

It is a pleasure to address the group on the important topic of achieving equal rights and responsibilities between men and women. We recognize that different cultures and religions may result in different views on the role of women in society. Nevertheless, we feel sure that there are many initiatives to improve the status of women on which we can agree.

I would like to begin by reporting on the progress women in the United States have made since they achieved the right to vote in 1920, and particularly in the past Decade for Women. In addition to great gains in the private sector, women have attained many high level leadership positions in government. For the first time a woman is serving on the Supreme Court, the highest court of the land. There are 22 women serving in the House of Representatives and two in the United States Senate. Three women now hold cabinet posts: the Secretary of the Department of Health and Human Services, the Secretary of Transportation, and the Ambassador to the United Nations. A woman is running for Vice President on a major party ticket for the first time.

Congress has taken major steps during the Decade to correct any remaining inequities in legislation affecting women. The Pregnancy Discrimination Act amended the Civil Rights Act to prohibit sex discrimination in employment on account of pregnancy, child-birth, or related conditions. Last year Social Security legislation was amended to improve the coverage of disabled homemakers, divorced wives, and older widows. This year Congress strengthened existing laws regarding the collection of child support payments. In addition, the Retirement Equity Act of 1984 made a comprehensive reform of private pension plans to recognize the special needs of women as workers and as surviving or divorced spouses. In 1976 women were admitted to the military academies and in 1980 legislation assured equal treatment between men and women officers of the armed forces.

The United States Congress has also strongly supported international efforts to advance women. It has contributed $7.7 million to the Voluntary fund for the U.N. Decade for Women. In the foreign aid program, Congress has made available up to $10 million of development assistance funds each year to encourage the participation of women as equal partners in the development process and to increase the economic productivity and income earning capacity of women. An Office of Women in Development operates under the Agency for International Development to integrate women in development activities such as those to improve agriculture, water management, reforestation, and access to credit. Its projects have also addressed increasing employment in the private sector, management training, education and skills training, technology transfer, irrigation, and small enterprises.

The United States believes that the Nairobi Conference commemorating the end of the Decade for Women will provide an excellent opportunity to define priorities for action after 1985 to promote the equality of women. The conference should seek to identify problems that are common to all the regions of the world, to share solutions that have been successful in meeting these problems in different countries, and to find courses of action on which there is consensus. We in the United States, for example, would be interested in finding how other nations are providing care for the children of women who work outside the home.

The United States strongly believes that the politicizing of the Nairobi Conference by the interjection of extraneous divisive issues could prevent the constructive discussion of issues of common concern to women everywhere. Therefore, we urge parliamentarians at this conference to avoid introducing measures that are not relevant to the basic concerns of women everywhere and to seek measures on which we can all agree. This Interparliamentary meeting can make a meaningful contribution if we can identify common concerns and recommend areas deserving priority. Such concerns include:

(1) Economic development

Women play a key role in the production of food, the education of children, and the health of families. Improving the access of women to resources and education helps children and men as well as women. Increasing participation of women in the design and implementation of economic development programs is one of the most efficient methods of promoting economic development of an entire nation.

(2) Maternal and child health care clinics.

The equality of women, slower population growth, and economic development are closely intertwined. Maternal and child heatlh care clinics promote all three objectives. They contribute to a slower population growth by increasing the survival rates of infants and thereby decreasing the incentive for additional children, as well as by providing an opportunity for education on voluntary family planning.

(3) Equality in employment

The majoriy of women work outside the home, and for many of them equal pay for equal work remains the main goal. In addition, an overwhelming percentage of women who work are within child-bearing age. To meet the needs of these women, adequate child-care systems and provisions for maternity leave demand the highest priority.

(4) Care for the elderly

Because of the longer life expectancy of women, elderly citizens are more likely to be women than men. Women are less likely to have adequate pensions and means of support, and therefore more likey to spend their last years in poverty. This is a problem in our country and we assume it is a problem that needs attention in many countries.

Past world conferences of women have been most successful when they concentrated on issues such as these. We urge that this conference and the 1985 conference continue to identify problems of special concern to all women with a view to erasing the remaining inequities.

At the next IPU meeting, in the spring of 1985 in Lome, the first meeting of Women Parliamentarians was held. Then followed the U.N. Conference on the U.N. Decade for Women in Nairobi, Kenya, in July 1985 to which I was appointed a congressional member of the U.S. delegation along with Congresswoman MARJORIE HOLT and Senator NANCY KASSEBAUM. The Conference adopted by consensus a major document entitled "Forward Looking Strategies for the Advancement of Women to the Year 2000," that was intended to serve as a set of guidelines for governments, international organizations, and nongovernmental organizations for action to reduce if not eliminate obstacles to women's participation in all sectors of society. Among the important guidelines are those that deal with women in political, parliamentary life, and government. A copy of the Forward Looking Strategies along with an assessment of the Conference itself and the activities of the U.S. delegation may be found in the report prepared for the House Committee on Foreign Affairs by congressional staff advisers.

During the Nairobi Conference, the Kenyan National Group of the IPU sponsored an informal meeting of Women Parliamentarians at Kenya's House of Parliament. There the Canadian representative noted that the next IPU meeting would be in Ottawa, in September 1985, and urged all women MPs to attend. In Ottawa, the IPU Council adopted, without a vote, a resolution, entitled "Followup to the Resolution on the Question of Equality Between Men and Women." I ask that a copy of this 1985 resolution be inserted in the RECORD at this time.

FOLLOWUP TO THE RESOLUTION ON THE QUESTION OF EQUALITY BETWEEN MEN AND WOMEN, ADOPTED BY THE 72ND INTER-PARLIAMENTARY CONFERENCE

Resolution adopted without a vote by the Inter-Parliamentary Council at its 137th session (7 September 1985)

The Inter-Parliamentary Council,

Referring to the resolution on "The need for parliamentary and other actions to formulate initiatives that will achieve equal rights and responsibilities for men and women", adopted without a vote by the 72nd Inter-Parliamentary Conference (September 1984),

Recalling in particular the provisions of operative paragraph 4 of that resolution,

Concerned at the small number of women parliamentarians participating in the Inter-Parliamentary Union's meetings,

Further noting the small number of women parliamentarians in leadership positions in the Inter-Parliamentary Union,

Having been informed of the initiatives and recommendations of women parliamentarians, particularly those adopted during their meeting in the Canadian Parliament on 4 September 1985,

1. *Expresses satisfaction* at the results of the United Nations Conference on the

Decade for Women, held in Nairobi from 15 to 26 July 1985, and *encourages* all Governments and all Parliaments to implement as rapidly as possible the provisions contained in the Conference's main final document relating to Forward-looking Strategies for the Year 2000;

2. *Expresses satisfaction* at the meeting in Nairobi, under the auspices of the Inter-Parliamentary Union, of parliamentarians participating in the United Nations Conference, and *thanks* the Kenyan National Group which hosted that meeting;

3. *Calls on* all Parliaments to include women in their delegations to all Conferences of the Inter-Parliamentary Union and of regional Inter-Parliamentary organizations;

4. *Urges* the members of the Inter-Parliamentary Union to give women greater recognition by supporting their candidature to leadership posts within the Organization;

5. *Calls on* all delegates to the Inter-Parliamentary Union to give greater prominence, at future Inter-Parliamentary Conferences, to the impact on women of the issues under consideration;

6. *Invites* all National Groups to report to the Inter-Parliamentary Council every three years on the progress of their initiatives and measures to promote equal rights and responsibilities for men and women, including those taken within the framework of the implementation of the document on Forward-looking Strategies for the Year 2000;

7. *Decides* to examine the first synthesis of these reports at its session in September 1987.

The next year, a meeting of Women Parliamentarians convened in Buenos Aires in October 1986 to discuss among other matters, the participation of women parliamentarians in the activities of the IPU and the emancipation of women in the world of work—employment, training, and promotion opportunities.

Most recently, in Managua, about 44 women parliamentarians from 35 countries attended the meeting, Ms. Herrera, Vice President of the Nicaraguan National Assembly, Chaired the session where we heard statements from about 26 countries on the role played by women in political life and national decisionmaking processes. About 14 percent of the world's estimated 35,000 parliamentarians are women, a figure slightly higher than a decade ago when the percentage was 12.4 percent. During discussion, one issue that arose was whether or not the Women's Section should have formal standing as a permanent committee of the IPU. Some representatives favored this while others considered it would be a step toward marginalization. The question will be considered again at the IPU session in October 1987.

At the upcoming meeting, the IPU will also release the results of the study requested in the 1985 resolution on the progress achieved by countries around the world in promoting equal rights and responsibilities for men and women. Individual national groups are preparing their individual contributions and are to submit them by the end of May 1987 so the IPU Secretariat may have the time to prepare the overall report in time for it to be discussed at the October 1987 session in Bangkok. As the Member of Congress designated by Congressman CLAUDE PEPPER to be the liaison between the IPU and the U.S. National Group, I can assure you that the report of the U.S. National Group is well underway and will be transmitted to the headquarters by the May deadline.

Mr. Speaker, I first attended an IPU meeting in 1948 when my husband and I traveled to Rome for the first IPU meeting, after World War II. The U.S. Congress joined the IPU in 1903. I believe our participation in the IPU is important for a number of reasons. Perhaps most important of all, it offers U.S. Members of Congress the opportunity to meet and exchange views with their counterparts in other countries on an increasingly broad range of common issues. As we recognize that women constitute one-half of the populations of our individual societies and the implications of this fact for public policy, both domestic and international, the meetings of Women Parliamentarians can be an increasingly useful forum for us to exchange views with women members of parliament on subjects of mutual interest. These meetings could also be important for another reason. Since the United Nations has no plans to sponsor world conferences on women in the near future, the IPU may be the most nearly universal membership organization with regular meetings that could facilitate exchange of information and discussions on matters of mutual interest to women.

ISRAELI INDEPENDENCE DAY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. SMITH of Florida. Mr. Speaker, I want to congratulate the Government and people of Israel on the 39th anniversary of their statehood.

The establishment and continued viability of the State of Israel is a testimony to the potential of the human spirit. It is hard to conceive that a people subjected to Hitler's genocide could recoup, return to the land from which they had been exiled 2,000 years earlier, defend their ancient homeland against the invading armies of five hostile nations, and establish a nation-state based on the most enlightened form of government known to mankind.

This story has an almost mythological quality about it. Yet, it was 40 short years ago, a blink in the eye of history, that these events occurred.

Like all other members of the international community, Israel must deal with the problems that are products of our brave new world. But unlike other countries, Israel is forced to conduct her affairs in an international and regional environment which is overwhelmingly opposed to her very existence. Yet, it is within this context that the majesty of the Israeli policy becomes manifest. Free of expression, egalitarianism, and democracy are pillars on which Israeli society is based. Undoubtedly, Israel could conduct her business more efficiently if it were willing to part from these deeply held tenets. Time after time, however, Israel has resisted regional tendencies to do so and has clung tightly to the principles of democracy. In this, Israel is a sister state to our own country, and each is a staunch supporter of the other.

Mr. Speaker, the American people have a deep affinity for the people of Israel. In Florida's 16th District which I represent, numerous Jewish organizations will be celebtating Israeli Independence this Sunday. I want to commend the Jewish Federations of South Broward, Fort Lauderdale, and Greater Miami and their members for their hard work and dedication. Through their efforts, south Florida is a warmer and richer community. My family and I are proud to be Jews and part of the wonderful Jewish community of south Florida.

EWING PATROLMAN OF THE YEAR: FRANK SABATINO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. SMITH of New Jersey. Mr. Speaker, beginning in 1962, every May 15 has been proclaimed National Police Officers' Memorial Day and the entire preceding week has been recognized as National Police Week.

It is only fitting that the United States should use this time to honor all those police officers who have taken an oath to uphold our laws and ensure our safety. These brave men and women, Mr. Speaker, put their lives on the line, day in and day out, so that others may be better protected.

While National Police Officers' Memorial Week is designed to commemorate those law enforcement agents who have sacrificed their lives in the line of duty—and there have been 159 this year alone—it is also a good time for us to pay special tribute to the men and women who continue to fight the elements of crime on a daily basis. Every day police officers across the Nation take on new risks, make greater sacrifices, and go beyond the call of duty so that our laws and freedoms may be preserved. The men and women of America's police forces are dedicated, courageous, conscientious, and spirited. Their work makes our streets, our neighborhoods and our communities better places to live. Clearly, the American people are indebted to these admirable public servants.

Mr. Speaker, to help show their appreciation to their police forces, this week many communities will give special recognition to their outstanding law enforcement agents. In my district, the Ewing Township Kiwanis Club will host a dinner for Ewing's "Policeman of the Year": Patrolman Frank G. Sabatino.

Mr. Speaker, Patrolman Frank Sabatino was first appointed to the Ewing Police Department in 1984. For almost 3 years now he has served his community with dedication, devotion, and honor. He has been a visible representative of law and order and he has provided valuable public service to thousands of residents of Ewing Township.

As a member of Ewing's police force, Patrolman Sabatino is a man people can easily turn to for assistance, or for protection in times of real danger. In fact, Mr. Speaker, Patrolman Sabatino's colleagues on the force look to him as a leader and a friend they can rely on. When they speak of Patrolman Sabatino, his fellow officers say, and I quote: "he's sharp, he's trustworthy, he's aggressive, and he's a real professional." In short, Mr. Speaker, Patrolman Frank Sabatino is an individual who is widely admired and highly respected.

It is important to note, Mr. Speaker, that the Kiwanis Award marks the second distinction bestowed upon Frank G. Sabatino in recent weeks. Just a month ago, Patrolman Sabatino was selected by his peers to receive the Patrolmen Benevolent Association's [PBA's] "Policeman of the Year" award. Obviously, Mr. Speaker, to be recognized by his own peers, to be honored by men and women who serve the community in a similar capacity as Patrolman Sabatino does, is truly commendable. Those who know the business well, and who have observed him under the most stressful situations, named Patrolman Frank Sabatino as this year's best.

Mr. Speaker, as you know, in recent years, Congress has worked hard to provide the kind of support our law enforcement agents need to safely carry out their responsibilities. During my tenure in Congress, I have vigorously supported legislation to prohibit the use of ballistic knives, cop killer bullets, and plastic guns. At the same time, I have pushed for reforms in the exclusionary rule, survivor benefit programs and national law enforcement programs. This week as the Nation reflects on the work of local heros like Patrolman Frank Sabatino, I urge my colleagues to work with me on these issues and recommit themselves to supporting the efforts of police men and women throughout America.

Mr. Speaker, I would like to take this opportunity to join the Ewing Kiwanis, the Ewing PBA, and all Frank Sabatino's friends and relatives in congratulating him on this most honorable occasion.

PRINCIPAL THREATS TO U.S INTERESTS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. BROOMFIELD. Mr. Speaker, as the House considers the appropriations authorization bills for fiscal years 1988 and 1989 for the diplomatic, military and intelligence activities of the U.S. Government, Members should focus on the threats the United States faces in advancing its interests. Defending the United States and its allies and advancing the foreign policy interests of the United States are top priority responsibilities of the Federal Government.

The Congress faces a difficult task in stretching taxpayer dollars across the Federal budget to meet every responsibility of the Federal Government, but Congress clearly must allocate sufficient funds to defend the United States and its citizens before it allocates money to other purposes.

The Congress must provide the funds necessary to meet the threats to U.S. interests that we face. The President set forth the principal threats to U.S. interests in the National Security Strategy issued in January 1987 as follows:

PRINCIPAL THREATS TO U.S. INTERESTS

The most significant threat to U.S. security and national interests is the global challenge posed by the Soviet Union. While only a handful of people in the Politburo can claim with any confidence to know the Kremlin's precise near-term, tactical plans, the long-term strategic direction of Soviet foreign policy is clearer. Motivated by the demands of a political system held together and dominated by Marxist-Leninist ideology and the political party which represents it, Moscow seeks to alter the existing international system and establish Soviet global hegemony. These long-range Soviet objectives constitute the overall conceptual framework of Soviet foreign and defense policy.

Fundamental differences in economic, social, and political beliefs and objectives lead to an essentially adversarial relationship between the United States and the Soviet Union. The two sides nevertheless share the common goal of avoiding direct confrontation and reducing the threat of nuclear war. The real challenge for American statecraft is how best to realize this commonality of interest, so as to preserve peace, without jeopardizing our national security or abandoning our commitment to the cause of freedom and justice.

To execute its expansionist policies, the USSR has perpetuated a domestic political system to centralized totalitarian control and mobilized and organized this system to support its international objectives. Internationally, the Soviets have continued to assist groups waging so-called wars of "national liberation," sponsor with arms and military training international terrorist groups, promote and exploit regional instabilities and conduct an aggressive and illegal war in Afghanistan. In numerous other places around the globe, Soviet advisors and combat troops have also engaged in conduct in violation of international agreements.

The Soviets have undertaken an unprecedented military buildup that poses a continuing threat to the United States and our allies. The Soviet leadership clearly attaches the greatest importance to its military strength, which has been the most significant source of the USSR's influence on the international scene. For decades the Soviet Union has allocated a disproportionate percentage of national income to the buildup of its military forces. It now has a uniformed military of more than five million (excluding more than one million border guards and other security forces). It is estimated that military expenditures currently absorb 15-17 percent of the total Soviet GNP.

Soviet military power permits Moscow to provide a strong defense of the homeland while facilitating direct and indirect participation in regional conflicts beyond Soviet borders. Furthermore, Soviet military resources increasingly are used to influence and broker the policies of other countries and to promote instability.

The evidence of the relationship between the Soviet Union and the growth of worldwide terrorism is now conclusive. Even though the Soviet Union does not have direct control over most of the terrorist groups, it supplies massive amounts of arms, money, and advisory assistance to revolutionary forces engaged in terrorist activities. The Soviets attempt to disguise such support by using middle men—radical governments such as Cuba, North Korea, Nicaragua, Syria, and Libya, which deal directly with radical terrorists and insurgents. Whether Moscow is providing support directly or indirectly, the ultimate targets of radical terrorism are the United States, Western Europe, Japan, and other moderate, pro-Western governments.

The Soviet Union in recent years has become much more sophisticated in wielding the instruments of national power. Despite significant weaknesses in the Soviet economy, the Politburo actively employs economic instruments in its global strategy. It uses trade with the West to obtain economic leverage, technology, and foreign exchange. The acquistion of military-related advanced technology through legal and illegal means, is especially important to the Soviets, to shorten weapon development times, reduce costs, and to compensate for the weakness of the Soviet economy. Acquisition of production technology is equally important to the Soviets, to improve the efficiency of their defense industry. Access to Western manufacturing equipment, process, and know-how has enabled Soviet defense plants to introduce some advanced weapons into production up to five years earlier than would have been otherwise possible. The Soviets also attempt to obtain long-term economic agreements which build relationships of dependency on the USSR (e.g., those relating to the supply of energy resources to Western Europe).

In addition, the Soviets have established a massive political influence apparatus. This apparatus includes the world's largest propaganda machine, incorporating overt and clandestine activities in all types of media; funding and support of foreign communist parties and front organizations; political and ideological indoctrination of foreign students, government officials, terrorists, and military personnel; and perceptions management of foreign visitors to the USSR. It includes separate efforts to conduct "active measures," including disinformation, forgeries, the use of political agents of influence, and other deceptive operations.

While the Soviets cannot be branded as instigators of all revolutionary movements, their strategy clearly is to exploit domestic vulnerabilities in foreign countries to promote the emergence of regimes under Soviet influence or control. All this is accomplished under the rubric of "peaceful coexistence" with the United States and the West, defined as a continuing contest in which all forms of struggle are permissible short of all-out war. While we remain properly concerned with the Soviet threat, we must not neglect other destabilizing international threats and problems which can seriously damage U.S. interests if not properly addressed. These include non-communist nations with oppressive governments and ideologies opposed to ours; international economic concerns of massive world debt, trade imbalances, and shifts in comparative advantage in our interdependent global economic system; the global population explosion and related food, water, and poverty problems; the proliferation of nuclear weapons; drug trafficking; and human rights violations, to name only a few.

An additional threat, which is particularly insidious in nature and growing in scope, is international terrorism—a worldwide phenomenon that is becoming increasingly frequent, indiscriminate, and state-supported. Terrorism is likely to be a prominent feature of the international landscape for the remainder of this century. It directly attacks our democratic values, undermines our diplomatic efforts for peaceful solutions to conflicts, and erodes the foundations of civilized societies. Effectively countering terrorism is a major national security objective of the United States.

A solid understanding of our national interests and objectives, against the backdrop of major threats to those interests, is essential to devising sound strategies.

MISS LUCILE BLUFORD

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. WHEAT. Mr. Speaker, on May 16, the Jackson County Links, a women's service organization in Missouri's Fifth District, is honoring Miss Lucile Bluford, the editor and publisher of the Kansas City Call.

Before I ever met Miss Bluford, I'd been told she was the conscience of the community. But how many times have those we admired from afar failed us? How many times when we get closer to our role models are we saddened by what we see and learn? But as I got to know Lucile Bluford, I realized she was truly a special person.

As a Missouri legislator, I realized when Miss Bluford asked the typical reporter's questions, what and why, she was asking for the facts. But she was really asking if you had done the right thing, and for the right reasons! While the gala celebration will highlight the accomplishments of Miss Bluford's journalism career which has spanned more than 50 years, the message will be of far greater importance. Her career in journalism has been a mirror of the history of race relations in Kansas City—the struggles, accomplishments, and failings. It is impossible to distinguish between Miss Bluford's career as a journalist and her life-long struggle in the pursuit of equality.

At the time when Miss Bluford was beginning to decide on a career, the traditional professions that black women entered were schoolteaching, nursing and social work. Always a pioneer, she decided instead to pursue a degree in journalism at the University of Kansas. She was forced to attend the University of Kansas, because Lincoln University, the only Missouri State school open to blacks, didn't offer journalism courses.

After an impressive 4 years at the University of Kansas where she earned Phi Beta Kappa honors, Miss Bluford began work for the Call in 1932. As a reporter, city editor, managing editor, and since 1955, editor of the Call, Miss Bluford has waged a struggle for equality and justice in Kansas City. She has used the newspaper to publicize injustice and to issue reasoned and logical pleas for reform. Currently, the Call's editor and publisher, Miss Bluford is one of Kansas City's most respected journalists.

Three years ago, the University of Missouri honored Miss Bluford by awarding her the school's Missouri Honor Medal for Distinguished Service in Journalism. That same school had refused to admit her to its journalism program in 1939 because she was black. Some people urged her not to accept the award as a form of protest. Not Miss Bluford. She gladly accepted the award and even met with the school's former registrar who had denied her admission in 1939. Her low-key style has always been a trademark, but it has never prevented her from raising her voice against injustice.

As her friends, colleagues, and peers gather to honor her on May 16, there will be one person who will be uncomfortable with all the tributes—Miss Bluford. she shys away from the limelight and she isn't necessarily impressed with the awards that have been given to her over the years. Typically, at Miss Bluford's request, the money raised at the event will be used for journalism scholarships for area students.

Miss Bluford has been, and remains, one of the most forceful advocates of social justice in Kansas City. She is an unlikely portrait of a community's social conscience. But like any good conscience, whether we listen or not, her voice is steady and strong, full of conviction, separating right from wrong, and marking a trail for all those who are willing to follow.

OLDER AMERICANS MONTH

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. TALLON. Mr. Speaker, May has been proclaimed "Older Americans Month." It has been set aside as a time to honor the accomplishments and contributions and to recognize the needs and concerns of our Nation's more than 28 million older citizens.

The theme of this year's observance is: "Make Your Community Work for Older People." That's a very appropriate message when you consider the growing number of older Americans and the current strains on Federal and local funds. Communities all across the country are going to be forced to take a closer look at the needs of older residents and develop new, innovative ways to meet the needs.

Throughout the Nation, millions of dedicated older volunteers are helping to make real difference in their local communities. They are helping each other through telephone reassurance, home safety checks, and assistance to people with visual and hearing impairments. Older volunteers are also working to improve the quality of life for citizens of all ages through projects like energy conservation, community beautification, law enforcement assistance, and consumer education, just to name a few.

The fact that people are living longer and families are having fewer children is changing the American work force and economic makeup of our country. People are spending more time in all of life's major activities—in education, work, and retirement. Retirement is now an established institution. Yet for too many Americans, retirement means "out to pasture." This ridiculous and outdated notion is a regrettable waste of knowledge, experience and talent found in our seniors. With the great number of workers who will enter retirement in the coming years, it is an attitude we cannot afford to keep.

Retirement does not have to be a red light. Countless men and women have demonstrated that you don't have to "just go fishing" when you retire. Instead, they can go hunting—for the chance to do what they've always wanted to do and then—do it.

More and more older Americans need or want to continue working. They are often prevented or restricted in their efforts because of age discrimination or misconceptions about their abilities. If we are truly honest with ourselves, we know that age has little to do with ability. At the Federal level, we need to reexamine many of the current guidelines and restrictions regarding older Americans and employment. Issues such as mandatory retirement, retirement pension policies, and public and private participation in retirement policy bear reconsideration.

One of the most important issues demanding renewed public scrutiny is Social Security. Over the years, Social Security has become the economic lifeblood for vast majority of older Americans. Social Security is earned retirement protection; it is not charity, and it is not welfare. Yet in every budget debate, Social Security has become a target. The Social Security trust fund has already been invaded to pay other Government expenses. I have sponsored legislation to remove Social Security from the budget debate entirely. As well, I have consponsored legislation that would restore all trust funds and any interest lost due to this invasion.

Like employment and retirement, health care is a critical problem for most older Americans demanding public attention and reform. The statistics on health care costs and delivery clearly indicate that older Americans are receiving too little health care at too great a cost.

Too many elderly citizens live with a constant fear of illness or accident, knowing that they can not afford the cost of care or recovery. We are an affluent society; our medical technology is the best in the world; there is no reason why the elderly, poor, or handicapped or otherwise disadvantaged can not be assured basic quality health care.

Through creative, effective, and efficient management, I believe we can begin to provide seniors with the financial security and health benefits they so justly deserve.

One of the strange contradictions of modern attitudes is that we no longer seem to venerate age, but we have great respect for endurance. It is a contradiction in our thinking, because nobody these days grows older without a great deal of endurance.

As we celebrate "Older Americans Month," I hope we will remember the talents and contributions of these individuals. They are an invaluable treasure. We should all keep in mind, "the years in your life are less important than life in your years."

TRIBUTE TO WILLIAM J. CASEY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. DE LA GARZA. Mr. Speaker, earlier this week, several of our colleagues in the House paid tribute on the floor to William J. Casey and his lifetime of service to our country.

Today I want to add a few brief words to that tribute. I cannot claim to have been an old friend and associate of Mr. Casey, but I can and do list myself among those who feel that we have lost a man who made the welfare of his country the prime driving force of his life.

William Casey's service to the Nation took many forms and covered many years. In World War II, he was chief of Secret Intelligence in the Office of Strategic Services. In that post, Bill Casey directed an effort that helped win the war by penetrating Germany with Allied agents. The Government gave him a medal for that work, and he went on from there to a busy and distinguished career as a businessman, a scholar and author, and a public servant in a wide variety of fields.

Others have spoken in the House about the range of Bill Casey's career. His work as an attorney and a recognized expert in areas ranging from taxes and real estate to law and business. His service as an adviser to Presidential candidates, as head of the Securities and Exchange Commission, as Under Secretary of State, as head of the Export-Import Bank, and finally his last post as head of the Central Intelligence Agency.

In all of this, there was one theme, a theme that all Americans, regardless of politics or controversies over government policies, can respect and honor. Bill Casey believed in serving his Nation and serving democracy—he believed in giving his best to that effort—and for that belief and effort, we should record our honor and respect.

STIRLING ELEMENTARY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. SMITH of Florida. Mr. Speaker, I would like to take a moment to reflect on the history of Stirling Elementary located in my district in Hollywood, FL. As a former Stirling PTA president and parent of students who attended Stirling, I have some very fond memories.

On Wednesday, May 6, 1987, the students of Stirling Elementary experienced firsthand the excitement associated with an historic anniversary. Stirling Elementary celebrated its 30th birthday with brightly colored balloons and lots of fanfare.

Understanding the history and "family tree" of Stirling will instill pride and encourage a sense of identity in its students. Students gain perspective and appreciate the evolution of their school when they realize that portable classrooms have been replaced with a playground; cows are no longer grazing on the campus and what was once a field is now Stirling Elementary School.

This generation of Stirling students someday will share in their children's appreciation of history. Their experience on May 6, 1987, also will enable them to understand the importance in education for future generations. Congratulations Stirling on 30 years of success.

COL. MICHAEL KOVATS DE FABRICZY WEEK CELEBRATED IN NEW JERSEY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. SMITH of New Jersey. Mr. Speaker, the Governor of New Jersey has proclaimed May 10–16, 1987, Col. Michael Kovats de Fabriczy Week in honor of this Hungarian freedom fighter who fought for the colonists during our country's War of Independence.

Two hundred and ten years ago, on May 11, 1779, Colonel Kovats was mortally wounded and the revolutionary army lost one of its outstanding military leaders. Michael Kovats de Fabriczy, having volunteered his services through Benjamin Franklin, then American Envoy to the court of Versailles, had come to America and was subsequently assigned to the newly formed cavalry by Gen. George Washington.

Kovats' excellent training and experience as an Hungarian Hussar officer, Mr. Speaker, were invaluable to General Washington and the preparedness of the colonial army. Following General Washington's order to establish winter quarters in Trenton, NJ, Kovats began recruiting, clothing, training, and arming the cavalry. By March 20, 1778, Congress granted the cavalry independent status. At the recommendation of General Pulaski, Kovats was appointed colonel commandant of the Pulaski Lancers of the Pulaski Legion on April 18, 1778.

With his headquarters established in Trenton, Colonel Kovats led the cavalry in several clashes throughout New Jersey. Following conflicts at Minisink, Great Egg Harbour and Osborn Island, the Pulaski Legion was then ordered to join the Southern Command in its efforts to push back and fight against the British in Charleston, SC. A charge was ordered by General Pulaski against the advance troops of the British on May 11, 1779. Although the British realized heavy losses and the charge was considered a military success, Colonel Kovats was among those mortally wounded.

Mr. Speaker, the bravery and dedication of men like Colonel Kovats were the elements which made the difference between winning and losing the War of Independence. It is fitting for the State of New Jersey to honor the contributions of Colonel Kovats to the Revolutionary War by setting aside this week in his honor.

FLAWS IN PUERTO RICO STATEHOOD BILL

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. FUSTER. Mr. Speaker, the distinguished Senator from Kansas, Bob Dole, has introduced a bill in the Senate that would establish a mechanism to bring statehood to Puerto Rico. This is not the first such statehood bill introduced in the Congress, and I am sure will not be the last. Politicians from the mainland have an extraordinary propensity to get drawn into Puerto Rico's political status debate whenever it is to their advantage, particularly during Presidential campaigns where island votes in national conventions are at stake.

Such a phenomenon is an invasion—perhaps not always intended, but an invasion nonetheless—of Puerto Rico's local autonomy, and we object to that in the spirit of self-determination. As I pointed out in a March 5, 1987, letter to my colleagues in the House, in which I likewise objected to Congressman Ronald Dellums' bill that would grant independence to Puerto Rico, Senator Dole's proposal is essentially unsupported by the majority of the people whom I represent in the Congress.

That fundamental flaw in Senator Dole's bill ought to be understood by the Members of the House and the Senate. Statehood may be an admirable goal, but for many reasons the people of Puerto Rico, openly and freely, have opted for another status that we think relates better to our needs, our culture, and our traditions, while still reaffirming our commitment to a continued association with the United States and to our valued U.S. citizenship. That status is called "Commonwealth," and it not only works but also has been reaffirmed by our people in free and open elections. Moreover as I noted last March in response to Congressman Dellums' proposal for independence, Puerto Rico's status is not colonial in nature but rather is the product of the exercise of self-determination in free electoral processes by the people of Puerto Rico three and a half decades ago.

Puerto Rico's Commonwealth status, once approved by the people on the island, was ratified by the United Nations General Assembly in Resolution No. 748 of November 27, 1953, which expressly recognized:

> That the people of the Commonwealth of Puerto Rico have effectively exercised their right to self-determination, and have been invested with attributes of political sovereignty which clearly identify the status of self-government attained by the people of Puerto Rico as that of an autonomous political entity.

Thus, Senator Dole may be well-intentioned in his interest in Puerto Rico, but he is off base when he asserts, in a press release announcing his statehood bill, that Puerto Rico's political status is "unsettled." As I pointed out concerning the Dellums bill, the majority of the people of Puerto Rico believe that improvements can and should be made to the Puerto Rico-United States relationship. But that same majority has consistently "settled" the choice between statehood, independence, and commonwealth.

Senator Dole does not seem to have taken into account the fact that in the 1967 political status plebiscite in Puerto Rico pro-Commonwealth forces mustered about 60 percent of the vote, while the prostatehooders received about 39 percent. The proindependence forces did in fact boycott that plebiscite as did the fast-fading Statehood Republican Party but the precursors of the present Statehood Party, then called the United Statehooders, led by former Gov. Luis A. Ferré, did in fact participate massively in the plebiscite. A recent poll conducted on status preferences by the respected firm of Yankelovich & Skelly, sponsored by the newspaper owned by a well-known prostatehood family in Puerto Rico, clearly sets out the current status preferences of the Puerto Rican people. That 1986 poll showed that only 29 percent favor statehood, and an overwhelming 55 percent continue to be firmly in the Commonwealth supporters camp.

There is no strong feeling in the Congress for a change in Puerto Rico's political status at this time, and the party which I represent won the 1984 elections on the pledge that political status would not be an issue at this time. We have honored that pledge. At this time my party is committed to solving the more pressing nuts-and-bolts problems of Puerto Rico: Unemployment, crime, drug use, and the like.

As I said in the beginning of my remarks, this is not the first such statehood bill for Puerto Rico. Former President Gerald Ford, in the declining days of his Presidency even proposed, on January 14, 1977, a "Puerto Rico Statehood Act of 1977." Needless to say, that proposed legislation went nowhere, and for the right reasons. Simply put, the Puerto Rican people themselves did not then, and do not now, have statehood on their minds as a burning issue.

Moreover, Senator DOLE'S bill contains even more flaws that gravely invade Puerto Rico's local autonomy. For example, his bill states that the statehood referendum authorized by the legislation shall occur "upon the call of the Governor of Puerto Rico"; who shall also "prescribe * * * regulations governing the conduct of the referendum." One conceivable interpretation of that provision is that it could be possible to have a prostatehood Governor authorizing a prostatehood referendum, while hypothetically, a pro-Commonwealth legislature, which is more representative of the people, opposed such a referendum. Even the members of the prostatehood party in Puerto Rico ought to be concerned about the injury this proposed bill causes to the integrity of our democratically elected institutions such as our legislative assembly leaving, as it proposes, the decisions solely to the Governor, in clear contravention of the legislature's constitutional authority to decide on such referendums.

Should my colleagues take Senator DOLE'S proposal seriously, I would be forced to respond with even more specific faults in his proposed statehood bill. There are many more flaws in this proposal that appears not to be motivated as a response to a legitimate Puerto Rican claim, or a sense of justice, nor even a desire to pursue national interests.

BEING NEIGHBORLY ABOUT TRADE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. KOLBE. Mr. Speaker, not since Congress passed the highly protectionist trade package known as the Smoot Hawley Act of 1930 has America been so willing to erect insurmountable barriers between itself and its trading partners. Trade legislation currently in Congress smacks of those pre-Depression days, and comes in response to anguished cries from American industrial powers alleging unfair foreign competition.

While many of their arguments are well-founded, lawmakers, and manufacturers alike should understand that the character of the global economy is not easily manipulated by the conscious efforts of one nation, even a "superpower." If it were, it wouldn't be a good idea.

But, almost unconsciously, America has found itself involved in a program that makes economic sense; it helps our industries compete against manufacturers from the Far East; it protects, promotes, and creates jobs for American workers; and it contributes to the economic stability of a nation of vital strategic importance. You might not expect it from this glowing description, but this program has been the subject of criticism within Congress.

It is called the "Maquiladora,"or in-bond assembly plant program. It combines the favorable tariff treatment of United States-produced components assembled in Mexico, and the increasing realization by the Mexican Government of the benefits they derive from relaxation of their traditional barriers against foreign investment and management in their country.

In this system, American companies manufacture components, then ship the items to Mexico where they are assembled by Mexican workers who are paid at or above the Mexican minimum wage. The assembled products can then be shipped back to the United States for final packaging and distribution with a duty paid only on the difference between the value of the finished product and the sum of the value of its American made parts. The result is a mutually productive manufacturing support system, utilizing a North American lifeline for maximum efficiency.

Labor organizations in this country have bemoaned the "loss" of jobs to Mexico. The view is blind to the real choices faced by American companies today. The choice is frequently not between keeping jobs in the United States or moving them to Mexico, but rather between having a percentage of their operations in Mexico, moving an even more extensive percentage to the Pacific Rim, or going out of business altogether. The choice, very simply, is whether or not companies want to be competitive against foreign rivals.

There are nearly 800 maquilador plants along the United States-Mexico border, employing 250,000 Mexicans. The amount of value associated with maquila products that is actually American sourced is close to 80 percent. In the Far East, that figure is closer to 10 percent. In recent hearings before Congress, we were told that American labor wanted equity of benefits from the maquilador operations. According to the United States Department of Commerce, the domestic content of itmes falling under items 806.3 and 807 of the United States Tariff Code resulted in employment of an estimated 500,000 American jobs in both the initial manufacturing process as well as the reprocessing stage upon reentry of the products into the United States from Mexico. William Mitchell, marketing director for Bermudez Industrial Parks Group estimates a multiplier effect resulting from maquiladoras of 2.5 American jobs created or maintained in the United States for every new job in the maquiladora industry. This sounds more than equitable.

And the benefits are not restricted to the hard pressed border region. Indeed, a recent Commerce Department study of the impact of the maquiladora plants in Juarez, Mexico, adjacent to El Paso, indicates that of the 5,714 suppliers in 44 States, 62 percent were located in U.S. States other than those along the border. These businesses not only provide the components for assembly in Mexico, many also provide the materials and equipment necessary to construct the actual facilities and factories used by maquila workers.

The maquiladoras are a fundamental aspect of our entire trade relationship with Mexico. Through this system, we've seen trade barriers between our two nations lowered, and sometimes removed. Mexico is our third largest trading partner, and their economic recovery can only benefit this country as well. A growing market for United States goods and services in Mexico, spurred by increased economic activity in that country, could be valuable in helping to reduce our trade deficit. Increased economic stability in Mexico would also be welcome relief to United States banks who still have nearly $24 billion in outstanding loans in Mexico.

As a nation which shares an international boundary with only two countries, it is not surprising that we sometimes lose sight of the delicate interplay and mutual cooperation that characterizes the trading practices of, for example, the European Community. Self-sufficiency is a noble American trait, but one which requires some modification in the face of cut-throat international competition for survival in the marketplace.

In a broader sense, where our trade policy has not been fruitful is in our attempts to break down institutional and historical barriers to free exchange of goods. In the past, it wasn't always necessary, since our trade dominance was unquestioned and pervasive. In that sense, the trade practices along the United States-Mexico border hold a lesson for us. As Mario Rodriguez Montero, commercial counselor at the Mexican Embassy in Washington, DC, has said: "Together, the United States and Mexico can make cheaper and better cars than either Japan or Korea. Instead of competing, we can be complementary and face the rest of the world together."

The intertwining of our problems and concerns make brutish political manipulations all the more destructive. While politicians are too often wedded to a comfortable but unhealthy status quo, the private sector has moved ahead into uncharted territory. Through involvement in programs like the maquiladoras, we may yet find a path to regional trade stability.

VERMONT VIEWS ON ISSUES BEFORE THE 100TH CONGRESS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. JEFFORDS. Mr. Speaker, since 1975, when I first had the honor of representing Vermont in Congress, I have conducted an annual survey in my home State to gather Vermonters' opinions on the issues that we face and decide here. This year was no exception, and I am pleased to offer the results of this 13th annual Vermont questionnaire.

I realize you will consider me biased on this subject, but I consider Vermonters exceptionally sensitive and knowledgeable about the many social and economic issues facing this country. Vermont has long been in the vanguard of critical movements such as environmental protection and nuclear responsibility. As a result, I think everyone becomes the wiser when Vermonters offer advice.

More than 13,000 Vermonters—13,452 at final count, in fact—responded to my survey this year, offering thoughtful advice on subjects as diverse as America's role in Nicaragua to its role in private employee leave policies.

Here, then, are the results:

THE FEDERAL DEFICIT

For the last 2 years, my surveys have focused almost exclusively on the issues of tax reform and controlling Federal deficits. This year, the topic was again included, although not as extensively as before. And once again, Vermonters made it clear that they disapprove of spending for defense at the expense of domestic programs. When asked how they felt about six of the approaches that were emerging at the beginning of the year to deal with deficit reduction, 39.3 percent said they favored cutting from the defense budget but not from domestic programs; and 20.5 percent believed that cuts should be taken from both domestic and defense. Of the rest, 17.3 percent said cuts in domestic and defense spending should be combined with increases in revenues; 14.8 percent said spending levels should be frozen and deficit targets modified; 6.8 percent suggested cutting more money from domestic programs but none from defense; and 1.3 percent favored eliminating the deficit targets altogether and continuing deficit spending to stimulate the economy.

PARENTAL AND MEDICAL LEAVE

Currently, proposals are before Congress to require private businesses to offer some type of unpaid leaves to their employees. The plans obviously raise the issue of the role of the Federal Government in an area such as leave policies that traditionally has been the business of the private sector. When asked if the Federal Government should require larger companies to let men and women take unpaid leaves for disabilities, the birth or adoption of children and the care of a seriously ill dependent, the majority of Vermonters responding to the survey said "yes."

Specifically, 53.8 percent favored unpaid leaves of up to 26 weeks a year for employee disabilities; 29.5 percent did not favor this; and 16.7 percent were undecided. Some 51.4 percent favored leaves of up to 18 weeks every 2 years for the adoption or birth of children; 37.5 percent did not favor this; and 11.1 percent were undecided. Fifty-eight percent also favored unpaid leaves of up to 18 weeks every 2 years to care for a seriously ill dependent parent or child, while 28.3 percent did not favor this and 13 percent were unsure.

ACID RAIN

Vermont residents have been tremendously concerned about the environmental dangers of acid rain pollution, and for years have been calling for strong Federal action to abate the pollution. Given the persistence in which I and our two Senators from Vermont have pursued this issue before Congress, this observation should come as no surprise to you. Nor should it come as any surprise that the Vermonters who responded to my survey overwhelmingly expressed a willingness to dig into their own pockets to help pay for an abatement program. Asked if they would be willing to pay a small amount—no more than 50 cents on their monthly energy bills—toward helping eliminate acid rain, assuming polluters pay the major costs, 80.2 percent responded "yes." Only 12.4 percent said "no" while 7.4 percent were undecided.

CONGRESSIONAL PAY

Few other issues that came before this body at the start of the year caused more congressional dissent than did the proposed congressional pay raises—not so much the raises themselves, but how those raises were decided. As you know, I was among those who strongly objected to the way Congress ultimately sidestepped this issue and allowed the raises to go into effect automatically, and have since put my own pay increase in an escrow account that will be turned over to charity should the courts rule the process unconstitutional, which I believe they will.

Because I also strongly believe that those we serve and those who elected us to serve—our constituents—should have a say in whether we deserve a pay raise, I put the issue to Vermonters in my questionnaire. The majority responded that congressional salaries should be improved, and personally advised me to accept the pay raise should one be put into effect. Specifically, 41.3 percent said the honoraria system should be reformed and congressional salaries should be improved, although not as much as was originally recommended by the special commission; another 11 percent agreed that the honoraria system needed reforming and favored improved congressional salaries at the level recommended by the special commission; 29.7 percent said reform the honoraria system but do not change congressional salaries; and 18 percent favored no changes to either salary or honoraria. Asked whether I should accept or reject for personal benefit "a substantial increase," should one be put into effect, 67.8 percent advised me to accept the raise, and 32.2 percent said I should not.

CONTRA AID

Vermonters polled over recent years increasingly have objected to the administration's policy of providing military aid to the Contras, and that stance was reaffirmed in my survey. Asked if the United States should continue military aid to the Contra rebels in Nicaragua, a strong majority—65.2 percent—said "no," while 21.2 percent said "yes" and 13.6 percent were unsure.

TERRORISM

During the time that I was preparing my questionnaire, the arms-for-hostages controversy was just beginning to unfold. As a result, I thought it was crucial to know how Vermonters felt about the kind of policies we should be pursuing regarding terrorist nations such as Iran.

The questionnaire contained three questions in this area. To the first: "Do you believe the threat of Soviet expansion is grave enough to override our declared policy of not dealing with Iran as a terrorist nation?" Fifty-five percent responded "no," 27 percent said "yes" and 18 percent were undecided.

An overwhelming number, 85 percent, then made it clear that they believed the risk of hostage taking would be increased if the United States indicated a willingness to bargain with terrorists. Only 6.9 percent foresaw no increased risk, while 8.1 percent were unsure.

Asked if, despite that risk, we should bargain directly with terrorists who have seized hostages, 64.7 percent said "no," while only 16.6 percent said "yes" and 18.7 percent were undecided.

Mr. Speaker, as I have said in past years, none of us should rely simply on poll responses for advice from constituents. But taken together with the many letters, phone calls and conversations with our constituents, they do play a valuable role in reflecting the opinions of those whom we represent. Therefore, I offer the results of my 13th annual Vermont questionnaire in the hope that my colleagues will study and consider them well.

MALCOLM WALLOP'S ARMS CONTROL WARNING

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. COURTER. Mr. Speaker, Senator MALCOLM WALLOP of Wyoming is, in my view, the reigning conscience of the Senate on national security issues. Like Winston Churchill in the 1930's, Senator WALLOP does not shrink from speaking and writing forcefully about the totalitarian threat to the free world. We are privileged to have him with us in the legislative branch of government.

In the following essay from the Washington Times, Senator WALLOP warns of the amnesia that seems to envelop United States observers and policymakers like a thick fog whenever the Soviet Union offers a new arms control proposal. The latest attack of amnesia results from a Soviet INF weapons reduction proposal which contains the phrase "onsite inspection." This phrase by itself is sufficient to induce a trancelike state in arms control advocates, who claim that this represents a landmark Soviet "concession" which paves the way toward an agreement.

As Senator WALLOP correctly observes, the Soviets have yet to provide a detailed explanation at the arms control talks in Geneva of how this onsite inspection proposal might be made to work. Given the relatively small size and high mobility of Soviet INF and SRINF systems, it is difficult to comprehend how any verification regime could yield high confidence of Soviet compliance. Indeed, we should face the strong possibility that the INF proposal presently under discussion may very well be a priori unverifiable and therefore not worthy of further discussion. I urge all my colleagues to read Senator WALLOP's excellent essay on this topic.

The essay follows:

[From the Washington Times, May 13, 1987]

ARMS CONTROL AMNESIA

(By Malcolm Wallop)

The latest Soviet arms control gambit, like all such Soviet proposals, has created quite a stir in official Washington. The euphoria that greets each new Soviet offer always has an amnesiac effect. Leaving aside the relative merits of this latest Soviet offer, official Washington and the media simply fail to remember how the Soviet Union uses new arms offers for propagandistic purposes, without any intention of carrying through on them.

This is the third time that Soviet General Secretary Mikhail Gorbachev has gotten mileage from the Western press, the administration, and Congress for supposedly separating the Intermediate-range Nuclear Forces negotiations from a resolution of questions on strategic defense. Many have apparently forgotten that the Soviets immediately relinked those talks, after the Geneva summit and again at the end of the Reykjavik meeting, to pressure the administration into unacceptable concessions damaging to the Strategic Defense Initiative. I expect the Soviets will find some pretext for doing so again.

And in shorter-range INF missiles, the latest Soviet offer—going to zero missiles globally—cuts to the quick of a fundamental dilemma for the United States and the Western alliance: We need nuclear weapons if we are in any plausible way to ensure our safety. Mr. Gorbachev and the Soviet Union are in the process of hoisting the administration on the petard of its *own* anti-nuclear rhetoric. In our zeal to out-do each new Soviet proposal, we have forgotten that behind the vast Soviet nuclear arsenal stands a Red Army 180 divisions strong.

Likewise, no significant progress has been made on verification. When one considers that it took the intelligence community years to identify the construction of a football field-sized phased-array radar in Central Siberia, the problem of verifying the existence and number of mobile missiles appears overwhelming.

While throwing around such words as "onsite inspection" to excite the media, the Soviets have yet to table in Geneva a single proposal on how mobile missile verification might be accomplished. If they do, we can be certain that it will fall short of what is needed for effective verification. And can anyone doubt the need for effective verification, given the abysmal record of Soviet cheating on existing arms control agreements?

But the truth about Soviet cheating is another victim of this amnesiac effect. This administration has carefully documented over the last five years the fact that the Soviet Union has violated or likely violated (we can't tell because our verification is not good enough) every major bilateral arms control agreement. Some have suggested that this pattern of violations is so bad that it justifies breaking off all arms control talks with the Soviets until they come back into compliance with existing agreements.

The administration has obviously decided not to go this far. But surely it is reasonable to expect that before we sign and submit to the Senate any new arms control agreements that we establish a compliance policy to guard against the eventuality of future Soviet violations. If such a policy is not an outgrowth of the last five years of compliance reports, congressional briefings and administration speeches, it is impossible to understand why we went through this process in the first place.

Such a compliance policy must deal with the vexing question of what to do after detection. It must contain built-in safeguards to Soviet violations. It must include some positive steps the administration and Congress will take together if a violation occurs. Finally, it must also afford the nation an opportunity to revisit, in a serious way, continued U.S. adherence to any future agreement the Soviets violate.

Until now, the burden of proof for such a reconsideration has been on those who sought it, not those who believe we should remain inside an agreement the Soviets have violated.

Automatic withdrawal from an arms control treaty after a violation is probably unwise. It is possible to imagine circumstances where doing so would not be in our interest. But at least a reconsideration of the treaty should be required.

I therefore propose that any future arms control treaties submitted to the Senate contain a reservation to the instrument of ratification that if, upon presidential certification of a violation, the president decides to remain bound by the treaty in question, he must send a detailed report to the Senate explaining why the treaty remains in our interest. The Senate will then be required to reaffirm U.S. adherence to the treaty by a two-thirds majority, the majority that was necessary to provide Senate consent to the treaty in the first place.

This proposal has several advantages.

First, it places the burden of proof for staying in a violated treaty on those who would opt for the status quo.

Second, it shares the burden of any change in the treaty's status between both the executive branch and the Senate, the two bodies with clear constitutional responsibility for treaty-making.

Finally, it allows for a healthy reconsideration of a violated treaty, not an automatic withdrawal or, at the other extreme, inaction.

Some will argue that such a provision will make it increasingly difficult to get the executive branch to report Soviet violations in the future. There is probably some truth in this criticism, but it is hard to imagine that it could be more difficult than it already is. More important, we have had several compliance reports now without any substantive action taken in response to those violations.

What good are compliance reports if the United States government does not have the will to act on them? Should our leaders not be more concerned with how the Soviet Union interprets our lack of any real response? It is, after all, the Soviet Union that we seek to deter in peacetime, and in some future crisis. A Soviet misperception of U.S. weakness in this regard could prove fatal.

Whatever the outcome of the INF or other talks in Geneva, the United States cannot continue to ignore the compliance problem and expect to derive any benefits from the arms control process. Responsible elected officials cannot support arms treaties that do not protect American national security from the effects, military and political, of Soviet cheating.

PATIENTS VIEWING RIGHTS ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. GLICKMAN. Mr. Speaker, today I am introducing legislation along with my colleagues on the Judiciary Committee, Representatives SYNAR, CARDIN, and HYDE, to amend the Federal copyright laws to allow patients in hospitals, hospices, and nursing homes the right to view movies on video cassettes without paying a licensing fee. Currently, a licensing fee that can run from $3,000 to $10,000 is required before movies can be shown to patients in these settings.

This problem first was brought to my attention last fall by a group of parents whose children were suffering from or had died from cancer. The parents informed me that they had purchased a VCR so that they could show movies to their children in the hospital, as they are literally fighting for their lives. They were told, however, by a distributor of films that it was a violation of the copyright laws to show movies to the children without first paying a licensing fee. Once they discovered that this fee could run into the thousands of dollars, they asked for my help. I, in turn, contacted a number of motion picture companies asking them to waive their fees given the heart wrenching circumstances involved in this case. Three companies including Warner Brothers, DeLaurentiis Entertainment Group and Buena Vista Distribution Co., agreed to this arrangement. Unfortunately the majority of companies did not. Ultimately after much time and effort we were able to work out an arrangement under which the parent group paid a nominal fee for the right to show a host of different movies to the children on the cancer ward. I can tell you from my own personal experience that the process was long and involved. Because of this I realized the clear need to change the law so that in the future this cumbersome process can be avoided and children and other patients around the country, like the ones in my district, can see movies in the hospital without worrying about hefty fees.

The bill I have introduced would permit private groups, such as the parent group in Wichita, to show movies to patients whose home, for the time being, happens to be a hospital, nursing home or hospice. To ensure that no commercial advantage would indirectly or directly accrue to the hospital, nursing home or hospice the bill specifically states that the performance must be made without any purpose of direct or indirect commercial advantage and without payment of any fee or compensation. Additionally, under this legislation the copyright holder's fee would be the same as if you or I were viewing the film in our own home.

The copyright laws were enacted long before the technological advancements that permit movies to be shown on video cassette. The copyright laws were intended to make sure that financial profits from commercial showing of movies are shared with those who created these films. That intent is not violated by allowing patients in hospices or hospitals to view these films without such a fee.

When a family is stricken with an illness that requires hospitalization or placing a loved one in a nursing home or hospice, it is normal and right that they want to do everything that they can to make that difficult time more bearable. We all know, however, that the expense involved in hospitalization or confinement in a nursing home or hospice can literally sap a family's resources, in addition to the emotional drain. There is no reason at all that Federal law should be party to adding costs when caring people want to provide some entertainment for suffering patients both young and old. This legislation will put us clearly on the side of those who are suffering without at all undermining the original intent of the copyright laws.

I call on all of my colleagues—out of compassion—to join in moving this legislation.

A DIFFERENT VIEW

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. GINGRICH. Mr. Speaker, the attached article by Dr. Kathleen Bailey reveals the Soviet Empire's attempts to pin the AID's epidemic on our Department of Defense. This is one more indication of their vast network of contacts in the worldwide media. Dr. Bailey's work in the areas of Soviet disinformation and active measures have been instrumental in exposing the Soviet Empire's real objectives.

The article follows:

[From the Los Angeles Times, Apr. 19, 1987]

SOVIETS SPONSOR SPREAD OF AIDS DISINFORMATION

(By Kathleen Bailey)

WASHINGTON.—In October 1985, the influential Soviet weekly Literaturnaya Gazeta (Literary Gazette) published an article alleging that the U.S. government had engineered the AIDS virus during biological warfare research. The story further claimed that the virus was being spread throughout the world by U.S. servicemen who had been used as guinea pigs for the experiments.

None of that is true but it is the crux of a vicious disinformation campaign by the Soviet Union. It now has appeared in major newspapers of over 50 countries, promoting anti-Americanism. Most unfortunately, it has also distracted attention from the all-important task of educating people on the origin and prevention of acquired immune deficiency syndrome, AIDS.

The disinformation was first planted in India because the most difficult obstacle the Soviets face in dealing with the Western press is that journalists insist on proper sources for a story. To overcome this problem, the Soviets often arrange for a Third World or communist newspaper to originate publication. Soviet media then repeat the story, using the foreign newspaper as their source. This was the procedure in the AIDS case.

The AIDS disinformation appeared where many other such anti-U.S. stories have begun—on the front page of the pro-Moscow Indian newspaper, Patriot (July 16, 1983). The source is a letter to the editor from someone described as "a well-known American scientist and anthropologist . . . who wants to remain anonymous."

The story, headlined "AIDS May Invade India," has a New York dateline. It begins:

"AIDS, the deadly mysterious disease which has caused havoc in the U.S., is believed to be the result of the Pentagon's experiments to develop new and dangerous biological weapons. Now that these menacing experiments seem to have gone out of control, plans are being hatched to hastily transfer them from the U.S. to other countries, primarily developing nations where governments are pliable to Washington's pressure and persuasion."

The obvious intent was to stir problems for the United States in South Asia. But that would depend on AIDS becoming a serious problem for the region in the near-term. It did not, so the story lay dormant.

Then, the Literary Gazette picked up the story, citing the Patriot. When then-U.S. Ambassador to Moscow Arthur A. Hartman saw the report in the Soviet weekly, he wrote a letter of protest and asked that it be published. It was not. U.S. officials assumed that the protest, coupled with the outrageousness of the allegations, would limit the spread of the disinformation. It did not.

The story was not immediately a problem, however; few newspapers picked it up. Most major media are aware that Soviet publications are government-controlled and that much of what they publish regarding the United States may not be based on fact. Publications that did print the disinformation were primarily pro-communist or small papers in the Third World.

The Soviets apparently realized that few media were repeating the story and decided to try to enhance its credibility. In spring of 1986, Soviet media republished the AIDS allegations at least five times, repeating their sources of "proof." For example, one article quoted a 1984 book by Jacques Liebovich, which claims that the AIDS virus could have been produced by biological warfare research. Another article cited Dr. John Seale, a London-based doctor who has frequently claimed that AIDS is a biological weapon.

For the educated public, however, the story still did not ring true. Most specialists in the field of viruses openly disputed the theory that the AIDS virus could technically have been produced in a laboratory—Soviet or American. And Seale's reputation was called into question by a number of experts. For example, Finnish AIDS expert Dr. Jukka Suni was quoted in the Oct. 27, 1986, Helsinki Iltalehti:

"I know of Dr. Seale and of his reputation. He is a doctor but not a researcher. For years, I have read his writings and I think he is imbalanced or rather crazy. He is a prophet of doom who has been getting worse year after year."

This same skepticism was reflected in statements by the medical correspondent for a respected London newpaper, the Guardian, on Oct. 26, 1986:

"For almost a year, Dr. John Seale, a Harley Street consultant, has been telling anyone who cared to listen that the AIDS virus is a germ warfare agent created in an experiment that went disastrously wrong. . . . He has at various times blamed both the Americans and the Russians for engineering the virus and releasing it in Africa. . . . The senior Russian AIDS specialist, Dr. Viktor Zhadanov, has dismissed Dr. Seale's claims, as has one of Britain's leading virus experts, Dr. Richard Tedder."

The Guardian quote introduces one of the ironies of the AIDS disinformation campaign. Dr. Zhadanov *is* an expert, the author of over 100 scientific articles, a member of the Soviet Communist Party, a 26-year member of the Soviet Academy of Sciences, an authority on viruses and a consultant to the World Health Organization on AIDS. He and other Soviet specialists have openly rebutted claims that the U.S. government could have produced the virus in a laboratory. Soviet officials will acknowledge this privately as well. Yet their propaganda apparatus persists in promoting the allegations.

The propagandists next turned to the so-called "Segal Report." This 52-page paper, apparently written in mid-1986, is titled "AIDS: Its Nature and Origin." The authors are: Dr. Ronald Dehmlow, a chemist; Dr. Lilli Segal, a retired researcher and professor of epidemiology, who has lived in East Berlin, and Professor Jakob Segal, of Russian descent, interested in bio-engineering. Both Segals taught in Cuba in the late 1960s. All three are affiliated with Humboldt University in East Berlin.

Despite numerous scientific errors and faulty conclusions, the report is an impressive addition to the campaign. Being full of technical jargon, a layman cannot judge its veracity. To anyone inclined to believe the disinformation, it appears convincing.

Upon learning of the Segal report, U.S. embassy officers in Berlin met on Oct. 10 with Dr. Lilli Segal to point out the fallacies. She repeated her allegations, citing as a source Urania Press, a publishing house run by the government of East Germany that disseminates propaganda to the general public.

On the same day, the Soviet news agency, Tass, repeated the false allegations yet again. This report probably stimulated stories that appeared in some Third World newspapers a few days later. For example, the Kampala, Uganda, Weekly Topic carried an article headlined "USA Warmongers Manufactured AIDS."

Following publication of the Segal Report and the Tass output in early October, the AIDS disinformation campaign went from being a minor irritant to having a major impact on the U.S. image abroad. The big break for the Soviet campaign came when the London Sunday Express, on Oct. 26, 1986, reported the story. Because Western news media are widely respected throughout the world—coupled with the fact that the Sunday Express is sometimes described as a "right-wing" tabloid—the story now had a tremendous boost in credibility.

Hours after the Express repeat of the AIDS disinformation, it was picked up by a major wire service and electronically transmitted to newsrooms all over the world. Within weeks, the accusations were published in major newspapers in over 30 countries, repeated in hundreds of media in every region of the world.

Some readers may ask what difference it makes. Does such a story really influence perceptions of the United States? Does it actually hurt U.S. foreign policy? How can it damage U.S.-Soviet relations? Does it really impede our international battle against the deadly disease? A short answer can be provided by anecdote.

Because many scientists have speculated that the AIDS virus evolved in Africa and because the disease has taken its highest toll there, peoples on that continent are highly sensitive about the issue. Unfortunately, many Africans feel that they are being blamed for the disease.

Knowing that many Africans might unconsciously welcome an alternative explanation for AIDS' origin, the Soviets focused much of the disinformation campaign on African media. The organization responsible for disseminating the Soviet version of news worldwide, Novosti, supplied the story to newspapers throughout the continent. And it was in Africa that the Segal Report first surfaced. Because this campaign—as well as other disinformation efforts—were so active in Africa, I visited there in November, 1986.

One evening, an African government official was telling me about the severity of the AIDS epidemic in his country. He began to chastise me for the United States having created the virus. I asked him why he thought so and he responded. "Obviously the United States is technically capable of almost anything. Also, why would such a story be in so many newspapers if it were not true?"

Only after the detailing for him the origin of the story and providing statements from leading scientists, including Soviets, on the impossibility of artificially creating the virus, did he change his view.

Do the perceptions of foreigners matter? Those who have traveled abroad—and perhaps experienced anti-Americanism first-hand—know they do. The effects on the conduct of our foreign policy are even more serious. Let me offer a real example.

The Soviets broadcast the AIDS disinformation story, with its claim that U.S. soldiers are spreading the disease, to the Philippines, where the United States has important military bases. It was not coincidence that a Philippine women's group organized opposition to the bases, claiming that our soldiers' presence threatened their nation with AIDS.

Fortunately, we have been able to reply that stringent U.S. regulations prevent recruiting soldiers who have been exposed to the virus, and disallow service overseas to those who have already enlisted and have been exposed.

Because disinformation poisons the atmosphere for U.S. foreign policy, it also casts a pall over the attitudes of U.S. officials, scientists and others who interact directly with the Soviets. A prominent U.S. expert responsible for international cooperation in combatting the disease expressed frustration when he recently told me: "My colleagues and I want to share our AIDS research findings with any nation in need. It is a bit difficult, however, to promote scientific exchanges with a government that is accusing you of having done something so vile as creating the virus."

(Kathleen Bailey is a deputy assistant secretary of state in the Bureau of Intelligence and Research.)

TRIBUTE TO DR. THOMAS E. VAN DAM

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. RUSSO. Mr. Speaker, our country moves and functions through the efforts of countless public servants who attend to their work with dedication and perseverance, and some have also served this Nation in the Armed Forces. Today I would like to pay tribute to one of them.

Next month Dr. Thomas E. Van Dam will be retiring from a distinguished education career, a career that spans 37 years. He began as a science and math teacher in Carmi, IL, back in 1949 and today he is superintendent of South Holland School District 151, a position he has held since 1968. In the intervening years he continued his own education, gained industrial experience, held special assignments for the city of Chicago, membership in numerous associations, university teaching assignments, published educational materials, won appointment to committees and government boards and also raised five children with his wife Anne.

When a man has had an illustrious and busy career, you can only touch on the high points. But you can say right up front that Dr. Van Dam has served the educational community well. You can also point out that his marriage to Anne is 41 years young and he served his country from 1942 to 1945 aboard the U.S. *Mattaponi*. And, it should be noted that this man demonstrated great personal courage and skill in negotiating the tricky shoals between the government and the community during the volatile times of desegregation, securing the needed funding from the former and the crucial local support from the latter.

Dr. Van Dam has touched many lives. He has been a principal at a number of schools throughout the Chicago area and has left his positive mark wherever he worked. He has, to cite a few examples, served on Chicago Board of Education committees; has been an adviser to the Illinois Office of Education Committee on Juvenile Delinquency; a member of the Illinois Office of Education Network and Community Education Committee; leader of the Action Lab on Desegregation at the ASCD New Orleans Conference and adviser to the University of Chicago Industrial Relations Department. Many summers he worked as a research chemist or chemical analyst and for 12 years was a research assistant with Continental Can.

Dr. Van Dam also has contributed his teaching talents, as an associate professor since 1968 in the Chicago State University Extension Program and in previous years he has served as associate professor for the Roosevelt University Extension Program and as a chemistry instructor at the University of Illinois.

Those not fortunate enough to work with him as superintendent or principal or in numerous education associations to which he belongs, can nevertheless learn from him because he has published a number of works. He is coauthor of a humanistic leadership handbook for Illinois school superintendents, approximately 20-25 proposals for school district 151, an Illinios Office of Education Juvenile Delinquency and Vandalism Report as well as a desegregation manual for the Illinios Office of Education.

He has won appointments ranging from Governor Thompson's Education Consolidation and Improvement Act State Advisory Board, on which he still serves, to membership on the Cook County Community Advisory Council, appointed by the president of the Country Board. He has served as chairman of the Cook County CETA Board and from 1976 to the present as member and secretary on the University of Illinois Educational Administration Alumni Board.

The list could continue. Dr. Van Dam has been a busy man and countless people have benefited. Some of those people are going to gather for a dinner dance in his honor later on this month and I look forward to participating in this tribute to a gentleman and a scholar. I know my colleagues join me in extending congratulations and best wishes to Dr. Van Dam.

DEATH ROW

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. MORRISON of Connecticut. Mr. Speaker, I want to share with my colleagues an eloquent plea against the death penalty by novelist William Styron, published in the New York Times on Sunday, May 10, 1987.

The particular case described by Mr. Styron provides a graphic example of the racism that often underlies the imposition of the death sentence and of the risk that the life of an innocent person will be taken.

Mr. Styron's essay is at once deeply felt and thoughtfully argued. I urge my colleagues to read and think about it.

[From the New York Times, May 10, 1987]

DEATH ROW

(By William Styron)

ROXBURY, CT.—In October 1983, four days before he was scheduled to be executed in the electric chair at the Florida state prison at Starke, something took place that enraged Shabaka Sundiata Waglini more than any single event during his nearly 10 years on death row. They came into his cell and measured him for his burial suit. The bloodlessly finicky, mechanical tailoring procedure upset him violently.

I recently met him, and he said, call me Shabaka. Shabaka—34 years old when he faced death, was born Joseph Green Brown in Charleston, S.C.—had been convicted for the 1973 murder, along with the robbery and rape, of a Tampa white woman. "Shabaka," a name he took before going to prison, means "uncompromising" in Swahili.

Shortly after the suit was measured, Shabaka was asked to order his last meal—he could have virtually anything he wanted—but he rejected the offer as gratuitously insulting.

One shrinks from thinking how a man prepares himself to face this form of extinction. While little can be said in favor of any type of execution, death by electric current is truly primitive, one that has not really been improved—if improvements are imaginable—since a convicted murderer received the inaugural 2,000 volts at New York's Auburn prison in 1890. It is a broiling process at intensely high temperature. The doctors who ascertain death must wait six or seven minutes for the body to cool down so they can touch it. Pigs and cattle go more expeditiously into that good night. Shabaka thought about the manner of his dying more than once.

He had good reason to believe that because he was black he had been dealt cards from a stacked deck.

As it happened, a juror at his trial had sent an affidavit to Shabaka's minister, the Rev. Joe Ingle of the Nashville-based Southern Coalition on Jails and Prisons, asserting that a jury member had advocated the chair for Shabaka, a former Black Panther, because "that nigger's been nothing but trouble since he came down here, and he'll be trouble until we get him off the streets."

One's mouth goes dry at such an utterance, especially in light of the recent United States Supreme Court decision that racial prejudice, as a decisive factor in the administration of the death penalty, is theoretical and therefore of no importance.

In truth, radical discrimination, far from being of no importance, has an omnipresence that the remarks of that Florida juror utterly confirm. After trials like Shabaka's, how can the Court's ruling appear anything but a cruel and monumental deceit?

In the United States, blacks and Hispanics suffer the death penalty in grave disproportion. They also tend, like Shabaka, to be poor, and therefore they receive legal counsel that more often than not is slipshod and deficient. Shabaka possessed a couple of sorry impediments when he went into his trial: He was black and penniless. They represented one of several arguments amid a constellation of many arguments against the death penalty.

But what would be the case in favor of killing Shabaka? (A previous armed robbery hardly gained him sympathy.) There is no doubt that the crime of which he had been convicted was terrible. Those who felt no qualms about placing him in the electric chair, including many of clear subtle intelligence, might have wished to justify his execution on one or the other, or both, of two grounds. There really aren't any more. The most obvious of these is deterrence. By putting Shabaka and all other brutal killers to death, we think we dissuade the like-minded from committing similar crimes.

But it never has been proved that the death penalty prevents murder. Indeed, there is convincing evidence—displayed among other damning exhibits in Amnesty International's recent report on the death penalty in America—that executions frequently cause an increase in violent crimes.

In some countries—Canada, for example—the murder rate has fallen after abolition of the death penalty. Sincere foes of that penalty rarely are sentimentalists. There are those who would have opposed Shabaka's execution for any reason—feeling it was cruel and barbaric, or merely because it violated the sanctity of life. The resolve of many pragmatic opponents would be undermined were there hard proof that the death penalty prevents murders—but proof does not exist.

The crime that sealed Shabaka's fate was one that would bring out retributive fury in most people. Simple vengeance would have been the other rationale for seeking his death. The impulse toward vengeance is understandably relentless; many people, not necessarily bloodthirsty, would without shame declare a wish to have Shabaka killed just as a way to get even. And why shouldn't we acknowledge this? For, paradoxically, it is in the realm of vengeance that the feelings of many death penalty supporters and some opponents converge, though they do not coincide.

Any harsh sentence imposed for a particularly brutal crime contains an element of retaliation, satisfying a need on the part of the victim's ghost, the close survivors and perhaps even society.

At the time of Shabaka's trial, there were quite a few onlookers who, though they rejected the death penalty, admitted they wanted to see Shabaka suffer a very hard time. But they also rejected a vengeance that extended to the electric chair, with its irremediable finality.

By the time Mr. Shabaka's date with the executioner neared in 1983, he had made as good use of his time as a man can under the circumstances. He worked on his case, wrote letters and, like many inmates, became a devoted reader. He greatly fancied modern American novels and developed a love for classical music. As he sweated it out, there were scores of convicts thoughout America's prison system who were doing time for crimes that were almost identical to the one for which Shabaka had been condemned.

Those who were truly dangerous among these criminals would, or should, never be released. Others, after serving long terms—an average of 20 years or more—would be released on parole, and scarcely a soul among them would be returned to prison for a subsequent crime.

Why hadn't Shabaka been permitted to join this favored majority? Why had he and a small fraction of other felons been singled out to die while vastly larger numbers of criminals paying penance for misdeeds virtually the same as his were allowed to work out their destinies?

The absence of answers—which emphasizes the blind inequity of the death penalty—is another major reason why its use is immoral and unacceptable. But in Shabaka's case, the questions were really academic—because he was innocent.

The legalized killing of innocent people is the final indictment of capital punishment. For years, Shabaka had insisted on his innocence of the rape, robbery and murder. All along, he had admitted to a robbery—but this at a time and a place different from those of the murder.

Only 15 hours before Shabaka's appointment with death, a three-judge panel of the Federal circuit court of appeals in Atlanta stayed the execution on grounds that the case merited further examination. Shabaka returned to his cell and began to petition for a new trial.

In the years that followed, ugly details came to light: During the first trial, the prosecutor had concealed Federal Bureau of Investigation evidence showing that the fatal bullet could not have been fired from Shabaka's gun. Shabaka based his new claim on this fact and on his assertion that the prosecutor had allowed a crucial witness to lie while also misleading the jury in his closing argument.

Last year, the circuit court ordered a new trial. Before it could begin, the original witness admitted he had lied. Florida, sensing it had no case, abandoned its prosecution, and early last March Shabaka left jail a free man, his only possessions being the clothes on his back and his legal papers. Between the ages of 23 and 37, he had spent the rich marrow of his youth on death row.

The Shabaka story illuminates the most sordid defects of capital punishment. His blackness and poverty helped doom him. He was ruthlessly cheated; it was never his privilege to be granted—even for a phantom crime—the incarceration that is meted out to others and that carries the possibility of redemption.

He would have died not a criminal but a victim whose innocence would have been as surely entombed as his body in its burial suit.

Today, Shabaka makes his home in Florida. There "decompressing," as he puts it, from his years in a cell, he reads and listens to tapes of classical symphonies. May he live in peace.

TRIBUTE TO THE BERKELEY CO-OP

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. DELLUMS. Mr. Speaker, on May 17, the Consumers Cooperative of Berkeley, Inc. will celebrate its 50th anniversary of service to its members, most of whom are constituents of the Fifth, Sixth, Seventh, Eighth, and Ninth Congressional Districts of California.

The Consumers Cooperative of Berkeley Inc., is the largest grocery co-op in the United States. Over a hundred thousand members strong with sales of $43 million annually, the Berkeley Co-op has been a leader throughout its 50-year history in service to the consumer:

First supermarket to establish a nutrition and consumer information program.

Consumer advocate throughout its history, leading the fight for food labeling, standards of identity, fair pricing, and safe food through pesticide control, testing of irradiated food, and control of antibiotics used in meat.

First to establish a natural food supermarket and offer organic produce.

Consistently support socially responsible merchandising through shelf labeling or boycotts of food and food products, based on member votes and demonstrated abuses, such as the Nestle's Instant Formula boycott in 1982-84 and the continued boycott of goods from South Africa and produce from Chile.

Works nationally to oppose food production practices that damage the Earth, its plants, and its animals.

It is a privilege to commend the Berkeley Co-op on its exemplary record of service to its members, the local communities, and the Nation. Through its vigorous championing of consumers' rights to clean, safe foods, co-op has set a standard of excellence that the grocery industry must emulate. In point of fact, many of its "firsts" to the Berkeley Co-op's credit, have subsequently become industry standards—from unit pricing to consumer information programs. It is this commitment to the larger vision and the individual needs of its member—and all consumers—that makes the Berkeley Co-op unique among grocery stores.

NATIONAL SMALL BUSINESS WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. MFUME. Mr. Speaker, today I rise with many of my colleagues to pay tribute to the small business men and women of America during this week designated as Small Business Week. Literally millions of entrepreneurs in this country have taken on seemingly insurmountable odds and have often risked their entire life savings in order to fulfill a dream. That dream, Mr. Speaker, is to become an independent business person.

Not only have these self-motivated persons fostered the growth of our national economy, but through tenacity and diligence, they have displayed an entrepreneurial spirit that all the world has come to respect. We are grateful to all entrepreneurs for reminding us of the importance of economic freedom and for striving to take part in our free enterprise system.

It is no secret that small businesses in America contribute to the wealth of this Nation through the creation of products and services, by providing jobs and opportunities, and by reinvesting in our communities. Nearly half of the gross national product can be attributed to small businesses. Also, these firms, through the creation of more than 50 percent of the Nation's innovation, pave the way for the future growth of our country. Without these truly talented and courageous men and women who have become the very fabric of our community, this country would face staggering unemployment and astronomical trade deficits.

Small Business Persons of the Year are chosen by their peers in each State. Homer I. Altice, president of H. Altice Marketing, Inc., in the State of Maryland, is one among many whose achievements best exemplify America's entrepreneurial spirit. The State of Maryland is also proud to have Baltimore's own Lisa G. Renshaw, owner of Penn Parking, receive the special small business week award of Young Entrepreneur of the Year.

We are very proud of these small businesses and very much aware that small businesses are the backbone of the U.S. economy. Yet, in spite of all their accomplishments, this administration has, more often than not, abandoned those programs and policies that are in the interest of small business.

The 1986 White House Conference on Small Business resulted in 60 recommendations put forward by more than 20,000 small business entrepreneurs from every part of the United States. These recommendations constitute an important agenda for action that I hope we will all take seriously and, therefore, move to protect and expand upon the benefits that small businesses have afforded this Nation. As we honor small businesses during this week, let us also make a commitment to examining the issues crucial to America's small business entrepreneurs. Let us not be so shortsighted as to forget about the problems of small business, the status of minorities and women as small business owners, the assistance small businesses need in order to carry out its role as the Nation's job creator. We must work to carry out specific and comprehensive recommendations for action as may be appropriate for maintaining the economic viability of small business which ultimately benefits the Nation.

ALICE AND DAN ANDERSEN CELEBRATE THEIR GOLDEN WEDDING ANNIVERSARY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. MOORHEAD. Mr. Speaker, on June 28 my administrative assistant, Alice Andersen, and her husband, Dan, will celebrate their 50th wedding anniversary. Their daughter and son-in-law, Dr. and Mrs. Paul (Dianne) Tecklenberg, of Kingsville, MD, will host an open house in their honor. Their grandchildren, Amy and Steve, will assist their parents.

Alice was born in South Dakota of Norwegian parents. After completing her first eight grades in the one-room Spink School District No. 34, high school at Vermillion High in Vermillion, SD, and 1 year of college at the University of South Dakota, she moved to Sioux Falls and worked as a secretary. Soon thereafter, South Dakota Senator William J. Bulow, of Beresford, offered her a position on his Washington staff which she accepted. She arrived in Washington on New Year's day, 1934, and began work the next day in Senator Bulow's office at 452 Russell Senate Office Building.

In the fall, she entered George Washington University and attended classes at night while working for Senator Bulow in the daytime until she received her B.A. degree in political science. It was at GWU that she met Daniel J. Andersen who earned both his A.B. and J.D. degrees from GWU. They were married on June 28, 1937.

When Senator Bulow retired in 1943, Alice left work on the Hill. During the years that their daughter, Dianne, was growing up, Alice was a very active volunteer in her church and in a number of charitable organizations. In 1966, she accepted a position as Secretary for Congressman H. Allen Smith, from California's then 20th District, and later become his administrative assistant. When Congressman Smith retired from office in 1973, I was elected to succeed him and Alice continued to serve the district as my administrative assistant, a position she still holds. She has been invaluable to me, and she and Dan, who continues to practice law in the District of Columbia, are dear friends.

My family and my staff join me in saying "congratulations!" to Alice and Dan and in wishing for them many more years of a good and happy life together.

BICENTENNIAL OF THE CONSTITUTION

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. CHAPPELL. Mr. Speaker, in May 1787, the U.S. Constitutional Convention convened in Philadelphia. The Quaker City was buzzing with excitement over the event, particularly with the prospect that George Washington would be there. The 55 delegates elected to the Convention came from diverse backgrounds. Less than one-half of them—21—had fought in the Revolutionary War. Twenty-four were lawyers and three were doctors of medicine. Twenty-four had no college education, including Benjamin Franklin, Robert Morris, and Washington, himself.

George Mason of Virginia was one of the fledgling Nation's largest landowners, perhaps the largest. Jacob Brown of Delaware was a small farmer. Abraham Baldwin of Georgia was struggling to educate his orphaned brothers and sisters. The dedicated group of men—America's finest—spent 4 months in that sweltering summer 200 years ago to forge a monumental document—the Constitution of the United States, a document that has withstood the test of time as a master blueprint for governmental organization, a bastion for protection of the rights of citizens and a beacon of hope for oppressed peoples the world over.

Throughout our land many individuals and organizations are marking the bicentennial of our Constitution in many ways. Last month, in my congressional district, the Military Order of World Wars—Flagler/Palm Cost Chapter—and Daytona Beach Community College—Flagler/Palm Coast Campus—cosponsored a "Massing of the Colors" honoring war veterans, living and deceased, and celebrating the 200th anniversary of the Constitution.

At a time when there are many voices telling us what's wrong with America, it was inspiring to be present when these men and women, and boys and girls were proclaiming what's right with America.

Mr. Speaker, I would like to share with you and my colleagues the names of those organizations which observed "Patriotism Day" and participated in the "Massing of Colors."

American Association of University Women, American Legion, Disabled American Veterans (Jim Booie Post) and Auxiliary, Boy Scout Troop No. 402, Daughters of the American Revolution, Flagler County Music Society, Flagler County Public Library, Flagler Lions, Girl Scouts, Jewish War Veterans, Knights of Columbus and Auxiliary, Military Order of World Wars (Flagler/Palm Coast and St. Augustine), Mother Seton Men's Club, National Association of Retired Federal Employees, Palm Coast Elks Lodge, Palm Coast Kiwanis, Palm Coast Women's Club, Reserve Officers Association, St. Mark By-the-Sea Lutheran Church, Sons of the American Revolution, Telephone Pioneers, Trinity Presbyterian Church, U.S. Coast Guard Auxiliary, and Veterans of Foreign Wars Post No. 8696 and Auxiliary.

The participants in this historic event did our country proud and made me proud to be an American.

SECONDARY MORTGAGE MARKET FOR AGRICULTURE REAL ESTATE

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. STALLINGS. Mr. Speaker, today I am introducing legislation that would authorize a secondary market for agriculture real estate which would be affiliated with the Farm Credit System. A secondary market for agriculture real estate is the type of development in financial services which is needed to help our farmers and ranchers survive and prosper in the coming years.

This is not an immediate answer to agriculture borrowers in debt trouble. But for many farmers and ranchers, a secondary market will increase the availability of mortgages; bring about more fixed rate, long-term real estate loans; lower interest rates, and result in better service. The Farm Credit System, commercial banks, insurance companies, and other lenders will all be able to provide these benefits to their farm borrowers through the operation of a secondary market.

This new concept would allow even the smallest lender to become a participant in the larger financial community by bringing outside capital from the financial markets to rural areas for investment in local farmland.

The Farm Credit System will benefit from this proposal by receiving a fee income from selling its credit enhancement. The System will also be able to offer farmers a new product—fixed rate mortgages. Finally, the System will be better able to match its long-term debt with long-term securities.

The goal of this legislation is to bring the same advantages of a secondary market now being experienced by homebuyers to farmers who wish to purchase farmland. I ask your support for this legislation.

PROHIBIT THE SALE OF VA LAND IN WEST LOS ANGELES AND SEPULVEDA, CA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1987

Mr. BEILENSON. Mr. Speaker, last year the Reagan administration attempted to sell land surrounding two Veterans' Administration [VA] medical centers in southern California—109 acres in the Westwood community of Los Angeles and 46 acres in Sepulveda, a community in the San Fernando Valley. The administration declared the land as excess to the needs of the VA and proposed selling it for commercial development. I strongly opposed the sale of this land, much of which is located in the 23d Congressional District which I represent.

The administration argued that the sale was necessary to help reduce the Federal budget deficit, claiming that the property in the Westwood community of Los Angeles would bring in $340 million and that in Sepulveda, $10 million. I am a strong supporter of efforts to reduce the deficit, but I do not believe that a one-time profit from the sale of these valuable Federal lands is a viable or appropriate way to try to balance the budget.

Many of my colleagues share my view, and in August 1986, the House unanimously approved a bill, sponsored by the distinguished chairman of the House Veterans' Affairs Committee, Mr. MONTGOMERY, that included a provision prohibiting the sale. Unfortunately, last year's Senate felt compelled to support President Reagan on this matter—so despite the good work of so many Members of Congress, including Mr. MONTGOMERY and, in the Senate, the distinguished Senator from California, Mr. CRANSTON, the best agreement we could reach was a moratorium until 1988 on the consideration of the proposal.

The administration shows every intention of acting on its sale proposal again when the moratorium expires. For that reason I am, with Chairman MONTGOMERY, introducing a bill today that prohibits the administrator of the VA from declaring as excess to the needs of the VA, or taking any action to dispose of, the land at these VA medical centers. Our bill would provide a permanent solution to the unwise proposal for the sale of this valuable property. Senator CRANSTON, the chairman of the Senate Veterans' Affairs Committee, is the author of a measure that includes a similar prohibition on any action declaring the land as excess.

We agree that, for several reasons, the sale proposal has no more viability now than it did in 1986. First, the administration's estimate for the value of the VA property must be questioned. For example, the figure for the Westwood property is based on its use for commercial purpose rather than on its present restrictive designation that permits its use for recreational or open space purposes only under the Los Angeles County general land-use plan. Therefore, any appraisal based on commercial use is completely inconsistent with the current land use designation.

Even if the purchaser of the land succeeded in convincing the county to rezone the property, that change would still be contrary to the desires of the surrounding community. The traffic that further development would generate would add to the tremendous volume at Wilshire Boulevard and Veterans Avenue, an intersection that already holds the dubious distinction of having the highest traffic count in the western United States. In addition, the strong sentiments against commercial development were reflected by Los Angeles voters just last November when they passed by a 70-percent margin the reasonable limits initiative, which cuts in half the amount of development permitted on most commercial parcels in Los Angeles. The Los Angeles voters are clearly opposed to development—such as that which the Reagan administration envisions for this property—that will cause greater traffic congestion and exacerbate an already difficult situation.

A second major problem with the land sale is that the heirs of the family which gave the land to the VA have served notice that they plan to do what they can to preserve interest in the property. They are in court now contesting the Federal Government's sale of a nearby parcel of land, which had been declared as excess to the needs of the VA. The heirs are maintaining their rights to that property since, when the family deeded the land to the VA in the late 1880's, one requirement was that it be used for veterans only.

Third, the proposed land sale does not take into consideration the present and long-term needs of the VA medical centers themselves or of the veterans they serve. The Westwood facility, for example, plays a major role in improving the health care of veterans in the Los Angeles area and is closely connected with the excellent medical school at the nearby University of California at Los Angeles. For a relatively small sum of money, which does so little to help solve our serious deficit, selling this land would mean losing all future opportunities to expand veterans' services in one of the fastest growing areas in the United States.

Perhaps the most important consideration is that the Federal Government has a responsibility to work with and not against the needs and desires of a local community. The officials at these medical centers have worked diligently to establish and maintain close relationships with their neighbors. One of the reasons that the centers and the communities have such good relationships is the large buffer zone that the open space—which the Government now wants to sell—provides. This space has prevented many of the problems that such close proximity to a hospital could present in a densely populated area.

The proposed sale would dramatically alter the areas and can only lead to anger and frustration and accusations of irresponsibility and disregard for the concerns and well-being of the surrounding communities. Maintaining a green belt buffer zone in highly congested urban areas cannot be measured in dollar value only. There is far too little open space left in west Los Angeles in particular for this acreage to be sacrificed in the name of deficit reduction.

I know personally how important this open space has been. My office worked with the community on a project that resulted in the creation of a 12-acre recreational park at the Westwood facility. After 7 years of negotiations with the city of Los Angeles and both the local and the national VA, the city and the Va signed a lease for the use of the land on the center's property. The city has spent $1 million to upgrade the area. Residents of the community and patients from the hospital now have much better use of this open space—a totally appropriate use of the land that will no longer be possible if the land sale is approved.

The medical centers have acted with foresight and generosity in recognizing the importance of a buffer area between the hospitals and the homeowners and have cooperated with their neighbors in making decisions about the use of the land. The good will that these projects, such as the recreational park, have created is essential for maintaining a cooperative working relationship between the Federal Government as owner of the VA land and the communities.

Selling this property, as the Reagan administration proposes, would frustrate local government efforts to control congestion, ignore the needs of the VA and our veterans, and destroy the good will which the medical centers and residents have worked so hard to establish. I hope that Congress will be able once and for all to put an end to the idea that this valuable property is surplus by approving our legislation.

SENATE—*Friday, May 15, 1987*

(*Legislative day of Wednesday, May 13, 1987*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DENNIS DECONCINI, a Senator from the State of New Mexico.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Be still and know that I am God * * *.—Psalms 46: 10.

* * * *in quietness and in confidence shall be your strength.*—Isaiah 30:15.

Father in heaven, infinite in patience and in wisdom, give to the Senate, as it winds up this week, Your peace and Your strength. Enable the Senators as they do whatever they must do this weekend to be relieved from any frustration or hostility or discouragement they may have experienced the last 4 days. Help them not impose on their families negative emotions generated here. Release inward pressures upon which they may have been keeping the lid so that it does not explode in the home or in response to constituents. As I pray for the Senators, I pray for all of the men and women who directly or indirectly are affected by the tensions that develop here. Let Thy blessing be upon them all. Let this weekend be one in which all that must be is accomplished, mixed with pleasure, recreation, and rest. In Thy name, O Lord, I pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 15, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized, under the standing order.

THE JOURNAL

Mr. BYRD. Mr. President, although the Senate did not adjourn over, I ask unanimous consent that the Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved and that my time likewise be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the time between now and 10:15 shall be equally divided and controlled by the majority and minority leaders or their designees.

Mr. BYRD. Mr. President, I yield such time as he may desire to the distinguished Senator from Wisconsin [Mr. PROXMIRE].

Mr. PROXMIRE. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

TIME FOR THE SPIRIT OF SCROOGE IN ARMS CONTROL NEGOTIATIONS

Mr. PROXMIRE. Mr. President, the hour of Scrooge may have arrived. It's time we inspire the Congress of the United States and the administration to negotiate an end to the arms race, not because of some far-off, distant, if highly respectable, ideals, but because of hard dollars and cents.

For years, some of us in the Congress have inveighed against the conventional and nuclear arms race because it threatens world peace. We have called attention to the terrible destruction of hundreds of thousands of innocent men, women, and children in Nagasaki and Hiroshima because one primitive atomic bomb was dropped in each city. We contended that the obscene buildup by both superpowers of nuclear arsenals of 10,000 strategic nuclear bombs each, plus 15,000 tactical nuclear weapons on each side, for a grand total of 50,000 nuclear devices, threatens the existence of civilization, if not of mankind, as a species on this planet. What effect did this kind of talk have on the nuclear and conventional arms race? Exactly none.

Scrooge—the spirit that tells us to cut spending to the bone—just might do the trick.

We now know that both sides have built, at vast expense, by this year, 1987, conventional military power that rivals the nuclear explosive power in its death potential. Thousands of Americans—God bless them—have organized themselves into peace groups. There have been referendums in State after State that have repeatedly demonstrated overwhelming public support for negotiating an end to the arms race. Peace advocates have argued with powerful documentation that arms races between superpowers historically lead to war, no matter how grim the prospect of such war may be. They have pointed to the terrible hazards of accidental war developing out of an immensely complicated, hair-trigger technology that has not one or two but many fingers on the nuclear button. All this logic and appeal for the sanctity of human life hasn't worked.

We have found every initiative for peace, every proposal for arms control negotiations runs into the fear that the other side may achieve a small or big, temporary or permanent advantage. And so we have gone years with no progress in arms control. Then, when at long last we come to an agreement, we limit it to a single type of nuclear device—usually a small weapon that the superpowers can do very well without—such as intermediate or short-range nuclear weapons. And we limit it to one section of the world. Most recently, it has been Europe.

Now, this might be a constructive if painfully slow course if our agreements accumulated. We could build something significant on a series of small agreements, but we don't. Way back in 1963—24 years, more than half the nuclear age ago—the superpowers promised to build on a treaty limiting test explosions of nuclear weapons to the underground. We promised in that treaty to negotiate a comprehensive end to such nuclear weapons tests. We recognized that such an end to testing would also spell the end of the technological nuclear arms race. Did we keep that promise? No, indeed. The admin-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

istration has made it very clear that it will not negotiate such an agreement under any circumstances.

Oh, yes, we did meanwhile agree on two major treaties negotiated by the superpowers to restrain the nuclear arms race. Those were: the strategic arms limitation agreement, No. 1—SALT I, which is the ABM Treaty; and the second strategic arms limitation treaty, SALT II, that was the treaty restraining offensive strategic nuclear arms on both sides. Did we build on those major treaties? No, indeed. We not only failed to build on them; we are ending them. The ABM Treaty would be repudiated by the administration's No. 1 military priority, the strategic defense initiative, or SDI. After all, what is the one and only purpose of the ABM Treaty? It is to prevent either superpower from building a nationwide SDI. That's it. That's all of it. So the ABM Treaty is on its way to the cemetery. And SALT II, the only treaty that provided restraint on offensive nuclear arms, is already in the cemetery. It died on December 31, 1986. The administration has made it crystal clear that it has no intention of renegotiating SALT II. It is dead.

So, yes, we do have the prospect of an agreement to reduce or eliminate nuclear weapons in Europe. But the arms race rushes on. The arsenals of both superpowers bristle with a greater array of nuclear and conventional weapons than the world has ever seen anywhere before. Both sides are pouring their treasures and their scientific genius into this superpower race to world supremacy in human destruction.

By now we should have learned that moral arguments won't stop this race or even slow it. So, what will? The answer is money, the spirit of Scrooge. Jesus Christ, Mahatma Gandhi, Buddha, Sister Theresa, Isaiah—these are the great peacekeepers who have been praised and worshipped throughout history. Men would pray and then go to war. Often they would go to war with prayers on their lips: "Onward Christian soldiers, marching as to war, with the cross of Jesus, going on before."

So if we won't negotiate an end to the arms race for a good reason, let's try a bad reason. Let's give the spirit of Scrooge a chance. Let us recognize that the spirit of Scrooge is alive and well in all of us. So why should we stop the arms race? Not for peace or the dignity of human life. We should stop the arms race because we can't afford it. It costs too much. Here's a universal motive. And don't think the Communists are above the material gains they could enjoy by reducing the colossal burden of arms that hits their economy literally twice as hard as it hits Americans. After all, their economy is half the size of ours. And yet they are at least matching us dollar for dollar and ruble for ruble in squandering their resources on their immense military machine. With a far feebler technology, the burden is much more painful for them than for us.

All of us know that the one way we can work our way out of this massive Federal debt burden without a crushing tax increase is through major cuts in military spending. How do we do that? Answer: We negotiate arms control treaties with the Soviet Union that will stop the arms race cold. I mean the conventional as well as the nuclear arms race. What excuse would there be for a $300 billion—each and every year—military establishment if the Soviet Union agreed to a meticulously verified military cutback on both sides? It's not Christmas. Gorbachev isn't Tiny Tim. But the time has arrrived for Scrooge to spread his message: "Let's negotiate an across-the-board end, a bah-humbug to the superpower arms race. Forget the good Lord and peace on Earth. It's simple. Just recognize we can't afford it. Scrooge sure would."

Mr. President, I thank the distinguished majority leader, and I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin. I have listened with interest to his discussion of certain treaties.

He knows that I have been talking from time to time recently about the need to get on with the treaties—the Nuclear Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. These two treaties were negotiated in 1972 and 1974, respectively, I believe. Anyhow, they have been languishing for several years, and they are on the Executive Calendar at this time and have been on there for some time. They are on there today because the administration has not given its support.

The President, before he went to Reykjavik, urged the House of Representatives to take the restrictive arms control language off, which the House had added to the continuing resolution, and the President's argument was, and I think he was right, that that language should be taken off so that his hands would not be tied at Reykjavik.

The House took off the language but the President in asking the House to remove that restrictive language assured Congress that he would make the first business before Congress to support these two treaties with verification language—if the restrictive language concerning arms control were removed from the continuing resolution.

As I say, the House removed that language, but the President has welched on his commitment. He does not support these two treaties.

The Foreign Relations Committee reported out the two treaties with the verification language. I support the verification language. But the President's support has not been forthcoming. We cannot get a two-thirds vote in this Senate for those two treaties unless we have the support of the President. We do not have it. So they are still on the calendar.

I will not call them up until I am sure there is support for those two treaties and that support, as I say, is not forthcoming. The President has not kept his word.

I hope that the Senator will from time to time consider these two treaties also as he speaks about treaties.

Mr. PROXMIRE. Mr. President, the distinguished majority leader is exactly correct. There is nothing more difficult for the Congress of the United States to do than to try to help to achieve an agreement with the Soviet Union. That has to be done by the executive.

Unless we can get support from the President or whoever is President of the United States, we are not only in a difficult position but virtually an impossible position.

I think Members of the House and the distinguished majority leader and others have made a heroic effort under the circumstances to achieve some kind of agreement that would slow, if not end, the arms race.

But as the distinguished majority leader has said, and has said I think with great logic, there is no way this can be done when we have an administration that is not interested in doing it.

Mr. President, I thank my good friend, the majority leader, for his fine leadership in this as in so many other areas.

Mr. BYRD. I thank the Senator.

JOHN STARK

Mr. PROXMIRE. Mr. President, on March 26, 1987, John Stark, former executive director of the Joint Economic Committee, died at Capitol Hill Hospital in Washington, DC. John was a long-time and highly valued congressional staff person who served as executive director of the Joint Economic Committee from 1967 until his retirement in 1979.

I knew and worked with John for more than 20 years. In that time, I came to know him as a friend and close associate. He was insightful and effective and one of the most successful staff directors on Capitol Hill. He was also one of the most decent and well-loved persons I have known. As a gesture of the high regard in which John was held, the Joint Economic Committee adopted a resolution at the time of his retirement commending his efforts to bring the Joint Economic

Commiittee and Congress into the center of the economic policy process.

I served as alternating chairman and vice chairman of the Joint Economic Committee during 1967-74. When I became chairman for the first time in 1967, I appointed John Stark as executive director. He had previously served as deputy director of the committee. Before that, he worked as an economist with the Bureau of the Budget and then with the Bureau of Labor Statistics. His education included degrees in public finance and law.

He came to the committee with a background in economics, law, and public policy, a rare combination which was put to use in a unique fashion. He was so successful in his role as executive director that he was retained in that position through six Congresses under four separate chairmen. They included Representative Wright Patman, Senator Hubert Humphrey, and Representative Richard Bolling, as well as myself. Those three were among the most senior and influential Members of Congress and the fact that each asked John to stay on as executive director testifies to John's abilities and performance.

John Stark's contributions to economic policy can be seen in the work of the Joint Economic Committee. The JEC was established by the Employment Act of 1946 as a legislative counterpart to the President's Council of Economic Advisers. It has a distinguished record of achievements in the area of economic policy, much of which can be attributed to the hard work of professionals staff persons such as John Stark. Indeed, many of its most notable accomplishments occurred during John's tenure as executive director.

It was under John Stark that the movement began for reforming the executive and congressional budget processes, with hearings by the Joint Economic Committee into national economic priorities begun in 1969. In the early 1970's the JEC became the first committee to recommend that the administration provide Congress with 5-year budget projections for defense spending. This recommendation was later expanded to include all Government spending. In 1973, the Joint Economic Committee issued as a staff study the first attempt to construct a current services budget. These efforts, in which John Stark played an instrumental role, contributed directly to the 1974 Budget and Impoundment Control Act.

It was during John Stark's term that the Joint Economic Committee helped focus national attention in the early 1970's on the financial crisis confronting America's State and local governments. John and the committee staff were among the first to recognize the coming recession in 1974 and to recommend a major reduction in taxes, at a time when the administration was proposing a tax increase. In this period, the Joint Economic Committee worked with the Senate Banking Committee to develop the requirement that the Federal Reserve Board provide Congress with periodic statements of monetary policy goals.

It was under John Stark's direction that the Joint Economic Committee made a ground-breaking inquiry in the late 1960's into the cost of the Vietnam war. This was followed by a series of hearings and reports concerning defense spending and defense contracting and their effects on the economy. The defense contract hearings disclosed widespread evidence of waste and mismanagement and led to a series of reforms and calls for change.

It was while John was executive director that the committee, under the able leadership of Representative Henry Reuss, successfully urged the adoption of the system of flexible international exchange rates. It was during this period that the JEC first called attention to the productivity problem, and made major contributions to the understanding of Federal welfare programs and Government subsidies including tax subsidies. And it was during this period that the Humphrey-Hawkins Act was adopted. Of course, the principal authors of that legislation were Senator Hubert Humphrey, then chairman of the JEC, and Representative AUGUSTUS HAWKINS, a Member of the JEC. Much of the act was based on the work of the Joint Economic Committee staff.

The Joint Economic Committee has been a source for information and analysis on the economy of the Soviet Union since the early 1950's. The role of the committee in monitoring economic developments in the Socialist economies was expanded during the period when John Stark was executive director to include China and Eastern Europe.

John Stark's appreciation of the significance of long-term trends and changes in domestic and international economies, and his understanding of the essential unity of economic policy, were ideally suited to the Joint Economic Committee. John perfected the use of the JEC both as a source of information about the economy and as an adjunct to the work of the standing committees with legislative jurisdiction over aspects of economic policy. Senator Jacob Javits, who was my colleague on the committee for many years, spoke of the JEC as a congressional think-tank. He called it, in fact, a "think-committee," whose essential role cannot be played by any other group in Congress. John Stark probably did more than any other period during the period that Senator Javits served as a member of the committee to enable it to function as a think committee.

Although we are saddened by the loss of John Stark, fortunately he has left a legacy that will be drawn upon for many years. To the many people who knew him, he will be a continuing source of inspiration and model of how to work in the legislative branch while remaining true to the highest principles of morality and humanity. Characteristically, John succumbed to a heart ailment while lecturing to a group of congressional interns on Capitol Hill. He was throughout his career a teacher as well as a doer, and we have all benefited from the example he set.

I ask unanimous consent that John Stark's obituary which appeared in the Washington Post March 28, 1987, and a tribute to him by a former colleague of John, "In Memory of John Regan Stark," which was read at his funeral services be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

John R. Stark, 69, a lawyer and economist who served 12 years as executive director of the Congressional Joint Economic Committee before his retirement in 1979, died of a heart ailment March 26 at Capitol Hill Hospital.

Mr. Stark, a resident of Chevy Chase, was born in Staten Island, N.Y. He graduated from Cornell University. He earned a master's degree in public finance at New York University and a law degree at George Washington University. During World War II he served in the Coast Guard.

He moved to the Washington area after the war and worked as a fiscal economist with the Bureau of the Budget and later as assistant director of the price division of the Bureau of Labor Statistics.

From 1957 to 1961 he operated a legal and financial consulting business. From 1962 to 1965 he was general counsel of the House Committee on Banking and Currency. He joined the staff of the Joint Economic Committee as deputy director in 1966.

During Mr. Stark's 12 years as executive director, the committee's work included the first studies of the financial and economic costs of the Vietnam war. The panel also was influential in developing long-range planning of the federal budget.

At Mr. Stark's retirement, the committee passed a resolution commending his work in helping to strengthen the committee's role as a center of economic policy formulation.

In retirement he taught legislative processes at George Washington University law school and graduate school.

A MEMORY OF JOHN REGAN STARK

What I will always remember about John Stark was his intensity. Many might not think of John as intense. He was a gentle soul. But beneath his gentleness was an intensity of conviction about social justice that infused his professional work and his private life.

John brought his convictions to the world of economic policy. Economics is known as a dismal science partly because it is so cold. John forced humanity into economic policy with his intense convictions that government should help the poor and the homeless as well as people of means and property.

It is not always easy to hold to such beliefs in the professional world in which John worked. Fashions come and go on Capitol Hill and in Washington's political circles. Sometimes concern for social justice is popular. Sometimes it is not. John maintained his vision of a socially just nation and world throughout his career. Senators and congressmen who knew John and had other priorities were aware that they had to reckon with him. Those who shared his beliefs had the strongest of allies.

To me, John was a liberal who believed in conserving traditional values. If you worked for John when he was staff director of the Joint Economic Committee, you had the luxury of being able to do your job in a professional, unbiased way. Somehow you would be protected from pressures to dilute or distort your efforts. John protected you. You could take on controversial subjects and come to unconventional conclusions, and if they were justified John would encourage and protect you.

Occasionally, you might do something worthwhile in a way that would be notable only to those in your immediate circle. On such occasions, John would tell you privately, "You just hit a home run." And that would sustain you. I knew John for nearly 25 years, and more satisfying words were never said.

You hit a home run for all of us—John. Richard F. Kaufman, March 29, 1987.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KASTEN. Mr. President, I ask unanimous consent that I may yield myself 5 minutes of the leader's time and 5 minutes as in morning business and proceed as if in morning business.

Mr. BYRD. Mr. President, if the Senator will withhold his request, I ask unanimous consent on behalf of the Republican leader that the distinguished Senator may have 10 minutes and that he may speak out of order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Then I will yield to the Senator from Michigan and the Senator from Florida.

Mr. KASTEN. I thank the majority leader, and I thank the Chair.

MORE ABUSES AT THE UNITED NATIONS—WHAT HAPPENED TO REFORM?

Mr. KASTEN. Mr. President, I bring to the Senate's attention an issue of extreme importance in the conduct of our foreign policy and which I and most Americans will consider an outrage. It also is an issue which poses a clear threat to the national security of our country.

I have learned that the Secretary-General of the United Nations informed the Department of State last week that he plans to make some 156 exceptions to the current hiring freeze on recruitment in the U.N. Secretariat—a long overdue hiring freeze, I might add, in a bloated bureaucracy that respected senior U.N. officials themselves have termed "scandalous."

The Secretary-General admits that the lion's share of these exceptions will benefit the Soviet Union and its allies, 99 percent-plus of whose nationals are employed only on the basis of fixed-term contracts or, as it is often called "secondment." This is a key point, as I will explain in a minute.

The State Department has been told that approximately 60 Soviet and East-bloc employees were due to be replaced in 1986 and approximately 60 more in 1978. Since 19 East-bloc employees already were replaced in 1986, the Secretary-General intends to replace some 45 individuals from the Soviet bloc during the next 8 months. In addition to these, 59 East-bloc employees whose contracts expire in 1987 are to be replaced—probably in 1988, but perhaps before then.

Mr. President, if Soviet bloc intentions go unchecked, we can expect that there will be approximately 60 new appointments a year: Business as usual, for the Soviets.

It is intolerable that almost all these appointments are for new personnel who will be rotated into New York when their predecessors are rotated out—at the Soviets' convenience. What is worse is that the Soviets and their allies will continue to identify specific slots in the secretariat and reserve them for their own people.

Other countries in the U.N. system do this to a limited degree. But the Soviet bloc is blatant in its abuse of the system. To repeat, nearly 100 percent of Soviet bloc personnel are "seconded" to the United Nations, and all of them occupy key Secretariat positions that they regard as their exclusive property—to use and to abuse.

STATE DEPARTMENT LETTER MISLEADING

The essential elements of this new U.N. outrage were confirmed in a letter to me of May 7, 1987, from Deputy Secretary of State Whitehead. However, I believe that portions of that letter, or inferences in that letter, give a false impression of what actually happened.

Secretary Whitehead says that the Secretary General wrote him on May 5, saying in the letter he was "giving thought to making limited exceptions * * *" and that he wanted to "permit a limited rotation of personnel from those countries whose nationals are employed only on the basis of secondment with fixed-term contract * * *."

According to Whitehead, the Secretary General also "agreed to take no action on this mattter until he returns from China on May 21, and to consult with us fully before any final decision is made."

But in fact, Mr. President, the Secretary-General has already made a final decision and had no intention of even informing the United States, much less consulting with us. The administration was tipped off about this decision, reached secretly between the Secretary General and a top official of the Soviet Foreign Ministry.

And it was only after the Secretary-General learned that this secret deal was known by administration officials that he contacted the State Department.

I believe that the Secretary General's letter to Deputy Secretary Whitehead confirms this interpretation, and on May 12, I formally requested a copy of that letter from the State Department. That request, regrettably, was denied.

Mr. President, I ask unanimous consent that Secretary Whitehead's May 7 letter to me and my May 12 letter requesting the de Cuellar letter be printed in the Record at the end of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

SECONDMENT—HOW IT WORKS

Mr. KASTEN. Mr. President, Moscow's exploitation of the United Nations is, by now, well documented and increasingly widely recognized. Yet, one of the least understood means by which the Soviets abuse U.N. rules and the U.N. Charter itself is their skillful use of "secondment" or fixed-term contracts.

The word is really four-bit bureaucratese for temporary duty assistant, or as it is known in the United States, "TDY."

Within the United Nations Secretariat staff, the Soviets and their Eastern bloc allies have systematically turned secondment on its head. For Moscow, neither the best use of experts nor budgetary expedience is the objective. Rather, it is to keep key Secretariat posts solidly in Soviet bloc hands.

Secondment perpetuates continuity of Soviet policy control of such major Secretariat power centers as political and Security Council affairs, public information, translation and documentation, personnel, and conference services.

In effect, secondment is an elaborate game of musical chairs. One Soviet—or Czech or Hungarian or East German—leaves the Secretariat, another takes over, and the game goes on. Even worse, they move in and out of key posts in the U.N. Secretariat which thus are permanently occupied by individuals whose only loyalty is to the Soviets or bloc regimes. For good measure, they are kept on a short leash of fixed-term contracts, revocable without notice by Moscow or its allies.

U.N. CHARTER VIOLATED

Soviet use of secondment at the United Nations violates the United Nations' own rules.

The U.N. Charter specifically states that all staff members are "international officials responsible only to the organization"—that is, to the United Nations itself. The United States scrupulously abides by this prime rule. So do Western nations and other democracies—in fact, almost all other U.N. members follow this rule. But not the Soviet Union and its cohorts in the East bloc.

VIOLATIONS CONDONED

Soviet exploitation of secondment has been made possible by the conscious connivance of the successive occupants of the Office of Secretary-General.

This has been condoned as well by a succession of U.S. administrations. The Department of State failed last December to ensure that the General Assembly resolution approving the reform proposals of the so-called group of 18 included measures to ensure that secondment abuses would be severely limited.

But there is no reason why we should not move to ensure that such reforms are implemented today, as they should have been for the past four decades. There is also no reason why the United States should be paying any share of the salaries of putative U.N. professionals who actually still work for the governments of the Soviet bloc. They are pros all right—but in what calling?

THE UNITED NATIONS—PRIME INTELLIGENCE TARGET

Mr. President, we know why the Soviet Union and its friends want to put new people on the ground in New York. The city, and the U.N. system as a whole, are prime intelligence targets for the Soviet bloc.

There are, today, some 300 Soviet and East-bloc nationals at the U.N. Secretariat in New York—265 Soviets, plus an additional 33 from the bloc. In a report prepared for the Senate Select Committee on Intelligence in 1985 on "Soviet presence in the U.N. Secretariat" (S. Print 99-52, U.S. GPO, May 1985), it was estimated that as many as one quarter of these so-called international civil servants are in fact officers of the KGB or GRU—the Soviet Military Intelligence Service—and that many more are co-opted by the Soviet intelligence agencies.

Other U.S. intelligence authorities estimate that the percentage of full-time intelligence officers is closer to between one-third and one-half of all Soviet-bloc personnel in New York. And virtually all of them are on call for spot assignments.

Soviet-bloc personnel use their positions to promote a broad range of foreign policy objectives in the U.N. system. They gather information to provide early warning signs of possible U.N. actions and are involved in shaping conference papers; controlling the flow of news to staff and delegations; influencing delegations seeking Secretariat advice; and aiding Soviet-bloc diplomats during conferences and other deliberations.

And, as we all witnessed last year when a Soviet working in the U.N. Secretariat was apprehended in a New York subway for attempting to obtain classified industrial-technical information from an American citizen working in the New York area, the Soviets also direct their employees to collect intelligence in the United States and to seek potential American recruits for their system.

In addition, the United Nations provides a unique reservoir for Soviet recruitment of agents from other countries—from the Third World in particular.

UNDERCUTTING THE HIRING FREEZE

The United States last year ordered severe reductions in the size of the official Soviet U.N. mission and thus forced out many highly skilled and well-trained KGB/GRU officers from the Soviet's New York operation.

Before we began to force the Soviets to reduce the size of their mission, they had approximately 275 personnel; today they have around 185; by October of this year, they are scheduled to be down to about 173.

The Soviets would like to make up for this loss by bringing new officers in the only way they can do so today—through the Secretariat itself.

Being able to send their veterans home and bring new people into the Secretariat provides a veritable "double bonus" for the Soviets and their allies. This allows them to rotate home people who cannot be trusted beyond 3 to 5 years in a position in the U.N. Secretariat, lest like U.N. Under Secretary-General Arkady Shevchenko in 1978, and Vladimir Yakimetz in 1982, they chose to defect to the West.

It also allows them to bring in new, highly skilled and well-trained intelligence officers to replace those in the Secretariat who are going home and those in the Soviet mission whom the United States has forced to leave.

The United Nations' self-imposed hiring freeze should prevent the Soviets from doing this. Yet, it appears that due to unparalleled Soviet pressures, exercised directly by a high Soviet Foreign Ministry official, the Secretary-General is prepared to make a gross exception to the rule in order to allow the Soviets and their friends to make up for lost ground by bringing new people back into the system—in positions that have been identified as "reserved" for Soviets only.

THE UNITED STATES SHOULD BE OUTRAGED

Mr. President, these measures, if allowed to be implemented by the U.N. Secretary General, are an outrage.

They are an outrage at three levels.

First, they would be undertaken in gross violation of the self-imposed U.N. hiring freeze of April 1986. This hiring freeze has been applied systemwide to the nationals of all other member-states of the United Nations with few exceptions; it should also apply to the nationals of the Soviet bloc.

Second, by allowing Soviets to reserve certain positions for their new personnel, it would be a continuing violation of articles 100 and 101 of the U.N. Charter which call for the establishment of a truly international civil service at the United Nations and the appointment of individuals who are truly technically qualified for the positions which they are to fill.

Third, it would mean that the Soviet Union would be allowed to obviate measures which our country rightly has taken to reduce the threat of hostile intelligence activities on American soil by moving new intelligence officers into New York through the back door of the U.N. Secretariat—an effort supported, moreover, through American taxpayer dollars.

As an added insult, the Secretary-General is also poised to make another exception to the hiring freeze by bringing in some 52 entry-level personnel, many West Europeans, but no Americans.

THE SECRETARY OF STATE SHOULD ACT

Mr. President, I believe that the Secretary of State should make absolutely clear to the U.N. Secretary-General that the proposed exceptions to the U.N. hiring freeze which would benefit the Soviet bloc or circumvent the hiring freeze are completely unacceptable and cannot be implemented without having disastrous consequences on the level of United States support for the United Nations.

More than that, he should make it clear that we are not arguing that there should be no representatives of the Soviet Union and its allies in the Secretariat of the United Nations. Rather, if East-bloc nationals wish to work in the U.N. system, they should adhere to the same rules of the international civil service that every other nation must adhere to.

If a Soviet-bloc national leaves a position in the U.N. Secretariat, that position should either be left open if the hiring freeze still is in effect, or opened to competition by other nations if the hiring freeze is lifted, in order to insure that the valid work of the Secretariat is continued.

Finally, the Secretary of State should make it clear that we utterly reject the outrageous notion that Secretariat should be an extension of

Soviet-bloc foreign ministries or intelligence services. Either the Secretariat services the legitimate purposes of the United Nations and the goals of its charter, or its entire basis is called into question.

The Secretary-General of the United Nations must know that he has only two options: either he prohibits the Soviet bloc from abusing the U.N. personnel system and the principles of the U.N. Charter, or he invites the virtual disintegration of a system which has been in existence for over 40 years and which he has led for half a decade.

Last year, the Department of State worked diligently to insure that the U.N. Secretariat in New York understood our commitment to the current reform effort underway at the United Nations, which I have supported and will continue to support.

But, Mr. President, I must ask how much longer will American taxpayers be willing to support a United Nations which allows the Soviet Union and its allies to use the United Nations basically as an extension of their foreign ministries and intelligence agencies?

How long will they continue to support a system that provides special breaks to accommodate the Soviet bloc, which has absolutely no intention of using the United Nations for any purpose other than pursuing its own foreign policy objectives in the world, often to the detriment of the United States and to its national interests?

Mr. President, if the U.N. Secretary-General allows these measures to be implemented, I believe that the American taxpayer will answer these questions loud and clear through his elected representatives in the Congress.

EXHIBIT 1

U.S. DEPARTMENT OF STATE,
DEPUTY SECRETARY OF STATE,
Washington, DC, May 7, 1987.

Hon. ROBERT W. KASTEN, JR.,
U.S. Senate.

DEAR BOB: I promised when we talked last night that I would send you a note to review where things stand on the consideration Secretary-General Perez de Cuellar is giving to replacing certain personnel at the UN.

The Secretary-General wrote to me on May 5 to say that he is giving thought to making limited exceptions in the freeze on recruitment in the UN Secretariat. The Secretary-General says he is considering employing 52 people who passed the entrance examination for junior officer posts before recruitment was frozen. Of these, 41 are from western countries (including Japan), 8 from the Third World, and 3 from Czechoslovakia and Mongolia.

The Secretary-General says he also wants to permit a limited rotation of personnel from those countries whose nationals are employed only on the basis of secondment with fixed term contracts. By the end of 1987, 104 contracts of nationals from these countries will expire. He says that he thinks a phased approach whereby some 45 replacements (out of the 104 such cases), should be permitted over the next 8 months.

On learning of the possibility that the UN might lift the hiring freeze, and permit the USSR and some other countries to continue arrangements whereby all or most of their nationals are employed under fixed term contracts, we were, of course, very concerned. Given the importance of the reform process to the effectiveness of the UN, we would view these developments as a very serious problem. It is on the basis of real reform that we have sought to restore full funding for the UN in FY 1988.

As I told you on the phone, Secretary Shultz called the Secretary-General on May 6, 1987 to voice our strong concerns about both of these problems. The Secretary-General agreed to take no action on this matter until he returns from China on May 21 and to consult with us fully before any final decision is made.

I appreciate your interest in this and will be happy to keep you fully informed on the further results of our efforts.

Sincerely,
JOHN C. WHITEHEAD.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 12, 1987.

Hon. JOHN C. WHITEHEAD,
Deputy Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: As you know, I remain very concerned over actions proposed by the Secretary-General of the United Nations which would circumvent the U.N. hiring freeze.

It is important that I have more information on this matter, including the May 5th communication from the Secretary-General to you referred to in your letter to me of May 7th.

The purpose of this letter is to formally request that you furnish me with a copy of that communication.

It would be appreciated if you make this document available today.

With best regards.

Sincerely,
ROBERT W. KASTEN, JR.,
Ranking Minority Member,
Subcommittee on Foreign Operations.

Mr. BYRD. Mr. President, I yield 5 minutes to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. I thank my friend, the majority leader.

DOD AUTHORIZATION BILL HELD HOSTAGE

Mr. LEVIN. Mr. President, later this morning we are going to decide whether to invoke cloture on the DOD authorization bill. The opponents of one section of this bill's language are filibustering the effort to proceed to debate and to vote on it. They are holding this entire DOD authorization bill hostage until there is an agreement in advance to strike language that they disagree with.

Just imagine. Here is the threat: The filibusterers will agree to proceed to this bill only if there is agreement in advance to strike section 233, the so-called Levin-Nunn language. Now, unless there is that agreement in advance of this bill even coming to the floor, they are not going to let this bill come to the floor if they have their way.

Section 233 is spending language. It simply says that if the administration is going to change the interpretation of the ABM Treaty so that they can test and develop space-based mobile systems, they then must report to the Congress and get congressional approval under expedited procedures. There is no attempt in section 233 to find whether or not the broad interpretation is correct or not. This section only seeks to retain a congressional opportunity to fund or not to fund specific defense activities until after the President makes a very critical determination. Section 233 does not tell the President how to interpret the treaty. It tells him Congress wants to know which interpretation he is going to follow before we write the check for him.

Under the Constitution that we are sworn to uphold, Congress regularly considers limits to spending and to conform that spending to the Constitution and treaties of the United States. We did it during the MX debates when we precisely debated whether or not the ABM Treaty and the SALT I Treaty, which has been ratified, permitted Dense Pack. And we decided, as a matter of fact, to limit this spending of money on Dense Pack, in significant part, because many of us felt that that basing mode violated the SALT I Treaty.

During the Contra debates, one of the great issues was whether or not that funding violated the Rio Treaty. It became an issue, and many of us voted against Contra funding, and, indeed, some voted for Contra funding because of its relationship to that treaty.

So this bill's language raises the issue of whether Congress will have a say in how the SDI dollars are spent or whether we are simply going to hand over to the President the unilateral decision on how SDI dollars will be spent, leaving to the Congress only the decision as to how much.

I think it is clear from the Constitution and from all kinds of precedents that Congress cannot only decide how much money will be spent, but how it is going to be spent. To accede to the filibusterers' will, to accede to this filibuster, would abdicate a precious power that the Constitution entrusts to the Congress, the power to control spending.

Mr. President, the bottom line is this: The President wants a blank check, postdated to the time after he decides which interpretation to follow.

No Congress, particularly the 100th Congress, in the bicentennial year of our Constitution, should abdicate its constitutional responsibility and sign such a check.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, the Senator from Florida asked for time. How much time does the Senator want?

Mr. GRAHAM. Five minutes.

Mr. BYRD. Does he wish to speak on the subject before the Senate?

Mr. GRAHAM. No. I wish to speak in morning business.

Mr. BYRD. Mr. President, there being no morning business, I yield to the distinguished Senator from Florida 5 minutes and I ask unanimous consent that he may speak out of order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Periodically our attention is focused on Central America. Generally that interest is generated by a specific activity or crisis—several weeks ago we debated the question of United States financial aid to the Contras in Nicaragua. That question will come up again—and when it does I hope we will have succeeded in broadening our agenda in the region.

If we do nothing, we're going to end up with the same limited issue, defining U.S. policy in solely military terms. If we evaluate—and act on—our strategic, diplomatic, economic, cultural and academic options, we can influence economic development and encourage democratic government in our neighboring nations.

Central to each of these options is the human factor. Men and women who are committed to the democracies of their nations—the economic well-being of the people, the advancement of human rights and liberties—these are the men and women most likely to share the bonds of friendship and a common vision of the future with the citizens of the United States.

Guatemalan President, Vinicio Cerezo, who visited our Nation and met with many of us this week, is an example of a strong national leader who shares the values which are fundamental to all Americans—North, South and Central—in the partnership of nations within the new world.

Mr. President, this truth is not exclusive to the United States. The Soviet Union and its satellites in Central Europe and in Cuba have seen and acted upon this truth. They have assumed the dominant position in awarding scholarships to the next generation of leadership in the Caribbean Basin countries.

For example:

In 1985 the Soviets gave at least 1,000 scholarships to Panamanian students. The United States gave Panama 67 scholarships that year.

In Costa Rica the Soviets awarded 1,635 scholarships in 1985. The United States supplied 43.

A recent study of 661 foreign scholarship students from Costa Rica—commissioned this spring by the U.S. Information Agency—underscores the gravity of a missed opportunity for the United States in the Caribbean/Central American region. The study is an evaluation of the attitudes and beliefs of the students upon their return home after completion of their studies.

The host nations for scholarships contrasted in the study are the Soviet bloc nations and Cuba, several European countries and the United States. The students surveyed are the future business and political leaders and educated middle class of Costa Rica—an important democracy in Central America.

I would like to quote to you from an evaluation of the study. What follows are some of the highlights of the study's findings:

Soviet-bloc returnees have a considerably better opinion of the U.S.S.R. than any other group, significantly better than those who studied in the United States—or even those who obtained their education in Costa Rica.

Only 27 percent of Soviet-bloc returnees select the United States as closest to an ideal economic model for their own country. Half the group educated in the United States chose us as their country's best economic model.

A similar pattern of response is found in naming the United States as the ideal political model—28 percent of the Soviet-bloc educated and 54 percent of the United States-educated chose the United States.

When asked the question: "What about your opinion of your host country as a whole—is your opinion of the country very favorable, somewhat favorable, somewhat unfavorable or very unfavorable?"

U.S.-educated students replied "very favorable" 70 percent of the time. Soviet-educated students replied "very favorable" only 44 percent of the time.

Clearly we are not taking full advantage of a wide-open opportunity for positive influence in our own hemisphere. Our opportunity is to provide the opportunity for the young people of our neighbors to the south.

The Kissinger Commission established the goal of 10,000 scholarships a year for Caribbean Basin students to study in the United States. The opportunity this Congress has is to make that goal a reality.

The InterAmerican Scholarship Act, which is receiving the endorsement of many Senators, will be an important tool in reaching this goal.

The USIA study shows that when Central American students are given a choice, the overwhelming majority choose the United States as a role model for their own development efforts. It also shows that Russian influence through scholarship diplomacy is pervasive and that the future business and political leadership of our neighboring nations is an important Soviet target.

Mr. President, I submit that we need full support for an InterAmerican Scholarship Program to encourage deserving young people in our hemisphere to work for peace and prosperity through education and democratic standards.

This study is one more graphic example of the urgency of broadening our agenda to encourage democratic ideals in Central America and the Caribbean.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NUNN. Will the Senator from West Virginia yield?

Mr. BYRD. Mr. President, I yield such time as the distinguished Senator from Georgia requires, reserving myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. I thank the Senator from West Virginia.

THE NEED TO PASS THE FISCAL YEAR 1988-89 DEFENSE AUTHORIZATION BILL

Mr. NUNN. Mr. President, I would like to share with my colleagues this morning a few of my comments about the authorization process itself and what that process means to this authorization bill and to the Nation's security.

As this filibuster on the motion to proceed to consideration of the fiscal year 1988-89 Defense authorization bill continues, there have been some suggestions that we don't need to pass a Defense authorization bill this year because we can deal with these issues on the Defense appropriations bill.

I would like to take a few minutes to set the record straight on this point and outline why in my view this would be a very, very poor choice of action for our Nation's security.

The requirement for Congress to enact annual authorizations of Defense programs dates back to the legislation passed in 1959 which required annual congressional authorization of appropriations for the procurement of aircraft, missiles, and naval vessels. This requirement for annual authorization of national defense appropriations has been amended and expanded since 1959, so that now virtually the entire Defense budget requires annual authorization. This requirement has been codified in section 114 of title 10 of the United States Code.

As a result, Congress has enacted a Defense authorization bill every year since 1961. We have enacted them during the most controversial periods of the Vietnam war and during other very trying periods of our history.

I want to briefly review the requirement in the United States Code for the annual authorization of Defense appropriations.

Section 114(a) of title 10 says that:

> No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for procurement * * * research, development, test or evaluation * * * military construction * * * the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense * * * unless funds therefor have been specifically authorized by law.

This section of title 10 clearly requires authorization of Defense appropriations separate and distinct from the annual Defense Appropriations Act.

The same requirement for annual authorization exists for Defense manpower strengths.

Section 114(b) of title 10 states that:

> No funds may be appropriated for any fiscal year for the pay and allowances of members of any reserve component of the armed forces unless the personnel strength of the Selected Reserve of that reserve component for that fiscal year has been authorized by law.

Section 114(c) of title 10 states that:

> No funds may be appropriated for any fiscal year to or for the use of the active duty personnel of any component of the Department of Defense unless the end strength for active duty personnel of that component for that fiscal year has been authorized by law.

Mr. President, a similar requirement exists in law for the annual authorization of civilian personnel and student training loads prior to the appropriation of funds for these purposes. These personnel authorizations are contained in this authorization bill, not in the annual Defense appropriations bill.

The requirement for authorization of military construction projects before appropriation is further set forth in section 2802. This section stipulates that "The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects as are authorized by law." Mr. President, this section means that in the absence of this authorization act, not one dime can be spent on a single new military construction project anywhere in the United States or overseas in fiscal years 1988 or 1989. As a matter of fact there are approximately $70 million of projects in fiscal year 1987 for which funds were appropriated but not authorized. Our committee's fiscal year 1988-89 Defense authorization bill provides the necessary authorization for these projects to begin; without this authorization the $70 million already appropriated for these projects cannot be spent.

In other words, we had an appropriation that did not have an authorization. before that money can be spent, this bill has to be enacted. Without that authorization, this $70 million could not be spent. That is the case with all the military construction. We may pass a military construction appropriations bill, even if this bill is filibustered to death, but what we will have is there will be no authority to spend that money.

So I think all Members ought to be very cognizant of that.

Mr. President, there are also a number of very important legislative provisions in this authorization bill which were requested by the Defense Department. Some of these are provisions which will improve the flexibility of Defense Department officials to manage Defense programs.

One of the most important budgetary reforms sought by the Defense Department this year is a biennial budget.

I applaud the leadership of Secretary Weinberger, Under Secretary Taft, and others in this regard.

This has been a very high priority of Secretary Weinberger in the past, and also one of mine. This bill makes the first serious attempt to move toward a 2-year budget for the Department of Defense. In fact, the Senate Armed Services Committee is the only committee in Congress right now with a strong commitment to enact a 2-year budget. Without this authorization bill, there is virtually no hope of getting a 2-year budget out of the Congress this year.

Another area of very great importance to a lot of us, and particularly those following Defense procurement, is milestone authorizations.

Milestone authorizations are another important reform contained in this authorization bill for the first time. Under this concept, the committee authorized funding for five major Defense programs for 5 years. Milestone authorizations were a key recommendation of the Packard Commission, and will represent another significant missed opportunity for greater efficiency in the management of Defense programs if this authorization bill is not passed.

There are other provisions in this bill which are essential to recruiting and retaining high quality personnel in the military services. Without the specific authorization for the 4-percent pay raise for military personnel in this bill, the military pay raise will probably be only 2 to 3 percent.

The reason for that is that the military pay is tied to civilian pay. Civilian pay is linked to the overall index comparing the private sector to the public sector. That linkage can be overruled by the President and he can make a separate recommendation on the civilian pay. All the indications in the President's budget are that the recommendation on civilian pay will be 2 to 5 percent. We have in this bill a special authorization anticipating the military pay raise going to 4 percent. Without this bill, the military pay will be somewhere in the 2- to 3-percent range. So there is a lot at stake for a lot of people here.

This bill recognizes that there are some retention problems in certain arduous duty skills involving long family separations in some of the military services. For this reason the committee bill increases the current authorization for special pay for aviation career officers; for submarine duty incentive and for career sea pay.

The legislative authorities to pay enlistment and reenlistment bonuses in the Reserve components, and reenlistment bonuses in the active components, expires at the end of this fiscal year. The committee bill, which will be before us if we can get the bill up, extends these authorities for an additional 2 years.

For the first time the committee bill authorizes a cap on out-of-pocket medical expenses for dependents of active duty military personnel under the CHAMPUS programs. That is a very important provision for a lot of people out there in the public.

All of these important benefits for our men and women in uniform will be lost if Congress fails to pass the fiscal year 1988-89 Defense authorization bill.

Finally, Mr. President, there is a major amendment which the committee intended to offer as a committee amendment during the floor debate.

It is not in this bill, but we hope it will be. I think my colleague from Virginia will share in this.

This amendment, which is the result of a recent request from the Department of Defense, will make some important changes in the implementation of the joint duty officer specialty enacted last year in the Goldwater-Nichols Department of Defense Reorganization Act. These changes are very high on the priority list of Admiral Crowe and other senior military and civilian officials in the Defense Department. If these changes are not included as part of this Defense authorization bill, it is unlikely that they will be enacted into law this year.

Some of my colleagues will ask: Cannot these important provisions simply be put in the Defense appropriations bill or a continuing resolution?

Some can, Mr. President, if we are willing to break our own rules about including legislation in an appropriations bill.

But some of these provisions—some of the ones that are most important to the Defense Department and the most far-reaching—cannot practically be put on an appropriations bill or continuing resolution. They cannot, Mr. President, for the simple reason that these are extremely complicated provisions on which the Armed Services Committee alone works on day in and day out. No other committee has the day-to-day working experience in this area. If these provisions are legislated through an appropriations act, the Senate will not have the benefit of the Armed Services Committee's expertise in conference with the House.

There will be all sorts of problems with them. Certainly we will try to mitigate the damage if this bill does not become law this year. I will do my part in trying to mitigate that damage. But let there be no mistake, there will be damage. There will be very considerable damage.

Frankly, of all of the provisions of the fiscal years 1988-89 Defense authorization bill reported by the Armed Services Committee, the provisions that would be most appropriate for inclusion in the Defense authorizations bill or a continuing resolution is section 233, which restricts the obligation and expenditure of funds for development or testing of antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

All we have done here is track the exact language of the treaty, the treaty that has been ratified, the treaty that has been signed by the President of the United States.

The reason for this, Mr. President, is that this provision is nothing more than a simple limitation on the use of funds which is equally appropriate for an authorization or appropriations measure. I want to assure my colleagues that if we do not debate this provision in this Defense authorization bill, we will debate it on any other measure authorizing or appropriating funds for SDI.

There will be a debate on this measure this year. There will be a vote on this measure this year. The only question is, When?

Finally, Mr. President, there is another point for my colleagues to keep in mind. Many Senators have important amendments affecting current policies or practices in the Department of Defense. I think we have been notified of over 50 amendments that various Senators want to offer.

I hope there will be no more than that, frankly. If we ever get the bill up, I hope there will be no more than that because that is a lot of amendments. If we decide to forgo this Defense authorization bill and just go with a defense appropriations bill or a continuing resolution this year, Senators will not have the opportunity to offer their amendments to the same degree.

All of us know the difficulty in the final days of Congress in trying to pass a continuing resolution. All of us know that there is not time for debate. All of us know that many worthy amendments are never given adequate consideration, or even if they pass most of them are eliminated in the final appropriations bill. Senators will be confronted with the charge on the floor that such amendments do not belong on an appropriations bill.

But the one amendment that will be hard to make that case for is the one that our colleagues object to in this bill. I want to repeat, whether this bill passes or whether the authorization bill is killed and thereby whether we set a precedent of not having an authorization bill, we are going to vote on that provision this year. I think it is just a matter of when. If we do not vote in May, we will vote in June. If we do not vote in June, we will vote in July. If we do not vote in July, we will vote the first part of August. If we do not vote the first part of August, we will vote in September. If we do not vote in September, we will vote in October. If we do not vote in October, we will vote in November. If we do not vote in November, we will vote in December.

Until we vote on this, we will not have this bill.

Mr. BYRD. Mr. President, I am not sure we will be voting in November or December on this or anything else.

Mr. NUNN. Mr. President, I hope the Senator from West Virginia is correct on that. I will defer to him on that point. I hope we will be through. The point I am making is we will have a vote, we will have a debate, we will have a majority of this body make a decision on this matter.

Mr. President, since Congress established the requirement for annual authorization of Defense programs, there has not been a single year in which Congress failed to pass an annual Defense authorization bill. It has been touch and go at times. We have had long debates on Vietnam, NATO troop levels, M-X, and other controversial issues. There was even one year when the Defense authorization bill was vetoed but subsequently enacted.

But the important point is that Congress has passed an annual Defense authorization bill every year for the last 26 years, and that bill has been the forum for the major policy debates and decisions about national security issues.

This year is no different from the last 26: There are some controversial issues in this bill, but there is no reason why the Senate cannot debate and decide these issues on the merits as we have in the past.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, may we ascertain the parliamentary situation?

The ACTING PRESIDENT pro tempore. The acting minority leader, the Senator from Virginia, has 22 minutes under his control.

Mr. WARNER. I thank the Chair. Mr. President, I very much want to reply to my distinguished colleague, the chairman of the Senate Armed Services Committee. Yesterday he indicated that there may be a decision that this bill would come down perhaps as early as Tuesday of next week should the efforts to achieve cloture not be successful.

Now, Mr. President, my distinguished colleague has also made a representation that the President of the United States does not want a bill for the reason that I and other colleagues have taken the position that we should not bring the bill up at this time so long as the bill contains an amendment known as the Levin-Nunn amendment. We have discussed this amendment thoroughly here before, and in the judgment of many of us, it impedes or has the capability of impeding, the progress of the work of the negotiators on behalf of the United States of America in Geneva.

Now, having said that, what concerns me is the thought that this bill would be brought down when all of us recognize the importance of this bill to our Nation's defenses and the need to move forward in an expeditious manner. My problem in trying to analyze the strategy is that the Appropriations Committee was confronted with an almost identical situation. While the nature of the amendments, again arms control amendments, were in some way different than the Levin-Nunn amendment, the effect of those amendments on the negotiations in Geneva would have been the same.

Now, we recognize that the control of legislation rests with the Democratic Party, which has the majority of votes. The distinguished majority leader yesterday very clearly indicated his participation in the decision to take those amendments off of the bill that was before the Appropriations Committee.

I am pleased this morning that we are joined in this colloquy by the distinguished chairman of the Appropriations Committee. I wonder if I might put a question to the distinguished chairman about the reason he made a judgment that the arms control provisions that were brought forth in the markup of the appropriations bill should not go on that bill but, rather, that they should be taken off.

It would appear to me that the same reasoning that led, in my judgment, to a sound decision by the Appropriations Committee to take those amendments off would apply to this bill.

This bill has, in my judgment, equal importance to the security of the United States and to the operations of our Government. If the votes were there to make the decision with reference to the Appropriations Committee, then the votes should be here today to make the decision to likewise put aside these amendments so that this important piece of legislation can go forward and be addressed by the Senate, eventually go to a conference with the House, and a bill be sent to the President.

So I ask my distinguished colleagues, the chairman of the Armed Services Committee, the chairman of the Appropriations Committee, if they might address that question. In the context of that discussion, I have prepared over the night a draft of a possible piece of legislation in the nature of a bill which in my judgment would preserve the rights of all those concerned about the arms control amendments. This would not only in principle permit those to establish what they believe, be it narrow versus broad interpretation of the ABM Treaty, but also keep a hand on the spigot so that this President cannot expend the funds authorized and appropriated in 1988 for purposes inconsistent with the bill of the Senate.

This document—perhaps it can be crafted more skillfully by others—indeed is a starting point.

I have in my hand the proposed draft of a bill which in my judgment would preserve fully the rights of those who associate with the Levin-Nunn amendment. At this time I ask unanimous consent that this draft bill be inserted in the RECORD.

There being no objection, the draft was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) This Act may be cited as the "Anti-Ballistic Missile System Development Limitation Act of 1987."

(b) Notwithstanding any other provision of law, including any provision of law enacted after the date of enactment of this Act unless such provision specifically repeals this Act, funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

(c) The limitation in subsection (b) shall cease to apply if—

(1) the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop or test; and

(2) after such report is received by Congress, a joint resolution described in subsection (d) is introduced and such joint resolution is enacted.

(d)(1) A joint resolution referred to in subsection (c) shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Anti-Ballistic Missile System Development Limitation Act of 1987 is repealed.".

(2) Such a joint resolution introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. Such a joint resolution introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 15th day after its introduction. If the committee to which such a resolution is referred does not report such resolution (or an identical resolution) at the end of 60 days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Such a resolution shall be considered in the House of Representatives and the Senate in accordance with paragraphs (5) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936).

Mr. WARNER. So, I ask two questions to my colleagues. Question No. 1: The reasoning why the amendments were taken off the supplemental appropriations bill, and, No. 2, why we cannot incorporate in a separate bill the language needed to protect the interests of those in opposition to the position that I have taken.

Mr. NUNN. If the Senator from Virginia will yield just briefly——

Mr. WARNER. Mr. President, I wonder first if I might make a unanimous-consent request on behalf of the minority leader, Mr. DOLE, that his time reserved can be expanded from 2 minutes to 5 minutes prior to the vote scheduled, as I understand it, for 10:15.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

Mr. NUNN. If the Senator from Virginia will yield briefly, I cannot answer part of that question. The Senator from Mississippi would be the one to answer it. But let me just say from my perspective that is a lot of difference between a so-called urgent supplemental appropriations bill which by its very nature is allegedly urgent—I am not always sure that everything in those bills is urgent, but that is the heart of the situation—and an authorization bill, the fiscal year starting in October of this year. So we have several months that will have to go by before this bill could be put in the same category as the supplemental.

So I am sure the Senator from Mississippi took that into account. There are certain things in that urgent supplemental that are urgent, no doubt about that, and the question of whether you allow some provision to hold up an urgent appropriation is totally different from whether you allow that provision on an authorization bill.

The other fundamental distinction—and this one is the heart of it—is that what the Senator from Virginia would like for us to do is to put $4.5 billion in this bill and send it right on down to the White House: "Here it is, Mr. President, $4.5 billion, blank check. It is all yours, Mr. President, whatever you want to do with it, spend it any way you want to. We will find out in a year or two whether you used the traditional interpretation or whether you used the other interpretation. Go on out there and test anything you want to. Don't worry about our allies, don't worry about the Senate, don't worry about we were told in 1971, just spend the money any way you want to."

That is what the Senator wants to do, and then come back with a separate piece of legislation and say, "Mr. President, we would like for you to restrict the money we have already sent you, that is down there on your desk, that you have been given complete authority for. Now, sir, would you please sign this restriction into law."

The Senator from Virginia knows that is a joke.

Mr. WARNER. Mr. President, if the Senator will yield?

Mr. NUNN. You cannot separate the blank check from the restriction.

Mr. WARNER. Allow me to read this proposal to him. It says: "Notwithstanding any other provisions of law, including any act or provision of law enacted after the date of the enactment of this law, unless such provisions specifically repeal this act, funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988-89 may not be obligated or expended to develop or test any ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based." The language is identical to the Levin-Nunn amendment now in this authorization bill. I have taken the Senator's very language and said there is the spigot, it can be turned at the will of the Senate. And I recognize also, as the Senator said, that eventually this body will vote on this, and perhaps other arms control arrangements.

I recognize that in order for the Senator to accept this, he would have to have an agreement to get a straight up or down vote at a specific time.

Mr. NUNN. Will the Senator yield for a brief comment? We would also have to get the President of the United States to say he would sign that if we passed it or in lieu thereof that he would not spend any of the $4.5 billion that we have sent down there in the form of a blank check, because my past experience with this administration would make me a little bit skeptical about whether they would withhold the expenditure of that $4.5 billion until we got a bill to the President—just a little bit skeptical.

Mr. WARNER. I made no representations on behalf of the President of the United States. I am speaking to what this body may do under its own constitutional powers.

This type of bill would protect fully the interests of those in support of the Levin-Nunn amendment. I say to you that you have the discretion, you have the votes, and you have today the power to take this amendment off the authorization bill for the Armed Services and put it in a freestanding measure, so that this body can address it at an appropriate time.

Mr. NUNN. As the Senator is familiar with, having a beautiful place in the hunt country and the rolling hills of Virginia, we have an expression in those flat pine lands of South Georgia: We say, "That dog won't hunt." I say to my friend from Virginia, "That dog won't hunt."

Mr. WARNER. We say in our part of the country, with the rolling hills, "That dog won't hunt because you're keeping him on a leash;" and you will not let this body go forward with this bill, and you have the power to do it.

Do not stand here and say that the President of the United States does not want a military authorization bill for 1988.

Mr. NUNN. I am simply saying that that is the result of the actions of the Senator from Virginia and others in preventing the Senate from debating this bill. The Senator can filibuster this bill after it is up, if he does not like the way it comes out. He can filibuster the conference report, if he does not like that. The President can veto the bill.

What is the Senator afraid of in letting the Senate debate this? What are the Senators afraid of? Why do they not want to debate? All we are asking for is debate. The Senator can filibuster the bill. The Senator can filibuster the conference report.

The Senator has already sent a letter to the White House, saying that there are 34 Senators who will sustain any veto the President puts on this bill. You already have a veto sustained, if those Senators all stick. I think that over a period of time, after they listen to the debate, they may change their minds. I am not very pessimistic about that.

I do not know what the Senator is afraid of. You cannot win one for the Gipper if you will not unlock the locker room door.

Mr. WARNER. I ask again of the distinguished chairman of the Senate Armed Services Committee why he and others will not exercise the same judgment to this bill that was applied to the supplemental appropriations bill in markup. What is the distinction?

I recognize that there is a measure of urgency connected with the supplemental appropriations bill that may not be present with this one. But if the Senator will go back and look at what he said yesterday and the day before, there is a note of urgency that rings in his voice about the need for the Senate to examine this bill. Again this morning, he pointed out a number of things that would happen should we fail to have an authorization bill.

I ask my friend, why does he not apply the same good judgment which was rendered in connection with the supplemental authorization bill to this bill?

Mr. NUNN. The Senator's position is that he really wants us to say that if a group of people who are not in the majority on a particular measure decide that they do not want something in the bill, those in the majority simply have to take it out, whether it is germane or not. I understand that their actions are within the Senate rules. But to say that those of us who are in favor of the authorization bill and who are in favor of the provisions therein, and who are offering to bring it up, and who are offering to let the Senate strike any provision in it, in a free and democratic debate on the floor of the Senate—to say that we are holding up the bill or do not want a bill is ludicrous.

Mr. WARNER. Maybe I can ask the question in a different way.

Would the Senator from Georgia or the distinguished chairman of the Appropriations Committee provide the Senate with the reasoning that was used to reach the decision to take the arms control amendments off the supplemental appropriations bill?

Mr. BYRD. Mr. President, will the Senator yield so that I may answer?

Mr. WARNER. I yield.

Mr. BYRD. I am a member of the Appropriations Committee, and it was the judgment of the Appropriations Committee that the supplemental appropriations bill was not the place for language like this. We all knew that the authorization bill was coming along shortly. The defense authorization bill is the place for arms control language like this. The supplemental appropriations bill was not the vehicle for that kind of language.

Mr. WARNER. Then, I ask the distinguished majority leader: Am I not correct in that the Judiciary Committee of the U.S. Senate and the Foreign Relations Committee of the U.S. Senate are still examining arms control measures very much like this and that their work is incomplete?

Why should the debate on the floor at this time, in connection with this bill, try to reach a decision prematurely and preempt those two committees, equally important in every respect to the Armed Services Committee—preempt their work and their analysis?

Mr. BYRD. Let me answer the Senator's question with a question.

The Senator has expressed concern that someone has said something about taking this bill down. The bill cannot be taken down. It has not been taken up yet. Let us get the bill up, and then let us discuss these provisions that are in the bill and offer amendments to them.

Mr. WARNER. May I pose my question again to my good friend from West Virginia and I did do a little research on Plato and Socrates last night, but I do not want to bring it up yet.

Is it not in the best interests of the Senate to let these other two committees complete their work and, after all committees have addressed this issue, to take it up on the floor, so that all Senators might participate?

Mr. BYRD. No. Let us address it now. Let us get the bill up.

This does not inhibit other committees from proceeding with whatever work they may be engaged in. I understand that their work is complete. The hearings are regarding the Biden amendment.

Mr. WARNER. That is correct. It is the Biden amendment in the Foreign Relations Committee.

Mr. BYRD. And that has been reported out of the Foreign Relations Committee. I cannot speak for the Foreign Relations Committee. I am not on it.

Mr. WARNER. I ask the distinguished majority leader: He just indicated that it was the judgment that these amendments should not be on the supplemental appropriations bill. What was the reasoning behind that decision?

Mr. BYRD. Simply as I stated. The Appropriations Committee is not an authorizing committee.

The Armed Services Committee is one of the major class A committees of the Senate. That committee has jurisdiction over the Defense Department authorization. The Armed Services Committee authorizes the moneys that will be spent for defense. The Appropriations Committee then comes along and appropriates the money that has been authorized by the Armed Services Committee and the Senate.

The supplemental appropriations bill is just what it is supposed to be—a supplemental, an emergency appropriations bill. It is not a bill that is supposed to set policy, defense policy, make defense authorizations, and deal with arms control.

The PRESIDING OFFICER (Mr. CONRAD). If the Senator will suspend, the minority leader has 5 minutes, and the majority leader has 2 minutes.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. WARNER. I yield to the distinguished Senator.

Mr. STENNIS. Mr. President, I came in when this debate was going on, and I just picked up the background of this from the Senator from Virginia.

This matter certainly cannot be handled at this time in such a simple fashion as he suggests. This is the old problem of the supplemental appropriations bill, which is yearly becoming more and more of a tremendous burden. We have had occasion similar to this some 30 years ago. The demand got so strong that we had to pass a law requiring an authorization, for the first time, of ships, guns, and so forth. That has worked mighty well now, and it should not be disturbed.

Anything that comes out of this would have to be at a conference table, rather than these vacant chairs here now. The Senator from Virginia is capable of handling these matters and can handle them exceedingly well.

Mr. WARNER. I thank the distinguished chairman of the Appropriations Committee.

One quick reply to the majority leader:

It is not the authorization of these funds that is the subject really of the Levin-Nunn amendment where it really authorizes the funds. It is the appropriation of the funds. That is the operative language.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I will vote this morning in favor of ending the debate in which the Senate has been engaged and moving to consideration of the Department of Defense authorization for fiscal years 1988 and 1989.

I have two reasons for supporting cloture. First, I believe it is important for the Senate, without further delay, to work on this legislation and pass it. The Department of Defense authorization deals with the national security of the Nation. The bill represents our collective efforts to keep the Armed Forces of the United States effective and strong; passing it is a responsibility we must not shirk or take lightly. Although Pentagon officials often view Congress as excessively meddlesome, the fact is that our oversight and guidance play an essential role in the management of the country's defenses. As a former official of the Department of Defense, I know that as well as anyone.

Second, in my view this filibuster is not helping us resolve the fundamental disagreement before us, relating to section 233, the "limitation on development or testing of space-based and other mobile anti-ballistic-missile systems." The so-called Levin-Nunn amendment is, quite understandably, a provision that arouses strong emotions. It is an attempt by the Senate to assert influence in a controversial area of defense policy and treaty interpretation.

Some Members of this body believe it is an excessive extension of senatoral power. Others, myself included, see it as an entirely appropriate measure, in keeping with two of the most significant responsibilities of the Senate: to approve defense expenditures according to how they serve the best interests of the Nation, and to provide advice and consent on treaties.

I support section 233 of this bill because I believe that the Senate has a role to play in setting the defense policy and the foreign policy of the United States. Congressional control of the Nation's purse places defense spending firmly under our purview. The Senate's role in foreign policy is less clear and a matter of constitutional debate. Frequently in this body we engage in discussions of the extent of which we should legislate foreign policy. I am one of those who usually comes down on the side of placing minimal congressional controls over the President's management of foreign policy. There is no doubt in my mind that it is the President who must set the agenda and lead us in our dealings with the rest of the world.

But, as a number of Senators have pointed out over the last few days, there is one area in which the Constitution gives the Senate in indisputable role—treaty ratification. Article II, section II states it in no uncertain terms:

> He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties * * *.

In my view, this constitutional duty of the Senate was not, contrary to what some have stated here, meant to be an empty approval of the rubber-stamp variety. The advice and consent of the Senate is a crucial part of the treatymaking process. When we consent to the ratification of a treaty, we do so based on the substance of the agreement placed before us. That, in the case of the ABM Treaty, is the nub of the issue.

Based on my understanding of the ABM Treaty, which I have arrived at through study of the agreement and discussions with those who negotiated it, the Senate consented to the ratification of a treaty that prohibited the testing, development and deployment of antiballistic missile systems or components which are sea-based, air-based, space-based or mobile land-based. The treaty is, in my view, utterly clear on this point. Our negotiators, a first-rate delegation I might add, were not so naive as to leave a gaping hole through which a space-based ABM system such as SDI could be squeezed.

As a practical matter, I cannot in any case imagine why we would have gone to so much trouble to negotiate an ABM Treaty that allowed the two signatories to test, develop or deploy ABM systems. If that is the case, which is what opponents of the Levin-Nunn provision are arguing, then the entire negotiation was a charade and the United States signed a meaningless treaty.

Perhaps more troubling are the constitutional implications of the current disagreement. If it is true that the Senate ratified a treaty different in meaning from the treaty actually signed then we have a serious constitutional problem on our hands. The arguments of those in favor of reinterpreting the ABM Treaty imply that the Senate did not get the whole story on the ABM Treaty, that this body was left somewhat in the dark about several of the key provisions of the agreement.

I do not believe that argument. It is my view that the zeal of some individuals to support the SDI Program has lead them to give the ABM Treaty a new and fundamentaly incorrect interpretation. I am adamantly opposed to abandonment of the ABM Treaty, the most effective arms control agreement in history, in favor of a program as new, costly, and potentially destabilizing as SDI. The reinterpretation is akin to a legalistic sleight-of-hand and if it prevails we will initiate a new arms race in space.

The Levin-Nunn amendment is a wise assertion of the Senate's duties to set responsible defense policy and to provide advice and consent on treaties.

I urge the Senate to proceed to the DOD bill.

Mr. DOLE. Mr. President, this week we have had an indication of just how strongly many Senators, not just one or two, but many Senators, feel about the so-called Levin-Nunn amendment to the defense authorization bill. It is a show stopper, plain and simple. We want to work on the defense bill which America needs now, but Levin-Nunn raises a fundamental question which cannot be overlooked, and that question is, who is going to make foreign policy in this country—a couple of us or the President of the United States?

Quite frankly, if we have to spend all summer explaining the issue, we will try to do just that. Levin-Nunn proponents have been threatening a constitutional crisis and confrontations for months. If this is a crisis, it is one of their own making.

We are ready to take up the defense bill any day and any time, so long as it is a sensible defense bill, not a bill that ties the President's hands, pulls the rug out from under our negotiations and threatens our national security.

I am certain that is not what the authors intended, but that is what the amendment does.

I think the Levin-Nunn amendment is a monument to bad faith. Let us look at the facts. The President is carefully considering his legal options under the 1972 ABM Treaty. He has told us again and again he will not make a decision without consulting the Senate. As he promised, he is sharing the studies which underpin his thinking, and engaged us in extensive consultations. Nevertheless, some are jumping ahead, seeking to bind his hands with this ill-conceived amendment on the defense bill.

Let us be candid about what this amendment would do. It is an amendment to preempt the President's decision by legislating the narrow interpretation of the ABM Treaty. SDI development and testing could proceed only if approved by joint resolution of Congress, essentially a one-House veto.

After all the pious talk about the constitutional role of the Senate in treaty-making, this amendment hands a veto on treaty interpretation to the House of Representatives. It is a unilateral constraint on SDI, and a unilateral concession to the Soviets.

Some may not admit it, but it is President Reagan's tough bargaining and steadfast commitment to our defense which has the Soviets talking seriously in Geneva. But the President cannot negotiate with Congress and the Soviets at the same time. Some want to tie the President's hands, but they still expect us to have productive talks in Geneva. If this amendment is enacted, President Reagan might as well bring Max Kampelman and company home.

The President is going to veto the defense bill if Levin-Nunn is in here. I hope we can work out some arrangement to satisfy those who feel strongly—and I know some feel very strongly—I do not quarrel with that. But I believe that whatever happens today, or 5 years from now, or 10 years from now, we have to leave the President of the United States a little flexibility, whether that President be Democrat or Republican.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent the Senator proceed for whatever time he needs.

Mr. DOLE. I thank the majority leader.

Mr. HATFIELD. Reserving the right to object, could I inquire how much longer?

Mr. DOLE. About 1 or 2 minutes. My clock was slow.

Mr. BYRD. I ask unanimous consent the Senator may have 3 minutes. He already had 30 seconds. I yield 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I think we have to be very careful about what we are trying to do. I know we have had all sorts of amendments on other bills. We had MX bills, SALT amendments, and a lot of effort to micromanage foreign policy in the Congress. I do not imagine they are going to go away.

But I would hope that whoever is going to take Ronald Reagan's place is going to have a little freedom left in foreign policy. It might be someone on that side of the aisle. It might be someone here. It might be someone somewhere else. The point remains the same.

There is no need for a crisis or confrontation.

The Senator from Pennsylvania [Mr. SPECTER] pointed out that we are still some time away from completing analysis of the ABM Treaty and its background. Maybe we ought to give the appropriate committees time to act. Let's give ourselves a little chance to analyze very carefully, to digest the voluminous studies we just received, and to read the studies to come. A lot of people are making judgments before they have all the studies.

There is no effort to filibuster this bill. There is an effort to draw attention to a very important amendment. It is a good bill. The distinguished chairman of the committee deserves credit along with Senator WARNER and others for reporting out a good bill. It will pass, I think, rather quickly, perhaps in 2 or 3 days. And that is quickly for a defense bill. But we have the right to draw attention to the Levin-Nunn amendment. That right was abridged a bit in the parliamentary proceeding the other day. We set some new procedures which I do not think are very good, but nevertheless, we have the right to call the American people's attention to a fundamental question of foreign policy. That is really what it is all about. It is not Republican or Democrat.

So maybe we can hold SDI hostage. Maybe we can threaten to cut the funding if some do not have their way on this amendment. That will be another day. But I happen to believe there is a lot of bipartisan support in the Senate, in the Congress, and around the country for SDI.

The House funding for SDI is very low; the Senate figure is much better. Maybe if the proponents of this amendment lose, they are going to cut the Senate figure back. I do not know. But I do believe that the reason we are sitting down now and talking seriously about arms agreements with the Soviets is because of the President's leadership and the bipartisan support he has had from the Congress on SDI. We do not want that to go away.

But there is a limit on how high a price you can pay for bipartisanship, because you are taking away the President's ability to lead on foreign policy. If that is what some want to do, then we will find out very quickly. I do think this is an important question. Certainly, as I have said many times, I am going to help the majority leader every chance I get, as I did just yesterday, to get legislation through the Senate. But now and then there comes a time when you have to stand up and debate, and debate, and debate until you get the American people's attention. That is what we intend to do.

I thank the Chair.

The PRESIDING OFFICER. The majority leader has 2 minutes remaining.

Mr. BYRD. Mr. President, first let me congratulate Mr. NUNN and Mr. WARNER and other Senators on having a good-spirited debate. I hope that the Senate today will vote to invoke cloture so that we can get the bill up and then debate it further and amend it, if necessary.

Mr. President, the administration does not want this Defense bill because it says it ties the administration's hands on arms control, specifically the strategic defense, or SDI Program. The administration is focused on arms control. It is, indeed, ironic that the one most possible achievement of this President in arms control, an intermediate-range missile agreement, primarily oriented toward the European theater, could well be jeopardized by its unwillingless to support this Defense authorization bill.

The NATO defense ministers met in Norway yesterday and an informal consensus has, apparently, developed on this question. German concurrence is still needed, but progress on a common NATO response to the Soviet proposals is being made. The ministers apparently have tentatively decided to accept the Soviet "double zero" offer on INF and short-range INF missile reductions, provided that enhancement and modernization of NATO nuclear forces not covered by this formula be agreed upon. Such modernization and enhancement of nuclear deterrent forces, of course, cannot be achieved without American support. How does such support get funded? How are such weapons systems authorized?

My colleagues know the answer to that question. They can be authorized in this bill that we hope to call up before the Senate and on which a filibuster has up to now occurred. And we may have to amend this bill to authorize the proper amounts and kinds of weapons procurement to help make NATO deterrent strategy and posture, that our allies are agreeing upon, a reality.

There are other essential ingredients in this legislation which underpin our arms control efforts, such as the development of technologies for verification, such as strengthening our conventional forces, such as keeping our strategic nuclear deterrent forces viable and strong, such as research and development of advanced technologies, our strong suit vis-a-vis our adversary.

Mr. President, it is obvious that this is an arms control bill as much as it is an arms procurement measure. The two go hand in hand, when we are negotiating alterations and reductions of these systems. How can we have an INF treaty without the modernizations and enhancements of our European deterrence that can only be provided for in this bill? I think it is difficult to envisage. The President ought to think twice about who is tying whose hands in this exercise of chicken on a defense authorization bill.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 10:15 having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Wendell Ford, J.J. Exon, Bill Bradley, Daniel K. Inouye, Alan J. Dixon, Barbara Mikulski, Sam Nunn, Quentin Burdick, George J. Mitchell, Terry Sanford, David Pryor, Kent Conrad, John Melcher, Dale Bumpers, John Breaux, Edward Kennedy, Frank Lautenberg, Howard Metzenbaum, John D. Rockefeller, Alan Cranston, and Jim Sasser.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 1174, the Department of Defense authorization bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. BINGAMAN] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from New Mexico [Mr. Domenici], the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 36, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—52

Adams
Baucus
Bentsen
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Stennis
Wirth

NAYS—36

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Dole
Durenberger
Evans
Garn
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McConnell
Murkowski
Nickles
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson

NOT VOTING—12

Biden
Bingaman
Danforth
Dodd
Domenici
Gramm
Lautenberg
McCain
McClure
Packwood
Simon
Wallop

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 36. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, there will be another cloture vote on Tuesday.

ORDER FOR RECESS UNTIL TUESDAY, MAY 19, 1987, AT 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock a.m., on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this means that a cloture vote will occur around 11 o'clock on Tuesday.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, is the majority leader willing to respond to a question?

Mr. BYRD. Yes, I am happy to.

Mr. DOLE. We are back on the motion to proceed with the Defense authorization bill. Will there be any other business today?

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. BYRD. Mr. President, I thank the Chair.

The distinguished minority leader has asked if there will be other business today.

Mr. President, the Senate has voted not to invoke cloture on the motion to proceed to the Defense authorization bill. Every Member on this side of the aisle voted to proceed to take up that bill, voted to invoke cloture which in essence means we wanted to go to the bill. I think we got three votes from the other side of the aisle.

Of course, Mr. President, Senators may filibuster the bill once it is taken up. There will be many opportunities to filibuster this matter before it ever gets to the President.

For example, on the motion to have the Senate insist on its amendment; request a conference with the House, and that the Chair appoint conferees on the part of the Senate, there are three motions involved. Each of those three motions can be filibustered. So there are just all kinds of opportunities to filibuster.

But I hope that Senators will let us get on the authorization bill and debate it. If Senators want to try to amend the authorization bill, it is their privilege, their right. But let the Senate work its will on the bill.

Nevertheless, the Senate has spoken for today. There will be no other rollcall votes today. If the motion to invoke cloture had carried, then I suppose we might have gotten an immediate vote on the motion to proceed, or we might not have had because under the cloture rule up to 30 hours could have been taken for debate on that motion still.

In answer to the distinguished Republican leader, I have no other business in mind today. There may be a couple of items on the calendar which we can transact by unanimous consent or which may be indefinitely postponed.

Mr. DOLE. Mr. President, would the majority leader be of a disposition to take up the Webster nomination today?

Mr. BYRD. Yes, we can take up the Webster nomination, but there will be a rollcall vote on that. Several Senators who are interested are not present. There were 12 Members who did not vote. I do have one little matter that involves a Senator in lifting his hold. There will be no problem, I am sure, on that, because I understand Mr. Webster is in contact with that Senator. I should think that by next week we will proceed on that.

I thank all Senators. As long as Senators wish to talk, we will be in session and then go over until next Tuesday.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that during the day if Senators wish to conduct morning business, they may do so and that they be permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask that such period not exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILINGUAL EDUCATION ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Calendar Order No. 110, S. 857.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 857) to amend the Bilingual Education Act to make Federal financial assistance available for children of limited English proficiency without mandating a specific method of instruction, to encourage innovation at the State and local level through greater administrative flexibility, to improve program operations at the Federal level, and for other purposes, reported with an amendment.

Mr. BYRD. Mr. President, the rule requires that before any measure or matter is reported from a committee there must be a majority of the members of that committee present and voting to report such matter. It is my understanding that this measure does not meet that requirement because it was polled out of the committee. If that is the case, then it does not meet the requirement because a majority of the members were not physically present at the time that measure was reported out. If the point of order stands, the measure goes back to the committee. I make that point of order.

The PRESIDING OFFICER. The Chair will first state that the matter would go back to the committee. The Chair would inquire of the chairman of the committee, was a quorum physically present to report the matter?

Mr. KENNEDY. Mr. President, the point of order is well stated. There had been a request by Members to poll this particular measure, and to accommodate some of the Members that process was taken. The majority leader is exactly correct.

We have reported out an original bill today by a vote of 15 to 1, sending it to the Senate, and we hope that that will be put on the calendar after adequate notification and that the Senate will address this issue at the discretion of the majority leader and the minority leader.

The PRESIDING OFFICER. The point of order is then well taken. S. 857 will be returned to the committee. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I simply want to confirm what the chairman of the committee has said, that we did vote the bill out as an original new bill this morning and the vote was 15 to 1. I believe by the close of business the vote will probably be unanimous, 16 to nothing, so I think we have followed the right path and I agree the point of order was well taken on the original bill.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank both the chairman of the committee, Mr. KENNEDY, and the ranking member, Mr. STAFFORD. As I understand then, the new bill was reported out by a majority vote of the committee at a time when a majority of the committee members were physically present and voting to report.

Mr. STAFFORD. That is correct, I say to the able majority leader. A voting quorum was present and voted.

Mr. BYRD. I thank the distinguished Senator.

MILITARY NOMINATIONS

Mr. WARNER. Mr. President, might I inquire of the majority leader, as we proceed to conclude some other items of business, if he might ascertain the clearance on his side with respect to a series of military nominations.

The chairman of the Senate Armed Services Committee and myself met yesterday. We had a committee meeting, at which time many of these nominations were approved, some few withheld, and I think so far as I know they have been cleared on both sides. But will the Senator ascertain that so they might go forward?

Mr. BYRD. Yes. Mr. President, in response to the inquiry by the distinguished acting Republican leader, I will be happy to check into that matter and will be able to respond quickly.

THE CALENDAR

Mr. BYRD. Mr. President, in the meantime, I wonder if Calendar Order No. 126 has been cleared on the other side for passage and if Calendar Order No. 127 has been cleared on the other side for indefinite postponement.

Mr. THURMOND. Mr. President, they have been cleared on our side.

Mr. BYRD. I thank the distinguished acting Republican leader, Mr. THURMOND.

125TH ANNIVERSARY OF THE U.S. DEPARTMENT OF AGRICULTURE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 126.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the bill.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 270) to recognize the 125th anniversary of the U.S. Department of Agriculture.

The Senate proceeded to consider the joint resolution.

Mr. LEAHY. Mr. President, I commend the distinguished majority leader for bringing up and getting passed the joint resolution commemorating the Department of Agricuture.

As I speak, there are events underway at the Department of Agriculture in commemorating their anniversary. I have just sent a message to the Secretary of Agriculture telling him of the action of the Senate.

As chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I cannot help but mention not only how important this resolution is but also how important the Department of Agriculture has been to the economy and the whole nature of our country; also how agriculture, itself, has been important to rural America, in providing the food and fiber of this Nation, the richest nation in the world and the only major nation in the world able to feed all its people and have surpluses to use in other parts of the world. We are truly blessed.

Again, I thank the distinguished Senator from West Virginia for getting that resolution before the Senate.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Vermont for his leadership in the development and the passage of the resolution. I also express appreciation for his kind words on my behalf.

The PRESIDING OFFICER. Is there further debate on the measure? If not, the question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution (H.J. Res. 270) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT OF SENATE JOINT RESOLUTION 129

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 127, Senate Joint Resolution 129, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 30 minutes, and that of that 30 minutes, the distinguished Senator from Delaware may speak up to 15 minutes.

Mr. ROTH. I thank the majority leader for his courtesy.

Mr. BYRD. How much time does the Senator from Nevada wish?

Mr. HECHT. Six minutes.

Mr. BYRD. I ask unanimous consent that the Senator from Nevada may speak for up to 15 minutes during that period.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MIDDLE AND LOWER INCOME TAXPAYERS BENEFIT UNDER ROTH-KEMP

Mr. ROTH. Mr. President, many years ago, Jack Kemp and I proposed that there be a 30-percent reduction in income taxes across the board. At that time, it was our strong conviction that this was a major step in revitalizing our economy and encouraging people to work, save, and, of course, to invest in the most productive investments, rather than becoming involved in all kinds of tax shelters to avoid the high payment of taxes. At that time, the critics, those who opposed this reduction in the marginal rates of taxation, argued strongly that wealthy taxpayers would escape paying their fair share of income tax, shifting the burden from the wealthy, from the affluent, to the middle and lower income taxpayers.

It is interesting to determine now that those Roth-Kemp tax cuts became the centerpiece of the President's economic reform of this country, a move that has resulted in one of the longest periods of growth in the history of this country. It is now in the 54th month.

It is interesting to see that after marginal tax rates were cut by 25 percent across the board, this has not resulted in the rich, the affluent, paying less. Instead, the IRS data shows that exactly the opposite has happened. As a result of reducing the marginal rates of taxation, the wealthy taxpayers, those with income of about $108,000 or more, paid 20 percent more in real personal income taxes in 1985 than they paid in 1981. That is a substantial increase—20 percent more in taxes in 1985 than in 1981, even after adjustment for inflation.

This is true not only of the very rich or those above $108,000. It is also true that the taxpayer with income in the 5 percent, or with incomes over $54,000, paid 13 percent more taxes over the same period.

So both the rich and the affluent have been paying a higher amount of taxes than they did under the old system. This means that they have shifted their investments from tax shelters and are willing to let their money be invested in the most productive investments, rather than seeking to avoid the impact of the high marginal rates that existed before 1981.

It is also very interesting that, as the second chart shows, both the middle class and the lower income are paying a smaller percent of personal income taxes. The middle class, those who fall between the 5th percentile and the 50th percentile, paid 11.1-percent less in taxes in 1985 than they did in 1981. I think that is encouraging news. The same is true of those on the lower end of the income tax, those under the 50th percentile. Their taxes in this period of time have gone down 7.1 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables: The tax payments by percentile grouping and the share of tax burden by percentile grouping.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—TAX PAYMENTS BY PERCENTILE

[Constant 1985 dollars/millions]

Year	Wealthy top 1 percent	Upper income 5 top percent	Middle class 5 to 50 percent	Lower income under 50 percent
1981	60,273	116,686	192,356	24,882
1982	59,955	111,295	174,939	22,696
1983	58,192	108,728	162,326	20,945
1984	64,940	118,955	166,236	22,639
1985	72,063	131,416	171,079	23,125
1981–85 percent change	+19.6	+12.6	−11.1	−7.1

TABLE II.—SHARE OF TAX BURDEN BY PERCENTILE

[In percent]

Year	Wealthy top 1 percent	Upper income top 5 percent	Middle class 5 to 50 percent	Lower income under 50 percent
1981	18.05	34.94	57.61	7.45
1982	19.41	36.03	56.62	7.35
1983	19.93	37.24	55.59	7.17
1984	21.10	38.64	54.01	7.35
1985	22.13	40.36	52.54	7.10

Mr. ROTH. Mr. President, let's also point out that the very wealthy, the top 1 percent who have incomes of $108,000 or more, were paying 18 percent of the taxes in 1981. Today, that has risen to 22.13 percent, over a 4-percentage point increase.

Likewise, affluent, the top 5 percent who are in the upper income group, in 1981 were paying 34.94 percent, they are paying 40.36 percent of personal income taxes. That is roughly an increase of over 6 percent.

The point I have been trying to make is that, contrary to what the critics in the past have said the legislation based on Roth-Kemp's across-the-board tax cuts has not resulted in shifting the burden of taxes from the wealthy to the middle class and lower income.

Mr. President, the evidence is now in. There were those of us who argued that Roth-Kemp would mean that a greater percentage taxes would be paid by the affluent and the rich, and that is exactly what has happened. That is what has been demonstrated by the figures prepared by the IRS.

As I pointed out, for the wealthiest 1 percent in the country, the percentage of the personal income tax burden has risen from 18 to 22 percent. For those in the upper income, the 5 percent who are in the upper income, the percentage of the burden assumed by them has risen from roughly 35 percent to over 40 percent, or more than a 5-percentage point increase.

Of course, the other good news is that for the middle class, the strength of America, the people who have made this country what it is, their percentage of the tax burden has gone down from 57.61 percent in 1981, the year the marginal rate reduction was enacted, to 52.54 percent in 1985.

So you have roughly a 5-percentage point reduction in the burden of taxation being borne by the middle class and that, of course, was the intent of both JACK KEMP and myself.

Likewise, as to the lower income, those in the bottom 50 percent of income, their tax burden has dropped from 7.45 percent to 7.10 percent.

Mr. President, there are a lot of people and a few in the Congress who have been talking about rising Federal income taxes once more. One distinguished leader of the other House had called for the delay in the scheduled reduction of the top marginal tax rate. This would be a serious mistake because, as these tables show, by reducing excessive tax rates across the board, as we have done in the past, instead of shifting the burden to the middle class, it is shifting the burden to the wealthy, to the affluent.

I think that in these days when our most serious problem is whether or not we can become more competitive in world markets, whether we can compete with the Japanese, the West Germans, and others it is important that we have a tax program that encourages the individual to invest his or her money in the most productive, promising investments, and not using tax shelters as a means of avoiding taxes.

I yield the floor.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I would like to inquire of the distinguished acting leader on the other side if the other side is prepared to proceed with the following nominations: Beginning on page 1, Department of State, and continuing on page 2, Calendar Order No. 88, and also on page 2, under National Transportation Safety Board and Coast Guard, Calendar Orders numbered 103, 104; and on page 3, all nominations under the Air Force; page 4, all nominations under the Air Force; page 5, all nominations under the Air Force; page 6, all nominations under the Air Force and Army; page 7, all nominations under Army; page 8, all nominations under Army; pages 9, 10, 11, 12, 13, and 14, all nominations under Army; on page 15, all nominations under Navy; on pages 16, 17, 18, and 19, and 20, all nominations under Navy; on page 21, all nominations under Marine Corps; and on pages 22 and 23, all nominations made on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. We are ready to proceed on all of those except Calendar No. 78 on page 1, and Calendar No. 88 on page 2. All the rest we are in accord and ready to proceed.

Mr. BYRD. Mr. President, I thank the distinguished Senator from South Carolina who is presently the acting leader on the other side of the aisle.

I overlooked page 24, which is the continuation of the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy. Are those nominations cleared on the other side?

Mr. THURMOND. Mr. President, we are in accord on that.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent, therefore, that the Senate go into executive session to consider the nominations beginning on page 2 under National Transportation Safety Board, and running throughout the remainder of the Executive Calendar, to and including the nominations on page 24.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and adopted en bloc, and that the motions to reconsider and lay on the table be agreed to, that the President be immediately notified of the confirmation of the nominees, and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we are in accord about the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

James L. Kolstad, of Colorado, to be a member of the National Transportation Safety Board for the term expiring December 31, 1991.

COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

William F. Merlin.
Arnold B. Beran.
Peter J. Rots.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John L. Pickitt [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Winfield W. Scott, Jr. [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles R. Hamm [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Lawrence A. Skantze, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Bernard P. Randolph [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Winston D. Powers, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Spence M. Armstrong, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Michael P.C. Carns, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 610:

To be lieutenant general

Maj. Gen. Buford D. Lary, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 610:

To be lieutenant general

Lt. Gen. George L. Monahan, Jr., [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 610:

To be lieutenant general

Lt. Gen. Robert D. Springer [redacted] FR, U.S. Air Force.

The following named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Earl T. O'Loughlin [redacted] FR, U.S. Air Force.

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 610:

To be general

Lt. Gen. Alfred G. Hansen [redacted] FR, U.S. Air Force.

ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Clarence E. McKnight, Jr., [redacted] FR, U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Vance Coleman, [redacted].
Brig. Gen. Richard E. Collier [redacted].
Brig. Gen. Jackson L. Flake, Jr., [redacted].
Brig. Gen. Richard H. MacMillan, Jr., [redacted].
Brig. Gen. Michael A. Schulz, Jr., [redacted].

To be brigadier general

Col. Ran L. Phillips II, [redacted].
Col. Arthur H. Baiden III [redacted].

Col. Kent H. Hillhouse [redacted].

Col. James H. Mukoyama, Jr., [redacted].

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Donald S. Pih [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William H. Schneider, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United State Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Frederick F. Woerner, Jr., [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert M. Elton [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James E. Moore [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Burton D. Patrick [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Allen K. Ono [redacted], U.S. Army.

The following-named officers under the provisions of title 10, United States Code, section 601, to be assigned to positions of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert W. RisCassi [redacted], U.S. Army.

Lt. Gen. H. Norman Schwarzkopf, [redacted] U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. William H. Harrison, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert H. Forman [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Theodore G. Jenes, Jr. [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Benjamin F. Register, Jr. [redacted] U.S. Army.

The following-named officer under the provisons of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Andrew P. Chambers, [redacted] U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Ronald L. Watts [redacted], U.S. Army.

The following-named officer under the provisons of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. James J. Lindsay [redacted], U.S. Army.

The following-named officer under the provisons of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Maxwell R. Thurman [redacted], U.S. Army.

The following-named officer under the provisons of title 10, United States Code, section 3034:

To be vice chief of staff

Lt. Gen. Arthur E. Brown, Jr. [redacted] U.S. Army.

The following-named officer under the provisons of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Claude M. Kicklighter, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John A. Wickham, Jr [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 711, to be appointed as senior Army member of the Military Staff Committee of the United Nations:

To be senior Army member of the Military Staff Committee

Lt. Gen. H. Norman Schwarzkopf, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Peter G. Burbules [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John T. Myers [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John S. Crosby [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Edward Honor [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. George R. Stotser [redacted], U.S. Army.

The U.S. Army National Guard officer named herein for appointment as a Reserve commissioned officer of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Donald Burdick [redacted].

The U.S. Army National Guard officer named herein for appointment as a Reserve Commissioned Officer of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384;

To be major general

Brig. Gen. Charles J. Wing [redacted].

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John H. Moellering [redacted], United States Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Dale A. Vesser [redacted], United States Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Jimmy D. Ross [redacted], United States Army.

IN THE NAVY

The following named captains of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral (lower half) in the line and staff corps, as indicated, pursuant to the provisions of title 10 United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Larry Bruce Franklin.
Jimmie Wayne Seeley.
William Paul O'Donnell, Jr.
Wilson Falor Flagg.

ENGINEERING DUTY OFFICER

Brian Talbot Sheehan.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Gene Parvon Dickey.

MEDICAL CORPS OFFICER

Paul Thomas Kayye.

SUPPLY CORPS OFFICER

Vance Hewitt Fry.

The following-named captains in the staff corps of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Robert Benson Halder.
Robert Walter Higgins.
David Michael Lichtman.
Donald Lee Sturtz.

SUPPLY CORPS

To be rear admiral (lower half)

William Harry Hauenstein
Robert Marion Moore.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

James Carl Doebler.

NURSE CORPS

To be rear admiral (lower half)

Mary Fields Hall.

The following-named captains in the line of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Richard Charles Allen.
James Bruce Best.
Donald Vaux Boecker.
Eugene Davison Conner.
Peter Hollon Cressy.
John Robert Dalrymple, Jr.
Philip Fredrick Duffy.
George Nicholas Gee.
Walter Lewis Glenn, Jr.
William Purcell Houley.
Raymond George Jones, Jr.
Bobby Clyde Lee.
Irve Charles Lemoyne.
Frederick Lance Lewis.
Thomas Charles Lynch.
Daniel Peter March.
Thomas Alfred Meinicke.
William Charles Miller.
Riley DeWitt Mixson.
Paul Davis Moses.
Phillip Roger Olson.
William Arthur Owens.
Thomas Dean Paulsen.
Joseph Charles Strasser.
Byron Eugene Tobin, Jr.
Jerry Lee Unruh.
Douglas Volgenau.
Raymond Michael Walsh.
Ronald Charles Wilgenbusch.

RESTRICTED LINE OFFICER—ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

John Sydney Claman.
Robert Edwin Traister.

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

William Charles Bowes.

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral (lower half)

Edward David Sheafer, Jr.

The following named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

John Joseph Sweeney.
Kenneth Edward Myatt.
Jack Stephen Smith.
Martin William Leukhardt.

UNRESTRICTED LINE OFFICERS (TAR)

Albert Eugene Rieder.

MEDICAL CORPS OFFICER

James John Cerda.

SUPPLY CORPS OFFICER

Philip Arthur Whitacre.

CIVIL ENGINEER CORPS OFFICER

David Oliver Smart, IV.

The following-named rear admirals (lower half) of the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICERS

To be rear admiral

Robert Heber Ailes.
Denny Bruce Cargill.
David Fessenden Chandler.
Michael Christian Colley.
James Donald Cossy.
Thomas Rogers Merrill Emery.
Thomas Robert Fox.
Salvatore Frank Gallo.
Richard Corbett Gentz.
Anthony Albert Less.
Theodore Edwin Lewin.
Stephen Francis Loftus.
Charles Reynolds McGrail, Jr.
Paul David Miller.
Leonard Gordon Perry.
Richard Fay Pittenger.
Grant Alexander Sharp.
Jeremy Dolph Taylor.
Raynor Andrew Kent Taylor.
Richard Harrison Truly.

RESTRICTED LINE—ENGINEERING DUTY OFFICER

To be rear admiral

Lowell John Holloway.
Roger Bigelow Horne, Jr.

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear admiral

Richard Del Friichtenicht.

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral

William Oliver Studeman.

The following-named rear admirals (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be rear admiral

Lewis Mantel.
Russell Larry Marlor.

SUPPLY CORPS

To be rear admiral

Rodney Kaye Squibb.
James Benjamin Whittaker.

The following-named rear admiral (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS

To be rear admiral

Benjamin Franklin Montoya.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, sections 5137 and 1370.

To be vice admiral

Vice Adm. Lewis H. Seaton, Medical Corps, [redacted] U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. James H. Webber, [redacted]/[redacted] U.S. Navy.

IN THE MARINE CORPS

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 624:

William P. Eshelman.
Lloyd G. Pool.
Donald R. Gardner.
Harry W. Jenkins, Jr.
Michael P. Mulqueen.
John P. Brickley.
Michael P. Downs.
Duane A. Wills.
Richard L. Phillips.
Robert B. Johnston.
Peter J. Rowe.
Clyde L. Vermilyea.
Francis X. Hamilton, Jr.

The following-named brigadier general of the Marine Corps Reserve for promotion to the permanent grade of major general, under title 10, United States Code, section 5912:

William H. Gossell.

The following-named colonel of the Marine Corps Reserve for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 5912:

John F. Cronin.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Turgut Alagoz, and ending Allen Wong, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 1987.

Air Force nominations beginning Maj. Myron G. Ashcraft, [redacted], and ending Maj. Samuel Wofford, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of March 19, 1987.

Air Force nominations beginning Ralph J. Abel, and ending Robert B. Zwicker, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 1987.

Air Force nominations beginning Thomas A. Abascal, and ending Michel P. Zumwalt, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 1987.

Air Force nominations beginning Stephen B. Allen, and ending Lawrence T. Zirilli, which nominations were received by the Senate and appeared in the Congressional Record of April 2, 1987.

Air Force nomination of Erlind G. Royer, which was received by the Senate and appeared in the Congressional Record of April 23, 1987.

Air Force nominations beginning Upendrakumar Kharod, and ending Hubert O. Platt, which nominations were received by the Senate and appeared in the Congressional Record of April 23, 1987.

Air Force nominations beginning Maj. John H. Bubar, [redacted], and ending Maj. Carolyn K. Dennis, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of April 23, 1987.

Air Force nominations beginning Ian R. Anderson, and ending Charles R. Miller, which nominations were received by the Senate and appeared in the Congressional Record of May 5, 1987.

Air Force nominations beginning Maj. David H. Adams, [redacted], and ending Maj. Joseph W. Brookerson, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of May 5, 1987.

Army nominations beginning Richard P. Lewis, and ending Peter B. Yaw, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 1987.

Army nominations beginning Vincent J. Barsolo, and ending William E. Latimer, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 1987.

Army nominations beginning Glenn A. Carlson, and ending Kendall Reed, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 1987.

Army nominations beginning Robert G. Marslender, and ending Paul C. Baird, which nominations were received by the Senate and appeared in the Congressional Record of April 2, 1987.

Army nominations beginning George L. Adams III, and ending Richard L. Agee, which nominations were received by the Senate and appeared in the Congressional Record of April 2, 1987.

Army nomination of Harvey R. Brown, Jr., which was received by the Senate and appeared in the Congressional Record of April 2, 1987.

Army nominations beginning Angelo A. Armondo, and ending Gary D. Zarr, which nominations were received by April 15, 1987, and appeared in the Congressional Record of April 21, 1987.

Army nominations beginning William V. Adams, and ending William Woodruff, which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 21, 1987.

Army nominations beginning Maynard C. Sandberg, and ending John L. Ghee, which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 21, 1987.

Army nomination of Robert A. Stroud, which was received by the Senate on April 27, 1987, and appeared in the Congressional Record of April 28, 1987.

Army nominations beginning Dennis L. May, and ending Kevin M. Wesloh, which nominations were received by the Senate on April 27, 1987, and appeared in the Congressional Record of April 28, 1987.

Army nominations beginning David L. Bunner, and ending Roger J. Miller, Jr., which nominations were received by the Senate on April 27, 1987, and appeared in the Congressional Record of April 28, 1987.

Army nominations beginning Gregory L. Cook, and ending Michael E. Brouillette, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Kay E. Bratz, and ending Robert M. Zivkovich, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Tommy M. Adams, and ending Charles A. Williams, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Charles M. Randall, and ending Kevin Y. Munger, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Marine Corps nominations beginning Everett W. Krantz, and ending Rebecca A. Winthrop, which nominations were received by the Senate and appeared in the Congressional Record of March 27, 1987.

Marine Corps nominations beginning Eileen M. Albertson, and ending Richard G. Wilmes, which nominations were received by the Senate and appeared in the Congressional Record of April 9, 1987.

Marine Corps nominations beginning Paul R. Ahrens, and ending Larry W. Wright, which nominations were received by the Senate and appeared in the Congressional Record of April 23, 1987.

Navy nominations beginning Roy August Ackermann, and ending Vance Glover Sprague, Jr., which nominations were received by the Senate and appeared in the Congressional Record of March 3, 1987.

Navy nominations beginning Jerry Carroll Collis, and ending Terry Lee Shreiner, which nominations were received by the Senate and appeared in the Congressional Record of March 3, 1987.

Navy nominations beginning Gregory A. Barber, and ending Timothy L. Workman, which nominations were received by the Senate and appeared in the Congressional Record of April 9, 1987.

Navy nominations beginning Ernesto Alberto Diaz-ordaz, and ending Major Doyal Bursey, Jr., which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 20, 1987.

Navy nominations beginning James William Allen, and ending Charles James Ritzel, which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 21, 1987.

Navy nominations beginning Austin Gray Abercrombie, and ending James Edward Walthall, which nominations were received by the Senate on May 1, 1987, and appeared in the Congressional Record of May 5, 1987.

Navy nominations beginning Gregory A. Fowler, and ending Elizabeth K. Hart, which nominations were received by the Senate and appeared in the Congressional Record of May 12, 1987.

Navy nominations beginning Richard Lorman Affeld, and ending John Joseph Joyce, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Navy nominations beginning Paul Christian Aanonsen, and ending Gregory Richard Zymbaluk, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate now returns to legislative session.

Mr. BYRD. Mr. President, I thank the distinguished acting leader, Mr. THURMOND.

Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business is not yet terminated.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business may continue for a period not to exceed 20 minutes, and that Senators be permitted to speak therein for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOSTILE CORPORATE TAKEOVERS

Mr. SANFORD. In the last 10 years, we have seen an epidemic of hostile corporate takeovers. Along with that we have seen investment banking firms figure out all kinds of ways to use mirrors to accomplish this. We've seen a swarming of a breed known as raiders appearing on the scene to take advantage of lax laws and reinterpretations and new approaches and devices invented by the investment bankers.

They've offered big premiums. The people who have invested for institutions with big blocks of stock have cared more about the premium than for corporate integrity. They've paid for their raids by breaking up the parts of a company and selling them off.

They paid for it in some documented instances by stealing pension funds or by misapplying pension funds. They have changed equity to debt across the corporate world in an alarming amount. They have given a new definition—"junk bonds"—to the legitimate device of high-yield bonds.

Junk bonds have had a side effect on the savings and loan associations and their own soundness. Then with all of this, and because of all of this, we've seen a rash of insider/trader trading scandals.

Now, right now, we have in process legislation to deal with this, to attempt to define it, to attempt to broaden the concerns that we as a nation need to have for our corporate structure to make certain that there is equal treatment of all the parties concerned: the stockholders, the affected communities and employees, and the corporate world itself, whose soundness is at stake.

As this legislation was being prepared, there came into play a prime example of how this works—how it works because of a laxity in the laws, and how it works for the detriment of communities and people and their families and their jobs. An assault was made on Burlington Industries. Burlington is the largest corporation in North Carolina and it has substantial plants and operations in a dozen other States. It's one of the major corporations of America. We now have to play by a Canadian firm and by the notorious raider Asher Edelman who has said that he intended to break up this company and to sell off its parts. Whether or not that's true, we may never know unless he is successful.

We also have Shearson Lehman, a respected firm, but nevertheless providing the kind of promise of bridge financing that doesn't really obligate and put money on the line. And we have the suggestion that there has been insider information—confidential information—made available by an employee of Burlington to Paine Webber first and then to Shearson Lehman and then to the raiders and then to Dominion Textile.

It is the kind of affair that demonstrates so well the type of legislation that is needed. Consequently, the chairman of the Banking Committee invited all of these people plus all of the Burlington people to attend a hearing on Monday next so that we might look at this example as we exempt to fashion fair and equitable legislation. The Banking Committee invited them to come.

Now they have, yesterday and today, defied the U.S. Senate, declined to come testify, saying in effect, "What we are doing is none of your business."

Well, we could issue a subpoena, but we can't do it immediately; it takes a little bit of a process to get it done. So I've decided that for the moment I will not ask for that, but I might very well subpoena them and their records later to see that we get the true facts and the true background.

Right now I think they have made the point, by their refusal to take part, far better than their testimony would have made it. They have shown once again that their style is arrogance, that they just don't care, that the public be damned. It's reminiscent of the 1920's. Bankers said they don't really care, raiders have said they don't really care. They are saying, "We are getting ours and so what."

Well, I'm introducing the first of the week, along with Senator SASSER and other colleagues, comprehensive legislation to reform the laws that relate to takeovers and leveraged buyouts. This will bring order out of chaos. It will rein in malpractices, it will stop abuses.

It will be fairly tough legislation to sell. That is, it would have been fairly tough legislation to sell, but I think the arrogance of these people is going to make it easier to sell, because I think once again in history investment bankers and their allies are galloping wild and out of control. They are willing to take their chances on wrecking the American economy to fulfill their own greed.

In the 1920's this same crowd of people pretty well wrecked America. Now again they are getting out of hand. They are wrecking the economy. They are destroying communities. They have and they are abolishing millions of jobs all across the Nation. They are changing the great enterprise of equity to one of debt, contrary to the traditions of the United States. They are weakening the corporate world by substituting debt for equity, modernization, and the capacity for research. Our total national capacity for competitiveness is at risk because of this kind of greed. And for what?

They will tell you that they are working for more efficient management. That's nonsense. There's not on record a case where a hostile takeover resulted in better management. It's greed, greed, and nothing but greed, and it's time that we put a stop to it. Hundred million dollar fees to investment bankers, loot to the raider, illicit profits to inside traders. They are making it easy to pass this legislation. This kind of evidence is needed and it comes along while we are working on legislation to deal with takeovers and leveraged buyouts. The Banking Committee is in the process of putting together the most far-reaching banking legislation in the last 50 years.

It's time for us to do that. It's time for us to make our banking industry competitive again. Even now, this banking legislation is being formulated, and this kind of arrogance is going to help shape it. The big question that the investment bankers care about—where they think they need protection—is the Glass-Steagall Act.

They may very well be cracking that wall right now by greed toward Burlington Industries, the kind of greed that they've shown for the last 10 years. This kind of greed marks the hostile takeover business. There isn't any better example for why we need healthy competition.

In this particular case, as we shape banking legislation, if the hand falls heavy on investment banking, the bankers can mark it up to the kind of greed that's illustrated in the case of the attempted takeover of Burlington Industries.

American banks have long felt that they could influence investment banking for the good; that they had something to contribute. Now, Mr. President, the investment banking industry is helping demonstrate that indeed we may not any longer need Glass-Steagall, we may need wholesome competition.

Whatever else they've done, they've made it much easier to get legislation in this country for the soundness of our economy and for the soundness of the corporate world.

DEATH OF AUSTIN C. POWELL

Mr. SARBANES. Mr. President, with the recent death of Austin C. Powell of Frederick, MD, that community and our State have lost one of its outstanding citizens. Austin spent a lifetime working in Frederick County for the betterment of his fellow citizens and for the principles of the Democratic Party, to which he was devoted. He will be greatly missed by all of us who had worked with him over the years.

A lifelong Democrat and resident of Frederick, Austin served for 28 years on the Frederick County Democratic State Central Committee—probably a modern record of service. In 1980, he served as an elector to the electoral college. He was active in many community organizations including the Jeffersonian Democratic Club, the Loyal Order of Moose, and Junior Fire Company No. 2. He was a successful businessman in Frederick throughout his life.

It is difficult to remember any Democratic even in Frederick County in which Austin did not play an active role. He was respected throughout his community, cared deeply for the people of his city and county, and worked tirelessly for the Democratic

Party. I extend my sympathy to his widow, Annabell, and to his family and multitude of friends.

VICTORY FOR THE FILIPINO PEOPLE

Mr. DECONCINI. Mr. President, today we are in the midst of a new democracy. Three days ago, the Philippine people went to the polls to vote in their first truly free national congressional elections since 1972. As we look back over the past year, we must recognize that President Aquino and her supporters have accomplished nothing less than a miracle in raising her country from the despotic rule of Ferdinand Marcos to the level of democratic rule by the people.

I wish to commend all of the Filipino people for this successful, and largely nonviolent, election process. This vote, in which nearly 90 percent of the 26 million voters in the country took part, represents the steadfast commitment of the people to restore a democratic government. This election also appears to be a reaffirmation of the people's support for the Aquino government. With about 4 percent of the country's votes tallied on Thursday morning, 23 leaders in the race for the 24-member Senate are candidates supported by President Aquino. In the race for the 200-member House of Representatives, it is predicted that President Aquino-backed candidates would win between 123 and 145 positions.

We must take caution, however, in our enthusiasm. As Paul Aquino, President Aquino's campaign coordinator commented, the individuals of the "Aquino slate" have varied perspectives that will be hotly debated. It is this body, Mr. President, that will be voting on such key issues as the U.S. military base rights agreement. In addition, the political situation in the Philippines is far from reconciled.

In addition to these election debates, the Communist rebels have continued their raids. Since February, an estimated 800 people, mostly military members, have been killed by the Communist insurgents. President Aquino has called upon the United States to provide advanced military equipment to help combat these forces.

Mr. President, I am not suggesting that we blindly rush our most sophisticated military technology to Filipino troops or that we commit more foreign assistance moneys. I would like to recommend to my colleagues that they carefully consider these proposals by the Philippine Government in light of the upcoming base rights agreement which expires in 1991. These negotiations should be fluid, dynamic, and ongoing. These talks should include the current requests for advanced military equipment, efforts for addressing the debt situation, and discussion on the maintenance of internal security.

A stable democratic Philippines is in the best interests of the United States and its allies. Our two military bases in the Philippines, Subic Bay and Clark Air Force Base, provide security to the entire Pacific rim. The dollar cost incurred by moving such bases would be between $6 and $13 billion. In addition, the loss in morale and perception of unity of such a move would be immeasurable.

Base rights are crucial to the maintenance of an effective and far-reaching defense posture for the United States and its allies. But these talks should not wait until the 11th hour and the burden of defense should not fall only on the United States. We are currently engaged in negotiations for base rights agreements in Turkey, Greece, Spain, and Portugal. These talks are critical. Current budget constraints balanced against the imperative need to provide a perception of cohesion and strength among the Western World Allies makes successful negotiations imperative. The Philippine bases are no less vital. The stability of the Filipino Government, and with it, the stability of the entire Pacific rim foster peace and democracy. Comprehensive base rights agreements must remain a primary concern of the United States foreign policy.

BICENTENNIAL MINUTE

MAY 15, 1789: SENATOR'S CLASSIFICATIONS DETERMINED

Mr. DOLE. Mr. President, on May 15, 1789, 198 years ago today, Senators of the First Congress, all of whom began service together, drew lots to determine the length of the term that each would serve, either 2, 4, or 6 years. Article I of the Constitution had expressly provided that there would be three classes of Members.

On May 14, the Senate resolved that its Members be divided into three classes. Individuals were assigned so as to ensure that each class would contain no more than one Member per State and that its Members would be drawn from all sections of the country. As recorded in the Senate Journal, the resolution declared "That three papers of equal size, numbered 1, 2, and 3, be by the secretary rolled up and put into a box, and drawn by Mr. Langdon, Mr. Wingate, and Mr. Dalton, in behalf of the respective classes in which each of them are placed; and that the classes shall vacate their seats in the Senate according to the order of numbers drawn for them, beginning with number one." And, "that when Senators shall take their seats from States that have not yet appointed Senators, they shall be placed by lot in the foregoing classes, but in such manner as shall keep the classes as nearly equal as may be in numbers."

On May 15, Senators Langdon, Wingate, and Dalton drew the lots that would determine each Senator's length of term. Lot one, drawn by Mr. Dalton, contained the names of Senators who would serve 2-year terms; lot two, drawn by Mr. Wingate, those whose seats would be vacated after 4 years; and lot three, drawn by Mr. Langdon, those who would serve for a full 6 years.

Those classes continue today. For example, the class 3 term drawn by Senator Samuel Pomeroy, one of the first two Senators to represent the new State of Kansas in 1861, is the seat I hold today.

AGRICULTURAL MORTGAGE MARKETING ACT

Mr. KARNES. Mr. President, I ask that the record reflect that I have joined as a cosponsor of S. 1172, the "Agricultural Mortgage Marketing Act of 1987." This bill would establish, within the framework of the Farm Credit Act of 1971, a secondary market mechanism for agricultural real estate mortgages.

This Congress will deal with a variety of proposals to address the financial problems faced by the Farm Credit System. The bill is an essential component of the comprehensive approach we must take to address those problems and assure that our farmers will be able to obtain flexible and reasonably priced credit.

Mr. President, the mechanisms which our Nation's capital markets have developed to serve other sectors of the economy, such as housing, must be available to American agriculture. This is critical to assure that American farmers remain globally competitive. Agricultural lenders must have an increased ability to intermediate capital from individual and institutional investors in a volume, and at prices that will provide dependable sources of credit for farmers. Strong and healthy competition in our rural communities is a key to flexible and reasonably priced credit for farmers.

This bill presents a straightforward and balanced approach for establishing a secondary market in agricultural real estate loans. The language of the bill is clear, direct and specific. The focus of its provisions are on the financing of real estate used in the type of production agriculture traditional to the State of Nebraska. The bill would promote participation in the secondary market by all types of lenders interested in financing agriculture in our State, and assure their equal access and balanced representation. The bill would also provide for the appropriate representation of the general public interest.

A properly structured secondary market facility would benefit our Nebraska communities in a number of important ways. It would provide farmers with lower interest rates, access to a larger number of competing lenders, and access to fixed-rate and long-term real estate mortgage credit, and would assure more simplified borrowing procedures. The facility would also provide agricultural lenders with greater flexibility to match their assets and liabilities, and to manage interest rate risks. It would enable them to generate more loan volume with reasonable capital commitments. Lenders could also gain additional sources of fee and service income to strengthen their capital resources. This would, in turn, strengthen our Nation's banking system generally.

It is my understanding that S. 1172 is supported by agricultural lenders across industy lines, including the American Bankers Association, the Independent Bankers Association of America and the American Council of Life Insurance. The bill represents a consensus among those groups on issues related to the establishment of a secondary market in agricultural real estate mortgages. I commend the constituent members and leaders of those groups for their hard work and emphasis on their mutual interest in developing a mechanism to more effectively serve farmers in their communities. The successful establishment of a secondary market in agricultural real estate loans, with balanced participation and access, would enable those agricultural lenders to overcome barriers which have limited their ability to make a significant volume of long-term, fixed-rate loans available to farmers. The enactment of S. 1172 should serve to broaden and deepen their commitment to production agriculture in their communities.

It is important to recognize that the successful establishment and operation of a secondary market in agricultural mortgages involves a number of technical areas. This bill will require some adjustments to accommodate those technical needs. We must be sure that a secondary market is structured so that it can and will work. I pledge to use my background and experience in agriculture and banking to work with my distinguished colleagues to make a secondary market in agricultural loans a reality and a success.

Mr. President, I join as a cosponsor of S. 1172 and see it as an historic opportuntiy to provide greater alternatives and flexibility to farmers, lenders, and investors for financing American agriculture through the establishment of a secondary market in agricultural real estate loans.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1157. An act to provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986; and

H.R. 2360. An act to provide for a temporary increase in the public debt limit.

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1247. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation to extend the authority of the President to submit reorganization plans to Congress; to the Committee on Governmental Affairs.

EC-1248. A communication from the U.S. Postal Service Records Officer transmitting, pursuant to law, notice of a computer matching program between the Postal Service and the Utah Department of Social Services; to the Committee on Governmental Affairs.

EC-1249. A communication from the Secretary of Agriculture transmitting, pursuant to law, a report on a revised Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1250. A communication from the Director of Legislative Affairs, AID, transmitting, pursuant to law, a report on new contracts entered into without competitive selection procedures October 1, 1985 to September 30, 1986; to the Committee on Governmental Affairs.

EC-1251. A communication from the Director of the Office of Personnel Management transmitting, pursuant to law, the agency's 1986 Freedom of Information report; to the Committee on the Judiciary.

EC-1252. A communication from the Assistant Attorney General of the U.S. transmitting a draft of proposed legislation to implement the International Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

EC-1253. A communication from the Executive Director of the U.S. Naval Sea Cadet Corps, transmitting, pursuant to law, the annual audit report of the Corps for fy 1986; to the Committee on the Judiciary.

EC-1254. A communication from the Attorney General of the U.S. transmitting, pursuant to law, a report on the study on the use of a telephone verification system for determining employment eligibility of aliens; to the Committee on the Judiciary.

EC-1255. A communication from the Executive Director of the Pennsylvania Avenue Development Corporation transmitting, pursuant to law, a report on two determinations by the Corporation during 1986 not to comply with a portion of a request for records under the Freedom of Information Act; to the Committee on the Judiciary.

EC-1256. A communication from the Chairman of the National Labor Relations Board transmitting, pursuant to law, the Board's 1986 Freedom of Information Act report; to the Committee on the Judiciary.

EC-1257. A communication from the Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to authorize appointment of one additional bankruptcy judge for the district of Colorado; to the Committee on the Judiciary.

EC-1258. A communication from the Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to make improvements in the Federal judiciary; to the Committee on the Judiciary.

EC-1259. A communication from the Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to make improvements in the Federal court interpreter program; to the Committee on the Judiciary.

EC-1260. A communication from the Assistant Attorney General of the U.S. transmitting, pursuant to law, a report on activities under the Civil Rights of Institutionalized Persons Act; to the Committee on the Judiciary.

EC-1261. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on drug abuse and drug abuse research; to the Committee on Labor and Human Resources.

EC-1262. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for assistance for school construction in areas affected by Federal activities; to the Committee on Labor and Human Resources.

EC-1263. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to establish the National Vaccine Injury Compensation Program; to the Committee on Labor and Human Resources.

EC-1264. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, the Commission's 1985 and 1986 Government in the Sunshine Act reports; to the Committee on Rules and Administration.

EC-1265. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, a report on polling place accessibility in the 1986 general election; to the Committee on Rules and Administration.

EC-1266. A communication from the Administrator of the Veterans Administration transmitting, pursuant to law, a report on the Age 65 Presumption; to the Committee on Veteran's Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 1209. A bill to amend part B of title XVIII of the Social Security Act to provide improved access to ambulatory mental health services for individuals enrolled in the program of supplementary medical insurance benefits established under such part, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1210. A bill to extend for three years the existing suspension of duty on natural graphite; to the Committee on Finance.

By Mr. HECHT:

S. 1211. A bill entitled the "Nuclear Waste Reprocessing Study Act of 1987"; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1212. A bill to provide for the temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants; to the Committee on Finance.

S. 1213. A bill to provide for the temporary suspension of the duty on 2-n-octyl-4-isothiazolin-3-one, and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants; to the Committee on Finance.

S. 1214. A bill to provide for the temporary suspension of the duty on m-Hydroxybenzoic acid; to the Committee on Finance.

S. 1215. A bill to extend for 3 years the existing temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate; to the Committee on Finance.

By Mr. WARNER:

S. 1216. A bill to prohibit the obligation and expenditure of funds appropriated or made available to the Department of Defense during fiscal years 1988 and 1989 for the development or testing of antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1217. A bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 1218. A bill to require that any imported food be labeled to specify the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. LUGAR) (by request):

S. 1219. A bill to assure farmers, ranchers and their cooperatives that the value of their stock in Farm Credit System institutions is protected, to restore System institutions to economic viability and competitiveness for the benefit of U.S. agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Ms. MIKULSKI, Mr. DODD, Mr. METZENBAUM, and Mr. PELL):

S. 1220. A bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome; to the Committee on Labor and Human Resources.

By Mr. ROTH:

S.J. Res. 130. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting campaign expenditures; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 1209. A bill to amend part B of title XVIII of the Social Security Act to provide improved access to ambulatory mental health services for individuals enrolled in the program of supplementary medical insurance benefits established under such part, and for other purposes; to the Committee on Finance.

MEDICARE AMBULATORY MENTAL HEALTH SERVICES ACCESS ACT

● Mr. DURENBERGER. Mr. President, along with my colleagues Mr. INOUYE and Mr. BURDICK, I am pleased to introduce the Medicare Ambulatory Mental Health Services Access Amendments of 1987.

The purpose of this act is to provide access for Medicare beneficiaries to the improvements in ambulatory mental health care that have developed over the past 20 years.

For more than 20 years, virtually every technological and medical advance has been made available to medical and surgical patients through added Medicare benefits. For example, Medicare costs alone for cochlear implants to correct hearing disabilities would be $6.9 million for this year and $8.4 million for 300 implantable defibrillators, at $28,000 per case.

Since the 1940's, great strides have been made in treatment of mental illness as well. But the elderly, under Medicare, have been effectively denied access to those advances.

Mr. President, please forgive me if I sound chauvinistic in referring to my State of Minnesota—as I usually do—in discussing the need for this bill. But I've heard from enough people outside my State that it's not my perception alone that Minnesota is generally a leader nationwide in dealing with social ills, and especially in health issues. Minnesota is the home of Florence Lehman, first president of the National Mental Health Association.

But even in my State, there is a high level of frustration with the way we've neglected problems of mental illness. Norma Schleppergrell, program director of the Range Mental Health Center in Hibbing, MN, and a statewide advocate for her issues, said the mentally ill have been slighted by public policymakers compared with other disability groups. She points to the large number of mentally ill among the wandering homeless as reminders of this failure.

Mr. President, figures from the American Association of Retired Persons revealed that an estimated 15 to 25 percent of those over the age of 65 have significant mental health problems. And in 1985, 85 percent of older Americans needing mental health services went without them.

Access of Medicare beneficiaries to all ambulatory treatment of mental illness is severely restricted by an archaic payment policy. Payment and coverage limits have not been altered to account for advances in the clinical treatment of mental illness, or even for inflation, since the enactment of title XVIII more than 20 years ago. In fact, if the $250 cap were extrapolated for inflation, it would be a cap of about $2,000 now. The net effect is that the coverage originally authorized by Congress has been severely reduced.

Medicare coverage for the mentally ill was developed in an era when most psychiatric patients were hospitalized and when there were concerns that providers and patients would make extensive use of long-term psychotherapy, with mixed evidence of success. That vision, together with the fear of great expense to the trust fund, has prevented change in Medicare.

Today, we know much more about mental illness. Mental health researchers have learned that there is a biochemical basis for some mental illness, and that almost miraculous changes can occur with proper care. One example is that of a 74-year-old woman, hospitalized in a large Minneapolis general hospital because of weight loss, sleeplessness, agitation, and increased anxiety. Psychiatric consultation, with additional interviews with her husband and family resulted in a diagnosis of severe depression and a recommendation for antidepressant therapy. The patient started to recover within a week of starting medication and was discharged to see the psychiatrist in his office to monitor her medications and to examine in more detail the environmental causes which contributed to her depression.

In my own State of Minnesota, I have become acutely aware that mental health problems among the rural elderly have been exacerbated by the financial crisis sweeping rural America, as century-old farms are threatened, marriages crack, generations divide, and alcoholism, violence and suicides increase.

One success story is that of an 80-year-old retired farmer, referred to a psychiatrist because of difficulty sleeping, thoughts of impending death, and profound feelings of sadness and worthlessness. The psychiatrist determined that the patient was afraid of being put into a nursing home or hospital, and that his family saw him as useless. After a series of family meetings, and with the initiation of appropriate antidepressant treatment, the patient's sleeping pattern returned to normal, and he again found enjoyment with his family.

In one study, however, about 20 percent of the rural elderly population showed significant mental health problems, yet only 1 percent sought out mental health services.

In fact, most people in our Nation, especially the elderly, do not use mental health service despite advances in therapy design and effectiveness. Those who do use mental health services only make a few visits—the median number of visits is just over two. Only 10 percent of users make more than 24 visits per year. But this group of "high users"—only some of whom fit the stereotype of the healthy, high-functioning patient—account for 50 percent of ambulatory mental health expenditures.

We can use what we know about "high" or "low" utilization potential to develop a new insurance strategy for the treatment of mental illness under Medicare. Services such as drug therapy or other brief offices visits with strong therapeutic benefit but "low" potential for discretionary use—that is, they have the same potential for use as other ambulatory medical treatments—should be subject only to those limits now in effect for general medical care.

This bill works toward three important goals: Access to services—and especially community-based services—avoidance of inappropriate institutionalization, and restoration of individuals to more normal lives.

It will accomplish those ends through two major means:

Expanding Medicare to cover short mental health visits for so-called low-use services, such as chemo- and electroconvulsive therapy, diagnosis, or individuals psychotherapy, while retaining the 20-percent patient cost-sharing but without limiting the number of visits.

Providing payments for high-use services such as intensive individual psychotherapy, family, group, or multifamily psychotherapy, and hypnotherapy, but on a higher cost-sharing basis, and with a $1,215-per-year cap instead of the current $250.

This bill maintains current conditions under which mental health services can be delivered, including provision for psychologists, psychiatric nurses, and psychiatric social workers to provide care under physician supervision, and with a 20-percent copayment overall.

This bill does require some new expenditures, but mental health is an area where some front-end costs will be repaid many times over in better mental health for the individual, less family stress, and less health utilization in other settings or for other purposes. Based on recent research, our proposal lifted all restrictions on ambulatory mental health care, we might anticipate a little more than doubling of the current, restricted costs of ambulatory mental illness treatment.

However, our bill removes major restrictions only from those treatments which either are brief in length and of low relative cost, or which can be completed in five or fewer visits, as in the case of hour-long psychotherapy.

The cost of multivisit psychotherapy, which accounts for 50 percent of ambulatory mental health expenditures, is strongly controlled by imposition of high copayments, plus limits on total visits and total costs. We estimate that the cost of this proposal will be in the range of an additional $50 to $100 annually, not counting any savings for less use of regular medical care after mental health treatment.

Our estimate, incidentally, does not include cost savings which will occur due to declines in inpatient treatment of the mentally ill, or from falling general health use. These cost savings have been documented by numerous studies to occur when ambulatory mental health benefits are improved. Studies also show that as much as 60 percent of total patient visits to physicians are due to emotional problems, not physical ailments. With the availability of appropriate mental health intervention, some significant proportion of physician visits will not be needed. Finally, our proposal requires that the Health Care Financing Administration, in conjunction with the National Institute of Mental Health, will provide interim assessments of the impact of this act on the costs and utilization of mental health treatment services, and on access to such services by Medicare beneficiaries. At the conclusion of the proposed 2-year authorization period, we will have acquired substantial data to guide us deciding how to continue or modify mental illness benefits.

Mr. President, we can no longer turn away from the reality that current restrictions on mental health benefits inappropriately and indiscriminately limit access of Medicare beneficiaries to needed treatment services. This proposal, at a modest cost, presents a true opportunity for us to expand Medicare coverage of selected, effective treatments for the mentally ill. We look forward to the comments and support of our colleagues on this measure.

Mr. President, I ask that the text of this bill and a summary factsheet be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Medicare Ambulatory Mental Health Services Access Act of 1987".

SEC. 2. MODIFICATION OF LIMITATION ON EXPENSES FOR AMBULATORY MENTAL HEALTH SERVICES.

(a) In General.—Effective for the twenty-four month period beginning with the first day of the first calendar year to begin more than 60 days after the date of the enactment of this Act, section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended to read as follows:

"(c)(1)(A) Notwithstanding any other provision of this part, with respect to expenses incurred by an individual in any calendar year for services described in subparagraph (B), the total amount that may be considered as incurred expenses, for purposes of subsections (a) and (b), is the smaller of—

"(i) the reasonable charges for services furnished during 30 visits in such year, or

"(ii) $2,700.00.

"(B) The services described in this subparagraph are—

"(i) extensive individual psychotherapy (45 minutes or more per visit),

"(ii) family psychotherapy,

"(iii) multifamily group psychotherapy,

"(iv) group psychotherapy, and

"(v) hypnotherapy,

(as defined by the Secretary) that are furnished on an outpatient basis.

"(2) Notwithstanding any other provision of this part, with respect to services described in paragraph (1)(B) that are furnished during visits in a calendar year, the amount payable with respect to such services shall be equal to—

"(A) 80 percent of the reasonable charges for services furnished during visits 1 through 5 in such year,

"(B) 50 percent of the reasonable charges for services furnished during visits 6 through 20 in such year, and

"(C) 20 percent of the reasonable charges for visits 21 through 30 in such year.".

(b) Application.—The amendment made by subsection (a) shall apply to expenses incurred in the twenty-four-month period for which such amendment is effective.

SEC. 3. STUDY.

(a) Study Required.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), in consultation with the Director of the National Institute of Mental Health, shall conduct a study of the effects of the amendment made by section 2 of the Medicare Ambulatory Mental Health Services Access Act of 1987 on the cost, utilization, and quality of mental health services furnished to individuals entitled to benefits under title XVIII of the Social Security Act.

(b) Reports.—

(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report with respect to the study required by subsection (a). The report shall describe the manner in which the study is being conducted and may include tentative findings and recommendations based upon the study.

(2) The preliminary report required by paragraph (1) shall be updated at least every six months.

(3) Not later than 180 days after the date on which the amendment made by section 2 of the Medicare Ambulatory Mental Health Services Access Act of 1987 ceases to be effective, the Secretary shall submit to the Congress a final report with respect to the study required by subsection (a). The report shall include findings and recommendations based upon the study.

AARP Backs Expanded Mental Health Benefits

Washington, D.C.—Depression and suicide among the elderly could be reduced if Congress enacts a new bill expanding mental health benefits under Medicare, the American Association of Retired Persons (AARP) said today.

AARPs comments came at a Capitol Hill press conference held by Sen. David Durenberger (R-Minn.), who introduced a bill today to improve access to outpatient mental health services for Medicare Part B participants.

"It's hard to believe that Medicare's coverage of mental health treatment has remained virtually unchanged since the program was established in 1965," said AARP Director of Legislation John C. Rother. "Great progress has been made since then in diagnosing and treating mental illnesses, but unfortunately many of these remedies are unavailable to older people because Medicare's coverage is so limited."

Under the Durenberger bill, "medical management" treatment involving medications would be subject to the same Medicare limitations as other general medical services. For psychotherapies, Medicare would pay 80 percent of the costs of the patient's first five mental health therapy visits, half of the costs of the sixth through 20th visits and 20 percent of the 21st through 30th visits. The increased coverage of early visits would encourage people to seek help in dealing with crises.

The maximum Medicare contribution would be $1,215 a year or 30 visits, whichever is less.

"This marks a significant first step in efforts to deal with the unmet need for mental health services for older Americans. Roughly 15 to 25 percent of those over the age of 65 have significant mental health problems, and the incidence of suicide is higher among the elderly than among teenagers," Rother said.

"Researchers are rapidly expanding our understanding of how mental illness affects people of all ages, and it's time for Medicare's mental health benefit to reflect the current state of medical practice."

With 25 million members, AARP is the nation's largest organization of Americans 50 and older. The nonprofit, nonpartisan organization offers a wide range of membership benefits, legislative advocacy at the federal and state levels and community service programs carried out through a national network of volunteers and local chapters. AARPs headquarters is in Washington, D.C.

SIDE-BY-SIDE COMPARISON, OUTPATIENT MEDICARE MENTAL ILLNESS BENEFITS: CURRENT MEDICARE LAW VS. S. 1209 PROPOSAL ("MEDICARE AMBULATORY MENTAL HEALTH SERVICES ACCESS AMENDMENTS OF 1987")

Current law	S. 1209
80% Medicare payment only for diagnostic services (i.e., 20% patient copay).	80% medicare payment for diagnosis plus "low use services" such as: Psychiatric somatotherapy (chemo- and electroconvulsive therapy); brief, individual psycho-therapy, and other treatments not specified below.
Services with 50% Medicare payment (62.5% of 80% are: All treatments for "mental, psycho-neurotic, or personality disorders".	Services with decreased Medicare payments ("high use services") are: intensive individuals psychotherapy; family, group or multifamily psychotherapy; and hypnotherapy; as follows (per year): Visits 6–20, 50% Medicare payment; Visits 21–30, 20% payment.
Visit limits: No statutory limit, but payment limits would allow as few as 5 visits.	Visit limits: no limits for "low use services". 30 visit payment limit for "high use services".
Maximum incurred expenses for all treatment services: $312.50 ($500 × 62.5%).	Maximum incurred expenses only for "high use services": $2700 [($90/visit × 5 visits) + ($90 × 15 visits) + ($90 × 10 visits)].
Limit on actual amount paid for all treatment services: $250 ($312.50 × 80%).	Limit on actual amount paid for "high use services": $1215 [($90 × 20%) + ($90 × 15 × 50%) + ($90 × 10 × 80%)] no payment limits on "low use services".●

By Mr. HECHT:

S. 1211. A bill entitled the "Nuclear Waste Reprocessing Study Act of 1987"; to the Committee on Energy and Natural Resources.

NUCLEAR WASTE REPROCESSING STUDY ACT

Mr. HECHT. Mr. President, today I am introducing a bill that will quite possibly save a lot of money for the electric ratepayers of the Nation. At the same time, this bill will allow the country to reconsider an opportunity to make fuller and more efficient use of our limited energy resources. Finally, and most importantly, Mr. President, this bill will give us a chance to pause, and reflect, and reconsider, and maybe change our minds, before continuing on a path that has so far led to nothing but conflict in dealing with our Nation's high level nuclear waste.

Mr. President, I recently returned from a very informative trip to Europe, where, along with a number of our colleagues, I saw firsthand a successful French program of reprocessing spent nuclear fuel. The French are able to remove so much of the dangerous plutonium from the spent fuel, that only one ten-millionth of the original material remains. And they are confident they can do even better.

As a result of reprocessing, the French are able to get out most of the energy that is locked up in the uranium fuel. In America, under existing law and the current plans of the Energy Department, we will literally throw out most of this potential energy resource. I believe that we, as a nation, cannot afford to waste energy. I believe we must conserve energy, and make the fullest use of the limited energy resources that are available to us as a nation.

My legislation requires a feasibility study of the pros and cons of reprocessing spent nuclear fuel in this country. This work would be performed by the prestigious National Academy of Sciences. While the study is underway, my bill would also impose a moratorium on site-specific work associated with the deep geologic disposal of high level nuclear waste. There is no sense for us to continue spending millions upon millions of dollars on a program that we may soon conclude is not in our best interests as a nation.

My bill would give the National Academy of Sciences until October 1989 to report to the Congress on the economic and environmental feasibility of a reprocessing program in the United States. In the past, it has been argued that reprocessing was too expensive. But this was before we started to add up the bills for deep geologic disposal of nuclear waste. This approach is likely to cost our citizens more than $30 billion, when you include the necessary upgrading of our highway system. In comparison, I am willing to bet that the pricetag on reprocessing will turn out to be very reasonable.

In the past, reprocessing has been viewed only as a way to get more energy out of uranium fuel. If we are also willing to view reprocessing as a way to handle the waste problem, then we can dramatically cut the cost of reprocessing by letting the waste age a few years before being recycled. It will then be a lot cooler, less radioactive, easier, and less expensive to handle. The value of the energy that is lost during the aging process is not too great, and will be offset in part by the cheaper reprocessing cost. Finally, the waste left over after reprocessing is a lot safer than fresh spent fuel. This in turn will dramatically reduce our waste disposal cost.

Mr. President, I believe my bill offers an opportunity for the Nation to avoid making a mistake in energy policy, a mistake in environmental policy, and in Federal spending. I urge my colleagues to support this legislation, and look forward to its early consideration.

Mr. President, I ask unanimous consent that the text of my bill, the Nuclear Waste Reprocessing Study Act of 1987, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be known as the "Nuclear Waste Reprocessing Study Act of 1987".

SEC. 2. FINDINGS.—The Congress finds that:

(a) the Federal Government has not studied the feasibility of reprocessing for a significant period of time;

(b) reprocessing of spent fuel is not now currently being contemplated by the United States of America;

(c) reprocessing is a proven and effective technology to make the most efficient use of energy resources and to reduce the danger to the public health and safety posed by spent nuclear fuel;

(d) there is substantial reason to believe that reprocessing spent fuel after it has cooled for a number of years may be significantly less costly than reprocessing relatively fresh spent fuel; and

(e) serious questions have been raised about the current national program of deep geologic disposal of high level radioactive waste and spent nuclear fuel;

(f) it is appropriate at this time for the nation to reconsider the option of reprocessing spent nuclear fuel.

SEC. 3. PURPOSE.—The purpose of this Act is to initiate an analysis of the feasibility of reprocessing spent nuclear fuel before the Federal Government invests substantial amounts of additional ratepayer funds on the deep geologic disposal of spent nuclear fuel, an approach which may now prove inferior to reprocessing from the perspectives of sound energy policy, economic efficiency, and public health and safety.

SEC. 4. SPENT FUEL REPROCESSING STUDY.—By September 30, 1987, the Secretary of Energy shall contract with the National Academy of Sciences for a study of the feasibility of reprocessing spent nuclear fuel. The study shall include an analysis of the economics of reprocessing spent fuel that has first been aged for three years, fifteen years, thirty years, and fifty years. The study shall compare the lifecycle cost of a reprocessing program with the lifecycle cost of the deep geologic disposal of spent fuel as contemplated in the Nuclear Waste Policy Act of 1982 (Public Law 97-425), from site characterization through repository closure. The study shall also address indirect effects of reprocessing and deep geologic disposal, such as the implications for further investment in transportation systems and the implications of reduced mining of uranium, including such topics as environmental consequences, mine reclamation cost, balance of trade considerations, and occupational health and safety considerations.

SEC. 5. SUBMISSION TO CONGRESS.—The National Academy of Sciences shall submit its completed study to Congress no later than September 30, 1989.

SEC. 6. SUSPENSION OF SITE SPECIFIC WORK ON DEEP GEOLOGIC DISPOSAL.—Notwithstanding the Nuclear Waste Policy Act of 1982 (Public Law 97-425), or any other provision of law, the authority of the Secretary of Energy to carry out site specific work on potential repositories for deep geologic disposal of spent nuclear fuel or high level radioactive waste is suspended, as of the date of enactment of this Act. This suspension shall terminate 180 days after the National Academy of Sciences submits the study to Congress referred to in Section 4 of this Act.

SEC. 7. FUNDING.—The Nuclear Waste Fund established by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be the source of funds for the work performed under this Act.

By Mr. WARNER:

S. 1216. A bill to prohibit the obligation and expenditure of funds appropriated or made available to the Department of Defense during fiscal years 1988 and 1989 for the development or testing of antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based; to the Committee on Armed Services.

ANTIBALLISTIC MISSILE SYSTEM DEVELOPMENT LIMITATION ACT

Mr. WARNER. Mr. President, I am today introducing the "Anti-Ballistic Missile System Development Limitation Act." I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) This Act may be cited as the "Anti-Ballistic Missile System Development Limitation Act of 1987."

(b) Notwithstanding any other provision of law, including any provision of law enacted after the date of enactment of this Act unless such provision specifically repeals this Act, funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

(c) The limitation in subsection (b) shall cease to apply if—

(1) the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop or test; and

(2) after such report is received by Congress, a joint resolution described in subsection (d) is introduced and such joint resolution is enacted.

(d)(1) A joint resolution referred to in subsection (c) shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Anti-Ballistic Missile System Development Limitation Act of 1987 is repealed.".

(2) Such a joint resolution introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. Such a joint resolution introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 15th day after its introduction. If the committee to which such a resolution is referred does not report such resolution (or an identical resolution) at the end of 60 days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Such a resolution shall be considered in the House of Representatives and the Senate in accordance with paragraphs (5) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936).

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1217. A bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the coastal plain of the North Slope of Alaska for oil and gas exploration, development, and production; to the Committee on Energy and Natural Resources.

ARCTIC COASTAL PLAIN PUBLIC LANDS LEASING ACT

Mr. MURKOWSKI. Mr. President, today my good friend and colleague, Senator STEVENS, and I are introducing a bill to authorize oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge [ANWR] in Alaska.

One of the more challenging issues the 100th Congress will address is whether to permit oil and gas exploration on the coastal plain of ANWR. The bill we are introducing today is the first step in the legislative process to achieve the goal of opening that area to such exploration and development.

Unfortunately, Mr. President, many people will just assume that in this area there are substantial commercial quantities. As we all know, more often than not, when you are looking for oil, you do not find it. In Alaska, the situation is a little different. If you find it, you had better find a lot of it because the economics simply mandate, because of the costs, that substantial reserves be discovered.

The ANWR coastal plain lies next to the Arctic Ocean east of Prudhoe Bay. Prudhoe Bay and the nearby Lisburne, Endicott, and Kuparuk fields currently account for more than 20 percent of the U.S. domestic oil production. Because of its proximity to Prudhoe Bay and because of the extremely favorable geological evidence of hydrocarbon potential, the coastal plain of ANWR is generally regarded as the most promising unexplored oil and gas prospect in the United States.

I think it is also noteworthy, to point out, Mr. President, that Prudhoe Bay has now passed the east Texas field in production as the largest producing field in North America.

In the Alaska National Interest Lands Conservation Act of 1980, Congress expressly reserved for future consideration the question of whether oil and gas exploration should be allowed on the 1.5-million-acre coastal plain of ANWR. To facilitate that debate, Congress directed the Department of the Interior to prepare a comprehensive study of the coastal plain's fish, wildlife, and oil and gas resources.

The Department has recently released its coastal plain resource study. It predicts a 95-percent chance that there are 4.8 billion barrels of oil in place and a 5-percent chance that the area contains more than 29.4 billion barrels of oil. The report also concludes that oil and gas exploration, development, and production activities can occur—I want to underscore that, Mr. President; can occur—without detrimental impact to the environment of the 19 million acre refuge.

Oftentimes, Mr. President, it is overlooked that this area contains approximately 19 million acres, that there are approximately 8 million acres that will be maintained as a wilderness in perpetuity, that the balance is in a refuge, and we are only talking about allowing exploration on 1.5 million acres. Based on these conclusions, Secretary Hodel has recommended that the Congress authorize an orderly oil and gas leasing program for the entire 1.5 million-acre coastal plain at a pace and under such circumstances that will avoid unnecessary adverse effects on the environment.

Mr. President, it is important to the national security of the United States that we explore the ANWR coastal plain and make an accurate inventory of the oil and gas resources that we believe are there.

In March, the Department of Energy completed a comprehensive study on the energy security of this country. This study concluded that falling domestic oil production and increasing dependence on foreign oil supplies pose a serious threat to our national security. It is noteworthy that President Reagan's message to Congress, based on the findings of the energy security report, contained a specific recommendation that exploration and development of the ANWR coastal plain be authorized.

In light of the recent explosive growth in our Nation's oil imports and the continuing decline in our proven domestic reserves, it is critical that we explore the coastal plain to determine precisely how much oil is there. No such exploration will take place unless Congress expressly authorizes it.

The legislation Senator STEVENS and I are introducing today provides that authorization. It amends the Mineral Lands Leasing Act of 1920 to direct the Secretary of the Interior to implement a competitive oil and gas leasing program that will assure the expeditious exploration, development, and production of the oil and gas resources of the ANWR coastal plain. The bill also directs the Secretary to promulgate whatever stipulations, rules, and regulations are necessary and appropriate to ensure that all activities associated with oil and gas development be conducted in a manner that protects the fish and wildlife resources and environment of ANWR.

Mr. President, it is appropriate to recall a bit of history at this point. In 1973, the United States came within 1 vote of losing access to Prudhoe Bay when the Vice President was required to break a tie vote in the Senate on legislation authorizing the trans-Alaska pipeline [TAPS].

That pipeline is currently moving 2 million barrels of oil per day. That amounts to approximately 22 percent of the domestic oil production in the United States today.

So it came that close to not happening.

The closeness of that vote was representative of the strong opposition by well-meaning national environmental groups to any type of resource development associated with Prudhoe Bay. The arguments used by those groups in 1973 are being used by those same groups today to oppose any exploration of the coastal plain.

I think that we need to ask ourselves where we would be today, if that vote had gone the other way. The answer is simple. The United States would be importing more than 50 percent of its petroleum needs from foreign sources and we would be in a precarious energy security position—subject to extreme price fluctuations and supply disruptions.

We would obviously be in a position where we could be held hostage by those Mideast countries that have the leverage in determining the world price of oil.

But that 1973 vote did indeed authorize construction of TAPS. During the intervening years, all of the predictions of massive environmental disruption and ruin have been proven wrong. Alaskans and the oil industry have demonstrated that oil development in the Arctic and protection of Alaska's splendid environment are not mutually exclusive. We can have both.

Make no mistake about it, Mr. President. The environmentalists are using scare tactics today. They are saying we cannot have oil exploration and development and protect our caribou resources as well.

Mr. President, the facts have proven them wrong. In 1972 and 1973, prior to the construction of the trans-Alaska pipeline and the development of the Prudhoe Bay field, the Central Arctic caribou herd in the area adjacent to Prudhoe Bay numbered somewhere between 2,500 and 3,500 animals. Today that herd has increased to the point where estimates now are that there are approximately 14,000 animals.

One can easily conclude, Mr. President, that the increase has grown around a modest amount of activity associated with roads, the pipeline, and the activities in Prudhoe Bay.

What has happened, Mr. President, is very clear. It is that the predator, namely, the wolf, is not in the area of activity. As a consequence, the caribou move into the area of activity because there are no predators.

Mr. President, it is very, very clear, and we have the scientific evidence based on the actual operating history, that we can have this type of development and exploration and that the caribou is indeed a very adaptable animal. We can apply the same principle to the caribou herd that moves across Canada and comes into Alaska and calves on the coastal plain. Indeed, if there is a modest amount of activity, they will simply move a mile or a mile-and-a-half away.

We have studies which will be inserted into the RECORD at an appropriate time.

I would like to add a transcript of a conversation with Dr. Bergerud, a Canadian professor at the University of Victoria, as a supplemental to my statement that I am reading today. I ask unanimous consent that that report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF A CONVERSATION BETWEEN DR. TOM BERGERUD OF THE UNIVERSITY OF VICTORIA, BRITISH COLUMBIA AND SENATOR FRANK H. MURKOWSKI

FM: Dr. Bergerud, I understand that you have devoted a good portion of your life to research on caribou. Can you tell me a little bit about your background and the observations you've made on the caribou in various areas of the world.

TB: Well, I've been working with caribou since 1955. I was a chief biologist in Newfoundland for many years and then the director of the game department.

I worked with the Newfoundland herds, then I worked with the Labrador herds, the Herds in Quebec, Ontario and lately in British Columbia and the Northwest Territory. I've had one field in Alaska.

I spent 22 years on the calving grounds when the cows were giving birth. I spent 19 years with the animals during the rut. I've devoted my whole professional life to the well being of the species.

FM: You've been quoted as calling caribou one of the world's most adaptable animals. Could you elaborate a little bit about what you mean or is that a fair statement?

TB: Well, they're not the world's most adaptable, but they're very highly adapted to the Arctic environment and they are also adaptable. They can make plastic responses, they can adapt to man establishing buildings and so forth in their area.

They can tolerate being near man. In fact, reindeer which is the same species as caribou, is one of the animals that man has been able to domesticate. So they certainly are adaptable—they're able to take great extremes in the environment and their natural environment being so tough—I mean that is why they have prospered because they have been able to come up with these adaptations.

FM: I'm interested in the question of activity associated with oil and gas exploration in the area of caribou habitat or in their calving ground.

What happens when there's exploration in an area where they traditionally come to calve?

TB: Well, the calving grounds of most of the big herds are on the northern edge of the annual distribution of the herds.

There is a debate about why caribou go to calving grounds and I think that is very important in trying to understand what would be the significance of the development on the calving grounds.

The paper that I've been publishing and is becoming more generally accepted is that caribou go to calving grounds as an anti-predator strategy. They go to the very northern edge of their range and this allows them to get away from wolves. Wolves usually den along tree lines, so that is the most important thing to keep in mind.

The caribou are going to calving grounds in my view to escape wolves not because there is some unique food supply or forage there. Some people would say that if we displaced caribou from an area they are going to decline. And usually this is based on a view that they think that the food resources are critical on these calving grounds and in fact I've done some studies up in Alaska on the calving grounds and can show that actually the food is quite poor. Where the bulls are, south of the calving grounds, the food is much better and if the cows are really interested in food supply they would have stayed back with the bulls. But, they've gone up to get away from the predators.

Now because they're worried about predators they are liable to disturbance—when they see a vehicle coming down the road it represents a predator to them. They are not disturbed by the road without the vehicle. We can expect that if we have a road with traffic in a calving ground that the bulls would probably pay little attention to the road but that the cows will move back perhaps a mile from the road and then they will resume their normal activities.

In fact, we don't want the caribou to habituate to the traffic because in fact this is their natural predator response.

FM: Do I understand you to say that the mere presence of roads, drilling pads, and drill rigs will not necessarily displace the caribou? Rather, it is the activity associated with those structures—men and vehicles working, etc.—which may cause the caribou to move away from the area. If the men and the vehicles weren't there, the fact that there was a road or a pad wouldn't necessarily disturb the caribou?

TB: It's the disturbance that causes them to be displaced, if they are going to be displaced. It doesn't necessarily need to be traffic.

One person did a study up there on the Central Arctic Herd and he made a fence and he had burlap bags hanging on the fence. When the bags flapped in the wind, the caribou avoided this fence, in my view because it resembled a predator.

If you have things that look like predators it's the predator response on the road that makes them peel away.

Now this is mostly the cows and the calves. The bulls are not nearly as shy of predators. They actually go into the willow valleys to feed. That's what they have to do to get big and breed females. The female has to stay away from predators so her calf will live.

And even if there's a lot of traffic on the road, the displacement is only a mile on each side of the activity. So if we do want to keep all the traffic going, we will lose a strip of occupation of about two miles wide.

The big thing is that we don't have a barrier. I don't see why we should worry about this two miles on each side because the range is not limiting.

If there was so much traffic when the herd was migrating so that they didn't go across, then they would stay south. And if they stayed south, in the case of the Porcupine, it would mean they would stay closer to the foothills. And if they stayed closer to the foothills there would be more predation because that's where there are more bears and wolves.

If we monitor the percent calves—even if they are displaced—and we are prepared to manage the predators, we can always have positive recruitment. And the herd can continue to prosper.

FM: How does noise associated with the activities of man affect the caribou?

TB: Right now in Ongava the NATO exercise roar over the caribou with jets. People are all upset, but I've looked at a lot of caribou with noise.

I was in the Delta Herd in Alaska. That herd is near an army base. Right at calving time the army people used to come out with their big Huey helicopters which really look sinister at very low elevations and the caribou were so habituated to this noise that they didn't even stand up.

I've also watched caribou when dynamite has gone off. If the noise doesn't have any impact on their well being, they habituate with it. If you roar up to a caribou in a ski-doo and start shooting at it, then the noise of a ski-doo has very dire consequences for them and they will not habituate to it.

But a noise of a feeder station or an airplane that does not result in any further consequences but the noise, they will soon habituate to it and will pay it little mind.

FM: Do you know of any areas where caribou are currently in close contact with the activities of man?

TB: I was over in Norway once in 1979 and I watched a caribou herd right in the middle of Army maneuvers. In Norway they maneuver in the national parks in unusual situations. The caribou were paying no heed to this.

The Central Arctic herd next to the Porcupine herd of course has a tremendous amount of development—pipes and feeder lines and so forth, and that herd has prospered; increasing from some 3,000 to 15,000 during the development. I think that's the acid case that shows that caribou can co-adapt to this.

They cannot co-adapt to being over harvested, but they can certainly take living side-by-side with an ethical man.

Now what often happens is when we have these developments we upset the predator-prey relationship. Wolves run up and down the TAPS highway on the Central Arctic herd. So sometimes we upset the balance not through what is disturbance, but because we have given a benefit to the predator.

Sometimes it will work the other way. The bears and the wolves stay away from the development, stay away from the calving ground and the caribou actually prosper.

The survival of calves on the Central Arctic herd has been very high since development and this coincides with a reduction in the wolves because of greater hunter access.

FM: Doctor, I want to thank you very much. You have provided an unique insight based on your 22 years of observing the caribou all over the world. We very much appreciate your thoughtfullness in giving your views and actual experience in observing this tremendous resource of all of North America and Europe. Undoubtedly we will have a chance to call on you again. Thank you.

Mr. MURKOWSKI. Mr. President, I would also like to note the work done by my colleague in the House, Representative DON YOUNG. Mr. YOUNG's bill has been introduced in the House for some weeks now and there is substantial support. I understand there are now 143 cosponsors of the House bill. Representative YOUNG has done an extraordinary job in pointing out, indeed, the significance of what this issue means to the national energy and security of our country, and pointing out to those who are concerned about the environment, and we are all concerned about the environmental impact, that we can have this compatability.

In concluding this statement, Mr. President, I want to express my pleasure in being associated with the senior Senator from Alaska, Senator STEVENS, on this important piece of legislation. Senator TED STEVENS has exerted extraordinary leadership in the Senate for nearly two decades on major natural resources and environmental initiatives affecting our State and our Nation. Among those initiatives was the trans-Alaska pipeline legislation that I referred to earlier in this statement.

I think it is important to point out one other observation, Mr. President. This legislation does not involve a question, as the senior Senator from Alaska pointed out time and time again, of opening the coastal plain. It has never been closed by Congress. So we are not reopening something which has been closed. We are authorizing from a dictate of Congress back in 1980 that a study be concluded. That study has taken place now with the Department of Interior's report has been released. It is appropriate that we go ahead today with the legislation.

I am pleased to note that the Committee on Energy, and Natural Resources of which I am a member, with Senator JOHNSTON of Louisiana being the chairman, has scheduled hearings which will be held in Washington beginning on the 2d of June and continuing to the 4th, the 11th, and the 12th of June. There will also be an Energy Committee visit to ANWR during the second week of August. We anticipate taking the issue before the Committee for hearings on the particular bill sometime during July and again perhaps in September.

Mr. President, I think it is fair to alert the Senate. We have a great deal of work to do before we are going to be ready to make a decision on permitting oil and gas exploration on the coastal plain of ANWR. There will be the hearings I referred to, the oversight, debate and the negotiations. I am confident as this legislation process unfolds, that the majority of my colleagues will become convinced that it is indeed in our national interest, in environmental terms, economic terms, and national security terms, to authorize the exploration on the ANWR coastal plain of Alaska.

Mr. STEVENS. Mr. President, I am pleased to join in introducing this bill to establish an oil and gas leasing program in the Arctic National Wildlife Refuge's coastal plain.

As Solicitor of the Interior Department in the Eisenhower administration, I was involved in the withdrawal of the Arctic National Wildlife Range, which now constitutes the core of the Arctic National Wildlife Refuge. We took care at that time to preserve the authority of the Federal Government to allow oil and gas exploration and production in the coastal plain.

A few years after I came to the Senate in 1968, Congress began a 7-year debate over the status of Federal lands in Alaska. One of the most controversial questions discussed in that debate was whether the coastal plain should be closed permanently to oil and gas leasing and designated as wilderness.

Congress ultimately rejected the idea of closing the coastal plain. Instead, it directed the Secretary of the Interior—in the Alaska National Interest Lands Conservation Act of 1980 [ANILCA]—to conduct a 5-year study of the biological and hydrocarbon resources of the plain. Seismic surveys conducted for this study clearly demonstrate that the plain is the most promising oil and gas prospect on the North American continent—our last hope to discover another supergiant oil field like Prudhoe Bay.

Section 1003 of ANILCA deferred oil and gas leasing in the coastal plain "until authorized by an act of Congress." I hope my colleagues will note the use of the word "until" rather than "unless." The authors of the coastal plain provisions in ANILCA—one of whom was our late colleague, Scoop Jackson—foresaw the energy crisis now developing and knew that our Nation would eventually need access to the plain's resources to ensure our energy security.

The report that Congress mandated in 1980 was submitted to us last month by Interior Secretary Don Hodel. That report authoritatively demonstrates that oil and gas leasing can proceed in the coastal plain without jeopardizing the health of the Porcupine caribou herd or the other living resources of the plain.

Mr. President, it is now time to fulfill Congress' 1980 mandate by establishing an environmentally sound leasing program in the ANWR coastal plain. At a time when our reliance on imported oil is rising rapidly, we cannot afford to ignore the contribution that the plain could make to our energy security. I hope that the Senate will consider the bill we are introducing today expeditiously.

By Mr. EXON:

S. 1218. A bill to require that any imported food be labeled to specify the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

IMPORTED FOOD LABELING ACT

● Mr. EXON. Mr. President, today I rise to introduce legislation to require food products which contain imported ingredients to be labeled as such. Under this legislation, if a food product contains one or more imported ingredient and the product contains 10 percent or more by volume of imported ingredients, the product must be labeled to inform the consumer of its imported ingredients.

For several months last year, the amount of food imported into the United States exceeded the amount of food exported from the United States. This shocking statistic reversed years of strong agricultural trade balances in favor of the United States. Agricultural trade has been one of the Nation's top international performers. For years, an annual surplus in this sector helped reduce the impact of deficits in the manufacturing sector.

Since 1981 agricultural exports took a dramatic plunge. This combined with poor economic policies and farm programs have sent rural America into depression era conditions. Not only have exports dropped but imports have grown.

This Nation maintains a relatively open border to imported foods. Advocates of unlimited free trade suggest that the growth of imported foods represents consumer preference. I submit, Mr. President, that most Americans are unaware that they are consuming imported food products. It is not a free choice for a conscience decision.

For free trade to be equated with consumer preference, consumers need to be given the opportunity to choose. That opportunity depends on knowledge.

I plan to pursue this legislation in the context of the 1987 trade bill. This legislation is not protectionist. It represents the essence of free trade. Under the Imported Food Labeling Act, the American consumer will be given the opportunity to make an informed choice.

The United States produces the finest food products in the world. I am confident that given an informed choice, that Americans will freely exercise their preference for home grown American food products.

My legislation is simple and fair. Food products which contain more than 10 percent of imported products should be labeled.

As the Senate moves toward the consideration of a trade bill, I urge my colleagues to study and support this proposal.●

By Mr. LEAHY (for himself and Mr. LUGAR by request)

S. 1219. A bill to assure farmers, ranchers and their cooperatives that the value of their stock in Farm Credit System institutions is protected, to restore System institutions to economic viability and competitiveness for the benefit of U.S. agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CREDIT BORROWER STOCK PROTECTION AND SYSTEM RESTORATION ACT

● Mr. LEAHY. Mr. President, one of the most important tasks facing Congress this year is the development of legislation to assure our Nation's farmers access to credit at reasonable and competitive rates.

The Senate Agriculture Committee has started work on farm credit legislation. Under the chairmanship of Senator BOREN, the Subcommittee on Agricultural Credit has held hearings and will shortly meet to mark up legislation.

A major percentage of the farm credit needed by our farmers is supplied by the institutions of the Farm Credit System. It is imperative that the System institutions be economically viable if they are to continue to carry out their congressionally-mandated role of providing credit to farmers at reasonable and competitive rates.

In 1985 and 1986, Congress enacted legislation designed to strengthen the Farm Credit System. However, it is apparent that more must be done.

Farm Credit System has developed such a legislative proposal. I introduce today, with Senator LUGAR, at the request of the Farm Credit System, legislation developed by the System.

The introduction of the legislation today ensures that the proposal will be considered at the subcommittee markups on farm credit legislation and at the full committee mark up.

I ask unanimous consent that the text of the bill and a summary thereof be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Borrower Stock Protection and System Restoration Act of 1987".

TITLE I—CAPITALIZATION; STOCK PROTECTION

SEC. 101. The Farm Credit Act of 1971 (12 U.S.C. 2001, et seq.) is amended by inserting, after Part E of Title IV, the following new Part:

"PART F—CAPITALIZATION

"SEC. 4.30. CAPITALIZATION OF SYSTEM INSTITUTIONS.—Notwithstanding any other provisions of this Act—

"(a) Each institution of the Farm Credit System operating under title I, II or III of this Act shall, subject to the conditions specified in this section, prescribe, by its board of directors, its bylaws providing for its capitalization. The bylaws adopted under this section shall provide for the classes, par value, and amounts of the institution's stock, the manner in which its stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds.

"(b) For purposes of this section, the term "stock" means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

"(c) The capitalization plan adopted by any System institution under subsection (a)—

"(1) shall enable the institution to meet the permanent capital adequacy standards referred to in subsection (d);

"(2) shall provide for the issuance of voting stock for the purpose of paragraph (3);

"(3) shall require (A) that as a condition to borrow from or through the institution, any borrower who is entitled to hold voting stock shall, at the time a loan is made, acquire at least one share of voting stock, and (B) that, not later than two years after a borrower's loan is repaid in full, any voting stock held by the borrower be converted to non-voting stock;

"(4) shall permit, but may not require, any holder of stock issued before the adoption of any capitalization plan under this section, either to (A) apply such stock at par or book value, as the case may be, against the amount due on the loan and purchase new stock, or (B) exchange such stock for new stock; and

"(5) need not provide for (A) maximum or minimum standards of borrower stock ownership based on a percentage of the borrower's loan, or (B) retirement of stock upon repayment of the loan.

"(d)(1) The Farm Credit Administration shall issue regulations that implement the provisions of this section by establishing for all System institutions minimum permanent capital adequacy standards in accordance with generally accepted accounting principles to be phased in over a period of seven years after the date of enactment of this section.

"(2) During the seven-year period specified in paragraph (1), the Farm Credit Administration may not initiate any receivership, conservatorship, liquidation, or other similar regulatory or supervisory actions against any System institution for failure to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the board of directors of the Federal Farm Credit Assistance Board.

"(3) To the extent the provisions of this subsection and of section 4.3 are inconsistent, the provisions of this subsection shall prevail.

"(e) For purposes of this section, the term "permanent capital" means current year retained earnings, all surplus, allowance for losses of the institution, and all stock issued by a System institution, except stock that (1) may be retired by the holder thereof upon repayment of the holder's loan, or otherwise at the option or request of the holder, or (2) is protected under section 4.37 or is otherwise not at risk.

"(f) The board of directors of any System institution shall not reduce permanent capital through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities while the permanent capital of the institution fails to meet the standards as established under subsection (d), or that would cause the permanent capital to fail to meet such standards: *Provided, however,* That any System institution which is exempt from Federal income tax may pay patronage refunds without regard to the prohibition in this section if the entire refund paid qualifies as permanent capital: *Provided further,* That any System institution which is subject to Federal income tax may pay patronage refunds partially in cash so long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(g) Except as provided in subsection (d)(2), failure of any System institution to adopt and administer a capitalization plan under this section that will cause the institution to meet the standards established under subsection (d), or failure of the board of directors of a System institution to comply with subsection (f) shall subject the institution or the board of directors, as the case may be, to enforcement action by the Farm Credit Administration under section 4.3 and Part C of title V.

"(h) Nothing in this section shall affect the provisions of titles I, II, and III of this Act that confer upon System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted loan.

"(i) To the extent that any provisions of this section and the provisions of title I, II, or III are inconsistent, as they apply to any System institution or borrower in connection with capitalization, the provisions of this section shall prevail.

"SEC. 4.31. OPTIONAL VOTING RIGHTS.—Subject to the provisions of section 4A.0, upon approval of its stockholders on the basis of one-man-one-vote, the board of directors of a System institution may adopt bylaws providing for voting rights of holders of voting stock in the institution on a basis other than one-man-one-vote: *Provided,* That each holder of voting stock shall be entitled to at least one vote in the election of directors and in deciding questions at meetings of stockholders.".

SEC. 102. Section 101 shall become effective upon enactment and any regulation of the Farm Credit Administration under section 4.3 existing on that date shall be null and void. The Farm Credit Administration shall issue regulations for the implementation of section 101 not later than 180 days after the date of enactment.

SEC. 103. The Farm Credit Act of 1971 (12 U.S.C. 2001, et seq.) is amended by striking out the heading "PART F—MISCELLANEOUS" that follows section 4.29 and inserting in lieu thereof the heading "PART G—MISCELLANEOUS".

SEC. 104. The Farm Credit Act of 1971 (12 U.S.C. 2001, et seq.) is amended by adding after section 4.36 the following new section:

"SEC. 4.37. PROTECTION OF BORROWER STOCK.—(a) Notwithstanding any other provision of this Act, during the period beginning on the date of enactment of this section, and ending on the later of seven years after that date, or in the case of allocated equities the date specified for their revolvement under a revolving cycle established by the issuing System institution before the date of enactment of this section—

"(1) any borrower stock in any institution of the Farm Credit System shall, when it is retired as provided in the Act, be retired at par value. Borrower stock, the par value of which is protected by this section, includes (A) borrower stock that is outstanding as of the date of enactment of this section, including borrower stock that was frozen after January 1, 1983, in connection with the liquidation of certain Farm Credit System institutions, and (B) borrower stock that is issued after the date of enactment, but does not include borrower stock that is issued after such date by a System institution under terms and conditions that explicitly, and with full disclosure to prospective holders, provide that the par value of the stock is not protected by this section; and

"(2) if an institution of the Farm Credit System determines that, because of its financial condition, it is unable to retire borrower stock at par value as provided in paragraph (1), it shall so notify the Federal Farm Credit Assistance Board. The Board shall, if it concurs with such determination, (A) pay to that institution, without obligation for repayment, funds adequate to enable it to retire borrower stock at par value, which funds shall be used by the institution exclusively for that purpose, or (B) if that institution is in liquidation, receivership, conservatorship, or similar status, ensure that holders of borrower stock in that institution receive par value therefor.

"(b) For purposes of this section—

"(1) the term "borrower stock" means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities that (i) are issued under this Act by an institution of the Farm Credit System and (ii) are held by persons other than such an institution; and

(2) the term "par value" means par value in the case of stock and face or equivalent value in the case of participation certificates and other equities and interests, except that in the case of equities or interest that are subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, it means par or face value discounted, at a rate to be determined by the institution, to reflect its present value as of the date of retirement.

"(c) Nothing in subsection (a) shall affect the authority of institutions of the Farm Credit System (1) to retire or cancel borrower stock for application against a loan in default, as provided in this Act, or (2) to supply, against any outstanding indebtedness to a System bank arising out of or in connection with a liquidation referred to in subsection (a)(1)(A), the par value of borrower stock frozen in such liquidation.".

TITLE II—FINANCIAL ASSISTANCE THROUGH THE FEDERAL FARM CREDIT ASSISTANCE BOARD

SEC. 201. Congress finds that—

(1) The Farm Credit Amendments Act of 1985 was designed to give the Farm Credit System the means to marshal its resources to assist its institutions that are suffering severe financial stress;

(2) Controversy continues relating to whether the implementing regulations of the Farm Credit Administration governing assessments are consistent with that legislation, and some System institutions have made substantial contributions under System loss-sharing agreements voluntarily entered into before enactment of the 1985 legislation;

(3) System banks are agreeable to an adjustment of prior assessments and contributions that will resolve the ongoing controversy on a fair and equitable basis;

(4) The Farm Credit System cannot continue to carry out its Congressionally-mandated role of providing credit at reasonable and competitive rates to farmers, ranchers and their cooperatives without temporary financial assistance from the Federal government;

(5) It is appropriate to provide a line of credit to the Farm Credit System, to be metered out as necessary through a new independent board under the control of directors, the majority of whom are senior officials of the United States; and

(6) The principal purpose of the new board should be to provide financial assistance as necessary to protect the stock of the

borrower-owners of Farm Credit System institutions and to restore System institutions to a level of economic viability that will enable them to continue to provide credit to farmers, ranchers and their cooperatives at reasonable and competitive rates.

Sec. 202. Part D1 of the Farm Credit Act of 1971 (12 U.S.C. 4.28A-4.28L) is amended, effective October 1, 1987, to read as follows:

"Part D1—Federal Farm Credit Assistance Board

"Sec. 4.28A. Creation of Board.—For the purpose of carrying out the responsibilities prescribed in this Part, there is hereby created, effective October 1, 1987, a body corporate to be known as the Federal Farm Credit Assistance Board (referred to in this Act as the "Assistance Board") which shall be an independent agency and instrumentality of the United States.

"Sec. 4.28B. Purposes.—The primary purposes of the Assistance Board are—

"(1) to the extent necessary to carry out its responsibilities under this Part, to obtain funds from the Secretary of the Treasury and to use such funds to protect the stock of borrowers of the institutions of the Farm Credit System, as provided in section 4.37, and to assist in restoring System institutions to economic viability and permitting them to continue to provide credit to farmers, ranchers, and their cooperatives at reasonable and competitive rates; and

"(2) to receive funds paid by System institutions under section 4.28P and use such funds to repay any assistance made available to the Board by the Secretary of the Treasury.

"Sec. 4.28C. Board of Directors.—"(a) The Board of Directors of the Assistance Board shall be composed of seven members, as follows—

"(1) the Secretary of the Treasury;

"(2) the Secretary of Agriculture;

"(3) the Chairman of the Board of Governors of the Federal Reserve System;

"(4) the Chairman of the Farm Credit Administration Board; and

"(5) three members elected by the institutions of the Farm Credit System.

"(b) For the purposes of this Part, the board members designated in subsections (a)(1) through (4) are referred to as 'public members,' and the board members described in subsection (a)(5) are referred to as 'elected members.'

"(c) The elected members shall—

"(1) serve a term of three years, except that, with respect to the elected members first chosen under this section, one shall serve an initial term of one year, one an initial term of two years, and one an initial term of three years, or until their successors are duly elected and qualified.

"(2) be nominated and elected by the System banks as provided in the bylaws of the Assistance Board subject to the following—

"(A) to be eligible to serve on the Board, an individual shall be a citizen of the United States;

"(B) each System bank shall have the right to cast one vote for purposes of this subsection; and

"(C) no individual may be disqualified from being a candidate for election to or a member of the board by reason of the fact that the individual is a director, officer, or employee of a System institution, including a System service organization organized under Part D of title IV.

"(d) The board of directors shall, on an annual basis, elect a chairman from among its public members.

"(e) Elected members of the board may succeed themselves.

"(f) Vacancies on the board among elected members shall be filled in the same manner as the position has originally been filled.

"Sec. 4.24D. Compensation of Board Members.—The public members of the board shall receive no compensation for serving on the board, and the elected members of the board shall be compensated for the time devoted to meetings and other activities of the board at a daily rate not to exceed the daily rate of compensation prescribed for level IV of the Executive Schedule under section 5315 of title V of the U.S. Code. Members of the board shall receive reasonable allowances for necessary expenses of travel, lodging and subsistence incurred in attending meetings and other activities of the board at a level not in excess of the maximum level fixed by Title 5 of the United States Code for officers and employers of the United States.

"Sec. 4.28E. Oath.—Each elected member of the board shall, within fifteen days after the date of election, subscribe to the oath of office.

"Sec. 4.28F. Board Procedures; Regulations.—(a) The board of directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(b) The Assistance Board may issue such regulations as it deems necessary or appropriate to implement the provisions of this Part.

"Sec. 4.28G. Chief Executive Officer of the Assistance Board.—The chief executive officer of the Assistance Board shall be selected by the board of directors of the Board and shall serve at the pleasure of the Board.

"Sec. 4.28H. Officers and Employees.—The officers and employees of the Assistance Board shall be considered to be officers or employees of the United States, and the provisions of title V of the United States Code applicable to such officers and employees shall apply to the officers and employees of the Board.

"Sec. 4.28I. General Corporate Powers.—(a) The Assistance Board shall be a body corporate and shall have the power to—

"(1) operate under the direction of its board of directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such other officers, employees, and agents as the board of directors may deem necessary, and define their duties;

"(4) prescribe by its board of directors its bylaws, not inconsistent with law, which shall provide for the manner in which its officers, employees, and agents are selected; its property is acquired, held, and transferred; its general business is conducted; and the privileges granted by law are exercised and enjoyed;

"(5) enter into contracts;

"(6) sue and be sued in its corporate name and complain and defend in any court of competent jurisdiction, State or Federal;

"(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property necessary for the conduct of its business;

"(8) authorize, through its board of directors, the issuance and sale of non-interest-bearing obligations to the Secretary of the Treasury;

"(9) accept, manage, and invest funds paid by System institutions to the Board; and

"(10) deposit its current funds with any member of the Federal Reserve System or any insured State non-member bank as defined in section 2 of the Federal Deposit Insurance Act, and pay fees therefor and receive interest thereon as may be agreed.

"(b) The Assistance Board shall have such other incidental powers as may be necessary to carry out its purposes, powers, and responsibilities under this Part.

"Sec. 4.28J. Specific Corporate Powers.—The Assistance Board shall use its general powers to—

"(1) assist, as provided in section 4.37, in protecting borrower stock issued by System institutions;

"(2) facilitate, as provided in sections 4.28K and 4.28L, the adjustment of assessments made by the Farm Credit System Capital Corporation and contributions made by certain System institutions under capital preservation (loss-sharing) agreements;

"(3) accept, as provided in section 4.28M, payments from the banks of the Farm Credit system;

"(4) administer, as provided in section 4.28N, the completion of the transactions specified in paragraphs (1) through (3);

"(5) furnish, as provided in section 4.28O, financial assistance to System institutions;

"(6) obtain, as provided in section 4.28Q, funds necessary to carry out its responsibilities under this Part; and

"(7) recommend or concur in, as provided in section 4.30(d)(2), certain enforcement actions by the Farm Credit Administration.

"Sec. 4.28K. Adjustment of Assessments by Capital Corporation.—Any required purchase or assessment of the Farm Credit System Capital Corporation taken before the date of enactment of this Part for the purpose of obtaining funds to make financial assistance available to system institutions is hereby rescinded and funds, if any, obtained by the Corporation through required purchase or assessment shall be refunded to the contributor institutions.

"Sec. 4.28L. Adjustment of Loss-Sharing Contributions.—Any amounts paid or that remain accrued, by contributor institutions to other System institutions on or after December 23, 1985, under System bank capital preservation (loss-sharing) agreements, shall be repaid to contributors or reversed, as the case may be.

"Sec. 4.28M. Payments by System Banks.—(a) Each of the 37 banks of the Farm Credit system shall pay to the Assistance Board funds equal to the amount by which its unallocated retained earnings (taking into account any adjustments under sections 4.28K and 4.28L) as of December 31, 1986, exceed five percent of its net loans (its total loans outstanding less allowances for losses): *Provided*, That in no event shall the amount to be paid by any bank under this section exceed any amounts paid or remaining accrued by the bank under System bank capital preservation (loss-sharing) agreements, as described in section 4.28L.

"(b) The Assistance Board shall, as soon as practicable after the date of enactment of this Part, notify each bank of the amount to be paid under this section.

"Sec. 4.28N. Completion of Transactions.—(a) Not later than 30 business days after the Assistance Board notifies the banks under section 4.28M of the amounts payable to it, the following shall take place under the administration of the Assistance Board and with the cooperation and coordination of system banks, the Farm Credit Administration, and the Secretary of the

Treasury, and, insofar as practicable, by simultaneous transactions—

"(1) the adjustments specified in sections 4.28K and 4.28L; and

"(2) payments of the System banks to the Assistance Board of the amounts determined under section 4.28M.

"(b) Compliance by a System bank with the provisions of subsection (a) shall be deemed to constitute compliance in full by the bank with any requirements of this Act pertaining to that bank's making financial assistance available to other System institutions, and the bank and any association(s) that it supervises shall not be required to make any additional financial assistance available to any other System institution.

"(c) Payments or adjustments made by a System bank as provided under subsection (a) shall be considered ordinary operating expenses of the banks.

"SEC. 4.28O. ASSISTANCE TO SYSTEM INSTITUTIONS.—(a) The Assistance Board shall assist System institutions whose financial condition, as determined by the Board, would not permit them to continue to carry out their responsibilities under this Act but for such assistance, by one or more of the following—

"(1) paying them amounts necessary to bring their borrower stock out of an impaired condition, as determined under generally accepted accounting principles;

"(2) with respect to non-accrual loans and acquired property held by such System institutions, paying them amounts equal to the difference between the book value (net of allowance for loss) of such loans and property and the estimated amount that can be realized upon disposition of such loans and property, together with an amount necessary to carry such loans and property for two years, all as determined by the Assistance Board;

"(3) with respect to the high-cost debt for which System banks are primarily liable, paying them an amount equal to the premium that would be required by the holder of the debt for those banks to retire such debt at current market value. For purposes of this paragraph, the term "high-cost debt" means securities or similar obligations issued prior to January 1, 1986, having a maturity date of December 31, 1987 or later, and bearing a rate of interest in excess of the current market rate for similar securities; and

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) The Assistance Board shall prescribe reasonable terms and conditions for providing assistance of the type described in subsection (a) which are consistent with prudent business practices that will achieve the purposes for which the Assistance Board was created.

"(c) The Assistance Board shall pay to a System institution amounts the Board determines necessary to permit the institution to retire borrower stock at par value as provided in section 4.37, if assistance furnished under subsection (a) is not adequate to permit it to do so or if no assistance is provided to it under that subsection because of the provisions of section 4.28S(a).

"(d) Any System institution receiving funds under this section shall have no obligation to repay them, except that each System bank shall pay amounts specified in section 4.28P.

"SEC. 4.28P REPAYMENT OF FEDERAL FINANCIAL ASSISTANCE.—(a) Each System bank shall pay to the Assistance Board, by no later than March 30th of each year, beginning with March 30, 1989, an amount equal to two-tenths of one percent of the average of the volume of accruing loans outstanding at the end of each quarter of the preceding year until all amounts received by the Board from the Secretary of the Treasury for the purposes of this Part, including protection of borrower stock, are repaid in full.

"(b) The Assistance Board shall use funds paid to it by System banks under subsection (a) to repay the Secretary of the Treasury under such procedures, terms, and conditions as the Board may prescribe.

"(c) Payments made by a System bank under subsection (a) shall be considered ordinary operating expenses of the bank.

"(d) A System bank may, but shall not be required to, pay to the Assistance Board, for purposes of this section, an amount exceeding the amount prescribed by subsection (a), and any such payment made shall be considered an ordinary operating expense of the bank.

"SEC. 4.28Q. OBTAINING TREASURY FUNDS.—(a) The Assistance Board shall, from time to time, by sale of its obligations to the Secretary of the Treasury or by such other means as may be agreed to by the Board and the Secretary, obtain from the Secretary funds in amounts that, in total, shall not exceed the amount specified in section 203 of the Farm Credit Borrower Stock Protection and System Restoration Act of 1987, for use in carrying out the responsibilities of the Board under this Act, including the payment of its operating expenses.

"(b) The Secretary of the Treasury shall make funds available to the Assistance Board as provided in subsection (a) upon certification to the Secretary by the board of directors of the Board that designated amounts are necessary to permit the Board to carry out its responsibilities under this Act.

"(c) The Assistance Board may, at its discretion, use the revolving funds made available to it by section 4.0 for the purpose specified in subsection (a).

"SEC. 4.28R. AUTHORITY OF THE SECRETARY OF THE TREASURY.— (a) The Secretary of the Treasury shall purchase obligations of the Assistance Board and otherwise make funds available to the Board as provided in section 4.25Q, and for such purpose the Secretary of the Treasury may use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such provisions. The Secretary of the Treasury, at any time, may sell, on such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public-debt transactions of the United States.

"(b) Each purchase of obligations by the Secretary of the Treasury or other transactions used to make funds available to the Assistance Board under this section shall be on such terms and conditions as shall be prescribed by the Assistance Board, taking into the consideration the purpose of the Board in protecting the stock of borrowers of Farm Credit System institutions, and assisting in restoring the economic viability of such institutions to permit them to continue to make credit available to farmers, ranchers, and their cooperatives at reasonable and competitive rates.

"SEC. 4.28S. LIMITATION OF POWERS.—(a) The Assistance Board shall not make any assistance available to a System institution under section 4.28*O*(a) if the Board determines that the costs of making such assistance available to the institution exceed the costs that would be incurred in connection with liquidating the institution.

"(b) Nothing in this Part shall be construed as precluding System banks from terminating capital preservation (Loss-sharing) agreements;

"(c) Except as provided in section 4.28*O*(b), the Assistance Board shall have no powers of supervision or regulation over the institutions of the Farm Credit System; and

"(d) The Assistance Board shall not engage in lending, or in ownership or management of loans of agricultural real estate or other property, real or personal, that secures loans.

"SEC. 4.28T. INDEPENDENCE OF ASSISTANCE BOARD.—The Assistance Board shall not be subject to the supervision or regulation by the Farm Credit Administration.

"SEC. 4.28U. AUDIT.—The books, records, and accounts of the Assistance Board shall be audited annually by the Comptroller General.

"SEC. 4.28V. REPORTS.—The Assistance Board shall, no later than January 30, 1989, and annually by January 30 of each year thereafter, report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on (1) the activities of the Board during the preceding calendar year and the effect of such activities on the financial condition of the institutions of the Farm Credit System, and (2) the progress made by such institutions in achieving restoration of their financial viability.

"SEC. 4.28W. TERMINATION.—The powers of the Assistance Board under this Part shall terminate upon the fulfillment of the responsibilities of the Board under this Act.".

SEC. 203. Notwithstanding any other provision of law, the authority of the Secretary of the Treasury to purchase obligations of the Federal Farm Credit Assistance Board or otherwise make funds available to the Board to permit it to carry out its responsibilities under the Farm Credit Act of 1971 may be exercised, without regard to fiscal year limitation, in a total amount not to exceed $6,000,000,000, in order to protect the stock of owner-borrowers of the Farm Credit System and to provide financial assistance to the System to ensure that credit at reasonable and competitive rates remains available to farmers, ranchers, and their cooperatives.

TRANSITIONAL PROVISIONS

SEC. 204.(a) Until the elected members of the board of directors of the Federal Farm Credit Assistance Board (referred to in this section as the "Assistance Board") are elected and qualified as provided in Part D1 of Title IV of the Farm Credit Act of 1971, as amended by this Act, the three elected members of the board of directors of the Farm Credit System Capital Corporation chartered under Part D of title IV of such Act prior to its amendment by this Act (referred to in this section as the "Capital Corporation") shall serve as the elected members of the board of directors of the Assistance Board.

(b)(1) The Capital Corporation shall after the date of the creation of the Assistance Board continue to function under the authority of its charter and the provisions of Part D1 of Title IV of the Farm Credit Act of 1971, prior to its amendment by this Act, for such period of time as is reasonably necessary to terminate its affairs in an expeditious but orderly manner.

(2) Subject to the direction of the Assistance Board, the Capital Corporation shall convey on terms and conditions specified by the Assistance Board, any loan or loan related assets previously acquired from particular System institutions to those institutions and shall restore to System institutions the full responsibility for the management and administration of nonperforming loans and acquired property that originated with them.

(3) Any net assets remaining following the transfers described in paragraph (2) shall be distributed to the System banks that are shareholders of the Capital Corporation: *Provided*, however, That if the value of the net assets remaining is less than the capital contributed to the Capital Corporation by the System banks, the Assistance Board shall make funds available to the Capital Corporation in order to ensure that the liquidating distribution is not less than the capital contributed to the Corporation by the banks.

(c) Nothing in this section shall be construed as authorizing the Capital Corporation to require any purchase or to take any further assessment action with respect to System institutions for the purpose of making financial assistance available to other System institutions.

(d) The termination of the Capital Corporation shall be completed by December 31, 1988, and its authorities under this section shall terminate and its charter shall be revoked by the Farm Credit Administration as of such date.

CONFORMING AMENDMENTS

SEC. 205. The Farm Credit Act of 1971 (12 U.S.C. 2001, et seq.) is amended by—

(1) amending section 4.0 to read as follows:

"SEC. 4.0. REVOLVING FUNDS.—The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, and the revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, and continued by Public Law 96-592, shall be available to the Federal Farm Credit Assistance Board for use in providing financial assistance to institutions of the Farm Credit System under Part D.".

(2) striking out section 4.1;

(3) in section 4.4, striking out subsection (c); and

(4) in section 5.17 (a), striking out paragraph (8).

TITLE III— STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS TO IMPROVE OPERATING EFFICIENCY

SEC. 301. The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by inserting after Title IV the following new title:

"TITLE IVA—STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS TO IMPROVE OPERATING EFFICIENCY

"PART A—MERGER OF BANKS WITHIN A DISTRICT

"SEC. 4A.0. POWER TO MERGE.—Upon the approval of a plan of merger by their respective boards of directors and a majority vote for the merger cast by their voting stockholders and contributors to their guaranty funds, two or more banks within a district may merge into a single entity (hereinafter referred to as a 'merged bank'). Notwithstanding any voting provisions adopted pursuant to section 4.31, the required vote of stockholders and contributors to guaranty funds under this section shall be both (1) a majority vote in accordance with the one-man-one-vote provisions of section 5.2 relating to elections of directors of district boards and (2) a majority of the total equity interests in each bank (including allocated, but not unallocated, surplus and reserves) held by its voting stockholders and subscribers to its guaranty fund.

"SEC. 4A.0.1. BOARD OF DIRECTORS FOR THE DISTRICT.—Following a merger pursuant to section 4A.0, the district board of directors shall continue to be composed of seven members as provided in section 5.1. The members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2, except that the plan of merger may specify different procedures for the election of directors by the stockholders of the merging banks.

"SEC. 4A.1. POWERS OF MERGED BANKS.—A merged bank shall have all of the powers granted by this Act to, and, except as otherwise provided by this title, shall be subject to all of the obligations, including those imposed by this Act, of any of its constituent entities. The manner in which the powers and obligations of the constituent entities are consolidated and, to the extent necessary, reconciled in the merged bank shall be provided in regulations issued by the Farm Credit Administration. If the plan of merger so provides, a merged bank formed by a merger of a Federal intermediate credit bank and another bank or banks shall also have the power granted under this Act to production credit associations to make direct loans to eligible borrowers.

"SEC. 4A.2. CAPITAL STOCK.—(a) The number of shares of capital stock issued pursuant to a merger by a merger bank to stockholders and other owners of any constituent entities and the classes and rights and privileges (including voting power, redemption rights, preferences upon liquidation, and the right to dividends) of such shares shall, subject to the requirements of section 4.30(c)(3), be determined by the plan of merger adopted by the constituent entities.

"(b) The number of shares of capital stock, and the classes and rights and privileges thereof, issued by a merged bank after a merger shall be determined by the plan of capitalization adopted by the board of directors of such merged bank pursuant to section 4.31.

"(c) Voting stock of a merged bank shall be held only by associations or cooperatives that were entitled to hold voting stock of one of the merged bank's constituent entities, or by farmers, ranchers, or producers of aquatic products that are or were direct borrowers from the merged bank or one of its constituent entities.

"(d) Where used in this title, the term 'capital stock' shall include participation certificates where appropriate.

"SEC. 4A.3. EARNINGS, RESERVES, AND DISTRIBUTIONS.—Subject to the requirements of section 4.30, the board of directors of a merged bank shall provide, in the plan of merger (which can include bylaws of the merged bank) or otherwise, for the application of net earnings after payment of operating expenses. Such application may include restortation of the impairment, if any, of capital stock. Thereafter, it may include, but not necessarily in the following order, additions to an allocated reserve account; additions to an unallocated reserve account; payment of dividends on capital stock; and payment of patronage refunds in cash or in stock or other notices of allocation. All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the board of directors shall determine, without regard to the activities giving rise to such earnings.

"PART B—MERGER OF LIKE BANKS IN DIFFERENT DISTRICTS

"SEC. 4A.4. POWER TO MERGE.—Upon approval of a plan of merger by a majority vote for the merger cast by their voting stockholders and contributors to their guaranty funds in accordance with the voting strength provisions of section 5.2 relating to elections of directors of the district boards or, if applicable, bylaws adopted pursuant to section 4.31, a bank organized or operating under any title of this Act, including Part A of this title (herein the 'merging bank'), may merge with a bank or banks in another district or districts operating under the same title of this Act, and also with a merged bank at least one of the constituent entities of which was either from the same district, or, prior to any merger under this title, operated under the same title of this Act, and possessed the same powers, as the merging bank. A stockholders' meeting for the purpose of voting upon such a plan of merger shall be called by the directors of a bank upon the written request of stockholders possessing not less than 25 percent of the voting power of the outstanding stock. For purposes of this section, the Central Bank for Cooperatives shall be deemed a bank for cooperatives in another district the voting stockholders of which are the district banks for cooperatives.

"SEC. 4A.5. BOARD OF DIRECTORS FOR MERGED BANKS.—In the event of merger of two or more banks operating in more than one farm credit district, a separate board of directors shall be created for the resulting merged bank. The board thus created shall be composed of two directors elected by each of the district boards involved, at least one of which from each district shall be a member of that district board elected by the eligible stockholders of or subscribers to the guaranty fund of the merging bank from that district, and one director elected by the borrowers at large from the merging banks, determined in a manner consistent with the principles embodied in section 5.2(a)(2)(B). Elections by borrowers at large shall be conducted under procedures established by regulations issued by the Farm Credit Administration that conform as nearly as practicable to the procedures prescribed by section 5.2. Notwithstanding the foregoing, the bylaws of the merged bank which may, but need not, be included in the plan of merger, may provide for a different number of directors, or a different manner for selecting directors, or both. The board so constituted shall have such separate and distinct powers, functions, and duties related to the operations and policies of the banks which were merged as are normally exercised by a district board. Where all of the banks of a district merge with all of the banks of another district or districts, the boards of directors of the merging banks shall be consolidated into a single board in a manner and under procedures agreed upon by the merging banks.

"SEC. 4A.5.1. BOARD OF DIRECTORS FOR THE DISTRICT.—After a merger described in section 4A.4, the district board shall consist of two members elected by the stockholders of each remaining bank in the district and one member elected by the borrowers at large in the district (voting stockholders of a remaining bank or of its associations). Such election shall be conducted pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2. A merging bank shall no longer be represented on the board of the district of its origin.

"SEC. 4A.6. POWERS, CAPITAL STOCK, AND APPLICATION OF EARNINGS.—The provisions of sections 4A.1, 4A.2, and 4A.3 shall apply to the institution resulting from a merger under section 4A.4.

"PART C—MERGERS OF, AND TRANSFERS OF ASSETS AND POWERS BY OR TO, ASSOCIATIONS WITHIN A DISTRICT

"Subpart 1. Transfers by Production Credit Associations to Banks

"SEC. 4A.7. Transfer of Loan-related Assets and Lending Authority by a Production Credit Association to the Federal Intermediate Credit Bank or to a Merged Bank of which the Federal Intermediate Credit Bank was a Constituent Entity.

"(a) Upon agreement of their respective boards of directors, and approval by a vote of a majority of the voting power represented by stockholders of the association present and voting or voting by written proxy at a duly authorized meeting, a production credit association may assign to the Federal intermediate credit bank, or to a merged bank one of the constituents of which was the Federal intermediate credit bank, in the district, and that bank may assume, the authority conferred upon the production credit association by this Act to make and participate in loans and related authorities. The production credit association may also transfer to the bank for such consideration as may be agreed upon part or all of the association's loan portfolio or other assets, or both.

"(b) After a transfer described in subsection (a) of this section, the bank shall have all of the direct loan authority under this Act formerly possessed by the transferring production credit association in the territory served by the association.

"Subpart 2. Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 4A.8. Transfers of Lending Authority by a Federal Land Bank, or a Merged Bank of which a Federal Land Bank was a Constituent Entity, to a Federal Land Bank Association.

"(a) Upon agreement of their respective boards of directors, and approval of the transfer by a majority vote cast by the voting stockholders of the bank and of the association in accordance with the voting provisions of sections 4.4 and 4.7 of this Act, respectively, applicable to each, a Federal land bank or a merged bank of which a Federal land bank was a constituent entity may assign to a Federal land bank association, and the association may assume, the transferring bank's authority in the geographical area served by the association to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9.

"(b) After a transfer described in subsection (a) of this section, (1) the Federal land bank association shall have all of the direct long-term real estate mortgage loan authority formerly possessed by the transferring bank in the territory served by the association, and (2) the Federal land bank may make loans and extend other similar financial assistance to, and to discount for or purchase from, the transferee Federal land bank association any note, draft or other obligation with its endorsement or guarantee, the proceeds of which note, draft or other obligation have been advanced to persons and for purposes eligible for financing by the association under subsection (a) of this section.

"Subpart 3. Merger of Associations Into Banks

"SEC. 4A.9. POWER TO MERGE.—Upon approval of plan of a merger by their respective boards of directors, and a majority vote for the merger cast by the voting stockholders of the bank and of the association in accordance with the voting provisions of sections 4.4 and 4.7 of this Act, respectively, applicable to each, a production credit association or a Federal land bank association may merge into its supervising bank.

"SEC. 4A.10. POWERS OF THE BANK AFTER MERGER.—Upon merger under this subpart, the bank shall have all of the powers granted by this Act to, and, except as otherwise provided by this title, shall be subject to all of the obligations, including those imposed by this Act, of any of its constituent entities. The manner in which the powers and obligations of the constituent entities are consolidated and, to the extent necessary, reconciled in the merged bank shall be provided in regulations issued by the Farm Credit Administration.

"SEC. 4A.11. CAPITAL STOCK.—(a) The number of shares of capital stock issued by the bank in the merger to stockholders of the merged association and the classes and rights and privileges (including voting power, preferences upon liquidation, and the right to dividends) of such shares shall be determined by the plan of merger adopted by the bank and the association.

"(b) After the merger, the bank may issue voting stock to farmers, ranchers, or producers of aquatic products who are direct borrowers in the territory formerly served by the association.

"(c) After the merger, the nomination and election of district directors shall continue to be governed by section 5.2, or, as the case may be, bylaws adopted pursuant to section 4.31.

"Subpart 4. Merger of Like and Unlike Associations

"SEC. 4A.12. PREREQUISITE TO MERGERS OF ASSOCIATIONS.—There shall be no merger of one or more production credit associations with one or more Federal land bank associations until either the direct lending authority of each of the merging production credit associations has been vested in its supervising bank under section 4.1 or transferred to such bank under section 4.7; or the bank supervising the Federal land bank association has transferred all of its direct lending authority to such associations under section 4.8; and no merger of any associations unless all such associations are supervised by the same bank.

"SEC. 4A.13. MERGER OF ASSOCIATIONS.—(a) Upon compliance with the provisions of section 4.12, if applicable, and upon approval of a plan of merger by their respective boards of directors, approval by a vote of a majority of the voting power represented by stockholders of each constituent association present and voting or voting by written proxy at a duly authorized meeting, and approval of the supervising bank, two or more associations, whether or not in the same district and whether or not organized under the same title of this Act, may merge into a single entity (hereinafter referred to as a 'merged association').

"(b) A merged association shall have all of the powers granted by this Act to, and, except as otherwise provided by this title, shall be subject to all of the obligations, including those imposed by this Act, of any of its constituent entities. The manner in which the powers and obligations of the constituent entities are consolidated and, to the extent necessary, reconciled to the merged association shall be provided in regulations issued by the Farm Credit Administration.

"(c) The number of shares of capital stock issued by a merged association to stockholders of any constituent association and the classes and rights and privileges (including voting power, preferences upon liquidation, and the right to dividends) of such shares shall be determined by the plan of merger adopted by the constituent associations. The number of shares of capital stock, and the classes and rights and privileges thereof, issued by a merged association after a merger shall be determined by the plan of capitalization adopted by the board of directors of such association pursuant to section 4.30, with the approval of the supervising bank. Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers of aquatic products who are or were direct borrowers from one of the constitutent associations or its supervising bank.

"(d) Subject to the approval of the supervising bank and the requirements of section 4.30, the board of directors of a merged association shall provide, in the bylaws of the association or otherwise, for the application of net earnings after payment of operating expenses. Such application may include restoration of the impairment, if any, of capital stock. Thereafter, it may include, but not necessarily in the following order, additions to an allocated reserve account; additions to an unallocated reserve account; payment of dividends on capital stock; and payment of patronage refunds in cash or in stock or other notices of allocation. All capital and retained earnings of a merged association shall be available for such use in the activities of the association as the board of directors shall determine, without regard to the activities giving rise to such earnings.

"PART D.—SERVICE ORGANIZATIONS

"SEC. 4A.14. MERGER OF SERVICE ORGANIZATIONS.—Upon the approval of a plan of merger by their respective boards of directors and a majority vote for the merger cast by their voting stockholders, two or more service organizations organized under section 4.25 may merge or consolidate into a single entity which shall have such powers and authorities, not inconsistent with the provisions of this Act, as may be set forth in its charter.

"PART E.—APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS BY THE FARM CREDIT ADMINISTRATION

"SEC. 4A.15.—PRIOR APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS BY THE FARM CREDIT ADMINISTRATION.—(a) After their approval, if required, by the boards of directors of the constitutent entities and prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such entities for their vote, plans of merger and plans for the transfer of lending authority under any section of this title shall be submitted to the Farm Credit Administration, together with all information that is to be distributed to the voters with respect to the contemplated merger or transfer. Within 60 days from the receipt of such submission, the Farm Credit Administration shall notify the submitting entities whether the Farm Credit Administration has determined that the information submitted fails adequately to disclose all material facts relevant to the vote. Upon notification that the Farm Credit Administration finds no deficiencies in the disclosure, or upon the expiration of 60 days without action by the Farm Credit Administration, the submitting entities may submit the plan of merger or transfer, together with the disclosure information, to their voters for the prescribed vote.

"(b) If the Farm Credit Administration determines that the disclosure information is inadequate, its notification to the submitting entities shall specify the reasons for its determination. In that event, the plan of merger or transfer shall not be submitted to the voters for a vote until the Farm Credit Administration determines that the deficiencies in disclosure have been remedied.

"(c) Plans of merger and plans for the transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity, and the Farm Credit Administration shall issue such charter upon the approval of the plan as prescribed in this title unless it determines that such charter is not consistent with the provisions of this title.

"(d) Except as provided in subsection (a) of this section, mergers and transfers of lending authority shall not be subject to prior approval by the Farm Credit Administration.

"PART F.—TAXATION

"Sec. 4A.16 TAXATION OF MERGED BANKS AND ASSOCIATIONS.—(a) In the case of any entity resulting from the merger of—

"(1) A Federal intermediate credit bank and a Federal land bank,

"(2) merged entities the constituents of which were one or more Federal intermediate credit banks and one or more Federal land banks, or

"(3) one or more Federal land bank associations into a Federal land bank or into a merged bank the constituents of which were one or more Federal land banks and one or more Federal intermediate credit banks,

that entity, the capital, reserves and surplus thereof, and the mortgages and other obligations held by, and the notes, bonds, debentures and other obligations issued by, such entity, together with the income therefrom, shall be exempt from taxation to the extent provided in sections 1.21 and 2.8 for Federal land banks and Federal land bank associations and Federal intermediate credit banks.

"(b) In the case of any entity resulting from a merger in which one or more of the constituents was a production credit association or a bank for cooperatives, that entity and the notes, debentures and other obligations issued by such entity shall be exempt from taxation only to the extent provided in section 2.17 for production credit associations.".

TITLE IV—SECONDARY MARKET FOR AGRICULTURAL LOANS

SEC. 401. The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—FEDERAL FARM CREDIT MORTGAGE CORPORATION

"SEC. 6.1. SHORT TITLE.

"This title may be cited as the "Federal Farm Credit Mortgage Corporation Act of 1987".

"SEC. 6.2. PURPOSE.

"The purposes of this act are (1) to increase the availability of agricultural credit; (2) to stimulate the flow of investment capital into the agricultural sector; and (3) to increase the liquidity and lending capacity of agricultural lenders, by creating the Federal Farm Credit Mortgage Corporation, which will foster, develop and maintain a nationwide secondary market for agricultural loans.

"SEC. 6.3 DEFINITIONS.

"As used in this title—

"(a) The term 'Act' means the Federal Farm Credit Mortgage Corporation Act of 1987.

"(b) The term 'agricultural loan' means—

"(1) an obligation which (i) is secured by a fee-simple or leasehold mortgage with status as a first lien on a parcel or parcels of land located in the United States, which parcel or parcels are used for the production of one or more agricultural commodities or products, and consists of a minimum acreage or produces minimum annual receipts, as determined by the Corporation, and (ii) has such other characteristics and meets such other requirements as to amount, term, repayment provisions, status as a lien and otherwise as may be prescribed by the Corporation, or

"(2) any loan which (i) was originated or purchased by a System member under the Farm Credit Act or which (ii) was not originated by a System member but could have been originated by a System member except for the requirement to purchase stock in the originating institution as a condition of the loan, and includes interests in agricultural loans.

"(c) The term 'Board of Directors' means the Board of Directors of the Corporation.

"(d) The term 'Corporation' means the Federal Farm Credit Mortgage Corporation created by this title.

"(e) The term 'Farm Credit Act' means the Farm Credit Act of 1971, as amended.

"(f) The term 'law' includes any law of the United States or of any State (including any rule of law or of equity).

"(g) The term 'organization' means any corporation, partnership, association, business trust or business entity.

"(h) The term 'prescribe' means to prescribe by regulations or otherwise.

"(i) The term 'property' includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choices in action and agricultural loans, and includes any interest in any of the foregoing.

"(j) The term 'security' has the meaning ascribed to it by section 2 of the Securities Act of 1933.

"(k) The term 'States', whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(l) The term 'System' means the Farm Credit System as defined in section 1.2 of the Farm Credit Act.

"(m) The term 'System banks' means the Federal Land Banks, the Federal Intermediate Credit Banks, the Banks for Cooperatives, and the Central Bank for Cooperatives, and includes any successor in interest to any of the foregoing institutions by merger, reorganization or operation of law.

"(n) The term 'System member' means any institution which is a part of the Farm Credit System.

"SEC. 6.4. ESTABLISHMENT OF THE CORPORATION.

"(a) There is hereby created the Federal Farm Credit Mortgage Corporation, which shall be a body corporate and shall be under the direction of a Board of Directors and which, subject only to the provisions of this Act, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System. The Corporation shall have succession until dissolved by Act of Congress.

"(b) The Corporation shall maintain its principal office in the Washington, D.C.-Maryland-Virginia standard metropolitan statistical area or in such other location as prescribed by its Board of Directors. The Corporation shall also maintain such other offices in the United States as in its judgment are necessary.

"SEC. 6.5. GENERAL CORPORATE POWERS.

"(a) The Corporation shall have power (1) to adopt, alter, and use a corporate seal, which shall be judicially noticed; (2) to make and enforce such bylaws, rules and regulations as may be necessary or appropriate to carry out the purposes or provisions of this Act; (3) to make and perform contracts, agreements, and commitments; (4) to prescribe and impose fees and charges for services by the Corporation; (5) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (6) to sue and be sued, complain and defend, in any State, Federal, or other court; (7) to acquire, take, lease, mortgage, hold, and own, and to deal with and dispose of any property; (8) to conduct its business and activities without regard to any qualification or similar statute in any State; (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence; and (10) to do all things as are necessary, appropriate or incidental to the proper management of its affairs and the proper conduct of its business. Nothing in this Act or any other law shall be construed to prevent the appointment, employment, and provision for compensation and benefits, as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or other instrumentality of the Government, including any System member. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefore, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

"(b) Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. The fiscal agency established pursuant to section 4.9 of the

Farm Credit Act is hereby authorized to act as a depository, custodian, or as a fiscal or other agent of the Corporation to perform the functions prescribed in section 4.9. Any Federal Reserve Bank, any Federal Home Loan Bank, any System member, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation, and each of the foregoing is hereby authorized and, at the request of the Corporation, is hereby directed to act as such depositary, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depository or agent as may be required of it.

"(c) The Corporation, including its franchise, activities, capital, reserves, surplus and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency or possession thereof, or by any State, county, municipality or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal or local taxation to the same extent according to its value as other real property is taxed. The provisions of this subsection shall be applicable without regard to any other law except laws hereafter enacted by Congress expressly in limitation of this subsection.

"(d) Notwithstanding section 1349 of title 28 of the United States Code or any other provision of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and (3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(e) All agricultural loans, obligations, or other securities which are or have been issued, sold or guaranteed by the Corporation pursuant to section 6.8 or section 6.9 of this Act shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

"SEC. 6.6. BOARD OF DIRECTORS.

"(a) The Corporation shall have an initial Board of Directors which shall consist of nine persons, six of whom shall be elected by the System banks and three of whom shall represent the non-System institutions which shall have sold agricultural loans to the Corporation pursuant to section 6.8 of this Act or which shall have issued securities guaranteed by the Corporation pursuant to section 6.9(e) of this Act.

"(b) Directors of System members and full- or part-time System employees shall be eligible for election as directors of the Corporation. No director of the Corporation who is also a full-time employee of a System member shall receive additional compensation for serving on the Board of Directors other than reimbursement for necessary and reasonable expenses in attending meetings of the Board of Directors.

"(c) Pursuant to such terms, conditions and procedures as the Corporation may prescribe, non-System institutions which shall have sold agricultural loans to the Corporation or which shall have issued securities guaranteed by the Corporation shall be entitled to vote for the directors who represent such institutions. The six initial directors which represent the System members shall, at the initial meeting of the Board of Directors, elect three interim directors to represent the non-System institutions. These interim non-System directors will serve for an initial period to be determined by the six initial directors who represent the System members. Upon determination by the Board of Directors that voting rights for the election of the directors who represent non-System institutions have become sufficiently dispersed to permit representative elections, non-System institutions shall be entitled to elect the non-System directors.

"(d) Other than the interim non-System Board directors elected pursuant to section 6.6(c) of this Act, all directors shall serve three-year terms except as may be necessary to provide shorter terms for a sufficient number of directors during an initial period in order to stagger the terms of directors such that two directors are elected by System banks for each one director elected by non-System institutions in each year.

"(e) The Board of Directors shall have the authority to increase the number of directors to twelve or fifteen, provided that the ratio of two directors elected by System banks for each director elected by non-System institutions is maintained.

"(f) The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(g) Subject to the provisions of this section, the bylaws of the Corporation shall prescribe the procedures under which directors of the Corporation will be nominated and elected.

"(h) Members of the Board of Directors may succeed themselves and may serve until their successors are duly seated. Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled except that, if a seat with an unexpired term of one year or less becomes vacant, it shall be filled by vote of the Board of Directors but only for the unexpired portion of the term and only by a representative of the type of institution whose seat has become vacant.

"(i) Subject to section 6.6(b) of this Act, directors shall receive reasonable compensation for attending meetings of the Board of Directors, and shall also receive reasonable allowances for their necessary expenses.

"SEC. 6.7. COMMON AND PREFERRED STOCK.

"(a) The Corporation shall have at least one class of common stock which shall be issued to and held by only the System banks, which shall have such par value and such other characteristics as the Corporation prescribes, and which shall be designated as Class A common stock. Each share of Class A common stock shall be entitled to one vote at all elections of directors. Class A common stock shall be evidence in such manner and shall be transferable only to such extent, to such transferees, and in such manner, as the Corporation prescribes. The amount of the initial capitalization of the Corporation shall be determined by the Board of Directors and shall be provided by requiring each System bank to purchase an equal number of shares of Class A common stock for such price, not less than par, as shall be determined by the Board of Directors. The initial price per share of Class A common stock shall be fixed by the Board of Directors and shall be paid by each System bank upon the call of the Corporation. Shares of Class A common stock in excess of the required initial subscription may be offered to System banks on such terms and conditions as the Board of Directors may determine. The Corporation may require each System bank which sells agricultural loans to the Corporation pursuant to section 6.8 of this Act or which issues securities guaranteed by the Corporation pursuant to section 6.9(e) of this Act to purchase, based upon the nature and volume of the System bank's transactions with the Corporation, such number of shares of Class A common stock for such prices as the Corporation may from time to time determine.

"(b) The Corporation is authorized to issue such additional classes of nonvoting common stock and such class or classes of nonvoting preferred stock having such par value, such number of authorized shares and such other characteristics as shall be determined by the Board of Directors from time to time. Dividends may be declared and paid on the Class A common stock, on other classes of common stock and on preferred stock as may be determined by the Board of Directors. Any common stock or preferred stock issued pursuant to this subsection shall be freely transferable, except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

"(c) The Corporation may retire at any time all or any part of the Class A common stock of the Corporation, or may call for retirement all or any part of the Class A common stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any Class A common stock shall be made, and no Class A common stock shall be retired without call, if immediately after such action, the total of the Class A common stock not called for retirement and of the reserves and surplus of the Corporation would be less than $100,000,000. The retirement of Class A common stock shall be at the par value thereof, or at the price at which such stock was issued if such price is greater than par value. Classes of common stock other than Class A common stock and preferred stock may be retired by the Corporation upon such terms and conditions as may be specified by the Corporation. No declaration of any dividend on stock of the Corporation shall be effective with respect to stock which at the time of such declaration is the subject of an outstanding retirement call the effective date of which has arrived.

"SEC. 6.8. AGRICULTURAL LOAN OPERATIONS.

"(a) The Corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in, agricultural loans. An agricultural loan may be purchased from (i) any System bank and any corporation formed pursuant to section 4.25 of the Farm Credit Act; (ii) any insurance company within the meaning of section 2(13) of the Securities Act of 1933; (iii) any financial institution the deposits or accounts of which are insured by an agency of the United States; and (iv) any other class of institutional agricultural lender that the Board of Directors may, in its sole discretion, from time to time deem appropriate. Federal land bank associations and production credit associations shall sell agricultural loans to the Corporation only through a Federal land bank or a Federal intermediate credit bank, respectively. The servicing on any agricultural loan may be performed by the seller, or by a financial institution qualified as a seller pursuant to section 6.8(c) of this Act, or by a servicer deemed qualified pursuant to criteria established by the Corporation.

"(b) The operations of the Corporation under this section shall be confined so far as practicable to agricultural loans which are deemed by the Corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional agricultural loan investors. The Corporation shall establish such underwriting standards as it shall deem appropriate to implement this subsection.

"(c) The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or servicers, and for such purposes the Corporation is authorized to classify sellers or servicers according to type, size, location, assets, financial conditions, expertise, experience, borrower stock purchase requirements or, without limitation on the generality of the foregoing, on such other basis or bases of differentiation as the Coropration may consider necessary or appropriate to effectuate the purposes of provisions of this Act. The Corporation may specify requirements concerning among other things, (1) minimum net worth; (2) supervisory mechanisms; (3) warranty compensation mechanisms; (4) prior approval of facilities; and (5) prior origination and servicing experience with respect to different types of agricultural loans. Any requirements specified by the Corporation pursuant to this subsection must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Differentials in charges, fees or pricing (including any charges or fees imposed under section 6.9(e) of this Act) based solely upon whether the seller is a System bank shall not be considered to bear a rational relationship to the purposes or provisions of this Act. Insofar as is practicable, the Corporation shall ensure equal access to the full participation in each of its programs (including programs implemented pursuant to section 6.9(e) of this Act) by each type of eligible seller. Any institution seeking approval to sell agricultural loans to the Corporation shall apply to the Corporation by completing such forms and by providing such information as may be required by the Corporation and, within 90 days of receipt of the application, the Corporation shall decide, based upon the requirements established pursuant to this section, whether the institution shall be considered eligible to sell agricultural loans to the Corporation.

"(d) Notwithstanding subsection (c) of this section, the Corporation shall not be authorized to require recourse to the seller in the event of loan default as a prerequisite to the seller's ability to sell agricultural loans to the Corporation. The Corporation is authorized to consider as a matter of pricing the extent of recourse to the seller or the nature and extent of the guarantees or reserves provided by the seller.

"(e) The Corporation is authorized, upon such terms and conditions as it may prescribe, to lend against the security of agricultural loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan made under this subsection, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any agricultural loans that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the agrricultural loans that constitute such security shall become the absolute property of the Corporation.

"(f) The sale or other disposition by the Corporation of agricultural loans under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement or otherwise as the Corporation may prescribe.

"(g) Notwithstanding any other law, authority to enter into and to perform any transactions referred to in this section is conferred on any System member, any financial institution the deposits or accounts of which are insured by an agency of the United States, and any other eligible financial institution under section 6.8(a) of this Act to the extent that Congress has the power to confer such authority.

"(h) Notwithstanding sections 1.10 and 2.15 of the Farm Credit Act, non-farm rural home mortgage loans sold to the Corporation directly or indirectly by a System member shall not be included within the portfolio of any Federal land bank or production credit association for purposes of any per centum limitation on such loans specified in such sections of the Farm Credit Act.

"SEC. 6.9. OBLIGATIONS AND SECURITIES.

"(a) The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds or other obligations, or other securities. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

"(b) The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

"(c) The System banks shall, to such extent as the Board of Directors may prescribe, jointly, and severally guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any agricultural loan or security (which terms as used in this sentence shall include the guarantees of the Corporation issued pursuant to section 6.9(e) of this Act any guarantees or other obligations undertaken by the Corporation in connection with the sale of agricultural loans pursuant to section 6.8(f) of this Act, but shall not include the Class A common stock referred to in section 7 of this Act). Notwithstanding any other law, the provisions of section 4.2 and section 4.3 of the Farm Credit Act shall not apply to the guarantees of the System banks insured pursuant to this section of this Act.

"(d) Each System member is authorized to loan money to the Corporation upon such terms and conditions as shall be agreed upon by the Corporation and the System member.

"(e) The Corporation is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such notes, bonds, trust certificates or other obligations or other securities as shall (i) be issued by any issuer approved for purposes of this subsection by the Corporation, and (ii) be based on or backed by a trust or pool composed of agricultural loans, or both. The Corporation shall underwrite or otherwise review the agricultural loans contained in the trusts or pools such that its guarantee shall be made available only with respect to such trusts or pools as shall contain agricultural loans of such quality, type and class as to meet generally the purchase standards imposed by private institutional agricultural loan investors. The Corporation shall evaluate issuer applications for approval under this subsection pursuant to the requirements of section 6.8(c) of this Act and such additional requirements as the Corporation may, from time to time, deem necessary for the purposes of this subsection. The Corporation shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the underwriting or review of the agricultural loans or for the analysis of any trust other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Corporation shall make such payments as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. The Corporation is hereby empowered, in connection with any guaranty under this subsection, whether or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any agricultural loans constituting the trust or pool with respect to which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the agricultural loans that constitute such trust or pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on or backed by such trust or pool, or both. No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Corporation of (1) its power to contract with the issuer on the terms stated in the preceding sentence, (2) its rights to enforce any such contract with the issuer, or (3) its ownership rights, as provided in the preceding sentence, in the agricultural loans constituting the trust or pool with respect to which the guaranteed securities are issued.

"(f) All securities issued or guaranteed by the Corporation shall, to the same extent as securities that are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

"(g) (1) Any person, trust, or organization created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in agricultural loans, obligations, or other securities which are or have been issued, sold or guaranteed by the Corporation pursuant to this section or pursuant to section 6.8 of this Act to the same extent that such person, trust, or organization is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, or organization, such Corporation agricultural loans, obligations, and other securities shall be considered to be obligations issued by the United States for purposes of the limitation.

"(2) The provisions of paragraph (1) of this subsection shall not apply with respect to a particular person, trust, or organization or class thereof in any State that, prior to the expiration of five years after the date of enactment of this subsection, enacts an statute which specifically names the Corporation and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by such person, trust, or organization or class thereof than is provided in paragraph (1). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto and shall not require the sale or other disposition of any securities acquired prior thereto.

"(h) Any agricultural loans, obligations or other securities which are or have been issued, sold or guaranteed by the Corporation pursuant to this section or pursuant to section 6.8 of this Act shall be exempt from any law of any State with respect to or requiring registration or qualificaton of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Any State may, prior to the expiration of five years after the date of the enactment of this Act, enact a statute that specifically names the Corporation and requires registration or qualification of any such security on terms that differ from those applicable to any obligation issued by the United States.

"SEC. 6.10. AUTHORITY OF FARM CREDIT ADMINISTRATION.

"(a) Notwithstanding any other provisions of the Farm Credit Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to providing for the examination of the condition of, and the general regulation of the safe and sound performance of the powers, functions and duties vested in, the Corporation by this Act. In exercising its authority pursuant to section 6.10 of this Act, the Farm Credit Administration shall consider the purposes for which the Corporation was created, the practices appropriate to the conduct or secondary markets in agricultural loans and the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) The financial transactions of the Corporation shall be examined and audited by Farm Credit Administration examiners in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Farm Credit Administration. Such examinations shall take place at such times as the Chairman of the Farm Credit Administration Board may determine, but in no event less than once each year. The examiners shall have access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians. The Corporation shall reimburse the Farm Credit Administration for the full cost of each such examination as billed thereafter by the Farm Credit Administration. For the purposes of this Act, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, and Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

"(1) The Farm Credit Administration shall make annual reports to Congress on the condition of the Corporation based on the examinations carried out pursuant to this subsection.

"(2) The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration by regulation may prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

"(c) If, in the opinion of the Farm Credit Administration, the Corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation, is engaged or has engaged, or the Farm Credit Administration has reasonable cause to believe that the Corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation is about to engage, in an unsafe or unsound practice in conducting the business of the Corporation, the Farm Credit Administration may issue and serve upon the Corporation or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should be issued against the Corporation or the director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Farm Credit Administration at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit Administration may issue and serve upon the Corporation or the director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation, an order to cease and desist from any such practice. Such order may, by provisions that may be mandatory or otherwise, require the Corporation or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of the Corporation to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such practice.

"(1) A cease and desist order shall become effective at the expiration of thirty days after the service of such order upon the Corporation or other person concerned (except in the case of a cease and desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein except to such extent as it is stayed, modified, terminated, or set aside by action of the Farm Credit Administration or a reviewing court.

"(d) Whenever the Farm Credit Administration shall determine that the unsafe or unsound practice or practices, specified in the notice of charges served upon the Corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation under section 6.10(c) of this Act, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the Corporation, or is likely to seriously weaken the condition of the Corporation or otherwise seriously prejudice the interests of the investors in Farm Credit System or Corporation obligations or shareholders in the Corporation prior to the completion of the proceedings conducted under section 6.10(c) of this Act, the Farm Credit Administration may issue a temporary order requiring the Corporation or such director, officer, employee, agent, or other person to cease and desist from any such practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the Corporation or such director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation and, unless set aside, limited or suspended by a court in proceedings authorized by section 6.10(d)(1) of this Act, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the Corporation or such director, officer, employee, agent, or other person, until the effective date of such order.

"(1) Within two days after the Corporation, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the Corporation, has been served with a temporary cease and desist order, the Corporation or such director, officer, employee, agent, or other person may apply to the United States district court of the judicial district in which the home office of the Corporation is located or the United States district court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the Corporation or such director, officer, employee, agent, or other person under section 6.10(c) of this Act, and such court shall have jurisdiction to issue such injunction.

"(e) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued under section 6.10(d) of this Act, the Farm Credit Administration may apply to the United States district court for the judicial district in which the home office of the Corporation is located, or the United States district court for the District of Columbia, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"(f) Whenever, in the opinion of the Farm Credit Administration, any director or officer of the Corporation has committed any violation of a cease and desist order that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the Corporation, or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty owed by such director or officer, and the Farm Credit Administration determines that the Corporation has suffered or will probably suffer substantial financial loss or other damage or that the interests of the Corporation's shareholders or investors in Farm Credit System or Corporation obligations could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one that demonstrates a willful or continuing disregard for the safety or soundness of the Corporation, the Farm Credit Administration may serve upon such director or officer a written notice of its intention to remove him from office.

"(1) In respect to any director or officer of the Corporation, the Farm Credit Administration may, if it deems it necessary for the protection of the Corporation or the interests of its shareholders or the investors in the Farm Credit System or Corporation obligations, by written notice to such effect served upon such director or officer, suspend such director or officer from office or prohibit such director or officer from further participation in any manner in the conduct of the affairs of the Corporation. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by section 6.10(f)(3) of this Act, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under section 6.10(f) of this Act and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer, until the effective date of any such order. Copies of any such notice shall also be served upon the Corporation.

"(2) A notice of intention to remove a director or officer from office or to prohibit such directors' or officer's participation in the conduct of the affairs of the Corporation shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Farm Credit Administration at the request or (i) such director or officer and for good cause shown, or (ii) the Attorney General of the United States. Unless such director or officer shall appear at the hearing in person or by a duly authorized representative, such director or officer shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibit from participation in the conduct of the affairs of the Corporation, as it may deem appropriate. A copy of an order issued under this subsection shall be served upon the Corporation. Any such order shall become effective at the expiration of thirty days after service upon the Corporation and the director or officer (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(3) Within ten days after any director or officer has been suspended from office under section 6.10(f)(1) of this Act, such director or officer may apply to the United States district court for the judicial district in which the home office of the Corporation is located, or the United States district court for the District of Columbia, for a stay of such suspension or prohibition, or both, pending the completion of the administrative proceedings pursuant to the notice served upon such director or officer, and such court shall have jurisdiction to stay either such suspension or prohibition or both.

"(g) Any hearing provided for in this part shall be held in the Federal judicial district in which the home office of the Corporation is located or in the District of Columbia, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. Such hearing shall be private, unless the Farm Credit Administration, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Farm Credit Administration has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this part. Judicial review of any such order shall be exclusively as provided in section 6.10(g)(1) of this Act. Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in section 6.10(g)(1), and thereafter until the record in the proceeding has been filed as so provided, the Farm Credit Administration may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Farm Credit Administration may modify, terminate, or set aside any such order with permission of the court.

"(1) Any party to the proceeding may obtain a review of any order served under section 6.10(g) of this act (other than an order issued with the consent of the Corporation or the director or officer concerned) by the filing in the court of appeals of the United States for the circuit in which the home office of the Corporation is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Farm Credit Administration be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Farm Credit Administration, and thereupon the Farm Credit Administration shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of section 6.10(g), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Farm Credit Administration. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

"(2) The commencement of proceedings for judicial review under section 6.10(g)(1) of this Act shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Farm Credit Administration.

"(h) The Farm Credit Administration may in its discretion apply to the United States district court for the District of Columbia or the United States district court for the judicial district in which the home office of the Corporation is located, for the enforcement of any effective and outstanding notice or order issued under this section of this Act, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this part no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part, or to review, modify, suspend, terminate, or set aside any such notice or order.

"(i) The Corporation or any officer or director thereof who violates the terms of any order that has become final and was issued under section 6.10(c) or section 6.10(d) of this Act, shall forfeit and pay a civil penalty or not more than $1,000 per day for each day during which such violation continues, but the Farm Credit Administration may, in its discretion, compromise, modify, or remit any civil money penalty that is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the Farm Credit Administration by written notice. In determining the amount of the penalty, the Farm Credit Administration shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the Corporation or officer or director charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(1) The Corporation, or officer or director assessed, shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5 of the United States Code. The Farm Credit Administration determination shall be made by final order which may be reviewed only as provided in section 6.10(i)(2) of this Act. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(2) The Corporation, or any officer or director against whom an order imposing a civil money penalty has been entered, after a Farm Credit Administration hearing under section 6.10(i)(1) of this Act, may obtain review by the United States court of appeals for the circuit in which the home office of the Corporation is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days after the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Farm Credit Administration. The Farm Credit Administration shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28 of the United States Code. The findings of the Farm Credit Administration shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5 of the United States Code.

"(3) If the Corporation, or any officer or director thereof, fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Farm Credit Administration, the Farm Credit Administration shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(4) The Farm Credit Administration shall promulgate regulations establishing procedures necessary to implement section 6.10(h) and section 6.10(i) of this Act.

"(5) All penalties collected under authority of section 6.10(i) of this Act shall be covered into the Treasury of the United States.

"(j) Any director or officer, or former director or officer of the Corporation, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director or officer and who (1) participates in any manner in the conduct of the affairs of the Corporation, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in the Corporation, or (2) without the prior written approval of the Farm Credit Administration, votes for a director, or serves or acts as a director, officer, or employee of the Corporation shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(k) As used in section 6.10 of this Act, the terms 'cease and desist order that has become final,' 'order which has become final,' 'violation,' and 'unsafe or unsound practice' shall have the meanings given to them in section 5.35 of the Farm Credit Act.

"SEC. 6.11. REMEDIAL AND MISCELLANEOUS PROVISIONS.

"(a) All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any agricultural loan or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition.

"(b) The provisions of the Constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges or other charges which may be charged, taken, received, or reserved by agricultural lenders shall not apply to any agricultural loan purchased by or guaranteed by the Corporation pursuant to provisions of this Act. This subsection shall not apply to agricultural loans made in any State which, prior to the expiration of five years after the date of enactment of this Act, enacts a law which certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this subsection to apply to agricultural loans made in such State. In any case in which a State takes an action described in this subsection, such State law or Constitution or other provision shall not apply after the date such action was taken with respect to any agricultural loan purchased by or guaranteed by the Corporation pursuant to a commitment to purchase or guarantee such loan which was entered into on or after the effective date of this Act and prior to the date on which such action was taken. No action taken by any State shall limit the exemption granted by section 4.17 of the Farm Credit Act to institutions of the System from any interest rate limitation imposed by any State Constitution or statute or other laws.

"(c) Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term 'Federal Farm Credit Mortgage Corporation', or any combination of words including the words 'Federal', and 'Farm Credit', and 'Mortgage', as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on the date of the enactment of this Act. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation, (2) any copy, reproduction, or colorable imitation of any such sign, device or insigne, or (3) any sign, device or insigne reasonably calculated to convey the impression that it is a sign, device or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

"(d) The Corporation shall, for the purposes of section 14(b)(2) of the Federal Reserve Act (12 U.S.C. 355(2)), be deemed to be an agency of the United States. The priority established in favor of the United States by section 3466 of the Revised Statutes (31 U.S.C. 3713) shall not establish a priority with respect to any indebtedness or obligation of the Corporation. For purposes of the distribution of its property pursuant to section 726 of title 11, United States Code, the Corporation shall be deemed a person within the meaning of title 11.

"SEC. 6.12. TERRITORIAL APPLICABILITY.

"Notwithstanding any other law, this Act shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"SEC. 6.13. CONSTRUCTION AND SEVERABILITY.

"Except as otherwise provided in this Act, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this title, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this Act shall be applicable and effective, without regard to any other law. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

"SEC. 402. AMENDMENT OF OTHER LAWS.

(a) Section 5(c)(1) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(T) FEDERAL FARM CREDIT MORTGAGE CORPORATION INSTRUMENTS.—Investments in agricultural loans, obligations or other securities which are or ever have been sold or guaranteed by the Federal Farm Credit Mortgage Corporation pursuant to section 6.8 or section 6.9 of the Federal Farm Credit Mortgage Corporation Act.".

(b) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by redesignating paragraph (16) as paragraph (17); and

(2) by inserting after paragraph (15) the following:

"(16) to invest in agricultural loans, obligations or other securities which are or ever have been sold or guaranteed by the Federal Farm Credit Mortgage Corporation pursuant to section 6.8 or section 6.9 of the Federal Farm Credit Mortgage Corporation Act.".

(c) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding in paragraph seven after the words "section 306 of the Federal Home Loan Mortgage Corporation Act," and before the words "or obligations of the Federal Financing Bank or obligations of the Environmental Financing Authority," the following: "or agricultural loans, obligations or other securities which are or ever have been sold or guaranteed by the Federal Farm Credit Mortgage Corporation pursuant to section 6.8 or section 6.9 of the Federal Farm Credit Mortgage Corporation Act.".

TITLE V—CLARIFICATION OF CERTAIN SYSTEM AUTHORITIES

EXPORT FINANCING AND OFI AUTHORITIES; REMOVAL OF SUNSET PROVISION

SEC. 501. The Farm Credit Act of 1971 is amended by striking out section 4.20 (12 U.S.C. 2208).

RURAL HOUSING LOANS; REMOVAL OF PERCENTAGE LIMITATION

SEC. 502. (a) Section 1.10 of the Farm Credit Act of 1971 (12 U.S.C. 2018) is amended by, in the third sentence, striking out "That a Federal land bank may not at any one time have a total of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 per centum of the total of all loans outstanding in such bank: *Provided further,*".

(b) Section 2.15 of the Farm Credit Act of 1971 (12 U.S.C. 2096) is amended by, in subsection (a), striking out the third and fourth sentences.

LEVERAGED LEASING; AUTHORITY OF FLBS, FICBS AND PCAS

SEC. 503. (a) Section 1.10 of the Farm Credit Act of 1971 (12 U.S.C. 2018) is amended by, in the fifth sentence, inserting before the period "and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of facilities to be leased to persons eligible for assistance under this title for use in their operations in the United States".

(b) Section 2.3 of the Farm Credit Act of 1971 (12 U.S.C. 2074) is amended by, in subsection (b), in the second sentence, inserting before the period ", and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment to be leased to persons eligible for assistance under this title for use in their operations in the United States".

(c) Section 2.15 of the Farm Credit Act of 1971 (12 U.S.C. 2096) is amended by, in subsection (a), in the sixth sentence, inserting before the period "and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment to be leased to stockholders of the association for use in their operations in the United States".

TITLE VI—REGULATORY AUTHORITIES

SEC. 601. The Farm Credit Act of 1971, as amended, is amended as follows:

(a) Section 1.3 is amended by striking out the second sentence and inserting in lieu thereof, "The Farm Credit Administration shall approve amendments consistent with the provisions of this Act to charters of Federal land banks.".

(b) Section 1.4 is amended—

(1) by striking out, in paragraph (15), "and approved by" and inserting in lieu thereof, "in accordance with regulations of";

(2) by striking out, in paragraph (21), the word "as" and by inserting, after the word "therefore", the words "in accordance with generally accepted accounting principles, except as may be";

(3) by striking out, in paragraph (22), "and approved by the Farm Credit Administration," and inserting a comma after the word "directors".

(c) Section 1.5 is amended—

(1) by striking out, in subsection (a), "with the approval of the Farm Credit System Administration." and inserting a period after the word "determine";

(2) by striking out, in subsection (d), "and approved by the Farm Credit Administration." and inserting a period after the word "directors";

(3) by striking out, in subsection (f), "the Farm Credit Administration may approve." and inserting in lieu thereof, "may be approved by the board of directors of the bank.".

(d) Section 1.9 is amended—

(1) by striking out, in the first sentence, "approved by" and inserting in lieu thereof, "prescribed by regulations of";

(2) by striking out, in the second sentence, "and approved by" and inserting in lieu thereof, "in accordance with regulations of".

SEC. 602. The Farm Credit Act of 1971, as amended, is amended, in Section 1.13, in the last sentence, as follows:

(a) by striking out, "or by approving bylaws of the association,";

(b) by striking out "direct at any time changes in" and inserting in lieu thereof, "approve amendments to";

(c) by striking out "as" and all that follows through the period and inserting a period after the word "association".

SEC. 603. The Farm Credit Act of 1971, as amended, is amended as follows:

(a) Section 1.17 is amended—

(1) by inserting in subsection (a), "regulations of" after the words "standards set by";

(2) in subsection (b)—

(A) by striking out "(1)";

(B) by striking out ", (2) with approval of the, Farm Credit Administration." and inserting a period after the word "hereof".

(b) Section 1.18 is amended, in subsection (a), by inserting "regulations of" after the words "standards set by".

SEC. 604. The Farm Credit Act of 1971, as amended, is amended as follows:

(a) Section 2.0 is amended by striking out the second sentence and inserting in lieu thereof, "The Farm Credit Administration shall provide amendments consistent with the provisions of this Act to charters of Federal intermediate credit banks.".

(b) Section 2.1 is amended—

(1) by striking out, in paragraph (13), "and approved by" and inserting in lieu thereof, "in accordance with regulations of";

(2) by striking out, in paragraph (18), "and approved by the Farm Credit Administration," and inserting a comma after the word "directors".

(c) Section 2.2 is amended—

(1) by striking out, in subsection (a), "with the approval of the Farm Credit Administration." and inserting a period after the word "determine";

(2) by striking out, in subsection (d), "and approved by the Farm Credit Administration." and inserting a period after the word "directors";

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,";

(C) in the fourth paragraph, the first sentence, by striking out "under" and inserting in lieu thereof, "in accordance with".

(d) Section 2.4 is amended by striking the fifth sentence.

(e) Section 2.6 is amended in the second sentence of subsection (c)—

(1) by striking out "approved" and inserting in lieu thereof, "established";

(2) by inserting, after the word "Administration", "in regulations".

SEC. 605. The Farm Credit Act of 1971, as amended, is amended, in section 2.10, the last sentence, as follows:

(a) by striking out "or by approval of bylaws of the association,";

(b) by striking out "direct" and all that follows through the period and inserting in lieu thereof, "approve amendments to the charter of such association.".

SEC. 606. The Farm Credit Act of 1971, as amended, is amended as follows:

(a) Section 3.0 is amended by striking out the second sentence and inserting in lieu thereof, "The Farm Credit Administration shall approve amendments consistent with the provisions of this Act to charters and organizational certificates of banks for cooperatives.".

(b) Section 3.1 is amended—

(1) in paragraph (12), by striking out "and approved by the Farm Credit Administration," and inserting a comma after the word "directors";

(2) in paragraph (13)—

(A) by striking out, in part (B), "and approved by the Farm Credit Administration," and inserting a comma after the word "directors";

(B) by striking out, in part (C), "and approved by the Farm Credit Administration," and inserting a comma after the word "directors";

(3) in paragraph (17), by striking out "and approved by the Farm Credit Administration," and inserting a comma after the word "directors";

(4) in paragraph (18), by striking out "and approved by the Farm Credit Administration," and inserting a comma after the word "directors".

(c) Section 3.3 is amended—

(1) by striking out, in subsection (a), ", with the approval of the Farm Credit Administration,";

(2) by striking out, in subsection (b), "with the approval of the Farm Credit Administration." and inserting a period after the word "determine";

(3) by striking out, in subsection (e), "and approved by the Farm Credit Administration".

(d) Section 3.5 is amended by striking out "with approval of the Farm Credit Administration".

(e) Section 3.9 is amended, in subsection (a)—

(1) by striking out, in the first sentence, "with the approval of the Farm Credit Administrations";

(2) by striking out, in the second sentence, "with the approval of the Farm Credit Administration,";

(3) by striking out, in the third sentence, "as may be approved by the Farm Credit Administration".

(f) Section 3.11 is amended—

(1) by striking out, in subsection (b), the second sentence, "as may be approved by the Farm Credit Administration," and inserting a comma after the word "expenses";

(2) by striking out, in subsection (c), "the Farm Credit Administration may approve." and inserting in lieu thereof, "may be approved by the board of directors.";

(3) by striking out, in subsection (d), "the Farm Credit Administration may approve." and inserting in lieu thereof, "may be approved by the board of directors.".

SEC. 607. The Farm Credit Act of 1971, as amended, is amended—

(a) in section 4.26—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation," and inserting in lieu thereof a comma;

(2) by striking out "direct at any time" and all that follows through the period and inserting in lieu thereof, "approve amendments consistent with this Act to charters or articles of service corporations.";

(3) by striking out the second sentence through the end of Section 4.26.

(b) in the title of section 4.27, by striking out "SUPERVISION" and inserting in lieu thereof, "REGULATION".

SEC. 608. The Farm Credit Act of 1971, as amended, is amended, in section 5.2, as follows:

(a) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(b) by inserting, as subsection (b), "Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this Section.".

(c) by amending subsection (c), as redesignated, as follows:

(1) by striking out the words "Farm Credit Administration" where they first appear and inserting in lieu thereof, "district election committee of the district where the election will be held";

(2) by striking out the words "Farm Credit Administration" each and every time they later appear and inserting in lieu thereof, "district election committee".

(d) by amending subsection (d), as redesignated, as follows:

(1) by striking out the words "Farm Credit Administration" where they first appear and inserting in lieu thereof, "district election committee of the district where the election will be held";

(2) by striking out the words "Farm Credit Administration" each and every time they later appear and inserting in lieu thereof, "district election committee";

(3) by striking out "subsection (b)" and inserting in lieu thereof, "subsection (c)".

SEC. 609. The Farm Credit Act of 1971, as amended, is amended in section 5.17, as follows:

(a) in subsection (a), in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof, "approve amendments to";

(b) in subsection (a), in paragraph (5), by striking out "that confer approval" and all that follows through the period and inserting in lieu thereof, "but only with respect to those matters for which approval is specifically authorized under this Act.";

(c) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(d) by inserting, as subsection (b), "The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

SEC. 610. The Farm Credit Act of 1971, as amended, is amended by inserting, after section 5.44, the following:

"SEC. 5.45. TRANSITION RULES FOR FCA APPROVALS.—Any approvals granted by the Farm Credit Administration prior to the effective date of the Farm Credit Borrower Stock Protection and System Restoration Act of 1987 shall remain in effect. With respect to those provisions of the 1987 Act that eliminate the approval authority of the Farm Credit Administration and substitute in lieu thereof authority for the Farm Credit Administration to issue regulations, the Farm Credit Administration may continue to grant approvals for a period that shall terminate on the earlier of (a) the date on which the Farm Credit Administration issues final regulations under the applicable provision or (b) one year from the effective date of the 1987 Act. If, upon expiration of the one-year period referred to in the previous sentence, the Farm Credit Administration has not issued final regulations under any applicable provision, System institutions may, until such regulations are issued, act, without risk of any enforcement action by the Farm Credit Administration, on the assumption that Farm Credit Administration approval (regulatory or specific) is not required under such provisions.".

TITLE VII—CONSERVATION

SEC. 701. Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended by—

(1) adding, after section 1233, the following new section:

"SEC. 1233A. (a) In carrying out the conservation acreage reserve program under this subtitle, the Secretary may not reject an offer to place land under the program by a person (1) who regularly makes loans secured by agricultural real estate, (2) who has acquired highly erodible cropland through foreclosure or other proceeding, including but not limited to voluntary conveyance, arising out of the borrower's failure to meet contractual obligations to the lender, and (3) who agrees to the conditions specified in subsection (b), for the reason that including such cropland under a program contract would, except for the limitation imposed by section 1234(f), cause the total amount of rental payments to such person under program contracts to exceed $50,000 in any fiscal year. If part or all of the land placed in the program pursuant to this section is subsequently acquired by new owners or operators, the limitation in section 1234(f) shall be applied to the original contracting party and the new owners or operators as if they were placing land in the program for the first time, and notwithstanding any other provision of law, the Secretary shall make appropriate upward adjustments in the total amount of rental payments to be made to the original contracting party and the new owners or operators.

"(b) The provisions of subsection (a) shall apply to a person otherwise described therein who agrees to perform all of the duties imposed by section 1232 with respect to all of the owner's highly erodible land covered under program contracts, notwithstanding the fact that, in any fiscal year, the total amount of rental payments that such person may receive under program contracts is limited to $50,000 in any fiscal year.

"(c) In connection with participation in the program by persons described in subsection (a), the Secretary shall ensure, insofar as practicable, that such persons do not enjoy an advantage over other owners and operators of highly erodible cropland. The Secretary may, in achieving this objective, employ measures such as, but not limited to, (1) establishing separate bidding procedures limited to such persons, and (2) providing that offers of such persons will not be accepted if they would cause other owners and operators to be excluded from the program due to the restriction imposed by section 1231(d)."; and

"(2) amending section 1235(a)(1)(C) by inserting before the period at the end thereof the following: ", such as acquisitions of the land by a person described in section 1233A".

SEC. 702. Section 4.35 of the Farm Credit Act of 1971 (12 U.S.C. 2219) is amended by adding at the end thereof the following: "Nothing in this section shall be construed to limit the authority of any System institution, with respect to any real property acquired by it through foreclosure or other proceeding, including but not limited to voluntary conveyance, to sell, separate from the underlying fee, an easement for conservation, recreation, wildlife, or similar purposes, to any unit of state or local government, private nonprofit organization, or other purchaser.".

ANALYSIS OF LEGISLATION PROPOSED BY THE FARM CREDIT SYSTEM

TITLE I. CAPITALIZATION; STOCK PROTECTION

Capitalization amendment

The amendment provides Systems institutions great flexibility to adopt capitalization plans so long as the approach followed brings the institutions within the minimum permanent capital adequacy standards to be prescribed by the Farm Credit Administration, as provided by the amendment.

These new capitalization plans need not require (1) minimum or maximum stock ownership standards for borrowers based on percentages of the loan, or (2) retirement of stock upon payment of the loan. Therefore, a System institution would be authorized to adopt a plan that, in effect, capitalizes the institution rather than a loan. System institutions would be free to design innovative approaches to capitalization, subject always to meeting prescribed capital adequacy standards. Certain current requirements would be retained to complement other statutory provisions. For example, a person eligible to hold voting stock would have to acquire at least one share of voting stock to be eligible to borrow, and the institution would have to provide for the issuance of voting stock.

The amendment directs FCA to issue regulations establishing for all System institutions minimum permanent capital adequacy standards, in accordance with GAAP, to be phased in over a seven-year period. During such seven-year period, FCA may not initiate any receivership, conservatorship, liquidation or other similar regulatory or supervisory actions against any System institution for failure to meet such capital adequacy standards unless such action is recommended or concurred in by the Federal Farm Credit Assistance Board created by Title II.

The amendment defines permanent capital as including retained earnings, surplus, allowances for losses and all stock other than stock and allocated equities that may be retired by the borrower upon repayment of the loan or the par value of which is protected under other provisions of the proposed amendments.

Permanent capital may not be reduced through retirement of stock and payment of dividends and patronage refunds if such action would cause the institution to fall below permanent capital adequacy standards, or when the institution is below such standards.

Existing provisions giving System institutions a lien on borrower stock and the right to apply borrower stock against defaulting loans would also remain in place.

The amendment would also allow the adoption of bylaws with the approval of stockholders on the basis of one-man-one-vote, which would permit voting on other than a one-man-vote basis so long as each holder of voting stock is entitled to at least one vote.

With respect to borrowers holding stock issued under the "old" approach, the amendment would permit the borrower to apply the old stock against the loan and purchase "new" stock, or to exchange old stock for new. But System institutions could not impose such arrangements, inasmuch as such borrowers would have at least a contractural right to maintain their "old" stock on the terms and conditions that accompanied its issuance.

Failure of a System institution to meet the prescribed capital adequacy standards would subject the institution to enforcement action by the Farm Credit Administration.

Stock protection amendment

This title would assure, during the seven-year period beginning with the date of enactment, that any borrower-held stock in System institutions that is retired will be retired at not less than par value.

The amendment would apply broadly to any stock or other ownership-type interests that are issued by System institutions and held by borrowers and other non-System persons. This would include, in addition to voting and non-voting stock (including preferred stock), interests such as participation certificates, contributions to guaranty funds, and allocated equities. Protection would apply to stock that is issued either before or after the date of enactment, except stock issued after enactment that is clearly identified as being at risk. Stock that was frozen in connection with liquidation proceedings which commenced after January 1, 1983, would be protected.

In the event of inability of a System institution to retire stock at par, funds would be provided by the Federal Farm Credit Assistance Board in sufficient amounts to enable the institution to retire stock at par. After expiration of the seven-year period of protection, the stock then outstanding would resume an "at risk" status, except that stock issued under a revolving cycle established before enactment would be protected through the date set for revolvement.

The term "par value" is defined for stock protection purposes, to mean the par or face value of the equities being retired, or, with respect to equities subject to retirement under a revolving cycle but actually retired early for application against a defaulted loan or otherwise, the par or face value of such equities discounted to reflect present value as of the date of retirement.

The amendment does not require any System institution to retire stock. Retirement would continue to be governed by applicable statutory and contractual provisions. The amendment does, however, assure borrowers that, during the seven-year period of protection, any stock that is retired will be retired at not less than par.

The amendment also includes a provision to ensure that System institutions may, at their election, continue to retire and apply stock against defaulted loans—but at par value.

TITLE II. FINANCIAL ASSISTANCE THROUGH THE FEDERAL FARM CREDIT ASSISTANCE BOARD

The title contains Congressional findings—

(1) briefly summarizing the controversy that has arisen concerning Farm Credit Administration regulations governing Capital Corporation assessments and the proposed statutory resolution; and

(2) describing the need of the Farm Credit System for Federal financial assistance and the creation of a new Federally controlled board to meter out such assistance to System institutions needing aid.

It creates on October 1, 1987, an independent Federal agency called the Federal Farm Credit Assistance Board ("the Assistance Board").

It specifies the primary purposes of the Assistance Board as—

(1) to obtain funds from the Secretary of the Treasury for use in protecting the stock of borrowers of Farm Credit System institutions and assisting in restoring System institutions to economic viability and permitting them to continue to provide credit to farmers, ranchers, and their cooperatives at reasonable and competitive rates; and

(2) to use funds paid to it by System banks to repay Federal financial assistance made available to the System.

It provides that the Assistance Board will be under the direction of a board of directors—

(1) composed of the Secretary of the Treasury, the Secretary of Agriculture, the Chairman of the Federal Reserve Board, the Chairman of the Farm Credit Administration, and three members elected by the banks of the Farm Credit System for staggered terms of three years; and

(2) the elected board members of which may be directors, officers, or employees of System institutions, including service organizations.

The title provides for the compensation and other expenses of board members.

It requires board members to subscribe to an oath of office, and authorizes the board to adopt rules for transaction of its business and to issue regulations.

It directs that the chief executive officer of the Assistance Board is to be selected by the board and serve at its pleasure, and states that the officers and employees of the Assistance Board are to be employees of the United States and subject to law governing such employees.

The title confers on the Assistance Board general powers to—

(1) operate under the direction of its board;

(2) adopt, alter and use a corporate seal;

(3) provide for other officers, employees and agents as the board of directors may deem necessary;

(4) prescribe, by its board, its bylaws;

(5) enter into contracts;

(6) sue and be sued in its corporate name;

(7) acquire, hold, lease, mortgage or dispose of real and personal property necessary for the conduct of its business;

(8) authorize the issue and sale of non-interest-bearing obligations to the Secretary of the Treasury;

(9) accept, manage and invest funds paid to it by System institutions; and

(10) deposit its current funds with any member of the Federal Reserve System or any insured State nonmember bank.

The title confers on the Assistance Board such other incidental powers as may be necessary to carry out its responsibilities.

The Assistance Board is provided the specific powers to—

(1) assist in protecting the stock of borrowers of Farm Credit System institutions, as provided in Title I of the bill;

(2) facilitate the adjustment of assessments made by the Farm Credit System Capital Corporation and contributions made by System institutions under capital preservation agreements;

(3) accept certain payments from System banks;

(4) administer Federal financial assistance to System institutions;

(5) obtain from the Secretary of the Treasury funds necessary to carry out its responsibilities; and

(6) recommend or concur in certain enforcement action by the Farm Credit Administration during the seven-year phase-in period of the agency's new financial adequacy regulations required by Title I of the bill.

The title also rescinds all required purchases and assessments made by the Capital Corporation to date, reverses all contributions made by System banks under System capital preservation agreements since December 23, 1985; and directs each System bank to make a new one-time assessment equal to the amount by which its unallocated retained earnings (after the adjustments referred to above) as of December 31, 1986, exceed 5 percent of its net loans (loans outstanding loss allowances for losses), but caps such assessment at the amount which the bank contributed under System capital preservation agreements.

The title directs the Assistance Board to administer the completion of the rescissions, reversals, and assessments described above.

It provides that payment of the new assessment by a bank will constitute full and complete compliance by the bank and any associations it supervises with any requirements under law to assist other System institutions and that payments made shall be considered operating expenses of the banks.

The title requires the Assistance Board to provide financial assistance to System institutions that could not continue to carry out their responsibilities under the Act without such assistance by one or more of the following—

(1) paying the institutions sufficient amounts to remedy any impairment of their stock under generally accepted accounting principles;

(2) with respect to non-accrual loans and acquired property, paying amounts equal to the difference between the book value and the estimated amount the loans and property would bring in the market upon disposition, together with an amount necessary to carry the loans and acquired property for two years, all as determined by the Board;

(3) with respect to high-cost debt of System banks, paying them an amount equal to the premium that would be necessary to be paid to holders of such debt to retire it at current market value; and

(4) providing assistance by such other methods as the Assistance Board may deem appropriate.

The title authorizes the Assistance Board to prescribe such reasonable terms and conditions for providing assistance of the type described above consistent with prudent business practice that will achieve the purposes for which the Board was created, and directs the Assistance Board to pay to System institutions amounts the board determines necessary to permit them to retire borrower stock at par value, as provided in Title I of the bill, if the assistance referred to above is not sufficient to permit System institutions to do so.

It directs each System bank, beginning in 1989, to repay any Federal assistance made available to the System at an annual rate equal to two-tenths of one percent of its average annual volume of accuring loans, and permits the banks to pay greater amounts for this purpose.

It directs the Assistance Board, by selling its obligations to the Secretary of the Treasury or by such other means as the Board and the Secretary may agree on, to obtain funds to carry out its responsibilties, including payment of its operating expenses, and directs the Secretary of the Treasury to make such funds available to the Assistance Board. It authorizes the Assistance Board to use, for System assistance purposes, the revolving funds made available to it.

The title permits system banks to terminate Capital Preservation Agreements. It prohibits the Assistance Board from making financial assistance available to any System institution if the Board determines that the cost of making such assistance available would exceed the cost of liquidating such institution.

It provides that the Assistance Board is not subject to supervision or regulation by the Farm Credit Administration, requires the Comptroller General to audit the Assistance Board annually, and directs the Assistance Board to report annually to the Agriculture Committees of Congress on its activities.

It provides that the powers of the Assistance Board shall terminate upon fulfillment of its responsibilities.

The title would limit the authority of the Secretary of the Treasury to draw against a Federal line of credit to a total of $6 billion, to enable the Assistance Board to make assistance available to System institutions as provided above.

The title also contains transition provisions that would—

(1) Provide that the current members of the Capital Corporation Board who were elected by System banks would continue to act as the three elected directors of the Assistance Board until the regular members are duly elected and qualified;

(2) Direct the Capital Corporation to continue to function under its present statutory and charter authority as it winds up its business by conveying, to the System institutions from which it obtained them, loans or loan-related assets and restoring to those institutions responsibility for managing such assets;

(3) Direct that remaining assets of the Capital Corporation be distributed to its stockholder banks;

(4) Direct the Assistance Board to make up any deficit if the value of such assets is less than the capital contributed to the Corporation by System banks;

(5) Make clear that the Capital Corporation may make no further required purchases or assessments; and

(6) Terminate all activities of the Capital Corporation on December 31, 1988.

Finally, the title contains conforming amendments that would—

(1) Make present statutory revolving funds available to the Assistance Board for use in providing financial assistance to System institutions; and

(2) Eliminate various references to the Capital Corporation in the Farm Credit Act of 1971.

TITLE III. STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS TO IMPROVE OPERATING EFFICIENCY

A new title IVA is added to the Act. Existing provisions of sections 4.10 and 4.11 dealing with mergers of like banks, and that portion of section 4.12 dealing with mergers of like associations, are incorporated, with clarifications, in the new title IVA.

In general, all of authorities necessary to permit mergers, whether of like or unlike institutions, are found in the new title IVA. This title also deals with the structure and operation of merged entities, including powers, stock issuance, application of earnings (including contribution to reserve), voting, and similar matters. It provides for the tax treatment of merged institutions. Relevant sections of other titles are incorporated by reference where appropriate.

It is contemplated that all merged entities under this title will be instrumentalities of the United States and institutions of the Farm Credit System.

Present law permits the merger of like banks across district lines (existing section 4.10) but not the merger or unlike banks within a district. This title permits the latter type of merger.

The title authorizes any two or more banks within a single district to merge upon approval of a plan of merger by their respective boards and approval by a majority vote of their voting stockholders (and contributors to guaranty funds). The stockholder approval required by this section contemplates a vote for approval by a majority of each bank's voting stockholders on a one-man one-vote, "look-through" basis as provided in section 5.2 of the Act, as well as a vote for approval by the voting stockholders who own a majority of the total equity interests in the bank. For this purpose, equity shall include stock, interest in guaranty funds, and allocated (but not unallocated) surplus and reserves. These dual voting requirements for mergers of unlike banks would override the voting provisions adopted under other provisions. The amendment does not confer any voting rights upon persons or entities that own participation certificates or non-voting stock, but do not own voting stock.

After a merger of unlike banks within a district, the district board continues with seven members. Thereafter, under regulations issued by FCA, election procedures for the district board will be as consistent as practicable with those described in section 5.2, except that the plan of merger may provide different procedures for the election of directors by the stockholders of the merging banks. Thus, for example, if the FICB and the FLB in a district merge, the plan of merger might provide that four directors will be elected by the FLBAs and the PCAs together, rather than two by the FLBAs and two by the PCAs.

The merged bank will have all the powers granted by present law (under titles I, II, III and IV) to any of the constituent banks. In a merger of an FLB and an FICB, for example, the merged bank will have all the powers currently enjoyed by an FLB under title I and by an FICB under title II.

Other provisions of the amendment permit dispersal of lending activity to the associations. The merged banks will generally be subject to the obligations of constituent entities, including those imposed by the pertinent titles to this Act. However, if this is not desired, other provisions would permit dispersal of direct lending activity to the associations, i.e. from the FLBs to the FLBAs. However, this will not be the case where the obligation is inconsistent with the provisions of title IVA of the Act.

It is recognized that in consolidating or melding the authorities granted to (and the obligations imposed on) the constituent entities, many inconsistencies, uncertainties and anomalies will arise. These can best be dealt with in regulations issued by FCA, and the amendment specifically contemplates the issuance of such regulations.

The amendment grants maximum flexibility to a merged bank to tailor its capital stock to suit its needs except that, as is presently the case, voting stock must be held by the agricultural users (borrowers) of the constituent banks or by associations that held voting stock in one of the merged banks. In addition, the merged bank would be subject to the capitalization provisions of Title I of the bill.

Those merged banks which so desire could also issue stock unrelated to usage, i.e., to non-borrower investors. "Capital stock" includes participation certificates where appropriate.

The amendment provides that subject to the capital adequacy requirements specified elsewhere in the bill, merged banks will have broad discretion with respect to the application of earnings, the establishment of reserves, and the payment of patronage refunds and dividends on capital stock.

In connection with the merger of like banks, the amendment follows closely the existing section 4.10, permitting merger of like banks across district lines upon approval of the merger by majority vote of their stockholders pursuant to the voting rights provisions of section 5.2 or in bylaws adopted pursuant to an amendment in Title I of the bill. It is reworded to provide that the Central Bank for Cooperatives shall be treated, for this purpose, as a bank for cooperatives, so that it can merge under this section with one or more banks for cooperatives, and to recognize that "like banks" includes like combinations of banks' e.g., an FICB/FLB in one district merging with an FICB/FLB in another district. It also provides, in the case of mergers of like banks, that stockholders possessing at least 25% of the voting power of a bank can require the directors to call a stockholders' meeting for the purpose of voting on such a merger. If all three banks in a district merge, that district can merge into another district where all three banks have merged.

Although a merger of unlike banks, e.g., an FLB and an FICB, across district lines is generally not permitted, a bank from one district can merge with a previously merged bank at least one of the constituent entities of which is from the same district or operated under the same title as the merging bank.

The amendment governing the board for merged banks follows closely, with minor clarifications, existing section 4.11, in providing for the election of directors of a bank resulting from a merger of like banks from different districts. It permits alternative provisions for the election of directors to be included in the bylaws of the merged bank. It also provides specifically for the consolidation into a single overall board of the various bank and district boards where there has been a merger of all the banks in two or more farm credit districts.

The amendment provides that where like banks merge across district lines, the merged bank, which is then not a part of any single district, shall have a separate board of directors. The amendment provides that the district board shall no longer contain representatives of the bank that merged out of the district and that directors representing the remaining banks (two for each such bank and one at large) shall be elected under regulations of FCA that follow, as closely as practicable, the procedures set forth in section 5.2.

The provisions of the new sections applicable to the powers, capital stock and earnings of a merged bank the constituents of which are unlike banks within a district are made applicable to a bank resulting from a merger across district lines of similar banks, or combinations of banks.

Merger of like-kind associations is permitted under existing section 4.12 of the Act, and occurs now in practice. Existing law is retained but is expanded to permit the following additional transactions:

(1) The transfer of loan-related assets and direct lending authority from a PCA to its FICB;

(2) The transfer of its direct lending authority by an FLB to one or more FLBAs in the district, with the result that the transferee FLBAs will operate in a manner similar to the way PCAs now operate and the relationship between the FLB and the transferee FLBAs will resemble that between FICBs and their PCAs;

(3) The merger of FLBAs into their FLB and PCAs into their FICB; and

(4) The merger of unlike associations (i.e., FLBAs and PCAs) within a district or across district lines, provided that the supervising banks have previously merged and either the PCAs have first transferred their loan-related assets and direct lending authority to their supervising FICB (or a merged FICB/FCB) or the FLB (or a merged FICB/FLB) has transferred all of its direct lending authority to its FLBAs.

The amendment authorizes a PCA (1) to assign to its supervising FICB (or to a merged bank of which the FICB was a constituent entity) the authority of the PCA under title II of the Act to make direct loans within its assigned geographical area and (2) to transfer to the FICB part or all of the PCA's loan portfolio and other assets. This will enable the FICB to act as the direct lender in the area served by the PCA, with the PCA functioning in the capacity of loan originator and servicer in the same way that FLBAs now function. Such a transaction would require approval of the boards of the PCA and FICB and of a majority of the voting power held by the stockholders of the PCA present and voting. A transfer by one PCA would not affect the direct lending authority of another PCA that chose not to transfer its lending authority. After the transfer, the stock ownership requirements for borrowers who formerly borrowed from the association would be prescribed in the bank's plan of capitalization adopted pursuant to Title I of the bill. A bank that becomes a direct lender will inherit the authority of the transferring PCA (section 2.14(b)) to pay patronage refunds to farmer borrowers.

The amendment authorizes an FLB (or a merged bank of which the FLB was a constituent entity) to transfer its direct lending authority to one or more FLBAs in its district, and each transferee FLBA to assume such authority in the area served by it. After such a transfer the FLB would act as a provider of funds to the FLBA in much the same fashion as an FICB now provides funds to its PCAs. Such a transfer would require approval of a majority of the stockholders of the FLB and the FLBA in accordance with other voting provisions of the amendment, and approval by both boards of directors. A transfer to one FLBA would not affect the authority of another FLBA that chose not to participate in such a transfer.

In the case of a merged bank the constituents of which were an FICB and an FLB, the amendment can be availed of in order to achieve uniformity with respect to lending authority for both long-term mortgage loans and short- and intermediate-term loans.

The amendment permits the merger of one or more PCAs in a district into the FICB, or one or more FLBAs in a district into the FLB upon approval by their boards of directors and a majority vote by the stockholders of each entity.

After such a merger, the merged association will no longer exist and the bank, under regulations promulgated by FCA, will possess the powers formerly held by and be subject to the obligations, including those imposed by this Act, of the bank and the associations. Statutory powers and obligations derived from an association would be applicable only in the geographical area served by such association.

The plan of merger will prescribe the type and amount of bank stock to be issued to the shareholders of the association in exchange for their stock in the association. The amendment permits stockholders of the merged association to own voting stock in the bank. Assuming that some, but not all, of the PCAs or FLBAs in a district merge into their respective banks, voting for the district board will involve a hybrid procedure whereby, under regulations issued by FCA, voting power is determined by direct reference to former stockholders of the associations in the case of merged associations and by "looking through" the associations in the case of those that continue in existence.

Merger of PCAs and FLBAs may not occur until the supervising banks have merged.

Prior to a PCA/FLBA merger, it is required that both entities must have the same role, i.e., either, the PCA must get out of the direct lending business by virtue of the plan of merger or by transferring its loan-related assets (and other assets if it so chooses) and its direct loan authority to its FICB through a sale and/or a contribution to capital; or the FLBA must have assumed the direct lending authority of the FLB.

The amendment incorporates portions of present section 4.12 which permits mergers of like associations, but apparently only if they are in the same district. The new provision permits merger of associations, assuming compliance with certain prerequisites, whether the associations are like or unlike and whether they are in the same or different districts. Such a merger can be accomplished upon approval by the respective boards of directors, by a majority of the voting power represented by stockholders of each association present and voting, and by the supervising FICB/FLB.

The powers and obligations of the resulting association (the PCA/FLBA) will be those previously held by or imposed upon the constituent associations. The FCA, through regulations, would resolve any questions arising from the implementation of this provision.

The amendment provides that the plan of merger shall specify the classes of stock to be issued in the merger and the rights and privileges of such stock. Thereafter, the board of the merged association, with the approval of the supervising bank, shall adopt a plan of capitalization, pursuant to Title I of the bill, specifying the number of shares to be issued and their characteristics, provided only that voting stock can be acquired only by agricultural borrowers.

It is contemplated that, absent a contrary voting procedure in bank bylaws the existing scheme for election of district directors (section 5.2 of the Act) will be applied with respect to a merged association so that the association will cast votes for two directors based on the voting power of its stockholders that have "FICB-type" loans (i.e., short- and intermediate-term) from the bank, and votes for two directors based on the voting power of its stockholders that have "FLB-type" loans (i.e., long-term mortgage) from the bank. Thus, the "look-through" principle will be preserved. Voting for the board of the merged association would be in accordance with the bylaws of that association, adopted pursuant to Title I.

The amendment provides that, subject to approval of the supervising bank and to the requirements appearing in Title I, relating to capital adequacy, the board of directors of the merged association shall have broad discretion to determine how net earnings shall be applied.

The amendment provides that two or more service organizations organized pursuant to existing section 4.25 may be merged or consolidated. The resulting institution would have the power and authorities set forth in its charter, which would be granted by the FCA. It is not contemplated that the Capital Corporation would be authorized to merge with any other System institution.

The amendment provides in effect for prior approval by FCA of the disclosure material relevant to a vote on a merger or transfer of direct lending authority. Under subsection (a) plans of merger and transfer of lending authority, together with all disclosure information relevant to the vote on such plans, must be submitted to FCA prior to such vote. If FCA is satisfied that the disclosure information is adequate, or if it fails to act within 60 days of receipt of the disclosure information, the vote may proceed.

The amendment provides that if FCA, within the 60 days, determines that the disclosure material is inadequate, it shall notify the merging entities of the reason for such determination. The vote may not proceed until those entities correct the deficiencies in disclosure. It is contemplated that FCA will cooperate with the merging entities by responding promptly to their efforts to remedy the deficiencies, so that there will be as little delay as possible in submitting the plan to the prescribed vote or votes. Except for prior approval of disclosure information, mergers and transfers of lending authority shall not be subject to prior approval of FCA.

The amendment provides for proposed new or revised charters of the merged or transferee entity to be included in the plan adopted under the operative section of title IVA and for the issuance of such charters to be issued by FCA unless FCA determines that the charters are inconsistent with the provisions of the Act.

The amendment provides that the entity resulting from the merger of entities all of which are exempt from Federal income tax under the current Farm Credit Act (i.e., FLBs, FICBs and FLBAs) shall inherit the tax-exempt status of the constituent entities.

It provides, in effect, that a merged entity any one of the constituents of which was not exempt from Federal income tax (i.e., PCAs and BCs) shall not be so exempt but instead shall have only the exemptions that are extended under the current Farm Credit Act to such constituent entities.

TITLE IV. FEDERAL FARM CREDIT MORTGAGE CORPORATION

This title amends the Farm Credit Act of 1971 by inserting a new Title IV which establishes a Federal Farm Credit Mortgage Corporation within the Farm Credit System. The Corporation's purpose is to increase the availability of agricultural credit and agricultural investment capital and to increase the liquidity of agricultural lenders. The Corporation is authorized to purchase, pool and securitize loans, as well as securitize and guarantee payments of loans pooled by other institutions.

Loans are defined as any agricultural loan or any loan which was originated or purchased by a System member under the Farm Credit Act or which could have been originated by a System member. It would only deal in investment quality loans and would structure its programs and pricing to ensure equal access to each of its programs for eligible sellers.

The Corporation will also establish requirements, and impose charges which may be regarded as elements of pricing for different types of sellers. There will be no differentials in charges based solely upon whether the seller is a System bank. Requirements or charges will not be considered discriminatory solely because of differential efforts on different types of sellers.

The Corporation will be operated initially by a Board of Directors consisting of nine persons, six of whom shall be elected by the Farm Credit Banks and three of whom shall represent the non-System financial institutions which may sell agricultural loans to the Corporation or issue securities guaranteed by the Corporation. The directors representing System members shall elect interim directors to represent the non-System institutions. When the Board determines that voting rights for the election of directors to represent non-System institutions have become sufficiently dispensed to permit representative elections, the non-System institutions will directly elect the non-System directors. Initial capitalization will be set by the board.

System banks which sell agricultural loans to the Corporation or which issue securities guaranteed by the Corporation may be required to purchase, based on the nature and volume of the Systems banks' transactions with the Corporation, and number of shares of Class A common stock for such prices as the Corporation may from time to time determine. Class A stock may be held only by System banks and shall be entitled to one vote at all elections of directors.

The Corporation is authorized to issue such additional classes of nonvoting common stock and such class or classes of nonvoting preferred stock as shall be determined by the Board of Directors. Dividends may be declared and paid on the Class A common stock, on other classes of common stock, and on preferred stock as may be determined by the Board of Directors. The System banks are required to guarantee the performance by the Corporation on any agricultural loan or security, including the guarantee by the Corporation of the timely payment of principal and interest on securities issued by approved issuers.

The Corporation is directed to collect a reasonable fee for its guarantee and make reasonable charges for its expenses incurred. The Corporation will not be authorized to require recourse to the seller in the event of loan default as a prerequisite to the seller's ability to sell loans to the Corporation; however, the Corporation may consider the extent of recourse it will have to the seller as a matter of pricing.

In the event the issuer cannot make payment on such security guaranteed by the Corporation, the Corporation shall make such payments when due and shall be subrogated fully to the rights satisfied by such payment. In the event of default by the issuer, the agricultural loans that constitute the trust or pool with respect to which the guaranteed securities are issued shall become property of the Corporation subject only to the unsatisfied rights of the holders of the securities backed by such pool.

The Corporation shall be exempt from all federal, state or local taxation except that the Corporation's real property will be subject to ad valorum taxation. The Corporation's securities shall be exempt securities within the meaning of the federal securities laws. The securities will also be exempt from State blue sky laws.

The Corporation's securities will be lawful investments for those funds under the control of the United States or any state. Also, the Corporation's securities shall be lawful investments for any person authorized to invest in obligations of the United States.

The Farm Credit Administration shall provide for the examination of the condition of, and the general regulation of the safe and sound performance of the powers vested in the Corporation. The Corporation shall be audited and examined by the FCA examiners at least annually, and both the Corporation and the FCA are required to make annual reports of the Corporation's condition.

TITLE V. CLARIFICATION OF CERTAIN SYSTEM AUTHORITIES

Current law places a limitation on the aggregate of rural housing loans which a Federal land bank or production credit association can make equal to 15 percent of the institution's total portfolio. The amendment would remove the 15 percent limitation in current law.

This amendment would eliminate the sunset provision for both the Banks for Cooperatives export financing authorities and the FICB's OFI authorities, while otherwise leaving the authorities unchanged.

The amendment would also give the FLBs, the FICBs, and the PCAs the authority to engage in leverage lease transactions similar to the authority enjoyed by the BCs as a result of the 1980 Farm Credit Act Amendments.

TITLE VI. REGULATORY AUTHORITIES

The amendment eliminates FCA's power to amend FLB charters on its own initiative. This power, rarely if ever used by FCA, is not consistent with the role as an arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains authority to approve amendments to charters, consistent with its authority to issue the charter, provided any such amendment is consistent with the Act.

The amendment deletes FCA's authority to approve on a case-by-case basis: (1) loan participation with other FLBs; (2) loan participation with other FCS institutions; and (3) loan participation with other non-System institutions. The amendment retains FCA's authority to promulgate regulations governing these matters. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment provides that FLBs account for contributions to capital in accordance with GAAP. This change is consistent with the 1985 Amendments that provided for GAAP accounting practices. To preserve flexibility, FCA retains the authority to make an exception from GAAP accounting practices.

The amendment deletes FCA approval of FLB loss sharing agreements with other Systems institutions. Prior approval authority in this section is unnecessary in light of FCA's clear authority to enjoin (pursuant to its cease-and-desist authorities) any loss sharing agreement that FCA considers to be an unsafe or unsound practice.

The amendment deletes FCA approval of classification of stock of FLBs. The change conforms FAC's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of the issuance and retirement of nonvoting stock to other Farm Credit System institutions by FLBs. The change conforms FAC's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of the basis for patronage refunds by FLBs. The change conforms this section to the 1985 Amendments which limited FCA's authority in this area to providing "general direction."

The amendment deletes FCA's authority to approve, on a case-by-case basis, classes of real estate interests to secure loans of FLBs and appraisal standards. FCA retains authority to promulgate regulations on these matters. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes reference to the authority of FAC to approve bylaws of FLBAs. This change conforms this section to the 1985 Amendments which deleted this authority from Section 5.17(a)(2).

The amendment also eliminates FCA's power to amend FLBA charters on its own initiative. This power, rarely if ever used by FCA, is not consistent with the role of an arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains authority to approve amendments to FLBA charters.

The amendment clarifies that FCA may issue standards concerning FLB reserve accounts only by regulation.

The amendment deletes FCA approval of FLB dividend payments and patronage refunds. The change conforms this section to the 1985 Amendments which limited FCA's authority in this area to providing "general direction."

The amendment clarifies that FCA may issue standards concerning FLBA reserve accounts only by regulation.

The amendment eliminates FCA's power to amend FICB charters on its own initiative. This power, rarely if ever used by FCA, is not consistent with the role as an arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains authority to approve amendments to charters, consistent with its authority to issue the charter, provided any such amendment is consistent with the Act.

The amendment precludes FCA's exercise on a case-by-case basis of approval of (1) purchase and sale of interests in loans and financial assistance to other FCS institutions; and (2) other investments. The amendment retains FCA's authority to promulgate regulations governing these matters. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of FICB loss sharing agreements with other System institutions. Prior approval authority in this section is unnecessary in light of FCA's clear authority to enjoin (pursuant to its cease-and-desist authorities) any loss sharing agreement that FCA considers to be an unsafe or unsound practice.

The amendment deletes FCA approval of classification of stock of FICBs. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of the issuance and retirement of nonvoting stock to other Farm Credit System institutions by FICBs. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment precludes FCA's exercise of approval on a case-by-case basis of the FICB's determination of the amount of stock to be subscribed for by PCAs to meet the capital needs of the bank and adjustments to relative amounts of FICB stock owned by different PCAs. Approval authority is redundant in this section because insofar as such approval is appropriate to an arm's-length regulator, FCA has the authority to regulate capital adequacy of System institutions under the Act.

The amendment deletes the provision in current law which restricts the eligibility of loans tendered for discount by an "other financing institution" where the interest rate to the borrower exceeds the FICB's discount rate by more than 1½ percent per annum.

The amendment deletes FCA approval of the maximum percent of net earnings that may be added to FICB reserves. The amendment retains FCA's authority to promulgate regulations governing this matter. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes reference to the authority of FCA to approve bylaws of PCAs. This change conforms this section to the 1985 Amendments which deleted this authority from Section 5.17(a)(2).

The amendment also eliminates FCA's power to amend PCA charters on its own initiative. This power, rarely if ever used by FCA, is not consistent with the role as an arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains authority to approve amendments to PCA charters.

The amendment eliminates FCA's power to amend BC charters on its own initiative. This power, rarely if ever used by FCA, is not consistent with the role as an arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains authority to approve amendments to charters, consistent with its authority to issue the charter, provided any such amendment is consistent with the Act.

The amendment deletes FCA's authority to approve, on a case-by-case basis, depositories for BC funds. FCA retains authority to regulate these matters under its authority to maintain safety and soundness of System institutions. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of purchase from and sale to other System institutions of loans, financial assistance, and nonvoting stock. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of BC investments in foreign entities for the purpose of obtaining credit information, etc. FCA retains authority to regulate these matters under its authority to maintain safety and soundness of System institutions. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA authority to approve, on a case-by-case basis, BC maintenance of credit balances. Approval authority is redundant in this section because insofar as such approval is appropriate to an arm's-length regulator, FCA has the authority to regulate capital adequacy of System institutions under Section 4.3 of the Act.

The amendment deletes FCA approval of BC loss sharing agreements with other System institutions. Prior approval authority in this section is unnecessary in light of FCA's clear authority to enjoin (pursuant to its cease-and-desist authorities) any loss sharing agreement that FCA considers to be an unsafe or unsound practice.

The amendment deletes FCA approval of the amount of capital stock of BCs. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of classification of stock of BCs. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA's approval of the issuance, exchange, sale and transfer of nonvoting stock by BCs. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of the revolving basis for retirement of BC voting stock. The change conforms FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA's authority to approve, on a case-by-case basis, the required investment by BC borrowers in additional stock; the basis for determining treatment of such investments; and the required investment in district bank stock for direct loan by the CBC. The changes conform FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes as redundant FCA approval of the application of net savings to unallocated reserves by BCs. This provision already authorizes FCA to promulgate regulations concerning BC applications of net savings.

The amendment deletes FCA approval of deviations from the statutory formula for patronage refunds by a BC, but retains the possibility of deviations from standard formula by substituting approval of the BC board of directors. The changes conform FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes FCA approval of deviations from the statutory formula for patronage refunds by the CBC, but retains the possibility of deviation from standard formula by substituting approval of the CBC board of directors. The changes conform FCA's authority in this section to its establishment, in the 1985 Amendments, as an arm's-length regulator.

The amendment deletes reference to the authority of FCA to approve bylaws of service corporations. This change conforms this section to the 1985 Amendments which deleted from Section 5.17(a)(2) the authority of FCA to approve bylaws of System institutions.

The amendment also eliminates FCA's authority to prescribe the terms of the charter of a service corporation, and to direct changes to the charter at any time. These powers are not consistent with the role of arm's-length regulator that Congress established for FCA in the 1985 Amendments. FCA retains the authority to approve the charter of a service corporation and, pursuant to Section 4.25, FCA may deny the charter for good cause. Because FCA retains charter approval authority, the bill deletes as redundant the specific items as to which FCA's approval may be exercised.

The amendment substitutes "regulation" for "supervision" in the caption to Section 4.27. "Supervision" was deleted from this section in the 1985 Amendments, and this change is conforming.

In keeping with its role as an arm's-length regulator, the bill removes FCA from the district election process. The bill assigns responsibility for the nomination and election procedures to the district board, and directs the district board to designate a district election committee to carry out the nomination and election process. The amendment provides that the election committee must be "independent," that is, the election committee may not include any candidate for district election.

The amendment retains FCA's authority to charter and to approve amendments to charters of System entities. The bill eliminates FCA's power to amend charters on its own initiative. This power is not consistent with the role as an arm's-length regulator that Congress established for FCA in the 1985 Amendments. This legislation further carries out the intent of the 1985 legislation by specifying that FCA shall not have the power to directly or indirectly approve bylaws or any amendments or modifications to bylaws of System institutions.

The amendment clarifies that FCA may grant approvals on a case-by-case basis (or by regulation) only as to matters that the statute specifically authorizes such FCA approval.

The amendment provides that all existing approvals remain in effect. As to those matters in which the bill has replaced FCA's case-by-case approval authority with the authority to promulgate regulations, FCA may continue to exercise approval authority on a case-by-case basis for up to one year from the date the bill becomes law. If at that time FCA has not promulgated final regulations concerning a particular matter, System institutions may assume that FCA approval is not required and System institutions may act without risk of any enforcement action by FCA if they act on such assumption. The amendment does not preclude FCA from subsequently promulgating such regulations, but seeks to clarify the regulatory environment applicable to System institutions.

The transition rules are also intended to urge prompt action by FCA. The 1985 Amendments were intended to establish FCA as an arm's-length regulator and FCA must promptly complete its conversion to that role. FCA may not, by failing to enact regulations, claim authorities that Congress intended to eliminate. For example, Congress clearly eliminated FCA's authority to approve bylaws of System institutions when it deleted that language from Section 5.17(2) of the Act by the 1985 Amendments. Yet FCA has claimed that the transition provision of authority now, over 16 months after the 1985 Amendments have become law. This bill envisions that FCA will begin to operate in the manner intended by the 1985 Amendments in all particulars and that, consistent with that position, FCA will promptly acknowledge that it is not in the business of approving bylaw changes for System institutions.

TITLE VII. CONSERVATION

This title amends the Food Security Act of 1985 to prohibit the Secretary of Agriculture from rejecting an offer to place land under the Conservation Reserve Program fro the reason that including such land under a program contract would cause the total amount of rental payments owned to the person offering the land to exceed $50,000. This does not exempt the person from the payment limitation, however.

This amendment would apply only to those who regularly make loans secured by agricultural real estate and who have acquired highly erodible cropland through foreclosure or other proceeding such as voluntary conveyance. The Secretary is required to adjust payments to the parties involved in the sale of such land to permit the purchaser to participate in the program.

The Secretary is required to ensure that lenders do not enjoy an advantage over other owners and operators in entering property into the program and is authorized to establish separate bidding procedures and exclude lenders if country limits are being approached, in order to achieve that end.

Finally, the language clarifies that the program's three-year holding requirement not apply to lenders.

The title also amends the Farm Credit Act of 1971 to make clear that System institutions are permitted to sell easements for conservation, recreation, wildlife or similar purposes to any unit of state or local government, private nonprofit organization or other purchaser, separate from the underlying fee.●

● Mr. LUGAR. Mr. President, I am pleased to join today with the distinguished chairman of the Committee on Agriculture, Nutrition, and Forestry, Mr. LEAHY, in introducing, by request of the Farm Credit System, the Farm Credit Borrower Stock Protection and System Restoration Act of 1987.

As stated by Brent Beesley, chief executive officer of the Farm Credit Corporation of America, in testimony presented before a subcommittee of the House Agriculture Committee on May 6, 1987, this bill represents a compromise meticulously worked out by the System so as to gain the unified support of all of the System's 36 district banks and the central bank for cooperatives. In this respect, this bill is an important effort that should be made a part of the legislative debate on proposals to assist the FCS with its current financial crisis. Our introduction of the bill, however, does not reflect a wholehearted endorsement of all of its provisions at this time.

The Farm Credit System is presently under a great deal of financial strain which is working to the disadvantage of farm borrowers and threatening the very existence of the System. Based on the May 5, 1987, report of the System's financial condition, it is apparent that a significant problem exists: borrower confidence continues to erode; loan volume within the System is down; surpluses are falling and are projected to be at negative levels by 1988; interest income is down; and net losses for the System as a whole are projected to continue for years in the future.

Mr. President, the FCS prepared a summary of the results of its audit and financial projections which I believe is worthy of review by all Members. For this reason, I ask unanimous consent that that summary be printed in the RECORD.

While I want to congratulate the System for resolving its conflicts and advancing a unified position, I feel that I must point out the principal area of concern that I have with the position taken by the System. I am referring to the provision for a $6 billion line of credit on the U.S. Treasury to fund the assistance package. I simply am not convinced at this time that such a large infusion of the taxpayers money is either necessary or justified.

I recognize that some form of financial assistance is needed to restore the FCS to a viable farm lending system and I want the legislative remedy to be such that we are not faced with another credit crisis next year. I believe, however, that with the budget pressures we are facing in this country and with agricultural programs in particular, we must proceed on the basis that any Federal infusion for the FCS be held to a minimum. I believe that if we explore all other potential solutions that can be identified we will find an alternative that maximizes the opportunity for the System to help itself and minimizes the budgetary impact on the U.S. taxpayers.

Mr. President, let me repeat that I am sponsoring this bill because I think it is an important proposal that should be on the table as the debate on the FCS assistance package proceeds. I will continue to examine this issue carefully and fully expect to be joining with Senator LEAHY in a legislative proposal that is currently being developed by a bipartisan working group of committee staff.

There being no objection, the summary, referred to, was ordered to be printed in the RECORD, as follows:

FARM CREDIT SYSTEM ANNOUNCES 1987 FIRST QUARTER RESULTS

NEW YORK, NY.—Alan D. Fass, President of the Federal Farm Credit Banks Funding Corporation, and H. Brent Beesley, President of the Farm Credit Corporation of America, announced jointly today the first quarter 1987 combined financial results for the Farm Credit System.

The first quarter of the year corresponds to an early stage in the agricultural production cycle and, accordingly, considerable uncertainties exist at the end of the first quarter as to annual operating results for many System borrowers and the related impact on the System. The following significant combined financial developments for the three months ended March 31, 1987 should be viewed in this context.

A net loss of $155 million was incurred in the first quarter of 1987, compared to a $206 million net loss for the first quarter of 1986. The net loss for all of 1986 was $1.913 billion.

Net loans outstanding declined to $52.0 billion at March 31, 1987, compared to $54.6 billion at December 31, 1986.

The provision for loan losses for the first three months of 1987 was $115 million, compared to $267 million for the first quarter of 1986 and $1.798 billion for all of 1986. The allowance for loan losses of $3.532 billion at March 31, 1987, declined slightly from $3.635 billion at December 31, 1986.

Nonaccrual loans were $6.847 billion at March 31, 1987, compared to $7.066 billion at December 31, 1986. Other high-risk loans, which still accrue interest but have been identified as potential problem loans, aggregated $5.851 billion at March 31, 1987, compared to $5.742 billion at December 31, 1986.

Other property owned was $1.112 billion at March 31, 1987, compared to $1.101 billion three months earlier. Losses on other property owned were $25 million in the first quarter of 1987, compared to $44 million in the first quarter and $233 million for all of 1986, respectively.

Farm Credit securities outstanding decreased to $57.6 billion at March 31, 1987, compared to $62.5 billion at December 31, 1986.

Farm Credit System total capital, consisting of capital stock, participation certificates and surplus, was $5.242 billion at March 31, 1987, a decline of $399 million from the prior year-end. Surplus at the end of the first quarter of 1987 declined to

$1.281 billion from $1.453 billion at December 31, 1986.

Total risk funds, consisting of total capital plus the allowance for loan losses, were $8.774 billion at March 31, 1987, compared to $9.276 billion at December 31, 1986.

The first quarter results for 1987 continue to reflect the impact of the depressed agricultural economy on the System's borrowers. While the overall level of high-risk loans has increased only slightly from the level at the prior year-end, high-risk loans constitute a larger percentage of the loan portfolio, as loan volume declined significantly during the first quarter of 1987.

The net loss of $155 million incurred in the first quarter of 1987 was primarily a result of the continuing decline in net interest income, a $115 million provision for loan losses and $25 million of losses on other property owned. As in 1986, results for the first quarter of 1987 may not be indicative of the full year results if unfavorable trends in agriculture continue. In such event, the System can be expected to experience further declines in accruing loan volume, further reductions in net interest income over the course of the year because of proportionately higher levels of nonearning assets, and also to recognize increased provisions for loan losses and losses on other property owned.

Despite some indications of positive changes in the rate of land value declines, levels of the System's nonearning assets and certain key factors affecting the agricultural economy, the prospects for the agricultural sector and the resulting impact on the System continue to be highly uncertain. In view of these uncertainties, the System's current financial projections for 1987 are based on assumptions that, among other factors, farmland values will continue to decline, but at a slower rate, and agricultural credit demand will continue to shrink. Based on these assumptions of future events, the System projects lower loan volume, a higher level of nonearning assets, and higher provisions for losses than the first quarter results would indicate.

On an annualized basis, net interest income as a percentage of average earning assets declined to .88 percent during the first three months of 1987, compared to 1.41 percent in the first quarter of 1986 and 1.08 percent for all of 1986. The decrease primarily reflects the impact of the continuing high volume of nonaccrual loans in relation to total loans outstanding. In addition, the average cost of funds to the System continues at high levels as a result of the significant portion of debt represented by higher cost, long-term obligations. The decrease in net interest income was partially offset by the full payoff of some nonaccrual loans and the collection of annual interest payments due in the first quarter on certain nonaccrual loans, the income on which is recorded only when cash is received.

The provision for loan losses was $115 million and losses on other property owned were $25 million for the first quarter of 1987. These provisions were generally lower than the quarterly amounts recorded throughout 1986, and reflect differing judgments of bank managements concerning the impact of agricultural trends on their loan portfolios. Six districts (Louisville, Jackson, Omaha, Wichita, Sacramento and Spokane) continued to record significant additional provisions for losses while one district, Columbia, recorded a significant negative provision and the remaining districts reported only nominal changes to the allowance for loan losses.

The allowance for loan losses decreased to $3.532 billion at March 31, 1987, from $3.635 billion at December 31, 1986. However, as a percentage of loans outstanding the allowance increased to 6.36 percent at March 31, 1987, compared to 6.24 percent at December 31, 1986. Although uncertainty remains, bank managements concluded that events during the first quarter did not warrant substantial changes to the allowance for loan losses reported at the prior year-end. Net loan charge offs through the first quarter of 1987 were $218 million compared to $276 million in the first quarter of 1986 and $1.352 billion for all of 1986.

Loan volume outstanding of $52.0 billion at March 31, 1987, decreased by $2.6 billion or 4.8 percent since December 31, 1986. This decline reflects a continuation of the loss of borrowers experienced throughout 1985 and 1986. The decrease is attributable largely to three factors: borrower concerns over the System's financial condition, particularly their investment in System institutions; contraction of damand for agricultural credit; and competitive pressures from other lenders.

Loans in nonaccrual status at March 31, 1987, were $6.847 billion, a decrease of 3.1 percent from the $7.066 billion reported at December 31, 1986. This decrease was partially due to the restructuring and the payoff of some nonaccrual loans. Other high-risk loans, which exhibit serious credit weaknesses and require more than normal servicing to continue to accrue interest, amounted to $5.851 billion, compared to $5.742 billion three months earlier. The March 31, 1987, balance of other high-risk loans included $1.501 billion of loans 90 days or more past due, compared to $1.037 billion at December 31, 1986. These loans are considered well secured and in the process of collection. The increase in the amount of these loans from December 31, 1986, reflects, to a large extent, the seasonal repayment pattern of the System's loans whereby annual installments on a significant number of loans are due at or near calendar year-end or early in the first quarter of each year. Restructured loans on which concessions have been granted to borrowers were $531 million at March 31, 1987, compared to $363 million three months earlier.

Other property owned, primarily farmland acquired through foreclosure, increased to $1.112 billion at March 31, 1987, from $1.101 billion at December 31, 1986. Additions to other property owned resulting from foreclosures on delinquent loans were partially offset by the $25 million of losses relating to declines in property values and property sales recorded during the quarter.

High-risk loans (nonaccrual, restructured and other high-risk loans) and loan-related assets have further increased to 25.3 percent of loans and loan-related assets outstanding at March 31, 1987, compared to 24.0 percent at December 31, 1986. This continuing increase in the percentage of problem assets places a heavy strain on the System's operations and its human resources. Most districts have formed special departments to deal with problem assets more efficiently.

Consolidated bank and Systemwide obligations were $57.6 billion at March 31, 1987, a decline of $4.9 billion or 7.8 percent since December 31, 1986. This decrease relates directly to the declines in loan volume and in cash and investment securities outstanding.

At March 31, 1987, all System banks were in compliance with those provisions of the Farm Credit Act and related Farm Credit Administration (FCA) regulations which require each bank to maintain collateral at least equal in value to the total amount of obligations outstanding for which it is primarily liable. Such compliance is a condition for participation in the issuance of Systemwide obligations. One Federal Land Bank utilized a collateral sharing agreement with the other two banks in the same district in order to meet this regulatory requirement at March 31, 1987. A number of Federal Land Banks are expected to experience collateral deficiencies in 1987. At the present time one other district has entered into a similar intra-district collateral sharing arrangement.

Efforts to adopt a proposed Systemwide collateral sharing agreement have been redirected towards developing a proposal which provides for short-term inter-bank loans. This proposal is designed to remedy anticipated collateral deficiences in the short-term while possible long-term solutions are being explored. The inter-bank loan proposal will be submitted to System banks and the FCA for consideration in the near future, but there is no assurance that the proposal will be approved.

Total System capital consisted of $3.961 billion of capital stock and participation certificates and $1.281 billion of surplus at March 31, 1987. The decrease in capital stock and participation certificates of 5.4 percent relates directly to loan volume declines. Surplus at March 31, 1987, decreased during the first three months of 1987 principally as a result of the net loss for the period.

During the first quarter of 1987, eight Federal Land Banks and one Production Credit Association utilized the regulatory accounting practices permitted by the Farm Credit Act Amendments of 1986 to prevent stock impairment for certain regulatory purposes through the capitalization of $231 million of provisions for loan losses and certain interest costs. As of March 31, 1987, the cumulative net capitalization of these expenses and costs increased surplus for regulatory purposes by $620 million. The boards of directors and managements of each of the institutions utilizing these regulatory accounting practices have concluded, at this time, to continue retirement of member stock and participation certificates at par value.

In April 1987, cash transfers of $104 million were made to provide financial assistance previously accrued under the System's capital preservation agreements. As previously reported, there are several pending lawsuits concerning the possible reversal of financial assistance accrued under such agreements for the third quarter of 1986. Two additional banks have recently initiated lawsuits seeking reversal of such assistance. To date, no banks have refused to honor requests for cash payments under the capital preservation agreements; however, requests for such cash payments have been limited to amounts accrued prior to the third quarter of 1986 in order not to prejudice the rights of the banks litigating this matter.

As previously reported, pending litigation and court injunctions have hampered the ability of the Capital Corporation to access stronger System institutions and to assist weaker ones. Recent developments relative to this litigation include the following. In one case, a court has enjoined the Capital Corporation from disbursing amounts collected from the plaintiffs, pending disposition of the plaintiffs' challenges to the FCA regulations governing the assessment program. Following this ruling three additional institutions filed suit to compel the Capital Corporation to refund amounts paid under the assessment program. Further, while the Capital Corporation has sued several institutions to obtain payment, in the one case thus far decided the Capital Corporation's lawsuit was dismissed. Finally, the FCA has recently proposed modifications to its assessment regulations. This may affect the ultimate outcome of suits challenging those regulations, and two such suits have been stayed pending issuance of final revised regulations.

While the litigation initiated by System institutions calls into question the various forms of intra-System financial assistance, such litigation should be viewed in light of the fact that, pursuant to the Farm Credit Act, all of the 37 Farm Credit Banks are jointly and severally liable on all Systemwide bonds and discount notes.

As previously reported, the System's continued distressed financial condition, combined with the absence of any substantive indication of significant near-term improvement in the agricultural economy, results in uncertainty regarding the System's ability to return to profitability and to continue to obtain adequate financing without some form of external financial assistance. These concerns have been heightened by events during the first quarter of 1987, including the substantial reduction in loan volume, continued erosion of System surplus and the increasing spreads on System debt obligations over comparable U.S. Treasury securities.

FARM CREDIT SYSTEM COMBINED FINANCIAL STATEMENT DATA

[In millions of dollars]

	Mar. 31, 1987	Dec. 31, 1986
Statement of condition data:		
Loans, less allowance for loan losses of $3,532 and $3,635, respectively	51,976	54,614
Investment securities and cash	9,285	11,413
Accrued interest receivable	1,508	2,201
Other property owned	1,112	1,101
Other assets	748	772
Total assets	64,629	70,101
Consolidated systemwide, bank and other bonds	45,649	48,734
Consolidated systemwide notes	11,964	13,744
Other liabilities	1,774	1,982
Total liabilities	59,387	64,460
Total capital, including surplus of $1,281 and $1,453, respectively	5,242	5,641
Total liabilities and capital	64,629	70,101

	For the quarter ended Mar. 31	
	1987	1986 [1]
Statement of operations data:		
Total interest income	1,513	2,011
Total interest expense	1,364	1,741
Net interest income	149	270
Provision for loan losses	115	267
Losses on other property owned	25	44
	9	(41)
Other expense, net	164	165
Net loss	(155)	(206)

[1] Reclassified for comparative purposes.●

By Mr. KENNEDY (for himself, Mr. CRANSTON, Ms. MIKULSKI, Mr. DODD, Mr. METZENBAUM, and Mr. PELL):

S. 1220. A bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome; to the Committee on Labor and Human Relations.

AIDS EDUCATION, INFORMATION, RISK REDUCTION, TRAINING, PREVENTION, TREATMENT, CARE, AND RESEARCH ACT

● Mr. KENNEDY. Mr. President, today, we are introducing the first comprehensive legislation on AIDS that will accelerate and coordinate our Nation's response to this deepening public health crisis.

Our four-point plan will:

Educate all Americans about AIDS risks and enable them to make informed choices to protect themselves;

Develop care and treatment networks for people with AIDS that are more economical and appropriate;

Accelerate the search for AIDS vaccines and cures by putting Federal funds to work faster;

Assure that all Americans have access to voluntary and confidential AIDS testing and counseling and are protected against discrimination.

The AIDS virus is a threat to Americans in all walks of life. It is a sexually transmitted disease that does not discriminate between men and women, young and old, or whites and blacks.

It is readily transmitted any time intravenous drug users share needles or syringes. According to the U.S. Public Health Service, by 1991, AIDS will claim more lives each year than the entire Vietnam war. We must act immediately and decisively to halt this killer. Of the 35,000 Americans that have come down with AIDS, more than 20,000 are already dead. Between 1 and 2 million Americans are already infected with the virus that causes AIDS. It's been estimated that 20-50 percent of those infected will become ill—over time, some researchers say an even larger percentage may develop the deadly disease. Unless research produces a surprise breakthrough in the treatment area, we are guaranteed to be facing a steadily increasing death toll and astronomical costs.

In 1991, the annual cost of AIDS to our society is projected to be $64 billion—nearly $9 billion for direct care and $55 billion in lost productivity. The vast majority of deaths will occur among people who are already carrying the AIDS virus. Our immediate obligation is to insure that more and more of our fellow citizens do not become infected.

That is why our bill calls for a comprehensive national plan of education, prevention and risk reduction. At the moment, these steps are the only tools available to combat AIDS. We must target our prevention and education efforts on those individuals at highest risk, including adolescents, intravenous drug users, gay and bisexual men, blacks and Hispanics, and women of child-bearing age.

To do the job, we must rapidly recruit and train new personnel—and equip them with the resources to help local educators and public health officials reach their communities. It is essential that we employ the full power of the media to reach every corner of the Nation with prevention information.

Unless we develop new approaches for the care and treatment of people with AIDS and related illness, many urban health care systems will face collapse. Today, there are city hospitals in which 25 percent of the medical beds are occupied by people with AIDS related illness. We must involve more community physicians and provide the means to substitute day care and home care for costly in-patient services.

Particularly in cities with a high incidence of cases, a mechanism is needed to coordinate and manage the delivery of care services. In addition, our bill addresses the critical need for mental health support services. AIDS not only cripples the body; its effect on the mind can be equally devastating.

Because the ultimate answers must be provided through biomedical research, we propose an immediate effort to streamline the procedures for getting Federal funds into research labs and clinics. The NIH will be asked to cut grant approval time to no more than 6 months. Other agencies of the executive branch are required to respond to AIDS priority requests within 14 days. We are providing resources to train more researchers and create a network of AIDS research centers across the Nation—just as we have done for cancer. To assist the National Institutes of Health, a special AIDS advisory board will be formed.

In companion legislation that I am developing with Representative HENRY WAXMAN, we will address the pressing issue of confidential AIDS testing, counseling, and antidiscrimination. This legislation will expand voluntary testing programs in a responsible and rational manner. At this moment, in cities with the highest incidence of AIDS, the waiting time for a blood test is as long as 9 weeks. If an individual suspects he or she is infected and wants to be tested, it is essential that facilities be available.

In keeping with the recommendations of the Centers for Disease Control and the overwhelming consensus of leading public health experts, this measure will encourage individuals at high risk for infection to participate—by guaranteeing confidentiality and prohibiting discrimination.

If—on the other hand—we create a program of testing that is punitive, that exposes people to loss of employment or housing, those most likely to be infected will do all in their power to evade the test. We must not treat the victims of illness as villains. AIDS is spreading like wildfire and ideology can't stop it. One of the most important roles of the Federal Government is to expedite all aspects of the battle against AIDS and to ensure that adequate national resources are available. To a large extent, the specific steps taken will be at the option of State and local officials, who are waging this battle on the front lines, and who are in the best position to make difficult choices that accord with the needs and values of their communities.

Our message today is that the Congress stands ready, willing and able to help them meet this responsibility. Last week, in the Senate budget resolution, we succeeded in allocating an additional $400 million to combat AIDS for fiscal year 1988. This will give us a total of $900 million next year—more than double this year's appropriation.

It is now clear that AIDS has become a global health crisis. If we fail to do all that is within our power to conquer it, our failure will be measured in countless lost lives, untold suffering and hundreds of billions of dollars in future spending. Our ability to respond with care and compassion—instead of fear and hysteria—will be the best measure of our success in the months ahead.

In the face of the worst epidemic in this century, the administration has failed to respond. In answer to the No. 1 health concern of Americans, the administration has offered nothing but ideological disputes and paper policies. Even the black plague did not kill all of its victims, but AIDS has spared not one victim from death.

AIDS shows its victims no mercy and no quarter, but the administration has adopted a policy of surrender by underfunding research and by proposing an educational program that is a charade. The administration's efforts are not an all-out attack on AIDS, which is what the country and the world want and need—instead they have squandered precious time on nothing more than getting ready to begin.

We can wait no longer, and today's call for a four-point plan to defeat AIDS must be moved swiftly through the Congress and onto the President's desk for signature.

Our four-point plan provides new resources and new mechanisms to put the nightmare of AIDS behind us. We will work to see it implemented as fast as possible.

I ask unanimous consent that the bill index and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Acquired Immunodeficiency Syndrome Education, Information, Risk Reduction, Training, Prevention, Treatment, Care, and Research Act of 1987".

IMPROVED EDUCATION, INFORMATION, RISK REDUCTION, TRAINING, CARE, AND TREATMENT

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XXIV—ACQUIRED IMMUNODEFICIENCY SYNDROME

"PART A—EDUCATION, INFORMATION, RISK REDUCTION, AND TRAINING

"NATIONAL EDUCATION ACTIVITIES

"SEC. 2401. (a) The Secretary, through the Director of the Centers for Disease Control, shall prepare and transmit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a comprehensive national plan for education, information, and risk reduction activities concerning acquired immunodeficiency syndrome (hereafter in this section referred to as the 'plan'). Activities carried out under the plan shall be designed to disseminate as rapidly as possible to the population of the United States vital information concerning the prevention of infection with the acquired immunodeficiency syndrome virus. The plan shall—

"(1) describe a schedule for, methods of, specific activities for, and a budget for, the dissemination of information and the provision of education concerning acquired immunodeficiency syndrome, including education and information directed towards the general public, children attending school and college, individuals at high risk of contracting acquired immunodeficiency syndrome, individuals who are infected with the acquired immunodeficiency syndrome virus, health care workers, employers, State and local officials, and officials and employees of elementary and secondary schools and institutions of higher education;

"(2) provide for the dissemination of such education and information through the use of the print and broadcast media (including paid advertising), educational meetings and conferences, and other appropriate means; and

"(3) provide for the conduct of evaluations to determine the efficacy of activities conducted under the plan to provide such education and disseminate such information.

"(b) Within twelve months after the date on which the plan is transmitted under subsection (a), and every twelve months thereafter, the Secretary shall transmit to the committees specified in such subsection such revisions of the plan as the Secretary considers appropriate, the results of evaluations conducted under paragraph (3) of such subsection during the immediately preceding six-month period, and progress reports on activities conducted to carry out the plan.

"(c) The provisions of this section shall cease to be in effect on and after the date which is ten years after the date on which the plan required by subsection (a) is transmitted by the Secretary to the committees specified in such subsection.

"STATE EDUCATION, INFORMATION, AND RISK REDUCTION PLANS

"SEC. 2402. (a) The Secretary, through the Director of the Centers for Disease Control, shall make grants to States for the purpose of supporting the development, implementation, or expansion of State plans for education, information, risk reduction, and other activities relating to acquired immunodeficiency syndrome.

"(b) In order to receive a grant under this section, a State shall submit an application to the Secretary. Each such application shall be submitted in such form and at such time as the Secretary may by regulation prescribe, and shall contain—

"(1) assurances that activities under the State plan developed, implemented, or expanded with a grant under this section will be directed toward education, information, and risk reduction that is targeted to individuals who are at the highest risk of becoming infected with the acquired immunodeficiency syndrome virus (including minority individuals, young adults, women of reproductive age, homosexual and bisexual males, and intravenous drug abusers) as well as toward education, information, and risk reduction for the general public;

"(2) assurances that, under the State plan developed, implemented, or expanded with a grant under this section, education, information, and risk reduction activities—

"(A) will be conducted for and directed towards all personnel who provide health care services; and

"(B) will be carried out through appropriate relationships with public health officials or through collaboration with health professions schools; and

"(3) such other information as the Secretary may by regulation prescribe.

"(c) The Secretary shall provide technical assistance to States in carrying out this section.

"COMMUNITY EDUCATION, INFORMATION, AND RISK REDUCTION PROGRAMS

"SEC. 2403. (a) The Secretary, through the Director of the Centers for Disease Control, shall make grants to local governments and public and private nonprofit entities (including community based organizations) for the development, establishment, or expansion of programs for the conduct of targeted education, information, and risk reduction activities relating to acquired immunodeficiency syndrome. In making grants under this section, the Secretary shall give priority to programs and activities directed toward minority individuals, young adults, homosexual and bisexual males, intravenous drug abusers, secondary school students in communities in which there is a high risk of infection with the acquired immunodeficiency virus, and other individuals at highest risk of becoming infected with such virus.

"(b) No grant may be made to support a program under this section unless an application therefor is submitted to the Secretary in such form and at such time as the Secretary may by regulation prescribe. Each such application shall contain—

"(1) information demonstrating that the entity applying for the grant has identified needs for the conduct of education, information, and risk reduction activities relating to acquired immunodeficiency syndrome in the area in which the program will be developed, established, or expanded;

"(2) assurances that such entity will provide education and information concerning acquired immunodeficiency syndrome under the program in a manner which is medically accurate and factually correct;

"(3) assurances that any educational or informational materials developed with a grant under this section shall be of a content, and shall be presented in such a manner, which is specifically directed to the group for which such materials are intended;

"(4) a description of the manner in which such entity has planned the program in consultation with, and of the manner in which such entity will consult during the conduct of the program with—

"(A) appropriate local officials and community groups for the area to be served by the program;

"(B) groups representing individuals who are at high risk of contracting acquired immunodeficiency syndrome; or

"(C) individuals having expertise in health education,

in order to ensure that activities conducted under the program will be directed appropriately at the individuals needing such education, information, and risk reduction;

"(5) information demonstrating, in the case of an entity which is a community based organization, that—

"(A) the organization has continuing relationships with the portion of the population in the area to be served by such organization who is at risk of contracting acquired immunodeficiency syndrome; and

"(B) the organization has established relationships with public and private entities in such area which provide services to individuals with acquired immunodeficiency syndrome;

"(6) a description of—

"(A) the objectives established by the entity for the conduct of the program; and

"(B) the methods the entity will use to evaluate the activities conducted under the program to determine if such objectives are met; and

"(7) such other information as the Secretary may by regulation prescribe.

"(c) In making grants under this section to support programs described in subsection (a), the Secretary shall give preference to community-based organizations which are located in, have a history of service in, and will serve under the program, areas—

"(1) which have a significant incidence of acquired immunodeficiency syndrome;

"(2) in which there has been a significant increase in the incidence of acquired immunodeficiency syndrome; or

"(3) in which there is a significant risk of contracting acquired immunodeficiency syndrome,

as determined by the Secretary by regulation;

"(d) The Secretary may review the content of any educational or informational materials developed with a grant under this section only for scientific and factual validity.

"FELLOWSHIPS

"SEC. 2404. (a) The Secretary, through the Director of the Centers for Disease Control, shall establish a program of fellowships at the Centers for Disease Control for the training of individuals to develop skills in epidemiology, surveillance, testing, counseling, education, information, laboratory analysis, and risk reduction relating to acquired immunodeficiency syndrome. The program shall be designed to enable individuals trained under the program to work, after receiving such training, in national and international efforts to combat acquired immunodeficiency syndrome.

"(b) Any individual receiving a fellowship under subsection (a) shall not be counted in determining the number of full time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after the date of enactment of this title.

"SUPPORT OF INTERNATIONAL EFFORTS

"SEC. 2405. (a) The Secretary, through the Director of the Centers for Disease Control, shall make grants to international organizations concerned with public health to support—

"(1) programs of education, information, and risk reduction relating to acquired immunodeficiency syndrome;

"(2) projects to train individuals to develop skills and technical expertise for use in combatting acquired immunodeficiency syndrome; and

"(3) epidemiological research relating to acquired immunodeficiency syndrome.

"(b) The Secretary shall inform the Secretary of State and the Administrator of the Agency for International Development of each grant made under this section.

"(c) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

"(d) Not less than 50 percent of the amounts available to carry out this section for any fiscal year shall be used for grants through the World Health Organization and, in the case of activities in the Western Hemisphere, grants through the Pan American Health Organization. Grants made under this subsection shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 2406. (a) To carry out this part (other than section 2405), there are authorized to be appropriated $350,000,000 for each of the fiscal years 1988, 1989, and 1990.

"(b) To carry out section 2405, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988, 1989, and 1990.

"PART B—CARE AND TREATMENT

"NETWORKS FOR CARE AND TREATMENT

"SEC. 2411. (a)(1) The Secretary may make grants to public and nonprofit private entities for the development, establishment, or expansion in a service area of networks of comprehensive medical services for individuals who have acquired immunodeficiency syndrome or who are infected with the acquired immunodeficiency syndrome virus. Networks developed, established, or expanded with grants under this section shall provide in a service area, or shall provide referrals in a service area to, comprehensive services for such individuals, including—

"(A) comprehensive ambulatory care services in such area which—

"(i) are specifically directed toward such individuals;

"(ii) will result in the improved diagnosis and treatment of such individuals and in reduced utilization of inpatient hospital services by such individuals;

"(iii) are provided by multidisciplinary teams of health care professionals who have training in the care and treatment of such individuals; and

"(iv) are provided in facilities in such service area which are located at, which have access to, or which are able to make referrals to, medical centers involved in clinical research concerning the cause or treatment of infection with the acquired immunodeficiency syndrome virus;

"(B) services of individual physicians who practice in such area and who have relationships with academic medical centers;

"(C) medical and support services for such individuals which are provided in the homes of such individuals, including home health care services and practical assistance provided by paid personnel or volunteers;

"(D) long-term care and hospice services for such individuals, including services provided by intermediate care facilities and skilled nursing facilities;

"(E) mental health, counseling, and psychosocial support services for such individuals; and

"(F) case management services for such individuals which are provided by paid social workers or volunteers in order to enable such individuals to obtain the full range of services available to such individuals.

"(2) Networks developed, established, or expanded with grants under this section shall provide continuing education for health care personnel involved in the delivery of services to individuals infected with the acquired immunodeficiency syndrome virus.

"(b)(1) A grant made under this section may be used for—

"(A) the training of volunteers and salaried personnel;

"(B) the management of the network developed, established, or expanded with such grant; and

"(C) the provision of, or the support of the provision of, the services described in subsection (a).

"(2) A grant made under this section shall not be used for—

"(A) the construction or major renovation of facilities;

"(B) the payment or reduction of deficits of an entity which resulted from obligations which were incurred by the entity prior to the date on which the entity receives payment under a grant under this section; and

"(C) the reduction of any amount which is payable to the entity by a third party as reimbursement for services provided by the entity through the network established under this section.

"(c) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form and at such time as the Secretary may by regulation prescribe. Each such application shall contain—

"(1) a description of a strategy developed by the entity applying for the grant to serve, through the network to be developed, established, or expanded with such grant, as many individuals as possible who are infected with the acquired immunodeficiency syndrome virus and who reside in the service area to be served by the network;

"(2) assurances that such network will provide, or will provide referrals to, the services described in subsection (a), and a description of the services that will be available through the network;

"(3) a description of—

"(A) the manner in which the entity applying for the grant has involved the network advisory committee required under subsection (d) in the development of the network; and

"(B) the manner in which such entity will involve such committee in the implementation of the project;

"(4) evidence that the network advisory committee required under subsection (d) has endorsed the application of such entity under this section; and

"(5) such other information as the Secretary may by regulation prescribe.

"(d)(1) Each entity applying for a grant under this section shall, prior to applying for such grant, establish a network advisory committee to—

"(A) assist such entity in the development of an application for a grant under this section and in the development, establishment, or expansion of a network in accordance with this section;

"(B) provide support for the development, establishment, or expansion of such network; and

"(C) monitor the implementation of, and the services provided through, such network.

"(2) Each network advisory committee established under this subsection shall include—

"(A) health care professionals who practice or reside in the service area to be served by the network;

"(B) representatives of health care institutions located in such service area;

"(C) representatives of major voluntary organizations which conduct activities or provide services in such service area;

"(D) representatives of religious organizations located in such service area;

"(E) representatives of State and local governmental agencies for such service area which are concerned with problems relating to acquired immunodeficiency syndrome; and

"(F) individuals who reside in such service area and who—

"(i) have acquired immunodeficiency syndrome;

"(ii) have acquired immunodeficiency syndrome related illnesses; or

"(iii) are infected with the acquired immunodeficiency syndrome virus.

"(e) In making grants under this section, the Secretary shall give priority to—

"(1) any applicant which demonstrates a strong record in managing projects which provide a wide variety of health services; and

"(2) any applicant which—

"(A) demonstrates the ability to provide services to the largest number of individuals residing in the service area of the network proposed to be developed, established, or expanded with a grant under this section; and

"(B) has the potential to serve the largest number of individuals who are infected with the acquired immunodeficiency syndrome virus and who reside in such service area (including homosexual and bisexual males and intravenous drug users).

"(f) The Secretary shall make at least one grant under this section for each fiscal year in each service area in which there is a high incidence of children who are infected with the acquired immunodeficiency syndrome virus (as determined by the Secretary by regulation). For each such service area, such grant shall be made to the applicant which the Secretary determines has the ability to develop, establish, or expand a network with a grant under this section which will make available for such children the comprehensive services described in subsection (a).

"(g) For purposes of this section—

"(1) the term 'nonprofit private entity' means an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (other than a private foundation as defined in section 509(a) of such Code); and

"(2) the term 'service area' means—

"(A) a metropolitan area in the United States with a high incidence of acquired immunodeficiency syndrome (as determined by the Secretary by regulation); or

"(B) an area located in a metropolitan area described in subparagraph (A) for which an entity proposes, in an application submitted under subsection (c), to develop, establish, or expand a network with a grant under this section.

"INNOVATIVE SERVICE DELIVERY MODELS

"SEC. 2412. (a) The Secretary shall make grants to public and nonprofit private entities for projects to demonstrate innovative models for the cost-effective delivery of health services (including home health services, day care services, and services provided by consortiums of community physicians) to individuals with acquired immunodeficiency syndrome. Each project supported with a grant under this section shall provide for the delivery of health services to such individuals in conjunction with a network developed, established, or expanded with a grant under section 2411.

"(b) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form and at such time as the Secretary may by regulation prescribe. Each such application shall contain—

"(1) a description of the manner in which the applicant will provide health services under the grant in conjunction with a network developed, established, or expanded under section 2411; and

"(2) such other information as the Secretary may by regulation prescribe.

"(c) To carry out this section and section 2411, there are authorized to be appropriated $75,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"COUNSELING

"SEC. 2413. (a) The Secretary, through the Director of the National Institute of Mental Health, shall make grants to public and private nonprofit entities for the development, establishment, or expansion of programs to—

"(1) provide long-term counseling to individuals who have acquired immunodeficiency syndrome or who have tested positively for the presence of antibodies to the acquired immunodeficiency syndrome virus, including mental health counseling and counseling concerning medical, legal, and social matters relating to exposure to such virus and relating to acquired immunodeficiency syndrome; and

"(2) conduct evaluations of the effectiveness of the types of counseling described in paragraph (1).

"(b) Grants made under this section may be used for—

"(1) the training of individuals to provide the counseling described in subsection (a); and

"(2) the payment of any expenses necessary for the provision of such counseling.

"(c) No grant may be made to support a program under this section unless an application therefor is submitted to the Secretary in such form and at such time as the Secretary may by regulation prescribe. Each such application shall contain—

"(1) information demonstrating that the entity applying for the grant has identified needs for the provision, in the area in which the program will be developed, established, or expanded, of counseling for individuals who have acquired immunodeficiency syndrome or who are infected with the acquired immunodeficiency syndrome virus;

"(2) assurances that such entity will provide such counseling under the program in a manner which is medically accurate and factually correct;

"(3) a description of—

"(A) the objectives established by the entity for the conduct of the program; and

"(B) the methods the entity will use to evaluate the activities conducted under the program to determine if such objectives are met; and

"(4) such other information as the Secretary may by regulation prescribe.

"(d) In making grants under this section, the Secretary shall give priority to entities which are based at, or which have relationships with, entities providing comprehensive health services to individuals who have acquired immunodeficiency syndrome or individuals who are infected with the acquired immunodeficiency syndrome virus.

"(e) To carry out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"PART C—MISCELLANEOUS

"REDUCING THE TRANSMISSION OF ACQUIRED IMMUNODEFICIENCY SYNDROME AMONG INTRAVENOUS DRUG ABUSERS

"SEC. 2421. (a) The Secretary, through the Director of the National Institute on Drug Abuse, shall make grants to public and nonprofit private entities to support the study of, and projects for the demonstration of, effective methods to—

"(A) reduce the transmission of the acquired immunodeficiency syndrome virus among intravenous drug abusers; and

"(B) provide treatment to intravenous drug abusers who have acquired immunodeficiency syndrome or who have are infected with the acquired immunodeficiency syndrome virus.

"(b) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

"(c) To carry out this section, there are authorized to be appropriated $100,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

IMPROVING THE CAPABILITY OF THE NATIONAL INSTITUTES OF HEALTH TO COMBAT ACQUIRED IMMUNODEFICIENCY SYNDROME

SEC. 3. (a) Part B of title IV of the Public Health Service Act is amended by redesignating section 408 as section 409B and by inserting after section 407 the following new sections:

"NATIONAL PROGRAM ON ACQUIRED IMMUNODEFICIENCY SYNDROME

"SEC. 408. (a) There shall be the National Program on Acquired Immunodeficiency Syndrome (hereafter in this part referred to as the 'Program'), which shall consist of—

"(1) an expanded, intensified, and coordinated research program on acquired immunodeficiency syndrome conducted and supported by the national research institutes, including an expanded and intensified research program relating to the prevention of acquired immunodeficiency syndrome; and

"(2) demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of acquired immunodeficiency syndrome and for the provision of counseling concerning acquired immunodeficiency syndrome.

"(b) The Director of NIH shall designate one of the Directors of the national research institutes as the Acquired Immunodeficiency Syndrome Coordinator (hereafter in this part referred to as the 'AIDS Coordinator'). The AIDS Coordinator shall be responsible for the administration of the Program.

"(c) Within 90 days after the date of enactment of this section, the AIDS Coordinator shall develop and implement a plan for the National Institutes of Health to expedite the award of grants, contracts, or cooperative agreement by any agency of the National Institutes of Health for projects relating to acquired immunodeficiency syndrome (including projects initiated by investigators not in response to any solicitation for proposals). The plan shall provide that, in the case of any application for a grant, contract, or cooperative agreement which is made in response to a solicitation for proposals—

"(1) such grant, contract, or cooperative agreement shall be awarded; or

"(2) such application shall be disapproved, within 6 months after the date on which such solicitation is issued.

"(d) To carry out the Program, the AIDS Coordinator, in conjunction with the Directors of the national research institutes and in consultation with the National Acquired Immunodeficiency Syndrome Advisory Board, shall establish projects to promote cooperation between Federal agencies, State, local, and regional public health agencies, and nonprofit private agencies, in the diagnosis, prevention, and treatment of acquired immunodeficiency syndrome.

"(e) In carrying out the Program, the AIDS Coordinator shall—

"(1) coordinate activities under the Program with other activities relating to acquired immunodeficiency syndrome conducted by the national research institutes; and

"(2) give special emphasis to the continued development of activities relating to the cause of acquired immunodeficiency syndrome and to the coordination of such activities with related activities conducted by the national research institutes.

"(f) Within 60 days after the close of each fiscal year, the AIDS Coordinator shall prepare and transmit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report—

"(1) describing and evaluating the progress made in such fiscal year in research, treatment, education, and training with respect to acquired immunodeficiency syndrome conducted or supported by the National Institutes of Health;

"(2) summarizing and analyzing expenditures made in such fiscal year for activities respecting acquired immunodeficiency syndrome conducted or supported by the National Institutes of Health; and

"(3) containing such recommendations as the AIDS Coordinator considers appropriate.

"SPECIAL AUTHORITIES OF THE AIDS COORDINATOR

"SEC. 409. In carrying out the Program, the AIDS Coordinator—

"(1) shall expand clinical trials of treatments and therapies for acquired immunodeficiency syndrome and infection with the acquired immunodeficiency syndrome virus;

"(2) may establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research relating to acquired immunodeficiency syndrome and set standards of safety and care for persons using such materials;

"(3) may, in consultation with the National Acquired Immunodeficiency Advisory Board, support (A) research relating to acquired immunodeficiency syndrome outside the United States by highly qualified foreign nationals which can be expected to benefit the American people, (B) collaborative research involving American and foreign participants, and (C) the training of American scientists abroad and foreign scientists in the United States;

"(4) may, in consultation with the National Acquired Immunodeficiency Advisory Board, support appropriate programs of education and training (including continuing education and laboratory and clinical research training);

"(5) may—

"(A) encourage and coordinate research relating to acquired immunodeficiency syndrome by industrial concerns where such concerns evidence a particular capability for such research; and

"(B) provide for the exchange of information between Federal agencies and private entities involved in the development and production of, and research concerning, therapies and vaccines for acquired immunodeficiency syndrome;

"(6)(A) may, in consultation with the National Acquired Immunodeficiency Advisory Board, acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the AIDS Coordinator determines necessary;

"(B) may, in consultation with the National Acquired Immunodeficiency Advisory Board, make grants for the renovation of facilities; and

"(C) may, in consultation with the National Acquired Immunodeficiency Advisory Board, acquire by lease space in buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Program for a period not to exceed ten years;

"(7) subject to section 405(b)(2) and without regard to section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immunodeficiency syndrome; and

"(8) may maintain and operate the International Acquired Immunodeficiency Syndrome Research Data Bank, which shall collect, catalog, store, and disseminate insofar as feasible through the use of information systems accessible to the public, general practitioners, and investigators, the results of research relating to, and treatment of, acquired immunodeficiency syndrome which is undertaken in any country in order to permit the use of such results by any person involved in research relating to, and treatment of, acquired immunodeficiency syndrome in any country.

"NATIONAL ACQUIRED IMMUNODEFICIENCY SYNDROME ADVISORY BOARD

"SEC. 409A. (a) The Secretary, in consultation with the AIDS Coordinator, shall establish in the National Institutes of Health a National Acquired Immunodeficiency Syndrome Advisory Board (hereafter in this section referred to as the 'Advisory Board').

"(b) The Advisory Board shall be composed of seven appointed members and nonvoting ex officio members as follows:

"(1) In consultation with the AIDS Coordinator, the Secretary shall appoint—

"(A) four members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to acquired immunodeficiency syndrome; and

"(B) three members from the general public who are knowledgeable with respect to acquired immunodeficiency syndrome, including at least one member who is an individual who is infected with the human immunodeficiency syndrome virus.

Of the members appointed under this paragraph, at least three shall by virtue of training or experience be knowledgeable in the fields of health education, nursing, data systems, public information, and community program development. In making appointments under this paragraph, the Secretary shall request recommendations from the Institute of Medicine of the National Academy of Sciences.

"(2) The following shall be ex officio members of the Advisory Board:

"(A) The Surgeon General, the Director of NIH, the AIDS Coordinator of Public Health Service, the AIDS Coordinator of the National Institutes of Health, the Director of the AIDS Program of the Centers for Disease Control, and the Director of the Health Care Financing Administration (or the designees of such officers).

"(B) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Advisory Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Advisory Board.

"(d) The term of office of an appointed member of the Advisory Board is four years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

"(e) The AIDS Coordinator of the National Institutes of Health shall be the chairman of the Advisory Board.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) The Advisory Board shall meet at the call of the chairman, but not less often than four times a year.

"(h) The Advisory Board shall—

"(1) review and evaluate the implementation of the Program;

"(2) for the purpose of assuring the most effective use and organization of resources respecting acquired immunodeficiency syndrome, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the AIDS Coordinator, and the heads of other appropriate Federal agencies for the implementation and revision of the Program; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of the Program and with key non-Federal entities involved in activities affecting the control of acquired immunodeficiency syndrome.

"(i) In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

"(j) The Advisory Board shall prepare an annual report for the AIDS Coordinator which—

"(1) describes the Advisory Board's activities in the fiscal year for which the report is made; and

"(2) contains the Advisory Board's recommendations with respect to the Program.

"(k) The Advisory Board shall terminate on September 30, 1992.

"(l) The Secretary shall make appointments to the Advisory Board within 90 days after the date of enactment of this section.".

(b) Subpart 6 of part C of title IV of such Act is amended by adding at the end thereof the following new sections:

"NATIONAL ACQUIRED IMMUNODEFICIENCY SYNDROME RESEARCH CENTERS

"SEC. 447. (a)(1) The Director of the Institute may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immunodeficiency syndrome.

"(2) A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH and after consultation with the Institute's advisory council.

"(b) Federal payments made under a cooperative agreement or grant under subsection (a) may be used for—

"(1) the renovation or leasing of space;

"(2) staffing and other basic operating costs, including such patient care costs as are required for research;

"(3) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting acquired immunodeficiency syndrome; and

"(4) demonstration purposes.

As used in this subsection, the term 'training' does not include research training for which National Research Service Awards may be provided under section 487.

"(c) Support of a center under subsection (a) may be for a period of not to exceed five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"ASSOCIATE DIRECTOR FOR PREVENTION

"SEC. 447A. (a) There shall be in the Institute an Associate Director for Prevention to coordinate and promote the programs in the Institute concerning the prevention of infectious diseases, including acquired immunodeficiency syndrome. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or experience are experts in public health or preventive medicine.

"(b) The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 407 a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

"VIRUS AND SERUM BANK

"SEC. 447B. The Director of the Institute shall establish, or provide for the establishment of, a virus and serum bank in which all human immunodeficiency virus serotypes and serum are available to qualified investigators and organizations.".

(c) Section 446 of such Act is amended—

(1) by inserting "the cause, prevention, treatment, and care of individuals with" after "with respect to"; and

(2) by inserting before the period a comma and "including acquired immunodeficiency syndrome".

NATIONAL RESEARCH SERVICE AWARDS

SEC. 4. Section 487(a) of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary, through the Director of the National Institute on Allergy and Infectious Diseases, shall make National Research Service Awards under subparagraphs (A)(ii), (A)(iv), and (B) of paragraph (1) for the training of individuals to participate in national research efforts relating to acquired immunodeficiency syndrome.".

RESPONSES TO REQUESTS FOR ALLOCATIONS OF FUNDS, SPACE, SERVICES, OR PERSONNEL TO BE USED IN COMBATTING ACQUIRED IMMUNODEFICIENCY SYNDROME

SEC. 5. (a) The Director of the Office of Management and Budget, the Director of the Office of Personnel Management, or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Acquired Immunodeficiency Syndrome Coordinator of the National Institutes of Health within 14 calendar days after the date on which such request is made.

(b) For purposes of subsection (a), the term "priority request" means any request designated as a priority request by the AIDS Coordinator of the National Institutes of Health and which—

(1) in the case of a request made to the Director of the Office of Management and Budget, is a request for the allocation of amounts appropriated and available to carry out activities relating to acquired immunodeficiency syndrome;

(2) in the case of a request made to the Director of the Office of Personnel Management, is a request for the allocation of personnel to carry out activities relating to such syndrome; and

(3) in the case of a request made to the Administrator of General Services, is a request for space or administrative or support services to be used in the carrying out of such activities.●

● Mr. DODD. Mr. President, I am pleased to be an original cosponsor of the first comprehensive legislation aimed at accelerating and coordinating our country's response to a national public health crisis, the AIDS crisis.

Acquired immune deficiency syndrome is one of the most serious health epidemics in our history. It is today a crisis for the United States more deadly than many wars of modern times. It is estimated that in just 4 more years, the disease will have killed more Americans than the Vietnam and Korean wars combined.

As of the end of 1986, more than 29,000 Americans had contracted AIDS. By 1991, according to the most conservative estimates, 270,000 people will have been stricken, 179,000 will have died—and new cases involving heterosexuals will have multiplied tenfold to 23,000. Almost 4,000 babies will have contracted the disease by being exposed to the virus while in their mothers' wombs.

These figures are horrifying. But beyond all these cold statistics are real live human beings. People in fear. People in pain. People who are measuring their future in weeks or months. People who deserve much more than just our sympathy. People who demand a reason to hope.

The AIDS epidemic began in the United States more than 6 years ago. Yet, as a nation, only recently have we begun to mobilize our efforts to fight this tragic disease. Ending this tragedy as rapidly as possible requires the development of a national campaign to combat AIDS that will help prevent further spread of infection, promote the rapid development of drugs and vaccines against AIDS, and enable all individuals who develop AIDS to receive proper health care and the most effective treatments.

The legislation we are introducing today represents a first step in the right direction. Our bill has four major components:

First, our bill calls for a comprehensive national plan of education, prevention, and risk reduction. Currently, education and information efforts with respect to risk factors associated with the disease are the only tools available to limit the spread of AIDS. Our education and prevention efforts must be targeted at those individuals in the high risk categories, including gay and bisexual men, intravenous drug users, blacks and Hispanics, adolescents, and women of child-bearing age.

Second, the bill will facilitate the development of care and treatment networks for people with AIDS that are more economical and appropriate than those now available. We must establish cost-effective networks of outpatient medical services for AIDS patients, including community-based and home care services as alternatives to long-term hospitalization.

Third, our bill will accelerate the search for AIDS vaccines and cures by putting Federal funds to work faster. The ultimate answer to the AIDS crisis must be provided through research. Therefore, we propose an immediate effort to streamline the procedures for getting Federal funds into research facilities. Our bill also provides resources to train more researchers, and it creates a network of AIDS research centers across the country.

Finally, the bill addresses the issue of confidential AIDS testing, counseling, and antidiscrimination. The legislation expands voluntary testing programs and encourages individuals at high risk for infection to participate by guaranteeing confidentiality and prohibiting discrimination.

Without a national campaign against AIDS, the prospects for quickly and effectively arresting the onslaught of AIDS are bleak. This bill can help us meet the challenge with seriousness, rationality, dignity, and hope.

I commend the chairman of the labor and human resources Committee, Senator KENNEDY, for his leadership on this public health issue of critical importance to our country.●

By Mr. ROTH:

S.J. Res. 130. Joint resolution proposing an amendment to the Constitution of the United States relative to campaign expenditures; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN EXPENDITURES

Mr. ROTH. Mr. President, I would like to go to a second matter. I am introducing today a constitutional amendment to limit campaign expenditures.

Mr. President, 10 years ago, candidates for both Chambers of Congress collectively spent over $115 million on their campaigns. In this last election, estimates indicate that $435 million was spent, almost a 300-percent increase over a 10-year period.

Even after we factor inflation into the equation, we see an enormous increase in campaign costs, much of which grows from the increase in television and other media expenses.

For example, today in the media market available to my State of Delaware we have to go to Philadelphia. It is said that the cost of running a 30-second commercial today is something like $15,000. The cost of advertisements likewise have exploded.

In a prominent newspaper at home, the cost of a full-page ad was something like $500 10 years ago. Today, it costs $5,000.

With this kind of money being spent, and with the rapid increase of campaign expenditures the way it is, there is little wonder why the campaign finance system governing Federal elections has been a topic of discussion and controversy in recent years.

Today politics is big business. Campaign costs are exploding, and the demands those costs place on individual candidates contribute to the mounting criticism we are hearing from our constituents. If this trend continues, only the very wealthy will be able to run for public office, and this concerns me as I know it concerns all of us.

In 1974, we tried to do something about this concern by amending the Federal Election Campaign Act. Our attempt was to establish limits on campaign contributions and expenses and to require certain disclosures. Under this act, candidates for the Senate were limited to $35,000 of their own money. That was all they could spend, $35,000 of their own money. Candidates for the House were limited to $25,000. These limitations, along with other regulations provided in that law, we believed, would protect against corruption and restore equity to the political process.

However, the Supreme Court's 1976 ruling in the Buckley versus Valeo case held some of the limitations to be unconstitutional. The Court determined that to limit the amount of personal money that candidates, wealthy or otherwise, wanted to spend on their campaigns would be unconstitutional, striking at the first amendment's guarantee of freedom of speech. In other words, we could put no limit as to how much money an individual could spend of his own. The same logic dictated that individuals independent of a candidate also have a constitutional right to spend any amount of money to support or criticize the candidate or party of their choice.

However, when the Court made these decisions, they also made the decision to uphold regulations on candidates who were forced to raise money outside their personal or family means. The result was an undemocratic tilt that clearly favors wealthy candidates over all others. Consequently, we find some candidates spending millions—even tens of millions—of personal dollars in their quest for office, while others—with greater restrictions upon them—are forced to participate in the most distasteful part of running: raising money. And they must do this with the added burden of heavy regulations—again, regulations that cannot and do not affect the wealthy.

Let me say I am not being critical of what the wealthy are doing because it is their constitutional right. But as the burdens of campaign financing increase and as pressure mounts from our constituents to do more and more about campaign financing, the temptation grows that even greater restrictions be imposed on candidates who raise money from outside sources. Why would Congress focus on just these candidates? Because the Supreme Court has forbidden us to limit the financing of the candidates who use their own money. So the only people who can be reached by legislation are those candidates who are unable to finance their own candidacies.

The only thing we can do to wealthy candidates is to try to induce them to surrender their advantage voluntarily by offering to have the taxpayers finance their campaigns in return for an agreement that they not spend their own money. But even those who propose this solution recognize that it is an unhappy trade-off. Moreover, it leaves unresolved the problem of the noncandidate spending his own money on campaigns independent of any candidate's expenditures.

Of course, we can only speculate, with a great deal of apprehension I might add, about the drawbacks of political advertising when the candidate is no longer personally responsible for what is said and when he can no longer be held accountable for the message of the independent source. The most recent election was an academic case of negative campaigning, and one can only agree that the large, and ever increasing, independents were a part of that negative campaigning.

Mr. President, with these thoughts in mind, and as we look to the need for campaign finance reform in the 100th Congress, I believe that the true solution is a constitutional amendment—an amendment that will enable us to bring about the reform that we attempted to bring about in 1974. And to this end, I am introducing today a constitutional amendment to overturn the Supreme Court's decision in Buckley versus Valeo, and I am proposing that we act now to clamp down on campaign financing in a way that will be fair for all Americans.

I urge my colleagues to support this proposal. It is most important that we restore a sense of fairness and the appearance of honesty to public office. The present way of doing things is not satisfactory. It does not have to be this way. Lowering the overall costs of campaigns, reducing the need for astronomical warchests, and shortening campaigns would clearly be a welcome reform in American politics.

Mr. President, I would like to elaborate in a more technical manner on the constitutional amendment I am introducing today. The purpose of the amendment is to overturn certain parts of the Supreme Court's decision in *Buckley* v. *Valeo*, 425 U.S. 1 (1976), wherein the Court struck down several Federal election campaign regulations of the Congress. In the Federal Election Campaign Act of 1974, Congress had established limits on campaign contributions and expenditures and required that certain disclosures thereof be filed. While the Court upheld the contribution and disclosure provisions as permissible incursions on first amendment rights of political communication on the grounds that such provisions protected against corruption and the appearance of corruption in the political process, it struck down expenditure limitations. Congress' stated intention to protect against corruption or the appearance of corruption was found to be insufficient to justify such direct limitations on political expression. Likewise, the Court's analysis specifically rejected as insufficient any congressional purpose to equalize political opportunity or to curb escalating campaign costs.

Thus the Court declared to be constitutionally protected the right of those independent of a candidate to spend any amount of money to further such candidacy. Also, the Court declared to be constitutionally protecting the right of any person to spend his money or his family's on his own candidacy.

When Congress legislated in 1974, it tried to regulate the campaign finances of candidates who had to raise funds from outside sources and candidates of personal wealth alike. But the Supreme Court approved the restrictions on the former but not on the latter. The result is a tilt in favor of the personally wealthy. This is not right. Yet, the only way it can be corrected is by a constitutional amendment.

The wild card in the Supreme Court decision that, in my opinion, has yet to be played is the declared constitutional right of independents—those not under the control of a candidate—to spend however they like. For as the people demand further restrictions on campaign financing, Congress can respond only in those areas that the Supreme Court has left open; namely, further restricting the activities of candidates who must raise money from outside sources. As this is done, contributions to candidates will decline and expenditures by independents will increase. One can only wonder with apprehension regarding the impact on political advertising when responsibility no longer resides with, and fault is no longer attributable to, the candidate himself. I fear that the Supreme Court decision will have unhealthy effects on political campaigning.

I believe that the original judgment of Congress was correct—that it is necessary to treat all relevant aspects of the campaign financing problem together and not just clamp down on the one aspect of fund raising. But in view of Buckley versus Valeo it takes a constitutional amendment to do that.

I recognize that my proposal may be controversial. We Americans have come to cherish our first amendment rights. We accept the first amendment with all of its warts. We recognize that it has kept lewd magazines on retail shelves, Communists in government, and prayer out of the classrooms. We are not overjoyed by these results but accept them as the price we pay for protecting the core activity of the first amendment, that of political communication.

Some will object to my proposal because it would allow political speech to be regulated, even if only reasonably. But such regulation is not unprecedented. The fairness doctrine and equal opportunity provisions regulating the broadcast media have been held constitutional by the Supreme Court. In contrast similar right-of-reply provisions for the printed media have been held invalid. The scarcity of broadcast frequencies was the stated reason for the different results. The lesson I learn from these cases, however, is that reasonable regulation of political speech can, in certain circumstances, foster rather than undermine the values of political speech.

The purpose of my proposal is to preclude absolutist approaches to questions of validity of campaign expenditure limitations and to allow the pros and cons to be weighed. It is a modest proposal and a necessary one. It does not cover the full range of political expression. Nor does it permit the content of speech to be regulated. Rather it merely allows Congress to set reasonable limits on spending money in campaigns for elective offices within the jurisdiction of the Congress. These offices include that of President, Vice President, Senator, and Representative as well as elective offices in the District of Columbia and in the territories. Likewise, the States could set similar limitations with respect to elective offices within their respective jurisdictions.

My proposal differs from Senate Joint Resolution 21 in several respects. First, it does not address the issue of campaign contributions, as Senate Joint Resolution 21 would. My rationale is that it seems unnecessary to adopt a constitutional amendment to allow limitations on campaign contributions when such limitations have already been upheld. Second, my proposal would permit only reasonable limitations; Senate Joint Resolution 21 would seem to permit any type of limitation. It would not be in the Nation's best interests, for example, if Congress banned virtually all campaign expenditures with the purpose of favoring incumbents. Third, my proposal would give a parallel power to the States to enact reasonable expenditure limitations for State offices. As a legal matter, it seems incongruous to me to leave the States bound by an undesirable legal ruling while we free only the Federal Government. Moreover, as a practical matter, it would improve chances for ratification to give State governments some benefits of the proposed amendment.

While Senate Joint Resolution 21 differs from my proposal in those respects, both proposals could be used to achieve a reform which the people are yearning for—shorter campaigns. For under these proposals Congress could limit not only how much is spent but also when it is spent. With limits on when a candidate and others can spend money for campaign purposes, the length of the campaign can, for all practical purposes, be defined.

In the final analysis, if we do not adopt a constitutional amendment, we will be left to suffer the problem with statutory solutions that are not fully satisfactory. We will be left to try to get candidates to waive their rights to unlimited spending in return for public financing. For all Federal offices, that might prove rather costly. And cost aside, there is considerable question whether such an approach would work to reduce spending in view of the constitutional rights of wealthy candidates and independent parties to spend without limitation.

So I urge my colleagues to reflect on my proposal. It is the only true answer.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 130

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following Article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intends and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several states within the seven-year period following the date of submission to the States for ratification:

ARTICLE

Congress may by law establish reasonable limitations on expenditures made by any person with respect to the candidacy of any person for the Office of President, Vice President, Senator, Representative, or any other office within its jurisdiction. The several States may be law establish reasonble limitations on expenditures made by any person with respect to the candidacy of any person for any office within their respective jurisdictions.

ADDITIONAL COSPONSORS

S. 264

At the request of Mr. HUMPHREY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 264, a bill to amend the Internal Revenue Code of 1986 to deny status as a tax-exempt orgnization, and as charitable contribution recipient, for organizations which perform, finance, or provide facilities for abortions.

S. 267

At the request of Mr. HUMPHREY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 267, a bill to limit the uses of funds under the Legal Services Corporation Act of provide legal assistance with respect to any proceeding or litigation which relates to abortion.

S. 274

At the request of Mr. HUMPHREY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 274, a bill to restrict the use of Federal funds available to the Bureau of Prisons to perform abortions.

S. 407

At the request of Mr. GARN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 407, a bill to grant a Federal charter to the Challenger Center, and for other purposes.

S. 415

At the request of Mr. BUMPERS, the name of the Senator from Washington [Mr. ADAMS], the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Missouri [Mr. DANFORTH], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Oregon [Mr. HATFIELD], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Montana [Mr. MELCHER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina]Mr. SANFORD], the Senator from Maryland [Mr. SARBANES], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Vermont [Mr. STAFFORD], the Senator from Connecticut [Mr. WEICKER], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 415, a bill to enhance the security interests of the United States by ensuring that the United States does not exceed the numerical sublimits contained in the SALT II Treaty as long as the Soviet Union does likewise.

S. 429

At the request of Mr. DURENBERGER, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 429, a bill to amend the Tax Reform Act of 1986 to delay for 2 years the exception for certain technical personnel from certain rules for determining whether an individual is an employee or independent contractor for employment tax purposes.

S. 453

At the request of Mr. MURKOWSKI, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 453, a bill to amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 538

At the request of Mr. METZENBAUM, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 538, a bill to implement the recommendations of the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, and for other purposes.

S. 750

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 750, a bill to amend the Foreign Assistance Act of 1961 to authorize appropriations for the Child Survival Fund.

S. 999

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 999, a bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and program.

S. 1076

At the request of Mr. BRADLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1076, a bill to amend title XVIII of the Social Security Act to improve the availability of home health services under the Medicare Program, and for other purposes.

S. 1086

At the request of Mr. MURKOWSKI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1086, a bill to require the United States Trade Representative to initiate an investigation of unfair trade barriers maintained by Japan against United States construction services.

S. 1179

At the request of Mr. CONRAD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1179, a bill to amend the Consolidated Farm and Rural Development Act to improve the administration of Farmers Home Administration loans, and for other purposes.

SENATE JOINT RESOLUTION 27

At the request of Mr. GARN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 27, a joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons.

SENATE JOINT RESOLUTION 44

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Joint Resolution 44, a joint resolution to designate November 1987, as "National Diabetes Month."

SENATE JOINT RESOLUTION 75

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Joint Resolution 75, a joint resolution to designate the week of August 2, 1987, through August 8, 1987, as "National Podiatric Medicine Week."

SENATE JOINT RESOLUTION 88

At the request of Mr. BRADLEY, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 88, a joint resolution to designate the period commencing November 15, 1987, and ending November 21, 1987, as "Geography Awareness Week."

SENATE JOINT RESOLUTION 109

At the request of Mr. DURENBERGER, the names of the Senator from Texas [Mr. BENTSEN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 109, a joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week."

SENATE JOINT RESOLUTION 118

At the request of Mr. HOLLINGS, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from South Carolina [Mr. THURMOND], the Senator from California [Mr. CRANSTON], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 118, a joint resolution to designate the week of May 10, 1987, through May 16, 1987, as "Senior Center Week."

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Concurrent Resolution 54, a concurrent resolution expressing the sense of the Congress with respect to relations between Vietnam and the United States.

AMENDMENT NO. 160

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of amendment No. 160 intended to be proposed to S. 999, a bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and program.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, May 15, 1987, to continue markup of the Foreign Relations Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, May 15, 1987, to hold hearings on investigation into Food Safety and Inspection Service [FSIS] inspection activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 15, 1987, to hold hearings on S. 506, the Digital Audio Recorder Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Friday, May 15, 1987, to hold a hearing on S. 970, the Alternative Agricultural Products Research Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TESTIMONY OF DR. DOROTHY RICH, THE HOME AND SCHOOL INSTITUTE

● Mr. BRADLEY. Mr. President, Dr. Dorothy Rich recently testified at a hearing on the reauthorization of the Education Consolidation and Improvement Act of 1981. She spoke specifically about the importance of forming family-school partnerships to help improve student motivation and achievement.

Mr. President, there is a growing recognition that it is important to involve families in the education of their children. However, Dr. Rich has not recently jumped on the parent involvement bandwagon—rather, she has been far out in front, frequently a lone advocate over the last quarter of a century, for a greater role for families in the education of their children.

Mr. President, trying to educate children without the involvement of their family is like trying to play a basketball game without all of the players on the court. I agree with Dr. Rich that there has been a startling parent gap in the education reform movement. That is why I have introduced legislation to develop model family-school partnership projects, and to establish a National Center for Family-School Partnerships.

Mr. President, there are few, if any, citizens of this country who speak more eloquently for the need to involve families in the education of their children than Dr. Dorothy Rich. It is for this reason that I ask that her testimony before the Education, Arts, and Humanities Subcommittee of the Committee on Labor and Human Resources be printed in the RECORD.

The testimony follows:

FAMILY SCHOOL PARTNERSHIPS

(Presented by Dr. Dorothy Rich, President, Home and School Institute)

Mr. Chairman and Members of the Committee: I am Dorothy Rich, president of the Home and School Institute, the nonprofit organization I founded 25 years ago. The Institute specializes in nurturing the abilities of families to help their children learn and to achieve in school.

Last year in an analysis prepared for policymakers, "The Forgotten Factor in School Success—The Family," I identified a startling parent gap in the education reform movement. I have been working to fill that gap, so I am especially delighted to be invited here.

In the mid 60s, when I started the programs of the Institute—I was told that schools are It, that they can do everything, that I shouldn't be talking about family.

In the mid 80s, I'm told that schools are weak and that families are important, but that there's no one out there to work with.

I didn't believe what was said to me in the 1960s and I don't believe what I hear about the weak school and the nonexistent family today.

What I believe now is surprisingly (even to me) the same as I believed in the 60s when I began this work—I believe that both home and school continue to be powerful institutions, and that the real, best, and only hope for improved education in this country is to unite the educational forces of home, school, and community in working together.

No one, least of all me, says it is easy. It is more complex than adding an hour to the school day or setting up a teacher career ladder. While these may be worthy objectives, they do not answer concerns of student motivation, confidence, self-esteem, and love of learning.

There is justifiable concern about American education today and whether our children are learning enough and working hard enough. The remarkable school success of recently arrived Asian immigrant children has prompted questions about what these children have that American youngsters don't have.

The problem is not that our children don't learn how to read. They do. Educational research on Chapter I programs indicates that most of our children do learn the basics of reading and math in the early grades. What happens is that many children do not keep on reading and wanting to learn more.

I want to enable families to help children not only acquire basics but go beyond them to get on the road to being a learner for life. This learning starts early and it starts at home.

In the few minutes I have today, I will try to distill what I have learned and provide some specific strategies for the ECIA Act with the goal of raising student motivation and achievement through family involvement.

Primarily, we need a redirection of effort to take advantage of what is now known about how children learn and how families live and work today. To date, the major form of Federally supported family educational involvement has been the Parent Advisory Council. This is not a method that focuses primarily on student achievement. It focuses primarily on parent political participation. While this may have been a useful strategy at one time, it is no longer the appropriate major framework for family involvement, in view of what has been learned through educational research and in view of the demographic and work-related changes that have occurred in family life today.

Parent involvement should no longer be defined as involvement only in children's schooling. That means meetings and time spent at the school. Not too many parents, especially employed mothers, can participate in this way anymore. But we should not despair. What we need to care about is involving families in children's education well beyond the school setting. And this is do-able.

In the midst of change, what has remained constant is that parents everywhere—from suburbs to inner cities—care about their children and are seeking ways to help their children achieve.

I know this from our programs reaching thousands of parents and teachers across the country. Among our methods are school-to-home curricula with activities (I call them "recipes") that families use at home to supplement and extend the work of the school. Family response to the National Education Association's Teacher-Parent Partnership Project used in 18 states was overwhelmingly positive. The uniqueness about these activities is that they are not traditional homework. Their goal is to build what I call "MegaSkills"™—the big skills such as confidence, responsibility, initiative, perseverance—that children need to learn everything else.

Children need to be able to apply at home what they learn in school. For example, MegaSkill™ activities help parents know that sorting the laundry or setting the table are terrific ways to reinforce skills needed for reading. And they get chores done at home. Children need ways to feel successful at home and use what they have learned in school.

This may sound too easy to any good. Don't believe it. Chapter I research underscores these findings: "If teachers had to choose only one policy to stress, results suggest that the most payoff for the most parents and students will come from teachers involving parents in helping their children in learning activities at home."

Our Institute data indicates that even short term programs register gains in parent attendance at school meetings; more initiation by parents of interactions with the school; and greater satisfaction of parents in the work of teachers. Children indicate more time spent with their parents along with increased readiness to do homework. Results like these are found after only a half a semester.

A GOLDEN AGE

This is a golden age of learning—if only we know how to take advantage of it. And we don't have to be graduates of Harvard to do it.

Today there is a coming together of ideas and understandings that were not around before. We know now that children learn before school, after school, on weekends and on vacations. But there are still parents and teachers (many in Chapter I programs) who are not yet aware of what they can do to help children learn in this way.

Legislation, until now, has not caught up with the current research knowledge and the new practices that need to follow from it. I am delighted to report that a significant start is now being made by Senator Bill Bradley who has just introduced the Family-School Partnership Act. This bill calls for a basic minimum infrastructure of demonstration projects which will focus on the role of family as educator and on teacher training to support these efforts of families. This bill is an important step in the right direction.

NEW PARTNERSHIPS

The whole community needs to be involved. Teachers and parents, no matter how good, cannot do the job alone. To help, our Institute is launching a project now for which I have great hope. It's called New Partnerships for Student Achievement. It's funded by the MacArthur Foundation, and it involves five major national organizations. They are the American Red Cross, the Association for Library Service to Children/American Library Association, the American Postal Workers Union, the National Association of Colored Women's Clubs and Parents Without Partners. These organizations were chosen because of their diversity and their potential to show what they and other community organizations can do to help teachers and families foster children's learning. These groups will be using family-as-educator programs in demonstration sites across the country.

There is a wide world of opportunity in this as yet untapped area of family-school involvement. In a longer paper, which I would be happy to share with you, I have identified 15 key areas for change. Here I want to cite two absolutely basic needs. We need:

An Information Campaign: Many parents today don't know how important they are in their children's education and what they can do to help. Not too many years ago, parents were told "hands off you don't know what you're doing." today, the message must be "hands on." Families, dual or single parents, across the nation have needs for similar kinds of information. They want to know how to help their children learn and they need to know this now, not years from now. Information for families should be available in easy to read, easy use materials from every school, from doctor's offices, supermarkets', gas stations, everywhere. I can see a time out during a nationally televised football game in which a burly player tells viewers what he did to help his kid last night in reading or math. We must find ways to support the self-help efforts of parents.

Teacher Training: Let's insist on family involvement as an accepted, integral, and funded part of school services. Teachers need to know the research about families as educators. They need to learn strategies to work with parents as partners. The new role for teachers today is to coordinate what is learned inside the classroom with what is learned outside. This means they must work with adults as well as with children. It means training, materials and information they have not received before.

There is a history of parent involvement programs across the country. Some programs have been very good, but they exist mostly as fragments, coming and going on the fringe of the education budgets. Each year they fight for their life because the word is still not out on how important family involvement is to children's schooling success. You can help change this, through your leadership. I encourage your support of the Bradley bill which is being introduced today.

What's vital to keep in mind is that home-school connecting work is like yeast in breadmaking. If the bread can be seen as the Federal and state compensatory programs, it is the home-school work, like yeast, that makes the bread rise.

It can be anticipated that a wide coalition of groups and individuals across political boundaries would support these programs. They focus on a non-controversial family issue which up to now, however, has been honored more in rhetoric than in action. This legislation provides the opportunity for constructive action. Chapter I programs, which reach into 25,000 school buildings, are an ideal vehicle to translate this new knowledge into actions that have enormous potential to enhance both excellence and equity in education.●

1986 ROLLCALL OF HEROES

● Mr. HEINZ. Mr. President, I rise today for a most solemn and somber purpose. On behalf of the Fraternal Order of Police, I would like to take this opportunity to pay tribute to the 116 law enforcement officers in the United States who lost their lives last year while diligently performing their duties. More than half of these deaths were the results of felonious assault; the rest were caused by tragic accidents and mishaps. Although the cause of death may have varied from officer to officer, the quality of conscientious service they rendered did not. For these dedicated men and women, and for the officers who gave their lives in years past, we express our deepest thanks for their great courage and willingness to make the extreme sacrifice to protect our citizens and communities.

The finest public servants and the most outstanding citizens make up our country's police forces. They are the individuals who man the thin blue line that protects law-abiding citizens from injury and loss of property and life. I can only hope that the recognition we give here today will help their families and friends realize that there officers did not die in vain.

Since 1969, FOP National Chaplain Virgil D. Penn, Jr., has conscientiously gathered a list of slain officers from around the country who perished during the previous year. Known as the Rollcall of Heroes, it is an acknowledgment of their sacrifice and a small way for us to give support to their families and loved ones who must carry on with their own lives, notwithstanding the tragic losses they and we have suffered.

Mr. President, I ask that the remarks of Chaplain Penn be placed in the RECORD, along with the list of slain officers, the Rollcall of Heroes.

The information follows:

1986—ROLLCALL OF HEROES

(By Virgil D. Penn, Jr.)

Today we pay tribute to our Brother and Sister Officers who have been struck down in our unceasing battle against crime in America. Their brave actions are not glorified or known to the average citizen in the United States. They are law Enforcement Officers who have engaged in a continuous war against criminals and madmen who threaten all the lives and property of the good people of America. No great glory has been bestowed upon them, just the respect and admiration of their Brother and Sister Officers and the mourning and sorrows of their families. By their acts of bravery and loyalty to their profession, for which they gave their complete dedication, they have set an unselfish example for we, the living, to carry on the hazardous duties for which they sacrificed their very lives.

In addition to these brave Officers, there are others who are now suffering constant pain, mentally and physically from injuries sustained in the performance of their duties. Many can never follow their profession again. They too are unheralded heroes whose actions were as meritorious as those who have been relieved of their worldly tasks. We too salute these worthy Brother and Sister Officers.

We are glad to report a decrease in the fatalities of the past year. During 1986 70 Officers were slain feloniously and 56 by accidents. This is the lowest number of tragedies since 1967 when I began this survey. We are grateful to God for this decrease in the death of our Brother and Sister Officers. But even the sacrifice of one of our Officers, leaves us in sorrow. However, we are thankful that these deaths have declined. We believe with greater vigilance, better equipment and increased training, we can even lower these tragic numbers. With God's help we will.

We sincerely appreciate the cooperation and the honor of having our loyal friend Senator John Heinz of Pennsylvania for making this austere body aware of the devotion and sacrifice made by our fallen Brothers and Sisters. May the Good Lord Bless all of you and yours.

1986 ROLLCALL OF HEROES

Date, City-Department, State, Rank, and Name of deceased

Jan. 3, Virginia State Police, Virginia, Trooper Ricky McCoy.

Jan. 7, Oklahoma City, Oklahoma, Patrolman Richard O. Riggs.

Jan. 8, Phoenix, Arizona, Patrolman Robert T. Fike.

Jan. 21, New York City, New York, Detective Anthony Venditti.

Jan. 26, Jefferson Co., Kentucky, Corr-Officer Michael R. Green.

Jan. 28, Bay Co., Florida, Sergeant Floyd M. Moore, Jr.

Jan. 19, Maryland S.P., Maryland, Trooper Carey S. Poetzman.

Jan. 19, Md. State Police, Maryland, Corporal Gregory A. May.

Jan. 31, Bonner Springs, P.D., Kansas, Patrol Officer Maureen K. Murphy.

Jan. 31, Colquett Co., Georgia, Dept. Sheriff Tony R. Wilder.

Feb. 1, Albuquerque, New Mexico, Officer Kenneth S. McWethy.

Feb. 3, Webb County, Texas, Dept. Sheriff, Jose Gerardo Herrera.

Feb. 6, Rankin Co., Mississippi, Dept. Sheriff Travis O. Biddle.

Feb. 12, Shively P.D., Kentucky, Narco Det. John R. Weiss.

Feb. 12, Woodward Co., Oklahoma, Sheriff, Albert C. Gaston.

Feb. 9, Breckville, Ohio, Civ. Fed. Police, Mark Decker.

Feb. 9, Breckville, Ohio, Con. Fed. Police Leonard Wilcox.

Feb. 8, Los Angeles, California, Officer Arleigh McCree.

Feb. 8, Los Angeles, California, Officer Ronald Ball.

Feb. 16, Irvine P.D., Kentucky, Chief of Police Robert T. Walker.

Feb. 19, Bloomington, Illinois, Policeman William P. Osborn; Shot Feb. 10.

Feb. 21, U.S. Customs, Arizona, Patrol Officer Glen R. Miles.

Mar. 3, Rialto P.D., California, Sergeant Gary Wolley.

Mar. 5, State Police, New Mexico, Trooper Sherman L. Toler.

Mar. 11, San Juan, Puerto Rico, Sergeant Moises Ortiz-Torres.

Mar. 14, Loundes Co., Georgia, Dept. Sheriff John R. Rowe, Jr.

Mar. 20, Dallas P.D., Texas, Officer Gary Reeves Blair.

Mar. 31, Philadelphia, Pennsylvania, Sergeant Ralph Galdi.

Apr. 3, Chicago P.D., Illinois, Officer Richard W. Clark.

Apr. 5, Columbus, Ohio, Officer Gordon Joseph Rich.

Apr. 9, Yuma P.D., Arizona, Officer Garry Alan Maas.

Apr. 11, F.B.I., Miami, Florida, Special Agent Jerry Dove.

Apr. 11, F.B.I., Miami, Florida, Special Agent Benjamin P. Grogan.

Apr. 12, Roanoke, Virginia, Officer David Richman.

Apr. 17, Torrance, California, Officer Thomas J. Keller.

Apr. 18, Quantico, Virginia, F.B.I. of Virginia, James K. McAllister.

Apr. 21, Riedras, Puerto Rico, Officer Muniz Ismael Garcia.

May 4, Oswego City, Michigan, Dept. Sheriff Carl Darling.

May 7, Marshall Co., Mississippi, Sheriff Osborne Bell.

May 8, Greenfield, Indiana, Chief-Sheriff Malcolm Grass.

May 10, Perry, Georgia, Dept. Sheriff Daniel S. Ray, Jr.

May 25, Tallapoosa Co., Alabama, Dept. Sheriff Leonard Wilbur Brand.

May 26, Avoca, Pennsylvania, Officer Richard Janczewski.

June 3, Opa-Locka, Florida, Officer Ephriam Brown.

June 5, Philadelphia, Pennsylvania, Officer Daniel T. Gleason.

June 9, Santa Clara Co., California, Sher. Dept. Douglas B. Miller.

June 15, Richmond, Virginia, Detective George Ronald Taylor, Jr.

June 18, Jefferson Co., Colorado, Deputy William James Truesdale.

June 25, Sweetwater, Florida, Officer James Mathis Beasley.

June 28, New York City, New York, Officer Scott A. Gadell.

July 5, Belle Center, Ohio, Town Marshall Murray Griffin.

July 13, Autauga Co., Alabama, Chief, Reserves, John Robert Price.

July 17, Anchorage, Alaska, Patrol Officer Harry B. Hanson.

July 20, Detriot, Michigan, Officer Anthony Williams.

July 23, Puerto Rico, Puerto Rico, Officer Miguel Gonzalez Torres.

Aug. 27, Iron City, Georgia, Chief of Police, Robert Cunningham.

Aug. 30, Marietta, Georgia, Narco Inv. Harvey James Adams.

Sept. 5, Hot Springs P.D., Arkansas, Sergeant Wayne M. Warwick.

Sept. 13, Crossville P.D., Alabama, Officer Stevie L. Thompson.

Sept. 23, Indian River Co., Florida, Dept. Sheriff Richard Rudy Rackowski.

Sept. 27, Palm Bay, Florida, Officer Stephen Pollock.

Oct. 21, Alaska State Police, Alaska, Officer Ronald Eugene Zumin.

Oct. 31, Hildago, Texas, Narc. Inv. Manuel Adelaido Segovia.

Nov. 3, Tarrant Co., Texas, Warrant Officer Frank D. Howell.

Nov. 6, Jersey City, New Jersey, Sergeant Donald P. Carroll.

Nov. 17, Grand Rapids, Michigan, Detective Joseph Floyd Taylor.

Nov. 10, Illinois State Police, Illinois, Trooper John H. Kugelman.

Dec. 5, St. Clair, Illinois, Dept. Sheriff Elmer Murray Harris.

Dec. 12, Denver P.D., Colorado, Officer Patrick Joseph Pollock.

Dec. 31, McAllen, Texas, DEA Spec. Agt. William Ramos.

1987—NATIONAL POLICE PRAYER

Almighty God, most merciful Father we pray that our Brother and Sister Officers who have given their all in protecting the lives and properties of American citizens, will be blessed with Thy favor and everlasting peace. We pray you will render compassion and understanding to their families and friends who mourn their departure from this life. Lift up their hearts and remove all bitterness from their minds, knowing a far better life of Heavenly bliss awaits them in the eternal home of all the Saints. For this we beg for the honor of His name to whom we glory both now and forevermore, Amen.●

NAVY ACHIEVEMENT MEDAL TO SGT. JAMES E. CONNELL III

● **Mr. CHILES.** Mr. President, I am extremely proud that a member of my staff was highly honored today by the Secretary of the Navy for his noteworthy service in the U.S. Marine Corps. Sgt. James E. Connell III received the Navy Achievement Medal, and I ask to have printed in the RECORD the citation delivered by the Commandant of the Marine Corps.

The citation follows:

NAVY ACHIEVEMENT MEDAL TO SGT. JAMES E. CONNELL III

The Secretary of the Navy takes pleasure in presenting the Navy Achievement Medal to Sergeant James E. Connell, III for professional achievement in the superior performance of his duties while serving as Senate Liaison Noncommissioned Officer, Headquarters, United States Marine Corps, Washington, DC, from September 1984 to August 1986. During this period, Sergeant Connell consistently performed his duties in an exemplary and highly professional manner. Handling a taxing caseload of congressional inquiries in both a functional and supervisory capacity, he often dealt with high level Senate staff to resolve complex cases.

Through his diligence and aggressiveness in responding to the requests for a multitude of Senate offices, he was repeatedly recognized for providing high quality support. In addition, he coordinated voluminous complicated congressional trips which generally included Senators and their staffs. Planning, organizing, and executing the complicated administrative and logistic requirements of Senate travel, which often included sensitive coordination between the Department of Defense, Department of State, and the United States Congress, he exhibited an independence, confidence, and ability rare for a Marine of his rank and experience.

He personally enhanced the reputation of the Senate Liaison Office by presenting an exemplary image of a Marine Noncommissioned Officer. Sergeant Connell's sustained superior performance, initiative, and total devotion to duty reflected great credit upon himself, the Marine Corps and the United States Naval Service.●

NEBRASKA'S SMALL BUSINESS PERSON OF THE YEAR—MR. HARLAN L. BROWN

● Mr. KARNES. Mr. President, as a new member of the Small Business Committee in the U.S. Senate, it is with great pride that I recognize the importance and achievement of small business in America, and give special congratulations to the Small Business Person of the Year from Nebraska, Mr. Harlan L. Brown.

Small businesses are America's growth industry. The true entrepreneurial spirit thrives in small business throughout this country. People like Harlan Brown are the ones who see business trends and needs coming and create many of their own. It is their spirit of innovation that provides one of the great driving forces in the American industrial machine.

They must be adaptable in today's ever-changing marketplace, and, as all good managers and leaders, they must be able to make tough decisions. Much of the future of America's economy depends on the ideas of our entrepreneurs in small business.

The Small Business Person of the Year from Nebraska, Mr. Harlan L. Brown of the Brown Sheep Co. in Mitchell, NE, is an individual who exemplifies these qualities. When the demand for his company's original product, lamb, decreased, Mr. Brown realized he had to find a new market, and he did. Today, his company sells its quality yarns in more than 1,000 outlets and retail stores. Harlan Brown and his story of success can and should serve as a role model for everyone who believes in the American dream.

The Brown Sheep Co. has been an outstanding supporting business for other area concerns providing work for small printing, paper, and construction companies. Mr. Brown has also served his community by serving as a member of the area school board.

And so, in saluting the contributions of small businesses to America, I want to especially salute the contributions of Harlan Brown, not only as a good businessman, but as a good citizen and neighbor. Congratulations.●

ARMED FORCES DAY

● Mr. SHELBY. Mr. President, from that spring day in April 1775, when a group of colonists fired "the shot heard 'round the world" until today, brave men and women have given of their time, talent, and yes, their lives, to protect the ideals of freedom and liberty that gave birth to this Nation.

Our uniformed forces have grown from a handful of militiamen to a force of nearly 4 million individals on active and reserve duty. U.S. Armed Forces not only defend our borders, but they stand as a barrier to the enemies of freedom around the globe. We are a force to be reckoned with on land, sea and in the air.

Today it is with great respect and pride that I rise to give note to our Nation's approaching celebration of Armed Forces Day. Indeed, it is appropriate that we pause to give special recognition and appreciation to those distinguished citizens who have served and are now serving in the various branches of our military forces—and never shall we forget how down through the years, over 600,000 individuals, not including those listed as "missing," sacrificed their lives to defend our Nation. I believe that it was in this same spirit that President Truman first proclaimed Armed Forces Day in 1950.

We are aware of the importance of the Armed Forces in preserving the United States as a free nation and protecting American interests abroad. I would like to take this opportunity to remind my colleagues that as the torch of freedom passes from generation to generation, we must make sure that we have done our part to continue the support and development of the military and those who stand ready to safeguard our liberty. Always, we should be aware that there are those with global interests who through various methods seek to weaken the ties between the United States and its allies, thus broadening their interest in Third World and other underdeveloped nations. Let us be bold in our efforts to ensure that the Armed Forces of our country can stand on guard in the face of this challenge, confident in their capability and preparedness.

As we recognize Armed Forces Day, we should reflect upon how fortunate we are to be Americans and remember those members of the Armed Forces who give of themselves to maintain our way of life.●

WORLDWIDE BRIDGE DAY

● Mr. WILSON. Mr. President, this Saturday, May 16, a remarkable international event will take place. Around the world, over 100,000 people from up to 80 different nations will join in Worldwide Bridge Day. The World Bridge Federation, the sponsoring organization, has declared the third Saturday in May as the day of an annual international bridge playing contest.

The American Contract Bridge League [ACBL] has 200,000 members throughout North America. ACBL is a member of the World Bridge Foundation and has actively promoted this event here in this country.

The contest's organizers hope, through Worldwide Bridge Day, to promote the common goals of cooperation, sharing, friendliness and sportsmanship through bridge. Their hope, and mine, is that the international friendship and sharing generated throughout the world by individual players who participate in the contest will indeed serve as a bridge to international peace and understanding.

Sporting events, since the days of the first Olympiad, have brought our world closer together. It is to the credit of the World Bridge Foundation and the American Contract Bridge League that they have dedicated their sport for 1 day annually to establishing common bonds and to furthering greater harmony and peace on Earth.●

TRIBUTE TO MR. JOHNNY D. WEBB, KENTUCKY SMALL BUSINESS PERSON OF THE YEAR

● Mr. FORD. Mr. President, this week we are celebrating National Small Business Week across the country, saluting those hard-working men and women who comprise the Nation's most dynamic growth industry—small business. It is with great pride in the small business community within my State that I recognize this year's Kentucky Small Business Person of the Year, Mr. Johnny D. Webb.

Mr. Webb is a fine example that hard work, persistence and determination are the Nation's most valuable resources. Starting with a small, unsecured loan in 1972, Mr. Webb has applied these valuable resources and grown from a one man operation into Southern School Supplies, a diversified, highly successful distributor of school supplies servicing five States. The growth of this business has provided employment and stability to the community of Bowling Green, KY.

Mr. Webb has also established himself as a leader and role model within his community. In addition to being a business leader, he has played an active role in various civic activities and organizations. He has in every respect conducted himself as an exemplary citizen. Mr. President, I believe Mr. Webb's achievements warrant special recognition and tribute from the U.S. Senate, for he is among those small business leaders that form the backbone of our Nation. I, therefore, rise today to salute Mr. Johnny D. Webb and commend him for his achievements.●

AVALANCHE OF IMPORTED VEHICLES

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mr. DANFORTH. Mr. President, imported Japanese vehicles and parts account for well over 50 percent of our $59 billion deficit with Japan. This is the largest item in our bilateral manufacturing trade relationship. Therefore, it is important and prudent that policymakers in the Congress and the administration single out the automotive sector for special scrutiny.

I think the Japanese Ministry of International Trade and Industry recognizes the trade significance of the automotive segment because the Government has renewed its export restraint on passenger cars and multipurpose vehicles on an annual basis since 1981.

However, I am concerned that Japanese car manufacturers have found ways to bypass this official Government restraint. It is even more disturbing that the Ministry of International Trade and Industry (MITI) has chosen to ignore the circumvention. MITI seems to be trying to give the impression of responsible action on one hand while tacitly encouraging violations of its own export controls on the other.

Most administration officials, Members of Congress, and the press talk about Japanese car imports of 2.3 million units annually. While this is the official Japanese Government quota for passenger autos, the truth is that it does not come close to representing all imported vehicles. For example, there is a second quota of about 115,000 for multipurpose and sports-utility vehicles—and even this does not tell the whole story.

First, over and above the 2.3 million passenger cars, disassembled autos are being imported into the United States on a daily basis. I am told that another 450,000 of these "knock-down" kits are shipped to America each year for assembly. Virtually all of the components and parts are Japanese made. Moreover, Japanese manufacturers are building plants in Mexico, Taiwan, Korea and other countries to ship "knock-down" kits for final assembly and reexport to the United States. Within a year I expect an additional 200,000 units will be coming into our market via this back door, slight of hand.

Second, Japanese manufacturers are exporting multipurpose vehicles without rear seats—calling them "trucks"—which are not subject to any quota by the Japanese Government. Rear seats are installed in the United States, and the vehicles are sold as passenger units. Their design, construction, appointments, and marketing are for transporting people, not for heavy loads like real trucks. Perhaps as many as 150,000 passenger cars came to our shores last year imported as trucks. This is another clever way to avoid quotas.

In the final analysis, Mr. President, the total number of passenger cars entering our market each year is not 2.3 million as many think, but over 3.2 million—or about 40 percent more than is generally recognized. Many of these autos are coming here in violation of the spirit if not the letter of Japanese policy. The American car market this year is expected to be about 10 million units, and if the Japanese continue to find ways around the restraint order, their cars will have almost one-third of the total market.

Last, I must address the issues of trucks—and I mean legitimate trucks—which are not subject to any kind of voluntary restraint. Over 900,000 were imported last year, putting the total number of imported Japanese vehicles at well over 4 million units. Not 2.3 million, but 4 million vehicles.

Many of these trucks are sold at prices that in no way reflect the 60-percent appreciation of the yen against the dollar within the past 2 years. I understand several of my colleagues have written the Department of Commerce asking for a preliminary investigation to ascertain if the facts concerning Japanese trucks warrant an antidumping case. I too am curious about how Japanese auto manufacturers can sell at prices which appear to be below their costs of production, shipping and marketing—yet alone permit a margin for profit.

Several weeks ago I asked Japanese Ambassador Matsunaga and the Prime Minister's Special Envoy Abe to look into these practices and provide me with some facts and explanations. Unfortunately, I have not received a report from either official but assume a reply is being fashioned. Frankly, I doubt the practices can be justified in any reasonable way. I urge my colleagues to take a serious look at this matter and consider the implications for United States-Japan trade relations.●

TRIBUTE TO FRANK NAGEOTTE

● Mr. DECONCINI. Mr. President, greatness is often measured by life's accomplishments. Whether it be through success in business, selfless giving to one's community, or providing a strong, stable, and supportive family structure, we enjoy in our society men and women of a certain caliber that prove to be examples of such greatness.

Today, I have the honor and pleasure of recognizing one such individual. Today is the most appropriate day, for it is the beginning of his chance to reap some of the rewards that he has earned over the last 40 years of his life. Frank Nageotte, the president of the Greyhound Corp. is retiring today. He has offered a lifetime of dedicated service and business acumen to this company.

Frank's contributions to the transportation industry, the United States, and the business community around the world are innumberable. His foresight and intuition helped build the Greyhound Corp. into a diverse, international Fortune 500 company. Starting out as a secretary to the director of personnel after World War II, Frank moved his way up through the company to become the chairman and chief executive officer of the Greyhound Lines and the president of Greyhound Corp. Frank's accomplishments, along with his good business ethics embody the American dream. With no formal college education, Frank has proven that hard work, faith in one's self, and a healthy ambition can culminate in the realization of one's goals and dreams.

Beyond this success in business, Frank has been an active member in the Arizona community. He believes that each individual has a responsibility to contribute to society. This conviction, along with a genuine enjoyment of helping others has led him to take part in such groups as the Boys Clubs of America, the Knights of Columbus, Little League, and various church organizations.

A devoted father and husband, he has proven that his family has been the motivational force and support during his career. The father of nine children and the grandfather of seven, Frank and is wife Kathleen have provided a living, secure, and warm atmosphere for the entire family. He has encouraged each child to strive to do his or her best. In light of the varying achievements of their children, Frank and Kathleen can be proud of the job they have done. I have had the pleasure of his daughter Kathleen's warm personality and hard work as an intern in my office.

So today, Mr. President, I would like to join Frank's family, friends, and business associates in congratulating him on his successes in every aspect of his life. Frank has provided inspiration for us all, and I thank him for his contributions to his company and his country. I also want to wish him luck with whatever endeavors he undertakes in the future. I know that they will all be personally rewarding as well as beneficial to all who encounter him.●

ADVANCE NOTIFICATION OF PROPOSED ARMS SALE

● Mr. PELL. Mr. President, as the result of a 1976 agreement, the executive branch provides Congress with advance notification of proposed arms sales under the Arms Export Control Act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has not less than 20 calendar days for informal review and consultation with the administration on the proposed sale. If the executive branch wishes to proceed with the sales proposal following the informal review period, section 36(b)(1) requires that the executive branch submit a formal notification to Congress of the proposed arms sale. Upon such notification, the Congress has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I submit for the RECORD at this point a notification which has been received. Portions of the notification which are classified have been deleted for publication, but are available to Senators at the Foreign Relations Committee.

The letter is as follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, DC, May 13, 1987.

In reply refer to: I-01920/87 ct.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South American country for major defense equipment tentatively estimated to cost $14 million or more.

Sincerely,

GLENN A. RUDD,
Acting Director.●

FORMAL NOTIFICATION—PROPOSED ARMS SALE

● Mr. PELL. Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I submit for the RECORD at this point the notification I have received. The classified annex referred to in the notification is available to Senators at the Foreign Relations Committee.

The letter is as follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, DC, May 12, 1987.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 87-20 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer to Honduras for defense articles and services estimated to cost $75 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 87-20]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Honduras.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$21
Other	54
Total	75

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Twelve F-5E/F aircraft with spares, munitions, support equipment and training.

(iv) Military department: Air Force (SLA).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: May 12, 1987.

POLICY JUSTIFICATION

HONDURAS—F-5E/F AIRCRAFT

The Government of Honduras has requested the purchase of twelve F-5E/F aircraft with spares, munitions, support equipment and training. The estimated cost is $75 million which will be financed with military assistance program funds available in FY 1987 and subsequent years.

This sale will contribute to the foreign policy and national security of the United States by helping to maintain the security of a friendly country which has been and continues to be an important force for political stability and progress in Central America.

These aircraft are part of the Honduran Air Force replacement of aging and obsolete Super Mystere aircraft, whose deterioration threatens the traditional military balance in the region.

Honduras will have no difficulty absorbing these aircraft into its armed forces. The sale of this equipment and support will help preserve Honduras' role in maintaining a military balance of forces.

There will be no prime contractor because the aircraft will be provided from USAF inventory.

It is estimated that two U.S. Government personnel will be required to be assigned to Honduras for approximately two years. Initially, 15 contractor personnel will be required in Honduras for two years; an additional 10 contractor personnel will be required in that country from July 1988 to July 1989.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, at this time, I see no Senator seeking recognition. I therefore suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Record may be kept open today until 5 o'clock p.m. to permit statements by Senators, the introduction of bills and resolutions, and for the reports of committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEES TO FILE REPORTS ON MONDAY NEXT

Mr. BYRD. Mr. President, I ask unanimous consent that between the hours of 10 a.m. and 3 p.m. on Monday next, committees may have permission to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the convening time has already been set for the Senate on Tuesday morning, has it not?

The PRESIDING OFFICER. It has.

Mr. BYRD. I thank the Chair.

Mr. WARNER. Mr. President, before the distinguished leader of the Senate proceeds on his important contribution—which, incidentally, I follow with great interest—I presume that he is willing to give me the assurance that there will be no more unanimous consent requests today.

Mr. BYRD. Yes.

Mr. WARNER. This side of the floor, only to the extent that we are following the work of the majority leader at this time, need not be covered.

Mr. BYRD. I thank the distinguished Senator. I assure him that there will be no further transaction of business and no additional unanimous consent requests unless they are cleared first on the other side through the staff.

Mr. WARNER. That is correct.

Mr. BYRD. I anticipate no such requests.

I will be offering another cloture motion today, which would mature on Wednesday of next week.

Mr. WARNER. That is understood.

Mr. BYRD. Beyond that, any unanimous consent request would be merely programmatic. Let me do those right now.

CONTROL OF TIME ON TUESDAY, MAY 19, 1987, UNDER RULE XXII

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday, following the standing orders for the two leaders, the remaining time under rule XXII, on the motion to invoke cloture, be equally divided between and controlled by the majority and minority leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I do not have any other request.

Mr. WARNER. I thank the distinguished majority leader.

Once again, I wish to express my heartfelt appreciation for the courtesies he has extended to the Senator, especially this week.

Mr. BYRD. Mr. President, the Senator from Virginia is entitled to every courtesy. He is a gentleman in every respect. He is always courteous and considerate of the feelings of others, more so than I am, is very understanding, and is always cooperative. I am pleased to count him my friend.

Mr. WARNER. I thank the Senator.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed now to speak out of order for not to exceed 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if any Senator wishes to ask for recognition during the time I am speaking, I will be happy to yield the floor. I ask unanimous consent that in that event, my speech not show an interruption in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, it is my intention, upon the completion of my address, to put the Senate over until Tuesday of next week, under the order.

THE UNITED STATES SENATE

THE SENATE IN LITERATURE AND FILM

Mr. BYRD. Mr. President, today in my continuing series of addresses on the history of the United States Senate, I would like to devote some attention to a special group of senators. They were widely known in their time, but I dare say they are completely unfamiliar to most current Members. They were a colorful, vibrant, compelling group who captured national attention by their thrilling deeds—and misdeeds. Some were heroes, some were scoundrels, some were buffoons, and some were larger than life examples of how the Senate really operates. I'm talking about Senator Silas Ratcliffe, Senator Abner Dilworthy, Senator Cale Caldwell, Senator Jefferson Smith, Senator Melvin Ashton, Senator Seab Cooley, and Senator Solomon Spiffledink.

Senator Solomon *who*? I can see puzzled expressions on Senators' faces, and there may be some puzzled clerks thumbing through their copies of the Senate manual, looking under "S" for "Spiffledink." There is a Senator Spencer, and a Senator Spong, but no Spiffledink between them. Instead of the *Senate Manual*, they will have to consult a novel published in 1927 by a reporter in the press gallery named Louis Ludlow. The novel is *Senator Solomon Spiffledink*, and, yes, the title character is totally fictitious, as are Senators Ratcliffe, Dilworthy, Caldwell, Smith, Ashton, and Cooley.

Over the years the Senate has attracted the talents of many novelists, from Mark Twain to Margaret Truman, as well as Hollywood film makers, from Frank Capra to Otto Preminger, who have created memorable fictional senators and unforgettable cinematic images of the Senate. In some cases they mirrored reality, while in other cases they distorted it for humor, suspense, satire and pure entertainment. I suspect that more than a few senators formed their first impressions of this institution long before their elections, by viewing "Mr. Smith Goes to Washington," or reading *Advise and Consent*. Numerous visitors in our galleries were probably influenced by those same movies and books, and consequently have felt disappointed in the less than dramatic proceedings they might have witnessed on the Senate floor. It is hard for real life senators to compete with the likes of Jimmy Stewart, William Powell, and Charles Laughton. But now, with their movies showing on other channels against the televised proceedings of the Senate, it is time we took a look at the great fictitious senators of our history.

The line between reality and fiction can be quite thin, and political novelists have regularly based characters and stories on actual individuals and events. The *roman a clef*, a novel which makes little pretense or apology about depicting thinly disquised real people, is a mainstay of Washington literature. Indeed, part of the fun of reading this type of novel comes from trying to guess which well-known figures served as the book's models. We can see this device in Mark Twain and Charles Dudley Warner's classic novel of Capitol mayhem, *The Gilded Age*, first published in December 1873.

In *The Gilded Age*, Twain drew a wonderfully malicious portrait of Senator Abner Dilworthy, as pious a fraud as ever served in the Senate. Twain introduces the senator as he is giving an uplifting speech, replete with allusions to "the genius of American Liberty, walking with the Sunday School in one hand and Temperance in the other up the glorified steps of the National Capitol." We are told about one of his young proteges that the more he watched the senator in action, "the more he honored him, and the more conspicuously the moral grandeur of his character appeared to stand out." But much of the story's plot involves Dilworthy's efforts to win congressional approval of an unsavory private bill from which he and his friends will benefit handsomely. In these efforts, the senator is assisted by a beautiful and crafty female lobbyist, Laura Hawkins. At one point, Miss Hawkins expresses her concern that critical newspaper editorials will defeat their bill, but Dilworthy gives her a lesson in Gilded Age political science: "Oh, not at all, not at all, my child. It is just what we want," he says. "Give us newspaper persecution enough, and we are safe. Vigorous persecution will alone carry a bill sometimes, dear; and when you start with a strong vote in the first place, persecution comes in with double effect. It scares off some of the weak supporters, true, but it soon turns strong ones into stubborn ones. And then, presently, it changes the tide of public opinion. The great public is weak-minded; the great public is sentimental. . . . In a word, the great putty-headed public loves to 'gush,' and there is no such daring opportunity to gush as a case of persecution affords."

The bill moves inexorably through Congress, but suddenly the unexpected occurs—just as his state legislature is on the verge of reelecting Dilworthy, "Mr. Noble," a member of the legislature, produces $7,000 which he claims the senator gave as a bribe for his vote. Shocked, the legislature elects another candidate, and Congress rejects Dilworthy's private bill. Newspapers that once applauded him now describe the senator as "a pious hypocrite, a sleek, oily fraud, a reptile who manipulated temperance movements, prayer meetings, Sunday Schools, public charities, missionary enterprises, all for his private benefit." Just when all seems lost for the senator, however, he brazenly demands appointment of a special Senate committee to investigate the allegations against him. Instead of castigating their fellow member for his gross violation of senatorial ethics, Dilworthy's colleagues on the committee turn their fire on his accuser, Mr. Noble—for having received a bribe! Dilworthy finishes out his term, and goes home to a "grand ovation" from his friends who declare "that he was still good enough for them." [1]

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[1] Footnotes at end of articles.

Now Mr. President, we might say: my goodness, what a fertile imagination Mark Twain had! surely no United States senator could have been so hypocritical, so cynical, so boldly corrupt, and no Senate committee could have behaved so outrageously. This must be an example of literary license; a broad, sweeping satire. but, alas, the sad truth is that Senator Abner Dilworthy was based on a very real United States senator, Samuel Pomeroy of Kansas. And for the most part, the events Mark Twain described in *The Gilded Age* actually took place.

As I have mentioned in an earlier address, Mark Twain sat in the press gallery in this chamber during the winter of 1867-68, writing articles for newspapers, acting as personal secretary to Nevada's Senator William Stewart, and collecting material which he would later incorporate in his first novel. In 1870, Twain returned to Washington and by chance had dinner with Senator Pomeroy. Pomeroy was one of the breed known in those days as a "Radical Republican," meaning that he supported rigorous reconstruction of the South. He also made a name for himself in the temperance and Sunday School movements. But this pious reputation covered a rather corrupt politician. In 1873, just as Twain was writing his book, Pomeroy was accused of offering an $8,000 bribe to insure his reelection to the Senate. His party convention unanimously refused to renominate him, but a select Senate committee declined to condemn Pomeroy's attempted bribery and attacked his accusers instead. As Justin Kaplan, Twain's biographer, has written, "Senator Abner Dilworthy of *The Gilded Age* is Pomeroy undisguised, unmistakable to contemporary readers." Kaplan adds that "Pomeroy-Dilworthy became a comic corrupt archetype which Mark Twain jeered at all his life and which survives today." [2]

Seven years after *The Gilded Age* appeared, Henry Adams anonymously published a shining gem of a Washington novel, entitled *democracy.* The great grandson of President John Adams, and grandson of President John Quincy Adams, Henry Adams felt alienated from an America that was madly pursuing wealth and ignoring the old patrician class that he represented. The evolution of the United States from General Washington to General Grant, said Adams in a famous quip, proved Darwin wrong. Brooding in his home on Lafayette Square over this course of events, Adams wrote *Democracy* to express his dismay over American national politics. His chief senatorial protagonist, Senator Silas Ratcliffe, resembled Twain's Abner Dilworthy in several respects: both were venal politicians masquerading as pious statesmen. Both were immensely popular and powerful political leaders. Both were brought low by the end of the novel. And both were drawn from real life senators. Senator Silas P. Ratcliffe, "the Prairie Giant of Peonia," clearly depicted Senator James G. Blaine, "the Plumed Knight of Maine."

Democracy tells the story of Mrs. Lightfoot Lee, a socialite widow who decides to spend the winter in Washington. Mrs. Lee was anxious to see how the tremendous forces of government worked, but what she really wanted was Power. She begins by sitting in the Senate galleries, and according to Adams: "To her mind the Senate was a place where people went to recite speeches, and she naively assumed that the speeches were useful and had a purpose, but as they did not interest her she never went again. This is a very common conception of Congress; many congressman share it." Presently, Mrs. Lee meets Power in the form of Silas Ratcliffe. "What a pity he is so dreadfully senatorial!" she remarks, "otherwise I rather admire him." Senator Ratcliffe, however, is immediately infatuated with the lady, and proceeds to instruct her in the ways democratic government actually works. Things are not always what they seem, he explains. Once as governor of his state during the Civil War he rigged an election, but his purpose was to prevent the "peace party" from carrying his state and denying Lincoln's election. "I am not proud of the transaction," he tells her, "but I would do it again, and worse than that, if I thought it would save this country from disunion."

In the novel's most memorable vignette, Mrs. Lee journeys to Mount Vernon with Senator Ratcliffe, where they discuss the first president's monumental character. Mrs. Lee asks: "Was he then the only honest public man we ever had?" Ratcliffe responds: "Public men cannot be dressing themselves today in Washington's old clothes. If Washington were present now, he would have to learn our ways or lose the next election. Only fools and theorists imagine that our society can be handled with gloves or long poles. One must make one's self a part of it. If virtue won't answer our purpose, we must use vice, or our opponents will put us out of office, and this was as true in Washington's day as it is now, and always will be."

By the end of the book Senator Ratcliffe proposes marriage. "In politics we cannot keep our hands clean," he prefaces his proposal by explaining. "I have done many things in my political career that are not defensible." But he suggests that she can help him reform politics and enjoy a taste of the power she craves. As she wavers over this intriguing offer, Mrs. Lee discovers another of the senator's past political intrigues, a case in which he demanded money to move certain legislation out of a committee he chaired—an incident similar in some respects, although different in details, from the real Senator James G. Blaine's financial transactions with the railroads. When confronted with this story, Ratcliffe as usual has a rationalization. In this case he claims that he was just raising campaign money to keep the government from passing "into the bloodstained hands of rebels." But Mrs. Lee rejects the excuse, and when the senator desperately offers to leave politics and become minister to England, thus giving his new wife high social position in London, she interprets this as a "gross attempt to bribe her with office." Spurned, Senator Ratcliffe rushes out of the house, and on the front steps receives a final humiliation from an elderly diplomat who strikes him with his cane. One suspects that Henry Adams, descendant of an old and cast aside political family, who detested James G. Blaine and the new class of politicians he represented, took particular pleasure in writing this scene. But the novel ends without triumph, with Mrs. Lee concluding that "nine out of ten of our countrymen would say I had made a mistake." [3]

Mr. President, to my list of thinly disguised fictional senators from the nineteenth century, I should like to add one more: Senator Norton, who appeared in an obscure Washington novel, *A Man and His Soul*, written in 1894 by Theron Crawford. Like Mark Twain, Crawford served for a time as a newspaper correspondent in the Senate press gallery, but there the comparison stops. Crawford lacked Twain's talent, and his books are deservedly forgotten. Yet the book is valuable because its author, as a newspaper correspondent, had things he wanted to say that he could not put into his dispatches. There was always the threat of libel, of physical retribution, and of losing one's sources. In a novel the correspondent could write more freely.

Theron Crawford reported for Democratic newspapers, but he had grown close to the Republican James G. Blaine, making him a character in the novel. But the Blaine who appears in *A Man and His Soul* differs markedly from the despicable Silas Ratcliffe of *Democracy.* Here he is Ralph Granger, Cabinet member and personal friend of his book's journalist-hero (Blaine served as Secretary of State in the Garfield, Arthur, and Harrison administrations). Secretary Granger "had too much intelligence to be involved in . . . vulgar intrigue," the journalist writes but Granger's wife was "so ambitious of social position as to be absolutely reckless in reaching for the object of her desires. . . . Her husband's modest fortune must have been insufficient to satisfy her requirements, and I had noticed, within the last year, associated with her, from time to time, the oily and diplomatic stars of political intrigue, the aristocratic purveyors of position." Their nearness to Mrs. Granger had led the reporter "to think that she was in danger of selling her fair name and the honorable position of her husband in her reckless desire to have money." In reality, Blaine and his wife Harriet lived and entertained considerably beyond the earnings of a pubic servant, and it was the need for outside sources of income that had led Blaine into his many private and politically disastrous financial dealings.

The villain of Crawford's book was neither Granger nor his wife, but "Senator Norton" who discovers financial irregularities in Secretary Granger's department and uses this knowledge during his power struggle with the president of United States. Now, this Senator Norton was quite a character. Here is how Crawford introduces him, in the lobby of a posh Washington hotel: "There came into the group about the open fire a statesman, long famed, in the House, for his cynical ability, his wit, his readiness in debate and his colossal vanity, which made him more cruel and ungrateful than a peacock . . . His spare, slight, figure was clothed in evening dress, over which he wore a long fur-lined overcoat, which descended nearly to his heels. His dark, olive-tinted hard-lined face was shadowed by a long mustache and short beard. A dark evening hat was cocked rakishly over one ear. A dark perfecto cigar was held tightly in one corner of his grinning mouth." Isn't this a perfect description of one of those villains who was always tying the heroine to the railroad tracks in stage melodramas? But in fact it also described New York Senator Roscoe Conkling, Blaine's chief political enemy.

Should anyone challenge my interpretation of Conkling as Norton, let me cite this passage from *A Man and His Soul*, in which Crawford describes the reporter's view from the press gallery: "Senator Norton came into his seat, fresh from one of the bath-rooms below the Senate, curled and perfumed by the official barber, radiant with health, physical superiority and intellectual pride. He fairly swaggered down the aisle of the Senate chamber, and took his seat with an aggressive air of insolence." What a vivid picture! Now compare that description of Norton with one of Roscoe Conkling, taken from a biography of James G. Blaine, which Crawford had published a year earlier: before Conkling's great speeches, Crawford wrote, the senator always appeared "fresh from a plunge in the marble bath-tubs in the basement of the Capitol building; curled, scented and insolent, he swaggered through the debate of Congress." The descriptions, of course, are identical. This was the senator whom one woman admirer called "The Apollo of the Senate," and whose enemies dubbed "the curled darling from Utica."

Beyond his bathing habits, the fictitious Senator Norton resembled the real Senator Conkling's monumental battle with a president of his own party (a combination of James Garfield and Chester Arthur) over patronage. Crawford describes a meeting with Norton in the senator's lavish hotal suite, filled with potted plants from the government Botanical Garden. Norton, he says, "divided the world into two classes: those who followed him, and those who opposed him. For the former, he was always willing to work; for the latter, he was untiring in his ferocious energy to destroy. It was not enough for him to defeat an enemy. It was necessary for his complete satisfaction to absolutely annihilate him." Pacing up and down in the room, speaking in a low tone that gradually increased in volume, Norton outlines his relations with the president, who had once been one of his political lieutenants. A quirk of fate had elevated him to the White House, where he was trying to chart an honorable, independent course. The senator accuses the president of forgetting "all past alliances, all previous friendships, all prior obligations of duty and loyalty."

Senator Norton is outraged over this unexpected presidential independence. He insists that the president make certain appointments that he wants, otherwise he will expose the financial irregularities in Secretary Granger's department, and drive Granger from the cabinet. Although the president depends greatly on Granger's advice, he is a weak but proud man, who "has no loyalty of character, and would sacrifice Granger tomorrow, in a moment, if he could do it without scandal, rather than make the slightest concession to Norton." Through a devious channel, word gets through to Secretary Granger, who takes the blame to cover for his wife's crimes, but rebukes her sharply. The mortified woman staggers to her room, collapses, strikes her head on the mantle, and falls dead in the fireplace—this was a Victorian novel, afterall! The journalist-author delivers his own rebuke to Conkling and other senators of the era in the lament of one of his characters, who says: "I have never known a time in the history of the Senate when there was so much silly, boyish quarreling about nothing, and such an absolute forgetting of all our real duties."[4] Thus these three Gilded Age political novels indicted the Senate for conduct unbecoming of a national legislature. In their way, these books helped reshape public opinion and paved the way for direct election of senators and other reforms of the Progressive Era.

Mr. President, I have used these three novels as a small sample of the popular Washington *roman a clef*; I would like to turn now to a different genre of political novel: the senatorial murder mystery. Everyone loves a good mystery, as an occasional diversion. Intricate plots, littered with clues and frequent red herrings engage our attention, no matter what the literary merits of the book at hand. Not all mystery stories take place in English country houses or on isolated islands. The Capitol Building has housed many a foul and treacherous crime, according to certain mystery writers, and senators have been likely suspects as murderers—and victims. There is an old stage adage that if you introduce a gun in a plot, you've got to fire it during the performance. That seems to be equally true for senators: they are too significant to be just another member of the cast. If you put a senator into a Who-Dun-It, he probably did it. What awful motive would lead a United States senator to commit such a crime? Surprisingly, senatorial murders are more often provoked by family quarrels than political struggles. One suspects that novelists just cannot believe that any political or ideological issue matters so much to serve as a motive for murder. They ought to spend some time in our cloakrooms!

Let me offer three sinister examples of this fictional Senate, beginning in chronological order with perhaps the greatest American detective novelist, Dashiell Hammett. Hammett is most famous for his creation of Sam Spade in *The Maltese Falcon*, and Nick and Nora Charles in *The Thin Man*, but let us focus instead on Senator Ralph Bancroft Henry, who appeared in *The Glass Key*, published in 1931. Senator Henry, "one of the few aristocrats left in American politics," is running for relection, and desperately needs the support of party boss Paul Madvig. The boss also happens to be dating the Senator's daughter—much to the disgust of the senator's son, Taylor. When Taylor is found dead, his skull crushed by a blunt instrument, Boss Madvig becomes the prime suspect. Ned Beaumont, a special investigator for the district attorney's office, sets out to clear his friend. Who killed Taylor Henry? Although it is considered poor form to give away the ending of a murder mystery, I hope I will be forgiven for revealing that Beaumont fingers Senator Henry as the perpetrator. The motive is ambiguous. The senator finally confesses to killing his son accidentially, after the young man has chased the boss out into the street. But Beaumont suspects that the senator acted in a fit of anger over his son's interfering with his chances of reelection.[5]

Unfortunately for Dashiell Hammett, *The Glass Key* was not his last encounter with the United States Senate. Hammett's politics were far to the left of center, and during the 1930s he had flirted with Communism. During the dark days of the Red Scare of the 1940s and '50s, the author was called up before the House Un-American Activities Committee and the Senate Permanent Investigating Subcommittee to answer for his political beliefs and to name his associates. Joseph McCarthy shamelessly grilled Hammett, who held no government post and was hardly in a position to subvert his country, and McCarthy's henchmen Roy Cohn and David Schine toured United States Information Agency libraries overseas, urging them to remove such non-political books as *The Maltese Falcon* from their shelves. Hammett went to prison rather than name names. This was one case where truth was stranger than fiction.

Unlike Hammett's homicidal Senator Henry, Senator Leander Rhodes was an innocent victim, blown to bits by an exploding log in the fireplace of his Massachusetts Avenue mansion. This shocking crime occurs in Edgar Box's 1953 novel, *Death Before Bedtime.* I chose this mystery because "Edgar Box" was the alias for Gore Vidal, grandson of United States Senator Thomas P. Gore of Oklahoma. Vidal has also written about many real life senators in his historical novels, *Lincoln, Burr, 1876,* and *Washington, DC* (Hubert Humphrey even makes an appearance in Vidal's bizarre novel, *Duluth*). In *Death Before Bedtime,* Vidal presents us with the reactionary Leander Rhodes, chairman of the Senate Spoils and Patronage Committee. The book's protagonist, a public relations man, is waiting for Senator Rhodes in the Democratic cloakroom, in the company of real life senators Joseph O'Mahoney, Paul Douglas and Harry Byrd. "I stared at them all," says the hero. "Then the swinging-door opened and Leander Rhodes, the Great Bear of the West as he liked to hear himself referred to, appeared in the cloakroom, his face red from speech making, his gray hair tangled above his bloodshot eyes."

The senator, it turns out, was preparing to announce his candidacy for president in a speech before the National Margarine Council, but before he can make the announcement he stops to light the fateful fire. Since Vidal describes Rhodes as "a near-idiot, with a perfect Senate record of obstruction," his demise is hard to mourn. The only surprise is that the senator was done in by a member of his family, rather than by some irate citizen determined to save the Republic.[6]

From a mystery by Senator Thomas Gore's grandson, let me turn to one by Senator Harry Truman's daughter. In 1981, Margaret Truman published *Murder on Capitol Hill,* one of a series of mysteries in which she has strewn bodies about Washington, from the White House to the Supreme Court, and from the Smithsonian to Georgetown. In this tale, we find the Senate majority leader, Cale Caldwell, stabbed to death with an ice pick at a Senate reception! Not just your ordinary, run-of-the-mill majority leader, Senator Caldwell was also chairman of the Appropriations Committee. Now, I submit that anyone who tried to serve as majority leader and simultaneously to chair a major standing committee would find himself violently threatened by members of his own party! I would have advised the police to begin their investigation by interviewing members of the Appropriations Committee, in order of seniority. But in the end we find that the killer came from the senator's family rather than from among his colleagues. The moral of these senatorial mysteries, one gathers, is that we should avoid getting so wrapped up in our work that we neglect our homelife—it could be dangerous to our health.[7]

Mr. President, I might also mention *Washington Post* reporter Lawrence Meyer's murder mystery, *A Capitol Crime,* in which a United States senator bumps off an investigatory reporter and stuffs his body down a manhole in the Capitol basement. Now, this is an interesting scenario, one which many members of the Senate may have contemplated over the years. Granted that a few congressmen, generally in the nineteenth century, of course, responded to criticism in the press by using their fists and canes on the heads of offending journalists, members of Congress for the most part have acted with admirable restraint. Not one of them has ever killed a member of the Fourth Estate! On the other hand, in 1890, a reporter by the name of Kincaid did shoot and kill a former representative named Taulbee, inside this Capitol Building. Theirs was a personal feud with considerable provocation on the congressman's part, but I understand that some members of the House press gallery have formed a Kincaid society to commemorate his crime. I point this incident out only to alert future mystery writers not to be so quick to pin the blame on the senators.[8]

Turning from these grisly stories to more pleasant images, I would like to mention the way motion pictures have made the United States Senate their stage and senators their players. The three films I have chosen are those that were shown recently in "The Senate Goes to the Movies" series sponsored by the Senates Commission on Art and Antiquities. This imaginative undertaking has taken place during one week each spring for the past three years, and has presented film dramatizations of both real and fictional senators. Its offerings for 1986 were "Mr. Smith Goes to Washington", "The Senator Was Indiscreet," and "Advise and Consent."

Has there ever been a better movie about the Senate than Frank Capra's 1939 classic, "Mr. Smith Goes to Washington?" To briefly summarize the plot, the naive, idealistic Jefferson Smith, played by Jimmy Stewart, is appointed to fill out the term of a senator who died unexpectedly. Smith puts himself under the care and supervision of the State's silky senior Senator, Joseph Paine, portrayed by Claude Rains. The party bosses expect to control Smith, but when they get to Washington he eludes them to go off sightseeing at all the patriotic memorials, and they find they have their hands full with their junior senator. Unbeknownst to Senator Smith, his senior colleague is pushing a bill to build a dam which will financially benefit the State boss of their party (the dam is located on the very site where Smith intends to build a Boy Rangers' camp). When Smith uncovers the truth, Senator Paine maneuvers to discredit him and have him expelled from the Senate. In a last desperate effort, Smith launches a filibuster to stall Senate action until he can demonstrate that the public (and the Boy Rangers) support him.

The movie includes many shots actually taken in the Russell Senate office building and in the vicinity of the Capitol, and much of the action takes place in a magnificent reproduction of the Senate chamber. In fact, if we wish to see how this chamber in which we meet today looked before its massive renovation in 1950, "Mr. Smith" gives us that opportunity. Technically the movie is authentic, accurate and true to the procedures of that day, thanks to the advice that James Preston, superintendent of the Senate press gallery, provided to the movie crew. In the climactic scenes of the movie, Senator Smith's secretary—indeed his only staff person—played by Jean Arthur, sits just to the right of the press gallery and signals down to the senator which rules will enable him to hold the floor, much to the bemusement of the vice president who is presiding. Finally the strain is too much, Senator Smith collapses, here on the floor, in front of the Republican leader's desk. Senator Paine, however, is so shaken by this performance that he attempts to shoot himself in the cloakroom, and the movie ends with his admission of guilt, clearing Jefferson Smith, who still lies crumpled on the floor. There is not a dry eye left in the house, but it is safe to say that no such scene ever has, or ever will, take place in this chamber.

Similarly, there has never been a senator quite as foolish as Melvin Ashton, the lead role in George Kaufman's wonderful 1947 movie, "The Senator Was Indiscreet." Played by William Powell, Melvin Ashton may look senatorial, but clearly no coherent thought has ever passed through his head. Nevertheless, Senator Ashton is determined to run for president. The movie opens in a New York hotel, where the senator has gone to make a speech, and incidentally to be made an honorary Indian chief. During the ceremony the senator's irate party chairman arrives and demands to know how he could take such a step without party approval. Kissing babies was one thing, but becoming an Indian chief was strictly for presidential candidates. Moreover, Ashton had been denying in public that he would be a presidential candidate, and the party boss points out that only real candidates were permitted to deny their candidacies.

Senator Ashton will not be dissuaded. He announces that he has been keeping a diary which records everything that he has seen. The shaken party leader realizes that publication of such a diary could topple his machine, and agrees to let Ashton run. To everyone's surprise, the senator moves quickly to the top of the public opinion polls. Among his campaign slogans: He opposes inflation and deflation, and instead stands for "flation." As a publicity stunt he rides in the locomotive of his campaign train, which he manages to wreck, but then gets credit for helping rescue the survivors! At the last minute, when it appears that this improbable senator may become an even more improbable president, a newspaper reporter spirits away his diary and publishes its shocking revelations. The senator and his cohorts flee to Pago-Pago and anywhere else without an extradition treaty.

It must come as a surprise to audiences—especially since the movie's advertisements show the senator in his pajamas—that Ashton's indiscretion was merely keeping a diary. In fact, diary-keeping has been a sadly rare art in the Senate. One thinks of William Maclay, John Quincy Adams, Henry Fountain Ashurst, and George Aiken who kept and published diaries. But most members are simply too busy to keep such a record. Senatorial diaries, of course, are tremendous resources for future historians and political scientists, and I sincerely hope that this delightfully funny movie will not dissuade any senator from committing such an "indiscretion."

The final film which I would like to highlight is the late Otto Preminger's 1962 masterpiece, "Advise and Consent," the movie version of Allen Drury's Pulitzer prize-winning novel of the same name. As with the nineteenth century *roman a clef,* part of the joy of Drury's novel, and Preminger's movie, was guessing who was really whom. Like Mark Twain and Theron Crawford, Allen Drury served as a reporter in the Senate press gallery, where he collected many of his ideas, characters and situations. A few years after he published *Advise and Consent,* Drury also published a diary (shades of Melvin Ashton!) which he kept while covering the Senate during World War II. This diary provides a roadmap for his novel, with numerous directional signs. The aging fictional president strongly resembles Franklin D. Roosevelt at the end of his presidency. The vice president, Harley Hudson, is a dead ringer for Harry Truman. The dashing majority leader, something of a lady's man, seems to be Alben Barkley, and the upright minority leader, Orrin Knox, appears to be Robert Taft. Old Seab Cooley, the Southern senator so magnificently played by Charles Laughton in the movie, is in fact Kenneth McKellar of Tennessee, and Cooley's battle with presidential nominee Robert Leffingwell resembles McKellar's campaign against David Lilienthal, with perhaps the nomination of Henry Wallace to be Secretary of Commerce thrown in for good measure. The overzealous Senator Fred Van Ackerman is a caricature of Joseph McCarthy. And the tragic Brigham Anderson, who kills himself in his Senate office, is modeled after Senator Lester Hunt, who took his life in the Russell building in 1954.[9]

For those of us who love the United States Senate, "Advise and Consent" is a special treat. There are scenes of the Senate's old wicker subway cars, of the trolleys that used to run down Constitution Avenue, of the Senate Caucus Room, even of the tour guides in the Capitol. And much of the action takes place in the Senate chamber, again lovingly recreated by Hollywood. Indeed, "Advise and Consent" utilized the same Senate chamber desks and chairs that were constructed for "Mr. Smith Goes to Washington."

Both the book and the movie, "Advise and Consent," center on the president's nomination of Robert Leffingwell to be Secretary of State. He is a bright but prickly figure, deeply resented by Senator Seab Cooley for an old slight. The Senate majority leader is also not happy with the nomination, since he has not been consulted, but he loyally agrees to lead the fight. Senator Brigham Anderson of Utah chairs the Foreign Relations Committee subcommittee handling the nomination. During the course of their hearings, Seab Cooley produces a witness who swears that Leffingwell once belonged to a Communist cell. We learn that the charge is true, and although Leffingwell has long since changed his political philosophy, he covers up his past and discredits his accuser. Meanwhile, Senator Van Ackerman, an extreme peace promotor who has embraced Leffingwell's nomination, uncovers a terrible secret in Anderson's past, which he uses to blackmail the subcommittee chairman. Rather than submit to blackmail, yet unable to face the public humiliation, Senator Anderson commits suicide. The vote in the Senate on the nomination is tied. Vice President Hudson is about to cast the deciding vote when he receives a message that the president has died. Hudson votes to defeat the Leffingwell nomination on the grounds that he will want to appoint his own Secretary of State, and leaves the Senate chamber to go to the White House.

As with "Mr. Smith Goes to Washington," "Advise and Consent" is technically quite accurate. The studio went to great pains to recreate the appropriate settings and made every effort to capture the flavor and the rules of the Senate. In fact, the only criticism that one might have of both films is that they show the chamber almost always filled with senators, all sitting at their desks. Anyone who has spent any time in the galleries knows that only a few senators are present on the floor at any given time. The rest are off at committee hearings and any number of other official duties. Great numbers of senators are on the floor only during votes, but instead of sitting orderly at their desks they tend to mill about in knots, waiting to cast their votes, converse with their colleagues, and learn the outcome of the tally. Apparently this was too confusing for the movie companies to recreate. I expect, however, that after the public has been conditioned to our behavior by viewing our proceedings on television, the next major movie about the Senate will be able to portray this aspect of the chamber in a way that is more true to life.

Mr. President, my brief literary and cinematic tour of the Senate has included merely a few examples. There are so many others that could be cited, among them the great Appalachian writer Harry Caudill's *The Senator from Slaughter County,* Allen Drury's *Senator Mark Coffin,* and the Allen Alda film, "The Seduction of Joe Tynan." Most likely other senators have their own favorite Senate novels and movies. I would like to conclude my remarks, however, by returning to Senator Spiffledink. More full of bunk than Melvin Ashton, more naive than Jefferson Smith, more hypocritical than Abner Dilworthy, more vainglorious than Senator Norton, Solomon Spiffledink was a wicked caricature by—who else?—a reporter in the press gallery, Louis Ludlow. I will not attempt to summarize this amusing little book, but I would like to quote from the author's introduction. Ludlow writes: "I freely admit that this child of my brain, *Senator Solomon Spiffledink*, shows Congress at its worst. That is exactly what it is intended to do. But it also shows that, even at its worst, Congress is only afflicted with some of the human frailties and is not so very bad after all . . . . In presenting *Senator Solomon Spiffledink* to a critical public, I ask my readers not to regard Solomon as any particular individual, for the truth is that he is a composite, nor to make this book a basis for too harsh a judgment of Congress until they have read its forthcoming companion piece, *Senator John Law*. When John makes his appearance in literary garb I shall hope to see the the scales exactly balanced." [10]

That is a nice sentiment, Mr. President, but in fact no such novel as *Senator John Law* was ever published. It seems to be easier to lampoon the Senate than to praise it. Literature leans to negative accounts, leaving history and political science to remind us of the positive. Those who have been fortunate enough to serve in the United States Senate have to expect such treatment, and we hope we have thick enough skins to laugh along with other readers and moviegoers at the foibles of fictional senators. Sometimes, however, the tables can be turned. One reason why Ludlow never wrote *Senator John Law*, other than our suspicion that a name like that would signify a perfectly dreadful novel was that in 1928 Ludlow himself was elected to the United States House of Representatives, where he served for twenty years. More recently, movie actors have also begun running for national office, and winning. Guess who? So perhaps the moral of this story for the artistic community is: be careful about how you portray Congress in your novels and films, for you never know when you may decide to run for office yourself; you may wind up as the subject of your own barbs.

Mr. President, I ask unanimous consent that "Footnotes to 'The Senate in Literature and Film'" be included in the Record.

There being no objection, the footnotes were ordered to be printed in the Record, as follows;

FOOTNOTES TO "THE SENATE IN LITERATURE AND FILM"

[1] Mark Twain and Charles Dudley Warner, *The Gilded Age* (Seattle, 1968/1873/), 170, 300, 408.

[2] Ibid., xv.

[3] Henry Adams, *Democracy* (New York, 1961 / 1880/), 22, 25, 64, 80, 187, 191.

[4] Theron Crawford, *A man and His Soul* (New York, 1894), 23, 63-72, 117, 137, 146; by comparison, see Theron Crawford, *James G. Blaine: A Study of His Life and Career* (New York, 1893), 139.

[5] Dashiell Hammett, *The Glass Key* (New York, 1972 /1931/), 9.

[6] Edgar Box, *Death Before Bedtime* (New York, 1979 /1953/).

[7] Margaret Truman, *Murder on Capitol Hill* (New York, 1981).

[8] Lawrence Meyer, *A Capitol Crime* (New York 1977).

[9] Allen Drury, *Advise and Consent* (New York, 1959); and Drury, *A Senate Journal, 1943-45* (New York, 1963).

[10] Louis Ludlow, *Senator Solomon Spiffledink* (Washington, 1927).

RECESS

Mr. BYRD. Mr. President, I am awaiting two additional signatures on the cloture motion. I ask unanimous consent that the Senate stand in recess for 10 minutes and that I be recognized upon the reconvening of the Senate. If I have the cloture motion at that time, I will enter it and then the Senate will go out.

There being no objection, the Senate, at 12:58 p.m., recessed until 1:08 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. Adams].

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration S. 1174, a bill to authorize appropriations for fiscal year 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Robert C. Byrd, Kent Conrad, Terry Sanford, Bob Graham, J. Bennett Johnston, Howard M. Metzenbaum, Paul Sarbanes, Donald W. Riegle, Howell Heflin, Spark Matsunaga, Harry Reid, Lloyd Bentsen, Alan J. Dixon, Ernest F. Hollings, Daniel K. Inouye, Brock Adams and John D. Rockefeller.

PROGRAM

Mr. BYRD. Mr. President, on Tuesday the Senate will convene at 10 a.m. Under the cloture rule, 1 hour after the Senate convenes on next Tuesday, the Chair will direct the clerk to call the roll to establish a quorum, and when a quorum has been established, the Senate will forthwith vote automatically on the motion to invoke cloture on the motion to proceed to the consideration of the Defense Department authorization bill, S. 1174.

That vote is a rollcall vote automatically under the rule, and if 60 Senators vote to invoke cloture, then the matter on which cloture is invoked; namely, the motion to proceed, will be the matter before the Senate to the exclusion of all other business until that matter has been resolved.

If cloture is not invoked on Tuesday, then the Senate will proceed with debate or other business which may have been cleared for action.

If the motion to invoke cloture fails on Tuesday, the cloture motion which I have just introduced will mature then on Wednesday, and I have indicated indirectly to the Republican leader, and he is now on the floor, that on Wednesday that cloture vote if it has to occur, which I hope it will not have to occur—I hope that the motion to invoke cloture on Tuesday will succeed—but if there is a third cloture vote on Wednesday it will occur—we will have to arrange it by unanimous consent at circa 4 o'clock or 4:30 in the afternoon, or some such.

Mr. DOLE. Mr. President, if the majority leader will yield, I appreciate very much that courtesy, but I would say to the majority leader I do not mind missing that vote and I know this is an important measure and since it requires 60 votes, I would not be part of that 60.

Mr. BYRD. That is right.

Mr. DOLE. I would not want to hold up the Senate. I appreciate very much the courtesy extended by the majority leader. I would be very pleased with an hour after the Senate came in that morning.

Mr. BYRD. Very well.

Mr. President, I thank the Republican leader and in view of his statement, then, on Wednesday, if such a vote does occur, it will occur earlier in the day and in all likelihood will occur in accordance with the strict requirements of the rule.

Does the distinguished Republican leader have any futher statement or business to transact?

Mr. DOLE. No, no other business.

Mr. BYRD. Mr. President, I thank the Republican leader.

RECESS UNTIL TUESDAY, MAY 19, 1987 AT 10 A.M.

Mr. BYRD. Mr. President, as I wish the Republican leader a good, restful, reflective, thoughtful, rejuvenating, happy, and enjoyable weekend, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock a.m., on Tuesday next.

The motion was agreed to, and at 1:13 p.m., the Senate recessed until Tuesday, May 19, 1987, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 15, 1987:

NATIONAL TRANSPORTATION SAFETY BOARD

James L. Kolstad, of Colorado, to be a member of the National Transportation Safety Board for the term expiring December 31, 1991.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

William F. Merlin.
Arnold B. Beran.
Peter J. Rots.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John L. Pickitt, [redacted]FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Winfield W. Scott, Jr., [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles R. Hamm, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Lawrence A. Skantze, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Bernard P. Randolph, [redacted]FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Winston D. Powers, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Spence M. Armstrong, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Michael P.C. Carns, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Buford D. Lary, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. George L. Monahan, Jr., [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert D. Springer, [redacted]FR, U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Earl T. O'Loughlin, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Alfred G. Hansen, [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Clarence E. McKnight, Jr., [redacted], U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 539(a), 3371 and 3384:

To be major general

Brig. Gen. Vance Coleman, [redacted].
Brig. Gen. Richard E. Collier, [redacted].
Brig. Gen. Jackson L. Flake, Jr., [redacted].
Brig. Gen. Richard H. MacMillan, Jr., [redacted].
Brig. Gen. Michael A. Schulz, Jr., [redacted].

To be brigadier general

Col. Ran L. Phillips II, [redacted].
Col. Arthur H. Baiden III, [redacted].
Col. Kent H. Hillhouse, [redacted].
Col. James H. Mukoyama, Jr., [redacted].

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Donald S. Pihl, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William H. Schneider, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Frederick F. Woerner, Jr., [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert M. Elton, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James E. Moore, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Burton D. Patrick, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Allen K. Ono, [redacted], U.S. Army.

The following-named officers under the provisions of title 10, United States Code, section 601, to be assigned to positions of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert W. RisCassi, [redacted], U.S. Army.
Lt. Gen. H. Norman Schwarzkopf, [redacted], U.S. Army.

The following-named officers for appointment to the grade indicated, under the provisions of Title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. William H. Harrison, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisons of title 10, United States Code, section 1370:

To be lieutenant General

Lt. Gen. Robert H. Forman, [redacted], U.S. Army.

The following named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Theodore G. Jenes, Jr., [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Benjamin F. Register, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Andrew P. Chambers, [redacted] U.S. Army.

The following-named officer for appointment to the grade indicated under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Ronald L. Watts, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. James J. Lindsay, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Maxwell R. Thurman, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3034:

To be vice chief of staff

Lt. Gen. Arthur E. Brown, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Claude M. Kicklighter, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provision of title 10, United States Code, section 1370:

To be general

Gen. John A. Wickham, Jr., [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 711, to be appointed as senior Army member of the Military Staff Committee of the United Nations:

To be senior Army member of the Military Staff Committee

Lt. Gen. H. Norman Schwarzkopf, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Peter G. Burbules, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John T. Myers, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John S. Crosby, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated, by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Edward Honor, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. George R. Stotser, [redacted], U.S. Army.

The U.S. Army National Guard officer named herein for appointment as a Reserve commissioned officer of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Donald Burdick, [redacted].

The U.S. Army National Guard officer named herein for appointment as a Reserve commissioned officer of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Charles J. Wing, [redacted].

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John H. Modellering, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Dale A. Vesser, [redacted], U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Jimmy D. Ross, [redacted], U.S. Army.

IN THE NAVY

The following-named captains of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral (lower half) in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Larry Bruce Franklin.
Jimmie Wayne Seeley.
William Paul O'Donnell, Jr.
Wilson Falor Flagg.

ENGINEERING DUTY OFFICER

Brian Talbot Sheehan.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Gene Parvon Dickey.

MEDICAL CORPS OFFICER

Paul Thomas Kayye.

SUPPLY CORPS OFFICER

Vance Hewitt Fry.

The following-named captains in the staff corps of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Robert Benson Halder.
Robert Walter Higgins.
David Michael Lichtman.
Donald Lee Sturtz.

SUPPLY CORPS

William Harry Hauenstein.
Robert Marion Moore.

CIVIL ENGINEER CORPS

James Carl Doebler.

NURSE CORPS

Mary Fields Hall.

The following-named captains in the line of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Richard Charles Allen.
James Bruce Best.
Donald Vaux Boecker.
Eugene Davison Conner.
Peter Hollon Cressy.
John Robert Dalrymple, Jr.
Philip Fredrick Duffy.
George Nicholas Gee.
Walter Lewis Glenn, Jr.
William Purcell Houley.
Raymond George Jones, Jr.
Bobby Clyde Lee.
Irve Charles Lemoyne.
Frederick Lance Lewis.

Thomas Charles Lynch.
Daniel Peter March.
Thomas Alfred Meinicke.
William Charles Miller.
Riley DeWitt Mixson.
Paul Davis Moses.
Phillip Roger Olson.
William Arthur Owens.
Thomas Dean Paulsen.
Joseph Charles Strasser.
Byron Eugene Tobin, Jr.
Jerry Lee Unruh.
Douglas Volgenau.
Raymond Michael Walsh.
Ronald Charles Wilgenbusch.

RESTRICTED LINE OFFICER—ENGINEERING DUTY OFFICER

John Sydney Claman.
Robert Edwin Traister.

AERONAUTICAL ENGINEERING DUTY OFFICER

William Charles Bowes.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Edward David Sheafer, Jr.

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

John Joseph Sweeney.
Kenneth Edward Myatt.
Jack Stephen Smith.
Martin William Leukhardt.

UNRESTRICTED LINE OFFICER (TAR)

Albert Eugene Rieder.

MEDICAL CORPS OFFICER

James John Cerda.

SUPPLY CORPS OFFICER

Philip Arthur Whitacre.

CIVIL ENGINEER CORPS OFFICER

David Oliver Smart IV.

The following-named rear admirals (lower half) of the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Robert Heber Ailes.
Denny Bruce Cargill.
David Fessenden Chandler.
Michael Christian Colley.
James Donald Cossey.
Thomas Rogers Merrill Emery.
Thomas Robert Fox.
Salvatore Frank Gallo.
Richard Corbett Gentz.
Anthony Albert Less.
Theodore Edwin Lewin.
Stephen Francis Loftus.
Charles Reynolds McGrail, Jr.
Paul David Miller.
Leonard Gordon Perry.
Richard Fay Pittenger.
Grant Alexander Sharp.
Jeremy Dolph Taylor.
Raynor Andrew Kent Taylor.
Richard Harrison Truly.

RESTRICTED LINE—ENGINEERING DUTY OFFICER

Lowell John Holloway.
Roger Bigelow Horne, Jr.

AERONAUTICAL ENGINEERING DUTY OFFICER

Richard Del Friichtenicht.

SPECIAL DUTY OFFICER (INTELLIGENCE)

William Oliver Studeman.

The following-named rear admirals (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Lewis Mantel.
Russell Larry Marlor.

SUPPLY CORPS

Rodney Kaye Squibb.
James Benjamin Whittaker.

The following-named rear admiral (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS

Benjamin Franklin Montoya.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, sections 5137 and 1370.

To be vice admiral

Vice Adm. Lewis H. Seaton, Medical Corps, [redacted]/[redacted] U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. James H. Webber, [redacted]/[redacted] U.S. Navy.

IN THE MARINE CORPS

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 624:

William P. Eshelman.
Lloyd G. Pool.
Donald R. Gardner.
Harry W. Jenkins, Jr..
Michael P. Mulqueen.
John P. Brickley.
Michael P. Downs.
Duane A. Wills.
Richard L. Phillips.
Robert B. Johnston.
Peter J. Rowe.
Clyde L. Vermilyea.
Francis X. Hamilton, Jr..

The following-named brigadier general of the Marine Corps Reserve for promotion to the permanent grade of major general, under title 10, United States Code, section 5912:

William H. Gossell.

The following-named colonel of the Marine Corps Reserve for promotion to the permanent grade of brigadier general, under title 10, United States Code, section 5912:

John F. Cronin.

IN THE AIR FORCE

Air Force nominations beginning Turgut Alagoz, and ending Allen Wong, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 19, 1987.

Air Force nominations beginning Maj. Myron G. Ashcraft, [redacted], and ending Maj. Samuel Wofford, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 19, 1987.

Air Force nominations beginning Ralph J. Abel, and ending Robert B. Zwicker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 19, 1987.

Air Force nominations beginning Thomas A. Abascal, and ending Michel P. Zumwalt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 19, 1987.

Air Force nominations beginning Stephen B. Allen, and ending Lawrence T. Zirilli, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 1987.

Air Force nomination of Erlind G. Royer, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of April 23, 1987.

Air Force nominations beginning Upendrakumar Kharod, and ending Hubert O. Platt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 23, 1987.

Air Force nominations beginning Maj. John H. Bubar, [redacted], and ending Maj. Carolyn K. Dennis, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 23, 1987.

Air Force nominations beginning Ian R. Anderson, and ending Charles R. Miller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 5, 1987.

Air Force nominations beginning Maj. David H. Adams, [redacted], and ending Maj. Joseph W. Brookreson, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 5, 1987.

IN THE ARMY

Army nominations beginning Richard P. Lewis, and ending Peter B. Yaw, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 12, 1987.

Army nominations beginning Vincent J. Barsolo, and ending William E. Latimer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 12, 1987.

Army nominations beginning Glenn A. Carlson, and ending Kendall Reed, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 12, 1987.

Army nominations beginning Robert G. Marslender, and ending Paul C. Baird, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 1987.

Army nominations beginning George L. Adams III, and ending Richard L. Agee, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 1987.

Army nomination of Harvey R. Brown, Jr., which was received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 1987.

Army nominations beginning Angelo A. Armondo, and ending Gary D. Zarr, which nominations were received by the Senate on April 15, 1987, and appeared in the CONGRESSIONAL RECORD of April 21, 1987.

Army nominations beginning William V. Adams, and ending William Woodruff, which nominations were received by the Senate on April 15, 1987, and appeared in the CONGRESSIONAL RECORD of April 21, 1987.

Army nominations beginning Maynard C. Sandberg, and ending John L. Ghee, which nominations were received by the Senate on April 15, 1987, and appeared in the CONGRESSIONAL RECORD of April 21, 1987.

Army nomination of Robert A. Stroud, which was received by the Senate on April 27, 1987, and appeared in the CONGRESSIONAL RECORD of April 28, 1987.

Army nominations beginning Dennis L. May, and ending Kevin M. Wesloh, which nominations were received by the Senate on April 27, 1987, and appeared in the Congressional Record of April 28, 1987.

Army nominations beginning David L. Bunner, and ending Roger J. Miller, Jr., which nominations were received by the Senate on April 27, 1987, and appeared in the Congressional Record of April 28, 1987.

Army nominations beginning Gregory L. Cook, and ending Michael E. Brouillette, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Kay E. Bratz, and ending Robert M. Zivkovich, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Tommy M. Adams, and ending Charles A. Williams, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Army nominations beginning Charles M. Randall, and ending Kevin Y. Munger, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

IN THE MARINE CORPS

Marine Corps nominations beginning Everett W. Krantz, and ending Rebecca A. Winthrop, which nominations were received by the Senate and appeared in the Congressional Record of March 27, 1987.

Marine Corps nominations beginning Eileen M. Albertson, and ending Richard G. Wilmes, which nominations were received by the Senate and appeared in the Congressional Record of April 9, 1987.

Marine Corps nominations beginning Paul R. Ahrens, and ending Larry W. Wright, which nominations were received by the Senate and appeared in the Congressional Record of April 23, 1987.

IN THE NAVY

Navy nominations beginning Roy August Ackermann, and ending Vance Glover Sprague, Jr., which nominations were received by the Senate and appeared in the Congressional Record of March 3, 1987.

Navy nominations beginning Jerry Carroll Collis, and ending Terry Lee Shreiner, which nominations were received by the Senate and appeared in the Congressional Record of March 3, 1987.

Navy nominations beginning Gregory A. Barber, and ending Timothy L. Workman, which nominations were received by the Senate and appeared in the Congressional Record of April 9, 1987.

Navy nominations beginning Ernesto Alberto Diaz-ordaz, and ending Maj. Doyal Bursey, Jr., which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 20, 1987.

Navy nominations beginning James William Allen, and ending Charles James Ritzel, which nominations were received by the Senate on April 15, 1987, and appeared in the Congressional Record of April 21, 1987.

Navy nominations beginning Austin Gray Albercrombie, and ending James Edward Walthall, which nominations were received by the Senate on May 1, 1987, and appeared in the Congressional Record of May 5, 1987.

Navy nominations beginning Gregory A. Fowler, and ending Elizabeth K. Hart, which nominations were received by the Senate and appeared in the Congressional Record of May 5, 1987.

Navy nominations beginning Richard Lorman Affeld, and ending John Joseph Joyce, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

Navy nominations beginning Paul Christian Aanonsen, and ending Gregory Richard Zymbaluk, which nominations were received by the Senate on May 11, 1987, and appeared in the Congressional Record of May 12, 1987.

HOUSE OF REPRESENTATIVES—*Monday, May 18, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In this prayer, we remember, O God, all those people who serve in this place without whose talents and diligent effort the work of this assembly would be difficult.

Since every task of every position of every rank is honored by You, O God, and to be noted with dignity, we pause in appreciation for those who give so much of their time and ability to this place. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **SENSENBRENNER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **SENSENBRENNER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 81, not voting 98, as follows:

[Roll No. 122]

YEAS—253

Ackerman
Akaka
Andrews
Applegate
Archer
Aspin
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Boland
Bonior (MI)
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Daniel
Darden
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Herger
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Oakar
Oberstar
Obey
Olin
Ortiz
Packard
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Pickett
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (CT)
Saiki
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torricelli
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Weiss
Wheat
Wilson
Wortley
Wyden
Wylie
Yates
Sensenbrenner
Sikorski
Skeen
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Walker
Weber
Wolf

NAYS—81

Armey
Barton
Bentley
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clay
Coats
Coble
Coughlin
Courter
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
Dreier
Emerson
Flippo
Gallegly
Gallo
Gekas
Goodling
Gregg
Henry
Hiler
Hopkins
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lightfoot
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCandless
McGrath
Miller (OH)
Moorhead
Parris
Pashayan
Penny
Quillen
Ridge
Roberts
Roukema
Schaefer
Schroeder

NOT VOTING—98

Alexander
Anderson
Annunzio
Anthony
Atkins
Badham
Berman
Biaggi
Boggs
Boner (TN)
Bonker
Boulter
Brooks
Chapman
Cheney
Clarke
Craig
Crane
Crockett
de la Garza
DioGuardi
Durbin
Evans
Fields
Flake
Florio
Ford (TN)
Frost
Garcia
Gephardt
Gilman
Gingrich
Gradison
Gray (IL)
Gray (PA)
Harris
Hastert
Hefner
Hubbard
Hutto
Hyde
Jeffords
Jones (NC)
Jones (TN)
Kastenmeier
Kemp
Lehman (FL)
Lewis (FL)
Lujan
MacKay
Marlenee
Mavroules
McCollum
McDade
Molinari
Mollohan
Morella
Morrison (CT)
Murphy
Neal
Nichols
Nielson
Nowak
Owens (NY)
Owens (UT)
Oxley
Pickle
Ray
Roemer
Rogers
Rowland (GA)
Roybal
Russo
Sabo
Savage
Slattery
Slaughter (VA)
St Germain
Stangeland
Stokes
Tauzin
Taylor
Torres
Towns
Traxler
Vander Jagt
Vucanovich
Watkins
Waxman
Weldon
Whittaker
Whitten
Williams
Wise
Wolpe
Yatron
Young (AK)
Young (FL)

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So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 270. Joint resolution to recognize the one hundred and twenty-fifth anniversary of the United States Department of Agriculture.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 27. An act to facilitate the provision of additional financial resources to the Federal Savings and Loan Insurance Corporation and, for purposes of strengthening the reserves of the Corporation, to establish a forbearance program for thrift institutions and to provide additional congressional oversight of the Federal Home Loan Bank Board and the Federal home loan bank system.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 27) "An act to facilitate the provision of additional financial resources to the Federal Savings and Loan Insurance Corporation and, for purposes of strengthening the reserves of the Corporation, to establish a forbearance program for thrift institutions and to provide additional congressional oversight of the Federal Home Loan Bank Board and the Federal home loan bank system," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. CRANSTON, Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. GARN, Mr. HEINZ, Mr. ARMSTRONG, Mr. D'AMATO, and Mr. GRAMM.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1085) "An act to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs, established by chapter 30 of such title, and for other purposes."

The message also announced, that the Senate insists upon its amendment to the bill (H.R. 558) "An act to provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children", disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

The message also announced for consideration of all matters: Mr. CRANSTON, Mr. MITCHELL, Mr. CHILES, Mr. HATFIELD, and Mr. DOMENICI;

For titles I, II, and III: Mr. GLENN, Mr. BINGAMAN, Mr. GORE, Mr. STEVENS, and Mr. HEINZ;

For title IV: Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. SASSER, Mr. HEINZ, Mr. D'AMATO, and Mr. BOND;

For titles V, VI, and VII: Mr. KENNEDY, Mr. METZENBAUM, Mr. DODD, Mr. MOYNIHAN, Mr. HATCH, Mr. STAFFORD, and Mr. WEICKER;

For title VIII: Mr. LEAHY, Mr. HARKIN, Mr. MELCHER, Mr. LUGAR, and Mr. BOSCHWITZ;

For title IX: Mr. CRANSTON, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MURKOWSKI, and Mr. SIMPSON.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 727. An Act to clarify Indian treaties, Executive orders, and Acts of Congress with respect to Indian fishing rights.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
May 15, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:00 p.m. on Friday, May 15, 1987, the following message from the Secretary of the Senate: That the Senate passed H.R. 2360 without amendment.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Wednesday, May 13, 1987:

S. 1177. An act to amend title V, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrift Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limt.

And the following enrolled bills on Friday, May 15, 1987:

H.R. 1157. An act to provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986; and

H.R. 2360. An act to provide for a temporary increase in the public debt limit.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT DURING THE 5-MINUTE RULE ON TOMORROW

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit during proceedings of the House under the 5-minute rule on Tuesday, May 19, 1987, to mark up H.R. 4, the Housing Authorization Act.

The gentleman from Ohio [Mr. WYLIE], the ranking minority member of the committee, has been advised and concurs in this request.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING THE 5-MINUTE RULE ON TODAY

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is reading for amendment under the 5-minute rule today.

This request has been cleared by the minority.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATIONS

Mr. COMBEST. Mr. Speaker, due to an injury, I missed several votes during the past 2 weeks. I ask unanimous consent to insert statements in the permanent RECORD concerning how I would have voted on each day that I missed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The statement are as follows:

PERSONAL EXPLANATION

Mr. COMBEST. Mr. Speaker, because of an injury that required a brief hospitalization, I was unable to attend the session of the House on Tuesday, May 5.

If I had been present:

On rollcall No. 80, I would have voted "yea."

On rollcall No. 82, I would have voted "yea."

On rollcall No. 83, I would have voted "yea."

On rollcall No. 84, I would have voted "yea."

On rollcall No. 85, I would have voted "yea."

Had I been present, I would have voted for passage of H.R. 27, the Federal Savings and Loan Insurance Corporation Revitalization Act. THe FSLIC is in trouble and the number of bank closings in the State of Texas is alarming. While I believe that this $5 billion effort only scratches the surface of the problem, Congress must take immediate action.

There are some very good provisions of H.R. 27. For instance, language is included which extends forbearance to well-managed institutions operating with impaired capital levels in designated economically depressed areas. Such forbearance is essential in Texas where the state of the energy, real estate, and agriculture industries has left many institutions struggling with troubled loans.

The GAO recently testified that the FSLIC is insolvent, with a deficit of more than $3 billion as of the end of 1986. Just this week, the figure was boosted to $6 billion. As has been demonstrated in Maryland and Ohio, the costs of a deposit insurance crisis are great.

We have a responsibility to prevent the same situation from occurring across the Nation, and my hope is that we can fulfill that responsibility without resorting to an eventual bailout of the industry—financed by American taxpayers. We must keep the interest of the depositor and taxpayer in mind as we develop policy to help an industry currently capable of helping itself.

Mr. Speaker, because of an injury that required a brief hospitalization, I was unable to attend the session of the House of Wednesday, May 6.

If I had been present.

On rollcall No. 86, I would have voted "nay."

On rollcall No. 87, I would have voted "nay."

On rollcall No. 88, I would have voted "nay."

On rollcall No. 90, I would have voted "nay."

Mr. Speaker, because of an injury that required a brief hospitalization, I was unable to attend the session of the House on Thursday, May 7.

If I had been present:

On rollcall No. 91, I would have voted "nay."

On rollcall No. 92, I would have voted "nay."

On rollcall No. 93, I would have voted "nay."

On rollcall No. 94, I would have voted "nay."

On rollcall No. 95, I would have voted "nay."

Mr. Speaker, because of an injury that required a brief hospitalization, I was unable to attend the session of the House on Friday, May 8.

If I had been present:

On rollcall No. 96, I would have voted "yea."

On rollcall No. 97, I would have voted "yea."

On rollcall No. 98, I would have voted "yea."

On rollcall No. 99, I would have voted "yea."

On rollcall No. 100, I would have voted "yea."

On rollcall No. 101, I would have voted "yea."

Mr. Speaker, because of an injury that required a brief hospitalization and period of home consalescence, I was unable to attend the session of the House on Monday, May 11.

On rollcall No. 102, I would have voted "yea."

On rollcall No. 103, I would have voted "yea."

On rollcall No. 104, I would have voted "yea."

On rollcall No. 105, I would have voted "yea."

On rollcall No. 106, I would have voted "yea."

Mr. Speaker, because of an injury that required a brief hospitalization and a period of home convalescence, I was unable to attend the sesssion of the House on Tuesday, May 12.

If I had been present:

On rollcall No. 107, I would have voted "yea."

On rollcall No. 108, I would have voted "nay."

On rollcall No. 109, I would have voted "yea."

On rollcall No. 110, I would have voted "nay."

On rollcall No. 111, I would have voted "yea."

On rollcall No. 112, I would have voted "nay."

On rollcall No. 113, I would have voted "yea."

On rollcall No. 114, I would have voted "nay."

On rollcall No. 115, I would have voted "yea."

CONGRESSIONAL LAW

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Well, Mr. Speaker, they've done it again. The administration has worked another lexico (ill)ogical miracle.

Everybody knows that everybody has to obey Federal law. But now we have something new called "congressional law."

We might ask, by the way, just who signed the Boland amendment, which restricts spending, into law and why that fellow wants a line-item veto. You can't fool all the people all the time, but in some cases it is not for lack of trying.

CONGRATULATING PETER DE YAGER AS THE 1987 IOWA SMALL BUSINESS PERSON OF THE YEAR

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, today, the buzzword in small business circles is entrepreneurship—books are written, corporate executives attend workshops, and universities are offering classes—all on entrepreneurship. However, for Peter and Betsy de Yager from Hull, IA, entrepreneurship is neither a buzzword nor a workshop topic. Instead it represents the hard work and perserverence of the last 9 years.

Like many entrepreneurs, the de Yagers started small. They worked out of their basement, to supplement Peter's teaching salary. They didn't have a revolutionary new product like a microchip; instead, they had a sound idea and an Iowa work ethic. The de Yagers began importing candy products from around the world for marketing here in the United States. Today, Peter and Betsy are at the helm of the Foreign Candy Co., Inc., still located in Hull, IA

With a yearly payroll of one-half million dollars, the de Yagers employ some 80 industrious people in this rural community of 1,700. In fact, the annual sales for the Foreign Candy Co., Inc., just topped $16 million!

President Reagan has proclaimed this past week as Small Business Week. Because of his success, Peter de Yager was in Washington, DC, representing my home State as the 1987 Iowa Small Business Person of the Year.

Mr. de Yager is representative of the many Iowa small businessmen and women from Hampton to Hull who daily strive to become successful members of their community. In Iowa, small businesses like Peter's are the backbone of the rural economy.

The latest statistics indicate that there are over 46,000 businesses throughout Iowa that employ less than 100 people. Small business accounts for 97 percent of all companies in the State!

Today, the headlines refer time and again to the agricultural crisis. Unfortunately, success stories like Peter de Yager's often go unrecognized. Revitalizing rural communities is a primary concern of mine. The new "buzzword" in Congress is not entrepreneurship, but rather "economic development."

However, there is one thing I would like to remind my colleagues: Our best efforts in economic development will meet with no success without the commitment of the Peter de Yagers—men and women who take risks and put in long hours of hard work that make communities like Hull, IA, thrive. Please join me in recognizing all small businessmen and women by recognizing Peter de Yager for his outstanding success.

SUPPORT A NUCLEAR TEST BAN

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, for over 20 years, the superpowers have recognized that nuclear testing must eventually come to an end. Both the Limited Nuclear Test Ban Treaty and the Nuclear Nonproliferation Treaty embody a commitment to negotiate a comprehensive halt to all nuclear testing.

Nuclear testing is now almost exclusively devoted to the development of new nuclear weapons and systems for nuclear warfighting: Weapon systems that would destabilize the strategic balance if deployed.

Mr. Speaker, every new nuclear weapon under development puts our national security at greater risk. Every nuclear test is an affront to the world community. Why keep testing? Why not put a stop to potentially threatening nuclear weapons developments—Soviet as well as American—with a test ban?

A comprehensive test ban has been put off for too long.

The Schroeder-Gephardt amendment to the fiscal year 1988 DOD authorization bill, which places new and severe limits on nuclear testing, does represent a step in the right direction. But there is much more that needs to be done.

There are international efforts underway to implement a comprehensive nuclear test ban and to provide global verification of such a ban. Signatories of the Limited Nuclear Test Ban Treaty can amend the treaty to ban all nuclear tests.

The United Nations and groups such as Parliamentarians Global Action are promoting an international satellite monitoring agency, a worldwide seismic monitoring network, and an international verification center. A ban on all nuclear explosions can be verified in this way with unusually high confidence.

Mr. Speaker, nuclear weapons have created a global problem for which there must be a global solution. I urge my colleagues to support the Schroeder/Gephardt amendment, but also to support every effort to bring about a permanent end to nuclear weapons testing.

THE NEED TO DEVELOP A NEW ENERGY POLICY

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, just over 1 year ago I spoke before this body on the urgent need for our Nation to develop a comprehensive national energy policy.

I explained that our Nation was enjoying a period of energy calm, that gasoline prices were lower than they had been in nearly a decade and that conservation and renewable energy sources had helped to reduce our Nation's dependence on foreign oil.

Further, I emphasized that the time was ideal for our Nation to consider its long-range energy goals and to develop a sound energy policy. In the midst of the stable energy market which existed at the time, a national energy policy could have been devised which would have both foreseen and planned for the new energy situation which is on our horizon.

However, since world oil prices began to fall in 1986, our country's dependence upon foreign oil has begun to increase. In 1986, the United States depended upon imported oil for more than one-third of its required sources. This number approaches the amounts which created U.S. vulnerability during the oil shocks of the 1970's. Further, a recent Department of Energy report estimates that in the 1990's, U.S. oil imports will rise to nearly one-half of its total consumption.

Mr. Speaker, this trend is already beginning. Recently the Washington Times carried a front page story announcing the prediction of rising gasoline prices at the pumps which could reach $1 per gallon this summer.

This news follows the continuing decline of our domestic oil industry. A standstill in the exploration of new wells and the inability of domestic wells to compete with cheaper world oil have devastated the industry.

Mr. Speaker, we have enjoyed the recent days of inexpensive oil, but we must realize that the future will be different. We must plan for those times now by developing an energy policy which prepares us for the time of greater dependency upon oil imported as well as higher prices for it.

ANNOUNCEMENT OF THE DEATH OF WILBER COHEN

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, I regret to inform the Members of the House that last evening in South Korea a great American, Wilbur Cohen, passed away.

I have taken a special order at 6 o'clock this evening, and I invite all my colleagues to join me in paying respect to that great American.

NATIONAL TOURISM WEEK

(Mr. UPTON asked and was given permission to address the House for 1 minute.)

Mr. UPTON. Mr. Speaker, as we begin National Tourism Week, I would like to salute the travel and tourism industry for the economic opportunities they provide to our Nation.

In all 50 States, tourism is a big business which generates millions—and even billions—of dollars for State and local economies. In my home State of Michigan, over 125,000 jobs are generated by the tourism industry. Visitors spend over $6 billion a year in our State, which results in close to $1 billion in additional tax revenue. Throughout our country, travel and tourism directly contributes billions of dollars in U.S. wages, salaries, and tax revenue.

As a member of the Business Subcommittee on Exports and Tourism, and the Congressional Tourism Caucus, one of my highest priorities will be to improve and expand upon tourism opportunities throughout the Fourth District of Michigan. I invite my friends and colleagues to come to my district and see for themselves the splendor of the Lake Michigan shoreline, the beauty of our inland streams, lakes, and forests, and the abundance of many forms of wildlife, which all combine together to make our area ripe for outdoor recreation and tourism. I am confident that by focusing on this important economic development issue, we will promote jobs and industry across our corner of the State.

THE IRAQI MISSILE ATTACK ON THE U.S.S. "STARK"

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, at least 28 American crewmen are dead and more may be missing and wounded in the inexplicable, tragic missile attack on the U.S.S. *Stark.* Even if this indefensible act was an accident or a case of mistaken identity, this tragic incident shows that the Iran-Iraq war with its two zealot heads of state, Saddam Husayn and Khomeini, is a powder keg ready to explode. It is clear that unless the situation in the Persian Gulf stabilizes, this strategically important area, which is a choke point for oil deliveries to the Western World, could draw in others besides Iran and Iraq, especially the United States.

Mr. Speaker, the United States should make it clear to Iran and Iraq that another attack on an American entity in the gulf will provoke American retaliation. We might also consider altering the present rules of engagement, serving notice that any Iran or Iraqi aircraft within missile range of an American vessel in the gulf is vulnerable. We should work with the Soviets, who share a mutual interest in stability, to reduce tensions in the area. Most importantly, in these times of crisis and uncertainly, we should stand behind the President.

Today we should honor those American servicemen who were killed and express our profoundest condolences to their families.

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PROTECT HIS MENTAL FACULTIES BY FLATTENING HIS SKULL

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, Frederic Bastiat, the brilliant 19th century French economist and publicist quoted a story from the travelog of a celebrated traveler. One day he arrived in the midst of a tribe of savages where a child had just been born. A crowd of soothsayers, magicians, quacks—armed with rings, hooks, cords, and knives—surround the newborn. One said: "We must protect his eyesight. I shall slant his eyes." Another said: "We must protect his hearing. I shall stretch his earlobes." A third said: "We must protect his sense of smell. I shall dilate his nostrils." And the chief medicine man said: "We must protect his mental faculties. I shall flatten his skull."

"Stop," cried the traveler. "Do not pretend to know better than God. He has given organs to this frail creature; let them develop and grow strong by exercise, experience, and liberty."

Bastiat added that God has provided social organs, as well as bodily organs, to man. These social organs will develop themselves best in the clean air of liberty. Away, then, with quacks, regulators, equalizers, do-gooders and with their pious moralizations.

Mr. Speaker, we may add: Away with currency debasers, who want to protect the American producers's ability to fend for himself in the international markets by mutilating his dollar.

INTRODUCTION OF THE CONTRACTOR WHISLEBLOWER PROTECTION ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is tragic that it takes the explosion of the space shuttle *Challenger* to reveal mechanical problems with the booster rockets. It is even more tragic to find out that the loss of life could have been prevented had management heeded the advice of two engineers working for Morton Thiokol, the maker of the booster rockets.

I, along with many of my colleagues, have introduced legislation to protect employees of Government contractors who disclose wrongdoing or dangers to public health or safety. This legislation will not only save the taxpayer millions of dollars, but also help make programs like NASA safer, by making it safer for employees of Government contractors to blow the whistle on problems with Government contracts.

Over the past 6 years, we have been assaulted with examples of waste in contracting: One contractor billed the Pentagon for the cost of boarding his dog, another charged $600 for a claw hammer, and still another billed the Government for $600 for a toilet seat cover. In many cases, we learned of these ripoffs because employees secretly passed the word. Employees should not have to sneak around in the dark of night to save the taxpayers money.

This bill is the third in a series of three bills that address the serious need to protect the taxpayer by protecting people who are willing to come forward with information that can save us money and lives. The other two are H.R. 25, which I introduced, to strengthen the protections for civil servants who blow the whistle and H.R. 1394, introduced by Representative BOXER, to provide whistleblower protection to members of the military.

The Contractor Whistleblower Protection Act would protect employees of Government contractors from reprisals for exposing waste and fraud in contracts paid for by the taxpayer. Similar legislation to cover defense contracts was included by the House as part of the Defense Authorization Act last year but was severely watered down in the final conference report. The bill makes it unlawful for a Government contractor to discharge or discriminate against a whistleblower. An employee can file a complaint with the Secretary of Labor, an investigation will take place, and the employee can be reinstated to his or her job and be compensated for damages. The Department of Labor procedures are virtually identical to those under the Clean Water Act and a number of other environmental statutes.

FOUR-DAY VISIT TO CENTRAL AMERICA

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, early this morning—just past midnight—I and four of my freshman colleagues returned from a 4-day visit to Central America.

On our whirlwind trip, we visited with high officials of four countries. We met with Sandinista officials. We met with church officials. We met with local business and labor leaders. We met with Contra leaders and we met with the leaders of the Mosquito Indians. We met with the Sandinista Foreign Minister and the head of military intelligence.

In short, in our 4 days, we saw and talked with a wide cross section of the people of Central America.

We did not see any of the 7,000 political prisoners in Nicaragua—we asked but were refused. But we did see the fear and suffering in the eyes of the people on the streets in that country.

Before I made this trip, I did support the Contras. But now, after making this trip and seeing the conditions in Nicaragua firsthand and talking directly to the leaders of the neighboring countries, I am more convinced than ever that there is no alternative to continued support for the Contras.

The one overriding impression a visitor to Nicaragua cannot escape is that there is no freedom there—only fear and repression. And the only realistic hope to change that condition is the Contra movement.

I wish there were another answer. But until there is, we have no alternative but to continue to support the freedom fighters. As it stands they are freedom's only hope.

THE PREAKNESS AND HORSE RACING IN MARYLAND

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, this past Saturday marked the 112th running of the Preakness Stakes at Pimlico Race Course in Baltimore. Certainly, every year brings new challenges in an effort to try and best previous Preaknesses, but this year's middle jewel of the Triple Crown far excelled any of those in the past. The credit for this year's outstanding Preakness must go to its owners: Frank DeFrancis and Robert Manfuso.

From the start of Preakness week to its conclusion with the winning of the race by Alysheba, this year's Preakness was a class event marked by all kinds of new and exciting innovations. Not only was the track itself in outstanding condition for this important sporting event, but the grandstand and the infield were also tip-top shape. This only enhanced the enjoyment of the event by the thousands of spectators who came to enjoy the day's activities.

Also to the credit of the new owners, efforts were made to control some of the rowdiness that characterized previous Preakness events. Fortunately, those efforts succeeded and, again, helped to make the Preakness the best it could possibly be. And, to go one step further, the spectators in the infield were able to see the Preakness Stakes race from start to finish this year—thanks to Pimlico's management's decision to set up a special large screen television in the crowded infield. Again, that is an added consideration that can only enhance Pimlico's reputation.

Horse racing is an important industry to Maryland—thousands of jobs are tied to it either directly or indirectly. It certainly gives me pride to see that every effort is being made to boost the image of the racing industry and make it attractive to everyone—young and old, racing fan or not. This can only help in bringing more people out to the track and keeping the racing industry healthy.

I certainly want to commend the owners of Pimlico for a job very well done and a Preakness that will long be remembered.

PEACE IN MIDDLE EAST

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, a short while ago at an E Export Award Ceremony to a special group of U.S.A. award-winning exporters, President Reagan, after presenting the awards to each, sadly announced that 28 of our Navy personnel have officially been declared dead in the attack on the U.S. frigate *Stark* in the Persian Gulf.

As the President expressed his personal grief to their families, he also pledged that their deaths shall not be in vain. I am certain that all of us in this body join in the mourning for our brave men, and wish to express our sympathy to their families.

I join with President Reagan also in thanking the countries of Saudi Arabia and Bahrain for their swift response to assist our crippled vessel and wounded crew members, probably reducing the loss of additional lives.

To assure that there shall not be a repetition of this unfortunate incident, we all must work toward the end of the Iraq-Iran war, and for overall peace in the Middle East.

NO F5-E'S FOR HONDURAS

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, today we will be debating the Central America amendments to the Defense authorization bill, days after the administration's announced intention to sell sophisticated F5-E combat aircraft to Honduras.

If the administration has been looking to give Nicaraguan President Daniel Ortega an incentive to go on a Mig buying binge, it could not have devised a better way than this.

Make no mistake, Mr. Speaker, notwithstanding this administration's claims, if Honduras gets F5-E's, we can kiss goodbye any hopes of stabilization and lasting peace in this tinderbox we call Central America.

Let us not raise the stakes any higher than they already are. We ought to be encouraging mediation in Central America, not promoting and authorizing further militarization.

We can affirm our commitment to a negotiated peace by supporting today the Foley amendment to prohibit the use of funds for the introduction of United States Armed Forces into Nicaragua for combat.

Further, we must lend our support to House Joint Resolution 277, the Gejdenson resolution to prohibit the proposed sale of F5-E combat aircraft to Honduras.

WHERE DOES THE HYPOCRISY END?

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, as has been observed by those who have preceded me in the well, a terrible incident occurred yesterday when Iraqi aircraft, either one or two of them, attacked the United States frigate, the U.S.S. *Stark*. In this unprovoked attack in waters we have patrolled for many months, the U.S. ship was not in a combat situation. The ship had every right to be where it was, but none the less we sustained 28 dead, two severely burned, and many others wounded. At this point we do not even known how many are missing. It was a terrible thing. Several constituents of mine have loved ones that were serving aboard the *Stark* and as of yet they do not know whether they are living or dead.

I would like to point out, however, an irony in this situation. Several people in the well today, and I suspect in the days to come, will call on the United States to do something, to arm ourselves to be able to repel such an attack; but the irony is that some of the statements made on the floor this morning by people calling on us to do something to defend ourselves, to take reprisals perhaps, are being made by the same people who have voted to cut this defense budget right down to the bone and the sinew and to deny us the capability that we need.

Mr. Speaker, where does the hypocrisy end?

TRIBUTE TO THE LATE FORMER HEW SECRETARY, WILBUR COHEN

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, it was with great sadness that I learned that former HEW Secretary Wilbur Cohen had passed away. He was an outstanding public servant for many, many years.

I think he exemplified the best type of public service. As a young man, Wilbur helped craft the Social Security Act during the Roosevelt administration.

Thirty years later he was the craftsman of Medicare, giving 36,000 Americans access to health insurance.

As HEW Secretary, he worked on civil rights, mental health, and child welfare.

I had the pleasure of serving with him on the Unemployment Compensation Commission under his chairmanship. He was my teacher and my friend. He represented the best in public service.

I think in my memory of Wilbur Cohen, we ought to preserve his legacy in terms of these programs and we ought to for a change say thank you to public servants. That is the kind of person he was, a civil servant for many, many years. Very often these types of individuals are the kinds of people who never get a thank you.

So in his memory, I just want to say God bless you, Wilbur, for affecting millions and millions of Americans in a positive way.

INTRODUCTION OF BASE ACREATE EQUITY ACT OF 1987

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, today I am introducing the Base Acreage Equity Act of 1987 along with my colleague, Mr. ROBERTS of Kansas. This bill would provide farmers the flexibility to adjust their cropping patterns in response to a wide variety of conditions ranging from conservation requirements contained in the Food Security Act of 1985 to fluctuating markets. H.R. 2100, passed by the House in October 1985, contained language that provided farmers this flexibility.

This provision would have allowed producers who participate in farm programs to plant more acres to a crop that he or she wished, as long as they agreed to plant less acres to another crop or crops that they had previously grown. A farmer could not expand the amount of land planted and still receive Federal Farm Program payments under this proposal. Unfortunately, the conference committee on H.R. 2100 provided the Secretary of Agricultures discretionary authority in regard to implementation of the provision. To date, the Department of Agriculture has not seen fit to implement this potentially valuable management tool.

Mr. Speaker, the Base Acreage Equity Act of 1987 will mandate this concept of the 1985 farm bill. This ability will provide farmers a flexible and equitable system for making sound management decisions based on the ever changing circumstances that Mother Nature, markets, and Congress can create.

TRAGIC LOSS OF U.S.S. "STARK" IN PERSIAN GULF

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, with fires still burning on an American ship in the Persian Gulf and with lives still in danger, there should be no rush to judgment, but this much is clear. As with the marines who lost their lives in Lebanon, there will be a temptation to doubt our Armed Forces, the men who service them and perhaps their equipment. As with the marines, such blame would be misplaced. The presence of five American ships in the Persian Gulf have been a tragedy waiting to happen. Operating without air cover in missions for which they were not designed, beyond the ability to have any protection from our Armed Forces, these ships have from the outset been in danger.

The failure, Mr. Speaker, is not with our Armed Forces nor with their equipment. It is the basic question of the ability of our political leadership to understand the assets they deploy and the basic elements of our military strategy and our equipment. Therein is the failure.

Please spare these brave men as they suffer, as they go through this agony, and our Nation is again embarrassed having been questioned for a failure which is not their own.

□ 1255

GET THE FACTS FIRST ON NAVAL ATTACK

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, it has been wisely said by the preceding speaker that we should not rush to make a judgment in this matter. The House Committee on Armed Services had a briefing this morning and the Seapower Subcommittee will have another briefing in the near future.

It could be, you know, that it is not anybody's fault. People die in the armed services because they sacrifice for their country. We ought to get all the facts before we make any decision as to anybody being in error in this matter. The field of being in military activity is a dangerous field.

The main emotion that all of us have, in fact the overwhelming emotion and maybe the single emotion, is one of deepest thanks to those who sacrificed their lives and deepest sympathy for those who are left behind, a sense of gratitude that we have young men and young women who serve our country in time of stress and time of difficulty in places of danger.

IT IS APPALLING TO POLITICIZE PERSIAN GULF INCIDENT NOW

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, in light of the incident in the Persian Gulf we certainly want to as a House be in a position of saying to the families of those people who have sailors aboard that ship that they have our condolences where death is obvious of 28 of our personnel, and also we want to say how much we appreciate the other families who are suffering through a period of time here not knowing just exactly what the status of their loved ones may be.

I would certainly agree with the previous two speakers, this is not a time to rush to judgment, but on the other hand, Mr. Speaker, I find it disturbing that someone would come to the well and rush into trying to politicize the issue almost immediately. I think that we need to get the facts on the table, we need to look at what may have gone wrong or what the sense of mission was, but I think for someone to come to this well and immediately try to politicize the issue is appalling beyond belief.

ANNUAL REPORT OF FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

To the Congress of the United States:

In accordance with Section 204(f) of the Older Americans Act of 1965, as amended, I hereby transmit the Annual Report for 1986 of the Federal Council on Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

It should be noted that the Council's recommendations do not reflect the Administration's views on reauthorization of the Older Americans Act. I urge the Congress to act favorably on the reauthorization proposal transmitted to the Congress by the Department of Health and Human Services.

RONALD REAGAN.

THE WHITE HOUSE, *May 18, 1987.*

REQUEST FOR PERMISSION TO MODIFY AN AMENDMENT TO AMEND SECTIONS ALREADY AMENDED OF H.R. 1748, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that when we go into the committee I be allowed to offer a technical amendment to correct two amendments which, due to the haste in which compromise language was being drafted, contain minor drafting errors. Because the amendments would modify provisions of the bill which were already amended, unanimous consent in the House is required.

The two amendments were amendment No. 16 offered by the gentleman from Ohio [Mr. TRAFICANT] on requiring the Department of Defense to give preference to American goods, and amendment No. 2 offered by the gentleman from Texas [Mr. LEATH] on 10-ton trucks. In each case the correction is consistent with the expressed purpose and intent of the provisions and both gentlemen concur in this amendment. If there is no objection, I intend to modify my technical corrections amendment to be offered later as part of the en bloc amendments.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Wisconsin?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so to raise a couple of questions here. As I understand it, what we are doing is amending amendments that were made in order under the amended rule by amendment.

Mr. ASPIN. The gentleman from Pennsylvania need not overdramatize the case. What we have here is two amendments that just need some technical corrections, and all we are doing is some technical corrections.

Mr. WALKER. I thank the gentleman, but the problem that this gentleman has, further reserving the right to object, is the fact that for many Members, they were put in the position of having the exact language that they wanted to offer on the floor frozen in by the Committee on Rules, and then we bring these actions to the floor, and then all of a sudden we find out that the exact language that the House approved is in fact not the exact language that we are going to end up with, because we come along and make amendments later on these.

Mr. ASPIN. Mr. Speaker, I withdraw my unanimous-consent request.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

The SPEAKER pro tempore. Pursuant to House Resolution 152 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1748.

IN THE COMMITTEE OF THE WHOLE

□ 1300

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 13, 1987, the amendments printed in section 1 of House Report 100-84, relating to ballistic missiles, had been disposed of.

Pursuant to the notice provided by the chairman of the Committee on Armed Services on May 13 under paragraph (6) of section 2 of House Resolution 160, it is in order to consider the following amendments printed in section 2 of House Report 100-84:

The amendment offered by Representative ASPIN, or his designee, relating to the date of the military personnel pay raise, which is debatable for 10 minutes.

The amendment offered by Representative ASPIN, or his designee, relating to the N-Reactor, which is not subject to amendment except for the substitute printed on page 31 of section 2 of House Report 100-84, authored by Representative MORRISON of Washington, the amendment offered by Representative ASPIN, or his designee, is debatable for 40 minutes, equally divided and controlled by Representative AUCOIN, or Representative LOWRY, of Washington, or their designees, and a Member opposed thereto; and the substitute is debatable for 40 minutes, equally divided and controlled by Representative MORRISON of Washington and a Member opposed.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to announce at this point that in consultation with the gentleman from Alabama, the order of the amendments has been altered by moving the amendments having to do with the N-Reactor, which is second on the program today, to the bottom of the list.

We have discussions going on between the various parties on that amendment. It looks like we will have a worked-out compromise position, and, therefore, it would save time and effort for all of us if we were able to move the N-Reactor amendment to the last item on the list instead of the second item today.

The CHAIRMAN. Under the rule, the gentleman is giving notification an hour previous to the offering of the amendment, which is in order.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ASPIN: In section 601 of division A (page 70, lines 17 and 19), strike out "April 1, 1988" both places it appears and insert in lieu thereof "January 1, 1988".

The CHAIRMAN. Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, let me just very briefly run through it, because I have worked it out with the people on the Republican side, and I think that we have an agreement here.

We had an amendment last week on the SDI amendment which cut the amount of SDI funding from $3.6 billion to $3.1 billion, which opens up a $500 million funds available under the budget resolution limits, and the proposal of this is to spend it on something that I think all sides of the debate, whether they are Republicans or Democrats, conservatives or liberals, would agree is a very important part of the defense budget, which is the funding for the pay of the people in the service.

Our bill at the moment has a pay raise, a 3-percent pay raise, that goes into effect on April 1 of next year. It is not what we wanted. What we clearly would have liked would be to have moved that pay raise a little bit higher, perhaps 4 percent, and move it earlier in the year.

□ 1305

The availability of $500 million does allow us to move that pay raise up 3 months and under this amendment it would move the effective date of the pay raise from April 1 up to January 1, which is consistent with the date on which we have given the pay raises in recent years.

The pay raises that have taken place in the last 3 years I believe have all taken place on January 1. I think it is important that people in the service understand that in spite of the budget crunches and other things that we think that the people in the service are a very, very important part of our defense expenditures. We believe that people in the service is one of the big pluses which has happened under the Reagan buildup, the quality and quantity of the people volunteering for service is very high. I think we want to keep it.

It is part of that consistency that I wanted to offer the amendment to allow the money saved from the SDI, and, of course, the SDI number will undoubtedly go up in conference but also other numbers could go up in conference. It seems to me that the best thing we ought to do to spend the money at this time is to spend the money on moving their pay raise a little earlier.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. I thank the gentelman for yielding.

Mr. Chairman, I am in support of the pay raise and of moving the effective date to January 1. I just want to make it clear, though, that this is not earmarked money and if in conference SDI is increased, as you and I would both expect it to be, this would not in any way negatively impact the pay raise here because it is not earmarked, per se; it is simply, if I understand the gentleman correctly, he does not want to exceed the ceiling that we have imposed on this bill on the floor.

Mr. ASPIN. The gentleman is correct.

Mr. DICKINSON. I am certainly in support of the amendment, Mr. Chairman. I am sorry that it was necessary initially, but there was an insistence that we cut back the spending and I do support the amendment.

I think it is a good thing.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding, especially in view of the clarifications just made by the gentleman from Alabama [Mr. DICKINSON].

Mr. Chairman, I rise in strong support of the amendment of the gentleman to provide a 3 percent pay raise on January 1, 1988, rather than April 1, 1988.

It is no secret, of course, that I consider adequate and timely pay raises to be absolutely essential for maintaining the quality of our Armed Forces. The President's request for a 4-percent pay raise would at least have prevented military pay from falling behind further civilian pay raises. I supported the request for that reason.

It was not pleasing to me when the Subcommittee on Military Personnel and Compensation approved a less generous 3 percent pay raise and even delayed the effective date from January to April.

The amendment before us now, therefore, is certainly a step in the right direction. I wish we could go even further in restoring the 4-percent pay raise. I will certainly do my utmost in conference to achieve this goal.

In conclusion, Mr. Chairman, the measure before us is a worthy amendment and worthy of our support.

Mr. Chairman, I urge my colleagues to approve this Aspin amendment.

Mrs. BYRON. Mr. Chairman, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in support of the amendment offered by the gentleman from Wisconsin [Mr. ASPIN] to move the date for the military pay raise back to January 1, 1988. As amended by the Aspin substitute conforming the committee-reported bill to the budget resolution number for Defense, H.R. 1748 currently provides for a 3-percent pay raise effective April 1, 1988.

Other than increased end strength for the active duty Navy and the Reserve components, the only significiant program growth in the President's fiscal year 1988 budget request for military personnel was $2 billion for a pay raise. As a result, in meeting budget reduction targets, there was simply no other place to find the required level of cuts. Any alternative scenarios would have been far more devastating: for example, drastically reducing existing programs like reenlistment bonuses and special pays, delaying family moves for many months, or cutting existing force structure.

It is all too easy, particularly in peacetime, to take for granted the rigorous demands that military life places upon our men and women in uniform—and their families. The Iraqi fighter plane attack on the U.S.S. *Stark* in the Persian Gulf yesterday is a grim reminder of the sacrifices they are often required to make in service to the Nation.

Military pay is the most visible component of the military compensation package. it is vital to recruiting and retaining the high quality personnel currently manning the force. I urge my colleagues' support for the Aspin amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ASPIN].

The amendment was agreed to.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word and I yield to the distinguished gentleman from South Carolina [Mr. RAVENEL], who would like to propound an interrogatory to the Chairman of the full Committee, the gentleman from Wisconsin [Mr. ASPIN].

Mr. Chairman, I yield to the gentleman from South Carolina.

Mr. RAVENEL. Mr. Chairman, I rise for the purpose of engaging in a short colloquy with the chairman of the committee. I thank the chairman for his interest in my concerns. Mr. Chairman, the committee's first mark of the bill provided full funding for a small, yet vital Research and Development program known as RAMP [Rapid Acquisition of Manufactured Parts.] RAMP is funded under the Navy's RDT&E Program element number 63712N, entitled Generic Logistics R&D Technology Demonstrations. With the House's approval of your substitute, Mr. Chairman, RAMP funding was reduced by $2 million. I would like to request your assistance in restoring these funds once the authorization bill goes to conference with the Senate.

Mr. ASPIN. Mr. Chairman, will the gentleman from Alabama yield?

Mr. DICKINSON. I yield to the chairman of the committee for this purpose.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for bringing this matter to my attention. The gentleman and I have discussed this matter and I support his request for this important project. For the benefit of our colleagues would you provide a brief description of the RAMP project?

Mr. RAVENEL. If the gentleman will yield further, I would be delighted to do so. The RAMP project is a joint venture sponsored by the Navy and the South Carolina Research Authority. The goal of RAMP is to increase fleet readiness by providing advanced computer aided design and manufacturing of parts.

The life span of a naval vessel is 20 to 50 years. In the course of the life of these systems the vendors that originally manufactured the components in them frequently go out of business or no longer produce the parts. As a result, the Navy often can not readily procure a part when it is needed. It can take up to 300 days in some instances to obtain a part. RAMP will reduce the procurement cycle of hard-to-get parts to one-tenth the current cycle. With RAMP we will soon have the capability to get a needed part in 30 days instead of 300.

Mr. Chairman, I appreciate the gentleman's support and I thank him for providing me this opportunity to speak on behalf of the RAMP Program.

Mr. DICKINSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the notice provided by the chairman of the Armed Services Committee earlier today under paragraph 7 of section 2 of House Resolution 160, it is now in order to consider the amendments numbered 28 through 61 and 63 through 80 and 83, printed in section 3 of House Resolution 100-84, en bloc, said amendments are not subject to amendment or to a demand for a division of the question, but are debatable for 60 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

AMENDMENTS OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer en bloc amendments, as modified.

Amendments offered by Mr. Aspin, as modified: (Consisting of amendments numbered 28 through 61, 63 through 80, and 83 in section 3 of House Report 100-84 (the Report of the Committee on Rules to Accompany House Resolution 160), with modifications to Amendments Numbered 29, 31, 32, 33, 36, 37, 38, 41, 42, 44, 50, 51, 52, 61, 64, 66, 70, 80, and 83).

(All page and line references are to H.R. 2169)

AMENDMENT NO. 28 (PROPOSED BY MR. CHAPPELL OF FLORIDA)

Delete Sections 105(c), 113, 201(b), and 301(c).

On page 10 of the bill, delete the matter beginning after line 12 and all following thereafter through line 22.

On page 19 of the bill, delete the matter beginning after line 6 and all following thereafter through line 11.

On page 22 of the bill, delete the matter beginning after line 16 and all following thereafter through line 20.

On page 49 of the bill, delete the matter after line 12 and all following thereafter through line 18.

AMENDMENT NO. 29, AS MODIFIED (PROPOSED BY MR. HUTTO OF FLORIDA)

The amendment as modified is as follows:

At the end of section 103 (page 9, after line 19), add the following new subsection:

(b) MECHANICAL DIVERTERS PROGRAM.—None of the amount provided by subsection (a) for other procurement for the Air Force is available for the mechanical diverters program. The amount provided in subsection (a) for other procurement for fiscal year 1988, and the amount provided for munitions and associated support equipment, are each hereby reduced by $9,807,000.

At the end of section 206 (page 32, after line 25) add the following new subsection:

(g) CONVENTIONAL MUNITIONS PROGRAM.—Of the funds authorized in section 201 for the Air Force for fiscal year 1988, $40,722,000 is available only for the Conventional Munitions Program. The amount provided in section 201 for the Air Force for fiscal year 1988 is hereby increased by $9,807,000.

AMENDMENT NO. 30 (PROPOSED BY MR. BADHAM OF CALIFORNIA)

Page 16, line 10, insert "or modify" after "purchase".

AMENDMENT NO. 31, AS MODIFIED (PROPOSED BY MR. PRICE OF ILLINOIS)

The amendment as modified is as follows:

At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. LIMITATION ON CERTAIN PROCUREMENT.

None of the funds appropriated to the Department of Defense may be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless—

(1) such injector or component is manufactured in the United States by a company which is an existing producer under the industrial preparedness program at the time of the contract is awarded and which—

(A) has executed a Department of Defense Form 1519,

(B) has received all required regulatory approvals, and

(C) has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

(2) the Secretary of Defense determines that such procurement from a source in addition to a source described in paragraph (1) is critical to United States national security.

AMENDMENT NO. 32, AS MODIFIED (PROPOSED BY MR. AUCOIN OF OREGON)

The amendment as modified is as follows:

At the end of section 208 (page 36, after line 16), insert the following new subsection:

(d) SEMICONDUCTOR MANUFACTURING TECHNOLOGY.—Of the funds provided under section 201 for the Defense Agencies for fiscal year 1988, $15,000,000 shall be available only for semiconductor manufacturing technology in addition to other amounts authorized for such purpose. The amount provided in section 201 for the Defense Agencies for fiscal year 1988 is hereby increased by $15,000,000.

AMENDMENT NO. 33, AS MODIFIED (PROPOSED BY MR. AUCOIN OF OREGON)

The amendment as modified is as follows:

Page 23, line 1, strike out "$12,000,000" and insert in lieu thereof "$30,000,000".

AMENDMENT NO. 34 (PROPOSED BY MR. MURTHA OF PENNSYLVANIA)

At the end of section 204 (page 26, after line 20), add the following new subsection:

(d) INDUSTRIAL PREPAREDNESS.—Of the amount authorized in section 201 for the Navy for fiscal year 1988, $43,393,000 is available only for the Navy Industrial Preparedness (Navy Manufacturing Technology Program) program element. The amount authorized in such section for the Navy for fiscal year 1988 is hereby increased by $13,393,000.

AMENDMENT NO. 35 (PROPOSED BY MR. BADHAM OF CALIFORNIA)

In section 208(a), insert the following new paragraph after paragraph (8) (page 35, after line 20) and redesignate the following paragraphs accordingly:

(9) $15,000,000 is available only for medical applications of the free electron laser program for medical research and material;

AMENDMENT NO. 36, AS MODIFIED (PROPOSED BY MR. LEATH OF TEXAS)

The amendment as modified is as follows:

Page 23, line 23, strike out "and".

Page 23, line 25, strike out the period and insert "; and".

Page 23, after line 25, insert the following:

(4) $200,000 is available only for the Secretary of the Army to conduct a study to evaluate the capability polymer and process technologies that meet or exceed NATO specifications for the configuration of medium- and large-caliber ammunition.

AMENDMENT NO. 37, AS MODIFIED (PROPOSED BY MR. BENNETT OF FLORIDA)

The amendment as modified is as follows:

At the end of part A of title II (page 41, after line 21), add the following new section:

SEC. 214. SPECIFICATION OF FUNDS FOR TESTING ACTIVITIES.

The amount provided in section 201 for the activities of the Deputy Under Secretary of Defense, Test and Evaluation, is hereby increased by $24,432,000. Of such amount—

(1) $75,238,000 is available only for the Development, Test and Evaluation program, of which—

(A) $14,979,000 is available only for the Joint Live Fire project, of which $6,000,000 is available only for foreign equipment assets testing; and

(B) $7,842,000 is available only for the Test and Evaluation Independent Activities project;

(2) $10,800,000 is available only for the Live Fire Testing program; and

(3) $12,928,000 is available only for the Joint Technical Coordinating Group for the Aircraft Survivability program.

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. LIVE-FIRE TESTING.

(a) Coverage of Significant Product Improvement Programs.—(1) Subsection (a) of section 2366 of title 10, United States Code, is amended—

(A) by inserting "(1)" after "Requirements.—";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end the following:

"(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until realistic vulnerability testing (in the case of a product improvement to a covered system) or realistic lethality testing (in the case of a product improvement to a major munitions program or a missile program) is completed in accordance with this section.

"(3) For purposes of this section, a covered product improvement program is a program under which—

"(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the vulnerability of such system; or

"(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.

(2) Subsection (b) of such section is amended by striking out "or missile" and inserting in lieu thereof "missile, or product modification or upgrade".

(3) Subsection (c) of such section is amended by striking out "or missile program" and inserting in lieu thereof "missile program, or covered product improvement program".

(4) Subsection (e)(4) of such section is amended by inserting "(or a covered product improvement program for a covered system)" after "in the case of a covered system".

(5) Subsection (e)(5) of such section is amended by inserting "(or a covered product improvement program for such a program)" after "missile program".

(b) Vulnerability Testing.—Such section is further amended—

(1) by striking out "survivability" each place it appears in the text of the section (other than the second place it appears in subsection (e)(4)) and inserting in lieu thereof "vulnerability"; and

(2) by striking out "and survivability" in subsection (e)(4).

(c) Time for Live-Fire Testing.—Subsection (b)(1) of such section is amended by striking out the period at the end and inserting in lieu thereof the following: "and to allow any such proposed design correction to be tested in comparison with the originally tested design of the system, munition, missile, or product improvement.".

(d) Explanation for Waivers by Secretary of Defense.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The Secretary shall include with any such certification a report explaining how the Secretary plans to evaluate the vulnerability or lethality of the system or program and assessing possible alternatives to testing the full system or program.".

(e) Designated OSD Official for Live-Fire Testing.—Such section is further amended—

(1) by redesignating subsections (d) and (e) (as amended by subsections (a) and (b)) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Designated OSD Official for Live-Fire Testing.—(1) The Secretary of Defense shall designate a civilian official in the Department of Defense who is responsible to the Under Secretary of Defense for Acquisition to have principal responsibility within the Office of the Secretary of Defense for the vulnerability and lethality testing required under subsection (a).

"(2) Before full-scale engineering development with respect to a covered system, major munitions program, missile program, or covered product improvement program begins, the official designated under paragraph (1)—

"(A) shall review the adequacy of the plan of the Secretary of the military department concerned for testing of that system or program under subsection (a) (including the schedule and proposed funding for such testing); and

"(B) shall report to the Under Secretary of Defense for Acquisition on the adequacy or inadequacy of such plan and (if such official designated under paragraph (1) determines that the plan is inadequate) on what such official considers would constitute an adequate test plan.

"(3)(A) While testing under subsection (a) with respect to a covered system, major munitions program, missile program, or covered product improvement program is carried out, the official designated under paragraph (1) shall continue to review the adequacy and progress of the testing.

"(B) That official—

"(i) may observe any test under subsection (a) conducted by the Secretary of a military department; and

"(ii) shall have access to all test data and reports produced by the Secretary of a military department with respect to a test under subsection (a).

"(C) At the conclusion of testing under subsection (a) for a covered system, major munitions program, missile program, or covered product improvement program, the official designated under paragraph (1) shall submit a report on the testing to the defense committees of Congress (as defined in section 2362(e)(3) of this title).

"(4)(A) The official designated under paragraph (1) shall carry out programs to improve the conduct of realistic vulnerability testing and realistic lethality testing by the Department of Defense and shall develop improved methods, instruments, and facilities for such testing.

"(B) That official shall have the authority—

"(i) to procure threat munitions and test targets for such testing; and

"(ii) to coordinate Department of Defense procurement of such munitions and targets.

"(5) The Secretary shall provide to the official designated under paragraph (1)—

"(A) an adequate staff to enable that official to carry out the duties of that official under this subsection; and

"(B) specific funds for the functions of that official under paragraph (4)(A).".

(f) Clerical Amendments.—(1) Paragraph (1)(B) of subsection (f) of such section (as redesignated by subsection (e)) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(2)(A) The heading of such section is amended to read as follows:

"§ 2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing".

(B) The item relating to such section in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2366. Major systems and munitions programs: vulnerability and lethality testing; operational testing.".

AMENDMENT NO. 38, AS MODIFIED (PROPOSED BY MR. RAY OF GEORGIA)

The amendment as modified is as follows:

At the end of title II of division A (page 48, after line 3), add the following new section:

SEC. 244. HIGH-SPEED PATROL BOAT.

The Secretary of the Navy is encouraged to (1) evaluate a new 80-foot reconnaissance assault and missile boat that has been designed to project power in coastal, harbor, river, and island waterways and on closed seas, and (2) consider procuring a prototype of such boat for extensive testing and evaluation. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives any report on the evaluation of any such boat.

AMENDMENT NO. 39 (PROPOSED BY MR. SPRATT OF SOUTH CAROLINA)

At the end of title II (page 48, after line 3), add the following new section:

SEC. 244.—CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM.

Of the funds appropriated for the Army for fiscal year 1988 for research, development, test, and evaluation, $6,800,000 is available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

AMENDMENT NO. 40 (PROPOSED BY MR. RIDGE OF PENNSYLVANIA)

At the end of title II of division A (page 48, after line 3) insert the following new section:

SEC. 244. ANTI-ARMOR WEAPONS TESTING.

(a) TESTS.—In order to correct the lack of close-in individual soldier or squad-level tank killing capability, the Secretary of Defense shall conduct a comparative operational test of shoulder-fired squad-level anti-tank weapons comparing, at a minimum, the following existing weapons:

(1) The German Panzerfaust III.

(2) The Swedish AT-4 (or United States variant).

(3) The United Kingdom LAW 80.

(4) The French Apilas.

(5) The French Strim.

(6) The United States Marine Corp's SMAW.

(7) The Israel B-300.

(8) The United States 3.5 inch rocket launcher with modern Belgian ammunition.

(b) TEST SPECIFICATIONS.—The tests shall include maximum rate-of-kill firings against realistic, moving, company-size or larger tank target arrays by pairs of operational, average-skill gunners (with an assistant gunner for each). Each target array shall be presented over realistic European-type terrain on courses unfamiliar to every gunner, with large distances varying from 30 to 300 meters. Each pair of gunners shall have available to them for firing in each target array presentation the number of antitank rounds that would normally be carried by foot by a combat-loaded rifle squad. Total anti-tank system weight for the squad (launchers, ammunition, and accessories) shall not exceed 70 pounds. Gunners shall be thoroughly trained in each weapon using live ammunition firings.

(c) USE OF SOVIET TANKS.—The tests shall compare the weapons for lethality, under the supervision of the Joint Live Fire Test Program, against actual combat-loaded Soviet tanks.

(d) REPORTS.—The Secretary of the Army, the Secretary of the Navy (with respect to the Marine Corps), the Army National Guard, and the Office of the Secretary of Defense shall each submit to Congress independent and uncoordinated reports addressing—

(1) the adequacy of the tests,

(2) the firing results, and

(3) a recommended best weapon.

MODIFICATION TO THE AMENDMENT OFFERED BY MR. ASPIN OF WISCONSIN

(AMENDMENT NO. 41 IN THE REPORT OF THE COMMITTEE ON RULES)

(Page and line references are to H.R. 2169)

The amendment as modified is as follows:

Page 3, line 6, strike out "$884,560,000" and insert in lieu thereof "$942,560,000".

Page 3, after line 12, insert the following flush sentence:

The total of the amounts provided under clauses (i), (ii), and (iii) of paragraph (5)(A) is hereby reduced by $58,000,000 as an undistributed reduction.

At the end of section 108 of the bill (page 13, after line 23), add the following new subsection:

(f) RULE OF CONSTRUCTION.—The provisions of the third sentence of paragraph (4) of subsection (d) and the provisions of subsection (e) shall have no force and effect.

Page 48, line 8, insert "for fiscal year 1988" after "appropriated".

Page 49, line 21, strike out "and fiscal year 1989".

Page 64, line 13, strike out "21,407" and insert in lieu thereof "21,476".

Page 64, line 16, strike out "7,840" and insert in lieu thereof "7,631".

Page 64, line 17, strike out "695" and insert in lieu therof "665".

At the end of title VIII of division A (page 117, after line 25, insert the following new section:

SEC. 812. CLARIFICATION.

A country may be considered to be a qualifying country under subsection (c) of the section in this title with the heading "**PREFERENCES IN AWARDING DEFENSE CONTRACTS**", only if the country has in effect with the United States a reciprocal defense procurement memorandum of understanding.

Page 177, line 22, strike out "$191,717,000" and insert in lieu thereof "$163,734,000".

Page 178, line 2, strike out "$98,492,000" and insert in lieu thereof "$126,475,000".

Page 198, strike out lines 12 and 13.

Page 226, line 22, strike out "$154,806,000" and insert in lieu thereof "$134,806,000".

AMENDMENT NO. 42, AS MODIFIED (PROPOSED BY MR. BENNETT OF FLORIDA)

The amendment as modified is as follows:

At the end of title III of division A (page 60, after line 11), add the following new section:

SEC. 315. AUTHORITY FOR CONTRACTORS TO SETTLE CLAIMS RELATING TO MOVEMENT OF HOUSEHOLD GOODS DIRECTLY WITH OWNERS OF GOODS.

(a) AUTHORITY TO SETTLE CLAIMS.—The Secretary of Defense shall provide that, in the case of a covered household goods claim arising out of a shipment within the United States of household goods having a weight in excess of 2,000 pounds, the contractor may settle the claim directly with the member of the Armed Forces concerned. If the contractor and the member concerned do not reach an amicable settlement of the claim, the claim shall be determined in accordance with otherwise applicable laws and regulations.

(b) COVERED CLAIMS.—For purposes of subsection (a), a covered household goods claim is a claim by a member of the Armed Forces against a contactor described in subsection (c) for loss or damage of the member arising from the shipment by the contractor of household goods belonging to the member.

(c) CONTRACTORS COVERED.—Subsection (a) applies to a contractor under contract with the Department of Defense for the shipment of household goods belonging to members of the Armed Forces.

(d) UNITED STATES DEFINED.—For purposes of this section, the term "United States" means the States and the District of Columbia.

(e) EFFECTIVE DATE.—Subsection (a) applies with respect to claims arising after April 30, 1987.

AMENDMENT NO. 43 (PROPOSED BY MR. DYMALLY OF CALIFORNIA)

At the end of title V of division A (page 70, after line 3), add the following new section:

SEC. 509. MILITARY EDUCATION PROGRAM FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS.

(a) RELATIONSHIP TO MILITARY PROMOTIONS.—A civilian technician of the Army National Guard who is unable to complete required training under the Military Education Program for civilian technicians of the Army National Guard established on August 1, 1985, may not be denied a military promotion by reason of the failure to complete such training if the reason for such failure was lack of availability of training spaces.

(b) REPORT.—Not later than February 15, 1988, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Military Education Program referred to in subsection (a). The report shall describe—

(1) the cost effectiveness of the program;

(2) the effect of the program on readiness; and

(3) the effect of the program on the sick leave, annual leave, and other benefits of civilian technicians of the Army National Guard and any resulting effect on their morale.

AMENDMENT NO. 44, AS MODIFIED (PROPOSED BY MR. GLICKMAN OF KANSAS)

The amendment as modified is as follows:

At the end of section 733(c) (page 103, after line 9), insert the following new paragraph:

(3) REQUIREMENT FOR AVAILABILITY OF 90-DAY INSURANCE COVERAGE.—Section 702(c) is further amended by adding at the end the following new paragraph:

"(4) In any request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative, the Secretary shall include a requirement for the contractor to offer an option to elect an insurance plan which meets the following requirements:

"(A) The plan shall be available at the election of an individual losing eligibility to be a covered beneficiary under chapter 55 of title 10, United States Code (for reasons such as discharge or release from active duty or a change in family status (including divorce or annulment, or, in the case of a child, reaching age 22)).

"(B) The plan shall provide for coverage of benefits similar to the coverage of benefits available to the individual under the CHAMPUS reform initiative, without a waiting period and regardless of any pre-existing condition.

"(C) The plan shall provide such benefit coverage for a period of a minimum of 90 days, beginning on the date on which coverage under chapter 55 of title 10, United States Code, normally would terminate (absent coverage under this plan).

"(D) The plan shall provide that enrollees in the plan shall pay the full periodic charges for the benefit coverage.".

Page 104, lines 3 and 4, strike out "section 702(c)(2) and (3)" and insert in lieu thereof "sections 702(c)(2), (3), and (4)".

AMENDMENT NO. 45 (PROPOSED BY MR. HOPKINS OF KENTUCKY)

At the end of title V of division A (page 70, after line 3), add the following new section:

SEC. 509. REMOVAL OF MILITARY DEPARTMENT CEILINGS ON NUMBER OF ROTC SCHOLARSHIPS.

Section 2107(h) of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time.".

AMENDMENT NO. 46 (PROPOSED BY MR. KYL OF ARIZONA)

In section 733 of division A (page 100), strike out subsection (b) (page 100, line 21 through page 102, line 4) and insert in lieu thereof the following:

(b) ONE CONTRACT PER CONTRACTOR ALLOWED UNDER SOLICITATION FOR DEMONSTRATION PHASE OF CHAMPUS REFORM INITIATIVE.—No contractor may be awarded more than one contract for subregions I, II, and III under Solicitation No. MDA903-87-R-0047 (issued for the CHAMPUS reform initiative demonstration project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3899)).

At the end of section 733 of division A (page 104, after line 5), add the following new subsection:

(e) ADDITIONAL DEMONSTRATION PROJECTS REQUIRED IN CONJUNCTION WITH CHAMPUS REFORM INITIATIVE DEMONSTRATION PROJECT.—

(1) GENERAL REQUIREMENT.—The Secretary of Defense shall conduct the projects described in paragraph (2) for the purpose of demonstrating alternatives to health care under CHAMPUS and under the CHAMPUS reform initiative. The demonstration projects shall be carried out in accordance with this subsection and in conjunction with the CHAMPUS reform initiative demonstration project.

(2) LIST OF DEMONSTRATION PROJECTS.—The demonstration projects are as follows:

(A) The Tidewater mental health demonstration project (Solicitation No. MDA906-86-C-0001).

(B) The Fort Drum demonstration project.

(C) The civilian-run primary care clinics known as PRIMUS and NAVCARE.

(D) The New Orleans demonstration project (Solicitation No. MDA903-87-R-0047), to be considered both as part of the CHAMPUS reform initiative demonstration project and as a separate demonstration project under this subsection.

(E) A fiscal intermediary demonstration project, to be implemented by amending an existing Department of Defense contract with a fiscal intermediary in a State or region to require the intermediary to undertake management of a health care network through cost-containment initiatives, including utilization review, pre-admission screening, second surgical opinions, and contracting for care on a discounted basis.

(F) Two Air Force alternative health care delivery system demonstration projects, required pursuant to section 732 of this Act.

(G) A demonstration project for nonactive duty beneficiaries in the catchment area of the Philadelphia Naval Hospital that uses a managed health care network, including health care enrollment (as provided in section 1099 of title 10, United States Code), and is funded on a fixed-price per capita basis.

(3) REPORT ON DEMONSTRATION PROJECTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project required under this subsection.

(4) EVALUATION METHODOLOGY.—The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration projects required under this subsection. The methodology shall be developed in conjunction with the methodology developed under section 702(a)(4) of the Department of Defense Authorization Act, 1987 (Public Law 99-661) (as added by section 733(a) of this Act) and shall be included in the report submitted to Congress pursuant to such section 702(a)(4).

(5) LENGTH OF PROJECTS.—Each project required under this subsection—

(A) shall run concurrently with the CHAMPUS reform initiative demonstration project;

(B) shall begin during fiscal year 1988 (or shall continue in the case of a project begun before fiscal year 1988); and

(C) shall continue until at least one year of operation of all principal features (including networks of providers of health care) of the CHAMPUS reform initiative demonstration project has taken place.

(6) REPORT.—The Secretary of Defense shall evaluate the demonstration projects required by this subsection, using the methodology developed under paragraph (3), as alternatives to methods of providing health care under CHAMPUS, the CHAMPUS reform initiative demonstration project, and the CHAMPUS reform initiative if fully implemented. The Secretary shall include the results of the evaluation in the report required by section 702(c) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

(7) DEFINITION.—In this subsection:

(A) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as that term is defined by section 1072(4) of title 10, United States Code.

(B) The term "CHAMPUS reform initiative demonstration project" means the project required by section 702(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 99 Stat. 3894).

In the matter proposed to be inserted by section 733(a)(1), insert after "award a contract" (on page 100, line 14) the following: "under Solicitation No. MDA903-87-R-0047".

AMENDMENT NO. 47 (PROPOSED BY MR. ROBINSON OF ARKANSAS)

At the end of part A of title VII of division A (page 95, after line 7), add the following new section:

SEC. 717. AGE FOR MANDATORY RETIREMENT OF MEDICAL OFFICERS.

Section 1251 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (a), a regular commissioned officer of the Army, Navy, or Air Force who is a medical officer or dental officer shall be retired on the first day of the month following the month in which the officer becomes 67 years of age.".

AMENDMENT NO. 48 (PROPOSED BY MR. BENNETT OF FLORIDA)

At the end of title VIII of division A (page 117, after line 24), add the following new section:

SEC. 812. LIMITATION ON AVAILABILITY OF FUNDS.

(a) EXCESS FUNDS.—The Secretary of Defense may not obligate or expend for any purpose any amount appropriated to the Department of Defense for any program, project, or activity that is in excess of the amount needed to carry out that program, project, or activity. Excess amounts that may not be obligated or expended by reason of the preceding sentence include savings in a program, project, or activity due to—

(1) changes in inflation;

(2) excess working capital fund costs;

(3) foreign currency fluctuations; or

(4) any other source.

(b) FAILURE TO INITIATE PROGRAM WITHIN THREE YEARS OF FUNDING AVAILABILITY.—Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity.

AMENDMENT NO. 49 (PROPOSED BY MR. BENNETT OF FLORIDA)

At the end of title VIII of division A (page 117, after line 25) insert the following new section:

SEC. 812. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense.".

(b) CONFORMING AMENDMENT.—Section 375 of such title is amended by inserting "(other than under section 374(e))" after "under this chapter".

AMENDMENT NO. 50, AS MODIFIED (PROPOSED BY MR. BROOMFIELD OF MICHIGAN)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.

(a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

AMENDMENT NO. 51, AS MODIFIED (PROPOSED BY MR. BROOMFIELD OF MICHIGAN)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. MISSILE TECHNOLOGY CONTROL REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded the Missile Technology Control Regime, designed to limit the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

AMENDMENT NO. 52, AS MODIFIED (PROPOSED BY MR. ROWLAND OF CONNECTICUT)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. OIL SHIPMENTS FOR USE OF MILITARY FACILITIES.

Section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406) is amended by adding at the end the following:

"(k) OIL EXPORTS FOR USE BY UNITED STATES MILITARY FACILITIES.—For purposes of subsection (d) of this section, and for purposes of any export controls imposed under this Act, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.".

AMENDMENT NO. 53 (PROPOSED BY MR. DAVIS OF MICHIGAN)

Insert the following at the end of division A (page 117, after line 25):

SEC. 812. RESTRICTION ON FUNDING.

None of the funds available to the Department of Defense may be obligated or expended for the purpose of providing command and control data, including voice and digital information, for drug interdiction purposes between the Sector Operations Control Center at Tyndall Air Force Base, Florida, and any other drug interdiction operation or facility unless such operation or facility is located adjacent to such Sector Operations Control Center.

AMENDMENT NO. 54 (PROPOSED BY MR. DICKINSON OF ALABAMA)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. PAYMENT OF CLAIM.

(a) PAYMENT OF CLAIM.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period beginning on January 1, 1976, and ending on December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

(b) FULL SETTLEMENT OF CLAIM.—The payment made pursuant to subsection (a) shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by that subsection.

(c) LIMITATION ON ATTORNEYS' FEES.—No part of the amount appropriated in this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

AMENDMENT NO. 55 (PROPOSED BY MR. DORNAN OF CALIFORNIA)

Insert the following at the end of division A (page 117, after line 25):

SEC. 812. STUDY OF CLASSIFIED INFORMATION.

(a) IN GENERAL.—The Secretary of Defense, in his capacity as Executive Agent for computer security and communication security shall conduct a study for the purpose of declassifying, while providing adequate protection for the national security, a substantial portion of the material which is classified information on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Committee on Armed Services of the Senate and the House of Representatives of the findings and conclusions of the study carried out under this section.

(c) IMPLEMENTATION.—The Secretary may, for the purpose described in subsection (a), implement the findings and conclusions of the study carried out under this section at any time after 30 days after the date on which the report is transmitted pursuant to subsection (b).

AMENDMENT NO. 56 (PROPOSED BY MR. DORNAN OF CALIFORNIA)

Insert the following at the end of division A (page 117, after line 25):

SEC. 812. PUBLICATION.

The Secretary of Defense shall provide for the publication, on an annual basis, of a document that contains an unclassified net assessment of the defense programs and capabilities of the United States and of the Soviet Union.

AMENDMENT NO. 57 (PROPOSED BY MR. DORNAN OF CALIFORNIA)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. ANNUAL REPORT ON SOVIET ABM TREATY COMPLIANCE.

Not later than February 1, 1988, and not later than February 1 of each following year, the Secretary of Defense shall submit to the Congress a report (in both classified and unclassified versions) on the compliance of the Soviet Union with the 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems. The report shall include—

(1) the findings of the Secretary with respect to such compliance during the previous year including, if necessary, the military implications of, and possible United States military responses to, violations by the Soviet Union of such treaty; and

(2) any additional information the Secretary considers necessary to keep the Congress currently informed about such compliance.

AMENDMENT NO. 58 (PROPOSED BY MR. DURBIN OF ILLINOIS)

Insert the following at the end of title VIII of division A (page 117, after line 25):

SEC. 812. STUDY OF DEFENSE EXPENDITURES IN JAPAN.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interest in the Far East.

(b) REPORT.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Congress which shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the effect that increases in national defense expenditures by Japan would have on United States defense expenditures in support of United States security interests in the Far East;

(4) the projections for national defense expenditures by the United States directly in support of Japan for each such fiscal year; and

(5) the projections for national defense expenditures by Japan directly in support of the United States forces stationed in Japan for each such fiscal year.

AMENDMENT NO. 59 (PROPOSED BY MR. HEFLEY OF COLORADO)

Insert the following at the end of title VIII of division A (page 117, after line 25):

SEC. 812. STUDY.

(a) In General.—The Secretary of the Air Force shall carry out a study of the requirements necessary to establish and conduct a centralized manned and unmanned military space operation which would be part of the Consolidated Space Operations Center near Colorado Springs, Colorado.

(b) Report.—The Secretary shall, within 60 days after the date of the enactment of this Act, transmit to the Committee on Armed Services of the Senate and the House of Representatives a report containing the findings and conclusions of the study carried out under subsection (a).

AMENDMENT NO. 60 (PROPOSED BY MR. HERTEL OF MICHIGAN)

At the end of title VIII of division A (page 117, after line 25) add the following new section:

SEC. 812. RESTRICTION ON PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2406. Restriction on purchase of foreign-made administrative motor vehicles

"None of the funds appropriated or otherwise made available to the Department of Defense may be used to purchase administrative motor vehicles that are manufactured in a country other than the United States or Canada unless—

"(1) the contract or agreement is for an amount less than $50,000, or

"(2) the purchase of such motor vehicles is specifically authorized by law.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2406. Restriction on purchase of foreign-made administrative motor vehicles.".

AMENDMENT NO. 61, AS MODIFIED (PROPOSED BY MR. KASICH OF OHIO)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25) insert the following new section:

SEC. 812. SURCHARGE AUTHORITY OF DEFENSE LOGISTICS AGENCY.

(a) Authority.—Except as provided in subsection (b), the Director of the Defense Logistics Agency of the Department of Defense may include in the amount the Director charges the Secretary of a military department for supplies provided by the Director to the Secretary a surcharge for the purpose of recovering costs of the Defense Logistics Agency for the following:

(1) Maintenance and repair of fuel storage facilities.

(2) Leasing of facilities and purchase of equipment for storage facilities.

(3) Maintenance and repair costs associated with the operation of the Defense Logistics Agency supply centers and depots.

(b) Exception.—Subsection (a) does not apply to items procured by the Defense Logistics Agency for resale through the military resale system of the Department of Defense (including commissary stores, exchanges, school lunch programs, clubs, and other morale, welfare, and recreation activities).

(c) Effective Date.—The authority provided by subsection (a) takes effect on October 1, 1987.

AMENDMENT NO. 63 (PROPOSED BY MR. MARKEY OF MASSACHUSETTS)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. CHANGE IN REPORTING REQUIREMENT.

Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended by striking out "President" both places it appears and inserting in lieu thereof "Director of Central Intelligence.".

AMENDMENT NO. 64, AS MODIFIED (PROPOSED BY MR. MINETA OF CALIFORNIA)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. REPORT ON MILITARY USE OF NASA MANNED SPACE STATION.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities planned by the Department of Defense to be conducted on or in conjunction with the permanently manned space station to be developed and operated by the National Aeronautics and Space Administration. The report shall include a description of—

(1) those planned activities, including research projects the Department intends to conduct from the space station;

(2) the eventual applications for which the Department intends such research to be used; and

(3) the relationship of those planned activities to activities of the Department of Defense for which funds are authorized by this Act (including offensive and defensive weapons systems) and how such activities will be coordinated.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than January 1, 1988.

AMENDMENT NO. 65 (PROPOSED BY MR. ORTIZ OF TEXAS)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. PURCHASES OF CANVAS PRODUCTS.

Section 9011 of the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 and section 101(c) of Public Law 99-591), is amended by inserting "canvas products," after "synthetic fabric," both places it appears.

AMENDMENT NO. 66, AS MODIFIED (PROPOSED BY MR. SKAGGS OF COLORADO)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25) insert the following new section:

SEC. 812. SENSE OF CONGRESS ON PREPARATION OF CERTAIN ECONOMIC IMPACT AND EMPLOYMENT INFORMATION CONCERNING NEW ACQUISITION PROGRAMS.

It is the sense of Congress that the Secretary of Defense should not, before an acquisition program is approved to proceed into full-scale development, prepare any material, report, list, or analysis with respect to economic benefits or the employment impact of that program in a particular State or congressional district.

AMENDMENT NO. 67 (PROPOSED BY MR. DENNY SMITH OF OREGON)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. FUNCTIONS OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

Section 138(d) of title 10, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end the following:

"(2) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice for officials responsible for such testing.".

AMENDMENT NO. 68 (PROPOSED BY MR. SPRATT OF SOUTH CAROLINA)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) Definition of Cost or Pricing Data.—Subsection (g) of section 2306a of title 10, United States Code, is amended—

(1) by inserting "(1)" before "In this section";

(2) by striking out "all information that is verifiable and" and inserting in lieu thereof "verifiable data, facts, or information";

(3) by striking out "price negotiations significantly" and inserting in lieu thereof "significantly the cost of performing the contract or price negotiations";

(4) by adding at the end the following:

"(2) Business plans, projections, or strategies that are based on judgment or speculation shall not be considered to be cost or pricing data under paragraph (1) until an officer or employee of a contractor, subcontractor, or offeror (acting within the scope of his authority) makes a decision to act upon or implement such plans, projections, or strategies and such decision, if implemented, could reasonably be expected to affect significantly the cost of performing the contract or price negotiations. Verifiable data, facts, or information on which any such business plans, projections, or strategies are based shall be considered to be cost or pricing data.".

(b) Technical Amendments.—(1) Subsection (a)(5) of such section is amended—

(A) by striking out the first sentence; and

(B) by striking out "such a waiver" and inserting in lieu thereof "a waiver under subsection (b)(2)".

(2) Subsection (e)(2) of such section is amended to read as follows:

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.".

(c) Effective Dates.—(1) The amendments made by subsection (a) shall apply with respect to contracts, or modifications to contracts, entered into after the end of the 90-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to contracts, or modifications on contracts, entered into after the end of the 120-day period beginning on October 18, 1986.

AMENDMENT NO. 69 (PROPOSED BY MR. WOLPE OF MICHIGAN)

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. EXTENSION OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for fiscal year 1988 to be available for the purpose of furnishing assistance to carry out procurement technical assistance programs under cooperative agreements entered into under chapter 142 of title 10, United States Code.

(b) TECHNICAL REVISION OF FUND DISTRIBUTION METHOD.—Section 2415 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b); and

(2) by striking out "(c) For any amount" and all that follows through "$3,000,000, the" and inserting in lieu thereof "The".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on October 1, 1987.

AMENDMENT NO. 70, AS MODIFIED (PROPOSED BY MR. WYDEN OF OREGON)

The amendment as modified is as follows:

At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. ALLOWABLE COSTS MAY NOT INCLUDE GOLDEN PARACHUTE PAYMENTS.

(a) IN GENERAL.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(K) Golden parachute payments. For purposes of this section, the term 'golden parachute payment' is an amount which—

"(1) is an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(2) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.".

(b) EFFECTIVE DATE.—Section 2324(e)(1)(K) of title 10, United States Code, as added by subsection (a), shall apply to any contract entered into on or after October 1, 1987.

AMENDMENT NO. 71 (PROPOSED BY MR. DAVIS OF MICHIGAN)

Insert the following at end of section 2733 (page 191, after line 17):

(f) AIR DEFENSE RADAR STATIONS.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish the air defense radar stations located at Calumet Air Force Station, Michigan; Port Austin Air Force Station, Michigan; Makah Air Force Station, Washington; Port Arena Air Force Station, California; and Oceana, Virginia.

AMENDMENT NO. 72 (PROPOSED BY MR. MILLER OF CALIFORNIA)

Page 191, after line 17, insert the following:

(f) None of the funds available for use by the Department of Defense in fiscal years 1987 and 1988 may be used by the Department of Defense, directly or indirectly, before January 1, 1988, to take, or condemn, or close, any portion of the Port Chicago Highway which lies within the Concord Naval Weapons Station in Concord, California.

AMENDMENT NO. 73 (PROPOSED BY MR. SWIFT OF WASHINGTON)

Page 192, after line 22, insert the following:

SEC. 2736. COMMUNITY PLANNING ASSISTANCE.

The Secretary of Defense may use not more than $250,000 from funds appropriated to the Department of Defense for fiscal year 1988 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Everett, Washington, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

AMENDMENT NO. 74 (PROPOSED BY MR. BADHAM OF CALIFORNIA)

Insert the following at the end of part D of title VII of division B (page 198, after line 11):

SEC. 2746. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA.

(a) TRANSFER.—Subject to subsection (b), the Secretary of the Navy may convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon, consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of real property, with improvements thereon, consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin.

(c) PAYMENT BY COUNTY.—If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property conveyed by Orange County under subsection (b), the county shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) OBLIGATIONS OF PARTIES.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 75 (PROPOSED BY MR. BATEMAN OF VIRGINIA)

Page 198, after line 11, insert the following:

SEC. 2746. USE OF LAND AT FORT A.P. HILL FOR NATIONAL SCOUT JAMBOREES.

(a) IN GENERAL.—The Secretary of the Army may grant a license to the National Council of the Boy Scouts of America for the use of certain land and facilities at Fort A.P. Hill, Virginia, by the Boy Scouts of America as a permanent site for National Scout Jamborees.

(b) TERMS AND CONDITIONS.—Any land and facilities made available by the Secretary for use by the Boy Scouts of America under this section shall be made available without charge, but shall be made available subject to such other terms and conditions as the Secretary of the Army considers appropriate to protect the interests of the United States.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property and the exact facilities to be subject to a license under this section shall be determined by the Secretary of the Army. The cost of any surveys necessary to establish such legal description shall be borne by the Boy Scouts of America.

AMENDMENT NO. 76 (PROPOSED BY MR. DAVIS OF ILLINOIS)

Insert the following at the end of part D of title VII of division B (page 198, after line 11):

SEC. 2746. TRANSFER OF LAND, JOLIET ARMY AMMUNITION PLANT, ILLINOIS.

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) and (c), the Secretary of the Army shall convey to the Administrator of Veterans' Affairs not less than 200 acres of real property, including improvements thereon, located on the Joliet Army Ammunition Plant, Illinois, and with access to State Route 53.

(b) USE OF LAND.—(1) The Administrator shall use the real property conveyed under subsection (a) for a national cemetery.

(2) A national cemetery established on such real property shall become part of the National Cemetery System and shall be administered under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal descriptions of any property conveyed under this section shall be based on surveys which are satisfactory to the Secretary. The Administrator shall bear the cost of such surveys.

AMENDMENT NO. 77 (PROPOSED BY MR. DELLUMS OF CALIFORNIA)

Insert the following at the end of division B (Page 198, after line 11):

SEC. 2746. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years and an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority To Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 78 (PROPOSED BY MR. LEATH OF TEXAS)

Insert the following at the end of division B (page 198, after line 11):

SEC. 2746. AUTHORITY TO RELEASE CERTAIN RIGHTS.

(a) In General.—Subject to subsection (b), the Secretary of the Army may release, discharge, waive, and quitclaim all right, title, and interest which the United States might have by virtue of the quitclaim deed dated November 22, 1957, in approximately 46.1186 acres of real property, with improvements thereon, in Tarrant County, Texas.

(b) Condition.—The Secretary may carry out subsection (a) only after obtaining satisfactory assurances that the State of Texas shall obtain, in exchange for the real property referred to in subsection (a), a tract of real property—

(1) which is at least equal in value to the real property referred to in subsection (a); and

(2) which shall be, on the date on which the State obtains it, subject to the same restrictions and covenants with respect to the Federal Government as are applicable on the date of the enactment of this Act to the real property referred to in subsection (a).

(c) Legal Description of Real Property.—The exact acreage and legal descriptions of the real property referred to in subsection (a) shall be based upon surveys which are satisfactory to the Secretary.

AMENDMENT NO. 79 (PROPOSED BY MR. MARKEY OF MASSACHUSETTS)

In section 3111 of title I of division C, strike out lines 4 and 5 on page 201 and insert in lieu thereof the following:

(4) For verification and control technology, $128,290,000 for fiscal year 1988, of which $102,975,000 shall be used for detection technology, to be allocated as follows:

(A) $10,800,000 for on-site monitoring, of which $3,500,000 shall be allocated for CORRTEX hydrodynamic yield estimation technology training and equipment, $3,500,000 shall be allocated to improve the accuracy at low thresholds of nuclear test yield estimation using the CORRTEX hydrodynamic yield estimation technology, and $1,000,000 shall be used to support a program to develop seismic, gravity, and electromagnetic methods for on-site monitoring of suspected clandestine nuclear test sites.

(B) $47,000,000 for satellite instrumentation, of which $3,000,000 shall be allocated for a nuclear test monitoring payload for the Boost Surveillance and Tracking System, and $9,000,000 be allocated for multiyear procurement of nuclear detection payloads for the Defense Support Program satellite.

(C) $18,300,000 for seismic monitoring, of which $9,000,000 shall be used for development and fabrication of a Deployable Seismic Verification System.

(D) $2,000,000 for debris and effluent monitoring;

(E) $8,000,000 for other technical means of verification, of which $1,000,000 shall be allocated for a study evaluating the efficiency of an integrated comprehensive or low-threshold nuclear test ban verification system consisting of seismic monitoring systems, satellite monitoring systems and on-site inspections, and $4,000,000 shall be allocated for the development of alternative and confirming nonseismic means of verifying nuclear testing limitations, including infrasound research, improved data processing capabilities, and extremely low frequency monitoring technologies.

(F) $3,900,000 for directed energy verification.

(G) $12,975,000 for advanced concepts and technology development, of which $4,000,000 shall be allocated for research and development of technologies to support monitoring of a negotiated agreement to dismantle nuclear warheads and monitoring of a negotiated agreement halting the production of plutonium and uranium for nuclear weapons.

At the end of section 3113 (page 212, after line 3), add the following new subsection:

(c) Reprogramming Prohibition.—No amount appropriated to the Department of Energy for fiscal year 1988 for operating expenses for verification and control technology may be used for any other program.

AMENDMENT NO. 80, AS MODIFIED (PROPOSED BY MR. DICKS OF WASHINGTON)

The amendment as modified is as follows: At the end of title I of division C (page 222, after line 3), add the following new section:

SEC. 3136. ANNUAL REPORT ON SAFETY OF THE NUCLEAR WEAPONS COMPLEX.

(a) Requirement for Annual Report.—(1) The Secretary of Energy shall request the National Academy of Sciences to submit an annual report on the status of the nuclear weapons complex. Each such report shall include—

(A) an evaluation of the safety of current facilities and steps that are required to assure the continued safe operation of such facilities;

(B) an evaluation of the environmental impact of the operation of those facilities;

(C) an estimation of the approximate maximum production capability for each nuclear reactor of the Department of Energy consistent with safe operation;

(D) the approximate date on which a replacement will be required for each such reactor; and

(E) findings and recommendations.

(2) The report shall be submitted concurrently to Congress and the Secretary not later than February 1 of each year, beginning with February 1, 1988.

(b) Review and Comment by Secretary.—(1) The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

(A) the Secretary's comments on such findings and recommendations; and

(B) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

(2) The Secretary shall submit the report required by paragraph (1) no later than 30 days after receipt of the report required by subsection (a).

AMENDMENT NO. 83, AS MODIFIED (PROPOSED BY MR. BENNETT OF FLORIDA)

The amendment as modified is as follows: At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. BRADLEY FIGHTING VEHICLE.

(a) Limitation of Funds and Plan to Improve Survivability and Operational Performance.—Funds appropriated for fiscal year 1988 may not be obligated or expended to procure any Bradley Fighting Vehicles until 15 days of continuous session of Congress have passed after the last of the following occurs:

(1) The tests of the Bradley Fighting Vehicle required by section 121(d) of the Department of Defense Authorization Act, 1987 (Public Law 99-661), are completed and the Secretary of Defense submits the report on the results of such tests to Congress required by section 121(f)(1) of such Act.

(2) The Secretary of Defense certifies to Congress in writing that the survivability modifications selected by the Secretary for the Bradley Fighting Vehicle maximize casualty reductions while considering fiscal concerns and without jeopardizing operational effectiveness.

(3) The Secretary of Defense submits to Congress a report containing—

(A) a plan to incorporate into all Bradley Fighting Vehicles intended for use in combat the survivability modifications selected;

(B) a plan for initiation of production or development efforts, as appropriate, for such modifications not later than May 1, 1988; and

(C) a description of each survivability modification considered by the Secretary (including those not selected) and the relative costs (including logistics and storage) and the schedules of each such modification, a schedule for completion of the modifications selected, and the rationale for not selecting those modifications that were considered but not selected.

(4) The Secretary of Defense submits to Congress a report—

(A) identifying those instances (including deficient swim capability, transmission failures, electrical problems with the vehicle and turret distribution boxes, and inadequacies in the Integrated Sight Unit and TOW missile launchers) in which—

(i) there are reliability, quality, or operational problems;

(ii) the vehicle does not meet the military requirements specified for the vehicle in a program contract; or

(iii) the performance of a Government contractor under a program contract is deficient; and

(B) setting forth a plan to correct each instance identified under subparagraph (A).

(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) review all materials of the Department of Defense used to develop the certification under subsection (a)(2) and the plans under subsections (a)(3) and (a)(4); and

(2) not later than 30 days after the date on which the last is submitted, submit to Congress a report giving the assessment of the Comptroller General as to the conclusions and recommendations of the Secretary of Defense.

(c) CONTINUITY OF SESSION.—For purposes of determining the 15 days of continuous session of Congress specified in subsection (a)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not is session because of an adjournment of more than three days to a day certain are excluded in the computation of such 15-day period.

The CHAIRMAN. The Clerk will report the amendments, or modified.

The Clerk read as follows:

Mr. ASPIN. (during the reading). Mr. Chairman, I ask unanimous consent that the amendments, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I rise to urge support for my amendment, included in this package of amendments, that will increase the committee's recommendation for a new public/private-enterprise plan to help the U.S. semiconductor industry regain its world leadership in the area of manufacturing technology. My amendment will raise the amount to $25 million, which is half the amount requested by the administration, but a substantial improvement over what the Committee on Armed Services approved.

This plan, known as SEMATECH, will be a state-of-the-art semiconductor manufacturing facility that will be used to develop future generation semiconductor processes, materials, tools and test equipment. The knowledge developed by SEMATECH—which will be a nonprofit venture—will then be passed on to member companies.

SEMATECH has been recommended by the Defense Science Board Task Force on Defense Semiconductor Dependency which found that "the military's growing dependence on foreign sources for state-of-the-art computer chips is an unacceptable situation" from a national security standpoint. They concluded that the United States was rapidly losing manufacturing capability in integrated circuits, and that the quality of chip technology was also steadily deteriorating relative to the Japanese. This area is critical to our defense, because semiconductors are an essential enabling technology for all military electronic systems.

My amendment will provide the seed money to allow SEMATECH to get off the ground. I appreciate the chairman of the Armed Services Committee and Mr. DICKINSON, the ranking Republican, for recognizing the importance of this project and urge my colleagues to support this amendment.

As you know, Mr. Chairman, semiconductors are technology drivers—advances in semiconductor technology have in turn made possible the extraordinarily rapid advances in the computer, telecommunications, robotics, consumer electronics and defense industries in the past 15 years. Perhaps the most important role played by semiconductors is their role in insuring the national security of the United States by helping us maintain a technological edge in our weapons systems to offset numerical advantages of our adversaries.

The development of semiconductor technology has also been very important to the State of Oregon. For years, Oregon's high technology industry had been exploding, with no less than 36 high technology companies being formed in Silicon Forest from 1982 to 1984. During this time, venture capital investment zoomed from less than $10 million in the late 1970's to more than $300 million.

A number of companies in my district are involved in the manufacture of semiconductor chips, including Lattice Semiconductor, TriQuint Semiconductor, and Bipolar Integrated Tech. The largest company that manufacturers chips is the INTEL Corp. INTEL, the inventor of large-scale integrated circuits—such a erasable programmable read only memories, and microprocessors—constructs these wonders on slivers of silicon. But like many similar companies across the nation, INTEL has been hit by an industrywide slump in sales and the loss of market share. For a variety of reasons, including the unfair trading practices of foreign competitors, the United States share of the worldwide semiconductor market has declined steadily over the past decade from nearly 60 percent in 1975 to less than 50 percent in 1985. Japan's share of the market over the same period has increased from 20 percent to slightly over 45 percent in 1986. And companies like INTEL have been swept up by this ominous tide.

Defense officials have characterized the impact of the decline of America's semiconductor industry on the defense establishment as awesome indeed. Generally speaking, they are concerned that the possible movement of electronic device and system capabilities to overseas locations will enhance the ability of the Soviet Union to readily access the technology. They are especially alarmed over the industry's decline in the dynamic random access memory or DRAM chip which is critical to the defense and information industries. The U.S. share of this market fell from 100 percent in the early 1970's to less than 10 percent today. In response to this situation, the Defense Sciences Board recommended that we allocate $250 million a year from industry participants and $200 million a year from Defense Department contracts for SEMATECH.

SEMATECH will allow American manufacturers to fabricate silicon chips with a higher reliability at a lower cost to better compete with their rivals. This will allow U.S. chip users to buy more domestically made semiconductors and still be competitive with their high technology products in the world markets. This industry-government joint venture would enable manufacturers of chip making equipment to tailor their products directly to industry needs and to have the machines tested on the model production line before being moved quickly into operating facilities.

This cooperative venture would produce future generations of memory chips. The goal would not be to produce chips per se, but to develop state-of-the-art manufacturing techniques to help U.S. companies get back into mass memory chip production.

SEMATECH will encompass every area of manufacturing, from characterization of raw materials to flexible manufacturing and finished, high quality, tested products. It will define projects and standards with materials and equipment suppliers to reflect future needs in a manner which has not been done in the past. It will also do manufacturing R&D, and demonstrate results on the manufacturing floor both in SEMATECH and in member companies' high volume facilities.

From the perspective of the U.S. Government, the return on its investment will be seen in many ways.

First, it will assure that the U.S. defense posture will not be jeopardized by the degradation of the U.S. technological edge.

Second, it will enhance our general economic vitality.

And, third, SEMATECH will ultimately improve the efficiency and productivity of many U.S. industries, which will help reduce the trade deficit. The increased economic activity this program is likely to foster will ultimately generate additional tax revenues and contribute to the reduction of the federal budget deficit.

I urge my colleagues to support my amendment.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to engage in a brief colloquy with the chairman of the committee, Mr. ASPIN, concerning submarine technology. I understand that the Navy continues to examine alternative battery chemistries for use as sources of backup power generation on advanced submarine designs.

Mr. ASPIN. If the gentleman will yield, that is correct. Further, the bill establishes a new Advanced Submarine Technology Program for research, development, test and evaluation of advanced submarine technology that may be applied to submarines of the SSN-688 class, SS-21 class, or other classes of submarines. The goal of the program is to obtain prototype hardware of promising technologies in the shortest possible timeframe.

Mr. BUSTAMANTE. It is my understanding that within this account the Navy intends to pursue its ongoing advanced submarine batteries initiative. Would that be appropriate, Mr. Chairman?

Mr. ASPIN. Yes, it would be.

Mr. BUSTAMANTE. In keeping with the committee's desire to further enhance our advanced submarine designs, great benefits could accrue from continued research and development on these battery technologies. Based on what we know of current activity, advantages could include significant hull weight reductions as a result of increased power densities.

Mr. ASPIN. The committee is aware of such promising technologies, and encourages the Navy to fund research and development efforts in this area.

Mr. BUSTAMANTE. I thank the gentleman.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. I thank the gentleman for yielding.

Mr. Chairman, I, too, wish to engage in a colloquy with the chairman of the Committee on Armed Services.

Mr. Chairman, I wish to draw your attention to an extremely important Army program which has been deleted from the budget request in H.R. 1748 as amended. I speak of the Army's variable reach, rough-terrain forklift truck.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. DYSON. I yield to the Chairman of the Committee.

Mr. ASPIN. I thank the gentleman for yielding.

I appreciate his concern in this important matter. As the gentleman from Maryland is aware, the committee deleted funds for this item based on the execution status of the program to date. Due to program delays, the $30 million available for the fiscal year 1987 contract has not been obligated.

Mr. DYSON. I understand the gentleman's concerns. However, I have been assured by the Army that a solicitation will be released this month and that a multiyear contract will be awarded in August 1987. If this solicitation is indeed released and contract award appears imminent, by the time of our conference committee meetings, I wonder if the chairman will be willing to accept the Senate position on this program.

Mr. ASPIN. We will certainly keep in mind the points the gentleman has made to the committee.

Mr. DYSON. I thank the chairman for his understanding and attention to this matter.

Mr. ASPIN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I would like to engage the chairman of the full committee in a brief colloquy.

Mr. ASPIN. I would be happy to do so.

Mr. McCLOSKEY. Mr. Chairman, as the committee knows, there is a great deal of concern about the decision by the Navy to shutdown the P-3C production line. The P-3C aircraft is the aircraft we presently rely on for shore-based antisubmarine missions. With the growing potency of the Soviet submarine force, the P-3C is a vital part of our overall maritime strategy. While understanding the budget constraints facing our Nation, I think the committee did the right thing by instructing the Navy to "preserve the integrity of the P-3C airframe production capability." $34.1 million was provided in both the committee bill and the Aspin substitute for this purpose. Is this correct?

Mr. ASPIN. Mr. Chairman, the gentleman is correct. I also want to take this opportunity to emphasize the committee's disappointment with the Navy's decision to terminate P-3C production before a credible Navy ASW patrol aircraft program is available for consideration. We certainly would not want to destroy the capability to produce the P-3C airframe so long as it—or a variant—remains a candidate airframe for the follow-on ASW patrol aircraft progam. To do so would cause the Government to unnecessarily incur production shutdown and start-up costs should the P-3C—or variant airframe—be selected for the follow-on program.

Mr. McCLOSKEY. Would the gentleman yield further on that point? I want to indicate that the program proposed by the Navy might result in exactly that. While we may need a new long-range ASW patrol aircraft, we shouldn't prematurely eliminate our capability to produce the current airframe until it is categorically eliminated by fair and open competition.

Mr. ASPIN. The gentleman is correct in his concern. Clearly, he understands the importance of injecting competition as a cost control measure on any follow-on ASW patrol aircraft program. And, the committee is very clear in its desire not to see P-3C airframe production end prematurely. If necessary, we would certainly welcome any Navy reprogramming request to fund preservation of the P-3C airframe production capability until any successor P-3C production is determined.

Mr. McCLOSKEY. I think another important point here is the opportunity which exists thanks to engine technology to improve the range, endurance, and payload of the P-3C fleet. It is my understanding that an upgraded engine improving the capability of the E-2C Hawkeye and the engine being developed for the V-22 Osprey might be very helpful in this regard.

Mr. ASPIN. I thank the gentleman for his observation. It is precisely for that reason that we believe a variant of the P-3C airframe configured with improved engines remains a viable candidate for the follow-on long-range ASW patrol aircraft program. Again, I thank the gentleman for his observations.

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Mr. DICKINSON. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, the Soviet Union uses its diplomatic facilities in the United States to engage in electronic espionage designed to intercept sensitive United States Government diplomatic, military and intelligence communications.

This Soviet electronic espionage damages the national security of the United States. We have made the damage worse by granting the Soviets the privilege of putting their new Embassy in Washington, DC, on Mount Alto—one of the highest points in town—which makes it easier for the Soviets to steal our secrets.

The Congress and the executive branch have long known of the Soviet threat to United States communications posed by Soviet occupation of Mount Alto. However, the United States has not yet conducted a thorough and careful study of that threat, and of what we must do to counter it.

My amendment to H.R. 1748 requires the Secretary of Defense to assess the Soviets' capability to intercept United States communications from Mount Alto, and to report on it to the Congress. In addition, the Secretary of Defense must personally judge whether Soviet occupation of Mount Alto is consistent with United States national security, and report that judgment to the Congress.

The Secretary of Defense is the appropriate officer to conduct the assessment, since he is—by Presidential directive—the executive agent for the entire Government for communications security.

The Secretary of Defense will, of course, consult the Secretary of State, the Director of the CIA, and the Director of the FBI before making the determination and report required by the amendment, since those officers have important foreign policy, intelligence, and counterintelligence responsibilities and information concerning Mount Alto.

The report of the Secretary of Defense on the communications security implications of Soviet occupation of Mount Alto will give the President and the Congress important information they need to determine how best to protect United States diplomatic, military, and intelligence activities against Soviet electronic espionage.

Mr. Chairman, I thank the chairman of the committee, as well as the ranking member. My understanding is that you do accept this portion of the amendment that I offer.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, I would like to ask him what the ultimate effect of the amendment being offered is.

As I understand it, the amendment requires nothing more than a finding of fact and a report to Congress with no definite determination of what the action of the United States Government would be toward the proposed new Embassy for the Soviet Union; is that correct?

Mr. BROOMFIELD. That is correct, Mr. Chairman,

Mr. DICKINSON. I might ask the gentleman, the ranking member of the Committee on Foreign Affairs, what we anticipate will be the actions of the Congress or the Reagan administration in regard to our negotiations with the Soviets about our Embassy in Moscow and what approximate timeframe are we talking about?

Mr. BROOMFIELD. Mr. Chairman, first of all, I think the determination will have to be probably later this year. As you know, there are two or three other investigations going on now regarding the security situation in Moscow. This is just another one looking at the one at Mount Alto.

I can tell the gentleman this, that in a few weeks, the gentleman from Florida [Mr. MICA], of the Committee on Foreign Affairs, along with the gentlewoman from Maine [Ms. SNOWE] and the chairman of the full committee, the gentleman from Florida [Mr. FASCELL] and I will be introducing a full package dealing with the whole security arrangement, but it would be my hope that, after all of this investigation is over, we could possibly work out some kind of a swap. In other words, where we would take over the one here in Washington, and they can have the one that they have bugged in Moscow.

I really think it is extremely important that we move forward on it, because I think what we have there in Mount Alto is certainly a very dangerous situation as far as our national security interests.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. The gentleman from Texas [Mr. ARMEY] is the man who has been working on that and I yield to him on that issue.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the gentleman's work in this area.

I, too, have been working in this area for a good deal of time. I have drafted my own bill and had prepared an amendment. The gentleman's committee has obviously taken this work into consideration. I commend the gentleman for his amendment.

I am confident, as this is studied, and it certainly has been revealing to me as I have studied on the issue, it will be clear to everyone that we have a serious circumstance here. I have no doubt in my mind that as we study this and get all the cold facts, that this Nation will take the kind of action necessary to protect the integrity of our national security.

I want to thank the gentleman for his leadership and guidance.

Mr. DICKINSON. Mr. Chairman, I commend both of the gentlemen for their action on this matter.

I certainly hope that there will be a quid pro quo in future dealings about the two Embassies, and that the interests of the United States will be safeguarded and protected.

Of course, this is the thrust of the gentleman's amendment. We certainly support and accepted it on this side.

Mr. ASPIN. Mr. Chairman, I yield myself such time as I may consume for the purposes of a colloquy with the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I appreciate this opportunity to discuss the amendment I have offered to constrain the use of Defense Department funds to project enonomic benefits of proposed weapons programs by State and congressional district.

Early in this century, Congress passed a law forbidding lobbying by any agency or department of the executive branch. Unfortunately, many agencies and departments have spent the better part of the century looking for loopholes in that law. My amendment is a modest attempt to plug one such loophole.

I am referring to efforts on the part of the Defense Department to sell proposed weapons systems to the Congress based on their "pork" content—how many jobs and how much economic benefit a weapons contract offers a State or congressional district. These efforts are fundamentally misguided.

We've seen an example of this subtle form of legislative leverage in past years during the prolonged debates on the B-1, whose principle strategic value may turn out to be that it was manufactured in some 300 congressional districts across this Nation. More and more, the same "pork barrel" aspect is being insinuated into the underlying appeal for the star wars program.

Just last week, the Navy circulated a letter estimating how much money would be spent in each State and congressional district if the Congress would authorize two new aircraft carriers. This form of appeal contributes nothing to enlightened discussion of national defense needs and more often leads to poor public policy. My amendment is intended to halt it.

The main objectives of weapons procurement should be sound defense policy and efficient spending. Our country can't afford to pick its weapons to suit the economic development needs of individual districts.

Thank you very much, Mr. Chairman.

Mr. ASPIN. Mr. Chairman, I thank the gentleman from Colorado for his hard work and effort on this. He has made a very real contribution to the bill, and I share the gentleman's commitment in this area.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I commend and thank both the distinguished chairman of the Committee on Armed Services, from Wisconsin and the distinguished minority leader, from Alabama, for their leadership in bringing my proposed amendment to the floor today. I rise in strong support of this proposed amendment which extends to canvas products—for example, tents, tarpaulins, and other covers—the protection presently applied, under Public Law 99-500, to clothing and other textile, natural and synthetic/coated synthetic fabric products manufactured in the United States or its possessions.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of an amendment on CHAMPUS, which I have offered in this en bloc amendment, which has been accepted, which will correct an inequity.

Mr. Chairman, today the House is considering an amendment that I proposed which will help to ensure that those in our military health care system are not left without insurance because of their separation from the service or change in family status. The problem of losing health insurance was brought to my attention recently when a constituent came into my Wichita office to discuss a problem her son-in-law was having with insurance coverage following separation from the military. Under current law, when a serviceman or woman leaves the service, they lose their insurance coverage. Although individuals can apply for a 90-day conversion plan while making the transition back to civilian life, there is no guarantee that the application will be accepted. Indeed in the case of my constituent the chances are that no interim insurance will be available to her son-in-law's family because of a condition which her daughter developed during the time of service.

This situation is particularly troubling because private employees are entitled to extension of coverage after their termination. In the 1985 Budget Reconciliation Act we mandated that private employers continue coverage for their employees who leave their employment for at least 18 months. Unfortunately this is just not available to many of those who have served our country and their dependents.

Congress is now in the process of working with the Department of Defense in reorganizing the Military Health Insurance System. As part of this reorganization, the Civilian Health and Medical Program of the Uniformed Service [CHAMPUS] will be contracting out to private insurance carriers to provide insurance to the military. Based on the problem of my constituent—which is a common problem facing military personnel and their dependents—I have offered this amendment which directs the Secretary of Defense to include within its request for proposal to these private contractors an option for a minimum of 90 days conversion, or transitional, coverage. It is my hope that 90 days will only be a minimum and longer conversion coverage will be available. The purpose of the amendment is to ensure that when the system is reorganized, a person leaving the military will have an opportunity to convert his or her health insurance to a private plan. A spouse or other dependent whose status changes because of divorce or other circumstance will have the same opportunity. The amendment directs that there be no waiting period and that preexisting conditions be covered. No additional expense would be imposed upon the Federal Government as a result of the amendment since it specifically states that enrollees will pay the full periodic charge for this coverage.

The time has come to ensure that those who serve their country and their families have the same opportunity to get insurance as those employed in the private sector. It is the only fair thing to do.

Mr. ASPIN. Mr. Chairman, I yield myself such time as I may consume for the purposes of a colloquy with the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Chairman, if the gentleman will yield, I would like to engage the distinguished chairman of the Armed Services Committee for clarification of the committee's intent on the Marine Integrated Fire and Support System—the MIFASS. Did the committee intend to terminate the MIFASS Program?

Mr. ASPIN. Mr. Chairman, the committee denied all authorization for the MIFASS Program for fiscal year 1988. The committee was silent in the report. The MIFASS Program is in serious trouble. The hardware is patched and I am told that the system will have to be redesigned. We told the Marine Corps last year that we would give them $3 million to finish testing and report back. We have kept our part of the bargain. As of now, we just denied the 1988 money.

Mr. HOCHBRUECKNER. Mr. Chairman, I am pleased that the committee has kept an open mind on the issue and I thank the Chairman for the clarification.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise today to talk about an amendment to the Defense authorization bill that is as rational, as it is noncontroversial.

My bill would bar the Defense Department from reimbursing contractors the costs of grossly inflated golden parachute severance benefits to top executives, triggered in the event of an unfriendly corporate takeover. As we all know, these kinds of benefit packages have been proliferating in recent years as companies have adopted a variety of defense measures against corporate raiders.

For example, in hearings last March before the Oversight and Investigations Subcommittee of the Energy and Commerce Committee, of which I am a member, TRW, Inc., confirmed that it had adopted golden parachute provisions that guarantee 14 of its top executives 3 years' cash compensation—about $16 million—if the company is taken over by new management. Taxpayers would reimburse about half that cost.

Government has no business financing this sort of corporate fortification. My bill—which codifies Defense Department administrative proposals which may or may not be implemented—has been discussed with the House Armed Services Committee and, they have no objection to it.

Mr. Chairman, I urge my colleagues to act affirmatively against attempts to pilfer the public's purse. Tax dollars earmarked for defense should pay for weapons and personnel—not for exaggerated executive termination benefits.

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Mr. ASPIN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BYRON.]

Mrs. BYRON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I had an amendment I would have offered today that would have corrected what I believe is a glaring misapplication of the small business set-aside program by the Department of Defense and the Small Business Administration. Under present guidelines, approximately 77 percent of all textile and clothing contracts are awarded by the Department of Defense under the small business set-aside. I do not believe that it was ever the intention of Congress to have small business set-asides monopolizes an industrial category.

What is even more disappointing is that the set-asides are in my opinion creating a class of small businesses which are bumping up against the maximum size standard and which are afraid to compete. We have recently seen criminal indictments of businesses under the set-aside program who are setting up dummy corporations to cover assets and the number of people they employ so that they remain under the size standards of the set-aside program.

Who gets hurt when the set-aside program is abused? Unfortunately, it is the small businesses which deserve the opportunity to get started under the program. If we cannot graduate firms out of the set-aside program, then we cannot bring new ones in.

Congress has begun addressing this deficiency in last year's Defense bill by directing the Small Business Administration to reduce the size standard in four industries if over the past 3 years more than 30 percent of the dollar amount of all contracts in those industry categories were awarded under a set-aside. The intent of my amendment was to place a similar threshold on set-asides awarded by the Department of Defense for clothing and textile contracts. As I mentioned earlier, approximately 77 percent of all textile and clothing contracts awarded by the Department of Defense are under the set-aside program.

I would like at this point to engage in a colloquy with the chairman of the Committee on Small Business, the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I would be delighted to engage in a colloquy, if the gentlewoman will yield.

Mrs. BYRON. Mr. Chairman, it is my understanding that the gentleman would have opposed my amendment as it was written due to jurisdictional reasons and because it imposes a cap on set-asides rather than adjusts the size standards. It is also my understanding that the gentleman does not oppose the goal of the amendment, which is to both assure an equitable distribution of awards among businesses of all sizes and also to promote greater competition for the Government.

Mr. LAFALCE. Mr. Chairman, basically, the gentlewoman is correct. There are legitimate concerns which have been raised concerning set-asides, and I fully agree that the set-aside program in its present form may not be fully achieving its purpose in certain industries because of inappropriate size standards. That is why the size standards for certain industrial categories were reduced last year by the Congress. These reductions go into effect on October 1, and the Small Business Committee is the proper forum to investigate these matters further and to report corrective legislation should that be needed.

Mrs. BYRON. Mr. Chairman, let me commend the Members for the efforts which were taken last year. But I would like to ask whether the Committee on Small Business intends to hold any hearings on the matter of size standards during this Congress. One of the things that concerns me is the fact that we do not, in the event of an emergency, have enough small businesses to meet the needs of the Department of Defense.

Mr. LAFALCE. Mr. Chairman, I appreciate the gentlewoman's concerns, and my answer to her is, yes, our committee does intend to hold hearings on the entire issue of size standards. I also believe that the committee will move forward in coming up with a legislative package should we find inequities in the present set-aside program.

Mrs. BYRON. Mr. Chairman, does the gentleman have any timetable as to when the hearings on this issue would be resolved?

Mr. LAFALCE. Right now it is my intention to have hearings on the matter certainly by the end of the year, which would include any legislative remedies that may be needed in the next major authorization bill considered by the Committee on Small Business.

Mrs. BYRON. Mr. Chairman, I want to thank my colleague, the chairman of the Committee on Small Business, for his cooperation in this matter. I look forward to working very closely with him and his staff in resolving what I think is a serious inequity.

Mr. LAFALCE. Mr. Chairman, I thank the gentlewoman from Maryland.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Chairman, I thank the ranking minority member of the Committee on Armed Services for yielding me these 2 minutes.

Mr. Chairman, I have offered an amendment today, and I would like to tell the Members very briefly about the amendment and solicit their support for it in the en bloc amendment procedure.

The purpose of this amendment is very simple and straightforward. It is to transfer land from the Army to the Veterans' Administration in order to obtain a suitable site for a national cemetery which will serve Chicago and the immediate surrounding area. The authorization is already there, the need is there, and with the acquisition of this land the cemetery will soon be there.

Last year Public Law 99-576 authorized the Veterans' Administration to build cemeteries in the top 10 targeted areas of this country. Chicago is No. 1 on that list, and it is one area most in need of a national cemetery. Projections show that there will be nearly 1 million veterans in the area by 1990, and as of now there is no national cemetary within a 125-mile radius of Chicago.

Mr. Chairman, our Nation's veterans have given more for our country than most others, and they deserve to be honored for that reason. It is only appropriate that an area as densely populated with veterans as the Chicago area should have a national cemetery within 50 miles, and this land would be that close. The Joliet Army Arsenal falls within that range and is a scenic area, a very beautiful pastoral area, which makes it a perfect location to pay tribute to the veterans in the Chicagoland Metropolitan Community.

Mr. Chairman, I have discussed this amendment with the Chairman of the Committee on Veterans' Affairs. He thinks it is a whole of a good idea. I do not see the gentleman from Mississippi [Mr. MONTGOMERY] on the floor today. The ranking member of the Milcon Committee, and the chairman of Milcon and the Army agree that this is the highest and best use for this land.

So at this time, Mr. Chairman, I urge all the Members within the sound of my voice and on the floor to support the Davis amendment for a national cemetery site.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I rise in strong support of the Bennett-Ridge-Boxer-Smith-Bustamante-Wyden-Slaughter amendment regarding the Bradley Fighting Vehicle.

Mr. Chairman, as far as I know, there is no language similar to this amendment in the fiscal year 1988 Defense authorization bill currently being considered in the Senate. This issue will obviously be addressed in conference, and for that reason, I would like to state for the record what I believe to be the legislative intent of a few key points in this amendment.

I want to draw my colleagues' attention to the language in this amendment that states:

> The Secretary of Defense certifies to Congress in writing that the survivability modifications selected by the Secretary for the Bradley Fighting Vehicle maximize casualty reductions while considering fiscal concerns and without jeopardizing operational effectiveness.

My colleagues should know that the interpretation of this language is extremely important because it goes right to the heart of the whole purpose of realistic live-fire testing so strongly supported by this body.

The purpose, of course, of live fire testing of our weapons systems is to foster weapon-system designs that will reduce casualties in combat. I would like to enter into the RECORD at this point a statement by Col. James Burton, the former Director of Live Fire Testing at the Department of Defense, recently made during hearings before the House Energy and Commerce Committee on the Bradley Fighting Vehicle. The statement aptly describes the purpose of live fire testing:

STATEMENT BY COL. JAMES G. BURTON, USAF (RET.)

Thank you, Mr. Chairman, for the opportunity to address this Subcommittee on a subject of extreme importance—the safety of the troops who must use our frontline combat equipment. A thorough examination of this subject is long overdue.

The ways in which men in armored vehicles can be killed or wounded are many. The armored envelope protects the crew to a point, then the armor turns on the crew. When an anti-tank round penetrates the armor, metal slivers called spall fragments ricochet around inside the crew compartment, killing and wounding crewmen, cutting fuel lines, hydraulic lines, and electrical cables. Fires start from ruptured fuel or hydraulic lines. Ammunition burns and explodes producing more fragments, as well as overpressures high enough to disintegrate a slightly-armored vehicle or blow the turret off the top of heavier tanks. Choking fumes fill the vehicle and those crewmen still able usually scramble out. While the environment inside the vehicle after a hit is grim, there are design features which can reduce the severity of this environment, especially for the dreaded fires and explosions from ammunition, fuel, and hydraulic fluid.

The design process for armored vehicles involves making trade-offs between the mobility of the vehicle, the firepower of the vehicle, and the protection of the crew in terms of expected casualties. The design philosphy assigns priorities to these three factors, mobility, firepower, and crew protection.

Unfortunately, the historical record, including recent history, suggests very strongly that crew protection has not enjoyed a high priority in the design of our frontline equipment.

During World War II, the United States produced over 49,000 Sherman tanks. Most of these tanks were powered by gasoline engines. The Sherman earned the nickname "RONSON" for its propensity to burn when hit. Tests had shown that diesel fuel was far less likely than gasoline to ignite when the tank was hit. Approximately 5,000 diesel-version Shermans were produced before the end of the war. A War Department policy letter in March 1942, forbid U.S. forces from using diesel-powered tanks, consequently, most of the diesels were given to the Soviet Union under the Lend Lease Program. Our own Army did not embrace the safer diesels until fifteen years after the war, some thirty years after the Soviets began using them.

During the 1967 and 1973 Middle East wars, the Israeli armored forces suffered tremendous casualties, over 700 killed alone in one week of the 1973 war. Thousands of burn casualties were suffered from ammunition, fuel, and hydraulic fluid fires. Because of these painful experiences, Israel adopted a philosophy for their armored vehicles in which crew protection became more important than vehicle mobility or firepower.

They modified U.S.-produced M-113 Armored Personnel Carriers so that the fuel tank was removed from the troop compartment and stowed externally. The ammunition compartment is vented to the outside so that, when hit, the resulting fire and explosion vents to the outside atmosphere and does not endanger the crew. This is a good concept and should be standard on all armored vehicles. On the down side, however, the M-1 and M-1A1 turrets are hydraulically operated. The crew compartment contains numerous hydraulic lines and an accumulator filled with a new hydraulic fluid which tests have shown to be more flammable than the old hydraulic fluid which produced so many burn casualties in the 1973 war. Unless changes in fluid and routing of lines are made, we may see similar tragic results if the M-1 sees combat. Additionally, with the M-1 and M-1A1 tanks, the Army abandoned diesel engines in favor of jet engines in their tanks. We have no idea whether this represents a step forward or backward in terms of crew safety in combat.

Finally, I come to the Bradley Fighting Vehicle. The Bradley is a lightly armored personnel carrier that is supposed to fight in conjunction with our M-1 tanks. The Bradley carries offensive weapons, primarily TOW missiles, for the purpose of engaging enemy tanks and armored vehicles. Thus, the Bradley can expect to encounter enemy anti-tank rounds in return—small, medium, and large caliber rounds. Unfortunately, the Bradley's armor shell provides little or no protection against anti-tank rounds of any size. Vast amounts of ammunition, missiles, cannon shells, mines, etc., are stowed inside the troop compartment. The engine and transmission in the front of the vehicle, like the Merkava, provides additional protection for the crew against attack from the front. The turret is electrically powered, not hydraulically. Beyond these features, it is clear that crew protection was a distant third in priority to fire power and mobility when the Bradley was designed.

Three years ago this spring, the Department of Defense initiated the Live Fire Test Program. The purpose of live fire testing is, quite simply, to reduce casualties in our front line equipment. Live fire testing of vehicles configured as in combat with fuel and live ammunition onboard reveals the major sources of casualties and points the way to physical design changes that will reduce casualties. The design changes are then tested to make sure they actually reduce casualties. For two reasons the Bradley was selected as the first system to go through this process; more lives were at stake with the Bradley than any other front line equipment, and the Bradley was still early in its production cycle so it would be relatively easy to make design changes if necessary.

The Army resisted these tests, however, after several months of arguing, agreements were reached in the fall of 1984. Phase I tests of the current Bradley design occurred in 1985. The test results showed clearly that the most significant hazard to the crew was the vast amounts of ammunition stowed inside the troop compartment. When that ammunition was hit, casualties increased by factors of 2 to 3.

Phase II of those tests was scheduled for the Spring of 1986 with the purpose of testing design changes which would reduce casualties. The initial Army proposal for Phase II was oriented towards one particular approach, one that relied primarily on increased armor thicknesses and explosive armor concepts—an approach that did not consider removing fuel and ammunition from the troop compartment.

I argued that the approach favored by the Army should be tested, however, since that approach would *not* prevent most anti-tank rounds from penetrating, we would still face the prospect of excessive casualties due to fuel and ammunition in the troop compartment. I, therefore, asked the Army to also test a Bradley in which these dangerous materials were stowed either externally or in compartments which vent to the outside atmosphere when hit. In essence, I asked the Army to apply to the Bradley the same external fuel stowage, spall liner, and ammunition compartment concepts already in practice in the Israeli M-113 APC's, Merkara's, and the Army's own M-1 and M-1A1 tanks.

In February 1986, the Army agreed to this in principle, however, it took over a year to get a prototype vehicle prepared. Only six weeks were required to actually prepare vehicle, the rest of the year was spent in bureaucratic study, review and foot dragging.

So where do we now stand? The basic Bradley has been tested and the results are well known. Prototype Bradley's modified with thicker armor and explosive armor, plus other features such as spall liners, have also completed testing. Comparative tests against prototypes configured with external stowage, spall liners and ammunition compartments, are near completion. While the detailed results are classified, it is safe to say that the external stowage concepts have worked extremely well and that the explosive armor adds additional protection against small anti-tank weapons. The Army must now decide which concept to put into production, explosive armor or external stowage with compartments. Explosive armor provides some additional protection and requires a minimum design change to the production vehicle. External stowage with compartments works against all classes of attacking rounds, however requires more extensive design changes to the vehicle. A thorough, multi-dimensional analysis of the test results, strengths, weaknesses and costs of each approach is necesary. When the Army announces its decision, the real priorities will surface; protecting troops that use the Bradley or protecting a smooth flowing production line in a contractor's plant. We look forward to the Army's decision.

Mr. Chairman, it is the belief of the cosponsors of this amendment that when the Secretary of Defense, in accordance with this amendment, certifies to Congress that the modifications selected for the Bradley Fighting Vehicle are those which will "maximize casualty reductions," that "maximization" will be achieved by ensuring the modifications proposed are as effective as possible against the entire array of Soviet antiarmor weapons likely to be encountered on the battlefield.

While the original Bradley was not designed to defeat many of these weapons, the obvious fact of the matter is that its tactical employment on the battlefield will put it in contact with most, if not all, of the antiarmor weapons found in a Soviet division.

What are those weapons? The following list is near complete: RGK-2 antitank hand grenade, RPG-2/RPG-7 85 mm, RPG-18 70mm, RPG-16, and RPG-75 bazookas; the AT-1 Snapper, AT-2 Swatter, AT-2b/c, AT-3 Saggar, AT-3c Saggar, AT-4 Spigot, AT-5 Spandrel, AT-6 Spiral, and the AT-8 Kobra antitank missiles. Tank ammunition threatening the Bradley includes HEAT rounds in sizes ranging from 10mm to 115, 122, 125, 130, and 152mm. BMP fired rounds include both 30mm and 73mm and there does exist family after family of Soviet antiarmor mines.

Mr. Chairman, it should also be noted for the record that the word "casualty," as far as the authors of this amendment are concerned, should be defined as any wound that requires medical attention above the level of an on-scene medical corpsman.

My colleagues should know that this amendment is the result of a lot of compromise, one that does not represent, in several respects, the original intentions of its authors. But it does take one more step toward ensuring our soldiers are better protected, and it is an amendment I can support.

Mr. Chairman, I rise in strong support of the Bennett-Bustamante amendment calling for a strengthening in the authority and funding of the Live-Fire Test Office.

I support the Bennett-Bustamante amendment because I believe that the Live-Fire test office will provide our decisionmakers in the Pentagon valuable information that will have the effect of saving the lives of many soldiers in the future.

It is important that we in Congress ensure that the Department of Defense is given both the encouragement and resources necessary to realistically test American and Soviet made munitions against each others weapons systems. It is only through such tests that our weapons designers will have the valid data they need to produce weapons in the future that will save, as opposed to cost, our country many, many soldier's lives in the future.

I would also like to point out to my colleagues, particularly those who will carry this bill to conference, that $6 million of the funds called for in this amendment will provide the authorizations deemed necessary by the Live Fire Test Director to purchase two Merkava tanks for comparative live fire testing. As many of my colleagues are aware, the Israelis have been producing the Merkava for several years. It is a tank with a world renowned reputation for the excellent crew protection that its design affords, and it is my belief that our own military will learn a great deal from comparative live fire tests with the Merkava.

Mr Chairman, I would like to enter into the RECORD at this point a letter I received a few days ago from Secretary of Defense Weinberger on this subject:

THE SECRETARY OF DEFENSE,
Washington, DC., May 8, 1987.

Hon. DENNY SMITH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN DENNY: Thank you for your letter of March 19, 1987, concerning the procurement and live-fire testing of the Israeli Merkava tank. Many vulnerability reduction insights would potentially be gained through such a program.

The Merkava, as you know, was specifically designed for combat in the Middle East, with the main emphasis on crew survivability and armor protection. Firepower and mobility were second and third priorities. Accordingly, it offers potential crew survivability enhancements in turret design, engine placement, the fighting compartment at the rear of the vehicle and crew hatch covers in the rear of the hull; however, its employment concept is different from the Abrams tank in that it is heavier than the Abrams and was not specifically designed to be deployed by strategic airlift.

We have seriously considered the possibility of conducting live-fire testing of the Merkava; however, we do not have funds programmed for this test. A limited live-fire test of the Merkava in FY 1988 would require $6.0 million for the procurement and maintenance of two vehicles, and additional funds would be required for the live-fire testing. Our Joint Live Fire program funding is limited to $8.9 million in FY 1988 and is fully committed to support the conduct of higher priority live-fire tests. As data becomes available, we will consider the Israeli Merkava crew survivability enhancements for possible application to the M1A1 Abrams tank.

Sincerely,

CAP.

As my colleagues can see from the Secretary's letter, we need only provide the funds necessary for purchase of these tanks before some extremely valuable live fire test data can be obtained.

I urge that my colleagues support this amendment.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I have a question with regard to the amendment offered by the gentleman from Michigan that I would like to address to the chairman of the committee and to the ranking member.

In a nutshell, the amendment effectively prevents the Department of Defense from transmitting any command and control data, voice or digital, from Tyndall Air Force Base in my State of Florida to any Customs/Coast Guard drug interdiction command center unless it is located adjacent to Tyndall.

My question is this: is it the intention to create an absolute prohibition against the Department of Defense's transmission of useful data to either a Customs or Coast Guard command center unless it is co-located at Tyndall Air Force Base, or is it meant to prevent the transmission of such data to a Customs/Coast Guard facility not located at Tyndall unless Customs or Coast Guard pays for the cost of such transmission?

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the chairman of the committee.

Mr. ASPIN. Mr. Chairman, I would like to say first that I agree with the gentleman's comments, and I commend him for his work on this issue.

Mr. SHAW. Mr. Chairman, I thank the gentleman.

I would like to say in conclusion that it is my concern that this amendment be adopted, and I believe that we should modify this amendment to specifically allow transmission of the needed data from Tyndall if—and I underline "if"—Customs and Coast Guard pay for the cost of transmission. Since our rule today does not allow the modification of these amendments, would the chairman of the committee agree to accede to a Senate modification of this amendment in conference on this particular bill reflecting this item?

Mr. ASPIN. Mr. Chairman, the gentleman is absolutely correct. If we have a chance to do it in the conference, we will certainly take the point of view of the gentleman in mind.

Mr. SHAW. Mr. Chairman, I thank the gentleman.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oregon, [Mr. DENNY SMITH].

MODIFICATION OF EN BLOC AMENDMENT AS MODIFIED, OFFERED BY MR. ASPIN

Mr. DENNY SMITH. Mr. Chairman, I ask unanimous consent that amendment No. 67 in the en bloc amendments be modified with a modification which is at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to the en bloc amendments as modified, offered by Mr. ASPIN: In paragraph (2) of section 138(d) of title 10, United States Code, proposed to be inserted by amendment No. 67, strike out "for" after "provisions of advice" and insert in lieu thereof "to".

Mr. DENNY SMITH. Mr. Chairman, if I may explain the modification, let me say that this is simply a clerical change between the Senate version of this amendment and the amendment I filed with the Rules Committee. I would like to have this accepted, if I may, just to speed the process.

Mr. ASPIN. Mr. Chairman, if the gentleman will yield, we have no objection to it. It is a modification clarifying the language. It does make it consistent with the language in the Senate, and we have no objection to the unanimous consent request.

The CHAIRMAN pro tempore. Is there objection to the unanimous consent request that the amendment be modified?

There was no objection.

Mr. DENNY SMITH. Mr. Chairman, included in the package of amendments before us is an amendment I am offering regarding the sanctity of operational testing performed by our military services. I rise in support of that amendment.

It's an important amendment because it sets the record straight regarding the intent of Congress regarding the conduct of operational test oversight performed by the Department of Defense.

There seems to be some confusion in the Pentagon concerning the Congress' intent when it originally created the Office of Operational Test and Evaluation in 1983. The confusion is obvious because the Pentagon, to the dismay of many Members in this body and in the Senate, have pursued an ill-conceived and ill-advised plan to merge the functions of developmental and operational test oversight into one office.

I want to state for the record, and this is confirmed by recent legal opinions drafted on the subject, that such a merging would be completely contradictory to the intent of Congress in its establishment of the Operational Test office. The Department of Defense cannot, and with passage of this amendment, will not, unilaterally act on this matter contrary to the wishes of Congress.

Those of us who supported the creation of an independent Office of Operational Test and Evaluation [OT&E] during the 98th Congress did so for two reasons: First, we believed it was important to take the responsibility for operational test oversight of our weapons out of the hands of the development community responsible for advocacy of the weapon. There is no doubt that, prior to the establishment of DOT&E, an unacceptable conflict of interest pervaded our procurement system and led to the fielding of numerous flawed weapon systems. It was important at the time to establish an independent watchdog to ensure integrity in the operational test process.

Second—and this point is extremely important—those of us in Congress who supported establishment of the DOT&E intended that the new office would concern itself not with weapons "demonstrations" and component "demonstrations" as characterized by developmental testing, but only with oversight of realistic and rigorous operational tests of weapons systems intended for use in combat.

The development community and the development test community in the military services and the DOD are already well represented in the procurement process. They produce an enormous amount of worthwhile engineering data to bring a weapon system through the development process, but produce very little in the way of information for legislators like myself who want to know if a weapon system will work under realistic combat conditions.

It is both disturbing and ironic that the one office the Congress specifically charged with operational test oversight, and only operational test oversight, is now surfacing a plan to expand its empire to include direction and control over the development test process. Similarly, it would also be a very serious mistake for the Under Secretary of Acquisition to downgrade the position and authority of the Director of Development Test and Evaluation to a lesser Deputy Director's slot. It is my belief that this body would not look favorably on a plan in which the Director of DOT&E would be made subservient to the Director of Researrch and Engineering. Certainly, development and operational testing should remain separated, but there is great merit to an organizational structure in which both the development test Director and the operational test Director retain not only their independence, but also their stature.

The message this amendment sends to the DOD and the DOT&E is loud and clear:

Get on with the job you were instructed to do. Ensure that the operational tests conducted by the military services are extensive and as realistic as possible. And, after developing an independent assessment of the combat suitability of a weapon system based on operational test performance, provide to the Secretary of Defense and Congress that assessment.

Mr. Chairman, the question that several of my colleagues put to me when the idea of merging test and evaluation functions was first surfaced was this: Why is it that the DOT&E is preoccupying its time with a reorganization plan while its own office is receiving poor grades for doing the narrower task it was chartered to do? Mr. Chairman, I would like to enter into the Record at this point some facts that substantiate my colleagues' concern. They are the conclusion of an audit recently produced by the General Accounting Office regarding the performance to date of the DOT&E:

Conclusions

DOT&E has made contributions to test planning through its participation in revising DOD Directive 5000.3 and through its review and approval of test planning documents. However, certain DOT&E activities need more attention to improve DOT&E's ability to carry out oversight functions in the independent manner intended when the office was created.

First, DOT&E appears to be observing only a limited number of operational tests done on DOD weapon systems. The lack of on-site observation precludes DOT&E from being fully aware of conditions or situations that may have influenced operational test results, but which may not have been documented in the service test reports. It may also limit DOT&E's ability to assess whether the test and evaluation performed was adequate—a requirement of the law.

Second, DOT&E's analyses of service operational tests were generally limited to analyzing military service test reports rather than test results. Relying on service test reports does not provide the necessary insight into the supporting data to ensure full disclosure and whether the test reports are adequately supported.

Third, DOT&E has not yet provided uniform policy and procedural guidance or maintained reliable records pertaining to the testing oversight and analyses of test results. Therefore, it is difficult to evaluate DOT&E's effectiveness in carrying out the responsibilities under the law.

Mr. Chairman, these are serious criticisms and ones not to be taken lightly. They point to the need for more staff, more resources, and greater congressional oversight to be directed toward the DOT&E.

I am willing to support all three. I urge my colleagues to do the same. But before doing so, it is vitally important that we send a signal, loud and clear, that the time has come for the DOD to emphasize the importance of operational testing in the procurement process. Support of this amendment will send that signal.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. Bennett].

Mr. BENNETT. Mr. Chairman, I rise in support of this amendment to allow the military a greater role in drug interdiction outside of the United States land mass. This amendment has already passed the House by a record vote of 364 to 51. By definition, all it does is enable the military to be used in very restricted circumstances to assist in the fight against drugs. It has solid bipartisan support.

The Conference of Mayors and Municipalities Emergency Narcotics Discussion convened by the gentleman from New York [Mr. Rangel] and Mayor Koch have approved. The President's Commission on Organized Crime has approved, and it has been strongly endorsed by the National Association of Attorneys General. It follows the tradition of our Nation.

There has been some talk about what the traditions of our Nation are in this matter. I point out that President Washington mobilized the military to put down the Whiskey Rebellion in 1794. President Eisenhower used the military in the Little Rock situation to enforce integration. Presidents Eisenhower, Kennedy, and Johnson in various civil rights matters did similarly. And in 1981, Congress passed the posse comitatus amendment to allow the military to provide limited assistance in the war against illegal drug traffic.

Congress clearly has the authority to grant exceptions to posse comitatus, and has done so on much less important matters than drug interdiction. Some of these exceptions are:

Protecting the property rights of discoverers of sea fowl excrement known as guano.

Removing trespassers from Yellowstone National Park.

Helping magistrates execute arrest warrants in civil rights cases.

Enforcing laws relating to kidnaping of internationally protected persons.

Enforcement of laws providing for the protection of foreign officials.

Removal of trespassers from Indian lands.

Assisting the FBI to investigate cases involving crimes committed against Members of Congress.

There are many other exceptions to posse comitatus. None of them are aimed at a danger to our country as great as the threat of drugs.

This is not a piece of legislation that is subject to the criticism that is going to create a "banana republic." Just exactly the opposite is true. The criticism would be well-founded against a piece of legislation if it turned over to the military civilian functions, and that is what we think about when we think about a "banana republic." This is just exactly the reverse. This is the civilian branch of the Government using the military to enforce laws that have been enacted by Congress to protect the country in various aspects, and it will in no way infringe upon the responsibilities or protections of the American people in any aspect of their lives.

So it is a good piece of legislation. It is a moderate piece of legislation. I offer this amendment not only on my own behalf but on behalf of particularly the gentleman from Florida [Mr. Shaw] and others who have expressed an interest in it. Mr. Shaw and I have really drafted this legislation, therefore, it really is the Bennett-Shaw amendment. I want to pay tribute to him for his great leadership in this field.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Florida, Mr. Shaw, who has been so active in this matter.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman on this most important amendment. We have been over this road before. This body has passed this amendment on many occasions, both under the gentleman's name and my name, and I would simply hope at this time that we would prevail in our discussions with the other body, and that we can come back with a bill that will allow the military to become more involved in this most crucial area.

Mr. BENNETT. Mr. Chairman, I believe we will make it this year. I thank the gentleman very much for his support.

Mr. GILMAN. Mr. Chairman, I rise in support of the Bennett amendment to H.R. 2169, the national defense authorization for fiscal year 1988, an amendment that I cosponsored during the last Congress and one that I have been pleased to cosponsor during this Congress.

I want to commend the distinguished gentleman from Florida [Mr. Bennett] for his consistent leadership in the war against drugs and in bringing this amendment to the floor for our consideration.

Under the Bennett amendment, the Secretary of Defense would be permitted, upon request from a Federal law enforcement agency, to assign military personnel to assist Drug Enforcement officials in drug searches, seizures or arrests outside the land area of the United States, but subject to three major safeguards: First, that the assistance will not adversely effect United States military preparedness; second, that the Attorney General verifies that the Drug Enforcement operation would not succeed without the assistance of our Armed Forces; and, third, that Federal Drug Enforcement officials maintain ultimate control over the activities and direction of any drug enforcement operations.

Mr. Chairman, under this amendment, the traditional constitutional safeguards of civilian control over the military are preserved, and military personnel who are not trained in law enforcement operations and in the constitutional technicalities of search and seizure would be under the supervision of our civilian law enforcement officials during a drug interdiction operation.

At a time when marijuana, cocaine, heroin and other dangerous drugs are being seized by our law enforcement officials by the plane load and by the boat load, it is imperative that we utilize our Armed Forces to help protect our borders from our enemy—the drug traffickers—whose insidious operations repeatedly penetrate our borders and attack our national security, jeopardize the health of our citizens, and undermine our societal institutions.

Our civilian law enforcement agencies need help. They cannot seal off our porous borders singlehandedly. They need military personnel to assist them in this difficult and dangerous task.

Accordingly, Mr. Chairman, I urge my colleagues to support this amendment, which will not jeopardize military preparedness, or undermine constitutional safeguards. Rather, it is intended to help protect our society from a danger comparable to nuclear annihilation and the deadly AIDS disease.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I thank the gentleman for yielding time to me.

I have offered an amendment this afternoon that is called the Buy-American automobile amendment. It says that the Department of Defense would have to buy American-made automobiles.

Let me say, as hard as it is to believe, that last year, in 1986, the Department of Defense let a contract for 3,743 Mitsubishi, Japanese-manufactured compact pickup trucks. This is incredible, is it not? It is not bad enough that the Japanese car companies sell 2 million automobiles in this country while we have only sold 2,000 cars in Japan. No, it is not bad enough, we have to use our taxpayers' money to buy Japanese automobiles.

We have spent 30 percent of our budget, 30 percent of the taxpayers' dollars, in this country on the Defense budget, and in Japan it is less than 1 percent. We are already subsidizing their defense, and now incredibly the Department of Defense has been buying Japanese automobiles when many autoworkers, hundreds of thousands of them, are out of work.

Mr. Chairman, I am happy that the chairman of the committee has accepted this. We will have to fight for it in conference to make sure that it stays in the bill.

Mr. Chairman, prior to 1978, the DOD followed a pattern of buying only American vehicles. However, in the past several years we have seen the Department buying foreign vehicles at an alarming rate. In 1981, this body argued the merits of adopting a Buy-American policy. In 1983, I was successful in attaching a Buy-American amendment to the DOD bill, only to have it weakened in conference. The conference agreement was to apply for 1 year. Those involved with the procurement of motor vehicles for the Defense Department, admitted the provision had no apparent impact on their 1984 acquisition of vehicles. I believe the time has come to require DOD to adopt a policy which supports America and saves American jobs.

Several members of the Teamsters Union, Local 579, observed foreign-made, Mitsubishi, pickup trucks that had been painted with U.S. Air Force markings. These individuals were outraged that the Defense Department was buying foreign trucks. I commend these fine Americans for having the courage and wisdom to recognize that such a policy is counterproductive to America's defense and unacceptable to the American people.

Under this one 1986 contract, we have potentially lost hundreds of American jobs. According to economists at the United Auto Workers, five vehicles manufactured equal one job. Under this contract, we have lost roughly 750 jobs. Locations throughout the United States which have been potentially affected, which do business in the compact pickup truck field, range from Marion, OH; Shreveport, LA; Louisville, KY; Pontiac, MI; Kansas City, MO; Wayne, MI; Norfolk, VA; and Warren, MI, in my district.

I am uncertain why our government is not supporting the practice of purchasing American made products. As foreign manufacturers and workers continue to supplant American jobs, and our trade deficit reaches record highs, the time to take action against such policies is overdue.

We all know, many foreign countries discriminate against U.S. companies doing business in their nation. Last year alone, these discriminating policies contributed to a trade deficit of $170 billion which caused tremendous long-term damage to many American industries. America's free enterprise system is being drained by the practices supported by foreign governments. As a result, American firms are not just facing their competitors, but the supporting foreign governments as well. Even under situations where American firms are not faced with total blockage when competing in a foreign market, our companies are often required to make concessions which seriously weaken their long-term economic competitiveness.

The General Accounting Office has reported that agreements entered into by the United States and its trading partners have had a minimal impact on the opening of foreign markets to U.S. firms. While at the same time Federal agencies, including the Department of Defense, have continued to open their markets to foreign firms. This inequity must stop. It has been argued that agreements have been made and acts have been passed by Congress in the past to allow for the purchases of foreign automobiles, to the detriment of the American automobile industry and America as a whole.

What we are talking about is strengthening our defense base. During the Second World War, the automobile industry was one of the greatest contributors to our defense base. I feel we weaken our defense base by spending our money in foreign countries on foreign automobiles, particularly when they do not spend their money in the United States. Such an uneven exchange of trade weakens the nation as a whole. What we are talking about here is not protectionism. We are talking about Buy-American. A Buy-American policy by the Department of Defense is important for public confidence and for our defense capability.

I want to point out again that we are talking about American jobs, a massive trade deficit, a defense budget that is higher in this country and is expanding at a greater rate than ever before in peacetime, while at the same time we see other nations, our NATO allies, cutting back on defense and currently not making a commitment to expand the amount of money they spend on defense.

Many of our citizens are making a sacrifice for their defense, and it is time they at least recognized some of our problems, one being a continued loss of American jobs in the automobile and related industries, a record high trade deficit, and the practice of many of these same nations closing their doors on American firms.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. ROWLAND].

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Mr. ROWLAND of Connecticut. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to engage in a brief colloquy with the gentleman from Wisconsin [Mr. ASPIN], the distinguished chairman of the Committee on Armed Services.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. ROWLAND of Connecticut. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, we are looking for a copy of the colloquy.

Mr. ROWLAND of Connecticut. Mr. Chairman, I filed an amendment which related to the issue of defense contractors who are debarred or suspended from doing business with the Department of Defense.

Basically, since the proposal related to judicial actions it was held to be within the jurisdiction of the Committee on Judiciary and as such was ruled out of order to the DOD bill.

The proposal seeks to establish some kind of standards over what constitutes a justifiable reason for debarring a company from defense work. Such an action can oftentimes have the effect of jeopardizing the jobs of the workers and penalizing them although they had nothing to do with whatever fraud or abuse occurred.

What I would like to know is if this issue—could be addressed and studied over the next year by an appropriate subcommittee of armed services.

Mr. ASPIN. Mr. Chairman, if the gentleman will yield further, as the gentleman from Connecticut stated, his proposal did affect matters in the jurisdiction of the Committee on the Judiciary. However, I do believe that the debarment and suspension process is one which should be addressed by the Committee on Armed Services, and I would suggest that the gentleman from Connecticut should discuss this issue with the gentleman from Massachusetts [Mr. MAVROULES], chairman of the Acquisition Policy Panel, and we could probably talk the gentleman from Masssachusetts into holding some hearings on that subject.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, included in this group of en bloc amendments, are three that are absolutely critical to those who serve us in the armed services. All three have been promoted by the bipartisan Military Reform Caucus. We are grateful to the chairman and vice chairman for accepting them.

It is absolutely imperative that developmental testing continue to be separate and apart from operational testing. Separate tests must be held to determine whether or not the weapons or equipment meet technical specifications and another series to determine their operational effectiveness in combat. The Congressman from Oregon, DENNIS SMITH, a former cochairman of the Reform Caucus, should be commended for his leadership in demanding that the tests be separate and distinct.

When the Bradley Fighting Vehicle was first conceived, it was to weigh 35,000 pounds and have a price tag of less than $150,000 each. The BFV now costs in excess of $1.5 million each and weights 50,000 pounds. As the size and cost have increased the mission has also become more complicated. The technical problems with the BFV are well-documented. The amendment accepted by the chairman fences procurement dollars until realistic combat testing can be completed. Once and for all we must have realistic testing so we can determine what technical adjustments are necessary to maximize casualty reductions. The amendment gives us that opportunity without jeopardizing the operational effectiveness of the BFV.

The antiarmor testing amendment is the third in a series of Reform Caucus initiatives that requires the Department of Defense simply to conduct realistic combat-related tests. For three decades American infantrymen have been given second-rate antiarmor weapons. While DOD is presently engaged in a lengthy research program to provide a more effective antitank weapon, this amendment mandates DOD testing of eight existing antitank systems that are available for purchase internationally. The amendment does not compel DOD to purchase the most effective weapon. It simply mandates that all eight systems be thoroughly and completely tested under realistic conditions so that DOD, Congress, and our soldiers know which offers the best state of the art, available antiarmor system.

I thank the chairman for accepting these amendments.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. SMITH].

Mr. DENNY SMITH. Mr. Chairman, I thank the gentleman for yielding.

In Cap Weinberger's last report to the Congress, he had about $10 million or $15 million which has been rolled into TAC AIR, and the $10 million to $15 million was to make a study on the mud fighter, so-called.

It is very important that the follow-on to the A-10 airplane study completed by TAC AIR, and hopefully it turns out to be a turbo prop airplane with long legs and good fire power to help the guy on the ground.

I thought maybe you could make some comments, being a former infantryman, to highlight the need for the close air support?

Mr. RIDGE. Mr. Chairman, I appreciate the gentleman's contribution.

I share the desire for them to complete the report. When we are discussing integrated use of our services during times of combat, it is essential that we had the ground troops assisted with that close air support.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I rise in strong support of amendment No. 68 which is an amendment I offered, and would like to submit for the RECORD remarks in support of and in clarification of that amendment.

Mr. Chairman, I would like to explain the purpose and intent of my amendment to the National Defense Authorization Act for Fiscal Year 1988 that will clarify a change made last year to the Truth in Negotiations Act [TINA].

Last year, the Congress undertook to revise TINA in light of the case law that grew up around the act since it was passed in 1962. The original purpose of TINA was to place the government on equal terms with contractors during negotiations on defense contracts. It did so by requiring a contractor to submit to the Government all relevant data related to the pricing of a contract proposal prior to negotiations and agreement on a final price. We revised the act last year because, over time, its effectiveness had been eroded by court decisions.

Unfortunately, the statement in the Conference Report 99-1001 accompanying the National Defense Authorization Act for fiscal year 1987 which explained the revisions to TINA has caused some confusion. My amendment would eliminate that confusion, clarify the definition of cost or pricing data, and make a couple of technical amendments.

For the first time, last year the Congress defined the concept of cost or pricing data in statute. It is "all information that is verifiable and that, as of the date of agreement on the price of a contract, a prudent buyer or seller would reasonably expect to affect price negotiations." However, the definition specifically excluded "judgmental" information, requiring only that contractors disclose the factual information from which judgments are derived.

In the Conference Report, the managers discussed the question of when a contractor's plans, projections or strategies mature to the point where they are no longer "judgmental" and should be considered cost or pricing data subject to disclosure. The managers statement tried to define this point through an example involving negotiation of a new labor contract; however, the example used was a distinction without a difference. After consulting with staff, Government, and industry representatives expert in this area, I have concluded that the disclosure line should be drawn at the point a decision is made to implement a plan, projection or strategy.

Cost or pricing data are more than historical accounting data; they are all the factors that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. Such factors include, but are not limited to: First, vendor quotations; Second, nonrecurring costs; third, changes in production methods and in production or purchase volume; fourth, data supporting projections of business prospects and objectives and related operations costs; fifth unit-cost trends such as those associated with labor efficiency; and sixth, make-or-buy decision.

TINA is a complex statute with many ramifications. Thus, care in drafting changes is necessary to accomplish the intended objectives. My amendment has undergone the careful scrutiny of staff, Government and industry representatives, and I am satisfied it will achieve the objectives that I have outlined in this statement.

Mr. ASPIN. Mr. Chairman, I yield 5 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, I want to thank the gentleman from Wisconsin [Mr. ASPIN], the chairman of the Committee on Armed Services, for his help in resolving the Bradley Fighting Vehicle amendment which is part of this package.

Mr. Chairman, I rise to support the amendment requiring that the Department of Defense address all of the serious and persistent problems of the Bradley Fighting Vehicle, and that Congress have the opportunity to review their proposal modifications before procurement funds for fiscal year 1988 are released.

The Bradley has been a procurement nightmare. It has only been because of the efforts of whistleblowers, the press and Congress that the Pentagon is now conducting tests of the Bradley's vulnerability to battlefield antiarmor weapons. We are learning that the vehicle can and must be made more survivable.

Unfortunately, over 3,000 Bradleys have been produced and they have problems. Fixes to the new and existing vehicles may be costly and time-consuming, but if they are to take our soldiers into combat, they must be done.

What has compelled us to revisit an issue that was debated only last fall on the House floor? There is continued evidence that serious problems, some known for years, still have not been addressed, or even publicly acknowledged by the Army.

One such problem is the vehicle's ability to ford streams at prescribed speeds. It took the death of a soldier in Europe and a recent training accident to finally get the Army to suspend swim operations.

And, it is important to remember that the only reason live-fire tests of the Bradley have been conducted is that Col. James Burton fought Army opposition to the tests and was forced to sacrifice his career. The live fire test program was subsequently mandated by law and I hope legislation contained in the Defense Authorization bill this year will strengthen that program.

Why have such actions been forced on the Army? During hearings before the Armed Services Committee several weeks ago on the Bradley, Undersecretary of the Army, James Ambrose was asked why the Army had waited so long to act on the swim problem. He said that he didn't have a particularly good answer to that question. That is not an acceptable answer.

And despite the known problems, a recent letter from General Wickham and Secretary of the Army John Marsh to Members of Congress urged support of the Bradley because "our soldiers have complete confidence in the Bradley." The letter was sent out just weeks after the accidental drowning of a soldier in Europe who was trapped when the vehicle fell through ice during maneuvers. The soldier, George Wilson, had written letters home to his parents complaining about the Bradley's performance, especially the transmission, which is a serious problem.

It is just this attitude about the Bradley on the part of the Army that has resulted in a broad coalition of members of Congress supporting this amendment. Simply put, we have learned the Army must be watchdogged. And it is also for this reason that we have built in a window allowing Congress 15 legislative days to hold the hearings, agreed to by Chairman Aspin, on the Army's test plan.

At this time I would like to ask the gentleman from Wisconsin [Mr. Aspin], the distinguished chairman, if he would agree to hold such hearings?

Mr. ASPIN. Mr. Chairman, if the gentlewoman from California will yield, we will certainly hold hearings and would be very, very interested in the results of those tests.

Mrs. BOXER. This will allow us to be sure that modifications that reduce casualties when the vehicle is hit by antiarmor weapons are the first priority. Any other consideration is secondary. Every one of these vehicles that may carry soldiers into combat must be made safe and we will not settle for less. I thank the members who worked on this amendment—Mr. Bennett, the author Mr. Ridge, Mr. Levine, Mr. Wyden, Ms. Slaughter, Mr. Smith, and Mr. Mavroules the negotiator. We have a good workable amendment in this package.

Mr. Chairman, I yield to the gentlewoman from New York [Ms. Slaughter].

Ms. SLAUGHTER of New York. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in strong support of the Bennett, Ridge, Boxer, Smith, Bustamante, Wyden, Levine, Slaughter amendment to maximize the safety of our fighting forces in the Bradley Fighting Vehicle. The Bradley has been designed to not just carry troops to the front, but as an active fighting vehicle. The Bradley's current design is fatally flawed; the vehicle's personnel are extremely vulnerable against the antitank weapons it would surely face in combat.

Our amendment would ensure that the Department of Defense carefully studies all available options and then develops a plan to maximize our fighting personnel's safety. Specifically each survivability modification must be completely analyzed by the Department and the following reported to Congress:

First. A complete description of each survivability modification considered.

Second. The modification's ability to maximize casualty reductions against the full-range of weapons the Bradley Fighting Vehicle will face in combat. This would incorporate the results of the live fire testing the vehicle is currently undergoing. Of course in determining the casualty reductions, the results against each type of weapon would be weighted according to the best estimate of the mix of combat weapons to be used against the vehicle (explicitly stated).

Third. The modification's complete cost including any extra storage and logistic costs and the costs of changing any other subsystem because of the adoption of the survivability modification.

Fourth. The schedule for and completion date of implementing the modification.

Fifth. The rationale for including or not including the modification in the final certification to Congress of modifications which will be implemented to maximize casualty reductions.

This report will be issued at least 15 days before the appropriated funds for fiscal 1988 are released, giving the Comptroller General and the Congress time to evaluate and hold hearings on the report's conclusions. This will provide the facts and the time to allow the Congress to fulfill its oversight duties and ensure the safety of our fighting forces.

The amendment will also aid congressional oversight by requiring a report and a correction plan for other reliability, quality, and operational problems including reported deficiencies in the vehicle's swim capability, transmission, electrical systems, turret distribution boxes, integrated sight unit, and TOW missile launchers.

Together these requirements should focus the Defense Department on needed changes to bring the Bradley Fighting Vehicle up to the minimum standards needed to operate effectively and provide our soldiers with the protection they deserve. We in Congress will have the information needed to continue to exercise prudent oversight to ensure the safety of our fighting forces.

Mrs. BOXER. Mr. Chairman, I yield to the gentleman from Oregon [Mr. Wyden].

Mr. WYDEN. Mr. Chairman, I rise today to talk about fixing—not canceling—the Bradley Fighting Vehicle, a weapons system that is being overwhelmed by significant performance and reliability problems. Congress during the last 2 years has realized that the Bradley's current design unnecessarily endangers troops, and that's why we've made appropriation to test new configurations.

Taxpayers already have purchased some 3,000 Bradleys, and here's just a sampling of the headaches they've bought:

Survivability. News reports have termed the Bradley a packed tomb because of its vulnerability to shellfire and because of its internally stowed ammo and fuel. In documents I released earlier this month, a 1985 critical design review said it was "essential" to move the Bradley's missile exterior to the vehicle. The same review added that the vehicle's fire suppression system "will not put out ammunition fires."

Performance. The Bradley is a mechanic's nightmare. Particularly troubling is frequent failure of the vehicle's transmission system. Also, of 252 Bradleys sampled between November 1985 and May 1986, 790 turret or hull electrical failures were recorded, out of 4,000 total incident failures, according to a logistic management analysis dated July 31, 1986, and which I released earlier this month. The report said "55 percent of all vehicles experienced a failure of (hull or turret electrical systems) every 955 miles."

Swim capability. Although designed as an amphibious vehicle, the Bradley doesn't even come close to its original swimming specifications. The infantry carrier has sunk or swamped at least 11 times during training exercises, and the Army has suspended all swim operations involving the vehicle since a training incident several weeks ago. In a 1985 critical design review, the Bradley's technical designers wrote "Recommendation: eliminate the swim requirement." In a September 1985 memo written by Keith Baker, chairman of the Bradley's safety review board, to the Army, additional warnings were raised: "Water operation in stream speeds above 2 miles per hour constitutes a very hazardous situation."

Add to this list the Army's staunch refusal until very recently to submit the Bradley to rigorous, live-fire testing.

Mr. Chairman, I am not prepared to throw this particular baby out with the bathwater. Given the billions already spend, we must try to cure the Bradley's ills. I and some of my colleagues believe strongly that the Bradley's designers must either add reactive armor to the vehicle, or stow ammo and fuel outside crew compartments to address survivability issues. Our compromise amendment goes a long way toward that end.

Mr. Chairman, under this amendment the Secretary of the Defense is requested to provide Congress with a full and complete accounting of the Bradley's operating problems—both past and present. This desire was the driving force behind the original amendment drafted by the members sponsoring this amendment. Some have said it would be too expensive to fix the Bradley, including an improvement in the Bradley's armor. I believe that we can't afford to gamble with soldiers' lives. I urge my colleagues to support this amendment.

Mrs. BOXER. Mr. Chairman, I yield to my colleague, the gentleman from Massachusetts [Mr. MAVROULES], and then the gentleman from California [Mr. BENNETT] will finish up the time.

Mr. MAVROULES. Mr. Chairman, I was delighted to work with all parties and to bring together all parties and reach an agreement on language. In my entire statement, in lieu of the time, I am not going to try to read it, but in my entire statement it will express exactly the agreements we reached.

Mr. Chairman, I rise in support of the compromise language limiting funds for the Bradley Fighting Vehicle.

In light of the ongoing live-fire testing program, the status of deliveries of the integrated sight units, and the recent swim incidents, I believe that we need to restrict the procurement of the Bradley Fighting Vehicle until the current testing is completed and we receive the required reports from the Department of Defense. While I support production of the Bradley vehicle, I believe that it is prudent to ensure that the Congress understands the potential changes to the vehicle prior to continued production.

We hear much debate from our colleagues concerning the safety of our soldiers in the Bradley Fighting Vehicle. We all agree that we need to ensure our soldier's safety in peacetime. Indeed, the compromise requires that the Secretary of Defense provide a master plan to correct any instances where the vehicle does not meet the requirements or where a Government contractor has been deficient. This provision ensures that existing defects will be identified and a corrective action plan proposed.

Clearly, the issue that confronts us today is the proper mix of ingredients in the decisionmaking process for the survivability modifications for the Bradley vehicles. The compromise requires that the Department of Defense select modifications that maximize casualty reductions while considering fiscal constraints without jeopardizing operational effectiveness. We all agree that we must maximize casualty reductions. But, we also need to ensure that the operational effectiveness of the vehicle is not jeopardized in the selection of survivability modifications. If a combat vehicle has limited operational effectiveness, how can we ensure crew survivability? Operational effectiveness of military vehicles clearly goes hand-in-hand with ensuring casualty reductions. Lastly, we need to ensure that the proposed modifications are also cost-effective.

Once these criterion are met, we can guarantee ourselves that our infantry soldiers have been provided with more effective vehicles with which to go into combat. In the event that the selected modifications do not meet all three criterion, the Congress, then, will be able to debate these proposals from a position of knowledge next year in concert with the fiscal year 1989 budget request. I am pleased that we can all agree that operational effectiveness and fiscal responsibility must also be considered in selecting any proposed modifications to combat vehicles. Clearly, this is the standard against which we judge all other programs.

Mrs. BOXER. Mr. Chairman, I yield the remainder of my time to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I have a feeling here today that we are seeing the culmination of a lot of work, a lot of different people who have sacrificed their time and effort to see to it that the Bradley is a safe vehicle, to see to it that it can do its military combatant duty.

We are deeply obligated to the gentlewoman from California [Mrs. BOXER] for her enthusiastic effort in this.

Mr. Chairman, I rise in support of an amendment I originally introduced on the Bradley on behalf of myself and my colleagues: Mr. RIDGE, Mrs. BOXER, Mr. BUSTAMANTE, Mr. WYDEN, Mr. DENNY SMITH, Mr. LEVINE, and Ms. SLAUGHTER. But there are by now many other cosponsors.

The large number of cosponsors of this amendment demonstrates the keen interest Congress has on this matter. It is our honest desire to fix once and for all the many problems associated with the Bradley. We are concerned about the safety of the troops who will use this vehicle in combat. Most importantly, we want to improve the vehicle so that it affords the maximum protection for the troops against all the antitank weapons which the Bradley is likely to encounter in combat. We are confident that the Army will recognize this strong congressional concern and return with a plan to do that, while giving serious, but secondary, consideration to cost and vehicle performance, as the amendment requires.

I am grateful that everyone has been able to come together and bring forth this amendment. Mr. EDWARDS, Mr. MINETA, Mr. ASPIN, Mr. MAVROULES, Mr. SPRATT, Mr. DICKINSON, Mr. CHENEY, Mr. SHARP, and others have agreed to support this amendment with modifications. The amendment with modifications is now part of the package of amendments the House has before it. Our amendment has the unanimous support of all parties.

I would like to enumerate a partial list of the problems with the Bradley Fighting Vehicle that our amendment hopes to help fix.

Tactical doctrine: The Bradley is a "fighting vehicle" equipped with a cannon and TOW missiles, and intended to fight beside main battle tanks. Yet the vehicle cannot endure the punishment a tank can, and cannot protect its human cargo from antitank rounds or missiles.

Vulnerability: The Bradley is vulnerable to anything heavier than machinegun fire. A hit from an antitank round would spray the soldiers inside with molten metal and ignite the ammunition and missiles stored beside the infantrymen.

Swim capability: Over a dozen reported sinkings are evidence of serious and potentially hazardous problems with the Bradley's swim capability.

Transmission: The Bradley travels only 483 miles on average between transmission failures. Crews complain of billowing smoke and grinding vibrations from the transmissions, and report that transmission repair is "an everyday job."

Electrical system: Bradley crews report chronic problems with the vehicle's electrical system, ranging from glitches affecting the turret position indicator to full-scale breakdowns resulting in jammed turrets, frozen rear doors, and inoperative automatic fire extinguishers.

Quality control problems: Extreme emphasis on maintaining production levels has resulted in "an exceptional amount of defects" in the Bradley, according to DOD inspectors. Problems include cracked armor, defective parts, and an inadequate inspection system.

25-millimeter gun: The Bradley's main weapon has a tendency to jam and fail at high rates of fire. "We cannot fire more than 60 rounds before the clips jam the gun," said one FMC engineer.

Armor plate: Seventeen percent of Bradleys inspected had cracked turret armor. FMC admits that cracked armor is a "common problem."

Night vision: The night vision device has experienced significant problems and often simply doesn't work.

Many experts familiar with the Bradley Fighting Vehicle have commented on this matter, for example:

> The real tragedy of the Bradley is that it ever came into existence * * * As configured, assigned and employed, the Bradley could prove to be a disaster on the battlefield * * *.—Gen. Mike Lynch, U.S. Army.
>
> What you got is a bastardized thing that does nothing well.—Tom McNaugher, Brookings Institute.
>
> Most anything on the battlefield can blow holes through it.—Gen. Bruce Clarke, U.S. Army.
>
> If you push it too hard, the transmission will drop out like a big rock. It's a piece of ———.—George Wilson, soldier drowned in a Bradley accident.
>
> There is a hell of a lot that can go wrong * * * It seems like they just put a little too much on it.—Tom Husted, FMC mechanic.
>
> We need defense, but we don't need this.—Kerrie Aley, FMC test engineer.
>
> I am saying that anyone who peddles the Bradley with all that crap on it doesn't have the Army's best interests at heart.—Gen. Mike Lynch, U.S. Army.

Mrs. BOXER. Mr. Chairman, I hope we will note the contributions of the gentleman from California [Mr. MINETA] and the gentleman from California [Mr. EDWARDS] in this compromise.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am pleased we were able to reach an agreement that ensures that all aspects of the vehicle's performance—casualty reduction, operational effectiveness, and cost—are considered as the Army determines the appropriate modifications that should be made to the Bradley. And I thank my colleagues, Mr. BENNETT, Mr. MAVROULES Mrs. BOXER, and Mr. MINETA for their gracious cooperation.

All of us are concerned about the safety of one of our most precious commodities—our American soldiers. This amendment emphasizes the importance of our concern for their safety. But, as we all know, that safety is achieved through a combination of factors. We must ensure that maximum protection is afforded to the Bradley crew if the vehicle is hit by the enemy. We must also ensure that the Bradley's firepower, mobility, and reliability are not jeopardized, because those are significant contributing factors to the Bradley's ability not to be hit.

The House of Representatives has always supported the Bradley program. We have done so because the Army considers it an essential element in the modernization of our conventional forces. It is also considered—by the professional soldiers who depend on it—to be the best infantry fighting vehicle in the world.

We want to ensure that the Bradley is the safest, most reliable, and most effective vehicle possible. This amendment will ensure that all these goals are met.

Mr. ASPIN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today to support the en bloc amendment by the distinguished chairman of the Armed Services Committee.

I would like to offer a word about the Bradley Fighting Vehicle.

The Bradley is a key element in the Army's conventional modernization program and Army leaders have repeatedly stated that it is an essential component in order to win on the battlefield. Its mobility, agility, speed, and firepower represent significant improvements in ground warfare capabilities.

The press has reported extensively on perceived problems with the Bradley. Our compromise amendment requires the Army to consider modifications that would maximize casualty reduction, while maintaining the vehicle's operational effectiveness. This amendment also requires DOD to report on all reliability, quality, or operational problems and set forth a plan to correct each problem identified.

I want to thank my colleagues, especially Mr. EDWARDS of California, for their efforts in crafting a solution which will enhance the survivability of the vehicle without degrading its operational effectiveness.

I think that this compromise can be supported by all my colleagues. The amendment provides assurance that an essential fighting system will become even better.

One of the other amendments included in the chairman's en bloc amendments is offered by this gentleman from California which I believe will help my colleagues decide in what direction we will take our Nation's Space Program. This amendment requires the Department of Defense to reveal to Congress just what it intends to do on NASA's space station.

The space station was conceived as, and has won support as, a civilian research project. It is expected to help this country renew our traditional and important leadership role in space. The space station is expected to play a critical role in thrusting American science and technology forward into the 21st century.

That role, however, is threatened by the dark shadow of desire cast by the Department of Defense. Reports are that the DOD wants the space station as a laboratory to experiment on star wars; as a bunker to direct battlefield maneuvers, and even as a depot for military supplies.

The Pentagon, a spokesman said recently, hasn't accepted any limits on its use of the space station.

Yet DOD has not once told Congress what it intends to do aboard the station nor why it even needs the station—a station regarded as a civilian research laboratory vital to the progress of our science and technology.

My amendment requires the Department of Defense to reveal to us its vision of the NASA space station so that we might decide whether that DOD vision of the NASA space station is, in fact, our vision, too.

Contrary to Secretary Weinberger's beliefs, one can be a strong supporter of NASA and its peaceful development of space, without being unpatriotic.

I want to thank both the chairman of the Armed Services Committee and the ranking minority member for their efforts on behalf on these two amendments and urge all Members to support the en bloc amendment.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, the effect of this amendment is to add $9,807,000 to the Air Force RDT&E Program line for conventional munitions to restore part of the $12,126,000 reduction from the original request of $43,041,000.

As an offset to this addition, my amendment would zero the $9,807,000 from other procurement, Air Force for the Mechanical Diverters Program.

Both the addition and the reduction affect programs in my congressional district. The Armament Laboratory of the Armament Division for Air Force Systems Command [AFSC] would be forced to eliminate all their advanced technology work in guidance law and tactical autopilot, thereby negating efforts to increase our weapons standoff ranges. The reduction of $12,126,000 would severely slow down the Air Force's brilliant guidance initiatives. The major impact may well be a 1-year hiatus, with accompanying regrowth slowdown in the advancing of armament technology—we would be eating our seed corn.

The United States Air Force, Europe, munitions storage initiative, for which the $9,807,000 was requested, was to provide the initial buy for the inventory. This important program would permit storage of munitions close to aircraft flightline/revetments locations in Europe. While the initial buy would increase sortie generation capability, a much larger range Air Force-wide effect of the significant reduction to the Conventional Munitions Program was the driving factor in this tradeoff.

The CHAIRMAN pro tempore. (Mr. DORGAN of North Dakota). The gentleman from Wisconsin [Mr. ASPIN] has 3 minutes remaining and the gentleman from Alabama [Mr. DICKINSON] has 13 minutes remaining.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I would like to refer to my amendment which has been accepted into the en bloc amendments as the Anti-Armor Weapons Testing Amendment.

History records that it has been almost 45 years, I think it was 1942, since the Army actually subjected its antitank and antiarmor weapons to realistic combat conditions, to live-fire tests. The same history books record that the antitank and antiarmor weapons that we have had in our arsenal served us only marginally well during World War II, during Korea, and certainly during the conflicts with which I am most familiar, that of Vietnam.

What the amendment basically says is in the international arsenal today there are eight potential options for the conventional soldier to use against armor. Some of those antitank weapons are made in this country; some are made by our allies.

The amendment basically requires the Department of the Army to take this group of eight weapons, give them to soldiers who are not experts, but those who go through basic and fundamental training for the use of these weapons, and subject these eight weapons with these soldiers to realistic live-fire tests, put them in terrain and against tanks to determine their lethality, their accuracy, and their employability by our soldiers.

There was a test a couple of years ago between the M-72 LAW and the Swedish AT-4. Those are two of the eight weapons that are included in this amendment. These tests were inadequate and irrelevant. They did not have the average soldier fire them, they did not employ them against tanks, and they were the only two weapons that were employed during the series of tests.

This amendment simply says to the Department of the Army: Under realistic combat conditions, take the eight options that we have, find out what is the best weapon available, the best piece of equipment that we can give to our conventional soldiers. We need that information. We should then process the best and make sure that we get it into the hands of our troops as quickly as we can. Thank you, Mr. Chairman, for accepting this amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan [Mr. WOLPE] for 2 minutes.

Mr. WOLPE. Mr. Chairman, included in Chairman APIN's en bloc amendment is an amendment that I have offered on behalf of myself and the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from New York [Mr. STRATTON], the gentleman from Massachusetts [Mr. MAVROULES], the gentleman from New York [Mr. HORTON], and gentleman from Michigan [Mr. DAVIS].

Mr. Chairman, this amendment would continue and expand the procurement Technical Assistance Cooperative Agreement Progam [ProTACA], and initiative that has successfully promoted cost-cutting competition within the defense industry, increased the share of Federal Defense contracts awarded to small and medium-size businesses, and strengthened job creation and job retention efforts at the local level.

The Defense Department's procurement technical assistance centers provide grants to State and local Governments and private nonprofit organizations that offer technical expertise to small businesses bidding on Government contracts. My amendment extends the life of this important program by earmarking $7 million of the Defense Logistic Agency's funding—funding that is already contained within this authorization—for procurement technical assistance centers in fiscal year 1988.

Mr. Chairman, I cannot emphasize enough the inportance of this first, by providing small-and medium-sized businesses with the assistance they need to successfully bid on Government contracts, my amendment increases competition and cuts taxpayer costs. I think we all know that the only way to put a stop to taxpayer ripoffs like $600 toilet seats and $700 coffee pots is to break up the monopoly large defense contractors have on the procurement market. My amendment is a step in the right direction.

Second, by enabling small-and medium-sized businesses to land job-generating Federal procurement contracts, my amendment promotes job creation and job retention in communities all arcross the country. Take, for example, Kalamazoo, MI, a community in my own congressional district. With the help of a technical assistance grant, the Kalamazoo County Economic Expansion Corp. has worked directly with area businesses to secure almost 8 million dollars' worth of Government contracts and create or retain more than 250 jobs.

Kalamazoo has developed a highly successful Procurement Outreach Program, for which the Economic Expansion Corp. and the local chamber of commerce are to be congratulated. But the truth of the matter is Kalamazoo's experience is not unique. In Michigan alone, the Procurement Assistance Program facilitated over $30 million in contract awards during 1986 and 1987, nationwide, the 1986-87 figure is almost $400 million, with a total expenditure over those 2 years of only $7 million. By any standard, that is an impressive payoff.

Don't we owe our constituents the promise that U.S. defense spending will be conducted in as fair and honest a manner as possible? And don't we own our constituents the promise that their tax dollars will be used efficiently, for the benefit of the communities in which they live? The Procurement Technical Assistance Program provides America's small businesses with the help they need to bid on Government contracts. And their entry into the procurement market will help keep the older, larger interests honest.

Mr. Chairman, ProTACA is an essential part of this defense bill. I want to thank Chairman ASPIN and Mr. DICKINSON for their support of my amendment, and I urge its approval by the House.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Chairman, I just want to make one statement on the effort to reach a compromise on the Bradley. I think that it is important that we improve the survivability of the Bradley, but I want to make it clear to Members that there are tradeoffs and that we have to be careful in this effort that we do not micromanage to the point of loading this thing up by adding defensive reactive armor, et cetera, that we end up debilitating the mobility or the operational capability of that vehicle.

There is a risk there, and there are tradeoffs, and we do not want to load it up to the point that it is not as mobile. There is no alternative out there today. The M-113 is not an alternative to the Bradley.

I think that it is also important to note that the Army is conducting live-fire tests—I witnessed one of those—and I think that it is important that we keep these facts in mind, that we do not rush over the cliff here in an effort to kill this thing.

There is no alternative. If we can improve it, we should keep that in mind. At the same time, we have to remember the tradeoffs in this important debate.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. ASPIN] has 2 minutes remaining and the gentleman from Alabama [Mr. DICKINSON] has 7 minutes remaining.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PRICE], the chairman emeritus of the committee.

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Mr. PRICE. Mr. Chairman, despite years of research by the U.S. Army, there still remains an urgent requirement for an effective multipurpose individual munition [MPIM] to help counter the number of Soviet tanks, armored vehicles and fighting positions that would be encountered on the battlefield. This requirement is even more critical today in view of the Defense Department's emphasis on light reaction forces capable of responding to emergencies anywhere in the world. In recognition of this threat, the R&D subcommittee recommended an additional authorization of $13 million to the Army for the MIPM program.

Mr. ASPIN. If the gentleman will yield, I appreciate and endorse the remarks of the gentleman from Illinois. His point is well taken. The deficiencies of the current antiarmor munitions and the continuing growth of the Soviet conventional threat raise serious concerns about the ability of our soldiers and Marines to counter Soviet forces on the battlefield and survive.

Mr. PRICE. I thank the gentleman from Wisconsin for his remarks. The other body also shares our concerns and has also identified the lack of an effective MIPM as a critical shortcoming for our Armed Services. A new technology being developed by the Army is the High Explosive Anti-tank Round [HEATR] which has recently shown outstanding results in testing. HEATR, which is fired from an unmodified rifle, will give the individual soldier and Marine a "fighting chance" against enemy armor. Accordingly, I recommend that $3 million of the $13 million authorized for the Army MIPM program be earmarked for advanced development of HEATR in FY88.

Mr. ASPIN. I concur with the gentleman's recommendation. The Army must do more than look at currently available munitions.

Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, citizens throughout the United States appreciate the assistance for natural disaster relief provided through the Federal Emergency Management Agency. Many are concerned, however that that vital assistance would be jeopardized by FEMA's simulated nuclear attack exercices.

It is my understanding that the legislation before us prohibits the withholding of natural disaster assistance or other funds available to FEMA due to a State or other entity's decision not to participate in those attack exercices.

Mr. Chairman, is it the case that this same prohibition will apply to apporpriations under the new authorization level, which the technical amendment seeks to set?

Mr. ASPIN. If the gentleman will yield, yes, that is correct.

Mr. WILLIAMS. So in doing so, States can be assured that their decision on whether or not to join with FEMA on its simulated attack exercises will not affect their right to assistance for natural disasters and other services from FEMA?

Mr. ASPIN. Yes, that is so!

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. ASPIN. Mr. Chairman, I also yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I have some very serious concerns about the lack of contracts beging awarded to minority and women contractors for B-1 related work at an air force in my district in Wichita, KS. My office has been in touch with your subcommittee about these concerns and I was hoping that you could offer your perspective on how you view this situation.

Mr. MAVROULES. If the gentleman will yield, as I understand it from the materials you have shared with me, it certainly appears that the letting of contracts in this circumstance does not conform with congressional intent as articulated both in the section 8(a) program of the Small Business Administration and under the minority contractor set-aside provisions of the Defense authorization.

Mr. GLICKMAN. It struck me in reading the response my office received from the Corps of Engineers' Office in Omaha that they have a misconception about what we intend these set-asides to be. They characterized the program as being aimed at training firms to handle Government contracts and therefore felt that certain contracts for sensitive work should not be included in the program. What are your thoughts on that?

Mr. MAVROULES. As far as I am concerned, these set-asides are intended to assure that work goes to contractors—qualified contractors which exist in your area and around the country, not merely as a "training ground." The characterization in the letter from the corps is certainly not what this Member envisioned when these programs were established, and I feel comfortable in saying that they do not represent the intent of the Congress at large.

Mr. GLICKMAN. I appreciate your thoughts on this; they certainly coincide with the points I have been making to the Pentagon.

Mr. MAVROULES. You are right on target on this, and I want you to know that I will be following up with the Pentagon to try to help you get this situation straightened out.

Mr. GLICKMAN. Mr. Chairman, I very much appreciate the gentleman's interest and cooperation.

Mr. ASPIN. Mr. Chairman, the amendment on portable anti-tank weapons originated with the gentleman from Oregon [Mr. AUCOIN]. His work on this issue over the years has been indispensable. We now have reason to hope that a few years down the road the U.S. infantryman will be able to carry an anti-tank missile on his back in the morning, use it to destroy any enemy tank from any angle in the afternoon, and be alive in the evening to tell about it. We've never had this capability before. We didn't have it in World War II, in Korea, or at any time since. If we get it now, we'll have Mr. AUCOIN'S efforts to thank for it.

Mr. KYL. Mr. Chairman, I offer this amendment to the CHAMPUS reform initiative as a substitute to an amendment I offered during full committee markup of the fiscal year 1988 Department of Defense authorization bill.

My original amendment, which was adopted without objection, requires that the current request for proposals [RFP] be withdrawn and reissued to require a minimum of five contracts and five contractors covering subregions I, II, and III of the current solicitation.

The RFP issued in late February for the demonstration phase of the DOD's CHAMPUS reform initiative [CRI] would award contracts for three, two-State regions—one contract each for California and Hawaii, Florida, and Georgia, and North and South Carolina. It also would award a contract for a demonstration project in New Orleans.

While the size of these two-State regions is better than what was originally proposed by DOD—one nationwide contract—these are still very large areas. Whoever is awarded each contract—and under the current solicitation it could be one contractor—would be responsible for setting up networks of health care providers to take care of all the care received by nonactive duty beneficiaries that are unable to receive care in military treatment facilities. This is a monumental task. I am concerned that very few contractors have the capability to cover such a large area. Of greater concern, I believe that the quality of care could be jeopardized if the only way to receive care is under one nationwide contract.

In the private sector, employers tend to contract on a much smaller basis—the local Blue Cross-Blue Shield plan or an area health maintenance organization of a citywide network of providers, for example—not a two-State area, particularly when you are talking about States as populous as California and Florida.

There is considerable concern that there may be only one contractor with the capability to provide care to a two-State region and that such a contractor could win all three contracts for these three regions. This would set the stage for one contractor controlling the civilian health care market for all nonmilitary hospital care as CRI is expanded into other regions. I do not believe this is in the best interest of the taxpayer. More importantly, I do believe this to be in the best interest of the beneficiary.

We need to foster greater competition in the bidding process. This can best be accomplished by awarding contracts to a variety of providers—hopefully different types of providers—so that when the evaluation occurs of the CRI demonstration phase, there will be alternatives to evaluate.

This is why I offered my amendment during the full committee markup of the bill. Competition—to ensure quality care and minimize cost—and having alternatives to evaluate is the bottom line of my amendment.

In offering this substitute amendment, I seek to address concerns from DOD, some of my colleagues and others regarding the impact my original amendment would have in delaying the demonstration phase of CRI by pulling the RFP, while still preserving the spirit of my original amendment.

My substitute amendment allows the current RFP to go forward, amended slightly to ensure a minimum of three contractors during the demonstration phase of the program. The amendment specifies that no contractor may be awarded more than one contract for subregions I, II, and III under the current RFP. This minor change reflects what DOD has stated its intent is on this matter—to issue no more than one contract per contractor.

In addition, my amendment would incorporate smaller demonstration projects—most of which are already in place—into the overall evaluation phase. Representing a wide variety of health care delivery systems, these demonstration projects will add different types and sizes of contractors and programs for analysis. It would do so without interfering with the existing RFP or slowing the demonstration phase.

What do we expect can be gained from the inclusion of the special demonstration projects into the evaluation phase of the CHAMPUS reform initiative?

I believe there are valuable lessons to be learned—lessons which my be very pertinent to the final contract stage of the reform initiative.

Many questions about the best way to reform the current CHAMPUS Program remain unanswered. What is the best way to deliver medical care and to manage the delivery of that care? Should contracting be done with a single umbrella contractor who would then be responsible for negotiating and administering a variety of subcontracts for care? Or, should DOD and the services be more directly involved in the contract process? What is the proper role of the hospital commander? What is the optimal area size—a single State, a multistate region, a metropolitan area, a military hospital catchment area? Should contracts be for all medical services, as proposed in the current RFP for the CRI, or for selected high-cost or high-volume services like psychiatric and obstetrical care? Should contracts be based on an enrolled population? Rather than a totally new program, could you achieve substantial improvement within the present CHAMPUS structure by requiring additional cost containment and quality assurance activities on the part of the current fiscal intermediaries?

The Department of Defense believes it already knows the answers to all of these questions and does not need any further study or evaluation of alternatives. The Congress has insisted on a demonstration phase, not only to test the particular contractor or contractors, but also to evaluate different types and sizes of programs in order to craft a better RFP for the final program contracts. The purpose of my amendment is to require DOD to make use of information to be gained from the demonstration phase, in deciding on the exact form of the final CRI.

To this end, all demonstrations, including the DOD proposed CRI, should be submitted to rigorous evaluation before the Department settles on one best way to reform. There are too many legitimate concerns regarding the feasibility of all aspects of CRI that have been expressed by industry, the General Accounting Office, the Congressional Budget Office, and others to permit its wide-scale implementation without some comparison data. Surely, there are lessons to be learned from DOD's other health care demonstration projects that could strengthen the eventual reform.

Let me describe briefly the demonstration projects included in my amendment to be evaluated in conjunction with the CRI and what I believe can be learned from them.

First. The Tidewater mental health demonstration project involves an umbrella contractor for a single high-cost, high-volume medical service in a region with overlapping military treatment facility catchment areas and a large number of CHAMPUS beneficiaries. If successful, this initiative could be easily replicated in a number of areas with high CHAMPUS utilization to achieve both cost savings and increased beneficiary satisfaction.

Second. The New Orleans demonstration project, by contrast, involves an umbrella contractor who will be responsible for providing a comprehensive package of medical care in a metropolitan area with a military hospital.

Third. In the Fort Drum demonstration project, the Army will provide outpatient services in a military clinic but will contract for inpatient care with civilian hospitals in the local community.

Fourth. In the case of PRIMUS and NAVCARE, the Army and Navy have contracted for civilian-run primary care clinics for a variety of outpatient services, but will continue to rely on the nearby military hospital for inpatient beds. In both cases, primary contracting responsibility and program management are being undertaken by the services themselves, rather than by an unbrella contractor. I believe it would make sense to designate an area like Washington, DC, which has overlapping military hospital catchment areas, as the site for this demonstration project. PRIMUS offers an enhanced preventive benefits package, similar to that proposed for CRI, and should provide a useful body of information on the cost and other implications of this approach.

Fifth. Under the Air Force catchment area demonstration projects required in section 734 of the committee-reported bill, local medical commanders would be responsible for providing health care to all beneficiaries in their catchment areas, either in their own treatment facilities or through contracting for services. Catchment area management is the exact opposite of the CRI. The health care finder being implemented by the Air Force provides initial evidence that this is a viable concept. Catchment area management may work; it may not. But it has many proponents and deserves to be tested and evaluated within the framework of CRI.

Sixth. In conjunction with its plans to close the Philadelphia Hospital, the Navy intends to conduct a demonstration project to contract with civilian providers for care provided to nonactive-duty beneficiaries. My amendment would require that this demonstration project utilize a managed health care network and would require enrollment of the beneficiary population, funded on a capitation basis. Both enrollment and capitation are routine components of private sector health care plans and deserve to be tested for inclusion in the military health care system.

Seventh. Finally, my amendment requires that a current CHAMPUS fiscal intermediary contract be amended to implement techniques that have been widely implemented by large private insurers and employers who self-insure and which have resulted in significant savings and improved management. These techniques include utilization review through preadmission screening, mandatory second surgical opinions, length-of-stay reviews, aggressive quality assurance review, and contracting with preferred providers for reduced rates. A total restructuring as proposed by CRI may or may not be required to abate the rising costs in military health care delivery. My amendment would permit the director of the Office of the Civilian Health and Medical Program of the Uniform Services to enter into limited or sole-source contracts with at least one of the existing fiscal intermediaries to determine whether simple changes in the current CHAMPUS structure can more efficiently and effectively address the perceived flaws in CHAMPUS, rather than the total restructuring envisioned by CRI. This revised fiscal intermediary contract would run concurrently with the first phase of CRI, so that the Department could evaluate both systems before making a final decision on the ultimate form of CHAMPUS in the future.

Rather than incorporating these seven smaller demonstration projects into the evaluation, I would have preferred a minimum of five contracts and five contractors, with subregions I, II and III reorganized into smaller regions to accommodate this requirement, as called for in my original amendment. But this substitute amendment, which allows the current RFP to go forward, which endures that there will be a minimum of three contracts and three contractors for the three two-State regions, and which includes several alternative health care delivery systems to be evaluated in conjunction with CRI, goes far toward addressing my concerns. This substitute will provide for a better demonstration phase and provide valuable data for analysis and evaluation. Ultimately, this will contribute to a successful CHAMPUS Program. A CHAMPUS Program that will have better coordination between the military and civilian components of the Military Health Services System. A CHAMPUS Program that is more cost efficient for both the Government and the beneficiary. And, most importantly, a CHAMPUS Program that is more responsive to beneficiaries and ensures quality care to beneficiaries.

Our concern should not be for the providers but for the beneficiaries. My intent here is to do as much as possible to ensure that the quality of care for beneficiaries is improved. I think that can best be done by enhancing competition and providing for a variety of contractors and contracts during the demonstration phase. My substitute amendment achieves this goal.

Mrs. BYRON. Mr. Chairman, I want to express my support for the amendment offered by the gentleman from Arizona [Mr. Kyl] dealing with the Department of Defense's proposed CHAMPUS reform initiative [CFR]. The gentleman's amendment permits CRI to go forward in accordance with the request for proposals [RFP] issued in late February. The amendment also directs the Department of Defense to conduct several alternative demonstration projects utilizing different size regions, methods of delivery, and levels of management and to evaluate the results of those demonstration projects in conjunction with the CHAMPUS reform initiative.

Under the CHAMPUS reform initiative, the Department of Defense plans to contract with private industry—presumably large hospital corporations or consortiums of insurance carriers—to provide care to nonactive duty beneficiaries. Although CRI holds promise, there are a number of smaller scale reforms that merit attention, analysis and evaluation, as required by the gentleman's amendment. Some are managed directly by the services, like the civilian-run primary care clinics known as PRIMUS and NAVCARE. Others like the Tidewater mental health demonstration project are overseen by the Office of the Civilian Health and Medical Program of the Uniformed Services [OCHAMPUS].

These reforms invite questions that go to the heart of the CRI concept. Is massive buying power really necessary to strike favorable deals with the private sector? Are local medical commanders truly unable to acquire and manage complex new capabilities? Indeed, what is the best level at which to manage the military health care system?

There are valuable lessons to be learned from the demonstration projects included in the gentleman's amendment. And these are lessons that will help achieve what clearly should be our primary goal in this process: improved access to good quality medical care at reasonable cost for beneficiaries of the military health care system.

I want to commend the gentleman on his amendment.

Mr. McCURDY. Mr. Chairman, last year, as part of the Defense authorization bill, the Congress approved my amendment to require DOD to report to Congress on certain aspects of the CHAMPUS reform initiative before proceeding with the RFP. My amendment required DOD to report to Congress on methods to guarantee competition among health care providers, including the merits of using a voucher or fee schedule system instead of preferred provider networks, and ways to ensure that independent, community hospitals were given equal access to the system with major hospital chains.

My interest was sparked by several health care providers from my district who had serious reservations about the form the RFP was taking. I have since been contacted by many national health care providers who also are concerned. Most of these national insurance companies and hospital chains have decided not to bid on the first year CHAMPUS reform initiative contracts because of the way the RFP is structured.

Now, there must be something seriously wrong in the structure of this proposal if most major insurance providers have decided not to bid on it. When CHAMPUS reform was first proposed, nearly every multimillion-dollar health care chain enthusiastically embraced the concept of contracting out current CHAMPUS health care services. How could they resist, when it would mean $1½ to $2 billion in Federal contracting for health care providers? Nevertheless, one-by-one, these companies have withdrawn their intent to bid.

In February, I received the required report from DOD, along with a summary of how the final RFP for the first-year demonstration projects would be structured. Most of my concerns regarding competition among individual providers were not addressed. The major change for the RFP was the decision to award six contracts at full implementation rather than three. Enhancing competition at the individual provider level, which prompted my amendment, was not addressed.

The national health care providers—the real experts in the field—have continually expressed frustration that most of their suggestions to DOD have been in vain. I was told over and over again by many reputable sources that DOD has been totally unwilling to make any adjustments.

When this year's authorization bill was taken up by the Armed Services Committee, my colleague from Arizona [Mr. KYL], offered an amendment that would have required DOD to withdraw its CHAMPUS reform RFP and reissue it with certain changes.

Many of us feel that a major restructuring of the program would be in the best interests of CHAMPUS beneficiaries. However, because of some concerns expressed by the Department of Defense, other Members of Congress and interested parties regarding delaying the first phase of CHAMPUS reform, my colleague from Arizona is now offering a fair alternative.

The Kyl amendment would allow DOD to continue with its current RFP in the six States where the first-year reform was to begin, but specifically limit each contractor to one contract. At the same time, however, DOD would have to implement some smaller demonstration projects in other States that are not yet affected by CHAMPUS reform. Because several of these proposed demonstration projects were well into the planning stages before the CHAMPUS reform initiative was announced, and some are already being implemented, this amendment provides for evaluating alternatives to the CHAMPUS reform initiative without delaying the current RFP or creating great additional burdens for DOD. I think this is a good proposal. More importantly, it will lead to a better CHAMPUS program. I urge my colleagues to support it.

Mr. DYMALLY. Mr. Chairman, as a member of the Committee on Post Office and Civil Service, it has been brought to my attention that problems exist with the implementation of the Military Education Program in the Army National Guard, as it relates to civilian technicians.

In a nutshell, this program, established in August 1985, requires technicians to attend training schools far from home, often for long periods of time. In contrast, military personnel of the Army National Guard may complete the required training in a shorter period of time, at NCO training centers located in each State.

To complete the required training, a technician must use his annual leave time, and then enter a leave-without-pay status, if necessary. In this situation, the employee loses his civilian pay and benefits.

Successful completion of the MEP is a prerequisite for military promotion to the next highest grade. Because technicians must hold dual military status as a condition of their civilian employment, their failure to receive a military promotion, within a certain time period, results in a loss of their full-time civilian job.

Thus, the implementation of the MEP places technicians in a "catch-22" situation which is highly unfair and detrimental to morale.

In addition, the absence of many technicians for the purpose of training may have a negative impact on readiness at National Guard bases, because these employees are responsible for maintaining vital equipment.

Earlier this year, 30 of my colleagues joined me in writing to the head of the National Guard Bureau, to request that the Bureau address this implementation problem administratively.

The response we received offered no solution and did not acknowledge the negative impact of this program on personnel.

I then joined my colleague from Massachusetts [Mr. MOAKLEY], in introducing legislation (H.R. 1808) to suspend the MEP for 2 years, pending the receipt of a report by the appropriate congressional committees on the effects of this program on military readiness and benefits for civilian technicians.

Mr. Speaker, my amendment encompasses only a small portion of H.R. 1808, but I believe it serves to put the National Guard Bureau on notice that the problems created by current military training programs must be addressed.

It requires a report from the General Accounting Office on the effects of the Military Education Program, as currently implemented.

It also provides that a civilian technician may not be denied a military promotion solely for the reason that training spaces in the MEP are unavailable in a timely manner, through no fault of the employee.

Finally, I would like to address a related concern which is not addressed directly in the amendment, relative to the loss of Federal employee life and health insurance benefits for those technicians who go on leave-without-pay to enter active duty training.

The laws governing the Federal Employees' Group Life Insurance Program [FEGLIP] and the Federal Employees Health Benefits Program [FEHBP] generally provide that benefits for an employee who enters on leave without pay may continue for 12 months (5 U.S.C. 8706(a), 8714a(c), 8714b(c), 8714c(c), and 8906(e)). If an employee on LWOP entered active military duty, however, his life insurance was terminated by statute (5 U.S.C. 8706(c), 8714a(c)(1), 8714b(c)(1), and 8714c(c)(1)). Similarly, by regulation, such employee's health insurance was terminated (5 CFR 890.304(a)(5)).

Last year Congress repealed the statutory provision requiring termination of an employee's life insurance (P.L. 99-335, sec. 207(k), June 6, 1986). Regulations implementing this change were issued last month (52 F.R. 12133, April 15, 1987). Under existing regulations, however, health insurance coverage for an employee who enters active duty training still terminates. This is unfair. I urge the Office of Personnel Management to consider changing its regulations so that employees who enter on leave without pay to engage in active duty training may have their health insurance coverage continued to the same extent as other employees who enter on leave without pay.

Mr. Chairman, this amendment sends a signal to the National Guard Bureau that it should attempt to carry out training requirements in a manner that is less detrimental to the well-being of its employees.

I appreciate the support of the committee chairman and subcommittee chair on this issue.

I also would like to commend the gentleman from Massachusetts [Mr. MOAKLEY] for his recognition of the problems caused by the MEP and his leadership in introducing legislation to correct these inequities.

I urge my colleagues to support this amendment.

Mr. MOAKLEY. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California [Mr. DYMALLY] which has been incorporated into the en bloc amendment offered by the gentleman from Wisconsin [Mr. ASPIN]. The amendment is similar to a bill (H.R. 1808) I introduced along with the gentleman from California in order to relieve an unfair burden which was placed on civilian technicians of the Army National Guard with the introduction of the Military Education Program. The Military Education Program was established in March 1985, under the discretionary authority of the National Guard Bureau which oversees the various State National Guard units.

Under the newly established Military Education Program, civilian technicians must go out of State, sometimes for up to 6 months, to attend training courses, where they used to be able to attend State-run education programs on the weekends. The most unfair part of the new program is that they must use their annual leave time or leave without pay while they attend these courses.

In addition, while they are attending these courses, they and their families temporarily lose some of their civilian benefits such as health insurance and retirement benefits. It is my understanding that only recently have civilian technicians been able to retain their life insurance coverage while attending the Military Education Program. Mr Chairman, the disruption of these benefits is unfair and unnecessary and for this reason it is one of the focuses of the study into the Military Education Program called for by the amendment offered by the gentleman from California.

The new program in addition to being unfair to the individual civilian technicians poses a serious military readiness problem. With these technicians away for extended periods of time for this new education program, there are no replacement personnel to work on our equipment and vehicles to ensure our preparedness.

Civilian technicians employed under 32 U.S.C. 709 are outside the competitive service and must as a condition of continued employment maintain military membership in the National Guard. Under this new Military Education Program, all civilian technicians employed by the Army National Guard must attend these courses at one of two centers nationwide in order to be promoted militarily.

The first part of the amendment offered by the gentleman from California would guarantee that a civilian technician cannot be denied a military promotion simply because of a lack of an available training spot in the Military Education Program. This language is self-explanatory and is meant to overcome the unfair denial of promotions for civilian technicians who otherwise deserve a promotion.

The second part of the amendment offered by the gentleman from California is similar to the language in H.R. 1808 requiring a study of the Military Education Program and especially highlighting the biggest problems with the new program including its cost, its effect on military readiness, and its effect on the benefits of civilian technicians. However, the amendment requires that the study of the program be performed by the Comptroller General rather than the Defense Department as required by H.R. 1808.

Mr. Chairman, our amendment does not address the benefit issue immediately, although we hope the GAO audit will produce a fair basis to resolve these painful disruptions in the lives of technicians and their families. I am also very encouraged to learn that the Department is now weighing a more immediate arrangement to continue civil service benefits during training, and I urge the Department to resolve this matter as quickly as possible.

Finally, Mr. Chairman, the amendment offered by the gentleman from California does not place a moratorium on the Military Education Program while the study is being conducted as H.R. 1808 would require. I support the idea of suspending the program until the study is completed.

However, I realize the objections that some of my colleagues have with this provision, and I think the gentleman from California has put together an agreeable compromise by removing this moratorium from his amendment. I commend the gentleman from California for putting together a workable compromise and I urge my colleagues to join in support for this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise today in strong support of the Bennett-Boxer-Ridge-Smith-Wyden-Levine-Bustamante-Slaughter amendment on the Bradley fighting vehicle.

Mr. Chairman, a defense consultant called it a "mobile ammunition, fuel, and people dump." The New York Times called it a "half battle taxi, half light tank, a hybrid inadequate in either role." The San Jose Mercury News, in a recent series of articles, called it "flawed in production and in the field." Others have variously called it, in the years I have been in Congress and involved with the Bradley issue, a "$13 billion lemon," "an infantryman's dream," "a deathtrap," and "a packed tomb."

Whichever description one chooses, more infantrymen will lay their lives on the line by riding, and fighting, in the Bradley fighting vehicle than any other weapon in the Army's arsenal. Yet we still don't have the answers to many fundamental questions of vulnerability and survivability regarding the Bradley, questions which have a direct bearing on whether or not our troops will be unnecessarily endangered in combat. Regrettably, the Army for years has stonewalled in providing Congress and the American people with answers to these critical questions, while simultaneously placing thousands of Bradleys in the field.

Mr. Chairman, it is time for Congress to take a stand. It is time for Congress to force some action. It is time for Congress to vote no on fielding a vehicle with such fundamental flaws as the Bradley. It is time for Congress to once and for all put parochial considerations behind it and vote for an amendment which would ensure the safety of our soldiers. This is not a jobs issue, no matter how hard Bradley proponents try and portray it as such.

One year ago, Congress had an opportunity to pass an amendment offered by myself and many of the other Members associated with the Bennett amendment which would have forced realistic testing of the Bradley. In this way, we hoped to have answers to the questions referred to above. Regrettably, this body chose to continue full funding of the Bradley program and defeated that amendment.

It should come as no surprise to any one in this Chamber that the news in the last 12 months on the Bradley has only gotten worse. Phase 2 tests, supposed to have been completed last spring, are still going on. Problems with the transmission, the turret, and particularly the swimming capability, brought to the fore so tragically by the sinking of several Bradleys and the drowning death of a 19-year-old soldier, are only the latest installments in the Bradley saga.

I am therefore pleased, Mr. Chairman, that Congress stands poised to pass the Bennett amendment on the Bradley as part of the en bloc amendment offered by Mr. ASPIN.

I won't go into the specifics of the Bennett amendment at this point, Mr. Chairman, except to say that it imposes a full fence on funding of the Bradley until 15 legislative days after the Secretary of Defense undertakes a series of steps designed to provide Congress with answers to the many significant questions regarding Bradley vulnerability and survivability that remain outstanding.

I would, however, like to take a moment to emphasize one particular aspect of the Bennett amendment; that is, the importance of the focus on casualty reductions.

Those of us who have been involved in the Bradley debate over the last several years have made casualty reductions our No. 1 priority. Indeed, it was—and remains—the primary concern of Col. James Burton, who conducted the Bradley live-fire tests up until April 2, 1986. I have never quite understood why the Army needs to be reminded how important are the lives of the soldiers who must ride in the Bradley. And yet the Army has consistently resisted both conducting the tests—the purpose of which is to determine how best to reduce unnecessary casualties—and implementing changes suggested by Colonel Burton to save soldiers' lives.

This amendment, however, directs that the Secretary of Defense must certify to Congress in writing that the survivability modifications selected by the Secretary for the Bradley maximize casualty reductions. This is critical. The safety of our soldiers must remain our first priority.

This is not to say that cost or operational effectiveness, concerns raised by certain Members as well as by the Army, should not be considered when fixing the Bradley. Indeed, that is why the amendment includes language dealing with both these items. But again, casualty reductions must be our first priority.

In conclusion, Mr. Chairman, this amendment is the product of long negotiations and compromise among the Members interested in this issue. It is worthy of my colleagues' support. It would be a tragedy if it took the deaths of American soldiers to uncover flaws in the Bradley which should have been discovered prior to placing it on the battlefield.

Mr. BADHAM. Mr. Chairman, 3 years ago my amendment to the DOD authorization bill was adopted to implement, in conjunction with the strategic defense initiative, a research program on the medical and material science applications of the free electron laser.

I believed then, as I do now, that we must make this promising technology available for civilian uses and benefits as soon as possible.

To accomplish this, at least five multidisciplinary, university-based research centers were to be established to investigate potential medical applications, expedite scientific and engineering training and develop programs to utilize this advanced technology in support of DOD basic and applied research.

Since 1984 interest in and expectations for the FEL have continued to grow and progress has been made. Prof. John Madey, inventor of this unique tunable laser, and director of research at Stanford's new Photon Research Laboratory informs me that at the two centers where FEL's already existed, "experiments have been conducted to modulate the metabolic rate of cell cultures, activate photochemical anticancer drugs, dissect gallstones, and evaluate laser opthalmic hazards in the near-infrared."

I am pleased to note the work being done and am also pleased to offer once more language to ensure that MFEL research receives funding. The Armed Services Committee and the full House have strongly supported this effort on a bipartisan basis. I am sure that the benefits we will derive from this research will show that support to be well founded.

However, care must be taken in the allocation of resources for this important initiative so that the greatest good can be achieved. In my view, the regional centers are the most cost-effective approach to gain widespread study and application of the FEL for civilian uses and sufficient training and education nationwide. Thus, I hope to hear of further progress toward operational regional centers as originally envisioned.

In closing, I state again my ongoing support for the MFEL program and urge my colleagues' continued support as well.

Mr. BUSTAMANTE. Mr. Chairman, I rise in support of the Bennett-Bustamante live-fire test amendment. Our amendment gives the Assistant Deputy Under Secretary for live-fire testing appropriate authority and funding to carry out his responsibilities as directed by Congress last year.

Mr. Chairman, let me first briefly explain to my colleagues the purpose of the Live-Fire Test Program before I describe what our amendment does. The purpose of the Live-Fire Test Program is simply to save U.S. lives by testing to ensure that: First, U.S. weapons platforms do not unnecessarily endanger their crews, and second, the weapons U.S. servicemen fire actually stop the enemy. By shooting real Soviet weapons at United States vehicles loaded with the dangerous materials they have to carry in combat—fuel, hydraulic fluid and live ammunition—and by shooting United States weapons against combat loaded Soviet vehicles we can discover serious shortcomings in our weapons systems before actual combat occurs and it's too late.

Our failure to conduct realistic combat live fire testing in the past has resulted in United States bazookas failing to stop enemy tanks due to inadequate warheads during World War II, Korea and Vietnam. In World War II, Korea and Israel, United States tanks proved excessively flammable and vulnerable. This painful experience of excessive casualties led the Israelis to design a unique armor concept in their Merkava tank which sacrifices the tank in order to protect the crew. As a consequence of not doing combat-realistic live-fire testing, we have no idea whether today's systems have improved this situation. The live-fire testing program was instituted to answer this question, and to assist in making sure real improvements happen.

From the live-fire tests on the Bradley Fighting Vehicle, we learned that ammunition stored inside the vehicle, when hit, is the major source of unnecessary casualties and catastrophic vehicle losses; that fuel and fire extinguishers may force the troops out of the vehicle almost every time it is hit, causing greater risk of added casualities; and that Bradley casualties can be significantly reduced by moving ammunition and fuel out of the troop compartment.

Last year, during House Armed Services Committee hearings on the Bradley, General Thurman, the Army Vice Chief of Staff, stated that vulnerability testing has been useful for the Army. He also indicated that as a result he would accelerate the M-1 tank tests by 1 year. However, despite General Thurman's commitment to the committee, we must note that the M-1 tank has not been tested.

The amendment includes provisions reflecting the recommendations of Retired Col. James Burton and of his successor, Assistant Deputy Under Secretary of Defense for Live-Fire Testing, Jim O'Bryon. These include:

First, independent oversight and revision of initial service test plans;

Second, independent on-site observation of the tests and access to all raw data;

Third, independent assessment of results in parallel with the service assessment; and

Fourth, the need to live-fire test every system that exposes significant numbers of servicemen to danger in combat, both before the design in finalized and for the production version.

In addition to the above-mentioned recommended provisions, the amendment defines the authoritty of the Under Secretary by clarifying the definitions of vulnerability, survivability, and lethality.

It provides the Under Secretary with the authority to obtain foreign weapons, targets, and munitions to ensure realistic testing.

It requires the Secretary of Defense to provide the Undersecretary with adequate staff.

It addresses the requirement for live-fire testing of those systems that don't have a low-rate initial production phase or involve a major modification of an existing system that significantly changes the performance envelope for vulnerability and/or lethality.

The amendment also restores funding which the Aspin substitute deleted and makes up for serious funding shortfalls to support the Live-Fire Testing Program. The reason for these serious funding shortfalls is that the congressional action which created the Live-Fire Testing Program occurred after the submission of the fiscal year 1988-89 budget.

The amendment restores $8.5 million from various live-fire test elements which were deleted in the Aspin substitute.

It includes an additional $6 million for the joint Live-Fire project for live-fire testing of the Merkava tank, which will provide useful information on possible vulnerability and survivability standards.

It specifies that nearly $8 million is available to adequately staff the live-fire testing office and to fund independent reports. (Currently the office doesn't even have a secretary.) To even begin to accomplish what past legislation requires, the Assistant Deputy Undersecretary of Defense for live-fire testing has identified a need for four additional civilian positions, one military permanent billet, and a secretary.

The amendment also makes up the $4.1 million shortfall in the President's budget for the Live-Fire Testing Program, enabling to fund live fire procedures and methodology improvements; independent evaluations and assessments; on-site monitoring; live fire instrumentation development, procurement, replacement, installation and operation; range/facility operations and improvements; live-fire foreign materiel threats/targets procurement; anthropomorphic mannekins; and crew survivability analysis.

It makes up the $5.8 million shortfall in the President's budget for the joint technical coordinating group for aircraft survivability.

The live-fire testing programs requires our continuing attention and funding support to assure that combat-realistic live-fire testing does not fade away. It is our responsibility to insure that our weapons work effectively and protest adequately our soldiers. Short of actual combat, the Live-Fire Testing Program provides us with the necessary information to improve the survivability and effectiveness of our weapons.

Mr. Chairman, I want to thank Mr. BENNETT for his work on this amendment and the Armed Services Committee for supporting this amendment.

Mr. BADHAM. Mr. Chairman, the amendment I am offering is to correct a problem that has been going on for a long time. In Orange County, CA, there is a public recreational area called Mile Square Park which includes several baseball fields, soccer fields, archery ranges and a golf course. Also, in the center of this park is a 137-acre tract of land that is owned by the Marine Corps.

The Marines have not needed this tract of land for operational needs for some time. The Marines do, however, have a need for suitable land to build military family housing and have held on to this tract in the hopes of exchanging it for that purpose. Obviously, it would not be practical to build family housing on the existing land as it is in the middle of a public recreational park. The county of Orange has for some time, been attempting to complete its plans for Mile Square Park. It now appears that all of these problems can be solved by my amendment.

The county of Orange has agreed to purchase 41 acres of land, suitable for the construction of military family housing, adjacent to Tustin Marine Corps Air Station. The Marines have agreed to exchange the 137 acres of unusable land at Mile Square Park for the 41 acres at Tustin. The county has also agreed that if the fair market value of the 137 acres exceeds the fair market value of the 41 acres, the county will pay the difference to the Treasury of the United States. All of the required safeguards are in the amendment to protect the interests of the Government.

Mr. Chairman, this is straight forward, everybody wins proposition. The Marines will get land that is critically needed for the construction of family housing and thus relieving some of the severe housing shortages that our military personnel are experiencing in the southern California area. The county of Orange will finally be able to complete its plans for Mile Square Park and thereby provide needed additional recreational facilities for the county residents. This is a no cost to the Goverment amendment that will provide an excellent return on everyone's investment. I urge you to approve this needed amendment.

Mr. DICKS. Mr. Chairman, the House has just completed debate on steps needed to assure the safety of operations at the N-Reactor at Hanford. While a very important issue, it is only symptomatic of a much larger, and more serious issue.

That is the simple fact of life that we have gone far too long without modernizing the facilities we use to produce nuclear materials. Quite simply, the Department of Energy has neglected its responsibilities by ignoring safety problems and hoping that the existing facilities could simply be patched together indefinitely. The concentration has been entirely on full speed ahead production. As a result, none of the current reactors is operating at full capacity because of safety problems and their future is very much open to question. We are facing increasing safety problems and the ability of the facility complex to meet legitimate defense requirements while operating safely is open to real and serious question.

The Armed Services Committee has taken some important first steps in addressing this issue. First it has included authorization of $20 million for the necessary study and design of a new production reactor. The Secretary of Energy is directed to act expeditiously to identify a preferred alternative for a new production reactor and to provide an estimate of cost and schedule to build the reactor and support facilities. The committee report provides an excellent summary of the reasons that this step is of utmost importance, and I commend the attention they are giving to the need for a new reactor.

I also welcome the committee's inclusion of an additional $20 million for remedial actions involved with inactive hazardous waste sites and for emergency respone to hazardous substance releases from inactive hazardous waste sites. This is a huge problem that will take several years to address. But we must move more rapidly than the administration has been willing to fund, and this addition is a positive step in that direction.

Finally, the bill includes a provision requiring the president to submit to the Congress a plan for the modernization of the nuclear weapons complex by February 1, 1988. The study would require consultation with experts from the Government and from the private sector and make recommendations for the overall size and productive capacity of the industrial establishment needed to meet national security objectives and detail how this capability would be achieved in a safe and environmentally acceptable manner. As we begin to debate the future of the nuclear weapons complex, it is essential that we have a blueprint. This study will provide us that bluerprint.

But I believe one additional step is required. As a result of last year's congressional directive, the National Academy of Sciences is performing a study of the operational safety of the N-reactor. It is important that this review be expanded to include the other facilities in the nuclear weapons complex including the reactors at Savannah River, the Fernald Plant, Rocky Flats Colorado and the Pantex Plant in Texas. As long as we depend on these facilities to play an important role in maintaining our strategic deterrent we must be certain that their operation does not create undeeded risks to those who work at or live near them.

My amendment would have the National Academy of Sciences provide an assessment of the status of the current nuclear weapons complex with respect to safety and environmental impact. It would also provide an estimate of the maximum production capability for each nuclear reactor of the Department of Energy consistent with safe operation and the approximate date on which a replacement will be required for each reactor. I believe that this kind of independent assessment is needed to give us a credible picture of where we really stand today and what interim steps may be required before any new facilities could be brought on line to protect the safety of both workers and the surrounding community.

The amendment would require the report on an annual basis and have the Secretary of Energy comment on it and provide a description of this plans to correct any problems identified in the report. I hope that an established annual independent review process will guard against the kind of neglect to safety that we have seen in the past.

Again I commend the committee for its work and look forward to proceeding with work on this extremely important legislation.

Mr. BADHAM. Mr. Chairman, this amendment is submitted as a technical clarification—adding two words—which better clarifies the direction of the House Armed Services Committee to DOD concerning the Ground Proximity Warning System Program. In previous deliberations, the Armed Services Committee recommended that each military service include fiscal year 1988 through fiscal year 1992 budget requests for funding to equip all passenger carrying aircraft with a state-of-the-art Second Generation Ground Warning

System. It was with disappointment that no specific funding was so requested by any military service.

It is my belief that until such budget requests are made and plans submitted, no funds authorized by this committee should be used to procure or modify any transport aircraft unless equipped with a Ground Proximity Warning System.

Mr. BENNETT. Mr. Chairman, in debates in the House and in the press reports there have been numerous references to excess funds in the Department of Defense. Estimates of the amount of excess funds have varied, but some estimates have exceeded $40 billion. While there may be some doubt as to the exact amount of excess funds, there is no question that they exist. For example, in fiscal year 1986, $6.3 billion of excess funds were used for a variety of defense programs.

The existence of excess funds in the Department of Defense creates a number of problems.

First, the excess funds allow the Department of Defense to operate in an inefficient manner that simply wastes money and does not produce a strong national defense. The presence of these extra funds tends to encourage loose fiscal administration. We in Congress have a responsibility to provide the sums necessary for a strong national defense, but we also have a responsibility to see that no more than is necessary is provided.

Second, as Congress and the public have become aware of the waste in the Department of Defense, and that perception of waste is aided by the existence of excess funds, the willingness to support necessary defense programs is eroded.

Third, those excess funds that are identified under our existing procedures tend to be regarded as "free-funds" that can be used without meeting the same standards that might otherwise be applied if the funds were subject to the normal process of authorization and appropriation. The use of $1.5 billion of excess funds to pay for the MX in 1985 is, because of my opposition to the MX Program, an example that I like to point out. Others may prefer to point out use of excess funds to authorize ships that could not have been authorized under ordinary budget procedures. In any event, the point is that excess funds are used to fund things that may not otherwise be done.

There is a straightforward solution to the problem of excess funds in the Defense Department. My amendment would provide that excess funds may not be spent. Excess funds that could not be spent would include savings from: First, inflation fluctuations; second, excess working capital fund cost; third, foreign currency fluctuations; and fourth, all other savings. Additionally my amendment would provide that any funds provided for a program that had not been initiated within 3 years could not be spent.

I have worked closely with the GAO on the technical aspects of this, and the GAO has said it will have its intended effect. Some have said we can never get to the bottom of DOD excess funding. We can with my amendment. Under this amendment, excess funds not spent would, after 2 years, revert back to the Treasury.

Mr. Chairman, we need to act to restore the confidence of the American people that money provided to the Department of Defense will be used prudently and efficiently to provide for the National Defense. My amendment will achieve that end.

This passed last year on the DOD authorization bill by voice vote, but was dropped in conference. There's no reason why this needed law should not be enacted.

Mr. RANGEL. Mr. Chairman, I rise in support of the amendment. As chairman of the Select Committee on Narcotics Abuse and Control, I am concerned that the necessary manpower and resources are dedicated to combatting the influx of illicit drug into this country. Therefore, I am pleased to support the amendment of the gentleman from Florida, Mr. BENNETT, which expands the role of the military in the war against drug trafficking.

The relationship between civilian and military in our Nation has been a carefully constructed one. In 1878, the Congress enacted legislation making it unlawful to employ any part of the Army of the United States as a posse comitatus, or otherwise, for the purpose of executing laws, except where such employment was authorized by the Constitution or act of Congress. On occasion Congress has acted to authorize exceptions to the posse comitatus law to allow the military to assist in civilian law enforcement.

Because of the serious threat posed to this country by drug trafficking and illicit narcotics, in 1981 the Congress passed the so-called posse comitatus amendments. These amendments were intended to give the military clear authority to assist civilian drug law enforcement agencies while assuring that no impairment would occur in our military readiness.

The 1981 amendments permit the military to assist civilian law enforcement agencies by sharing information collected during the normal course of military operations, military equipment, and facilities. It also allows the military to provide training and technical assistance to civilian agencies. Furthermore, in certain limited circumstances, the military is permitted to operate and maintain equipment loaned to Federal drug enforcement agencies.

Drug enforcement agencies and the military services have both indicated to the select committee that the 1981 amendments have had a very positive effect in increasing military cooperation with civilian drug enforcement. The 1981 amendments have permitted the military to make an important contribution to our narcotics suppression efforts in support of the civilian agencies that have the primary responsibility for drug enforcement and interdiction missions.

Most recently, under the Anti-Drug Abuse Act of 1986, the military has been authorized to provide a wide range of equipment to the drug enforcement and interdiction agencies, bringing their resources into the 1980's. They have made available four Blackhawk helicopters to the Customs Service, and four E2-C radar equipped aircraft, two Customs and two to Coast Guard. They are in the process of providing aerostats to the Customs Service, which will be used to close the window of vulnerability along the southwest border.

The Coast Guard has also been placing law enforcement teams aboard Navy ships to board suspected smuggling vessels when they are encountered and make any arrests, searches, and seizures necessary. The Anti-Drug Abuse Act gave the Coast Guard permanent authority for such placements and authorized 500 positions to support these missions.

Unfortunately, despite the increased cooperation from the military, the situation with respect to drug trafficking as we find it today is worse than ever. Narcotics smugglers continue to inundate our shores with increasing quantities of illegal drugs. The select committee estimates that 178 tons of cocaine were directed at the United States in 1986, as compared to 188 tons in 1984. In 1986, 12 tons of heroin entered the United States. Despite intensified efforts, 30,000 to 60,000 tons of marijuana are still being smuggled into the United States annually. And, the future does not bode well. The State Department indicates, in its recently released international narcotics control strategy report [INCSR], bumper crops in every major drug producing country. The volume of illicit drugs destined for the United States each year simply overwhelms our civilian agencies that do not have the resources to interdict more than 5 to 10 percent of this illicit traffic.

In the face of this continued and growing threat from drug smuggling, there have been renewed calls, both within and outside the Congress, for an expanded military role in drug law enforcement. Clearly, a stronger commitment to narcotics enforcement is needed to deter and disrupt the illicit drug trade. Illegal drugs are responsible for billions of dollars in crime each year and bring untold misery, suffering and death to communities throughout the Nation. Moreover, the unauthorized penetrations of our borders constitute a grave threat to our national security. Last year, President Reagan issued a national security directive which defined drug trafficking as a threat to our national security.

The amendment under consideration today attempts to respond to the drug trafficking problem in a reasonable way that recognizes the gravity of the situation, but also recognizes the primary military mission of the Armed Forces and the need to maintain civilian control over law enforcement operations. The amendment would expand the military's role in drug enforcement by permitting military personnel to assist Federal drug enforcement officials in drug searches, seizures and arrests subject to a number of important restrictions.

First, military assistance in drug searches, seizures and arrests could take place only—and I want to emphasize only—outside the land areas of the United States and its territories. The amendment in no way authorizes the military to engage in domestic searches and seizures which I strongly oppose.

Second, the Attorney General would be required to verify that a drug enforcement operation for which such military assistance is required may not succeed without the support of the armed services.

Third, military assistance must be approved by the Secretary of Defense with the concurrence of the Secretary of State.

Finally, the amendment would require Federal drug enforcement officials to maintain ultimate control over the activities and direction of any drug enforcement operation.

The primary intent of this amendment is to permit the Navy, when requested, to assist our drug enforcement efforts by interdicting maritime drug smugglers. At present, Navy vessels on routine patrols and training missions report suspect vessel sightings and other information they gather on possible drug smuggling vessels to the Coast Guard. Coast Guard boarding teams, LEDETS, frequently sail on board Navy vessels operating in areas of smuggling activity. If a smuggling vessel is sighted, the Navy ship, flying a Coast Guard flag, will interdict it so the Coast Guard unit can board, search for and seize drugs, and make arrests.

The amendment under consideration would simply allow the Navy to conduct the searches, seizures and arrests in such situations. This would eliminate the legal fiction presently used to permit naval involvement in direct drug interdiction operations. It would buttress our resources against drug smuggling and put drug traffickers on notice that any time they see a Navy vessel, they might be boarded.

The select committee has been reviewing the military's role in drug enforcement to determine how the support provided by the military to our civilian agencies can be increased without impairing military readiness or derogating civilian responsibility for law enforcement. I believe the gentleman's amendment meets these objectives and can provide some immediate and sorely needed support to our interdiction efforts, particularly maritime interdiction. I am confident that the responsible manner in which the 1981 amendments have been implemented, coupled with the safeguards included in the present amendment, justify this proposed expansion of the military's role in drug interdiction.

This amendment is by no means a total solution to the serious problem of illicit drug trafficking, but it is an important step that we can and should take now. I am pleased to add my support to this measure, and I commend the gentleman from Florida [Mr. BENNETT] for his leadership in bringing it forward at this time. I urge the House to approve it.

Mr. DAVIS of Michigan. Mr. Chairman, I want to thank Chairman ASPIN and the other members of the Armed Services Committee for agreeing to incorporate my amendment (No. 53) regarding Tyndall Air Force Base and drug interdiction funding in the en bloc package of amendments.

My amendment simply provides that funds authorized for DOD cannot be spent for the cost of transmitting drug interdiction data to a nondefense drug enforcement command center if not located at the most cost effective site. Under last year's omnibus drug bill, the Department of Defense is required to provide various types of support for drug interdiction operations. One type of support is the transmission of command and control data by the Air Force to drug interdiction command centers or facilities. The Air Force has the capacity to accommodate a command center at Tyndall Air Force Base, FL. If a drug interdiction command center for the Southeast United States is located at a site other than Tyndall AFB, then the Air Force may incur at least an additional cost of $600,000 per year to transmit command and control data in support of drug interdiction to that other command center.

This amendment in no way prevents locating a center elsewhere; nor does it in any way diminish the authority to engage in drug interdiction activities as previously established. As my colleagues know, I am a strong supporter of programs to eradicate drug trafficking. However, I also believe that this should be done in as efficient and cost effective manner as possible and that funding for carrying out these programs should be properly allocated within the Federal budget. Simply stated, the Air Force budget should not have to bear the cost of a decision to locate a drug interdiction center at a location separate from Tyndall AFB.

Mr. Chairman, once again I would like to express my appreciation for the inclusion of this funding amendment in the committee package. I urge all of my colleagues on both sides of the Capitol to support it.

Mr. DURBIN. Mr. Chairman, I appreciate the committee's assistance in formulating this amendment. It requires the Defense Department to conduct a study on United States and Japanese spending plans to provide for our security interests in the Far East over the next 5 years. This information on the proportion of costs being borne by ourselves and the Japanese will allow us to assess the role we wish to play in contributing to the defense of Japan in the near future.

As the Federal deficit continues to impose constraints on our Federal spending plans, it is important that we evaluate carefully the costs we bear through our contributions to the defense of other nations. I believe it is possible to address this issue without jeopardizing our fundamental commitments to other nations.

This is particularly true in the case of Japan, the country that is the focus of my amendment. According to DOD's 1986 Report on Allied Contributions to the Common Defense, Japan ranks last among 16 nations on two key statistics measuring relative contributions to defense. Japan contributes less to defense spending relative to its gross domestic product and relative to its prosperity index than any other NATO nation or the United States.

My colleague from Ohio, Ms. KAPTUR, recognized the importance of this issue 2 years ago when she offered a similar amendment to the fiscal year 1986 Defense authorization bill.

Together with Ms. KAPTUR, I plan to request from the Congressional Budget Office an analysis of the relative share of defense costs borne by Japan and the United States. Together with the DOD study mandated in the amendment, we will have available a solid body of information to make future decisions.

Mr. HOPKINS. Mr. Chairman. I want to explain the purpose and merit behind this amendment.

Mr. Chairman, my amendment would alter the current title X, United States Code language authorizing annual scholarship ceilings under the Reserve Officer Training Corps [ROTC] Program.

Presently, the law authorizes scholarships for this program on a service-by-service basis in the following manner:

Army	12,000
Air Force	9,500
Navy and USMC	8,000

However, actual usage of these scholarships for fiscal years 1985 and 1986 breaks down as follows:

	Fiscal years—	
	1985	1986
Army	11,000	11,807
Air Force	7,500	7,586
Navy and USMC	8,000	8,000

These figures show that for 1985 the Air Force had 2,000 unused scholarships and the Army 500. In 1986, the Air Force had 1,914 unused scholarships and the Army 193. The Navy, on the other hand, used every single scholarship for both years and would have used more if permitted, but current law does not allow the cross-service utilization of the unused scholarships.

This amendment is not intended to alter this program in any manner which would grant preferential treatment to one military Department or service over the others. In fact, the opposite is the case.

Under the changes in this amendment 29,500 scholarships, the same total number now permitted, would be authorized in a pool to be allocated each year by the Secretary of Defense according to need. This system would better allow the full utilizations of authorized scholarships in this important program and permit service-by-service allocations to shift in the future according to changing needs.

This amendment enjoys the support of the Department of Defense and the distinguished chairwomen of the Armed Services Personnel Subcommittee.

I urge my colleague's support for this amendment.

Mr. HEFLEY. Mr. Chairman, the amendment I am offering to the National Defense Authorization Act of 1987, simply directs the Department of Defense to conduct a study to determine the operational requirements for a manned and unmanned military space facility which would be part of the Consolidated Space Operations Center [CSOC] near Colorado Springs, CO. This amendment calls for the study to be made with existing resources in the Air Force, and therefore no funding is required.

In 1978, the Air Force detailed requirements for a Shuttle Operations and Planning Center [SOPC] and recommended a separate and distinct facility from the NASA Johnson Space Center [JSC]. SOPC was envisioned to provide a secure space flight facility for manned and unmanned military operations. It was to be located with other planned space operations at the Consolidated Space Operations Center, which is a high-security defense control center for military space missions.

SOPC would have comprised half of the CSOC, while the other half is the Satellite Operations Center, currently in operation. IBM was selected in June 1986 to perform the SOPC development phase, which proceeded on schedule and within budget.

Recently, due to budgetary limitations, SOPC was one of several cancellations by DOD for fiscal year 1988. As a result, the IBM contract was terminated and the SOPC project has been tabled.

Although SOPC was victim of budgetary cuts, the Department of Defense remains to be committed to military man-in-space operations. The following outlines why I believe it is necessary to determine operational requirements at the Consolidated Space Operations Center:

The space flight operations created for DOD at NASA Johnson Space Center do not meet DOD authority, required capacity or security needs.

Currently, JSC is a single node for space shuttle command and control operations. In the event of a disaster or system failure, an alternate node is needed. In the wake of the *Challenger* accident, we cannot afford to rely on a single launching capability.

As a result of the *Challenger* accident, NASA/JSC space flight capability has drastically decreased, severely limiting even further the ability to respond to military space command operations.

A project requiring a security classification higher than secret level cannot be supported at JSC.

There are two flight control rooms at JSC and NASA will require both of these rooms for space station and other civilian programs.

A secure military space flight operation is essential to our country's defense. It is equally important that NASA be used primarily for civilian programs. At this time, there is undue pressure on NASA Johnson Space Center to provide for military operations, which I don't believe they can handle.

The study amendment will give Congress the facts by qualifying this particular defense need. It is not costly, yet vital in our efforts to know what is necessary to defend our country.

Mr. BUSTAMANTE. I rise in support of the Bennett amendment to improve the Bradley Fighting Vehicle's survivability and performance. This consensus amendment accepted by the Armed Services Committee expresses the House's continuing commitment to provide our young men with the safest personnel carrier possible.

Mr. Chairman, while the Army admits that the Bradley as currently configured is vulnerable and needs to be fixed, it has shown no commitment to fix it. Today, 4 years after calling for realistic live-fire tests on the Bradley, the tests are not completed. Yet we are now expected to fund another full production year without definitive data from the Penatagon on whether the Bradleys we fund will provide adequate protection to the troops.

Last June, the Army failed to submit test results on survivability modifications to Congress as required. In November, the GAO recommended that to resolve the survivability concerns and minimize the extensive retrofit that may be necessary, the Army proceed without additional delay with live-fire and operational tests so that the results should be available to Congress in time for its deliberations on the 1988 budget request for Bradleys. Again, the Army failed to supply Congress with timely information. These delays are most objectionable not only because they require Congress to fund the program in the blind, but because they delay the implementation of lifesaving fixes to protect our fighting boys. According to an article that appeared recently in the San Antonio Light, a July 17, 1985, internal report by the Bradley's manufacturer said stowing ammunition in the vehicle poses an "unacceptable hazard." It said it was "essential" to begin carrying the Bradley's own antitank missiles outside the crew compartment. So far, however, the Army has declined to make that change. At a time when we are producing and fielding thousands of Bradleys which pose unacceptable hazard to their crews, we cannot afford delays any longer to maximize the safety of their crews. Our responsibility to our fighting boys demands that we make sure that the weapons we purchase are safe.

To this end our amendment requires that no fiscal 1988 funding for the Bradley can be spent until the Secretary of Defense submits to Congress the overdue test results on the Bradley fixes and certifies that the fixes selected maximize casualty reductions. The Secretary must also submit to Congress a plan to begin implementing no later than May 1, 1988, the survivability modifications he has selected to all Bradley Fighting Vehicles. Finally, the Secretary must identify the many reliability, quality, and operational problems which plague the vehicle and submit a plan to fix these problems. Through this amendment, Congress intends to insure that the Bradley's vulnerability and operational problems begin to be addressed immediately. According to the information that we already have, the problems are serious, and, if we wait longer to act, they could be fatal.

Mr. Chairman, I want to make the record clear as to the intent behind our amendment. Section 115(a)(2) requires the Secretary of Defense to certify to Congress that the survivability modifications he chooses for the Bradley Fighting Vehicle maximize casualty reductions while allowing him to consider secondary concerns such as fiscal concerns and operational effectiveness. My colleagues have already ably defined the congressional intent behind our No. 1 priority—that of maximizing casualty reductions. I would like to explain the intent behind the language which reads "without jeopardizing operational effectiveness." First, any consideration of operational effectiveness in the Secretary's certification to Congress must only refer to the direct impact of the survivability modifications on the Bradley's operational effectiveness and cannot refer to the current reliability, quality, and operational problems already plaguing the Bradley. The current operational effectiveness problems are to be addressed exclusively in section 115(a)(4) of the amendment. Second, the Secretary's consideration of operational effectiveness concerns must include the level of crew protection since it is an important operational effectiveness factor. Finally, the criteria and qualities for determining operational effectiveness must be factors that have been demonstrated to be significant through actual operational tests in determining the outcome in combat engagements.

I want to thank my fellow cosponsors for the outstanding work they have done in drafting this amendment on behalf of the men defending America. I also appreciate the support of the Armed Services Committee to bring this legislation forward.

Mr. ASPIN. Mr. Chairman, we have no more requests for time.

Mr. DICKINSON. Mr. Chairman, I have no more requests for time and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The question is on the amendments, as modified, offered by the gentleman from Wisconsin [Mr. ASPIN].

The amendments, as modified, were agreed to.

The CHAIRMAN pro tempore. Pursuant to the notice provided by the chairman of the Armed Services Committee earlier today under paragraph 8 of section 2 of House Resolution 160, and the Order of the House of May 13, it is now in order to consider the remaining amendments printed in section 3 of House Resolution 100-84, in the following order only:

Amendment numbered 62, by Representative LUJAN;

Amendment numbered 81, by Representative RICHARDSON;

Amendment numbered 82, by Representative SCHUMER;

Amendment numbered 4 and 5, by Representative BOXER;

Amendment numbered 3, by Representative BATES; and

Amendment numbered 18, by Representative BADHAM.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LUJAN: At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. PROHIBITION ON CERTAIN CONTRACTS FOR GBL-TIE.

The Secretary of Defense may not enter into a contract for the ground-based free electron laser technology integration experiment at White Sands, New Mexico, if the contract would hinder the ability, either directly or indirectly, of any small business to be awarded subcontracts under the contract.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. LUJAN] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. Mr. Chairman, the purpose of my amendment is simple. It just ensures that small businesses are not precluded from participating in the ground-based free electron laser technology integration experiment project at White Sands, NM.

It simply directs that the Secretary of Defense cannot enter contracts that hinder the ability of small businesses to be awarded subcontracts stemming from the contract.

During recent office hours in Albuquerque, many owners of family shops and other small businesses came to me. They shared their strong interest in working on this important project at White Sands. Because of the high technology nature of our business community in New Mexico, these businesses are specially qualified to compete and participate in this sophisticated experiment in our State. We have interest also in construction projects.

My amendment simply reinforces their interest in working at White Sands, by focusing the attention of the Secretary of Defense on these small businesses, before all the contracts are awarded.

Mr. Chairman, these concerns raised by small businesses over the future contracts are not groundless. Although guidelines from the Department of Defense indicate that the site is required to use small businesses, and to pay special attention to minority and American Indian small businesses in the region where the project is located, the firm that got the first subcontract is part of General Dynamics; General Dynamics, Mr. Chairman, not this gentleman's idea of a small business of any sort.

These small businesses just want a fair shot at these subcontracts. My amendment is designed to give them that, and nothing more.

Yet, in the few days that passed between the time my amendment was accepted by the Armed Services Committee and now, my simple amendment has been given a whole new meaning by some folks.

Rumors have spread, and pressure brought to bear. My office has been flooded with phone calls from people who insisted my amendment could do all kinds of things that it won't do.

Let me set the record straight. It is prospective only. It is not intended to upset existing contracts. Although I've been hearing from the Unions, my amendment is not antiunion. It is simply to support small business.

Small businesses, Mr. Chairman, form the backbone of New Mexico's economy. According to the U.S. Bureau of Census, in 1985, close to 80 percent of all businesses in New Mexico had fewer than 10 employees.

And this statistic, Mr. Chairman, does not even take into account all the one and two worker self-employed operations without payrolls, doing business in my home State, and there are many.

Mr. Chairman, these companies want a piece of the action. They want to go to work. They are eager to participate. Then add to this picture the fact that unemployment in New Mexico is over 9 percent, with the national average at 6.9 percent, it is horrendous that we are bringing in big companies to fill the limited jobs available in New Mexico today.

That is why my amendment is important.

Mr. EMERSON. Mr. Chairman, I support the Lujan amendment and the right of all small businesses to work on this project. But I am certain that the gentleman from New Mexico also shares my hope that we get the highest quality facility for our money and that the focus of our debate should not be on someone's dissatisfaction with an existing labor agreement.

Mr. LUJAN. I agree with the gentleman. I would hope and do know that it is quality work and that it can be done by small businesses efficiently.

Mr. EMERSON. I thank the gentleman.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, as the gentleman from New Mexico is well aware, a number of the questions that have arisen touch on a number of various issues, but one that concerns me as a Congressman from a district that is located geographically very close, albeit not in New Mexico, but rather in west Texas, to the area for the free electron laser project, the concern that I think has been best stated in a succinct way that many have had is whether or not this amendment would in any way cause phase 1 and phase 2 of the project for the free electron laser at White Sands, NM, to be delayed.

Mr. LUJAN. Absolutely not. It is not my intention to delay it. As the gentleman knows, this applies, frankly, to 1988, fiscal year 1988, and has absolutely no effect on delaying phase 1 or phase 2.

Mr. COLEMAN of Texas. I thank the gentleman from New Mexico for clearing that point up. I think that has been of major concern, and from my standpoint as a member of the Appropriations Committee, if we let those dollars slip we run into future problems down the line as this project goes forward. So I very much appreciate the gentleman's explanation.

Mr. LUJAN. I thank the gentleman.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to my friend, the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding and am sorry to enter the debate at this late stage of the deliberations. But as I understand it, labor unions have raised some serious questions with respect to the nature of the gentleman's amendment.

Can the gentleman tell me why he is offering the amendment so that this gentleman can better understand?

Mr. LUJAN. Yes, sir; I certainly will.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico [Mr. LUJAN] has expired.

Is there a Member opposed to the amendment?

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DELLUMS] will be recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, I yield to my distinguished colleague, the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. Mr. Chairman, there are two particular reasons why I am offering this amendment.

The New Mexico delegation deals a lot indirectly with small business problems and 8(d) problems. We have in New Mexico two large projects which are at Los Alamos and at Sandia, and when we go to them for 8(a) set-asides for our contractors they tell us they are not obligated as contractors. The Government agency is obligated to set aside 8(a) but the University of California and Western Electric operate the two laboratories, just like Fluor operates this project, and they are not bound in any way by 8(a) commitments. So they just slough them off, and they do not offer 8(a) opportunities. That is the reason I am offering this amendment.

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Mr. RICHARDSON. Mr. Chairman, will, the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage my colleague in a brief colloquy. I would like three questions answered. First of all, the absolute certainty that the gentleman's amendment will not delay the project whatever; that is one. The second is the point that the gentleman made that the amendment would give 8(a) and small business opportunity to participate in this program more extensively than they have.

Third, if the gentleman's amendment, because of some technicalities, causes some concern in our State among union members and others, would the gentleman be willing in conference to work to adjust it, correct it? Those are the three concerns I would like to raise with my colleague.

Mr. LUJAN. The answer to the gentleman's first question is it will not delay any of the present work as I told the gentleman from Texas a little while ago. The second is that it is to give an opportunity, as the gentleman very well knows, when we go to these contractors, they say we would not have to abide by 8(a) set-asides and they do not, as a matter of fact. Fluor could very well tell us we do not have to give 8(a) contracts and there is nothing we could do about it.

Third, it is not, and I can tell the gentleman it is not directed at union or nonunion activities, it is aimed at giving the small entrepreneur a good shot at this project. I am frankly surprised that anybody would raise that question, because the amendment had been accepted as part of the en bloc group that was offered just a little while ago, but in deference to those objections the chairman withdrew it and said, "Let us have a little debate on it."

Mr. RICHARDSON. If my colleague would continue to yield to me.

Mr. DELLUMS. I yield to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding.

If we need some adjustments in the conference the gentleman would be willing to entertain those in consultation with the committee.

Mr. LUJAN. I would be glad to work out anything that does not hinder, as the amendment says, small business from getting a shot at that project.

Mr. RICHARDSON. If my colleague from El Paso is comfortable with this arrangement and our colleague from New Mexico, I would be prepared to withdraw any objection at this point. But I have not actively studied the amendment. But in this case I would join my colleague from El Paso in whatever he wished to do.

I thank my colleague from California.

Mr. DELLUMS. It is quite all right.

Mr. Chairman, I simply say to my colleague that at this particular late stage what some of the trade unions are raising, even though this is a nonunion State, is that the practical effect of this amendment would be to unravel arrangements that have already been established, where agreements have been provided for, such as no strike clause, no shift differential payments, four 10-hour days per week if necessary, reasonable and equitable wage adjustments, and elimination of offside restrictions so that goods may be fabricated and transported to the site by nonunion employees. The thought was that once these very fragile and delicate negotiations had gone forward and had been resolved, the parties, if it would be the practical effect of my colleague's amendment to unravel these deliberations, and unravel these agreements, is it the gentleman's statement on the floor as part of the history of this amendment that this indeed is not his intention?

Mr. LUJAN. I will tell the gentleman that all of the things that he read off there like the price differential and all of that, this is the first time I have heard of it. As a matter of fact, I would assume that as a Government contract it is subject to Davis-Bacon and so there is going to be a price differential from the regular prices that are paid there. And I am not one to stand here and say that just because this project is in my own home State, we are not going to pay the higher Davis-Bacon. But if that is the law, I want that paid to our guys as well.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The question is on the amendment offered by the gentleman from New Mexico [Mr. LUJAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that the modified amendment be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. RICHARDSON: At the end of title VIII (page 117, after line 25), add the following new section:

SEC. 812. REQUIREMENT FOR SUBSTANTIAL PROGRESS ON MINORITY AND SMALL BUSINESS CONTRACT AWARDS.

(a) REQUIREMENT FOR SUBSTANTIAL PROGRESS.—The Secretary of Defense shall ensure that substantial progress is made in increasing awards of Department of Defense contracts to section 1207(a) entities.

(b) REGULATIONS.—The Secretary shall carry out the requirement of subsection (a) through the issuance of regulations which do the following:

(1) Provide guidance to contracting officers for making advance payments under section 2307 of title 10, United States Code, to section 1207(a) entities.

(2) Establish procedures or guidance for contracting officers to—

(A) set goals which Department of Defense prime contractors should meet in awarding subcontracts, including subcontracts to minority-owned media, to section 1207(a) entities, with a minimum goal of 5 percent for each contractor which is required to submit a subcontracting plan under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)); and

(B) provide incentives for such prime contractors to increase subcontractor awards to section 1207(a) entities.

(3) Require contracting officers to emphasize awards to section 1207(a) entities in all industry categories, including those categories in which section 1207(a) entities have not traditionally dominated.

(4) Provide guidance to Department of Defense personnel on the relationship among the following programs:

(A) The program implementing section 1207 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

(B) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(C) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

(5) Require that a business which represents itself as a section 1207(a) entity in seeking a Department of Defense contract mainatain such status at the time of contract award.

(6) With respect to a Department of Defense procurement for which there is a reasonable likelihood that the procurement will be set aside for section 1207(a) entities, require to the maximum extent practicable that the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

(7) Establish policies and procedures which will ensure that there shall be no reduction in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act and under the small business set-aside program established under section 15(a) of the Small Business Act in order to meet the goal of section 1207 of the Department of Defense Authorization Act, 1987.

(8) Implement section 1207 of the Department of Defense Authorization Act, 1987, in a manner which shall not alter the procurement process under the program established under section 8(a) of the Small Business Act.

(9) Require that one factor used in evaluating the performance of contracting officiers shall be the ability of the officer to increase contract awards to section 1207(a) entities.

(10) Allow a contract with a section 1207(a) entity to be awarded at a price not exceeding fair market cost by more than 10 percent, regardless of the method of procurement used in awarding the contract.

(11) Provide for partial set-asides for section 1207(a) entities.

(12) Establish a procedure for awarding a contract to a section 1207(a) entity, without providing for full and open competitive procedures, in circumstances where a market survey and Commerce Business Daily sources sought notice resulted in the identification of only one responsible section 1207(a) entity.

(13) Provide for increased technical assistance to section 1207(a) entities.

(14) Require that a concern may not be awarded a contract under section 1207 of the Department of Defense Authorization Act, 1987, unless the concern agrees to comply with the requirements of section 15(o)(1) of the Small Business Act.

(c) DEFINITION OF SECTION 1207(a) ENTITIES.—For purposes of this section, the term "section 1207(a) entities" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3973).

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON]?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, the gentleman referred to a modified amendment. Is the gentleman going to offer a modification to the amendment?

Mr. RICHARDSON. Yes, I am. I am offering a modification to the amendment that I believe we have been discussing.

Mr. DICKINSON. Mr. Chairman, we have a had a discussion and I have no problem with it. I just wanted to know exactly what the gentleman was offering at this time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN pro tempore. The modification is agreed to.

The gentleman from New Mexico [Mr. RICHARDSON] is recognized for 5 minutes.

Mr. RICHARDSON. Mr. Chairman, my amendment to the Department of Defense authorization bill focuses on regulations affecting minority small business set-asides for defense contracts. Last year, it was agreed that the Department of Defense needed to concentrate on providing contracts to minority and disadvantaged businesses. By bringing these small businesses into the contracting process, they will be able to compete more easily against other companies in the future. This will greatly expand the economy for the people in my district as well as the country in general.

Unfortunately the Department of Defense has been lax in its responsibility to reach the 5-percent goal established by last years Department of Defense authorization bill. Preliminary indications are that little or no progress has been made to increase the small and minority small business set-aside activity. The goal was not even close to being reached. In the high tech areas, small businesses were given about one-tenth or two-tenths of 1 percent. Many of the contracts that were awarded were not profitable.

My amendment points out the need for substantial progress. I would like to commend Chairman ASPIN for his support and his aid in putting together an amendment with teeth. This bill will allow a contract with a section 1207(a) entity to be awarded at a price not exceeding fair market cost by more than 10 percent, regardless of the method of procurement used in awarding the contract. This will tighten a regulation that has allowed subcontractors to deviate from a contract plan. Also of importance is a provision which will require that one factor used in evaluating the performance of contracting officers shall be the ability of the officer to increase contract awards to section 1207(a) entities. This will provide necessary incentives in the contracting process. This amendment will require contracting officers to emphasize awards to section 1207(a) entities in all industry categories, including those categories in which section 1207(a) entities have not traditionally dominated. Of special importance is a provision which instructs the Department of Defense to establish policies and procedures which will ensure that there shall be no reduction in the number or dollar value of contracts awarded under the 8(a) program and the small business set-aside program to meet the goal of section 1207 of the Department of Defense Authorization Act. We need to make it clear that the 8(a) program cannot be decimated in order to facilitate the functioning of section 1207.

Mr. Chairman, I am hopeful that these changes in the regulations as well as other recommendations on how the Department of Defense will increase its set-aside contracts to minority small businesses will create an improved climate for the businesses in my district. I urge my colleagues to adopt this amendment.

Mr. Chairman, this bill will allow a contract with a section 1207(a) entity to be awarded at a price not exceeding fair market cost by more than 10 percent, regardless of the method of procurement used in awarding the contract.

Justification: The DOD had given themselves an out by allowing 8(a) and minorities to bid only in certain field bid competitive acquisitions. What kind of regulation is this? It's so vague, they could always make an excuse about why they didn't reach the 5 percent goal. This amendment says that the 10 percent differential will always be awarded.

This bill establishes a procedure for awarding a contract to a section 1207(a) entity where notices resulted in the identification of only one responsible section 1207(a) entity.

Justification: This provision does not eliminate the rule of two. It simply allows the contractor to award a contract to a small disadvantaged business if there is only one competing, and it gives a competitive bid. This will only take place if a firm is identified as a competitive business. And it can only take place where they have cost and price data.

Main justification for this amendment: The amendment does nothing to alter existing law. It simply points out how the Department of Defense should achieve a 5-percent goal in minority set-asides.

This 5-percent goal was already approved by Congress last year. It is a set requirement. My amendment simply sends a message to the Department of Defense that they must do things to meet this goal.

Mr. Chairman, I have long been concerned about the lack of commitment on the part of this administration to the needs of our small and minority business community. Minority small businesses have been at the mercy of prime defense contractors who are not abiding by their subcontract plans. The prime contractors claim that they have made a "good faith" effort to give subcontracts to minority and 8(a) businesses but the goals have consistently fallen below suggested or recommended levels by Congress. I believe they will continue to fall below recommended levels unless Congress writes a mandatory requirement into the legislation—a good faith effort is not enough. Initially, my amendment would have required that 7 percent of the amounts authorized in fiscal years 1987, 1988 and 1989 go to minority contractors. In addition, my amendment would have required that at least 20 percent of the total dollar amount of the contracts awarded by the Department of Defense for any fiscal year, go through the small business set-aside program. I understand that the historic level of awards to minority and 8(a) firms has been around 2.3 percent, and too this is unacceptable. I feel that I would be remiss in not bringing the issue up before the Congress for their consideration.

Should the Department of Defense not meet its responsibilities on the 5-percent goal with the new regulations incorporated in my new amendment, I will be compelled to offer my initial amendment of 20 percent and 7 percent next year.

Mr. Chairman, I yield to my colleague, the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. I thank the gentleman for yielding.

Let me say that we have examined it on this side of the aisle. As originally offered I was going to oppose it, because this did violate the spirit of the agreement that we entered into last year. The gentleman has modified his amendment to make it conform to what we did last year. It is in keeping with the intent and purpose of what we did last year. That agreement was to put in place a minority set-aside section that would operate for 3 years and try to give the Department of Defense an opportunity to meet the goals that we had set out.

So with the modification the gentleman has made I think it is simply strengthening what we intended to do. It does not change the law.

So I would certainly support it, speaking for myself.

Mr. RICHARDSON. I thank the gentleman for his statement.

Mr. Chairman, I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding. First of all I would like to applaud the gentleman for his diligence. Second, I will acquiesce to the comments made by my distinguished colleague from Alabama, Mr. DICKINSON, because the practical effect of the gentleman's amendment is to strengthen what we did last year.

This gentleman was charged with the responsibility of leading the negotiations with the other body on the question of set-asides. We worked very diligently. In fact, I think it was the last item resolved in the conference last year.

So a great deal of blood, sweat, and tears went into that. I think that the gentleman's amendment only strengthens what it is that we tried to do and does not make any major changes in the basic agreement that we made for 3 years and as a result of that I am more than pleased to join my distinguished colleague in his amendment and urge my colleagues to join in support.

Mr. RICHARDSON. Mr. Chairman, how much time does this gentleman from New Mexico have remaining?

The CHAIRMAN pro tempore. The gentleman from New Mexico has 2 minutes remaining.

Mr. RICHARDSON. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Richardson amendment. Last year, the Defense Authorization bill included a provision requiring the Defense Department to achieve the goal of awarding 5 percent of contract dollars to small and disadvantaged businesses. Two weeks ago, the Defense Department published interim regulations to implement this law. These regulations have fallen short of the congressional intent to expand and develop the minority business base. The Richardson amendment addresses the potential obstacles which these regulations could create to further minority business development.

Under the new regulations a new competitive minority set-aside is created. However, in creating this new set-aside the Defense Department has affected the process for awarding contract under the 8(a) set-aside which allows a contracting officer to change an 8(a) set aside into a competitive set-aside. This could have a twofold negative impact. First, it will pit experienced minority businesses against less developed ones and reduce the minority business base. Second, it will reduce the number of 8(a) contracts awarded which will end up reducing sufficient opportunities for minorities to compete.

The regulations exhibit two additional major defects. They provide the contracting officer with sole authority to determine whether a contract should be set-aside. Given DOD's past record, it would be preferrable to have an independent person make the determination, or at least to set up a system of rewards to contracting officers that significantly increase minority contracting. The other defect is that the regulations do not deal with increasing minority subcontracting, which is also an area for promoting minority contracting that has been underutilized.

Mr. Chairman, the proposed regulations implementing this new law present major pitfalls on the road to greater minority business participation. I want to thank Mr. RICHARDSON for his work on this amendment which will allow the Federal Government to build the productive capacity of small and minority businesses. For, as more of these businesses participate in procurement, they will inject greater choice and competition to the procurement process by expanding the market of available and capable supplies.

Mr. RICHARDSON. Mr. Chairman, I yield to the chairman of the full committee, the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, let me echo the comments of the gentleman from California [Mr. DELLUMS] and the gentleman from Alabama [Mr. DICKINSON]. There is a very, very sensitive issue that an awful lot of effort has gone into, but I think that the amendment that is now modified by the gentleman from New Mexico is perfectly consistent with our decision last year.

I therefore support the amendment.

The CHAIRMAN pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] has 30 seconds remaining.

Mr. RICHARDSON. Mr. Chairman, I yield the remaining 30 seconds to the gentleman from California [Mr. MINETA].

Mr. MINETA. I appreciate the gentleman yielding. I was wondering if I could ask: Is, under the small and disadvantaged business, the standard definition included as part of this amendment?

Mr. RICHARDSON. The gentleman is correct, Asian-American, native American. However, the Hispanic and black caucuses worked together with the staffs of the majority and minority to iron this out.

Mr. MINETA. I appreciate the leadership shown by the gentleman from New Mexico.

The CHAIRMAN. pro tempore. The time of the gentleman from New Mexico has expired.

The question is on the amendment, as modified, offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will desigante the amendment.

The text of the amendment is as follows:

At the end of title I of division A (page 21, after line 15) insert the following new section:

SEC. 115. ADDITIONAL FUNDING FOR CERTAIN AIRCRAFT, MISSILES, AND COMBAT VEHICLES.

(a) ADDITIONAL AUTHORIZATIONS.—In addition to the funds authorized under this title for procurement for fiscal year 1988 for the following programs, there are hereby authorized the following additional amounts:

(2) F-15E Eagle, $150,000,000.
(6) HARM, $200,000,000.
(8) HR Maverick, $400,000,000.
(9) Standard Missile 2, $50,000,000.

(b) FUNDING REDUCTIONS.—Reductions in authorizations under this title of a total of $800,000,000 shall be made in the following programs, to be distributed among the programs at the discretion of the Secretary of DOD.

(1) Landing Craft Air Cushion, Advanced Procurement.
(2) AMRAMM.
(3) Overhorizon Backscatter Radar.
(4) AGM-130 Powered GBU-IS.
(5) Bradley F.V.
(6) Sincgers.
(7) Joint Stars.

SEC. 16. REQUIREMENT FOR DOD TO ADHERE TO TERMINATION YEAR OF WEAPON SYSTEMS CONTRACTS.

(a) REQUIREMENT.—Except as provided in subsection (b), the Department of Defense shall adhere to the termination year of any weapon systems contract in accordance with the Selected Acquisition Report submitted for that contract.

(b) EXCEPTION.—The Department of Defense may extend the termination date on a weapon systems contract only for nonbudgetary reasons and only if the Department of Defense submits a special request to Congress that outlines the reasons for the extension and the increase in unit cost as a result of the extension. Such request shall be submitted as soon as the Department of Defense is aware that such an extension will be necessary. Within 21 days after the Department submits a request for such an extension, the Congressional Budget Office shall present to Congress an estimate of the likely increase in unit cost and total cost of any program for which the Department of Defense has requested an extension.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I offer this amendment along with my colleague, the gentleman from Florida [Mr. MACKAY].

Our amendment allows us to buy weapons more efficiently and less expensively.

Our amendment does three things that very few of us in this Chamber are opposed to.

First, it saves money. CBO estimates we could save up to 25 percent of the cost of weapons systems if this amendment were adopted. Second, it increases military effectiveness. CBO notes that certain weapons sometimes are needed very quickly. Theater commanders, have specifically requested so-called war stoppers, like Maverick and Harm missiles. Finally the amendment provides tighter control over inefficient military spending.

Mr. Chairman, in the last few years we have seen a rather wasteful scenario develop. Congress cuts or limits the increase in DOD budgets. But no systems are eliminated. Instead production is dragged out on weapons systems that we really need and as a result we do not save money, we actually cost the taxpayers money over a several-year period.

The assembly lines move slower, unit prices increase.

Last March, CBO testified on this problem. They said that of 12 major weapons systems studied, not 1 was built at its most efficient rate. Example: for a much needed aircraft, F-15E, the maximum production rate is 144 planes per year. The minimum efficient production rate, is 120 planes per year. We have brought an average of only 41, over the last 5 years. The snail pace production will add an extra $600 million alone to the cost of the F-15E.

Another example, the Phoenix missile the maximum production rate is 420 per year yet we average just about half of that. The Phoenix's cost will be 19 percent higher because of that practice. Perhaps worse than the cost of the stretch-out is the way it deprives our own armed services of weapons that they badly need such as the examples given above.

Our amendment would stop the contract stretchout in the future and get this year's procurement on a fast track.

The amendment has two parts. The first part has some simple language that prohibits DOD from extending the final year of procurement contracts for budgetary reasons. A contract, of course, may be extended for military and strategic reasons but not simply for budget reasons.

The second part of the amendment brings some crucial weapons systems up to speed. We speed up four weapons systems that Congress and DOD had shown and proven are needed: The F-15 fighter, the HARM missile, the IIR missile and the Standard Missile 2.

CBO says that all of these are built at woefully slow rates. If we start on the road to efficient production with this amendment we can save as much as 25 percent on the total cost of these weapons, $6.7 billion savings over the life of the weapons.

To offset the cost of speeding up these programs in the near years, we offer DOD a menu of choices. The Secretary of DOD will choose where to cut to make up for the increase in production.

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In conclusion, the point of the amendment and the signal it should send is very simple. If we want it and we need it, let us build it and buy it as efficiently and inexpensively as possible.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I want to commend the gentleman on what he intends to do, but I just see so many impediments.

By the gentleman's amendment, what we are doing is authorizing—and the gentleman says that during the last year, they cannot stretch out for budgetary reasons. That makes sense if you could do it.

We added money to the M-1 line, to the Bradley, to the Apache this year because they are trying to stretch out. But under the gentleman's amendment, though, if the Committee on Appropriations does not appropriate the money, what are they going to do? They have to stretch out or terminate. How can we say that you cannot stretch out the program if we authorize but then the Committee on Appropriations comes in and says we are only going to give you half as much money.

Mr. SCHUMER. Mr. Chairman, by this amendment, what would happen would be that certain weapons systems would be cut or eliminated. There is a menu in the amendment, giving the DOD choices of areas to cut.

Those weapons systems are those which, in the opinion of the committee and DOD, are not essential. Every one of them we build is necessary for a certain purpose, but some are less necessary. In other words, what we are saying is that having system X on line is less important than having another 80 F-15-E's on line.

Mr. DICKINSON. Mr. Chairman, what the gentleman is attempting to do is laudable, but in practice, it cannot work. What we are doing, then, is saying that if they do not appreciate the money, we will authorize it, but if it is not appropriated and they have to make the hard choice, then we abrogate our authority and say, "All right, DOD, now you decide what line you are going to terminate, but you cannot stretch out." So if they do not have enough money, they cannot keep a production line warm until next year until they can get another bite or ask for a reprogramming, in your amendment, the gentleman says you have to cut this program over here, terminate it completely, and it just will not work under present system.

That is the reason why I cannot support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The gentleman from New York [Mr. SCHUMER] has 3½ minutes remaining.

The Chair recognizes the gentleman from New York [Mr. STRATTON] for 10 minutes in opposition to the amendment.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to myself.

Mr. Chairman, the amendment the gentleman is offering is laudable in its efforts to establish more efficient production rates for selected conventions programs. My problem with the amendment is that it undermines the work of the House Armed Services Committee.

Basically, what the gentleman is asking the House to do is to ignore the last 5 months work by its Armed Services Committee and with one fell swoop reorder priorities, undermine the conventional force enhancements package that is included in the Aspin substitute, and confer upon the Secretary of Defense the additional authority of dictating how reductions are to be applied to a number of programs, notwithstanding the recommendations of the House Armed Services Committees.

Also, the gentleman would direct cuts against a number of programs that the committee reviewed carefully and made decisions on the most appropriate course of action. If we adopt the gentleman's amendment, we are stopping a number of important modernization efforts. For example, in the case of the AMRAAM missile, the Aspin substitute cuts the AMRAAM Program by $152 million and reduce the missile buy by 130 missiles. The purpose of this action is to make certain that the program proceeds at a prudent pace.

There is no argument about the requirement for the AMRAAM missile. Both the Air Force and the Navy need to modernize their air-to-air missile inventory. There has been disagreement about the structure and pace of the AMRAAM Program. But the committee has provided for a realistic course for the program.

In the case of the Bradley fighting vehicle, we have thoroughly debated and resolved this issue.

In the case of the Over-the-Horizon Backscatter Radar Program, which provides us with early warning against both air and sea-launched threats, software problems have developed, but the system still has 90 percent reliability.

With regard to the Landing Craft Air Cushion Vehicle, Joint Stars, and AGM-130 munition programs, the problem here is that the gentleman from New York [Mr. SCHUMER] is going to turn over to the Secretary of Defense the responsibility of the U.S. Congress for raising and supporting armies and providing for our Navy.

I think the gentleman's idea is interesting, but this would vitiate the whole work of the Congress of the United States. I do not think the gentleman really wants to do that.

Mr. Chairman, I urge rejection of the gentleman's amendment.

Mr. SCHUMER. Mr. Chairman, would the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I simply say in response that, yes, it does give the Secretary of Defense some discretion, but that is simply because this Congress has been unable to cut. What we have done is we have chosen, because we have been unwilling to cut under the Budget Act, we have so stretched out systems such as the F-15 that we are producing things so inefficiently that overall, the people lose.

If we cannot make the tough choices, then maybe somebody like the Secretary of Defense, who would hardly be called soft on defense, ought to do it.

Mr. STRATTON. Mr. Chairman, apparently the gentleman has not listened to what has transpired during these debates on the House version of the defense authorization bill. The distinguished chairman of the committee has certainly cut, and we have, in fact, made major cuts on seven of the major programs as a result of the deliberations of the Committee on Armed Services and its various subcommittees.

I think the gentleman would be making a serious mistake if he were to try to do that.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further, I am not saying there should be further cuts. What I am saying is that we ought to prioritize, once and for all, and instead of doing 50 weapons systems half-baked, we ought to do 30 of them efficiently and well.

As I understand it, the amended committee bill does not do that. It continues to produce these very important systems at a very slow and inefficient rate.

Mr. STRATTON. I have not heard the gentleman praising the Secretary of Defense, but here he wants to give the whole job to the Secretary of Defense. Have you ever gone over and talked to the Secretary of Defense about any of these programs?

Mr. SCHUMER. The Secretary of Defense would have to make some tough choices, but they are choices, I would say to the gentleman, that we failed to make.

Mr. STRATTON. We have made a number of tough choices.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, let me say that I do not know whether the gentleman here from New York has exactly the right wording of this amendment. I think the gentleman from New York [Mr. STRATTON] and the gentleman from Alabama [Mr. DICKINSON] have pointed out some problems.

Let me tell you that the point that the gentleman is making is absolutely correct. We are producing too many lines and too few production rate on too many lines.

□ 1450

I was just asking the staff about this. It seemed to me that I had read somewhere a statistic that we have more Navy aircraft lines than planes we were producing on some lines, and the staff came up with the following information: We have 14 aircraft lines—and that includes helicopter lines—coming out of the Navy, but we are producing A6's at the rate of 12 a year; EA6's at the rate of 6a year—and, incidentally, the Armed Services Committee is bumping that up to 12 F-14's, 12 a year, and E-2C's, 6 a year.

We have more production lines than planes we are turning off the production lines in some of these things. It is absolutely crazy.

The gentleman from New York is absolutely right in his criticism of my substitute here as not being the kind of thing to make the cuts by shutting down the lines. What we are doing, what I am doing, and what we do every year is to slow it down. We take out numbers; we do not shut off a line. We do not do everything; we just slow everything down. The unit costs go up, the inefficiencies go up, and we waste taxpayer dollars.

The basic core problem here is that the Pentagon can never say no to starting a weapons system, and we can never say no and shut one off. That being the case, when we have gone from dramatic increases in defense spending to now when what has happened in the last 3 years has been a real decline in defense spending, we have had enormous inefficiencies.

Mr. STRATTION. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Chairman, I thank the gentleman for yielding time to me.

In this particular case, Mr. Chairman, I think the author of the amendment and also my distinguished chairman are both wrong. I think they are both incorrect in their analysis of what is going on this afternoon.

It is not necessary for me to repeat the statements made by the gentleman from New York [Mr. STRATTON] but I do, however, want to emphasize that the amendment should not be idly dismissed. This is a very critical amendment we are debating at the present moment.

It represents a fundamental departure from the way the House has functioned since the Armed Services Committee and the Congress expanded the annual national defense authorization process in 1959.

I would remind my colleagues that the strengthening of the annual defense authorization process—was because of concern with the deterioration of the role of Congress—in determining national defense policy and defense priorities. Regrettably, the gentleman's amendment represents a clear and decisive retreat—and severely undermines the congressional policy making process.

In essence, we are being asked to engage in the very dangerous practice—of essentially rewriting critical parts of the defense bill on the House floor—without benefit of hearings and careful committee consideration. We are being asked to ratify one individual's view of the world.

I am certain that my colleagues in the House do not want to see Congress' role diminished in the debate on United States national security issues and defense priorities. Unfortunately, this is exactly what the House is being asked to do with this amendment.

We are basically telling the Secretary of Defense that it's OK to levy cuts in a number of programs; that the Congress cannot do the job. What do we have a committee system for—if we write the bill on the floor—and then give the executive branch an a la carte menu to pick and choose defense cuts?

Mr. Chairman, if we are really interested in preserving our place in the national security policy process, we will vote down the amendment. I strongly urge my colleagues to vote no.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Chair wishes to inform the Members that the gentleman from New York [Mr. STRATTON] has 2 minutes remaining and the gentleman from New York [Mr. SCHUMER] has 1½ minutes remaining.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, as a parliamentary inquiry, may I inquire as to whether I would get to conclude, if I choose, or does the gentleman from New York [Mr. STRATTON] have the right to conclude?

The CHAIRMAN pro tempore. The gentleman from New York, Mr. STRATTON, would conclude debate.

Mr. SCHUMER. Mr. Chairman, I yield my remaining time to my colleague, the gentleman from Florida [Mr. MACKAY], the cosponsor of this amendment.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. MACKAY] is recognized for 1½ minutes.

Mr. MACKAY. Mr. Chairman, the gentleman from New York [Mr. SCHUMER], and I are in an unusual position, a position which one gets into by virtue of serving on the Budget Committee. We have asked the Secretary of Defense the very question the gentleman from New York asks: Which of these programs is more important than others? And his answer is: I want them all, and I refuse to set priorities.

It seems to me that when the Armed Services Committee allows him to get away with that answer, what the Armed Services Committee is saying is "we are going to have to find the money to pay for them all, or else we are going to continue the deficit."

The gentleman from New York [Mr. SCHUMER], and I are simply asking, if not this year, then what year are we going to force people to start making decisions? Obviously some of these weapons systems are more important than others. We have tried in this amendment to set forth a system by which we can say that we want to speed up the ones that are important and we want to terminate the ones that are not.

I leave that question on the table. Obviously this is not the year when this amendment is going to pass, but I can tell the Members that this amendment is going to be brought up next year and every year. If not this year, what year are we going to force the Pentagon to start setting priorities?

Mr. STRATTON. Mr. Chairman, I would say to the gentleman that we have made those decisions. Secretary Weinberger has told us the same thing. He would not tell us what ones we should cut, but we have done it and we have done an outstanding job.

Mr. Chairman, I yield the balance of my time to close debate to the gentleman from Alabama [Mr. Dickinson].

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. Dickinson] is recognized for 2 minutes.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman from New York.

Mr. Chairman, I am surprised to find ourselves in this debate at this particular time. Let me say to the gentleman from New York that we do make cuts. We must make cuts, but we do so only after lengthy hearings and thoughtful deliberation. In this bill, for instance, programs cut include Bigeye binary chemical bomb, the ground-launched cruise missile, the Aquila, the Harrier, the advanced cruise missile, the advanced lightweight torpedo, and the vertical-launched ASROC, along with many others.

I am glad to know that the gentleman from New York is so interested and so vitally concerned about our defense, but let me point out that just last year the gentleman from New York, who offered this amendment, voted to force the Air Force to accept the T-46 trainer. The Air Force said they did not want it, and that they wanted to terminate it. The gentleman voted to force them to take that trainer. Isn't this inconsistent with the gentleman's amendment?

The gentleman voted to cut $25 billion out of the bill this year. He now comes in and says that he is going to superimpose his judgment over that of the committee's and tell the Secretary of Defense, "you have got to make the additional cuts."

Somewhere there has got to be some consistency. The gentleman is willing to force the Air Force to buy what they do not want, or to cut $17 billion out of the bill the Armed Services Committee reported, or $25 billion from the President's request. Now he comes in and says, "I know how to solve all our problems on defense. We are going to tell the Secretary of Defense that he has got to terminate certain programs." He says, "If you don't have enough money, you must terminate them, and we will make sure you don't have enough money."

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I am glad to yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I appreciate the kindness of the gentleman in yielding.

The only point I would make, not to bring out the inconsistencies in my record, which exist like they do in anyone else's, is that I am not choosing the priority. That was specifically left up to the Secretary of Defense.

Mr. DICKINSON. I am not saying the gentleman voted to take out all the money, but only that he would require the Secretary of Defense to make serious cuts in programs beyond those massive cuts the committee and the House has already made. This just does not make any sense.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. Schumer].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 270, not voting 32, as follows:

[Roll No. 123]

AYES—130

Ackerman
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Biaggi
Bonior (MI)
Borski
Bosco
Boxer
Brennan
Brown (CA)
Bruce
Campbell
Cardin
Carr
Clarke
Clay
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Derrick
Dingell
Dixon
Dorgan (ND)
Dwyer
Dymally
Early
Edwards (CA)
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gejdenson
Glickman
Grant
Gray (PA)
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Howard
Hoyer
Jacobs
Johnson (SD)
Jontz
Kastenmeier
Kennedy
Kildee
Kleczka
Kostmayer
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lowry (WA)
MacKay
Manton
Markey
Matsui
McCloskey
McCurdy
McHugh
Mfume
Miller (CA)
Moody
Morella
Morrison (CT)
Murphy
Nagle
Nowak
Oberstar
Obey
Olin
Owens (NY)
Panetta
Pease
Penny
Perkins
Petri
Rahall
Rangel
Rodino
Roe
Rostenkowski
Russo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Staggers
Stark
Studds
Synar
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Visclosky
Weiss
Wheat
Wise
Wolpe
Wyden
Yates

NOES—270

Akaka
Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boucher
Boulter
Brooks
Broomfield
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Carper
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fawell
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kennelly
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Pepper
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stallings
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Williams
Wilson
Wolf
Wortley
Wylie
Young (AK)

NOT VOTING—32

Alexander
Anderson
Annunzio
Anthony
Boner (TN)
Bonker
Crane
Duncan
Durbin
Evans
Ford (TN)
Gephardt
Gradison
Gray (IL)
Hubbard
Jones (NC)
Kemp
Levine (CA)
Molinari
Owens (UT)
Ray
Roemer
Rose
Roybal
Sabo
Stangeland
Stokes
Tauzin
Torres
Waxman
Yatron
Young (FL)

□ 1505

The Clerk announced the following pair:

On this vote:

Mr. Gray of Illinois for, with Mr. Ford of Tennessee against.

Messrs. MOAKLEY, HUCKABY, and DOWNEY of New York changed their votes from "aye" to "no."

Messrs. EDWARDS of California, RODINO, and HOYER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1520

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage the chairman of the Armed Services Subcommittee on Procurement and Military Nuclear Systems, the gentleman from New York [Mr. Stratton], in a brief colloquy.

The committee report on H.R. 1748 directs the Assistant Secretary of Energy for Defense Programs to establish a priority system, consistent with the priorities imposed by law for privately owned facilities, for the application of funds for environmental restoration within the defense activities of the Department of Energy. I am concerned that the Department may take this instruction as an expression of congressional intent that the Department may exercise discretion over the authorities of current law that apply in formulating its priority system. I would ask the gentleman if that were the intent of the Committee on Armed Services.

Mr. STRATTON. If the gentleman would yield, the committee intended that any such priority system would be developed in accordance with the authorities of existing law, including, for example, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Solid Waste Disposal Act.

Mr. DINGELL. The report identifies the Assistant Secretary of Energy for Defense Programs as the person responsible for establishing the priority system. Would this preclude another Department of Energy organizational entity with responsibility for environmental matters, such as the Assistant Secretary for Environment, Safety and Health, from assuming primary responsibility for establishing the priority system within all the Department of Energy, if so delegated by the Secretary?

Mr. STRATTON. No, it would not.

Mr. DINGELL. I thank the gentleman.

AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Russo). The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. Boxer: At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. NAVY ADVANCED CAPABILITY TORPEDO PROGRAM.

(a) Limitation.—Amounts appropriated or otherwise made available for the Navy for fiscal year 1988 for procurement of weapons (including missiles and torpedoes) may not be obligated for procurement of advanced capability (ADCAP) torpedoes until—

(1) the Operational Evaluation test (known as OPEVAL test) of such torpedo is completed; and

(2) the Director of Operational Test and Evaluation of the Department of Defense certifies that all criteria set forth in the test plan for successful completion of the OPEVAL test of the ADCAP torpedo have been met.

(b) GAO Review.—Not later than 30 days before OPEVAL testing of such torpedo begins, the Comptroller General (after reviewing all materials the Department of Defense used to develop the OPEVAL test plan with respect to which the certification under subsection (a) is made) shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report giving the Comptroller General's assessment as to the combat realism and suitability of the conditions set forth in the test plan for such testing.

MODIFICATION OF AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I ask unanimous consent to modify my amendment, as recommended by my colleague and friend, the gentleman from Florida [Mr. Bennett].

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment as modified offered by Mrs. Boxer: At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. NAVY ADVANCED CAPABILITY TORPEDO PROGRAM.

(a) Limitation.—Amounts appropriated or otherwise made available for the Navy for fiscal year 1988 for procurement of weapons (including missiles and torpedoes) may not be obligated for procurement of advanced capability (ADCAP) torpedoes until—

(1) the Operational Evaluation test (known as OPEVAL test) of such torpedo is completed; and

(2) the Director of Operational Test and Evaluation of the Department of Defense—

(A) certifies to Congress that all criteria set forth in the test plan for successful completion of the OPEVAL test of the ADCAP torpedo have been met; or

(B) identifies in a report to Congress those criteria in the test plan that have not been met and (in light of the test results) justifies further procurement of such torpedo.

(b) GAO Review.—Not later than 30 days before OPEVAL testing of such torpedo begins, the Comptroller General (after reviewing all material the Department of Defense used to develop the OPEVAL test plan with respect to which the certification or report under subsection (a)(2) is made) shall submit to Congress a report giving the Comptroller General's assessment as to the combat realism and suitability of the conditions set forth in the test plan for such testing.

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from California [Mrs. Boxer] will be recognized for 10 minutes, and a member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Chairman, my amendment defers the release of procurement funds for the advanced capability or ADCAP heavyweight torpedo. My amendment says that we should defer buying 100 ADCAP's worth $243 million for fiscal year 1988 until the torpedo passes its operational evaluation tests. This amendment makes sense because this critical weapons program is behind schedule and early operational tests last fall were suspended because of serious problems.

Let me explain a little of the background of the ADCAP Program.

The ADCAP is being built to eventually replace the Mark 48 torpedo which is the primary weapon now deployed on both ballistic missile and attack submarines. The Mark 48 dates back to the early 1970's. Although there have been a series of modifications to the Mark 48, a new generation of torpedo is needed to deal with Soviet advances.

Over the last 2 years, Congress has appropriated $590 million for procurement of 173 ADCAP torpedoes.

To its credit, the Navy has not yet spent these procurement funds because it is not satisfied with the testing thus far. That is as it should be and I applaud the Navy for that decision.

But I believe Congress must be even more cautious. While the Navy has complete discretion over the release of the fiscal year 1987 funds, Congress should put a hold on the fiscal year 1988 funds. We are not cutting the funds under this amendment, Mr. Chairman, we are merely deferring them or fencing them off until the ADCAP passes its operational test.

Please support the Boxer/McCurdy amendment as modified by Mr. BENNETT to fence $243 million in this defense bill for the purchase of 100 ADCAP's. The funds would be released only upon certification by the Pentagon's Director of Operational Test and Evaluation that the torpedo has passed its test.

In addition, the amendment requires that the General Accounting Office review the Navy's test plan to assess how the torpedo will be tested against the threats it is likely to encounter in combat. It does us no good to have tests that are not realistic. That is what we want for this ADCAP torpedo. Remember, this amendment doesn't touch the first 173 torpedoes. It does, however, fence the next batch in 1988.

I also intend to ask that the General Accounting Office continue to monitor and assess the outcome of the operational and evaluation test, and report to Congress.

The hard lessons of the B-1 bomber have taught us not to purchase weapons that have not been fully tested. I believe I have incorporated that lesson in this amendment. The Boxer/McCurdy amendment modified by Mr. BENNETT, will ensure the reliability and the cost effectiveness of one of the most important weapons in the Navy's arsenal.

Mr. McCURDY. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman and myself to fence the moneys on the ADCAP pending certification by the Secretary of Defense that certain operational capabilities have been met and that they have this system under control.

This is a program that has had some difficulty recently, and it is important that before we go too far down the line that we have a better indication from the Department of Defense and the Navy as to its operational capability and the results of the operational evaluation tests.

I think that most of us in this body are concerned about the Soviet submarine capability, their improvements, and what we are trying to ensure is that the next generation of torpedo is indeed capable of meeting that advanced threat.

□ 1530

I believe that this amendent is a step forward in that direction, and certainly I want at this point to commend the gentlewoman from California [Mrs. BOXER], and the gentleman from Florida [Mr. BENNETT], chairman of the Seapower Subcommittee for their concern and their willingness to work to perfect this amendment since it has been modified by the authors.

Mrs. BOXER. Mr. Chairman, how much time do I have remaining?

Mr. CHAIRMAN. The gentlewomen from California has 5 minutes remaining.

Mrs. BOXER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. BENNETT], the distinguished chairman of the Seapower Subcommittee.

Mr. BENNETT. Mr. Chairman, it has been a pleasure to work with the gentlewoman on a number of amendments today.

Mr. Chairman, I rise in support of the modified Boxer amendment on the MK-48 advanced capability torpedo. This modified amendment was worked out between Mrs. BOXER and myself after careful consideration of the benefits and drawbacks to the ADCAP program of placing limitations on fiscal year 1988 procurement funds.

In simple terms, the agreement would modify the conditions under which fiscal year 1988 funds could be released to take account of the "fact of life" circumstances that often occur during operational testing.

The modified amendment would retain the requirement that the Director of Operational Test and Evaluation certify that the ADCAP torpedo has met all of its operational test objectives before funds provided for fiscal year 1988 can be spent.

The modified amendment would add an alternative approach to release of funds should some of these test criteria not be met exactly. In such cases the Director would be required to identify the test criteria that are not achieved exactly in a report to the Congress and, if the circumstances warrant, to provide justification as to why funds should be released in light of any deviation from the criteria as stated in the operational test plan.

In this way the modified amendment recognizes the realities of conducting operational testing. For example, there are often instances where relatively minor problems are uncovered during the testing that are easily corrected. In such cases the amendment would permit the Director of Operational Test and Evaluation to provide justification for releasing funds without unduly delaying the whole program. I would anticipate that such justifications could be the subject of subsequent congressional review.

Mr. Chairman, the modified amendment is acceptable to me, and I support its adoption.

Mrs. BOXER. Mr. Chairman, may I ask is there any Member in opposition to the amendment?

Mr. DICKINSON. There certainly is, Mr. Chairman.

Mrs. BOXER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 10 minutes.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

If I might have the attention of the chairman of the Seapower Subcommittee, I would like to enter into a little disclosure with the gentleman because I really do not understand the impact and the import of the proffered amendment.

I understand that the Director of Operational Test and Evaluation has certain rules, regulations that he has to comply with. I am told that the Navy says that there is no particular problem with the torpedo.

We are accused of micromanagement, all too often, and perhaps justly so, but sometimes maybe we are guilty when we should not be. But I was wondering why do we single out this form the whole panoply of weapons systems? Why have we selected this one and what is the problem with it? Is there a problem with it?

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I think I can respond.

Mr. DICKINSON. I would appreciate it, because I really have no reason for opposing the thrust of what I think is the intent of the amendment. It is just that I question the necessity for it, and if the chairman of the Seapower Subcommittee could assist me in this regard, I would appreciate it.

Mr. BENNETT. The Navy has a lot of unexpended funds, millions of dollars in this funding that it has not felt it should go forward with because of imperfections that have arisen. The original amendment offered by the gentlewoman from California [Mrs. BOXER] was a little too tight for the Navy to live with. In other words, it said if they had not complied with all of the standards she set out in her amendment they could not spend any money at all to go forward with the program.

The modification, which I agreed to, was to say that they could present some things that might be able to be modified in time, and could go forward and spend money and keep the thing going and, at the same time, not imperil the ultimate usefulness. That is what the amendment agrees to and what I agree to.

This seems to me to be reasonable, more reasonable from my standpoint than even from hers, I think. Because she might well feel that she has lost control because now there is a degree of judgment coming in, and she might be apprehensive that they might use this money improperly.

Mr. DICKINSON. It was for this reason I wanted to direct my inquiry to the gentleman rather than the offerer of the amendment, because this is an amendment that would normally come out of the gentleman's subcommittee, as I understand it. This did not make it into the original bill, and this is another case of micromanagement.

I do not say this facetiously, but I did not know this program was on the hit list of the Military Reform Caucus this year. Are we going to have torpedoes or something else next year? What are we doing? I did not know there was a problem in this area. If there is, I have not heard of it.

The Mark 26 had a number of problems in the past, but I understand that they do not exist today. So we are adding another layer of bureaucracy to tell them how to do their business. Is there any reason to think that the Director of Operational Test and Evaluation is not doing his job, that he needs this that he otherwise would not be paying attention to business? That is why I ask the question. Why do we need this?

Mr. BENNETT. I hesitate to condemn the Navy. In the first place, the Navy has not objected to this modified amendment that we have before us. I think they feel like they would like to be told this. In other words, I agree with the gentleman, to a degree that there is some micromanagement, but we cannot get rid of all of the micromanagement immediately.

In this particular instance it is not painful to the Navy to do this, so I think it is a progressive thing to do to add this amendment, with the modification. I think it is very reasonable. The Navy has not objected to it, so I think we ought to vote in favor of the amendment offered by the gentlewoman from California [Mrs. BOXER]. I think the ultimate result is going to be good for the Treasury and good for everybody.

Mr. DICKINSON. Let me say that the gentleman's information and my information differ on whether or not the Navy likes the amendment. I am told they would prefer not to have it.

The gentleman says they have no objection to it. I know they felt very strongly about it before it was modified, and as the gentleman has described, they still do not like it. I am told they can live with it, but it is not necessary, and they feel it is more an impediment than a help.

It is for that reason that I am going to vote against the amendment. But it is not the end of the world if it passes, and I thank the gentleman.

Mrs. BOXER. Mr. Chairman, I have no further comments and I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield back the balance of my time.

The **CHAIRMAN** pro tempore (Mr. DORGAN of North Dakota). The question is on the amendment, as modified, offered by the gentlewoman from California [Mrs. BOXER].

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 25, noes 38.

RECORDED VOTE

Mrs. BOXER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 206, not voting 35, as follows:

[Roll No. 124]

AYES—191

Ackerman
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Biaggi
Boehlert
Boland
Bonior (MI)
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dwyer
Dymally
Early
Edwards (CA)
English
Espy
Fascell
Fazio
Florio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Grant
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson (SD)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Mack
MacKay
Manton
Markey
Matsui
Mavroules
McCloskey
McCurdy
McHugh
Mfume
Miller (CA)
Miller (WA)
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nowak
Oberstar
Obey
Olin
Owens (NY)
Panetta
Pease
Penny
Pepper
Perkins
Petri
Price (NC)
Rahall
Rangel
Richardson
Ridge
Ritter
Rodino
Roe
Rostenkowski
Russo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Sikorski
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith, Denny (OR)
Snowe
Solarz
St Germain
Staggers
Stallings
Stark
Studds
Sweeney
Swift
Synar
Tallon
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Watkins
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NOES—206

Akaka
Andrews
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boucher
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
Erdreich
Fawell
Feighan
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gilman
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (TN)
Kanjorski
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Mineta
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nichols
Nielson
Oakar
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stenholm
Stratton
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Whitten
Wolf
Wortley
Wylie
Young (AK)

NOT VOTING—35

Alexander
Anderson
Annunzio
Anthony
Barnard
Boner (TN)
Bonker
Crane
Derrick
Duncan
Durbin
Evans
Flake
Ford (TN)
Gephardt
Gingrich
Gradison
Gray (IL)
Hubbard
Jones (NC)
Kemp
Molinari
Owens (UT)
Ray
Roemer
Roybal
Sabo
Spratt
Stangeland
Stokes
Tauzin
Torres
Waxman
Yatron
Young (FL)

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Ford of Tennessee for, with Mr. Crane against.

Mr. Gray of Illinois for, with Mr. Young of Florida against.

Mr. BARTON of Texas and Mr. PRICE of Illinois changed their votes from "aye" to "no."

Mr. SOLARZ and Mr. DWYER of New Jersey changed their votes from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Russo). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. Boxer: Strike out subsection (a) of section 207 (page 33, lines 2 through 5) and insert in lieu thereof the following:

(a) Funding Limitation.—Of funds appropriated or otherwise made available to the Department of Defense for fiscal year 1988, the Secretary of Defense may use not more than $375,672,000 for research, development, test, and evaluation for the B-1B bomber program.

(2) The Secretary may not obligate any funds for the purpose described in paragraph (1) until the Secretary notifies Congress (in accordance with established reprogramming procedures) of the source to be used for the funds.

(3) The amount authorized in section 201 for the Air Force for fiscal year 1988 is hereby reduced by $375,672,000.

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from California [Mrs. Boxer] will be recognized for 10 minutes and the gentleman from Alabama [Mr. Dickinson] will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have become painfully aware that the B-1B is way behind schedule and will cost additional billions of dollars in testing and fixes because of the Air Force's mismanagement.

Mr. Chairman, I rise to offer an amendment to require the Air Force to pay from its own budget for additional testing to solve the B-1B's many deficiencies and problems. My amendment makes fiscal common sense. It would simply say to the Air Force, yes, we need to continue to test the B-1B, but, no, taxpayers will not bail you out.

We must send a message today to the Pentagon that the American taxpayer is sick and tired of paying for the B-1 and other defective weapons systems twice; once to produce them and once to fix them.

Just like an automobile manufacturer is required to pay for the cost of a recall, so, too, should the Air Force be forced to pay for testing the B-1B's serious deficiences. To do otherwise is not fair.

Let me be clear, the Air Force has used up all of its testing funds in its R&D budget and it is only because of its mismanagement that we are being asked to pump more than $300 million into the program.

The amendment before you, Mr. Chairman, reduces the total Air Force authorization by the $376 million that the Committee on Armed Services authorized for the B-1B testing. The amendment further requires that the Air Force come back to Congress with a reprogramming proposal for funds to pay for the testing.

Now anyone who says the Air Force does not have enough funds to pay for this does not know about the Air Force budget. It is $100 billion, and in R&D alone, Mr. Chairman, it is $16 billion. So how could it be that that $376 million could not be found?

The Air Force has not been candid with us regarding the B-1B's problems. They have withheld information about the aircraft's problems as recently as February of last year.

The B-1B's latest problem is that the defensive avionics and the offensive avionics cannot work together, a major problem. Our procurement system must be ruled by honesty and integrity. We need weapons that work when they are supposed to work. We need weapons that we pay for once, not twice. And we need weapons which, if they have problems, are dealt with honestly by the Air Force and by the other services as well.

I want to address myself to a charge on the last amendment, that we here in Congress micromanage.

Mr. Chairman, let me tell you from the bottom of my heart that when we are asked for many millions, hundreds of millions of dollars of hard-earned taxpayer dollars to bail out a program, you bet we have to hold the Pentagon's feet to the fire so that we get decent weapon systems that work at a sensible cost and are safe.

The lesson we must learn from the B-1B is that the Pentagon cannot be allowed to hide its problems and then ask the American taxpayer to pay through the nose.

The Boxer-Brennan-Frank-McCloskey-Slaughter amendment, which is supported by our chairman, the gentleman from Wisconsin [Mr. Aspin], will be a step in the direction of increasing the cost effectiveness, integrity, and sound management of the B-1B program.

We need your support today to try to bring some sense and some sanity to this program.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Badham].

Mr. BADHAM. Mr. Chairman, the pending amendment is a classic example of overkill.

Let me explain why. The special panel of the Armed Services Committee that investigated the B-1B program held extensive hearings after in-depth staff work and 6 months full-time involvement of a specially assigned team from the General Accounting Office.

Following the hearings the panel, under the leadership of Chairman Aspin and Procurement Subcommittee Chairman Stratton, issued a comprehensive report on the B-1B program. It was a thorough, let-the-chips-fall-where-they-may report.

As a result of these efforts, the committee then marked up the National Defense Authorization Act that is before us today. In the B-1B program, the committee has taken the following actions:

First, reduced the B-1B program request of $680 million for fiscal year 1988 by nearly $300 million, or, 44 percent of the requested amount.

Second, levied quarterly reporting requirements on the Secretary of Defense on the status of the B-1B, including its performance, technical and fiscal problems and ability to meet program milestones.

Third, prohibited, without specific authorization and appropriations, any funds being used to modernize the B-1B aircraft.

Fourth, required the Secretary of the Air Force to request proposals for systems integration work on the B-1B, so that the avionics problems can be fixed.

Fifth, ensured the active involvement and oversight of the director of operational test and evaluation in the B-1B flight test program; and

Sixth, authorized establishment of a special panel of experts from the private sector who are independent of the Air Force to provide an assessment of the capabilities of the B-1B program.

Mr. Chairman, as you can see, this is a very significant and demanding set of requirements that have been placed on the B-1B program. We have imposed a set of binding constraints on this program.

We have done so for a very basic reason: to see that we get the B-1B that we paid for. To be certain that this is the case, we need a vigorous test program.

Unfortunately, the amendment goes in the opposite direction and, in doing so, will cause the B-1B test program to cost twice as much as it should.

Let me explain why.

In the first place, the DOD budget building process for fiscal year 1988 allocated $415 million for the B-1B test program. This means that to make space for the B-1B test program, other research and development activities were not included in the fiscal year 1988 request.

In the second place, if we adopt the Boxer amendment, we are telling the Defense Department that they will have to come up with the B-1B test money out-of-hide through the reprogramming process. In other words, they will have to take money away from other programs to pay for the B-1B test program.

As a result, we would be paying for the B-1B test program twice. In my judgment, the approach does nothing to solve the problems of the B-1B. In fact, it only means that we will be denying funds for other important defense programs.

I urge a resounding no vote on the Boxer amendment.

□ 1610

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Davis].

Mr. DAVIS of Michigan. Mr. Chairman, if the Members did not like the last amendment, they are going to like this one even less.

I think we would be making a terrible mistake if we go ahead with this amendment. With regard to the B-1 bomber, 2 years from now we are going to be back here singing the praises of the B-1 bomber. It is an excellent bomber. It does have problems, but I am telling the Members that 2 years from now we are going to be saying how great it is.

Let us put that question aside and talk about this particular amendment. The amendment concedes the need for additional testing but prohibits the authorization of funds to do so. The Air Force would be forced to reprogram money away from other programs to make sure that critical areas are not impacted. That frankly does not make sense.

If there are shortcomings of this aircraft, let us fix them. What can possibly be gained by forcing a reprogramming? About the only likely consequence of dragging this out will be increasing the cost.

Why delay defensive and flight control systems and curtail important cruise missile and conventional weapons carriage capabilities? This is exactly the development that needs to be done quickly and efficiency, not in the roundabout manner specified in this particular amendment.

The B-1B program is still well within the original cost estimates of $20.5 billion in 1981 dollars. We talk about saving the taxpayers money, and let me tell the Members that this program has been a good program, one that is well within the confines of the budget.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, is it not true that we had allocated $24 billion, and as a matter of fact they came in $600 million underneath that figure and last year we took that away from them, so this is simply a request to restore part of that money? Is that not correct?

Mr. DAVIS of Michigan. That is exactly true. That is a very good point. They came in $600 million under, and they are just asking for the $600 million. That is an excellent point.

Mrs. BOXER. Mr. Chairman, I yield 1 minute and 40 seconds to the gentleman from Indiana [Mr. McCloskey].

Mr. McCLOSKEY. Mr. Chairman, I rise in support of the Boxer amendment to help restore some semblance of management credibility and fiscal integrity to the B-1B program.

It has been said that too much emphasis on concurrency has resulted in the structural and technical problems now rampant in the system.

This may well be. But there can be no doubt that the larger problem is not concurrency—but veracity—the constant "stonewalling" as to information on the Air Force's developing problems with the B-1B.

As the Armed Services Panel report states:

> (4) That the B-1B faces problems and would require modifications was known to the program in 1982, but the scale of the problem was not communicated to senior Air Force or Defense Department officials until 1985 or to Congress until 1987.

Any problems with electronic countermeasures and defensive avionic systems pale alongside the fact that the Secretary of Defense was left out of the informational and decisionmaking loop for several years—and the Armed Services Committee was the last to know, after numerous contractors and the media.

The B-1B may be a "Flying Edsel" or it may be the best bomber in the world today. At any rate it has nowhere near the operating specifications that were promised and ordered.

To—$376 million more for R&D when just 1 year ago the Air Force said only $42 million would be needed—would be to pet the dog that just bit off your arm.

Send the B-1B back to obedience school. Put some discipline in the structure.

Support the Boxer amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. Inhofe].

Mr. INHOFE. Mr. Chairman, I rise in opposition to the Boxer amendment and urge my colleagues to reject it. Congress and the Pentagon have worked together to develop a major weapon system that costs less than estimated, is being delivered ahead of schedule, and is capable of penetrating Soviet airspace. And yet, instead of being hailed as a great procurement success, it is being subjected to unwarranted criticism.

Critics trying to destroy the B-1B refer to the 40-ton weight gain, but fail to point out that 37 of the 40 tons are additional bombs, missiles, and fuel gained by design changes that added only 7,000 pounds to the plane's actual empty weight.

They argue that the B-1B can't fly over 20,000 feet, but fail to mention that it was designed for low altitude flight. Nor do they mention the fact that Soviet surface-to-air missiles have ranges in excess of 80,000 feet, which we've known since Francis Gary Powers was shot down in his U-2 in the 1960's. Indeed, it was for that reason that the B-1B was designed to and can fly at 200 feet and thereby evade Soviet radars and missiles.

Critics allege that a fully loaded B-1B has poor maneuverability, conveniently ignoring the fact that it would launch its 20 cruise missiles 1,500 miles or more from its target and then proceed, lighter and drag-free, to drop to very low altitude to penetrate Soviet airspace.

Sponsors of the Boxer amendment claim that fixing the B-1B will require massive infusions of taxpayers' dollars, but in fact the Air Force asked for $600 million over 2 years to improve the B-1B, which is less than the $1.2 billion that Congress removed from the program last year because it was running so far below original cost estimates.

There is no question that there have been and continue to be some problems with the B-1B; most of them are the kind of thing that can be expected in any new weapon system, and they've been addressed. Some, particularly the defensive avionics, need further work. However, I'd want to reiterate that the money the Air Force has requested for this purpose is well within the original cost estimates for the B-1B.

In the meantime, current problems do not render the B-1B useless or a "flying lemon." On the contrary, it is highly praised by the air crews who fly it and the technical sergeants who work on it.

As a pilot of 30 years, I have always believed that the best people to go to for opinions about airplanes are the people who fly them. This is doubly true when you are talking about military airplanes and pilots whose lives may depend some day on the capability of the aircraft in a wartime situation.

I have personally spoken with pilots and engineers working with the B-1B, and I have heard only praise for the aircraft.

Gen. Larry Welch, Chief of Staff of the Air Force, has told me of the plane's excellent performance and the confidence his men have in it.

Lt. Col. Michael Kenny, a pilot with 16 years of experience, gave the B-1B the strongest possible vote of confidence when he said he "would go to war in a heartbeat with this airplane."

The facts are that:

The B-1B bomber is operational and has successfully completed a 21-hour test flight that took it to within 160 nautical miles of the Soviet border;

Its air crews believe strongly in its capabilities; and

The request for funding is within original cost estimates.

The bottom line is that the Boxer amendment would needlessly complicate and delay corrections in the B-1B's defensive avionics.

Vote against needless delay.

Vote for the best bomber in the world.

Vote against the Boxer amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, the contractor was asked to bring in the B-1B, a hundred of them, under or at $20.5 billion. They brought it in at $19.9 billion, turning back $600 million. That does not happen in this country very often.

The Air Force has now asked us to give back some of that money to take care of problems that they are working out as they are turning out combat-ready crews.

The gentleman from Oklahoma, Mr. Inhofe, used a line that used to be used in the automobile business in this country, and I think it is still good: ask someone who drives it—or flies it—or owns it. Ask the pilots who fly this airplane, the ones that are now checking out and who are going to become combat ready to fly at Ellsworth Air Force Base, SD, or at Dyess Air Force Base, TX. I first flew the B-1A on June 6, 1978. I will be flying the B-1B on June 5, next month.

The pilots tell me that it is the ultimate in bomber aircraft.

Let us not do anything to hurt this program that was delayed for 5 years, costing us 144 extra airplanes. That is what happened under President Carter.

Mr. Chairman, I ask the Members to vote "no" on the Boxer amendment.

Mr. Chairman, I include an article from the Washington Times of April 8, 1987, that tells us that we should look at the bright side of the B-1 bomber:

> Since good news is "no news," little has been written about the sleek B-1 strategic bomber during the final six years of its development program. The Rockwell International B-1 program has always been under cost, ahead of schedule and always has met or exceeded all production test goals.
>
> On June 29, 1985, the first of 100 B-1s was delivered to the U.S. Air Force. I flew to Dyess Air Force Base, Texas, to witness that significant event in Strategic Air Command and Air Force history. Since then, more than 34 bombers have been delivered to SAC and are now standing watch in defense of our freedom. Because of the priority President Ronald Reagan placed on the B-1B program when he wisely decided to modernize our aging bomber forces, final systems testing of the aircraft was to occur simultaneously with the training of the air crews.
>
> Now that combat-ready training is progressing, a number of problems have come to light—problems that could only be discovered at this stage of development. As a result, there has been quite a bit of B-1 criticism in the media in recent weeks. Not only are most of the criticisms misleading, many are simply wrong. The B-1 bomber program continues to be a major success story.
>
> The overwhelming majority of "deficiencies" often cited by the self-acclaimed defense experts in the media are not uncommon in new production aircraft. This is true of both military and civilian planes. However, unlike most new aircraft that follow a lengthy development and test schedule, the B-1 has been on a very tight schedule and under a congressionally mandated spending cap of $20.5 billion. In other words, Rockwell International redesigned the B-1A and then began building the new B-1 "B" model within a set budget. The Air Force took the unprecedented, yet tremendous cost-saving step of incorporating the final phases of the test program within the same time frame as the combat-ready development. Those tests, which usually take place before delivery, would have delayed delivery of the first B-1 and added millions of dollars to the cost of each plane.
>
> Although there are dozens of allegations made against the B-1, let's analyze the most serious charges. Perhaps the claim that the B-1s in service have sprung "leaks" is the one charge that is receiving the most attention. Fuel seepage is not uncommon to most aircraft that use the type of fuel system found on the B-1B. It is the same type of system used on commercial airliners where fuel is stored throughout the wings in their entirety ("wet wings") rather than in fuel bladders. This allows the plane to store more fuel by using all available hooks and crannies. Seepage, and we are talking drops, not gallons, is not uncommon and is fixable. The media, by using the words "leaks" and "weeps," create the impression of a serious fire hazard, when the problem is both minimal and correctable. As each B-1B logs more time in the air, the seepage becomes less frequent and the plane more efficient.
>
> A second major charge that has received attention is the claim that the B-1 is so "fat" that it can barely fly, much less perform the low-level penetration mission for which it was designed.
>
> This is absolutely false. When the president ordered the development of the new B-1, the Air Force took the opportunity to make a number of design changes in the aircraft to improve its capabilities. One significant change is that they added 7,000 pounds to the airplane so it could carry an additional 75,000 pounds of fuel and weapons. This, by any standard, is a great trade-off. But it wasn't the only trade-off. There was a lowering of the maximum high altitude the B-1 can fly when fully loaded, and a loss of some maneuverability at lower altitudes. But this is not a deficiency. Rarely does any military plane fly fully loaded to its maximum weight, and under normal situations, the B-1 can easily fly over 30,000 feet. But more important, the B-1 was designed to be a low-level penetration bomber and the improvements made in the new "B" model enhanced this "on-the-deck" capability.
>
> The pilots I have talked with tell me that the B-1 is the best airplane they have ever flown and that those who claim it cannot maneuver have no idea what they are talking about. (I personally piloted the B-1A for more than five hours on June 6, 1978, and look forward to flying the B-1B next month.)
>
> Then, there is the issue of money. There are claims that it will take billions of dollars to correct all the supposed B-1 shortcomings. Last year, because the B-1 management program was so successful, Congress was able to take back more than $1 billion from the contractor. This is a significant savings to the taxpayers. However, because of the problems and the media attention, the Air Force requested approximately $600 million for accelerated testing. This amount will stay under the congressional budget cap and there will be no cost overruns.
>
> Finally, there is the question as to how well the defense electronic equipment will work. This is one allegation that has merit. There is a problem with some of the defensive electronic countermeasures equipment on board. It is no secret that the Air Force is disappointed with the overall performance of this crucial electronic component on the B-1B. But to take the quantum leap that the B-1B is defenseless and thus unable to complete its mission if called upon is just plain wrong.
>
> The root cause of the problem is twofold.
>
> First, the Soviet radar detection and jamming capabilities developed faster then expected, thanks to Soviet spying. Because of a few treasonous Americans, the Soviet Union has been able to develop and deploy sophisticated "Look-Down Shoot-Down" radars that are needed to go after low penetrating bombers such as the B-1.
>
> Second, the avionics improvements are on the very fastest track of all technology. This has led to the current generation of B-1 defensive electronic countermeasures being less effective than we would like. However, the B-1s already delivered to the Air Force are not defenseless and can effectively do the job for which they were designed.
>
> The list of accusations against the B-1 is long, but they wither away in comparison to the real measure of the aircraft—how it performs its mission. At a time when our defense budget is under unrelenting fire, and cost overruns and inflated prices are highlighted the B-1 glistens as one of those shinning examples of what we can achieve by sound management techniques.
>
> The media, rather than creating news by building stories based on allegations, half-truths and down-right misinformation, should commend the Air Force for prompt resolution of operational problems, and for bringing the B-1 on line below cost and ahead of schedule.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Chairman, I rise in support of the amendment.

Let us be very clear. This is not an effort to cut one penny out of the B-1B. None of us is seeking to come between the gentleman from California and the wild blue yonder, which seems to be somewhat of a fruitless effort in any case. He is free to soar in his usual style. What we are talking about is whether we should give the Air Force an incentive to be efficient.

The money that will be spent on the B-1B will be spent, whether or not this amendment passes, whether or not the gentleman takes off—and we certainly hope he lands once he has taken off—and what this amendment says to the Air Force is, "You have come to us and said that because of some mistakes and problems and errors and some misestimates, they need more money."

The amendment says, "Fine, spend the money, make this aircraft as combat-ready as it can be, but find it in what you have already been voted."

It is an incentive to be efficient. What it says is, "if you come to us and say you need more money, then you should find it from what you have otherwise been given." To say that we are sorry that mistakes have been made, and here is an entirely new pot of money to come on top of what they have previously asked is to deprive them of the incentive to act efficiently. We cannot put free market mechanisms into the Air Force or into other defense systems. We can try to approximate those, and one way we approximate the efficiency of a market mechanism is to say, "Error is not free." If there have been engineering problems and if they have got to improve the development, then they should find the money out of what they have already gotten.

So this is not an effort to denigrate the B-1B. I look forward to the gentleman from Michigan coming back in a couple of years and singing the praises, and I will applaud the rendition on the floor. The question is, Should we not be efficient as we improve it?

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from California.

I do so because I believe that passage of this amendment will set a bad precedent for those of us in Congress who believe in realistic operational testing and are working with the military services to encourage it.

As a former Air Force pilot, I share my colleagues concerns over the performance to date of the B-1B. The Air Force itself has stated that it will probably be years before some of the systems on board the aircraft are fully developed, tested, and evaluated.

The Air Force knows it must now do some serious tests on the aircraft and it is ready to get underway. In my opinion, it would be counterproductive at this point to take a piece out of the Air Force's hide when its ready and willing to begin some important tests.

I am a strong proponent for the need for realistic testing of all our major weapons systems. We, are a body, need to do all in our power to encourage the military services to place a priority on operational tests.

We should do that by funding such tests, and making those funds a priority in the program. We will not accomplish this goal by punishing the Air Force or any other military service because it is interested in testing.

This amendment sends the wrong signal because it implies that realistic testing should come at the expense of our development programs.

I cannot agree with that approach and I ask my colleagues to oppose this amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewomen from California [Mrs. BOXER].

The test money that are necessary will come within the $20.5 billion cap. This is a vital system that has some problems, but $600 million of that $20.5 billion has been returned into the general budget, and we want to use some of that money to address these corrections.

There are two basic problems. One is with the air frame, and those problems are readily fixable. The second is a more serious problem, though, and that is in the electronic countermeasures. That is partly due to contractor problems and probably, more importantly, due to a change in the Soviet threat.

I believe the committee was correct in its evaluation earlier that we should fund these tests and make these corrections. Again let me say to the Members that I believe we should vote against the Boxer amendment.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I, too, was an Air Force pilot. I have been a pilot for 40 years, and I applaud this B-1B bomber. Apparently it is going to be a fine aircraft. But I think the time has come for this Congress to try to make the Defense Department responsible for its behavior.

It is long since overdue that we should try to build in some oversight and build in some accountability so that when they goof up, they eat it and they pay for it. It seems there is no more accountability in our armed services.

We have not seen a court-martial in decades, despite the fiasco of the hostage rescue attempt, despite the fiasco of the tragedy of the Beirut truck bombing that resulted in several hundred deaths. All these were attributable to a lack of organization, a lack of planning, incompetence, and stupidity. It is about time that we had some accountability. It is about time the armed services became responsible for their behavior, and this is one way of doing it.

Mr. Chairman, I support the Boxer amendment.

The CHAIRMAN pro tempore (Mr. RUSSO). The gentleman from Alabama [Mr. DICKINSON] has 2 minutes remaining and the gentleman from Alabama is entitled to close debate.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I can readily understand the frustration with the Air Force experience by my able colleague, the gentleman from California. Most of my colleagues on the Committee on Armed Services and I have shared that frustration. The Air Force, in my estimation, has not really lived up to its commitment on the B-1 bomber.

□ 1625

Nevertheless, the additional testing must go forward. The ambitious testing schedule would mean further delays in getting the full B-1B capability on the flight lines in defense of this country.

Even the proposed amendments offered by the gentlewoman from California [Mrs. BOXER] recognizes the need for testing.

It simply denies the Air Force the funds necessary to conduct those tests. With the cuts that we have made in the Air Force budget the past 2 or 3 years, there is no way that they can absorb the $376 million allocated for additional B-1B testing without severely impacting on the programs.

I found it very interesting that the gentleman from California talked about flying in 1978. The gentleman from Massachusetts questioned whether that made any difference at all.

I spent 4½ hours in the B-1 in June 1980. We flew very low; we flew very fast. We had a mission. The mission profile was one that was able to be completed, but that was the B-1.

We now have the B-1B, and we must go forward with the testing.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ASPIN], the distinguished chairman of our committee.

Mr. ASPIN. Mr. Chairman, I would like to point out to the committee that the amendment that we are talking about, the differences between the Boxer amendment and the committee's position, the similarities there are a lot greater than the differences.

In both the Boxer amendment and in the committee position, the philosophy behind it was, we should fund the further testing of the B-1, but we should not fund any fixes to the B-1 program, or any enhancement to the B-1 program until we knew what the problems were, so we would continue with the testing and hold up on fixing the program, hold all the money for fixing the program until we got the complete bill.

The only difference between the Boxer position and the committee position is that the Boxer position would say the Air Force has to pay for the testing; and the committee says that the taxpayers pay for the testing.

I believe on balance that the Boxer amendment has some merit in the signal that it sends to the Air Force and to the Pentagon, and I plan to vote for the Boxer amendment.

The **CHAIRMAN** pro tempore (Mr. Russo). The gentlewoman from California [Mrs. Boxer] has 20 seconds remaining.

Mr. **ASPIN.** Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. Slaughter].

Ms. **SLAUGHTER** of New York. Mr. Chairman, I rise in strong support of accountability in military procurement and therefore in strong support of this amendment.

The history of B-1B is a history of broken promises and coverups. The Air Force promised to deliver an effective penetrating bomber which would reach initial operating capability in September 1986. The latest Armed Services Committee report on the B-1B reveals that we will now have to wait until 1991 for this capability to be fully met.

The B-1B's defensive electronics system not only fails to perform its function of jamming enemy radar signals, but actually endangers our crews and their missions by sending out a beacon advertising its approach.

As early as 1982, program officials knew that the B-1B faced problems and would require modifications. Senior Air Force and Defense Department officials knew of these problems in 1985. We in Congress were not informed of the continuing problems until this year.

Congress cannot perform its oversight functions when it is not told the truth about the project status and performance. If we are serious about ensuring our money is spent wisely and if we are serious about insisting that our fighting forces have weapons which work and don't endanger their lives, we must take a stand today.

We must send a message to both Government and private contractors that coverups have a cost. Congress will no longer pay to fix flaws which have been continually covered up. Today we vote to hold those who said, "there's no problem" accountable for those words.

I ask my colleagues to join me in supporting this important amendment.

Mr. **ASPIN.** Mr. Chairman, I yield the balance of my time to the gentlewoman from California [Mrs. Boxer], the sponsor of the amendment.

Mrs. **BOXER.** Mr. Chairman, I yield to the gentleman from Maine [Mr. Brennan].

Mr. **BRENNAN.** Mr. Chairman, I rise in support of the Boxer amendment which restricts funding for additional testing and evaluation of the B-1 bomber. This amendment is not a referendum on whether we should or should not have the B-1—that airplane is a reality with 42 already on the flight line.

In February, Members were alerted by our committee chairman of the serious problems plaguing the B-1. Committee members also learned through a series of hearings that the B-1 Program has been poorly managed. Our amendment attempts to restore accountability to the B-1 Program.

Our amendment compels the Air Force to transfer money within their testing and evaluation account to pay for the additional testing and evaluation required to address the B-1's deficiencies. The Air Force has requested $375 million to conduct these tests. The amount the Air Force would have to reallocate is roughly 2 percent of that budget.

This amendment requires the Air Force to request a reprogramming of their funding to cover the B-1 testing. I do not believe the B-1 Program will be adversely affected through the adoption of this amendment. I urge my colleagues to support the Boxer amendment.

Mrs. **BOXER.** Mr. Chairman, how much time do I have remaining?

The **CHAIRMAN** pro tempore. The gentlewoman from California [Mrs. Boxer] has 3 minutes and 20 seconds remaining; the gentleman from Alabama [Mr. Dickinson] has 1 minute remaining.

Mrs. **BOXER.** Mr. Chairman, I yield to the gentleman from California [Mr. Levine].

Mr. **LEVINE** of California. Mr. Chairman, I have long been a supporter of the B-1 bomber. It is an important weapon which our Air Force needs.

Much of the work which has been done, and is being done on the B-1, is in my district. Many of my constituents derive their livelihood from this program.

In the past, I have consistently opposed efforts to cut funding or terminate this program.

It is because I support the B-1 that I support the Boxer amendment.

It would be a tragedy if the problems which exist in the B-1 Program were allowed to bring into question the importance of this plane, or the contributions it will make to our defenses.

The issue we are debating is who will pay for those fixes; the taxpayers or the Air Force. As prime contractor for the B-1, the Air Force must assume responsibility for the plane's defects.

We cannot tolerate a repeat of our experience with the B-1. Passage of the Boxer amendment will make clear Congress' resolve to hold the line on weapons costs.

Mrs. **BOXER.** Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, I know this is not an easy amendment. I do not offer this amendment lightly or to give you a difficult vote. I offer this amendment because I think it is a very important amendment in terms of the signal that it is sending out across America today.

This amendment has nothing to do with whether you think the B-1 bomber is the greatest bomber ever in the history of the world or the worst bomber. It has nothing to do with that, because what we do in this amendment, Mr. Chairman, is to continue the testing and to continue the fixes.

All we are saying here is that there is no one else to stand up for the American taxpayer. There is no one else to protect the American taxpayer but those of us in this room. I think we have a responsibility to those people. They want us to insure that our weapons systems work, that our weapons systems are safe and that they are cost-effective.

What we are doing simply, Mr. Chairman, in this amendment is saying that we are standing up for the taxpayers and saying to the Air Force, "Yes, the B-1B must continue, absolutely; but no, the taxpayers are not going to bail you out. You go into your budget. It is $91 billion, the Air Force budget, and you come up with that $376 million and we will move forward.

So please, I hope you will stand up for the taxpayers and vote "aye" on this amendment.

Mr. **DICKINSON.** Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my colleague, the gentleman from Alabama [Mr. Nichols].

Mr. **NICHOLS.** Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from California and would point out to this body that the B-1B is on alert today at Dyess AFB, TX and at Ellsworth AFB, SD.

This newest plane in the Air Force's inventory can penetrate sophisticated defenses at high speeds and low altitudes. To cripple or impede the progress of the delivery of the 100 aircraft currently being built would adversely affect an important leg of our triad.

As with any new aircraft, certain problems have developed but these problems have been identified by the Air Force and are in the process of being corrected. Those early problems concern fuel leaks and the software in the terrain-following radar. I do not maintain that these are minor problems—they are deficiencies and these must be corrected. But all in all, the B-1B Program is one in which we can take pride. Both the production schedule and the certified cost of the program are being met, and this new aircraft, like the B-52 which it replaces, provides important contributions to the peace and security of this Nation, and I urge that the amendment be defeated.

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from Florida [Mr. Chappell].

Mr. CHAPPELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong opposition to this amendment. Where is the money coming from in the Air Force to fix something supposedly that has to be fixed? And it does. There are some problems with the B-1. Everybody acknowledges those, but they are primarily problems that have to do with meeting the threat, with bringing the ECM equipment right up to the state of the art in order that we might with it meet the threat of the Soviets. That is the purpose of the moneys that were requested by the committee in this bill.

Now, we are still under budget. If you remember, back in 1981 we set the ceiling at $20.5 billion. Even if you put the $600 million in that the Air Force is requesting over the next 2 years, you still come in almost $400 million under that ceiling.

Now, the only moneys that the Air Force have are taxpayers' moneys. What are they going to do, take it out of the 16 program or the 15 program?

The point is, these are engineering changes. These are things that happen with every new system we have ever built. It is just one of those things that has to be done.

Mr. Chairman, if you want to delay the program, if you want to delay the fixing, if you want to delay the testing, and the testing is the very thing that has to be done and you have to have money to do it, if you want to delay it, then you will vote "aye"; but if you want to move on with this program, get these engineering problems out of the way, then I urge you to vote "no" on the amendment.

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from New York [Mr. Stratton].

Mr. STRATTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as the cochairman of the special panel investigating the B-1 program, I have been as critical of the Air Force as anyone else; in this matter but as the gentleman from California [Mr. Badham] indicated a few moments ago, the committee has already put some tough demands and requirements on the B-1 program and these are already underway.

But I believe we ought not to forget that we are not just talking about playthings. What we are talking about is the threat from the Soviet Union, as the gentleman from Florida [Mr. Chappell] has already indicated.

The B-1 must be part of our airborne deterrent.

The B-1 may not be perfect, but we are moving along steadily to correct the errors. In that event I would believe that all of us here would want to have that deterrent as strong and as effective as possible. For us to try to buy cheap testing is just foolhardy, penny-wise and pound-foolish.

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from New York [Mr. Hochbrueckner].

Mr. HOCHBRUECKNER. Mr. Chairman, I recognize the concern of my colleagues on my side of the aisle. We should be concerned about how we are spending the taxpayers' money; but the fact of the matter is, and I oppose this amendment, it does cost money to run a flight test program. The B-1 is a reality. There are a hundred planes in the pipeline. We have to get those plans completed, upgraded and out as soon as possible.

One of the most stabilizing forces we have in our triad is our bomber forces. We cannot afford to delay completing this work as quickly as possible.

Now, I went to the Edwards Air Force Base. I spent 25 years in aerospace engineering working on aircraft. There is no doubt in my mind that, yes, they have problems; but they are on their way to solving those problems. If you cut the money off now, you are going to delay the program, and if you delay the program we are only going to pay more for it later, and that is the wrong way to do it.

Clearly, the best approach is to put the money in now, complete the flight test program as soon as possible, upgrade the systems. Let us get those hundred planes out there and let us have a more stabilizing deterrent force in our arsenal.

So I appeal to my colleagues to oppose this. Clearly, the Air Force has gotten the message already. They understand the message of this House. Let us not hold up a good program because of a message.

The CHAIRMAN pro tempore (Mr. Russo). The Chair will state that the time of the gentleman from Alabama [Mr. Dickinson] on striking the last word is completed. The gentleman has 1 minute remaining on this original time.

The gentlewoman from California [Mrs. Boxer] has 20 seconds remaining on her original time.

Mr. DICKINSON. Mr. Chairman, since I have the privilege of closing, I will let the gentlewoman use that 20 seconds.

□ 1640

Mrs. BOXER. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I think that this amendment has been so mischaracterized by my friends on both sides of the aisle. As the chairman of our committee stated very, very clearly, there is no difference in both versions. We both want to move forward with the testing. All we are saying on our side to the Air Foirce is, "You have not managed this program well. Figure out a way to pay for it. You have a large $91 billion budget. Pay for it."

The CHAIRMAN pro tempore (Mr. Russo). The gentleman from Alabama [Mr. Dickinson] has 1 minute with which to close debate.

Mr. DICKINSON. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, if we stop and think, this is most ludicrous, what we are asked to do now. The lady says, "Take the money out of your hide." Well, out of what hide?

We have already taken over $2½ billion out of SDI. We have already taken out the ground-launched cruise missile. We have already taken out the money for the advanced cruise missile. We have taken out program after program by denying the Air Force money. They gave back $600 million on this program last year, and now they are asking for it back.

Where is the money to come from? The author of the amendment has already voted to cut the thing $17 billion under the committee's mark, $25 billion under what was requested by the minority.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. No, I will not yield.

Where is the money to come from? Take it out of the hide? What hide?

We have taken $17 billion out of what the committee said was necessary. The biggest portion of this came from the Air Force. Now they say, "Well, that is not enough, take some more out of the Air Force." Where? Where?

I have just enumerated some of the programs that we have zeroed because there is not money here.

We have got to complete the B-1 program. We have got to finish the testing. The Air Force does not have the money in some hip pocket where it is not being used. It is ludicrous to an extreme to say, "We are going to build 100 B-1 bombers, but we are not going to give you the money to test for the fixing of things that are deficient.

Vote the amendment down. It is just common sense.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California [Mrs. Boxer].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. BOXER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 124, noes 279, not voting 29, as follows:

[Roll No. 125]

AYES—124

Ackerman
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Biaggi
Bonior (MI)
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Cardin
Carr
Clay
Coelho
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Derrick
Dingell
Dixon
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Espy
Evans
Fascell
Fazio
Florio
Foglietta
Ford (MI)
Frank
Garcia
Gejdenson
Gibbons
Gonzalez
Gray (PA)
Guarini
Hamilton
Hayes (IL)
Hertel
Howard
Hoyer
Jacobs
Jeffords
Jontz
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kostmayer
LaFalce
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
MacKay
Manton
Markey
Matsui
McCloskey
McHugh
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morrison (CT)
Mrazek
Nowak
Oberstar
Obey
Owens (NY)
Panetta
Pease
Perkins
Rahall
Ridge
Rodino
Roe
Rostenkowski
Russo
Savage
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slaughter (NY)
St Germain
Staggers
Stark
Studds
Torricelli
Towns
Traxler
Udall
Visclosky
Walgren
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOES—279

Akaka
Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boucher
Boulter
Broomfield
Brown (CA)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
Dicks
DioGuardi
Dornan (CA)
Dowdy
Downey
Dreier
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Feighan
Fields
Fish
Flippo
Foley
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gilman
Gingrich
Glickman
Goodling
Gordon
Grandy
Grant
Green
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
Kemp
Kennelly
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leath (TX)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Olin
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sawyer
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Stallings
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wortley
Wylie
Young (AK)

NOT VOTING—29

Alexander
Anderson
Annunzio
Anthony
Boner (TN)
Bonker
Crane
Duncan
Flake
Ford (TN)
Gephardt
Gradison
Gray (IL)
Jones (NC)
Molinari
Owens (UT)
Rangel
Ray
Roemer
Roybal
Spratt
Stangeland
Stokes
Tauzin
Torres
Vento
Waxman
Yatron
Young (FL)

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Roemer against.

Mr. Vento for, with Mr. Crane against.

Mr. Gray of Illinois for, with Mr. Young of Florida against.

Mr. Bonker for, with Mr. Molinari against.

Mr. ARMEY and Mr. SKELTON changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BATES

Mr. BATES. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Russo). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Bates:

(d) Super Stallion Helicopters.—None of the amount appropriated or otherwise made available to the Navy for fiscal year 1988 for procurement of aircraft may be used for procurement of Super Stallion C/MH-53E helicopters. The amount authorized in section 102(a)(1)(A) for procurement of aircraft to the Navy for fiscal year 1988 is hereby reduced by $225,045,000.

Mr. BATES. Mr. Chairman, I ask unanimous consent to modify the amendment.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. Bates: The amendment as modified is as follows:

At the end of section 109 (page 14, after line 16), add the following new subsection:

(d) Super Stallion Helicopters.—The Secretary of the Navy may not accept delivery of any Super Stallion C/MH-53E helicopter contracted for using funds appropriated for a fiscal year after fiscal year 1987 unless the helicopter incorporates design changes to improve flight stability that are approved by the Secretary of the Navy based upon recommendations resulting from the flight stability deficiency correction program for such helicopter being carried out as of May 18, 1987.

The CHAIRMAN pro tempore. Is there objection to the modification?

Mr. BADHAM. Mr. Chairman, reserving the right to object, I reserve the right to object because I think it should be pointed out to the Committee that this modification to the Bates amendment merely codifies what has been agreed to between the contractor and the Navy for a static and flight test stability deficiency correction program.

I would further say under my reservation, Mr. Chairman, since about 40 percent of the worldwide inventory of these helicopters is stationed in my district, it came to our attention, after a series of crashes of this airplane a year ago, that there was a potential problem, at least a perception of a problem did exist if nowhere else but in the press. Expressing my concern over the fact that seven of these helicopters had crashed in altogether too short a period of time, I called upon the Chairman, and we instituted an investigation into this whole matter to see if there really was a problem with this helicopter.

□ 1705

In so doing we got ahold of documents and went into the whole program and we found out some very strange things.

During the course of the last calendar year, in about early this year, we found out or discovered some internal Navy documents that inidcated that the Navy had not done a test program on this airplane at all, commensurate with its construction and its new configuration, to the point that we felt that the Navy did not even know whether or not there was a problem.

Such being the case I called on the Secretary of the Navy through the auspices of the Procurement Subcommittee of the House Committee on Armed Services for the Secretary of the Navy to ground those aircraft, or, if not ground them, tell us why they should be flying and if they would be restricted in their flight envelope.

They responded in a timely fashion. Since that time we have worked out an agreement between the Secretary of the Navy, the Marine Corps and the contractor to the extent that they are flying under limited restrictions at the present time. The contractor has agreed to fund a full testing program which will benefit this aircraft and benefit all helicopter flight into the future.

For that reason, one of the agreements was that the Secretary of the Navy and the contractor agreed that no 1988 helicopters on a multiyear procurement would be accepted until such time as the flight stability deficiency corrections program was done.

What the Bates amendment does is codify that change. And because of that I will not object.

Mr. Chairman, under my reservation I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I am pleased with the substitution that has occurred because I was very concerned that the original amendment as it was drafted with an elimination of any procurement for fiscal year 1988 was, in fact, going to cost the taxpayers a lot more money by canceling a multiyear procurement that has already been entered into.

I ask the gentleman if he could answer it if the proponent of the amendment, as it has been altered—as I understand it the multiyear contract has already been modified to provide that these changes, when they are recommended, will be incorporated for future procurements under this plan that is being codified here. Do I understand correctly?

Mr. BADHAM. Further under my reservation, Mr. Chairman, the gentleman is correct that such an agreement has been reached. Were we to disrupt the multiyear procurement program, it would be an additional cost to the taxpayers of $250 million, a canceled program; the Marine mission would be disrupted, the taxpayers would still own some 94 of these helicopters and would not have a test program.

So that would be a very unfortunate way to proceed.

Under the agreements now reached the multiyear procurement will go apace. I will restate under my reservation that the Navy really does not know whether there is a problem or not. But with the testing with state of the art test equipment that we have, we will find out more about helicopters than has ever been known before generally and specifically as to this bird and they will be under an agreement between the Navy and the contractor corrected, if indeed correction is to be made.

Mr. MORRISON of Connecticut. If the gentleman would yield further, then the effect of this amendment is to take the March 13, 1987, set of recommendations from the Navy Inspector General and make those a part of this authorization legislation so that we can be assured that this process that has been set in motion already will, in fact, govern the future procurement of these helicopters and that that is the best resolution it seems to me from the standpoint of both the taxpayers' interests as to cost and our shared concern about the safety and effectiveness of these aircraft.

Mr. BADHAM. Continuing under my reservation, that is correct.

The Inspector General of the Navy put together a technical review panel which made many recommendations, including a 4-year test program. We of the subcommittee, the Navy and the contractor thought that was way overblown because the test program should not take more than a year.

Basic, then, to the agreement was the fact that the testing would be done in approximately 15 months from its inception which was April 6.

Until that time no fiscal year 1988 aircraft would be accepted and the taxpayers, the Navy, the Marine Corps, and the contractor and everybody is better off in this situation.

Mr. MORRISON of Connecticut. I thank the gentleman for his explanation.

Mr. BADHAM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. SCHUMER). Is there objection to the modification offered by the gentleman from California [Mr. BATES]?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. BATES] is recognized for 10 minutes.

Mr. BATES. I thank the Chairman.

I want to first of all commend Congressman BADHAM for his leadership on this issue. Clearly I think he has attempted to deal with a very difficult problem.

Congressman MORRISON's remarks in the RECORD I think do help clarify this issue.

I would like to make clear though, with the Super Stallion helicopters, that there have been a number of accidents. There is a problem with the Super Stallion helicopters. There has been a program that has gone forward without adequate testing. There have been 20 marines who have died.

Currently the problem is not clearly identified and the taxpayers should not be buying a helicopter that does not work.

In essence if the problem can be identified, if the contractor can fix it, and I think with the oversight of the Navy inspector general, I think we have the final opportunity to reject these helicopters if they are not fixed.

I think while this agreement was ably worked out by the Congressman from California, Mr. BADHAM, I think it is in the best interest of the country to codify these arrangements so that it is clear we would not move forward.

In the Senate they have attempted to, I think, put even tighter restrictions by limiting only 30 percent of the funds to be obligated for this helicopter. But I think that the modification goes a long way in highlighting and tying down this agreement.

Mr. Chairman, I would ask for support by my colleagues on this amendment.

The CHAIRMAN pro tempore. The gentleman yields back the balance of his time.

The Chair would inquire is there a Member opposed to the amendment offered by the gentleman from California?

The Chair recognizes the gentleman from California [Mr. BADHAM] for 10 minutes.

Mr. BADHAM. Mr. Chairman I yield myself such time as I may consume.

I will not oppose the amendment. We have examined the amendment very closely and we will accept it on this side because it does codify an agreement worked out between the Navy, Marine Corps, and the contractor. This was based on the fact that back in 1972 the Marine Corps had a mission need for a larger helicopter. The Navy felt it was inappropriate to come to the floor at that time. So they did it on an engineering change proposal. That is where the trouble came in.

The difficulty is that the Navy to this day does not know if there is a problem and how serious the problem is.

The program that we worked out is designed to find out whether or not a problem does exist and fix the problem.

Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from California [Mr. BADHAM] for the work that he has done on this issue. When we first realized that there were some problems, Mr. BADHAM was quick to contact the members of the Committee on Armed

Services, the subcommittee thereof, the staff, the inspector general, the secretary of the Navy and a number of other individuals who were concerned, including the contractors. So from these contracts and from the work that has been done I think we put a good schedule of testing together. I think we have controlled the situation. I think we look forward to the utmost safety. I want to give a great deal of credit to Mr. BADHAM for taking the issue so seriously, working so diligently to make sure that all the precautions were followed before we allowed anymore Super Stallions to go forward.

So I do agree that this amendment will rectify some of the problems and, continuing to work together on the Committee on Armed Services, certainly as the ranking member of the subcommittee, the gentleman from California [Mr. BADHAM] will have the utmost experience and involvement in the issue.

So is this Member from Connecticut, where the contractor is located, on behalf of the thousands of employees that are there working on the Super Stallion we greatly appreciate the work that the gentleman has done and the work that the Committee on Armed Services, the subcommittee and staff all have done.

Mr. Chairman, I commend the gentleman from California for his efforts.

Mr. BADHAM. I thank the gentleman for his kind comments and his contribution to the entire study.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment as modified, offered by the gentleman from California [Mr. BATES].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. BADHAM

Mr. BADHAM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Insert the following at the end of part C of title VII of division B (page 192, after line 22):

SEC. 2736. PROHIBITION OF CERTAIN EXPENDITURE.

None of the funds available to the Department of Defense for any fiscal year may be expended in accordance with the directive which is under the heading "Claims, Defense" in title II of the Department of Defense Appropriations Act, 1987, in Public Law 99-500 and 99-591, and which concerns the construction of the Norfolk Navy Steam Plant.

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. BADHAM] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. BADHAM].

Mr. BADHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman my amendment concerns the construction of a steam plant at the Navy facility in Norfolk, VA. This project was authorized and appropriated in fiscal year 1983. A competitve bid contract was awarded to the lowest of five bidders in September 1983, for a fixed price contract in the amount of $102.940 million. The two-step, formally advertised selection process for this project required the contractor to submit a design that would meet the Government's stated minimum requirements in the first phase and them to submit a bid based upon his own design and specifications for the second phase. While the Government detemined that the contractor's design for the project was technically acceptable in the light of the minimum contract requirements, the Government did not create the design. Last year, as the steam plant was nearing completion, the contractor, apparently, discovered that his design was in error and had come up approximately $10 million short.

In title II of the Defense Appropriations conference report of last year, there is a provision in the "Defense Claims" section that in effect provides $10 million for the private relief of this contractor as a result of his losses on this project. The enacted legislation of last year allows the contractor to escape responsibility for the design he developed and the competitive bid he submitted based on that design. This private relief legislation flies in the face of the competitive bidding process and the concept of a firm fixed price contract. It would, in effect, make the contract cost reimbursable without the proper oversight for such a method of procurement and without fair competition by others who might have pursued such a procurement. The legislation in last years Appropriations Act is unnecessary. If the losses were occasioned by Government action and through no fault of the contractor, the proper procedure would be for the contractor to file a claim pursuant to the Contract Disputes Act. If there is a right under the contract to recover for the losses, the contractor may request relief pursuant to Public Law 85-804. Congress adopted that law to authorize an agency to provide equitable relief to contractors under extraordinary circumstances. Standards for relief established pursuant to that law provide the necessary safeguards to ensure that relief will be granted only when appropriate.

My amendment would simply remedy what, I feel, is legislation that is seriously flawed. Of greater concern is the dangerous precedent the present legislation sets. By undermining existing laws, this legislation releases contractors from obligations to perform work based on their own design and at a price they competitively established. My amendment puts the process back on track. If the contractor has a legitimate claim, the Department of the Navy, under existing law, will provide compensation. I urge my colleagues to preserve thought the integrity of the well thought out contracting and procurement statutes and vote yes on this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1720

AMENDMENT OFFERED BY MR. CALLAHAN TO THE AMENDMENT OFFERED BY MR. BADHAM

Mr. CALLAHAN. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN pro tempore (Mr. SCHUMER). The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CALLAHAN to the amendment offered by Mr. BADHAM: Insert the following before the period at the end of the Badham amendment: ", except that payments shall be made, in accordance with such directive, for losses incurred during the period beginning on October 18, 1986, and ending at the close of the date of the enactment of this Act".

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. CALLAHAN] is recognized for 5 minutes.

Mr. BADHAM. Mr. Chairman, what will be the timing of the gentleman's perfecting amendment?

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. CALLAHAN] has 5 minutes on his amendment to the amendment.

Mr. BADHAM. And the opposition to such amendment?

The CHAIRMAN pro tempore. The opposition would then have 5 minutes.

Mr. BADHAM. I thank the Chair.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is intended to provide equity for the contractors of the Norfolk Navy steam plant. I respect and understand the motives of my good friend, the gentleman from California, in offering his amendment. I also want him to know how much I appreciate his willingness to listen to my concerns.

The contractor on this project entered into its contract with the Navy and as work progressed on the prototype steam plant, engineering changes were required to give the Navy the plant it wanted and these changes were accepted by the Navy. The contractor sustained substantial losses as a result of the various changes necessary to accomplish a workable plant.

The Congress acted last year to reimburse verifiable losses not to exceed $10 million. As a result, the contractor was able to continue work on the steam plant and has, in fact, built an excellent plant that is near completion.

The issue we are facing today is one of equity. The gentleman from California is to be commended for seeking to correct what may be a dangerous precedent. But in so doing, there is a risk of setting a new precedent whereby we put all contractors on notice that they can no longer rely on the letter of the law. The equitable solution, which I am proposing, is to repeal last year's law but remove the retroactive application contained in the amendment of the gentleman from California.

Mr. Chairman, my amendment would protect the project contractors during the period in which the appropriations law was in effect from October 18, 1986, until the date of enactment of this act. This way we do not completely cut the rug out from under the contractor. Rather, we respect the law under which the contractor agreed to continue working to complete the steam plant.

This is simple equity and I urge adoption of my amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, as I understand the gentleman's position, and as I understand the facts of this matter, is it not true that the contract was let, the contractor went in there and did substantial work, the Congress went in and appropriated $10 million, and now the Congress wants to take back that $10 million and, in effect, say what they did last year was wrong.

Is that correct?

Mr. CALLAHAN. Mr. Chairman, that is correct, with the exception that the contractor, under my amendment, would just be compensated for the losses he has incurred since October 18, when the amendment was attached to last year's legislation.

Mr. LIVINGSTON. So, in effect, the contractor has been led to believe that if it did a certain amount of work to correct the situation, it was going to——

Mr. CALLAHAN. The 99th Congress of the U.S. Congress gave him that assurance, yes.

Mr. LIVINGSTON. I thank the gentleman for his answers.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Alabama [Mr. NICHOLS].

Mr. NICHOLS. Mr. Chairman, I rise today in support of the Callahan amendment, having studied the facts as I know them and being convinced of the merits of my colleague's amendment.

Last year, the Congress did, indeed, pass and the President signed into law the continuing resolution directing the Navy to reimburse, upon verification, moneys expended on construction of the Norfolk Navy steam plant.

Now, as construction proceeded, it was necessary to improve the engineering, the design and the plant equipment, and the contractor implemented these changes.

Mr. Chairman, the gentleman from California is correct in saying that there are avenues that the contractor could have addressed to correct this, but I point out to you that the continuing resolution last year having passed, then the contractor went ahead and proceeded in good faith to complete the project.

He could have backed off; he could have reneged, but he did not do that. He followed the law as he understood it then and it is on that avenue that I ask that the Callahan amendment be supported.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I rise in support of the gentleman's amendment. It may well be true that the provision in the supplemental last year was perhaps a bad precedent, but I do not think that we want to today compound that error.

Here we have a contractor who was entitled to rely on existing law. It was in the law.

Mr. CALLAHAN. Absolutely. I have no quarrel whatsoever with the gentleman from California about following the proper procedures, however, the time to have argued that merit was during the 99th session of the Congress when we appropriated the $10 million.

Mr. CLINGER. It would be a classic case of Indian-giving if we now were to revoke it and say he is not going to be paid for what he is entitled to under the law.

Mr. MCEWEN. Mr. Chairman, I rise in support of the Callahan amendment. I don't think the purpose here is to debate the wisdom of the existing law. The able gentleman from California is far more well-versed on that than I. What I do think is that all of us can recognize the simple equity of not punishing the contractor which acted under existing law. Thus, we can settle the matter as to precedent as Mr. BADHAM wishes; while we act justly as Mr. CALLAHAN is urging.

I support the Callahan amendment.

The CHAIRMAN pro tempore. Is there any Member in opposition to the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] to the amendment offered by the gentleman from California [Mr. BADHAM]?

Mr. BADHAM. Mr. Chairman, I oppose the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. BADHAM] is recognized for 5 minutes in opposition to the amendment.

Mr. BADHAM. Mr. Chairman, I think that I have bent over backwards to try to help my good friends with the situation in which they find themselves, but I will be darned if I can, at this point.

What we are talking about is a construction company of longstanding who made a bid and they could not meet their own terms and then they go to somebody to bail them out. Did they go to the Navy? No. Did they go to the committee of Congress that was responsible? No.

They went to the back door of the Committee on Appropriations. If you want to give them $10 million for doing that, for outsmarting the Congress of the United States, please be my guest. But let me tell you about contracting, Mr. Chairman. It was characterized here a few minutes ago that this poor contractor with his $102 million bid decided he ought to have some changes in his design, approved by the Navy, and he ought to have some changes. He went to the Navy and they agreed.

That constitutes a change order. Now, whether you are building a house, a doghouse, an outhouse or a steam plant, when you agree on a change order, the contractor who builds that is going to be compensated. That is the law of contracts.

Do not let these people tell you that they went to the Navy and they continued their work and they were going to get recompensated and they did not until they went to the back door of the Committee on Appropriations. That is bunk and I think we all know it.

I, at the behest and the request of my good friends from Alabama, entertained the contractor's representative and their attorneys in my office and we tried to work out something satisfactory, but I am sorry, I cannot accept this from Mr. CALLAHAN.

What the gentleman is saying is that, OK, let us just give them as much money as they can spend between October and now. It was wrong then; it was against policy; it was against contracting law, and it still is bad now. It is not Indian-giving, I say to my friend from Pennsylvania; it is setting right a wrong that has been done by the back door.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] to the amendment offered by the gentleman from California [Mr. BADHAM].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BADHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 143, not voting 29, as follows:

[Roll No. 126]

AYES—260

Ackerman
Akaka
Andrews
Applegate
Archer
Armey
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bevill
Biaggi
Bilbray
Boehlert
Boggs
Boland
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coelho
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Coyne
Darden
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Espy
Fascell
Fazio
Fields
Fish
Flippo
Florio
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gingrich
Glickman
Goodling
Gordon
Grandy
Grant
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hiler
Hochbrueckner
Holloway
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Kanjorski
Kaptur
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Oxley
Pashayan
Patterson
Pepper
Perkins
Pickle
Porter
Price (IL)
Quillen
Rahall
Ravenel
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Saxton
Schaefer
Scheuer
Shuster
Skaggs
Skeen
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stark
Stenholm
Studds
Sundquist
Sweeney
Swindall
Tallon
Taylor
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Young (AK)

NOES—143

Alexander
Aspin
Badham
Barton
Bennett
Bentley
Bereuter
Berman
Bilirakis
Bliley
Brown (CO)
Bruce
Cardin
Carper
Chappell
Clarke
Clay
Coleman (MO)
Collins
Conte
Conyers
Craig
Daniel
Dannemeyer
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Dicks
Dingell
DioGuardi
Dixon
Dreier
Dymally
Eckart
English
Evans
Fawell
Feighan
Flake
Foley
Frenzel
Gallegly
Garcia
Gibbons
Gilman
Gonzalez
Green
Gregg
Hall (TX)
Hamilton
Hansen
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hopkins
Horton
Houghton
Hutto
Inhofe
Jacobs
Jeffords
Jones (TN)
Jontz
Kasich
Kastenmeier
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Leach (IA)
Leland
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lowry (WA)
Lukens, Donald
Lungren
Martin (NY)
McCandless
Meyers
Michel
Miller (OH)
Mineta
Moorhead
Morrison (CT)
Neal
Nelson
Nielson
Obey
Owens (NY)
Packard
Panetta
Parris
Pease
Penny
Petri
Pickett
Pursell
Regula
Rhodes
Roberts
Rose
Russo
Savage
Sawyer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Stratton
Stump
Swift
Synar
Tauke
Thomas (CA)
Udall
Visclosky
Volkmer
Vucanovich
Wheat
Whittaker

NOT VOTING—29

Anderson
Annunzio
Anthony
Boner (TN)
Bonker
Crane
Crockett
Duncan
Ford (TN)
Gephardt
Gradison
Gray (IL)
Jones (NC)
Molinari
Owens (UT)
Price (NC)
Rangel
Ray
Roemer
Roybal
Spratt
Stangeland
Stokes
Tauzin
Torres
Vento
Waxman
Yatron
Young (FL)

□ 1745

The Clerk announced the following pair:

On this vote:

Mr. Ford of Tennessee for, with Mr. Rangel against.

Messrs. THOMAS of California, DENNY SMITH, SAVAGE, MOORHEAD, and PEASE , Ms. SNOWE, and Messrs, REGULA. HAYES of Illinois, LOWRY of Washington, SMITH of Iowa, KASTENMEIER, SWIFT, and CHAPPELL changed their votes from "aye" to "no."

Messrs. WISE, MILLER of California, STARK, and WEISS changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. Russo). The question is on the amendment, as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Without objection, the Committee will proceed to the amendment offered by Representative Aspin, or his designee, relating to the N-Reactor, which is not subject to amendment except for the substitute printed on page 31 of section 2 of House Report 100-84, authored by Representative Morrison, of Washington. The amendment offered by Representative Aspin, or his designee, is debatable for 40 minutes, equally divided and controlled by Representative AuCoin or Representative Lowry of Washington, or their designees, and a Member opposed thereto; and the substitute is debatable for 40 minutes, equally divided and controlled by [Mr. Morrison], the gentleman from Washington and a Member opposed.

There was no objection.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from Washington [Mr. Foley] is recognized for 5 minutes.

There was no objection.

Mr. FOLEY. Mr Chairman, it is my intention to ask unanimous consent to consider an N-Reactor substitute worked out between the members of the Oregon and Washington delegations on both sides of the aisle.

If the unanimous-consent request is agreed to, I think I can assure the membership that there will be no vote on the amendment and that this amendment will be the last that the chairman will call up this evening.

The N-Reactor amendment, developed in many meetings over the past 2 weeks, is an effort to offer the House a consensus, at least for the purposes of this bill, among Democrats and Republicans from the States most directly affected by decisions concerning the reactor.

I would hope that accordingly we would have the opportunity for its consideration.

Mr. Chairman, I ask unanimous consent to offer an amendment not printed in the Record as a substitute for the amendment offered by the gentleman from Oregon [Mr. AuCoin] and the gentleman from Washington [Mr. Lowry].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT AS MODIFIED OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment as modified offered by Mr. Foley: At the end of title I of division C (page 222, after line 3), insert the following new section:

SEC. 3136. REQUIREMENTS TO ENSURE SAFE OPERATION OF N-REACTOR.

(a) REPORT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to submit by October 1, 1987, a report summerizing its findings, conclusions, and recommendations relating to the safety of operation of the N-Reactor at the Hanford Reservation, Washington (hereafter in this section referred to as the "N-Reactor"). Such report shall be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (Division C of Public Law 99-661; 100 Stat. 4064). The report may include a review of the reports and recommendations of the so-called Roddis panel and shall be in addition to any other report submitted by the Academy on the N-Reactor to the Department of Energy. The report shall be submitted to—

(1) the Secretary of Energy; and

(2) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(b) RESTRICTIONS ON OPERATION OF N-REACTOR.—The Secretary of Energy—

(1) may not operate the N-Reactor before November 1, 1987; and

(2) may not operate the N-Reactor until the Secretary submits to the committees specified in subsection (a) a certification that the N-Reactor is safe to operate.

(c) EFFECT ON ENVIRONMENTAL IMPACT STATEMENT.—No requirement or restriction in this section (including the delay in operation of the N-Reactor until at least October 31, 1987) shall affect or be considered in the application or interpretation of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) to the N-Reactor.

(d) OPERATION DEFINED.—For purposes of this section, the term "operation" with respect to the N-Reactor means any activity carried out for the purpose of producing special nuclear materials by achieving a state of criticality.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment as modified be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Washington [Mr. FOLEY] will be recognized for 20 minutes, and a Member opposed to the amendment as modified will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment directs the Secretary of Energy to request from the National Academy of Sciences a report summarizing the Academy's findings, conclusions, and recommendations relating to the safety of operation of the N-Reactor. The report is to be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the National Energy Security and Military Applications Act of 1987.

The Secretary obtain a report from the National Academy of Sciences by October 1 of this year. In preparing the report requested by the Secretary of Energy the National Academy of Sciences may consider other studies and reports, including the reports and recommendations of the so-called Roddis panel. The report required by this amendment is a report in addition to any other report submitted by the Academy to the Department of Energy.

The amendment states that the N-Reactor may not operate before November 1, 1987, and may not operate until the Secretary of Energy submits to the Committee on Energy and Commerce and the Committee on Armed Services of the House, and the Committee on Environment and Public Works and the Committee on Armed Services of the other body a certification that the N-Reactor is safe to operate.

Specifically, let me read from the language of the amendment:

> The Secretary of Energy—
>
> (1) may not operate the N-Reactor before November 1, 1987; and
>
> (2) may not operate the N-Reactor until the Secretary submits to the committees specified in subsection (a) a certification that the N-Reactor is safe to operate.

The amendment also states that none of the actions required by the amendment shall affect or be considered in the application or interpretation of the National Environmental Policy Act. The term "operation" is defined by the amendment as any activity carried out the purpose of producing special nuclear materials by achieving a state of criticality.

The National Academy of Sciences will make a report by October 1. The N-Reactor may not be started before November 1. The Academy's report must be submitted to the Secretary of Energy and to the two committees of jurisdiction in the House and in the Senate.

That is the sum of the amendment we offer here. We hope that it will find support.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding, and would like to take this opportunity to thank my colleagues from both the States of Washington and Oregon.

This amendment, this compromise, does allow for the potential operation of the N-reactor which is located in my district at Hanford, WA.

The overriding concern for all of us is safety and the need for an independent review so that our constituents can feel confortable with this reactor as it returns to operation.

The amendment requires that we work with the National Academy of Sciences, that they work directly with our standing committees, as mentioned by our majority leader, and leads to a certification by the Department of Energy that this reactor is safe to operate; but only after sufficient time for a thorough analysis, so that we can be absolutely certain.

I personally am not satisfied with this, but it is a reasonable compromise and it will get my support. I urge everyone in the House to support this in the name of safety and security for this Nation.

Mr. FOLEY. Mr. Chairman, I yield to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding.

I find myself in the same position as the gentleman from Washington who just spoke. I am not entirely satisfied with the compromise, either, but that is the nature of compromises.

Mr. Chairman, the compromise being offered by the majority leader represents what is achievable for this bill, though it falls short of what I believe is optimal. That's the nature of compromise, though I must say that I'm far from satisfied with the compromise before us now.

N-Reactor is old, it has serious operational safety problems and the Department of Energy's scheduled July 7 restart poses unacceptable public health and safety risks to the people of the Pacific Northwest.

I have contended for months that the Department of Energy should conduct a full environmental impact statement on restart and operation of N-Reactor before its restart. The best the Energy Department could do, however, is a limited, ill-timed EIS on its safety enhancement program. To me that's a wholly unacceptable respone to the dozens of safety concerns that have been raised.

Because of this inadequte response, Congressman MIKE LOWRY and I jointly sponsored an amendment to this bill which would have required a full EIS before restart. Another, much weaker amendment was also proposed by some of our colleagues.

In an effort to get the strongest possible provision in this bill, we worked for a week on the measure now before us. This amendment does several things in the name of public safety. It prevents N-Reactor from being restarted until November 1; it requires a broad safety-based report from the prestigious National Academy of Sciences to be prepared by October 1 and keeps the reactor from being restarted until that study is completed and reviewed; and it requires the Secretary of Energy to certify that the reactor can be operated solely on the criterion of public safety after the NAS report is completed.

A perfect provision, no, but it is one that all of us here from the Northwest can support. It also finally gives those of us concerned with public health and safety an independent, safety oriented review of the Energy Department's operation of N-Reactor. Finally, it gives us the opportunity to oversee DOE's operations in the future, and to take appropriate actions if the Department continues its longstanding record of making public safety a low priority.

A journey of a thousand miles does begin with one step. Mr. Chairman, and I can say today that we have make a big step in the right direction.

□ 1800

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the majority leader as well. The real tragedy is that this amendment is needed at all, and the reason that it is is that the Department of Energy has consistently put production over safety at the N-reactor, and again and again it has engaged in practices that shortchange health and safety, and we are simply going to need to rein in this rogue agency, and this is the only amendment that I know of that will do it.

I and others favor shutting down the N-reactor. That is not something that we can do in this amendment, but it is better than the status quo, because the status quo would have allowed the N-reactor to reopen in July, and this means that it cannot reopen until November.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Idaho.

Mr. CRAIG. I thank the gentleman for yielding.

Mr. Chairman, I accept the compromise, although I have concern that I think is now addressed in the compromise that we know the security problems that deal with safety in an aged reactor that has a great many people including ourselves very concerned about its safety.

Someone says, "Why is someone from Idaho interested in it?" I think that the Mount St. Helens eruption of several years ago shows that we are downwind of the very location where the N-reactor sits.

Although I would have opted for a shutdown and maintenance in a shutdown mode until all proper questions were answered, this provides us a compromise that I think will address the safety issue that is critical to all of us here, and it certainly does not beg the issue that we need a production reactor; we need one on line and operating to provide us with the necessary tools for the security of this Nation.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Washington.

Mr. MILLER of Washington. I thank the gentleman for yielding.

Mr. Chairman, this compromise reflects over 20 hours of discussions and hard work by Members in both parties from the States of Oregon and Washington, and I think that the key here is bringing in the National Academy of Sciences. Quite frankly, citizens in my State of Washington and my district do not have much trust and confidence in the Department of Energy after its performance over the last several years. This amendment will bring in the National Academy of Sciences to do an independent review before the Department of Energy can go ahead with restarting the N-Reactor at Hanford.

This does not solve every problem at Hanford. There are a lot of problems, frankly, that relate to the Department of Energy not complying with existing environmental and safety laws that any other private or local facility would have to comply with. But that is going to have to be addressed at another time. Along with the gentleman from Oregon [Mr. WYDEN] and others we are sponsoring the Department of Energy Environmental Compliance Act that would require facilities like Hanford to comply with environmental laws that others have to comply with. But in dealing with the N-reactor shutdown and whether it is started up, this amendment offered by the majority leader I think as good a job as we can do at the moment of balancing the concerns of safety, national security, and the State's economy, but first of all, safety.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. I thank the gentleman for yielding.

Mr. Chairman, I think that the question is, turning it around, what would happen if we did nothing? The point is that very likely N-Reactor could open July 7. This amendment, if we accept it, would delay opening, however we feel about this issue, until November 1.

In the meantime the National Academy of Sciences will give us their best estimate. Four committees in Congress will have an opportunity to review this issue. So I think that in the name of safety, which we are all concerned about, in Washington, Oregon, or anywhere in this Nation, we have covered to the best of our ability the issue of safety with reserve to look at the studies, to review them ourselves, and to make a final determination later on in this year.

Mr. FOLEY. Mr. Chairman, the underlying concern of all the Members of both parties in both States has been the safe operation of this reactor, and I think that this concern is addressed by the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I have been in consultation with the Department of Defense and Department of Energy, and of course they would like no restrictions. They would like the reactor to open as is scheduled, because they have plans and needs for a more rapid manufacture than this would afford.

However, I want to commend the gentleman in the well and those who are more directly involved than many of us for working out this agreement. I think that pragmatically this is doable. I think to try to follow a hard line of "No, we're going to go forward with no restrictions" would not be productive. So I think that in the interest of all concerned it is the best thing to do, and I will support it.

Mr. DICKS. Mr. Chairman, I wish to add my strongest support to this compromise amendment addressing the N-Reactor at Hanford, WA. I won't claim it is a perfect solution to the problem we are facing, but I do believe it is a reasonable approach to a difficult set of circumstances.

The most important element of the agreement involves the independent, scientific oversight that will be provided by the National Academy of Sciences both in the decision to restart the reactor and in an ongoing role once N-Reactor is operating. In the eyes of most concerned citizens, the Department of Energy has lost most of its credibility where safety and environmental issues are involved, and the effort to keep N-Reactor from operating has been generated almost as much from a sense of distrust of the agency and its assurances of safety as from concern about the reactor itself.

At the present time, there are a number of bills, mine included, which would create a permanent oversight authority over DOE nuclear operations. My bill, for example, would establish the Defense Nuclear Facilities Safety Agency. The Agency would set standards ensuring the safety of DOE nuclear facilities, conduct inspections, and have the authority to suspend operations at any facility it deemed threatening the public safety. Without such an agency, we currently must rely on DOE to both run the reactors and police itself to ensure they are running safely—a prerogative not enjoyed by any other Federal agency with similar responsibilities. I believe this situation creates internal conflicts within the agency, as production goals necessarily must compete with safety for attention and funds. This conflict all too often results in safety taking a back seat to production, and cannot be allowed to continue any longer.

In the absence of such an agency, however, this compromise provides the best solution possible within existing organizations where N-Reactor is concerned. The National Academy of Sciences will act as surrogate oversight agency, providing the technical and scientific assurances we need if the reactor is to be operated again. By establishing this structure, we ensure the safety of our citizens while preserving the production capability needed for our national defense.

The CHAIRMAN pro tempore (Mr. RUSSO). The question is on the amendment, as modified, offered by the gentleman from Washington [Mr. FOLEY].

The amendment, as modified, was agreed to.

Mr. SMITH of Texas. Mr. Chairman, as the committee knows, in consideration of the fiscal year 1987 Defense Authorization Act, Congress approved compromise langauage between the House and Senate last year which provided for the construction of a replacement medical facility at Fort Sam Houston, TX. The compromise arrived at by the House and Senate leaves no doubt about the commitment of Congress to begin with this project which is long overdue. Specifically, the conference langauage details the design of "* * * a 450 bed teaching hospital with initial construction of 200 beds which can be expanded, if required in the future, by 250 beds." The conference langauage further details additional features of this hospital including; the world's most modern burn center and institute for surgical research, and a state-of-the-art outpatient care center capable of providing nearly 1 million outpatient visits annually.

I would like to remind the committee that the compromise language passed by the House and Senate and signed into law by the President represents an agreement by House and Senate conferees. This conference agreement directed that a 450-bed design which was 35 percent complete, described in exchange for a new concept for a 450-bed expandable design with initial construction of 200 beds. Although the House had passed H.R. 4428 with a commitment for a 450-bed facility, it is clear that the commitment of the entire Congress was indicated by the final bill passed.

Section 2408 of the bill would have fenced construction funds for the replacement facility at Fort Sam Houston in a way that would have had no direct effect on continuation of this project. Yet the implication this section would have been to remove the commitment of Congress to this project. The provision which would have indicated a withdrawal of congressional commitment has been removed by the perfecting amendment offered by the gentleman from Texas.

The remaining provisions of section 2408 address aspects of this project which concern the oversight responsibility of Congress. The fact that this project was authorized by Congress before a design for an expandable hospital could be developed has resulted in cost estimates which have fallen far short of more current cost estimates. I agree with my colleague from Texas that accurate cost estimates should be provided so that we are operating on valid information.

The repeal provision of section 2408 refers to the Armed Services Committee chairman's desire to control military construction in a manner that reflects that information proceeds decisions, and I can understand his desire toward this end.

I would like to state that I believe that the compromise agreement on section 2408 signals continued congressional support for the Brooke Army Medical Center replacement facility. It keeps us on schedule and assures that we will move forward with the clear mandate of Congress, as expressed in last year's Department of Defense authorization bill.

Again, I would like to express my appreciation to Mr. GONZALEZ, the chairman of the Armed Services Committee, and their staffs, for their assistance in this matter.

Mr. CHAPPELL. Mr. Chairman, one of the great success stories in defense weapons procurement is that the Army's AH-64 Apache attack helicopter program. This attack helicopter took 10 long years to develop and get into the production, and it went through the usual growing pains in getting through that cycle. But now that it is in series production and Army troops are using it in operating battalions, it is exceeding even the most optimistic expectations for an advanced attack helicopter. The pilots who are flying the machine are reporting that the Apache is revolutionizing attack helicopter warfare.

These pilots have evolved new tactical doctrines to take advantage of the capabilities of the Apache to fly at night and to see everything on the battlefield. They fly simulated strike missions deep behind enemy lines, using the Apache's precision navigation capability to find the exact location of known enemy targets, hit them, and escape back to friendly territory. They also are evolving joint close air support doctrine with the Air Force and the Marine Corps, where the Apaches can locate and identify enemy targets for close air support jets, which can launch their laser guided weapons from greater stand-off distances and thus increase their survivability from enemy ground-to-air defenses. From all reports that I have been getting, the pilots who fly the AH-64 feel that the attack capabilities of the machine are virtually unlimited, and this program is a real success story in weapons procurement.

I must add that the Armed Services Committee's action in adding the funds to keep Apache production going into fiscal year 1989 corrects what I believe was a serious error in judgment on the part of the Army. The Army had planned to stop production of the Apache at 593 aircraft, despite the fact that their minimum inventory needed is for 1,031. The committee has recognized that the Apache is a vitally needed weapon in the Army's arsenal, and I certainly hope that the Army will have the wisdom to keep the Apache in production until they have bought at least their minimum required quantity.

Mr. ANTHONY. Mr. Chairman, I rise in support of the amendments offered by Mr. NICHOLS and Mr. HUTTO which offer some relief from the burden of the Commercial Activities Program as set forth in OMB Circular A-76. There is no doubt in my mind that this policy sacrifices good personnel and good procurement practices at the alter of the "free market." The results of this well intentioned but misguided policy have thus far not been satisfactory to all parties.

The A-76 policy has subjected many of the employees of the Pine Bluff Arsenal, in my district, to the anxiety and stress of not knowing whether or where they will be working by the end of fiscal year 1987. As a result of OMB Circular A-76, it appears that the Army will not support spaces for Government DOD security guards at the arsenal's new chemical BZ disposal plant and binary DF facility which are both due to begin operation in late 1987. Both operations are under commercial contracts. Both of these functions demand intense govenment protection and the material is presently under highly capable DOD employee control. It does not make sense to transfer this sensitive responsibility to a contractor at a time when it will be most vulnerable. The commonsense approach, which also happens to be in the best interest of our national defense, would be to continue with the Government control over protection. A contractor would be forced to provide inexperienced security personnel, when they already exist at Pine Bluff Arsenal. Not only would the Federal employees and their families suffer, but so would the American taxpayer.

Congress needs to take action to prevent further costly and unwise contracting out fostered by Circular A-76. Our national security depends on it. It is clear that if amendments such as these are not adopted, this uncertainty will drag out over time causing much hardship on these faithful employees, not only at Pine Bluff Arsenal but hundreds of thousands just like them all over the country. The impact will also be severe on these DOD employees' families, who are the real victims of the A-76 program. To say the least, the overriding fear of losing one's position to a contractor's bid interferes with the productivity of most employees. In the end this program has had a disruptive effect on both productivity and morale. I do not believe the Army can long afford the turmoil currently caused by the haphazard implementation of this program.

I believe that if it is the intent of Congress to rely on the private sector for service, the process of conversion should be slow and gradual with maximum reliance on natural attrition to reduce in-house employment and retraining programs for employees displaced by contract conversion.

Mrs. SAIKI. Mr. Chairman, I rise to express my very serious concern over section 2732 of the Department of Defense authorization bill which deals with Fort DeRussy, a military installation on Waikiki Beach in Honolulu, HI.

The section designates Fort DeRussy as the primary rest and recreation center for the military in the Pacific and prohibits the future sale, lease or rental of the 71 acres.

A report entitled, "Present Use, Requirements, and Future Utilization of Fort DeRussy," just recently issued by the Armed Services Committee parallels the defense authorization bill in that it recommends the Army keep and maintain the entire Fort DeRussy facility for it own purpose.

As a Member of Congress representing this district, I must respectfully disagree with the committee's recommendation. I feel strongly that the State of Hawaii should be given the opportunity to have the upper 46 acres of Fort DeRussy under its jurisdiction.

Land is very scarce in Hawaii and even more scarce in Waikiki. The military in Hawaii has 47 installations occupying 300,000 acres of land. Rest and recreation facilities could be developed to meet the needs of all military personnel throughout the Pacific on land than in Waikiki.

Mr. Chairman, I am also concerned with the possible contradiction I find in the special report. The "summary" section No. 12 states that future expansion at Fort DeRussy is a distinct possibility. Because of the shortage of hotel rooms at the Hale Koa Hotel, the report says, military personnel are being turned away and therefore the area north of Kalia Road should be retained for possible hotel expansion.

Then looking at the final page of the report, the subcommittees involved "strongly recommend that in the interest of maintaining public good will, the Department of the Army refrain from any development efforts which would destroy the existing open space."

Mr. Chairman, I truly feel that negotiations for the sale of 46 acres to the State of Hawaii could result in revenues much needed to help lessen the national debt. At the same time, the people of Hawaii, through their local decisionmakers could determine what should be done with that land. If this is not possible at this time for whatever reasons, the 46 acres north of Kalia Road should be retained in open space for the enjoyment of all.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the ranking minority member on the committee, the gentleman from Alabama [Mr. DICKINSON] about the schedule.

There were several Members, in part I guess due to the Pennsylvania primary tomorrow, but we are now going to rise after this colloquy and this is the finish of the business for today.

Let me say, having talked to the gentleman from Alabama [Mr. DICKINSON], the schedule tomorrow is the following items in this order. First we will do the ASAT amendment, moratorium on the ASAT, the amendment that has been offered this year as in the past by the gentleman from California [Mr. BROWN] and the gentleman from Pennsylvania [Mr. COUGHLIN].

Following that we will deal with the chemical-weapons issue, and there are a couple of amendments having to do with chemical weapons.

Third, we will deal with the nuclear-testing moratorium, and I think that there is a proposal by the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from Missouri [Mr. GEPHARDT], and then there is a substitute proposal by the gentleman from Michigan [Mr. BROOMFIELD].

It is our anticipation to do those three issues, and those three only, tomorrow. The next day, which is Wednesday, it is the anticipation of the group here that we will try to finish the bill, because we are running out finally of amendments.

We have not done the Central America amendments, which is what we were going to do tonight, and hoped we were going to finish the bill tomorrow. We were going to do them tonight, but the tentative schedule which we worked out with the gentleman from Alabama was that we will try to do the Central America amendments first on Wednesday, followed by a couple of amendments having to do with arms control by the gentleman from Michigan [Mr. BROOMFIELD], and we would do the Central America amendments, the two Broomfield amendments, and the bill would be finished.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I concur in the statement that the gentleman has made. We had said originally that we would go till we finished today's schedule. The hour is now 10 after 6. It is anticipated that it would be probably 2 hours to finish the remainder of today's schedule. For that reason the gentleman suggested rising. That would put us over to Wednesday. If this were not the first item of business tomorrow, then what is unfinished today would be carried over until Wednesday.

□ 1810

Does the gentleman know at what time he would request to come in on Wednesday?

Mr. ASPIN. I have been advised we already have permission to come in at 10 o'clock on Wednesday.

Mr. DICKINSON. So it is pretty much a certainty then that we will finally conclude this bill on Wednesday, one way or another? I wonder if the gentleman could inform the House now what will be remaining on Wednesday and what will be the order that it comes up? The gentleman stated it, but if he could repeat?

Mr. ASPIN. I am advised again by the leadership staff that the elementary and secondary education bill is the only other major piece of business that we need to deal with before we adjourn on Thursday.

Mr. ASPIN. So far.

The CHAIRMAN pro tempore (Mr. RUSSO). The time of the gentleman from Wisconsin [Mr. ASPIN] has expired.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama is recognized for 5 minutes.

Mr. DICKINSON. So, Mr. Chairman, we have to finish this and one other piece of business to conclude for the week; is that correct?

Mr. ASPIN. If the gentleman will yield, I have been advised that there is a possibility that we would have a budget conference, but barring that, this is the only piece of legislation that we are looking at.

Mr. DICKINSON. I thank the chairman.

Mr. ASPIN. The majority leadership is here, and maybe the gentleman can address those question to him.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, I think we would anticipate concluding this bill on Wednesday. On Thursday, we may take up for the balance of that day the elementary and secondary education bill.

Mr. DICKINSON. My principal interest is to make sure that we finally concluded this bill, and we will do that on Wednesday?

Mr. FOLEY. We expect to do that on Wednesday. Personally, after consulting with the gentleman and the chairman, I see little likelihood that it would go beyond Wednesday.

We have previously noticed that we intend to go late on Wednesday night in order to finish it, if it is necessary.

Mr. DICKINSON. So can we get some indication from the majority leader then as to what we might reasonably expect tomorrow evening? Would we rise at 6 o'clock, 7 o'clock?

Mr. FOLEY. The program which the gentleman and the chairman and I have discussed includes three amendments to the bill which we assume can be concluded at around 7 or 7:30 in the evening.

Mr. DICKINSON. There was some interest by some Members here as to the hour of rising tomorrow because of a function that they had previously committed to.

Mr. FOLEY. We hope that can be accommodated.

Mr. DICKINSON. So, it is reasonable to assume we will be finished somewhere around 7 o'clock tomorrow evening, if not before?

Mr. FOLEY. The gentleman is correct.

Mr. DICKINSON. I thank the gentleman, and I yield back the balance of my time.

Mr. ASPIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. RUSSO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the

Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes had come to no resolution thereon.

ORDER OF BUSINESS

Mr. PEPPER. Mr. Speaker, I had asked for a special order to honor the Honorable Wilbur Cohen. On the record the Honorable DAN BURTON and the Honorable GEORGE BROWN had special orders preceding mine.

Mostly on account of the fact that members of Mr. Cohen's family are here, those gentleman have kindly consented, with the approval of the House and the Chair, that my special order might come first.

Mr. Speaker, I ask unanimous consent that be so.

The SPEAKER pro tempore. The gentleman from Florida [Mr. PEPPER] requests that his special order be considered first on the calendar after the 5-minute special orders have been concluded.

Is there objection to the request of the gentleman from Florida?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 167) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 167

Resolved, That Representative Martin of Illinois be and is hereby elected to the Committee on the District of Columbia.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill, H.R. 1748.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRANIAN ARMS AND CONTRA AID

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on May 13 of this year the Honorable Archibald Cox, professor emeritus of Harvard Law School, delivered a very able address before the Harvard Club of Washington on the subject of Iranian arms and Contra aid. This address is particularly appropriate because it brings to that subject a man of peculiar experience, Professor Cox, with his relation to the Watergate experience. He makes a comparison of the two situations.

I commend this able address to my colleagues.

Mr. Speaker, the text of the address is as follows:

IRANIAN ARMS AND CONTRA AID: SOME UNDERLYING QUESTIONS

(By Archibald Cox)

May I first thank you for the privilege and pleasure of joining you at this Bicentennial Dinner. It was about 40 years ago that I first went out from Cambridge to a Harvard alumni gathering. The large turn-out seemed natural. The Law School graduates had studied under such great teachers as Samuel Williston, Austin Scott, and Roscoe Pound. The graduates of Harvard College, under Irving Babbit, "Copey," George L. Kittredge, or their equals. I found myself worrying rather gloomily that in a few years there would be no one to bring alumni to such dinners. Happily, you keep coming. You should know that it is a source of pleasure and encouragement to the Faculty.

Tonight we also celebrate the Bicentennial of the signing of the Constitution. We can see again stout old Ben Franklin's sedan chair being carried up the steps of Independence Hall for the last day of the Convention. He wept as he signed. Franklin had labored unsuccessfully for a lifetime to bring the North American colonies together. Each movement towards union had been followed by retreat. For four hot and humid months the Convention had often teetered on the brink. George Washington wrote to his friend Lafayette that reaching agreement was "a miracle."

It seems an even greater miracle that the instrument written 200 years ago with the early addition of the Bill of Rights but very few other important changes still serves so well today. Everything has changed except the Constitution. Where there were some 3,000,000 people scattered along the seaboard and piedmont with a few tentacles of civilization reaching out through the Appalachian passes, now there are 240,000,000 people spanning a continent ten times broader. The population of greater Los Angeles is more than twice that of the whole United States when the Constitution was signed. Now one flies in 60 minutes the journey from Boston to New York that used to take a week. Communications is instant. Markets are nationwide. A few words cannot summarize the scientific discoveries, technological and economic revolutions and the rise in the standard of living. Compare the single blacksmith at his forge with the armies of skilled men in gigantic mills of the U.S. Steel Corporation.

Everything has changed except the Constitution and the Bill of Rights. In other lands, since 1787 scores of written constitutions have been written and thrown on the junk pile of history. Yet the Consitution of the United States still provides not only the outline of the structure, powers, and limits of government but also a spiritual lodestar for all Americans.

What explains this second, greater miracle? What lessons, if any, do the answers hold for our differences and difficulties today? It is from this perspective—I suggest—that we can most usefully reflect upon the long range fundamental questions raised by the Watergate and Iranian-Arms/Aid-to-the-Contras affairs.

I

The bedrock of the Framers' political philosophy, and of the political philosophy of the American people for most of our history, was belief in the rule of law. They often spoke and wrote of "equal justice under law" and a "government of laws, not of men." They expected government officials to be governed by law, for the most part voluntarily—the only way consistent with a truly free society—but occasionally by political accountability and sanctions imposed by the courts. Both the Framers and succeeding generations coupled these precepts with the conviction that the people should determine the course of government, that the responsibility for making laws consistent with the Constitution belongs to the people, and that government should be open and accountable so that the people can decide. Justice Robert H. Jackson evoked the tradition in holding President Truman's executive seizure of the steel mills unconstitutional:

"With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberation."

If the Framers could learn of the Watergate and Iran/Contra affairs, surely they would ask us, "What has happened to the rule of law in the United States? How will you restore and maintain it?"

There are important differences between the Watergate and Iran/Contra affairs. Personal and political ambition played the largest part in Watergate, whereas the Iran/Contra misadventure apparently arose from an honest but naive and misguided view of the national interest. The Iran/Contra affair is the larger and more complex; and, unlike Watergate, it has done untold damage to the honor and credibility of the United States all over the globe. But the two have at least this in common: the principal actors, at or near the highest level of government, displayed an extraordinary indifference to, if not contempt for, the rule of law.

II

In Watergate the violations initially took the form of burglary, conspiracy to obstruct justice, receipt of unlawful campaign contributions and violations of civil rights. We have it from a minor Watergate figure, Jeb Magruder, that—

"The people in the White House believed they were entitled to do things differently, to suspend the rules because they were fulfilling a mission. That was the important thing—the mission."

Later, former President Nixon argued—

"If the President does it, it can't be against the law. The President does it."

In Watergate the challenge to the rule of law went beyond violation and attempted deception. In the courts the challenge took the form of a claim of Presidential immunity from the usual processes of law. When that claim was rejected, the challenge took the form of defiance—a refusal to comply with the court order to produce nine Watergate tapes.

The fear that the challenge might be raised and uncertainty about the outcome presented me with the most agonizing hours of the Watergate investigation. From the day we first served the subpoena for nine tapes I had worried over what might happen if President Nixon simply disobeyed the court. What could I do? What could Judge Sirica or the Court of Appeals do? It is only in a technical sense that the courts can determine whether the President of the United States is subject to legal process. Law as a constraint upon government depends, in the first instance, upon the habit of voluntary compliance and, in the last resort, upon a people's realization that their freedom depends upon observance of the rule of law. The realization must be strong enough for the community to rise up and overwhelm, morally and politically, any notable public offender.

But would the people rise up? President Nixon had received an overwhelming popular endorsement less than a year before. One went on to worry about the long-run consequences of successful defiance. The habit of compliance—the notion that a powerful executive official has no choice but to comply with a judicial decree—is a fragile bond. Who could say in an age of Presidential aggrandizement that if one President succeeded in his defiance, others might not follow the example until ours was no longer a government of law? Should I risk playing the role of the little child who said, "The Emperor has no clothes"? I recalled Winston Churchill's observation that a democracy must never expose its weakness.

Perhaps it was foolish to worry. When President Nixon did refuse to comply with the judicial decree enforcing the subpoena, the issue was dramatized by Elliot Richardson, the Attorney-General, and William Ruckleshaus, the Deputy Attorney-General, who resigned rather than carry out the President's order to dismiss me for my persistence in resort to judicial process. The people did rise up. Within 72 hours the President promised to comply with the decree. The people proved their determination—and their moral and political power—to require the highest officials to meet their obligations under law. American constitutionalism emerged stronger than before.

The Tower Commission Report, the testimony of Major General Secord and George McFarlane, and the other information that has filtered out seem to me to demonstrate quite plainly that officials in the Reagan administration at or near the very highest levels of government were infected, like the Nixon administration, with the belief that "they were entitled to do things differently, to suspend the rules because they were fulfilling a mission." The extent of the criminal offenses is not yet clear, but it is apparent that where the letter of laws pertaining to the export of arms, the misappropriation of government property and funds, the reporting to Congress of undercover operations, and the Boland Amendment was not technically violated, corners were cut, forced interpretations were advanced to rationalize misconduct, attempts were made to deceive Congress and the American people, and the spirit of the laws was ignored. Surely there is circumvention and evasion, if not technical violation, of the principle that the laws be made by Congress when high government officials used their powers, prestige, and perhaps even the machinery of their offices to raise funds from private sources and from foreign governments seeking to curry the favor of the U.S. government, in order to provide the very arms that Congress had determined the United States should not provide.

Equally fundamental, the people were deceived by those avowing one national policy and secretly pursuing another in the case of Iran and by extensive undercover activities purportedly "privatizing" the intervention of government officials in the case of Nicaragua. In his testimony on Monday Robert McFarlane himself recognized the deadly harm done to the mutual trust between governors and governed upon which democracy depends:

"In the six months since the Iran-contra controversy erupted, many people have come to believe there is something wrong with the way that this country makes foreign policy. They probably don't know how wrong . . . .

"Individual mistakes, including my own, should of course be identified. But a solution to the fundamental problems that led to these investigations will require much more. It will require reform of institutions and processes. And most important, it will require change in the attitudes and behavior of the men and women who hold and exercise power."

Why did such things happen twice within 15 years? What has happened to the rule of law in the United States? How do we propose to restore it?

Surely, the first step in restoration is to press ahead vigorously but fairly and impartially with the criminal investigations and any resulting prosecutions. The Senate and House Committees can do much to bring the principle home to the people, as did the Ervin Committee, and to fix the political accountability without which there can be no self-government by "We, the People." But the front-line responsibility for reasserting the supremacy of law as a force binding the governors as well as the governed falls upon the Independent Counsel or Special Prosecutors. I hope that neither Select Committee will let the hope of partisan advantage, the desire for public attention, or a zealous competitiveness to be the first to make disclosures, lead it to grant us immunity at a time or in ways that interfere with the vindication of the rule of law in criminal proceedings. It will matter very little in the long run whether the Select Committees finish their work in July or December, or even next May. It may matter a great deal whether the principal criminal wrongdoers are required to answer for any crimes.

III

In addressing the question, "Why did such wrongs as Watergate and the Iran/Contra affair happen," I turn back to the question, "How is it that a Constitution written 200 years ago continues to serve so well with so few amendments despite the enormous changes in every external circumstance."

A second, large part of the answer seems to me to lie in the Framers' understanding of the long-range consequences of institutional arrangements. The Framers were practical politicians responding to the urgent pressures of inflation, commercial warfare, and instability, but they were also men of learning who had reflected long and hard on the lessons of history beginning in the Hellenic world. They were keenly aware of the interplay between the way in which they shaped their institutions, on the one hand, and the springs of human action, on the other. They knew the temptations of power, self-interest, and ambition, and also virtue, the unselfish dedication to the common good. The key—they thought—was to organize the institutions of government for the long run, so as to control the one and channel the other.

The Select Investigating Committees will serve the country best by approaching the Iranian/Contra deception as the Framers would have done. Were the faults wholly personal or partly institutional? Was there something in the organization of the White House staff that explains how it came about at least twice in 15 years that the rules were set aside in the belief that the only thing that counts is the mission? Something that explains the thinking that Robert McFarlane said needs to be changed?

For half a century but especially during the last 20 years, the size, power, and activities of the White House establishment have expanded with scant control by law and little thought for the organizational and institutional consequences. The actual power of Presidential aides is enormous, regardless of formal limits. Under the last five Presidents, Democrat and Republican, White House aides have, with rare exceptions, been "nobodies," colloquially speaking, except for the President's pleasure. They have had no independent sources of political support, no constituencies or other groups whose response, being of concern to them, limits their behavior. Again, unlike cabinet officers, White House aides are subject to almost none of the checks of regularized procedure, of speaking for an organization and of having to respond to it. The only relevant questions tend to become: How will it make the President look? Will it please the President? Congress and the regular departments tend to become outsiders to be overcome or manipulated. Secrecy becomes a weapon.

In looking back upon Watergate it seemed to me that because of these influences—great power, total dependence upon the personal favor of the President, freedom from regular departmental procedures, and an obsessive concern for secrecy—the White House aide becomes like a royal courtier. If the President's own style is monarchical or if the "palace Guard" succeeds in isolating the President because of their excessive protectiveness towards him or concern for their own power, then the situation of White House aides breeds and arrogant sense described by Jeb Magruder: "(We) were entitled to do things differently, to suspend the rules. . . ." Not only the king but also the king's favorites can do no wrong. Congress and all other outsiders become enemies to be evaded and, if necessary, misled.

The domestic side of the White House drew attention in the Watergate affair. The efforts to exchange arms to Iran for hostages in secret contradiction of our proclaimed national policy and the facilitating of the flow of military aid to the Contras in circumvention, if not violation, of restrictions imposed by Congress raise the question whether the same disease, resulting from the same institutional defects, has not infected a succession of National Security Advisors and their staffs: A President isolated by staff, bad decisions cut off from the formal channels of policymaking, "loose cannon" such as Howard Hunt in Watergate and now Lt. Col. North, secrecy, disrespect for law, and even deception, all flowing from the sense, given by exessive power, that "We, the President's aides, are not governed by the usual rules."

Perhaps the institutional weakness—if there are weaknesses—cannot be solved by the Select Congressional Committee or by law. Each President has his own style. But the Select Senate and House Committees could contribute much to the public understanding and give important guidance to future Presidents by focusing upon these institutional questions in exploring how and why the mistakes occurred.

IV

May I raise one other institutional question that I believe that the Select Committees, if they have courage and are guided by the Framers' institutional wisdom, will address. Did we make the right decision in the late 1940s when we authorized the Central Intelligence Agency to go beyond gathering intelligence and engage in covert operations? Should undercover operations, which necessarily involve lies and deceit, be authorized to pursue the national interests of the United States?

The question will not be popular. Perhaps the Select Committees will ignore them for fear of appearing soft on Soviet expansion or weak on national defense. But the question was close when the CIA was created, and surely far-seeing men and women devoted to the country today wish to go over the record and ask whether on balance the long-range national welfare has been truly served or on the occasional gains are outweighed by the costs.

What do covert activities do to the standing of our government in the international community? We sometimes get caught. Bay of Pigs. Saigon. Mining Nicaraguan harbors. Iran. Sometimes, undoubtedly, they score important successes about which very few can know. Where lies the balance?

What is the effect of resort to covert operations not only upon our basic institutions but upon oursevles? At a minimum covert operations involve a diminution of representative government. Lying and cheating are the very same essence of covert operations. Can lying and cheating be walled off? Where do they stop? Information thus far available suggests but may not prove that the shipment of arms to Iran and aid to the Contras involved deception of congressional committees. The whole world was deceived about our policy towards Iran an the hostages. No one should have been surprised that when McCord and Hunt left covert operations at the CIA to work in the White House, they continued to follow familiar practices in the Watergate burglary. And if high public officials begin cutting corners with the laws and deceiving each other and the public in foreign operations, where does the practice stop? We gain nothing by advancing national interest abroad a little farther if the cost is to destroy the inner bulwarks of the Nation.

To ask these questions is to imply answers. But I do suggest that these last questions, like the second, are related to the first and most important—the preservation of political accountability and the supremacy of law.

V

In my view, the final answer to the question, "Why has the 200-year-old Constitution served so long so well," lies in the character of the American people. They mixed a special blend of idealism and pragmatism growing out of the the deep sense Americans had of being engaged in a unique human adventure binding them together, binding each generation not only to its parents and grandparents from whom the adventure was inherited but also to its children and to their children to whom it would pass. There was faith that the adventure would go forward. And it moved ahead.

Today it is hard to be sure of the survival of the sense of common undertaking that the Framers called virtue and that long gave vitality to our constitutionalism. We have surrendered our elections to the vast moneys of special interest Political Action Committees, and to the professional political hucksters who use the moneys to package and sell candidates in 30-second television spots. The spirit of disinterested public service burns low. The battle of Washington is too often a contest for favor among selfish interests. The age seems characterized by distrust, with little knowledge of the past or confidence in the future.

Yet surely we of the universities should not despair. We have known the way of the scholar, not learning, but the spirit of learning. The physical scientist does not know the truth he seeks. He lacks a guarantee there is a truth but proceeds in the patient exploration of observable data and the constant checking of induced hypothesis, and finds, despite false starts and blind alleys, he always learns a little more. The historian and humanist know that the record of human experience is replete with the cruelty of man to man, but they remind us too of man's vision of man's potential—Prometheus' reach, the Funeral Oration of Pericles, the sculpture of Michelangelo, and the gentle spirit of the Sermon on the Mount. Likewise, we upon our joint human adventure do not know the goal, have no proof that there is a goal, yet can catch glimpses of a brighter future and perhaps perceive that by reason, mutual trust and forbearance, we too can forward the adventure.

MERIDIAN GIRL IS ESSAY WINNER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am proud to report that a girl from my hometown of Meridian, MS., is one of 150 students from across the Nation to be recognized for an essay entitled "What the Constitution Means to Me." She is Denise Yvonne Burton. Denise is an eighth grader at Kate Griffin Junior High School in Meridian. She will be honored here in Washington on May 31–June 1 and will be presented with an award from U.S. Secretary of Education William J. Bennett.

The contest was designed to draw students' attention to the bicentennial of the U.S. Constitution and the 150 essays will be bound together in a volume entitled "The Constitution's Children."

I want to share Denise's essay with my colleagues.

ESSAY BY DENISE YVONNE BURTON

What the U.S. Constitution means to me and our country.

To me, a black American, the U.S. Constitution means that unlike my forefathers, I will never be considered part person and part property as was sanctioned by the "Three-Fifths Compromise" of the Constitution. It means that I have escaped the chains of bondage that bound thousands to servitude.

To our country, the Constitution means a better place in which to live. It means living in a country that recognizes the dignity of all its people.

To me, the Constitution means that I have a country to call my own, unlike thousands of blacks who were constitutionally freed by the Thirteenth Amendment, but who were people without a country until the passage of the Fourteenth Amendment. It means that I have voting rights which were not granted to blacks until eighty-three years after the ratification of the U.S. Constitution.

To our country, the Constitution means recognition of the diversity and involvement of all people living within the confines of our great nation.

To me and to our country, the Constitution has set the course for all Americans to live in peace and in tranquility. Now, when I, a black American, pledge my allegiance to our U.S. flag, I can be proud to say that I am a citizen of this great country. When I hear the lyrics of "America"—"Let freedom ring!" I can indeed say that because of the U.S. Constitution freedom has rung!

TRIBUTE TO WILBUR COHEN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PEPPER. Mr. Speaker, no higher tribute can be paid to anyone who has traveled his way of life on this Earth than to say that he was a good and great man. This is a tribute that we are proud to pay this evening to our beloved friend, Wilbur Cohen, who passed away last night in Seoul, South Korea.

Wilbur Cohen is one of the celebrated Americans of our time, the most knowledgeable man in the field of social welfare that we have in our Nation, who has had the longest association with these plans that mean so much to so many.

Wilbur Cohen was born in Milwaukee in 1913. He graduated from the University of Wisconsin, and shortly thereafter was invited to Washington by Prof. Edwin R. Witty, who was chairman of the committee drafting Social Security legislation then in the Roosevelt administration. As Wilbur put it himself, it was a rather heady expericience to be 21 years of age and to be in that exalted company, engaged in that exalted work in the Nation's Capital.

As we all know, Wilbur was one of the architects under Dr. Witty of the Social Security legislation. Probably on the whole, that was the most meaningful piece of legislation to more people than any other that has ever been adopted by the American Congress.

For many years, Wilbur worked in the Social Security Administration, constantly improving the benefits, expanding the coverage, and increasing the beneficence of that great program.

Finally, in the 1950's, Wilbur chose to leave Government temporarily and taught at the Universities of Michigan and UCLA. But the lure of Government, where he could perform notable public service for his fellow citizens, brought him back to Washington.

In 1960 he was an important consultant in the Presidential campaign of President John F. Kennedy. In 1961, President Kennedy appointed Wilbur Assistant Secretary of HEW, now Health and Human Services. There again he rendered his notable contributions to the improvement of the social programs.

He is credited with 65 different innovations in the social field, in Social Security, in civil rights, and in many other areas of human interests.

Finally, in 1965, President Lyndon B. Johnson appointed Wilbur Under Secretary of Health Education and Welfare where he again continued his great work in the social services.

Finally, in the last year of the Johnson administration, he achieved the top of that great goal. He became the Secretary of Health Education and Welfare.

After he left the Government, Wilbur went back into academia, and in the late years of his life he was serving with distinction as a member of the faculty at the Lyndon B. Johnson School of Government in Austin, TX. At the same time, he was cochairman of a great program, SOS, Save our Social Security, which has protected and strengthened the Social Security Program throughout the length and breadth of the Nation and in the Halls of Congress.

He has been working with many of us right up until the very end. Several times lately I have had the privilege of a conference with him and men with whom he worked in those early days, Arthur Fleming and Bob Ball, and others of that ancient day, and I was to have had a meeting with him and those gentleman tomorrow afternoon to talk about the health program that was coming soon before our Congress.

Now we have the startling news that this man, who seemed so young, who was so vital, so determined to do what was best and right, it seems hard to believe that he is not to be with us forever in the years ahead.

So today we come to pay tribute to Wilbur Cohen. I know of no man in public service who has served the people with more dedication, with more passionate zeal, than Wilbur Cohen.

They said of him that he did not seem like an ordinary Government employee, hesitant, timid about the steps that he took. He went boldly forward trying to do what was right, that would mean the most for the people of our land. So America is deeply indebted to Wilbur Cohen for his character, for his dedication, for his contribution, not only to Social Security, but to all of the programs for the furtherance of democracy in America, lifting the burden from many bended backs, making life healthier and happier for many men, women, and children.

I hope the legislation we shall adopt in this Congress shall be worthy of Wilbur Cohen. I know of no tribute or testimonial that would mean more to him than to have that effect on the experts of our Congress of the United States.

Mr. Speaker, Shakespeare, you will remember, has Antony, as he looks down upon the body of the fallen Brutus on the field of Philippi say of him, "His life was gentle and the elements so mixed in him that nature might stand up and say to all the world, this was a man." Such a man was Wilbur Cohen.

Mr. Speaker, I am pleased to yield to the distinguished gentleman from Illinois, [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to honor the memory of a truly great American, Wilbur J. Cohen. I knew Wilbur Cohen for almost 30 years, and I am deeply saddened by his death. It is a shock to learn of his passing, for even at 73 he was a hard man to keep up with. It is no surprise to anyone who knew him that right up to the end, Wilbur was working to improve the well-being of the elderly and poor, and to enhance Government's role in promoting public welfare.

Wilbur Cohen was one of the founding fathers of our Social Security and Medicare systems. As a young man, he came to Washington and helped to write the original Social Security Act. This landmark legislation, clearly one of the most important bills enacted in this century, not only provides income assistance for the retired and disabled, but also assistance for unemployed workers and for low-income families with children. He continued in a career of public service that lasted his whole life, always speaking, writing, lobbying, and sometimes scolding, in support of the notion that a major purpose of government in an industrial society is to help those least able to help themselves. As Assistant Secretary and later Secretary of HEW, Wilbur Cohen drafted and pushed through Congress the original Medicare Act, thus insuring that the elderly need not suffer from lack of medical care because of inability to pay. Most consider him to be the person most responsible for the enactment of Medicare.

Wilbur Cohen held many positions in Government. And, as HEW Secretary under President Johnson, he was as important as any individual in Washington in domestic issues. But, whether in Government or out, Wilbur was involved in every single Social Security, health and welfare debate at the Federal level from the time he first came to Washington in the 1930's until his untimely death this weekend. Few people know about the endless hours he, Robert Ball, and others spent in the Ways and Means Committee rooms working with committee members both on general policy issues and legislative details. Someone said Wilbur probably spent one quarter of his life either in the Senate Finance or Way and Means Committee rooms working on legislation. During the Nixon, Ford, Carter, and Reagan administrations, whenever there was a welfare reform, unemployment compensation, health insurance, or Social Security issue, we would hear from Wilbur. He would write us letters, come to our offices, testify at our hearings, and organize former Secretaries of HEW or some other group in support of the legislative solution he supported. A former Ways and Means Subcommittee chairman tells of the occasion when his subcommittee was holding a hearing on expanding unemployment compensation benefits during the recession in the mid-1970's. Wilbur was not scheduled to testify, but happened to be in town and stopped by his office. He ended up testifying before the subcommittee, without preparation or notes, and, according to the former subcommittee chairman, presented the most informative, useful, and interesting testimony they received.

Wilbur Cohen deeply believed in Federal social insurance principles. He worked tirelessly for the enactment and proper administration of programs, like Social Security, unemployment compensation, Medicare, that were based on these principles. His lifelong commitment to these principles, programs, and the people who benefited from them, was characterized by boundless energy, optimism, good will, integrity, and realism. He had ambitious policy objectives, but he also understood the political system and was a master at finding and promoting the compromise that Congress would pass and the President would sign. You might not always agree with Wilbur on his policy objectives, but you always left a meeting with him with great respect and admiration for his knowledge, consistency, and tenacity.

Americans of all ages owe Wilbur Cohen more than they know for the economic protection against old age, disability, illness, unemployment, and poverty provided under our Social Security system. Wilbur Cohen stood for all that was good in Government. His tireless commitment to family welfare for the young and the old, made this country a better place. His death leaves a large vacuum. Few could keep up with him when he was alive, and now many are going to have to work a lot harder to make up for his absence.

Wilbur Cohen was truly an extraordinary person—a modern day pioneer and hero. In the area of Federal social welfare programs, he blazed new trails and, as a result of his imagination, insight, and energy, he improved the lives of millions. Those of us who worked with him, were advised and influenced by him, will miss Wilbur. We will miss the firm and selfless commitment to a set of ideals, the willingness and ability to find the compromise position, and the strong belief and faith in our Government and the political system.

□ 1825

To his wife, Eloise; to his sons, Christopher, Bruce, and Stuart, I would like to leave them with the thought that Wilbur was a father who you shared with the world.

Mr. PEPPER. Mr. Speaker, I yield to the able gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman from Florida for yielding.

This is a sad moment, but nothing could be more appropriate than for the gentleman from Florida [Mr. PEPPER], who has, in these past two decades, been an absolute stalwart in protecting older people, in particular, and all people in general against the ravages of poverty, to be one who convenes this special order for a man who was his comrade-in-arms for much of that period.

Wilbur Cohen was important, I think, for two reasons: First, for the important specific contributions he made in the area of Social Security from its inception until the most recent of times. No one has done more. There are people who have done as much, the gentleman from Florida in recent times and others, but no one has done more to bring into existence a system which, as we know, has been the most single effective poverty-fighter in the United States' social system. Nothing has done more to reduce poverty, to prevent it, than Social Security.

It is not perfect, but it is one of the best examples of a government's response to problems. Wilbur Cohen deserves enormous praise for having brought that about.

Just as he had a major role in that and in its twin program, the Medicare Program, where he was so essential, he is important because he shows the worth of a life dedicated through government to helping others. That kind of career has been denigrated some lately. The notion that there is a central role for government in dealing with social problems has been denigrated greatly.

The free market is a great thing and it has served this country very well. We have prospered through it and our continued prosperity depends on a vigorous free-market system. But those who understand the free-market system well, as Wilbur Cohen did, understand that it does some things, but it does not do other things.

□ 1835

It was never intended to be an all-encompassing system. A stimulated free market with growth in the economy provides the wherewithal whereby a decent and compassionate society can see that the vulnerable are given a decent existence, and that is where Wilbur Cohen excelled.

So we salute today in sadness, because we have lost him as a coworker and as a leader, a man whose specific contributions were brilliant, forceful, and enduring. We honor the memory of a man who, enormously talented as he was, was blessed with the kind of intelligence and courage that the gentleman from Florida and the gentleman from Illinois, the Chairman of the Ways and Means Committee, have talked about, a man who clearly commanded the respect of other men and women for his talents that he chose to put at the service of others. His is a life of which his family, as the gentleman from Illinois said, can be proud and which inspires the rest of us. To have been as gifted as he was and to have put those gifts at the service of the neediest people of our society, the elderly that we have talked about, the poor children in his work when he was in the Department of Health, Education, and Welfare, Wilbur Cohen was a model of the way in which a citizen in this kind of a democracy can contribute to the fullest.

Mr. Speaker, I am saddened by his death. I appreciate the opportunity the gentleman from Florida [Mr. PEPPER] has given us and given the House to tell the public how much this great man meant to us.

Mr. Speaker, I thank the gentleman from Florida for yielding.

Mr. PEPPER. Mr. Speaker, I thank the able gentleman from Massachusetts.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I am glad to yield to the able gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding and for asking for this time.

Mr. Speaker, I rise to express my profound sense of loss at the death of my friend and colleague, Wilbur Cohen.

Our country has suffered a great loss with the death of Dr. Cohen. He had great energy and dedication, and a clear vision of how we should care for each other as a nation.

Wilbur Cohen was thinking about health care and retirement programs long before there was a Social Security system.

He truly knew more about Social Security and health care programs than anyone. His knowledge and expertise flowed easily to everyone he worked with, from Presidents to graduate students.

As chairman at that time, of the Social Security Subcommittee, I worked closely with Dr. Cohen during the reform of the Social Security system in 1983. His counsel, advice, and recommendations for reform were valuable assets to our efforts.

His ideas, as much as those of any one individual, helped to keep our system solvent and reach a position where it is currently running a surplus.

We, as Americans, owe an incalculable debt to Wilbur Cohen for his commitment, his compassion, and his dedication to providing the assurance of security for all of us.

Mr. Speaker, those of us who worked personally with Mr. Cohen over the years feel a very deep and personal loss. It was obvious that his life was personally committed to improve the health care of all Americans.

He not only was a part of Social Security's beginning, he was really there before the program ever started and has been intensely active during every administration for over 50 years. That is an absolutely remarkable record. He was successful because he had the courage to advance new ideas and the administrative ability to keep moving his ideas forward. He expanded Social Security, helped us bring into being the Disability Program and literally produced the Medicare Program.

He could have retired on his laurels many years ago, but he never stopped. His students at the LBJ School of Public Affairs have become just as interested and excited about this program as Wilbur Cohen. He insisted that this program is also for the young, and generations to come will be protecting these programs because they have listened to Wilbur Cohen. He was more than a dreamer—he knew how to get things done. He never lost his temperament or his composure or his poise. His personality was clever and pleasant and positively delightful. He was ever the champion of Social Security.

A little over a year ago, we celebrated the 50th anniversary of Social Security in Austin, TX, as we did throughout the Nation. Our ceremony was in front of the old bakery on Congress Avenue near a senior citizens center. It was 11:30 in the morning and it was one of those blazing hot Texas days with a temperature of 100 degrees. In addition to the anniversary, we were celebrating the birthdays of three persons, one of whom was 100 years old and the others close to it.

The principal speaker was the Honorable Wilbur J. Cohen and he had a major speech defending, extolling, and praising the virtues of the Social Security Program. He was so full of his subject and so excited about telling his story again that he remained at the podium a long time. We had to help one of the elderly because the speech was a little long. And, another in the audience literally had to be assisted to the shade and given refreshments. One by one, people had to vacate the fierce Sun, but would you think Wilbur Cohen would shorten his speech—not at all! He was so proud and so determined to challenge anyone who had questions about the value of Social Security that he would raise a question, then answer it; raise a question, then answer it. He went the full course. I thought his speech was literally a bit long for our senior citizens, but you know they injoyed it because they knew they were listening to a legend in his time.

I tell that story because the Secretary and I have laughed about it many times but I consider it the finest speech I ever heard from any individual on the subject of Social Security. I am going to ask for a copy of that speech, Mr. Speaker, and I am going to put it in the RECORD for all to read.

Moreover, Mr. Speaker, I think we ought to find the biggest and the best conference room in the HHS Building and name it the Wilbur J. Cohen Room. There ought to be some kind of monument down there in that building to remind us that Wilbur Cohen is on our minds and in our hearts and to say that Wilbur Cohen was indeed Mr. Social Security himself.

Mr. PEPPER. Mr. Speaker, I thank the gentleman from Texas [Mr. PICKLE] very much.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I am pleased to yield to the distinguished gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I feel a tremendous sense of awe and humility hearing from two of the all-time greats speak about Wilbur Cohen. JAKE PICKLE and CLAUDE PEPPER have been towering figures over the decades in building the Social Security Program and Wilbur Cohen created out of whole cloth back in the middle 1930's as a young man only a year or two or three out of college.

It gives me a sense of terrific inferiority pangs for me to think that I am only 6 years younger than Wilbur Cohen, and yet look at the incredible lifetime of service and productivity that that man produced, and look at his legacy to the American people. I only know one man in our country who has played a more significant role in helping people with all their wants and needs, particularly the elderly, but not exclusively. I only know one man who has played such a significant role in helping people over a longer period of time than Wilbur Cohen, and that gentleman is standing right here in the well, CLAUDE PEPPER. Between you, CLAUDE PEPPER, and Wilbur Cohen, the two of you constitute an unbeatable army. Just as I have had the joy and the pleasure of enjoying your friendship, Mr. PEPPER, I have enjoyed Wilbur Cohen's friendship. I do not know why, but when I was a young kid 20-odd years ago, in my freshman term on the Education and Labor Committee in 1965, Wilbur and I sort of developed some good chemistry, and Wilbur has been a friend of mine ever since.

I have enjoyed wonderfully the warmth of his friendship. We have talked about his accomplishments. JAKE and you, Mr. PEPPER, have talked about Wilbur's accomplishments for all people, and that includes all kinds of legislation. I want to express my joy for the way in which Wilbur enriched my life by lavishing his friendship upon me. I am sure there are dozens, if not hundreds, of people with whom he was just as free or more free. But he was very bounteous and generous in lavishing his friendship on his colleagues and on all people who he thought were committed to the causes to which he was committed.

He would call me at any hour of the day or night and say, "I am coming up to Washington tomorrow. Let's have lunch. Let's have breakfast. Can Eloise and I have dinner with you?"

I always felt honored and privileged to spend a couple of hours or an evening with Wilbur Cohen. I felt like I was stepping into a time warp to hear him chattering on about his half century or more than a half century of public service.

So to me what characterized Wilbur Cohen as an individual was his zest for the good fight. We do not see that so much anymore. We see the typical bureaucrat. We see the professionals doing their thing in a quiet, orderly way. But Wilbur was not only a complete professional, Wilbur was a zestful fighter. He was a Don Quixote, except he did not fight windmills; he fought for good legislation, and he racked up a number of victories that Don Quixote would have envied.

□ 1850

In his last days, Wilbur Cohen never lost his zest for the battle, never lost his concern for people, never lost his infectious ability to pass on his commitment to others around him and engage them in his continuous struggle to improve the human condition, and it was a continuous bout.

Living with Wilbur and enjoying his friendship was an experience in itself. He was constantly calling on the phone, constantly dropping by my office.

He would say, "Jim, you've got to help me on this. We've got to work on this together." It was some new challenge, some new outrage that we had to defeat, some new accomplishment that we had to produce together with his legion of friends.

That quality of Wilbur, his zest for the good fight, his unquenchable vigor and dynamism as a man in his seventies, matching almost the electric level of energy and commitment and intellectual curiosity of the gentleman in the well with whom I am chatting now.

Knowing Wilbur was the privilege of a lifetime and I cherish my friendship with Wilbur. He was a remarkable human being, a warm, gutsy person with an infectuous ability to inspire others with his zest for the good fight and a zest to join him in committing themselves and their energies to the causes that he espoused.

It is true, he was also the complete professional and one of the things that really touched my sense of humor when I read his obituary this morning was a quotation either in the New York Times or the Washington Post from a Senator, an unnamed Senator, who said, "An expert in Social Security is someone who has Wilbur Cohen's home phone number." I thought that was a wonderful commentary. Not only does it bespeak Wilbur's expertise, his encyclopedic knowledge of the background to the Year One of the whole panoply of New Deal social work legislation, not only for the elderly, but for women and kids and what not, not only does that bespeak his total professionalism, but that bespeaks his total professionalism, but that bespeaks the fact that people knew they could call Wilbur at any time of the day or night if they had a problem, so long as Wilbur thought they were shoulder to shoulder with him in harness in the cause of helping people improving human conditions.

Just as it has been a great privilege for me to have known and worked with people like JAKE PICKLE and CLAUDE PEPPER, the privilege of a lifetime, it was also a wonderful privilege and a wonderful life enriching experience for me to have known and enjoyed the friendship and the affection of Wilbur Cohen.

I and hundreds and hundreds like me who respected this man's intellect and respected his qualities of heart, courage and zeal and commitment, feel a great joy in his life accomplishments, tinged, of course, with sorrow that he was taken from us at this time.

I can only extend my deep sympathy to Eloise, his wonderful wife, and to Christopher, Bruce and Stuart, his splendid sons. I can only express my sense of loss. I know I have a sense of loss and, of course, their loss is a thousandfold the loss any of us could speak; so I do express to Eloise and the wonderful boys my feeling of sorrow. My heart goes out to them. I can only give them my grateful thanks because I know how much Eloise meant to him and what a remarkably supportive role she played in every aspect of his life, how much he depended upon her for love and support and understanding.

I remember, I know well the pride that he had in his three wonderful sons and their wonderful accomplishments in politics and out.

I thank all of them for the wonderful support that they gave Wilbur throughout his life and the encouragement and the wonderful home environment that they provided to give him renewed strength to go out each morning to fight the good fight.

Mr. PEPPER. Mr. Speaker, I thank the gentleman.

Mr. PICKLE. Mr. Speaker, would the gentleman yield me 1 additional minute?

Mr. PEPPER. I yield to the distinguished gentleman from Texas.

Mr. PICKLE. Mr. Speaker, first, I want to pay my respects to the gentleman from New York for his very appropriate remarks. We appreciate them.

I simply want to add this thought, Mr. Speaker, that as we extol the life of Mr. Cohen, we ought not to just say, well, we want to say these things now. We ought to do something permanent and I am sure Americans across this land are going to be thinking, what can we do to perpetuate his memory? Each of us would make some contribution.

I rather believe that we ought to designate the biggest conference room down here in the HHS Building and call it the Wilbur Cohen Conference Room, or name part of that building, we could even name it the Cohen Building if it had not already been named for our great friend, Hubert Humphrey; but either there or at the Social Security building in Baltimore, we ought to designate a building and a statue or a number of them so that generations to come will always remember that this man made it possible.

Mr. PEPPER. Mr. Speaker, may I answer the distinguished gentleman from Texas, let us get together and see if we cannot initiate legislation to that effect.

Mr. PICKLE. It would be an honor.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield further?

Mr. PEPPER. Yes, indeed, I yield to the distinguished gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I would have an additional thought. I am sure Wilbur would enjoy the existence of a Wilbur Cohen Conference Room or a Wilbur Cohen place, but I think perhaps something even more than real estate would appeal to Wilbur. Perhaps if we could have a fund that would sponsor original research in the areas that he was so concerned about; perhaps conferences, perhaps ways in which we could reach out to young people and find out how we can improve their behavior, make them want to be literate, make them want to eschew drugs, tobacco, alcohol and sexual abuse, all of the things that cripple their ability to live full, active lives. If we could attach Wilbur Cohen's name to a positive program, whether it is research or outreach into the community or an annual conference on how we further the glorious ideals and goals that Wilbur Cohen fought for all his life, I think he would derive great satisfaction from that.

Mr. PEPPER. Mr. Speaker, I thank the gentleman for those suggestions.

Mr. Speaker, I yield to the able gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I did not know Wilbur nearly as long as the gentleman from Florida, only 15 years, but it did not take very long to feel strongly about Wilbur Cohen, so I join the gentleman from Florida in sadness, sadness that we have lost a great friend.

There is also another touch of sadness. I do not know of many other people who did more for more people without their knowing it. There are millions in this country who are better off because of Wilbur Cohen and they probably would not recognize his name; but for those of us who knew him well, our intensity to make up for any lack of fame in every corner of the land because he had fame in quite a few, most importantly was the quality of his accomplishments.

Wilbur Cohen was diminutive, but he was a giant. I think you will agree that there was more bounce to the ounce than you would ever see in anyone else. He was so much younger than his years, and yet he still passed away very young.

He was filled with zest and determination, but he also was patient. I saw that when I came here and he was working with the gentleman from Florida on that monumental effort on Social Security and the reform of that bill.

If your child needed something, some additional clothing, it needed some reform, and he retained, as has the gentleman from Florida, without diminution the zest, the determination, but combined with some practicalities. He wanted results for what he cared about so deeply.

I first met Wilbur Cohen, I would guess, about 15 years ago in Michigan. He was not a Michigan product, but everywhere he went he grew quickly and deeply into the soil and soon he developed a pride about the State and about his efforts there.

So I join the gentleman from Florida [Mr. PEPPER] in his efforts here today.

How many other people could it be said of that they had 50 years of experience when they were still young?

My heartfelt sympathy and thanks go out to the entire family. With them, though not as much, we will deeply miss Wilbur Cohen.

Mr. BIAGGI. Mr. Speaker, we are saddened today by the news of the death of Mr. Wilbur J. Cohen, who was most certainly one of our Nation's great public servants during the past 50 years. I had the pleasure of knowing Mr. Cohen, and three characteristics of the man come to mind when I consider his unexpected death. Wilbur Cohen was a hard-working man with a long list of significant accomplishments as rewards for his labors; he was an outstanding educator of his colleagues, Congress, and the public; and he exhibited a true commitment to the social causes and programs he served.

Mr. Speaker, for me to present to the House of Representatives a compilation of the well-known accomplishments of Mr. Cohen would take hours, and if I were also to discuss his lesser known work in creating our country's social welfare programs, there would be little time for other Members to pay their respects to Mr. Cohen and his achievements. Suffice it to say, that Wilbur Cohen's role is shaping our social welfare system spanned from the New Deal of President Franklin D. Roosevelt through the Kennedy and Johnson administrations and into President Reagan's second term. Mr. Cohen influenced each administration and program in different ways, but he was always an effective and outspoken advocate for older Americans.

He was a man who was always there to improve and expand programs when they needed it most. His efforts are responsible for distributing more of America's great wealth to those who need it most and to a significantly larger number of older adults. This is truly an accomplishment that will live for generations to come.

Mr. Speaker, as I mentioned, Mr. Cohen was also a magnificent educator. He knew the social programs that he worked with better than anyone else, and he was always willing to share that knowledge. He knew that spreading the good word about a program would, in the long run, benefit that program and all of its beneficiaries. Often referred to as "Mr. Social Security," Wilbur Cohen continued to serve this and other important programs long after he had left their official service. He did this by educating us about these programs' strengths, limitations, and purposes in our society. He was always willing to come forward with advice and constructive criticism regarding the ideas Congress was considering. We on the Select Committee on Aging considered him a valued expert and a friend to our causes and mission.

One of the most important educational assignments that he took on, in addition to his classes and other responsibilities at the University of Michigan, UCLA, and the University of Texas, was the task of educating a new generation of Americans about the necessity of providing the vast benefits of our current

Social Security and Medicare systems. He did this with skill, passion, and patience.

Finally, Mr. Speaker, although Mr. Cohen's knowledge base was extraordinary—he could offer suggestions on everything from how to improve the effectiveness of the Social Security telephone services to how the program's funding mechanisms should be designed. What made him extremely effective and a special human being was his total enthusiasm for what he did. His commitment to the causes he worked on was exemplary and he maintained this vigor throughout his career. Wilbur Cohen was there as the first employee of the Social Security Administration and he offered great creativity and many hours of labor to the job. He was also there over 50 years later to challenge some of the faulty ideas of the Reagan administration regarding Medicare and Social Security. And he was there with equal enthusiasm and commitment; this made his great intellectual abilities even more effective.

Mr. Speaker, Mr. Cohen was a patient man, who waited for years as Congress, the bureaucracy, and the public became ready for his enlightening approaches. We are lucky that he gave us so much for so long. I am saddened by the death of Mr. Wilbur J. Cohen and I send out my heartfelt wishes to his family.

Mr. FLORIO. Mr. Speaker, I would like to join with my friend CLAUDE PEPPER and my colleagues in the House as we rise in tribute to Wilbur J. Cohen. The legacy of his lifelong work, as a champion of programs preserving and enhancing the quality of life of our Nation's senior citizens, is as evident today as it was in his own enthusiastic mind a generation ago.

Social Security and Medicare, both, would not exist as they are today but for the tenacity of Wilbur Cohen. There are many, Mr. Speaker, who have dreams but there are few who can mold those dreams into reality. In his role as an official of the Social Security Administration he worked to implement the ideas he had helped form as a party to the drafting of the Social Security Act of 1935. In his role as Secretary of Health, Education and Welfare he worked to implement the goals he had helped form in the Medicare Act of 1965.

Mr. Speaker, it is with special significance that I observe that my friend from Florida, CLAUDE PEPPER, is leading this special order today. One week ago today Mr. PEPPER was with me in New Jersey for a day-long series of events where we were greeted by many hundreds of enthusiastic senior citizens. It is important that they know, and that we remember, that the same programs we are talking about today were put together yesterday by men like Wilbur Cohen. His passing is a sad day for us all.

Mr. MOODY. Mr. Speaker, we are saddened today by the death of Wilbur Cohen. Mr. Cohen, a native of Milwaukee, was one of the key forces behind the creation of the Nation's Social Security system.

Mr. Cohen was born in Milwaukee on June 10, 1913, and graduated with a degree in economics from the University of Wisconsin. Following Wisconsin's progressive traditions, Mr. Cohen came to Washington to help the Roosevelt administration forge some of the essential components of the New Deal.

Mr. Cohen served as technical adviser and director of research and statistics for the Social Security Administration, and eventually as Secretary of Health, Education and Welfare in the Johnson administration.

Not only was Mr. Cohen instrumental in the creation of Social Security, but 30 years later, he was instrumental in the development of Medicare.

Throughout his long and distinguished career, Wilbur Cohen never forget his Wisconsin roots. He once said, "I owe my whole background and development to what I saw and what I learned in Milwaukee at Lincoln High School and the education I got at the University of Wisconsin."

Even at the age of 73, Wilbur Cohen was still speaking on behalf of the health and welfare of the Nation's elderly. He passed away while attending an international conference on aging.

While this visionary man will be missed, his legacy lives on, embodied in the Social Security and Medicare programs he helped to create.

His native State, his family, and his colleagues are proud of him. He will be missed.

Mr. BONKER. Mr. Speaker, it is with both sadness and pride that I join my colleagues from the Select Committee on Aging and other Members of Congress in paying tribute to a great public servant and American—Mr. Wilbur Cohen. This remarkable man, who played a vital and historic role for well over 50 years in improving the economic security of tens of millions of past, present, and future generations of older Americans, died yesterday.

In the death of Wilbur Cohen, we have not only lost a substantial link to our social history, but we have also lost his energy and creativity for tomorrow's accomplishments. His vision and compassion was also directed to the elderly and the disadvantaged in other parts of the world, as evidenced by his death while in Korea to speak about the welfare of the elderly.

Today, and in the days to come, we will hear much about Wilbur Cohen and his many accomplishments. For those of us who believe deeply in the Social Security system, Wilbur Cohen stands out like a giant among a collection of remarkable people who joined with President Franklin Roosevelt and his successors to fashion a system ensuring that the elderly, the disabled, and the poor are treated with respect and dignity.

From 1934, when he joined FDR's administration to help draft the Social Security Act, to serving as Secretary of HEW in the Johnson administration, until the present, Mr. Cohen was an unrelenting advocate for the elderly and the poor. Until yesterday, he was cochairman of "Save Our Security," a coalition established in 1977 to protect against cuts in Social Security, Medicare and to other programs crucial to the health and welfare of our society.

Among the numerous testaments to his work is the Medicare Program, enacted in 1965, which he had advocated since the 1950's. I am confident that the Congress will make significant progress this year in improving Medicare to address the catastrophically high out-of-pocket health care expenses faced by far too many Americans. As we work to enact this legislation and to lay the foundation for future action on catastrophic long-term care and coverage for the uninsured, let's keep the spirit and commitment of Wilbur Cohen alive by following his example and legacy.

Mr. RUSSO. Mr. Speaker, I join my colleagues today to pay a final tribute to an outstanding citizen, a man who affected the course of this Nation in his years with the Government and who touched the lives of millions both as an educator and a gifted proponent for the social programs that benefit us all.

Wilbur Cohen spent some 50 years serving this country, and during much of that time he was coming before the Ways and Means Committee because he was the one who had the answers. He was the technical person who knew what was going on and how to explain it. Not only did he know the history of Social Security and its related programs, he helped create and build them.

The very first employee of the then Social Security Board, he was brought to Washington, DC, at age of 21 by his professor, a member of President Roosevelt's blue ribbon Committee on Economic Security. The Social Security Act was created. That professor did us a favor when he picked his best economics student to come and serve as his staff person. The professor left. Wilbur stayed. The Social Security law had passed, and Wilbur had work to do. He worked hard, through the Roosevelt years, the Truman years, and the first term of the Eisenhower administration.

In 1985 we celebrated the 50th anniversary of Social Security, and it is to Mr. Cohen we owe a particular debt of gratitude. Whatever its shortcomings, the Social Security Act is by any measure the single most successful piece of domestic legislation ever created in the United States—and it was created in the midst of our worst national economic crisis. It is this program that has enabled us to reduce the chronic instability and anguish that had all too often plagued our senior citizens; a program that has become a major part of our national life as it affords a wide range of protective measures to children, the disabled, and the handicapped, to name just some of its beneficiaries. And Mr. Cohen, a thinker and a doer was a pioneer of not only this program but of an array of social policies in the United States in this country.

In 1956 he became a full professor at University of Michigan, but he was soon back here again. President Kennedy appointed him Assistant Secretary for legislation at the Department of Health, Education and Welfare. It was unusual for a career civil servant to receive a political position, but I think this is another indication of Mr. Cohen's recognized talent for getting a job done. He had great ideas, he was solution oriented, and he knew how to present the case. He also possessed courage. He supported the "radical" idea of Medicare and came in for the criticism that was heaped on this program in those days.

Mr. Cohen worked during the historic time of legislative initiatives and new programs we witnessed during the Johnson years. During that administration he served as Under Secretary of HEW and then Secretary, becoming the only man to hold the three positions at HEW of Assistant, Under Secretary, and Secretary. And if you check the record of that incredible legislative period, you'll see that nearly all the initiatives were going through HEW—from clean water to civil rights.

At the age of 55, Mr. Cohen again went to Michigan and became the dean of the school of education and a professor. He retired in 1978. He also held a distinguished chair as professor at the L.B.J. School of Public Affairs in Austin, teaching there in the winter and at Michigan in the summer. And the LBJ school had already begun efforts, before his untimely death last week in Korea, to establish a distinguished chair in his honor.

But Mr. Cohen never really "retired." As chair of the organization Save Our Security, he continued to be a passionate advocate for our senior citizens. and when he died last week in South Korea, it happened while he tried to help the people of that country develop their own system of social insurance.

Throughout his life, Wilbur Cohen demonstrated an unquenchable thirst for for social justice in our country. He never lost his enthusiasm, his desire, and his energy—qualities we would all do well to emulate. He will be missed, but he has left a priceless legacy.

Mr. WAXMAN. Mr. Speaker, the Nation has lost a leader with great vision and commitment in the death yesterday of Wilbur J. Cohen. Wilbur Cohen was a true champion of social responsibility and human justice whose energy and efforts have benefited millions of Americans. He leaves a legacy in our Social Security and Medicare systems that will endure.

Wilbur Cohen was an administrator, advocate, educator, and leader throughout his life. He began his illustrious career by helping to draft and then implement the landmark Social Security Act of 1935. But, he didn't stop there. Throughout his life, he continued to make us aware of the need for constant improvement in Social Security—a crusade that led to expansion of both benefits and eligibility, and improvements in the lives of elderly and disabled Americans. While serving as Under Secretary and then Secretary of the Department of Health, Education, and Welfare, he applied his considerable talents to the struggle for passage of medical care protection for the elderly. An architect of the Medicare and Medicaid Programs, he was a bold and articulate advocate of economic security for older Americans and health protection for poor Americans. The nearly 50 million people who rely on Medicare and Medicaid today are forever in his debt.

Wilbur Cohen was an inspiration to anyone interested in public service. He truly exemplified the best public service has to offer. His dedication to government and to improving the lives of the disadvantaged and vulnerable will serve as a continuing example for all Americans.

Wilbur Cohen, like many visionary Americans, was a dreamer. But, Wilbur Cohen was also a man who contributed everyday of his life to making his dreams a reality—and that reality affected the lives of millions of Americans who never knew him. For him, no task was too great and no dream too impossible.

Anyone who had the pleasure to deal with Wilbur directly—to be affected by his enthusiasm and his hopefulness and his absolute refusal to give up or admit defeat—will never forget him.

We will miss his energy and determination, but will forever remember his contributions to the health and economic well-being of all Americans.

Ms. SNOWE. Mr. Speaker, we were all saddened by the news that Wilbur Cohen died suddenly yesterday while on a trip to Seoul, Korea, to participate in a symposium on aging and welfare for the elderly.

Wilbur Cohen was well known to everyone as the first paid employee of the Social Security Administration and one of the architects of the Social Secuirty Act. We all know of his work as the Secretary of Health, Education, and Welfare during the Johnson administration and his proud accomplishment in seeing the adoption by Congress of the Medicare Program. And we know of his recent years as a member of the faculty of the L.B.J. School of Government at the University of Texas. During this time he also joined with Dr. Arthur Flemming as cochair of the Save Our Security Coalition, an organization born out of their continuing concern for the protection of Social Security benefits.

But Wilbur Cohen was much more than the sum of his accomplishments. His was a lifetime of dedication of a consuming vision of income security and health protection for the elderly. To say that he will be missed is to understate the fact. The loss of his passion, his vision, and his wealth of knowledge will diminish us all and will leave a great void.

Mr. ROYBAL. Mr. Speaker, we mourn the loss of a great champion of the poor and common man. I rise to join my colleague CLAUDE PEPPER in sponsoring a House resolution to express the sentiments of this body about a man who was one of the major architects of social welfare policy during the last 50 years.

Mr. Wilbur J. Cohen was a primary participant in major legislative action affecting the elderly, disabled, and poor during the years spanning the administrations of Franklin D. Roosevelt and Lyndon Baines Johnson. He was an author of the laws which established Medicare and Medicaid.

Mr. Cohen, Secretary of Health, Education, and Welfare during President Johnson's administration, and most recently cochair of the Save Our Security Coalition, was a great humanitarian and American.

Born in Milwaukee and a 1934 graduate of the University of Wisconsin, my esteemed associate was the head of the committee that drafted the Social Security Act, and was the first employee of the Social Security Board. Known for his bounteous compassion, Mr. Cohen advanced the concept of dignity for all and was a vigorous spokesman for the causes of the aged, the ill, and the mentally impaired. He spent the last weeks of his life seeking to advance legislative proposals for long-term care, and had worked diligently for the passage of national health care insurance which would include coverage of catastrophic illness.

Although Mr. Cohen spent decades in the government, he never became a quintessential bureaucrat. His love for his fellow man and his desire to make a difference overcame all partisan politics. He will never be replaced, nor will he be forgotten by the millions of people whose lives he impacted.

I join with everyone in the Congress, and in America, in extending my heartfelt sympathy to his wife, Eloise, his three sons, Christoper, Bruce, and Stuart, and to his beloved five grandchildren.

Mrs. LLOYD. Mr. Speaker, today, we mourn the passing of Wilbur J. Cohen, who has left an indelible mark on the American social landscape.

A man of intellect, vision, and compassion, Mr. Cohen helped to shape the two major laws which, more than any others, have improved the quality of life for America's elderly citizens. I refer, of course, to the Social Security Act and the Medicare Program.

A teacher by profession, and a public servant by choice, Mr. Cohen devoted his life to improving the mind, the spirit and the social conscience of America. He left us a bountiful legacy of good works to remember him by.

Ms. OAKAR. Mr. Speaker, yesterday an outstanding servant of all American workers, and a gracious family man, Wilbur J. Cohen, passed away in Seoul, Korea.

Ex-HEW Chief, Wilbur J. Cohen, was one of that very small and unique group of Government officials who, as retired Congressman King of California once said, are "ready to risk their reputations and their professions to do their duty as they see it."

Wilbur Cohen was one of the top authorities in the United States on social welfare. Cohen succeeded John W. Gardner as Secretary of Health, Education, and Welfare in the Cabinet of President Lyndon B. Johnson on May 16, 1968. Since beginning his Government career as a research assistant in 1934, Cohen played a key role in the formulation of virtually every important piece of social legislation in the United States, including the original Social Security Act of 1935 and the Medicare Act of 1965.

Those who worked with Mr. Cohen, regarded him as one of the most cooly efficient, pragmatic, and persistent innovators Washington has ever seen. He was viewed as a man committed to social justice, one who knew his way through the Capital's jungle of politics and bureaucracy. Everyone had an abiding respect for the breadth and precision of his technical and sociological experience.

From 1978 through 1980, I had the distinct privilege of working under the chairmanship of Mr. Cohen, on the Unemployment Compensation Commission. Under his enthusiastic guidance and supervision, the Commission studied every conceivable aspect of unemployment compensation. The Commission provided a framework and organization for a research agenda on topics relating to Social Security.

It was truly an honor to work with such an intelligent, resourceful, and incredibly energetic man. I am proud to have known Wilbur Cohen, and I am deeply saddened by his passing. It is my belief that his contributions to the people of this country will allow his memory to be etched into American history.

Wilbur Cohen has positively affected millions of American lives. May God bless him and his lovely family.

Mr. RODINO. Mr. Speaker, I would like to join my distinguished colleague, Representative CLAUDE PEPPER, in his special order tribute to the Honorable Wilbur J. Cohen, former Secretary of Health, Education, and Welfare. Mr. Cohen passed away Sunday, in Seoul, South Korea, at the age of 73.

Mr. Cohen devoted his life to making our Nation a more compassionate land. Among the landmark programs he played an instrumental role in enacting are Social Security, Medicare, child welfare, and vocational training and rehabilitation. Without his input, many of America's most valuable citizens—the poor, the elderly, the sick and handicapped, the unemployed—would have fallen through the cracks of the Federal Government. Thanks to his compassion and commitment, their cries were heard.

In his lifetime, Wilbur Cohen became the conscience of our Nation, and although he has left us, many Americans will continue to benefit from his legacy—caring for his fellow human beings.

Mr. Speaker, I would like to express my deepest condolences to Mr. Cohen's family, and I include for the RECORD the following article about his life, published by the Washington Post, May 18, 1987:

EX-HEW CHIEF WILBUR J. COHEN DIES IN KOREA

(By Martin Weil)

Wilbur J. Cohen, 73, secretary of Health, Education and Welfare in the Johnson administration and a principal architect of the nation's social welfare programs, died yesterday in Seoul, where he had gone to make a speech.

From Franklin D. Roosevelt's New Deal to Lyndon Johnson's Great Society, from the original Social Security Act of 1935 to the Medicare Act that came 30 years later, Mr. Cohen was credited with playing a key role in creating the social legislation that transformed American life.

His death yesterday in Korea, where he was to speak at a symposium on aging and welfare for the aging, was attributed to a heart attack. Associates here said he died in his sleep.

As a young man who had just completed his studies at the University of Wisconsin, he came here and helped draft the landmark Social Security Act, which was one of the most enduring monuments of the Roosevelt administration and its efforts to bring the nation out of the Great Depression.

Mr. Cohen worked in the Social Security Administration for years, serving first as technical adviser, then as director of research and statistics. In these posts, he helped to expand both the benefits provided by Social Security and the numbers of individuals who were eligible.

"A Social Security expert is a man with Wilbur Cohen's telephone number," a U.S. senator once said.

Medicare, another of the mainstays of the nation's so-called social "safety net," also owed much to Mr. Cohen's ideas and his advocacy. It was seen as fruition of efforts in which he had been engaged since the 1950s to create a medical care program for the aged.

It was adopted by Congress in 1965, the year Mr. Cohen was named by President Johnson to be undersecretary of Health, Education and Welfare.

Although he spent decades in government, Mr. Cohen never appeared to adopt the image of the cautious, hesitant bureaucrat. A zestful, enthusiastic man, his warm-hearted nature found expression in his work.

In response to the obvious zeal Mr. Cohen showed before a House committee in championing Medicare, a coauthor of the bill called him "one of those government officials ready to risk their reputations and their professions to do their duty as they see it."

In recent years, Mr. Cohen was on the faculty of the Lyndon B. Johnson school of government at the University of Texas in Austin and was cochairman of the "SOS" coalition, a group created during the Carter administration that has argued against cutbacks in Social Security protection.

Mr. Cohen was born in Milwaukee on June 10, 1913. He studied economics at the University of Wisconsin, graduating in 1934. He came here afterward to work as research assistant to Edwin E. Witte, one of his professors, who headed the committee that drafted the Social Security Act.

"It was a heady atmosphere for a 21-year-old," Mr. Cohen said years later.

Over the years, as a Social Security official, Mr. Cohen helped put into effect provisions such as those that extended benefits to domestics, farm workers and the disabled.

During the 1950s, he left government for the academic world, teaching at the University of Michigan and at UCLA. He also served on a number of government advisory committees.

After he served in John F. Kennedy's 1960 presidential campaign in an advisory role, he was appointed in 1961 as assistant secretary for HEW for legislation, and in 4½ years in the post helped put into effect about 65 proposals in areas including not only Social Security but also civil rights, mental health, child welfare and vocational training and rehabilitation.

He became secretary of HEW in the last year of the Johnson administration.

After leaving government, he returned to the academic world, first at Michigan, and then in Texas.

In addition to his wife, Eloise, survivors include three sons, Christopher, of Chicago, Bruce, of Silver Spring, and Stuart, of Ann Arbor, Mich., and five grandchildren.

Mr. PEPPER. Mr. Speaker, in conclusion, we extend our heartfelt sympathy to his lovely and loving wife, Eloise, who was with Wilbur at the end, and to his fine sons upon their great loss.

This Chamber, this country, will always honor the name and revere the memory and be grateful, very grateful, for the immeasurable service to America of our friend, Wilbur Cohen.

CRITICAL MATERIALS—A NATIONAL TREND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 60 minutes.

Mr. BROWN of California. Mr. Speaker, I rise today to speak on an issue of growing importance of our Nation, but of which is little known or thought of by most of us. That issue is the one of critical materials. The materials I am speaking about are industrial, structural and electronic materials—alloys, ceramics, and plastic—that are vital to our national defense and national economy. As once defined by Dr. Frank Huddle, a renowned expert on the subject, within the Library of Congress, "materials are stuff that things are made with." Materials, like energy, are ubiquitous in our society. We take them for granted, assuming that they've always been there and will appear when necessary. Unfortunately, as with energy, without careful planning and forethought we may not have those materials available in the quantity and forms we may need for the Nation.

Historians have long recognized the importance of materials to mankind and civilization. Indeed, entire epochs have been named for materials: The stone age; the bronze age; and the iron age. The industrial revolution of the 19th century and the modern industry of the first part of the 20th century had firm roots in such basic materials as steel, aluminum and titanium. More recently technological and scientific advances in electronics, communication, transportation, and information have further emphasized the importance of new advanced materials. Indeed the technological advances vital to our Nation's economic and strategic future depend heavily on continued progress in discovering and developing new, advanced materials.

Recently, this point was brought clearly home in hearings before the House Committee on Science, Space, and Technology to review the flight of the ultralight aircraft, Voyager. That flight, taking 9 days to circumnavigate the globe nonstop and with no refueling, captured the hearts and imagination of almost all Americans. That feat exemplified the essence of American creativity, individuality and pioneerism. No one doubts that it primarily succeeded due to the courage and perseverance of its heroic crew and its designer. However, as pointed out in testimony by the copilot, Dick Rutan, that flight would have been impossible without the use of advanced, ultralight composite materials to construct the aircraft. As he further noted, it is this type of material on which the future of modern aviation will rest.

Mr. Speaker, to put it another way, materials are the enabling technology for our modern age. Without the advances and developments in materials of the past few decades there would be no computer revolution; there would be no space shuttle; there would be no electronics revolution. In the future, without advanced materials there can be no space station; there can be no aerospaceplane; energy produced from fusion sources will be impossible to obtain; and efficient energy from solar sources will be highly unlikely. However, with advanced materials we can expect new revolutionary transportation and energy systems. These could include high speed, magnetically levitated trains, based on newly discovered superconducting materials; automobiles requiring no oil or water and achieving more than 100 miles per gallon; and advanced fuel cells able to power a hundred homes yet small enough to fit in the back seat of a car. With new advanced materials technologies we will see a continuing revolution in microelectronics and information technology. Artificial intelligence, or "A.I.", may become a reality of our industrial sector rather than merely a theoretical model in the laboratory. Coupled with advanced sensors and robotics this A.I. capability will enable us to produce a new industrial revolution as we move into the 21st century.

Mr. Speaker, congressional as well as Executive interest in materials and materials policy have waxed and waned over the years. Strategic stockpiling can be traced back to each of the major wars we've engaged in during this century. A continuing stockpile policy developed prior to World War II, though modified over the years, remains in effect today. The Defense Production Act of 1950, also revised over the years has proven to be instrumental in providing some critical incentives for minerals and materials production during the Korean and Vietnam war eras. The start up of our titanium producing industry in the 1950's is one example.

During the past 30 or more years, materials have been the focus of a number of studies, committees and commissions. Most of these focused on problems related to major national emergencies or declarations of war. However, it was only with the crisis created by the oil embargo of 1973 that a fuller realization of our materials vulnerability became apparent. Oil, in fact, was just one of many key materials for which the United States could find itself held hostage to a supply interruption or cutoff. For example, in 1978, a guerrilla uprising in Zaire created a panic in the international cobalt market driving prices from $6 to $50 a pound almost overnight and causing international shortfalls that lasted more than 18 months. These shortfalls had major impacts on production of jet engines for both military and commercial use. We as a Nation were and continue to be highly dependent on the import of key materials, including cobalt, chromium, platinum, and manganese, all imported at levels exceeding 90 percent, from countries which often are inherently unstable or with philosophies divergent from that of the United States. These nations include South Africa, Zambia, Zaire, and the Soviet Union. This import dependence makes our country extremely vulnerable to short-term and long-term interruptions in the supply of these critical elements.

Congress responded to this concern with the enactment of the National Materials and Minerals Policy Act of 1980 (Public Law 96-479), the first legislative vehicle to address materials policy concerns broadly in over three decades. That law, seen as a first step only, attempted to focus attention on the importance of materials issues and to establish some broad, overriding policy regarding materials. Public Law 96–479 was not intended as a final solution to our materials problems but rather as a vehicle to understand and address those problems.

Import dependence and vulnerability still remain as important issues. One only has to look at the headlines on South Africa and the continuing violence in that country to recognize how fragile this situation is. However, it has become apparent in the past several years that we must pay increasing attention to the economic implications of materials as well. New, advanced materials and related technologies, as well as basic materials, are critical to our Nation's ability to compete in the international marketplace. Japan, Western Europe, and others have taken decisive steps in this decade to develop key advanced materials technologies designed to leap frog our country's economic preeminence. We have lost the economic war in steel; in textiles; and in autos. If we are not careful our advantages in aeronautics and microelectronics will be next.

MATERIALS AND THE NATIONAL ECONOMY

Mr. Speaker, let me focus a bit on materials and our national economy. In the area of advanced materials if one visits the laboratories of our Nation's universities there exists an air of excitement and expectation as new materials with new properties point to future products heretofore unknown. Only last month discoveries of a new high temperature superconducting material were announced by researchers in the University of Houston. That discovery by Dr. Paul Chu and his coworkers opens the possibility of using these materials in energy systems that could revolutionize our Nation's energy and transportation systems. For instance, new high-speed, levitated trains using superconductive magnets could become economically feasible with the relatively simple cooling systems made possible by the new discovery. Prior to that the engineering costs for such transport seemed insurmountable. Other potential uses include advanced computers, electrical power transmission, energy storage, and advanced instrumentation for physical as well as the life sciences. Recent stories in Time magazine, the Washington Post and elsewhere point to continuing advances in developing practical devices from this revolutionary new material.

Seemingly each day new advances and discoveries in materials and materials processes, while not as dramatic as the case of superconductors, are announced. These include such materials as advanced structural ceramics, polymeric composites—advanced plastics—and rapidly solidified alloy systems, the so-called metallic classes.

Mr. Speaker, let me give a few examples of the importance of these advanced materials to our Nation.

ADVANCED CERAMICS

Ceramics, a basic building material dating back to the dawn of civilization, have gained increased attention in recent years as scientists have achieved a better understanding of this material. As anyone who has dropped a China plate is aware, normal ceramics are extremely brittle. Scientists, through new chemcial compositions and highly controlled processing conditions have succeeded in greatly enhancing the toughness of an entirely new class of ceramics. These tough, structural ceramics, have high strengths even at extreme temperatures and in corrosive chemical environments. These properties together with high wearability and high insulation properties make them ideal candidates for high-temperature heat engines for cars or trucks. Known as adiabatic heat engines, they would operate at temperatures exceeding 2,500' F and would require no water cooling as with standard engines, little or no lubrication and would run more efficiently than any normal internal combustion engine. Economic studies sponsored by the Department of Energy have shown that advanced ceramics by the year 2000 could contribute tens of billions of dollars to our GNP and generate hundreds of thousands of new jobs.

POLYMERIC COMPOSITES

Polymeric composites, in a word—or two—reinforced plastics, have been a major focal point of our military research. Research in the 1970's and early eighties has introduced increasingly improved, light weight, high strength materials that make them ideal for aeronautical as well as astronautical applications. As the recent *Voyager* flight has shown, these properties open entire new areas of improved flight performance. By combining unique materials properties with advanced aeronautical engineering, entirely new subsonic and supersonic aircraft—the F-18, the Stealth bombers and others—have become possible. As we look to large space structures, advanced composites will be key to building the space station and in allowing success of future interplanetary missions, manned and unmanned, including any proposed Mars mission.

RAPIDLY SOLIDIFIED TECHNOLOGY [RST] MATERIALS.

In recent years, scientists have created an entirely new system of materials, known as rapidly solidified technology [RST] materials. These materials, created by rapidly cooling liquid metals and alloys millions of degrees per second, allow for combining elements and compositions normally considered impossible, and often resulting in structures referred to as metallic glasses. These materials have superior properties for corrosion resistance, magnetization, and high temperature strengths. These and other properties make RST materials prime candidates for use on the Aerospaceplane, parts of which will see temperature extremes ranging from −427° F to +4,000° F. In fact, without these and other advanced materials, the Aerospaceplane concept would be impossible.

The Japanese and others have long recognized the importance of advanced materials. For instance, Japan, since 1981, has embarked on an ambitious 10-year research program in advanced ceramics meant to dominate the lucrative, international market predicted for the 1990's and beyond. It is not entirely clear how much the Japanese are investing in this particular effort. But it is clear that the activities are well coordinated and extensive, closely resembling other long-term activities in photovoltaics and energy conservation—projects such as Sunshine and Moonlight—begun in the seventies. Over 60 industrial companies have been identified in the ceramics program, operating through a special engineering research association. Whereas direct government funding appears relatively modest, approximately $10 to $15 million per year, industry funding has been estimated at between $100 to $300 million per year. Even assuming the lower figure, this would mean an investment of over $1 billion in a 10-year span.

In addition to research dollars, the Japanese invest in low technology applications using these high technology materials. They produce ceramic scissors, knives and even fishhooks to gain valuable and irreplaceable manufacturing experience, and then aggressively market these products to develop a consumer awareness of the new materials. Today you can go into a Tokyo department store and buy these ceramic products; even more importantly, the Japanese consumer is aware of the importance of these fine ceramics to the Nation's overall economic goals and thus is willing to pay the premium prices demanded.

In contrast, the United States has been slow to react, with start and stop funding of advanced ceramics research, and with no clear prioritization of long-term direction or goals. In analyzing the President's budget, approximately $50 million can be identified as targeted toward advanced structural ceramics. These moneys are spread out among the Departments of Defense, Energy, Commerce, NASA, and NSF, and divided among numerous programs and agency divisions. While informal communication does take place between the various agencies, the annual appropriations review within the executive branch takes place in a vacuum with each agency scurrying around to protect its own programmatic slice of the budget pie. Not uncharacteristically because of the nature of the OMB/agency review process, these slices are, seemingly, arbitrarily increased or decreased to meet broader budgetary goals. The Department of Energy, for example, has one of the largest Federal ceramic research programs. They have watched the OMB cut their ceramics activities in half in each of the past 2 years, despite their own long-range program goals established and approved earlier, and the continuing evidence of the importance of this work. While Congress has acted to restore much of these cuts one can only wonder as to why these reductions continue to be proposed by the administration.

Unfortunately, our efforts in advanced ceramics are paralleled in other areas of an estimated $1.5 billion in Federal materials R&D. These include polymeric composites, photovoltaics, advanced processing, and others. Meanwhile, France, Germany, the U.K., and others appear to have taken their cue from Japan and have initiated major advanced materials programs involving extensive institutional and interregional collaborations. No similar efforts exist in the United States.

SMOKESTACK INDUSTRIES

Mr. Speaker, no nation's economic and strategic health can be based solely on high technology solutions. The same is true in considering materials. Our future will rest on an industrial base balanced between the smokestack, basic materials industries, including steel, aluminum, and copper, and the new, advanced high-technology materials industries. These basic materials industries represent directly over $250 billion in annual revenues and close to 3.4 million jobs roughly 20 percent of our Nation's working force. Indirectly, materials science and engineering activities affects more than one-third of our GNP. Unless we are willing to base our future on service industries and such food enterprises as McDonald's we must work hard to maintain these important smokestack industries in addition to nurturing the advanced materials industries.

The problems—and potential solutions—of these smokestack materials industries, perhaps, can be best illustrated by looking at the case of the steel industry. In 1977, the Bureau of Census reported 396 steel companies with a total employment of 447,000, producing steel products valued at roughly $42 billion. By 1985, the latest official figures show only 100 iron and steel companies, producing approximately $50 billion in products but with only 255,000 employees. In 1 year alone, between 1981–82, employment dropped by more than 60,000 jobs. In addition to the absolute size of the industry, steel is directly important to other sectors of the economy. Total employment, for instance, in industries directly dependent on the steel industry is estimated to be around 4 million. Steel production decreased from 120 million tons in 1981, to 89 million tons in 1985, after dropping to an all time low of 74 million tons in 1982. Imports on the other hand have increased from about 15 percent of consumption in 1981 to over 22 percent in 1985. Some experts have suggested our import reliance may reach as high as 40 percent in the 1990's.

The problems in the steel industry did not arise overnight. U.S. steel plants built in the early 1940's are among the oldest in the world. Our industry has tenaciously held onto outmoded technology while other nations have invested in new, more modern, facilities. As noted in a 1980 OTA report, in the past two decades the industry has been beset by a plethora of financial and related problems, including severe competition from imported steel allegedly dumped on the U.S. market; high labor costs; high costs of imposed Federal environmental regulations; improper management; and growing world steel production capacity exceeding actual demand.

In looking at the management side of things, one can only wonder at the purchase by United States Steel Corp. several years ago of Marathon Oil Co. That acquisition cost billions of dollars and netted on paper sizable profits for the shareholders of Marathon and others. However, no new products were produced and no new facilities created. Today, United States Steel Corp. formerly the largest steel producer in the world, places more emphasis on real estate holdings than steel—representing less than 40 percent of their assets—and has changed its name to U.S.X. Some say "x" marks the spot where United States Steel Corp. used to exist.

The problems and importance of the steel industry have not gone entirely unnoticed by Washington policymakers. The 1980 OTA study, in looking at international competitiveness of the U.S. steel industry, indicated that an investment of between $3 to $5 billion per year over the next decade would be necessary to adequately modernize our steel industry. It was suggested, however, that development of major new steelmaking innovations would provide a competitive advantage to foreign production by the 1990's. This same theme was picked by the recent Presidential Commission on Industrial Competitiveness. To his credit, Dr. Jay Keyworth, the former Presidential Science Adviser, proposed a new Federal initiative joining industry with the scientific expertise of some of our Federal laboratories. While I personally don't subscribe to all of this proposal, the "Keyworth Steel Initiative" had some valid potential. Unfortunately, OMB and other administration hard-liners have shown little enthusiasm for this idea. Only with congressional prodding have any moneys been allocated for the initiative through DOE. In this year's Presidential budget proposal, even these modest programs are slated for elimination.

Some have suggested that the decline of these basic industries is all in the "natural" order of a competitive marketplace and that the overall economic health of the Nation is better served by allowing these old industries to die out. I must admit that I find some part of this reasoning attractive. Like good gardeners, we'll winnow out the old and sick industries in order to make room for the young and vigorous. What's left out of these arguments, however, is that the Nation's overall security demands basic materials such as steel, perhaps not at the production capacity seen in the past, but certainly at a level that doesn't require us to import ever greater amounts of these resources, making us even more vulnerable to an often hostile world. These industries are sick but we shouldn't prematurely bury them. Rather we should be looking at innovative ways to incorporate these critical industries into a re-industrialized and revitalized, competitive marketplace.

The Keyworth steel initiative is one idea. I would propose that we go further. New developments in new high strength, superplastic steels opens the door to entirely new energy and materials savings processes. These processes would make us more efficient and thus more competitive. Other processing ideas include continuous casting of thin strip and use of levitated, containerless processing. Robotics and the use of artificial intelligence [AI] systems point to additional innovations. We need to establish cooperative programs between industry and the Federal Government to integrate AI technology, robotics, and advanced materials processing into a restructured basic materials industry. Obviously much work needs to be done but I believe that Federal expertise and programs within the Department of Commerce's National Bureau of Standards, the Department of Interior's Bureau of Mines, the Department of Energy and the National Science Foundation could be harnessed in collaboration with the American metals industry at a national level. In addition to looking at new production methods, programs could be established to use existing, yet idle, facilities for resource recovery, including recycling to regain valuable industrial metals or simply to obtain waste heat for other purposes. Many of these same facilities could be adapted to convert numerous hazardous wastes to benign substances through high temperature incineration using steel blast furnaces. This would have the obvious benefit of dealing with the more than 260 million tons of hazardous waste generated annually at a cost estimated in the tens of billions of dollars.

Finally, I would propose that we must retrain and educate our technical and engineering work force in the basic materials industries in order to adopt the new processing technologies being envisioned. Interdisciplinary education and research programs at our nation's universities focused on integrating AI, robotics, and advanced materials processing, perhaps through vehicles such as NSF's Generic Engineering Research Center programs or DOE's Federal laboratories must be established and appropriately funded. Indeed our youth must be encouraged to seek careers, not only in the "faddish," high tech, glamour industries—computers or electronics—but in these revitalized, basic fields that remain the heart of our industrialized America.

The costs for such a program would not be minimal. On the other hand they would not be excessive either. Venture capital appears available for a restructured, revitalized steel industry. What is lacking is visionary leadership by the Federal Government as well as by corporate executives. By focusing on discreet proposals, model programs in specific regions or cities for instance, modest Federal investments could leverage sufficient venture capital to establish new revitalized industrial centers, where idle and underutilized factories now exist.

MATERIALS AND THE NATIONAL DEFENSE

Mr. Speaker, as I mentioned earlier, materials concerns of the Nation are two-pronged—economic and military. Let me turn now to our military or defense concerns.

The production of every F-16 fighter jet requires over a ton of cobalt as well as other strategic metals such as chromium, manganese, and nickel. Major structural elements of advanced fighter aircraft such as the F-18, advanced attack helicopters and the new vertical takeoff fighter, or VTOL's, require high volumes of lightweight, high strength polymer composites. The stealth bomber apparently depends heavily on these and other advanced materials to make it radar invisible. The proposed aerospace plane, with four-fifths of its program support coming from DOD, will fail or succeed based on our ability to develop and use advanced high strength, lightweight, and high temperature resistance material heretofor unknown. Finally, the strategic defense initiative or "star wars" program, requires tremendous advances in ceramics, in polymer-and metal-matrix composites and new metal alloy systems for structural applications, not to mention the need for new synthesized materials for electric and optical sensory uses.

Congress has recognized the importance of materials to our defense for many years. Passage for the National Materials and Minerals Policy, Research and Development Act of 1980—Public Law 96-699—while comprehensive in nature had as a major thrust the strategic implication of critical materials. For instance, DOD was called on to report to Congress and the President on the impact and importance of strategic materials. This assessment was intended to be incorporated in the broader policy framework to be developed through the White House and presented to Congress as a program plan for addressing national materials problems.

In the early 1980's a fair amount of discussion centered on Russian dominance of critical materials, including potential attempts to control resources in southern Africa, Afganistan, and elsewhere. The idea of an international resource war fostered by the Russians found ready acceptance by the Reagan administration entering office at that time. Formation of a cabinet-level, Natural Resources and Environment Council, a flurry of activity by the Departments of Defense, Commerce, and Interior, as well as numerous hearings, articles, and outside reports on critical materials led many to believe that a decades-old materials problem was at last moving toward resolution. The congressionally mandated program plan announced by Mr. Reagan appeared to take at least some of the necessary steps in outlining Federal action in this area. The plan, noting the strategic importance of materials, placed heavy emphasis on domestic production of minerals and public lands management, as well as pointing to the importance of material research and development. A Cabinet Council was named as responsible for carrying out the goals of the proposed plan, though no moneys were targeted for any part of the plan.

Unfortunately, the high expectations generated in 1981 were quickly frustrated by the reality of little or no perceptible results. The Cabinet Council, while potentially useful as the coordinating and implementing mechanism required by Public Law 96-479, was not effective. The Council met only infrequently on materials issues and then only on an ad hoc basis. The disbandment of the various interagency working committees left a commitment to materials policy without permanence or clearly defined lines of communication with the rest of the Federal Government. Dominance by then Secretary Watt and the Department of the Interior on the Council's activities placed undue emphasis on questions of importance to that agency while ignoring much of the needs of the rest of the Government, including defense. Eventually the President's Council was abolished having done little or nothing about the materials problem.

The Department of Defense as well as Commerce did move forward more or less independently of the Interior dominated Council. Their own analysis and studies suggested that the processing of advanced, as well as basic materials would be of critical importance to maintaining the strategic strength of the country. In carrying out Defense's mandated study from the 1980 act both the Defense Production Act of 1950 and the Strategic Stockpiling Act were quickly recognized as a means to address materials-related national security needs. This assessment, while acknowledging the problem of import dependence, emphasized the Nation's critical dependence on its industrial capacity to convert raw materials into defense products, the need to provide for quality as well as quantity in the stockpile and the importance of continuing research and development of advanced materials and processes.

The proposal for an expanded role of the Federal Government in supporting our industrial base through the Defense Production Act quickly ran into difficulty with a cost-conscious OMB. The mandated report, as a result, never reached the Congress. Subsequently despite attempts by Congress to the contrary, the Defense Production Act was extended with only minor supports for the materials production industry being implemented.

Other studies, assessments, and even programs met with the similiar fate of being ignored or of being of little value to the policymakers high within the executive branch. This was true of assessments made by the Department of Commerce on strategic materials in critical industrial segments—aerospace and steel—as well as programs for critical materials substitution within NASA, DOE, and DOD. For instance, a small research program entitled COSAM—for Conservation of Strategic Aerospace Materials—flourished briefly in 1982 and 1983 and then was dropped for lack of continued interest. The manufacturing Technology Program within DOD, while continuing, has never achieved the expected level of support envisioned at its inception.

The Office of Strategic Resources [OSR] created within the Department of Commerce in response to the 1980 Materials Act while addressing such key issues as South African mineral dependency and the critical materials requirements of our aerospace and steel industries has fallen on disfavor with this administration. For the past several years, this small office of five professionals has been slated for elimination in the President's budget only to be resuscitated by congressional actions. With little support from OMB, the White House, or elsewhere, OSR continues to provide essential and important analyses of our Nation's materials needs.

The problem of maintaining interest in materials policy on the part of administration as well as congressional leaders can be ascribed in part to crying wolf to the pending red menance of world domination through a materials resource war. Early predictions of a major crisis in strategic materials on the order of another international oil embargo have not been fulfilled. The possibility of a strong cartel action or major political uprising leading to a supply interruption is perhaps, not likely. I believe the problem is less dramatic and more long term. More likely is the gradual erosion of our U.S. industrial base in materials, as well as a failure to establish and maintain our ability in advanced materials and materials processing.

This failure to move forcefully into the international marketplace with advanced materials has been exascerbated over the past several years by administration attempts to expand our Nation's security classification system to include sensitive information and technology as controllable. Warning of a "hemorrhage of U.S. technology to the Soviets", defense and security officials have attempted to prevent export of key technologies abroad, not just to the Soviets but our own allies as well. Advanced materials are central to many of the technologies considered sensitive. As pointed out in a recent National Academy of Science report, the effect of such unilateral controls is to cost U.S. industry billions of dollars in lost sales abroad while at the same time severely hampering research and information exchange among academic researchers. Because the controls are unilateral, and thus not binding on our allies we have simply provided our competition with additional excuses not to "buy American." Such concern has fallen on deaf ears within DOD, pushing export regulations in materials areas when the U.S. might not hold the premiere technological position. They argue the controls are necessary "despite a perceived parity or even lead * * * that ongoing U.S. research is expected to yield near-term results of extreme strategic interest." Obviously a dilemma exists when the Department of Energy works to promote technology transfer of its advanced materials—one example being ceramics in advanced gas turbines—while DOD moves in exactly the opposite direction with the same material.

The diverse interests of such big Federal agencies and departments as Defense, Energy, State, Commerce, Transportation, Interior, NASA, and NSF for critical materials programs and policies made it clear by the mid-eighties of the need for a central focusing mechanism at as high a policy level in the executive branch as practical. The National Critical Materials Council, proposed by Congress resulted.

THE NATIONAL CRITICAL MATERIALS COUNCIL

Mr. Speaker, Congress in noting the importance to our strategic and economic needs of critical materials, passed the National Critical Materials Act of 1984, Public Law 98-373, which was signed by the President in July of that same year. That act, as a followup to the 1980 Materials Policy Act, called for the establishment of a three-member National Critical Materials Council, under and reporting to the Executive Office of the President. The Council was seen as the focal point for addressing all materials issues, responsible for advising the President and making recommendations to Congress. The Council was to assist in assigning responsibilities and in helping to coordinate Federal materials-related policies, programs, and research activities.

Despite the strong bipartisan support of the full Congress and despite the importance of this issue, little or nothing has been done to implement the law. The President waited a full 16 months before announcing the appointment of its first three members. Within 2 months of their appointment, two of the members, including the chairman, had resigned, leaving the Council in limbo for another period of almost 9 months. Finally, in September of last year, the Secretary of Interior, Donald P. Hodel, was assigned the task of chairman and for awhile it appeared that some action would finally take place. Unfortunately, to date, little or nothing has happened. Of an authorized staff of up to 12, only 2 full-time employees, 1 of whom is clerical, the other the Executive Director, have been hired by the Council. The Executive Director himself has no technical or even policy background in materials. Two specific assessments required by the law are now long overdue, one now over 2 years late. Despite Secretary Hodel's personal commitments to activate the Council it seems obvious that this administration has little interest in this or any other mechanism for coordinating our materials efforts. This is truly unfortunate because other nations, including Japan and our Western allies, have moved aggressively ahead in formulating and implementing strong national programs in basic and advanced materials. Meanwhile, we continue conducting business as usual in a disorganized, uncoordinated, and shortsighted manner. Our shortsightedness, as I have pointed out earlier, translates into the potential loss of hundreds of thousands of jobs and tens of billions of dollars by the end of this century.

Mr. Speaker, I have no illusion that this three member Council, even if it acted with the full resources available to it, can possibly resolve all the complex materials problems faced by this country. However, I do believe that the Council should act as a focal point for decisionmaking and responsibility setting within the executive branch. This will require a direct involvement of the private sector—industrial and academic—in providing advice and expertise to help determine national materials policies, priorities, and programs. In particular, I believe the Council must take decisive steps in establishing and implementing a Federal national program plan for advanced materials R&D. Such a plan at the very least would include programs for advanced structural ceramics, advanced composites, and advanced alloy systems. By working with the private sector, other Federal agencies, as well as other interested parties, the Council has an opportunity to establish a blueprint for action in addressing these and other material issues.

SUMMARY

Mr. Speaker, in summary, I would say the following:

It is clear that materials—advanced and basic—are critical to this Nation's strategic and economic well-being. Tens of billions of dollars and hundreds of thousands of jobs are at stake.

Advanced materials, including ceramics, composites, and metal alloy systems, are the enabling technology necessary for the Nation's advances in this modern age. Without them we stand little chance of success in such proposals as the aerospace plane, space station, or our solar energy programs.

The discovery and development of these advanced materials will not occur by accident, rather it requires the careful establishment of policy and long-term planning now missing. With the policy and planning must also come a commitment to implementation.

We must balance our efforts in advanced materials by maintaining a healthy and viable basic materials industry—steel, aluminum, copper, and others. The opportunity exists for a unique collaboration to be created between Government and industry to incorporate robotics, artificial intelligence, and advanced materials processing into a program to make these industries productive and efficient.

This administration has failed to take even minimal steps to establish national leadership in developing long-term goals, planning, and programs for basic and advanced materials. Public laws calling for the establishment of policy and the means to implement that policy have been virtually ignored. At the very least the National Critical Materials Council, established by law, should be given a good-faith opportunity to carry out the mandates of its charter. We must establish that leadership.

It is time for us to establish a national program plan for materials, including a national Federal program plan for advanced materials R&D, as well as a focus for innovation and productivity in these essential materials industries. The Japanese, Europeans, and others offer us a number of models upon which we could design our own national program plan.

Congress in its part must critically evaluate the policies and programs for defense, energy, space, environment, and trade with a view to incorporating critical materials policies in those evaluations. By recognizing the importance of critical materials in these areas we stand a better chance of identifying and coming to grips with those essential elements necessary to meet our Nation's strategic and economic needs well into the next century.

We must be prepared to invest in programs—including development and demonstration programs as well as fundamental research—to provide these essential and critical materials for the Nation's defense and its economic competitiveness and vitality for today and the future.

ETHIOPIA BEING SYSTEMATICALLY DESTROYED THROUGH MARXISM-LENINISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 30 minutes.

Mr. ROTH. Mr. Speaker, famine in Ethiopia is what drew the world's attention to the Horn of Africa. But what we know now is that the real problem in Ethiopia is not with the rains, but with the reign of terror.

Ethiopia as a nation and Ethiopians as a people are in grave jeopardy. Ethiopia's identity is being systematically destroyed through the imposition of Marxism-Leninism. Ethiopia is now a totalitarian state and has become a puppet of the Soviet Union.

These are not my words. They come from someone who knows far better than I of the self-destruction of Ethiopia. These words come from one of the highest ranking defectors from the Ethiopian Government. A man has seen from the inside how Comrade Mengistu has forged his alliances with all the Communist movements and parties of the Soviet Union, Cuba, Vietnam, Kampuchea, Mozambique, Angola, Nicaragua, and others. A man who has seen his people suffer and die at the hands of a cruel dictator.

The man I am speaking of is Dawit Wolde Giorgis. Many of my colleagues here know him well. It was Dawit who was responsible for famine relief in Ethiopia. Dawit defected to the United States last year and has written a fascinating account of what is taking place in Ethiopia. I would like to share with my colleagues some excerpts from his exposé soon to be published by Princeton University:

> The greatest goal of Mengistu and the hardline core in the Party is to actively participate in the establishment of an African Communist society with the help of the Soviet Union and other socialist governments. The goal is interpreted in a strict, doctrinaire manner and can only be realized through a firm, consistent alliance with the Soviet Union and other socialist countries. They identify the capitalist countries and particularly the United States as the major

enemies of the international revolution. There are endless appeals to the Ethiopian people for constant vigilance against these forces.

As the Workers' Party gets stronger, as hardliners assume all the key positions within it, as the famine crisis and international attention subside, as the future of Ethiopia is sealed by Party policy, Party structure, the proclamation of the marxist constitution, and the new state apparatus, hope for meaningful improvement in Ethiopian-American relations has almost completely disappeared.

It must be clearly understood that diplomatic efforts by the United States or anyone else to influence the leadership to change these fundamental policies and their methods of implementation are scarcely imaginable.

Yet American officials continue to imagine signals. They create Ethiopian overtures where none exist. They carefully analyze every statement by the Head of State, they try to read between the lines. They count the number of times he condemns American imperialism in his public addresses. If it is less than his previous public statement, it is considered a signal. When the objectionable resettlement or villagization programs slow down, either due to lack of resources or the rainy season, American officials hail it as a shift, a significant response to their pressure. If the American charge d'affairs in Addis manages to see the Foreign Minister instead of the Desk Officer, that is also taken as a signal. When after ten years of governmental refusal negotiations begin for compensation of nationalized American assets, it is a gesture. When acknowledgment of American relief assistance finally appears in the newspapers, that is a signal too. When political prisoners are released after arbitrary arrest and years of imprisonment without due process of law, it is seen as an improvement on the issue of fundamental human rights. Yet on the very day one hundred are released, one hundred more are thrown in jail.

Dawit goes on to ask:

Why is it necessary to look for signals or try to read between the lines when the message and the policies are so clear? U.S. analysts and reporters, by deluding themselves with unintended signals and imagined improvements, continue to hide or ignore the true motives of the regime and thereby avoid decision-making that could bring about genuine change in Ethiopia.

The people want an end to the misery of Mengistu's rule. International impotence shocks them. . . . The willingness of American and European governments to accommodate him, to accept him and his crimes as long as his excesses do not spill over into the area of global peace or international interest is inexcusable.

The United States might not be very interested in Ethiopia for now, but when Mengistu's policies spill over to seriously affect regional American interests, then it will take note. Mengistu will not limit his machinations to the Sudan and Somalia. He has already trained and armed ZANU and ZAPU troops in Zimbabwe. He is training and arming the African National Congress troops of South Africa. And he is prepared to send troops to the governments of Angola and Mozambique.

Those of us who have been part of the system understand only too well that the realities of life in Ethiopia today are not going to change as long as this regime is in power. Any attempt on the part of the United States to improve foreign relations by accepting the status quo will only perpetuate repression and accelerate the process of fragmentation. Accepting the status quo will not bring about the desperately needed change within the country and would do a disservice to the people. They expect and deserve more than this from the United States.

I think that my colleagues will agree that Dawit's words are haunting and deserve our attention. Dawit is not the only defector from Ethiopia. Not in recent history have we witnessed so many high-ranking officials defecting from one country. Included in the long list of defectors in the past few months are Ethiopia's Foreign Minister, Ethiopia's Ambassador to Japan, Ethiopia's Ambassador to the Scandinavian countries; Ethiopia's Ambassador to the United Kingdom, Ethiopia's Ambassador to France, an entire soccer team, prominent musicians and artists who escaped after performing at the Kennedy Center right here in Washington, and senior military officers.

It is clear that the Mengistu regime rules only through terror and force. The World Human Rights Guide gives Ethiopia the lowest human rights rating in the world. Amnesty International reports this month of widescale torture in Ethiopia and massive detentions of political prisoners. The State Department's Country Reports on Human Rights Practices calls Ethiopia's record on human rights deplorable.

Congressman BILL GRAY and I have introduced legislation which calls on the Ethiopian Government to terminate its forced resettlement program and to restore basic human rights and dignity to the Ethiopian people. It calls for the release of political prisoners. It calls for the institution of basic civil rights in Ethiopia. And it calls for free and fair elections so that the people of Ethiopia have the opportunity to choose their leaders.

As stated so eloquently in our Declaration of Independence, we believe that all people have a right to liberty and that governments only derive their legitimacy from the consent of the governed.

Our legislation, the Promotion of Democracy in Ethiopia Act of 1987, states clearly that the people of Ethiopia have not been forgotten. Around the world we have championed the cause of freedom and the institution of democratic governments. We do so as well in Ethiopia.

Already 40 of my colleagues from all sides of the political spectrum have joined Congressman BILL GRAY and me in cosponsoring this legislation. We invite and ask all members to join in this effort.

□ 1905

RICO LAW INDISPENSABLE IN PRESENT ECONOMIC CLIMATE

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, recently I have had an opportunity to analyze a brilliant statement about why we need a stronger racketeering law, and I am pleased to offer for inclusion in the RECORD testimony from the Subcommittee on Criminal Justice by Prof. G. Robert Blakey, distinguished professor of law at the University of Notre Dame, a statement that he prepared which examines 10 of the most prevalent myths about the civil side of the antiracketeering law called civil RICO—why in the context of insider trading, the crisis in takeovers, and mergers of questionable legality, this law is absolutely indispensable in the present economic climate.

He has examined in great detail the number of myths that accompany the misunderstanding about this law, and in an effort for this 100th Congress to more carefully consider this matter, I am offering his statement for inclusion in the RECORD.

NEEDED: A STRONGER CIVIL RICO

My name is Dorothy Blakey. I am the William J. and Dorothy O'Neill Professor of Law at the Notre Dame Law School. My appearance here today, however, is personal. Nothing that I say should be attributed to the Law School or the University.

I. INTRODUCTION

In 1970, Congress enacted the Organized Crime Control Act, Title IX of which is known as the "Racketeer Influenced and Corrupt Organizations Act" (RICO), 18 U.S.C. § 1961 *et seq.* Congress enacted the 1970 Act "to strengthen[] the legal tools in the evidence gathering process, . . . [to] establish[] new penal prohibitions, and [to] provide[] enhanced sanctions and new remedies. . . ." 84 Stat. 923. Among other things, Congress was concerned about "fraud." *Id.* at 922.[1] Congress found that "the sanctions and remedies available" under the law then current were" unnecessarily limited in scope and impact." *Id.* at 923. It then provided treble damage relief for "person[s] injured" in their "business or property" by violations of the statute. 18 U.S.C. § 1964(c). At that time, these private civil remedies had been called for by no less than the President,[2] the President's Commission on Crime and the Administration of Justice,[3] and the

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[1] In addition to fraud, RICO covers violence, the provision of illegal goods and services, corruption in labor or management relations, and corruption in government. Blakey, *The RICO Civil Fraud Action in Context*, 58 Notre Dame L. Rev. 237, 300-06 (1982).

[2] "Message on Organized Crime," *reprinted in*, Hearings before the Subcommittee on Criminal Laws and Procedures, U.S. Senate Committee on the Judiciary, 91st Cong. 1st Sess. 449 (1969) (*Senate Hearings*).

[3] *The Challenge of Crime in a Free Society* 208 (1967).

American Bar Association.[4] In response, the Senate passed the bill 73 to 1.[5] The House passed an amended bill 431 to 26.[6] The Senate then passed the House bill without objection, and the President signed the legislation on Oct. 15, 1970.[7] Today, however, RICO—at least its civil provisions—is under sharp attack from a variety of quarters.[8] In fact, it stands largely without friends or supporters. Nevertheless, the attacks against civil RICO have about them an air of Chicken Licken's concern that the sky was falling down. They also pose the question: will those who raise Chicken Licken's concerns end up experiencing her fate.

II MYTHS AND FACTS [9]

1.1 *Myth: The Federal Courts Are Being Inundated With New Litigation Under Civil RICO.*

See 132 Cong. Rec. H 9371 (Oct. 7, 1986, daily ed.) (remarks of Rep. Frederick C. Boucher, The House floor manager of H.R. 5445):

"[T]he federalization of thousands of mere commercial disputes, irrespective of the amount in controversy or the diversity of citizenship of the parties threatens to swamp a Federal judiciary that was never designed to handle these kinds of cases."

1.2 *Fact: Civil RICO Litigation Is Neither Wholly New Nor of Floodgate Proportions.*

Previously, separate data on Civil RICO litigation were not kept by the Administrative Office of the United States Courts. *See generally, Annual Report of the Director of the Administrative Office of the United States Courts* (1985). Approximately 275,000 civil cases are, however, filed each year. *Id.* at 11. Approximately 39,000 criminal prosecutions are brought. *Id.* at 16. Slightly more than 118,000 of the civil cases involve the United States as a plaintiff or defendant; private litigation embraces approximately 160,000 filings, of which 60% is federal question and 40% is diversity litigation. *Id.* at 11. The principal areas of litigation are recovery and overpayments and enforcement of judgments (47,000), prisoner petitions (30,000), social security (25,000), civil rights (20,000), and labor (11,000). *Id.* at A-12–13. Antitrust includes 959 civil filings, *id.* A-12, and 47 criminal cases. *Id.* at A-47. Securities' commodities and exchange-related civil filing make up 3,200, *id.* at A-13, and 13 criminal cases. *Id.* at A-46. Fraud-related civil filings make up 1,700. *Id.* at A-12.

In fact, securities and fraud-based RICO litigation, which was initiated pre-*Sedima*, comprised 77% of the ABA study on Civil RICO. *Ad Hoc Civil RICO Task Force: ABA, Corporations, etc.* 55-56 (1985). Accordingly, if most securities and fraud-related cases were also RICO cases, RICO filings would not exceed 5,000, not more than 2% of all federal filings. How many wholly new pieces of litigation, particularly in the fraud area, RICO will draw into the federal courts cannot be reliably determined. It is doubtful, however, that the number will be relatively high, as most significant commercial litigation is now in the federal courts under other federal statutes or diversity jurisdiction. In fact, the Department of Justice indicated that of the approximately 500 civil RICO cases brought pre-*Sedima*, 61% of them had an independent basis for federal jurisdiction. *Oversight on Civil RICO Suits*, Hearings before the Senate Judiciary Committee, 99th Cong., 1st Sess. at 127 (1985) *(Oversight)* More recently, Administrative Office data indicate that in 1986, only 1069 civil RICO cases were filed—not thousands—and 294 were terminated. As such, "the perceived problem of civil RICO case load is exaggerated . . ." 2 Civil RICO Report No. 34 at 3 Feb. 4, 1987). (remarks of Judge Pamela A. Rymer). In fact, the decisions have now "calmed down" and "actually present no greater problem than antitrust or complicated securities cases." *Id.*

Dire predictions of an explosion of new federal litigation, moreover, need to be put into perspective. Litigation itself, as the Supreme Court recognized in *Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio,* 105 S.Ct. 2265, 2278 (1985), is not "an evil." "Over the course of centuries," the Court noted, "our society has settled upon civil litigation as a means for redressing grievances, resolving disputes, and vindicating rights when other means fail." *Id.* "That our citizens have access to their civil court," the Court concluded, "is not an evil to be regretted; rather, it is an attribute of a system of justice in which we ought to take pride." Accordingly, it ought to be recognized that the mere *fact* of RICO suits is *not* a matter to be decried or deplored.

2.1 *Myth: RICO was Designed to Deal Only With Organized Crime.*

See Oversight at 241 (remarks of Ray J. Grover, American Institute of Certified Public Accountants):

"[T]he legislative history of the civil RICO confirms that Congress intended to create a weapon in the war against organized crime, but at no time did Congress envision that it was creating a powerful new weapon to be used against legitimate business people in ordinary commercial disputes having nothing whatsoever to do with organized crime."

2.2 *Fact: RICO was Designed, Not Only To Deal With Organized Crime, But Also Other Forms of Enterprise Criminality.*

116 Cong. Rec. 35, 204 (1970) (remarks of Rep. Richard H. Poff, the House floor manager of RICO):

"[E]very effort . . . [was] made [in drafting RICO] to produce a strong and effective tool with which to combat organized crime—and at the same time deal fairly with all who might be affected by . . . [the] legislation—whether part of the crime syndicate or not."

See Sedima S.P.R.L. v. Imrex Co., Inc., 107 S.Ct. 3275 (1985).

RICO "makes it unlawful for 'any person'—not just mobsters to [violate its provisions] through a pattern of racketeering activity." 107 S.Ct. at 3285.

Legitimate businesses "enjoy neither an inherent incapacity for criminal activity nor immunity from its consequences." 107 S.Ct. at 3287.

3.1 *Myth: RICO Was Designed To Deal Only With The Infiltration Of legitimate Business.*

See Oversight at 719 (remarks of David Albenda, New York Life Insurance Co):

"The civil liability provisions of RICO were intended by Congress to protect legitimate businesses from infiltration by organized crime."

3.2 *Fact: RICO Was Designed, Not Only To Deal With The Infiltration of Legitimate Business, But Also Other Forms of Enterprise Criminality.*

See United States v. Turkette, 452 U.S. 576 (1982).

" '[T]he major purpose of Title IX [was] to address the infiltration of legitimate business by organized crime.' 452 U.S. at 591."

" '[W]e are unpersuaded [, however,] that Congress . . . confined RICO [to] *only* the infiltration of legitimate business.' 452 U.S. at 590 (emphasis in original)."

4.1 *Myth: RICO Applies To Every Business Transaction That Uses the Mails or Phones.*

See 132 Cong. Rec. H. 9371 (Oct. 7, 1986, daily ed.) (remarks of Rep. Frederick C. Boucher, The House floor manager of H.R. 5445):

"[F]raud allegations are commonly made in contract situations, and all that is needed to convert a simple contract dispute into a civil RICO case is the allegation that there was a contract and the additional allegation that either the mails or the telephones were used more than once in either forming or breaching the contract."

4.2 *Fact: RICO Applies Only to Pattern of Unlawful Behavior, Not Single Transactions.*

The courts are making it abundantly clear that RICO does *not* apply to isolated acts.

Compare, Lipin Enterprises, Inc. v. Lee, 803 F. 322 (7th Cir. 1986) (not applicable to single transaction), *with Morgan v. Bank of Waukegan,* 804 F. 2d 970 (7th Cir. 1986) (applicable to multiple transactions that inflict discrete harms).

See S. Rep. No. 617, 91st Cong., 1st Sess. 158 (1969) ("one isolated 'racketeering activity' . . . insufficient . . . The target . . . is . . . not sporadic activity.")

See Lipin Enterprises, Inc., 803 F.2d at 325 (Cudahy, J. concurring) ("a multiplicity of mailing does not reasonably translate directly into a 'pattern'. . . . It is not clear that the same analysis would be appropriate in cases involving other kinds of predicate acts (like . . . arson).").

Some courts have gone further. *See, e.g., Superior Oil Co. v. Fulmer,* 705 F.2d 252 (8th Cir. 1986) (multiple schemes required). The one circuit court, which appeared to decide otherwise, is now moving to correct its earlier decision. *Compare R.A.G.S. Couture, Inc. v. Hyatt,* 774 F.2d 1350, 1355 (5th Cir. 1985) *with Smoky Greenlaw Cohon Co. v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.,* 785 F.2d 1274, 1280 n.7 (5th Cir. 1986).

See generally note *Reconsideration of Pattern in Civil RICO Offenses, 62 Notre Dame L. Rev. 83 (1986).*

5.1 *Myth: RICO Applies to Mere Contract Disputes.*

See 132 Cong. Rec. H. 9371 (Oct. 7, 1986, daily ed.) (remarks of Rep. Frederick Co. Boucher, The House floor manager of H.R. 5445):

"RICO is so broad based that virtually any party that has become embroiled in a commercial dispute becomes a candidate for a civil RICO case.

* * * * *

"[V]irtually every type of contract dispute has been turned into a RICO case."

5.2 *Fat: RICO Requires a Showing of Bad Faith, That is, A Good Faith Dispute Is Not Within RICO.*

None of RICO's predicate offenses is applicable on a showing of strict liability. Each requires a showing of *mens rea* or "Criminal intent."

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[4] *Senate Hearings* at 259; Hearings before Subcommittee No. 5, House Committee on the Judiciary, 91st Cong, 2nd Sess. 537 (1970).

[5] 116 Cong. Rec. 972 (1970).

[6] *Id.* at 35, 363.

[7] *Id.* at 36,296; 37,264.

[8] *See generally* Goldsmith & Keith, *Civil RICO Abuse: The Allegations in Context,* 1986 Brigham Young U.L. Rev. 55; Note, *Congress Responds to Sedima: Is There a Contract Out on Civil RICO?,* 19 Loy. L. A. L. Rev 851 (1986).

[9] "Myth"—"a belief . . . whose truth is accepted uncritically." *The Random House Dictionary* 581 (1980).

See, e.q., Durland v. United States 161 U.S. 306, 314 (1896) (mail fraud) (if evidence had shown that defendant acted in good faith, "no conviction could be sustained"); *Bender v. Southland Corp.,* 749 F.2d 1205, 1216 (6th Cir. 1984) (RICO) mail fraud requires intent to defraud); *Dan River, Inc. v. Icahn,* 701 F. 2d 278, 291 (4th Cir. 1983) ("Criminal intent is . . . necessary in either mail fraud or securities fraud [under RICO].")

6.1 *Myth: The General Remedies Against Litigation Abuse Are Inadequte.*

See Statement of N. Minow Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary 17-18 (July 24, 1985) (no effective means exist for controlling frivolous litigation under RICO).

6.2 *Fact: The General Remedies Against Litigation Abuse Are Adequate.*

See Report of the Proceedings of the Judicial Conference of the United States, Sept. 21-22, 1983, at 56:

"Judge Hunter stated that the Subcommittee on Judicial Improvements, at the request of Judge Alfred T. Goodwin, had explored ways and means to reduce frivolous or meritless litigation in the courts and had canvassed the various courts for ideas and suggestions. After consideration of the suggestions received, the Subcommittee concluded, as did many judges, that the existing tools are sufficient, but perhaps not fully understood or utilized."

See, e.g., Farguson v. M. Bank Houston, N.A., 808 F.2d 358, 360 (5th Cir. 1986) (Rule 11: monetary sanctions and injunction against further litigation under RICO); *Spiegel v. Continental Illinois National Bank,* 790 F.2d 638, 650-51 (7th Cir. 1986) (Rule 38 sanctions applied to RICO); *Gordon v. Heimann,* 715 F.2d 531 (11th Cir. 1983) (bad faith counsel fees in RICO: inherent power, Rule 11, and 28 U.S.C. § 1927); *Bush v. Rewald,* 619 F. Supp. 585, 604-06 (D.C. Hawaii 1985) (Rule 11 supports counsel fees for failure to investigate RICO facts); *WSB Electric Co. v. Rank & File Committee to Stop the 2-Gate System,* 103 F.R.D. 417 (N.D. Cal 1984) (RICO not applicable to labor dispute: Rule 11 sanctions applied); *Financial Federation, Inc. v. Ashkanazzy* (1984) Fed. Sec. L. Rep. (CCH) para. 91,489 (D.C. Cal. 1983) (Rule 11 award of $150,000 in legal fees in frivolous RICO claim), *Vacated and remanded,* 742 F.2d 1461 (9th Cir. 1984), reinstated in unpublished opinion ; *King v. Lasher,* 572 F. Supp. 1377, 1385 (S.D.N.Y. 1983) (dispute over will frivolous RICO claim; counsel fee awarded under Rule 11).

See also Steven, J. in dissent in *Hoover v. Ronwin,* 104 S. Ct. 1989, 2012 (1984):

"Frivolous cases should be treated as exactly that, and not as occasions for fundamental shifts in legal doctrine. Our legal system has developed procedures for speedily disposing of unfound claims; if they are inadequate to protect [individuals] from vexatious litigation, then there is something wrong with those procedures, not with the law)."

See also Meyers v. Bethlehem Ship Building Corp., 303 U.S. 41, 51-52 (1938) (Brandeis, J.) ("Lawsuits . . . often prove to . . . [be] groundless; but no way has been discovered for relieving a defendant from the necessity of a trial to establish the fact.")

7.1 *Myth: State Jurisprudence Is Adequate to Deal With Fruad.*

See Oversight at 634-35 (remarks of Edward I. O'Brien, Securities Industry Association):

"[H]undreds of years of common law interpretation of state law fraud is completely subverted to RICO.

"[The] nation [ought not] . . . abandon well over 200 years of common law development by the states of what fraudulent practices are . . . .

Id. at 590-91 (remarks of Richard P. Swanson, New York State Bar Association):

"There are, and there have always been, remedies for common law fraud and securities fraud. There is no evidence whatsoever that those remedies are inadequate. There is no evidence of an epidemic of fraud in the last 20 years that would necessitate the broad, new remedies which RICO provides."

7.2 *Fact: State Jurisprudence Is Not Adequate to Deal with Sophisticated Forms of Fraud.*

In the 18th and 19th century, state fraud jurisprudence was developed in the context of then prevailing philosophies of *laissez faire* and *caveat emptor,* which were aptly summed up by Mr. Justice Dennison in *Queen* v. *Jones* [1794], Salk 397, 92 Eng. Rep. 330: "[W]e are not to indict one man for making a fool of another."

Congress found that sort of jurisprudence inadequate in 1970, when it enacted RICO. 84 Stat. 923. Writing in 1967, the President's Crime Commission, whose studies led to RICO, noted in its *The Challenge of Crime in a Free Society* 47-48 (1967):

During the last few centuries economic life has become vastly more complex. Individual families or groups of families are not self-sufficient; they rely for the basic necessities of life on thousands or even millions of different people, each with a specialized functions, many of whom live hundreds or thousands of miles away."

The Commission also observed:

"Fraud is especially vicious when it attacks, as it so often does, the poor or those who live on the margin of poverty. Expensive nostrums for incurable diseases, home improvement frauds, frauds involving the sale or repair of cars and other criminal schemes create losses which are not only sizable in gross but are also significant and possibly devastating for individual victims." *Id.* at 33-34.

Since 1970, 27 states have enacted RICO-type legislation, 22 of which include the private multiple damage suit.[10] As such, the law of the 18th or 19th century can hardly be characterized—simply—as not "inadequate."

Congress, too, enacted legislation in the 1930's to deal with securities fraud, precisely because state fraud law in that area *was* inadequate to deal with "racketeering" on Wall Street. *See, e.g.,* 77 Cong. Rec. 3801 (1933) (remarks of Senator Duncan Fletcher, leading sponsor of Securities Act of 1933) (["Securities Act" is] designed to protect the public from financial racketeering of . . . investment bankers. . . .").

Voices were also heard in the 1930's, which sought to repeal or modify the Securities Act of 1933. It was suggested that the legislation was so "draconian" that it would "dry up the nation's underwriting business and that 'grass' would grow on Wall Street." D. Ratner *Securities Regulation* 80 (1982). Mr. Justice Frankfurter—then a professor and one of the leading spokesmen for the securities acts—put it well:

"The leading financial law firms who have been systematically carrying on campaign against [the Securities Act of 1933] have been seeking—now that they and their financial clients have come out of their storm cellar of fear—not to improve but to chloroform the Act. They evidently assume that the public is unaware of the sources of the issues that represent the boldest abuses of fiduciary responsibility. J. Seligman, *The Transformation of Wall Street* 79 (1983)."

History repeats itself. Apparently, too, little has changed since. *See, e.g., N.Y. Times,* Feb. 13, 1987, col. 1, p. 1 (3 leading brokers arrested on charges of multi-million dollar insider trading). If anything, federal law needs to be strengthened, not weakened.

8.1 *Myth: Since Law Enforcement Agencies Can be Depended Upon To Prosecute the Real Malefactors, Private Enforcement Mechanisms Are Not Needed.*

See Oversight at 310 (remarks of Ray J. Grover, American Institute of Certified Public Accountants) (appendix):

"It is baseless to assert that the targets of the private Civil RICO cases that private lawyers have brought in the absence of prior convictions would have been prosecurted if only federal and state prosecutors had more resources."

8.2 *Fact: Law Enforcement Can Not Do the Whole Job.*

If this myth were true, it would justify the repeal of the antitrust statutes, which also contain a private multiple damage claim for relief. Yet the antitrust acts have been termed "the Magna Charta of free enterprise." *United States* v. *Topco Associations, Inc.,* 405 U.S. 596, 610 (1972). They "are as important to the preservation of economic freedom and our free-enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms." *Id.* There, the private "treble-damages remedy [is needed] . . . precisely for the purpose of encouraging *private* challenges to antitrust violations." *Reiter* v. *Sonotone Corp.,* 442 U.S. 330, 344 (1979) (emphasis in original). Such "private antitrust litigation is one of the surest weapons for effective enforcement of the antitrust laws." *Leh* v. *General Petroleum Corp.,* 382 U.S. 54, 59 (1965) (quoting *Minnesota Mining & Manufacturing Co.* v. *New Jersey Wood Finishing Co.,* 381 U.S. 311, 318 (1965)). In fact, between 1960 and 1980, of the 22,585 civil and criminal cases brought under the antitrust provisions by the government or private parties, 84% were instituted by *private* plaintiffs. *U.S. Department of Justice Source Book of Criminal Justice Statistics* 431 (1981). Such private suits "provide a significant supplement to the limited resources available to the Department of Justice" to enforce the antitrust statutes. *Reiter,* 442 U.S. at 344. *See Sedima,* 105 S.CT. at 3284 (RICO designed "to fill prosecutorial gaps").

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[10] *Ariz. Rev. Stat. Ann.* § § 13-2301-16 (1978 & Supp. 1984-85) (3x); *Cal. Penal Code* § § 186-186.8 (West Supp. 1985); *Colo. Rev. Stat.* § § 18-17-101-109 (Supp. 1984) (3x); *Conn. Gen. Stat. Ann.* § § 53-393-403 (West Supp. 1984); *Del. Code Ann.* Tit 11 § 1501-11 (1986) (3x + punitive); *Fla. Stat. Ann.* § § 895-01-05 (West Supp. 1983) (3x); *Ga. Code Ann.* § § 26-3401-14 (1983) (3x + punitive); *Hawaii Rev. Stat.* § § 842-1-12 (1976) (3x); *Idaho Code* § § 18-7801-05 (Supp. 1984) (3x); *Ill. Rev. Stat.* Ch. 56-½ § § 1651-61 (Smith-Hurd Supp. 1984-85) (3x) (limited to narcotics); *Ind. Code Ann.* § § 35-45-6-1-2, 34-4-30.5-1-6 (Burns Supp. 1982) (3x + punitive); *La. Rev. Stat.* § § 15:1351-56 (West. 1985) (3x) (limited to narcotics); *Miss. Code Ann.* § § 97-43-1-11, (Lawyers Co-op 1984) (3x + punitive); *Nev. Rev. Stat.* § § 207-350-250 (1983) (3x); *N.J. Stat. Ann.* § 2C:41 6.2 (West Supp. 1982) (3x); *N.M. Stat. Ann.* § § 30-42-1-6 (Michie Supp. 1980) (3x); *N.Y. Penal Law* § 460.00-80 (1986); *N.C. Gen. Stat.* § 75-D-1-14 (1986) (3x); *N.D. Cent. Code* Ch. § § 12.1-06.1-08 (Smith Supp. 1983) (3x); *Ohio Rev. Code Ann.* § § 2923.31-36 (Page 1985) (3x); *Or. Rev. Stat.* § § 166-715-35 (1981) (3x + punitive); 18 *Pa. Cons. Stat.* § § 911 (Pardon 1983); *R.I. Gen. Laws* § § 7-15-1-11 (Michie Supp. 1983) (3x); *Tenn. Code Ann.* § 39-1-1001-12 (1986); *Utah Code Ann.* § § 76-10-1601-08 (Smith Supp. 1983) (3x + punitive); *Wash. Rev. Code Ann.* § § 9A.82010-901 (West Supp. 1985) (3x); *Wis. Stat. Ann.* § 946-80-87 (West Supp. 1984-85) (2x + punitive).

Like the antitrust laws, RICO creates "a private enforcement mechanism that . . . deter[s] violators and . . . provide[s] ample compensation to the victims . . . ." *Blue Shield of Virginia et al v. McCready,* 457 U.S. 465, 472 (1982). *See Sedima,* 105 S.Ct. at 3284; *Alcorn County, Miss. v. U.S. Interstate Supplies,* 731 F.2d 1160, 1165 (5th Cir. 1984) (Congress intended RICO's treble damage action to "provide strong incentives to civil litigants . . . in deterring racketeering . . ."). RICO's treble damage provisions were "intended by Congress . . . to encourage private enforcement of the laws on which RICO is predicated." *Id.* Accordingly, RICO and the antitrust statutes are well integrated. "There are three possible kinds of force which a firm can resort to: violence (or threat of it), deception, or market power." C. Kaysen & D. Turner, *Antitrust Policy* 17 (1959). RICO focuses on the first two; antitrust focuses on the third. As the antitrust laws seek to maintain economic freedom in the market place, so RICO seeks to promote integrity in the market place.

Assistant Attorney General Steven S. Trott had this to say before the Senate Judiciary Committee about RICO's private enforcement mechanism:

"[I]n gauging the overall deterrent value of auxiliary enforcement by private plaintiffs, the deterrence provided by the mere threat of private suits must be added to the deterrence supplied by the suits that are actually filed. Furthermore, as the federal government's enforcement efforts continue to weaken organized crime and dispel the myth of invulnerability that has long surrounded and protected its members, private plaintiffs may become more willing to pursue RICO's attractive civil remedies in organized crime contexts. It should be remembered, too, that civil RICO has significant deterrent potential when used by institutional plaintiffs, such as units of state and local governments, which are not likely to be intimidated at the prospect of suing organized crime members. Finally, civil RICO's utility against continuous large-scale criminality not involving traditional organized crime elements should be kept in mind. These considerations suggest that private civil RICO enforcement in area of the organized criminality may have had a greater deterrent impact than is commonly recognized, and that both the threat and the actuality of private enforcement might be expected to produce even greater deterrence in the future. *Oversight* at 140-41."

Public enforcement with its principal reliance on the criminal law cannot be relied upon to do the whole job of policing fraud. As Justice Jackson observed, "the criminal law has long proved futile to reach the subtler kinds of fraud at all, and able to reach grosser fraud, only rarely." R. Jackson, *The Struggle for Judicial Supremacy* 152 (Vintage 1941). We must, in short, be candid about the limitations of the criminal justice system in the white collar crime area. Resources available for investigation and prosecution are scarce. The common law criminal trial is ponderous. The cases are complex. Offenders will be most often treated as "first offenders" even if they had actually engaged in a pattern of behavior over a substantial period of time. A few convictions will yield only a minimal deterrent effect. J. Conklin, *Illegal But Not Criminal: Business Crime in America* 129 (1977) rightly concluded:

"[T]he criminal justice system treats business offenders with leniency. Prosecution is uncommon, conviction is rare, and harsh sentences almost non-existent. At most, a businessman or corporation is fined; few individuals are imprisoned and those who are serve very short sentences. Many reasons exist for this leniency. The wealth and prestige of businessmen, their influence over the media, the trend toward more lenient punishment for all offenders, the complexity and invisibility of many business crimes, the existence of regulatory agencies and inspectors who seek compliance with the law rather than punishment of violators all help explain why the criminal justice system rarely deals harshly with businessmen. This failure to punish business offenders may encourage feelings of mistrust toward community morality, and general social disorganization in the general population. Discriminatory justice may also provide lower class and working class individuals with justifications for their own violation of the law, and it may provide political radicals with a desire to replace a corrupt system in which equal justice is little more than a spoken ideal. (citations omitted).

Public agencies, moreover, will never be funded at adequate levels. The funding of the Securities and Exchange Commission, for example, has increased since 1979, but its staffing has decreased, and its pending investigations are down. Yet the number of shares traded on the New York Stock Exchange has shot up 300% since 1977; the number of first time registrants has increased by 260%. *See generally Statistics on SEC's Enforcement Program,* GAO Report Mar. 25, 1985. Even among legitimate brokerage firms, the incentive structure for commissions encourages a fraud known as "churning," trading stock without regard for investment objectives. Similarly, the futures industry in the United States has grown tremendously in recent years. The 139.9 million futures contracts traded in 1983 represents a level of trading activity 15 times greater than that reached in 1968. The value of contracts traded exceeds $5 trillion a year. Nevertheless, the resources of the Commodities Futures Trading Commission have remained relatively constant. Some would suggest that the industry is a scandal waiting to happen, for the Commission "is thoroughly out-gunned in the ongoing battle against commodity fraud." S. Rep. No. 97-495, 97th Cong., 2d Sess. 10 (1983). In addition, the accounting industry, once thought to play the role of an outside watchdog, is under heavy competitive pressure to go along with questionable annual reports, and it is increasingly losing its independence, since it also offers management consulting advice. *See N.Y. Times,* Feb. 21, 1985, col. 1, p. 446. (remarks of Rep. John D. Dingell). "After a spectacular string of corporate failures and financial scandals in recent years, the industry that is supposed to audit company books and sniff out chicanery" is itself coming under close scrutiny. *Time,* Apr. 21, 1986 at 61. No wonder that it is a major contributor to the political campaigns of those in the forefront of the effort to disembowel RICO. *Rolling Back RICO,* National Journal, Sept. 6, 1986 p. 2114-15. Theodore C. Barreaux, Vice President of the American Institute of Certified Public Accountants, attributes the Department of Justice's switch from opposition to support of the prior criminal conviction limitation on RICO to a series of meetings between accounting institute lawyers and Department officials. *Id.* at 2115. The need for more effective deterrent to fraud in the world of legitimate business is, therefore, manifest.

9.1 *Myth: Multiple Damage Suits Are Not Needed.*

See Oversight at 177-78 (remarks of Charles L. Marinaccio, Securities and Exchange Commissioner):

"The RICO civil remedy may substantially alter the balance of private and public rights and remedies under the securities law that Congress and the courts have carefully crafted over the last 50 years. . . . [I]t enables plaintiffs to claim treble damages even in cases where Congress has expressly limited recovery under the securities laws to actual damages. [The Securities Acts private claims for relief] have served well [with only actual damages] as supplements to other enforcement mechanisms. . . ."

9.2 *Fact: Multiple Damage Suits Are The Heart of the Necessary Private Enforcement Mechanism.*

It is, of course, correct that the Securities Acts only provide for actual damages. It can hardly be contended, however, that they have worked as an adequate compensatory scheme or mechanism for the deterrence of systematic fraudulent practices in light of the recent inside information trading scandals. The *Wall Street Journal,* Feb. 17, 1987, col. 1, p. 27 recently observed:

"[T]he abuse of inside information in the take over game is endemic and has grown systematically over the past half-decade. . . .

"Whatever specific numbers come out in the unfolding federal probe, it's probably a safe bet they they'll vastly understate the total losses incurred by stockmarket investors, as well as many target companies that no longer exist and their acquirers, who doubtless paid too dearly for them."

The need for a strengthened private enforcement mechanism, including mulitple damages, is manifest.

The idea of multiple damages for certain kinds of unlawful practices has deep roots. The earliest such provision in English law was the Statute of Gloucester, 6 Edw. 1, ch. 5 (1278) (treble damages for waste). Modern antitrust statutes had their origin in the Statute Against Monopolies, 21 Jac. 1, ch. 3, § 4 (1624) (authorizing treble damages for those injured by unlawful monopolies). Parliament recognized that it was "one thing to pass statutes and . . . quite another thing to insure that [they were] actually enforced." 4 W. Holdsworth, *A History of English Law* 335 (34th ed. 1945). Accordingly, "it was a common expedient [in the Middle Ages and beyond] to give the public at large an interest in seeing that a statute was enforced . . . ." *Id.* It was also an idea found in early colonial laws. *See, e.g., The Laws and Liberties of Massachusetts* 5 (pilfering and theft: treble damages), 24 (gaming: treble damages) (1648). In turn, the idea of multiple damages for various kinds of wrongs was a characteristic feature of Roman law. The "delict" of theft ran back at least to the Twelve Tables (450 B.C.). The *Institutes of Gaius* (Part I) (Text with Critical Notes and

Translation by F. deZulueta) at 217 (1958). "[T]he penalty . . . [was] four times the value of the thing stolen" when the offender was caught in the act; otherwise, it was "double." A Watson, *The Law of the Ancient Romans* 76 (1970). extortion was remedied by four times the loss. *Id.* at 80. Possession of stolen property was remedied by three times the value of the property. *Id.* at 77. Greek law provided for double damage if stolen property was recovered; tenfold damages otherwise. 5 C. Kennedy, *The Orations of Demosthenes,* app. VI 187 (1909) (quoting a law of Solon), *quoted in,* J. Wigmore, *Panorama of the World's Legal Systems* 343 (1936). Biblical law, too, reflected multiple damage recovery. *Exodus 22:1* (theft of ox or sheep, if killed, restoration of five for ox and four for sheep); *Exodus 22:9* (trespass to property double damages); *2 Samuel 12:1-6* (restoration of fourfold for taking of lamb).

Modern economic analysis supports the wisdom of this history.[11] *See generally,* R. Posner, *Economic Analysis of law* § 7.2 (3rd ed. 1986). Professor (now Judge) Posner argues for private enforcement mechanisms of more than actual damages against deliberate anti-social conduct, particularly where the factor of concealment is present. *Id.* at 560 (private enforcement); 194, 346 (more than actual damages for deliberate conduct); 293 (concealment). Concealment is the sine qua non of most RICO-type behavior, particularly fraud. *See, GAO: Fraud In Government Programs—How Extensive Is It?—How Can it be Controlled?* cover page (1980) ("Most fraud is undetected. For those . . . committing fraud, the chances of being prosecuted and eventually going to jail are slim . . . . The sad truth is that crime against the Government often does pay.") If society authorizes the recovery of only actual damages for deliberate anti-social conduct engaged in for profit, it lets the perpetrator know that if he is caught, he must return the misappropriated sums. If he is not caught, he may keep the money. Even if he is caught and sued, he may be able to defeat part of the damage claim or at least compromise it. In short, the balance of economic risk under traditional single damage recovery provides little economic disincentive to those who would engage in such conduct. *See* R. Posner, *Antitrust Law: An Economic Perspective* 223 (1976) ("If, because of concealability, the probability of being punished for a particular . . . violation is less than unity, the prospective violator will discount (i.e., multiply) the punishment cost by that probability in determining the expected punishment cost for the violation.") In fact, as the court in *Haroco, Inc. v. American National Bank & Trust Co. of Chicago,* 747 F.2d 384, 399 n.16 (7th Cir. 1984), *aff'd on other grounds,* 105 S.Ct. 3291 (1985) observed:

"[It is also true that] the delays, expense and uncertainties of litigation often compel plaintiffs to settle completely valid claims for a mere fraction of their value. By adding to the settlement value of such valid claims in certain cases clearly involving criminal conduct, RICO may arguably promote more complete satisfaction of plaintiffs' claims without facilitating indefensible windfalls."

Similarly, studies under the antitrust statute show that most treble damage suits are now settled at close to actual damages. *Studies of the Antitrust Treble Damage Remedy,* Serial No. 8, House Comm. on the Judiciary, 98th Cong., 2nd Sess. 14 (1984). No reason exists to believe that a similar pattern will not develop under RICO, at least in the fraud area. Ironically, it may be necessary to authorize treble damages to assure that deserving victims receive actual damages. *See generally,* Note, *Treble Damages Under RICO: Characterization and Computation,* 61 Notre Dame L. Rev. 526, 533-34 (1986):

"Treble damages have unique characteristics that can be creatively used to address the problems of sophisticated crime. Treble damages can be used to (1) encourage private citizens to bring RICO actions, (2) deter future violators, and (3) compensate victims for all accumulative harm. These multiple and convergent purposes make the treble damage provision a powerful mechanism in the effort to vindicate the interests of those victimized by crime."

10.1 *Myth: The Racketeer Label Leads Legitimate Business People to Settle Garden Variety Fraud Claims For Extortionate Amounts.*

See 132 Cong. Rec. E. 3531 (Oct. 10, 1986 daily ed.) (remarks of Rep. Frederick C. Boucher, the House floor manager of H.R. 5445):

"[RICO] allows plaintiffs to raise the stakes significantly in . . . [commercial disputes] because a civil RICO claim carries with it the threat of treble damages, attorney's fees, and the opprobrium of being labeled a "racketeer." As Justice Marshall concluded in examining the current situation created by civil RICO:

"'Many a prudent defendant, facing ruinous exposure, will decide to settle even a case with no merit. It is thus not surprising that civil RICO has been used for extortive purposes, giving rise to the very evils that it was designed to combat.'"

10.2 *Fact: The Racketeer Label Inhibits, Not Facilities, Settlement; Fraud Is Not a Garden Variety Problem.*

Mr. Philip A. Feign, Assistant Securities Commissioner, Colorado Division of Securities, and spokesman for the North American Securities Administrators Association before the Senate Judiciary Committee, aptly observed:

"Euphemisms like "commercial disputes," "commercial frauds," "garden variety frauds" and "technical violations" . . . are sanitized phrases often used by "legitimate businesses and individuals" to distinguish their frauds from the "real" perpetrated by the "real" crooks. Yet all wilful fraudulent conduct has in common the elements of premeditation, planning, motivation, execution over time, and injury to victims and commerce. And it is all crime." *Oversight* at 535.

On the role of euphemisms in encouraging public and official reluctance to enforce the law and providing rationalization for the violators themselves in the white-collar crime area, *see Task Force Report: Crime And Its Impact—An Assessment: Task Force On Assessment, President's Commission On Law Enforcement And Administration Of Justice* 104-08 (1976) ("most white collar crime is not at all morally neutral"); *D. Cressey, Other Peoples Money* 102 (1952) (that embezzlers rationalize their conduct as different from theft is an important fact in behavior pattern). Indeed, it was persuasively argued in 1934 before the Copeland Committee that it was in part our failure as a society to bring white collar crime to justice that significantly contributed to the development during prohibition of what all now concede to be organized crime, a problem that did not end with prohibition's repeal:

"Both crime and racketeering of today have derived their ideals and methods from the business and financial practices of the last generation. . . . It is a law of social psychology that the socially inferior tend to ape the socially superior. . . . It was inevitable that sooner or later, we would succeed in "Americanizing" the "small fry"—especially the foreign small fry. . . . All was relatively safe, since the legal profession was already ethically impaired through its affiliations with the reputable racketeers. . . . The idea that when prohibition is ended the racketeers. . . . will meekly and contritely turn back to blacking shoes. . . . is downright silly. They will apply the technique they have mastered to the dope ring. . . . They will find crafty lawyers all too willing to defend them from the "strong arm" of the law for value received. . . . So long as the lawless can get protection in return for keeping corrupt politicians in office, we shall not be free from the crime millstone about our necks." Hearings Before a Subcomm. of the Senate Committee on Commerce, 73rd Cong. 2nd Sess. 710-11 (1934) (remarks of Professor Harry Elmer Barnes).

It is simply not true, moreover, that the "racketeer" label results in extortionate settlements. As quoted by Representative Boucher, Justice Marshall suggests that "a prudent defendant, facing ruinous exposure [under RICO] will decide to settle even a case with no merit." 105 S. Ct. at 3295. Accordingly, civil RICO lends itself, he argued, to the very extortive purpose "it was designed to combat." Justice Marshall cites as authority for this extraordinary proposition the *Ad Hoc Civil RICO Task Force: Corporations, etc.* 69 (1985). The Ad Hoc Task Force, in turn, conducted a survey of 3,200 corporate litigation lawyers, of whom only 350 responded. Two factors, however, undermine the scientific credibility of the general results of the survey: (1) the population questioned was unrepresentative of the bar, and (2) the response rate was insufficient to warrant broad generalizations. More to the point here, the survey did *not* ask each of the respondents a carefully phrased question calling for their opinion or experience with RICO as a settlement weapon. Instead, the opinion relied upon by Justice Marshall was *volunteered* by only *two* of the 350 respondents as grounds for repealing RICO. In fact, it is the experience of a majority of seasoned litigators in the RICO area that adding a RICO claim to a suit does *not* facilitate settlement; it inhibits it, particularly when a legitimate business is involved. *See A Comprehensive Perspective on Civil and Criminal RICO Legislation and Litigation: ABA Criminal Justice Section* 121-23 (1985).

Generally, businesses wrongfully accused of "racketeering" will not settle suits—even those that should be compromised—as long as the racketeer label is in the litigation. Indeed, it is difficult to understand how Justice Marshall or Representative Boucher could believe that a suit with "no merit" faces a defendant with "runinous exposure." If the plaintiff's suit has *no* merit, his chance of success is zero, and zero multiplied by three (or any other number) is still zero. Before any one accepts the Task Force's, Justice Marshall's or Representative Boucher's claim, he ought to ask for the names of the defendant and the cases allegedly so settled; he should then inquire of the plaintiffs what their evidence was. It is doubtful that it will be found that the litigation was meritless. It is doubtful, in short, that responsible corporate or other defendants are paying off strike suits in the RICO—or any other area—at more than their settlement value, no matter what the theory of the complaint is. Neither the racketeer label nor the threat of treble damages will convince prudent managers to surrender lightly scarce resources, merely because another files a suit. No matter how colorfully it is phrased, the claim that such managers act against their own interest is not credible.

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[11] A number of federal statutes, particularly in the commercial area, contain treble damage provisions, *See, e.g.,* 12 U.S.C. § 1464 (1982) (Home Owners' Loan Act of 1933); 12 U.S.C. § 1975 (1982) (Bank Holding Company Act): 12 U.S.C. § 2607 (1982) (Real Estate Settlement Act of 1974); 15 U.S.C. § 15 (1982) (Clayton Act: Antitrust); 15 U.S.C. § 72 (1982) (Revenue Act of 1916: Restraints on Import Trade); 15 U.S.C. § 1117 (1982) (Trademark Act of 1946); 15 U.S.C. § 1693f (1982) (Electronic Fund Transfer Act); 15 U.S.C. § 1989 (1982) (Motor Vehicle Information and Cost Savings Act); 22 U.S.C. § 4209 (1982) (Consular Officers: Penalty for exacting excessive fees); 30 U.S.C. § 689 (1982) (Lead and Zinc Stabilization Program); 35 U.S.C. § 284 (1982) (Patents); 42 U.S.C. § 9607 (1982) (CERCLA); 45 U.S.C. § 83 (1982) (Government Aided Railroads); 46 U.S.C. § 1227 (1982) (Merchant Marine Act of 1970).

Finally, white collar crime, principally fraud, is no "garden variety" problem in the United States today. Current estimate put it in the $20,000 billion range. *Annual Report of the U.S. Attorney General* 42 (1985). That figure is similar in dimension to drugs. Hearings before House Subcommittee on Crime, 99th Cong., 2nd Sess. 1 (1986) (remarks of Rep. William J. Hughes) ($100 billion spend annually; lost productivity, etc., $60 billion). Commodities investment fraud, for example, costs $200 million. S. Rep. No. 495, 97th Cong., 2nd Sess. V. (1982). Bank fraud, particularly by insiders, is also deeply disturbing. In the 1980–81 period, the failure of 105 banks and savings and loans cost one billion dollars. Roughly one-half of the bank failures and one-quarter of the savings and loan collapses had as a major contributing factor criminal activities by insiders, few of whom, according to the findings of a study by the Bernard Committee, were adequately sanctioned, criminally or civily. In 1984, the Committee noted:

"Despite such enormous losses, neither the banking nor the criminal justice systems impose effective sanctions or punishment to deter white-collar bank fraud. The few insiders who are singled out for civil sanctions by the banking agencies are usually either fined de minimis amounts or simply urged to resign. The few who are criminally prosecuted usually serve little, if any, time in prison for thefts that often cost millions of dollars." H.R. Rep. No. 1137, 98th Cong., 2d Sess. at 5 (1984).

Since then, the Federal Deposit Insurance Corporation has reported that bank failures, more than 100 per year, continued to run at post-Depression record levels. *N.Y. Times*, Jan 5, 1987, col. 1, p. 20. Most banks, in fact, do not have the financial resources or the expertise to protect themselves from sophisticated schemes to defraud. According to recent testimony of the F.D.I.C., 97% of the federally insured banks have assets of less than $500 million; 84% less than $100 million; 66% less than $50 million. *Oversight* at 216.

Ultimately, many of these costs of fraud are passed on to the rest of society. Insurance fraud, for example, annually costs $11 billion, and since the typical insurance company must generate $1.25 in premiums for every dollar it pays out, the bill that the nation must meet amounts to $13.75 billion. *N.Y. Times*, July 6, 1980, col. 1, p. 27. Indeed, the "insurance crisis" that has led legislatures to rewrite our liability laws to curtail personal injury litigation might be better dealt with by enforcing vigorously our laws against fraud, for the industry loses more than twice as much each year from fraud as it says it lost overall last year because of the crisis in personal injury litigation. *N.Y. Times*, Mar. 2, 1986, col 1, p. 20 (industry spokesmen say it lost $5.5 billion; consumer spokesmen say it made $1.7 billion) *with N.Y. Times*, Feb. 9, 1987, col. p. 1 (insurance crisis ended with insurance generally available, although at higher rate, and the industry is profitable again). While the cost of vexatious litigation is generally spread throughout society by directors and officers liability insurance, too often the cost of fraud is not shared through various kinds of insurance, and it rests on the shoulders of the victim, who can ill-afford to carry or sustain it. Indeed, in light of Ohio's experience with the failure of E.S.M. Government Securities, Inc., including a paid-for false audit report, and the repercussions it caused in the savings and loan industry and on the gold market, no one ought seriously to contend that such fraud is a "garden variety" problem, which may be "weeded out" with business-as-usual legal techniques.[12]

III RICO REFORM: TWENTY QUESTIONS

Representative Frederick C. Boucher is one of the principal spokesmen for the RICO reform movement; he is also the author of H.R. 5445, 99th Cong., 2nd Sess. (1986), the principal item of reform legislation, which passed the House, but failed of passage in the Senate by two votes in the closing hours of the last Congress. 132 Cong. Rec. H. 9377 (daily ed. Oct. 7, 1986); *id.* at S. 16704 (daily ed. Oct. 16, 1986). The text of H.R. 5445, as it was considered in the Senate, is included in an appendix to these materials.

This so-called reform legislation raises, at least, the following questions:

(1) Why change the "racketeer" label for *all* RICO actions—criminal and civil—drug dealing and fraud—if it is only objected to in commercial litigation?

(2) Why require a criminal conviction before private treble damage suits may be brought if that limitation is *not* found in any other similar suit for sound policy reasons?

See Sedima, 105 S.Ct. at 3287, n. 9.

"[The criminal conviction limitation] arbitrarily restricts the availability of private actions, for lawbreakers are often not apprehended and convicted. Even if a conviction has been obtained, it is unlikely that a private plaintiff will be able to recover for all of the acts constituting an extensive 'pattern,' or that multiple victims will all be able to obtain redress. This is because criminal convictions are often limited to a small portion of the actual or possible charges. The decision below would also create peculiar incentives for plea-bargaining to non-predicate-act offenses so as to ensure immunity from a later civil suit. If nothing else, a criminal defendant might plead to a tiny fraction of counts, so as to limit future civil liability. In addition, the dependence of potential civil litigants on the initiation and success of a criminal prosecution could lead to unhealthy private pressures on prosecutors and to self-serving trial testimony, or at least accusations thereof. Problems would also arise if some or all of the convictions were reversed on appeal. Finally, the compelled wait for the completion of criminal proceedings would result in pursuit of stale claims, complex statute of limitations problems, or the wasteful splitting of actions, with resultant claim and issue preclusion complications."

See generally Standard Sanitary Mfg. Co. v. United States, 226 U.S. 20, 52 (1942) (no conviction required antitrust: "take from the statute a great deal of its power"); Note, *Civil RICO: Prior Criminal Conviction and Burden of Proof*, 60 Notre Dame L. Rev. 566 (1985).

(3) Why take away the authority of independent government corporations to pursue civil RICO litigation at their own expense with their seasoned litigators and confine it to the hands of relatively inexperienced and over-worked assistant United States attorneys?

The F.D.I.C. is, for example, now pursuing a policy of vigorously using civil RICO against bank fraud. *Oversight* at 218 (remarks of Daniel W. Persinger, general counsel of F.D.I.C.) ("definitely enhances the F.D.I.C's ability to perform its statutory responsibilities"). The F.D.I.C. is an independent government corporation; it does not use the attorneys of the Department of Justice; it uses its own experienced personnel or outside counsel. It is, moreover, now free to seek protective orders and to continue its work when its civil discovery processes are met by claims of self incrimination. *See Martindell v. I.T.F. Corp.*, 25 F.R. Sev.2d 1283 (S.D.N.Y. 1978), *aff'd*, 594 F.2d 291 (2nd Cir. 1979) (government denied access to depositions under protective order in civil matter to avoid interference with privilege against self incrimination); *D'Ippolito v. American Oil Co.*, 272 F. Supp 310, 312 (S.D.N.Y. 1967) (discovery depositions in parallel civil action held, but testimony ordered sealed until conclusion of criminal matter). This route could *not* be taken if the litigation were brought by Department of Justice attorneys, since it is the agency that is also looking into the matter from a criminal perspective. This feature of the reform legislation would have, therefore, a substantial adverse impact on bank fraud litigation by the F.D.I.C.

(4) Why retroactively require States to pass special legislation to authorize city and counties *to continue* or pursue civil RICO litigation?

See 132 Cong. Rec. S 16702 (daily ed. Oct. 16, 1986) (remarks of Senator Frank H. Murkowski):

"I fear that . . . local governments will be needlessly restricted . . . [Under the proposed bill] a civil RICO action cannot be brought by a municipality unless specifically authorized by State statute. Alaska has no such specific statute it (sic) is not now needed because under the current law a municipality can file a civil RICO action under its own authority.

"If the proposed bill is left unchanged, it will have a devastating effect on several communities in Alaska. Take for example, the North Slope Borough, where the U.S. Department of Justice and the attorney general of Alaska are in the process of investigating criminal RICO violations. The North Slope Borough should be allowed to pursue its own civil remedies against those who have wrongfully diverted borough revenues. It can now do so under present law, but not under the proposed civil RICO bill."

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[12] *See Chicago Tribune*, Jan. 27, 1987, col. 1, p. 2 (estimated $315 million loss in E.S.M. scandal). In addition, the collapse of the E.S.M. Company led to the insolvency of Home State Savings Bank in Ohio and the shutdown of 69 privately insured thrift institutions. Subsequently, the accounting firm of Grant Thornton reached a $22.5 million settlement with the American Savings and Loan Association, which lost $55.3 million; it also reached a $50 million settlement with 17 municipal governments, which sued under RICO. *N.Y. Times* Sept. 17, 1986, col. 6, p. 48. Without RICO, it is doubtful that such a favorable settlement could have been obtained for at least some of the victims.

(5) Why eliminate the treble damage remedy in light of its valuable compensatory, deterrent, and other features?

(6) Why limit punitive damage recovery to *natural* persons?

(7) What of not-for-profit or "surrogate entities" for natural persons including foundations, pension funds, universities, mutual funds, religious bodies, etc.?

(8) Why—in the light of the scandals on Wall Street—give special treatment to the securities industry—and exclude it from punitive damage claims?

(9) Has the proposed definition of "pattern" been carefully drafted?

Currently, the concept of "pattern" in RICO operates to focus the statute on a course of criminal conduct that is "related" and "continuous." S. Rep. No. 617, 91st Cong., 1st Sess., 158 (1969). The definition of "pattern" proposed in the reform legislation, however, ought not be adopted without substantial modification, since it reflects an inadequate understanding of the roles played by the concept in RICO criminal and civil litigation.

As it is presently drafted, the concept of "pattern" in RICO is crucial to:

1. The definition of criminality (when an indictment *may* be returned),

2. The statement of a claim for relief (when a claim for relief *may* be brought),

3. The principle of issue or claim preclusion (when a matter may *not* be relitigated (civil to civil or criminal to civil) or when a claim for relief *must* be brought), and

4. The application of the statute of limitations (when, in whole or in part, it is *too late* to return an indictment or to bring a claim for relief).

These functions are, of course, interrelated. As such, any definition of "pattern" must meet two tests:

1. It must work in both criminal and civil litigation (§§ 1963, 1964), and

2. It must work in *all* sections of the statute (§ 1962 (a) (b) and (c)).

Because the proposed definition of "pattern" is limited to *civil* litigation, it will, or course, raise difficult issue and claim preclusion questions between criminal prosecutions and subsequent civil litigation. As such, it will create litigation uncertainty and unnecessarily impose time and resource burdens, not only on the courts, but also litigants. In addition, the post-*Sedima* period has seen a wide range of judicial disagreement over the proper scope of the concept of "pattern." That disagreement is present in both criminal and civil litigation. Congress ought to resolve those differences, not only to clarify the scope of the civil statute, but also the criminal statute. A unitary definition, therefore, ought to be adopted.

Apparently, too, proposed definition has not been carefully examined to see how it would work in *all* sections of the statute. The proposed definition would impose an appropriate burden on litigants under (a) or (c), but it would, in effect, read (b) out of the statute. *See generally United States v. Ianniello*, 808 F.2d 184, 192 (2nd Cir. 1986) (single scheme definition of pattern rejected, *inter alia*, because "a requirement of multiple schemes would undercut section 1962(b)," which deals with the take over of an enterprise). In addition, it rejects a single test for the idea of continuity—look at the acts in the alleged "pattern"—into the *exclusive* test. Generally, continuity will not be present where only one episode occurs, but what if continuity can be inferred from another aspect of the violation, for example, the character of the enterprise itself as an *ongoing* criminal syndicate? *See id.* at 19, 192 n.15 (single episode test rejected); continuity may be found from character of ongoing criminal group.) If the proposed definition were modified to meet these objections, it would be a salutary reform of the statute.

(10) Why limit the statute of limitation for federal RICO to three years when the State legislatures, which have considered the issue, have usually set the period at five years for State RICO suits?

Reflecting a recognition of the complexity of investigating and pleading a RICO claim for relief, fifteen of the twenty-seven states that have enacted state RICO statutes have provided special statutes of limitations. *See* note 10 *supra.* Eleven set the period at five years; one at six; three at seven. In addition, of those federal treble damage statutes that contain a limitations period, the period uniformly selected four years. *See* 12 U.S.C. § 1464(9)(3) (Home Owners' Loan Act); 12 U.S.C. § 1977 (Bank Holding Company Act); 15 U.S.C. § 15b (Clayton Act). The unusually short period of limitations, therefore, is unwise.

(11) Why extend specificity in pleading to RICO, but not to other similar private claim for relief?

(12) Why make the elimination of treble damages *retroactive*?

The Congress has, of course, wide latitude in making civil, as opposed to criminal, statutes retroactive. *See, e.g., Jefferson Disposal Co. Inc. v. Parish of Jefferson, La.*, 603 F. Supp. 1125, 1135–38 (E.D. La. 1985) (Local Government Anti Trust Act held constitutional: elimination of 3x damage suit against local governments). The constitution only prohibits without qualification *expost facto* criminal legislation. *Calder v. Bull*, 3 U.S. (3 Dall.) 386 (1798). Nevertheless, not everything that is constitutional is wise. Justice Frankfurter—then a professor of law—put it well in 1925: "[P]reoccupation with the constitutionality of legislation rather than its wisdom . . . [is] a false value." P. Kurland, *Felix Frankfurter on the Supreme Court* 177 (1970). Making legislation retroactive—whatever its naked constitutionality—is, in the words of Justice Doe, one of the giants of American jurisprudence, in *Kent v. Gray*, 53 N.H. 576, 580 (1873), "wholly irreconcilable with the spirit of our institutions." Justice Doe elaborated:

> [I]t is most manifestly injurious, oppressive, and unjust, that, after an individual has, upon the faith of existing laws, brought his action . . . [that] the legislature should step in, and, without any examination of the circumstances of the cause, arbitrarily repeal the law upon which the action . . . had been rested. xxx [s]uch an exercise of power is irreconcilable . . . with the great principles of freedom upon which [our institutions] are founded . . . *Id.*

RICO, in short, did not make anything unlawful that was not already unlawful before its passage under its predicate offenses. No question is present here of a sudden or unexpected new liability. When Congress passed RICO, it held out to victims of sophisticated forms of crime the promise of treble damages to encourage the private enforcement of the law. Litigation has now been instituted in a trusting reliance on that promise. It is a promise, therefore, that Congress ought not lightly break, particularly when the character of the conduct that it will insulate from its just deserts is noted: the principal beneficiaries of the retroactive elimination of the treble damage remedy will be the perpetrators of the recent insider trading frauds. Can that result be justified?

(13) Why not add new predicate offenses to RICO to reflect the recent addition of new crimes to the federal code (like murder-for-hire, bank fraud, etc.)?

(14) Why not add a *parens patriae* provision? *See People of State of Ill. v. Life of Mid America Insurance Co.*, 805 F.2d 763, 767 (7th Cir. 1986) (RICO does not authorize *paren patriae suits.*)

(15) Why not make possible recovery for personal injuries, at least for the predicate offense involving violence? *See Drake v B.F. Goodrich Co.*, 782 F.2d 638, 644 (6th Cir. 1986) (RICO does not authorize recovery for personal injuries).

(16) Why not assure equitable relief, both temporary and permanent? *See Religious Technology Center v. Wollershein*, 796 F.2d 1076, 1088 (9th Cir. 1986) (RICO does not authorize recovery of equitable relief).

(17) Why not authorize international service of process? *See Nordic Bank PLC v. Trend Group Ltd.*, 619 F. Supp 542, 564–65, 569 n.30 (S.D.N.Y. 1985) (no international service of process).

(18) Why not assure the enforcement of voluntary agreements to arbitrate RICO disputes?

See McMahon v. Shearson/American Express, Inc., 788 F.2d 94, 98 (2nd Cir.) (not subject to arbitration), *cert. granted*, 107 S.Ct. 60 (1986).

(19) Why not provide that jurisdiction is exclusive in the federal courts?

Compare Cianci v. Superior Court of Contra Costa County, 221 Cal. Rptr. 575, 710 P.2d 375 (1985) (concurrent) *with Greenview Trading Co., Inc. v. Hershman and Leidner, P.C.*, 108 App. Div. 2nd 468, 489 N.Y.S. 2d 502 (1st Dept. 1985) (exclusive).

(20) Why not provide for recovery of prejudgment interest?

See Louisiana Power & Light Co. v. United Gas Pipe Line Co., 642 F. Supp. 781, 810–11 (E.D.La. 1986) (RICO does not authorize prejudgment interest).

IV CONCLUSION

The oft-told tale of Chicken Licken is oft-told, for it contains valuable folk wisdom: do not be unduly alarmed and run off at the first sign of possible danger without a thorough investigation of its cause; do not lightly depend on mere hearsay for crucial information; and be especially careful of apparently disinterested advice from those who are, in fact, not disinterested. As such, Chicken Licken's sad fate may well have lessons to teach in the current civil RICO debate. Too much of what we hear about RICO has about it the air of undue alarm; it is rooted in the rankest sort of unsupported and insupportable hearsay; and it comes from quarters that those of us who are more like "fowls" ought to recognize as reflecting advice from those who are more like "foxes."

The outcome of the civil RICO reform debate is yet in doubt. Care ought to be exercised to assure that those who would reform civil RICO out of fear of its abuse in fraud litigation do not end up like Chicken

Licken: a victim of fraud, without the benefit of a RICO-like means of redress.[13]

□ 1915

PRESIDENT REAGAN SHOULD TELL THE TRUTH ABOUT NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I spent the weekend thinking about the Contra-Iran hearings. A very impressive Air Force Major General Secord testified several weeks ago. There was sobering testimony by Marine Col. Robert McFarlane last week. I am looking forward to Navy Adm. John Poindexter's testimony, and beyond that, I am looking forward to Marine Lt. Col. Oliver North's testimony.

Mr. Speaker, as an Army brat, I recognize they represent different services, but represent similar traditions. These are men who voluntarily served their country, who risked death, who were willing to go to strange places because the United States asked them to do, who spent years of their lives at much lower salaries than they could have earned in the private sector, who voluntarily stood between democracy and danger. I could not help but ask myself what lessons should the Officer Corps learn, what lessons should American citizens learn from these hearings.

I was very struck as I started to go home on Thursday morning by a gate attendant for Delta who said to me, "How much longer are they going to beat up on Colonel McFarlane?" His attitude was, here was a man who clearly was in anguish, here was a man who had tried as best he could to serve his country, and his reward was day after day of aggressive and at times insolent and even arrogant questioning and harassment.

I was also very impressed by Norman Podhortz' article on Thursday morning where he noted that those who oppose communism and try to protect America may go to jail on obscure and contrited charges, while those who help communism and in many ways undermine America have nothing done to them, and indeed are virtually guaranteed reward by the culture.

Over the weekend, I spent time looking to history for examples of how democracy survives totalitarian threats, and in particular I went back to Martin Gilbert's volume 6 of the official biography of Winston Churchill, 1274 pages covering the period 1939 to 1941. I also examined Eric Larrabee's "Commander in Chief, Franklin Delano Roosevelt, His Lieutenants and Their War," a 723-page study of the same period from the American viewpoint. I was particularly struck in Larrabee's book by one sentence on pages 94 and 95. Roosevelt, the man who I think Ronald Reagan in many ways most identifies with, said, and I quote: "After all, if Italy and Japan have evolved a technique of fighting without declaring war, why can't we?" He was talking to his Cabinet in 1937.

President Roosevelt understood, as he tried to move America from isolationism to intervention, that if the democracies were to survive the President had to lead. It is very clear when you study Martin Gilbert's volume 6 of the Churchill biography, which is very detailed, that again and again and again President Franklin Roosevelt carried America as far as Congress would let him, and on occasion a little further. It was very clear that Roosevelt felt that the democracies were in danger and that somehow the executive branch had to lead.

But the key lesson from both the Churchill biography and the study of Roosevelt is very simple. President Reagan must tell the truth to the American people. In the end, democracy survives because it believes in itself, because it believes in the process of leadership, because it argues and debates, but in the end has some sense of a truthful government.

My friends on the left will say that is exactly right. Tell us on what day he sat down with Oliver North and decided something. Tell us exactly when he decided to maneuver this way or that way. Tell us which of our allies were in the room helping. But I think those are smaller truths.

I think there are some larger truths that Ronald Reagan needs to share with the American people, and I think, frankly, he has not been candid enough. He has not been disciplined enough and he has not been systematically forthcoming enough because the truths we need to hear about, just as Franklin Roosevelt from 1937 to 1941 kept trying to find a way to tell the American people the truth about the Nazis, the truth about totalitarianism, I think President Reagan has to tell the truth about Nicaraguan communism, about Cuban communism, about the Soviet empire, and about what I believe President Reagan believes is an absolute threat to the survival of America.

Why does he need to tell us that truth? Because unless we hear in his own words and from his own view what passionately drove him to work with Colonel McFarlane and Lieutenant Colonel North and Admiral Poindexter, unless we understand how threatened President Reagan feels about American survival, we can hardly understand the emotional context in which a Colonel North would decide to do what he could to save America. The President has to tell us first why he believes the Soviet empire is a threat to our survival.

It is a very complicated story, because while he may meet with Gorbachev in Geneva he is trying in so many different fronts to defeat Gorbachev's empire; while his Secretary of State may share champagne with the Soviet Foreign Minister, I believe President Reagan is under no illusions about how severe a threat the Soviet empire is to literally the survival of the United States. And it is that threat to our survival which I believe led President Reagan to change parties, to run for office again after defeat in 1976, and I believe it is the threat of the Soviet empire to American freedom which more than any other single thing explains President Reagan's behavior. Without seeing that threat in context, I do not see how the Iran-Contra Committee or the American people can judge the specific behaviors on a specific day.

Second, President Reagan needs to share with us the scale of the Soviet empire's Third World offensive. That scale occurs at two levels. First, just the sheer size, the number of Soviet troops in Afghanistan, the amount of money spent by the Soviet empire in Ethiopia, Angola, Nicaragua, the Philippines, El Salvador. The size of the Soviet KGB offensive seeking to destroy freedom across the planet, the number of countries in which the Soviet empire now coordinates the Palestine Liberation Organization, the Bulgarians, the East Germans, the Czechs, the Poles, the Hungarians, the North Koreans, the Vietnamese, the Nicaraguans and the Cubans. The systematic training camps set up around the world for terrorism, the effort to make sure that the Soviet offensive continues.

When the American people realize that for all of our efforts to help the Afghan freedom fighters, the Soviet commitment has been 30 times greater, that for all of our efforts to help freedom in Angola, the Soviet commitment has been 100 times greater, that in our own back yard, in the Caribbean and Central America, the Soviet empire spends more money every day than the United States in our back yard; when the American people realize that at the peak of the Reagan buildup we bought one-half as many tanks as the Soviets build routinely every year, I think then they will begin to understand why President Reagan is frightened for the survival of freedom.

Third, the President needs to report on the failure of liberal containment in Cuba. Many of our friends on the left say the Communists may now hold Nicaragua but we will contain them by helping Honduras and Costa Rica. But the fact is, containment of Castro has been an absolute total failure. The President owes it to the American people to say that still 90 miles off our shore, 27 years after Castro took power, here is what we have: Multiple airfields capable of carrying the most advanced Soviet fighter bombers and bombers, naval bases capable of taking care of Soviet submarines, a Cuban-Communist Navy which has more submarines than Nazi Germany had in the Caribbean in 1942, a KGB spy base which is the largest electronic spy base the Soviet Union has outside the Soviet Union, terrorist training camps, and you saw one reference to 50 training camps for guerrillas and terrorists in Cuba; a Cuban colonial army which now has troops, for example, in Angola, holding down the Soviet colony.

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[13] Colt Industries, Inc., for example, suggested that fraud based predicate offenses be removed from private civil RICO actions. *Oversight* at 225. Apparently, Colt Industries is now among the victims of the developing insider trading scandal. *Wall Street Journal*, Feb. 18, 1987, col. 3, p. 11.

□ 1925

There are more Cuban colonial troops in Nicaragua than there are American troops in all of Central America. One Cuban general, to give you an example of the kind of failure of containment we now face in Cuba, one Cuban general, who happened to have been sent to be in charge of the Cuban colonial army in Nicaragua; was trained in the Soviet Union in armored warfare, was sent to Syria to lead a Cuban regiment defending Syria against Israel; was then sent to Angola to help establish a Soviet colony in Angola; has now been sent to Nicaragua, and it is in the face of what is now a systematic failure of American liberals to have any answer to communism other than appeasement that Reagan attempted to undo communism in Nicaragua.

Fourth, the President owes it to the country to explain in detail his fear of Communist aggression south of our border. He owes it to the country to explain what the impact will be on the American military if the Soviet Union is successful in establishing a southern front.

For 40 years after World War II, the United States could focus on Korea and Japan in the Pacific; the United States could focus on Europe because our southern front was basically protected. We did not have to worry about it.

With the rise first of Cuba and now of Nicaragua, we are seeing the emergence of a Communist front on our south which will drain American resources, and in the long run, could become an enormous threat to us.

Think, for example, of the impact on America of a Communist Mexico or of a Mexico that was fighting a civil war between Communist and anti-Communist forces.

It is clear to the President's military advisers that Cuba is already a threat, that Nicaragua threatens the Panama Canal, and that Nicaraguan Communists threaten to destabilize all of Central America, including Mexico.

It is clear to the President's military advisers that if we have a southern Communist front, we have a very great drain in our resources which will weaken our ability to help in Europe and weaken our ability to help in the Pacific.

Fifth, the President needs to explain his fear of Communist domination psychologically and politically. That domination is very real. There was a vote recently in Geneva when the United States delegation tried to get the United Nations Human Rights Committee to investigate Cuban communism, to look at violations of human rights in Cuba.

We took over 20 Cuban political prisoners to Geneva. They explained how they had been jailed by Castro's Communists. They explained torture in Communist jails in Cuba, yet when the key vote came, and we lost it by one vote, 19 to 18, Mexico, Venezuela, and Colombia all voted with Cuba.

Why did they vote with Cuba? Why did they vote against even investigating Cuban communism? For a very simple reason. If you were the Mexican Government looking at this Congress, who would you gamble on, the Russians or the Americans? If you were the Venezuelans, worried about Cubans, would you make the Cubans angry, knowing that they have guerrilla training camps? Or would you ignore the Americans, knowing that they have leftwingers in Congress who will protect you?

The fact is that if you look at the track record of this Congress for the last 17 years, we have been so systematically inconsistent that no prudent government could afford to rely on this Congress to protect us from guerrillas or from Communist aggression.

Only the most blatant, across-the-border invasion would draw any reaction from the American Congress, and I think, therefore, the Mexican and Venezuelan and Colombian Governments decided that it was safer to vote with Cuban communism than it was to vote with American Democracy, that American Democracy would do nothing; that Cuban communism would punish them by supporting guerrillas and terrorists.

I think President Reagan owes it to the country to explain honestly and directly and forthrightly why he is afraid that if we continue to cripple America first, we are going to end up in a situation where all across the planet, governments decide to support or approve of or at least be neutral about communism because they are afraid of the Communists, whereas they have no reason to fear the Americans.

Sixth, the President needs to explain his fears of Communist penetration in our own society. President Reagan knows from his own personal experience that Communist penetration of American society is real.

He knows from his own years of fighting in Hollywood in the 1940's that there really are Communists, not just Communist spies, but systematic Communist disinformation, systematic popular front movements, systematic efforts by the Soviet Union to send money to the United States to support the undermining of American society.

The President should direct the Federal Bureau of Investigation to examine once again where the money is going from the Soviet Union, who accepts Soviet money, where are the popular fronts in the United States. The truth is, for example, the recent mobilization march in Washington was a Communist front. It was systematically penetrated by Communists. There are a number of studies now available that prove that, again and again, disinformation exists in our society by people who are, in effect, mouthpieces for the Soviet Union or mouthpieces for communism, and yet, nothing is done about it. This is a very grave threat to a free society because if the Communists are allowed to have people on television and allowed to have people who are never identified as Communist paid propagandists pretending that they are neutral, it is almost impossible to win the debate.

It is as though, in the 1930's, we had Nazi spokesmen masquerading as though they were part of the Democratic process.

Seventh, President Reagan needs to be much more candid and direct about congressional amateurism and irresponsibility in the face of these threats. He should go to the country and explain why, as President, he found it difficult to look at the consistently inaccurate predictions in Congress and what was happening in the world, that the consistent refusal of Congress to deal with Soviet and Communist behavior and his responsibilities as Commander in Chief. He should go to the country and talk about security leaks in the Congress and how they crippled what we were trying to accomplish.

He should go to the country and explain the difficulties of dealing with leftwing Congressmen who routinely accept Communist disinformation as though it were real and who routinely vote as though Communist guerrillas were for democracy and democracies were not existing.

El Salvador is probably the best case, where again and again, Communist guerrillas were supported by leftwing Americans, sincere, well-meaning leftwing Americans who simply happened to be supporting Communist guerrillas. At the same time, those leftwing Americans were denying the existence of a democracy, even when international observers said flatly that Duarte had been elected by an honest election.

Finally, the President should explain to the country how impossible it is to have a responsible foreign policy with an irresponsible Congress. The fact is that faced with congressional irresponsibility and destructiveness, faced with a leftwing cultural establishment that does not understand or believe in the danger of the Soviet empire, faced with a news media that all too often distorted or ignored information about the Soviet empire, the Reagan administration, and President Reagan, made the very grave error of turning inward instead of turning outward, of deciding to try to accomplish by executive branch action what, in the end, has to be accomplished by political debate.

Let me make clear that there is a distinction here. I think that General Secord, Colonel North, Admiral Poindexter, and Colonel McFarlane are all patriots who believed they were serving their country and their Commander in Chief. Nothing worries me more than the idea that between independent prosecutors and congressional hearings, we are going to send some very crazy signals to Americans. We are going to say that in the future, if a President asks you to help your country, you had better have a lawyer present. You had better check on the technicalities. You had better prepare your congressional testimony before you accept the assignment.

That is, frankly, madness, to suggest that a future officer in the Marines, Navy, Air Force, or Army should say to the President of the United States, "Can I have a lawyer's explanation before I say 'yes'?"

☐ 1935

To suggest that a future Franklin Roosevelt would have to say to a serving officer, "Please make sure you are prepared to testify if you do what I am asking you to do," that is insane. It guarantees the crippling of America. It guarantees our destruction by the Soviet empire. It guarantees that we will not only in the early stages be the laughing stock of the world, we will in the long run self-destruct.

Yet as I listen to my liberal friends, I sometimes think their attitude is that if America dies, as long as we obeyed all the technicalities during our death throes, we can at least die knowing we were legal. That is the road to madness.

George Washington, frankly, would not have allowed any of his executives to testify before the Iran-Contra hearings. Jefferson, who sent the Marine Corps and the Navy to the Barbary Coast without permission and who bought the Louisiana Territory without permission, would have regarded this as insane.

The Founding Fathers knew that you could not have 435 Secretaries of State and 435 Secretaries of Defense in the House and another 100 Secretaries of State and another 100 Secretaries of Defense in the Senate, and anyone who reads the Federalist Papers will know that all the Founding Fathers would have regarded the current passion for technicality as madness, that the real world is dangerous. There are real tyrannies on the march. There are real Soviet advisors in our own backyard.

Ashby's new book, "The Bear in the Caribbean," a study of the Soviet empire in our own backyard, is worth every Member of Congress reading. The Soviet empire is real. How many of our friends on the left believe that Gorbachev quakes at the thought of a hearing? How many of our friends on the left believe that the KGB will send their colonels and their admirals to testify? How many of our friends on the left believe that if the Soviets send another ship to Nicaragua, we can introduce an amendment in this House, and that will teach them?

But it is worse than that. Let us look a step beyond our own immediate officer corps to our allies. In recent weeks country after country has been on page 1. Why? Because they helped America. What shall we say the next time?

"Don't help us unless you want to be on page 1 of the Post"?

"Don't support America unless you are willing to be interviewed on Nightline"?

"Don't do anything to help freedom win or survive unless you are willing to be on the 'Today Show' "?

This is madness. Our allies are being taught that we are weak, we are impotent, we are governed by people who have no sense of historical responsibility, we cannot protect our friends, we cannot keep a secret, and in our own backyard the Cubans and the Russians are to be feared, but the Americans are to be ignored. Our answer to all that is to have hearings which embarrass our allies and penalize the very patriots who try to save freedom.

The Iran-Contra hearings, I have concluded, are another step in the "Cripple America First" process. I think the hearings were originally well meant, and it is fairly clear, I think, to everyone that Ronald Reagan is not going to be impeached. It is fairly clear to everyone that at most you can make an elaborate and complicated argument that the Boland amendment may have been violated and there may have been a conspiracy, but I think the very fact that the independent prosecutor's strongest case so far is tax evasion is a sign of how crazy this process has gotten.

This is not a conspiracy to violate the Constitution. These are people living in an age of too many laws and too much redtape and too much bureaucracy who, while trying to defend America, may have inadvertently broken a minor law here or a minor law there. But by that standard Franklin Roosevelt would have been impeached, Woodrow Wilson would have been kicked out of office, and Abraham Lincoln probably would have been shot. This is a Nation trying to compete with the largest totalitarian empire in history, and the answer of the American left is to trap our country in a series of rules so complicated that without at least three Harvard lawyers there is no possibility to know what you are doing, whether it is legal or illegal, and you may end up with 2-to-1 votes among the lawyers.

Where are we tonight? Let us be honest. One of the things we should ask President Reagan to report on is, during the period of the Iran investigation, how many Soviets troops were sent to Afghanistan? How many Soviet shiploads of equipment went into Nicaragua? How many additional weapons were sent to Angola? How many additional trained guerrillas went into the Philippines? While Congress plays games, how much weaker is freedom on the planet? And the President should declassify that. He ought to set a date beginning with the establishment of the Iran-Contra hearings and ending with the day that they finally issue the report, and he should promise that in January, as part of the State of the Union, he will report on the relative efforts of freedom and communism on the planet and he will let the American people judge: while Congress held hearings and pilloried American officers, here is what the Soviet empire did, step by step, and let the American people decide whether or not this is a responsible Congress.

But let me come back to what I think is President Reagan's obligation. The men who are appearing before these panels did what they did because they believed in America and because they believed in Ronald Reagan. No matter what they say, whether they implicate him or not, it was on his watch and he is involved. President Reagan owes it to them, he owes it to future Presidents, he owes it to the United States not to leave them hanging out there by themselves. What he owes to them is simple. I would ask that at some point the President be prepared to go to the Nation, whether by appearing before the committee at his request or whether by appearing on national television, and whether it takes one night or a series of nights, this President, a man who has lived a full life, a man who has personally fought communism in the unions in

Hollywood, a man who understands the Communist threat better than any man, I believe, who has ever occupied the White House, owes it to the country to share with them his view of the Soviet empire, of Cuba, of Nicaragua, of Angola, of Afghanistan, and his view of the Communist penetration in the United States and his view of the Congress. Lay it out. Let people see Colonel North in context, one man at 2 o'clock in the morning trying to do his best for America as he watched the Congress, in his judgment and the President's, allow communism to dominate Central America.

Let them look at Colonel McFarlane, a man wo spent years trying to protect America in the context of President Reagan's view of Congress and the press and the left wing culturally. Let them examine Admiral Poindexter in the context of President Reagan's worries about the KGB, about Soviet disinformation, about money spent in the United States to undermine America, about the efforts by the Soviet Union—and they are successful efforts so far—to develop Communist bases in our own backyard.

Seen in that context, then, I think we should let the country judge this Congress. Let the country decide how responsible Congress has been. Let the country decide. Faced with the Soviet empire on the scale I have described and on the scale that President Reagan, I believe, knows exists, how important was the Boland amendment? Faced with the threat of American survival in Nicaragua, in Cuba, in Afghanistan, in the Soviet Union, and in our own society, how important are these hearings? And then ask this question: because I think the American people will rally at that point; I think the American people, just as the British people did with Churchill and as the American people did with Franklin Roosevelt, will then say to Congress: "When are you going to hold hearings on the KGB in the United States? When are you going to hold hearings on paid Soviet disinformation? When are you going to hold hearings on popular front movements that help Communist governments? When are you going to hold hearings on aid sent by Americans to prop up Communist dictatorships? When are you going to hold hearings on the woefully inadequate defense structure of the United States compared to the Soviet empire?"

In that setting, then I think they may start asking for new amendments and new laws, and they may start asking their Congressmen: "When communism got settled into Cuba, what were you doing? When communism got settled into Afghanistan, what were you doing? When communism got settled into Nicaragua, what were you doing?"

I believe that if the President will simply share with the American people his deepest and most sincere views, the American people will rally to that truth and the American people will demand that we put America's survival first, and the American people will say that they want an America that lives, not an America that dies legally. They want an America that is free, not an America that uses its freedom to squander its future.

□ 1945

They want an America where the Constitution is still the law, not an America where legalities were used as an excuse to cripple us while communism won.

I think, Mr. President, you owe all of us the truth; but when you tell it, it may not be a truth that our friends on the left expected.

I think every American would listen. I think you do have the reservoir of belief that would allow you to go to the country to lay it all out, to declassify as much as necessary, to make sure that we all understood and shared your background.

Then I believe, Mr. President, the country would decide who to honor and who to look on with contempt. The country would decide who had served America and who had disserved it.

The country would decide whether or not freedom was worth working, struggling, and even fighting for.

I hope, Mr. President, as you watch these hearings, you will decide that you owe the honorable and brave men who served you, you owe the country that elected you, and you owe our future your personal testimony, your personal testament to the nature of the threat that drove you, the nature of your concerns about our survival.

We look forward to hearing from you, Mr. President.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Jones of North Carolina (at the request of Mr. Foley), for today and the balance of the week, on account of official business.

Mr. Young of Florida (at the request of Mr. Michel), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore, entered, was granted to:

(The following Members (at the request of Mr. Baker) to revise and extend their remarks and include extraneous material:)

Mr. Shumway, for 60 minutes each, on June 1, 2 and 3.

Mr. Roth, for 30 minutes, today.

Mr. Gilman, for 5 minutes, today.

Mr. Gingrich, for 60 minutes, today.

Mr. Burton of Indiana, for 30 minutes, on May 21.

Mrs. Bentley, for 30 minutes, on May 26.

Mrs. Bentley, for 60 minutes, on June 3.

(The following Members (at the request of Mr. Russo) to revise and extend their remarks and include extraneous material:)

Mr. Conyers, for 5 minutes, today.

Mr. Montgomery, for 5 minutes, today.

Mr. Pepper, for 60 minutes, today.

Mr. Martinez, for 60 minutes, today.

(The following Member (at the request of Mr. Gingrich) to revise and extend his remarks and include extraneous material:)

Mr. Bereuter, for 60 minutes, on May 19, 1987.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gilman, immediately following the remarks of Mr. Shaw on the Bennett amendment in the Committee of the Whole today.

Mr. Dick, prior to the vote on the Aspin amendment in the Committee of the Whole today.

Mr. Conyers, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $3,683.

(The following Members (at the request of Mr. Baker) and to include extraneous matter:)

Mr. Sundquist.

Mr. Courter.

Mr. Hefley.

Mr. Grandy.

Mr. Lagomarsino in three instances.

Mr. Porter.

Mr. Henry.

Mr. Broomfield.

Mr. Gunderson.

Mr. Dornan of California in two instances.

Mr. Shumway.

Mr. Boehlert.

Mr. Miller of Washington.

Mr. Saiki.

Mr. Ridge.

Mr. Gradison.

Mr. Bereuter in two instances.

(The following Members (at the request of Mr. Russo) and to include extraneous matter:)

Mr. Fauntroy in two instances.

Mr. Ford of Michigan in two instances.

Mr. Hoyer in three instances.

Mr. Boland.

Mr. Solarz.

Mr. VENTO.

Mr. LEVINE of California.

Mr. JACOBS.

Mr. BERMAN.

Mr. SCHUMER.

Mr. TRAFICANT.

Mr. SPRATT.

Mr. LANTOS in two instances.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. HERTEL.

Mr. CARDIN.

Mr. PRICE of Illinois.

Mr. RANGEL.

Mr. MORRISON of Connecticut.

Mr. JENKINS.

Mr. UDALL.

Mr. RODINO.

Mr. CLAY.

Mr. STUDDS.

Mr. ROSTENKOWSKI.

Mr. MARTINEZ.

Mr. EDWARDS of California.

Mr. BIAGGI.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1157. An act to provide for acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986;

H.R. 2360. An act to provide for a temporary increase in the public debt limit; and

H.J. Res. 270. Joint resolution to recognize the one hundred and twenty-fifth anniversary of the United States Department of Agriculture.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1177. An act to amend title 5, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrift Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limit.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1157. An act to provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986.

H.R. 2360. An act to provide for a temporary increase in the public debt limit.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 46 minutes p.m.) under its previous order, the House adjourned until Tuesday, May 19, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1412. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the recent discovery and emergency disposal of a suspected chemical bomblet at Dugway Proving Ground, UT; pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

1413. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a copy of the Selected Acquisition Reports [SAR's] for the quarter ending March 31, 1987, pursuant to 10 U.S.C. 2432(b)(1)(f) (96 Stat. 740); to the Committee on Armed Services.

1414. A letter from the Deputy Director, Contracts Division, Naval Facilities Engineering Command, Department of the Navy, transmitting notification of the determination and findings to restrict competition to joint venture companies of the United States and the Republic of the Philippines for the construction of a parallel runway at Clark Air Base, Philippines, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

1415. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

1416. A letter from the Chairman, National Council on Educational Research, Department of Education, transmitting the fiscal year 1986 report of the Council, pursuant to 10 U.S.C. 1221e(c)(3); to the Committee on Education and Labor.

1417. A letter from the Secretary of Education, transmitting a copy of "Notice of Final Funding Priorities—Handicapped Children's Early Education Program," pursuant to 10 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1418. A letter from the Assistant Secretary of State, Legislative and Intergovernmental Affairs, transmitting notification of the antiterrorism training courses to be offered to law enforcement agencies of the Government of Bolivia, pursuant to FAA, section 574(a)(1) (97 Stat. 972); to the Committee on Foreign Affairs.

1419. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Switzerland (Transmittal No. 5-87), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

1420. A letter from the Secretary of State, transmitting the sixth report on the activities of the multinational force and observers [MFO] and certain financial information concerning U.S. Government participation in that organization for the period ending January 15, 1987, pursuant to 22 U.S.C. 3425; to the Committee on Foreign Affairs.

1421. A letter from the Assistant Secretary of State, Legislative and Intergovernmental Affairs, transmitting a report of political contributions by James H. Michel, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Guatemala, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1422. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1423. A letter from the Director, National Legislative Commission, The American Legion, transmitting a copy of the Legion's financial statements as of December 31, 1986, pursuant to 36 U.S.C. 1101(4), 1103; to the Committee on the Judiciary.

1424. A letter from the Associate Director, Legislative Affairs, Office of Management and Budget, transmitting a draft of proposed legislation to amend title 39, United States Code, to provide a method not requiring appropriations to continue favored rates of postage for certain mail which affords public benefits, to curb the misuse of favored rates to mail advertising material, and for other purposes; to the Committee on Post Office and Civil Service.

1425. A letter from the Secretary of Energy, transmitting the comprehensive report on a project negotiated under the Department's Clean Coal Technology Demonstration Program which describes the "LIMB Demonstration Project Extension", pursuant to Public Law 99-190; jointly, to the Committees on Energy and Commerce, Science, Space and Technology, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 14, 1987, the following report was filed on May 15, 1987.]

Mr. HAWKINS. Committee on Education and Labor. H.R. 5. A bill to improve elementary and secondary education, and for other purposes, with an amendment (Rept. 100-95). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 812. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a National Quality Improvement Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services; (Rept. 100-96). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS. Committee on Education and Labor. H.R. 1451. A bill to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes; with amendments (Rept. 100-97). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD (for himself and Mr. JENKINS):

H.R. 2437. A bill to extend until October 1, 1988, the existing suspension of duty on p-Hydroxybenzoic acid; to the Committee on Ways and Means.

By Mrs. BENTLEY:

H.R. 2438. A bill to restore Memorial Day to its original date; to the Committee on Post Office and Civil Service.

By Mrs. BENTLEY (for herself and Mr. DOWNEY of New York):

H.R. 2439. A bill to amend the Shipping Act of 1984 to provide for equitable treatment of U.S. ocean freight forwarders by ocean carrier conferences; to the Committee on Merchant Marine and Fisheries.

By Mr. COYNE:

H.R. 2440. A bill relating to the tariff treatment of tin plate and tin-coated sheets; to the Committee on Ways and Means.

H.R. 2441. A bill to suspend the tariff on 1,5 naphthalene diisocyanate; to the Committee on Ways and Means.

H.R. 2442. A bill to amend the Tariff Schedules of the United States to change the tariff classification to silicone materials; to the Committee on Ways and Means.

By Mr. GRAY of Pennsylvania (for himself, Mr. CONTE, Mr. DYMALLY, and Mr. WOLPE):

H.R. 2443. A bill to prohibit United States intelligence and military cooperation with South Africa; jointly to the Committees on Foreign Affairs, Armed Services, and the Permanent Select Committee on Intelligence.

By Mr. MILLER of Washington (for himself and Mr. CHANDLER):

H.R. 2444. A bill to suspend temporarily the duty on certain luggage frames of aluminum until January 1, 1990; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 2445. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for personal interest used to purchase a domestically produced automobile or light-duty truck, to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself and Mr. SOLOMON) (both by request):

H.R. 2446. A bill to amend title 38, United States Code, to include lupus erythematosis among the chronic diseases that are presumed to be service-connected for purposes of veterans compensation if occurring within 1 year from a veteran's discharge from active service; to the Committee on Veterans' Affairs.

H.R. 2447. A bill to amend title 38, United States Code, to increase from $60 to $75 the maximum amount of monthly pension that may be paid to a veteran being furnished hospital, nursing home, or domicilary care by the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 2448. A bill to amend title 38, United States Code, to provide a special pension program for veterans of World War I, to the Committee on Veterans' Affairs.

H.R. 2449. A bill to amend title 38, United States Code, to improve the death and disability pension program for veterans and their dependents; to the Committee on Veterans' Affairs.

H.R. 2450. A bill to amend section 903(b) (1) and (2) of title 38, United States Code, to increase the burial plot allowance for veterans from $150 to $250; to the Committee on Veterans' Affairs.

H.R. 2451. A bill to amend section 902 of title 38, United States Code, to extend eligibility for burial allowance to certain additional veterans; to the Committee on Veterans' Affairs.

By Mr. MRAZEK:

H.R. 2452. A bill to amend the Clean Air Act to control emissions of dioxin from certain resource recovery plants and municipal waste incinerators; to the Committee on Energy and Commerce.

By Mr. PICKLE:

H.R. 2453. A bill to suspend the duty on triallate pesticides until January 1, 1991; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. GILMAN, Mr. RODINO, Mr. STARK, Mr. SCHEUER, Mrs. COLLINS, Mr. AKAKA, Mr. GUARINI, Mr. MATSUI, Mr. FASCELL, Mr. FAUNTROY, Mr. LEVINE of California, Mr. ORTIZ, Mr. SMITH of Florida, Mr. TOWNS, Mr. COUGHLIN, Mr. PARRIS, Mr. HUNTER, and Mr. DORNAN of California):

H.R. 2454. A bill to provide the framework necessary to pursue a coordinated and effective national and international narcotics control policy; to the Committee on the Judiciary.

By Mr. RICHARDSON (for himself and Mr. UDALL):

H.R. 2455. A bill to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies; to the Committee on Interior and Insular Affairs.

By Ms. SNOWE (for herself and Mr. CONTE):

H.R. 2456. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the credit for dependent care expenses, to make such credit refundable, and to provide that certain respite care expenses are eligible for such credit; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 2457. A bill to extend January 1, 1993, the suspension of duty on tetra amino biphenyl; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself and Mr. ROBERTS):

H.R. 2458. A bill to improve the provisions of the Agricultural Act of 1949 relating to adjustments of crop acreage bases; to the Committee on Agriculture.

By Mr. STRATTON:

H.R. 2459. A bill for the relief of the city of Albany, NY; to the Committee on Ways and Means.

By Mr. COYNE:

H.J. Res. 281. Joint resolution designating June 15, 1987, as "Pittsburgh Job Corps Day"; to the Committee on Post Office and Civil Service.

By Mr. PORTER (for himself, Mr. LANTOS, Mr. KEMP, and Mr. HOYER):

H.J. Res. 282. Joint resolution to designate August 1, 1987, as "Helsinki Human Rights Day"; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

By Mr. ROYBAL (for himself, Mr. PEPPER, and Mr. LEVIN of Michigan):

H.J. Res. 283. Joint resolution recognizing the service and contributions of Hon. Wilbur J. Cohen; to the Committee on Post Office and Civil Service.

By Mr. UDALL:

H.J. Res 284. Joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week"; to the Committee on Post Office and Civil Service.

By Mr. VENTO (for himself and Mr. SCHUMER):

H.J. Res 285. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections; to the Committee on the Judiciary.

By Mr. RODINO:

H. Con. Res. 125. Concurrent resolution authorizing the printing of the revised edition of the pamphlet entitled, "The Constitution of the United States of America"; to the Committee on House Administration.

By Mr. MICHEL:

H. Res. 167. Resolution electing Representative MARTIN of Illinois to the Committee on the District of Columbia; considered and agreed to.

By Mr. CHAPMAN (for himself, Mr. GEPHARDT, Mr. DUNCAN, and Mr. LOTT):

H. Res. 168. Resolution to express the sense of the House of Representatives with respect to proposals currently before the Congress to increase the level of Federal excise taxes; to the Committee on Ways and Means.

By Mr. LOWERY of California:

H. Res. 169. Resolution to amend the Rules of the House of Representatives to prohibit select committees from being reestablished more than three times; to the Committee on Rules.

By Mr. MOAKLEY:

H. Res. 170. Resolution to amend the Code of Official Conduct of the Rules of the House of Representatives to prohibit any Member, officer, or employee of the House from discriminating against any qualified handicapped person with respect to employment; to the Committee on Standards of Official Conduct.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

71. By the SPEAKER: Memorial of the Senate of the State of Michigan, relative to the high levels of the Great Lakes; to the Committee on Public Works and Transportation.

72. Also, memorial of the Legislature of the State of Tennessee, relative to demonstration projects contained in the proposed highway and transit reauthorization bill; to the Committee on Public Works and Transportation.

73. Also, memorial of the House of Representatives of the State of Oklahoma, relative to a single-statewide reimbursement lo-

cality for Medicare; and directing distribution; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EDWARDS of Oklahoma:

H.R. 2460. A bill to amend Private Law 90-318 to provide for the payment of interest on certain claims against the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 2461. A bill for the relief of Milena Mesin and Bozena Mesin; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. Fauntroy, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Schumer, Mr. Frank, Mr. Lehman of California, Mr. Morrison of Connecticut, Ms. Kaptur, Mr. Erdreich, Mr. Carper, Mr. Torres, Mr. Kleczka, Mr. Kanjorski, Mr. Manton, Mr. Kennedy, Mr. Flake, Mr. Roybal, Mr. Atkins, and Mr. Sunia.

H.R. 8: Mr. Inhofe.

H.R. 18: Mr. Buechner, Mr. Kolter, Mr. Torricelli, Mr. Johnson of South Dakota, Mr. Owens of New York, Mr. Howard, and Mr. Dowdy of Mississippi.

H.R. 30: Mr. Biaggi, Mr. Hayes of Illinois, Mr. Kildee, Mr. Murphy, Mr. Owens of New York, Mr. Perkins, Mr. Robinson, Mr. Sawyer, Mr. Solarz, and Mr. Wise.

H.R. 39: Mr. Sawyer.

H.R. 47: Mr. Feighan and Mr. Young of Florida.

H.R. 52: Mr. Wolpe.

H.R. 65: Mr. Johnson of South Dakota, Mr. Wise, Mr. Fauntroy, Mr. Mica, Mr. Dixon, Mr. Hall of Texas, Mr. Nelson of Florida, and Mr. Espy.

H.R. 66: Mr. Barnard, Mr. Lewis of Florida, Mr. Shaw, and Mr. Darden.

H.R. 74: Mr. Lewis of Georgia.

H.R. 80: Mr. Anderson, Mr. Savage, Mr. Boland, Mr. Dymally, Mr. Boehlert, Mr. Boucher, Mr. Morrison of Connecticut, and Mr. Wolpe.

H.R. 84: Mr. Traficant.

H.R. 109: Mr. Badham.

H.R. 111: Mr. Dornan of California.

H.R. 308: Mr. Glickman, Mrs. Bentley, and Mr. Neal.

H.R. 382: Mr. Leland, Mr. Richardson, and Mr. Savage.

H.R. 482: Mr. Traficant.

H.R. 486: Mr. Nielson of Utah.

H.R. 514: Mr. Tauke.

H.R. 537: Mr. Lewis of Georgia.

H.R. 543: Mr. Smith of New Jersey.

H.R. 544: Mr. Mineta, Mr. McHugh, Mr. Gallo, Mr. Sundquist, Mr. Sawyer, Mr. Pursell, Mr. Marlenee, Mr. Lancaster, and Mr. Stenholm.

H.R. 593: Mr. Wylie, Mr. Guarini, Mr. Anderson, Mr. Hatcher, Mr. Schumer, and Mr. Bustamante.

H.R. 743: Mr. Solarz.

H.R. 755: Mr. Goodling and Mr. Coyne.

H.R. 778: Mr. Scheuer.

H.R. 779: Mr. Traficant.

H.R. 785: Mr. Martinez.

H.R. 808: Mr. Daub and Mr. Volkmer.

H.R. 911: Mrs. Meyers of Kansas, Mr. Lipinski, Mr. Kolter, Mr. MacKay, Mr. Schuette, Mr. Buechner, Mr. Donnelly, Mr. Lewis of Georgia, Mr. Yates, and Mrs. Smith of Nebraska.

H.R. 954: Mr. Gray of Pennsylvania and Mr. Dixon.

H.R. 1002: Mr. Traficant.

H.R. 1010: Mr. Daub, Mr. Stangeland, Mr. Tallon, and Mr. Upton.

H.R. 1072: Mr. Crockett, Mr. Goodling, and Mr. Swindall.

H.R. 1078: Mr. Leland, Mr. DeFazio, Mr. Fauntroy, Mr. Chandler, and Mr. Dymally.

H.R. 1101: Mr. Volkmer, Mr. Rowland of Georgia, and Mr. Lantos.

H.R. 1106: Mr. Moakley, Mr. Glickman, Mr. Daub, Mr. McCurdy, Mr. Smith of Florida, Mr. Markey, Mr. Grant, Mr. Frenzel, Mr. Dorgan of North Dakota, Mr. Vander Jagt, and Mr. McCollum.

H.R. 1163: Mr. Torricelli.

H.R. 1234: Mr. Leland and Mr. Kolter.

H.R. 1340: Mr. Lewis of Georgia, Mr. Bevill, Ms. Slaughter of New York and Mr. Craig.

H.R. 1352: Mr. Gilman, Ms. Oakar, and Mr. Feighan.

H.R. 1371: Mr. Crockett.

H.R. 1411: Mr. Frank, Mr. Kildee, Mr. Akaka, Mr. Dornan of California, Mr. Fish, Mr. Jontz, Mr. Edwards of Oklahoma, Mr. DioGuardi, Mr. Williams, Mr. Young of Florida, and Mr. Owens of New York.

H.R. 1441: Mr. Weber.

H.R. 1451: Mrs. Meyers of Kansas, Mr. Kolbe, Mr. Weiss, and Mr. Durbin.

H.R. 1470: Mr. Wilson, Mr. Frank, Mr. Traficant, Mr. Ackerman, Mr. Bates, and Mr. Brennan.

H.R. 1554: Mr. Dorgan of North Dakota.

H.R. 1606: Mr. Armey, Mr. Dyson, Mr. Henry, and Mr. Lewis of Florida.

H.R. 1609: Mr. Atkins.

H.R. 1620: Mr. Morrison of Connecticut.

H.R. 1645: Mr. Hayes of Illinois, Mr. Udall, Mr. Levin of Michigan, Mr. Wortley, Mr. Fauntroy, Mr. Scheuer, Mr. Fazio, Mrs. Boxer, Mr. Panetta, Mr. Lagomarsino, Mr. Sisisky, Mr. Mfume, Mr. Bilbray, Mr. Wilson, and Mr. Atkins.

H.R. 1708: Mr. Hochbrueckner.

H.R. 1770: Mr. Martinez, Mr. Beilenson, and Mr. Lipinski.

H.R. 1778: Mr. Atkins, Mr. Biaggi, Mrs. Boxer, Mrs. Collins, Mr. DioGuardi, Mr. Dwyer of New Jersey, Mr. Fascell, Mr. Feighan, Mr. Fish, Mr. Flake, Mr. Garcia, Mr. Glickman, Mr. Hayes of Illinois, Mr. Hochbrueckner, Mr. Howard, Mr. Kildee, Mr. Lagomarsino, Mr. Lewis of Florida, Mr. Manton, Mr. McCandless, Mr. McGrath, Mr. Mrazek, Mr. Olin, Mr. Owens of New York, Mr. Saxton, Mr. Swift, Mr. Towns, Mr. Traficant, Mr. Vento, Mr. Wortley, Mr. Bereuter, Mr. Upton, Mr. Smith of Florida, Mr. Grant, and Mr. Williams.

H.R. 1808: Mr. Kennedy and Mr. Solarz.

H.R. 1809: Mr. Dorgan of North Dakota, Mr. Martinez, Mr. Lancaster, Mr. Wolpe, Mr. Atkins, Mr. Jontz, and Mr. Skelton.

H.R. 1811: Mr. Penny, Mr. Oberstar, Mr. Howard, Mr. Dyson, and Mr. Sundquist.

H.R. 1873: Mr. Wise, Mr. Foglietta, and Mr. Williams.

H.R. 1874: Mr. Wise, Mr. Foglietta, and Mr. Williams.

H.R. 1877: Mr. Swift.

H.R. 1885: Mr. Hatcher.

H.R. 1905: Mr. Biaggi, Mr. Robinson, Mr. Kastenmeier, Mr. Howard, Mr. Henry, Mr. Smith of Florida, Mr. Towns, Mr. Dymally, Mr. Weiss, Mr. Levine of California, Mr. Barnard, Mr. Bevill, Mr. Chapman, Mr. Edwards of California, Mr. McHugh, Mr. Vento, Mr. Scheuer, Mr. Fazio, Mr. McGrath, Mr. McMillen of Maryland, Mr. Eckart, Mr. Mavroules, Mr. Dwyer of New Jersey, Ms. Oakar, Mr. Lehman of California, Mr. Andrews, Mr. Gray of Illinois, Mr. Valentine, Mr. Williams, and Mr. Sabo.

H.R. 1957: Mr. Guarini and Mr. Andrews.

H.R. 1959: Mr. Williams.

H.R. 1987: Mr. McCloskey, Mr. Scheuer, Mr. Jacobs, Mr. Bilirakis, Mr. Davis of Illinois, Mr. Traficant, Mr. Sunia, Mr. Savage, Mr. Ridge, Mr. Jontz, Mr. Smith of Florida, Mr. Lipinski, Mr. Wilson, Mr. Lancaster, Mr. Horton, Mr. Lagomarsino, Mr. Leath of Texas, Mr. Fazio, and Mr. Frost.

H.R. 2017: Mr. Nielson of Utah.

H.R. 2038: Mr. Fish and Mr. Scheuer.

H.R. 2072: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2073: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2074: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2075: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2076: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2077: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2078: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2079: Mrs. Bentley, Mr. Upton, and Mr. Wortley.

H.R. 2138: Miss Schneider and Mr. Saxton.

H.R. 2155: Mr. Schulze, Mr. Lagomarsino, Mr. Sundquist, Mrs. Johnson of Connecticut, Mr. Nielson of Utah, Mr. Boehlert, Mr. Davis of Illinois, Mr. Livingston, Mr. Skeen, and Mr. Gregg.

H.R. 2200: Mr. Edwards of Oklahoma.

H.R. 2238: Mr. Ritter, Ms. Oakar, Mr. Lagomarsino, Mr. Henry, Mr. McEwen, Mr. Wilson, and Mr. Stump.

H.R. 2248: Mr. Gonzalez.

H.R. 2254: Mr. Lagomarsino.

H.R. 2278: Mr. Boehlert and Mr. Bartlett.

H.R. 2284: Mr. Hyde.

H.R. 2285: Mr. Sunia, Mr. Biaggi, Mr. Scheuer, Mr. Bereuter, Mr. Smith of Florida, Mrs. Meyers of Kansas, Mr. Armey, and Mr. Conte.

H.R. 2310: Mrs. Johnson of Connecticut.

H.R. 2312: Mr. Spratt, Mr. Hammerschmidt, Mr. Jenkins, Mr. Wise, Mr. Mrazek, Mr. Bevill, Mr. Darden, and Mr. Gordon.

H.R. 2320: Mr. Wolpe.

H.R. 2327: Mr. Robinson, Mr. Baker, Mr. Myers of Indiana, Mr. Davis of Michigan, Mr. Whitten, Mr. Tauke, Mr. Gekas, Mr. Eckart, Mr. Gregg, Mr. Scheuer, Mr. Clay, Mr. Gunderson, Mr. Mineta, Mr. Spratt, Mr. Alexander, Mr. Leland, Mr. Owens of Utah, Mr. Weiss, Mr. Weldon, Mr. Darden, Ms. Oakar, Mr. Kyl, Mr. Atkins, Mr. Schuette, and Mr. Biaggi.

H.R. 2378: Mr. Eckart and Mr. Hughes.

H.J. Res. 50: Mr. Skelton, Mr. Erdreich, Mr. Gordon, Mr. Dyson, Mr. Lewis of Georgia, Mr. Studds, Mr. Henry, Mr. Hefner, Mr. Anderson, and Mr. Sunia.

H.J. Res. 55: Mr. Anderson, Mr. Schumer, Mr. Dornan of California, Mr. Yatron, Mr. Gray of Illinois, Mr. Boner of Tennessee, Mr. Hayes of Louisiana, Mr. Smith of Florida, Mr. Lehman of Florida, Mr. Bennett, Mr. Savage, Mr. DeFazio, and Mr. Daub.

H.J. Res. 90: Mr. Carper, Mr. Crockett, and Mr. Conyers.

H.J. Res. 106: Mrs. Morella, Mr. Anderson, Mr. Akaka, Mr. Matsui, Mr. Bateman, and Mr. Boucher.

H.J. Res. 132: Mr. Porter, Mr. Coats, Mr. Stallings, and Mr. Kemp.

H.J. Res. 159: Ms. Oakar, Mr. Lantos, Mr. Dwyer of New Jersey, Mr. Neal, Mr. Levin of Michigan, Mr. Frost, Mr. Florio, Mr. Weldon, Mr. Inhofe, Mr. Lungren, Mrs. Kennelly, Mr. Roe, Mr. Horton, Mr. Kasich, Mr. Feighan, Mr. McGrath, Mr. Howard, Mr. Dannemeyer, Mr. Davis of Illinois, Mr. Moorhead, Mr. Oberstar, Mr. Lagomarsino, Mr. Fields, Mrs. Bentley, Mr. Solomon, Mr. Studds, Mr. Hall of Ohio, Mr. Moody, Mr. Courter, Mr. Dyson, Mr. Nielson of Utah, Mr. Conte, Mr. Shaw, Mr. Sikorski, Mr. Frenzel, Ms. Kaptur, Mr. Badham, Mrs. Johnson of Connecticut, Mr. Green, and Mr. Johnson of South Dakota.

H.J. Res. 180: Mr. Johnson of South Dakota, Mr. Donald E. Lukens, and Mr. Fish.

H.J. Res. 251: Mr. Leland, Mr. Fazio, Mr. Staggers, Mr. LaFalce, Mr. Dixon, Mr. Mineta, Mr. Solarz, Mr. Levin of Michigan, Mr. Smith of Florida, Mr. Hefner, Ms. Kaptur, Mr. Levine of California, Mrs. Bentley, Mr. Parris, Mr. Daniel, Mr. Pepper, Mr. Vander Jagt, Mr. Daub, Mr. Frost, Mr. Perkins, Mrs. Lloyd, Mr. Vento, Mr. Atkins, Mr. Lungren, Mr. Kolter, Mr. Valentine, Mr. Coyne, Mr. Horton, Mr. Hammerschmidt, Mr. Callahan, Mr. Hughes, Mr. Erdreich, Mr. Whitten, Mr. Owens of New York, Mr. Bonior of Michigan, Mr. Saxton, Mr. Darden, Mr. Rahall, Mr. Markey, and Mr. Waxman.

H.J. Res. 271: Mr. Lewis of Georgia, Mr. Morrison of Connecticut, Mr. Feighan, and Mr. Boehlert.

H.J. Res. 279: Mr. Espy.

H. Con. Res. 113: Mr. Neal, Mr. Scheuer, Mr. Conte, Mr. Wolpe, Mr. Dornan of California, and Mr. Atkins.

H. Res. 43: Mr. Fazio, Mr. Callahan, Mr. Gordon, Mr. Stump, Mr. Duncan, Mr. Dickinson, Mr. Robinson, Mr. Campbell, and Mr. Spratt.

H. Res. 71: Mr. McCloskey.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

39. The SPEAKER presented a petition of the vice president, American Foreign Service Association, Washington, DC, relative to the comments of the Association on the State Department portion of the sixth annual report on Implementation of the Foreign Service Act of 1980; jointly, to the Committees on Post Office and Civil Service and Foreign Affairs.

EXTENSIONS OF REMARKS

A TRIBUTE TO CHARLES V. CARR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. STOKES. Mr. Speaker, recently the 21st Congressional District of Ohio, which I represent, and our Nation lost a great humanitarian and countryman.

Charles V. Carr, who distinguished himself as an attorney, politician, and civil rights advocate passed away on April 30 at age 82.

Charlie Carr was an extraordinary politician and lawyer. Many years ago when I first became an attorney, he was one of the two older black lawyers in Cleveland who provided an opportunity for young black lawyers to practice by joining their firm. The situation at that time was such that high level law firms did not often take blacks into their companies. Since many black lawyers could not afford to set up their own practice, they were unable to pursue their chosen profession. Charlie and his counterpart, Norman S. Minor, gave many blacks a start on what turned out to be outstanding careers. He was a teacher in the sense that he shared his political prowess and knowledge with young lawyers and aspiring politicians. He was one of the persons who helped my brother, Carl, and I form the 21st Congressional District caucus political organization. Over the years he provided me counsel and advice on political matters in the caucus.

His career is one that should be studied by young blacks in order to pattern themselves after him and the many things he achieved for the black community.

Mr. Speaker, Charlie Carr was a friend and a person whose friendship I will always appreciate. He will always be remembered for the great contributions he made in political, business and civic arenas in Cleveland. Several newspaper articles have been written capturing the highlights of his career. I offer these articles for the RECORD so that colleagues can read them and join with me in extending our condolences to his family:

CHARLES CARR DIES, RTA POWER, EX-COUNCILMAN

Charles V. Carr, a member of the board of the Regional Transit Authority, a City Council majority leader for 13 years and a Democratic power in city politics for several decades, died yesterday morning at Cleveland Clinic Hospital. He was 82.

Carr had a heart attack in 1965 and open-heart surgery in 1970. He was admitted to the hospital a month ago for a checkup, and while there had a stroke.

Carr, mentor of Council President George L. Forbes, D-9, and other black leaders, stayed in public life until about a month ago. Until then, he attended weekly RTA board or committee meetings.

Forbes said the Texas-born Carr was a father figure to him and fought to open the political system to blacks. His particular talent was that he knew how to parlay a minority on an issue into a majority, Forbes said.

"He understood the art of politics," Forbes said. "He always knew how to count votes." Carr recognized the importance of credibility, and never broke his word, said Forbes.

Carr was at RTA for 10 years and had been chairman of the board's finance committee, an office he held for many years on City Council. He served on council from 1945 to 1975.

He was considered by some the most powerful figure on the 10-member RTA board, exerting his influence mostly behind the scenes. In recent years, he had delayed the federal efforts to get RTA to reform spending practices.

He orchestrated the promotion of John V. Terango to RTA general manager over the objections of Mayor George V. Voinovich and other elected officials. Carr was the leader of the "Old Guard" on the board, which has battled with so-called reform members over RTA's direction.

Charles Carr Pl., a short street south of Kinsman Rd. near E. 73rd St., is named for him.

Carr was adroit at maneuvering controversial legislation to passage, and played key roles in the passage of the city income tax in 1966 and the creation of the RTA in 1975.

He was a lawyer, and his counsel, professional and fatherly, was sought by people ranging from bankers to numbers figures to members of the clergy, in addition to the constituents he served as a councilman in the ward surrounding E. 55th St. and Central Ave. His council career ended when he was defeated by the late Lonnie Burton.

In 1948, Carr's home was bombed and, because in his first term on council he sought to repeal an ordinance banning possession of numbers slips, he was rumored to be connected with the racketeering.

Carr had told a reporter, "I don't know why my home was bombed. I represented men accused of numbers violations but I was just a lawyer doing my job.

"It's a lie, I never was in the racket. I represented guys accused of murder, too. Does that make me a felon?"

He had been vice chairman of the Cuyahoga County Democratic Executive Committee.

Carr's influence was so strong he was invited to the White House to dine with a fellow Texan, President Lyndon B. Johnson.

Carr pioneered civil rights legislation in 1948 mandating that amusement parks, public dance halls and roller rinks be open to all races. That ordinance was passed after an attempt by the Congress on Racial Equality to break the color barrier at Euclid Beach dance hall and roller rink.

Carr was born in Clarksville, Texas, where his parents, both schoolteachers, had to travel into the country to work.

During the day, they left him with his grandfather, a former slave freed in 1865 by Union troops in South Carolina. Carr's grandfather taught him pride of race, independence and pleasures of card games, Carr later said.

"Grandmother did not hold with cards. She was a devout Baptist. Every time she went to church, grandfather would get the cards out. He taught me cards, but most of all, he taught me to work for myself instead of working for someone else."

That beloved grandfather, who worked for the Baltimore & Ohio Railroad, was sent to Cleveland on his job. He persuaded Carr's parents to send him here because he believed the schools were better than those in Texas.

Carr went to the ninth grade at East Technical High School and moved to Kansas City when his grandfather was transferred there.

Carr received a bachelor's degree from Fisk University in Nashville, Tenn. He planned to study medicine at Howard University. On his way to Washington from a visit in Kansas City, he stopped in Cleveland. He ran into some former classmates at East Tech who were attending John Marshall Law School.

They persuaded Carr to join them. He had $100 and got a job as a waiter at the Cleveland Athletic Club. He worked his way through law school waiting tables there and at the Union Club.

He passed the bar and declared himself a Democrat.

Carr once said in an interview that he was up at 6 a.m. every day so he could get to police headquarters and the criminal courts "to see if I could catch me a client." He was at the bars and speak-easies until 3 in the morning politicking.

He received numerous civic honors and belonged to several professional societies and community organizations.

He was an astute businessman and founder of Dunbar Life Insurance Co., which later merged with Supreme Life Insurance Co. of America. He founded the first black-owned savings and loan here, Quincy Savings & Loan Co., and was president from 1960 until 1976.

His wife, Hortense, survives. Also surviving are daughters, Carole J. Bush, Cathleen V. Willis and Leah P., son, Charles O., stepson, Michael K. King, and a sister.

Services will be at 8 p.m. Tuesday at Shiloh Baptist Church, 5500 Scovill Ave.

CARR, COUNCIL DEAN, WAS FATHER-FIGURE TO MANY

(By Margaret Williams)

The life of the "Dean" came to an end at Cleveland Clinic on April 30 at age 82. Attorney Charles Velmon Carr had suffered a heart attack in 1965. He underwent open heart surgery in 1970. After having been admitted to the hospital a month ago, he was the victim of a stroke.

He had been a father-figure to many outstanding men of Cleveland including George L. Forbes, president of Cleveland City Council and Carl Stokes, judge of the Municipal Court of Cleveland.

Charles Carr had served on city council for many years. He had also served as a member of the Board of RTA and chairman of the finance committee.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"Charles Carr was always interested in progress of the 'Negro', as we were known at that time. During the days of the Future Outlook League and John O. Holly, Carr worked as a member of the board and was responsible for the legal aspects of the League. He played an integral part in securing jobs for Blacks. He was a brilliant fellow and gave much legal advice to the organization. I knew Carr before he became a member of council. He was a wonderful man and influenced the lives of many young aspirants," remarked Charles Smart, an old time friend of Carr.

Although very slow in movement and seemingly walking with great difficulty, Carr never missed an RTA meeting, and was in attendance during most masonic meetings and programs. He was a devout member of the order.

Mr. Carr was a native of Clarksville, Texas. His parents were educators. He often told of his heritage. His grandfather was a former slave and was freed in 1865.

He said his grandfather taught him many things among which were a pride in his race, a sense of independence and the art of playing card games. He was also taught to work for himself instead of someone else.

Carr was sent to Cleveland because his grandfather thought he would receive a better education. Carr told the story of his getting up early (6 a.m.) to get to police headquarters and criminal courts "to see if I could catch me a client." Many of his clients were solicited at bars, which he frequented until the "wee small hours" of the morning.

Carr had on occasion been accused of being in the rackets. In 1948, his home was bombed because during his premier term on council he was interested in repealing an ordinance banning possession of number slips and it was said that he was connected with the rackets. When confronted he stated that he was just a lawyer doing his job.

He assisted with the initiation of civil rights legislation in 1948 with a mandate that amusement parks, public dance halls and roller skating rinks be open to all colors and creeds. The ordinance was passed and segregation was no longer condoned at Euclid Beach dance hall and roller rink.

He was the motivating force for Black political leadership in Cleveland and was the first Black majority leader for Cleveland City Council and held that post for over 20 years. It was here he earned the title of the "Dean."

His interest in politics lasted until his death. The life of Charles Velmon Carr was varied and colorful. His first job, as a child, paid $1 per month for delivering daily lunches to railroad workers. He worked as a waiter at the Cleveland Athletic Club and the Union Club while he attended John Marshall Law School.

Carr was awarded the Selective Service Medal by President Harry Truman for loyal and faithful duty given voluntarily and without compensation to the selective service system.

He was the first Black democrat elected to the Cleveland City Council—a position he held for over 30 years. He has been called an intellectual genius of City administration—especially on finance and was a highly skilled parliamentarian and knew the fundamentals of formal debate. He could get to the heart of an issue using reasoning to support his argument.

While a member of the council, he fought for fair housing ordinances as early as 1960 and was co-sponsor of the first FEP legislation in the State.

It is said that "He dined with Kings and never lost the common touch."

His influence was so great that he was invited to the White House to dine with Presidents John F. Kennedy and Lyndon Johnson. The city respected Carr and named, in his honor, the Charles V. Carr Center at East 57th and Woodland Avenue and also Carr Boulevard. In 1957 he was one of a select few chosen to travel around the world with the Christians and Jews.

Mr. Carr, in addition to being an outstanding politician was an astute businessman and a successful entrepreneur. He was one of the founders of Dunbar Life Insurance Company, which later merged with the Supreme Life Insurance Company of America.

He founded the first Black-owned savings and loan in the State of Ohio—The Quincy Savings and Loan and was its president from 1960 until 1976.

He was a leading attorney who helped young lawyers sharpen their skills. In 1954, he formed the first minority law firm in the City of Cleveland known as Carr, Jackson and Payne.

Among those lawyers and politicians who received advice was Judge Lloyd O. Brown; Judge Carl B. Stokes; the late Judge John E. Washington; attorney and council president, George Forbes; the late assistant public defender, Curtis I. Smith; Attorneys Anthony Jo Cotton, Donald Peppers, Reuben Payne, Russell T. Adrine and Louis Stokes, Congressman of the 21st District.

Many young aspirants checked regularly with Mr. Carr to receive his advice and counsel as they realized Charles V. Carr stood for unity, pride and strength.

Forerunner of Black Politicians

(By Sharon Jefferson)

Former Cleveland City Councilman Charles V. Carr acted as a mentor for several prominent Black politicians and worked to increase their role in Cleveland politics, according to City Council President George L. Forbes, D-9.

"He was the forerunner of most of the Black elected official in Cleveland," he said. "Men like Paul White, who was a judge, came out of his (law) office. He also helped Lloyd Brown, who was also a judge."

"He made sure they were placed in the prosecutor's office. This was prior to the 1960s, before Blacks began to demand their rights," Forbes explained.

"He was adamant about Blacks moving up in politics. His greatest desire was to see a Black Mayor of Cleveland," he added. This dream became a reality when one of his proteges, Carl B. Stokes became mayor in 1967.

Carr and Forbes met after Forbes was elected to City Council in 1963. "When I went in, there were two prominent Blacks in City Council. One was Leo Jackson and the other Charles Carr.

"Leo was the kind of public official who moved things just by the sheer weight of his office. Charles believed you had to have an organization in order to participate in the political process. That was his genius, the genius of political organization. The office was not used, it was his politics that was used in City Council," Forbes explained.

Forbes admits Carr also took him under his wing as he did with other young politicians, "I was very close to him. I understood the political process as he did. The training came from him. Carl and Louis Stokes looked to him for guidance.

"He taught me that there are certain things a man must do in order to develop his manhood. You must live morally right and you must take care of your family," Forbes explained.

"He was my friend, he was my counselor, my teacher, and he will be missed," he added.

Before Forbes joined City Council, Carr was one of a handful of Black City Council members. "In those days, he set up Cleveland's Community Relations Board. Black people couldn't go to Euclid Beach, and he stopped that. He did it by getting together with Black and white councilmen," he said.

Forbes believes Carr wanted to leave a legacy of "young men and women participating in the political process, understanding it, and utilizing it for the benefit of Black people."

Master of Compromise

(By Sharon Jefferson)

Politician Charles V. Carr was a master of the art of compromise, so says Cleveland Municipal Court Judge Carl B. Stokes. "Whatever the problem was, he would try to make the opposing parties see there was something in the solution of the problem that each one could find a benefit. That is the basic fundamental science of politics: compromise. He was the master and I learned so much from him," the Judge said.

Carr, who was a member of Cleveland City Council and later the Board of Trustees of the Regional Transit Authority, died of a stroke, Thursday, April 30. His friend and protege, Stokes, talked about Carr's influence on his career and Cleveland politics.

Stokes met Carr in the early 1950s, when Stokes was a liquor inspector and Carr represented several liquor establishments as an attorney. In 1962, Carr garnered support among his colleagues in Cleveland City Council for Stokes' successful bid for the state legislature.

Stokes said Carr's assistance in the creation of the 21st Congressional District was one of his greatest achievements. "The Democratic Party was opposing the drawing of the district lines to put most of the Black voters in one district so a Black person could be elected to Congress. The Democrats opposed it, because they had three of the four Democratic positions which were all white and none of them wanted to disturb their district. I had W.O. Walker's (of the Call and Post) help with the Republicans, but I had no help from the Democrats. Charlie put together some help from the Black Councilmen, and we got legislation for the 21st District. That is the district my brother (Louis Stokes) represents," Stokes said.

Carr also encouraged Stokes to create his own faction of the Democratic party, which is known as the 21st District Caucus.

Carr also supported Stokes' two terms as Mayor of Cleveland. "Charles Carr, together with George Forbes, were my floor leaders. Charlie was already the majority leader. He and George worked very closely with the administration's program, and against Council President Jim Stanton, who was always opposing us," Stokes explained.

During the 25 years Carr served in City Council, Stokes described him as "the voice of the Black community." Carr was influential in obtaining city jobs for Blacks, he added.

On a personal level, Stokes found Carr to be a valued confidant. "The man was just an advisor. It was good for me to have recourse to him when I ran into political problems, because the man just knew the science and business of politics."

Stokes explained that Carr lived by the philosophy, "In politics you have no permanent enemies or permanent friends."

"If there was a problem to be solved Charlie kept his eye on solving the problem. If it meant he had to make a concession to someone who was a political enemy, he never let that stand in his way. His objective was to get the problem solved," he concluded.

A Friend Remembered

Attorney Charles V. Carr lived a full and prosperous life. Although an intensively private person, Carr had a zest for living and leaves behind a legacy for those who follow the political trails he blazed.

Carr was a family man, proud of his wife and children and proud of the political elite he counted among his extended family.

Carr was the consumate sage. His strength, endurance and God's grace permitted him to out-live many of those he advised.

His lessons were practical and laced with racial pride. As preceptor, Carr taught Negroes (Black wasn't the identity of choice during most of his career) that success was predicated on readiness to act when opportunity presented itself.

His teachings, advocacy and actions launched a Black political awakening in Cleveland and throughout America.

Carr knew and understood the business of politics. He served 30 years as a member of Cleveland City Council under seven council presidents and under the administration of five mayors.

Carr survived because he was studious, cunning and bold. He was a quiet man who had the skill to privately orchestrate public events. He was a prime mover in an era where most political deals were products of the "backroom."

His word, his promise, was his bond. He could be depended on.

As a council member, Carr was as enigmatic as was his political roots. His votes were rarely the reflections of intense philosophical leanings, but rather models of the efficient use of political power.

At death, Carr was the dean of local Black Democrats, an irony in itself since he began his career as a Republican. He switched so he could run "heads-up" against the late Councilman William O. Walker, then Editor and Publisher of the Call and Post.

That's the kind of man Carr was—ready to take on the powerful—ready to teach the inquisitive—and ready to help the powerless—like a young mother and wife and resident of his ward who needed a job.

That woman has risen in stature herself and quietly guards the gates of power, just one of many success stories of our friend and mentor Charles V. Carr.

A Political Patching Up, at Last—Forbes, Stokes Unite at Funeral

(By Steve Luttner)

Council President George I. Forbes rushed into the waiting arms of Municipal Judge Carl E. Stokes yesterday in a public display of reconciliation many predict will result in a more unified black political voice in Cleveland.

The dramatic moment came at the funeral of Charles V. Carr, the dean of Cleveland's black politicians. The embrace prompted a standing ovation, shouts of approval and a few tears from many in the crowd of about 300 at Shiloh Baptist Church on Scovill Ave.

Carr had wanted very much for Stokes and Forbes, sharp adversaries in recent years, to end their differences and reunite. Carr's wife, Hortense, had reportedly made a personal appeal to Forbes to end the public rivalry with Stokes. And to many at the funeral, the reconciliation seemed a fitting tribute to Carr, who made much of his storied living from politics and politicians.

"Charlie had the ability to reconcile and bring results that other people couldn't do," Common Pleas Judge Carl Character said as he left the church. "In a sense, he's still doing it, even in death."

Carr, 83, was a Regional Transit Authority board member, Cleveland councilman, lawyer, businessman and an informal but highly regarded adviser over the years to many of the city's politicians, including Stokes and Forbes, D-9. While in council, Carr was a strong civil rights advocate and worked on legislation that led to the desegregation of the city's amusement parks, public dance halls and roller rinks.

Before the embrace, many at the church seemed distracted, wondering whether Stokes and Forbes would validate recent rumors that they would publicly bury the hatchet at the funeral.

The two black leaders have had hateful exchanges in recent years: In 1985, they had to be restrained from exchanging punches after their distaste for each other boiled over on election night.

For a while yesterday, it seemed as if there wouldn't be any peacemaking. Stokes was late, and when he did arrive, he did not sit in the same section of the church as Forbes.

But the thaw began when Stokes, one of several scheduled speakers at the service said it would be fitting for him and Forbes to "reconcile our differences and remember the closeness of our past," when Stokes helped steer a young Forbes into the public arena that he now so overwhelming controls.

The crowd applauded, but there was no exchange between the two as Stokes took his seat. They didn't even seem to be looking at each other.

Forbes then spoke, recalling humorous stories about Carr. At the end of his speech, Forbes quietly extended his own olive branch, telling the attentive crowd that Stokes' election as the first big-city black mayor in 1967 was important to Carr and, Forbes added, "It was important to me."

John H. Bustamante, president of the First Bank National Association, knew the accord hadn't been consummated. He called both men to the podium. They readily came forward and quickly, tightly embraced. Forbes seemed perhaps a little more eager, jumping forward to the receptive Stokes. The two then turned to the crowd, hands joined overhead like running mates facing the throngs at a political convention.

"I don't know if we need to say anything else," Bustamante said.

The Rev. E.T. Caviness, a liaison between Mayor George V. Voinovich and City Council, said he thought the Forbes-Stokes reconciliation was sincere.

"What they did today touches the soul," Caviness said. "What they did today was for real."

Voinovich did not attend the funeral yesterday, and his absence was criticized by some black official. A Voinovich spokeswoman said the mayor had an appointment yesterday morning that he felt obligated to keep because he had already rescheduled the session twice.

Councilman Larry Jones, D-10, said of the peace between Forbes and Stokes: "I thought it was long overdue. The black community is going to benefit, and the city as a whole will benefit."

Councilwoman Fannie Lewis, D-7, said it would be difficult for white people to understand the significance of the gesture.

"That's for real, man," she said. "You gotta be black to understand that. Only Charlie Carr and the good Lord can do that."

Stanley E. Tolliver, Cleveland Board of Education president, said the truce "will last because they're both sincere."

There are strong indications the reconciliation will last at least until Election Day in November. Stokes is seeking re-election, and Forbes' brother, Zeke, faces a potentially tough battle to be elected clerk of Cleveland Municipal Court. With blacks making up about half of the city's population, it's an obvious and sound strategy for both camps to unite and make the East Side politically whole.

"If the black community is together, that means I'm together, doesn't it?" said Zeke Forbes. His candidacy marks the first time the Forbes name has been on a citywide ballot.

If the Stokes-Forbes lovefest seemed to dominate the service for Carr, nobody seemed to mind.

"Wherever Charlie is, he's smiling,"

Tolliver said. "What a legacy."

Carr Passing Reunites Forbes, Stokes

(By John P. Coyne)

The feud between Cleveland Municipal Judge Carl B. Stokes and Council President George L. Forbes may have come to an end with the death of Charles V. Carr, a longtime friend to both men.

Forbes visited Stokes' chambers Friday, the judge reported, and said the one thing Carr wanted very much was to see the two men bury their differences and restore their friendship.

"He said a great testimony to Charlie would be for him and me and Lou to appear at his funeral together," Stokes said. The Lou he referred to was Stokes' brother, Rep. Louis Stokes, D-21, of Warrensville Heights.

Stokes said that when he was mayor of Cleveland, he considered Forbes one of his closest advisers.

I had asked him to help me with the day-to-day crisis of running the city," Stokes said. During the Glenville riots, it was Forbes who went into the black community to try to calm the neighborhoods, he said.

Stokes said the two men talked for 20 minutes in the judge's chambers.

"We had found an issue that made enough sense to us to make the reconciliation," Stokes said, "Up until now, there just has not been anything sufficient enough to make us swallow our pride and apologize. That man and I have been through things that very few other politicians have ever shared.

"We should be the last people who should be estranged. We both apologized to each other for the remarks we made against each other."

Stokes said, "I know my indebtedness to the man. We are two strong egos. George has become one of the most powerful people in this city and has been for years. . . . Politics is one of the most volatile areas for determining who is king of the hill."

Asked about the truce, Forbes denied there was ever a feud. "I never had any differences with him," Forbes said. "I said before (that) I was embarrassed by the incident. I was sorry it ever happened."

The incident was a near-fistfight at the Board of Elections on Election Day 1985. Forbes said he never said anything publicly against Stokes. He said the feud between him and Stokes was merely a concoction of the media.

Forbes said he and Stokes were asked by Carr's wife to participate in the services for Carr Wednesday morning.

The 10 a.m. service will be at Shiloh Baptist Church, 5500 Scovill Ave.

"I want to let the public know this man put aside pride and just did what he did. It was a big thing," Stokes said. "He put aside his ego and said, 'Let's make peace.'

"This is not just a gesture. You will not see any public differences between Forbes and myself in the future."

TAKE ADVANTAGE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LAGOMARSINO. Mr. Speaker, over the past week as we have been considering the Defense authorization bill, there have been many references to the current ongoing arms control negotiations on medium-ranged missiles. Knowing of my colleagues' interest in this issue, I would like to refer them to the May 8, 1987, editiorial in the Oxnard Press-Courier, one of the leading newspapers in my district. I agree, in particular, with the conclusion this commentary makes; opportunities for agreements don't come very often and we should not let this opportunity slip by.

TAKE ADVANTAGE

"For six years," an administration official has observed, "people have been complaining that Ronald Reagan was too tough to negotiate an arms deal with the Russians. Now he's almost got one, and they're complaining that he's too soft."

The official was responding, of course, to the recent arms-control advice from Richard Nixon and Henry Kissinger. Speaking jointly for the first time since they left office, Nixon and Kissinger warned President Reagan that he is heading for "the wrong kind of deal" on medium-range nuclear missiles. Their comments followed earlier warnings from Senate Majority Leader Robert Byrd, D-W.Va., Senate Minority Leader Bob Dole, R-Kan., and Senate Armed Services Committee Chairman Sam Nunn, D-Ga.

Democrats and Republicans, arms-control advocates and arms-control opponents were not lining up according to form. It was yet another indication that Mikhail Gorbachev, the wily Russian, has become quite adept at tying U.S. officials into knots of irony.

Nixon and Kissinger urged the president to insist on two major changes in the agreement now being negotiated, an agreement under which both countries would withdraw all their intermediate-range nuclear weapons from Europe. The men of detente would insist that the pact be linked to ending the Soviet advantage in conventional military forces in Europe. Also, they would widen it to eliminate Soviet intermediate range missiles in Asia.

Administration spokesmen termed the suggestions "unrealistic." And they are right. To insist on conditions that cannot be met would be to lose all momentum for what could be a significant and verifiable agreement. As Secretary of State George Shultz points out, it would be to renege on offers we already have made.

Still, the observations of these two foreign policy elders shoud not be dismissed out of hand. Concerns about Soviet conventional military superiority are very real—particularly for the Germans, the French and other citizens of Western Europe. So is the potential threat that Soviet nuclear missiles would pose to the Far East if those missiles were confined to Asia.

The warnings and the reservations emphasize the need for adequate verification to forestall threats to Japan, South Korea and other nations in the Far East. They also underline the need for continued strong ties to the Europeans, even as the Europeans set about the task of increasing their conventional warfare capabilities.

The United States and its allies will retain a nuclear deterrent even if the medium- and short-range missiles are removed, so Western Europe would not be completely vulnerable to Soviet tanks, guns and manpower. Still, the pullback of U.S. missiles must not be the beginning of a slow withdrawal from Europe.

The agreement that Reagan and Gorbachev hope to sign later this year is not perfect; it does not signal an end to the nuclear arms race. It is an opportunity, nonetheless—an opportunity to begin backing away from reliance on nuclear weapons. History reminds all that such opportunities for agreement don't come along very often. The United States should take advantage of this one.

A TRIBUTE TO TWO YOUNG WOMEN OF FAITH

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. FAUNTROY. Mr. Speaker, in the Declaration of Independence, Jefferson wrote that man had an unalienable right to liberty: a right so sacred that he could "alter or abolish" any system of government that proved destructive of it. Such a lasting truth is rarely found. Indeed, the later history of our country provides us with many an example of firm convictions falling victim to the belittling and less dignified force of compromise. The framers of our Constitution sadly felt it necessary to sacrifice the liberty of some in order to form a more prefect Union. Today, the people of the District of Columbia suffer the great indignity of living without liberty, while the good intentions of many in this Congress are threatened by the willingness of some to compromise in order to satisfy parochial concerns. There are some, however, who have the freedom, the intelligence, and the conviction to think independently; these are the few who give birth to great wisdom. It is precisely for the latter reason that I rise today to honor two of the country's most exemplary youth, Emily Tagliobue and Lisa Faden.

Emily and Lisa are two ninth-grade young women who have been blessed by integrity, endowed by faith, and honored by intelligence. In their high school, they were presented with the issue of statehood for the District of Columbia. In deciding whether statehood should be accomplished, they thought not of the shortcomings of government but rather of the ideals of democracy. They considered not how to preserve or increase the power of their party but rather how to restore to a people their God-given rights. In the end they realized that if anyone truly favors freedom, they must advocate statehood for the District of Columbia.

Knowing that mere belief, even if morally correct, is not in itself enough, Emily and Lisa had the courage to keep themselves from the great temptation that is apathy, a state of mind that seems comforting but is in reality oppressive. They made great efforts so that others could come to understand and sympathize with their beliefs. The result of their efforts was a documentary film strip that made the case for statehood. The film strip proved to be convincing testament to their great ability.

What is particularly commendable about the work of Lisa and Emily is that it was executed with conscience as a guide. Residents of Maryland, they will not gain materially from the establishment of the State of New Columbia. Their endeavor was truly altruistic, and for that reason, it is finer than the rest.

Emily Tagliobue and Lisa Faden are women of faith. Their spiritual, and intellectual vigor should serve as an example to us all. They serve as a worthy affirmation of the wisdom of Oliver Wendell Holmes, who once correctly stated that "through our great good fortune, in our youth our hearts were touched with fire."

NOTIFICATION TO SEEK CLOSED RULE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. FORD of Michigan. Mr. Speaker, this is to notify Members that when the Committee on Post Office and Civil Service appears before the Committee on Rules to request a rule for the consideration of H.R. 157, to designate September 17, 1987, as "Constitution Day," I or my designee will seek a rule which prohibits amendments to the bill.

SIXTIETH ANNIVERSARY OF THE MNCPPC

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. HOYER. Mr. Speaker, I rise today to honor the Maryland-National Capital Park and Planning Commission for its long and dedicated service to the State of Maryland and the United States on the occasion of the 60th anniversary of its creation.

The Maryland-National Capital Park and Planning Commission was established by the Maryland General Assembly in 1927, reorganized in 1959, and, as of 1975, had its laws recodified in article 66D of the Annotated

Code of Maryland. The commission is empowered by the assembly to plan and zone highways, parks, and other public places and to provide effective regional control over subdivision planning and construction in Maryland counties adjacent to the Nation's Capital.

The lands over which the commission has jurisdiction have grown considerably over the years to include almost all of Maryland's Prince Georges and Montgomery Counties. In 1940, the park system controlled by the commission consisted of 281 acres. Today, the commission controls over 16,000 acres of parkland with a $17 million budget.

Existing hand in hand with this history of growth is a record of determination on the part of the commission to provide the inhabitants of the Washington Metropolitan region with the most progressive park and planning system possible. During the 1960's, the commission's activities stretched from the opening of its first 9-hole golf course at Oxon Run to the adoption of zoning map amendments for West Laurel, and South Beltsville. The 1970's and 1980's have seen a continuation of the implementation of innovative ideas by the commission with the construction of a gymnastics center at Fairland Regional Park, the acquisition of an Equestrian Center in Upper Marlboro, and the development of programs to protect the shoreline of the Chesapeake Bay and the tidewaters of its major tributaries.

The fruit of the commission's hard labor has not gone unnoticed. The commission has won numerous awards from the American Planning Association for numerous planning projects. More impressive even is the fact that for an unprecedented fourth time, the commission has been awarded the National Gold Medal Award for excellence in park and recreation management.

Mr. Speaker, I want all my colleagues to share my pride in the accomplishments of the Maryland-National Capital Park and Planning Commission and to join me in congratulating the commission's dedicated members for their outstanding service to the human community.

SOVIET TREATMENT OF ITS JEWISH CITIZENS IS A KEY MEASURE OF SOVIET INTENTIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LANTOS. Mr. Speaker, a great deal has been said in recent months about the new Soviet policy of glasnost [openness]. There has been a greater willingness to discuss previously forbidden topics in the Soviet media. Hopes have been raised that the United States and the Soviet Union will reach significant agreement on arms control issues. A few well-known human rights figures have been permitted greater freedom, and some prominent Jewish refuseniks have been allowed to emigrate. On the whole, however, hope and expectations have exceeded the reality of glasnost.

On the one hand, all of us welcome the prospect of agreements and understandings that will limit the arms race and resolve outstanding divisive issues. On the other hand, Mr. Speaker, any expectation that the Soviet Government will observe agreements with the United States must be weighed against the Soviet record on keeping other international agreements which the Soviet leaders have signed.

Soviet performance in the area of human rights is crucial in this regard. In the Helsinki Final Act, the Soviet Government pledged to respect human rights, including freedom of religious observance and the right to emigrate and travel freely. If the Soviets do not observe these obligations, how can we expect them to observe other international agreements?

Jewish emigration is a key measure of Soviet intentions and attitudes, and I am encouraged that there are positive signs. Over 700 Jews left the Soviet Union in April, compared to about 450 in March, 145 in February, and less than 100 in January. These figures, however, are still far below the peak year of 1979 when 51,000 Jews were permitted to emigrate.

Hundreds of thousands of Jews still desire to leave the Soviet Union, but they have been denied permission or even discouraged from applying. In the last two decades almost 650,000 have applied to emigrate, but only 270,000 have been given permission to do so. Thus, more than 370,000 have requested permission to leave and have been denied. Furthermore, only the bravest will take the risk of applying to emigrate. Usually, Jews who apply to leave loose jobs, their apartments, and other important social and economic privileges. Without such unconscionable pressure, it is certain that tens of thousands more would seek to emigrate.

Mr. Speaker, I am concerned that significant violation of human rights still continues in the Soviet Union, despite the positive signs of glasnost.

I am concerned, Mr. Speaker, when Vladimir Slepak—one of the founding members of the Soviet Jewish emigration movement—is denied permission to leave the Soviet Union. Thanks to Mr. Slepak's efforts thousands and thousands of Jews have been permitted to emigrate, yet he has not yet received permission to leave.

I am concerned, Mr. Speaker, because of the violation of the human rights of Mikhail Shirman. Mikhail who emigrated to Israel in 1980 died of leukemia on March 4 of this year. A potentially life-saving operation was delayed because the Soviet Union refused until it was too late to permit his sister, Inessa Fleurov, to travel to Israel to donate bone marrow for him.

I am concerned, Mr. Speaker, when Benjamin Charny, a refusenik suffering from skin cancer, is repeatedly denied permission to travel to the United States to receive life-prolonging medical treatment. Charny and his family have sought permission to emigrate since 1979, but requests have been refused on the grounds of state security, although it has been 15 years since Charny had access to state secrets.

I am concerned, Mr. Speaker, because Soviet officials delayed granting permission to emigrate to Inna Meiman, another Soviet cancer patient. When permission to leave the Soviet Union was finally granted, she was so weak and ill that she died just a few weeks after her arrival in the United States. Because of the delay, she did not receive medical treatment that might have prolonged her life.

Mr. Speaker, it is my sincere hope that the leaders of the Soviet Union will come to realize the crucial importance of the observance of human right—and in particular the right of Soviet Jews to emigrate or freely to practice their religion if they remain in their country.

Human rights is the foundation of good relations between our two nations. We must measure the Soviets' intentions by their action, not by the quantity and intensity of their media hype. One of the most important ways to measure Soviet good intentions is their action in the area of human rights, and in particular their response to Jewish refuseniks who seek permission to emigrate.

HAPPY BIRTHDAY, JACK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BIAGGI. Mr. Speaker, it is my privilege and pleasure to rise today to express my sincerest birthday wishes to John D. Tracy on the 88th anniversary of his birth. I am proud to say that not only has "Mr. Tracy" served as my district executive assistant for the past 18 years, but has been my friend and confidant since my early days as a police officer with the New York City Police Department.

Jack, who was born and raised in the Bronx, NY, joined the U.S. Army in June 1916 and served with the 105th Field Artillery until April 1919. In October 1921 he began his lifetime of public service as a patrolman with the New York City Police Department and in short time, rose to the rank of detective and then sergeant. A gifted educator, he then spent 16 years as an instructor at the Delehanty Institute of Civil Service. He is credited with having more than 100,000 police officers under his tutelage during his tenure at the institute, many of whom rose through the ranks because of what they learned from this extraordinary individual. One such student was a young man from East Harlem who desperately wanted to be the best police officer he could be; one who years later would represent New York's 19th Congressional District in the Congress of the United States.

From law enforcement, Jack moved onto a position with the city of New York's Parole Commission later serving as Assistant License Commissioner. Commissioner Tracy was then appointed Chief of Police Auxiliaries in New York's Office of Civil Defense where he remained until 1966.

In 1968, after successfully managing the campaign which put his former student in Congress, Jack Tracy joined my staff. During these past 18½ years he has worn many hats; from political advisor to campaign chairman. He is responsible for hundreds of successful cases brought before the Social Security Disability Appeals Board on behalf of my constituents and continues to this day to be a dear friend of law enforcement and veterans groups throughout the city and State.

I have heard people say of Jack, that he has forgotten more than most of us will ever know. At 88 he remains as vital and quick-witted an individual as when I first met him. His stories of days gone by not only entertain, but teach all whom are fortunate to meet Jack Tracy. He is a special breed of man; one who epitomizes the word friend.

It is my honor to wish this gentleman the happiest of birthdays and to take this opportunity to thank him for his years of service, again, both as a trusted member of my staff and my dear friend. Happy birthday, Jack.

A TRIBUTE TO HELEN KOSS AND LUCILLE MAURER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. CARDIN. Mr. Speaker, I rise today to pay tribute to two outstanding leaders in Maryland, Helen Koss and Lucille Maurer, both of whom will be honored on May 20 at a dinner sponsored by past presidents of the League of Women Voters of Montgomery County.

I had the privilege to work with both Delegates Koss and Maurer during my 20 years of public service in State government. Having the benefit of their wisdom, counsel, and friendship was enriching for me and for the State of Maryland.

Before serving as a delegate to the Maryland Constitutional Convention in 1967, Helen served as president of the League of Women Voters, and organization well known for its diligent schooling in practical politics. She was elected to the house of delegates in 1970, during an era when women in the State legislature were a rarity. It was Helen's determination, diligence, and willingness to tackle the tough and less popular issues of constitutional law that soon earned Delegate Koss the respect of her colleagues.

I am very proud that I appointed Helen the first woman to chair a standing committee in the Maryland General Assembly and even prouder of the work she accomplished as chairman of Constitutional and Administrative Law Committee. Her advocacy of civil rights, election reform, and unbelievable tenacity in reforms in ethics and campaign finance legislation left a very proud legacy.

Lucy Maurer came to the general assembly in 1969 after a distinguished 8 years as a member of the Montgomery County Board of Education. I believe that she has had more impact than any other single individual on public education in Maryland during her years of public service.

As a delegate and in her role in the leadership, Lucy demonstrated a statesmanship that helped to carve out consensus on every major education initiative, including the well known "Lee-Maurer" education funding formula. She also left her imprint on national educational issues as chairman of the Education Committee for the National Conference of State Legislatures.

Lucy's leadership went far beyond the areas of education. Most of the important Ways and Means legislation—in transportation, Jobs Partnership, and many other areas, were in part or in whole crafted with the help of Delegate Maurer's tough negotiating skills.

It is indeed fortunate that the State of Maryland has Lucy Maurer holding its purse strings in her present role as treasurer. The Board of Public Works will be enriched by her presence and challenged by her astuteness, thus assuring competent financial management of the State.

It has been my privilege to serve with these two accomplished leaders in Maryland.

ELLIS A. SAFDEYE, A MAN OF VALOR AND VIRTUE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SOLARZ. Mr. Speaker, I rise to pay tribute to a truly extraordinary individual, Mr. Ellis A. Safdeye. Mr. Safdeye has had a distinguished career as a businessman and a philanthropist and his accomplishments in commerce extend from my district in Brooklyn to all corners of the world. He is also one of the most committed and respected leaders of the Syrian Jewish community in the United States. And Ellis is a close personal friend, whose wisdom and judgment have guided me throughout my career in Congress.

Mr. Speaker, there is perhaps no more imperiled community in the world than the Jews of Syria. The handful of Jews still living under that hostile regime are burdened with intolerable oppression in their daily lives and face seemingly insurmountable barriers which prevent them from emigrating. Ellis Safdeye has led the fight for his brethren in Syria. Ten years ago, Ellis and I helped bring 12 young Syrian Jewish women to the United States so they could fulfill the sanctity of marriage. I consider that achievement one of my proudest moments in Congress. It would not have been possible without the remarkable talents of Ellis Safdeye.

Ellis has worked tirelessly to preserve Syrian Jewish culture in the United States. Many of the most important Sephardic Jewish institutions in Brooklyn bear the mark of his 40 years of dedication and love. Ellis worked hand in hand with the eminent rabbinic leader Rabbi Yosef Harari Raful in the development of Yeshivat Ateret Torah. He has also provided years of leadership at Shaarei Zion, the country's largest Syrian Jewish congregation and is a past president of another of Brooklyn's remarkable places of learning, Yeshiva Magen David.

Mr. Speaker, one of Ellis Safdeye's many gifts is his ability to bring together people of differing backgrounds and opinions. Although Ellis is one of this country's most eloquent advocates for the Sephardic community, he is passionately dedicated to the Orthodox Jewish community as a whole. Recognizing Ellis' unique contributions to Jewish life, the Agudath Israel of America—the largest grassroots orthodox organization in this country—will present him with the prestigious HaGaon Rav Aharon Kotler Memorial Award on May 24.

Named for one of the giants of Eastern European Jewish culture, this award could have no more worthy recipient than Ellis Safdeye. In choosing its honoree, the Agudath Israel is offering a remarkable display of unity in the orthodox community. That this organization—founded by Ashkenazim—has decided to pay tribute to a pillar of Syrian Jewry, is a clear indication that the American orthodox community is on its way to becoming a harmonious partnership between Ashkenazim and Sephardim. Few individuals represent the spirit of this coalition better than Ellis Safdeye.

I'm sure that my colleagues in the House will join me in wishing Ellis Safdeye a hearty "Mazel Tov" for receiving the Agudath Israel's distinguished award. I am looking forward to many, many more years of friendship with Ellis and to working with him on the issues of importance to our neighborhood, our Nation, and the diaspora.

A TRIBUTE DR. ERNST KATZ

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly outstanding individual, Dr. Ernst Katz. I ask my colleagues to join me in honoring this esteemed member of my community who for 50 years has served as conductor of the Junior Philharmonic Orchestra of California. Dr. Katz will be honored on May 27 at a Golden Jubilee Gala for the "oldest young peoples' orchestra in the West."

Dr. Katz' motto, "Give youth a chance to be heard" aptly describes the history of the Junior Philharmonic. Since 1937, the orchestra has served aspiring young musicians and provided musical entertainment for southern California. Through hundreds of performances, the Junior Philharmonic has brought the talent of its young musicians to the ears of the public. The orchestra has not only made a substantial contribution to the world of music but has also raised millions of dollars for charity through benefit concerts.

From the beginning, Dr. Katz has been committed to the dreams and aspirations of young people. By lending his musical expertise and direction, Dr. Katz has given his students the encouragement and confidence to succeed in music as well as in other areas. Many alumni of the philharmonic have gone on to become members of symphonies throughout the world, while others have built careers in such fields as business, law, and medicine. All have benefited from the unique experience of working with Dr. Katz and the philharmonic.

Dr. Katz is an inspiration to all of us. I salute him both for his rich contribution to music and his dedication to the youth of our society.

A TRIBUTE TO SHARYN KLINE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. PRICE of Illinois. Mr. Speaker, it is with great pleasure and admiration that I honor a constituent of mine from the 21st District of Illinois, who was one of five U.S. Postal Service employees to be nominated nationwide for the Handicapped Postal Employee of the Year.

Sharyn Kline of Hamel, IL, was on her way to work at the Dorsey, IL, Post Office in January 1983, when she was involved in an auto accident that left her paralyzed from the waist down. After spending 6 months in the hospital and undergoing rehabilitation—all with the love and support of her family—Mrs. Kline returned to work at the Edwardsville, IL, Post Office in January 1985. Today, she drives herself to work, where her outstanding job performance and personal achievements have made her an asset to the U.S. Postal Service.

Her dedication and energy have touched not only her coworkers, but also the community in which she lives, where she is an active member of her church and heads the local chapter of the Spinal Cord Society. Despite her handicap, Mrs. Kline's diligence and spirit have been an inspiration to all who know her. In an effort to share with my colleagues a glimpse of this exceptional woman, I am submitting for the RECORD a recent biography of Sharyn Kline.

U.S. POST OFFICE, EDWARDSVILLE, IL,
JANUARY 27, 1987

It was cold that morning; clear, but very cold. 1983, January 6, 7:45 a.m., It was the kind of morning the TV and radio people warn you to beware of the frost and ice on bridges and overpasses. It was the kind of morning that can change the 'good' life—the simple, routine, take-good-health-for-granted kind of life—into disaster, into a challenge which few of us ever need tc face.

Sharyn K. Kline had it all going for her. A beautiful family and home, a bachelor of science degree in education, an excellent job, active in the church, a good, intelligent mind, physically attractive and well liked by everyone. Since first beginning her career in the U.S. Postal Service, her goal was to become a Postmaster. Finally, after much hard work, perseverance, training both on-the-job and off, continued self-improvement toward a worthy goal, finally, she was given her first big opportunity. On Dec. 31, 1982, she was detailed from the Edwardsville, IL Post Office as OIC in the Dorsey, IL Post Office. It was an ecstatic time for her and all those who knew her.

Six mornings later tragedy slipped into the life of Sharyn Kline on her way to her still-new assignment, just like the patch of frosted ice created a monster on Route 159. The Mustang sliced off the highway, hit an embankment, rolled over several times. The body of Sharyn Kline landed 60 feet from the vehicle. Twelve broken ribs, broken back and severed spinal cord, paralysis, injuries to stomach and lungs, on spinal cord innervation for bowl and bladder, paraplegia. Bilateral chest tube insertion. Exploratory laparotomy. Artificial ventilation. Tracheostomy. Surgery to stabilize spine. "Employee will probably never be able to resume work." "Mrs. Kline will be confined to a wheelchair for the rest of her life."

Disability and retirement forms were sent to her for signature. And they were returned unsigned. She wasn't through yet!

Sharyn Kline left the hospital in July 1983, although her therapy was a continuing process. In April 1984, she received her specially adapted van with hand controls and remote controlled lift. And she returned to work for the Postal Service in July 1985. She drove herself. She entered and left the building herself. She did the assigned duties herself. Sharyn Kline had returned to work. And by doing so, she made less money than if she had stayed home.

In the beginning it was 4 hours a day, 5 days a week, working for the MSC, getting up serveral hours before her scheduled reporting time. Then, 6 hours a day. Since September 1986, she has been assigned to the Edwardsville Post Office as a PTF clerk, working 30 hours per week, always prompt and regular in attendance, one of Edwardsville's most reliable employees, always courteous and dedicated, always maintaining the same agreeable, positive manner to customers and coworkers alike, always maintaining the high level of consistent productivity that originally earned her an OIC assignment 4 years earlier. To state that Sharyn Kline adjusts well to changing conditions, even under adverse circumstances, would be the most gross of understatements. This lady—and she has always been that—is a very important part of the Edwardsville Post Office and is an essential member of the team.

What else does Sharyn Kline do? Besides making the newspaper or having her name mentioned on KMOX-radio in St. Louis in advertisement of her Spinal Cord Society causes? She is chairman of the Pastoral Relations Committee of the First Baptist Church in Edwardsville and a member of the National Spinal Cord Society, and has attended several of their conventions. In February 1986 she organized our local chapter of the Spinal Cord Society, dedicated to the cure of spinal cord injuries and serving as a support group for those afflicted with such a handicap.

Through Sharyn Kline's leadership as head of the local chapter, they raised $10,000 last year, via raffles, craft sales, bake sales, cook books, rummage sales, coin cans and appeal letters for contributions from large companies. An excellent example of her hard work and dedication was just last month. She organized a sales campaign for poinsetta plants during the holidays. She had 1,000 plants delivered to her home from Louisville, KY. "I had poinsettas everywhere," Sharyn said, "even in the bathtub." All were sold, and either picked up by the purchasers or delivered by Sharyn.

What else does Sharyn Kline do? What does any of us do? She shops. She keeps house. She cooks. She drives. She goes to work. She does cross stitch. She piddles with plants—other than poinsettas. She attends church. She visits shows and social events connected with crafts and art. She epitomizes a quiet courage and initiative. She inspires us all.

And what doesn't she do? She doesn't complain and she doesn't quit!

The only change to her previous goal of becoming a Postmaster is to now become a walking Postmaster. And no one should bet against her. Sharyn K. Kline isn't through yet.

SANTA BARBARA COUNTY WINES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues the impressive recent growth of a new industry in Santa Barbara County, CA, winemaking.

There are approximately 11,000 acres of grapes planted in Santa Barbara County. Vineyard size ranges from less than 1 acre to several thousand acres. The major grape varieties planted are: Chardonnay, Sauvignon Blanc, Pinot Noir, Cabernet Sauvignon and Riesling. Also planted are small lots of Merlot, Gewurztraminer and Chenin Blanc. Santa Barbara County has been enjoying increased national and international recognition for the quality of its vines, as evidenced by the many medal winners.

The rapid growth of the wineries and the popularity of Santa Barbara County wines have brought local winemakers together in 1983 as a united voice by forming the Santa Barbara County Vintners' Association to promote the wines and wineries of Santa Barbara County. Its members include Au Bon Climat, Austin Cellars, Babcock Vineyards, Ballard Canyon Winery, The Brander Vineyard, Byron Vineyard & Winery, J. Carey Cellars, Carrari Vineyards, Copenhagen Cellars/Stearns Wharf, The Firestone Vineyard, The Gainey Vineyard, Houtz Vineyards, Longoria Wine Cellars, Qupe Wine Cellars, Rancho Sisquoc, Sanford Winery, Sanford & Benedict Vineyards, Santa Barbara Winery, Santa Ynez Valley Winery, Tepusquet Vineyards, Vega Vineyards Winery and Zaca Mesa Winery. The association sponsors two vintners' festivals—one in April and the other in October.

Mr. Speaker, I congratulate the Santa Barbara County Vintners' Association on its impressive growth and development.

IN MEMORIAM: JAMES C. LIGHTFOOT, LAWYER AND SOLDIER

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. FAUNTROY. Mr. Speaker, I want to bring to the attention of my colleagues the distinguished career of a native of Washington, DC, who lived much of his life in Philadelphia—but who we still call our own.

James C. Lightfoot died April 12, 1987, after a lifetime of achievements. Born in Washington, DC, the son of a Howard University professor, he earned his degree there. After the war, he studied at Harvard University and graduated from Harvard Law School in 1949. He became a partner in the center city of Philadelphia law firm—Moore, Lightfoot, and Edley. A few years later, he was recruited by Richardson Dilworth and lured to Philadelphia's city hall. He served as an assistant city solicitor, specializing in workmen's compensation and civil service cases working under David Berger.

In 1964 he became an assistant U.S. attorney, appointed to serve under Drew O'Keefe by then-Attorney General Robert Kennedy. He served in that post until 1968, when he was appointed administrative law judge in charge of hearings and appeals for the Social Security Administration. He was the first black named to such a post in Philadelphia. He served with distinction in that post until illness forced his retirement in 1980.

It was as a captain in Gen. George S. Patton's famous 4th Army that he served as one of the first black officers of the Army's first all-black armored unit. Committed to combat in the wake of the invasion of France, he and his unit—the 761st Tank Battalion—were always near the center of action, often functioning as one of the spearheads for General Patton's fast-moving 4th Army.

Captain Lightfoot and the 750-man battalion landed in France 5 months after the June 6, 1944, Allied invasion of Normandy. From then until the end of the war in 1945, the 761st fought in major battles across France, Belgium, Luxembourg, Germany, and Austria. In its first 183 days of combat, it liberated 30 towns and 4 airports. As part of the massive force hurled by Patton into the Battle of the Bulge in late December 1944, the 761st acquitted itself with honor. Captain Lightfoot won the Purple Heart there.

Our heartfelt sympathy is extended to his wife, Audrey, and his brother and sister.

We are thankful for the illustrious life of Jim Lightfoot.

STUDENT LOAN DEFAULTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. FORD of Michigan. Mr. Speaker, the subject of student loan defaults is unfortunately cluttered with a great deal of misinformation and confusion. The most important fact is that in the largest student loan program, the Guaranteed Student Loan Program, the default rate is less than 10 percent. In other words, over 90 percent of the student borrowers are paying back on time. Numerous legislative and administrative changes in the student loan programs in recent years have led to substantial improvements in the default rates in the student loan programs. However, it is important to realize that there will always be defaults in these programs. To aim for zero defaults is a mistake because it would necessitate such a high level of selectivity in student borrowers that the purpose of the programs would be vitiated. If we want broad access to student loans for students from all kinds of families, from low income backgrounds and from all types of schools, we must accept a reasonable percentage of defaults. This is not to say that we should not try to reduce defaults whenever we can. It is to indicate, however, that we should not pursue the chimera of zero defaults at the price of student access to loans and to educational opportunities. A very sensible article on this subject was written by Mr. Joe L. McCormick, the executive director of the Texas Guaranteed Student Loan Corp. This article appeared in the winter 1987 issue of the Journal of Student Financial Aid and I would like to share it with my colleagues.

THE DEFAULT RATE FACTOR: WHO IS REALLY AT FAULT?

(By Joe L. McCormick)

In August 1985, Secretary of Education William Bennett issued a sharply worded warning about defaults in federally sponsored student loan programs (Reinhard, "ED Predicts" 1985). More recently, Deputy Under Secretary of Education Bruce Carnes decreed that "any default rate is intolerable." Projecting what he called an "alarming" five year increase in the rate and the dollar value of student loan defaults, Secretary Bennett sounded the alarm of the staggering financial implications for taxpayers and future borrowers if federal expenses for bad educational debts continue to rise. Once again, a new Secretary of Education has discovered student loan defaults as if no one before him had any idea that they were indeed a serious issue.

To the extent Secretary Bennett's remarks reflect genuine concern over a very serious problem in federal student financial aid policy, colleagues in the student loan industry welcome his concern and efforts to effectively control loan defaults. But to the extent his remarks and the policies of his department will (1) impose more rigorous and costly student loan origination and collection practices on commercial lenders, loan servicers, secondary markets, and guarantee agencies, (2) compel lenders and guarantee agencies to share an increasingly unreasonable percentage of the student loan default costs now covered by the federal government, and (3) unnecessarily deny future access to student loans in the name of default prevention, this writer must sound his own alarm and take great exception to the use of student loan defaults as the 'whipping boy' of federal student financial aid.

Secretary Bennett is by no means alone in his concern for effective resolution of student loan defaults. Consider the following recent events:

His 1985 statement was made in the midst of a host of "default prevention" proposals in Congress, some of which have already been enacted into law as part of this past year's Higher Education Amendments of 1986 (*Congressional Record* 1986).

By the end of FY 1985, the cumulative amount of matured student loans in the Guaranteed Student Loan (GSL) Program had surpassed $36.6 billion dollars, with almost 70% of this growth having occurred since 1980.

In 1984, the Congress passed legislation directing the Internal Revenue Service, for the first time in its 70 year history, to collect defaulted student loans and other amounts owed the federal government by offsetting the tax returns of delinquent borrowers (Reinhard, "Tax Refund Withholding" 1985).

A recent survey by the National Council of Higher Education Loan Programs reported that "the reduction of student loan default rates" was the single most important concern of state guarantee agencies (National Council of Higher Education Loan Programs 1986).

Both commercial lenders and participating schools have become increasingly aware and concerned about the impact of student loan defaults on their continued involvement in the GSL program.

In summary, student loan defaults have been and are currently a serious national concern on the part of all the participants in the GSL program. It is recognized by policy maker and practitioner alike as more of a threat to the quality and integrity of our federal student aid programs than any other single issue.

Clearly, student loan defaults are a problem. They are also a fact of life in any social program that lends money to young people with no credit history, no collateral, no co-signer, and no assurance of success in their educational pursuits. There has probably never been a more critical time in the history of student loans for us to reexamine, reevaluate, and rethink what we do and why we do it in the administration of student loans. Every facet of the student loan process should be reviewed with the thought in mind: "Is what we do and why we do it Part of the Problem or Part of the Solution?" Pogo said it best: "we have met the enemy and he is us!"

WHO DEFAULTS?

When the question "Who Defaults" is initially asked, one would think as long as the student loan programs have been in existence we could answer with overwhelming empirical data. Unfortunately, there is more myth than material, more feeling than fact, and the research is hardly extensive. Some attempts have been made. What these studies have brought to light are a limited number of generally accepted facts about the defaulted borrower:

Defaulters tend to have relatively small loan balances: Davis (1985) found that the average loan balance of defaulters tended to be between $2500 and $2700. Lee (1982) found that "cumulative loan size does not appear to be closely related to the probability of default. As the cumulative loan size increases, so does the number of years in school. The future income and/or propensity to repay loans may increase with more years of education."

First year students are the most likely defaulters: A study by the New York State Higher Education Services Corporation (1984) found "a strong inverse relationship between default and . . . years spent in school. Borrowers who last borrowed as freshmen had the highest default rate, 14.2%. The default rate dropped steadily as class level rose, with seniors and graduate students having the lowest level of defaults, 2.6%." Similarly, Davis found that 54% of Pennsylvania defaulters were first-year students. This result should come as no surprise, since first year students are more likely to drop out before completing their education or training programs. The premature termination of studies often indicates dissatisfaction with such programs and frequently correlates with low earnings and/or unemployment after leaving school.

Defaulters tend to come from the ranks of younger students: Davis correlated the high incidence of default among first-year students, in part, to the relative youth of such borrowers. Younger students are often less mature, less worldly, and therefore less likely to exercise appropriate judgment when making educational and credit decisions.

Defaulters are more frequently low income borrowers: Ehlenfeldt and Springfield (1984), in a study of approximately 4,000 Virginia defaulters, found that over 77 percent were from families that, at the time their loans were originated, had total incomes of $20,000 or less. Those from families with incomes of $20,001 to $40,000 comprised approximately 20 percent of the state's defaulters, while students from families with incomes above $40,000 accounted for less than 3 percent of those who had failed to repay their educational debts. Low income students tend to be educationally, socially, and economically disadvantaged, so they are less likely to succeed in school. Upon leaving school, they are more likely to experience unemployment and/or low wages. Also, low income students are less likely to come from households in which credit experience is the norm.

Defaulters are more likely to have attended trade and technical schools and community colleges than universities and graduate schools: Lee (1984) reported a gross national default rate of 18.61 percent for two-year public colleges, 17.54 percent for proprietary institutions, and 10.28 percent for public four-year colleges. New York found that "people who last borrowed for attendance at vocational schools had a proportion of defaulters (17.2%) two times as great as borrowers who had attended two-year schools (8.6%). At four year colleges and graduate schools, the percentages of delinquent defaulters dropped lower still, to 4.8% and 2.7%." However, default rates among different school types may be less a function of such schools' policies and practices as a result of the characteristics (socioeconomic status, unemployment and/or income level after graduation, etc.) of borrowers who attend various institutions. Boyd and Martin (1985), for example, found the highest levels of unemployment among former GSL borrowers to be within the ranks of former proprietary school students, while the lowest unemployment levels came from students with postgraduate degrees. As Boyd and Martin concluded, "Evidently, higher degrees not only mean higher incomes but more regular forms of employment as well."

We also learned what came as no surprise to anyone . . . High risk students (low income, minority, low achievers) are more likely to default on a student loan than the traditional middle income, white, highly motivated student! This is no less true today than when the GSL Program was established in 1965. But at least in 1965 we had, as a nation, determined, and most appropriately so, *that such students were worth the risk!*

These were the very students that federal financial assistance was designed to rescue, to aid. When President Lyndon B. Johnson signed the Higher Education Act in 1965, he spoke of what it meant to the nation, its people, and its future. Because of all that went into the HEA, particularly the student aid provisions, he said "any high school senior in this great land of ours can apply to any college or university in any of the fifty states and not be turned away because his family is poor" (Johnson 1965). Students from "large families and poor families," he said, would be able to learn how to be "mechanics and welders and operators of heavy machinery, and they will have jobs that are more enduring and more profitable than some . . . who go out to lead in our classrooms."

We must face our dilemma forcefully, honestly, and pragmatically. Defaults can be prevented, loans can be paid back in full, but we must first recognize an old ancient proverb: if you make enough loans to enough people over a long enough period of time, there will be some Defaults!!

WHO IS THE FAULT IN "DEFAULTS"?

In the thirty year history of the federal student loan programs, there has been a tremendous amount of debate over this question. From a purely legal and moral perspective, the student borrower is at "Fault". He or she borrowed the money and promised to pay it back, regardless of what the future might our might not hold for him/her.

From a policy perspective, there is the "Fault" of the federal government for not providing the necessary program administration, incentives, and funds to effectively control student loan defaults. There has also grown to be an unmistakable "imbalance" of loan vs. gift aid available to needy students. This has occurred during the past five years due to a real dollar decline in the funding of Pell and other federal grant programs (Gillespie and Quincy 1984). In order to not deny access to needy students, schools have had to rely increasingly on loans, not grants, to meet students' financial needs. The total amount of debt burden a student can reasonably be expected to carry is becoming more and more a major concern (Hansen 1987).

Lenders, schools, and guarantee agencies are all at "Fault" for aggressively promoting the student loan program to encourage more borrowing in order to maximize yield, increase enrollments, and increase loan access. Now that we have entered a new era of balanced budgets, fiscal constraints, and more restricted growth in federal student aid programs, we are again hearing such phrases as "limited access," "credit worthiness," and the "raising of standards." New economic realities simply do not allow massive federal investments in the future of all its citizens. Former Secretary of Health, Education, and Welfare John Gardner once stated: "the society which exalts philosophy because philosophy is an exalted profession and scorns plumbing because plumbing is a humble profession will someday find that neither its philosophies nor its toilets will hold water."

The time has come to admit the obvious: we are all at "Fault" for defaults and in a real sense no one is at "Fault." There are and there will be defaults in any student loan program that serves needy students. The challenge for us is to continue to improve what we are now doing to more effectively control the defaults that we now have and will have in the future. If we truly believe in providing educational opportunity for all those we serve, then we must resist efforts to close the "front" door of educational opportunity in misguided efforts to close the "back" door of defaults. It is high time we took the "fault" out of "defaults" and put in its place a strong commitment to the future of the young people we serve . . . a strong commitment to improving the student loan programs we administer in order to preserve, not limit access to postsecondary educational opportunity.

SOME POSSIBLE NEW PERSPECTIVES

If we can accept that fact that there are defaults without condemning the loan program and "throwing the baby out with the bath water," then we can more effectively address the question of solutions. As unpopular and politically unwise as it may appear on the surface, we must look at the question of acceptable tolerances in the default rate. Contrary to what others may think, there are acceptable tolerances for default rates in the GSL program. It is important for us to develop realistic definitions and to educate Congress and the American public as to what is acceptable.

What levels of student loan default should Americans expect to bear? Why not 15 percent? While this may seem abnormally high, it still means that 85 percent of all dollars borrowed by students are being repaid—not a bad success rate for a program that lends money to young people who are without credit histories, lacking in collateral, unassisted by cosigners, and lack the assurance of success in their educational pursuits.

Another possible solution, no more popular than the first, is to provide substantial increases in grant funding for high risk needy students. Ideally, student loans should be the last thing awarded the student in his financial aid package after his eligibility for scholarships, grants, and work programs has been exhausted. No other solutions would do more to curb potential defaults than dramatic increases in grant aid. In the long run it is probably cheaper for society to provide grant aid to young and needy students than to pay their tab for defaulted loans. We must renew our efforts to seek and secure well balanced student financial aid programs at both the federal and state levels. Let's spend a little less on our military and technological hardware and a little more on the human resources that will one day be needed to manage that hardware. Political realities must be overcome and new priorities won in the never ending battle of the budget.

Finally, there is a solution that is somewhat independent of the Congress and the Department of Education. It is this solution that may ultimately determine the future of student loans in this country. Simply stated, this solution calls on all sectors of the student loan industry—schools, lenders, secondary markets, and guarantors—to take bold, new initiatives (not yet identified and/or agreed to) in establishing a better understanding of student loan defaults and in working together to more effectively prevent and control them.

A first step in this effort should most definitely be the sponsorship of an extensive national research effort to document the multifaceted nature of the student loan default problem in this country. What we now know about defaults is simply not enough. Who really is the defaulted borrower? What were the most significant factors surrounding his default? What other socioeconomic indicators were related to the actual default? In addition, loan servicing and collection practices should be studied as well as the various activities of schools and lenders.

The answers may not be pleasant. Some of us will no doubt find their policy implications threatening to the way we currently do business. But we must do the research, analyze the data, and replace the myth with methodology that works.

Next we must expand and embrace self-regulation. If student loan defaults threaten the entire student loan industry, then we must exercise the appropriate accountability to all the publics we serve: students, taxpayers, policymakers, etc. Schools, lenders, and guarantors who experience serious default problems must take the necessary steps to effectively "clean house." Concerned associations like the National Association of Trade and Technical Schools, the National Council of Higher Education Loan Programs, the National Association of Student Financial Aid Administrators, and the Consumer Bankers Association must encourage reasonable, but firm, expediation of program administration on the part of their members. Peer pressure can be an effective tool in combating defaults, especially when it is one of the few remaining alternatives to sweep in government regulation.

Finally, we can improve what we are already doing. Schools, lenders, and guarantors should reexamine their current policies and procedures in light of changes which could help prevent defaults in the future. Improved student consumer information is just one example of a possible area of needed improvement. In addition, schools must become more concerned about outcomes: the success of the student at the end of the program of education or training. It is not enough for the student to have the ability to benefit from the education, he must also have a reasonable chance to succeed in the pursuit of his educational goals. Support services such as tutoring and counseling programs must be available if the "high risk" student is to have any reasonable chance to succeed.

In closing, it should be pointed out that short-term solutions to a long-range problem simply will not effectively address the question of student loan defaults. We cannot afford, no matter how politically tempting, to quick-fix, budget-cutting solutions that continue to plague the GSL program. It is imperative that we address the issue of defaults openly, candidly, and in the context of what will most effectively solve the default problem and assure access to student loans in the future. This is what we must all truly be about. We have made a promise to the young people of this great nation. Their future and the future of our society demands that we keep it.

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PALLOTTI STUDENTS HONORED BY AMERICAN TRIAL LAWYERS ASSOCIATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. HOYER. Mr. Speaker, late last year, a tragic accident claimed the lives of two young students from St. Vincent Pallotti High School in Laurel, MD. A third was seriously injured.

Three young women, longtime friends, were returning home from school. Their small automobile was stuck in traffic on a hill. The brakes on a dump truck stopped ahead of the automobile failed to hold. This was a dump truck loaded with hot asphalt. While registered in the Commonwealth of Virginia, the dump truck had not been inspected for 3 years. In addition, a District of Columbia man with an expired operator's license was driving the truck.

Seriously defective brakes failed to hold the dump truck. As the dump truck rolled backward, it gathered speed, and slammed into the automobile killing Jeannine Everhart and Gloria Graham and injuring Lisa Beavers.

This tremendous tragedy could not have failed to have a dramatic impact on the families, friends, and classmates of these young women. All too often, such needless tragedy leads to much bemoaning of a terrible and unfair fate and much hand wringing.

However, the students at Pallotti High School were not content to weep and to mourn. Instead, these young men and women found a constructive and positive way to vent their frustration, hurt, and grief. They translated their anger and outrage into action.

Guided by Betta Borrelli, an American government teacher at Pallotti High School, the students explored and researched issues associated with truck safety. These students resolved to do their best to prevent further needless tragedies. After careful research, and after bombarding their State legislators with letters, more than 100 Pallotti students attended committee hearings in Annapolis to demonstrate support for a mandatory State inspection program to replace a random system of safety checks. The Pallotti students met with their State legislators and they provided dramatic and moving testimony. At all times, they acted in the most exemplary fashion, and displayed the highest professionalism.

The Maryland House of Delegates and the Maryland State Senate concluded their 1987 legislative sessions without enacting the changes sought by the Pallotti students. Nonetheless, I hope that their hard work, their selflessness, and their dedication to the memories of their classmates will eventually pay dividends.

As part of a seminar on "The Profoundly Injured Child," the American Trial Lawyers Association honored the efforts of Mrs. Borrelli and her students. On April 10, 1987, the ATLA paid tribute to them. While five students—Natalie Burke, Brett Endres, Gene Harrington, Katie Kelly, and Stacey Williams—watched from the audience, Lisa Beavers and Kathleen McGinn accepted the ATLA's Victim Service Award for 1987. The president of the ATLA, Robert L. Habush, noted the students were being honored "for their oustanding efforts and hard work to try and bring about positive change in the face of devastating tragedy."

A terrible and needless accident has destroyed two young lives and damaged another. In the face of this tragedy, the other students at Pallotti acted responsibly and constructively. Their spirit, commitment, and dedication are obvious in their efforts at providing a lasting and beneficial memorial for Jeannine and Gloria.

Mr. Speaker, I am sure that all my colleagues in the U.S. House of Representatives join with me and the residents of the Fifth Congressional District of Maryland and the people of the State of Maryland in saluting the exceptional young men and women of Pallotti High School. While the Pallotti students were unable to achieve their legislative goals this year in the Maryland General Assembly, their working and lobbying for effective truck safety legislation provides a magnificent example of the caliber of the young people at the school. These students have brought credit to themselves, their parents, and the faculty at Pallotti High School.

TIME FOR FEDERAL ACTION TO PREVENT YOUTH SUICIDE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LANTOS. Mr. Speaker, last week the Subcommittee on Elementary, Secondary, and Vocational Education held hearings on legislation which has been introduced by our distinguished colleague from New York, Mr. ACKERMAN, and myself.

The Federal Government can do more than it is doing at present to prevent youth suicide. Our legislation—which was adopted by the House of Representatives last year and which we have reintroduced in this session of the Congress—would provide modest Federal funds for youth suicide prevention programs.

Mr. Speaker, 6,000 young people will take their own lives each year. There can be no question that action is urgently needed. I urge my colleagues in the Congress to give serious attention to this critical issue.

STATEMENT OF THE HONORABLE TOM LANTOS, MEMBER OF CONGRESS FROM CALIFORNIA, BEFORE THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

Mr. Chairman, thank you for giving me this opportunity to testify before you on the growing national nightmare of youth suicide. This year alone, over 6,000 young people will take their own lives. Many more try. Suicide is the fastest-growing cause of death among our young people. We are looking at a national tragedy—a national tragedy that demands a national response.

We cannot wait any longer before developing a federal strategy to counter this crisis. In 1950, the suicide rate for the 15 to 24 age-group was 4.9 per 100,000. By 1965 that had risen to 8.1, and the latest figure we have for 1983 is a staggering 11.7.

Evidence of this alarming trend appears daily. In recent months, four New Jersey teenagers concluded a suicide pact and killed themselves with carbon monoxide fumes from the exhaust of their car. Two days later, two Chicago girls used the same method to take their own lives.

In the last few years a number of these "cluster" suicides have drawn national attention: over a 3-day period in 1986, three Omaha high school students killed themselves; during a six month period in Houston 29 people under th eage of 20 committed suicide. These are some of the stories we hear about on the network news. There are many more which we do not hear about.

Our legislation—H.R. 457—is a critical first step in establishing a nationwide response. Our bill provides for a series of modest grants for desperately needed suicide prevention programs. It would permit training of personnel in community-based and private organizations, and would provide for the development and implementation of youth suicide-prevention programs and pilot projects.

This funding would not be used for research, but would build upon research and experience in preventing youth suicide. In my congressional district, the San Mateo County (California) Suicide Prevention and Crisis Center under the able leadership of Charlotte Ross is one outstanding institution which has a successful record of helping to prevent youth suicides. Our legislation would encourage the expansion of such programs and their establishment elsewhere.

There is no doubt, Mr. Chairman, that it is time for the federal government to step in and help stop the carnage. We have the resources and the facilities—we must use them. Otherwise our young people, just embarking on lives full of promise, will continue to take their own lives.

DEATH PENALTY FOR COP KILLERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BIAGGI. Mr. Speaker, last week I introduced a bill, H.R. 2392, to withhold Federal criminal justice assistance from those States that fail to adopt a death penalty statute for persons convicted of willfully killing a law enforcement officer.

Appropriately, this legislation was introduced during National Police Week, May 10-16, and just prior to our Nation's annual observance of Peace Officer's Memorial Day, May 15, a time when we pause to honor those law enforcement officers who died in the line of duty. This includes the 130 law enforcement officers who died in the line of duty during 1986, more than half—67—of them due to criminal assault according to the FBI.

Simply put, it is outrageous to me, the law enforcement community, and the survivors of slain law enforcement officers to know that only one out of every four convicted cop killers gets the death penalty, and about half of all cop killers are sentenced to life in prison, which carries with it an average of less than 6 years of actual time served in prison.

These facts have been compiled by the U.S. Bureau of Justice Statistics. They found that from 1974-83, 1,132 police officers were killed in the line of duty. There were 1,162 persons arrested and charged with those murders, and 817 were ultimately convicted—70 percent conviction rate. Of those convicted, the following sentences were handed down:

SENTENCING OF COP KILLERS (1974-83)

Year	Death sentence	Life sentence	Other sentence
1974	22	33	40
1975	14	71	25
1976	14	45	26
1977	10	33	21
1978	15	48	15
1979	21	48	17
1980	58	15	26
1981	24	24	36
1982	8	46	14
1983	14	33	17
Total	200 (24.4%)	396 (48.5%)	[1]201 (24.6%)

[1] 20 died in custody.

This is a national disgrace. We ask our Nation's police officers to risk their lives every day on the job, and then we let their murderers walk the streets after a 6-year jail term. This must not be allowed to continue.

Currently, 13 States and the District of Columbia have no death penalty statute for killing a police officer. Those States include Alaska, Vermont, Hawaii, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, West Virginia, and Wisconsin. Another four States—Connecticut, New Hampshire, New Mexico, and South Dakota—have a death penalty statute, but have not imposed it.

Under H.R. 2392, these States would have 3 years to adopt a death penalty statute for willfully killing a law enforcement officer, or theey would lose their share of Federal criminal justice assistance. For fiscal year 1987, States are receiving a total of approximately $350 million in Federal criminal justice assistance.

Let me emphasize that the purpose of my bill is not to deny States vital criminal justice assistance; it is to bolster our overall crime prevention effort by better protecting our front line of defense against crime—the police officer. Just as the threat of lost Federal highway assistance was successful in convincing States to raise their drinking age to 21, I am confident the threat of lost Federal criminal justice assistance will convince States to adopt a death penalty statute for cop killers. A death penalty for the murderers of police officers is not only just punishment, it is an effective deterrent to others. I strongly urge that this measure receive the favorable consideration that it deserves.

Mr. Speaker, at this time I wish to insert the full text of H.R. 2392:

H.R. 2392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, no appropriate funds shall be made available to a State for crime prevention, control, or reduction, if such State does not have in effect a provision of law imposing the death penalty for willfully killing a law enforcement officer in the course of or because of the official duties of such law enforcement officer.

SEC. 2. As used in this Act, the term—

(1) "law enforcement officer" means an officer or employee of the United States or of a State who has authority under applicable law to enforce the criminal laws of the United States or a State; and

(2) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC. 3. This Act shall apply with respect to fiscal years beginning with the third fiscal year after the fiscal year in which this Act is enacted.

A TRIBUTE TO MR. DONALD W. McGOWAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. Donald W. McGowan, a prominent resident of my 17th Congressional District. Recently, the board of directors of the Youngstown State University Alumni Association selected Mr. McGowan as the 1987 recipient of its Distinguished Citizen Award. This honor is in recognition of Mr. McGowan's many important contributions to the various business and civic institutions of the Youngstown area, as well as his efforts in strengthening the ties between Youngstown State University and the business community.

A native of Youngstown, Mr. McGowan began his advanced training at the Youngstown College in 1944. Shortly thereafter, he joined the staff of The Dollar Savings and Trust Co. in 1946 as a teller and has been with the bank ever since. During this employment, Mr. McGowan furthered his expertise by receiving a degree from the University of Wisconsin School of Banking in 1953. The wealth of accumulated knowledge from his education, as well as his competent performance as an employee, came to fruition when he became bank president in 1977. In addition to his many responsibilities as president, Mr. McGowan became chairman of the board in 1985, a position he currently holds.

The list of Mr. McGowan's professional accomplishments is notable, as is his active commitment to the many important civic and community organizations in the Youngstown area. In 1982, Mr. McGowan was a key actor in the forming of the Ohio Bancorp, the Youngstown area's first bank holding company of which he is president and chairman of the board. Currently, Mr. McGowan serves as trustee to several of the district's organizations, including Stambaugh Auditorium, the Buckeye Youth Foundation, the Community Improvement Corp., and the Mahoning Valley Economic Development Corp. In addition, Mr. McGowan has served as chairman of the board of the Youngstown Area Chamber of Commerce in 1984 and 1985. His great concern and support for important community services is evident as he presided over the fundraising efforts of the United Way in Youngstown during the 1980–81 campaign year. In support of the development of Youngstown State University, Mr. McGowan was actively involved with the procurement of funds for the university's new sports complex.

In appreciation of his many efforts, McGowan has been bestowed with several honors. In 1984, he was named "Man of the Year" by the Mahoning Valley Economic Development Corp. In 1985, McGowan was named "King of the Realm" by the Oldtimers Baseball Association for his efforts on behalf of local athletic activities. On June 19, 1987, Mr. McGowan will receive the Youngstown State University Alumni Association's Distinguished Citizen Award during a dinner event on the YSU campus.

On behalf of the residents of the Mahoning Valley, I would like to commend Donald W. McGowan on an outstanding career and for his exemplary involvement in the service of his community. The Mahoning Valley is fortunate to have been the beneficiary of the remarkable energy and commitment that befit the admirable character of Donald McGowan. It is with pleasure that I join the people of the 17th Congressional District in honoring a truly distinguished citizen.

NORTH CANTON QUARTET MARKS 60TH ANNIVERSARY OF RECORDING

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. JENKINS. Mr. Speaker, today I would like to make a note in history of the anniversary of an art form indigenous to the Southeastern United States, specifically in reference to my district of North Georgia.

This year marks the 60th anniversary of the Columbia Phonograph, now Columbia Broadcasting System, recording of gospel music in the South. The talent scouts sent looking for the music of the people chose the North Canton Quartet and pianist in 1927 to cut a recording in an Atlanta studio. R.J. Chastain, Leslie Gaddis, Levi Gaddis, Noah Lanning, and pianist Ambus Worley of Canton, GA, were paid $50 to make the recording for Columbia.

The recording, "I Want to Live Beyond the Grave," has been preserved by CBS in its New Jersey museum and in the Country Music Foundation library in Nashville, TN.

When the five men from Canton, GA, lent their harmonizing art to the recording, they were part of the most available form of entertainment in the South at that time. The art form still lives in the Saturday night, Sunday afternoon, and Sunday night "singings" held in rural churches throughout the South.

During this 60th anniversary of the North Canton Quartet recording, I would like to pay tribute to those men who helped preserve part of our American music history and to the many others who have contributed to the art and to those who continue to do so.

WINNING ESSAY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BUECHNER. Mr. Speaker, I wish to submit for the RECORD a copy of an essay written by a bright young lady from my district, Miss Margie Handelman. Margie is in the sixth grade at Mason Ridge School. Her winning essay on the U.S. Constitution expresses a view of the greatness of our country, and its founding document, from a youthful perspective.

Margie reflects on what it means to be a citizen of America; what it means to be one of "We the People."

WHAT THE U.S. CONSTITUTION MEANS TO ME

A whole new world opened before my eyes recently while memorizing the preamble to the United States Constitution. As I repeated the words over and over again, I began thinking of that summer of 1787 when the newly proposed Constitution was signed, and how fortunate I am to be an American, celebrating the 200th anniversary of this great document and the type of government it gave our country.

The words "We the People" stuck in my mind. I suddenly realized that our Constitution stands for each and every one of us. I am "We the People" and so are my parents, my teachers, and people who work on the highways and in our stores. The justice, domestic tranquility and liberty that I memorized were created for each of us. "We the People" run our government. We elect officials to represent us and relieve them of their jobs if they are dishonorable.

"We the People" were my great grandparents who endured hardships in order to live in America. My grandma kissed the soil when she arrived in America from Hungary to live in a land where she could express her feelings and escape religious persecution. She traveled to America so that she would have freedom of expression and not be passed over for a job because she was Jewish.

The United States Constitution represents each and every one of us and makes us proud to be governed under its laws. It gives meaning and power to "We the People."—Margie Handelman.

Mr. Speaker, I commend Margie Handelman for her extraordinary gift for the written word, and her youthful insight into the meaning of our Constitution. I wish Margie my sincere congratulations and continued success in her academic pursuits.

VIETNAM VETERANS AWARENESS DAY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. MORRISON of Connecticut. Mr. Speaker, on May 23, 1987, I will be joining the New Haven Veterans Council for Legal Redress as well as other local dignitaries and many involved Connecticut citizens in observing the fifth annual "Veterans Awareness Day." At this event we will honor the tens of thousands of veterans who still carry with them the physical and emotional scars of the Korean and Vietnam wars. It will be held at the New Haven Vietnam Veterans War Memorial Park on the Long Wharf in New Haven and will include speeches by experts on veterans' rights as well as information booths set up to answer questions and register interested veterans.

"Veterans Awareness Day" would not have been possible without the dedicated work of the New Haven Veterans Council for Legal Redress. This organization, a branch of the national council, is made up of Korean and Vietnam war veterans organized for the purpose of seeking legal redress for those veterans with less-than-honorable discharges. Unlike most traditional veterans groups, its membership is made up of nonveterans and veterans with less-than-honorable discharges, as well as honorably discharged veterans. Their primary concern is working for the fair treatment of, and preservation of medical benefits for, less-than-honorably discharged veterans.

I urge my colleagues to work to make sure that these veterans have access to the hard-earned benefits that they have previously been denied. We have a responsibility, not only to the veterans themselves, but also to their families, to see that the unfair treatment to which they have been subjected is brought to an end and will not occur in the future.

I am very proud of the New Haven Veterans Council's contribution to the movement to afford fair and equal treatment to Vietnam and Korea veterans. "Veterans Awareness Day" serves as an important step toward making the public aware of the need for solutions to the problems that too many of our veterans face.

NO EUPHEMISMS: CALL THEM ORPHANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BIAGGI. Mr. Speaker, I recently introduced legislation to promote foster care reform. This Nation's foster care system is in a state of chaos—and crisis. Simply put, children in foster care are not receiving proper care and services.

I wish to bring to the attention of my colleagues an article aptly describing the plight of our Nation's children in foster care. As the article so tragically notes, "Foster child is a euphemism. We should call them orphans." I call on my colleagues to give my legislation, H.R. 2038, their careful attention and consideration. Children in foster care deserve more.

NO EUPHEMISMS: CALL THEM "ORPHANS"

(By Eileen Simpson)

The word "orphan" to describe children who have lost one or both parents early has an old-fashioned ring. It seems as out of date as the black stocking and high shoes worn by immates of asylums that used to take up city blocks and loom large in the countryside. As adult mortality caused by infectious diseases declined, and parents lived long enough to raise their children, the number of orphans dropped so sharply (from 16.3 percent of the total population in 1920 to 5.4 percent in 1953) that they became what one statistician called "a vanishing phenomenon."

And so for two decades after 1953 they seemed to be. Since it was thought that their ever-diminishing number could be looked after by what many social workers thought would be the ideal way to replace the family—foster home care—asylums were closed down and an orphan began to be called a "foster child."

It wasn't long before it became clear that foster care was as problematical as institutional care had been. A successful match between child and family was difficult to arrange; many foster parents were more interested in augmenting their income than in looking after the offspring of others; children were shunted from one household to another—with predictable results. (Had the children been asked their preference, many would have said they preferred to be in the same boat with others like themselves in an institution than to be an outsider in a family.)

Whatever its defects, the system worked more or less well until the mid-1970's. Then demographic predictions went awry. Instead of continuing to diminish, the demand for placements rose so high that it could not be satisfied. (What was to be done with the record number of minors who were running from or being pushed out of chaotic households?) By the 1980's, with the explosion of teen-age pregnancies, and the increase in the number of women with children living below the poverty line, articles began to appear almost daily about infants spending the night on top of desks in welfare agencies; others being left for months, even years, in hospitals, and still others going with their homeless mothers to shelters and welfare hotels.

At the height of the asylum era, the most vulnerable strata of society—newly arrived immigrants, the unemployed, war widows, unmarried mothers, deserted spouses—could put children they couldn't look after into orphanages and foundling homes, sometimes only while they went through a bad period, sometimes permanently. Today, they do not have these possibilities. In place of dormitories with long rows of beds covered with white sheets, in welfare hotels one sees overcrowded rooms with unmade beds. Instead of a subsistence diet and clockwork discipline, there is junk food on demand, little supervision and close proximity to adults who are alcoholics, durg addicts and prematurely discharged psychotics.

Statisticians now predict there will be an increase in the number of minors who will find themselves without homes or parents before they are old enough to fend for themselves, and that over the next decade more than half the babies born will have mothers who are unmarried teenagers. The problems are so overwhelming we can't bear to think about them. Yet we must, for there is no magical way to reconstitute the family.

Perhaps a way to begin is with language. "Foster child" is a euphemism. It has a soft sound. We need a hard-edged word with deep resonance. We have it. These children have not lost both parents in an epidemic as some did in 1918. They have not lost their fathers in a war. (Many have not had a father to lose; he was a phantom who left no possessions, not even a photograph.) They have not lost their mothers through tuberculosis. Nonetheless, they are orphans—in a new guise. Our orphans.

CAMPAIGN SPENDING REFORM

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. VENTO. Mr. Speaker, the freedom of speech is not synonymous with the ability to spend money and the amount of money you have to spend. This notion is ludicrous.

As principal author in the 98th and 99th Congresses of a constitutional amendment to allow Congress and the States to control campaign expenditures, today, I am introducing identical legislation for the 100th Congress. I am pleased that Senator HOLLINGS and Congressman SCHUMER are joining me in this effort. If we attack the burgeoning problem of campaign financing from different fronts, we will hopefully have a much better chance to do something.

For each election, the loophole created by the Supreme Court in Buckley versus Valeo has been exploited by more and more special interest groups and individuals. Examples of the problems abound. In 1984, the realtor PAC spent $49,000 in independent expenditures in an effort to unseat a single incumbent. I myself have been the target of independent expenditures.

When the FEC released its figures on reported independent expenditures in the 1986 campaign, there weren't any suprises. Independent expenditures again increased. For the 1981-82 election cycle, $5.7 million was spent independently. For 1983-84, the figure was $6 million. The FEC has reported that independent expenditures for the 1985-86 cycle had risen to nearly $8.5 million. These are the new rules of the game and they are not right, they are not fair, and they are adversely affecting the tenor and quality of the U.S. electoral process.

Without ratification of a constitutional amendment allowing real campaign expenditure reform, we are trying to deal with this issue with one hand tied behind our backs. The more we try to crack down on PAC's and attempt to limit individual expenditures, the more special interest groups will funnel their funds into independent spending that is negatively oriented. This situation, this fact, works as a deterrent against action on comprehensive and meaningful campaign financing limits and reforms.

The Buckley versus Valeo loophole has even been widened by recent Supreme Court decisions and by creative use of this loophole. Ironically, last December the Supreme Court struck down a Federal regulation that prohibited political expenditures by non-profit advocacy groups. This has the effect of setting these groups above and outside national and State election laws. They don't even have to form PAC's for campaign spending purposes. The net effect of the court decisions is the complete unraveling of the Federal election campaign law.

Campaign financing should not be a partisan issue. Democrats and Republicans have been the targets of scurrilous independent expenditures. Ratification of a constitutional amendment is needed in order to proceed rationally on comprehensive campaign finance reform.

TENNESSEE STUDENT WINS ESSAY CONTEST

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SUNDQUIST. Mr. Speaker, it is my pleasure to submit to you an essay which was written by a high school student in my district, and which subsequently was selected as the winning essay from Tennessee for the Voice of Democracy contest held each year by the Veterans of Foreign Wars.

I ask, Mr. Speaker, that this essay by Mr. Kevin Grant by entered into the Record, because I think it captures the spirt of democracy in America perfectly. I think it is especially noteworthy that a 10th grade student has been able to represent in words so clearly the essence of our unique American heritage.

Thank you, Mr. Speaker, for your time on this important issue.

THE CHALLENGE OF AMERICAN CITIZENSHIP

America symbolizes freedom to all the world. She represents liberty and opportunity as no other nation on earth. Don't let America take her freedom for granted, because each one of us represents America individually. Our forefathers founded this nation for freedom of religion. That was the spark that stated this flame we know as America. We have been blessed for over 210 years as a free nation. Whether or not America continues as we know her depends on her citizens. It depends on you and me.

America has always been a place for those many oppressed from other nations who seek freedom, and are willing to risk their lives for it. And that is one reason for which we should remain free. We have not remained a free nation by accident. Thousands of men have died to protect our rights as citizens, and these men were not born heroes—mostly average people, with a love of America and a willingness to pay a great price because they knew the value of freedom.

Now freedom and citizenship are closely related. We have the right to choose the leaders who represent us. This right to choose is an opportunity denied to millions of people throughout the world. Yet many Americans take this privilege so lightly they have not bothered to even register to vote. Of those who are registered, only a percentage of them actually go to the polls and vote on election day. Often elections are won or lost by a small number of votes—sometimes as lettle as 1%.

I've heard that just a little over half of the American people vote in presidential elections. One of the reasons may be apathy . . . lack of concern. Another possible reason could be that we are not adequately informed. In America there is no shortage of information. That is one of the greatest things about living in a free society. We have the right to know, the freedom to find out, and the privilege of informing others.

Each of us is important. We can made a difference! The individual can do so much for America. You may be born a citizen, but you become a patriot by sacrifice, and work, and by promoting the welfare of other citizens. And as patriots we should be able to influence how our representatives vote. I understand that when a Senator or Congressman receives just one letter, he considers it to represent the feeling of many more than that one individual who took the time to write. And that one individual could play a definite role on how his representative votes. You or I could be that individual!

We have our citizenship by birth, but according to the United States Bureau of Statistics (1984 edt.), more than 260,000 people from other nations around the world filed *Petitions of Intent.* That is the initial form aliens must fill out before applying for naturalization. I wonder how many of us would be able to maintain our citizenship if we were required to pass the American naturalization test. Maybe we would not have the privilege of calling ourselves Americans. In the words of John Quincy Adams, "Posterity, you will never know how much it has cost my generation to preserve your freedom. I hope you will make good use of it." You and I are that posterity. Have we made good use of it? More importantly, *will* we make good use of it—because *we are* the caretakers of freedom.

A TRIBUTE TO EUGENE AND YOLANDA ARNALL

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today on behalf of Eugene and Yolanda Arnall, two very special people who will be honored by Yeshiva Ohr Eichonon Chabad at its fourth annual banquet on June 15, 1987. To mark this occasion, I would like to share a glimpse of their lives with my colleagues in the U.S. House of Representatives.

Eugene and Yolanda Arnall left their respective countries of origin, Romania and Czechoslovakia, as young adults and resettled in Paris, France. There they met, and in 1935, they were married. As the threat and reality of Nazi persecution grew, Eugene moved his family to the south of France in order to save them from destruction. Unfortunately, the majority of their relatives including parents, sisters, brothers, and others—those who had not left Romania and Czechoslovakia—perished in the Holocaust.

After the liberation and end of the war, the family returned to Paris where they picked up the pieces of their lives. In 1951, the Arnalls left Europe and moved to Canada. Subsequently, the family relocated in Los Angeles, and since 1957, they have been working in and contributing to this community.

The Arnalls have long understood that we are all obligated to help one another and that we must do what we can in order to preserve life and ensure the survival of our traditions. They have always maintained that the education of our children is vital to the survival of our people. Over the years, beginning with Hillel Hebrew Academy and then Yavneh Hebrew Academy, Sephardic Hebrew Academy, Keram Yeshiva, Yeshiva University of Los Angeles, and Yeshiva Ohr Eichonon Chabad, this couple and their children have worked devotedly on our behalf. They have made sure that the knowledge, values, and lessons of the past and present are transmitted throughout generations, from parent to child, father to son, mother to daughter, children to grandchildren. By their generosity and acts of kindness, they protect and nourish us all.

In addition to their many educational pursuits, the Arnalls have always been staunch supporters of Israel and of numerous Jewish philanthropies. They are blessed to have two children, Roland, who is married to Sally, and Claude, who is married to Etty. In addition, they have four grandchildren, Daniel, Michelle, Brigitte, and Michael.

The Arnalls are extraordinary people, and it is a pleasure to share just a few of their many accomplishments with the leadership and membership of this body. I ask that my colleagues join me in wishing them the very best of luck in all their future endeavors.

POEM BY MR. DAVID GIMBEL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SCHUMER. Mr. Speaker, I would like to call the attention of my colleagues to a special poem written by a courageous gentleman, David Gimbel. The poem expresses his wish for himself and other parents of severely mentally retarded children.

Mr. Gimbel's only child is severely mentally retarded. He has been a devoted single parent to his precious daughter for many years. Since 1949, he has been a member of the Association for the Help of Retarded Children, a wonderful organization in which he has found the support and understanding to continue working toward creating a better life for retarded children. His touching tribute to his daughter follows:

Her Daddy's Prayer

My neighbors children at play in the street,
Their laughter and joy makes life so complete,
The love that these children are actually giving
Makes their parents lives so worthwhile living.

The ticking clock upon my wall
And the approaching night as shadows fall;
"Oh Heavenly God" with thy wordly powers
I ask thy help in my lonely hours.

Creator of humanity of nature and words,
The moon and sun and flying birds;
Mountains, streams, and a sky so blue,
The breaking of dawn and the morning dew.

And yet, Dear Lord, I only have tears
As I think of my child in the coming years;
"Her little brain," so injured and weak,
When folks pass her by, in whispers they speak.

Endow people with knowledge so they understand.
That they may come forward and these children befriend;
And so, "Dear God," How I hope and pray
When thou will grant us that glory day.

So that whispers can cease and action will start
And deeds will start pouring right from the heart;
Then my nightly shadows shall all disappear;
I beg thee, Oh Lord, that this day be near.
Amen.

THE INDIAN DEVELOPMENT FINANCE CORPORATION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce today the American Indian Development Finance Corporation Act. This is a bill to provide for the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises and to stimulate the development of the private sector of Indian tribal economies.

We would accomplish these goals by establishing a federally chartered, mixed ownership Development Finance Institution which would be authorized to provide a broad range of financial intermediary services, including equity capital, direct loans, loan guarantees, and business management assistance. The Corporation as proposed in this legislation would be designed to operate on the same level as the private market.

The Indian Development Finance Corporation proposal represents the best thinking of a team of Indian economists, business management specialists, and finance experts who have devoted 2 years to research the conditions of Indian economic development and compare how the Indians needs would be best met by drawing upon the experience of the World Bank and other Government-sponsored development institutions.

Mr. Speaker, I am aware that proposals to establish new federally chartered institutions and to capitalize such institutions with public moneys run against the stream of current Government policies. However, I am convinced that Members of this body will be persuaded that the conditions of extreme deep seated poverty which exists on Indian reservations call out for a dramatic response. The reasons for such unparalled poverty and unemployment as exists on Indian reservations have been widely studied and documented by the Congress, Federal agencies and numerous private institutions and the Indian tribes themselves. Such studies have consistently identified the following obstacles to balanced economic growth and progress:

First, the very limited availability of long-term capital and very limited access to short-term commercial credit;

Second, the lack of effective control by the Indians themselves over their own lands and resources; and

Third, the scarcity of experienced business managers and technicians.

In the past, the Federal Government has attempted to stimulate Indian economic development through a combination of grant programs, direct loans, and loan-guarantee programs. These efforts have consistently fallen far short of their objectives due to an inadequate level of funding, lack of coordination between programs, and a lack of private business experience on the part of the administrators of these Government programs. In contrast, the Indian Development Finance Corporation's primary mission would be to provide financing for Indian business enterprises whose principal place of business is located within the boundaries of an Indian reservation or whose principal business activities are directed at contributing to the economy of an Indian community. The very important distinction between the functioning of this corporation and either Government programs or private banks is that the corporation is designed to draw from the best of both worlds. It would be required under this law that the corporation would be supervised by a board whose business credentials would have to be established prior to their appointment. The organization would be a stock corporation with the principles of competitiveness and accountability built into its mode of operation. However, it would have the advantage of generating capital which could only be possible through Government sponsorship.

The Indian specialists who designed this proposal felt that it is essential that the Indian tribes and Indian enterprises have a stake in the business before they could receive the benefit of its services. In other words, Indian tribes or businesses that come to the corporation for assistance will first have to become shareholders in the corporation. Thus, in a very real sense, this would be their corporation and not the Government's, although there is a necessary level of Government control and accountability.

Mr. Speaker, I urge my colleagues to scrutinize this bill and I look forward to receiving their input as well as the input of Indian tribes and experts from the private sector. Long-term progress in overcoming the conditions of extreme poverty with its attendant social problems on reservations can only be met if we create institutions that will be available for the long term and for such institutions to enable the Indian people to do for themselves rather than have the Government do for them. In this very important sense, this proposal furthers the U.S. Government's longstanding policy of self-determination and self-sufficiency in Indian affairs.

NATIONAL NARCOTICS LEADERSHIP ACT OF 1987

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. RANGEL. Mr. Speaker, I have introduced today the National Narcotics Leadership Act of 1987. I am pleased to be joined by my colleague from New York, Congressman Benjamin A. Gilman, the distinguished ranking minority member of the Select Committee on Narcotics Abuse and Control.

Seventeen other select committee members are original cosponsors of this legislation. They include Representative Frank Guarini, who introudced a similar bill, H.R. 353, earlier this year and who has been a longtime advocate of a high-level drug policy coordinator, and Representatives Peter W. Rodino, Jr., Fortney H. (Pete) Stark, James Scheuer, Cardiss Collins, Daniel Akaka, Robert Matsui, Dante Fascell, Walter Fauntroy, Mel Levine, Solomon Ortiz, Lawrence Smith, Ed Towns, Lawrence Coughlin, Stan Parris, Duncan Hunter, and Robert Dornan. In addition, our colleague Stewart McKinney had expressed his desire to be a cosponsor of this measure.

The National Narcotics Leadership Act would establish an Office of the Director of National Drug Control Policy in the Executive Office of the President. This office would be headed by a Director who would be assisted by a Deputy Director for Demand Reduction and a Deputy Director for Drug Law Enforcement. The Director and the two deputies would be appointed by the President and subject to Senate confirmation. They could hold no other position in the Federal Government.

The bill gives the Director broad authority to develop and implement Federal drug policy. The Director would have the authority to direct each department or agency with drug control responsibilities to carry out the policies established by the Director "consistent with the general authority of each agency or department." He would have the authority, with the concurrence of the various department heads, to temporarily reassign personnel in order to implement drug policy. He would also be responsible for developing, in concert with other Federal agencies, budgetary priorities and allocations for drug abuse control.

The Director would be required to submit an annual "National and International Drug Control Strategy." This report would contain projections for programs and budget priorities and "realistic and achievable projections for drug seizures, availability, purity, and drug usage for the next 5 years."

The bill also requires the President to include in his annual budget submission to the Congress a detailed request, in consultation with the Director, for Federal agencies responsible for drug abuse prevention, treatment, and law enforcement.

The legislation we are introducing today establishes what is commonly referred to as a drug czar. To many, this term suggests a number of negative connotations such as an extra layer of bureaucracy and a super-Cabinet official who will meddle in the day-to-day operations of those agencies charged with drug control responsibilities.

I want to emphasize that it is not the intent of this legislation to usurp the authority of the departments and agencies with responsibility for drug control activities. Rather, it is the intent of this legislation to establish in the executive branch one official who is responsible, on a full-time basis, for the development, coordination, and implementation of our Nation's drug control policies and programs. The Director of National Drug Control Policy would be charged to establish a long-range comprehensive strategy for combating drug abuse and drug trafficking, to set budgetary and programmatic priorities, to resolve interagency conflicts and to ensure a continuing high-level priority on drug issues within the executive branch.

Administration witnesses have testified before the select committee that a drug czar is not necessary because the President is in charge of drug policy. He is the drug czar. Now, with the recent Executive order creating the National Drug Policy Board, we are told that Attorney General Edwin Meese III, as Chairman of the Policy Board, is in charge of Federal drug policy.

Let me state at the outset that I have the highest respect for the President and the Attorney General and do not doubt for a minute their personal commitment to narcotics control. This legislation is in no way intended to be critical of them personally or to be a partisan, political attack on the administration's drug control efforts. Indeed, the need for better coordination of Federal narcotics policy has been clear for many years, spanning both Republican and Democratic administrations.

Having said that, though, it is clear that neither the President nor the Attorney General can devote their full energies to drug policy. In fact, they have so many other important responsibilities that require their attention that I doubt anyone would expect, or want, them to spend all of their time on drug issues.

To appreciate how fragmented Federal drug control efforts are, one need only read Executive Order 12590 of March 26, 1987, creating the National Drug Policy Board. The membership of the Board consists of the heads of 17 Federal entities, including every department except Commerce. Within those organizations, there are many more agencies and offices involved in antinarcotics efforts.

The Federal Government has declared war on drugs but we cannot fight this war without a general to lead us. Unfortunately, there is a strong perception in Congress that no one is in charge of our antidrug efforts.

Over 2 years ago, Congress created the National Drug Enforcement Policy Board to coordinate Federal drug enforcement, interdiction and international narcotics control efforts. Yet, this mechanism does not appear to be working.

The Customs Service and the Coast Guard are feuding bitterly and publicy over drug interdiction roles and resources.

Recent press reports have chronicled the disagreement between the Attorney General and the Secretary of Defense over sophisticated radar equipment for conversion of P-3 aircraft into drug patrol planes, a project authorized by Congress.

A recent report by the Office of Technology Assessment, entitled "The Border War on Drugs," concludes that, "Responsibilities of the Federal drug interdiction agencies are fragmented and overlapping." That comprehensive report on our interdiction efforts also found that, "Despite increasing Federal expenditures for interdiction, illegal drug imports appear to be increasing. There is no clear correlation between the level of expenditures or effort devoted to interdiction and the long-term availability of illegally imported drugs in the domestic market."

Nearly 4 years ago, the General Accounting Office analyzed Federal drug interdiction efforts and concluded that stronger central coordination was needed. GAO found that no one individual has the information or responsibility to evaluate Federal drug efforts and recommend corrective actions. GAO recommended that the President make a clear delegation of responsibility to one individual to oversee Federal drug enforcement programs.

I see little reason to hope that the new National Drug Policy Board will work any better than the National Drug Enforcement Policy Board. This new Cabinet-level committee will be assisted by two coordinating groups—a Drug Enforcement Coordinating Group responsible for drug supply reduction and a Drug Abuse Prevention and Health Coordinating Group responsible for demand reduction. Associate Attorney General Stephen S. Trott, who chairs the Drug Enforcement Coordinating Group, testified recently before the select committee that he spends about 20 percent of his time on narcotics matters. When we asked him, as the coordinator, to spell out for us our Federal drug policies and programs are in a number of critical areas, he responded by referring us to the heads of the various agencies involved. Dr. Donald Ian Macdonald, who chairs the Drug Abuse Prevention and Health Coordinating Group, divides his time between his other rsponsibilities as Director of the White House Drug Abuse Policy Office and Administrator of the Alcohol, Drug Abuse and Mental Health Administration.

We cannot fight an effective, coordinated war on drugs with part-time committees and part-time coordinators. This type of collegial decisionmaking will result in a lowest common denominator approach to drug policy—solutions that satisfy the parochial interests of the agencies involved without adequately reflecting what best serves the national interest and the goals of narcotics control.

There is already some evidence to suggest this approach is at work. Operational leadership for Operation Alliance, the administration's highly publicized southwest border drug enforcement initiative, was established on a rotating basis among Customs, the Immigration and Naturalization Service, and the Drug Enforcement Administration, with lead agency responsibility shifting every six months. Similarly, Customs and Coast Guard have agreed to rotate on a two-year basis command and control of the southeast command, control, communications and intelligence center for air interdiction.

Congress and the American people deserve to know who is in charge of drug policy. The President should designate one person to be responsible on a full-time basis for drug abuse policy. There should be one person Congress can turn to when we need answers about Federal narcotics control policies and guidance on how we can best support our Nation's efforts legislatively. We need one person who can articulate forcefully to Congress and the American public what the Federal Government is doing to respond to the narcotics problem and what more needs to be done.

The person appointed by the President to be the drug coordinator should be someone of recognized stature, someone who has the complete confidence of the President and who will have direct access to the President. The drug coordinator should be independent of the agencies and departments so that he or she has no turf to protect and can weigh competing agency views objectively and recommend to the President and Congress the policies and actions that will best serve the goals of reducing the supply and use of illegal drugs, not parochial agency interests.

I have no illusions that Congress can legislate a shotgun marriage between the President and a so-called drug czar. Unless the President fully supports the drug coordinator, the coordinator cannot be effective. I am introducing the National Narcotics Leadership Act and will push for its enactment, however, to demonstrate to the administration that Congress believes the current situation cannot be allowed to continue.

It is time to try a different approach to drug policy coordination. It is time to put someone in charge, full time, of our country's antidrug effort.

I urge Members to join me in supporting this legislation.

A NEW WORLD BANK POLICY ON THE ENVIRONMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. PORTER. Mr. Speaker, signs indicate that the new adminstration of our former colleague, Barber Conable, at the World Bank is going to be one of the most dynamic in the Bank's history.

Earlier this year, Conable played the major role in leading the "Safe Motherhood" Conference that has focused greater attention on the need for immunization and family planning to make major improvements in child and maternal health.

Now, Conable, has also brought the vast resources of the Bank to bear on the task of providing for sustainable development without destroying the environment. As one member who has expressed some concern over the fate of the world's diminishing tropical rain forest, I appreciate his effort.

Earlier this month, Conable delivered a major address on the subject of development and the environment before the World Resources Institute. It is an excellent rendition of the problems facing the world's environment and what the Bank can do about it.

PREPARED STATEMENT OF BARBER B. CONABLE

It is an honor to address members and supporters of the World Resources Institute.

The Institute is a global resource itself. Policymakers owe you a lasting debt of thanks for the research you pursue and the admirable balance with which you present it.

What I owe you on this occasion is a report on the World Bank's actions, plans and progress in matching our fight against global poverty with our commitment to environmental protection.

The two goals are not just consistent. They are interdependent. Sustained development depends on managing resources, not exhausting them.

Economic growth based on any other premise is a costly illusion. What is wasted or poisoned today leaves that much less to nourish the world tomorrow.

"Environmental neglect," as I said to the Governors of the World Bank seven months ago, "destroys assets vital not just to the quality of life but to life itself." Environmental planning, I would add tonight, can make the most of nature's resources so that human resourcefulness can make the most of the future.

I share the optimism of the recently released report of the World Commission on Environment and Development. With its members I, too, "see . . . the possibility for a new era of economic growth * * * based on policies that sustain and expand the environmental resource base."

My optimism, like others, is tempered by caution.

In environmental affairs, as in many others, science has outdistanced government. Yet many of the problems the world has come to recognize as urgent are still beyond man's technical, as well as political, capacities.

We know that we must stop the advance of the deserts. We do not yet know how.

We know that population control is essential to environmental protection. But, for all the progress of past decades in family health and planning, population growth in many of the poorest lands continues to outrun resources.

We know that we must save the tropical rain forests. But neither developing nations nor international institutions have adequate alternatives for hungry people in search of food, and the land to grow it on. Researchers are only beginning to discover the potential of the forests to support both domesticated and wildlife together.

Most broadly, we know of the planet-wide threat to the basic resources of air and water on which the survival of earth depends. But common effort to save the global commons requires a degree of institutional coordination and a measure of sustained political resolve that man applies more readily to destroy than to preserve life.

In measuring the influence of the World Bank against the environmental challenge, I see how long a road there is to travel from awakened environmental consciousness to effective environmental action.

The Bank has long been at the forefront of that march. Ours was the first international lending institution to set explicit policies on limiting any harmful environmental consequences of development projects it supported. In the early 1970s, for example, a Bank-financed iron ore terminal was built on a Brazilian beach under strict safeguards against pollution and with real respect for the site's natural beauty.

Inevitably, the Bank has also stumbled. For instance, a more recent Brazilian project, known as Polonoroeste, was a sobering example of an environmentally sound effort which went wrong.

The Bank misread the human, institutional and physical realities of the jungle and the frontier. In some cases, the dynamics of the frontier got out of control.

Protective measures to shelter fragile land and tribal people were included; they were not, however, carefully timed or adequately monitored.

Polonoroeste teaches many lessons. One basic truth is that ambitious environmental design requires realistic analysis of the enforcement mechanisms in place and in prospect.

When mistakes associated with the Polonoroeste project became obvious in early 1985, the Bank interrupted payments as a way to encourage important corrective measures. What we had learned was not that we should avoid projects with environmental implications, but rather that where institutional safeguards are weak, the Bank must be a positive force to strengthen them.

Brazil has now made progress in building safeguards for environmental protection. And the Bank is anxious to support Brazil's government in pursuing a National Environmental Program that can become a model for other nations.

A second basic truth learned from Polonoroeste is that where development is taking place, it cannot be halted, only directed. The Bank cannot influence progress from the sidelines. It must be part of the action.

With the developing nations, we must go on learning by doing. If the World Bank has been part of the problem in the past, it can and will be a strong force in finding solutions for the future.

"Nothing so needs reforming," Mark Twain observed, "as other people's habits." The Bank will begin by reforming its own.

First, we are creating a top-level Environment Department to help set the direction of Bank policy, planning and research work. It will take the lead in developing strategies to integrate environmental considerations into our overall lending and policy activities.

At the same time, new offices in each of the four regional technical departments will take on a dual role. They will function both as environmental watchdogs over Bank-supported projects, and as scouts and advocates for promising advances in resource management. In this process, they will consult routinely with environmental officials in developing countries, and will work to strengthen local institutions. The establishment of these offices will increase significantly the number of staff directly involved in environmental programs.

These organizational changes do not just add layers of interference to head off errors of commission. The added staff will help define policy and develop initiatives to promote growth and environmental protection together. They will work to ensure that environmental awareness is integral to all the Bank's activities.

Environmental action adds a new dimension to the fight against global poverty. It recognizes that sound ecology is good economics. Indeed the objectives of sustainable economic growth, poverty alleviation and environmental protection often are mutually reinforcing.

Population pressure that pushes farmers onto increasingly marginal land is a major cause of ecological problems in many countries, particularly the poorer ones. Curbing population growth is essential for sustainable economic growth; otherwise it will not be possible to introduce policies and programs that steer farmers to the best land, that induce the production of crops which strengthen the soil and stem erosion, that bring livestock to graze where pasture is rich, and that educate city and country dwellers alike to respect and safeguard the balance of nature.

The World Bank is a force for development and will remain so. We will continue to support major investments in energy and infrastructure, in industrialism and irrigation.

Our role in such projects, however, will include greater sensitivity to their long-term environmental effects. We will put new emphasis both on correcting economic policy incentives that promote environmental abuse and on stimulating the small-scale activities that can combat human and environmental deprivation.

Not only will we strengthen the Bank's long-standing policy of scrutinizing development projects for their environmental impact and withholding support for those where safeguards are inadequate, but we will also institutionalize an approach to natural resource management that puts a premium on conservation.

As part of these philosophical and institutional changes, I propose to allocate new resources to a number of new environmental initiatives.

In partnership with member countries and with the rest of the development community, we will begin with an urgent, country-by-country assessment of the most severely threatened environments in developing nations.

We will promote a continent-wide initiative against the advance of the desert and the destruction of forests in Africa.

We will contribute to a global program to support tropical forest conservation.

And we will participate in a cooperative effort by the nations of the Mediterranean and other international agencies to prepare a long-term campaign to protect that sea and its coasts.

As recent events have demonstrated, environmental protection is a subject which warrants increased efforts in industrialized as well as in developing countries. But progress is especially hard to achieve in the developing world.

So many other priorities demand simultaneous attention. So few skilled personnel are available. And so much must be done to build the institutional capacity to handle complex environmental issues.

Acknowledging those realities, the World Bank also acknowledges its special responsibilities in helping developing nations shape their growth. As an advisor, a source of intellectual as well as financial support, the Bank must be responsive and innovative. As a lender, it must exert new and persuasive influence to integrate better management of natural resources into developing planning and investment.

Fortunately, we are far from alone. The Bank can profit from and contribute to the valuable work of our member nations, the expert and dedicated efforts of non-governmental organizations and the wide, continuing experience of other international agencies such as the United Nations Environment Program.

We must start, however, with better knowledge of the problems and the opportunities we face.

To gain that understanding, the Bank will use its added staff resources in a collaborative effort to assess environmental threats in the 30 most vulnerable developing nations. That five-year process will involve both study and education, not just in the Bank but also with responsible developing country policymakers.

Our goal will be to develop a new appreciation of the forces at work against environmental balance. Our objective is a sort of natural resources balance sheet, a coherent planning instrument for better management.

I believe we can make ecology and economics mutually reinforcing disciplines. By looking closely at market forces and broadly at all key sectors of development activity, we can identify both the effective and perverse factors shaping and misshaping the environment.

I am not proposing make-work research. What I seek from data—much of which is already on hand—is a composite inventory of environmental assets and liabilities.

With such a planning instrument, we could move toward establishing the value of those priceless resources—topsoil and grass cover, water and drainage, human skills and traditional lifestyles—we too often consider insignificant.

Let us show in economic and environmental terms what subsidies to pesticide producers and timber cutters and livestock growers actually cost in ruining the land and driving families from it.

Let us weigh the real price of wilderness resettlement against the expense of health and family planning clinics, of agricultural extension services, new crops and new farming techniques.

Let us hold pricing policies and currency values up to the light of environmental analysis to see if and how they encourage over-exploitation of natural resources.

And let us acknowledge that, while we must exercise increasing care with large-scale development projects, small is not necessarily beautiful. It is time we recognize that individual practices driven by poverty and ignorance and unexamined economic policies have cumulative effects that are just as environmentally destructive as any badly planned wilderness road or hydroelectric project.

We must reshape not just the Bank's outlook and activities but also the customs and ingrained attitudes of hundreds of millions of individuals and of their leaders. In doing so we must remember another piece of Mark Twain's wisdom: "Habit is habit, and not to be flung out of the window, but coaxed downstairs a step at a time."

Our environmental assessment surveys will move us one big step forward. They will assemble the knowledge we need to move further and faster toward environmental rationality in our leading programs.

In Africa, while country assessments proceed, the Bank will lay the ground for action that crosses national boundaries and tackles regional environmental dangers.

Africa's needs are critical. Over the last 15 years, despite the best efforts of African governments and the international community, per capita income and per capita food production in most of sub-Saharan Africa have declined. At the same time and in the same areas, deserts have spread, forests have dwindled, soil has washed away.

With population projected to rise from 380 million to 690 million in the last two decades of the century, the pressures of urbanization, fuelwood consumption and slash-and-burn farming are stripping West Africa alone of 3.6 million hectares of forest a year. Continued over three years, that tempo of deforestation would denude an area the size of Greece; over ten years, the Ivory Coast.

The rate of forest loss in five West African nations is seven times the world average, and desertification in just one country—Mali—has drawn the Sahara 350 kilometers farther south in the last 20 years. The Congo River carries an average of 65 million metric tons of soil into the ocean each year.

Against these natural and man-made forces, I believe we must mount an international environmental rescue and development effort in sub-Saharan Africa. I will ask

World Bank staff experts to draw up a special program of technical studies to identify and assess urgent, promising environmental protection projects, regional, not just national, in their scope.

Environmental threats do not respect political lines of demarcation. Environmental solutions must generate political and technical responses as broad as the challenge.

Our work should point the way for action by donor and recipient nations and non-governmental organizations. The latter have a particularly important role to play, in that problems of deforestation and natural resource degradation are development problems and can best be solved with the active participation of people at the grassroots level. Our common priority should be coordinated intervention against the spread of deserts and for the conservation of forest resources.

We must be bold in both the scope of our enterprise and in testing untried ideas. Unless we reach beyond today's limits and doubts, we cannot truly measure our capacity for progress.

Tropical forests in Africa, Asia and Latin American also demand priority attention. Tropical deforestation is not only a major environmental problem, it is a critical development problem as well. Deforestation is leading to widespread degradation of the natural resources base, undermining the capacity of the environment of support developing country economies and populations.

The World Bank is the world's largest single source of financing for tropical forest conservation and development. Over the past decade World Bank investments and technical assistance grants in forestry have exceeded one billion dollars. We are ready to do more.

The Bank intends to more than double its annual level of funding for environmentally sound forestry project from $138 million this year to $350 million in fiscal 1989. At the July meeting in Bellagio, Italy sponsored jointly by your Institute, the Rockefeller Foundation, FAD UNDP and the Bank, we will propose specific strategies for expanding priority work in forest management and reforestation.

Our Tropical Foreastry Action Plan is a direct outgrowth of the World Resources Institute's excellent 1985 report, "Tropical Forests: A Call for Action". That study called for a doubling of forestry investments over the next five years. It redefined the challenge of conservation by making it clear—in cost-benefit terms—how deforestation impoverishes both man and nature. It also recognized that simply providing more funding for forestry is not enough; increased investment in forestry must be accompanied by policy measures designed to ensure sustainability.

We are improving our understanding of the connection between the loss of tree cover in upland watersheds and flood damage downstream, between fuelwood scarcity and fertilizer shortages and between the annual destruction of 11 million hectares of tropical rain forest and the loss of plant and animal species of great, potential genetic benefit to mankind.

We are becoming increasingly able to define investment programs to correct past mistakes and prevent new ones.

We can mobilize resources for agroforestry and sustainable farming systems based on it.

We can help nations determine the wooded areas to protect and those to use more intensively.

We can help train foresters and farmers in new techniques of tree breeding, in the cultivation of medicinal plants and the conservation of wildlands.

We are, in short, better aware of the gravity of the global danger, better equipped to address it. Now we must be prepared to mobilize resources to combat deforestation on a global scale.

Lastly, in the Mediterranean region, the Bank stands ready to assist in an intensified international effort to protect the heritage of beauty and natural resources that 18 nations and some 400 million people hold in common.

The governments of the Mediterranean states have long recognized the danger of pollution to public health and to fishing and tourism industries. The World Bank, the European Investment Bank and Regional Development Fund, the United Nations Environment Program, with many other agencies, have been active in providing financial and technical help to alleviate this problem.

Now we are exploring together the possibility of designing a broad, international project to improve the Mediterranean environment and strengthen it with a long-term preservation plan. It is an ambitious political as well as technical undertaking, involving many separate governments and technical support agencies.

The World Bank is well placed to help coordinate this effort. If, with our assistance, the peoples of the Mediterranean can make progress in managing the great resource they share, they will set an example for the whole world of cooperation in protecting the global commons.

I have given you only an introduction to the World Bank's environmental action agenda. Events, not speeches, will test its sweep and its impact. But I cannot end these remarks without a note of combined caution and exhortation.

While there is much we can do, no one knows better than I do the actual limits of the Bank's influence on the policies and practices of the developed and developing nations. No one knows better than you do the power of informed and aroused public opinion to command and redirect the attention of decision makers.

The World Bank needs the help of environmental activists in every nation, in those where organized groups have already proven their effectiveness and in those where consciousness is only now dawning.

We need your advice, your expertise, your influence and your imagination to make the urgent work of environmental protection a coordinated campaign for a safer, richer, healthier world.

As ours is a common cause—the battle against global poverty is also the fight for a sustainable environment—let us be allies for progress on every front. There is a long campaign ahead. We cannot accept anything less than victory. Thank you.

EDWARD E. WARD RETIRES FROM SANTA BARBARA RESEARCH CENTER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. LAGOMARSINO. Mr. Speaker, it is my pleasure to honor a fine and dedicated civic leader from my district, Mr. Edward E. Ward.

Ed is retiring on June 1, 1987 as director of human resources and administration with Santa Barbara Research Center. Ed has been employed with Santa Barbara Research Center since 1961 as an administrative engineer and quickly progressed to the head of industrial and community relations becoming the manager of human resources in 1972 and 1983 assumed the duties as director.

Ed has been involved in his community activities in addition to his busy schedule at SBRC. Ed made himself available to the community in both the northern and southern areas of Santa Barbara County and has gone out of his way to be of assistance to the many organizations in which he has served. He especially enjoys working with organizations which train and provide services for handicapped people. Ed currently serves or has served as an officer on the board of directors of the following organizations: Tri-Counties Better Business Bureau, WORK, Inc, Santa Barbara Taxpayers' Association, Private Industry Council, Work Training Program, Santa Barbara Chamber of Commerce, Santa Barbara City College, Santa Barbara United Way, Santa Barbara Personnel Association, National Council on Alcoholism, as well as the Santa Barbara Personnel Association and Santa Barbara Industrial Association. Ed is or has been active in the Santa Maria Chamber of Commerce Santa Maria Valley Developers as well as the Industrial Education Council and Employers' Advisory Group. Ed has served on the committees for Government Review with the Santa Barbara Chamber of Commerce and the Governmental Affairs Committee with the Santa Maria Chamber of Commerce. Ed has been active with various other nonprofit boards and committees involved in providing employment for minorities and handicapped individuals and educational programs.

Ed is married to Barbara Jean and they have two sons, Ed Jr. one of the managers of Betteravia Farms in Santa Maria and Jim, employed at Raytheon.

After retirement, Ed and Barbara Jean plan to travel around the country in their sparkling motor home and also travel to the few remaining countries around the world that they have not already visited.

Ed's preception and farsighted style of administration have served Santa Barbara Research Center well over the years and his knowledge and experience and especially his affable, bouyant personality will be greatly missed. He has made significant contributions to the success of SBRC and, in turn, its customers. His career has been a model of service—to the company, the community, and the Nation.

I add that you please join me in wishing Ed and his family a happy, healthy, and productive retirement.

ENVIRONMENTAL REFORMS AT THE WORLD BANK

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BEREUTER. Mr. Speaker, in recent weeks the environmental policies of the World Bank have again received widespread public attention as a result of a report on CBS's "60 Minutes" on April 19, 1987. This film, taped in 1985, documented environmental damage to tropical forest areas and encroachment on Indian reserves as a result of the Brazilian Government's Polonoroeste Program in the northwest region of Brazil. This program received $435 million in loans from the World Bank between 1981 and 1984 for the paving of the major highway in the region and complementary programs in ecological and social development. The road paving went forward quickly, while implementation by the Government of measures protective of the environment, Indian populations, and the health of new migrants to the region lagged. As a result of public outcry from environmental groups, disbursements on these World Bank loans were stopped in early 1985 pending a remedial action program to address these concerns. Disbursements have now resumed in the context of much tougher actions to mitigate deforestation, inappropriate agricultural development, impact on Indian reserves, and inadequate health measures.

This unfortunate example of several years ago has had the positive effect of raising the consciousness of environmental dimensions of development projects in both the multilateral development institutions and in donor and recipient governments. As a result, the World Bank under its new president, our former colleague, Barber Conable, has just announced a major new set of environmental initiatives within the World Bank. These include the creation of an enviromental department within the Bank, country assessments of environmental threats in 30 vulnerable countries, a special initiative against desertification and deforestation in Africa, special programs in tropical forestry, and exploration of an environmental protection program for the Mediterranean Sea and its coasts.

The Omaha World-Herald hailed this new initiative by the World Bank in an editorial on May 8, 1987. In view of upcoming action in the Banking Committee on the authorization of the eighth replenishment of the International Development Association, the soft-loan window of the World Bank which lends to the poorest countries, I would like to share the Omaha World-Herald's view with my colleagues.

[From the Omaha World-Herald, May 8, 1987]

BRAVO TO THE WORLD BANK

The World Bank, in deciding to concentrate more of its resources on preventing environmental deterioration, has displayed a welcome commitment to helping establish a more healthy balance between mankind and the environment.

Barber Conable, the bank's president, said he wants to demonstrate that a country can have jobs, decent housing and economic opportunity without poisoning its air, contaminating its water and destroying its forests and wildlife.

World-Herald staff writers Gabriella Stern and Paul Goodsell, in the 1985 series of articles, "Roots of Famine," wrote about countries that are paying a horrible price for neglecting the environment.

Deforestation in Haiti has caused one-third of the country's farmland to become nearly useless. In Kenya and some other African countries, cities teem with unemployed workers, farmland is barren and hunger is widespread, all of which are due in part to neglect of the environment.

As a lender of billions of dollars to help developing nations grow and modernize, the World Bank is in an exceptionally good position to promote programs that allow a country to progress economically without damaging itself environmentally.

The bank plans to increase the number of environmental specialists at its Washington headquarters and in regional offices around the world. It will make more loans for forestry projects, launch a campaign to discourage the destruction of forests and explore ways to protect the Mediterranean coastline.

The World Bank has helped a number of countries build a stronger economy. By combining this purpose with a raised environmental consciousness, the bank is proceeding responsibly.

NEUROFIBROMATOSIS AWARENESS MONTH

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BOLAND. Mr. Speaker, I am pleased to inform my colleagues that May is "Neurofibromatosis Awareness Month" in Massachusetts.

NF is an inherited disorder of the central nervous system. It is one of the most common genetic diseases, occurring in 1 out of every 3,000 births. Statistics show that approximately 100,000 Americans suffer from NF. This disease knows no boundaries, NF afflicts people of all races, ages, and both sexes. Each child of an affected parent has a 50-percent chance of inheriting the gene and developing NF. NF is unpredictable, it may cause blindness, deafness, retardation, and many other severe problems. There is no medical method of preventing NF, no specific medical treatment exists, and there is no cure. Manifestations of this disease usually appear in childhood or adolescence, though they can also appear later in life.

During the month of May, numerous activities throughout Massachusetts have been scheduled to increase a public awareness of this disease. It is hoped that through these meaningful activities, and an expanded effort in education, people in Massachusetts will come to understand this dreaded disease and join in the fight to find a cure.

Mr. Speaker, I am confident that through research and the diligent efforts of NF organizations throughout the country, we will find a way to defeat this disease. I am pleased to join in recognizing these efforts, and I hope that they will hasten the day when NF no longer threatens the health of our citizen.

SPRATT INTRODUCES TARIFF SUSPENSION BILL FOR TAB

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SPRATT. Mr. Speaker, today I am introducing a bill to extend the tariff suspension for the chemical compound, tetra amino biphenyl or TAB. TAB is also sometimes referred to as diamino benzidene. A similar measure proposing to extend the tariff suspension on TAB has been introduced into the Senate by Senator THURMOND.

Although this bill should not be controversial, its passage is critical in keeping open a plant in my district and I urge speedy adoption of the measure. In 1984, when similar measures were introduced by Senator THURMOND and Representative VANDER JAGT proposing to suspend the duty on importation of TAB, the proposal was easily adopted by Congress and became law as part of the Omnibus Tariff and Trade Act. The duty suspension ends in 1988 and my bill would extend the duty suspension for 4 additional years. TAB is a specialty chemical used solely for the production of a high performance fiber called PBI. PBI has proven to be one of the most effective products on the market in protecting people against dangerous exposure to fire, heat, and toxic chemicals. Commercial applications for PBI include protective gear for firefighters, flight suits, and crash rescue gear.

The only commercial factory in the world manufacturing PBI is located in Rock Hill, SC, in the heart of my district. This plant, which uses TAB to produce PBI, depends on the passage of this legislation in order to remain open. The company which owns the Rock Hill plant has been losing money on PBI ever since it started production several years ago. Nonetheless, the company hopes that with sufficient time and effort, production of PBI will become profitable. If the tariff suspension on TAB is not renewed, the added cost incurred to manufacture PBI would make it commercially impossible to continue production. This would force the closing of an important plant in my district resulting in the loss of 120 jobs and $30 million in revenue for the Rock Hill, SC, area.

There is no domestic source of TAB which means TAB must be imported from West Germany. Since no American company manufactures TAB, an extension of the duty suspension will not cause injury to any American businesses or workers. In fact, the extension will prevent the loss of American jobs.

In 1987, the American people and the Congress have made clear a determination to stop the export of American jobs and to restore American competitiveness. This measure represents an outstanding opportunity for the Congress to take action which will save American jobs which would otherwise be lost. The bill also contributes to American competitiveness by enhancing a unique product, PBI, which is made only in the United States. If PBI proves commercially successful, it would have broad appeal not only in domestic markets but also abroad where it would earn foreign currency to reduce our trade deficit.

Given the importance of this bill in saving U.S. jobs and given the fact that it will not harm any domestic businesses or workers, I feel confident the measure will be adopted and I urge the support of my colleagues.

LUCKY STORES IS A DOER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. DORNAN of California. Mr. Speaker, we all have heard so much about the crisis of the homeless and pleas for money from Congress for assistance.

I am proud today to share with this body the outstanding efforts of Lucky Stores, whose corporate office is in my 38th Congressional District in Buena Park, CA.

Seven days a week the residents of Hy Lond Convalescent Hospital in Westminster disperse the donations of food and novelties from Luckys in the cities of Huntington Beach, Stanton, Tustin, Westminster, Santa Ana, and Garden Grove to schools, hospitals, churches, day care centers, senior centers, other nursing homes, the Salvation Army, and individual needs.

This support from Lucky's, Inc., provides an avenue of dignity and decisionmaking to the convalescents who ordinarily would not have control of their environment beyond their facility. This gives them the opportunity to "network," make friends, and be constant givers to their community.

They then feel significance and self-respect, remain industrious, and become "doers" for their neighbors.

Much of the food distributed by Lucky's is donated to the Shelter for the Homeless. My wife Sallie and I are on the board of directors for this organization which quietly feeds, clothes, and shelters people who would otherwise be on the streets.

Without the support of Don Pratt, vice president of operations manager of Lucky Stores, Inc., Brian Pine, manager of the Tustin store No. 488, and Bill Waldie, Jr., of store 468 in Orange, this outstanding effort to help many people would not be possible.

This private enterprise exemplifies the best in America and I thank all of them for their sacrifices and determination.

NATIONAL HOSPITAL WEEK

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. COURTER. Mr. Speaker, last week was National Hospital Week, a time dedicated to commemorating institutions across the Nation which perform an invaluable service. Nowhere is the importance of hospitals to their communities as evident as in my home State of New Jersey.

The following article by Morris County Clerk Joseph Bell, Jr., articulately outlines the broad range of services provided by hospital personnel. As a member of the board of trustees for Dover General Hospital, Joe is in an excellent position to appreciate the integral role hospitals play in insuring the overall well being to society. I commend these comments to the attention of my colleages.

[From the Daily Record, Northwest N.J. Sunday, May 10, 1987]

NATIONAL HOSPITAL WEEK MARKS EFFORTS TO SERVE COMMUNITY

(By Joseph J. Bell, Jr.)

Today marks the beginning of National Hospital Week. It is a tribute to the 6,872 hospitals in America and the 106 New Jersey hospitals that serve their communities statewide.

The word "hospital" is derived from the Latin word "hospitalis," meaning a house or institution for guests. The first hospital was built in India in 200 B.C. by Buddhists and the oldest existing hospital in the world, located in Paris, was founded appoximately 600 AD.

Hospitals first served the poor, as only the wealthy were treated and cared for at their homes. While this founding tradition of concern and commitment continues today, most Americans now receive their principal medical care in the hospital setting.

Who makes up this community of care? It is the abundance of dedicated nurses, doctors, administrators, support staff, clergy and volunteers. These individuals are motivated by a spirit of caring in their efforts to restore the patient physically, emotionally, and psychologically to good health. Giving countless hours of service in order to help others, they build a stronger community by aiding their neighbors.

These values and concerns are reflected in all the hospitals that serve the 39 communities of Morris County. In particular, I can speak of a hospital that I have been privileged to serve as a member of the board of trustees—Dover General Hospital and Medical Center, which is on the eve of its 80th anniversary of service to the people of the community it serves.

With its sister hospitals, Morristown Memorial, St. Clares-Riverside and Chilton Memorial Hospital, Dover General Hospital has striven over the decades not only to meet changing medical advances but to keep the patient as the center of its concern. These contemporary medical centers offer services from their nurseries to their geriatirc clinics. They provide a broad spectrum of services, beginning with prenatal care and culminating with the treatment of our ever growing elderly population. This care includes pediatrics, outpatient, dental, psychiatric and drug and alcohol programs which seek to address the total care of the individual and their families, as a whole.

The quality of care in New Jersey hospitals is the highest in human history and remains on the cutting edge of new discoveries to alleviate the pain and suffering of the human condition. These institutions are only as strong as the spirit of the community they serve. In order to give meaning to the celebration of National Hospital Week, we need to properly recognize and reconfirm the values of those selfless individuals who daily dedicate their lives to serving others.

Of all the opportunities of public and private life, none offers richer rewards than serving one's own community hospital.

H.R. 4, THE HOUSING ACT OF 1987

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BEREUTER. Mr. Speaker, this week the House Banking Committee will begin markup of H.R. 4, the Housing Act of 1987.

As the committee, and eventually the House, address this important legislation, we must make a determination of how to best provide public housing within the parameters of an ever-tightening budget. How the Federal Government allocates scarce resources for either the construction of new public housing, or the renovation of existing facilities is one issue which this Congress will have to address.

In many cities, a third alternative to either new construction, or renovation of public housing is to utilize Federal housing vouchers and other subsidies to move families out of public housing projects and into city and suburban neighborhoods. In many instances, this alternative will not only stretch Federal Housing dollars, but also help desegregate Federal Housing projects.

The following editorial which was printed in the Thursday, May 14, 1987, edition of the New York Times illustrates how the scattered-site plan has been successfully implemented in Dallas, TX. While some Members of Congress may argue against the dispersal of public assistance housing because they fear losing their political base, Congress should realize that scattered-site housing is an alternative that in many cases is less expensive and preferable to the construction of new public housing facilities.

Attached is the text of the New York Times editorial:

[From the New York Times, May 14, 1987]

DALLAS TRIES REAL DESEGREGATION

When the West Dallas Housing Project was built it was, like most housing in Texas in 1952, unashamedly segregated: 1,500 units for whites, 1,500 for blacks and 500 for Hispanics. After "desegregation" it became all black, like the ghetto that surrounded it. Now, under an unusual three-way agreement, most residents are to be integrated into suburban apartment complexes and most of the project is to be torn down.

Why demolish public housing when accommodations for the poor are in short supply? In this case, demolition is probably the best response. All cities with troubled low-income housing projects ought to root for the success of the scattered-site approach in Dallas.

The demolition plan evolved from a suit filed by a group of low-income black residents. It charged that the Dallas Housing Authority had segregated the project and let it deteriorate badly. In fact, 1,300 units were so rundown they had stood empty for a decade. The plaintiffs wanted the place repaired, but that would have required spending $65 million, money Washington wasn't about to pay.

Instead the Housing Authority agreed to repair about 800 units, demolish the rest and, using Federal housing vouchers and subsidies, move the 1,500 or so displaced families into apartments in suburbs or other city neighborhoods, some of them white.

In a metropolitan area with an apartment vacancy rate of 15 percent, that ought to be easy. But resistance is likely, and not just from white neighborhoods and suburbs. Some black politicians perceive the dispersal plan as a threat to their political bases. And some residents of the project worry that community supports they now take for granted will be missing in their new surroundings.

Yet promoters of the concept have long argued that dispersing the poor in small numbers among the general population is preferable to building mammoth projects that concentrate troubled families. Few communities have gone ahead with such a plan. Where they have, the results are encouraging. A Chicago lawsuit, for example, forced the dispersal of a few poor families into middle-class neighborhoods. Most appear to have adjusted well, thanks largely to extensive assistance from private fair-housing organizations. One study suggested the children particularly benefited from better schools.

Michael Daniel, an attorney for the plaintiffs in West Dallas, points out that "The mere fact that you have bricks and mortar joined together does not mean that you have usable public housing." West Dallas would seem to illustrate that persuasively. The scattered-site plan offers an opportunity to show Dallas, and perhaps the nation, a better way.

DEPENDENT CARE TAX CREDIT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Ms. SNOWE. Mr. Speaker, today I am introducing legislation along with my distinguished colleague, SILVIO CONTE, to expand the dependent care tax credit and make it refundable for those whose tax liability does not exceed the credit to which they are otherwise entitled. In addition, this legislation, which I also introduced in the 99th Congress, would provide for a limited credit for respite care expenses which allow caregivers a brief period of relief from the daily responsibilites of caring for a seriously ill or disabled dependent.

Dependent care is vital to all working persons particularly for women working outside the home because they are the individuals most likely to be faced with the responsibility of caring for dependent family members. Access to affordable dependent care is a crucial factor in ensuring that women have an equal opportunity to enter and continue in the job market. As of March 1986, 57.9 percent of women who were heads of households with children under the age of six were in the labor force. And many studies suggest that approximately one in every five or six women is unemployed because she is unable to make satisfactory child care arrangements.

There is an equally pressing need for adequate care for elderly dependents. A woman's caregiving responsibilities frequently do not cease when her children are grown, but rather change to accommodate an aged parent or sick spouse. One in 10 middle-aged women between 45 and 65 years of age has responsibility for the care of an older relative. While many of these women continue to participate in the labor force, countless others retire to assume this responsibility. A study by the Philadelphia Geriatric Center of 150 women caregivers found that 28 percent of nonworking women had quit their jobs and 26 percent of employed women had considered stopping work because of their caregiving responsibilities. It is important, therefore, to encourage the use of respite care by working caregivers as a means of avoiding the dilemma of their forced exit from the labor force or expensive institutionalization of the family member.

The dependent care tax credit is currently available to taxpayers who incur work-related expenses for the care of a child under age 15, a disabled spouse, or any other dependent who is physically or mentally incapable of caring for him or herself. In 1981, Congress replaced the previous flat rate credit for dependent care with a sliding scale that focused the maximum benefit of the credit on lower income households. The scale currently allows a 30-percent credit for work-related dependent care expenditures up to $2,400 for taxpayers with incomes of $10,000 or less; the credit is reduced by 1 percentage point for each $2,000 of income between $10,000 and $28,000 to a minimum of 20 percent. Currently, a family earning $10,000 a year would have to pay $2,400 per year, nearly one-fourth of its income, to receive the maximum credit of $720. However, it should be noted that under the new tax laws, in 1988 a family with an income of $10,000 would probably not have the tax liability necessary to claim the credit.

In order to provide a more realistic level of support to working families to help them meet dependent care expenses, my legislation would raise the sliding scale to 50 percent of work-related dependent care expenditures for families earning $15,000 or less. The scale would be reduced by 1 percentage point for each full $1,000 of income, with persons earning $45,000 or more receiving a credit of 20 percent. In addition, the dependent care tax credit would be indexed to the cost of living and made refundable so that those families with incomes too low to have tax liability or whose credit exceeds their tax liability have access to the credit. Currently, 91 percent of all claims are made by families with incomes greater than $10,000 a year. A refundable tax credit that is indexed to the cost of living will ensure that lower income families have the same access to the credit as the middle and higher income families who currently derive considerable benefit from this tax credit.

Finally, my legislation would include respite care expenses under the dependent care tax credit. Respite is a relatively new service area designed to provide care for the dependent person while the caregiver takes a break from his or her daily responsibilities. Respite care refers to short-term substitute care provided in or outside of the home. In a very real sense, respite is vital to the continued well-being and effectiveness of the caregiver and serves to delay the institutionalization of the care recipient.

This legislation provides for a credit on up to $1,200 of expenses for one dependent and $2,400 for two dependent individuals to provide for respite care. A caregiver would be able to either hire someone to come to the home to care for the dependent for a few hours a day or week, or could bring the dependent to an adult day care center. My legislation would also permit up to a 2-week stay in an institution in order for the caregiver to tend to other personal or family affairs. A credit on expenses incurred for respite care would be available without regard to the caregiver's employment status.

Because the concept of respite care is relatively new, I would like to take this opportunity to highlight the importance of this section of the bill. Legislation in the area of dependent care has generally been tied to the needs of the dependent, with less attention paid to the caregiver. The caregiver is a vitally important link in the home care of an individual who is unable to maintain him or herself. Indeed, recent studies have shown that between 80 or 90 percent of all medically related care, personal care, household maintenance, transportation and shopping needs by the elderly is provided by families. The role of the primary caregiver most often falls to a female family member who may find herself caught between the competing demands of child and parent, causing these women to be called the "sandwich generation."

The demands of work, family, and personal needs in addition to financial and physical demands can lead to a high level of caregiver strain. In these situations, respite care is a crucial break from the constant care of a chronically disabled older person. For example, dependents, such as Alzheimers victims, have been known to have personality changes during the course of their illness, which can render them difficult to manage. Alzheimer patients often have fits of anger and frustration; they sometimes wander in the daytime as well as during the night, allowing the caregiver little rest. Worst of all perhaps is the time when the victim no longer recognizes his or her loved ones. To be left with caregiving responsibilities of this magnitude is something no person should have to do without assistance. It is no surprise, then, that caregivers choose respite care as their preferred service intervention. My legislation will encourage respite care in an effort to support the caregivers who are, at times, themselves in need of help.

In the long run, dollars prudently spent on respite care for the caregiver, will save even greater amounts for both families and State and Federal governments through the postponements or avoidance of expensive institutionalizations.

Mr. Speaker, I believe the dependent care tax credit represents a cost-effective way of assisting our most vulnerable citizens. An estimated 7 million children 13 years old and under, including many preschoolers, may go without care for significant parts of each day while parents work. With the over-80 age group the fastest growing segment of our population, the number of adult dependents in need of care will continue to climb rapidly. Expansion of the dependent care tax credit will help all families provide better care for their loved ones, without extracting a heavy toll on the members of our society least able to afford it. I urge my colleagues to join me in this effort by cosponsoring this important piece of legislation.

TRIBUTE TO WILBUR AALFS PUBLIC LIBRARY

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. GRANDY. Mr. Speaker, today it is indeed my honor to pay tribute to a gentleman whose service to his neighbors and community over the years deserves special recognition.

It was just recently announced in my home town of Sioux City, IA that the community's new library will be duly named after Wilbur Aalfs. This special honor for Mr. Aalfs came after a significant monetary gift to the library fund drive.

But the Wilbur Aalfs Public Library is named for more than just a single cash donation to the library project. It is a tribute to Mr. Aalfs, his wife Marguerite, and the entire Aalfs family. And not only for contributions to Sioux City, but to much of Iowa's Sixth Congressional District, as well.

In 1939, Mr. Aalfs, a graduate of local schools and the University of Iowa, started Aalfs Manufacturing in Sioux City. He has been the company's president or chairman ever since. Through his years at the helm, Aalfs Manufacturing has grown and expanded. With some 1,100 talented workers, it is one of the leading employers in my district. It has plants not only in Sioux City, but also in Le Mars, Sheldon, Spencer, and Storm Lake. The company manufactures blue jeans, corduroys, and jackets for a variety of the Nation's leading firms and retailers.

But the contributions of Wilbur go beyond his service to the area's business and working community. His civic endeavors and generosity are the mark of a real man of service. Many years ago, the Aalfs Family Foundation was created. Its purpose is to support projects with the simple yet noteworthy goal of improving the resources available to the people of his community.

Mr. Speaker, as Sioux City's Wilbur Aalfs Public Library prepares for its mission of enriching the community, let us not forget what made the facility possible. Though many are responsible, remember the contributions of Wilbur Aalfs and his family. This most recent gift is one of many from the gentleman and his family. But it is one of extra special significance because it goes to create a center for learning and study, so that generations to come will continue to gain from the contributions of Wilbur Aalfs.

FINANCIAL DISCLOSURE STATEMENT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. STUDDS. Mr. Speaker, I would like to submit my 1986 personal financial statement for publication in the CONGRESSIONAL RECORD. This statement is a complete disclosure of my 1986 income, assets, and liabilities, which I have done every year since entering office in 1973.

CONGRESSMAN GERRY E. STUDDS' 1986 FINANCIAL STATEMENT

PART I—INCOME 1986 (SUMMARY)

Salary	$75,100
Dividends—See part II for detailed explanation	1,715
Interest—See part III for detailed explanation	1,303
Honoraria—See part IV for detailed explanation	7,300
Advance on royalties—Alfred A. Knopf	35,000
Total income	120,418

PART II—DIVIDEND INCOME 1986

No. shares	Security	Income derived 1986
40	Burlington Industries	$66
347	Exxon	1,248
150	Southwest Airlines	18
155	Rogers Corporation	5
200	Stocker & Yale	5
200	Park Electro-Chemical	6
100	Hughes Supply	10
100	Green Tree Acceptance	13
	Fidelity Daily Income Trust	344
	Total	1,715

PART III—INTEREST INCOME 1986

Bonds	Security	Income derived 1986
$3,100	Lorillard, Inc. 6⅞ debenture	$213
3,333	U.S. Treasury 12 percent, 5/15/87	400

Bank accounts:

Bank of Boston	$41
American Security Bank	623
Shawmut Bank of Cape Cod	26
Total	1,303

PART IV—HONORARIA 1986

Wheaton College	$1,000
Brown University	1,300
Greater Seattle Business Association/Northwest AIDS Foundation (given to charity)	2,000
National Marine Manufacturers Association	500
University of Illinois	2,000
Strub, Colins Inc., New York, NY	500
Total	7,300

PART V—ASSETS

1. Beatrice Studds irrevocable trust

My brother, Colin A. Studds, my sister, Gaynor Babcock, and I have placed the following securities—owned jointly by the three of us—in an irrevocable trust for our mother, Beatrice Studds, with my brother as trustee. All income from these securities goes to our mother for as long as she shall live. My brother, my sister, and I each own one-third of the securities—and they will revert to us upon the dissolution of the trust at our mother's death. The following represents my one-third interest in the trust:

COLIN A. STUDDS, III, TRUSTEE, BEATRICE STUDDS, IRREVOCABLE TRUST, UNDER AGREEMENT DATED AUGUST 1, 1973

No. shares	Security	Market value as of 3/10/87
Bonds:		
3,333	LTX Corp. 7¼, due 4/15/11	$3,000
3,333	Hughes Tool Co, conv. deb. 9½, due 12/15/06.	3,333
Common stock:		
133	West Point Pepperell	8,545
67	W.R. Grace	3,953
50	General Motors	3,950
33	IBM	4,714
112	Munford	2,142
183	Park Electro-Chemical	4,231
233	Rogers Corporation	5,708
67	Eastman Kodak	5,125
167	Centerior Energy Corp.	3,891
100	GTE	4,100
333	First Australia Prime Income Fund	2,788

2. I own the following securities: (As of 3/10/87)

No. shares	Security	Market value as of 3/10/87
Bonds:		
$3,100	Lorillard, Inc. 6⅝ Debenture	$2,960
3,333	U.S. Treasury 12 percent, 5/15/87	3,333
Common stock:		
40	Burlington Industries	1,945
347	Exxon	28,540
100	Hughes Supply	2,687
150	Southwest Airlines	3,525
100	Park Communications	2,850
500	Tucker Drilling	3,375
100	Biomet	2,225
300	Helen of Troy	3,300
100	WD 40	4,225
300	Champion Parts Reb.	3,525
100	Fuji Photo Film	4,587
150	Symbol Tech.	3,375
200	Uniforce	4,500
100	Zondervan	2,625
300	Dynamics Research	2,775
300	Gaming & Tech.	2,475
500	Phon-A-Gram	2,437

3. Our family home in Cohasset, Massachusetts, with an estimated market value of approximately $360,000 is owned jointly by my brother, my sister and me. My interest in the home, therefore, is roughly $120,000.

4. Bank accounts (as of 3/10/87):	
a. NOW account, First National Bank of Boston	c. 1,000
b. NOW account, American Security Bank	c. 2,000
c. Money market account, Shawmut Bank of Cape Cod	c. 1,000
d. Fidelity Daily Income Trust	c. 7,400
5. Two-bedroom house in Provincetown, MA, estimated market value	420,000
6. Efficiency condominium apartment, Washington, DC, estimated market value	54,000
7. 1981 Chevrolet Caprice	4,600
8. 1985 Jeep Wagoneer	15,400
9. 18 feet Boat	14,000
10. IRA—Fidelity Magellan Fund	16,900
IRA—Fidelity Growth and Income Fund	2,500
Keogh Account—Fidelity Puritan Fund	3,900

PART VI—LIABILITIES 1986

1. Mortgage, two-bedroom house, Provincetown, MA, New Bedford Institution for Savings, approximately	268,000
2. Mortgage, efficiency condominium, Washington, DC, Home Unity Savings and Loan	40,500
3. Boat loan, Continental Federal Savings Bank	10,000

4. Personal loan, American Security Bank	19,500

TRIALLATE IS NEEDED

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. PICKLE. Mr. Speaker, today I am introducing a bill to suspend the duty on triallate. Triallate is the active ingredient in a selective, preemergent herbicide used in small grains. Until recently, it was made in the United States; however, for economic reasons the U.S. manufacturer has ceased to make the product here, yet still wants to provide triallate to American agriculture at the lowest possible price.

Mr. Chairman, this bill is noncontroversial. There is no current or likely U.S. producer of triallate. Moreover, only one U.S. produced product has functional characteristics which are even slightly similar and that product, because of its post-emergent nature and the timing of its application, is not directly competitive. The two products offer the farmer different forms of weed control.

Since there is no U.S. producer of triallate and no other U.S. manufactured product which is directly competitive, I believe the suspension of the duty on this product is appropriate. My bill would remove triallate from the duty list by addition of triallate to an appendix of the TSUS which enumerates temporary duty reductions.

FIRST A.M.E. OF LOS ANGELES CELEBRATES CHURCH BICENTENNIAL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. DIXON. Mr. Speaker, I want to congratulate the first African Methodist Episcopal Church of Los Angeles and its choir on their performance at the African Methodist Episcopal [A.M.E.] bicentennial celebration at the Kennedy Center in Washington, DC. The First A.M.E.'s FAME Freedom Choir has the distinct honor of bringing a musical and inspirational message to the Washington area as part of an 18-month celebration of the A.M.E. denomination's founding, growth and achievements.

Over 110 members of 5 First A.M.E. musical choirs are here to perform at the Kennedy Center under director, Joseph K. Westmoreland, who is widely recognized for his musical achievements.

Tonight's gala entitled "A Tribute to Richard Allen," recognizes the contributions of this great founder of the church in 1787. The FAME Freedom Choir is joining choirs from across the country, as well as from Swaziland, in a spirited, uplifting choral presentation.

The First A.M.E. Church of Los Angeles, which was founded in 1872, is the oldest black church in our city. It continues to be a strong pillar in the community under the leadership and guidance of Dr. Cecil L. Murray, and the regional care of Bishop Henry W. Murph. The central theme of the 18-month bicentennial celebration, "A Liberation and Reconciling of Peoples," particularly applies to First A.M.E., given its historical legacy and work in the black community and abroad.

The First A.M.E. Church has been actively concerned with the spiritual and educational concerns of its congregation, as well as initiating programs in the community at large and throughout the world. Through community outreach programs, the church works actively to foster a Christian environment of sharing and concern. Members have helped to feed and cloth the hungry, provided youth and marital counseling services, and fostered community awareness of the perils of drug abuse. In caring for the sick and shut-in, church members visit nursing homes and provide services for senior citizens. In an ongoing assualt against high attrition rates in the schools, a tutoring service has been established and voter education promoted.

The First A.M.E. Church is also concerned with meeting the human needs in developing countries. Most recently, members who participated in a "Walk for Africa" raised approximately $30,000, which was given to the World Church Services for programs overseas.

Moreover, members of First A.M.E. must also be commended for having maintained a sound financial institution as well; in December it repaid its mortgage.

The First A.M.E. Church has distinguished itself by inspiring countless churches and religious organizations under the banners of many denominations. The people of Los Angeles have benefited from its presence in our city and in our lives.

Again, I extend sincere congratulations to the First A.M.E. Church, Dr. Murray, the FAME Freedom Choir, and the choir director, Mr. James K. Westmoreland, on this special occasion.

CONGRESSIONAL LAW

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. JACOBS. Mr. Speaker, well, Mr. Speaker, they've done it again. The administration has worked another lexico (ill)logical miracle.

Everybody knows that everybody has to obey Federal law. But now we have something new called "congressional law."

We might ask, by the way, just who signed the Boland amendment, which restricts spending, into law and why that fellow wants a line-item veto. You can't fool all the people all the time, but in some cases it is not for lack of trying.

MOUNT ST. HELENS: SEVEN YEARS AFTER THE ERUPTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BONKER. Mr. Speaker, 7 years ago to the day, at 8:32 on a sunny Sunday morning, Mount St. Helens exploded with the force of a large nuclear weapon. The top 1,300 feet of the classic, Mount Fuji-shaped volcano was blasted away, melting glaciers, displacing lakes, and causing a "debris avalanche" of historic proportions. The blast flattened trees like matchsticks for 15 miles. A cloud of volcanic ash turned day into night and blanked much of eastern Washington with inches of gritty, gray powder.

The immediate destruction of the eruption was overwhelming. But the more subtle long-term effects are no less dramatic. Whole watersheds were transformed by the eruption and we are only now beginning to appreciate some of its consequences. Along with these problems has come great promise as Mount St. Helens attracts the interest of people around the Nation and abroad.

Great progress has been made to eliminate the most serious threats created by the eruption: a possible outbreak of Spirit Lake and flooding caused by the Nation's worst sediment problem.

The Corps of Engineers has bored an 11-foot diameter tunnel through a mountain to provide a safe outlet for a newly reformed Spirit Lake. Without the tunnel, the lake level would have continued to rise until it overtopped a soft, unstable debris dam. Within a matter of hours the debris dam could fail, releasing a flood and mudflow that would bury 50,000 downstream residents under 20 to 40 feet of volcanic sediment.

Scientists have recently warned that Castle Lake, which also has an unstable debris dam and a questionable outlet, should be made safe. Although Castle Lake is much smaller than Spirit Lake and can have its current outlet deepened, it still presents a serious hazard for downstream residents and workers which must be abated.

The corps has recently embarked on a major sediment control project after years of study and attempting to control the downstream sedimentation with dredging. Erosion from the debris avalanche—3 billion cubic yards of volcanic material deposited in the Toutle River valley that forms a giant sandbox 17 miles long, up to 1¾ miles wide, and an average of 150 feet deep—has filled the Cowlitz and Columbia River channels. This infill threatens flooding and blockage of navigation channels, and causes a number of other problems.

Congress has authorized, and, with the assistance of Chairman TOM BEVILL, funded, the construction of a "sediment retention structure" [SRS] to halt the flow of material at the source. The 184-foot tall SRS, on which the corps recently started work, will trap the sediment at a cost—fiscal and environmental—far below that of dredging, although some dredging will still be required to maintain safe downstream river channels for years to come.

Other problems must still be addressed. The sediment infill of the Cowlitz forced the corps to raise dikes and levees along the river immediately after the eruption. While most communities adjusted to levee raise, the Lexington area has been flooded repeatedly because its existing systems cannot boost water from tributaries over the levee during periods of high flow. The corps is studying alternatives means of solving this problem.

A much more extensive secondary consequence of the eruption is the trouble caused by elevated ground water levels. The cities of Longview and Kelso have experienced dozens of sinkholes that swallow roads and damage sewer and water systems. According to a preliminary report by the U.S. Geological Survey, sediment infill is, again, the culprit. Unfortunately, additional dredging of the Cowlitz channel is not a cost-effective solution and further study will be needed to determine the best approach to this problem.

Along with these problems has come great promise. The volcano and blast zone have attracted scientists, students, and the curious from around the world. The Forest Service estimates that by the year 2000, some 2.8 million visitors annually will come to the 110,000-acre Mount St. Helens National Volcanic Monument created by Congress in 1982.

If these projections are to be realized, the Forest Service must provide access and facilities in keeping with the nature of the monument. A widely acclaimed comprehensive management plan, mandated by Congress, provides a blueprint for balanced development of the monument that will maintain key areas in a primitive condition to preserve scientific, ecological, and scenic values.

With the leadership of Chairman SID YATES and other key Members, Congress has supported key elements of the comprehensive management plan for the monument. Last December, I was present at the dedication of a magnificent monument visitor center that is already hosting hundreds of visitors every day.

Although access to the volcanic area is still a problem, the Federal Highway Administration is sponsoring reconstruction of the destroyed Highway 504 to the west of Mount St. Helens that should be completed in 1991. In the meantime, a network of narrow roads, some still unpaved, on the eastside of the volcano provide the only access.

The Forest Service is using recently appropriated funds to improve these existing roads and create a scenic "loop" that greatly improves access and helps to link Mount St. Helens with several other nearby scenic wonders, including the recently established Columbia River Gorge National Scenic Area and Mount Rainier National Park. Trails, campgrounds, and other visitor facilities are turning the Mount St. Helens National Volcanic Monument into a world-class attraction.

TWENTY-FIFTH ANNIVERSARY TO DESIGNATE THE WEEK BEGINNING JUNE 21, 1987, AS "NATIONAL OUTWARD BOUND WEEK"

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. UDALL. Mr. Speaker, today I am introducing a resolution which commemorates the 25th anniversary of the first Outward Bound outdoor recreational program offered in the United States. Outward Bound is an organization which offers individuals the opportunity to participate in rigorous outdoor recreational programs to improve self-confidence and physical fitness in order to encourage perseverance, teamwork, leadership and environmental awareness.

I urge my colleagues to cosponsor this resolution.

LAKE ODESSA

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. HENRY. Mr. Speaker, nestled in farming country in southern Michigan lies the quiet, easy-going village of Lake Odessa. With its beautiful tree-lined streets, this lakeside community belies its earlier days as a thriving town called Bonanza.

So named because the original settlement was experiencing a financial boom, Bonanza continued to grow through the 1870's and early 1880's on the belief that the railroad would be coming through the town, making it and local businesses a financial success. Alas, it was determined the railroad was not going to be located in Bonanza, but instead on a nearby farm in Lake Odessa. Angered because he thought the railroad would ruin his farm, the farmer sold his land to an enterprising businessman from a nearby community. When the purchaser's final payment was made on the farm in April 1887, the land was surveyed and in July 1887, the original plat was filed and a new village was born.

Within the next few years, the townspeople and businesses of Bonanza moved lock, stock and barrel to the new community. Homes and buildings were literally lifted onto log rollers and rolled to Lake Odessa—so named for the township and for the lake which borders the south side of town. By the early 1900's, Bonanza was but a memory, and left only its epitaph:

We lived, we breathed, we had some fun,
We are closed now, the cashier's gone.

Lake Odessa was now the boom town. Lots began to sell "like hot cakes," and businessmen came from all over the State to open up shop in this thriving new community. Changes took place so fast that they often went unnoticed, and there was constant growth in hopes that the railroad would soon be completed. And completed it was. On July 16, 1888, the first passenger train came through the village, and it is the day Lake Odessa was, literally, "put on the map."

Over the past 100 years, many sacrifices were made to make Lake Odessa the community it is today. Devastating fires throughout the city in the latter part of the century resulted in major changes in the city's water system, the outlawing of the creation of wooden buildings for places of business, and saloons were prohibited from doing business in certain areas of town—even though none of the fires resulted from saloon activities.

While the 1800's brought a severe economic depression to the rest of the country, Lake Odessa continued to make great strides, and with the turn of the century, there was a sense of pride that in Lake Odessa, dreams were finally coming true. Still experiencing steady growth, the first part of the twentieth century proved to be tranquil.

The "roaring twenties" brought modernization of the water system—a matter of long dispute—paving of the State highway through the village, and plans for a lakefront public park were formulated—progressive times for the small community. Yet the twenties ended in turmoil with the stock market crash and an indication of hard times that were yet to come.

Like small communities across the United States, the residents of Lake Odessa felt the effects of this turbulent era. Although times were rough, living in a small town gave everyone the sense that they were going to make it. And, it was this attitude that carried the townspeople through future life and death tragedies which often beset small towns.

Yet, life goes on, and although the railroad no longer runs through the village, Lake Odessa continues to prosper and grow. The annual art in the park festival draws thousands of visitors to the village each July. Jordan Lake, now surrounded by cottages, and expanded public beach and park facilities, is one of the loveliest recreational areas in southern Michigan. Warm weather brings visitors and residents in droves to partake in favorite summertime activities—swimming, picnicking, and boating. Beautification efforts in the early 1980's resulted in Lake Odessa being designated as a "1980 Tree City USA," and further efforts to make the town aesthetically pleasing and modern are obvious as one travels throughout the quaint and graceful village.

The spirit of the early pioneers lives on, Mr. Speaker, and as the village of Lake Odessa celebrates its 100th birthday, the residents are proud of the accomplishments made over the past century. Committed to preserving a rich heritage, while striving to improve and upgrade the foundations laid by their forebears, the citizens of Lake Odessa—like the early settlers—have a vision of the future.

In recognizing the achievements of the past, and looking at the dreams of tomorrow, please join with me, Mr. Speaker and my colleagues, in offering congratulations and best wishes to the residents of Lake Odessa, MI, on the occasion of the village's 100th birthday.

THE SLEPAKS WAIT 17 YEARS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. PORTER. Mr. Speaker, a few weeks ago I met Soviet immigrant Alexandr Slepak. Alexandr, symbolic of the courage necessary to withstand the irrational treatment placed on Soviets desiring their guaranteed rights, fasted for 17 days to protest the 17 years his parents have been waiting to emigrate from the Soviet Union.

His parents, Vladimir and Maria Slepak, have repeatedly spoken out for themselves and every Soviet citizen desiring to emigrate. Everyone who meets the Slepaks describe their strength, determination, and gentleness of character. As a result of their bravery, Valadimir and Maria have suffered abuse since first applying to emigrate in 1970.

My colleagues Mr. HOYER, Mr. SCHEUER, and other members of the Speaker's delegation to the Soviet Union met with the Slepaks when they were in Moscow last month. So did Secretary of State George Shultz.

Mr. Speaker, the Soviets presented Secretary of State Shultz with a list of favorably resolved emigration cases. Although this is one step down the long road to freedom, the list we are waiting for will include the name of every single person desiring to emigrate from the Soviet Union, including Vladimir and Maria Slepak.

LA PRENSA ORDERED CLOSED

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SHUMWAY. Mr. Speaker, the final uprising against the Somoza dictatorship was sparked by the assassination of Pedro Joaquin Chamorro, the editor of La Prensa who dedicated his life to the cause of freedom for the people of Nicaragua. For 45 years La Prensa led the fight against the Somoza dynasty on behalf of freedom and democracy.

The Sandinistas, after 4 years of rigorous censorship which often prevented the paper from publishing at all, ordered La Prensa closed indefinitely on June 26, 1986.

Last week La Prensa dared to send a message of greeting to delegates, including Members of Congress, attending the Interparliamentary Union in Managua. As a result, Nicaragua's secret police occupied the paper's premises, seized publishing materials and turned away foreign visitors at gunpoint.

Once again, the Sandinistas have demonstrated their total disregard for basic rights and freedoms.

I commend my colleagues' attention to the Washington Post article which follows:

[From the Washington Post, May 15, 1987]

OPPOSITION NEWSPAPER AGAIN IN ROW WITH SANDINISTAS

(By William Branigin)

MANAGUA, NICARAGUA—The Sandinista government and the newspaper La Prensa, which it closed nearly a year ago, are again at loggerheads following an incident in which police occupied the paper's premises, seized publishing materials and turned away foreign visitors at gunpoint.

The latest skirmish in the running battle between the government and the independent newspaper erupted late last month when the paper printed what it called a "message of greetings" to delegates attending a conference of the Interparliamentary Union in Managua.

About 800 foreign legislators, including several U.S. congressmen, flew in for the conference, which the government viewed as a major opportunity to showcase "Sandinista democracy" and denounce U.S.-backed rebels opposing it.

La Prensa's message, printed on a single page of newsprint under the paper's name, featured a photograph of its late editor, Pedro Joaquin Chamorro, and a quotation from a speech he once gave: "Without freedom of the press, there is no freedom."

The message noted that the paper had marked 306 days of "arbitrary closure" and urged the delegates to show solidarity with the "Nicaraguan people's clamor for press freedom."

Also distributed to the delegates was a pamphlet containing a point-by-point rebuttal by La Prensa's chairwoman. Violeta Chamorro, the widow of the late editor, of accusations made by the Sandinistas in justifying the closure of the paper.

The day after the materials were distributed, about 30 armed Interior Ministry police burst into La Prensa's compound, questioned employes and carried out a search.

According to Violeta Chamorro, the police, under the command of Capt. Oscar Loza, chief of operations of the ministry's General Directorate of State Security, the Sandinista secret police, occupied the premises for about three hours and intimidated the paper's remaining employes. At one point, she said, a Belgian delegation arriving for an appointment with her was turned away at gunpoint.

Among the items carted away, Chamorro said in an interview, were printing plates, newsprint and thousands of copies of the messages and pamphlets. She said the state security forces had raided the paper based on an erroneous Voice of America report that La Prensa had published a clandestine edition to coincide with the Interparliamentary Union conference. There was nothing secret about the message, she said, which was also sent to Sandinista leaders, including President Daniel Ortega.

"With the military occupation and search of La Prensa on April 30, the Sandinista National Liberation Front has once again shown its true face to our illustrious guests by not respecting the human rights of the Nicaraguan people," Chamorro said in a statement.

In response to the occupation, representatives of 30 legislators from France, Belgium, Austria, Spain, Luxembourg, West Germany, Britain, the Netherlands and Switzerland issued a statement calling for "a rapid end to measures in Nicaragua that further limit the exercise of fundamental liberties and infringe human rights."

Interior Minister Tomas Borge, in an interview Saturday, defended the raid on La Prensa, which he charged had acted in collusion with the U.S. Embassy in issuing the publication.

"No publication can come out without the approval of the Media Office" in the Interior Ministry, Borge said. La Prensa, he said, "defied the law in combination with the North American Embassy with the goal of provoking a scandal, which they succeeded in doing. We cannot permit the law to be violated, so we followed the course of respecting ourselves. To do otherwise would have showed a lack of firmness, even weakness."

Responding to Sandinista accusations, Chamarro said, "We have nothing to do with the CIA, the Reagan administration, [Soviet leader Mikhail] Gorbachev or anybody else. We want this country to be free and democratic." She said the raid showed that "this government is totalitarian and has nothing democratic about it."

La Prensa, which began publishing in 1926, strongly opposed the government of Anastasio Somoza, who was ousted from power in 1979. The murder of La Prensa publisher Chamorro in January 1978 was a key event that helped trigger a popular revolt against Somoza's government.

The revolt eventually brought the Sandinistas to power, which they consolidated by elevating the Sandinista National Liberation Front as the country's supreme authority, at the expense of centrist political forces.

Violeta Chamorro was a member of the first Sandinista ruling junta but quit in opposition to what she said were totalitarian policies.

In March 1982, the Sandinista government formally imposed censorship under a state of emergency declared, authorities said, to respond to a U.S.-backed "counterrevolution." But even before that, according to Chamorro, Sandinista mobs intimidated and harassed the paper's employes and distributors.

After four years of rigorous censorship, which sometimes prevented the paper from publishing at all, the government ordered La Prensa closed indefinitely on June 26, 1986. The government said the closure was not a matter of free expression but of national defense, since the paper allegedly was a mouthpiece for the U.S. government and had published articles intended to disrupt the nation's economy and political stability. The closure was widely seen as a reaction to a House vote to appropriate $100 million for the rebels, known as counterrevolutionaries or contras.

The Sandinistas also charged, in an explanation of the closure to the Inter-American Commission on Human Rights, that the paper was in the pay of the Reagan administration because it had received $100,000 from the National Endowment for Democracy.

In its response to this and other charges, published in the confiscated pamphlets, La Prensa argued that no law in Nicaragua prohibited receiving foreign donations, as proved by the fact that the Sandinistas received many such contributions. It noted that the National Endowment had been set up by the U.S. Congress, which earlier had approved aid to the Sandinista government. The paper said it has also received contributions from Venezuela, Sweden and West Germany so the paper would not have to close.

When it found out that the National Endowment for Democracy aid was being administered by Prodemca, a group that was actively supporting the $100 million contra aid package, the pamphlet said, La Prensa announced it would not accept any more aid through Prodemca in order not to compromise its editorial line.

In other restrictions on the press, the government has banned the monthly newsletter of the Nicaraguan Democratic Conservative Party, a newspaper put out by the Roman Catholic Church, the independent newsletter Prisma, the leftist daily newspaper El Pueblo and the bulletins of two non-Sandinista union federations, the Confederation for Labor Unification and the Nicaraguan Workers' Central. In January 1986 the government also shut down Radio Catolica, the radio station of the Catholic Church.

According to Chamorro, the aim of the government now is to bankrupt La Prensa. She said that the Interior Ministry, in a letter dated March 26, ordered the paper to pay the salaries of employes who were laid off after the government closed it last year. She said the paper originally had 220 employes, who were paid for two months after the closure. La Prensa now keeps a staff of 50 despite having no income for the last 10 months, Chamorro said.

NEW PANAMA LAW HELPS IN THE BATTLE AGAINST DRUGS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BROOMFIELD. Mr. Speaker, let me take this occasion to commend the Government of Panama for its support and cooperation with the United States in the battle against drugs. Thanks to Panama's help, the largest and most successful undercover investigation in Federal drug law enforcement history was successfully carried out.

It is obvious that the war against narcotics will only be won through international cooperation among countries. This recent operation is a classic example of how working together against the drug traffickers produces impressive results.

As my colleagues know, the Justice Department recently announced indictments of 115 people in "Operation Pisces", a massive undercover drug investigation in which U.S. drug agents posed as money launderers for South American cocaine cartels.

The Drug Enforcement Administration recently revealed that the 3-year investigation resulted in the arrest of 351 other individuals and the seizure of 19,000 pounds of cocaine, along with $49 million in cash and related assets.

The Government of Panama, using a new law intended to halt money laundering of drug profits, recently froze 54 accounts in 18 Panamanian banks where drug profits linked to "Operation Pisces" have been deposited. In the past, money laundering had been a serious obstacle in working with Panamanian authorities. Under that country's old law, "confidentiality" mechanisms and banking secrecy laws were obstacles in the battle against money launderers. In December of last year, the Government of Panama enacted a tough narcotics law which criminalizes money laundering. Panamanian officials have sent a clear message to the drug dealers. That country will no longer be a safe haven for drug and money-laundering operations.

This successful operation also resulted in the arrest of three cocaine kingpins after they arrived in Miami last week. One of those arrested was the leader of a top Colombian drug cartel.

Panama has also made noteworthy progress in other aspects of the battle against drugs. Narcotics production in that country has been virtually eliminated through joint U.S.-Panamanian marijuana eradication projects and narcotics processing facilities. Also, drug abuse is not a major problem in Panama.

The Government of Panama has never refused a request from the U.S. Government to stop, search and seize a Panamanian-flag vessel suspected of narcotics trafficking. Panamanian officials have routinely granted requests for informal expulsion of drug enforcement agency fugitives. Interdiction efforts in that country have also been impressive. In recent months, the Government of Panama has interdicted nearly 1,200 kg's of cocaine. This quantity is more than was seized in all of 1986. While more work needs to be done in the area of narcotics trafficking through Panama, great progress has been made and Panama deserves credit for their efforts.

Thanks to this recent progress, drug cartels operating in Latin America have lost many of their assets. They and traffickers everywhere now know that drug assets are insecure. There will be no safe havens for drugs. I also congratulate the administration for making the war against drugs a top priority.

"Operation Pisces" was a success and would not have been possible without Panama's fine assistance.

SALUTE TO TOM HUGGINS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. BOEHLERT. Mr. Speaker, I want to draw the attention of my colleagues to a resident of my district who is about to retire after an especially successful and rewarding career as an athlete, coach, and teacher.

I am talking about Eric H. Huggins of Utica College of Syracuse University. Tom was a pioneer of athletic programs at Utica College, where for 35 years he served as a coach and teacher.

A fine sportsman in his own right, Tom carried over the principals of sportsmanship into his coaching and into his everyday life, and was a superb role model for the thousands of young people who worked with him over the years.

I speak for all those who know Tom in thanking him for a job well done, and in wishing him all the best in the future.

HELP FOR THE U.S. MERCHANT MARINE

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. MILLER of Washington. Mr. Speaker, I want to call to the attention of the House the recent work of the Subcommittee on Merchant Marine and the full Committee on Merchant Marine and Fisheries to help the American Merchant Marine, both of which I serve on.

As my colleagues know, we were once a proud maritime nation. Today, there are fewer American-flag merchant ships than anytime this century. Analysts concerned with our national defense and our Nation's ability to participate fully in international trade worry about the future of our domestic merchant fleet. These concerns are very real and we need to think about positive steps which can and should be taken to reverse the decline in our shipping industry. The task is not an easy one and the solution is not simple. But, Mr. Speaker, this week the Committee on Merchant Marine and Fisheries took a solid step toward focusing on positive and nonprotectionist solutions to this problem.

First, the committee approved and sent to the House H.R. 953, a bill to authorize funds for the Maritime Administration and the Federal Maritime Commission. What is noticeable about this bill is that it continues all of the existing programs at realistic and meaningful levels of funding, but is $20 million below the amount appropriated in fiscal year 1987. I am pleased that based on questions I asked of Maritime Administrator Gaughan, the committee has placed a moratorium on offshore oil and gas exploration service and production vessels as well as inland tugs and barges from the title XI loan program. This restores title XI to its original purpose of helping our oceangoing shipping.

The committee also reported out two other important bills, H.R. 300, "The Maritime Agreements Act," and H.R. 1290, "The Ocean Transportation Practices Act." Mr. Speaker, these are good bills and also deserve the support of our colleagues.

H.R. 300 authorizes the President to enter into a maritime agreement with another ocean trading country if such negotiations were mutually sought or if another country does not give our merchant vessels access to bilateral shipping. The target levels in this bill, one-third of cargo each for the United States and our trading partner and one-third open to other nations is less protective of domestic merchant fleets than the standard set forth in the United Nations Trade and Development Code of Conduct for liner cargo.

H.R. 1290, Mr. Speaker, is the Merchant Marine Committee's contribution to addressing unfair foreign competition. This bill instructs the Federal Maritime Commission to actually set our maritime programs and practices alongside those of any other nation. If they have a significant surplus in maritime commerce because they deny our shippers the opportunity to compete, then the administration is instructed to seek a negotiated remedy. We are admitting that there are a lot of similar programs, like Construction Differential Subsidies and Operating Differential Subsidies. There are also port operating procedures and access to support services, which need to be looked at. During full committee markup, Chairman JONES and I entered into a colloquy about the definition of "unfair trade practices." As one who supports freer and more open trade, my purpose was to seek assurance from the Chairman that the process of identifying alleged unfair practices will not be misused. Chairman JONES assured me that if a practice does not harm U.S. shipping, no foul can be declared. We are not simply identifying a collection of practices which differ from our own and labeling them unfair.

I might note that I managed this provision on the floor, when the trade bill was considered by the House. This section, like the export promotion language approved by the Foreign Affairs Committee, represents positive steps which will reduce our trade deficit and create more jobs.

The goal of these three bills is simple and straight forward. The American merchant marine needs cargo to keep it operating. These three bills, when seen as a whole, go a long way toward insuring that our ships have access to cargo based on fair and free competition.

Mr. Speaker, if I may, I would like to turn to one key amendment to the Foreign Assistance Act which was adopted by the Foreign Affairs Committee, on which I also serve. We adopted a provision to reform the way the cash transfer program works.

Briefly, this amendment encourages the President to provide foreign aid in the form of commodity imports from the United States rather than cash payments whenever possible. It would allow cash transfers to take place only after the President determines that the need of the United States and the needs of the Nation we are trying to help would be better served through cash payments.

We would require that the Nation receiving the cash must enter into an agreement with the United States covering the purchase of American goods, services or commodities. Currently, Israel is the only nation that has consented to such an agreement. Because much of this aid will be in the form of commodity transfers, these shipments will likely fall under Public Law 480 and be carried on U.S.-flag vessels.

Mr. Speaker, I sought and won a seat on the Merchant Marine Subcommittee so that I could contribute to the development of sound maritime policy. These three bills and the Foreign Assistance Act amendment are fiscally responsible and do not rely on protectionism. Rather, they look at the American merchant marine and identify prompt and meaningful action which will help that vital industry and our Nation.

Thank you.

H.R. 2430, U.S. DUTY SUSPENSIONS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. GRADISON. Mr. Speaker, on Thursday, Mr. ANDREWS and I, with other colleagues from the Ways and Means Committee, introduced a bill to create a administrative procedure for U.S. duty suspensions.

On occasion companies find that there is no domestic production of a part or input they need to make their goods. In such instances the companies commonly seek a temporary duty suspension from Congress so that they can keep costs down. Provided no domestic interests are harmed, the duty suspension is routinely passed.

Recently, however, American companies have not been able to get the prompt consideration of these requests that their business planning requires. Though the Ways and Means Committee favorably reported over 70 miscellaneous tariff provisions on 2 different occasions in the 100th Congress, no tariff legislation has been enacted since 1984.

The vast majority of these tariff provisions were noncontroversial—an International Trade Commission turned up no domestic producers and no reasonable objections, and the bills were summarily approved in committee.

The proposed procedure would run parallel to that of Congress. A company could seek a duty suspension by Congress, or it could file a petition with the U.S. International Trade Commission. The petitions would be listed in the Federal Register. If, after a set period of time, there were no reasonable objections and the Department of Commerce review yielded no difficulties, the USTR could then recommend to the President that the goods receive a 3-year duty suspension. Under such conditions a duty suspension could be granted in 3 to 6 months.

Were the petition deemed ineligible for administrative proclamation, the company would have to try for the congressional route. Thus any issue where real disagreement were involved would require congressional involvement. But in cases where there were no dissent, businesses would get timely action and Congress could devote its attention to the issues of debate.

At the same time, when Congress declares these duties suspensions unilaterally, the United States loses any negotiating leverage the tariffs might have provided. Therefore, the proposed administrative procedure is designed to give the USTR more flexibility in obtaining fair treatment for American goods abroad.

The first time a particular noncontroversial duty suspension was considered, the USTR would look only at the domestic merits of the case. But the second time that this duty suspension was brought up, the USTR would have to consider whether the foreign country benefiting from the suspension had granted any reciprocal concessions to any American interests.

This bill, then, would provide several important benefits for American business, and for Congress. By scheduling the duty suspension process, companies would no longer be at the mercy of larger political concerns, and would thus benefit form the more timely, less expensive process. The USTR would have more leverage to open markets to U.S. goods as well. And Congress would have its time freed to devote attention to the issues that deserve it.

An identical measure passed in the Senate on May 11, and is supported by the administration. We hope that Congress will recognize that competing industries are helped by efficient government, and will enact this legislation.

CLARK SCHOOL RETIREES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to announce the retirement of three prominent educators from the St. Louis public schools. On Saturday, May 23, 1987 the staff of Clark School will honor Mrs. Mary Louise Layne Harrison, Mrs. Elizabeth Alexander Henderson, and Mrs. Edith Siford Penn for their meritorious service to the St. Louis community.

I salute these outstanding teachers on this momentous occasion and I am happy to share the following biographical sketches of each of these very special St. Louisans.

CLARK SCHOOL RETIREES

Mrs. Elizabeth Alexander Henderson was educated in the St. Louis Public Schools. She is a graduate of Vashon High School. She obtained her Bachelor of Science and Masters Degrees from St. Louis University. She did further post-graduate studies at Forest Park Community College, Washington University and the University of California, San Diego.

She is the widow of the late Clydrill Henderson and the mother of two sons, Eric R. and Hugo D. Henderson.

Mrs. Henderson dedicated her entire twenty-nine years of service to the students of Clark School. She spent her first twenty years teaching in Grades One through Eight and her final nine years as a brilliantly excellent Chapter I Mathematics Instructor. Her success as an educator often brought commendation and awards of merit from her peers.

She is an active citizen in the St. Louis Community giving of her time, talents and financial resources to the following organizations: Central Baptist Church, Wheatley YMCA, The Association for Supervision and Curriculum Development, The National Council of Teachers of Math, The St. Louis Council on World Affairs, The Association of Research and Enlightenment, The Playmates Bridges Club, The National Sorority of Phi Delta Kappa, The Association of Executive Females, Grammateus and Basilius, and Chairpersons of Resolutions.

She has been honored with several prestigious awards as follows:

The Essence Award—Alpha Zetas Pelatic, 1981.

The Rhodia Miller Memorial Award—Matthew Dickey Boys Club, 1983.

The Apple for the Teacher Award—Iota Phi Lambda Sorority, Inc., 1985.

Through her affiliation with the St. Louis Council on World Affairs, Mrs. Henderson has entertained foreign students, since 1967, from nations on every continent with the exception of Australia. She has been an Ambassador of Goodwill because of her love of God, love of knowledge and love of her fellow human beings.

Mrs. Henderson retired in August, 1986 prior to the beginning of the 1986-87 school year. She continues to serve her fellow human beings having embarked upon a new career as entrepreneur of the Jet Set Restaurant located at 3006 North Union Boulevard, St. Louis, Missouri.

Mrs. Edith Siford Penn was born, reared and educated in Tennessee.

Mrs. Penn received her nursing degree from Homer G. Phillips Hospital and spent eight years as a staff nurse dispensing special loving care to her patients.

She received her Bachelor of Arts Degree and Missouri Life Teaching Certificate from Webster College. She pursued post-graduate studies at St. Louis University.

She is the widow of the late Charles Penn, mother of Charles Penn, Jr. and grandmother of Kimba S. Penn.

Mrs. Penn has dedicated thirty-three years of service as a nurse to the children of the St. Louis Public School System. She is a gracious, soft-spoken, loving woman whose calm demeanor exudes the trust and love of her young patients. In addition she has worked diligently to provide her special, loving care to patients at Project Head Start, The American Red Cross, and the St. Louis County Corrections Center.

Mrs. Penn serves the St. Louis Community through her participation in the following organizations: Youth Leadership Conference, Drug Abuse Workshop, Missouri State Teacher's Association—Department of School Nurses, St. Louis Metropolitan Sickle Cell Anemia Association and the Annie Malone Children's Home.

Mrs. Penn has been specially recognized with Certificates of Appreciation by the following community groups: City of St. Louis Health Department, 1970, for her participation in their "Rub Out Rubella" campaign. By the National Polio Foundation for her participation in its "Mass Polio Immunization Program.

During her distinguished forty-one year career in nursing her words and actions have exemplified the phrase, "Love is the Best Medicine."

Mrs. Mary Louise Layne Harrison graduated from Carver Elementary School, Vashon High School, where she was a National Honor Society Member, and Stowe Teacher's College. She obtained thirty-eight hours of post-graduate studies.

She is the widow of the late Elmer A. Harrison. She has one stepdaughter and two stepgrandchildren.

Mrs. Harrison's father, the late Bishop Austin A. Layne, was the founder of The Temple Church of Christ. Mrs. Harrison is an active participant in her father's church serving as a pianist, choral director and Sunday School Superintendent.

Currently, she serves as a third grade teacher at Clark School. She has given forty years of dedicated service to the children of St. Louis as an Excellent Educator. Her class is always at or near the pinnacle of achievement's heights.

Life is God's Gift to us. Mrs. Harrison has richly shared God's Gifts to her with the hundreds of children she has so diligently served along with her involvement in the St. Louis Community having generously given of her time, talents and resources to the following organizations: The Temple Church of Christ, Human Development Corporation, St. Louis Christmas Caroling Association, Annie Malone Children's Home, United Negro College Fund, The United Way, and the Greater St. Louis Arts and Education Council.

Mrs. Harrison is a gracious, charming, caring lady whose love of learning and children budded with a dream of teaching and blossomed into forty years of Excellence as an educator.

PERSONAL EXPLANATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. GILMAN. Mr. Speaker, I was unavoidably detained in the congressional district earlier this afternoon, and was not able to cast my vote on rollcall 122, on approval of the journal. Had I been present, I would have voted "aye."

ANTITANK WEAPONS

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. RIDGE. Mr. Speaker, the antiarmor weapons testing amendment accepted today in the DOD authorization calls on the Department of Defense to test operationally the available arsenal of infantry, squad size, antitank weapons. The Department of Defense is presently engaged in an antiarmor program estimated to last at least 7 years. In the interim, our soliders must be equipped with the best antitank weapons available in the international arsenal.

Until very recently, the squad level infantryman had only the LAW shoulder-fired rocket as his last ditch defense against enemy tanks. The LAW failed miserably in Vietnam: it proved unable even to stop light armored vehicles and often unsafe to fire. Years after these problems were recognized, the Army, under congressional pressure ran a new test to select another light antitank weapon. This test was inadequate and irrelevant. It was never determined whether an average soldier could hit a tank with any of the two candidate weapons. The weapons involved were never tested to determine whether they could actually stop a tank. The tests excluded several weapons used an highly regarded by other countries. Despite these gapping deficiencies in the test, the Army selected the Swedish AT-4 as the new light antitank defense for the infantryman.

What does this mean for the soldier we ask to confront Soviet armor? It means he is as devastatingly unequipped to protect himself against enemy tanks as he was in 1944 in the Ardnees, in 1950 in Korea, and in 1967 in Vietnam. The Army has never selected an antitank weapon by simply firing it to see whether it can: First hit a tank under battlefield conditions; and second, stop the tank it hits. Over the last 45 years, the Army has proven unable to conduct such a test under realistic, combat conditions. Nothing short of this amendment will provide the Congress and DOD with the technical information necessary to procure the best, light antitank weapon available for our infantryman.

Experts have pointed to several shoulder-fired antitank weapons as a temporary but satisfactory solution. By requiring comparative operational tests of these weapons against realistic tank targets, on realistic terrain and at a realistic weight for a squad, this amendment would provide the data necessary to allow the Army to make a rational decision as to whether we can purchase an effective antitank weapon and which one weapon would be most suited to our needs. The amendment would also require the weapons to be compared for lethality under supervision of the joint live fire test program. The report of the Secretaries of Defense and Army would address the adequacy of the tests, the firing results, and a recommended best weapon.

Let me briefly tell you a story. Thirty-five years ago, Lt. Ollie Connor, a veteran infantryman in Korea, faced a herd of Soviet T34 tanks operated by North Koreans on a hill near Osan. Bravely, Lieutenant Connor grabbed a bazooka, dove into a ditch and began firing his 2.36 inch rocket launcher at the nearest tank. Positioned just 15 yards away, he landed 22 direct hits but managed to do little more than scratch the paint on the thick armor. After dozens of American lives were lost, Connor and his 34th Infantry strugled back to their base knowing "what was going to happen when the tanks got to them." The regiment pulled out in a panic before it fought. Mr. Chairman, sadly, today's infantryman would suffer the same fate. This amendment says that the American people will do everything possible to support our men in the field. As a veteran combat staff sargeant myself, and as cochairman of the military reform caucus, I ask for the opportunity to offer this amendment on behalf of our fighting men.

ZENITH BREAKS THROUGH WITH REVOLUTIONARY TUBE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, last session I had the pleasure of informing my colleagues of a breakthrough agreement between Zenith Electronics Corp. of Illinois and the city of Shanghai to export American television products to the Chinese. In keeping with this innovative spirit, Zenith has once again accomplished a notable breakthrough. Last week, Zenith Electronics Corp. unveiled a revolutionary flat color computer monitor manufactured with newly patented components.

Today's television screens and computer monitors are slightly curved, which often causes glare. Zenith's "flat tension mask" establishes a new standard of excellence for color video displays. It has a flat screen and nonglare surface with an unmatched degree of detail in its picture. The flat tension mask tube was developed for computer displays. But there are plans to adapt this technology to color televisions for sale both here in the United States and abroad.

I am particularly pleased about this announcement because the plant where the patented tubes for these screens are manufactured is located in the Eighth Congressional District of Illinois, which I represent. In October of last year, I had the opportunity to visit the plant and see first hand this new technology before its development into a final product for sale. Its success is now responsible for the creation of 600 new jobs in the Chicago area with the promise of many more to come.

During our recent debate and consideration of trade reform legislation, much ado was made about the diminishing ability of U.S. companies to transfer technology into commercial products. Today we can proudly reflect on this achievement by a domestic manufacturer and see the potential for even further advancement of U.S. competitiveness with assistance from the Government.

Zenith, the State of Illinois, the city of Chicago, Cook County, and the International Brotherhood of Electrical Workers, Local 1031, collaborated on this project, making this technological innovation a mutual endeavor for economic development. The resolve and determination exemplified by Zenith, through its commitment of over $45 million to research and development, anchored the contribution of more than $725,000 in job training assistance funds by local government and an amenable negotiation of labor contracts.

This is a superb example of what can be achieved when business, Government, and labor come together with a common goal. It is increasingly clear that neither Government, industry, nor labor can individually solve the problems associated with America's huge trade deficit. Rather, it is only through cooperation that we can best hope to succeed.

STOP SELLING BABIES AS COMMODITIES

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I have introduced H.R. 2433, which would prohibit the solicitation of women so-called surrogate mothers and the commercialization of surrogacy arrangements by persons or agencies. Likewise, my legislation would prohibit the advertisement for surrogacy services in connection with providing babies.

Unlike adoption, surrogate parenting is completely unregulated today. The 50 States closely monitor adoption, prohibiting fees for the mother and in general preventing commercialization of parenting relationships. My bill gives to every mother and every child caught up in a surrogacy scheme similar rights to the traditional ones mothers and children have in adoptions. The mother effectively would have the right to revoke any prior agreement after the child is born. The involuntary servitude which is part of the contract for the delivery of the child would be illegal.

Under any and all circumstances, the mother of a child must be given the opportunity, after the birth of that child, to rescind any prior agreement to give up that child. It was the Baby M case which brought surrogate pregnancy arrangements to public attention in a compelling irony.

It's sad and frightening to see a court in the business of upholding a contract for the sale of a person, a baby. Furthermore, it is frightening that motherhood is up for sale. I think the whole thing must be taken out of the realm of cold impersonal contract law.

The surrogate motherhood issue is a national problem demanding nationwide solutions. Even before Baby M, the attention of many, many Americans was beginning to concentrate on the surrogate motherhood issue as perhaps the No. 1 biomedical problem in our country, with little legislative or judicial guidance for those caught up in it.

Federal legislation is necessary. If the courts and the legislatures of the 50 separate, sovereign States attempting to sift through the medical, legal, constitutional, ethical, and moral problems of surrogate parenting, it will be decades before any national policy emerges. In the meantime, the toll of suffering on those involved in the cases will be staggering.

Baby M and other children of surrogate arrangements are mere chattels—handled, transferred, and contracted for, like so many thousand dollars of packaged goods. It may be very close to the mark to say that the Baby M case is the first time since the passage of the 13a amendment that a court has ordered the consummation of a contract for the sale of a human being. Obviously, from the court's opinion, the subject of such a conveyance for a monetary consideration has no constitutional rights and properly may be compared with the involuntary servitude of Dred Scott, who likewise was afforded no constitutional rights in the famous Dred Scott decision which led to the Civil War.

The surrogate industry is unregulated, and in that respect, it is similar to the black market segment of adoption in this country we know too well. For example, women can be lured into agreements which are exploitive of both mother and child and contrary to public policy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, May 19, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 20

9:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for the Judicial Conference, Commission on the Bicentennial of the Constitution, U.S. Sentencing Commission, and the State Justice Institute.

S-146, Capitol

Labor and Human Resources

Business meeting, to resume consideration of S. 557, Civil Rights Restoration Act.

SD-430

9:30 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on Title II, relating to liner operating differential subsidy reform, of S. 1183, Foreign Shipping Practices Act.

SR-253

Energy and Natural Resources

Business meeting, to resume consideration of S. 748, Price-Anderson Act Amendments Act, and other pending calendar business.

SD-366

10:00 a.m.

Agriculture, Nutrition, and Forestry

To resume oversight hearings on the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act, focusing on pesticide residues in domestic and imported food.

SR-332

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on the proposed space station.

SD-138

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for Army military construction programs.

SD-192

Finance

To hold hearings on the nomination of M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury.

SD-215

Foreign Relations

Business meeting, to consider proposed legislation relating to trade issues on those programs which fall within the committee's jurisdiction.

SD-419

Judiciary

To hold hearings on the nominations of Richard B. Abell, of Virginia, to be an Assistant Attorney General, and Verne L. Speirs, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, both of the Department of Justice.

SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings to review energy security issues.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

2:30 p.m.

Conferees

On H.R. 558, to provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children.

S-126, Capitol

MAY 21

8:45 a.m.

Veterans' Affairs

To hold hearings on S. 6, Veterans' Health Care Improvement Act, S. 216, to increase the per diem rates paid to States for providing care to veterans in State homes, S. 631, to improve the procedures for the procurement of medical and pharmaceutical supplies by the VA, S. 713, to facilitate the recruitment of registered nurses by the VA, S. 1195, Veterans' Administration Health-Care Personnel Act of 1987, and other related proposals, and proposed legislation approving VA construction of major medical facilities.

SR-418

9:00 a.m.

Labor and Human Resources

Business meeting, to continue consideration of S. 557, Civil Rights Restoration Act, and S. 406, Education for Competitive America Act.

SD-430

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production and Stabilization of Prices Subcommittee

To hold hearings on status of the farm program.

SR-332

Banking, Housing, and Urban Affairs

To hold hearings to review the financial condition of federally insured depository institutions.

SD-538

Foreign Relations

To hold hearings on the nominations of Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Republic of Tunisia, Sol Polansky, of Maryland, to be Ambassador to the People's Republic of Bulgaria, and John Shad, of the District of Columbia, to be Ambassador to the Kingdom of the Netherlands.

SD-419

Rules and Administration

To meet, to consider a request from the Committee on Agriculture, Nutrition, and Forestry for supplemental funds for the fiscal year ending September 30, 1987, and to receive testimony on the alternatives to the proposal to replace the Senate subway system.

SR-301

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

11:00 a.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings on the nominations of Nicholas Platt, of the District of Columbia, to be Ambassador to the Republic of the Philippines, Thomas C. Ferguson, of Florida, to be Ambassador to Brunei Darusslaam, Samuel B. Thomsen, of California, to be the U.S. Representative to the Republic of the Marshall Islands, and Victor H. Frank, Jr., of New Jersey, to be U.S. Director of the Asian Development Bank.

SD-419

1:15 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 799, to designate a segment of the Kings River, California, as a wild and scenic river, and H.R. 626, to convey certain Federal public lands in Cherokee, DeKalb and Etowah Counties, Alabama, to any trustee who will convey such lands to the current owners of record.

SD-366

2:00 p.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on Title I, relating to maritime and related international liner shipping laws and practices, of S. 1183, Foreign Shipping Practices Act.

SR-253

Labor and Human Resources

Children, Family, Drugs, and Alcoholism Subcommittee

To hold hearings on proposed legislation authorizing funds for the Family Violence Prevention and Services Act, and to review adoption opportunities.

SD-430

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

MAY 27

10:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

MAY 28

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on activities of the National Science Foundation and its role in U.S. industrial competitiveness.

SR-253

Judiciary

To hold hearings on the nomination of Charles F. Rule, of the District of Columbia, to be an Assistant Attorney General, Department of Justice.

SD-226

10:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

MAY 29

10:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

JUNE 2

9:30 a.m.

Energy and Natural Resources

To hold hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.

SD-366

Environment and Public Works

Nuclear Regulation Subcommittee

To hold oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.

SD-406

JUNE 4

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

EF-100, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

Energy and Natural Resources

To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.

SD-366

2:00 p.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

JUNE 5

9:30 a.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on current water-related programs of the U.S. Geological Survey, focusing on quantification and analysis of groundwater resources.

SD-366

JUNE 8

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on pending clean air proposals.

SD-406

JUNE 10

9:30 a.m.

Veterans Affairs

To hold hearings on S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 453, Veterans' Ionizing Radiation Compensation Improvements Act, S. 1002, Veterans' Radiation Exposure Disability and Death Benefits Act, and other related measures.

SR-418

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on pending clean air proposals.

SD-406

JUNE 11

9:30 a.m.

Energy and Natural Resources

To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.

SD-366

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on clean air proposals.

SD-406

JUNE 12

9:30 a.m.

Energy and Natural Resources

To continue hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.

SD-366

JUNE 17

10:00 a.m.

Veterans Affairs

To hold oversight hearings on the implementation of the Veterans Administration loan guaranty program, and on proposed legislation relating to the VA loan guaranty program.

SD-418

JUNE 18

9:30 a.m.

Energy and Natural Resources

Water and Power Subcommittee

To resume hearings on current water-related programs of the U.S. Geological Survey, focusing on quantification and analysis of groundwater resources.

SD-366

Environment and Public Works

Nuclear Regulation Subcommittee

To resume oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.

SD-406

JUNE 30

9:30 a.m.

Veterans Affairs

Business meeting, to consider S. 6, Veterans Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, proposals providing VA compensation, pension, education assistance, home loan, and other related benefits, and proposed legislation providing for disability payments based on nuclear-detonation radiation exposure.

SR-418

CANCELLATIONS

MAY 20

9:30 a.m.

Governmental Affairs

Business meeting, to continue markup of trade legislation.

SD-342

JUNE 23

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings to review proposed budget estimates for fiscal year 1988 for the Department of State.

SD-192

HOUSE OF REPRESENTATIVES—*Tuesday, May 19, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As You have made us one, O God, so teach us to sense the fellowship of the worldwide community of a faithful people. Remind us of our responsibility to see more clearly the bonds that unite us, the eternal truths that give us light, the vision of a better world for which we hope, the need we have to share and to care one for another.

May we, O God, live and serve as partners together and so reflect Your Word of peace on Earth and good will to all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 93, not voting 39, as follows:

[Roll No. 127]

YEAS—300

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bonior (MI)
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chapman
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Collins
Combest
Conte
Conyers
Cooper
Craig
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Watkins
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—93

Armey
Badham
Barton
Bentley
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Chandler
Clay
Coble
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hastert
Hefley
Henry
Hiler
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCandless
McGrath
Michel
Miller (OH)
Molinari
Moorhead
Parris
Penny
Quillen
Ridge
Roberts
Rogers
Roukema
Schaefer
Schroeder
Sensenbrenner
Sikorski
Skeen
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)

NOT VOTING—39

Annunzio
Beilenson
Boggs
Boland
Boner (TN)
Bosco
Bruce
Carr
Chappell
Coleman (TX)
Coyne
Davis (MI)
Dixon
Duncan
Foglietta
Foley
Ford (MI)
Garcia
Gephardt
Gray (IL)
Hyde
Jones (NC)
Kanjorski
Kemp
Marlenee
Morrison (WA)
Obey
Ray
Rodino
Roemer
Sabo
Schulze
Spratt
Towns
Walgren
Waxman
Whittaker
Williams
Young (FL)

□ 1015

Mr. UPTON changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

CONTINUED MORATORIUM ON TESTING OF ANTISATELLITE WEAPONS

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I take this time to advise the Members that the first order of business this morning, as we resume debate on the military authorization bill, is the amendment offered by myself and the gentleman from Pennsylvania [Mr. COUGHLIN], which continues in effect the moratorium on the further testing of antisatellite weapons which has been in effect for the last 2 years.

I call attention to this because we have, in this existing provision of the law, a de facto arms control agreement which not only saves the taxpayers billions of dollars, but contributes to the security of the United States, as

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

we will bring out during the debate on this amendment.

This is an opportunity to continue with this course of action, a course of action which I think is widely supported by the American people and which is very important to the future security of this country.

HITLER'S SECRET WEAPON: STEALING THE SAVINGS OF THE PEOPLE BY CHEAPENING THEIR MONEY

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the following is a quotation from Samuel B. Pettengill:

> Socialism's secret weapon is monetary debasement. Formerly, governments gained power by the sword and swelled their coffers by conquest and tribute. They still do, albeit chiefly against foreigners. Modern governments obtain power over their own people in a more subtle fashion. They tax away the earnings of the people, and then dole some of it back to them in subsidies, gifts, grants-in-aid, and the award of huge government contracts. By this process they become the masters of men, and cease to be their servants. The historic relationship is reversed. Instead of government coming to the people for its support, the people come to the government for theirs. Hitler put all groups in Germany in pawn to him via the money route. In the face of the granting or withholding of public money, opposition died away. People began to keep their mouths shut. Stealing the savings of the people by cheapening their money is as old as history * * *. (From a publication: The Grand Strategy for Freedom, Latrobe, Pennsylvania, 1949.)

Mr. Speaker, our policymakers in the Treasury should be made aware that, in cheapening the dollar, they are borrowing from the armoury of Hitler, and this is how history will record their tenure in office.

□ 1025

ATTACK IN PERSIAN GULF TRIGGERS CALL FOR A SOUND NATIONAL DEFENSE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, on Sunday two ships were attacked in the Persian Gulf. The Pentagon knew that. The *Stark* later tracked a fighter jet from Iraq. They sent two warnings to the pilot. The crew then literally watched a missile being launched, yet the *Stark* did not even defend herself even though she was equipped to do so.

I agree that there was a mistake made, but it was Iraq's mistake and we should not have to pay for it. That jet should have been blown away. Now we have 37 dead, and the President wants a hair trigger alert. Come on, folks, we are being too nice around here.

How prepared are our fighting men when they are being placed in dangerous situations? The buck stops at the Pentagon, Mr. Speaker, and some heads should now start to roll.

I expect to be criticized for this, but all the money in the world is not going to provide for defense without a second rational policy, and I am asking: Where is ours?

It is time to stop apologizing to mothers and fathers in this country and develop a rational policy. I believe it is time to start worrying about our fighting men rather than Japan and all the other parts of the world.

Garrick Catley from my district is on that ship, and I hope to God he is OK. I think Congress should take a look at our policy with our fighting men in dangerous situations.

EUROPEAN COMMUNITY'S FATS AND OILS TAX

(Mr. BEREUTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the European Community's Council of Ministers will soon vote on the proposed tax on all edible oils sold within the EC. This Member believes it is critical that the administration, with this body's support, strongly voice its opposition and be prepared to immediately respond in a tough and appropriate retaliatory manner if the EC approves such a tax.

It is clear that this proposed tax would have an adverse impact on the U.S. soybean industry. The proposed tax would provide financing for the expansion of EC domestic support programs which will virtually guarantee further drastic declines of U.S. soybean products imports to the EC. Since the EC market currently accounts for about 45 percent of total U.S. soybean exports, there is little doubt that this tax would severely hurt our soybean producers.

Further, I believe the timing of this proposal is particularly detrimental and aggravating since the Community just reaffirmed its duty-free treatment for oilseeds and products as part of the agreement reached between the United States and the EC regarding the accession of Spain and Portugal to the Community. They surely cannot in good conscience already back away from that agreement.

This tax would be a large step backward in our multilatural efforts to address problems in agricultural trade between the EC and the United States. This tax is said to be inconsistent with the free trade rules of GATT and it must be crystal clear that it is completely unacceptable to the administration and the Congress. I am convinced that an EC fats and oils tax would hinder negotiations to reduce agricultural subsidies among the dominant parties in the upcoming Economic Summit in Venice and in the Uruguay round of GATT.

I commend Ambassador Clayton Yeutter's and Secretary Richard Lyng's tough stand against this proposed tax. On behalf of our soybean farmers, the U.S. agricultural export market, and future international agricultural trade negotiations, this body must adamantly oppose the EC proposed fats and oils tax. We cannot afford to stand by and watch the EC continue to sustain an unrealistic consumer agricultural policy at the expense of the rest of the world; the United States must be prepared to use strong and immediate countermeasures against the EC if they approve this tax.

SUPPORT PROCLAIMED FOR CONGRESSMAN HAROLD E. FORD

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, we have today an opportunity to expose a terrible wrong—a grave injustice has been visited upon this legislative body. And through our silence we collectively stand at risk, while forces are at work crafting gag orders and building barriers between Members of Congress and their constituents. Representative Harold Ford is the victim of the moment. In pursuit of an apparent vendetta against him, we have witnessed the violation of the principles of due process, the abridgment of the separation of powers—and most egregious—the willful abrogation of the constitutional guarantee of the right to proclaim one's innocence. Each of these is the case for our colleague, Representative Harold Ford. I stand in this well today to state my unequivocal support of him and my opposition to the violation of his rights, and therefore our rights as Members of the House, to proclaim our innocence when accused.

REPEAL OF FERES DOCTRINE WOULD ALLOW NEGLIGENCE SUITS BY MILITARY PERSONNEL

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, yesterday, the Supreme Court, in a 5-to-4 ruling, barred lawsuits against the Government by military personnel injured or killed on duty because of the negligence of a civilian employee. I do not have a serious quarrel with this decision.

However, I am extremely disturbed by the scope of Feres doctrine immunity granted to the U.S. Government. What of the soldier who checks into a military hospital for routine, and perhaps elective surgery, and is permanently disabled because of negligence on the part of the doctors. Outside of military service, such an incident would clearly lend itself to legal redress and compensation. In fact, if a relative of that soldier suffered the same fate, they could sue for malpractice. But the soldier cannot.

Mr. Speaker, we deny members of our Armed Forces a basic and elemental right. These men and women are on the front lines of democracy and freedom. They should be entitled to the same rights and freedoms that they are sworn to protect for us. I support a limited repeal of the Feres doctrine as called for in H.R. 1054, introduced by Representative Frank. Coincidentally, this bill was marked up and ordered to be reported yesterday in the Judiciary Committee. I urge my colleagues to support this bill when it comes to the floor of the House.

EXPRESSION OF OUTRAGE AT TREATMENT OF CONGRESSMAN HAROLD E. FORD

(Mr. CLAY asked and was given permission to address the House for one minute.)

Mr. CLAY. Mr. Speaker, I join my colleagues in expressing outrage at the inept manner in which the Justice Department handled the indictment of Congressman Harold Ford and the gag order imposed on him by the judge in this case. Selective prosecution, to satisfy a personal and political vendetta, as demonstrated in this situation, is a serious threat to our fundamental system of judicial values. Even more appalling is the order of a Federal judge which prohibits Congressman Ford from making any public statement relating to his guilt or innocence, or to any evidence or the lack of evidence. This unconstitutional assault on "free speech" if not designed to deny our colleague a "fair trial," without a doubt, will serve the same purpose. How can he raise necessary funds for his legal defense, or how can he effectively communicate with his constituents, about the insidious circumstances leading up to this miscarriage of justice?

Mr. Speaker, it's time this Congress stand up and be counted in favor of protecting the basic rights of every American citizen, yes, including those of us in the U.S. House of Representatives.

WASHINGTON POST EXPOSES SANDINISTA ATROCITIES

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise today to draw the attention of my colleagues to a very important article which appeared on the front page of yesterday's Washington Post. So often Members who have opposed Contra aid rise to express opposition after reading the Post's latest report on the Contra's atrocities. I would ask these Members to read the articles that appeared in yesterday's Post, which sounds more like one of the State Department's white papers outlining the abuses of the Sandinistas which have so often been lightly dismissed by many of our colleagues.

I commend the Post for running this piece on a subject which is rarely covered by our national media. The public is constantly treated to the Contras' wickedness. I would submit that if a more even-handed approach were taken in reporting the activities of both sides, the American public would be in a better position to judge the Reagan doctrine in Central America.

TREATMENT OF CONGRESSMAN HAROLD FORD RAISES QUESTIONS OF CONSTITUTIONAL PROTECTIONS

(Mr. RANGEL asked and was given permission to address the House for 1 minute.)

Mr. RANGEL. Mr. Speaker, the question of Congressman Harold Ford's guilt or innocence is not one to which those of us who are speaking today would like to address ourselves. What I think we ought to find out is that we, as Members of Congress, have a particular responsibility to report the constitutional protections that we have, not only for ourselves but for those who will be following us. Having succeeded Adam Clayton Powell, I know only too well.

The gag order that the leadership has joined in, in having the court to remove in part, was the arrogance of the court to say that a Member of Congress could not even speak in the well of this House about legislative matters or about his guilt or innocence because the court has restricted it. Even though the court has removed this chair from the defendant's ability to speak in his political subdivision, in his congressional district, he is not able to speak to his family, to his children, to his friends, to his colleagues, to his supporters, or to his constituents about a basic thing that brings us to this Congress, and that is his innocence.

It seems to me that rather than think about whether Harold Ford is guilty or innocent, we should wonder what would we do if such a restriction were placed on us and we were accused and we could not even go to our home districts to explain the circumstances of what we might consider to be our innocence.

Mr. Speaker, I ask the Members to think not of Harold Ford but of the House of Representatives.

AMENDMENT TO DEFENSE BILL WOULD HIGHLIGHT SANDINISTA ABUSES

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, today and tomorrow we will continue consideration of the fiscal year 1988 Defense authorization bill. Among the amendments to be addressed will be one expressing the sense of Congress that the President should withdraw recognition of the Sandinista government in Nicaragua and recognize the Nicaraguan democratic resistance as the country's true, legitimate government.

For those of my colleagues who may have difficulty seeing the propriety of this action, I, too, would refer them to yesterday's Washington Post-front page story titled "Pattern of Abuses Laid to Sandinistas." It is an enlightening article.

For those who still are not sure who the bad guys are in Nicaragua, this article makes clear that the Sandinista Communists are the ones who regularly pick up innocent civilians, including pregnant women, torture them physically and mentally, coerce them into signing confessions, and then maybe release them.

Communist rule in Nicaragua has been marked by repression and violence. The early promises of democracy for Nicaragua evolved into Communist totalitarian rule. Violations of human rights, suspension of civil rights, and religious persecution are the reality of life in Nicaragua under the Sandinista Communists.

Mr. Speaker, let us keep this in mind as we debate this important issue.

SUPPORT EXPRESSED ON BEHALF OF THE HONORABLE HAROLD FORD

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I rise today in support of my distinguished colleague from Tennessee, Harold Ford.

I am deeply disturbed by the unconscionable treatment which our colleague has received from the U.S. attorney, and the Federal judge to whom his case has been assigned.

Our judicial system is predicated on certain basic elements—a sense of fairness, a requirement of due process, and, most importantly, a presumption of innocence.

These precepts, however, do not appear to have been followed in the criminal indictment which has been brought against our colleague. Consider this:

The U.S. attorney traveled 450 miles to obtain an indictment from a grand jury just days before the statute of limitation would have expired.

The Department of Justice refused to meet with Mr. Ford and his attorneys to discuss these charges and to allow him to present evidence in his defense.

Worse, the presiding judge has imposed a gag order on Mr. Ford which bars him from responding to these charges to his colleagues and constituents.

To paraphrase a famous quote, "something is rotten in Memphis," and it is this proceeding.

I hope my colleagues will join me in deploring this proceeding which appears to be a clear violation of our distinguished colleague's constitutional rights as an American citizen and Member of Congress.

SUPERSTARS AND SUPERCONDUCTIVITY

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, we are living in an exciting time, and I am not talking now about the Iran-Contra hearings or the free fall by Gary Hart. I am talking about superconductivity, the flow of electricity without resistance, a potential revolution in technological and economic life.

On April 30, the House Republican Task Force on High Technology and Competitiveness brought the superstars of the superconductivity to the Capitol to discuss this issue with Members of Congress and to talk about a U.S. strategy.

The Washington Post has been covering this issue this week, with five different articles on the front page. Let me quote from Sunday's Washington Post about the American strategy.

First, quoting Bertram Batlogg, one of the Bell Labs' stars:

> "For American science there has never been a better time," said Batlogg, sifting through stacks of phone messages from colleagues reporting advances. "It's thrilling. But I suspect the first products will be from Japan. Whenever individual efforts count, we have been leaders. Yet, when it comes time to turn ideas into products, we are lost."

Frank Fradin, who was at our conference, is quoted next:

> "Scientists see this as the last industrial moment," said Frank Y. Fradin, a physicist at the Argonne National Laboratory near Chicago. "We need to grab it and hold on tight. If we don't pursue this one, we have to wonder what America wants to pursue. I mean, how many times do we have to get kicked in the teeth?"

Next John J.M. Rowell is quoted in the article:

> "We are all beginning to realize that as much fun as it is to invent something, it does no good if Japan makes it," said John J.M. Rowell, head of solid state science for Bellcore, the research arm of the seven regional Bell operating companies.
>
> "If AT&T—which invented the laser—has to go to Hitachi to buy them," he continued, "there is clearly something wrong."

The final quote from the article is this:

> Will the U.S. be the first to exploit the new superconductors? I think we have learned some lessons, I really do. I can tell you one thing. If we even stop to catch our breath, the Japanese will make us regret it. And we have had plenty of regrets in the past.

Mr. Speaker, we need to develop a U.S. strategy that brings us the broad economic awards of superconductivity. And we had better do it fast. Nobel prizes, as wonderful as they are, are not enough.

□ 1040

SEPARATION OF POWER

(Mr. GORDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORDON. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York this morning.

The question is not whether or not there is innocence or guilt concerning allegations against a Member of this body, our colleague in the House of Representatives.

The question is, is the separation of power between the legislative and judicial branch truly there? Are we truly separate and equal bodies?

I think not, if the legislature can be captured to a gag order which requires one of our Members not to be able to proclaim his innocense to his family, to his friends or to his constituents.

That is wrong, Mr. Speaker, and I hope the judicial branch will rectify that mistake.

CONGRATULATIONS FOR WASHINGTON POST

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I, too, rise this morning to congratulate and to applaud the Washington Post for its article yesterday morning on the abuses of the Nicaraguan people by the "Stalinista" government in power there.

The "Stalinista" government, I call them that because that is what it is, Communism, terrorist activities of Communism that Joseph Stalin represented in the Soviet Union.

On Saturday I sat next to the Foreign Minister in his office; and I said to him, "Mr. Minister, let us adjourn this meeting, and let me go with you over to El Chipote, the most notorious cavern and prison of the seven or eight in Managua that is filled with political prisoners being dragged off the streets everyday.

He said, "You can't do that." I said, "Why not? If it is not what you say it is, then let me see it."

He said, "When I come to the United States, I cannot see your prisons." I replied, "Oh, yes, you can. I have Stateville Correctional Center in my district. You can come and see that. It is the toughest prison in America." He refused.

There is repression on the streets of Managua; you can see it in the eyes of people. There is no repression here. You can see it on the faces of people.

I spoke with the priest of the Catholic Church, the largest parish in Managua, who told me the same thing: repression, blackmail, extortion, withdrawal of food ration cards, it goes on and on and on, so I congratulate the Washington Post for bringing this finally to the attention of a major community in America, the political community in America.

END THE ABUSE OF POWER

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, for most of this year, abuse of power has been a concern of most Americans. The Iran Contragate hearings going on now are the most highly visible example of abuse of power by this administration, but the abuse of power coming from the White House is not the only threat to democracy that we have to contend with.

Abuse of power in my native State of New York means a U.S. attorney driving for 4 years to get an indictment in Memphis against the gentleman from Tennessee, Congressman Harold Ford, and then moving the case 400 miles to another section of the State of Tennessee where the gentleman from Tennessee [Mr. Ford] will not be able to find a jury of his peers.

There is only a 3-percent black population in the place where this trial will now be held.

Then the final abusive act is the order of a Federal judge which gags the victim, Congressman Harold Ford. The judge has ordered Congressman Ford not to protest these abuses.

This gag order's impact goes far beyond Congressman FORD's particular case. It has serious implications for other Federal lawmakers and for our democracy in the years to come.

I, therefore, urge the Members to bring an end to the abuse of power reflected in this gag order against Congressman HAROLD FORD. Ending the abuse of power is one more fitting way to honor the 200th anniversary of our Nation's Constitution.

WHAT HAPPENED IN PERSIAN GULF?

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, it is rather appropriate that as we debate the Defense authorization bill, that we reflect back on what happened in the Persian Gulf just a couple of days ago.

Of course, our hearts go out to those 38 or whatever number of casualties will finally be the result and their families.

One has to think about those weapons systems and our strategy in the Persian Gulf.

I just find it absolutely incomprehensible that we have a defensive system on board that ship, and it was not used, if in fact that were the case. Whatever the facts are, it seems to me that we ought to convene an inquiry here in the House to determine just what did happened.

We were on notice that that day two other vessels were attacked. One was hit, a Cypriot tanker, another vessel. We tracked that Iraqi F-1 Mirage fighter for over an hour, from the time it took off, the time it attacked the U.S.S. *Stark.*

I cannot understand how we can say we did not have a defensive system operating. We are on notice that we are in fact in hostile waters with ships being attacked all around us. It is inexcusable.

We have a job to do in finding out what did occur. If in fact the system was used, and it was not up to the task, we should know that, and we do not know at this point whether or not it was operational, even though it was suggested that it was not operational.

There are a lot of things that surround that incident that we need more answers to.

STAND UP TO INJUSTICE

(Mr. LELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LELAND. Mr. Speaker, I join my colleagues today in standing up to an injustice—an injustice that is being perpetrated against a Member of this body, the gentleman from Tennessee, HAROLD FORD.

The injustice I am referring to is the gag order issued by Judge Jarvis to the parties involved in the Ford case. This gag order, which is unusually broad in its instructions, prohibits the gentleman from Tennessee from publicly stating his guilt or innocence. The gentleman from Tennessee is allowed only to discuss the charges made against him with his attorneys.

This gag order means that the gentleman from Tennessee is not allowed to speak with his family, or with his constituents, or even with us, his colleagues in the House, about the charges made against him. This gag order means that Mr. FORD cannot in any manner, state, or explain, his guilt or innocence.

The issue of prohibiting a Member of Congress from communicating with his congressional colleagues and with his constituents on a matter of public concern is a grave one and should not go unnoticed. I urge my colleagues to register their opposition to this gag order.

Help us to dismantle the shackles that have been imposed on our friend and colleague, HAROLD FORD.

UNFORTUNATE GAG ORDER AGAINST CONGRESSMAN HAROLD FORD

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, the gag order referred to by my colleagues is a very unfortunate action by the district judge. The speech and debate clause of our Constitution is a fundamentally important part of that document and this gag order is a frontal attack on this principle. In the case of our colleague, HAROLD FORD, the gag order would prevent him from even mentioning any detail in committee, in his home, and even on the floor of this House, which is the most important part of our Government, our discussions on the floor of this House.

It is a grave threat to our duty to represent our constituents, to oversee the executive department and, indeed, to legislate at all.

COURT ORDER AGAINST CONGRESSMAN HAROLD FORD

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I rise today to join my colleagues in speaking to an issue which could have the most compelling and adverse impact on Members of Congress in the history of this country. I am referring to the court order recently issued by a U.S. district judge prohibiting a U.S. Congressman from communicating freely with his colleagues and his constituents to explain his innocence of Federal charges brought against him.

I stand before you, not to debate the merits of the case against Congressman FORD, but to draw attention to a much broader issue; the protection of our constitutional rights as Members of Congress to discuss matters of public concern with each other and with those persons we represent.

I find it ironic, Mr. Speaker, that at a time when this country is preparing to celebrate the 200th anniversary of the Constitution, that an officer of our judicial system, an officer sworn to uphold the Constitution, has elected to compromise the very rights of an individual that this document was designed to protect. It is clear that the judiciary has overstepped its boundaries by violating the spirit of the speech and debate clause of the Constitution which protects the privilege of elected Members to this body to discuss legislative and public matters with his or her constituents.

The confidence within which my colleagues and I have entrusted Congressman FORD and his legislative proposals could be put in serious jeopardy by his inability to explain the facts surrounding this indictment. Not only could this action unfairly impair our judgment, but also the judgment of HAROLD's constituents who are dependent upon his voice and leadership to protect their interests. This denial is a serious affront to the principles upon which our great Nation was founded. The violation of due process of any American citizen presents a clear and present danger to our system of government, our way of life, and to the stability of the ideals set forth in the Constitution.

Mr. Speaker, we cannot begin to address the serious problems that face this Congress if we fail in our duty to protect the basic rights of its elected representatives. I fear that if this order is allowed to remain intact, that it would have a far reaching and unprecedented impact upon all of the Members of this body to willfully exercise our right and obligation to fulfill our representational duties to our constituents.

I commend you, Mr. Speaker, and the bipartisan leadership of the House for acting so quickly in this matter. Your continued support is needed to ensure that the Constitution is upheld and that justice prevails on behalf of HAROLD FORD, myself, and every other Member of Congress.

QUESTIONS ABOUT U.S.S. "STARK"

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I want to add my voice to those of others extending condolences to the families of the U.S.S. *Stark* in this hour of bereavement.

We have many questions that we have to ask ourselves, Mr. Speaker, as the *Stark* sits in the Persian Gulf.

First of all, what was the air search radar doing on the *Stark*? Was it even turned on?

The Phalanx system on which we have spent hundreds of millions of dollars perfecting over the years, was it on? What was the state of its particular readiness?

We have to ask ourselves about the survivability of sea-based platforms, when one missile can kill 15 percent of a ship's complement.

The Armed Services Committee has raised these questions of survivability over and over again with the Navy. They need to be addressed once again.

We have also to fundamentally address the fact that the 600 boat Navy, many of those ships are far more capable of fighting a war in the Chesapeake Bay then they are in the Persian Gulf. It is a sad, sad commentary that a U.S. destroyer of World War II vintage is a far more survivable platform than a ship built today out of aluminum.

Mr. Speaker, these questions deserve our immediate attention and they deserve our careful analysis.

SOMETHING IS WRONG WITH OUR CRIMINAL JUSTICE SYSTEM

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, in California a man is being released after 8 years of penal servitude for the crime of raping a 15-year-old girl and chopping her arms off with an ax.

I submit to you that there is something wrong with the criminal justice system in our society when somebody serves 8 years for that kind of crime.

I submit that although I do not want to sound sanctimonious or self-righteous about a dispassionate form of justice in our society, that we are rapidly reaching a point where I believe the American people are losing confidence in our criminal justice system to actually take violent criminals off the street.

I certainly am losing patience with the criminal justice system in our society and if there is not reasonable action on the State level, then I think we ought to consider taking it on a Federal level.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

The SPEAKER pro tempore. Pursuant to House Resolution 152 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1748.

□ 1053

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, with Mr. DORGAN of North Dakota (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, May 18, 1987, the amendment offered by Representative FOLEY, as the designee of Representative ASPIN, relating to the N-Reactor, had been disposed of.

Pursuant to the notice provided by the chairman of the Committee on Armed Services on May 18 under paragraph (8) of section 2 of House Resolution 160, it is in order to debate the subject of antisatellite weapons for 40 minutes.

At the conclusion of such debate, it is in order to consider the amendments relating to antisatellite weapons printed in section 1 of House Report 100-84 in the following order only:

(A) By Representative DICKINSON, or his designee; and

(B) By Representative BROWN of California, or his designee.

If both of said amendments are adopted, only the latter amendment shall be reported back to the House. Under the rule, the gentlewoman from Maryland [Mrs. BYRON] will be recognized for 20 minutes and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland [Mrs. BYRON].

□ 1045

Mrs. BYRON. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. I thank the gentlewoman for yielding time to me.

Mr. Chairman, we are all aware of the military realities of this world. As much as we may dislike the idea, space is militarized.

A close analysis of both Soviet and American satellite systems shows a definite and increasing reliance on their capabilities.

Both the Soviets and the United States rely on satellites for navigation. These satellites are critical for relaying accurate positional information to ships, aircraft, and ground forces.

Both nations utilize satellites for communications. These satellites provide, in many instances, a direct link between combat forces and command headquarters.

Both superpowers are reliant on reconnaissance satellites which use photography, radar, and electronic and infrared sensors in order to locate any potential threatening forces.

Probably the most important use of satellites, however, is for early warning of ballistic missile launches.

All of these systems have been integrated within the military by both sides and are necessary and critical for maintaining the current posture of deterrence.

The point is, Mr. Chairman, that both the Soviet Union and the United States are dependent on systems in space to maintain security. If the Soviets have an operational antisatellite capability, and there seems to be no question that they do, then it is imperative that we have the same capabilities.

There are several systems that, I believe, will prove beneficial in the development of an Asat capability. Our current system, the miniature homing vehicle, is launched from an F-15. Although I have been a long-time supporter of this Asat system, I have reservations and its potential for adequately addressing the threat.

However, this is no reason to eliminate the entire Asat Program. After close scrutiny of the issue, I believe we should continue with vigorous research into alternative Asat systems. Some of the more promising are laser weapons, electromagnetic railguns, and even some of the prepared SDI systems could have Asat capability.

Mr. Chairman, in closing, I strongly believe this Congress should commit itself to the development of an Asat system. I am not certain the current F-15 launched system is the only way we should progress, but I am certain that, in the event of hostilities, without an operational Asat, we are taking an unnecessary risk.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, here we go again, debating whether or not we are going to deny ourselves a capability which the Soviets already have in place—operational and deployed. In the final analysis I cannot think of anything more to our detriment than to say that we are going to enhance world stability by denying ourselves a system that the Soviets have already deployed and have demonstrated to be operational and effective.

Of course, I am talking about the antisatellite weapons system. What is Asat? As we all know there are United States and Soviet photographic and electronic satellites in space that monitor military activities. We each have our satellites up that monitor things all around the globe.

Probably the most important aspect of these satellites is their ability to locate ships at sea, especially an aircraft carrier group. I can think of nothing more threatening to a carrier group than a satellite capable of locating a carrier group and radioing this information back to land-based bombers, so that they can attack that carrier group.

We have just approved the building of two new carriers, yet we are debating whether or not to deny ourselves the ability to defend these and other carrier groups against Soviet satellite surveillance that will pinpoint their locations.

What have the Soviets done? They have a ground-launched antisatellite system that will intercept a satellite in either one or two revolutions. This system uses a conventional explosive warhead that destroys satellites with fragments. The Soviets have tested their deployed system some 15 times. Then they called for a moratorium because they did not need to test anymore.

The opponents of our system say "Let's don't test anymore until the Soviets test again." Well, the Soviets do not need to test again. There are only so many tests that are required to prove the effectiveness of the system, and then once you have run the series of tests, then you go into production, operation and finally deployment. That is where the Soviets are now.

We have tested our system about five times, only once against an object in space. The Soviets have tested 15 times against an object in space. They do this to verify the performance of the system. Having completed the necessary tests, they call for a moratorium. We say, "Hey, that sounds like a good idea."

I anticipate what Mr. BROWN's amendment would have us do is to say, "OK, we won't test anymore if the Soviets don't test anymore." They do not need to test anymore. They are already deployed.

Satellites provide the most effective way of learning what the enemy is doing. We have seen this in the Falkland Islands war between Argentina and Great Britain. We saw the Soviets move their satellite over by shifting its orbit. Once over the war zone in the Falklands, the Soviet satellite relayed its information to the Argentines or anybody else that they wanted to assist.

I would commend to everyone's reading a book that is presently on the market called "Red Storm Rising." This book depicts one realistic scenario in which the Soviets use a satellite to locate our convoys carrying weapons, men, and supplies to Europe.

We have no capability against Soviet satellites. They have a very significant capability already deployed that can be used against our satellites. To unilaterally deny ourselves the same capability that the Soviets have as a threat against our satellites—why we would want to do this is beyond my comprehension.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think that the gentleman has given a good description of how these satellites place American sailors and soldiers in jeopardy. Let us go to a recent example, when we had the *Stark* in the Persian Gulf, we have our ships out there in the sea, could the gentleman explain how the Soviet satellite helps to coordinate antiship missiles coming from aircraft or other sources to target our men and women who are at sea, just briefly describe that?

Mr. DICKINSON. A satellite can be used to locate ships at sea. As far as I know, satellites cannot be used with telemetry to guide weapons toward the vessels themselves. Rather, the satellite is used to locate ground launches, to locate ground installations, to take photographs—this is how we verify Soviet ICBM bases, either mobile or fixed. We can verify what they are doing. We take satellite photographs of military installations, and this capability is referred to as "national technical means." When we say we verify by national technical means, we are generally talking about photographic satellites. The Soviets have an ocean reconnaissance satellite, known as the Rorsat.

These satellites are not lethal weapons. They cannot be used against people. These are simply intelligence-gathering devices that tell us where the enemy is and what he intends to do, and tell the Soviets the same thing.

Mr. HUNTER. If the gentleman will yield further, could the gentleman explain to our colleagues, if the Soviets are attempting to locate a fleet, the American fleet, or part of the fleet, in the vast expanse of the Pacific Ocean, and they have their naval Backfire bomber force or other aircraft available to go out and launch antiship missiles once they locate them, will they use their satellites to try to locate our ships?

Mr. DICKINSON. Exactly. I am glad that the gentleman asked the question, because that is what I am trying to point out. A satellite is the most effective means that either side has for locating targets, especially at sea.

□ 1105

When you get into millions of square miles of sea and you know the enemy is out there somewhere with ships, it is very difficult to locate them with aircraft, it is very difficult to locate them with other ships. But with a satellite, it is relatively simple.

So, when we deny ourselves the right to protect our ships at sea, when the Soviets have the capability to protect their ships at sea, I think we are being very shortsighted. It is just common sense that we should at least have the same capabilities as the Soviets have already deployed.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The gentleman from Alabama [Mr. DICKINSON] has consumed 8 minutes.

Mrs. BYRON. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I know for many of us who have been in the House for a number of years we are going to be repeating ourselves. I regret that it is necessary to do this, but apparently we have to replay this act every year.

The amendment which I and my colleague, the gentleman from Pennsylvania [Mr. COUGHLIN] will be offering today is the same amendment which the House has adopted for the past 3 consecutive years. The amendment would extend for another year the moratorium on the testing of an antisatellite weapon against targets in space.

This is existing law, and the purpose of this amendment is to continue that existing law.

The reasons for adopting this measure have not changed since May 1984, when it was first adopted by the House. If anything, the arguments in favor of the moratorium have simply become stronger.

I point out that we are engaging in a fundamental contradiction when we propose opening up another new, very expensive arena for the arms race, an unnecessary arena, at the same time when we appear to be reaching agreement on the curtailment of intermediate range nuclear weapons, when we are approaching arms control on strategic missiles, when the House and probably the Congress as a whole is going to adopt language for the strict interpretation of the ABM Treaty which will limit and prohibit the testing of ABM systems in space, when we are also considering as a part of the

INF negotiations limitation of conventional forces, when, as in every arena, we are moving to restrict the continuing spiralling of the arms race, with, I might say, the very strong support of the American people. Now the opponents of this amendment are trying to find a niche in which we can spend almost unlimited millions of dollars in a new arena which will not contribute to the further security of the United States.

Let me review some of the fundamental points with regard to the Asat issue.

First, antisatellite weapons have been under development by both the United States and the Soviet Union for a long time, more than 20 years, as a matter of fact, but neither side has as yet developed a sophisticated antisatellite weapon that could pose a significant threat to military satellites. The United States tested and deployed two versions of a nuclear tripped Asat during the 1960's, and before that they developed two additional systems which were not deployed.

The systems that were deployed were abandoned, since using them in space would have damaged or destroyed our own satellites from the nuclear effects.

The Soviets have tested a rudimentary Asat device since 1968, and this was referred to by the gentleman from Alabama [Mr. Dickinson]. But that system, in the eyes of almost every expert, is a dog. It is a system which can be easily countered and which actually, despite the glowing description of its virtues by the gentleman from Alabama, failed in its last six tests. To consider a device which failed in its last six tests as an operational system is really belaboring the meaning of the term.

Second, the United States is far more dependent on satellites, and this again was referred to by the gentleman from Alabama and the gentleman from California. We are far more dependent than is the Soviet Union, and thus we stand to lose by far the most if both sides deploy eventually a workable antisatellite system.

The reason that the United States is so dependent on satellites is that we are a global power with military forces dispersed widely throughout the world's continents and oceans. Satellites play a vital role in providing command, control, communication, and intelligence for these worldwide forces.

In contrast, the Soviet Union is a continental power; it has land-based alternatives to military satellites C-3 systems and is far less dependent on their less sophisticated systems than we are on ours.

Third, advanced antisatellites will be deployed, satellites beyond the present level of technical competence, unless actions, whether formal ones such as a treaty or informal ones such as this moratorium, are taken to contain Asat technologies. Since tests are necessary in order to advance any weapon toward operational capability, and because tests of Asat in space are verifiable, an Asat test ban is the best way to go in order to control the development not only of the present generation but of the future generations of Asat's which are already in the development stage by the Pentagon.

Fourth, the Soviet Union has taken a number of serious actions in the area of Asat arms control which the United States has ignored completely. The Soviets voluntarily stopped testing their Asat 5 years ago. They have offered to dismantle their Asat as part of an Asat agreement. In August 1983, they submitted a draft Asat treaty that has every indication of being a serious proposal. This draft treaty, presented at the United Nations, has never received a response from the Reagan administration.

Mr. Chairman, I urge my friends to vote in support of the Brown-Coughlin amendment when we get to the vote on that issue.

Mr. ASPIN. Mr. Chairman, I yield 6 minutes to the gentleman from Oregon [Mr. AuCoin].

(Mr. AuCOIN asked and was given permission to revise and extend his remarks.)

Mr. AuCOIN. Mr. Chairman, I want my colleagues to take a careful look at this chart. You've seen it before, and you'll be seeing it again.

On this chart you'll find a complete listing of the weapons successfully controlled by the Reagan administration. The chart, of course, is blank.

But there's more.

On this chart you see not only the Reagan administration's Asat arms control successes. You also see its Asat negotiating position.

After 6 years in office, this administration has failed to get its act together enough to even make a proposal on Asat at the Geneva talks. Don't take my word for it. I have here the March 10 testimony of Kenneth Adelman, the Director of what used to be the Arms Control and Disarmament Agency.

The rationale behind the Dickinson amendment is that we and the Soviets should have Asat parity. I agree. But the specific kind of parity Dickenson would create—at high levels of arms—puts American national security at a disadvantage.

The Dickinson amendment would create, for the next few years, an unlimited Asat arms race. At the end of that time, the Soviets would have a highly effective Asat. Not the clunker they have today, which can be defeated by a simple puff of aluminum foil. The Dickinson amendment would permit them to build a modern electro-optical system, very hard to defeat.

Up until the moratorium began, Soviet attempts to develop this system failed in six out of six tests. And under the Brown-Coughlin amendment, they can go no further. But do not doubt: Under the Dickinson amendment, all restrictions will be lifted and the Soviets will be on their way to presenting a real threat to every satellite we own.

We'll threaten them, too. But let's be very clear on this: Mutual Asat effectiveness is not real parity. The Dickinson amendment would help the Soviets far more than it would help the United States.

First, because we need military satellites more than the Soviets do. If both sides' satellites become vulnerable, we lose. In the Asat-dominated world the Dickinson amendment would create, we lose.

The second reason is that antisatellite weapons are first-strike devices. And who's going to strike first? Not us. Them.

So who gets the most benefit from both sides having Asat's? Not us. Them.

We can have parity in Asat's. Not the parity at high levels proposed by the Dickinson amendment; parity at zero—the most stable way to be.

What the gentleman from Alabama hasn't told you is that the Soviets have offered not only to ban all Asat testing, but to sign a treaty dismantling all existing Asat's.

You're worried about the verification? They've offered to feed every Asat facility they own into a trash masher, and let us watch while they do it. This offer is free standing, not linked to any other issue; it's been open for years, and it's open today.

I'm not saying we should buy the Soviet package as they've proposed it. Maybe there's a hidden catch to it. Maybe we can do better. Maybe we can get improved verification. Maybe we can have a better response.

But not from this administration. Because here on this chart you see the grand total of this administration's thought on Asat. It has proposed nothing. It is negotiating nothing.

The next administration can do better. Asat control is right out there hanging on the tree waiting to be picked. But the Dickinson amendment would kill that chance. Start an Asat arms race, and you kill the next administration's chance for a clean quick Asat treaty.

So I close with a challenge to those of you who disagree with me: Tell me, what are the administration's Asat proposals at Geneva?

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. Kasich].

□ 1120

Mr. KASICH. I thank the gentleman for yielding.

I think the bottom line, the fundamental problem here with this whole debate is simply this: The Soviets have a system that they can deploy an hour from now that can knock out a variety of our critical satellites that are needed for reconnaissance purposes, for both strategic and tactical reasons. They can go out there, as the gentleman from Alabama said, and they can monitor where our ships are, which are absolutely critical and we realize that today probably more than we have in an awful long time. We know that they are able to also monitor to some degree troop movements, troop placements. These are things that are very, very important.

Here we are in a situation where the Russians have this capability to knock out our satellites and to blind us so that we cannot monitor what they are doing.

We do not have the capability to knock their satellites out. They can blind us but we cannot blind them. What we really want to do at this point is to simply say, "Let us not do anything more." That just does not make any sense. It does not make any sense to give them the kind of capability that allows them to take photographs of what we are up to, that can allow them to blind us in times of crisis, yet we do not have that same capability. It does not make any sense, Mr. Chairman.

I urge that we accept the Dickinson amendment. It makes the most sense. It will give us some capability. It is something we clearly ought to have in these times.

I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The gentleman from Indiana has 5 minutes remaining.

Mr. McCLOSKEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman.

Mr. Chairman, let me say first of all that over the years we have debated this Asat testing time and time again. I think all of us are very familiar with the issues. The debate today I think is to educate our new Members, the ones that for the first time will be addressing this issue. How can we complete and develop a satellite system without testing? How can we address a system that the Russians have, that is an active system, unless we are able to test our system? We have heard on the floor time and time again in the debate of the last few weeks how we need to test. We have heard in the past how we needed to test the Bradley vehicle, how we have needed to test the Amram, how we needed to test the Divad, and just yesterday we spent a great deal of time talking about testing the B-1 B bomber.

Now we have again today an issue of talking about testing. We have a system that we all have agreed that we need. We have a system that has been designed, but how can we make it operational unless we can test?

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I offer my full support for Asat testing to the Dickinson amendment to the National Defense Authorization Act of 1988. This amendment allows the United States to deploy our antisatellite weapon system to the comparable altitude level of the Soviet Union's Asat system.

In contrast, the Brown amendment imposes a moratorium on the testing of Asat weapons at any altitude unless the Soviets conduct such a test. Why would the Soviets need to test? They already have it in place.

The Soviet Union has the world's only operational Asat system and it has been tested up to 800 nautical miles. I believe it is imperative that the United States be allowed to test to the same altitude. Why would we deny ourselves testing an Asat system, and give the Soviets a unilateral capability. U.S. development of Asat is essential in our effort to deter conventional and nuclear conflict and this requires the flexibility of testing.

Last year Congress continued to place restrictions on DOD prohibiting them from testing against objects in space. Unfortunately, this has delayed the development of the Asat Program and has significantly increased costs. In order to achieve an effective capability, additional statistics and performance verification are needed.

The Soviet Asat system does not require additional testing to prove that it works. Their current, self-imposed moratorium on testing is possible only because they have a proven and deployed Asat system. This moratorium will not erode their operational proficiency. As long as it serves their political and military purposes by tying our hands, the Soviets can refrain from further testing. In fact, the current Soviet moratorium is not the result of any formal negotiated agreement, and consequently, the Soviets could choose to reinstate testing at a moment's notice.

During the next decade, the Soviets are likely to retain their current Asat systems while moving aggressively ahead in developing and deploying new and more advanced Asat systems. In view of the threat posed by present and projected Soviet military satellites, the need for United States protection against satellite targeting is critical.

The fundamental purpose of U.S. national defense policies is to maintain and strengthen deterrence—deterrence for both conventional and nuclear conflict. Continued unilateral Asat limitations on the U.S. capability only undermines this deterrence. For these reasons, I urge my colleagues to support the Dickinson amendment to put our Asat Program on equal footing.

Mr. McCLOSKEY. Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SWEENEY].

Mr. SWEENEY. Mr. Chairman, what we have here today is what I would call the politics of self-fulfilling prophecy.

We hear a lot of talk about the failed test of Asat's, a lot of talk about the fact that it is not fully operational. We heard Mr. AUCOIN's sort of disingenuous analysis of the deficiencies of the Asat. Of course there are problems with it. In the last 3 years we have cut Asat funding by 30 percent. This year the Committee on Armed Services has cut Asat funding by 70 percent. Time and time again we have persisted in placing these restrictions on it which force the cost up and which cause the schedule to slip. Then, of course, we say the system will not work. The gentleman from California [Mr. BROWN] says the system is a dog. Well, of course there are problems with it because the politics of the last few years have made these problems inevitable. Thirty-percent cuts over 3 years, 70-percent cut this year, now these crippling restrictions. It is much like saying the patient is dying but yet failing to give him proper medical attention, even refusing to do the routine things that one would need to do to revive the patient, then pronouncing him "dead on arrival." Of course we have a system that is "dead on arrival" here, if only because now after the fact Asat is taking a beating at the hands of people like the gentleman from California, so-called pacifists, and now they want to plunge the knife in one more last time to kill the system off. Meanwhile, we are engaging in the classic arms control moratorium; the Soviets test a system, develop a system, deploy a system, realizing we are behind them and then they want to impose a moratorium.

In the case of the Brown amendment, what the detractors of this system are hoping to accomplish is analogous to saying, "We want a race car firm to develop a high speed, high performance race car," yet limiting testing on the racetrack at speeds not to exceed 30 miles an hour.

More to the point it would be like saying that we want to paint a Mona Lisa and yet saying that we have to do so in the dark, do so in the dark maybe, in this case, with sunglasses on; and then we add another restriction: In the dark, with sunglasses, with a patch over both eyes. Of course we cannot accomplish the goals of Asat with those kind of restrictions.

At this stage we are left with an Asat that is basically—as the gentleman from Oregon referred to it—"a bargaining tool," or as a negotiating point. Thus, at the same time, we have heard lots of comment in the last week about the need to put things in our bill to allow us a stronger negotiating position with the Senate. At the very least if we are going to do that to negotiate with the Senate, should we not also do that in putting ourselves in the position of negotiating more strongly with the Soviet Union? It's a good argument for the Senate, but not for the U.S.S.R.? Is that the point?

Let us not cut the funding, let us not place restrictions; let us fund the Asat and let us give our negotiators something to bargain with.

Mr. McCLOSKEY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, I rise in support of the amendment offered by the gentlemen from California and Pennsylvania to impose a 1-year, mutual and verifiable moratorium with the Soviet Union on the testing of Asat weapons against objects in space.

Continuing the moratorium on the testing of antisatellite weapons is a rational and cost-effective arms control measure vital to U.S. national security. The ban on testing allows the United States to maintain its historical advantage in Asat technology and prevents the Soviets from turning their presently unsophisticated and unreliable system into a more capable, lethal weapon.

The United States relies much more heavily on early warning, communications, and intelligence-gathering satellites than the Soviet Union. In a renewed Asat weapons competition, it is the United States that stands to lose the most, jeopardizing important United States military satellites in high orbit, now far beyond the range of the current Soviet Asat weapon.

The Asat testing issue also has budgetary implications. At a time when the Congress is struggling to control the Federal deficit, the last thing this country needs is a costly addition to the arms control race. Support for the Brown-Coughlin amendment represents a commitment to preserving our national security and reducing the Federal deficit.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. BADHAM].

Mr. BADHAM. Mr. Chairman, Gen. Omar Bradley once wrote, "in war, there is no second prize for the runnerup." As we review our current position in regard to the deployment of an antisatellite system, let us consider in which place we are currently mired in this race, and what the consequences will be should we fail to adequately develop this crucial deterrent.

The Soviet Union presently has the world's only operational Asat system. This ground-launched system has been tested at least 15 times, and has a kill rate of over 60 percent. Since there currently is no treaty to govern Asat testing, the Soviets have indeed regularly tested certain elements of their system. These tests have proved without a doubt that the Soviets believe that their Asat is fully operational, and, subsequently, have integrated it into their battle scenario. In addition, the Soviets are currently developing two new, second generation Asat weapons which incorporate laser or nuclear technology and promise an even greater kill probability. The implications of present and future Soviet Asat development are clear: crucial United States communication, surveillance, and positioning satellites will be easy prey for a Soviet Asat with virtually no chance of United States retaliation on any Soviet satellites.

In response to this threat, Congress, over the last few years, has consistently cut the amount of funding for this program and has enacted various limits on testing. Unfortunately, the result of this action has been to decrease and delay our Asat capability while greatly increasing overall costs. This year has proven to be no exception. After the first markup, the President's request of $356 million was reduced to $225 million, and, in the Aspin amendment to H.R. 1748, the amount to be allocated to this important program decreases to only $50 million.

Consider for a moment the ramifications of this action. An Asat is a much needed military requirement for a conventional arsenal. The Soviets presently have satellites which provide real time support to their forces during all levels of conflict. These include ocean reconaissance satellites which use radar and electronic intelligence to provide direct targeting information to Soviet forces. In turn, this enables them to quickly and accurately attack our naval forces. Moreover, photographic and electronic intelligence satellites possessed by the Soviets would be able to provide a crucial advantage for Soviet ground forces. This would be roughly equivalent to having a World War I-type situation in which enemy recon aircraft could fly over our forces uncontested. The obvious concluson to draw is that if Soviet satellites are allowed to operate unmolested, they will be the key instrument in the Soviet's ability to incur significant casualties, thus severely jeopardizing our ability to prevail in any conflict.

But, Congress continues to jeopardize not Soviet satellites, but our own capabilities to defend ourselves from the threat that they pose. Make no mistake about it—an operational Asat system is needed if we are to deter the Soviet threat. Let us not forget General Bradley's quote and make the mistake of relegating the United States to a position of runner-up.

Mr. McCLOSKEY. Mr. Chairman, to close argument on this side, I yield the balance of our time to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN].

The CHAIRMAN pro tempore. The gentleman from Pennsylvania [Mr. COUGHLIN] is recognized for 3 minutes.

Mr. COUGHLIN. Mr. Chairman, I rise to urge my colleagues to oppose the Dickinson amendment and to vote instead to continue the moratorium on the testing of antisatellite [Asat] weapons through passage of the Brown-Coughlin amendment.

Mr. Chairman, the Congress has wisely supported and the administration has accepted a moratorium on the testing of Asats since 1985. This test ban has kept a brake on at least one aspect of the ever-increasing superpower arms race. Although it limits superpower activities in only one arena, it does so in the arena which most immediately threatens to bring about a destabilizing and immensely costly arms race in space.

Moreover, the Asat test ban is mutual and verifiable. We are able to determine if the Soviets conduct tests of their antisatellite weapons, through our national technical means. And since the ban took place, we know that the Soviets have not tested and deployed an Asat weapon against a target in space.

That is important, Mr. Chairman, because there is currently a rough equilibrium between the United States and Soviet Asat capabilities. The Soviets have a crude coorbital system that does not represent a serious threat to United States satellites. It has failed in 11 out of 20 tests to date, including all 6 tests of a so-called advanced heat-seeking homing device. Launched atop a 150-foot, liquid fueled rocket—a rocket twice as big as the U.S. MX—its use would be observable by the United States well in advance of an Asat strike. This advance notice plus the minimum 90 minutes it would take to climb to its nearest target is adequate for the United States to initiate effective countermeasures.

The U.S. Asat, on the other hand, is more advanced, but is only partially tested. Launched from an F-15 fighter, it climbs directly to its target in a matter of minutes.

The problem is that if the United States Asat is fully tested and becomes operational, the rough equilibrium between United States and Soviet systems will be gone. The Soviets would be unwise, under such circumstances, not to develop their own sophisticated Asat system.

Such a development would be directly contrary to our national security interests. This is because the United States is far more dependent on our satellites than the Soviets are on theirs, for a variety of reasons. First, the level of our technology is such that we can do more with our satellites than the Soviets can with theirs. Second, because U.S. forces are widely scattered around the globe in defense of our security interests, satellite communication is necessary. By contrast, Soviet combat forces are largely confined to the Eurasian landmass, where conventional means of communication can be used. Furthermore, because the U.S.S.R. is a closed society, we must rely more on our satellites in order to glean useful intelligence. And finally, because U.S. satellites are more reliable, we can afford to depend on them more.

Because we are more dependent on our satellites than the Soviets are on theirs, our interests are jeopardized to a greater degree in the event of an unconstrained Asat race. It does not serve United States interests to develop fully a competent United States Asat device if it means the Soviets will develop a serious Asat threat of their own, because if a situation arises in which both United States and the U.S.S.R. have a sophisticated ability to knock out the other's satellites, the United States is the big loser. However, if we press forward to deployment of the United States F-15 launched Asat, the Soviets will be compelled to advance their own Asat technology. The threat that an advanced Soviet Asat would represent to United States satellites is far greater than the threat posed by the current, primitive Soviet device.

Yet, this is exactly the advantage that might accrue to the Soviets if we allow Asat testing under the terms of the Dickinson amendment. For any test of a United States Asat—whether 200 miles, 400 miles, 800 miles, or more—will open the door to renewed Soviet Asat testing. This is precisely the outcome we should seek to avoid. And we can avoid it if we pass the Brown-Coughlin amendment and again extend the United States-Soviet Asat test moratorium.

As if all this wasn't enough, Mr. Chairman, it is important to recall that our space launch capabilities continue to remain seriously limited. The shuttle is still not operational, and those other launchers that we have available are fully accounted for in terms of mission. Thus, our ability to deploy new satellites, or replace old satellites, is severely constrained. So right now it makes even less sense to tempt the Soviets to undertake a renewed effort to develop a weapon truly capable of blasting our satellites out of the skies.

Mr. Chairman, the Asat test ban continues to be in America's best interest. It has served us exactly as intended since 1985, preventing the Soviets from developing an effective Asat capability. I urge my colleagues to oppose the Dickinson amendment and vote for the Brown-Coughlin amendment.

□ 1135

Mr. DICKINSON. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. HUNTER] to close debate.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The gentleman from California [Mr. HUNTER] is recognized for 2 minutes.

Mr. HUNTER. Mr. Chairman, I think it is very important that all Members understand precisely what we are talking about here. If you forget the Soviet antisatellite capability, you have to recognize their satellite capability.

They have satellites that presently have the capability of locating our naval forces in millions of square miles of the Pacific and Atlantic Oceans.

What does that mean? To the fathers and mothers of our thousands of men and women who are on the ships at sea, deployed at sea, it means that the Soviet Union has the capability of locating those ships and coordinating the naval Backfire bomber force that the Soviet Union maintains expressly for this purpose with its plane-to-ship missiles, antiship missiles, and bringing that force out to America's naval force, whether it is part of a force, a couple of ships alone, like the *Stark* was out in the Persian Gulf the other day, or even a major carrier task force.

They bring the Backfire bombers out after the ships have been located by their satellites and engage in a saturation missile attack with maybe 20, 30, 40 missiles coming in at high speeds, some skimming the water like the Exocet Missile that hit the *Stark* the other day; some coming almost directly downward; some at very high speeds; some at cruise missile speeds.

The point is that the Soviet satellites are the eyes of the Soviet antinaval forces. They are the eyes of the force that is given the mission of destroying our ships and the men and women who serve on them.

It is not right for this Nation to maintain a Navy and put our young people out there at risk if we are not willing to knock out the reconnaissance satellites that target them for the Backfire bombers.

The Brown amendment should be defeated and I think what happened to the *Stark* the other day should raise with this body the realization of how critical this area of naval warfare is.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 5 minutes.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it had been my intention to offer an amendment at this time, but I have decided to withdraw it because I think that the interests of the country would be best served by a simple vote up or down on the Brown amendment.

I think we all understand the Asat issue. Rather than clutter it up, I would really prefer that the gentleman from California [Mr. BROWN] be allowed to offer his amendment and that we just have a simple vote on it.

There have been some statements made that I find difficult to both accept and understand in the general debate. It was pointed out that the Soviets have exercised restraints in their Asat program. This is true because they have already conducted their Asat tests. There have been approximately 15 tests of their operational Asat and they have learned all that they need to know.

There is a second Soviet Asat that they have tested five times unsuccessfully. That is the reason there is a difference in the figures when we talk about 15 tests or 20 tests. The last five are a second Asat system and they have been unsuccessful. However, the currently deployed Soviet Asat system has over a 60-percent rate of successes, and all tests have been against objects in space. The Soviets have proven their system. The Soviets have deployed it and it is now in place.

They can take out a U.S. satellite today. The statement made by the gentleman from Oregon [Mr. AUCOIN] says that Asat is a first-strike weapon. This is why the Soviets have it and we do not. Why would we want to put ourselves perpetually in a position where they have Asat capability and we do not? Why do we want to hobble ourselves? Why do we want to put ourselves in shackles and prohibit the development of a comparable system that might induce the Soviets to negotiate Asat arms control more seriously?

The gentleman from Pennsylvania [Mr. COUGHLIN] points out that if we acquire an Asat capability, we can put their satellites at risk and will therefore escalate an Asat arms race. The fact is our satellites are at risk right now. The Soviets already have an Asat capability. We do not. Their satellites are not at risk.

If you examine them, all of these arguments against a U.S. Asat fall of their own weight. They have the capability; we do not.

Congress has by action on this very floor, denied the United States, the capability of moving forward with the research, development, and testing of an Asat. I think this is very shortsighted and certainly not in the national interest.

The moratorium referred to earlier was described as being accepted by the administration. They had no choice but to accept it, other than to veto the entire defense authorization bill. That was the choice. I would say that if we keep burdening this bill with policy issues like arms control, Central America and now Asat, I am fearful that our committee's months of work will be for naught because the bill will be vetoed.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I briefly yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding.

The gentleman mentions the point that they have one and we do not. They do not have a very good one, and it is subject to countermeasures. I think it would be a lot more reasonable for us to put our money into countermeasures which would be easy. A puff of aluminum foil is enough to counter a Soviet Asat.

Mr. DICKINSON. The gentleman says that just a puff of foil will defeat a Soviet Asat. But we do not even have that capability on our satellites now.

Mr. AuCOIN. That is what we should be investing in, not lifting restraints on both sides and starting an Asat arms race.

More importantly, I would ask the gentleman, if we do not want them to have one, why do we not negotiate zero on their side and zero on our side? Why has the administration refused to do that?

□ 1145

PARLIAMENTARY INQUIRY

Mr. BROWN of California. Mr. Chairman, is it in order for me to strike the last word at this point?

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Chair will inform the gentleman that it is not.

Mr. BROWN of California. Then how did the Chair permit the gentleman from Alabama to do that?

The CHAIRMAN pro tempore. Under the rule, the ranking minority member has the right to strike the last word and be recognized for 5 minutes. Under the rule, only the chairman of the committee and the ranking minority member are given that privilege.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORINA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. BROWN of California: At the end of title II of division A (page 48, after line 3), add the following new section:
>
> SEC. 244. ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTISATELLITE WEAPONS
>
> (a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.
>
> (b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. BROWN] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I yield 3½ minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I rise in support of the Brown amendment.

For each of the last 3 years this House has voted to establish a bilateral moratorium on testing of antisatellite weapons against an object in space. I am proud to have been among the leaders in this effort that has resulted in a suspension of tests of both sides. In fact, it has been over 5 years since the Soviets tested their antisatellite weapon. As a result, they still have the same rudimentary system they had 10 years ago. They have not been able to perfect advanced homing devices. They have remained susceptible to U.S. countermeasures.

A distinguished panel established by the American Academy of Arts and Sciences has just completed an exhaustive study on the issue of crisis stability and nuclear war. The panel included such notable scientists as Desmond Ball, Hans Bethe, Bruce Blair, Richard Garwin, and Kurt Gottfried. They examined a wide range of steps that can improve our ability to deal with crises in a more stabilizing way. These included major upgrades in our strategic command and control.

The panel saw limitations on antisatellite weapons as a critical element of assuring secure and stabilizing command and control. Let me cite their specific conclusion:

> Arms control can impede the development of dedicated Asats that pose a prompt threat to a militarily significant portion of a nation's space-based command, control and intelligence system. Such capabilities would only appear with the deployment of a complex system whose reliability must be established by tests in space. Therefore, we support an Asat Test Ban Treaty that would forbid the testing at any altitude of weapons in space, or against space objects. The ban covers all altitudes because low orbit satellites are important to prestrategic conflict and attacks on them could lead to escalation.
>
> The U.S. has increasingly powerful means for space surveillance that can provide adequate verification. As a hedge against violations, for protection from nondestructive Asat techniques, and as a defense against subsidiary Asat threats, high priority should be given to satellite protection—hardening, maneuverability, redundancy and spacebased and ground based backup systems.

To date the administration has refused to negotiate any kind of Asat agreement. That is why the informal, but effective mutual moratorium is so important. At the same time the Defense Department has not aggressively pursued the kinds of survivability improvements for our satellites that it should, despite congressional urging. That is the direction we need to continue to push. We need to have satellites that can counter the potential threat, because the bottom line is we have far more to lose in any Asat competition than do the Soviets.

For these reasons I urge the House to reconfirm its past actions and support the Brown-Coughlin amendment.

Mr. DICKINSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 10 minutes.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I appreciate the gentleman's yielding me this time.

Mr. Chairman, with great rhetorical flourishes, we hear again today, as we have heard over the past several years, that we should not embark upon something that brings about a militarization of space. That may be a beautiful rhetorical flourish, but it does not comport with the realities of the world that we live in.

The Soviet Union is pursuing a more robust space program than is the United States. The Soviet Union launches objects in space at something like the rate of 100 times a year. Eighty percent of all their space launches have military applications. So where is the merit to this beautiful rhetorical flourish of not militarizing space?

When the Soviet Union has built and has deployed an Asat system, we can argue that it is not as good as it might become or as one that we might develop. We can say that *x* number of tests failed, but who is to say that the Soviet Union, pursuing testing when they choose to pursue testing, has not learned anything that can improve their system even when a test fails in a particular incident?

Let me suggest to the Members that if the concern is whether or not we are going to have a verifiable ban on antisatellite weapons systems, experience demonstrates that it is best that the United States have such a system. Experience demonstrates by our development and deployment of the Pershing missiles and of the ground-launched cruise missile in Europe and experience demonstrated by our going forward with the Strategic Defense Initiative Program that these things have brought the Russians to the negotiating table. It is for that reason, as well as all the above, that I urge my colleagues in the House to defeat the Brown amendment.

Mr. BROWN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding time to me.

I would like to speak to some of the myths that have been brought out in the debate on the floor today, on the Brown-Coughlin amendment.

Myth No. 1 is that the Brown-Coughlin amendment, which has been law for 2 years and which has worked, is somehow unilateral. It is not unilateral; it is bilateral.

The Dickinson substitute, which was offered but withdrawn, was bilateral, too. It had the same provisions that the Brown-Coughlin amendment had in terms of its bilateralness. It said, as the Brown-Coughlin amendment says and has said in the statutes for 2 years, that no tests shall be done on our side as long as the President certifies to the Congress that the Soviet Union has not tested.

The gentleman from Alabama [Mr. Dickinson] picked up the identical language. So it is bilateral, not unilateral, in the same spirit as the Dickinson amendment.

Second, let me just speak to this question of the incredible capability of the Soviet system.

Somebody mentioned the kill rate of 60 percent on the part of the Soviet Asat. I suppose it is easy to get a 60-percent kill rate if you are shooting against a cooperating target, but that is not the point. We should be investing in satellites that have countermeasure capability. Why are we not putting our dollars into that sort of thing to defend our satellites, rather than lifting restraints and letting both sides go forward with an Asat arms race? That is where our priority should be, on countermeasures and survivability. The Soviet system is vulnerable to countermeasures.

In that regard I would like to read three quotes, one from Leslie Dirks, the former director for research and technology of the CIA. He said this:

> The latest information I've had is that the Soviet Asat system doesn't work. Anyone who has followed it closely would have to agree.

Col. James Reynolds, former manager of Navstar and Satellite Communications for the Air Force said this:

> The Soviet Asat is so weak and cumbersome that I think we literally would have to let them get us in order for it to work.

Gen. Lew Allen, formerly the U.S. Air Force Chief of Staff, said:

> I think our general opinion is that we give the Soviet Asat a very questionable operational capability for a few launches * * *. They have not had a test program that would cause us to believe it is a very credible threat.

These are people who know what the Soviet capability is. For those who think that the United States has no experience in this, I would point out that we once had an Asat capability very similar to that which the Soviets have today. It is a clunker of a capability, and that is why we gave it up. Back in the 1960's we did 27 tests on that system, before the Soviet Union did one. Zero is all they have done; we've done 34.

Mr. Chairman, I think we ought to pass the Brown-Coughlin amendment because it adds to our security rather than detracts from it.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Sweeney].

Mr. SWEENEY. Mr. Chairman, let me just focus a little bit of attention on the policy involved here.

The facts differ on both sides about how successful Asat tests have been, about how successful the Soviet Asat system is, and about the capabilities of our own Asat system. But the overall policy, for those who are confronting this issue for the first time, is simply this: whether or not we approve the classic old arms moratorium on an Asat. This is the classic old liberal apologetic arms control moratorium.

Now, very simply put, the questions are threefold. Do we want to remove a negotiating option or opportunity from our U.S. arms control negotiators? Do we want to leave ourselves vulnerable to having our satellites blinded by Soviet Asat's? Do we want to leave ourselves in an inferior position with respect to our own Asat?

I think the answer is, "no," we do not want to leave ourselves in an inferior negotiating position; no, we do not want to leave ourselves vulnerable to Soviet Asat's; and, no, we do not want to be satisfied with an inferior Asat system, which is what will happen if we adopt this Brown amendment.

The CHAIRMAN pro tempore. The Chair will advise the Members that the gentleman from California [Mr. Brown] has 3½ minutes remaining and the gentleman from Alabama [Mr. Dickinson] has 5 minutes remaining.

Mr. BROWN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to deal very briefly with that blood-curdling scenario about the Soviet Rorsat identifying our battle fleet and the Backfire bombers going out and bombing them. We know, of course, that that means world war III.

The fact of the matter is that we do not have a tactical plan for our Asat. We do not have rules of engagement for our Asat. The Soviet Rorsat passes over our fleet once every 3 days. We can engage it with our Asat only when it passes over Langley Air Force Base. When do we hit it with our Asat, 2 days before it goes over or the day after? In each case it is immaterial. World war III has broken out if those Backfire bombers hit. I know that, and the Members know that. Then what do we do? We probably knock out their whole satellite launch facility. In fact, we probably knock out the whole Soviet Union when that happens. That is a ridiculous scenario.

The appropriate staff members of Joint Chiefs of Staff have briefed me, and they have no current tactical doctrine for using the Asat. That is one of the reasons I object to it, in addition to the fact that it is overpriced, behind schedule, and incapable of engaging more than a miniscule fraction of the Joint Chief's target list.

□ 1200

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. Kyl].

Mr. KYL. Mr. Chairman, I would like to respond to a few of the arguments that I have just heard. They just do not make a lot of sense to me.

The first notion is that this is a bilateral agreement and, therefore, it certainly must be fair. The precise language of the amendment is that "until the President certifies that the Soviet Union has conducted, after the date of enactment of this act, a test" and so on. Well, that is kind of like saying after the score is 24 to zero at halftime, we are both going to agree not to score anymore touchdowns in the second half; and, therefore, it is an even ball game.

We are already behind. That is why we have to do the testing. That is why the language "after the date of enactment of this Act" is in there. Of course, they have a system; and we do not.

The second point is, in effect, the Soviet system is not so very good, so that is another reason why we do not have to worry about having our own program. Whether their system will work or not is a matter of some dispute, as the gentleman is aware.

If it is important for us to have a program like this, we have got to do the testing in order to develop it, and that ought to be the key question.

Should we have the program, not, is the Soviet's system very good?

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. KYL. Mr. Chairman, I yield to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Arizona has talked about the unilateralness of this amendment, but it is not unilateral. It is bilateral.

The gentleman supports the Dickinson amendment, and it says, "* * * if the President certifies to Congress * * *."

Mr. KYL. Mr. Chairman, if I could reclaim my time?

I am not speaking in favor of the Dickinson amendment.

Mr. AuCOIN. Mr. Chairman, if the gentleman will yield further, the gentleman supported it.

Mr. KYL. I had nothing to do with the Dickinson amendment. I am talking about the language in your amendment which says, "after the date of enactment of this act."

Mr. AuCOIN. Mr. Chairman, if the gentleman will yield further, that is the same thing as the Dickinson amendment.

Mr. KYL. Do you call time out after the other side is ahead 24 to zero, and promise not to score anymore touchdowns if the other side will not score anymore?

The question is, we are already behind. Let us catch up.

Mr. DICKINSON. Mr. Chairman, it was the desire of this gentleman from Alabama to close the debate.

The CHAIRMAN pro tempore (Mr. Dorgan of North Dakota). The Chair indicates that the gentleman from Alabama [Mr. Dickinson] has the right to close debate.

Mr. BROWN of California. Mr. chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from California [Mr. Brown] has 2½ minutes remaining; the gentleman from Alabama [Mr. Dickinson] has 3 minutes remaining, and has the right to close debate.

Mr. BROWN of California. Mr. Chairman, I yield the remaining time, 2½ minutes, to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I urge again the support of the Brown-Coughlin amendment.

The gentleman from California [Mr. Brown], the prime author of this amendment, has a long history in this Congress of great knowledge about our satellite capability, and about the capability of the Asat system.

I have served on both the authorizing and the appropriating committees for our space systems.

Let me just repeat three points that need to be repeated.

First, this is not a new initiative, but a continuation of an existing moratorium that was accepted by the administration and has been accepted by the administration since 1985.

If they thought this was so critical, they certainly would have vetoed it a long time ago. They did not. They accepted it.

It is working. It is working because we are not testing, and the Soviets are not testing. We are not spending billions of dollars building expensive Asat systems, and they are not spending billions of dollars building expensive Asat systems.

We can continue that and save ourselves funds. We can continue this moratorium.

Second, the argument that we must have one, because they have one, that our satellites are at risk, is so seriously flawed, because our satellites are not at risk. Their system is old technology. Their tests have failed. They are not effective.

Their Asat system is not effective against our key satellites which are in geosynchronous orbit, and easily defended against by countermeasures on our satellites in Earth orbit.

Third, the argument which has changed this year now is that we need to put their Rorsat at risk, because they can track our ships; and that is based on that faulty premise that if we put theirs at risk, and they put ours at risk, we lose.

Our technology is better. We do more with our satellites. Our forces are more scattered, and we are more dependent upon satellite communication; and we rely on satellites to glean information from their closed society, and they can get information from ours just by reading the publications.

So long as the Soviets have an inferior Asat system which is what they have, we have the military superiority, because we have a better system of communication.

We have a better system of surveillance than they do. That is why it is important to continue this moratorium, and I urge a vote in favor of the Brown amendment.

Mr. DICKINSON. Mr. Chairman, I yield the remaining 3 minutes to close debate to the distinguished gentleman from California [Mr. Badham].

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would just respond to the gentleman from Oregon; when the gentleman said the President accepted the moratorium and that he could have vetoed it. Yes, he could have vetoed the entire DOD authorization bill for the past fiscal year.

Yes, he could have thrown the Congress into chaos. I think the gentleman might get his wish this year to have the President veto Asat if this moratorium does happen to become law, I would suggest the President will probably veto it and the gentleman will get his wish to see what happens in that case; but as in the same kind of case it was mentioned that the Pershing II and GLCM the year before were so terribly offensive. It reminds me of the comment of the gentleman from Arizona about the score. "The score wasn't 24 to nothing when we had the SS-20 versus the Pershing and GLCM in Europe, the score was a thousand to nothing."

So we said, "Oh, we must not offend the Soviet Union by even suggesting that we go ahead and deploy GLCM and Pershing II."

Well, we did. We threatened and we deployed Pershing II and GLCM on the plain of Europe and had to get our allies to go along with that.

What happened? The Soviets came to the bargaining table and we are on the verge now, not of having more SS-20's, but eliminating intermediate nuclear missiles from Europe. Why? Because the Soviets still have SS-20's but we have them (Pershing II and GLCM), too.

Now in the current situation with Asat, the United States has satellites. We have good satellites. We have low orbiting satellites that we can move. We have geosynchronous satellites that use and are at geosynchronous orbit and their Soviet Union has satellites. Maybe theirs are not as good as ours. Maybe they are getting better, but as was pointed out earlier by the gentleman from Alabama, the Soviets have the capability and they have used it to move low orbiting satellites to track major fleet deployments and maneuvering and give the data to Third World countries. Do not think they are not using that capability, because we know they are, and we have nothing with which to counter that threat.

So we have satellites, the Soviet Union has satellites.

Antisatellite weapons systems, the Soviet Union has one: dog; crude; cumbersome, only 60 percent effective. Still, that is a great deal more effective than zero, which is what we have.

Now, the question is not whether we are offensive to the Soviet Union or they are offensive to us. They can move satellites around, and they have done so, to give critical information to Third World countries. We have nothing.

The fact remains that if we are able to shut down and have our eyes blindfolded in a time of military necessity, ours or that of our allies, we must have tests to perfect the system.

Please, for your country's sake, vote "no" on this amendment.

Mr. FASCELL. Mr. Chairman, I rise in support of the Brown-Coughlin amendment to the fiscal year 1988 Defense authorization bill to maintain the existing United States-Soviet moratorium on testing antisatellite [Asat] weapons against objects in space.

I also urge my colleagues to oppose the Dickinson amendment which would allow Asat tests against objects up to 800 miles in space.

By approving the prohibition on Asat testing each year for the past 4 years, the Congress has reaffirmed its support for averting an arms race in space.

The point is often made that the Soviets have the world's only operational Asat—which they have not tested since 1982. Yet we must also remember that the Soviet Asat is based on primitive technology and a mediocre test record at best. The Soviet Asat was crude and unreliable 4 years ago when Congress passed the first Asat moratorium, and it remains crude and unreliable today.

The purpose of this amendment is not only to preserve the Asat moratorium, thereby averting an escalation of the arms race into space. Hopefully, it will encourage this administration to negotiate an arms control agreement with the Soviet Union to limit the use and testing of Asat's. We have the opportunity to pursue just such an Asat agreement in Geneva now. It seems to me that we should take advantage of this opportunity.

If the Dickinson amendment were adopted, the superpowers would be free to test, upgrade, and deploy Asat's.

Once we allow such Asat testing we risk beginning what may prove to be an uncontrollable arms race in space.

If we free the Soviets to test their Asat—as the Dickinson amendment would allow—it won't be long before these satellites could be upgraded to attack our more important satellites in higher orbits. Since the United States is more dependent on satellites than is the Soviet Union, we have more to lose in an Asat competition. For this reason, the moratorium on Asat testing is clearly in our national security interest.

For these reasons I urge my colleagues to support the Brown-Coughlin amendment to preserve the Asat moratorium.

I further urge my colleagues to oppose the Dickinson amendment which kills the moratorium, allows Asat testing, and encourages a dangerous and costly superpower Asat competition.

Mr. MCCURDY. Mr. Chairman, I support the amendment of my distinguished colleagues Congressmen BROWN and COUGHLIN to extend the prohibition on testing Asat weapons against an object in space.

There is no denying that the current Soviet Asat system technically poses a threat to our low-orbiting satellites. But the threat, in my judgment, is low enough in probability to permit the continuance of a moratorium on the testing of our air-launched miniature vehicle Asat for another year.

The Soviet Asat system, developed from 1960's technology, is a relatively crude, slow reacting weapon that has not been successfully tested for over 5 years. The model "T" of Asat systems, it is only marginally effective. The Soviets would have no assurance it could successfully destroy our satellites soon enough to be of significant benefit to them in the conduct of hostilities.

The Soviets are realists; they know they have a turkey on their hands and have parked it. Now, they are undertaking a vigorous program for the research and development of laser Asat's. This is where the real threat is coming from and we better wake up to it. The House Armed Services Committee recognizes this threat by providing full funding of $46.65 million in this year's bill for the Excimer Midrange Laser Development Program.

The international situation simply does not warrant, especially in today's resource constrained environment, the authorization of several hundreds of million dollars to test in space in fiscal year 1988, an Asat system that is plagued with faulty design limitations, continuing technical problems and projected high production costs.

It is my earnest hope that we will be able to negotiate with the Soviets an effectively verifiable ban on all types of Asat weapons. Until then, we should proceed with measured responses in order to maintain an atmosphere conducive for the success of such negotiations. Fully funding our laser research for Asat while maintaining for another year, the moratorium on testing in space of the air-launched Asat are such responses. I urge my fellow Members to support the Brown-Coughlin amendment.

Mr. FRENZEL. Mr. Chairman, the Defense authorizations debate for 1988 includes consideration of several critical arms control provisions. Prominent among these are the Schroeder-Gephardt amendment providing a moratorium on nuclear tests above 1 kiloton so long as the Soviets do not conduct such tests, and the Brown-Coughlin amendment prohibiting testing for our F-15 launched antisatellite [Asat] system, again if the Soviets do not engage in similar tests.

I support both amendments.

A nuclear test ban treaty has been a prominent goal of arms controllers for decades, because it is expected to slow the addition of new nuclear weapons, and could therefore provide a more stable atmosphere in which arms reduction negotiations could occur. Those reasons remain important. At this sensitive time in our relations with the Soviets, extending this moratorium could further the mutual trust necessary for successful negotiations.

Asat weapons are extremely threatening both to the United States and to the Soviet Union. Both nations heavily depend on their satellites for communications and for intelligence gathering. Either nation's developing a significant Asat capability would intolerably threaten the other, and could lead to a dangerous Asat race.

The Soviets have a rudimentary system. However, it has not been tested in over 4 years, and is not believed to present a significant threat to American satellite operations. Testing and deployment of an American system would prompt Soviet improvements in their system.

This result would irreparably harm the mutual interest of America and the Soviet Union by threatening a critical capability that does not directly threaten either nation. Asat capability is a capability we are better off without, and for that reason I support the amendment.

Mr. MOAKLEY. Mr. Chairman, I rise in strong support of the Brown-Coughlin amendment to continue the United States-Soviet moratorium on Asat testing.

According to John Pike, a space specialist at the Federation of American Scientists, the U.S. Asat is "purely a bargaining chip * * *. The whole thing got started because the Soviets had started testing their Asat. We built it as a bargaining chip, to stop the Soviets from testing their Asat, and it has already fulfilled its primary purpose."

Mr. Chairman, it makes no sense not to support the Brown-Coughlin amendment. Plagued by cost overruns and performance inefficiencies, the U.S. Asat would not give us another chip with which to bargain. Instead, United States Asat testing would compel the Soviets to resume Asat testing, thus initiating another round of the arms race.

Currently, the United States is more dependent on satellites for security purposes than the Soviet Union. Why would we want to give the Soviets an impetus to develop a proficient means of destroying those satellites?

This is clearly an aspect of American policy in which the status quo is worth preserving. I urge you to vote yes on the Brown-Coughlin amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 188, not voting 15, as follows:

[Roll No. 128]

AYES—229

Ackerman
Akaka
Anderson
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Biaggi
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clinger
Coelho
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hefner

Hertel
Hochbrueckner
Horton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price (NC)
Pursell
Rahall
Rangel
Regula
Richardson
Ridge
Roberts
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—188

Alexander
Andrews
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chapman
Chappell
Cheney
Coats
Coble
Coleman (MO)
Coleman (TX)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Dyson
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frost
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Grandy
Grant
Gregg
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickett
Price (IL)
Quillen
Ravenel
Rhodes
Rinaldo
Ritter
Robinson
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saxton
Schaefer
Schuette
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—15

Annunzio
Boner (TN)
Bruce
Duncan
Edwards (OK)
Foglietta
Gephardt
Gray (IL)
Jones (NC)
Livingston
Ray
Roemer
Schulze
Walgren
Whittaker

□ 1225

The Clerk announced the following pairs:

On this vote:

Mr. Gray of Illinois for, with Mr. Roemer against.

Mr. Whittaker for, with Mr. Livingston against.

Messrs. CRAIG, HALL of Texas, and PRICE of Illinois changed their votes from "aye" to "no."

Mr. CAMPBELL changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). Pursuant to the notice provided by the chairman of the Committee on Armed Services on May 18 under paragraph (8) of section 2 of House Resolution 160, it is now in order to debate the subject of chemical weapons for 40 minutes.

At the conclusion of such debate, it is in order to consider the amendments relating to chemical weapons printed in section 1 of House Report 100-84 in the following order only:

(A) By Representative ASPIN, or his designee; and

(B) By Representative FASCELL, or his designee.

If both of said amendments are adopted, only the latter amendment shall be reported back to the House.

Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 20 minutes and the gentleman from Alabama [Mr. DICKINSON], will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN] or his designee.

Mrs. BYRON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in opposition to the Fascell amendment. Let me take a few minutes to point out the problems with the approach taken by the chairman of the Foreign Affairs Committee on this important matter.

First, the Fascell amendment on its face, is a catch-22. It conditions final assembly of binary chemical munitions on the replacement of chemical stockpiles currently stored in Europe with the same binary chemical munitions whose production funding is withheld by the amendment. However, once you cut through the verbage, the intent of the Fascell amendment is clear; kill the binary weapons program.

Second, since the Congress first approved the production of binary chemicals 2 years ago, the Soviet Union has begun to negotiate in earnest for the elimination of all chemical stockpiles. It is my feeling that their change of heart on this issue was predicated on our affirmative vote to modernize our chemical stockpile. One should also remember that this decision was made after a unilateral effort to halt chemical production made by President Nixon in 1969 had failed to produce such an agreement. Prior to this commitment to modernize our chemical stockpile, the Soviets balked at every U.S. proposal to negotiate a comprehensive ban on the production and use of these weapons.

As Secretary of State George Shultz pointed out to our colleague JACK MURTHA in a recent letter on this important matter, "our judgment is that the elimination of funding for the U.S. chemical modernization program could cause a significant setback in the negotiating process."

Third, binaries are safer to transport and are safer to handle. Our current unitary stockpile is hazardous and require special handling. Since many of these weapons are based in the United States, moving them safely through our districts in a crisis would require extensive and expensive precautions. And lets face it—in a time of war, safety will be compromised because of the urgency of the situation. More importantly, in a conventional conflict, our current unitary stockpile poses a significant danger to our troops if it is hit by Soviet fire.

Supporting "nerve gas production" has never been a politically popular thing to do but we have been elected to make the hard decisions. The binary chemical program makes good sense for its value as a deterrent, for its leverage in our current discussions with the Soviets on this matter—and for the safety of our soldiers. Vote against the Fascell amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, binary chemical weapons are necessary.

Mr. Chairman, I am pleased to speak to my colleagues today on the importance of binary chemical munitions in the overall strategy of our national security. I support this administration's goal to abolish chemical weapons entirely, but also recognize that the Soviet Union and other countries have not responded constructively to proposals to ban these weapons.

Until a ban and an accurate verification process can be agreed upon, I feel we must continue to modernize our ability to deal with the threat of chemical weapons use. It does us no good to sit and watch the Soviet Union build up huge arsenals of these weapons in all regions of the world without answering that threat.

The binary system of weapons is significantly safer to handle and deploy. Because the two materials do not become dangerous until combined, the risk factor is considerably reduced, and transporting the materials across each of your States involves little or no threat to the health and safety of the populace as do the wet-eye and other outdated unitary weapons.

Our best route is to complete the assembly of binary weapons so that when our NATO allies agree to replace the unitary weapons with the binary weapons, we will be prepared to make the exchange.

NATO policy calls for the use of chemical weapons in response to Warsaw pact chemical attacks. It is not essential that we store the binary weapons in Europe or any other foreign country in order to respond in kind. Once our current stockpile of unitary weapons have all been demilitarized as is now being done, and without any binary weapons as backup, we will leave nothing for the U.S. negotiators to bargain with, and leave our servicemen in trouble spots of the world vulnerable to such attacks.

I urge each of you to retain funding for binary chemical weapons production. We will not be stockpiling significant amounts of these weapons with this request, merely providing the capability to deter attacks. It takes courage and farsightedness to recognize that the best route toward total disarmament is the methodical reductions of like munitions.

The following points are also important:

First. The cost is only $2.5 billion over an 8 year period, not $14 billon as has been argued.

Second. The SECDEF blue ribbon panel and GAO reports are outdated and misquoted; the present U.S. stockpile is not an effective deterrent.

Third. Proliferation of chemical weapons has occurred despite unilateral moratorium; 16 nations now possess chemical weapons, compared with 8 in 1969.

Fourth. The U.S. Army maintains strict safety procedures for the handling, testing, and storage of toxic chemical munitions.

Mrs. BYRON. Mr. Chairman, I yield 10 minutes to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I thank the gentlewoman from Maryland for yielding time to me.

Mr. Chairman, today I am offering an amendment which has two objectives—to preserve a critical weapon in the front-line defense of our NATO allies, and to ensure that the United States does not miss an historic opportunity to reach agreement with the Soviet Union on the elimination of all chemical weapons.

My amendment delays the final production of binary chemical weapons and the unilateral withdrawal of U.S. unitary chemical weapons now in Europe until the end of fiscal year 1988. These limitations can be lifted if at least one of our European NATO allies agrees to replace unitary chemical weapons with binary weapons on its own soil.

What my amendment accomplishes is crucial to the defense of NATO. I say crucial because the administration agreed 1 year ago to unilaterally disarm Western Europe of its chemical weapons deterrent without a single concession by the Soviets. That mind-boggling decision was made despite the fact that the significant Soviet chemical weapons stockpiled in Eastern Europe remains intact after the unilateral withdrawal of U.S. chemical stocks in Europe.

How could an administration which prides itself on standing up to the Soviets award Moscow with such a dangerous one-sided advantage in Europe?

The administration has miscalculated and removed our only real bargaining chips from the negotiating table. The new bargaining chips it wants so desperately to produce don't work. The Bigeye bomb is the most blatantly flawed weapon system since the disastrous Divad. In the face of repeated test failures of the Bigeye bomb and GAO findings that the Bigeye has a number of dangerous flaws, not even binary proponents advocate spending production money on the Bigeye bomb.

The administration's strategy is also in error because it plans to stockpile binary chemical weapons only in the United States! Picture a first strike of chemical weapons by the Warsaw Pact against NATO forces. How do we retaliate with nothing in Europe? Since the administration has agreed to unilaterally disarm our NATO allies, they will have to wait weeks for planeloads of binary weapons to be flown in from the United States. The same cargo planes will be hard pressed to rush conventional equipment and soldiers to the European battlefields. And when they're delivered, the 155 mm binary artillery shells would be useless. By then, our troops will be entombed in one vast gas chamber. We will have lost the war on the ground, with our Commander in Chief poised to launch the nuclear Armageddon.

Is it any surprise that even proponents of the binary program now seek to prevent U.S. unilateral withdrawal of the European stockpile?

Our former negotiators at the chemical weapons talks in Geneva, John Leonard and Charles Floweree, wrote a few days ago that "technical difficulties with the binary weapons themselves, in particular the "Bigeye" bomb, and the problems associated with getting them to the battlefield, suggest that as of now they would provide a less effective deterrent to chemical attack in Europe than the currently deployed and useable stockpile of unitary weapons located in [West] Germany."

I stand on this floor utterly baffled that the administration could be so blind—it wants to unilaterally disarm our chemical deterrent in Europe.

My amendment corrects this flawed strategy.

It preserves NATO's chemical deterrent by conditioning any withdrawal of unitary weapons with replacement of binary weapons on European soil. I think the United States and its NATO allies should keep facing the Soviets, toe to toe until equitable and verifiable arms control eliminating chemical weapons is negotiated.

This year, though, we have an equally important reason to delay final production of binary chemical weapons. Last month the State Department reported substantial progress in negotiating a chemical weapons ban at the U.N. Conference on Disarmament in Geneva. Soviet negotiators have conceded fundamental points long sought by the United States. Production of binary weapons now, after so much has been achieved, will jeopardize, if not destroy, a long-awaited opportunity to reach an agreement with the Soviets on chemical weapons.

Over the past few months the Soviets have made major concessions prompting the administration to describe them on April 30, 1987, as representing "substantial progress":

First. The Soviet Union has halted the production of chemical weapons.

Second. The Soviet Union has announced that it would agree to the destruction of all chemical weapons, and that it no longer insists on a right to divert some chemicals to peaceful purposes.

Third. The Soviet Union has agreed in principle to have experts from each superpower nation visit the other's sites to observe destruction procedures.

Fourth. The Soviet Union has begun building an incinerator for destroying its chemical weapons stocks.

Fifth. The Soviet Union has agreed to international onsite inspection of chemical production and destructive facilities.

Sixth. The Soviet Union has agreed to "challenge inspections" of specified plants.

Seventh. The Soviet Union has agreed to strict routine inspection of the chemical industry.

Eighth. The Soviet Union has agreed to the creation of an international agency that would have a permanent presence and would conduct surprise inspections if violations are suspected.

In commenting on these significant Soviet concessions, the Chief U.S. Negotiator said:

> The Soviet Union has essentially accepted the western proposals for the declaration, monitoring and destruction of chemical weapons production facilities, including international on-site verification procedures.

All of these Soviet concessions were made without binary weapons production by the United States.

Faced with these Soviet concessions and with a weapons program that clearly has lost its military rationale, the Pentagon still manages to pull out one last chestnut: that we now need the binary program for arms control. But witness the Pentagon's flawed strategy.

The Pentagon agrees with NATO not to deploy new chemical weapons in Europe in return for our unilaterally withdrawing the current ones. Then they tell us that the Soviet Union has an incentive to negotiate a ban on chemical weapons—because the United States is going to produce a binary chemical weapon with a 5-mile range to be deployed only in the United States, some 5,000 miles away from the European battlefield. Some incentive!

That would be like withdrawing all our INF weapons from Europe before we conclude an INF agreement with the Soviets. How preposterous!

My amendment preserves the threat of production, while halting the unilateral withdrawal of our bargaining chips from Europe. The Pentagon can still procure binary components and other production materials that would enable the United States to produce new binary chemical weapons during fiscal year 1989 if the Soviets do not agree to a negotiated chemical weapons ban over the next fiscal year.

Our former negotiators, James Leonard and Charles Floweree, say that "if there were no final assembly of binary munitions during the coming year, there would probably be little or no impact on Soviet willingness to negotiate. In fact, such a suspension of binary weapons assembly could have a salutary effect on the negotiating climate. At the same time * * * U.S. national security would not be adversely affected."

My amendment preserves a realistic, viable and effective arms control and defense policy for chemical weapons. Our efforts should be based on using the arms control process to eliminate Soviet and American chemical weapons as part of a global ban.

Our policy should not be based—as DOD would like—on producing chemical weapons that:

Don't work;

Can't be deployed where they are needed—in Europe; and

Don't address the requirement of maintaining the current chemical deterrent capability in Europe.

Mr. Chairman, if the Fascell amendment succeeds, the administration will not prevail on its plan to unilaterally withdraw U.S. chemical weapons from Europe, while producing flawed binary weapons for deployment only in the United States.

And don't imagine for a moment that the Soviet negotiators are fooled by the administration's strategy to scare them into disarmament with the United States production of flawed binary weapons based on a flawed deployment strategy. If anything, implementing the administration's plan to unilaterally disarm Europe will convince the Soviets that there's no point in giving up what they don't have to give up.

Never has the Pentagon given up so much for nothing at all!

The bottom line of the DOD plan—U.S. binary production coupled with unilateral withdrawal of U.S. chemical weapons from Europe—is useless in both the military equation vis-a-vis the Soviets and at the negotiating table with the Soviets. It undermines and mocks what U.S. Ambassador Lynn Hansen, our negotiator in Geneva, described last month as our objective: "to rid the world of chemical weapons."

The only thing the DOD plan promises to do is to increase the Federal deficit, waste money on weapons that don't work, and squander the chance for a chemical weapons agreement with the Soviets.

A "yes" vote for the Fascell amendment is a vote:

For the mutual elimination of both United States and Soviet chemical weapons;

Against unilateral withdrawal of U.S. chemical stocks in Europe;

For avoiding another expensive arms race in chemical weapons; and

For mutual chemical arms destruction, not production.

I strongly urge my colleagues to join me with a "yes" vote for the Fascell amendment.

□ 1240

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. (Mr. Dorgan of North Dakota). The gentleman from Florida [Mr. Fascell] has 2 minutes remaining.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Bonior].

Mr. BONIOR of Michigan. Mr. Chairman, I want to take this time to discuss the gentleman's amendment and suggest to my colleagues that for 18 years, through both Republican and Democratic administrations, the United States has upheld the moratorium on chemical weapons production.

Since coming into office, this administration has repeatedly attacked and tried to end that moratorium. The administration's policy on chemical weapons ignores the opinion of the international community, the Congress and the American people that the use of chemical weapons is never justifiable and should no longer be a part of any nation's arsenal.

At a time when the world is facing increasing dangers for the proliferation of chemical weapons, the United States must not abandon its clear claim to leadership in the effort to halt its spread.

The amendment that is being offered by the gentleman from Florida, the distinguished chairman of the Committee on Foreign Affairs, I think offers our Nation an opportunity to continue efforts to eliminate these weapons from the arsenal of the world.

If we reject this amendment today, I think we lose the important moral leverage that we have in persuading other nations to cooperate in instituting a worldwide ban on the use of chemical weapons.

Our Nation's longstanding policy on chemical weapons is beginning to bear fruit, and the gentleman from Florida went through a whole litany of fruitful things that have happened in Geneva by way of discussions.

In late April, the administration reported that the Soviets have made important concessions in the ongoing talks to ban chemical weapons.

The CHAIRMAN pro tempore. The time of the gentleman from Florida [Mr. Fascell] has expired.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Gekas].

□ 1250

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Alabama for yielding me this time.

Mr. Chairman, the Fascell proposal, as I view it, with due respect to the gentleman from Florida, is wishy, and the Aspin proposal is washy.

The Fascell approach depends a great deal, it seems to me, on the wishful thinking that the Soviet Union is embarked in a period of good will on this particular issue, and, therefore, he bases a lot of the amendment that he proposes on that prospect which he views as very good about the Soviet change of mind. And the Aspin approach is a bit washy. It does not wash on the question of American production of this new system vis-a-vis the deployment in Europe with our NATO allies.

So I am a little bit nonpulsed as I stand here trying to decide how to vote and which approach to really use on my final vote. But I come down at least on the side of the Aspin approach because it does not delay the production of the deterrent system which we all wish to see come about.

When I first came to the Congress, I felt very strongly, I say to the gentleman from Florida, that perhaps chemical warfare and American participation in it was not really acting as a deterrent and it did not by itself, with the threat of new production, cause the Soviet Union any commotion by which it would bring it to the table and cause them to try to negotiate with us. But I have found out differently because I have observed what has happened vis-a-vis the cruise missile and disarmament and vis-a-vis the strategic defense initiative and that whole complex of things which have succeeded, along with the Pershing and cruise missiles, in bringing the Soviet Union to the disarmament negotiating table. We are on the brink of a breakthrough, at least on all these negotiations, because of the buildup of the strength of the United States in all these areas.

So I am ready to concede now the development of the binary system is going to be the ultimate thrust on the part of the United States which will cause a breakthrough in the elimination of chemical warfare and chemical components throughout the world. I really believe that. But I believe that to abandon that full-steam-ahead approach on the part of the United States will have just the opposite effect, and the delay of a year may be totally destructive to the prospect of a worldwide agreement to end chemical warfare for all time.

The CHAIRMAN pro tempore (Mr. Dorgan of North Dakota). The time of the gentleman from Pennsylvania [Mr. Gekas] has expired.

Mr. DICKINSON. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. Gekas].

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I appreciate the gentleman's comment, and I thank him for yielding.

But there is one part of this amendment that the gentleman ought to support even if he does not like the other part. That is the one that says you cannot spend any money to remove the deterrent system we have now contained in place. Why would the gentleman want to do that?

Mr. GEKAS. Mr. Chairman, would the gentleman entertain a division of that amendment to that degree?

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, the way to do that is to vote for the first amendment and then vote against the amendment offered by the gentleman from Florida [Mr. Fascell].

Mr. GEKAS. I am wishy-washy. I have to choose between the two.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. Hansen].

Mr. HANSEN. I rise in strong opposition to any amendment which cuts funding for the modernization of our chemical weapons arsenal.

I've listened intently to the arguments presented as to why we should not modernize our chemical weapons stockpile. I've heard that we do not need binary chemical weapons because we already have an ample supply of good, unitary weapons on hand. Let me suggest to these forward thinkers that they take a trip to Tooele, UT. We've given them an old leaker to clutch to their chests while they attempt to figure out how to load the corroding shell filled with mustard agent into today's munitions. It can't be done, because what we have in our stockpile is a pile of junk. We haven't produced chemical weapons since 1969, and what's out there isn't doing anyone any good.

The condition of these obsolete unitary weapons is exactly why Congress mandated that we get rid of them by 1994. Of our current stockpile, more than half is either not deliverable or not repairable. Of the remainder, only a small portion—10 percent—is usable. Even this 10 percent is limited by various deficiencies.

Binary is the answer to our lack of a credible chemical weapons deterrent. Unlike unitary weapons where the agent is premixed, binary weapons consist of two industrial chemicals stored in separate containers which are mixed to produce a lethal chemical agent only after the munition is fired. The shelf life of these weapons is very long, and they present no hazard to life while in storage since they are no more toxic than normal commercial household insecticides.

Tooele, UT, stores 42 percent of our obsolete unitary weapons. We have leakers in my district, and while there are no stronger supporters of defense than my own constituents, they would much rather store the safe binary than the obsolete unitary.

The second point I'd like to make is that we are without a chemical weapons deterrent. Binary provides us with that capability.

Chemical weapons have not been used against a country that had a modern chemical weapons deterrent capability. They were, however, used during World War I. They've also been used in Yemen, Cambodia, and Laos, in Afghanistan and in Iran. Not one of these countries had the capability to retaliate. On the other hand, during World War II, Hitler had the capability of using chemical weapons, but he chose not to do so because the Allies could have retaliated, and he knew it.

The Soviet Union possesses an extensive arsenal of chemical weapons and munitions, delivery systems, protective equipment, and an extensive chemical force structure which far exceeds reasonable defense requirements.

Although our chemical defensive posture has improved significantly in the past few years, thanks in large part to the excellent work of my constituents at Dugway Proving Ground who test chemical defensive weapons, defense alone is not enough. Without a credible ability to respond to a chemical attack in kind, the Soviets, or any other potential enemy, could force us to bear the burden of operating in hot, uncomfortable chemical protective gear without their being similarly encumbered. Our chemical weapons imbalance invites the Soviets to make first use of chemical weapons.

Binary munitions promises to help correct the imbalance that exists and improves our ability to deter Soviet use of chemical and toxin weapons. We've had too many delays for "just one more year." I urge immediate funding of the modernization of our chemical weapons stockpile.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. Bateman].

Mr. BATEMAN. Mr. Chairman, I appreciate the gentleman's yielding the time.

Mr. Chairman, let me say to the Members of the House that this is certainly one of the most significant national security issues that we will have to face in this session, as we have had to face it in prior sessions.

The amendments which are being offered would in effect do incredible damage to our ongoing effort to develop an adequate deterrent against the use of chemical weapons, pointing up a need further emphasized by the likelihood of agreements for the elimination of intermediate and short-range nuclear missiles in Europe. It reemphasizes our need to develop our conventional war-fighting capability.

We are faced today with a decision on whether or not we are going to further impair, delay, or make impossible this binary chemical deterrent notwithstanding the ongoing support of the present Joint Chiefs of Staff, all the members of the Joint Chiefs of

Staff for many years, our Supreme Allied Commander in Europe, the uniform support of all our other joint and unified commanders, and I assure the Members that we will be defeating the objective sought by the overwhelming number of our ground forces and our Air Force actually on station in Western Europe and throughout the world.

America needs this deterrent. America needs binary chemical weapons and the capability they give us to deter war.

I would also like to cite, if I have the time remaining, that there is indeed a linkage between our binary capability that Congress has approved, subject to some limitations, and the Soviets finally indicating some possibilities of reaching an agreement on the banning of chemical weapons. The Soviet negotiator in Geneva in April 1987 stated that there was a clear linkage between the American binary capability anticipated in the fall of this year and the necessity for a Russian proposal on banning chemical weapons. So there is that linkage.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia [Mr. Bateman] has expired.

The gentleman from Alabama [Mr. Dickinson] has 9 minutes remaining and the gentlewoman from Maryland [Mrs. Byron] has 5 minutes remaining.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. Porter] who is a proponent of the amendment.

Mr. PORTER. Mr. Chairman, this is the sixth year that we have debated the production of chemical weapons. At the beginning of the debate we had $1 trillion worth of debt, and now our Nation has $2.3 trillion worth of debt, and the issue is the same and my concerns are the same. That is that with deficits of $221 billion last year and $180 billion this year, can we afford this money on a new program for chemical weapons? I think the answer to that, Mr. Chairman, is "no."

There are still a lot of misconceptions. I just heard a bunch of them on the floor of the House. Let me say, first, that we do need a chemical deterrent against Soviet first use; second, we have such a deterrent in place; and, third, the administration's plan will lessen rather than strengthen that deterrent.

Those who want to spend the money now on new binary weapons say that the old stockpile, that is, the current stockpile, is old and leaky. Sure, part of it is, but that is not the part we are relying on. The usable stockpile is in excellent condition. There is 0.006 percent leakers in that usable stockpile. The aging tests show that the agent is in good shape. A blue ribbon commission said that it is not deteriorating, that it is fine. We have a huge stockpile of very viable chemical weapons forward deployed in Europe where the Soviets might first use it. We provide that deterrent, it is in good shape, and it is available.

The administration, in order to hasten the building of binary weapons, made an agreement with West Germany that we would withdraw that good stockpile unilaterally, and that even in time of crisis we would have to get the permission from Germany as to whether we would bring weapons to the front. So we are unilaterally withdrawing a perfectly good deterrent stockpile, we are giving the Soviets a chemical-free zone in Western Europe, one that is free of United States chemicals but not of Soviet chemicals, and this is all to further a plan to build new chemical weapons.

If we build binaries, what do we do with them? Our NATO allies will not let us put them in Western Europe. They will be stored in the United States, and supposedly we are to rush them to the front in time of crisis. I think that will bring on a chemical attack rather than deter one.

Mr. Chairman, I offered an amendment to correct this situation. The Rules Committee gave that amendment to the gentleman from Wisconsin [Mr. Aspin], and now he is attempting to use it to confuse the Members of the House. I ask the Members to not be confused. Vote for the Aspin amendment. It is going to be offered by the gentleman from Missouri [Mr. Skelton], the gentlewoman from Maryland [Mrs. Byron], and the gentleman from South Carolina [Mr. Spratt]. Then vote for Fascell because Fascell has that amendment included in his amendment, and it does one thing more. It not only keeps the stockpile where it belongs in Western Europe to deter Soviet first use, but it prevents finally the assembly of chemical weapons for an additional year, it saves billions of dollars that we do not need to spend, and it preserves at least some sanity with reference to our deficit.

Mr. Chairman, I urge the Members to vote for both amendments.

Mrs. BYRON. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. Skelton].

□ 1305

Mr. SKELTON. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, there is an old saying: "The more emotion, the less reason."

I think that is indicative of a great deal of the debate and thought to those who are opposed to the production of a defensive binary weapon for our country.

Historically speaking, with the exception of World War I where poisonour gas or chemical warfare was first used, with that one exception, the other times in history from that time on, and there have been a handful as recited by the gentleman earlier, it has been only when the threat of retaliation, and only when the threat of retaliation, has been absent.

Consequently, we see that a chemical stockpile is a preventative toward the use of chemical weapons in time of war.

Mr. Chairman, the gentleman from Florida [Mr. Fascell], our good friend, has offered an amendment. I speak against that amendment and in favor of the Aspin amendment which will be described a bit later, but I took the time to read the Fascell amendment.

I would like to liken that to the book written by Joseph Heller, a comic novel of some years ago entitled "Catch-22."

In that book Mr. Heller sets forth the problem that the pilots involved in the war who are mentally unbalanced or crazy would not be permitted to fly in combat, but those pilots who realized that they had to be crazy to go into aerial combat, in other words, a catch-22.

Anyone who thought himself crazy for going into combat could not be crazy, because he realized the dangerousness of the situation confronting him.

If the gentlemen will take the time to read the Fascell amendment, we have exactly the same situation. We have the situation in part A of the Fascell amendment that says both final assembly of binary munitions and withdrawal of unitary chemical weapons in Europe another year, until October 1988.

The second part of this amendment says that the earlier limitations shall cease to apply if the United States chemical munitions stored in Europe on the date of the enactment, October 1, 1987, of this act are replaced with binary chemical munitions stationed on the soil of at least one European member nation of NATO. That cannot happen.

That is a physical impossibility. The Fascell amendment makes it impossible to replace unitary stocks in Europe with binary munitions, since those new munitions will not be ready, and would not be produced under part A of the Fascell amendment. It just does not make sense, catch-22.

If we listen to reason rather than to emotion, we will vote against the Fascell amendment.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I have noticed how different weapons seem to acquire personalities of their own. Whether a particular system is liked or disliked often has little to do with how it fits into our defense strategy. The MX, for instance, remains unpopular largely due to its first-strike, silo-busting capabilities. Yet submarines, long the superstar of late night World War II movies, remain popular even though they contain the same deadly force as the hapless MX.

On the popularity ladder there is no doubt that the absolute bottom rung is occupied by chemical weapons. Those who without batting an eye would vote for a submarine capable of destroying every major city in Russia view chemical weapons supporters with horror and its lacking even basic civility.

Yet if you believe as I do in the value of deterrence as a defense strategy, there is more reason to support chemical weapons than many of the others. For one thing, we know that during World War II our enemies contemplated using nerve gas but didn't because the Allies were prepared to use their own supplies. Second, its one area of weaponry where the Soviet Union has been modernizing and enlarging its supplies. Third, its actually being used in the world today, most recently by the Iraqies against the Iranians. Fourth, our supplies are outdated—dangerous to transport or handle.

Mr. Chairman, we don't vote for weapons because we like them. These are all deadly, dirty instruments of terror, one no better or worse than the other. We vote for them because we believe that a relative balance in each category of weapons is our best defense against either side believing it can prevail against the other. Chemical weapons occupy their own strategic niche—more lethal than most conventional weapons, yet not as vastly devastating as nuclear ones. It is clearly one of those niches or categories where deterrence demands balance, and the possibility of a treaty or agreement would be heightened by neither side maintaining an advantage.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 3 minutes.

Mr. DICKINSON. Mr. Chairman, I think the situation has been adequately explained and it clearly is a catch-22. The gentleman from Florida offers an amendment in two parts, one that says you cannot withdraw our unitary chemical weapons from Europe until they are replaced with the binary weapons we are now discussing.

The second part proceeds to state that the United States essentially cannot make binary weapons.

An outright prohibition would have made more sense.

I think the Members understand that this is a "King of the Hill" series of amendments. The last amendment that is adopted is the one that counts, which means that regardless of the result on the Aspin amendment, if the Fascell amendment subsequently passes, the Aspin amendment becomes meaningless. If you vote for both, then in essence you are eliminating the Aspin amendment in favor of the Fascell amendment.

Do we really need chemical weapons? The answer to that is "yes." I do not think that there is any debate on the point.

The intelligence community has told us that during the late stages of World War II when the Germans were on the defensive, Hitler contemplated using any weapon he could find to reverse the tide of the war, including chemical weapons. Only the threat of Western retaliation in kind kept Hitler from using chemicals in World War II.

It is this same rationale, this same reasoning that will keep the Soviets from using chemicals in the event of hostilities. But it will work only if they know we have the capability of using them. Only the prospect of us not having a chemical deterrent might tempt the Soviets to use chemical weapons. I think we all agree we need a deterrent, and we need it in Europe. But to say that the Fascell amendment is sensible is questionable, because it says that you cannot bring unitary chemical weapons back from Europe without first replacing them with binaries, and then it says that you cannot make binaries. This whole amendment is nothing but one big contradiction.

Mr. Chairman, I think the amendment should be defeated when we vote. I would point out to the Members that we have now been considering this bill for almost 2½ weeks and with every such policy amendment we get closer to a veto. This would negate 6 months of hard work by the Armed Services Committee.

Mrs. BYRON. Mr. Chairman, for the purpose of closing the debate, I yield the remainder of our 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, to wrap up, let me ask first of all a question. What does this bill provide, as is, for chemical weapons? The answer is very little. It is a stripped down minimal chemical weapons program. The bill deletes all production money for the Bigeye bomb, and with good reason. There are developmental problems and I think there are still questions about the effectiveness of the Bigeye bomb since this has such little standoff capability.

What it provides is $59.3 million to manufacture 155-millimeter howitzer rounds.

Now, why do we need these howitzer rounds? Well, basically, the howitzer rounds are 8-inch artillery rounds. They are the tactical units that make up our chemical arsenal. They have a shelf life. All chemical compositions have a shelf life. They reach a point where they do not have the potency to have effectiveness any more.

Now, some will tell you that we have reached this point, but indeed, we have not. The commission that looked into the chemical weapons situation found that the shelf life of these weapons still existed and we do not know when it is going to run out.

We do know that the casing corrodes. We do know that the potency is lost with time. We do know that eventually and in the foreseeable future we will need to replace them, and that is why we are doing it now.

This is not an enhancement, an enlargement or an addition to our arsenal. It is an improvement that really replaces our artillery rounds that we have now with other artillery rounds which will be better in these respects. First of all, the existing 155 rounds have a range of 17 kilometers. That is hardly useful on today's mobile battlefields. The 155 rounds we are building will have a range of about 24 to 25 kilometers. It makes them more effective and more useful on today's battlefields.

Second, they will have a better base flight. They will be more effective. They will not corrode as easily.

Third, they will have binary components.

What does that mean? It means that these artillery rounds are transportable, and keep in mind that the only soldiers we lost in the Second World War due to gasing were sailors on a ship, our ship, that was bombed by the Germans, which had chemical munitions on board. Consequently, the Navy does not like to carry unitary weapons, nor does the Air Force, and for good reason.

Unit binary weapons are safer to use, and finally, they are easier to dispose of.

If you look in this bill and trace it out to 1994, you will see for the Bigeye bomb and for the binary weapons we want to build, we have about $2 billion planned over the next 6 to 7 years. We have an equal amount of money, $2 billion, to dispose of those unitary weapons that we have on hand.

What purpose is served by fencing? All it does is stop the production process on December 1, 1987; delay it to October 1, 1988. We will reach that point on December 1 when logically and reasonably we would proceed with the assembly of these weapons.

Why not proceed? What does this do other than encumber and obstruct the production process?

It does serve a counterpurpose and that counterpurpose is to take away the little bit of incentive we have given the Soviets to negotiate with us in the chemical weapons treaty negotiations that are going on right now.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, there is some information to the effect that we may be reaching a breakthrough in the chemical weapons talks. It is not clear yet whether we have reached that point, but the principals are negotiating with each other and this is the probable outline of the treaty if we were to reach one. We would destroy all our existing chemical stocks down to a very minimal level. The destruction would be mutually observed on site by both sides.

Second, we would have very intrusive inspection, inspection on demand, continuous monitoring to make sure that neither side was producing chemical weapons.

Finally, we would retain a residual force, not enough for either side to have offensive capacity, but enough for either side to retaliate if the other side cheated, broke through and did indeed have a chemical arsenal which was concealed during the term of the treaty.

So since the likely outcome of any treaty is this residual force, it follows that we will need even if we achieve a treaty to maintain a chemical arsenal of some description, and logically speaking, practically speaking, the arsenal we would want to retain for purposes of safety and utility, for transportability, would be a binary arsenal. That is why it makes sense to go ahead on this logical minimal production program to produce the 155-millimeter rounds, just as we planned to do, to continue on because whether we have a treaty or not, we need it.

Let me emphasize once again that we are not talking about adding to our offensive capability. This is a very practical program for replacing and enhancing and improving to some extent the artillery rounds that we now have in our arsenal.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. MCCURDY].

(Mr. McCURDY asked and was given permission to revise and extend his remarks.)

Mr. McCURDY. Mr. Chairman, I rise in support of the Aspin substitute and in opposition to the Fascell amendment.

□ 1320

Mr. ASPIN. Mr. Chairman, for the information of the Members, we are first going to vote on my substitute, which I think takes the best part of the Fascell amendment. It is, as the gentleman from Illinois [Mr. PORTER] says, his amendment, and it is correct. We are going to vote on that part of it.

The point is that that is the part of the Fascell amendment that makes some sense. In essence it says to our Government, "Don't take those unitary chemicals out of there unless there is an agreement on the binaries. There is no sense in taking out what we have already got. Let us at least leave those in."

The rest of the Fascell amendment, however, is very, very nefarious. What the Fascell amendment then does is proceed to fence the final assembly of the binaries until the beginning of the next fiscal year. In other words, it fences it for the entire fiscal year covered by this Defense bill.

Let me say why I am opposed to that. I believe in arms control, and I believe in arms control in chemical weapons. But you cannot get, as we continue to learn, arms control by unilaterally canceling weapons systems. The best example we have of this is the INF agreement which is now before us. If the people who had opposed the INF deployments, those hundreds of thousands of people pouring out into the streets who opposed the deployment of the GLCM's and the Pershing II's, had succeeded in stopping the deployment of the GLCM's and the Pershing II's, does any Member of this House think that we would be talking about zero-zero now as part of an agreement? Fat chance. There is no way that that would have happened.

Let me give another example. Back in the late sixties and early seventies the big issue was were we to deploy an ABM system in this country. It came within a hair's breadth of getting canceled in Congress over in the Senate. Finally, Spiro Agnew broke the tie and we ended up appropriating the money for the ABM system.

Suppose the Congress had killed the ABM system. Is there any Member of this House who thinks that we would have had an agreement in 1972 banning ABM's on both sides? Absolutely no way.

At some point we have got to understand that if you are for arms control, you have got to be for building some of these weapons. The Soviets are not philanthropists. They are not pacifists. They do not give away something for nothing. We have to have an ongoing program in order to get them serious about arms control.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ASPIN: At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE.

United States chemical munitions stored in Europe on the date of the enactment of this Act may not be removed from Europe unless they are replaced with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

The CHAIRMAN. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 10 mintues and a Member in opposition will be recognized for 10 minutes.

The Chair reocognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LEATH].

Mr. LEATH of Texas. Mr. Chairman, it is always a difficult thing to take the well and argue against a person whom you have great respect for, and I have enormous respect for Chairman FASCELL, and not very often do I differ with him. But, Mr. Chairman, I just have to say with all due respect that this is an issue on which I think he has been wrong for the 5 years that I have been involved in it, and I think particularly at this point in history that he is more wrong than ever.

Those of us who have listened to this debate over the last 5 years where we have attempted to do exactly what Chairman ASPIN said, put ourselves in a position so that we could deal with the Soviet Union, now that we are finally there, we just keep on saying, "No, we don't want to do it."

In 1969 the United States unilaterally stopped producing chemical weapons. For that entire 18-year period we have talked and talked and talked to the Soviet Union, and the net result has been that the Soviet Union has 14 plants that are pumping out tons and tons of chemical and biological weapons on an annual basis. Only after last year's vote where we thought that we had finally broken through on this issue and said, "Yes, we're going to replace these old 40- and 50-year-old unitary stocks that are more dangerous to our people and more dangerous to the civilian populations than they are to the enemy"—only since that time has the Soviet Union started seriously trying to reach or perhaps trying to reach an agreement with us.

The issue here is not whether chemical weapons are bad. I do not know of anyone who will say that nerve gas is a wonderful thing; it is a terrible thing. That is not the issue. The issue is: Is it necessary for a world power like ourselves to have a comparable chemical weapons arsenal against another major power?

There is no disagreement on that. History tells us that yes, that is the only way that you deter the use of chemical weapons. World War II was an example of that. The conflicts that we have been engaged in since then were examples of that. Even the opponents, the people who keep trying to destroy this modernization program, will say, "Oh, we don't want to get rid of chemical weapons. We admit that chemical weapons are needed."

Well, it is facetious to say that they are needed and then continue year after year after year to try to destroy a program that makes them viable.

The fact that we have unitary stocks, the fact that we have these unitary stocks prepositioned in Europe and in this country, does not mean that we have a chemical deterrence. It is just the opposite; we do not have a chemical deterrence.

No one argues, Mr. Chairman, that we do not need a chemical deterrence, and we need to vote for the Aspin amendment and against the Fascell amendment.

Mr. ASPIN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding time to me.

Mr. Chairman, this amendment was one that I originally offered in the Committee on Rules on the DOD authorization. The Committee on Rules designated it as a substitute to that of the gentleman from Wisconsin [Mr. ASPIN], and he is now offering it as the designated hitter, as it were.

The difficulty is that Mr. ASPIN was hoping to get it in a different order, to have it come last rather than first, and so here he is offering my amendment that was assigned to him by the Rules Committee in the reverse order, and it is a rather foolish situation overall.

But what are the merits of the issue, Mr. Chairman? First, if we are going to build new binary weapons, the question has to immediately occur to mind, "What do we do with these things?" We have a huge stockpile of existing unitary and more efficient weapons in Western Europe in good shape, and what are we going to do with the binary weapons?

Well, our NATO allies are not going to take these weapons on their soil, and we are not talking about the people in the streets, we are talking about the governments of every one of those NATO nations. They do not want to have anything to do with new binary chemical weapons, and they will not take them. So if we are going to build them, they are going to have to sit on the soil in Utah.

It does not seem to me, Mr. Chairman, that the Soviets are going to be deterred by binary weapons sitting on the soil in southern Utah, 5,000 miles away from the front. The Soviets are not going to initiate an infantry attack in southern Utah, Mr. Chairman, they are going to initiate it at the Fulda Gap, and that is where the deterrent must be if it is going to be a deterrent of any type at all. It is not going to be there. We will build them; they are going to Utah. They will not go where we need them.

So the question is: Should we not keep our deterrent stockpile, which is huge, not leaking, in good shape, providing a deterrent in Western Europe? That is exactly what this amendment does, and I would urge its support.

What is beyond this, however, is the question of whether we should vote for new binary weapons. Why build them if you cannot deploy them? Why waste the money? Do we need it now? Do we need it in the face of huge deficits and an increasing national debt that is over $2 trillion? The answer to that is no, we do not need it now. We may need it sometime in the future, but not today.

If we are going to build them, are they not to be a deterrent, and can they be? The answer, Mr. Chairman, is no, they cannot be a deterrent. They are going to sit in southern Utah providing no deterrence to Soviet first use, and the only reason that we would ever consider building these weapons in the first place is for their deterrent effect. The United States has no intention, and I am sure that the chairman of the committee will agree with this, of ever using chemical weapons first on any enemy. We only need them for a deterrent, and they will not provide the deterrent.

So I would urge the Members not to be confused by this foolish procedure in which we find ourselves with the Porter amendment now becoming the Aspin amendment and being offered in the reverse order that the chairman of the Armed Services Committee had intended.

□ 1330

I would simply urge the Members to vote for the Aspin amendment. It makes good sense. Then after that, vote for the Fascell amendment because, it too, makes good sense.

We do not need a deterrent that does not deter. We do not need a new stockpile of chemical weapons sitting in southern Utah.

We need that deterrent right at the front, and we do not need to waste billions of dollars, about $20 billion, before we are all finished, on new weapons that have no utility, no deterrence, and no purpose.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I know that this is probably one of the toughest issues that we will face because there is such an enormous emotional aspect to the nerve gas issue that touches our constituents and the people in our districts. I want to make a plea to people who believe in arms control, even maybe to those people who do not think we should have any nerve gas stockpile but acknowledge that, in fact, we do have a stockpile, and the plea is based simply on the safety aspect. If one looks at the nerve gas that we have right now in Pine Bluff and other areas, it is a deadly, deadly substance. It is separated from those communities only through the linings and shells of small containers.

We have developed a new substance. It is called a binary system. If Members want to know what a binary system is, it is kind of like epoxy glue. It has two elements, each of which is relatively harmless by itself. Just like epoxy glue, the elements do not stick by themselves, and only when combined do they take on a deadly effect.

The point is we put in law in the last session that elements in this binary system would be stored in separate States. That means that the guy in Pine Bluff, AR, is going to have an element kind of like and ordinary pesticide that most farmers use every day on their fields, and the guy in Utah is going to have kind of a sulfur element. That is not a very deadly element and is really relatively harmless. These elements will not be in the same States. If Members ask some of the people from Utah, like JIM HANSEN, who has seen accidents where thousands of sheep have been killed by nerve gas, this makes eminent sense. It makes sense to go forward with a binary system so that we can get rid of this deadly, dangerous, unitary system.

I urge support of the Aspin amendment.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in support of the Aspin amendment, and, following that, the Fascell-Porter amendment.

The Pentagon is asking us to allow them to unilaterally deploy a new generation of chemical weapons never before seen in the world: binary chemical weapons. I heard this request 14 years ago when I first served in this body. The Pentagon came to us at that time and requested a downpayment of $5 million to do research on this new generation of chemical weapons.

I opposed the request at that time for two reasons. First, the Pentagon had unsafe plans to ship the older, leaky unitary stocks to my State to dispose of them. Second, I opposed the plan to spend many billions of dollars on new chemical weapons because I came to believe that chemical weapons do not have any significant value as a deterrent.

While in Congress, I helped to put up two important barriers to the spread of chemical weapons.

First, in 1973, I introduced a bill which would have barred the transportation of unitary chemical stocks across State lines. In response, the Army agreed to destroy 400,000 gallons of aging chemicals onsite in Denver, rather than shipping them into my State. Second, 1 year later, in 1974, I offered an amendment which the House passed which cut research and development for binary chemical weapons from almost $5 million to $3 million. Unfortunately, Members of Congress come and go, but the Pentagon exotic weapons department never quits and, as Members know, this issue comes up every year.

A decade and a half later, binary chemical weapons are plagued by operational deficiencies. They are discredited by any proof of need for a new nerve gas system, and by extremely critical reports by the GAO and CRS. And they are threatening to the nearly successful chemical weapons negotiations in Geneva. Notwithstanding this history, the Pentagon is still back, ready to push ahead.

Mr. FOGLIETTA. Mr. Chairman, today we will be debating, once again, the issue of binary chemical weapons. I would like the record to show that I am opposed to this unneeded modernization. The current stockpile is sufficient to deter a Soviet chemical attack. The focus should be on chemical arms control and not production. This modernization could provoke a deadly new chemical arms race—undermining any chances of their eventual elimination.

I would like to include in the RECORD an editorial which appeared in Defense News by Keith Morrison, a research analyst for the Committee for National Security. I believe Mr. Morrison makes an excellent case against President Reagan's efforts to renew chemical weapons production. I urge my colleagues to examine this thoughtful essay.

MODERNIZING CHEMICAL

The Pentagon plan for chemical weapons modernization is unnecessary and misguided; the "Bigeye" bomb is of dubious effectiveness at best. Worse, the price the administration has decided to pay is the unilateral chemical weapons withdrawal from Europe. The net result could be a dramatic decline in our deterrent capability and another divisive issue for the NATO alliance.

The Reagan administration began requesting production funds for new chemical weapons in 1982. Last year's Defense Authorization Bill permits manufacturing the hardware and chemicals, but bans final assembly of the weapon's working components—artillery shells for one year and the Bigeye bomb for two years.

The United States stockpiles 20,000 to 40,000 tons of persistent and non-persistent lethal chemical agents on short- and long-range munitions. All are at least 17 years old, and some are as much as 40 years old.

The Pentagon claims that a mere 7 percent of the American stockpile meet current military requirements. But the 1985 Stoessel Commission called these claims "unduly pessimistic." Julian Robinson, a chemical weapons expert at Sussex University, believes that more than 85 percent of the chemical stock is usable.

Pentagon officials also have warned that many of the weapons are leaking their deadly contents. But the Stoessel Commission discovered leakage in an infinitesimal six shells per 10,000 and said that "rumors of stored munitions being dangerous or leaking appear to be exaggereated and inaccurate."

For deep chemical strikes, aerial spray tanks, containing persistent gas, and Navy and Air Force bombs, with non-persistent gases, can be used. Because the Pentagon prefers persistent gas for this mission, and aerial spray tanks can only be employed by slow-flying F-4 aircraft, the air-delivered Bigeye bomb is the centerpiece of the modernization. But the Bigeye bomb has been a disaster.

A 1982 test of the Bigeye resulted in an explosion while the binary chemicals were mixing. Robert Barker, assistant secretary of defense for atomic energy, dismisses the test's significance, saying it was conducted under far more rigorous conditions than those on the battlefield. But testing since the explosion has been with a pressure-relief valve on the bomb, which will not be present in its final production.

To protect the pilot, the chemicals now will mix after the Bigeye is dropped from the plane. In order to have the time to mix properly, the pilot must release the bomb in a "loft delivery," exposing the plane to enemy air defenses.

Other problems with the Bigeye include its tendency to spontaneously flash—vaporize and catch fire—when released from the plane, rendering the weapon useless. The chemical agent may not even provide the "long-term duration" preferred for deep strikes.

The Pentagon claims it needs the Bigeye because of an alleged Soviet deep-strike chemical capability against airfields, naval bases and supply routes.

But chemical weapons are the antithesis of the modern-day "smart" weapons, such as those envisioned for NATO's "follow-on force attack." On short-range munitions, chemicals indiscriminately disable the attacker and the intended victims. Using air delivery for deep strikes exposes high-value aircraft to enemy air defenses. Most strikes can be accomplished more easily and effectively with advanced conventional weapons.

For example, a classified study by the Institute for Defense Analyses looked at the effectiveness of the Bigeye when attacking airfields. The Bigeye was said to have come off favorably. But sources say the study compared the Bigeye to the Rockeye, an obsolete cluster bomb originally designed for use against soft targets. Advanced airfield attack munitions that blow a series of craters in the runways and then sprinkle mines to hinder cleanup were not considered.

Although their battlefield utility is questionable, many consider chemical weapons to have a deterrent value. The possibility of eliminating American and Soviet medium-range nuclear missiles from Europe has focused attention on NATO's conventional and chemical deterrent capabilities. Amazingly, the chemical modernization program actually would be a step backward for NATO defense.

The United States currently stores 100,000 chemical rounds in West Germany. Defense Secretary Caspar Weinberger, Gen. Bernard Rogers and members of the Stoessel Commission all have testified that the chemical weapons stored in Europe are in excellent condition. But in order to gain approval for new chemical weapons, President Reagan has pledged to withdraw the current stocks and store all binary chemical weapons in the United States. These would be transported to Europe in "a time of crisis."

This unilateral chemical withdrawal would eliminate NATO's ability to quickly retaliate to a surprise chemical attack. Restoring the equivalent of 100,000 unitary rounds would require transporting 10 million pounds of binary munitions, displacing troops and more valuable conventional weaponry.

It would create a "chemical free" Western Europe, with no Soviet concessions. All NATO countries would reserve the right to deny landing rights to any plans carrying chemical weapons.

Negotiations for a worldwide chemical weapons ban are taking place in the 40-nation Conference on Disarmament.

Nerve gases are gruesome and hopelessly outdated weapons. By foolishly combining an unneeded modernization and a unilateral withdrawal, the Reagan administration could be promoting a new chemical arms race—undermining any chances for their elimination.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. ASPIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. BYRON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 0, not voting 15, as follows:

[Roll No. 129]

AYES—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy

Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—15

Annunzio
Boner (TN)
Bruce
Duncan
Foglietta
Gephardt
Jones (NC)
Lukens, Donald
Pepper
Rangel
Ray
Roemer
Stallings
Volkmer
Whittaker

☐ 1345

Mr. McCANDLESS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. VOLKMER. Mr. Chairman, I was detained and missed voting on amendment 63. Had I been present, I would have voted "aye" on rollcall No. 129, the Aspin amendment.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Fascell: At the end of title I of division A (page 21, after line 15), add the following new section:

SEC. 115. LIMITATIONS ON CHEMICAL WEAPONS PROGRAMS.

(a) Limitations.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended—

(1) for the final assembly of binary chemical munitions; or

(2) to remove United States chemical munitions from Europe.

(b) Termination of Limitations.—The limitations in subsection (a) shall cease to apply if United States chemical munitions stored in Europe on the date of the enactment of this Act are replaced with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. Fascell] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Is there a Member opposed to the amendment?

Mrs. BYRON. I am opposed to the amendment, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Maryland [Mrs. Byron] is opposed to the amendment and will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. Mavroules].

Mr. MAVROULES. Mr. Chairman, once again this House needs to determine the political and military utility of binary chemical munitions. The production of binary chemical weapons represents a short sighted decision that would overturn our Nation's long-term commitment to the elimination of all chemical weapons. Simply stated, the Fascell amendment reaffirms congressional commitment to the administration's stated objective—a negotiated worldwide ban on chemical weapons.

At present, U.S. negotiators are reporting "significant progress" toward the achievement of a multilateral chemical weapons agreement by early next year. A unilateral U.S. decision to produce new nerve gas weapons undermines that progress. It will afford the Soviets a new propaganda opportunity to divide the United States from our European allies and unwittingly increase the risk of the further proliferation of chemical weapons production by other nations.

Defense Secretary Weinberger informed Congress that current chemical weapons will remain usable well into the 1990's. This fact was reaffirmed by the President's Chemical Warfare Review Commission. The Commission also found claims about erosion and safety to be "exaggerated." Therefore, the United States already has an adequate and credible chemical weapons deterrent capability.

No member of the NATO alliance has expressed any willingness to deploy new chemical weapons on their territory. Does it make any sense for Congress to approve the production of new chemical munitions, costing billions of dollars, that cannot be deployed in the theater of operations where they are most needed? One does not have to be a seasoned strategic analyst to know that in the event of a United States-Soviet confrontation, the United States will be sorely pressed to dedicate any of its airlift capacity to the transport of chemical munitions.

The Fascell amendment thus preserves three key policies:

First, keeps our chemical deterrent in Europe where it belongs. If you agree with Bernie Rogers, our former Supreme Allied Commander in Europe, that the new binary chemical weapons do us no good stored in warehouses back in the United States, then you can also agree with the Fascell amendment which simply states that we shouldn't finally produce weapons that can't be deployed where they are needed.

Second, keeps our bargaining chips on the negotiating table. Secretary Weinberger said that our current stocks in Europe are good into the 1990s so why don't we make sure that they stay where they are useful—in Europe and on the bargaining table in Geneva.

Third, keeps a congressional handle on spending for new binary production. Why waste billions on weapons that cannot be deployed where they are needed? If you support Congress keeping a measure of control over spending on the billion-dollar binary program, a program with a sad track record, then support the Fascell amendment.

A vote for the Fascell amendment is a vote:

For the mutual elimination of both United States and Soviet chemical weapons;

For avoiding another expensive arms race in chemical weapons; and

For mutual chemical arms destruction, not production of new chemical weapons.

The Fascell amendment is the most responsible action for the House to approve. The Fascell amendment preserves the existing United States chemical weapons deterrent in Europe and enhances the prospect for administration success in achieving a superpower ban on chemical weapons production.

Vote "yes" for the Fascell amendment.

□ 1355

Mrs. BYRON. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in opposition to the Fascell amendment.

We have just agreed to the Aspin amendment, which makes sense by replacing the existing stockpile with binary chemical weapons to be produced. On the face of it, the Fascell amendment just does not work. We cannot vote for something that says we cannot refuse production of binary and at the same time replace existing weapons with binary because under the first item the binaries do not exist.

Mr. Chairman, the purpose of proceeding with what we have done in the basic bill and under the Aspin amendment is to have a deterrent, a deterrent against chemical use from another country from the Eastern bloc.

Twice in this decade we have seen, in the Iran-Iraq war, the use of chemical weapons, and they were used because there was no threat of retaliation from the other side. The same was true in Cambodia, because there was no threat of retaliation. In World War II there was no use of chemical weapons because there was the threat of chemical capability on both sides.

That is what it is all about. This is a matter of deterrence.

Mr. Chairman, I urge the defeat of the Fascell amendment.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I rise in support of the Fascell amendment prohibiting any premature withdrawal of United States chemical weapons from Europe. This amendment will protect the country from the risks and costs of a particularly ill-conceived administration exercise in unilateral disarmament.

The Fascell amendment will preserve a key bargaining chip in our negotiations with the Soviet Union at a time when prospects for agreement on arms control arrangements appear to be better than they have been in years.

Meanwhile, the amendment will also keep intact the present chemical warfare capability of the North Atlantic Alliance—which Defense Secretary Weinberger says is "in excellent condition"—as a deterent against any Soviet temptation in a European conflict to use the deadly chemical arsenal they now stockpile only miles from allied troops.

The Fascell amendment offers a third considerable advantage. While it leaves us the option of proceeding to the final assembly of the new binary chemical weapons, it spares the country the absurd and costly spectacle of doing so until at least one of our NATO allies agrees to deploy such weapons.

I urge that this amendment be approved.

Mrs. BYRON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentlewoman from Maryland for yielding me the time.

Mr. Chairman, let me just say to my friends, especially to Members who do not like nerve gas, that if they want safety and if they do not like nerve gas and they do not like the idea that we have this deadly gas that is separated from some communities in America by only a thin container, then they should vote against the Fascell amendment, because "binary" means that you have two elements. One is a kind of pesticide that is relatively harmless, and the other is common sulfur. We have already put into the law that the two binary elements, like epoxy glue, have to be deposited in separate States. That means that a guy in Pine Bluff, AR, may have the pesticide, and a guy in Utah may have the sulfur. In the other places, where you have unitary, you have a deadly gas separated by only a thin shell from the community.

Mr. Chairman, the safety vote is against Fascell. For those Members who do not like nerve gas and do not like the prospect of danger to American communities, they should vote against Fascell. Let us get on with a safe binary program.

Mrs. BYRON. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentlewoman from Maryland for yielding me this time.

Mr. Chairman, let me sum this up. Let me again sum up what we have in this bill. The sum total of what we authorize for chemical weapons in this bill is $59.3 million. That is a minimum program if there ever was one.

The only chemical munition for what we authorize production is a 155-millimeter howitzer round, and this by no means is a new start. We have been inching along with this program in production for many years.

Why build 155-millimeter rounds? Because 155-millimeter rounds are about the only effective tactical munition we have in our arsenal. If we believe we ought to have a minimal arsenal of chemical weapons, if we believe we ought to have at least enough to retaliate and hopefully, by the threat of retaliation, to deter an offensive tactical chemical attack against us, then we ought to believe sensibly in the replacement of 155-millimeter howitzer rounds.

Why? First of all, we need to replenish rounds which are, all of them, at least 20 years old and believed to have a useful shelf life of about 25 years. We need to begin now to replace those.

Second, we need to extend their range from 17 kilometers to about 24 kilometers. Third, we are replacing the unitary weapons with binary weapons. They are safer to transport, safer to use, safer to store, and safer and much cheaper to dispose of.

Finally, our existing 155 rounds have a persistent agent. We fire them 17 kilometers with persistent agents. Even if they open a hole in the enemy's line, we cannot move into it because there is a persistent agent. The binary rounds would be filled with nonpersistent agents. So we have an arsenal that is not useful, and if it is not useful and our adversary knows that, then it is not a deterrent because he knows we cannot use it against him.

The Fascell amendment says, go ahead and stop the 155's at the point of final assembly. What sense does it make to move forward with production if we do not move on to final assembly? Why disrupt the production process that we put in train several years ago just before we reach the assembly point?

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in support of the Fascell amendment. The prospects for arms control agreements between the United States and the Soviet Union are greater now than at any time in the recent past. For decades, nations have sought an outright ban on chemical weapons to no avail. However, recent deeds and signals from the Soviet Union give us hope that a 40-member multilateral pact on chemical weapons may indeed be forthcoming.

Let us not at this delicate stage in the negotiations send the wrong signal. We have before us today an amendment which in effect lays out a carefully crafted negotiating position to take to Geneva. We preserve the existing chemical deterrent in Europe and we maintain a strong bargaining position; we delay deployment of binary weapons and we show our own good faith in stemming production of new chemical weapons. Binary weapons—costly, unworkable weapons already shunned by our NATO allies—are not the best cards to play at the bargaining table.

We have a genuine opportunity to halt the arms race in chemical weapons. And yet, we would endanger the whole process in order to stick with defective binary weapons and a flawed deployment plan. The Soviets have already demonstrated a willingness to negotiate and, indeed, they have made a number of long-sought-after concessions. Surely, we have more to offer than the prospect of fresh, new lethal weapons pointlessly located on American soil.

By agreeing to this amendment today, we improve the prospects for arms control without sacrificing our commitments to our NATO allies. This is a carefully balanced amendment and I strongly urge my colleagues to vote "yes" on the Fascell amendment.

Mrs. BYRON. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, we have been debating this particular issue since I was sworn in in 1979. I would like to have the body know that we have appropriated moneys in the past. We actually have a chemical plant in place at Pine Bluff, AR, to replace a deteriorating obsolete binary stockpile.

What we need is a safe deterrent. We need a safe deterrent that is a capable deterrent. It is only since we have begun possible production that the Soviets have come to the bargaining table. If we back away now, we have no reason to suspect that the Soviet Union will continue to try to do a verifiable chemical treaty. That is what we want.

Mr. Chairman, I ask for a vote against the Fascell amendment.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, at the request of the chairman of the Committee on Foreign Affairs on which I serve, I recently met with Ambassador Rolf Ekeus of Sweden, the head of the Ad Hoc Chemical Weapons Committee on Multilateral Disarmament in Geneva. I emerged from an intensive hours-long meeting with him, with the chairman of that committee, with this clear message: First, the negotiations in Geneva are very close to agreement and acceptable to all 40 countries involved in these negotiations to destroy all chemical weapons and prohibit the building of any new ones; and second, that America risks disrupting these negotiations and risks injury to its own credibility as one of the two major negotiating parties by unilaterally building up a new chemical weapons system.

The negotiators in Geneva do not, as many Members of Congress do, consider America's proposed deployment of chemical weapons as a military question. Rather, they regard the U.S. buildup of binaries as a political problem and as an impediment to negotiations.

□ 1410

We would do well to consider their perspective. Europe is where these fearsome weapons would be used if, heaven forbid, they ever are.

I urge support for the Fascell-Porter amendment to bar final production of chemical weapons for a year as an act of faith at a critical time in these negotiations, an act of faith which costs us absolutely nothing.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Chair would advise Members that the gentleman from Florida [Mr. FASCELL] has 4 minutes remaining and the gentlewoman from Maryland [Mrs. BYRON] has 4 minutes remaining.

Mrs. BYRON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, this discussion of chemical weapons and chemical warfare is an annual exercise that we all absolutely dread.

No one likes to talk about the subject. No one is ever comfortable with the debate.

The thought of chemical war conjures up the most horrible and frightening vision of combat and consequences. However, I would prefer in the very limited time I have to direct a few moments of your attention not to our personal comfort, but to the comfort of the soldiers and servicemen we would call upon to train and to fight in a chemical environment.

This mask may not be fashionable to the Members, but it is clearly the latest in functional gear available for use by our servicemen. Take a good hard look at it.

Your vision is impaired. You will have a very difficult time hearing. You obviously have a difficult time speaking and communicating when you have to operate in a chemical environment.

You need to speak; you need to hear. You need to be able to communicate. It is difficult to lead and to be led in a chemcial environment.

If the Members will take a look at the gloves, two-tiered level of gloves, two-tiered layers, try making a delicate adjustment to a tank motor or to an aircraft engine or, God forbid, your M-16 jams. Try it sometime.

Many of the Members know that I have thought in the past that the MX has never been, is not now, or never will be a deterrent, a negotiating tool or anything of the sort; but the limited amount of dollars we have that the Fascell amendment would fence is probably the cheapest, most inexpensive deterrent and the best prosoldier conventional vote you could cast in this DOD authorization.

I urge the Members to vote "no" on the Fascell amendment.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the amendment by the gentleman from Florida [Mr. FASCELL] offers us the opportunity to continue the efforts to eliminate these weapons from the arsenals around the world.

If we reject this amendment today, we lose the important moral leverage, and I think that is important in persuading other nations to cooperate in instituting a worldwide ban on the use of chemical weapons; but beyond the moral issue and the question of proliferation, which are important and central to this debate, our Nation has had a longstanding policy on chemical weapons, and it is bearing fruit.

In late April the administration reported that the Soviets have made significant, not small, not midrange, but significant concessions in the ongoing talks to ban chemical weapons.

Our U.S. negotiator to Geneva said, and I would like to quote, on these concessions:

> The Soviet Union has essentially accepted the Western proposals for the declaration, monitoring and destruction of chemical weapons production facilities, including international on-site verification procedures.

I would suggest to the Members that all of these concessions were made without binary weapons production in this country. I do not believe, Mr. Chairman, that the Members of the House want to be responsible for endangering the great chance that we have for an accord in the ending of these weapons. Yet, that is what may happen if the amendment of the gentleman from Florida fails.

Passage of this amendment will signify the commitment of the House to the ongoing good-faith negotiations with the Soviet Union.

By putting the brake on that final assembly of the binary weapons, Congress upholds our Nation's consistently strong policy of opposing weapons, but we also demonstrate our resolve to eliminate these weapons instead of fostering the deployment of a new generation of chemical weapons.

Vote for the Fascell amendment.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. FASCELL] has 2 minutes remaining and the gentlewoman from Maryland [Mrs. BYRON] has 2 minutes remaining.

The Chair would advise the gentlewoman from Maryland [Mrs. BYRON] that she has the right to close the debate.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from Illinois, [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me say that I hold the gentleman from Florida [Mr. FASCELL], the chairman, in great respect and admiration for his commitment on this issue.

The gentleman from Pennsylvania [Mr. RIDGE] just talked of deterrence; and it seems to me that there is something more to deterrence than a gas mask.

There is, too, deterrence where your retaliatory force is located. What the gentleman from Florida [Mr. FASCELL] says is let us not remove the stockpile from Western Europe until it can be replaced by binaries, and let us not build binaries until we can deploy them.

Our allies in Western Europe will not accept these weapons and we will end up removing our unitary stockpile which does provide a deterrent against Soviet first use and we will have nothing in Western Europe to protect ourselves from. When we build the binaries, they are going to go to Utah and Kentucky, not to Western Europe. They are not going to provide any deterrent, and if we were to rush them to the front it would take 4,200 C-41 flights to get what we have there already.

So Mr. Chairman, vote for Fascell. It provides protection and deterrence.

Mr. FASCELL. Mr. Chairman, our colleague has demonstrated, I do not know whether that was a World War II gas mask or not, but whether it is new or old really does not make any difference. Gas is gas and he is going to have to use a gas mask.

The point is up until now we have not had to use it because we have had a deterrent in place.

Now, it seems crazy to take that deterrent out of there until such time as we at least have got an agreement from a NATO ally to put the binary on the ground. That is all it takes to solve this issue, one agreement with one country to put the binary on the ground.

So vote "yes" for this amendment. Vote "no" against unilateral disarmament. Vote "no" against spending extra money right now which we really do not need and save it until we can spend the money properly to put the deterrent on the ground where it belongs.

Mrs. BYRON. Mr. Chairman, for the purpose of closing the debate, I yield the remainder of the time to the gentleman from Kentucky [Mr. HOPKINS].

The CHAIRMAN pro tempore. The gentleman form Kentucky [Mr. HOPKINS] is recognized for 2 minutes.

(Mr. HOPKINS asked and was given permission to revise and extend his remarks.)

Mr. HOPKINS. Mr. Chairman, nobody wants chemical weapons, nobody. So the question is, How do we get rid of those that we now have the fastest? In my view, the best way to do that is to stick with the Aspin amendment, which this House just passed overwhelmingly and defeat the Fascell amendment which is now in question, because if we pass the Fascell amendment, that eliminates the Aspin amendment which we just passed a few minutes ago.

Mr. Chairman, congressional debate on this issue has covered a number of areas during the past few years, from the effectiveness of the Bigeye bomb to the status of our negotiations.

Although I strongly believe a case can be made against the Fascell amendment in any one of these areas, I would like to limit my comments to the negative impact this amendment would have on the progress being made at Geneva toward a chemical weapons ban treaty.

After 19 years of tiresome and lengthy negotiations, the Soviets are finally moving toward our position in the various areas necessary for a chemical weapons treaty.

This past February, the Soviet Union issued a statement on disarmament which appeared to accept a major portion of the United States treaty proposal—a direct contradiction of their previous position.

This movement is certainly positive, but still requires further progress in the area of inspection and verification.

Yet, the amendment of the gentleman from Florida would derail this progress by removing the single most powerful incentive the Soviets have to continue these negotiations—the modernization of our chemical stockpile.

The Soviet Union has the world's largest stockpile of chemical weapons.

Today, this stockpile is trained on our NATO allies and designed to immobilize our forces in the early hours of any attack.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky [Mr. HOPKINS] has expired.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, let me just for the benefit of the House emphasize a point that the gentleman from Kentucky was making, and that is that if you are going to get an agreement, it is important that we not slow down or stop this program, and the example that we have is right before us. We have an INF agreement that is now being talked about.

At the time that we were employing the GLCM, the ground-launched cruise missiles, and the Pershing II missiles, there was enormous protest in Europe about those missiles being put in Europe. The protesters poured out by the hundreds of thousands into the streets.

It was very close. If the Parliaments had listened to those protesters and had not deployed those weapons, would we be talking now about a zero-zero deal in Europe? I do not think anybody in this House thinks that would be possible.

Let me give another example. In the late 1960's and early 1970's, we were voting in this House and in the other body about whether we were to go ahead with the ABM system. By a very narrow margin, one vote in the Senate, we approved to go ahead with an ABM system and in 1972 we signed a treaty with the Soviet Union banning ABM's in both countries.

Now, I ask, does anybody here think that it would have been possible to get an ABM agreement had Congress killed the ABM system in 1969 when the key vote occurred? The answer is obvious.

The point that we are making here is that the Soviet Union is neither philanthropist nor are they pacifist. If they enter into negotiations, it is to achieve something. Unless we have some ongoing budgets and some buildups, we are never going to get agreements.

Just look. What is it they are the most concerned about now? It is the SDI. If we do not have ongoing programs of some kind, we can forget about arms control. People who are for arms control have clearly got to be for building some weapons in order to get those arms control agreements.

Mr. Chairman, I yield to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, the gentleman from Wisconsin [Mr. ASPIN] is exactly right.

The United States stopped chemical weapons production in 1969 and for the past 18 years the Soviets have enjoyed a unilateral advantage in this area.

The Binary Chemical Weapons Program is not intended to match the Soviet stockpile, it is only intended to give us a credible deterrent to prevent the Soviets from employing these horrible weapons with impunity.

The practical effect of this program, if Congress permits its implementation, is that our total chemical stockpile will be reduced by 80 percent of our present level.

So, the fact that the Soviets, after 19 years of disinterest, have suddenly shown a willingness to compromise and negotiate should come as no surprise.

This is no coincidence.

It is a predictable reaction to the fact we are moving toward a chemical modernization to provide a token counter to their historic superiority in this area.

As Ambassador Lynn Hansen, our chief negotiator at the Geneva talks recently said:

> The recent progress in the negotiations toward a chemical weapons ban, clearly reflects the Soviet desire to stop American modernization of its chemical weapons arsenal later this year after an 18-year unilateral production moratorium.

As further evidence of this progress, a Soviet delegation will be visiting my colleague JIM HANSEN's district later this year to view our only operational chemical disposal facility in Tooele, UT.

This visit will be followed by a similar American delegation tour of the Soviet disposal facilities.

The point is, progress is being made and this progress is driven by our binary modernization program.

I strongly urge the defeat of the Fascell amendment to preserve this momentum and preserve this golden opportunity to attain a mutual chemical weapons ban.

□ 1425

Mr. ASPIN. Mr. Chairman, I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want the moment to pass without paying my compliments to the distinguished chairman of the full committee for the speech that he just made. I just wish that he had made the same speech when we got to the ABM, the Asat, and the MX. I hope that he does not forget it. Maybe we can use it again sometime. He is absolutely right, and he is right as it pertains to the subject at issue here. He should not be so selective about it; he should use it more often.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

MR. DICKINSON. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to take this opportunity to commend the chairman of the full committee for his efforts in this regard. It is absolutely correct, absolutely right on.

Where we are right now is that we have the Aspin amendment in effect, which allows us to put in place binary weapons at that time and only at that time when we can take out the older, less effective, more dangerous unitary weapons.

Where we are beyond that is that if we were to delay by the Fascell amendment the modernization process, we have to look at these things. Up till now there has been for 10 years no progress in chemical modernization. Since the binary program has been approved, there have been significant changes. First, the Soviet approach has changed. Now they agree on onsite inspection. Second, they now admit to the possession of chemical weapons, which they have been producing without stop since 1921. And they clearly have linked their efforts to stop the U.S. binary program because they understand that it is progress.

On April 21 of this year their arms negotiator, Nazarkin, stated in a speech at a plenary session of the Conference on Disarmament in Geneva that there was a "clear linkage between United States binary production this fall and the reasons why the Soviets must negotiate a treaty this summer."

Like the GLCM, like the Pershing II, that is where we are. If we want negotiations to get rid of these kinds of weapons, we have to have the ability to modernize.

The Fascell amendment is unfortunate. It is well-meant, but unfortunate in that it prohibits us from building them, and yet says that we cannot replace old ones unless we have new ones in a place where they do not want anything but old ones.

That is a catch-22 of the first order. We just cannot build them, but we cannot replace the old ones with new ones unless we do build them, which we cannot. So we should vote no, as the chairman, the ranking minority member, and all the rest of the members of the committee basically are saying on this amendment, so that we might get ahead with progress toward limiting, restricting, and eliminating these weapons.

Mr. DICKINSON. Mr. Chairman, to put it very succinctly, so that everyone can understand it, both amendments, Aspin and Fascell, say that you cannot take out unitary units from Europe without replacing them with binary. Fine. We have already passed that overwhelmingly. Now the Fascell amendment adds another little glitch in there that simply destroys what we have just done. I ask Members to vote "no" on the Fascell amendment.

Mr. KASTENMEIER. Mr. Chairman, I urge my colleagues to give their strong support to the Fascell amendment to prohibit the use of funds for the final assembly of binary chemical munitions.

At a time when we are discussing this amendment, it should be noted that a United Nations report, based upon a recent U.N. investigation, stated that Iraq continues to use chemical weapons in the war with Iran. The U.N. report also said that Iraqi troops had been gassed but the report did not reveal whether the Iraqi troops were caught in a backwind from their own gas attack or whether Iran had acted on its threat to retaliate against chemical weapons attacks by Iraq. In 1984 and in 1986, the U.N. confirmed that Iraq had used poison and nerve gas shells and bombs against Iranian troops. This should serve as a reminder to us that the horrors of chemical warfare still exist and the continued use of the deadly chemical weapons increases the risk that they will be used in future conflicts.

This debate on the lethal binary chemical weapons also comes at a time when the Disarmament Conference at Geneva appears to finally be making progress toward an international agreement, which, after 18 years of work, provides for an international agency to supervise the elimination of all chemical weapons and manufacturing facilities. It would be foolish to proceed with the assembly of the deadly binary chemical munitions at a time when there is movement toward the abolition of all chemical weapons.

Mr. Chairman, we are not now producing chemical weapons. We have not done so since 1969 when President Nixon unilaterally decided to place a moratorium on chemical weapons production. The Pentagon, however, is continuing with its research on more deadly compounds for its second generation binary chemical weapons. To resume the manufacture of poison gases would be a serious mistake. Chemical weaponry is a dirty business and there is absolutely no military justification for new binary chemical weapons and the breaking of the 1969 moratorium.

Chemical weapons are one of mankind's most repulsive inventions. They are horror weapons. Lethal nerve gases kill in a particularly ghastly way and we should note that civilians are not spared when these gases are released.

To begin production of nerve gases is unworthy of our Nation. I strongly believe that the binary chemical weapons program should be brought to a complete halt, and I call upon the House to support the Fascell amendment.

Mr. MOODY. Mr. Chairman, I rise in strong support of the Fascell amendment. This is a prudent amendment that deals with a very controversial issue: the production of binary chemical weapons and their deployment in Europe. I support it for two very important reasons.

First, we are producing these chemical weapons when none of our European allies have agreed to accept them on their soil—and for good reasons. If ever used, these weapons will kill civilians, not soldiers. They are morally repugnant weapons. We must understand that if we produce binary chemical weapons, they are likely to be stored here in this country because no one in Europe wants them. What value do weapons with a range of 5 miles have if they are stored 5,000 miles away from the European battlefield? I would argue they have none.

Second, we do not need to modernize our chemical weapons; we need to ban them. Over the past few months, the Soviet Union has made major concessions in this area; they have accepted almost all the Western proposals for monitoring and destruction of chemical weapons—including significant onsite inspection. The Soviets made these concessions without U.S. production of binary weapons. Let's move ahead with a chemical weapons ban—not chemical weapons production.

I urge my colleagues to support the Fascell amendment.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Aspin amendment and in opposition to the amendment offered by Mr. FASCELL that would bar the further development of binary chemical munitions. This is an issue of maintaining a credible deterrent.

I believe that we should have a modern, safe deterrent based on modern chemical weapons, not an outmoded and unsafe chemical stockpile providing limited deterrence at best. The dangers of chemical weapons use all well known. Short of a treaty banning production and stockpiling of these weapons an effective deterrent keeps them from being used. It is no secret that our stockpile of chemical weapons kept Hitler and the Japanese from using chemical warfare against the allies. Today, chemical weapons have only been used in situations where one side knows the other is incapable of retaliating chemically. It is also important to note that the users of chemical warfare are either the Soviets or their allies: the Iraqis, the puppet Afghani regime, the Vietnamese, and the Soviets in Afghanistan.

With these recent examples in mind, it is dangerous for us to rely on World War II vintage chemical weapons. Our field commanders have been clear and strong in their view that we must have binary chemical weapons as a deterrent to Soviet use of chemical weapons. We ought to listen to them—they are the ones on the front lines. They know that fighting in a chemical environment is virtually impossible. They also know that the binary weapon is much safer. Unlike present chemical weapons, the binary weapon is composed of two harmless chemicals. When these chemicals are combined, then they become toxic. Thus, the risks of accidental contamination are diminished. Why continue to wait for a deadly accident to happen. We should replace our old, less safe weapons with binary ones for safety's sake. Furthermore, without a modern, effective deterrent, the nuclear threshold would be lowered. We could be faced with a decision to use nuclear weapons in response to a chemical attack.

Opponents of the new binary chemical weapons claim that production of these weapons would be detrimental to chemical weapons negotiations. These fears are unfounded and, in fact, the opposite is true. When Congress finally permitted production of binary chemical weapons, the Soviets for the first time seemed willing to engage in meaningful negotiations. It would be illogical and tragic for Congress to now forestall production of a better chemical weapon and a safer chemical weapon which provides greater deterrence to Soviet use of chemical weapons and improves the prospects for a ban on the future production or use of such weapons. History has proven that only with real incentives will the Soviets seriously negotiate. The binary chemical weapon is such an incentive.

I urge my colleagues to oppose amendments, like the Fascell amendment, that would stymie the development of binary chemical weapons.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. FASCELL].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FASCELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 230, not voting 11, as follows:

[Roll No. 130]

AYES—191

Ackerman
Akaka
Anderson
Applegate
Atkins
AuCoin
Bates
Beilenson
Berman
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Cardin
Carr
Clarke
Clay
Coats
Coble
Coelho
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
DeFazio
Dellums
Derrick
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Feighan
Fish
Flake
Florio
Foley
Ford (MI)
Frank
Frost
Garcia
Gejdenson
Gonzalez
Goodling
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hawkins
Hayes (IL)
Henry
Hertel
Hochbrueckner
Horton
Howard
Hughes
Jacobs
Jeffords
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
MacKay
Markey
Martin (IL)
Matsui
Mavroules
Mazzoli
McCloskey
McGrath
McHugh
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Morrison (CT)
Mrazek
Nagle
Natcher
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price (NC)
Pursell
Rahall
Rangel
Regula
Richardson
Rinaldo
Rodino
Roe
Rose
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
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Wolpe
Wortley
Wyden
Yates
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NOES—230

Alexander
Andrews
Anthony
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Bosco
Boulter
Broomfield
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Chandler
Chapman
Chappell
Cheney
Clinger
Coleman (MO)
Coleman (TX)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fazio
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (TN)
Kasich
Kemp
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (NY)
Martinez
McCandless
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
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Myers
Neal
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Nowak
Ortiz
Oxley
Packard
Parris
Pashayan
Petri
Pickett
Price (IL)
Quillen
Ravenel
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—11

Annunzio
Boner (TN)
Bruce
Duncan
Foglietta
Ford (TN)
Gephardt
Jones (NC)
Ray
Roemer
Whittaker

□ 1425

The Clerk announced the following pair:

On this vote:

Mr. Ford of Tennessee for, with Mr. Roemer against.

Mr. SCHEUER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1450

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). Pursuant to the notice provided by the chairman of the Committee on Armed Services on May 18 under paragraph (8) of section 2 of House Resolution 160, it is now in order to debate the subject of testing of nuclear arms for 1 hour.

At the conclusion of such debate, it is in order to consider the amendments relating to testing of nuclear arms printed in section 1 of House Report 100-84 in the following order only:

(A) By Representative BROOMFIELD, of his designee; and

(B) By Representative SCHROEDER, or her designee.

If both of said amendments are adopted, only the latter amendment shall be reported back to the House.

Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN] or his designee.

Mr. McCLOSKEY. Mr. Chairman, I yield 6 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Chairman, today the House has the opportunity to vote, for the fourth time in the past 10 months, for a major step for world peace. The amendment is the same as the one the House passed on last year's defense bill, on the continuing resolution last September, and on the supplemental appropriations bill earlier this year. The amendment places a moratorium on American nuclear tests above 1 kiloton during fiscal year 1988 if the Soviet Union does the same and if reciprocal, in-country monitoring arrangements are agreed on and implemented.

Others will discuss how this amendment provides strong and reliable verification procedures to detect Soviet cheating. They will demonstrate that the D-5 missile for the Trident II submarine and the small ICBM, known as the Midgetman missile, can be developed and deployed without additional nuclear testing. And they will show the foolishness of the arguments that testing is needed for safety and reliability of the nuclear arsenal and that the President's power to respond to Soviet aggression would be undermined by this amendment. These are all important points.

The events of the last 3 days convince me that there is an added necessity for us to pass this amendment. Sunday an Iraqi Mirage fighter shot an Exocet missile at an American frigate, killing as many as three dozen Americans and crippling the ship. If we keep on developing and testing new weapons, a few years from now we will wake up to find that instead of shooting a smart, conventional missile at our ship, the Iraqi pilot would have shot a nuclear-tipped smart missile at the U.S.S. *Stark*.

One of the fundamental purposes of nuclear testing is to develop new types of nuclear weapons. Two of the primary goals of new weapons development are increased miniaturization and enhanced special effects. If one can say there is anything good about the world's arsenal of nuclear weapons, it is that the warheads are big, heavy and bulky and that the effect of detonating a warhead cannot be well controlled. For scaring the daylights out of an enemy and, thereby, preserving deterrence, our current inventory of nuclear devices is fine.

Fortunately, however, they are not very convenient for packing with your luggage and they are not very good weapons for accomplishing precise battlefield objectives. Out testing program and that of the Soviet Union are, in large part, aimed at overcoming these "problems." Smaller, more compact, and less delicate weapons will be developed if both we and the Soviet Union continue testing. Third generation nuclear weapons, with more precisely predictable and controllable effects, and which can be used for tactical goals, will be developed if both we and the Soviet Union continue testing nuclear weapons.

While these types of weapons have a marginal effect for our own military capability, they will soon become the weapons choice for third world countries and terrorists. Now, I do not expect that we will start selling these weapons to Third World countries and to terrorists in the way that we have sold TOW missiles to the Iranians. And, I know we have a very strong security program which insures that ninety-nine and forty-four one hundredths percent of our weapons are secure. But, when you are talking about nuclear weapons, and particularly small weapons, one lost weapon can mean massive death and destruction.

We stand at a unique time in history, a time when technology, Soviet eagerness for an agreement, and our own lead in nuclear weapons development come together to provide us with the opportunity to stop the testing of nuclear weapons. By seizing this opportunity, we can prevent the nightmare of an Iraqi fighter using a nuclear weapon against an American naval vessel. The way we seize this opportunity is to pass the testing limitation amendment today and pressing the administration to resume negotiations toward a comprehensive nuclear test ban treaty with strong verification procedures.

So, make no mistake about your vote today. A vote against the testing limitation amendment is a vote for nuclear proliferation, a vote for developing weapons which can be smuggled to Third World countries and terrorists, a vote for nuclear blackmail. A vote for the testing limitation amendment is a vote for maintaining the American lead in weapons development, a vote for maintaining deterrence which has protected the world from nuclear war for 35 years, and a vote for world peace.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the nuclear testing limitation amendment offered by Congresswoman SCHROEDER to the Defense authorization bill because this attempt to legislate arms control is based on faulty assumptions and does not serve the best interest of our Nation.

In reality, a 1-kiloton threshold on nuclear tests has the same results as a testing moratorium. The process for certifying the weapons that need certification cannot be satisfactorily done under a 10-kiloton threshold let alone a 1 kiloton. Furthermore, a 1-kiloton limit is very difficult to verify and could easily be confused with a seismic disturbance. In essence, there is no real difference between a moratorium, a 1-kiloton limit or a 10-kiloton limit.

Legislating a moratorium on nuclear testing through restricting funds is a no-lose proposition for Moscow. Such action would condone Soviet violations of existing testing agreements, constrain United States modernization efforts, hurt other arms control initiatives, and dangerously damages the United States strategic deterrent and strategic stability. The Soviet Union, meanwhile, continues with its nuclear testing program.

The underlying need for nuclear testing is credibility. We need to make sure that our weapons work the way they are supposed to. Because deterrence is based on the premise that the United States will respond in kind if attacked, the potential foe must have no doubts that our nuclear forces are credible—that they will work as advertised. In addition, these weapons must be reliable, modern, survivable, and secure. Uncertainty in any of these four aspects leads to instability.

The experts have confirmed that no significant tests can occur at 1 kiloton or through supercomputer simulations. According to the Los Alamos National Laboratories, a global leader in nuclear weapons design, it is "* * * Unquestionably technically more difficult to certify weapons tested only at partial yield * * *." It is impossible to certify them at 1 kiloton. The Director of Los Alamos has said that it is possible in cases of testing at reduced yields to make mistakes that are catastrophic, involving total failure rather than imprecise prediction of the higher yield. We must avoid such situations. I have noted that some of my colleagues have referred to the statements of famous scientists in an effort to justify further testing limitations. However, those scientists and engineers who designed and built our nuclear weapons are not as glib. They know their weapons and they feel responsible. That is why the scientists and engineers directly involved with the weapons are some of the strongest advocates against further limitations. If we trust them to design and build them, we should listen to their expert advice.

There are five primary reasons why the United States needs to test:

RELIABILITY AND MAINTENANCE

The confidence in the reliability of nuclear weapons decreases the longer they are stored. There are several instances when we discovered reliability problems and had to rely upon tests to find the solution. An example of this was the problem with the Polaris ballistic missiles that armed U.S. submarines in the 1950's and 1960's. Without the use of testing to discover the problem and then resolve it, we would have been relying on "duds" for deterrence. So long as we do not have a strategic defense and must rely on mutual nuclear annihilation for deterrence, we must continue testing to ensure the credibility of that deterrence.

MODERNIZATION

Several of our current programs, necessary to maintain the nuclear balance, would be affected by a testing ban or 1-kiloton limit. The Trident II warhead testing could not be completed and progress on the small ICBM and the short range attack missile upgrade [SRAM II], all of which enjoy broad support in the Congress, would be highly problematical since MX warhead design modifications could not be validated. As the Soviets continue to disregard arms control agreements and illegally field new weapons like the SS-24 and SS-25, we need to meet these new threats. Further limiting of nuclear tests would jeopardize our ability to meet America's new security needs. This moratorium would preclude the development of advanced concepts, thus eliminating the capability to avoid technological surprise and options for responding to an evolving Soviet military threat. Soviet nonnuclear developments, which would not be constrained even if they were to comply fully with a test ban, can affect our deterrent capability.

SURVIVABILITY

Because of the hostile environment in which nuclear weapons are expected to operate, tests must be conducted to ensure that they can survive such things as enhanced radiation, electromagnetic pulse [EMP] and shock waves.

SAFETY AND SECURITY

We must ensure that our nuclear weapons are safe to handle and secure from either premature detonation or theft. In my opinion, there is a greater danger here, than in deliberate nuclear exchanges by the superpowers. Only one-third of our stockpiled weapons have the most modern safety and security features. Incorporating such features, which are integral to the warhead, requires new warhead designs and actual testing to ensure that weapon yield and reliability are not degraded. Congress rightly insists on the most stringent testing requirements for safety and effectiveness of our nonnuclear systems. It does not make any sense to have lesser standards for the nuclear systems upon which the United States and our allies must rely for the foreseeable future. We certainly owe that to the service people working around these systems and the American people living near them.

REDUCTIONS IN NUCLEAR STOCKPILE

Contrary to the assertions of some, the U.S. nuclear weapons testing program has not led to an ever larger stockpile. Thanks to the innovations and improvements made possible by testing, we have been able to introduce newer, safer and more effective systems while actually significantly reducing the number of weapons in our nuclear arsenal from what we had 20 years ago. The number of weapons in the U.S. nuclear stockpile was about one-third higher in 1967 than it is today. Testing has continued to reduce warhead stocks—we have less nuclear weapons today than we did during the Carter administration. Testing has allowed us to retain credibility while reducing the number of nuclear weapons we have.

The nuclear testing issue cannot be viewed independently, as if it were in a vacuum. The Soviets have tried to present it this way by ignoring its relationship to other arms control issues. Nuclear test bans are directly tied to arms control measures; they are not arms control. Not one nuclear, chemical, or conventional weapon would be eliminated or reduced by a test ban. In reality, a test ban is a form of unilateral disarmament, or nuclear freeze. Until we are able to further limit or reduce our nuclear arsenals in an equitable and verifiable fashion, nuclear testing bans are detrimental to our national security.

Our negotiators in Geneva are opposed to these attempts to legislate arms control. The Schroeder amendment undermines them, including the nuclear testing meetings between the United States and the U.S.S.R. The Soviets have blatantly violated many arms control agreements including the Limited Test Ban Treaty. By unilaterally adopting a testing moratorium, we are rewarding them for cheating and are sending the signal that it is OK for the Soviets not to adhere to the agreements they have signed. Such a posture puts our negotiators in a very difficult position and could seriously jeopardize our ability to reach any equitable arms control agreements in the future. As you know, the United States and the Soviet Union are getting much closer to an arms control agreement. Why ruin these recent, positive initiatives?

The key to success with the limited testing bans and a future comprehensive ban is progress in other arms control issues and an improvement in verification guarantees. The United States has always taken the lead in proposing verification measures. Most recently, President Reagan invited the Soviets to monitor a U.S. test and evaluate the use of the new Corrtex hydrodynamic measurement system. The President also indicated that if the Soviets were willing to join us in an agreement for effective verification including the use of Corrtex, we would be prepared to move forward on further testing bans. I clearly remember what happened the last time we had an unverifiable ban in the 1960's, the Soviets unilaterally, without warning, broke out with a massive testing series. This extensive series of Soviet tests obviously required many months of secret preparation, all conducted while the United States faithfully honored the moratorium. I urge my colleagues to remember the words of President Kennedy in 1962. He said: "We know enough now about broken negotiations, secret preparations and the advantage gained from a long test series never to offer again an uninspected moratorium." Based on the Soviet track record of violating signed agreements, we must have credible, equitable verification methods. This amendment does not provide any.

I am committed to making sure that our national security comes first. I have consistently supported efforts to make mutually beneficial progress in nuclear testing and arms control issues. This amendment is based on faulty assumptions and does not fulfill our national security objectives. This could adversely affect the current, heightened arms control negotiations. In fact, this amendment positively addresses more of the Soviets needs than our own. I strongly urge my colleagues to review the facts and oppose the

Schroeder nuclear testing limitations amendment.

□ 1500

Mr. McCLOSKEY. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise in support of the Schroeder-Gephardt amendment and in opposition to the Broomfield amendment.

Mr. Chairman, as my colleagues know, the House endorsed this provision last year during consideration of the fiscal year 1987 defense authorization, and the same language was contained in the fiscal year 1987 supplemental appropriations bill that was approved by this body last month. This debate is not new to this House. Today, it is even more important that we act to reaffirm the statements that we have made in the past.

Let me clarify what the amendment does and doesn't do. It says that no funds may be expended for the testing of nuclear weapons with a yield over 1 kiloton, providing that the Soviets do not test and agree to accept in-country monitoring equipment.

This amendment does not impose a unilateral ban on testing. If the Soviets continue to test—so will we. If the Soviets refuse to accept adequate verification measures—then we'll continue to test. If the moratorium isn't mutual, then there are no constraints on the U.S. testing program.

There are several encouraging signs that the climate may well be ripe for substantive progress on a testing agreement. I am encouraged by the administration's interest in swapping testing site inspections between Soviet and American testing experts. If both sides agree to temporarily halt testing, the climate for rational discussion of a testing agreement will be greatly improved. If this should yield no fruit, then we will resume our testing program. But we have a window of opportunity right now. And the Soviets say they are ready to negotiate. Now is the time to test the sincerity of their intentions. At the very least, we will gain a little respect in the eyes of the world as being willing to pause for a moment and discuss the possibility of concluding a mutually advantageous and verifiable testing agreement.

I urge my colleagues to oppose the Broomfield amendment and support the Schroeder-Gephardt amendment.

Mr. McCLOSKEY. Mr. Chairman, I yield 3½ minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise today to add my voice to those of my colleagues in calling for common sense. It is time and past time that this Congress, and this country, committed to a mutual and verifiable ban on nuclear testing. It is time to pass this Schroeder-Gephardt moratorium.

Every President since General Eisenhower has sought a ban on nuclear weapons testing as the one way to assure the safety of the American people. President Reagan, in his historic address on the eve of the Geneva summit, shared his dream for peace. If I may, I will quote from this President:

> Eight of my predecessors—each in his own way, in his own time—sought to achieve a more stable and peaceful relationship with the Soviet Union * * *. Since the dawn of the nuclear age, every American President has sought to limit and end the dangerous competition in nuclear arms. I have no higher priority than to finally realize that dream.

Yet nuclear tests continue: One a week, every week, somewhere in the world.

Since 1945, the United States has exploded 834 nuclear weapons. The Soviet Union has exploded 604 warheads. The U.S. testing budget has doubled in the past 5 years.

For the first time since the false dawn of the nuclear age, we can realize a mutual, verifiable ban on nuclear testing.

Many of us in this Chamber share a sense of how close we have come to this commonsense course. In the last Congress, we tempered our test ban to give this administration one more chance to "realize that dream." It is now 1987 and it is time to stop dreaming.

A comprehensive test ban can check nascent nuclear development by nations that know daily strife. It would put political pressure on those countries which seek the false security of nuclear arms.

This test ban can be effectively verified with overwhelming confidence. Scientists agree that any covert testing would be discovered: Modern seismic instruments will detect underground explosions as small as 1 kiloton, as specified in this measure.

Moreover, the U.S.S.R. has agreed to onsite inspection of weapons tests. Soviet acceptance of foreign monitoring is unprecedented. Their capitulation to our terms clears the path to real arms control. We do not have to trust the Russians. We can stand eye-to-eye and watch them.

This test ban would freeze the Soviets with their inferior weapons. Soviet warheads remain only half as efficient as ours. But continued Soviet testing aims to make future United States missiles vulnerable.

Finally, this measure would end underground tests which release harmful, potentially lethal, radioactivity.

Mr. Chairman, my friends here in this House, the American people have been told to trust in a test ban for 40 years. We hold that hope in our hearts, passing that promise to each occupant of the Oval Office.

When our negotiators initialed the limited ban in 1963, the President spoke of the test ban as the shining example for the next generation. John Kennedy saw, "A shaft of light cut into the darkness * * *. For the first time, an agreement has been reached on bringing the forces of nuclear destruction under control."

Twenty-four years have passed since we saw the light. The next generation is here, with promises to keep. Let us, today, pursue the promise of peace.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Chairman, based on the testimony received in the recently concluded hearings I chaired in the Intelligence Committee on arms control monitoring, I do not agree with the nuclear testing provisions because, in my judgment, the state of the art of nuclear test monitoring is such that, while under ideal circumstances a seismic event similar to that of a very low-yield underground nuclear explosion can probably be detected, the U.S. Government does not yet have the capability to determine with high confidence that such an event was or was not a nuclear explosion.

Such discrimination requires the development of highly sophisticated data readout and processing capabilities in order to differentiate between seismic noise created by nuclear explosions and the seismic noise created by the thousands of other nonnuclear underground events such as small earthquakes and conventional explosions used in mining and earth clearing. Hence, in my judgment under an evasion scenario, we would not be able to verify with high confidence that the Soviets had not detonated a low-yield nuclear explosion above the 1-kiloton level.

I am optimistic that the research and development on the discrimination problem will result in a capability to monitor with high confidence a low-yield nuclear threshold which I would then be prepared to support consistent with maintaining the viability of our nuclear deterrent.

Mr. McCLOSKEY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the gentleman for yielding time to me.

I should like to make just three points in the time that has been allotted to me. First, contrary to some statements that have been made on the floor, we are not proposing a unilateral test ban. This is very definitely a reciprocal test ban, one that is called for only if the Soviets participated in the halting of tests. That should be made absolutely clear.

The second point I want to make is that there is probably no initiative in the arms control field that has had more bipartisan support at the highest level than nuclear test bans. The idea originated in the Eisenhower administration, and it was pushed by Presidents Kennedy, Johnson, Nixon, Ford, and Carter. Certainly if six Presidents of both parties felt that this was the direction in which we should be going in arms control, I should hope that the Members of this House would think long and hard before disagreeing with their judgment.

The third point—and I think perhaps this is the most important one—is one that has been alluded to earlier in this debate, and that is the question of other countries' developing nuclear weapons. I would like to make the point that we are a party to a treaty known as the Nuclear Nonproliferation Treaty, which bears very importantly on this issue, because that treaty in substance is an ageement between the nuclear powers and the nonnuclear powers who are signatories to the agreement. In that agreement the nonnuclear powers agree that they will not develop nuclear weapons if, but only if, the nuclear powers desist from their arms race in nuclear weapons.

Now, the fact of the matter is that the nuclear powers have not lived up to their commitments under that agreement. At this point I think that any nonnuclear signatory to that agreement would be entirely justified in saying to the world: "While the United States and the Soviet Union continue to test and continue to develop new nuclear weapons, since they are not doing what they promised to do under the Nuclear Nonproliferation Treaty, we, therefore, are no longer bound."

I happen to be someone who believes that the greatest danger of a nuclear holocaust comes not from a United States-Soviet rivalry, because we have managed that, not always well, but we have managed it. But I feel very much that as other countries develop nuclear weapons, this whole system will spin out of control. I think if we want to prevent that from happening, today is the day that this House ought to commit this country to live up to its agreement under the Nuclear Nonproliferation Treaty, and we can do that by voting for this amendment to enter into a mutual verifiable freeze on nuclear weapons testing.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, as a strong proponent of negotiations for a comprehensive nuclear test ban, I rise in opposition to the Schroeder amendment to ban funds for weapons testing at this time.

Last year, prior to the U.S.-U.S.S.R. arms meeting in Iceland, I voted for an amendment of this nature to urge the Reagan administration to move forward in talks to reduce the threat of war and reduce nuclear testing.

The situation has changed since those historic discussions between Reagan and Gorbachev.

Major progress has been made in the quest for a weapons reduction agreement, and giant steps are now being taken to improve monitoring capabilities through joint American-Soviet cooperative efforts.

A mutual willingness to evaluate the new test monitoring systems, and share and compare data on their accuracy, and acceptance of recent U.S. proposals for joint evaluation teams marks substantial progress currently underway.

Developing mutually acceptable means of verification is fundamentally important to achieving a comprehensive nuclear testing agreement.

Without mutual confidence in the methods of verification, a nuclear test ban treaty is neither possible nor in the interests of either the United States or the Soviet Union.

In addition, even test ban proponents don't agree on the verifiability of a 1-kiloton limit, as proposed under the Schroeder amendment.

As long as nations rely on nuclear weapons for defense and the deterrence of war, there will have to be some testing. The goal, therefore, is better governance of needed testing until that dependence is eliminated.

Instead of adopting this measure, therefore, I believe we need to work for a reduction in both the number and size of nuclear tests in tandem with the development of verifiable international monitoring systems.

Mr. AuCOIN. Mr. Chairman, will the gentlewoman yield?

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The time of the gentlewoman from Connecticut [Mrs. JOHNSON] has expired.

Mr. McCLOSKEY. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Oregon [Mr. AuCOIN].

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding time to me.

I was listening with interest to the statements of the gentlewoman from Connecticut [Mrs. JOHNSON]. I would hope that the Members of the House would understand that the administration has no test ban proposal on the table in Geneva. It is not negotiating a test ban. If we want to negotiate a bilateral, verifiable test ban, we are going to have to legislate it. It is as simple as that. In fact, we have had statements from administration spokesmen in which they indicate they are not doing this.

Mr. McCLOSKEY. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, I rise in support of the Schroeder-Gephardt amendment to impose a 1 year mutual and verifiable nuclear testing moratorium. This moratorium will permit the prudent modernization of our nuclear deterrent forces to continue through such programs as Trident II and the small mobile ICBM.

It will delay the development of new and more destabilizing nuclear weapons by both the United States and the Soviet Union improving the chances for negotiation of a formal comprehensive test ban treaty.

Most emphatically, the amendment is truly bilateral. If the Soviets do not agree to the moratorium and accept on-site inspection arrangements, the President will be under no obligation to curtail our own testing program.

Mr. Chairman, this is common sense arms control. This is an amendment that is in our Nation's interest and in a real way locks in the advantages we enjoy in warhead reliability and design.

I urge my colleagues support this important amendment and remain steadfast in our efforts to end the nuclear arms race.

☐ 1515

Mr. LAGOMARSINO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of nuclear testing by the United States. As long as we depend upon the nuclear deterrent for security, there remains the need to test. This is the only reliable method to verify that the weapons work as designed. The national security of the United States and continued deterrence depend on continued nuclear testing.

Testing of nuclear weapons is necessary to ensure the safety, security, reliability, survivability, and effectiveness of these weapons.

The experience of the 1958-61 moratorium proved that when we are not testing the technological and scientific base deteriorates rapidly. During that moratorium many people essential to the nuclear program left the National Laboratories. For example activities at the Nevada test site, including test readiness activities and technical work, virtually came to a complete halt. The Nevada test site, which is one of the largest employers in my district generates millions of dollars to the economy of Nevada.

Under the Threshold Test Ban Treaty, nuclear tests are currently limited to a maximum of 150 kilotons. According to the Department of Energy, that yield is the minimum level at which a nuclear device can be adequately tested. It is being suggested today that 1 kiloton is adequate to conduct all necessary tests. This is simply not true. No significant tests can occur at 1 kiloton or through supercomputer simulation. In fact, tests under 1 kiloton are so minimal that if this level is adopted, the majority of activities at the Nevada test site would shutdown.

I support continued nuclear testing at the Nevada test site. I believe it is crucial that the United States test future weapons systems and ensure that our current nuclear deterrent system is reliable and safe. Nuclear weapons are the cornerstone of our nuclear deterrent and will remain so as long as the Soviets maintain their current superiority in conventional weapons.

Of course we should continue to negotiate an agreement to reduce the number of nuclear weapons. If such an agreement is reached, then further testing limits should be pursued. But, until then, I believe that the United States should continue its testing program. To adopt testing limitations before such an agreement is accomplished damages U.S. security and contributes nothing to arms control.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Chair would advise Members that the gentleman from Indiana [Mr. MCCLOSKEY] has 15 minutes remaining; the gentleman from California [Mr. LAGOMARSINO] has 20 minutes remaining.

Mr. McCLOSKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Schroeder-Gephardt amendment and in opposition to the Broomfield substitute.

Listening to the administration explain why it opposes a nuclear test ban is like listening to a 5-year-old kid who's been told it's time to go to bed. First he wants a glass of water, then he wants a snack, then he wants to be read a story.

Everyone knows that the 5-year-old doesn't really want a drink, or a snack, or a story. What he wants to do is to stay up late and watch TV.

The Reagan administration really opposes a test ban because it wants to continue testing and developing new nuclear weapons for warfighting, but it doesn't want to admit this in public. So instead it has paraded forth a whole series of excuses for failing to negotiate a ban on all nuclear testing.

First it said that Gorbachev's offer of a moratorium was meaningless since it followed a flurry of Soviet tests. But we soon found out we had tested more than the Soviets.

Second it said the United States couldn't stop testing because we couldn't verify whether the Soviets cheated. Administration spokesmen came up with all kinds of preposterous scenarios for Soviet cheating—testing in underground caverns, testing during earthquakes, even testing behind the Sun. The only thing they didn't suspect the Soviets of preparing to do was hiding tests in black holes, the fifth dimension, or during Beastie Boys concerts.

Now we don't hear quite as much about verification problems. Why? Because the Soviets agreed to allow United States verification devices on their soil, around their test sites. We know that with in-country verification, our scientists can tell if the Soviets are testing in big holes or during earthquakes all the way down to 1 kiloton.

The administration has now admitted that it opposes any further limits on testing even if they are verifiable.

Now we hear a new excuse—that nuclear tests are needed to make sure our nuclear weapons are safe and reliable.

But we can do that with nonnuclear tests and inspections. If these tests and inspections show problems, we can rebuild a warhead using an existing design.

The administration would have us believe that if we don't keep blowing off bombs in the Nevada desert, deterrence will fail and we'll all be under Gorbachev's thumb. But the United States and the Soviet Union have so many nuclear weapons that we could each destroy one another even if arsenals were far smaller and less reliable than they are today.

A force of only 1,000 warheads with a reliability of only 10 percent and a yield of only 12 kilotons would be able to deliver to every city in America with a population over 443,000 the same amount of destructive power—per person—as was delivered on the city of Hiroshima in 1945.

That means that just 8 percent of the current strategic arsenal, with yields 97 to 94 percent lower than current weapons, and a reliability about one-tenth of today, would turn every city in America larger than Oklahoma City into a Hiroshima.

We do not need nuclear testing to keep our arsenal far more reliable and deadly than this hypothetical force. We will still be able to destroy the Soviet Union several times over. The Soviets will still be able to destroy us several times over. Isn't that enough to deter an attack?

Reliability and safety aren't the problem. They are just more excuses for continuing the arms race.

We are not testing today because of the Reagan administration's deep and abiding interest in nuclear safety and reliability. We are testing because the Pentagon, the Energy Department, and the National Weapons Labs want to test hydrogen-bomb pumped x-ray lasers for the President's allegedly nonnuclear star wars program.

They want to test warheads able to destroy Soviet mobile missiles and hardened command bunkers.

They want it all—nuclear backpack bombs for the special forces, nuclear depth charges and antiair missiles for the Navy, nuclear artillery shells for the Army. Nuclear powered lasers for star wars.

Many of us think that there is a better way to assure our security, that we should be moving away from our reliance on all of these nuclear weapons, instead of developing a whole new generation of warheads and bombs.

The Schroeder-Gephardt amendment can lay the groundwork for an agreement that would end all nuclear testing on this planet.

If we stop both sides from testing, we stop them from exploiting warhead technologies to support destabilizing nuclear warfighting strategies. We will be in a position to turn to the nations of the world who are now on the threshold of acquiring nuclear weapons and say OK, we have met our disarmament obligations under article 6 of the Nonproliferation Treaty. We have agreed to halt the upward spiral of vertical proliferation by refraining from nuclear tests. We have even agreed to onsite inspection. Now we expect you to enter into the nonproliferation regime. We expect you to accept onsite inspection of your nuclear facilities.

So I say, let's stop making excuses for avoiding a test ban. It's time we stopped the qualitative arms race in nuclear warheads. It's time we started meeting our nonproliferation obligations. It's time we stopped listening to the excuses and put the Reagan administration's Nuclear Testing Program to bed.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I think that what we have at work here is the law of unintended consequences. I fear that this amendment does not do what it was apparently drafted to do. Instead, it inadvertently would preclude the United States from using our nuclear weapons.

Mr. Chairman, an opinion from the general counsel of the Department of Defense points out that apparently inadvertently the effect of this amendment would preclude the United States of America from using our nuclear weapons in retaliation if the Soviet Union used any of its nuclear weapons.

Let us read the amendment and I think you will understand why.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. KYL. Let me make my point here and then I will be happy to yield.

The language reads as follows, skipping the first few words:

> * * * funds appropriated for fiscal year 1988 may not be obligated or expended to carry-out a nuclear explosion with a yield exceeding one kiloton, or a nuclear explosion that is conducted outside a designated test area unless the President certifies to Congress—

That the Soviet Union has done so.

Unfortunately, the language of the amendment is not drafted carefully enough to specify that what we are talking about here is a nuclear test explosion.

Now, the drafter of the amendment could have so provided, as is the case with other treaties; for example, Article 1 of the 1963 Treaty Banning Nuclear Weapons Tests in the Atmosphere, Outer Space and Underwater, the language of which reads:

("Each of the Parties to this Treaty undertakes * * * not to carry out any nuclear weapon test explosion * * *").

That key word "test" has been omitted from this language, and as a result it is the opinion of the general counsel of the Department of Defense that this amendment inadvertently, presumably, would prevent the United States from detonating a nuclear weapon in retaliation.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman now yield?

Mr. KYL. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, let me say that I have here a whole answer to all of that. I do not know who in the Department of Defense put that out, but we have from the research service of the Library of Congress, the American Law Division, a statement that I would like to put in the Record that says that that is totally off the wall. The whole thing says that nuclear testing limitation and that was the point.

Mr. Chairman, I include the material from the Congressional Research Service that I referred to a moment ago, as follows:

Congressional Research Service,
Washington, DC, May 19, 1987.

To House Armed Services Committee. Attn: Messrs. Finch and Lin.
From: American Law Division.
Subject: Nuclear Testing Limitation.

Reference is made to your request of May 18, 1987 for an appraisal of an amendment to H.R. 1748 that would limit nuclear testing in certain circumstances.

The amendment in question, designated section 3135, Department of Defense Authorization, 1988 and 1989, prohibits using fiscal year 1988 funds to test nuclear explosive devices with a yield exceeding one kiloton, or any explosion that is conducted outside a designated test area. The restrictions which is scheduled to go into effect 90 days after enactment of the legislation into law would not apply if the President certifies that one of three circumstances prevails after or near the time of scheduled effectiveness: first, that the Soviet Union has carried out a nuclear explosion with a yield exceeding one kiloton after the end of of the mentioned 90 days; second, that the Soviet Union has carried out a nuclear explosion outside a designated test area after the end of mentioned 90 days; or that the Soviet Union has refused to accept and implement reciprocal in-country monitoring arrangements effective during fiscal year 1988 before the expiration of the mentioned 90 days.

The amendment's restraint on funding the conduct of explosions would cease to apply in the event of a follow-on United States-Soviet agreement which significantly limits nuclear explosions. The amendment concludes with the definition of two key terms, namely "in-country reciprocal monitoring arrangements" and "designated test area."

Apparently the amendment has been challenged as applying to any and all nuclear explosions, not simply tests which exceed the specified yield or geographical limitations, and, thus, intrudes into core presidential powers, namely his power as Commander-in-Chief to safeguard that national security of the United States. Although the amendment might have been worded to reduce, if not eliminate, an argument along these lines, the argument seems to overlook language which explicitly or implicity exclusively implicates nuclear explosions for testing as distinguished from other purposes.

To begin with, the caption line of proposed section 3135 reads "Nuclear Testing Limitation." Although caption lines or headings, as titles to acts, cannot control the plain words of a statute, "[t]hey have a communicative function." Accordingly, "[i]n case of ambiguity the court may consider the title [caption line] to resolve uncertainty in the purview of the act or for the correction of obvious errors." Sutherland Stat. Const. § 4703 (4th ed.). "Section headings and marginal notes serve the same functions for sections that the title does for the entire act and generally should be accorded the same treatment." Id. at § 47.14. "Where headings are enacted as a part of an act, or as part of a code, or where the meaning of the act is ambiguous, or where there has been a revision, the headings may serve as an aid to legislative intent." Ibid. Proposed section 3135's caption line reference to nuclear testing places a gloss on the phrase "nuclear explosion" that appears in the text implying nuclear explosion for testing purposes.

Next, it will be noted that the three disjunctive circumstances which enable the President to waive the limitation seem to accord with the notion of testing, not nuclear explosions for purposes of self defense, for example. The conduct of a nuclear explosion which exceeds the yield or geographical limits and the failure to come into agreement on monitoring arrangements—conditions that effectively make the proposal's limitation inapplicable—seem reasonable in the context of testing as distinguished from other purposes.

Finally, two canons of statutory interpretation operate in favor of the narrow over the broader interpretation suggested by the proposed amendment's critics: the presumption of constitutionality and the avoidance of interpretations that raise constitutional problems when a reasonable alternative exists. As explained in Sutherland, id. at § 45.11.

"It is frequently asserted by the courts that every presumption favors the validity of an act of the legislature and that all doubts must be resolved in support of the act. Likewise, it is presumed that the legislature acted with integrity and with an honest purpose to keep within constitutional limits.

"As a corollary of the presumption favoring constitutionality, the fact that one among alternative constructions would involve serious constitutional difficulties is reason to reject that interpretation in favor of another. It has even been said that 'a strained construction is not only permissible, but desirable, if it is the only construction that will save constitutionality.'" (Footnotes omitted.)

Raymond J. Celada,
Senior Specialist in American Public Law.

Mr. KYL. Mr. Chairman, I would like to reclaim my time.

I think what would be appropriate is for the gentlewoman during her time to quote to us from the opinions that she has and to put into the Record something that would suggest that this is not the case. The opinion of the general counsel of the Department of Defense, dated May 13, 1987, H. Lawrence Garrett is the author of the opinion, concludes that "the prohibition on nuclear explosions with yields above 1 kiloton appears absolute."

Now, I am sure that this was unintended, but I urge my colleagues to think very carefully about voting "aye" on an amendment, which, unfortunately, would have the effect of precluding the United States of America from retaliating against a nuclear attack by the Soviet Union.

Mr. McCLOSKEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I just want to say briefly that I would like to get, for the Record, the name of the lawyer and the law school he attended, to say that that is the most bizarre legislative interpretation, totally devoid of any and all common sense, that I have ever heard.

Mr. Chairman, I yield to the distinguished gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have got this in the Record. I saw that.

Having gone to law school myself, I am totally astounded. As I say, I have a long document here that we will put in the Record. There is no need to read it to people.

This whole thing is absolutely the most ridiculous argument I think I have ever heard, because the entire amendment is under nuclear testing limitations and it is very clear that that defines everything that is in the bill; but it does say "nuclear testing limit," so therefore that qualifies every single thing in this limitation, so I think there is absolutely no question and the lawyers from the Congressional Research Service have said that.

I just do not know where in the world the gentleman came up with that.

Mr. KYL. Mr. Chairman, will the gentlewoman yield? I would be happy to answer the question.

Mrs. SCHROEDER. Well, let me finish my argument first, please, because I let the gentleman do that.

We cannot overrule constitutional authority, as the gentleman also knows, with legislation. The President is Commander in Chief under the Constitution.

So first of all, the gentleman's argument has no merit. It is all qualified by the title and the language in the bill makes it very clear that we are only going to testing.

Second, even if that were the case, it would not make any sense because you do not overrule that constitutional authority of the President, so none of that makes any sense.

Mr. LAGOMARSINO. Mr. Chairman, I yield 1 additional minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I just want to point out the fact that the argument the gentlewoman makes, and incidentally I, too, am a lawyer, one who has successfully argued cases before the U.S. Supreme Court, is an argument that was raised in the opinion dealt with by the general counsel, because naturally you do look to the title when interpreting statutes.

Unfortunately, he concludes that in this case the title offers little solace, because of the fact that the language in the amendment itself is so specific and because other treaties which dealt with the same subject matter specifically included language relating to treaties, language which is specifically omitted from this amendment. So, because it would be so easy to insert the word "treaty" and because the word "treaty" was not inserted, unfortunately, the effect of the amendment would be precisely as I have concluded and as the general counsel has concluded.

We suggest that this amendment needs to be redrafted.

The letter referred to follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, May 13, 1987.

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE (LEGISLATIVE AFFAIRS)

Subject: Schroeder Amendment on Nuclear Testing Limitation.

Pursuant to your request of yesterday, we have reviewed the subject amendment, attached.

In the opinion of this office, the language of the amendment can be construed so as to prohibit the Executive Branch from carrying out any nuclear explosion with a yield exceeding one kiloton, even when the explosion is carried out for a purpose other than mere testing outside a designated test area. Thus, this language could be construed to prohibit the President from ordering the employment of nuclear weapons with yields above 1 KT in defense of the United States. Such a provision, if enacted, would raise a number of significant legal and constitutional questions.

With regard to textual analysis of the proposed language, we note that, on its face, sec. 3135 is ambiguous as to whether it is intended to prohibit nuclear explosions for purposes other than testing. The provision is drafted so as to prohibit two classes of activity: (1) the carrying out of "a nuclear explosion with a yield exceeding one kiloton"; (2) "or a nuclear explosion that is conducted outside a designated test area." Both activities are to remain banned unless the President makes certain certifications to Congress. The proposed language does not make clear the interrelationship of the two prohibitions, but the use of the disjunctive creates a strong presumption that each prohibition is independent from the other. Therefore, the prohibition on nuclear explosions with yields above 1 KT appears absolute.

We note that sec. 3135 bears the heading "Nuclear Testing Limitation" and are aware that Sutherland supports the view that headings may serve as an aid to legislative intent (Sutherland Stat. Const. § 47.14, 4th Ed.). However, in the case under review, we cannot agree that such a heading would be dispositive as to the scope of the proposed legislation. Moreover, the drafter could easily have employed explicit language in the operative section of the text to make clear that the prohibition at issue is to apply solely to testing—as was done in Article I of the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water ("Each of the Parties to this Treaty undertakes * * * not to carry out any nuclear weapon test explosion * * *"). Ironically, that treaty also bans "any other nuclear explosion", a form of words that created an ambiguity similar to the one at issue in the minds of many Senators, and at one point even led to calls by some—unsuccessful in the end—for the attachment of reservations by the U.S. Senate as a condition of its granting advice and consent to ratification.

In conclusion, my opinion is that the language of proposed sec. 3135 can be construed so as to prohibit all nuclear explosions with yields exceeding 1 KT, and I urge that its enactment be opposed.

H. LAWRENCE GARRETT III.

□ 1530

Mr. McCLOSKEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Colorado. The United States and the Soviet Union have more than 60,000 nuclear warheads. And more are being built every day. When do we say "stop"?

Twenty-four years ago, President Kennedy called the arms race "a vicious and dangerous cycle." It still is. Twenty-four years ago, President Kennedy said, "Suspicion on one side breeds suspicion on the other side." It still does. Twenty-four years ago, President Kennedy said, "New weapons beget counterweapons." And they still do.

I think it is time to break this vicious and dangerous cycle. I think it is time to take a chance for peace. A chance to end the arms race.

The amendment that is before us will not stop the arms race. But it will slow the arms race. It is a positive and important step.

Last year, the Soviets stopped nuclear testing and urged us to do the same. But we kept on testing. They said, let's talk about a permanent ban on nuclear testing. But we said no. That was a mistake, a great mistake.

A nuclear test ban has been the goal of every administration since World War II, except this one. For 35 years this country has been urging a ban on nuclear testing. Now some say, "Let's keep on testing."

For most of the postwar period we asked the Soviets to agree to onsite monitoring of a nuclear test ban. The Soviets now say they are ready. But we say we are not.

I say that it is time for a ban on nuclear testing. Let's end this vicious cycle. This is a small, but important step. Let's take it.

Mr. LAGOMARSINO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, I rise in opposition to the amendment on halting nuclear testing.

Although the amendment is being packaged as a compromise between those who support threshold reductions and those who favor a test ban now, it is clearly a legislative moratorium on nuclear testing. The testing of new warheads usually requires tests of approximately 50–150 kilotons. The testing of existing warheads or what is known as reliability testing can usually be done by tests of between 10 and 15 kilotons. In an article in the Washington Post in support for continued nuclear testing, former NSC Chairman Brent Scowcroft argued that test threshold could be only reduced to around 10 to 15 kilotons if we were serious about maintaining the reliability of our existing nuclear stockpile. The type of testing allowed in this amendment is useless in terms of weapons development and more importantly, it is useless in terms of maintaining the reliability of the existing stockpile.

What kind of testing then is permitted? Basically, only minimal weapons-effect testing would be permitted. This type of testing tells how well our conventional weapons systems sustain the impact of a nuclear blast. I don't mean to disparage this particular type of testing, because it is important. Ironically, however, in my opinion it is not a type of testing which is used to enhance our ability to deter nuclear war but rather, it is a type of testing which is only applicable to a scenario after a nuclear strike has been initiated. In other words, after deterrence has failed.

Second, we must once again deal with the issue of verification. As chairman of the House Armed Services control panel, I have received testimony from our weapons labs and from outside scientific experts which indicate the difficulty in verifying, with a high degree of confidence, low-threshold testing. Attempts to accurately monitor nuclear testing at or below one kiloton exasperate the problem tenfold. Such explosions could be masked as chemical explosions or mine explosives when challenged. Furthermore, the numbers of seismic events below this level increases dramatically. For example, the number of seismic events which are picked up at the "state of the art" Noress Array Monitoring Station at or below 1 kiloton are approximately 40 a day. And to comply with one of the provisions of the amendment, the President must be certain that none of these events were of a nuclear weapons nature. This is virtually a verification nightmare. It would seem to me that it would be in our best interest to stipulate that the Soviet Union had agreed to onsite monitoring along the lines the administration has been proposing prior to such a provision going into effect rather than after the fact as prescribed by the gentleman's amendment.

In summary, I oppose this amendment because it will, halt nuclear testing, especially reliability testing, which is critical to our national security, it will be difficult to verify, and it undercuts negotiations on threshold verification.

The CHAIRMAN pro tempore. (Mr. DORGAN of North Dakota). The gentleman from Indiana [Mr. MCCLOSKEY] has 7½ minutes remaining and the gentleman from California [Mr. LAGOMARSINO] has 12 minutes remaining.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Chairman, one of the proudest moments of the members of the Committee on Armed Services was represented when they produced a new reorganization in the Pentagon and developed the Office of the Chairman of the Joint Chiefs of Staff as the outstanding leader in terms of military capability and military science. That Chairman, a very distinguished military officer, Adm. William Crowe, the Chairman of the Joint Chiefs of Staff, recently sent a letter to the chairman of the Committee on Armed Services, who is, of course, a devoted advocate of testing, and this is what Admiral Crowe had to say to Chairman ASPIN:

> I urge you not to take any action which would halt our ongoing efforts to modernize our strategic nuclear forces. I believe that even a limited ban on nuclear testing would have such an effect.

He went on to say that we have been able to maintain our comprehensive tests. Low-yield excursions, however, "would preclude us from certifying the performance, survivability, safety, and reliability of our nuclear stockpile." This means that this business of 1 kiloton is not going to demonstrate any question as to whether our stockpile is survivable or whether it is capable.

He points out further that it would eliminate or severely curtail, depending on the limit of those tests, the critical deployment of such systems as the Trident II, which this Congress has voted overwhelmingly a few days ago, the small intercontinental ballistic missile, which many people supporting the arms control feel is the real answer, and the Short Range Attack Missile. In other words, all those would be jeopardized, according to our outstanding Chairman and expert in terms of military capability.

He went on to say that in a nuclear environment, of our nuclear systems and our command, control, and communications systems, there are no substitutes for the underground nuclear tests which we use to evaluate the susceptibility of our systems to nuclear effects.

> Unless we continue our underground nuclear effects testing program, we will suffer major uncertainties about the survivability of many of these critical systems. A nuclear test ban below currently observed limits would preclude virtually all such tests.
>
> * * * * *
>
> I do know that without the flexibility to continue at current levels, our nuclear deterrent will atrophy, and the risk to our security will increase. It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program.

Wouldn't it make sense for us to listen to what our most knowledgable military officer on this important issue? I for one will take the sound and clear advice of the man who knows best on matters of this kind.

If we do this we will be able to sleep better at night.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

□ 1540

Mr. SOLOMON. Mr. Chairman, if I could choose a word or a phrase that neatly summarizes my opposition to this amendment I would dip into the vocabulary of American consumerism and say that this amendment is mislabeled. It doesn't meet the simple test of truth in packaging. This amendment claims to be one thing, an attempt to control the arms race by placing limits on nuclear testing, when, in fact, it misrepresents and short-circuits the vital policies that protect the security of our country. To say that this amendment has a hidden agenda is to engage in understatement.

Even the most casual glance at this amendment reveals at least four major flaws.

First, the imposition of a 1-kiloton threshold on U.S. nuclear testing is a de facto comprehensive test ban—and, under present conditions, that represents one more ill-advised version of unilateral disarmament. What would be the practical effect of this amendment? Well, for starters we would find that tests on the new Trident II warhead could not be completed. Then we would find that our design options for the midgetman and SRAM II missiles would be severely restricted. And these are just the starters.

The further implications of this amendment include the loss of our testing capability on the electromagnetic pulse and other phenomena that would be associated with a nuclear first strike against our defensive systems. The Soviets' first strike capability would be enhanced because, under this amendment, we could not conduct the necessary tests for developing an Earth-penetrating warhead, thus rendering the Soviets' landbased ICBM's even more secure from the effects of an American retaliation.

We would lose the ability to upgrade the safety and security features on our existing stockpiles, not to mention the many scientists who would drift away into other careers when our testing is so greatly curtailed.

The second flaw in this amendment—or perhaps I should say the second element in the amendment's hidden agenda—is that it would short-circuit the single-most important issue on the table at Geneva; namely, verification. Every Member of this House knows that the hangup on SALT II was verification. And it's the same hangup on anything else that we might ever sign with the Soviets. Their signature is only as good as the onsite inspection regime and seismic testing procedures we can succeed in establishing.

Our Government is prepared to sit down with the Soviets right now to negotiate verification protocols for both the threshold test ban treaty and the peaceful nuclear explosions treaty. Once that can be achieved, we are ready to sit down with them to negotiate a step-by-step program of limiting and eventually ending nuclear testing. But verification is the key. Without verification, we are engaging in nothing more than a blind leap of faith.

This amendment says verification isn't important. This amendment ignores the fact that the nature and purpose of nuclear tests can be more effectively disguised when the explosive yields are lower. By disconnecting the issue of verification from the other aspects of arms control, this amendment is slowing down the realization of the very thing it claims to be promoting and something we all want: Realistic, mutual, verifiable arms reductions.

Third, I would suggest that this amendment is based on the mistaken notion that nuclear testing occupies an equally important place in the security planning of our country and the Soviet Union. The truth is that the Soviets are less dependent on advanced nuclear testing and development that we are. For one thing, the Soviets have greater missile throwweights, allowing them the option of relying on larger, less sophisticated weapons than we do. Moreover, the Soviets have placed a far greater emphasis than we have on conventional weapons and chemical warfare.

Whether we like it or not, our eggs are in a nuclear basket. And unless we are prepared to develop some other kind of deterrent, our security is critically dependent on maintaining an adequate testing capability of those weapons systems on which we are staking our entire future as free men and women.

Fourth, and finally, this amendment seeks to transfer the venue of arms control talks from Geneva to Capitol Hill. Aside from the obvious constitutional problems involved when Congress tries to take over those functions of Government that are properly reserved for the executive branch. This amendment would seem to suggest that the stumbling block in the path of arms control is to be found in Washington and not Moscow. This amendment is part and parcel of what has become known as the "moral equivalency" argument, the attitude that blames America first and indicts our country with the Soviet Union as a coconspirator against all mankind.

Arms control talks are held in a neutral country like Switzerland so that a dispassionate atmosphere can prevail. This is our way of recognizing the fundamental differences between ourselves and the Soviet Union. It is a gulf that can be bridged only under the best of circumstances. To presume that Congress, in this open and somewhat chaotic environment here in Washington, is well equipped to come to terms with the Soviets and their closed and secretive society is a monstrous folly. It is a formula for disaster.

Mr. Chairman, the word trickling out of the Persian Gulf on why our navy frigate ship U.S.S. *Stark* did not defend itself is because the Iraqi fighter plane was equipped with a laser guided missile system that the *Stark's* radar system would not pick up. If that plane of a Soviet satellite country carried that kind of sophisticated laser guidance system just think how far advanced the Soviet laser technology has progressed.

This amendment supposes that we are equal to the Soviets in all weaponry—we are not and we should not be gambling with our ability to defend ourselves.

This whole amendment is a formula for disaster. I urge its defeat.

Mr. McCLOSKEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I appreciate the gentleman from Indiana yielding me this time on this important issue. I stand in support of the Schroeder amendment for all of the strategic reasons being argued here today. But I also rise for a parochial reason.

My State, Utah, is downwind from the nuclear test site. Since testing began in Nevada in 1950, it has been a Department of Energy and Atomic Energy Commission policy to only hold those tests when the wind is blowing toward Utah, never when the wind is blowing toward California and never when the wind is blowing toward Las Vegas. Only when the wind is headed toward Utah.

Last November, for example, the Department of Energy held a test off for 7½ hours, Mr. Chairman, until the wind shifted toward Utah.

What has been the result of this policy? I am one of a group of lawyers, including former Interior Secretary Stewart Udall, who in a court in Utah has proven to the court's satisfaction that many people in Utah received cancer from the fallout from the open air nuclear testing. We were recently reversed by the tenth district court because of discretionary functions under the Federal Tort Claims Act, but that left unchallenged the finding of fact of the court that Utahans had received cancers and leukemias from the fallout from the testing.

In 1963, as Members know, we passed the Limited Nuclear Test Ban Treaty and testing went underground. Since that time, it is hard to determine, and we have not yet gone to court to prove the issue, but there are many experts who feel that there are significant health and environmental hazards from the ventings, accidental and purposeful, at the nuclear test site in Nevada.

What we know, Mr. Chairman, is that we have had the equivalent of one and one-half times the radiation released at Chernobyl released upwind in the atmosphere since testing went underground in 1963, and always, Mr. Chairman, when the wind is blowing toward Utah.

The gentleman from Arizona, Chairman UDALL, is going to be holding hearings on this subject in a couple of months to determine what the health and environmental implications are. But the tests are still going on, Mr. Chairman. And it is significant that while the Department of Energy says that there is no danger, that they still continue to conduct their tests only when the wind is blowing toward Utah, never when it is blowing toward California or Las Vegas. I think that is one reason that Members should consider voting for the Schroeder amendment.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The gentleman from California [Mr. LAGOMARSINO] has 4 minutes remaining and the gentleman from Indiana [Mr. McCLOSKEY] has 5 minutes remaining.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. BROOMFIELD], the vice chairman of the Foreign Affairs Committee.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the Schroeder amendment banning U.S. nuclear testing.

Mr. Chairman, this is not a new debate. We considered this same language last year on this same bill. The arguments on both sides are now well-known to all of us.

But let's face it, this debate is not going to be argued on its merits. Its future has been determined by a combination of political forces and decisions which have nothing to do with good national security policy. In fact, retracing the history of the nuclear testing debate here in the House is very informative.

As most of us seem to have forgotten, the nuclear testing issue began its life 2 years ago as little more than a bumper sticker slogan of liberal activists in the House. Few Members took it seriously. They knew it didn't make good sense and most Members realized that it was in fact dangerous.

After President Reagan deprived the liberals in the House of the real arms control issues when he pressed forward on negotiations on strategic offensive systems, INF and strategic defense, the House activists were forced to scrape the bottom of the arms control barrel to come up with a new masthead for their assault on President Reagan. The nuclear testing moratorium was the rotten apple they discovered at the bottom of the barrel.

How did we get from there to here—actually debating to cut off all funds for the U.S. Nuclear Testing Progam, the very foundation of our Nation's security?

We are not here because logic supports the test ban position. To the contrary, close and careful scrutiny would convince most Members that logic has not been generously applied.

In over 30 years here in the House, I've seen many issues decided, not by the facts, but by political expendiency. But I've rarely seen an issue of such incredible importance to our national security determined in such a manner.

If I were referring to a regional public works project maybe I could understand the type of logrolling we've seen on this issue. But I am not referring to a public works project. Nuclear testing is essential to our Nation's security.

For this reason, following conclusion of general debate, I will offer a bipartisan amendment to the Schroeder language. My amendment is designed to reestablish a key element of cooperation between the executive branch and the legislative branch in the area of national security policy. It is not a gutting amendment—it is a commn sense amendment.

My amendment will allow the Midgetman, D-5, and SRAM II strategic systems, which have enjoyed broad bipartisan support, to continue to be developed.

I also want to point out that the American Legion has written to me in regard to the Schroeder amendment. The Legion opposes the Schroeder amendment stating that:

> Explosive testing of nuclear weapons is essential to the maintenance of our existing stockpile.

Furthermore, the Legion stated that

> We simply believe the Schroeder amendment could seriously threaten our Nation's security.

So, Mr. Chairman, I urge Members to oppose the Schroeder amendment and hope they will support the Broomfield amendment because I think it is in our national interest.

Mr. Chairman, I include the letter from the American Legion.

The letter referred to follows:

THE AMERICAN LEGION,
Washington, DC, May 14, 1987.

DEAR REPRESENTATIVE:

It is our understanding that the House will consider an amendment to the Fiscal Year 1988 Department of Defense Authorization, being offered by Representative Pat Schroeder, that would ban all U.S. nuclear testing above a 1 kiloton threshold. The American Legion wishes to reiterate its continued opposition to such proposals, and we urge you to vote against this amendment.

Explosive testing of nuclear weapons is essential to the maintenance of our existing stockpile. Even if no new weapons systems are brought on-line, periodic testing of existing weapons will be necessary to ensure the safety and reliability of on-line systems. Without periodic nuclear testing, our military and civilian populations will be at risk and the stockpile's deterrent capability will deteriorate with time.

The proposed amendment would also impact on the Administration's efforts to develop space and land based deterrent technology, the Strategic Defense Initiative (SDI). This legislation would seriously erode SDI research because nuclear explosive testing is essential to determining the efficacy of this technology. Thus, the scope of SDI research would be limited to theoretical concepts with little hope for practical application.

It is indeed ironic that this amendment is being offered at a time when recent polls demonstrate that 77 percent of the public favors the development of a system to destroy incoming nuclear missiles before they reach their targets. Apart from SDI the Schroeder amendment would make it virtually impossible to test any of the new nuclear systems, thus, placing our entire nuclear modernization program in jeopardy.

While all reasonable people wish to see an end to nuclear weapons production, we live in a world environment where potentially volatile nations are gaining access to nuclear technology. Since these conditions do exist we simply believe that the pending amendment could seriously threaten our nation's security.

Your attention to our views on this matter is deeply appreciated.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

The CHAIRMAN pro tempore. The Committee will rise informally in order that the House may receive a message from the President.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MURTHA) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

The Committee resumed its sitting.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Chair will advise Members that the gentleman from Indiana [Mr. MCCLOSKEY] has 5 minutes remaining to close debate.

Mr. MCCLOSKEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I would only hope that the message we just stood to receive from the President would be the President accepting good and common sense and saying he was going to support the Schroeder amendment because it would achieve a lifelong goal of the President, which is to end the nuclear arms race and to bring peace to the great powers. Unfortunately, I am sure the President has not yet come around to that.

Mr. Chairman, what we are debating here today is quite simple. It has been distorted tremendously by the other side, but it is a bilateral, mutually verifiable ban on the testing of nuclear weapons, the first very small step toward the end to the arms race.

This had been a debate fraught with bizarre logic. Earlier this year if my colleagues noticed the report on the Soviet military power from the Joint Chiefs of Staff, for the first time since it has been published the Soviets had moved ahead in the nuclear areas that relate to warhead technology. When the Joint Chiefs were asked how could that happen between this year and last year when they have not tested, the Joint Chiefs said it happened because we know if they were not testing that they must have been ahead all along. Now I wonder if now that they have begun testing again what next year's report will look like. Obviously they have fallen behind again because they have begun testing.

The gentleman from California who led off the debate on the other side said something particularly ludicrous. He said if we accept this amendment we will undermine, we will undermine the efforts of our negotiators to achieve a test ban treaty.

That is what we are debating. We are pushing a reluctant administration toward a test ban treaty. That is the subject of this debate. This administration does not want a test ban treaty.

Every other administration since the dawn of the nuclear age has requested a mutually verifiable ban on the testing of nuclear weapons. Not this administration.

That simply is not what we are debating here today.

Mr. MCCLOSKEY. Mr. Chairman, I yield my remaining 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, there was a phrase at the beginning of the Revolutionary War that went, "The World was Turned Upside Down." Today the debate on this issue has turned logic upside down.

On the one hand, we hear from our Republican friends that the continued testing of nuclear weapons and their inevitable proliferation to other countries is somehow in the interests of the United States.

We have the remarkable ability here today to be not only Members of Congress determining the fate of the United States, but to bring to a halt the Soviet weapons testing program, because if we stop they will end their testing program. There may be many on the other side, and I doubt that we have heard much about that, that want to see the Soviets continue to test nuclear weapons, that would like to see the Soviet Union develop more effective nuclear weapons.

☐ 1555

I would not. The Schroeder amendment prevents the Soviet Union, if they agree to the conditions, from going ahead and testing nuclear weapons.

There is an immediate dividend and benefit to our ending testing. It stops their testing program.

Second, and this point has been made ad nauseum and I have never heard the other side counter it, this is the most important step the Soviet Union can take toward limiting the proliferation of nuclear weapons.

Clearly, we do not want to see nuclear weapons spread to Pakistan or Argentina. This begins the process of preventing nonproliferation. It is something the United States has agreed to.

As the gentleman from Oregon mentioned before, this is the only President, the only President since Dwight Eisenhower, who is not interested in a test ban. Every single other President found it in the U.S. security interest to end nuclear weapons testing.

Two hundred years ago, the Founding Fathers handed us the club in the Constitution by saying that if the executive, of which they were enormously distrustful, does things you do not like, you may take the money from the executive. The Founding Fathers felt that the Congress of the United States, the people closest to the American people, should have in their hands the ability to provide the funds to wage war, or war by other means, the arms race as we know it today.

So we are asserting a proper and correct congressional prerogative when we say to this administration that we want him to negotiate a bilateral test ban, but if he fails to do so, we have and reserve the right to impose it upon him.

That is what we are doing today. It is not, by any stretch of the imagination, the best procedure. It would be far better negotiated, but it is now the only tool available to an outraged Congress and an outraged citizenry.

The vast majority of Americans, when polled in every forum, agree that the ending of nuclear weapons testing is in their interests and in the national interest.

I urge you to support the Schroeder amendment.

Mr. BADHAM. Mr. Chairman, in March 1962, President John F. Kennedy said, "Some may urge us to try it (a nuclear test moratorium) again, keeping our preparations in a state of readiness * * *. This is not merely difficult or inconvenient—we have explored this alternative thoroughly, and found it impossible of execution." Although 25 years have passed since Kennedy uttered this statement, it is clear that a nuclear test ban is still very much impossible of execution. Thus, as we in Congress consider the amendment to limit nuclear tests to 1 kiloton, let us first consider the consequences facing the United States if Congress approves this legislation.

Unquestionably the credible nuclear deterrent that the United States possesses would be severely undermined if this test ban language is approved. The entire premise of our current defense is based on potential adversaries being convinced that we can deliver a devastating response to any nuclear attack. Therefore, for our nuclear force to remain a deterrent, it must be reliable, effective, and survivable.

The only way to date to insure reliability, effectiveness, and survivability is through adequate testing. A nuclear explosion is an extremely complicated physical process which is still not fully understood by atomic scientists. The use of supercomputers alone to predict the outcome of a nuclear test is not acceptable, as these computer forecasts often differ from the actual results of the test. In addition, the data from weapons tested at a partial yield—such as the 1-kiloton limit—could be equally misleading. According to officials at Los Alamos National Laboratories, "It is technically more difficult to certify weapons tested at only a partial yield." Thus, with testing restricted to 1 kiloton, we are faced with an imprecise prediction of the explosion at best, or a total failure at worst.

Our existing nuclear capability is based on 1950's an 1960's technology. For a credible deterrence, it is crucial that we continue to modernize these weapons systems. Such modernization is dependent on sufficient testing. Likewise, we must have confidence in the effectiveness of older weapons. In several documented incidents, DOD or DOE discovered reliability problems resulting from the lengthy storage period of older, established missiles, such as Polaris, Poseidon, and Minuteman I. These problems would not have been uncovered without adequate tests of the nuclear weapon itself.

The survivability of the entire spectrum of the nuclear deterrent would also be suspect without adequate testing. Key communication elements and satellites used for both military and civilian purposes would be subject to the effects of a nuclear blast. Shock waves, enhanced radiation, or electromagnetic pulse from an attack could render these vital systems useless. However, through adequate nuclear testing, integral components of our defense can be designed to work, even in the the hostile environment of a nuclear explosion.

The possession of a credible nuclear force is the prime instrument of modern deterrence. As such, we must not impair our capability to defense ourselves by relying on untested, thus unreliable, nuclear weapons systems.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOMFIELD: Add at the appropriate place in the bill the following new section:

SEC. . TESTING FOR IMPROVEMENTS IN DEFENSE OF THE UNITED STATES FROM NUCLEAR ATTACK THROUGH DETERRENCE AND SAFETY MEASURES.

No provision of this Act limiting nuclear testing by the United States shall take effect if the President determines and reports to the Congress that the limitations contained in such provision would cause serious damage to the national security of the United States by interfering with—

(1) development of the small intercontinental ballistic missile (commonly referred to as the Midgetman), the warhead for the Trident II missile (commonly referred to as the D-5 missile), or the Short Range Attack Missile upgrade (commonly referred to as the SRAM II); or

(2) improvement of nuclear weapons safety or security measures.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the Broomfield amendment.

The CHAIRMAN pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, as another round of the Geneva talks begins, it is distressing that the House is attempting once again to negotiate nuclear testing limitations.

The best solution to the arms race lies in Geneva—in the achievement of equitable and verifiable nuclear arms reductions through real negotiations.

Our top arms control priority is meaningful arms reductions. A self-imposed, unilateral nuclear test ban does nothing to help achieve that goal.

Yesterday, Geneva meetings started again on nuclear testing issues. Talks on improved verification for the test ban and peaceful explosion treaties will continue. These talks will be harder—not easier—if the United States adopts a unilateral test ban.

The United States is prepared to talk with the Soviet Union on ways to limit nuclear testing, as long as it is linked to mutual and verifiable nuclear arms reductions.

At the very time when our negotiators are pursuing real arms reductions, some in this Chamber are working for legislation which makes things difficult, if not impossible, for our arms control delegates to succeed.

Let me make this very clear. My amendment includes all of the Schroeder language but adds a limited and specific waiver authority.

The President could waive the Schroeder nuclear testing prohibition if he determined it would harm the completion of three specific nuclear systems—the Midgetman missile, the Trident II missile, or the SPAM II missile—each of which has broad bipartisan support and for which substantial funds have already been authorized and appropriated.

Under my amendment, the President would have the authority to waive the Schroeder prohibition if he determined that it would jeopardize the safety of our nuclear arsenals. This proviso is simple common sense; the American people must be protected.

The very survival of the United States and its allies depends upon the deterrence provided by our long-range strategic nuclear forces.

As long as we must depend upon nuclear deterrence, we must test. We cannot be confident that new systems, such as the Midgetman and the D-5 missile for our submarines, will work if they are not adequately tested. In this regard, the Chairman of the Joint Chiefs of Staff has written to me stating—and I quote—

> Limiting such tests to 1 kiloton, even with allowable low-yield excursions, would preclude us from certifying the performance, survivability, safety, and reliability of our nuclear stockpile.
>
> Any restriction which requires nuclear testing below the limits of the threshold test ban treaty, which we are currently observing, will affect the entire spectrum of our nuclear systems and, most importantly, our ability to modernize those systems. Such restrictions would eliminate or severely curtail, depending upon the limit, those tests critical to the deployment of such systems as the Trident II, the small inter-continental ballistic missile and the short range attack missile.

My position is straightforward. Our nuclear deterrent depends upon nuclear testing and the American people are entitled to the best efforts of their Government to ensure the safety and reliability of our nuclear forces.

The Schroeder amendment imposed an unrealistic restriction on the United States. The conditions are not subject to negotiation—the American people want Congress to support our negotiators in Geneva—not to undermine their negotiating positions by congressional action back at home.

Support the Broomfield amendment and vote against the Schroeder amendment.

> OFFICE OF THE CHAIRMAN,
> THE JOINT CHIEFS OF STAFF,
> *Washington, DC, May 4, 1987.*
>
> Hon. WILLIAM S. BROOMFIELD,
> *Committee on Foreign Affairs, House of Representatives, Washington, DC*
>
> DEAR MR. BROOMFIELD: During the next few weeks Congress will make the critical decisions that will shape our national security, not just for the coming fiscal year but for several years to come. As you make the tough choices in striking the proper balance between our conventional and strategic forces, I urge you not to take any action which would halt our ongoing efforts to modernize our strategic nuclear forces. I believe that even a limited ban on nuclear testing would have such an effect.
>
> For the last four decades, our national security has depended squarely on credible nuclear forces to deter an attack against the United States and her allies, and to defend against such an attack if deterrence should fail. Notwithstanding recent progress in arms control negotiations, our national security will continue to depend upon strategic nuclear forces for the foreseeable future. Today we are confident of the reliability and effectiveness of our strategic forces. We have been able to maintain this confidence through a comprehensive program of nuclear testing which tests neither at higher yields nor in greater numbers than necessary. Limiting such tests to one kiloton, even with allowable low-yield excursions, would preclude us from certifying the performance, survivability, safety, and reliability of our nuclear stockpile.
>
> Any restriction which requires nuclear testing below the limits of the Threshold Test Ban Treaty, which we are currently observing, will affect the entire spectrum of our nuclear systems and, most importantly, our ability to modernize those systems. Such restrictions would eliminate or severely curtail, depending upon the limit, those tests critical to the deployment of such systems as the Trident II, the Small Inter-Continental Ballistic Missile (SICBM) and the Short Range Attack Missile (SRAM II). In addition, depending upon the outcome of ongoing INF negotiations in Geneva, nuclear testing for the development and deployment of the follow-on to Lance, the Nuclear Depth Strike Bomb (NDSB), the Tactical Air-to-Surface Missile (TASM), the Artillery-fired Atomic Projectile (AFAP), and nuclear bomb modernization could take on even greater importance. Furthermore, such restrictions would jeopardize our ability to hold at risk those targets which the Soviets are continually making more survivable through mobilization, hardening, and burial. I am referring not only to their nuclear forces but also to their command, control, and communications facilities and equipment. We must maintain the capability to develop and test suitable nuclear weapons, such as earth penetrating weapons, to hold these targets at risk.
>
> Our own strategic deterrent also relies heavily on the survivability, in a nuclear environment, of our nuclear systems and our command, control, and communications systems. There are no substitutes for the underground nuclear tests which we use to evaluate the susceptibility of our systems to nuclear effects. Unless we continue our underground nuclear effects testing program, we will suffer major uncertainties about the survivability of many of these critical systems. A nuclear test ban below currently observed limits would preclude virtually all such tests.
>
> My assessment in this regard is not affected by whether the Soviets do or do not conduct such tests. I do not believe that our testing for the purpose of modernizing our forces will cause us or the Soviets to expand the arms race or to relax our efforts toward arms control. But I do know that without the flexibility to continue testing at current levels our nuclear deterrent will atrophy and the risks to our security will increase. It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program.
>
> Sincerely,
> WILLIAM J. CROWE, Jr.,
> *Chairman,*
> *Joint Chiefs of Staff.*

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Broomfield amendment.

Mr. Chairman, I am sorry to have to oppose the gentleman from Michigan's amendment. The biggest disappointment I have is, rather than moving toward us and having some kind of a compromise, this amendment really makes absolutely everything voluntary by the President. He can decide whether or not there is going to be a test ban. The problem is we have crossed that bridge. The American people have crossed that bridge.

They have decided there should be a test ban moratorium, and the reason they have decided that is that they have given the President over 6 years and there has been no progress on this issue. Every other President, from Eisenhower on, has advocated that this made sense; that we should move in that area, and this President has not done it.

That is why we are here today. If we adopt the Broomfield amendment, we are right back at the status quo where we should be.

I understand his arguments about verification. Let me tell you about verification. One of the interesting things that happened during this 6-year interim, while nothing else was happening, is they allowed, both sides have allowed, testing things to go on by the private sector, by scientists in both areas.

We have been allowed to drill holes around the test sites in the Soviet Union and drop seismometers in there. A seismometer is something that tests earthquakes or whatever. The interesting thing is the Soviet Union tests in rock; we test in sand, so the seismometers are even much more sensitive in the Soviet Union than they would be in the United States.

All of this about how it is unilateral is hoakum. The amendment insists we be able to use onsite, in-country scientists who are there with meters that we have tested and we understand in this country. This is not unilateral at all. The President does have, under my amendment, the option to pull out if it is not bilateral, if they cannot work out the mutual monitoring, and if it cannot be in-country or if they try to sneak around and change the test site.

I do not know how much clearer you can be. So I hear people over there saying they want what I want, but then the amendment that comes out says, "No, we do not; we really want status quo."

□ 1605

Look at what the amendments do, and listen to what the American people are saying. They are saying they are tired of waiting, and they wish the Congress would move forward to try to lower the level of nuclear fear and not increase it. I think my amendment does that, and I urge a "no" vote on the Broomfield amendment because I think his amendment does not.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentlewoman form Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, there is no Member in the House who finds the concept of even the idea of nuclear testing appealing. We all wish to end nuclear testing. The idea is how to do it best. I would suggest that the floor of the House is not the place to negotiate such a treaty.

I would also suggest that just the numbers in the House indicate that quite rightfully the House is a bit tired of this debate. While we are negotiating in Geneva, while there are steps moving forward, this will be the third time in 15 months that the House is bringing up this subject.

As one who has often agreed with the other side of the aisle, let me tell the Members that we can all write home and say we are for an end to the nuclear testing, but, frankly, we should not be doing it now when just yesterday our negotiators are sitting down in Geneva and when we know full well the President is making progress.

Let us admit something to one another. A Republican President cannot make changes, for instance, in union legislation because a Republican is automatically assumed to be antiunion, and any changes he or she would seek to make would automatically be both seen and suggested as antiunion.

It could not have been a Democratic President that opened the door to China because we would have accused him of being slightly pink, a little "commie sympo."

I will also tell the Members that it is this President who had better negotiate real arms control and an end to the testing that we all want, because he is the only one who can pass it through the Senate and whom the American public believes. So because I believe both sides desperately want this, I would suggest that we let the President negotiate.

I had a small amendment that would have actually complimented the President of the United States. It would have said, "Good job. Keep it going. Do it." Now, I have no idea why the Rules Committee would not allow that amendment, but there were some who even suggested that it was because some liberals found it impossible to say, "congratulations" to this conservative President.

I am kind of liberal on some stuff. I do not believe in that. But I believe if we move forward with Schroeder-Gephardt, we are not only politicizing something, but we ultimately are giving a bit of a lie to being opposed to the kind of testing that I believe across the board we all want to end.

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I only have 30 seconds, I say to the handsome gentleman from Massachusetts. I would like to finish, and then I would be happy to yield.

So I would suggest that the Members show a little bipartisanship for once on that side for some of us who have crossed the way. So for once, I say, cross this way and support disarmament, support ending the growth of nuclear weapons, support the chance for a real end to nuclear testing by supporting the Broomfield amendment.

Now, Mr. Chairman, I am happy to yield to the gentleman from Massachusetts.

The CHAIRMAN pro tempore (Mr. DORGAN of North Dakota). The time of the gentlewoman from Illinois [Mrs. MARTIN] has expired.

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to respond to a couple of things that have been said. No. 1, we always hear, when we have these amendments on the floor, comments like "great amendment, but not today. This is not a good time."

My question is, When is a good time? For over 6 years we have been trying to find a good time. Every time we in the Congress stand up to present an amendment, that is usually just the day before the President sits down to negotiate, and everybody comes in screaming, "oh, no, no. Don't do that. Don't do that. Give him some time."

What I am saying is the reason the communities have spoken and States have spoken and many Members of this body have spoken three times on voting for this is because they are at the point where they do not believe this is really going to happen. Furthermore, so many things have happened the other way that we now have all the pieces together, and this is the way we can do it mutually and bilaterally.

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding.

The question I was going to pose to the beautiful gentlewoman from Illinois was this: What is Ronald Reagan's negotiating position on the comprehensive test ban?

Well, if he had one, if we felt it was on the table, if we felt he understood it, then perhaps we would have less concern here. But in fact this administration has made it very clear that it has no intention of negotiating a comprehensive test ban treaty, and while I agree with the gentlewoman that it is the most important business that we can in fact conduct between our two countries, the President does not have a negotiating position on this issue and has no intention of putting it on the table.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I would just say that while allowing for any differences, it is not correct, and I do not think the gentleman really meant to say it, that this administration does not want to have a comprehensive treaty. I do not think that serves the debate well either. We may have differences on timing, and the gentleman may know that, but I am sure we all agree as Americans that what all of us want is a treaty both on arms control and eventually a comprehensive treaty for a verifiable test ban that we can all sign off on and that our Senate colleagues can pass.

Mrs. SCHROEDER. Mr. Chairman, if I may reclaim my time, I will yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding.

The problem is that the administration's proposal is to apply the CORR TEX system to the Threshold Test Ban Treaty up to 150 kilotons. That is great for testing for nuclear weapons that can basically destroy the State of Pennsylvania, but on getting it down to 1 kiloton we have heard no proposal, and they have no intention of going further and they have no negotiation in place in order to verify it or to negotiate.

The gentlewoman may in fact want to believe in some wonderful Santa Claus gift which Ronald Reagan is going to bestow upon the world in his last year in office, but unfortunately that idea and the reality are poles apart.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mrs. SCHROEDER. Mr. Chairman, I would say to the gentleman from Massachusetts [Mr. MARKEY] that he has stated the position very accurately, and I think we have in fact had testimony from the administration saying that they want to continue testing. So I think the cards have been laid out on the table, and we have a real concern on this side about that.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I would be glad to yield to the gentlewoman from Illinois.

The CHAIRMAN pro tempore. The Chair would remind the generous gentleman from Massachusetts that the gentlewoman from Colorado [Mrs. SCHROEDER] controls the time.

Mrs. SCHROEDER. And I would inform the Chair that we do have some speakers, so maybe we can continue this discussion a little later.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman from yielding me this time.

Mr. Chairman, I just want to make a case to my colleagues that we have just passed by almost a 3-to-1 vote on this bill the D-5 missile. We have knocked out a couple of amendments that would have eliminated the D-5 or seriously hampered its installation on our submarines.

The point is that we cannot develop a D-5 missile unless we can test it. The Broomfield amendment is the logical, smart, stable, moderate amendment because it says the two weapons systems that we are primarily interested in, Midgetman and D-5, the ones that this whole House concurs in, must be tested, and if the President certifies that we must test those systems to develop them, then we can test them. The Members of this House a number of times in subcommittee and in the full House have endorsed those systems, so if Members voted up on the D-5 system the other day, they should vote yes on Broomfield.

Mr. Chairman, let me make one last point. That is simply that in the last 20 years we have reduced the stockpile by testing; we have not increased it.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise very strongly in support of the Schroeder amendment and against the Broomfield amendment.

As has been mentioned previously, just about every President except the present one since Mr. Eisenhower has been very much in favor of a mutual test ban resolution.

We see that map bedecked in green. Thirty States of the United States and some 165 communities have been on record in favor of a mutual test ban, and we have high-quality military testimony that indeed the present systems such as the mobile Midgetman system and the Trident II missiles have been working very well without having any constraints from a test ban.

Particularly, Lt. Gen. Bernard Randolph, Deputy Chief of Staff for Research, Development and Acquisition of the Air Force, testified recently that.

> If a comprehensive test ban treaty is imposed, it would certainly influence the selection of the SICBM (Midgetman) warhead in that the W-87 (MX missile warhead) would probably be selected.

This makes for common sense, it makes for a lower cost in weapons systems, and I would also say that a vote for Broomfield is a vote for the President to do whatever he feels like doing, and we do not feel that he wants to do anything about nuclear arms control.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong support of the Broomfield amendment and in opposition to the Schroeder amendment which would cut off all funds for nuclear tests over 1 kiloton during fiscal year 1988.

The Broomfield amendment recognizes the importance of testing to our national security and to a continued deterrence. Testing is essential to assure us that our weapons are reliable, safe, and modern. There are those who would have us believe that testing is not essential to the further development of such new strategic systems as the Midgetman and the Trident II. This simply is not true. These new systems and their warheads require testing. Tests on new, modified, or previously untested warhead designs, such as on the Midgetman or Cruise missiles, are not effective below 150 kilotons. Much of the warhead testing on the MX and D-5 Trident II missiles was done before the 150-kiloton limit was set by the Threshold Test Ban Treaty in 1976. The maintenance of a 1-kiloton threshold will undercut our ability to ensure the reliability of our weapons.

One of the most important issues in the area of nuclear testing is verification. We have been unable to obtain agreement with the Soviet Union on effective verification of the 150-kiloton level. Reduced thresholds, such as 1-kiloton, are even more difficult to verify.

In addition, the Schroeder amendment is another attempt to force arms control legislation onto the administration. These testing restrictions, however, will not eliminate one nuclear weapon.

The United States and the Soviet Union continue to discuss the testing issue. The recent meetings in Moscow were very productive and further meetings on the testing issue will soon occur. The Schroeder amendment undercuts these diplomatic efforts.

The Broomfield amendment recognizes the importance of the Midgetman and Trident II missiles to our national security and provides the language necessary to protect the continued development of these systems. I support nuclear testing at the Nevada test site and I believe it is crucial for the United States to test future weapons systems. Therefore, I urge my colleagues to vote in favor of the Broomfield amendment.

The CHAIRMAN pro tempore. The Chair would advise the Members that the gentleman from Michigan [Mr. BROOMFIELD] has 1 minute remaining and the gentlewoman from Colorado [Mrs. SCHROEDER] has 3 minutes remaining. The gentleman from Michigan [Mr. BROOMFIELD] has the right to close debate.

Mrs. SCHROEDER. Mr. Chairman, I yield the remainder of my time to the gentleman from Massachusetts [Mr. MARKEY] to close debate on this side.

The CHAIRMAN pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 3 minutes.

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman from Colorado very much.

Mr. Chairman, I would like to respond to some of the mistaken nostrums we have heard from the minority side during the course of this debate. I would say to the gentlewoman from Illinois [Mrs. MARTIN] that there is no Reagan CTB negotiating position. If there was, then she should be able to tell us what the lower threshold is, if there is a lower threshold proposal.

Is there a quota? What is the quota? I would ask the gentlewoman from Illinois. Is there a draft Reagan CTB treaty? If there is, where is it?

The fact is that this administration is very vague on promises and very, very short on delivery on all these issues. On the question of whether or not this treaty is verifiable, that old shibboleth that in fact the technological capacity of this country is not capable of in fact verifying this treaty is absolutely untrue. In fact, if the minority had taken the time to have the briefing, they would know that the detection threshold of the United States, NORES array in Norway, is substantially lower than 1 kiloton. The exact number is classified, and I cannot in fact utter it on the floor of the House. It is very, very low.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I will yield after I have concluded. I will yield in just a second.

□ 1620

To those that say that somehow or another, this bans the first use of nuclear weapons, it once again shows there is a misunderstanding of this debate.

There is a concept called first strike, first use. There is a concept entitled nuclear test ban.

First strike goes to the MX missile and to the SS-18 on their side, and it allows for the first strike of the other side to knock out their retaliatory capacity.

First use is the decision to use nuclear weapons first in response to a conventional attack.

The third concept of nuclear testing goes to the question of whether or not we can verify nuclear testing on either side on a verifiable basis. That is what this amendment is all about.

The United States can do it if the technological equipment is in place.

Mrs. MARTIN of Illinois. Mr. Chairman, no one is doubting the sincerity or the expertise of the gentleman from Massachusetts [Mr. MARKEY].

I hope I misconstrued some of what the gentleman from Massachusetts said to sound as if that is what the gentleman was suggesting by those who might honorably and openly and honestly believe that the route the gentleman from Massachusetts [Mr. MARKEY] and the gentlewoman from Colorado [Mrs. SCHROEDER] are suggesting would ultimately lead not to agreement and not to a treaty, but to the opposite.

I am going to say this: The gentleman from Massachusetts asked that if the Reagan administration had a treaty, had four or five things, they would tell them, they would be right here on the floor with the Members now. I do not think it naive or wrong to trust a President of the United States, regardless of party, when I believe that the commitment he has made to the people and to the House to get a treaty is there; and second, the Members do not negotiate on this floor and say, "That is what you do with the Soviets."

Mr. MARKEY. Mr. Chairman, this President has said that he wants the hydrogen pump x-ray laser, regardless of any other treaty on the floor.

That is fundamentally contrary to this amendment which is on the floor right now.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I rise in support of the Broomfield amendment and in opposition to the Schroeder amendment.

Mr. Chairman, in response to the Edward Markey letter entitled "Will a Test Ban Harm Safety and Security? The Military Says No," and in response to his statements during this debate, let me say:

Mr. MARKEY is confusing the nuclear safety of the current stockpile with improvements that can and should be made to the stockpile. Incorporating modern safety standards into nuclear weapons does not imply that the current stockpile is unsafe.

Nuclear safety can always be improved and should be. It is one of the most important aspects of maintaining control of the nuclear forces.

All of our nuclear weapons meet the safety standards to which they were designed. Unfortunately, some of these designs are at least 25 years old. Modern technologies such as insensitive high explosives are now available that would significantly improve nuclear safety in an accident or fire.

Our major emphasis is to ensure nuclear safety in all environments, particularly abnormal environments such as aircraft crashes, fires, et cetera. The older nuclear weapons do not have modern safety features that are available today. The stockpile is about 30 percent modernized.

Mr. MARKEY quoted only a portion of Admiral Foley's response to a question raised by the Subcommittee on Procurement and Military Nuclear Systems on February 19, 1986. The following is the complete response:

Question. Are our stockpiled weapons presently considered safe enough to preclude unauthorized use, accidental detonation, or inadvertent release of radioactivity into the environment?

Answer. Yes. However, within the stockpile there are still warheads and bombs of older design (some date back to the 1950's) which do not provide the degree of safety or use control that we know is achievable today, particularly under abnormal environments such as aircraft crashes, fires, etc. The replacement or upgrade of these older systems is one of the primary purposes of the stockpile modernization program (production of replacement warheads) and of the stockpile improvement program (the retrofit of existing warheads).

Mr. MARKEY quotes only a portion of the testimony given by General Davis and Admiral Foley to the Subcommittee on Energy and Water Development of the Committee on Appropriations on April 23, 1986. General Davis stated that nuclear weapons will not "get any safer if you don't test." Admiral Foley stated that we have a requirement "to test for safety of the overall weapons system."

Mr. MARKEY'S statement in his recent "Dear Colleague" letter that "the record says something different" is incorrect and is misleading and distorts the record. As a result, I am seriously concerned about Mr. MARKEY'S motivations and credibility in objectively addressing this issue, which is vital to our national security.

Mr. Chairman, concerning the statement of the gentleman from Utah, Congressman WAYNE OWENS' remarks on the House floor to the effect that the Department of Energy regularly tests nuclear weapons at the Nevada test site when the prevailing winds carries the fallout radiation into his State of Utah is simply not based upon the facts. The last venting occurred on December 8, 1970, when the United States accidently vented through a fault line in the geology. Radioactivity was detected offsite. Four minor seepages have occurred since then:

June 29, 1971, minor radiation onsite only;

November 24, 1971, minor offsite radiation, not detectable at surface;

September 25, 1980, radiation barely detectable at test site border; and

March 31, 1984, radiation detectable only at emplacement hole.

The U.S. Environmental Protection Agency monitors and reports on these activities and can verify the facts.

These facts were discussed in hearings in 1979 and again in 1980.

I urge defeat of the Solomon amendment and ask the House to give their strong support to the Broomfield amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Broomfield amendment.

As already pointed out, it takes into account the need to develop the Midgetman, the Trident D-5 missile and the SRAM.

All of these enjoy considerable support here in the Congress.

The Broomfield amendment wisely takes into account the need to improve nuclear weapons safety and security. If we plan to introduce new and mobile missile systems, new safety and security measures must be added, and their reliability must be confirmed through testing.

The service people working around the systems and the American people living near them deserve our very best efforts to ensure the safety and reliability of our nuclear forces.

The Broomfield amendment clearly supports our Geneva negotiators, including the nuclear testing meetings between the United States and the U.S.S.R. which started up for the fifth time again just yesterday.

Mr. Chairman, I urge support for the Broomfield amendment; I oppose the Schroeder amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 131]

ANSWERED "PRESENT"—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay

Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1635

The CHAIRMAN pro tempore (Mr. Russo). Four hundred seventeen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentlewoman from Colorado [Mrs. Schroeder] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Members will have 5 minutes within which to record their votes.

The vote was taken by electronic device, and there were—ayes 201, noes 220, not voting 11, as follows:

[Roll No. 132]

AYES—201

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Chappell
Cheney
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Jones (TN)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Pickle
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—220

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Biaggi
Boehlert
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—11

Annunzio
Boggs
Bruce
Callahan
Duncan
Foglietta
Gephardt
Jones (NC)
Ray
Roemer
Whittaker

□ 1645

The Clerk announced the following pair:

On this vote:

Mr. Whittaker for, with Mr. Roemer against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CALLAHAN. Mr. Chairman, I missed the vote on the Broomfield amendment which would have given the President discretion in testing nuclear weapons.

Had I been here, I would have voted "aye."

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. Russo). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. Schroeder: Strike out section 3135 (page 221, line 6 through page 222, line 3) and insert in lieu thereof the following:

SEC. 3135. NUCLEAR TESTING LIMITATIONS.

(a) Limitation.—Effective 90 days after the date of the enactment of this Act, funds appropriated for fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding one kiloton, or a nuclear explosion that is conducted outside a designated test area, unless the President certifies to Congress—

(1) that the Soviet Union, after the end of the 90-day period beginning on the date of the enactment of this Act, has carried out a nuclear explosion with a yield exceeding one kiloton;

(2) that the Soviet Union, after the end of such 90-day period, has carried out a nuclear explosion outside a designated test area; or

(3) that the Soviet Union has refused to accept and implement reciprocal in-country monitoring arrangements to take effect not later than the last day of such 90-day period and extend through the remainder of fiscal year 1988.

(b) Termination for Certain New Agreements.—The limitation on nuclear explosions in subsection (a) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union establishing significant limits on nuclear explosions by such countries that is negotiated after the date of the enactment of this Act.

(c) Definitions.—For purposes of this section:

(1) The term "in-country reciprocal monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through the emplacement by each country of seismic monitoring stations on the national territory of the other so that the seismic monitoring network of each nation will be capable of detecting and identifying nuclear explosions with a yield exceeding one kiloton at known nuclear weapons test sites of the other nation and at any other site of the other nation that currently has the capability to accommodate decoupled nuclear explosions with a yield exceeding one kiloton.

(2) The term "designated test area" means an area within the Soviet Union or the United States which—

(A) is known to be composed of strong-coupling rock; and

(B) is located within the boundaries of a single existing nuclear weapons testing site in such country.

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from Colorado [Mrs. Schroeder] will be recognized for 10 minutes and the gentleman from California [Mr. Lagomarsino] will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Chairman, I yield myself as much time as I may use.

Mr. Chairman, we are now at the amendment that I think is very important. It is cosponsored by myself, the gentleman from Missouri [Mr. Gephardt], the gentleman from New York [Mr. Green], the gentleman from Massachusetts [Mr. Markey], the gentleman from New York [Mr. Downey], and many other Members.

We have voted on this two other times in this House. I wish we could have had the debate on this amendment down on the Mall, because down on the Mall we now have a display done by several artists from my district where they have sculpted the entire nuclear stockpile of the United States. It really is an awesome experience. Rather than doing one more poster with a dove on it they decided to make the entire stockpile with one sculpture for each item in it, and it goes on and on and tells you how tremendous is the overkill of our arsenal.

What this amendment does is it only stops nuclear testing above 1 kiloton, and it only stops it if the Russians stop it. Everybody agrees we are ahead of the Russians when it comes to warhead development. Therefore, we would freeze in our superiority if they accept this, and if they do not, there is no deal.

How do we guarantee it? This only takes effect if there is in-country monitoring by both sides with proven seismetric and scientific data that we have checked.

So it only takes effect if we have in-country monitoring, the Soviets accept it also, and finally, as long as both sides stay in the same test range where they are now.

But the most important part I think is that it will stop nuclear proliferation, because many countries that are thinking about making nuclear weapons have said they will not do it if we finally cap some of this madness by at least having the two superpowers halt.

This only halts for fiscal year 1988 and it only halts if the Soviet Union halts, and if there is monitoring.

This is what so many of us said that we were for. Here it is. It is a challenge, and it says let us see what we can do to lower the level of nuclear terror that was created on this planet in the 1940's and that we have only increased every year. Let us see if we can turn it around.

This makes an incredible amount of sense and I urge an "aye" vote on the Schroeder-Gephardt amendment.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. Kyl].

Mr. KYL. Mr. Chairman, there is a fatal flaw in the Schroeder amendment. Instead of just stopping nuclear tests, it precludes exploding all nuclear weapons over 1 kiloton.

This obviously unintended language would prohibit the United States from retaliating in the event of an attack by the Soviet Union. That is not just my opinion, but it is the considered opinion of the general counsel of the Department of Defense.

I refer my colleagues to the explicit language of the amendment which I suspect not all of them have read. But I will do so.

The operative words are:

Funds in the fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding 1 kiloton or a nuclear explosion that is conducted outside a designated test area, unless the President certifies that the Soviet Union has done the same thing.

Now my friends, it cannot be helped; that is the explicit language of the amendment. I did not draft it, but those are the words.

This is supposed to be a test ban treaty, but the word "test" is nowhere to be found in the language of the amendment. That is important, because in an analogous treaty in 1963, a treaty banning nuclear weapons tests in the atmosphere, outer space, and underwater, it explicitly includes the word "test."

□ 1700

Since the language is otherwise almost identical, the general counsel has concluded that the omission is critical.

The conclusion of the general counsel is, and I am quoting now, "Therefore, the prohibition on nuclear explosions with yields above 1 kiloton appears absolute."

I am a lawyer, I am a constitutional lawyer, but that is not just my opinion. That is the opinion of the general counsel of the department, so whatever else you may think of the intent of this amendment, you should vote no on this version. It is flawed and the unintended consequences are simply too drastic.

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time to respond to the gentleman's argument.

The second word of the amendment has the word "test" in it. I am sorry he did not get to the second word.

Secondly, there are two other issues in here that I think are very important. Under the atmospheric test ban treaty and the nonproliferation test treaty, both of those say that the President cannot test in the atmosphere, nor could they transfer nuclear weapons to another country without 90-day notice.

It has been looked at by lawyers all over and they have said that those are invalid in times of war. So I think all of those arguments are moot.

Mr. MARKEY. Mr. Chairman, will the gentlewoman yield.

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I just want to point out that I think the general counsel that the gentleman is referring to is the same general counsel who has reinterpreted the ABM Treaty, and I do not know whether or not this House wants to rely upon that gentleman as the source for our determining whether or not we can vote upon a test ban.

Mrs. SCHROEDER. I think the gentleman from Massachusetts is correct, and I think we have given way too much time to this silly argument.

Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I think the basic question on this amendment is this: Do you think it is in the national interest and in the world's interest to have a mutual and verifiable ban on the testing of nuclear weapons, one that gives the President plenty of discretion to determine if, in fact, you have a mutual and verifiable ban?

If you think the answer is yes, you ought to vote yes on the amendment. It seems to me, for the first time in the last 40 years, we stand at the brink of a verifiable and mutual ban on virtually all nuclear weapons testing. We are also at a period of time where both the Soviet leadership, as well as our own leadership in this country are eager for a major arms control agreement.

I would like to send a signal, a strong signal that maybe this is the beginning of the end of nuclear weapons development in this country.

I urge you to vote yes on the Schroeder amendment.

Mr. LAGOMARSINO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I would like to quote for the benefit of my colleagues so they will not be confused by the colloquy between the gentlewoman and myself as to precisely what the wording of the amendment is.

The gentlewoman, I suspect, is referring to the title of the amendment, which is the only place that carries the word "testing." As you lawyers understand, the language of the amendment itself is controlling.

Here is the language of the amendment:

> Effective 90 days after the date of the enactment of this Act, funds appropriated for fiscal year 1988 may not be obligated or expended to carry out a nuclear explosion with a yield exceeding 1 kiloton or a nuclear explosion that is conducted outside a designated test area.

Nowhere in the text of this amendment is the word "test" used. It is incorrect to infer otherwise. It is also incorrect to suggest that the attorney who rendered this opinion, the general counsel of the Department of Defense, rendered any opinion with respect to the ABM Treaty. That is absolutely incorrect.

Mr. LAGOMARSINO. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in opposition to the Schroeder amendment.

There are several reasons why we should oppose this amendment.

First, nuclear weapons involve timing questions in the billionths of seconds. They involve temperatures which are only found at the center of the Sun. We don't always know how these weapons will behave. Testing assures us that our nuclear weapons work when they are supposed to. No one would dream of buying a car or flying in an airplane which had only been certified as safe on the basis of paper tests and computer simulations. We demand the most thorough testing of our nonnuclear weapons. Why not demand the same for our more complex weapons?

Second, we test to modernize our weapons. The MX, B-1, and the ground-launch cruise missile were built to modernize our weapons systems in the face of the Soviet threat. In each case, we had no existing design, which could be adopted to the new system. Some of the bombs designed for the old B-52 were not compatible with the new B-1. If you support the small ICBM please underline that the warhead will require nuclear testing.

Third, we have been able to reduce our stockpile, rather than increase it through testing. The knowledge gained from testing has made it possible to reduce the number of weapons in our stockpile so that it is almost a third smaller than it was 20 years ago.

Fourth, we test to assess the capabilities of the Soviets. We never want to underestimate, or overestimate Soviet capabilities. Their advances in nuclear technology pose serious threats. Testing allows us to determine what effects their weapons will have on our own weapons. But our testing is not just limited to weapons. We test our command, control and communications systems to see how they will react when subject to radiation.

A ban on nuclear testing is not compatible with our national security interests. As long as the security of the United States and that of our allies continues to rely on nuclear weapons as a credible and effective deterrent, we must be able to continue testing.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, for those Members who voted for the D-5, and you did that the other day by a margin of 3 to 1 or have supported the Midgetman, it is important to vote no on the Schroeder amendment.

We have had the testimony by America's scientific experts before the Policy Committee on Armed Services. The consensus is that you cannot effectively develop these systems which most Members in this House want unless we can test.

I would urge that if you are for the D-5, if you are for Midgetman, I would urge that you vote "no" to the Schroeder amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from California [Mr. HUNTER] yields back 1 minute.

The gentleman from California [Mr. LAGOMARSINO] has 6 minutes remaining and the gentlewoman from Colorado [Mrs. SCHROEDER] has 5 minutes remaining. The gentlewoman from Colorado has the right to close.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, the lawyer that our distinguished colleague, the gentleman from Massachusetts [Mr. MARKEY] referred to is a lawyer from the State Department, and not from the Department of Defense. I think some Members would like that clarified.

I just want to reemphasize what the gentleman from California [Mr. HUNTER] said, that the overwhelming vote for the D-5 missile the other day will be completely swallowed or eroded by this Schroeder amendment. If you want to use the word "comprehensive" in a different way with a small "c," this comprehensively, as far as any fair analysis is concerned, ties the hands of the President and our negotiators and cripples really valid research and development.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, the original opinion came from the Department of Defense and then the State Department commented upon it. There is no question that both departments have, in fact, issued this identical opinion. That is where the interpretations regarding the ABM Treaty has also come from.

I just wanted to clarify that because I think the gentleman——

Mr. DORNAN of California. Reclaiming my time, I did not mean to indicate that there was anything invalid about the lawyer's opinion from the Department of State, but we are talking about an armed services bill here, an amendment process thereto, and there were some Members who would have wanted that clarified.

Remember, in a debate like this, I think it is always healthy to quote one of the majority party's unassailed heroes, Thomas Jefferson. He said:

> You take two intelligent, capable people and give them the exact same body of facts and they can legitimately come to two different opinions as honest, decent people.

I just think that although this amendment is offered in all sincerity with the best of intentions, it is so broad and wreaks such mischief with not only our testing process but the negotiating process that I hope those people check the RECORD and see how they voted on the D-5 missile the other day so that they do not cancel out that vote with a vote for the Schroeder amendment here.

I recommend, as does the majority of people on armed services, a "no" vote.

The Schroeder amendment or any other derivation like this of nuclear test ban is not in the best interests of the United States. Any nuclear test ban, verifiable or not, would not lead to arms reduction or result in better relations with the Soviet Union. Perhaps the most important reason against any test ban, at this time, is that testing is essential in maintaining safety and reliability of our nuclear arsenal. Without testing, our strategic deterrent would be greatly weakened.

The motivation for the cessation of testing in the 1950's and early 1960's was the very real radioactive danger to the atmosphere posed by nuclear testing. With the advent of underground testing this danger was eliminated and the three nuclear powers—the United States, the Soviet Union, and Great Britain—reached an agreement to prohibit testing in the air, in the oceans and in outer space. It was further agreed a few years later to limit the underground tests to explosions under a yield of 150 kilotons of related energy. These agreements have proved adequate enough to have allowed the United States to unilaterally reduce since 1967, our nuclear warheads by 25 percent and megatonnage power by more than one-third.

As an official House observer to the Geneva arms talks, I know from talking to our negotiating team that a comprehensive test ban would not help our negotiators in Geneva. It simply would not lead to a more stable nuclear balance. Even the Washington Post editorial staff, a frequent opponent of President Reagan's arms control policies, last year came out against a House-sponsored resolution that called for the President to join the Soviet Union in an unmonitored test moratorium. The editors did not "think the administration should be faulted for rejecting calls to suspend or ban tests. Rather it should be held accountable for achieving its stated negotiating goal of achieving arms reductions. Here is where solid progress should be made." I agree. For, only if we can agree on reductions that will lead to the eventual elimination of nuclear weapons, can testing cease.

President Reagan made this point quite clearly:

> While we are actively investigating technologies that may one day make us less dependent on offensive nuclear weapons for our security, nuclear weapons will remain for the foreseeable future the key element of our deterrent. In such a situation, where both the U.S. and our allies must rely upon nuclear weapons to deter aggression, nuclear testing will continue to be required.

There is a mistaken impression that nuclear weapons testing is only for development of new, better or bigger weapons. On the contrary, nuclear weapons testing provides the United States with essential information on safety and the reliability of nuclear weapons and nuclear effects, helps provide information on protection equipment and people from the effects of nuclear radiation and helps our scientists keep abreast of likely Soviet nuclear programs.

We need to test to maintain our confidence in the reliability of weapons that are already in our strategic stockpile. There have been a number of reliability problems that only came to light because of testing. Without nuclear testing, we would lose confidence in our deterrence. We would be forced to rely on larger, older weapons designs and we would be forced to maintain even larger arsenals. This is counter to the President's earnest desire for arms reduction and, paradoxically, opposite to the goal sought by the proponents of test ban.

Nuclear testing is essential for the development of safe, secure, and effective warheads for the new weapons systems necessary to counter the ever changing Soviet threat. Based on available evidence, the United States maintains higher standards for safety than does the Soviet Union. These higher standards require more testing to verify that safety improvements do not interfere with operation of the warheads. The United States goes to great lengths in warhead design not only to preclude unauthorized detonations, but also how to limit dispersal of radioactive material in the very unlikely case of accident. All of these goals, which are unique to our Judeo-Christian values, require a greater reliance on nuclear testing.

Lastly, there is the issue of verification. While it is true there have been substantial improvements in our ability to detect and classify Soviet nuclear tests, many problems remain. Seismic monitoring from remote stations—the only verification means currently available to us for monitoring underground testing—is not sufficiently sensitive to identify small tests, much less to estimate their yields.

The simple fact is that even with the most sophisticated equipment the best estimate of Soviet nuclear yields are off by as much as a factor of two. With commercial equipment this factor is even greater. Even at our own test facility in Nevada, when we know the yield of underground tests, there is a 10- to 15-percent error in the seismic readings.

In a comprehensive test ban environment any detection of a nuclear detonation would signal cheating, but any successful hidden test would provide greater gains by the nation who detonated the nuclear device. At present most of the techniques that could be used to disguise or hide nuclear tests are prohibitive because of the cost involved, but this may not be the case if the gains made by covert testing would nullify the costs.

Detonating weapons in underground cavities "decouples" the blast from the surrounding earth and greatly complicates the verification problem. Sufficiently small tests might be totally undetectable, while larger ones would appear to have lower yield than is actually the case.

There is virtually no limit to the size of a test that could be concealed in very deep space, a strategy with little attraction today—when tests up to 150 kilotons can be done legally underground—but temptation which might have much more appeal under a comprehensive or low-yield threshold ban.

While we continue to search for a meaningful accord with the Soviet Union, it is prudent to reject the reckless course that those who favor a nuclear test ban would have us follow. But there are things that we can and should do. We can encourage the administration to improve our national technical means of verification to monitor compliance with any test ban. We must encourage the administration to continue to press the Soviet Union to eliminate the deep sense of distrust raised by Soviet deception in past arms control agreements. Only when all the doubts surrounding compliance are rooted out, especially in the area of testing, can an aura of trust begin.

Nuclear testing is essential to keep abreast of Soviet nuclear weapons developments and to avoid any technological surprises. We test neither more often than necessary nor at levels higher than necessary to meet our security arrangements.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I want to begin by alluding to the argument that says that if we pass this, we cannot have a nuclear war. We have just heard the intellectual version of chapter 11 bankruptcy. When you do not have any sensible arguments to make you pull that one out.

No one really thinks that. To look at this administration and to look at the hearings, and to look at the ways they have interpreted the Boland amendment, and you look at the breadth and the loopholes they have found in the Boland amendment and all of a sudden, we are to believe that if the Schroeder amendment passes, they would honestly think they could not have a nuclear war.

Parliamentary rules do not allow me adequately to discuss the merits of that particular argument. What we have heard is an honest argument from the the gentleman from California, both gentlemen from California, that it is not that they are against this because they think the Russians will not abide by it; it is not that they think it is unverifiable, they want to keep testing.

If you keep testing, you keep spending. If we keep testing, they keep testing, and you have whatever you have at a higher level of instability and expense.

This says we will not test if they will not test and they let us check up on it. Why do people think it is in our interests to defeat this so that we say to the Russians, "Keep on testing"?

□ 1710

What we are saying is, let us quit such testing. As long as we can verify that, as long as we will be sure they are not testing, let us save the money and get to a more stable situation.

Mr. Chairman, I urge that the amendment be adopted.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maine [Mr. BRENNAN], a member of the committee.

Mr. BRENNAN. Mr. Chairman, I rise in strong support of the Schroeder-Gephardt amendment calling for a mutual and verifiable nuclear test ban.

Last summer in Maine, I had the opportunity to discuss with the distinguished Nobel Peace Prize winner, Dr. Bernard Lown, the merits of a mutual and verifiable test ban. Dr. Lown stated that it was his belief a test ban was the best single step toward achieving meaningful arms control and lessening the threat of nuclear annihilation. No testing simply means no new weapons. Without the confidence nuclear testing provides, there will be less temptation to continue the development of new nuclear weapons. Once the faucet of new weapons has been turned off, we can turn our attention toward reducing the existing stockpile. It is important for the mind-set of both the Soviet Union and the United States to step away from nuclear arsenal expansion and embrace the concept of arms reductions.

I believe there exists an opening with Secretary Gorbachev that the U.S. can explore to reduce the proliferation of nuclear weaponry. The amendment offers a cautious and balanced approach by insuring that any test ban is mutual and verifiable. The amendment also improves last year's language by calling for in-country monitoring—a more effective means of verifying the test ban. The Soviets' agreeing to this provision can be viewed as another positive signal that new opportunities exist for improved relations between our two nations. While keeping a healthy skepticism regarding the Soviet Union we can continue to explore the many avenues available to reduce tensions which exist between us. However, let's pursue an approach which allows us to move away from arms growth and start on a course for arms reductions.

I urge you to join me in support of the Schroeder-Gephardt amendment.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I do want to mention that this debate takes place this year in a little different context than it did last year. I think it is a context that we ought to mention.

This year the Soviets have acknowledged very recently in conversations with Secretary Shultz in Moscow that they recognize the importance of the verification concerns that many of us have had over a long period of time around these kinds of negotiated agreements. In fact, when Mr. Shultz was speaking with Mr. Gorbachev in Moscow recently, to his surprise Mr. Gorbachev acknowledged that they had examined our CORRTEX methods and were now prepared to discuss those methods with us. In response to Mr. Shultz' offer, they have now agreed to joint scientific teams which will evaluate the seismic methods and the CORRTEX methods of analyzing tests and verifying those tests.

So we have now made a very important step forward in this business of negotiating and preparing the foundation for a negotiated agreement that would manage tests and ban many more than we have banned under any current agreement that we are either a signatory to or abiding by. I think that is very important.

Mr. Chairman, in my estimation, to pass this amendment at this time would undermine our progress on the verification issue rather than accelerate it. So, although I supported the amendment last year, I do not support it this year.

Mr. AuCOIN. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I cannot yield on my time.

Mr. AuCOIN. The gentlewoman has time. Will the gentlewoman yield to me?

Mrs. JOHNSON of Connecticut. They are pressed for time, and I cannot yield on my time.

Mr. AuCOIN. The gentlewoman still has time. Will she yield?

Mrs. JOHNSON of Connecticut. No, I will not.

Mr. Chairman, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentlewoman for yielding this time to me.

I would just stress a few points. All U.S. Presidents since Dwight Eisenhower, excepting this one, have supported the principle of a comprehensive test ban. Once the Soviets accepted the idea of onsite inspection, that has been a new ingredient in arms control and the major reason that this Congress should act at this time.

Second, in terms of test and national security, we have done more than the Soviet Union by a quantum measure. We have done more sophisticated tests than the Soviet Union.

Third, in terms of proliferation, all issues are not between the United States and the Soviet Union. If there is going to be any hope of holding back proliferation of nuclear arms to other countries, other than our two great powers, we are going to have to have a test ban.

Finally, let me just stress in terms of context that at this time the administration is moving toward a more limited test ban, a threshold test ban, of a lower nature than currently exists. That will be a positive step but a very limited positive step. The administration has been given on a golden platter the opportunity for a comprehensive test ban to end all nuclear testing around the world. In potential, it should not fail to pick up the cudgels of responsibility.

Mr. Chairman, I urge this Congress to adopt the Schroeder amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. LAGOMARSINO] has 2 minutes remaining.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself my remaining 2 minutes.

Mr. Chairman, I can understand why some Members voted for this amendment in previous years when it appeared, at least to some, that there was no progress on arms control. They cannot say that now. We are apparently very close, from everything we see and hear, to negotiating a missile agreement on INF with the Soviet Union. This is the first time in history when an entire class of nuclear missiles will be taken out of use. This President is the first one who has ever proposed that we get rid of all nuclear missiles.

So I think the situation is far different than it was even a year ago. This amendment, as has been pointed out on this side, would stop the development of the Midgetman, of the Trident D-5 submarine missile, and the short-range attack missile—SRAM.

Mr. Chairman, I think this is extremely important. I am surprised that some of the Members on the other side who always seem to be concerned and, I am sure, sincerely concerned about safety are not concerned about safety questions here. The amendment ignores the need to improve nuclear weapons safety and security, not only for those men and women in our Armed Forces who have to handle these weapons, but for the citizens who live around the areas where they are kept.

Mr. Chairman, I urge my colleagues to vote against this amendment and to back up our negotiators in Geneva.

The CHAIRMAN pro tempore (Mr. RUSSO). The gentlewoman from Colorado [Mrs. SCHROEDER] has 1 minute remaining.

Mrs. SCHROEDER. Mr. Chairman, I yield my 1 remaining minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, the Schroeder-Gephardt amendment on nuclear testing is clearly in our own interest. First, this amendment is not asking us to give something up. This moritorium on testing freezes the Soviets in a position of disadvantage in the field for nuclear warhead technology. We now have the advantage, not the Soviets. It would freeze them in a position of disadvantage because it would prevent them from improving miniaturization and from increasing the accuracy and safety of nuclear warheads.

Second, this amendment is mutual. It is not something the United States would do unilaterally. We begin our moritorium only if the Soviets resume their moritorium.

Third, this moritorium it is verifiable. It provides for onsite inspection, which is a new ingredient that was not included in testing amendments we passed in previous years.

Fourth, the amendment would not rule out the D-5 missile. Much has been made of the impact of this amendment on the D-5. The Department of Energy, however, has a window of 90 days in which to conduct the one test they need. I believe that is more than enough time.

Finally and most importantly this amendment, does not preempt the President. He has full scope to negotiate a comprehensive test ban or any other agreement that he considers in our interest.

Mr. Chairman, I urge adoption of the Schroeder-Gephardt amendment.

The CHAIRMAN pro tempore. All time has expired.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I ask unanimous consent that I be permitted to yield my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Chairman, let me just briefly answer the argument that by this provision there would be a prohibition of use of nuclear weapons in time of war. That is a serious charge, but it is totally fallacious.

Here is what the amendment says: the prohibition on appropriated fund use is effective 90 days after the date of enactment of this act, and if the President certifies that the Soviet Union has carried out a nuclear explosion after the end of the 90-day period, he can proceed.

So it is an absurd argument that there is any prohibition on the use of nuclear weapons by us if there were an attack on us, because this does not apply for the first 90 days, and after that, if there has been a nuclear explosion by the Soviet Union, all the President has to do is certify it, and then he is free of any restriction. Maybe it is the reductio ad absurdum by the other side that indicates the poverty of this argument.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the Schroeder-Gephardt amendment is necessary because this administration, heedless of the consequences, has turned its back on the bipartisan goal of a comprehensive nuclear-weapons test ban. This is the only administration that has not sought to build on the precedent of earlier test- ban treaties. This administration is pursuing the mirage of winning the nuclear-arms race, and a test ban would only get in the way.

But the argument for a comprehensive test ban that has convinced five Presidents, Republicans and Democrats alike, remains compelling. The nuclear-arms race cannot be won, and a test ban can help bring it to a halt.

Don't let the reliable stockpile argument distract you. It's a red herring. So is the argument that we can't arm our new missiles if we don't have new, improved warheads. The fact is that we do not need explosions of more than a kiloton to be sure our warheads can annihilate our adversaries.

These arguments are detours from the real issue: Do we want to have an ongoing nuclear arms race or not?

A ban on test explosions will not, immediately and by itself, stop the arms race; too many already-tested weapons are being developed and deployed. Arms control also requires urgently an agreement curbing the development and deployment of strategic weapons.

But a test ban on militarily significant weapons tests can help us escape the vicious circle of deployment and counterdeployment. Racing around that vicious circle has produced nothing but a costly and dangerous proliferation of multiple warheads, mounted on evermore accurate missiles.

Vote for the Schroeder-Gephardt amendment. Vote to help get us out of the vicious circle.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the coauthor of the amendment, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, there is one overriding and compelling argument for voting for a ban on nuclear testing. That argument is that we are ahead. It makes no reasonable sense to have continued testing. The only thing it can accomplish is to allow the Soviets to move up to us or ahead of us by being able to test their weapons. If you are ahead, you want to maintain the lead. We are ahead.

So to ask for more testing is only to ask to lose the lead. We have the sophistication of nuclear weapons today. The argument is made that we should not tie the President's hands.

We have known for some time that this treaty is verifiable, and that was the worry before. We now know that it is, and it can be. The argument before was that we could not reach an agreement with the Soviets.

The Soviets have said they are going to do a ban if we do a ban. So what on Earth is the reason that we would not now want to pass legislation that says, "Let's go forward?"

I looked at Time magazine today, and they had a segment about all the new more sophisticated weapons they may be able to come up with in the years ahead.

I want to ask the Members a question. Is it not better to stay where we are with the sophisticated weapons we have rather than engaging in a further arms race to come up with microwave and all kinds of wonderful new devices to kill people when we do not need to go into that arms race and we can avoid it while we are still ahead?

John Kennedy, when he described the 1963 agreements on limiting nuclear testing, said that it was a "shaft of light cutting into the darkness." Today we have another opportunity to beam a shaft of light to cut into the darkness and stop further nuclear testing.

Mr. Chairman, I urge the Members to vote for this amendment.

The CHAIRMAN pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] has 2 minutes remaining.

Mrs. SCHROEDER. Mr. Chairman, I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Chairman, under the rules under which we are presently operating, is it permissible for this Member to yield a specific amount of time to another Member?

The CHAIRMAN pro tempore. The gentleman may yield a specific time to another Member but must remain standing during that time.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. Mr. Chairman, I thank the distinguished gentleman for yielding this time to me.

This debate seems to be taking a different turn. As was correctly pointed out by the gentleman from Arizona, we are not talking about tests here, we are talking about nuclear explosions, and albeit it was laughed at on the other side for some reason, although it is a serious matter, it was said that all the President would have to do is certify if the Soviets instituted a nuclear exchange, that all the President would have to do is certify that indeed the Soviets had set off a nuclear explosion.

It would be pretty good to see if he could pick up the pieces to make that certification. But more seriously, the allegation was made that we are somehow ahead of the Soviet Union in warheads. We are not.

It was said that somehow the Soviets have quit testing because they do not need any new warheads. They have just made operational the SS-25, the SS-24, the SS-23, the SS-22, and the SSN-21, and they have a whole raft of new warheads.

If the Schroeder amendment were to become law, we would have no D-5 missile and we would have no Midgetman. There have been many Members who want the nuclear test ban or a nuclear explosion banned who have been clamoring for a Midgetman, but we could not have it because we could not test it.

So if you are confident that we could have a nuclear deterrent without testing it or manufacturing it or making it, if you are confident that we are ahead of five new Soviet missile systems and that we are ahead by having no tests, go ahead and vote for the Schroeder amendment. But if you think that the United States is worth defending, if you think that the United States has a worthwhile necessity to use its technology, defeat this amendment.

□ 1725

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman from Michigan [Mr. LEVIN], I thought, clarified the point quite well for many of the Members on this side.

The gentleman from Michigan admitted that in fact the language does force the President to certify Soviet nuclear explosions, or really in the position under this law, that if the Soviets would hit New York City with a nuclear weapon, the President would have to certify to the Congress that he was going to launch our retaliatory force prior to actual launching that force.

It puts the President in an absolutely absurd position, and seems to me to be laughing at that kind of absurdity on that side of the aisle, and says more than we need to know about the contents of this particular measure.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we have had a rather long and extensive debate. I think most of the salient points have been covered.

I really believe that the point made by the gentleman from Arizona [Mr. KYL] is a good and valid point when the gentleman says that the Department of Defense general counsel has offered a legal opinion that this language in the Schroeder amendment could be construed to prohibit the President from ordering the deployment of nuclear weapons with yields of 1 kiloton in defense of the United States.

What this means is, in the event of an all-out Soviet nuclear attack, the President could not order a retaliatory strike without first coming to the Congress and getting permission.

I think that puts the President in an untenable position, but it all boils down to this, and we have commented on this before.

We should not in this vehicle load it down with all of these policy issues and micromanage what the President can do in terms of an international policy, in terms of treaty.

We are making the bill worse with every ornament that we hang on it. We have been 3½ weeks now working on this bill.

If we keep putting amendments such as this on it, the Members are assuring, believe me, that this bill will be vetoed, that all the work that we have put into it will go for naught.

If for no other reason, let us not adopt the Schroeder amendment. It is not good policy.

It is counter to what we would really like to do.

For the Members who are interested in the small mobile, we cannot even deploy a test and deploy a warhead on it, even though we build the missile, so do not encumber the bill with more items on it that cannot be lived with by the administration and that would make it sure for a veto.

I ask the Members, please vote no on the Schroeder amendment.

Mr. LIGHTFOOT. Mr. Chairman, I rise in opposition to the Schroeder amendment to prohibit nuclear weapons testing above 1 kiloton for several reasons that I want to share with my colleagues.

First let me note that I voted in favor of an almost identical amendment during the 99th Congress. At that time the United States was testing nuclear weapons, but the Soviet Union abstained from testing for a year and offered to continue to observe a moratorium as long as the United States reciprocated. When the administration went ahead with testing despite this offer, many of my constituents conveyed to me their grave concern about the administration's policy and they questioned the administration's sincerity about reaching an arms control agreement. Sharing these concerns, I voted in favor an amendment to impose a nuclear test ban as long as the Soviet Union continued to abstain from testing.

However, because the facts surrounding this situation have changed drastically since that vote, today I intend to vote against the Schroeder amendment.

The primary reason that I believe this body would be ill-advised to adopt the Schroeder amendment is that the administration is currently addressing this very issue as part of its new round of negotiations with the Soviet Union in Geneva. Last year this body recognized the wisdom of withholding congressional mandates during crucial negotiations by avoiding such action prior to the Reykjavik summit. Negotiations on nuclear testing stemming from the Reykjavik summit continue, and I believe it would be particularly disruptive to preempt the administration in its efforts at this time.

Another important change that should be considered during this debate is the fact that the Soviet Union has resumed nuclear weapons testing. This essentially renders null the Schroeder amendment since it is conditional upon the Soviet Union's abstaining from testing.

Furthermore, in adopting the test ban amendment last year, we agreed to give the Soviet Union the benefit of the doubt with regard to their intentions to resume testing. However, their ability to immediately resume testing proved they always intended to do so, since planning for a test normally takes about 1 year.

Mr. Chairman, the last time the United States entered into a nuclear test moratorium with the Soviet Union was from 1958-61.

The Soviets ended that moratorium abruptly with over 30 tests in 2 months—the most massive series of tests in history. As President Kennedy said shortly after the violation:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium.

In conclusion, Mr. Chairman, I want to suggest to those who supported this amendment as a symbolic gesture during the last Congress that we now face entirely different circumstances with regard to this vote. For those who doubted the administration's intentions, the record shows clearly that the administration has made genuine progress toward a substantial arms control agreement in the short period of time since we last debated this issue. Those negotiations continue with indications of positive results. We've tried to legislate an answer to the problem of nuclear arms control—this time, let's try placing faith in our country.

Mr. KASTENMEIER. Mr. Chairman, I rise in support of the Schroeder-Gephardt amendment which prohibits the use of fiscal year 1988 funds for conducting nuclear explosions with a yield greater than one kiloton, provided that the Soviets halt testing and agree to the installation of in-country monitoring equipment. This ban would be lifted if the President certifies to the Congress that the Soviets will not permit in-country monitoring, or if the Soviets conduct a nuclear test with a yield greater than one kiloton, or conduct a test outside a designated test area.

Both nuclear superpowers are pursuing security through the development of powerful new weapons systems which produce only greater insecurity. This dangerous cycle must be ended. Albert Einstein once commented that seeking security through armaments is a dangerous illusion. This is a precise description of the situation in which the United States and the Soviet Union find themselves today.

If the United States and the Soviet Union abide by a moratorium on nuclear testing, the way would be clear for the two superpowers to proceed with the resumption of negotiations for a comprehensive test ban treaty.

Mr. Chairman, the deadly arms race is the most paramount issue facing civilization today, and the American people want and expect progress on arms control. A comprehensive test ban treaty can be the key to controlling the nuclear arms race, and it would enhance the security of the United States, the Soviet Union, and the entire world.

I urge the adoption of the Schroeder-Gephardt amendment.

The CHAIRMAN pro tempore (Mr. Russo). All time has expired.

The question is on the amendment offered by the gentlewoman from Colorado [Mrs. Schroeder].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 187, not voting 11, as follows:

[Roll No. 133]

AYES—234

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Biaggi
Boehlert
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Brown (CO)
Bryant
Buechner
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gejdenson
Gephardt
Glickman
Gonzalez
Goodling
Gordon
Grandy
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—187

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Bunning
Burton
Byron
Callahan
Chandler
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Dyson
Edwards (OK)
Emerson
English
Fields
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Gradison
Grant
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Jones (TN)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Pickett
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Roth
Roukema
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—11

Annunzio
Boggs
Bruce
Duncan
Foglietta
Ford (TN)
Jones (NC)
Ray
Ritter
Roemer
Whittaker

□ 1740

The Clerk announced the following pair:

On this vote:

Mr. Roemer for, with Mr. Whittaker against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Massachusetts.

(Mr. STUDDS asked and was given permission to revise and extend his remarks.)

Mr. STUDDS. Mr. Chairman, I wish to express my concern about the modernization of forge lines at the Chamberlain Manufacturing Corp. in New Bedford, MA.

Mr. Chairman, I am concerned about two projects—5873293 and 5873302—intended to modernize the 155mm M483 forge lines at Chamberlain Manufacturing Corp. in New Bedford, MA. Funds for this program have been authorized and appropriated by the Congress for fiscal years 1986 and 1987, but have yet to be allocated by the Army.

I understand that questions raised within the Defense Department in regard to Government property in the possession of defense contractors have led to a freeze on the execution of all projects involving property in this category—including the already approved modernization at Chamberlain.

In my view, it is in the best interest of the Department of Defense to release the appropriated funds to Chamberlain. The Mobilization Deficiency Program, supplemental to the Modernization and Expansion Program, is intended to fill mobilization shortfalls. It is my understanding that there is an 80-percent shortfall in 155mm M483 projectile metal parts. During mobilization, forging capacity for this item is expected to be a scarce industrial base commodity.

The forge lines at Chamberlain are dedicated to production of the M483 line. Rehabilitation is needed to meet Chamberlain's mobilization commitment to the Army. Chamberlain's existing Government-owned equipment is more than 25 years old and worn from continuous use. Since sufficient nongovernment interest in this degree of production capacity does not exist, Chamberlain has no incentive to invest its own financial resources in modernization of these lines.

I recommend, in the strongest possible terms, that funding and execution of these projects at Chamberlain proceed. I would expect that if the Defense Department is truly committed to its mobilization policies and to maintaining the industrial base necessary to ensure a proper state of readiness, it will reach the same conclusion.

Mr. DYSON. Mr. Chairman, will the gentleman yield and enter into a colloquy with me?

Mr. ASPIN. Yes, I yield and will be happy to enter into a colloquy.

Mr. DYSON. Mr. Chairman, the committee's report 100-58 provides $12 million to upgrade the capabilities of the AN/SQR-17A LAMPS MK-I shipboard acoustic processor. The report refers to this issue as the improved accustic processor in the other procurement, Navy, account. However, I believe the report language associated with this authorization needs clarification. It is my understanding that the intent of this authorization is to achieve a low-cost and low-risk modification—engineering change proposal—for the LAMPS MK-I equipped naval combatants.

Mr. ASPIN. I agree that we should consider low-cost upgrades to systems. Certainly it is not this committee's intent to introduce new systems where they are not needed.

Mr. DYSON. I agree, Mr. Chairman. However, the report language may be interpreted that an entirely new ASW processor is needed for the LAMPS MK-I ships. Such a program is not necessary and can only result in needless additional time and expense to achieve the same result.

Mr. ASPIN. What are the gentleman's views on this issue?

Mr. DYSON. I believe that the best way to achieve the required acoustic processor improvement for the Navy's LAMPS MK-I equipped ships is through an engineering change proposal [ECP] to the currently deployed and operational SQR-17A system. This procurement method will ensure minimal change to mission essential equipment and ships cabling. Moreover, the program should provide an opportunity to rapidly prototype two service test models that will be evaluated by the Navy. Once these tests are completed, the Navy will have the required technical information and data packages for a competition on subsequent production procurements.

Senior Navy officials have been briefed on the desired approach and concur that the best way to accomplish this upgrade is through a modest modification to the SQR-17A.

The language which the Navy agreed to is as follows:

May 6, 1987.

SQR-17A—Improved Acoustic Processor

The committee recommends the addition of $12 million for the procurement of two service test model enhancements to the AN/SQR-17A acoustic processor. This sytem upgrade would be used on Navy ships equipped with hull mounted sonar and/or towed array sensors (primarily LAMPS MK-1 equipped ships) to provide active audio enhancement and early Torpedo detection/alertment.

This system enhancement should be procured by a modification ECP to the SQR-17A. This procurement method will ensure minimal change to mission essential equipment and ships cabling. Moreover, the program provides an opportunity to rapidly prototype two service test models that will be evaluated by the Navy. Once these tests are completed, the Navy will possess the required technical information and documentation to compete subsequent production procurements.

Mr. ASPIN. That appears to be a reasonable method to accomplish the needs of the Navy, both from an operational and procurement perspective.

Mr. DYSON. Mr. Chairman, I thank the gentleman for his cooperation in clarifying this issue.

Mr. FRENZEL. Mr. Chairman, this year's defense debate includes far more specific consideration of the strategic defense initiative [SDI] than has occurred in previous debates. The SDI Program has progressed sufficiently that we must carefully reconcile it with the Anti-Ballistic Missile [ABM] Treaty's provisions, and we must make significant decisions about research priorities.

I support the amendment offered by Mr. Bennett to reduce the overall SDI authorization to $3.1 billion, the level approved by the House last year. This amount is sufficient to allow continued investigation of SDI technologies. At the same time, it holds in the reins on the program's skyrocketing cost.

Mr. Chairman, last year the House approved $3.1 billion for SDI. I approved of that figure. In conference, the mark rose to $3.5 billion. That figure was regrettably high. This year, the administration requested $5.2 billion for SDI. That figure is grossly swollen. It would flood the program with more money than could be wisely spent. A return to $3.1 billion, with some slippage likely in conference, strikes me as a level that is responsible both to the Nation's defenses and to the Nation's economy.

This year we also are confronted with a variety of decisions regarding near-term deployment, and of reconciling SDI with the ABM Treaty. In my judgment, SDI remains a long-term project. Amendments to restrict or to direct tests or deployments of uncertain technology should be rejected. We should concentrate on a more effective system that may be attainable in 10 or more years, rather than settling for quick, visible results which are of dubious security value. It remains in our best interest to follow an existing treaty which has ensured the stability of the U.S.-U.S.S.R. strategic balance, rather than to discard the treaty for a reliance on expensive missile defense competition.

I would prefer that we continue with current negotiations, and cast aside existing treaties only as a last resort. If and when our ABM/SDI Program is more developed and effective, reinterpretation may be necessary, but that action surely is still premature.

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the amendment that would withdraw large numbers of United States troops from Western Europe and Japan.

A unilateral troop withdrawal is dangerous to our national security, Mr. Chairman. This amendment, if passed, would withdraw about 90,000 of the approximate 320,000 troops stationed in Europe, and 21,000 of the about 49,000 troops in Japan.

These actions would, at best, be counterproductive and would ignore the intricate, fragile balance between the superpowers that has kept us out of World War III for the past 40 years. Instead of meeting the basic requirement to tailor troop strengths to meet the growing Soviet threat, troop withdrawals would critically hinder our capability to quickly and effectively respond to a major hostile action overseas. Further if the United States adopts this policy, a significant void would be created that our allies could not easily fill. The amendment contains a complex formula to govern the number of troops withdrawn and how our allies could avoid them. If our allies are unable to afford having our troops withdrawn, would they then have the funds to replace them? In the end, they would undoubtedly question our resolve to follow the terms of the mutual defense treaties that we have with them.

The well being of the free world today must be protected, Mr. Chairman. The United States plays a vital role in this structure and must be able and willing to respond to threats to our way of life with the appropriate means. We cannot afford to withdraw from our commitments abroad. We cannot afford the possibility that freedom will be lost through a lack of will to bear the cost of protecting freedom. Our adversaries do not regard or respect the freedoms we take for granted in our everyday life—freedom of speech, freedom of movement, freedom of religion, freedom from oppression. Although, these privileges do not come free of charge, their price is small when measured against the consequences of blood spilled as a result of sending the wrong message to our adversaries. We, therefore, must maintain our presence abroad.

I encourage my colleagues on both sides of the aisle to oppose this very dangerous amendment.

□ 1750

Mr. ASPIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Frost] having assumed the chair, Mr. Gray of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Tuesday, May 19.

If I had been present:

On rollcall No. 127, on voting to approve the Journal, I would have voted "yea."

On rollcall No. 128, the Brown and Coughlin amendment to bar the testing of Asat's against objects in space, I would have voted "yea."

On rollcall No. 129, the Aspin amendment to prohibit the withdrawal of existing unitary chemical weapons from Europe, I would have voted "yea."

On rollcall No. 130, the Fascell amendment to prohibit use of funds for the final assembly of binary chemical weapons, I would have voted "yea."

On rollcall No. 131, a quorum call, I would have voted "present."

On rollcall No. 132, the Broomfield amendment to permit nuclear tests with a yield greater than 1 kiloton, I would have voted "nay."

On rollcall No. 133, the Schroeder and Gephardt amendment to prohibit the use of fiscal year 1988 funds for conducting nuclear tests with a yield greater than 1 kiloton, I would have voted "yea."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1451, OLDER AMERICANS ACT OF 1965 AUTHORIZATION

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 100-99) on the resolution (H. Res. 171) providing for the consideration of the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 100-100), on the resolution (H. Res. 172) providing for the consideration of the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADDING GREENLAND TO LIST OF BENEFICIARY DEVELOPING COUNTRIES UNDER GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-77)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, May 19, 1987.)

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL 3 P.M. FRIDAY, MAY 22, 1987, TO FILE REPORT ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until 3 p.m. Friday, May 22, 1987, to file its report to accompany the bill, H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. SWEENEY. Mr. Speaker, reserving the right to object, has this request been cleared with the minority?

Mr. ROSTENKOWSKI. It has been cleared, Mr. Speaker.

Mr. SWEENEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RESPONSE TO AMERICAN PHYSICAL SOCIETY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, the House recently completed its most exhaustive debate to date on the strategic defense initiative. Not only did we consider SDI strategy on its own merits, but we spent the better part of the fiscal year 1988 defense authorization debate arguing the strengths and weaknesses of this highly technical program in relation to existing systems and agreements affecting the long-term security of this Nation.

We all know that SDI has become a highly emotional issue with serious political implications. In spite of that, I believe that most Members have made a serious effort to understand the program and to assess its worth for our future security needs.

But the fact remains that few of us have the technical or scientific expertise to fully understand such a complex system as SDI, much less the background to fully assess its potential for the future. So, what have we done? For the most part, we have relied on the experts.

I have no quarrel with that, Mr. Speaker. In fact, I believe that highly technical issues like SDI demand the guidance of experts. But if we're going to make rational decisions, we must seek out the guidance of many experts—not just a select few. More important, we must seek out the most objective information and assistance we can.

I've seen numerous backgrounders and commentaries on SDI—some more substantive and credible than others. But one report in particular stands out in my mind—and that is the one issued last month by the American Physical Society, known as Science and Technology of Directed Energy Weapons.

Frankly, I was eager to see what the scientist themselves think about SDI. And, quite honestly, I was left with genuine concerns about the program after reading the report. But, as one who believes we must continue to upgrade our defense to meet our national security, I decided to seek more information on SDI and on the APS findings.

I found enough to convince me that SDI is viable, but the most compelling information I've found may have come too late. Earlier today, two top scientists involved in SDI research reported that the APS report is riddled with flaws. Dr. Frederick Seitz, a recipient of a National Medal of Science and former president of the American Physical Society, and Dr. Lowell Wood, a distinguished researcher at Lawrence Livermore National Laboratory, urged that Congress take a closer look at the flaws in the APS report and the political biases in it.

I will summarize their findings, but will submit the full text of their comments in the RECORD.

First, they found that the APS report has major computation errors by factors ranging up to 100. They note that the errors are always in the direction of making the task of defending the United States seem much harder than it really is.

Second, the executive summary, which many Members relied on to make their decisions, is always more negative than the body of the report and is actually contradicted by the report.

The report states that the free electron laser requires a billion watts of power. According to these scientists, it only requires 10 million watts. It also distorts the required wattage for the neutral particle beam and for excimer lasers.

It reports that Soviet fast-burn boosters can destroy the usefulness of the neutral particle beam as a United States defensive weapon. A chart in the report reveals this statement to be seriously in error.

Beyond the erroneous calculations, the report has its own biases. Although the APS Review Committee endorsed the report as technically valid, not a single member of the review committee has worked in the areas of techology relevant to strategic defense in the last quarter century. Members of the review committee, while renowned scientists, have no firsthand knowledge of SDI technologies. Furthermore, four of the six members of the review committee have come out in opposition to SDI. Finally, the report never received standard peer review essential to the credibility of any scientific report. This presents a real problem, because this report has been used by members to condemn SDI.

Just as I looked further into the APS findings, I will continue to look into this recent report on SDI. In fact, I will be contacting APS and asking for their response to Dr. Wood and Dr. Seitz, and if they will be conducting a peer review of their report.

Even without further information, I think these recent findings deserve our attention. Mr. Speaker, I urge the Members of the House to read Dr. Wood's and Dr. Seitz' findings in entirety. They won't change any votes, but they are relevant to the ongoing SDI debate. We will almost certainly face this issue again next year if not this year, and these critical findings deserve our attention.

COMMENTS ON THE REPORT OF THE AMERICAN PHYSICAL SOCIETY

(By Frederick Seitz)

As you know, Dr. Lowell Wood and I are here today to comment on the report derived from the study of the Strategic Defense Initiative carried out by a group of distinguished physicists under the sponsorship of the American Physical Society. This report has apparently taken on the status of the official opinion of the Governing Council of that very large scientific society.

As you will note from my brief professional summary, I have served as President of the American Physical Society, President of the National Academy of Sciences, Chairman of the Defense Science Board and Science Advisor to NATO. I am currently serving as Chairman of the Science Advisory Committee for SDI. I have held various academic positions, most recently as President, and now President Emeritus, of Rockefeller University.

In a few minutes Dr. Lowell Wood will review for you the scientific merits and technical accuracy of the report by the APS panel. A distinguished roster of American scientists contributed to the report, as panel members of members of the Review Committees. The product of their endeavors was released to the public by the Council of the American Physical Society as an important contribution to the national debate over the best means of ensuring the survival of the American nation.

In my view, however, this report is not worthy of serious consideration in that vital debate. This may seem like an unduly severe indictment of a document bearing the seal of approval of one of the nation's most distinguished scientific bodies. Yet I know of no other way to describe a nominally serious study, replete with equations, which nonetheless contains numerous errors, inconsistencies and unrealistic assumptions on matters of great importance in the technological assessment of missile defenses.

The mistakes in the report are not small. They are major errors, by factors of as much as 100-fold. Furthermore, these errors and inaccuracies are, as far as we can tell, always in one direction—such as to make the plan for defending the American people—indeed the people of the free world—against a Soviet nuclear attack seem more difficult than it really is.

I make this judgment on the report of the APS panel from the perspective of more than half a century of membership in the American Physical Society, and past service as a president of the Society and member of its Governing Council. I know of no precedent, in my long association with the American Physical Society, for the issuance of so seriously flawed a document as this, under the aegis of that Council.

The report is to be published in its present form this summer, without accompanying criticism by other member physicists, in one of the official journals of the Society, namely, the Reviews of Modern Physics. When I became aware of the deficiencies in the APS report, I spoke with the editor of the journal in which it is to be published, regarding the importance of simultaneous publication of a scientific paper containing a critical examination of the report's contents. I came away from that conversation with the impression that timely publication of a paper criticizing the report of the APS panel was not likely under APS auspices.

What we seem to see at work here is a lowering of the standards of publication in the journals of one of our most respected scientific organizations, in regard to an important defense program that happens to be unpopular with a number of American physicists. Such a degradation of the standards of publication of scientific journals is a very serious matter, with ominous implications for the health of the American scientific community and the welfare of our nation.

Physicists with long memories will recall that when the Nazis came into power in Germany in the 1930s, the German physics journals—which had been, until then, among the finest in the world, as the journals of the American Physical Society are today—began to publish work of questionable quality. That was one of the earliest indications of the decline of German science in the pre-World-War II period. One thinks also of the unfortunate depths to which some Soviet scientists, especially in genetics, have descended at various times to satisfy the prevailing currents of political thought in the Soviet Union.

I cannot fail to note also that the Executive Summary of the APS report, which purports to be an accurate summary of this report's findings, is inconsistent with the body of the report in numerous respects. Furthermore, the inconsistencies are always in a direction that makes the Executive Summary more negative and pessimistic than the technical analysis in the report itself would warrant.

And then one notes that a public statement released by the Council goes beyond even the Executive Summary of the report, in expressing still more negative and pessimistic statements about the prospects for defending the American people from Soviet missile attacks. This statement by the Council is twice removed from the technical facts. Indeed, the Council's statement abandons all pretense of being based on scientific factors; it explicitly states that its comments go beyond the limits of the technical report of its panel.

As I contemplate these successive changes—from the technical report itself, with its honest if flawed attempts at a proper scientific study, to the more negative and pessimistic Summary of the report, and then to the extremely negative statement by the APS Council, with its harsh dismissal of all efforts at an American defense against ballistic missiles—I cannot help but conclude that these actions by the Council of the American Physical Society represent a political as well as a scientific declaration.

Personally, I believe that scientific societies and academies serve the fields of science and the nation best when they do all they can to avoid taking political positions on national issues. Scientists in our open countries should treasure the freedoms they have and devote their societies to purely scientific affairs. There are other avenues for expressing political views.

I am pleased now to present Dr. Wood, who will review the technical content of the APS report.

ANALYSIS OF THE APS REPORT ON DIRECTED ENERGY WEAPONS

(By Lowell Wood and Gregory Canavan)

Dr. Gregory Canavan is Senior Defense Analyst at the Los Alamos National Laboratory, and Member of the Working Group for Offense/Defense of the Presidential Long-Range Strategic Forces Commission. Dr. Canavan was formerly Special Assistant to the Air Force Chief of Staff. Dr. Lowell Wood is O Division leader at the Lawrence Livermore National Laboratory and also Leader of the Special Studies Program concerned with research and Strategic Defense. He has served on the Senior Advisory Group on Effects of the Defense Nuclear Agency and has been awarded the E. O. Lawrence Prize of the Department of Energy. The two physicists have between them more than half a century of experience in the technologies of strategic defense and nuclear weapons.

SUMMARY OF FINDINGS

Principal findings from the analysis of the APS report by Drs. Canavan and Wood are as follows:

The APS report contains a number of major technical errors by factors ranging up to 100. These errors are always in the direction of making the task of defending the United States against Soviet missile attacks seem much harder than it really is, and making SDI seem farther from the achievement of its objectives than it actually is.

In addition, the Executive Summary is contradicted by its own report in a number of important respects. These discrepancies are such that the Executive Summary—which is the section highlighted by the press and by the APS Council—is always more negative about the technical prospects for SDI than the body of the report.

Important sections in the APS report reveal an ignorance of the realities of missile engineering and defense technology on the part of the authors of the report.

Although the APS Review Committee endorsed the APS report as "technically valid," not a single member of the Review Committee has worked in areas of technology relevant to strategic defense in the last quarter century Members of the Review Committee, while some are internationally renowned for their work in fundamental physics, have no first-hand knowledge of technologies involved in SDI.

Some major technical errors in the report are as follows:

The Executive Summary says SDI research is at least a factor of 100 away from an adequate level of performance in chemical lasers. This statement is grossly in error. Chemical lasers tested by SDI are within roughly a factor of 10 of meeting power level requirements for weapons performance against Soviet threats anticipated for the end of the century. These lasers are already within a factor of 3 of the beam power needed to counter the current Soviet threat.

Excimer lasers need a billion watts of power for adequate performance according to the report. However, formulas in the report itself show that six million watts is sufficient for effective defense against Soviet missile attacks with this type of laser. The APS finding is in error here by a factor of 160.

The report states that the neutral particle beam—a very promising device for U.S. missile defense—requires a billion watts of electrical power to be effective. The correct answer is 30 million watts. The APS reports exaggerates the required power by a factor of 30 in this case.

The report states that the free electron laser—still, all based on formulas in APS own report, another very promising candidate for missile defense—requires a billion watts of power. The correct answer is 10 million watts. The APS report exaggerates the requirements by using APS numbers a factor of 100 in this case.

The report states that U.S. defensive satellites will require hundreds of thousands of watts of electrical power for "housekeeping," i.e., normal peace-time operation. This power requirement means placing about 100 substantial-sized nuclear reactors in orbit. However, the APS report is in error. The correct statement is that the U.S. satellites will require between a few thousands and a few tens of thousands of watts for housekeeping—a requirement readily met by solar panels and storage batteries, without use of nuclear reactors. This error in the APS report is by a factor of 10 to 100, again in the direction of exaggerating requirements on SDI.

The APS report states that Soviet fast-burn boosters can destroy the usefulness of the neutral particle beam as a U.S. defensive weapon. (The fast-burn booster is a hypothetical ICBM that burns out at an altitude below 60 miles, while neutral particle beams cannot penetrate below 70 miles.) The technical analysis in the report itself reveals this statement to be seriously in error. A chart in the report shows that even if a Soviet ICBM burns out at an altitude as low as 60 miles, the ICBM cannot deploy its warheads and decoys until it has reached an altitude of 90 miles. The additional time and altitude provide a fully adequate opportunity for an attack on the ICBM by the neutral particle beam, while the ICBM still has all its warheads on board.

The APS report states that another effective Soviet countermeasure would be to spin the Soviet ICBMs so as to distribute the heat on the laser beam over a larger area and weaken its effect. However, the ICBM has to rotate at least once a second to spread the laser energy. The spin exerts centrifugal force on the walls of the missile which have to be strengthened at the cost of reduced payload and a complete missile redesign—for a very small gain. The report also suggests that the Soviet ICBM arsenal can be converted to a spinning arsenal by "retrofit"—i.e., by modifying existing ICBMs rather than building new ones. This suggestion, that a Soviet SS-18 could be modified to spin at one or more revolutions per second by retrofit, reveals a lack of even a minimal understanding of missile technology.

The report states that Soviet SS-18s can be protected against U.S. lasers by applying a coat of shielding material, at the cost of losing at most three out of the 10 warheads on each SS-18. (Some warheads have to be removed to compensate for the added weight of the shielding.) The report's calculations leading to this conclusion contain a major error by a factor of four on the amount of shielding required for the second stage and bus. The report also neglected the weight of penaids that must be added to the present contents of the SS-18 bus if the U.S. deploys a defense. The correct calculation shows that an SS-18 would lose at least eight of its warheads. Loss of eight out of the 10 warheads on the SS-18 would end the usefulness of the SS-18 as a first-strike weapon—a major plus for U.S. security. Contrary to the APS report, shielding of ICBMs is not a promising Soviet countermeasure.

HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

Mr. ROSE. Mr. Speaker, today, along with my colleagues, Mr. GILMAN and Mr. SOLOMON, I am introducing H.R. 2476, concerning human rights violations in Tibet by the People's Republic of China.

H.R. 2476

A bill concerning human rights violations in Tibet by the People's Republic of China

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the People's Republic of China invaded and annexed Tibet in 1949, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of large occupation force;

(2) over one million Tibetans have perished as a direct result of the political instability, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(3) 6,250 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either lost or removed from Tibet by the People's Republic of China;

(4) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with no benefit accruing to the Tibetan people;

(5) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(6) the People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an effort to absorb and render insignificant the Tibetan people in their own homeland;

(7) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(8) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized which has increased the instability of the entire Central Asian region;

(9) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(10) Since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(11) The People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(12) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration"; and

(13) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

SEC. 2. STATEMENT OF POLICIES.

It is the sense of the Congress that—

(1) the United States should review its foreign policy toward and its relations with the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(2) the United States should reassess and review sales and other transfers of defense articles, defense services, and high technology to the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(3) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(5) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other minorities within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang) and the Mongolians of Inner Mongolia, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(6) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(7) the President should instruct the United States Ambassadors to the People's Republic of China and Indian to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

SEC. 3. ARMS SALES TO THE PEOPLE'S REPUBLIC OF CHINA.

Any certification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

SEC. 4. HUMAN RIGHTS REPORT REGARDING TIBET.

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

SEC. 5. ASSISTANCE FOR TIBETAN REFUGEES.

Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $850,000 shall be available only for assistance for Tibetan refugees.

SEC. 6. SCHOLARSHIPS FOR STUDY IN THE UNITED STATES BY TIBETAN EXILES.

For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 50 scholarships for study at institutions of higher education in the United States.

BRIEF OF THE HONORABLE JIM WRIGHT, SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES, AND THE BIPARTISAN LEADERSHIP GROUP AS AMICI CURIAE ON THE PROPOSED MODIFICATION OF THE COURT'S "NO COMMENT" ORDER OF APRIL 29, 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. WHEAT] is recognized for 5 minutes.

Mr. WHEAT. Mr. Speaker, it is my honor as vice chairman of the Congressional Black Caucus to submit the brief of the Honorable JIM WRIGHT, Speaker of the U.S. House of Representatives, and the bipartisan leadership group as amici curiae on the proposed modification of the court's "no comment" order of April 29, 1987, in the case of HAROLD FORD.

[IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE, CR. 3-87-021]

UNITED STATES OF AMERICA, Plaintiff, *v.* HAROLD E. FORD, Et Al., Defendants

BRIEF OF THE HONORABLE JIM WRIGHT, SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES, AND THE BIPARTISAN LEADERSHIP GROUP AS AMICI CURIAE ON THE PROPOSED MODIFICATION OF THE COURT'S "NO COMMENT" ORDER OF APRIL 29, 1987

On April 29, 1987, this Court entered an Order forbidding both the parties in the above-captioned criminal matter and their attorneys from making any "comment upon any aspect of the ongoing matters in these actions except to the extent necessary to correspond among themselves and with the Court." The Order proceeded, in more specific terms, to bar the attorneys from making extrajudicial statements relating to the case.

Without addressing the question of the general propriety of such orders, the Speaker and Bipartisan Leadership Group of the United States House of Representatives appear to address the constitutional impropriety of the Order as it affects a Member of the House of Representatives.

Read fairly, the Order would appear to infringe Congressman Harold Ford's right to communicate with his Congressional colleagues and with his constituents on a matter of legislative and public concern: the allegations made against him in the indictment handed up by the grand jury. This Order, which purports to restrict a U.S. Congressman in the exercise of his rights and duties as a Member of the House, comprises the independence of the Legislative Branch and interferes with the communication between the people and their elected representatives that serves as a cornerstone of our democratic system of government. It is imperative that the Court move at once to correct this constitutional infirm Order.

Interest of the amici curiae

As the elected leadership of the United States House of Representatives, the Speaker and the Bipartisan Leadership Group have the responsibility of protecting the prerogatives of the institution. It is readily apparent that matters which arise in the course of litigation in which a single Member of the House is a party can have a far reaching effect, both at present and as a precedential matter, on all Members of the House. In the instant case, the right of other Members to communicate with Congressman Ford has been specifically infringed and the right of all Members to communicate freely with each other and their constituents has been imperiled. A clearer instance of institutional concern could hardly be imagined.

The order

The Court's "no comment" Order of April 29, 1987, was served upon Congressman Ford by the Federal Bureau of Investigation. The Order's direction to the Congressman was as straightforward as it was unconstitutional. It forbade the Congressman from making any "comment upon any aspect of the ongoing matters in these actions except to the extent necessary to correspond among themselves and with the Court." Compliance with the Order would require the Congressman to refuse to discuss, in any respect, the charges brought against him by the Executive Branch with other Members of the House or with the people who have elected him as their representative to our national government.

Under the Order, the Congressman could not answer an inquiry posed by another Member of the House, or by one of the House's committees, on any aspect of the charges against him. The Order would also bar him from proclaiming, or explaining, his innocence to the constituency he represents.

The Order plainly makes no allowance for the unique constitutional status of a Member of the House as a representative of over 500,000 citizens to the Congress of the United States.

The impermissibility of restricting by court order communications within the legislative branch

The Speech or Debate Clause of the Constitution provides that "for any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other place." U.S. Const. art. I, § 6, cl. 2.

The Supreme Court has "without exception . . . read the Speech or Debate clause broadly to effectuate its purposes." *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 501 (1975). As the *Eastland* Court stated, "[t]he purpose of the Clause is to insure that the legislative function the Constitution allocates to the Congress may be performed independently." Id. at 502.

After a brief review of the history and rationale of the Clause, the Supreme Court held that "once it is determined that Members are acting within the 'legitimate legislative sphere' the Speech or Debate Clause is an absolute bar to interference." *Id.* at 503. (citing *Doe* v. *McMillan,* 412 U.S. 306 (1973)).

To determine whether an activity is within the "legitimate legislative sphere" one looks at whether such activities are "an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." *Gravel* v. *United States,* 408 U.S. 606, 625 (1972).

The Court's "no comment" Order directly interferes with the "deliberative and communicative processes" of the House of Representatives. It imposes a prior restraint on communications among Members of the House on matters relevant to subjects within the constitutional jurisdiction of the House. Be it another member's interest in Congressman Ford's case as an element in that second Member's decision to support or oppose a Ford proposal or be it the institutional interest of the House in either entrusting Congressman Ford with special duties or in the exercise of its self-disciplinary authority, the Court's Order restricts communication within the House of Representatives.

In attempting to prohibit Congressman Ford from commenting upon certain matters on the House Floor, in committee and in communication with the membership of the House of Representatives, the Court has gone far beyond the bounds of its constitutional authority. That other concerns may have motivated the Court to enter such an Order is irrelevant, for as the Supreme Court has noted, "[w]here we are presented with an attempt to interfere with an ongoing activity by Congress, and that activity is found to be within the legitimate legislative sphere, balancing plays no part. The speech or debate protection provides an absolute immunity from judicial interference." *Eastland*, 421 U.S. at 510 n.16. When Members communicate with one another, they act within the sphere of legislative activity absolutely protected by the Clause. By attempting to prevent Congressman Ford from communicating with his colleagues, the Order offends the constitutional prerogatives of Congress.

The impermissibility of restricting by court order communications between a member and his constituents

The second effect of the Court's "no comment" Order which is of concern to the House of Representatives is its restriction of communication between a Member of Congress and his constituents. While such communications may not always fall within the sphere of legislative activity protected by the Speech or Debate Clause, they remain official communications of the Congress and have been accorded a protected status by the Judiciary. The courts have recognized that free and unimpeded communications between the citizens and their elected representatives are a necessary predicate to true democracy. The notion that the Judiciary, either upon application of the Executive Branch or on its own, could order a Member of the Legislative Branch not to communicate with his constituents on a matter of public concern is abhorrent to and inconsistent with the very nature of our democratic society. It was to obtain and preserve the right of the people's representatives to communicate freely with those that they represent that the great revolutions of England were waged. As Justice Black proclaimed, "[t]he effective functioning of a free government like ours depends largely on the force of an informed public opinion. . . . Such an informed understanding depends, of course, on the freedom people have to applaud or to criticize the way public employees do their jobs, from the least to the most important." *Barr* v. *Matteo*, 360 U.S. 564, 577 (1959) (Black, J., concurring).

That communication with constituents may occur outside the core of Speech or Debate protection renders it neither non-official nor unprotected. The Supreme Court has specifically recognized that such communications are "entirely legitimate activities," *United States* v. *Brewster*, 408 U.S. 501, 512 (1972). As the *Brewster* Court stated, "[w]e would be closing our eyes to the realities of the American political system if we failed to acknowledge that many non-legislative activities are an established and accepted part of the role of a Member, and are indeed 'related' to the legislative process." Id. at 524.

That one part of the official role of the Congress is to communicate and inform the citizenry has long been acknowledged. In describing the opinion of the Supreme Court in *Doe* v. *McMillan*, 412 U.S. 306 (1973), the Court of Appeals for the District of Columbia Circuit noted that "[b]oth the opinion for the Court and the separate opinions recognized that the Congress possessed some 'informing function.'" The Court's opinion acknowledged the "importance of informing the public about the business of Congress." *Doe* v. *McMillan*, 566 F.2d 713, 717 (D.C. Cir. 1977), cert. denied, 435 U.S. 969 (1978).

As one court has recently stated, in holding that the remarks of a Tennessee Congressman to his constituents on a matter of public concern could not be subject to judicial review,

"If this court were to hold otherwise . . . it would act, in effect, as a restraint on the exercise of the duties by a legislative official in respect to matters with wide public interest and concern, which would be far worse than a favorable expression on such matters and that if Congressman Sundquist, or any other Member of the body of which he is now a Member, were so restrict as the plaintiff's kinds of actions here would restrict them, then we would have very little information coming out from the members of Congress in the way of information involving broad-ranging public policies and, as a result, the public interest would suffer." *Chastain* v. *Sundquist*, No. 85-4037 (D.D.C. Apr. 9, 1986). It is inconsistent with the requirements of a representative democracy for a Court to interfere with, let alone prohibit, communications between a Member of Congress and the people he represents.

Conclusion

Today's order restricting the ability of a Member to communicate with his constituents about one particular case can become tomorrow's order restricting a Member's ability to communicate with his constituents on any other matter. The implication that the Court possesses a wisdom infinite enough to know when it is permissible to bar communication between the people and their elected representatives and when such restrictions would be improper is contrary to human nature and the carefully crafted governmental system which was drafted to account for human frailties.

The Court's concern that all defendants receive a fair trial need not result in the drastic and constitutionally unacceptable solution embodied in this Court's Order. The Congressman must be permitted to communicate with his colleagues and his constituents. If those potential jurors within the media market of his constituency are thus disqualified from rendering an impartial verdict, there are other alternatives to assure that the rights of the defendants are protected. To sacrifice the communicative process between the people and their representatives on either the speculative fear that criminal process will suffer or in an effort to protect from criticism those institutions that might be mentioned in the Congressman's communications is both unnecessary and impermissible. The continued ability of Members of the House to communicate freely with their colleagues and their constituents is of vital concern to the House of Representatives. The Amici, therefore, respectfully request this Court to effect a modification to the existing "no comment" Order which would make clear that nothing in the Order shall be read as restricting, in any manner, the ability of the Congressman to communicate on any subject with his colleagues in the House or with his constituents. The Constitution demands no less.

PROGRESS OF DEMOCRACY IN SOUTH KOREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. FEIGHAN] is recognized for 5 minutes.

Mr. FEIGHAN. Mr. Speaker, I rise today to express my deep concern for the progress of democracy in South Korea.

This week is an especially important week in South Korea. It marks the seventh anniversary of the Kwangju massacre in South Korea. Seven years ago, the people of Kwangju took to the streets when martial law was imposed throughout South Korea. The Government responded by mobilizing its frontline army troops and ordering an attack on its very own people. By the South Korean Government's count, nearly 200 people were killed. But according to human rights sources, many more were killed—their bodies mutilated by the soldiers who had murdered them.

This week, the people of Kwangju have taken to the streets once more—in memory of the massacre of their friends and families 7 years ago. But they are also protesting President Chun's decision last month to tighten his control over the political process in the Republic of Korea. Last month, President Chun suspended debate with the opposition in South Korea on revising the South Korean Constitution, a move which is disheartening to those of us concerned with the progress of democracy and human rights in that country.

President Chun has also made other moves to tighten his control, including the imposition of a new form of "house arrest" on opposition leader Kim Dae-Jung. Now, no one except for Kim's wife is permitted to leave or enter Kim's home. Their home is surrounded by over 1,000 combat police, who show no signs of leaving and these police have also begun construction of a concrete wall in front of Kim's home.

Today, I am sending a letter to Secretary of State George Shultz, asking him to work for the restoration of Kim Dae-Jung's political rights. Our letter—signed by 100 of my colleagues in the House—urges Secretary Shultz to encourage President Chun to change Kim Dae-Jung's political status, and restore his political rights. It also requests that Secretary Shultz direct our American Ambassador in South Korea to meet with Kim Dae-Jung in the near future.

There is still hope in South Korea for a peaceful transition of power; 1988 will surely be a historic year for the Republic of Korea. Not only will South Korea sponsor the Summer Olympics next year, but if all goes according to plan, a new President will take President Chun's place when he steps down from office next February.

But there is a growing fear in South Korea—felt especially during this week—of more violence if there isn't real movement toward real democracy soon. I believe that the time for Congress to show its support for the South Korean people and democracy is now. I urge my colleagues in the House to help move President Chun back onto the road toward democracy.

THE CAMPAIGN FINANCE EXPENDITURE LIMITATION ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 10 minutes.

Mr. UDALL. Mr. Speaker, 11 years ago in the Buckley versus Valeo decision the U.S. Supreme Court struck down three key provisions of the Federal Election Campaign Act Amendments of 1974:

First, a limitation on the amount of expenditures that a candidate may make from his or her personal funds of his or her immediate family, in connection with his or her campaign;

Second, a limitation on the amount of money that may be expended by a candidate in a primary or general election campaign; and

Third, a limitation on the amount of independent expenditures that any person may make on behalf of a clearly identified candidate.

In reaching that decision, the Supreme Court drew a distinction between contributions and expenditures. It held that contribution limitations were valid under the first amendment because of substantial governmental interests in preventing corruption and the appearance of corruption in Federal elections. Expenditure limitations, however, were found to violate the first amendment, despite such governmental interests.

In the 11 years that have elapsed since the Buckley decision, it has become increasingly evident that limitations on expenditures is an essential element of campaign finance reform. In the absence of such limitations, money has played a larger and larger role in Federal elections.

In the 1976 election cycle, House and Senate candidates spent $115.5 million. In the 1986 election cycle, House and Senate candidates spent an estimated $435 million, an increase of 278 percent, or 106 percent controlled for inflation. During that same period, the average amount of money expended by a successful candidate for the House rose from $87,209 in 1976 to $346,000 in 1986, an even greater rate of increase.

Even more alarming is the growth of giving by political action committees [PAC's]. In the 1972 election cycle, PAC's gave $5.4 million to House candidates. In the 1986 election cycle, more than $85 million was given. As a consequence, House candidates have become more and more dependent upon PAC giving, with PAC giving now accounting for more than one-third of all contributions received by House candidates.

In addition to their direct giving, PAC's have also increased their independent expenditures on behalf of, or in opposition to, candidates. In the 1978 election cycle, independent expenditures by PAC's amounted to only $143,000 in House campaigns, but in the last election cycle $2.4 million was spent.

The influences that Congress sought to curb in 1974, with passage of the campaign finances amendments, are alive and well. Now more than ever, money exerts a corrupting and corrosive influence on American politics. Corruption, or the appearance of corruption, has alienated American voters and bred public distrust of their elected representatives. The alienation of the American voter is reflected in declining voter participation rates, and the decline of public trust has been well measured by public opinion polls.

In light of the continuing problems with campaign finance, a number of legal authorities have urged the Supreme Court to review anew the holding in Buckley. Archibald Cox, who served as counsel in Buckley, has urged a second look. Writing some 6 years after Buckley, he noted that, "Since 1980, there has been a growing fear that money is corrupting the democratic process * * * it seems quite probable that judicial understanding may change as public comprehension of the evil increases * * *."

I think it is time for another look at Buckley. The expenditure of large sums of money—whatever its constitutional protection—poses a grave threat to the political process that is at the very heart of our democracy. Freedom of speech, as it is guaranteed by the first amendment, is one of our greatest strengths as a nation, but it should not be construed as an unlimited right to influence elections through the expenditure of money. In fact, one of the principal objectives of campaign finance reform is to maximize the role of individuals and the expression of constitutionally-protected views.

The legislation that I am introducing today, the Campaign Expenditure Limitation Act of 1987, would reopen the question of expenditure limitations and their role in campaign finance reform. It does so by imposing new expenditure limitations, in lieu of those struck down by the Supreme Court:

First, a limitation of $25,000 on the amount that a House candidate may spend, from personal funds, in a primary or general election campaign;

Second, a limitation of $200,000 on the amount that a House candidate may spend, from all sources, in a primary or general election campaign; and

Third, a limitation of $2,500 on the amount of independent expenditures that any person —including a commmittee—may spend in respect to a House race.

These restrictions, if adopted and upheld, would go a long way toward fulfilling the original intent of the 1974 amendments to the Campaign Finance Act of 1971, but one more step needs to be taken. Some aggregate limitation should also be set on the amount of PAC money that a candidate can accept. In 1974, few—if any—could have foreseen the explosive growth of PAC giving and the role that PAC giving would come to play in congressional elections. The bill that I am introducing today would limit to $50,000 the amount of PAC contributions that a candidate could receive in a primary race or a general election. In doing so, the bill recognizes that PAC's have a legitimate role in Federal elections, but that such a role should be a limited one.

In recognition of the constitutional questions that surround expenditure limitations, the bill also allows for a judicial challenge as provided for in section 310 of the Campaign Finance Act of 1971 and requires the court of appeals and the Supreme Court to expedite to the greatest extent possible any challenges to the new law.

It is possible, of course, that the Supreme Court would again strike down any expenditure limitations, but I think that the substantial governmental interests that the court recognized in 1976 are even greater today and justify the expenditure limitations contained in this bill.

I have long insisted that reform is no sport for the short winded. That certainly holds true for campaign finance reform. I am very proud of the reforms that have been worked in the nomination and election of our Presidents. I really think we helped to take the American Presidency off the auction block by setting up a system of matching funds for primary contests and federal financing of general election campaigns. Our congressional campaigns, however, remain surrounded by a cloud of money and special interests. The bill that I am introducing today would, if enacted and upheld, go a long way towards dispelling that cloud and the suspicion and cynicism that comes with it.

It is my hope and expectation that Congress will again tackle the problem of campaign finance reform and if not in the form I present today, then in some other form. This issue is too important to ignore. We should act and act now.

HUMAN RIGHTS ABUSES BY THE SANDINISTA REGIME IN NICARAGUA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. **Bereuter**] is recognized for 60 minutes.

Mr. **BEREUTER**. Mr. Speaker, tonight I want to speak about one, perhaps two subjects, if I have the time. The first subject would be to inform the House and to establish a record, and not coincidentally to inform the American public about the human rights abuses committed by the Sandinista regime in Nicaragua. Second, if time permits, I would like to share some of the details of the preamble to the Arias plan for peace, for demilitarization and for democratization of Central America and the elements of the plan itself.

Not too long ago, one of my constituents, responding to a letter, asked if it was really appropriate for me to refer to the leadership of the Sandinistas as Marxist-Leninist because it was inflammatory language. That was a legitimate inquiry, and I responded by pointing out to this constituent that that term is a term they apply to themselves. They are avowed Marxist-Leninists, and I think it is appropriate to use those terms.

I think we are sometimes intimidated from calling people exactly what they avow themselves to be.

I also am really quite amazed with the deterioration of support for the Sandinista regime in the Congress of the United States. At least I am surprised about it on the surface.

I would say today that there are not two dozen, perhaps not a dozen Members of the Congress that support the Sandinista regime. That degree of support, or actually nonsupport, really, is not, I would gather, proportionally the same for the American public. There is great disagreement, a great controversy over American foreign policy with respect to Central America, and especially with respect to Nicaragua. There is great disagreement about what we should appropriately do, but there is very little support in this Congress for the Sandinista regime.

I think that point is not made clear to the American public. I believe, therefore, that one of the ways that we can try to bring that information, that lack of support for the Sandinista regime and dilemma that we face to the attention of our constituents and the American people, and to people in this hemisphere and elsewhere in the world is to do a better job of really explaining what is happening in Nicaragua today.

This Member received a significant assist via the Washington Post. In a front page article on May 18 of this year they spoke about some of the human rights abuses found today in Nicaragua. I am going to quote rather extensively from that article in the next few minutes. Occasionally I am taking things out, but I am only doing that to shorten the time, and there is no attempt to distort what that article said.

□ 1805

According to that Post story, and I quote:

> Last month, two carloads of Sandinista secret police pulled up to Rosa Moreira Trana's rickety wooden shack here and arrested the 58-year-old widow and two of her 12 children: A 26-year-old son and a 22-year-old pregnant daughter.
>
> So began 18 days of suffering and terror for one of the thousands of Nicaraguans who have passed through the Sandinista prison system. Moreira's story reflects a pattern of human rights violations—including arbitrary arrests and torture—under the Sandinista government as it wages an escalating war with U.S.-backed rebels, who also have been charged with widespread abuses.
>
> According to Moreira, she and her children were taken to Managua's notorious El Chipote prison, where she was accused of being a rebel leader and placed in a tiny, stifling, lice-infested cell with a steel door, no light and only a hole in the ceiling to let in air.
>
> Already at the facility operated by the secret police was another son, who had been picked up at work in Managua the day before. She said she was targeted as a suspected rebel because her family hails from a southern part of the country, where the insurgents enjoy support.
>
> During her detention, Moreira said, guards deprived her of sleep, menaced her with a snake, gave her pills that made her sick, and threatened to kill her children. At one point, she said, she heard a man being beaten and was told it was one of her sons.
>
> Finally, ill and terrified after 18 days of solitary confinement in a dark cell, Moreira said, she signed a confession that she was not allowed to read and was released along with her daughter. Now, Moreira said, police have told her that she and her daughter are under indefinite "house arrest," although neither has appeared in court. Her two sons are still in El Chipote.
>
> Nearby, in Tipitapa's state penitentiary known as the Model Prison, Isidora Zapata Zeledon, a 29-year-old nurse, is serving a 30-year sentence for what is officially described as an "offense against public order and security." A Sandinista official said she was the wife of a rebel task force chief. A human rights activist said she was accused of treating wounded rebels.
>
> In a letter smuggled out of prison last year, Zeledon said that after her arrest in December 1982, when she was two months pregnant, she was beaten and sexually abused by guards confined in a coffin-like cell, deprived of food and water for three days and locked in a toilet, where she was forced to sleep naked on a wet floor.
>
> Zeledon wrote that she became so thirsty at one point that she drank slimy water from the toilet tank. She was interrogated with a pistol at her temple and eventually signed a confession that her interrogators said would lead to her release, Zeledon wrote. Instead, according to a human rights advocate, it was used as the only evidence against her when a Sandinista court sentenced her to 30 years in prison in 1984.
>
> On April 22, according to an Interior Ministry communique, three suspected "counterrevolutionaries," or contras, accused of blowing up utility pylons were shot to death after they were taken to point out an arms cache and allegedly tried to escape.
>
> Three days later, Gen. Humberto Ortega, the Sandinista defense minister, said, "Now the government will get tough with terrorists and tower-dynamiters." He added, "The Army and the people have been directed to execute revolutionary justice against all those elements who are surprised while carrying out terrorist acts against civilian and economic targets," as well as "those who indirectly collaborate in such actions."
>
> Interviews with former detainees, relatives of political prisoners and human rights activists, as well as reports by human rights investigators, suggest that Nicaragua's Sandinista government violates the human rights of its citizens on a large scale. The interviewees and the written reports cite instances of arbitrary arrest, psychological and physical torture, disappearances, trials by kangaroo courts, mysterious deaths of suspects under detention, forcible resettlement of peasants and aerial bombing of civilians in remote areas.
>
> The government acknowledges that its military and security forces abuse some human rights, but insists these are isolated cases that result in severe punishment. Authorities generally deny or decline comment on the most serious violations. A governmental human rights commission focuses almost exclusively on abuses by the rebels, which have been documented and condemned as well by a number of foreign human rights organizations.
>
> * * * Less has emerged about Sandinista violations, which generally have not attracted as much international attention as the contra abuses.
>
> Reporting on Nicaragua's human rights situation takes place in a highly charged political atmosphere in which the built-in biases of groups that oppose the contras or the Sandinistas must be taken into account. None of the human rights groups operating in Nicaragua is generally recognized as impartial.
>
> One of the first detailed studies by an independent international human rights organization was a 211-page report published last July by the New York-based International League for Human Rights. The study charges that the Sandinista government violates several international agreements it has signed, notably the International Convenant on Civil and Political Rights, through "arbitrary arrest and detention," use of "torture and cruel, inhuman and degrading treatment or punishment" of prisoners, failure to "comport with the minimum due process standards effective even in a state of emergency" and other practices.
>
> In a 117-page report issued in February, the human rights group Americas Watch states, "The government of Nicaragua engages, as a matter of policy, in abusive interrogation tactics against prisoners, including psychological pressure and threats used to secure their confessions." It cites "the use of very small cells, sleep deprivation and food and water deprivation."
>
> However, the organization, which says it opposes U.S. support for the contras, absolves the Sandinista government of the systematic use of torture, noting that cases it has found "represent isolated instances, not part of deliberate policy."
>
> Unlike some other non-Nicaraguan groups, Americas Watch does not see "a pattern of violations" of the laws of war, the right to life and physical integrity of detainees and forced disappearances. It says such cases that do occur "do not reflect a governmental policy to commit them or to tolerate them."
>
> That view is disputed by Nicaragua's Permanent Commission on Human Rights, an independent body that began by denouncing violations under the former regime of Anastasio Somoza in 1977 and now documents charges against the Sandinistas.
>
> In a 26-page report published April 30, it charges that "the government uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."
>
> The report asserts that in the General Directorate of State Security's "operations centers," of which there are nine major ones, including El Chipote, political detainees are "subjected to all kinds of torture and mistreatment so that they sign declarations that in most cases they are not permitted to read and in which they incriminate themselves or implicate others in 'counterrevolutionary activities.' "
>
> These detention facilities are off-limits to all human rights organizations, including the government's own commission and the International Committee of the Red Cross. The report also says that since October 1985, it has received complaints of 33 cases in which persons were killed upon or after being arrested. In addition, it says, the Permanent Commission is currently investigating 280 cases of persons who disappeared after having been captured by Sandinista authorities.
>
> Another recent study by the Puebla Institute, a New York-based lay Roman Catholic human rights organization headed by a Nicaraguan critic of the Sandinista government, says that more than 300,000 Nicaraguans, at least 10 percent of the population, have left their country since the 1979 Sandinista takeover because of abuses including arbitrary arrest, torture and the bombing of homes in rural areas where contras are active.
>
> In an interview, Interior Minister Tomas Borge denied most of these charges as "ridiculous." * * *

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. BEREUTTER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I was in my office and happened to just glance at the television and saw that the gentleman was talking about one of the most important debates that the world faces today and the people of this

Nation face in determining what the real nature of the Communist regime is in Nicaragua.

□ 1815

I think the gentleman mentioned a few of the things that appeared in the Washington Post concerning the real human rights abuses that the Sandinistas have perpetrated in some of these nine prisons—I think seven of them are new since Somoza—and I was just reflecting on some things that I had seen in the human rights reports.

I remember a Managua cab driver named Nelson Perez who was arrested one night for the crime of booing one of the comandantes at a cab drivers' union meeting. For the crime of booing a Sandinista comandante, Bavardo Arce, he was arrested. Then he disappeared. The authorities came to his wife the next day and said that unfortunately Nelson Perez, the cab driver, had attempted to escape and they had been forced to shoot him and kill him.

I just hope that the facts of the human rights violations and the oppression of peoples are brought forth to the American public. I commend the gentleman from Nebraska [Mr. BEREUTER] for doing that tonight before the decisive debates take place later this year about how the United States is going to handle the Central American situation. I commend the gentleman, and I say that he is right on point.

I reflect also on Bill Casey, who just passed away and who was actually criticized at his own funeral by his Catholic priest. I guess the problem with Bill Casey was that he is an old OSS man who had fought and been side by side with Wild Bill Donovan in World War II and had sent agents behind Nazi lines. I guess he looked at the burned-out synagogue in Managua, and he had real trouble in seeing the difference between the Communists and their anti-Semitism in Nicaragua and the anti-Semitism of the Brown Shirts in 1938 and 1939 in Germany.

I think that he looked at the operation that was taking place and at the assassination of half of the Colombian supreme court by weapons that were traced by serial number back to the Communist Sandinistas, and he had real trouble in seeing the difference between that and the treachery that the Nazis perpetrated in Czechoslovakia prior to World War II.

Bill Casey saw the same totalitarianism in both cases and the same evils, and I have to conclude that Bill Casey was right and that his priest was wrong, and I wish that he could answer those charges that were made at his own funeral.

I commend the gentleman for his statement. I think it goes to the heart of the American debate. I have real questions as I reflect on these things as a guy who was in Vietnam some years ago, who saw the millions of people who wanted to be free, who wanted to do a few simple things, go to the ballot box and determine their own leaders, worship at their places of religion freely, and maybe have a little free enterprise. I saw the desperation with which those people wanted to achieve those very simple goals.

I reflected on the idea that America abandoned those friends and we abandoned the Cambodians when they were surrounded at Pnompenh by the Communists, and the result was at least 3 million Cambodians killed, with the genocide that followed.

We abandoned the freedom fighters at the Bay of Pigs. We let them die on the sands of the Bay of Pigs when we pulled the air cover from them in what Zbigniew Brzezinski described as being the most cowardly act of American foreign policy in this century, and the act that ultimately motivated the Soviet Union to attempt to put nuclear missiles in Cuba because they were astounded at what they perceived to be the American cowardice.

So I would hope that we do not pursue a policy of abandonment in Central America.

I think the gentleman is making a compelling case for us to help to give those Nicaraguan people the same basic justices and rights to vote, to worship freely, and to have some of the free enterprise that people in this country have.

Mr. Speaker, I commend the gentleman.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from California [Mr. HUNTER] for his comments. They are all very incisive, but I especially appreciate the tragic example the gentleman brought forth here about that cab driver from Managua.

It is this kind of incident that we run into only by chance, but unfortunately it exists and happens all too often. It reminds me also that organized labor has now prepared a rather detailed report. An international organization with American assistance from organized labor has provided a detailed discussion of some of the abuses that are aimed at union members today in Nicaragua.

A couple of week ago I must say that I was really appalled to see an element of the protests that existed here in the Nation's capital. There are indeed legitimate reasons for a difference of opinion about American foreign policy with respect to Latin America and Nicaragua, but I was appalled to find elements of people saying they represented significant and respected organizations in this Nation, including church bodies, who were calling for support for the Salvadoran and Guatemalan guerrillas against the democratically elected governments of El Salvador and Guatemala.

I was very pleased to see, for example, that the leadership of the AFL-CIO took action, seeing that kind of misguided direction of their protest against those two countries where people stood in lines at the risk of their own safety to vote to elect their own government after so many years of despotism before they pulled away, to their credit, from that kind of demonstration. It is for that reason, among others, that I decided that we have a job to do here to let the American people know indirectly, as we let our colleagues know. So we reinforce the information they already have about what really is happening in Nicaragua today and the kind of advances in democracy that we have seen at all odds in countries like Guatemala.

Mr. Speaker, I see my colleague, the gentleman from Pennsylvania [Mr. RITTER] has arrived, and I am pleased to yield to him for any comments he might have.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding, and I want to commend him on taking this special order, because I think we are witnessing a symmetry of attention to the whole question of human rights in Nicaragua.

I think the Post article, along with some recent reports, brings the facts out very pointedly. The gentleman mentioned another, the report by the Puebla Institute which calls attention to the human rights abuses by the Sandinista regime in mass scale against the Nicaraguan people.

I think this is so crucial to the debate, as my colleague, the gentleman from California, has stated, the debate that is going to arise here on the floor.

In this body we know a great deal about the Sandinista regime. It was said by the gentleman in the well that perhaps only a couple dozen out of 435 Members of the House really at this point have any confidence that the Sandinista regime is anything but totalitarian. But the American people are not aware of the facts, and I want to thank the gentleman for bringing this to light.

I am sure the gentleman is aware, as many of us are here in the Congress, of the prison system that has been established by the Sandinista regime. We hear about the repressive Somoza regime. And it was. They had one prison. Today in Nicaragua there are 11 prisons. Had I known the gentleman was going to be on the floor with this special order, I would have brought the pictures. We have excellent photographs of the 11 prisons.

Nicaragua has the largest concentration of political prisoners in this hemisphere. Nicaragua has really expanded a kind of Gulag of the Western Hemisphere in this small country of 3 million people, and what I find ironic and disturbing in the debate of human rights in Central America is that the abuses of the Sandinista regime are institutionalized and are organized to a social and political level well beyond the random occurrence.

Somebody pointed out that in the testimony somebody was excusing these human rights abuses, but there is, as there always is in a totalitarian regime, organized terror against the people. The block committee is one way of bringing information forth from every quarter in the cities of Nicaragua to the Sandinista secret police. The Sandinista secret police is modeled after the Cuban secret police, modeled after the KGB, by direct replication.

It is ironic that this terrorist state, as its first act of diplomatic recognition, has recognized the PLO and has an embassy of the PLO, with some 350 PLO diplomats, and these features of the political landscape are not recognized in the debate here in the United States.

I just wondered whether the gentleman had some insights so he could explain to this Member from Pennsylvania and the gentleman from California why it is that we see a kind of tunnel vision in our own political debate that seems to go right underneath the institutionalized, nationalized human rights abuses of the Sandinistas.

□ 1830

Is there any good explanation as to why this is happening and why we feel here on the floor of the House that there is such an absence of the other side?

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for those comments and the very crucial and basic question that he ended with.

I think there is no easy clear answer to that question. I do think there is an information problem, and we have to take some responsibility, I think, to fill that information.

There is also, I believe and others believe, a change in philosophy in some elements of our citizenry with respect to isolation.

You will recall the United States has often been called in the past an isolationist country, and that isolation you find expressed right back in the words of our Founding Fathers: Isolation to avoid foreign entanglements.

But, it seems to me, and it seems to other people who look at the American character and who look at the American situation today, that we have a small but vocal and significant element in our population that has a different kind of isolationsim.

It has emerged since the fifties and sixties, and it is an isolation based upon the concept that the United States is evil; and therefore, we ought to pull in from our responsibilities to the world and pull in from our leadership role on humanitarian, as well as security, issues because we are inherently evil.

I respect that the kind of philosophy, and any clear examination of the American record around the world, despite our difficulties and our errors, clearly evidences that that kind of philosophy is incorrect.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. When I was in Nicaragua, I met with some individuals who were part of an organization called Witness for Peace.

We are talking about the changes that were taking place in Nicaragua; and I asked, and they said they were against violence, that they did not want to see violence, and they did not want to see people hurt.

Then I asked whether or not they supported the violent overthrow of the Somoza government by the revolution which included the Sandinistas, but also included the entire length and breadth of Nicaraguan society outside of Somoza himself and his officers in the National Guard. They said oh, yes, they supported that violence.

This is Witness for Peace who did not like the idea of violence. Witness for Peace said they supported the violence in the overthrow of the Somoza regime.

What was ironic was this totalitarian dictatorship makes the Somoza regime mild looking in comparison, and yet these individuals, and I do not question their intentions, but these individuals would not countenance whatsoever any violence taken against these new totalitarian dictators.

It is ironic. In my town meetings, of course, as I am sure with all of the members who take the kind of position that I do, this issue is always coming up. I display a poster of Daniel Ortega with his fist raised and clenched in solidarity, standing next to Mu'ammar Qadhafi whose fist is also raised and clenched in solidarity and underneath is a quote.

It is a quote from that speech of that day, the 15th anniversary of the Libyan revolution; and it is a quote of Mu'ammar Qadhafi and it says that we—this is Qadhafi talking—we, the Libyans, fight with the Nicaraguans, because they fight America in her own backyard.

The people who oppose assisting democratic resistance in Nicaragua get very upset at this poster, and they try to criticize the poster.

They try to find fault with the poster. They try to disassociate the quote from the picture and they are very uncomfortable with the poster. The poster says a great deal, and it seems to me that their reaction instead of understanding perhaps that the Sandinista regime is as the Libyan regime is, a totalitarian government. These are bedfellows indeed, and somehow find fault with me, or the photographer or perhaps the New York Times, as the messenger of this information.

It seems to me we are dealing with a horrendous double standard on the question of human rights and freedom in Nicaragua.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman. He is absolutely right.

There is indeed a biased kind of one-sided examination. The gentleman brought up examples of the number of prisoners being held, political prisoners by the Sandinista regime today. There is a degree of cynicism about anything the U.S. Government reports by this group of people that I mentioned that are among the most severe critics. Given what has happened at times in this country recently, subject to checks by our system, there is reason for some doubt about statistics; but in that Washington Post article which I intend to continue with soon, the matter of prisons and prisoners is specifically identified with statistics from neutral organizations.

There is disagreement about how many prisoners and under how many prison conditions, but there is no disagreement whatsoever about the fact that the numbers today held by the Sandinistas far exceed the conditions under Somoza, which were bad enough.

There is no doubt about that, but we are taking, or they are taking, and I am repeating here tonight, statistics and information gathered by nongovernmental organizations that are known for their accuracy and legitimacy.

I think that is important to convey here today.

Mr. RITTER. Mr. Chairman, if the gentleman would yield further, I just want to thank him once again for the excellent job in taking to the floor of the House and communicating this most important information to the Members and to the American people.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

□ 1835

Mr. Speaker, to continue:

> Borge denied that interrogators torture or "practice violence" against prisoners, according to the Post, but he indicated that state security prisons would continue to be off-limits to human rights groups. "We don't permit prisoners to be seen during interrogation because that would obstruct the investigation," he said.
>
> According to figures released by Borge in the intervew May 9—

And this is the Nicaraguan Government, the Interior Minister himself—

There were 10,293 prisoners in various Sandinista prisons, including 132 in State Security centers. He estimated that about 170 percent of the rest were jailed for "common crimes." He indicated that snags have delayed a plan to release about 600 former National Guardsmen jailed since 1979.

Vilma Nunez, the president of the National Commission for the Protection and Promotion of Human Rights, a Nicaraguan government-sponsored group, gave somewhat different figures. She said there were about 9,500 prisoners, including 300 in State Security detention centers, 2,322 former National Guardsmen and 1,500 to 1,600 other "counter-revolutionaries."

However, according to Lino Hernandez, the head of the nongovernmental Permanent Commission on Human Rights, only the figure for the imprisoned National Guardsmen is not in dispute. In addition, he said, there are "no fewer than 7,000 political prisoners" in a total estimated prison population of about 14,000, including up to 1,500 held in State Security facilities.

In an interview, Hernandez criticized what he said were understated figures on political prisoners published by some international organizations, including Americas Watch, whose latest report gives figures for National Guard and "political prisoners" that total slightly less than the Sandinista commission's figures.

Hernandez also complained that anti-contra U.S. groups such as Americas Watch, Witness for Peace and the Washington Office on Latin America tended to softpedal Sandinista human rights violations or explain them as "isolated cases" out of government control.

"They try to call attention to violations by the contras," Hernandez said. "They do work that is eminently political against the North American administration. We think these organizations have every right to oppose their government's policy of arming warring factions in any part of the world, but they don't have the right to distort our reality to achieve this."

A Witness for Peace spokesman in Managua countercharged that the Permanent Commission does "selective reporting" and takes a "biased view."

Hernandez mentioned the case of Sofonias Cisneros, president of the Nicaraguan Union of Christian School Parents' Associations, who was arrested May 14, 1985, at his home after making a speech denouncing what he said was the Marxist-Leninist orientation of the Sandinista Education program.

In a written account, Cisneros said he was taken to El Chipote prison, where he was tortured and threatened with death by the chief of the General Directorate of State Security, Comandante Lenin Cerna. Later that night, Cisneros said, he was dumped naked in a Managua street. "You can't say it's a case out of control if it was handled personally by Lenin Cerna," Hernandez said.

Again, Mr. Cerna is the General Directorate of State Security.

According to Hernandez and other Nicaraguan sources, Sandinista authorities recently have been cracking down on a new organization called the January 22 Movement of Mothers of Political Prisoners. The group, founded in January to lobby for a general amnesty and better treatment for political detainees, says, it numbers more than 150 active members and some 4,000 affiliated relatives of prisoners.

Several members interviewed said they had been threatened by State Security men recently and warned to quit the movement. At least five have been detained briefly by the secret police.

One member, Tomasa Hernandez, a former Sandinista militant who says her imprisoned husband was once a bodyguard for Daniel Ortega, said authorities had threatened to jail her for her activities and already had drafted her 16-year-old son in "reprisal." She said her husband had been jailed several times after falling out with the Sandinistas in 1980 and joining the Social Christian Party. He was sentenced in 1985 to three years for involvement in a contra "internal front."

"After the revolution, we saw that there wasn't democracy, that there wasn't the system we had been fighting for," Henandez concluded. She said she would remain in the January 22 Movement because "It's the only way we can face up to a totalitarian dictatorship."

Another member, Violeta de Rugama, said her 26-year-old son, Manuel Adan Rugama Suazo, was arrested in June 1984 shortly after graduating from medical school in Mexico and sentenced to nine years in jail for alleged involvement in the contra "internal front." She called the sentence "Revenge because a relative with a similar name, Manuel Adan Rugama Acevedo, also a doctor, is an active contra commander. She said her family's private hospital has been confiscated, her son had been punished in prison and a warden had warned her that the son would "Disappear" if she continued in the movement.

The article goes on and on to explain in detail the human rights abuses of the Sandinistas.

Now, Mr. Speaker, in the time remaining I would like at least to make a start on sharing with my colleagues this evening the translated preamble statement which has been agreed to by the four Central American states of Costa Rica, El Salvador, Guatemala, and Honduras. Nicaragua has not agreed to this preamble statement, but it is the preamble statement, the proposed Arias peace demilitarization, democratization plan, for Central America; Arias being the elected President of Costa Rica, the shining star of Latin democracies.

Later in a separate special order I will outline the proposal recommended by President Arias, as explained by the government, as the basis for negotiations for peace, demilitarization, and democratization plan proposed by Central Americans for Central America. This evening, though, just the Preamble that has been agreed to by the three republics that border Nicaragua, plus the Republic of Guatemala.

The preamble reads as follows:

Peace in the Americas can only be maintained through independence of each one of its nations; by political and economic cooperation among its people; by benefiting from full liberties; by obtaining stable democratic regimes and by a gradual disarmament.

Peace is demanding its time. Dictatorships that have been ruling in many countries in this hemisphere for so many years, have systematically violated human rights and have led to misery, exploitation, slavery, inequality, and injustice.

Peace is demanding its time. Dictatorship still persist in a few countries in the Americas where disrespect of the highest human values still persists. The peace that is demanding its time, is therefore, demanding termination of such dictatorships that still exist. It is imperative that all of us, together, promote substitution of such dictators where the people are the victims of lack of freedom in any of its aspects. Such a substitution is conceived preferably as a peaceful transition, without bloodshed, toward democracy.

The peace that is demanding its time, is also demanding strengthening of democracy in all the countries in the Americas. Where the doors of freedom and democracy have opened, where all men may freely and periodically elect their rulers, where political pluralism prevails, as well as dialogue and a quick manifestation of ideas, an armed conflict can only be interpreted as the desire to establish a new dictatorship; we do not prefer to anarchist struggles, but to those differences among fanatics that are trying to impose, by force, the ideas of a minority, whatever their ideology may be.

In Central America, the governments of Costa Rica El Salvador, Guatemala and Honduras are demanding the time for peace. They want a peace that is stable and lasting; a peace that can only be obtained in a democratic regime. These governments are looking for reconciliation among their people so that they do not continue killing each other.

They reaffirm their faith in a political solution of their problems and proclaim that dialogue substitutes for weapons in looking for freedom and democracy, security puts aside fear and cooperation substitutes for selfishness

Central America is not alone in this effort toward peace. Over the past four years, the Contadora group with its intervention has been expressing the feeling of a Latin America that seeks peaceful solutions among its people. The support group to Contadora is the expression of people that have found again the way toward democracy, are proclaming that freedom and democracy are irreplaceable in order to obtain reconciliation in Central America. The Organization of American States has witnessed solemn promises to establish democracy and has made significant efforts in favor of peace and the observance of commitments made by the parties thereto. The United Nations has been very interested in the Central American problems, pursuant to their responsibilities in promoting peace throughout the world.

The Central American governments have actively participated in the process towards obtaining security and the peaceful coexistence in the area. This process made the five states agree on the "Document of Objectives" on the Contadora group and on the "Declaration of Esquipulas".

The democratic governments in Central America are aware of the political responsibility that the Central American countries have in solving their conflicts. That is why they think it is necessary and urgent to establish final and feasible actions to promote the solution to the regional conflict within a clearly established period.

It is necessary to change thinking into actions and the agreements into realities. The treaties have already been signed, and it is time to put them into effect. Fulfillment of agreements strengthens dialogue and revives faith among people. The governments of Costa Rica, El Salvador, Guatemala and Honduras, inspired by the letter of the Organization of American States (the Letter to Bogotá) and by the United Nations Letter, in their efforts to promote a peaceful solution to controversies and to urge the states to prevent and to eliminate threats to peace and regional security, are making the Nicaraguan government the following proposal to be executed within the Contadora mediation contexts.

Process toward establishing a firm and lasting peace in Central America.

The governments of the five states in Central America bind themselves to continue the procedure herein established in order to reach the objectives and to develop principles as set forth in the "United Nations Letter", the "Letter of the Organization of American States", the "Guatemala Declaration", the "Declaration at Punta del Este", the "Statement of Panama", the "Document of Objectives of the Contadora Group" the "Message at Carabelleda for Peace, Security and Democracy in Central America", the draft of "Treaty of Contadora for Peace and Cooperation in Central America", and the "Declaration of Esquipulas".

□ 1845

Then we go into the part which is as yet not ratified, the acutal elements of the demilitarization and democratization peace plan proposed by President Arias. That will be considered again shortly. We are hoping of course for the kind of coherence among those four countries and the agreement of Nicaragua to the Arias plan.

I will inform my colleagues in a subsequent special order of the precise elements in the Arias peace plan as prepared by the Foreign Ministry of Costa Rica under the direction of its President.

Mr. Speaker, tonight I have tried to do two things; they are related. I have not drawn that together. I have tried to indicate to the American public some of the reasons—in this case the human rights abuses—that have caused the Members of this body and the other body, the Senate of the United States, to pull back from any support that they did express for the Sandinista regime, and to admit that we have great difficulties and controversy about a proper foreign policy, but to explain to the American people why it is that we have pulled away from supporting a Sandinista regime.

One of those key elements that has perhaps not been fully documented even by neutral or quasi-neutral groups and brought to the attention of the American public and this body are the human rights abuses by the Sandinista regime.

In concluding, I yield to my colleague, the gentleman from California [Mr. HUNTER] for any final comments he might like to make.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman for his special order and for laying out the big picture on our Central American policy and the challenges.

Let me just say that there is one other dimension that I hope the gentleman would address in a future special order, and that is the Soviet Union presence in Central America that is growing. Some $600 million worth of military supplies were sent to the Sandinistas during the last 12-month period. Bases that can accommodate attack submarines and warships are going in now at Corinto on the Pacific side and El Bluff on the Atlantic side of Nicaragua. A 10,000-foot bomber base is being built at Punta Huete north of Managua. A Soviet military beachhead is being established in Nicaragua, and I think it would be appropriate if sometime in the next 3 or 4 weeks that the gentleman might come forth and paint a picture for the American people and for our colleagues of the Soviet presence in Central America.

Mr. BEREUTER. That is an excellent idea, and I will request my colleague's assistance in doing that.

It is clear that the armed services and the military capacity of Nicaragua far exceed that of all other Central American nations combined. There are those who use the excuse that this is being done only because of threats to the Sandinista regime. I think that that is an invalid excuse, but the fact of the matter is that Nicaragua today, despite some limitations that we are psychologically imposing on them—for example, we have said that the introduction of high-performance aircraft into Nicaragua is something that we will not tolerate—despite those limitations, the escalation of the military capacity of Nicaragua grows and is far in excess of that of its neighbors or the guerrilla groups.

I would remind anyone who is listening that there was no perceived threat to Grenada that brought about the Sovietization, the Cubanization, of Grenada, and the kind of military buildup there that we found only as it was being built up.

It is unfortunately true that what we have happening today on the mainland of North America in Nicaragua is the building of a Soviet and Soviet-bloc base, and that is something that the American people should know, because I am sure if they do and it can be demonstrated that that is exactly what is happening, they will not tolerate it.

I thank the gentleman for suggesting that for an additional special order.

Mr. HUNTER. I thank the gentleman. I want to commend the gentleman for the information that he has put out to America tonight, this evening, and I hope that the American people will apply their good sense to the evidence that he has laid out and make the right decisions.

Mr. BEREUTER. I thank the gentleman for his very helpful comments.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SWEENEY) to revise and extend their remarks and include extraneous material:)

Mr. HERGER, for 5 minutes, on May 20.

Mr. WELDON, for 5 minutes, today.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ROSE, for 5 minutes, today.

Mr. WHEAT, for 5 minutes, today.

Mr. FEIGHAN, for 5 minutes, today.

Mr. UDALL, for 10 minutes, today.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. FLAKE, for 5 minutes, on May 19.

Mr. BEREUTER, for 60 minutes, on May 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VOLKMER, on rollcall No. 129, in the Committee of the Whole, today.

Mr. CALLAHAN, following the Broomfield amendment in the Committee of the Whole today.

(The following Members (at the request of Mr. SWEENEY) and to include extraneous matter:)

Mr. HORTON.

Mr. GUNDERSON in three instances.

Mr. STANGELAND.

Mr. LIGHTFOOT.

Mr. SOLOMON in two instances.

Mr. YOUNG of Florida.

Mr. KEMP.

Mr. PORTER.

Mr. DUNCAN in two instances.

Mr. YOUNG of Alaska.

Mr. GILMAN.

Mr. ROWLAND of Connnecticut.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. MARKEY in two instances.

Mr. HOYER.

Mr. SOLARZ.

Mrs. SCHROEDER.

Mr. EDWARDS of California.

Mr. MILLER of California.

Mr. KASTENMEIER in two instances.

Mr. SKELTON.

Mr. RANGEL.

Mr. TRAFICANT.

Mr. Dicks.
Mr. Stark in four instances.
Mr. Fauntroy in two instances.
Mr. Matsui.
Mr. Gordon in two instances.
Mr. Martinez.
Mr. Mavroules.
Mr. Florio.
Mr. Bonker in two instances.
Mr. Clay.
Mr. Ackerman.
Mr. Torres in two instances.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1085. An act to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30, of such title, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 942. An act to amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees in the Tucson wage area whose basic pay would otherwise be subject to reduction pursuant to a wage survey.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 20, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1426. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the seventy-third annual report of the Board of Governors, pursuant to 12 U.S.C 247; to the Committee on Banking, Finance and Urban Affairs.

1427. A letter from the Secretary of Health and Human Services, transmitting a report on the fiscal year 1985 alcohol abuse, drug abuse, and mental health services block grant, including a report on the new or expanded alcohol and drug abuse set-aside program for women and the mental health set-aside program for underserved populations and areas, with emphasis on severely disturbed children and adolescents, pursuant to 42 U.S.C 300X-4(g); to the Committee on Energy and Commerce.

1428. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the intent to continue antiterrorism assistance for El Salvador, pursuant to FAA, section 574(a)(1) (97 Stat. 972); to the Committee on Foreign Affairs.

1429. A letter from the Assistant Secretary of State for Legislative and Intergovernmental affairs, transmitting a report on the relations between other industrialized democracies and South Africa, pursuant to 22 U.S.C 5096; to the Committee on Foreign Affairs.

1430. A letter from the Acting Secretary, Department of Commerce, transmitting a full report on the purpose, effectiveness, and economic impact of the expansion of the export controls maintained for foreign policy purposes, pursuant to 50 U.S.C app. 2405(f); to the Committee on Foreign Affairs.

1431. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by Hume A. Horan, of New Jersey, Ambassador Extraordinary and Plenipotentiary-designate to the Kingdom of Saudi Arabia, pursuant to 22 U.S.C 3944(b)(2); to the Committee on Foreign Affairs.

1432. A letter from the Chief, Insurance and Employee Benefits Executive Secretariat, Department of the Air Force; transmitting annual report on the Air Force nonappropriated fund [AFNAF] retirement plan for civilian employees for the year ending September 30, 1986, pursuant to 31 U.S.C 9503(a)(1)(B); to the Committee on Government Operations.

1433. A letter from the Deputy Assistant Secretary (Comptroller, Administration), Department of Defense, transmitting notification of a proposed new Federal records system submitted by the U.S. Marine Corps, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1434. A letter from the Deputy Assistant Secretary (Comptroller, Administration), Department of Defense, transmitting notification of a proposed new Federal records system submitted by the Department of the Navy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1435. A letter from the Deputy Assistant Secretary (Comptroller, Administration), Department of Defense, transmitting notification of proposed ongoing computer matching amendment of Federal records system submitted by the Department of Defense, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1436. A letter from the Records Officer, United States Postal Service, transmitting notification of a proposed new computer matching program between the Postal Service and the Department of Labor, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1437. A letter from the Executive Director, American Chemical Society, transmitting the society's audit report and annual report for the year ending December 31, 1986, pursuant to 36 U.S.C. 1101(2), 1103; to the Committee on the Judiciary.

1438. A letter from the Secretary of Transportation, transmitting a report on the Federal Air Marshal Program, pursuant to 49 U.S.C. app. 1356b(a); to the Committee on Public Works and Transportation.

1439. A letter from the Secretary of Transportation, transmitting the 1985 highway safety performance annual report dealing with fatal and injury accident rates on public roads in the United States, pursuant to 23 U.S.C. 401 nt.; to the Committee on Public Works and Transportation.

1440. A letter from the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, transmitting the eleventh annual report of activities of the geothermal energy coordination and management project for fiscal year 1986, pursuant to 30 U.S.C. 1162(a); to the Committee on Science, Space, and Technology.

1441. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on abnormal occurrences at licensed nuclear facilities for the third calendar quarter of 1986, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

1442. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend subtitle IV of title 49, United States Code, to increase productivity and competitiveness by reducing regulation of motor carriers of property, and for other purposes; jointly, to the Committees on Public Works and Transportation and the Judiciary.

1443. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to authorize appropriations to the Department of Energy for civilian energy programs for fiscal year 1988 and fiscal year 1989, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 2160. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1988, and for other purposes; (Rept. 100-98). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 171. Resolution providing for the consideration of H.R. 1451, a bill to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal year 1988, 1989, 1990, and 1991, and for other purposes. (Rept. 100-99). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 172. Resolution providing for the consideration of H.R. 5, a bill to improve elementary and secondary education, and for other purposes (Rept. 100-100). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of North Carolina (for himself and Mr. Anderson):

H.R. 2462. A bill to establish and maintain a merchant marine auxiliary sealift and training program, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. de la GARZA (for himself, Mr. Madigan, Mr. Brown of California, Mr. Roberts, Mr. Rose, Mr. Glickman, Mr. Coelho, Mr. Stenholm, Mr. Staggers, Mr. Panetta, Mr. Gunderson and Mr. Morrison of Washington):

H.R. 2463. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture.

By Mr. SWIFT (for himself, Mr. Udall, Mr. Hamilton, Mr. Panetta, Mr. Glickman, Mr. Brown of California, Mr. Pease, Mr. Vento, Mr. Gejdenson, Mr. Dymally and Mr. Bates):

H.R. 2464. A bill to amend the Federal Election Campaign Act of 1971 and certain related provisions to clarify and improve such laws with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes; jointly, to the Committees on House Administration, Energy and Commerce, and Post Office and Civil Service.

By Mr. ALEXANDER:

H.R. 2465. A bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fee which may be charged for services performed before the Secretary of Health and Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures; to the Committee on Ways and Means.

By Mr. FLIPPO:

H.R. 2466. A bill to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER:

H.R. 2467. A bill to establish a Federal Judicial Center Foundation, to grant new authorities to the Federal Judicial Center, and for other purposes; to the Committee on the Judiciary.

H.R. 2468. A bill to amend the State Justice Institute Act of 1984 regarding the disclosure of research or statistical information furnished under that act, to the Committee on the Judiciary.

By Mr. McCANDLESS:

H.R. 2469. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the Supplementary Security Income Program under title XVI of such act; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. Gradison, Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Jacobs, Mr. Ford of Tennessee, Mr. Jenkins, Mr. Downey of New York, Mr. Guarini, Mr. Pease, Mr. Matsui, Mr. Anthony, Mr. Flippo, Mr. Dorgan of North Dakota, Mrs. Kennelly, Mr. Donnelly, Mr. Coyne, Mr. Andrews, Mr. Levin of Michigan, Mr. Moody, and Mr. Boehlert):

H.R. 2470. A bill to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. McCANDLESS:

H.R. 2471. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. Rinaldo):

H.R. 2472. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; to the Committee on Energy and Commerce.

By Mr. UDALL:

H.R. 2473. A bill to amend the Federal Election Campaign Act of 1971 to provide for limitations on expenditures in elections for the office of Representative; to the Committee on House Administration.

By Mr. WYDEN:

H.R. 2474. A bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. JOHNSON of Connecticut:

H. Con. Res. 126. Concurrent resolution recognizing and supporting the efforts of the National Purple Heart Museum Committee, and encouraging the people of the United States to participate, in the development of a national museum to honor those individuals awarded the Purple Heart; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

74. By the SPEAKER: Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to the Housing and Community Development Act of 1974; to the Committee on Banking, Finance and Urban Affairs.

75. Also, memorial of the Legislature of the State of Texas, relative to the care for Alzheimer's disease victims and their families; to the Committee on Education and Labor.

76. Also, memorial of the Legislature of the State of Colorado, relative to the National Mining Hall of Fame and Museum; to the Committee on Interior and Insular Affairs.

77. Also, memorial of the Legislature of the State of Nevada, relative to the Tahoe Regional Planning Compact; to the Committee on the Judiciary.

78. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to the Tax Reform Act of 1986; to the Committee on Ways and Means.

79. Also, memorial of the Senate of the State of Kansas, relative to the collection of sales and use taxes on out-of-state mail order sales; jointly, to the Committees on the Judiciary and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Dorgan of North Dakota, Mr. Dicks, Mr. Gejdenson, Mr. Boucher, Mr. Murphy, Mr. Lowery of California, Mr. Walgren, and Mr. Wheat.

H.R. 21: Mr. Dicks, Mr. Gejdenson, Mr. Boucher, Mr. Murphy, Mr. Lowery of California, Mr. Walgren, and Mr. Wheat.

H.R. 245: Mr. Conyers, Mr. Coughlin, and Mr. Hyde.

H.R. 275: Mr. Mineta.

H.R. 281: Mr. Torricelli, Mr. Traficant, and Mr. Price of Illinois.

H.R. 467: Mr. Stenholm.

H.R. 567: Mr. Howard, Mr. Gallo, Mr. Yatron, Mrs. Vucanovich, Mr. Dornan of California, Mr. Dannemeyer, Mr. Berman, Mr. Johnson of South Dakota, Mr. AuCoin, Mr. Gunderson, Mr. Oberstar, Mr. Swindall, Mr. Borski, Mr. Leland, Mr. Espy, Mr. Lewis of Georgia, Mr. Lehman of Florida, Mr. Gilman, Mr. Hammerschmidt, Mr. Levine of California, Mr. McHugh, Mr. Rinaldo, Mr. Kanjorski, Mr. Porter, Mr. Rogers, and Mr. Hansen.

H.R. 592: Mr. Wortley, Mrs. Collins, and Mr. Young of Florida.

H.R. 637: Mr. Beilenson and Mr. Kostmayer.

H.R. 691: Mr. Feighan.

H.R. 722: Mr. Rinaldo.

H.R. 792: Mr. DeLay.

H.R. 813: Mr. Swift.

H.R. 898: Mr. Carr, Mr. Richardson, and Mr. Penny.

H.R. 900: Mr. Clarke.

H.R. 925: Mr. Torricelli, Mr. Florio, and Mr. Howard.

H.R. 936: Mr. Sundquist.

H.R. 956: Mr. Bates.

H.R. 1036: Mr. Tauke, Mr. DeWine, and Mr. Mrazek.

H.R. 1105: Mr. Kanjorski and Mr. Emerson.

H.R. 1196: Mr. McGrath, Mr. Solarz, Mr. Hayes of Illinois, Mr. McCollum, Mrs. Boxer, and Mr. Fauntroy.

H.R. 1201: Mr. Towns.

H.R. 1242: Mr. Andrews, Mr. Nielson of Utah, and Mr. Guarini.

H.R. 1259: Mrs. Lloyd, Mr. Borski, Mr. Price of North Carolina, Mr. English, Mr. Morrison of Washington, Mr. Combest, and Mr. Feighan.

H.R. 1293: Mr. Martinez.

H.R. 1424: Mrs. Morella.

H.R. 1436: Mr. Petri.

H.R. 1452: Mr. Hopkins, Mrs. Boxer, Mr. Frost, Mr. Solomon, Mr. Stump, Mr. Martinez, Mr. Hughes, Mr. McGrath, Mr. Lancaster, Mr. Jontz, Mr. Atkins, Mr. Daub, Mr. Shaw, Mr. Young of Florida, and Mr. Spence.

H.R. 1460: Mr. Yatron.

H.R. 1531: Mr. Lott and Mr. Mfume.

H.R. 1546: Mr. Bates and Mr. Gilman.

H.R. 1604: Mr. Upton, Mr. Grandy, and Mr. Eckart.

H.R. 1607: Mrs. Boxer, Mr. Fauntroy, Mr. Hayes of Illinois, Mr. Mfume, Mr. Flake, Mr. Smith of Florida, Mr. DeFazio, Mr. Roybal, Mr. Garcia, Mr. Lewis of Georgia, Mr. Smith of Iowa, Mr. Lancaster, Mr. Kolter, and Mr. Jontz.

H.R. 1621: Mr. Lewis of Florida, Mr. Owens of New York, and Mr. Atkins.

H.R. 1654: Mr. McGrath.

H.R. 1678: Mr. Kolter.

H.R. 1697: Mr. Yatron and Mr. Kolter.

H.R. 1764: Mr. Panetta and Mr. Kolter.

H.R. 1766: Mr. Stallings, Mr. Henry, Mr. Garcia, and Mr. Mrazek.

H.R. 1782: Mr. Nielson of Utah.

H.R. 1829: Mr. Perkins.

H.R. 1830: Mr. Perkins.

H.R. 1832: Mr. McEwen.

H.R. 1876: Mr. Studds, Mr. Roybal, Mr. Edwards of California, Mr. Ackerman, Mr. Frank, Mr. Beilenson, Mr. Neal, Mr. Morrison of Connecticut, Mr. Lantos, Mr. Brooks, Mr. Atkins, and Mr. Bates.

H.R. 1885: Mrs. Vucanovich.

H.R. 1939: Mr. Gray of Pennsylvania.

H.R. 1975: Mr. Atkins, Mr. Levin of Michigan, Mr. Price of Illinois, Mr. Mrazek, Mr. Buechner, Mr. Jontz, Mr. Kolter, Mr. Darden, and Mr. Stallings.

H.R. 2045: Mr. Gray of Illinois, Mr. Price of North Carolina, Mr. Hammerschmidt, Mr. Bateman, Mr. Roth, Mr. Lott, Mr. Bereuter, and Mr. Oxley.

H.R. 2057: Mr. Rangel, and Barton of Texas.

H.R. 2062: Mr. Clay.

H.R. 2070: Mr. Bilbray, Mr. Lewis of Georgia, and Mr. Fish.

H.R. 2148: Mr. Dorgan of North Dakota, Mr. Petri, Mr. Lightfoot, and Mr. Valentine.

H.R. 2183: Mr. Gejdenson, Mr. Frank, Mr. Hastert, Mr. Upton, Mr. Traxler, and Mr. Davis of Michigan.

H.R. 2217: Mr. Dorgan of North Dakota.

H.R. 2220: Mr. LaFalce, Mr. Fauntroy, Ms. Oakar, Mr. Owens of New York, and Mr. Owens of Utah.

H.R. 2221: Mr. LaFalce, Mr. Fauntroy, Ms. Oakar, Mr. Owens of New York, and Mr. Owens of Utah.

H.R. 2241: Mr. Courter, Mr. Lagomarsino, Mr. Marlenee, and Mr. Wilson.

H.R. 2248: Mr. Pickle.

H.R. 2259: Mr. Coats and Mr. Yatron.

H.R. 2260: Mr. Saxton, Mr. Barton of Texas, Mr. Donald E. Lukens, Mr. Burton of Indiana, Mr. Hansen, Mr. Nielson of Utah, Mr. Ballenger, Mr. Coble, Mr. Jontz, Mr. Slaughter of Virginia, and Mr. Petri.

H.R. 2284: Mrs. Bentley.

H.R. 2298: Mr. Roberts and Mr. Sundquist.

H.R. 2318: Mr. Rahall, Mr. Shaw, Ms. Slaughter of New York, Mr. McEwen, and Mr. Blaz.

H.R. 2363: Mr. Fawell, Mr. Frenzel, Mrs. Johnson of Connecticut, Mr. Lagomarsino, Mr. Nielson of Utah, Mr. Penny, Mr. Robinson, Mr. Rowland of Connecticut, Mr. Denny Smith, Mr. Tauke, and Mr. Kasich.

H.R. 2404: Mr. Williams.

H.J. Res. 20: Mr. Petri.

H.J. Res. 68: Mr. Petri.

H.J. Res. 87: Mr. Petri.

H.J. Res. 100: Mr. Boulter, Mr. Lowery of California, Mr. Lowry of Washington, and Mr. Ray.

H.J. Res. 104: Mr. Petri.

H.J. Res. 143: Mr. Smith of Texas.

H.J. Res. 171: Mr. Green, Mr. Coelho, Mr. Wilson, Mr. Hansen, Mr. McHugh, Mr. Martin of New York, Mr. Edwards of Oklahoma, and Mr. Dorgan of North Dakota.

H.J. Res. 252: Mr. Fazio, Mr. Owens of New York, Mr. Sabo, and Mr. Wilson.

H.J. Res. 280: Mr. Davis of Michigan, Mr. Bonior of Michigan, Mr. Schuette, Mr. LaFalce, Mr. Garcia, Mr. Gekas, Mr. St Germain, Mr. Lehman of California, Mr. Erdreich, Mr. Carper, Mr. Frank, Mr. Walgren, Mr. Coyne, Mr. Bennett, Mr. Madigan, Mr. McDade, Mr. Lowery of California, Mr. Dwyer of New Jersey, Mr. Lujan, Mr. Skeen, Mr. McGrath, Mr. Dornan of California, Mr. Hochbrueckner, Mr. Petri, Mr. Wortley, Mr. Neal, Mr. Gregg, Mr. Denny Smith, Mr. Ravenel, Mrs. Saiki, Mr. Tauke, Mr. Shuster, Mr. Hyde, Mr. Lott, Mr. Nielson of Utah, and Mr. Smith of New Hampshire.

H. Con. Res. 62: Mr. Dorgan of North Dakota.

H. Con. Res. 97: Mr. Staggers, Mr. Nichols, Mr. Owens of New York, Mr. Kostmayer, Mr. Dornan of California, Mr. Owens of Utah, Mr. Synar, Mr. Leland, Ms. Oakar, Mr. Weiss, and Mr. Rahall.

H. Con. Res. 122: Ms. Oakar.

H. Res. 110: Mr. Garcia and Mr. Holloway.

H. Res. 137: Mr. Tauke and Mr. Nielson of Utah.

H. Res. 146: Mr. Kanjorski.

SENATE—*Tuesday, May 19, 1987*

(*Legislative day of Wednesday, May 13, 1987*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the nation whose God is the Lord * * *.—Psalms 33: 12.

Mighty God, Lord of the nations, we thank You for the legacy left us by our Founding Fathers. We thank You for their faith, their dependence upon You, and the reminders we have in all of the great monuments and memorials in this Federal City. Forbid, Lord, that we should allow the progress endemic in their convictions and commitment to divorce us from the spiritual-moral roots from which that greatness grew. Help us never to forget or demean the fact that we are "one nation under God," and "in God we trust" speaks to us from the coin of the realm. Remind us, Faithful Father, that the great empires of the past were destroyed—not by enemies from without but by moral corruption and decay within. Save us, Gracious God, from a godless disintegration and demise. In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 19, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I thank the Chair.

DEBACLE IN THE PERSIAN GULF

Mr. BYRD. Mr. President, the events of two nights ago in the Persian Gulf are saddening and alarming to all of us. They provide evidence again, if, indeed, more evidence is needed, that the Persian Gulf is a dangerous place. We do not have all the details of why an American warship was attacked by Iraqi warplanes. It was, apparently, a mistake. It is a highly regrettable mistake which raises several questions.

First, the *Stark*, operating in a mode of peacetime steaming conditions, did not utilize its various systems, including its standard surface-to-air missile system, against the Iraqi aircraft, its Phalanx gun against the Exocet missile, nor its chaff defensive system against the missile. None of us should attempt to second guess the skipper of the vessel, and all of us are awaiting a full report by the Navy, but it is certainly clear that a new look at readiness conditions by U.S. naval vessels in the gulf is in order. This is a very hostile environment—the fact that there were nearly 100 attacks on shipping in the gulf last year should be proof enough of that. As reported in the Post today, a Navy officer who served in the gulf recently said that "skippers are confronted with a constant game of 'chicken' there. Both Iranian and Iraqi aircraft frequently 'paint' U.S. ships with radar, one of the steps leading up to a missile firing." Another former Navy skipper in the gulf said that "it's the most complex environment there is. It's full of danger and it's full of political implications no matter what you do."

Now, of course, anyone can raise questions. Supplying the answers is the difficult part. But it is legitimate to raise questions.

Why did the *Stark* not have air cover? I approve of the administration's policy to help provide stability for oil shipping in the gulf. I think that is an appropriate policy, on its face. We need to continue to help our friends in the region, and to use a more vigorous diplomatic approach to the problems of the region. The Soviets have been engaging in a rather impressive diplomatic offensive throughout the Middle East, and I am afraid it is in contrast to an overly quiescent, laid-back, hands-off U.S. presence and activity in the region.

Nevertheless, it is critical that if we are going to provide naval protection for Kuwaiti vessels, or any other vessels, and if we are going to continue to maintain an American naval presence in the gulf—and I think we have to do that—it is critical that we assure ourselves that every step is taken to protect those warships. The administration apparently has had no plans to provide air cover for our warships in their escort operations.

I understand that there is an aircraft carrier moving to the area at this time. But why was not air cover judged to be necessary in this instance? Is it safe to assume that the Iranians, who have been deemed to be the real threat, would not attack our ships because they had not yet done so? This rationale is completely unpersuasive. Who in this body can predict what the Iranians will do? The Select Committee on Secret Military Aid, as well as the investigations by the Intelligence Committee and the report of the Tower Commission are full of evidence of misperceptions and miscalculations of the grossest kind in regard to the Iranians. And who is to say that air cover might not have provided some warning of the Iraqi attack, or even that it might have been prevented in some way?

Mr. President, there were no U.S. fighter aircraft operating in the vicinity at the time. But an AWAC's aircraft was following the action. The Saudis have advanced fighter aircraft at the ready. Do we not have any arrangements with our friends the Saudis to cooperate on the question of air cover? We have been providing the Saudis with the most advanced airplanes and equipment that we produce. It seems to me that an understanding with the Saudi Government on military cooperation in the gulf is in order before we entertain approving any new request from the administration for a new major aircraft sale, rumored to be $500 million of F-15 aircraft.

The American aircraft carrier, U.S.S. *Constellation*, is scheduled to be arriving on station in the northern Arabian Sea in about 3 days. I would like to know whether the administration is now contemplating putting combat air patrol missions over the Persian Gulf to help ensure there is no repetition of this action, mistaken or otherwise. The rules of engagement in the gulf, which are now standard peacetime rules of engagement, do not seem to be sufficient to cope with the situation in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the gulf. It is apparent that they should be reviewed and modified immediately.

Mr. President, I am for American military presence in the gulf for the useful purposes of working together with our friends, and to maintain a credible influence in the region. To be credible, however, we have to err on the side of prudence on the question of protecting our men and ships and equipment from the vagaries of this dangerous region.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader, the Senator from Kansas.

TRAGEDY IN THE GULF

Mr. DOLE. Mr. President, let me just indicate briefly that I share many of the concerns expressed by the distinguished majority leader, and Sunday's attack on the U.S.S. *Stark*, in which 37 American sailors were killed, is another tragic reminder of the high danger—and the high stakes—in the Iran-Iraq war.

My first thoughts are those of profound sorrow at this terrible loss of life, and deep sympathy for the families of the dead. The victims were among America's finest. They died performing their duty. Their sacrifice can never be forgotten.

WHAT HAPPENED?

Our immediate task as a nation is to find out what happened. And, above all, to find our why this ship—equipped with some of our most modern and effective defensive weaponry—was not able to, or just did not, use any of it to defend itself.

Charges of the most serious kind are being levied. We have to get all the facts out, as soon as possible. The one thing, above all else, that we cannot, and will not tolerate, is any attempt to cover up anything, or protect anyone who might be at fault. But let us get the truth before we render final judgments or, for that matter, any judgment.

IRAQI ROLE

And, too, there are many questions about iraq's actions—questions which demand prompt and credible answers. It is already clear that this attack was totally unprovoked: it should never have happened. It is inexcusable. Iraq must be held accountable, to that degree at the very least.

In addition, we must have binding assurances from Iraq—and I stress that word "binding"—that this will never happen again. And we must make clear to Iraq that—if it does—the cost to Iraq will be very, very high.

PERSIAN GULF CHALLENGE

Finally, we need to rethink exactly what it is we are doing in the Persian Gulf. What are our goals? What is our strategy? What are the risks? And how much cost are we willing to pay.

One question that deserves a special, renewed examination is the agreement being worked out with Kuwait to put American flags on some of its tankers, to discourage Iranian attack. That plan may still make sense. But, at the least, in light of Sunday's tragedy, we need to take a closer look.

WE WON'T BE INTIMIDATED

But, as we ponder and pursue these matters, let us reaffirm one point very strongly: America will maintain a military presence in these international waters. We have vital American interests there—and we will defend them. We have commitments there—and we will keep them.

We will not be forced out. We will not be scared out. And we will do whatever is necessary to protect our forces when they are attacked, and to strike back at our adversaries. On these matters, the Congress is behind the President, 100 percent.

BICENTENNIAL MINUTE

MAY 19, 1856: SUMNER'S "CRIME AGAINST KANSAS" SPEECH

Mr. DOLE. Mr. President, on May 19, 1856, 131 years ago today, with the galleries of the old Senate Chamber filled to capacity, Charles Sumner of Massachusetts took the floor to begin his long-awaited address on the question of statehood for Kansas. These remarks later became known as his "crime against Kansas" speech.

Sumner, a strident abolitionist who opposed the extension of slavery into the potential new State, wasted little time in getting to his point. "A crime has been committed," he thundered, "which is without example in the records of the past * * * it is the rape of a virgin territory, compelling it to the hateful embrace of slavery." The learned Sumner used quotations from Cervantes, Cicero, Dante, and Milton to attack his fellow Senators, notably Stephen Douglas of Illinois, and Andrew Butler of South Carolina. Following the speech, which he concluded the next day, several Senators took the floor to respond. In a heated exchange, Douglas charged that Sumner added nothing new to the debate on Kansas but "personal assaults," "obscenity," and "gross insults." "Mr. President," Sumner retorted, "again the Senator has switched his tongue, and again he fills the Senate with its offensive odor."

Newspapers in the North hailed the "crime against Kansas" speech, while it was castigated in the South. South Carolina especially took affront to Sumner's address, claiming that the honor of both the State, and Senator Butler, had been violated. Sumner's friends feared for his safety with good reason.

On May 22, after the Senate had adjourned, Preston Brooks, a Representative from South Carolina, and kinsman of Senator Butler, entered the Chamber and, with a cane, severely clubbed Sumner who was trapped between his desk and chair. When Brooks was through, the Senator lay sprawled on the Chamber floor covered with blood. Although his wounds kept him away from the Senate for 3 years, Sumner remained firm in his antislavery convictions.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

RATIFICATION OF THE GENOCIDE TREATY OCCURRED 15 MONTHS AGO

Mr. PROXMIRE. Mr. President, while the distinguished Senator from Kansas is on the floor, I want to call the Senator's attention to an article in today's New York Times by Mr. William Korey of B'nai B'rith. He points out that 15 months ago the Genocide Treaty was ratified by this body. He also points out that in those 15 months Congress has taken no action to provide the enabling legislation which is essential to make that ratification effective.

He points out that Senator Dole played a very important part and quotes him as saying, "We have waited long enough."

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Inertia on the Genocide Pact

(By William Korey)

The trial of Klaus Barbie for crimes against humanity, which compels France to confront its Vichy past, demonstrates anew that the Holocaust remains an international moral issue. The same moral concern obliges the United States to fulfill a goal it set for itself nearly 40 years ago when it played the leading role at the United Nations in winning adoption of a genocide treaty designed to prevent future holocausts. That goal remains unfulfilled.

United States ratification of the treaty, advocated by nearly every Administration, Democratic or Republican (except Dwight D. Eisenhower's) since Harry S. Truman, still requires Congressional action.

A puzzling and disturbing inertia prevails in the Congress on taking the final legislative step.

Exactly 15 months ago today, Feb. 19, 1986, a decisive turn was taken on the long, tortuous path of becoming a contracting party to the treaty. The Senate, by a lopsided vote of 83 to 11, gave its formal advice and consent to ratification. A willful minority, long obsessed by a vague fear that American accession to the treaty would somehow weaken national sovereignty, found that it could no longer work its will.

The Senate majority leader at the time, Bob Dole, Republican of Kansas, put it forcefully just before the roll call: "We have waited long enough." After the vote, many people jumped to the conclusion that the historic genocide treaty was in fact ratified. But this is not the case.

What is still required for ratification, as specified in Article 5 of the treaty, is the adoption of implementing legislation by the Congress. The legislation would amend Federal criminal laws in Title 18 of the United States Code by adopting a new crime of genocide, with appropriate definitions and penalties consistent with the Constitution.

When the Senate leadership had called for the "advice and consent" vote, no one anticipated further delays in the ratification process. After all, 97 other countries, including almost every democracy, had completed the process.

More importantly, the Reagan Administration, like its predecessors, had made clear that nonratification had proved costly to America's credibility in the international arena as a champion of human rights.

Before the final vote, Senator William Proxmire, Democrat of Wisconsin, principal advocate of the treaty (he had delivered over 3,000 speeches on the Senate floor on behalf of ratification), emphasized this critical point. He observed that the United States' failure to ratify the treaty had proved to be "one of the most useful propaganda clubs the Soviet Union has ever had." Even now, Soviet spokesmen at the Vienna review conference on the Helsinki accords seize the occasion to criticize America's failure to ratify international human rights pacts.

Early action on the vital implementing legislation by the House and Senate judiciary committees, headed respectively by Representative Peter W. Rodino, Democrat of New Jersey, and Senator Joseph R. Biden Jr., Democrat of Delaware, is essential. (Mr. Rodino already has introduced his own legislation.)

That the 100th Congress should complete the historic ratification process making genocide a Federal crime is especially appropriate on the occasion of the 200th anniversary of the Constitution.

Senator Dole's cry last year—"we have waited long enough"—remains poignantly pertinent, especially for a nation committed to remembering the Holocaust and deterring its repetition.

Mr. PROXMIRE. Mr. President, I want to congratulate my good friend from Kansas on his fight for the Genocide Convention. Is it not about time—and we have waited more than a year now—for the enabling legislation? I would hope that Congress would find a way to act and give us the enabling legislation we need.

Mr. DOLE. Will the Senator yield?

Mr. PROXMIRE. I am delighted to yield.

Mr. DOLE. Mr. President, I must say the Senator from Kansas has not been as alert as he should have been. That comment, of course, praises the distinguished Senator from Wisconsin, Senator PROXMIRE, for his 3,000 speeches on this subject. I join the Senator from Wisconsin in suggesting we have waited long enough. We ought to get the implementing legislation passed.

CAN WE NEGOTIATE RELIABLE ARMS CONTROL WITH THE SOVIETS?

Mr. PROXMIRE. Mr. President, do the Soviets truly want arms control? Or is this another Soviet propaganda gambit? Do the Soviets really want to negotiate a reduction of nuclear and conventional arms on both sides? Or do they only see arms control as a way of immobilizing the military power of the United States and NATO while they proceed to push Communist infiltration in Asia, Africa, and Central America? Do the Soviets want peace? Or are they talking peace while building and using a massive military juggernaut?

If the Soviets want peace, why have they built such an immense conventional military establishment? Do they really need 2-to-1 superiority in main battle tanks, 2-to-1 in combat aircraft, 2-to-1 surface to air missiles, 2-to-1 combat helicopters to every 1 the NATO allies hold? Do they need three times the artillery and three times the infantry-fighting vehicles? Does this Soviet Communist power that holds a heavy repressive fist over the largest land mass on Earth really require the huge worldwide navy it is building? If the U.S.S.R. places a genuine priority on peace why has it been urging an all-out war on aggression in weak, primitive little Afghanistan for the past 7 years? Why does it continue to pour billions of dollars' worth of military equipment into Nicaragua, Cuba, and Angola? Why does it pursue such a cruel and repressive policy against the people of Eastern Europe, governed as they are by Soviet puppets who are in turn propped up by Soviet military power?

Why should this United States, this leader of the free world, realistically expect our democracy to be able to do business—especially peace business with a totalitarian Communist dictatorship that has an unbroken 70-year record of supression, aggression, and rule by police and military power?

The answer to this list of questions lies in one simple fact: we live in a world of nuclear weapons. Neither the Soviet Union nor the United States has any choice. It is negotiate and abide by nuclear deterrence—stabilized by arms control or perish. President Reagan and his administration should ponder long and hard on the President's own observation that a nuclear war must never be fought and can never be won. Think about that a long minute. I repeat: President Reagan has said: A nuclear war must never be fought and can never be won. Did the President really mean that? It is a true statement. It is a fact—the great truth of our time. President Reagan, the supreme anti-Communist, the President who has succeeded in the biggest peacetime military buildup in this Nation's history has left in this statement a legacy—an immensely significant legacy. Here it is again. Henceforth a major war—a nuclear war cannot mean victory. It can bring only one result: death. That is death for our great Constitution, death for our democracy, death for our freedom, death for our people. If nuclear war means the end of everything we would go to war to defend, including the genuine possibility of the death of humankind, how do we avoid it?

Some would rely on SDI or star wars to build a kind of impenetrable astrodome over our country. Will it work? No. The answer is clear. A survey of the Nation's most emminent experts—members of the National Academy of Science, its physicists, engineers, and mathematicians—has disclosed an overwhelming scientific consensus that SDI will not, indeed, cannot work. Some have proposed a program of unilateral disarmament. They would favor a policy of destroying all our nuclear weapons. Such a policy would be madness. It would give up the very deterrence that has been the prime factor in keeping the superpower peace for 40 years. Even if the Soviet Union concurred, even if President Reagan and Secretary Gorbachev achieved their mutually expressed objective of destroying all nuclear weapons—what would be the result? We would have created a world safe for conventional war. What is so bad about that? Consider it has been 40 years since conventional, nonnuclear World War II ended in Europe. That war in Europe was fought without any nuclear weapons. What has happened to conventional weapons in these 40 years? They have come on with a blasting lethal rush. Keep in mind the most devastating weapons in World War II were not the atomic bomb dropped in Japan in August 1945. They were such conventional attacks as the fire bombing of Hamburg and Dresden. And that was 1945. Today in 1987 conventional weapons are far more devastating. Now is it not obvious that within a few weeks or even days of the beginning of a world war III one side or the other—probably both—would be back sled-length with bigger and better nuclear weapons than ever. The side that hits first would have a great advantage.

So what do we do? Answer: We rely on two elements to keep the peace: First we rely on what has kept the peace for 40 years: permanent and continued nuclear deterrence. That means that both sides will maintain a deterrent sufficient to make it clear to the other that a superpower war would be an absolutely certain loser—a total loser for both. That will require something else. It will require an arms control agreement fully verified for compliance by satellite and by unannounced on-the-spot inspection. The purpose of that agreement will be to assure that both sides rely on the most survivable kind of deterrent. That means a mobile deterrent. It means sea-based, air-based, land-based deterrence. It means the elimination of use-it-or-lose-it MX type of sitting duck—stationary launchers that would invite attack. It means arms control to stress instant communication between the superpowers. It means arm control to assure that both superpowers maintain the most meticulous, detailed, and constant control of their own nuclear arsenal.

Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, does the Senator from Georgia wish time?

Mr. NUNN. May I inquire of the majority leader about the plans for this morning? What time will the vote occur? Is there to be debate between now and 11 o'clock?

Mr. BYRD. Mr. President, the time between now and 11 a.m. will be equally divided and controlled by the majority leader and the minority leader. The debate should go forward on the motion to invoke cloture. At 11 o'clock, the Chair will ask the clerk to call the roll to establish a quorum. Once a quorum has been established, the vote on the motion to invoke cloture will occur.

Mr. NUNN. I thank the majority leader.

Mr. President, the Senator from Virginia was on the floor a moment ago. As soon as he returns, we can commence a brief debate between now and 11 o'clock. We are trying to bring forward the defense bill, which contains the authorization for the Army, Navy, Marine Corps, Air Force, and the Reserves. We are trying to get the debate started. We have been precluded from doing so. We hope to get cloture this morning.

As I said last week to the majority leader, and this has to be fitted into the overall schedule, if we do not get cloture this morning, it would not be my intent to ask for any further cloture votes until our Republican colleagues and the White House decide they want a defense bill. When they decide they want a defense bill, we can proceed. Otherwise, we would be wasting the time of the Senate. We would just be running around the flag pole. If there are not enough votes to invoke cloture, it appears nothing will be done about it. In voting on whether or not to invoke cloture this morning, as far as I am concerned, this will be the last opportunity for quite a while.

Mr. BYRD. Mr. President, I entered another cloture motion on Friday which will mature on tomorrow, so there will be another cloture vote on tomorrow. I will say to the distinguished Senator from Georgia, I hope that Senators will vote to invoke cloture today. We have today and tomorrow and Thursday. We will then have the Memorial Day recess which will occur beginning on Friday. I hope we will be able to make progress in the Senate this week.

The supplemental appropriations bill was called up a few days ago, and there was a point of order made against that bill. I had offered a motion to waive the provisions so that the point of order would not survive. But we were able to get only nine votes from the other side of the aisle. We produced 42 votes on this side of the aisle. It requires 60 votes to waive.

I hope that we will be able to get the supplemental appropriations bill up and get some votes from the other side of the aisle to help us with a waiver. Otherwise, if we do not invoke cloture on the motion to proceed to take up the defense bill, the bill will not be before the Senate. The bill is not before the Senate and the motion to invoke cloture is only to bring the bill before the Senate. If we do not invoke cloture on that motion to proceed, apparently we are going to just mark time the rest of the week debating a motion to proceed to take up the defense authorization bill.

By the end of the week we will have nothing to show for our time and our words.

I urge Senators to vote for the cloture motion today so that we can at least get the bill up and begin debating the bill.

Mr. DOLE. Mr. President, could I just respond to the majority leader and then I will yield the floor.

Mr. President, we are trying to work out something on the supplemental if cloture is not invoked this morning. I will say again, I want to cooperate with the majority leader. It is difficult enough to get things done. Sometimes we have a fundamental difference of opinion we cannot do much about. But on the supplemental, I have been advised in the last 5 minutes there may be a way out of that. There will be a meeting this afternoon with some of the principals. Perhaps we can do that.

Mr. BYRD. I thank the distinguished Republican leader for his expression of support.

Mr. WARNER. Mr. President, I want to assure my distinguished colleague, the majority leader, and the distinguished chairman of the Armed Services Committee, and others listening this morning, that there is an equal desire on this side to proceed with the 1988-89 authorization bill for the Department of Defense.

The chairman has pointed out, as have I in earlier statements on the floor, the importance of this bill to the Nation.

But it is quite clear, Mr. President, and we have dramatized this by the steadfast coherence on this side, there is a determination on this side not to let this bill go forward so long as the decision made here is to continue to have that amendment remain in the bill. The Armed Services Committee prides itself in approaching its responsibilities in a spirit of bipartisanship. Throughout the many long months of this year's hearings, and of markups, we have followed that spirit of bipartisanship. The chairman and I are respectful of our Members for their contribution to this effort.

But when this amendment was put on, Republicans made it very clear that it could not be accepted on this side for reasons which we believe are valid. Our President has said that the foremost responsibility that he has at this time is to work in Geneva through the negotiators to try and lessen the presence of nuclear weapons throughout the world. All sides acknowledge that progress is being made.

This amendment goes to the very heart of those negotiations. Many of us have characterized the amendment as pulling the rug from beneath the negotiators. But I shall not take time now to repeat those arguments. I say to my distinguished chairman he has yet to answer the question; when he says he is going to pull the bill down, he is taking a mighty responsibility. The Senator is really thwarting the ability of this institution to try to reach a compromise.

In a spirit of compromise late last week, I indicated to the chairman that we would, on this side, be willing to discuss a freestanding bill which would in every way protect the rights of those, again, whom I respect, although disagree with, in terms of the authorization for the SDI Program. My good friend from Georgia characterized it as a joke, and I am sure he meant nothing personal in that. But I say, if that were a joke, that effort I undertook, then what happened in the Appropriations Committee when the distinguished chairman from Mississippi, faced with a like situation, determined on the supplemental appropriations bill that this type of legislation would be taken out? I say to those on the Foreign Relations Committee that a similar situation arose in their committee, and again it was the determination of the committee to take out and allow in a freestanding situation the ability to address the arms control issue.

So it was not considered a joke in the Appropriations Committee, nor was it considered a joke in the judiciary and foreign relations arena where they are jointly addressing that matter. And my distinguished colleague from Pennsylvania, who has done a lot of work over the weekend, will soon address the future work and the assurance that the chairman of the Foreign Relations Committee gave him—or was it the Judiciary Committee—that hearings are going to be held on the very issues embraced in the Nunn-Levin amendment.

So I say to my good friend from Georgia, let us not say the only solution to this disagreement is to bring down the defense authorization bill. Let us proceed, on the assumption that cloture is not invoked today, to determine if there is not a means by which to protect the rights of both sides on this issue and allow the bill to go forward.

Mr. NUNN addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, I yield 5 minutes to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. NUNN. I thank my colleague from Virginia and I assure him that I will certainly keep an open ear as to any proposals that would be satisfactory in terms of working out the dilemma we are in now.

The measure I referred to as a joke was one where the Senator said we would simply pull the Levin-Nunn amendment out of this bill, keep the SDI funding in, give the President $4.5 billion and allow him to decide what tests he wants to conduct, whether they comply with the ABM Treaty or not. That to me is not worthy of a serious discussion.

What I did say would be taken very seriously, if the Senator from Virginia and his colleagues chose to do so, would be to take the issues that go together, that is, the SDI money and how you spend the money, put those in a package, and separate that out from this bill. It depends on how the proposition is phrased.

When the Senator from Virginia says that the Senator from Georgia is thinking about taking this bill down, first of all, I think it ought to be abundantly clear that this bill is not up. You cannot take something down that is not up. The problem is that we cannot get the bill up. We cannot get it on the floor for debate. We cannot get it here for consideration of amendments. We cannot get even a meaningful discussion on the relevant provisions of the bill. So it is not a matter of taking it down. What we have been trying to do for about 4 or 5 days is to get the bill up.

The second point I would like to make is that it is the majority leader's decision about how many times to ask for cloture votes. It is his decision about what we have on the floor of the Senate. The only thing I have said is that I would recommend to him that we not try to get cloture if we cannot get it today unless he knows of other votes that may be available tomorrow or the next day. That is, of course, his decision, not mine.

If the Senator from Virginia is accurately quoted in the Washington Post, he says he has 41 votes and those 41 votes are locked in on voting against cloture. If that is the case, then I see no need of going over and over and over this procedure. I think we might as well realize this bill is not going to come up as long as the Senator from Virginia does not want it to come up and as long as those 41 votes stick with him. That is simply the way the Senate rules work. That is the way the arithmetic works. This is the way we run this Senate. I respect the rules. I respect the right of the Senator to pocket 41 votes, get an ironclad commitment and prevent us from considering the bill. Any 41 Senators who want to prevent a bill coming up on the floor of the Senate can do so by the rules. There is nothing that is abusive of the rules in that respect. But I can count and I see no need in basically coming here every day and debating for an hour before we have cloture if the Senator from Virginia has 41 votes and they are going to stick.

Mr. WARNER. Will the Senator yield for a question? Will the Senator once again address the issue of how the Appropriations Committee reached its decision and, if the Judiciary and Foreign Relations Committees are continuing their work, why is it so essential that this amendment be addressed at this time, recognizing that other committees have made a decision not to raise this issue at this time?

Mr. NUNN. The answer is very simple, I say to my friend from Virginia, and I have said this several times, but it bears repeating. That is, when you give the money out, you also attach any conditions that you want to attach. If you do not attach the conditions to the money, then you are playing a rather simplistic game that has no real conclusion. We have $4.5 billion in the bill that we are giving to the President and the executive branch for appropriate tests of the strategic defense initiative which they have outlined before the committee.

They have told us the tests they are going to conduct. They testified on that and they have said all of these fall within what is known as the traditional interpretation of the treaty. That is all we are asking for, that they continue that plan, but the executive branch now has a different position. They are saying they have the right to unilaterally change or reinterpret the ABM Treaty and they have the right then to conduct those tests in a different fashion than what they have prescribed before our committee.

So the Senator's answer is very, very clear. If the Senator wants to remove the money and the conditions, we will do so. If the Senator simply wants to remove the conditions and send a blank check, that is not acceptable. I think that is clear to all people here. The Appropriations Committee did not have the money in the supplemental for the strategic defense initiative program. They have some money on heavy lift. It had nothing to do with testing. The supplemental had nothing to do with this issue. There was no money in the supplemental for these tests for fiscal year 1988. Therefore, there was no compelling reason for them to attach that condition.

There is going to be no money for testing in any other bill this year except the final appropriation bill or continuing resolution, so this is the only logical vehicle through which the Senate can work its will about what kind of tests we expect the administration to conduct.

It is just very plain.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. Who yields time?

Mr. NUNN. Mr. President, will the Senator yield me about 3 or 4 more minutes?

Mr. BYRD. Yes, I yield 4 more minutes.

Mr. NUNN. Mr. President, while the Senator from Virginia is on the floor, and the Senator from California—Senator WILSON was here a few minutes ago—if we are going to have extensive debate on this subject, I think it is time for us really to get into the Constitution of the United States, what it says and what it means, as to the relative balance of power. I saw a comment by Senator WILSON last Wednesday in which he asserted, talking about section 233 and whether the President can unilaterally terminate a treaty or reinterpret a treaty:

> It is the President who has the ability to enter into the negotiations leading to a treaty, to consummate that treaty with his signature and, if he chooses to, without benefit of action by Congress, to abrogate a treaty when he sees it in the best interests of the United States.

I ask my colleague from Virginia, does he agree with that statement of the Senator from California?

Mr. WARNER. Mr. President, I have as yet not had the opportunity to familiarize myself with the full text of this colloquy on the subject. I will do so and respond to that question.

Mr. NUNN. As the Senator is considering this very assertive statement by the Senator from California, could I refer him to a very profound statement, made June 6, 1979, in the course of debating the Taiwan Defense Treaty which President Carter had terminated, by none other than the eminent authority, the Senator from Virginia [Mr. WARNER]. Quoting Senator WARNER:

> [A] treaty may be terminated only by a subsequent statute or by a subsequent

> treaty or by some subsequent instrument of similar status and force. * * * Any other conclusion would, of necessity, contemplate the termination of law by some action not itself arising to the dignity of law. That would not accord with the basic concepts of democratic government, since it would imply that, although law is to be made only with the participation of the people's representatives, it cannot be unmade without the same form of popular consent. Those of us from Virginia, whenever confronted with an interpretation of our Constitution, understandably look to the wisdom and guidance of none other than Thomas Jefferson [who wrote in] the manual of parliamentary procedure for use of the Senate of the United States, found in every desk in this Chamber [that] "The legislature alone can declare [treaties] infringed and rescinded."

So I say that this is probably as direct a refutation of the assertion made last week by the Senator from California as I could find by an eminent authority. As I say, I have done a considerable amount of work in the last few days in reviewing the rather profound statements made in the petition to the Supreme Court by Senator GOLDWATER and a number of his colleagues on the Republican side when that treaty was terminated by President Carter. We had a long debate on it. There were a lot of statements made. And what I have been literally astounded by is how many times there is a direct contradiction between what the Senators who are now leading this extended debate said at that time, when we had a Democratic President and one treaty, and what they are saying now when we have a Republican President and a different treaty.

During the course of the next day or so, I will be laying this out.

I notice that Senator HATCH made some statements this weekend about the exclusive jurisdiction of the President over foreign policy, and so forth, and those are directly contradicted in the petition filed with the Supreme Court, and there were an interesting number of signatories on that brief.

So we are going to have an extensive discussion here about what the Constitution of the United States means.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The majority leader has 9 minutes remaining.

Mr. BYRD. I yield 1 minute to the Senator from Georgia.

Mr. NUNN. So far as I know, there has been no change in the U.S. Constitution since 1979 that has affected this issue.

So we are going to see whether the question here is one of principle or whether the answer to the views of some of our colleagues comes from other sources.

Mr. WARNER. Mr. President, I shall yield in a moment to the distinguished Senator from Pennsylvania.

I stand by the statement I made on this floor in 1979. The premise of the argument of the Senator from Georgia has to be that there can be no legitimate difference of opinion in this Chamber as to the interpretation of that treaty. In the course of this bill and other debates, we will address those issues.

At this time, I yield 10 minutes to my distinguished colleague from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the distinguished ranking member for yielding me this time.

Mr. President, I am opposing the motion to proceed, because I believe there are strong reasons not to consider the Department of Defense authorization bill on the merits at this time.

My position does not turn on any interest in delay. But this bill has a provision which, in effect, sanctions the narrow interpretation of the ABM Treaty that I believe is unwise.

First, there are unfinished hearings before the Judiciary Committee, sitting jointly with the Foreign Relations Committee. Mr. President, there have been a series of hearings by those two committees, sitting jointly. I serve on the Judiciary Committee and I am the ranking Republican on the Constitutional Law Subcommittee, and we have been considering the constitutional issues raised on this matter. There is a considerable number of witnesses yet to be heard. There had been a hearing set for today, but that hearing has been put off until June. It is my view that until those hearings are completed, it is premature to consider the Department of Defense authorization bill which determines the ABM Treaty.

Beyond that, we still await the detailed analysis by the distinguished chairman of the Armed Services Committee, Senator NUNN. More than 2 months ago, Senator NUNN issued a series of three papers, but one was incomplete because he had not yet had an opportunity to complete his analysis of the negotiating record. I have checked with Senator NUNN periodically, and that report has still not been filed. This morning, Senator NUNN advises that it will be filed in S-407 before the end of the day.

I suggest that, at least in part, the delay in filing that report is due to the complexity of the issue as to whether the narrow or the broad interpretation is correct. I make no statement today about which is the correct interpretation of the ABM Treaty, but I do say emphatically that it is a complex issue, a very important issue, and the Senate ought not rush to judgment before we have all the facts on this matter.

Beyond the information which is not yet in hand, on the negotiating record and the ratification record, there is the record of subsequent practices of the parties. It was only last week that the administration finally filed certain documents relating to the subsequent practices of the parties, after this Senator and many other Senators pressed to have those documents disclosed.

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. SPECTER. If it is on the time of the Senator from Georgia.

Mr. NUNN. I do not have any time.

Mr. BYRD. Mr. President, I yield the Senator time, on my side.

How much time does the Senator want?

Mr. NUNN. One minute.

Mr. BYRD. I yield 1 minute to the distinguished Senator.

Mr. NUNN. Mr. President, I commend the Senator from Pennsylvania, because he has done a lot of work in this area, and I concur in what he has said about the complexity of the issue.

I had already done an analysis back in February and March, when I issued those statements on the negotiating record. I had completed that analysis. I had a large group of papers addressing that to be filed at that time because we had done considerable rewriting in trying to present that negotiating record in clear fashion. So that the delay in filing my classified report has come from the rewriting, rather than any kind of further assessment.

We have taken the Sofaer report, which we had last week, and worked on it over the weekend. We also looked at the subsequent practices, which the Senator from Pennsylvania has asked for and which are in S. 407. We think there are some interesting revelations there, a few things that come close to being smoking guns, in favor of the traditional interpretation. We will have to look at that more carefully. I will file the report today.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. WARNER. Mr. President, I yield additional time to the Senator from Georgia, because I think this is a valuable colloquy, and it is one which other Senators have an interest in. I do not wish to interrupt the pace of my distinguished colleague, but I yield whatever time he needs.

Mr. NUNN. I thank the Senator from Virginia.

In concluding, I congratulate the Senator from Pennsylvania, because he has done a lot of work on this matter.

I commend the report to my colleagues. I think we will find interesting things there. I will have my classified report filed in S. 407 today. It is my hope—and I have received word this morning—that it will be declassified today, and I hope we will be able to put it out this weekend in declassified form.

I thank the Senator from Pennsylvania and the Senator from Virginia.

Mr. SPECTER. I thank the distinguished Senator of the Armed Services Committee for his kind comments. I accept his statement that it has not been because of uncertainty in his position but an interest in writing a report which is clear. But I think the latter statement illustrates the complexity of this issue.

It is hard to come to grips with all the evidence and to articulate the issues in a way which can make sense. It is a very complicated matter.

I have had the subsequent practices reviewed as well; based on the information provided to me, I agree that there are smoking guns, but I think they may be pointed in the other direction. I think they may be pointed in the direction for the broad interpretation, as opposed to the narrow interpretation.

I do not believe that this issue can be resolved by analyses in S. 407 in secret or by generalizations by Senators on this floor. This issue can only be resolved when we deal with the hard evidence and an analysis, with other Senators participating, with the public informed as to what the facts are, and with the media privy to those matters. Then we can come to a conclusion on this very important issue.

I suggest, Mr. President, that no more important issue is going to face this body this year than what is the correct interpretation of the ABM Treaty. Riding on it now are $4.5 billion, which is a lot, but I believe that even more will ride on this issue than $4.5 billion. We need to see the work of the distinguished Senator from Georgia. We need to see the subsequent practices. We need to analyze them. We need to finish the hearings that are before the Judiciary Committee and the Foreign Relations Committee.

Judge Sofaer was scheduled to come before that committee today. He is going to come before that committee in June, after he finishes his subsequent practices analysis.

I have discussed with the Senator from Georgia a procedure, when Judge Sofaer comes in the next round of hearings before the Judiciary and Foreign Relations Committees, that somebody very knowledgeable opposing Judge Sofaer appear at the witness table at the same time. It may be that Senator NUNN can do that or Mr. Robert Bell, a very distinguished staffer who has done an exhaustive work. I have talked at length with Judge Sofaer and Mr. Bell, and I believe it will be illuminating for this body and for the American public to see these knowledgeable witnesses side by side responding to questions from knowledgeable Senators on what the negotiating record means.

That is a prodigious task, Mr. President, and it is an issue that this body is not prepared to decide today.

This debate on the interpretation of the ABM Treaty is not going to be determinative of the real issues facing this body. I agree with Senator NUNN and Senator LEVIN that the Executive ought to not be handed a blank check.

I believe there are important issues for the Senate and the House to consider as to whether SDI is realistic and feasible. From what I have seen, I believe it is for reasons I have put in the RECORD in my floor statement last Wednesday, but I believe that is still subject to debate.

I believe this body has to consider what is the appropriate level of funding. The committee has come forward with $4.5 billion. I am not sure that is right. Last year on the appropriations process I voted for lesser funding for the SDI.

I believe that those are issues which this body has to take up. But I do not believe that they ought to be taken up in the context of saying that we are legally bound by the narrow interpretation if in fact we are not.

Mr. President, if it is determined after analysis, debate, and reflection that the United States of America is bound by the narrow interpretation, so be it. I believe we ought to abide by the ABM Treaty. But if we are not bound by the narrow interpretation, I believe it is unwise as a matter of public policy to spend more money, in the billions perhaps, by conforming to the narrow interpretation, if we are not obligated to do so. It is also unwise to incur the long delays that may be 3, 4, or more years by observing the narrow interpretation if in fact we are not bound to do so.

Mr. President, I would like to move, briskly because we do not have a great deal of time, to some of the considerations on the merits and put before this body, the American public, and the media for consideration some of the negotiating record which we are now permitted to do for the first time because it has been declassified.

Mr. NUNN. Mr. President, will the Senator let me see if I can get 1 minute from the majority leader yielded on this side of time for a brief comment?

Mr. SPECTER. I do.

Mr. WARNER. Mr. President, could we ask the time to be announced that both sides have?

The ACTING PRESIDENT pro tempore. The Senator from Virginia has 5 minutes remaining; the majority leader has 6 minutes remaining.

Mr. SPECTER. Before we proceed with this, I would like to ask the majority leader the question whether he would entertain the possibility perhaps of a unanimous-consent agreement if it should be required, to extend the time for debate perhaps for about 5 or 10 additional minutes this morning.

Mr. BYRD. Yes.

Mr. President, I make that request.

Mr. SPECTER. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Mr. President, I agree with a great deal of what my colleague from Pennsylvania has said. I wish to emphasize, however, that I do not agree with the statement that we are binding the United States to abide by the traditional interpretation in this bill. We are not binding the United States to do that. We are saying that the President has to stick to that program that he outlined before the committee, which is the traditional interpretation, until Congress authorizes otherwise.

It has nothing to do with a rigid determination that the narrow interpretation is the correct interpretation. Nothing in this bill says the United States is bound to the Soviet Union with the traditional interpretation. There is nothing in there like that.

It simply says that the tests he conducts must be the tests that he has laid out for our committee, which authorized spending $4.5 billion for SDI, and he cannot move to other tests without coming back and asking our authority. We would do the same thing with the MX basing mode or anything else.

The ACTING PRESIDENT pro tempore. The time has expired.

Mr. BYRD. I yield another minute.

Mr. NUNN. If anyone believes this amendment does not reflect that, there could be a substitute amendment, if we could ever get this opportunity to say simply that.

All we are trying to do is say for the next 2 fiscal years the President will not go beyond the program he has outlined in our committee in spending the $4.5 billion. He has said he will spend it under the traditional interpretation. That is what we are trying to accomplish. We are not trying to say which interpretation is correct here at this time.

I believe strongly the traditional interpretation is correct, and I will be debating that point because we are in the debate. That is not what the amendment says.

Mr. SPECTER. I disagree with my distinguished colleague from Georgia because the language of this provision specifically says that funds "may not be obligated or expended to develop or test antiballistic missiles or components that are sea based, space based, or mobile-land based."

Although there is a way to get out of that, this amendment has the practical effect of being the first interpretation by the U.S. Senate of what the ABM Treaty means. If there is to be a deviation from the limitation on this amendment, the President has to come back to the U.S. Senate which has to pass a joint resolution which will first be referred to committee, heard, and then decided. We know as a matter of practical experience that once the U.S. Senate has taken a vote on a matter, that pretty well fixes it unless some very compelling new factual information to the contrary is subsequently brought forward.

The ACTING PRESIDENT pro tempore. The time of the Senator from Pennsylvania has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent for 5 additional minutes.

Mr. WARNER. I wonder if the majority leader and I might discuss the overall time situation.

Mr. BYRD. Mr. President, I ask unanimous consent that there be an additional 10 minutes to be equally divided between both sides.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, and I do not intend to object, with the understanding that the Senator from Nebraska can be yielded 3 minutes off the time so that I may speak.

Mr. BYRD. I shall do my best. I hope to have a few minutes myself on this.

Why do we not say an additional 15 minutes to be equally divided.

Mr. WARNER. Mr. President, for the moment, if we can deal with 10 minutes, I would like to consult the minority leader before acting on his behalf. There could be schedules in the Senate. Senators know this vote was to occur in the time frame established. I want to make sure we are accommodating all Members.

For the moment, it is my understanding, Mr. President, that the unanimous-consent request of the majority leader of 10 minutes has now been agreed upon.

The ACTING PRESIDENT pro tempore. Is there objection to the Senator's request?

Mr. WARNER. And time be equally divided.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is correct.

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I yield another 5 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished ranking member and I shall proceed as rapidly as possible.

Mr. President, on the subject of what is the proper interpretation of the ABM Treaty, I will point first to draft provisions which were proposed by the U.S. delegation in articles 6.1 and 6.2, that were later stricken. They contained language which would have removed all doubt about the narrow interpretation being correct.

In article 6.1 there was language "to perform the functions of these components" and in article 6.2 (which later became 5.1), there was language "other devices to perform the functions of these components." [1]

Had this language been retained, there would have been no doubt about the narrow interpretation having been correct. But the exclusion of this language at the insistence of the Soviet negotiators raises an inference and probably a strong inference in favor of the broad interpretation.

Mr. President, I submit that the negotiating record shows substantial evidence that the Soviets were unwilling to limit testing and development of ABM exotics in air-based mode and not just in fixed land-based mode.

I refer to a series of documents which come from the negotiating record.

Mr. SPECTER. On August 24, 1971, there was a reference to articles 6.1 and 6.2 and then on August 31, General Trusov of the Soviet Union responded that he did not consider it reasonable or necessary to consider a provision covering what he called undefined ideas. He later said that there was an undesirable element of vagueness as to what the United States wanted to accomplish.

I ask unanimous consent that General Trusov's response be printed in the Record.

There being no objection, the document was ordered to be printed in the Record, as follows:

SALT Delegation, Helsinki, Finland

Date: August 31, 1971.
Time: 11:55 to 12:55.
Place: U.S. Embassy, Helsinki.
Subject: Salt.
Participants: U.S.—Captain W. O. McLean, Lt. Col. F. P. DeSimone. USSR—Lt. Gen. K. A. Trousov, VAdm. P. V. Sinetsky, Col. V. N. Anyutin, Mr. Yu. K. Bardin.

Trusov said that he would like to return to clarification of paragraph 1, Article 6 of the U.S. draft ABM Agreement which General Allison had promised him at the end of their last conversation. He wanted to know what we had in mind when we spoke of an ABM system which does not include launchers, interceptor missiles and radars, and asked for an example. I told him that I could not give a concrete example, and that was an important part of understanding the reason for the paragraph in question. Since both sides agree that the ABM limitations we develop will be long-lasting and that we can only specifically limit the systems and components which exist today, the U.S side feels that there should be a provision to take account of the fact that it is reasonable and desirable to prohibit the deployment of components which might perform the ABM mission tomorrow but which are not in existence today. Trusov said that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient. He said that development, testing and deployment of such future systems would be observed by our national means of verification and the review process could take care of the necessary prohibition or limitation. He went on to say that a provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement.

I agreed with Trusov that the process of review would be necessary to take account of developments and to reexamine the ABM agreement in light of those developments and stated that we had such a provision in our text. However, we also feel a need to avoid channeling arms competition in a new direction with the search by either side for ABM means not specifically constrained in the agreement. Paragraph 1 of our Article 6 was directed toward filling this need. Trusov said that his understanding of paragraph 1, Article 6 was that it referred to deployment and he repeated his argument that the possibilities it foresees could be dealt with by national verification means and the review process.

Mr. SPECTER. There is a document as of September 15, 1971, which I ask to include in the Record supportive of the narrow interpretation.

There being no objection, the document was ordered to be printed in the Record, as follows:

SALT Delegation, Helsinki, Finland

Date: September 15, 1971.
Time: 10:00-11:30 a.m.
Place: Soviet Embassy.
Subject: Discussion of Articles 2 and 6 (V).
Participants: U.S.—Mr. S.N. Graybeal, Col. Charles FitzGerald. USSR—Mr. Viktor Karpov, Mr. A.A. Fedenko.

At the September 15 meeting between Graybeal and Karpov, accompanied by FitzGerald and Fedenko, the Soviets tabled new Articles 2 and 6(V). (See attachment.)

The discussion started with Article 6(V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word (komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems.

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[1] The language referred to was provided later for context, as follows:

Art. 6(1) reads:

"Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components."

Art. 6(2) reads:

"Each Party undertakes not to develop or produce for or test or deploy in sea-based, air-based, space-based, or mobile land-based modes, ABM interceptor missiles, ABM launchers, ABM radars, or other devices to perform the functions of these components."

Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording.

Agreement was also reached that, consistent with the "new Article 6", the Soviet text would use "and" between systems and components, while the U.S. text would retain "or" between systems and components.

Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal.

After a brief break, the discussion turned to Article 2. Karpov refused to accept the U.S. wording "indistinguishable from" or "of a type tested in an ABM mode". He argued that "new Article 6" forbids testing non-ABM components in an ABM mode. To include these phrases in Article 2 implies that there can be a breach of the treaty. Therefore, inclusion of either wording in Article 2 is incompatible with "new Article 6" since definitions must not conflict with obligations. The Soviet side could understand the requirement for this language in Article 2 if there were no prohibition on such testing, but inclusion of the phrase in Article 2 would call "new Article 6" into question.

Karpov also said the U.S. approach to Article 2 is unacceptable with or without the phrases "indistinguishable from" or "of a type tested in an ABM mode".

Graybeal argued the need for clear and concise definitions to include the above phrases. He saw no incompatibility between U.S. Article 2 and "new Article 6". In fact, he argued, two Articles are complementary to each other when the U.S. wording is used.

The final result was to leave each side's version of the entire Article 2 in brackets.

It was also agreed that Karpov and Graybeal would make only individual reports to their respective Heads of Delegation, and the remaining problems would be discussed further at the new mini-troika (Parsons, Garthoff, and Graybeal with Timerbaev, Kishilov, and Karpov).

Mr. SPECTER. I would like to go into them in detail, Mr. President, at this time, but time does not permit it.

Then there was a series of proceedings on December 20, 1971, where Semenov, head of the Soviet delegation, repeatedly asked what the United States had in mind and the Soviets said: "The sides cannot and must not engage in discussions or questions not known to anyone."

I ask that this document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

SALT VI—US/USSR MINI-PLENARY MEETING No. 10, SOVIET EMBASSY, 1100 HOURS, DECEMBER 20, 1971

Persons Present: Ambassador Smith, Ambassador Parsons, Mr. Nitze, Dr. Brown, General Allison, Dr. Garthoff, Colonel FitzGerald, Mr. Krimer (Interpreter); Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Colonel Anyutin, Mr. Artemiev (Interpreter), Mr. Novikov (Military Interpreter).

Minister Semenov said, in regard to other ABM systems, suppose that the draft treaty on limiting ABM systems had a provision on limiting systems other than those now known which use interceptors and launchers. What would result from such a provision? Undoubtedly, such a provision would create the grounds for endless arguments, uncertainties, and suspicions with all the undesirable implications for relations between the two countries. He asked if the sides could in working out a draft ABM Treaty advocate such a situation. He also asked if the goal of the two Delegations isn't just the opposite, that is, to reach agreement on limiting known ABM systems referred to in Article III of the draft ABM Treaty. Certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. Such a responsible international document as a treaty on limiting ABMs must be precise as to the subject of the agreement to the maximum extent possible. This would ensure the viability of a treaty which has an important bearing on the national security of the sides.

Minister Semenov said that the Soviet Delegation has repeatedly asked what the U.S. side has in mind specifically under other ABM systems. This question has never been answered. He asked how then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? References had been made to the Outer Space Treaty and the Seabed Treaty. In the Soviet view these references were not convincing. The Outer Space Treaty and the Seabed Treaties had as their subject obligations of a much more general nature than ABM systems. They dealt with a ban on emplacement in outer space and on the seabeds of weapons of mass destruction, that is, nuclear, bacteriological, and chemical weapons. Could the sides include in an ABM Treaty the unknown without risk of making the treaty indefinite and amorphous? On December 10 the Soviet side had already noted the importance of avoiding the temptation to go beyond the scope of our negotiations. We should ask ourselves the question: By including other systems in an ABM Treaty, would we not be placing ourselves in the position that the people refer to in the saying "Go I know not where, bring I know not what?" The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM Treaty. At the same time, the sides undertake obligations not to create a territorial ABM system and to limit ABM deployments around capitals by the limitations contained in the draft treaty.

Minister Semenov then asked what would be done if something appears in the future that the sides should talk about. He believed that the draft ABM Treaty envisaged provisions on this score. Both sides recognize that the Treaty on limiting ABMs would be of unlimited duration. This does not preclude the possibility of supplementary and regular review when the need arises. Articles XIII and XIV, which are preliminarily agreed to, provide for such review. If it should appear necessary to supplement the ABM Treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

Minister Semenov declared that, in connection with the possibility of withdrawal from the ABM Treaty, the sides have agreed in the Joint Draft Text that the ABM Treaty should be of unlimited duration. This is provided in paragraph 2 of Article XV which provides for the possibility of withdrawal by either side if it decides that extraordinary events related to the ABM Treaty have jeopardized its supreme interests. This provision is customarily included in such major inter-state documents of this kind. It is in keeping with the spirit of the May 20 Agreement, as well as with the agreed provisions of the draft ABM Treaty, that the ABM Treaty should, in principle, be an independent document. The conclusion which ensues from this is that inclusion in Article XV of the Joint Draft Text of a provision making operation of the Treaty dependent on the achievement of an understanding with respect to strategic offensive arms is without foundation.

Minister Semenov said that at Helsinki the sides had advanced to a certain degree in reaching agreement on the Joint Draft Text of the ABM Treaty although the central questions were not resolved. Recently, here in Vienna, despite a number of constructive proposals introduced by the Soviet side, there has, in fact, been practically no forward movement in working out the Joint Draft Text of the ABM Treaty. Should such a situation persist it could create an impression of destructiveness of approach in regard to this question which, in the Soviet view, should be avoided.

Ambassador Smith thought that Mr. Nitze might have some observations in regard to Academician Shchukin's intervention earlier today.

Mr. Nitze said he wanted to make only a partial answer to one of the points addressed by Academician Shchukin today. Under Article III of the U.S. proposed text for an ABM Treaty, the two sides could deploy ABM defenses for either the capital or a limited number of ICBM silos. In either case there would be a limitation of four MARCs in the general areas specified in Article III. MARCs so limited as to number and geographical locations would fully meet the concerns both sides have in regard to the permitted ABM radars being used as the basis for development of an ABM defense of the territory of the country or for a thick defense of a region.

Minister Semenov asked if the U.S. side had any other considerations to present.

Ambassador Smith said that was all the U.S. wanted to present at this time.

This same Soviet position was set forth in January 11, 1972. These are incomplete extracts and the full records will be made available for analysis and I do not purport to represent that is all there is, Mr. President, only that there is strong evidence for the broad interpretation that has to be considered in an overall context.

The Soviet side continues to believe that only one specific set of current ABM system components which each side clearly understood should be included in an ABM Treaty. Any attempt to include unknown matters in such a treaty were bound to lead to misunderstandings, arguments, and suspicions with all the undesirable consequences ensuing therefrom.

Later on January 11 on the issue of future ABM systems, there is extensive discussion with the Soviets objecting to futures. For example, Grinevsky said the treaty referred to ABM systems which were defined in article 2 and "could not deal with unknown, other systems."

A later quotation from the memorandum: "In a side conversation, Grinevsky indicated to Parsons his own understanding of our concern, but implied that other (presumably military) members of his delegation were unyielding and in any case it was not an actual problem at this time."

I ask that this memorandum be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF CONVERSATION,
U.S. SALT DELEGATION,
Vienna, Austria, January 11, 1972.

Subject: Narrowing differences in SALT.

Participants: United States versus, Ambassador J. Graham Parson, Dr. Raymond L. Garthoff. U.S.S.R., Mr. O.A. Grinevsky, Mr. N.S. Kishilov.

Future ABM Systems

A substantial portion of the discussion was devoted to the issue of future ABM systems. Kishilov, whom Garthoff had advised earlier that day that the US side might wish to make some changes in the formulation provided in December, pressed on what these changes would be. He asked if Garthoff had a new text. The latter replied in the negative. Kishilov then produced a text from his pocket, which on quick inspection turned out to be a Soviet translation of the language which Garthoff had provided in mid-December. He asked Garthoff to mark the changes which the American side would wish to make. Garthoff repeated that he was not prepared to provide a new text, and would not undertake to do so. However, he would point out some things that might be rendered more precisely. He then suggested that, for example, rather than referring to "consultation and agreement in the Standing Consultative Commission", it would be better to refer to consultation in the Commission and agreement between the Parties. Grinevsky nodded understanding. Garthoff said that no doubt certain other editorial improvements could be made, concerning precise reference to ABM components, etc. In general, the formulation could probably be refined in a number of ways; the important thing was the Soviet reaction to the substance of the proposition it contained. Grinevsky then suggested a "simplified" approach, which both he and Kishilov pointedly (and no doubt disingenuously) said they had just worked out on the way to the restaurant. The gist of Grinevsky's suggestion was that if the occasion should arise to consider such other systems, they could be considered in the Standing Consultative Commission in accordance with Article XIII (conveying the Commission's mandate). Garthoff asked what would happen if such consultation did not lead to an agreed conclusion. Would a party, wishing to deploy such a system, be able to do so or not? Grinevsky said that was a question which did not need to be asked, that the whole question was at present hypothetical. Garthoff said that such systems might at present be hypothetical, but the treaty as as whole either would or would not allow a party to deploy some presently unidentified ABM system or component at a future time if the matter were not resolved through consultation. Grinevsky said that it could do so, and that the other side always had the recourse of "Article XV" (withdrawal). Garthoff and Parsons noted that withdrawal would be a rather severe action, and while always available as a last resort, should not be relied upon as a solution to a problem which could be resolved, in other ways, Garthoff suggested that instead of relying on Article XV, reliance should be placed on Article XIV (amendment). He suggested that perhaps an Agreed Minute might refer to both Articles XIII and XIV. At this point, the conversation divided into separate discussions between Parsons and Grinevsky on the one hand, and Garthoff and Kishilov on the other. While Grinevsky was adamant on resting with Article XIII, Kishilov (initially) agreed with Garthoff on possible resort to Article XIV. When the two conversations again merged, this discrepancy came to light, and after brief spirited and disjointed exchanges, Kishilov agreed with Grinevsky that the attempt to word a formulation concerning Article XIV "had not worked out".

Grinevsky said that the treaty referred to ABM systems, which were defined in Article II. I could not deal with unknown other systems. Garthoff challenged this interpretation on two grounds: first the treaty dealt not only with ABM systems comprising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems, but rather future ABM systems. He asked Grinevsky whether in the light of Articles I, II, and III, Grinevsky considered that a party would have the right—assuming consultations were held and did not lead to agreement—to deploy all around the country, say a thousand stations for firing anti-ballistic missile laser interceptor beams. Grinevsky said no, it would not have such a right. But, he countered, it should be able to place "telescopes". Garthoff asked if he meant sensors which could serve the role, played by ABM radars, and Grinevsky replied that was part of the problem. Also, "other" systems might or might not be for ABM purposes, but the U.S. wanted to have a veto over them. Garthoff remarked that he had noted that morning constant Soviet reference to "other" systems rather than "future" systems. But the two issues should not be confused. If there were a question as to whether some system was in fact an ABM system or component or not, that would clearly be a subject for consultation, and if there were a serious divergence perhaps there would be need for recourse to withdrawal, as Grinevsky had suggested. However, what Garthoff was referring to—and what the US was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example. In a side conversation, Grinevsky indicated to Parsons his own understanding of our concern, but implied that other (presumably military) members of his Delegation were unyielding, and in any case it was not an actual problem at this time.

In a briefer separate conversation, Kishilov conceded that Articles I, II, and III together would ban future ABM systems or components. (Comment: The confusion and discrepancy between the Soviet participants over interpretation of the effect of Articles I, II, and III of the ABM draft Treaty with respect to future ABM systems, and over possible solutions, seem to indicate absence of a clear and thought-through position on the part of the Soviet Delegation at the present time.)

Garthoff emphasized, and Parsons concurred, that it was essential to establish a common understanding between the two Delegations with respect to the effect of Articles I, II, and III on future ABM systems, and to reach agreement on a position concerning this subject. Notwithstanding the differences which had emerged in the discussion (as indicated above), Grinevsky reaffirmed the interest and readiness of the Soviet side to continue discussion directed at reaching a solution on this subject. Grinevsky specifically endorsed Garthoff's statement that this subject should be resolved in the current phase of the talks.

Again on January 14, "Trusov affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent."

I ask that this memorandum also be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF CONVERSATION,
U.S. SALT DELEGATION,
Vienna, Austria, January 14, 1972.

Subject: SALT.

Participants: United States, Lt. General R. B. Allison, Colonel C. G. FitzGerald, and Lt. Colonel F. P. DeSimone. U.S.S.R., Gen-Lt K. A. Trusov, Colonel B. T. Surikov, and Colonel S. I. Baranovsky.

Future Systems

I asked Trusov if he could repeat, so that I could be sure of understanding, Academician Shchukin's mini-plenary statement concerning future ABM systems. Trusov affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear their limitation would be subject to discussion under the provisions of Articles XIII and XIV of the Draft ABM Treaty.

Mr. President, I very much regret the necessity to consider even at this stage matters of this complexity in such a time frame, and I think it italicizes and underlines the lack of wisdom of proceeding at this time in this context without a full debate on the origin of the language "currently consistent of," which has been cited by many in support of the proposition that the narrow interpretation is accurate.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SPECTER. I ask for 1 additional minute, Mr. President.

The ACTING PRESIDENT pro tempore. Will the Senator yield 1 minute?

Mr. WARNER. Mr. President, I am happy to yield.

The ACTING PRESIDENT pro tempore. The Senator is yielded 1 additional minute.

Mr. SPECTER. Its origin appears on December 20 in a memorandum from the U.S. delegation relating to the language "currently consisting of". This document shows that it was inserted at the request of the Soviet Union "as a connective" without an intent to create a definition which would raise the implication of the narrow interpretation. As was stated in the midst of this dicussion: "Garthoff noted that the Soviet side as well as the Americans recognize that there could be future systems and while the question of constraints on future systems would be settled elsewhere than in article 2."

I ask that this document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF CONVERSATION,
U.S. SALT DELEGATION,
Vienna, Austria, December 20, 1971.

Place: Franziskaner Restaurant, Vienna.
Subject: SALT.
Participants: United States—Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR—Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

ARTICLE II OF THE ABM JDT

Following the mini-plenary meeting earlier that day, Garthoff had given Grinevsky a revised draft Article II (see attachment). Grinevsky noted that there were three problems remaining. First, sub-paragraph (a) used the simple expression "to counter" strategic ballistic missiles. He said that he was not sure if this formulation would be acceptable to his Delegation; he did not exclude the possibility, but he did suggest—as he had done in his dinner conversation with Garthoff on December 17—use of the expression "serving to counter . . .". Garthoff in turn said that inclusion of the word "serving" might be acceptable to his side, but this was uncertain—that the simple expression "to counter" seemed clear was uncertain—that the simple expression "to counter" seemed clear enough and was acceptable to the US side. He therefore urged Grinevsky to see if it was acceptable to the Soviet side, and meanwhile both could continue to think about "serving" as a possible addition.

Grinevsky stated that the second problem was the absence of a connective between the sub-paragraph defining ABM systems, and the three subparagraphs following which defined components. His Delegation strongly believed that there should be some connective such as "namely" or "consisting of". Garthoff stated that the American side did not consider that a connective of this kind was either necessary or desirable. If, however, there were to be one, it should be precise. Therefore, he suggested, we might consider use of the phrase "currently consisting of" as a connective. This was clearly a new thought to Grinevsky and Kishilov and they appeared uncertain of the reaction of their side. Garthoff noted that the Soviet side, as well as the American, recognized that there could be future systems, and while the question of constraints on future systems would be settled elsewhere than in Article II, the correct way of indicating a valid connection between component and systems in Article II would be to include the word "currently". Grinevsky agreed to take up this possibility with his Delegation.

The third point which Grinevsky raised was he handling of "testing" in the three sub-paragraphs dealing with AMB components. Grinevsky noted that in his conversation with Garthoff on December 17, the expression "tested and deployed" had been included in the first half of each of the three sub-paragraphs; it was absent in the draft they had been given earlier that day. Garthoff acknowledged that fact, and said that we considered it unnecessary to include the words "tested and", but he believed that if the Soviet side strongly wanted them included, we could probably agree. We could not, however, regard that reference to "tested" as a substitute for the phrase "or of a type tested in an ABM mode". Grinevsky indicated that was precisely what he was about to suggest. The American participants vigorously argued for the need to include this additional phrase, and with no promise of success the Soviet participants agreed to try this approach with their Delegation.

ARTICLE V OF THE ABM JDT

Grinevsky raised the question of dealing with future ABM systems through statements on the record concerning consultation prior to deployment in the Standing Commission. Garthoff noted that the suggestion which he had advanced in this respect was for an agreed minute; formal plenary statements might be used, but in any case there must be a clear agreed mutual understanding that, prior to any deployment of future systems and components, there would be consultation and agreement in the Standing Consultative Commission. Grinevsky acknowledged this, and said that perhaps an agreed minute could be used. He did remark that there might be some question about the precise action to be taken through the Standing Commission. Garthoff again noted that his suggestion was for consultation and agreement prior to any such deployment. Grinevsky said that it was necessary to think further about this matter, but that the approach suggested was of interest.

Mr. President, the reality is that that is a very complicated matter which requires extended debate.

Mr. President, in light of what has happened, I ask unanimous consent that the full text, albeit expansive, of Judge Sofaer's report and the attached documents be printed in the RECORD. It is long, involved, expensive, but I think it is important that it be before this body, and before the public and media for the kind of analysis which I think is indispensible.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ABM TREATY

PART I: TREATY LANGUAGE AND NEGOTIATING HISTORY, MAY 11, 1987

INTRODUCTION

The Anti-Ballistic Missile Treaty was negotiated between the United States and Soviet Union during 1971 and 1972, and was signed on May 26, 1972. It was considered soon thereafter by the United States Senate, which gave its advice and consent on August 3, 1972, with no reservations, conditions, or understandings. The Treaty has been in effect continuously since that time.

The ABM Treaty's application to future systems and components (those based on "other physical principles" ("OPP") than those utilized in ABM systems existing in 1972) has been discussed from time to time since its adoption. This question has taken on increasing importance in recent years, however, in light of intensified efforts by the United States and the Soviet Union in ballistic missile defense. During early 1985, studies were undertaken within the Executive Branch as to the Treaty's meaning in this regard, and the intentions of the Parties. The Office of the Legal Adviser was asked to undertake a study of the text and negotiation record of the Treaty in August 1985, and issued conclusions in October of that year. During February 1987, the President directed the Legal adviser to prepare studies of the Treaty's ratification process, and subsequent practice of the parties.

An overall appraisal of the ABM Treaty's application to OPP devices must be based, under international law, on the treaty language, and its intended meaning as reflected in the parties' understandings. Rules have been developed for the analysis of treaties, particularly in the Vienna Convention on the Law of Treaties and by tribunals, courts, and arbitrators called upon to decide particular cases or disputes. These rules uniformly recognize the importance in any such exercise of the treaty language, and of the principle that the language must be interpreted in good faith, with the treaty's purposes in mind. International law also calls for recourse to subsequent agreements of the parties that reflect their understandings on the matters at issue, and to the "practical construction" of the treaty through the parties' subsequent conduct. In addition, recourse to the negotiating history is permitted to deal with ambiguities in the text, though the emphasis given to such history differs in various international tribunals and national courts.

Studies of the ABM Treaty beginning in 1985 focused upon its text and negotiating history. These subjects are fundamentally important to what the parties intended in good faith, in a context in which no definitive "practical construction" was likely to have been developed. ABM devices based on OPP have only recently approached a point in their scientific development which might provide probative evidence of intentions based on subsequent conduct.

The present report is an updated version of a study completed by this office in August 1986, and sent thereafter to the Senate along with relevant parts of the negotiating record. This version deals with arguments and evidence developed or discovered in recent months. No study of this subject can be treated as totally complete.

Nothing said or found concerning the Treaty, however, has altered the conclusions reached in October 1985 that the Treaty text is ambiguous, and that the negotiating record establishes that the Soviet Union refused to agree to prohibit the development and testing of mobile ABM devices based on OPP.

SUMMARY OF CONCLUSIONS—TREATY TEXT

The ABM Treaty's impact on future devices based on other physical principles ("OPP") turns largely on three provisions: the definition of "ABM system" in Article II(1); the prohibition on development, testing, or deployment of non-fixed land-based systems and components in Article V(1); and the regulation of systems based on OPP in Agreed Statement D. The language of these provisions is ambiguous and permits more than one plausible interpretation.

Some prior USG analyses concluded that the Treaty bans the development, testing, and deployment of all future ABM systems and components that are not fixed, land-based. This "restrictive" interpretation holds that the definition of "ABM system" in Article II(1) encompasses, for all treaty provision, systems and components based on physical principles used in 1972 ABM systems as well as substitute devices, based on other physical principles, that are able to serve the same purposes. Relying on that definition, the restrictive view argues that the prohibition of space-based and other mobile "ABM systems and components" in Article V(1) applies to then utilized ABM systems and components (ABM missiles, launchers, and radars) and also to substitute OPP devices. Under this interpretation, the Treaty calls creation (i.e., development and testing) of substitute OPP devices only if they are fixed land-based.

From a textual standpoint, the restrictive interpretation is problematic. It renders Agreed Statement D legally superfluous: if Article II had limited deployment of any form of ABM system or component to those fixed land-based systems specifically allowed (those using interceptor missiles, launchers, and radars), and if Article V has precluded development, testing, or deployment of all possible systems and components that were other than fixed land-based, then the Parties would not have needed to add Agreed Statement D to the Treaty. Moreover, the Treaty's provisions, other than in Agreed Statement D, indicate that the Parties focussed exclusively on regulating ABM systems that use interceptor missiles, launchers, and radars.

An alternative reading of the Treaty is that it allows creation of all ABM systems and components based on "other physical principles," but prohibits their deployment absent consultation and agreement between the Parties. This "broader" interpretation views the Article II(1) definition as applicable in the Treaty text, as opposed to separate agreed statements, only to systems that use ABM interceptor missiles, launchers, and radars or improvements based on the same physical principles. It construes Article V(1) as prohibiting development, testing, and deployment of non-fixed land-based systems and components based on the physical principles used to create the systems and components extant in 1972. It sees Agreed Statement D as governing the creation and deployment of all OPP devices which can serve as substitutes for coventional ABM systems and components. This interpretation harmonizes all relevant provisions of the Treaty, while satisfying its central concern of preventing the deployment of all forms of ABM devices except as allowed by Article III.

A third, even broader interpretation reads the Treaty to allow deployment—not just development and testing—of substitute ABM devices based on other physical principles. This interpretation would undercut the avowed purpose of Agreed Statement D, which is "to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III. . . ."

NEGOTIATING HISTORY

No single statement or event in the negotiating record definitively settles all the issues concerning substitute devices based on other physical principles. The record does, however, contain several clear indications of the Parties' positions on related issues and of the concerns that led them to those positions. Several conclusions can be drawn from the negotiating record.

The U.S. delegates initially proposed an explicit ban in what ultimately became Article V(1) on development, testing, and deployment of all "devices" that could in the future perform the functions of conventional mobile ABM systems and components. The Soviets rejected this language on several occasions during August and September 1971. On September 15, 1971, Soviet negotiator (Karpov) stated in a small working-group meeting that language proposed by the Soviets covering "ABM systems and components" was intended to cover any type of "future component." The U.S. Delegation accepted this language, which unambiguously created coverage for all ABM missiles, launchers, and radars that the Parties could use in mobile modes. This language failed, however, to establish that the Soviets intended to include within the coverage of Article V(1) OPP devices that could substitute for conventional components. The definition of "ABM system" in the Soviets' proposed draft treaty on September 15 was clearly limited to the three conventional components. The Soviets opposed, moreover, as a matter of principle, any attempt to regulate unknown systems or components. This Soviet opposition continued after the negotiation of Article V(1) in September, until the formulation of Agreed Statement D in February 1972. The U.S. delegates never contended during this period that the Soviets had already agreed to regulate unknown OPP devices in Article V(1), and the record establishes that the U.S. delegates did not believe that such an agreement had been reached.

The record also establishes that the Soviets, between September and December 1971, rejected definitions of "ABM system" in Article II(1) which would unambiguously have brought within the Treaty proper the regulation of unknown, OPP devices capable of substituting for conventional ABM systems or components. The Parties agreed as early as September 15, 1971 to find language for Article II(1) that would not prejudice their respective positions on "future" systems. The Soviets agreed to cover in Article II(1) only the ABM system then in use. On December 20 and 21, the Soviets offered to accept connecting language, including "consisting of" and "namely"; they agreed to accept the words "currently consisting of" to Article II(1) only after the U.S. negotiators assured them that the futures problem would be settled elsewhere than in Article II(1).

The Parties dealt expressly with the issue of substitute OPP ABM systems and components solely in Agreed Statement D, negotiated between December 1971 and February 1972. They agreed to allow "creation" of such devices, but to require discussion and agreement on specific limitations prior to their deployment. The introductory language of Agreed Statement D indicates that it was intended to support the deployment limitations of Article III. Nothing in the language of, or debates over, Agreed Statement D, however, expressly restricts it to fixed land-based systems; nor does the negotiating record establish the agreement of the Parties to interpret it in such a fashion. The provision grew in part out of a proposal intended to apply to land-based ABM systems and components. Modifications and debates during the drafting process indicate, however, that the provision resulted from Soviet refusal to regulate any unknown devices, including mobile-based devices, and ultimately served to regulate all substitute OPP ABM devices, irrespective of basing mode.

Discussions during the negotiation of Agreed Statement D, and thereafter during the final drafting of Article III's introductory language, indicate that the parties believed that Articles I, II, and III together expressed their intention to bar *deployment* of all OPP devices. This fact does not establish, however, that Article II (1) defined ABM systems, as used in the Treaty text, to include all OPP devices. The Parties intended ultimately to regulate all ABM devices that could perform the ABM function, as reflected in the functional language of Article II (1). The Soviets refused, however, to regulate in the Treaty itself and in Article II (1) as fully written, any ABM system other than the ones currently consisting of ABM missiles, launches, and radars. Soviets insisted on using Agreed Statement D as the vehicle for regulating OPP devices, and did not regard that provision at the time as superfluous or redundant.

DISCUSSION

I. *Textual Analysis*

The central feature of the Treaty is the Parties' commitment not to deploy a territorial ABM system. Article I (2) provides that: "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country. . . ." Article II (1) defines "an ABM system," "[f]or the purpose of this Treaty," in functional terms ("a system to counter strategic ballistic missiles or their elements in flight trajectory") and immediately thereafter refers to contemporaneous components: "currently consisting of" ABM interceptor missiles, launchers, and radars, which are defined in terms of both function and mode of testing. Article III prohibits deployment of ABM systems or components, except for certain numbers of conventional components expressly allowed at specified launch sites. Article V(1) provides that the parties agree "not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." Agreed Statement D, which accompanies the Treaty, provides as follows:

> In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Three different interpretations of these provisions have been advanced with respect to their effect on OPP devices. The "restrictive" interpretation sees the Treaty as absolutely prohibiting development, testing, or deployment of all such devices unless they are fixed land-based. The "broader" interpretation would permit the "creation" of any such device, regardless of basing mode, but would allow deployment only after discussion and agreement between the Parties. A third, even broader interpretation would allow deployment of such devices following discussion between the Parties, even if the discussion did not result in agreement.

A. *The Restrictive Interpretation*

The restrictive interpretation rests primarily on the language of Article V(1), which on its face unqualifiedly prohibits the development, testing, or deployment of mobile "ABM systems or components." But this language does not settle the issue of the Article's applicability to ABM devices other than missiles, launchers, and radars that could serve the same functions as ABM systems or components in use when the Treaty was drafted. That issue depends on whether the term "ABM systems or components" is limited in Article V(1) to systems and components based on physical principles then in use or also includes substitutes based on other physical principles.

In attempting to answer this question, one must turn to the definition of "ABM system" in Article II(1). Proponents of the restrictive view contend that the definition in Article II(1) is purely functional, and includes all components ever created that could serve the function of countering strategic missiles in flight. They argue that the three components identified in that paragraph—ABM missiles, launchers, and radars—are merely listed as the elements of current ABM systems, and that all future components of a system that satisfies the functional definition are also covered by Article II(1).

This reading of the Treaty is plausible, but it has shortcomings. The Treaty's other provisions consistently use "ABM system" and "components" in contexts that reflect that the Parties were referring in the Treaty text to systems and components based on physical principles then in use. Article II(2), for example, further describes the "ABM system components listed in paragraph 1 of this Article," to include those that are operational, under construction, undergoing testing, undergoing overhaul, repair or conversion, or mothballed—thereby indicating that the definition in Article II(1) was not merely illustrative, but was intended to describe the conventional components actually covered by the Treaty text. Article III uses "ABN system" in describing systems consisting of missiles, launchers, and radars; Article IV limits to fifteen the number of "launchers" at agreed test ranges;[1] deployment of launchers of multiple ABM interceptor "missiles" and automatic or rapid reload "launchers." In short, the Treaty is permeated with references to, and concern about, the systems or components then is use.

ABM systems based on "other physical principles" directly pose the question—other than what? The answer seems clear—other than those used in conventional ABM systems, and capable of substituting for the ABM systems and components listed in Article II(1). These OPP systems and components are mentioned only in Agreed Statement D. In that provision, the Parties refer to ABM systems "based on other physical principles," and including components that could substitute for ABM missiles, launchers, or radars being "created in the future." This suggests that the definition of "ABM system" in Article II(1) reflects an intent to regulate in the Treaty text only those systems and components based on then-utilized physical principles and not those based on OPP. "ABM system" in Article II(1) can plausibly be read to mean to encompass future substitute OPP devices wherever the term is used in the Treaty text. The phrase can also reasonably be read, however, to include, in addition to then-current systems and components, those developed through the application of then-utilized physical principles, analogous to modernizations or replacements under Article VII, but not those substitute ABM devices based on OPP.

An argument could be made that Agreed Statement D applies only to fixed, land-based OPP devices, because only those devices could lawfully "substitute" for components that the Parties are allowed to deploy in Article III. This reading would give a literal meaning to "substitute," implying a physical substitution rather than a functional substitution. The provision can also reasonably be read to permit the creation but not the deployment (as prohibited by Article III) of any device that could functionally displace one or more conventional components.

The very existence of Agreed Statement D poses a fundamental problem for the restrictive view. Nothing in that Statement expressly states that it applies only to devices that are fixed land-based. The restrictive interpretation would render Agreed Statement D legally superfluous insofar as it serves to prevent deployment of OPP devices. If Article II(1) extended the Treaty text to all ABM systems and components, based on then-currently utilized physical principles as well as OPP, then the Treaty—even without Agreed Statement D—would have banned deployment of all systems and components other than those particular systems expressly permitted under Article III. Agreed Statement D would have been unnecessary for that purpose.[2]

Treaties are sometimes read to contain statements intended to clarify a point covered by other provisions. But such redundancy tends to undermine the viability of a proposed construction—especially where no clarification is needed. A reading that renders provisions redundant or superfluous cannot be said to make the treatly unambiguous.

Some proponents of the restrictive interpretation have responded that redundancy is to be expected in an "Agreed Statement," which appears along with other "Common Understandings." This observation lacks force here, however. First, the other statements and understandings are not redundant. Further, Agreed Statement D—unlike Agreed Statements A, B, and C—does not contain the word "understand," thereby suggesting only an interpretive purpose. Rather, it is written with the operative phrase "the Parties agree," which is much closer to the language in the Treaty itself ("the Parties undertake"). Similarly, the Statement's phrase—"In order to insure fulfillment of the obligation not to deploy"—is close to the analogous phrases in Article VI ("To enhance assurance of the effectiveness of the limitations"), and Articles IX, XII (1), and XIII(1). In short, Agreed Statement D appears on its face to have been written as a substantive obligation rather than as merely another shared interpretation.

The restrictive interpretation also creates a scientific and practical incongruity. It would permit development and testing of devices that could substitute for ABM systems and components, so long as they were devices that were aspects of fixed land-based systems. It would prohibit development and testing of such devices if they were aspects of mobile systems. Yet the devices sought thus to be regulated would not necessarily be related to one type of system or another. A laser device, for example, might be deployable at a land-based site, or be made part of a space-based or other mobile system. A distinction among devices drawn on the basis of deployment location would make unverifiable any ban on deployment and testing of OPP, because one might not be able to know that such devices were intended only to be used in the fixed, land-based mode. This verifiability problem is avoided if the Treaty is read to restrict only the deployment of OPP devices. In this respect, the Treaty's purpose is clear and enforceable: to allow *deployments* only at certain fixed land-based areas. This purpose is protected under the broader as well as the restrictive interpretation.

B. *The Broader Interpretation*

The difficulties of construction created by the restrictive interpretation are avoided if one reads Article II(1) as referring in the Treaty text only to ABM systems and components based on physical principles underlying conventional systems then in existence. Read in this manner, the Treaty establishes a coherent, non-redundant scheme that:

Prohibits the deployment of all systems and components based on physical principles underlying conventional systems then in existence, except in the quantities and areas specifically permitted (Article III);

Prohibits the development, testing, or deployment of all non-fixed land-based systems or components derived from then-utilized physical principles (Article V(1));

Permits the creation of substitute ABM systems and components based on OPP, but prohibits their deployment until agreement is reached on specific limitations (Agreed Statement D).

This interpretation also achieves results consistent with the Treaty's express and fundamental purpose: to prevent deployment of "systems or components" other than as specified by Article III. Under Agreed Statement D, ABM systems and components based on OPP could not be deployed absent agreement on specific limitations, amounting to an amendment of the Treaty. The argument has been made that allowing the "creation" of mobil ABM devices based on OPP could undermine the Treaty's prohibition against deployment of a territorial ABM system. Testing and development could be used, it is argued, to place large numbers of OPP devices in space, or to develop and hide them. The Treaty's purpose in this regard could, however, be undermined even if the Parties are limited to the narrow interpretation. A Party suspicious of purposeful evasion could discuss such matters in the SCC, and could withdraw from the Treaty if unsatisfied by the explanation given. The Treaty also contemplates, in Agreed Statement D, that the Parties should negotiate for OPP systems limitations analogous to those applicable to conventional systems.

C. *An Even Broader View*

Some have advanced a third interpretation of the Treaty: that the Parties are permitted to deploy OPP devices after discussion, even if they do not reach agreement on specific limitations. This interpretation is not precluded by the text of the Treaty: Agreed Statement D does not explicitly prohibit the Parties from deploying OPP devices until they agree on specific limitations. Nevertheless, the language of the Treaty casts grave doubt on this interpretation. The Treaty is of unlimited duration (Article XV(1)), and its most fundamental objective is to prevent deployment of systems that can serve the function defined in Article II(1), other than as provided in article III. To read Articles II(1) and V(1) to apply only to current systems or components, and to read Agreed Statement D to require only discussion prior to deployment of OPP devices, would leave a substantial gap in the Treaty's coverage and thereby potentially undermine its most fundamental Purpose.

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[1] Some have argued that Article IV prohibits all testing of "ABM systems" other than at agreed ranges, thereby implicitly precluding the testing of OPP devices in space. This is a circular argument, depending on whether OPP devices are within the definition of "ABM systems" in Article II(1). The degree of its constraint on OPP devices is therefore no greater than that of Article V(1).

[2] Reading Article II(1) to apply to present and future substitute systems and components would render largely unnecessary even Article V(1)'s ban on deployment of other than fixed land-based systems. Article III, by specifying that launchers and interceptor missiles are to be located at "launch sites," can be read as allowing deployment only of fixed land-based systems. If it is so read, and if the definition of "ABM system" covered all future substitute devices, then Article III would itself preclude deployment of all such devices other than those of a fixed land-based mode.

Agreed Statement D states, moreover, that its purpose is "to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III." The Statement requires both discussion of "specific limitations" for substitute OPP systems or components under Article XIII, and "agreement in accordance with Article XIV of the Treaty," upon the "creation" of such substitutes. The text thereby suggests a general prohibition against deployment of such substitute systems or components, absent agreement on specific limitations such as those contained in Articles III, IV, and VI.

In sum, the Treaty's text is subject to at least two logically defensible interpretations. The negotiating record should therefore be examined to ascertain whether it establishes the Parties' intentions respecting the Treaty's regulation of substitute OPP devices.

II. ANALYSIS OF ABM NEGOTIATING RECORD [3]

A. *The Initial U.S. Proposal Concerning Future Devices*

In August 1970, the U.S. proposed language, as part of a comprehensive agreement on both offensive and defensive weapons, that would have prohibited "[t]esting and deployment of mobile land-based, sea-based, air-based, or space-based ABM systems or their components. . ." (Airgram AA-284) [hereinafter "A-[number]"] The Soviets proposed a separate provision limiting ballistic missile defenses, on December 4, 1970, in which the parties would "undertake not to test or deploy mobile land-based, sea-based, or space-based ABM means (sredstva) or their components specially designed for such systems." (A-79a) A formal Soviet proposal to this effect was tabled on March 19, 1971. (USDEL SALT 566) These proposals reflect agreement in principle to prohibit testing and deployment of mobile "systems" or "means," and their "components," as the FitzGerald/Graybeal study notes (p. 15);[4] but these exchanges were based on the premise, held, as FitzGerald writes, "from the earliest days of the SALT I negotiations, [that] the sides were agreed that the ABM agreement on which they were working was intended to place limitations on ABM systems as they then existed, i.e., systems which consisted of ABM launchers, ABM interceptors, and ABM radars." (FitzGerald 16) Until the session in Helsinki, beginning on July 5, 1971, "neither side had made any specific mention of a possible need for taking into account ABM systems that might be developed in the future and which would be able to perform the missions of the then-existing ABM system components." (FitzGerald 16–17) Subsequent discussion within the U.S. Government made clear that the formulations proposed prior to July 1971 were then regarded as insufficient to prohibit the testing and deployment of future, substitute devices.

After a long dispute at the fourth SALT Session over whether to negotiate an agreement on ABM alone (the Soviet position) or whether to maintain a link between limitations on offensive and defensive weapons (the U.S. position), the ABM Treaty negotiations received a substantial boost on May 20, 1971. On that day, the United States and the Soviet Union agreed "to concentrate this year on working out an agreement for the limitation of *the deployment* of anti-ballistic missile systems," but linked that commitment to the negotiation of "certain measures with respect to the limitation of offensive strategic weapons."[5]

On July 2, 1971, National Security Decision Memorandum ("NSDM") 117 was issued to the U.S. delegation instructing that "the [ABM] agreement should make clear that *any systems* for rendering ineffective strategic ballistic missiles or their components in flight trajectory were prohibited unless permitted by this agreement." (Emphasis added.)

Disagreements existed at that time within the Delegation in several areas. It was split on the need for rigorous definitions, and on whether future systems using components other than ABM interceptors, launchers, and radars should be banned. Ambassador Gerrard Smith, the lead U.S. negotiator, argued that all conceivable ABM systems should be covered by the Treaty's limitations. General Allison and Ambassador Parsons, two other members of the U.S. Delegation, objected on the ground that such constraints would be unverifiable. (USDEL SALT 794, July 12, 1971, cited in Fifth Session of the Strategic Arms Limitation Talks, July 8–Sept. 24, 1971, Historical Division of ACDA 10–11 (Oct. 1972) (hereinafter cited as "Fifth Session of SALT"); USDEL SALT 796, July 12, 1971, and USDEL SALT 819, July 17, 1971, cited in Fifth Session of SALT 14) Washington was similarly divided on these unresolved issues. The Joint Chiefs of Staff (JCS) objected to the broad language of NSDM 117 because it would limit future ABM options, and because "exotic" ABM systems had been inadequately studied.

On July 20, 1971, the President issued NSDM 120, which provided that, pending further study, the agreement should "not prohibit deployment of possible future ABM systems other than systems employing ABM interceptor missiles, launchers, and radars." At the last minute, the delegation was instructed to leave a blank paragraph in Article 6 of the U.S. draft treaty in order to "leave flexibility for possible outcomes" of a study on future ABM systems. (W.H. to USDEL SALT 135481, July 27, 1971 cited in Fifth Session of SALT 13). The draft agreement proposed by the U.S., dated July 27, 1971, defined an ABM system as "a system for rendering ineffective strategic ballistic missiles or their components in flight trajectory." (Art. 2(1)(a)). As a result of JCS objections, however, Article 6(1) contained only the following statement:

> 1. [An appropriate provision regarding sea-based, air-based, space-based, and mobile land-based ABM systems will be tabled separately.]

The draft also contained a provision that proposed an undertaking "not to develop or deploy new missile systems or their components other than ABM systems or their components for such a role." (Article 7(1))

Within the U.S. Government, Ambassador Smith continued to argue that the United States should attempt to obtain a ban on future ABM devices. On July 28, 1971 Smith sent a back-channel cable to Henry Kissinger, then Adviser to the President for National Security Affairs, presenting Smith's personal view that a ban should be placed on deployment of next-generation technology and that Article 6 of the agreement should not limit only interceptors, radars and launchers but any other ABM system that may be developed. (Helsinki 0149). The next message from Kissinger to Smith, on August 3, 1971 conveys Kissinger's concern with the "leisurely pace" of the negotiations. Kissinger states that he anticipated after the May 20, 1971 announcement "we would be able to move expeditiously in the direction of an agreement which would be consistent with the understandings set forth at that time. . . . It now appears that we may be pursuing a plethora of *esoteric* issues and risking a more rapid pace by a series of diversions on matters which involve the specialized concerns of arms limitations experts but which in the final analysis constitute barriers to achieving the kind of momentum we had hoped for." (White House 12791) (Emphasis added.) Smith responded the next day, noting that he appreciated the frank message about the "leisurely pace," but attributing it in part to the lack of guidance: "is the arrangement to be a restraint on all ABM systems or a restraint on interceptor/launcher/radar systems?" (Helsinki 0163)

In a further message for the President through Kissinger, dated August 7, 1971, Ambassador Smith appealed for permission to seek limitations on future systems:

> Before you make a decision on the "esoteric" problem, i.e., whether an agreement should cover all ABM systems or only those using radars and missiles, I hope you will consider my personal views.
>
> Do we seek an ABM constraint to provide greater stability by assuring maintenance of retaliatory capability, halting a buildup of defensive systems that could threaten that capability and lessening pressures for buildup of offensive systems—or just a temporary truce in ABMs—until such time as

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[3] No single set of documents comprising the negotiating record is available. We have collected and reviewed as many of the documents in the SALT I negotiating record as we could obtain, including memoranda retained by ACDA, CIA, DOD, and the Nixon papers. This study has been occasionally revised to incorporate material that turned up from time to time.

[4] Col. Charles L. FitzGerald and Sidney Graybeal, *SALT I Negotiating History Relating to Limitations on Future ABM Systems and Components Based on "Other Physical Principles"* (System Planning Corporation, March 1985) (Contract DNA001-84-C-0309) (hereinafter cited as "FitzGerald"). Colonel FitzGerald was a member of the staff of the SALT Delegations, and advisor to the Office of the Secretary of Defense; Mr. Graybeal was a representative from ACDA.

[5] Department of State Bulletin 741 (June 7, 1971). (Emphasis added.) The language of the English and Russian texts was apparently not identical in several respects, including one "official" Russian version which, translated into English, described the agreement as limiting the "development" or "unfolding" of ABMS. Another "official" version used the word "deployment." Nonetheless, this caused sufficient internal discussion within the U.S. Government to cause the matter to be raised informally with the Soviet delegation in Vienna, and for the two sides to determine "at the highest levels" that the Russian and English versions were no different. (Memorandum from Lt. Col. DeSimone to Lt. Gen. Allison, August 21, 1971, with attachments)

more effective futuristic ABMs are developed and deployed?

If future ABM systems are not to be limited, the burden should be allowed to rest on the USSR.

(Helsinki 0171) (Emphasis added.) The position of the Office of the Secretary of Defense (OSD), as relayed in a DOD cable to Paul Nitze (OSD representative on the Delegation) on August 6, 1971, was to attempt to ban only the deployment of all future kill mechanisms. (OSD 08062, p. 15) The Joint Chiefs of Staff opposed even a ban on deployment, arguing among other things that obtaining funds for research and development would be difficult if deployment were prohibited:

Another concern on defensive strategic systems centers on futuristic ABM systems. As you are aware from references 1b and 1c, the Joint Chiefs of Staff strongly recommend that futuristic ABM systems not be banned. If deployment of futuristic systems were to be banned but research and development permitted, as advocated by some government agencies, such an approach would make it extremely difficult to get funds for such research and development (R&D) and could lead to unilateral U.S. neglect of the field. In all likelihood, the Soviets would proceed with R&D on such systems. It seems imprudent to foreclose options on future systems that cannot now be defined or envisioned or which may be unverifiable, particularly in view of the numerical superi[ority] of Soviet offensive missiles involved in the proposed interim strategic offensive agreement. Under any circumstances, R&D programs must be kept viable to avoid technological surprise.

(Memorandum from Chairman JCS (E.R. Zumwalt, Jr.) to Secretary of Defense, "Proposed Strategic Defensive and Offensive Agreements," p. 4, ¶ 8 (July 31, 1971))

On August 9, 1971, in an NSC Verification Panel principals' meeting, Kissinger stated his concern with delays in the negotiations brought about by the Delegation's finding "nuances" and "academic" issues, and queried "can we get the negotiations moving? It is important to get going and not lose the momentum of our May 20th agreement." Kissinger also discussed the questions of seeking an absolute ban and of "esoteric" ABM systems, expressing his view that the issue could be deferred, since it would not be a problem until at least the 1980s, and because protections already exist (periodic review, withdrawal clause, and linkage to offensive systems); Admiral Moorer, then Chairman of the JCS, feared the discussion could complicate the negotiations, and others felt that a ban on deployment could undercut Congress' willingness to fund research and development. ACDA supported banning development and testing of future exotics, as well as deployment. Others, including Deputy Secretary of Defense Packard, supported only a ban on deployment. (Telegram from OSD SALT Support Group to Nitze, U.S. SALT Delegation, pp. 21-24) These discussions were recorded by Major General Demler, and were communicated in substance by Farley to Smith on August 9. (State 145349)

On August 11, Smith wrote to Kissinger, explaining that the negotiations would move more quickly once guidance was provided on the "zero" and "futuristic" issues. (Smith to Kissinger, August 11, 1971, Nixon Papers) Kissinger wrote the same day, communicating his decision against seeking a complete ABM ban. He explained this decision in terms of the practical objectives of the May 20 agreement;

At this point in our negotiations with the USSR I am persuaded we are within reach of an equitable agreement if we can reinforce the momentum created by the joint decision of May 20. Two years ago, we had all hoped that the Soviet side could be brought around to a comprehensive arms control agreement. The Soviets were aware of our interest in a complete ban on ABM systems and reductions in offensive systems. Our record on these issues is clear. But in matters affecting so directly their vital interests it is understandable that the Soviet leaders have preferred to move to an initial agreement of limited scope.

Thus, the understanding of the May 20 agreement was that we would now make a major effort to agree this year on some limitations on ABMs together with some limitations on offensive systems while deferring some issues for a second stage. That decision, I believe, represented a major political commitment by the Soviet leaders and was based on a general understanding that both sides could not expect to achieve all of their objectives in one agreement. (Nixon Papers)

The Administration agreed, on the other hand, to allow Smith to seek a set of restrictions on future systems that would have established the restrictive interpretation. On August 12, 1971, the following instruction was issued to the U.S. ABM negotiators:

3. The agreement should contain a provision whereby neither side shall deploy ABM systems using *devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the function of these components.* (This provision along with that in the next paragraph, should not prohibit the development and testing of future ABM components in a fixed, land-based mode.)

4. The agreement should contain a provision whereby neither party shall develop, produce, test, or deploy: (a) sea-based, air-based, space-based, or mobile land-based ABM launchers, ABM missiles, or ABM radars; (b) *ABM components other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components.*

(NSDM 127) (Emphasis added.) NSDM 127 also stated, however that the delegation "should not invite a detailed negotiation or discussion of future ABM systems. Our objective is to reach agreement on the broad principle that the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components. We intend to handle any problems that may arise through the joint commission and the formal review procedures." The instructions thus accommodated both Smith's view that an effort on futures should be made, and Kissinger's view that the issue of future systems not be permitted to hinder the course of the negotiations or sidetrack the process from the practical objectives of the May 20th agreement.

On August 17, pursuant to NSDM 127, the U.S. Delegation proposed two new sections in the draft of Article 6. Article 6(1) of the draft sought to ban the deployment of substitute "devices" that could perform the functions of ABM systems or components:

Each Party undertakes not to deploy ABM systems using *devices other than ABM interceptor missiles, ABM launchers, or ABM radars* to perform the functions of these components.

(A-408, p. 9) (Emphasis added.) Article 6(2) sought to prohibit development, production, testing, or deployment of current ABM components based in any mobile mode as well as of all substitute "devices":

Each Party undertakes not to develop or produce for or test or deploy in sea-based, air-based, space-based, or mobile land-based modes, ABM interceptor missiles, ABM launchers, ABM radars, or *other devices to perform the functions of these components.* (Emphasis added.)[6] Article 6(3) carried forward the U.S. draft provisions prohibiting the development, production, testing, or deployment of multiple-missile launchers and automatic or rapid-reloading launchers.

In introducing the new draft of Article 6, Smith said that paragraph 1 "makes clear what we believe should be the aim of an agreement limiting ABM defenses; namely, that the Agreement would apply to all types of ABM systems, including possible future types of ABM systems, and not only to ABM systems employing ABM interceptor missiles, ABM launchers, and ABM radars." He then stated: "We believe that the Agreement should reflect this explicitly." He compared paragraph 2 to the Soviet counterpart provision tabled at that time, noting that the U.S. proposed to prohibit development and production of space-based systems, as well as their testing and deployment. He also explained that the U.S. draft extended the prohibition beyond components currently in use and would reach future types of "devices" capable of substituting for them:

One difference between the U.S. paragraph 2 and the USSR paragraph A is that the U.S. text prohibits the development and production of, in addition to the testing and deployment of sea-based, air-based, space-based, and mobile land-based ABM interceptor missiles, ABM launchers, and ABM radars. We believe that the more complete prohibition would be in the interest of both sides. Another difference between the two texts is that the U.S. text makes clear that the obligations assumed in this paragraph apply not only to ABM interceptor missiles, ABM launchers, and ABM radars, but also to possible *future types of devices* capable of performing the functions of these components. (A-408, p. 10) (Emphasis added.)

The U.S. proposals adopted a distinction between systems and components in current use—consisting of ABM missiles, launchers, and radars—and future "devices" capable of performing the same functions. Both Articles 6(1) and 6(2) contained a reference to "devices" that might perform the functions of ABM interceptor missiles, launchers, or radars. Article 6(1), presumably dealing with fixed, land-based systems and components, prohibited only the deployment of such substitute devices; Article 6(2), dealing with mobile systems and components, prohibited also the development and testing of such devices. In both Articles 6(1) and 6(2), the obligations assumed were expanded to cover future, substitute systems and components by use of the word "devices."

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[6] Prior to this research project on the ABM Treaty, the Legal Adviser's Office had relied on what purported to be a summary of the relevant negotiating history, prepared in ACDA in December 1980. The first item in the summary was an excerpt from the memorandum of August 17, 1971, with language that led ultimately to Agreed Statement D, and which indicated an ellipsis where some text has been omitted, as follows: "August 17, 1971, Mini-Plenary, A-408. Smith stated that the full text of Article 6 is as follows: "1. Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components . . ." The omitted material, as the text reflects, included language which would have made clear that the U.S. had also sought to have Article V of the Treaty applied to "devices" that could perform the functions of ABM components, language the U.S. negotiators in the end failed to obtain in the Treaty text.

On the same day that Article 6 was introduced, Brown asked Shchukin what he thought of the proposals. "Had we made it clear," Brown asked, "that in the first paragraph we were talking about a ban on the deployment, but not on the development and testing, of future kinds of systems, not using the usual components?" Shchukin needed time to consider the proposal, but indicated immediately the position that Soviet negotiators would repeat for the next five months—that the Parties should not attempt to deal with future possibilities. (A-398, pp. 1-2) This point, moreover, was one of general principle, applying to the use of "devices" in both Article 6(1) and 6(2) of the U.S. draft.

On August 24, Shchukin commented on the novelty of the U.S. proposal. He said he thought the Parties had achieved an understanding that limitations should apply to systems with ABM radars, launchers, and missiles, which would be technically described and determined, and therefore could be monitored by national technical means. He asked about its meaning:

> It is proposed in Paragraph 1 that the sides be obligated not to deploy ABM systems using devices other than ABM missiles, ABM launchers, and ABM radars to perform the functions of these components. This is an entirely new provision [an "entirely new concept"] and the Soviet side is not clear on its meaning and substance. What did the U.S. have in mind in speaking of such ABM systms and such devices?

Smith replied that the U.S. would study the matter and respond. (A-424, p. 6; USDEL SALT 0955, p. 3)

On August 27, Brown responded in a prepared statement. He explained that the language of proposed Article 6(1) referred "to any present or future system which employs other means or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory." (A-438, p. 13) The U.S. purpose was to obtain a commitment "that neither side will deploy ABM systems—including possible future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars." Semenov was skeptical, noting that Article 6(1) "contained a new concept of limiting devices other than ABM launchers, missiles and radars. . . . [I]t was his impression that it was doubtful if it properly applied to the subject matter of an agreement on ABM limitation." (A-438, p. 9)[7]

The Soviets responded more definitively on August 31. McLean, a U.S. representative, argued that, given the Parties' desire to establish long-lasting limitations, it was "reasonable and desirable to prohibit the deployment of components which might perform the ABM mission tomorrow but which are not in existence today." General Trusov replied "that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient." Trusov argued that development, testing, and deployment of future systems would be observed by national means of verification and then dealt with in the review process. The U.S. proposal, he said, "would add an undesirable element of vagueness to our ABM agreement." McLean agreed that the review process would be necessary, but said "we also feel a need to avoid channeling arms competition in a new direction with the search by either side for ABM means not specifically constrained in the agreement." Trusov stated his understanding that Article 6(1) "referred to deployment." (A-442, p. 2)

The Soviets repeatedly returned to their arguments against "referring to any present or future systems, which employ devices other than those known to the delegation. . . ." (Trusov, 9/3/71, A-458, p. 5; see also Karpov, 9/8/71, A-540, p. 2 ("He believed it was wrong to limit means not known to anyone."); Fedenko, 9/13/71, A-498, p. 2) (This theme was of such significance throughout the negotiations that Appendix A has been prepared with Soviet and U.S. statements on the subject.) In the discussion on September 3, Trusov opposed limitations on "conjectural" systems, and felt that "if such devices now exist, they should be named and could then be the subject of further discussion and could be dealt with in the Standing Commission." (USDEL SALT 0990, para. 8) Smith replied that, "in the event that Paragraph 1 of Article 6 should not be included in an agreement, it would be a cruel illusion to the peoples of both nations to say that we had concluded an agreement on ABM systems. We should more properly say that there had been an agreement to limit ABM launchers, interceptors, and radars." (A-458) Smith had "a higher regard for Soviet weapon designers that to believe that they are content with ABM technology which dates back to the early '50s." (*Id.* para 9)

These comments were addressed to paragraph 1, but they all related to the U.S. proposal to regulate substitute "devices," which appeared as well in paragraph 2. And when Semenov noted that the views of each side had been sufficiently clear, he proposed "to turn discussion of [both] Paragraphs 1 and 2 of the U.S. Article 6 over to the Karpov-Graybeal Ad Hoc Committee." Smith agreed. In a discussion between Garthoff and Kishilov, the same day, Kishilov asked what the U.S. had in mind as future "devices." Garthoff referred to a paper that discussed the subject of exotic ballistic missile defenses, in which no distinction was made between land-based and other types of exotic systems. (A-455, Sept. 3, 1971, p. 3) (see *infra*, p. 131)

On September 8, an ad hoc committee, led by Graybeal and Karpov, met to discuss Articles 2 and 6 of the U.S. draft. The Parties could not reach agreement on Article 6(1), which was bracketed in the U.S. draft and omitted entirely from the Soviet draft of Article V. (A-540, 9/8/71 (working paper)) The Parties moved closer to agreement, however, on the provision regarding mobile systems. The Soviets proposed their own version of this provision as Article V(1):

> Each Party undertakes not to construct, not to test and not to deploy mobile land-based, sea-based, air-based or space-based *ABM systems and their components, specially constructed for such systems.* (A-540) (Emphasis added.)

The FitzGerald study asserts that, "during the first half of the [September 8] meeting the discussion was devoted entirely to the U.S.-proposed paragraph 1, Article 6." It then states that the second half of the meeting discussed paragraph 2, and that "during this discussion, Karpov did not attack the U.S. proposal in paragraph 2, Article 6, concerning 'other devices to perform the functions of these components.'" (FitzGerald 24) The record of the meeting reflects, however, that discussion commenced with Graybeal's suggestion "that we start with paragraphs 1 and 2 of the U.S. Article 6 and paragraph A [also referred to as "1"] of the USSR Article V." He invited a discussion "of these paragraphs," leading Karpov to remark "that the burden of proof lies with the side making the proposal," and asking Graybeal to "clarify why the language of Article 6 had been chosen and what it was intended to do." Karpov referred to Article 6 generally, and Graybeal began his reply by stating: "Our Article 6 is . . . intended to address future ABM systems that would utilize components or devices other than launchers, interceptor missiles, or radars." (A-540, Sept. 8, 1971, p. 1)

A long debate followed, during which Karpov and Graybeal referred to paragraph 1, but in which they made points that related logically to paragraph 2's use of "devices." Karpov specifically stated "he did not believe it possible to include *the present form* of paragraph 1 of the U.S. Article 6 in the Agreement or Treaty." (A-540, p. 3) (Emphasis added.) He confirmed Graybeal's understanding that in Karpov's opinion the proposed U.S. definition of ABM systems in Article 2 was inadequate because it tried to deal with all ABM systems, instead of limiting coverage to "systems which use ABM launchers, ABM interceptors, and ABM radars." Finally, when the discussion turned to paragraph 2 of Article 6, Graybeal noted two differences with the Soviet Article V(1), the second of which was that "the U.S. text refers to future devices, and reflects the basic difference in view which we have been discussing in relation to paragraph 1 of U.S. Article 6."

The statements of Karpov and Graybeal make clear that Soviet opposition to dealing with unknown "devices" related, not only to the proposed regulation of such substitute "devices" in fixed, land-based systems under Article 6(1), but also to the regulation of such "devices" in mobile (including space-based) systems in Article 6(2). The Soviet proposal itself, Article V(1) of the Soviet draft, implicitly rejected the U.S. position in Article 6(2) of the U.S. draft, because it showed the Soviet intent to regulate only ABM missiles, launchers, and radars. The FitzGerald study notes that Karpov "did not comment on the fact that it [Soviet Article V(1)] made no mention of 'other devices to perform the functions of these components' contained in the U.S., side's proposed paragraph 2." (FitzGerald 24-25) But

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[7] FitzGerald states, concerning this exchange: "It should be noted that Shchukin questioned only paragraph 1 of the U.S.-proposed Article 6 and not its paragraph 2 having to do with the deployment [sic], production, testing, and deployment of 'other devices' in the various mobile modes." At the same time FitzGerald concedes: "His [Shchukin's] questions could, however, logically be extended to paragraph 2." (FitzGerald 21) In fact, Shchukin's focus on paragraph 1 was no more significant than Brown's having made his explanation in terms of that paragraph (A-438, Annex 1); the comments by Shchukin and Semenov were not only logically related to paragraph 2, they reflected a position that led the Soviets steadfastly to refuse to accept "other devices" in other paragraphs, as shown below. FitzGerald also attempts to suggest that Semenov's statement applied only to paragraph 1 (FitzGerald 22); but Semenov's actual comment was that paragraph 1 "was new, and contained *a new concept of limiting devices other than ABM launchers, missiles, and radars.*" (A-438, p. 9) (Emphasis added.) That concept was also contained in paragraph 2.

Karpov's failure to comment on a difference that was palpable on the face of the opposing drafts seems insignificant.

The FitzGerald study contains, but does not discuss, the memorandum of conversation ("memcon") of an afternoon meeting on September 8 covering the subject "New Soviet ABM Proposal; 'Other Devices'." (A-481) At that meeting, Fedenko asked FitzGerald his "personal impression of the new Soviet proposal." Fedenko repeated to FitzGerald "the arguments Mr. Karpov had made in favor of excluding paragraph 1 of U.S. Article 6." He then "declared," without any recorded opposition by FitzGerald, "that the sides are in agreement (with the exception of OLPARs and MARCs) on the ABM components (sredstva) to be limited. These are spelled out in Article 2 of the Soviet Draft, which specifies the components to be limited, namely, ABM interceptors, launchers, and radars . . . [I]f ABM means different from those presently known—for example, some new power source, or source of light . . .—should be detected by national means, the problem could be examined by the Standing Commission." The record demonstrates as of September 8, therefore, that the Soviets opposed the regulation of "other devices" and insisted that the Treaty was intended to regulate the three components then in use.

A status report dated September 8, 1971, of the Ad Hoc Committee, signed by Graybeal, makes clear that the Soviet position on Article 6(1) was recognized by the U.S. delegation to relate as well to Article 6(2):

> At this point in time, the Soviets will *not* buy paragraph 1 of Article 6. For similar reasons, they will insist on bracketing "other devices for performing the functions of these components" in paragraph 2.

The difference between the Soviet and U.S. positions on "other devices" was once again made clear on September 13. On that day, both Karpov and Graybeal presented working papers taking into account the positions of each side on U.S. Article 6, among other issues. The FitzGerald study notes that Karpov said "the Soviet side has 'exactly the same interpretation as the U.S. side' on the matter of 'mobile' and 'transportable' ABM systems." But this statement undoubtedly related to the discussion on September 8 of the meaning of "mobile" and "transportable," not at all to the policy of regulating "devices" in addition to the three components of ABM system. (*See* A-540, Sept. 9, 1971, pp. 1, 6-7, reporting meeting, of Sept. 8, 1971) Furthermore, the FitzGerald study fails to note the contents of the working papers which are entitled to far more weight than one side's report of working group conversations. The two sides not only bracketed Article 6(1) of the U.S. draft, the U.S. working paper also bracketed the phrase that would have included "other devices" in Article 6(2):

> Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM interceptor missiles, ABM launchers, [or] ABM radars [, or other devices for performing the functions of these components]. (A-540, Sept. 13, 1971 (working paper))

The difference between the Soviet and U.S. positions on Article 6(2) was in fact made explicit by Graybeal on September 13. He identified the substantive difference between the two positions as follows: "The US working paper on Article 6 reflects the current difference of opinion concerning the inclusion of paragraph 1 *and the related phrase 'other devices' in paragraph 2.*" (Emphasis added.) Graybeal therefore expressly recognized that the phrase "other devices" was objectionable in Article 6(2) because it was related to the draft's use of the same phrase in Article 6(1). In both provisions the phrase was designed to extend the Treaty's undertakings to unknown, substitute devices that could perform the functions of presently-utilized ABM systems and components.

The difference between the Parties was also reflected in the Soviet draft equivalent of Article 6(2). The Soviet working paper of Article V(1) limited its prohibitions to ABM "systems and their components, specially constructed for such systems." Thus, while the U.S. wanted to prohibit development, testing, and deployment of any "device" that could be used to substitute for an ABM mobile system consisting of missiles, launchers, and radars, the Soviets wanted to apply these prohibitions only to existing components, which they contemplated would be specially constructed for such ABM systems. Karpov had stated on September 8 the Soviet intention to regulate only ABM missiles, launchers, and radars. This was also apparent in the Soviet working paper defining "ABM systems" as limited to the three components of known systems:

> 1. The obligations provided for under this [Treaty] [Agreement] shall apply to anti-ballistic missile (ABM) systems, i.e. the following principal ABM system components specially constructed and deployed to counter strategic ballistic missiles and their components in flight trajectory:
>
> (a) ABM interceptor missiles which are interceptor missiles, constructed, tested and deployed for an ABM role;
>
> (b) launchers constructed, tested and deployed for launching ABM interceptor missiles;
>
> (c) ABM radars which are radars constructed, tested and deployed for an ABM role. (A-540, USSR Working Paper Article II(2), Sept. 13, 1971)

Reading the U.S. and Soviet working papers together leads to the conclusion that, when the Soviets used "ABM systems" in the context of their Article V(1), they understood such systems to exclude "other devices" as used in the U.S. working papers on Article 6(2). The U.S. working papers, in other words, implicitly equated the Soviet definition of "ABM systems" with the U.S. listing of "ABM interceptor missiles, ABM launchers, [and] ABM radars," since Graybeal and Karpov indicated the disagreement between the parties in this provision by bracketing only the phrase relating to "other devices."[8]

B. *Reformulation of the U.S. Proposal.*

On September 15, 1971, a reformulation occurred in the U.S. proposal of Article 6(2). "[T]he Soviets tabled Articles 2 and 6 ([Soviet] V)." (A-503, p. 1) The meeting was attended for the U.S. only by Graybeal and FitzGerald, and the record is sparse. The memcon gives a description of what occurred, which the U.S. participants claim established that the Soviets had accepted the regulation in U.S. Article 6(2) of all "devices":

> The discussion started with Article 6 ([Soviet] V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word (komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems. Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording. (A-503, p. 1)

The thesis of this memcon is echoed, and embellished, in the FitzGerald study, prepared in 1985 by the participants. In addition to stating that the Soviets had proposed a new formulation of their Article V(1) which proposed to eliminate a reference to launchers, interceptors and radars (and to read "komponenty" instead of "sredstva"), the FitzGerald study recites the following history, apparently based on "the enclosures to Attachment 7," and apparently having no other support in the memcon or any contemporaneous document:

> Graybeal and Karpov then proceeded to discuss alternative solutions for paragraph 2 of U.S. Article 6 and Soviet paragraph 1 of Article V (see the enclosures to Attachment 7). With regard to the Soviet side's proposal, Karpov said that "he would give favorable consideration to dropping the phrase 'specially constructed' for such [i.e., ABM] systems." Graybeal offered two versions of the U.S. side's proposal. Alternative 1 would have kept the U.S. side's proposal intact and the phrase "or other devices for performing the functions of these components [i.e., ABM interceptor missiles, ABM launchers, ABM radars]" would be bracketed as a U.S. proposal while the phrase "specially constructed for such systems" would be bracketed as a Soviet proposal. Alternative 2 would have deleted both sides' proposals for the concluding phrase and substituted for them the phrase "ABM systems or any components therefor." This alternative was based upon Karpov's agreement with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems. The discussion of Article 6 (V) ended without any agreement as to which of Graybeal's two alternatives would be used in further discussions between the Delegations. (FitzGerald 26-27)

The U.S. Delegation reported these developments in a cable dated September 24. The cable stated generally that the text of Article V of the Soviet draft (U.S. Article 6), "including components for future ABM systems which are not fixed and land-based . . . [was] agreed ad referendum. Text of Article V(3) on deployment ban on future devices, in brackets is U.S. proposal which U.S.S.R. has firmly opposed."[9] (USDEL SALT 1056, at 2, ¶ 8)

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[8] The FitzGerald study's treatment of the meeting on September 13, (FitzGerald 25), omits important details discussed above. It lists Karpov's comments, misleadingly suggests that the parties had "the same interpretation," and fails to analyze the working papers. It also omits Graybeal's explicit acknowledgement that the Soviet objection to "other devices" in Article 6(1) was related to the U.S. draft's inclusion of that phrase in Article 6(2). (FitzGerald 25) That acknowledgement undercuts the study's repeated efforts to suggest that the Soviets had a different position respecting "other devices" in Article 6(2), ultimately Article V(1) of the Treaty, than with regard to Article 6(1).

[9] In this connection, the U.S. delegation's cable of September 24 misstated Karpov's language by de-

Any suggestion that this meant the Soviets had agreed to cover, not only conventional components, but also substitute "devices," is implicitly refuted by this *same reporting cable.* It states in describing Article II, that the Soviets had defined ABM systems as restricted to missiles, launchers and radars:

Article II—Definitions, status (U.S. Art. 2). Entire articles remains bracketed although possible solutions were explored. U.S. had sought "definition" approach, separately defining ABM systems and the key ABM components (ABM interceptor missiles, ABM launchers, and ABM radars). Separate definition of ABM system is important in several articles (i.e., [U.S.] articles IV and V(3) discussed below). Soviets have proposed "obligation" approach, probably to emphasize that only ABM systems and not air defense systems or other radars are being limited, and more recently as reflection of their objection to limiting future non-interceptor missile/radar systems as proposed in Article V(3) (old U.S. Article 6, para. 1). Soviet approach defines ABM systems in terms only of the three named components. (Id. at 1, ¶ 5)

Despite this clear indication that the Soviets had not agreed to cover future "devices" on September 15, the FitzGerald/Graybeal study suggests, and others have more recently claimed, that the Soviets did agree to such coverage on that day.

Apart from this strong evidence in the transmittal cable, reflecting the Delegation's understanding of what the Soviets meant by "ABM system" in Article II(1), the record casts grave doubt on claims that the Soviets agreed on September 15 to cover "devices" other than conventional components in Article V(1). First, Soviet Article V(1) and U.S. Article 6(2), with some minor and inconsequential rearrangement of words, had been tabled and discussed on September 13. The Soviet version tabled on both occasions did not list the three components referred to in the memcon, only the U.S. version (Art. 6(2)) had such a listing. Thus, the Soviets must have proposed eliminating the listing of components in the U.S. draft, which they claimed would eliminate the U.S. need to refer to "other devices," presumably because the Soviet version would use a Russian word for components, "komponenty," different from the word used in Article 2, "sredstva," when referring to launchers, interceptors, and radars. The Soviet draft was not changed, however. The Soviet versions of Article V(1), on both September 13 and 15, used the word "komponenty." Furthermore, the Soviet explanation for its proposal should hardly have been reassuring. To substitute "komponenty" for the listing of the three current components was of little help to the U.S., since as between "komponenty" and "sredstva," the latter was the more general expression, covering all "means," and therefore closer in meaning than "komponenty" to "devices."[10] (The Soviets had substituted "komponenty" for "sredstva" in Article II(1), by December 13. (A-644, p. 9). In the final Treaty, "components" does not appear in Article II(1).)

The FitzGerald study offers another textual explanation for why the Soviets in effect accepted the U.S. position on "other devices." The two alternatives that FitzGerald writes were offered by Graybeal to the Soviets, however, support a very different conclusion from the one he draws. In the first alternative, the U.S. would have kept its listing of components, and would have bracketed the phrase "other devices for performing the functions of these components;" the Soviets would have deleted the latter phrase and added instead the phrase "specially constructed for such systems." (A-503, p. 5).

This difference showed once again the Soviet unwillingness to regulate unknown "devices," and their desire to limit U.S. Article 6(2) to regulating those versions of the known components listed in Soviet Article II that might be specially constructed for use in space, water, air, or as part of a mobile system on land. The second "alternative," therefore, should be read with this Soviet position in mind. In it, the Soviets suggested that the U.S. should agree to substitute the three components listed by the U.S. as well as the category of "other devices," for the general words " ABM systems and components," as contained in the Soviet draft of Article V(1). In exchange, the Soviets agreed to drop their own phrase, "specially constructed for such systems." These textual changes fail to reflect Soviet acceptance of regulation of "other devices." Rather, they indicate a Soviet willingness to drop language from the Soviet draft Article V(1), to which the U.S. had objected on grounds unrelated to the "other devices" issue, in exchange for agreement by the U.S. to drop the langauge extending the Treaty's regulation to "other devices."

The question remains whether, despite the lack of any textural support in the working papers, the Soviets agreed to regulate all future substitute devices when Karpov reportedly "agreed with Graybeal's interpretation that the Soviet text meant 'any type of present or future components' of ABM systems." Karpov's reported language is equally consistent on its face with the view that the Soviets continued to be opposed to regulating "other devices" in U.S. Article 6(2) (Soviet V(1)), because Karpov agreed to regulate only future "components" of "ABM systems," as he put it, and not "devices" other than those systems and components, a concept he refused to accept. The Soviet draft—much more probative evidence than an oral statement in a working-group meeting—remained unchanged in any relevant respect.

As indicated by the reporting cable of September 24, the words "systems" and "components" had by September 15 become words of art, the meaning of which had been developed in the Soviet and U.S. working papers of article II. While the U.S. drafts defined "ABM system" functionally, and then separately defined the three components then used in such systems, the Soviet draft defined ABM systems to consist of the three "ABM components" then in use. The parties in fact agreed on September 15 "to leave each side's version of the entire Article 2 in brackets," and on September 15 Garthoff apparently persuaded Semenov in a separate meeting of the need to reach agreement on a version of Article II which did not prejudice the positions of the two sides on future systems. (A-515) Smith proposed the same course to Semenov on September 17, stressing the need to regulate futures at some point or the parties might think they had limited ABM systems only to discover they had limited just ABM missiles, launchers, and radars. (A-518, p. 3) Karpov seems, therefore, to have agreed to include under the prohibitions of Soviet Article V(1) only future components of "ABM systems"—i.e. ABM missiles, launchers, or radars, that might be devised to perform in a mobile mode, as distinguished from "other devices" that could substitute for such components.

Additional proof that the Soviets had not accepted the regulation of "other devices" in U.S. Article 6(2) is the fact of their continued opposition on September 15 to Article 6(1) of the U.S. draft, which also referred to unknown "other devices." The memcon of that date reads: "It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal." (A-503) Thus, while reportedly agreeing to cover future "components" of "ABM systems" the Soviets simultaneously refused to agree to cover future "devices" that could substitute for systems or components of the sort then in use. U.S. Article 6(1), which after September 15 became the only provision explicitly seeking to cover substitute "devices," was made Article V(3) of the Joint Draft Text on September 17, and bracketed by the Soviets. (USDEL SALT 1055, p. 7)

Had the Soviets agreed to prohibit development, testing, and deployment of all future, unknown mobile "devices" that could replace known systems or components, they should have been far more accommodating in accepting Article 6(1). One would have expected the U.S. negotiators, moreover, to refer to the agreement concerning Article 6(2) in attempting to convince the Soviets to accept the same treatment with respect to deployment of future, unknown land-based "devices" in Article 6(1). Yet, throughout the long debate, the U.S. delegates invoked no such argument.

Finally, the record demonstrates that the Soviet position against attempting to regulate future, unknown substitute devices was articulated right up to September 15, and continued unabated thereafter. On September 8—only seven days before Karpov's statement to Graybeal—Karpov had made a lengthy speech opposing limits on future, unknown devices, for reasons equally applicable to U.S. Article 6(1) and to that aspect of Article 6(2) dealing with substitute "devices."[11] The other Soviet participant in

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scribing the Soviets as having agreed that the text of Soviet Article V(1) included "components for *future ABM systems . . ."; according to the memcon he agreed only that the language would extend to " 'future components' of ABM systems."*

[10] The memcon of a September 17 meeting of a special working group reflects the lack of significance given by the U.S. delegation to the translation issue:

In this connnection [Article II], Shaw and Chulitsky agreed on the following treatment of the "systems" and "components" problem which they thought would settle this matter finally:

1. "Systems and their components" could be translated in the last word by either "sredstva" or "komponenti" by the Soviets as they wished, so long as there is no substantive problem involved; and,

2. The Russian words "sredstva PRO" would be translated in English either as "ABM systems components" or "ABM components."

Shaw said that the latter Russian phrase could not be translated as ABM "means" because that made absolutely no sense in English. Shaw regretted that no agreement had been reached within the Karpov-Graybeal group on Article II. Chulitsky agreed. (A-511). The Soviets were allowed to use "sredstva" and "komponenty" as they wished, and the translation "means" was rejected as nonsensical, even though it could have been treated the same as "devices."

[11] The report of the meeting includes the following summary of Karpov's comments: He said that

the September 15 meeting, Fedenko, had argued vigorously just two days before against addressing future systems.[12]

These objections were not reiterated immediately after September 15, because negotiations in Helsinki were adjourned on September 24. After negotiations resumed in Vienna on November 15, however, the same Soviet objections to attempting to regulate unknown, future devices that could substitute for known systems or components continued. (Shchukin, 11/30/71, A-594, p. 2) In fact, the Soviet team did not waver from its refusal to consider dealing with unknown future devices until December 10, 1971 (A-639, p. 1), and did not actually agree to the U.S. proposal that became Agreed Statement D until February 2, 1972. (A-770, p. 1) (Shchukin, 12/14/71, A-662, p. 14; Kishilov, 12/17/71, A-663, p. 3; Grinevsky, 12/17/71, A-667, pp. 5-6; Semenov, 12/20/71, A-681, pp. 5-6; Shchukin, 1/11/72, A-706, p. 11; Grinevsky, 1/11/72, A-710, pp. 5-7)

A subsequent exchange concerning the meaning of "systems," "components," and "devices," confirms that both sides were aware of the special meaning attributed to each of these words. In a February 1, 1972, meeting, Allison and Trusov discussed what has translated with respect to future systems. Allison reported:

> I brought up the matter of future ABM systems as another possible problem in this category [of remaining issues that could easily be resolved], noting the recent discussions concerning an agreed interpretive statement on the subject. I said I thought we could agree on this matter if each side understood what the other had in mind, and asked Trusov if he agreed with me. He said that we had understood one another earlier but now seemed to disagree because of a word problem, and went on to speak at some length about the changing terminology in the future systems paragraph. *He dwelt primarily on the subjects of "systems", "components", and "devices." I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in what we refer to as a "future" or "other" ABM system.* It seems, I said, that with that understanding our Delegations should be able to agree on a set of words for the interpretive statement. Trusov agreed with my observation and said that the same words—"other systems and their components"—should be used consistently, since that was a clear expression of what was meant, as well as the wording in which the question had originally been raised. (A-766, p. 2) (Emphasis added.)

This exchange suggests that the semantic distinction between "devices" and "systems" and "systems and components" was an important one, recognized as such by the negotiators. The participants understood that the phrase "ABM system" referred only to systems consisting of ABM launchers, interceptor missiles, and radars. They also agreed that substituting a different component for one of the three specified would create a "future" or "other" ABM system, to be regulated by the agreed "interpretive statement" on that subject.

The subsequent history of Article V(1) casts little further light on its meaning. On September 20, the language of what the FitzGerald study terms Alternative 1 was changed to read "ABM systems or their components." Garthoff on that day characterized the draft which the parties were using as "the *compromise* proposal on eliminating brackets." (A-532, p. 2) (Emphasis added.) Had the Soviets agreed that "components" of ABM systems" included "other devices" to substitute for missiles, launchers, or radars, this draft would have been more than merely a "compromise". The U.S. would have achieved all that it wanted. Yet, Garthoff said on the same day that seven areas of difference remained, including "a provision to cover future 'unconventional' ABM systems." (A-532, p. 4)

Finally, if the U.S. team really believed the Soviets had agreed on September 15 to cover substitute "devices" in Article V(1), that conclusion would presumably have been included in Ambassador Smith's report to the President for SALT V. His report contained several pages concerning the ABM Treaty but made no claim that anything was agreed concerning future systems. See Memorandum for the President, "Report of the U.S. Delegation to SALT," covering July 8 to September 24, 1971 (Sept. 28, 1971). In fact, the argument that the Soviets agreed to cover "devices" in Article V(1) during SALT V finds no support in analyses of the issue prepared during the negotiation period. A study of the ABM negotiating history by ACDA's Historical Division, dated October 1972, concluded that the Soviets had refused to agree to a ban on futures in Article V(1) during SALT V:

> They [the two sides] also agreed in article V to ban sea-based, air-based, space-based, and mobile land-based ABM systems, as well as automatic launchers; the American future-systems provisions remained unagreed.

(Fifth Session of SALT ix; see also *id.* at 115.) A memorandum of a Verification Panel Working Group, dated October 27, 1971, analyzing open issues after the Fifth Session, treated Article V as ambiguous with respect to systems consisting of both mobile and fixed components; it also reflected the underlying difference in coverage due to disagreement on the meaning of "components" in Article II (p. 2):

> One of the differences remaining is that the U.S. version [of Article II] presents definitions of ABM systems and of certain ABM components (launchers, interceptors and radars) while the Soviet version states that the obligations of the agreement shall apply to ABM launchers, interceptors and radars. The U.S. side has maintained that some of the obligations of the agreement extend also to systems and components other than ABM systems and components (e.g., to "other phased-array radars", to early-warning radars, to surface-to-air missiles, and to non-interference with national means) *and to future ABM components (viz., "devices") other than launchers, interceptors and radars. (Id.* 4) (Emphasis added.)

C. *Definition of ABM System.*

During the discussions of future systems or devices, resulting ultimately in Article V(1), the Parties simultaneously discussed the meaning of "ABM system." The Soviets sought, from March 1971, in Article II(1) of their draft, a definition strictly limited to the ABM systems then in use: "The obligations provided for under this Treaty shall apply to systems specially designed to counter strategic ballistic missiles and their components in flight trajectory, namely: (A) ABM launchers, (B) ABMs, (C) Long-range acquisition radars, (D) Tracking and ABM guidance radars." (USDEL SALT 566) Commencing on July 27, 1971, the U.S. pushed for a broad, purely functional meaning in Article 2(1)(a) of its proposed draft: "an anti-ballistic missile (ABM) system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory." It then separately defined the three components in use, interceptor missiles, launchers, and radars. The original U.S. draft thereby potentially included within the Treaty's coverage all devices that could serve ABM functions; the Soviet draft, on the other hand, limited coverage to ABM systems with components then in use.

The Soviet proposal was modified somewhat on August 31, to add that the "obligations" in the Treaty shall apply "to anti-ballistic missile (ABM) systems, i.e. the means specially constructed and deployed to counter strategic ballistic missiles and their components in flight trajectory:" after which followed the definitions of the components. (A-540, Aug. 31, 1971 (working paper)) Karpov stated a Soviet position repeatedly emphasized—"that the Article should [not] cover obligations other than ABM systems—only those systems subject to restrictions." (A-540, Aug. 31, 1971, p. 1)

The components specified by the Soviets were limited on September 2 to the three presently in the Treaty, which Karpov announced were "the means to which obligations should extend." (A-540, Sept. 3, 1971, p. 1) This did not mean, Karpov stated, that other obligations did not exist in the Treaty "which will cover other systems." He thought Soviet Article V, "which corresponds to paragraphs 2 and 3 of U.S. Article 6, is a concept covered by the obligations under the Soviet Article V." (*Id.*, p. 2) Soviet Article V(b), on which the Parties' working papers focused, dealt with multiple-missile launchers, as opposed to the single-missile launchers described in the system defined in Article II. Soviet Article V also dealt with a variety of mobile systems, as opposed to those land-based systems in use, but Karpov's statement provides limited support for the position that the Soviets would have accepted regulation of any ABM system with substitute devices for the usual components.

A U.S. proposal on September 2 rejected the Soviet view on expanding the Treaty's regulation beyond known components. The suggestion was to define ABM missiles and radars to include types "indistinguishable from" missiles or radars tested in an ABM mode. Karpov regarded the U.S. unwillingness to give up "indistinguishable from" as

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he could not agree to an approach designed to prevent deployment in the future of certain systems when the systems to be limited are undefined. . . . Since the purpose of the Treaty is to limit ABM systems, the question of future systems would be a matter for the Standing Commission. . . . He asked if it would not be better for us to refer the questions of future systems to the Standing Commission. He thought that this would be the most rational approach to limiting those ABM systems which cannot be defined in technical or legal terms. (A-540, Sept. 8, 1971, pp. 2, 3, 5)

[12] According to the memcon, Fedenko reiterated the standard Soviet arguments against including any general provisions on future undefined ABM systems. He stated that the Standing Commission could handle such problems if they ever arose. The alternative, he felt, was for the U.S. to specify what systems, components or mechanisms it had in mind. If the U.S. could define what it was talking about, then national means could probably verify such activities because presumably it would be mandatory to test such conceptual devices. The Soviet side would then be in a position to determine whether such systems should be in an ABM Treaty. (A-498, p. 2)

"a pity," and said he would bracket the entire Soviet Article II if the words were not dropped. (A-540, Sept. 2, 1971, p. 6) Karpov returned to the subject on September 6, complaining that the U.S. draft extended beyond the "systems to be covered" by the Treaty. (A-540, Sept. 7, 1971, p. 2).

On September 8, 1971 Graybeal stated that the Parties were close to agreement on a definition of ABM system ("constructed or deployed to counter strategic missiles or their components in flight trajectory"). This definition, he argued, "would also apply to" Article 6(1) and would thereby limit future systems. Karpov objected that the Soviet purpose was to limit only systems that use ABM launchers, interceptors, and radars. (A-540, Sept, 9, 1971, pp. 3-5) (reporting meeting of Sept. 8).

At a September 13 meeting of the Ad Hoc Committee, both sides introduced new versions of Article II, and the Soviet version provided that the "obligations" of the ABM Treaty shall apply to ABM "systems, i.e., the following *principal* ABM system components specially constructed and deployed to counter strategic ballistic missiles and their components in flight trajectory," going on then to define missiles, launchers, and radars. (A-540) (Emphasis added.) Karpov noted that this paper incorporated the word "principal," and in connection with the descriptions of missiles and radars the phrase "for an ABM role." He felt this met American views "half-way" and hoped agreement could be reached. This change did not make clear, however, that non-principal devices would be covered. Karpov proposed that the language should be read as reflecting that Article II covered "principal" obligations, and recognized that the Treaty contained obligations on other systems, for example in the new Article VI, as noted above. Those obligations, he argued, were "complementary," and should not be confused with the basic provisions. Graybeal objected to the proposed distinction between "principal" and "complementary" obligations. He suggested a listing of the provisions to which the obligations would apply. Karpov agreed to try this approach, and said he was willing to delete "principal."

On September 15, the Soviets tabled a draft Article II(1), which changed the lead-in language to state that the "obligations provided for under Articles III, IV, VI, VII, and VIII" of the Treaty should apply to the "principal" ABM system components as described. The U..S draft article II(1) continued to be purely functional and continued a proposal earlier made to include in the definitions of ABM missiles and radars any type "indistinguishable" form "those tested in an ABM mode." The FitzGerald study mentions this fact, advising the reader to "note the absence of any mention of Article V (U.S. 6) in this listing. This was consistent," FitzGerald writes, "with Karpov's remarks of September 2, 1971 (para. 7 Section E, above) that Soviet Article V covered obligations on components not listed in Article II, and his September 15, 1971 agreement with Graybeal's interpretation that the wording of Article V covered all types of components." (FitzGerald 45) The study thereby suggests that the Soviets were agreeing to a different meaning for ABM system in Soviet Article V, which extended to substitute devices for ABM components.

The reading that FitzGerald suggests for the Soviet proposal on September 15 is tenuous. First, the Soviet proposal's lead-in language was presented on that date, but no discussion of it is reported in the memcon. The working paper, in fact, establishes that the lead-in language was deleted on the day it was presented, leacing the language unqualified in the obligations to which it applied. (A-503, Sept. 15, 1971, P. 4) If the lead-in language, when proposed, signified Soviet willingness to allow Soviet Article V to apply to substitute devices, its delegation (on the day Karpov agreed that Article V would apply to future "components") should have signified a Soviet intention to limit Article V by the meaning of "ABM system" in Article II. Far more likely, as noted above, the Soviet suggestion appears to have been based on the thought, briefly entertained, that mobile ABM systems could differ from those then described in Article II, not on the view that the Soviets were willing to allow such systems to include unknown substitute devices for the three ABM system components. Karpov specifically continued to reject, on September 15, the inclusion of missiles and radars "indistinguishable from " those tested in an ABM mode. (A-503, p. 2) The Soviets objected to making the agreement uncertain: "What was indistinguishable from launchers, missiles and radars?" Semenov asked. (A-518, Sept. 17, 1971, p. 4)

More fundamentally, as discussed above, the negotiating record reflects that the U.S. negotiators knew the Soviets did not want to accept a definition of Article II(1) that would define "ABM system" to include "devices" other than missiles, launchers, and radars. The ACDA history of this period recounts the discussions concerning Article II that occurred simultaneously with those concerning Article V(1):

"On September 15, Mr. Garthoff persuaded Semenov of the need for a solution on Article II which did not prejudice the positions of the two sides on future systems. At the miniplenary two days later, Mr. Semenov said that inclusion of the future-systems provision would make the treaty amorphous and could not be considered legitimate.

"Later, Mr. Smith and Mr. Semenov privately agreed that an effort should be made to draft Article II without prejudicing the position of either side on future systems. At the same time, Mr. Smith said the United States attached great importance to the issue; they might think they had limited ABM systems only to discover that they had merely limited launchers, interceptors, and radars." (Fifth Session of SALT 85 (footnotes omitted); *see* A-518)

An attempt was made by the U.S. to develop an acceptable compromise package on Article II during the period September 17-21. The Soviets rejected the package, although the U.S. would have deleted the phrase "indistinguishable from" in its definitions. The package was reintroduced on December 7, when some progress was made in the definitions of components, and brackets were removed from the U.S. introduction: "For purposes of this Agreement. . . ." (A-619, p. 8) Other changes were made, but a fundamental difference continued: the U.S. defined "ABM system" functionally in sub-paragraph 1(a), and then defined the three types of components in sub-paragraphs 1(b)-(d); the Soviet definition of "ABM system" was functional but added the words "and including the following components—ABM interceptor missiles, ABM launchers and ABM radars," and then defined those three components in sub-paragraphs (b)-(d). The Fifth Session ended with the sides divided on this ground, and with both versions of Article II in brackets.

The Sixth Session began on November 15, 1971. A U.S. memcon of December 8 recites that the Soviets agreed to delete the phrase "and including the following components" from their draft of Article II. (A-626, p. 2) The Soviets, however, did not accept the U.S. draft presented the next day, which deleted that phrase, (A-633, p. 4), and presented a version on December 13 that reintroduced that language. (A-644, p. 5)

The Soviets clearly tied this language in Article II to their disagreement over the proposed regulation of substitute "devices" in Article V(3) of the Joint Draft Text ("JDT"), which the Soviets had bracketed. Article V(3) was the original U.S. Article 6(1), which was then the only remaining provision in the U.S. draft expressly incorporating language covering "other devices," barring their deployment as substitutes for systems or components deployed under Article III. Grinevsky noted on December 9 that the Soviet difficulties with Article II were "related to the differences contained in Article V. His remarks implied that . . . there should be a 'tradeoff' involving the U.S. dropping Para 3 of Article V in exchange for Soviet acceptance of a definitional Article II as proposed by the U.S. side." The U.S. reply sought to reassure the Soviets that a definitional approach in Article II would not be prejudicial as to the content of Article V(3):

"Garthoff stated again that the U.S. side considered Article II to be important, that the definitional approach was non-prejudicial to Soviet as well as American positions on other articles such as Article V, and that the U.S. position on Article V involved a matter of important substance which could not be 'traded.'" (A-633, pp. 1-2)

The Soviets persisted in their view, contending on December 13 that the purpose of Article II "was a listing of the ABM components limited under other provisions of the agreement." (A-644, p. 3) Grinevsky again tied the issue to the difference over Article V(3) covering substitute devices:

"In particular, a feature which distinguished it [the Soviet draft] from the U.S. draft was that paragraph 1(a) of the Soviet draft presented a comprehensive description of ABM components—i.e., ABM interceptor missiles, ABM launchers, and ABM radars—to avoid misunderstanding in the future.

"In this connection, Mr. Grinevsky noted that paragraph 3 of Article V should be excluded since it is quite unacceptable to the Soviet side." (A-644, p. 6)

Parsons replied that he was pleased the Soviets had adopted the method of listing definitions, but noted that "the definitions given ABM systems were more restrictive than U.S. definitions, which take into account paragraph 3, Article V, which we consider as important and which the Soviet side said was unacceptable."

Garthoff privately suggested to the Soviets on December 17 that the futures problem could be dealt with by a new approach, in which the Parties would agree that neither side could deploy such systems or components without prior consultation and agreement through the SCC. Kishilov was reportedly interested. (USDEL SALT 1146, Dec. 20, 1971) On December 18, the U.S. delegation reported that Grinevsky had indicated serious interest in the idea of handling the future systems or components problem in the SCC:

"Grinevsky referred to previous Kishilov-Garthoff conversation concerning a possible alternative approach for handling future ABM systems and future OLPARS. He thought idea of handling both these matters through consultation and agreement in Standing Consultative Commission, prior to any deployment of future ABM systems or components, or of OLPARS, rather than through explicit treaty provisions, offered possible resolution to differences." (USDEL SALT 1145, Dec. 18, 1971, Sec. 2, p. 2, para. 11)

Shchukin apparently made the same suggestion, which was reported to the Secretary of State as the manner in which future systems might be regulated:

"*Future systems.* We have proposed, and the USSR has not as yet accepted, that each side undertake not to deploy ABM systems using devices other than current ABM system components to perform the functions of these components. The Soviets contend, in essence, that this amounts to trying to put a box around something that does not exist. Academician Shchukin has, however, indicated informally that prohibition of possible future ABM systems is something that might be treated in the Joint Standing Commission." (Memo, "SALT-Principal Negotiating Issues," R. Spiers to Secretary Rogers, Dec. 20, 1971, p. 3)

Thereafter, on December 20, important developments occurred concerning Article II. Extensive debate during the morning on future systems, *infra* pp. 51-52, led Smith to suggest that the Parties try to speed up the process of dealing with Article II. (A-672) At lunch the same day, Grinevsky responded to a U.S. draft proposal of Article II that defined "ABM system" functionally ("a system to counter strategic ballistic missiles or their elements in flight trajectory") and then, without any connecting language, defined "ABM interceptor missiles," "ABM launchers," and "ABM radars." The following important exchange then took place:

"Grinevsky stated that the second problem was the absence of a connective between the sub-paragraph defining ABM systems, and the three sub-paragraphs following which defined components. His Delegation strongly believed that there should be some connective such as "namely" or "consisting of". Garthoff stated that the American side did not consider that a connective of this kind was either necessary or desirable. If, however, there were to be one, it should be precise. Therefore, he suggested, we might consider use of the phrase "currently consisting of" as a connective. This was clearly a new thought to Grinevsky and Kishilov and they appeared uncertain of the reaction of their side. *Garthoff noted that the Soviet side, as well as the American, recognized that there could be future systems, and while the question of constraints on future systems would be settled elsewhere than in Article II, the correct way of indicating a valid connection between components and systems in Article II would be to include the word "currently."* (A-677, attachment, p. 3) (Emphasis added.)

Grinevsky said he would raise the proposal with his delegation.

On the next day, December 21, the Soviets presented a revised version of Article II in which they accepted Garthoff's language. (A-678, p. 2) This agreement was incorporated into the Joint Draft Text of January 20, 1972, with the following results:

"1. For the purposes of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: . . ." (A-731)

The developments of December 20-21 are described in the FitzGerald study as an "impasse" that "was suddenly broken. . . ." (FitzGerald 49) One might infer from this that the Soviets had changed their minds and agreed to the U.S. view that "ABM system" should be defined to apply within the Treaty text to all substitute devices. In fact, however, the Soviets agreed to the change in Article II only after Garthoff assured them that "the question of constraints on future systems would be settled elsewhere than in Article II," (A-677, p.2)[13] and after Garthoff and the U.S. Delegation had implemented this assurance by agreeing to drop Article V(3) of the U.S. draft and to seek instead a separate, agreed minute to the Treaty on the subject of future devices. Thus, while the latter development is not discussed in detail in the memcons, Garthoff's suggestion was made on December 20 (A-677, p. 4), and a U.S. proposal and explanation of the subject was tabled on December 21, the day on which the Soviets agreed to add "currently consisting of" to paragraph 1 of Article II. The statement makes clear that the Soviets agreed to the change in Article II because the U.S. alleviated their concern that its adoption might be taken as Soviet agreement to substantive restrictions on substitute devices elsewhere in the Treaty text:

"The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows:

"The Parties agree that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars, for countering ballistic missiles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will initiate such deployment without prior consultation and agreement in the Standing Consultative Commission." (A-678 (attachment))

The significance of this interrelated series of events for the meaning of Agreed Statement D is discussed below. The events are also significant, however, as reflecting Soviet intentions with respect to substitute devices, or future systems. The Soviets opposed attempting to regulate such devices in the Treaty text, and their position on Article II demonstrated that they realized that if the definition of "ABM system" were purely functional, then it would be read—in light of Article V(3)—to include devices that could substitute for the three components in current use. When the U.S. agreed to drop Article V(3), the Treaty text no longer contained any provision that referred to substitute devices, that language having been omitted earlier from Article V(1) dealing with mobile systems. At that point, and with Garthoff's additional assurance that future systems would be dealt with elsewhere than in Article II(1), the Soviets accepted the connecting language.

Thereafter, during discussions concerning what became Agreed Statement D, some significant exchanges occurred with respect to the scope of Article II. On January 26, 1972, the U.S. proposed to add a clause making Agreed Statement D applicable to all future components able "to perform the functions of ABM interceptor missiles, ABM launchers, or ABM radars":

"Garhoff explained that [the language] was intended to make more precise the intention of the sentence, which he believed both sides shared, that we were talking [in Agreed Statement D] about future system components which might take the place of ABM interceptor missiles, ABM launchers or ABM radars.

"He recalled Grinevsky's earlier reference to telescopes supplementing but not supplanting radars, and noted that we believed this additional language would help make clear that additional elements of such kinds were not the subject of the sentence."

Grinevsky rejected this proposal, noting his understanding of the roles of Article II and the Agreed Statement:

"He noted that the sentence already makes clear that reference is to future ABM system components other than the three indicated in the sentence and in Article II of the treaty. Article II made clear that these are the three components currently comprising ABM systems, and the language under discussion made clear that it was referring to precisely such system components other than the three current ones which were listed." (A-743, p. 3)

Another exchange occurred on February 1, 1972, suggesting that both Parties assumed that Article II did not bring within its definition in the Treaty text future, substitute ABM systems or components. Trusov expressed concern about the changing terminology in the future-systems paragraph, which ultimately became Agreed Statement D. He focused primarily on the subjects of "systems," "components," and "devices," the latter of which was still in the proposed draft at that time. (*See* A-763, attachment 2) In a comment quoted at length on p. 35, *supra*, Allison "observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars." He then suggested that agreement was possible. Trusov agreed, so long as the same words ("other ABM systems and their components") are "used consistently. . . ." (A-766) Thereafter, "devices" was dropped from the draft, and the phrase "based on other physical principles" was accepted. The final drafting issues were resolved by April 11. (A-838)

D. *Negotiation of Agreed Statement D.*

The notion of regulating future systems through discussion in what became the SCC, was articulated as early as August 1971. At that time the U.S. Delegation was instructed to seek to obtain Soviet agreement to restrictions that would have banned testing and development of mobile-based OPP devices. But the Delegation was also told not to invite a detailed negotiation, and to accept an agreement that protected the basic principle, leaving problems to be worked out in the joint commission. (NSDM 127) The negotiators also mentioned the possibility of dealing with the future "devices" problem through discussion in the SCC, both before and after Article V(1) was agreed on September 15. (A-442, 8/31/71; USDEL SALT 0990, 9/3/71; A-481, 9/8/71; A-540, 9/8/71; A-498, 9/13/71; A-594, 11/30/71; A-663, 12/17/71; A-667, 12/17/71; A-681, 12/20/71; A-706, 1/11/72; USDEL SALT 1165, 1/11/71; A-710, 1/11/72) No agreement was reached concerning future systems, however, when SALT V ended on September 24, 1971. (See discussion, *supra*, pp. 29-42)

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[13] As noted above, Smith had said, on September 17, 1971, in response to the same Soviet concern: "It seemed to him that we should be ingenious enough to draft Article 2 in such a way as not to prejudice the position of either side in regard to paragraph 1 of [U.S.] Article 6." (A-518, p. 3)

The Soviet view on regulating unknown systems or components was mentioned by Shchukin on November 30, 1971, soon after negotiations resumed in Vienna. He regarded the prohibitions relating to mobile systems and components as of fundamental importance, and as confirming "the importance both sides attached to preparing a draft which excluded the possibility of the deployment of ABM defenses of the territory of a country." But he was unwilling, despite this overall objective, to accept an obligation against deploying substitute "devices":

"[T]he Soviet side cannot recognize as well-founded the proposal of the US involving an obligation not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems. It would seem that prohibiting something unkown, as proposed by the US side, would create uncertainty as to the subject of the Treaty (Agreement) on limiting ABMs. Such has never been done in a serious agreement. If systems based on different technical principles should subsequently appear, they could be discussed additionally, as provided in the draft Treaty." (A-594, p. 2)

Kishilov suggested to Garthoff, after the meeting, that new language proposed by the Soviets prohibiting deployments of ABM systems to provide a territorial defense should be a partial substitute for a future-system provision. (A-592, p. 2) The U.S. rejected this proposition, but both Kishilov and Chulitsky said the Soviets would not accept a treaty provision on the issue. (USDEL SALT 1106, Dec. 1, 1971; USDEL SALT 1116, Dec. 7, 1971).

Chulitsky repeated the Soviet objections to regulating future systems on December 4, and asked the U.S. to drop Article V(3), which the U.S. representative (Aaron) refused to do. Chulitsky "also argued that the prohibition on air-based, space-based, land-based, etc. ABM systems is adequate to cover the problem of future systems." (A-613) The latter statement was consistent with the position that the Soviets had agreed to regulate future "components" consisting of missiles, launchers, and radars, but not unknown "devices." Mobile systems, especially if space- or air-based, were likely to include future versions of the components regulated in Article II. Moreover, if the Soviets were in fact understood to have agreed to regulate "devices" in the prohibition relating to mobile systems, this would have been a natural occasion to ask why they were so adamantly opposed to regulating such devices in Article V(3) No such question was asked, on December 4, or during the many debates thereafter. The disagreement was repeated on December 7 during a review of the Joint Draft Text: "Kishilov urged that some way be found to express the difference over this point in Article III rather than in Article V." Garthoff thought the dispute should remain in Article V, but promised to consider the idea. (A-619, p. 3).

On December 10, Brown made a formal statement for the U.S. concerning future systems. He urged support for Article V(3) because the Parties could effectively prohibit "the deployment of both wide area *and* thick regional ABM defenses" only if they prohibited the use of "devices other than ABM interceptor missiles, ABM launchers, and ABM radars to perform the function of these components" He urged the Soviets to prevent the future deployment of new systems "that could circumvent the ABM limitations both sides have proposed." Significantly, he argued that the Soviet objection to limits on possible future ABM systems "runs contrary to the precedent estalished in the Outer Space Treaty and the Seabeds Treaty" banning "other weapons of mass destruction." He said: "The rationale supporting the undertaking of those obligations applies fully to a corresponding undertaking in the case of possible future ABM systems." (A-642, attachment 2, pp. 1-3) This rationale also applied to Article V(1), and the U.S. delegation could have argued that the Soviets had agreed to limit substitute devices in Article V—which is analogous to the space and seabed regimes—but they did not.

In a session later that day, Shchukin began by reiterating the Soviet objections, and disagreeing with Brown. He stated that he could specify systems that were within the meaning of "other weapons of mass destruction," including chemical and bacteriological weapons. Brown replied that "future ABM systems" could include lasers and particle accelerators. Shchukin thought the territorial defense provision in Article I in effect banned deployment of future systems that would create a territorial defense, and otherwise he saw nothing objectionable in having new components that would do the same job as existing ones "in a more efficient and less costly manner."

Ambassador Nitze posed a situation in which a new component was developed that rendered meaningless the limit of 100 launchers and missiles. Shchukin "suggested that were such future systems to reach a stage where they could be deployed, the question would be referred to the Standing Commission, through which the necessary regulations could be worked out." Nitze found an opening in this apparently negative reaction. He asked whether he had correctly understood Shchukin:

"Was he saying that the sides would agree in principle that the provisions of the agreement should not be undermined by the development of components capable of performing functions similar to ABM components; that if such components reach a stage of development such that their deployment could be contemplated, the issue of the appropriate manner of their regulation would be referred to the Standing Commission; and that no such deployment would take place until such regulations had been agreed by Governments through the Standing Commission[?]"

Shchukin replied that the Soviets "could agree to" Nitze's statement "if it were necessary," but that "it was not clear that he was holding out a commitment in the treaty to that effect." (A-639, p. 2)

On December 14, Shchukin repeated the position that "including in the treaty a provision covering something that is not known cannot be justified . . ." (A-662, p. 14) Later that day, Nitze once again turned a negative Soviet position to advantage: had Shchukin meant that this was not a proper subject for the *treaty*, but was acceptable for a minute or protocol? Shchukin said that that had not been his intent, but added "on his own" that "it should be possible to provide that if components based on new technology were developed which would substitute for the components limited under Article III," the matter would be referred to the Standing Commission and an agreement on it would be reached "so that there would be no circumvention of the limitations of Article III." (A-647) (See also A-662, p. 14)

Subsequent discussions focused primarily on the need to require *agreement* in the Standing Commission on specific limitations on future substitutes for know systems or components, so that the limitations of Article III would not be undermined. Thus, on December 17, Garthoff suggested agreement on a separate understanding to cover future ABM systems. Garthoff "stressed that I [am] speaking about consultation and mutual agreement." (A-663, p. 3) Kishilov suggested that the matter could "be taken up in the Standing Commission for its 'determination.'" (See also A-667, Dec. 17, 1971, pp. 5-6)

Semenov repeated the Soviet view on future systems on December 20, stressing the need to avoid uncertainty and its attendant disputes. He said the goal of the delegations was "to reach agreement on limiting known ABM systems referred to in Article III. . . . Could the sides include in an ABM Treaty the unknown without risk of making the treaty indefinite and amorphous? . . . The sides cannot and must not engage in discussion of questions not known to anyone." (A-681, pp. 5-6) Brown explained in a formal statement that the U.S. position sought to prevent the limits of Article III from being undermined through, for example, a wide-area defense, a thick regional defense, or the use of substitute components. Of particular importance is Brown's argument that, although substitute devices could conceivably perform the tasks of regulated components more effectively, "their use, not specifically prohibited by Article III, might be in numbers and locations beyond those prescribed by Article III, and thus circumvent that Article." Also, he noted, "a single future device substituting for an interceptor and launcher might in effect make many intercepts," and thus achieve a result contrary to that sought by the numerical limits of Article III. At that time, the Soviet draft of Article III prohibited the deployment of "the ABM systems or their components listed in Article II of the Treaty" outside of certain geographic locations. (A-624, p. 3)

In a conversation on December 20, after the exchange between Brown and Semenov, Smith told Semenov how importantly he viewed the need to control future systems. He made what appears to have been a final effort to regulate future systems in the Treaty text, rather than in a separate provision, through subsequent agreement in the SCC:

"On future systems problem, Smith said it seemed the problem was not so far off and not so amorphous as Semenov had suggested that morning. In his statement Semenov had said that we had not been precise; however, if he would recall Dr. Brown's statement carefully, he would find one example given, referring to lasers. Smith was sure that Soviet scientists could also think of other possible future systems. It was Smith's feeling that if, as Semenov had suggested, this problem were left to subsequent handling in the Standing Commission or in some other way, this would amount to saying that we would have to put off agreement on this problem until some time in the future. He believed there would be a tendency on both sides to do their best to design systems that would not be limited by a treaty. Semenov asked if Smith had in mind a circumvention of a treaty. Smith said that technically it would not be a circumvention, but more like a "hunting license" to find ways of doing things not prohibited by treaty. He believed weapons design developed a dynamic of its own. Where a certain field was not prohibited by an international agreement, there would be strong thrusts to push development as far as technology permitted. Smith believed that what both our countries should be doing was to stop evolution of military technology in a direction that was dangerous to us both. Therefore, he had hoped that if we could conclude a first arrangement that would establish quantitative limits for the most part, and learn to live with it, in time we would also be able to get control of qualitative aspects. In the matter of future ABM systems, which had not yet been developed, it was in the interests of both countries to outlaw them before they were born." (USDEL SALT 1149, Dec. 21, 1971)

In the course of this discussion, Smith did not suggest that the parties had already agreed to any far-reaching limitation on design of future ABM systems and components in Article V(1). (See also A-672, pp. 2-3)

Grinevsky continued meanwhile to pursue the idea of dealing "with future systems through statements on the record concerning consultation prior to deployment in the Standing Commission." Garthoff noted that his idea was for an agreed minute whereby the parties understood "that, prior to any deployment of future systems and components, there would be consultation and agreement" in the Standing Consultative Commissioin ("SCC"). Grinevsky said this might be possible.

On December 21, the Soviets agreed to accept connecting language in Article II ("currently consisting of"), and the U.S. agreed to drop Article V(3) "if the Soviet side was prepared to accept the language proposed [by the U.S.] earlier that day. . . ." The language is quoted above, and would unmistakably have prohibited deployment prior to agreement in the SCC of future substitute components "other than ABM interceptor missiles, ABM launchers, or ABM radars. . . ." Grinevsky "said that the Soviet side needed to study this matter further. . . ." (A-678, pp. 3, 6) Semenov again rejected the regulation of future systems, but this time his remarks stressed "that inclusion of a provision on so-called 'other ABM systems' *in the text of a treaty* limiting ABM systems is not acceptable. . . ." (Emphasis added.) This suggested a significant breakthrough in the negotiation. It also suggests, however, that Semenov was assuming that *no provision* then in the draft treaty regulated substitute devices. The U.S. representatives did not challenge his assumption by referring to Article V(1) or Article II.

Internal discussions also indicate that, as of December 23, 1971, the U.S. Government regarded the entire future-systems issue as unresolved. On December 21, the delegation reported that, "regarding future systems," they planned "to explore solutions involving separate understanding . . . calling for consultation and/or mutual agreement through the standing commission prior to deployment of ABM systems using devices other than interceptors, launchers, and radars to perform functions of these components." (SALT 14810, Dec. 21, 1971, p. 2, para. 7) The State Department sent the following comments from Robert A. Martin and Frank H. Perez to Philip A. Odeen, NSC Senior Member for defense and arms control, apparently in preparation for a SALT Verification Panel Meeting, scheduled for December 23:

"3. Future ABM Systems

"We believe that the U.S. position on future ABM systems should be modified to meet Soviet concerns that future systems are too poorly defined and "futuristic" to be covered specifically in an agreement.

"In view of Soviet indications that the matter of future ABM systems could be handled through "consultation and agreement" in the SCC, we believe this would achieve the US aim to ban future systems. We would prefer to have it be part of the formal agreement, but it could be in the form of an explicit understanding which would make it binding on both parties to reach agreement through the SCC mechanism before deploying new ABM systems. Such an arrangement would serve to protect our interests, since we could legally challenge the Soviets if we had evidence that they were deploying ABM systems using devices other than ABM Interceptor missiles, ABM launchers, or ABM radars." (Dep't of State Memo, "SALT—Revised Issues Paper", Dec. 21, 1971)

A State Department paper dated December 22 also referred to the futures issue, and to a JCS staff recommendation to leave futures options open; but the paper recommended that efforts continue at least for a ban on deployment separate from the formal agreement:

"Future ABM Systems—The Soviets have shown flexibility on this point, but have not as yet agreed to a specific provision in the ABM agreement. JCS staff believes the U.S. should not foreclose future options, and would change the U.S. position to exclude a provision to this effect. All other agency staffs support a ban on future systems and although preferring to have it part of the formal agreement, believe it could be handled in the form of an explicit understanding binding on both parties to reach agreement in the SCC before deploying such systems. It seems preferable to pursue our current position further before exploring such a fall-back." (Briefing Memo, "SALT—Verification Panel Meeting December 23," R. Spiers to Under Secretary, Dec. 22, 1971)

The Delegation evaluated the Soviet position in a message on December 23: "It seems clear that the USSR wants a May 20 type arrangement. . . . The question of future systems appears to be manageable." (SALT Report, pp. 1 and 6) (Nixon Papers) By this the Delegation communicated its realization that the Soviets wanted an agreement that represented a practical, first step, along the lines contemplated by the May 20, 1971 accord. (*Supra*, pp. 14-19)

The SALT I Delegation prepared a report, dated January 8, to bring the Administration up to date on the future issue as of that time and to solicit Washington comments. This report was not sent. Nevertheless, it provides additional evidence at least of what U.S. negotiators believed had been settled as of that time. The draft cable states that the Soviets continued to object to including Article V(3) of the joint draft in the Treaty text, but were willing to consider "an agreed understanding that if future ABM devices became ready for deployment, neither side would initiate such deployment without prior consultation and agreement of both Governments." The draft noted:

"That current wording of revised articles in the *ad referendum* Joint Draft ABM Text can be interpreted as banning future systems since:

"Article I states the Parties undertake not to deploy ABM systems for defense of an individual region except as provided for in Article III.

"Article III, U.S. version, contains the words to the effect that the Parties will deploy no more than specified levels of ABM interceptor missiles, ABM launchers, and ABM radars. Soviet version of Article III uses phrase 'the Parties undertake not to deploy ABM system components listed in Article II . . .' except in geographically prescribed areas, and 'shall not deploy more than' specified number of launchers and ABMs, thus not 'providing for' other ABM component deployments.

"Article II defines an ABM system as 'currently consisting of' ABM interceptor missiles, launchers and radars, clearly implying possible other ABM components in future. These articles, considered together, can be plausibly considered to prohibit deployment of ABM systems other than the specific components permitted by Article III and defined in Article II. There is at present, however, ambiguity as to whether this interpretation is clear to Soviets, and they may well not share this interpretation. Highlighting this application of the articles to future devices could have the undesirable effect of provoking a Soviet withdrawal of their agreement to the *ad referendum* Articles I and II. Delegation therefore believes it desirable to seek to deal specifically with the issue, rather than rely solely on interpretation of these articles."

A redraft of this message, dated January 10, repeated these points, without suggesting that the Soviets be directly approached on the meaning of Article II. It proposed a series of other options, however, including an intention to "explore the Soviet interpretation of Articles I, II, and III of the ABM JDT as applied to future ABM systems . . .," while recognizing an agreed minute was preferable to "no explicit provision. . . ." They suggested the following strategy:

"If the Soviets continue to indicate that these articles in substantially their present form would be acceptable to them, and recognize that deployment of future ABM systems is not permitted under these articles without further agreement of the Parties, we would consider making an interpretative statement to this effect in the record, or explore the feasibility of an agreed minute to this effect, to replace Article V(3), noting the agreement of the Parties that the JDT is not to be circumvented by deployment of future ABM systems."

This strategy differed from that proposed in the first draft in one significant way—it eliminated the thought of approaching the Soviets on the meaning of Article II alone, which was recognized as entailing the risk that the Soviets would withdraw *ad referendum* acceptance of the draft.

On January 11, 1972, Shchukin repeated the Soviet position against including unknown matters in the Treaty, but again drew the line at adding a provision dealing with unknown substitutes in an ABM treaty." Such matters, if they arose, could be discussed in the SCC. Nitze pointedly asked: "if such [substitute] components were developed and could, in fact, be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?" (A-706, pp. 11-12) Shchukin reiterated that Article V(3) was "not suitable" for inclusion in the Treaty. (USDEL SALT 1165, Sec. 2, p. 2, para. 11)

In a follow-up meeting that day, Kishilov produced a text which called for consultation on future substitutes, but did not mention agreement. Garthoff pressed the issue of what would happen if consultation did not lead to agreement: "Would a party, wishing to deploy such a system, be able to do so or not?" Grinevsky answered that a party could do so and that the other party could respond by withdrawing. Garthoff and Parsons argued that this was too extreme a remedy; the Parties should agree not to require an amendment before deployment could occur. At that point, Garthoff "suggested that perhaps an Agreed Minute might refer to both Article XIII and XIV." (A-710, p. 5) Kishilov initially agreed to this idea, but Grinevsky did not.

Grinevsky then stated "that the treaty referred to ABM systems, which were defined in Article II. It could not deal with unknown other systems." Garthoff challenged this view, claiming that "first, the treaty dealt not only with ABM systems comprising components identified in Article II, but all ABM systems; [and] second, the issue did not concern 'other' systems, but rather future ABM systems." Garthoff then attempted to distinguish between "other" and "future" systems or components:

"Garthoff remarked that he had noted that morning constant Soviet reference to "other" systems rather than "future" systems. But the two issues should not be confused. If there were a question as to whether some system was in fact an ABM system or component or not, that would clearly be a subject for consultation, and if there were a serious divergence perhaps there would be a need for recourse to withdrawal, as Grinevsky had suggested. However, what Garthoff was referring to—and what the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example."

These exchanges led Grinevsky and Kishilov individually to indicate that they regarded Articles I, II, and III as together banning the deployment of future systems. The memcon noted, however, that the Soviets seemed confused: "Comment: The confusion and discrepancy between the Soviet participants over interpretation of the effect of Articles I, II, and III of the ABM draft Treaty with respect to future ABM systems, and other possible solutions, seem to indicate absence of a clear and thought-through position on the part of the Soviet delegation at the present time." Garthoff emphasized that "it was essential to reach a common understanding concerning the effect of Articles I, II, and III on future systems or components, and to reach agreement on a position concerning this subject." (A-710, pp. 5-6)

Garthoff's analysis might itself have contributed to the confusion. His attempted distinction between "other" and "future" ABM systems had nothing to do with his point that the parties might disagree over whether something was an ABM system. The parties were using the words "other" and "future" interchangeably, in that both were meant to signify a system that served the ABM function but that relied (or in the case of "future" systems that might rely) on one or more substitute components. Neither word raised the issue of whether the system served on the ABM function. Furthermore, Garthoff's arguments undercut the claimed need for an Agreed Statement. If Articles I, II, and III together banned the deployment of all forms of ABM systems, then a further provision doing so was unnecessary. The memcon's "Comment" suggests that the U.S. delegation doubted that the Soviets in fact agreed with Garthoff's interpretation, and the Soviet view that the Treaty applied only to ABM systems comprising components identified in Article II lent strong support to the U.S. delegation's doubts.

At a mini-plenary on January 14, 1972, Shchukin recalled Nitze's question of January 11 "whether so-called 'other ABM means' would be a subject not only for appropriate consultation but also for agreement." He answered:

"Both sides agree that they should assume obligations not to deploy ABM systems except as provided in Article III of the draft ABM Treaty. In order to insure implementation of this provision of the Treaty, the sides could, in the event of the emergence of ABM systems constructed on the basis of other physical principles, further discuss the question of their limitation in accordance with Articles XIII and XIV of the draft ABM Treaty."

Nitze said "he thought Academician Shchukin's words had been clear." (A-717, p. 5) Later that day, Nitze asked Shchukin to state again his position on future systems:

"I said it might be helpful if he could discuss further his last statement at today's session; I had said I thought it was clear but wanted to be sure. I said that as I understood it, he was saying that under Article III and in the light of Article I, ABM systems could not be deployed except as provided by Article III. Shchukin interjected "and also in the light of Article II." I went on to say 'and therefore, if new systems reached a stage where they could be deployed, they would be the subject of appropriate action under Articles XIII and XIV.' Shchukin said that was right; he pointed out, however, that this did not prohibit the deployment of a telescope, for instance, in support of a radar." (A-713) (12:15-1:15 p.m.)

"I asked Trusov if he could repeat, so that I could be sure of understanding, Academician Shchukin's mini-plenary statement concerning future ABM systems. Trusov affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear their limitation would be subject to discussion under the provisions of Articles XIII and XIV of the draft ABM Treaty." (A-714) (12:15-1:30 p.m.)

The Soviet draft on the issue, passed on that same day by Grinevsky to Garthoff, called only for discussion "in accordance with Articles XIII and XIV . . .," when ABM systems "based on other [physical] principles" emerged. (A-716, p. 3) The Soviets were still avoiding a clear commitment to agree on limitations before deployment.

Subsequent discussions on the issue of future substitutes for ABM systems and components focused on the drafts exchanged by the parties. On January 20, a member of the SALT I Delegation, E.C. Aldridge, Jr., informed Dr. Wade at DOD: "The future ABM issue has been resolved as a result of a Soviet suggestion for an agreed minute and interpretation of Articles I, II, and III." (Memo, "Status of SALT IV", (Jan. 20, 1972)) The Parties eventually developed language to make clear that the provision—which became Agreed Statement D—required agreement on specific limitations prior to development, and that it applied to substitutes for both systems and components. (A-743) On January 27, 1972, for example, Garthoff argued against any change that might suggest coverage of future substitute systems but not components. He "asked if the Soviet side meant that if some new future development permitted using, for example, laser beams instead of interceptor missiles, that a system including such a new component could be deployed without limit and without agreement. Grinevsky and Kishilov immediately replied in the negative." The language was kept in a form that applied the deployment limitations to both future substitute systems "and" components. (A-752, p. 1)

On January 26, 1972, Garthoff presented Grinevsky with a new text which had several changes in the Agreed Statement, one of which would have added "to perform the functions of ABM interceptor missiles, ABM launchers or ABM radars." He explained that it was intended to make clear that the parties were talking about substitutes for the usual components, not merely supplementing devices, such as telescopes. Grinevsky understood the purpose but adamantly opposed the change, making clear in the process that the Soviets remained committed to the view that the Agreed Statement covered future substitutes, and Article II covered the usual components: "[T]he sentence already makes clear that reference is to future ABM system components other than the three indicated in the sentence and in Article II of the Treaty." (A-743, p. 3)

Another discussion of the separate agreed statement occurred on January 31, 1972. Garthoff read to Grinevsky and Kishilov the following "Statement on 'Future ABM Systems' ":

"It is understood that both sides agree that:

"1. ABM systems and their components, as defined in Article II, should not be deployed except as provided for in Article III.

"2. The deployment of ABM system components other than ABM interceptor missiles, launchers, or radars to perform the functions of those components is banned.

"3. Devices other than ABM inteceptors missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute for ABM interceptor missiles, ABM launchers, or ABM radars. For example, a telescope could be deployed as an adjunct to an ABM system, whereas a laser for performing the function of an interceptor missile by rendering ineffective a strategic ballistic missile in flight trajectory could not be deployed.

"4. Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions.

"5. If such devices are created in the future, their deployment could be provided for by limitations subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV." (A-763, attachment 2)

Garthoff reported in his memcon that: "After reading the talking points, Grinevsky said that he believed there was complete agreement." (A-763, p. 3) At that point, Garthoff presented Grinevsky with a proposed formulation in which the parties "agreed that in the event other devices capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, their deployment would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty." The text gave Grinevsky second thoughts. He and Kishilov raised several objections, and agreed only to present it for consideration. (A-763, p. 3)

The talking points presented by Garthoff suggest a number of things about the assumptions the parties had at this time. First, they called for a ban on the *deployment* of "system components other than ABM interceptor missiles, launchers, or radars to perform the function of those components . . ." They did not suggest that such substitutes had been regulated in Article V(1) to prohibit their development or testing. The points were not expressly limited to land-based devices.[14] While only a prohibition on deployment could have been meant to apply to all categories of OPP systems, under either interpretation, it is noteworthy that these points do not distinguish between land-based and mobile-based systems with respect to development and testing. Furthermore, Garthoff's fourth point indicated that the parties felt they needed to redraft Article III to prohibit the deployment of substitute devices—an implicit acknowledgement that Article III as then drafted would *not* prohibit deployment of such devices. In the subsequent negotiations, a change in Article III made clearer than in earlier drafts that only those systems and components specified in the Article could be deployed. The provision did not, however, contain language expressly prohibiting the deployment of substitutes for "systems" or "components."

Grinevsky objected on February 1 to using Garthoff's five-point paper as a new text. He "said that the Soviet Delegation had found interesting and helpful" the points given, but they thought the previous text should be used, since it "had been agreed except for a few words, and [they] did not feel that the latest US draft proposal was as good." Efforts were then made at the meeting, and later by telephone, to conclude the negotiation, with the Soviets seeking inclusion of the words "based on other physical principles." (A-769, pp. 2-3). The parties finally reached agreement on February 2 on a formulation that referred to devices capable of substituting for regular components, as well as to "other physical principles":

"In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, it is agreed that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article III and agreement in accordance with Article XIV of the Treaty." (A-770, p. 3).

With minor changes, this formulation became Agreed Statement D. (A-838, Attachment 4)

The manner in which Agreed Statement D was adopted in the Joint Draft Text may have significance, not only for Article III, but also for the meaning of article V(1). When the parties confirmed their acceptance of Agreed Statement D on February 3, 1972, they did so by noting their agreement "concerning Article V of the Joint Draft Text of an ABM Treaty." (A-776, p. 1) This format may have resulted simply from the fact that Parsons made a statement on that day (entitled "Article V of the ABM JDT"), agreeing to drop Article V(3) if the Soviets accepted the interpretation relating to substitute components based on other physical principles. But the statement may also reflect an implicit assumption by the parties that the Agreed Statement was relevant to *all* of Article V, including Article V(1). On that same day, Smith issued a statement summarizing results of that phase of the negotiations, which described the parties as having reached agreement on the overall problem of future technologies:

"The sides have agreed *ad referendum* to Delegations on an interpretation of how the provisions of the ABM Treaty would apply to ABM systems and their components based on possible future technologies." (A-782a, p. 2)[15]

E. U.S. Position on Future Systems at Conclusion of SALT VI

The ACDA draft history of the Sixth Session (Nov. 15, 1971-February 4, 1972) summed up the results of this period on the issue of future systems by stating: "The Soviets continued to reject the American proposal for a treaty provision banning future ABM systems of a novel type." (ACDA, Sixth Session of the Strategic Arms Limitation Talks, Office of Public Affairs, p. 257) (emphasis added.) This sentence is particularly instructive because editing on the original shows it was changed from: "The Soviets continued to reject the American proposal to include a provision banning future ABM systems of a novel tupe." The Soviets in fact did accept in principle a provision to ban deployment of novel ABM systems, but not in the treaty text.

The U.S. view on what had been achieved respecting future systems by the end of SALT VI is also contained in Ambassador Smith's Report to the President for that period. The report mentioned only Soviet agreement to a separate interpretation concerning deployment:

"The Soviet Delegation has accepted the substance of the U.S. proposal for an agreed interpretation prohibiting (unless the treaty were amended appropriately) the deployment of possible future types of ABM systems using devices other than launchers, interceptors or radars as substitutes for these ABM components." Memorandum to the President, "Report of the U.S. Delegation to SALT, Vienna," from Amb. Smith, p. 7 (Feb. 16, 1972). This statement also indicates that the U.S. delegation equiated ABM systems or components based on "other physical principles" in the agreed statement with "devices other than launchers, interceptors or radars.

Evidence as to the perceived scope of Article V(1), and other related provisions, after SALT VI, can be found in memoranda by John B. Rhinelander, legal adviser to the SALT delegation. Rhinelander apparently began preparing an "Article-by-Article Analysis of ABM Treaty" in January 1972. In a draft analyzing several articles, dated January 24, he notes the effort by the U.S. delegation, discussed below, to change the introductory language to Article III, to preclude the deployment of future systems in the event Article V(3) of the JDT were deleted, as had been tentatively agreed. (Memorandum, Jan. 24, 1972, p. 13) Second, in discussing Article IV, the memorandum states:

"[This Article limits the testing and development of fixed, land-based ABM systems which are based on future technology to current or agreed test ranges.] Nothing in the Treaty prohibits testing and development of ABM systems based on future technology other than paragraph 1 of Article V, which prohibits the development, testing or deployment of any ABM system, or any ABM component, which is sea-based, air-based, space based or mobile land-based." (Id. 19-20) (brackets in original)

Finally, in an analysis of Article V(1), the memorandum takes the position that development, testing, and deployment of "devices" which could replace conventional components were prohibited:

"Paragraph 1 of Article V prohibits the development, testing or deployment of:

"an ABM systems [sic] that is sea-based, air-based, space-based, or mobile land-based.

"an ABM system interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based.

"a device, which would replace an ABM interceptor missile, ABM launcher or ABM radar in an ABM system, that is sea-based, air-based, space-based, or mobile land-based.

"Paragraph 1 of Article V, when read with Article III and Article IV, makes clear that only fixed land-based ABM interceptor missiles, ABM launchers and ABM radars may be deployed, or located at test ranges. The testing or development, as well as deployment, of ABM components for three environments—sea, air and space—as well as mobile ABM components on land, is prohibited." Id. 21-22. As noted above, on September 15, 1971, the U.S. dropped from Article V(1) language substantively identical to that which Rhinelander included in the Article's coverage—"other devices . . . to perform the functions" of ABM missiles, launchers, or radars.

In a "Third Draft" of his analysis of the Treaty's legal effect, dated February 16, 1972, Rhinelander discussed several provisions relevant to the future-systems issue. First, he described the coverage of Article II(1) in terms that left unresolved whether he believed it extended to OPP devices:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. See discussion of prohibition on deployment of future ABM systems under Article III. Examples of possible future ABM components are 'killer' lasers and particle accelerators." (Id. 9) He referred to the categories of components listed in Article II(2) as those "which are subject to provisions of the Treaty," and bracketed the proposition that it applies "to ABM systems or ABM components based on future technology. See discussions under Article III." He footnoted this statement with the following: "Not yet raised with Soviets." (Id. 11) In his discussion of the U.S. version of Article III, Rhinelander concluded that it, "in conjunction with [paragraph 2 of Article I], prohibits the deployment of 'future ABM systems'; such systems may be deployed only after consultation" and amendment. (Id. 14) He then quoted the agreed interpretation, which he said was based on Garthoff's five points. He noted, however, that "the agreed interpretation (ad referendum to Delegations) does not make clear that any deployment of 'future ABM systems' is prohibited unless the Treaty is amended," and that "the Soviets have not agreed that further clarification is necessary" along the lines of Garthoff's points. (Id.) The draft repeats the analysis of Article (IV's effect on future systems, discussed above (p. 106), but adds this footnote: "Present U.S. position not clear; issue has not been raised with Soviets." (Id. 22) Finally, in his discussion of Article V(1), Rhinelander modified his January 24 draft by bracketing both the paragraph that dealt with conventional components, and the paragraph that stated that Article V(1) applies to any "device" that would perform the function of a conventional component. He also added the following footnote on these issues: "US has not made its position clear to Soviets, and Soviet position not clear." (Id. 23).

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[14] Both these points are also true of the reporting cable sent by the Delegation to the Secretary of State on January 31, 1972:

Future Systems:

"We appear to be in agreement in substance on the idea that deployment of future ABM systems based on components other than ABM interceptor missiles, ABM launchers, or ABM radars would be subject to amendment of the treaty, but we are still working out agreed language."

Similarly, in a statement to NAC reported on the same day Ambassador Smith said on this subject that "The Soviets . . . agreed that deployment of ABM systems based on future technology would require amendment of the treaty." (USDEL SALT 1197, Jan. 31, 1972)

[15] When the Soviets tabled a new Draft ABM Treaty on April 11, 1972, they entitled what became Agreed Statement D in a manner that arguably suggests it was understood to relate to Article V, not merely to Article III: "DRAFT JOINT STATEMENT OF THE DELEGATIONS REGARDING ARTICLE V OF THE ABM TREATY" (A-838, Attachment 4)

A Verification Panel Working Group issued on March 6, 1972 a paper on open issues arising from "agreed language" in the joint draft text. This document is interesting for its discussion of Article V(1), in which the question is raised whether to make clear that the prohibition on development, testing, and deployment of "ABM components (i.e., launchers, interceptors, radars, or other devices capable of substituting for them) which are not both fixed and land-based, applies to all such components, regardless of whether other components in the ABM systems with which they are associated are fixed land-based ones." The agency representatives agreed "that this provision should apply to ABM components (viz., launchers, interceptors, radars, and other devices capable of substituting for them) which are not fixed land-based, but not to such devices as satellites providing early warning by detection of missile launch." The agency representatives recommended that Article V(1) be revised to make clear it applied to all components, or that an agreed statement to that effect be obtained. (A decision was ultimately reached to seek a revision to accomplish this result, and the Soviets accepted the proposed change in language.) (Verification Panel Working Group, "Issues Arising from Agreed Language in the Joint Draft Texts and from Associated Interpretive Statements," pp. 11-13 (March 6, 1972))

This discussion appeared to assume, without elaboration, that Article V(1) applied to devices capable of substituting for conventional components. The JCS representative did not concur in that assumption. At two points where the discussion defined "all ABM components (viz., launchers, interceptors, radars, and other devices capable of substituting for them)," the following footnote appears: "The JCS representative would delete the phrase 'and other devices capable of substituting for them'." (Id. at 12-13)

In a subsequent draft of his legal analysis, circulated with a separate memorandum dated March 20, Rhinelander indicated his acceptance of various changes proposed by Mr. Nelson of the State Department Office of the Legal Adviser, who was not a Delegation member, and repeated some of the doubts he had as to the Soviet position on future systems. On Article II(1), Rhinelander added language proposed by Nelson stating that the word "current" did not limit "the generality of the term to systems composed of such components, but would also include future systems using different components." (Id. 9) (No explanation was given by either Nelson or Rhinelander for this change.) Another change in the analysis of Article II(2) stated without further justification that the listing in Article II(1) was "illustrative but not exclusive" of the components covered by the Treaty. (Id. 12) Rhinelander continued to recommend changes of Article III to provide "a clear peg for the agreed interpretation on future systems" (id. 13); he remained of the view that the agreed interpretation did not bar deployment of future systems without such a change (id. 15)

In this draft, moreover, Rhinelander proposed that the uncertainties he had identified with respect to mobile future systems be clarified by agreement with the Soviets. Thus, in his analysis of Article V(1), he again bracketed the proposition that it covered "devices" other than conventional components, and repeated the footnote that "US has not made its position clear to Soviets, and Soviet position not clear." (*Id.* 24) He went on to propose, moreover, both in connection with Articles V(1) and IV, that the United States should consider approaching the Soviets to clarify the matter:

"The US should consider an agreed interpretation, or US statement, on "development or testing" as used in Article IV. This would dovetail with an interpretation on *prohibited* development or testing of systems for certain environments in Article V(1). This definition should apply equally to 'current' ABM components and 'future systems'. The agreed interpretation should be keyed to agreed language in Article III." (Id. 23) This recommendation, along with others, was recorded on March 20 in an "inventory" of possible agreed statements:

"A clear understanding that Article IV limits the development and testing of 'future' ABM systems and ABM components (the deployment of which is prohibited) to current or agreed test ranges is needed. Further, what is prohibited under the 'develop, test' language of Article V(1), is not clear." (Memorandum, J.L. Malone to Hancock, ACDA GC, Mar. 20, 1972, p. 14)

The negotiating record, in sum, fails to establish that by February 4, 1972, at the end of SALT VI, the Soviets had agreed to any limit on future systems other than the arguably ambiguous separate statement, which later became Agreed Statement D. The Report to the President, and internal U.S. documents, also support this conclusion. They make no claim concerning future systems beyond Soviet agreement and referendum to a nondeployment commitment in a separate statement. Finally, while Rhinelander's legal analysis proposed in January 1972 that Article V(1) applied to substitute "devices," in subsequent drafts through March 20, 1972 he bracketed this language, and suggested an approach to the Soviets to clarify the U.S. position and to obtain Soviet agreement.

F. *Negotiation of Article III and Future Systems.*

On March 19, 1971, the Soviets proposed language providing that the Parties "undertake not to deploy ABM systems listed in Article II of this treaty" more than 200 kilometers from national capitals. (USDEL SALT 566) The first U.S. proposal provided that each Party "undertakes not to deploy ABM interceptor missiles, ABM launchers, or ABM radars except in its own territory and only at one of the following. . . ." (A-300A)

The Parties' drafts maintained this basic form, with some changes (such as Soviet mention of "components"), until April 11, 1972. On that day, the U.S. changed its lead-in to a form that more clearly suggested a total prohibition on deployment, with certain exceptions:

"Each Party undertakes not to deploy ABM systems or their components except that each Party may deploy ABM interceptor missiles, ABM launchers, and ABM radars within. . . ." (A-838, Attachment 2, p 3)

This proposal stemmed from the belief, of at least one member of the U.S. delegation, that the new version would effectively preclude the deployment of all ABM systems or components other than those consisting of missiles, launchers, and radars. As early as January 24, 1972, Mr. Rhinelander wrote that the U.S. version of Article III at that time, with certain ACDA revisions, would "clearly cover future systems if Article V(3) [of the JDT] is delted." (Memo, "Article-by-Article Analysis of ABM Treaty," Jan. 24, 1972, p. 13) A paper was presented to the Soviets by the U.S. during SALT VI, stating that Article III should be drafted to prohibit by implication the deployment of "future systems," but the Soviets did not respond. (*Id.*, April 20, 1972, p. 13 n. 1) On April 7, 1972, Rhinelander supported the version tabled on April 11, in a memorandum to Ambassador Smith that stressed its effect on the future-systems issue:

"The major issue in the redraft of Article III (indicated in brakets in paragraph 1 of the attached) is the issue of 'future systems'.

"As you will recall, the Article III we tabled on July 27 was 'neutralized' on instructions from Washington since we did not then have instructions on 'future systems'. Subsequently, we proposed that 'future systems' be a paragraph of what is now Article V (mobiles, etc.). I think you might recall this history if JCS opposes, as we expect they will, a text of paragraph 1 of Article III which attempts to foreclose 'future systems'.

"I believe you should consider the following arguments in favor of an approach which prohibits the deployment of 'ABM systems or their components except that each Party may. . . .'

"(1) our instructions were explicit (deployment ban on future systems), and there has been no change in instructions;

"(2) the Delegation approved the 'five point' which were given to the Soviets (see *ABM Analysis*, p. 16);

"(3) the present 'agreed interpretation' on future systems would be unsatisfactory if the JCS approach were accepted (i.e., if present text of U.S. Article III is retained);

"(4) it is in the U.S. interest to have the Treaty text lay as unambiguous basis as possible for the U.S. position and the 'agreed interpretation.'

"You should note that the JCS position, at least at the staff level, is that the 'agreed interpretation' does not ban deployment of future systems and would not require an amendment prior to deployment; it just requires consultation in advance of deployment."

On April 26, 1972, Grinevsky asked the purpose of the changed format, noting that it was longer than the Soviet version, and that it could simply refer to Article II instead of listing all three components. Garthoff explained that the draft had two elements: "an undertaking not to deploy ABM sytems or components except as specified, and then specification of the components listed in Article II." He said if brevity was important the shortest formulation would omit the reference to Article II and simply read: "Each Party undertakes not to deploy ABM systems or ABM components except as follows: . . ." After discussion, Grinevsky "suddenly exclaimed that he now understood the difference between the two formulations, and what the American approach entailed." (A-872, p. 5)

The Soviets agreed to the U.S. approach in principle on April 28. At that time, over two months after Agreed Statement D had been negotiated, Grinevsky thought the Soviets could agree to the shorter formulation discussed on April 26, "the one which omitted reference to Article II." Parsons asked if he understood correctly that the Soviets "could probably agree to a formulation undertaking not to deploy ABM systems or their components except as the Article would provide. Grinevsky said that they could, as this would ban 'other systems.'" (A-873, pp. 2-3) Thereafter, the Soviets proposed a format similar to that of the U.S., which was modified slightly and made final on May 14. (A-943, Attachment 1, p. 1) On May 6, the U.S. Delegation reported Soviet acceptance of the "US approach on lead-in [of Article III] reinforcing the interpretive statement dealing with future ABM systems. . . . " (USDEL SALT 1289, p. 2, para. 5)

The Soviet statement that the U.S. version would ban "other systems" is noted by FitzGerald as significant. (FitzGerald 55) The Soviets had previously indicated, however, that Articles I, II, and III in combination reflected an intention to bar the deployment of any future substitute for ABM systems of components, an intention they agreed to make explicit in what became Agreed Statement D. The change could, however, have helped clarify this intent, as well as potentially achieve the objective noted by Rhinelander of convincing JCS staff that the deployment of futures was banned.

The broader question is the effect of this change, and of Grinevsky's observation, on Article II(1)'s definition of "ABM system." The argument could be made that this change showed that the Soviets had come to accept the U.S. view that "ABM system" should be defined throughout the Treaty in purely functional terms. This assumed result, together with the references by Karpov to "collateral" obligations in the drafting of Article II(1), and his reference on September 15 to the inclusion of "any type of future component" in Article V(1), could make an arguable case for the proposition that Article V(1) should be viewed in the final analysis as applying fully to all mobile OPP devices.

This line of argument, based as it is on scattered, oral statements and unexpressed intentions, fails to undercut the strong case that can be made that the Soviets had not agreed to the U.S. view on all these issues. Rhinelander himself noted, at the same time he recommended that Article III(1) be changed, that the U.S. had failed to make its position clear on Article V(1), and that the Soviet position was unclear. On April 12, Rhinelander summarized the results of meetings held among the delegates on April 3 and 5 in which the ambiguities in Article V(1) were discussed. The delegates decided to clarify the provision's application to systems which included both mobile and fixed components, but they decided to defer a decision whether to clarify the provision's application to mobile OPP devices:

"(c) Deferred decision whether U.S. should make statement which would make clear that development, testing or deployment of "future ABM systems" which are space-based, etc., are prohibited. (Page 24, footnote **.)" (Memo, "Summary of Delegates' Review of Issues Raised in Article-by-Article Analysis of ABM Treaty (draft March 30) . . .," p. 3 (April 12, 1972)) Rhinelander has since testified that no effort was made thereafter to clarify the scope of Article V(1). (Strategic Defense Initiative: Hearings before the Subcomm. on Strategic and Theater Nuclear Forces of the Senate Comm. on Armed Services, 99th Cong., 1st Sess. 226 (1985)) In addition, no effort was made to confirm that the Soviets had come to view Article II(1) in purely functional terms as it applied to the Treaty proper.

Another draft of Rhinelander's memorandum, dated April 20, 1972, continued to keep bracketed the part of his analysis of Article V(1) dealing with future systems, along with an accompanying footnote: "US has not emphasized position in text, which is based on guidance, and the Soviet position may not be clear." The footnote was supplemented, moreover, with the following "ISSUE: Whether US should make US position in 'Four Points in future systems; see page 13, footnote 1." (Memorandum, "Article-by-Article Analysis of the draft ABM Treaty," April 30, 1972, p. 25) The points proposed would have clarified these issues, but no such effort was made.[16] Rhinelander had recommended. This draft also repeated that "ABM system" in Article II(1) extends to all "future systems" based on other physical principles and capable of substituting for current components. In his description of Article III, Rhinelander stated that it limits deployment of ABM systems only to systems with current components, and that systems with substitute components can be deployed only after consultation and agreement of limitations under Agreed Statement D.

The change in Article III is unconvincing as a basis for establishing that the U.S. position of Article V(1) had somehow been accepted by the Soviets. The change in Article III was aimed at pinning down the nondeployment obligation, not at altering the definition of "ABM system" in Article II(1), which the Soviets had made clear included only systems with conventional components. The Soviets had earlier accepted the nondeployment commitment, without any change in their position on Article II(1), and both sides agreed to articulate that commitment in Agreed Statement D. The Agreed Statement was ambiguous, and the change in Article III helped to clarify its purpose. No suggestion was made at the time, moreover, that Agreed Statement D had become unnecessary to fulfill the nondeployment objective because of the change in the lead-in language to Article III. That would have been the logical consequence of the Soviets having agreed implicitly to a purely functional definition of Article II(1). Indeed, the change in Article III was characterized by the U.S. Delegation as "reinforcing" the ban on deployment in Agreed Statement D.

Finally, the revision of Article III is an inadequate basis for overcoming the far more authoritative, documentary trail left by the Soviets which they could use to argue that they had refused to agree to have Article V(1) apply to OPP devices. The U.S. proposal on Article V(1) would unambiguously have covered substitute "devices" other than conventional components; the Soviets rejected it, however, at a time their documentary proposals defined "components" to include only missiles, launchers, and radars. The initial U.S. proposal on Article II(1) was purely functional, and options offered by the U.S. for corrective language would have unambiguously covered future, substitute devices; the Soviets rejected the original proposal and the unambiguous options, and agreed to ambiguous corrective language only after the U.S. agreed to drop its effort to regulate future systems in the Treaty text, in lieu of an agreed minute that barred the deployment of such systems. Negotiating the agreed understanding, moreover, was difficult, in that the Soviets refused to agree even to an express prohibition on "deployment". Given this record, established by the various drafts of the Parties, and not merely by statements and suggestions of individual negotiators at working-group meetings, and in light of the persistent Soviet opposition to the regulation in the Treaty text of future, unknown devices, the doubts expressed in the U.S. delegation as to the coverage of Article V(1) were solidly based. Absent some form of clarification, the Soviets had made a strong record on which to claim they had agreed to bar only the deployment of future systems, before discussion and amendment under Agreed Statement D.

CONCLUSION

The language of the ABM Treaty, the most important source for its meaning, is ambiguous. It can be read to support either the restrictive or the broader interpretation, though on balance it lends greater support to the broader interpretation. Neither reading is conclusive. But the narrow reading renders Agreed Statement D legally superfluous as a basis for preventing the deployment without agreement of ABM system or components based on other physical principles. The broader view results in a coherent scheme, with no significant redundancy. At a minimum, the contention some have made—that the treaty language so clearly supports the narrow view that no inquiry into the negotiating history is proper—is plainly untenable.

Since the Treaty can reasonably be read in more than one way, an examination of the negotiating record is appropriate to determine the Parties' intentions and understandings in drafting the Treaty's terms. The weight of the evidence from the negotiating record strongly favors the reading that would prohibit deployment of substitute ABM systems and components based on other physical principles without prior agreement on specific limitations. The negotiating record also on balance supports the view that the Soviets refused to agree to prohibit development and testing of mobile OPP substitutes regardless of their basing mode. The ambiguity of the Treaty language, and of the negotiating record, would effectively have prevented the President from enforcing the narrow interpretation against the Soviet had they decided it was in their interests to support the broad interpretation.

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[16] Conceivably, the "guidance" referred to by Rhinelander was that issued to the Delegation on August 12, 1971, ordering that a detailed discusson of the future systems issue should not be invited. See supra pp. 18-19. U.S. or Soviet positions, as

The case of the restrictive interpretation has been stated in various forms. One argument rests primarily on a change in the language of U.S. draft Article 6(2), in which Karpov is said to have agreed that provision would apply to all present and future "components." That change, however, was in lieu of language that would clearly have prohibited development, testing and deployment of future substitutes for mobile ABM system or components (i.e., "other devices" able to perform the functions of conventional components). The unambiguous language proposed by the U.S. was given up by the U.S. Delegation, even though the chief negotiator had earlier said that the Treaty must "explicitly" apply to substitute devices and had expressly recognized the danger of ending up with a Treaty that regulated only conventional components. The provision accepted by the U.S. was essentially the same as had been proposed by the Soviets prior to August 1971, when FitzGerald and Graybeal noted that neither side contemplated the regulation of future devices. The language proposed by the Soviets—"components" instead of a specific reference to substitute "devices"—could reasonably be claimed by the Soviets to have been intended only to expand the provision's scope to include any future "components" of the types listed in the definition of ABM systems in Article II, i.e., any future ABM interceptor missiles, launchers, or radars. The Soviet definition of "ABM system" on September 15, when Article V(1) was put into what became essentially its present form, applied exclusively to missiles, launchers, and radars. Furthermore, the Soviets took a principled position against regulating unknown, future substitute for the systems and components listed in Article II, applicable to both Articles 6(1) and 6(2) of the U.S. draft; and the Soviets asserted their objections consistently, before and after the change made in U.S. Article 6(2), which dropped explicit coverage of substitute "devices". That change therefore failed effectively to achieve coverage, by the multiple prohibitions of Article V(1), of unknown substitute "devices" for the systems and components listed in Article II.

Supporters of the restrictive interpretation also rely on the Soviet acceptance in Article II of the words "currently consisting of." They contend that this change made the definition of "ABM system" in Article II purely functional, and signified that future substitutes for known systems or components would automatically be incorporated into the Treaty regime. The record establishes, however, that the Soviets adamantly opposed defining "ABM system" in Article II to include substitute OPP devices. The U.S. negotiators agreed with the Soviets in principle in September 1971, during the negotiation of Article V(1), that "ABM system" in Article II(1) should be defined in a manner that did not prejudice the position of either Party on future systems. Later, in December, after the Soviets had rejected the unambiguously functional definitions proposed by the U.S., they accepted the language "currently consisting of" on the basis of suggestions and assurances by Smith and Garthoff that the problem of future systems would be settled elsewhere than in Article II—ultimately in Agreed Statement D. Finally, when the Soviets accepted "currently consisting of," the U.S. agreed to drop its draft Article V(3) from the Treaty text, setting up a situation in which the future systems problem would be dealt with in a separate, agreed statement.

During discussions related to Agreed Statement D the Soviets continued to contend that Article II covered only the three components it listed—interceptor missiles, launchers, and radars; Agreed Statement D would cover all substitutes for such components created in te future. The phrase "based on other physical principles" distinguished between those components listed in Article II, and the substitutes referred to in Agreement Statement D. The form in which the Statement ended up being written, especially the reference to Article III and the separate mention of agreement under Article XIV, reflect discussions in which the Parties accepted the view that, absent agreement on limitations, deployment of such systems or components was prohibited.

Some support exists in the negotiating record for the argument that Agreed Statement D deals only with fixed, land-based OPP devices. The negotiating record indicates that the U.S. agreed to drop its proposed Article V(3), a provision that would have barred the deployment of fixed, land-based substitute "devices," at the same time the Soviets agreed to a separate provision on futures. Agreed Statement D was also frequently linked by both Parties to Article III, which allows only fixed land-based devices. The simultaneous agreement to drop U.S. Article V(3) and adopt Agreed Statement D, however, was based on a Soviet decision to deal with the entire futures problem in the latter provision, not just a part of the problem—i.e., fixed, land-based systems. Little exists in the record to resolve the significance of the word "substitute," but the notion of one-for-one substitutions seems weak in connection with unknown devices. In describing the U.S. delegation's success in obtaining consent to a separate agreement on future systems, Ambassador Smith seemed to equate the notion of substitution with the phrase used in the U.S. draft with respect to both its future-systems proposals—"perform the function of." The Soviets opposed both futures provisions on principle, and succeeded in eliminating both from the Treaty text, along with language that unambiguously would have covered future "devices."

Even assuming that the word "components" in Article V(1) could be given special meaning because of Karpov's "concession" of September 15, 1971, any value in that ambiguous statement was further undermined when the Parties, in writing Agreed Statement D, developed a clear method for addressing the problem of future substitutes for ABM systems or components. They used the phrase "systems based on other physical principles and including components capable of substituting for" regular ABM components; the section described the new components as being "created in the future." Having worked with great care to solve the problems of expressing their desire to control deployments of such future substitutes in Agreed Statement D, the Parties would presumably have turned back to Article V to make clear that it applied to mobile systems and components based on other physical principles, had that been their intention. But they did not. They let stand language that reflected the Soviets' unwillingness to regulate unknown, substitute devices, a principle they qualified only in Agreed Statement D.

The record lends strong support to the position that the Parties had agreed to bar the deployment of all systems other than the conventional ones authorized in Article III. That position had been agreed before Article III was revised during April 1972; the revision reinforced the obligation which was ambiguously expressed in Agreed Statement D. The change in Article III prohibited the deployment of all ABM systems as defined in Article II(1), except those conventional systems and components expressly allowed, but it did not itself preclude the deployment of substitutes based on other physical principles; that remained the function of Agreed Statement D, in order to insure that the limitations of Article III were fulfilled. Nothing in the record indicates the Soviets had accepted a change in their view of Article II(1), which they regarded as defining ABM systems to include in the Treaty text those consisting of ABM missiles, launchers, and radars. No suggestion was made at the time, moreover, that Agreed Statement D became superfluous by the change in Article III. In fact, the U.S. Government and Ambassador Smith in official and personal statements thereafter repeatedly affirmed the importance of Agreed Statement D as the provision that regulated future ABM systems and components.[17]

An argument could be made that Soviets, by accepting the change in Article III, indicated their willingness to accept a purely functional definition of Article II(1), which in turn resolved the ambiguity left in the coverage of Article V(1). For all these effects to have occurred in this retroactive manner, without explicit confirmation, is unduly strained. The Soviets could reasonably reject such an argument, given the record they left both in the documentary proposals made by each side and in their statements and representations. We have been unable to find, moreover, that any U.S. team member had this series of arguments in mind. To the contrary, Rhinelander—and presumably others—identified as separate ambiguities the coverage of future systems by Articles V(1) and IV. An effort to clarify these ambiguities was proposed, but was not undertaken. The record therefore fails to establish Soviet agreement.

The suggestion has been made that Soviet opposition to the regulation of unknown devices was a mere ploy, designed to extract "intelligence" information from U.S. negotiators about the future systems contemplated by the U.S. The Soviets could, of course, have wanted information about the state of U.S. knowledge on this subject. To say their effort was insincere, however, is speculative, and unsupported. Their repeated statements were forcefully and consistently advanced. They persisted, and in the end succeeded in having the concept of unknown "devices" entirely removed from the Treaty text. This is hardly an indication of any lack of seriousness on their part. Their position was shared, moreover, by many American officials, including Henry Kissinger, who either thought efforts to regulate such devices was premature, or wanted the freedom to develop, test, or deploy such devices. We have found no internal communication in which any member of the U.S. Delegation suggested the Soviet objective was to obtain intelligence, rather than to limit the Treaty's coverage.

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[17] Smith later explained the relationship between Article III and the agreed statement in this manner:

"Under Article III of the treaty the sides agreed not to deploy ABM systems or their components with two exceptions, both of which only permit ABM systems which use launchers, interceptor and radars. Thus, taking the agreed understanding [sic] together with Article III, systems employing possible future types of components to perform the functions of launchers, interceptors and radars are banned unless the treaty is amended." G. Smith, Doubletalk 344 (1980). See generally Part II of this study, containing descriptions of the effect and function of Agreed Statement D.

In fact, while the U.S. negotiators initially refrained from giving examples of future devices, particularly lasers, Rhinelander protested the need for such restraint as early as September 2, 1971. (Memorandum to Smith, "Article 6(1)-Lasers," referring to McLean-Krusov discussion on August 31 in A-442) On the very next day, September 3, Garthoff responded to Kishilov's query on what the U.S. meant by "devices" by referring to a paper he had supplied to Kishilov which discussed the subject to the point of revealing the basic types of systems being considered:

"Exotic BMD is anything that is not conventional. A great variety of exotic systems have been invented by ingenious engineers and scientists. Most of them are non-nuclear. Each of them seems to be feasible in theory but is formidable to design in detail. The two main categories of exotic BMD systems are supposed to kill missiles by direct hits of small non-nuclear interceptors (pellet systems) or by some kind of high-energy radiation (death-ray systems)." (F. J. Dyson, "Arms Control and Technological Change," p. 10 (Center for Policy Study, University of Chicago, 1971)) Thereafter, examples of future systems were occasionally mentioned, including lasers. (A-639, 12/10/71; A-647, 12/14/71; A-681, A-672 and A-673, 12/20/71; A-710, 1/11/72; A-713, 1/14/72; and A-752, 1/27/72)

An objection could be made to reliance, in this analysis, on the internal conclusions and deliberations of U.S. negotiators. Evidence of this sort is not strictly speaking, part of the negotiating record, and would be given little or no weight in a court or tribunal. This observation is true, however, only with respect to the use of one side's internal deliberations to establish that the other is bound by a certain rule or interpretation. The materials are a proper and probative source of guidance for determining what the U.S. negotiators believed was unclear or the positions they felt had not been accepted by the Soviets.

At the same time, however, this type of evidence should not be read to suggest any impropriety on the part of the U.S. Delegation. The U.S. team was engaged in a complex negotiation, simultaneously dealing with both defensive and offensive weapons. They were also operating under great pressure, especially toward the end of the negotiations, in order to reach agreements that could be signed at the Summit in Moscow, on May 26, 1972. Furthermore, the result achieved does not mean that the negotiators failed to comply with their instructions. The negotiating history reflects that the Administration had been prepared to accept a treaty that would have banned the deployment of conventional ABM systems except as allowed by Article III. Ambassador Smith and ACDA persuaded the President to authorize them to seek a regime banning all such ABM deployment, as well as the development and testing of future mobile "devices," and the instructions were issued at Smith's behest. The instructions expressly indicated, moreover, that Smith was not to invite a detailed negotiation on the futures issue, but rather to obtain an agreement that preserved the Treaty's basic purpose, with the understanding that future problems could be worked out through discussions in the joint commission already contemplated by the Parties. Smith secured Soviet consent to Agreed Statement D, which restricts the deployment of ABM systems based on OPP. In our judgment, however, the Soviets refused to consent to a ban on development and testing of mobile, OPP devices, rejecting on principled grounds provisions that unambiguously would have achieved that end.

Finally, in determining whether the Soviets agreed to the restrictive version of the ABM Treaty the proper standard is their own articulated principles and prior conduct. Officials who have dealt with the Soviet scholars, and the Soviets themselves all agree that Soviet legal doctrine "holds that a government is bound only to the extent of its express consent." (A. Chayes, "An Inquiry into the Workings of Arms Control Agreements," 85 Harv. L. Rev. 905, 938 (1972)) U.S. studies of Soviet conduct under arms control and other agreements show a readiness to rely on ambiguity—often created by Soviet actions or inactions—to justify a pattern of conduct felt by U.S. negotiators to violate understandings they believed had been reached.[18] The United States is justified in relying on Soviet doctrine and conduct concerning treaty obligations in determining its own reciprocal duties.

APPENDIX A

HELSINKI, FINLAND

Date: August 17, 1971.
Time: 12:30-12:45 p.m.
Place: Soviet Embassy, Helsinki.
Subject: SALT.
Participants: U.S.—Mr. Paul H. Nitze, Dr. Harold Brown.
USSR—Academician A. N. Shchukin.

2. Brown asked Shchukin what his reaction was to Article 6 which we had presented today. Had we made it clear that in the first paragraph we were talking about a ban on the deployment, but not on the development and testing, of future kinds of systems, not using the usual components? Shchukin replied he would have to look at the text carefully. Nitze pointed out that Shchukin himself had raised the possibility of future kinds of systems in informal converations.

Shchukin said that there might be some difficulty in getting the politicians and diplomats to consider this problem, because if one could not point to specific systems in or near development status, the politicians and diplomats would probably not be interested in future possibilities. Brown said that such a ban on present ABM systems ten years ago would have eased our present problems. Shchukin said that in 1961 ABM missiles and radars already existed, so he disagreed. Brown said that in that case, fifteen years ago would have been the right time. Shchukin's reaction was that it might be all right to include such a ban, but the whole subject was not very important. The working and terminology covering such things, would have to be determined in the end by the diplomats, advised by the rest of us.

(American Embassy, 1100 hours, 4
December 1970)

1. Persons Present:

Amb. Smith, Parsons, Nitze, Allison, Garthoff, Graybeal, Shaw, Stoertz, Weiler, Aldridge, S. Smith, Twombly, Germond, Lavroff.

Min. Semenov, Ogarkov, Shchukin, Pleshakov, Grinevsky, Kishilov, Gryzlov, Afonsky, Karpov, Skoptsov, Perfilyev, Baranovsky, Buyanov, Fayekov.

The proposals of the Soviet Union proceed from the premise that those systems of each side should be limited, that were specially developed to counter strategic ballistic missiles and their components in flight trajectory.

Taking into this account, the obligations of the sides would extend to long-range acquisiton radars, tracking and ABM guidance radars, ABM launchers and ABMs.

Further, agreed quantitative limitations of launchers and ABMs would be established, as well as limitations on the maximum distance of ABM systems from the center of the target defended.

Obviously, it is precisely these components, taken together, that constitute an ABM defense system. Therefore, it is enough to extend the obligations of the sides to the totality of the above-mentioned components in order to solve the problem of limiting the deployment of ABM systems effectively and reliably.

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[18] For example, Article II of the SALT I Interim Agreement prohibited the conversion of land-based launchers of light ICBM's, or ICBMs of older types deployed prior to 1964, into land-based launchers for "heavy ICBMs" of types deployed after that time. The U.S. delegation tried repeatedly to obtain Soviet agreement to a specified defintion of "heavy ICBMs" for this purpose with appropriate qualitative limitations, but the Soviet delegation insisted that an agreed defintion was not needed. As a result, on the final day of the SALT I negotiations, the U.S. delegation stated for the record, without Soviet dissent, that the U.S. would consider an ICBM having a volume significantly greater than the largest light ICBM then operational to be a heavy one. Nonetheless, the Soviets subsequently deployed the SS-19, which substantially exceeded the standard in the U.S. statement, and defended their conduct as being in compliance with the Interim Agreement, notwithstanding U.S. statements in the negotiating record. The U.S. thereafter concluded that it could not claim its unilteral understanding was legally enforceable.

Similarly, Article IV of the ABM Treaty provided that the limitations in Article III or deployment would not apply to ABM systems or components used for development or testing, and located within current or additionally agreed test ranges. During the negotiaitons, the U.S. Delegation provided the Soviets a list of current U.S. and Soviet test ranges which did not include the Kamchatka impact area. The Soviet Delegation neither confirmed nor denied the U.S. list. Nonetheless, when the U.S. later called Soviet attention to the installation of a new ABM radar in Kamchatka, the Soviets responded that they considered Kamchatka to have been a current test range at the time of signature of the Treaty, and that an ABM radar was permitted for testing purposes at Kamchatka. When Ambassador Nitze was asked to comment in an editorial characterizing this Soviet conduct as showing "they handled the negotiations like a shyster," he concluded:

"We told them the way we interpreted the treaty language. They didn't tell us they had a different interpretation. They then claimed that the language of their unilateral statement does not specifically say that they had only one ABM test range at Shari Shagan.

"If that isn't negotiating like a shyster, I don't know what is." United States/Soviet Strategic Options: Hearings Before the Senate Committee on Foreign Relations, Subcommittee on Arms Control, Oceans and International Environment, 95th Cong., 1st Sess. 101-2 (1977).

SALT V

US/USSR MINI-PLENARY MEETING NO. 8

(US Embassy, 1100 hours, August 24, 1971)

Persons Present:

Ambassador Smith, Ambassador Farley, Parsons, Nitze, Brown, Allison, Graybeal, Ifft, Krimer.

Minister Semenov, Shchukin, Trusov, Timerbaev, Kishilov, Anyutin, Faekov.

Academician Shchukin said that it was his view that as a result of the negotiations the sides had achieved an understanding that limitations should cover such systems of ABM defense as radars, launchers, and ABM interceptor missiles. In this both sides proceeded from the premise that these systems could be detected by national technical means, could be distinguished from other systems, and so on. In other words the treaty should have for its subject ABM systems which could be technically described and determined and therefore could be controlled by national technical means.

On August 17, the US Delegation introduced new language for Article 6. It is proposed in Paragraph 1 that the sides be obligated not to deploy ABM systems using devices other than ABM missiles, ABM launchers, the ABM radars to perform the functions of these components. This is an entirely new provision and the Soviet side is not clear on its meaning and substance. What did the US have in mind in speaking of such ABM systems and such devices?

Ambassador Smith replied that this was an important point and he wished to give it some study before replying. The US side would certainly reply to this question. The question had been so short that perhaps the Soviet side wished to keep the floor.

Minister Semenov observed that the length of a question was not determined by the number of words it contained.

Ambassador Smith said that he was more concerned about depth than about length.

Minister Semenov said that he would give the floor again to Academician Shchukin.

Academician Shchukin said that he had another question relating to Paragraphs 2 and 3 of Article 6. He had just spoken about the prohibition on the development of some kinds of ABM systems. Article 2 of the US draft also contained a paragraph to the effect that limitations should extend to cover ABM systems undergoing development. Would it be possible for the US to clarify its understanding of the notion of "development" and of the practical application of limitations at this stage?

Ambassador Smith said the US aide would undertake to answer this question also.

Academician Shchukin asked what the US side had in mind with regard to the manner of verifying development to ensure confidence in compliance with the above provision, if it were accepted by the sides. He was using the term "development" in the sense that it was usually used in the Russian language.

Ambassador Smith said that the US side would be glad to clarify this trinity of questions.

US/USSR "TROIKA" MEETING NO. 1

(USSR Embassy, 1100 hours, August 27, 1971)

Persons Present:

Ambassador Smith, Ambassador Farley, Nitze, Brown, Allison, Garthoff, Krimer.

Minister Semenov, Shchukin, Trusov, Karpov, Faekov.

Minister Semenov noted that paragraph 1 of Article 6 of the US draft was new, and contained a new concept of limiting devices other than ABM launchers, missiles, and radars. He said the Soviet side would study the considerations put forward by Dr. Brown in that connection. But, he continued, it was his impression that it was doubtful if it properly applied to the subject matter of an agreement on ABM limitation.

Ambassador Smith remarked that if such future systems were not covered, uncertainties would increase, and the result would be an arms race in other ABM systems with the opposite result from that which we sought in an arms control agreement. He noted that the US and USSR had agreed in the Outer Space Treaty and the Seabeds Treaty to ban various future weapons of mass destruction in its environments. Why should we make an exception in the present case?

Minister Semenov said that he would comment at a later time. In the meantime, he proposed assigning paragraph 3 of Article 6 (Article V(B) of the Soviet draft) to the Ad Hoc Committee. *Ambassador Smith* agreed.

(Dr. Brown's Response to Academician Shchukin's Questions on Article 6 "Troika," August 27, 1971)

We would like to respond at this time to the questions posed by Academician Shchukin in connection with Article 6 of the US text.

With regard to paragraph 1 of our Article 6, Academician Shchukin asked what is meant by "ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." By this we refer to any present or future system which employs other means or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory. Our objective in this Article 6 is to establish a commitment that neither side will deploy ABM systems—including possible future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars. Surely we would not want an agreement which would permit either side to deploy an ABM system both thick *and* nationwide simply because the system did not use interceptors, launchers, or radars. Paragraph 1 of Article 6 is an undertaking not to do so, thus preventing systems or components using such new concepts from being used to circumvent the ABM agreement.

Academician Shchukin noted that paragraph 2 and 3 of Article 6, as well as paragraph 2 of Article 2 of the US text, refer to limitations on "development." In this connection, he asked for our views on the meaning of "development" and the practicality of limitations on development. By "development" we have in mind that stage in the evolution of a weapon system which follows research (in research we include the activities of conceptual design and laboratory testing) and which precedes full-scale testing. The development state, though often overlapping with research, is usually associated with the construction and testing of one or more prototypes of the weapon system or its major components. In our view, it is entirely logical and practical to prohibit the development—in this sense—of those systems whose testing and deployment are prohibited.

SALT DELEGATION: HELSINKI, FINLAND

Date: August 31, 1971.

Time: 1155 to 1255.

Place: U.S. Embassy, Helsinki.

Subject: SALT.

Participants: United States—Captain W.O. McLean, Lt. Col. F.P. DeSimone.

USSR—Lt. Gen. K.A. Trusov, VAdm. P.V. Sinetsky, Col. V.N. Anyutin, Mr. Yu. K. Bardin.

Trusov said that he would like to return to clarification of paragraph 1, Article 6 of the U.S. draft ABM Agreement which General Allison had promised him at the end of their last conversation. He wanted to know what we had in mind when we spoke of an ABM system which does not include launchers, interceptor missiles and radars, and asked for an example. I told him that I could not give a concrete example, and that was an important part of understanding the reason for the paragraph in question. Since both sides agree that the ABM limitations we develop will be long-lasting and that we can only specifically limit the systems and components which exist today, the U.S. side feels that there should be a provision to take account of the fact that it is reasonable and desirable to prohibit the deployment of components which might perform the ABM mission tomorrow but which are not in existence today. Trusov said that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient. He said that development, testing and deployment of such future systems would be observed by our national means of verification and the review process could take care of the necessary prohibition or limitation. He went on to say that a provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement.

I agreed with Trusov that the process of review would be necessary to take account of developments and to reexamine ABM agreement in light of those developments and stated that we had such a provision in our text. However, we also feel a need to avoid channeling arms competition in a new direction with the search by either side for ABM means not specifically constrained in the agreement. Paragraph 1 of our Article 6 was directed toward filling this need. Trusov said that his understanding of paragraph 1, Article 6 was that it referred to deployment and he repeated his argument that the possibilities it foresees could be dealt with by national verification means and the review process.

SALT V

US/USSR AD HOC COMMITTEE MEETING NO. 1

(U.S. Embassy, August 31, 1971, 1500 Hours)

Persons Present:

Graybeal, Shaw, Wade, Leard, Krimer, FitzGerald.

Karpov, Fedenko, Obukhov, Artemyev.

Karpov agreed to this approach and to proceeding with Article 2 (II). He stated that because of the nature of the two articles, our two drafts proceed from different premises. The U.S. Paragraph 1 of Article 2 is devoted to definitions of terms the U.S. intends to use later. The Soviet paragraph 1 contains a more concise list of systems covered by the obligations of the treaty. Both have in common that they deal with the ABM systems to which the provisions will extend. The Soviets do not think that the

Article should cover obligations other than ABM systems—only those systems subject to restrictions.

In general, paragraph 1 should contain a definition of the scope of systems to be covered by the obligations of the treaty; i.e., ABM systems, ABM launchers, ABM interceptors, and ABM radars. Paragraph 2 should contain definitions of categories of ABM systems contained in paragraph 1. The Soviets would consider the possibility of adding to their paragraph 2 mention of ABM systems under construction and undergoing tests.

He then read a sample introduction to Article 2, paragraph 1 as the Soviets would like to see it and presented it to the U.S. (See Annex 1.)

It applies to ABM systems specially constructed and deployed to counter strategic ballistic missiles.

Graybeal stated that the U.S. will review the paragraph carefully, but that it appeared to be quite similar to the old Soviet text in specificity. He asked Dr. Wade to present a brief U.S. rationale for paragraph 1 of Article 2.

U.S./USSR MINI-PLENARY MEETING NO. 10

(Soviet Embassy, 1100 hours, September 3, 1971)

Persons Present:

Amb Smith, Amb Parsons, Mr. Nitze, Gen Allison, Dr. Garthoff, Col FitzGerald, Mr. Krimer (Interpreter).

Min Semenov, Acad Shchukin, Gen Trusov, Mr. Timerbaev, Mr. Kishilov, Col Fedenko, Mr. Faekov, (Interpreter).

Minister Semenov then turned the floor over to General Trusov.

General Trusov said that Para 1 of Article 6 of the U.S. Draft provides that each Party undertake obligations not to deploy ABM systems using a device other than ABM interceptor missiles, ABM launchers or ABM radars to perform the functions of these components. Dr. Brown, on August 27, in answering Academician Shchukin's question as to what systems are meant by this paragraph, said that this applies to any present or future system which employs other physical mechanisms or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory. Frankly speaking, General Trusov believed that such a reply referring to any present or future systems, which employ devices other than those known to the Delegations, does not cast any light on the problem. If such systems exist, then they should be named and the subject would be made more clear and could become the subject of further discussion. The U.S. side's objective in including a paragraph in Article 6 to provide obligations not to deploy ABM systems, including future systems, which use components other than ABM launchers, interceptors and radars, is not clear. What is, in fact, involved is conjectural systems, i.e., some possible future systems not now known to anybody. So far, the sides have been discussing limitations on concrete existing systems or systems whose reality is adequately known for the future and can be clearly defined in an agreement. Now the U.S. side proposes to include in a draft treaty limitations on the deployment of such systems or components not known to anybody. The Soviet side does not believe that it is correct to include such limitations. Such a provision in a treaty could have reference to something that is amorphous and not subject to a clear determination of what is to be limited. Both sides are equally interested in the viability of an agreement to limit ABM systems. However, Para. 1 of Article 6 acts in the opposite direction, in General Trusov's view, and gives rise to unnecessary misunderstandings.

General Trusov believed that it was not by accident that both sides—the U.S. in Para (e) and (f) of Article 11, and the Soviet side in Para (f) and (g) of Article X—provided for proposals aimed at increasing the viability of the agreement, to include proposals for amendments or additions for curbing the race in ABMs. The appearance of any new system not employing the components which the sides are not discussing, would be discovered by national technical means. This would be especially true of the testing of such new systems. Therefore, both sides would be able, in the context of the above noted paragraphs, to consider concretely and completely any questions linked to ABM systems and their components which would ensue from the treaty obligations.

As regards Ambassador Smith's comments on the Seabeds Treaty and the Space Treaty, this was a somewhat irrelevant analogy. The obligations assumed in those treaties referred to actually existing systems. It wa clear what systems were involved. Para 1 of Article 6 speaks about possible future systems which are completely conjectural. Therefore, inclusion of Para 1 of Article 6 is not necessary.

Ambassador Smith said he would make a few observations regarding General Trusov's intervention. He stated that, if the two sides had been dealing only with present systems, their work would have been completed long ago. Most of the problems encountered in our discussions on limiting ABM systems, for example, the problem of radars, are problems of the future. Such problems are the most difficult to put into an international agreement in such a way as to provide methods of gaining assurance for the future. The device that General Trusov suggested for handling this problem—a problem which Ambassador Smith considers to be a central and very serious one—would be a device for putting the problem into the pocket of an amendment clause or a clause for future discussion, perhaps in the Standing Commission. This would be tantamount to sweeping an existing question under the rug.

A fundamental question before the sides is whether we are trying to limit ABM systems or just ABM interceptors, launchers, and radars. It would seem that those on the Soviet side who have watched the developments that have taken place in technology over the past 20 years would not agree that, for an indefinite future, the functions of ABMs will be carried out only by systems based on technology dating back to perhaps the early fifties.

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accurate to state that the sides are discussing systems about which nobody has any notions at the present time. He has a higher estimate of the capabilities of Soviet weapon designers than that. Anybody reading the unclassified literature in this field knows that there are other possibilities.

As regards General Trusov's views that the analogy to the Seabeds and Space Treaties was irrelevant, Ambassador Smith believed that his analogy had been directly to the point. As he recalled the early U.S. drafts on these treaties—he would like to check the record before being called in error on this—these drafts were based on obligations that the parties not deploy nuclear weapons in space or on the seabeds. It was at Soviet insistence that other weapons of mass destruction were included in the space agreement. At that time, none of us then knew what other systems could be placed in space and the Soviet words indicated the ignorance we all had on this subject. But since the U.S. wished to cover all possible ways for deploying weapons of mass destruction in space, we agreed to include these "other" weapons in the treaties. Consequently, the precedent in the case of the Space and Seabeds Treaties was clearly in favor of including in an agreement a wider range of ABM systems, rather than merely limiting ABM launchers, interceptors, and radars.

Speaking personally, Ambassador Smith believed that, in the event that Para 1 of Article 6 should not be included in an agreement, it would be a cruel illusion to the peoples of both nations to say that we had concluded an agreement on ABM systems. We should more properly say that there had been an agreement to limit ABM launchers, interceptors, and radars. This would be a far cry from what the U.S. side means when it speaks about limiting ABM systems.

Ambassador Smith also wanted to add one additional consideration. It has been our experience that it is less difficult to control weapons systems before they are invented and deployed. The sides could lose a good opportunity if they were to postpone to the future control over systems which he had been speaking about.

Minister Semenov thought that the viewpoints of both sides had been made sufficiently clear. If there were no objections from the U.S. side, he would propose to turn discussion of Paragraphs 1 and 2 of the U.S. Article 6 over to the Karpov-Graybeal Ad Hoc Committee since it already has Paragraph 3 of that Article. The statements made by Ambassabor Smith and General Trusov could serve as good material to assist the committee in comparing the texts to be discussed.

Ambassador Smith agreed.

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regard to modernization and replacement. This question has been turned over to the Special Working Group and the latter has already begun discussion of the question. At the same time, in view of the significance of this problem, it is possible that further discussion by the Delegates might assist the Special Working Group in making progress toward reconciliation of the two texts.

If Minister Semenov correctly recalled the course of the negotiations to date, the question of the possibility of modernization and substitution had been repeatedly discussed by the sides. This possibility is provided for in Soviet Article VI. The U.S. Draft lacks a similar article. The exchanges of views up to now, in the Soviet understanding, have demonstrated that the sides are in agreement in principle on this question. On August 27, the U.S. side had said it was as equally interested in modernization as is the Soviet side and Soviet Article VI clearly reflects this mutual interest.

Today, Minister Semenov wanted to emphasize the importance of modifying and replacing ABM components. He also wanted to point out that the Understanding of May 20 makes direct provision for modernization, even under the conditions of a freeze.

Of course, under the Soviet Draft, modernization and substitution could only be effected in accordance with the provisions of Articles II, III, IV, and V. In other words, the Parties would be able to effect modernization and replacement only in strict compliance with the agreement on ABM limitations. In particular, modernization of ABM systems, as permitted by Soviet Article VI, would not involve mobile ABM systems, or rapid-reload launchers, or launchers capable of launching more than one interceptor at a time.

Thus, bearing in mind the agreement of the two sides on the essence of the problem of modernization and replacement, the Soviet side considers it necessary to include its Article VI in an ABM agreement. This would increase the clarity of the agreement and insure its viability which is in the interests of both sides.

SALT V

US/USSR AD HOC COMMITTEE MEETING NO. 2

(Soviet Embassy, September 2, 1971, 1100 Hours)

Persons Present:

Graybeal, Wade, Leard, Krimer.

Karpov, Fedenko, Obukhov, Artemyev.

Karpov welcomed the U.S. Delegation to the Soviet Embassy. He opened by presenting a Soviet draft of Article II which he stated takes into consideration the U.S. Article and the views expressed by both sides at the last meeting, and contains all the necessary provisions required in Article II to insure the effectiveness of a treaty on ABM's. He said that the text contains precise definitions of systems and components that are the means to which obligations should extend.

Graybeal stated that he would give the draft careful study. He then commented that a major issue involves the fundamental point of lead-in to Article 2; namely, the "definitional" approach versus the "obligational" approach. He said it would be helpful if he knew the Soviet objection to the definitional approach. He said that he saw the purpose of the definitional approach as being to clearly define what are and what are not ABM systems and ABM components. He noted that the Soviet working paper also reflects the need for definitions, but that the Soviet definitions were not as comprehensive. In addition, the obligational approach and the use of the words "shall apply to" indicate that Article II contains all of the obligations. In both texts there are other articles that contain obligations not included in this approach. If the obligational approach were adopted, would it not be necessary to list all obligations contained in the agreement?

Karpov responded that when speaking about approaches, Mr. Graybeal did not quite correctly express the substance of the Soviet formula. In dealing with Article II, we do not specify obligations as such; rather, the obligations of the sides shall apply to the means listed in paragraph 1 of Article II and explained in paragraph 2. The systems defined in paragraph 1 give a precise concept of the subjects for the obligations of both sides on ABM systems. This article is a means of ensuring confidence in compliance of the sides by listing the subjects for control; not the method of controlling them. The definitional approach is an unnecessarily complicated structure for the agreement. The best approach to definitions is one in which whatever is to be limited or defined is accompanied by a corresponding definition where it first appears in the treaty. It is our opinion that it is unnecessary to define other that ABM terms until they first appear in the article. So if this article is to define the composition of the systems to be covered by the obligations of each side, then the definitions should be limited to those necessary to the content of the article.

Graybeal stated that a fundamental difference of approach still remains. However, the Soviet definitions provided in their working paper are a step in the right direction. If the obligational approach were adopted, would it not be necessary to include all the obligations of the treaty? For example, the obligations under U.S. Article 8 on non-transfer would need to be included.

Karpov stated that this would not be necessary if the provisions of Article 8 are covered by the phrase at the beginning of Article . It seems clear the Soviet version precisely expresses no obligations, but the systems that should be covered by the obligations.

Graybeal asked if the obligations would apply only to the systems listed in Article II.

Karpov responded that the fundamental basic obligations which deal with numerical limitations in the Soviet Article III would be applied to these systems. It does not mean that there will not be other obligations listed in the treaty which will cover other systems. For example, the Soviet Article IV, which has a counterpart in U.S. Article 5, would place obligations on each side. However, it is a concept not covered in Article II. Also, Soviet Article V, which corresponds to paragraphs 2 and 3 of U.S. Article 6, is a concept covered by the obligations under the Soviet Article V.

Graybeal stated that the explanation had been helpful and that he would respond at the next meeting.

Wade then asked (in connection with paragraph 1 of Article II of the Soviet working paper) for clarification of the words "counter" as used under systems, "destroy" as used under missiles, and "ensure destrution" as used under radars.

Karpov answered that to "counter" is more comprehensive than the term "destruction". Therefore, where the question of ABM interceptors arises, we use the word "destruction". Since radars don't destroy ballistic missiles, we use the term "to ensure destruction." "Counter" includes both of the terms and also covers "rendering ineffective".

Wade then asked how the Soviets would handle a missile whose purpose may not be the destruction of an incoming ballistic missile?

Karpov responded that we must decide what we are talking about. The main thing is to define systems that are really ABM systems. In Article II, paragraph 1, ABM systems are defined as a whole, and specific means for limiting components are included in the following paragraph. So Dr. Wade's question as to the meaning of "destroy" (i.e., a direct hit or any other means of destroying ballistic missiles) is not significant. It is most important to define deployed systems in terms of the tasks set for ABM systems. For example, in order to define ABM interceptors, the Soviets use the criteria listed in their subparagraph (b).

Graybeal then remarked that he still considered the definitional approach desirable in the lead-in paragraph. He stated that his questions are designed to identify differences pertaining to definitions and to merge them where possible. He stated that in Article 2, paragraph 1, subparagraph (a), he had taken into account "constructed or deployed to counter" and as a definition for "ABM system" proposed *ad referendum* the following definition: "An ABM system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory."

Karpov stated that in comparing the two drafts, Mr. Graybeal had suggested that "specially" be deleted and that "construct or deploy" be used instead of "construct and deploy".

Graybeal answered in the affirmative.

Karpov responded that the Soviet side had already stated that "specially constructed" more clearly defined the nature of systems used as ABM systems and that the question of converting SAM's into ABM's is not a practical question—it is an artificial problem. Besides, a system, whatever it might be, if it is tested in an ABM mode it is an ABM system. Therefore, the question of initial purpose should not arise. The combination of "specially constructed and deployed" gives the criterion for a precise definition that these systems are ABM systems. If an ABM system is deployed as an ABM system, then it has been tested in an ABM mode and such testing could be detected by national means of verification which would help to determine that it is clearly an ABM system. The term "specially constructed" includes the element of defining ABM systems through tests undertaken in an ABM mode. Therefore, he believed that the combination of these definitions makes it possible to define to the greatest extent that a system is an ABM system. "Specially constructed" includes the concept of having been tested in an ABM mode. He said he would not like to counterpose "specially constructed" and "deployed"—these terms are two sides of one question and should not oppose each other.

Graybeal stated that the preceding discussion made the case for dropping "specially" since a SAM system tested in an ABM mode would count as an ABM. SAM systems need not be "specially constructed or deployed" to counter ballistic missiles, but could be modified to intercept ballistic missiles after they are deployed. SAM's tested in an ABM mode could have the capability; therefore, "specially" is not needed. Also, this could apply to other than SAM systems—it is not inconceivable to use surface-to-surface missiles in an ABM role even though not "specially constructed" for this purpose.

Karpov responded that while the Soviets don't believe it is possible or desirable to convert missiles, other than ABM's, into ABM's. In any event, such conversion would require testing; therefore, the old system will cease to exist. The new system would be deployed in an ABM mode.

(At this point a recess was taken.)

MEMORANDUM OF CONVERSATION, SALT DELEGATION, HELSINKI, FINLAND

Date: September 3, 1971.

Time: 1:20-1:40 p.m.

Place: Soviet Embassy.

Subject: SALT.

Participants: U.S., Dr. Raymond L. Garthoff.

USSR, Mr. N.S. Kishilov.

Article 6

I stressed to Kishilov the great importance of paragraph 1 of Article 6 prohibiting deployment of future types of ABM systems. I said that despite General Trusov's remarks in the meeting, the Soviet side must be aware of some of the possible future systems, and I drew his attention to the pamphlet by Freeman Dyson ("Arms Control and Technological Change"), which I had given Kishilov earlier. In any case, we did not need to discuss possible future systems—the principle was clear, and it would be in the interests of both sides to adopt the limitation we had proposed.

Date: September 8, 1971

Time: 1:00-4:00 p.m.

Place: Soviet Embassy and Capital Theater, Helsinki.

Subject: New Soviet ABM Proposal; "Other Devices"

Participants: U.S. Col. C. G. FitzGerald, Lt. Col. R. E. Leard (part-time).

USSR; Col. Gen. A. A. Gryzlov (part-time) Col. A. A. Fedenko.

During the portion of the conversation at which Lt. Col. Leard was present, Col. Fedenko repeated the arguments Mr. Karpov had made in favor of excluding paragraph 1 of U.S. Article 6. He declared that the sides are in agreement (with the exception of OLPARs and MARCs) on the ABM components (sredstva) to be limited. These are spelled out in Article 2 of the Soviet Draft, which specifies the components to be limited, namely, ABM interceptors, launchers, and radars. The sides have no intentions of limiting the computers or communications associated with ABM systems, or ABM depots (sklady). At the same time, if ABM means different from those presently known—for example, some new power source, or source of light, or some new searchlight (prozhektor), such as was employed in early AAA systems—should be detected by national means, the problem could be examined by the Standing Commission. He noted that in the early days of air defense, AAA crews had to rely on sound ranging equipment. Now, everybody clearly recognizes that fire-control radars are an integral element in air defense systems. The same situation would prevail in the future as regards other means that might be used for ABM systems. He concluded that, these "other means" should be identified if they are known at the present time.

I suggested that perhaps he might ask what General Ogarkov had in mind in his September 3 article in Red Star. The General had emphasized the need for the Soviet military to keep up with the latest advances in science and technology and for long-term imaginative development of weapons systems. Obviously, he was thinking in terms of new weapons, as yet unknown.

I then asked, apart from "other devices" how the Soviet side visualizes how the Standing Commission will operate. Mr. Karpov had used the words "examination" and "resolution" (resheniye) in describing how the question of "other devices" would be handled in the standing Commission. Did this mean that the Commission would have the power of decision? Col. Fedenko replied in the negative. The Commission would consult and examine various questions and would attempt to arrive at agreed-on recommendations or language to be submitted to the two governments. The final solution to problems would, however, rest with the governments.

Col. Fedenko concluded the discussion of Para 1, Article 6 by saying that the Soviet side realized the U.S. side had required a long time to arrive at its formulation of this paragraph and consequently, the Soviet side would require some time to understand the need for including such a paragraph.

Col. Fedenko also argued in favor of the Soviet version of Para 1 of Article 2, which specifies only interceptors, launchers, and radars as the ABM means to be limited. I argued against exclusion of MARCs and OLPARs but Col. Fedenko insisted that these definitions should be discussed in the context of the articles in which they initially appear—Article 3 in the case of MARCs and Article 4 in the case of OLPARs. I continued to disagree. He then observed that the U.S. side had not chosen a good military term when it had selected "complex" to describe the deployment area for ABM radars. He said that an agreement covering weapons systems should use military terminology as much as possible. In response to my question, he suggested "assembly area (rayon sosredotocheniya)" as a possible better military term.

A-540

September 9, 1971

SALT V.—US/USSR AD HOC COMMITTEE MEETING NO. 4

SOVIET EMBASSY, SEPTEMBER 8, 1971, 1100 HOURS

Persons Present: U.S., Graybeal, Leard, Barlow, Carnesale, Krimer, FitzGerald, Zarechnak.

USSR, Karpov, Fedenko, Obukhov, Artemyev.

Graybeal made the following points:

Our Article 6 is not intended to supplement the U.S. Article 7 in any respect; rather, it is intended to address future ABM systems that would utilize components or devices other than launchers, interceptor missiles, or radars.

The U.S. paragraph 1 of Article 6, which has no counterpart in the Soviet text, would prohibit the deployment of future ABM systems or components other than those fixed land-based components defined in Article 2; that is, ABM interceptor missiles, ABM launchers, or ABM radars. This paragraph would in no way restrict modernization of the components listed in Article 2. It is my belief that it is the intention of both sides to limit the arms competition in the future as well as at present. Inclusion of this paragraph would represent a step toward that goal.

It is my belief that if future systems are not covered, uncertainties would increase, and the result could be an arms competition in ABM systems with the result opposite from that which we seek in an arms control agreement. The question is: Are we trying to limit ABM systems of all types, or just current ABM radars, ABM launchers, and ABM interceptors?

Karpov addressed the formulas used to identify systems limited under paragraph 1 of the U.S Article 6. He noted that this act envisages the undertaking of the Parties "not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." He believed that the subject matter of this provision was outlined in such an unclear manner, in terms of legal science, that it could not be accepted. He said that if the U.S. side believes that such systems exist in reality, then it should identify and name them so that the possibilities to limit them could become clear. He stated that both sides are equally interested in the viability of an ABM agreement; however, the agreement cannot be amorphous with regard to the subject matter of the means to be limited. He believed it was wrong to limit means not known to anyone. Up to now, he noted, the subject of our discussions was limitations on concrete and specific ABM systems, on ABM systems which might exist and could be verified by national means. He believed that we should adhere to this subject in the future too. He said that he could not agree to an approach designed to prevent deployment in the future of certain systems when the systems to be limited are undefined. He recognized that in the future, questions may arise about ABM systems which are not covered in this Agreement or Treaty. He noted that appropriate procedures for handling these questions are envisaged in both the USSR and U.S. draft texts. In this connection, he referred to paragraph F of the USSR Article X and to subparagraph (e) of Article 11 of the U.S. text. He quoted that portion of the Soviet text which states that the Standing Commission would "consider possible proposals for further increasing the viability of this Treaty, including proposals for additions and amendments to the Treaty in accordance with Article XI of this Treaty", and noted that a counterpart provision is contained in the U.S. text. Thus, he said, the possibility of questions arising in the future is fully covered by the appropriate paragraphs in the U.S. Article 11 and the USSR Article X. Furthermore, he said, the paragraphs which follow (subparagraph (f) of U.S. text and subparagraph C of USSR text) eliminate the need for paragraph 1 of Article 6 of the U.S. text.

Graybeal stated that he was a technician rather than a lawyer, and that he would deal with the substance and intent of the U.S. paragraph 1 rather than with legalities. With regard to Karpov's remarks about naming future ABM systems, he found it difficult to identify those systems which the scientists and engineers of our two countries might invent in the future. He asked whether, if such systems were to be developed, they were to be left uncontrolled, and did we want to leave an opening for scientists and engineers to find ways to bypass the limitations under the Agreement. He said that if he understood Karpov, the Soviet side intended to limit only ABM launchers, ABM interceptors, and ABM radars. He wondered if we would be doing a service to either side or to the world if we were to enter an agreement which limited only existing systems and did not attempt to limit future systems. He believed that the concern regarding future systems was recognized in both the Seabeds Treaty and the Outer Space Treaty. These Treaties limited "other weapons of mass destruction"—this intention being to limit not only existing systems but future systems as well. He did not believe that the problem of future systems could be handled adequately through the U.S. Article 11 or the USSR Article X. He noted that the lead-in to the U.S. Article 11, which was similar to the lead-in in the corresponding Soviet article, starts with "To promote the objectives and assist in the implementation of the provisions of this agreement," and expressed the belief that one of the objectives of the Agreement should be to limit future systems. If this were the case, he said, then the U.S. Article 11 and the USSR Article X could be useful in promoting this objective.

Karpov returned to the legal side of the question, saying that it was clear to him that legal documents of importance such as this should be precise to the maximum extent and should not create a basis for friction between our two countries in the future. On the contrary, he said, it should promote the strengthening of relations between our two countries—at present and in the future. If there is no clear-cut definition as to what would be limited by paragraph 1 of U.S. Article 6, then in the future there would remain a vast field for disagreement and doubt. As an example, he used a case in which one of the two sides said that in its opinion the other side deployed an ABM system using devices other than ABM launchers, ABM interceptors, or ABM radars, and the other side categorically denied such deployment, saying that the system was designed for purposes having nothing in common with ABM systems. He was not referring to the capability of national means to distinguished ABM systems; rather, he was pointing to the problem that might exist when there were agreed definitions as to what an ABM system was, but there was not agreement on what an ABM system was if it used devices other than ABM launchers, ABM interceptors, or ABM radars. He said that in the hypothetical example he had just given, the entire Treaty would be in doubt because one side would have doubts about compliance by the other side. In this connection, he believed that the provision of the USSR Article X and U.S. Article 11 would make it possible to handle such questions of future systems as may be regarded by the sides to be subject to limitations. Since the purpose of the Treaty is to limit ABM systems, the question of future systems would be a matter for the Standing Commission. Without a precise definition in the Treaty or Agreement as to what would be covered by the obligations of the sides, he did not believe it possible to include the present form of paragraph 1 of the U.S. Article 6 in the Agreement or Treaty. With regard to the comparison made by Greybeal to the Treaties on Seabeds and Outer Space, he did not believe that this could serve as a useful analogy to the present Treaty. He expressed the belief that Ambassador Smith recognized in his remarks yesterday that these other treaties did not refer to some unknown future system. The term "other weapons of mass destruction" is clear, he said, and means those nuclear, chemical, and biological weapons that can be designed at present.

Graybeal expressed the view that paragraph 1 of Article 6 would serve to strengthen the relationship between our two countries and would avoid misunderstandings in the future. He said that while we were not yet in agreement, at our level, on the definition of an ABM system, we were close. He referred to the wording in the U.S. working paper of September 6; namely, "An anti-ballistic missile system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory." He said that this definition would apply also to paragraph 1 of Article 6. Whether or not such systems exist at present is not the key issue, he said. It is the concepts and technologies which do exist and with which both sides are familiar that are of importance. Our objective is to limit ABM systems, and our definition of ABM systems would include future systems as well as present ones. He stated that paragraph 1 of the Article 6 would avoid just the kind of misunderstandings that Karpov had referred to in his remarks. He believed that if we could make clear the intent of the Agreement, which in our view is to limit ABM systems, then we could help the Standing Commission fulfill its role. If the intent were only to limit present systems, and to leave to the Standing Commission the matter of limiting future systems, then we would be inviting misunderstandings. He asked if it is the intent of the Soviet side to limit ABM systems or just to limit present ABM systems.

Karpov believed that our intent is to limit ABM systems and that we have a mutual understanding between ourselves on that score. The difference is in our approach—how to do it in the most effective way and, at the same time, to guarantee the two sides that the agreement would be complied with. He could not imagine how an agreement could bring the two sides closer together if it dealt with systems which could not be clearly defined. He said that the subject of an agreement is determined by at least three elements: the presence of physical or legal entities entering into the agreement, the subject matter of agreement, and the guarantees of compliance with the obligations. He could admit the existence of an agreement without guarantees, but not without the first two elements. The U.S. draft, he said, contains no legal definition of what it deals with. He did not agree with the definitions in the U.S. Article 2. On the other hand, he said, Article 2 of the Soviet draft gives a clear-cut definition of ABM systems; namely, "The means specially constructed and deployed to counter strategic missiles and their components in flight trajectory." This definition would enable one fully to verify by national means compliance with an agreement. It is essential that an agreement include a precise definition of the means to be covered by the obligations. He wished to note also that paragraph 1 of Article 6 in its present form could not promote the U.S. intent of precluding possible misunderstandings in the future. This paragraph did not make it possible for national means of verification to determine clearly if systems are ABM systems or not, and, since paragraph 1 would be an integral part of the Agreement or Treaty, compliance with the entire Treaty would be questioned. He asked if it would not be better for us to refer the questions of future systems to the Standing Commission. He thought that this would be the most rational approach to limiting those ABM systems which cannot be defined in technical or legal terms.

Graybeal assured him that this paragraph had been reviewed by lawyers and that it did serve a useful function in the text. He thought that there was a difference in the views of the two sides regarding the adequacy of the definitions in paragraph 1 of the U.S. Article 2. He thought that these definitions were adequate to deal with all ABM systems, while paragraph 1 of USSR Article XI dealt only with ABM launchers, ABM interceptors, and ABM radars. He asked if he was correct in believing that in Karpov's opinion the U.S. definitions were inadequate.

Karpov responded that Graybeal was correct and that the Soviets had proposed to limit systems which use ABM launchers, ABM interceptors, and ABM radars.

Graybeal said that there also seemed to be a difference in our views on the role of operative articles versus the role of the Standing Commission. He felt that an operative article indicating clearly the obligations with regard to improvement of existing ABM systems and with regard to future systems would be far more useful than merely referring these questions to the Standing Commission. He also noted a difference in views reflected in Karpov's comments on the analogy to the Treaties on Seabeds and Outer Space. He referred to Ambassador Smith's statement of yesterday in which Ambassador Smith said that he found that the authorship of the phrase "other weapons of mass destruction" was not as clear as had previously been suggested. Smith went on to say, however, "but what is clear, and relevant, is that in these Treaties our two Governments have accepted obligations banning deployment of 'weapons of mass destruction' not specifically identified." Graybeal believed that the term "weapons of mass destruction" referred to any weapon of mass destruction, including any that might be developed in the future. Thus, he believed that the analogy was a useful one. Biological and chemical weapons were used as examples of other weapons of mass destruction and not as the only ones. He noted that he had participated in the negotiation of the Outer Space Treaty and that he could not recall either side trying to define what was meant by "weapons of mass destruction".

Karpov expressed the belief that both sides recognize that the Treaty cannot cover all possible cases in limiting ABM systems, and that we could not envisage everything that will appear in the future. He agreed that there had been no need to define precisely what "weapons of mass destruction" were, claiming that there was an understanding between the Parties to the Outer Space Treaty as to what were such weapons. He said that they were weapons capable of destroying masses of people or masses of material things, and that such weapons are precisely defined by these criteria. He claimed that, as a matter of fact, the very name "weapons of mass destruction" indicates the criteria. Unfortunately, he said, the term "ABM defense" cannot determine whether specific means belong to such a system.

[There was a recess at this point.]

Graybeal agreed that not all future ABM systems could be identified now; however, he disagreed with the contention that an agreement could not cover all possible future ABM systems. He pointed out that, with an understanding of what is an ABM system, we could prohibit the deployment of future systems or devices. He then turned to paragraph 2 of the U.S. Article 6 and its counterpart, paragraph A of the USSR Article V. He noted that the texts were similar, with two exceptions. First, the U.S. text would prohibit the development, production, testing, and deployment of these systems while the Soviet text would prohibit only testing and deployment. He believed this difference could be resolved. Second, the U.S. text refers to future devices, and reflects the basic difference in view which we have been discussing in relation to paragraph 1 of the U.S. Article 6.

Karpov tabled a working paper (attached) in which the Soviets attempted to merge the language of paragraph A of the USSR Article V and paragraph 2 of the U.S. Article 6. He noted the addition to the Soviet language of the words "not to construct" rather than the U.S. words "not to produce." He also pointed out that, for reasons previously discussed, the Soviet side did not use the U.S. phrase "not to develop." He suggested that the U.S. side look at the language and he hoped that it would find it acceptable.

Graybeal stated that he would certainly study the working paper. As he understood it, the Soviet phrase "not to construct" encompasses the U.S. phrase "not to develop and not to produce," and the Soviet phrase "specially designed for" could be interpreted as "specially created for."

Karpov confirmed these interpretations.

Graybeal asked whether the language of the Soviet working paper covered devices other than ABM launchers, interceptors, and radars, and whether transportable systems or components would be considered as mobile systems or components.

Karpov asked what was meant by transportable systems.

Graybeal responded that in the U.S. we use the term "mobile" to refer to systems which could be constantly in motion; but in this provision, we intend to include systems which could be readily transported from one place to another. He called on Barlow to amplify these remarks.

Barlow said that by "transportable systems" we mean interceptors, launchers, and radars designed to be moved frequently during their service life. He said that a system transported from a factory to a site would not necessarily be considered a transportable system.

Karpov said that he did not quite understand any difference between mobile and transportable systems if both could be moved frequently.

Graybeal said that if that was the case, he thought we were in agreement on this point.

Barlow said that in U.S. usage, a mobile radar has wheels or tracks; that is, it is self-propelled. He noted that the terms "mobile" and "transportable" are used in contrast to fixed permanent installations.

Karpov said that he would review the U.S. remarks and would respond at a later time. He wished to ask, however, whether the term "mobile" included the term "transportable".

Graybeal responded that it did.

Karpov asked if this also applied to sea-based, air-based, and space-based systems.

Graybeal responded that, by definition, sea-based, air-based, and space-based systems are mobile systems.

Karpov said that he would return to the subject at a later time.

Graybeal said that he had nothing more to discuss today.

A-498

Date: September 13, 1971.
Time: 1230-1300 hours.
Place: U.S. Embassy, Helsinki.
Subject: Early Warning Radars; ICBM Defense; and Future ABM Systems.
Participants: U.S. Col. C.G. FitzGerald; Maj. William Barlow.
USSR Col. A.A. Fedenko, Mr. Obuhkov.

Future Systems:

Col. Fedenko reiterated the standard Soviet arguments against including any general provisions on future undefined ABM systems. The Standing Commission could handle such problems if they ever arose. The alternative, he felt, was for the U.S. to specify and define in Article II what systems, components or mechanisms it had in mind. If the U.S. could define what it was talking about, then national means could probably verify such activities because presumably it would be mandatory to test such conceptual devices. The Soviet side would then be in a position to determine whether such systems should be in an ABM Treaty.

Date: September 15, 1971.
Time: 10:00-11:30 a.m.
Place: Soviet Embassy.
Subject: Discussion of Articles 2 and 6 (v).
Participants: *U.S.* Mr. S. N. Graybeal, Col. Charles FitzGerald.
USSR, Mr. Viktor Karpov, Mr. A. A. Fedenko.

At the September 15 meeting between Graybeal and Karpov, accompanied by FitzGerald and Fedenko, the Soviets tabled new Articles 2 and 6(V). (See attachment.)

The discussion started with Article 6(V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word (komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems.

Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording.

Agreement was also reached that, consistent with the "new Article 6", the Soviet text would use "and" between systems and components, while the U.S. text would retain "or" between systems and components.

Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal.

After a brief break, the discussion turned to Article 2. Karpov refused to accept the U.S. wording "indistinguishable from" or "of a type tested in an ABM mode". He argued that "new Article 6" forbids testing non-ABM components in an ABM mode. To include these phrases in Article 2 implies that there can be a breach of the treaty. Therefore, inclusion of either wording in Article 2 is incompatible with "new Article 6" since definitions must not conflict with obligations. The Soviet side could understand the requirement for this language in Article 2 if there were no prohibition on such testing, but inclusion of the phrase in Article 2 would call "new Article 6" into question.

Karpov also said the U.S. approach to Article 2 is unacceptable with or without the phrases "indistinguishable from" or "of a type tested in an ABM mode".

Graybeal argued the need for clear and concise definitions to include the above phrases. He saw no incompatibility between U.S. Article 2 and "new Article 6". In fact, he argued, two Articles are complementary to each other when the U.S. wording is used.

The final result was to leave each side's version of the entire Article 2 in brackets.

It was also agreed that Karpov and Graybeal would make only individual reports to their respective Heads of Delegation, and the remaining problems would be discussed further at the new mini-troika (Parsons, Garthoff, and Graybeal with Timerbaev, Kishilov, and Karpov).

A-515

Date: September 15, 1971.
Time: 5:00-5:15 p.m.
Place: Capitol Theater, Helsinki.
Subject: Further Progress in SALT.
Participants: US, Dr. Raymond L. Garthoff.
USSR, Deputy Foreign Minister V.S. Semenov.

As I was leaving the theater, Semenov engaged me in conversation for a few minutes in which he emphasized the desirability of removing some of the non-substantive bracketed disagreements in the Joint Draft Text being developed by the two Delegations. I mentioned in particular Article 2, and urged that we find a solution which did not prejudge the different substantive positions of the two sides over the article on future kinds of ABM systems. Semenov agreed, and also thought that we should be able to find a neutral formulation which would not prejudice the views of either side.

Date: September 17, 1971.
Time: 12:30-12:50 p.m.
Place: Soviet Embassy, Helsinki.
Subject: Smith-Semenov Post-Mini-Plenary Conversation, September 17.
Participants: US, Ambassador Gerard C. Smith, Mr. William D. Krimer, Interpreter.
USSR, Deputy Foreign Minister V.S. Semenov, Mr. V. Ya. Faekov, Interpreter.

Semenov said he hoped that Smith had noticed that in today's Soviet statement Semenov had paid special attention to Article 2. It seemed to him that there was an opportunity here to try and remove some differences on language for this Article. In this view Article 2 and Article 3 formed the main basis for the ABM agreement. He quite understood that in regard to Article 3 we faced some serious problems that would require additional reflection with a view to narrowing differences. On the other hand, looking at Article 2, he came to the conclusion that there were possibilities for reaching mutually agreed language. At one time it had appeared to him that such agreed language would be easily achieved, but then somehow the two sides had started moving away from each other. It was the Soviet view that inclusion of the word "indistinguishable" cast doubt on the effectiveness of national technical means of verification. In this connection he would recall that when he had reported on the state of our negotiations at a meeting of his Government in Moscow, one of the fundamental questions asked of him related to national means of verification. He was asked how this matter would be settled between the two Delegations. He had replied that it was his general impression that the US Delegation had a very good understanding of this general situation. At that same meeting some views had been expressed to the effect that this issue of national technical means might prove to be a stumbling block. He would say that inclusion of any provision that would enlarge the shadow of doubt about verification would make consideration of what had been discussed here in Helsinki very much more difficult and might also create additional difficulties at the next phase in Vienna. He would therefore ask the US side to take this fact into consideration. It was quite possible that he was himself at fault in this respect, perhaps not having been convincing enough in expressing the views of the Soviet side on this issue. His argumentation on the efficiency and adequacy of national means and the complete unacceptability of on-site inspection would perhaps require some further presentation. He had a voluminous dossier on this question and apparently he would have to make use of it at the next Vienna phase, presenting his considerations and reasons in support of the Soviet position in greater detail. However, he wanted to express the hope that perhaps we could work the problem out while we were still here and remove the unnecessary difficulties caused by inclusion of the word "indistinguishable."

Smith said that in regard to the Article 2 problem, as he understood it, the Soviet side had not wanted to say anything in Article 2 that might prejudice the Soviet position on SAM upgrade. He had thought that this concern had been resolved between Garthoff and Kishilov when they discussed Articles 4 and 7 of the draft text. But lately he had the feeling that the Soviet position on Article 2 reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of Article 6. It seemed to him that we should be ingenious enough to draft Article 2 in such a way as not to prejudice the position of either side in regard to paragaph 1 of Article 6. Smith wanted to emphasize to Semenov the great importance that the US Government attached to this issue. It was his belief that without such a provision, which was similar to analogous provisions included in other treaties, an agreement between us might prove to be simply an illusion. We might think that we had concluded an agreement on limiting ABM systems, only to find that in fact we had only limited launchers, interceptors and radars. He hoped that he had been able to convey to Semenov the great importance we attached to that issue.

Semenov said that in regard to Article 2 he would have no objection to a further search by our Executive Secretaries for possible language that would not prejudice our respective positions in paragraph 1, Article 6. However, Article 2 spoke for itself. He did not really know in what sense Article 6 had a bearing on Article 2, since the latter dealt with definitions and in his view this was quite enough for that particular Article. With reference to the US position on Article 6, which had been advanced here in Helsinki for the first time, naturally the Soviet side had carefully listened to the considerations expressed in support of the US position. At this moment he would not care to say any more than had already been said on this issue. Obviously this problem would be kept in his field of vision during the preparation in Moscow for the next Vienna phase.

Frankly, it was his Delegation's impression that inclusion of the word "indistinguishable" in Article 2 would make the entire agreement quite uncertain. What was indistinguishable from launchers, missiles, and radars? This concept in his view was too ill-defined and arbitrary for inclusion in an agreement on ABM's that we have been working on. Furthermore, when we spoke of reaching an agreement to limit ABMs in our two countries, it was his impression that we intended such limitation to be at a minimum level and this in his view was an essential consideration in seeking mutually acceptable positions. In his goal he saw the main basis and the soul of our discussions. Smith was right in his belief that the Soviet side was seriously interested in reaching an ABM agreement. For his part, he proceeded from the same premise regarding the intentions of the US side. Therefore he believed that in this matter we should each take a broader view of the matter, bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstandings in the future. He emphasized that after concluding an ABM agreement we would be faced with the necessity of solving a number of other questions that were no less difficult than this one. Therefore he believed we should give a green light to the work that lies ahead of us and that that work should be based on the growing mutual trust between our two sides. He asked Smith to note that he had not spoken in these terms in the past, but in the context of recent events and of our work here he was doing so now.

Smith replied that he would like to think over Semenov's suggestion that our Executive Secretaries take over Article 2. This might be acceptable, but before saying any more on the subject he would like to consult with his colleagues.

Semenov said he would be very reluctant to leave Article 2 in brackets. This would create an undesirable impression when he reported to his leadership upon coming home.

Date: September 20, 1971.

Time 3:00–5:00 p.m.

Place: Soviet Embassy, Helsinki.

Subject: Joint Draft Text of an ABM Agreement.

Participants: U.S., Dr. Raymond L. Garthoff.

USSR, Minister R. M. Timerbaev, Mr. N. S. Kishilov.

I noted that the package trade-off which I had outlined would, if accepted, remove a great deal of underbrush from the draft agreement. There would remain seven points of difference: whether the agreement would be a Treaty or Executive Agreement; ABM levels and deployment limitations; a provision to cover future "unconventional" ABM systems; large-phased array radars, other than ABM and early-warning radars; non-transfer; explicit link to the offensive limitations; and withdrawal in the event of lack of success in follow-on offensive negotiations. Our Delegation did not see solutions to these problems here at Helsinki, and they would presumably remain for later resolution. After probing the firmness of our position on the link to offensive limitations, and the special withdrawal provision, the Soviet participants agreed that this list of issues would remain.

AMERICAN EMBASSY, 1100 HOURS, 4 DECEMBER 1970

1. *Persons Present:*

Amb. Smith, Parsons, Nitze, Allison, Garthoff, Graybeal, Shaw, Stoertz, Weiler, Aldridge, S. Smith, Twombly, Germond, and Lavroff.

Min. Semenov, Ogarkov, Shchukin, Pleshakov, Grinevsky, Kishilov, Gryzlov, Afonsky, Karpov, Skoptsov, Perfilyev, Baranovsky, Buyanov, and Fayekov.

The proposals of the Soviet Union proceed from the premise that those systems of each side should be limited, that were specially developed to counter strategic ballistic missiles and their components in flight trajectory.

Taking this into account, the obligations of the sides would extend to long-range acquisition radars, tracking and ABM guidance radars, ABM launchers and ABMs.

Further, agreed quantitative limitations of launchers and ABMs would be established, as well as limitations on the maximum distance of ABM systems from the center of the target defended.

Obviously, it is precisely these components, taken together, that constitute an ABM defense system. Therefore, it is enough to extend the obligations of the sides to the totality of the above-mentioned components in order to solve the problem of limiting the deployment of ABM systems effectively and reliably.

SALT VI

U.S./U.S.S.R. MINI-PLENARY MEETING NO. 4, SOVIET EMBASSY, 1100 HOURS, NOVEMBER 30, 1971

Persons Present:

Ambassador Smith, Ambassador Parsons, Mr. Nitze, General Allison, Dr. Garthoff, Mr. Shaw, Mr. Parr (Interpreter), Mr. Krimer (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Mr. Pavlov (Interpreter), Mr. Novikov (Interpreter).

Academicina Shchukin said that thanks to the joint work on preparing a draft text of a Treaty (Agreement) on the Limitation of ABMs, the sides had been able to agree on a number of provisions. The results of this work had been confirmed in Moscow during the interval between Helsimki and Vienna. In this connection; it was of fundamental importance to have reached agreement on the text of a provision in which each party undertook not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems or their components. This provision in particular confirmed the importance both sides attached to preparing a draft which excluded the possibility of the deployment of ABM defenses of the territory of a country. The next provision was to the effect that each Party undertook not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, nor to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers. Apart from this, the Soviet side cannot recognize as well-founded the proposal of the US involving an obligation not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems. It would seem that prohibiting something unknown, as proposed by the US side, would create uncertainty as to the subject of the Treaty (Agreement) on limiting ABMs. Such had never been done in a serious agreement. If systems based on different technical principles should subsequently appear, they could be discussed additionally, as provided by the draft Treaty.

Subject, highlights of post mili plenary conversations—Nov. 30.

5. Kishilov told Garthoff: That Soviet proposed addition to JDT article I was partial substitute for article V, paragraph "C" on future systems which Soviets still reject.

MEMORANDUM OF CONVERSATION, U.S. SALT DELEGATION, VIENNA, AUSTRIA

Date: December 4, 1971.

Time: 1:30 p.m.–1:45 p.m.

Place: Soviet Embassy.

Subject: Special working group: ABM.

Participants: U.S.—Mr. David Aaron. U.S.S.R.—Mr. V. S. Chulitsky.

Mr. Chulitsky also made a strong pitch for dropping Article 5, para 3, on future systems. He argued that it was unnecessary since "no one knew what future systems might be" and that an effort to include "everything" in the agreement would delay progress. He insisted that future systems could be dealt with in the Standing Consultative Commission, in the periodic review conference, or in follow-on negotiations. He also argued that the prohibition on air-based, space-based, land-based, etc. ABM systems is adequate to cover the problem of future systems. The only insight Mr. Chulitsky offered into the reasons for the Soviet position was that "it is difficult to argue with the technical people" that unknown system should be proscribed.

Mr. Chulitsky asked if the U.S. Delegation was prepared to drop Article V. para 3. I said no, we considered it very important. I reviewed the reasons for including it and indicated that the Soviets would be hearing more from our Delegation in support of our position.

Subject: Highlights of post-plenary conversations December 4.

5. Chulitsky made strong pitch to Aaron for dropping JDT article 5 paragraph 3 on future systems, noting it was "difficult to argue with technical people" that unknown systems should be proscribed.

Memorandum of Conversation, U.S. SALT Delegation, Vienna, Austria

Date: December 7, 1971.

Time: 1:20 to 3:30 p.m.

Place: Franziskaner Restaurant, Vienna.

Subject: Effort to resolve differences on the ABM joint draft text.

Participants: U.S.—Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff. U.S.S.R.—Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

On Article V, both sides reiterated the strong positions which they hold on the question of the paragraph relating to future systems. After some discussion, Garthoff asked Kishilov whether Semenov and the Soviet Delegation might be willing to seek a change in their instructions in order to accept the U.S. proposal. Kishilov and Grinevsky flatly asserted that they were certain there would be no change in the position of the Soviet side. Garthoff stressed this was a point on which the U.S. side felt strongly, and there seemed no alternative except to retain the provision in brackets for later resolution, perhaps at higher instance. Kishilov urged that some way be found to express the difference over this point in Article III rather than in Article V. Garthoff said he thought it would probably be better kept in Article V, but the possibility of dealing with the matter in Article III could be considered.

Memorandum of Conversation, U.S. SALT Delegation, Vienna, Austria

Date: December 9, 1971.

Time: 12:30-12:50 p.m.

Place: American Embassy, Vienna.

Subject: Resolving Differences on ABM Joint Draft Text.

Participants: U.S.—Ambassador J. Graham Persons, Dr. Raymond L. Garthoff. U.S.S.R.—Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

Most of the discussion resolved around Article II. Grinevsky began by delivering a short speech to the effect that the Soviet side did not regard the article as necessary, that it had been found troublesome, and that it was something of a concession by his side even to be making the effort to resolve differences. Moreover, it was related to the differences contained in Article V. His remarks implied that members of his Delegation believe there should be a "tradeoff" involving the U.S. dropping Para 3 of Article V in exchange for Soviet acceptance of a definitional Article II as proposed by the U.S. side. Garthoff stated again that the U.S. side considered Article II to be important, that the definitional approach was non-prejudicial to Soviet as well as American positions on other articles such as Article V, and that the U.S. position on Article V involved a matter of important substance which could not be "traded." He also said that while we were not proposing any particular "package," Grinevsky and Kishilov of course recognized that we were working simultaneously on possible resolution of differences on a number of articles, and had to find some combination of such articles which would represent in the eyes of both Delegations an equitable balance of movement on various points by both sides; we considered that Article II should be included in such a group of articles. Articles V and VI, on the other hand, like article III, evidently were not ripe for resolution at this time. Grinevsky nodded understanding, and remarked that his side would need to address articles II and V on some early occasion, but that our informal work on resolving differences should continue and would be the best way to reach agreement. (In these remarks, Grinevsky seemed to imply that it would be necessary for his Delegation to go through a ritual of trying to get concessions from our side on Article V before he would be authorized to reach an agreement accepting the basic U.S. position on Article II.)

Garthoff asked if there were further reactions from Grinevsky and Kishilov to the oral remarks he had made in response to the Soviet text passed over to us on December 8. Grinevsky said there were not. Garthoff said that for convenience he had prepared a typewritten copy reflecting approximately what he had said the day before, which he would give Grinevsky and Kishilov (see attachment). Grinevsky and Kishilov both seemed disappointed on hastily reading it, but raised no new considerations (except for Grinevsky's dissatisfaction with the word "counter," which Garthoff—and Kishilov—confirmed had been used throughout in our exchanges without objection from the Soviet side.

SALT VI

U.S./U.S.R.R. Mini-Plenary Meeting No. 7.—Soviet Embassy, 1100 Hours, December 10, 1971

Persons Present:

Ambassador Smith, Ambassador Parsons, Mr. Nitze, Dr. Brown, General Allison, Dr. Garthoff, Colonel FitzGerald, Mr. Krimer (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Ginevsky, Mr. Kishilov, Admiral Sinetsky, Mr. Pavlov (Interpreter).

Statement by Dr. Brown, December 10, 1971

I

I would like now, Mr. Minister, to address the inclusion in an ABM Agreement of constraints on the deployment of possible future types of ABM systems.

II

The U.S. has proposed a specific provision to deal with the deployment of possible further types of ABM systems. The following language has been proposed by the U.S. as paragraph 3 of Article V:

"Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components."

The two sides should seek an agreement which would prohibit the deployment of both wide area and thick regional ABM defenses—and also the foundation for such defenses—whether or not these defense systems employ devices other than interceptor missiles, launchers and radars to perform the function of these ABM components.

The objective of the U.S. proposed language is to avoid a situation which otherwise could undermine the effectiveness of the ABM agreement. The U.S. Delegation believes that such an undertaking is necessary, especially in an ABM agreement of unlimited duration.

III

The two sides have an opportunity at this time to take a step forward toward comprehensive arms limitation—an objective often espoused publicly by both of our Governments. We should not pass by this opportunity to move toward fulfillment of that objective.

The Soviet side has objected to limits on possible future ABM systems on the basis that such systems are defined only in general terms. This view runs contrary to the precedent established in the Outer Space Treaty and the Seabeds Treaty—to which the U.S. and the USSR are Parties. In these treaties, our two Governments have accepted obligations banning the deployment of "other weapons of mass destruction"—a general term which clearly includes possible future systems. The rationale supporting the undertaking of those obligations applies fully to a corresponding undertaking in the case of possible future ABM systems.

IV

Would we not risk undermining the viability and durability of the agreement if we did not foreclose now the deployment of ABM systems using technologies which future research may prove feasible?

Though one cannot—and would not wish to—halt scientific progress, we must recognize the effects—which the U.S. side thinks would be beneficial—that prohibiting the deployment of such types of systems would have in inhibiting a race to develop such systems. We believe it would be to the advantage of both sides to avoid deployment of such systems—deployment that could circumvent the ABM limitations both sides have proposed. An ounce of prevention is said to be worth a pound of cure. Is there not merit in this case to exercising an ounce of prevention? Must we wait until new systems are ready for deployment—or even being deployed—before we consider limiting them?

The U.S. Delegation believes that our common objectives would be better served by prohibiting now the deployment of possible future types of ABM systems.

We would welcome your further views on these matters.

Helsinki, Finland

Date: August 17, 1971.

Time: 12:30-12:45 p.m.

Place: Soviet Embassy, Helsinki.

Subject: SALT.

Participants: U.S.—Mr. Paul H. Nitze, Dr. Harold Brown. U.S.S.R.—Academician A. N. Shchukin.

2. Brown asked Shchukin what his reaction was to Article 6 which we had presented today. Had we made it clear that in the first paragraph we were talking about a ban on the deployment, but not on the development and testing, of future kinds of systems, not using the usual components? Shchukin replied he would have to look at the text carefully. Nitze pointed out that Shchukin himself had raised the possibility of future kinds of systems in informal conversations.

Shchukin said that there might be some difficulty in getting the politicians and diplomats to consider this problem, because if one could not point to specific systems in or near development status, the politicians and diplomats would probably not be interested in future possibilities. Brown said that such a ban on present ABM systems ten years ago would have eased our present problems. Shchukin said that in 1961 ABM missiles and radars already existed, so he disagreed. Brown said that in that case, fifteen years ago would have been the right time. Shchukin's reaction was that it might be all right to include such a ban, but the whole subject was not very important. The wording and terminology covering such things, would have to be determined in the end by the diplomats, advised by the rest of us.

It is my belief that if future systems are nor covered, uncertainties would increase, and the result could be an arms competition in ABM systems with the result opposite from that which we seek in an arms control agreement. The question is: Are we trying to limit ABM systems of all types, or just current ABM radars, ABM launchers, and ABM interceptors?

Karpov addressed the formulas used to identify systems limited under paragraph 1 of the U.S. Article 6. He noted that this act envisages the undertaking of the Parties "not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." He believed that the subject matter of this provision was outlined in such an unclear manner, in terms of legal science, that it could not be accepted. He said that if the U.S. side believes that such systems exist in reality, then it should identify and name them so that the possibilities to limit them could become clear. He stated that both sides are equally interested in the viability of an ABM agreement; however, the agreement cannot be amorphous with regard to the subject matter of the means to be limited. He believed it was wrong to limit means not known to anyone. Up to now, he noted, the subject of our discussions was limitations on concrete and specific ABM systems, on ABM systems which might exist and could be verified by national means. He believed that we should adhere to this subject in the future too. He said that he could not agree to an approach designed to prevent deployment in the future of certain systems when the systems to be limited are undefined. He recognized that in the future, questions may arise about ABM systems which are not covered in this Agreement or Treaty. He noted that appropriate procedures for handling these questions are envisaged in both the USSR and U.S. draft tests. In this connection, he referred to paragraph F of the USSR Article X and to subparagraph (e) of Article 11 of the U.S. text. He quoted that portion of the Soviet text which states that the Standing Commission would "consider possible proposals for further increasing the viability of this Treaty, including proposals for additions and amendments to the Treaty in accordance with Article XI of this Treaty", and noted that a counterpart provision is contained in the U.S. text. Thus, he said, the possibility of questions arising in the future is fully covered by the appropriate paragraphs in the U.S. Article 11 and the USSR Article X. Furthermore, he said, the paragraphs which follow (subparagraph (f) of U.S. text and subparagraph G of USSR text) eliminate the need for paragraph 1 of Article 6 of the U.S. text.

Graybeal stated that he was a technician rather than a lawyer, and that be would deal with the substance and intent of the U.S. paragraph 1 rather than with legalities. With regard to Karpov's remarks about naming future ABM systems, he found it difficult to identify those systems which the scientists and engineers of our two countries might invent in the future. He asked whether, if such systems were to be developed, they were to be left uncontrolled, and did we want to leave an opening for scientists and engineers to find ways to bypass the limitations under the Agreement. He said that if he understood Karpov, the Soviet side intended to limit only ABM launchers, ABM interceptors, and ABM radars. He wondered if we would be doing a service to either side or to the world if we were to enter an agreement which limited only existing systems and did not attempt to limit future systems. He believed that the concern regarding future systems was recognized in both the Seabeds Treaty and the Outer Space Treaty. These Treaties limited "other weapons of mass destruction"—the intention being to limit not only existing systems but future systems as well. He did not believe that the problem of future systems could be handled adequately through the U.S. Article 11 or the USSR Article X. He noted that the lead-in to the U.S. Article 11, which similar to the lead-in in the corresponding Soviet article, starts with "To promote the objections and assist in the implementation of the provisions of this agreement," and expresed the belief that one of the objectives of the Agreement should be to limit future systems. If this were the case, he said, then the U.S. Article 11 and the USSR Article X could be useful in promoting this objective.

Karpov returned to the legal side of the question, saying that it was clear to him that legal documents of importance such as this should be precise to the maximum extent and should not create a basis for friction between our two countries in the future. On the contrary, he said, it should promote the strengthening of relations between our two countries—at present and in the future. If there is no clear-cut definition as to what would be limited by paragraph 1 of U.S. Article 6, then in the future there would remain a vast field for disagreement and doubt. As an example, he used a case in which one of the two sides said that in its opinion the other side deployed an ABM system using devices other than ABM launchers, ABM interceptors, or ABM radars, and the other side categorically denied such deployment, saying that the system was designed for purposes having nothing in common with ABM systems. He was not referring to the capability of national means to distinguish ABM systems; rather, he was pointing to the problem that might exist when there were agreed definitions as to what an ABM system was, but there was not agreement on what an ABM system was if it used devices other than ABM launchers, ABM interceptors, or ABM radars. He said that in the hypothetical example he had just given, the entire Treaty would be in doubt because one side would have doubts about compliance by the other side. In this connection, be believed that the provision of the USSR Article X and U.S. Article 11 would make it possible to handle such questions of future systems as may be regarded by the sides to be subject to limitations. Since the purpose of the Treaty is to limit ABM systems, the question of future systems would be a matter for the Standing Commission. Without a precise definition in the Treaty or Agreement as to what would be covered by the obligations of the sides, he did not believe it possible to include the present form of paragraph 1 of the U.S. Article 6 in the Agreement or Treaty. With regard to the comparison made by Graybeal to the Treaties on Seabeds and Outer Space, he did not believe that this could * * *.

AMERICAN EMBASSY, 1100 HOURS, DECEMBER 4, 1970

1. Persons Present: Amb. Smith, Parsons, Nitze, Allison, Garthoff, Graybeal, Shaw, Stoertz, Welier, Aldrige, S. Smith, Twombly, Germond, Lavroff.

Min. Semenov, Ograkov, Shchukin, Pleshakov, Grinevsky, Kishilov, Gryzlov, Afonsky, Karpov, Skoptsov, Perfilyev, Baranovsky, Buyanov, Fayekov.

The proposals of the Soviet Union proceed from the premise that those systems of each side should be limited, that were specially developed to counter strategic ballistic missiles and their components in flight trajectory.

Taking this into account, the obligations of the sides would extend to long-range acquisition radars, tracking and ABM guidance radars, ABM launchers and ABMs.

Further, agreed quantitative limitations of launchers and ABMs would be established, as well as limitations on the maximum distance of ABM systems from the center of the target defended.

Obviously, it is precisely these components, taken together, that constitute an ABM defense system. Therefore, it is enough to extend the obligations of the sides to the totality of the above-mentioned components in order to solve the problem of limiting the deployment of ABM systems effectively and reliably.

SALT V

U.S./U.S.S.R. MINI-PLENARY MEETING No. 8
U.S. EMBASSY, 1100 HOURS, AUGUST 24, 1971

Persons Present:

Ambassador Smith, Ambassador Farley, Parsons, Nitze, Brown, Allison, Graybeal, Ifft, Krimer.

Minister Semenov, Shchukin, Trusov, Timerbaev, Kishilov, Anyutin, Faekov.

Academician Shchukin said that it was his view that as a result of the negotiations the sides had achieved an understanding that limitations should cover such systems of ABM defense as radars, launchers, and ABM interceptor missiles. In this both sides proceeded from the premise that these systems could be detected by national technical means, could be distinguished from other systems, and so on. In other words the treaty should have for its subject ABM systems which could be technically described and determined and therefore could be controlled by national technical means.

On August 17, the U.S. Delegation introduced new language for Article 6. It is proposed in Paragraph 1 that the sides be obligated not to deploy ABM systems using devices other than ABM missiles, ABM launchers, and ABM radars to perform the functions of these components. This is an entirely new provision and the Soviet side is not clear on its meaning and substance. What did the U.S. have in mind in speaking of such ABM systems and such devices?

Ambassador Smith replied that this was an important point and he wished to give it some study before replying. The U.S. side would certainly reply to this question. The question had been so short that perhaps the Soviet side wished to keep the floor.

Minister Semenov observed that the length of a question was not determined by the number of words it contained.

Ambassador Smith said that he was more concerned about depth than about length.

Minister Semenov said that he would give the floor again to Academician Shchukin.

Academician Shchukin said that he had another question relating to Paragraphs 2 and 3 of Article 6. He had just spoken about the prohibition on the development of some kinds of ABM systems. Article 2 of the U.S. draft also contained a paragraph to the effect that limitations should extend to cover ABM systems undergoing development. Would it be possible for the U.S. to clarify its understanding of the notion of "development" and of the practical application of limitations at this stage?

Ambassador Smith said the U.S. side would undertake to answer this question also.

Academician Shchukin asked what the U.S. side had in mind with regard to the manner of verifying development to ensure confidence in compliance with the above provision, if it were accepted by the sides. He was using the term "development" in the sense that it was usually used in the Russian language.

Ambassador Smith said that the U.S. side would be glad to clarify this trinity of questions.

U.S./U.S.S.R. "TROIKA" MEETING NO. 1—U.S.S.R. EMBASSY, 1100 HOURS, AUGUST 27, 1971

Persons Present:

Ambassador Smith, Ambassador Farley, Nitze, Brown, Allison, Garthoff, Krimer.

Minister Semenov, Shchukin, Trusov, Karpov, Faekov.

Minister Semenov noted that paragraph 1 of Article 6 of the US draft was new, and contained a new concept of limiting devices other than ABM launchers, missiles, and radars. He said the Soviet side would study the considerations put forward by Dr. Brown in that connection. But, he continued, it was his impression that it was doubtful if it properly applied to the subject matter of an agreement on ABM limitation.

Ambassador Smith remarked that if such future systems were not covered, uncertainties would increase, and the result would be an arms race in other ABM systems with the opposite result from that which we sought in an arms control agreement. He noted that the US and USSR had agreed in the Outer Space Treaty and the Seabeds Treaty to ban various future weapons of mass destruction in its environments. Why should we make an exception in the present case?

Minister Semenov said that he would comment at a later time. In the meantime, he proposed assigning paragraph 3 of Article 6 (Article V(B) of the Soviet draft) to the Ad Hoc Committee. *Ambassador Smith* agreed.

ANNEX 1

DR. BROWN'S RESPONSE TO ACADEMICIAN SHCHUKIN'S QUESTIONS ON ARTICLE 6 "TROIKA," AUGUST 27, 1971

We would like to respond at this time to the questions posed by Academician Shchukin in connection with Article 6 of the US text.

With regard to paragraph 1 of our Article 6, Academician Shchukin asked what is meant by "ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." By this we refer to any present or future system which employs other means or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory. Our objective in this Article 6 is to establish a commitment that neither side will deploy ABM systems—including possible future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars. Surely we would not want an agreement which would permit either side to deploy an ABM system both thick *and* nationwide simply because the system did not use interceptors, launchers, or radars. Paragraph 1 of Article 6 is an undertaking not to do so, thus preventing systems or components using such new concepts from being used to circumvent the ABM agreement.

Academician Shchukin noted that paragraphs 2 and 3 of Article 6, as well as paragraph 2 of Article 2 of the US text, refer to limitations on "development." In this connection, he asked for our views on the meaning of "development" and the practicality of limitations on development. By "development" we have in mind that stage in the evolution of a weapon system which follows research (in research we include the activities of conceptual design and laboratory testing) and which precedes full-scale testing. The development stage, though often overlapping with research, is usually associated with the construction and testing of one or more prototypes of the weapon system or its major components. In our view, it is entirely logical and practical to prohibit the development—in this sense—of those systems whose testing and deployment are prohibited.

SALT DELEGATION, HELSINKI, FINLAND

Date: August 31, 1971.
Time: 1155 to 1255.
Place: U.S. Embassy, Helsinki.
Subject: SALT.

Participants: U.S.: Captain W. O. McLean, Lt. Col. F. P. DeSimone. U.S.S.R.: Lt. Gen K. A. Trusov, VAdm. P. V. Sinetsky, Col. V. N. Anyutin, Mr. Yu. K. Bardin.

Trusov said that he would like to return to clarification of paragraph 1, Article 6 of the U.S. draft ABM Agreement which General Allison had promised him at the end of their last conversation. He wanted to know what we had in mind when we spoke of an ABM system which does not include launchers, interceptor missiles and radars, and asked for an example. I told him that I could not give a concrete example, and that was an important part of understanding the reason for the paragraph in question. Since both sides agree that the ABM limitations we develop will be long-lasting and that we can only specifically limit the systems and components which exist today, the U.S. side feels that there should be a provision to take account of the fact that it is reasonable and desirable to prohibit the deployment of components which might perform the ABM mission tomorrow but which are not in existence today. Trusov said that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient. He said that development, testing and deployment of such future systems would be observed by our national means of verification and the review process could take care of the necessary prohibition or limitation. He went on to say that a provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement.

I agreed with Trusov that the process of review would be necessary to take account of developments and to reexamine the ABM agreement in light of those developments and stated that we had such a provision in our text. However, we also feel a need to avoid channeling arms competition in a new direction with the search by either side for ABM means not specifically constrained in the agreement. Paragraph 1 of our Article 6 was directed toward filling this need. Trusov said that his understanding of paragraph 1, Article 6 was that it referred to deployment and he repeated his argument that the possibilities it foresees could be dealt with by national verification means and the review process.

SALT V

U.S./U.S.S.R. AD HOC COMMITTEE MEETING NO. 1 U.S. EMBASSY, AUGUST 31, 1971, 1500 HOURS

Persons Present:

U.S.: Graybeal, Shaw, Wade, Leard, Krimer, FitzGerald.

U.S.S.R.: Karpov, Fedenko, Obukhov, Artemyev.

Karpov agreed to this approach and to proceeding with Article 2 (II). He stated that because of the nature of the two articles, our two drafts proceed from different premises. The U.S. paragraph 1 of Article 2 is devoted to definitions of terms the U.S. intends to use later. The Soviet paragraph 1 contains a more concise list of systems covered by the obligations of the treaty. Both have in common that they deal with the ABM systems to which the provisions will extend. The Soviets do not think that the Article should cover obligations other than ABM systems—only those systems subject to restrictions.

In general, paragraph 1 should contain a definition of the scope of systems to be covered by the obligations of the treaty; i.e., ABM systems, ABM launchers, ABM interceptors, and ABM radars. Paragraph 2 should contain definitions of categories of ABM systems contained in paragraph 1. The Soviets would consider the possibility of adding to their paragraph 2 mention of ABM systems under construction and undergoing tests.

He then read a sample introduction to Article 2, paragraph 1 as the Soviets would like to see it and presented it to the U.S. (See Annex 1.)

It applies to ABM systems specially constructed and deployed to counter strategic ballistic missiles.

Graybeal stated that the U.S. will review the paragraph carefully, but that it appeared to be quite similar to the old Soviet text in specificity. He asked Dr. Wade to present a brief U.S. rationale for paragraph 1 of Article 2.

U.S./U.S.S.R. MINI-PLENARY MEETING NO. 10 SOVIET EMBASSY, 1100 HOURS, SEPTEMBER 3, 1971

Persons Present: Amb Smith, Amb Parsons, Mr. Nitze, Gen Allison, Dr. Garthoff, Col FitzGerald, Mr. Krimer, (Interpreter).

U.S.S.R.: Min Semenov, Acad Shchukin, Gen Trusov, Mr. Timerbaev, Mr. Kishilov, Col Fedenko, Mr. Faekov, (Interpreter).

Minister Semenov then turned the floor over to General Trusov.

General Trusov said that Para 1 of Article 6 of the U.S. Draft provides that each Party undertake obligations not to deploy ABM systems using a device other than ABM interceptor missiles, ABM launchers or ABM radars to perform the functions of these components. Dr. Brown, on August 27, in answering Academician Shchukin's question as to what systems are meant by this paragraph, said that this applies to any present or future system which employs other physical mechanisms or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory. Frankly speaking, General Trusov believed that such a reply referring to any present or future systems, which employ devices other than those known to the Delegations, does not cast any light on the problem. If such systems exist, then they should be named and the subject would be made more clear and could become the subject of further discussion. The U.S. side's objective in including a paragraph in Article 6 to provide obligations not to deploy ABM systems, including future systems, which use components other than ABM launchers, interceptors and radars, is not clear. What is, in fact, involved is conjectural systems, i.e., some possible future systems not now known to anybody. So far, the sides have been discussing limitations on concrete existing systems or systems whose reality is adequately known for the future and can be clearly defined in an agreement. Now the U.S. side proposes to include in a draft treaty limitations on the deployment of such systems or components not known to anybody. The Soviet side does not believe that it is correct to include such limitations. Such a provision in a treaty could have reference to something that is amorphous and not subject to a clear determination of what is to be limited. Both sides are equally interested in the viability of an agreement to limit ABM systems. However, Para 1 of Article 6 acts in the opposite direction, in General Trusov's view, and gives rise to unnecessary misunderstandings.

General Trusov believed that it was not by accident that both sides—the U.S. in Para (e) and (f) of article 11, and the Soviet side in Para (f) and (g) of Article X—provided for proposals aimed at increasing the viability of the agreement, to include proposals for amendments or additions for curbing the race in ABMs. The appearance of any new system not employing the components which the sides are not discussing, would be discovered by national technical means. This would be especially true of the testing of such new systems. Therefore, both sides would be able, in the context of the above noted paragraphs, to consider concretely and completely any questions linked to ABM systems and their components which would ensue from the treaty obligations.

As regards Ambassador Smith's comments on the Seabeds Treaty and the Space Treaty, this was a somewhat irrelevant analogy. The obligations assumed in those treaties referred to actually existing systems. It was clear what systems were involved. Para 1 of Article 6 speaks about possible future systems which are completely conjectural. Therefore, inclusion of Para 1 of Article 6 is not necessary.

Ambassador Smith said he would make a few observations regarding General Trusov's intervention. He stated that, if the two sides had been dealing only with present systems, their work would have been completed long ago. Most of the problems encountered in our discussions on limiting ABM systems, for example, the problem of radars, are problems of the future. Such problems are the most difficult to put into an international agreement in such a way as to provide methods of gaining assurance for the future. The device that General Trusov suggested for handling this problem—a problem which Ambassador Smith considers to be a central and very serious one—would be a device for putting the problem into the pocket of an amendment clause or a clause for future discussion, perhaps in the Standing Commission. This would be tantamount to sweeping an existing question under the rug.

A fundamental question before the sides is whether we are trying to limit ABM systems or just ABM interceptors, launchers, and radars. It would seem that those on the Soviet side who have watched the developments that have taken place in technology over the past 20 years would not agree that, for an indefinite future, the functions of ABMs will be carried out only by systems based on technology dating back to perhaps the early fifties.

* * * * *

As regards General Trusov's view that the analogy to the Seabeds and Space Treaties was irrelevant. Ambassador Smith believed that his analogy had been directly to the point. As he recalled the early U.S. drafts on these treaties—he would like to check the record before being called in error on this—these drafts were based on obligations that the parties not deploy nuclear weapons in space or on the seabeds. It was at Soviet insistence that other weapons of mass destruction were included in the space agreement. At that time, none of us then knew what other systems could be placed in space and the Soviet words indicated the ignorance we all had on this subject. But since the U.S. wished to cover all possible ways for deploying [weapons of mass destruction in space, we agreed to include these] "other" weapons in the treaties. Consequently, the precedent in the case of the Space and Seabeds Treaties was clearly in favor of including in an agreement a wider range of ABM systems, rather than merely limiting ABM launchers, interceptors, and radars.

Speaking personally, Ambassador Smith believed that, in the event that Para 1 of Article 6 should not be included in an agreement, it would be a cruel illusion to the peoples of both nations to say that we had concluded an agreement on ABM systems. We should more properly say that there had been an agreement to limit ABM launchers, interceptors, and radars. This would be a far cry from what the U.S. side means when it speaks about limiting ABM systems.

Ambassador Smith also wanted to add one additional consideration. It has been our experience that it is less difficult to control weapons systems before they are invented and deployed. The sides could lose a good opportunity if they were to postpone to the future control over systems which he had been speaking about.

Minister Semenov thought that the viewpoints of both sides had been made sufficiently clear. If there were no objections from the U.S. side, he would propose to turn discussion of Paragraphs 1 and 2 of the U.S. Article 6 over to the Karpov-Graybeal Ad Hoc Committee since it already has Paragraph 3 of that Article. The statements made by Ambassador Smith and General Trusov could serve as good material to assist the committee in comparing the texts to be discussed.

Ambassador Smith agreed.

At the same time, in view of the significance of this problem, it is possible that further discussion by the Delegates might assist the Special Working Group in making progress toward reconciliation of the two texts.

If Minister Semenov correctly recalled the course of the negotiations to date, the question of the possibility of modernization and substitution had been repeatedly discussed by the sides. This possibility is provided for in Soviet Article VI. The U.S. Draft lacks a similar article. The exchanges of views up to now, in the Soviet understanding, have demonstrated that the sides are in agreement in principle on this question. On August 27, the U.S. side had said it was as equally interested in modernization as is the Soviet side and Soviet Article VI clearly reflects this mutual interest.

Today, Minister Semenov wanted to emphasize the importance of modifying and replacing ABM components. He also wanted to point out that the Understanding of May 20 makes direct provision for modernization, even under the conditions of a freeze.

Of course, under the Soviet Draft, modernization and substitution could only be effected in accordance with the provisions of Articles II, III, IV, and V. In other words, the Parties would be able to effect modernization and replacement only in strict compliance with the agreement on ABM limitations. In particular, modernization of ABM systems, as permitted by Soviet Article VI, would not involve mobile ABM systems, or rapid-reload launchers, or launchers capable of launching more than one interceptor at a time.

Thus, bearing in mind the agreement of the two sides on the essence of the problem of modernization and replacement, the Soviet side considers it necessary to include its Article VI in an ABM agreement. This would increase the clarity of the agreement and insure its viability which is in the interests of both sides.

SALT V

U.S./U.S.S.R. AD HOC COMMITTEE MEETING NO. 2 SOVIET EMBASSY, SEPTEMBER 2, 1971, 1100 HOURS

Persons Present:

U.S.: Graybeal, Wade, Leard, Krimer.

U.S.S.R.: Karpov, Fedenko, Obukhov, Artemyev.

Karpov welcomed the U.S. Delegation to the Soviet Embassy. He opened by presenting a Soviet draft of Article II which he stated takes into consideration the U.S. Article and the views expressed by both sides at the last meeting, and contains all the necessary provisions required in Article II to insure the effectiveness of a treaty on ABM's. He said that the text contains precise definitions of systems and components that are the means to which obligations should extend.

Graybeal stated that he would give the draft careful study. He then commented that a major issue involves the fundamental point of lead-in to Article 2; namely, the "definitional" approach versus the "obligational" approach. He said it would be helpful if he knew the Soviet objection to the definitional approach. He said that he saw the purpose of the definitional approach as being to clearly define what are and what are not ABM systems and ABM components. He noted that the Soviet working paper also reflects the need for definitions, but that the Soviet definitions were not as comprehensive. In addition, the obligational approach and the use of the words "shall apply to" indicate that Article II contains all of the obligations. In both texts there are other articles that contain obligations not included in this approach. If the obligational approach were adopted, would it not be necessary to list all obligations contained in the agreement?

Karpov responded that when speaking about approaches, Mr. Graybeal did not quite correctly express the substance of the Soviet formula. In dealing with Article II, we do not specify obligations as such; rather, the obligations of the sides shall apply to the means listed in paragraph 1 of Article II and explained in paragraph 2. The systems defined in paragraph 1 give a precise concept of the subjects for the obligations of both sides on ABM systems. This article is a means of ensuring confidence in compliance of the sides by listing the subjects for control; not the method of controlling them. The definitional approach is an unnecessarily complicated structure for the agreement. The best approach to definitions is one in which whatever is to be limited or defined is accompanied by a corresponding definition where it first appears in the treaty. It is our opinion that it is unnecessary to define other than ABM terms until they first appear in the article. So if this article is to define the composition of the systems to be covered by the obligations of each side, then the definitions should be limited to those necessary to the content of the article.

Graybeal stated that a fundamental difference of approach still remains. However, the Soviet definitions provided in their working paper are a step in the right direction. If the obligational approach were adopted, would it not be necessary to include all the obligations of the treaty? For example, the obligations under U.S. Article 8 on non-transfer would need to be included.

Karpov stated that this would not be necessary if the provisions of Article 8 are covered by the phrase at the beginning of Article . It seems clear the Soviet version precisely expresses no obligations, but the systems that should be covered by the obligations.

Graybeal asked if the obligations would apply only to the systems listed in Article II.

Karpov responded that the fundamental basic obligations which deal with numerical limitations in the Soviet Article III would be applied to these systems. It does not mean that there will not be other obligations listed in the treaty which will cover other systems. For example, the Soviet Article IV, which has a counterpart in U.S. Article 5, would place obligations on each side. However, it is a concept not covered in Article II. Also, Soviet Article V, which corresponds to paragraphs 2 and 3 of U.S. Article 6, is a concept covered by the obligations under the Soviet Article V.

Graybeal stated that the explanation had been helpful and that he would respond at the next meeting.

Wade then asked (in connection with paragraph 1 of Article II of the Soviet working paper) for clarification of the words "counter" as used under systems, "destroy" as used under missiles, and "ensure destruction" as used under radars.

Karpov answered that to "counter" is more comprehensive than the term "destruction". Therefore, where the question of ABM interceptors arises, we use the word "destruction". Since radars don't destroy ballistic missiles, we use the term "to ensure destruction". "Counter" includes both of the terms and also covers "rendering ineffective".

Wade then asked how the Soviets would handle a missile whose purpose may not be the destruction of an incoming ballistic missile?

Karpov responded that we must decide what we are talking about. The main thing is to define systems that are really ABM systems. In Article II, paragraph 1, ABM systems are defined as a whole, and specific means for limiting components are included in the following paragraph. So Dr. Wade's question as the meaning of "destroy" (i.e., a direct hit or any other means of destroying ballistic missiles) is not significant. It is most important to define deployed systems in terms of the tasks set for ABM systems. For example, in order of define ABM interceptors, the Soviets use the criteria listed in their subparagraph (b).

Graybeal then remarked that he still considered the definitional approach desirable in the lead-in paragraph. He stated that his questions are designed to identify differences pertaining to definitions and to merge them where possible. He stated that in Article 2, paragraph 1, subparagraph (a), he had taken into account "constructed or deployed to counter" and as a definition for "ABM system" proposed *ad referendum* the following definition: "An ABM system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory."

Karpov stated that in comparing the two drafts, Mr. Graybeal had suggested that "specially" be deleted and that "construct or deploy" be used instead of "construct and deploy".

Graybeal answered in the affirmative.

Karpov responded that the Soviet side had already stated that "specially constructed" more clearly defined the nature of systems used as ABM systems and that the question of converting SAM's into ABM's is not a practical question—it is an artificial problem. Besides, a system, whatever it might be, if it is tested in an ABM mode it is an ABM system. Therefore, the question of initial purpose should not arise. The combination of "specially constructed and deployed" gives the criterion for a precise definition that these systems are ABM system. If an ABM systems is deployed as an ABM system, then it has been tested in an ABM mode and such testing could be detected by national means of verification which would help to determine that it is clearly an ABM system. The term "specially constructed" includes the element of defining ABM systems through tests undertaken in an ABM mode. Therefore, he believed that the combination of these definitions makes it possible to define to the greatest extent that a system is an ABM system. "Specially constructed" includes the concept of having been tested in an ABM mode. He said he would not like to counterpose "specially constructed" and "deployed"—these terms are two sides of one question and should not oppose each other.

Graybeal stated that the preceding discussion made the case for dropping "specially" since a SAM system tested in an ABM mode would count as an ABM. SAM systems need not be "specially constructed or deployed" to counter ballistic missiles, but could be modified to intercept ballistic missiles after they are deployed. SAM's tested in an ABM mode could have the capability; therefore, "specially" is not needed. Also, this could apply to other than SAM systems—it is not inconceivable to use surface-to-surface missiles in an ABM role even though not "specially constructed" for this purpose.

Karpov responded that while the Soviets don't believe it is possible or desirable to convert missiles, other than ABM's, into ABM's. In any event, such conversion would require testing; therefore, the old system will cease to exist. The new system would be deployed in an ABM mode.

(At this point a recess was taken.)

Memorandum of Conversation Salt Delegation Helsinki, Finland

Date: September 3, 1971.

Time: 1:20-1:40 p.m..

Place: Soviet Embassy.

Subject: SALT.

Participants: U.S.: Dr. Raymond L. Garthoff.

U.S.S.R.: Mr. W. S. Kishilov.

Article 6

I stressed to Kishilov the great importance of paragraph 1 of Article 6 prohibiting deployment of future types of ABM systems. I said that despite General Trusov's remarks in the meeting, the Soviet side must be aware of some of the possible future systems, and I drew his attention to the pamphlet by Freeman Dyson ("Arms Control and Technological Change"), which I had given Kishilov earlier. In any case, we did not need to discuss possible future systems—the principle was clear, and it would be in the interests of both sides to adopt the limitation we had proposed.

Helsinki, Finland

Date: September 8, 1971.

Time: 1:00-4:00 p.m.

Place: Soviet Embassy and Capital Theater, Helsinki.

Subject: New Soviet ABM Proposal; "Other Devices"

Participants:

U.S.: Col. C. G. Fitzgerald, Lt. Col. R. E. Leard (part-time).

U.S.S.R.: Col. Gen. A. A. Gryzlov (part-time), Col. A. Fedenko.

During the portion of the conversation at which Lt. Col. Leard was present, Col. Fedenko repeated the arguments Mr. Karpov had made in favor of excluding paragraph 1, of U.S. Article 6. He declared that the sides are in agreement (with the exception of OLPAR's and MARC's) on the ABM components (sredstva) to be limited. These are spelled out in Article 1 of the Soviet Draft, which specifies the components to be limited, namely, ABM interceptors, launchers, and radars. The sides have no intentions of limiting the computers or communications associated with ABM systems, or ABM depots (sklady). At the same time, if ABM means different from those presently known—for example, some new power source, or source of light, or some new searchlight (prohektor), such as was employed in early AAA systems—should be detected by national means, the problem could be examined by the Standing Commission. He noted that in the early days of air defense, AAA crews had to rely on sound ranging equipment. Now, everybody clearly recognizes that fire-control radars are an integral element in air defense systems. The same situation would prevail in the future as regards other means that might be used for ABM systems. He concluded that, these "other means" should be identified if they are known at the present time.

I suggested that perhaps he might ask what General Ogarkov had in mind in his

September 3 article in Red Star. The General had emphasized the need for the Soviet military to keep up with the latest advances in science and technology and for long-term imaginative development of weapons systems. Obviously, he was thinking in terms of new weapons, as yet unknown.

I then asked, apart from "other devices" how the Soviet side visualizes how the Standing Commission will operate. Mr. Karpov had used the words "examination" and "resolution" (resheniye) in describing how the question of "other devices" would be handled in the Standing Commission. Did this mean that the Commission would have the power of decision? Col Fedenko replied in the negative. The Commission would consult and examine various questions and would attempt to arrive at agreed-on recommendations or language to be submitted to the two governments. The final solution to problems would, however, rest with the governments.

Col Fedenko concluded the discussion of Para 1, Article 6 by saying that the Soviet side realized the U.S. side had required a long time to arrive at its formulation of this paragraph and consequently, the Soviet side would require some time to understand the need for including such a paragraph.

Col Fedenko also argued in favor of the Soviet version of Para 1 of Article 2, which specifies only interceptors, launchers, and radars as the ABM means to be limited. I argued against exclusion of MARCs and OLPARs but Col Fedenko insisted that these definitions should be discussed in the context of the articles in which they initially appear. Article 3 in the case of MARCs and Article 4 in the case of OLPARs. I continued to disagree. He then observed that the U.S. side had not chosen a good military term when it had selected "complex" to describe the deployment area for ABM radars. He said that an agreement covering weapons systems should use military terminology as much as possible. In response to my question, he suggested "assembly area (rayon sosredotocheniya)" as a possible better military term.

September 9, 1971.

SALT V US/USSR AD HOC COMMITTEE MEETING NO. 4

SOVIET EMBASSY, SEPTEMBER 8, 1971, 1100 HOURS

Persons Present:

U.S., Graybeal, Leard, Barlow, Carnesale, Krimer, FitzGerald, and Zarechnak.

USSR, Karpov, Fedenko, Obukhov, and Artemyev.

Graybeal made the following points:

Our Article 6 is not intended to supplement the U.S. Article 7 in any respect; rather, it is intended to address future ABM systems that would utilize components or devices other than launchers, interceptor missiles, or radars.

The U.S. paragraph 1 of Article 6, which has no counterpart in the Soviet text, would prohibit the deployment of future ABM systems or components other than those fixed land-based components defined in Article 2; that is, ABM interceptor missiles, ABM launchers, or ABM radars. This paragraph would in no way restrict modernization of the components listed in Article 2. It is my belief that it is the intention of both sides to limit the arms competition in the future as well as at present. Inclusion of this paragraph would represent a step toward that goal.

It is my belief that if future systems are not covered, uncertainties would increase and the result could be an arms competition in ABM systems with the result opposite from that which we seek in an arms control agreement. The question is: Are we trying to limit ABM systems of all types or just current ABM radars, ABM launchers, and ABM interceptors?

Karpov addressed the formulas used to identify systems limited under paragraph 1 of the U.S. Article 6. He noted that this act envisages the undertaking of the Parties "not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." He believed that the subject matter of this provision was outlined in such an unclear manner, in terms of legal science, that it could not be accepted. He said that if the U.S. side believes that such systems exist in reality, then it should identify and name them so that the possibilities to limit them could become clear. He stated that both sides are equally interested in the viability of an ABM agreement; however, the agreement cannot be amorphous with regard to the subject matter of the means to be limited. He believed it was wrong to limit means not known to anyone. Up to now, he noted, the subject of our discussions was limitations on concrete and specific ABM systems, on ABM systems which might exist and could be verified by national means. He believed that we should adhere to this subject in the future too. He said that he could not agree to an approach designed to prevent deployment in the future of certain systems when the systems to be limited are undefined. He recognized that in the future, questions may arise about ABM systems which are not covered in this Agreement or Treaty. He noted that appropriate procedures for handling these questions are envisaged in both the USSR and U.S. draft texts. In this connection, he referred to paragraph F of the USSR Article X and to subparagraph (e) of Article II of the U.S. text. He quoted that portion of the Soviet text which states that the Standing Commission would "consider possible proposals for further increasing the viability of this Treaty, including proposals for additions and amendments to the Treaty in accordance with Article XI of this Treaty", and noted that a counterpart provision is contained in the U.S. text. Thus, he said, the possibility of questions arising in the future is fully covered by the appropriate paragraphs in the U.S. Article 11 and the USSR Article X. Furthermore, he said, the paragraphs which follow (subparagraph (f) of U.S. text and subparagraph G of USSR text) eliminate the need for paragraph 1 of Article 6 of the U.S. text.

Graybeal stated that he was a technician rather than a lawyer, and that he would deal with the substance and intent of the U.S. paragraph 1 rather than with legalities. With regard to Karpov's remarks about naming future ABM systems, he found it difficult to identify those systems which the scientists and engineers of our two countries might invent in the future. He asked whether, if such systems were to be developed, they were to be left uncontrolled, and did we want to leave an opening for scientists and engineers to find ways to bypass the limitations under the Agreement. He said that if he understood Karpov, the Soviet side intended to limit only ABM launchers, ABM interceptors, and ABM radars. He wondered if we would be doing a service to either side or to the world if we were to enter an agreement which limited only existing systems and did not attempt to limit future systems. He believed that the concern regarding future systems was recognized in both the Seabeds Treaty and the Outer Space Treaty. These Treaties limited "other weapons of mass destruction"—the intention being to limit not only existing systems but future systems as well. He did not believe that the problem of future systems could be handled adequately through the U.S. Article 11 or the USSR Article X. He noted that the lead-in to the U.S. Article 11, which was similar to the lead-in in the corresponding Soviet article, starts with "To promote the objectives and assist in the implementation of the provisions of this agreement," and expressed the belief that one of the objectives of the Agreement should be to limit future systems. If this were the case, he said, then the U.S. Article 11 and the USSR Article X could be useful in promoting this objective.

Karpov returned to the legal side of the question, saying that it was clear to him that legal documents of importance such as this should be precise to the maximum extent and should not create a basis for friction between our two countries in the future. On the contrary, he said, it should promote the strenghtening of relations between our two countries—at present and in the future. If there is no clear-cut definition as to what would be limited by paragraph 1 of U.S. Article 6, then in the future there would remain a vast field for disagreement and doubt. As an example, he used a case in which one of the two sides said that in its opinion the other side deployed an ABM system using devices other than ABM launchers, ABM interceptors, or ABM radars, and the other side categorically denied such deployment, saying that the system was designed for purposes having nothing in common with ABM systems. He was not referring to the capability of national means to distinguish ABM systems; rather, he was pointing to the problem that might exist when there were agreed definitions as to what an ABM system was, but there was not agreement on what an ABM system was if it used devices other than ABM launchers, ABM interceptors, or ABM radars. He said that in the hypothetical example he had just given, the entire Treaty would be in doubt because one side would have doubts about compliance by the other side. In this connection, he believed that the provision of the USSR Article X and U.S. Article 11 would make it possible to handle such questions of future systems as may be regarded by the sides to be subject to limitations. Since the purpose of the Treaty is to limit ABM systems, the question of future systems would be a matter for the Standing Commission. Without a precise definition in the Treaty or Agreement as to what would be covered by the obligations of the sides, he did not believe it possible to include the present form of paragraph 1 of the U.S. Article 6 in the Agreement or Treaty. With regard to the comparison made by Graybeal to the Treaties on Seabeds and Outer Space, he did not believe that this could serve as a useful analogy to the present Treaty. He expressed the belief that Ambassador Smith recognized in his remarks yesterday that these other treaties did not refer to some unknown future system. The term "other weapons of mass destruction" is clear, he said, and means those nuclear, chemical, and biological weapons that can be designed at present.

Graybeal expressed the view that paragraph 1 of Article 6 would serve to strengthen the relationship between our two countries and would avoid misunderstandings in the future. He said that while we were not yet in agreement, at our level, on the definition of an ABM system, we were close. He referred to the wording in the U.S. working paper of September 6; namely, "An anti-ballistic missile system is a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory." He said that this definition would apply also to paragraph 1 of Article 6. Whether or not such systems exist at present is not the key issue, he said. It is the concepts and technologies which do exist and with which both sides are familiar that are of importance. Our objective is to limit ABM systems, and our definition of ABM systems would include future systems as well as present ones. He stated that paragraph 1 of the Article 6 would avoid just the kind of misunderstandings that Karpov had referred to in his remarks. He believed that if we could make clear that intent of the Agreement, which in our view is to limit ABM systems, then we could help the Standing Commission fulfill its role. If the intent were only to limit present systems, and to leave to the Standing Commission the matter of limiting future systems, then we would be inviting misunderstandings. He asked if it is the intent of the Soviet side to limit ABM systems or just to limit present ABM systems.

Karpov believed that our intent is to *limit ABM systems* and that we have a mutual understanding between ourselves on that score. The difference is in our approach—how to do it in the most effective way and, at the same time, to guarantee the two sides that the agreement would be complied with. He could not imagine how an agreement could bring the two sides closer together if it dealt with systems which could not be clearly defined. He said that the subject of an agreement is determined by at least three elements: The presence of physical or legal entities entering into the agreement, the subject matter of agreement, and the guarantees of compliance with the obligations. He could admit the existence of an agreement without guarantees, but not without the first two elements. The U.S. draft, he said, contains no legal definition of what it deals with. He did not agree with the definitions in the U.S. Article 2. On the other hand, he said, Article 2 of the Soviet draft gives a clear-cut definition of ABM systems; namely, "The means specially constructed and deployed to counter strategic missiles and their components in flight trajectory." This definition would enable one fully to verify by national means compliance with an agreement. It is essential that an agreement include a precise definition of the means to be covered by the obligations. He wished to note also that paragraph 1 of Article 6 in its present form could not promote the U.S. intent of precluding possible misunderstandings in the future. This paragraph did not make it possible for national means of verification to determine clearly if systems are ABM systems or not, and, since paragraph 1 would be an integral part of the Agreement or Treaty, compliance with the entire Treaty would be questioned. He asked if it would not be better for us to refer the questions of future systems to the Standing Commission. He thought that this would be the most rational approach to limiting those ABM systems which cannot be defined in technical or legal terms.

Graybeal assured him that this paragraph had been reviewed by lawyers and that it did serve a useful function in the text. He thought that there was a difference in the views of the two sides regarding the adequacy of the definitions in paragraph 1 of the U.S. Article 2. He thought that these definitions were adequate to deal with all ABM systems, while paragraph 1 of USSR Article XI dealt only with ABM launchers, ABM interceptors, and ABM radars. He asked if he was correct in believing that in Karpov's opinion the U.S. definitions were inadequate.

Karpov responded that Graybeal was correct and that the Soviets had proposed to limit systems which use ABM launchers, ABM interceptors, and ABM radars.

Graybeal said that there also seemed to be a difference in our views on the role of operative articles versus the role of the Standing Commission. He felt that an operative article indicating clearly the obligations with regard to improvement of existing ABM systems and with regard to future systems would be far more useful than merely referring these questions to the Standing Commission. He also noted a difference in views reflected in Karpov's comments on the analogy to the Treaties on Seabeds and Outer Space. He referred to Ambassador Smith's statement of yesterday in which Ambassador Smith said that he found that the authorship of the phrase "other weapons of mass destruction" was not as clear as had previously been suggested. Smith went on to say, however, "but what is clear, and relevant, is that in these Treaties our two Governments have accepted obligations banning deployment of 'weapons of mass destruction' not specifically identified." Graybeal believed that the term "weapons of mass destruction" referred to any weapon of mass destruction, including any that might be developed in the future. Thus, he believed that the analogy was a useful one. Biological and chemical weapons were used as examples of other weapons of mass destruction and not as the only ones. He noted that he had participated in the negotiation of the Outer Space Treaty and that he could not recall either side trying to define what was meant by "weapons of mass destruction."

Karpov expressed the belief that both sides recognize that the Treaty cannot cover all possible cases in limiting ABM systems, and that we could not envisage everything that will appear in the future. He agreed that there had been no need to define precisely what "weapons of mass destruction" were, claiming that there was an understanding between the Parties to the Outer Space Treaty as to what were such weapons. He said that they were weapons capable of destroying masses of people or masses of material things, and that such weapons are precisely defined by these criteria. He claimed that, as a matter of fact, the very name "weapons of mass destruction" indicates the criteria. Unfortunately, he said, the term "ABM defense" cannot determine whether specific means belong to such a system.

(There was a recess at this point.)

Graybeal agreed that not all future ABM systems could be identified now; however, he disagreed with the contention that an agreement could not cover all possible future ABM systems. He pointed out that, with an understanding of what is an ABM system, we could prohibit the deployment of future systems or devices. He then turned to paragraph 2 of the U.S. Article 6 and its counterpart, paragraph A of the USSR Article V. He noted that the texts were similar, with two exceptions. First, the U.S. text would prohibit the development, production, testing, and deployment of these systems while the Soviet text would prohibit only testing and deployment. He believed this difference could be resolved. Second, the U.S. text refers to future devices, and reflects the basic difference in view which we have been discussing in relation to paragraph 1 of the U.S. Article 6.

Karpov tabled a working paper (attached) in which the Soviets attempted to merge the language of paragraph A of the USSR Article V and paragraph 2 of the U.S. Article 6. He noted the addition to the Soviet language of the words "not to construct" rather than the U.S. words "not to produce." He also pointed out that, for reasons previously discussed, the Soviet side did not use the U.S. phrase "not to develop." He suggested that the U.S. side look at the language and he hoped that it would find it acceptable.

Graybeal stated that he would certainly study the working paper. As he understood it, the Soviet phrase "not to construct" encompasses the U.S. phrase "not to develop and not to produce," and the Soviet phrase "specially designed for" could be interpreted as "specially created for."

Karpov confirmed these interpretations.

Graybeal asked whether the language of the Soviet working paper covered devices other than ABM launchers, interceptors, and radars, and whether transportable systems or components would be considered as mobile systems or components.

Karpov asked what was meant by transportable systems.

Graybeal responded that in the U.S. we use the term "mobile" to refer to systems which could be constantly in motion; but, in this provision, we intend to include systems which could be readily transported from one place to another. He called on Barlow to amplify these remarks.

Barlow said that by "transportable systems" we mean interceptors, launchers, and radars designed to be moved frequently during their service life. He said that a system transported from a factory to a site would not necessarily be considered a transportable system.

Karpov said that he did not quite understand any difference between mobile and transportable systems if both could be moved frequently.

Graybeal said that if that was the case, he thought we were in agreement on this point.

Barlow said that in U.S. usage, a mobile radar has wheels or tracks; that is, it is self-propelled. He noted that the terms "mobile" and "transportable" are used in contrast to fixed permanent installations.

Karpov said that he would review the U.S. remarks and would respond at a later time. He wished to ask, however, whether the term "mobile" included the term "transportable".

Graybeal responded that it did.

Karpov asked if this also applied to sea-based, air-based, and space-based systems.

Graybeal responded that, by definition, sea-based, air-based, and space-based systems are mobile systems.

Karpov said that he would return to the subject at a later time.

Graybeal said that he had nothing more to discuss today.

A-498

Date: September 13, 1971.
Time: 1230-1300 hours
Place: U.S. Embassy, Helsinki.

Subject: Early Warning Radars: ICBM Defense; and Future ABM Systems.

Participants:

U.S. Col. C. G. FitzGerald, Maj. William Barlow.

U.S.S.R., Col. A. A. Fedenko, Mr. Obuhkov.

Future Systems.—Col. Fedenko reiterated the standard Soviet arguments against including any general provisions on future undefined ABM systems. The Standing Commission could handle such problems if they ever arose. The alternative, he felt, was for the U.S. to specify and define in Article II what systems, components or mechanisms it had in mind. If the U.S. could define what it was talking about, then national means could probably verify such activities because presumably it would be mandatory to test such conceptual devices. The Soviet side would then be in a position to determine whether such systems should be in an ABM Treaty.

Date: September 15, 1971.

Time: 10:00–11:30 a.m.

Place: Soviet Embassy.

Subject: Discussion of Articles 2 and 6(V).

Participants:

U.S., Mr. S.N. Graybeal, Col. Charles FitzGerald.

USSR, Mr. Viktor Karpov, Mr. A.A. Fedenko.

At the September 15 meeting between Graybeal and Karpov, accompanied by FitzGerald and Fedenko, the Soviets tabled new Articles 2 and 6(V). (See attachment.)

The discussion started with Articles 6(V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word (komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems.

Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording.

Agreement was also reached that, consistent with the "new Article 6", the Soviet text would use "and" between systems and components, while the U.S. text would retain "or" between systems and components.

Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal.

After a brief break, the discussion turned to Article 2. Karpov refused to accept the U.S. wording "indistinguishable from" or "of a type tested in an ABM mode". He argued that "new Article 6" firbids testing non-ABM components in an ABM mode. To include these phrases in Article 2 implies that there can be a breach of the treaty. Therefore, inclusion of either wording in Article 2 is incomparible with "new Article 6" since definitions must not conflict with obligations. The Soviet side could understand the requirement for this language in Article 2 if there were no prohibition on such testing, but inclusion of the phrase in Article 2 would call "new Article 6" into question.

Karpov also said the U.S. approach to Article 2 is unacceptable with or without the phrases "indistinguishable from" or "of a type tested in an ABM mode".

Graybeal argued the need for clear and concise definitions to include the above phrases. He saw no incompatibility between U.S. Article 2 and "new Article 6". In fact, he argued, two Articles are complementary to each other when the U.S. wording is used.

The final result was to leave each side's version of the entire Article 2 in brackets.

It was also agreed that Karpov and Graybeal would make only individual reports to their respective Heads of Delegation, and the remaining problems would be discussed further at the new mini-troika (Parsons, Garthoff, and Graybeal with Timerbaev, Kishilov, and Karpov).

A-515

Date: September 15, 1971.

Time: 5:00–5:15 p.m.

Place: Capitol Theater, Helsinki.

Subject: Further Progress in SALT.

Participants:

U.S. Dr. Raymond L. Garthoff.

USSR. Deputy Foreign Minister V. S. Semenov.

As I was leaving the theater, Semenov engaged me in conversation for a few minutes in which he emphasized the desirability of removing some of the non-substantive bracketed disagreements in the Joint Draft Text being developed by the two Delegations. I mentioned in particular Article 2, and urged that we find a solution which did not prejudge the different substantive positions of the two sides over the article on future kinds of ABM systems. Semenov agreed, and also thought that we should be able to find a neutral formulation which would not prejudice the views of either side.

Date: September 17, 1971.

Time: 12:30–12:50 p.m.

Place: Soviet Embassy, Helsinki.

Subject: Smith-Semenov Post-Mini-Plenary Conversation, September 17.

Participants:

U.S., Ambassador Gerard C. Smith, Mr. William D. Krimer, Interpreter.

USSR, Deputy Foreign Minister V.S. Semenov, Mr. V. Ya. Faekov, Interpreter.

Semenov said he hoped that Smith had noticed that in today's Soviet statement Semenov had paid special attention to Article 2. It seemed to him that there was an opportunity here to try and remove some differences on language for this Article. In his view Article 2 and Article 3 formed the main basis for the ABM agreement. He quite understood that in regard to Article 3 we faced some serious problems that would require additional reflection with a view to narrowing differences. On the other hand, looking at Article 2, he came to the conclusion that there were possibilities for reaching mutually agreed language. At one time it had appeared to him that such agreed language would be easily achieved, but then somehow the two sides had started moving away from each other. It was the Soviet view that inclusion of the word "indistinguishable" cast doubt on the effectiveness of national technical means of verification. In this connection he would recall that when he had reported on the state of our negotiations at a meeting of his Government in Moscow, one of the fundamental questions asked of him related to national means of verification. He was asked how this matter would be settled between the two Delegations. He had replied that it was his general impression that the US Delegation had a very good understanding of this general situation. At that same meeting some views had been expressed to the effect that this issue of national technical means might prove to be a stumbling block. He would say that inclusion of any provision that would enlarge the shadow of doubt about verification would Make consideration of what had been discussed here in Helsinki very much more difficult and might also create additional difficulties at the next phase in Vienna. He would therefore ask the US side to take this fact into consideration. It was quite possible that he was himself at fault in this respect, perhaps not having been convincing enough in expressing the views of the Soviet side on this issue. His argumentation on the efficiency and adequacy of national means and the complete unacceptability of on-site inspection would perhaps require some further presentation. He had a voluminous dossier on this question and apparently he would have to make use of it at the next Vienna phase, presenting his considerations and reasons in support of the Soviet position in greater detail. However, he wanted to express the hope that perhaps we could work the problem out while we were still here and remove the unnecessary difficulties caused by inclusion of the word "indistinguishable."

Smith said that in regard to the Article 2 problem, as he understood it, the Soviet side had not wanted to say anything in Article 2 that might prejudice the Soviet position on SAM upgrade. He had thought that this concern had been resolved between Garthoff and Kishilev when they discussed Articles 4 and 7 of the draft text. But lately he had the feeling that the Soviet position on Article 2 reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of Article 6. It seemed to him that we should be ingenious enough to draft Article 2 in such a way as not to prejudice the position of either side in regard to paragraph 1 of Article 6. Smith wanted to emphasize to Semenov the great importance that the US Government attached to this issue. It was his belief that without such a provision, which was similar to analogous provisions included in other treaties, an agreement between us might prove to be simply an illusion. We might think that we had concluded an agreement on limiting ABM systems, only to find that in fact we had only limited launchers, interceptors and radars. He hoped that he had been able to convey to Semenov the great importance we attached to this issue.

Semenov said that in regard to Article 2 he would have no objection to a further search by our Executive Secretaries for possible language that would not prejudice our respective positions on paragraph 1, Article 6. However, Article 2 spoke for itself. He did not really know in what sense Article 6 had a bearing on Article 2, since the latter dealt with definitions and in his view this was quite enough for that particular Article. With reference to the US position on Article 6, which had been advanced here in Helsinki for the first time, naturally the Soviet side had carefully listened to the considerations expressed in support of the US position. At this moment he would not care to say any more than had already been said on this issue. Obviously this problem would be kept in his field of vision during the preparation in Moscow for the next Vienna phase.

Frankly, it was his Delegation's impression that inclusion of the word "indistinguishable" in Article 2 would make the entire agreement quite uncertain. What was indistinguishable from launchers, missiles, and radars? This concept in his view was too ill-defined and arbitrary for inclusion in an agreement on ABM's that we have been working on. Furthermore, when we spoke of reaching an agreement to limit ABMs in our two countries, it was his impression that we intended such limitation to be at a minimum level and this in his view was an essential consideration in seeking mutually acceptable positions. In his goal he saw the main basis and the soul of our discussions. Smith was right in his belief that the Soviet side was seriously interested in reaching an ABM agreement. For his part, he proceeded from the same premise regarding the intentions of the US side. Therefore he believed that in this matter we should each take a broader view of the matter, bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstanding in the future. He emphasized that after concluding an ABM agreement we would be faced with the necessity of solving a number of other questions that were no less difficult than this one. Therefore he believed we should give a green light to the work that lies ahead of us and that that work should be based on the growing mutual trust between our two sides. He asked Smith to note that he had not spoken in these terms in the past, but in the context of recent events and of our work here he was doing so now.

Smith replied that he would like to think over Semenov's suggestion that our Executive Secretaries take over Article 2. This might be acceptable, but before saying any more on the subject he would like to consult with his colleagues.

Semenov said he would be very reluctant to leave Article 2 in brackets. This would create an undesirable impression when he reported to his leadership upon coming home.

A-532

Date: September 20, 1971.
Time: 3:00-5:00 p.m.
Place: Soviet Embassy, Helsinki.
Subject: Joint Draft Text of an ABM Agreement.
Participants:

U.S., Dr. Raymond L. Garthoff.

USSR, Minister R.M. Timerbaev, Mr. N.S. Kishilov.

I noted that the package trade-off which I had outlined would, if accepted, remove a great deal of underbrush from the draft agreement. There would remain seven points of difference: whether the agreement would be a Treaty or Executive Agreement; ABM levels and deployment limitations; a provision to cover future "unconventional" ABM systems; large-phased array radars, other than ABM and early-warning radars; non-transfer; explicit link to the offensive limitations; and withdrawal in the event of lack of success in follow-on offensive negotiations. Our Delegation did not see solutions to these problems here at Helsinki, and they would presumably remain for later resolution. After probing the firmness of our position on the link to offensive limitations, and the special withdrawal provision, the Soviet participants agreed that this list of issues would remain.

AMERICAN EMBASSY, 1100 HOURS, 4 DECEMBER 1970

Persons present:

Amb. Smith, Parsons, Nitze, Allison, Garthoff, Graybeal, Shaw, Stoertz, Weiler, Aldridge, S. Smith, Twombly, Germond, and Lavroff.

Min. Semenov, Ogarkov, Shchukin, Pleshakov, Grinevsky, Kishilov, Gryzlov, Afonsky, Karpov, Skoptsov, Perfilyev, Baranovsky, Buyanov, and Fayekov.

The proposals of the Soviet Union proceed from the premise that those systems of each side should be limited, that were specially developed to counter strategic ballistic missiles and their components in flight trajectory.

Taking this into account, the obligations of the sides would extend to long-range acquisition radars, tracking and ABM guidance radars, ABM launchers and ABMs.

Further, agreed quantitative limitations of launchers and ABMs would be established, as well as limitations on the maximum distance of ABM systems from the center of the target defended.

Obviously, it is precisely these components, taken together, that constitute an ABM defense system. Therefore, it is enough to extend the obligations of the sides to the totality of the above-mentioned components in order to solve the problem of limiting the deployment of ABM systems effectively and reliably.

SALT VI US/USSR MINI-PLENARY MEETING NO. 4

SOVIET EMBASSY, 1100 HOURS, NOVEMBER 30, 1971

Persons present:

Ambassador Smith, Ambassador Parsons, Mr. Nitze, General Allison, Dr. Garthoff, Mr. Shaw, Mr. Parr, (Interpreter), Mr. Krimer, (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Mr. Pavlov, (Interpreter), Mr. Novikov, (Interpreter).

Academician Shchukin said that thanks to the joint work on preparing a draft text of a Treaty (Agreement) on the Limitation of ABMs, the sides had been able to agree on a number of provisions. The results of this work had been confirmed in Moscow during the interval between Helsinki and Vienna. In this connection, it was of fundamental importance to have reached agreement on the text of a provision in which each party undertook not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems or their components. This provision in particular confirmed the importance both sides attached to preparing a draft which excluded the possibility of the deployment of ABM defenses of the territory of a country. The next provision was to the effect that each Party undertook not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, nor to modify deployed launchers to provide them with such a capability, nor to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers. Apart from this, the Soviet side cannot recognize as well-founded the proposal of the US involving an obligation not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components. The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems. It would seem that prohibiting something unknown, as proposed by the US side, would create uncertainty as to the subject of the Treaty (Agreement) on limiting ABMs. Such had never been done in a serious agreement. If systems based on different technical principles should subsequently appear, they could be discussed additionally, as provided by the draft Treaty.

Subject: Highlights of post mili plenary conversations—Nov 30.

5. Kishilov told Garthoff:

That Soviet Proposed addition to JDT article I was partial substitute for article V, paragraph "C" on future systems which Soviets still reject.

A-613

Date: December 4, 1971.
Time: 1:30 p.m.—1:45 p.m.
Place: Soviet Embassy.
Subject: Special working group: ABM.
Participants:

U.S., Mr. David Aaron. USSR, Mr. V. S. Chulitsky.

Mr. Chulitsky also made a strong pitch for dropping Article 5, para 3, on future systems. He argued that it was unnecessary since "no one knew what future systems might be" and that an effort to include "everything" in the agreement would delay progress. He insisted that future systems could be dealt with in the Standing Consultative Commission, in the periodic review conference, or in follow-on negotiations. He also argued that the prohibition on air-based, space-based, land-based, etc. ABM systems is adequate to cover the problem of future systems. The only insight Mr. Chulitsky offered into the reasons for the Soviet position was that "it is difficult to argue with the technical people" that unknown systems should be proscribed.

Mr. Chulitsky asked if the U.S. Delegation was prepared to drop Article V, para. 3. I said no, we considered it very important. I reviewed the reasons for including it and indicated that the Soviets would be hearing more from our Delegation in support of our position.

Subject: highlights of post-plenary conversations—December 4.

5. Chulitsky made strong pitch to Aaron for dropping JDT article 5 paragraph 3 on future systems, noting it was "difficult to argue with technical people" that unknown systems should be proscribed.

Date: December 7, 1971.
Time: 1:20 to 3:30 p.m.
Place: Franziskaner Restaurant Vienna.
Subject: Effort to resolve differences on the ABM Joint Draft Text.
Participants:

U.S. Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.

USSR, Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

On Article V, both sides reiterated the strong positions which they hold on the question of the paragraph relating to future systems. After some discussion, Garthoff asked Kishilov whether Semenov and the Soviet Delegation might be willing to seek a change in their instructions in order to accept the US proposal. Kishilov and Grinevsky flatly asserted that they were certain there would be no change in the position of the Soviet side. Garthoff stressed this was a point on which the U.S. side felt strongly, and there seemed no alternative except to retain the provision in brackets for later resolution, perhaps at higher instance. Kishilov urged that some way be found to express the difference over this point in Article III rather than in Article V. Garthoff said he thought it would probably be better kept in Article V, but the possibility of dealing with the matter in Article III could be considered.

Date: December 9, 1971.
Time: 12:30-12:50 p.m.
Place: American Embassy Vienna.
Subject: Resolving differences on ABM Joint Draft Text.
Participants:

U.S., Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.

USSR, Mr. O.A. Grinevsky, Mr. N.S. Kishilov.

Most of the discussion resolved around Article II. Grinevsky began by delivering a short speech to the effect that the Soviet side did not regard the article as necessary, that it had been found troublesome, and that it was something of a concession by his side even to be making the effort to resolve differences. Moreover, it was related to the differences contained in Article V. His remarks implied that members of his Delegation believed there should be a "tradeoff" involving the U.S. dropping Para 3 of Article V in exchange for Soviet acceptance of a definitional Article II as proposed by the US side. Garthoff stated again that the US side considered Article II to be important, that the definitional approach was non-prejudicial to Soviet as well as American positions on other articles such as Article V, and that the US position on Article V involved a matter of important substance which could not be "traded". He aso said that while we were not proposing any particular "package", Grinevsky and Kishilov of course recognized that we were working simultaneously on possible resolution of differences on a number of articles, and had to find some combination of such articles which would represent in the eyes of both Delegations an equitable balance of movement on various points by both sides; we considered that Article II should be included in such a group of articles. Articles V and VI, on the other hand, like Article III, evidently were not ripe for resolution at this time. Grinevsky nodded understanding, and remarked that his side would need to address Articles II and V on some early occasion, but that our informal work on resolving differences should continue and would be the best way to reach agreement. (In these remarks, Grinevsky seemed to imply that it would be necessary for his Delegation to go through a ritual of trying to get concessions from our side on Article V before he would be authorized to reach an agreement accepting the basic US position on Article II.)

Garthoff asked if there were further reactions from Grinevsky and Kishilov to the oral remarks he had made in response to the Soviet text passed over to us on December 8. Grinevsky said there were not. Garthoff said that for convenience he had prepared a typewritten copy reflecting approximately what he had said the day before, which he would give Grinevsky and Kishilov. Grinevsky and Kishilov both seemed disappointed on hastily reading it, but raised no new considerations (except for Grinevsky's dissatisfaction with the word "counter", which Garthoff—and Kishilov—confirmed had been used throughout in our exchanges without objection from the Soviet side.

SALT VI—U.S./USSR Mini-Plenary Meeting No. 7, Soviet Embassy

1100 HOURS, DEC. 10, 1971

Persons present:

Ambassador Smith, Ambassador Parsons, Mr. Nitze, Dr. Brown, General Allison, Dr. Garthoff, Colonel FitzGerald, Mr. Krimer (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Admiral Sinetsky, and Mr. Pavolv (Interpreter).

STATEMENT BY DR. BROWN, DEC. 10, 1971

I

I would like now, Mr. Minister, to address the inclusion in an ABM Agreement of constraints on the deployment of possible future types of ABM systems.

II

The U.S. has proposed a specific provision to deal with the deployment of possible future types of ABM systems. The following language has been proposed by the U.S. as paragraph 3 of Article V:

"Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components."

The two sides should seek an agreement which would prohibit the deployment of both wide area and thick regional ABM defenses—and also the foundation for such defenses—whether or not these defense systems employ devices other than interceptor missiles, launchers and radars to perform the function of these ABM components.

The objective of the U.S. proposed language is to avoid a situation which otherwise could undermine the effectiveness of the ABM agreement. The U.S. Delegation believes that such an undertaking is necessary, especially in an ABM agreement of unlimited duration.

III

The two sides have an opportunity at this time to take a step forward toward comprehensive arms limitation—an objective often espoused publicly by both of our Governments. We should not pass by this opportunity to move toward fulfillment of that objective.

The Soviet side has objected to limits on possible future ABM systems on the basis that such systems are defined only in general terms. This view runs contrary to the precedent established in the Outer Space Treaty and the Seabeds Treaty—to which the U.S. and the USSR are Parties. In these treaties, our two Governments have accepted obligations banning the deployment of "other weapons of mass destruction"—a general term which clearly includes possible future systems. The rationale supporting the undertaking of those obligations applies fully to a corresponding undertaking in the case of possible future ABM systems.

IV

Would we not risk undermining the viability and durability of the agreement if we did not foreclose now the deployment of ABM systems using technologies which future research may prove feasible?

Though one cannot—and would not wish to—halt scientific progress, we must recognize the effects—which the U.S. side thinks would be beneficial—that prohibiting the deployment of such types of systems would have in inhibiting a race to develop such systems. We believe it would be to the advantage of both sides to avoid deployment of such systems—deployment that could circumvent the ABM limitations both sides have proposed. An ounce of prevention is said to be worth a pound of cure. Is there not merit in this case to exercising an ounce of prevention? Must we wait until new systems are ready for deployment—or even being deployed—before we consider limiting them?

The U.S. Delegation believes that our common objectives would be better served by prohibiting now the deployment of possible future types of ABM systems.

We would welcome your further views on these matters.

Date: December 10, 1971.
Time: 1:00-1:40 p.m.
Place: Soviet Embassy, Vienna.
Subject: SALT.
Participants: U.S. Mr. Paul H. Nitze, Dr. Harold Brown.

USSR, Academician A. N. Shchukin.

Shchukin said he disagreed with Brown's statement on future systems. He thought general definitions where one couldn't even mention the specific system to which they applied were unhelpful. Brown referred to the general defintion in the Outer Space Treaty. Shchukin responded, but in that case, one could specify systems which were within the meaning of "other weapons of mass destruction." These included chemical and bacteriological weapons. Brown said that, in fact, the use of such weapons from outer space was far from clear; similarly, one could specify systems which would be included within the general definition "future ABM systems." These would include lasers and particle accelerators.

Shchukin said he wished to get at the problem in another way; both sides agree that there should not be territorial defenses. The Soviet side has proposed specific language covering this in Article I; thus, the agreement would ban the deployment of future systems in a manner providing a territorial defense. If, however, new technology should make possible components carrying out the same tasks as existing components, but perhaps in a more efficient and less costly manner, why should those be prohibited? We are not prohibiting ABM components.

Nitze said that the number and location of ABM components would be limited under Article III and other articles of the agreements. Specifically, in the case of an NCA defense, launchers and ABMs would be limited to 100. If a future system were to be deployed which performed the same function as existing launchers and ABMs, but without interceptor missiles, for example, the limit of 100 could be rendered meaningless. Shchukin suggested that were such future systems to reach a stage where they could be deployed, the question would be referred to the Standing Commission, through which the necessary regulations could be worked out.

Nitze said he wished to see whether he correctly understood what it was that Shchukin had said. Was he saying that the sides would agree in principle that the provisions of the agreement should not be undermined by the deployment of components capable of performing functions similar to ABM components; that, if such components reached a stage of development such that their deployment could be contemplated, the issue of the appropriate manner of their regulation would be referred to the Standing Commission; and that no such deployment would take place until such regulations had been agreed by Governments through the Standing Commission. Shchukin said that if it were necessary, they could agree to that, though it was not clear that he was holding out a commitment in the treaty to that effect.

A-644

Date: December 13, 1971.
Time: 3:30 p.m.
Place: Soviet Embassy.
Subject: December 13 meeting of JDT Working Group.
Participants:

U.S., Ambassador Parsons, Mr. Shaw, Dr. Wade, Mr. Aaron, Lt. Col. Leard, Mr. Parr (Interpreter).

U.S.S.R., Mr. Grinevsky, Col. Anyutin, Col. Surikov, Col. Baranovsky, Mr. Obukhov, Mr. Artemiev (Interpreter), Mr. Yushin (Interpreter).

Turning to Article II, Mr. Grinevsky said the purpose of this article should be clear. It was a listing of the ABM components limited under other provisions of the agreement. On December 6 the Soviet side received the U.S. revised draft text of Article II. Mr. Grinevsky said that the Soviets had paid attention to the fact that the completely unacceptable concept of "indistinguishable from" was absent from that U.S. draft. However, said Mr. Grinevsky, all four subparagraphs of Article II, paragraph 1, have the term "or deployed." Such a provision is, as careful analysis shows, capable only of causing misunderstanding and hampering compliance.

Mr. Grinevsky said that it was well known that ABM systems were extremely complex and must be tested. In fact, they cannot be deployed without testing in an ABM mode. National means, he said are sufficient to detect such testing. Mr. Grinevsky therefore had two questions: What concrete meaning is attached to the idea of "or deployed." According to what characteristics would deployments at ABM sites be considered ABM components if they were not tested in an ABM mode; i.e., intercepting ballistic missiles in flight trajectory?

Mr. Grinevsky pointed to the fact that the U.S. text of Article II, paragraph 1 (b) and (d), preserved the language "of a type tested in an ABM mode." Mr. Grinevsky asked what this language meant since the Soviet side assumed that ABM components must be tested.

Turning to paragraph 2 of Article II, Mr. Grinevsky said the idea in paragraph 2(c) referring to "development" was superfluous. He noted that at one time the US Delegation spoke to the fact that the development stage to a large extent coincided with the testing stage. The Soviet side believed that the testing stage was the stage which coincides with development insofar as national means of verification are concerned. Thus, Mr. Grinevsky proposed that the term "development" be excluded from paragraph 2(c).

Mr. Grinevsky noted that the initial part of the US paragraph 2 of Article II said that the content of that paragraph did not apply to all of paragraph 1. He recalled that it once applied to all of paragraph 1 and asked the reason for the change.

Mr. Grinevsky then read a Soviet proposed version of Article II as follows:

Article II

1. For the purposes of this Treaty:

(a) an ABM system is a system specially constructed and deployed to counter strategic ballistic missiles or their elements in flight trajectory and including the following components—ABM interceptor missiles, ABM launchers, and ABM radars;

(b) ABM interceptor missiles are interceptor missiles specially constructed and deployed for an ABM role;

(c) ABM launchers are launchers specially constructed and deployed for launching ABM interceptor missiles;

(d) ABM radars are radars specially constructed and deployed for an ABM role.

2. The systems and components listed in paragraph I of this Article shall include those which are: (a) operational; (b) under construction; (c) undergoing testing; (d) undergoing overhaul, repair, or conversion; (e) mothballed.

Mr. Grinevsky said that he would like to draw the attention of the U.S. side to the fact that this proposal was made in a constructive spirit. He said it was more precise than the U.S. draft.

He noted, however, that the structure of the Article had much in common with the U.S. draft and that the second paragraph of the Article also had much in common with the U.S. draft.

Mr. Grinevsky said that the key merit of the Soviet proposal was that it formulated in a clear and unambiguous manner the subject matter of the Treaty by listing the ABM systems and components to be limited.

In particular, a feature which distinguished it from the U.S. draft was that paragraph 1(a) of the Soviet draft presented a comprehensive description of ABM components—i.e., ABM interceptor missiles, ABM launchers, and ABM radars—to avoid misunderstanding in the future.

In this connection, Mr. Grinevsky noted that paragraph 3 of Article V should be excluded since it is quite unacceptable to the Soviet side.

Ambassador Parsons said he recognized the importance of Article II which Mr. Grinevsky had addressed at length today in justification of the Soviet text. A great deal of effort has gone into this Article at all levels of both delegations and it has been discussed at great length. The Soviet proposal tabled today would be carefully studied. A response to it deserved careful preparation. Therefore, Ambassador Parsons proposed to come back to it at another time.

A-647

Date: December 14, 1971.
Time: 1:20–2:10 p.m.
Place: American Embassy, Vienna.
Subject: SALT.
Participants:

U.S., Mr. Paul H. Nitze, Dr. Harold Brown.
USSR, Academician A.N. Shchukin.

Shchukin said that, in his opinion, it was important at this stage of the negotiations to dot the "i's." He said that his remarks this morning on the subject of submarines and SLBMs had been for that purpose. He had tried to be precise about what was and what was not within the negotiating limits of possibility in this phase. It was not possible to deal with submarines, but he had meant to indicate that SLBMs were in a different category. It was important for us to realize this before we went back to Washington over the Christmas vacation.

Nitze noted, in connection with Shchukin's comments on the subject of the importance of dotting "i's," that in his comments this morning on future systems he had emphasized the inappropriateness of this subject for treaty language; was his emphasis on the word "treaty" meant to indicate the possibility of a minute or protocol dealing with that subject? Shchukin said this had not been his intent. He said that even thought he felt we could swamp ourselves by getting into excessive detail on some subjects, in the case of future systems, he felt we needed to discuss the subject with more precision. In particular, he thought we should discuss optical systems; they represent current technology which can be applied to meeting certain ABM tasks. Nitze said that our suggested language for Article V, paragraph (c), would apply to optical systems only if they substitute for ABM radars, not if they were used as adjuncts to radars. Shchukin said that he assumed I was referring to the fact that meteorological conditions would prevent optical systems from being completely substitutable for radars. Brown said this was correct. He suggested that new technology such as lasers would first be developed to handle easier tasks such as anti-aircraft tasks before being developed to handle the more difficult tasks involved in ABM defense, and wondered whether, under the Soviet aversion to limiting air defense, they meant that they would not be willing to limit such systems even if they were usable for ABM.

Shchukin went on to say that speaking entirely on his own and without consultation with his Delegation, that it should be possible to provide that if components based on new technology were developed which could substitute for the components limited under Article III, the matter should be referred to the Standing Commission and agreements thereon reached by Governments so that there would be no circumvention of the limitations of Article III. This, together with such provisions as the prohibitions on rapid reload, should take care of the problem.

A-662

SALT VI—U.S./U.S.S.R. "TROIKA" MEETING No. 1

U.S. EMBASSY, 1100 HOURS, DECEMBER 14, 1971

Persons present:

Ambassador Smith, Nitze, Brown, Allison, Garthoff, Krimer.

Minister Semenov, Shchukin, Trusov, Kishilov, Pavlov.

I believe it would be useful for our talks if the U.S. side would submit a constructive proposal, taking into account also what has been said by the Soviet side during that period. I have another small remark. Although Dr. Brown said that the question of future ABM systems, which do not include launchers, radars, and interceptors, has already been discussed, I will allow myself to say a few words on this subject.

I would like to ask what this is all about in concrete terms. In what does the U.S. side see a danger in the absence of a provision on this account in the treaty? If these systems cannot be defined now, except that they are not something known today, and, at the same time, the draft treaty includes a number of clear limitations and constraints not to deploy territorial ABM systems, not to give the capability for rapid reload, etc., is it not sufficient to have such limitations? To be sure, including in the treaty a provision covering something that is not known cannot be justified by any considerations, and therefore this proposition cannot be the subject of a treaty.

A-663

Date: December 17, 1971.
Time: 12:30–12:50 p.m.
Place: American Embassy, Vienna.
Subject: SALT.

Participants:

U.S., Dr. Raymond L. Garthoff.

USSR, Mr. N.S. Kishilov.

The ABM JDT.—We discussed the draft Article I for some time. I told Kishilov it might be possible to drop the word "base" from the sentence I had given him on an earlier occasion, but only if a new clause were added to the sentence to the effect that in addition to undertaking not to deploy ABM systems for a thick regional defense or defense of the territory of the country, they would also undertake not to provide a base for such defenses. Kishilov agreed to consider that suggestion, without commenting on it at this time. He objected again to the reference to ABM "components" in the formulation I had given him earlier, and I said that with the addition I was now suggesting it might be possible to drop the word components, since they would be included in the "base". Kishilov said that there had been discussions and disputes over the meaning of the expression "thick" defense of a region. I argued that the concept was clear, and that we could not expect precision in such reference. For example, the expression, "defense of the territory of the country" was clear but not precise; if, for example, some particular small area of a country was included, a defense covering the major part of the country would still be a "defense of the territory of the country". Kishilov agreed. He continued, however, to press on the question of clarifying what we meant by a "thick" regional defense. He asked whether, for example, we considered the present Moscow ABM defense to be "thick". I said that we did not, and in other specific provisions were pressing for clear constraints which would insure against the Moscow system—or any other ABM deployment by either side—becoming a thick defense of a region. Kishilov said he found that clarification helpful, but still thought we needed to find some way to make more clear the meaning of the phrase.

Kishilov emphasized the difficulty that his Delegation continued to have with Article II. I re-emphasized its importance from our standpoint, and the fact that our proposals should provide a base for a mutually acceptable agreement. We did not have time to discuss the specific issues. Kishilov did, however, for the second time suggest that movement on resolving the problem caused by our proposed addition to Article V might help to resolve the impasse over Article II.

Kishilov asked whether under our proposal it was allowed to have more than one radar in a MARC. I assured him that it was indeed allowed, so long as the radar or radars remained within the three kilometer circle. Kishilov said there had been some uncertainty in his Delegation on this point.

On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue. Perhaps it would be possible to have a clear and explicit understanding, for example in an agreed minute, that neither side would deploy a future ABM system or components without prior consultation and mutual agreement in the Standing Consultative Commission. Kishilov seemed quite interested in this possibility. He asked, for clarification, if I had indeed said that such an agreement could be in a separate understanding and if not in the treaty. I made clear that I was not making an official proposal, but he had correctly described the suggestion I was advancing. I stressed that I was speaking about consultation and mutual agreement. Kishilov suggested perhaps the language could indicate that the matter would be taken up in the Standing Commission for its "determination". Kishilov then suggested that perhaps the same technique could be used to handle OLPARs. I said that it seemed to me this was an idea that could be considered.

A-667

Date: December 17, 1971.

Time: 7:30-11:00 p.m.

Place: Park Hotel, Baden.

Subject: SALT.

Participants:

U.S., Dr. Raymond L. Garthoff.

USSR, Mr. O. A. Grinevsky.

Future ABM Systems and OPARs.—Grinevsky referred to the conversation I had had that morning with Kishilov, concerning a possible alternative approach for handling future ABM systems and future OLPARs. He thought that the idea of handling both these matters through the Standing Consultative Commission, rather than through explicit treaty provisions, offered a possible resolution to our differences. He initially referred to the idea of "declarations" in the negotiating record, but I noted that the suggestion had been for an explicitly agreed understanding; for example, in the form of an agreed minute. Grinevsky said that he understood, and that the precise form of the understanding was not so important. I emphasized that the suggestion was for consultation and agreement prior to any deployment of future ABM systems or components, or of OLPARs. Grinevsky acknowledged his understanding on that score.

DEC. 1971.

Subject: Grinevsky comments on SALT.

11. Future ABM systems and OLPARs: Grinevsky referred to previous Kishilov-Garthoff conversation concerning a possible alternative approach for handling future arms systems and future OLPARs. He thought idea of handling both these matters through consultation and agreement in standing consultative commission, prior to any deployment of future ABM systems or components, or of OLPARs, rather than through explicit treaty provisions, offered possible resolution to differences.

A-672

Date: December 20, 1971.

Time: 12:30 to 1:00 p.m.

Place: Soviet Embassy, Vienna.

Subject: Smith-Semenov Post Mini-Plenary Conversation.

Participants:

U.S. Ambassador Gerard G. Smith; Mr. William D. Krimer, Interpreter.

U.S.S.R.: Deputy Foreign Minister, V.S. Semenov; Mr. V. S. Artemiev, Interpeter.

On the future systems problem, Smith said it seemed to us that the problem was not so far off and not so amorphous as Semenov had suggested this morning. In his statement this morning Semenov had said that he had not been precise enough; however, if he would read Dr. Brown's statement of today carefully, he would find that one example given had referred to lasers. Smith was sure that Soviet scientists could also think of some other possible future systems. It was Smith's feeling that if, as Semenov had suggested, this problem were left to subsequent handling in the Standing Commission or in some other way, this would amount to saying that we would have to put off agreement on this problem until some time in the future. He believed that there would be a tendency on both sides to do their best to design systems that would not be limited by a treaty. He was sure that Semenov would recall the experience gained in the Naval Treaty during the 1930's. Designers had then gone to work to design around the Treaty. Semenov asked if Smith had in mind a circumvention of a treaty. Smith said that technically this would not be a circumvention, but more like a hunting license to find ways of doing things that were not prohibited by an international treaty. He had once heard General Eisenhower say that wars have a dynamic of their own, and he believed that weapons design also developed a dynamic of its own. Where a certain field was not prohibited by an international agreement, there would be strong thrusts to push development as far as technology permitted. Smith believed that what both our countries should be doing was to stop evolution of military technology in a direction that was dangerous to us both. Therefore, he had hoped that if we could conclude a first arrangement that would establish quantitative limits only for the most part, and learn to live with it, in time we would also be able to get control of qualitative aspects. In the matter of future ABM systems, which had not yet been developed, it was in the interests of both countries to outlaw them before they were born.

Semenov said that we would evidently need to develop our exchanges on this question further. Frankly speaking, however, he could not understand why we should permit a deadlock on Article II to stop us from moving ahead on other questions. He did not understand the practical reasons for permitting this situation to develop. Was it Smith's position that agreement on some other articles could possibly be binding on the sides in regard to Article II? As for the Soviet position, on the interim freeze, for example, it amounted to reaching agreement as much as possible, to agree on what could be agreed, with a view to leaving enough time and energy for concentrating on the important main questions which had not yet been agreed and hopefully solving them. We simply did not have enough time left to negotiate in a classical manner, i.e., "packaging" or trading articles. After all, they would in any case be decided on the basis of the acceptability of their subject matter to one side or the other, or, more precisely, on the basis of their acceptability for both sides. He would be in a much easier position if he could tell his authorities that the following two, three or four questions required concentrated work and decision and they could be settled without touching upon others. They were complicated enough in themselves and it would be simpler to single out the individual questions rather than present them in a package approach. The very process of consideration was complex and our failure to achieve progress would tend to strengthen the position of those who regarded our negotiations with a certain degree of skepticism, especially since nothing like this sort of a deadlock had happened before. He would like to approach this matter from this angle and would hope that the U.S. position on central questions would develop with due consideration of the Soviet views which had been expressed here in Vienna.

Smith said that when he returned to Washington, Semenov could be sure that he would very much bear in mind the considerations the Soviet side had expressed here; he had been informed that he would be put to work on the day he arrived. Regarding Semenov's statement of moving from easier clauses to more difficult ones, he recalled that this had been said in connection with moving from easier articles to Article III, but he did not recall that it also applied to moving on to less difficult articles such as Article II. If Semenov's people were ready to reach agreement ad referendum along the lines advanced during the first Kishilov-Garthoff meeting here in Vienna, he was sure we could still make some progress even before our departure for home. It was his understanding that Kishilov and Garthoff would lunch together today, and he hoped that they would be able to accomplish something.

Semenov said he did not recall the subject matter discussed at the first meeting of our Executive Secretaries at this Vienna phase but in any case, "let them work."

SALT VI—U.S./U.S.S.R. MINI-PLENARY MEETING No. 10, SOVIET EMBASSY

1100 HOURS, DECEMBER 20, 1971

Persons present:

Ambassador Smith, Ambassador Parsons, Mr. Nitze, Dr. Brown, General Allison, Dr. Garthoff, Colonel FitzGerald, Mr. Krimer (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Colonel Anyutin, Mr. Artemiev, (Interpreter), Mr. Novikov (Military Interpreter).

Minister Semenov said, in regard to other ABM systems, suppose that the draft treaty on limiting ABM systems had a provision on limiting systems other than those now known which use interceptors and launchers. What would result from such a provision? Undoubtedly, such a provision would create the grounds for endless arguments, uncertainties, and suspicions with all the undesirable implications for relations between the two countries. He asked if the sides could in working out a draft ABM Treaty advocate such a situation. He also asked if the goal of the two Delegations isn't just the opposite, that is, to reach agreement on limiting known ABM systems referred to in Article III of the draft ABM Treaty. Certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. Such a responsible international document as a treaty on limiting ABMs must be precise as to the subject of the agreement to the maximum extent possible. This would ensure the viability of a treaty which has an important bearing on the national security of the sides.

Minister Semenov said that the Soviet Delegation has repeatedly asked what the U.S. side has in mind specifically under other ABM systems. This question has never been answered. He asked how then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? References had been made to the Outer Space Treaty and the Seabed Treaty. In the Soviet view these references were not convincing. The Outer Space and Seabed Treaties had as their subject obligations of a much more general nature than ABM systems. They dealt with a ban on emplacement in outer space and on the seabeds of weapons of mass destruction, that is, nuclear, bacteriological, and chemical weapons. Could the sides include in an ABM Treaty the unknown without risk of making the treaty indefinite and amorphous? On December 10 the Soviet side had already noted the importance of avoiding the temptation to go beyond the scope of our negotiations. We should ask ourselves the question: By including other systems in an ABM Treaty, would we not be placing ourselves in the position that the people refer to in the saying "Go I know not where, bring I know not what?" The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM Treaty. At the same time, the sides undertake obligations not to create a territorial ABM system and to limit ABM deployments around capitals by the limitations contained in the draft treaty.

Minister Semenov then asked what would be done if something appears in the future that the sides should talk about. He believed that the draft ABM Treaty envisaged provisions on this score. Both sides recognize that the Treaty on limiting ABMs would be of unlimited duration. This does not preclude the possibility of supplementary and regular review when the need arises. Articles XIII and XIV, which are preliminarily agreed to, provide for such review. If it should appear necessary to supplement the ABM Treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

Minister Semenov declared that, in connection with the possibility of withdrawal from the ABM Treaty, the sides have agreed in the Joint Draft Text that the ABM Treaty should be of unlimited duration. This is provided in paragraph 2 of Article XV which provides for the possibility of withdrawal by either side if it decides that extraordinary events related to the ABM Treaty have jeopardized its supreme interests. This provision is customarily included in such major inner-state documents of this kind. It is in keeping with the spirit of the May 20 Agreement, as well as with the agreed provisions of the draft ABM Treaty, that the ABM Treaty should, in principle, be an independent document. The conclusion which ensues from this is that inclusion in Article XV of the Joint Draft Text of a provision making operation of the Treaty dependent on the achievement of an understanding with the respect to strategic offensive arms is without foundation.

Minister Semenov said that at Helsinki the sides had advanced to a certain degree in reaching agreement on the Joint Draft Text of the ABM Treaty although the central questions were not resolved. Recently, here in Vienna, despite a number of constructive proposals introduced by the Soviet side, there has, in fact, been practically no forward movement in working out the Joint Draft Text of the ABM Treaty. Should such a situation persist it could create an impression of destructiveness of approach in regard to this question which, in the Soviet view, should be avoided.

Ambassador Smith thought that Mr. Nitze might have some observations in regard to Academician Shchukin's intervention earlier today.

Mr. Nitze said he wanted to make only a partial answer to one of the points addressed by Academician Shchukin today. Under Article III of the U.S. proposed text for an ABM treaty, the two sides could deploy ABM defenses for either the capital or a limited number of ICBM silos. In either case there would be a limitation of four MARCs in the general areas specified in Article III. MARCs so limited as to number and geographical locations would fully meet the concerns both sides have in regard to the permitted ABM radars being used as the basis for development of an ABM defense of the territory of the country or for a thick defense of a region.

Minister Semenov asked if the U.S. side had any other considerations to present.

Ambassador Smith said that was all the U.S. wanted to present at this time.

A-677

Date: December 20, 1971.
Time: 1:40-3:50 p.m.
Place: Franziskaner Restaurant Vienna.
Subject: SALT.
Participants:
US: Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR: Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

ARTICLE II OF THE ABM JDT

Following the mini-plenary meeting earlier that day, Garthoff had given Grinevsky a revised draft Article II (see attachment). Grinevsky noted that there were three problems remaining. First, sub-paragraph (a) used the simple expression "to counter" strategic ballistic missiles. He said that he was not sure if this formulation would be acceptable to his Delegation; he did not exclude the possibility, but he did suggest—as he had done in his dinner conversation with Garthoff on December 17—use of the expression "serving to counter . . .". Garthoff in turn said that inclusion of the word "serving" might be acceptable to this side, but this was uncertain—that the simple expression "to counter" seemed clear enough and was acceptable to the US side. He therefore urged Grinevsky to see if it was acceptable to the Soviet side, and meanwhile both could continue to think about "serving" as a possible addition.

Grinevsky stated that the second problem was the absence of a connective between the subparagraph defining ABM systems, and the three subparagraphs following which defined components. His Delegation strongly believed that there should be some connective such as "namely" or "consisting of". Garthoff stated that the American side did not consider that a connective of this kind was either necessary or desirable. If, however, there were to be one, it should be precise. Therefore, he suggested, we might consider use of the phrase "currently consisting of" as a connective. This was clearly a new thought to Grinevsky and Kishilov and they appeared uncertain of the reaction of their side. Garthoff noted that the Soviet side, as well as the American, recognized that their could be future systems, and while the question of constraints on future systems would be settled elsewhere than in Article II, the correct way of indicating a valid connection between components and systems in Article II would be to include the word "currently". Grinevsky agreed to take up this possibility with his Delegation.

The third point which Grinevsky raised was the handling of "testing" in the three sub-paragraphs dealing with ABM components. Grinevsky noted that in his conversation with Garthoff on December 17, the expression "tested and deployed" had been included in the first half of each of the three sub-paragraphs; it was absent in the draft they had been given earlier that day. Garthoff acknowledged that fact, and said that we considered it unnecessary to include the words "tested and", but he believed that if the Soviet side strongly wanted them included, we could probably agree. We could not, however, regard that reference to "tested" as a substitute for the phrase "or of a type tested in an ABM mode." Grinevsky indicated that was precisely what he was about to suggest. The American participants vigorously argued for the need to include this additional phase, and with no promise of success the Soviet participants agreed to try this approach with their Delegation.

ARTICLE V OF THE ABM JDT

Grinevsky raised the question of dealing with future ABM systems through statements on the record concerning consultation prior to deployment in the Standing Commission. Garthoff noted that the suggestion which he had advanced in this respect was for an agreed minute; formal plenary statements might be used, but in any case there must be a clear agreed mutual understanding that, prior to any deployment of future systems and components, there would be consultation and agreement in the Standing Consultative Commission. Grinevsky acknowledged this, and said that perhaps an agreed minute could be used. He did remark that there might be some question about the precise action to be taken through the Standing Commission. Garthoff again noted that his suggestion was for consultation and agreement prior to any such deployment. Grinevsky said that it was necessary to think further about this matter, but that the approach suggested was of interest.

SALT VI

Subject: Smith-Semenov post mini-plenary conversation, Dec. 20.

1. Summary: In discussion mostly devoted to Semenov pressing to narrow differences in drafting joint of text. Smith raised and argued for control of our future ABM systems. End summary.

2. On future systems problem, Smith said it seemed the problem was not so far off and not so amorphous as Semenov had suggested that morning. In his statement Semenov had said that we had not been precise; however, if he would recall Dr. Brown's statement carefully, he would find one example given, referring to lasers. Smith was sure that Soviet scientists could also think of other possible future systems. It was Smith's feeling that if, as Semenov has suggested, this problem were left to subsequent handling in the standing commission or in some other way, this would amount to saying that we would have to put off agreement on this problem until some time in the future. He believed there would be a tendency on both sides to do their best to design systems that would not be limited by a treaty. Semenov asked if Smith had in mind a curcumvention of a treaty. Smith said that technically it would not be a circumvention, but more like a "hunting license" to find ways of doing things not prohibited by treaty. He believed weapons design developed a dynamic of its own. Where a certain field was not prohibited by an international agreement, there would be strong thrusts to push development as far as technology permitted. Smith believed that what both our countries should be doing was to stop evolution of military technology in a direction that was dangerous to us both. Therefore, he had hoped that if we could conclude a first arrangement that would establish quantitative limits for the most part, and learn to live with it, in time we would also be able to get control of qualitative aspects. In the matter of future ABM systems, which had not yet been developed, it was in the interests of both countries to outlay them before they were born.

A-678

Date: December 21, 1971.

Time: 12:30-2:30 p.m., American Embassy, Vienna.

Place: 5:00-7:00 p.m., Soviet Embassy, Vienna.

Subject: SALT Joint Draft Texts.

Participants:

US: Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.

USSR: Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

ARTICLE V OF THE ABM JDT

Grinevsky asked if the American side had proposed language for the suggested separate agreed understanding on future ABM systems. Garthoff said he could provide an illustrative draft statement, couched in the form of a statement by the US Delegation and incorporating the draft of an Agreed Minute. He was providing this language at Soviet request for consideration by both Delegations as a possible solution to the impasse over the American proposal for a third paragraph in Article V. (See attachment.)

In the later session, Grinevsky and Kishilov said that the Soviet side would continue to study this possible approach for dealing with future ABM systems. In conjunction with discussion (described below) of a possible Agreed Minute in connection with Article IX, Grinevsky asked if the US side was prepared to do the same for Article V and Article VI. Garthoff noted that an agreed text of such a supplementary understanding had been reached with respect to article IX, and if the Soviet side was prepared to accept the language proposed earlier that day, we were prepared to delete Article V(3) on an *ad referendum* basis. Grinevsky, however, said that the Soviet side needed to study this matter further, and it was left there.

The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows:

The Parties agree that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars for countering strategic ballistic missiles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will initiate such deployment without prior consultation and agreement in the Standing Consultative Commission.

SALT VI—US/USSR TROIKA NO. 2, U.S.S.R. EMBASSY

1100 HOURS, JANUARY 11, 1972

Participants:

US: Ambassador Smith, Ambassador Farley, Mr. Nitze, General Allison, Dr. Garthoff, Mr. Krimer (Interpreter).

USSR: Minister Semenov, Academician Shchukin, General Trusov, Mr. Kishilov, Mr. Bratchikov (Interpreter).

Semenov once again turned the floor over to Academician Shchukin.

Shchukin said that the Soviet Delegation had repeatedly stated its position concerning the paragraph 3 of Article V proposed by the U.S. side. This dealt with so-called "other systems". The Soviet side continues to believe that only quite specific ABM system components of which each side had a clear idea could be included in an ABM treaty. Any attempt to include unknown matters in such a treaty were bound to lead to misunderstandings, arguments and suspicion with all the undesirable consequences ensuing therefrom, consequences for the relations between our two countries. The Soviet side had already said that in the event some concrete questions arose in this regard, they could be the subject of discussion in accordance with Article XIII of the joint draft text of the ABM treaty. For this reason the Soviet Delegation continues to consider this point "not suitable" for inclusion in the draft ABM treaty we were negotiating.

Semenov said that perhaps it would be helpful if he made a few concluding remarks. First, the questions raised by Mr. Nitze and General Allison today would be carefully studied by the Soviet side, and he hoped to return to them at a future meeting. Second, on the question of other systems discussed by Shchukin, the Soviet side would not object to turning it over for discussion in special working group and other exchanges.

Ambassador Smith said he wanted to reverse himself and make a few remarks in reply to General Trusov's mention of Dr. Brown's remarks. In the absence of Dr. Brown, he would like to say approximately what he thought Brown would have said if he were there. It appeared to us that just as General Trusov had said that what might appear to be insignificant to some, could appear to be very significant to others, it could also be said that what might be considered by one side to be superfluous, could be considered to be indispensable by the other. If he had understood General Trusov correctly, he had said that restraints on other large phased-array radars were superfluous because under the general obligations of the treaty one could not deploy such radars for ABM use. However, if his principle was correct, it seemed to Smith that we were wasting a lot of time discussing specific provisions instead of limiting ourselves to just general statements. He found it hard to reconcile General Trusov's remarks on generalizations with Shchukin's suggestion for specific qualitative restrictions on ABM interceptors and radars. In that case one could hold it sufficient to simply say that a given system was labeled for ICBM defense. This, in short, is what Smith believed Brown would have said in reply.

Nitze said he had understood from Shchukin's remarks that he believed that if ABM components other than radars, interceptors and launchers were developed, they could appropriately be the subject of consultations under Article XIII. However, if such components were developed and could, in fact, be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?

USDEL SALT, 1165

212. "Troika" meeting January 11 attended by Semenov, Shchukin, Trusov, Kishilov and interpreter, and Smith, Farley, Nitze, Allison, Garthoff and interpreter. In requesting Troika format, Semenov had indicated his delegation wished to discuss ABM radars. Presentations by Soviet side in fact extended to most aspects of differences on draft ABM treaty.

11. Shchukin then addressed US article V (3) on future ABM systems, which he referred to as "other" systems. He again argued that any attempt to include unknown matters are bound to lead to misunderstandings and suspicions. If questions arose they could be discussed in accordance with article XIII (concerning standing consultative commission). Accordingly, Soviet delegation considered this proposed provision "not suitable" for inclusion in the treaty.

14. Nitze noted that if future ABM components are subject to joint consultative commission consultations under article XIII would it not be appropriate that they also be subject to agreement between our governments.

A-710

Date: January 11, 1972.
Time: 7:30-10:30 p.m.
Place: Drei Husaren Restaurant, Vienna.
Subject: Narrowing Differences in SALT.
Participants:
US: Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR: Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

FUTURE ABM SYSTEMS

A substantial portion of the discussion was devoted to the issue of future ABM systems. Kishilov, whom Garthoff had advised earlier that day that the US side might wish to make some changes in the formulation provided in December, pressed on what these changes would be. He asked if Garthoff had a new text. The latter replied in the negative. Kishilov then produced a text from his pocket, which on quick inspection turned out to be a Soviet translation of the language which Garthoff had provided in mid-December. He asked Garthoff to mark the changes which the American side would wish to make. Garthoff repeated that he was not prepared to provide a new text, and would not undertake to do so. However, he would point out some things that might be rendered more precisely. He then suggested that, for example, rather than referring to "consultation and agreement in the Standing Consultative Commission", it would be better to refer to consultation in the Commission and agreement between the Parties. Grinevsky nodded understanding. Garthoff said that no doubt certain other editorial improvements could be made, concerning precise reference to ABM components, etc. In general, the formulation could probably be refined in a number of ways; the important thing was the Soviet reaction to the substance of the proposition it contained. Grinevsky then suggested a "simplified" approach, which both he and Kishilov pointedly (and no doubt disingenuously) said they had just worked out on the way to the restaurant. The gist of Grinevsky's suggestion was that if the occasion should arise to consider such other systems, they could be considered in the Standing Consultative Commission in accordance with Article XIII (conveying the Commission's mandate). Garthoff asked what would happen if such consultation did not lead to an agreed conclusion. Would a party, wishing to deploy such a system, be able to do so or not? Grinevsky said that was a question which did not need to be asked, that the whole question was at present hypothetical. Garthoff said that such systems might at present be hypothetical, but the treaty as a whole either would or would not allow a party to deploy some presently unidentified ABM system or component at a future time if the matter were not resolved through consultation. Grinevsky said that it could do so, and that the other side always had the recourse of "Article XV" (withdrawal). Garthoff and Parsons noted that withdrawal would be a rather severe action, and while always available as a last resort, should not be relied upon as a solution to a problem which could be resolved in other ways. Garthoff suggested that instead of relying on Article XV, reliance should be placed on Article XIV (amendment). He suggested that perhaps an Agreed Minute might refer to both Articles XIII and XIV. At this point, the conversation divided into separate discussions between Parsons and Grinevsky on the one hand, and Garthoff and Kishilov on the other. While Grinevsky was adamant on resting with Article XIII, Kishilov (initially) agreed with Garthoff on possible resort to Article XIV. When the two conversations again merged, this discrepancy came to light, and after brief spirited and disjointed exchanges, Kishilov agreed with Grinevsky that the attempt to word a formulation concerning Article XIV "had not worked out".

Grinevsky said that the treaty referred to ABM systems, which were defined in Article II. It could not deal with unknown other systems. Garthoff challenged this interpretation on two grounds: first, the treaty dealt not only with AMB systems comprising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems, but rather future ABM systems. He asked Grinevsky whether in the light of Articles I, II, and III, Grinevsky considered that a party would have the right—assuming consultations were held and did not lead to agreement—to deploy all around the country, say, a thousand stations for firing anti-ballistic missile laser interceptor beams. Grinevsky said no, it would not have such a right. But he countered, it should be able to place "telescopes". Garthoff asked if he meant sensors which could serve the role played by ABM radars, and Grinevsky replied that was part of the problem. Also, "other" systems might or might not be for ABM purposes, but the US wanted to have a veto over them. Garthoff remarked that he had noted that morning constant Soviet reference to "other" systems rather than "future" systems. But the two issues should not be confused. If there were a question as to whether some system was in fact an ABM system or component or not, that would clearly be a subject for consultation, and if there were a serious divergence perhaps there would be need for recourse to withdrawal, as Grinevsky had suggested. However, what Garthoff was referring to—and what the US was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example. In a side conversation, Grinevsky indicated to Parsons his own understanding of our concern, but implied that other (presumably military) members of his Delegation were unyielding, and in any case it was not an actual problem at this time.

In a briefer separate conversation, Kishilov conceded that Articles I, II, and III together would ban future ABM systems or components. (Comment: The confusion and discrepancy between the Soviet participants over interpretation of the effect of Articles I, II, and III of the ABM draft Treaty with respect to future ABM systems, and over possible solutions, seem to indicate absence of a clear and thought-through position on the part of the Soviet Delegation at the present time.)

Garthoff emphasized, and Parsons concurred, that it was essential to establish a common understanding between the two Delegations with respect to the effect of Articles I, II, and III on future ABM systems, and to reach agreement on a position concerning this subject. Notwithstanding the differences which had emerged in the discussion (as indicated above), Grinevsky reaffirmed the interest and readiness of the Soviet side to continue discussion directed at reaching a solution on this subject. Grinevsky specifically endorsed Garthoff's statement that this subject should be resolved in the current phase of the talks.

Date: January 14, 1972.
Place: Amerian Embassy, Vienna.
Subject: SALT.
Participants: U.S.—Mrs. Philip J. Farley, Mr. Paul H. Nitze.
USSR—Academician A. N. Shchukin.

I said it might be helpful if he could discuss further his last statement at today's session; I had said I thought it was clear but wanted to be sure. I said that as I understood it, he was saying that under Article III and in the light of Article I, ABM systems could not be deployed except as provided by Article III. Shchukin interjected "and also in the light of Article II." I went on to say "and therefore, if new systems reached a stage where they could be deployed, they would be the subject of appropriate action under Articles XIII and XIV." Shchukin said that was right; he pointed out, however, that this did not prohibit the deployment of a telescope, for instance, in support of a radar. He was not sure that deploying a telescope would provide any benefits because of weather problems, but there were some who had an opposite view. Deployment of such a telecscope would clearly not substitute for a radar. He went on to say that lasers could perhaps have some additive function in detection or tracking, but in his opinion, could not substitute for a radar. He said he was not a laser expert, but had gone through the basic computations and had come to the conclusion that the power required to project a radar beam capable of melting and RV at appropriate distance was so immense as to be beyond any foreseeable practical technology.

Date: 14 January 1972.
Place: U.S. Embassy, Vienna.
Subject: SALT
Participants: U.S.—Lt General R. B. Allison, Colonel C. G. FitzGerald, Lt Colonel F. P. DeSimone.
USSR—Gen-Lt K. A. Trusov, Colonel B. T. Surikov, Colonel S. Baranovsky.

FUTURE SYSTEMS

I asked Trusov if he could repeat, so that I could be sure of understanding, Academician, Shchukin's mini-plenary statement concerning future ABM systems. Trusov affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear their limitation would be subject to discussion under the provisions of Articles XIII and XIV of the Draft ABM Treaty.

Date: 14 January 1972.
Place: U.S. Embassy, Vienna.
Subject: SALT
Participants: U.S.—Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR—Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

On the question of future ABM systems, Kishilov asked Garthoff if he had the revised American proposed language for an agreed understanding. When Garthoff said he did not, Grinevsky produced a Soviet draft, based closely upon (but not identical with) the statement made in the meeting that morning by Academician Shchukin. The statement read:

"With a view to ensuring the implementation of the provisions contained in Articles I and III of the Treaty on the limitation of ABM systems, the Parties agree that in the event of the emergence of ABM systems based on other principles questions of their limitation may be discussed further in accordance with Articles XIII and XIV of the ABM Treaty."

Garthoff and Parsons said they thought this suggestion was helpful, and promised to give it consideration. The Soviet participants wanted to know when they could receive American reaction or an alternative formulation, and Garthoff and Parsons said perhaps within a few days.

SALT VI

US/USSR MINI-PLENARY MEETING NO. 14

(U.S. Embassy, 1100 Hours, January 14, 1972)

Persons Present:

Ambassador Smith, Ambassador Farley, Ambassador Parsons, Mr. Nitze, General Allison, Dr. Garthoff, Colonel FitzGerald, Lt. Colonel DeSimone (Military Interpreter), Mr. Krimer (Interpreter).

Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Colonel Surikov, Colonel Baranovsky, Mr. Bratchikov (Interpreter), Mr. Klyukin (Interpreter).

Academician Shchukin said he had a very brief comment to make. At the January 11 meeting, Mr. Nitze had asked the question whether so-called "other ABM means" would be a subject not only for appropriate consultation but also for agreement. Both sides agree that they should assume obligations not to deploy ABM systems except as provided in Article III of the draft ABM Treaty. In order to insure implementation of this provision of the Treaty, the sides could, in the event of the emergence of ABM systems constructed on the basis of other physical principles, further discuss the question of their limitation in accordance with Articles XIII and XIV of the draft ABM Treaty.

Ambassador Smith asked Mr. Nitze if he had any further observations to make on this score.

Mr. Nitze said no, he thought Academician Shchukin's words had been clear.

Date: January 26, 1972.
Place: Stadtkrug Restaurant, Vienna.
Subject: SALT.
Participants: United States—Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR—Mr. O.A. Grinevsky, Mr. N. S. Kishilov.

FUTURE ABM SYSTEMS

Grinevsky then asked about the subject of "other" or future ABM systems. Garthoff suggested that before discussing the substance of a formulation, all four participants agree not to leave the table until they had agreed among themselves on a text. This suggestion, made in a light vein, was agreed upon. Garthoff then asked if the Soviet participants had a response to the most recent American suggestions, made on January 21 in response to the Soviet proposal of that date. Kishilov then produced a draft statement, accepting all but one of the earlier American suggestions. The one point of difference was inclusion of the words "the question of" before "specific limitations". Garthoff then said that he also had a new text to present, one which was in most respects identical with the one which Kishilov and Grinevsky had just provided, but that it did include a few changes from the earlier American proposals. First was an editorial simplification, referring to "the treaty" rather than "the treaty on the limitation of ABM systems". Grinevsky agreed to the change. Second was a change from "and" to "or" in the listing of ABM interceptor missiles, ABM launchers, and ABM radars. Third was the addition for clarification of a clause reading "to perform the functions of ABM interceptor missiles, ABM launchers or ABM radars," as a penultimate clause. The US had no other changes to suggest, but he did ask for the deletion of the words "the question of" from the new Soviet draft. Grinevsky agreed to that deletion, and to the substitution of "or" for "and". He could not, however, agree to the other newly proposed addition, and asked why it had been advanced. Garthoff explained that it was intended to make more precise the intention of the sentence, which he believed both sides shared, that we were talking about future system components which might take the place of ABM interceptor missiles, ABM launchers or ABM radars. He recalled Grinevsky's earlier reference to telescopes supplementing but not supplanting radars, and noted that we believed this additional language would help make more clear that additional elements of such kinds were not the subject of the sentence. Grinevsky said that he now understood, but could state definitely that his Delegation would not wish to make such an addition to the sentence. The American side evidently had not considered such an addition necessary when it provided the earlier formulation, and the Soviet side did not consider it necessary. He noted that the sentence already makes clear that reference is to future ABM system components other than the three indicated in the sentence and in Article II of the treaty. Article II made clear that these are the three components currently comprising ABM systems, and the language under discussion made clear that it was referring to precisely such system components other than the three current ones which were listed. He strongly urged that the American side not pursue this proposed addition. He also commented that his side had now accepted the earlier American formulation completely, and in fact had accepted the American position on the subject entirely, save only that it would be a jointly agreed interpretation rather than a paragraph in the treaty. Garthoff and Parsons agreed to report that fact to the American Delegation, and to seek agreement on the basis proposed. (The text of the agreed formulation is attached as Attachment 1.)

Agreed Interpretive Statement on Future ABM Systems

In order to insure fulfillment of the obligation not to deploy ABM system components except as provided in Article III of the Treaty, it is agreed that in the event ABM system components other than ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Date: January 31, 1971.
Place: American Embassy, Vienna.
Subject: SALT Communique and Other Matters.
Participants: U.S.—Dr. Raymond L. Garthoff.
U.S.S.R.—Mr. O. A. Grinevsky, Mr. N. S. Kishilov.

FUTURE ABM SYSTEMS

I asked if the Soviet side had anything new to suggest on this problem. Grinevsky (repeating Kishilov's suggestion of Saturday) proposed deleting the second bracketed difference by referring to "them" or "their" instead of repeating the disputed reference to systems and/or components. I commented that that would not resolve the problem. I suggested that perhaps we needed a fresh approach, first survey the problem and see if we agreed on the substance of the matter—which I believed we did—and then find appropriate language to express this agreed position. (See attachment 2 for talking points I used.) Grinevsky saw that I was speaking from prepared notes, and seemed interested. I thereupon gave him a copy noting that this was not a formal transmittal from my Delegation, but if it would help him to see precisely what I was saying, I would be happy to give him a copy of the notes. After reading the talking points, Grinevsky said that he believed there was complete agreement. I thereupon gave him a text of a new proposed formulation, based on the chain of thought expressed in the talking points (see attachment 3). At this point, Grinevsky expressed some concern at the changed formulation, noting that we were agreed on a number of parts of the text we had been working on over the past week or so. I repeated that while we had seemed to come close to agreement we had not yet achieved it. We hoped that the outline of considerations and new text based upon them might find a way out of the impasse in which we had found ourselves.

Grinevsky and Kishilov made the point in particular that there was no reference at all to ABM systems in the latest formulation. On Friday, we had still accepted reference to systems and their components in the introductory clause, while objecting to a reference to systems in the other two clauses. Now it was absent altogether. We referred to systems as well as components in Article II and that they referred to systems as well as components in Article III. Kishilov then noted that the American proposed language for paragraph 3 of Article V referred to systems. Grinevsky remarked that suspicions arose among some members of his Delegation by the new American aversion to including a reference to systems. I assured Grinevsky that there was no foundation for any such concern, and that we were focusing on system components since it was unlikely that a system would change all at once. Moreover, the specific limitations in the agreement pertained particularly to components. Kishilov noted that many of the articles referred to "ABM systems and their components".

Grinevsky and Kishilov agreed to report the new language to their Delegation, and to present arguments for it and the gist of the talking points.

Date: February 1, 1972.
Place: Soviet Embassy, Vienna.
Subject: SALT: ABM Levels, Radar Limitations, Future Systems.
Participants: U.S.—Lt Gen R. B. Allison, Lt Col F. P. DeSimone.
USSR—Gen-Lt K. A. Trusov, DepMin P. S. Pleshakov (part-time), Lt Col A. A. Chesnokov.

I brought up the matter of future ABM systems as another possible problem in this category, noting the recent discussions concerning an agreed interpretive statement on the subject. I said I thought we could agree on this matter if each side understood what the other had in mind, and asked Trusov if he agreed with me. He said that we had understood one another earlier but now seemed to disagree because of a word problem, and went on to speak at some length about the changing terminology in the future systems paragraph. He dwelt primarily on the subjects of "systems", "components", and "devices." I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM Launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in what we refer to as a "future" or "other" ABM system. It seems, I said, that with that understanding our Delegations should be able to agree on a set of words for the interpretive statement. Trusov agreed with my observation and said that the same words—"other systems and their components"—should be used consistently, since that was a clear expression of what was meant, as well as the wording in which the question had originally been raised.

Date: February 1, 1972.
Place: Soviet Embassy, Vienna.
Subject: SALT.
Participants: United States—Mr. Paul H. Nitze.
USSR—Academician A. N. Shchukin.

Shchukin said that what he particularly wanted to talk to me about was the question of future systems. He felt that could and should be resolved prior to the time we leave Vienna. He said that concern had arisen in their Delegation because of the fact that we refuse to include language referring to "systems" and insisted upon restricting the language to cover only "components." He said that this appeared to raise the "telescope issue" which we had discussed with Harold Brown. I said I thought that concern was covered by our proposed phrase "substitute for." He asked why we opposed reference to "systems."

I said that I did not believe that there was any substantive difference between the positions of the two sides. It seemed to me to be most likely that if something new were to become possible in the future, that this would be of such a nature as to substitute for either launchers or interceptors or radars, but not for all three. Shchukin said he thought there were only two categories involved; one was interceptor/launchers, the other radars. He could not conceive of a system which would substitute for a launcher and not substitute for an interceptor as well. He said that if a new system were developed which could substitute either for radars or for interceptor/launchers, this would be a new system and, as such, subject to Articles XIII and XIV.

I said my concern sprang from different grounds. As I understood it, the word "system" in Russian usage conveyed the thought of the entire panoply of elements deployed to counter ballistic missiles or their components in flight trajectory. It seemed to me that the language which they had proposed would not necessarily cover a situation where the "system" in this sense comprised radars, interceptor/launchers and new elements which might substitute for certain of the interceptor/launchers or radars.

Shchukin said he understood the point. He asked whether the following sentence did not correctly express what we meant: "If the system contains elements which could substitute for either ABM radars or ABM interceptor/launchers, the system would be a new system subject to Articles XIII and XIV." I said that to my mind, this would correctly record our understanding; but it would be necessary for me to discuss it with my Delegation. He said that he would wish to do the same.

Date: February 1, 1972.
Place: Soviet Embassy, Vienna.
Subject: SALT.
Participants: United States—Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff.
USSR—Mr. O. A. Grinevsky, Mr. N.S. Kishilov.

FUTURE ABM SYSTEMS

Grinevsky said that the Soviet Delegation had found interesting and helpful the 5 points, given by Garthoff. However, they did not see a need to move so drastically from the previous text, which had been agreed except for a few words, and did not feel that the latest US draft proposal was as good.

All four participants then addressed the several texts in an effort to find a compromise. Garthoff suggested a possible solution, and Grinevsky and Kishilov agreed to propose it to their Delegation. Grinevsky and Garthoff each had a considerably marked up paper indicating the change, but Garthoff agreed to provide a clean typed text to the Soviet Embassy that afternoon. (See attachment 2.)

(Note: a few hours later, Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components". Garthoff replied that he saw no objection of substance, but considered that this change would make the sentence even more ungainly, Grinevsky nonetheless argued that inclusion of those words would be necessary to gain the agreement of his Delegation, and Garthoff agreed to propose this formulation to his Delegation. Kishilov called later, and revised formulation (see attachment 3). Kishilov said that not all members of their Delegation were there, and he could not give a definite answer that day, but he and Grinevsky were 90% sure that the new formulation would be acceptable.)

THE ABM TREATY

PART II: RATIFICATION PROCESS MAY 11, 1987

I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

This is the second of three parts of a study of the ABM Treaty's application to so-called "future" ABM devices. The purpose of this three-part study is to ascertain the scope of the President's lawful discretion in interpreting the Treaty's meaning on this issue. The first part, completed in August 1986, and rewritten in the light of newly-found materials, examines the Treaty language and negotiating history. It concludes that neither the Treaty nor its negotiating history establishes that the Soviet Union agreed to be bound to the view that Article V(1) prohibits the testing and development of mobile ABM devices based on other physical principles ("OPP") than those used in the ABM systems defined in Article II(1) of the Treaty. A third part of this study will examine subsequent agreements and practices of the Parties to determine the extent to which they establish agreement as to the application of the Treaty to OPP systems.

The President possesses broad authority to interpret treaties to which the United States is a party. In exercising this authority, the President must follow the principles of international law that govern the process by which the meaning of treaties is determined. He is also generally required, by the Constitution, to abide by conditions limiting his authority that are adopted by the Senate pursuant to the advice-and-consent process, or by the Congress pursuant to subsequent legislation. He should also give appropriate weight to any understanding as to the meaning of treaties that is clearly expressed in the course of their adoption.

The process by which the Senate gives its advice and consent is thus a source of guidance to the President in two respects. First, the Senate can adopt conditions which become part of the resolution of ratification of the treaty, and therefore can have a direct bearing upon the mutual obligations of the parties. Second, the process can also provide a similar range of guidance to the President as a matter of domestic law.

This part of the AMB study examines the complete, relevant ratification record of the Treaty, and analyzes its background and contents. It then describes and applies to the ratification record the controlling principles of international and domestic law. In summary, it reaches the following conclusions:

A. *The Ratification Record*

Some officials in the Executive Branch had concluded prior to the ratification process that the ABM Treaty should be interpreted to prohibit the development and testing of mobile, OPP devices; others may have doubted this conclusion. ACDA attorneys prepared a draft transmittal package for the ABM Treaty which specifically advanced the view that the development and testing of mobile OPP, ABM devices was prohibited. That package was not used, however, Instead, a package was sent to the Senate that

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Footnotes at end of article.

stated only that deployment of future OPP, ABM devices was barred, but was silent on the specific question of the development and testing of mobile devices. In the course of the ratification proceedings, Executive Branch witnesses made inconsistent statements—in one instance, in the same colloquy (e.g., JCS witnesses before the SASC)—concerning how the Treaty deals with development and testing of mobile OPP ABM systems. The Administration may not have had a clear and uniform view on this issue, and in any event its representatives failed to communicate a clear and consistent view to the Senate.

The testimony of Secretary of State Rogers, Secretary of Defense Laird, and Ambassador Gerard C. Smith was consistent with the transmittal package. In response to specific questions, as to whether development of laser ABM systems is permitted by the Treaty, Ambassador Smith replied in the affirmative without qualification. Pursuant to questions, however, and consistent with quidance apparently cleared by NSC staff, a written response to a question to Secretary Laird and answers by Dr. Foster of DOD and Joint Chiefs of Staff witnesses stated that the development and testing of fixed, land-based laser devices was permitted. These responses were intended to reassure the Senators involved that laser development would continue. Some Senators inferred from these responses, however, that development and testing of non-fixed, land-based devices was precluded. That inference was confirmed by Dr. Foster and one JCS witness, and was otherwise unchallenged.

This Senate record on advice and consent fails to establish that the Senate's consent to ratification was based on a generally held understanding of the Senate that the Treaty prohibits development and testing of mobile OPP devices. That issue was relatively insignificant as compared to the other issues posed by the Treaty and the Interim Agreement. It caused no Senator to suggest incorporating any condition, reservation, or understanding in the resolution of ratification. The issue was not mentioned in the SFRC Report (which noted only that deployment of exotic ABM systems is prohibited), and the Senate in no other manner indicated as a body a generally held understanding or intent concerning this question. The Senate was not informed of aspects of the negotiating history that would have enabled Senators to conduct a full examination of the specific issue.

B. *Legal Conclusions*

The study draws separate conclusions, based on this ratification record, with respect to (1) its effect upon the treaty obligations of the U.S.; and (2) its effect upon the President's obligations to the Senate. Each set of conclusions is based on an analysis of governing legal principles.

1. *International legal obligation*

We find no basis in the ratification record for requiring the Administration to revise its position that the Soviets refused to bind themselves during the negotiations to the narrow interpretation of the ABM Treaty. Executive representations to the Senate on the questions at issue led to no Senate action in the resolution of ratification or otherwise that was communicated officially to the Soviet Union. The representations were therefore a matter of internal concern, and a form of evidence that could not be relied upon by the United States to create obligations on the part of the Soviet Union. The representations to the Senate can, however, for international purposes, be considered as "supplementary" materials in an overall appraisal of the Treaty's meaning under international law.

2. *Domestic legal obligation*

The ratification record likewise provides no basis for a conclusion that the President is bound to the narrow view as a matter of domestic law. The record fails to meet this standard, because of ambiguities and inconsistencies in the Executive Branch statements and testimony offered to the Senate, and because of the absence of any indication on the record that the Treaty's treatment of development and testing of mobile OPP devices was a significant factor in the Senate's adoption of the Treaty. Moreover, considering the Senate's often utilized practice of recording its intention to bind or influence the Executive, the record fails to reflect a generally held understanding by the Senate that would bind the President on the specific matter at issue. Governing standards for interpreting legislative intent in connection with domestic legislation would not accord such a record binding force as a matter of law. The President should be entitled to at least the same degree of flexibility in exercising his authority to interpret treaties, in the conduct of foreign affairs.

The President should, however, give appropriate weight to any understandings reflected in the ratification record even though they may not be binding as a matter of law. The record contains Executive representations to the Senate which support the restrictive interpretation, which were apparently cleared in the government by NSC staff, and upon which Senators could justifiably have relied in granting advice and consent. The legal issue is one which requires the President to consider all relevant factors in exercising his judgment.

II. THE RATIFICATION PROCESS

The ABM Treaty was presented to the Senate on June 13, 1972, along with the Interim Agreement on Certain Measures With Respect to the Limitations of Strategic Offensive Arms. These agreements raised many issues in Congress other than the question of the Treaty's applicability to substitute devices for ABM systems and components.* Relative to these issues, the subject of substitute devices for ABM components received minimal consideration.

The legal adviser to the U.S. Delegation, Mr. Rhinelander, among others, had argued within the Executive Branch before June 13, 1972 that the regulation of OPP "devices" was included in Article V(1) and therefore that their development and testing was prohibited. A draft transmittal package based on Mr. Rhinelander's position was prepared but not used. Instead, the transmittal package actually sent stated in a clear manner only that the deployment of OPP devices was barred. During the hearings, the testimony of Secretary of State Rogers, the principle negotiator Ambassador Gerard C. Smith, and Secretary of Defense Laird, was consistent with that view. Moreover, in response to specific questions as to whether laser ABM systems may be developed under the Treaty in the context of discussing Article V, Smith replied in the affirmative without qualification except to say that deployment is prohibited. Pursuant to questions, however, and consistent with guidance circulated for clearance by the NSC staff in the Executive Branch, a written response to a question to Secretary Laird and verbal answers by Joint Chiefs of Staff witnesses stated that the development and testing of fixed, land-based laser devices was permitted. However intended, these statements permitted the inference that development and testing of a mobile OPP device would be precluded. The few Senators interested in this issue drew that inference, which was confirmed by one JCS witness, and was otherwise unchallenged.

The record fails, however, to establish that the impermissibility of development and testing of mobile OPP devices was a generally held understanding of the Senate in granting its advice and consent to the ABM Treaty. That issue was relatively insignificant as compared to the other issues posed by the Treaty and the Interim Agreement. It caused no Senator to suggest any condition, reservation, or understanding, and it was not mentioned in the SFRC Report (which noted only a prohibition on the deployment of exotic types of ABM systems). Finally, the Senate was not informed of aspects of the negotiating history that would have enabled Senators to conduct a full examination of the background and intentions of the parties with respect to development and testing of OPP devices.

A. *Background of Executive Branch Position*

Part I of this study establishes that, during the negotiation of the ABM Treaty, the Soviet Union rejected proposed U.S. Treaty language which unambiguously would have prohibited the development and testing of mobile OPP ABM systems. Some members of the U.S. Delegation apparently believed, however, that the language agreed to could be interpreted to achieve the same result. (Others appear to have doubted this conclusion.) During January 1972, the attorney for the SALT I Delegation, John Rhinelander, began to prepare a section-by-section legal analysis of each aspect of the ABM Treaty, apparently contemplating that such an analysis would be included in the transmittal package to the Senate. (Discussion of the positions taken in various drafts by Rhinelander is contained in Part I of this study.) In his draft dated May 24, 1972, Rhinelander clearly stated that the Treaty would prohibit the development, testing, and deployment of "devices" that could substitute for conventional mobile or space-based ABM systems or components. (Neither this nor any comparable detailed legal analysis was presented to the Senate.)

Also during May 1972, the ACDA General Counsel's office prepared a series of drafts of the proposed transmittal package for the ABM Treaty and Interim Agreement. The earlier drafts appear to have drawn heavily from Rhinelander's analysis, and stated the same explicit conclusions with respect to "devices" that could substitute for conventional ABM systems, consisting of ABM missiles, launchers, or radars. For example, the early drafts stated with respect to Article V(1):

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*Among the questions that received the vast bulk of Congress' attention during the hearings and floor discussion were: consideration of the strategic balance that would exist after the agreements were adopted; specific offensive systems possessed by both the Soviet Union and the United States; the Soviet advantages in warheads, throw-weight, etc.; the likelihood and timing of the Soviets converting to MIRV warheads and of developing a mobile ICBM; the survivability of U.S. forces, especially Minuteman; the philosophy of mutual assured destruction; difficulties in verification; whether DOD has conditioned its approval of these agreements on Congress' adopting a range of modernization programs, including the B-1 bomber; the utility of a National Command Authority ABM Defense in Washington, D.C.; the credibility of 100-interceptor ABM sites; the legal and political effects on the Soviets of unilateral statements by U.S. negotiators, including those relating to the definition of "heavy" missiles; and even the war in Vietnam, where North Vietnam had recently violated its agreements by invading the South.

Article V, paragraph 1, prohibits the development, testing or deployment of an ABM system or ABM component that is sea-based, air-based, space-based, or mobile land-based, *or a device capable of substituting for* an ABM interceptor missile, ABM launcher or ABM radar in an ABM system that is sea-based, air-based, space-based or mobile land-based. This provision, when read with Articles III and IV, makes clear that only fixed, land-based ABM interceptor missiles, ABM launchers and ABM radars may be deployed at operational sites, or located at test ranges. The deployment, as well as the testing or development, of "current" or "future" ABM components for three environments—sea, air and space—as well as mobile ABM components on land, is prohibited. Mobile land-based in this context means any ABM system or ABM component that is not a permanent, fixed type. . . . [emphasis added] [1]

These drafts were substantially revised, however, before submission to the Senate, so that they ultimately tracked the Treaty language much more closely. The final drafts circulated by ACDA prior to completion of the transmittal package eliminated references to "other devices," described the Article V(1) prohibition without specific reference to future systems, and included a separate section on future systems which described only a prohibition on deployment. Furthermore, Executive Branch documents, including briefing papers and talking points for possible witnesses, prepared during this period, deal with the issue of future systems in differing ways. Some documents appear to follow the Rhinelander analysis, while others refer only to prohibitions on deployment of future systems. (A more detailed description of these documents is contained in Appendix A.)

B. *Analysis of Ratification Record*

Excerpts of all portions of the ratification record relevant to the issue of substitute devices based on other physical principles ("OPP") are provided at Appendix B. The following discussion analyzes the substance and implications of those materials, quoting or paraphrasing the most pertinent portions.[b]

1. *Letter of Submittal*

The Secretary of State's June 10 letter of submittal clearly indicates the Executive Branch's understanding that, absent amendment, the Treaty prohibits the deployment of future systems based on OPP and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars. The Secretary's letter makes no statement concerning the development and testing of such systems or components.

The letter states that "Article II defines an ABM system as 'a system to counter strategic ballistic missiles or their elements in flight trajectory.'" It notes in a separate sentence that Article II "indicates that such systems currently consist of ABM interceptor missiles, ABM launchers and ABM radars." Similarly, the section on "Future ABM Systems" states that "Article II(1) defines an ABM system in terms of its function as 'a system to counter strategic ballistic missiles or their elements in flight trajectory', noting that such systems 'currently' consist of ABM interceptor missiles, ABM launchers and ABM radars."

The Letter of Submittal also states, in a section on "Development, Testing, and Other Limitations," that testing and development of "ABM systems and components" is limited to those which are fixed, land-based, due to the prohibitions in Article V(1):

Article V limits development and testing, as well as deployment, of certain types of ABM systems and components. Paragraph V(1) limits such activities to fixed, land-based ABM systems and components by prohibiting the development, testing or deployment of ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

The transmittal package contains no statement that development and testing of space-based or other mobile OPP systems or components is prohibited. Rather, the separate section of the Secretary of State's report on "Future ABM Systems" speaks only of a prohibition on "deployment" of future systems that might be "developed" in the future:

(3) Future ABM Systems

A potential problem dealt with by the Treaty is that which would be created if an ABM system were developed in the future which did not consist of interceptor missiles, launchers and radars. The Treaty would not permit the deployment of such a system or of components thereof capable of substituting for ABM interceptor missiles, launchers, or radars: Article II(1) defines an ABM system in terms of its function as "a system to counter strategic ballistic missiles or their elements in flight trajectory", noting that such systems "currently" consist of ABM interceptor missiles, ABM launchers and ABM radars. Article III contains a prohibition on the deployment of ABM systems or their components except as specified therein, and it permits deployment only of ABM interceptor missiles, ABM launchers, and ABM radars. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system, provided that such devices were not capable of substituting for one or more of these components. Finally, in the course of the negotiations, the Parties specified that "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty." (As explained below, Article XIII calls for establishment of a Standing Consultative Commission, and Article XIV deals with amendments to the Treaty.)

This separate section differs sharply from the restrictive interpretation that appears in the original ACDA drafts. It also does not refer to the prohibitions on development and testing in Article V, and the previous section on "Development, Testing, and Other Limitations" does not refer to OPP systems. Finally, the section includes an explicit reference to Agreed Statement D, and treats it as the place in the Treaty in which the Parties "specified" their obligations with respect to OPP systems and components "to insure fulfillment of the obligation not to deploy ABM systems and components except as provided in Article III. . . ."

It has been argued that nothing significant can be drawn from these (and similar) statements in the ratification record because they are accurate on their face; under either interpretation the deployment of future systems is banned.[2] These statements are, in fact, not necessarily inconsistent with the narrow interpretation. Yet, one may attach substantial significance to the fact that the transmittal letters—and later testimony of Secretary Rogers and Ambassador Smith—did not advance the restrictive interpretation.

First, these statements do not address application of the Treaty to development and testing, which was a significant and extensively debated issue during the negotiations. These statements were made after the legal counsel for the ABM negotiating team had finished his memorandum on the Treaty's meaning, explicitly adopting the narrow view, and in clear contrast with the language used by ACDA in the original draft transmittal package. If the draft language proposed by the ACDA General Counsel's office had been used, it would have made clear that the Administration had adopted the narrow view. Furthermore, Mr. Rhinelander's suggestion of separate annexes analyzing the legal effect of each agreement was also not adopted. The Rhinelander memorandum was not submitted, nor any other legal analysis. (At one point, immediately after discussing the development of the ABM laser, Senator Jackson noted that "[w]e still do not have . . . what the State Department said would be made available later, a so-called interpretation of the agreement.")[3]

It is argued that a correct explanation of the narrow interpretation would have been so lengthy and technical in character that it is not surprising to find it omitted from the Secretary's statement.[4] This argument is unconvincing. The narrow interpretation would have been simple to convey in one sentence in a manner that would have been adequate, for example: "Fixed, land-based ABM systems or components based on other physical principles may be developed and tested, but not deployed; but other ABM systems or components based on such principles may not be developed, tested or deployed." Such a statement is no more complicated or lengthy that many of the other statements in the transmittal package. Alternatively, the transmittal letter could have used, in its discussion of Article V(1), the language concerning "devices" contained in the original ACDA draft.

Mr. Rhinelander has suggested another explanation. He states that his initial version was very long and detailed, that it was cut down to no more than one-third of its original length, and that in the process the explanation on this issue became "blurred," leaving "an implication which I think people read into it, because of the way it was written on future system deployment only with the fixed land-based systems." [5] Other attorneys involved in the process of drafting and clearing the transmittal documents have stated that the differences in these drafts are attributable to a decision to produce a document which tracked the Treaty provisions rather than laborated upon them. Those with whom we have spoken—Charles Van Doren and Steven Nelson—state that this decision had no connection with any other purpose and reflected no disagreement with the Rhinelander analysis. They also note that the Executive Branch was primarily concerned at the time with land-based laser systems.[6]

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[b] We have examined classified hearing transcripts where possible; in some cases, requests to review such material remain pending with Congressional committees. We are aware of no classified material, however, that would alter this report's conclusions.

Whatever may have motivated this failure to convey ACDA's carefully prepared position, the transmittal letters left the Senate uninformed of ACDA's conclusion concerning mobile forms of substitute devices. The claim in both Rhinelander's legal memorandum, and in the original draft transmittal package, was that the United States had obtained full coverage of future "devices," even though that word appeared nowhere in the Treaty, and was in fact rejected by the Soviets.

The negotiating record or a discussion of it would have revealed to the Senate that the Soviets had not agreed to block the development and testing of mobile OPP "devices." The Administration decided, however, as Ambassador Smith advised, not to reveal portions of the negotiating record. In a memorandum to Henry Kissinger, Assistant to the President for National Security Affairs, dated June 6, 1972, Ambassador Smith recommended that agreed matters be described to the Senate and set forth in full in an enclosure if they were initialed, but that "other matters on which there is agreement, or on which we have made our unilateral position clear, would not be set forth in an enclosure but would be reflected in the analysis of the agreements in the Secretary's letter . . . ."[7] He explained:

> (1) If we compile what could be inferred to be an exhaustive list of materials we consider authoritative aids to the interpretation of these agreements, we could prejudice our future ability to draw on other excerpts from the negotiating history to help clarify what was intended. It is impossible to foresee all the points on which such interpretive questions might arise. . . .
>
> (2) While the parties are unquestionably in agreement on some other matters of comparable importance to those in the initialed statements, there are considerable variations in both the degree and form in which the negotiating record evidences such agreement. To set forth the available evidence of agreement in each case might be confusing (as in the shades of difference in the statements on standstill arrangements, the substance of which can be simply stated), or raise unwarranted doubts as to whether the Parties in fact are in agreement on such points (as in the case of the understanding on what would be a significant increase in the dimensions of an ICBM silo).[8]

During the hearings on the ABM Treaty, the negotiating record and instructions were requested once by Senator Cooper and once by Chairman Fulbright.[9] on both occasions, Secretary Rogers replied that the Senate had no need for the record.[10] He nevertheless said the Administration intended to rely upon the record if doubts arose as to the Treaty's meaning:

> [If] there are questions of interpretation that arise in the future, we certainly will go back and look at the memoranda because there wasn't a complete transcript kept of the plenary sessions . . . .[11]

2. *Hearings before the Senate Foreign Relations Committee*

Hearings before the SFRC commenced on June 19, 1972, with the testimony of Secretary Rogers and Ambassador Smith. Their testimony postdated the ACDA legal drafts, and also the guidance of future devices dated June 16. Yet, the testimony of these witnesses—important because of their respective positions as Secretary of State and principal negotiator of the ABM Treaty—stated only that deployment of OPP systems or components was prohibited.

During their testimony, both Secretary Rogers and Ambassador Smith referred repeatedly to the prohibition on *deployment* of future systems, but at no time to a restriction on development or testing of mobile OPP devices.[c] Ambassador Smith in fact at one point asserted that no inhibition exists in the Treaty on modernizing conventional ABM systems, except that they cannot be "deployed" in other than fixed land-based configurations, and then went on to note only that deployment of laser ABM systems is prohibited:

> Senator Aiken. Is the ABM system getting obsolete? If the lasers can be used to knock out the SAM's, wouldn't they be effective against other types of missiles also?
>
> Mr. Smith. Senator Aiken, I think it is an entirely different problem with respect to the use of lasers to help guide offensive missiles and from their use to guide defensive missiles, but we have covered this concern of yours in this treaty by prohibiting the deployment of future type technology. Unless the treaty is amended, both sides can only deploy launchers and interceptors and radars. There are no inhibitions no inhibitions on modernizing this type of technology except that it cannot be deployed in mobile land-based or space-based or sea-based or air-based configurations. But the laser concern was considered and both sides have agreed that they will not deploy future type ABM technology unless the treaty is amended.

For the reasons described above, what is not said in Ambassador Smith's statement is significant, since he was presumably familiar with Rhinelander's analysis, and could easily have responded with a clear assertion of the narrow interpretation. In his answer to Senator Aiken, in particular, Ambassador Smith uses the nondeployment language for OPP devices specifically in connection with Article V(1) configurations.

The testimony by non-Administration witnesses was inconclusive. The only clear statement to the Committee on this matter came from Senator Buckley, who opposed the Treaty in principle, be focussed on future ABM systems and, in fact, indicated that he would vote against ratification of the ABM Treaty in part because he believed it prevented the development, testing and deployment of such systems to defend the American people. He said on the issue of OPP devices:

> Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space-based ballistic missile defense systems. This clause, in Article V of the ABM Treaty, would have the effect, for example of prohibiting the development and testing of a laser-type system based in space which could at least in principle provide an extremely reliable and effective system of defenses against ballistic missiles. The technological possibility has been formally excluded by this agreement.
>
> There is no law of nature that I know of that makes it impossible to create defense systems that would make the prevailing theories obsolete. Why, then, should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of civilians against ballistic missile attack? Why should we not at least be in a position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in Article XV or should we fail to negotiate a satisfactory successor agreement to SALT I?

3. *Hearings before the Senate Armed Services Committee*

The question of limits on future systems received more thorough treatment in the hearings held by the Senate Armed Services Committee. Senator Jackson, in particular, returned to the issue several times.

Secretary Laird's initial exchange with Senator Jackson on June 6 did not clarify the issue. Secretary Laird evidently took Senator Jackson's questions as relating to whether any constraints existed outside the Treaty and associated statements, which of course he answered in the negative. In response to Senator Jackson's question as to any "prohibition . . . on research, tests, and development for the ABM," Secretary Laird inserted for the record a quotation of the text of Articles IV, V and VII and Agreed Statements D and E, indicating that there is "nothing indirect or direct that applies to research and development outside of the agreement, the protocol, and treaty that have been released by the President."[d]

Secretary Laird's answers to Senator Dominick are again not definitive, although they might be taken to imply that the Article V prohibitions apply to space-based laser and other future systems. In particular, he responded in the negative when asked if the Soviets were restricted in further R&D on "MIRV, FOBS, lasers, and all other new weapons of capabilities not expressly forbidden," but cited Article V of the ABM Treaty when asked if SALT impeded satellite-based counterforce system developments.

A DOD answer to a question submitted for the record by Senator Goldwater expressly states that no restrictions exist on the development of lasers (an OPP device) for fixed, land-based ABM systems:[e]

> With reference to development of a boost-phase intercept capability or lasers, there is no specific provision in the ABM treaty which prohibits development of such systems.
>
> There is, however, a prohibition on the development, testing, or deployment of ABM systems which are space-based, as well as sea-based, air-based, or mobile land-based. The U.S. side understands this prohibition not to apply to basic and advanced research and exploratory development of technology

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[c] A draft of Secretary Rogers' statement that was transmitted by the Executive Secretariat of the State Department to the White House on June 19 had the following sentence typed in, but apparently stricken out by hand, in the paragraph dealing with "future types of ABM systems depending on such devices as lasers or particle accelerators": "Development and testing of such devices for fixed land-based systems is not prohibited." This sentence did not appear in the statement actually delivered to the Committee by Secretary Rogers. Nothing in the file indicates who deleted the sentence or why. (See Appendix A for changes in the transmittal papers.)

[d] Senator Jackson asked Secretary Laird what the Treaty provided. Secretary Laird responded: "It provides that research and development can continue, but certain components and systems are not to be developed." This response in its original form ended with the word "continue"; the qualifying language was added to the transcript by hand.

[e] Some read this answer as being internally inconsistent, given the reference to boost-phase intercept capability in the first sentence, and to contain an important element of uncertainty as to its meaning in the present context.

which would be associated with such systems, or their components.

There are no restrictions on the development of lasers for fixed, land-based ABM systems. The sides have agreed, however, that deployment of such systems which would be capable of substituting for current ABM components, that is, ABM launchers, ABM interceptor missiles, and ABM radars, shall be subject to discussion in accordance with article XIII (Standing Consultative Commission) and agreement in accordance with article XIV (amendments to the treaty.)

The first extensive discussion in these hearings of the problem of future ABM systems was between Senator Jackson and Dr. John Foster, Undersecretary of Defense for Research and Engineering. In response to questioning by Senator Jackson on June 22, Dr. Foster said that land-based laser systems may be developed and tested but not deployed, providing a basis for inferring that space-based laser systems may not be developed, tested or deployed. In particular, their exchange contained the following:

Senator JACKSON. . . . Specifically, there is a limitation on lasers, as I recall, in the agreement and does the SAL agreement prohibit land-based laser development?

Dr. FOSTER. No, sir; it does not. . . . What is affected by the treaty would be the development[f] of laser ABM systems capable of substituting for current ABM components.

Senator JACKSON. . . . Article 5 says each party undertakes not to develop and test or deploy ABM systems or components which are sea based, air based, space based or mobile land based.

Dr. FOSTER. Yes, sir; I understand. We do not have a program to develop a laser ABM system.[g]

Senator JACKSON. If it is sea based, air based, space based, or mobile land based. If it is a fixed land-based ABM system, it is permitted; am I not correct?

Dr. FOSTER. That is right.

Senator JACKSON. . . . You can't do anything; you can't develop; you can't test and finally, you can't deploy. It is not "or".

Dr. FOSTER. One cannot deploy a fixed land-based laser ABM system which is capable of substituting for an ABM radar, ABM launcher, or ABM interceptor missile.

Senator JACKSON. You can't even test; you can't develop.

Dr. FOSTER. You can develop and test up to the deployment phase of future ABM system components which are fixed and land based.[h]

My understanding is you can develop and test but you cannot deploy. . . .

Senator JACKSON. . . . [B]ut it says each party undertakes not to develop, test or deploy ABM systems or components which are sea based, air based, space based, or mobile land based.

Dr. FOSTER. That is correct.

Ambassador Smith's testimony on the fifth and sixth days of the hearings, June 28 and July 18, can be read strongly to imply that the Treaty does not constrain the development and testing of space-based laser systems. In response to a question from Senator Smith as to whether the Treaty would "affect development of a laser ABM system," Ambassador Smith said:

Senator Smith[,] one of the agreed understandings says that if ABM technology is created based on different physical principles, an ABM system or component based on them can only be deployed if the treaty is amended.

Work is [sic] that direction, development work, research, is not prohibited, but deployment of systems using those new principles in substitution for radars, launchers or interceptors, would not be permitted unless both parties agree by amending the treaty.

Ambassador Smith also had the following exchange with Senator Goldwater:

Senator GOLDWATER. . . .

One, under this agreement are we and the Soviets precluded from the development of the laser as an ABM?

Mr. SMITH. No, sir.

On July 19, however, in the course of an extended colloquy among Senators Goldwater, Jackson and Dominick, and Generals Palmer, Ryan, and Leber, JCS witnesses, amid answers reflecting uncertainty, ultimately stated that "futuristic" systems can be developed if they are fixed land-based.[i]

The first exchange among these individuals led to statements consistent with the broad interpretation, under which deployment of future devices would be banned, but not development:

Senator GOLDWATER. I was interested—again, you might be able to answer it—if anyone acquainted with laser can see its application as we progress in the science to ABM use in a very perfect way, an inexpensive way compared to what we are doing. It was my interpretation of the Secretary's remarks we would no longer engage in such development.

General PALMER. I would like to correct my statement.

I was referring to the deployment of such systems. There is no limit or understanding of a limit on R. & D. in the futuristic systems, but would require an amendment of the treaty or further agreement to deploy such a system.

Senator GOLDWATER. Then what you are saying, if the Army or any of our research and development agencies suddenly came along with a breakthrough that would enable us to get the power to develop the optical mechanism, would it mean that we couldn't deploy the antiballistic missile capability?

General RYAN. That's correct.

General PALMER. That's correct.

Senator GOLDWATER. Do you both believe that?

General PALMER. Without further agreement.

* * * * *

General LEBER. Senator, I think we have been over this ground before when Dr. Foster was before the committee, and if I may I will try to expand and hopefully clarify it.

The only limitation in the treaty, and it is in the ABM treaty; it is not in the interim offensive agreement at all, is that either side, the Soviets or the United States, would not use a laser device to substitute for any other component part of the ABM system. You could use laser technique to improve any of your existing components—radar, interceptor—those are the main components, but if you propose to substitute, for example, a laser device for the interceptor, that would be prohibited, an amendment to the treaty would be required for deployment.

That is a very narrow area now that we are talking about; it has nothing to do with ICBM's, nothing to do with the defense systems in general. The only restriction is that you would not substitute a laser device for one of the components of your ABM system.

The interpretation that such devices may be developed only if they are fixed land-based was suggested later by Senator Jackson in an exchange with Senator Goldwater:

Senator JACKSON. Yes, but under article V of the ABM treaty "Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based[,] space-based, or mobile land-based."

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-base ABM is exempt.

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-baseve [sic].

Senator GOLDWATER. We could then replace the Sentry with the laser if it became effective?

Senator JACKSON. The prohibition runs to sea based, air based, space based, or mobile land based ABM's.

Senator GOLDWATER. Not fixed land?

Senator JACKSON. That's right. That is exempt. I am just pointing this out. In those other areas, it is prohibited and, development is also prohibited. How are you going to handle that? Tests can be detached. There are certain national means available to check on testing and deploying, but I am underlining, Senator Dominick, the key word, "development." And I just cite that as an illustration. As I understand it, the Joint Chiefs have no knowledge of the means of monitoring "development," except that, later, there will be consultations under the agreement.

General PALMER. Let me try to clarify that, Senator Jackson.

The treaty, as you have just read, does limit radars[,] launchers and missiles; it does not limit R&D on futuristic systems. We could not deploy such a new system, however . . . .

Soon thereafter, General Ryan distinguished between space-based "components" and those that are fixed, land-based, stating that development of only the latter was permitted:

Senator GOLDWATER. You were never consulted but were any members of the Chiefs? Was the Chairman of the Joint Chiefs ever brought into this whole question of research and development of a laser or any other additions or substractions of the weapon system?

General RYAN. My interpretation of the paragraph which you just read, Senator Jackson, is that each party undertakes not to develop, test, or deploy ABM systems or components which are sea based, air based, meaning in the atmosphere, space based, outside of the atmosphere, or mobile land based.

Senator JACKSON. Yes sir.

General RYAN. It doesn't mean that fixed, land based cannot be developed.

Senator JACKSON. Yes, I said that. Now, what I am saying, General Ryan, is that you are prohibited from developing a system that is sea based, air based, space based, or mobile land based?

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[f] The original transcript reads "development," but indicates a change to "deployment" was intended. The change does not appear in the printed version. Senate transcript, p. 310.

[g] The following language appearing immediately after the sentence in the text was deleted from the original transcript: "and such a program through the development and tests is prohibited by the treaty." Senate Transcript, p. 310.

[h] The original answer was edited to add the words "up to the deployment phase of future ABM system components which are fixed and land based." *Id.* at 311. The original therefore read simply: "You can develop and test."

[i] We have been unable to locate an original transcript of this day's proceedings.

General RYAN. That is correct.

These witnesses indicated that the JCS were fully aware of and had agreed that ABM development was confined to fixed, land-based systems. (Only Palmer explicitly linked this proposition to OPP devices.) In particular, the following exchange occurred:

General PALMER. On the question of the ABM, the facts are that when the negotiation started the only system actually under development, in any meaningful sense, was a fixed, land-based system. As the negotiations progressed and the position of each side became clear and each understood the other's objectives better, it came down to the point where to have agreement it appeared that—this is on the antiballistic missile side—this had to be confined to the fixed, land-based system. The Chiefs were consulted. I would have to go to a closed session to state precisely the place and time. They were consulted on the question of qualitative limits on the AB side and agreed to the limits that you see in this treaty.

Senator JACKSON. Even though it can't be monitored?

General PALMER. Yes.

Senator JACKSON. I just wanted that; so the Chiefs went along with the concept here that involved—

General PALMER. A concept that does not prohibit the development in the fixed, land-based ABM system. We can look at futuristic systems as long as they are fixed and land based.

Senator JACKSON. I understand.

General PALMER. The Chiefs were aware of that and had agreed to that and that was a fundamental part of the final agreement.

The final witness before the Senate Armed Services Committee who had anything relevant to say was Admiral Zumwalt, Chief of Naval Operations. In a statement for the record he described examples of Soviet behavior he would regard as sufficient to warrant withdrawal from the Treaty. Among the potential violations he listed was "Deployment of . . . sea/air/space-based ABM systems."

4. *Hearings before the House Foreign Affairs Committee*

Secretary Rogers' testimony, delivered on July 20, described the Treaty's coverage of future devices in the same language as his submittal letter. He placed discussion of future devices in a separate paragraph from his description of Article V, and then stated only that deployment of such devices is proscribed:

The commitment to low ABM levels is further enhanced by several important qualitative limitations. We and the Soviet Union have agreed not to develop, test or deploy:

1. ABM systems or components that are sea based, air based, space based, or mobile land based. . . .

Such undertakings are important. It may be of even greater importance that both sides have agreed that future types of ABM systems based on different physical principles, for example, systems depending on such devices as lasers, that do not consist of ABM interceptor missiles, launchers, and radars, cannot be deployed even in permitted areas. So there is a limitation on what may be employed in the ABM systems now in operation and it prohibits the deployment of new esoteric systems in these areas.

Nothing of further significance on the issue of substitute OPP devices occurred in these hearings.

5. *Hearings before the House Armed Services Committee*

In hearings before this House Committee, Ambassador Smith used the same language as he did in previous appearances, stating unambiguously only that deployment of future devices was precluded. The Committee staff memorandum for members states that the Treaty "defines an ABM system as one to counter ICBM's in flight trajectory *and* one consisting of ABM interceptor missiles, ABM launchers and ABM raders" (emphasis added). We have found no information explaining the reason for this variance of the treaty language by the staff.

On July 27, Admiral Moorer, Chairman of the JCS, engaged in an exchange with Congressman Whitehurst on the subject of qualitative improvements to ABM systems. He read Agreed Statement D in response to questioning as to the possibility of technical breakthroughs, and he stated that no restraint exists on research and development:

Mr. WHITEHURST. You have no means of surveillance, though. For example, if we achieved this technically, then we would be obliged to advise the Soviets that we have this capability?

Admiral MOORER. Only if we deployed it in the configuration of an ABM weapons system. But there is no restraint on research and development.

Admiral Moorer had, on June 2, provided a memoradum to Secretary of Defense Laird regarding measures to be taken to guard against a degradation in national security posture. Annex A of this memo, Subject: Summary of the ABM Treaty and the Strategic Arms Limitation Agreement, contained the following summary of the Treaty contents:

(4) Each side agrees not to develop, test or deploy:

Multiple launchers;

Rapid reload launchers;

Landmobile, sea-based, air-based or space-based ABM systems or components thereof;

Multiple warhead ABM interceptors. . . .

Should ABM systems based on different physical principles be created in the future, specific limitations will be subject to discussion and to the amendment provisions of the Treaty.

Another portion of this memo, Annex C, Subject: Verification Considerations, (regarding ABM systems and the U.S. ability to monitor the terms of the agreement and to detect violations) stated the following:

* * * (3) *Banned Systems.* Developments or improvements in Soviet ABM systems to provide multiple launchers, rapid reload, multiple warhead interceptors, or sea/air/space-based systems probably would be detected during the testing phase. New systems of these types require extensive testing prior to deployment. If such a new system were tested, the United States could detect that it was a new system. This would focus attention on the testing even though the exact nature of the system might not be known.

Future Systems. Development and testing of future systems (e.g., laser, long-wave infrared, and charged particle) are not prohibited by the Treaty. However, the United States would monitor Soviet activity in this area as part of the overall surveillance of the USSR and its military capabilities.

6. *Hearings before the Appropriations Subcommittees*

Hearings on the Department of Defense Appropriations for Fiscal Year 1973, held before appropriations subcommittees in the Senate and the House, provided an opportunity for some additional discussion of future technology in the ABM context. In the Senate hearings, Secretary Laird and Admiral Moorer cited the restrictions in Article V of the ABM Treaty when questioned by Senator Young about prohibitions on research and development. At the same time, Secretary Laird assured the Senator that the limitation would not have an impact on existing programs: it applied "only in certain areas, and it does not affect any of our current ongoing programs in the ABM field to any substantial degree at all." In the hearings on the House side, the discussion of ABM technology seemed also to be focussed on land-based systems. neither hearing shed significant light on the current issue.

7. *Report of the Senate Foreign Relations Committee*

The Report of the Senate Foreign Relations Committee is traditionally an important source of guidance on the Senate's understanding of a treaty. In addition to an explanation of any formal conditions, reservations, or understandings, the Committee uses this report to record its views on matters of importance to the Senate. The Committee report on the ABM Treaty contains nothing that would indicate that the issue of future OPP devices was a matter of particular concern, beyond the clear understanding that the deployment of any such device was prohibited, without prior amendment of the Treaty. Thus, the report quotes from the Secretary of State's analysis of the Treaty, which recites the prohibition of Article V(1), and then states as a separate point: "Perhaps of even greater importance as a qualitative limitation is that the parties have agreed that future exotic types of ABM systems, i.e., systems depending on such devices as lasers may not be deployed, even in permitted areas."[12] This separate treatment of "exotics," stating a limitation only on deployment, is the only statement on this issue actually quoted in the Senate Report. Otherwise, the Report is a brief summary of the issues considered by the witnesses who appeared.

The Report also contains a separate section entitled "Committee Comments." In it, the Committee expressed its "doubts over the wisdom and feasibility of a Washington ABM defense," but nonetheless gave its unanimous approval to the Treaty.[13] Had the Committee regarded the issue of development and testing of "exotics" as significant, it could have given its views on that issue in a similar manner. The Committee expressed no views, however, on whether the Treaty restricts development and testing of mobile OPP ABM systems.

8. *Report of the House Foreign Affairs Committee*

The House report contains a brief description of the ABM Treaty. Its reference to the provisions at issue specifies only that the deployment of systems or components based on "new technology" is banned.[14] The House Report also contains a section entitled "Support for Unilateral Statements by the United States." It refers to "several significant unilateral statements" made by the U.S. delegation. The Report states: "The committee strongly supports those unilateral statements by the U.S. negotiators and would view actions inconsistent with those statements by the Soviets as a grave matter affecting the national security interests of the United States."[15] The Committee expressed no other views, however on the current issue.

9. *Congressional Debates*

Several references to the question of future ABM systems occurred in statements on the floor concerning the ABM Treaty and the Interim Agreement. The subject of future devices was, however, a minor aspect of the issues discussed. The statements of Senators Fong and Fulbright included the same type of general language contained in the statements by Secretary Rogers and Ambassador Smith, stating only that the deployment of OPP devices was barred. Senator Fong's statement is particularly strong in this suggestion:

> The principal provisions of the ABM treaty may be summarized as follows:
>
> First. Limits each side to one ABM site for the defense of its respective capital and one site each for the defense of an ICBM field.
>
> Second. Limits each side to a total of 200 ABM interceptors, 100 each site.
>
> Third. Limits the number and size of ABM radars at each site.
>
> Fourth. Allows research and development on ABM systems to continue, but not the deployment of exotic or so-called future systems.

Senators Buckley and Thurmond, however, with differing degrees of clarity, opposed the Treaty in part because they believed it prohibited the development and testing of space-based future systems. No Senator appears to have taken exception to their interpretive statements. Senator Thurmond said:

> Under the treaty, we also give up the right to deploy any land-based ABM systems of a new type, should they be developed. At the same time we undertake "not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."
>
> * * * *
>
> It also prevents us from developing new kinds of systems to protect our population. The most promising type appears to be the laser type, based on entirely new principles.

Senator Buckley clearly expressed his belief that development of space-based lasers was prohibited, as he had during the hearings:

> Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space based ballistic missile defense systems. This clause, in article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space which could at least in principle provide an extremely reliable and effective system of defenses against ballistic missiles. The technological possibility has been formally excluded by this agreement.
>
> There is no law of nature that makes impossible the creation of defense systems that would make the prevailing theories obsolete. Why then should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of tens of millions of civilians against ballistic missile attack? Why should we not at least be in a position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in article XV?

He opposed, as a matter of principle, any restraint even on the deployment of devices that might protect the American people.

C. *Conclusion*

Much of the material and testimony provided to the Senate and its Committees was inconsistent and inconclusive on the Treaty's treatment of development and testing of mobile OPP devices. The most authoritative sources of Executive Branch position—the transmittal documents and the testimony of Secretary Rogers and chief negotiator Smith—expressed in clear language only a prohibition on the *deployment* of OPP devices. (In response to specific questions, Smith said no restrictions exist on developing laser ABM systems.) An earlier draft of the transmittal documents was prepared which would have made ACDA's position on the issue absolutely clear. Every portion of that draft that advanced the restrictive interpretation was deleted, however. Furthermore, nothing was said by Executive Branch officials before the Committee on Foreign Relations, or by the Committee in its Report, that indicated a clear view on restrictions of OPP devices beyond deployment. Other issues were regarded by the Senate as of far greater importance than the question of development and testing of mobile OPP devices.

In the course of the ratification proceedings, Executive Branch witnesses made inconsistent statements—in one instance, in the same colloquy (e.g., JCS witnesses before the SASC)—concerning how the Treaty treats development and testing of mobile OPP ABM systems. The Administration may not have had a clear and uniform view on this issue, and in any event its representatives failed to communicate a clear and consistent view to the Senate. During the course of the hearing before the Senate Armed Services Committee, however, the Administration provided answers in writing and orally that in varying degrees could be read to support the restrictive interpretation. The position taken, apparently on the basis of guidance circulated on June 16, 1972, was that the Parties could engage in development of fixed, ground-based lasers, for ABM purposes. This statement implied that development of any mobile OPP device was prohibited, though that position was not expressed with clarity and directness. Nevertheless, the answers, particularly those given by DOD and JCS officials, reasonably led the few Senators who focused clearly on this issue to conclude that the Treaty precludes the development and testing of space-based lasers.

No indication exists in the ratification record that the Senate as a whole placed any importance on adherence to the narrow interpretation as a predicate to its willingness to give advice and consent. The few Senators expressing strong views on the subject (Buckley, Goldwater, and Jackson) were concerned that the Treaty lacked sufficient flexibility for development and testing of "exotics" that might provide an effective ABM defense. Senator Jackson was upset that DOD might have cancelled its work on lasers, and was evidently satisfied by the reassurance that fixed, land-based research and development of ABM lasers would continue. Senator Buckley opposed even the commitment not to deploy future systems. No evidence exists in the record that any Senator, other than Senator Buckley, made the restrictive interpretation a conditon or even a factor in the vote to approve the ABM Treaty. Given the little attention paid it, the complexity of the issue, and the overwhelming popularity of the Treaty, no evidence exists that the Senate would have failed to approve either the "broad" or "narrow" interpretation.

The record reflects that the Administration failed to advise the Senate of the conflicts and ambiguities in the negotiating history of the Treaty with respect to the issue of future OPP devices. In particular, the Senate was not informed of the refusal of Soviet negotiations to accept U.S. langauge that would have made clear that Article V(1) prohibited the development and testing of future, space-based "devices" other than the three components listed in Article II. The transmittal documents were devoid of material that would have reflected the dispute between the Parties over the meaning of "ABM systems and components." An Administration decision was made that the negotiating record not be provided, though Secretary Rogers noted that it would be referred to in resolving future uncertainties. Most fundamentally, perhaps, the Senators who exhibited a strong interest in the issue of future devices were not informed of the persistent, principled opposition of the Soviet negotiators to the regulation of such devices.

III. LEGAL EFFECTS OF RATIFICATION PROCEEDINGS

This section addresses the legal effects of Senate proceedings pursuant to the advice-and-consent power, with particular reference to the ABM Treaty. The effect of ratification proceedings on the international obligations of the United States is distinct from their effect on the obligations of the President to the Senate under the U.S. Constitutional system. The two questions, although related, are treated separately in the following analysis.

The Senate is able to have a powerful—even decisive—impact on the international obligations of the United States during the advice-and-consent procedure. The Senate may consent to the treaty as submitted or reject it; and it has available established procedures—particularly the resolution of ratification—for requiring that the treaty be subject to specified conditions. The Executive is obliged to take appropriate steps to ensure that the treaty partners are bound with respect to those conditions which have a bearing on their international obligations. Senate determinations not properly communicated to treaty partners may constitute evidence of the meaning attached by the Senate to a given treaty provision, but will not become binding aspects of the international obligation.

The Senate may, under appropriate circumstances, impose obligations upon the President under the U.S. Constitutional system with respect to the application of a treaty, irrespective of their effects upon treaty obligations of the U.S. under international law. The interests of the U.S. are not served, however, when the result of such actions is to impose more stringent limitations on the U.S., under domestic law, than are imposed on the other party or parties to the treaty, under international law. Further, such potentially unilateral obligations should not be lightly inferred, particularly with respect to obligations bearing on vital defense and foreign policy interests of the U.S., since the President must have considerable latitude in treaty interpretation to be able to protect U.S. national interests, and since the domestic status of a treaty derives from its international character. Whether the Senate has imposed such an obligation, or indicated its preferences or opinions, is judged by prior Senate practices and traditional standards of legislative interpretation.

A. *Effect on International Obligations*

1. *Interpretations adopted by the Senate as express conditions to its advice and consent*

The granting of advice and consent by the Senate is an integral part of this nation's process of treaty ratification. In the exercise of this power, the Senate may seek to establish authoritatively the meaning of a treaty on any question, in such a manner as to ensure that it would be binding on the other party or parties if they (and the President) choose to proceed with ratification. This can be done by incorporating the proposed interpretation as a condition in the Senate's resolution of ratification—the document by which the Senate formally grants advice and consent—and requiring the President to take appropriate action in connection with ratification to ensure that the other party is legally bound.

In the case of a bilateral treaty, the practice of the Executive Branch has generally been to seek the agreement of the other party (by exchange of diplomatic notes) to all the conditions in the Senate's resolution of ratification which affect the rights and obligation of the parties, and then incorporate them into the U.S. instrument of ratification—which is provided to the other party and embodies U.S. acceptance of the treaty.[16] To cite a few examples of this process, the Senate has attached reservations or other conditions to its resolution of ratification for a number of bilateral tax treaties, to which the Executive Branch obtained consent by bilateral agreement and incorporated into the ratification instruments.[17] The same was true for a number of bilateral treaties of friendship, commerce and navigation,[18] and certain bilateral treaties with Mexico concerning boundary waters.[19]

In the case of the SALT II and Panama Canal Treaties, the Senate concerned itself in greater detail with the precise manner in which the Executive Branch would ensure that the other party would be legally bound with respect to various questions of treaty interpretation that were thought to be of particular importance. The Senate conditioned its advice and consent to the Panama Canal Treaties [20] on a series of some of which addressed the meaning of treaty provisions.[21] The resolutions of ratification in connection with these treaties required that the President include in the U.S. instruments of ratification all conditions in the Senate's resolutions. In certain respects, the resolutions required that both the U.S. and Panamanian instruments include a specific condition, or that a bilateral instrument called a protocol of exchange, which was to be signed by the two parties, include the condition.[22]

In considering the SALT II Treaty,[23] upon which the Senate never acted, the Senate Foreign Relations Committee (SFRC) decided to specify explicitly what was required of the President of ratification, consisting of: (1) "provisions that do not directly involve formal notice to or agreement by the Soviet Union," including a few interpretive statements and a number of instructions to the Executive Branch not intended for communication to the Soviet Union; (2) "provisions that would be formally communicated to the Soviet Union as official statements of the position of the United States Government in ratifying the Treaty, but which do not require their agreement," including a number of interpretive statements; and (3) "provisions that would require the explicit agreement of the Soviet Union for the Treaty to come into force," concerning the legal status of certain associated documents.[24]

The Committee report indicated that the President would be bound vis-a-vis the Senate with respect to the conditions in all three categories, but that the three categories different with regard to their effect on the Soviet Union.[25] With respect to the third category, the Committee stated that even the formal inclusion of the conditions in the U.S. instrument of ratification might not be sufficient to bind the Soviet Union, and that the Senate therefore should require the President to obtain express Soviet agreement, either through inclusion in the protocol of exchange or some equally effective legal instrument.[26]

In the course of giving advice and consent in 1986 to he Supplementary Extradition Treaty with the United Kingdom,[27] the Senate included in its resolution of ratification, among other things, amendments to the Treaty imposing certain limits on extradition obligations under the Treaty.[28] The Executive Branch subsequently secured U.K. acceptance of the Treaty as amended in an exchange of notes prior to the time of ratification.[29]

These examples illustrate the following points with respect to bilateral treaties: (1) the Senate may, through its resolution of ratification, oblige the President to take action to ensure that the other party is legally bound to an interpretation of treaty terms; (2) the Senate has acted with full awareness that the clearest way to bind the other party is to secure its express acceptance through a protocol of exchange, an exchange of notes, or some other written agreement; (3) in the absence of such agreement, some degree of doubt will always exist as to whether the other party is legally bound to an interpretation even when contained in the resolution of ratification and the U.S. instrument of ratification; and (4) by implication, the other party is not normally bound by an interpretation as to which it is not given formal notice (and does not consent) prior to the exchange of instruments of ratification, even if the Senate had expressed its adherence to that interpretation. (In the latter two cases, any previous rejection of the interpretation, or treaty text embodying it, by the other party during negotiations would be an important element casting doubt on its binding character.)

These conclusions are generally consistent with the standard U.S. and international authorities on treaty interpretation.[30] Article 31 of the Vienna Convention on the Law of Treaties [31] provides that treaties must be interpreted "in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose." [32] Senate ratification resolution often effectively rewrite the terms of treaty. Where the U.S. formally communicates the Senate's conditions, reservations, or understandings which are not "terms" strictly speaking, they may constitute evidence of the treaty's purposes. Further, as indicated above, the practice of the Executive Branch has generally been to seek the agreement of the other party to all conditions which affect the rights and obligations of the parties. Our experience in negotiations with the Soviet Union confirms the wisdom of this practice.

2. *Interpretations stated in the ratification record but not made conditions to the Senate's advice and consent.*

In sharp contrast to Senate actions that are contained in the resolution of ratification and formally communicate to treaty partners, interpretations of a treaty discussed before, or presented by Executive witnesses to, the Senate in general have far less weight in the process of treaty interpretation for the purpose of determining international obligations. In general, interpretations discussed before or presented to the Senate are not legally binding under international law, unless agreed to by the other party. Such interpretive statements may have probative value on the issue of the Treaty's international effect, depending on the degree and manner in which the other party offically is put on notice of it (if at all), and the character of any response.[33]

How the record of internal ratification proceedings fits into the scheme of the Vienna Convention on the Law of Treaties is unclear. The internal ratification proceedings of one of the parties to a treaty may shed light on that party's understanding of the meaning intended by its terms and the object and purpose of the treaty. Standing alone, however, such proceedings are not part of the "context" of a treaty, or any of the other primary interpretive material cited in Article 31.[34] Such evidence might, however, qualify under Article 32 as "supplementary means of interpretation" and appears to have been treated as such by various scholars.[35] Internal ratification records are therefore, at best, no higher in status in the interpretation of treaties for international purposes than the negotiating record.

The Convention does not indicate what relative probative weight should be given to ratification proceedings; presumably this would depend on their content, significance, and all other relevant circumstance. But the content of such proceedings must always be considered with caution, in that they reflect the views expressed in the internal processes of only one of the parties. (Particular caution is in order where the other party's ratification proceedings are secret or otherwise unavailable.)

The American Law Institute's *Restatement of Foreign Relations Law of the United States (Revised)* [36] seems consistent with this analysis. Section 325 and the official commentary to that section essentially repeat the elements of Articles 31 and 32 of the Vienna Convention concerning the "context" of a treaty and "supplementary" means of interpretation.[37] The commentary also notes that this section of the *Restatement* differs somewhat from the approach ordinarily taken by U.S. courts, in that such courts are more likely to look outside an instrument in determining its meaning and the intent of the parties, particularly as regards the negotiating record.[38] The commentary also points out that U.S. courts, when determining the domestic legal effect of international agreements, tend to take greater account of internal U.S. materials, such as committee reports and debates, than would be the case in the determination of international obligations.[39]

A November 1977 Senate Foreign Relations Committee Staff Memorandum, *The Role of the Senate in Treaty Ratification,*[40] also draws a clear distinction between the effect of ratification proceedings on U.S. international obligations, as opposed to U.S. domestic law:

Expressions, etc., Not Included in the Resolution of Ratification. The Committee's report on a treaty is essentially designed to explain the treaty to the Senate and give the Committee's understanding as to what certain articles mean. At times these reports go to great lengths in interpreting the provisions of treaties which set a new course, such as the North Atlantic Treaty and subsequent mutual defense treaties. *The Committee reports, although purely domestic documents and of no concern to other party(ies), have value to the Executive and Judicial Branches in interpreting the intent of the Senate.* They serve as legislative history in the event questions should arise over the meaning of a treaty.

Statements and colloquies by the floor manager of a treaty serve a similar purpose. [Emphasis added.] [41]

This characterization of internal ratification proceedings, for the purpose of international obligations, as "purely domestic documents" of "no concern to other parties" is an accurate appraisal. Where, in a particular case, the U.S. Government acts formally to communicate to the other party an interpretation contained in domestic proceedings, the interpretation could have probative weight in determining what the parties intend, depending on the manner in which the statement is communicated and the response (if any) made by the other party.

These views are also consistent with Executive Branch practice with respect to treaty ratification proceedings in recent years. For example, the Department's Legal Adviser stated the following in 1979 in response to a question about the legal effect on the Soviet Union of statements of understanding or interpretation that might hypothetically be adopted by the Senate in SALT II but not included in the resolution of ratification:

Statements of understanding or interpretation not included in the Senate's resolution of ratification and the U.S. instrument of ratification accepted by the Soviet Union would not be legally binding per se. However, if provided to the Soviet Union prior to the exchange of instruments of ratification, and not contradicted by the Soviets, they would constitute persuasive evidence of the manner in which the Parties interpret the Treaty.[42]

Thus the evidentiary weight of such statements in the ratification record—even, in this hypothetical case, of statements included in a resolution (other than the resolution of ratification) adopted by the Senate as a whole—depends initially on the degree to which the other party is officially made aware, prior to ratification, of the interpretive statement as the position of the U.S. Government.

In fact, the SFRC was not prepared, during its consideration of SALT II, to rely on the Senate's ratification record to establish the international obligations of the Soviet Union on various interpretive matters. Notwithstanding extensive assurances by the Executive Branch to the Committee on interpretations of the SALT II documents,[43] the Committee insisted that the points of concern to it be incorporated into the resolution of ratification. The resolution was therefore written to contain an express requirement that, depending on the particular point in question, the President either obtain the particular point in question, the President either obtain the explicit agreement of the Soviet Union, or communicate the point formally to the Soviet Union as the official position of the United States, prior to the exchange of instruments of ratification.[44]

Similarly, in the case of the Panama Canal Treaties, a number of interpretive questions arose during ratification hearings, which neither the Executive Branch nor the Senate was satisfied to resolve through placing statements in the ratification record. In the case of a difference of opinion concerning the right of the United States to take action in defense of the Canal and to enjoy certain priorities in access to the Canal, it was pointed out during the SFRC hearings that the United States was interpreting the Neutrality Treaty in a manner contrary to the way it was being interpreted by certain Panamanian officials.[45] Accordingly, President Carter and General Torrijos agreed on a joint statement of understanding, which was made public and provided to the Senate.[46] Nonetheless, the Senate considered this insufficient, and insisted on the inclusion of the substance of this understanding in the resolution of advice and consent and the instruments of ratification.[47] In particular, Senator Robert Byrd (the Majority Leader), in testifying before the SFRC during markup of the Treaty, stated that:

"In view of all of this, there should not be any doubt about our right—and about the recognition of that right by the Panamanians—to defend the canal. However, because this will be a matter of importance to future generations—and so that there can be no question about the interpretation as enunciated by General Torrijos and President Carter in their joint statement—I have consistently taken the position that the substance of the October 14 statement should be formally approved and incorporated in appropriate language and through the proper parliamentary technique by the Senate. Senator Baker, the minority leader, has expressed similar concerns, and he and I have, upon several occasions, discussed the necessity for the Senate to take some formal, positive action in this regard. . . ." [48]

Similarly, in response to written questions from Senator Helms about the legal effects of an understanding attached to the resolution of ratification for the Genocide Convention,[49] the Departments of State and Justice replied, in pertinent part, that "[t]he scope of the obligation accepted by the United States is the obligation set forth in the instrument of ratification." [50]

In some instances, the Senate has accepted assurances from the President regarding the meaning of a treaty without requiring that such assurances be made part of the resolution of ratification. For example, regarding the 1963 Limited Test Ban Treaty,[51] various Senators were concerned that the Treaty might be interpreted to prohibit the use of nuclear weapons during war, even though the President's transmittal message,[52] testimony by the Secretaries of State and Defense and memoranda from their legal counsels,[53] and the SFRC Report [54] all stated that the Treaty did not do so. The Senate declined to add a reservation on this point to its resolution of ratification, as proposed by Senator Long, only after it had received additional written assurances from President Kennedy.[55] In each such case, however, a judgment was apparently made by Senators that the interpretation in question was already sufficiently clear as between the parties that no additional action was necessary to ensure that the obligation would be part of the treaty.[56]

In an early case, the Supreme Court considered the effect upon the grant of lands to certain Indian tribes by treaty of a proviso that was adopted by the Senate but not clearly conveyed to the Indians. The Court noted the proviso could have no force as a legislative act, and refused to give it force as a condition to the treaty:

There is something, too, which shocks the conscience in the idea that a treaty can be put forth as embodying the terms of an arrangement with a foreign power or an Indian tribe, a material provision of which is unknown to one of the contracting parties, and is kept in the background to be used by the other only when the exigencies of a particular case may demand it. The proviso never appears to have been called to the attention of the tribes, who would naturally assume that the treaty, embodied in the Presidential proclamation, contained all the terms of the arrangement.[57]

The British Government sought, in *Sullivan v. Kidd,*[58] to rely upon the fact that it had insisted upon a certain interpretation of a convention it negotiated with Japan similar to the one at issue. The Supreme Court refused to give any weight to this claim, because no evidence demonstrated that this insistence was brought to the attention of the U.S. negotiators.

These conclusions are consistent as well with the writings of major international legal scholars. Certain passages from Lord McNair's treatise *The Law of Treaties* have been cited in support of the proposition that internal ratification proceedings are an important guide to the meaning of a treaty for the purposes of determining the international obligations of the parties.[59] A review of those passages, however, shows that McNair was not referring to ratification proceedings. He was dealing instead with the British Government's practice of strongly asserting its own interpretation of a treaty whenever it became aware that a different interpretation was being expressed. The examples cited by McNair occurred prior to 1920,[60] and later treatise writers do not even discuss the matter. It seems doubtful, therefore, that the practice was widely followed.[61] McNair himself apparently advanced this proposition as a matter of political prudence rather than legal obligation.[62]

McNair addressed the significance of statements made during internal ratification proceedings in his section entitled "Admissibility of Preparatory Work."[63] In that section, he cites a case in which statements made during Senate ratification discussions were used to determine the intent of the parties by a German civil court after finding that the negotiating history of the treaty in question did not shed light on the meaning of the provision in dispute.[64] The U.S. Government later took issue, however, with the use by the German Government of Senate ratification proceedings; Secretary of State Hughes instructed the U.S. Ambassador in Berlin as follows:

Should occasion arise, you may orally explain to the German Foreign Office that expressions of opinion as to the meaning of the treaty of August 25, 1921, such as those to which the Foreign Office refers, occurring in general debate, cannot be regarded as affecting the interpretation of that treaty.[65]

McNair describes the use of such material as the type of preparatory work inappropriate for use in treaty interpretation, because of its unilateral character.[66]

3. *Effects of attempts to accord controlling weight to statements at ratification proceedings*

The interests of the United States would be undermined by adopting the view that statements made in the internal ratification proceedings of one party are authoritative in determining the international obligations of the other parties, at least in the absence of appropriate formal notification. In practice, where the U.S. expects a particular understanding of a treaty to be authoritative, it communicates that position formally to the other party, and generally seeks that party's express agreement, particularly if that party had previously rejected that understanding or treaty language which embodied it. This is in keeping with the various requirements under the Vienna Convention that actions affecting status and obligations under a treaty be in writing and be communicated to the other party or parties.[67] To attempt to depart from these principles would create unmanageable problems, and would in any event be ineffective in creating mutually enforceable obligations.

First, the United States regards itself as having no duty to monitor, or respond to, statements made in the ratification proceedings of other nations, unless the statements are formally communicated. Rather, the U.S. regards itself as entitled to rely, and does rely, on the written instruments concerning the treaty and upon authoritiative statements of the foreign government properly communicated. To cite one recent example, questions arose in the case of the Panama Treaties concerning the Panamanian interpretation of key provisions in the Canal Treaty. As the Executive Branch made clear at the time, the U.S. could not assume the role of interpreter and arbiter of such foreign statements, and had the right instead to rely on the official positions and communications of the Panamanian Government.[68]

If the U.S. were charged with knowing what went on during foreign internal proceedings, we would, among other things, have to detail legally and technically trained personnel to observe such proceedings, make judgments about legal and constitutional systems with which we are not familiar, and in many cases introduce a visible U.S. presence in domestic bodies of other countries that might have negative political consequences. For many multilateral treaties, the U.S. first learns that other states have ratified only after the internal ratification procedures have been completed. Typically, little or no information is received by the U.S. about the internal ratification processes of other States, except such statements as may be communicated in the ratification instrument itself.

Second, we could not successfully insist that other nations are required to monitor and respond to statements at ratification hearings in the U.S. Senate. Like the U.S., other states do not regard themselves obliged to follow our domestic activities. They rely upon the written instruments and other formal communications as the proper means for conveying the views of the United States on the meaning of treaties. To the extent we might be successful in pressing the view that statements at our own ratification hearings can be used as evidence of a treaty's meaning, we would be forced to accept a comparable obligation with respect to the proceedings of other states, based upon the principle that rules of treaty interpretation are equally binding upon all states.[69]

Third, statements contained in ratification proceedings will vary in the authority to which they are entitled to be viewed, and each nation will have its own sets of values in this regard. The importance which the Senate as a whole attaches to particular statements will also vary, and will often be speculative. The ultimate question—whether the Senate as a whole would have insisted upon a meaning given in particular testimony on a particular issue—will generally be impossible to know.

These considerations are particularly apparent in the specific case of the ABM Treaty proceedings. The question of future systems was not a major issue of debate, compared to the many other questions of interpretation and substance that occupied the attention of Senators and Executive Branch witnesses. The materials which had the highest level of formality and authoritative character, namely the President's transmittal package, the Committee reports, and the resolution of ratification itself make clear only that the deployment of OPP devices is prohibited. The testimony of Secretary Rogers and chief negotiator Smith was to the same effect. And, in response to specific questions on whether the Treaty permits development of laser ABM systems, Ambassador Smith replied in the affirmative without qualification. Only during the questioning of other Executive Branch witnesses, none of whom was a negotiator, and in two statements made on the Senate floor, is material found which supports the narrow interpretation with varying degrees of clarity. The most authoritative such statement, moreover, was submitted later for the Committee record, and at least one other such statement emerged through the editing of transcripts.[70]

The suggestion has been made that the statements by U.S. officials at the ABM ratification hearings constituted a form of communication to the Soviet Union because a Soviet official was evidently in attendance, at least at times.[71] This suggestion is untenable as a matter of legal practice. As discussed above, the ABM ratification record contains inconsistencies and ambiguities and such a rule would have implications with respect to the many other issues discussed in the ratification proceedings. Doubts would be created as to what message on each issue is authoritative, and the Soviet Union could attempt to rely on the versions most favorable to its interests. The U.S. would be prejudiced by such a practice, especially in its dealings with the Soviet Union and other states that have no legislative ratification process, or none that is open and observable. Such governments might well argue that the U.S. is estopped to deny statements made during U.S. ratification proceedings, but we would be unable to cite such unilateral internal proceedings in disputes with them.

In any event, the suggestion that such "communications" can have legal effect with respect to the Soviet Union has been flately rejected by Soviet officials. During bilateral discussions in 1981, the U.S. participant referred to a statement relating to the interpretation of the ABM Treaty made by Ambassador Smith, on a different point than OPP systems, to the Senate during the ratification hearings. The U.S. delegate noted that the Soviets had never objected to Ambassador Smith's interpretation. The Soviet participant replied that Smith's statement was an internal matter and that the sides were bound by the letter of the agreement and not by one side's interpretation.[72]

Mr. Graybeal, an ABM negotiator, commented on the matter of unilateral U.S. interpretations on September 25, 1979, during an SFRC hearing on Salt I compliance:

> What about Soviet compliance with the agreement "as presented to Congress"?
>
> The language of the agreement, the agreed statements and the common understandings reflect what could be negotiated and what is binding on the two parties.
>
> Presentations to Congress can help explain the language and how it was derived, but they should not change the meaning of the language or the scope of the provisions of the agreement.[73]

This problem would be compounded, moreover, whenever such proceedings include classified material unavailable to a foreign party that may be significant in the overall assessment of what the Senate understood the treaty to mean. No foreign representative could have any assurance of having received, under these circumstances, a complete understanding of the proceedings.

For these reasons, the evidentiary value of ratification proceedings must be judged, in the context of determining international obligations, by reference to the degree to which their substance is formally communicated to the foreign government in question, and the manner in which the foreign government responds. The ABM Treaty ratification process contains no formally adopted or communicated condition, reservation, or understanding on the questions at issue.

B. *Effect on Domestic Obligations*

The President is charged under the Constitution with the authority and responsibility to implement treaties with foreign powers, and in doing so he has broad latitude in interpreting the meaning of treaty provisions.[74] In particular, the President has authority to negotiate and resolve treaty interpretation questions with foreign parties to a treaty, a process that has been carried out with respect to the ABM Treaty through the bilateral Standing Consultative Commission, as well as in other diplomatic channels.[75] The President's judgments on the meaning of treaties, and those of other Executive Branch officials charged with such duties, are routinely accorded "great weight." The Supreme Court has made clear that the President also has authority, in proper circumstances, to change an interpretation of a treaty, just as the Executive Branch is empowered to change its view of a law, and courts have deferred to the current interpretation in such cases, provided it is consistent with the intent of the parties.[76]

Nonetheless, the President is required, under the Constitution, to abide by valid conditions adopted by the Senate during the advice-and-consent procedure, or by the Congress pursuant to subsequent legislation. In effect, he is subject, domestically, to the same range of constraints with which the Senate is able to determine or influence the nation's international obligations. He must also give appropriate weight to any understanding as to the meaning of treaties that is clearly expressed in the course of their adoption.

1. *Interpretations contained in instruments with binding force under U.S. law*

Congress as a whole may bind the President as a matter of domestic law to a particular treaty interpretation by its incorporation into an appropriate statutory vehicle. One historical example of such a practice was the adoption in the Panama Canal Act of 1912 of a provision authorizing the President to exempt certain U.S. vessels from canal tolls,[77] thus writing into U.S. law—at Executive Branch request—a particular interpretation of the 1901 Hay-Pauncefote Treaty with the U.K.[78] Such situations are common, since treaty provisions must often be implemented in the U.S. by domestic legislation, based upon assumptions about how the treaty is to be interpreted.[79] Indeed, Congress may enact legislation inconsistent with U.S. obligations under a treaty, in which case the President is bound to carry out the later-enacted statute.[80]

The Treaty of 1901 provides an interesting precedent, because it involved a "reinterpretation" by the President. In December 1911, President Taft expressed the view that, since the U.S. had built the Canal, it had the power to exempt its own vessels from tolls, and Congress accepted that view.

When President Wilson was elected, however, he asked Congress to repeal the statute, because the act was "in plain contravention of the treaty." Congress agreed, in part upon the basis of the negotiating history,[81] and the reinterpretation became law. A statute was plainly necessary in that instance to undo what an earlier statute had established.

The President is generally bound under the U.S. Constitutional system to implement any interpretation of a treaty contained in the Senate's resolution of ratification as a condition on its advice and consent, however stated, provided that he proceeds with ratification. The binding character, under U.S. law of such formal conditions is reiterated by the *Restatement*,[82] by decisions of U.S. courts,[83] and by the statements and practice of the Executive Branch and the Senate.[84]

For example, in the case of the SALT II Treaty, the Senate Foreign Relations Committee recommended that the Senate rely squarely on its power to direct the President to comply with conditions that were not even intended to be communicated to the Soviets. As indicated above, the Committee's proposed resolution of ratification included three different categories of conditions: the first for those conditions to which the President was required to obtain explicit Soviet agreement; the second for conditions which the President was required to communicate formally to the Soviets but as to which Soviet agreement was not required; and the third for "provisions that do not directly involve formal notice to or agreement by the Soviet Union."

The Committee Report recognized that these categories would have differing effects on the obligations of the Soviet Union; but the Committee specifically intended that the President be bound with respect to all three categories.

All such conditions or qualifications to advice and consent would be equally binding upon the President in accordance with their terms, regardless of the category in which they appear in the resolution. The difference in category would be a function of the desired involvement of the Soviet Union, as determined by the purpose of the proposal. But insofar as the U.S. President is concerned, he could not bring the Treaty into force without accepting the terms of each condition in the resolution regardless of category. Failure by the President to agree to, observe and implement any of these conditions would violate the basis upon which the Committee recommends that the Senate give its advice and consent to the Treaty.[85]

To ensure that its intentions in this regard would be respected by the Executive Branch, the Committee sought and received assurance from Secretary of State Vance that the President would proceed on the understanding that the provisions in each category would be equally binding on the President.[86] These procedures would have represented the most definitive action to date by the Senate through the advice-and-consent process to bind the President expressly even where the other treaty party might not be bound.

The Montreal Aviation Protocols 3 and 4[87] provide another illustration. These protocols amended the Warsaw Convention of 1929 to modernize the rules applicable to international air carriage of passengers, baggage, and cargo. They raised the liability limits of carriers, without proof of fault, and generally promoted speedier settlements and more efficient handling. The SFRC supported ratification, but wanted to insist upon a satisfactory supplemental compensation plan for accident victims, failing which the Protocols would be denounced; and the Executive branch was also to continue actively to negotiate for higher limits on liability for carriers. The SFRC recognized that incorporation into the resolution of ratification of these "provisos" would have no international effect, but recommended their adoption for the purpose of binding the President:

These three conditions were adopted by the Committee as "provisos" rather than as "reservations" or "understandings", as such, because they are matters between the Senate and the President and need not appear as provisions of the U.S. instruments of ratification. Nevertheless, if adopted by the Senate, they would have the same force and effect as any other condition included by the Senate—whatever its designation. In short, the President can proceed to ratify the Protocols only by accepting the conditions placed upon U.S. ratification by the Senate.[88]

We are not here considering the legality of particular Senate efforts to bind the President to conditions having no international effect. The point here is to describe Senate practice as it relates to such efforts.

2. *Expressed intentions and interpretations not incorporated into instruments with binding force under U.S. law*

Less authoritative expressions of the Senate's intent than expressions in the resolution of ratification may be entitled under some circumstances to substantial weight, notwithstanding the possibility of their resulting in domestic obligations inconsistent with U.S. international obligations. Section 314 of the *Restatement* states that "[w]hen the Senate gives its advice and consent to a treaty on the basis of a particular understanding of its meaning the President, if he makes the treaty, must do so on the basis of the Senate's understanding." [89]

Two views have been expressed as to the proper use of such ratification materials in the interpretation of a treaty. One view holds that there is a significant difference between the legislative record of domestic statutes, on the one hand, and the ratification record of treaties, on the other. The Department of Justice, Office of Legal Counsel, has provided the following statement of this view, drawn from its memorandum at Appendix B:

In determining the weight to be assigned to that record, it should be observed that, conceptually, the constitutional division of treaty-making responsibility is essentially the reverse of the division of law-making authority. Congress initially agrees upon and enacts the language of domestic legislation, while the President reserves the right to determine whether that legislation will go into effect (subject, of course, to the override of any veto). Treaties, however, are proposed and negotiated by the President, subject to the approval or disapproval of the Senate. Given this conceptual framework, it is clear that the portions of the treaty ratification record that should be accorded more weight as to the treaty's meaning are the representations of the executive—the draftsman, in effect, of the treaty. Statements by individual senators, or even groups of senators, are certainly entitled to no more consideration—and perhaps less—than the limited weight such statements are given in the interpretation of domestic legislation when they are not conformed by the legislation's sponsor in colloquy or otherwise.

The Justice Department analysis gives the following further explanation of the weight to be accorded to Executive Branch statements under various circumstances:

The weight to be given to an interpretive statement made by an executive branch official to the Senate during the ratification process will likely depend upon such factors as the formality of the statement, the identity and position of the executive branch official making the statement, the level of attention and interest focused on the meaning of the relevant treaty provision, and the consistency with which members of the executive branch adhered at the time to the view of the treaty provision reflected in the statement. All of these factors affect the degree to which the Senate could reasonably have relied upon the statement and, in turn, the weight that courts will attach to it. At one extreme, a single statement made by a middle-level executive branch official in response to a question at a hearing would not be regarded as definitive. Rather, in interpreting the domestic effect of a treaty, the courts would likely accord such a statement in the ratification record a degree of significance subordinate to more direct evidence of the mutual intent of the parties, such as the language and context of the treaty, diplomatic exchanges between the President and the other treaty parties the negotiating record, and the practical construction of the provision reflected in the parties' course of dealings under the treaty. Moreover, courts often give substantial weight to the executive branch's current interpretation of the treaty, in recognition of the President's unique role in shaping foreign policy and communicating with foreign governments, and accordingly, would be unlikely to bind future chief executives on the basis of an isolated remark of an executive branch official in a previous administration. In general, therefore, less formal statements made by the executive branch before the Senate (such as the one described in the preceding hypothetical) will be but one source of relevant evidence to be considered in interpreting an ambiguous treaty provision.

A second view is that the ratification record of a treaty has generally the same function and effect, for purposes of U.S. domestic law, as the legislative record of a statute, and should be analyzed in much the same way. Under this view, Congressional reports, debates and other forms of legislative history may be determinative in the interpretation of laws, depending on their relevance, clarity and other factors. Similarly, the Senate's reports, debates and other forms of ratification history may have substantial weight in the interpretation of a treaty, depending on their relevance, clarity and other considerations, including the Executive Branch's interpretation.

The official commentary to Section 314 of the *Restatement* states in part that:

A treaty ratified (or acceded to) by the United States with a statement of understanding becomes effective in domestic law (§ 131) subject to that understanding. If no such statement is made, indication in the record that the Senate ascribed a particular meaning to the treaty is relevant to the interpretation of the treaty by a United States court in much the same way that the legislative history of a statute is relevant to its interpretation. . . .

Although the Senate's resolution of consent may contain no statement of understanding, there may be such statements in the report of the Senate Foreign Relations

Committee or in the Senate debates. In such case, the President must decide whether they represent a general understanding by the Senate, and if he finds that they do, must respect them in good faith.[90]

Similarly, as noted above, the 1977 Senate Foreign Relations Committee Staff Memorandum, *The Role of the Senate in Treaty Ratification*, states that Committee reports and floor statements "have value to the Executive and Judicial Branches in interpreting the intent of the Senate" and "serve as legislative history in the event questions should arise over the meaning of a treaty." [91]

The principles applied in evaluating legislative history are reasonably well established. The General Accounting Office's 1982 study entitled *Principles of Federal Appropriations Law* provides the following guidance:

> A fundamental principle basic to the interpretation of both Federal and State laws is that all statutes are to be construed so as to give effect to the intent of the legislature. . . . The legislative history may be examined as an aid in determining the intention of the lawmakers when the statute is not clear . . ., or then application of the statutory language would produce an absurd or unreasonable result . . ., or if the legislative history provides "persuasive evidence" of what Congress intended.[92]

The GAO study also suggests a rough ranking in importance of different forms of legislative history in determining legislative intent, which is generally consistent with that adopted by U.S. courts in interpreting U.S. statutes.[93] Committee reports are generally the most persuasive indicia of Congressional intent.[94] Statements of individual legislators are accorded a less authoritative status,[95] with those of floor managers and sponsors being relatively more important than those of other legislators.[96] In connection with treaties, the transmittal documents and the testimony of negotiators during ratification proceedings are given particular weight, and statements of Executive officers may in general be accorded more weight than those of individual legislators.[97]

The Supreme Court has imposed a strict standard of proof, however, for deriving from legislative history an intention to limit the Executive discretion to interpret specific provisions of a statute. The Court recognized, in *Japan Whaling Association v. American Cetacean Society*,[98] the principle that the President and his officers "may not act contrary to the will of Congress when exercised within the bounds of the Constitution." [99] but the "will of Congress" is carefully determined, with a discriminating evaluation of the legislative record, and a search for evidence that Congress intended to preclude the result reached by the Executive by speaking "directly . . . to the precise issue in question." [100] "Furthermore, if a statute is silent or ambiguous with respect to the question at issue," the Court defers to the construction of the Executive department entrusted with the matter, "Unless the legislative history of the enactment shows with sufficient clarity that the agency construction is contrary to the will of Congress."[101]

In the *Japan Whaling Association* case, the Supreme Court considered whether the Secretary of Commerce possessed any discretion to fail to certify that the taking of whales by a particular country diminished the effectiveness of the international program to protect whales. The majority began by noting that, had Congress intended to deny such discretion, "it would have been a simple matter to say that the Secretary must certify deliberate taking of whales in excess of IWC limits." [102] The Court did not accept the explanation offered by the dissent for this failure, that no amendment was required because everyone understood that quota violations would always be considered to diminish the effectiveness of the program.[103] The majority found no inconsistency between the existence of the discretion at issue and the basic purposes of the statute, and it found that the evidence in the legislative history that supported a per se rule was insufficient to "clearly indicate" that the exercise of discretion contradicted the language of the statute or "frustrated congressional intent":

> It may be that in the legislative history of these amendments there are scattered statements hinting at the *per se* rule advocated by respondents, but read as a whole, we are quite unconvinced that this history clearly indicates, contrary to what we and the Secretary have concluded is a permissible reading of the statute, that all departures from IWC schedules, regardless of the circumstances, call for immediate certification.[104]

The scattered statements referred to by the Court included specific representations by the Secretary of Commerce that commercial whaling would diminish the effectiveness of the IWC, and a recognition by a prior Administrator of NOAA that certification is mandatory once a violation of IWC quotas is found.[105] This evidence was insufficient to meet the Court's strict standard that Congress must have evidenced a will that would be frustrated by the Executive's decision. The Court will consider whether the representations of Executive branch officials are incorporated into the relevant committee report.[106]

Similarly, in *Chevron U.S.A. v. Natural Resources Defense Council*[107], the Supreme Court stated that "if a court, employing traditional tools of statutorty construction, ascertains that Congress had an intention on the precise question at issue, that intention is the law and must be given effect." [108] It went on to say, however, that if the court "determines that Congress has not directly addressed the precise question at issue," then it will defer to the interpretation given by the relevant Executive Branch agency if it is "based on a permissible construction of the statute." [109]

The President must be afforded the full benefit of this strict standard of proof when he is interpreting treaties. The President's authority over the interpretation of treaties is an aspect of the broad responsibilities assigned to that office for the conduct of foreign affairs, including those involving the national security. Furthermore, the Senate should be required to make the terms of its advice and consent reasonably clear, so that the President can deliberately exercise his right to decide against ratification. A treaty is, moreover, not merely a law; it is also an international contract, which can have a significant impact on the nation's security posture. Its legislative history includes not only what the Senate learns, but also what the parties have said to each other. The Senate should not lightly be found to have intended that the United States be bound to terms other than those actually negotiated in the treaty.

Practices developed over many years demonstrate the practical results of these legitimate concerns. Whenever the Senate has intended to affect the Executive's judgment or activities under a treaty, it has provided in the ratification record some clear indication of its expectations or opinions. These indications will vary in the extent to which they limit the President's authority. These practices do not establish that efforts by the Senate, however clearly intended, to limit the President under domestic law will necessarily be proper or effective as a matter of law. They do, however, reflect the measures the Senate normally takes to express an intention or understanding it wishes the Executive to follow.

Many examples can be cited of the special measures taken by the Senate to ensure that the ratification record clearly reflected its view of a matter, and that the Executive Branch would honor or consider those views even though no formal condition on the question was included in the Senate's resolution of ratification. The following are a few prominent and instructive illustrations:

Geneva Protocol of 1925.[110] The Protocol prohibits the use in war of chemical and biological methods of warfare. During the Vietnam conflict, the Executive Branch took the view that neither the Protocol (which the U.S. had not yet ratified) nor customary international law prohibited the use in war of riot control agents or chemical herbicides.[111] On August 11, 1970, the President transmitted the Protocol to the Senate for its advice and consent, reaffirming this Executive Branch interpretation.[112] On April 15, 1971, the Chairman of the SFRC wrote to the President rejecting this "restrictive interpretation," while recognizing the ambiguity of the Protocol's language and the existence of arguments on both sides.[113] Neither side was prepared to change its position on this question of interpretation, and the Committee deferred any action on the Protocol.

In 1974, negotiations between the Committee and the Executive Branch produced a compromise. In a hearing before the Committee on December 10, 1974, ACDA Director Ikle announced that the Administration would renounce, as a matter of national policy, the first use in war of herbicides and riot control agents (except in certain limited circumstances), while reaffirming the Administration's legal view of the scope of the Protocol. The Committee's Report stated:

> Among the questions posed by the Committee to Dr. Ikle in connection with his December 10 testimony, all of which form a part of the legislative history of the Senate's action, the Committee attaches particular importance to the following:
>
> Question. Assuming the Senate were to give its advice and consent to ratification on the grounds proposed by the Administration, what legal impediment would there be to subsequent Presidential decisions broadening the permissible uses of herbicides and riot control agents?
>
> Answer. There would be no formal legal impediment to such a decision. However, the policy which was presented to the Committee will be inextricably linked with the history of Senate consent to ratification of the Protocol with its consent dependent upon its observance. If a future administration should change this policy without Senate consent whether in practice or by a formal policy change, it would be inconsistent with the history of the ratification, and could have extremely grave political repercussions and as a result is extremely unlikely to happen.

On the basis of this and the other Executive Branch assurances and explanations reflected in the hearing record, the Committee recommends that the Senate give its prompt advice and consent to ratification of the Geneva Protocol of 1925.[114]

Another example in which the Senate expressed its reliance upon the testimony of an Executive branch witness is the 1979 International Convention on Maritime Search and Rescue.[115] The SFRC was concerned about the manner in which the Executive would utilize a provision of the Convention allowing technical amendments to become automatically effective. The SFRC report stated:

The Committee allows this procedure for tacit amendments only on a treaty-by-treaty basis and only with respect to provisions dealing with technical, as opposed to policy, matters. The Committee understands, based on the testimony of Admiral Bell, that the Executive Branch will in all instances inform the Committee of amendments subject to this procedure sufficiently in advance of the time stipulated for entering an objection under the tacit acceptance procedure.[116]

Outer Space Treaty.[117] Among other things, the Treaty provides that "[t]he exploitation and use of outer space . . . shall be carried out for the benefit and in the interests of all countries, irrespective of their degreee of economic or scientific development, and shall be the province of all mankind." [118] The SFRC Report states as follows with respect to this provision:

The committee raised the question whether the language of this general principle might imply a fixed treaty obligation on the part of the United States to share the benefits and results of its space activities, particularly in the communications satellite field.

After a full discussion of this point with administration witnesses, the committee was assured that no such specific treaty obligations would result. Nevertheless, the committee wishes to make its position clear on its understanding of the obligations the United States will accept under article I, paragraph 1 of the treaty. It is the understanding of the Committee on Foreign Relations that nothing in article I, paragraph 1 of the treaty diminishes or alters the right of the United States to determime how it shares the benefits and results of its space activities.[119]

Similar Committee understandings were stated in the Committee Report concerning the interpretation of the Treaty's language on liability for damage resulting from space activities and the placement in oribit of nuclear weapons.[120]

Mutual Defense Treaty with the Republic of China. [121] This Treaty includes language by which each party "declares," in the event of an armed attack in the West Pacific Area directed against the territories of the other, that "it would act to meet the common danger in accordance with its constitutional processes."[122] The SFRC Report on the Treaty stated the following on this question:

The power of the United States Government to act under this treaty remains precisely as it is defined in the Constitution, without impairing either the right of the Congress to declare war, or the authority of the President to act as Commander in Chief and as director of this Nation's foreign relations. . . . The committee considered carefully the wording of article V and the nature of our commitments under that article. In order to clear up any doubt on this point, it was agreed that its report should include the following statement:

It is the understanding of the Senate that the obligations of the parties under article V apply only in the event of external armed attack; and that military operations by either party from the territories held by the Republic of China, shall not be undertaken except by joint agreement. [123]

A similar "understanding of the Senate" was included in the Committee Report on the process by which territories outside Formosa the Pescadores could be brought within the scope of the Treaty. [124]

Tax Convention with the USSR. [125] The Convention included language providing that the Convention would only apply to income from activity conducted in accordance with the laws and regulations of the Contracting State in question. [126] The SFRC Report stated as follows with respect to this issue:

During the course of the Committee's hearing, it was pointed out that Article VIII of the Soviet convention contains language which does not appear in any other tax treaty to which the United States is a party. . . . Since the Committee was concerned about interpretation and application of this provision, the Treasury and State departments were asked for clarification. Letters from both Departments appear in the appendix to this report.

In the Committee's opinion, as a matter of tax policy, this type of provision should not be included in tax treaties. Nevertheless, in view of the Treasury Department's assurances that the provision will be narrowly construed, and the State Department's belief that favorable action would have a positive effect on United States-Soviet bilateral relations, the committee decided to recommend approval of the treaty.[127]

Convention on Liability for Damage Caused by Space Objects.[128] The SFRC Report on the Convention stated the following:

The Convention was considered in executive session on August 8, 1972. During that session, a question was raised concerning the meaning of "space object." Further action on this Convention was postponed pending the receipt of a comprehensive definition of this term from the Executive Branch. On September 7, 1972, the Committee received a reply from the Department of State. The text of this communication is reprinted in the appendix.[129]

The State Department communication was a letter to the Chairman of the committee, coordinated with DOD and NASA, describing at length the Executive Branch's interpretation of the phrase in question.[130]

In another example of Senate concern over definitions, the definition of "indigenous inhabitants"in the 1976 Convention with the U.S.S.R. on the Conservation of Migratory Birds [131] led the SFRC to include in its report, "in an effort to clarify an ambiguity," a detailed excerpt from the U.S. delegation report.[132]

Supplementary UK Extradition Treaty.[133] The SFRC recommended several amendments to the supplementary Treaty that were ultimately adopted as formal conditions to the Senate's grant of advice and consent.[134] The SFRC Report contained a colloquy between committee members intended to establish that one of the amendments would allow otherwise extraditable individuals to challenge in U.S. courts the fairness on certain grounds of the judicial system to which he would be returned.[135]

Numerous other examples of such Senate expressions of intent could be cited.[136] They illustrate the measures that the SFRC or the Senate as a whole take when a particular question of treaty interpretation or implementation is deemed important enough to warrant an expression of clear intent. In several of the above examples, the Committee went back to the Executive Branch for further explanation or assurances, and included those responses in its Report as the basis on which the Committee was proceeding. In two cases, the Committee refused to proceed further until the matter in question was satisfactorily resolved. In many cases, the final result was the product of negotiation between the Committee and the Executive Branch. The results, moreover, were formally embodied in executive action, in "understandings of the Senate" recorded in the Committee Report, or in formal colloquies during Committee proceedings or on the Senate floor. The fact that the Senate often sought to pin down specific assurances of the Executive is significant; this practice reflects the Senate's view that even clear assurances of an interpretation would not necessarily bind the President in the event he determined the assurances were incorrect or inadvisable.

In all cases, the consequence of these activities is a clear expression of an aspect of the treaty, intended to influence the Executive directly, rather than authoritatively to affect the treaty's mutual obligation. As reflected in section 314 of the Restatement, quoted earlier, the evaluation of such statements in the ratification record must be undertaken by the President in good faith with a view to determining the extent to which the record can fairly be said to evidence a generally held understanding of the Senate on the specific issue involved. Other, less authoritative expressions of the Senate's intention on a specific issue may also be made. In light of established Senate practice, material which does not appear in the SFRC report, or which constitutes the views of individual members rather than a generally held understanding, is entitled to substantially less weight than the clearer expressions recounted above. In such situations, too, the President must under the Constitution consider what appropriate weight to give any specific understanding reflected in the record. Prudential considerations may well play a significant role in such a decision.

3. *Application to the ABM Treaty*

Under either view of the use of the ratification record in interpreting treaties, discussed above, no basis exists for the conclusion that the President is bound to the narrow view as a matter of domestic law.

The Senate did not condition its grant of advice and consent to the ABM Treaty on the basis of any particular interpretation concerning future systems. The Senate did express concern on specific issues other than whether the development and testing of mobile OPP devices was prohibited, although it did not reflect these concerns in its resolution. In the SERC Report, the Committee registered its strong opinion on the inadvisability of establishing an ABM defensive system for the national capital. This was not binding on the President, but it was a clear signal of the Committee's judgment. An informal understanding was also communicated through a colloquy among Senators which indicated agreement with the unilateral statement of Ambassador Smith to the Soviet ABM delegation on May 9, 1972 that: "(i)f an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty."[137] On August 3, 1972, Senator Buckley spoke in favor of attaching this position to the resolution of ratification as an understanding. He felt this would convey the important message that the ABM Treaty was not an end in itself, and that the Senate was accepting "not only the letter but the spirit of the treaty as it is understood by the President and his chief advisers." His proposal was supported by Senators Jackson and Thurmond, and the point was clearly made that this understanding was not intended to change the treaty itself.[138] Senator Fulbright questioned the need for such an understanding, stating that, while he felt the notion of "parity" was too vague a concept upon which to rely in evaluating U.S. strength, he agreed in principle with Buckley's essential point that "the necessary effect of the ratification would be to incorporate that statement of Ambassador Smith."[139] On the basis of this understanding, Senator Buckley withdrew his resolution. By contrast to these issues, nothing was said in the ratification proceedings indicating a Senate intention concerning the development and testing of mobile, OPP devices.

The Treaty's purpose, as described by the Secretary of State and Ambassador Smith, fails to provide an authoritative basis for inferring an intent, generally held by the Senate, to preclude the development and testing of mobile OPP devices. The basic purposes are stated in Article I(2): "Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty." These objectives are preserved under both the narrow and the broad interpretations of the Treaty; both prohibit deployment except as allowed in Article III. The Treaty bars the testing and development of mobile "ABM systems and components," but at the same time it identifies a separate category of ABM devices that it characterizes as ABM systems "based on other physical principles and including components capable of substituting for ABM launchers, missiles and radar." Devices which qualify as OPP can be "created," but not deployed.

The President's Letter of Transmittal recities: "The ABM Treaty limits, the *development* of anti-ballistic missile systems to two designated areas." (Emphasis added.) It also notes the additional objective which the Treaty was to ensure—maintaining the "defensive capabilities of the United States. . . ." The President wrote: "The terms of the ABM Treaty and Interim Agreement will permit the United States to take the steps we deem necessary to maintain a strategic posture which protects our vital interests and guarantees our continued security." The Secretary of State's Letter of Submittal echoed these themes in greater detail. It states, in a section entitled "Development, Testing, and Other Limitations," that Article V(1) limits development and testing activities "to fixed, land-based ABM systems and components . . . ." The letter contains a different section that deals with "Future ABM Systems," however, which it treats as a separate, "potential problem." It states that the parties agreed that, if substitute devices for ABM missiles, launchers, or radars are created in the future, their development would be barred.

The treaty does reflect a general purpose of constraining the development of ABM technology, which the Senate can be said to have supported. This general purpose is not inconsistent with the broad interpretation. The Secretary's Letter of Submittal describes limits on development and testing in some detail, but these comments deal primarily with specific provisions limited to "ABM systems and components," and relate specifically to ABM missiles, radars and launchers. Test ranges are specified. Articles V(1) and (2) are discussed, but also in terms of ABM systems and components," and the letter notes that such systems and components can be tested and developed only if they are fixed and land-based. Even though Article V(1) does not apply to OPP systems and components under the broad interpretation, the Treaty's effect is very meaningful. That section precludes the testing and development of all mobile, non-OPP systems and components, which was a substantial achievement in 1972, when plans for many such systems and components were being considered, and when the Administration might well have been willing to accept an ABM Treaty exclusively limited to conventional systems. The application of this provision to OPP is consistent with but is not an essential aspect of the Treaty's purpose. Early in the treaty's history the JCS recognized that Congress' willingness to support development of future systems would be affected by their deployability. (See Part I of this study, p. 17.)

The extent of the Treaty's regulation of OPP systems beyond the non-deployment commitment was not treated with precision or clarity during the ratification proceedings. The ratification record shows that the testimony of Secretaries Rogers and Laird did not explicitly address the precise issue currently in dispute, nor did the testimony of the chief negotiator, Ambassador Smith. In response to specific questions on whether the Treaty permits development of laser ABM systems, Ambassador Smith replied in the affirmative without qualification, saying that only deployment is restricted.

Other statements, by non-negotiators, did express the view that ABM lasers could be developed and tested in the fixed, land-based mode. In addition, a written answer by DOD on behalf of Secretary Laird conveyed this view. At least three Senators known to be experts on the subject of national defense drew the inference that mobile lasers could not be developed under the Treaty, and a JCS witness confirmed this interpretation. Senator Buckley rested in part on this understanding in announcing his opposition to the Treaty, although he was also opposed to the Treaty because it limited the right to deploy future systems.

The context of these statements, however, reflects no purposes by the Senators involved, much less by the Senate in general, to limit the President. On the contrary, these statements were made in the course of questioning by Senators who were seeking assurances that ABM laser research and development already underway would continue. No Senator at any time sought an assurance that development and testing of mobile OPP devices would not occur. While some Senators may have believed that this specific limitation added a desirable element to the Treaty, none specifically expressed that view; only a few indicated that the limitation was of any importance to them. Finally, the SFRC Report on the ABM Treaty contains no suggestion that the Senate generally had formed an intention on the specific issue now under review. The Reporat stresses the importance of the prohibition on deployment, specifically citing as a separate, "qualitative limitation," which is "perhaps of greater importance," the fact that "future exotic types of ABM systems, i.e., systems depending on such devices as lasers may not be deployed, even in permitted areas."

Under the governing Supreme Court standards for evaluating legislative history, which should be applied here with a regard for the President's authority to interpret treaties and conduct foreign affairs, this record, "read as a whole," fails to establish that the Senate generally "has directly spoken on the precise issue in question," that development and testing of mobile OPP devices would be "contrary to the will" of the Senate, or that such activities would frustrate Congressional intent. Nothing happened to alert the Senate to the need to inquire into this issue, so no factual inference should be drawn one way or the other from the Senate's silence. To find such a record binding on the President as a matter of law, however, would sharply and unacceptably restrict his authority in connection with treaties generally, especially considering the availability to the Senate of its often utilized practice of making clear generally held views on specific issues. Moreover, in this particular case it would result in a double standard, allowing the Soviets the benefits of a bargain which they rejected in 1972.

The President's concern over the ratification record should not, however, end with the application of judicial standards by which his descretion would be strictly limited. The Constitution requires him to give appropriate weight to any understanding clearly reflected in the course of adoption of a treaty. The application of governing legal standards on such issues is not a mechanical matter, but one that is inherently a matter of judgment and subject to differences of view. Differences of view are likely to be even more pronounced in connection with the application of these standards in a non-judicial context, as in evaluating the President's duties under the AMB Treaty.

The President has already recognized the propriety of consulting fully with Congress on all aspects of this matter. In exercising his Constitutional discretion, he should consider Congress' views, and all other relevant circumstances, including the ratification record.

FOOTNOTES

[1] Memorandum from J. Malone to Mr. Kenny (May 12, 1972), Revised Draft Letter of Submittal at 20-21.

[2] 133 *Cong. Rec.* S2970-71, S2979 (daily ed. Mar. 11, 1987) (statement of Sen. Nunn).

[3] *Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms: Hearing before the Senate Comm. on Armed Services*, 92d Cong., 2d Sess. 44 (1972).

[4] 133 *Cong. Rec.* S2979-80 (daily ed. Mar. 11, 1987) (statement of Sen. Nunn).

[5] *Strategic Defense Initiative: Hearings before the Subcomm. on Strategic and Theater Nuclear Forces of the Senate Comm. on Armed Services*, S. Hrg. No. 933, 99th Cong., 1st Sess. 253 (1985).

[6] Interviews with Charles Van Doren, ACDA Deputy General Counsel in 1972, and Steven Nelson, Special Assistant to the State Department Legal Adviser in 1972, in Washington, D.C. (Apr. 20 and 24, 1987, respectively).

[7] Memorandum from Amb. G. Smith to Mr. Kissinger (June 6, 1972) at 1.

[8] *Id.* at 1-2.

[9] *Strategic Arms Limitation Agreements: Hearings before the Senate Comm. on Foreign Relations*, 92d Cong., 2d Sess. 25-26 (Sen. Cooper) and 44 (Sen. Fulbright) (1972).

[10] *Id.* at 26 and 44.

[11] *Id.* at 44.

[12] Senate Comm. on Foreign Relations, *Treaty on Limitation of Anti-Ballistic Missile Systems,* S. Exec. Rep. No. 28, 92d Cong., 2d Sess. 3 (1972).

[13] *Id.* at 9.

[14] House Comm. on Foreign Affairs, *Agreement on Limitation of Strategic Offensive Weapons,* H. Rep. No. 1324, 92d Cong., 2d Sess. (1972), *reprinted in* U.S. Arms Control and Disarmament Agency, *1972 Documents on Disarmament* 555, 557 (1974) [hereinafter cited as *1972 Documents*].

[15] *1972 Documents, supra* note 14, at 560.

[16] *Restatement of Foreign Relations Law of the United States (Revised)* § 314(1) (Tent. Final Draft 1985) [hereinafter cited as *Restatement*]; 14 M. Whiteman, *Digest of International Law* 137-39 (1970). *See also* Congressional Research Service, Library of Congress, *Treaties and Other International Agreements: The Role of the United States Senate,* prepared for the Senate Comm. on Foreign Relations, S. Prt. No. 205, 98th Cong., 2d Sess. 120 (Comm. Print 1984); E. McDowell, *1976 Digest of United States Practice in International Law* 214-17 (1977).

[17] *See, e.g.,* Convention on Double Taxation, July 1, 1957, United States-Pakistan, 10 U.S.T. 984, T.I.A.S. No. 4232.

[18] *See* Agreement Concerning the Treaty of Friendship, Commerce and Consular Rights, June 3, 1953, United States-Federal Republic of Germany, 5 U.S.T. 1939, T.I.A.S. No. 3062; Treaty of Friendship, Commerce and Navigation, Apr. 2, 1953, United States-Japan, 4 U.S.T. 2063, T.I.A.S. No. 2863; Treaty of Friendship, Commerce and Navigation, Oct. 1, 1951, United States-Denmark, 12 U.S.T. 908, T.I.A.S. No. 4797; Treaty of Friendship, Commerce and Navigation, Aug. 23, 1951, United States-Israel, 5 U.S.T. 550, T.I.A.S. No. 2948; Treaty of Friendship, Commerce and Navigation, Aug. 3, 1951, United States-Greece, 5 U.S.T. 1829, T.I.A.S. No. 3057.

[19] *See* Treaty on the Utilization of Waters, Feb. 3, 1944, United States-Mexico, 59 Stat. 1219, T.S. No. 994.

[20] Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, Sept. 7, 1977, United States-Panama, T.I.A.S. No. 10029 [hereinafter cited as the Neutrality Treaty]; Panama Canal Treaty, Sept. 7, 1977, United States-Panama, T.I.A.S. No. 10030.

[21] Resolution of Ratification, as amended, for the Neutrality Treaty, adopted Mar. 16, 1978, *reprinted in* Congressional Research Service, Library of Congress, *Senate Debate on the Panama Canal Treaties: A Compendium of Major Statements, Documents, Record Votes and Relevant Events,* prepared for the Senate Comm. on Foreign Relations, 96th Cong., 1st Sess. 410 (Comm. Print 1979) [hereinafter cited as *Senate Debate*]; Resolution of Ratification, as amended, for the Panama Canal Treaty, adopted Apr. 18, 1978, *id.* at 493.

[22] Resolution of Ratification for the Neutrality Treaty, paras. (b)(2), (d)(5), *id.* at 411, 413; Resolution of Ratification for the Panama Canal Treaty, paras. (a)(2), (b)(6), *id.* at 483, 495.

[23] Treaty on the Limitation of Strategic Offensive Arms, June 18, 1979, United States-U.S.S.R., S. Exec. Y, 96th Cong., 1st Sess. (1979) [hereinafter cited as the SALT II Treaty].

[24] The SFRC Report on the Treaty stated:

"In view of the numerous conditions to the SALT II Treaty that it adopted, the Committee deemed it advisable to make explicit in the Resolution of Ratification the intended consequences of the different kinds of Committee action. In particular, it wanted to leave no doubt as to which Senate actions required the agreement of the Soviet Union and which were intended to serve other purposes. Early in its markup of the SALT II Treaty, therefore, the Committee agreed to distinguish between three different categories of conditions to the Senate's advice and consent, embodied in three different sections in the Resolution of Ratification:

"*Category I:* provisions that do not directly involve formal notice to or agreement by the Soviet Union.

"*Category II:* provisions that would be formally communicated to the Soviet Union as official statements of the position of the United States Government in ratifying the Treaty, but which do not require their agreement.

"*Category III:* provisions that would require the explicit agreement of the Soviet Union for the Treaty to come into force."—Senate Comm. on Foreign Relations, *The SALT II Treaty,* S. Exec. Rep. No. 14, 96th Cong., 1st Sess. 28 (1979) [hereinafter cited as Comm. Rep., *SALT II Treaty*].

[25] *Id.* at 28-29.

[26] The SFRC Report stated:

"Traditionally, the Senate is concerned first with what is in the treaty itself as elaborated in the Secretary of State's Letter of Submittal, and then with the text of its own Resolution of Ratification. It usually takes no interest in the content of the documents prepared subsequent to its advice and consent. In recent years, however, the Senate has concerned itself directly with the United States 'Instrument of Ratification,' the document which the President signs after Senate advice and consent and subsequently exchanges with the other party to the treaty. The problem that has attracted Senate attention is that the Instrument may or may not contain the complete text of the Senate's original Resolution of Ratification.

"The Resolutions of Ratification to both Panama Canal Treaties contained understandings which required the President to include the entire text of the Senate's Resolution in the U.S. Instrument. . . .

"However, the inclusion of Senate conditions in the U.S. Instrument of Ratification may not in itself be sufficient to assure the agreement of the other party to those conditions. Some legal scholars have argued that a willingness to go forward with the exchange of the Instruments of Ratification, in the absence of some other indication of acceptance, may leave doubts as to whether the silent party has or has not agreed to the conditions contained in the other party's Instrument. . . .

"The United States has generally avoided the problem in practice through a procedure whereby both parties sign a "Protocol of Exchange" at the time the Instruments of Ratification are exchanged. It is this document . . . which specifies the effect each party gives to any conditions contained in the Instrument of Ratification of the other party. . . . So long as the Senate makes clear which conditions must have the explicit agreement of the Soviet Union, the President will have to secure explicit agreement in the Protocol or some equally effective legal instrument."—*Id.* at 33-34.

[27] Supplementary Extradition Treaty, June 25, 1985, United States-United Kingdom, S. Treaty Doc. No. 8, 99th Cong., 1st Sess., as amended by the Senate July 17, 1986, S. Exec. Rep. No. 17, 99th Cong., 2d Sess. 15-17 (entered into force Dec. 23, 1986, with amendments and exchange of notes).

[28] Resolution of Ratification for the Supplementary Extradition Treaty with the United Kingdom, July 17, 1986, 99th Cong., 2d Sess., 132 *Cong. Rec.* S9120 (daily ed. July 16, 1986); *id.* at S9251-73 (daily ed. July 17, 1986).

[29] Notes exchanged at Washington August 19 and 20, 1986. The amendments were also included in the U.S. instrument of ratification, signed by the President November 6, 1986. The Protocol of Exchange, signed at London December 23, 1986, recited that the ratifications being exchanged were for the treaty, as amended by the said notes. The parties also exchanged notes at the same time as the exchange of ratifications, stating that the treaty would not be applicable to Hong Kong until such time as the United Kingdom gave notice that it had completed the steps necessary for implementation of the treaty in respect of Hong Kong. Documents on file in Department of State Treaty Records: Extradition—United Kingdom, Washington, June 25, 1985.

[30] *See Restatement, supra* note 16, § 313 comments (c) (agreement approved subject to reservation must be accepted by other party) and (e) (reservations must be in writing and communicated to other party), § 314 (reservations and understandings: U.S. law generally); 14 M. Whiteman, *supra* note 16, at 137-40 (reservations, understandings declarations of intent or interpretation are incorporated in instrument of ratification in order to have international effect); McNair, *The Law of Treaties* 421-22 (1961).

[31] Vienna Convention on the Law of Treaties, *done* May 23, 1969, S. Exec. L, 92d Cong., 1st Sess. (1971).

[32] Article 31 reads in full:

General rule of interpretation:

"1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

"2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

"(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;

"(b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

"3. There shall be taken into account, together with the context:

"(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

"(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;

"(c) any relevant rules of international law applicable in the relations between the parties.

"4. A special meaning shall be given to a term if it is established that the parties so intended." *Id.*

[33] *See supra* note 30.

[34] *See supra* note 32. Specifically, the reference to "subsequent practice in the application of the treaty which established the agreement of the parties regarding its interpretation" would not appear to include statements in one party's internal ratification proceedings prior to the entry into force of the treaty. Sinclair states:

"It should of course be stressed that paragraph 3(b) of Article 31 of the Convention does not cover subsequent practice in general, but only a specific form of subsequent practice—that is to say, concordant subsequent practice common to all the parties. Subsequent practice which does not fall within the narrow definition may nonetheless constitute a supplementary means of interpretation within the meaning of Article 32 of the Convention."

I. Sinclair, *The Vienna Convention on the Law of Treaties* 138 (2d ed. 1984). *See also* T. Elias, *The Modern Law of Treaties* 76-77 (1974) (subsequent practice must establish "agreement" of the parties, not merely understanding regarding interpretation). McNair refers to subsequent practice as "the relevant conduct of the contracting parties after the conclusion of the treaty," citing as one example the subsequent enactment of implementing legislation. McNair, *supra* note 30, at 424, 426.

[35] Article 32 reads in full:

Supplementary means of interpretation:

"Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

"(a) leaves the meaning ambiguous or obscure; or

"(b) leads to a result which is manifestly absurd or unreasonable."—Vienna Convention on the Law of Treaties, *supra* note 31.

"Some of the earlier writers appear to treat ratification proceedings as "preparatory work" for a treaty. For example, Lauterpacht states that "preparatory work" may be understood in two meanings: (1) the negotiating history of the treaty; and (2) "[i]t may refer to expression of opinion of Governments or authoritative members or committees of legislative bodies during the process of obtaining parliamentary approval of the treaty." His article, however, proceeds to address preparatory work in the sense of negotiating history only. Lauterpacht, *Some Observations on Preparatory Work in the Interpretation of Treaties,* 48 Harv. L. Rev. 549, 552 n.3 (1935). *See also* McNair, *supra* note 30, at 421-22; notes 59-66 *infra* and accompanying text. Sinclair does not discuss internal ratification proceedings as such, but they might fit within the "historical background" of the treaty which he believes should be considered. I. Sinclair, *supra* note 34, at 141. Other commentators, *e.g.,* T. Elias, *supra* note 34, at 71-84, do not mention ratification proceedings in connection with the interprtation of treaties.

[36] *See supra* note 16.

[37] Section 325 states:

Interpretation of International Agreements:

"(1) An international agreement is to be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its objects and purpose. (2) Any subsequent agreement between the parties regarding the interpretation of the agreement, or subsequent practice between the parties in the application of the agreement is to be taken into account in interpreting the agreement.

"The official commentary following this text repeats the other elements of Articles 31 and 32 of the Vienna Convention concerning the "context" of a treaty and "supplementary" means of interpretation."—*Restatement, supra* note 16, § 325 comments (b), (c) and (e).

[38] *Id.* § 325, comments (e) and (g), reporter's note 4.

[39] *Id.* § 325, reporter's note 5.

[40] Staff of Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. (Comm. Print 1977) [hereinafter cited as *SFRC Staff Memorandum*].

[41] *Id.* at 12-13.

[42] *The SALT II Treaty: Hearings before the Senate Comm. on Foreign Relations,* Part 1, 96th Cong., 1st Sess. 607 (1979).

[43] *See, e.g.,* discussion of understanding on the limitation of increases in launch-weight and throw-weight, cruise missile range and new type ICBM reentry vehicles, where the SFRC determined that a unilateral statement by U.S. negotiators made to the Soviets in the course of negotiations was not sufficient. Comm. Rep., *SALT II Treaty, supra* note 24, at 56-59. Also, discussion of reservation on Soviet Backfire statement, where the SFRC, despite assurances by Administration witnesses that the statement represented legally binding commitments on the part of the Soviet Union, insisted upon a formal reservation to clarify the legal effect of the statement. *Id.* at 64-65.

[44] *See* text of the proposed Resolution of Ratification, as approved by the Senate Foreign Relations Committee, Nov. 9, 1979, categories II ("the President shall communicate . . .") and III ("the President shall obtain the agreement of the Union of Soviet Socialist Republics . . ."). *Id.* at 72, 77-78.

[45] *See Panama Canal Treaties: Hearings before the Senate Comm. on Foreign Relations,* Part 1 (Administration Witnesses), 95th Cong., 1st Sess. 31-32, 55-57, 133-34 (1977) [hereinafter cited as *Panama Canal Treaties: Hearings*].

[46] Joint Statement of Understanding concerning the Neutrality Treaty Issued following a Meeting between President Carter and General Torrijos, Oct. 14, 1977. 13 Weekly Comp. Pres. Doc. 1547 (Oct. 17, 1977), *reprinted in* Senate Comm. on Foreign Relations, *Panama Canal Treaties,* S. Exec. Rep. No. 12, 95th Cong., 2d Sess. 291 (1978) [hereinafter cited as Comm. Rep., *Panama Canal Treaties*].

In response to written questions submitted by the SFRC to the State Department for coordinated Executive Branch response, the Department stated:

"The Statement of Understanding was issued by the White House on October 14 as a confirmation of the common interpretation and understanding between the governments of Panama and the United States of key provisions in the Neutrality Treaty. On October 18, the same statement was made public in Panama by the Panamanian Chief Negotiator. It was publicly confirmed by General Torrijos before the plebiscite on the treaties in Panama took place. It is now a part of the public ratification process in both countries. It is thus an authoritative interpretation of these provisions of the Treaty, and would be binding on future governments of both countries in the same manner that it would be if it were formally appended to the treaty document. We do not believe any useful purpose would be served by attempting to formally append its terms to the treaty."—*Panama Canal Treaties: Hearings, supra* note 45, at Part 3 (Public Witnesses) 682 (1977).

[47] Resolution of Ratification for the Neutrality Treaty, paras. (a) (1) and (2), (d)(5). *Senate Debate, supra* note 21, at 410, 413.

[48] *Panama Canal Treaties: Hearings, supra* note 45, 95th Cong., 2d Sess., at Part V (Markup) 3-4 (1978).

[49] Convention on the Prevention and Punishment of the Crime of Genocide, *done* Dec. 9, 1948, 78 U.N.T.S. 277. *See also* S. Exec. O, 81st Cong., 1st Sess. (1949), *reprinted in* Senate Comm. on Foreign Relations, *International Convention on the Prevention and Punishment of the Crime of Genocide,* S. Exec. Rep. No. 50, 98th Cong., 2d Sess. 23-34 (1984).

[50] *Crime of Genocide: Hearing before the Senate Comm. on Foreign Relations,* 99th Cong., 1st Sess. 172 (1985).

[51] Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water (Limited Test Ban Treaty), Aug. 5, 1963, 14 U.S.T. 1312, T.I.A.S. No. 5433.

[52] Message from the President of the United States Transmitting the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Underwater [Limited Test Ban Treaty], S. Exec. M, 88th Cong., 1st Sess. 2, 5 (1963).

[53] *Nuclear Test Ban Treaty: Hearings before the Senate Comm. on Foreign Relations,* 88th Cong., 1st Sess. 28, 76-78, 169, 177-78, 201 (1963).

[54] Senate Comm. on Foreign Relations, *The Nuclear Test Ban Treaty,* S. Exec. Rep. No. 3, 88th Cong., 1st Sess. 5-6, 27-29 (1963).

[55] 109 *Cong. Rec.* 17,734-45 (1963); Congressional Research Service, Library of Congress, *Fundamentals of Nuclear Arms Control: Part IX—The Congressional Role in Nuclear Arms Control,* prepared for the Subcomm. on Arms Control, International Security and Science of the House Comm. on Foreign Affairs, 99th Cong., 2 Sess. 5-6 (Comm. Print 1986), *reprinted in* 26 I.L.M. 258, 264-65 (1987); Chayes, *An Inquiry into the Workings of Arms Control Agreements,* 85 Harv. L. Rev. 905, 930-32 (1972).

[56] The SFRC decided not to add certain statements of interpretation to its proposed resolution of ratification for the SALT II Treaty. For example, the Committee rejected an understanding which would have provided that any practice impeding collection of telemetric information would constitute deliberate concealment impeding verification by national technical means. Comm. Rep., *SALT II Treaty, supra* note 24, at 22. In rejecting the proposed understanding, the Committee felt that the provisions of the Second Common Understanding to Article XV . . . were sufficient to assure that the requisite telemetric information would continue to be available." *Id.* at 44.

[57] *New York Indians v. United States,* 170 U.S. 1, 23 (1898).

[58] 254 U.S. 433, 442 (1921).

[59] The cited provisions from McNair are as follows:

"[W]hen there is a doubt as to the meaning of a provision or an expression contained in a treaty, the relevant conduct of the contracting parties after the conclusion of the treaty (sometimes called 'practical construction') has a high probative value as to the intention of the parties at the time of its conclusion . . . .

"When one party to a treaty discovers that other parties to a treaty are placing upon it an intepretation which in the opinion of the former it cannot bear, and it is not practicable to secure agreement upon the matter, the former party should at once notify its dissent to the other parties and publish a reasoned explanation of the interpretation which it places upon the term in dispute."—McNair, *supra* note 30, at 424, 429. *See generally id.* at 424-31. The McNair passages cited are from the section of his treatise under the heading "Effect of Subsequent Practice of the Parties." *See also* 133 *Cong. Rec.* S2971 (daily ed. Mar. 11, 1987) (statement of Senator Nunn).

[60] *Id. at 429-31.*

[61] *See, e.g.,* I. Sinclair, *supra* note 34, at 135-38.

[62] McNair states:

"It is submitted that, however prudent it may be politically for one contracting party to repudiate promptly an interpretation of a treaty to which it does not assent, such action on its part, though relevant evidence, is not conclusive upon a court which is called upon later to interpret the treaty."—McNair, *supra* note 30, at 431.

[63] *Id.* at 411-23.

[64] *Id.* at 421 n. 4; S.C.C.C. v. B.V., 2 Ann. Dig. 336 (German Reichsgericht in Civil Matters 1923).

[65] Secretary of State Hughes to Ambassador Houghton, July 30, 1923, 5 G. Hackworth, *Digest of International Law* 262 (1943).

[66] McNair states:

"Amongst other safeguards that might be attached to the practice of admitting evidence of preparatory work it is believed that it would be prudent to exclude evidence of unilateral preparatory work. Surely whatever value there may be in preparatory work is that it may afford evidence of the common intention of the parties, as might in some circumstances be said of an earlier draft discussed by both parties or an exchange of letters between them. It is quite another thing to permit one party to produce, for instance, a report made by its own representatives to their own Government during the negotiations as to what they understood a provision in the treaty to mean, or indeed a report made by the representatives of the other party to their own Government, unless such reports were contemporaneously communicated to the other party".—McNair, *supra* note 30, at 421-22.

[67] *See, e.g.,* Vienna Convention, *supra* note 31, arts. 11-16, 23, 65 and 67.

[68] *See, e.g.,* exchange between Senator Baker and Ambassador Linowitz concerning statements by Mr. Escobar, chief Panamanian negotiator, at news conference of August 22, 1977, *Panama Canal Treaties: Hearings, supra* note 45, at Part 1 (Administration Witnesses) 55-57.

[69] *See e.g.,* 1 L. Oppenheim, *International Law* 4-5 (H. Lauterpacht 8th ed. 1955) (law of treaties is part of universal international law, which is "binding upon all States without exception. . . .").

[70] *See* Part II. B of the text, "Analysis of Ratification Record."

[71] 133 *Cong. Rec.* S2971 (daily ed. Mar. 11, 1987) (statement of Sen. Nunn).

[72] A Memorandum of Conversation on this discussion is among the classified documents provided to the Senate.

[73] *Briefing on SALT I Compliance: Hearing before the Senate Comm. on Foreign Relations,* 96th Cong., 1st Sess. 13 (1979).

[74] U.S. Const. art. II, § 2, cl. 2.; *Restatement, supra* note 16, § 326 (1), comment (a); L. Henkin, *Foreign Affairs and the Constitution* 167 (1972).

[75] *Restatement, supra* note 16, § 326(1), comments; L. Henkin, *supra* note 74, at 167. The SCC was established under article XIII of the ABM Treaty. *See also* Memorandum of Understanding regarding the Establishment of a Standing Consultative Commission, Dec. 21, 1972, United States-U.S.S.R., 24 U.S.T. 238, T.I.A.S. No. 7545.

[76] *See, e.g., Chevron U.S.A. v. Natural Resources Defense Council,* 467 U.S. 837, 863-64 (1984), where the Supreme Court discussed the Environmental Protection Agency's varying interpretations of a term in the Clean Air Act:

"The fact that the agency has from time to time changed its interpretation of the term "source" does not, as respondents argue, lead us to conclude that no deference should be accorded the agency's interpretation of the statute. An initial agency interpretation is not instantly carved in stone. On the contrary, the agency, to engage in informed rulemaking, must consider varying interpretations and the wisdom of its policy on a continuing basis."

With respect to changed interpretations of treaties, see *Sumitomo Shoji America, Inc. v. Avagliano,* 457 U.S. 176, 184 n.10 (1982) (noting reversal by State Department, "the agency of the United States charged with interpretation of U.S.-Japan Treaty of Friendship, Commerce and Navigation).

See also the different interpretations with respect to the Treaty of Guadalupe Hidalgo by the Polk and Taylor administrations, 5 H. Miller, *Treaties and Other International Acts of the United States of America* 207-405 *passim* (1937).

[77] Panama Canal Act, ch. 390, § 5, Pub. L. No. 337, 37 Stat. 560, 562 (1912).

[78] Treaty to Facilitate the Construction of a Ship Canal (Hay-Pauncefote Treaty), Nov. 18, 1901, United States-United Kingdom, 32 Stat. 1903, T.S. No. 401.

[79] *Foster v. Neilson,* 27 U.S. (2 Pet.) 253, 314 (1828); *Restatement, supra* note 16, § 131(4), comment (h), note 5 (citing cases); L. Henkin, *supra* note 74, at 156-62; 14 M. Whiteman, *supra* note 16, at 302-03, 309-10, 313-14.

[80] *Restatement, supra* note 16, § 135(1)(a), comment (a), note 1. The superseding law does not relieve the United States of its international obligation or of the consequences of a violation. *Id.* § 135(1)(b), comment (b), note 2. *See also* L. Henkin, *supra* note 74, at 163-64; 14 M. Whiteman, *supra* note 16, at 316-18. Courts have held that the President is bound to carry out the later-enacted statute. *See, e.g., Fong Yue Ting v. United States,* 149 U.S. 698, 720 (1893); *The Chinese Exclusion Case,* 130 U.S. 581, 600 (1889); *Whitney v. Robertson,* 124 U.S. 190, 193-95; (1888); *The Head Money Cases,* 112 U.S. 580, 597-99 (1884); *The Cherokee Tobacco,* 78 U.S. (11 Wall.) 616, 620-21 (1870); *Diggs v. Shultz,* 470 F.2d 461, 465-67 (D.C. Cir. 1972, *cert. denied,* 411 U.S. 931 (1973).

[81] *See* Speech of Senator Root, 51 *Cong. Rec.* 8944-45 (1914), *reprinted in* 5 G. Hackworth, *supra* note 65, at 259-60. *See also* T. Yu, *The interpretation of Treaties* 121-27 (1927).

[82] *Restatement, supra* note 16, § 314, comments (b) and (d).

[83] *Haver v. Yaker,* 76 U.S. (9 Wall.) 32, 35 (1869); *Fourteen Diamond Rings v. United States,* 183 U.S. 176, 183 (1901) (Brown, J., concurring); *Hidalgo County Water Control and Improvement Distrct v. Hedrick,* 226 F.2d 1, 8 (5th Cir. 1955), *cert. denied,* 350 U.S. 983 (1956).

[84] *See* J. Boyd, *1977 Digest of United States Practice in International Law* 375-77 (1979); *See also* L. Henkin, *supra* note 74, at 133-36; K. Holloway, *Modern Trends in Treaty Law* 489-95 (1967).

[85] Comm. Rep., *SALT II Treaty, supra* note 24, at 28-29.

[86] *Id.* at 29-32.

[87] Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage By Air, as amended by the Protocols done at the Hague, September 28, 1955, and at Guatemala City, March 8, 1971; Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to the International Carriage By Air, as amended by the Protocol done at the Hague, September 28, 1955; S. Exec. B, 95th Cong., 1st Sess. (1977). The Senate on March 8, 1983, by a vote of 50-42, 7 not voting, 1 present, declined to give advice and consent to ratification of the protocols. 129 *Cong. Rec.* S2279 (daily ed. Mar. 8, 1983). The protocols were automatically rereferred to the SFRC under the standing rules of the Senate.

[88] Senate Comm. on Foreign Relations, *Montreal Aviation Protocols Nos. 3 and 4*, S. Exec. Rep. No. 45, 97th Cong., 1st Sess. 8 (1981).

[89] *Restatement, supra* note 16, § 314(2).

[90] *Id.* § 314 comment (d).

[91] *SFRC Staff Memorandum, supra* note 40, at 13.

[92] U.S. General Accounting Office, Office of General Counsel, *Principles of Federal Appropriations Law* 2-47 (1982).

[93] *Id. See, e.g., National Railroad Passenger Corp. v. National Ass'n of Railroad Passengers*, 414 U.S. 453, 458 (1974); *United States v. Donruss Co.*, 393 U.S. 297, 303-07 (1969); *Boston Sand & Gravel Co. v. United States*, 278 U.S. 41, 48 (1928); 2A Sutherland, *Statutory Construction* §§ 45.05, 48.01 (N. Singer 4th ed. 1984).

As the Supreme Court noted in *Garcia v. United States*, 469 U.S. 70, 76 (1984):

"In surveying legislative history we have repeatedly stated that the authoritative source for finding the Legislature's intent lies in the Committee Reports on the bill, which 'represen[t] the considered and collective understanding of those Congressmen involved in drafting and studying proposed legislation.' *Zuber v. Allen*, 396 U.S. 168, 186 (1969). We have eschewed reliance on the passing comments of one Member, *Weinberger v. Rossi*, 456 U.S. 25, 35 (1982), and casual statements from the floor debates. . . . Committee Reports are 'more authoritative' than comments from the floor, and we expressed a similar preference in *Zuber*." . . .

A conference report would appear to be assigned the greatest weight of committee reports. *National Association of Greeting Card Publishers v. United States Postal Service*, 462 U.S. 810, 832 n.28 (1983) (dictum). *See also Monterey Coal Company v. Federal Mine Safety and Health Review Comm'n* 743 F.2d 589, 598 (7th Cir. 1984) ("Such reports are, apart from the language of the statute itself, generally the most reliable indicators of congressional intent.");

American Jewish Congress v. Kreps, 574 F.2d 624, 629 n.36 (D.C. Cir. 1978) ("Since the conclusions in the conference report were commended to the entire Congress, they carry greater weight than other of the legislative history.").

The report of the principal committee or committees ranks just below that of the conference committee in importance. *See Blum v. Stenson*, 465 U.S. 886, 893-94 (1984) (in interpreting the Civil Rights Attorneys Fees Award Act of 1976, Court places heavy reliance upon Senate Committee report provisions containing phrases "It is intended that."); *Miller v. Federal Mine Safety and Health Review Commission*, 687 F.2d 194, 195 (7th Cir. 1982) ("In the absence of any contrary legislative history, so clear a statement in the principal committee report is powerful evidence of legislative purpose. . . . "). *See also* 2A Sutherland, *supra* note 93, § 48.06 (such reports "highly persuasive").

[95] *Garcia*, 469 U.S. at 76; *Blitz v. Donovan*, 740 F.2d 1241, 1247 (D.C. Cir. 1984); 2A Sutherland, *supra* note 93, § 48.06 (citing cases); *See also Regan v. Wald*, 468 U.S. 222, 237 (1984) ("Oral testimony of witnesses and individual Congressmen, unless very precisely directed to the intended meaning of particular words in a statute, can seldom be expected to be as precise as the enacted language itself."). *Cf. S & E Contractors, Inc. v. United States*, 406 U.S. 1, 13 n.9 (1972) ("In construing laws we have been extremely wary of testimony before committee hearings and of debates on the floor of Congress save for precise analyses of statutory phrases by the sponsors of the proposed laws.").

[96] *Firefighters Local Union No. 1784 v. Stotts*, 467 U.S. 561, 581 n.14 (1984) (recognizing "authoritative nature" of interpretative memorandum prepared by bipartisan captains of Title VII); *Federal Energy Administration v. Algonquin SNG, Inc.*, 426 U.S. 548, 564 (1976); *Population Institute v. McPherson*, 797 F.2d 1062, 1080 (D.C. Cir. 1986) ("critical legislators' statements are typically afforded an apropriate role"); 2A Sutherland, *supra* note 93, § 48.14-.15.

At the same time, the Supreme Court has recognized the dangers of overreliance on the statements of such legislators. *See Consumer Products Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102, 118 (1980) (remarks of a bill's sponsor "not controlling"). *See also Monterey Coal*, 743 F.2d at 596-98 (refusing to consider dispositive the remarks of Congressman who served as the principal sponsor, principal conferee, and chairman of the committee that marked up bill, noting "risk of permitting one member to override the intent of Congress as expressed in the language of the statute").

[97] *See United States v. Postal*, 589 F.2d 862, 881-82 (5th Cir. 1979), *cert. denied*, 444 U.S. 832 (1979) (placing great weight on Senate testimony of chief U.S. negotiator to 1958 Law of the Sea Conference in interpreting 1958 Convention). *Cf. United States v. Vogel Fertilizer Co.*, 455 U.S. 16, 31 (1982) ("we necessarily attach 'great weight' to agency representations to Congress when the administrators 'participated in drafting and directly made known their views to Congress in comittee hearings.' [citation omitted]"). *See also* Office of Legal Counsel, Department of Justice, Relevance of Senate Ratification History to Treaty Interpretation 11 (Apr. 9, 1987) (memorandum to the Legal Adviser) (attached at Appendix B).

[98] 54 U.S.L.W. 4929 (1986).

[99] *Id.* at 4932.

[100] *Id. See also Chevron*, 467 U.S. at 842, 843 & n.9.

[101] 54 U.S.L.W. at 4932.

[102] *Id.*

[103] *Id.* at 4936 (Marshall, J., dissenting).

[104] *Id.* at 4934.

[105] *Id.* at 4935-36 (Marshall, J. dissenting).

[106] *See United States v. Vogel Fertilizer Co.*, 455 U.S. 16 (1982), where the Court invalidated Treasury Regulations inconsistent with explanations offered by the Department during the passage of a tax reform act. These explanations had been explicitly incorporated into the report of the House Ways and Means Committee. *Id.* at 31-32.

[107] 467 U.S. 837 (1984).

[108] *Id.* at 843 n.9.

[109] *Id.* at 843.

[110] Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, 26 U.S.T. 571, T.I.A.S. No. 8061, 94 L.N.T.S. 65.

[111] *See* U.S. Arms Control and Disarmament Agency, *Arms Control and Disarmament Agreements* 10-11 (1982) (discussion of history of interpretation of Protocol).

[112] Message from the President of the United States Transmitting the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare, S. Exec. J, 91st Cong., 2d Sess. vi (1970). *See also* Senate Comm. on Foreign Relations, *The Geneva Protocol of 1925*, S. Exec. Rep. No. 35, 93d Cong., 2d Sess. 4 (1974).

[113] *The Geneva Protocol of 1925, supra* note 112, at 4.

[114] *Id.* at 5. The Senate adopted the Resolution of Advice and Consent by a vote of 90-0. 120 *Cong. Rec.* 40,068 (1974).

[115] International Convention on Maritime Search and Rescue, Apr. 27, 1979, S. Exec. J, 96th Cong., 2d Sess. (1980).

[116] Senate Comm. on Foreign Relations, *International Convention on Maritime Search and Rescue, 1979, with Annex*, S. Exec. Rep. No. 40, 96th Cong., 2d Sess. 2 (1980).

[117] Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, Jan. 27, 1967, 18 U.S.T. 2410, T.I.A.S. No. 6347, 610 U.N.T.S. 205.

[118] *Id.* art. I.

[119] Senate Comm. on Foreign Relations, *Treaty on Outer Space*, S. Exec. Rep. No. 8, 90th Cong., 1st Sess. 4 (1967).

[120] *Id.* at 4-5.

[121] Mutual Defense Treaty, Dec. 2, 1954, United States-Republic of China (Taiwan), 6 U.S.T. 433, T.I.A.S. No. 3178 (terminated by the United States, effective Jan. 1, 1980).

[122] *Id.* art. V.

[123] Senate Comm. on Foreign Relations, *Mutual Defense Treaty with the Republic of China*, S. Exec. Rep. No. 2, 84th Cong., 1st Sess. 4 (1955).

[124] *Id.* at 4-5.

[125] Convention on Matters of Taxation, June 20, 1973, United States-U.S.S.R., 27 U.S.T. 1, T.I.A.S. No. 8225.

[126] *Id.* art. VIII.

[127] Senate Comm. on Foreign Relations, *Tax Convention with U.S.S.R.*, S. Exec. Rep. No. 19, 94th Cong., 1st Sess. 3-4 (1975).

[128] Convention on International Liability for Damage Caused by Space Objects, Mar. 29, 1972, 24 U.S.T. 2389, T.I.A.S. No. 7762, 961, U.N.T.S. 187.

[129] Senate Comm. on Foreign Relations, *Convention on International Liability for Damage Caused by Space Objects*, S. Exec. Rep. No. 38, 92d Cong., 2d Sess. 4 (1972).

[130] *Id.* at 8-10.

[131] Convention Concerning the Conservation of Migratory Birds and their Environment, Nov. 19, 1976, United States-U.S.S.R., 29 U.S.T. 4647, T.I.A.S. No. 9073.

[132] Senate Comm. on Foreign Relations, *Convention with the Union of Soviet Socialist Republics on the Conservation of Migratory Birds and Their Environment*, S. Exec. Rep. No. 26, 95th Cong., 2d Sess. 3-4 (1978).

[133] Supplementary Extradition Treaty, *supra* note 27.

[134] Senate Comm. on Foreign Relations, *Supplementary Extradition Treaty with the United Kingdom*, S. Exec. Rep. No. 17, 99th Cong., 2d Sess. 9-10 (1986).

[135] *Id.* at 4-5.

[136] *See, e.g.*, Senate Comm. on Foreign Relations, *Prisoner Transfer Treaty with Thailand*, S. Exec. Rep. No. 38, 98th Cong., 2d Sess. 2 (1984); *Extradition Treaty with Costa Rica*, S. Exec. Rep. No. 30, 98th Cong., 2d Sess. 3, 5 (1984); *Convention on Mutual Legal Assistance with Morocco*, S. Exec. Rep. No. 35, 98th Cong., 2d Sess. 3-4 (1984); *Intellectual and Industrial Property Conventions*, S. Exec. Rep. No. 13, 91st Cong., 2d Sess. 2 (1970); *Statute of the International Atomic Energy Agency*, S. Exec. Rep. No. 3, 85th Cong., 1st Sess. 11 (1957).

[137] *See* Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, United States-U.S.S.R., 23 U.S.T. 3435, 3460, T.I.A.S. No. 7503 (unilateral statement on withdrawal from the ABM Treaty). *See also* 118 *Cong. Rec.* 26,699-701 (1972).

[138] 118 *Cong. Rec.* 26,699 (1972).

[139] *Id.* at 26,700-01.

APPENDIX A

EXECUTIVE BRANCH PREPARATION FOR ABM TREATY RATIFICATION PROCEEDINGS

In his draft dated May 24, 1972, two days before the ABM Treaty was signed, Rhinelander described Article V(1) of the Treaty, without qualification, as applying to "devices" that could substitute for known components:

"Paragraph 1 of Article V prohibits the development, testing or deployment of:

"An ABM system that is sea-based, air-based, space-based, or mobile land-based.

"An ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based.

"A device capable of substituting for an ABM interceptor missile, ABM launcher or ABM radar that is sea-based, air-based, space-based, or mobile land-based (such as an air-based "killer" laser).

"The deployment (as well as the testing or development) of ABM components for three environments—sea, air and space—as well as mobile ABM components on land, is prohibited. Accordingly, the testing, development or deployment of ABM systems or ABM components other than those which are fixed, land-based is prohibited." [1]

This description departed from the Treaty text, which reads "systems or components." Rhinelander provided no explanation based on the record for his position that "devices" were covered by Article V even though that word was specifically deleted at Soviet insistence from what became Article V(1) of the U.S. draft. (His earlier drafts, discussed in Part I of this study, raised doubts about this conclusion, and suggested that the U.S. position needed to be made clear to the Soviets.)

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[1] Footnotes at end.

Rhinelander also concluded that "ABM system" in Article II(1) extends to all "future systems" based on other physical principles and capable of substituting for current components. This, despite the U.S. assurance during the negotiations that Article II(1) would be drafted to avoid prejudicing the position of either party on future systems, which would be settled elsewhere. He thus incorporated in his analysis of Article II(1) language the Soviets specifically rejected elsewhere and agreed to use only in Agreed Statement D:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. This does not, however, limit the generality of the term ABM systems as used in the Treaty to systems composed of 'current' ABM components, but would also include 'future systems' based on physical principles other than those used for 'current' ABM components and capable of substituting for a 'current' ABM component. See discussion of future ABM systems under Article III." [2]

In his description of Article III, Rhinelander stated that it limits deployment of ABM systems only to systems with current components, and that systems with substitute components can be deployed only after consultation and agreement on limitations under Agreed Statement D.[3]

While Rhinelander was preparing his legal analysis, the ACDA General Counsel's office prepared a package of materials to transmit the ABM Treaty and the Interim Agreement to the Senate. Rhinelander commented on May 11, 1972, on the first draft of the transmittal papers, recommending annexes to the Secretary of State's report that would constitute "article-by-article" analyses of each agreement. He wrote:

"They would be considerably more detailed, closely reasoned (a 'legal' analysis) than the text of the Secretary's Report itself. A model for this approval [sic] is the transmittal papers for the Vienna Law of Treaties Convention." [4]

Rhinelander thereafter apparently played a role in preparing the transmittal package.[5] In any event, a draft package which has been located draws heavily in its language from Rhinelander's memorandum.

In his cover memorandum dated May 12, 1972, transmitting the draft package to Spurgeon Keeny, ACDA Assistant Director for Science and Technology, ACDA Assistant General Counsel James L. Malone included what he called the "second revised drafts of a model President's Transmittal Letter and Secretary's Letter of Submittal for the ABM Treaty and the Interim Agreement," With respect to the language used he stated: "The U.S. version of all articles has been used." The memorandum states in several, separate places that the treaty covers "devices capable of substituting" for ABM systems and ABM components.

In describing the "broadest outline" of the Treaty, the draft Secretary's Letter of Submittal states that it

"(c) permits the development and testing at test ranges of ABM systems and ABM components which are fixed and land-based *or devices capable of substituting for such ABM systems and ABM components* (Articles IV and V); (d) prohibits the development, testing or deployment of ABM systems and ABM components *or devices capable of substituting for them* which are sea-based, air-based, space-based, or mobile land-based . . . (Article V); . . . (g) provides against the transfer to other countries, and the deployment outside the national territory of the Parties, of ABM systems or ABM components *or devices capable of substituting for them* (Article IX) . . . ." [emphasis added].[6]

The same draft Letter of Submittal dealt with the deployability of "other devices" as follows:

"In conjunction with the provisions in Article III and Article IV, and the Treaty as a whole, the deployment of ABM systems or ABM components based *on devices capable of substituting for ABM interceptor missiles, ABM launchers or ABM radars* would be prohibited unless and until the Treaty is amended." [emphasis added].[7]

This explanation is consistent with the view that Agreed Statement D is superfluous with respect to the nondeployability of substitute "devices."

In describing article II(1), the draft states unequivocally that it is intended to cover both "current" systems and components as well as "future systems" based on other physical principles:

"An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components. This does not, however, limit the meaning of the term ABM systems, as used in the Treaty, to systems composed of 'current' ABM components, but would also include 'future systems' based on physical principles other than those used in 'current' ABM components." [8]

The draft states, with respect to Article III:

"Article III is intended to limit the deployment of ABM systems to those based on 'current' ABM components. The deployment, of ABM systems or ABM components other than ABM interceptor missiles, ABM launchers or ABM radars capable of substituting for these components would be permitted only after consultation under Article XIII and after this Treaty has been amended in accordance with Article XIV." [9]

The discussion of Article V(1) was similarly explicit on the issues of substitute "devices":

"Article V, paragraph 1, prohibits the development, testing or deployment of an ABM system or ABM component that is sea-based, air-based, space-based, or mobile land-based, *or a device capable of substituting for* an ABM interceptor missile, ABM launcher or ABM radar in an ABM system that is sea-based, air-based, space-based or mobile land-based. This provision, when read with Articles III and IV, makes clear that only fixed, land-based ABM interceptor missiles, ABM launchers and ABM radars may be deployed at operational sites, or located at test ranges. The deployment, as well as the testing or development, of 'current' or 'future' ABM components for three environments—sea, air and space—as well as mobile ABM components on land, is prohibited. Mobile land-based in this context means any ABM system or ABM component that is not a permanent, fixed type . . . ." [emphasis added].[10]

The concept of other "devices" was also read into Article IX.

On May 31, 1972, ACDA circulated a drastically revised draft Letter of Submittal for the SALT agreements. The revised draft much more closely tracked the Treaty's language, and eliminates all references to "other devices." Describing the Treaty generally at the outset, the draft states that "[b]oth development and deployment of ABM systems or ABM components that are sea-based, air-based, space-based or mobile land-based are prohibited" and that "[d]eployment of ABM systems involving new types of basic components (such as lasers) is prohibited. . . ." [11] Focusing on Article II, the draft incorporates a cross reference to a subsequent section on "future ABM systems":

"Article II defines an ABM system as 'a system to counter strategic ballistic missiles or their elements in flight trajectory.' It indicates that such systems currently consist of ABM interceptor missiles, ABM launchers and ABM radars. (But see 'Future ABM Systems' in subsection (3), below)." [12]

In its discussion of Article III, the draft notes that "[i]n view of Article V(1) . . . only fixed, land-based ABM components may be deployed." [13] The draft describes Article V(1) as follows:

"Article V limits ABM development and testing, as well as deployment, of certain types of ABM components. Paragraph V(1) limits such activities to fixed, land-based ABM systems and components, by prohibiting the development, testing or deployment [of] ABM systems or components which are sea-based, air-based, space-based, or mobile land-based. It is understood that the prohibitions on the deployment of mobile ABM systems would rule out the deployment of ABM launchers and ABM radars which were not permanent fixed types." [14]

The draft also includes a separate section on "future ABM Systems":

"A potential problem dealt with by the treaty is that which would be created if an ABM system were developed in the future which did not consist of interceptor missiles, launchers and radars. (For example, a system utilizing lasers might conceivably be developed.) The Treaty would not permit the deployment of such a system or of components thereof capable of substituting for interceptor missiles, launchers or radars: Article II defines an ABM system in terms of its function as "a system to counter strategic ballistic missiles or their elements in flight trajectory", noting that such systems '*currently*' consist of ABM interceptor missiles, ABM launchers and ABM radars. Article III contains a prohibition on the deployment of ABM systems or their components except as specified therein, and it permits deployment only of ABM interceptor missiles, launchers and radars. . . ." [15]

The section on future systems also quotes Agreed Statement D, with a lead-in phrase stating: "Finally, in the course of the negotiations, the parties noted that. . . ." [16] The enclosure set out the Agreed Statement with the heading: "*Future Systems* (relates to Articles I, II, III, IV, V, XIII and XIV)." [17]

On June 5, ACDA circulated "Draft No. 2" of the Letter of Submittal, reflecting various changes.[18] The general overview of the Treaty at the beginning of the letter adds a reference to "testing" in its description of the Article V prohibitions. The last sentence of the discussion of Article V(1) is revised to read: "It is understood that the prohibitions on mobile ABM systems apply to ABM launchers and ABM radars which are not permanent fixed types." [19] In the section on "Future ABM Systems," the parenthetical reference to lasers is revised to read: "(For example, a system utilizing lasers in substitution for a current ABM component.)" [20] The section also adds the following sentences: "Devices other than ABM interceptor missiles, ABM radars could be used as adjuncts to an ABM launcher, or ABM system, for example an optical telescope, provided that such devices were not capable of substitution for one or more of these components." [21] In the phrase leading into the quotation of Agreed Statement D, the word "noted" is changed to "specified": "the Parties specified. . . ." [22] In this draft, moreover, the enclosure sets forth the Agreed Statements without headings.

Another "final draft" of the Letter of Submittal was circulated by ACDA on June 7.[23] This draft incorporates several additional changes in the pertinent sections. In the overview section, the reference to new types of basic components is revised, so that the sentence reads, "Deployment of ABM systems involving new types of basic components to perform the current functions of ABM launchers, interceptors, or radars is prohibited. . . ." [24] The description of Article II is changed to delete the cross reference to the section on "Future ABM Systems." In the description of Article V, a reference to ABM "systems" is added, so that the first sentence reads; "Article V limits development and testing, as well as deployment, of certain types of ABM systems and components." [25] Finally, the section on "Future ABM Systems" deletes the parenthetical reference to lasers, the reference to optical telescopes, and the underscoring of the word "currently".[26] Overall, the drafts represent, irrespective of intent, a steady, dramatic and conscious shift from a clear exposition of the restrictive interpretation to one that avoids stating this interpretation and does not even raise the issue.

Other Executive documents have been found that bear upon the views held by agencies on the Treaty's coverage of substitute devices. Some degree of inconsistency exists in the papers thus far located. A paper dated May 6, 1972, in a notebook described by DOD as a "Workbook for the OSD/SALT Task Force," summarily described the issue as follows: "Future systems may be developed but not deployed." A June 2, 1972, memorandum from Admiral Moorer to Secretary Laird is quoted at pp. 23–24 of the text of this study. Three briefing books prepared for Dr. Foster's testimony before the Senate Armed Services Committee listed "What USSR Did Not Give up in SALT." The list included the following item: "Freedom to develop 'future' ABM Systems." On the other hand, one of the briefing books also contained a memorandum from Col. Fitzgerald to Ambassador Nitze, dated June 9, 1972, concluding on the basis of an analysis of the Russian language version that, if certain assumptions are made about the word "development" in Article V(1) "then all RDT&E for sea-based, air-based, space-based, and land-based mobile systems . . . is prohibited."

On May 25, 1972, a "Backgrounder for Press After Signature of SALT Agreements" was circulated by Graybeal to all Delegates. It had several interesting provisions, but failed to espouse any definitive view, and referred only to a prohibition on deployment of future systems. In contrast to Rhinelander's memorandum, the backgrounder contained the following discussion of Article II:

"Paragraph 1 describes the three major components of a 'current' ABM system: missiles, launchers, and radars.

"You will note that paragraph 1 refers to ABM systems as 'currently' consisting of three basic components. As I will note later in discussing Article III, the deployment of 'future ABM systems' is not permitted. This, in my judgment, represents a noteworthy step in long-run arms limitation.

"The second paragraph lists states or conditions of ABM components covered by limitations. As an example, an ABM radar which is 'under construction' would be subject to constraints.[27]

Article III is characterized as "the heart of the Treaty . . . ABM systems deployed in either of these two [allowed] areas will be limited to those using missiles, launchers, and radars. The deployment of other devices capable of substituting for these ABM components would not be allowed unless the Treaty were amended." [28]

The description of Article V contained no reference to substitute devices:

"ABM systems or ABM components for three environments—sea, air, and space—as well as land-mobiles, are banned by paragraph 1. The prohibition includes development and testing, as well as deployment." [29]

A set of guidance, stressing strategic issues has been located, but bears only the handwritten date "June 72." The document appears to have been prepared for the JCS, however, as it also bears the following handwritten inscription: "ACSAN [Assistant to the Chairman of JCS for Strategic Arms Negotiations—General Royal Allison] draft for JCS staff thru svcs." The entire document contains only one Q & A of relevance, and it is consistent with either interpretation:

Q: Are we permitted to continue our R&D efforts to maintain hedges?

A: Modernization/replacement is not constrained except where specifically prohibited by the agreement, e.g.

R&D on mobile ABM system.

R&D on rapid reloading ABM launchers.[30]

On June 5, 1972, William Baroody provided Defense Secretary Laird with a paper entitled "Summary of the Strategic Arms Limitation Agreement" which included the following:

The following are prohibited: . . .

Development of sea, air, space or mobile land-based ABMs.

Deployment of ABM systems involving future technology (e.g. lasers).

No further guidance has thus far been found on the issue of substitute devices prior to June 6, 1972, when the first hearing on the ABM Treaty was held before the Senate Armed Services Committee. Secretary Laird testified on that day, as described below, and his oral answers were consistent with the broad interpretation. The written answer, however, submitted on his behalf and dated June 13, 1972, can be read to support the restrictive view. Possibly, the questions he was asked led in part to the preparation of interagency guidance. In any event, guidance was prepared, and a second draft was circulated on June 13, 1972 by Philip A. Odeen, Director, Program Analysis at the NSC. The document, entitled "SALT Q's and A's," was to be used "as guidance for Agency spokesmen." One question is of special relevance:

Question. Are laser ABMs banned?

Answer. Yes, replacing current ABM components by such system is banned. R&D on fixed land based components can take place.[31]*

On June 14, Rhinelander provided a memorandum to the ACDA Director which included the following with respect to what was to become Agreed Statement D:

"At SALT V, the US Delegation proposed that the deployment of 'future systems' be prohibited in paragraph 1 of present Article V of the ABM Treaty. At SALT VI, the Soviets agreed to deployment constraints on future systems in the form of the agreed statement [E], based on a US paper containing 'Five Points.' At SALT VII, the US insisted, and the Soviets finally agreed, that the language in Article III make clear that only ABM systems based on current ABM interceptor missiles, ABM launchers and ABM radars could be deployed within the two permitted deployment areas.

"Accordingly, agreed statement [E] on future systems elaborates on the text of Article III. The agreed statement also relates to Article II, which describes ABM systems in terms of present components, Article IV which restricts development and testing to test ranges, and Article V which prohibits the development, testing and deployment of ABM components for three environments as well as land mobiles." [33]

Thus, by June 16, the internal Executive Branch record contained guidance stating that "R&D" was permitted on fixed, land-based lasers; these statements can be read to imply, though they do not expressly state, that development of mobile OPP devices was prohibited.*

On June 21, 1972, Lt. Gen. Royal Allison, Assistant to the Chairman of the JCS for Strategic Arms Negotiations, provided a memorandum to Admiral Moorer, JCS Chairman, entitled "Future ABM Systems," which contained the following:

"As regards future ABM systems:

"a. Constraints in the Treaty apply to deployments only. Research and development are not constrained.

"b. The U.S. Delegation, under instructions, sought a clear-cut ban on deployment of future ABM systems but the Soviets would not agree. Hence the finally agreed and initialled interpretative statement: [quoting Agreed Statement D].

"c. Article III spells out the ABM defenses which can be deployed—one site for NCA and one site for ICBM defense—utilizing components described in Article III (ABM interceptor missiles, ABM launchers and ABM radars). . . .

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*This guidance was repeated in a draft dated June 16, 1972, in which an additional, relevant Q & A was included, perhaps by ACDA, but not necessarily cleared by the NSC staff:

Q. Since the ABM Treaty clearly bans deployment of ABM systems using new techniques (such as lasers) what is the purpose of the so-called "interpretive statement" on this subject? What does that statement add? What precisely does it mean?

A. While deployment of such systems is implicitly prohibited by Articles II and III, these systems are not explicitly addressed in the body of the Treaty. Therefore, an interpretative statement was provided to make it absolutely clear that the deployment of such new ABM systems is prohibited. This statement provides that, as is the case for any limitation or prohibition in the Treaty, discussion in the Standing Consultative Commission and amendment of the Treaty are possible.[32]

This answer incorporated the theory adopted by Rhinelander that Agreed Statement D is legally superfluous.

*The supporting rationale for backup questions and answers prepared for Admiral Moorer, dated July 21, 1972, stated, among other things:

Only a few items in the treaty are banned from development.

They are: sea, air, space, or mobile land based ABM systems, and multiple or rapid reload ABM launchers.

R&D or development of all other approaches is not prohibited.

Laser R&D is allowed.

(These prepared answers were not used during congressional testimony.)

"The upshot is that to be accurate we must avoid the connotation of an absolute "ban" in discussing future ABM systems. We should say that there is an obligation not to deploy such systems without taking certain specified and agreed steps; i.e., in the event such systems are created in the future, specific limitations on them would be subject to discussion and agreement."

FOOTNOTES

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[1] Memorandum from J. Rhinelander to the Delegates (May 24, 1972) at 20.

[2] *Id.* at 8.

[3] *Id.* at 16.

[4] Memorandum from J. Rhinelander to Mr. Malone and Mr. Graham (May 11, 1972) at 2.

[5] *ABM Treaty Interpretation Dispute: Hearing Before the Subcomm. on Arms Control, International Security and Science of the House Comm. on Foreign Affairs,* 99th Cong., 1st Sess. 92 (1985).

[6] Memorandum from J. Malone to Mr. Keeny (May 12, 1972), Revised Draft Letter of Submittal at 3-4.

[7] *Id.* at 7.

[8] *Id.* at 9.

[9] *Id.* at 14.

[10] *Id.* at 20-21.

[11] Memorandum from S. Keeny to the Verification Panel Working Group (May 31, 1972), Draft Letter of Submittal at 3-4.

[12] *Id.* at 8.

[13] *Id.* at 11.

[14] *Id.* at 15.

[15] *Id.* at 16-17.

[16] *Id.* at 17.

[17] *Id.* Enclosure C, Agreed Statement No. 5.

[18] Memorandum from S. Keeny to the Verification Panel Working Group (June 5, 1972), Draft Letter of Submittal.

[19] *Id.* at 15.

[20] *Id.* at 16.

[21] *Id.* at 17.

[22] *Id.*

[23] Memorandum from S. Keeny to the Verification Panel Working Group (June 7, 1972), Letter of Submittal.

[24] *Id.* at 4.

[25] *Id.* at 15.

[26] *Id.* at 16-17.

[27] Memorandum from S. Graybeal to the Delegates, Backgrounder for Press After Signature of SALT Agreements (May 25, 1972) at 2-3.

[28] *Id.* at 3-4.

[29] *Id.* at 5.

[30] Q/A Guidance (June 1972), Tab B at 3.

[31] Memorandum from P. Odeen, Salt Q's and A's (June 13, 1972) at 16.

[32] Draft SALT Questions and Answers (June 16, 1972) at 23.

[33] Memorandum from J. Rhinelander to the Director, ACDA (June 14, 1972) at 78.

APPENDIX B

ABM TREATY RATIFICATION RECORD

This part of the ABM study collects portions of the ABM Treaty ratification record relevant to the treatment of future ABM systems. The memorandum sets forth verbatim the references pertinent to this issue as contained in (A) the Message of the President transmitting the ABM Treaty and the Interim Agreement to the Senate; (B) the hearings before the Senate Foreign Relations Committee; (C) the hearings before the Senate Armed Services Committee; (D) the hearings before the House Foreign Affairs Committee; (E) the hearings before the House Armed Services Committee; (F) the hearings before the Senate Appropriations Subcommittee; (G) the hearings before the House Appropriations Subcommittee; (H) the Report of the Senate Foreign Relations Committee; (I) the Report of the House Foreign Relations Committee; (J) the Senate and House floor debates on SALT I; and (K) the Resolution of Ratification.

A. Letter of Submittal.

Secretary of State Rogers submitted the ABM Treaty and the Interim Agreement to the President on June 10, 1972. His letter of submittal, which was included in the President's June 13, 1972, Message transmitting the agreements to the Senate addressed the issue of ABM technology at several points. In describing the Treaty generally at the outset, Secretary Rogers noted:

In order to assure the effectiveness of these basic provisions of the Treaty, a number of detailed corollary provisions were also agreed:

Development, testing and deployment of ABM systems or ABM components that are sea-based, air-based, space-based or mobile land-based are prohibited;

Deployment of ABM systems involving new types of basic components to perform the current functions of ABM launchers, interceptors or radars is prohibted. . . .

Th ABM Treaty and Interim Agreement and Associated Protocol, Executive L, 92d Cong., 2d Sess. vi (1972).

In his sectional analysis, Secretary Rogers discussed the limitations on ABM systems in some detail. He focused on Articles II and III of the Treaty in a subsection entitled "Deployment":

Article II defines an ABM system as "system to counter strategic ballistic missiles or their elements in flight trajectory". It indicates that such system currently consist of ABM interceptor missile, ABM launchers and ABM role, or of a type hereafter tested in ABM mode. ABM launchers are launchers constructed and deployed for launching ABM interceptor missiles. (A launcher associated with an interceptor missile that is hereafter tested in an ABM mode falls within the definition of an ABM launcher.) ABM radars are radars constructed and deployed for an ABM role (including target tracking or missile control, but not early warning), or of a type hereafter tested in an ABM mode.

The second paragraph of Article II makes it clear that the ABM system components listed in the first paragraph of the Article include not only those which are operational, but also those under construction, undergoing testing, undergoing overhaul, repair of conversion, or mothballed.

Article III prohibits the deployment of any ABM systems or their components except as provided therein. Under Article III, the Parties may deploy only systems consisting of ABM interceptor missiles, ABM launchers and ABM radars. . . .

In each of these deployment areas a Party may deploy no more than 100 ABM launchers and no more than 100 ABM interceptor missiles at launch sites. These totals would include any deployments within such areas for training purposes and, as indicated in Article II(2), would not be confined to those in operational status. In view of Article V(1), discussed below, only fixed, land-based ABM components may be deployed.

The restrictions on ABM radars covers radars of both existing types: phased-array radars (a modern type which scans by electronic means, a capability especially useful for ABM purposes) and mechanical-scan radars (an older type).

Id. at vii-viii.

Secretary Rogers discussed Articles IV and V of the Treaty in a subsection entitled "Development, Testing, and Other Limitations":

Article IV provides that the limitations in Article III shall not apply to ABM systems or ABM components used for development or testing, and located within current or additionally agreed test ranges. * * *

Article V limits development and testing, as well as development, of certain types of ABM systems and components. Paragraph V(1) limits such activities to fixed, land-based ABM systems and components by prohibiting the development, testing or deployment of ABM systems or components which are sea-based, air-based, space-based, or mobile land-based. It is understood that the prohibitions on mobile ABM systems apply to ABM launchers and ABM radars which are not permanent fixed types.

Id. at ix.

Subsections (3) and (4) of the letter of submittal dealt with "Future ABM Systems" and "Modernization and Replacement":

(3) Future ABM Systems

A potential problem dealt with by the Treaty is that which would be created if an ABM system were developed in the future which did not consist of interceptor missiles, launchers and radars. The Treaty would not permit the deployment of such a system or of components thereof capable of substituting for ABM interceptor missiles, launchers, or radars: Article II(1) defines an ABM system in terms of its function as "a system to counter strategic ballistic missiles or their elements in flight trajectory", noting that such systems "currently" consist of ABM interceptor missiles, ABM launchers and ABM radars. Article III contains a prohibition on the deployment of ABM systems or their components except as specified therein, and it permits deployment only of ABM interceptor missiles, ABM launchers, and ABM radars. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system, provided that such devices were not capable of substituting for one or more of these components. Finally, in the course of the negotiations, the Parties specified that "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty." (As explained below, Article XIII calls for establishment of a Standing Consultative Commission, and Article XIV deals with amendments to the Treaty.)

(4) Modernization and Replacement

Article VII provides that, subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried [sic]. Modernization or replacement of present ABM systems or components is constrained by the various limitations and prohibitions in the Treaty. (See paragraph 2 of Article I, Article III, Article V, and Article VI.)

Id. at x.

B. Hearings before the Senate Foreign Relations Committee.

The Senate Foreign Relations Committee held seven days of hearings on the ABM Treaty and the Interim Agreement, beginning June 19, 1972, and concluding July 20, 1972. As the first witness, Secretary Rogers highlighted significant provisions of SALT I and drew special attention to the ABM Treaty's limitation on future ABM systems:

The heart of the treaty is Article III, which spells out the provisions under which each of the parties may deploy two limited ABM complexes, one in an ICBM deployment area, and one at its national capital. There can be no more than 100 ABM launchers, and 100 associated interceptors, at each complex— a total of 200.

* * * * *

The treaty provides for other important qualitative limitations. The parties will undertake not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based. They have also agreed not to develop, test or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher; nor to modify launchers to provide them with such a capability; nor to develop, test or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers; nor to develop, test, or deploy ABM missiles with more than one independently guided warhead.

Perhaps of even greater importance as a qualitative limitation is that the parties have agreed that future exotic types of ABM systems, i.e. systems depending on such devices as lasers, may not be deployed, even in permitted areas.

Strategic Arms Limitation Agreements: Hearings Before the Senate Committee on Foreign Relations, 92d Cong., 2d Sess. 5-6 (1972).

Senator Aiken raised questions about future ABM systems in the context of lasers, to which Secretary Rogers and ACDA Director Gerard Smith responded:

Senator Aiken. I have been reading lately in several places about the effectiveness of the laser guided bombs in wiping out SAM's in North Vietnam. If a laser can be used in wiping out the SAM's, could the laser also be effective in the ABM system?

If the laser had come three years ago, one would have voted against the ABM system when it was first proposed.

Secretary Rogers. Under the agreement we provide that exotic ABM systems may not be deployed and that would include, of course, ABM system[s] based on the laser principle.

Senator Aiken. Is the ABM system getting somewhat obsolete?

Secretary Rogers. Excuse me?

Senator Aiken. Is the ABM system getting obsolete? If the lasers can be used to knock out the SAM's wouldn't they be effective against other types of missiles also?

Mr. Smith. Senator Aiken, I think it is an entirely different problem with respect to the use of lasers to help guide offensive missiles and from their use to guide defensive missiles, but we have covered this concern of yours in this treaty by prohibiting the deployment of future type technology. Unless the treaty is amended, both sides can only deploy launchers and interceptors and radars. There are no inhibitions on modernizing this type of technology except that it cannot be deployed in mobile land-based or space-based or sea-based or air-based configurations. But the laser concern was considered and both sides have agreed that they will not deploy future type ABM technology unless the treaty is amended.

Id. at 20.

When Senator Pell subsequently asked whether there were any conflicts between the ABM Treaty and the Seabed Arms Control Treaty, Ambassador Smith focused on the ABM Treaty's limitations on deployment:

Secretary Rogers. No, there are not, but I would be glad to have Ambassador Smith comment on this.

Mr. Smith. I agree with the Secretary; there is no conflict at all. This treaty does not permit the deployment of an ABM system except on the continental territory of both countries and one cannot have sea-based ABM systems under this treaty.

Id. at 21-2.

In written questions for the record, Senator Percy asked Secretary Rogers about the clarity and significance of the understandings and statements accompanying the Treaty, which included the Agreed Statement pertaining to future ABM systems:

9. *Question.*—One area of disagreement within the press and among some public figures has been the impact of the so-called "secret clauses" to the SALT agreements; those understandings, interpretations and unilateral statements and safeguards, made available to this Committee by the Administration when it forwarded the treaty for consideration. What will prevent differing interpretations of these "clauses" from causing a major misunderstanding and hinder the successful implementation of the agreements?

Answer. These materials were intended to avoid misunderstanding of the underlying agreements and to facilitate successful implementation of such agreements. The clarification provided by these interpretations and statements is believed to far outweigh whatever risk there may be that they, in turn, might become subject to differing interpretations.

10. *Question.*—Would it be safe to say that these clauses are really another form of safeguard particularly since they deal with such crucial areas as concealment, ABM technology advances, and missile modernization?

Answer. Yes, they do constitute a form of safeguard against misunderstanding in these crucial areas.

11. *Question.*—Will these clauses, other than the unilateral statements, have exactly the same force as if they were included in the text of the agreements?

Answer. The agreed interpretations will clearly be binding on both parties.

Id. at 53.

Future ABM systems again received attention on June 28, the fifth day of the hearings, when two witnesses referred to this aspect of the ABM Treaty. Dr. Donald Brennan, Senior Fellow on the Professional Staff at the Hudson Institute, pointed out the restrictions on future ABM systems:

It is possible to make a technical case—I personally do not believe it—that it would be unwise to use currently available ABM technology in conjunction with cuts in offensive forces to begin to move away from a MAD posture. However, there is no such technical argument to be made about all possible future systems of missile defense, of whatever effectiveness and other characteristics, yet all future systems are prohibited by the treaty.

Id. at 188.

Dr. Edward Teller, Associate Director of the Lawrence Radiation Laboratory, noted briefly in his testimony that "relocatable AMBs are ruled out," id. at 221, and in his prepared statement focused specifically on future ABM systems:

In the understandings which accompany the treaty, a most doubtful point is a limitation placed under implementation of novel ABM ideas, should they develop in the future. It is indeed a mistake to limit the use of systems which do not exist as yet and may not even be imagined at present.

Id. at 225. (Dr. Teller made the same statement before the House Foreign Affairs Committee. See Agreement on Limitation of Strategic Offensive Weapons: Hearings Before the House Committee on Foreign Affairs, 92d Cong., 2d Sess. 97 (1972).

On June 29, the sixth day of the hearings, Senator Kennedy drew attention in a general way to the limitations contained in Article V of the ABM Treaty:

First, the ABM Treaty prohibits not only a nationwide antiballistic missile system but also the upgrading of an air defense system to perform an ABM role.

Second, the treaty also prohibits the development, testing and deployment of ABM systems or components which are sea based, air based, space based and mobile land based.

The only exceptions are made for a National Capital Site and for the protection of a single ICBM site. Total launchers for these two sites are limtied to 200 interceptors; the sites must be separated by a least 1,300 kilometers, and the deployment of ABM radars in striclty controlled to avoid any dual use for an areawide purpose.

Id. at 247.

Senator Buckley, in his testimony, focused on future ABM systems and, in fact, indicated that he would vote against ratification of the ABM Treaty in part because of the manner in which such system dealt with in the Treaty:

I will say at the outset that I will vote against ratification of the ABM Treaty for the reason that I have strong misgivings as to both the prudence and the ultimate morality of denying ourselves for all time, or denying the Russians, for that matter, the right to protect our civilian populations from nuclear devastation. I am not suggesting that we have the technical means to do so at the present time, but I challenge the morality of precluding the possibility of developing at some future date new approches to antiballistic missile defenses which could offer protection to substantial numbers of our people. I question, in short, the basic doctrine which requires us to dismantle our defenses before agreement is reached on dismantling the weapons of mass destruction.

* * * *

Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space-based ballistic missile defense systems. This clause, in Article V of the ABM Treaty, would have the effect, for example of prohibiting the development and testing of a laser-type system based in space which could at least in principle provide an extremely reliable and effective system of defenses against ballistic missiles. The technological possibility has been formally excluded by this agreement.

There is no law of nature that I know of that makes it impossible to create defense systems that would make the prevailing theories obsolete. Why, then, should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of civilians against ballistic missile attack? Why should we not at least be in position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in Article XV or should we fail to negotiate a satisfactory successor agreement to SALT I?

Id. at 257-8. *See also* Senator Buckley's prepared statement, id. at 262-3.

In response to a question from Senator Sparkman, Senator Buckley elaborated:

We have allowed a doctrine to develop over the years, and this is not new; this has been the doctrine for the last decade or so, a doctrine which maintains that we will deliberately be naked, hopefully in the expectation that the Soviets will oblige us by undertaking to be naked themselves, and that in this matter we have our best chances of avoiding a strike, the mutual terror argument.

Now, on the basis of existing technology, I can see the reasoning for this, although there is question about the effectiveness of available ABM technology; but I do question the morality of deciding now for all time that we will preclude ourselves from developing new concepts which at a later date could mean that the city of Washington or New York or San Francisco or Detroit could not be meaningfully protected either from attack by the Soviet Union or from an attack from some other nation which has the capability of launching a weapon.

Id at 268.

Former Senator Joseph Clark, who testified after Senator Buckley, placed in the record of the Foreign Relations Committee hearings the June 30, 1972, issue of Defense Monitor, published by the Center for Defense Information. That issue provided an analysis of the SALT accords containing the following:

In addition to these basic provisions, the two countries agree to ban sea-based, air-based, space-based or mobile land-based ABMs; not to deploy ABM systems of new kinds without prior discussion; not to convert air-defense or other systems to an ABM role; not to build radars for early warning of strategic ballistic missiles except along the edges of the country facing out; not to transfer ABM systems to other states or deploy them overseas.

* * * * *

The ABM treaty bans the kind of ABM system which could be most de-stabilizing—a nation-wide or major regional defense of population and industry. Such a system, undertaken by either country, could threaten the other's deterrent and cause it to respond with additional offensive buildup. The complex restrictions on ABM sites should convince each side the other is not developing an ABM for defense of large areas. The treaty rules out a US ABM for population defense against China, which this country once planned but later abandoned.

Id. at 275-6.

Later that day Dr. James Dornan, Jr., a member of the Board of Policy of Liberty Lobby, noted an generally endorsed Senator Buckley's position concerning future ABM systems:

I have a few remarks in my statement about the ABM Treaty and again I would be repeating much of what Senator Buckley said. I simply endorse his remarks about the moral problem that he finds with that treaty, particularly the implications that we will forbear in the future to construct a defenseive system should the technology become available to protect the population of the U.S.

If I were in the Senate I doubt whether I would vote for that treaty myself on those precise grounds.

Id. at 311. *See also* id. at 309, and Dr. Dornan's prepared statement, id. at 317.

Dr. Dornan elaborated in response to a question from Senator Sparkman:

Mr. DORNAN. Let me put it this way: Certainly the technology for an effective missile defense does not presently exist, so the kind of objections raised by Senator Buckley this morning are moot or contingent on future developments. I would be opposed to the treaty, would vote against it were I a U.S. Senator, unless it contained an escape hatch, one much more clear than it presently contains, an escape hatch that would enable us to withdraw from the treaty should at some future point in time technology be available to protect our population.

* * * * *

I don't think, therefore, that the Soviets could possibly interpret U.S. development of an effective ABM capability as a prelude to an effective preemptive first-strike capability of the U.S. So without that escape hatch I would——

Senator SPARKMAN. Let's get through with the treaty. The treaty does not at the present time contain that escape hatch that you recommend?

Mr. DORNAN. Right.

Id. at 318-9.

On July 20, the final day of hearings before the Senate Foreign Relations Committee, Dr. Richard Garwin of the IBM Watson Laboratory also noted the provisions of the ABM Treaty concerning future systems:

Thus the ABM treaty promises the permanent absence of effective ABM capability, either locally or nationwide. To enforce such an important promise, it has provisions to limit systems which act like ABMs or look like ABMs. Most importantly, it recognizes the use of national technical means of verification, and it includes the undertaking not to use deliberate concealment measures not to interfere with the national technical means of verification of the other party. Finally, it establishes a standing consultative commission to consider various questions, including details of compliance, et cetera. Furthermore, the agreed interpretations further limit ABM systems and specify, among other things, that specific limitations on ABM systems based on other physical principles and on their components, would be subject to discussion and agreement. Among the articles of the treaty, Article V is an undertaking "not to develop, test or deploy ABM systems or components which are sea based, air based, space based, or mobile land based." It is my judgment that this treaty and the auxiliary documents provide a firm, safeguarded an[d] verifiable elimination of the ABM as a threat to the effectiveness of our ICBM and SLBM force.

Id. at 351-2.

Dr. Wolfgang Panofsky, Director of the Stanford Linear Accelerator Center, described the Treaty's restraints on technology in these terms:

The Moscow treaty contains many important restraints on the growth of military technology. The treaty not only forbids deployment of ABM systems in excess of the numbers of interceptors and the numbers and sizes of radar specified, but it also precludes such items as testing of air-defense systems in an ABM mode, and prevents deployment of ABM systems using physical principles different from those now employed. Thus the treaty begins to demonstrate to the world man's willingness to control the growth of technology in directions which are considered undesirable to the overriding interests of humanity.

Technical products evolve through a long chain starting from new results in basic research—that is, research not motivated by applications but by man's fundamental curiosity about the functioning of nature—and leading on through development, test and, finally, production and deployment. . . . Now, the ABM treaty has provided highly meaningful controls deep into the technological chain all the way through. For instance, it prohibits the development of an ABM multiple-warhead and prohibits adaptation of non-ABM systems to ABM use. These are similar provisions as to testing and broader provisions as to deployment. The treaty also prohibits transfer of ABM technology to other countries.

Id. at 358-9.

In connection with his testimony, Dr. Panofsky submitted for the record a table describing constraints on "ABM Technology, Deployment and Transfer." Columns headed "Development," "Test," and "Deployment" included references to the Article V prohibitions. Under the column headed "Deployment," it was noted: "ABM system based on new physical principles not to be deployed." Id. at 367. A second table listing items of security benefit to both the U.S. and the Soviet Union contained the entry: " 'New technology' ABM is prevented from deployment." Id. at 368.

C. Hearings before the Senate Armed Services Committee.

The Senate Armed Services Committee held hearings on the military implications of the ABM Treaty and Interim Agreement on ten days from June 6 through July 25, 1972. Administration witnesses and Senators addressed the issue of future ABM systems on several occasions in the course of the hearings.

On June 6, the first day of the hearings, Secretary of Defense Laird commented generally on ABM technology in his opening statement:

Although ABM deployments will be limited to two sites—Grand Forks, N. Dak., and the National Capital area—we can and must continue permitted ABM research, development, test, and evaluation programs in order to preserve future options and to stay abreast of ABM technology.

We will continue the site defense program, making modifications to accelerate its development and testing. . . .

We will vigorously pursue a comprehensive ABM technology program. This program will provide knowledge of ABM technology potential that will help us understand better Soviet ABM developments, help us insure adequate penetration capability for U.S. offensive missiles, and examine ABM development options that might be exercised if permitted by future agreements, or if otherwise necessary.

Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms: Hearing Before the Senate Committee on Armed Services, 92d Cong., 2d Sess. 5 (1972). (Secretary Laird made a virtually identical statement in testimony before several other committees. See Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement, House Committee on Armed Services, No. 92-45 Supplement, 92d Cong., 2d Sess. 12098.5 (1972); Department of Defense Appropriations for Fiscal Year 1973: Hearings Before a Subcommittee of the Senate Committee on Appropriations, 92d Cong., 2d Sess. 18 (1972); Department of Defense Appropriations for 1973: Hearings

Before a Subcommittee of the House Committee on Appropriations, 92d Cong., 2d Sess. 361-2 (1972).)

Secretary Laird and Senator Jackson subsequently focused more specifically on ABM research, development and testing:

Senator JACKSON. Do I understand that there is no prohibition in any of the understandings—I can't find it in the treaty—on research, tests, and development for the ABM?

Secretary LAIRD. Yes, in the Safeguard and site defense programs, Senator Jackson. I have been concerned about the statements which you made about a laser contract canceled under my direction. I can assure you that there has been no such contract canceled as far as the Army is concerned.

Senator JACKSON. Then would you answer the question on this other point. I take it your answer is that there is nothing in the SALT agreements or understandings or interpretation that prohibits any kind of research, test and development work in connection, first, with the ABM?

Secretary LAIRD. There are no other understandings or agreements that control research, development, test and evaluation on ABM other than the written treaty and the interpretative statements.

Senator JACKSON. And what does that provide?

Secretary LAIRD. It provides that research and development can continue, but certain components and systems are not to be developed.

Senator JACKSON. Can continue?

Secretary LAIRD. Yes.

Senator JACKSON. What about an offensive system?

Secretary LAIRD. The same.

Senator JACKSON. So there is no prohibition?

Secretary LAIRD. On research and development?

Senator JACKSON. Yes.

Secretary LAIRD. No, sir, not for offensive systems.

Senator JACKSON. In other words, none of the Moscow accords or agreements or related understandings, or agreed statements prohibit any——

Secretary LAIRD. Nor in the defense area.

Senator JACKSON. Defensive or other areas?

Secretary LAIRD. In the defensive area, it is spelled out in the language of the agreement. And one provision that you could apply to research and development has to do with the multiple destructors for ABM launchers that could launch more than one ABM missile at a time, and mobile ABM's. There is language in the agreement that you cannot go forward with multiple destructors and mobile ABM's—I can read the article.

Senator JACKSON. That is a part of the research effort now underway. That is one kind of solution.

* * * *

Secretary LAIRD. I can put in the record at this point the provisions on the agreement and the treaty that are applicable indirectly to your question. But there is nothing indirect or direct that applies to research and development outside of the agreement, the protocol, and treaty that have been released by the President.

Senator JACKSON. Will you supply all of that for the record?

Secretary LAIRD. Yes.

[The information follows:]

The following provisions of the ABM Treaty apply to research and development. [quotes Articles IV, V and VII, and Agreed Statements D and E to the ABM Treaty and Agreed Statement D to the Interim Agreement]

Id. at 30-2.

Later that day Secretary Laird and Senator Dominick engaged in the following exchange:

Senator DOMINICK. The next question is: Is the U.S.S.R. restricted in further R.&D. in MIRV, FOBS, lasers, and all other new weapons of capabilities not expressly forbidden?

Secretary LAIRD. The answer is no.

Senator DOMINICK. In your opinion, does SALT impede satellite-based counterforce system developments which, Senator Goldwater says, to me is not only the way we should be on, but the way of the future.

Secretary LAIRD. I will supply the exact language for the record at this point.

[The information follows:]

There are no specific provisions in the Interim Offensive Agreement which impede Satellite-based counterforce system developments. However, as you know, the Treaty on Outer Space between the U.S. and USSR explicitly prohibits the placing in orbit of weapons of mass destruction. The ABM Treaty specifically prohibits space-based ABM systems. The exact language is as follows.

ARTICLE V

Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

Secretary LAIRD. This applies to defensive, but not offensive systems, and I assume that your question applies to both.

* * * *

Secretary LAIRD. Could I add, in answer to Senator Goldwater's question, it does have an effect on the defensive systems, but not on the offensive systems.

[The information follows:]

No. Space-based ABM systems are prohibited by Article V of the ABM Treaty which states in part:

"Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

Id. at 38-9, 41.

A question submitted for the record by Senator Goldwater in connection with the first day of the Armed Services Committee hearings elicited the following answer from the Department of Defense:

Question. The ABM bit does not bother me too much, although I have not seen the fine print. For my money, we should have long since moved on the space-based systems with boosting phase destruction with shot, nuces, or lasers. I have seen nothing in SALT that prevents development to proceed in that direction. Am I correct?

Answer. With reference to development of a boost-phase intercept capability or lasers, there is no specific provision in the ABM treaty which prohibits development of such systems.

There is, however, a prohibition on the development, testing, or deployment of ABM systems which are space-based, as well as sea-based air-based, or mobile land-based. The U.S. side understands this prohbition not to apply to basic and advanced research and exploratory development of technology which could be associated with such systems, or their components.

There are no restrictions on the development of lasers for fixed, land-based ABM systems. The sides have agreed, however, that deployment of such systems which would be capable of substituting for current ABM components, that is, ABM launchers, ABM interceptor missiles, and ABM radars, shall be subject to discussion in accordance with article XIII (Standing Consultative Commission) and agreement in accordance with article XIV (amendments to the treaty).

Id. at 40-1.

On June 20, the second day of the hearings, the subject of future ABM systems was again addressed. At the outset of the session, Chairman Stennis submitted for the record the transcript of the May 26, 1972, White House Press Conference of National Security Adviser Henry Kissinger and ACDA Director Gerard Smith. In that press conference, Ambassador Smith directly addressed the issue of future ABM systems:

Now, Article II defines what we are talking about and has a very important bearing on the whole question of what we call future ABM systems. This treaty has as a most significant aspect that it not only limits the present situation, but has a choking off effect on future systems which, under the terms of the treaty as we have reached understandings, futures will not be deployable unless this treaty is amended.

Id. at 99.

At a later point that second day of hearings Secretary Laird and Senator Thurmond took up the subject of losers:

Senator THURMOND. Mr. Secretary, the proposed ABM seems to preclude any serious effort to protect major segments of our civilian population centers either now or at any time in the future. I understand we have had R. & D. programs, such as the development of the laser-type ABM system.

Is there a good reason why we should forever preclude the possibility of developing a truly effective defense of our cities if our technology should make one available?

Secretary LAIRD. The research and development programs in these areas will go forward and it is most important, I believe, that we carry out an adequate research and development program so that we can maintain our ABM technology. The treaty, of course, does make such deployments contingent upon treaty amendment, but it does permit research and development on the ongoing technology which we have in these fields.

Senator THURMOND. Would the agreement prohibit us from developing an ABM laser type weapon, for instance, on tanks?

Secretary LAIRD. No, it would not apply to weapons that did not have an ABM capability——

Id. at 171.

On June 22, the third day of the hearings, future ABM systems—in particular laser technology—were again the focus of attention in several exchanges. Dr. John Foster, Jr., Director of Defense Research and Engineering, addressed the issue first in an exchange with Senator Smith:

Senator SMITH. . . . Mr. Secretary, would you tell the committee what progress is being made in the research and development of the laser [deleted].

Dr. FOSTER. Certainly, Senator Smith.

The United States today has a research and development effort in lasers that totals a little above [deleted].

Senator SMITH. Thank you, Mr. Secretary.

Is there anything in the agreements that would prevent us from continuing our effort along this line?

Dr. Foster. There is nothing in the agreements, Senator Smith that prevents us [deleted]. The agreement does forbid the replacement of the currently allowed defense, that is, interceptor missiles, by a laser system.

Senator Smith. In other words, the laser, if it was developed to the ultimate, could not be used at one of the two sites?

Dr. Foster. Yes, its deployment would be prohibited by the treaty. A laser could be used as part of the auxiliary designator system but it could not be used in substitution for a prime detector, that is, the ABM radar, or interceptor missile component.

Senator Smith. But that will not slow us up or slow us down on continued research and development of the laser, will it?

Dr. Foster. No, Senator, it will not. [Deleted.]

Id. at 222.

Dr Foster subsequently returned to the subject of lasers in an extended exchange with Senator Jackson:

Senator Jackson. . . . I want to—before we conclude here—is there anything in these agreements that impinge on our right to research those areas that bear on both our defense and on defense capability? Specifically, there is a limitation on lasers, as I recall, in the agreement and does the SALT agreement prohibit land-based laser development?

Dr. Foster. No, sir; it does not. [Deleted.]

Senator Jackson. [Deleted.]

Dr. Foster. [Deleted.] What is affected by the treaty would be the development of laser ABM systems capable of substituting for current ABM components.

Senator Jackson. I am saying offense and defense, now.

Article 5 says each party undertakes not to develop and test or deploy ABM systems or components which are sea based, air based [,] space based or mobile land based.

Dr. Foster. Yes, sir; I understand. We do not have a program to develop a laser ABM system.

Senator Jackson. If it is sea based, air based, space based, or mobile land based. If it is a fixed land-based ABM system, if it permitted; am I not correct?

Dr. Foster. That is right.

Senator Jackson. What does this do to our research——

I will read it to you; section 1 of article 5—this is the treaty: "Each party undertakes not to develop"—it hits all of these things—"not to develop, test or deploy ABM systems." You can't do anything; you can't develop; you can't test and finally, you can't deploy. It is not "or".

Dr. Foster. One cannot deploy a fixed land-based laser ABM system which is capable of substituting for an ABM radar, ABM launcher, or ABM interceptor missile.

Senator Jackson. You can't even test; you can't develop.

Dr. Foster. You can develop and test up to the deployment phase of future ABM system components which are fixed and land based.

My understanding is you can develop and test but you cannot deploy. You can use lasers in connection with our present land-based Safeguard system provided that such lasers augment, or are an addendum to, current ABM components. Or in other words, you could use lasers as an ancillary piece of equipment but not as one of the prime components either as a radar or as an interceptor to destroy the vehicle.

Senator Jackson. The way I read this—but I may be wrong; it depends upon the interpretation here—but it says each party undertakes not to develop, test or deploy ABM systems or components which are sea based, air based, space based, or mobile land based.

Dr. Foster. That is correct.

Senator Jackson. Now, it could well be read into this that even though you are conducting research you have not deployed it, that you cannot do that either. The way I read this, Mr. Chairman—you might take a look at it—I think it raised a real question here whether you can actually engage in research.

[The information follows:]

Article V prohibits the development and testing of ABM systems or components that are sea-based, air-based, space-based, or mobile land-based. Constraints imposed by the phrase "development and testing" would be applicable only to that portion of the "advanced development stage" following laboratory testing, i.e., that stage which is verifiable by national means. Therefore, a prohibition on development—the Russian word is "creation"—would begin only at the stage where laboratory testing ended on ABM components, on either a prototype or bread-board model.

Dr. Foster. No.

Senator Jackson. I gather that the problem on lasers is sometimes difficult. [Deleted.]

[Colloquy deleted.]

Id. at 274-5.

At the conclusion of the session, Dr. Foster commented on the exchange with Senator Jackson on lasers as follows:

Dr. Foster. . . . I think I have covered the major points I wanted to make. I welcome an opportunity to review the record and add I would particularly like to clarify the discussion with Senator Jackson regarding the laser program. I think we can clear that up.

The Chairman. Yes, sir. I didn't get to hear all of it, but your testimony today was very informative. You made some things very clear; you went into your particular part of it with great clarity. I appreciate it.

Id. at 280.

On June 28, the fifth day of the hearings, Ambassador Smith touched upon future ABM systems in his prepared statement:

The development and testing, as well as deployment of sea, air, space-based, and land-mobile ABM devices is prohibited. Of perhaps even greater importance, the parties have agreed that no future types of ABM systems based on different physical principles from present technology can be deployed unless the treaty is amended.

Id. at 287.

Senator Smith questioned Ambassador Smith on his statement:

Senator Smith. Mr. Ambassador, you say that the treaty prohibits the development of other ABM systems. Would this affect a development of a laser ABM system by the United States?

Mr. Smith. Senator Smith, one of the agreed understandings says that if ABM technology is created based on different physical principles, an ABM system or component based on them can only be deployed if the treaty is amended.

Work is [sic] that direction, development work, research, is not prohibited, but deployment of systems using those new principles in substitution for radars, launchers or interceptors, would not be permitted unless both parties agree by amending the treaty.

Id. at 295.

Senator Goldwater, too, questioned Ambassador Smith about the laser:

Senator Goldwater. . . .

One, under this agreement are we and the Soviets precluded from the development of the laser as an ABM?

Mr. Smith. No, sir.

Senator Goldwater. Well, now, there is a point of confusion, because I have been told that we are precluded from the development of the laser. I have read that the orders have come down from the Secretary of Defense to stop the development of the lasers for ABM purposes.

Now, this points up why it is hard for this one Senator to make up his mind whether or not this is a good agreement. I am glad to have that answered.

Id. at 306.

On July 18, the sixth day of the hearings, Senator Jackson returned to the subject of future systems in the context of Soviet technology:

Senator Jackson. . . . [I]sn't it a fact that the Soviet technology in the area of antiballistic missiles is somewhat limited and that the Soviets have only confined themselves in this agreement to the limit of their technology at this time? Isn't that a fair statement?

Mr. Smith. Well, this treaty is of indefinite duration; it placed no limitation on the technology, the development of technology of radars, launchers, and interceptors. It does place limits on the technology of systems using other physical principles, but it would be fair to say it does not limit them to the present state of their art.

Id. at 371.

Later in that session, Senator Jackson probed on the meaning of "develop" in Article V of the Treaty:

Senator Jackson. In article V of the treaty, the term "develop" appears in connection with an undertaking not to "develop, test or deploy" certain ABM systems or components. How do you define the term "develop" as it is used in article V?

Mr. Smith. We have given a good deal of analysis to this question; and it is a technical question and I would ask you if I could not submit to you in writing our interpretation of what that term means. I think we can do that very quickly.

Senator Jackson. Will you also take into account the further question as to whether there is any other meaning of the term "develop" associated with its use in other provisions of the accords?

Mr. Smith. Yes, sir.

[The information follows:]

Article V of the ABM Treaty and an Agreed Interpretive Statement (F) obligate the U.S. and USSR "not to develop, test, or deploy" mobile ABM systems, rapid reload devices, or ABM interceptor missiles for delivery of more than one independently guided warhead.

The SALT negotiating history clearly supports the following interpretation. The obligation not to develop such systems, devices or warheads would be applicable only to that stage of development which follows laboratory development and testing. The prohibitions on development contained in the ABM Treaty would start at that part of the development process where field testing is initiated on either a prototype or breadboard model. It was understood by both sides that the prohibition on "development" applies to activities involved after a component moves from the laboratory development and testing stage to the field testing stage, wherever performed. The fact that early stages of the development process, such as laboratory testing, would pose problems for verification by national technical means is an important consideration in reaching this definition. Exchanges with the Soviet Delegation made clear that this definition is also the Soviet interpretation of the term "development."

Consequently, there is adequate basis for the interpretation that development as used in Article V of the ABM Treaty and as applied to the budget categories in the DOD RDT&E program places no constraints on research and on those aspects of exploratory and advanced development which precede field testing. Engineering development would clearly be prohibited.

No. The term "development" appearing in Article IV of the Treaty is used in the same sense as the term "develop" in Article V.

Id. at 376-7.

On July 19, the seventh day of the hearings, General Bruce Palmer, Jr., Acting Army Chief of Staff, touched briefly in his prepared statement on the need for new ABM components:

The interim agreement on strategic offensive weapons, although a significant first step, does not remove the serious potential threat to our land-based retaliatory capability. To provide the assurance that our strategic defense of these forces could be quickly and efficently increased, should the ABM treaty and offensive agreement lapse for any reason, development of new ABM components—such as those of the site defense system—can and should continue.

Id. at 426.

General Palmer, General John Ryan, Air Force Chief of Staff, and Lt. General W.P. Leber, Safeguard System Manager, engaged with Senator Goldwater in an extended discussion of research, development, and deployment of laser systems:

Senator GOLDWATER. . . .

I have one more question, General Ryan, and also of General Leber. It applies to our R.&D.

I seem to remember, immediately after the announcement of the SALT talks, Secretary Laird's announcing that there would be no more R.&D. in laser development that might be used for antiballistic missiles. That appeared in the press, and when Ambassador Smith was here, I asked him if this were true. Surprisingly, he answered and said that it was not true, that we were allowed to continue with laser research and development. Is that your understanding?

General RYAN. Yes, sir.

Senator GOLDWATER. Is it yours, too, General?

General PALMER. My understanding is in the defensive area, R.&D. on such systems is basically prohibited.

Senator GOLDWATER. Prohibited?

General PALMER. Basically prohibited.

Senator GOLDWATER. Here is another point that we have trouble on, a very simple point.

General PALMER. Talking about the defensive, now.

Senator GOLDWATER. Ambassador Smith didn't delineate between the two: Offensive or defensive. I am interested in not particularly offensive because I think for our purposes we have made progress in this field, but I am thinking of the extent of research on laser that could result in a perfect ABM weapon.

General RYAN. Your question to me was development of laser, and we do have an ongoing program on development in the general generic term of "laser."

Senator GOLDWATER. I was interested—again, you might be able to answer it—if anyone acquainted with laser can see its application as we progress in the science to ABM use in a very perfect way, an inexpensive way compared to what we are doing. It was my interpretation of the Secretary's remarks we would no longer engage in such development.

General PALMER. I would like to correct my statement.

I was referring to the deployment of such systems. There is no limit or understanding of a limit on R.&D. in the futuristic systems, but would require an amendment of the treaty or further agreement to deploy such a system.

Senator GOLDWATER. Then what you are saying, if the Army of any of our research and development agencies suddenly came along with a breakthrough that would enable us to get the power to develop the optical mechanism, would it mean that we couldn't deploy the antiballistic missile capability?

General RYAN. That's correct.

General PALMER. That's correct.

Senator GOLDWATER. Do you believe that?

General PALMER. Without further agreement.

Senator GOLDWATER. Again, Mr. Chairman, I think this is indicative of the great misunderstanding, and this one point alone is going to keep me from voting for the SALT until I find out what we can do. I don't like the idea that what has been the world's great technological Nation, which it no longer is, can't develop something of its own inventive necessity where we can have a literally foolproof antiballistic missile system; I don't think it is around the corner; I don't think it is near. The men in the blue suits have been talking about it.

General RYAN. The development, when you speak of the development, is not banned. The development—

Senator GOLDWATER. Bad?

General RYAN (continuing). Is not banned, such as Hardsite defense. The development—

Senator GOLDWATER. But the deployment?

General RYAN. The deployment of these systems is banned.

General LEBER. Senator, I think we have been over this ground before when Dr. Foster was before the Committee, and if I may I will try to expand and hopefully clarify it.

The only limitation in the treaty, and it is in the ABM treaty; it is not in the interim offensive agreement at all, is that either side, the Soviets or the United States, would not use a laser device to substitute for any other component part of the ABM system. You could use laser technique to improve any of your existing components—radar, interceptor—those are the main components, but if you propose to substitute, for example, a laser device for the interceptor, that would be prohibited, an amendment to the treaty would be required for deployment.

That is a very narrow area now that we are talking about; it has nothing to do with ICBM's, nothing to do with the defense systems in general. The only restriction is that you would not substitute a laser device for one of the components of your ABM system.

Id. at 437-9.

Senator Jackson pursued the issue in the context of inspection and verification:

Senator JACKSON. Without some sort of onsite inspection, we can't monitor "development," can we?

General LEBER. I think we can detect testing of laser devices in an ABM mode; I think we can without onsite inspection.

Senator JACKSON. Testing, yes; but development, how are you going to monitor that?

General LEBER. It is possible to do certain development work in a laboratory that would not be detectable other than by onsite inspection.

Senator JACKSON. Administration spokesmen have told us that all of this is going to be handled under the agreement by national means and that we have adequate means of doing that very thing. I am just pointing out here the very important area General Ryan has emphasized—research and development. But here is an area of development. I am not talking about testing. We can do certain things to detect tests, but I am talking about development in a laboratory.

How are you going to monitor that without some kind of on-site inspection?

General LEBER. There is no argument that that could go on.

Senator JACKSON. Here, again, I think people are surprised; they don't know what is in this agreement. Have you gentlemen been consulted about this?

General LEBER. No.

Senator JACKSON. How is it going to be done?

Senator DOMINICK. Would the Senator yield?

There isn't any ban, as I understand it, on research and development on either side?

General RYAN. That's right.

Senator DOMINICK. So, therefore, the onsite inspection is no different; the offsite inspection is no different now than it was before?

Senator JACKSON. Yes, but under article V of the ABM treaty "Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based[,] space-based, or mobile land-based."

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-base ABM is exempt.

Senator GOLDWATER. Fixed based.

Senator JACKSON. The fixed-baseve [sic].

Senator GOLDWATER. We could then replace the Sentry with the laser if it became effective?

Senator JACKSON. The prohibition runs to sea based, air based, space based, or mobile land based ABM's.

Senator GOLDWATER. Not fixed land?

Senator JACKSON. That's right. That is exempt. I am just pointing this out. In those other areas, it is prohibited and, development is also prohibited. How are you going to handle that? Tests can be detached. There are certain national means available to check on testing and deploying, but I am underlining, Senator Dominick, the key word, "development." And I just cite that as an illustration. As I understand it, the Joint Chiefs have no knowledge of the means of monitoring "development," except that, later, there will be consultations under the agreement.

General PALMER. Let me try to clarify that Senator Jackson.

The treaty, as you have just read, does limit radars[,] launchers and missiles; it does not limit R&D on futuristic systems. We could not deploy such a new system, however——

Senator JACKSON. Can I read this? You tell me what it means: "Each party undertakes not to develop." What does that mean as you understand its [sic]? As I read it, there is a prohibition on development. What does "develop" mean, as you understand it? This is very important.

The Army has the ABM responsibility and I want to find out what the Army really knows about it.

General Palmer. I would interpret that to mean both sides have agreed not to go to multiple warheads. A rapid reload capability, or sea, sir [sic], or mobile land-based modes.

Senator Jackson. . . . Let's talk about the first paragraph. Let me read it to you again because I am amazed that we meet here with the top military people and they don't know what is in this agreement. This is what I have been saying for a long time. It is really disturbing. It ought to be distressing. Let me read it. Article V, paragraph 1: "Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based."

Tell me what it means.

General Leber. Your question on what does "develop" mean has not been spelled out in the treaty, as you have said there; it does go on to cover testing which we believe we could detect.

Senator Jackson. Let's take these one at a time now, "Develop"—what do you understand that to mean?

General Leber. Well—

Senator Jackson. What does that mean? Were you consulted on that one?

General Leber. No, sir.

Senator Jackson. I thought we were told from the press accounts that the Joint Chiefs were kept completely informed. I am inclined to go through each item in the treaty and find out where you were not consulted, since we were told you were consulted on everything. I was amazed when you said you were not consulted on that.

General Leber. No, sir.

Senator Jackson. It is pretty important.

Senator Goldwater. Let's nail this down.

Senator Jackson. That's right.

Senator Goldwater. You were never consulted but were any members of the Chiefs? Was the Chairman of the Joint Chiefs ever brought into this whole question of research and development of a laser or any other additions or subtractions of the weapon system?

General Ryan. My interpretation of the paragraph which you just read, Senator Jackson, is that each party undertakes not to develop, test, or deploy ABM systems or components which are sea based, air based, meaning in the atmosphere, space based, outside of the atmosphere, or mobile land based.

Senator Jackson. Yes, sir.

General Ryan. It doesn't mean that fixed, land based cannot be developed.

Senator Jackson. Yes, I said that. Now, what I am saying, General Ryan, is that you are prohibited from developing a system that is sea based, air based, space based, or mobile land based?

General Ryan. That is correct.

Senator Jackson. That is right.

General Ryan. But you can—

Senator Jackson. I ask you, what do you mean by "develop"?

General Ryan. Well, for a fixed—

Senator Jackson. As I said, we have national means to monitor testing. But tell me, how do we monitor testing. But tell me, how do we monitor development work in a laboratory?

General Ryan. Senator, as you well know, there is no way we could.

Senator Jackson. Well, that is what I am trying to nail down here, and as I say, I am amazed that the Joint Chiefs were not consulted on this.

General Leber. I take it that development really means the laboratory work and can include basic research, and applied research until the product is ready to test. Is that right?

General Leber. That's correct. . . .

My point is this development is a very major undertaking; it is not something that you can complete in a laboratory. True, some of the first work with radars and some of the first work with components of the interceptor went on in laboratories but early in the development they started testing interceptors, they started testing components of radars, putting them on the air. Those are the kinds of things that you can observe and detect.

In the case of our site defense program, we are now in the early stages of a prototype demonstration where we are going to develop a system and test it out in the Pacific before we know whether it would be a system we could deploy. This is what development means to me, not just the beginning work in the laboratory but the whole program, leading to a decision on whether or not you not [sic] have a system.

Senator Jackson. Obviously, once you start to develop something you are going to test it and then—

General Leber. If you are ever going to deploy it, you had better test it.

Senator Jackson. That's right; and if it is going to be usable you have to develop it and test it and then you will deploy it?

General Leber. That's right.

Senator Jackson. That is what it says here, but I am talking about that part of the prohibition relating to development.

This is what I want to get from the Joint Chiefs here, but I want this record to be complete. There have been many statements made as to what you gentlemen have agreed to. I want to ask you, are you opposed to provisions that cannot be monitored?

General Ryan. Yes, sir.

Senator Jackson. Pardon me?

General Ryan. Yes, sir.

Senator Jackson. You are opposed to provisions that cannot be monitored, so that in this instance, where you cannot monitor the laboratory work, I assume you are opposed to that provision?

General Ryan. You are putting words in—the general has explained his idea of development.

But you can't without onsite inspection; you cannot go into the laboratory and find out what they are doing in a laboratory.

Senator Jackson. That's right.

If you had been consulted, what would you have advised on this point? We had the impression the Joint Chiefs were consulted on everything regarding these agreements. That is what was given to the press. I want to find out in these hearings if that is true.

General Ryan. I can't say that we were consulted on everything. Let's say that I was not aware of this particular semantic interpretation of the term.

General Palmer. On the question of the ABM, the facts are that when the negotiation started the only system actually under development, in any meaningful sense, was a fixed, land-based system. As the negotiations progressed and the position of each side became clear and each understood the other's objectives better, it came down to the point where to have agreement it appeared that—this is on the antiballistic missile side—this had to be confined to the fixed, land-based system. The Chiefs were consulted. I would have to go to a closed session to state precisely the place and time. They were consulted on the question of quantitative limits on the AB side and agreed to the limits that you see in this treaty.

Senator Jackson. Even though it can't be monitored?

General Palmer. Yes.

Senator Jackson. I just wanted that; so the Chiefs went along with the concept here that involved—

General Palmer. A concept that does not prohibit the development in the fixed, land-based ABM system. We can look futuristic systems as long as they are fixed and land based.

Senator Jackson. I understand.

General Palmer. The Chiefs were aware of that and had agreed to that and that was a fundamental part of the final agreement.

The Chairman. This word "develop," gentlemen, in article V, "Each party undertakes not to develop, test or deploy." As we have used the term "develop" in the R&D section of the defense authorization bill I did not understand it to refer to antecedent beginning of basic research and all, but rather "develop" was something moving more in the tangible field of materials and testing and finally deploying. That is the way I understand it. That is the way we have used it in the committee.

My question is, does the word "develop" in this article V have a meaning different from what it ordinarily means in research and development discussions and items?

General Palmer. Mr. Chairman. I understand it to mean the total creation of a system.

The Chairman. From the beginning to end?

General Palmer. Yes.

(The information follows:)

Based on further research with regard to Article V of the ABM Treaty and the implications arising from the undertaking not to "develop, test and deploy" certain ABM systems, I have since been advised by my Staff that there are some understandings which evolved during the negotiations in the use of these terms. I also understand that a more complete answer to a similar question raised yesterday in the Committee's hearings with the negotiating team members is being provided. The obligation undertaken by Article V is applicable only to that stage of development which follows laboratory development and testing. Research in these areas is therefore permitted. Exchanges with the Soviet delegation, I am told, made clear that this definition was also the Soviet interpretation of the term "development."

The Chairman. So that encompasses everything. That is a new slant on the word as I have understood it. If that is correct, why would you use the word "test" or "deploy"? If "develop" means everything from beginning to end, why would you bring in these other words "test" and "deploy"?

General Leber. Sir, I think it is clear that the deployment is different from development. We never use the word "development" to include deployment. There is another reason to single out testing. As you recall, one of our main appropriations is RDT&E.

The Chairman. Yes.

General Leber. And this stands for research, development, test and evaluation, so testing has been singled out as a phase. Research, development, test and evaluation. This could be the reason they had singled out testing. In any case, deployment is a different phase and not part of development.

The CHAIRMAN. That is a consummation of everything.

General LEBER. That is going out and putting it in.

The CHAIRMAN. Yes.

General LEBER. As we started to do with Safeguard.

The CHAIRMAN. It is your idea, then, that this word "developed" does include the concept that it cannot be monitored in a laboratory, correct?

General LEBER. Yes, sir; that is my understanding.

The CHAIRMAN. All right.

General LEBER. It can include some work in a laboratory which could not be detected but other work which could be necessary to develop fully an ABM system could be detected.

The CHAIRMAN. You made that clear.

Senator JACKSON. If I might add to the confusion, I am informed that in the Russian text, in connection with develop, two different Russian words are used.

Senator GOLDWATER. Do you know what they mean?

Senator JACKSON. No. We may want to check that. ID. at 439-44.

On July 21, the eighth day of the hearings, Admiral Elmo Zumwalt, Jr., the Chief of Naval Operations, was questioned by Senator Jackson about the conditions that would justify withdrawal from the Treaty or agreement. In a statement provided for the record, Admiral Zumwalt observed:

"To summarize, Senator, it is my view that Soviet actions which would provide reasons for U.S. consideration and execution of withdrawal from the Treaty or Interim Agreement fall into basically five categories:

"1. Failure of Soviet compliance with the wording and intent of the Treaty and the Agreement. This could constitute overt acts of non-compliance by exceeding number limits or covert acts (cheating). Such acts might include:

"Deployment of ABM systems with multiple launchers, rapid reload, multiple warhead interceptors, or sea/air/space-based ABM systems." Id. at 530.

D. *Hearings before the House Foreign Affairs Committee*

The House Foreign Affairs Committee held hearings to consider the Interim Agreement on four days beginning July 20, 1972, and concluding August 9, 1972. The subject of future ABM systems received only minimal attention.

Testifying in the opening session of the hearings, Secretary Rogers again outlined the principal provisions of the ABM Treaty. He described the qualitative limitations on ABM systems in these terms:

"The commitment to low ABM levels is further enhanced by several important qualitative limitations. We and the Soviet Union have agreed not to develop, test, or deploy:

"1. ABM systems or components that are sea based, air based, space based, or mobile land based. . . .

"Such undertakings are important. It may be of even greater importance that both sides have agreed that future types of ABM systems based on different physical principles, for example, systems depending on such devices as lasers, that do not consist of ABM interceptor missiles, launchers, and radars, cannot be deployed even in permitted areas. So there is a limitation on what may be employed in the ABM systems now in operation and it prohibits the deployment of new esoteric systems in these areas."

Agreement on Limitation of Strategic Offensive Weapons: Hearings Before the House Committee on Foreign Affairs, 92d Cong., 2d Sess. 5 (1972).

Later in the session, in an exchange with Ambassador Smith on the issue of MIRV's, Congressman Zablocki noted briefly "the agreement not to develop certain phases of ABM's and interceptor missiles. . . ." Id. at 16.

E. *Hearings before the House Armed Services Committee*

The House Armed Services Committee held hearings related to SALT I on five days beginning June 6, 1972, and concluding July 27, 1972. In the June 6 session the Committee heard from Secretary Laird, who engaged in the following exchange with Congressman Stratton in the context of questions about the cancellation of laser contracts:

Mr. STRATTON. My understanding was one area where we did not get any limitation was in the field of R. & D., that we are free to continue that, isn't that true?

Secretary LAIRD. That is correct, except for certain limitations in the ABM treaty, Congressman Stratton.

Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement, House Committee on Armed Services, No. 92-45 Supplement, 92d Cong., 2d Sess. 12098.38 (1972).

In the July 25 session a staff memorandum on the SALT Agreements prepared for members of the House Armed Services Committee was inserted into the record. The memorandum summarized and commented on the ABM Treaty as follows:

The Treaty defines an ABM system as one to counter ICBM's in flight trajectory and one consisting of ABM interceptor missiles, ABM launchers and ABM radars. (Article 2)

No ABM system or component shall be sea-based, space-based, air-based or mobile.

Neither side shall develop, test or deploy launchers for launching more than one missile at a time, nor develop or deploy automatic, semi-automatic or similar systems for rapid reload of ABM launchers. (Article 5)

Modernization and replacement of ABM systems and components is allowed. (Article 7)

Following are some significant points about the agreements and interpretations that have been issued.

The parties agreed that in the event an ABM system based on other physical principle[s] with components capable of substituting for interceptor missiles, launchers and ABM radars is created in the future, limitations on such systems would be subject to discussion in accordance with Article 18.

Full Committee Hearings on the Military Implications of the Strategic Arms limitation Talks Agreements, House Committee on Armed Services, No. 92-68, 92d Cong., 2d Sess. 15074-6 (1972).

Testifying before the Committee, Ambassador Smith drew attention to the qualitative limitations in the Treaty:

ABM radars are an essential element of an ABM system and are the long-lead-time item in development of an ABM system. The question of limitations of radars—a highly complex subject—occupied a great deal of time in the negotiations. Specific limitations on ABM radars are spelled out in the treaty. In addition, there are limitations on the deployment of certain types of non-ABM radars in order to preclude the possibility of their use as elements of an ABM system.

In order to assure further that there would be adequate restraints on ABM capabilities, the treaty provides for significant qualitative limitations on ABM systems.

The very low quantitative limitation of 200 ABM launchers for each side cannot be circumvented through qualitative changes. The two sides have agreed not to develop, test, and deploy ABM launchers for launching more than one interceptor missile at a time, not to modify launchers to provide them with such a capability, nor to develop, test or deploy automatic or semiautomatic or other similar systems for rapid reload of ABM launchers.

An additional important qualitative limitation is the prohibition on the development and testing, as well as deployment, of sea, air, space-based and land-mobile ABM systems and components.

Of even greater importance as a qualitative limitation is the prohibition on the deployment of future types of ABM systems that are based on physical principles different from present technology.

On this point, Mr. Chairman, there is an agreed interpretation with respect to ABM systems based on different physical principles, and including components capable of substituting for those components used at present—that is, launchers, missiles and radar components. If such new systems are developed, and one or the other side wants to deploy them under the limitations of this treaty, there would have to first be a discussion of the question in the Standing Consultative Commission we are proposing to establish under this treaty, and then the treaty would have to be amended before such novel ABM systems could be deployed. Id. at 15086.

In the July 27 session, Admiral Thomas Moorer, Chairman of the Joint Chiefs of Staff, engaged in a colloquy with Congressman Whitehurst about future ABM systems:

Mr. WHITEHURST. When Ambassador Smith was here a couple of days ago, I was interested in his remarks, particularly related to the ABM sites. There cannot be any quantitative improvement by either side, can there?

Admiral MOORER. That is correct, not beyond that specified in the treaty.

Mr. WHITEHURST. Suppose there were a qualitative improvement—perhaps I am just fishing here and I wish I had his testimony before me—that would change the balance on this. Is there anything in the agreement that declares there cannot be a change qualitatively?

Admiral MOORER. Well, there is a limit on the capability of radars, which it highly technical. . . .

Mr. WHITEHURST. . . . This obviously will go on with ABM R.&D. I am thinking about some kind of technical breakthrough, perhaps something beyond Spartan or Sprint in the state of the art. Is this possible? What would this do to this agreement?

Admiral MOORER. If i could just read one paragraph here that deals, I think, with your question, Mr. Whitehurst. It states as follows:

In order to insure fulfillment of the obligations not to deploy ABM systems and their components, except as provided in Article III of the Treaty, the parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, AMB launchers, or ABM radars, are created in the future, specific limitations on such systems and their components would be subject to discussions in accordance with Article VIII and agreement in accordance with Article XIV of the Treaty.

Mr. Whitehurst. That is exactly what I am referring to.

Admiral Moorer. Yes, sir.

Mr. Whitehurst. You have no means of surveillance, though. For example, if we achieved this technically, then we would be obliged to advise the Soviets that we have this capability?

Admiral Moorer. Only if we deployed it in the configuration of an ABM weapons system. But there is no restraint on research and development.

Mr. Whitehurst. OK. Thank you. *Id.* at 15124-5.

F. *Hearings before the Senate Appropriations Subcommittee*

In hearings on the Department of Defense Appropriations for Fiscal Year 1973, held before a Subcommittee of the Senate Appropriations Committee, some attention was also focused on restrictions contained in the ABM Treaty. On June 13, 1972, Senator Young engaged in the following exchange with Secretary Laird and Admiral Moorer:

Senator Young. Mr. Secretary, in your memorandum of May 26, 1972, to the Secretary of the Army, you instructed him to take certain actions, one of which was "suspend all ABM and R. & D. which are prohibited by the ABM treaty."

Secretary Laird. There are only a few areas in which there is any limitation of R. & D. on ABM's and for all intents and purposes that does not shut off any programs that we have.

Senator Young. Which programs are prohibited?

Secretary Laird. We can give you the exact language of the prohibition as far as the ABM treaty is concerned, but it does not apply, as we interpret it at the present time, to any of our ongoing programs. We can give you the exact language.

Senator Young. I was not aware there was [a] prohibition on the research and development on any of these programs.

Are there any more besides this?

Secretary Laird. We could give you the exact language. It is in article 5 of the treaty.

Very few, but I think we ought to put these paragraphs in the record.

Senator Young. What other major research and development programs are prohibited by the treaty?

Secretary Laird. Article 5 prohibits the development, test and deployment of ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, or the modification of deployed launchers to provide them with such a capability. It also prohibits development[,] testing, and deployment of automatic or semiautomatic or other similar systems for rapid reload of ABM launchers. The parties agree that this article includes the obligation not to develop, test, or deploy ABM interceptor missiles for the delivery by each interceptor missile of more than one independently guided warhead.

Also included in article 5 is the prohibition against mobile ABM systems.

Senator Young. Yes.

[Articles IV, V, VI and VII of the ABM Treaty are then quoted for the record.]

Senator Young. Are there any other military programs where there is a limitation or prohibition on research?

Secretary Laird. Not on research and development; only these that I have cited to you.

Senator Young. Only this one.

Earlier we had a question in which there was a limitation on ABM research and you agreed that there was a limitation.

Secretary Laird. But only in certain areas, and it does not affect any of our current ongoing programs in the ABM field to any substantial degree at all.

We have placed in the record earlier this afternoon the articles of the treaty that could be interpreted as a limitation on our development and test program.

Admiral Moorer. There are two limitations, Senator Young. First, only one warhead and rocket per missile and only one missile on a launcher. You cannot make an automatic missile launcher and you cannot have a multiple warhead on an antiballistic missile.

The other limitation is no sea-based, no air-based, space-based, or mobile land-based ABM systems.

Department of Defense Appropriations for Fiscal Year 1973: Hearings Before a Subcommittee of the Senate Committee on Appropriations, 92d Cong., 2d Sess. 13-18 (1972).

At a later point in the hearings, on September 12, 1972, General J.A. Kjellstrom, Director of the Army Budget in the Office of the Army Comptroller:

"We are continuing permitted ABM research, development, test, and evaluation programs to preserve options for later possible needs and to stay abreast of ABM technology. The site defense prototype demonstration program is being continued with, as I shall describe later, provision for undertaking full engineering development." *Id.* at 170.

G. *Hearings before the House Appropriations Subcommittee*

ABM technology received some attention in hearings before a Subcommittee of the House Appropriations Committee. General G. Mayo, Jr., the Deputy Safeguard System Manager, observed in his statement to the Subcommittee on July 18, 1972:

"After ratification of the Treaty, we can and must continue permitted ABM Research, Development, Test and Evaluation programs in order to preserve options and to stay abreast of ABM technology. The Site Defense program will be continued, making modifications to return its development and testing to a more normal schedule."

Department of Defense Appropriations for 1973: Hearings Before a Subcommittee of the House Committee on Appropriations, 92d Cong., 2d Sess. 604 (1972).

In response to a question from Congressman Addabbo, General Mayo referred to ABM modernization in these terms:

"The proposed Site Defense program for fiscal year 1973 is intended to develop and preserve the option to deploy, at a time near the expiration date of the interim agreement, a strategically significant terminal defense of our ICBM force. To delay the development in expectation of new technology or of lessened international tensions would risk the survivability of our Minuteman, particularly when we consider that future improvement in accuracy of Soviet warhead systems could, by itself, reduce surviving Minuteman to an inadequate level. Therefore, the Army is continuing its development programs including those advanced programs which are designed to insure that emerging technology would be used to modernize ongoing ABM systems, like site defense." *Id.* at 636-7.

In response to questions from Congressman Mahon, General Mayo noted:

"Both the revised Site Defense program and the ABM treaty have increased the emphasis on ABM research and development, and thus have increased the Advanced Ballistic Missile Defense Program requirements for support of Site Defense and development of advanced technologies.

"With reasonable upgrading the system being installed at Grand Forks should not be obsolete for a number of years—more specifically, as long as interceptors and radars remain the most effective way of accomplishing missile defense. The Army is currently conducting research and development on advanced technology which can be incorporated in ballistic missile defenses to counter more sophisticated energy improvements and countermeasures." *Id.* at 638-9, 640.

H. *Report of the Senate Foreign Relations Committee*

The Senate Foreign Relations Committee issued its Report on the ABM Treaty on July 21, 1972. See S. Ex. Rept. No. 92-28, 92nd Cong., 2d Sess. (1972), reprinted in 1972 Documents on Disarmament 497-505 (United States Arms Control and Disarmament Agency). The Report quoted the description of the Treaty provided by Secretary Roberts in his testimony before the Committee, including the discussion of "qualitative limitations." However, the Report contained no other references to future ABM systems. Further, the Committee's separate Report on the Interim Agreement made no mention of such systems. See S. Rept. No. 92-979, 92d Cong., 2d Sess. (1972), reprinted. *Id.* at 506-14.

I. *Report of the House Foreign Affairs Committee*

The House Foreign Affairs Committee issued its Report on the Interim Agreement on August 10, 1972. See H. Rept. No. 92-1324, 92d Cong., 2d Sess. (1972), reprinted. *Id.* at 555-61. The Report referred to future ABM systems in its description of the ABM Treaty:

"The two nations additionally agree to ban development, testing or deployment of sea-based, air-based, space-based or land-mobile ABM systems. Nor will they deploy ABM systems or components based on new technology without prior discussion and amendment of the treaty." *Id.* at 557.

J. *Congressional Debates*

The ABM Treaty was considered in the Senate on August 3, 1972, and the resolution of advice and consent was passed on the same day. The Senate debated the Interim Agreement on sixteen days beginning August 3, 1972, and concluding September 14, 1972, when the resolution of approval was passed. In the House, the Interim Agreement was the focus of debate on four days from August 16, 1972, to September 25, 1972, when final approval was given. The issue of future ABM systems, however, received scant attention on the floor of either the Senate or House.

On several occasions, Members of Congress inserted into the Congressional Record statements described above containing references pertinent to the issue of future systems. On June 30, Congressman Harrington inserted into the record the June 30 edition of Defense Monitor. See 118 Cong. Rec. 23873 (1972). That item was inserted into the record once again on August 1 by Congressman Aspin, and for a third time by Senator Church on August 14. See 118 Cong. Rec. 26344, 28063 (1972). On June 30, Senator Buckley inserted into the record his own statement before the Senate Foreign Relations Committee as well as the statement of Dr. Donald Brennan before that committee. See 118 Cong. Rec. 23620, 23622 (1972). On July 20, Senator Cooper inserted into the record the statements made to the Senate Foreign Relations Committee by Dr. Wolfgang Panofsky and Dr. Richard Garwin. See 118 Cong. Rec. 24689, 24691 (1972). Similarly, Dr. Edward Teller's statement to the House Foreign Affairs Committee was inserted into the record on August 18 by Congressman Ashbrook. See 118 Cong. Rec. 29119 (1972).

In addition to these various statements, three other articles with pertinent references were also made a part of the record. On June 30, Senator Buckley inserted an article by Dr. Brennan entitled "SALT Hits the Fan," in which it was simply noted that "both we and the Soviets undertake not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." See 118 Cong. Rec. 23625 (1972).

On July 27, Senator Fulbright inserted into the record an article by I.F. Stone entitled "The Big Build-Up Nixon is Putting Over on Us," in which it was stated:

"Every person knowledgeable in arms knowns the existing ABMs in these quantities are laughably ineffective and obsolete. The proof lies in another escalation the Pentagon is quietly asking: $140 million to start work on a new Hard site ABM system, which would ultimately cost $25 billion. So we are going ahead with the development of a new ABM system right after signing a treaty in which we pledged ourselves not to deploy a new system, though we are allowed to develop one. This means pressure to opt out of the treaty as soon as the military finds a better ABM." 118 Cong. Rec. 25685 (1972).

Congressman Ashbrook inserted into the record for August 18 an article by A.H. Stanton Candlin and Gilbert S. Stubbs, entitled "SALT: Hanging by the Thread of a Soviet Promise." That article specifically noted Senator Buckley's concerns about future ABM systems:

"Despite the lessons to history and logic the present SALT Treaty on ABM's embarks on the perilous course of attempting without inspection safeguards to prohibit the development, testing and deployment of 'ABM systems or components which are sea-based, air-based or mobile land based.' (Article V.) Senator Buckley, in his recent testimony on SALT, was particularly critical of this treaty clause, pointing out that it 'would have the effect, for example, of prohibiting the development and testing of a laser type system based in space which could at least in principle provide an extremely reliable and effective system of defense against ballistic missiles'. Here the potential danger is not just the denial of a means of defense to the U.S., but also the possibility that the Soviets themselves will acquire such a defense unilaterally through their own covert efforts." 118 Cong. Rec. 29124 (1972).

Only days after signature of the ABM Treaty, Senator Jackson made reference on the floor of the Senate to an alleged cancellation of a laser research study:

"I was greatly disturbed, for example, to learn only yesterday that Secretary Laird has ordered the cancellation of a theoretical study conducted by one of our research organizations of the application of laser technology to ballistic missile defense. Nothing in the agreements as they have been published would call for this action. Was this done under a private understanding with the Russians? It is perfectly obvious that there is no way in the world we can monitor Soviet adherence to a provision that reaches into the minds of scientists and prohibits them from speculating on the impact of some future technology on national security." 118 Cong. Rec. 19411 (1972).

On the Senate floor some weeks later, Senator Proxmire raised questions about the status of the Army's SAM-D air defense system. In that context, he discussed the provisions of Article II(1) of the Treaty as follows:

These are the reasons why I believe that further testing or deployment of SAM-D might violate the ABM Treaty.

First, article II(1) of the treaty defines an ABM system as any "system to counter strategic ballistic missiles" which includes interceptor missiles or radars "constructed and deployed for an ABM role, or of a type tested in an ABM mode."

SAM-D's ability to counter strategic ballistic missiles, however limited, appears to bring it within the treaty's definition of an ABM system. If it is such a system, several things follow.

Its further development, testing, or deployment would be in violation of article V(1)'s prohibition against mobile land-based ABM systems.

Its deployment in a nationwide bomber defense network would be a violation of article I(2)'s prohibition against the deployment of or laying a base for a nationwide ABM system.

Its deployment in defense of NATO would be a violation of article IX's prohibition against the transfer to other countries or the deployment outside the United States of ABM systems or their components.

Second, even if SAM-D is not in fact covered by article II(i)'s definition of an ABM system, it may be affected by article VI of the treaty.

Under provision (A) of article VI, the United States undertakes not to give non-ABM interceptor missiles or radars any ABM capabilities and not to test such missiles or radars in an ABM mode. It would appear that this provision was included in the treaty specifically to forestall argument that a system like SAM-D was not a true ABM system.

This interpretation is strengthened by Secretary of State Rogers' statement, in the official United States interpretation of the treaty, that this undertaking "would, for example, prohibit the modification of air defense missiles—SAM's—to give them a capability against strategic ballistic missiles."

Finally, deployment of SAM-D and its phased-array radar in Europe would appear to violate article VI's prohibition against the deployment of radars for early warning of strategic ballistic missile attack anywhere but on the borders of one's own nation.

118 Cong. Rec. 22614 (1972). The same description was used in letters Senator Proxmire sent to Secretary Rogers and Secretary Laird, reprinted at 118 Cong. Rec. 22615, 27230 (1972).

During the Senate debate on the ABM Treaty on August 3, five Senators addressed aspects of the Treaty relevant to the issue of future ABM systems. Senator Fulbright reviewed the salient features of the Treaty in these terms:

Second. Under the treaty neither party may deploy more than 100 ABM launchers or more than 100 ABM interceptor missiles at either of the two complexes. All of the components for any single complex must be within a radius of 150 kilometers. In addition, there are limits placed on the locations of the two large and 18 smaller ABM radars allowed within each complex.

Third. Each side is prohibited by the treaty from developing, testing, or deploying ABM systems based at sea, in the air, or in space, or mobile ABM launchers, ABM interceptor missiles with multiple warheads, or ABM launchers with a so-called reload capability.

Fourth. The treaty permits modernization and replacement within the present technology but does not permit the deployment of a system or component capable of substituting for ABM interceptor missiles, launchers, or radars. 118 Cong. Rec. 26682 (1972).

Senator Thurmond noted:

Under the treaty, we also give up the right to deploy any land-based ABM systems of a new type, should they be developed. At the same time we undertake "not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

If we sum up what this treaty does in strategic terms, the problem is even more complex.

It effectively prevents us from ever having the means to protect our population from a Soviet first strike. While Safeguard was not intended to protect our population, the option of deploying a system to do so is given up.

It also prevents us from developing new kinds of systems to protect our population. The most promising type appears to be the laser type, based on entirely new principles. Yet we forgo forever the ability to protect our people. 118 Cong. Rec. 26700 (1972).

Senator Buckley voiced objections to the Treaty in terms similar to those expressed in his testimony before the Senate Foreign Relations Committee:

I will say at the outset that I will vote against ratification of the ABM treaty for the reason that I have strong misgivings as to both the prudence and the ultimate morality of denying ourselves for all time—or denying the Russians, for that matter—the right to protect our civilian populations from nuclear devastation. I am not suggesting that we have fully effective technical means to do so at the present time, but I challenge the morality of precluding the possibility of developing at some future date new approaches to antiballistic missile defenses which could offer protection to substantial numbers of our people. I question, in short, the basic doctrine on which the SALT accords have been constructed; a doctrine which requires us to dismantle our defenses before agreement is reached on dismantling the weapons of mass destruction.

Thus the agreement goes so far as to prohibit the development, test or deployment of sea, air or space based ballistic missile defense systems. This clause, in article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space which could at least in principle provide an extremely reliable and effective system of defense against ballistic missiles. The technological possibility had been formally excluded by this agreement.

There is no law of nature that makes impossible the creation of defense systems that would make the prevailing theories obsolete. Why then should we by treaty deny ourselves the kind of development that could possibly create a reliable technique for the defense of tens of millions of civilians against ballistic missile attack? Why should we not at least be in a position to deploy such a system with the least possible delay in the event that we should find it necessary to terminate the agreement under the conditions allowed in article XV?

Maintaining a mad posture is a means of insuring for the rest of history if, indeed, such a concept as history could survive, that the consequences of the failure of deterrence would almost certainly be unlimited catastrophe. While technology and politics may for a time, leave us with no alternative, we should seek ways out of the posture rather than to institutionalize it permanently. However, the ABM treaty does in fact serve to permanently institutionalize this posture.

. . . To perpetuate by treaty, a system of defense that forever denies us the possibility to defend American citizens against nuclear attack is an abdication of a first duty of Government and is unacceptable.

Mr. President, our ultimate goal, always, should be the gradual reduction of offensive nuclear armament in a prudent and rational manner. But until the day comes when we can say with honesty that defense against attack is no longer needed, we must not, forever, by solemn treaty, turn our back on the means by which we could defend tens of millions of Americans.

I share with all Americans the desire for a peaceful and secure world in which nuclear blackmail and nuclear war are no longer international threats. But in all conscience I cannot support a treaty that enforces on the American people as a permanent policy a doctrine which precludes the defense of our people from the possibility of mass destruction. 118 Cong. Rec. 26703-4 (1972).

Senator Fong described the treatment of future systems as being among the more important provisions of the Treaty:

The principal provisions of the ABM Treaty may be summarized as follows:

First. Limits each side to one ABM site for the defense of its respective capital and one site each for the defense of an ICBM field.

Second. Limits each side to a total of 200 ABM interceptors, 100 at each site.

Third. Limits the number and the size of ABM radars at each site.

Fourth. Allows research and development on ABM systems to continue, but not the deployment of exotic or so-called future systems. 118 Cong. Rec. 26707 (1972).

Senator Kennedy's description of the Treaty was similar to that provided in his testimony before the Senate Foreign Relations Committee:

The ABM Treaty not only prohibits nationwide antiballistic missile system[s] but outlaws as well the upgrading of air defense systems to an ABM role. In addition, the treaty prohibits the development, testing, and deployment of sea-based, air-based, space-based, or mobile land-based ABM systems.

The only exceptions are made for a National Capital site and for the protection of a single ICBM site. 118 Cong. Rec. 26763 (1972).

During the House debate on the Interim Agreement on August 18, Congressman Morgan, Chairman of the House Foreign Affairs Committee, provided a summary of the ABM Treaty which simply noted that "[t]he treaty also bans sea-based, space-based or land-mobile ABM systems." 118 Cong. Rec. 29096 (1972).

K. *Resolution of Ratification*

The resolution of advice and consent was adopted in the Senate on August 3 by a vote of 88 to 2:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic-Missile Systems (ABM Treaty), signed in Moscow on May 26, 1972 (Ex. L, 92-2). 118 Cong. Rec. 26684, 26770 (1972).

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. How much time remains?

The ACTING PRESIDENT pro tempore. The majority leader has 5 minutes remaining and the Senator from Virginia has 1 minute remaining.

NATIONAL SECURITY AND THE DEFENSE AUTHORIZATION BILL

Mr. BYRD. Mr. President, my good friend, the distinguished Senator from Virginia, has spoken rather lugubriously about the thwarting of the ability of the Senate to reach a compromise here.

May I point out to my good friend that it is those Senators who are voting against the motion to invoke cloture who are thwarting the ability of this body to reach a compromise on the subject that has been most discussed this morning and other matters involved in the defense authorization bill.

We cannot even get the bill up. That is the long and short of it. We hear all of this talk about the Senator from Georgia taking the bill down. The Senator from Georgia pointed out that nobody can take the bill down; we cannot even get the bill up. When 41 Senators have determined that this Senate will not proceed to take up a bill, then the Senate will not proceed to take up that bill. It is just that simple.

I do not know why they will not let us take up the bill. Is there something wrong with their case? Why are they so unwilling to lay their case before the Senate, have the bill up and let Senators offer amendments? If there are provisions in the bill that the 41 Senators do not like, let them offer amendments to strike out those provisions or to strike and insert other language. But the Senate cannot do this unless the measure is before the Senate. The Senate cannot work its will because 41 Senators are thwarting the Senate's attempt to work its will. Let us at least get the bill up, Mr. President.

Mr. President, we are today once again debating whether to proceed with consideration of the Department of Defense authorization bill for fiscal years 1988 and 1989. We will soon vote on invoking cloture, and I hope that sufficient votes will be cast in favor of ending this debate and getting on with the important business of the Nation—debating and passing a bill to provide for our common defense.

Mr. President, later this week the Senate will stand in recess in observance of the Memorial Day holiday. Memorial Day is a day we set aside to remember and to honor those who have given their lives for the defense of our country. I hope Senators will be mindful of our men and women in uniform—those who are serving today and those who have served with honor and courage in the past—as they cast their votes this morning. We should not allow disagreement over one issue of policy to prevent the consideration of this very important bill.

This bill is important Mr. President. It contains critical authority for vital national defense programs. Those who oppose the language in this bill on the ABM Treaty are holding the entire national defense budget hostage—hostage to one issue of arms control. Let us have a full debate, let us have a complete debate on the ABM Treaty or any other defense issue—but we cannot have that debate unless this filibuster against proceeding with the bill is ended and we can bring the bill up on the floor for debate.

Mr. President, this weekend one of our naval ships was attacked in the Persian Gulf. Americans lost their lives. This is a tragedy for the families of these brave young men. It points out, Mr. President, that our men and women in uniform are risking their lives every day. While they are risking their lives, the Senate is debating the motion to take up the bill which authorizes the vital programs which enable those men and women out there who are risking their lives to do their jobs. The bill also includes the important pay and benefits measures which are needed in order to maintain the morale and high quality of our military forces. And yet, in the face of all these needs, a minority in this Senate is willing to hold the entire Defense bill hostage because they disagree with certain language in the bill.

Well, Mr. President, let us take up the bill. Do we not trust the majority in the Senate to do the right thing in the interest of the national security of our country? Why not let the bill come up and let the majority of the Senate work its will?

Make no mistake—this filibuster places the entire Defense Department authorization at stake. If we cannot begin to at least debate this bill, offer amendments, and do our legislative business, then we may run out of time. Indeed, we cannot go on all summer. We will have another vote to invoke cloture. We may have a couple more votes. But we just cannot go on and on. The summer calendar in the Senate will be very crowded. I am not sure we will be able to enact this bill. This administration is placing vital national security programs at risk by its refusal to cooperate with us in this matter. Let the administration help us to get the votes to break this filibuster.

Finally, Mr. President, let me point out once again to the Senate how important this bill is to the NATO Alliance and to arms control. Those who object to bringing up this bill claim it is because they disagree with an arms control provision. Yet their very insistence on that position may undermine the ongoing attempts to negotiate an agreement on intermediate-range forces which the President wants. This bill contains authorization for vital NATO programs, for the research and development which would be required if it is necessary to modernize other NATO systems as a result of this agreement.

All of this is at risk because of a filibuster against motion to bring the bill before the Senate—the defense authorization bill. Until the bill is up, if there are provisions in it that need to be corrected, they cannot be corrected. If there are provisions that need to be changed or deleted, none of that can be done until the bill is before the Senate.

So I say, Mr. President, with all my respect to my friends who are going to vote against the motion to invoke cloture, it is time to end the delaying tactics and get on with the debate on the defense authorization bill. The country needs it. The men and women in uniform deserve it.

I say it is our responsibility at some point to come to grips with the problems and the differences that may be involved in the defense authorization bill. I hope the Senate will vote today to invoke cloture.

Mr. EXON addressed the Chair.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. SANFORD). The majority leader has 1 minute remaining.

Mr. WARNER. Mr. President, as I indicated to the majority leader earlier, any further extension of time would have to come from the minority leader. We have a number of Senators whose schedules have been fixed around this preannounced vote time. I know our distinguished colleague from Nebraska has asked for 1 minute or 2. We could accommodate him, and then I have 1 minute left.

Mr. BYRD. Mr. President, may I acquaint the distinguished Senator with a problem we can run into. The Senator from Michigan, I believe, wants a minimum of 2 minutes and the Senator from Nebraska wants 2 minutes. I would suggest we let them have time.

Mr. WARNER. Mr. President, let us let each of our colleagues have 2 minutes, and I would then take the last minute, which I understand I now have, and then we will proceed to vote.

Mr. BYRD. Mr. President, I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have listened intently to this debate that has been going on here. As an early supporter of the SDI Program, I recognized that, while I thought we should do research on it, I was frankly very much concerned, Mr. President, that, if we ever start extensive testing outside the laboratory, that is going to be the largest beginning of the largest military expansion in the history of the world.

I just do not believe that the Senate is adequately representing itself, its prerogatives, or its interests to go along with a President that they now say wants to have a more open or larger interpretation of the treaty.

When the treaty was ratified in this body that I depended on as one Senator when I supported SDI for research, I did not believe that this or any other President could go beyond the ABM Treaty that had been ratified by this body. If I had only known then that I was going to be confronted later with a request by the President to "Oh, go along with me one more time on this, because otherwise you are going to help the Soviet Union."

Those who are taking the position that they are now taking, I suggest are going to regret this day in the future, because if this President has the authority to make any interpretation of a treaty that he wants to, the U.S. Senate is giving up an important part of its prerogative that will come back to haunt us another day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, later in the morning we are going to decide whether or not this entire defense authorization bill will be held hostage by filibuster. That is the issue. My friend from Pennsylvania said earlier this morning that the question of whether or not the narrow or the broad interpretation is the correct one is not ripe. He is right. That is why this amendment was written the way it was.

The President has not decided to move to a broad interpretation. We have not heard yet from the Joint Chiefs of Staff. We have asked for their documents. They have so far refused them. Judge Sofaer is only two-thirds through his newest revamping of this newest interpretation. He still has one-third of it to come.

It is because the issue is not ripe that the amendment was written to require the President, if and when he decides to move to a new interpretation, to notify the Congress and to then get a joint resolution of approval. If and when he moves to a new interpretation he must then get that joint resolution of approval.

The Nunn analysis is going to be filed today. No one has had a chance to read that except Senator NUNN. The question here, though, is whether we give the President $4.5 billion and say, "It is yours to spend as you like. If in fact you reinterpret it, that is OK. We will give you our green light in advance."

No self-respecting Congress can write a postdated blank check like that. Surely, not in this 200th year anniversary of our Constitution.

We avoided that when it came to the mining of harbors in Nicaragua. We said, "We do not want to just give you money to mine harbors in Nicaragua because that could violate a treaty which we have."

We avoided that with the MX basing mode. We said, "We just don't want to give you a blank check for that because it will violate the SALT Treaties. We want you to come back to Congress."

That is the issue: Will it be unilateral on the part of the President, or will Congress have a role in the expenditure of these funds?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there is no Member of this institution who wants the defense bill more than I. I can assure my colleagues that we can achieve that bill, perhaps in record time, providing there is some indication on the other side for a willingness to recognize that this amendment is destructive of the whole bill.

It was mentioned here this morning that the failure to proceed is working adversely to the men and women in uniform. Our Nation today is in national mourning for those who lost their lives defending the cause of freedom. The Commander in Chief feels very sensitive about that loss and has stated that he recognizes that he would have to veto this bill should that amendment remain.

I do not know of any greater significance that can be portrayed than that of the Commander in Chief's will and it is the will, hopefully, of more than 41 Senators today that minds will now address the means to compromise this problem such that the bill can move forward. I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Wendell Ford, J.J. Exon, Bill Bradley, Daniel K. Inouye, Alan J. Dixon, Barbara Mikulski, Sam Nunn, Quentin Burdick, George J. Mitchell, Terry Sanford, David Pryor, Kent Conrad, John Melcher, Dale Bumpers, John Breaux, Edward M. Kennedy, Frank R. Lautenberg, Howard Metzenbaum, John D. Rockefeller, Alan Cranston, and Jim Sasser.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators entered the Chamber answered to their names:

[Quorum Vote No. 16]

Breaux
Byrd
Evans
Exon
Hatfield
Hollings
Nunn
Sanford
Stafford
Stennis
Stevens
Warner
Wilson

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 6, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—6

Bond
Chafee
McCain
Quayle
Wallop
Weicker

NOT VOTING—3

Cranston
Hatch
Simon

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1174, the Department of Defense authorization bill, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON, I announce that the Senator from Illinois [Mr. SIMON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—58

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Stafford
Stennis
Weicker
Wirth

NAYS—41

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—1

Simon

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BYRD. Mr. President, I hope that the Senate on tomorrow will vote to invoke cloture and that we get cloture. I think the Senate is entitled to work its will on the bill itself.

What we have had is a filibuster against the motion to proceed. Once we get the bill up, Senators may debate the bill and offer amendments. So we will try again tomorrow.

RECESS UNTIL 2:15 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m. today.

There being no objection, the Senate, at 12:46 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CONRAD).

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, not to extend beyond 3 p.m. today, and that Senators be permitted to speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEMATECH FUNDING

Mr. WIRTH. Mr. President, this afternoon, I would like to draw the Senate's attention to an extremely important provision of the fiscal year 1988 Defense authorization: Semiconductor manufacturing research.

The Senate Armed Services Committee included in the DOD bill my proposal to commit $100 million for Pentagon support for the vital semiconductor manufacturing research initiative—better known as "Sematech."

In my view, Mr. President, any Senator who believes there is a need for any modern weapon system—whether it be an aircraft, frigate, precision-guided munition, or anything else—should strongly endorse Sematech.

Why is that? Because Sematech is the first step in revitalizing the American-bred industry that produces the vital "brain cells" for all of these modern systems.

A prudent investment in our semiconductor manufacturing capabilities now will ensure that we are not dependent on off-shore chip producers in the future. And I am deeply concerned it could be the near future.

The U.S. semiconductor industry is losing global market share at a steady rate. If we look at the industry's so-called bellwether chip—the dynamic random access memory [DRAM] chip—the rate of attrition is alarming. In that product line, America's market share worldwide has gone from 100 percent in 1970 to less than 10 percent in 1986.

The industry has been especially hard-hit by our overseas competitors' government-sponsored promotional programs. Right now, Japan, Korea, and Europe are combining government funding with industry research and development on a scale that far exceeds anything being undertaken in the United States—even including the modest Sematech proposal before us today.

It might be easy to shrug off the semiconductor crisis as another example of American-born technology gone abroad. But as the Defense Science Board [DSB] has warned, this is not time for complacency. DSB reported last February:

> There appears little question that defense manufacturers will turn to overseas suppliers and accept overseas dependence for these essential components.

Without exception, America's defense and industry leaders recognize that this scenario is unacceptable. That was the conclusion reached by witness after witness—including Martin Marietta's Norm Augustine, former CIA Deputy Director Adm. Bobby Inman, and DOD's Assistant Secretary for Acquisition, Robert Costello—in hearings convened by the Armed Services Committee's Defense Industry and Technology Subcommittee.

It was also the conclusion reached by Defense Secretary Weinberger, who recently wrote:

> I am gravely concerned about this issue and am strongly supportive of the thrust of the DSB report which states that state-of-the-art semiconductors are a linchpin in our defense posture. They provide the technological edge we need to overcome the numerical superiority of our potential adversaries. A solution to this problem has the highest priority.

Mr. President, the consensus for action is clear. And as the Washington Post recently reported:

> Experts are largely in agreement on what is needed to ensure American competitiveness in the semiconductor field.

At the top of the list of needed policies: first, "Closer cooperation on research and development within the industry, sanctioned and supported by the federal government," and second, "additional government funding of research efforts."

The semiconductor industry and DOD have responded vigorously to the first challenge. Secretary Weinberger has ordered immediate preparation of an implementing plan for DSB's proposed creation of an industry consortium to strengthen U.S. semiconductor manufacturing capabilities. And the industry representative, SIA, has just approved a plan detailing the ways and means of a U.S. chip manufacturing research consortium.

SIA's new plan is especially noteworthy. SIA has carefully developed technology roadmaps to indicate where the industry must go if it is to remain competitive in the world market. It has identified the best processes—especially a low-volume, high-flexibility plant—to achieve its explicit process technology milestones. And SIA has also laid out a financing plan which makes clear the industry's belief that it should bear primary responsibility for investments in this dramatic new venture.

This brings us to the second challenge: government investment in a stronger defense industrial base.

All of our rivals in the field of semiconductors—Japan, Korea, Britain, France, and Germany (not to mention coordinated efforts by the European Community)—have employed sophisticated industrial strategies to become competitive in microchips.

In Japan and Europe—where even large, vertically integrated electronics firms affiliated with major banks have far greater financial resources than U.S. firms—governments nevertheless have often found it necessary to supply funding on at least a 50-50 matching basis in order to ensure the viability of major R&D efforts in microelectronics.

Across the board, Japanese and European governments have worked in tandem with their industry consortia to dramatically improve their manufacturing technologies. And what has been the result?

Precisely what I described earlier—falling U.S. shares in key world markets for semiconductors considered to be technology drivers: the commodity chips, such as DRAM's, that blaze the trail for future microelectronics development. Without the ability to produce new and improved chips, the entire U.S. microelectronics industry—and with it, our economic vitality and national security—is in jeopardy.

That is why the Defense Industry and Technology Subcommittee wisely voted to invest $100 million in semiconductor manufacturing technology research in fiscal 1988 and 1989—a prudent investment now to preserve our economy and national security in the future.

One hundred million dollars approximates the Government investment considered crucial by the subcommittee's many witnesses and by the DSB. One hundred million dollars puts us on the track of private-public partnership that our competitors have found so useful. And the availability of that money will spur DOD and the semiconductor industry to continue their vigorous development and implementation of the manufacturing research plans which I noted earlier.

Let me emphasize, Mr. President, that both of these efforts are predicated on a private-public partnership that puts together industry expertise and Government financial power to meet the semiconductor challenge.

We need to make known our commitment to that partnership—and the $100 million is a way to start.

It is not too much to say that our Nation's security depends to a considerable degree on a viable commercial chip industry. We have pledged ourselves to a strong defense of America—and by extension, this means we must assure a strong defense industrial base. We can strengthen a vital part of that base by maintaining the Sematech component of the bill, which will assist semiconductor manufacturing research in fiscal 1988 and 1989.

Mr. President, I ask unanimous consent that the following documents be printed: the executive summary of the DSB semiconductor report; Secretary Weinberger's memorandum concerning implementation of the DSB's recommendations; the Washington Post article on the state of the U.S. semiconductor industry, and; SIA's announcement of its plans for Sematech.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT OF DEFENSE SCIENCE BOARD TASK FORCE ON DEFENSE SEMICONDUCTOR DEPENDENCY

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, December 31, 1986.

MR. CHARLES A. FOWLER,
Chairman, Defense Science Board, Office of the Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. FOWLER: Submitted herewith is the final report of the Defense Science Board Task Force on Semiconductor Dependency. The report is the result of an approximately 10-month effort during which the Task Force interrogated some 50 expert witnesses, surveyed the existing literature on the subject, and solicited via the Federal Register comments from all interested parties.

The Task Force concludes that procurement by the Department of Defense is a relatively insignificant factor to the semiconductor industry; but, in contrast, the existence of a healthy U.S. semiconductor industry is critical to the national defense. Because of this asymetry, the Task Force believes that it is imperative for the Department of Defense to take action to assure the long-term viability of a U.S. semiconductor industry which can at least meet critical defense needs. Semiconductors today represent the most highly leveraged and most ubiquitous element for assuring the technological superiority of the United States' military forces.

It is widely recognized that the manufacturing capacity of the U.S. semiconductor industry is being lost to foreign competitors principally Japan. It is less widely recognized, but of even greater long-term concern, that technological leadership is also being lost.

It would be relatively easy to blame these ominous happenings on various forms of inappropriate behavior of foreign competitors. This would, however, be a gross oversimplification. For a multitude of reasons, the U.S. has not positioned itself to compete effectively in the world semiconductor market. The consequences of this fact are now being suffered.

Although the implications of these trends on the nation's economy as it enters the information age are serious indeed, the consequences for the Department of Defense are more immediate and predictable. Certain actions can nonetheless be taken which may enable the U.S. semiconductor industry to re-establish itself as a viable world competitor and a source of state-of-the-art semiconductors for defense needs. The most important of these actions is for the Department of Defense to encourage and actively support with contract funding (approximately $200M per year) the establishment of a U.S. Semiconductor Manufacturing Institute formed as a consortium of U.S. manufacturers. The purpose of this private consortium is to perform generic manufacturing process development for very advanced semiconductor devices and to sponsor equipment and materials research and development which will benefit the U.S. semiconductor industry's contributions to our economy in general and national defense in particular. The fact that this investment by the government does benefit the commercial competitiveness of U.S. merchant semiconductor firms would be an unfortunate basis for withholding Defense Department support of these recommendations which are viewed as critical to national defense. It is simply no longer possible for individual U.S. semiconductor firms to compete independently against world-class combinations of foreign industrial, governmental and academic institutions which have benefitted from more benign financial and structural environments abroad.

The individual members of the Defense Science Board Task Force consider the nation's growing dependency on foreign sources for vital semiconductor hardware and technology to be among the most serious matters they have had the occasion to address in their various associations with the Department of Defense. Further, there exists a considerable time urgency because of the rate at which market position and technological capability are deteriorating in this rapidly changing field.

The members of the Task Force stand ready to assist in the implementation of the recommendations.

Sincerely,

NORMAN R. AUGUSTINE.

SECTION I; EXECUTIVE SUMMARY

1.0 INTRODUCTION

U.S. Defense strategy relies upon technologically superior weapons to overcome the numerical advantage of our adversaries. Our capability to field technologically superior weapons may soon, however, be dangerously diminished.

The superiority of U.S. defense systems of all types is directly dependent upon superior electronics, a force multiplier which not only enhances the performance of the weapons themselves, but also maximizes the efficiency of their application through sophisticated intelligence and command and control systems. Electronics technology is therefore the foundation upon which much of our defense strategy and capabilities are built. The United States has historically been the technological leader in electronics. However, superiority in the application of innovation no longer exists and the relative stature of our technology base in this area is steadily deteriorating.

As evidenced by market share and the perception of the technical and financial communities, the United States' semiconductor device and related "upstream" industries, such as those that supply silicon materials or processing equipment, are losing the commercial and technical leadership they have historically held in important aspects of process technology and manufacturing, as well as product design and innovation. The U.S. semiconductor industry may very soon, in fact, be competitive only in very small, "specialty" segments of the overall market. This situation has arisen partly because of loss, in some areas, of technological leadership, resulting in an inability to compete with high-quality products in commodity markets.

The following reasoning, reflecting the considered judgments of the Task Force, suggests that a direct threat to the technological superiority deemed essential to U.S. defense systems exists:

U.S. military forces depend heavily on *technological superiority to win.*

Electronics is the technology that can be leveraged most highly.

Semiconductors are the key to leadership in electronics.

Competitive, high-volume production is the key to leadership in semiconductors.

High-volume production is supported by the *commercial* market.

Leadership in commercial volume production is being *lost* by the U.S. semiconductor industry.

Semiconductor technology leadership, which in this field is closely coupled to manufacturing leadership, will soon reside *abroad.*

U.S. Defense will soon *depend on foreign sources* for state-of-the-art technology in semiconductors. The Task Force views this as an unacceptable situation.

[Charts and graphs not reproducible in the Record.]

This report amplifies the above argument, assesses the current status of the U.S. semiconductor industry, and identifies causes of its loss of technological leadership. To minimize the harmful effects on national security that are threatened by this loss, a joint Department of Defense/Industry initiative, comprising research, education, production, and administrative elements to address the most pressing needs in semiconductor technology, is proposed.

2.0 FINDINGS

2.1 The extent of the dependence of defense systems that are now in the field on foreign semiconductors is difficult to determine, but evidence indicates that in the newest systems about to be deployed a significant fraction of chips used—up to several tens of percent—are either entirely made, or packaged and tested, abroad. If steps are not taken to assure the availability of domestice source or stockpiles, or both, the U.S. could be denied timely access to those militarily critical devices in wartime or, as will be shown, forced to rely upon technologically and operationally inferior alternatives.

2.2 Dynamic random access memories (DRAMs) are the most challenging semiconductor chips to manufacture competitively, and their development establishes the pace for progress in semiconductor technology; It is this chip which largely establishes the cost trends for the semiconductor industry, and major reductions in price have been achieved over the years as displayed in the figure.

With the exception of some production by captive manufacturers, DRAMs are now being produced primarily in Japan and, to a limited extent, in Korea. Many important kinds of devices, such as other types of memory, microprocessors, signal processors, and gate arrays, build upon DRAM technology, and the focus of their manufacture, is very likely to follow DRAMs. As the production base moves abroad, it is being accompanied by the related upstream supply industries, which include the semiconductor materials and manufacturing equipment industries. Downstream industries have also moved offshore at an accelerating pace. This group, including telecommunications and computers, has been estimated to represent a $500 billion per year worldwide industry by the early 1990's and a $1 trillion industry in the year 2000.

2.3 The United States semiconductor industry arguably retains superiority in the *design* of integrated circuits, although the gap in this advantage is closing; and in the production of high-technology specialty chips which can be profitably sold in low volume.

2.4 In the absence of a domestic mass-production revenue base needed to preserve a viable domestic production equipment industry, the specialty producers themselves may become dependent on foreign suppliers for their materials, equipment and fabrication technology, and would then be at a disadvantage when under competitive assault by firms controlling the access to those resources.

2.5 Substantial technological and production resources can be found within the captive segment of the U.S. semiconductor industry (firms which embed their semiconductor production in their own end-products), especially at AT&T and IBM. These firms depend, however, on the same materials and equipment industries used by the merchant segment, and the captive firms' product focus, determined by their internal device needs, may match only partially DoD needs. They have not been significant suppliers of devices to the defense prime contractor community. Further, as production and design capabilities move increasingly overseas, even these organizations may become dependent on overseas suppliers.

2.6 Acquisition of specific devices or materials from foreign sources for defense applications is not a critical problem as long as the U.S. has the knowledge and resources to substitute domestic sources in a timely fashion should the supply of foreign products and technology be interrupted. However, this substitution is possible only if it can in fact be accomplished within the time available and does not impoverish U.S. capabilities in other important areas.

2.7 Even more critical is the possible movement of electronic device and system capabilities to overseas locations from which the Soviet Union can readily access the technology. In that case, the U.S. could lose the considerable margin of advantage it holds over the U.S.S.R. in this critical area of technology—and upon which it relies to offset quantitative military disadvantages.

2.8 In light of the conclusions above, continued availability to the Department of Defense of the most technologically advanced products will be dependent on the maintenance of a domestic leading edge technology development and production base capable of timely supply of defense needs. This availability is by no means assured. Therefore, action must be taken to retain an adequate domestic production base to meet defense needs.

2.9 In order to retain needed infrastructure for such "downstream" industries as those of computers and telecommunications, which supply DoD needs, action must be taken to maintain a strong base of expertise in the technologies of device and circuit design, fabrication, materials refinement and preparation, and production equipment.

2.10 While semiconductor technology is essential to modern defense, DoD accounts for less than ten per cent of the world semiconductor market by sales dollars and about three percent by quantity. This asymmetry between the criticality of Department of Defense needs and the relatively small importance of DoD business to the industry implies that specific government action is justified (and needed) to support the government's own requirements.

2.11 The Department of Defense currently requires extensive qualification and testing of the semiconductor devices it procures and pays a substantial premium for the procedures and accompanying documentation. By procuring the highest quality parts commercially available for selected applications, as opposed to imposing militarized hardware specifications, savings could be selectively derived. The use of this approach must obviously be tailored to the specific application including consideration of its operating environment.

3.0 CURRENT STATUS OF THE INDUSTRY AND FUTURE TRENDS

3.1 Market shares

Figure 2 summarizes market-share data for the worldwide merchant semiconductor industry. Data are included for DRAMs, the most important commodity product, as well as for other semiconductor devices. Since almost all Japanese semiconductor producers are vertically integrated firms which in addition sell devices to other companies, while few of the U.S. vertically integrated firms sell any (or many) devices to others, data is included only for merchant producers. This measure is of most relevance to the Department of Defense's circumstance. (A "merchant" supplier is one which, as opposed to a captive producer, sells integrated circuits for incorporation into the end-products of others.)

3.1.1 Status and Trends

The U.S. share of the worldwide merchant semiconductor market has declined steadily over the past decade from nearly 60 percent in 1975 to less than 50 percent in 1985. Estimates for 1986 indicate a further decline to below 45 percent. Japan's share of the market over the same period has increased from 20 percent in 1975 to 40 percent in 1985 and is estimated at slightly over 45 percent in 1986, thereby surpassing the U.S. share for the first time. If captive as well as merchant products are included in the data, the U.S. share has declined from 67 percent in 1975 to 50 percent in 1986, while Japan's share has grown from 25 percent to 39 percent. In the critical area of DRAM production, the U.S. share has declined from near 100 percent to less than 5 percent for merchant producers. The rise in Japanese market share has been at the expense of both European producers and American merchant (i.e., semiconductor-chip-only) producers. Again, it is this latter group which supports most of the Department of Defense's needs.

The U.S. merchant producers' share of the worldwide semiconductor market has decreased by almost twenty percent over the last four years. The loss to American captives is primarily in non-commodity and proprietary products, while that to the Japanese is in the technologically pivotal commodity memory market and other growing commodity products. The threatened loss of the entire commodity semiconductor business by the U.S. merchant producers has put these companies at significant risk. The seriousness of this risk is evidenced by the fact that, as noted above, in slightly over a decade the U.S. share of the most advanced generation of DRAM has fallen from near 100 percent to less than 5 percent.

3.1.2 Reasons for market-share trends

The loss in market share of U.S. firms is in fact attributable principally to their loss of the high-volume DRAM business. American merchant producers are no longer able to develop and produce in the U.S. low-price, reliable DRAMs in a time scale necessary to achieve significant market penetration. Although actions by Japan, leading to early government support of semiconductor development and allegedly explicit and implicit trade barriers, including the use of restrictive exchanges of products among individual Japanese firms and "dumping," have contributed to the growth of the industry in that country, changes in these policies by themselves will not solve the problems that beset the U.S. semiconductor industry.

The major reason for the relative inadequacy of technology development in the U.S. vis-a-vis that in Japan has been the difference in the industrial practices and structure of the two countries. Japanese companies have invested a larger fraction of sales in plant and equipment (approximately 35 percent vs. 20 percent) than the U.S. merchant companies every year from 1970 through 1985. Japanese industry has also, in percentage terms, consistently outspent U.S. industry in Research and Development (approximately 13 percent vs. 10 percent). In the U.S. as profits disappeared, so did research and development. In contrast, in the most recent semiconductor recession, Japanese firms increased research and development expenditures even at a time when it elected to cut back somewhat on capital improvements. It is important to note that the Japanese R&D investment has primarily been in technology development with a long-term payoff, while that which American firms call "R&D" (for tax purposes) is usually the design and development of new products intended to be placed on the market as soon as possible. Thus the "R&D" investment of the U.S. merchant firms may well provide little direct basis for long-term growth.

A major reason underlying the success of the Japanese semiconductor effort is their effective combining of both competitive and cooperative R&D activities. For the development of basic technology, cooperative arrangements which avoid duplication are often employed, many of them under the coordinating leadership of Ministry of International Trade and Industry (MITI) or Nippon Telephone and Telegraph (NTT). In the application of the resulting technology to products, the companies compete fiercely. Even within a single company, competing parallel efforts are supported and the winning solution adopted. In contrast, in the U.S. less funding is available, and cooperative programs are only now beginning to appear.

Differences between U.S. and Japanese economic practices which contribute to differences in investment practices include (among many other factors ranging from the cost of labor to currency exchange rate):

1. Industry Structure
2. Cost of Capital
3. Access to Capital
4. Necessary profitability levels

1. The semiconductor *industry structure* in Japan is fundamentally different from that in the U.S. Virtually all of the Japanese firms that sell semiconductor products are considerably larger than the U.S. merchant producers and are, besides, both vertically integrated and horizontally diversified. It can be argued that vertical integration provides a stimulus for advanced product development as well as a justification for the support of internal manufacturing capability. The major Japanese companies, such as NEC, Hitachi, and Toshiba, can consume up to twenty percent of their own production, which contributes to internal economies of scale, guarantees a threshold use of facilities, and provides a testing ground for new designs and concepts. Importantly, it also provides a degree of staying power in periods of downturn in a given market sector. The U.S. *captive* firms do not have an equivalent in the U.S. since they do not sell their integrated circuits to other systems manufacturers and represent a much narrower spectrum of technology than the Japanese merchant/captive suppliers as a group.

2. *Cost of capital* in the U.S. was considerably higher than in Japan for a period of several years in the early 1980's. Indirect financial influences, including management readiness to borrow for capital expansion and R&D, stockholder perception of financial soundness, profitability required to meet interest payments, etc., have had important impacts.

3. *Access to capital* does not seem to have been a dominant concern for the managers of the U.S. merchant semiconductor firms, at least in their best years; for example, in the profitable years of 1983 and 1984 many merchant semiconductor producers retired considerable amounts of their long-term debt.

4. The *profitability as a proportion of sales* of U.S. firms generally must be higher than that of Japanese firms if they are to survive because the U.S. firms must compete for capital in the open marketplace. Naturally, having a higher percentage of

sales available for R&D and capital expansion, as is the case for Japanese producers, can lead to competitive advantages in the capital and R&D-intensive semiconductor industry. Evidence that Japanese R&D expenditures are primarily in the "long-term reward" category lies in the rapid development of processing technology pursued in that country at the expense of near-term new product designs.

In the large Japanese companies, diversity allows capital expansion and R&D to proceed even in periods of recession. Within a diversified company the non-semiconductor businesses may cross-subsidize the semiconductor businesses. The capital markets in the U.S. perform, to some extent, this supporting role since in bad times money may be borrowed. The Japanese vs. American practice in accounting for repayment of such internal vs. external loans, and the effect of recourse to capital markets on company ownership and control (leading to a reluctance on the part of U.S. merchant company managers to seek outside funding even if they were able to do so) are also important in understanding the role of size and diversity in the growth of Japanese semiconductor producers.

When technology moves as fast as it does in the semiconductor industry, the timeliness of introduction of a new technology is important in establishing and maintaining a competitive edge. A six-month lag can be decisive in a key market such as DRAM production. Japanese firms have reached a point where they now are able and willing to introduce high-quality, reliable, device technology into the market faster than can U.S. firms. This can have important implications as vertically integrated Japanese firms with leading technology enter the market for end-use products which depend for their uniqueness on the availability of the most advanced semiconductors. The computer industry is but one example of such a sector.

3.2 Technology status and trends

Table I summarizes the current technical position of the U.S. semiconductor industry relative to that of Japan, as well as predicted changes in this position based upon present trends. The U.S. appears to be "behind" Japan in more areas than those in which it is ahead, and is not gaining ground in technologies important to the future. U.S. producers are increasingly becoming incapable of producing the highest-technology products with sufficient quality in high volumes and with the timeliness required to achieve profitability by American capital-market standards.

3.2.1 Technology summaries

Japan exhibits a clear and increasing lead in most *silicon product technologies,* with the exception of design-intensive custom logic and microprocessors. In the latter products, and particularly in 32-bit microprocessors, however, the U.S. lead is being reduced by Japanese collaboration gains in design and, to a lesser extent, software expertise. In addition to pure technology levels, real as well as perceived differences in quality between U.S. and Japanese products have, since a comparison by a U.S. firm of the reliability of DRAMs in the late 1970's, accounted for differences in sales. Japanese firms have traditionally devoted greater priority to product quality than U.S. firms and this has had a substantive impact in the marketplace. Continuous efforts by U.S. merchants to improve their products since the initial study have produced considerable improvement in DRAMs, but equivocal results in other products.

In *nonsilicon products,* such as compound semiconductor optoelectronics and fast digital technologies, and particularly in optoelectronic integrated circuits, the U.S. also trails Japan. The U.S. currently maintains a lead in linear compound semiconductor IC technology, largely because of military interest in fast and radiation-hard circuits for satellite and radar applications.

In most *processing equipment,* much of which may be used for either silicon or compound semiconductor production, U.S. technology is on a general level with Japan's, although Japan is pulling ahead in key areas as a result of large technology development programs applicable to device manufacture. The relative technologies position of the U.S. and Japan according to one study, are summarized in Table 1.

3.2.2 Reasons for technology trends

Much of the difference between the U.S. and Japan in current and predicted technology attainment may be explained by economic factors that affect the relative investment levels in the two countries. However, cultural differences, which are reflected in employment and engineering practices, account for a part of the relative success of Japan not only in this, but in other high-technology areas. In the U.S., these differences are apparent in:

1. Lower productivity;
2. Demand for a higher wage base;
3. Occasional lower standards of quality;
4. An adversarial relationship among management, labor, academia and government;
5. Neglect of the technical manpower base.

Further, engineering practice in Japan differs considerably from that in the U.S. and is related to the length and consistency of employment of Japanese engineers. In Japan, many specific engineering techniques are learned in the company, where engineers can acquire a deep, but narrow, expertise. Company identification brings about an emphasis on quality of product, and engineers' experience is efficiently utilized through long-term employment. In addition, the perceived importance of mass production at all stages of the research, development, and design processes ensures efficient production of even the newest devices. Ironically, U.S. government procurement policies which have placed major emphasis on reducing cost have had the unintended effect of further stimulating U.S. suppliers to procure abroad.

3.3 Effects on upstream industries

Upstream industries are those which supply products to semiconductor device manufacturers, including manufacturers of high-purity chemicals, and silicon wafer suppliers. Perhaps the most important of the upstream industries is that which supplies semiconductor manufacturing equipment (SME). Any commodity semiconductor manufacturer must utilize the latest SME in order to remain competitive.

The U.S. has been losing market share in SME markets even more rapidly than in semiconductor devices. In the early 1970's, the U.S. owned greater than 90 percent of the international market. By 1986, this had decreased to a market share of less than 50 percent. The U.S. SME industry is highly desegregated with several medium-size and many small companies, and is very vulnerable to competition, i.e., its staying power is limited in comparison with its largely integrated Japanese competitors.

Semiconductor manufacturers require domestic SME suppliers and these suppliers, in turn, require the presence of a large domestic market for their products in order to stay in business. Neither can exist with a large foreign dependency because that dependency provides an avenue for foreign competitors to deny access to the latest state-of-the-art and to essential sources of revenue. Thus the revitalization of the U.S. SME industry is essential to the maintenance of semiconductor technology competitiveness.

3.4 Effects on downstream industries

Downstream industries are those which use the products of the semiconductor industry. These products are now pervasive in almost all industries, but perhaps the most important for the purposes of this study are the telecommunications, control, and computer industries.

A strong domestic semiconductor industry is a prerequisite to a strong position in these downstream industries since the ability to perform competitive services and sell competitive products depends upon access to the most advanced semiconductor devices. Since the superiority of U.S. military forces depends upon superior intelligence, command, and control systems to multiply the effectiveness of force application, foreign domination of the computer, communication and control industries would have very profound implications for the Department of Defense. Further, the pervasiveness of these downstream industries in a modern economy implies that such dominance could be a major threat to the overall economic health of the United States in the decades ahead.

3.5 Effects on Human Skills and Resources

Young people are not easily attracted to a field if no domestic industrial base exists in that field upon which to build a career. A competitive semiconductor industry is therefore essential in order to attract the individuals necessary for maintaining a competitive technology base in the area. Further, the reservoir of human skills and expertise developed in the semiconductor industry is necessary not only for this industry, but also for new and perhaps not-yet-invented industries related to it. These skills cannot be retained and developed in academia alone.

4.0 RECOMMENDATIONS

4.1 The U.S. will depend to a large degree upon foreign sources of microelectronics hardware and technology to meet its defense needs unless measures are taken to help this country recapture and retain leadership in semiconductor manufacturing technology. To do so, the Task Force recommends that the Department of Defense take the following specific actions.

1. *Support the establishment of a Semiconductor Manufacturing Technology Institute* which would develop, demonstrate, and advance the technology base for efficient, high-yield manufacture of advanced semiconductor devices, and to provide facilities for production of selected devices for DoD needs. Such an institute could have an important impact not only on DoD but in the commercial market as well when member firms transfer technology to their own applications. The initial capitalization of the Institute by its industrial members would be on the order of $250 million, and support of approximately $200 million per year for five years would be provided by the Department of Defense. This is the principal and most crucial recommendation of the Task Force.

a. The DoD should stimulate the industry to help itself through the above Institute by facilitating the formation of an industry consortium. The stimulus could take the form of annual contracts for the development of selected production processes, equipment, materials, and devices. The existence of this Institute would, in turn, satisfy certain DoD needs.

b. A permanent Institute staff would be supplemented by committed personnel on loan for extended periods by the participating companies. The loaned staff would lead the transition of information and experience from the Institute to their own companies.

c. The 64 megabit DRAM represents an appropriate technology upon which the Institute could focus its efforts for the development of advanced manufacturing techniques. Focus needs to be placed on achieving quantum advancements, one of which would be to produce a means of adding competitive manufacturing capacity in smaller increments of output which would in turn be less demanding of investment capital.

d. The consortium would work with the U.S. Semiconductor Manufacturing Equipment industry to develop and test new equipment in a production environment to confirm its suitability for high volume production by a variety of producers.

e. Emphasis would be placed on facilitating the transfer of the advanced manufacturing process developed by the Institute into the manufacturing lines of its member organizations.

f. In order to demonstrate high-volume low-cost manufacturing capability, the consortium would be required to sell the advanced products it produces in limited numbers in the competitive market.

g. Initial capitalization may be made by direct investment by the participating companies, by a low-interest government-backed loan, or a variety of other alternative mechanisms.

h. The Department of Defense would assign its own researchers to the facility staff and would have the right to a limited share of the production output to fill its own needs.

i. Membership would be constrained to firms having beneficial ownership in the U.S.

2. Establish at Eight Universities Centers of Excellence for Semiconductor Science and Engineering built upon current NSF, DOD, and commercial consortium programs, to devise, develop, and demonstrate new and innovative approaches to device design and manufacturing that lower costs and improve performance and quality. Cost of this program to the Department of Defense would be about $50 million per year.

In addition to research and development, these centers would promote the training of highly qualified students who would become the foundation of a continuing excellence in semiconductor manufacturing expertise.

3. Increase DOD spending for research and development in semiconductor materials, devices, and manufacturing infrastructure by about 25 percent per year for four years. The cost of this increase will be $60 million in the first year, growing to $250 million in the fourth year.

The overall purpose of this program should be the development and demonstration of approaches to integrated circuit manufacture that lower cost and improve quality and performance.

In addition, support of the Strategic Materials Initiative now being considered by the DOD is recommended. This focus on a broad range of materials opportunities is complementary to proposals made herein.

4. Provide a source of discretionary funds to the Defense Department's semiconductor suppliers to underpin a healthy industrial research and development program. The cost of this activity should be about $50 million per year and should be restricted to work directly related to semiconductor needs of the Department of Defense.

These funds would fill the same critical role for the semiconductor suppliers as does Independent Research and Development for the Department of Defense's prime contractors.

5. *Establish under the Department of Defense a Government/Industry/University forum for semiconductors* to provide a common meeting ground for assessment of the above program and to facilitate joint action on problems of semiconductors research, development, and production of specific interest to national defense. Cost of this recommendation to DoD should be about $200 thousand per year, principally for administrative costs.

This Forum should continually assess the state of the domestic microelectronics technology base; competitiveness of the U.S. semiconductor industry; education and research in related fields; and effectiveness of this and related government programs.

Due to the national importance of the semiconductor industry's competitiveness to the nation's economy as a whole, it is recommended that an advisory group be established under OSTP, to include representatives from NASA, DOE, DOD, Departments of Commerce and Transportation, and other appropriate organizations, to formulate a comprehensive and coherent strategy for legislative, administrative, and management action to reverse the trend toward the export of semiconductor manufacturing and technology leadership. Representatives of industry and academia should be included either as full members or as advisors. Development of such a strategy would have broad implications since the semiconductor industry is the keystone of the growing information industry, which itself could be a keystone of the twenty-first century economy.

The pace of advancement of semiconductor technology is such that an entire new generation of key devices is introduced every two to three years. The current position of the overall U.S. merchant semiconductor industry is concluded to be very tenuous in terms of present manufacturing capability. Steps to preserve its viability must be taken with dispatch.

THE SECRETARY OF DEFENSE,
Washington, DC, April 8, 1987.

Memorandum for Under Secretary of Defense for Acquisition.

Subject: Defense Science Board Task Force on Semiconductor Dependency.

The attached report of the Defense Science Board Task Force on Semiconductor Dependency has concluded that the United States is losing its technical superiority in semiconductor manufacturing and will soon become dependent upon foreign sources for these devices if action is not taken now.

The causes of the current semiconductor industry decline are complex and symptomatic of trends in the American industrial base in general. Other industry sectors such as steel, textiles, bearings and machine tools are suffering similar dilemmas. The Defense Department is dependent upon many of these industries for commodities that are essential to our national security.

The Department must develop an industrial base management strategy, in concert with the President's Competitiveness Initiative, to promote innovative methods that will help restore leadership and manufacturing excellence in industries which are critical to our national security. The essence of our approach must recognize that *technical superiority* is a common element to both defense requirements and commercial competitiveness. Because of the importance of these issues, immediate action is necessary.

I am gravely concerned about this issue and am strongly supportive of the thrust of the DSB report which states that state-of-the-art semiconductors are a linchpin in our defense posture. They provide the technological edge we need to overcome the numerical superiority of our potential adversaries. A solution to this problem has the highest priority.

I would like for you to prepare immediately, as indicated in the attached implementation plan, an action plan to remedy this situation. The findings and recommendations of the DSB should be reviewed along with any other courses of action which will provide the most expeditious means of resolving this issue. Contributions from other federal agencies and industry should be strongly considered. Please provide me a status on your progress in 60 days.

ACTIONS REQUIRED FOR IMPLEMENTATION

This list summarizes the Defense Department actions required to implement the recommendations of the Task Force and address the overall issues of declining U.S. industrial base competitiveness.

A. SEMICONDUCTOR MANUFACTURING TECHNOLOGY INITIATIVE

The DSB made the Following Recommendation: Support the establishment of a Semiconductor Manufacturing Technology Institute which would develop, demonstrate and advance the technology base for efficient, high-yield manufacture of advanced semiconductor devices, and to provide facilities for production of selected devices for DoD needs. Such an institute could have an important impact not only on DoD but in the commercial market as well when member firms transfer technology to their own applications.

Action to be Taken by DoD: DUSD(R&AT) will prepare a plan of action and milestones for a program to re-establish semiconductor manufacturing excellence in our domestic industrial base. Consideration will be given to the DSB's recommendation for a manufacturing institute but final course of action will consider all alternatives.

B. UNIVERSITY CENTERS FOR EXCELLENCE

The DSB made the Following Recommendation: Establish, at eight universities, Centers of Excellence for Semiconductor Science and Engineering built upon current NSF, DoD, and commercial consortium programs, to devise, develop, and demonstrate new and innovative approaches to device design and manufacturing that lower costs and improve performance and quality.

Action to be Taken by DoD: The Director, DARPA develop a plan which specifies the technical and management approaches and recommend appropriate funding levels and funding alternatives for the establishment of Centers of Excellence. The Director, DARPA will examine the need for industrial as well as university Centers of Excellence.

C. TECHNOLOGY BASE FUNDING FOR SEMICONDUCTORS

The DSB made the Following Recommendation: Increase DoD spending for research and development in semiconductor materials, devices, and manufacturing infrastructure by about 25 percent per year for four years.

Action to be Taken by DoD: DUSD(R&AT) will review the Services' Science and Technology program and prepare an investment strategy which emphasizes high leverage technology thrusts and prioritizes key technology areas such as semiconductor materials, devices and manufacturing infrastructure.

D. DISCRETIONARY R&D FOR DOD SEMICONDUCTOR PARTS SUPPLIERS

The DSB made the Following Recommendation: Provide a source of discretionary funds to the Defense Department's semiconductor suppliers to underpin a healthy industrial research and development program. This activity should be restricted to work directly related to semiconductor needs of the Department of Defense.

Action to be Taken by DOD: The Assistant Secretary of Defense (Acquisition and Logistics) will review the need for, and actions required to provide, discretionary funds to DOD semiconductor suppliers.

E. DOD/INDUSTRY/UNIVERSITY FORUM

The DSB made the Following Recommendation: Establish under the Department of Defense a Government/Industry/University forum for semiconductors to provide a common meeting ground for assessment of the above program and to facilitate joint action on problems of semiconductor research, development, and production of specific interest to national defense.

Action to be Taken by DOD: The Deputy Under Secretary of Defense (Research and Advanced Technology) will establish and chair a Government/Industry/University forum for semiconductors. the DUSD(R&AT) will develop an agenda, invite participants, and provide periodic reporting.

F. NATIONAL ADVISORY GROUP ON SEMICONDUCTOR POLICY

The DSB made the Following Recommendation: Due to the national importance of the semiconductor industry's competitiveness to the nation's economy as a whole, it is recommended that a national advisory group be established under OSTP, to include representatives from NASA, DOE, Departments of Commerce and Transportation, and other appropriate organizations, to formulate a comprehensive and coherent strategy for legislative, administrative, and management action to reverse the trend toward the export of semiconductor manufacturing and technology leadership. Representatives of industry and academia should be included either as full members or as advisors. Development of such a strategy would have broad implications since the semiconductor industry is the keystone of the growing information industry, which will itself be a significant factor in the Nation's economy.

Action to be Taken by DOD: The Deputy Under Secretary of Defense (Research and Advanced Technology) will initiate discussions with other government agencies to determine the feasibility of establishing an advisory group as recommended.

G. TECHNICAL PLAN

Action to be Taken by DOD: The Deputy Under Secretary of Defense (Research and Advanced Technology) will coordinate the above actions and develop any additional actions deemed appropriate to insure our national security needs are met. These actions will be incorporated in the overall technical plan that addresses the semiconductor problem.

H. INDUSTRIAL BASE MANAGEMENT STRATEGY

Action to be Taken by DOD: The Assistant Secretary of Defense (Acquisition and Logistics) will develop an industrial base management strategy which will develop innovative methods to help restore competitiveness to those industries which are critical to national security. The industrial base management strategy and the semiconductor technical plan should be complementary.

[From the Washington Post, May 10, 1987]

U.S. CHIP INDUSTRY'S GLOOMY FUTURE

(By Mark Potts)

SUNNYVALE, CALIF.—In Silicon Valley, the signs of change are everywhere. Most of them say, "For Rent."

This high-technology center 50 miles south of San Francisco has been battered by competition from Japan and, until recently, by a slump in sales of semiconducters—the thumbnail-sized chips of silicon, packed with electronic circuitry, that are the brain cells of modern business equipment, consumer electronics goods, telecommunications systems and military weapons.

According to the American Electronics Association, 25,000 jobs—about 9 percent of the total—disappeared from the semiconductor industry between the beginning of 1985 and this year, and Daniel Klesken, an industry analyst at Montgomery Securities in San Francisco, estimates that companies in the industry lost a total of $2 billion in 1985 and 1986.

And that may just be the prelude for an industry that holds a key to the nation's future technological leadership, economic prosperity and national security.

Industry officials and analysts say that despite a recent improvement in chip sales, the U.S. semiconductor industry is burdened with problems so serious and fundamental that its decline may be irreversible.

"The bottom line is that we see a trend that we've all seen before in this country. Semicoductors is on exactly the same glide slope as steel and automobiles and others have been before it," said Norman R. Augustine, president of Bethesda defense contractor Martin Marietta. Augustine also chaired a Defense Science Board task force on semiconductors, organized by the Pentagon, that recently concluded that the U.S. military could soon be forced to depend on foreign-made chips to run the increasingly electronic war machine.

"There's a great deal of urgency on this matter," Augustine said. "Time is running out, and I really don't think we're going to like the world we're living in 20 years from now if we don't address this problem."

"There are business problems, there are technology problems, there are cultural problems, and they're all going to have to be addressed," said Larry Sumney, president of Semiconductor Research Corp., a North Carolina-based analysis group. "There is absolutely no question that unless major things are done, [American chip makers] can't survive the way they are now."

Not everyone is so pessimistic about the future of the semiconductor industry. John F. Akers, chairman and president of International Business Machines Corp.—which is a major manufacturer of chips for its own use—says he believes the American chip industry can remain competitive over the long term if it moves aggressively to modernize and hold down costs. However, he said, "If the industry doesn't execute very well . . . . there are a number of other people out there."

The warning echo the cries of alarm that have been sounded repeatedly in Silicon Valley for the past decade, since the first big wave of Japanese chips landed on American shores. But the current warnings have registered with Congress and the Reagan administration, which imposed an unprecidented $300 million in penalty tariffs on Japanese electronic products this year after finding that Japan was engaged in unfair competition in semiconductor sales.

A high-level administration task force is now trying to determine whether the nation's semiconductor industry is indeed in mortal danger and, if so, what would be the economic and national security consequences.

"Integrated circuits are the crude oil of this industry, and we can't let them [Japan] control the crude oil," said Anthony B. Holbrook, president of Advanced Micro Devices Inc., one of Silicon Valley's largest chip makers.

To many industry officials and analysts, the semiconductor chip means as much to the nation's well-being as did natural resources, like iron, timber, coal and water, in the early industrial age.

But leadership in the semiconductor field depends not upon having plenty of natural resources, but on the ability to master the complex, painstaking and costly technology used to design and manufacture chips.

Today's semiconductor chips are the offspring of one of the great postwar inventions, the transistor. In 1947, a trio of Bell Laboratories scientists demonstrated that a small strip of semiconducting material could perform the same electronic tasks as the vacuum tubes that were used then in radios, radars and primitive computers. They could convert a wavelike radio signal into the direct current used to operate radio speakers, for instance, or switch an electrical current on and off.

Semiconductors get their name because they lie halfway between conductors and insulators in their ability to carry an electric current. The flow of electricity through a semiconductor material can be precisely controlled by altering the material's chemical make-up. Because semiconducting materials are solid—like silicon, refined from common sand—they do not break, burn out or radiate excessive heat—defects of the tubes they replaced.

Scientists learned how to crowd more and more circuits and electronic switches onto the tiny wafers of silicon. The result are semiconductor chips—the miniature adding machines and memory banks that carry out calculations and "yes-or-no" logical problems at the rate of a billion steps per second.

Given the microscopic scale of semiconductors, the manufacturing process requires incredible care. The circuits—a thousandth of a millimeter wide—are "printed" on the silicon using a photographic etching process akin to the printing of photographs from negatives.

The equipment is expensive, bringing the cost of a chip production plant above $150 million. But the care and skill of the operators, and the shrewdness of business planners, is even more important, said Charles

Ferguson of the Massachusetts Institute of Technology, an analyst of the semiconductor industry. In this latter area, in particular, Japanese manufacturers have forged a formidable lead over their American rivals, he said.

Companies that can get their hands on the newest, highest-performance chips can use that advantage to create superior products. So a loss in leadership in semiconductor technology spells trouble for a broad range of American manufacturers and high-tech companies that depend on chips, Ferguson said. "American industry must have access to world-class semiconductor technology to compete effectively, and this requires a technically competitive domestic industrial base," he said.

Experts are largely in agreement on what is needed to ensure American competitiveness in the semiconductor field:

Closer cooperation on research and development within the industry, sanctioned and supported by the federal government.

Additional government funding of research efforts.

Changes in tax laws to encourage investment in new equipment and technology for the industry.

Greater opportunities for American semiconductor companies to compete in the Japanese market.

An end to the alleged "dumping" of Japanese chips on the world market at prices below production costs.

Until a decade ago, it seemed inconceivable that American semiconductor companies would need help of any kind. The chip industry was born in Silicon Valley in the mid-1950s, and the United States quickly came to dominate it.

But in recent years, the Japanese have caught up, taking advantage of their manufacturing ability, a banking system that favors industrial investment, and—until 1985—an undervalued yen that made Japanese products relatively cheaper than similar American products.

Last year, for the first time, Japan's share of the world semiconductor market surpassed that of the United States, according to the Defense Science Board study, and Japan now is expected to widen its lead on the U.S. industry.

While American companies have managed to hang onto a lead in production of more complex specialized semiconductor chips, Japanese manufacturers dominate the high-volume production of simpler, standardized chips—gaining essential experience in advanced production technology in the process, experts note.

And now the American technological edge in custom chips is slipping as the large Japanese electronics conglomerates apply their economic muscle and production skills in this area, analysts say. "The lead is clearly narrowing—if there is a lead anymore," Augustine said. "The lead has probably shifted to the Japanese in most areas of semiconductor technology."

The Japanese have captured other key parts of the business, some of them even more fundamental than the chips themselves. Most high-quality silicon now comes from Japan, for instance, and a Japanese company, Kyocera, controls about 70 percent of the world market for the ceramic materials used to package chips of all kinds.

Perhaps most significantly, the Japanese have taken over the business of making machines that manufacture semiconductors—such as the multimillion-dollar machines that print circuits on silicon. Many analysts consider this domination of the semiconductor equipment market to be the most important threat to the American chip industry.

"We have not executed well as an industry in the manufacturing arena," said Gary Arnold, vice president for finance at National Semiconductor Corp., Silicon Valley's largest chip maker. "If we preserve the semiconductor base and lose the equipment base, we stand to lose the competitive edge."

Industry executives and analysts fear that as long as Japan controls the manufacturing technology, it can keep the United States in second place in the chip industry by being slow to sell manufacturing equipment to American firms. Given the speed with which semiconductor technology changes, any lag in manufacturing capabilities can be critical, experts say.

"You could see where an industrial complex offshore that controlled the equipment industry would always be selling equipment to the world one generation behind," Arnold said.

"Typically, the Japanese companies, the [chip] makers, get first call on their output," Holbrook said of the Japanese equipment companies. "Without that advanced equipment in the U.S., we're afraid that we'll fall behind on the technology, because that equipment and the technology are related."

The immediate outlook for the U.S. chip industry is somewhat brighter, however, thanks to a pickup in orders, a revival of personal computer sales, the decline of the dollar in comparison to the yen, and the Reagan administration's tough stance toward Japanese chip producers.

The most closely watched industry measure—the book-to-bill ratio, which measures the ratio of new orders to existing shipments—climbed to 1.21 in March, its highest level in nearly three years. For most of the slump, the book-to-bill rate was stuck below 1.000, meaning that companies were shipping more chips than they were replacing with orders.

The semiconductor industry is cautiously elated about the current rebound. But analysts warn that the good times could be illusory—a brief fling before the underlying problems permanently cripple the industry.

"It is short term, meaning that it doesn't change the long term at all," said Ferguson, who warned that "the next recession will probably kill a number of the largest U.S. firms in the industry, because they just don't have what it takes."

The industry hopes to prove that prophecy wrong, however. Industry officials say the downturn taught surviving companies how to run more efficiently,

And the Reagan administration's actions to stop Japanese dumping of chips also will help "level the playing field," as industry officials put it. In addition, the semiconductor makers are trying to make fundamental changes in their industry that they hope will guarantee their long-term survival.

The industry has proposed a cooperative effort called Sematech, short for Semiconductor Manufacturing Technology, which would pool manufacturing know-how and provide many of the advantages of scale enjoyed by the much larger Japanese semiconductor makers. Participating companies would be able to draw on Sematech's developments of use in their manufacturing facilities.

"Sematech is our attempt to gather together, to band together to assure that we have the manufacturing technology in place on an ongoing basis to remain competitive," Holbrook said. "By banding together, we're able to put more resources into that area."

Details of Sematech still are being ironed out, but it is expected to include a request for a large commitment of government funds, in addition to a significant relaxation of antitrust laws to allow the companies to cooperate.

In the current charged climate, industry executives are increasingly optimistic that political hurdles can be overcome and that Sematech will become a reality. "I'm hopeful Sematech will go," said Robert N. Noyce, one of the co-inventors of the integrated-circuit chip and the vice chairman of Intel Corp., one of the largest American semiconductor makers. However, he added, "I think we have a lot of political ground to cover, in terms of selling the idea to the people to whom it has to be sold."

Other proposals to help the industry are originating in Washington. The most detailed proposal is that made by the Defense Science Board task force, which focused on the damage a weakened semiconductor industry could do to national security, in addition to economic and competitiveness ramifications. "The task force believes that it is imperative for the Department of Defense to take action to activate the long-term viability of a U.S. semiconductor industry which can at least meet critical defense needs," Augustine warned in the report's letter of submission.

The task force proposed the creation of a Semiconductor Manufacturing Technology Institute, jointly funded by the industry and the Defense Department. It also called for increased spending by the Pentagon on research and development and education of electronic engineers to help the industry.

The semiconductor industry also is getting attention from Capitol Hill and the White House, indicating to industry executives and analysts that a broad-based consensus on helping chip makers is possible.

"I think the federal government is sensitized to the problem," Sumney said. "Whether or not the bureaucracy can deal with the problem fast enough in this time-frame to help the industry deal with the problem is the question. . . . I think the wheels are turning in the right direction."

Regis McKenna, the marketing expert who helped launch many of Silicon Valley's most important companies and who has become a sort of sage of the industry, suggests that the attention now being paid to the semiconductor industry's plight could force a rethinking and reordering of American industrial policy similar to the effect the space shuttle disaster had on national space policy.

"Maybe the semiconductor industry is the Challenger. Maybe we're saying we're losing something that was near and dear to America," McKenna said.

"It has been the star shining in our technological future, and perhaps its problems will wake us. We see signs of it waking up Congress, of waking up the administration. . . . If it serves that purpose, then it will be very good for us."

SEMATECH PRESS STATEMENT, MAY 12, 1987

Good afternoon. I am very pleased that you accepted our invitation to join us for a discussion of the next phase of our SEMATECH project.

I am Charles E. Sporck, president and chief executive officer of National Semiconductor Corporation.

I am speaking to you today, however, on behalf of the Semiconductor Industry Association, of which I am chairman of the steering committee appointed by the board of directors to develop a plan for SEMATECH.

I believe that all of you are acquainted with SEMATECH and the reasons for it, so I will simply touch on those aspects to put today's announcement in perspective. Then I will present our operational and funding plans, and open this meeting for questions.

SEMATECH represents the collective thinking of this industry. As competitors we battle for markets and sales, but in our desire to see this industry succeed we stand united. In that spirit, I have asked these gentlemen to join me here to assist with the answers to your questions: Sanford L. Kane, vice president—industry operations, General Technology Division, IBM; Robert N. Noyce, vice chairman of the board, Intel Corporation; and William N. Sick, executive vice president, Texas Instruments, Inc.

As you know, semiconductor technology is the keystone of the information age, of our nation's economy and its defense strategy. It paces advances in critical sciences and industries and is strategically and economically vital to America's interests now and in the future.

IMPLEMENTING SEMATECH

The members of the Semiconductor Industry Association are, today, addressing that issue. We are implementing SEMATECH, our plan to re-establish America's leadership in manufacturing technology.

SEMATECH calls for an unprecedented degree of cooperation from every member of this industry including equipment manufacturers and materials suppliers, as well as semiconductor producers and users.

Its success will depend on the consent and support of the government.

And, it will require the investment of hundreds of millions of dollars from industry and government for research and development that ultimately will benefit all Americans. A $250 million operation and funding plan has been approved for SEMATECH.

APPROVED BUSINESS PLAN

The SIA Board of Directors today unanimously approved the operating and funding plans for SEMATECH. Today, we begin the implementation of our business plan.

With this bold decision, the U.S. semiconductor industry planted a stake in the ground that tells the world that we are united in our determination to lead the industry that we invented.

SEMATECH'S MISSION

SEMATECH's mission is to drive the development of future generation semiconductor processes, materials, tools, and test equipment; to demonstrate this technology in a prove-in manufacturing facility; and to transfer this knowledge to member companies.

SEMATECH will develop strong, supportive relationships with U.S. equipment and material support industries to help assure future competitiveness for the entire domestic semiconductor industry.

SEMATECH will also develop strong relationships with government-sponsored agencies and laboratories, and with universities and research institutes in its development of new semiconductor manufacturing technologies.

The direction for this development will be worked out in strategic planning workshops whose participants will be the best scientific minds that our country has to offer. They will create the technology roadmaps for the processes, systems, test vehicles, materials and equipment that SEMATECH will develop.

SEMATECH will emphasize environmental, health and safety concerns in the development of new processes and equipment.

SEMATECH OPERATIONS

The SEMATECH facility will operate around the clock, seven days a week to simulate real-world, high-volume conditions.

SEMATECH will not produce commercial products. Instead, our product will be knowledge for our members to use in their own facilities to produce commercial products.

The manufacturing technology will be transferable as individual modules or as a total system. We will emphasize automation and production flexibility. Both are critical to the next generation of extremely complex and customized chips.

We will also focus on the sciences of production such as sub-micron lithography, deposition, advanced materials, etching, epitaxy and ion implantation. Major advances in these technologies, along with automation and integration of manufacturing into a single flexible system, will drive us to our goal of high-volume, cost-effective manufacturing at one-half micron geometries by the next decade.

When we meet our goals, we will achieve manufacturing parity with our most agressive competitor by the end of this decade and regain the lead soon thereafter.

TECHNOLOGY EXCHANGE

In the final analysis, the success of this undertaking lies in the effective transfer and application of the technology developed by SEMATECH. Actually, it will be a two-way information flow. Not only will the SEMATECH development teams regularly feed their findings to the member companies, but it is expected that any improvements made by the member companies on SEMATECH developments will be relayed back for incorporation into the SEMATECH program.

ORGANIZATION STRUCTURE

The organizational structure will consist of a board of directors elected by the participants, a chief executive officer, a president who is also the chief operating officer, a vice president of R&D, a vice president of manufacturing, and a vice president of administration. In addition, we will have a director of competitive strategies and a director of quality and reliability. A national advisory council and a technical advisory board will provide advice and counsel to management. The SIA board of directors has been named as the interim board of directors for SEMATECH. The permanent board will be named at a later date.

The people who join the SEMATECH team will be among the best in their fields. To be chosen to work at SEMATECH will be an honor rivaling any that science or industry have to offer.

FINANCIAL REQUIREMENTS

Not only is the an amibitious undertaking, it is also an expensive proposition. If technology leadership were not expensive, there would not be a need for SEMATECH. But it is costly, too much so for a single company, or even an industry the size of ours, to shoulder the entire burden. We project annual costs of approximately $250 million a year. We expect to enlist the broadest possible base of financial support to include semiconductor manufacturers, materials suppliers, equipment manufacturers, users, and the U.S. government.

We see the financial contributions for this research project as being split roughly 50/50 between industry and government with a sunset provision that limits government participation to six years. None of the government money would flow to individual companies, or be used to cover operating losses, or expenses, of individual firms.

We begin canvassing the industry for funds immediately.

MILESTONES

We have set some milestones for this project that you may be interested in:

We begin immediately with technology workshops to define the technology roadmaps for SEMATECH:

We begin the search for a CEO and COO immediately and expect to have the management team selected this summer;

We also begin the search for a facility and expect to have the site selected this summer;

We will assign a start-up team within the next few weeks to continue the development of SEMATECH;

We expect to have the funding commitments in place by September.

We plan to have initial staffing in place, to occupy the facility, to begin work on process architecture and unit processes, and to begin ordering equipment this fall;

We will name the technical advisory board and a permanent SEMATECH board in parallel with the funding.

Now, let us have your questions.

Mr. WIRTH. I thank the Chair.

I will be back over the coming days with further discussions about the enormous importance of this industry to our manufacturing base overall going well beyond defense to the job in the country.

I just quickly remind Members of the Senate that the electronics industry is now the largest manufacturing industry in the United States in terms of jobs, far outnumbering the auto industry and the steel industry put together and is an area for the future, one in which we have very, very significant challenges and great opportunity if we are willing to creatively meet that challenge.

I thank the Chair and yield the floor.

JAPAN: A LONG WAY TO GO ON DEFENSE

Mr. STEVENS. Mr. President, I speak today on a subject vital to two of the critical issues facing the first session of the 100th Congress: trade and national defense. At this juncture, United States-Japanese relations embody both elements of this debate.

Recently, Mr. President, the Los Angeles Times published a commentary I prepared on Japan's defense spending and its impact on our common security and America's defense burden in the Pacific. I ask unanimous consent that this article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAPAN: A LONG WAY TO GO ON DEFENSE—IT USES ALLIES' BURDEN AS EDGE TO DOMINATE MARKETPLACE

(By Ted Stevens)

Modern Japan's unprecedented economic success masks a terrible vulnerability. Because of that country's meager commitment to defense, it is incapable, according to defense planners, of fending off even a moderate military incursion for more than 48 hours.

As a result, much of the financial responsibility for protecting Japan's interests and responding to the Soviet buildup in that region of the world has fallen onto the United States. Many Americans question our role in the defense of a nation as wealthy as Japan. It's a legitimate concern that has become increasingly troublesome in the light of declining American defense budget.

For years many Americans have believed the myth that Japan cannot assume more responsibility for its own defense because of constitutional restrictions that were imposed after World War II. The familiar argument that the West insisted on such restrictions to prevent Japan's return as a world military power has been used time and again to defuse criticism of Japan's defense efforts.

In fact, Japan's defense-spending limitation is self-imposed. The government's decision in 1976 to limit defense spending to 1% of its gross national product was designated not only to mute domestic critics of renewed militarism but also to persuade Japan's allies that it would not return to isolationism.

The Japanese asserted that the 1% formula, which linked defense expenditures to economic growth, was adequate to meet Japan's share of the defense burden and to keep pace with Soviet military capabilities. This assertion has not withstood the test of time.

Japan's defense budget of $22 billion for 1987 is 1.004% of the country's projected gross national product. Its major Western allies spend much larger portions—5% to 6%—of their GNP on defense. The U.S. defense budget this year, for example, is $290 billion—about 6% of our nation's economic output.

With one of the highest standards of living in the world, Japan dedicates only $100 per capita each year to defense. The United States spends 10 times as much, or about $1,000 per capita annually. Our allies in the North Atlantic Treaty Organization, with an average per-capita income lower than Japan's, spend $500 to $600 per capita annually.

If Japan spent a percentage of its gross national product comparable to what its Western allies spend, its 1987 defense budget would total $60 billion to $70 billion, or three to four times the current level.

The recent effort to persuade Japan to increase its defense spending is driven not only by the desire to see that country bear a fair share of the costs of its own defense, but also by concern over the threat posed by Soviet deployments Japan has not been responsive to changing conditions in its region of the world.

Since Japan's 1% formula was devised in the mid-1970s, the Soviet Union has increased its presence in the Pacific region and now deploys 53 divisions in the Soviet Far East and Siberia. It also has brought Backfire bombers and SS-20 medium-range missiles east of the Urals, and has deployed a Soviet fleet in the Pacific that is larger than the U.S. Navy worldwide.

To respond to this threat from the Soviet Union, the United States has been forced to take on larger commitments. Ten years ago we were winding down our Pacific presence in the wake of the Vietnam War. Now we maintain a military force of 55,000 personnel in Japan, not counting our naval forces afloat and our forces deployed in South Korea.

Although the Japanese spend roughly $1 billion a year to support our military forces, they restrict that support to construction projects that greatly benefit their civil economy and are repaid by our military in the form of rent.

The decision to restruct defense expenditures not only jeopardizes Japan's ability to defend itself but also gives that nation a major edge over its Western allies in the international marketplace. The United States and Japan's other trading partners are at a competitive disadvantage—Japan's exports bear no part of the free world's defense burden.

Prime Minister Yasuhiro Nakasone's recent decision to breach the 1% spending limit, even if just barely, is a heartening step in the right direction. The Japanese have thus cleared a psychological hurdle through the political leadership of the prime minister and the diplomatic skills of our indomitable ambassador, Mike Mansfield.

At the same time, Japan has a long way to go in the field of defense. We must remain alert. If Japan's current effort to increase defense spending stalls, the United States will continue to be saddled with an inequitable share of the Pacific defense burden.

For the sake of fairness and, just as important, for the sake of its own national security, Japan must do even more.

Mr. STEVENS. Mr. President, I bring this issue before the Senate today because the Secretary of Defense, Mr. Weinberger, has recently announced plans to travel to Japan to discuss our mutual security relationship. I commend the Secretary for this initiative.

Attention to our relations with Japan has focused on two concerns; trade and defense. The massive trade imbalance between Japan and the United States relates directly to the existing security relationship between our countries. The article I have submitted for the RECORD addresses the detailed factors contributing to this problem. The bottom line is that Japan spends one-fifth the percentage of its gross national product on defense as does the United States, and less than one-tenth of the per capita amount spent by our country on defense. This permits the Japanese to concentrate their resources and expertise in commercial enterprises, while we defend the sea lanes which carry their lifeblood of oil and exports.

Soviet military might in the Pacific has steadily escalated over the past few years, while Japanese expenditures for defense have remained constrained by the artificial cap of 1 percent of GNP. The Soviet Pacific fleet today counts more vessels than deployed by the United States Navy worldwide.

Let me repeat that, Mr. President: The Soviet Pacific fleet today counts more vessels than deployed by the U.S. Navy worldwide.

One percent of Japanese GNP does not address that threat. The Soviet Union has introduced the Backfire Bomber and the SS-20 missile into the field in the Far East. Those weapons threaten not only Japan, but my State as well; 1 percent of GNP does not address that threat. The Japanese propose to slightly exceed the 1 percent figure next year. Some point to this as a sign of greater Japanese responsibility for their home defense, but I disagree with that assessment.

Mr. President, the burden of maintaining troops overseas is a heavy one for the United States. For the current fiscal year, the Department of Defense has requested $560 million in supplemental appropriations to cover increasing, unbudgeted expenses for our troops overseas. The decline in the value of the dollar, exacerbated by the trade deficit, adds to this obligation. These costs, incurred because of our disproportionate share of Japan's defense mission, continue to escalate due to a weakened dollar suffering the effects of Japan's trade surplus.

I am a strong supporter of our alliance with Japan. Japan is an economic superpower. Super economic wealth carriers the burden of global responsibilities. I hope the Secretary of Defense uses his time in Japan to address some of the issues.

I urge the Senate to work to strengthen our partnership with Japan, a partnership based on fair trade and joint commitment to a common defense. The Senate should act on these matters this year, and the success of the President in addressing these issues will help define the tone of such legislation. We must carefully coordinate executive and legislative actions to ensure that our Nation has consistent policies—free trade and a more equitable sharing of security responsibility.

REPRESENTATIVE STEWART McKINNEY

Mr. WEICKER. Mr. President, The people of the State of Connecticut, and indeed the whole Nation, lost a good friend in Stew McKinney. His commitment to the disenfranchised—the poor, the sick, the homeless—will not soon be forgotten.

I was recently sent a heartfelt tribute to Stew McKinney, which appeared in the Bridgeport Post and the Bridgeport Telegram. With anecdotes and poignant candor, it captures the man Stew McKinney was to us all. I ask that this tribute be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

REPRESENTATIVE STEWART B. MCKINNEY—HE DID US PROUD

It has been said, "A dying man needs to die, as a sleepy man needs to sleep."

U.S. Rep. Stewart B. McKinney was a man with intuitive perception and infinite compassion. From 1971 until his death, he represented Connecticut's 4th District in the U.S. House of Representatives.

Some of the wealthiest people in the country reside in the district. Conversely, pockets of poverty exist in the cities. These neighborhoods have been injected with the poison which is the plague of the 20th Century—drugs.

Stew was deeply concerned about the urban ghettos for a number of reasons, especially because the youths in these areas are prey for the human parasites who sell drugs. In a sense, Stew was a Republican whose thinking and actions paralleled those of the late Senator Robert F. Kennedy.

There was no phony pretense about him. In conversation, he was candid. Perhaps, at times, Stew was reckless with words. But, always, he spoke his mind.

Stew never feigned to be what he was not. He loved being a congressman. The U.S. Senate had no appeal for him, nor did the governorship. The gentleman who has been taken from us had a special affection for the House of Representatives.

The facts of the Congressman's life do not fully reveal the nature of the man. Yes, he dealt with international and national issues with intelligence and decisiveness. Of equal or more importance was his genuine desire to help the disadvantage. Because Stew McKinney never saw himself as a man deserving special treatment, he could visit shelters for the homeless and provide comfort and encouragement for people cruelly trapped by fate.

Always alert to the possibility that he might be able to make life a little better for others, he obtained a multimillion-dollar grant last year for the rebuilding of Father Panik Village in Bridgeport.

It was not difficult in Congress for Rep. McKinney to cross the aisle and gather the support of Democrats for his proposals. The public good, not politics, dominated his thinking and actions. His colleagues knew this. Stew was dedicated to the belief that the American process, if not tinkered with, would work for the benefit of all.

Not generally known is the fact that he and the late Gov. Ella T. Grasso corresponded regularly. Many of the notes were written by Ella when she was bored during a meeting in the state Capitol. Often, Stew's writings were done while a long-winded bureaucrat or representative of a special interest group testified during a committee hearing.

Ella, the Democrat, and Stew, the Republican, had much in common. Both enjoyed good humor and had little regard for practitioners of pomposity.

Stewart B. McKinney cherished the principles upon which this nation and state were built. He loved to debate, but he did not seek to wound. Back in the 1960s, while in the General Assembly, he made a remark which was reported out of context. It appeared that he had questioned the integrity of Gov. John N. Dempsey.

The following morning, the legislator from Fairfield went to the Capitol early, awaited the governor's arrival and apologized for any embarrassment the reports may have caused Gov. Dempsey. On that occasion, a bond was formed, a friendship that endured, with each man holding the other in high esteem. There was nothing superficial about Rep. McKinney. When he believed a Republican or Democratic president was right, he supported the chief executive. If he disagreed with policies emanating from the White House, he followed the dictates of his conscience.

At 56, Steward B. McKinney was too young to die. And at 56, he had suffered from pain for far too many years. While Stew was in his forties, a coronary bypass saved his life. In the past few years, he was beset by a variety of medical problems, but somehow he managed to carry on, insisting that tomorrow would be a better day.

Maybe he knew the odds were against him, but he fought hard and was cheerful to the end. During his campaign in 1986, Stew was open and frank. He invited voters to scrutinize his record. They did and he won a 9th term. As he traveled about the 4th District, the unthinkable was thought. It might be the last campaign for the elected official people had come to view as "Old Reliable."

Members of the Congressman's staff knew people were his first priority. This was a reflection of his thoughtful nature, his belief that government exists to serve people, not cause them grief. It was an endearing characteristic of the man.

U.S. Rep. Stewart B. McKinney did the 4th District, the entire state of Connecticut and the U.S. Congress honor by devoting much of his adult life to public service.

He never demanded, or asked, or maneuvered anything for himself. Always, he was alert to the possibility of privately performing an act of kindness. Sadly, today the old saying, *"The good die young,"* rings true.

DENNIS MARTIN HONORED

Mr. HECHT. Mr. President, I would like to take this opportunity to honor a great Navadan, Mr. Dennis Martin. A Reno mail carrier for 13 years, Mr. Martin has performed several heroic actions with no apparent concern for his own life. As a former firefighter, he has been trained concerning many of the important emergency procedures necessary for saving someone's life.

Recently, he entered a burning building in response to a man's cry, "My wife's in there." Crawling on his stomach to avoid the flames and smoke, he fought his way to the flaming bedroom before being forced to turn back. Dennis received first-degree burns on his face. Unfortunately, the woman died in the two-story house, but fire officials rightly credited him for his bravery and the Postal Service gave him the Superior Accomplishment Award for his noble deed.

This is not the first time that Mr. Martin risked his life. Last year, he jumped into a runaway car, which was out of control and circling around someone's driveway. He was able to safely bring the car under control.

Mr. President, I am proud to be able to commend this brave hero for risking his life to save others. I would also like to share with my colleagues an excellent article from the Postal Record concerning Mr. Martin.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARRIER RISKS LIFE IN RESCUE ATTEMPT

Reno, Nevada Branch 709 members are proud to call Dennis Martin their brother. Martin, a Reno carrier for 13 years, has performed several heroic actions while on his route.

Most recently, he entered a burning building in response to a man's desperate cry, "My wife's in there." A former firefighter, Martin knew enough to go in low on his stomach. He fought his way to the flaming bedroom, before being forced to turn back.

In the process, Martin received first-degree burns on his face. Unfortunately, the woman died in the two-story blaze. Fire officials at the scene credited him for his bravery and the Postal Service honored him with a Superior Accomplishment Award and $500.

Just the year before, Martin had jumped into a runaway car, which had rolled out of a patron's driveway and was circling madly in reverse. He brought the car under control and received a cash award from the Postal Service.

FINANCIAL STATEMENT AND INCOME TAX INFORMATION OF SENATOR ROBERT W. KASTEN, JR.

Mr. KASTEN. Mr. President, I ask unanimous consent that my financial statement, by Federal Form 1040, and my Wisconsin form 1NPR be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Robert W. Kasten, Jr., Financial Statement, May 15, 1987

Assets:	
Washington, DC Home	$180,000
Household Goods/Personal Property	25,000
Auto (Ford '86 Taurus)	10,800
Life Insurance Policy (net cash value)	1,500
U.S. Civil Service Retirement	35,245
Total	252,545
Liabilities:	
Perpetual American Federal Savings, Washington, DC	95,942
First Wisconsin National Bank, Milwaukee, WI	105,520
First Wisconsin National Bank, Milwaukee, WI	6,248
Charge cards	2,800
Miscellaneous obligations	3,500
Total	214,010
Net worth	38,535
1986 taxes paid:	
Federal	34,124
State (WI)	10,185
1986 income:	
Senate Salary	75,100

Honorarium	30,000
Total	105,000

U.S. Individual Income Tax Return, 1986

Robert W. Kasten, Jr., and Eva J. Nimmons Kasten.

[redacted]; [redacted].

INCOME

Wages, salaries, tips, etc, (attach Form(s) W-2), $122,168.

Interest income (also attach Schedule B if over $400), $853.

Dividends (also attach Schedule B if over $400), $1,281.

Exclusion, 4200.

Subtract line 9b from line 9a and enter the result, $1,081.

Taxable refunds of state and local income taxes, if any, from the worksheet on page 9 of instructions, $1,528.

Business income or (loss) (attach Schedule C, $30,800.

Capital gain or (loss) (attach Schedule D), $-3,000.

Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E), $8,045.

Add the amounts shown in the far right column for lines 7 through 22. This is your total income, $161,475.

ADJUSTMENTS TO INCOME

Moving expenses (attach Form 3903 or 3903F), $470.

Employee business expenses (attach Form 2106), $3,591.

IRA deduction, from the worksheet on page 12, $4,000.

Deduction for a married couple when both work (attach Schedule W), $3,000.

Add lines 24 through 30. These are your total adjustments, $11,061.

ADJUSTED GROSS INCOME

Subtract line 31 from line 23. This is your adjusted gross income. If this line is less than $11,000 and a child lived with you, See "Earned Income Credit" (line 58) on page 16 of Instructions. If you want IRS to figure your tax, see page 13 of Instructions, $150,414.

TAX COMPUTATION

Amount from line 32 (adjusted gross income), $150,414.

If you itemize, attach Schedule A (Form 1040) and enter the amount from Schedule A. line 26, $42,208.

Subtract line 34a or line 34d, whichever applies, from line 33, $108,206.

Multiply $1,080 by the total number of exemptions claimed on line 6f (see page 14), $2,160.

Taxable income. Subtract line 36 from line 35. Enter the result (but not less than zero), $106,046.

Enter tax here. Check if from Tax Rate Schedule X, Y, or Z, $34,124.

Add lines 38 and 39. Enter the total, $34,124.

Subtract line 44 from line 40. Enter the result (but not less than zero), $34,124.

Subtract line 48 from line 45. Enter the result (but not less than zero), $34,124.

OTHER TAXES

Alternative minimum tax (attach Form 6251), None.

Add lines 49 through 54. This is your total tax, $34,124.

PAYMENTS

Federal income tax withheld, $27,861.

Excess social security tax and RRTA tax withheld (two or more employers), $43.

Add lines 56 through 62. These are your total payments, $27,904.

REFUND OR AMOUNT YOU OWE

If line 55 is larger than line 63, enter amount you owe. Attach check or money order for full amount payable to "Internal Revenue Service." Write you social security number, daytime phone number and "1986 Form 1040" on it, $6,220.

Wisconsin Income Tax

Kasten, Jr. Robert W.-[redacted].

Nimmons Kasten, Eva J.-[redacted].

Full-year resident of Wisconsin—husband.

Part-year resident of Wisconsin from January 29 to December 31—wife.

Wages, salaries, tips, etc. (from federal Form 1040, line 7), $122,168—$121,568.

Interest income (from federal Form 1040, line 8), $853—$809.

Dividends (from federal Form 1040, line 9c), $1,081—$998.

Taxable refunds of state and local income taxes (from federal Form 1040, line 10), $1,528—not taxable.

Business income or (loss) (from federal Form 1040, line 12), $30,800—$30,800.

Capital gain or (loss) (from federal Form 1040, line 13 and 14), $-3,000—$-3,000.

Rents, royalties, partnerships, estates, trusts, etc. (from federal Form 1040, line 18), $8,045—$8,045.

Add lines 1 through 15, $161,475—$159,220.

Moving expenses (from federal Form 1040, line 24), $470—$470.

Employe business expenses (from federal Form 1040, line 25), $3,591—$3,591.

IRA deduction (from federal Form 1040, line 26), $4,000—$4,000.

Deduction for a married couple when both work (from federal Form 1040, line 30), $3,000—not deductible.

Add lines 17 thrugh 23, $11,061—$8,061.

Subtract line 24, column B from line 16, column B. This is your Wisconsin income, $151,159.

Subtract line 24, column A from line 16, column A. This is your federal income, $150,414.

Divided line 25, column B by line 26, column A. If the amount in column B is more than the Amount in column A, fill in 1.00. This is your proration ratio, $1.0000.

Fill in Wisconsin income from line 25, column B, $151,159.

Fill in proration ratio from line 27, $1.0000.

Subtract line 29c from line 28. This is your Wisconsin net income, $151,159.

Tax. Find the tax for amount on line 30 using tax table, pages 20 through 24, $11,442.

Wisconsin itemized deduction credit. Fill in Schedule 1 on page 3 of Form INPR, $672.

HOME OWNERS

Property taxes paid on home in 1986, $1,702.

Find credit from table, page 15, $135.

Add lines 32 through 36, $807.

Fill in proration ratio from line 27, $1.0000.

Multiply line 37a by ratio on line 37b, $807.

Married couple credit. Fill in Schedule 2 on page 3 of Form INPR, $450.

Add lines 37c and 38. This is the total of your credits, $1,257.

Subtract line 39 from line 31. If line 39 is more than line 31, fill in zero (0). This is your net tax, $10,185.

Add lines 40, 41, 42c, and 43, $10,185.

Wisconsin income tax withheld. Attach wage statement, $5,458.

Net income tax paid to other states on income earned while a Wisconsin resident, $3,834.

Add lines 45 through 49, $9,292.

If line 50 is less than line 44, subtract line 50 from line 44. This is the amount you owe, $893.

CANADA'S POLICIES ON AMERICAN BROADCASTERS

Mr. LEAHY. Mr. President, the Government of Canada is considering legislation that would bar the importation of independently produced films into Canada by non-Canadians. Its announced purpose has a familiar ring: to provide a cultural benefit to Canada, and to make sure that Canadians can make and see their own films. I suggest that our friends to the north are using this lofty policy goal to engage in a tactic with quite a different purpose and result, which is to benefit Canadian private industry by taking American intellectual property.

It's time to say enough is enough. Canadians are intercepting our broadcast signals; they're interfering with our publishing houses; they're retransmitting our network feeds; and they're taking our cable systems all in the name of cultural sovereignty. In my mind it has another name—unfair trade.

Mr. President, by tampering with the free flow of ideas and expression, the people of Canada are erecting a short-sighted barrier that will loom as a dangerous precedent.

While Government spokesmen suggest that Canada fears cultural absorption, they are resorting to tactics that are used by countries that seek cultural isolation. The good people of Canada enjoy a rich culture that cannot be compromised simply because their people may watch movies made or distributed by non-Canadians.

If the Canadians really are intent on bolstering their film industry, they could institute a box office levy and use the revenues to support their creative community. That's what they do in Germany, Austria, Portugal, Finland, Sweden, and France to generate collectively some $97 million annually. But that's not proposed.

They could devote more resources to training young people in the skills related to filmmaking. But that's not proposed.

They could even go so far as to institute a screen time quota which allocates a certain amount of time per year when theatres must exhibit films produced locally. But that's not proposed either.

Perhaps none of these ideas are being proposed because the costs of such policies would be borne by Canadians, not Americans.

Mr. President, this type of attitude is not new. Since 1983, I have been trying to address an issue involving the retransmission of U.S. TV signals by Canadian cable systems. In essence, U.S. copyright holders are not compensated by Canadian cable systems when those systems retransmit U.S. programs even though U.S. cable systems compensate similarly situated Canadian copyright owners. That policy hasn't stopped U.S. television and movies from being seen in Canada. It hasn't increased Canadian production. The policy has had one effect: it rips off American intellectual property to the benefit of Canadian cable systems.

The only thing that is readily apparent is that Canada is erecting a trade barrier to America's creative community. The same Canada that is seeking a free trade agreement on one hand is seeking to close its border on the other.

Mr. President, that does not wash. I say that if it's free trade they want, that's what they give. The Canadians should accept that with all the benefits to which they look forward, come some liabilities. And if they cannot accept that, they should stop all this talk about that grade agreement.

Finally, Mr. President, I suggest to my good friends to the north that if they are going to put up trade barriers, they do so not at the expense of the most important commodity of all—expressions, and ideas.

SALE OF F-5 AIRCRAFT TO HONDURAS

Mr. HELMS. Mr. President, this past week President Reagan notified Congress of the intention of the administration to sell 12 F-5 fighter aircraft to the Central American republic of Honduras. The F-5 planes will not introduce a new strategic element into the region since they will merely be a replacement for the Air Force's now obsolete Super Mystere fighters. The proposed package of planes, materiel, services and training would require $75 million in military assistance (MAP) funding over a 4-year period. When the F-5's become fully operational, the Hondurans would retire their current inventory of Super Mysteres.

This sale of fighter aircraft to democratic Honduras is absolutely essential at this time, and I commend the President for his decision to sell the F-5's. Honduran air superiority has been a key element in the regional military balance in Central America. Now, with the obsolete Super Mysteres, this regional balance in becoming rapidly endangered. Mr. President, the sale of F-5's to Honduras would provide deterrence against further Sandinista aggression and would enable the Hondurans to maintain the balance of power.

After lengthy deliberations, the Hondurans rejected alternative aircraft—specifically the Israeli Kfir—and requested the F-5E/F. It was agreed that this system was best suited to their defense needs, and was the least costly to both purchase and maintain. The purchase of the Israeli planes would add an additional cost of at least $25 million.

Mr. President, we must go forward with this sale of jet aircraft to our Central American neighbor, Honduras. Not to allow the Hondurans to maintain their air superiority is to say to Communist Nicaragua that we are not interested in defending our democratic friends in our own back yard. Worse yet, it would say to the Hondurans that it does not pay to be a strong ally of the United States. This sale is essential to meet defense responsibilities, and to protect the balance of power in Central America.

STATE DEPARTMENT SEEKS TO ADVANCE SOVIET INTERESTS IN MIDDLE EAST

Mr. HELMS. Mr. President, this past Sunday, our Secretary of State indicated that he still endorses the idea of convening a Middle East international conference with Soviet participation.

According to the Secretary, "all possible approaches" should be explored to bringing about direct negotiations between Israel and Jordan. "All possible approaches," of course, means acceding to Jordanian demands that direct negotiations be preceded by an international conference with Soviet participation.

In advocating Soviet participation in the Middle East peace process, the State Department is once again demonstrating its propensity for sacrificing the American interest whenever possible.

An international conference is bound to fail—but only after putting the United States in the position of playing one friend, Israel, off against another, moderate Arab States, and gratuitously inviting the Soviet Union back into Middle Eastern affairs.

The State Department can give you some very good reasons why it is everyone's interests to convene an international conference.

For Jordan, it represents an opportunity to show leaderhip in the Arab community, demonstrate efforts on behalf of Palestinians, and respond to American pressures to meet with the Israelis.

For the Soviet Union, it represents an opportunity to inject themselves into Middle East politics, gain prestige in the world community, renew relationships with more moderate Arab States and divert attention from their occupation of Afghanistan.

For Egypt, it represents an opportunity to increase perceptions that it has "returned to the fold" of the Arab world.

For Syria—if, indeed, it is genuinely interested in participating in such a conference—it represents an opportunity to attempt to gain some respect in the world community, divert attention from its history of supporting terrorism, and respond to pressures by the Soviet Union to cooperate in its efforts to become, once again, a player in the region.

For the United States, it represents an opportunity to mend some fences with moderate Arab States disturbed about United States arms shipments to Iran.

To some in Israel, it represents an opportunity to secure restored diplomatic relations with the Soviet Union.

Yet while each of these parties may have some interest in convening such a conference, most have an even stronger interest in not seeing such a conference reach a conclusion.

For Jordan to allow such a conference to conclude without receiving all of the territory lost in 1967—including Jerusalem—would leave it shamed and threatened in the Arab world. Yet it is entirely unlikely that Israel would agree to such significant concessions.

In fact, Jordan may not even want to receive back all of this territory. It would add 1.2 million nationalistic Palestinians to the kingdom; making King Hussein more than ever, a minority King in fear of his life.

There is good reason to believe that Syria will not participate in any direct talks with Israel, as is envisioned in plans for an international conference. Furthermore, Syria would not permit any international conference to conclude with a peaceful settlement on the so-called "West Bank" which did not include the transfer of the Golan Heights. President Assad would be humiliated and isolated in the Arab world if such a settlement were ever reached without Syria receiving the Golan Heights—territory already annexed by Israel.

Above all, the Soviets have absolutely no desire for peace in the region. Indeed, having them to the conference would be tantamount to inviting an arsonist to an oil refinery.

Every time the Soviets have poked their noses into Middle Eastern affairs, it has been for purposes counter to peace. Only through discord and conflict in the region can the Soviets expect to disrupt Western supplies of oil, and disrupt American strategic interests. At the very least, the Soviet presence would negate and counteract any constructive positions which might surface on the part of the more moderate Arab States.

The only interest the Soviets have in a successful conclusion to the conference is if Israel is made strategically vulnerable through the loss of territory. Such a result would fit squarely into the Soviet agenda to ultimately destroy American influence in the Middle East by fatally weakening our most strategic asset in the region.

An international conference with Soviet participation, then, is fated to fail. And when it does, the failure no doubt will be blamed on Israel's certain unwillingness to undertake the strategically suicidal step of withdrawing from territories acquired in 1967.

The United States would be left in the position of having to play one friend off against the other. If we support our moderate Arab friends in encouraging Israel to make these concessions, it will be devastating to our strategic interests in the region. If we stand by Israel's refusal to make concessions, the Arab world and the international community would shower blame down upon the United States and Israel.

America's standing in the Arab world could be worse following a conference than it is claimed to be today. But in the process, we will have also gratuitously served Soviet interests.

Israel's leaders recognize the risks involved with inviting the Soviets to the conference. While some Israeli leaders support Soviet participation—provided certain conditions are complied with, the Prime Minister opposes Soviet participation on any grounds.

The State Department, by continually encouraging a conference, has put itself in the position of undermining the head of state of an ally who is simply refusing to advance Soviet interests at his own country's expense. But this should come as no surprise, as the State Department is always reluctant to confront the Soviets, but eager to use every bit of leverage we have against our friends.

History has proven time and time again that peace results only when and where there is a practical equilibrium in military force and the natural conditions of geography. To the extent that the State Department injects the Soviets into Middle Eastern affairs, it will only upset this equilibrium.

If we really want peace in the Middle East, the State Department should stop once and for all with their efforts to concoct a Middle East conference with Soviet participation. It is time for America to stand up and take a leading role in keeping the Soviets where they belong—far away from the delicate process of Middle East peace.

MISSING DEADLINES AGAIN

Mr. HATFIELD. Mr. President, today is May 19, more than 1 month beyond the Gramm-Rudman-Hollings schedule for action on a budget resolution, and we still do not have a conference agreement on the budget resolution for fiscal year 1988. That means that despite all our good intentions to the contrary, the 13 regular appropriations bills for fiscal year 1988 will not be completed by October 1 and we will again wind up with a massive omnibus bill posing as a continuing resolution.

Under the provisions of the 1974 Budget Act, it is not in order to consider an appropriations measure for a given fiscal year until the conference agreement on the budget resolution for that fiscal year has been adopted. The Gramm-Rudman-Hollings Act provided further that an appropriations bill for a given fiscal year could not be considered until the Appropriations Committee had receive a committee allocation under section 302(a) of the Budget Act, and made an allocation to subcommittees under section 302(b) of the act. Those allocations take a little time to develop, Mr. President, and the practical effect is that consideration of appropriations bills must be delayed for some amount of time even after a conference agreement on a budget resolution is adopted.

So what does this mean for consideration of appropriations bills in the next few months? It now appears that we will not have a conference agreement on the fiscal year 1988 budget resolution this week, and possibly not until the first week of June, after the Memorial Day recess. The development of a committee allocation pursuant to 302(a) of the Budget Act will take a few days, and a 302(b) allocation for our Appropriations Subcommittees will take a few more. Optimistically, subcommittee markups of the fiscal year 1988 appropriations bills would not begin until the middle of June, and full committee markups would not occur until the end of June.

That's the picture if the Senate and House Appropriations Committees proceed simultaneously with markups. If we follow the normal procedure and wait for the receipt and referral of House bills before beginning our subcommittee markups, then we will probably not be able to begin subcommittee markups of fiscal year 1988 appropriations bills until late June, not have full committee markups until after the July 4th recess, and not have floor action until late July. Conference agreements and presentation to the President for signature would have to come later, after the August recess.

I don't want to be a Cassandra, not because I mind offering gloomy opinions so much as because I remember that Cassandra's dire predictions came true. I hope the speculations I have offered today will not turn out to be accurate, and that we will act on 13 separate appropriations bills for fiscal year 1988. But if that does not happen, and we wind up with a logjam in September, let us not blame it on some grand conspiracy of the Appropriations Committee. If we eventually face a wide-ranging continuing resolution in the fall, it will be because we failed to produce a budget resolution in a timely manner so that we might consider appropriations bills in the regular order.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, certain meetings are going on. Rather than keep the Senate in a quorum call, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 2:57 p.m., recessed, subject to the call of the Chair.

The Senate reassembled at 3:21 p.m., when called to order by the Presiding Officer [Mr. Adams].

The **PRESIDING OFFICER.** The majority leader is recognized.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 15 minutes and that Senators be permitted to speak therein for up to 10 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. SASSER addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Tennessee.

Mr. DOLE. Mr. President, will the Senator yield 1 minute?

Mr. SASSER. I yield 1 minute to the distinguished minority leader.

The **PRESIDING OFFICER.** The Republican leader.

(The remarks of Mr. Dole will be found under Introduction of Bills and Joint Resolutions in today's Record.)

The **PRESIDING OFFICER.** The Senator from Tennessee.

THE "STARK" TRAGEDY

Mr. SASSER. Mr. President, I rise to express feelings that, I believe, are in the hearts and minds of all Americans at this time of national loss.

Today, we are left once again with the sad task of sifting through the ruins of another tragedy—another incomprehensible act of violence in the Middle East—another senseless loss of young American life.

After the hostage-taking in Tehran, after the bombing in Beruit, after the kidnapings in Lebanon—the American people did not need another reminder of the violent whirlpool that the Mideast has become.

But it is all too evident, even in the wake of the tragedy that struck the U.S.S. *Stark*, that the American Government needs to be reminded of what can happen to its young service people who are pushed too close to that whirlpool of violence.

Mr. President, the facts about the *Stark*, as we know them, are melancholy and confusing.

We know that our ship was in international waters. We know that it was far away from the Iran/Iraq war zone. We know that the *Stark* issued two warnings to the attacking warplane. We know that Iraq had no reason to fire on an American naval vessel.

In fact, it had many, many reasons not to fire on an American naval vessel and incur the wrath of the American people.

We also know that the *Stark* was equipped with defensive systems that should have enabled it to fend off the attack of the Exocet missile which struck it.

In short, every answer we have only leads to a larger question: How could this have happened? Why are the families of 37—maybe more than 37—American sailors grieving today?

There will be loud, long calls for the answers to these questions. There will be review boards and investigations and inquiries—as, indeed, there should be.

But Mr. President, all of our investigative energies will be expended for nothing if we do not, as a nation, learn a very simple lesson from this tragic loss. This lesson is this: We cannot send our young servicemen persistently into harm's way without risking their lives, without costing some of them their lives, and we should not send our young people into wartorn areas without very good reasons.

Unfortunately, I fear we are about to forget that simple lesson before we have even had time to confirm the full extent of the *Stark's* casualty list.

The administration currently has plans to begin to accompany Kuwaiti tankers flying the American flag as they pass through the Persian Gulf toward the war zone. We will, in fact, be sending our naval vessels crewed by young Americans, 250 miles further into the gulf than they have ever gone before.

Mr. President, if the events of this past Sunday prove nothing else, they prove, beyond a shadow of a doubt, that this Kuwaiti plan is extremely dangerous.

The facts speak for themselves. American naval vessels have not been operating above the 27th degree 30 minutes parallel in the Persian Gulf. Over 100 attacks on tankers have taken place above that parallel.

The U.S.S. *Stark* was below the 27/30 parallel at the time it was hit. It was more than 300 miles from the Iran-Iraq front. By any standard, the *Stark* should have been safe from attack.

But it was not safe. It was sucked into the whirlpool of Middle East violence even at that great distance.

How are we responding? And now, Mr. President, we are seriously contemplating—indeed, the bargain has been struck—sending more American ships—more American young service personnel, directly into the heart of that whirlpool.

American naval vessels will be accompanying Kuwaiti oil tankers flying American flags all the way up the Persian Gulf, an additional 250 miles above where they have been previously operating, and into the area where over 100 oil tankers have been struck, some of them sunk, within the past 4 years.

If the Kuwaiti plan is indeed implemented, the U.S. naval vessels will be within 50 miles of the war zone, and more young Americans will be subjected to precisely what those crewing the U.S.S. *Stark* were subject to yesterday. I ask, for what?

I ask the Secretary of Defense, Mr. Weinberger, that very question this morning: Why are we sending American naval vessels deep into the Persian Gulf, indeed to the head of the Persian Gulf, convoying Kuwaiti oil tankers flying American flags? His answer was one we unfortunately have grown to expect. He said that the Kuwaiti strategy is designed to protect oil shipping lanes through the Persian Gulf and the Strait of Hormuz.

Mr. Weinberger said that, in the administration's view, those shipping lanes are vital to American national interests.

I ask this question, Mr. President: If those lanes are so vital to the United States that our naval vessels must go in there and risk the lives of our young people, are they not at least as vital to the countries of Western Europe which get 50 percent of their oil out of the Persian Gulf? Are they not at least as vital to the Japanese, who bring 90 percent of their oil through those waters?

The question is, whose oil are we protecting? We get approximately 2 percent of the oil consumed in the United States out of the Persian Gulf. Western Europe gets 50 percent of its oil. Japan gets 90 percent of its oil. Yet, nowhere in the Persian Gulf do you find Japanese naval vessels protecting that valuable oil lifeline. Nowhere in the Persian Gulf do you find European naval vessels protecting that oil lifeline that is so vital to them.

The question comes: Why should young Americans be defending this oil lifeline if it is not valuable enough to our allies that they will try to defend it themselves? We do not see a single U.S. ally operating in the Persian Gulf. It is a question that I have contemplated for some time.

Mr. President, we all know who is maintaining the stability of the free world. We all know who is providing the shield for the free world; we know who is footing the bill. The average American is paying $1,100 annually for defense. The average European provides barely $200 a year. I submit that the time has come for these gross inequities to stop.

We have not had a great deal of success in achieving even a slight degree of defense burden-sharing. We must exert ourselves, to a very great degree, to achieve at least some measure of risktaking. It is one thing for the U.S. taxpayer to be asked to pay over 500 percent more in the common defense than our European allies. It is one thing for the American citizens to make a much larger contribution to the common defense, either on a per capita basis or as a percentage of gross national product, than our European allies.

But it is another thing to say that young Americans should take a greater and more proportional risk of their lives and limbs in protecting these oil lifelines that are valuable to Western Europe, that are valuable to Japan, but are of very slight direct value to the United States.

Mr. President, we know the consequence of trying to be the policeman for the world, but I think that now we are trying to avert the consequences of being the bodyguard for the world—in this instance, the bodyguard for the oil lifeline for our allies who do not apparently think enough of that lifeline to put their own naval vessels to the test of defending.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I am waiting. I think we are kind of marking time here, hoping that before the day is over we may be able to take up the supplemental appropriations bill.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair for not to exceed 15 minutes.

There being no objection, the Senate, at 3:45 p.m., recessed subject to the call of the Chair.

The Senate reassembled at 3:47 p.m. when called to order by the Presiding Officer [Mr. ADAMS].

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Chair and I thank the majority leader.

THE STEEL INDUSTRY

Mr. **METZENBAUM**. Mr. President, executives from all the major American steel companies are in town this week to discuss ways to help make the U.S. steel industry more competitive. As the new chairman of the Senate steel caucus, I want them to know that I will be listening carefully to their proposals.

My door is open. I want to hear about solutions which will reverse the downward slide of this vital American industry. For too long, industry, labor, Congress, and the administration have been working at cross-purposes, pursuing their own agendas.

I believe it is time to work together to help transform the United States steel industry into one that can compete with the Japanese, the Koreans, or anyone else.

Mr. President, I have had it with the naysayers who are writing off the American steel industry.

To those who say we can afford to let the steel industry disappear, I say no modern superpower can ever afford to do that. We must have a viable, strong steel industry if we are to maintain our national security.

We need U.S. steel mills and U.S. steelworkers to keep America a strong industrial power as we move into the 21st century.

I know all too well about the current problems of the U.S. steel industry.

Nowhere has the shock of plant closings and bankruptcies been more deeply felt than in my own State of Ohio. I have gone to communities like Youngstown, and Lorain, and Cleveland, OH, and talked to steel workers who have lost their jobs, their homes, and the chance to send their kids to college. I have talked with those LTV retirees in Cleveland whose pension and health benefits were placed in jeopardy when LTV filed for bankruptcy. I have listened to their anger, their sense of frustration, and their sense of despair.

Enough is enough. Government, labor, and industry must work together now and find innovative ways, new ways, to make this industry a world leader once again, able to compete with any firm, in any country.

American workers can outwork, outcompete, outsweat, any group of workers anywhere in the world. I am frank to say I do not have all the answers about how to make the steel more competitive, but I believe it can be done. Furthermore, it must be done.

Let us explore ways to save steelworkers' jobs and make the industry more efficient. Let us explore ways to help so our steel companies can reduce costs through specialization, through achieving greater economies of scale, through formation of joint ventures, or through joint reseach efforts.

I am open to considering these and other proposals for helping the steel industry get back on track. We have no alternative. I want to find ways to open steel plants, not close them. I want to find ways to create new jobs in the steel industry, not lose existing ones. And I want to find ways to open foreign markets to our steel products.

As the new chairman of the Senate Steel Caucus, I look forward to using the caucus as a forum for bringing together the Nation's brightest and most creative minds to help find new ways to revitalize the steel industry. I also look forward to the caucus working with other Members of Congress, the White House, steel companies, and steelworkers for the crucial purpose.

It is no small task, but it can and must be done.

For too long, the steel industry has slipped downward and backward for too long. It is time to reverse that trend. America can afford nothing less.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Senate stand in recess for not to exceed 15 minutes, but in the meantime, that the Chair may call it to order in the event a Senator wishes to speak.

There being no objection, the Senate, at 3:53 p.m., recessed to subject to the call of the Chair.

The Senate reassembled at 4:08 p.m., when called to order by the Presiding Officer [Mr. REID].

Mr. **BYRD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. That is the order.

ORDER OF BUSINESS

Mr. **BYRD**. Mr. President, I have been laboring under the misimpression that we might be able to get the supplemental appropriations bill off the calendar today and back up before the Senate, and that the White House in the meantime might be able to help put together some additional votes on the other side of the aisle to support the waiver motion. But I am constrained to believe now, based on what I have just been able to develop by way of conversations, that there is no hope for that today. And so it appears that we have virtually wasted this day. We have two more days this week. We have tomorrow, which is Wednesday, and we have the third day, which is Thursday. Then on Friday the Senate will begin its Memorial Day recess.

Now, Mr. President, I called this supplemental appropriations bill up several days ago, and a point of order was made against it. I offered a waiver motion so that a point of order would not lie, and I did not get the support that I anticipated I would get from the other side of the aisle. We got nine votes, the administration has items in that bill that it wants. There are moneys for national defense; the President wants moneys for national defense, and there are moneys from foreign operations. There are moneys for the Commodity Credit Corporation. There are moneys for Federal salary increases. There are moneys in there for Federal retirement benefits.

The President requested $12 billion, the Senate recommendation is for $9.4 billion, so the Senate bill comes in under the Presidents request by almost $2.6 billion.

Now, Mr. President, I made the motion to waive the Budget Act so that the Senate could work its will on that measure, hoping that we would be able to get 60 votes in support of the waiver motion.

Well, that was not the case. Members on the other side were willing to sit back and make the Democrats belly up to the bar and take the hard shot in voting to waive the Budget Act while those on the other side could relish the idea of being able to accuse their Democratic counterparts of moving to waive the Budget Act, while those who did not, on the other side, vote for the waiver would still be able to get what they wanted in the bill. The administration would get what it wanted in the bill. I feel that is asking a little too much. This is not a partisan bill. I could understand, at least, how our friends on the Republican side of the aisle only gave us three votes recently on the budget resolution. That resolution was passed only by virtue of the vote of every Democratic Senator in this body. One Democratic Senator was absent at the time it finally passed, so there were 53 Democratic votes and 3 Republican votes, but I can understand the Republicans looking at that and saying, "Well, the Democrats are in control; they ought to produce a democratic budget." So we did not get much help. Three Republicans supported the budget.

But, aside from that, the rest of our Republican friends just took the position, "Well, let the Democrats produce a budget." The Democrats did produce a budget.

But, Mr. President, this supplemental appropriations bill is not a democratic bill, and the Republicans have some responsibility for supplying some votes on this bill. The President wants the supplemental funding. Why is not the White House doing something about it? Why is not the White House up here urging Republican Senators to help to support this waiver motion?

Now, we have wasted today. I have sat around here all afternoon. I have been in this Senate Chamber almost all by myself 2 hours just sitting patiently waiting, thinking we were going to get some word; I had understood that some people from the White House were up here working with Republican Senators, and I was under the impression from what I had been told that I would hear before too long that the other side would help provide the votes to pass a waiver motion.

Now I find that I was misinformed. It is now 4:30 in the afternoon, and I am still waiting. I must say that if the White House wants this supplemental appropriations bill, it is about time the White House came out from under cover and helped to persuade some of our Republican colleagues that their votes are needed, that the President wants this supplemental appropriations bill. If he wants the money that is in it for defense, if he wants the money in it for foreign operations, let us have a little help from the White House.

And so this is a day gone as far as the supplemental appropriations bill is concerned. I hope that overnight the White House can help to convince our friends on the other side that they ought to vote for the waiver on this appropriations bill. This is a good bill. I am sure that every Senator can find a little something wrong with it. It is not written precisely as any single Senator would want it to be written, but the chairman and the ranking member, Republicans and Democrats on that committee, put that bill together, reported it out, and then when it came up for floor debate, not all of the Senators on the committee, who apparently supported it in committee, were willing to vote for the waiver.

Now, what is wrong? What is going on around here? We have not been able to get the Defense authorization bill up. A full-fledged filibuster is going on, on the motion to proceed to that bill. Why the slowdown? Why can we not take up the defense authorization bill. We have had two cloture votes. Any Senator, of course, is within his right to vote against the cloture motion. But there comes a time when we have to transact the business of the Senate. If Senators do not like what is in the defense bill, they have an opportunity, once the bill is up, to offer amendments to strike completely any language they want to strike or to strike out and insert in lieu thereof, and substitute other language. But, thus far, we cannot even get the bill up before the Senate. Tomorrow we are going to have a third cloture vote.

I think it is getting to the point of ridiculousness; we cannot get the business of the Senate done. This is the business of the people. American men and women in uniform are in the Persian Gulf and we see what is happening over there, yet we cannot even get the defense authorization bill up before the Senate.

We have had a cloture vote after a cloture vote and we have failed to invoke cloture. We have to have 60 votes to invoke cloture. We produced every democratic vote over here for cloture today. We had one Senator absent. I hope tomorrow that we will have all Senators on this side of the aisle present, but with that one Senator absent, if he had been here, we could not have invoked cloture; we would have fallen one vote short. But I am going to try to have all Senators here on that bill, so that we can vote, at least the Democrats, all of them. I hope they will all be here tomorrow. This is where they should be, right here.

But we also need some help on the other side. We do not have 60 votes on this side of the aisle. If we can produce them all, we have only 54 votes. That is not enough to invoke cloture. So we have to have votes from the other side of the aisle.

I say to the White House, they have a responsibility, too, to try to help get some votes and pass the legislation that the President wants.

Now, I am sorry that we have wasted another day but apparently we have done that. I am going to yield the floor, and if any other Senators have anything to say, that is fine. And then I intend to put the Senate over until tomorrow as soon as no other Senators wish to speak.

May I ask the distinguished assistant Republican leader, would it be possible for us to set the vote on cloture, say, at 1 o'clock p.m. tomorrow? Perhaps we could set it at 1 and not have an automatic quorum and then all Senators would know exactly what time the vote will occur.

Mr. SIMPSON. Mr. President, I would ask the majority leader when we would be convening and then I would have a better opportunity, perhaps.

Mr. BYRD. I could convene at 11:30. That would make the vote come automatically around 1. I would like to come in a little earlier, however, so that Senators would have an opportunity to perhaps debate this matter longer before we vote on the cloture motion. We could come in, say, at 10 o'clock and vote at 1, or if I could not get consent, I could come in around 11:30; but I would prefer to get consent so that all Senators on both sides would know that there is a vote at 1 o'clock.

Mr. SIMPSON. Mr. President, before I respond, I think we can do that. I want you to know, I want the body to know that I understand deeply the frustration of the majority leader. It is quite evident wasted days were not unknown to this side of the aisle when we were in the majority and not——

Mr. BYRD addressed the Chair.

Mr. SIMPSON. May I finish, please?

Mr. BYRD. Yes, I beg the Senator's pardon.

Mr. SIMPSON. And that was not occasioned by the majority leader. It is occasioned by Senators who have deep and strongly held feelings, and so I am fully aware of that. We will find out tomorrow whether cloture will be invoked. We can get over that, and then I think we all know that there will be some serious and lengthy discussions on various amendments on this bill because we are talking about a very serious issue in the United States. We are talking about Geneva. That is what is underneath here. This is not Democrats doing good things and Republicans doing bad things. We are all interested in these things.

To try to portray that as somehow the Republicans raggedly objecting and the Democrats smoothly assisting, I think, is unfair and a little bit untoward and even more unbecoming. That is my view on it.

We are ready to work. We have assisted this majority leader during this entire first session of the 100th Congress. We have not been dragging our feet. We stood here in the trench and got rolled on three particular proposals which were done in the last session, and I understand that one beautifully—I know how it works—clean water, appliance standards, and highway legislation. That is the way the system works. You swallow hard and move on to other things. We are ready to do that.

We could have been doing something today. We could have been doing the nomination of William Webster to be the CIA Director. There are not two people in this building who are objecting to that. We could have been about that business.

The majority leader indicated previously in the CONGRESSIONAL RECORD of May 15:

> We could take up the Webster nomination. There will be a rollcall vote. Several Senators who are interested are not present.

You indicated a problem with a hold, a Senator in lifting his hold. The majority leader indicated that there was a problem and that Mr. Webster was in contact with the Senator and that we would proceed on it the next week. We are perfectly ready to do that. There is no need to hold William Webster hostage——

Mr. BYRD. Mr. President, who has the floor? Do I have the floor?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. I will continue to yield, but the implication that anybody is holding William Webster hostage is an error.

Mr. SIMPSON. It just occurred to me that it might be happening. It was a curious thought.

However, If I might conclude—and you can certainly conclude me at any time—I would like to say that in listening, somehow there is an attempt to try to connect a failure to take up the defense bill with the unfortunate tragedy involving the U.S.S. *Stark*, and that is certainly far-reaching.

The real reason—and I will share this with the American public and with the respected majority leader—the real reason there is a problem here is very current. It is that there is a situation where the majority party is insisting on a provision in a bill which is objected to by at least 41 people on our side of the aisle, and they cannot accept it. That is called legislating.

It is frustrating, and I am not rounding up the troops to be assured that they continue to do that. We have had some very extraordinary conversations in our causes about this. There is no attempt to embarrass the majority leader, no attempt to stall the Nation's business. We have much to do, and we are ready to help do it on this side of the aisle, and we have proved that. It is now May 19, and we have been trying to be exceedingly cooperative, as I assure you that we will remain cooperative. Just because the gears have all jammed shut in this particular area is not a contrived element on this side of the aisle and I do not want it to appear as such.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader. I must say that the leadership on the other side has been very cooperative up to this time, and has helped to move the program forward and the business of the Senate forward. But we need a little help now.

Mr. President we could use that help on the supplemental appropriations bill, and we could use it also on the defense authorization bill.

The distinguished Senator talks about the nomination of William Webster. That is a nomination that has been on the calendar only since May 1. Today is May 19. That is not an inordinately long time for a nomination to be on the calendar.

I will ask a rhetorical question; I do not expect an answer on this. The nomination of Melissa Foelsch Wells has been on the calendar since March 31. Where is the holdup on that nomination, I ask the distinguished Republican leader? I yield on my time. Who is holding up Mellissa Wells? The Democrats are not.

Mr. SIMPSON. This Republican is not holding up Mellisa Wells.

Mr. BYRD. That Republican is not, but the hold is over on that side.

Mr. SIMPSON. I am aware that that hold is on our side of the aisle, and that is not extraordinary.

I remember that there are certain Senators here who kind of have a consistent holding pattern. They are not limited to our side of the aisle. They feel strongly about particular nominations, and this is obviously one of those. I remember more than several of those when I was in the majority party, looking for the nameless holds.

I would certainly join the majority leader, that at some point in time I would be delighted to roll holds on certain things. I think that is a courtesy that sometimes is overused, and you have been very charitable in granting. But there comes a time when legislating is eventually going to come around the full wheel.

I can remember the hold on Ed Meese. That lasted longer than the hostage situation in Iran.

Mr. BYRD. Mr. President, we can remember and go back and search the records and find all kinds of instances, I suppose. But the point is that the Senate is not getting its business done now.

I apologize to the Senator. I think I interrupted him, but I will be glad to yield further.

Mr. SIMPSON. You have always been courteous to me. Part of my relationship with you is that we try to do our business honestly and directly and without evidence of perhaps our side of the aisle somehow being involved in foreign policy. To hear things such as the unfortunate thing in Iran—those things do not fit the nature of the majority leader as I know him.

Mr. BYRD. The majority leader has a responsibility here to try to get this work done, but I cannot carry that responsibility alone. I have to have some assistance from the other side, and I have had that. But right now I need it and I am not getting it on the defense authorization bill and on the supplemental appropriations bill.

The distinguished Senator from Wyoming says that there should be serious and lengthy discussions about some of the contents of the defense authorization bill. That is quite true. But let us get the bill up. That is all I have been asking for—to get the bill up before the Senate, and let us have those lengthy discussions; let us have those serious discussions.

I do not think I have been unfair to the Republican leadership this afternoon in anything I have said. I have said that we need help from the White House. I take it that the White House wants the supplemental appropriations bill, or certainly wants some of the items in it.

For us to get only nine Republican votes on a motion to waive the Budget Act, that simply is not the kind of support that the White House deserves, if it really wants the bill.

I am just imploring my good friends on the other side to supply some additional votes on the waiver so that we can get the supplemental appropriations bill up and can get cloture tomorrow on the defense bill.

I think it is ridiculous for us to engage in a filibuster in the Senate on a motion to take up as important a bill as the defense authorization bill, when we see what is happening in other parts of the world, and we cannot get a defense authorization bill up. Let us get it up, and let the Senate work its will on it.

I yield to the Senator.

Mr. SIMPSON. Mr. President, may I share with the majority leader that there were 78 of us in this body who voted for Gramm-Rudman-Hollings. That was not a Republican measure or a Democratic measure. That was the Senate working its will.

There is a problem with the supplemental because it has about $2.5 billion that would be added to this year's deficit. We already are adding things willy-nilly to this year's deficit. We are going to be asked to jump over the cliff. We are going to be asked to do a $2.9 trillion deficit "bargain" package for 1989. If we want one in 1988, we are going to get a $2.5 trillion "bargain" package.

We did a recent extension of the debt limit, and we asisted with that, but the supplemental requires 60 votes.

Then there are Senators on both sides of this aisle that cannot bring themselves to vote for the supplemental because of that and perhaps the committee could go back and try to find the offsets for that spending, try to isolate some things out of there.

Let us do the farm issue. I am ready to do that. It is not Republicans who do not want to help the farmers. In fact, that is the most bizarre thing in this place. The Republican administration has given agriculture $26.5 billion, and they hate the administration that gave it to them. So we will never get that one corrected obviously, and we must continue to pour more money down that giant hole. So we do not pay much attention to that. But we could try some offsets.

Senator Warner has made a very constructive suggestion with regard to proceeding with the Levin-Nunn amendment as a separate matter.

All those things have been floated to the other side of the aisle and we are ready to float some more——

Mr. BYRD. Oh, yes, the Senator is ready to float some more.

Mr. SIMPSON. I am.

Mr. BYRD. I say this respectfully with regard to the distinguished Senator, but we have gone over this ad infinitum already, the floating of this idea that has been made that Senator Nunn should take out the arms control language and Senator Nunn has responded to that ad infinitum also.

But the point is, we cannot do anything with that bill until we get it up before the Senate, and I would hope we could get agreement to vote, I would say, at 1 o'clock tomorrow afternoon on the motion to invoke cloture.

Mr. SIMPSON. Mr. President, I share with the majority leader I think that is perfectly appropriate, and we have already delivered five votes from the Republican side of the aisle and maybe there will be more to be delivered, but we are not sitting it out as a great bloc that is trying to just stall the U.S. Senate. That it not what we are up to.

Mr. BYRD. I do not know. I say most respectfully, I do not know that myself.

The only thing I can see is that the Democrats delivered every vote on this side to invoke cloture, and there is something wrong if we cannot get the votes on that side of the aisle to at least get the bill up. This is the defense authorization bill, one of the most important bills that this Senate will consider—if it ever gets around to considering it. We have the national security of the country involved. We have things happening in the Persian Gulf. We have men who have been killed over there. We cannot even get a defense authorization bill up.

I have had it thrown to me two or three times about William Webster. Is the Senator willing to vote on William Webster right now?

Mr. SIMPSON. I could check, Mr. President, with our hotline.

Mr. BYRD. I am going to call up the nomination of William Webster because I think the Senate ought to do something today. We ought to have something to show for the Senate's being in today.

That name has been on the calendar for only 18 days now.

I have had that thrown at me about two or three times as though we on this side were holding Mr. Webster hostage. There has been no thought of holding Mr. Webster hostage to anything.

There have been two Senators who have wanted to have some conversations with Mr. Webster. One Senator had wanted some additional information.

I talked with Mr. Webster and urged that that Senator be given that information. The information came forward apparently, because that Senator has now lifted his hold. He was satisfied.

We have one other Senator who is having a temporary problem. I talked with that Senator today, and he informed me that his conversations were going forward.

There has been no deliberate attempt, but I am going to take away from the other side the idea that this side is holding Mr. Webster hostage.

I hope that the leadership on the other side will then try to break the hold on that side on Melissa Wells. Or does the administration really support her nomination?

Mr. President, I am going to ask unanimous consent that the Senate go into executive session to consider the nomination of William Webster.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, reserving the right to object, and I doubt that I will, and I will not, but let me just say that the same problems that confront someone on this side of the aisle with William Webster are the same things that confronted us with regard to this other lady, and I would not want it to go unaddressed that all day long members of the administration have been working with those on the Democratic side of the aisle and on this side of the aisle on the supplemental, trying desperately to put something together.

Senator Hatfield and Senator Stennis are meeting now as I understand to try to resolve that. That is going on in the back eddies of this remarkable waterway, and that is happening.

I share with the majority leader that either is being done or will be done by tomorrow morning. But we are ready to assist and we are ready to go forward with the nomination of William Webster. We can set a time at 5:30 if that would be appropriate to the majority leader and it is not within our province but would ask that courtesy so we could get the people back from the Iran-Contra hearings and vote on William Webster at 5:30.

I believe I can make that expression of accommodation.

Mr. BYRD. I will be happy to do that. I can vote in the next 5 minutes or at 5:30.

Would the Senator also be agreeable to setting a time for tomorrow's vote on cloture at 1 o'clock? We will just set both votes while we are at it.

Mr. SIMPSON. Mr. President, we have run the hotline on that 1 o'clock hour.

Let me just momentarily give the majority leader information as to whether we can do that. I think hopefully we can.

Mr. BYRD. Very well. Perhaps we are going to make some progress today after all.

Mr. SIMPSON. It is called tortuous movement.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I came over to introduce a bill which I will do in just a moment, but I have been listening to the debate that has been going on here this afternoon. I was over here on the floor this morning when we tried to conduct some business by at least getting the defense authorization bill up. That was blocked.

I have been on the floor a great deal lately and I find the word holding something "hostage" is being used over and over again by Senators on both sides. I think what we are seeing here is the beginning of a confrontation that is to lead up to the elections that are still a year and a half away.

Now, there is no one that I think more highly of in the U.S. Senate than my distinguished colleague from Wyoming who has just talked.

I would suggest that if we had only the Senator from Wyoming to deal with we could move things along very briskly. Anything that I am about to say has nothing whatsoever to do with my high regard for the Senator from Wyoming. He is the whip of the Republican Party and he has a job to do. I think he does it very well.

But I first want to say that I was astonished to hear that there was a hold or a delay or that, of all things, William Webster was being held hostage because I happen to know firsthand that is not the case.

Mr. BYRD. Mr. President, if the Senator will yield, the idea of his being held hostage, hostage to what? Why would we be holding Webster hostage?

Mr. EXON. I do not know, but I was in the Democratic caucus at noon today and I think I will not be chastised if I say that in that caucus the majority leader told all of us that he was prepared to call up the Webster nomination and there was no objection. So, that would have been the place, I think, if there was anyone objecting. So I want to assure my colleague from Wyoming that he just got some bad information if he felt the matter of William Webster was being held hostage or being delayed in any way.

I do not believe it was tied into the matter before us at all except that I certainly think we all feel for the majority leader in the most difficult job that he has to do to move this body ahead.

I have some reservations, Mr. President, about television coming into the U.S. Senate, although I voted for it.

I was worried about it frankly because I thought that I am not sure that I want the people of the United States of America to see how we sometimes misrun their Government.

I think we are seeing an example of that today and we have been seeing an example of that the last few days when because one particular provision of the bill that came out of the Armed Services Committee is objected to on the other side they are not even going to let us bring the bill up on the floor of the United States Senate where they would have the right after that to amend it in any fashion that they wanted to, they could move to delete the language that they object to with regard to the treaty and the differences of opinion and honest ones on both sides on that, they can even filibuster that if they wanted to and require the same things then as we have now when they are filibustering, of all things, even the request to proceed to consideration of the bill, small parts that they object to.

I am also saddened by this, Mr. President, because I think for the first time, since I have been here, and I have served on the Armed Services Committee, it is the first time that I have ever seen a total breakdown of that Armed Services Committee where the differences are very strong oftentimes but still we put those things behind us and we fight it out on the floor and we see who has the votes and that is it.

So I believe that we developing a pattern that I am very fearful that we are going to see a great deal of and the regular viewers of the U.S. Senate on the magical tube will have a chance to see that and see if the fears of the Senator from Nebraska are sound.

I think you are going to see a great deal of this kind of activity in the next few months and maybe the next few years until such time as the people of the United States increase the Democratic majority by 5 votes to 60 votes where we will have the authority then to cut off a filibuster and move ahead with the legitimate business of the United States of America that we are supposedly the most deliberative body in the world are part of.

Now I do not have any objection to filibusters. I have not been involved in very many of them, but I have been involved in some. I am sure that the majority leader has no quarrel with that. But using the filibuster technique on a motion to even bring up the defense authorization bill is, I suggest, a misuse, a total misuse of the filibuster that likely was not envisioned by the framers of the rules that have governed this distinguished body for so long.

I also predict, Mr. President, as I have told the majority leader, that I think we are going to see a series of confrontations between the Democratic-controlled U.S. Senate and the White House—more confrontations than we have seen for a long, long time—because they think they are right on many instances, and they may be. But, second, and equally as important, they think it is good politics. They think it is good politics for the President of the United States, who is under some degree of stress and strain today, to be the forceful leader, who, in willy nilly fashion, sends back veto after veto after veto to the Congress of the United States.

There is a time when we all have to discharge our partisan duties and there is a time that I feel we have to march forward as responsible Members of the U.S. Senate, whether we be elected by our people back home as Democrats or Republicans.

I think that the record will clearly show that, while this Democrat from Nebraska is proud to be a Democrat, on several importance votes I have sided with those on that side, sometimes to the consternation but with the understanding of the majority leader. We have had our discussions, from time to time.

But I cite two matters in particular. The clean water bill—in fact, this Senator from Nebraska, strangely enough—and it was not planned—was the only Democrat in either the House of Representatives or the U.S. Senate that stood with the President in his veto of the clean water bill, because I frankly felt that while clean water was very important and we have a mammonth job ahead of us, the $18 billion appropriation in that bill was higher than it needed to be for the immediate future. Therefore, I voted to sustain the President.

On other votes I have sided with that side when I thought it was important that partisan privilege and partisanship in and of itself had to put aside for the good of the Nation. And I think we have a clear example of that here now with the fact that a filibuster is going on by the Members on that side of the aisle to even bringing up discussion of the defense authorization bill. And I suggest that there are few bills that affect the national security interests of the United States and the free world as this one does.

Certainly, my friends on that side are entitled to their opinions. But they are not, in my view, playing the right course with this filibuster.

I cite another example, Mr. President. And I think this is proof positive of the confrontational type of politics for politics that I see coming. In the budget deliberations this year—I also serve on the Budget Committee—we sat there as a Budget Committee, Democrats and Repubicans, as we always have. And we have had our tit tat time and time again, but never before in all my years of service on the Budget Committee have I ever seen the Republicans sit there, not as blackmailers, not as hostage takers, but as deaf mutes. They sat there as deaf mutes through the whole budget process. They did not offer one single amendment during the confrontation on the budget. They voted no and they were very good at that. And if that is the way they think they should operate, so be it. I think that that is not responsible government in action. The easiest thing in the world is to vote no.

I am keenly disappointed that we cannot work out something on the supplemental appropriations for many reasons, notwithstanding the main one, that the Commodity Credit Corporation is broke and this body, Democrats and Republicans alike, committed themselves to a Commodity Credit Corporation program. Farmers now are planting—this is the planting season, you know, in the spring—and many of them cannot get their money from the Commodity Credit Corporation that is basically an entitlement. I wish that we could solve that problem.

I simply say, Mr. President, that I would hope that we could begin to clean up our act somewhat; whatever responsibility we as Democrats have for that. And it is not a one-sided issue totally. But I think it is time to begin to come together because we have an awful lot of serious problems to deal with and we cannot deal with them if we are going to use the veto threat and have a whole series of filibusters on even such a mundane matter as bringing up the defense authorization bill. I hope we can get back on track.

Mr. DANFORTH addressed the Chair.

Mr. BYRD. Mr. President, I believe, if the distinguished Senator from Missouri will wait just a very short moment, I believe we are about to reach an agreement on the time for a vote on the Webster nomination and on a vote on cloture tomorrow.

UNANIMOUS CONSENT AGREEMENT—CLOTURE VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture tomorrow occur at 1 p.m. and that the automatic quorum call under the rule be waived and that no quotum call be in order prior to that vote or within the hour prior to that vote.

The PRESIDING OFFICER (Mr. DASCHLE). Is there objection? Hearing none, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—VOTE ON THE WEBSTER NOMINATION

Mr. BYRD. Mr. President, I ask unanimous consent, as in executive session, that the vote on the nomination of Mr. Webster occur this afternoon at 5:45 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. May I ask the majority leader to ask that the time be equally divided prior to that time and that it may be yielded back if there be remaining time?

Mr. BYRD. Yes; that is a good suggestion.

The PRESIDING OFFICER. Hearing no objection to the majority leader's request, it will be so ordered.

Mr. BYRD. I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Missouri may proceed for 2 minutes as in morning business, that he may be permitted to speak for 2 minutes; that upon the conclusion thereof the Senate proceed to executive session for the consideration of the nomination of Mr. William Webster, and that the time between that moment and the hour of 5:45 p.m. today be equally divided today between the distinguished Senator from Oklahoma, Mr. BOREN, the chairman of the Intelligence Committee, and the distinguished Senator from Maine, Mr. COHEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order, as in executive session, at this moment to ask for the yeas and nays on the Webster nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader and all Senators who have contributed in bringing these agreements into effect.

Mr. SIMPSON. Mr. President, may I just respond that it is always a tremendous pleasure to work with the majority leader. He has always been most courteous and most extraordinary to me even when we were in spirited moments.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. SIMPSON. Mr. President, may I inquire, so we might know, if the Webster vote might be the last vote this evening? Is that appropriate, too?

Mr. BYRD. Mr. President, the answer is yes, may I say.

CLOTURE MOTION

Mr. BYRD. Mr. President, so that all Senators will be on notice, I send another cloture motion to the desk while the Senate is on the motion to proceed.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Robert C. Byrd, John Melcher, Quentin Burdick, Wendell Ford, Paul Sarbanes, Jim Sasser, Bill Proxmire, Brock Adams, Max Baucus, Barbara Mikulski, John Glenn, Timothy Wirth, Frank Lautenberg, Patrick Leahy, Daniel K. Inouye, George Mitchell, J.J. Exon, Dale Bumpers, John F. Kerry, and Terry Sanford.

Mr. BYRD. Mr. President, in response to the question by the distinguished assistant Republican leader, there will be no more rollcall votes today following the vote on the nomination of Mr. Webster.

Mr. SIMPSON. I thank the majority leader.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

OPPOSITION TO IMPOSITION OF CERTAIN TAXES BY THE EUROPEAN COMMUNITY

Mr. DANFORTH. Mr. President, in late March the Senate passed S. Con. Res. 21, which expresses the sense of the Congress that the administration should vigorously oppose the establishment of a tax on vegetable and marine fats and oils by the European Community, and further states that in the event that such a tax is imposed, then our Government should adopt strong and immediate countermeasures.

Last week, the European parliament met on this matter and did recommend the imposition of such a vegetable oil tax. The effect of that tax would be a tax, the same as a tariff, equal to 90 percent of the selling price of soybeans in the European market.

The European market accounts for nearly half of our export market for soybeans.

This week, the agricultural ministers of the European Community are taking up the question of the vegetable oil tax.

I believe, and Senator HEFLIN believes, that it is exceptionally important for us to get the message to the European Community that this is a very serious matter. When we talk about trade wars, this really comes as close to a real trade war possibility as anything on the horizon.

Therefore, Senator HEFLIN and I are circulating a letter to Hon. Willy De Clera, who is a commissioner of the European Community, to reiterate the very strong position of the Congress with respect to the vegetable oil tax before any action is taken by the agricultural ministers of the European Community. I hope to have the letter present during the rollcall vote on the Webster nomination. I would invite all interested Senators to sign the letter. So far we have about a dozen or so from both parties who have signed the letter. I would welcome any Senators who are concerned about this proposed vegetable oil tax to sign on during the Webster vote.

The PRESIDING OFFICER. The Senator's time has expired.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of William H. Webster, which the clerk will report.

NOMINATION OF WILLIAM H. WEBSTER TO BE DIRECTOR OF CENTRAL INTELLIGENCE

The legislative clerk read the nomination of William H. Webster, of Missouri, to be Director of Central Intelligence.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I am pleased to speak as chairman of the Senate Select Committee on Intelligence in favor of the nomination of Judge William H. Webster to be the Director of Central Intelligence.

The Senate Select Committee on Intelligence reported out this nomination, by unanimous vote, on May 1, 1987, after an exhaustive review of his qualifications, character, judgment and experience. The committee examined in detail Judge Webster's views regarding the role of DCI as well as ways in which, working together, the executive and legislative branches will be able to strengthen the congressional oversight process.

In our deliberations, the Intelligence Committee took great care to pursue at length all issues pertinent to the confirmation process, including issues that emerged during the course of the hearings. These matters involved a number of topics including Judge Webster's record during his 9 years as Director of FBI. In particular, the committee carefully and painstakingly addressed concerns raised about FBI links to Lt. Col. Oliver North in the Iran-Contra matter.

In my judgment, the committee's findings fully supported its unanimous vote to submit Judge Webster's nomination favorably to the U.S. Senate. Based upon the information available to the Intelligence Committee and the sworn testimony of Judge Webster, I personally, and as chairman of the Senate Select Committee on Intelligence, recommend that the Senate confirm Judge Webster's nomination. It is my view that Judge Webster is fully qualified in all respects to provide the leadership needed by the Intelligence Community at this critical time.

I would add that I hope the Senate will act promptly on this nomination.

While Robert Gates has done an outstanding job as Acting Director, the position of Director of Central Intelligence is an extremely sensitive and important one to our national security and requires permanent leadership as soon as possible. And Judge Webster is clearly qualified to fill that role.

Mr. President, in addition I will submit for the record a more complete summary of the work of the Senate Select Committee on Intelligence in a form of a letter to Senator BYRD and Senator DOLE from Senator COHEN and myself as chairman and vice chairman of the Committee.

Mr. President, I was particularly impressed during the confirmation process with the commitment of Judge Webster to the oversight process. He made it clear that he will place trust in the committee; that oversight is legitimate in his eyes; that we will attempt, working together, to develop the kind of full and candid relationship that will benefit the country.

Much has been said in the special committees investigating the Iranian affairs over the last several days about the need to rebuild a bipartisan spirit in this country, particularly when it comes to national security policy and foreign policy. We must be able to pull together so that we have one foreign policy and one national security policy that is the American policy. Not a Republican policy or a Democratic policy, not a White House policy or a congressional policy, but one that will serve the entire Nation.

I am convinced that working together with this candid spirit we can build, with Judge Webster, through his leadership, the kind of mutual trust that will benefit this Nation and will benefit our national security interests.

Mr. President, I ask unanimous consent that the full text of the letter which I referred to earlier citing in detail the considerations of the committee, the nature of the evidence which we considered, and the process which we followed, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 8, 1987.

Hon. ROBERT C. BYRD,
Majority Leader,
Hon. ROBERT DOLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD and SENATOR DOLE: In our capacities as Chairman and Vice Chairman of the Senate Select Committee on Intelligence, we would like to submit for the consideration of the Senate a summary of the Committee's hearings and other inquiries with respect to the nomination of Judge William H. Webster to be Director of Central Intelligence. The nomination itself was reported to the Senate on May 1, 1987, pursuant to a unanimous vote by the Intelligence Committee.

We have taken great care to examine all the issues that emerged in the course of the hearings, and Judge Webster has responded under oath to all relevant questions. This letter is designed to give the Senate a description of the Intelligence Committee's inquiry prior to formal debate on the nomination. We believe that the Committee's findings support its unanimous vote to recommend, based upon the information available to us, that the Senate confirm Judge Webster's nomination. In particular, based on the sworn testimony of Judge Webster and other information made available to the Committee, concerns raised about FBI links to Lt. Col. Oliver North and the Iran-Contra matter were carefully considered by the Committee and were resolved by the Committee.

We hope the Senate will be able to act promptly on this nomination. The position of director of the CIA is an extremely sensitive and important one to our national security and needs to be filled by a permanent director as soon as possible. It was the assessment of the Committee that Judge Webster is qualified to provide the leadership needed by the intelligence community.

BACKGROUND

On May 1, 1987, the Select Committee on Intelligence voted 15-0 to report favorably to the Senate on the nomination of Judge William H. Webster to be Director of Central Intelligence. The Committee undertook an exhaustive review of the qualifications of Judge Webster to head the Central Intelligence Agency, to manage the U.S. intelligence community, and to advise the President and the National Security Council on intelligence matters. The Committee focused on Judge Webster's conception of the role of the DCI, especially in relation to congressional oversight, and on his stewardship as Director of the Federal Bureau of Investigation. This letter summarizes the Committee's inquiry, with particular attention to issues that arose with respect to matters that are currently the subject of investigations by an Independent Counsel and the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Resistance.

The Committee received sworn testimony from Judge Webster at three public hearings on April 8, 9, and 30 and at two closed hearings on April 9 and May 1. The Committee also examined documents made available by the FBI, the Select Committee, and the Independent Counsel. Committee staff interviewed officials of the FBI and other elements of the Department of Justice.

The closed hearings dealt with classified documents which suggested the possibility of improper efforts by staff members of the National Security Council to influence the FBI. Judge Webster testified under oath at the closed hearings that he was entirely unaware of these apparent efforts. Other information provided to the Committee indicated that no NSC staff contacts with the FBI in fact occurred with respect to the classified matters discussed in the closed hearings.

The Committee explored FBI relationships generally with Lt. Col. Oliver North because of the importance of Judge Webster's role in initiating the FBI investigation of NSC staff involvement in the Iran arms sales. The FBI investigation began on November 26, 1986, the day after Attorney General Edwin Meese announced at a news conference that he had discovered evidence of diversion of Iran arms sale proceeds to the Nicaraguan contras. In the days before the Attorney General's announcement, documents in NSC files appear to have been destroyed. Moreover, the Attorney General's interviews of Lt. Col. North and National Security Adviser John Poindexter, among others, during the period November 21 through 25, were conducted without the assistance of experienced FBI investigators.

According to testimony received by the Committee, Attorney General Meese talked to Judge Webster on November 21, 1986, about the inquiry Mr. Meese was undertaking for the President. Judge Webster testified that he offered the FBI's assistance, but Mr. Meese declined and Judge Webster did not press the matter. A key issue addressed by the Committee was whether Judge Webster's prior knowledge of questionable activities by Lt. Col. North should have caused him to insist more strongly on FBI participation in the Attorney General's inquiry. Such participation might have led to the securing of NSC files at an earlier date and to more thorough conduct and reporting of the interviews with North and Poindexter, among others.

This concern was intensified when the Independent Counsel's office called to the Committee's attention an internal FBI memorandum dated October 30, 1986, and initialed by Judge Webster, which cited the opinion of a senior Justice Department attorney that Lt. Col. North might become involved in a criminal investigation by an Independent Counsel. The first two public hearings covered this matter, as well as a request by Lt. Col. North through Attorney General Meese also on October 30, 1986 to delay an FBI investigation of Southern Air Transport involvement with private support to the Nicaraguan contras.

After the initial public hearings were completed, the FBI reported to the Committee other instances where Lt. Col. North sought to influence FBI investigations, and the FBI provided information in response to press allegations of additional North-FBI contacts. This information raised the question whether Judge Webster had ignored or not responded to warning signs to stop North's activities. These matters were addressed at the final public hearing, and we believe that the record speaks for itself in that regard.

The entire Senate is generally familiar with Judge Webster's performance as FBI Director over the past nine years. The Judiciary, Intelligence, and Appropriations Committees have reviewed many aspects of the FBI's work under his direction, and the FBI's conduct in the ABSCAM case and other undercover operations was examined in depth during 1982 by the Senate Select Committee to Study Undercover Activities of Components of the Department of Justice. In considering Judge Webster's qualifications to be Director of Central Intelligence, the Intelligence Committee has taken this record into account and has questioned the nominee about certain aspects of FBI conduct during his nine years as Director.

The results of the Committee's hearings on Judge Webster's nomination may be summarized as follows:

CONGRESSIONAL OVERSIGHT

The conduct of the Executive branch in the sale of arms to Iran raised questions of noncompliance with legal requirements for intelligence operations. Therefore, the Committee questioned Judge Webster closely on his understanding and intentions with regard to those legal requirements.

Section 501 of the National Security Act of 1947, as amended in 1980, generally requires the Director of Central Intelligence and the heads of all departments, agencies, and other "entities" of the Government to give the House and Senate Intelligence Committees prior notice of covert action operations such as the Iran arms sale. A special provision allows the President to limit prior notice to eight Committee and Congressional leaders. The law also recognizes the possibility that the President may assert a claim of constitutional authority to withhold prior notice in extreme circumstances, but requires in such cases that the Committees be notified "in a timely fashion."

Judge Webster pledged to the Committee that he would recommend to the President against withholding notification of the Committees under any except the most extreme circumstances involving life and death and then only for a few days. Judge Webster also stated that he would like to see the Committees notified "in less than 48 hours if it's possible to do so in a rational, reasonable way."

If he could not support the President's decision regarding covert action notice, Judge Webster testified, he "would have to advise the President of my position on that, and if he would not authorize me to speak to you, I would have to leave." Asked whether he would then inform the Committees, Judge Webster said he "would do so to the extent permitted me by law and I know of no reasons why I could not, but only after I had resigned."

Other legal issues were raised by the absence of a Presidential Finding, as required by Section 662 of the Foreign Assistance Act of 1961, as amended (the Hughes-Ryan amendment), for CIA assistance to the transfer of arms to Iran in November, 1985. On the question of whether CIA covert action could be authorized by a retroactive Presidential Finding, Judge Webster expressed his belief that "an 'ex post facto' finding is contrary to the clear spirit of the statutory requirement." In his view, a retroactive Finding would not give legality to the action and would be merely "damage control."

Judge Webster testified that a strong legal case could probably be made for an oral Finding in an emergency, but he said he believed a written Finding should follow and he "wouldn't quit" until he had one. The purpose of a Finding, he explained, is to state in writing the basis for the action so that it can be reviewed and understood by everyone with responsibility, including the oversight committees.

The fact that the Iran arms sales were conducted by the National Security Council staff raised the issue of whether covert action operations by the NSC staff are covered by the legal requirements for intelligence operations. Judge Webster made clear his belief that the NSC staff is an "entity" subject to the requirements to report to the Intelligence Committees. If the National Security Advisor failed to notify the Committees, Judge Webster said, he would do so himself.

Asked about the desirability of sunset provisions for covert actions, Judge Webster stated that FBI undercover operations are already subject to periodic review and that there should be regular formal review of all covert actions by the DCI and the oversight committees.

Judge Webster stressed that his nine years of testifying as FBI Director on counterintelligence and counterterrorism demonstrate his support for congressional oversight. He stated that he believes he must have congressional support as DCI and that he intends to enhance the capabilities of the intelligence community to serve the national interest "aggressively, objectively and professionally . . . with fidelity to our Constitution, our statutes and all lawful orders. . . . "

GOALS AS DCI

Apart from oversight issues, Judge Webster discussed his goals as DCI. He explained that he believes in the traditional role for the DCI and therefore will not serve as a member of the Cabinet so as to remove any possible perception that he has a political role in the Administration. He said he has been promised by the President and the National Security Adviser that he will have direct access to the President and that he will be included in Cabinet and other inner circle meetings where emerging issues that depend on accurate intelligence are being discussed. He will participate with the National Security Adviser in making certain the President is aware of intelligence affecting national security, but will also exercise the option to impart "his own unvarnished views" to the President alone.

Judge Webster's primary goal as DCI, as expressed at the hearings, is to gather intelligence about foreign capabilities and intentions to help policymakers make sound decisons. He sees the task as not to shape or manipulate policy, but to provide information in which policymakers can place maximum confidence for its integrity. Covert action should, in his view, be conducted in support of legitimate national foreign policy goals controlled by "careful analysis of ideas and evolution of the plans, a Finding by the President that supports them and oversight by the Intelligence Committees of the Congress to represent the American people in terms of what we are doing."

Among other specific objectives, Judge Webster testified that he places great emphasis on human intelligence and recognizes the need to maintain momentum in recruitment and retention of people with the "enormous wisdom, talent and selfless dedication" of the present men and women in the intelligence community.

Federal law establishes a maximum ten-year term for the FBI Director. When questioned, Judge Webster said he would support a similar law for the DCI to remove the office from the political arena. Further, he will take steps to stand away from political activity and concerns in making speeches and attending functions. He does plan to help gain support from the American people for proper intelligence gathering activities by appropriate public statements.

FBI-NORTH CONTACTS

As noted above, the Committee examined a series of contacts between Lt. Col. North and the FBI during 1985 and 1986. Judge Webster testified that, to the best of his knowledge, in no instance did FBI personnel convey information to North outside official, authorized channels. On two occasions North directly requested the FBI to delay activity in a criminal investigation. Judge Webster testified that in neither case was the request properly reported to him. In addition to Judge Webster's sworn testimony, the Committee reviewed key documents and Committee staff interviewed FBI and Justice Department officials regarding these North requests.

DISSEMINATION OF INVESTIGATIVE REPORTS

In a letter dated April 22, 1987, Judge Webster submitted to the Committee the results of an internal FBI inquiry into press reports that the FBI had furnished Neutrality Act investigative reports to North. That inquiry revealed that in January 1985 North contacted the FBI office in Los Angeles to warn that a domestic group's planned invasion of Nicaragua would do extreme damage to the contra movement. North requested an update of the Neutrality Act investigation of these plans initiated by the FBI in December 1984. The Los Angeles FBI office reported this contact and request by North to FBI Headquarters and to the other FBI field offices investigating the case. When the Miami and Houston field offices provided to FBI Headquarters the results of their investigations on January 5 and 10, 1985, a Headquarters supervisor disseminated the reports to the NSC. It was the supervisor's judgment that the information could have been of use to the NSC for foreign policy considerations.

A summary of the Miami report and the report itself, were sent to Judge Webster, who initialed it to the file. The note indicated that the report was being disseminated to several federal agencies including the NSC without reference to North.

When the FBI's Houston office closed its Neutrality Act investigation on September 12, 1985, FBI Headquarters again disseminated its report summarizing the results to the NSC and several federal agencies. The Headquarters supervisor did so because it was consistent with prior handling of communications in this case.

At the confirmation hearings, Judge Webster reported these results of the internal FBI inquiry and described the matter as having been properly handled by FBI officials. According to Judge Webster, the dissemination of reports to the NSC was handled in accordance with established practices for dissemination to the State Department and other federal agencies of FBI information and intelligence relating to the conduct of foreign affairs.

INVESTIGATION OF THE "PRINCE"

The two requests to the FBI from North for delays in criminal investigative activity occurred in connection with the case of an alleged bank fraud committed by a self-described "Saudi Prince" going by the name of Ibrahim Al Masoud—in fact, not a Saudi prince but an Iranian named Mousalreza Ebrahim Zadeh who was ultimately convicted in 1987. The investigation was conducted by FBI Field Office in Philadelphia, in conjunction with the U.S. Attorney's office in Philadelphia. In a summary memorandum volunteered to the Committee after Judge Webster's initial confirmation hearings, the FBI advised that North had asked the FBI to delay attempts to interview the "Prince" in July, 1985. The new information also indicated that North may have tried in April, 1986, to delay a grand jury appearance in the case by Richard R. Miller, the President of International Business Communications, Inc., a public relations company and a "consultant" to the National Security Council.

The first North request was made on July 18, 1985, when an FBI Agent in the Washington Field Office inteviewed North regarding the "Prince," following up leads sent by the Philadelphia FBI office. The "Prince" had persuaded a Philadelphia bank to accept a $250,000 check and transfer $210,000 to him before the check cleared. When the bank discovered that the check had been written on a closed account, the matter was referred to the FBI which opened a bank fraud investigation. Shortly thereafter, the Philadelphia office reported a statement by Miller that the "Prince" was closely associated with the National Security Council, and the Washington office determined that Miller's contact on the NSC staff was North. The FBI Agent assigned to the case in the Washington office requested and received approval to interview North from the White Collar Crimes Section Chief at FBI Headquarters.

After the interview, the FBI Agent prepared a five-page teletype message reporting what transpired. According to this report, North specifically requested that attempts by the FBI to interview the "Prince" be held in abeyance so as not to deter the "Prince" from making a substantial contribution to the Nicaraguan contras. The FBI Agent told North that his request would be made known to FBI Headquarters.

The teletype message was addressed to FBI Headquarters and to the FBI Philadelphia office on a "Priority" basis and to the New York and Sacramento offices on a "routine" basis. Judge Webster testified that this teletype message was never received by FBI Headquarters officials or by the Philadelphia or Sacramento offices because of an "unusual technological failure." Judge Webster submitted a detailed explanation of how this could have happened because the FBI was in a period of transition between two teletype systems. The message was received and filed in the New York office, which did not have principal responsibility for the case. It was also filed in the Washington Field Office, where it originated, and was discovered there in April 1987, when the Washington office was asked to pursue a lead in an investigation by the FBI Sacramento Field Office of the wife of the "Prince." Committee staff interviewed FBI officials to establish in detail the probable reasons for the apparent failure of the FBI telecommunications system in this case, and Judge Webster submitted a detailed technical explanation.

The failure of FBI Headquarters officials to receive the July 18, 1985, North interview report was especially significant because North discussed with the FBI Agent his fundraising efforts for the contras. The report quoted North as stating that he advised Kevin Kattke (who had originally told North about the "Prince") that inasmuch as public law forbade expenditures of government funds to aid Nicaraguan insurgents, it was inadvisable for a member of the NSC (North) to meet with the "Prince" directly. The report said North confidentially advised the interviewing FBI Agent that the NSC maintained indirect contact with the "Prince" through Miller for a lengthy period of time due to the desperate need for private funds by Nicaraguan freedom fighters since being cut off from U.S. funding.

The interview report also quoted North as stating that Miller's work for the NSC concerned the funneling of private funds to Nicaraguan freedom fighters, that the "Prince" was offering to provide his oil profits to support the Nicaraguan rebels, and that North had discussed the "Prince's" offer personally with President Reagan and National Security Adviser Robert McFarlane as recently as June.

Judge Webster testified that the July 18, 1985, North interview report should have been referred to him and that, if he had seen it, he would have recognized the significance of the potential violation of law by North. Judge Webster said there would have been substantial interest in a request to delay an interview of the subject of an investigation based on aid to the contras, because that would have been "completely improper." Judge Webster also sent the Committee a memorandum on the internal FBI inquiry into this incident stating that the FBI Agent in the Washington office did not comply with North's request for a delay in efforts to locate and interview the "Prince." Committee staff interviews and a contemporaneous document corroborate this statement.

The Agent in the Washington office sent another teletype message to FBI Headquarters on July 31, 1985, referring to the July 18 message and reporting a further discussion with North in which North advised that Miller and the "Prince" were in Europe attempting to arrange funds for the contras. According to the internal FBI inquiry, this was the first knowledge by the White Collar Crimes Section at FBI Headquarters of North's facilitating the channeling of funds to the contras, and it was not disseminated outside the Section. Judge Webster testified that he did not receive this information.

In September, 1985, the Washington office agent requested and received Headquarters approval by telephone to notify North of information received from another FBI office establishing that the "Prince" was an Iranian who had previously engaged in bank frauds. A subsequent teletype to FBI headquarters reported that North had been notified and referred back to the original request to interview North (but not to the July 18 message reporting the interview).

The Committee did not examine in detail the question of whether supervisory agents at FBI Headquarters or the agent in the Washington office should have taken further action to bring the information about North's activities to higher levels in the FBI. The Committee could find no evidence that Judge Webster was aware of any of these FBI contacts with North until April 13, 1987, when he made the information available to the Committee.

A second North request to the FBI was made in April 1986, when North contacted FBI Executive Assistant Director Oliver "Buck" Revell with respect to the testimony of Richard Miller before the grand jury in Philadelphia investigating the "Prince." The April 13, 1987, summary of the FBI internal inquiry into this matter stated that Revell recalled "contacting an Assistant United States Attorney in Philadelphia on a secure telephone line and requesting the postponement of Miller's appearance based on the NSC's request." On April 17, 1987, Judge Webster sent the Committee a letter from Revell in which Revell revised his recollection significantly. According to this letter, Revell now recalls that on April 30, 1986, he inquired about the scope of questioning of Miller but did not request a postponement of Miller's appearance. This revision was significant because Revell stated that he had not informed Judge Webster as he should have done if a postponement was requested. Revell's revised account is corroborated by a memorandum prepared by the Assistant U.S. Attorney in Philadelphia on May 2, 1986, which recounts the conversation with Revell and makes no mention of a request for postponement. Revell's letter of April 17, 1987, states that he did not bring this matter to the attention of Judge Webster and did not consult with the Department of Justice because there was no action requested by him of the Assistant U.S. Attorney.

In response to Committee questions, Judge Webster testified that he had been disturbed to discover in April 1987 the material indicating Revell's contact with the Assistant U.S. Attorney. He said he had not previously known of Revell's contacts. Judge Webster characterized the contact as "most unusual" and said that Revell should have consulted him in advance and that Revell normally was very careful to keep him informed and had expressed regret to Judge Webster about his unintentional mistake in this case. Judge Webster also stated that, if he had known of North's request, he would have referred it to the Justice Department.

KNOWLEDGE OF IRAN ARMS SALES

Judge Webster testified that in early August 1986, Revell told him that North had advised members of the Operations Subgroup of the NSC Terrorist Incident Working Group (chaired by North) of the Iran arms sale initiative. North had said that the Attorney General had reviewed and approved the Presidential Finding that authorized the activity. Judge Webster testified that he raised the matter shortly thereafter with Attorney General Meese, who confirmed that he was aware of the initiative and had reviewed a Finding although it may have been a draft Finding. Judge Webster testified that he did not inquire and was not advised as to whether the Intelligence Committees had been notified.

SOUTHERN AIR TRANSPORT INVESTIGATION

The Committee examined the circumstances surrounding a delay in the FBI investigation of the Southern Air Transport Company in connection with the Nicaraguan downing of a C-123 aircraft engaged in delivering arms to the contras in early October 1986. As with the FBI—North contacts discussed above, the Committee's inquiry included examination of key documents and staff interviews with FBI and Justice Department officials, as well as Judge Webster's sworn testimony. Committee staff developed the following chronology on the basis of this information.

On October 8, 1986, the FBI's Miami Field Office opened a preliminary inquiry into possible Neutrality Act violations involving Southern Air Transport, on the basis of press reports that SAT had serviced the C-123 aircraft shot down in Nicaragua. That evening, Lt. Col. North called FBI Executive Assistant Director Revell and told him that SAT was involved in "that other initiative," meaning U.S. arms shipments to Iran. Revell replied that the FBI would not investigate "authorized" activity. Revell also called the Miami Field Office to determine the nature of the FBI's efforts on the case.

On October 10, Revell met with the FBI Terrorism Section Chief and Deputy Assistant Attorney General Mark Richard from the Justice Department's Criminal Division. They agreed that the FBI should continue its preliminary inquiry, while the CIA should be asked about any authorized activity by Southern Air Transport.

On October 14, Revell briefed Judge Webster, who had just returned from an out-of-town trip, on North's concern.

On October 30, Associate Attorney General Stephen Trott called Judge Webster on a secure line and asked, at the request of the Attorney General, that "any non-urgent work" on the SAT investigation be suspended for 10 days. Trott said that there were sensitive hostage negotiations going on and that the Attorney General, while not wanting to "wreck the investigation," was trying to "permit a good climate for the negotiations to the extent possible." Judge Webster called the Assistant Director in charge of the FBI Criminal Investigative Division, Floyd Clarke, who said the investigation was "just at the preliminary stages" and could readily be suspended. Judge Webster added that Clarke should tell him if the suspension caused problems. Those calls were described in a memorandum from Judge Webster to Clarke the next day.

On November 10, FBI officials began to ask Justice Department officials whether they could resume the SAT investigation. Further contacts were made on November 12, 13, and 18.

On November 11, FBI Assistant Director Clarke told Judge Webster that the 10 days were up; Judge Webster agreed to call Associate Attorney General Trott.

On November 12, a memorandum from the Internal Security Section Chief in the Justice Department's Criminal Division informed Assistant Attorney General William F. Weld that, "[u]nless you advise to the contrary, I intend to advise the Bureau that it is free to resume its investigation without further delay."

On November 20, Associate Attorney General Trott informed FBI Executive Assistant Director Revell that the suspension was lifted.

On November 26, FBI Headquarters told the field to resume its preliminary inquiry.

The Committee also learned that on November 6 and 14, 1986, Lt. Col. North called Revell to ask his assistance in stopping a Customs Service investigation of Southern Air Transport. Revell referred North to Associate Attorney General Trott and, on both occasions, asked whether North knew about SAT involvement in arms shipments to the contras. According to Revell, North replied in the negative.

At the public hearings, questioning of Judge Webster focused on his reasons for complying with the Attorney General's request to suspend the investigation. Judge Webster stated that he was already aware of Southern Air Transport's role in arms shipments to Iran, from his briefing by Revell on October 14, so he understood and accepted the sensitivity of the matter. Assistant Director Clarke told him that a follow-up interview with an informant was all that remained in the inquiry and that this could easily be postponed. Once he had been assured by Clarke that the suspension would not hurt the FBI investigation, Judge Webster saw no need to question the Attorney General's judgment.

Judge Webster was also asked why he had not reacted, on October 30 or later, to an FBI memorandum which he initiated, dated October 30, that included a recommendation by the Justice Department's Counsel for Intelligence Policy that North be excluded from receiving confidential FBI intelligence because "North may soon be involved in a criminal probe concerning U.S. activities in Central America by a special prosecutor. . . ." This recommendation also noted that "it would not be possible to advise other persons on the National Security Council to be assured the technically derived information would not be made available to Lt. Col. North."

Judge Webster explained that he did not read this memorandum until after suspending the SAT investigation and that, in any case, the memorandum did not make an impression on him because it was part of a typically large stack of informational memos and did not require him to take any action.

MEESE INQUIRY

On November 21, 1986, Attorney General Meese was asked by the President to conduct an inquiry to determine an accurate chronology of the Iran arms sales. According to the Attorney General's testimony before the Committee on December 17, 1986, he met with Judge Webster on the day that he began his inquiry. Meese testified that when he informed Judge Webster of the inquiry, "we agreed that there was no criminal matter involved and that it would not be appropriate for the FBI to be brought in." He added that Judge Webster had offered the FBI's help whenever the Attorney General might wish it.

At the confirmation hearings, the Committee questioned Judge Webster regarding his November 21 meeting with Attorney General Meese. Judge Webster agreed with the Attorney General's description of the meeting, saying that the conversation regarding the Iran inquiry was a short, casual one and that Judge Webster, like the Attorney General, had not seen the Iran arms sales as a criminal matter on November 21. Judge Webster also noted that he had previously asked the Attorney General whether a Presidential Finding for the arms sales had been cleared with Meese, and had been told that it had. In light of these facts, Judge Webster testified that he did not know of any material ways in which FBI involvement at that point would have changed the manner in which the inquiry was conducted.

Judge Webster was asked why the October 30 memorandum expressing a senior Justice Department official's concern about North did not lead him to entertain the possibility that the Iran inquiry could get into criminal matters. He replied that although he had read that memorandum, it had not stuck in his mind and had no impact upon his thinking on November 21. Judge Webster similarly stated that he had not thought about the possibility that the arms sales to Iran would violate the Arms Export Control Act, because the Act was not something that the FBI commonly handled and because he knew there had been a Presidential Finding. He also stated that, although he knew that Southern Air Transport was involved in the Iran arms sales and might be involved in the supply of arms to the contras, neither that fact nor the White House interest in suspending the SAT investigation had prompted any concern about possible criminality in the Iran arms sales.

A major line of questioning concerned reported document destruction by members of the National Security Council staff between November 21 and the initiation of the FBI investigation on November 26. Judge Webster testified that he met with Attorney General Meese on November 25, after the public announcement of discovery of possible diversion of funds to the contras. At that meeting Judge Webster learned that the Justice Department was going to ask all agencies to preserve relevant records. When the FBI entered the case on the 26th, they were informed by a White House official that documents had been secured on the night of the 25th. Assistant Director Clarke testified that FBI Agents went to the NSC offices and confirmed that the documents were under seal on the 26th.

Judge Webster said that on December 4, when he stated publicly that the FBI had no knowledge of any document destruction, that was an accurate statement. He declined to discuss what knowledge the FBI might now have, because of constraints placed by the Independent Counsel's investigation. Judge Webster did note, however, in response to questions that North's secretary, Ms. Fawn Hall, had not yet begun to cooperate with the FBI as of December 4, 1986.

OTHER FBI INVESTIGATIONS

Committee Members questioned Judge Webster about the FBI's conduct in several other specific investigations.

(1) Nevada Cases. In the course of impeachment proceedings brought against U.S. District Judge Harry Claiborne, allegations were made of a "vendetta" against Judge Claiborne by the Special Agent in Charge of the Las Vegas, Nevada, FBI Field Office, Joseph Yablonsky. Senator Hecht cited specific instances of alleged misconduct by Agent Yablonsky during the course of the investigation. In response, Judge Webster noted that the FBI's Office of Professional Responsibility investigated allegations and that Agent Yablonsky was officially censored and placed on probation.

(2) FBI "Targeting." In connection with the FBI's ABSCAM and Claiborne cases, Members questioned whether the FBI had "targeted" individuals for investigation. Judge Webster stressed that it is not FBI practice to target individuals for investigation. While it is appropriate to target problems (e.g., organized crime, labor racketeering), Judge Webster emphasized that it is not appropriate to target individuals. Before the FBI opens a criminal investigation of an individual, the Bureau must have reason to believe a person has been or will be engaged in criminal activity.

Judge Webster recognized shortcomings in the FBI's handling of the ABSCAM case. He stated that the FBI had incorporated recommendations made by the Senate Select Committee to Study Undercover Activities into its undercover practices and procedures which had improved the FBI's operations.

(3) PFLP Case. Earlier this year, acting on the basis of FBI information, the Immigration and Naturalization Service arrested several aliens who were members of the Popular Front for the Liberation of Palestine (PFLP). At issue was what authority the FBI had used to originate the investigation of PFLP members who had not committed terrorist acts in this country. Judge Webster explained that the FBI had acted under classified Attorney General's Guidelines which permit investigations of organizations that the FBI has reason to believe might be engaged in terrorist activities. He maintained that the PFLP is a recognized worldwide terrorist organization and that the FBI was concerned an infrastructure in the United States could develop and become the basis for support of terrorist activities.

(4) Warrantless Searches. Members questioned Judge Webster about the FBI's use of warrantless searches for intelligence purposes. He replied that the FBI operated under the authority of the classified Attorney General's Guidelines for Foreign Counterintelligence Investigations and that FBI Agents made full affidavits of facts supporting the authorization of any warrantless search. Judge Webster stressed the very limited use of warrantless searches in the FBI's work and maintained that current procedures were satisfactory, although he said the FBI would be willing to work with Congress on legislation requiring a court order comparable to the Foreign Intelligence Surveillance Act procedures for wiretapping. He

agreed to provide the Committee with additional classified information concerning the use of such authority in specific instances.

(5) Varelli Allegations. Representative Patricia Schroeder has been the subject of allegations by a former FBI informant named Frank Varelli that she was listed in an FBI Terrorist Photo Album. Judge Webster stated that Rep. Schroeder had never been in the FBI album, that she was not the subject of any FBI investigation, and that he had responded to her concerns personally.

Judge Webster was questioned about allegations that certain domestic groups actively opposing U.S. foreign policy in Central America were improperly investigated by the FBI and that the FBI's handling of informants in such investigations was inadequate, especially in light of the FBI's recent experience with former informant Varelli. Members asked what mechanisms were in place to ensure that investigations of domestic political groups are handled properly and lawfully.

According to Judge Webster, the primary authority for initiating such investigations is the Attorney General's Guidelines for Domestic Security Investigations which specify the conditions under which an investigation can be launched. With respect to the handling of informants, Webster emphasized that there are substantial FBI Manual provisions dealing with informants which require strict accountability and record-keeping. Allegations of impropriety are subject to investigation by the Office of Professional Responsibility. Judge Webster subsequently advised the Committee in a response for the record that the investigation in which Varelli was used as an informant was conducted under the classified Attorney General's Guidelines for Foreign Counterintelligence Investigations.

(6) Donovan Investigation. In 1981, the FBI conducted a background field investigation of former Labor Secretary Raymond Donovan, who was undergoing Senate confirmation. The background check apparently failed to report information in FBI files that had a direct bearing on the nomination. Judge Webster was asked how this had occurred and what had been done to prevent such problems in the future. He confirmed that the investigation was not as thorough and complete as it should have been. He also advised that substantial changes in procedure and practice had been made since this incident and that he felt those changes would make recurrence unlikely.

(7) Files on Bishops. Press reports have alleged that the FBI has maintained information in its files for a number of years on two Catholic bishops who have worked with peace and civil rights groups. Members asked about the FBI's criteria for collecting and filing information on particular individuals. Judge Webster stated that the FBI did not have criminal investigative files on the two bishops. Instead, their names had been cross-referenced and appeared in other files for which the FBI had legitimate investigative interests. Judge Webster also said that he was concerned that FBI cross-referencing guidelines were not adequately clear. He noted that the FBI had recently completed a planning and evaluation study of this process and was implementing changes to tighten up procedures to ensure that there was sufficient reason for names to be included and cross-referenced in files.

(8) Cases Involving the Attorney General. Judge Webster was asked how he and the FBI handled cases in which allegations of wrongdoing reached the level of the Attorney General or his friends and associates, in light of the Attorney General's ability to protect those people by keeping Independent Counsels from investigating them. The "Wedtech" case was cited as a prime example of the Attorney General's possible involvement in wrongdoing, and the Olsen case (involving former Justice Department executives Edward Schmults and Carol Dinkins) was cited as an example of the Attorney General preventing an Independent Counsel from broadening an investigation to include high officials.

Judge Webster stated that the FBI's role was to conduct a preliminary inquiry under the direction of career Justice Department attorneys and then to assist any Independent Counsel. Judge Webster saw the question of the limits of an Independent Counsel's powers as a matter for the courts and Congress to determine. With regard to the "Wedtech" case, Judge Webster stated that the Independent Counsel was investigating the case with whatever FBI assistance he desired and that there was a separate FBI investigation that did not involve a person covered under the Ethics in Government Act. Judge Webster added that, if a case involved the Attorney General himself, he would expect the Attorney General to recuse himself and "would take the necessary steps to be sure that he did recuse himself."

Of course, the above is only a brief summary of the information developed by the Intelligence Committee in its deliberations with respect to the nomination of Judge Webster to be Director of Central Intelligence. The full transcript of the hearings regarding Judge Webster's nomination, both open and closed, as well as all pertinent documents, are available for review by Members of the Senate. The classified documents are available in our secure committee space for examination under the rules and procedures of the Committee.

Thank you for your consideration.

Sincerely,

David L. Boren,
Chairman.
William S. Cohen,
Vice Chairman.

Mr. BOREN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Under the unanimous-consent agreement, time is to be shared between the Senator from Oklahoma and the Senator from Maine. The Chair assumes that the Senator from Pennsylvania is the designee of the Senator from Maine at this time and will recognize him.

Mr. SPECTER. Mr. President, I am on the Intelligence Committee and in the absence of any other Senator on this side of the aisle, I seek recognition in my own right.

The PRESIDING OFFICER. The Senator will be assuming control of the time. Under the time agreement, the time between the moment we took the nomination up to 5:45 must be divided equally between the majority and the minority. Under those circumstances, the time allotted will be counted as part of the time designated to the Senator from Maine.

Mr. SPECTER. I understand and I thank the Chair.

I voted in favor of Judge Webster to be the Director of Central Intelligence at the conclusion of hearings conducted by the Select Committee on Intelligence, and I intend to vote for his confirmation before the full Senate because his overall record establishes his qualifications for this most important position.

Nonetheless, I am concerned by the evidence produced during the confirmation hearings that the FBI, and to some extent Judge Webster himself, did not respond to clear danger signals of seriously improper, if not illegal, activities by Lieutenant Colonel North. The totality of the evidence suggests that Lieutenant Colonel North's key position in the National Security Council and the President's strong personal support for the Contras created a climate wherein the FBI may have winked at possible violations of law involving the Contras. At his confirmation hearings, Judge Webster referred to his concern about White House influence, stating:

> From time to time I have made it clear to my executives that I wanted to be closely informed about any kind of White House influence, and as recently as September 1986 before all of this broke, I addressed a memorandum to my executive conference reminding them that I wished to be informed of any committee meetings at the White House at which they were invited as my representative or for any other purpose.

Starting in January 1985, Lieutenant Colonel North established direct contact with FBI field offices on their investigation of Neutrality Act violations. He requested that he be kept informed of those matters. At his hearings, Judge Webster stated that since the matter was a national security concern, he therefore provided the information to the NSC and other Government agencies.

On July 18, 1985, the FBI's Washington, DC field office cabled FBI headquarters a most important piece of information which, if properly pursued, could have short-circuited Lieutenant Colonel North's activities as early as 1985. But, the cable to FBI headquarters was never received because, in the words of Judge Webster, of "an unusual technological failure." The cable points out that the FBI—if not its Director—was well aware that Lieutenant Colonel North:

Personally discussed private aid to the Contras with President Reagan in mid-1985.

Asked the FBI to delay an interview with a fraud suspect.

Was dealing with an alleged Saudi Prince through an intermediary because it was not advisable for North, as a member of the National Security Council, to deal directly in view of a legal prohibition against aiding the Contras.

Although that cable was referenced in subsequent FBI cables, no attempts were ever made to retrieve it. Those facts could have immediately spotlighted and possibly stopped Lieutenant Colonel North's operations through early FBI investigations. At a minimum, it would have alerted President Reagan to the serious implications of North's activities.

On the record, this key FBI document and several subsequent ones did not reach Judge Webster, so he cannot be held personally responsible for purposes of these confirmation hearings. Nonetheless, FBI agents knew about it and did nothing.

Again, in April 1986, Lieutenant Colonel North contacted one of Judge Webster's three deputies, Oliver Revell, to request that Revell intercede with an Assistant U.S. Attorney in Philadelphia to delay the questioning of Richard Miller, a "consultant" to North and a witness in the Saudi Prince case. In April 1987, Richard Miller was named as a coconspirator along with Lieutenant Colonel North in a tax fraud case involving aid to the Contras and entered a guilty plea. Mr. Revell originally told the Intelligence Committee by letter on April 13, 1987 that he did intercede, but 4 days later, recanted his story. He admits that he never advised Judge Webster of this White House request because he never interceded, although until April 13, 1987, he thought he had. It is Judge Webster's view that Revell erred in judgment by failing to inform him in April 1986 of this request and for not dealing with the Assistant U.S. Attorney through the Justice Department.

On October 30, 1986, a memorandum was prepared by the Attorney General's Counsel for Intelligence Policy stating that "North may be involved in a criminal probe concerning U.S. activities in Central America by a special prosecutor." The memorandum contained an even more important danger signal that "it would not be possible to advise other persons in the National Security Council and he assured the technically derived information would not be made available to Lieutenant Colonel North." Judge Webster testified that he did not remember having read the memorandum, although he concedes that he initialed it.

Questions arise on Judge Webster's and the FBI's failure to focus and act on this memorandum in light of the fact that Judge Webster, and certainly the FBI, knew of Lieutenant Colonel North's extensive involvement in Contra aid and his involvement, as early as August 1986, with the arms-for-hostage effort. Judge Webster stated in testimony that he was concerned by that August 5, 1986 revelation. At about the same time the October 30 memorandum crossed his desk, Judge Webster wrote a memorandum dated October 31, 1986 concerning a request of Admiral Poindexter relayed by Attorney General Meese to hold up on an investigation of Southern Air Transport because of the hostage negotiations.

Perhaps it is 20-20 hindsight to say that Judge Webster and senior FBI officials should have been alerted to possible violations of Federal law such as the Arms Export Control Act and the Boland amendment. But, there was no focus, there were no questions asked.

In the context of the information which had come to Judge Webster's personal attention, a further question arises as to the adequacy of Judge Webster's reaction when Attorney General Meese told him on November 21, 1986 that he, Meese, had been asked by the President to pull the facts together on the Iran arms transaction. Judge Webster and Attorney General Meese concurred in their testimony that there was no reason for FBI involvement because there was no indication of a criminal investigation. In retrospect again, perhaps more should have been expected of Judge Webster in light of:

The information which had crossed his desk on the possibility of criminal allegations including the October 30 memorandum that Lieutenant Colonel North might be involved in a criminal probe concerning activities in Central America.

The Iran arms transaction which was laden with questions on compliance with the Arms Export Control Act; and

The Attorney General's obvious closeness to White House involvement on such matters which would profit from the more-detached participation of Judge Webster.

In evaluating the events of November 21, 1986, questions have been raised about the propriety of Attorney General Meese's conduct and handling of the inquiry. Judge Webster might have been in an even better position to objectively evaluate those problems and direct an inquiry which would have preserved the records which Lieutenant Colonel North was able to shred.

Experience has demonstrated the dual conflicting functions of the U.S. Attorney General. He is the senior lawyer of the executive branch, and he is also the Nation's chief law enforcement officer. That duality is compounded when the Attorney General is also a President's confidant. At about this time, Attorney General Meese was making public statements about marching "shoulder-to-shoulder" with the President in response to some high level executive officials who were raising questions about the President's Iranian policies. The relationship between President Nixon and Attorney General John Mitchell is closer to current events than ancient history as a danger signal to possible analogous relationships.

Perhaps even perfect hindsight would not have brought this potential problem into focus, but it raises the problem for the future. Based on the Watergate experience, the time is long overdue that we give serious consideration to separating the roles of the Nation's chief law enforcement officer from the senior executive branch lawyer or Presidential confidant.

It may be that some of these danger signals available to Judge Webster and the FBI are apparent only through 20-20 hindsight. But it may be that more should have been expected from the highly touted Federal Bureau of Investigation and its Director who enjoys a reputation for integrity and competency unsurpassed by anyone in office in Washington today. In any event, there are lessons here which should not be lost. Such issues should be identified and analyzed so that we may benefit in the future.[1]

Needless to say, no one is perfect, and we must be careful not to impose standards so rigorous that good men and women fall by the wayside or that other good men and women will be discouraged from seeking important Federal positions. Judge Webster's record as a practicing lawyer, Federal judge and Director of the FBI is excellent. Judge Webster's record outweighs my reservations so I shall vote to confirm him as the new Director of CIA.

The PRESIDING OFFICER. The Senator from Maine has 5 minutes 20 seconds remaining; the Senator from Oklahoma has 10 minutes 4 seconds remaining.

Mr. COHEN. Mr. President, I yield 2 minutes to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I thank the Senator from Maine.

Mr. President, I have known Judge Webster for a number of years. He is a very good family friend and has been for, I guess, most of his life. When I was admitted to the Missouri bar, he was a member of the board of law examiners. I believe I am the only Member of the Senate ever to have tried a lawsuit in front of Judge Webster. I have known him in many capacities for many years. He is the pride of our State. I do not know of anyone in the State of Missouri who is more highly thought of than Bill Webster by people who have known him all of his life, people who have known him in every conceivable setting. And so it is with considerable pride that I rise once again to support the nomination of Bill Webster for this latest example of his support and contribution to his country.

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[1] Although not directly relevant here, it is worth noting that the FBI is now being called upon to serve as the investigative arm for the Independent Counsel, formerly known as Special Prosecutor, who will be investigating Attorney General Edwin Meese in the WedTech matter. That role for the FBI, as well as the Bureau's investigative functions on matters where others in the Executive Branch may be under investigation or have a different interest, should be scrutinized and evaluated in another proceeding.

It may be that it is too much to ask a Federal agency, like the FBI, to be indifferent to the President's stated position when they are investigating allegations of violations of law regarding U.S. assistance to the Contras. It is a very difficult situation to have FBI personnel investigate the Attorney General of the United States, even when they are for the moment under the direction of Independent Counsel, because the Attorney General, after all, was their boss and probably soon again will be their boss.

The adage that no man can serve two masters is firmly established.

Congress, perhaps through the Judiciary Committees, should review the FBI's roles in such situations which have inherent conflict-of-interest implications.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. Mr. President, I yield 4 minutes to the distinguished Senator from Nevada [Mr. REID].

The PRESIDING OFFICER. The Senator from Nevada is recognized for 4 minutes.

Mr. REID. Mr. President, we are asked today to confirm as Director of the Central Intelligence Agency Judge William Webster. Judge Webster is an honorable and decent man, and if these were ordinary times, I would probably vote to confirm his nomination, although with some reservations.

These are not, however, ordinary times. Once again the CIA has been betrayed by those in the highest corridors of power who are charged with maintaining its health. Each week reveals some new action taken by the former Director in direct or implicit contravention of the law and expressed will of Congress.

Judge Webster has been presented to us as the physician to cure these ills. I do not believe he is the man for the job.

As things now stand, I do not believe an adequate explanation has been offered for the conduct of the Federal Bureau of Investigation while it has sat under Judge Webster's stewardship. I do not speak lightly in this vein as one example of this lack of administration is how the FBI has run amok in Nevada, and it did so under the direction of William Webster.

There remain too many unanswered, unjustified, and unacceptable actions during the tenure of William Webster, and while Joseph Yablonsky served as the FBI agent in charge in Nevada. Use of the Bureau to investigate political opponents such as Nevada's Republican attorney general is simply improper. Use of the Bureau to intimidate those with whom the agent in charge disagrees, such as former Detective Chuck Lee, is simply improper. Lee questioned Yablonsky's approach to law enforcement. Yablonsky even placed stakeouts on the movement of respected veteran homicide Detective Robert Hilyard. He even attempted an aborted investigation without foundation or substance of former U.S. Senator, Paul Laxalt. He and his lieutenants were not above the intimidation and use of IRS agents—one of whom lost a high ranking position with the IRS because of these actions. He even planned and/or condoned the use of a convicted felon and brothel owner to get tainted evidence against others.

I want to make it clear that my disapproval has nothing to do with the guilt or innocence of Harry Claiborne, the Federal judge who claimed he was the victim of FBI persecution in Nevada. Rather, it deals with the still unanswered questions surrounding conduct by Judge Webster's subordinates which was nothing short of reprehensible; conduct in which they unquestionably harassed decent, law-abiding, and upstanding citizens; conduct in which they violated the very laws they and Judge Webster had sworn to enforce.

Even this past week the story in the Nevada press is that FBI agents have offered to drop dope charges against a private detective if he would implicate Clark County Sheriff John Moran and Clark County Public Defender Morgan Harris.

William Webster may be a decent and honorable man. But an administrator he is not. William Webster permitted the FBI to be used for indecent and dishonorable purposes. He is not the man to cure the CIA of its ills. Rather, I would urge my colleagues to leave him at the FBI, and give him an opportunity to deal with the sickness the Bureau has shown during his tenure. "Physician," we should say to him, "Go from this house and cure thyself."

Only when that sickness has been purged from the FBI should we permit Judge Webster to accept another patient.

WILLIAM H. WEBSTER/CIA DIRECTOR

(By request of Mr. SIMPSON the following statement was ordered to be printed in the RECORD:)

Mr. DOLE. Mr. President, I am very pleased that the Senate is voting today to confirm William H. Webster as Director of the Central Intelligence Agency.

This is a critical position, and a critical period for the Agency. When Judge Webster was nominated to fill this vacancy, there was an outpouring of praise and approval. Why? Because throughout his many years in public service, as Director of the FBI, as a Federal appeals court judge, a Federal district judge, and U.S. attorney, William Webster has established a record of integrity and competence.

Today's FBI is a testament to the intelligent, forward-looking leadership of William Webster. Since 1978, when President Jimmy Carter appointed him, he has guided the Bureau with a steady, sure hand and developed it into a stable, aggressive, and effective law enforcement agency.

Judge Webster is a real professional, who understands the ins and outs of the intelligence community. He has a proven record of dedication and achievement in Government service. And I have no doubt that he will continue that course in his new role as Director of the CIA. I urge my colleagues to follow the pattern of the Intelligence Committee, which unanimously approved this nomination.

WILLIAM WEBSTER—A MAN FOR ALL SEASONS

Mr. DECONCINI. Mr. President, I know I speak for all Americans when I express my gratitude to Judge William Webster for devoting so much of his career to the judicial system of this country. All of us are indebted to this extraordinary public servant, and all of us have benefited from his service to his country.

At a time when its need was greatest, Judge Webster took the helm at the Federal Bureau of Investigation where his leadership made possible the replacement of chaos with stability; of shattered effectiveness with significant accomplishment. His keen vision identified weakness and his precision of purpose restored vigor to a beleaguered agency.

Under his guidance, the FBI has emerged fully capable of discharging its responsibilities as the Nation's primary criminal investigative agency, one of which all America can be proud.

As a member of the Senate Judiciary Committee, I have had many occasions during the past decade to become familiar with Judge Webster's high standards, both for himself and for others; with his unassailable personal integrity and with his strength of character as he directed the FBI on a steady course.

Once again, I was privileged to sit on the committee charged with consideration of Judge Webster's nomination. The Intelligence Committee conducted comprehensive and exhaustive confirmation hearings which scrutinzed Judge Webster's fitness for the position of Director of Central Intelligence. Throughout this thorough and sometimes grueling review of his record at the FBI, Judge Webster displayed, with unflappable patience, his solid qualifications for the job. In an expression of its support for his nomination, the Intelligence Committee unanimously voted to confirm Judge Webster as Director of Central Intelligence.

No less a challenge awaits the next Director of Central Intelligence than that which greeted William Webster at the FBI 10 years ago. In order to restore stability and effectiveness to the intelligence community the new Director of the CIA will have to blend judiciously the four components of intelligence, analysis, counterintelligence, espionage, and covert action, to create a combination best suited to form the structure on which this country's foreign policy can be forged and its defenses built to deflect threats from outside forces. In these times of diminished resources, hard choices must be made. I am confident that as Director, William Webster will make those choices which will accurately reflect our national priorities.

At a time when it is imperative to remove politics from decision making in the intelligence community, members of the Intelligence Committee were reassured by Judge Webster that he would continue to maintain his apolitical posture, but would make certain he met with the President often so that he could give him his unvarnished views.

He also pledged to the committee that he would inform Congress of covert activities in a timely manner, adding, "Any project that cannot survive congressional notification is suspect from the beginning." Judge Webster buttressed that statement with his declaration that "I believe the Director of the CIA clearly has an obligation of trust to the Senate and to this committee."

Mutual trust and cooperation between the CIA and the Congress are the ingredients required to reinforce the structure on which sound intelligence policy is constructed. Judge Webster in his guarantee that he would resign if the President withheld notification of a covert operation to the Congress told the committee, "I would have to advise the President of my position on this and if he would not offer to speak to you, I would have to leave."

As the country recovers from some of the most serious foreign policy blunders in its history, carried out by those without respect for the law or the will of the American people, it is important to know that in William Webster we have a man who has dedicated most of his life to the law and can be counted on to continue that commitment and to serve the American people to the best of his uncommon ability.

Just as Judge Webster responded to his country's call 10 years ago to restore order to an organization standing in tarnished disarray, his country is again asking him to fill another leadership role. This time at the Central Intelligence Agency, where, I am certain, he will answer this call by imparting his own high standards to that organization.

Mr. BENTSEN. Mr. President, William H. Webster has had a long and distinguished career of service as a U.S. attorney in St. Louis, as a U.S. district judge, and as judge on the Eighth Circuit Court of Appeals.

He has served 9 years as Director of the FBI.

He is not a stranger to us here in the Senate; we have confirmed him three times for positions requiring the highest degree of integrity and ability.

He has appeared before the Select Committee on Intelligence many times, and we know him well.

As FBI Director he has been intimately involved in the intelligence activities of the U.S. Government, and has served as Chairman of the Working Group on Counterintelligence and as a member of the Special Interagency Group on Intelligence.

In the course of its hearings on this nomination, the Select Committee on Intelligence conducted three open hearings totaling almost 11 hours over 3 days, plus two closed sessions on matters that were deemed too sensitive for public discussion.

Judge Webster has answered questions on every conceivable subject relating to his conduct as FBI Director, to the activities of the FBI while he has served as Director, and on the manner in which he would conduct himself as Director of Central Intelligence.

Following these hearings the Committee voted unanimously, 15 to 0 to recommend that Judge Webster be confirmed by the Senate.

The position of DCI is one of the most sensitive and important positions in Federal Government.

This country has been without a permanent DCI since William Casey was hospitalized some months ago.

It is vital that we fill this position, and I am pleased that someone of Judge Webster's stature—someone who had certainly earned the right to retire with honors if he had chosen to do so—has agreed to accept the nomination.

CONFIRMATION OF WILLIAM WEBSTER AS DIRECTOR OF CENTRAL INTELLIGENCE

Mr. DURENBERGER. Mr. President, I am pleased to rise today to support the confirmation of William H. Webster to be the 14th Director of Central Intelligence. Judge Webster faces formidable tasks in this position. Perhaps most important is to renew leadership of the intelligence community that the Congress and the American people can trust.

I spent 8 years on the Senate Select Committee on Intelligence, the last 2 as chairman. I saw first hand how the responsibilities of the intelligence community have changed in the 1980's. The threats we expect our intelligence agencies to deal with include state-sponsored terrorism, narcotics interdiction, and technology security. As our expectations for the intelligence community increased, it was inevitable that new lines of authority and accountability would have to be established.

Congressional oversight has played an integral role in the development of new lines of accountability. The Intelligence Oversight Act of 1980 established precise notification procedures in order that Congress could properly exercise its constitutional oversight role. Oversight of sensitive intelligence operations involves the intelligence community, which must operate in secret if it is to be effective, and the Congress, which is accustomed to open debate and public dialog.

Congressional Oversight of Intelligence has evolved considerably since it was formalized in the 1970's—and it will continue to evolve to meet the new intelligence challenges of the late 20th century. But oversight is a process that depends on people to make it work. It involves trust among the parties. Congressional oversight is a form of a social contract which must have commitment from both parties if it is to work effectively.

We have witnessed what can happen when the process breaks down. The select committee hearings have heard detailed testimony, amplifying the testimony heard by the Senate Intelligence Committee last fall, which lays out how a private covert action network was established to circumvent the requirements of the 1980 Intelligence Oversight Act.

Many have been quick to proclaim that oversight failed in the wake of the Iran-Contra affair. But this view reveals a lack of understanding about what oversight can and cannot do. Oversight can impart the wisdom of the Senate into the intelligence process. Oversight can argue for larger intelligence budgets to meet the new threats of the 1980's. And oversights can help to improve the quality of intelligence when it focuses on the intelligence process.

Oversight cannot, however, prevent determined people from evading or circumventing the law of our Nation. Oversight did not fail in the Iran-Contra affair—certain individuals in the administration failed to live up to their responsibilities to keep Congress adequately and fully informed of all significant intelligence activities. This was a failure of people not of the process.

Some have tried to argue that Congress could not be trusted to keep such important secrets as the Iran initiative. I have never understood why Iranian mullahs and middlemen like Gorbanifar were more trustworthy than the elected representatives of the American people. As the hearings investigating the Iran-Contra affair proceed, it is becoming increasingly clear that Congress was not informed because Congress disagreed with trading arms for hostages, disagreed with negotiations with a terrorist state, and disagreed with the administration's approach to Nicaragua.

In fact, the track record of the intelligence committees keeping secrets is very good. Under my direction, the Senate Intelligence Committee undertook a study of published media accounts which revealed secret information and relied on leaks for such information. The result of our study were informative: 147 stories were found in a period of 151 days. Of the 147 stories only 13, or 9 percent, cited congressional sources and none were attributed to the Intelligence Committee. Over 90 percent of the leaks came from the executive branch. I think these results show far better than anything else just how specious the argument that "Congress cannot be trusted because it leaks" is.

The problem is simply a lack of trust on the part of officials that were determined to pursue their goals irregardless of the will of Congress. The answer is not to pass further restrictive legislation—the answer is to rebuild the trust relationship that is so necessary for oversight to work.

I have long argued that the procedures governing oversight of the intelligence community are sound and not in need of revision. Judge Webster has a tremendous opportunity to revitalize relations between the intelligence community and Congress. I believe that he will do just that. Throughout his long and distinguished career, Judge Webster has shown himself to be a dedicated and honest public servant. I look forward to his confirmation.

Mr. President, I ask unanmous consent that an article by former Director of Central Intelligence, Stansfield Turner, be entered into the RECORD. Admiral Turner's article, in the form of an open letter to Judge Webster, offers much that all future DCI's should take to heart.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 13, 1987]

A LETTER TO WILLIAM H. WEBSTER

(By Stansfield Turner)

WASHINGTON.—Dear Bill, Thanks for being willing to take the job at the Central Intelligence Agency. The nation needs you there badly. There will likely be months of difficult investigations ahead, but I would like to suggest that there can be opportunity in the adversity.

So many mistakes have been made in the past few years in and around the White House and the C.I.A. that the President has agreed to make radical changes in the way he uses the C.I.A. That will help you immeasurably. Witness two excerpts from his talk to the nation March 4:

"I am also determined to make the Congressional oversight process work. Proper procedures for consultation with the Congress will be followed, not only in the letter but in the spirit.

"I've also directed that any covert activity be in support of clear policy objectives and in compliance with American values. I expect a covert policy that if Americans saw it on the front page of their newpaper, they'd say, "That makes sense.'"

The Administration has previosuly resisted these policies strongly. The C.I.A. has resisted them from time to time. External forces, though, have made such policies inevitable. Congressional oversight, for instance, is the result of the greater and greater democratization of American life since you and I entered Amherst College in 1941. We are much less willing today to yield to authority just because it is authority. You and I have come to see the traditional power of committee chairmen in Congress watered down, junior officers in the military daring to ask why they are doing what they are doing and factory workers advising management.

From the 1940's to the 60's, almost no one outside the C.I.A. sought a say in what was going on inside that secret organization. The public accepted that as a necessary price of the cold war, and the Congress obliged by providing money with few questions asked. By the late 60's, the Congress began to worry about the C.I.A.'s secret activities. In 1974, it passed the Hughes-Ryan Amendment requiring that Congress be informed when the C.I.A. undertook covert actions. A year later, it ordered a halt to a covert action in Angola.

That same year brought the Church committee, whose investigations revealed that unaccountable power can lead to mistakes. The Congress decided that we could not have any unaccountable agency of Government, not even our most secret intelligence organization.

From 1977 to 1981, we worked to make Congressional oversight compatible with secrecy. It quickly became clear that you must have good will and trust on both sides to do that. Without trust, the Congress may insist on knowing details that could endanger the lives of agents or other secrets, and without good will the C.I.A. cannot win the support from Congress that it needs.

In their concern for secrecy, President Reagan and former Director William J. Casey told the intelligence committees as little as possible. The most obvious damage was that the Administration had neither the advice of the Congress on the Iran hostage swap nor its support. What you now face is the possibility of new laws requiring such full disclosure that you might feel inhibited from conducting some sensitive operations.

Building on Mr. Reagan's pledge to make oversight work, however, you can restore confidence and trust. The Congress would prefer this, I believe, but you will have to persuade Congress that secrecy is not being abused. There will always be some resistance from C.I.A. professionals to sharing information with the Congress. Espionage and covert action have traditionally been viewed in the C.I.A. as unique undertakings that demand extraordinary secrecy. There is probably nowhere in our Government where so much secrecy in justifiable. We have just seen, though, where excess secrecy can have disastrous results.

The paranoia with which Vice Adm. John M. Poindexter and Lt. Col. Oliver L. North divided up information and limited its distribution on the grounds of secrecy is just what did them in.

President Reagan's pledge on covert actions should also help. His conversion here comes from having been burned four times by covert actions that the public rejected: the mining of Nicaragua's harbors, publication of a manual for the contras that appeared to condone assassination, support of antiterrorist actions by Lebanese intelligence that got out of the C.I.A.'s control and resulted in some 80 innocent deaths, and the arms deliveries to Iran. None of these passed the verdict of "makes sense."

It is also very difficult to keep a covert action covert if it does not make sense. Under the Hughes-Ryan Amendment, you must obtain Presidential approval and notify the Congress of all covert actions. There are bound to be leaks. This means that we have forsaken the ability to undertake covert actions that would not be accepted by the public. The President, in effect, acknowledged that he is now willing to accept that.

It is not a high price to pay, because it would be contrary to the spirit of our constitutional process to carry out foreign policies in secret that the public and Congress would not accept if known and also because the scope for covert action has narrowed remarkably in the past 20 years, especially actions to change the political complexion of other countries.

For instance, in 1954 Dwight D. Eisenhower decided that he did not like the Guatemalan Government. The C.I.A. with not much more than radios broadcasting reports of the movements of nonexistent troops, helped "our man" into office. That policy would probably not work today because communications are too good in most countries for such deception to deceive. Tomorrow, when commercial photographic satellites are more broadly available, it will be even more difficult. Convert action has an important niche, but it is a more narrow one than we previously thought.

Finally, what I found perhaps most disturbing in the Tower commission report was the evidence that some C.I.A. people were out of control: responding to Colonel North's request for covert help without proper authorization; treading close to, if not over, the law in assisting the contras, and submitting statements that have proved to be false.

The people in the C.I.A. are among the very best in our Government, but the pressures to which we subject them are unique. A few of them may go wrong from time to time. Given the present environment, you have a marvelous opportunity to establish a more careful management system.

In short, this time of trouble is also a time of opportunity to cement the President's pledges and to assert a greater degree of control at the C.I.A. Both are overdue—and both are essential.

Mr. DIXON. Mr. President, I have known Bill Webster personally for a long time. Since our days together at law school at Washington University, I have never doubted my friend's honesty, his integrity, or his unswerving commitment to what is right and fair in Government.

William Webster is committed to good government. He cares deeply about what this Nation stands for, and I sincerely believe this commitment will be reflected as he serves the American people in his capacity as Director of Central Intelligence.

Mr. President, this country needs a man of William Webster's character to lead its intelligence apparatus, a vital tool of U.S. foreign policy. It is unfortunate that this crucially important Government agency has suffered a loss of credibility. Its role in American foreign policy is too vital.

For these reasons, I believe the Senate should unanimously advise and consent to the nomination of William Webster to be Director of Central Intelligence. This agency deserves a commitment to professionalism and excellence from its Director. Judge Webster offers this commitment.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. Mr. President, I yield 4 minutes to the Senator from Montana [Mr. MELCHER].

Mr. MELCHER. Mr. President, when people of my generation first became aware of the Federal Bureau of Investigation it was during the bank robbery days in the early thirties and the apprehension and disposal of Dillinger.

And in the later time the FBI investigation of organized crime drew the attention of the public, and perhaps many of the public are aware of the FBI's work on income tax evasion, but there are also some duties that the FBI has in connection with Indian reservations and the major crimes that are committed on Indian reservations. It is a requirement of law that the FBI investigate on Indian reservations.

The special duties of the FBI on Indian reservations in Montana caused me to write late in 1985, in November specifically, to the special agent in charge in Butte, MT, about crime on Montana reservations. I received a response from the FBI, in fact from the Director, Judge Webster, in February 1986, and it was a résumé of what was occurring.

Might I point out that part of that response was that on the Blackfeet Indian Reservation in Montana, just one of our reservations, there were 99 major crimes with three convictions. This was during a period between June 30, 1983, until August 1, 1985. And those crimes involved death or serious bodily injury or other personal crimes of violence like kidnaping or assault, rape, or robbery, and so forth.

Ninety-nine investigations to three convictions seemed to demonstrate the point that the investigations of these major crimes were not resulting in significant amounts of convictions. I had not been informed of significant improvement since that date in 1985. Not much happened that I was aware of during my recent discussions with Judge Webster over the past several weeks. I have emphasized my concerns that crime on many Indian reservations in Montana was not under control.

He has brought me up to date on some improvement, and I am pleased to say that. But there is still lack of attention. Judge Webster, in a letter to me today outlined the steps that the Federal Bureau of Investigation will take in trying to get better control over crime on Indian reservations.

At the heart of this was a discussion of the reorganization of the FBI in the Montana and Idaho division. Judge Webster has also, in light of all this serious concern, recommended that there be a reassessment of the studies that have gone on since 1984 about FBI reorganization.

I am pleased that Judge Webster has set the course for the FBI over the next several months in looking into these problems in depth and attempting to get better coordination between the various agencies that are responsible for law enforcement on Indian reservations. He will also recommend that during the reassessment period, that the FBI will consult with Montana and Idaho Senators and Congressmen, State, local, and Indian officials, and civic leaders. This approach is needed and the coordination of all law enforcement offices is essential.

Butte has been the location of the special agent in charge for the division. It is a proper geographic location and the essential work of adequate investigation and preparation of cases has been successfully carried out in the past in the two States. Coordinating the work of FBI and other law enforcement agencies can be greatly improved, but it depends more on the work on the ground where the crimes are committed, than where the division headquarters are located. The problem is not Butte. It is the lack of coordination. Today's letter from Judge Webster commits the necessary effort to get on top of the problems.

Mr. President, I ask unanimous consent to have printed in the RECORD my letter to the special agent in charge, dated November 1985, and the response by Judge Webster in February 1986, with attached documents, as well as Judge Webster's letter of today and documents that are attached to it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, February 4, 1986.

Hon. MARK ANDREWS,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to the November 22, 1985, letter from Senator John Melcher to Special Agent in Charge William Fallin of our Butte Office regarding the Senator's concerns about the effectiveness of law enforcement of Indian reservations in Montana. The following comments concerning the FBI's role in Federal law enforcement on Indian reservations in Montana relate directly to Senator Melcher's six questions:

1. The Butte FBI Office has overall responsibility for the investigation of Crimes on Indian Reservations (CIR) in Montana. The office consists of a complement of seven Special Agents, a Special Agent in Charge and an Assistant Special Agent in Charge. The Butte Office is responsible for the administration of eight satellite offices in Montana known as Resident Agencies (RA), five of which are responsible for CIR matters. These RAs are located in Cut Bank (2 Agents), Great Falls (3 Agents), Glasgow (2 Agents), Missoula (3 Agents) and Billings (5 Agents). The three additional RAs are located in Helena (2 Agents), Bozeman (2 Agents) and Kalispell (2 Agents).

2. Enclosure 1 sets forth the named RAs that serve Indian reservations in Montana and the distance between each RA and reservation. Enclosure 2 lists the distance between our Butte Office and each Indian reservation within its responsibility.

At the present time, my associates are evaluating a proposal submitted by Special Agent in Charge Fallin to reduce the three-Agent complement in Great Falls to two Agents, and to reestablish the RA at Havre with one Agent. Under this proposal, the Havre RA would handle investigative matters in Liberty County, Hill County, Blaine County and at the Fort Belknap and Rocky Boy Indian Reservations. This new change would afford our assigned Agent immediate access to Fort Belknap (50 miles) and Rocky Boy (25 miles).

3-5. Refer to enclosure 3, which is a two-year statistical analysis of CIR cases opened by our Butte Office from June 30, 1983, through October 8, 1985. Listed declinations are based upon U.S. Attorney guidelines.

6. The FBI's working relationship with Montana tribal and Bureau of Indian Affairs (BIA) offices is projected toward the eventual nationwide shifting of the FBI's primary investigative responsibilities for law enforcement on Indian reservations to the BIA, Department of the Interior (DOI), and the tribal police. during the past five years, extensive efforts have been implemented to accomplish this goal, which has been the policy of the Department of Justice since 1980. This policy encourages U.S. Attorneys having jurisdiction over Indian matters to utilize the investigative services of tribal and BIA police as a means toward Indian self-determination. It is currently published in the United States Attorneys Manual, and reads as follows:

9-20.145 INVESTIGATIVE JURISDICTION.

"The FBI has investigative jurisdiction over violations of 18 U.S.C. 1152 and 1153. Frequently by the time the FBI arrives on the reservation some investigation will have been undertaken by tribal or Bureau of Indian Affairs (BIA) police. It is recognized that the ability of the tribal and BIA police can vary from reservation to reservation, and United States Attorneys are free to ask for FBI investigation in all cases where it is felt that such is requried. However, United States Attorneys are encouraged and authorized to accept investigative reports directly from tribal or BIA police and prepare a case for prosecution without FBI investigation in all cases where you feel a sufficient investigation can be undertaken by BIA or tribal law enforcement officers."

In spite of the implementation of this Departmental policy, the FBI continues to conduct the majority of the investigations of major criminal offenses that occur on Indian reservations. In various conferences, meetings and seminars with U.S. Attorneys and FBI officials, it has been determined that a variety of concerns have been expressed in regard to transferring investigative responsibilities in all major felonies to the BIA and tribal police. Among the concerns voiced is the importance of uniformity in delivering law enforcement services to the Indian people, the timeliness and thoroughness of investigation, the reporting of investigation for prosecutive consideration, and the ability to provide coverage of out-of-state leads when the BIA assumes the investigative responsiblities. Some U.S. Attorneys have indicated that they had not been satisfied with BIA's investigative response on cases currently within BIA's jurisdiction and did not favor a blanket transfer of responsibilities. The U.S. Attorneys also questioned the sufficiency of the manpower pool available to BIA to handle a high volume of investigations.

Consideration is presently being given to exploring the possibility of extending to the BIA and other tribal police departments jurisdiction for negligent homicide investigations. Should such extensions take place, the FBI will follow each of those investigations with the respective agencies.

It should be noted that there will be no transition of law enforcement from the FBI to the Indian police until the Indian police develop a career-type law enforcement service with officers who can practice the law enforcement skills that they are taught and become expert in them. The rapid turnover of officers in the Indian police ranks is a detriment to the effectiveness of Indian police organizations and must be addressed as a number one priority prior to placing undue emphasis on removing the FBI from its law enforcement responsibilities on Indian land.

The FBI has attended various meetings with Department of Interior (DOI) officials in efforts to expedite the shifting of the FBI's role on reservations to the BIA. The DOI has a Division of Law Enforcement Services (DLES), BIA, which does not have line authority or control of BIA investigators on reservations. The BIA investigators are directed by nonlaw enforcement-trained personnel. At the present time, if the Chief of the DLES desires any action to be taken on a reservation, he must request this action through the BIA area Superintendent (not law enforcement trained), who then passes this request on to the Reservation Superintendent (not law enforcement trained) to determine if he desires this action to take place. Due to this type of arrangement, the BIA DLES has been hampered at times in executing its responsibilities.

The BIA is assigned one FBI National Academy (NA) student position in each of the four classes trained annually at the FBI Academy at Quantico, Virginia. During 1982, three student positions were filled; in 1983, four student positions were filled; in 1984, four positions were filled; and in 1985, three positions were filled by BIA students. It should be noted that Indian tribal police officers are allowed to attend the Treasury Department's consolidated Federal Law Enforcement Training Center, Glynco, Georgia. Coordination for this training is handled by the BIA.

The FBI has conducted numerous local Indian Training Schools for BIA and tribal police in the areas of report writing, investigative techniques, crime-scene search and evidence preservation. The total Fiscal Year BIA and Indian training statistics sponsored by the FBI for 1982 there were 29 schools with 576 attendees; Fiscal Year 1983 there were 33 schools with 693 attendees; Fiscal Year 1984 there were 33 schools with 752 attendees; and Fiscal Year 1985 there were 18 schools with 442 attendees. In December, 1985, our Butte Office conducted a three-day Basic Law Enforcement Techniques Training Session in Browning, Montana, for 20 BIA and tribal police.

This type of training continues to enhance the professional capabilities of BIA and tribal officers. As their professional qualifications are enhanced, the quality of work that they produce will also improve, and we would expect subsequently the U.S. Attorneys will come to rely more and more on their invesigative efforts.

In addition to the training given to the BIA and the Indian law enforcement community, the FBI has also conducted two separate cross-cultural Indian seminars for FBI Special Agents working primarily Indian matters. Instructors and guest speakers included prominent individuals from the Indian community and the BIA.

The FBI presently supports the Montana BIA and tribal police through training and during their investigations offers guidance and counseling, as well as the services of the FBI Laboratory and Identification Divisions. The FBI will continue in this regard in the event these agencies assume full responsibility for all investigations on Indian reservations.

Continued coordination by the FBI with leaders of the Indian community on matters of mutual interest is a priority matter to me. In this regard, as recently as October 28, 1985, Supervisory Special Agent (SSA) Allan E. Meyer, Unit Chief, General Crimes Section, Criminal Investigative Division, FBI Headquarters, attended and participated in the ninth Inter-American Indian Conference held in Santa Fe, New Mexico. This forum presented an excellent opportunity for SSA Meyer to discuss several of the previously mentioned matters, and by so doing, open additional lines of communication with other attendees.

I trust that the above information will be of assistance to you and the Committee members.

Sincerely yours,

William H. Webster,
Director.

Reservation/RA Covering Reservation

Blackfeet/Cut Bank.
Rocky Boy/Great Falls.
Fort Belknap/Glasgow.
Fort Peck/Glasgow.
Flathead/Missoula.
Crow/Billings.
Northern Cheyenne/Billings.

DISTANCE BETWEEN RA AND RESERVATION

Blackfeet/Cut Bank:
Browning—35 miles.
East Glacier—48 miles.
St. Mary—57 (appx).
Heart Butte—55 (appx).
Rocky Boy/Great Falls:
Rocky Boy—93 (appx).
Havre—113 miles.
Box Elder—91 (appx).
Fort Belknap/Glasgow:
Fort Belknap—122 miles.
Hays—152 (appx).
Lodge Pole—142 (appx).
Harlem—135 (appx).
Fort Peck/Glasgow:
Fort Peck—22 (appx).
Poplar—70 miles.
Wolf Point—49 miles.
Flathead/Missoula:
Polson—66 miles.
Crow/Billings:
Crow Agency—57 (appx).
Lodge Grass—79 (appx).
Pryor—25 (appx).
Hardin—46 miles.
Northern Cheyenne/Billings:
Lame Deer—103 (appx).

U.S. Senate,
Select Committee on Indian Affairs,
Washington, DC, November 22, 1985.
Mr. W. D. Fallin,
Special Agent in Charge, U.S. Federal Bureau of Investigation, Butte, MT.

Dear Mr. Fallin: I have longstanding concerns about the effectiveness of law enforcement on Indian reservations in Montana. I am contacted frequently by Indian and non-Indian constituents who feel that the attention and services provided by Federal law enforcement officers and prosecutors on Indian reservations in Montana are inadequate.

In order to better understand the Federal law enforcement situation on Indian reservations in Montana, I would like you to provide me with the following information:

1. the location of the FBI field offices in Montana and the number of agents in each field office;

2. which field offices serve Indian reservations in Montana and the distance between each field office and the reservation it serves;

3. for each of the last five years, how many cases did the FBI investigate on each reservation in Montana (please break out by year, by reservation, and by the type of crime);

4. for each of the last five years, provide the number and type of cases, broken out by reservation, investigated by the FBI which were (a) submitted to the U.S. Attorney for prosecution; and (b) prosecuted in Federal Court. For those cases prosecuted, please indicate the final disposition;

5. for each of the last five years, provide the number and type of cases, broken out by reservation, which were submitted to the U.S. Attorney for prosecution and declined. Please indicate the reason for declination by the Attorney;

6. please describe the nature of the FBI's working relationship with the Tribal and Bureau of Indian Affairs enforcement officers on each Indian reservation in Montana. Include in this description any informal or formal arrangements between the FBI and reservation law enforcement that facilitates the investigation of federal crimes on the reservations in Montana.

I appreciate a prompt response to this request.

Best regards.

Sincerely,

John Melcher.

DISTANCE BETWEEN BUTTE CENTRAL OFFICE AND RESERVATION

Blackfeet:
Browning—238 miles.
East Glacier—251 miles.
St. Mary—260 (appx).
Heart Butte—218 (appx).
Rocky Boy:
Havre—266 miles.
Box Elder—244 (appx).
Fort Belknap—315 miles:
Hays—348 (appx),
Harlem—310 miles.
Lodge Pole—355 (appx).
Fort Peck:
Poplar—494 miles.
Wolf Point—473 miles.
Flathead:
Polson—185 miles
Crow:
Crow Agency—367 (appx).
Lodge Grass—389 (appx).
Pryor—335 (appx).
Hardin—269 miles

Northern Cheyenne:
Lame Deer—413 (appx).

JUNE 30, 1983 TO AUGUST 1, 1985

Reservation	No. of cases by offense	No. of cases convicted by offense	Total cases/convictions
Blackfeet	[1] 198A–99	3	181/9
	C–82	6	
Rocky Boy	198A–21	[2] 2	51/2
	B–1	0	
	C–24	0	
	D–5	0	
Fort Belknap	198A–19	1	45/2
	C–25	0	
	D–1	1	
Fort Peck	198A–54	16	104/49
	C–50	33	
Flathead	198C–5	0	6/1
	D–1	1	
Crow	198A–21	3	51/3
	B–1	0	
	C–27	0	
	D–2	0	
Northern Cheyenne	198A–39	4	53/8
	C–13	3	
	D–1	1	
Total	491	74	491/74

[1] Offense Description

Crime on Indian Reservation—Involving death or serious bodily injury and other personal crimes of violence, i.e., kidnaping, assault, rape, robbery, etc.—198A

Crime on Indian Reservation—Other personal crimes—198B

Crime on Indian Reservation—All property crimes—198C

Crime on Indian Reservation—Embezzlement and/or fraud involving tribal funds—198D

[2] One misdemeanor.

Cases closed by declination

Blackfoot	54
Rocky Boy	18
Fort Belknap	20
Fort Peck	25
Flathead	0
Crow	12
Northern Cheyenne	25
Total	154

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 19, 1987.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, DC.

DEAR SENATOR MELCHER: I appreciate very much the opportunity to discuss the law enforcement situation in Montana and especially the management of our Butte Division, which encompasses both Montana and Idaho. This is, of course, a continuation of our previous discussions and correspondence and of the briefing provided to you by Executive Assistant Director John Glover.

First, I understand your deeply felt concern that there be more effective law enforcement on the Indian Reservations and I agree that greater effort should be made to improve the combined effectiveness of the law enforcement agencies involved in this effort. I believe that significant progress has been made, as reflected in our current statistics, but recognize that other agencies are also involved and other statistics may vary from ours. The FBI will undertake to see what additional means are available within the law enforcement community, including the FBI, to improve coordination on the reservations and will fully support your efforts in this regard.

Second, I know that you understand my desire to improve the management of our field offices, especially those offices with significant numbers of resident agencies scattered throughout large territories. The Attorney General has been furnished with a number of studies and recommendations that have been made dating back to 1984. None of these studies or recommendations suggest any diminution in the investigative strength of the FBI currently assigned to our Butte Division. In fact, in recent years there has been a significant increase in the division's target staffing level. I have previously assured you that I would not undertake to dictate a decision during the time I remained in office should the Senate confirm my nomination as Director of Central Intelligence. That has been, and will continue to be the case.

Because of your deep concern, and in deference also to Senator Baucus, I will recommend that a reassessment of the accumulated studies be made under the direction of our Inspection Division and that the new Director and the Attorney General take no action on this matter until a more current assessment has been completed. I will also recommend that all of the Senators and Congressmen from Montana and Idaho, as well as other state, local and tribal officials and civic leaders be consulted and their views incorporated in the assessment. Finally, I'm certain that the Attorney General and/or the new Director will discuss their final conclusions with you at the appropriate time.

I believe all of the above is in accordance with our discussions and I trust will be satisfactory to you. With best wishes,

Sincerely,

WILLIAM H. WEBSTER,
Director.

CRIME ON INDIAN RESERVATION 198 CLASSIFICATION ACCOMPLISHMENTS

Butte	Complaints	Indictments and informations	Arrests	Pretrial diversions and convictions
Fiscal year:				
1985	13	65	21	49
1986	16	84	22	71
1987 (1st Qtr)	0	5	1	10

BUTTE'S PERCENTAGE OF TOTAL BUREAU

	Complaints	I&I's	Arrests	PTDs and convictions
Fiscal year:				
1985	24 (55)	23 (287)	16 (129)	17 (293)
1986	15 (105)	21 (399)	12 (178)	22 (326)
1987 (1st Qtr)	0 (9)	6 (83)	3 (30)	16 (61)

Figures in parentheses are Bureau totals.

CASES

Butte	00 pending beginning of year	00 cases received	00 cases closed	00 pending end of year
Fiscal year:				
1985	102	303	269	137
1986	137	182	219	100
1987 (1st Qtr)	100	59	50	109

BUTTE'S PERCENT OF TOTAL BUREAU 00 CASES

	Pending	Received	Closed	Pending end of year
Fiscal year:				
1985	18 (564)	26 (1160)	36 (751)	14 (973)
1986	14 (973)	17 (1076)	16 (1372)	15 (677)
1987 (1st Qtr)	15 (677)	21 (284)	17 (288)	16 (273)

CRIME ON INDIAN RESERVATION DEATH OR SERIOUS BODILY INJURY

	Complaints	Information and indictments	Arrests	Convictions
Fiscal year:				
1985	11	31	17	20
1986	11	45	18	39
1987 (1st Qtr)	0	4	1	2

198A	00 cases pending beginning of year	00 cases received	00 cases closed	00 cases pending end of year
Fiscal year:				
1985	49	149	132	66
1986	66	114	127	53
1987 (1st Qtr)	53	30	29	54

Mr. BAUCUS. Mr. President, I am pleased that FBI Director William Webster has assured Senator MELCHER and myself that the Bureau's Butte, MT division office will remain in Butte, pending a study of FBI operations on the division's Indian reservations.

The Butte FBI office has a distinguished record of effectiveness. This effectiveness is enhanced by Butte's central location, convenient to Montana's and Idaho's Indian reservations, where many of the Bureau's investigations are conducted.

The Butte office also contributes substantially to the local community, employing approximately 70 people. These jobs are important to Butte, a community rich in history, but more recently hit hard by the downturn in the natural resource industry.

I am confident that when the FBI completes its study of Bureau operations on Indian reservations, it will become clear that Butte is the best location for coordinating investigations on these reservations.

I thank Mr. Webster for his thoughtfulness in calling for this study and I anxiously await its recommendations.

Mr. BOREN. Mr. President, how much time remains to this side?

The PRESIDING OFFICER. Two minutes and fifteen seconds.

Mr. BOREN. Mr. President, at this time, in case other members of the committee appear, I reserve the remainder of my time.

Mr. COHEN. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Four minutes and seventeen seconds.

Mr. COHEN. Mr. President, on May 1, 1987, the Senate Intelligence Committee voted 15–0 to report favorably to the Senate on the nomination of Judge William H. Webster to be Director of Central Intelligence. This unanimous vote came after extensive deliberations on his qualifications for the position.

The committee's inquiry focused on questions regarding Judge Webster's conception of the role of the DCI, his views on the congressional oversight process, and his record as Director of the Federal Bureau of Investigation. We paid particular attention—both in open and closed hearings—to several issues which relate to matters currently being investigated by the select congressional committees and the independent counsel. Judge Webster has responded under oath, both orally and in written form, to all of the questions submitted to him by the committee relevant to these issues. Based on our inquiry and those responses, I feel it imperative that the Senate confirm him as expeditiously as possible.

The Central Intelligence Agency and the intelligence community at large have been without a permanent Director since William Casey was hospitalized last December. While Robert Gates, his former deputy, has served admirably as Acting Director through these difficult times, a position as critical to the Nation as the Directorship of Central Intelligence cannot be allowed to languish unoccupied.

The chaos which has characterized some elements of this country's national security apparatus has been chronicled almost daily since last November in the press, in the proceedings of select congressional committees and through the work of the independent counsel. The Senate Intelligence Committee undertook the initial inquiry into the Iran-Contra affair in full knowledge of the contributions intelligence activities make to the formation and implementation of United States, foreign, and defense policies. The importance of maintaining a congruence between the foreign policy goals of the country, as articulated by the administration and in laws passed by Congress, and the execution of those policies by the intelligence community lies at the heart of intelligence oversight.

It is for precisely this reason that we conducted exhaustive interrogation of candidates for the position of DCI. It was clear that a complete and public disclosure of all matters which might be relevant to the tenure of the Office was in order. Investigating committees of the past have been criticized for putting too much information relating to the conduct of covert operations before the public, and in so doing, causing irreparable damage to the process by which the Nation safeguards its security. It is a criticism which expresses a fundamental insensitivity to the needs of a democracy and underestimates the wisdom of the people, in whose hands the strength of the Nation ultimately rests.

Secrecy can find its proper function in a democracy only to the extent that it is used to accomplish goals and policies expressed through democratic legal processes and is limited by the bounds of the constitutional framework. In many ways, entrusting the leadership of an agency whose mandate is to support policy through secret means is the most delicate of all Executive appointments, for any abuse of the position carries catastrophic potential for our sometimes precarious system of checks and balances.

It is for this reason that the committee had to seek Judge Webster's firm pledge to abide by the legislation governing the oversight of intelligence, and for this reason that his reactions to a seemingly endless stream of documents and press reports detailing allegations of impropriety by the Bureau or other Government entities had to be examined in full view of the public.

If the CIA and other agencies of the intelligence community are to retain support for their activities in the aftermath of the investigative processes which are currently underway, they must be visibly occupied with the business of correcting past excesses. The public will need convincing that tendencies to be engaged in activities which might not support open scrutiny have been addressed, and that the preferences of the leadership of the intelligence community lie in the support of foreign policy rather than in its conduct.

Judge Webster has demonstrated his commitment to these challenges, and he has evidenced his own predispositions by requesting from the start to sit on the President's Cabinet in an advisory capacity only, without the prerogatives of membership. His statements regarding retroactive and oral findings indicate his commitment to a policymaking process which can boast both demonstrated authorization and prior policy consideration. His 9-year tenure as Director of the FBI has invested him with an appreciation of the rule of law, a general knowledge of the role of intelligence in support of policy, and specific expertise in the areas of counterintelligence and counterterrorism—areas which are currently in sore need of his stewardship.

I believe we are fortunate to have before the Senate the nomination of a man with such demonstrably appropriate qualifications for the position. I urge Senators to vote to confirm Judge Webster with the same enthusiasm which our committee has reported his nomination.

Mr. President, I think we are seeing right now the importance of this particular nomination.

I think everyone recognizes that we have a Central Intelligence Agency that necessarily has to function in the dark. Of necessity, it also must operate within the law, and therein lies the particular rub we face. How do we integrate intelligence activities into the formulation of foreign policy? How can intelligence operations be conducted, most of them in private and secret, and occasionally even in the dark, and at the same time within the rule of law?

That is what we are spending a lot of time on in the Iran-Contra hearing, focusing on the words "rule of law."

The rule of law is important to this democracy. It is the very cement that holds conflicting and competing interests together in our united Nation. When that cement either cracks or loses its adhesive power, then we can find those conflicting interests and opinions left floating almost on the debris of democracy.

I think it is terribly important that we establish the meaning of the rule of law in the minds of our elected officials.

I think we found 10 years ago, and again recently, that secrecy can lead to unaccountability; and if you have unaccountability, that in turn can lead to a sense of arrogance, and that arrogance inevitably leads to abuse. When the abuse is finally exposed, that can lead to public embarrassment at the least and political paralysis at the worst, and we have witnessed a certain degree of that paralysis over the past 4 or 5 months.

So we must take extraordinary care in how we oversee the Central Intelligence Agency. There is perhaps no more important function than to take an equal amount of care in the selection of people nominated to head the agency.

Bill Webster, I believe, is a man of extraordinary capability, dedication, idealism, and intelligence. I am satisfied, as vice chairman of the committee, that he measures up to all the qualities we need and seek in the Director of this Agency.

We understand that we need to have covert operations as an option to be employed by the President from time to time. That option must be exercised very selectively and must be employed with great care.

There can no longer be covert actions which seek to exclude notification to Congress, because that will lead to destruction of our intelligence agencies.

We are satisfied, I think, that Bill Webster understands his role as Director of the Agency and the role of the Agency within our system, and I believe he will make a fine contribution to our country.

Mr. President, I yield back the remainder of my time.

Mr. BOREN. Mr. President, I yield the remainder of the time on this side to the distinguished majority leader.

Mr. BYRD. I thank the able chairman and manager of the nomination.

Mr. President, in legislative session today, I will introduce legislation to set fixed terms for the Director and the Deputy Director of the Central Intelligence Agency.

The CIA's involvement in the Iran arms-for-hostages deal, evidence that has emerged in the Iran-Contra hearings that former CIA Director Casey was far more deeply involved than originally thought in helping the Contras get military supplies, and the controversial nomination of Robert Gates as CIA Director earlier this year suggest that it would be wise to provide a degree of independence to the two top people at the CIA.

The legislation I will introduce sets fixed terms of 7 years for the Director and Deputy Director of Central Intelligence.

Members might not agree to a 7-year term. They may think it ought to be 10 years or some such term. In any event, the legislation would set the fixed term of 7 years for the Director and Deputy Director of the Central Intelligence Agency.

The Director may not serve more than one 7-year term. The legislation also would stipulate that the two positions shall not be occupied simultaneously by individuals who were employed by the CIA at any time in the 7 years prior to their nomination.

In the mid-1970's, in part in response to revelations about CIA excesses, there were a number of bills and recommendations to set a fixed term for the Director of Central Intelligence, but none of them became law. Congress has continued to struggle with the issue of the CIA's accountability on covert operations. I do not take issue with the need of any administration—Republican or Democratic—to collate intelligence and conduct covert operations when necessary.

The CIA's role in this administration's assistance to the Contra rebels in Nicaragua, however, suggests that perhaps it would be wise to insure that the Director of Central Intelligence, and his Deputy, have a degree of independence that would make it possible for the Agency to resist pressure to engage in questionable or illegal activities. As well, reports that intelligence studies were tailored to support desired administration conclusions on Soviet designs on Iran, which apparently provided intellectual justification for the Iran arms-for-hostages deals, suggest that the CIA needs protection from political pressure to insure that its intelligence analysis is unbiased.

A number of important executive branch officials serve fixed terms: the FBI Director serves a single 10-year term; the Director of the Office of Personnel Management serves for 4 years; the Chairman of the Federal Reserve Board serves for 4 years. It is time for the Director and Deputy Director of Central Intelligence to be added to this list.

I thank the Senator from Oklahoma for yielding.

Mr. BOREN. Mr. President, does any time remain?

The PRESIDING OFFICER. All time has expired.

Mr. COHEN. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. COHEN. Mr. President, I want to take a moment to express my thanks to the chairman of the Intelligence Committee. He conducted two sets of hearings—one on Mr. Gates and one on Mr. Webster—and conducted them with intensity and great integrity. It was because of his patience and perseverance that every Member of the minority had a full opportunity to develop, explore, and exchange views on this important nomination. I thank him for his patience and courtesy.

Mr. BOREN. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank my colleague from Maine for the very generous comments he has just made. It is a great privilege and pleasure to be able to serve with him in the leadership of that committee. He serves ably as vice chairman and has made an immense contribution to the spirit of bipartisanship which appropriately reigns in that committee.

That committee spans the entire political spectrum of the Senate. The members of the committee put in long hours, and because of the nature of the work, the amount of time they spend is often unrecognized.

Under the leadership of the Senator from Maine and the spirit he exemplifies, the members of the committee are developing the kind of spirit that I think the country needs and will serve our Nation's security interests as well. I thank him for the very gracious comments he made.

I urge my colleagues to join in the unanimous recommendation of the Committee on Intelligence that Judge Webster's nomination be confirmed, so that he can get on with the important work at hand in the Central Intelligence Agency.

Mr. MURKOWSKI. Mr. President, I am delighted to rise in support of the nomination of William Webster as Director of Central Intelligence.

There is probably no more demanding job for an unelected official than that of DCI. The Director must have an intellectual grasp of an increasingly complex array of programs ranging from traditional espionage, to some of the world's most advanced technical systems, to the analysis of political and economic developments in virtually every country in the world. He must have impressive administrative skills to lead a diverse set of agencies, both civilian and military, that make up the intelligence community. The degree of direct authority varies from one agency to the next, making the management challenge that much more difficult.

The DCI must have political skills of a high order if he is to successfully defend the interests of Intelligence against the competing demands of other government programs. And those same political abilities will, of course, be repeatedly tested in his regular dealings with the Congress.

There can be no doubt about the importance of this vote. The headlines of the last few months have underlined over and over again the critical role played by the DCI and the agencies he leads in defending national security. Intelligence agencies are the eyes and ears—the tripwire—of national defense. For instance, we are on the brink of a breakthrough in arms control negotiations with the Soviet Union. The ultimate success of that effort will depend heavily on the monitoring capabilities of U.S. intelligence.

These are demanding times for the intelligence community. While the tasks and demands grow in scope and complexity, the budgetary resources are increasingly constrained.

With all these considerations in mind, the Intelligence Committee conducted protracted hearings, in open and closed session, over several days. The result, I am happy to say, is a superbly qualified nominee. William Webster has the required ability and experience and proven integrity for this position. His nine year record as Director of the FBI confirms this. His candor and patience in responding to the committee's painstaking confirmation process demonstrates his readiness to work constructively with the oversight committees of the Congress. In several instances Judge Webster volunteered information that had recently come to his attention, but which was not then known to the Intelligence Committee.

Mr. President, I am pleased to say that we are entrusting the intelligence community to excellent hands.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William H. Webster, of Missouri, to be Director of Central Intelligence? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. SYMMS], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting the Senator from Kansas [Mr. DOLE] and the Senator from Idaho [Mr. SYMMS] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 115 Ex.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—1

Reid

NOT VOTING—5

Dole
Roth
Simon
Symms
Weicker

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have eight nominations which were submitted by the Committee on the Judiciary earlier today. These eight nominations have been cleared on both sides of the aisle.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the eight nominations en bloc, that they might be confirmed en bloc, that a motion to reconsider en bloc be laid on the table, that the President be immediately notified of the confirmation of the nominees, and that the nominations be spread severally and independently on the record.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, we have no objection to this procedure. I would say that this is acting extraordinarily swiftly. I think it is an accommodation to the majority leader. We acted on these today at 2 o'clock. They have now come forward. We appreciate the excellent efforts of the Judiciary Committee and we thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Michael S. Kanne, of Indiana, to be U.S. circuit judge for the seventh circuit;

Roger B. Andwelt, of the District of Columbia, to be a Judge of the U.S. Claims Court;

James H. Alesia, of Illinois, to be U.S. district judge for the northern district of Illinois;

Joseph P. Stadmueller, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin;

Charles W. Larson, of Iowa, to be U.S. attorney for the northern district of Iowa;

K. Michael Moore, of Florida, to be U.S. attorney for the northern district of Florida;

George J. Terwilliger III, of Vermont, to be U.S. attorney;

Michael W. Carey, of West Virginia, to be U.S. attorney for the southern district of West Virginia.

Mr. BYRD. Mr. President, I am pleased to support the confirmation of Mr. Michael W. Carey as the U.S. attorney for the southern district of West Virginia.

Mr. Carey is a native of Charleston, and is a fine public servant. He has served as an assistant U.S. attorney for the past 7 years, following his graduation from the West Virginia University College of Law, where he was first in his class, Order of the Coif, and editor-in-chief of the law review.

He is well respected by his peers, and earlier today, his nomination was unanimously reported out of the Judiciary Committee, where I was happy to have voted for him.

I am very pleased that the President has made this exceptional appointment, and I know that Mr. Carey will continue to serve the citizens of West Virginia in an exemplary way.

In these times of skepticism in the confidence of our public servants, it is heartening and reassuring that a person of Mr. Carey's ability and integrity holds this office, requiring the highest degree of public trust.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of morning business, not to extend beyond 10 minutes, and that Senators may speak therein for not to exceed 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

"FOLLOW THROUGH" PROGRAM

Mr. GRASSLEY. Mr. President, the Follow Through Program is a popular program that helps disadvantaged children. It maintains, or follows through, the developmental support that is available to children enrolled in Head Start, or similar preschool programs, once they enter elementary school.

For more than 15 years recipients of grants under this program have been awarded noncompeting continuation grants. The Department of Education is now proposing to make this a competitive grant program as a result of legislative language in the Human Services Reauthorization Act of 1986. We think that the program should be competitive. That would allow additional schools the opportunity to compete for the benefits of this program.

Proposed regulations implementing the competitive grant process were published on April 30, just a few weeks ago. Final regulations are expected on July 31. Initially, applicants were expected to return applications for the Follow Through grants by June 30, before the regulations would have been finalized. The Department hoped that it would be able to review and approve the applications in just 2 months, so that they could announce awards by September 1. That would have pushed the start up date for new programs to October 1, after school has started.

Even if the Department of Education had been able to adhere to this optimistic schedule, such timelines would not have allowed existing or new programs sufficient time to develop plans and complete applications. Existing programs would have had trouble maintaining their teaching staff or making plans for the next year if funding would have been uncertain. New applicants would not have had adequate time to prepare fully developed Follow Through proposals for initial start-up programs. Moreover, since this is a school based program, most local school districts would have had difficulty completing proposals during the final weeks of their school year.

When these concerns were brought to my attention, I proposed to introduce an amendment to the Supplemental Appropriations Bill. That amendment would have simply delayed the implementation of the Department's rules for 1 year. Senator KENNEDY, chairman of the Committee on Labor and Human Resources, was joining me as a co-sponsor.

Mr. President, I am pleased to say that the Department of Education responded quickly and responsibly to the concerns which I and my colleagues from Massachusetts brought to their attention. When we relayed to the Department our concern about the timing of the competitive process for Follow Through grants, the Department agreed to delay the competition until the next year. The Department has notified current grantees that awards for the 1987-88 school year will be distributed according to the regulations that are currently in place. They will receive their awards on June 30.

While this step means that competition will, in effect, be delayed a year, we believe such a delay is fully justified. The delay will enable existing programs to plan for the forthcoming year, thereby preventing unanticipated staff displacement and program dislocation. Additionally, the extended application time will ensure better competition among more applicants with better proposals.

Mr. President, there is going to be a Follow Through Program and next year it will be conducted, as we intended, on a fully competitive basis. Delaying the effective date of the new regulations ensures that, for this year, the method and the timing for the grant award process will be both reasonable and practicable.

We have a precedent for such a delay. In 1984 the Department of Education proposed that funding for its research and laboratory centers be changed to a competitive process. At that time, Senator PACKWOOD was concerned that the process would be disruptive to the existing programs. He was successful in having an amendment adopted which delayed the competition for 1 year.

I should like to add, Mr. President, that staff members from my office and Senator KENNEDY's office have discussed this problem with staff representing Senator PELL; chairman of the Subcommittee on Education, Arts and Humanities; and Senator STAFFORD; ranking member of that subcommittee. They share our concern and also believe that a single year delay in the competition for Follow Through grants is a reasonable and desirable step in these circumstances.

I am pleased that the Department of Education acted as it did. It thereby obviated the need for to take legislative action this year.

The regulation the Department has proposed is a good one, Mr. President. It not only introduces competition into the program, but it redirects it in a fundamental way by focusing on the demonstrations and dissemination of promising approaches for educating young children from poor families.

I am delighted that the Department of Education has responded so quickly and responsibly to our concerns.

THE FOLLOWTHROUGH PROGRAM

Mr. KENNEDY. Mr. President, I should like to add my strong support to the statement offered by the Senator from Iowa.

What we are proposing is a single year delay in the grants competition for followthrough projects. The key word is delay. We want the competition to take place, but at such time and under such circumstances as to be in everyone's best interest. That is precisely what this 1-year delay will accomplish.

I am pleased that the Department of Education recognized our concerns and was willing to work out an accommodation on this matter. I believe that this delay will result in a better competition with better quality proposals than would otherwise be the case.

I commend the Senator from Iowa for his efforts on this matter.

THE "FOLLOW THROUGH" PROGRAM

Mr. STAFFORD. Mr. President, I join my colleague from Iowa, Senator GRASSLEY, in his support for the Department of Education proposal to delay implementation of recently published regulations regarding changes in the Followthrough Program. The substance of these regulations will provide needed revision of the Followthrough Program. Current recipients of grants under this act have received continuation funds for many years. Competition for grant awards will revitalize this program and encourage new districts to participate. The Department of Education's decision to wait until the next fiscal year to implement these regulations is an appropriate step to take at this time. It will give local districts the time necessary to properly prepare for a grant competition.

MESSAGE TO BANKING CONFEREES: TEN-YEAR AMORTIZATION

Mr. GRASSLEY. Mr. President, last Friday the Senate appointed its conferees to H.R. 27, the emergency Federal Savings and Loan Insurance Corporation Recapitalization Act. As we all know, we are going to conference with the House on this bill because the Senate added its Competitive Equality Banking Act, S. 790. I rise today to urge my colleagues on the conference committee to work to include in the conference committee report language amended to title IV of the S. 790, which would allow banks to amortize farm loan losses over a period of 10 years.

The House may argue that a clean emergency FSLIC bill is necessary and that it cannot accept any extraneous language. I, too, have argued for a clean bill and supported Senator GARN's amendment to strike those parts of the Senate bill which are the most controversial. The provisions for which I speak today are not controversial, will cause no harm to any party, and will not bog down the emergency provisions for the savings and loan industry. In fact, I am convinced that rural banks are also facing crisis. The statistics will prove my point.

Already this year, 78 banks have been closed by FDIC. This is well over half of the banks that were closed last year, yet we are not even close to the midpoint of the calendar year. Officials at FDIC tell me they expect 200 banks to be closed in 1987. The decline and failure of most farm banks can be traced directly to a struggling farm economy, which is completely beyond the control of bank managers. In particular, the eroding value of land has eaten away at banks' capital. While the average value of Iowa farmland was $2,147 per acre in 1981, today it is only $787 per acre. This represents a 63-percent reduction in just over 5 years.

Bank that have a large portion of their loans in Agriculture cannot all at once absorb capital losses from depreciating land values and maintain the required 6-percent capital. The language in title IV of the Senate bill would assist banks in meeting those capital requirements by allowing them to stretch out farm loan losses over a 10-year period.

Mr. President, it is not my intention to tell tales of gloom and doom in the farm industry. That sad truth is all to well documented. Actually, I am relieved and glad to say that in some ways the farm economy has shown improvement. For the first time in 4 years, banks' profits rebounded 50 percent in 1986. As the banking superintendent in Iowa said, "The system is at work flushing out the overextension of debt."

I am encouraged by these signs of improvement in farm banks. But we cannot be optimistic to the point of complacency. There are reasons to be cautious of the improving economy. First, the relief is only short lived so far. After 5 years of agricultural recession we cannot assume that a few months of recovery mean that we should put our concerns to distant memory.

Second, the improvement is still spotty. Even in Iowa, which is almost entirely agricultural, the banks with the most improvements are in the State's largest cities. In spite of the gains in profits for the banking industry as a whole, more individual Iowa banks lost money in 1986 than in 1985.

Third, the reduction in farm debt, which remains at almost 27 percent of all commercial bank debt in Iowa, has been reduced largely because banks had to write off nonperforming loans. These losses had to be immediately absorbed to conform with Federal regulatory procedures. Banks are therefore forced to maintain larger loan loss reserves, which in turn increase interest costs to farmers.

Mr. President, 372 out of 614 banks in Iowa would realize significant improvements in their financial condition if the 10-year amortization provision is enacted into law. This would allow over 60 percent of banks in my State to pass along those savings to their farmer customers.

Mr. President, that is the bottom line, welfare farmers. If the Government goes easier on bankers, bankers will be able to go easier on their farm borrowers.

It seems to me that life can only be understood backward, but it has to be lived forward. We can look back and say that we should have done this and we should have done that. But we can never be certain what we should do next. The best lessons, unfortunately, frequently come from what we didn't do. In the past we haven't granted real forbearance to farm banks, but when we look backward we understand that we should have. Since the problems are not clearly over, we must enact forward looking legislation that will assist remaining farm banks and their farm customers by granting them forbearance which they need and deserve.

Mr. President, I ask that my Senate colleagues on the Banking Conference Committee remember and pursue these things in their negotiations with the House.

CITICORP TRANSFER

Mr. MOYNIHAN. Mr. President, an hour and 45 minutes ago Citicorp, the parent corporation of Citibank, announced that during the second quarter of 1987 it will add $3 billion to its reserves for possible credit losses. This increase is associated with Citicorp's sovereign debt portfolio. I rise to offer this Senator's view that this is a positive development in the international banking situation.

We have heard a good deal about the problem of foreign debts held by many of our banking institutions, the largest portfolio being that of Citicorp.

The transfer of some $3 billion into credit loss reserves will raise total reserves to $5 billion, or about 3.7 percent of outstanding loans. Citicorp's primary capital after the move will be $14.5 billion, which is up about $500 million since March 31.

Mr. President, the point I would like to make is that there will be, as a consequence of this movement of assets into loss reserves, a reported loss to the bank in this quarter. Citicorp will report approximately a $2.5 billion loss, which in simple arithmetic indicates there was a half billion dollar profit which offsets the $3 billion transfer to loan loss reserves.

The point is that Citicorp is in sound condition. The earnings momentum of Citicorp's base businesses, if I may quote Mr. John S. Reed, who spoke about it this afternoon, is strong and with the exception of the sovereign risk portfolio is expected to continue to show good growth.

Mr. Reed, who is an energetic and forthright man, has been for some time building up the loan loss reserves of the bank so that there should never be any question about its stability, and today's actions are consistent with that philosophy.

Mr. Reed has made it clear that Citicorp intends to continue to play a leadership role, that it supports the Baker initiative with respect to foreign debt, and wishes to continue to work to get major debtor countries back into credit markets. He feels, and I think this should be the judgment of the banking community, that this will now give Citicorp flexibility to do that.

Efforts to solve the sovereign debt problem can go forward without any question arising about the financial solvency and stability of a principle participant, the single institution that carries the largest amount of foreign loan activity and foreign banking business generally.

Mr. President, I ask unanimous consent to have printed in the RECORD an announcement by Citicorp, with a statement by Mr. Reed, Citicorp's chairman.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITICORP ADDS $3 BILLION TO RESERVE; WILL RESTRUCTURE SOVEREIGN EXPOSURE; RECONFIRMS SUPPORT FOR BAKER INITIATIVE

WILL REPORT LOSS FOR QUARTER AND YEAR

NEW YORK, May 19.—Citicorp announced today that during the second quarter of 1987 it will add $3 billion to its reserves for possible credit losses.

This addition will raise total reserves of Citicorp to approximately $5 billion, or about 3.7% of loans. Citicorp's primary capital after the moves will be $14.5 billion, up approximately $500 million since March 31. This is 7.1% of assets, well in excess of normal U.S. bank requirements.

The substantial increase in credit loss reserves made during the current quarter will result in Citicorp reporting a loss of approximately $2.5 billion for the quarter.

Based on current estimates of the full year's base business earnings, the tax impact of the reserve increase, and the results of some asset sales expected to be completed during 1987, a loss of approximately $1 billion is anticipated for the year.

Citicorp explained that this decision was approved at its Board meeting today and resulted from a broad review of global economic trends and their potential impact on Citicorp's major customers. In this context, the Board reviewed in detail Citicorp's sovereign debt portfolio in the light of the various agreements reached with major borrowing countries during recent months and Citicorp's decision to put its Brazilian cross-border loans on a cash basis.

John S. Reed, Citicorp's Chairman, said:

"This increase in the reserve is related to the sovereign debt issue and our commitment to play a constructive and continuing role in its resolution. In addition to the general risks, this increase relates to our decision to restructure our current exposure through debt/equity swaps, sales, and other measures, giving us increased flexibility to manage our sovereign risk portfolio and to respond to initiatives being undertaken by various countries to resolve their external debt difficulties. This will provide for around twenty-five percent of our sovereign exposure.

"The earnings momentum of Citicorp's base businesses—the Individual Bank, the Investment Bank and the Institutional Bank—are strong and, with the exception of the sovereign risk portfolio are expected to continue to show good growth with no unusual changes in their credit loss trends.

"In future years, starting with 1988, Citicorp's reported earnings are like to be quite strong as a result of three factors—the underlying strength of our base businesses, the fact that we will not be building our corporate reserve, and the favorable tax impact of this decision which will be felt for the next eight quarters."

The Citicorp Board also indicated that it intended to continue its normal dividend policy and would base its dividend recomendations on the underlying earnings momentum of the core businesses of the Corporation, as it has been doing.

In making this announcement, Citicorp stressed that its action did not reflect any change in its basic position vis a vis the sovereign debt issue; its full support of the Bank Advisory Committee process; or its attitude towards major debtor countries. Citicorp indicated that, on the contrary, it would continue to be an active supporter of the Baker Initiative in all its aspects, and that it would continue to implement its commitment to reestablish access to the voluntary global credit markets by major debtor countries.

In this connection, the Corporation emphasized its strong local presence in most of the countries which had encountered debt problems and its full participation in, and continuing support of, recent restructurings of the external debts of Argentina, Chile, Mexico, the Philippines and Venezuela.

Citicorp pointed out it had notified banking and financial authorities around the world of its action in increasing its credit loss reserve and of its continuing commitment to resolution of the debt problem.

Mr. Reed indicated that "in my view it is of fundamental importance that developing countries with appropriate economic policies gain access to new sources of international finance—both equity and debt. This in turn requires that the principal bank lenders be comfortable that they are adequately capitalized and reserved to perform their function in easy times as well as difficult.

"It is important to avoid mandated loss reserves, reduced interest rates or debt forgiveness any of which would have a significant and long-lasting chilling effect on private capital flows that are essential for trade and growth in the developing world."

HIGHER EDUCATION ACT OF 1965 AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of a bill which has been held at the desk, H.R. 1846, making technical amendments to the Higher Education Act of 1965.

The PRESIDING OFFICER. The bill will be stand by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1846) making technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 198

(Purpose: To make further clarifying and technical changes in the Higher Education Act of 1986)

Mr. BYRD. Mr. President, on behalf of Senators PELL, STAFFORD, and others, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. PELL, Mr. STAFFORD, Mr. METZENBAUM, Mr. HATCH, Mr. MATSUNAGA, Mr. DODD, Mr. THURMOND, Mr. SIMON, Mr. WEICKER, Ms. MIKULSKI, Mr. KENNEDY and Mr. QUAYLE, proposes an amendment numbered 198.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The text of the amendment is printed under amendments submitted, later in today's RECORD.]

Mr. PELL. Mr. President, last October, the President signed into law a 5-year reauthorization of the Higher Education Act of 1965. The passage of this act reflected 2 years of hard work by the Subcommittee on Education, Arts, and Humanities. The task was a difficult one. As many of us know, the Higher Education Act is one of the more complicated and technical pieces of Federal education law in existence today. Under the able leadership of the senior Senator from Vermont, the subcommittee last year was able to develop a bill that updated and improved the Higher Education Act while still preserving the integrity of the Federal role in higher education.

As with any bill of such magnitude, certain technical corrections need to be made to clarify the intent of Congress, to amend any adverse effects and oversights that might result from the many new provisions, and to correct misspellings and erroneous cross-references. I am proud to sponsor the Higher Education Technical Amendments Act of 1987 to accomplish these purposes.

This bill represents a consensus agreement among the members of both the Senate Subcommittee on Education, Arts, and Humanities, as well as the members of the House Subcommittee on Post-Secondary Education. Those of us who served on the conference committee for last year's reauthorization of the Higher Education Act remember well the long and difficult task we faced. There were severe differences between the House and Senate bills. Through conference, these differences were worked out. I am pleased that the spirit of compromise and cooperation that marked that conference has continued through the development of the technical corrections bill. This bill has the support of Democrats and Republicans alike in both the Senate and the House of Representatives.

The technical amendments bill before us makes many important improvements in the Higher Education Act of 1986. Most of the changes we have before us today are of a purely technical nature: clarifications of references and corrections in spellings, numberings, and cross-references.

A considerable number of the changes made in this bill involve adjustments in the needs analysis section. These changes are necessary to assure an efficient and equitable system. For example, during last year's conference, we created two needs analysis systems. This technical bill brings greater conformity to both systems.

Several of the changes contained in this measure will bring it into conformity with the Tax Reform Act of 1986 and the Consolidated Omnibus Budget Reconciliation Act. These two measures were passed either during or after the higher education conference, and this legislation is the first opportunity we have had to make the necessary conforming changes.

There are also other important changes that our legislation makes in the Higher Education Act as amended. Last year we mandated that the Secretary of Education implement as simplified needs analysis for families with incomes of less than $15,000 per year. We did not, however, mandate the development and implementation of a simplified application form. In these amendments, we have corrected that oversight.

I have long been concerned with the length and complexity of the current application. I found it difficult to complete, and I know that poor families found it almost impossible to comprehend. I am pleased, therefore, that we have included language that will bring about the creation and use of a simplified form. My hope is that such a form will erase entirely the possibility of a complex form standing in the way of a needy student getting the aid he or she needs to pursue a college education.

During staff discussions over the past several weeks, several issues arose where there was insufficient information with which to make a solid, reasoned decision. Fortunately, we had the foresight last year to establish the Advisory Commission on Student Financial Assistance to assist us in such circumstances. For example, we are asking in these amendments to have the Commission study the whole issue of multiple data entry processing including both the cost of processing and developing applications and the fees charged for such services. The Senate has already appointed its Commission members, and I am very hopeful that both the House of Representatives and the administration will appoint their members in the very near future so that the Commission can begin its very important work.

One of the most important provisions of this bill clarifies congressional intent concerning the discretion of financial aid administrators. Due to budget constraints, we were compelled to place new restrictions on student aid when we reauthorized the Higher Education Act last year. While we believe that we made these difficult decisions in a fair and equitable manner, we want to be certain that exceptional circumstances are not excluded when considering a student's eligibility. To accomplish this, the Higher Education Amendments of 1986 gave financial aid officers the authority to take such circumstances into consideration. In these amendments we not only repeat but add emphasis to the discretion which aid administrators have in considering student aid eligibility on a case-by-case basis.

For example, in my home State of Rhode Island, real estate values have escalated so dramatically in the last year that families with very low incomes are finding that the increased value of their homes is having a severely negative impact on the amount of student aid for which they are eligible. These same families, however, often have such a limited income that they cannot borrow against the value of their home and could not pay off such a loan even if they could obtain it. The provisions of these technical amendments concerning student aid officer discretion will permit such cases to be considered and aid to be awarded where there is a need. This provision will also help those who face hardships because of similar circumstances with farm or business properties or other personal hardships.

These amendments will once again make it possible for schools to send applications for guaranteed loans directly to financial institutions. Last fall,we put in a provision that students must submit these forms directly to the lender. This was done to make sure that borrowers would be able to select the lender of their own choice. We are concerned, however, that this provision could seriously hamper the efficiency of the system by slowing down the application process and by creating an opportunity for forms to be lost or tampered with when returned to students.

The technical amendments bill provides that each applicant shall clearly indicate his or her choice of lender on the application form. This provision is intended to allow the continuation of the practice of direct transmittal of the GSL application form by the educational institution while still protecting congressional intent that the applicant have a free choice of lender.

Mr. President, I have chosen to highlight some of the issues we have addressed in this bill which I believe are most important. There are, of course, matters that we believed we could not or should not address within the context of this legislation. One of these issues is sufficiently important to merit specific mention in this statement.

The issue of a uniform or variable student loan insurance premium is a complex issue that has arisen only recently. It is an issue that demands careful consideration, and should not be subject to precipitous action. A joint Senate-House education staff meeting has been called for May 19. At that meeting, all concerned parties will have the opportunity to make their views known and to present their recommendations for changes in the current provisions of law. I applaud the swift action the staff has taken to work toward resolution of this issue and remain very hopeful that we will be able to fashion a compromise that will be satisfactory to all parties. I understand the time constraints under which we are operating, but I also understand the problems that can be caused by the possibility of a hasty and ill-conceived quick-fix.

Producing a technical amendments bill such as the one we have before us is an extremely arduous task. We have given careful consideration to literally hundreds of proposals from across the country. Our first priority throughout our deliberations has been to improve the delivery of services to deserving students who need this assistance in order to pursue their postsecondary education.

Our work would have been impossible without the tireless effort of a very able and dedicated staff. These staff members include Polly Gault and Ellin Nolan of Senator STAFFORD's staff, Richard Tarplin of Senator DODD's staff, Bobby Dunn of Senator HATCH's staff, William Blakey of Senator SIMON's staff, Betsy Brand of Senator QUAYLE's staff, Lois Fu of Senator MATSUNAGA's staff, Kerk Spong and Michael Tongour of Senator THURMOND's staff, Cheryl Birdsall of Senator METZENBAUM's staff, Terry Muilenburg of Senator WEICKER's staff, Charlotte Hayes of Senator MIKULSKI's staff, and Terry Hartle of Senator KENNEDY's staff. I also want to express my gratitude and appreciation for the very fine work done by Sarah Flanagan, Merry Richter, and David Evans of the Education Subcommittee staff, and by Tom Davis, our Phillips-Exeter intern. I know that my colleagues on the Subcommittee on Education, Arts, and Humanities share my respect for these people who have worked so hard on this legislation.

Mr. President, I urge my colleagues to join me in supporting this important piece of legislation.

Mr. STAFFORD. Mr. President, I am pleased to join the chairman of the Subcommittee on Education, Arts, and Humanities, Senator PELL, in urging my colleagues to support H.R. 1846, the Higher Education Technical Amendments Act of 1987.

Throughout the 99th Congress, the subcommittee worked to reauthorize the Higher Education Act of 1965. It was a difficult task which required 2 years of hearings and committee action, culminating in a 2-month conference with the House of Representatives. The conference agreement was signed into law on October 17, 1986.

As with any massive legislative package—the Higher Education Act was 700 pages in length—technical corrections and clarifications are often necessary. For the past several weeks, under the leadership of Senator PELL, the subcommittee has worked in a bipartisan matter with Members of the House to develop a bill to address those vital corrections. Items as technical as inaccurate cross-references and misspelling are included in this package. In other instances, amendments correct omissions, errors in drafting, and clarify congressional intent where necessary for proper implementation of the law. Furthermore, this legislation updates and revises numerical values in the needs analysis provisions of the law and conforms the newly enacted congressional methodology with uniform methodology where legitimate concern was expressed. Finally, technical changes are made to conform provisions of the Higher Education Act with the Tax Reform Act of 1986 and the Consolidated Omnibus Reconciliation Act.

I would like to highlight several amendments that are of particular importance to the higher education community and to the Senator from Vermont. First, during the conference with the House last summer, the Senate inadvertently agreed to drop limitations in law on schools which wanted to participate as lenders in the Guaranteed Student Loan Program. Senate conferees receded to the House in regard to these provisions without adequate reflection. Therefore, those limitations are reinstated in this technical package. Furthermore, the Advisory Commission on Student Financial Assistance is directed to complete a study on the appropriateness of these or any other limitations on school lending within 2 years of enactment of H.R. 1846. Though it is clear that many schools are financially capable of managing institutional loan programs, that is by no means the case with all institutions. The alarming default rate on many campuses which administer national direct student loan programs is an example of the kind of difficulty some schools have collecting loans from their alumni. Because the Congress is aware that several schools have expanded their institutional lending programs since the enactment of the HEA amendments in 1986, a grandfathering provision is included, limited to those specific loans.

An issue of great concern to this Senator during the reauthorization was the default rate within the GSL Program. Many changes were enacted to address the problem of defaults and to insure the fact that student borrowers are properly informed about their responsibilities for repayment. In these amendments, counseling requirements are applied to borrowers interested in loan consolidation programs.

Since the enactment of the HEA amendments last fall, nondegree candidates have been prohibited from borrowing in the GSL Program. Amendments in H.R. 1846 would allow these students to borrow in the GSL Program in very limited circumstances for a 12-month period. This provision will allow transfer students and students completing mandatory coursework to enter a degree program to become borrowers.

A second important goal for this Senator during the reauthorization of the Higher Education Act was to improve and to make more equitable the method used to determine eligibility for Federal financial assistance. I believe we accomplished that task. The changes made in this system which are of particular benefit to independent students with dependents, do not take effect, however, until 1988. In the interim, because all borrowers must now demonstrate need in the GSL Program, some students are being treated less than equitably by the system currently in effect. For that reason, provisions contained in H.R. 1846 clarifying the fact that financial aid officers, in very special and well-documented circumstances, do have some discretion, are of particular importance.

Developing a technical amendments bill which is truly technical and does not reopen previously resolved issues was a very delicate task for all members of the subcommittee. Every effort was made to respect the integrity of the conference held last summer. The higher education community is to be commended for their diligence and support in identifying important issues that needed to be addressed, and finding appropriate solutions.

In recent weeks all members of the subcommittee have been approached about the issue of guarantee fees paid by student borrowers. It is an issue that requires the studied attention of all members. Senator PELL and Congressman WILLIAMS have scheduled a meeting in the next few days which will allow that process to begin. To offer a technical amendment at this time would be careless on our part and would most likely create new difficulties which we would have to revisit at a later date.

In closing, H.R. 1846 is a compromise bill that accomplishes just what is set out to do. It makes necessary changes, corrects mistakes, and clarifies congressional intent. H.R. 1846 was agreed to in a bipartisan fashion, and deserves quick passage by this body.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Higher Education Technical Amendments of 1987.

Last year, the Congress reauthorized the Higher Education Act. The 1986 amendments, like the Higher Education Act itself, are very complicated and technical. Not surprisingly, we now need to make technical changes to clarify congressional intent and to correct technical errors and details.

The Senator from Rhode Island [Mr. PELL] has already described some of the major changes made in this bill and the reasons for them. I am especially pleased that the amendments emphasize the importance of developing a simplified application form to make it easier for students when they apply for student assistance. I am also pleased that the bill clarifies congressional intent with respect to the amount of discretion that financial aid officers should have to help meet the exceptional financial circumstances that confront some students and their families.

There were several concerns that arose in discussion of this bill that could not be settled with the available information or that went beyond technical amendments. We have asked the Advisory Commission on Student Financial Assistance to look at these issues and to make recommendations to help resolve these questions.

One question we have assigned to the Advisory Commission—whether and under what circumstances to permit higher education institutions to become lenders under the Guaranteed Student Loan Program—is of particular concern in Massachusetts and I look forward to the suggestions of the Advisory Commission on this matter.

Mr. President, this bill represents an agreement worked out among members of the Senate Subcommittee on Education, Arts and Humanities and the House Subcommittee on Postsecondary Education. This is a consensus bill.

I would like to commend Senator PELL and Senator STAFFORD, the ranking minority member of the subcommittee for their leadership in pulling together this bill. Many staff members were involved in pulling the bill together, but I would especially like to acknowledge Sarah Flanagan and David Evans of Senator PELL's staff for their tireless efforts.

I urge my colleagues to join me in supporting this measure.

Mr. THURMOND. Mr. President, on October 17, 1986, President Reagan signed one of the most important pieces of legislation passed in the 99th Congress into law. I am referring to the Higher Education Reauthorization Act of 1986.

Since the Higher Education Act was originally enacted in 1965, millions of Americans have been able to achieve the American dream of obtaining a postsecondary education. I have often said that there is no area more important to the future of our Nation than education. The Higher Education Act provides students of today and tomorrow with opportunities to improve their country and themselves.

As a member of the Education Subcommittee, I was a cosponsor and actively involved in the passage of last year's law. Today the leadership of that subcommittee is offering a package of technical amendments to clarify and perfect the 1986 law. I am pleased to announce my cosponsorship of these technical amendments.

Included in this package is legislation which I authored to name an existing higher education program the "Ronald E. McNair Post-Baccalaureate Achievement Program." This program is designed to assist and encourage disadvantaged students, who have completed their sophomore year in college, to obtain graduate degrees. Services authorized under this program include providing research opportunities to students who intend to pursue graduate degrees, summer internships, and guidance and counseling regarding admission to and financial assistance in graduate programs. Essentially, the program is designed to encourage those from disadvantaged backgrounds to dream and to achieve. I can think of no better role model for such a program than Dr. Ronald E. McNair.

Dr. McNair, the second black astronaut in space, was born in Lake City, SC, in 1950. He graduated magna cum laude from North Carolina A&T in 1971. He received his doctorate degree in physics from Massachusetts Institute of Technology in 1976. He quickly established his expertise in laser physics and was selected for the astronaut corps in 1978.

In ancient Greece, society placed great importance on being a "whole man." This term described an individual who had demonstrated prowess in a variety of pursuits. This type of man was a scholar, an athlete, and someone who appreciated the arts. Dr. Ronald E. McNair was such a man. He was a black belt in karate and taught the sport. He was an expert saxophonist and was a member of a swing band comprised of space center employees. He even brought his saxophone along on his first space flight.

He was not born into wealth. He grew up in a time when much of the current progress in race relations had not yet been achieved. However, these circumstances never obstructed his goals.

The loss of Dr. Ronald McNair and his colleagues on the ill-fated *Challenger* flight was truly a national tragedy. By naming this program in honor of Dr. McNair, the perseverance and determination he demonstrated to achieve his goals can continue to be a positive example to future generations of Americans.

Mr. President, I thank my colleagues on the Education Subcommittee for including this legislation in the Higher Education Technical Amendments of 1987 and urge its swift passage.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, I want to join my friends and distinguished colleagues, the Senator from Rhode Island, Mr. PELL, who chairs the Education, Arts and Humanities Subcommittee, and the Senator from Vermont, Mr. STAFFORD our ranking Republican member on the subcommittee in supporting the Higher Education Act Technical Amendments of 1987. Once again, we have proven that education is not a partisan issue in the U.S. Senate—as Democrats and Republicans have united to forge a bipartisan bill to make technical changes in the historic legislation passed by the 99th Congress. That legislation continued our Nation's commitment to providing equal opportunity in higher education and reducing the financial barriers to post-secondary education for low- and middle-income families.

I would like to commend my colleagues and their staffs for the outstanding work that has been done to bring this bill before the Senate. The conferees for the Senate and those representing the other body spent almost 3 months in conference last year in June, July and parts of August and September. S. 1965 represented the most significant rewrite of the Higher Education Act since its inception. The Congress also took on the major task of writing the title IV "needs analysis" into the law. Inevitably, technical and other errors were made and need to be corrected.

I want to pay special tribute to David Evans and to Sarah Flanagan, who work for our subcommittee chairman, to Polly Gault and Ellin Nolan of Senator STAFFORD's staff, to Bobby Dunn of Senator HATCH's staff, to Betsy Brand of Senator QUAYLE's staff, and to Bud Blakey of my own staff. They have worked, along with the staffs of other subcommittee members, for long hours to bring us to where we are today. The cooperation between the Senate staff, and staff representing members from the other body has been exceptional. They all should be recognized for their outstanding efforts and continuing contribution to our work in the Senate.

There is one matter that is not included in the legislative package, but does require clarification in order to prevent the perversion of the Congress' legislative intent in establishing the Black College and University Act as part B of title III. I have discussed this matter with the leadership of the three major organizations representing black colleges—the National Association for Equal Opportunity in Higher Education [NAFEO], the United Negro College Fund [UNCF], and the office for the advancement of public black colleges at the National Association of State Universities and Land Grant Colleges—as well as several of the college presidents.

A problem has arisen with regard to which institutions come within the definition in section 322(2) and therefore which colleges would qualify for part B assistance. Since the enactment of this new provision, various institutions have come forward to claim that they are, in effect, historically black institutions of higher education.

The Higher Education Act of 1965 included the "developing institutions" title for black colleges. This surrogate was used because it was believed by the advocates of the assistance program for black colleges that Congress would not enact language clearly indicating that the program was for black colleges. The absence of clear criteria for identifying the original beneficiaries or target schools made it difficult, if not impossible, to substantiate the claim of the black colleges that title III was intended solely for them. In drafting S. 1326, the predecessor to title III in S. 1965, we carefully crafted a statutory definition which would include a classification of historically black institutions of higher education which met two tests: First they had an historical record of providing postsecondary educational opportunities to black Americans; and second, they had been discriminated against prior to 1964—in the allocation of Federal grants and contracts or other resources, and under the Morrill Act of 1862—when discrimination was outlawed by the Congress of the United States in the Civil Rights Act of 1964. Both factors are key, when coupled with the congressional fundings in section 321, to establishing a constitutionally permissible basis for the race specific nature of the part B program. The Supreme Court of the United States in Fullilove versus Klutznick upheld the authority of Congress to enact "race conscious" legislation to remedy past discrimination under the general authority of the Civil War Amendments to the Constitution of the United States.

In order to avoid further confusion and to assure that the constitutional and statutory premises on which the race specificity of the statute are based will not be eroded, the chairman of the House Education and Labor Committee, Mr. HAWKINS—who sponsored this legislation in the other body—and I have determined that we should simply list all of the schools that fit the part B definition. This will eliminate any question in the Department of Education's mind or in the mind of any institution seeking designation as a part B institution.

I ask to have printed in the RECORD those historically black institutions of higher education which meet the requirements of the part B definition, and which were intended to be included by the authors of the legislation, and the definition.

The material follows:

ELIGIBLE PART B UNDERGRADUATE INSTITUTIONS BY STATE AND NAME

ALABAMA

Alabama A&M University, Alabama Lutheran Academy, Alabama State University, Bishop State Junior College, Lawson State Community College, Lomax-Hannon College, Miles College, Oakwood College, Selma University, Stillman College, Talladega College, and Tuskegee University.

ARKANSAS

Arkansas Baptist College, Philander Smith College, Shorter College, and University of Arkansas (Pine Bluff).

DELAWARE

Delaware State College.

DISTRICT OF COLUMBIA

Howard University and University of the District of Columbia.

FLORIDA

Bethune-Cookman College, Edward Waters College, Florida A&M University, and Florida Memorial College.

GEORGIA

Albany State College, Clark College, Fort Valley State College, Morehouse College, Morris Brown College, Paine College, Savannah State College, and Spelman College.

KENTUCKY

Kentucky State University.

LOUISIANA

Dillard University, Grambling State University, Southern University (3 campuses); Baton Rouge, Shreveport, and New Orleans, and Xavier University.

MARYLAND

Bowie State College, Coppin State College, Morgan State University, and University of Maryland (Eastern Shore).

MICHIGAN

Shaw College at Detroit.[1]

MISSISSIPPI

Alcorn State University, Coahoma Junior College, Jackson State University, Mary Holmes College, Mississippi Industrial College, Mississippi Valley State University, Natchez Junior College, Prentiss Normal and Industrial Institute, Rust College, Tougaloo College, and Utica Junior College.

MISSOURI

Lincoln University and Harris-Stowe State College.

NORTH CAROLINA

Barber Scotia College, Bennett College, Elizabeth City State University, Fayetteville State University, Johnson C. Smith University, Livingstone College, North Carolina A&T University, North Carolina Central University, Shaw University, St. Augustine's College, and Winston-Salem State University.

OHIO

Central State University and Wilberforce University.

OKLAHOMA

Langston University.

PENNSYLVANIA

Cheyney State College and Lincoln University.

SOUTH CAROLINA

Allen University, Benedict College, Claflin College, Clinton Junior College, Denmark Technical College, Friendship Junior College,[1] Morris College, South Carolina State College, and Voorhees College.

TEXAS

Bishop College, Huston-Tillotson College, Jarvis Christian College, Paul Quinn College, Prairie View A&M University, Southwestern Christian College, Texas College, Texas Southern University, and Wiley College.

TENNESSEE

Fisk University, Knoxville College, Lane College, LeMoyne-Owen College, Morristown College, and Tennessee State University.

VIRGINIA

Hampton University, Norfolk State College, St. Paul's College, Virginia College, Virginia State College, and Virginia Union University.

VIRGIN ISLANDS

University of the Virgin Islands.

WEST VIRGINIA

Bluefield State College, and West Virginia State College.

Mr. SIMON. Mr. President, five medical, veterinary, and graduate institutions are independently eligible for funding under section 326. They include Atlanta University, Charles R. Drew Postgraduate Medical School, Meharry Medical College, Morehouse School of Medicine and the Tuskegee University School of Veterinary Medicine.

Finally, Mr. President, I want to underscore the importance of the language in section 324(e) governing the merger of part B eligible institutions with other institutions with regard to the continuing eligibility of the merged part B institution. This language was included in S. 1965, at the request of the junior Senator from Mississippi, in order to protect the eligibility of historically black colleges and universities which were merged with majority institutions. These mergers often occur at the State level for economic reasons, which are beyond the control of the individual institutions. A situation has already developed in this regard in the State of Mississippi involving Utica Junior College, and one of the part B eligible institutions. Utica has been merged into the Hinds Community College District. I understand that a suit has been filed challenging the merger. However, the former Utica Junior College campus or the successor institution would still be eligible to receive its part B allocation under the express provisions of section 324(e), regardless of the outcome of the litigation.

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[1] Not currently in operation.

Mr. President, there are two other issues I would like to address.

Mr. President, when I served as chairman of the subcommittee on postsecondary education in the other body following the enactment of the education amendments of 1980, I faced the task of providing oversight during the regulatory interpretation and practical implementation of these amendments. During that time a major dispute arose with the Department of Education over the implementation of a new requirement that students not be charged a processing fee when applying for title IV assistance. Since these students have already demonstrated "need" for this aid, they should not have to pay to apply for it.

Students found that the Department's so-called free form could not be used by those students who needed more aid than was available by using the title IV aid package. When students were charged a fee if they applied using one of the forms provided by the major services—the College Scholarship Service and the American College Testing Service—they objected, and ultimately filed suit to require compliance with the law. Section 483(a)(1) of the Higher Education Act states in relevant part:

> No student or parent of a student shall be charged a fee for processing the form prescribed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a state financial aid form or data elements that is not required by the Secretary.

The House-passed bill, H.R. 1846 includes the following language amending section 483(a)(1):

> * * * but no institution or State agency shall mandate the use of a form for which a fee is charged solely to determine the student's eligibility for assistance under this title or the amount of such assistance.

I have always supported the provision of a free application form for Federal student aid to any student who demonstrates eligibility for such aid. The prohibition against charging a fee has always included, in my view based on the intent of the Congress, a prohibition against a fee being charged for processing any form which includes the same data elements as the Secretary's so-called free form.

The free form question is an especially sensitive one in Illinois because our Illinois State Scholarship Commission [ISSC] has recently become one of a growing number of new MDE or multiple data entry processors authorized under the Higher Education Act. In addition, the Department has indicated that the ISSC form is to be the "free Federal Form" in Illinois. Imposing the use of a free form in Illinois or requiring the use of any form will inevitably work a hardship on some institutions or category of students. If you attend a lower cost, public or private institution and your aid package can be developed with Federal aid alone—the free form, whether Federal or State-generated, works well for you. However, if you attend a higher cost college or university, and some institutional, State or other scholarship, grant, or loan aid for which you would qualify is necessary to assure enrollment—a low/no cost form available through the major services works best for you.

The language included in the House bill, which is intended to clarify an already abundantly clear statement in the law, was viewed by many in Illinois as directed to the Illinois situation. This perception was widely held because many student aid officers, in Illinois and other States, told students not to use the ISSC form—or other free form—and to use the act form if they wanted to receive any aid. Based on my understanding of the law and this situation, a number of mistakes were made—but they will not be solved by this so-called clarifying language.

The Senate amendment would strike the House language and restore the status quo—the old section 483(a)(1) provision. We have also required that the Advisory Committee on Student Financial Assistance carry out a study of the whole fee, processing costs, and MDE processor question. While that study is being completed, a moratorium will exist with respect to the approval of any more processors by the Secretary. I strongly support this approach to the problem.

Finally, Mr. President, I want to mention the important clarification of the "ability to benefit" provision contained in section 484(D). Unfortunately, although the conference report on S. 1965 clearly spelled out the three options available to postsecondary institutions if they admit "ability to benefit" students, they were not as clear in the statute. Since they have already been misunderstood by the Department, as expressed in their fiscal year 1988 education budget, and because we want the options and responsibilities to be clear to postsecondary institutions—we have clarified the options in the law.

Mr. President, I urge my colleagues to support the Senate amendments to H.R. 1846.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 198) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPRESENTATION BY SENATE LEGAL COUNSEL IN BARSELLA V. KENNEDY

Mr. BYRD. Mr. President, I send to the desk a resolution, on behalf of myself and Mr. DOLE, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 216) to direct the Senate legal counsel to represent Senator Kennedy in the case of *Barsella* v. *Kennedy.*

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, a resident of the District of Columbia, who has brought a number of lawsuits against Members of Congress and other public officials, has recently filed an action against Senator KENNEDY. The complaint alleges a variety of general injuries and is similar to other litigation by the plaintiff against public officials.

This resolution will authorize the Senate legal counsel to represent Senator KENNEDY in this case.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 216

Whereas, in the case of *Barsella* v. *Kennedy,* Civil Action No. 3357-87, pending in the Superior Court of the District of Columbia, the plaintiff has named Senator Kennedy as the defendant;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1)(1982), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Kennedy in the case of *Barsella* v. *Kennedy.*

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on May 18, 1987, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received on May 18, 1987 are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE FEDERAL COMMISSION ON AGING—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM-43

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on May 18, 1987, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 204(f) of the Older Americans Act of 1965, as amended, I hereby transmit the Annual Report for 1986 of the Federal Council on Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

It should be noted that the Council's recommendations do not reflect the Administrations's views on reauthorization of the Older Americans Act. I urge the Congress to act favorably on the reauthorization proposal transmitted to the Congress by the Department of Health and Human Services.

Ronald Reagan.

The White House, *May 18, 1987.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ADDITION OF GREENLAND TO LIST OF BENEFICIARY DEVELOPING COUNTRIES UNDER GATT—MESSAGE FROM THE PRESIDENT—PM-44

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

This is to inform you of my intent to add Greenland to the list of beneficiary developing countries under the Generalized System of Preferences (GSP).

On behalf of Greenland, the Government of Denmark has requested the GSP benefits be extended to Greenland. Prior to February 1985, Greenland was part of the European Community (EC) and thus not eligible for duty-free treatment under the GSP program. However, on February 1, 1985, Greenland was granted "home rule" by Denmark and now has the status of an "Overseas Country and Territory" of the EC. Subsequently, Greenland is no longer in a customs union with the EC and is eligible for GSP treatment. We have carefully examined this request with respect to the criteria identified in sections 501 and 502(b) and (c) of the Trade Act of 1974, as amended. In light of these criteria and particularly Greenland's level of development, I have determined that it is appropriate to extend GSP benefits to Greenland.

For your information, I am attaching a copy of the Government of Denmark's request that provides detailed information on Greenland relevant to the designation criteria of the Act.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974, as amended.

Ronald Reagan.

The White House, May 19, 1987.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on May 18, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 270. Joint resolution to recognize the one hundred and twenty-fifth anniversary of the United States Department of Agriculture.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. Stennis) on May 19, 1987.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1085. An act to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30 of such title, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. Stennis].

ENROLLED BILL SIGNED

At 6:08 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 942. An act to amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees in the Tucson wage area whose basic pay would otherwise be subject to reduction pursuant to a wage survey.

The enrolled bill was subsequently signed by the Deputy President pro tempore [Mr. Mitchell].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 345: A bill to amend the Contract Disputes Act of 1978 that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 538: A bill to implement the recommendations of the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Carl D. Covitz, of California, to be Under Secretary of Housing and Urban Development;

Louis L. Guy, Jr., of Virginia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 29, 1989; and

Edward W. Kelley, Jr., of Texas, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1976.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Michael S. Kanne, of Indiana, to be United States Circuit Judge for the Seventh Circuit;

Roger B. Andewelt, of the District of Columbia, to be a Judge of the United States Claims Court for the term of fifteen years;

James H. Alesia, of Illinois, to be United States District Judge for the Northern District of Illinois;

Joseph P. Stadtmueller, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin;

Charles W. Larson, of Iowa, to be United States Attorney for the Northern District of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years;

K. Michael Moore, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years;

George J. Terwilliger III, of Vermont, to be United States Attorney for the term of four years; and

Michael W. Carey, of West Virginia, to be United States Attorney for the Southern District of West Virginia for the term of four years.

By Mr. GLENN, from the Committee on Governmental Affairs:

Norma Pace, of Connecticut, to be a Governor of the United States Postal Service for the term expiring December 8, 1994.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1221. A bill to provide a 3-year suspension of the duty on silk yarn; to the Committee on Finance.

S. 1222. A bill to extend the temporary suspension of duty on certain textile machines; to the Committee on Finance.

By Mr. COCHRAN:

S. 1223. A bill to amend the copyright law regarding work made for hire; to the Commitee on the Judiciary.

By Mr. KASTEN:

S. 1224. A bill to provide for 3 years' duty free treatment of certain power-driven weaving machines and parts therof; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. DECONCINI, Mr. KERRY, and Ms. MIKULSKI):

S. 1225. A bill to amend the Immigration and Nationality Act to permit the installment payment of fees required for the legalization of aliens; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself and Mr. STAFFORD):

S. 1226. A bill to provide financial assistance for secondary school programs for basic skills improvement, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHILES (for himself and Mr. ROCKEFELLER):

S. 1227. A bill to improve American competitiveness through grants for workplace literacy programs; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. CHILES, Mr. HOLLINGS, and Mr. SYMMS):

S. 1228. A bill to authorize the seizure of any vessel that makes a call on any port in the United States within 6 months after making a call on any port on Cuba, and for other purposes; to the Committee on Finance.

By Mr. QUAYLE:

S. 1229. A bill to amend the Adult Education Act in order to improve the effectiveness of programs under that act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY (for himself, Mr. MATSUNAGA, and Mr. MOYNIHAN):

S. 1230. A bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings; to the Committee on Finance.

By Mr. BAUCUS:

S. 1231. A bill to allow United States exporters to export agricultural commodities to Cuba in certain situations; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON:

S. 1232. A bill to amend the Agricultural Act of 1949 to make Commodity Credit Corporation stocks available to promote the production of liquid fuels, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GLENN:

S. 1233. A bill to establish as an executive department of the Government a Department of Industry and Technology, to establish within that Department the Advanced Civilian Technology Agency, to establish the U.S. Trade Administration, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 1234. A bill to amend title 38, United States Code, to insure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities; to the Committee on Veterans' Affairs.

By Mr. BYRD:

S. 1235. A bill to amend the National Security Act of 1947 to provide that the term of service of the Director of Central Intelligence shall be 7 years, and for other purposes; to the Select Committee on Intelligence.

By Mr. INOUYE:

S. 1236. A bill to reauthorize relocation under the Navajo-Hopi Relocation Program, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. SHELBY (for himself and MrHEFLIN):

S. 1237. A bill to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself, Mr. KERRY, Ms. MIKULSKI and Mr. LAUTENBERG):

S.J. Res. 131. Joint resolution expressing the sense of the Congress regarding the establishment of a uniform national policy to preserve family unity in the implementation of the legalization program under the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. ROTH, and Mr. SIMON):

S.J. Res. 132. Joint resolution recognizing the service and contributions of the Honorable Wilbur J. Cohen; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 216. A resolution to direct the Senate legal counsel to represent Senator KENNEDY in the case of *Barsella* v. *Kennedy;* considered and agreed to.

By Mr. MOYNIHAN:

S. Con. Res. 59. A concurrent resolution to express the sense of the Congress that the Harlem Hospital Center be recognized for 100 years of community service; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1221. A bill to provide a 3-year suspension of duty on silk yarn; to the Committee on Finance.

SUSPENSION OF DUTY ON SILK YARN

● Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to suspend the duty on imports of certain silk yarns.

This legislation would assist a manufacturer of silk fabric in my State. Kalkstein Silk Mills of Paterson manufactures silk fabric, primarily for sale to makers of neckties. This silk fabric manufacturer must import its silk yarn. There is virtually no spinning of yarn in the United States.

Meanwhile, silk fabric and necktie manufacturing faces increasing import competition, particularly from Italy and other European countries. Imposing a tariff on silk yarn impairs the ability of silk mills in the United States to compete, without providing any measurable benefit to other domestic businesses.

Mr. President, there was a time when a substantial amount of silk fabric was woven in America, much of it in Paterson, where I was born. My father worked in a silk mill. After World War II, silk was replaced by new, manmade fabrics produced in the United States. The silk industry in New Jersey all but disappeared.

To survive in today's environment, substantial investment in equipment is required. There is no reason to make matters even more difficult for a domestic manufacturer of silk fabric.

Mr. President, I have discussed this bill with the representatives of textile manufacturers and textile and apparel unions. They have no objection to the bill. Indeed it would assist a domestic manufacturer.

Last, Mr. President, temporary suspension of the duty on silk yarn represents a positive step toward a reduction of our enormous trade deficit, because the silk fabric woven in the United States can be reexported, or used in the place of imported silk fabric.

Mr. President, the revenue impact of this bill would be quite minor. The column 1 rate of duty for the yarns covered by this bill is 5 percent ad volorem. Total imports of the silk yarn covered by this bill were slightly over $440,000 in 1986.

I urged my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SILK YARN.

Subpart B of part 1 of the appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"905.25........................	Yarns of silk (provided for in item 308.51).	Free	No change on or before 12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1222. A bill to extend the temporary suspension of duty on certain textile machines; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY ON CERTAIN TEXTILE MACHINES

● Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to temporarily suspend the duty on certain textile weaving machines.

This legislation would assist a manufacturer of woven labels in my State. F.G. Montabert Co. manufactures woven labels, primarily for sale to manufacturers of clothing and assessories for clothing. The machinery for production of these woven labels is not being manufactured in the United States at this time.

Mr. President, the duty-free status on these very specialized textile weaving machines expires later this year at a time when the F.G. Montabert Co. of my State expects to initiate a major plant equipment replacement program. These new specialized textile weaving machines are currently available in Switzerland and Germany.

Now is not the time to impose additional costs on our textile industry, by allowing the expiration of the tariff suspension. This Nation is facing one of the worst trade deficits in its history and the deficit has hit the apparel and textile industry hard.

Mr. President, the revenue impact of this bill would be quite small. The column 1 rate for the textile machines covered by this bill is 4.7 percent ad valorem. Total imports of these textile machines covered by this bill totaled about $9.9 million in 1986. A very small amount of that currently comes in duty free under the general system of preferences.

I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That items 912.04 (relating to certain narrow weaving machines) and 912.11 (relating to certain lace-braiding machines) of the Appendix to the Tariff Schedules of the United States are each amended by striking out "12/31/87" and inserting in lieu thereof "12/31/91".●

By Mr. COCHRAN:

S. 1223. A bill to amend the copyright law regarding work made for hire; to the Committee on the Judiciary.

ARTISTS BILL OF RIGHTS

● Mr. COCHRAN. Mr. President, today I am introducing legislation to clarify and amend the copyright laws to protect more effectively the work product of writers, photographers, composers, and other artists.

I first introduced this legislation in the 97th Congress after learning that artists in my State of Mississippi had found themselves to be the victims of the work-for-hire provisions of the Copyright Act that were unfair to them. The Senate Judiciary Committee held hearings in 1982 to review this legislation and to examine industry practices.

Since that time, the bill has been revised and presented in subsequent Congresses. Meanwhile, the need for reform in this area has grown stronger than ever.

If a creator prepares a work made for hire, he or she is no longer the author, for copyright purposes. Rather, the Copyright Act vests initial copyright in that work in the employer or commissioning party, who receives all future income that may be derived from any use of the work in any medium.

The Copyright Act defines a "work made for hire" as any copyrightable work that falls into one of two categories: (1) that created by an employee within the scope of his or her employment, or (2) that created on special order or commission, provided that the parties expressly agree in writing that the work shall be considered made for hire, and that the work is one of nine enumerated types.

When Congress enacted these provisions, it intended commissioned works to be works made for hire only if the requirements of the clause (2) of this definition were met. Congress further intended that "employee" works made for hire, which fall under clause (1) of the definition, would be the product of the traditional employer-employee relationship, in which the employee would give up authorship and copyright rights in his or her creations in exchange for a regular salary and other employment benefits.

However, the work-for-hire provisions of current law have been misinterpreted by the courts, and have been used to deprive freelance artists, writers, photographers, and other independent creators of their ability to obtain the full economic benefit of their creations. Many courts, taking the lead of the second circuit in *Aldon Accessories* v. *Spiegel*, 738 F.2d 548 (2d Cir.), cert. denied, 469 U.S. 982 (1984), have concluded that commissioned works created by freelance artists, where no written work-for-hire contract exists, fall into the "employee" category of works made for hire due to the commissioning party's right to supervise and control the artist's work.

A conflicting decision in the fifth circuit, however, expressly rejects the second circuit's ruling in *Aldon*. In *Easter Seal Society for Crippled Children* v. *Playboy Enterprises*, No. 85-

3741, slip op. (5th Cir. Apr. 23, 1987), the fifth circuit held that a commissioned audiovisual work was not an "employee" work made for hire under clause (1) merely because the commissioning party retained the right to control, or exercised actual control over, the creator's work.

We are faced with a situation where the circuit courts are split on their interpretation of the Copyright Act's definition of works made for hire. In various district court decisions, the supervision and control test embraced by *Aldon* has produced contradictory and unpredictable results that have left the law in a state of chaos.

It is time for Congress to clarify its intent on the work-for-hire issue. In addition to the legal questions, nearly 10 years of experience with the work-for-hire definition has demonstrated that a clarification is necessary to avoid further practical inequities.

The superior bargaining power of institutional commissioning parties, such as publishers, has been consistently utilized to force both struggling and established freelance artists to sign nonnegotiable work-for-hire agreements as a condition of publication. Such agreements require artists to sign away their rights to the profits to be gained from reuse or reproduction of their works and of works derived from them, in exchange for a flat fee that bears no relation to the economic value of such works.

My bill seeks to confine the work for hire doctrine to the traditional employment relationship—the situation it was designed to address. The bill also seeks to restore the ability of independent creators to claim authorship of their own works, and to realize profits from the exploitation of their works.

First, the bill amends clause (1) of the work-for-hire definition to make clear that an "employee" work made for hire exists only when the employee receives all applicable State and Federal employment benefits and the employer withholds State and Federal taxes from payments made to the employee. These requirements will ensure that Congress' 1976 objective in confining "employee" works made for hire to the fruits of the traditional employment relationship will finally be recognized and implemented by the courts.

Second, the bill deletes from clause (2) of the work-for-hire definition eight of the nine categories of specially ordered or commissioned works now eligible to be works made for hire. Only works commissioned for use as part of a motion picture would remain eligible for work-for-hire status under a written contract between the parties.

While the deleted eight categories of works could not legally be works made for hire, an author's rights in works included in those categories could nevertheless be transferred pursuant to a written assignment or license, and would be subject to the Copyright Act's general 35-year termination right.

Third, the bill provides that five of the eight categories of works deleted from clause (2) would be subject to a new right of "partial termination" that would afford the author an opportunity to terminate any grant of rights unexercised by the transferee within 3 years of the grant's execution.

Fourth, the bill amends the Copyright Act's definition of "joint work" to require that a written agreement be signed by the parties prior to the commencement of the project in order for the product of that effort to be considered a joint work.

Finally, the bill provides that an agreement transferring copyright rights in any work does not convey property rights in the underlying material object unless the parties expressly agree that such rights are being transferred.

I ask unanimous consent that a section-by-section analysis explaining the bill in more detail be printed in the RECORD at the conclusion of my remarks.

Mr. President, our copyright laws were enacted to promote and protect the creation of artistic works. Yet, the work-for-hire laws are depriving artists of much of the income generated by their work. In many cases, artists are being forced to abandon their careers. As the courts unravel the compromise Congress codified in 1976, the intended beneficiaries of that compromise continue to lose the copyright protection that Congress thought it was assuring them when it enacted the definition of work for hire.

Supporting this reform effort is the Copyright Justice Coalition, a group whose growing membership currently includes 47 organizations representing more than 100,000 freelance artists, writers, photographers, and other creators. I ask unanimous consent that a list of these organizations be printed in the RECORD at the conclusion of my remarks.

I urge my colleagues on the Judiciary Committee to give prompt consideration to this bill and to recommend its passage to the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF WORK MADE FOR HIRE LEGISLATION

A. *Introduction*

The current definition of "work made for hire" in § 101 of the Copyright Act distinguishes between a work prepared by an employee, and a work prepared by a freelance creator operating as an independent contractor. Under clause (1) of that definition, a work made for hire is defined as "a work prepared by an employee within the scope of his or her employment." 17 U.S.C. § 101 (definition of "work made for hire"). Under clause (2) of the definition, a work "specially ordered or commissioned" for use in one of nine enumerated categories of works qualifies as a work made for hire if the parties expressly agree in a writing signed by them that the work should be considered "for hire." *id.* The enumerated categories include works commissioned for use as a contribution to a collective work (*e.g.*, an article or illustration for a periodical such as a magazine or newspaper); as a part of a motion picture or other audiovisual work (such "other audiovisual work" may include filmstrips or slides); as a translation; as a supplementary work (a work prepared as a "secondary adjunct" to another work, such as a foreward to or an illustration for a book); as a compilation (*e.g.*, dictionaries and directories); as an instructional text (defined as a literary, pictorial, or graphic work prepared for use in "systematic instructional activities"); as a test; as answer material for a test; or as an atlas. *Id.*

Under § 201(b) of the Act, the author of a work made for hire is the employer or "other person for whom the work was prepared" (*i.e.*, a party that specially orders or commissions a work falling within one of the nine statutory categories), not the actual creator of the work. 17 U.S.C. § 201(b). In addition, section 201(b) provides that the employer or, if the requirements of clause (2) are satisfied, the commissioning party of a work made for hire, is the initial owner of all copyright rights in that work, unless the parties expressly agree otherwise in a writing signed by them. *Id.*

Congress intended clause (1) to apply only to traditional employees receiving salaries and other employment benefits in exchange for vesting authorship of and initial copyright ownership in their works in their employers. However, in the absence of any specific criteria in the statute for determining who is an "employee", some courts have classified freelance artists and other independent creators as "employees" for purposes of the work made for hire doctrine. *See, e.g., Evans Newton Inc. v. Chicago Systems Software,* 793 F.2d 889, 894 (7th Cir.), *cert. denied,* 107 S. Ct. (1986); *Aldon Accessories Ltd v. Spiegel, Inc.* 738 F.2d 548 (2d Cir.), *cert. denied,* 469 U.S. 982 (1984); *Community for Creative Nonviolence v. Reid,* 1 U.S.P.Q.2d 1149 (D.D.C. 1987); *Q-Co, Industries, Inc. v. Hoffman,* 625 F. Supp. 608 (S.D.N.Y. 1986); *Iris Arc v. S.S. Sarna, inc.,* 621 F. Supp. 916 (E.D.N.Y. 1985); *Peregrine v. Lauren Corp.,* 601 F. Supp. 828 (D.Colo. 1985); *Gallery Homes, Inc. v. Yi,* 582 F. Supp. 1294 (N.D.Ill. 1984); *MSR Imports, Inc., v. R.E. Greenspan Co.,* 220 U.S.P.Q. 361 (E.D.Pa. 1983). *But see, Easter Seal Society for Crippled Children v. Playboy Enterprises,* No. 85-3741, slip op. (5th Cir. April 23, 1987) (rejecting *Aldon* and refusing to classify a technical director employed by a public television station as an "employee" of the party that commissioned an audiovisual work from the station).

These erroneous decisions have relied on common law principles to determine who is an employee for work made for hire purposes—principles Congress preempted when it enacted the 1976 Copyright Act. *See* 17 U.S.C. § 301(a). Led by the Second Circuit in *Aldon Accessories,* most courts have disregarded Congress' intent that clause (2) be the *exclusive* objective standard for determining the work made for hire status of commissioned works. But *see Easter Seal Society,* slip op. at 6. Rather, the courts have given controlling weight to the right of the commissioning party to supervise and control the work of the creator, or in some cases the degree to which that right is actually exercised, in determining whether he or she is an "employee" of that other party. *See Aldon Accessories,* 738 F.2d at 552; *Community for Creative Nonviolence,* 1 U.S.P.Q.2d at 1152.

What Congress clearly intended is to establish a presumption that a commissioned work is *not* a work made for hire *unless* the work falls within one of nine categories of works and *unless* the parties agree in writing that the work shall be considered "for hire."

Beyond the unfairness resulting from court decisions holding freelance artists and other independent creators to be "employees" under clause (1) of the definition of work made for hire, clause (2) has had the unintended effect of encouraging the proliferation of non-negotiable work made for hire agreements. Such agreements often are forced upon freelance artists who lack the bargaining power to resist them; in order to work, they must sign their rights away. After nearly ten years of experience under the 1976 Copyright Act, the superior bargaining position of institutional commissioning parties has converted clause (2) into a means of unfairly depriving creators of their rights to claim authoriship of their work, and to benefit from its re-use in other media.

The work made for hire bill is intended to prevent the courts from classifying freelance artists and other independent creators working on commission as "employees" for work made for hire purposes. Consistent with the fundamental purposes of the copyright laws, the bill is also intended to restore the ability of freelance artists to claim authorship of their own works, and to exploit the economic value of the copyrights in such works.

B. *Section 1*

Section 1 of the bill is specifically intended to prevent freelance artists and other independent contractors from being classified as "employees" for purposes of determining the work made for hire status of their works. The provision would close the loophole that has allowed cases like *Aldon Accessories* and its progeny to classify freelance artists and other independent creators as "employees" under clause (1) merely because the commissioning party has the right, or because it has exercised the right, to supervise and control the creator's work.

As amended by the bill, clause (1) of the work made for hire definition in § 101 would permit a finding that a creator is an "employee" *only* if two key employment criteria are satisfied. First, the purported employee must receive "all employment benefits due under applicable State and Federal law. . . ." The precise nature of the employment benefits due in any particular case will obviously vary over time and from state to state, and for that reason they are not specifically spelled out in the bill. It is nevertheless anticipated that the categories of employment benefits for a true "employee" under amended clause (1) may include: (1) payment of a salary or other form of regular compensation; (2) payment of overhead expenses by the employer (*e.g.,* rent, utilities, support staff, office and material expenses); (3) availability of a regular workplace for the employee; (4) paid vacation and sick leave; (5) coverage under a health and disability insurance program if such a program has been established by the employer; (6) eligibility for pension benefits if the employer has established a pension plan for employees; (7) coverage under the federal social security system and the payment of obligations thereunder; (8) eligibility for unemployment insurance and payment of unemployment taxes by the employer; and (9) eligibility for workman's compensation benefits and payment of workman's compensation insurance premiums by the employer if required by law. The place of employment will determine which state law governs for purposes of ascertaining the applicable state employment benefits. If only some, but not all, of the applicable employment benefits are extended to the purported "employee," the works created by such person cannot be considered "made for hire" under clause (1) of the definition as amended by the bill.

Second, the employer must withhold taxes from the payments to the employee, and must remit those taxes to the IRS, in order for the creations of the purported employee to be considered works made for hire under clause (1). This requirement is intended to ensure that an employee is classified as such for copyright purposes only if he or she is treated as an employee under the tax laws. Although the statute refers to taxes without specifying their precise nature, only federal income taxes are subject to withholding and are then paid to the IRS. Thus, the reference to taxes in the bill is intended to refer only to federal income taxes.

It is important to note that both of these criteria must be satisifed in order to classify a work as "made for hire" by an employee under amended clause (1). It is not enough for the purported employee to received all applicable employment benefits; the alleged employer must also withhold federal income taxes and remit them to the IRS in order for a work to be classified as an employee work made for hire. Conversely, it is not enough for the purported employer to withhold taxes and remit them to the IRS; the "employee" must also receive all applicable employment benefits in order to satisfy clause (1).

Section 1 of the bill would also make significant changes to clause (2) of the work made for hire definition. First, the bill would delete from clause (2) nearly all of the categories of specially ordered or commissioned work currently enumerated in that subsection. Works that are specially ordered or commissioned for use as contributions to collective works, to compilations, or to instructional tests; parts of audiovisual works other than motion pictures; supplementary works; tests and answer materials relating thereto; translations; and atlases would no longer be eligible for work made for hire treatment under clause (2), and thus could not be considered works made for hire by agreement of the parties. Of course, if these or any other works were created in the context of a true employer-employee relationship as defined in clause (1) (and were therefore *not* specially ordered or commissioned within the meaning of clause (2)), they would be works made for hire under clause (1) provided they were created in the course of employment.

Most of categories of works deleted from clause (2) would be added to § 201(c), and would therefore be subject to the limitations on any tranfer of copyright provided for both in that subsection, and in § 203(a)(3) as amended (see the discussion below of § 201(c) as revised by Section 2 of the bill, and of § 203(a)(3) as revised by Section 4 of the bill). The remaining categories (tests answer material for tests, translations, and atlases) would be free from any restrictions on "all rights transfers."

The only category of commissioned work that would remain eligible for work made for hire treatment under the bill would be works speciallly ordered or commissioned for use as part of a motion picture. As amended by the bill, clause (2) would condition such eligibility on the execution by both parties, before the commencement of any work undertaken pursuant to the commission, of a separate written instrument specifically providing that the commissioned motion picture work should be considered "made for hire."

Works commissioned for use as part of a motion picture are retained in clause (2) for two reasons. First, unlike other categories of commissioned works, motion pictures are uniquely collaborative undertakings that require many separate works to be created and integrated on stringent timetables that frequently make use of work made for hire agreements indispensable. Second, and more important, many creators in the film industry are the beneficiaries of a variety of union and guild contracts that are the product of collective bargaining. The protections afforded by those contracts are unavailable to freelance artists and other independent contractors who find themselves without the bargaining power to negotiate the terms of work made for hire agreements.

Section 1 of the bill would also add a new sentence to the work made for hire definition contained in §101. The new language states that "[u]nless the work falls within either clause (1) or clause (2), it cannot be work made for hire." This language is intended to make clear that the work made for hire doctrine is exclusively statutory, and that no work can qualify as such unless the statutory requirements under clause (1) or clause (2) are fully satisfied. The language is further intended to prevent any confusion about the parties' legal authority to make a commissioned work a work made for hire by agreement. Under clause (2) as amended, *only* works commissioned for use as part of a motion picture can legally be the subject of a work made for hire agreement. With respect to any other type of commissioned work, the parties are statutorily precluded from conferring work made for hire status upon such work by agreement.

The elimination of work made for hire agreements for most commissioned works would not prevent the transfer of copyright rights by assignment or license. But any such transfer (if it involves commissioned works included in the categories enumerated in revised § 201(c)) would be subject to the creator's "partial termination" right conferred by § 203(a)(3) as revised by section 4 of the bill, and to the further limitation in § 201(c) on the transferee's receipt of only those rights which it "reasonably anticipated exercising." The purpose of these limitations is to prevent commissioning parties from forcing creators to relinquish the copyright rights in their works merely by substituting non-negotiable "all rights" contracts (in which rights are transferred through assignment) for prohibited work made for hire agreements.

Equally as important, any transfer of rights involving any work other than a work made for hire would be eligible for full termination after 35 years as provided for under existing § 203(a)(3). Unlike the "partial termination" right and the new language restricting transfers to the rights that the transferee "reasonably anticipates exercising," which apply only to the categories of works specified in revised § 201(c), the

§ 203(a)(3) 35-year termination right applies to transfers of rights in *all* types of works, except for those meeting the new criteria defining a work made for hire.

Finally, section 1 would amend the definition of "joint work" in section 101 by establishing a new objective test for determining whether a specially ordered or commissioned work constitutes a joint work in which the co-authors own the copyright as tenants in common. As owners of the copyright, the co-authors of a joint work have an undivided interest in the work as a whole, and each co-author enjoys an independent right to exploit or license the copyright, as long as the co-author exercising that right accounts to the other co-author for the profits earned. *See Oddo* v. *Ries*, 743 F.2d 630, 633 (9th Cir. 1984); *Pye* v. *Mitchell*, 574 F.2d 476, 480 (9th Cir. 1978).

Under present law, the touchstone for determining whether a work is joint work is the intention of the parties. Section 101 currently provides that a "joint work" is "a work prepared by two or more authors with the intention that their contributions be merged into inseparable [as in a painting] or interdependent [as in a motion picture] parts of a unitary whole." 17 U.S.C. § 101 (definition of "joint work"). It is not enough merely for the parties to intend to create a joint work; each co-author must in fact make a genuine contribution to the creation of the joint work. *See Whelan Associates, Inc.* v. *Jaslow Dental Laboratory, Inc.*, 609 F. Supp. 1307, 1318–19 (E.D. Pa. 1985), *aff'd*, 797 F.2d 1222 (3d Cir. 1986), *cert. denied*, 107 S. Ct. 877 (1987) (the "general assistance and contributions" to the project by the commissioning party did not make him the co-author of the work).

The bill proposes to supplement this "intention of the parties" test only with respect to specially ordered or commissioned works. Artists and other independent contractors have been faced with *post hoc* claims that works created on commission, for which no written agreement regarding copyright ownership or work for hire status exists, are joint works because the parties somehow "intended" them to be such. The evidence of intent frequently is not probative one way or another, particularly when the claim of joint ownership arises after the fact. Indeed, commissioning parties have frequently asserted a "joint authorship" claim as a back-up defense in cases in which their primary assertion is that they are the sole copyright owners under the work for hire doctrine. *See, e.q., Schmid Bros., Inc.* v. *W. Goebel Porzellanfabrik KG.*, 589 F. Supp. 497, 501 (E.D.N.Y. 1982) (ceramic figurines held to be joint works); *Mister B. Textiles, Inc. v. Woodcrest Fabrics, Inc. 523 F. Supp.* 21, 24–25 (S.D.N.Y 1981) (fabric design held to be a joint work).

To eliminate any possibility of nebulous after-the-fact claims of joint authorship of specially ordered or commissioned works, the bill would amend the definition of "joint work" to provide that the parties "must expressly agree in a separate written instrument signed by them prior to the commencement of any work that the work shall be considered a joint work." Thus, the parties must still intend that the work be a joint work, but in order for it to be legally considered a joint work, they must memorialize that intention in a written instrument before the work begins.

C. *Section 2*

Section 201(c) of the current statute distinguishes between the copyright in each contribution to a collective work (*e.g.*, articles or photographs in magazines, newspapers, or encyclopedias), and the collective work itself. Copyright in each separate contribution vests in the author of that particular contribution, whereas the publisher of the collective work owns the copyright in that work as a whole. 17 U.S.C. § 201(c). Absent an express transfer of copyright rights in the contribution, the publisher of the collective work is deemed by statute to acquire only "the privilege of reproducing and distributing the contribution as part of that particular collective work, and any revision of that collective work in the same series." *Id.*

Section 2 of the bill would extend this principle beyond collective works to certain of the categories of work that would be removed from clause (2) of the work for hire definition. Specifically, revised section 201(c) would provide that the copyright in each separate contribution to a collective work, or to a compilation, or to any instructional text; in any supplementary work; and in any part of an audiovisual work other than a motion picture, is distinct from the copyright in the large work (or revision thereof) as a whole.

Section 201(c) would also expressly provide, as it does now with regard to collective works only, that the copyright in works falling into these categories vests initially in the author who actually created them. Consistent with that reservation of rights in the author, and with the existing language of § 201(c), the owner of the copyright in the larger work would be presumed, absent an express transfer of copyright rights, to have acquired only the privilege of reproducing and distributing the author's work as part of the larger work, any revision to such work, and any later larger work in the same series.

To prevent overreaching on the part of publishers or other entities that enjoy a superior bargaining position with respect to individual authors, revised § 201(c) would prohibit any express transfer of copyright rights that exceed the rights "which the transferee reasonably anticipates exercising." This limitation would apply only to the categories of works listed in § 201(c), as discussed above. The limitation is intended to serve as an impediment against the transferee's indiscriminate insistence on the transfer of "all rights." In order to sustain the validity of a transfer of rights in a § 201(c) work, the transferee must show that, at the time the transfer took place, it was reasonable to anticipate that it would exercise the rights acquired. The existence of this requirement will require transferees to determine exactly what rights they need, rather than merely insisting on "all rights" simply as a matter of convenience.

The term "instructional text," now defined in clause (2) of the § 101 definition of work for hire, would be defined in revised § 201(c) in identical language. The definition of "supplementary work" would also be moved from clause (2) of the work for hire definition to revised § 201(c), but with certain deletions from the list of examples of supplementary works. Specifically, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, and indexes, which are now included in the list of examples of supplementary works in § 101, would no longer be classified as supplementary works for purposes of § 201(c). Thus, the guidelines established by that subsection, in particular the prohibition against the acquisition of rights beyond those which the transferee reasonably anticipates exercising, would not be applicable to the examples deleted from the definition of supplementary works. Similary, the new "partial termination" right, applicable to § 201(c) works under § 203(a)(3) as revised by section 4 of the bill, would not apply to the examples deleted from the supplementary work definition.

D. *Section 3*

Section 3 of the bill modifies § 202 of the Copyright Act, which deals with the distinction between ownership of copyright and ownership of the underlying material object. 17 U.S.C. § 202. Section 202 currently provides that transfer of ownership of copyright rights in a work does not convey property rights in the material object in which the work is embodied "in the absence of an agreement." *Id.*

Ownership of the "material object" embodying a creator's work is an important issue that should be addressed in writing if the parties intend to transfer title to such tangible work in addition to the copyright rights therein. The bill would amend § 202 to provide that a transfer of copyright rights does not convey property rights in material works unless the parties sign a written agreement that expressly provides for the conveyance of such property rights. The bill would also make clear that the entering into a work for hire agreement under clause (2) does not convey property rights in the commissioned work absent an express written agreement.

E. *Section 4.*

To prevent commissioning parties from merely substituting "all-rights" contracts for work made for hire agreements, section 4 of the bill would establish a new right of partial termination that derives from and supplements the current 35-year termination right. This new right would apply only to transfers of rights in five categories of works transferred from clause (2) of the work made for hire definition to revised § 201(c), namely, those commissioned for use as contributions to collective works, to compilations, or to instructional texts; suplemantary works; and parts of audiovisual works other than motion pictures. With respect to these categories of works, the copyright owner would have the statutory right to reclaim any assigned or licensed right in the work that the user had not exercised by publication within three years after the date of execution of the assignment or license. The copyright owner would have five years after this three-year period within which to exercise the new termination right.

That right would be "partial" because, unlike the existing 35-year termination right afforded by § 203(a)(3) of the Act, only those rights that had not been exercised through publication would be subject to recapture by the copyright owner. A right would be "exercised by publication" for purposes of revised § 203(a)(3) if the exercise of that right resulted in publication as defined by § 101 of the Act, *i.e.*, resulted in the distribution of copies of the work to the public "by sale or other transfer of ownership, or by rental, lease, or lending." 17 U.S.C. § 101 (definition of "publication"). This safeguard would prevent the user from hoarding rights that were not really needed, while preserving the user's ability to continue to exercise rights that had actually been used.

The partial termination right would be subject to a narrow exception designed to protect the investment by a publisher in a published work. With respect to a title that is published within the statutory three-year "waiting period," the publisher would be free to republish the original work, or to publish a revised version if such revision incorporated at least two-thirds of the original version, without the risk that a contributor to the work might reclaim rights therein. This exception to the partial termination right is consistent with the rights accorded publishers of collective works under § 201(c) of existing law.

CURRENT MEMBERS OF THE COPYRIGHT JUSTICE COALITION: MAY 12, 1987

Advertising Photographers of America.
American Federation of Teachers, AFL-CIO.
American Federation of Television and Radio Artists, AFL-CIO.
American Society of Journalists and Authors.
American Society of Magazine Photographers.
Art Directors Club of New York.
Artists in Print.
Association of Medical Illustrators.
Association of Science Fiction and Fantasy Artists.
Boston Visual Artists Union.
Committee of Interns and Residents.
Council of Writers Organizations: Albany Writers Guild, Aviation/Space Writers of America, Boating Writers International, Chicago Women in Publishing, Dance Critics of America, Editorial Freelancers Association, Independent Writers of Chicago, Independent Writers of Southern California, International Motor Press Association, Midwest Travel Writers Association, Mystery Writers of America, National Association of Science Writers, National Book Critics Circle, Outdoor Writers Association of America, Philadelphia Writers' Organization, Romance Writers of America, Science Fiction Writers of America, Society of American Travel Writers, St. Louis Writers Guild, Travel Journalists Guild, United States Ski Writers Association, Washington Independent Writers, Writers Guild of America, East.
Department for Professional Employees, AFL-CIO.
Foundation for the Community of Artists.
Graphic Artists Guild.
Illustrators Club of Washington, D.C., Maryland and Virginia.
National Artists Equity.
National Cartoonists Society.
National Writers Union.
Pen American Center.
Screen Actors Guild, AFL-CIO.
Society of Authors Representatives.
Society of Illustrators, New York.
Songwriters Guild of America.●

By Mr. KASTEN:

S. 1224. A bill to provide for 3 years duty-free treatment of certain power-driven weaving machines and parts thereof; to the Committee on Finance.

DUTY-FREE TREATMENT OF CERTAIN WEAVING MACHINES

Mr. KASTEN. Mr. President, today I am introducing legislation to provide for 3 years' duty-free treatment of certain power-driven weaving machines and parts thereof that are imported by 11 mills in the United States. These weaving machines are not manufactured in the United States, and, therefore, should bear no duty.

Appleton Mills, which is Appleton, WI, oldest operating company—having been incorporated in 1881—employs 250 people and makes press felt for the paper manufacturing industry. A press felt is a very large industrial textile belt used to press water out of sheets of paper as they are being formed on a papermaking machine. The belts vary from 16 feet to over 90 feet in width and may be hundreds of feet long. Each of the 11 mills affected import, on average, one machine per year. The machines cost between $250,000 and $1 million and bear a duty of 4.7 percent. Since they are no longer made in the United States, there is no reason for such duty, and removing those expenses of $12,000 to $48,000 per machine will clearly help Appleton Mills and the other U.S. mills to become more competitive in selling their belt products to the paper industry. The other 10 mills are located in Florida, Georgia, New York, North Carolina, Massachusetts, Ohio, and South Carolina.

Mr. President, this is noncontroversial bill, and I hope my colleagues can support it.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"912.14	Power-drive weaving machines for weaving fabrics more than sixteen feet in width, and parts thereof (provided for in item 670.14 and 670.74, part 4E, Schedule 6).	Free	No change	On or before 12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

By Mr. CRANSTON (for himself, Mr. DECONCINI, Mr. KERRY, and Ms. MIKULSKI):

S. 1225. A bill to amend the Immigration and Nationality Act to permit the installment payment of fees required for the legalization of aliens; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. KERRY, Ms. MIKULSKI, and Mr. LAUTENBERG):

S.J. Res. 131. Joint resolution expressing the sense of the Congress regarding the establishment of a uniform national policy to preserve family unity in the implementation of the legalization program under the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

IMMIGRATION LEGALIZATION LEGISLATION

Mr. CRANSTON. Mr. President, America is a nation which was built by immigrants from many lands who came to our shores seeking the opportunities and freedoms that our Nation promised. We have grown and prospered as a result of the contributions that each new wave of immigrants made to our young country. Last year's celebration of the Statue of Liberty—for generations the symbol of America's welcoming shores—highlighted once more our roots as a nation of immigrants. Now, in 1987, we face a new challenge in extending a welcome and helping hand to a new generation of immigrants.

May 5 marked an historic event with the beginning of the legalization program provided for under the Immigration Reform and Control Act of 1986, Public Law 99-603. This humanitarian program offers millions of undocumented aliens who have been living and working in communities throughout this Nation the opportunity to emerge from the dark shadows of an underground world to become legal residents. Many of the families eligible for the legalization program have lived in this country for many years. The legalization program is a humane effort to recognize and legitimize the existence of these families.

I am very hopeful that implementation of this program will help make the American dream a reality for the millions of undocumented aliens with deep ties and commitments to our Nation. However, like many, I am deeply concerned that some aspects of the implementation process may prevent many deserving, hard-working individuals and family members from benefiting from this program. The entire purpose of the legalization program will be undercut if overly stringent procedures prevent vast numbers of aliens from qualifying and intimidate others from even applying.

In the past several months, I submitted a number of comments on the proposed regulations for the legalization program to the Attorney General and the Director of the Immigration and Naturalization Service. I am gratified that a number of my suggestions have been incorporated into the final regulations, producing in many areas a more realistic approach consistent with the intent of Congress.

Nevertheless, there are a number of areas where I am convinced changes must be made in order to make the program work and reach those Congress intended to help.

CALIFORNIA INTEREST

Last month I met with a coalition representing over 40 religious, labor, community, and civil rights organizations in the Los Angeles area regarding implementation of the new law. The legalization program is particularly important in California since the Immigration and Naturalization Service has estimated that one-third of all legalization applications filed nationally will be filed in Los Angeles County alone. The representatives of these organizations shared with me their deep concern that INS has not taken adequate steps to assure that the legalization program will succeed. In particular, they expressed their fears that families would be broken apart because some members would qualify for legalization while other members would not. Additionally, they expressed deep concern that many families would face severe economic hardships in trying to pay the numerous fees that would be associated with the legalization program, not the least of which is the staggering $420 application fee for temporary resident status for family units.

Mr. President, in order to address some of these concerns, I am today introducing two measures. The first would address the cost problem by allowing the INS application fee to be paid in two installments. The second is a sense of Congress resolution aimed at encouraging local INS district directors to utilize their authority to provide relief from deportation for ineligible family members on the basis of humanitarian needs and family unity.

INSTALLMENT PAYMENT OF FEES FOR LEGALIZATION PROGRAM

Mr. President, the first bill I am introducing today, S. 1225, would provide for the application fees for the legalization program to be paid on an installment basis with not more than one-half to be paid at the time of filing of an application and the balance at the time of the first interview. I am pleased to be joined in introducing this legislation by the Senator from Arizona [Mr. DeConcini], the Senator from Massachusetts [Mr. Kerry], and the Senator from Maryland [Ms. Mikulski].

Mr. President, there has been great concern about the amount of the fees which INS has decided to charge applicants for temporary resident status under the legalization program. The final regulations published on May 1 require a fee of $185 for each adult applicant and $50 for each minor child applicant, with a maximum amount payable by a family, defined as a husband, wife, and any minor children, set at $420.

In my view, these fees are clearly excessive, given the nature of the program and the backgrounds of the individuals Congress intended to help through the legalization program.

First, the levels adopted by INS are not comparable to fees charged for similar benefits under existing immigration laws. INS has contended that the fees assessed upon applicants for the legalization program are comparable to fees charged for immigration visas. However, the $185 individual or $420 family fee required is only for a temporary status. In contrast, the $185 fee charged for an immigrant visa results in a permanent resident status for the applicant. INS has made it clear that additional fees will be charged the legalization applicants for acquiring permanent resident status. In my view, the fees should be comparable to those now charged for adjustment of status applications or registry applications which range between $35 and $85 per individual.

Second, the INS fee is only part of the financial obligation which applicants for legalization must meet. In addition to the application fee, each applicant must pay for medical examinations, counseling or attorney's fees, document searches, notary's fees, fingerprinting, photographs, and other miscellaneous costs. These other fees can easily force the cost of applying for legalization into the thousands for many of the eligible families. Placing the legalization program beyond the financial reach of those who are to be helped by the program simply does not make any sense.

Finally, Mr. President, I strongly disagree with the contention made by INS that Congress intended for the legalization program to be self-funded from fees collected. The act specifically authorized $422 million in fiscal year 1987 and $419 million in fiscal year 1988 for implementation of the act. The administration's decision not to request appropriations for the implementation of the legalization program is clearly contrary to the intent of Congress that adequate funds be appropriated to make this program work. The principal House sponsor of the 1986 legislation, Representative Mazzoli, stated in a recent letter to President Reagan:

> * * * the Act does not state or imply that these fees [legalization fees] are to be the mainstay or primary financial underpinning for the legalization program or that the legalization program was meant to be self-funded from fees collected. * * * if a large share of the funds necessary to implement the legalization provision of the Act come from fees paid by applications for legalization, these fees will necessarily be set at the high-end of the scale thus burdening the applicant and possibly discouraging the alien from coming forward to be legalized—a result completely contrary to the spirit and intent of the legalization program envisaged by Congress.

I ask unanimous consent that the full text of Representative Mazzoli's letter dated January 9, 1987, be printed in the Record at the conclusion of my remarks.

Mr. President, although I strongly believe the administration has erred in setting the fees for the legalization program at an unconscionably high level, I recognize the enormous difficulties which attempting to force INS to lower the application fee would entail. Practically, there is little realistic possibility that such an effort would be successful in a timely fashion. Therefore, I am introducing this legislation designed to ameliorate to some degree the full impact of the excessive fee requirements by allowing applicants to make their payments in two installments. The first installment would be payable at the time of application and the second at the time of the personal interview required under the regulations.

Thus, a family would be obligated to pay $210 when the application was submitted to INS and the remaining $210 at the time of the personal interview. Although it is difficult to estimate the length of time between submission of an application and the scheduling of the personal interview, in parts of the country such as Los Angeles where one-third of the applicants are expected to apply, the interval may be several months. In other areas with fewer applicants, it may be much shorter. In any event, under the approach proposed in this legislation families will have more flexibility to schedule their payments to INS. For a minimum wage worker, the additional time can be critical.

Allowing legalization applicants to make their fee payment in two installments is a minimal accommodation to the very real economic pressures many of these families will confront as they seek to adjust their status under the new law. Although I would prefer to find a way to reduce the INS fees, I believe that allowing installment payments will help ease some of the financial burden upon these families seeking to benefit from the legalization program.

Mr. President, it is critical to remember that with the enactment of the legalization program, Congress intended to extend to millions of undocumented aliens living within our communities the opportunity to share in the American dream. It would be a cruel hoax to allow insurmountable financial barriers to block access to the legalization program for those most in need.

FAMILY UNIFICATION

Mr. President, in addition to the concern about the financial barriers which the fees INS will charge legalization applicants pose, another pressing issue involves INS's failure to adopt a uniform national policy to preserve the unity of the family in the legalization process. While INS is to be commended for acknowledging in its final regulations (Federal Register, May 1, 1987, Vol. 52, No. 84 at page 16207) that INS district directors have the authority to exercise their discretion to use existing adminitrative mechanisms to prevent the deportation of ineligible family members of eligible applicants where there is a humanitarian need, the regulations fail to set forth a uniform national policy regarding the status of ineligible family members and therefore risks creating inequitable or inconsistent treatment of similarly situated families in different districts.

The second measure I am introducing today, Senate Joint Resolution 131, focuses upon this problem. This resolution expresses the sense of Congress that INS is to be commended for recognizing the negative impact that rigid implementation of the legalization program would have on the unity of families and States that district directors should exercise their discretion to take the necessary administrative actions to assure that families are not unnecessarily broken apart as a result of the legalization process. I am pleased to be joined in introducing this resolution by the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Maryland, [Ms. MIKULSKI].

Mr. President, the coalition representatives present at my meeting in Los Angeles emphasized that the threat that INS may deport ineligible family members of eligible legalization applicants is keeping many undocumented persons from coming forward to be legalized. This is a vitally important matter that could affect hundreds of thousands of people, especially in California.

In fact, in an article entitled "The Grief in New Alien Law: Some Families Must Separate" which appeared in the New York Times on May 5, this very issue was discussed in detail.

> For countless families across the nation, perhaps the most wrenching aspect of the new immigration law that comes into full effect Tuesday is the fear that they may be torn apart.
>
> An estimated total of 3.9 million illegal immigrants who came to this country before Jan. 1, 1982, are being invited to take advantage of the Federal Government's program of amnesty under a new law. But behind many of these welcome immigrants—in one of the law's least advertised aspects—are the siblings, husbands, wives, parents and children who may not be permitted to stay.
>
> Under the law, immigration officials said, they will grant legal status to individuals, not to family units. In theory, the Government has the power to split up families if some members qualify for amnesty and others do not.
>
> Some officials said that in such cases they would refrain from deporting immediate relatives of aliens who qualify for amnesty. But there is no uniform policy on the issue.

Mr. President, I ask unanimous consent that the full text of the article appearing in the New York Times on May 5, 1987, be printed in the RECORD at the conclusion of my remarks.

It would seem beyond question that family unity is a value we all cherish. For a substantial proportion, perhaps even a majority of the undocumented population, this threshold issue is the primary criterion upon which the decision to apply for legalization will be made. Typically, members of the same family arrive in this country at different times—first, the male head of household; later, the spouse and perhaps a child; then, not uncommonly, children are born in the United States and they are, of course, U.S. citizens. Thus, one spouse may have arrived before the 1982 cut-off date, whereas the other would be ineligible to apply having arrived later.

If significant numbers of eligible legalization applicants do not apply to be legalized because of the fear that ineligible family members may be deported, the purposes for which the legalization program was adopted will not be realized.

Mr. President, the legalization program was designed to serve four primary purposes. First, legalization was intended to aid INS in its enforcement activities by allowing INS to concentrate its resources on preventing new illegal entry and visa abuse, rather than dividing its efforts between border enforcement and the location and deportation of people already deeply rooted in the United States. Second, the legalization program was intended to eliminate the existing undocumented subclass, now reluctant to report violations of labor and even criminal laws, and allow its members to participate openly in society. Third, legalization was intended to assist employers who are currently dependent on undocumented workers by providing them with a legal workforce and thus immunizing them from incurring sanctions under section 101 of the act. And, fourth, legalization was intended to provide reliable data about the source and characteristics of the newly adjusted immigrant population.

The purposes for which we adopted the legalization program should not be forgotten as we consider the plight of ineligible family members of eligible legalization applicants. Unless the eligible legalization applicants receive some assurance that their families will not be separated as a result of the legalization process, a significant proportion of the population we intended to benefit will not come forward. Thus, the success of this one-time only program will be undermined, and we will continue to have problems such as the training of INS's limited resources for internal enforcement purposes, the existence of an exploitable subclass of undocumented persons, and the unavailability of an adequate legal workforce for employers. In short, Mr. President, our attempt at immigration reform will amount to no reform at all, and we will continue to face the social, legal, and economic problems which have plagued us in the past.

A better approach is to make sure that all necessary steps are taken to assure the success of the one-time legalization program. Given that the question of family unity—and the lack of a clear statement from INS regarding what will happen to ineligible applicants—is a significant source of concern to the undocumented population, it is in the interest of us all to see that this concern is addressed.

What is intended as a humane law could be a cruel instrument of family suffering unless it is administered with common sense and humanity. Children could be separated from parents and husbands from wives.

Additionally, Mr. President, there is precedent for INS to resolve the issue of family unity through the use of administrative mechanisms. For example, for many years members of the class of Silva versus Levi—later, Sub. Nom. Silva versus Bell—were placed on deferred action status and given employment authorization. The Silva case involved a 1977 court decision holding that the State Department and Immigration and Naturalization Service erred in charging 144,999 Cuban refugees, who later became permanent residents, to the old Western Hemisphere quota. The court's ruling allowed a large population of undocumented immigrants in the United States to apply for visas. INS deferred action on the deportation of those applicants and authorized them to work while their applications were being processed. A similar solution is also available in this case. Other administrative remedies are also within the discretion of district directors to utilize in appropriate cases.

Mr. President, my proposed joint resolution simply expresses the sense of Congress that indeed we intended a generous legalization program and that INS district directors should utilize their discretionary administrative authority to assure family unity and thereby assure the success of the legalization program.

CONCLUSION

Mr. President, the legalization program was intended to be a generous, humane response to the problems of vulnerable individuals. We should do everything possible to make sure the program is implemented in the compassionate spirit it was enacted.

We must preserve family unity. We must not force people to make the terrible choice of either breaking up their family or ignoring the law and remaining in the dark shadows of an underground, illegal world. What we need is a clear, uniform national policy that families must not be broken up.

The measures I am introducing seek to make sure that unnecessary barriers and hardships are not imposed in the implementation process which would undermine the intent of the program.

Mr. President, I ask unanimous consent that the text of the bill and the joint resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 245A(c)(7)(A) of the Immigration and Nationality Act (8 U.S.C. 1225a(c)(7)(A)) is amended—

(1) by inserting "(i)" immediately after "FEE SCHEDULE.—"; and

(2) by adding at the end thereof the following new clause:

"(ii) Such schedule of fees shall require that not more than one-half of the fees for any alien be paid at the time of the filing of an application for adjustment under subsection (a) or (b)(1) and that the balance of the fees for such alien be paid at the time of the first interview of the alien by an officer or employee of the Service with respect to such application.".

(b)(1) The amendment made by subsection (a) shall apply to the payment of fees which may be required of any alien submitting an application for adjustment under subsection (a) or (b)(1) of section 245A of the Immigration and Nationality Act, whether before, on, or after the date of enactment of this Act.

(2) Any such application, if denied before the date of enactment of this Act on the basis of inadequate payment of fees, may be resubmitted on or after the date of enactment of this Act but not later than the expiration of the respective application prior described in subsection (a) or (b)(1) of section 245A of the Immigration and Nationality Act.

S.J. RES. 131

Whereas in the Immigration Reform and Control Act of 1986 Congress established a program providing for the legalization of undocumented aliens to avoid the wasteful use of the Immigration and Naturalization Service's limited enforcement resources to locate and deport those who have become well settled in this country, and to eliminate the subclass of undocumented aliens now present in the United States who have been subject to exploitation within our society;

Whereas Congress intended that the legalization program be implemented in a generous fashion to ensure an adequate resolution of these problems, and that such program would be a successful one-time-only program;

Whereas there is great concern over the potential breakup of families as a result of implementation of the Immigration Reform and Control Act, and eligible applicants for legalization are being deterred from participating in the legalization program because of the fear that ineligible family members may be deported;

Whereas the Attorney General of the United States has the authority under the Immigration and Naturalization Act to exercise discretion to allow aliens who have not been legally admitted to the United States to remain in this country either temporarily or permanently through such administrative procedures as granting deferred action status or extended voluntary departure status and to authorize those individuals to work;

Whereas the final regulations issued by the Immigration and Naturalization Service on May 1, 1987, reiterate the authority on INS district directors to exercise their discretion to prevent the deportation of ineligible family members for humanitarian reasons; and

Whereas the immigration laws and policies of the United States have long recognized the importance of family unification, and it is in the public interest to ensure that immigration policies do not result in the separation of spouses nor in the separation of children from their parents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress—

(1) that the Commissioner of the Immigration and Naturalization Service is to be commended for recognizing the negative impact that rigid implementation of the legalization program would have on the unity of families and for calling the attention of INS district directors to their authority to exercise their discretion to prevent the deportation of ineligible family members where there is a humanitarian need; and

(2) that in order to ensure the success of the legalization program, avoid confusion, and establish a uniform national policy, all district directors of the Immigration and Naturalization Service should utilize their authority to provide relief from deportation for ineligible family members, and work authorization where appropriate to assure family unity.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, January 9, 1987.

Hon. RONALD R. REAGAN,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: In light of the monumental effort Congress mounted in the previous Congress to adopt a fair, balanced and workable immigration reform package and in light of your courage in signing it into law, I am most unhappy about the Administration's Fiscal Year 1987 Supplemental Appropriation and Fiscal Year 1988 Appropriation request submitted for the Immigration and Naturalization Service (INS) to implement the reform Act (Public Law 99-603).

The Act authorizes $422 million in FY 1987 and $419 million in FY 1988 for INS for this purpose. These amounts were arrived at after careful and deliberate consultations between the House Judiciary Committee and INS officials. The Administration has requested only $138 million for FY 1987 and $194 million for FY 1988 to implement the enforcement and agricultural worker provisions of the law. The Administration made no appropriations request at all to implement the legalization provision of the law. Instead, the program is to be self-funded through the generation of legalization application fees.

I will note that the Act provides that a schedule of fees be paid by Applicants (illegal aliens) who wish to have their status adjusted to legal aliens and that these applications fees may be used for administrative and other expenses in connection with implementing this program. But, the Act does not state or imply that these fees are to be the mainstay or primary financial underpinning for the legalization program or that the legalization program was meant to be self-funded from fees collected.

I am convinced that if a large share of the funds necessary to implement the legalization provision of the Act come from fees paid by applications for legalization, these fees will necessarily be set at the high-end of the scale thus burdening the applicant and possibly discouraging the alien from coming forward to be legalized—a result completely contrary to the spirit and intent of the legalization program envisaged by Congress.

I am sorry to say that I do not feel adequate funding for the legalization program is available under the budget submitted to Congress. It is speculation and guesswork, at best, to put a price tag on fees to be collected from a program which is brand new and totally unprecedented in our history. Furthermore, to make such a speculative revenue source the foundation of a budget to implement the functions of INS under the Act is nothing more than a wild swing in the dark and could result in bringing the legalization program to a dead stop in midstream.

In contrast to this "house of cards" approach, I respectfully suggest that the INS budget be constructed in straightforward appropriations. This direct action would allow INS to proceed without delay or hesitancy to get on with the job of implementing the legalization provisions of P.L. 99-603 within the mandated time requirements. If and when receipts from fees are received, they can then be applied to reduce the cost of each segment of the program.

I urge you to consider this alternative which, I am sure, will be reviewed as a positive and sincere development by my colleagues.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.

[From The New York Times, May 5, 1987]

THE GRIEF IN NEW ALIEN LAW: SOME FAMILIES MUST SEPARATE

(By Dena Kleiman)

HEMPSTEAD, L.I., May 1—For countless families across the nation, perhaps the most wrenching aspect of the new immigration law that comes into full effect Tuesday is the fear that they may be torn apart.

Typical is the family of two sisters, their husbands, one brother and two children—all illegal immigrants from El Salvador—living in quiet anonymity here as they work hard to try to make ends meet.

An estimated total of 3.9 million illegal immigrants who came to this country before Jan. 1, 1982, are being invited to take advantage of the Federal Government's program of amnesty under a new law. But behind many of these welcome immigrants—in one of the law's least advertised aspects—are the siblings, husbands, wives, parents and children who may not be permitted to stay.

Under the law, immigration officials said, they will grant legal status to individuals, not to family units. In theory, the Government has the power to split up families if some members qualify for amnesty and others do not.

TIME OF ARRIVAL IS CRITICAL

Some officials said that in such cases they would refrain from deporting immediate relatives of aliens who qualify for amnesty. But there is no uniform policy on the issue.

"How am I going to leave my son?" asked Bertha, 32 years old, who came to this country in June 1982—six months after the legal cutoff for amnesty. She has no idea what she is going to do.

Bertha and Sylvia, 29, are sisters who live together with their families in a small, well-kept apartment here. They came to this country only nine months apart, but Sylvia qualifies for amnesty and Bertha does not.

Bertha's husband, Roberto, 38, came before the deadline also. But not his brother, Otto, 19. Because the children—all born in this country—qualify to become American citizens, the law does not apply to them.

The Hempstead family agreed to speak to a reporter in the hope of making public their plight and that of others, but they asked that their real surnames not be used out of fear that they would be deported. For them, the last several weeks of waiting for the new law to take effect have been filled with confusion, uncertainty, anguish—and for the first time since they arrived in this country—division.

Like so many families—not to mention immigration officials—they do not know how the new law will be interpreted and enforced. It is not clear to them when and if they can be discharged from jobs or deported outright.

Even for those members of the family who do qualify for amnesty, they have no idea how, after organizing their lives around anonymity for so long, they can now come up with documentation to prove how long they been here.

WHAT ARE WE SUPPOSED TO DO?

"I cannot stay without work,"; said Bertha, whose $175-a-week salary is crucial to the family's economic survival and who is afraid she will lose her job. "I cannot work without legal status. I have to leave. But my husband and son can stay. What are we supposed to do?"

The family of brothers and sisters has been living in a two-bedroom apartment that they rent for $675 a month. To keep their cover, the nameplate next to the lobby buzzer to their apartment is blank. They have no telephone, and the rule to friends is: Never knock. Stand at the front door and whistle.

Bertha, her husband, Roberto, and their 6-month-old son, Jamie, sleep in one bedroom. Sylvia, her husband, Juan, and their 2-year-old daughter, Rosita, sleep in the living room. Roberto's brother, Otto, has been sleeping on a cot in the breakfast nook, off the kitchen. The second bedroom is for boarders—other aliens.

Although the family members have separate schedules and rarely have time to eat a meal together, their ability to stay together is contingent on the finances and energy each contributes.

A VARIETY OF JOBS HELD

Sylvia, for example, who has worked over the years as a domestic and currently volunteers in a local center that helps other illegal families, takes care of the children while Bertha commutes to an Islip, L.I., factory about an hour away, where she packs cookies for $4.85 an hour. Roberto drives to an Italian restaurant in Queens, where he is a $225-a-week chef.

He bought the car he uses for $600 and learned to cook Italian by working for several years as a busboy in an Italian restaurant. He has no driver's license but instead carries a learner's permit in case he is stopped by the police. Juan, 24, Sylvia's husband, works for $170 a week as a messenger in Manhattan.

Since they arrived in this country, they have been able to find work—often thanks to Sylvia, an outgoing woman who makes friends easily and tends to be in the know about jobs that are available. Sylvia, the most fluent in English, has emerged as the family's decision-maker.

As the family has learned about the new immigration law, she has been the one who has sought help. If there has been any division in recent weeks, it is that Bertha and her husband, Roberto, would prefer to just keep going as they have been—quietly underground.

I KNOW I QUALIFY

Sylvia is anxious, however, to step forward and claim the amnesty that she believes she is entitled to, even if she may have trouble proving it.

"I know I qualify," said Sylvia, who remembers the date she emerged wet and scared from the Rio Grande after swimming underwater with a snorkel to provide air.

Although she has no written proof, she said she knew that on Oct. 5, 1981, she went to work for a Venezuelan family in Bethesda, Md., here she remained for nearly a year. Some weeks ago Sylvia went to Bethesda to look for that family but was unable to find the house.

It was Sylvia who decided against hiring a lawyer she had heard about and who was asking $3,000 to help a family apply for amnesty. Instead she tracked down the Center for Immigrant Rights, a nonprofit educational and legal advocacy group in Manhattan.

The group is helping Sylvia, Juan and Robeto track down former employers, as well as look for other ways to help document their residency in this country since January 1982. Still there is very little the center can do at this point to assist Bertha and Otto.

LEGAL ALTERNATIVE IS LENGTHY

"The tragedy is this family needs so much to be a unit to survive," said Felix Cardona, a staff lawyer at the center.

Legal residents, including those who gain permanent residence under the amnesty program, can sponsor close relatives for legal status, but it is a long process. The relatives must return to their native country and, after completing application procedures, join a waiting list that in some countries has a 20-year backlog.

As the effective date for the new law approached, Otto said he had decided he was no longer willing to wait. "I hate feeling all the time I'm a criminal," he said.

It's dangerous to go home," Betha has told him. "Stay as long as you can."

"I can't," Otto said the other day, returning to the apartment after being discharged from his job as a dishwasher because his boss was afraid immigration officials would fine him.

Otto has decided to forget his dreams of working in this country and is returning to El Salvador on Tuesday.

By Mr. DANFORTH (for himself and Mr. STAFFORD):

S. 1226. A bill to provide financial assistance for secondary school programs for basic skills improvement, and for other purposes; to the Committee on Labor and Human Resources.

SECONDARY SCHOOL BASIC SKILLS IMPROVEMENT ACT

● Mr. DANFORTH. Mr. President, opportunities for many of our Nation's young people are lost because of deficient literacy and quantitative skills. A recent study, entitled "The Subtle Danger: Reflections on the Literacy Abilities of America's Young Adults," concluded that literacy abilities of 21 to 25 year olds are unequally distributed by race and ethnic origin and by socioeconomic status, with many minorities and low income adults demonstrating disproportionate low abilities. Unless improvements are made—as the study points out—America's labor force will become progressively less capable of doing highly skilled work as the proportion of poorly educated, low income workers increases. The implications of these educational deficiencies on our Nation's productivity and industrial competitiveness are very serious. There is, in my view, no more pressing policy concern for the Nation.

To address these troubling educational deficiences among many of our disadvantaged young people, I am pleased to be joined by my distinguished colleague, Mr. STAFFORD, in proposing legislation to provide assistance for secondary school programs to improve basic literacy and quantitative skills.

While the Chapter 1 Program has been successful in helping disadvantaged elementary school students achieve mastery of basic skills, funding for the program has not kept up with the increasing number of disadvantaged children needing assistance. Given the limited resources available to schools, remedial services have been targeted at disadvantaged students in grades 1 through 6. Relatively few Chapter 1 participants have been secondary school students.

The research indicates that remedial programs work most effectively in the early years. Therefore, it is appropriate to give elementary students priority in receiving Chapter 1 assistance. However, with the deficiency of literacy and quantitative skills among our high school students, we must begin to devote resources to helping them acquire essential basic skills. There is a strong connection between proficiency in literacy and quantitative skills and employment opportunities. Research shows that persons with more proficient literacy skills achieve superior employment records, avoid prolonged unemployment, and earn higher hourly wages than persons with weaker literacy skills. If we are going to give disadvantaged youngsters employment opportunities, then we must assist them in acquiring proficiency in basic skills.

This legislation would not divert any Chapter 1 funds from elementary schools. It would simply make additional funds available to meet the special needs of educationally disadvantaged secondary school students. Assistance would be targeted at local educational agencies with high concentrations of low income children. Each State would receive not less than

½ of 1 percent of the total amount appropriated for the program.

There are many good ideas about how to improve basic skills of secondary school students. The Secondary School Basic Skills Improvement Act would support these innovative initiatives to meet the special needs of such students and to help them attain grade level proficiency in basic skills.

Throughout the history of the Chapter 1 Program, active involvement of parents in the education of disadvantaged children has been a very important part of the program's success. Building on this policy of involving parents, this bill would require the involvement of parents and the community in developing education programs for secondary school students.

The necessity to reduce the Federal deficit requires that we set priorities in Government spending. I can think of no higher priority than education. And in the area of education, we must target those critical programs that assist the disadvantaged. This legislation is consistent with these principles, and I hope that my colleagues will give this legislation their support.

I ask unanimous consent that the bill appear in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Secondary School Basic Skills Improvement Act of 1987".

PROGRAM AUTHORIZED

SEC. 2. The Education Consolidation and Improvement Act of 1981 is amended—

(1) by redesignating chapter 3 as chapter 4; and

(2) by adding after chapter 2 the following new chapter:

"CHAPTER 3—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT

"STATEMENT OF PURPOSE

"SEC. 590A. It is the purpose of this chapter to provide additional assistance to local educational agencies with high concentrations of low-income children to improve the achievement of educationally deprived children enrolled in secondary schools of such agencies.

"GRANT ALLOCATION

"SEC. 590B. (a) STATE ALLOCATION.—Except as provided in subsection (b), the Secretary shall make grants to each State in the same proportion as grants to States are allocated under section 111 of the Elementary and Secondary Education Act of 1965 as incorporated by reference in chapter 1 of this Act.

"(b) STATE MINIMUM.—No State shall receive less than one half of one percent of the amount appropriated for this chapter for any fiscal year.

"(c) STATE ADMINISTRATION.—A State may reserve not more than five percent of the amounts available under this chapter for any fiscal year for State administrative costs.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATION.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

"(1) the eligibility of such agency for funds under section 111 of the Elementary and Secondary Education Act of 1965 as incorporated by reference by chapter 1 of this Act; and

"(2) the criteria described in section 590F.

"USES OF FUNDS

"SEC. 590C. (a) In General.—Funds made available under this chapter shall be used—

"(1) to initiate or expand programs to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills;

"(2) to develop remedial programs specifically tailored to the needs of secondary school students;

"(3) to develop and implement remedial activities to address the problems of poor achievement and course failure among eligible children;

"(4) to develop innovative approaches for surmounting barriers that make secondary school programs under this chapter difficult to administer, such as scheduling problems and graduation requirements;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to low-income students) to serve as peer tutors of other students eligible for services under this chapter, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) LIMITATION.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

"ELIGIBLE STUDENTS

"SEC. 590D. Secondary school students who meet the requirements of chapter 1 of this Act shall be eligible to participate in programs and activities assisted under this chapter.

"APPLICATIONS

"SEC. 590E. (a) SUBMISSION.—To be eligible to receive a grant under this chapter a local educational agency shall submit an application (separately or in conjunction with the application required under chapter 1 of this Act) in such form and containing or accompanied by such information as the State educational agency may require.

"(b) PLAN OF OPERATION.—Such application shall include a plan of operation for the program which includes—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this chapter);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this chapter;

"(6) a statement of the methods which will be used to ensure that the programs will serve eligible students most in need of the activities and services provided by this chapter;

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the methods by which the applicant will coordinate programs under this chapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(9) such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"AWARD OF GRANTS

"SEC. 590F. (a) SELECTION PROCESS.—Each State educational agency shall award grants to programs that—

"(1) are serving local educational agencies in the State with the greatest need for services provided under this chapter based on their numbers of low-income children and numbers of low-achieving children;

"(2) are of high quality and are most likely to be successful in achieving the goals of this chapter; and

"(3) are representative of urban and rural regions of the State.

"FISCAL REQUIREMENTS

"SEC. 590G. The provisions of section 558 (a) through (d) of this Act shall apply to the program authorized by this chapter.

"EVALUATIONS AND PROGRAM IMPROVEMENT

"SEC. 590H. (a) LOCAL EVALUATIONS.—In accordance with national standards, each local educational agency shall—

"(1) evaluate programs assisted under this chapter in terms of their effectiveness in achieving goals (including objective measurement of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year);

"(2) submit the results of such evaluations to the State educational agency at least every 2 years and consider such evaluations in improvement of the programs and projects assisted under this chapter; and

"(3) do a thorough assessment of the programmatic needs of students who remain in the program after 3 years of participation.

"(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) of the programs assisted under this chapter at least every two years and shall make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

"(3) collect data on the race, age, and gender of children served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter.

"(c) PROGRAM IMPROVEMENT.—Schools which show a decline in achievement of children served under this chapter in any two consecutive years shall submit a detailed plan for improvement to the local educational agency. The local educational agency shall review such plan and provide technical assistance for program improvement at that school. If the achievement of children at that school continues to decline for an additional year, the local educational agency shall prepare a plan jointly with the State educational agency to increase the achievement of children at that school.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 590I. There are authorized to be appropriated for the purposes of this chapter $100,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.".●

● Mr. STAFFORD. Mr. President, I am pleased to join my good friend and colleague Senator DANFORTH as an original cosponsor of the Secondary School Basic Skills Improvement Act of 1987. The major task before the Senate Subcommittee on Education, Arts and Humanities during this 100th Congress is the reauthorization of all elementary and secondary legislation within our jurisdiction. In light of the intense interest this Congress has focused on improving our competitive edge in the workplace, legislation which enhances education and training opportunities nationwide takes on added importance for all of us.

Since its enactment in 1965, the Elementary and Secondary Education Act has provided supplementary assistance to States to meet the special education needs of disadvantaged school children. It is legislation with a proven track record which has expanded academic opportunities for countless youth all over the country. Chapter 1 works. It works in elementary schools and it works in junior highs and high schools that are fortunate enough to have the resources to provide the services. Students do not outgrow the need for chapter 1 assistance when they leave elementary schools. Limited funds mean programs are concentrated at the earliest grade levels as they should be. Consequently, very few school districts are able to offer compensatory education services to children beyond grade 6.

The Secondary School Basic Skills Improvement Act of 1987 would make grants available to junior high and high schools to initiate and expand chapter 1 programs. Each State would be entitled to a minimum grant award. In distributing funds to local schools, States would give priority to districts with the highest proportion of low-income families and the lowest achievement scores among their students. Receipt of these additional chapter 1 funds would enable schools to develop remedial programs tailored to the special needs of older students. Funds would be used to provide staff training and to develop innovative approaches for teaching this high risk population of students.

The teenage years are a difficult time for today's youth. If as a nation we fail to provide necessary academic and job readiness training to 12 to 18 year olds, it is unlikely we or they will have a second chance. Historically, Federal funds for education have been concentrated in elementary schools and on postsecondary training. The middle and high school years present a great challenge and yet receive the fewest resources.

Mr. President, this legislation will help to correct that imbalance in funding. It will target additional Federal funds to programs designed to assist students in their middle and high school years. It represents an important new initiative which for many young people will make a measurable difference in their prospects for adult employment. An investment today in our Nation's schools is money well spent on America's future. Senator DANFORTH is to be strongly commended for his personal interest in these young people. Not only has he authored this important legislation, but he has also been a leader on the Budget Committee to increase funding for the chapter 1 program.●

By Mr. CHILES (for himself and Mr. ROCKEFELLER):

S. 1227. A bill to improve American competitiveness through grants for workplace literacy programs; to the Committee on Labor and Human Resources.

WORKPLACE LITERACY ACT

Mr. CHILES. Mr. President, I rise today to introduce the Workplace Literacy Act of 1987. I am very pleased to be joined by my colleague from West Virginia, Senator ROCKEFELLER.

Is it a well-recognized fact that there are a high number of functional illiterates in our Nation's work force. The national assessment of educational progress reports that 43 percent of persons age 21 through 25 are unable to perform at a level sufficient to master multistep directions or communicate ideas to other workers.

In addition, many older workers do not possess a firm foundation of basic skills which can be disastrous if those workers are displaced or the company seeks to modernize or upgrade operations.

We are willing to spend millions on remedial education for children but only beggarly amounts for the continued education of their marginally literate parents. Investments in programs for adult literacy development not only benefit adults, but they also benefit children. By improving the education of the adults we improve the chances for their children.

Our Nation's future economic development requires that we maintain the competitive position of business and industry by having a smart work force equipped to participate in a rapidly changing economy.

The future health of our economy is dependent on the infrastructure of its work force.

If we are to continue to compete in the world market we must provide for the education services which develop intellectually and technically skilled people who can function effectively within a rapidly changing economy.

Our bill would authorize the Secretary of Education to make grants to States to pay the Federal share of the cost of adult workplace education. Programs must be initiated and run by partnerships between: business, industry or labor and State educational agencies, local educational agencies, institutions of higher education or schools.

Activities will include assistance in the completion of a high school diploma or its equivalent and help in meeting the literacy needs of adults with limited English proficiency.

Basic skills training for workers has been overlooked in this country. We spend $17,000 of public money for each college student versus a mere $368 for the training of those who will not be going to college. The initial costs for the bill introduced today are estimated to be $30 million. A small amount for some rather significant returns.

Mr. President, I am delighted to join with Senator ROCKEFELLER in the introduction of this bill. Since his coming to the Senate, he has shown a marked and outstanding interest in educational matters. He has devoted much of his time to recognizing what needs to be done in job training, what needs to be done in reeducating our work force, what needs to be done by equipping our citizens to be able to compete in the changing world. His leadership has been great in all those areas, and I am delighted to have him participating in this.

Mr. ROCKEFELLER. Mr. President, I am pleased and honored to join the distinguished senior Senator from Florida, Senator CHILES, in introducing the Workplace Literacy Act of 1987. As his career in public service so vividly demonstrates, Senator CHILES is one of the true great friends of education.

Today, we are introducing legislation to take an important step forward in equipping our work force for the demands of an increasingly competitive world. Our bill proposes to add $50 million to the Adult Education Act for programs designed to help working Americans improve their literacy and other basic skills. Under current law, while funds can be used in this manner, States often must deplete their limited resources on services for other segments of the population, ranging from welfare recipients to prison inmates. It is time to expand the Adult Education Act so that an aggressive effort can be made to upgrade the skills of our workers—with the goal of enabling American industry to become more productive, modernize, and diversify into more advanced fields.

America's work force is woefully short of basic literacy, technical, and other educational skills. Estimates of adult literacy vary—experts say that anywhere from 27 to 60 million adults are unable to perform the basic reading and math required to function in today's society. It's believed that 15 percent of our work force are functionally illiterate, and perhaps as many as 30 percent of semi and unskilled workers fall in this category.

These problems are especially severe in my State of West Virginia. West Virginia is 1 of 10 States in the country where the Census Bureau found undereducated adults to make up 35-percent or more of the population age 16 and over. Over 600,000 adult West Virginians are without a high school diploma. It is well documented that these men and women make a lower wage than high school graduates—on the average, the gap in annual earnings is over $2,000. Many of them are also in danger of losing their jobs as employers adopt to a changing marketplace and require higher skilled work from their labor force.

The Workplace Literacy Act would distribute funds to States to support programs involving partnerships between businesses, labor organizations, educational institutions, and others concerned about upgrading the skills of working adults. Funds may be used for programs to teach reading and other basic skills, to increase proficiency in English, to improve abilities in communication and speaking, and to offer classes to meet new technical requirements of a more modernized workplace. Special emphasis is on providing classes and support services to enable participants to obtain a high school diploma.

Mr. President, I sincerely hope that we will someday have less catching up to do in terms of the basic literacy and educational levels of our adult population. With sustained leadership and resources, the push for excellence in our schools will translate into men and women who are better prepared for a highly dynamic work force.

For now, however, it's our obligation and in our economic self-interest to invest in programs that will make up for the failures of our past. Information, technology, and communication are becoming more and more important every day as our service economy expands. Far too many working Americans can't keep up without additional education to help them acquire basic skills or tackle subjects ranging from algebra to chemistry.

In my view, the Federal Government should lend a hand in responding to this challenge. Through the Workplace Literacy Act, Senator Chiles and I envision Federal leadership and resources applied to efforts that will make Americans more productive and America more competitive. Men and women are increasingly willing to enroll in literacy classes and devote themselves to further education. Let us respond by providing additional resources through the adult education system to invest in a smarter, more literate work force. Senator Chiles and I both urge our colleagues to consider this legislation and join us as cosponsors.

Mr. Chiles. Mr. President, I ask unanimous consent that the text of the bill printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Workplace Literacy Act of 1987".

WORKPLACE LITERACY PARTNERSHIPS GRANTS

Sec. 2. The Adult Education Act (20 U.S.C. 1201 et seq.) is amended by inserting after section 315 the following:

"SEC. 316. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

"(a) Grants to States.—(1) The Secretary is authorized to make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 90 percent of the cost of programs which meet the requirements of subsection (b);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iv).

"(3) A State shall be eligible to receive its allotment under subsection (e) if the State—

"(A) includes in a State plan submitted to the Secretary under section 306—

"(i) a description of the requirements for State approval of funding of a program under paragraph (2)(A);

"(ii) a description of the procedures under which applications for such funding may be submitted;

"(iii) assurances that the State will encourage the use of funds under this section to help businesses become more competitive, increase productivity and profits of business, and contribute to diversifying the operations of businesses in the State; and

"(iv) a description of the method by which the State will obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(b) Program Requirements.—Programs funded under subsection (a)(2)(A) shall be designed to improve the productivity of the workforce of a State through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and non-working hours child care services to adult workers while they participate in a program funded under subsection (a)(2)(A).

"(c) Program Applications.—An application to receive funding for a program from a grant made to a State under subsection (a)(1) shall—

"(1) be submitted jointly by—

"(A) a business, industry, or labor organization, or private industry council; and

"(B) a State educational agency, local educational agency, institution of higher education, or school (including an employment and training agency or community-based organization);

"(2) set forth the respective roles of each member of the partnership;

"(3) describe the need of the applicants for assistance under this section; and

"(4) be submitted to the State educational agency in the time and manner and contain such additional information as such agency may require.

"(d) Direct Grants.—If a State is not eligible for a grant under subsection (a) the Secretary shall use the State's allotment under subsection (e)(2) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(e) State Allotments.—(1) The Federal share of expenditures for programs in a State funded under subsection (a)(2)(A) shall be paid from a State's allotment under this subsection.

"(2) From the sum appropriated for each fiscal year under subsection (f) the Secretary shall allot—

"(A) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(B) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(i) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(ii) the number of such adults in all States.

"(3) At the end of each fiscal year the portion of any State's allotment for that fiscal year which—

"(A) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(B) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(f) APPROPRIATIONS AUTHORIZATION.—For the purpose of making grants under this section there is authorized to be appropriated to the Secretary—

"(1) $50 million for each of fiscal years 1988, 1989, and 1990; and

"(2) such sums as may be necessary for fiscal years 1991 and 1992.

Amounts appropriated under this subsection shall remain available until expended.".

DEFINITIONS

SEC. 3. Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.) is amended by adding at the end the following:

"(k) The term 'community-based organization' has the meaning given such term in section 4(5) of the Job Training Partnership Act.

"(l) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.".

By Mr. DOLE (for himself, Mr. CHILES, Mr. HOLLINGS, and Mr. SYMMS):

S. 1228. A bill to authorize the seizure of any vessel that makes a call on any port in the United States within 6 months after making a call on any port in Cuba, and for other purposes; to the Committee on Finance.

SANCTIONS AGAINST CUBA AND ANGOLA

Mr. DOLE. Mr. President, I am pleased to join today with Senators CHILES and HOLLINGS in introducing legislation to put tough new sanctions into place against the Communist regimes in Cuba and Angola.

CUBA: CLEAR GOALS, NEW STRATEGY

Right now, our policy toward Cuba can best be characterized as hostile neglect. Periodically, we lay the blame on Castro for some of the most serious problems in this hemisphere—and he deserves that blame. But we do little or nothing about it. In part, that is because we are preoccupied and distracted by other problems such as Nicaragua. In part, it's because we have no easy, short-term answers.

In fact, this is not a short-term problem. We need well-articulated long-term goals and a companion strategy.

I'm convinced our ultimate goal ought to be the restoration of democracy in Cuba. We need to get to work now forging a strategy, and taking some immediate tactical steps, in pursuit of that goal.

Castro is not going to disappear overnight. He is defended by Soviet arms and a strong Kremlin security commitment. We are not going to get rid of him militarily—no one is suggesting that we should try. And Castro is also buttressed by Soviet aid totaling about $4.5 billion a year—enough to keep him afloat for now.

CASTRO'S VULNERABILITIES

But Cuba is hurting now as never before. Castro's policies have failed; his economy has collapsed; his charisma has faded.

Prices for sugar and oil—which sustain Cuba's economy—have tumbled. Estimates are that this year Cuba will have one-third less foreign exchange to spend; and that the average Cuban will suffer a 5-percent decline in spending power.

All that adds up to greater misery; greater unrest; and a greater vulnerability than Castro has ever faced before.

Castro has himself on a big, sharp hook, and it's not in our interest to let him off. On the contrary, now is the time to turn the screws; to begin undermining Castro's ability to maintain the kind of despotic regime he has established inside Cuba, and to carry on the kind of international adventures in which he is engaged, from Nicaragua to Angola.

CUBAN PROVISIONS OF BILL

This bill is one step in that strategy. Its goal is to drive wedges between Castro, and both his Soviet mentors and non-Communist trading partners.

It has four provisions targeted directly on Castro's vulnerabilities. First, it will raise the cost to his trading partners, by prohibiting any ship calling at a Cuban port from calling at any American port for the subsequent 6 months.

Second, it instructs USTR to include as a high priority in our negotiations with our trading partners our deep concern that their commerce with Castro buttresses his failed regime.

Third, it would attack Cuba's export earnings, by reducing U.S. aid to any country purchasing Cuban sugar by an amount equal to those purchases.

And, finally, it ends indirect U.S. subsidization of Castro through our loans to third countries—which now can and do turn around and make loans to Castro at concessional rates. From now on, any third country that does that would have to repay its loans to us at an accelerated rate.

ACTION ALSO NEEDED ON ANGOLA

And on Angola, too, action is needed—above all, because there are 35,000 to 45,000 Cuban troops there, representing the most serious physical threat to our interests throughout southern Africa.

Right now, our policy toward Angola can be summed up in a single word: ambiguous. We provide aid to the democratic resistance forces of Unita—which is the right thing to do. But we also engage in a diplomacy which at times sends the wrong signals about our real goals in Angola: Getting Cuban troops out, and getting good-faith negotiations started between the MPLA and Unita. And we have utilized little of the economic leverage available to us in Angola.

A number of us in the Senate have been working on this issue from various directions, including getting the aid flowing to Unita. We are going to continue those efforts.

ENDING AMERICAN BUSINESS PRESENCE

But the biggest single anomaly of our stance vis-a-vis Angola remains. It is the persistence of major American commercial interests there. Those interests—concentrated in the oil sector—help generate the foreign exchange which Angola needs to support the Cuban troop presence.

Now let me stress: American business has been established there for a long time, before any Cuban troops arrived. And, initially, it had the urging of our Government to remain. In fact, in fairness, American business there may be receiving mixed signals from the administration even today.

But it is time, now, that a strong and unequivocal message go out—and I hope the administration would join in sending that message, too. American business should get out of Angola. Now.

ANGOLAN PROVISIONS OF BILL

The Angolan provisions of this bill will, first, end United States trade with Angola, particularly the import into the United States of Angolan oil. Second, the bill would strip from Americans working in Angola certain tax breaks they now have. Those breaks mean they pay less income tax to the United States than they otherwise would—in effect, Uncle Sam is subsiding the presence of these Americans in Angola. That subsidy should be eliminated, if our overall policies are to be consistent.

WHY PROVISIONS ARE NEEDED

I harbor no illusions that enacting these provisions will mean an end to Angolan oil production or sales; or lead directly and quickly to the ousting of the Cubans.

But there will be costs to the MPLA, in terms of a disruption of the economy—costs we ought to make them pay. We will also eliminate the rather absurd situation where we are, on the one hand, attempting to get the Cubans out—while on the other, we are party to the generation of the resources which allow them to stay.

And, finally and most important, the enactment of these provisions will send a strong signal—to the MPLA, to Havana and even to Moscow—that we are firm and serious about our goals and policy in Angola. No more "business as usual" until the Cubans go home.

MATCHING RHETORIC AND ACTION

Mr. President, it's time we matched our rhetoric—on both Cuba and Angola—with concrete action. This bill is an excellent first step.

I encourage all Senators to join in cosponsoring it, and in pushing for its early passage.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VESSELS MAKING CALLS ON CUBAN PORTS.

(a) IN GENERAL.—It shall be unlawful for any vessel which has made a call on any port in Cuba after the date that is 60 days after the date of enactment of this Act to make a call on any port in the United States within six months of that call in Cuba. Any vessel that makes such a call in violation of this section shall be subject to seizure and forfeiture to the United States.

(b) SEIZURE.—

(1) Any customs officer may seize any vessel in the customs waters of the United States that has, at any time after the date that is 60 days after the date of enactment of this Act, made a call on any port in Cuba during the preceding six-month period.

(2) Seizure may be made under paragraph (1) without regard to whether the owner or master of the vessel at the time of seizure was the owner or master of the vessel at the time the vessel made the call to a port in Cuba in violation of paragraph (1).

(3) The provisions of title IV of the Tariff Act of 1930 (19 U.S.C. 1401, et seq.) shall apply to the seizure, forfeiture, and sale of any vessel that makes a call to a port in Cuba in violation of paragraph (1) and to the proceeds from the sale of such a vessel.

(c) DEFINITIONS.—For purposes of this section, the terms "customs officer" and "customs waters" have the respective meaning given to each of such terms by section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

SEC. 2. COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) REDUCTION OF ESF BY VALUE OF SUGAR IMPORTS FROM CUBA.—The President shall withhold from the amount of assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 which is allocated to a country for a fiscal year the amount equal to the value of sugar which is the product of Cuba and which is imported by that country in the calendar year preceding the calendar year in which the fiscal year begins.

(b) EXCEPTION.—If the President certifies to the Congress that a country described in subsection (a) has terminated, or has given assurances that it will immediately terminate, imports of sugar which is the product of Cuba, then the reduction under subsection (a) shall not be made unless the country is found to have terminated such imports.

(c) REDUCTIONS TO BE MADE NOTWITHSTANDING EARMARKINGS.—The withholding of amounts under subsection (a) shall be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

SEC. 3. NEGOTIATIONS.

(a) IN GENERAL.—The United States Trade Representative shall take action to initiate negotiations with the trading partners of the United States with regard to the elimination or restriction of trade with all of those foreign countries—

(1) the governments of which are not recognized by the United States,

(2) which do not have diplomatic relations with the United States, or

(3) which are terrorist nations.

(b) REPORT.—The United States Trade Representative shall submit to the Congress a report on the negotiations conducted under subsection (a).

SEC. 4. INCOME FROM SOURCES WITHIN CERTAIN COUNTRIES NOT ELIGIBLE FOR EXCLUSION AS FOREIGN EARNED INCOME.

(a) IN GENERAL.—Section 911(d)(8) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (A) by inserting after "any period" the following: ", or if a foreign country is described in subparagraph (c) for any period";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) COUNTRIES.—For purposes of this paragraph, a country is described in this subparagraph if—

"(i) the United States does not have diplomatic relations with that country; or

"(ii) that country engages in or supports international terrorism, as determined by the Secretary of State.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after the date of the enactment of this Act.

SEC. 5. TRADE WITH ANGOLA.

(a) PROHIBITION ON IMPORTS.—

(1) No product of Angola may be imported into the United States.

(2) For purposes of this subsection, the term "product of Angola" means any article grown, mined, produced, or manufactured (in whole or in part) in Angola.

(b) PROHIBITION ON EXPORTS.—

(1) No goods or technology subject to the jurisdiction of the United States may be exported to Angola for the benefit or use of the Popular Movement for the Liberation of Angola.

(2) The prohibition provided under paragraph (1) shall be administered under the Export Administration Act of 1979.

(3) Paragraph (1) shall not apply to international disaster relief and rehabilitation assistance provided under section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292).

(c) EFFECTIVE DATES.—

(1) The provisions of this section shall apply—

(A) after the date that is 60 days after the date of enactment of this Act, and

(B) before the date on which the President makes the certification to Congress described in Paragraph (2).

(2) If the President determines that Angola—

(A) is making a concerted and significant effort to comply with internationally recognized human rights,

(B) has entered into discussions with its noncommunist opposition,

(C) has established a body of laws that assures the full national participation of all the people of Angola in the social, political, and economic life in that country,

(D) has held free and fair elections under international supervision not later than November 11, 1988, and

(E) all troops from Cuba, the Soviet Union, and any other Communist country have withdrawn from Angola,

the President shall submit to the Congress a written statement certifying such determination.

SEC. 6. REQUIREMENT OF ACCELERATED LOAN REPAYMENTS FROM CERTAIN COUNTRIES.

(a) CERTIFICATION REQUIRED.—Whenever the Secretary of State determines that a foreign country receiving new United States loans is extending new loans to Cuba on a subsidized basis, he shall so certify to the President.

(b) ACCELERATED LOAN REPAYMENTS.—Notwithstanding any other provision of law, not later than 60 days after receipt or a certification under subsection (a), the President shall prescribe regulations requiring the accelerated repayment of all United States loans to the country with respect to which the certification was made.

Mr. CHILES. Mr. President, today I am joining with Senators DOLE and HOLLINGS to introduce a bill that would place a series of restrictions on Cuba and on those nations which trade with Cuba or are allies of Cuba and contain Cuban troops.

The issue of trade is currently at the center of the political stage—and rightfully so. The tremendous deficits which our Nation continues to mount are sapping our economic strength and must be reduced. But there are other international trade practices which are equally damaging to America's economic and military power. Trade is blossoming, for instance, between allies of the United States and the revolutionary regime of Cuba.

This trade directly undermines U.S. interests around the world. To the extent that other nations purchase export commodities from Cuba, they allow Castro to export troops and revolution to other points around the globe. Troops, in fact, are one of Cuba's major exports. They maintain a sizable presence of troops in both Angola and Nicaragua—in direct opposition to United States policy. The export of troops, however, is a drain on Cuba's economy; it must sell other commodities in order to raise much needed hard currency. Without hard currency, the Cubans could not export their revolution, nor could they purchase the technology and hardware necessary for economic growth.

Trade with Cuba also directly benefits the Soviet Union. Aside from troops, Cuba's main exports are agricultural commodities, and sugar is by far the most important. Unless a market is found for Cuban products, their economy requires ever larger subsidies from the Soviet Union. Thus, the trade which our allies conduct with Cuba assist not only the Cuban economy, but also that of the Soviet Union. The Soviets also face difficulties with hard currency, and trade with Cuba reduces the drain which the Cuban economy places on the Soviet economy.

This legislation takes a number of steps designed to tighten the embargo on trade with Cuba and further the isolation of the Cuban economy. Isolating the Cuban economy will prevent further Cuban expansion around the world. This bill contains six different provisions designed to reinforce United States policies toward Cuba. Four of these focus on Cuba, while the remaining two focus on Angola, where Cuba maintains a large number of troops.

The first section prohibits any ship from making a port of call in the United States within 6 months after calling on a port in Cuba. The second escrows the foreign aid of any nation receiving United States foreign aid which purchases sugar from Cuba. Section 3 requires the United States Trade Representative to initiate negotiations with our allies to reduce their trade with Cuba. And section 6 requires the acceleration of any new loans to any nation which provides subsidized loans to Cuba.

Section 5 of the bill places prohibitions on trade with Angola. These restrictions on Angola are in effect until such time as all Cuban troops, and any other Communist country troops, are withdrawn from Angola. Finally, in order to bring our tax policy in line with our foreign policy, it removes the individual tax exemptions for those U.S. citizens working in countries which the United States does not recognize, does not have diplomatic relations with, or which the Secretary of State has determined is a sponsor of terrorism.

Our foreign policy in Angola seems to slap with one hand and give with the other. While we provide assistance to Jonas Savimbi and UNITA in the battle against the Angolan Marxist regime, another side of our policy permits American corporations to continue a business as usual relationship. This policy is inconsistent.

In essence, American corporations are helping the Angolan Government pay for Soviet advisers and Cuban military forces. By discouraging United States business transactions in Angola at a time when its oil revenue is being squeezed by a world oil glut and its Government pressured by Savimbi's freedom fighters, I believe we seize the opportunity to force the Marxist regime to change its ways. It is an opportunity to force them to seriously reevaluate the consequences of their actions.

Mr. President, I urge my colleagues to consider this legislation carefully and support its provisions. Cuba must not be permitted to export its revolutionary policies around the world in opposition to United States policy. By isolating Cuba's economy, this legislation will help curb Cuban expansion.

By Mr. QUAYLE:

S. 1229. A bill to amend the Adult Education Act in order to improve the effectiveness of programs under that act, and for other purposes; to the Committee on Labor and Human Resources.

ADULT EDUCATION ACT AMENDMENTS

● Mr. QUAYLE. Mr. President, I am introducing a bill to reauthorize a very important Federal program, the Adult Education Act. It pleases me to offer legislation that will continue this program for 5 more years, through 1992.

The Adult Education Act has been one of the most effective tools with which to fight illiteracy. It has provided $1.354 billion since its inception in 1965 to States to fund programs to help illiterate adults learn to read and write. These programs are locally administered through community organizations and schools and often involve community volunteers in their efforts. The act provides great flexibility to States and localities to design programs that best meet the needs of the local population.

Because illiteracy is such a problem in our society and because it affects our competitive edge so dramatically, it is vital that we continue the program under the Adult Education Act. While this act alone cannot solve the entire problem of illiteracy in our Nation, it can help, and last year, over 2.8 million people received services under this program.

The amendments contained in this legislation which are based on the administration's proposals, are relatively minor and do not affect the basic structure of the program. The act has been very successful and is well supported by the States and localities, so major changes are not necessary. Indeed, State control and flexibility are the key elements of this program, and I would not recommend making any changes to those elements.

This bill would make the following changes to the Adult Education Act:

The 20-percent set-aside for serving institutionalized individuals would be eliminated to give States more flexibility in serving the populations the State feels are most needy;

The State allotment formula would be based on the number of adults who have not graduated from high school or who have less than a ninth-grade education, rather than just populaiton over age 16, to better target on a State's need;

A clarification would be included stating that programs for limited English proficient adults do not have to use transitional bilingual education and that they may use other teaching methods;

The Federal share is decreased from 90 percent to 75 percent as all States are overmatching already;

State administrative funds are limited to 5 percent or $50,000 of the State's allotment;

In-school youth would be excluded from receiving services;

Two million dollars would be authorized for national programs to replace the 5 percent set-aside in current law;

The maintenance of effort provisions would be made more flexible so that a State would only lose its Federal allotment in proportion to its reduction of State funds, rather than losing the entire Federal allotment; and

Authorizations for the act would be set at $130 million, an increase over current appropriations of $106 million.

Mr. President, I look forward to working on this legislation and hope my colleagues will support this measure to improve and extend the Adult Education Act for 5 more years. I ask that the text of the legislation and a section-by-section analysis be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Adult Education Act Amendments of 1987".

DEFINITIONS

SEC. 2. Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.; hereafter in this Act referred to as "the Act") is amended—

(1) by striking out the comma immediately after "State law" in subsection (a), and everything that follows through the end thereof and inserting in lieu thereof a period; and

(2) by inserting "who are not enrolled in a secondary school and" immediately after "for adults" in subsection (b).

SERVICES FOR INSTITUTIONALIZED INDIVIDUALS

SEC. 3. Section 304(b) of the Act is amended to read as follows:

"(b) A State may use funds granted to it under subsection (a) to support adult education programs for institutionalized individuals, including individuals who are incarcerated.".

STATE ALLOTMENTS

SEC. 4. Section 305(a) of the Act is amended to read as follows:

"(a)(1) Subject to paragraph (2) of this subsection, from the sums available for the purposes of section 304(a) for any fiscal year, the Secretary shall allot to the States (including Guam, American Samoa, the Trust Territory of the Pacific Islands, the

Commonwealth of the Northern Mariana Islands and the Virgin Islands)—

"(A) 80 per centum according to the relative numbers of adults in each State who have completed no grade higher than eighth grade; and

"(B) 20 per centum according to the relative numbers of adults in each State who have completed at least ninth grade, but who do not have a certificate of graduation from a school providing secondary education (or its equivalent).

"(2) No State shall be allotted for any fiscal year beginning after 1987, an amount less than its allotment for fiscal year 1987.

"(3) Notwithstanding section 303(a), for the purpose of this subsection the term 'adult' means an individual 16 years of age or older who does not have a certificate of graduation from a school providing secondary education (or its equivalent) and who is not enrolled in a secondary school.".

STATE PLANS

SEC. 5. (a) Section 306(b)(11) of the Act is amended by striking out "by providing a bilingual adult education program" and everything that follows through the end thereof and inserting in lieu thereof a semicolon.

(b) Section 306 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Programs conducted under subsection (b)(11) shall be designed to teach English to limited English proficient adults and, if appropriate, to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.".

PAYMENTS

SEC. 6. (a) Section 307(a) of the Act is amended by striking out "90 per centum" and inserting in lieu thereof "75 per centum".

(b) Section 307(b) of the Act is amended to read as follows:

"(b)(1) The Secretary shall not pay to any State its full allotment under section 305 for any fiscal year unless the Secretary determines that the State's expenditures for adult education from non-Federal resources for the preceding fiscal year, computed on either a per student or aggregate expenditure basis, was at least 90 per centum of the State's expenditures for adult education from such sources, computed on the same basis, during the second preceding fiscal year.

"(2) If the Secretary determines for any fiscal year that any State failed to maintain its expenditures for adult education at the 90 per centum level required by paragraph (1), the Secretary—

"(A) shall reduce the amount of the State's allotment under section 305 for that fiscal year in the exact proportion of the State's failure to maintain its expenditures at that level; and

"(B) shall not use the reduced amount of the State's expenditures for adult education for the preceding year to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of that State. The Secretary shall not use the reduced amount of the State's expenditures for adult education in the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of a waiver.".

(c) Section 307 of the Act is further amended by adding at the end thereof the following new subsection:

"(c) A State educational agency may use no more than five per centum of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.".

NATIONAL PROGRAMS

SEC. 7. Section 309 of the Act is amended by—

(1) striking out subsection (b);

(2) striking out the "(A)" immediately after "(2)"; and

(3) redesignating paragraph (2)(B) as subsection (b).

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 8. (a) Section 312(b) of the Act is amended—

(1) by striking out "in which instruction" and everything that follows through "native language of such persons"; and

(2) by striking out "1988" and inserting in lieu thereof "1992"; and

(b) Section 312(d) of the Act is amended—

(1) by striking out "annual" and inserting in lieu thereof "biennial"; and

(2) by striking out "of Health, Education, and Welfare".

AUTHORIZATIONS

SEC. 9. Section 314 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 314. (a) For the purpose of carrying out this title, other than section 309, there are authorized to be appropriated $128,000,000 for fiscal year 1988 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) For the purpose of carrying out section 309 there are authorized to be appropriated $2,000,000 for fiscal year 1988 and such sums as may be necessary for each of the four succeeding fiscal years.".

EFFECTIVE DATE

SEC. 10. The amendments made by this Act shall take effect July 1, 1988.

SECTION-BY-SECTION ANALYSIS

Section 2. Section 2 of the Act would make technical amendments to the definitions of "adult" and "adult education" under the Adult Education Act ("AEA") to simplify those definitions and to clarify that services under the AEA may not be provided to adults who are enrolled in a secondary school program. It has never been a purpose of the AEA to serve individuals who are enrolled in a secondary school program.

Section 3. Section 3 of the Act would enhance State flexibility and discretion by deleting the provision of current law that prohibits a State from using more than 20 percent of its grant to provide adult education programs for institutionalized individuals, including incarcerated individuals. As a result of this amendment, States would be free to use any amount of their grant for these purposes, consistent with their program priorities.

Section 4. Section 4 of the Act would amend and clarify the State allotment provisions of the AEA. Under current law, each State receives for each fiscal year a minimum allotment of $250,000 (the Territories receive $100,000 each) and a portion of the remainder of the appropriation which reflects the relative size of the State's (or Territory's) population of individuals aged 16 or over who do not have a certificate of graduation from a secondary school (or its equivalent). The current allotment formula does not recognize the varying needs among the States for adult basic education services or high school equivalency instruction.

Section 4 of the Act would (1) clarify that individuals aged 16 years or over who are enrolled in a secondary school may not be counted for allocation purposes, and (2) amend the allotment formula to reflect more closely the service priorities of the AEA and the States' needs for adult basic education and high school equivalency instruction. Under section 306(b)(5) of the AEA, States are required to use at least 80 percent of their State grants for adult basic education, because of the great need for such services. Therefore, section 4 of the Act would allot 80 percent of the appropriated funds according to the States' relative populations of adults who have not completed the ninth grade (i.e., those in need of adult basic education services), and 20 percent according to the States' relative populations of adults who have completed the ninth grade, but who have not graduated from a secondary school (i.e., those in need of high school equivalency instruction). Finally, section 4 would minimize any disruptive effects caused by the new allotment formula by holding the States harmless at their fiscal year 1987 level. The inclusion of a hold-harmless provision at the fiscal year 1987 level eliminates the need for the minimum grant provisions contained in current law.

Section 5. Section 5 of the Act would enhance State and local discretion and flexibility regarding the choice of instructional approach for persons with limited English proficiency by clarifying that adult education programs for such persons need not employ transitional bilingual education. Section 5 would clearly state that the goal of adult education programs for limited English proficient persons is to teach them English and, if appropriate, prepare them to enter the regular program of adult education as quickly as possible; that programs for the limited English proficient may provide instruction in the native language, to the extent necessary, or exclusively in English, as appropriate; and that such programs must be coordinated with programs under the Bilingual Education Act and bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

Section 6. Section 6 of the Act would make several amendments to section 307 of the AEA designed to clarify financial requirements and increase the effectiveness of State programs. First, section 6 would decrease the Federal share of programs from 90 percent to 75 percent, thereby calling for greater State and local contributions to the purposes of the AEA. The State and local share of expenditures for adult education programs has grown in recent years and already exceeds the 10 percent share required by current law. Increasing the required

State share would reflect this trend as well as provide encouragement for States and localities to continue their efforts in adult education. Second, section 6 would make the State maintenance of effort requirement more flexible, and the sanction for failing to comply with it more measured. Under current law, States must maintain their expenditures for adult education from non-Federal resources at the full 100 percent level, and if they fail (and the Secretary cannot grant a waiver) the State may not participate in the program for that fiscal year. As amended, States would be required to maintain their effort at a more reasonable 90 percent level, and the sanction for failing to comply with this standard would be a proportionate reduction in the State's allotment. As a result of this amendment, States would be subject to the same maintenance of effort requirements that apply to Chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981. Finally, section 6 would impose a reasonable cap—five percent of the State's grant or $50,000, whichever is greater—upon the use of grant funds for State administration.

Section 7. Section 7 of the Act would delete, as unnecessary, section 309(b) of the AEA, which authorizes the National Institute of Education ("NIE") to conduct research on the special needs of individuals requiring adult education. The reference to NIE is obsolete in light of the Department's reorganization of the Office of Educational Research and Improvement and enactment of title XIV of the Higher Education Amendments of 1986. Moreover, the Department already has the authority to conduct such research under section 405 of the General Education Provisions Act, as amended by title XIV.

Section 8. Section 8 of the Act would extend the authorization of the National Advisory Council on Adult Education through 1992, change the annual report of the Council to a biennial report, and delete an outdated reference to the Secretary of Health, Education, and Welfare. In addition, section 8 would, consistent with section 5 of the Act, delete language pertaining to adult education services being provided to persons with limited English proficiency in both English and the native language.

Section 9. Section 9 of the Act would reauthorize the AEA through fiscal year 1992; $128,000,000 would be authorized for fiscal year 1988 for State programs and such sums thereafter. Section 9 would also authorize $2,000,000 for national programs under section 309 for fiscal year 1988 and such sums thereafter. This latter provision would provide the Secretary with the flexibility needed to utilize funds for appropriate discretionary activities, consistent with evolving needs and priorities.

Section 10. Section 10 of the Act would make the provisions of the Act effective on July 1, 1988.●

By Mr. GRASSLEY (for himself, Mr. Matsunaga, and Mr. Moynihan):

S. 1230. A bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings; to the Committee on Finance.

MEDICARE PAYMENT FOR PHYSICIAN ASSISTANTS

Mr. GRASSLEY. Mr. President, today, with my colleagues Senators Matsunaga and Moynihan, I am introducing legislation which would enable the services of physician assistants to be reimbursed by the Medicare Program regardless of the setting in which those services are rendered. The legislation is being introduced in the House of Representatives by Congressman Ron Wyden.

The bill we are introducing today complements legislation I introduced last year which became law in the Omnibus Budget Reconciliation Act of 1986 [OBRA]. That legislation authorized Medicare part B reimbursement of the services of physician assistants under certain conditions. The services of the physician assistant had to be provided under the supervision of a physician. The services of the physician assistants were to be reimbursed at a discounted rate. The reimbursement was to be paid to the physician. And the services were to be rendered in a hospital, a skilled or intermediate care nursing facility, or for assistance at surgery. Early indications are that the new Medicare law is being well received by patients and providers.

The legislation we are introducing today would extend Medicare reimbursement to the services of physician assistants provided in physicians' offices, in clinics, or in homes. The legislation accomplishes this by striking from present law the restriction that physician assistants practice only in hospitals, in skilled or intermediate care facilities, or as assistants at surgery.

The lack of a mechanism in current law for providing coverage for PA services in these settings severely restricts the practice abilities of PA's.

Enactment of this language would allow for part B coverage of such PA services at a rate not to exceed 85 percent of the physician's prevailing charge for the service. PA's would still have to be supervised by a doctor of medicine or osteopathy, and payment for the services rendered would be to the employer of the PA and not to the PA. Because these requirements are now in law, it is not necessary to include them in our new bill.

Finally, the congressional budget office reviewed last fall's legislation and found that it would be revenue neutral, a situation which would not change if this legislation is implemented.

Mr. President, according to a study by the Office of Technology Assessment, physician assistants have positive influences on quality of health care and access to services, and they could increase productivity and save costs. The legislation we are introducing today is a logical extension of last year's legislation, and, if passed, will make it possible for our health care system to realize the maximum benefit from the services of physician assistants.

Mr. President, I ask unanimous consent that the text of the legislation be inserted in the Record after my statement.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE PAYMENT FOR PHYSICIAN ASSISTANTS OUTSIDE INSTITUTIONAL SETTINGS.

(a) In General.—Section 1861(s)(2)(K)(i) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)(i)), added by section 9338(a)(3) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "in a hospital, skilled nursing facility, or intermediate care facility (as defined in section 1905(c)) or as an assistant at surgery".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1987.

By Mr. BAUCUS:

S. 1231. A bill to allow United States exporters to export agricultural commodities to Cuba in certain situations; to the Committee on Banking, Housing, and Urban Affairs.

CUBAN EMBARGO ON AGRICULTURAL PRODUCTS

● Mr. BAUCUS. Mr. President, the Soviet grain embargo taught us some tough lessons about the usefulness of foreign policy embargoes on United States agricultural exports.

We learned that we could no longer punish other nations by refusing to sell them agricultural products.

We learned that when the United States imposes an embargo on agricultural exports, several things happen—none of them good.

First, the United States loses a customer. Commercial relations with a foreign purchaser of agricultural products are disrupted. Farmers, at least temporarily, lose vital export sales.

Second, the embargoed nation is not punished by the embargo; it merely begins purchasing the agricultural products that it needs from other suppliers. Other agricultural exporting nations, like the EEC, Canada, Argentina, and Australia, are quite willing to sell even if the United States is not.

Unfortunately, we have not learned these lessons very well.

The United States is still using an agricultural export embargo, very similar to the Soviet grain embargo, to punish Cuba.

Those who argue against selling agricultural products to Cuba would have one believe that our export embargo will bring down the Cuban Government.

This argument is patently false.

We have refused to sell agricultural products to Cuba since 1962. The Cuban Government is as strong or stronger now than it was in 1962.

The simple fact is, if the United States refuses to sell agricultural products, other exporters will. Canada, Argentina, and Brazil have been happy to provide Cuba with all of the agricultural products that it can purchase.

United States farmers are needlessly losing sales because of the Cuban embargo.

The United States is shutting itself out of a market that it could ship agricultural products to at a very low cost. It is shutting itself out of a market that could purchase large quantities of U.S. wheat, feed grains, soybeans, and rice—to name only a few.

The prohibition on agricultural exports to Cuba is punishing United States farmers for the transgressions of the Cuban Government.

As our experience with the Soviet grain embargo conclusively demonstrates, embargoes that block United States exports of agricultural products only hurt United States farmers. Cuba can buy agricultural products elsewhere, but American farmers have a tough time finding other customers.

This is why I am today introducing legislation that would allow United States exporters to sell agricultural products to Cuba provided that: first, the sales were made on a cash basis and second, the same agricultural products are available from other exporters.

In a year that the Congress is fundamentally revising the U.S. international trade policy, I hope that we can make this long-needed change.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, United States exporters may export agricultural commodities, and products of agricultural commodities, to Cuba if—

(1) the agricultural commodities or products are available to Cuba from foreign exporters, and

(2) the agricultural commodities or products are sold to Cuba at fair market value in exchange for cash or other goods without the assistance of any government credit.●

By Mr. EXON:

S. 1232. A bill to amend the Agricultural Act of 1949 to make Commodity Credit Corporation stocks available to promote the production of liquid fuels and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PROMOTING THE PRODUCTION OF LIQUID FUELS

Mr. EXON. Mr. President, today, I am introducing legislation which would bolster our faltering farm economy. Increase our energy independence, and make good use of burdening agricultural surpluses owned by the Federal Government.

In a nutshell, this legislation would require the Secretary of Agriculture to make surplus CCC stocks available to State entities for the construction or expansion of fuel ethanol production facilities. This approach is a positive step for so many reasons that I hardly know where to begin.

It is no secret that the Federal Government is, unfortunately, the owner of vast quantities of farm commodities. Much of this grain is going out of condition as we wait for elusive export markets to expand. This legislation would empower the Secretary of Agriculture to make good use of the grain and create a new market for future agriculture production. By making these stocks available to State entities we could rid ourselves of poor quality grain supplies and the storage costs that go with them.

My home State of Nebraska has been a leader in ethanol development. Nebraska's advances have been the result of continued hard work to develop both supply and demand for fuel ethanol. This legislation recognizes the fact that Nebraska and other States have taken it upon themselves to nurture this important industry and relies heavily on State-level expertise to further that development.

Nebraska has also been the sight of recent testing to develop more efficient ways to produce ethanol. By utilizing a fermentation process which relies on bacteria rather than yeast, great advances have been made which could produce ethanol faster and more cheaply than current methods. Although wide-scale use of this process will not occur immediately, it is very conceivable that new technology, combined with this legislation, could serve as the foundation for significant fuel ethanol advances.

Quite simply, Mr. President, we have too much American grain and not enough American oil. This legislation recognizes that fact and does something about it. I urge my colleagues to give this approach their most timely consideration.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIQUID FUELS.

Section 423 of the Agricultural Act of 1949 (7 U.S.C. 1433b) is amended by adding at the end thereof the following new subsections:

"(d) To be eligible to receive agricultural commodities under this section, a recipient must be a State agency or entity created by the State.

"(e) Agricultural commodities provided under this section may be used only for the development of a new liquid fuel facility or the expansion of an existing facility.

"(f) The Secretary may not provide agricultural commodities to a project to develop or expand a liquid fuel facility under this section that are more than 5 million bushels or the equivalent of 10 percent of the total project cost.

"(g) The Secretary shall use not less than 5 million or more than 100 million bushels of corn, or an equivalent amount of feed grain, each year to carry out this section.

"(h) The authority provided in this section shall—

"(1) terminate 5 years after the date of enactment of this subsection; and

"(2) be subject to the availability of agricultural commodities held by the Commodity Credit Corporation.".

By Mr. GLENN:

S. 1233. A bill to establish an executive department of the Government a Department of Industry and Technology, to establish within that Department the Advanced Civilian Technology Agency, to establish the U.S. Trade Administration, and for other purposes; to the Committee on Governmental Affairs.

ECONOMIC COMPETITIVENESS, INTERNATIONAL TRADE, AND TECHNOLOGY DEVELOPMENT ACT

● Mr. GLENN. Mr. President, I rise to introduce a bill titled "The Economic Competitiveness, International Trade, and Technology Development Act of 1987." This bill, which I hope will become the foundation of the Governmental Affairs Committee portion of the Senate's omnibus trade bill, offers a solution to a fundamental aspect of the competitiveness problem we are facing today.

After months of listening to the debate and discussion in this Congress and around the Nation about the issue of U.S. competitiveness, I have become convinced that one of the fundamental sources of the problem is simply this: The structural organization and function of some of the Federal Government's key agencies are simply out of step with the dramatic changes which have occurred in the American economy in the last decade. We now live in a global marketplace and one in which technology is playing an increasingly important role.

As a result, I firmly believe that the key to regaining international competitiveness requires a two-pronged strategy: First, strengthening for our trade policymaking and commercial promotion apparatus, and second, providing incentives for the judicious development and application of advanced technologies and the organizational changes within the Government that will help these new technologies work.

The legislation I am introducing today will accomplish three goals: First, the reorganization of the Department of Commerce into a new Department of Industy and Technology, whose primary mission will be to enhance American competitiveness by marrying commercial promotion activities—both domestic and international—with technology development activities; second, strengthening the Office of the U.S. Trade Representative and changing it into a new U.S. Trade Administration; and third, the creation of a new agency, the Advanced Civilian Technology Agency [ACTA], which will spur the development of technologies for commercial application and which will be part of the new Department of Industry and Technology.

I am well aware that in matters of Government reorganization, there is not a single right answer. However, I believe that this legislation, in refining—indeed, transforming—Government's role in the nexus of industrial, technological, and trade concerns, goes to the heart of the country's current competitiveness problems. I hope my colleagues will join with me to move this bill through the Congress as part of our omnibus trade package and on to the President for his signature.

In integrating issues related to the Nation's problems in the industrial, technology, and trade area, this bill dovetails with the competitiveness bills currently being worked on in other committees. Under the leadership of Senator BENTSEN, the Finance Committee recently marked up legislation conferring greater authority on the USTR. My bill, in transferring to the USTR investigatory and enforcement functions currently being carried out in the Department of Commerce, will complement the Finance Committee's legislation. Similarly, it is my understanding that the Commerce Committee will use as its contribution to the omnibus trade package a bill introduced by its distinguished chairman, Senator HOLLINGS, which enhances the technology development functions of the Department of Commerce. The same objective underlies my bill.

Let me note that although my legislation focuses on both enhancement of technology development and trade reorganization, achievement of reform in one area can be done independently of the other. For example, ACTA can be created and technology development activities in the Commerce Department can be enhanced without any trade reorganization. Therefore, in the hearings on this bill that the Governmental Affairs Committee will hold on May 28 and June 1, as well as in the markup, scheduled for June 3 and 4, I intend to consider these elements separately.

THE DEPARTMENT OF INDUSTRY AND TECHNOLOGY

My staff has consulted extensively with Government organization experts and former senior Commerce Department officials, and the clearest fact which emerged about the Department of Commerce's mission today is that it has no clear mission. The individuals who run the Department of Commerce including the Secretary, have done a tremendous job in fulfilling the many and varied goals and responsibilities given to them. But even they, and I have the highest respect for their abilities, cannot create an efficient and smooth-running organization out of chaos. I have here a current organizational chart of the Department, and ask that it be put in the RECORD. It is difficult to see from it how the various parts of the Department today could ever function in a cohesive way.

Among its many problems is an artificial bifurcation between domestic and international commercial interests. As I said earlier, we can't afford to draw this distinction, and it is increasingly to our disadvantage to shut our eyes to the reality of the world today and to insist that we can actually separate domestic and international economic concerns. The new Department of Industry and Technology will have an Under Secretary for Industry, who will integrate economic affairs, both at home and abroad. Except for the two offices being transferred to the USTR, all other offices in the current Department of Commerce that have responsibility for commercial activities will report to the Under Secretary for Industry.

I have thought for many years that America needs to be more aware of the crucial role technology plays in affecting our position in the world economy. Without it we would not enjoy the industrial and military strength that we do today; if we do not continue to explore the outer reaches of our universe of knowledge, we will no longer have any claim to a position of leadership in the world.

The root of America's technology problem is not in our ability to conduct basic scientific research, but rather in our ability to bridge the gap between the lab and the marketplace. As Prof. Robert Reich of the Harvard Kennedy School of Government states in a recent Atlantic Monthly article:

> Americans continue to lead the world in scientific discoveries and Nobel laureates. But we have had difficulty turning our basic inventions into streams of commercial products. We tend to get bogged down somewhere between the big breakthrough and its application. The Japanese, in contrast, are skilled at using the essential insight of a major discovery as the starting point in a continuing process of application and refinement * * *. The underlying predicament is not that the Japanese are exploiting our discoveries but that we can't turn basic inventions into new products nearly as fast or as well as they can.

Our Government does not have a formally stated policy for civilian technology development and applications. For all intents and purposes, we are the only major industrial country without one. I know this has come about because we have been so far ahead of the pack that everyone else needed a technology policy. But unfortunately we no longer live in a world where our preeminence is a matter of assertion. If we don't take careful steps now, we will find ourselves at the back of the pack, not at the front. We need to change our current ad hoc policy of dealing with technological problems as they arise and move toward a more thoughtful, lasting policy.

As we look at the structure of the current Department of Commerce, we see that technology concerns are scattered all over, and that there is no effective champion for the development of technology and its application. The Under Secretary for Technology in the new Department of Industry and Technology will serve this purpose. All of the technology-related offices from the former Department of Commerce will be under the control of the new Under Secretary for Technology, except for the National Oceanic and Atmospheric Administration. Moreover, the Under Secretary for Technology has deliberately been placed on equal footing with the Under Secretary for Industry to emphasize that the new Department's mission is to develop policies which foster the integration of business and technology concerns.

TRADE REORGANIZATION

Reorganization within the Department of Commerce is one step toward creating a more effective Government structure to deal with our competitiveness troubles. A second step is to bolster the Federal Government's trade policymaking functions, which are now spread between Commerce and the USTR. The need for this change has never been more clear. Gone are the days of our unquestioned preeminence in international commerce. We are instead a nation living on borrowed money and time. The following trade statistics on our economy speak for themselves.

In 1981 our current account balance—the broadest measure of foreign trade—was in surplus. In 1986 we had a current account deficit that reached a record $140 billion, almost 20 percent greater than the previous record of $117 billion set in 1985. Today the United States stands as the world's largest debtor nation, owing foreigners more than $220 billion, about twice as much as that owed by the next largest debtor nation—Brazil. The impact of these deficits is enormous. Roughly 2 million manufacturing jobs have been lost in the United States since 1981. Last year, for the first time in its history, the United States experienced a deficit in high technology trade. And although agricultural exports continue to outpace agricultural imports, the gap between what we sell abroad and what we buy from the rest of the world is narrowing considerably.

It is obvious that the global economy and America's role as an international competitor have changed dramatically. Today we are far more dependent on trade in a world that contains many more trading powers. About one-fifth of our GNP arises directly from international trade, and some 5 million American jobs depend on exports—more than in any other nation. Moreover, our economic rivals—both the traditional ones, such as Japan and Europe, and new ones like the newly industrialized developing countries [NICS]—have embarked on a deliberate strategy of international economic competition. It is high time that we, too, forge a conscious competitive trade strategy. Modifying our Government policymaking structure is a necessary and important component of that process.

The hearing record in the Governmental Affairs Committee from this and previous Congresses clearly shows that we have a serious problem with our trade policymaking apparatus. The committee is indebted to its ranking member and former chairman, Senator **Bill Roth**, for having the foresight to examine the organizational aspects of trade policymaking when competitiveness was not the fashionable issue that it is today.

Under our current structure, the USTR is responsible for negotiating trade agreements and implementing trade policy. In contrast, the Department of Commerce is responsible for investigations and the analysis of data in support of trade negotiations; enforcement of U.S. trade laws, including the protection of U.S. industry from imports; and promoting trade activities.

As the USTR carries out its negotiating duties, it often has trouble getting access to and analyzing information it needs on a timely basis. Moreover, because the USTR does not have in its arsenal enforcement functions, its ability to negotiate and then effectively implement trade agreements is weakened.

The legislation I am introducing today would move two offices from the Department of Commerce into the USTR, allowing each organization to concentrate on doing what it does best. The transfer of the current Office of the Assistant Secretary for Trade Administration from Commerce to the USTR would strengthen the negotiating position of the USTR while allowing Commerce to concentrate on trade promotion. The transfer of the Office of International Economic Policy will have the same effect, by giving the USTR the expertise it needs in the economies and trade policies of foreign competitors to negotiate more effective trade agreements.

The roles of the USTR and the Department of Commerce have always overlapped. This was less of a problem while the United States enjoyed the advantages of unparalleled economic strength in relation to other nations. Today, however, we find ourselves in a very different situation, one which needs the most effective system of trade negotiation and enforcement, and one which deserves the best export promotion and enhancement efforts we can design.

A number of people have advocated moving the USTR into the Department of Commerce. This strikes me as an unwise step. Although it would appear that we had solved the problem, we would have actually created many more by housing an agency, which serves the needs of many if not all departments, in one department. We would be creating a very inefficient structure indeed, if we allowed the interests of the USTR to be captured by a single department. My bill retains the "honest broker" status of the USTR without interfering with its duty to coordinate the trade interests of every other department.

I am under no illusions that this reorganization alone will solve all of our trade difficulties. Indeed, it cannot hope to solve the immediate problem of the trade deficit. For this, we must rely on reducing the Federal budget deficit, on our trading partners' increasing the consumption of our goods, and on the realignment of exchange rates with respect to our major trading partners, the European Community and Japan, as well as the newly industrialized countries.

THE ADVANCED CIVILIAN TECHNOLOGY AGENCY

Perhaps the most important aspect of the legislation I am introducing today and, frankly, the aspect I am most excited about, is the creation of the Advanced Civilian Technology Agency, which will be housed in the new Department of Industry and Technology and the responsibility of the Under Secretary for Technology. ACTA can be thought of as the civilian counterpart to DARPA, the Defense Advanced Research Projects Agency, and will provide funding on a cost-sharing basis for specific projects in high-risk, long-term, high-impact areas of technological development and application that are not otherwise being addressed by the private sector. ACTA programs will encompass the entire range of technological development and application, from idea exploration to prototype development, leading to commercialization by industry.

Earlier this year, the Governmental Affairs Committee held 5 days of hearings on the subject of government's role in economic competitiveness. One of the many topics of discussion was the critical link between technology and business. A very distinguished panel of scientists and scholars concluded that the Federal Government needs to devote more resources to systematically promoting the development and application of basic technology, and the proposal that surfaced most often during a number of the hearings formed the idea behind the establishment of the Department of Industry and Technology and especially ACTA.

CONCLUSION

Mr. President, we have all heard of, read about, and seen many reasons to do something about the decline in American competitiveness. The problems range from our trade imbalance to our Federal deficit to the fact that many key breakthroughs in manufacturing technology are occurring abroad. The legislation I am introducing today will form the foundation for a renewed partnership between government and American business which will lead to greater prosperity for the entire country.

The costs associated with this change are small—the transformation of the Department of Commerce and the USTR have been designed to be personnel and revenue neutral, and funding for ACTA is at a very modest level. On the other hand, the benefits associated with these changes are large. Not only will we reap the benefits of creating a bona fide technology policy, but the new Department of Industry and Technology and the new U.S. Trade Administration, will play well-defined and active roles in advancing America's future economic success. The costs associated with putting off these changes, with delaying action for 2 or more years, however, are great. In several years if current trends continue we may well be a net importer of high-technology goods. We may no longer be a prominent producer of computers and telecommunications equipment, and we could be struggling to retain a competitive position in what is the newest technology—superconductivity. We simply cannot afford to let that happen.

A recent cover on Business Week asked "Can America Compete?" The answer is yes. I think America has always had what it takes to compete, and to compete well. But I also think that we have tied our hands behind our back by not taking a realistic look at the world we now live in. The global economy is a remarkably different place from just a decade ago. It is a place that requires a number of changes to be made for us to continue playing a role in its growth. The legislation I have introduced today will untie our hands, and we will come out fighting to win.

I ask unanimous consent that the text of the bill and the section-by-section analysis of it be printed in the Record immediately following these remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act may be cited as the "Economic Competitiveness, International Trade, and Technology Development Act of 1987".

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TITLE I—DEPARTMENT OF INDUSTRY AND TECHNOLOGY

PART A—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the expansion of United States participation in international trade through aggressive promotion and marketing of American goods and services and accelerated technology development and application are principal national goals;

(2) the economy of the United States is so inextricably linked with the international economic system that all domestic economic sectors are influenced by the dynamics of global trade and investment;

(3) the expansion of United States participation in international trade and investment will improve the general welfare of the people of the United States by increasing demand for American products and services, creating jobs, and increasing the gross national product;

(4) business, labor, and all levels of government must join efforts to place high priority on developing methods and policies to achieve the goals described in paragraph (1);

(5) the Federal Government can enhance the capability of United States businesses to compete in foreign markets by acting to (A) reduce political and economic barriers to sales and investments by such businesses, (B) promote American goods and services in foreign countries, (C) encourage aggressive participation by the private sector in the international marketplace, and (D) develop policies to enhance productivity and the development and application of technological advances;

(6) to achieve the important goals described in paragraph (1) through the means specified in paragraph (5), the United States must establish a cohesive national policy to (A) restore the competitive edge to United States industries, and (B) provide appropriate incentives for the development and application of advances in technology;

(7) effective and efficient Government action to enhance the capability of United States businesses to compete in foreign markets requires coordination and development and implementation of Government policies relating to (A) the international trade and investment, and (B) the technology interests of the United States;

(8) a lack of analytical capability and knowledge concerning the competitive position and prospects of American industries and foreign industries greatly hampers or delays the ability of the United States to formulate responsible policies regarding economic competitiveness, technology development and application, and trade;

(9) government organization should recognize that (A) there is a critical need to link policies which enhance industrial competitiveness and technology development and application, and (B) analyses and policies regarding our domestic markets should be integrated with analyses and policies regarding the international markets in which our businesses compete;

(10) helping to foster the development and application of technology in United States industries is a proper and necessary role for government, working with the private sector;

(11) the present organizational structure of Government administration of international trade and investment activities, industrial promotion and growth activities, and technology advancement activities is lacking in the elements necessary to carry out the goals specified in paragraph (1) and is inconsistent with the findings specified in paragraphs (9) and (10); and

(12) the reorganization of Government functions relating to international trade and investment, industrial promotion and growth, and technology development and application, through the establishment of a Department of Industry and Technology, an Advanced Civilian Technology Agency, and a United States Trade Administration, will eliminate the inconsistencies described in paragraph (11) and will substantially enhance the economic well-being of the American people.

DEFINITIONS

SEC. 102. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Administration" means the United States Trade Administration, as redesignated by section 201;

(2) the term "administrative and support functions" means legal functions, investigative functions, budget preparation and analysis functions, administrative functions, public information functions, and congressional relations functions carried out by the Department and such other support services as may be determined by the Secretary;

(3) the term "Administrator" means the United States Trade Administrator, as redesignated by section 201;

(4) the term "Advisory Board" means the National Advanced Civilian Technology Advisory Board established by section 123;

(5) the term "Agency" means the Advanced Civilian Technology Agency established by section 121;

(6) the term "Department" means the Department of Industry and Technology;

(7) the term "executive department" has the meaning given to the term "Executive department" by section 101 of title 5, United States Code;

(8) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of such title;

(9) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(10) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof; and

(11) the term "Secretary" means the Secretary of Industry and Technology.

PART B—ESTABLISHMENT AND ORGANIZATION

ESTABLISHMENT OF DEPARTMENT

SEC. 111. (a) There is established an executive department to be known as the Department of Industry and Technology.

PRINCIPAL OFFICERS

SEC. 112. (a) The Department shall be administered by a Secretary of Industry and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b)(1) There shall be in the Department a Deputy Secretary of Industry and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary may prescribe.

(2) The Deputy Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Deputy Secretary shall act for and exercise the functions of

the Secretary until the absence or disability of the Secretary no longer exists or a successor to the Secretary has been appointed by the President and confirmed by the Senate.

FUNCTIONS OF THE SECRETARY

SEC. 113. In addition to the functions transferred to and assigned to the Secretary by this Act, such other functions as the President may assign or delegate to the Secretary, and such other functions as the Secretary may, after the effective date of this Act, be required to carry out by law, the Secretary shall—

(1) seek and promote new opportunities for American products and services to compete in the world marketplace;

(2) assist businesses in developing export markets;

(3) support State governments involved in attracting international investment and expanding foreign markets for goods and services produced in such States;

(4) analyze domestic as well as international economic trends and developments in order to understand and foster the conditions that enhance productivity and advances in technology development and application;

(5) serve as the principal advisor to the President on government policies designed to contribute to the enhancement of the ability of American industry and services to compete in international markets;

(6) serve as the principal advisor to the President in identifying and assessing the consequences of any government policies which adversely affect, or have the potential to adversely affect, the competitiveness of United States industries and services;

(7) promote cooperation between business, labor, and government in order to—

(A) improve industrial performance, technology development and application, and the ability of American industries to compete in international markets; and

(B) facilitate consultation and communication between the Federal Government and the private sector concerning domestic industrial performance and prospects as well as the performance and prospects of foreign competitors;

(8) exercise responsibility, through the Stevenson-Wydler Technology Innovation Act of 1980 and other policies, for the Federal Government's role in encouraging technological innovation for industrial and commercial purposes;

(9) serve as the principal advisor to the President in formulating and carrying out policies which advance the development and application of technology to civilian goods and services;

(10) promote and facilitate the development and application of new technology in order to provide new products for the marketplace and new processes to improve the productivity and quality of goods and services;

(11) carry out the functions specified in part C;

(12) develop policies and practices to encourage technological considerations during the development of economic policies and activities for the Nation;

(13) assist industry to consider the role of, and the implications of, advances in domestic and foreign technology;

(14) monitor industrial technology development programs, including cooperative research and development centers and cooperative technology programs;

(15) promote and undertake the development, collection, analysis, and dissemination of—

(A) data and information relating to the development and use of foreign and domestic technology; and

(B) economic and technological information relating to the activities of the Secretary and the Department;

(16) assist interested trade associations, State technology agencies, labor organizations, and universities to disseminate information on new product and process technologies to interested businesses and other entities throughout the United States;

(17) develop, in cooperation with other appropriate Federal agencies, long-range programs to promote American international economic and technology policy interests; and

(18) mobilize and facilitate the participation of American private capital and skills in the development of the economic and social progress of friendly developing countries and areas.

OFFICE OF THE UNDER SECRETARY FOR INDUSTRY

SEC. 114. (a)(1) There shall be in the Department the Office of the Under Secretary for Industry. The Office of the Under Secretary for Industry shall be administered by the Under Secretary of Industry and Technology for Industry, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Office shall be composed of—

(A) the Office of Economic Analysis established by subsection (b);

(B) the Office of Trade Development established by subsection (c);

(C) the United States and Foreign Commercial Service established by subsection (d);

(D) the Office of Economic Development established by subsection (e);

(E) the Bureau of the Census established by subsection (f);

(F) the Minority Business Development Agency established by subsection (g); and

(G) the offices specified in paragraph (2).

(2)(A) There shall be within the Office of the Under Secretary for Industry the Office of the Chief Economist. Such Office shall be headed by the Chief Economist, who shall be appointed by the Secretary. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Chief Economist, shall carry out all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Chief Economist of the Department of Commerce.

(B) There shall be within the Office of the Under Secretary for Industry the Office of Strategic Resources. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Office of Strategic Resources, shall carry out all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Office of Strategic Resources of the Department of Commerce.

(3) The Secretary, through the Under Secretary of Industry and Technology for Industry, shall—

(A) carry out all functions transferred to the Secretary under section 131 which, on the day before the effective date of this Act, were performed by the Secretary of Commerce through the Under Secretary of Commerce for International Trade; and

(B) carry out all functions transferred to the Secretary under section 131 which, on the day before the effective date of this Act, were performed by the Secretary of Commerce through the Under Secretary of Commerce for Economic Affairs (other than functions described in subsections (a)(3)(B), (a)(3)(C), and (b)(2) of section 115).

(b) There shall be in the Department the Office of Economic Analysis. Such Office shall be administered by the Director of Economic Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Director of Economic Analysis, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of—

(1) the Director of the Bureau of Economic Analysis of the Department of Commerce;

(2) the Office of Economic Conditions of the Department of Commerce; and

(3) the Office of Business Analysis of the Department of Commerce.

(c) There shall be in the Department the Office of Trade Development. Such Office shall be administered by the Director of Trade Development, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Director of Trade Development, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Assistant Secretary of Commerce for Trade Development.

(d) There shall be in the Department the United States and Foreign Commercial Service. Such Service shall be administered by the Director General of the United States and Foreign Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Director General of the United States and Foreign Commercial Service, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Director General of the United States and Foreign Commercial Service of the Department of Commerce.

(e) There shall be in the Department the Office of Economic Development. Such Office shall be administered by the Assistant Secretary of Industry and Technology for Economic Development, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Assistant Secretary of Industry and Technology for Economic Development, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Assistant Secretary of Commerce for Economic Development.

(f) There shall be in the Department the Bureau of the Census. Such Bureau shall be administered by the Director of the Census, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Director of the Census, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Director of the Census of the Department of Commerce.

(g) There shall be in the Department the Minority Business Development Agency. Such Agency shall be administered by a Director, who shall be appointed by the Secretary. The Secretary, through the Under Secretary of Industry and Technology for Industry and the Director of the Minority Business Development Agency, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Director of the Minority Business Development Agency.

OFFICE OF THE UNDER SECRETARY FOR TECHNOLOGY

SEC. 115. (a)(1) There shall be in the Department the Office of the Under Secretary for Technology. Such Office shall be administered by the Under Secretary of Industry and Technology for Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Office shall be composed of—

(A) the Advanced Civilian Technology Agency established by part C;

(B) the Office of Technology Information established by subsection (b);

(C) the Patent and Trademark Office established by subsection (c);

(D) the National Bureau of Standards established by subsection (d); and

(E) the Office of Communications and Information established by subsection (e).

(2) The Secretary, through the Under Secretary of Industry and Technology for Technology, shall—

(A) carry out the functions of the Secretary described in paragraphs (7)(A), (10), (12), (13), and (14) of section 113;

(B) carry out all functions transferred to the Secretary under section 131 which, on the day before the effective date of this Act, were carried out by the Secretary of Commerce through the Assistant Secretary of Commerce for Productivity, Technology, and Innovation; and

(C) carry out all functions transferred to the Secretary under section 131 which, on the day before the effective date of this Act, were carried out by the Secretary of Commerce through the Under Secretary of Commerce for Economic Affairs and which relate directly to the management by such Under Secretary of the Office of the Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

(b)(1) There shall be in the Department the Office of Technology Information. Such Office shall be administered by the Assistant Secretary of Industry and Technology for Technology Information, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Assistant Secretary of Industry and Technology for Technology Information, shall carry out the functions of the Secretary described in section 113(15).

(2) There shall be in the Office of Technology Information the National Technical Information Service. The National Technical Information Service shall be headed by the Director of the National Technical Information Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Assistant Secretary of Industry and Technology for Technology Information and the Director of the National Technical Information Service, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Director of the National Technical Information Service of the Department of Commerce.

(c) There shall be in the Department the Patent and Trademark Office. The Patent and Trademark Office shall be administered by the Commissioner for Patents and Trademarks, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Technology and the Commissioner for Patents and Trademarks, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Assistant Secretary of Commerce and Commissioner for Patents and Trademarks.

(d) There shall be in the Department the National Bureau of Standards. The National Bureau of Standards shall be administered by the Director of the National Bureau of Standards, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Technology and the Director of the National Bureau of Standards, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Director of the National Bureau of Standards of the Department of Commerce.

(e) There shall be in the Department the Office of Communications and Information. The Office of Communications and Information shall be administered by the Assistant Secretary of Industry and Technology for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology and the Assistant Secretary of Industry and Technology for Communications and Information, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Assistant Secretary of Commerce for Communications and Information.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SEC. 116. There shall be in the Department the United States Travel and Tourism Administration. The United States Travel and Tourism Administration shall be administered by the Under Secretary of Industry and Technology for Travel and Tourism, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Travel and Tourism, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce, as the case may be, through or under the direction of the Under Secretary of Commerce for Travel and Tourism.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 117. (a) There shall be in the Department the National Oceanic and Atmospheric Administration. The National Oceanic and Atmospheric Administration shall be administered by the Under Secretary of Industry and Technology for Oceans and Atmosphere, who shall also serve as Administrator of the National Oceanic and Atmospheric Administration, and who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary, through the Under Secretary of Industry and Technology for Oceans and Atmosphere, shall perform all functions (other than administrative and support functions) transferred to the Secretary by section 131 that were, on the day before the effective date of this Act, performed by the Secretary of Commerce or the Department of Commerce through or under the direction of the Under Secretary of Commerce for Oceans and Atmosphere.

(b) There shall be in the Department an Assistant Secretary of Industry and Technology for Oceans and Atmosphere, who shall serve as Deputy Administrator of the National Oceanic and Atmospheric Administration.

ADDITIONAL OFFICERS

SEC. 118. (a) There shall be in the Department two additional Assistant Secretaries of Industry and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. Each additional Assistant Secretary of Industry and Technology shall perform such functions as the Secretary may prescribe.

(b) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the Secretary concerning the activities, programs, and policies of the Department.

(c) There shall be in the Department an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 161(h) of this Act.

PART C—ADVANCED CIVILIAN TECHNOLOGY AGENCY

ESTABLISHMENT OF AGENCY

SEC. 121. There shall be in the Department the Advanced Civilian Technology Agency. The Agency shall be administered by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

FUNCTIONS OF AGENCY

SEC. 122. (a) The Secretary, through the Under Secretary of Industry and Technology for Technology and the Administrator of the Agency, shall—

(1) promote and assist in the development and application of advanced technological capabilities to civilian goods and services;

(2) contribute to United States economic competitiveness by supporting research by businesses and academic institutions to advance civilian technological developments and to facilitate the more rapid commercialization of products, processes, and services based on such developments;

(3) assist industrial concerns in technological development and in the commercialization of technology in order to enable new products to reach the marketplace as expeditiously as possible; and

(4) make grants and enter into contracts and cooperative agreements in accordance with section 124.

(b) In carrying out this part, the Secretary, through the Administrator of the Agency, shall—

(1) coordinate activities of the Agency with activities conducted by the Defense Advanced Research Projects Agency and the National Science Foundation;

(2) obtain the advice and assistance of the heads of Federal agencies involved in the conduct of research and the heads of Federal laboratories; and

(3) utilize the expertise and abilities of private business concerns and research and development organizations designated under section 124.

NATIONAL ADVANCED CIVILIAN TECHNOLOGY ADVISORY BOARD

SEC. 123. (a) There shall be in the Agency the National Advanced Civilian Technology Advisory Board. The Advisory Board shall provide advice to the Secretary, the Under Secretary of Industry and Technology for Technology, and the Administrator of the Agency with respect to the policies, programs, and activities of the Agency.

(b)(1) The Advisory Board shall consist of—

(A) twenty-one members appointed by the Secretary in accordance with the requirements of paragraph (2); and

(B) the Director of the Defense Advanced Research Projects Agency and the Director of the National Science Foundation, who shall be ex officio members.

(2)(A) Members of the Advisory Board appointed under paragraph (1)(A) shall—

(i) be broadly representative of the various sectors of United States industries, including manufacturing, advanced technology services, finance, transportation, energy, materials production, telecommunications, biotechnology, and medicine; and

(ii) include representatives of small, medium, and large businesses.

(B) At least 14 members of the Advisory Board shall be representatives of industries and the remaining members of the Advisory Board shall be representatives of academic institutions, State and local governments, and nonprofit private organizations.

(C) In appointing members to the Advisory Board, the Secretary shall consult with representatives of various groups representing business concerns.

(c) Members of the Advisory Board shall be appointed by the Secretary within 60 days after the date of enactment of this Act.

(d) Each member of the Advisory Board appointed under subsection (b)(1)(A) shall be appointed for a term of three years, except that of the members first appointed, seven shall be appointed for a term of one year, seven shall be appointed for a term of two years, and seven shall be appointed for a term of three years, as designated by the Secretary at the time of appointment.

(e) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member of the Advisory Board may serve after the expiration of the member's term until a successor has taken office.

(f) A vacancy in the Advisory Board shall not affect its powers.

(g) The members of the Advisory Board shall elect a Chairman from among the members of the Advisory Board.

(h) Eleven members of the Advisory Board shall constitute a quorum.

(i) The Advisory Board shall hold its first meeting on a date specified by the Secretary which is not later than 90 days after the date of enactment of this Act. Thereafter, the Advisory Board shall meet at the call of the Chairman or a majority of its members, but shall meet at least twice each year.

(j)(1) Each member of the Advisory Board shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Advisory Board, all members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

SEC. 124. (a)(1) The Secretary, through the Administrator of the Agency, shall make grants and enter into contracts and cooperative agreements with research and development organizations in order to support long-term projects for (A) research and applications thereof concerning the development of new or advanced technology of significant value to the civilian sector of the United States economy, and (B) research concerning the commercial adaptation of such technology. Grants, contracts, and cooperative agreements under this section shall be designed to support projects which would not, in the absence of such a grant, contract, or cooperative agreement, be conducted.

(2) In order to receive a grant, contract, or cooperative agreement under this section, a research and development organization—

(A) shall demonstrate to the Secretary significant and substantial experience in technology development and management in the area in which the grant, contract, or cooperative agreement is being made; and

(B) may consist of a consortia of private firms, academic institutions, or public or nonprofit entities, or any combination thereof.

(3) During any period when an individual or an officer or employee of a private firm, academic institution, or public or nonprofit private entity is a member of the Advisory Board, such individual, officer, or employee, and such firm, institution, or entity, may not receive a grant, contract, or cooperative agreement under this section.

(b) No grant may be made and no contract or cooperative agreement may be entered into under this section unless an application therefor is submitted to the Secretary, through the Administrator of the Agency. Such application shall be submitted in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

(c) The Secretary, through the Administrator of the Agency, shall determine the Federal share and the non-Federal share of the costs of each project supported with a grant, contract, or cooperative agreement under this section.

(d) Each grant agreement, contract, or cooperative agreement entered into under subsection (a) shall contain such provisions as the Secretary considers appropriate to enable the United States to recover all or part of the funds provided to a research and development organization under the grant, contract, or cooperative agreement in any case in which the technology developed under such grant, contract, or cooperative agreement results in long-term profits for such organization or the participants in such organization.

(e) The authority of the Secretary to enter into contracts under this section shall be to such extent or in such amounts as may be provided in appropriation Acts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 125. To carry out this part, there are authorized to be appropriated $80,000,000 for fiscal year 1988, $160,000,000 for fiscal year 1989, and $240,000,000 for fiscal year 1990.

PART D—TRANSFERS TO THE DEPARTMENT

TRANSFERS FROM THE DEPARTMENT OF COMMERCE

SEC. 131. Except for functions transferred by section 202, there are transferred to the Secretary—

(1) all functions of the Secretary of Commerce;

(2) all functions of the Department of Commerce; and

(3) all functions of, and all functions performed under the direction of, all officers and employees of the Department of Commerce.

PART E—ADMINISTRATIVE PROVISIONS

PERSONNEL PROVISIONS

SEC. 141. (a) The Secretary may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18, and in the Senior Executive Service, of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions transferred by this Act and which were assigned and filled on the day before the effective date of this Act.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day before the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at the grade level GS-16, GS-17, or GS-18 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this Act.

(c) The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for grade GS-18 of the General Schedule under section 5332 of such title. The Secretary may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

DELEGATION AND ASSIGNMENT

SEC. 142. Except where otherwise expressly prohibited by law or otherwise provided by this Act, the Secretary may delegate any of the functions transferred to the Secretary by this Act and any function transferred or granted to the Secretary after the effective date of this Act to such officers and employees of the Department as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

SUCCESSION

SEC. 143. (a) Subject to the authority of the President, and except as provided in section 112(b), the Secretary shall prescribe the order by which officers of the Department who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the Secretary or any other officer of the Department appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the Secretary or such other officer, or in the event of a vacancy in the office of the Secretary or such other officer.

(b) Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the Secretary or another officer of the Department pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the Secretary or such other officer no longer exists or a successor to the Secretary or such other officer has been appointed by the President and confirmed by the Senate.

REORGANIZATION

SEC. 144. (a) Except as provided in subsection (b), the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities in the Department as may be necessary or appropriate.

(b) The authority of the Secretary under subsection (a) does not apply to any office established in the Department by this title or any other function which this title specifies shall be performed by a particular officer or employee of the Department.

RULES

SEC. 145. The Secretary is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

WORKING CAPITAL FUND

SEC. 146. (a) The Secretary is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space, central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the Secretary determines will be performed.

CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS

SEC. 147. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the Secretary considers necessary or appropriate to carry out the functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, the authority to enter into contracts or to make payments under this title shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 151.

PUBLICATIONS

SEC. 148. Subject to such procedures of the Director of the Office of Management and Budget may prescribe, the Secretary may disseminate in the form of reports or publications such information as the Secretary considers appropriate.

USE OF FACILITIES

SEC. 149. (a) With their consent, the Secretary, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual;

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; or

(4) any foreign government,

in carrying out any function of the Secretary or the Department.

(b) The Secretary, under terms, at rates, and for periods that the Secretary considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or by individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the Secretary. The Secretary may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

FIELD OFFICES

SEC. 150. The Secretary may establish, alter, consolidate, maintain, or discontinue State, regional, district, local, or other field offices as the Secretary finds necessary or appropriate to perform any function of the Secretary or the Department.

GIFTS AND BEQUESTS

SEC. 151. (a) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for use of the United States.

(c) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the Secretary pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

SEAL OF DEPARTMENT

SEC. 152. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 153. The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a written report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

PART F—CONFORMING PROVISIONS

AMENDMENTS

SEC. 161. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Commerce," and inserting in lieu thereof "Secretary of Industry and Technology,".

(b) Section 101 of title 5, United States Code, is amended by striking out the item relating to the Department of Commerce and inserting in lieu thereof the following:

"The Department of Industry and Technology.".

(c) Section 5312 of such title is amended—

(1) by striking out the item relating to the Secretary of Commerce; and

(2) by adding at the end thereof the following:

"Secretary of Industry and Technology.".

(d) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Secretary, Department of Industry and Technology.

"Under Secretary of Industry and Technology for Industry.

"Under Secretary of Industry and Technology for Technology.".

(e) Section 5314 of such title is amended—

(1) by striking out the item relating to the Under Secretary of Commerce, the Under Secretary of Commerce for Economic Affairs, and the Under Secretary of Commerce for Travel and Tourism;

(2) by striking out the item relating to the Under Secretary of Commerce for Oceans and Atmosphere;

(3) by adding at the end thereof the following:

"Under Secretary of Industry and Technology for Oceans and Atmosphere, who shall serve as Administrator of the National Oceanic and Atmospheric Administration.

"Under Secretary of Industry and Technology for Travel and Tourism.

"Director of the Office of Economic Analysis, Department of Industry and Technology.

"Director of the Office of Trade Development, Department of Industry and Technology.

"Director General of the United States and Foreign Commercial Service, Department of Industry and Technology.

"Administrator of the Advanced Civilian Technology Agency, Department of Industry and Technology.

"Director of the National Bureau of Standards, Department of Industry and Technology.".

(f) Section 5315 of such title is amended—

(1) by striking out the item relating to the Assistant Secretaries of Commerce;

(2) by striking out the item relating to the General Counsel of the Department of Commerce;

(3) by striking out the item relating to the Assistant Secretary of Commerce for Oceans and Atmosphere;

(4) by striking out the item relating to the Director of the National Bureau of Standards of the Department of Commerce;

(5) by adding at the end thereof the following:

"Assistant Secretary of Industry and Technology for Economic Development.

"Assistant Secretary of Industry and Technology for Technology Information.

"Assistant Secretary of Industry and Technology for Communications and Information.

"Assistant Secretary of Industry and Technology for Oceans and Atmosphere, who shall serve as Deputy Administrator of the National Oceanic and Atmospheric Administration.

"Additional Assistant Secretaries of Industry and Technology (2).

"Commissioner of Patents and Trademarks, Department of Industry and Technology.

"General Counsel, Department of Industry and Technology.

"Inspector General, Department of Industry and Technology.".

(g) Section 5316 of such title is amended—

(1) by striking out the item relating to the Commissioner of Patents, Department of Commerce;

(2) by striking out the item relating to the Director of the Bureau of the Census, Department of Commerce;

(3) by striking out the item relating to the National Export Expansion Coordinator, Department of Commerce;

(4) by striking out the item relating to the Director, United States Travel Service, Department of Commerce;

(5) by striking out the item relating to the Inspector General, Department of Commerce;

(6) by adding at the end thereof the following:

"Director of the Bureau of the Census, Department of Industry and Technology.

"Director of the National Technical Information Service, Department of Commerce.".

(h) The Inspector General Act of 1978 is amended—

(1) by striking out "the Department of Commerce," in section 2(1);

(2) by inserting "the Department of Industry and Technology," after "Urban Development," in such section;

(3) by striking out subparagraph (B) of section 9(a)(1);

(4) by redesignating subparagraphs (C) through (E) of such section as subparagraphs (B) through (D), respectively;

(5) by inserting before subparagraph (F) of such section the following:

"(E) of the Department of Industry and Technology, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the Secretary of Industry and Technology by section 131 of the Enhancement of Economic Competitiveness, International Trade, and Technology Development Act of 1987;";

(6) by striking out "Commerce," each place it appears in section 11; and

(7) by inserting "Industry and Technology," after "Urban Development," each place it appears in such section.

REPEALS

SEC. 162. (a)(1) The first section of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1501), is repealed.

(2) The first section of the Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (15 U.S.C. 1501), is amended by striking out beginning with "and the Department of Commerce and Labor" through "accordingly".

(b) Subsection (a) of the first section of the Act entitled "An Act to authorize an Under Secretary of Commerce for Economic Affairs", approved June 16, 1982 (96 Stat. 115; 15 U.S.C. 1503a), is repealed.

(c) The Act entitled "An Act to provide for the appointment of one additional Assistant Secretary of Commerce, and for other purposes", approved July 15, 1947 (15 U.S.C. 1505), is repealed.

(d) The first sentence of section 304 of the Department of Commerce Appropriation Act, 1955 (15 U.S.C. 1506), is repealed.

(e) The Act entitled "An Act to authorize an additional Assistant Secretary of Commerce", approved February 16, 1962 (15 U.S.C. 1507), is repealed.

(f) Subsection (a) of section 9 of the Maritime Appropriation Authorization Act for Fiscal Year 1978 (15 U.S.C. 1507b), is repealed.

(g)(1) The first section of the Act of March 18, 1904 (33 Stat. 135, chapter 716; 15 U.S.C. 1508), is amended by striking out the paragraph relating to the Office of the Solicitor of the Department of Commerce and Labor.

(2) Section 2 of the Act of July 17, 1952 (66 Stat. 758, chapter 932; 15 U.S.C. 1508), is repealed.

(h)(1) Sections 4 and 12 of the Act entitled "An Act to Establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1511), are repealed.

(2) The first section of the Act of August 23, 1912 (37 Stat. 407, chapter 350; 15 U.S.C. 1511), is amended by striking out the paragraph relating to the Bureau of Foreign and Domestic Commerce.

(3) The first section of the Act of January 5, 1923 (42 Stat. 1109, chapter 23; 15 U.S.C. 1511), is repealed.

(4) The first section of the Act of May 27, 1936 (49 Stat. 1380, chapter 463; 15 U.S.C. 1511), is repealed.

(i) Section 8 of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1519), is repealed.

(j) Title III of the Act entitled "An Act making appropriations for the Departments of State, Justice, and Commerce for the fiscal year ending June 30, 1945, and for other purposes", approved June 28, 1944 (15 U.S.C. 1521), is amended by striking out the paragraph relating to the working capital fund of the Department of Commerce.

(k) Sections 1, 2, and 3 of Public Law 88-611 (15 U.S.C. 1522, 1523, and 1524) are repealed.

TITLE II—UNITED STATES TRADE ADMINISTRATION

REDESIGNATION

SEC. 201. (a) The Office of the United States Trade Representative in the Executive Office of the President is redesignated as the United States Trade Administration. The United States Trade Representative is redesignated as the United States Trade Administrator. Each Deputy United States Trade Representative is redesignated as a Deputy Trade Administrator.

(b) Any reference to the Office of the United States Trade Representative, the United States Trade Representative, a Deputy United States Trade Representative, or any other officer or employee of the Office of the United States Trade Representative, in any law, rule, regulation, certificate, directive, instruction, or any other official paper in force on the effective date of this Act shall be deemed to refer and apply to the United States Trade Administration, the United States Trade Administrator, a Deputy Trade Administrator, or the United States Trade Administrator, respectively.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF COMMERCE

SEC. 202. (a) There are transferred to the Administrator—

(1) all functions of the Secretary of Commerce or the Department of Commerce with respect to or being administered through the Assistant Secretary of Commerce for International Economic Policy; and

(2) all functions of the Secretary of Commerce or the Department of Commerce which are being administered through the Under Secretary of Commerce for International Trade and which relate directly to the management by such Under Secretary of the Office of the Assistant Secretary of Commerce for International Economic Policy.

(b) There are transferred to the Administrator—

(1) all functions of the Secretary of Commerce or the Department of Commerce with respect to or being administered through the Assistant Secretary of Commerce for Trade Administration; and

(2) all functions of the Secretary of Commerce or the Department of Commerce which are being administered through the Under Secretary of Commerce for International Trade and which relate directly to the management by such Under Secretary of the Office of the Assistant Secretary of Commerce for Trade Administration.

ADDITIONAL DEPUTY UNITED STATES TRADE ADMINISTRATORS

SEC. 203. (a) In addition to the Deputy Trade Administrators otherwise provided by law (and redesignated by section 201) there shall be in the Administration two Deputy Trade Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of the second and third sentences of subsection (b)(2), and of subsection (c)(2), of section 141 of the Trade Act of 1974, shall apply to the Deputy Trade Administrators appointed under this subsection.

(b) One of the Deputy Trade Administrators appointed under subsection (a) shall be the Deputy Trade Administrator for Economic Policy. Notwithstanding any other provision of law, the Administrator shall carry out through such Deputy Trade Administrator—

(1) all functions transferred to the Administrator under section 202(a); and

(2) all functions of the Administrator relating to trade policy that are specifically concerned with industrial sector, the services sector, and the agricultural sector.

(c) One of the Deputy Trade Administrators appointed under subsection (a) shall be the Deputy Trade Administrator for Trade Programs. Notwithstanding any other provision of law, the Administrator shall carry out through such Deputy Trade Administrator all functions transferred to the Administrator under section 202(b).

(d)(1) One of the Deputy Trade Administrators appointed pursuant to other provisions of law (and redesignated by section 201) shall be the Deputy Trade Administrator for Trade Policy and Negotiation. Another of the Deputy Trade Administrators appointed pursuant to other provisions of law (and redesignated by section 201) shall be the Deputy Trade Administrator for Management.

FUNCTIONS OF THE ADMINISTRATOR

SEC. 204. (a) The Administrator shall—

(1) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

(2) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

(3) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations in which the United States participates;

(4) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

(5) act as the principal spokesman of the President on international trade;

(6) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

(7) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(8) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (3) and (6);

(9) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of the functions of the Administrator; and

(10) carry out the functions transferred to the Administrator by section 202.

(b) It is the sense of Congress that the Administrator shall—

(1) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

(2) be included as a participant in all economic summits and other international meetings at which international trade is a major topic.

TECHNICAL AMENDMENTS

SEC. 205. (a) Section 5312 of title 5, United States Code (as amended by section 161(c) of this Act) is further amended by striking out the item relating to the United States Trade Representative and inserting in lieu thereof the following:

"United States Trade Administrator.".

(b) Section 5314 of such title (as amended by section 161(e) of this Act) is further amended by striking out the item relating to the Deputy United States Trade Representatives and inserting in lieu thereof the following:

"Deputy Trade Administrator for Trade Programs.

"Deputy Trade Administrator for Economic Policy.

"Deputy Trade Administrator for Trade Policy and Negotiation.

"Deputy Trade Administrator for Management.

"Deputy Trade Administrator.".

(c) Section 141(c) of the Trade Act of 1974 is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

TITLE III—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 301. Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Secretary or the Administrator by this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary or the Administrator, as the case may be. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

INCIDENTAL TRANSFERS

SEC. 302. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such times as the Director of the Office of Management and Budget may provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with the functions transferred by this Act.

EFFECT ON PERSONNEL

SEC. 303. (a) Except as otherwise provided by this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this Act.

(b) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in a Federal agency to which functions are transferred by this Act to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this Act, shall terminate on the effective date of this Act.

SAVINGS PROVISIONS

SEC. 304. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect when this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Administrator, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the Department of Commerce, or any office thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, the Administrator, a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the Administrator, and the Secretary are authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) Except as provided in subsection (e)—

(1) the provisions of this Act do not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Commerce with respect to functions transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Commerce with respect to functions transferred by this Act, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this Act, or other proceedings may be asserted by or against the United States, the Secretary, or the Administrator, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If, before the date on which this Act takes effect, the Department of Commerce or any officer thereof in his official capacity, is a party to an action, and under this Act any function of such Department or officer is transferred to the Secretary or the Administrator, then such action shall be continued with the Secretary or the Administrator, as the case may be, substituted or added as a party.

(f) Orders and actions of the head of a Federal agency in the exercise of functions transferred to the head of such agency by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary or the Administrator.

SEPARABILITY

SEC. 305. If a provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

REFERENCE

SEC. 306. With respect to any function transferred to the Secretary or the Administrator by this Act and exercised after the effective date of this Act, reference in any other Federal law to—

(1) the Secretary of Commerce; or

(2) the Department of Commerce or any officer or office thereof,

shall be considered to refer to the Secretary or the Administrator, as the case may be.

TRANSITION

SEC. 307. With the consent of the Secretary of Commerce, the Secretary or the Administrator is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department of Commerce, with respect to functions transferred to the Secretary or the Administrator by this Act; and

(2) funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TERMINATION OF THE DEPARTMENT OF COMMERCE

SEC. 308. The Department of Commerce is terminated.

TITLE IV—MISCELLANEOUS

EFFECTIVE DATE

SEC. 401. (a) This Act shall take effect one hundred and twenty days after the date of enactment of this Act, except that—

(1) section 307 shall take effect on the date of enactment; and

(2) at any time after the date of enactment of this Act—

(A) the officers provided for in this Act may be nominated and appointed, as provided in this Act;

(B) the Secretary of Commerce, the Administrator, and the Secretary may promulgate regulations under section 304(b)(2).

(b) Funds available to the Department of Commerce (or any official or component thereof), with respect to the functions transferred by this Act, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a)(2)(A) who will carry out such functions until funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 402. (a) If one or more officers required by this Act to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this Act, to act in the office until it is filled as provided by this Act.

(b) Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this Act for such office.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act (other than part C of title I). Amounts appropriated under this section shall be available until expended.

SECTION BY SECTION ANALYSIS

ECONOMIC COMPETITIVENESS, INTERNATIONAL TRADE, AND TECHNOLOGY DEVELOPMENT ACT OF 1987

The purpose of the bill is to establish as an executive department of the Government a Department of Industry and Technology, to establish within that Department the Advanced Civilian Technology Agency, to establish the United States Trade Administration, and for other purposes.

TITLE I—DEPARTMENT OF INDUSTRY AND TECHNOLOGY

PART A—GENERAL PROVISIONS

Sec. 101—Findings

The globalization of the world marketplace and the increasing competitive pressure on the U.S. economy have necessitated that the expansion of U.S. trade through aggressive promotion and marketing of American goods and services and the acceleration of technology development and application are principal national goals. Business, labor, and government should join efforts to develop methods and policies to achieve these goals. In particular, the United States needs a cohesive Federal Government policy to restore the competitive edge to U.S. industries and to provide appropriate incentives for the development and application of advances in technology. The present organizational structure of Government administration of international trade and technology advancement activities is not equipped to successfully carry out the appropriate role of govenment in this area, and reorganization of government functions relating to these fields—through the establishment of a Department of Industry and Technology, an Advanced Civilian Technology Agency, and a United States Trade Administration—will help eliminate the problems and attain the goals described above and therefore improve the economic welfare of the American people.

Sec. 102—Definitions

This section outlines definitions of personnel, offices, and functions created below.

PART B—ESTABLISHMENT AND ORGANIZATION

Sec. 111—Establishment of Department

There is established an executive department to be known as the Department of Industry and Technology.

Sec. 112—Principal Officers

There will be a Secretary and a Deputy Secretary, who shall act for the Secretary as needed.

Sec. 113—Functions of the Secretary

The Secretary shall seek and promote current and new opportunities for American products and services in the world marketplace and assist U.S. businesses in developing export markets. The Secretary shall also promote and facilitate the development and application of new technologies in order to provide new products for the marketplace and new processes to improve the productivity and quality of goods and services. He will support State governments involved in attracting international investment and in expanding overseas markets for goods produced in those states. The Secretary will be the President's primary advisor relating to competitiveness issues and in formulating and carrying out policies which advance the development and application of technology to civilian goods and services. He will promote cooperation between business, labor, and government in order to improve the American economy's competitive edge. The Secretary shall be responsible for the Federal Government's role in encouraging technological innovation for industrial and commercial purposes and for the collection and dissemination of information relating to the development and use of domestic and foreign technology.

Sec. 114—Office of the Under Secretary for Industry

There shall be an Under Secretary of Industry and Technology for Industry who shall carry out all functions previously performed by the Under Secretaries of Commerce for Economic Affairs and for International Trade, except for those directly related to managing the Office of the Assistant Secretary of Commerce for Productivity, Technology and Innovation, the Office of the Assistant Secretary of Commerce for International Economic Policy, and the Office of the Assistant Secretary of Commerce for Trade Administration. Within the Office of the Under Secretary for Industry shall be the Office of the Chief Economist and the Office of Strategic Resources, both of which will carry out the functions previously performed in the Department of Commerce by the Office of the same name.

Reporting to the Under Secretary for Industry will be the following offices; the Office of Economic Analysis, the Office of Trade Development, the United States and Foreign Commercial Service, the Office of Economic Development, the Bureau of the Census, and the Minority Business Development Agency. These offices will perform those functions which were previously performed by their predecessors in the Department of Commerce.

Sec. 115—Office of the Under Secretary for Technology

There shall be an Under Secretary of Industry and Technology for Technology who shall carry out all functions previously carried out by the Assistant Secretary of Commerce for Productivity, Technology, and Innovation and by the Under Secretary of Commerce for Economic Affairs directly relating to managing the Office of the Assistant Secretary of Commerce for Productivity, Technology, and Innovation. Reporting to the Under Secretary for Technology will be the following offices, which retain their functions from the former Department of Commerce; the National Bureau of Standards; the Patent and Trademark Office; and the Office of Communications and Information. In addition, two new offices are created: (i) the Office of Technology Information, which, in turn, will include the National Technical Information Service from the former Department of Commerce; and (ii) the Advanced Civilian Technology Agency (ACTA) described below in Part C.

Sec. 116—Travel and Tourism Administration

The Department will include an Under Secretary of Industry and Technology for Travel and Tourism, who will be the head of the United States Travel and Tourism Administration. The Administration will perform the duties and functions of its predecessor at the former Department of Commerce.

Sec. 117—National Oceanic and Atmospheric Administration

The Department will include an Under Secretary of Industry and Technology for Oceans and Atmosphere, who will be the head of the National Oceanic and Atmospheric Administration. The Administration will perform the duties and functions of its predecessors at the former Department of Commerce. There will also be an Assistant Secretary for Oceans and Atmosphere.

Sec. 118—Additional Offices

There will be two additional Assistant Secretaries who will act upon specific instructions from the Secretary. A General Counsel will provide legal assistance to the Secretary concerning the Department, and there will be an Inspector General.

PART C—ADVANCED CIVILIAN TECHNOLOGY AGENCY

Sec. 121—Establishment of Agency

The Advanced Civilian Technology Agency (ACTA) is created in the Department of Industry and Technology, to be headed by an Administrator.

Sec. 122—Functions of Agency

The Secretary, through the Under Secretary for Technology and the Administrator of ACTA, shall be responsible for promoting and assisting in the development and application of advanced technological capabilities to civilian goods and services; contributing to U.S. economic competitiveness by supporting research by businesses and academic institutions to advance civilian technological developments and to facilitate their commercialization; assisting industrial concerns in accelerating the development and commercialization of advanced technologies; and awarding grants and entering into contracts and cooperative agreements to fund the research described above.

The Administrator of ACTA will coordinate the activities of the Agency with those of the Defense Advanced Research Projects Agency and the National Science Foundation; consult with the heads of other Federal agencies involved in the conduct of research, including the heads of Federal laboratories; and utilize the expertise and abilities of private business concerns and research and development organizations.

Sec. 123—National Advanced Civilian Technology Advisory Board

There will be in the Agency the National Advanced Civilian Technology Advisory Board. The Board will provide advice to the Administrator with respect to the overall policies, programs, and activities of the Agency. The Board shall consist of 21 members appointed by the Secretary. At least 14 members are to be broadly representative of the various sectors of United States industries, and the Director of the Defense Advanced Research Projects Agency and the Director of the National Science Foundation will serve as ex officio Board members. The remaining members of the Board shall be representatives of academic institutions, state and local governments, and non-profit private organizations. Board members will serve for three-year terms, with one-third of the membership changing every year. The Board members will elect a Chairman, with 11 members constituting a quorum.

Sec. 124—Grants, Contracts, and Cooperative Agreements

The Administrator will make grants and enter into contracts and cooperative agreements with research and development organizations in order to support long-term projects for research and applications thereof concerning the development of new or advanced technology of significant value to the civilian sector of the United States economy and concerning the commercial adaption of such technology. Funding will be provided for projects which would otherwise not be conducted. In order to receive funding a research and development organization must demonstrate significant and substantial experience in technology development and management in the areas in which the grant, contract, or cooperative agreement is made. The Administrator will determine the Federal share of the costs of each project, and each grant, contract, or cooperative agreement shall contain provisions to enable the U.S. to recover all or part of the funds provided if the project results in long-term profits.

Sec. 125 Authorization of Appropriations

Funds are appropriated for ACTA in the following manner: $80M for FY 88; $160M for FY 89; and $240M for FY 90.

PART D—TRANSFERS TO THE DEPARTMENT

Sec. 131 Transfers from the Department of Commerce

Except for the functions transferred by section 202, all functions of the Secretary of Commerce and all functions of the Department of Commerce are transferred to the Secretary of Industry and Technology.

PART E—ADMINISTRATIVE PROVISIONS

Sec. 141-153

This section describes the administrative authority for the Secretary.

PART F—CONFORMING PROVISIONS

Sec. 161-162

This section outlines the necessary amendments and repeals to existing laws to make them conform with the changes engendered by this Act.

TITLE II—UNITED STATES TRADE ADMINISTRATION

Sec. 201 Redesignation

The Office of the United States Trade Representative (USTR) is redesignated as the United States Trade Administration (USTA). Deputy Trade Representatives are redesignated as Deputy Trade Administrators. All references to USTR will be changed to USTA.

Sec. 202 Transfer of Functions from the Department of Commerce

Transferred to the U.S. Trade Administration are all functions of the Assistant Secretary of Commerce for International Economic Policy; all functions of the Under Secretary of Commerce for International Trade which relate directly to managing the Office of the Assistant Secretary for International Economic Policy; all functions of the Assistant Secretary of Commerce for Trade Administration; and all functions of the Under Secretary of Commerce for International Trade which relate directly to managing the office of the Assistant Secretary of Commerce for Trade Administration.

Sec. 203 Additional Deputy United States Trade Administration

In addition to the Deputy Trade Administrators designated in Section 201 there shall be two Deputy Trade Administrators. One will be the Deputy Trade Administrator for Economic Policy, and carry out all functions transferred above from the Department of Commerce for International Economic Policy; the other shall be the Deputy Trade Administrator for Trade Programs, and shall carry out all functions transferred above from the Department of Commerce for Trade Administration. Two of the Deputy Trade Administrators transferred in Section 201 will be designated as follows: one as the Deputy Trade Administrator for Trade Policy and Negotiation; the other shall be the Deputy Trade Administrator for Management.

Sec. 204 Functions of the Administrator

The functions and duties of the U.S. Trade Administrator are as follows: primary responsibility for developing and coordinating U.S. international trade policy; serving as the principal advisor to the President on international trade policy and the impact of other policies of the government on international trade; lead responsibility for the conduct and representation of the United States in international trade negotiations; to issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation of international trade functions; acting as the principal spokesman for the President on international trade; and acting as senior representative or member of trade discussions and negotiations in which the United States takes a part.

Sec. 205 Technical Amendments

This section outlines technical amendments changing the titles of personnel from "Representative" to "Administrator".

TITLE III—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 301-307

This title generally outlines provisions concerning personnel transfers, incidental transfers, and other technical elements associated with the transfers created by this Act.

TITLE IV—MISCELLANEOUS

Sec. 401 Effective Date

This section describes that this act shall take effect 120 days after the date of enactment, except that it provides for planning for the transition to begin on the date of enactment.

Sec. 402 Interim Appointments

This section provides for interim appointments to be made on the date of enactment if permanent appointments have not yet been made.

Sec. 403 Authorization of Appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act (other than Part C of Title I). Amounts appropriated under this section shall be available until expended.●

By Mr. CHAFEE:

S. 1234. A bill to amend title 38, United States Code, to ensure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities; to the Committee on Veterans' Affairs.

VETERANS BENEFICIARY TRAVEL ACT

● Mr. CHAFEE. Mr. President, today I am introducing legislation to restore travel compensation benefits for veterans who need medical services. This measure is needed to correct a situation created by new Veterans' Administration regulations that severely restrict the ability of many veterans to travel to and from VA medical facilities.

Prior to this year, a discretionary reimbursement system was in place, whereby each VA medical care facility made its own determinations about eligibility. This system was replaced by new VA regulations, which took effect on April 13, 1987. Under these new rules, compensation is now limited to travel that involves the use of special vehicles such as wheelchair vans and ambulances, travel in conjunction with compensation and pension examinations, and trips to VA medical facilities beyond a 100-mile radius.

The problem is that the VA's new regulations have eliminated too many veterans from eligibility. A large number of needy veterans are now excluded from taking advantage of these travel benefits. For example, a provision eliminating compensation for those who live within a 100-mile radius of veterans health care facilities effectively excludes all Rhode Island veterans who travel to such facilities by car or public transportation. Many veterans depend entirely on this program to obtain necessary medical care. Without it, they often fail to receive care until their conditions become acute. In fact, in Rhode Island where 500 outpatients per day are treated at the Davis Park medical facility, administrators report that 5 percent of the hospital's clientele have been unable to travel to the hospital for their appointments since the new regulations became final. That means that every day many veterans in Rhode Island—and undoubtedly across the Nation—are missing medical care that could be crucial to their health. As we all know, preventive health care is essential to keeping overall health care costs down.

It is evident to me that we must do more than repeal the VA's new regulations. We must take a statutory approach in order to solve this problem permanently. My bill establishes a uniform system to ensure that compensation will be available to the veterans who need assistance with their transportation to and from VA medical facilities. It would standardize the system throughout the country, restoring travel compensation to: All veterans for treatment of their service-connected disabilities; service-connected veterans who are disabled 50 percent or more, for treatment of any disability; veterans who receive a VA pension; low-income veterans who do not have an annual income exceeding the maximum annual amount of a VA pension; veterans needing special transportation, such as an ambulance or wheelchair van, who cannot afford such transportation; and any other person determined by the VA to be unable to afford transportation, or who for other reasons should be provided transportation.

The purpose of the Beneficiary Travel Program is to assist veterans with special needs in obtaining medical care. I believe that the specifications of my legislation will ensure that low-income and disabled veterans who most need our help will benefit from this program.

The Congressional Budget Office estimates that this measure will result in expenditures of about $40 million annually above what CBO analysts anticipate will be the costs under the new regulations. Nevertheless, it still represents a savings of about $25 million annually over the original system. These figures do not take into account the savings that will be achieved by ensuring accessible preventive care and injecting a new efficiency into the travel compensation system. The budget resolution recently passed by the Senate would appear to include sufficient funds for veterans programs to ensure that the cost of this legislation will not jeopardize care. In any case, we should make it a priority to find the money to fund this crucial program. Providing for the health care of our Nation's disabled and low-income veterans is the duty of the Federal Government. We have made a commitment to our veterans, now we must honor it.

It is my understanding that the Disabled American Veterans have launched a transportation program in an admirable attempt to fill in the gaps created by the VA's regulations. I commend them for their willingness to take on this responsibility. Nevertheless, the DAV in Rhode Island currently has only one van at its disposal with which to meet the needs of the 500 veterans who seek care at the Davis Park ambulatory care unit every day. Members of the DAV have likened the situation to applying a bandaid to a mortal wound. We are abdicating our responsibility to our veterans if we leave volunteer groups and private organizations to shoulder the burden of transporting veterans to VA facilities. Their cooperation in conjunction with this act will be essential to providing travel assistance to all veterans who need it, but we cannot allow them to operate in a vacuum.

Our Nation's veteran population is at a critical juncture. This year, a large proportion of our World War II veterans are turning 65. As the ranks of elderly veterans grow rapidly, the implications for our veterans' health care are clear. In a very short period of time, more elderly, disabled and low-income veterans than ever before will be turning to this system for badly needed care, and we must be prepared to meet their needs. Obviously, this is the wrong time to turn our backs on these veterans and curtail their health benefits. Failure to pass this legislation would be an ominous indication of how we plan to care for our growing elderly population as a whole, particularly those who most deserve our support.

This legislation is identical to H.R. 2327, introduced in the House of Representatives by Mr. SOLOMON and Mr. MONTGOMERY. That measure has the bipartisan support of 170 cosponsors at present. A number of veterans' organizations are also behind this measure.

Due to the urgency of the beneficiary travel situation, I urge the Senate to follow the lead of the other body, and put this legislation on a fast track.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Beneficiary Travel Act of 1987".

SEC. 2. VETERANS' ADMINISTRATION BENEFICIARY TRAVEL PROGRAM.

(a) ENTITLEMENT.—Subsection (a) of section 111 of title 38, United States Code, is amended—

(1) by striking out "may" both places it appears and inserting in lieu thereof "shall"; and

(2) by striking out "person" in the first sentence and inserting in lieu thereof "eligible claimant or beneficiary".

(b) BENEFICIARIES.—Such section is further amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) The following persons are entitled to payment under this section:

"(A) A veteran traveling in connection with treatment of a service-connected disability.

"(B) A veteran with a service-connected disability rated at 50 percent or more for any disability.

"(C) A veteran receiving or eligible to receive pension under section 521 of this title for any disability.

"(D) A veteran whose annual income (determined in accordance with section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title for any disability.

"(E) A veteran for whom ambulance transportation, wheelchair van transportation, or other special mode of transportation is medically indicated and an administrative determination is made that the veteran is unable to bear the cost of such transportation for any disability.

"(F) A veteran who is determined (under regulations prescribed by the Administrator) to be unable to defray the expenses of the travel for which payment under this section is claimed for any disability.

"(G) Such other persons as the Administrator determines by regulation.

"(2) The purposes for which payments for travel shall be made under this section are those specified in regulations of the Veterans' Administration in effect on July 1, 1986 (38 CFR 17.100, 17.102.)

"(3) Payment may not be provided to a person under this section—

"(A) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation is not reasonably accessible or would be medically inadvisable; or

"(B) in excess of the actual expenses incurred by such person (as certified in writing by such person).".

(c) CONFORMING AMENDMENTS.—Subsection (f) of such section (as redesignated by subsection (b)) is amended—

(1) by striking out "paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and" in the second sentence of paragraph (1) and inserting in lieu thereof "paragraph (2)(C) of this subsection and, in any event, not less often than annually and,";

(2) by striking out paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by redesignating paragraph (4) as paragraph (3) and striking out "paragraph (3)(c)" in that paragraph and inserting in lieu therefore "paragraph (2)(C).".

(d) CLERICAL AMENDMENTS.—Subsection (c) of such section (as redesignated by subsection (b)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "subsection (a) hereof;" and inserting in lieu thereof "subsection (a) of this section";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenses incurred after the date of the enactment of this Act.●

By Mr. BYRD:

S. 1235. A bill to amend the National Security Act of 1947 to provide that the term of service of the Director of Central Intelligence shall be 7 years, and for other purposes; to the Select Committee on Intelligence.

SETTING TERM OF SERVICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. BYRD. Mr. President, I am introducing legislation to set fixed terms for the Director and Deputy Director of the Central Intelligence Agency. The CIA's involvement in the Iran arms-for-hostages deal, evidence that has emerged in the Iran-Contra hearings that former CIA Director Casey was far more deeply involved than originally thought in helping the Contras get military supplies, and the controversial nomination of Robert Gates as CIA Director earlier this year suggest that it would be wise to provide a degree of independence to the two top people at the CIA.

This legislation sets fixed terms of 7 years for the Director and Deputy Director of Central Intelligence. The Director may not serve more than one 7-year term. The legislation also stipulates that the two positions shall not be occupied simultaneously by individuals who were employed by the CIA at any time in the 7 years prior to their nomination.

In the mid-1970's, in part in response to revelations about CIA excesses, there were a number of bills and recommendations to set a fixed term for the Director of Central Intelligence, but none of them became law. Congress has continued to struggle with the issue of the CIA's accountability on covert operations. I do not take issue with the need of any administration—Republican or Democratic—to collate intelligence and conduct covert operations when necessary.

The CIA's role in this administration's assistance to the Contra rebels in Nicaragua, however, suggests that perhaps it would be wise to ensure that the Director of Central Intelligence, and his Deputy, have a degree of independence that would make it possible for the agency to resist pressure to engage in questionable or illegal activities. As well, reports that intelligence studies were tailored to support desired administration conclusions on Soviet designs on Iran, which apparently provided intellectual justification for the Iran arms-for-hostages deals, suggest that the CIA needs protection from political pressure to ensure that its intelligence analysis is unbiased.

A number of important executive branch officials serve fixed terms: The FBI Director serves a single 10-year term; the Director of the Office of Personnel Management serves for 4 years; the Chairman of the Federal Reserve Board serves for 4 years. It is time for the Director and Deputy Director of Central Intelligence to be added to this list.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a), section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by striking out the proviso and the colon immediately preceding such provision at the end of the second sentence and inserting in lieu thereof a comma and the following: "except that at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by—

"(A) commissioned officers of the armed services, whether in an active or retired status, or

"(B) individuals who were in the employ of the Agency for any period of time during the seven-year period immediately preceding the date on which they are nominated by the President for such positions."; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) The term of service of the Director of Central Intelligence shall be 7 years. The Director may not serve more than one seven-year term.

"(B) The term of service of the Deputy Director of Central Intelligence shall be 7 years, except that, in the absence or disability of the Director of Central Intelligence, the Deputy Director shall continue to serve until an individual has been appointed Director.".

(b)(1) The amendment made by subsection (a)(3), insofar as it relates to the Director of Central Intelligence, shall apply to the service of the first Director appointed after the date of enactment of this Act.

(2) The amendment made by subsection (a)(3), insofar as it relates to the Deputy Director of Central Intelligence, shall apply to the service of the first Deputy Director appointed after the date of enactment of this Act.

(3) The amendment made by subsection (a)(2) shall apply with the first appointment of a Director or Deputy Director of Central Intelligence after the date of enactment of this Act.

By Mr. INOUYE:

S. 1236. A bill to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes; to the Select Committee on Indian Affairs.

REAUTHORIZATION OF HOUSING RELOCATION UNDER THE NAVAJO-HOPI RELOCATION PROGRAM

Mr. INOUYE. Mr. President, the bill I am introducing today will extend the authorization for appropriations for certain programs required to be performed by the Navajo-Hopi Relocation Commission in connection with its duties outlined by Public Law 93-531. These authorizations will otherwise expire at the close of fiscal year 1987.

Under the proposed bill, the annual authorization for housing construction will be increased from $15 million to $30 million and, if appropriated, will allow completion of all the required housing units in 3 or 4 years.

The bill also would increase the amount available to pay incentive bonuses to those who have voluntarily elected to relocate. The current level of $7.7 million is increased by $5.3 million to $13 million. This will allow the Commission to make bonus payments to about 1,500 applicants over and above the 1,100 who have already been paid.

The matching requirement for the Commission's discretionary account has been deleted. Since most of the matching now comes from other Federal agencies, the burden of meeting the matching requirement and still getting the required range development and infrastructure in place is nearly impossible to meet. By eliminating the matching requirement, the Commission will be able to use amounts in the discretionary fund that are needed for program purposes.

By Mr. SHELBY:

S. 1237. A bill to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area; to the Committee on Governmental Affairs.

DESIGNATION OF A SINGLE METROPOLITAN STATISTICAL AREA

● Mr. SHELBY. Mr. President, this bill I am introducing addresses a problem of concern for two counties in Alabama with respect to obtaining their metropolitan statistical area [MSA] designation. My legislation, cosponsored by Alabama's senior Senator HOWELL HEFLIN, would allow the counties of Morgan and Lawrence in Alabama to be considered for designation as a single metropolitan statistical area by the Director of the Office of Management and Budget [OMB] without regard to the portion of the Bankhead National Forest within Lawrence County.

The existing MSA definition permits urbanized areas which have a central city of 25,000 or more persons, and which are located in a county of less than 100,000 persons to be designated as an MSA if an adjacent county qualifies on the basis of certain standards of population density and workers commuting.

The only criterion preventing the Decatur area from receiving the designation is the fact that Lawrence County's 1980 population density—43 persons per square mile—falls short of OMB's threshold of 50 persons per square mile. Lawrence County would easily meet OMB's population density requirement of 50 persons per square mile were it not for the fact that the Bankhead National Forest embodies over one-fifth of the county's total land area.

Research has shown conclusively that Decatur, AL, is the only nonmetropolitan area in the Nation which has been deprived of the MSA designation because of OMB's requirements that national forest properties be included in the population density formula.

I believe in view of the unusual nature of this situation, and in view of the fact that this technicality is the only criterion preventing OMB from designating Morgan and Lawrence Counties as a metropolitan statistical area, with Decatur as the central city, that this legislation is needed for OMB to recalculate Lawrence County's population density, excluding the national forest portion.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Morgan and Lawrence in Alabama shall be considered for designation as a single metropolitan statistical area by the Director of the Office of Management and Budget without regard to the portion of the Bankhead National Forest located within Lawrence County.●

By Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. ROTH, and Mr. SIMON):

S.J. Res. 132. Joint resolution recognizing the service and contributions of the Honorable Wilbur J. Cohen; to the Committee on the Judiciary.

COMMEMORATING THE ACCOMPLISHMENTS OF THE HONORABLE WILBUR J. COHEN

Mr. BENTSEN. Mr. President, on Sunday, this country lost one of its most distinguished and influential public servants of the 20th century. In Korea to speak at a symposium and share his expertise in the area of aging and welfare, Wilbur Cohen died in his sleep.

Mr. Cohen had a long and illustrious career of service to his country. As a young man, he came to Washington during the Roosevelt administration and assisted in drafting the landmark Social Security Act. Mr. Cohen worked in the Social Security Administration for a number of years thereafter, rising to the position of Director of Research and Statistics and becoming an acknowledged expert in the area of Social Security.

Mr. Cohen left Government in the 1950's for academia, but he returned in 1961 to serve President Kennedy in the Department of Health, Education, and Welfare as Assistant Secretary for Legislation. During his tenure in that position, he helped guide to enactment important legislation in the areas of Social Security, civil rights, mental health, child welfare, and vocational training and rehabilitation. Mr. Cohen was also the principal architect of the important Medicare/Medicaid Amendments of 1965. He wound up his distinguished career in Government by serving as Secretary of Health, Education, and Welfare in the last year of the Johnson administration.

After leaving Government, Mr. Cohen returned to the academic world and, most recently, served as a professor in my home State of Texas at the LBJ School of Public Affairs of the University of Texas at Austin.

As an acknowledged expert in the field of health and social welfare, Mr. Cohen testified often before the Finance Committee allowing us to benefit from his insight and years of experience. His advice and expertise will be sorely missed by the members of the Finance Committee and the Senate.

I am proud to offer a resolution commemorating the lengthy accomplishments of Mr. Cohen, and I offer my condolences to his lovely wife, Eloise, and his three sons, Christopher, Bruce, and Stuart.

● Mr. SIMON. Mr. President, I address the Senate today with a mixture of sorrow and pride. As my colleagues know, the United States lost a great American on Sunday with the passing of Wilbur J. Cohen.

I am proud that I knew Wilbur whose intelligence, compassion, and record of public service are surpassed by few. Wilbur's contributions to this Nation enable millions of Americans to lead lives of dignity. Wilbur honed and expanded the Social Security system, providing benefits to the disabled and to farm workers. He served the country as Secretary of HEW in the Johnson administration.

In recent years, Wilbur taught students at the Lyndon B. Johnson School of Government how to be effective leaders and good policymakers. His years of experience qualified him to be among the best teachers of policy. Wilbur's work in the academic world was extensive; he taught at the University of Michigan and UCLA as well.

Our country is richer because Wilbur Cohen had a vision of financial security for all. Wilbur unrelentingly pursued what he knew was in the best interest of the public. His dedication to public service is an example to all. Wilbur brought integrity to every position he held.

Wilbur is survived by his wife, Eloise, and three sons, Christopher, Bruce, and Stuart. I have had the pleasure of working closely with Chris Cohen. He is active in Chicago Democratic politics and his counsel is invaluable to me. My condolences go out to Chris and the entire family. They have lost a loving husband and father and the Nation has lost a great and loyal citizen.●

ADDITIONAL COSPONSORS

Due to a mechanical malfunction, the listing of cosponsors for Tuesday, May 19, 1987, was not available. This listing will appear in the RECORD of May 20, 1987, just before the listing of cosponsors for May 20, 1987.

SENATE CONCURRENT RESOLUTION 59—RECOGNITION OF THE 100TH ANNIVERSARY OF THE HARLEM HOSPITAL

Mr. MOYNIHAN submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 59

Whereas the Harlem Hospital Center was founded in 1887 to serve the Harlem community;

Whereas the Harlem Hospital Center has been faithful to its founding purpose and has rendered service to the community for one hundred years;

Whereas no patient has ever been turned away from the Harlem Hospital Center, regardless of ability to pay;

Whereas the Harlem Hospital Center has been true to its credo to provide optimal medical care to every patient regardless of race, creed or color, in serving for over one hundred years, every ethnic group in the city;

Whereas the Harlem Hospital Center has kept pace with its changing, growing community by increasing its capacity from 54 beds at its inception to today's capacity of 678 beds; and

Whereas the Harlem Hospital Center has reached beyond the borders of this community to serve the world by training more African and Caribbean doctors and nurses than any hospital in the nation, individuals who have left the hospital to assume positions of leadership in health care in their native lands: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Harlem Hospital Center be recognized and commended for one hundred years of service to the community, the Nation and other countries and for its dedication to providing quality care to all people.

Mr. MOYNIHAN. Mr. President, I rise today to submit a concurrent resolution honoring the 100th anniversary of Harlem Hospital Center. The distinguished representative from Harlem, Mr. RANGEL, introduced an identical resolution in the House of Representatives on May 13, 1987.

When Harlem Hospital Center opened in 1887, it had just 54 beds, small by today's standards, but the first of its kind in Harlem. Since then it has grown to a capacity of 678 beds in which over 20,000 patients are treated each year. In addition to those that are admitted for overnight treatment, Harlem Hospital treats 620,000 outpatients per year, 92,000 on an emergency basis.

These statistics are indeed impressive; but Harlem Hospital is more than just a large institution. I have seen its doctors, nurses, and other medical personnel treating infants with AIDS. These are the children of mothers who have acquired the disease, typically through hypodermic needles and drug use. They are born in hospitals like Harlem Hospital and subsequently abandoned by their parents. As a consequence, such hospitals are the babies' only shelter—these doctors and nurses their only source of care and affection. The dedication and devotion of such individuals must not be underestimated. I have seen them in action; they are to be commended for their work.

Harlem Hospital has spent the last century caring for people, often with no compensation whatsoever. It has endured the most devastating of health care crises and will need much support in the coming years if it is to continue providing services to the people of Harlem. By passing this resolution, we send a message to this institution and the dedicated individuals who work there that we do support them and appreciate all they have done.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 216—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 216

Whereas, in the case of *Barsella* v. *Kennedy*, Civil Action No. 3357-87, pending in the Superior Court of the District of Columbia, the plaintiff has named Senator Kennedy as the defendant;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1) (1982), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Kennedy in the case of *Barsella* v. *Kennedy*.

AMENDMENTS SUBMITTED

HIGHER EDUCATION TECHNICAL AMENDMENTS ACT

BYRD (FOR PELL AND OTHERS) AMENDMENT NO. 198

Mr. BYRD (for Mr. PELL, for himself, Mr. STAFFORD, Mr. METZENBAUM, Mr. HATCH, Mr. MATSUNAGA, Mr. DODD, Mr. THURMOND, Mr. SIMON, Mr. WEICKER, Ms. MIKULSKI, Mr. KENNEDY, and Mr. QUAYLE) proposed an amendment to the bill (H.R. 1846) to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments Act of 1987".

(b) REFERENCE.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. INSTITUTIONAL AID.

(a) TECHNICAL PROVISIONS.—Title III of the Act is amended—

(1) in section 311(b)(1), by striking out "section 358(a)(1)" and inserting "section 360(a)(1)";

(2) in section 312(b)(1)—

(A) by inserting "which" before "is" each place it appears in subparagraphs (C) and (D);

(B) by inserting "which" before "has" in subparagraph (E); and

(C) by inserting "which" before "meets" in subparagraph (F);

(3) in section 312(b)(3), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(4) in section 312(b)(5), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(5) in section 312(c)(1), by inserting "in the second fiscal year preceding the fiscal year for which the determination is being made" immediately after "Act";

(6) in section 312(c)(2)—

(A) by striking out "preceding fiscal year," and inserting in lieu thereof "fiscal year preceding the fiscal year for which determination is being made,"; and

(B) by striking out "such fiscal year" and inserting in lieu thereof "second preceding fiscal year";

(7) in section 323(a), by striking out "section 358(a)(2)" and inserting "section 360(a)(2)";

(8) in section 325(a)(1), by striking out "section 322" and inserting "section 323";

(9) in section 326(a)(2), by inserting before the period at the end thereof the following: "except that the Morehouse School of Medicine shall receive at least $3,000,000";

(10) in section 326(c), by striking out "section 333" and inserting "section 332";

(11) in section 327(a), by striking out "Act" and inserting in lieu thereof "part";

(12) in section 332(f)(1), by inserting "(or section 355)" after "part A or B";

(13) in section 351(b)(6), by striking out "section 356" and inserting "section 357";

(14) in section 352(a)(2), by striking out "low- and middle-income" and inserting "low-income";

(15) in section 352(b), by adding at the end thereof the following:

"(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.";

(16) in section 355(a) by inserting "or part B" immediately after "part A" each place it appears; and

(17) in section 355(b), by inserting "part A or" immediately before "part B" each place it appears.

(b) APPLICATION REVIEW PROCESS.—Part A of title III of the Act is amended by adding at the end thereof the following new section:

"APPLICATION REVIEW PROCESS

"SEC. 314. (a) REVIEW PANEL.—(1) All applications submitted under part A by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

"(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islander (including Native Hawaiians).

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that must receive special consideration for grants awarded under part A;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A, the amount of any such grant, and the duration of any such grant.

"(b) RECOMMENDATIONS OF PANEL.—In awarding grants under part A, the Secretary shall take into consideration the recommendations of the panel established under subsection (a).

"(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A and any modifications, if any, in the recommendations of the panel made by the Secretary.".

SEC. 3. PELL GRANTS.

(a) CLARIFICATION OF REFERENCE.—Section 411(g)(2) of the Act is amended by striking out "paragraph (1)" and inserting "paragraph (1)(B)".

(b) EXCLUSION OF FORCED SALE PROCEEDS.—(1) Section 411A of the Act is amended by adding at the end thereof the following new subsection:

"(b) EXCLUSION OF FORCED SALE PROCEEDS.—In the computation of family contributions for the program under this subpart for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.".

(2) Section 411B(g) of the Act is amended—

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(3) Section 411C(f) of the Act is amended—

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(4) Section 411D(f) of the Act is amended by striking out paragraph (5).

(c) TREATMENT OF EXCLUDABLE INCOME.—(1) Sections 411B(d)(1)(A), 411C(c)(1)(A), and 411D(c)(1)(A) are each amended by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))".

(2) Section 411B(i)(1)(A) of the Act is amended—

(A) by striking out "other than amounts earned under part C of this title"; and

(B) by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))".

(d) EFFECTIVE FAMILY INCOME.—Section 411B(d)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out "minus" at the end of subparagraph (B) and inserting "and"; and

(3) by inserting after such subparagraph the following:

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period, minus".

(e) CONTRIBUTION FROM STUDENT'S AND SPOUSE'S ASSETS.—Section 411B(l) of the Act is amended by inserting before the period at the end thereof the following: ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(f) ASSESSMENT OF DISCRETIONARY INCOME.—(1) Section 411B(f)(1) of the Act is amended to read as follows:

"(f) ASSESSMENT OF DISCRETIONARY INCOME.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (d)), minus (B) the total offsets to such income (as determined under subsection (e)). If such discretionary income is a negative amount, the contribution from the parents' income is zero.".

(2) Section 411C(e)(1) of the Act is amended to read as follows:

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

(3) Section 411D(e)(1) of the Act is amended to read as follows:

"(e) ASSESSMENT OF DISCRETIONARY INCOME.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

(4) Sections 411B(f)(2), 411B(j)(2), 411C(e)(2), and 411D(e)(2) of the Act are each amended by striking out "effective family income" each place it appears in the text thereof and inserting "discretionary income".

(5) The tables in sections 411B(f)(2) and 411C(e)(2) of the Act are each amended—

(A) by striking out "**Effective family income**" and inserting "**Discretionary income**"; and

(B) by striking out "effective family income" and inserting "discretionary income".

(g) TREATMENT OF DISLOCATED WORKERS AND DISPLACED HOMEMAKERS.—Sections 411B(g)(1), 411C(f)(1), and 411D(f)(3) of the Act are each amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(h) CORRECTION OF REFERENCES.—(1) Section 411F(1)(B) is amended by striking out "paragraph (13)" and inserting "paragraph (15)".

(2) Section 411C(f)(5)(B) of the Act is amended by striking out "the calculation of effective family income required by subsection (c)" and inserting in lieu thereof "the assessment of discretionary income under subsection (e)".

(i) TUITION AND FEES.—Section 411F(5)(A) is amended by striking out "student's tuition and uniform compulsory fees" and inserting "tuition and uniform compulsory fees normally charged a full-time student".

(j) DEPENDENT OF A STUDENT.—Section 411F(6) is amended to read as follows:

"(6) Except as otherwise provided, the term (A) 'dependent of the student' means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year; and (B) the term 'dependent of the parent' means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.".

(k) EXCLUDABLE INCOME.—Section 411F(9) of the Act is amended—

(1) in subparagraph (A), by striking out "(B), (C), and (D)" and inserting "(B) through (E)";

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) For a Native American Student, the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act or the Maine Indians Claims Settlement Act.";

(3) in subparagraph (D), by inserting "(including any income earned from work under part C of this title)" after "financial assistance"; and

(4) by adding at the end thereof the following new subparagraph:

"(E) Annual adjusted family income does not include any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act.".

(l) INDEPENDENT.—Section 411F(12) of the Act is amended—

(1) in subparagraph (B)(iii), by striking out "gradulate" and inserting "graduate"; and

(2) in subparagraph (B)(vi), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources (including all sources of resources other than parents)".

(m) UNTAXED INCOME AND BENEFITS.—Section 411F(15) of the Act is amended to read as follows:

"(15) The term 'untaxed income and benefits' means—

"(A) child support received;

"(B) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(C) workman's compensation;

"(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(E) interest on tax-free bonds;

"(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(G) cash support or any money paid on the student's behalf;

"(H) the amount of earned income credit claimed for Federal income tax purposes;

"(I) untaxed portion of pensions;

"(J) credit for Federal tax on special fuels;

"(K) the amount of foreign income excluded for purposes of Federal income taxes;

"(L) untaxed social security benefits;

"(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.".

SEC. 4. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) FORMULA.—Section 413D(d)(2) of the Act is amended—

(1) by striking out subparagraph (D) and inserting the following:

"(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;"; and

(2) by striking out subparagraph (F) and inserting the following:

"(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;".

(b) TECHNICAL AMENDMENTS.—(1) Section 413D(d)(3)(A) of the Act is amended by striking out "and for graduate and professional students".

(2) Section 413D(d)(3)(B) is amended—

(A) by striking out "and graduate and professional"; and

(B) by striking out "and graduate".

SEC. 5. STATE STUDENT INCENTIVE GRANTS.

Section 415E(1) of the Act is amended by striking out "literary" and inserting "literacy".

SEC. 6. STUDENT SUPPORT SERVICES.

Section 417D(d) of the Higher Education Act of 1965 is amended by striking out "Post-Baccalaureate Achievement Program" and inserting in lieu thereof "Ronald E. McNair Post-Baccalaureate Achievement Program".

SEC. 7. SEPARATION OF HEP/CAMP AUTHORIZATION.

Section 418A(g) of the Act is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program $7,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $2,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

SEC. 8. VETERANS' EDUCATION OUTREACH.

Section 420A of the Act is amended—

(1) in subsection (b)(2)(B), by striking out "subchapter V or VI" and inserting "subchapter V";

(2) in subsection (b)(5), by striking out "paragraph (3)(A)" and inserting "paragraph (4)(A)";

(3) in subsection (c)(2)(A)(i), by striking out "subsection (e)" and inserting "subsection (b)(5)"; and

(4) in subsection (c)(2)(C)(ii)—

(A) by striking out "(I)"; and

(B) by striking out "and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34".

SEC. 9. SPECIAL CHILD CARE SERVICES.

Section 420B of the Act is amended—

(1) in subsection (b)(2)—

(A) by striking out "to pursue a successful program" in subparagraph (C) and inserting "to pursue successfully a program";

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(2) by striking out subsection (d) and inserting the following:

"(d) DEFINITION.—For purposes of this subpart, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.".

SEC. 10. GUARANTEED STUDENT LOANS.

(a) INAPPLICABILITY OF AGGREGATE LOAN LIMITS TO SUPPLEMENTAL AND PLUS LOANS.—Sections 425(a)(2)(A) and 428(b)(1)(B) are each amended—

(1) in clause (i), by inserting ", excluding loans made under section 428A or 428B" after "undergraduate education"; and

(2) in clause (ii) by inserting ", excluding loans made under section 428A or 428B" after "graduate or professional student)".

(b) TEACHER DEFERMENT; INTERNSHIP DEFERMENT.—(1) Sections 427(a)(2)(C)(vi) and 428(b)(1)(M)(vi) of the Act are each amended by inserting "nonprofit" before "private".

(2) Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training".

(c) MULTIPLE DISBURSEMENT.—Sections 427(a)(4) and 428(b)(1)(O) of the Act are each amended by striking out "more than $1,000" and inserting "$1,000 or more".

(d) VARIABLE INTEREST RATES ON SUPPLEMENTAL AND PLUS LOANS.—(1) Section 427A(c)(4) of the Act is amended—

(A) in subparagraph (A), by striking out "to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987," and inserting "and disbursed on or after July 1, 1987,";

(B) in such subparagraph (A), by striking out "any calendar year" and inserting "any 12-month period beginning on July 1 and ending on June 30"; and

(C) by striking out subparagraph (B) and inserting the following:

"(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.25 percent.".

(2) Section 438(b)(2)(C) of the Act is amended by striking out "12.5 percent" and inserting "12 percent".

(e) COMPLIANCE WITH LOAN LIMITS.—Section 428(a)(2)(D) of the Act is amended by striking out "permits the student" and inserting "certifies the eligibility of any student".

(f) INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(1) of the Act is amended—

(1) by striking out "first or" in subparagraph (A)(i) and inserting "first and";

(2) by inserting before the semicolon at the end of subparagraph (N) the following: "and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student";

(3) by striking out "being dispensed" in subparagraph (O)(i) and inserting "being disbursed";

(4) by striking out subparagraph (P) and inserting the following:

"(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;"; and

(5) by inserting in subparagraph (T) after "eligible institutions" the following: "(other than nonresidential correspondence schools)".

(g) CLARIFICATION OF REFERENCE.—Section 428(b)(5) of the Act is amended by striking out "paragraph (1)(M)" and inserting "paragraph (1)(M)(i)(III)".

(h) GUARANTY AGENCY INFORMATION TRANSFERS.—Section 428(b)(6) of the Act is amended—

(1) in subparagraph (A), by striking out "Prior to the implementation of section 485B" and inserting "Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section"; and

(2) in subparagraph (B), by striking out clause (ii) and inserting the following:

"(ii) the amount borrowed and the cumulative amount borrowed.".

(i) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Section 428(c)(6)(C)(iv) of the Act is amended by adding at the end thereof the following: "In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.".

(j) SECRETARY'S EQUITABLE SHARE; GARNISHMENT.—Section 428(c)(6)(D) of the Act is amended by inserting "and enforces" after "enacts".

(k) REINSURANCE FEES.—Section 428(c)(9) of the Act is amended—

(1) by inserting "covered" before "loans" each place it appears in clauses (i) and (ii) of subparagraph (A); and

(2) by adding at the end thereof the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'covered loans' means loans made under this part to which the insurance applies, but does not include loans made under section 428A(d), 428B(d), or 428C.".

(l) ESCROW OF DISBURSEMENTS.—(1) The first sentence of section 428(i)(1) of the Act is amended by striking out "multiple".

(2) The third sentence of section 428(i)(1) of the Act is amended by striking out "45" and inserting in lieu thereof "21".

(m) LENDERS-OF-LAST-RESORT.—Section 428(j) is amended by adding at the end thereof the following new sentence: "The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.".

(n) USE OF SUPPLEMENTAL LOAN PROGRAM BY UNDERGRADUATES.—Section 428A(a) of the Act is amended by adding at the end thereof the following: "In addition, undergraduate dependent students shall be eligible to borrow funds under this section if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that extenuating circumstances will likely preclude the student's parents from borrowing under section 428B for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution.".

(o) LOAN DEFERMENTS FOR SUPPLEMENTAL AND PLUS LOANS.—(1) Sections 428A(c)(2) and 428B(c)(2) of the Act is amended by striking out "and interest" after "principal" the first time it appears.

(2) Section 428B of the Act is amended—

(A) in subsection (a), by striking out ", but such a parent borrower" and all that follows through "clauses (i), (viii), and (ix) of such sections";

(B) in subsection (c)(1), by striking out "subject to deferral pursuant to sections 427(a)(2)(C) (i), (viii), and (ix) and 428(b)(1)(M) (i), (viii), and (ix)" and inserting in lieu thereof "subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 427(a)(2)(C) or 428(b)(1)(M); and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section"; and

(C) in subsection (c)(2), by striking out "under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i)" and inserting "pursuant to paragraph (1) of this subsection".

(p) LIMITATION ON SUPPLEMENTAL AND PLUS LOANS.—(1) Section 428A(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).".

(2) Section 428B(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this

section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).".

(q) Repayment of Supplemental and PLUS Loans.—Sections 428A(c)(2)(A) and 428B(c)(2)(A) of the Act are each amended by inserting "monthly or" before "quarterly".

(r) Refinancing of Supplemental and PLUS Loans.—(1) Sections 428A(d) and 428B(d) of the Act are each amended—

(A) in paragraph (1)—

(i) by inserting "at any time" after "An eligible lender may" in the first sentence;

(ii) by striking out "Unless the borrower complies with the requirements of paragraph (2)," in the second sentence and inserting "Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3),"; and

(iii) by inserting "(if required by them)" after "shall be reported" in the third sentence;

(B) in paragraph (2)—

(i) by inserting "under this section before July 1, 1987, or" before "under section 428B";

(ii) by striking out "to reissue a loan" and inserting "to reissue a loan or loans"; and

(iii) by striking out "reissuing such loan" and inserting "reissuing such loan or loans"; and

(C) in paragraph (5)—

(i) by striking out "January 1, 1987" and inserting "October 1, 1987"; and

(ii) by inserting before the semicolon at the end of subparagraph (B) the following: "and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples".

(2) An eligible lender who has refinanced a loan or loans under section 428A(d) or 428B(d) between the date of enactment of the Higher Education Amendments of 1986 and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).

(s) Consolidation Loans.—Section 428C of the Act is amended—

(1) in subsection (a)(1)(C), by striking out "(C) and (E)" and inserting in lieu thereof "(C), (E), and (J)";

(2) in subsection (a)(3)(A)—

(A) in division (i), by adding "and" at the end thereof;

(B) in division (ii), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a period; and

(C) by striking out division (iii);

(3) in subsection (a)(3)(B)—

(A) by striking out "loans received under this title" in the first sentence and inserting "eligible student loans received";

(B) by striking out "under this part" and inserting "under this title";

(C) by striking out "and 428(b)(1)(B)" in the second sentence and inserting ", 428(b)(1)(B), 428A(b)(2), and 464(a)(2)"; and

(D) by adding at the end thereof the following new sentence: "Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan.";

(4) in subsection (a)(4)(A), by inserting before the semicolon at the end thereof a comma and the following: "except for loans made to parent borrowers under section 428B, including loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";

(5) in subsection (b)(1)(C)—

(A) by striking out "subsection (a)(2)" in clause (i) and inserting "subsection (a)(3)"; and

(B) by striking out "all loans received by the eligible borrower under this title" in clause (ii) and inserting "all eligible student loans received by the eligible borrower";

(6) in subsection (c)(2)(A)(v), by striking out "more" and inserting "equal to or greater"; and

(7) in subsection (c)(5), by inserting before the period at the end thereof the following ", but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan".

(t) State Garnishment Program.—Section 428E of the Act is amended—

(1) in subsection (a)(1) by inserting before the semicolon a comma and the following: "except that any State which has a garnishment law in effect on the date of the enactment of the Higher Education Amendments of 1986 which provides for the deduction of an amount not to exceed 15 percent of disposable pay, shall be deemed to meet the requirements of this paragraph";

(2) in subsection (a)(6), by striking out "proper notice under paragraph (2)," and inserting in lieu thereof "notice of the withholding order,"; and

(3) in subsection (c), by striking out "notice given to the employer pursuant to subsection (a)(2)" and inserting in lieu thereof "notice of the withholding order".

(u) Rehabilitation Program.—Section 428F of the Act is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(v) Information Concerning Borrowers.—Section 430A(e) of the Act is amended by adding at the end thereof the following new sentence: "To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.".

(w) Clarification of Reference.—Section 431(a) of the Act is amended by striking out "section 422(c)(4)(C)" and inserting "section 422".

(x) Audits of Financial Transactions.—Section 432(f) of the Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) Audit procedures.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.".

(y) Civil Penalties.—Section 432(g)(2) of the Act is amended by striking out "representation" each place it appears in subparagraphs (A)(i) and (B) and inserting in lieu thereof "misrepresentation".

(z) Student Loan Information.—Section 433 of the Act is amended—

(1) in the first sentence of subsection (a), by inserting "(other than a loan made under section 428C)" after "guaranteed under this part";

(2) in subsection (a), by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;";

(3) in subsection (b)(7), by inserting before the semicolon at the end thereof the following: ", except that such explanation is not required when the loan being made is a consolidation loan under section 428C"; and

(4) in subsection (d), by striking out "makes the first disbursement of a loan with respect to a borrower" and inserting "notifies a borrower of approval of a loan".

(aa) Definitions.—Section 435 of the Act is amended—

(1) in subsection (b)(3), by inserting before the semicolon the following: ", or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training";

(2) in subsection (d)(1)—

(A) by striking out "and" at the end of subparagraph (H);

(B) by striking out the period at the end of subparagraph (I) and inserting "; and"; and

(C) by inserting after such subparagraph the following:

"(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market.";

(3) in section 435(d)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by inserting after subparagraph (B) the following:

"(C) shall make loans to not more than 50 percent of the undergraduate students at the institutions; and

"(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.";

(4) by striking out paragraph (2) of subsection (g) and inserting the following:

"(2) Disabled Dependent of a Borrower.—Such term when used with respect to a disabled dependent of a borrower means a spouse or other dependent who, during a period of injury or illness of not less than 3 months, requires continuous nursing or similar services."; and

(5) by striking out "Definition of" in the heading of subsection (h).

(bb) Special Allowances.—Section 438(b) of the Act is amended—

(1) by striking out "subsection (c)" in paragraph (2)(B)(iii) and inserting "subsection (d)"; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Use of Average Quarterly Balance.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.".

(cc) Report on Special Allowances.—Section 438(d)(4)(C) of the Act is amended by striking out ", as evidenced by the information submitted under paragraph (2)(G) of this subsection".

(dd) Correction of Reference.—Section 439(d)(1)(E)(iii) of the Act is amended by inserting "Labor and" before "Human Resources".

SEC. 11. COLLEGE WORK-STUDY.

(a) Reallocation.—Section 442(e)(2) of the Act is amended—

(1) by inserting "not to exceed" immediately before "25 percent";

(2) by striking out "section 448" and inserting in lieu thereof "section 447"; and

(3) by striking out "subsection (c)" and inserting in lieu thereof "section 447(c)".

(b) Work-Study Agreements.—Section 443(b) of the Act is amended—

(1) in paragraph (2)(A), by striking out "clause (6)(B)" and inserting "paragraph (5)(B)"; and

(2) in paragraph (5)(B), by striking out "clause (2)(A)" and inserting "paragraph (2)(A)".

(c) Private Sector Agreement.—(1) Section 443(c) of the Act is amended by striking out "In addition to the" and inserting in lieu thereof "As part of its agreement".

(2) Section 443(c)(1) of the Act is amended by inserting "and subsection (b)(3)" before the semicolon.

(d) Job Location and Development Agreements.—Section 446(b) of the Act is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 12. INCOME CONTINGENT LOAN DEMONSTRATION.

Section 454(a)(4) of the Act is amended to read as follows:

"(4)(A) The interest rate on loans under this part shall, at the discretion of the participating institution, be (i) computed in accordance with subparagraph (B) based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan, or (ii) variable each calendar year based on the interest rate computed in accordance with subparagraph (B) for such calendar year.

"(B) The interest rate applicable on such loans in accordance with subparagraph (A) shall be obtained by—

"(i) computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period ending September 30 preceding such year; and

"(ii) by adding 3 percent to the resulting percent.".

SEC. 13. DIRECT STUDENT LOANS.

(a) Allocations in Proportion to Fiscal Year 1985 Federal Capital Contribution.—Section 462(a)(1) of the Act is amended by striking out subparagraph (A) and inserting the following:

"(A) 100 percent of the amount of Federal capital contribution such institution received under this part for fiscal year 1985, multiplied by".

(b) Correction of Reference.—Section 462(d) of the Act is amended by redesignating paragraph (3) the second time it appears as paragraph (4).

(c) Correction of Heading.—Section 462(e) of the Act is amended by striking out "; Cash on Hand".

(d) Correction of Reference.—Section 462(f) of the Act is amended by striking out "under paragraph (2)" and inserting "under subsection (g)".

(e) Notice of Default.—Section 463(a)(4) is amended by striking out "given to the Secretary" and everything that follows through "semiannually" and inserting "given to the Secretary in an annual report describing the total number of loans from such fund which are in such default".

(f) Correction of Reference.—Section 463(b) of the Act is amended by striking out "section 485" and inserting "section 489".

(g) Estimates of Balances.—Section 463A(a) of the Act is amended by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;".

(h) Defense Educational Loan Repayment.—Section 463A(a)(10) of the Act is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);" and inserting "the Department of Defense educational loan repayment program (10 U.S.C. 2172);".

(i) Internship Deferment.—Section 464(c)(2)(A)(vi) is amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training".

(j) Reference to Other Programs.—Section 465(a)(2) of the Act is amended—

(1) in subparagraph (A) by striking out "title I of the Elementary and Secondary Education Act of 1965" and inserting "chapter 1 of the Education Consolidation and Improvement Act of 1981";

(2) in subparagraph (A), by striking out "such title I" and inserting "such chapter 1"; and

(3) in subparagraph (B), by striking out "section 222(a)(1) of the Economic Opportunity Act of 1964" and inserting "the Head Start Act".

SEC. 14. NEEDS ANALYSIS.

Part F of title IV of the Act is amended—

(1) in sections 475(c)(2), 475(c)(4), 475(d)(2), 476(b)(2), 476(c)(2), 477(b)(2), 477(c)(2), and 477(d), striking out "section 479" and inserting "section 478";

(2) in sections 475(c)(7) and 477(b)(7), by striking out "National";

(3) in sections 475(d)(2), 476(c)(2), and 477(c)(2), strike out "dislocated homemaker" and insert "displaced homemaker";

(4) by striking out the table contained in sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C) and inserting the following:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1-$60,000	40 percent of NW
$60,001-$180,000	$24,000 plus 50 percent of NW over $60,000
$180,001-$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000";

(5) in sections 475(d)(4)(B) and 477(c)(4)(B), by striking out "$15,000" and inserting "$15,999";

(6) in sections 475(d)(4)(C) and 477(c)(4)(C), by striking out "$15,000" each place it appears and inserting "$16,000";

(7) in section 475(d)(4)(D), by striking out "equal to or less than zero" and inserting "less than zero";

(8) in sections 475(e) and 477(d), insert a minus sign before "$3,409" each time it appears in the chart in each such section;

(9) in section 475(g)(1)(C), by striking out "paragraph (3)" and inserting "paragraph (2)";

(10) in section 475(g)(3), by inserting after "following table" the following: "(or a successor table prescribed by the Secretary under section 478)";

(11) in section 475, by striking out subsection (h) and inserting the following:

"(h) Student (and Spouse) Income Supplemental Amount From Assets.—The student (and spouse) supplemental income from assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 35 percent, except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero.";

(12) in such section, by adding at the end thereof the following new subsection:

"(i) Adjustments for Enrollment Periods Other Than 9 Months.—For periods of enrollment other than nine months, the parents' contribution from adjusted available income is determined as follows:

"(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income (determined in accordance with subsection (b)) is divided by 9 and the result multiplied by the number of months enrolled.

"(2) For periods of enrollment greater than 9 months—

"(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the standard maintenance allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

"(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

"(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

"(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.";

(13) in section 476(b)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (C) and inserting "subparagraph (C)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by striking out everything preceding clause (i) of smputing the student's available taxable income by deducting from the amount determined under subparagraph (A)—";

(14) in section 476(b)(2), by striking out "total taxable income" and inserting "total income";

(15) in section 476(b)(1)(C), by inserting after "section 480(c))" the following: "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code";

(16) in section 476(b)(4)—

(A) by striking out "$8,900" each place it appears and inserting "$8,600"; and

(B) by striking out "$6,230" and inserting "$6,020";

(17) in section 476(c)(1)—

(A) by striking out the period at the end of subparagraph (C) and inserting a semicolon; and

(B) by inserting at the end thereof (flush with the margin of paragraph (1)) the following:

"except that the student's income supplemental amount from assets shall not be less than zero.";

(18) in section 477(a)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon at the end of subparagraph (B); and

(C) by inserting after such subparagraph the following:

"(C) the amount of veterans' benefits to be paid during the award period under chapters 32, 34, and 35 of title 38, United States Code;";

(19) in section 477(b)(5)(A), by striking out "$2,000" and inserting "$2,100";

(20) in section 478(d)—

(A) by inserting ", rounded to the nearest $100," after "present value cost";

(B) by inserting "of 40 and above" after "each age cohort"; and

(C) by inserting after the second sentence the following: "For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.";

(21) in section 478(c)(2), by striking out " '$26,000,' '$91,000', and '$169,000' " and inserting " '$24,000', '$84,000', and '$156,000' ";

(22) in section 478(f), by striking out "Consumer Price Index for Wage Earners and Clerical Workers" and inserting in lieu thereof "Consumer Price Index for All Urban Consumers";

(23) in section 479(a)—

(A) by striking out "paragraph (2)" and inserting "subsection (b)";

(B) by striking out "families which" and inserting "families (1) who"; and

(C) by striking out "and which file a form 1040A pursuant to the Internal Revenue Code of 1954" and inserting "and (2) who file a form 1040A or 1040EZ pursuant to the Internal Revenue Code of 1986, or are not required to file pursuant to such Code";

(24) in section 479(b)—

(A) by striking out "and State" in paragraph (2);

(B) by striking out "and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting "; and"; and

(D) by inserting after paragraph (5) the following new paragraph:

"(6) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents, or (B) for State and local income taxes, as defined in section 476(b)(2) for independent students without dependents.";

(25) in section 479, by adding at the end thereof the following new subsection:

"(c) SIMPLIFIED APPLICATION FORM.—The Secretary shall develop and use a simplified application form for families described in this section to qualify for the use of a simplified needs analysis.";

(26) by striking out section 479A and inserting in lieu thereof the following:

"DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

"SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

"(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

"(1) the administrator determines, in his or her discretion, that the effective family income of the applicant is small in relation to—

"(A) the net value of the principal place of residence;

"(B) the net worth of a farm on which the family resides; or

"(C) the net worth of a family owned and operated small business;

"(2) such administrator reduces or eliminates the amount of such net value or net worth that is subject to assessment in the computation of the expected family contribution of that applicant; and

"(3) the administrator reports the amount of such adjustments made with respect to determinations for Pell Grants to the contractor or contractors processing applications for such grants for the award year.

"(c) ASSET ADJUSTMENT AS EXAMPLE.—The asset adjustment described in subsection (b) is an example of the type of adjustment which financial aid administrators are authorized to make by subsection (a), and shall not be considered to be the only adjustment that is so authorized.";

(27) by striking section 479B and inserting in lieu thereof the following:

"STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

"SEC. 479B. (a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"NATIVE AMERICAN STUDENTS

"SEC. 479C. In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

"(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

"(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act."; and

(28) in section 480—

(A) by striking out "paragraphs (2) and (3)" in subsection (a)(1) and inserting "paragraphs (2) through (4)";

(B) by inserting before the period at the end of such subsection the following: "minus excludable income (as defined in subsection (f))";

(C) by striking out paragraph (2) of subsection (a) and inserting the following:

"(2) In the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.";

(D) by inserting at the end of subsection (a) the following:

"(4) No portion of any student financial assistance received from any program by an individual shall be included as income in the computation of expected family contribution for any program funded in whole or in part under this Act.";

(E) by striking out subsections (b) and (c) and inserting the following:

"(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(c) Untaxed Income and Benefits of Dependent Students or Independent Students Without Dependents.—For the purpose of this part, the term 'untaxed income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.";

(F) in subsection (d)(2)(F), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources (including all sources of resources other than parents)"; and

(G) by inserting after subsection (e) the following new subsections:

"(f) Excludable Income.—The term 'excludable income' means—

"(1) any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act; and

"(2) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title.

"(g) Assets.—The term 'assets' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(h) Net Assets.—The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities or indebtedness against the assets.".

SEC. 15. GENERAL PROVISIONS.

Part G of title IV of the Act is amended—

(1) in section 481(c), by striking out "subsection (d) of this section" and inserting in lieu thereof "section 484(d)";

(2) in section 482(b)—

(A) by striking out "or 442(e)" and inserting ", 442(e), or 462(j)"; and

(B) by striking out "and part C" and inserting ", part C, and part E";

(3) in the second sentence of section 483(a)(1), by inserting "or institutions in which the students are enrolled or accepted for enrollment" after "that applicants";

(4) in the second sentence of such section 483(a)(1), by inserting before the period at the end thereof the following: "and on which the applicant shall clearly indicate a choice of lender";

(5) in section 483(a)(2)—

(A) by striking out "not less than 3" and inserting "not less than 5"; and

(B) by adding at the end thereof the following: "The Secretary shall not select new multiple data entry processors after the date of enactment of the Higher Education Amendments Act of 1986, until the Advisory Commission on Student Financial Assistance has examined and made recommendations on the expansion of the number and kind of processors and its impact on students, has assessed and made recommendations on the relative cost of processing applications and development fees, and has examined and made recommendations on the implementation of a standardized fee for the reimbursement of all processors by the Federal Government.";

(6) in section 483—

(A) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(B) by inserting after subsection (a) the following:

"(b) Certification of Capability.—Beginning with the 1988-1989 processing year, the Secretary shall be authorized to enter into agreements with institutions of higher education, States, or private organizations for the purpose of certifying the capability of their systems for determining expected family contributions under part F of this title.";

(7) in section 484—

(A) in subsection (a)(1), by inserting before the semicolon a comma and the following: "except as provided in subsection (b)(2)";

(B) in subsection (b), insert "(1)" before "In";

(C) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end of subsection (b) the following new paragraph:

"(2) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

"(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title. The eligibility described in this paragraph shall be restricted to one 12-month period.";

(8)(A) in section 484(d)—

(i) by striking out "or" at the end of paragraph (1); and

(ii) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

"(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

"(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.";

(B) in section 484(d), by adding at the end thereof the following new sentence:

"In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.";

(9) in section 484(f), by adding at the end thereof the following new sentence: "In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year.";

(10) in section 485(b), by inserting "(other than loans made pursuant to section 428B)" after "part B of this title";

(11) in section 485(d), by inserting after the second sentence the following: "In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.";

(12) in section 485A(a), by striking out "clause (i), (ii), or (iii)" and inserting "subparagraph (A), (B), or (C)";

(13) in section 485B—

(A) by striking out "Federal agencies" in subsection (b)(1) and inserting "public agencies";

(B) by striking out "of a borrower for whom the guaranty agency provides insurance" in subsection (b)(2)(D) and inserting "of any borrower"; and

(C) by striking out "Federal agency" in subsection (b)(3) and inserting "public agency";

(14) in section 488, by striking out "or 446" and inserting "or 442";

(15) in the second sentence of section 489(a), by striking out "section 448" and inserting in lieu thereof "section 447";

(16) in section 491(b), by adding at the end thereof the following new sentence: "The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.";

(17) in section 491(i), by striking out "An amount, not to exceed $500,000 in any fiscal year" and inserting in lieu thereof "In each fiscal year not less than $500,000"; and

(18) in section 491, by adding at the end thereof the following new subsection:

"(j) Special Institutional Lender Study.—

"(1) The Advisory Committee shall conduct a thorough study of institutional lender policy. In carrying out the study, the Advisory Committee shall examine, but not be limited to—

"(A) the relevance and current applicability of the institutional lender criteria established in section 435(d);

"(B) the appropriateness of using default rates for loans made under part E or other institutional criteria to determine institutional participation;

"(C) whether or not a portion or all of any special allowance or other payments paid to institutional lenders should benefit need-based scholarship or grant programs;

"(D) whether or not institutional lenders should be required to hold loans made to eligible borrowers through graduation or termination of matriculation;

"(E) examine the extent and degree to which student access to loan capital would be adversely affected by the restrictions contained in section 435(d)(2); and

"(F) assess the potential impact on State secondary markets and lender portfolios if student borrowers at higher cost colleges and universities, who come from higher income families, concentrate their lending with a few large lenders and secondary markets.

"(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

"(3) The Advisory Committee shall, not later than 2 years after the date of enactment of the Higher Education Technical Amendments Act of 1987, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the study required by this section.".

SEC. 16. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Subpart 2 of part C of title V of the Act is amended—

(1) in the matter preceding paragraph (1) of section 541(b), by striking out "contractors" and inserting in lieu thereof "grantees";

(2) in section 542, by striking out "for any fiscal year" and inserting "for fiscal year 1987 or any succeeding fiscal year";

(3) in section 543—

(A) in subsection (a)—

(i) in the subsection heading, by striking out "Contracts" and inserting in lieu thereof "Grants"; and

(ii) by striking out "enter into contracts with" and inserting in lieu thereof "award grants to";

(B) in subsection (b)—

(i) in the subsection heading, by striking out "Contract" and inserting in lieu thereof "Grant";

(ii) in the matter preceding paragraph (1), by striking out "contract entered into" and inserting in lieu thereof "grant awarded"; and

(iii) by striking out "contractor" each place it appears and inserting in lieu thereof "grantee"; and

(C) in subsection (c)—

(i) in the subsection heading, by striking out "Contractors" and inserting in lieu thereof "Grantees"; and

(ii) by striking out "contract" and inserting in lieu thereof "grant";

(4) in section 544—

(A) in the section heading, by striking out "CONTRACTS" and inserting in lieu thereof "GRANTS";

(B) in subsection (a), by striking out "Contract" and "contract" each place they appear and inserting in lieu thereof "Grant" and "grant", respectively; and

(C) in subsection (b), by striking out "Contract", "contract", and "contractor" each place they appear and inserting in lieu thereof "Grant", "grant", and "grantee", respectively; and

(5) in section 545—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(3) the term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

SEC. 17. CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAM.

(a) Designation of Congressional Teachers' Scholarships.—

(1) Section 551 of the Act is amended by inserting "(a) Purpose.—" after the section designation;

(2) by striking out the second sentence of such section; and

(3) by adding at the end thereof the following new subsection:

"(b) Designation.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.".

(b) Applications.—Section 553 of the Act is amended—

(1) in subsection (a), by striking out "section 546" and inserting "section 551";

(2) in subsection (b)(4)(A)—

(A) by striking out "elementary or" and inserting "preschool, elementary school, or";

(B) by inserting "or private nonprofit" immediately before "education program in any State"; and

(C)(i) by inserting "or" after "State," the first time it appears; and

(ii) by striking out "or, on a full-time basis handicapped children or children with limited English proficiency in a private nonprofit school,"; and

(3) in subsection (b)(4)(B), by striking out "section 557" and inserting "section 556".

(c) Repayment Provision.—Section 557 of the Act is amended by inserting after "interest" the following: "(but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of this title)".

(d) Exceptions to Repayment.—Section 558(a)(6) of the Act is amended by inserting before the semicolon the following: "for a single period not to exceed 27 months".

SEC. 18. LANGUAGE AND AREA CENTERS.

Section 602(b)(1)(B) of the Act is amended by striking out "in a program of competency-based training," immediately after "in a program of competency-based language training,".

SEC. 19. ACADEMIC FACILITIES.

Title VII of the Act is amended—

(1) in section 701(b), by inserting "part A or B of" after "grants under";

(2) in section 702(a), by inserting at the end thereof a comma and the following: "or for a preceding fiscal year";

(3) in the matter preceding paragraph (1) in section 731(a) by striking out "and insure";

(4) in section 733—

(A) in the section heading, by striking out "AND INSURANCE"; and

(B) in subsection (a) by striking out "and insuring";

(5) in section 764(c)(1), by inserting "at least a two-year program acceptable for full credit toward" immediately before "a baccalaureate degree"; and

(6) in section 782(1)(B)—

(A) by striking out "section 724" and inserting "section 701", and

(B) by striking out "section 843" and inserting "section 853".

SEC. 20. JACOB K. JAVITS FELLOWS PROGRAM.

Part C of title IX of the Act is amended—

(1) by striking out the heading of section 931 and inserting the following:

"AWARD OF JACOB K. JAVITS FELLOWSHIPS";

(2) in section 932(a)(1), by striking out "National Graduate" and inserting "Jacob K. Javits";

(3) in section 932(a)(2)(C), by striking out "directing" and inserting "selecting"; and

(4) in section 933(b)(1), by striking out the period at the end thereof and inserting in lieu thereof a comma and "except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.".

SEC. 21. GENERAL PROVISIONS.

(a) Technical Amendment.—Section 1201(a) of the Act is amended by striking out "have the ability to benefit from the training offered by the institution" and inserting in lieu thereof "meet the requirements of section 484(d) of this Act".

(b) Peer Review Process.—Title XII of the Act is amended by redesignating section 1210 as section 1211, and by adding after section 1209 the following new section:

"APPLICATION OF PEER REVIEW PROCESS

"Sec. 1210. All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.".

SEC. 22. EFFECTIVE DATES OF THE HIGHER EDUCATION AMENDMENTS OF 1986.

(a) SEOG Allocation.—Section 401(b) of the Higher Education Amendments of 1986 is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The changes made in section 413D of the Act shall apply with respect to the allocation of funds for the academic year 1988-1989 and succeeding academic years.".

(b) GSL Amendments.—Section 402(b) of such Amendments is amended—

(1) by striking out paragraph (2) and inserting the following:

"(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;";

(2) in paragraphs (3) and (4), by inserting "disbursed on or after January 1, 1987, or" after "only to loans"; and

(3) in paragraph (7), by inserting "disbursed on or after 30 days after the date of enactment of this Act or" after "with respect to loans".

(c) CWS Amendments.—Section 403(b) of such Amendments is amended by striking out "(b) Effective Date.—" and inserting in lieu thereof the following:

"(b) Effective Dates.—(1) Section 442 of the Act shall apply with respect to the allocation of funds for academic year 1988-1989 and succeeding academic years.

"(2)".

(d) NDSL Amendments.—Section 405(b) of such Amendments is amended—

(1) by inserting "and section 463A" after "Section 463(a)(9)" in paragraph (2);

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after the subsection heading the following:

"(1) Section 462 of the Act shall apply with respect to academic year 1988-1989 and succeeding academic years.".

(e) Effective Date of Certain Need Analysis Provisions.—Section 406(b) of such Amendments is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraphs (2) through (4)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Section 479B of the Act (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment.".

(f) Sunset for Disclosure of Foreign Gifts.—Section 1206(b) of such Amendments is amended by striking out "section 1208" and inserting "section 1209".

SEC. 23. EDUCATION ADMINISTRATION.

Title XIII of the Higher Education Amendments of 1986 is amended—

(1) in section 1301, by striking out "section 484(d)" and inserting "section 484(c)";

(2) in section 1302(b)(1), by striking out "this title" and inserting "title VI of the Act";

(3) in section 1303—

(A) by striking out "shall, through the Office of Education Research and Improvement or the Center for Education Statistics," in subsection (a) and inserting ", through the Office of Educational Research and Improvement,";

(B) by striking out "the Department of Education," in subsection (b)(3);

(C) by striking out "Resources," in such subsection and inserting "Resources"; and

(D) by adding at the end thereof the following:

"(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.";

(4) in section 1304—

(A) by striking out "of this title" in subsection (a) and inserting "of title I of the Act";

(B) by inserting "the provision of" before "an information network" in subsection (b)(2);

(C) by striking out "under this title" in subsection (c) and inserting "under this section"; and

(D) by striking out "purposes of this title" in such subsection and inserting "purposes of title I of the Act";

(5) in section 1307—

(A) by striking out "$2,700,000" and inserting in lieu thereof "$1,000,000"; and

(B) by striking out "this part" and inserting in lieu thereof "sections 1301 and 1302";

(6) in section 1314 by adding at the end thereof the following new sentence: "Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors to maintain or report records relating to the loans discharged by borrowers in receiving a consolidation loan pursuant to section 428C of the Act."; and

(7) in section 1341, by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Report Required.—Not later than one year after the date of entering into a contract with the Department of Education for the study described in this section, the National Academy of Sciences shall prepare and submit to the Congress a report, together with a description of programs on the use of volunteers and with such recommendations as deemed appropriate.".

SEC. 24. GENERAL EDUCATION PROVISIONS ACT.

(a) Educational Research.—Section 405(g)(1)(C) of the General Education Provisions Act is amended to read as follows:

"(C) not less than $5,700,000 shall be available in each fiscal year to assist a separate system of 16 education resources information clearinghouses (including direct supporting dissemination services) pursuant to subsection (d)(3)(A) of this section, having the same functions and scope of work as the clearinghouses had on the date of enactment of the Higher Education Amendments of 1986;".

(b) Education Statistics.—Section 406(e)(1) of the General Education Provisions Act is amended by adding at the end thereof the following new sentence: "All funds received in payment for work or services described in this paragraph shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.".

SEC. 25. UNITED STATES INSTITUTE OF PEACE.

Section 1703 of the United States Institute of Peace Act is amended by inserting after "(3)" the following: "establish a Jeannette Rankin Research Program on Peace to".

SEC. 26. EXEMPTION FROM CERTAIN PROVISIONS OF LAW.

The parties to the term loan and security agreement dated March 3, 1986, as amended, pursuant to which up to $21,000,000 of loans will be made to students and parents of students at a university located in California by a branch of a foreign bank located in New York shall, with respect to loans made on or before February 20, 1987, and the transactions relating thereto under such term loan and security agreement, be deemed not to be in violation of the provisions of sections 435(d)(5)(A) and 490(c) of the Higher Education Act of 1965.

SEC. 27. EFFECTIVE DATE OF TECHNICAL AMENDMENTS.

The amendments made by this Act shall take effect as if enacted as part of the Higher Education Amendments of 1986.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, May 19, 1987, in order to mark up foreign trade legislation and to vote on the nominations of Edward Kelley to be a Federal Reserve Governor, Carl Covitz, to be Under Secretary of HUD, and Louis Guy, to be a Board member of the National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to meet during the session of the Senate on May 19, 1987 at 2 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 19, 1987, at 2 p.m. to resume hearings on S. 907, the Technology Competitiveness Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy study, be authorized to meet during the session of the Senate on May 19, 1987, at 10 a.m. to resume oversight hearings and on proposed legislation authorizing funds for the National Oceanic and Atmospheric Administration [NOAA] focusing on atmosphere and satellite programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, May 19, 1987 at 10:30 a.m. to receive testimony on S. 305, S. 236, S. 902, and H.R. 1728.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 19, 1987 at 10 a.m. to consider H.R. 278 and S. 1145, bills to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and shares received pursuant to the act, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, May 19, 1987, at 2 p.m. to hold markup on S. 328, Prompt Pay Act Amendments Act of 1987, S. 496, Computer Matching and Privacy Protection Act of 1987, S. 345, Contract Disputes Act Amendments of 1987, and the nomination of Norma Pace to the Postal Board of Governors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

NO MORE USER FEES

● Mr. DECONCINI. Mr. President, I would like to commend the Armed Services Committee for crafting an excellent bill. In particular, I would like to single out the objection that the committee included in the bill to an OMB provision that initiated a test program instituting fees for outpatient care received at military medical facilities by military retirees and dependents. I have also strongly opposed this initiative as unnecessary, unfair, and unjustified on our military personnel. I applaud the committee's recognition of this problem and swift action to address it.

Traditionally, military health care has been viewed as one of the top institutional supports associated with military service. To arbitrarily remove this would erode the element of security in health care, especially for dependents of young enlistees who may not be financially secure. I feel that the traditional health care services guaranteed to our military service personnel should not be taken away, particularly by a back-handed OMB proposal. The imposition of such a charge could abrogate this Nation's long-standing commitment to provide quality health care to military families at no cost to members of the armed services and their dependents.

On March 18, Senator CHILES joined me in introducing Senate Concurrent Resolution 35, a sense of the Congress resolution expressing opposition to this user fee. Subsequently, 22 other Senators have joined us in this effort. Our concern, as expressed by this committee and this bill, is that such an imposition could seriously damage our Armed Forces, both in morale and combat readiness. I am not certain whether this bill that the Armed Services Committee has worked so diligently on will become law, will be filibustered, or whether the President will veto it. I do hope that the Senate has spoken loud and clear on this issue of user test fees. Moreover, if this bill is vetoed or filibustered, it is my intention to introduce a bill regarding this user test fee and assure that our Armed Forces receive the quality health care that they work so hard for and deserve. Again, I thank the chairman and the ranking member for their attention on this issue.

Mr. President, I ask that a copy of Senate Concurrent Resolution 35 and the cosponsors appear in the RECORD.

The material follows:

S. CON. RES. 35—COSPONSORS (23)

Senators Chiles, Hollings, Ford, Bingaman, Nickles, Gore, Specter, Helms, Matsunaga, Sanford, Daschle, Hecht, Shelby, Trible, Cochran, Adams, Sarbanes, Mikulski, Heinz, Wirth, Pressler, Pell, and Reid.

S. CON. RES. 35

Whereas, the Budget submitted by the President for fiscal year 1988 contains provisions which would require a uniform minimal charge to be levied for outpatient medical care provided in medical facilities of the uniformed services to retired members of the Armed Forces, dependents of retired members and dependents of members serving on active duty;

Whereas, the impact of such a charge would fall disproportionately upon the families of younger members of the Armed Forces, precisely those members least able to afford such fees;

Whereas, the imposition of such a charge would force the spouses of young members of the Armed Forces (especially those temporarily separated from their military sponsor because of exigencies of military service) to make an untenable "bread vs. health care" decision;

Whereas, the sense of security that members of the Armed Forces now have in knowing that quality health care is available for their families would be seriously and permanently eroded by the imposition of a charge for such care;

Whereas, the imposition of such a charge would adversely affect both morale and unit readiness; and

Whereas, the imposition of such a charge would abrogate the Nation's long-standing commitment to provide quality health care in military facilities at no cost to members of the Armed Forces and their dependents: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Secretary of Defense should take no action to impose any form of charge for outpatient care provided in medical facilities of the uniformed services to retired members of the Armed Forces, dependents of retired members, or dependents of members serving on active duty.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Defense.●

RETIREMENT OF MARY JANE GUSTAFSON

● Mr. DURENBERGER. Mr. President, just recently a woman who has become somewhat of a legend in the suburban city of Brooklyn Center, MN, retired from a very active career in journalism. Mary Jane Gustafson started working at the Brooklyn Center Post in 1960—the same year that the French conducted their first nuclear explosion, the summer Olympics were held in Rome, and Senator John F. Kennedy defeated Vice President Richard N. Nixon for the Presidency.

In the years since that time she has seen Brooklyn Center grow into one of Minnesota's finest cities and watched journalism turn into a high-tech business. She's covered more than 500 city council meetings during that time, which is nothing short of remarkable. And as an accommodation to the age of technology, 3 years ago she gave up her typewriter for a computer terminal.

The years have been good to her and she has willingingly shared the vast knowledge that comes with an active career and a busy family. In her "spare" time, she has dedicated herself to keeping her heritage as a Polish-American alive in Minnesota and across the country.

The Minneapolis Star and Tribune ran an article that appropriately explains Mary Jane's commitment to her heritage, her family, her career, and her family. I ask that it be printed in in the RECORD.

The article follows:

SHE PROVES YOU CAN BE ALL "THINGS POLISH" TO EVERYONE

(By Diana Ettel Gonzalez)

To Brooklyn Center's city manager, Mary Jane Gustafson is the reporter who sometimes calls him out of the shower at 7 a.m. to make sure there's not one mistake in local newspaper accounts of that week's City Council meeting.

To the leaders of the Polish-American community, Gustafson is Mary Jane Sokolowski Gustafson; daughter of northeast Minneapolis, tour guide to Poland, cofounder of the Chopin Club, organizer of Polish awareness days, dynamo behind the founding of the Polish American Cultural Institute of Minnesota and national public relations director for the American Council of Polish Cultural clubs.

"Mary Jane is on every Polish list," said David Odahowski, executive director of the Wasie Foundation, which among other things, provides scholarships to students of Polish ancestry.

Gustafson has made her mark on Brooklyn Center after 27 years of reporting on city events and editing the women's pages of the five Post newspapers.

As a suburban journalist, she hasn't shied away from involvement in the community where she works. In 1970 she helped found the Brooklyn Center Historical Society. More often than not she has served as president of the society. She helped write a book on the city's historic Earle Brown farm.

Said Brooklyn Center City Manager Jerry Splinter, "I call her to find out what's going on in the city, because she usually knows it before I do."

Last week Gustafson retired from the Post papers, but there's little chance that she will slow down.

Some of the leaders in the Polish-American community hope that she will have more time for them. And she is considering reviving her Polish radio talk show on KUXL, "Things Polish."

But she also wants time to make Barbie clothes for her granddaughters, play golf, lose the weight she gained after she quit smoking, do some free-lance writing and travel with her husband.

Chester Rog, who publishes a Polish-American newsletter and teaches Polish at a junior high school in northeast Minneapolis, said Gustafson has high visibility among the young and old in the Polish community.

"I came across a little quotation of Pope Paul II that I use in my newsletter: 'Keep alive this heritage.' Mary Jane keeps alive this heritage. I think the pope would like her," Rog said.

Gustafson wasn't always the crusader for Polish heritage that she is now. Until the late 1950s "I was completely turned off by things Polish," she said. "As a teen-ager you get these quirky ideas. I thought my mother liked Poland better than she liked me."

Gustafson fell in love with Poland when she took her first trip there in 1958. After the trip she formed a women's group called the Polish Arts Club. Gradually she became increasingly involved in activity after activity.

"I have this enthusiasm. . . . See, my premise is that there is more to being Polish than polka music and Polish sausage," she said.

It was her great curiosity and her love of a good story that got her to Lech Walesa's doorstep in Poland to talk to Walesa's wife, who was walking up the stairs, bag of groceries in hand.

It was her knack for drawing people together that united the Polish community to form the Polish American Cultural Institute of Minnesota, Odahowski said.

Her current efforts involve raising funds for a Polish center in Washington, D.C., and for "The Struggles for Poland," a television production that will be underwritten in part by Polish-American communities in the United States.

Sometimes, when she contemplates the "what if's" in her life, Gustafson said, she wonders what it would have been like to be the ambassador to Poland.

"Who knows? Another career might open up (after retirement). I love radio."

SUPPORT THE WIC PROGRAM

● Mr. SARBANES. Mr. President, although the President has recommended severe cuts in the nutrition programs in every budget he has submitted to the Congress, Congress has rejected this unwise policy and provided funding at a level that continues to address the needs of our citizens. This year, the administration again recommended cutting the Special Supplemental Food Program for Women, Infants, and Children [WIC] by $27 million. In contrast, the budget resolution recently passed by the Senate provides an additional $150 million for the WIC Program.

The WIC Program was authorized by Congress in 1972 to reduce infant mortality and increase the birth weight of infants in order to prevent long-term illnesses such as mental retardation and poor vision. WIC's cost effectiveness and success has been documented by many authorities.

I have been a long-time supporter of the WIC Program and am strongly opposed to reducing funds for a program that has proven instrumental in curtailing malnutrition in our country and preventing serious and costly health problems in children. Adequate nutrition is a wise investment and essential to the health of this Nation's future generations.

I would like to share with my colleagues an editorial from the Baltimore Sun of May 18, 1987, that discusses the importance of the WIC Program.

The editorial follows:

WIC Mothers and Children

The U.S. Infant mortality rate has steadly fallen behind the rest of the industrialized world. A generation ago the United States ranked sixth among 20 developed nations in infant death rates; the latest statistics show the U.S. No. 18, at 10.6 infant deaths per thousand. Babies in many states fare worse. In Maryland, nearly 12 out of every 1,000 babies die before their first birthday; among" "non-whites" the rate soars to 18.7.

Many infants die simply because their mothers lack adequate food and nutrition during pregnancy. Since 1972, the Special Supplemental Food Program for Women, Infants and Children has struggled to fill that gap, offering a package of protein-rich foods, nutrition education and access to child health and immunization services to pregnant women and their young children who are at nutritional risk because of poverty.

WIC's 15-year history is a tribute to cost-effective, Federal programs. One recent study shows that every dollar spent on WIC prenatal care and food saves up to $3 in hospital costs. Another shows each dollar saves 83 cents in Medicaid expenses during the first month of a baby's life. More important, the infant mortality rate for WIC participants dips to 8.4; the rate for their non-WIC counterparts hovers at almost 23. WIC kids score better on tests, do better in school.

Despite the program's ringing successes, the Reagan administration has fought continually to clip WIC money. The program currently is funded at $1.7 billion, and can serve 3.4 million women and children—an impressive number, but only about 40 percent of the 8 million people who qualify for the program. This year, in the name of deficit reduction, the administration proposed slashing WIC funding by $27 million, which would have cut 50,000 pregnant women and children from the rolls. Congress ignored the plea. The House budget includes an additional $100 million to expand the WIC program; the Senate budget includes an extra $150 million.

This is a small, but significant, step. If the new money is appropriated—and that remains a stumbling block—it would bring 200,000 to 300,000 more women and children into the program. That still falls short. But in a budget-conscious era, a congressional consensus that WIC needs to reach more poor women and children is a heartening message.●

KUDOS FOR NOMINATION OF JANET NORWOOD

● Mr. HATCH. Mr. President, I would like to take just a minute to commend President Reagan for the nomination of Dr. Janet Norwood to continue as Commissioner of Labor Statistics at the Department of Labor.

As each of our colleagues in Congress is aware, the Bureau of Labor Statistics has principal responsibility for compiling the facts and figures which guide us in making policy judgments. BLS collects a broad range of economic data relating to employment, wages and benefits, labor-management agreements, and consumer and producer prices. The BLS publication, Monthly Labor Review, provides informative articles analyzing current and historical trends and topics in labor economics.

Dr. Norwood has provided excellent leadership for the Bureau since her designation as Acting Commissioner in 1978. Nominated to a full 4-year term by President Carter in 1979, she was renominated by President Reagan in 1983, and now, to a third term. That she has been elected to leadership positions in several professional societies and has received numerous honors and awards is indicative of the high esteem in which Janet Norwood is held by her colleagues in the fields of economics and statistics.

I commend the President for his decision to renominate Dr. Norwood for this post, and I hope the Senate will act expeditiously to confirm it. We must continue the high standards of quality, objectivity, and responsiveness which have characterized the work of the BLS.●

THE NEW GI BILL: HISTORIC LEGISLATION

● Mr. SHELBY. Mr. President, in attending the hearings held by the Senate Armed Services Committee this session, I have been impressed with the emphasis placed on the need for well-trained and better educated soldiers in our Armed Forces. Our national security has become increasingly dependent on technologically advanced weaponry and sophisticated communications systems. The technology of war and peace has changed as much as our economy has. We have wisely developed improved means of defending ourselves, and we must ensure that we develop the human resources to continue strengthening our national defense.

I want to commend my colleagues for their vote in support of S.12, the new GI bill, in helping ensure that this development will occur.

Since World War II, the opportunities offered by veterans' education programs have increased the attractiveness of military service. These education benefits have had outstanding success in terms of recruiting highly motivated, bright young people into the armed services. The new GI bill would continue as an effective tool for recruitment and retention in the armed services.

Since Congress reinstated the GI Bill Education Program in 1985, over 76 percent of eligible active duty soldiers have elected to participate, and this number has even increased by 10 percent since June of 1986. The increased complexities of modern warfare demand that the Army, Navy, and the Air Force maintain the quality of its enlisted force. We need quality soldiers who will perform well during their initial enlistment and will develop into qualified leaders who can successfully meet the challenges they will face over the course of a military career.

The new GI bill has enormous value as not only a readjustment benefit for veterans, but also as a valuable investment in the development of a highly trained military work force. A skilled force will only serve to enhance our Nation's competitiveness. Critical, sophisticated industries demand workers skilled in technology and a populace conversant with the rudiments of science. Our nearest world competitor, Japan, recognized the importance of education for its own future 25 years ago. Clearly, the new GI bill is not a grant; it is not a giveaway program; it is smart business—and a wise investment in our human resources.

The strongest benefit, though, is that these soldiers are performing better in strengthening our national defense. In virtually every measure of performance tested by the Army—tank firing, riflery, and leadership qualities as seen in promotions—the GI bill recruits have come out ahead.

In short, I feel it would have been most difficult to devise a better, more cost-effective program than the GI bill to meet the needs of the military and society as a whole. It was the right time for us to act to remove any further uncertainty about the future of this program, and I am proud to have joined as a cosponsor of this historical legislation.●

CENTRAL AMERICA

● Mr. ARMSTRONG. Mr. President, one of the biggest problems we face in our efforts to understand what is going on in Central America is that too often our perceptions are colored by our preconceived viewpoints. For those who look favorably on the Sandinista revolution, the Contras are a bunch of Somocistas and bandits and terrorists who commit every crime in the book. On the other side, those of us who oppose the Communist orientation of the Sandinista regime are sometimes too ready to base our opposition on what we surmise "must be" the case rather than on the hard facts.

Unfortunately, the hard facts are often difficult to establish, especially since the fact-finders themselves usually have the same biases as everybody else. When I recently traveled to Nicaragua, I met with a number of American news representatives to get the scoop on the local situation. After all, these are people who have been there for some time, often for years, whose portfolio is to check into things and to get the straight story—in an extensive and in-depth manner than none of us would ever have time for. I was appalled that while some of the newspeople I met with knew what they were talking about, others didn't even know who some of the major players in the Nicaraguan scene were and hadn't even made the most elementary efforts to get out and talk to people. Instead, they just sat back and got their information from Sandinista handouts. As I say, there were some that did their jobs; at the same time, there were those who presumed to inform the American public based on their own almost total ignorance.

This is why, Mr. President, I was particularly pleased to see today's Washington Post, specifically the article by William Branigin on abusive Sandinista practices. Here's an example of a newsman who actually got up and went out to talk to the people who had been imprisoned and tortured by the Sandinistas; who talked to both the official Sandinista human rights organization and the independent one; who interviewed the Minister of the Interior, Comandante Tomàs Borge, and members of the organization of mothers of political prisoners; who actually made the mental effort to compare the prisoner tallies of the various organizations. Mr. Branigin correctly points out that "reporting on Nicaragua's human rights situation takes place in a highly charged political atmosphere in which the built-in biases of groups that oppose the Contras or the Sandinistas must be taken into account." The only solution is to do what Mr. Branigin did: accept the various sources for what they are worth and then dig for the real story.

I hope that my colleagues will take the time to read Mr. Branigin's fine effort. I ask that his article be printed in the RECORD.

The article follows:

PATTERN OF ABUSES LAID TO SANDINISTAS

(By William Branigin)

TIPITAPA, NICARAGUA.—Last month, two carloads of Sandinista secret police pulled up to Rosa Moreira Trana's rickety wooden shack here and arrested the 58-year-old widow and two of her 12 children: a 26-year-old son and a 22-year-old pregnant daughter.

So began 18 days of suffering and terror for one of the thousands of Nicaraguans who have passed through the Sandinista prison system. Moreira's story reflects a pattern of human rights violations—including arbitrary arrests and torture—under the Sandinista government as it wages an escalating war with U.S.-backed rebels, who also have been charged with widespread abuses.

According to Moreira, she and her children were taken to Managua's notorious El Chipote prison, where she was accused of being a rebel leader and placed in a tiny, stifling, lice-infested cell with a steel door, no light and only a hole in the ceiling to let in air.

Already at the facility operated by the secret police was another son, who had been picked up at work in Managua the day before. She said she was targeted as a suspected rebel because her family hails from a southern part of the country, where the insurgents enjoy support.

During her detention, Moreira said, guards deprived her of sleep, menaced her with a snake, gave her pills that made her sick and threatened to kill her children. At one point, she said, she heard a man being beaten and was told it was one of her sons.

Finally, ill and terrified after 18 days of solitary confinement in a dark cell, Moreira said, she signed a confession that she was not allowed to read and was released along with her daughter. Now, Moreira said police have told her that she and her daughter are under indefinite "house arrest," although neither has appeared in court. Her two sons are still in El Chipote.

Nearby, in Tipitapa's state penitentiary known as the Model Prison, Isidora Zapata Zeledon, a 29-year-old nurse is serving a 30-year sentence for what is officially described as an "offense against public order and security." A Sandinista official said she was the wife of a rebel task force chief. A human rights activist said she was accused of treating wounded rebels.

In a letter smuggled out of prison last year, Zeledon said that after her arrest in December 1982, when she was two months pregnant, she was beaten and sexually abused by guards, confined in a coffin-like cell, deprived of food and water for three days and locked in a toilet, where she was force to sleep naked on a wet floor.

Zeledon wrote that she became so thirsty at one point that she drank slimy water from the toilet tank, She was interrogated with a pistol at her temple and eventually signed a confession that her interrogators said would lead to her release, Zeledon wrote. Instead, according to a human rights advocate, it was used as the only evidence against her when a Sandinista court sentenced her to 30 years in prison in 1984.

On April 22, according to an Interior Ministry communique, three suspected "counterrevoluntionaries," or contras, accused of blowing up utility pylons were shot to death after they were taken to point out an arms cache and allegedly tried to escape.

Three days later, Gen. Humberto Ortega, the Sandinista defense minister, said, "Now the government will get tough with terrorists and tower-dynamiters." He added, "The Army and the people have been directed to execute revolutionary justice against all those elements who are surprised while carrying out terrorist acts against civilian and economic targets," as well as "those who indirectly collaborate in such actions."

Interviews with former detainees, relatives of political prisoners and human rights activists, as well as reports by human rights investigators, suggest that Nicaragua's Sandinista government violates the human rights of its citizens on a large scale. The interviewees and the written reports cite instances of arbitrary arrest, psychological and physical torture, disappearances, trials by kangaroo courts, mysterious deaths of suspects under detention, forcible resettlement of peasants and aerial bombing of civilians in remote areas.

The government acknowledges that its military and security forces abuse some human rights, but insists these are isolated cases that result in severe punishment. Authorities generally deny or decline comment on the most serious violations. A governmental human rights commission focuses almost exclusively on abuses by the rebels, which have been documented and condemned as well by a number of foreign human rights organizations.

INTERNATIONAL FOCUS

These human rights violations by the contras—including the killing of civilians, kidnaping, torture, summary executions, attacks on nonmilitary targets and indiscriminate use of land mines—also have been extensively reported by news media. Less has emerged about Sandinista violations, which generally have not attracted as much international attention as the contra abuses.

Reporting on Nicaragua's human rights situation takes place in a highly charged political atmosphere in which the built-in biases of groups that oppose the contras or the Sandinistas must be taken into account. None of the human rights groups operating in Nicaragua is generally recognized as impartial.

One of the first detailed studies by an independent international human rights organization was a 211-page report published last July by the New York-based International League for Human Rights. The study charges that the Sandinista government violates several international agreements it has signed, notably the International Covenant on Civil and Political Rights, through "arbitrary arrest and detention," use of "torture and cruel, inhuman and degrading treatment or punishment" of prisoners, failure to "comport with the minimum due process standards effective even in a state of emergency" and other practices.

In a 117-page report issued in February, the human rights group Americas Watch states, "The government of Nicaragua engages, as a matter of policy, in abusive interrogation tactics against prisoners, including psychological pressure and threats used to secure their confessions." It cites "the use of very small cells, sleep deprivation and food and water deprivation."

However, the organization, which says it opposes U.S. support for the contras, absolves the Sandinista government of the systematic use of torture, noting that cases it has found "represent isolated instances, not part of a deliberate policy."

Unlike some other non-Nicaraguan groups, Americas Watch does not see "a pattern of violations" of the laws of war, the right to life and physical integrity of detainees and forced disappearances. It says such cases that do occur "do not reflect a governmental policy to commit them or to tolerate them."

That view is disputed by Nicaragua's Permanent Commission on Human Rights, an independent body that began by denouncing violations under the former regime of Anastasio Somoza in 1977 and now documents charges against the Sandinistas.

In a 26-page report published April 30, it charges that "the government uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."

The report asserts that in the General Directorate of State Security's "operations centers," of which there are nine major ones, including El Chipote, political detainees are "subjected to all kinds of torture and mistreatment so that they sign declarations that in most cases they are not permitted to read and in which they incriminate themselves or implicate others in 'counterrevolutionary activities.'"

OBSERVERS EXCLUDED

These detention facilities are off-limits to all human rights organizations, including the government's own commission and the International Committee of the Red Cross. The report also says that since October 1985, it has received complaints of 33 cases in which persons were killed upon or after being arrested. In addition, it says, the Permanent Commission is currently investigating 280 cases of persons who disappeared after having been captured by Sandinista authorities.

Another recent study by the Puebla Institute, a New York-based lay Roman Catholic human rights organization headed by a Nicaraguan critic of the Sandinista government, says that more than 300,000 Nicaraguans, at least 10 percent of the population, have left their country since the 1979 Sandinista takeover because of abuses including arbitrary arrest, torture and the bombing of homes in rural areas where contras are active.

In an interview, Interior Minister Tomas Borge denied most of these charges as "ridiculous." He said that "historically a large number of Nicaraguans have lived outside the country" and that they could amount to 300,000, "but only a minor part of them are refugees." He said that "probably there have been air attacks by planes or helicopters against counterrevolutionary units" in areas cited by the Puebla Institute report, but he denied that any civilian settlements had ever been attacked.

Borge denied that interrogators torture or "practice violence" against prisoners, but he indicated that state security prisons would continue to be off-limits to human rights groups. "We don't permit prisoners to be seen during interrogation because that would obstruct the investigations," he said.

The interior minister, one of nine *comandantes* on the Sandinista National Directorate that runs the country, also denied charges by a high-ranking Interior Ministry defector, Alvaro Jose Baldizon Aviles, that Borge had ordered "special measures," meaning summary executions, of certain political enemies of the Sandinistas. Borge called Baldizon a "traitor" who is "full of calumny for the revolution" and "invented this out of the air."

"I am opposed historically to all types of abuses, and everyone in Nicaragua knows it," Borge said. "No leader of the revolution has ever ordered a murder," he added. "I don't want to say that murders have not been committed, but those comrades who have committed murders have been prosecuted by courts and sentenced to up to 30 years in prison."

Borge said that among the security forces, "hundreds have been punished" for various offenses, including abuse of prisoners.

According to figures released by Borge in the interview May 9, there were 10,293 prisoners in various Sandinista prisons, including 132 in State Security centers. He estimated that about 70 percent of the rest were jailed for "common crimes." He indicated that snags have delayed a plan to release about 600 former National Guardsmen jailed since 1979.

Vlima Nunez, the president of the National Commission for the Protection and Promotion of Human Rights, a government-sponsored group, gave somewhat different figures. She said there were about 9,500 prisoners, including 300 in State Security detention centers, 2,322 former National Guardsmen and 1,500 to 1,600 other "counterrevolutionaries."

However, according to Lino Hernandez, the head of the nongovernmental Permanent Commission on Human Rights, only the figure for the imprisoned National Guardsmen is not in dispute. In addition, he said, there are "no fewer than 7,000 political prisoners" in a total estimated prison population of about 14,000, including up to 1,500 held in State Security facilities.

In an interview, Hernandez criticized what he said were understated figures on political prisoners published by some international organizations, including Americas Watch, whose latest report gives figures for National Guard and "political prisoners" that total slightly less than the Sandinista commission's figures.

Hernandez also complained that anticontra U.S. groups such as Americas Watch, Witness for Peace and the Washington Office on Latin America tended to soft-pedal Sandinista human rights violations or explain them as "isolated cases" out of government control.

"They try to call attention to violations by the contras," Hernandez said. "They do work that is eminently political against the North American administration. We think these organizations have every right to oppose their government's policy of arming warring factions in any part of the world, but they don't have the right to distort our reality to achieve this."

A Witness for Peace spokesman in Managua countercharged that the Permanent Commission does "selective reporting" and takes a "biased view."

Hernandez mentioned the case of Sofonias Cisneros, president of the Nicaraguan Union of Christian School Parents' Associations, who was arrested May 14, 1985, at his home after making a speech denouncing what he said was the Marxist-Leninist orientation of the Sandinista education program.

In a written account, Cisneros said he was taken to El Chipote prison, where he was tortured and threatened with death by the chief of the General Directorate of State Security, Comandante Lenin Cerna. Later that night, Cisneros said, he was dumped naked in a Managua street. "You can't say it's a case out of control if it was handled personally by Lenin Cerna," Hernandez said.

A KIND OF ABUSE

Borge acknowledged that Cisneros was "subjected to a kind of abuse, but not to the extent he claimed," because he had "insulted" leading "martyrs of the revolution." But Borge denied that Cerna was involved and said "another comrade" had been punished in the case. Cerna did not respond to a request for an interview.

According to Hernandez and other Nicaraguan sources, Sandinista authorities recently have been cracking down on a new organization called the Jan. 22 Movement of Mothers of Political Prisoners. The group, founded in January to lobby for a general amnesty and better treatment for political detainees, says it numbers more than 150 active members and some 4,000 affiliated relatives of prisoners.

Several members interviewed said they had been threatened by State Security men recently and warned to quit the movement. At least five have been detained briefly by the secret police.

One member, Tomasa Hernandez, a former Sandinista militant who says her imprisoned husband was once a bodyguard for Daniel Ortega, said authorities had threatened to jail her for her activities and already had drafted her 16-year-old son in "reprisal." She said her husband had been jailed several times after falling out with the Sandinistas in 1980 and joining the Social Christian Party. He was sentenced in 1985 to three years for involvement in a contra "internal front."

"After the revolution, we saw that there wasn't democracy, that there wasn't the system we had been fighting for," Hernandez said. She said she would remain in the Jan. 22 Movement because "it's the only way we can face up to a totalitarian dictatorship."

Another member, Violeta de Rugama, said her 26-year-old son, Manuel Adan Rugama Suazo, was arrested in June 1984 shortly after graduating from medical school in Mexico and sentenced to nine years in jail for alleged involvement in the contra "internal front." She called the sentence "revenge" because a relative with a similar name, Manuel Adan Rugama Acevedo, also a doctor, is an active contra commander. She said her family's private hospital had been confiscated, her son had been punished in prison and a warden had warned her that the son would "disappear" if she continued in the movement.

In a separate interview at her shack in Tipitapa, Rosa Moreira Trana told of similar threats as she described her imprisonment last month in El Chipote with her sons, Marcial and Lorenzo, and a daughter, Maria Ignacia. At one point as she listened to the screams of a man she thought was a son, she said, a guard came and "told me, 'We're going to kill Lorenzo.' He said I had to say who were the contras among the people, that I was a leader of the counterrevolution, that my children and I were comrades of those who were blowing up pylons." She continued, "They told me I was a counterrevolutionary, that I was with the CIA, that I was in contact with Reagan. But I don't know the contras, and neither do my children."

Sitting on a stool in her yard as naked grandchildren played around her and chickens pecked in the dirt, Moreira sobbed as she recalled the terror of her interrogation: "I'm afraid they're going to kill my children. They told me they were going to kill them all . . . kill all my children and grandchildren."

Her daughter, Maria Ignacia, added, "They told us that if we talk about what they said to us, they were going to make me disappear. They were going to take my brother Lorenzo and me and make it look like we were killed in combat by the contras."

"This is the clean revolution that we have in Nicaragua," Rosa Moreira said when she had calmed down. "If I were younger and healthy, maybe I would be with the contras."

In Managua, Vilma Nunez, the head of the Sandinistas' right commission, said she was not aware of such complaints and that her commission has not received "any denunciations of torture." Seated in her office, which is decorated by a large Sandinista flag, portraits and busts of revolutionary leaders and books by Fidel Castro, Nunez acknowledged she is a "Sandinista militant" and said she believes in being a "good Sandinista."

Of the mothers' movement, she said, "Officially we don't know of their existence. They haven't come to the commission." She added, "I don't know why these persons don't come here. If they would come and make a complaint, we would immediately attend to it."●

FIXING THE CAPITAL GAINS TAX

● **Mr. BOSCHWITZ.** Mr. President, I want to again take time to discuss the repeal of the long-term capital gains exclusion by the Tax Reform Act of 1986.

This will be my fourth speech this year on the need to reinstate a differential tax rate for long-term capital gains. I will continue to speak out on the subject in the future. While I agree with the general sentiment here in Congress that we should leave the Tax Code alone for awhile, give taxpayers a chance to catch their breath, I think an exception does need to be made in the case of capital gains.

As my colleagues are aware, under the "old" tax law—that is, the tax law prior to the Tax Reform Act of 1986—there was a differential tax rate for long-term capital gains. Ordinary income was taxed at rates as high as 50 percent. However, because of a 60-percent exclusion, the top tax rate on long-term capital gains was 20 percent; 40 percent subject to tax at a top tax rate of 50 percent.

The Tax Reform Act of 1986 repealed the exclusion for capital gains. These gains will now be taxed as ordinary income. That means that at the Federal level, the maximum marginal tax rate on capital gains could increase from 20 percent to as high as 33 percent. While I was an enthusiastic supporter of the new law, I nevertheless very much disagree with the repeal of the capital gains exclusion.

During the debate of the new law, it was argued that repealing the exclusion was a revenue raiser for the Treasury. Interestingly, when my friend, the late Congressman Bill Steiger, was fighting to push through the capital gains exclusion of the old law, he was faced with a similar argument. In a 1978 letter to Congressman Steiger then Secretary of the Treasury W. Michael Blumenthal stated that lowering the tax rate on capital gains to pre-1969 levels would cost the Treasury $2 billion annually.

Fortunately, an exclusion was enacted despite the objections of the Treasury. Did revenues to the Treasury from capital gains transactions fall? Quite the contrary, they increased substantially. In 1978, with a top tax rate on capital gains of 49.1 percent, capital gains collections were $9.3 billion. The following years—1979 and 1980—when the maximum rate was lowered to 28 percent, collections jumped to $11.7 billion and $12.5 billion respectively.[1]

Those figures are not at all surprising. Mr. President, I ask unanimous consent to have a chart comparing the tax rate on long-term capital gains with collections from capital gains inserted in the RECORD immediately following my statement. As that chart illustrates, lowering the capital gains rate generally increases collections and increasing the rate generally decreases collections. This reflects the fact that capital gains are voluntary. When rates are high, there is a tendency to hold assets. When rates are lowered, assets turn over more quickly—and are put to more productive uses.

Both in the 99th Congress and again in this 100th Congress I have introduced legislation—now S. 444—to reinstate a differential tax rate for long-term capital gains. Under my proposal, the exclusion for assets held at least 1 year would be 40 percent. For assets held 3 years or more, the exclusion would be increased to 60 percent. These exclusions will bring the tax rate on capital gains back in line with the rate under the old law. And as the figures indicate, it should not result in a significant loss of revenue to the Treasury, if any. I urge my colleagues to join me in cosponsoring S. 444.

The table follows:

CAPITAL GAINS RATE INCREASES RESULT IN REDUCED REVENUES, CAPITAL GAINS RATE CUTS RESULT IN INCREASED REVENUES

Year	Maximum capital gains rate (percent)	Capital gains revenues (millions)
1968	25.9	$5,943
1969	27.5	5,275
1970	32.2	3,161
1971	30.8	4,380
1972	45.5	5,708
1973	45.5	5,366

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[1] All figures are from the American Council for Capital Formation.

CAPITAL GAINS RATE INCREASES RESULT IN REDUCED REVENUES, CAPITAL GAINS RATE CUTS RESULT IN INCREASED REVENUES—Continued

Year	Maximum capital gains rate (percent)	Capital gains revenues (millions)
1974	45.5	4,253
1975	45.5	4,535
1976	49.1	6,621
1977	49.1	8,104
1978	49.1	9,348
1979	28.0	11,669
1980	28.0	12,459
1981	20.0	12,684
1982	20.0	12,900
1983	20.0	17,800

CENTENNIAL OF FESTUS, MO

● Mr. DANFORTH. Mr. President, the city of Festus, MO, will celebrate its centennial with a series of gala events May 16 through May 25.

Festus is a proud community with a rich history. Festus was established just 30 miles south of St. Louis on February 10, 1887, when 122 residents petitioned the Jefferson County Court to incorporate their community.

Festus grew quickly. By the late 19th century, the city was able to boast 1,200 residents, 4 general stores, a tinner, a drug store, a grocer, 2 bakeries, a boarding house, a gents' furnishing store, a brickyard, 4 saloons, a brewery depot, 4 churches, 3 physicians and a host of other commercial establishments. Festus owed its prosperity to the success of the nearby Crystal Plate Glass Co., the area's major employer, with a payroll in 1887 of almost $30,000 a month.

From impressive beginnings, Festus continued to grow and develop and today serves as a significant center of commerce for Jefferson County and surrounding areas. With a current population of 7,750, Festus looks back with excitement at its heritage, its status as a truly great American community, and its prospects for the future.

In recognizing the city's century of excellence, I would like to extend my hearty congratulations to the people of Festus as they celebrate the centennial of their great town. May their good fortune continue, and may the next century bring 100 years of progress and prosperity.●

NEW JERSEY SMALL BUSINESS PERSONS OF THE YEAR

● Mr. LAUTENBERG. Mr. President, I would like to salute the individuals from New Jersey who were honored last week—U.S. Small Business Week—by the Small Business Administration for their outstanding contributions to the business world.

Each year since 1964, the week of May 10-16 has been proclaimed by the President as "Small Business Week." During this week, Americans pay tribute to our small business owners. Special honors are bestowed upon individuals in each State for their outstanding achievements and accomplishments as small business owners.

Though the men and women honored during Small Business Week are leaders in the small business community, their contributions to America's economy are not small at all. America's small businesses boost the economy by providing nearly one-half of the gross national product. Even more, they are on the cutting edge of progress and innovation.

I know from personal experience how it feels to start a small business and watch it grow. So many risks, uncertainties, and problems face the aspiring entrepreneur. But the pride that accompanies success and acceptance in the marketplace make it well worth the effort. I know that. The Small Business Administration knows that. And so do the recipients of the Small Business Administration's distinguished awards.

Mr. President, I would like to congratulate Mr. Albert Glenn Paul, the president of Clancy-Paul, Inc., of Cranbury, NJ, who received the New Jersey Small Business Person of the Year Award. Back in 1981, Mr. Paul established a full-service computer company. He did that with only $40,000 in seed capital and two employees. Today he employs some 90 individuals and his business now has annual sales of $20 million.

I would also like to congratulate a number of other individuals from New Jersey whose contributions to the small business community were recognized this week. They are Barbara Lancaster, woman business advocate; Charles Bertsch, media advocate; James J. Rose, accountant advocate; Alan Lipsky, financial services advocate; Daniel E. Smith, veterans advocate; Mayor John A. Lynch, minority advocate; New Jersey Bell, development award; Joseph Kaye, small business exporter; Dr. Richard F. Stockel, innovation award; and Richard Spair, Jr., young entrepreneur.

Successful business activity is the basis for economic growth. It is the backbone of New Jersey's economy, and of America's as well. I am delighted to salute these small business men and women who have promoted economic growth and development in New Jersey. I encourage them to remain dedicated, hard working, and persistent in their business endeavors.●

REMARKS OF SENATOR McCAIN AT AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE CONFERENCE

● Mr. McCONNELL. Mr. President, I will keep my comments brief because I want to draw my colleagues' attention not to my views, but those of Senator JOHN McCAIN. Last night, at the annual American Israel Public Affairs Committee Conference dinner, my colleague delivered remarks that I believe merit our collective attention. Senator McCAIN spoke eloquently of the strong, successful history of America's friendship with Israel, but he wasn't deterred from tackling the tough issues challenging that bond. It is because we can face our difficulties honestly that our friendship is strengthened. And, it is out of this strength that we work together in the Middle East toward a durable peace.

I agree with the Senator's conclusion that we must remember that Israel is a friend not a client, that Israel is our partner we are not Israel's parents. Mr. President, I ask that Senator McCAIN's statement be included in the RECORD for the Senate's consideration.

The statement follows:

REMARKS OF SENATOR JOHN McCAIN—AIPAC POLICY CONFERENCE

Thank you for your generous introduction. As I looked out at the audience during the dinner it occurred to me that there are more members of Congress here than at many roll call votes. The large congressional turnout is a dramatic demonstration of the bipartisan commitment to Israel's security and survival.

There are more dignitaries at this dinner than one finds at similar events in this city. Even more impressive is the fact that people have come from all over the country to attend this conference and express individual support for the goals we all share.

This large turnout is wonderful tribute to Bob Asher and the officers of AIPAC and to Tom Dine, Ralph Nurnberger and the staff. You do a wonderful job on behalf of the cause we all support. Your hard work cements the bonds of the American relationship with Israel and, in the process, you promote the best in American foreign policy.

This conference is certainly a success, although this dinner is going on for so long there is a rumor we will be here for breakfast. Looking out upon this audience is awe-spiring for an after dinner speaker. In fact, I could not help thinking about my task, even while the dinner was being served.

It is an honor to be on the same platform with my colleague and friend from Georgia, Senator SAM NUNN. As you all know, we had expected foreign minister Shimon Peres to be with us here this evening. Israel's efforts towards peace have required Mr. Peres' return to Jerusalem.

As one who has known war, I can appreciate the quest for peace. It was Adlai Stevenson who said that "making peace is harder than making war". That effort has caused great turmoil in Israel. America's attitude in that debate should be the same as with any other democratic ally: Our common goal is peace, but we cannot dictate the terms. We are Israel's partners, not Israel's parents.

Peace is as much a state of mind as a political concept. It requires a new system of relationships between Israel and the Arab States. A major challenge of the peace process is to create a political edifice that will serve as a bridge, not a wedge, between Israel and her neighbors. It must also be stressed that peace will only be achieved when the Arab nations recognize the reality of a secure Israel.

Let me stress my conviction that only when Israel's neighbor's recognize her strength and capacity to defend herself will they be willing to enter into meaningful negotiations. In fact, that is precisely why I believe the United States is so committed to the continued qualitative edge for Israel. We share with Israel the belief that peace can be achieved given time, patience, consistent diplomacy and a deterrent posture that encourages political options and discourages military adventurism against Israel.

Without question, the United States and Israel share a unique and special relationship based upon a similar political and cultural heritage. President Harry Truman set the parameters for this friendship in May, 1948, and every President and a bipartisan majority of every Congress since then have viewed the survival, security and well-being of Israel as a moral imperative.

Obviously, the United States and Israel have not always agreed upon every issue. For example, I am sure that many Israelis still disagree with President Eisenhower's threatened cut off of aid to force Israel back from the Suez in 1956, and I am sure that many in this room do not share the affinity for a peace conference expressed by some in Israel. While these differences are natural, especially between free and democratic nations, there are occasional incidents which stir public indignation and arouse anger.

Most recently, the Jonathan Pollard spy case and its aftermath have had that effect. Without question, Israel made a series of mistakes. Pollard should never have been hired to spy in the United States, and his handlers, Rafael Eitan and Avi Seelaw, should never have been promoted.

The public outcries were justified; there were new tensions between our two nations; there was a strain upon the special relationship. The damage from the Pollard case is clear. Even George Shultz, one of the best friends of Israel ever to serve as Secretary of State, publicly vented his anger. Editorials, op-ed pieces and news specials denounced the way this case was handled.

Fortunately, we seem to be moving beyond the Pollard case. The Israel leadership has admitted making mistakes. Colonel Sella has resigned as commander of the Tel Nof Air Force Base, and official probes by an investigative team and a parliamentary committee under Abba Eban has been established.

Secretary Shultz has expressed his "full confidence in Israel's determination and ability" to fulfill its pledge to "investigate the matter thoroughly and to bring those responsible to account."

I agree, and assuming that the investigations are serious and that the recommendations are implemented, I look for the long range damage to be minimal.

But before I leave the subject, let me touch upon two issues that the Pollard case brought to the surface.

The first is the disturbing question of dual loyalty, and the second is the future of the relationship after Pollard.

William Safire wrote in the New York Times that one of the "consequences is the encouragement of anti-Semites who charge that Jews everywhere are at best afflicted with dual loyalty, and at worst are agents of a vast fifth column."

Charles Krauthammer wrote that "post Pollard, there is a palpable fear among American Jews that the dual loyalty demon is again astirring."

The charge of "dual loyalty" has been heard before. Ironically, it was charges of dual loyalty on the part of Jews in France during the infamous Dreyfus case that helped lead to the foundation of modern Zionism.

In America, the charge of "dual loyalty" has been used to imply that Jews are somehow doing something wrong when they support close ties with the state of Irsael. Gore Vidal, for example, recently wrote a frenzied diatribe in The Nation in which he referred to Jewish neoconservatives as "Israeli fifth columnists" and described the United States as "their host country".

A more reasoned approach of the same case was presented by former Senator Charles Mathias in a 1981 article in foreign affairs. He warned that "ethnic politics", whether practiced by Jews, Greek Americans, Irish Americans or Blacks, were contrary to the national interest. Mathias argued that "they have generated both unnecessary animosities and illusions of common interest where none exists".

The Pollard case has raised a new form of these ugly charges. Some Israelis have suggested that the only hope for American Jews is to flee from this country and move to Israel. For example, Shlomo Avineri, former Director General of Israel's foreign ministry, wrote a widely publicized letter in which he concluded that "for all its achievements and promise, America, it now evidently appears, may not be your promised land".

I am offended by all these arguments. We are fortunate to live in a pluralistic society, in which we can have several allegiances. In a totalitarian state or an oppressive society, only one allegiance is allowed. American Jews can feel strongly about Israel without having their patriotism challenged.

In fact, one of the best offshoots of this entire affair was the trip of 65 Jewish leaders to Israel. Bob Asher and Morris Abrams, you and your colleagues are to be commended for publicly telling Israeli leaders that you disagree with their handling of these matters. This did not undermine your support for Israel. It underscored your ability to be both good Americans and strong supporters of Israel.

In addition to rejecting the concept of dual loyalty, I categorically reject the underlying thesis of collective guilt.

Two days after Pollard's arrest, Larry Wu-Tai Chin was arrested and subsequently convicted of spying for China. He had been doing so for 29 years, since just after the Korean war. During most of that time, China was intensely hostile to America, including supporting nations at war with the United States. Yet virtually no one raised the spectre of "dual loyalty" with regard to Chinese Americans.

I believe the finest comments on this subject were delivered by Hubert Humphrey at the 1976 AIPAC Policy Conference:

"Let no one contest the patriotic dedication of the Jewish community in the United States. From the first days of our republic, from the days George Washington needed help in the battles for independence, people of the Jewish faith have been in the front lines doing their job for freedom, for justice. The whole theme of justice and the priceless nature of the human spirit comes from Jewish philosophy and Jewish religion."

"I approve not only because I happen to agree with the program you're advocating, but because I think it's good for our country. It is good for the basic democratic process that people who have convictions about American public policy should take the time to get their fellow Americans and their public officials to understand what they believe and to urge their support.

"There is nothing new about lobbying on behalf of causes in foreign places. Its as American as a hot dog or apple pie, spaghetti, gefilte fish or polish sausage. We are a nation of immigrants * * * We are concerned about the land of our fathers, be it Poland or Italy or Russia or Norway or England or Ireland or Africa. And we have every right to urge the Congress and the President to pursue policies that we deem to be correct. We are never assured that those policies will be followed. We may not win. We may not be able to gain the majority, but we surely have the right to state our case".

Let me now turn to a second offshoot of the Pollard case. It has caused many Americans to revaluate the American relationship with Israel.

Every year, my wife Cindy and I go to the Jewish Federation in Phoenix to make calls on Super Sunday. In fact, I would not be surprised if I had the pleasure of calling some of the people in this audience tonight. This year, one person said that he would not contribute because of the Pollard case.

I was outraged. The Pollard case does not change our ties with Israel. No two democratic nations will ever be 100 percent in synch with each other. But the basis of the United States-Israeli relationship is the shared values between the two countries—and these have not and will not change.

During my military service, I learned that there are very few nations in the world upon which the United States can rely, and that it is important to support those countries which share our common interests. As a result, the United States has built strong ties with friends and allies from Europe to Latin America to Asia. These countries work together to defend themselves against internal subversion and external aggression.

Unfortunately, in the Middle East, the majority of States do not fall into this category. However, Israel's democratic institutions, political stability, its geographic position midway between Europe and the Persian Gulf, and most important, the friendship of the Israeli people for America make it the most reliable and dependable friend in this volatile region.

President Reagan, who has presided over one of the most pro-Israel administrations in history, has acknowledged this fact. He has clearly stated that "Israel is a major strategic asset to America. Israel is not a client, but a reliable friend."

This has now become a widely recognized fact. On January 23 of this year, President Reagan, supported by both Houses of Congress, named Israel a "major non-NATO ally."

The granting of this status is a logical extension of the alliance which has blossomed since November 1983, when the United States and Israel enunciated a policy of expanded cooperation in the area of military and strategic planning.

That process must be pursued and accelerated. There is more we can do to strengthen our alliance and ensure the survival of our shared values. Let me give you just two examples:

The Soviet threat in the Mediterranean is ominous. Client States like Libya and Syria have increased Soviet influence in the area. While Soviet naval units were not used during last year's actions against Khaddaffi, their presence complicated planning and emphasized the growth of the Soviet Mediterranean Fleet.

Increased tensions between Turkey and Greece, periodic Greek threats to revoke base rights, and continued political tension in North Africa demonstrate the growing instability of NATO's southern flank.

All this means that there is no firm anchor for NATO defense of the Eastern Mediterranean. This is the Western alliance's underbelly—and right now, it is a dangerously soft underbelly.

Israel could fill that role. Israel engages in bilateral cooperation with many NATO countries, but has no relationship with the NATO alliance as a whole. Permanent, regular and organized cooperation would permit fuller integration of Israel into the Western defense structure.

We also need firm agreements on Israel's willingness to provide secure sites and logistical support for possible American or alliance operations. Currently, the United States-Israel military group oversees prepositioning of supplies. Israel responds positively when we ask for help on an ad hoc basis, but no clear, comprehensive understanding exists for contingencies.

Exploration of these ideas with Israel would also demonstrate to Greece and Turkey that America has other options in the Eastern Mediterranean.

The Iraqi attack on the U.S.S. *Stark* only reinforces the need for expanded strategic cooperation with Israel. Yesterday's events, in which two exocet missiles killed 28 sailors indicates the hair trigger nature of the Persian Gulf War. The attack also underscores the fragility of the West's oil lifeline, and the burden America bears in assuring our allies' access to the gulf.

I know that the people of Israel join with all Americans in mourning the loss of 28 young sailors. When I heard of their deaths, I was reminded of Abraham Lincoln's letter to a mother who had lost five sons during the Civil War:

"I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom".

Cooperation against terrorism is a second area where broader cooperation could benefit both the United States and Israel. Israel should be integrated into a broader cooperative effort—ranging from the United States to Japan—against the scourge.

All our nations face a terrorist threat. All of us call it an international problem that can be eradicated only through international cooperation. But when push comes to shove, we rarely act in concert, preferring to treat each incident as a unilateral program.

A good place to start combatting terrorism would be here in Washington. We should close down the PLO Office in our Capitol. It is appalling that a terrorist organization is permitted to operate in the United States. Last week, I joined five of my colleagues in introducing legislation to shutdown PLO offices within United States jurisdiction, and to make it a crime to receive anything of value from the terrorists. Closing the PLO office in Washington becomes even more urgent after their Tunis meeting, where the most radical elements were rejoined with Arafat in rejecting Israel's existence.

Regardless of these and other efforts, American foreign policy must adhere to the following fundamentals:

(1) We must remain diligent about maintaining Israel's qualitative military edge in the region, so that no single nation in the Middle East and no conceivable combination of such nations, shall become a fundamental challenge to Israel's security.

(2) We must maintain the necessary level of economic and military assistance to Israel, even in the face of the severe budgetary constraints we have imposed upon ourselves. We must not forget that it is in America's best interests to do so.

(3) We must continue to view Israel, not as a burden or as a client, but as a partner in the search for peace and justice in the world. As President Reagan has repeatedly stated, Israel is a strategic asset of the first order.

If we follow these principles, we can anticipate an even fuller and richer relationship between our two countries in the future.

I was fortunate enough to visit Israel a number of times before entering politics. However, my wife, Cindy, had never been.

Shortly after being elected to the House, I encouraged her to go to Israel. Fortunately, the interfaith council of Phoenix invited her to join one of their missions. Cindy knew about my enthusiasm, but I did not wish to prejudice her impressions before she went.

When Cindy returned, I asked her what she thought was the most important site she visited. She thought for a few seconds and told me that four places, all very close in terms of geography, but very far apart in terms of history, had the greatest impact upon her.

I would like to conclude by sharing her insights with you. First, she said that she was impressed by the Wall and the entire Temple Mount area. She said this holy site reaffirmed the spirit and essence of the Jewish people. But since the Christian and Moslem holy sites are located in essentially the same place, she was impressed at the religious importance of Jerusalem to the people of three major faiths and the fact that under Israeli control all are able to worship freely and in peace.

Second, she mentioned Yad Va'Shem, the memorial to the victims of the Holocaust. Everyone is aware of what the Nazis did, but at Yad Va'Shem one really can grasp the enormity of the crime and the enormity of the loss.

At Yad Va'Shem, she experienced two simple truths. First, the horror of antisemitism is beyond description. Unfortunately, it still exists today. In Russia, for example, strong antisemitism is contained just below the surface. Official policy not only makes life harder for people simply because they are Jewish, but still refuses to let them emigrate.

In such a world, Jews must have a secure refuge, a home—an Israel.

Thus, the second lesson of Yad Va'Shem is that Israel must exist and must be accepted in the community of nations if we are ever to destroy antisemitism.

Cindy's third site was the little town of Kalkilia. She described it as a small village, just outside of Tel Aviv. Standing on a hill in Kalkilia, one can see the Mediterranean only a few miles away; the entire city of Tel Aviv lies below this vista. The sight, she said, was beautiful.

More significant is the fact that Kalkila was in Jordan until the Six Day War in 1967. When one stands there, it becomes painfully obvious how fragile Israel's borders were. Similarly, it becomes obvious that any peace settlement must ensure Isreal's security and safety.

Finally, Cindy was impressed by an absorption center near Jerusalem. She saw Ethiopians who had recently come to Israel as part of Operation Moses. There, for the first time in their lives, they were able to feel the benefits of freedom.

Cindy said that she saw the future in the eyes of their children. These children, and in fact, the majority of the people of Israel look forward to living their lives in peace.

In his book, "Man's Search for Meaning," Victor Frankl writes movingly of his captivity in Nazi Germany, of the power of love to overcome any evil, and of man's power to control his own destiny. He writes:

"We who lived in concentration camps can remember the men who walked through the huts comforting others, giving away their last piece of bread. They may have been few in number, but they offer sufficient proof that everything can be taken from a man but one thing: the last of human freedoms—to choose one's attitude in any given set of circumstances, to choose one's own way."

To choose our own way. Freedom to choose our leaders. Freedom from repression. Freedom to choose our way of life. Freedom to succeed or to fail, bound only by the limits of our imagination and talent.

That is the essence of Israel and America. And that is what we must fight to preserve.

ADMINISTRATION SHOULD RESIST CFC INDUSTRY

● **Mr. STAFFORD.** Mr. President, tomorrow the Domestic Policy Council will meet for the purpose of reconsidering the administration's policy regarding the regulation of chemicals which destroy the planet's ozone shield. I hope that when the doors are unlocked and the Cabinet Secretaries emerge, they will have reaffirmed the policy which the administration adopted last year: an immediate freeze on production, followed by a 95 percent reduction.

According to press reports, the Domestic Policy Council is meeting at the urging of the industries which produce and use the ozone-destroying chemicals, especially the family of substances known as chlorofluorocarbons. CFC's, known to many by the du Pont Corp.'s trade name Freon, are widely used in refrigerators and air conditioners. CFC's are also used to flash freeze corn-on-the-cob and manufacture the foamed plastics found at McDonald's and some other fast food outlets.

Many of the present uses of CFC's are important. A few are essential. But, on balance, there is no reason that the world could not reduce production and emissions by 95 percent or more with minimal economic dislocation. And it is imperative that we do so, not only because of the role of CFC's in ozone layer depletion but because of the part they play in global warming. To continue our business as usual is, according to the collective view of the best scientists in the world:

> Conducting one giant experiment on a global scale by increasing the concentra-

tions of trace gases in the atmosphere without knowing the environmental consequences.

Those are not the words of this Senator, Mr. President, but of 150 scientists throughout the world who met in late 1985 at Villach, Austria, under the auspices of a half-dozen national and international governmental organizations. Since then the body of evidence leading them to make such an alarming statement has grown more compelling. Scientists have now documented, on the basis of actual measurements, depletion of the ozone layer at higher altitudes and, most alarming, an ozone hole the size of North America which opens in the Antarctic ozone layer each spring.

Last Tuesday the Committee on Environment and Public Works received the most compelling statement from scientific witnesses since the Villach conference. One scientist told the committee that the evidence accumulated during the last 12 months of intensive study of the Antarctic ozone "might be said to be analogous to finding a smoking gun" linking depletion there with CFC's and other chemicals.

Yet, despite the very degree of understanding of how and why the ozone shield is being destroyed, there are those who would urge that still more time be devoted to study. Wisely, when the administration developed its policy on this subject last year for the purpose of ongoing international negotiations, it rejected the advocates of further study only and adopted instead a position of an immediate freeze, followed by a 95 percent reduction.

Today, Mr. President, that policy is in jeopardy. To abandon it now would be ill-advised in terms of both timing and substance. I have written several members of the Domestic Policy Council to urge that they adhere to the first—and best—policy of a 95 percent reduction. I hope other Members who share this Senator's view will do the same.

Mr. President, if there is no objection, I would like to have printed in the RECORD a number of documents relevant to this point. They include a summary of the Villach statement from which I quoted; copies of recent press reports on this subject; and, a copy of one of this Senator's letters to members of the Domestic Policy Council.

The material follows:

UNITED STATES SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, May 19, 1987.

Hon. EDWIN MEESE III,
Attorney General,
Department of Justice,
Washington, DC.

DEAR ATTORNEY GENERAL MEESE: For several months, it has been the official position of the United States in international negotiations that production of chemicals which destroy the earth's ozone shield should be frozen at current levels, then reduced by 95 percent. Since it was announced last year, this position has gathered increasing support from the other industrialized nations of the world. More importantly, scientific developments since then have made it clear that this is the only policy which will assure the maximum protection against a worldwide threat to the environment. To abandon the United States policy now would create confusion in the international community, embarrass the Administration, and impede progress towards what even the industry concedes must eventually occur: reductions in the production and use of CFC's and other ozone-depleting chemicals.

Very soon, the Domestic Policy Council will meet to decide this issue. I have no doubt that scientists will be in attendance to summarize the current state of knowledge, and especially recent developments. But I would like to take the liberty of succinctly summarizing what scientists have told the Congress:

First, analysis of actual measurements demonstrates that the global ozone layer has, in fact, thinned at the altitude of 40 kilometers. This is exactly where the first thinning is predicted to be detected and the amounts are consistent with the ozone depletion theory.

Second, a "hole" in the ozone layer the size of North America opens over the Antarctic every spring. It was detected only a few years ago and both the size of the hole and the level of the depletion has grown since then. Scientists cannot explain this phenomenon.

Third, it is the personal judgment of three of every four scientists who have testified before the Committee that chlorofluorocarbons and other ozone-depleting chemicals are more likely than not to be the cause of the 40 kilometer depletion or the Antarctic "hole" or both.

Thus it is clear that the actual measurements are now confirming the global ozone depletion theory and suggesting that if it is flawed, it is in the direction of *understating* the risks posed by the ozone-depleting chemicals. The Antarctic hole not only illustrates how imperfect man's understanding of this complex chemistry may be, but that the consequences of continued inaction could be orders of magnitude worse than expected.

At the same time, it is becoming clear beyond credible dispute that very substantial reductions in the use of ozone-depleting chemicals is possible within just a few years. Some uses can be eliminated totally, while others can be reduced 95 percent through substitutions or alterations in equipment.

In short, science is telling policy makers that a near-total reduction should be achieved and technology is affirming that such a goal can be achieved. It was the United States which introduced the rest of the world to "Freon." At a time when its dangers have become apparent, those same nations are looking to us to once again provide leadership. I hope that when the Domestic Policy Council considers this issue, you will reaffirm the earlier United States position of leadership and maintain the policy which was first developed and approved by the Administration.

Sincerely,

ROBERT T. STAFFORD,
Ranking Minority Member.

[From the Atlantic Constitution, May 12, 1987]

REGRETTABLE RETREAT ON OZONE FRONT

Just this once, the Reagan administration was proudly out in front on an environmental issue, one of potentially cataclysmic dimensions considering the dire and not easily dismissed predictions of pandemic skin cancer and genetic damage caused by the thinning of Earth's protective ozone layer. You might even say President Reagan's men had picked up the torch from the Carter team, which in 1978 banned the use of chlorofluorocarbons (CFC's) in aerosol propellants, and were themselves on the verge of leading recalcitrant Europeans toward wider, more meaningful prohibitions that would have drastically and speedily reduced the production of CFC's worldwide.

Suddenly, the stout U.S. stand in United Nations-sponsored bargaining conducted in Vienna and Geneva over the last few months lost all its starch. The U.S. delegation wound up acquiescing in an agreement that would freeze CFC's production at 1986 levels, then slowly reduce it during the 1990's on a timetable that falls woefully short of the original U.S. targets.

The U.S. position, alas, was undermined by pressure from a CFC's industry group and from second-level Reagan appointees who adhere to ideas on safeguarding the planet's ecology that would have received a hospitable hearing from Attila the Hun.

Their position, charitably stated, is: Why hassle industrial concerns that produce vital chemicals for refrigeration, packaging, insulation and cleaning when the evidence of the environmental damage they might do isn't absolutely airtight and when chemical substitutes would cost substantially more?

Answers to these questions must be framed in terms of acceptable risks. Research in the Antarctic and elsewhere, while not conclusive, strongly points to CFC's as the culprits in the breakdown of the barrier that guards Earth from the sun's excessive ultraviolet rays. Reputable physicists also suggest that if we wait until CFC's could be found guilty beyond any doubt, irreparable damage might be done to the protective ozone layer. And, finally, it must be acknowledged that the economic impact of a CFC's phase-out pales against the possibility that inaction on our part might drive generations after us out of the sunlight and also might drastically disrupt their food chain.

Today a Senate environmental subcommittee chaired by Max Baucus (D-Mont.) begins a week of deliberations on the diluted accord brought back from Europe.

It won't be enough for the Senators to reveal how anti-environmentalist zealots and special industrial pleaders managed to derail an admirable Reagan administration initiative; they ought to determine whether, if at all possible, the agreement offers any openings to get the effort back on track.

[From the Washington Post May 15, 1987]

TOO MANY CHLOROFLUOROCARBONS

The Arduous process of fashioning an international agreement to limit production of chlorofluorocarbons continues. These CFC's are the chemicals thought to be depleting the ozone layer that shields the Earth from ultraviolet radiation. At some point a thinner ozone layer is thought likely to mean an increase in skin cancer, smaller crops, weaker plants and an acceleration of the greenhouse effect in which man-made gases alter the Earth's climate.

In 1987 the U.S. government barred the use of CFC's in aerosol sprays. But in most other countries not even that has been done, and the hardy substances-because they tend not to break down, sooner or later almost all escape in to the atmosphere—are also widely used in air conditioning, refrigeration, the manufacture of foam products and as solvents.

On other major environmental issues, the Reagan administration has priced itself on playing the skeptic and being a voice for delay. On this it began in the same vein but, thanks in part to the convictions of Environmental Protection Agency administrator Lee Thomas, has lately spun around to become a leading voice for world control instead. Its position going into the latest round of talks was that world production of CFCs should be cut as much as 95 percent in 10 to 14 years. The talks, under the auspices of the United Nations Environmental Program, have now produced a draft agreement under which production would be frozen at 1986 levels beginning perhaps in 1990, then cut by 20 percent over two years, then possibly cut another 30 percent two or four years after that.

The delegations have gone home for consultations, after which there will be further drafting sessions. Optimists think an agreement could be signed, and the producing governments could begin the ratification process by this fall. They also think that a 50-percent production cut, while not itself enough to cleanse the atmosphere, would be enough to encourage development of competing products, so that harmful CFC's would be on their way out.

A lot of bargaining remains ahead. There also continued to be, within the administration, pockets of resistance to the official position. But this is an issue on which U.S. industry, in part because it expects to come up with alternative products, has also been remarkably cooperative products, has also been remarkably cooperative. An enormously important achievement now seems to be within the administration's grasp, and no one should be allowed to spoil it.

[From Inside EPA, Apr. 3, 1987]

PRESSURE FROM CFC USER INDUSTRY MAY FORCE UNITED STATES TO REASSESS CUTBACK

The U.S. is reassessing its strong negotiating posture on reducing emissions of chlorofluorocarbons (CFC's) worldwide to save the Earth's protective ozone layer, according to sources, apparently in response to heavy industry lobbying on the costs of the U.S. proposed control program, which would eventually phase down CFC consumption by 95 percent. At the same time, the Europeans have crafted a new position, agreeing to an upfront CFC freeze, moving closer to U.S. demands in the international negotiations (Inside EPA, March 6, p1).

Administration sources stress that the U.S. is not "backing off from its position on a freeze,"—and will not abandon that position when the negotiating team meets with its European counterparts in late April. "We're reexamining the Administrative position because more people are interested, and we have to take those interests into account," one source said, acknowledging that the CFC producer and user industry has stepped up its efforts to press for a more "moderate" action. "The negotiations are proceeding beyond their [industry's] wildest dream," this source said, and the fact that Europeans "seem to be going along with U.S. calls for immediate reductions [on CFC emissions] is making it worse."

The Council of the European Economic Communities this week will sign an agreement to reduce by 20% its current production of CFC-11 and -12, starting in 6 years, one environmental minister said while visiting Washington, D.C., last week. "This is the first environmental amendment for the community in 30 years," said Laurens Jan Brinkhorst, director general for the environment for the EEC. He reiterated, however, that the Europeans are pushing for "flexibility" in a global approach to reducing CFC emissions. "We should work toward reductions in phases and review later whether additional measures are needed," he added. The U.S. and the EEC negotiators will meet under the United Nations Vienna Convention for Protection of the Ozone Layer at the end of April for another round of talks. Two additional sessions may be held during the summer, sources say, before the September summit, where U.S. negotiators are confident that an international agreement for phasing down CFC emissions may be reached.

Others involved in formulating the negotiation policy, however, say that they believe U.S. may be forced to move away from the call for a freeze on CFC and halon production in light of emerging analyses from CFC users and producers showing that the costs of such a move would be billions more than estimated. EPA and the State Dept. have called for a complete freeze on consumption of CFC-11, CFC-12, and CFC-113 as well as the halons, and for a 95 percent reduction in 10 years (Inside EPA, Dec. 5, 1986, p1). Industry representatives say that they believe that the Administration is "listening to them." But, "whether they will re-evaluate is another question," one industry source said. Full economic impact analyses—one being conducted by the State Dept. and EPA and another by industry—will be completed this summer, sources say.

EPA sources say that Europe's recent concession—and movement by other nations—has increased U.S. confidence that action will be forthcoming from the talks. These sources note that EPA chief Lee Thomas met with 24 environment officials of the Organization for Economic Cooperation & Development (OECD) at a mid-March conference on chemical production, and raised several issues that will need to be discussed during the next negotiation session. Primarily, sources say, new talks must center on impact of a CFC emissions reduction on trade—a major bone of contention between the EEC and the United States.

The Europeans have reiterated concerns that major reductions will "further isolate Japan," a major producer of CFC-113, which is used in making and cleaning microchips. Other issues that will be discussed include: 1. a proposal to phase out CFC's and halons over 10 to 15 years; and, 2. the creation of an international scientific panel to determine whether additional chemicals should be targeted for reduction. European and U.S. sources say that opportunities for recycling CFC's and the development of alternative products also will be discussed at the next session.

Industry's continued gripe seems to be that the U.S. is postulating an international stance on CFC reduction before formulating a national one. "They can't do it without the economic impact analysis which we're working on," one industry representative said. "How can you negotiate without doing analysis first?" This source noted that the 1978 ban on aerosols containing CFC's was a relatively easy adjustment. "There aren't any easy choices anymore."

Environmentalists, however, are extremely agitated with reports that the U.S. may be reexamining its negotiating position. Environmental group representatives have been privately pleased with the strong U.S. stance, although they have been careful to continue the public push for even more stringent controls to ensure no "backsliding" by State Dept. or EPA officials. Environmentalists are not smitten with the European proposal either, noting that environment ministers of several European countries have publicly committed to a 50 percent cutback. These sources stress that no matter what the costs of upfront action, if current projections are borne out the future costs of ozone depletion will be catastrophic—causing not only vast increases in human cancer rates, but famine, drought, tidal waves and other destructive climatical changes. Further, there is no way to "clean up" CFC emissions once they are released—according to environmentalists, since stratospheric deterioration is ensured once these chemicals escape into the atmosphere.

Janet Hathaway is leaving the National Wildlife Federation (NWF) to join the Natural Resources Defense Council (NRDC), where she will be working on reauthorization of the Federal Insecticide, fungicide & Rodenticide Act (FIFRA). Hathaway, an attorney, has been responsible for Superfund and Clean Air Act issues for the past year at NWF, and was a key environmental group representative in the Superfund reauthorization debates on Capitol Hill last year.

Federal Court should find New York City in violation of the Clean Air Act because of failure to implement several provisions of the area's state implementation plan (SIP) aimed at reducing urban ozone pollution, according to the motion for summary judgment filed last week by the Natural Resources Defense Council, the American Lung Assn. and a group of local health organizations. The groups filed suit in the U.S. District Court for the Southern District of New York (Inside EPA, Jan. 30, p. 1), and are now asking the court to make a limited ruling finding that the city, state and EPA have violated "nondiscretionary" duties under the air act in failing to implement and enforce the SIP regarding reductions of volatile organic compounds (VOCs). The groups are not calling for any economic penalties or sanctions, however. The following table, contained in the brief, highlights the plaintiffs' case.

TABLE I: PLAN TIMETABLES AND STATUS OF STATE ACTION

Plan strategy	Timetable for implementation			Status
	Complete study	Final regulations	Implementation	
Stage II vapor recovery.	No study required.	June 1985	Achieve January 1986 for large stations.	No regulations adopted; no implementation.
Automotive body shops.	January 1985.	January 1986	Begin July 1986.	"Draft study" submitted Feb. 4, 1987; no regulations; no implementation.
Architectural coatings.	January 1985.	January 1986	Begin July 1986.	"First phase" of study submitted to EPA Feb. 12, 1987; state awaits completion by New Jersey of "second phase"; no regulations; no implementation.

TABLE I: PLAN TIMETABLES AND STATUS OF STATE ACTION—Continued

Plan strategy	Timetable for implementation			Status
	Complete study	Final regulations	Implementation	
Consumer and commercial products.	July 1985.	July 1986 (regulations or legislation).	Achieve December 1987.	No study completed because, state alleges, EPA "took responsibility"; no regulations; no implementation.●

FEDERAL COURT NOMINEES

(By request of Mr. BYRD, the following statement was ordered to be printed in the Record:)

● Mr. SIMON. Mr. President, four nominations to various Federal courts have been approved by the Judiciary Committee and are now on the Executive Calendar. All these judicial nominees were examined at a hearing on April 28, 1987, at which I presided. Based on the investigation conducted by committee staff, and on the record made at the hearing, all these nominees appear qualified for the judgeships to which they have been nominated. For the benefit of other Senators, I offer the following brief summary of the nominees' qualifications, and of the testimony elicited at the hearing.

First, Michael S. Kanne has been nominated to the U.S. Court of Appeals for the Seventh Circuit. The nominee has been a district court judge in northern Indiana since 1982. He served from 1972-82 as a trial court judge in the Indiana State court system. Prior to that, he spent 4 years in private practice. He has also taught constitutional law at St. Joseph's College in Rensselaer, IN.

Judge Kanne appears generally to be well respected by the attorneys who have appeared before him in State and Federal court. He has a reputation as a courteous, firm, and even-handed trial judge, whose decisions are well-reasoned. Several attorneys did indicate that Judge Kanne is sometimes slow to render decisions on dispositive motions, or after bench trials, citing in some instances delays of up to 2 years. When questioned on this issue at the hearing, Judge Kanne attributed delays to the need to await dispositive rulings by higher courts; the complexity of the issues presented; and the requirement to give priority to criminal cases. He also affirmed his commitment to expeditious case processing at the Seventh Circuit Court of Appeals.

At the hearing, Judge Kanne also responded to questions on the following topics: making legal services available to the disadvantaged; providing the appearance, as well as the reality, of equal justice to litigants before the seventh circuit, which consists entirely of white male judges; the tension between personal views and precedent; and judicial activism. In addition, Judge Kanne responded to written followup questions concerning reversals of his decisions in the civil rights and employment law fields, and concerning his membership in a country club that has no black members. His responses express his belief that his record on employment and civil rights cases, which often present difficult issues of law and fact, is comparable to that of other Federal judges. He also furnished the committee with a copy of the bylaws of the country club in question, which contain no discriminatory membership requirements, and expressed his view that his continued membership in the club would, under the circumstances, be appropriate, but that he would resign if he had reason to believe that the club practiced invidious discrimination.

These responses appear to be satisfactory. However, they do underscore some of the problems created by the Reagan administration's continued failure to give adequate consideration to the need for diversity on the Federal bench.

Upon confirmation, Judge Kanne will fill the last vacancy on the Seventh Circuit Court of Appeals. President Reagan will have appointed 7 of the 11 members of this court, which is, in practical terms, the court of last resort for Federal litigants in the States of Indiana, Illinois, and Wisconsin. None of the judges on the seventh circuit are women or members of minority groups. Neither is Judge Kanne. The administration appears unconcerned about the perception that this fact may create in the minds of female and minority litigants and lawyers throughout the seventh circuit. This is not a parochial or special interest concern; it goes to the question of promoting and maintaining respect for the Federal courts. Yet, as this nomination demonstrates, this administration gives it short shrift.

In response to the Judiciary Committee questionnaire, Judge Kanne listed eight cases in which his decisions as a Federal district court judge had been reversed by the seventh circuit. In four of these cases—one-half the total—Judge Kanne had ruled against an employee who had brought a claim under the Federal civil rights laws. In each of these cases, the seventh circuit allowed at least one of the plaintiffs whom Judge Kanne had thrown out of court to go ahead with the lawsuit.

Judge Kanne may have been absolutely correct when he responded to Senator Simon's question on this topic by saying, "I do not believe that four cases constitute a pattern from which any meaningful conclusion can be drawn." Surely he was correct when he declined to comment on three of the cases, which are still pending in his court on remand from the seventh circuit. But the fact remains that half of the published reversals of Judge Kanne's decisions came in civil rights cases arising from the employment relationship, even though all civil rights cases—whether or not employment-related—constituted only about 10 percent of the civil cases filed in the Northern District of Indiana in 1986, a figure roughly paralleling the nationwide average. As Judge Kanne's response points out, "many civil rights and employment discrimination cases present difficult questions." Certainly the record is too limited to support a conclusion that Judge Kanne's handling of civil rights cases presents an obstacle to his confirmation for the court of appeals. But at the same time, this record may not be entirely reassuring to future civil rights claimants before the seventh circuit.

Similarly, Judge Kanne's continued membership in an all-white country club is not grounds for opposition to the nomination. The club draws its membership primarily from two Indiana counties in which blacks are only a minuscule percentage of the population. Its bylaws contain no suggestion of racially discriminatory membership policies. Nevertheless, some may question whether Judge Kanne's continued membership in this country club was considered by the administration in choosing its nominee for the last vacancy on the all-white seventh circuit.

Second, James H. Alesia has been nominated to the U.S. District Court for the Northern District of Illinois. Mr. Alesia conducts a litigation practice with a private law firm in Chicago. Among his prominent clients are print and electronic media organizations, professional sports clubs, and the Metropolitan Fair and Exposition Authority. From 1973 through 1982, the nominee served as a Federal administrative law judge, first with the Social Security Administration, and then with the Occupational Safety and Health Review Commission. Previously, Mr. Alesia served as an Assistant U.S. Attorney in Chicago for 2 years; as trial counsel for two major railroads; and as a private practitioner in Chicago and Minneapolis. The nominee's career includes extensive litigation experience in a variety of fora, and judicial experience as an administrative law judge. His reputation among opposing counsel and attorneys who appeared before him when he was an ALJ is excellent. Mr. Alesia's candidacy for the Federal bench has been evaluated, not only by the American Bar Association, but also by several voluntary bar organizations in Illinois, with no negative reports.

At the hearing on April 28, Mr. Alesia was questioned concerning his public service activities; his resignation from a Chicago civic club immediately after the club reaffirmed its policy to deny membership to women; the screening process involved in his nomination; judicial temperament; and conflicts between his personal views and established constitutional or statutory interpretations. His responses were satisfactory.

Third. Joseph P. Stadtmueller has been nominated to the U.S. District Court for the Eastern District of Wisconsin. Since 1981, he has been the U.S. attorney for that court, first by appointment of the district court itself, and then by appointment and reappointment by the President. He has spent his entire legal career in that U.S. attorney's office, except for two brief periods in private practice in Milwaukee in 1968-69 and in 1976. Mr. Stadtmueller's nomination followed his recommendation for the post by a screening committee composed of appointees of both Wisconsin Senators and representatives of the Wisconsin Bar. The nominee has extensive litigation experience not only in criminal prosecutions, but also in civil litigation against the United States. Opposing counsel and other persons interviewed in the course of the committee's investigation endorse his nomination.

At the hearing, the nominee responded satisfactorily to questions concerning his service as chairman of the local bar's professional responsibility committee; the transition from a career government lawyer to the role of a judge; the "color-blind" Constitution; and the doctrine of stare decisis.

Fourth. Roger B. Andewelt has been nominated to the U.S. claims court. The nominee is currently Deputy Assistant Attorney General for Litigation in the Antitrust Division. He has spent his entire career as a lawyer in a series of increasingly responsible positions at the Justice Department, and has developed considerable expertise in antitrust and intellectual property law. He has had extensive supervisory responsibilities for litigation at all levels of the Federal courts. At the hearing on April 28, Mr. Andewelt was questioned concerning his lack of direct experience with the U.S. claims court; the necessity to avoid pro-Government bias; and standards for issuing preaward injunctions in Government contract cases.

Mr. President, these nominations have been carefully scrutinized by the Judiciary Committee. Each nominee has responded satisfactorily to questions posed at a public hearing. I believe all these nominees are qualified to serve on the Federal bench, and their nominations should be confirmed.●

GOVERNOR BRANSTAD AND NCPAC BOTH SUPPORT LINE-ITEM VETO

● Mr. HUMPHREY. Mr. President, support continues to grow each day for S. 402, the limited line-item veto bill introduced by Senator Evans and myself, along with many others. I have recently received letters from Gov. Terry Branstad of Iowa and Brent Bozell III, president of the National Conservative Political Action Committee.

Governor Branstad is the latest in a growing number of Governors who support giving the President some type of line-item veto. As every Member is aware by now, 43 Governors have the line-item veto. Many of these Governors, including Governor Branstad, recognize the utility and importance of such a tool. They recognize that the time has come to provide the President with line-item veto authority as well.

But not only Governors recognize the need for the line-item veto. Mr. Bozell, in his letter to me, put the case in favor of this budgetary reform quite succinctly when he wrote:

> With a line-item veto the President can successfully hold the line on reckless spending and introduce a large measure of fiscal responsibility to the federal budget process.
>
> These two points are primary reasons for supporting our line-item veto proposal. Many Members blame the President for our current deficits. However, if you are going to blame someone, you must first give him the tools with which to do the job before blaming him for not doing it.

In addition, there is an incredible void in this city which needs to be filled. The void exists where responsibility should be found. Our line-item veto will go a long way toward restoring some sense of responsibility in this Congress. It may not be a panacea, but it is certainly a significant step in the right direction.

Mr. President, I ask that the letters which I received from Governor Branstad and Brent Bozell be printed in the Record.

The letters follow:

Office of the Governor,
Des Moines, IA, April 24, 1987.

Hon. Gordon J. Humphrey,
U.S. Senate, Committee on Armed Services, Washington, DC.

Dear Senator Humphrey: Thank you for your recent letter alerting me to the provisions of S. 402, a bill to provide the President limited line-item veto authority. I appreciate the opportunity you have provided me to both review this and express my support for presidential line item-veto.

As you mention, line-item veto authority would be an invaluable tool for the President. As Chief Executive of Iowa, I have this important authority to review and maintain tight control over state spending. Without the line item veto, the President is handcuffed in his ability to exercise full executive control over the federal government. I do support your efforts to give the Office of the President this authority.

Thank you again for informing me of your and Senator Evans' proposal. Best wishes.

Sincerely,

Terry E. Branstad,
Governor.

National Conservative
Political Action Committee,
Alexandria, VA, May 7, 1987.

Hon. Gordon Humphrey,
U.S. Senate,
Washington, DC.

Dear Senator Humphrey: On behalf of NCPAC's 450,000 members, I applaud your efforts to restore fiscal sanity to the federal budget process. The American people are not undertaxed; the Congress is overdrawn. We strongly support S. 402, your line-item veto legislation.

This bill is a splendid start toward controlling runaway federal spending on the part of a fiscally-irresponsible Congress. With a line item veto, the President can successfully hold the line on reckless spending and introduce a large measure of fiscal responsibility to the federal budget process.

NCPAC wishes you every success in the effort to pass this legislation. Please do not hesitate to call if you think we may be of help in this matter.

Sincerely yours,

L. Brent Bozell III,
President, NCPAC.●

TRIBUTE TO NEW JERSEY BUSINESSMAN RUSS BERRIE

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to a remarkable New Jerseyan, Russ Berrie.

Many people will most readily associate the name Russ Berrie with teddy bears. Russ is the founder and president and chairman of the board of Russ Berrie & Co., one of the world's largest manufacturers of stuffed animals. Started as a one-man operation in a rented garage, Russ Berrie & Co., has grown into a successful company with 10 national and 2 foreign distribution centers.

Russ has been an active proponent of improved trade relations between the United States and Israel. He has served as chairman at the Israel Business Conference held by the Hebrew University of Jerusalem under the University's Center Management Development of the Jerusalem School of Business. He is a founder of the Yeshiva University School of Business in New York City.

But far beyond his achievements in the business world, Russ Berrie is a generous contributor to many philanthropic and civic causes. His company has donated thousands of dollars of merchandise to needy children through Catholic Community Services. For his untiring commitment to the CCS programs supporting the handicapped, disadvantaged, and senior citizens, Russ was awarded the Catholic Community Services "Man of the Year" award in 1986. Russ has also contributed to a number of nonprofit civic, charitable, and educational groups.

Russ is also a founding member and current director of Boys Town of Jerusalem Foundation of America. He has been a major supporter of Boys Town's academic, religious, and technical education programs for Israel's needy young people. In 1986, he dedicated the Naomi and Nathan Berrie Electronics Projects Laboratory in memory of his parents. He will be the guest of honor at the Boys Town 39th Annual International Dinner Tribute to be held on May 27. For his dedication to Boys Town, Russ will receive the Gate of Jerusalem Award.

As an active member of the United Jewish Community of Bergen County, NJ, Russ Berrie found another outlet to reach disadvantaged young people. At Dora, Israel, the adopted sister city of Bergen County, he dedicated the Russ and Uni Berrie Youth Center.

Mr. President, it gives me tremendous pleasure to be able to join the many individuals and organizations who have honored Russ Berrie.●

AFGHANISTAN: LETTERS FROM THE STATE OF NORTH CAROLINA

● Mr. HUMPRHEY. Mr. President, last December the brutal Soviet occupation of Afghanistan entered its 8th year. The horrible condition of human rights in Afghanistan was recently described in a United Nations report as: "A situation approaching genocide."

As chairman of the congressional Task Force on Afghanistan, I have received thousands of letters from Americans across the nation who are outraged at the senseless atrocities being committed today in Afghanistan. Many of these letters are from Americans who are shocked at this Nation's relative silence about the genocide taking place in Afghanistan.

In the weeks and months ahead, I plan to share some of these letters with my colleagues. I will insert into the Record two letters each day from various States in the Nation. Today, I submit two letters from the State of North Carolina and ask that they be printed in the Record.

The letters follow:

Dear Mr. Humphrey: The Reader's Digest article Agony in Afghanistan, March, 1986, p. 133 has prompted me to write and ask you if the United States is going to help the Afghan people or wait until they are all killed?

We have said that atrocities of this magnitude would not be allowed after the Nazi death camps were discovered. We should keep our word.

Sincerely,

William Bergevin.

Winston-Salem, NC.[1]

Dear Sir: I feel as you do that the terror in Afghanistan equals the terror of Nazi Germany and I hope that you will continue to be a voice for them. I fear we as a nation are too complacent and do not try hard enough to help people who genuinely are trying unsuccessfully to help themselves.

There are a good many of us that do believe what is going on there and that these people do need our help.

Sincerely,

Mary Burns.

Jacksonville, NC.[1]

TRIBUTE TO KELLY GEORGE

● Mr. ROCKEFELLER. Mr. President, Cancer is insidious and indiscriminate. It strikes everyone: rich, poor; urban, rural; black and white. But extraordinary inroads have been made in treating and preventing cancer. Victims of this deadly disease, therefore, need ready access to the finest medical facilities available.

In my home State, a very distinguished West Virginian, Ms. Kelly George of Charleston, shares my concern that, far too often, West Virginians are forced to travel long distances for special cancer treatments. And she's doing something about it.

Ms. George recently chaired an enormously successful fund raiser to benefit a new cancer facility in Morgantown, WV. With Kelly's leadership, the "Only the Best for West Virginia's Cancer Center" gala weekend raised approximately $180,000 for the Mary Babb Randolph Cancer Center located at West Virginia University, named for the late wife of former U.S. Senator Jennings Randolph. Mrs. Randolph herself was a victim of cancer.

Kelly is an incredible bundle of energy and talent. She's not afraid to take on any worthy task, and does everything from planning charitable events to licking envelopes. You can always rest easy when Kelly is involved in any project; it will be totally organized and a guaranteed success. That's why, when Kelly George decided to put her energies into raising money for the Mary Babb Randolph Cancer Center, the weekend event she planned was one of the most successful fund raisers in the history of West Virginia.

Thanks to the efforts of Kelly, and my colleague from West Virginia, Senate Majority Leader Robert C. Byrd, who helped secure Federal funding for the center, West Virginians can receive quality cancer treatment without driving hundreds of miles. Please join me in paying tribute to Ms. Kelly George. She is a fighter in every sense of the word. If we are to win the battle against cancer, and provide adequate, modern treatment for its victims, we need more people like her. West Virginia and America are truly grateful for her help.●

CONFIRMATION OF NOMINATION OF COL. THOMAS J. CALLAHAN

● Mr. BREAUX. Mr. President, on May 15, 1987, Lt. Col. Thomas Joseph Callahan, a distinguished American and good friend of mine, was confirmed by the U.S. Senate and promoted to colonel in the U.S. Army Reserve.

Colonel Callahan has devoted 24 years of service to his country as a military police officer for the District of Columbia National Guard. He is a strong-willed and effective leader. In 1973, he was the recipient of the Gen. W.E. Horton Memorial Award for leadership. His integrity is unquestionable. He is commended for his tireless efforts in preserving peace for his fellow Americans. During his service, he has received many awards and decorations for his outstanding achievements.

I am pleased to take this moment to extend my congratulations to Colonel Callahan, and I wish him well in his desire to serve his country one day as a general officer in the U.S. Army Reserve.●

TAX ON VEGETABLE AND MARINE OILS PROPOSED BY THE EUROPEAN ECONOMIC COMMUNITY

● Mr. BOND. Mr. President, I am deeply concerned about the latest injustice proposed by the European Economic Community; namely the imposition of a tax on vegetable and marine oils. It is most unfortunate that this action is being considered immediately prior to the beginning of the Uruguay Round of the General Agreement on Tariffs and Trade [GATT]. And in fact, these actions raise a series of important questions concerning the seriousness of the European Community's [EC] willingness to reduce or eliminate their trade barriers. Clearly, the United States cannot ignore this direct blow to our goal of multilaterally reducing barriers to world trade, and we will not stand idly by and allow it to go forward.

Mr. President, let me provide some background information which illustrates the extreme importance of reversing the EC's actions. The EC has historically been the market for about half of U.S. soybeans and soybean meal exports, or about one of every five rows of U.S. soybeans. Since 1962, the U.S. has been granted duty-free status for soybeans and soybean meal, thus exports have entered the EEC free of tariffs or quantitative restrictions. However, only 5 months ago, let me repeat, 5 months ago, the EC reaffirmed its duty free treatment for oilseeds as part of the agreement reached between the United States and the EEC regarding accession of Spain and Portugal to the Community. With soybean and soybean meal exports to the EC valued at $2.4 billion, the duty-free bindings are the largest trade concession the U.S. has ever achieved through the GATT. However, the implementation of this proposed tax directly negates this duty-free treatment and would only heighten the trade tensions which currently exist between our countries.

The U.S. soybean industry remains innovative and is deeply committed to remaining competitive in the world market. The implementation of the proposed tax would be a financial disaster for the estimated 500,000 U.S. farmers who grow soybeans, not to mention our processing industry and private exporters. The result would be a direct loss of $2.4 billion in U.S. foreign exchange.

Mr. President, the EEC Council of Ministers will vote very soon on the imposition of a 330 ECU/MT ($375 per metric ton) tax on all vegetable and marine fats and oils consumed within the EC. This proposed tax would essentially double the price of soybean oil within the EC, the equivalent of a $1.84 per bushel tax on soybeans. Furthermore, the proceeds from the tax would generate an estimated $2.3 billion annually to allow the EC to continue its enormous oilseed production subsidies.

The EC supports oilseed production by guaranteeing its farmers high prices for their production. An estimated 1.1 million metric tons will be grown in the EC in 1987 at a guaranteed price of $15.69 per bushel. This is compared to the U.S. loan rate of $4.56 per bushel. In addition, processors receive a subsidy equal to slightly more than the difference between the artificially high EC prices and lower world prices. This processor subsidy makes it more profitable for the EC processors to crush the expensive EC oilseeds than imported soybeans. Mr. President, I think I can speak for the entire Nation in saying the United States will not be forced into the position of paying the costs of EC subsidies.

The fats and oilseeds tax approved by the EC Commission is the most recent and by far the most serious attempt to impair the duty-free bindings, thus eliminating the United States from remaining competitive in Europe. Even though the United States soybean industry is extremely advanced and efficient, it cannot be totally competitive if it cannot gain access to foreign markets or if competitors utilize unfair trade practices.

Mr. President, should the proposed EC fats and oils tax be approved, the U.S. soybean industry would experience the following negative impacts:

First. A decline in EC imports of soybeans.

Second. The EC would collect an estimated $2.3 billion which would enable it to further fund the expansion of its domestic oilseed production. The EC's goal of self-sufficiency would be directly financed by the revenues generated from the United States.

Third. The implementation of the proposed tax leads to the conclusion that the next step will be to apply a similar tax on protein meals.

Mr. President, the adverse implications of the proposed tax are clear, however the implications for the Uruguay Trade Round are also important. The 92 countries which comprise GATT, representing approximately four-fifths of world trade, have listed agriculture as a top priority in upcoming negotiations. To quote from the Declaration of the Ministers issued at Punta del Este, "Contracting Parties agree that there is an urgent need to bring more discipline and predictability to world agricultural trade by correcting and preventing restrictions and distortions including those related to structural surpluses so as to reduce the uncertainty, imbalances and instability in world agricultural markets." The declaration goes on to state that the negotiations shall aim to develop strengthened and more operationally effective GATT rules by, "improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes."

Mr. President, I was under the impression that the EC shared in what appeared to be a global commitment to reducing, or eliminating, the many barriers to trade which now exist. The recent implementation of the Third Country Meat Directive and this proposed tax on vegetable oils indicate that the EC is not yet ready to seriously negotiate these complex problems.

Mr. President, it is absolutely crucial that our Government express its outrage regarding this issue and aggressively protest this EC protectionism in oilseed trade. If necessary, we should be prepared to support the U.S. Trade Representative in swiftly enacting severe retaliatory measures. It is time that the United States dealt a serious blow to this flagrant and deliberate violation of the General Agreement Of Tariffs and Trade. The future of American agriculture is dependent upon access to markets free of unfair foreign and domestic competition.●

ROLTORQ, INC.: AN AMERICAN SUCCESS STORY

● Mr. ARMSTRONG. Mr. President, we hear constant complaints about trade deficits, lack of competitiveness and foreign trade barriers. However, there are some real success stories taking place all across America, and I'm proud to say one of them is in my home State of Colorado.

Roltorq, Inc., a firm based in Boulder, has developed a drive mechanism that performs the functions of a gear box without gear teeth. Because it uses roller bearings in a unique way, it is smoother, smaller and stronger than regular gears with teeth. As a result, the smaller Roltorq drive mechanism has been found to be far more powerful for its size than conventional gears, making it ideal for heavy machinery, starter motors, windshield wiper motors, automobile window drives, silent running drives for ships and submarines, and other military technology applications.

Not only does Roltorq have an innovative product to sell, it has been successful in selling it to the Japanese. Roltorq just completed a $5 million deal with two Japanese firms for licensing and manufacture in the Pacific rim. These firms supply the gearing for major auto and equipment manufacturers in the region.

The Roltorq invention will soon be going to Europe as well. Clearly, Roltorq has taken a good idea and has made the most of it.

I commend Roltorq, Inc., and I encourage other U.S. companies to follow their example.●

FEDERAL ADOPTION BENEFITS ACT OF 1987

● Mr. STEVENS. Mr. President, I am pleased to cosponsor S. 268, the Federal Adoption Benefits Act of 1987, introduced by Senator HUMPHREY on January 6, 1987.

S. 268 will provide limited reimbursement of up to $2,000 for Federal Government employees who adopt a child. The driving force behind this bill is the fact that, while employees who have a biological child receive health benefits to cover the pregnancy and delivery, benefits are not available through health plans for employees who adopt a child—although the costs involved in adopting are similar to those incurred by couples who have children biologically. For example, in 1985, the average fee for adoption through a nonprofit agency was $6,000. Private adoptions can cost as much as $11,000.

Employers in the private sector, and in many State and local governments, recognize this inequity and have begun to include adoption benefits in their employee benefits packages. I believe it is time to bring the benefits of Federal Government employees up to date as well.

Few employers have expressed a stronger commitment to promoting family life than the Federal Government. I am pleased to join Senator HUMPHREY as a cosponsor of this important bill to support the employees of the Federal Government as they build their families.●

COSPONSORING HARLEM HOSPITAL LEGISLATION

● Mr. D'AMATO. Mr. President, I rise today in support of worthy legislation honoring one of the most essential hospitals in this Nation, Harlem Hospital. I am pleased to join my colleague, Senator MOYNIHAN, in support of this legislation.

1987 marks the 100th anniversary of Harlem Hospital. Under the direction of Charles Windsor, Harlem Hospital has grown to be the most substantial provider of health care to the Harlem community. The hospital provides professional training for black physicians for Harlem and the entire Nation. In addition, the hospital provides specialized services, most notably its burn and trauma center.

As a member of the New York City Health and Hospital Corporation, Harlem Hospital provides health care to individuals regardless of ability to pay. At a time when health care providers are overburdened with cost-containment constraints, the assurance of quality health care for those who cannot pay is essential. Harlem Hospital has accepted this mission and continued to provide the Harlem community with vitally needed health care.

Along with providing health care, Harlem Hospital helps contribute to the economic stability of Harlem. The hospital is the largest employer in Harlem—meaning jobs and security for a community that has severe difficulties with employment and economic development.

Harlem Hospital embodies the true spirit of dedication and commitment to community. I am pleased to join my colleagues in honoring the hospital as it celebrates its 100th anniversary.●

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, I appreciate the majority leader's courtesy. I just wanted to make a comment.

I have already visited with Senator EXON, who came to this Chamber when I did in 1978. He is a very delightful friend, and I have come to enjoy him and his wife, Pat, thoroughly.

I want to, in 3 minutes, literally so, express a little more for the record, like Paul Harvey's little tale about "the rest of the story." Just swiftly, let me share it with you.

I certainly hope what he said is not going to be true, where we find ourselves in just hard, harsh, partisan votes in committee.

It has been reported to us in the caucus that there have been some hard partisan tough votes in committee which is unfortunate. In the Armed Services Committee, in the Banking Committee, and in the Labor Committee, an attempt or two at some "midnight markup" activity.

Now that is not good for us and that is not good for the other side of the aisle. Those things happen when the majorities change and we realize that and we spend a lot of time trying to figure out how to get back in the majority. That is certainly one of the blood-lusts of the minority as to how to get back. But we have seen some of those things. That is unfortunate.

We had a panel of Democrats originally looking into the judicial appointments and yet that has been resolved and thoughtfully so because we just passed eight of them out of that committee today. That is what we need to do.

We get to the extremes. We say the Democrats are doing this; the Republicans are doing that. We all do a little of that to each other and then pretend we are not doing it to each other.

The Agriculture Committee I remember last Congress could not meet for weeks. That was good politics. We do that and they do that, but the people of America fortunately know that we do this business in partisanship, sometimes pontificating and that we are workhorses and blowhards on both sides of the aisle. I have done my share of both. That is not hard for sharp American people to figure out.

I also believe that the American people are smarter than their elected representatives. I really do believe that. That is how the system works.

So I just went reflecting and went back as is my wont to look at a peculiar vote. This was one of the first tactics. It was not of the majority leader's doing. It was a very emotional, rich issue and that was the farm credit bill. The first entry onto the scene of Senators DOLE and SIMPSON when we took over the power of the leadership was a weeklong and total stall of all Senate business by some farm-State Democrats and a few Republicans thrown in, and that was to force action on a farm credit bill that the President subsequently vetoed.

There were 23 cloture votes in the 99th Congress, 23. That is a pretty good load. Someone must have been filibustering or we would not have had 23 cloture votes. But the irony of ironies—and if you stay in this game long enough they will cut all the bicycle tires on the entire rig or all four on the vehicle—is that on August 6, 1986, ironically on a DOD authorization bill, there was a cloture vote and 89 percent of those on the other side of the aisle voted "no," including the Senator from Nebraska. I thought that was just an interesting tidbit that I found in my travels, and you know that is the way it is. I think that the American people understand it somewhat. But at least we understand it and then we can go about conducting our business with some civility and regard and respect. It is tough and it is tough for me but creeping majority may overcome me yet and I may get there.

Hopefully tomorrow we can report that the administration and Senator HATFIELD and Senator STENNIS in working with the liaison of the Senate and House or the Senate, at least, should have something to present to us, and hopefully we will have that and at least we will have another vote.

I just wanted to share with you those curious tidbits of odds and ends from old venerable documents known as the CONGRESSIONAL RECORD.

I thank you very much.

Mr. BYRD. Mr. President, that old venerable document known as the CONGRESSIONAL RECORD can reveal many tidbits.

Mr. SIMPSON. It certainly can.

Mr. BYRD. I am afraid, however, if we get into the business of just finding tidbits in the CONGRESSIONAL RECORD for the purpose of batting down the arguments of those on the one or the other side, and back and forth, we are not going to get on with the people's business.

I appreciate the distinguished Senator's thorough research of the record, but at least it must be said that the committees are meeting and they are conducting their oversight responsibilities under the Constitution, something which, I dare say, could not be said of all committees during the past 6 years. In saying this, I hope I do not open up a new avenue of debate and argumentation.

I would be just as happy to close today off if we could express the hope that on tomorrow we could get on with the Senate's business. I thank the distinguished Republican whip for the assurance, or at least his expressed feeling that on tomorrow we may be able to make some progress on the supplemental appropriation bill.

Does the distinguished assistant Republican leader have anything further to say or any further business to transact?

Mr. SIMPSON. Mr. President, I do not. And I look forward to working with the majority leader. Hopefully we can produce some material that will get us over this hump and on into a very important calendar. I look forward to trying to accommodate that.

Mr. BYRD. Mr. President, I thank the Senator.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOD AUTHORIZATION BILL

Mr. BYRD. Mr President, I ask unanimous consent that, after the two leaders have been recognized under the standing order on tomorrow morning, the Senate resume consideration of the debate on the motion to proceed to the consideration of the defense authorization bill and that the time be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the vote on the motion to invoke cloture will occur, by order of the Senate agreed to this afternoon, at 1 o'clock p.m. tomorrow. There may be other business transacted during the morning by unanimous consent. The debate will ensue on the motion to proceed to the consideration of the defense authorization bill for the time between the closure of the speeches by the two leaders under the standing order and the hour of 1 o'clock. That time will be equally divided and controlled.

Following the debate on cloture, if cloture is invoked, then the motion to proceed to the consideration of the defense authorization bill will be the business before the Senate, to the exclusion of all other business. Hopefully that vote would occur in rapid order and would necessarily be that way.

Also, once the bill is before the Senate, if the motion to invoke cloture is adopted and if the motion to proceed is adopted, then there would be debate on the bill and amendments could be offered and votes could occur.

In the meantime, I hope that we will be able to reach some understanding with respect to the supplemental appropriation bill so that at an early moment the Senate can resume its consideration of the bill and we can dispose of it.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock a.m., tomorrow.

The motion was agreed to; and, at 6:50 p.m., the Senate recessed until Wednesday, May 20, 1987, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate May 18, 1987, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF STATE

Hume Alexander Horan, of New Jersey, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

NATIONAL COUNCIL ON THE HANDICAPPED

George A. Conn, of Maryland, to be a member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1988, vice John F. Mills.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Thomas F. Healy, [redacted] U.S. Army.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3370:

ARMY PROMOTION LIST

To be colonel

Kenneth N. Hall, [redacted]
Edmund H. Morgan, [redacted]

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10 United States Code, section 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

Andrew A. Alston, [redacted]
Robert S. Bowes III, [redacted]
Edward L. Brasher, [redacted]
Walter B. Douglass, [redacted]
Robert M. Echols, [redacted]
Richard Eichbauer, [redacted]
Michael Flickinger, [redacted]
David A. Gabel, [redacted]
Edward H. Gaulin, [redacted]
Jerry L. Hammons, [redacted]
Charlie I. Harper, [redacted]
Donald L. Ivers, [redacted]
Kurt A. Johnson, [redacted]
Frederick Kerstiens, [redacted]
Charles W. Lenz, [redacted]
Lawrence Lindquist, [redacted]
Sidney F. Lundy, [redacted]
Thomas R. Lytle, [redacted]
Robert J. Maddison, [redacted]
Karen L. McKay, [redacted]
Robert Mueller, [redacted]
Tom F. Ohnemus, [redacted]
Fernando Rodriquez, [redacted]
Alan L. Sachrison, [redacted]
Myron T. Steele, [redacted]
John R. Westbrook, [redacted]
Fredrik W. Wiant, [redacted]

CHAPLAIN

To be lieutenant colonel

Carl A. Kulo, [redacted]

IN THE ARMY

The following-named Army National Guard of the United States officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Alvardo, Isaac A. Jr., [redacted]
Ashburn, William H., [redacted]
Carrillo-Rivera, Luis M., [redacted]
Donahue, Michael J., [redacted]
Giering, Edmund J. III, [redacted]
Graham, Thomas C., [redacted]
Hasko, Matthew J., [redacted]
Hickey, Bernard E., [redacted]
Perkins, Roger A., [redacted]
Quisenberry, Thomas, M., II, [redacted]
Schmidt, Lester R., [redacted]
Schwartz, Melvin J., [redacted]
Shakelford, Earl V., [redacted]
Swayze, Donald M., [redacted]
Vowell, Leonard G., [redacted]
Weaver, Walter R., Jr., [redacted]

MEDICAL CORPS

To be colonel

Burton, Olin M., [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

Allison, Larry M., [redacted]
Ard, Tony O., [redacted]
Ballard, Tony D., [redacted]
Barr, James R., [redacted]
Blakeman, James D., [redacted]
Clifford, Robert A., [redacted]
Copp, Gary P., [redacted]
Cottle, Bennie J., [redacted]
Degano, Francis J., [redacted]
Dunton, Lee R., [redacted]
Faulhaber, George B., Jr., [redacted]
Fielder, Grant G., [redacted]
Ford, Michael J., [redacted]
Fox, William C., [redacted]
Franke, Gustav W., [redacted]
Furr, William R., [redacted]
Galloway, Gerald D., [redacted]
Gordon, Kraig L., [redacted]
Harmon, Donald B., [redacted]
Hays, Herbert M., [redacted]
Hernandez, Michael D., [redacted]
Hilborn, William R., [redacted]
Kemp, Thomas G., [redacted]
Landreneau, Bennett C., [redacted]
Lang, Eugene P., [redacted]
Lippke, Lawrence A., [redacted]
Lundquist, Arnold H., Jr., [redacted]
Moberley, Kirk B., Jr., [redacted]
Rockwell, Charles E., Jr., [redacted]
Rooker, James D., [redacted]
Sasser, Preston C., [redacted]
Sears, Donald L., [redacted]
Smith, Charlie G., [redacted]
Underwood, Jack B., [redacted]
Wolfe, Leroy W., [redacted]
Zavodnick, John P., [redacted]

CHAPLAIN

To be lieutenant colonel

Dill, James R., [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

Schultz, Kristine J., [redacted]

DENTAL CORPS

To be lieutenant colonel

Hurd, Herman E., [redacted]

MEDICAL CORPS

To be lieutenant colonel

Sperling, Arnold L., [redacted]
Wright, Harold R., Jr., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

Gunter, Mark [redacted]

Executive nominations received by the Senate May 19, 1987:

DEPARTMENT OF DEFENSE

H. Lawrence Garrett III, of Virginia, to be Under Secretary of the Navy, vice James F. Goodrich, resigned.

DEPARTMENT OF LABOR

Fred William Alvarez, of New Mexico, to be an Assistant Secretary of Labor, new position.

FEDERAL MARITIME COMMISSION

Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner for the term expiring June 30, 1992, reappointment.

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For appointment:

To be assistant surgeon

Margaret C. Bash
Elizabeth A. Woodcome

IN THE PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For permanent promotion:

To be medical director

Leonard Bachman
Joel G. Breman
Floyd J. Brinley, Jr.
Edward R. Chahin
Clifford L. Culp, Jr.
Bienvenido E. De La Paz
Robert Edelman
Ronald J. Elin
Elliot S. Gershon
William H.J. Haffner
Frederick T. Hambrecht
George E. Hardy, Jr.
Donald E. Henson
Gordon C. Johnson
Charles T. Kaelber
Robert G. Laffoon
Sanford S. Leffingwell
David M. Logan
Harold F. Newman, Jr.
Audrey H. Nora
Godfrey P. Oakley, Jr.
Betty A. Paeth
Peter C. Scheidt
Lee M. Schmidt
John L. Sever
Ronald K. Stjohn
Ruth T. Takeshita
Carl W. Tyler, Jr.
Sheridan L. Weinstein
Karl A. Western
Samuel H. Wilson

To be senior surgeon

Harold J. Bodin
A. David Brandling-Bennett
James R. Cooper
Dennis M. Deleo
Curtis C. Harris
Elaine S. Jaffe
Richard S. Kaslow
John J. Mulvihill
Howard W. Ory
William A. Paton
Frederick R. Pintz
Lawrence B. Schonberger
Dixie E. Snider, Jr.
Harrison C. Spencer, Jr.
Thomas K. Welty

To be surgeon

Angel R. Brana
Philip G. Jajosky
John R. Kittredge
Dorothy K. Macfarlane
Richard J. Miller
John E. Parker

To be senior assistant surgeon

David W. Anderson
James M. Erskine
Martha J. Wunsch
John S. Yao
Kevin S. Yeskey

To be dental director

Kent L. Angerbauer
John P. Clark
Robin M. Lawrence
Preston A. Littleton, Jr.
David C. Schrupp
Larry J. Wisman
E. Walter Wolford

To be senior dental director

Tommy N. Johnson
Michael D. Lund
Neil H. Nilsson
Lawrence W. Walker
Charles R. Wanner

To be dental surgeon

Steven M. Boe
Allen R. Bond
John W. Brown, III
John L. Buchanan, III
George E. Cathey
Richard A. Champany
James A. Coope
Thomas J. Decaro
Stephen P. Delpiano
James W. Farrington
Robert H. Harry, Jr.
Gerald L. Hussong
Lawrence M. Keil
Donald W. Marianos
Robert A. Palmer
Paul D. Phillips
Kenneth R. Powders
Alan L. Sandler
Sarah E. Valway
Barry H. Waterman

To be nurse director

Lois M. Dommert
Taye G. Emori
Ronald J. Haberberger
Richard A. Lindblad
Gilda M. Martoglio
Ina C. Palmer
Wanda L. Richardson
Anita P. Satterly
William J. Young

To be senior nurse officer

Karen L. Allen
Olive P. Brown
Rosalyn T. Curtis
Joyce A. Elmore
George A. Hanney
Elna J. Koopman
Gertrude E. Lambert
Julia R. Plotnick
Cecelia U. Reid
Morris J. Smith
Susan M. Vieira
Mildred H. Williams

To be nurse officer

Vianne S. Coppola
Martha J. Coury
Nancy J. Devlin
Richard I. Gerber
Pius Gross
Elizabeth K. Hopkins
Donald M. Judd, II
Timothy M. Murphy

To be senior assistant nurse officer

Lonna J. Fullerton
Michelle T. Hall
Donna M. Kenison
Robert T. Lippert

To be engineer director

William L. Brinck
David E. Clapp
Walter W. Liberick, Jr.
William W. Palmer, Jr.
Robert E. Rosensteel
Thomas J. Sorg

To be senior engineer officer

J. Douglas Ashbrook
Steven M. Bromberg
Gunther F. Craun
Dennis A. Degner
Jerome J. Healey
James A. Heidman
Jack W. Hoffbuhr
Thomas R. Horton
Thomas J. Logan
Jerry H. Nunogawa
Gary K. Radtke
Ronald A. Robinson
Charles E. Rodes
Harvey W. Rogers
Gene W. Smith
James H. Southerland
Ray L. Walchle
Kenneth R. Woodard
John R. Worlund

To be engineer officer

Bruce P. Almich
Alfred A. Amendola
James J. Cherniack
James F. Dunn
Roy M. Fleming
Wayne D. Heiden
Richard H. Johnson
William H. Midgette
Michael E. Peterson
Wayne E. Wruble

To be scientist director

Donald L. Lodmell
Jerry M. Rice
Ernesto Ruiztiben
John D. Sexton
John L. Young, Jr.

To be senior scientist

W. Kent Anger
Thomas W. Athey III
Paul A. Baron
Richard P. Chiacchierini
Stanley E. Edinger
John J. Farmer III
Robert W. Gwadz
Jerry M. Johnson
Robert P. Klein
Harry A. Milman
David G. Taylor
Charles A. Wells

To be scientists

Joseph M. Lary III
Joseph M. Madden
Annette W. Zimmern

To be sanitarian director

Michael D. Flanagan
Frank N. Kanatani
Richard William Peterson
Leo H. Snyder
William R. Wheatley
Richard D. Wise

To be senior sanitarian

Wayne A. Bliss
Gregory J. Glahn
Selden C. Hall, Jr.
Floyd L. Lashly, Jr.
Ronald H. Smith

To be sanitarian

George E. Byrns
Alan M. Croft
Max B. Gyllenskog
Robert F. Hendrickson
John T. Jankovic

To be veterinary director

Charles G. Liddle

To be senior veterinary officer

Allan Lock

To be pharmacist director

Charles A. Branagan, Jr.
Richard P. Draper
Donald R. Hamilton

Donald D. Morgan
Richard A. Moss
Thomas B. Talamini
James C. Yatsco

To be senior pharmacist

Roger L. Dinwiddie
Paul A. Goodspeed
Arthur H. Holmes, Jr.
Gordon H. Jensen
Max Lager
Benjamin P. Lewis, Jr.
Johnny B. Peebles
James M. Powers, Jr.
John R. Short
James G. Tauer
Theodore A. Westley

To be Pharmacist

Neil M. Abel
Robert C. Adams
John A. Becher
Steven C. Bowman
Michael F. Breckinridge
Mark E. Breutzman
James P. Cobb
Gary P. Copeland
Richard E. Davis
Michael R. Gecewich
George J. Grimes, Jr.
Raymond W. Hammond
J. Craig Hostetler
Donald R. Johnson, Jr.
Neumon D. Johnson, Jr.
Roger D. Nicolaus
Glenn H. Rex
Michael G. Smith
Kenneth L. Spear
Timothy P. Utke
Paul L. Vance
Dorothy S. Vershure
William B. Welch
Daniel P. Williams
Paul R. Wright

To be dietitian director

Jane A. Kennedy

To be dietitian

Sharon H. Garro
Laura M. Vizas

To be therapist director

James D. Ebner
Hugh M. Moffatt, Jr.

To be senior therapist

Harry T. Bergtholdt
Roger R. Berry
Gene A. Diullo
Barbara H. Ferguson
William A. Fromherz
Arthur J. Plumstead, Jr.

To be therapist

James A. Akers
Michael R. Huylebroeck

To be health services director

John W. Biedenkapp
Coy A. Davis, Jr.
Edmond Steele, Jr.
Gerald G. Wheeler

To be senior health services officer

Joseph S. Arcarese
Bascom W. Carlton, Jr.
Winston J. Dean
Gayland M. Erikson
Alan S. Harris
Henry A. Hayes
George M. Nakama
Harley V. Piltingsrud
John B. Richardson
Ellery D. Savage
Melvin E. Segal
Mark O. Semler
Dennis R. Shipman
Joseph G. Sirmons
Joel I. Verter
Theodore J. Weinberg
Samuel T. Windham, Jr.

To be health services officer

Evan R. Arrindell
Joanne Barron
Charles A. Beckwith
William S. Boivin
Martin J. Bree
Constance M. Burtoff
Elmon S. Crumpler
Ronnie L. Davis
Peter A. Demonte, Jr.
Charles R. Gunzburg
Robert P. Kuhlthau
John L. McCrohan, Jr.
Leonard C. Nelson
Emmett E. Noll
Tim L. Pay
Philip W. Quinn
Dawn G. Tharr
James J. Vucich

To be senior assistant health services officer

Steven H. Ahrenholz
Thomas F. Carrato
Janet E. Johnson-Leclair

IN THE PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For permanent promotion:

To be medical director

Thomas N. Chase
F. Lawrence Clare
Joe H. Davis
James D. Felsen
Robert H. Gelber
Gilman D. Grave
Marlene E. Haffner
Donald R. Hopkins
Rice C. Leach
Donald H. Luecke
James D. Moore
Stanley I. Music
Scott H. Nelson
Martin J. Nemiroff
William W. Niemeck
Barbara L. Packard
Theodore J. Redding
William W. Richards, Jr.
Richard B. Rothenberg
Patricia A. Salomon
Harrison C. Stetler
Kurt J. Stromberg

To be senior surgeon

James R. Allen
Alfred L. Brassel, Jr.
James W. Curran
Donald P. Francis
Frank A. Hamilton
David L. Heymann
Robert F. Knouss
Jeffrey P. Koplan
Kenneth H. Kraemer
Randall H. Lortscher
Edward D. Martin
Herbert C. Morse III
Joel Moss
Phillip I. Nieburg
Paul A. Nutting, Jr.
Charles A. Patout, Jr.
Walter Reich
Gregory I. Shorr
John A. Wolfe

To be surgeon

William L. Heyward
Mark A. Kane
Timothy J. Ungs

To be senior assistant surgeon

Karen C. Carlson
Sevasti J. Dames
Robert E. Dawson
Arthur J. French III
Sandra L. Kweder
Mary Ann Powers
Roger D. Prock

To be dental director

Jack Belchinsky
Donald G. Burks
Robert C. Fielder
George B. Fink
Stephen Gobel
Albert D. Guckes
Leopold J. Sollazzo
Galen B. Warren

To be senior dental surgeon

William D. Beck
William L. Cloud, Jr.
John A. Colvin
Philip L. Graitcer
Darrell R. Hazle
Woodrow B. Lackey
Robert F. Martin
Thomas K. O'Connor
Don C. Robertson
Donald C. Smith

To be be dental surgeon

Victor R. Alos
David Apatoff
Dale P. Armstrong
Barbara B. Beach
Roland J. Bondani
Christopher Delecki
Raney J. Deschenes
Suzanne Eberling
Andrew P. Goldbeck
James E. Haubenreich
Roger D. Livingood
Patrick D. McDermott
Catherine A. Phillips
Garry E. Pitts
Scott M. Presson
John L.M. Robinson

To be nurse director

Claudette V. Campbell
Ann J. Eades
O. Marie Henry
Mary L. Raje
Lois E. Solari

To be senior nurse officer

John P. Crowley
Mary M. Dodson
Merlyn K. Erickson
May B. Given
Gay N. Grover
Frederick C. Raje

To be nurse officer

Ann T. Gwiazdowski
Elizabeth J. Holcomb
G. Levering Keely, Jr.
Charles R. Mauch
Rhett S. McMurray
James D. Smith
Constance G. Walker
Jaloo I. Zelonis

To be engineer director

Thomas A. Bartholomew
Timothy J. Bergin
Philip J. Bierbaum
Wayne A Blackard
Bruce M. Burnett
Dean R. Chaussee
Wayne T. Craney
Bobby L. Dillard
Donald J. Dunsmore
Grady T. Helms, Jr.
Jospeh W. Janick
Gary S. Logsdon
Leonard W. Nowak
John R. Oconnor

Billy F. Pearson
Billy H. Reid
John M. Smith
Robert N. Snelling
Dale A. Stevenson

To be senior engineer officer

James A. Crum
Charles O. Dowell
Larry S. Gaynor
Joseph F. Harrison
Terrence O. Hausken
Peter R. Johnson
Howard B. Kelly
Nelson A. Leidel
Melvin L. Myers
Chester F. Pauls
David D. Royston
Paul S. Ruggera
Ronald R. Speedy
Robert W. Wheeler
Linden E. Witherell
Gary D. Young

To be engineer officer

Marc R. Alston
Alvin Chun
Charles S. McCammon, Jr.

To be scientist director

James M. Barbaree
Frederick C. Churchill II
Donald A. Eliason
Philip E. Hamrick
John N. Krzemien
James C. McFarlane

To be senior scientist

Carl J. Gates
David G. Hattan
Robert H. Hill, Jr.
Jack E. McCracken
Bradford G. Perry
Neil L. Sass
Stephen W. Smith
Andrew T. Sumner
David T. Tingey

To be sanitarian director

John Paul Conrad, Sr.
Billy D. Jackson
James A. Kraeger
Walter R. Payne

To be senior sanitarian

Bruce R. Chelikowsky
Richard E. Gross
Donald W. Payne
Darrell J. Schwalm
Byron L. Tart, Jr.

To be sanitarian

Thomas A. Demarcus
Richard H. Glover
John J. Hanley
John P. Sestito

To be veterinary director

Joseph E. Pierce

To be senior veterinary officer

Milton April
John D. Bacher
John R. Broderson
Roscoe M. Moore, Jr.

To be veterinary officer

Robert J. Carolan

To be pharmacist director

Robert J. Branagan
Alfred Fallavollita, Jr.

To be senior pharmacist

Frederick J. Abramek
Thomas A. Alpert
David A. Apgar
Clarence E. Gissendanner
Melvin Lessing
Donald C. Thelen

To be pharmacist

Alan L. Ballard
Donald Beiergrohslein
Carl J. Chancey
Joy Leon Dearman
Thomas E. Dorworth
David P. Elder
Galen R. Goeden
Rodney W. Hill
Janet M. Jones
Dianne L. Kennedy
Paul G. Ketteridge
James W. Little
Ezequiel Mendieta, Jr.
James W. Moore
Thomas G. Phillips
Richard R. Potter
Donovan J. Sauter

To be dietitian

Frank T. Logiudice, Jr.
Mark S. Siegel

To be therapist director

Joseph B. Hayden
Richard I. Hetherington
Peter T. Langan

To be senior therapist

Marsha H. Lampert
Valerie A. Olszewski
Gerald L. Rogers

To be therapist

Beverly J. Bell

To be health services director

Loretta A. Coughlin
Joseph M. Cummins
James E. Delozier
David L. Duncan
Avraham Forman
Aubrey M. Hall, Jr.
Robert J. Landry
Terrence L. Rice

To be senior health services officer

Gerald G. Akland
James H. Brannon, Jr.
Louise Y. Doss
Stephen D. Finstein
Robert J. Garrison
William J. Gregory, Jr.
Matthew L. Henk
Donald A. Hensel
Joan E. P. Holloway
Robert C. Jackson
Ruth W. Kaneshiro
Douglas A. Mahy
Patricia D. Mail
Timothy J. Morton
William E. Murray, Jr.
William H. Oates, Jr.
Thomas R. Ohlhaber
James J. Polkabla
Charles K. Showalter
Richard A. Tell
Peter K. Vaslow

To be health services officer

Gloria N. Ames
Peter A. Doob
Alan S. Friedlob
Mark S. Gorden
Nancy A. Hazleton
Llewellyn H. Mason, Jr.
Kurt R. Maurer
Robert W. Miller
Ronald A. Reddick
Stanley A. Salisbury
Nancy L. B. Sullivan
Gary W. Wabaunsee
George H. Walter

IN THE PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For appointment:

To be senior surgeon

Gerald A. Faich
Leo Gorelkin
Bernard Moss
James C. Rahman
Edward L. Schneider

To be surgeon

Robert W. Amler
Norman W. Barton
Gershon H. Bergeisen
Robert H. Carlson
Susan S. Carlson
Jaime M. Diaz-Hernandez
David S. Dickman
Samuel S. Kessel
Robert J. Kim-Farley
Howard S. Kruth
James S. Marks
Gladys Nevarez
Theodore M. Pinkert

To be senior assistant surgeon

David M. Band
Joyce M. Johnson

To be senior dental surgeon

Agustin Camacho-Torres
John K. Geppert
Gene R. Sterritt

To be dental surgeon

Stanford M. Bastacky
Howard F. Blessing
James M. Drych
Philip C. Fox
James D. Friday
Byron G. Jasper
Edward J. Kriksciun
Steven H. Posner
Mark J. Rosenberg
Robert A. Sappington

To be senior assistant dental surgeon

John F. Anton
George Chiarchiaro
Roger L. Cho
Robert J. Davis
Betty J. Deberry
Horace Harris
Richard T. Higham
Kenneth E. Hoffman
Mark Koday
Michael P. Lewitzke
Dean A. Malloy
Michael L. Mark
Thomas O. Oas
Forrest H. Peebles
Marion E. Roots
Gregory T. Smith
Jonathan C. Smith

To be senior nurse officer

Bernadine B. Kuchinski

To be nurse officer

Sharlene L. Bryant
Nacy V. Hicks
Curtisjean Jones
Elizabeth G. Moore
Marsha L. Moore
Robert A. Parsons
Constance G. Shaw

To be senior assistant nurse officer

Shirley M. Bruce
Myra M. Dupree

To be assistant nurse officer

David L. Griffith
Ernestine Murray

To be senior engineer officer

Peter J. Culver
Michael M. Roder

To be engineer officer

Dennis H. Ackerson

Thomas M. Bedick
Samuel C. Bradshaw
Clinton Cox
Alvis E. Jordans
Howard R. Ludwig
Robert J. Mazzaferro
Martin D. McCarthy
Vincent D. Mortimer
Richard C. Oksness
William T. Park
Savador Reyes, Jr.
Raymond J. Suarez
Rodney Lee Vyff
Merle M. Wasson
Kenneth E. Wilde
Michael K. Yavarow

To be senior assistant engineer officer

Roger A. Anderson
Kenneth W. Ayers
Gerald V. Babigian
Richard F. Barror
Curtis C. Bossert
Thomas A. Burns
Joseph C. Cocalis
Michael S. Crandall
Robert W. Faaland
Kerry M. Gragg
Daniel J. Habes
Robert M. Hayes
John W. Hutchison
Thomas R. Johnson, Jr.
Ernest L. Leporini
Thomas J. Murphy
John C. Taylor
James L. Thode
Randy N. Willard
Robert A. Young
William R. Zobel

To be senior scientist

James V. Dingell
Duane J. Gubler
George P. Kubica
Walter L. Scott
John W. Spencer

To be scientist

Michael L. Adess
Michael C. Alavanja
Ronald F. Carey
Donna K. Chandler
Raquel A. Crider
Victoria M. Hitchins
George P. Hoskin
Lireka P. Joseph
Daniel M. Lewis
Charles H. Nauman
Jean A. Pennington
David E. Scheim
Earl L. Washington
Francis J. Winn, Jr.
William P. Wood

To be senior assistant scientist

William G. Brogdon
William T. Dill
Anna M. Sandberg
Andrea A. Wargo

To be senior sanitarian

Michael J. Peach, III

To be sanitarian

Rodney L. Coker
Rick P. Ferguson
Douglas R. Jackson
Carl T. Rybak
Larry M. Solomon
Barry S. Stern

To be senior assistant sanitarian

Martin N. Erlichman
Ralph F. Fulgham
John W. Fuller
Nathaniel S. Good IV
Randy E. Grinnell
Richard W. Hartle
Bruce W. Hills
Bruce K. Molloy
Kathy L. Morring
Richard S. Schurz
Gerald W. Shipps
John A. Steward
Thomas J. Vegella

To be senior veterinary officer

Robert J. Arko
Ronald W. Moch

To be veterinary officer

Michael J. Blackwell
Robert M. Werner

To be senior pharmacist

John M. Patten

To be pharmacist

George B. Carpenter
Misoon Y. Chun
Frank A. Dodge
Louis D. Fairfield
Elizabeth E. Hiner
David Holovac
William L. Matthews, Jr.
Fred. G. Paavola
Nicholas P. Provost
Mark H. Rotman
Loren A. Toldness
Steven M. Wilson

To be senior assistant pharmacist

Elaine G.E. Abraham
Russell E. Alger
Janet L. Anderson
Thomas R. Berg
Silvia P. Breakfield
Ronald E. Brown
Michael J. Ciairmont
David C. Clark
Ronald D. Clark
Steven C. Doane
Steven J. Donelan
Thomas J. Fischbach
Marilee J. Fix
Donald G. Grilley
Paul L. Hepp
Patrick S. Hogan
Michael F. Johnston
Danny C. Jones
Robert C. Kittams
Michael A. Mangiapane
Thomas J. McGinnis
Robert A. McGough
Walter H. Moore
Nan Needham
Glen M. Prewett
Mark E. Ramey
James P. Robey
Joan G. Schey
Barbara J. Sorrell
Leland R. Stern
Paul D. Thomas
Stephen W. Wickizer
James W. Wilson, III
Steven G. Wintersteen

To be senior dietitian

Donald T. Simon

To be dietitian

Beverly G. Crawford
Janet M. Taylor

To be senior assistant dietitian

Karen A. Herbelin

To be senior therapist

Myrna G. Barenz
Sharleen A. Kirkpatrick

To be therapist

Albert Esparsen
Grant A. Schofield

To be senior assistant therapist

Bonnie C. Thornton
Prince L. Watkins

To be senior health services officer

Ralph E. Bunge

To be health services officer

Rebecca S. Ashery
Stephen J. Balcerzak
Arthur C. Ball
Gene E. Carnicom
Lawrence R. Catlett
James E. Clair
Burton J. Conway
Carol A. Delany
Thomas J. Fischbach
Paul J. Gilligan
Ellery F. Gray
James L. Gray
Richard W. Hornung
Michael O. Keneally
Michael A. Lopatin
Gary O. Maupin
Lawrence F. Mazzuckelli
Freddie D. Mitchell
Kay A. Strawder
Percy W. Thomas III
Siu G. Wong

To be senior assistant health services officer

Victor N. Avitto
Gene A. Brayboy
Hamilton L. Brown
Guy E. Burroughs, Jr.
Franklin D. Crooks
Robert L. Davidson
Hilda P. Douglas
David W. Gentry
Alice L. Greife
Paul Hewett
Gloria J. Holder
Jeremiah P. King
Richard A. Laeng
Maria Lago
Steven A. Lee
Bruce E. Leonard
Gary L. Leva
Richard A. Levy
Paul W. Lichtenstein
Gregory D. McLain
Sarah E. Meachen
Louis F. Mocca
Judy E. Rodgers
Stephen A. Souza
Wendell E. Wainwright
Maruta Zitans

To be assistant health services officer

Geroge E. Foley III

CONFIRMATIONS

Executive nominations confirmed by the Senate May 19, 1987:

CENTRAL INTELLIGENCE

William H. Webster, of Missouri, to be Director of Central Intelligence.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Michael S. Kanne, of Indiana, to be U.S. circuit judge for the seventh circuit.

James H. Alesia, of Illinois, to be U.S. district judge for the northern district of Illinois.

Roger B. Andewelt, of the District of Columbia, to be a judge of the U.S. Claims Court for the term of 15 years.

Joseph P. Stadtmueller, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin.

DEPARTMENT OF JUSTICE

Charles W. Larson, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

K. Michael Moore, of Florida, to be U.S. attorney for the northern district of Florida for the term of 4 years.

George J. Terwilliger III, of Vermont, to be U.S. attorney for the district of Vermont for the term of 4 years.

Michael W. Carey, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years.

WITHDRAWAL

Executive message transmitting a withdrawal of a nomination from further Senate consideration, received by the Secretary of the Senate during the recess of the Senate, on May 18, 1987, under authority of the order of the Senate of February 3, 1987:

FEDERAL HOME LOAN BANK BOARD

Lee H. Henkel, Jr., of Georgia, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1989, vice Donald I. Hovde, resigned, to which position he was appointed during the recess of the Senate from October 18, 1986, until January 6, 1987, which was sent to the Senate on February 13, 1987.

EXTENSIONS OF REMARKS

VIEWS OF THE ELDERLY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. HEFLEY. Mr. Speaker, it has been said that there are two things in life that are inevitable: death and taxes. A third, and one that most of us hope for, is the chance to grow old and enjoy life with the wisdom and perspicacity that only age can bring.

What the future holds for each of us is uncertain. But a group of eighth grade students at Eagleview Middle School in Colorado Springs has done a remarkable study which attempts to answer some of the questions we have about the elderly in America. I submit their study and statistical findings for our review and encourage my colleagues and others to give further thought and attention to their conclusions:

A RESEARCHED STUDY ON THE VIEWS OF THE ELDERLY

(Prepared for Congress and presented by Congressman Joel Hefley for the eighth grade students of Burgundy Team, Eagleview Middle School, Colorado Springs, Colorado)

In October 1986, the eighth grade students on Burgundy Team at Eagleview Middle School began a lengthy study of the elderly. During the school year, approximately 60 students were involved in researching answers to the impact of compulsory retirement, social security, societal attitudes, lifestyle choices, political issues, and specific problems related to the elderly population of the United States of America. An additional group of 32 students researched such subjects as arthritis in an effort to better understand the problems of the elderly. During a period of approximately six months nearly 1200 senior citizens aged 55 through 66+ years were interviewed. The students taught a computer class for senior citizens, visited nursing homes to record "living history", assisted senior citizens in making Christmas presents for their relatives, collected canned goods for the elderly both at Thanksgiving and Christmas, and maintained many personal friendships initiated with senior citizens during this study.

A statistical review of the responses of senior citizens to a student-generated questionnaire gave a picture of the views of the older population in Colorado Springs, Colorado where the study took place. Generally speaking, the assessment of the responses of nearly 400 senior citizens sampled at random (students tracked them down in shopping malls, at nursing homes, wrote grandparents and solicited the assistance of their grandparent's friends, at senior citizen centers and organizations, etc) indicated the following trends:

For the most part, men felt that society treated them the same or better than when they were younger, but a substantial percentage of women in the 55-60 yr. age group felt that they were treated worse as they aged.

Regarding the planning for old age during one's younger years, women in the 55-60 age group indicated that they had not planned ahead whereas older women indicated that they had. Distribution was fairly close on this issue implying that large numbers of people (especially women) do not adequately prepare for old age.

The major problems faced by older citizens, in their opinion, are health and financial concerns. Students surmised that these two issues were interrelated in many cases. Health was by far the greatest concern of the elderly.

Basic needs of an older person indicated that health and access to care were the most significant. "Other" received a large and varied response highlighting individual situations. The answers did not highlight another major area.

In the opinion of the elderly the major issue was peace. Students noted that their greatest concern was the possibility of nuclear war; whereas the elderly focused on the need for peace. Other major concerns were social security and inflation which both impact the elderly because of fixed incomes.

Government related events that the senior citizens deemed affected them most were social security, Medicare, and unemployment. Again, "other" emerged as a significant category but reflected individual situations and a specific issue was not repeated enough to be considered.

Social security received considerable criticism as well as praise. Though the majority felt it was good, significant numbers were critical of the system. Many indicated that they would not be able to survive without it.

Compulsory retirement also was an issue that the senior citizens had strong opinions about, and the majority of them felt that it was bad. However as people grew older they seemed more accepting of the idea, indicating that the older had to step aside to make jobs for the younger.

Many people were less willing to discuss how their choice of lifestyle as a younger person affected them in older years, but most agreed that choices earlier in life did affect them now. Though the majority agreed that their earlier decisions had affected them favorably, a significant percentage admitted that previous lifestyles had adversely affected them. Many cited use of alcohol and smoking as the source of previous and current problems, sometimes health-related.

The final question on the questionnaire was not statistically analyzed, however the response to "How can we bridge the generation gap? What advice do you have for the younger generation?" left students with a great deal of valuable insights.

1. How do you feel about the way society treats you now compared to when you were younger?

On the question of societal attitudes toward the senior citizens most people said that they were treated better or the same as when they were younger. This may be because people are not retiring as early as they were in previous generations. It seems that older people are treated better than when they were children; this may be because of how they were treated or the conditions in which they lived during the Depression. One group, however, did have negative feelings about society's attitude toward them. Women 55-60 years old had a significant percentage of women who felt society treated them worse. Perhaps women have more difficulty with the aging process. It seems that most people feel all right about how society treats them as they age.

2. Did you make plans as a younger person for this period in your life?

It seems an older man was more concerned about his older years and made more plans for this period when he was younger. This may be because this age group suffered through the Great Depression when they were young and were more informed as to how it is without food or money. This trend is shown all through the older age group. The people born during the Depression (61-65 years) even made more plans while the younger age group (55-60 years) did not make as many plans as an older person. This may be because they had more jobs during that time and didn't look ahead to the future. 62% of the men and 60% of the women in this age group did not plan ahead. Whereas 70% of the men and 72% of the women aged 60-65 years did plan ahead. For those 66 years and older 54% of the men and 70% of the women said they planned ahead. There was probably less divorce in this age group and women benefited from the marriage, being cared for by husbands.

3. What do you consider the biggest problem of an older person?

Eighty per cent of the men polled said that health was the biggest problem faced by the elderly. Among the women 78% responded that health was definitely the major problem faced by older people. Of the group polled who were not separated according to sex, 44% indicated that health was the biggest problem of the elderly.

4. What are the basic needs of an older person?

Overwhelmingly the answer was health and concerns about it. 30% of the men and 27% of the women listed good health as the focus of their basic needs. Of the group not divided according to sex, 64% responded that health was their greatest concern.

5. What do you consider the most important issue in politics today?

The comments given to this question were very scattered. Males 55-60 answered that 30% of them felt social security was the most important issue. 28.8% of the males 61-65 years said social security was the most significant issue to them. However 57.1% of the males 66+ years responded that keeping the world peaceful (without war) was the most important political issue.

Females varied slightly in their responses to this question. In the 55-60 year age group 32.7% said that peace was their biggest issue. In the 61-65 year group 25% of the ladies answered that social security was the most important issue. However, females 66+ answered that 31.1% felt world peace was the most important issue.

6. What government related event affects a senior's way of living the most?

The comments given were very scattered in many categories. 212 people answered this question altogether. The group 55-60

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

years: 56.25% answered social security. 12.5% answered Medicare, 6.25% answered unemployment, 6.25% answered with no comment and 18.75% answered "other". The male group 61-65 year answered 26.31% social security, 31.57% answered Medicare, 5.26% answered taxes, 21.05% answered unemployment, 5.26% answered unemployment, 5.26% answered with no comment and 10.57% answered with "other". The male group 66 and older answered 19.4% with social security, 21.2% answered Medicare and 8.51% answered taxes.

7. What do you think about social security?

This question tells us that more people like social security than don't. For the males in the age group of 55-60, 50% said good, 8% said it was O.K. and 42% said it was bad. No one thought it was an unimportant issue. In the age group 61-65, 61% said it was good, 3% said it was O.K., and 3% said it was important. In the age group of 66 and older, 63% replied good, 6% said O.K., 22% said it was bad, and 8% said it was important.

For the females in the age group of 55-60, 61% said good, 5% said O.K., 33% said bad, and 0% said important. In the age group of 66 and older, 63% said social security was good, 2% said O.K., 25% said it was bad and 7% agreed that it was important.

The people who are not separated according to male or female responded: 55-60 year olds—67% said good, no one said O.K., 33% said bad, and no one replied important. In the age group 61-65, 65% said good, no one replied O.K., 35% said bad, and no one answered important. In the age group of 66 and older, 60% said good, 0% said O.K., 40% said bad, and 0% said important. This question might have been misleading because many people who answered that social security was bad were actually concerned with its administration or the amount of money received. Many people commented that they couldn't live without it.

8. What are your feelings about compulsory retirement?

It seems that compulsory retirement is a major dislike of men and women of all ages. Males (55-60) that thought compulsory retirement was bad represented the majority at 73%. The remaining 23% disagreed with compulsory retirement. Seventy-six per cent of males 61-65 years disagreed with compulsory retirement. The remaining 24% accepted it as something good. The remaining age group (66+ years) among the men: 67% said forced retirement was bad while 33% came to a conclusion that it was acceptable.

Of the females 55-60 years, 80% of them thought compulsory retirement was not good. Twenty per cent of the women thought it was bad. Sixty-one per cent thought it was good. Sixty-one percent of the women in the 61 to 65 age group frown on compulsory retirement while the other 37% support it. Women 66 years of age and older had a 78% vote against it. The remaining women (22%) agreed with it.

In some research, the men and women were not separated. In this group the 55-60 year olds said 75% disagreed with it and 25% agreed. Sixty-one percent of those not listed male and/or female (ages 61-65) do not believe in compulsory retirement and 39% do believe in it. Continuing with this group, the people 66 and older frown on compulsory retirement (57%). Although 46% accept it.

Out of total of 365 people in every age group, 70% of the people disagreed with compulsory retirement and the other 30% agreed.

9. Did the lifestyle you chose as a younger person affect your life as an older person?

Male 55-60: Yes, 81.9%; No, 18.1%.

Male 61-55: Yes, 70%; No, 30%.

Male 66+: Yes, 46.6%; No, 53.4%.

Female 55-60: Yes, 36.4%; No, 63.6%.

Female 61-65: Yes, 66.6%; No. 33.4%.

Female 66+: Yes, 55.5%; No, 44.5%.

Other 55-60 (Men/Women Combined): Yes, 40.7%; No, 59.3%.

Other 61-65: Yes, 57.5%; No, 42.5%.

Other 66+: Yes, 35%; No, 65%.

Most males and females said that they pre-planned their lifestyles. However, there was a noticeable exception in two groups: men who were 66 and older as well as women who were 55-60 years old. Perhaps the women were affected by divorce or their jobs were assumed later in life after they had cared for a family; this might have prevented their getting a high-paying job. The men may have found that inflation and their fixed incomes kept them from being as well off as they had thought they would be.

10. Did your lifestyle from when you were younger affect your lifestyle favorably or adversely?

Male 55-60: Favorably, 60%; Adversely, 40%.

Male 61-65: Favorably, 58%; Adversely, 42%.

Male 66+: Favorably, 75%; Adversely, 25%.

Female 55-60: Favorably, 65.6%; Adversely, 34.4%.

Female 61-65: Favorably, 96.4%; Adversely, 3.6%.

Female 66+: Favorably, 80.5%; Adversely, 19.5%.

Other 55-60 (Not separated by M/F): Favorably, 84.6%; Adversely, 15.4%.

Other 61-65 Favorably, 85.7%; Adversely, 14.3%.

Other 66+: Favorably, 75%; Adversely, 25%.

Females and males both generally agreed that their lifestyles as younger people had affected their current life favorably. However, in many age groups there were significant percentages of people who said that they had been adversely affected by their choices when they were young.

The following students were involved in collecting data and compiling the statistics cited in this paper:

Lincoln Bogard, Cynthia Davis, Jim Eaches, Christelle Hagemeier, Jeff Hatten, Juli Hefley, Jason Kaiser, Bethany Krick, Tammi Land, Jay Lind, Matt McGarrity, Paul Olmsted, David Piercy, Angela Renauld, Stephanie Richardson, Jason Schuknecht, Valerie Soulier, Jon Swales, Brad Younge, Keri Zeller.

Jason Brightwell, Melanie Buerk, Paul Chen, Amanda Dassel, Randy Dawson, Brenna Dougherty, J.D. Fay, Amy Hetager, Garret Hodges, Amy Jacobs, Philip Jean, Todd Lynch, Stephanie May, Mike McCarty, Danielle Rice, Karin Russo, Grace Salire, Angel Scully, Kristina Small, Kim Stanley, Lori Summerfield, Chris Tomsha, Heather Webb, Tammy Yoshimoto.

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WASHINGTON POST CONFIRMS: PATTERN OF ABUSES LAID TO SANDINISTAS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. SOLOMON. Mr. Speaker, it is my pleasure to enter in the Record the May 18, 1987 article "Pattern of Abuses Laid to Sandinistas" published in the Washington Post, a periodical not otherwise known for its support of the Contras.

Those individuals, in or out of Congress, who are dedicated to undermining the Reagan doctrine and its roll-back of Communist aggression will not enjoy this article. Coming as it does in the Washington Post, it proves that it is the Sandinistas, not the Contras, whose policy it is to terrorize innocent Nicaraguans. Murder, kidnaping, torture, blackmail—all the usual tools Communist regimes use to intimidate their subject populations are being used by the Sandinistas. And despite a disinformation campaign unlike anything seen since the heyday of Dr. Goebbels, the truth is starting to come out:

Pattern of Abuses Laid to Sandinistas: Detainees, Rights Groups Charge Torture, Oppressive Confinement

(By William Branigin)

Tipitapa, Nicaragua.—Last month, two carloads of Sandinista secret police pulled up to Rosa Moreira Trana's rickety wooden shack here and arrested the 58-year-old widow and two of her 12 children; a 26-year-old son and a 22-year-old pregnant daughter.

So began 18 days of suffering and terror for one of the thousands of Nicaraguans who have passed through the Sandinista prison system. Moreira's story reflects a pattern of human rights violations—including arbitrary arrests and torture—under the Sandinista government as it wages an escalating war with U.S.-backed rebels, who also have been charged with widespread abuses.

According to Moreira, she and her children were taken to Managua's notorious El Chipote prison, where she was accused of being a rebel leader and placed in a tiny, stifling, lice-infested cell with a steel door, no light and only a hole in the ceiling to let in air.

Already at the facility operated by the secret police was another son, who had been picked up at work in Managua the day before. She said she was targeted as a suspected rebel because her family hails from a southern part of the country, where the insurgents enjoy support.

During her detention, Moreira said, guards deprived her of sleep, menaced her with a snake, gave her pills that made her sick and threatened to kill her children. At one point, she said, she heard a man being beaten and was told it was one of her sons.

Finally, ill and terrified after 18 days of solitary confinement in a dark cell, Moreira said, she signed a confession that she was not allowed to read and was released along with her daughter. Now, Moreira said, police have told her that she and her daughter are under indefinite "house arrest," although neither has appeared in court. Her two sons are still in El Chipote.

Nearby, in Tipitapa's state penitentiary known as the Model Prison, Isidora Zapata Zeledon, a 29-year-old nurse, is serving a 30-year sentence for what is officially described as an "offense against public order and security." A Sandinista official said she was the wife of a rebel task force chief. A human rights activist said she was accused of treating wounded rebels.

In a letter smuggled out of prison last year, Zeledon said that after her arrest in December 1982, when she was two months pregnant, she was beaten and sexually abused by guards, confined in a coffin-like cell, deprived of food and water for three days and locked in a toliet, where she was forced to sleep naked on a wet floor.

Zeledon wrote that she became so thirsty at one point that she drank slimy water from the toilet tank. She was interrogated with a pistol at her temple and eventually signed a confession that her interrogators said would lead to her release, Zeledon wrote. Instead, according to a human rights advocate, it was used as the only evidence against her when a Sandinista court sentenced her to 30 years in prison in 1984.

On April 22, according to an Interior Ministry communique, three suspected "counterrevolutionaries," or contras, accused of blowing up utility pylons were shot to death after they were taken to point out an arms cache and allegedly tried to escape.

Three days later, Gen. Humerto Ortega, the Sandinista defense minister, said, "Now the government will get tough with terrorists and tower-dynamiters." He added, "The Army and the people have been directed to execute revolutionary justice against all those elements who are surprised while carrying out terrorist acts against civilian and economic targets," as well as "those who indirectly collaborate in such actions."

Interviews with former detainees, relatives of political prisoners and human rights activists, as well as reports by human rights investigators, suggest that Nicaragua's Sandinista government violates the human rights of its citizens on a large scale. The interviewees and the written reports cite instances of arbitrary arrest, psychological and physical torture, disappearances, trials by kangaroo courts, mysterious deaths of suspects under detention, forcible resettlement of peasants and aerial bombing of civilians in remote areas.

The government acknowledges that its military and security forces abuse some human rights, but insists these are isolated cases that result in severe punishment. Authorities generally deny or decline comment on the most serious violations. A governmental human rights commission focuses almost exclusively on abuses by the rebels, which have been documented and condemned as well by a number of foreign human rights organizations.

INTERNATIONAL FOCUS

These human rights violations by the contras—including the killing of civilians, kidnaping, torture, summary executions, attacks on non-military targets and indiscriminate use of land mines—also have been extensively reported by news media. Less has emerged about Sandinista violations, which generally have not attracted as much international attention as the contra abuses.

Reporting on Nicaragua's human rights situation takes place in a highly charged political atmosphere in which the built-in biases of groups that oppose the contras or the Sandinistas must be taken into account. None of the human rights groups operating in Nicaragua is generally recognized as impartial.

One of the first detailed studies by an independent international human rights organization was a 211-page report published last July by the New York-based International League for Human Rights. The study charges that the Sandinista government violates several international agreements it has signed, notably the International Covenant on Civil and Political Rights, through "arbitrary arrest and detention," use of "torture and cruel, inhuman degrading treatment or punishment" of prisoners, failure to "comport with the minimum due process standards effective even in a state of emergency" and other practices.

In a 117-page report issued in February, the human rights group Americas Watch states, "The government of Nicaragua engages, as a matter of policy, in abusive interrogation tactics against prisoners, including psychological pressure and threats used to secure their confessions." It cites "the use of very small cells, sleep deprivation and food and water deprivation."

However, the organization, which says it opposes U.S. support for the contras, absolves the Sandinista government of the systematic use of torture, noting that cases it has found "represent isolated instances, not part of a deliberate policy."

Unlike some other non-Nicaraguan groups, Americas Watch does not see "a pattern of violations" of the laws of war, the right to life and physical integrity of detainees and forced disappearances. It says such cases that do occur "do not reflect a governmental policy to commit them or to tolerate them."

That view is disputed by Nicaragua's Permanent Commission on Human Rights, an independent body that began by denouncing violations under the former regime of Anastasio Somoza in 1977 and now documents charges against the Sandinistas.

In a 26-page report published April 30, it charges that "the government uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."

The report asserts that in the General Directorate of State Security's "operations centers," of which there are nine major ones, including El Chipote, political detainees are "subjected to all kinds of torture and mistreatment so that they sign declarations that in most cases they are not permitted to read and in which they incriminate themselves or implicate others in 'counterrevolutionary activities.' "

OBSERVERS EXCLUDED

These detention facilities are off-limits to all human rights organizations, including the government's own commission and the International Committee of the Red Cross. The report also says that since October 1985, it has received complaints of 33 cases in which persons were killed upon or after being arrested. In addition, it says, the Permanent Commission is currently investigating 280 cases of persons who disappeared after having been captured by Sandinista authorities.

Another recent study by the Puebla Institute, a New York-based lay Roman Catholic human rights organization headed by a Nicaraguan critic of the Sandinista government, says that more than 300,000 Nicaraguans, at least 10 percent of the population, have left their country since the 1979 Sandinista takeover because of abuses including arbitrary arrest, torture and the bombing of homes in rural areas where contras are active.

Borge denied that interrogators torture or "practice violence" against prisoners, but he indicated that state security prisons would continue to be off-limits to human rights groups. "We don't permit prisoners to be seen during interrogation because that would obstruct the investigations," he said.

The interior minister, one of nine commandantes on the Sandinista National Directorate that runs the country, also denied charges by a high-ranking Interior Ministry defector, Alvaro Jose Baldizon Aviles, that Borge had ordered "special measures," meaning summary executions, of certain political enemies of the Sandinistas. Borge called Baldizon a "traitor" who is "full of calumny for the revolution" and "invented this out of thin air."

"I am opposed historically to all types of abuses, and everyone in Nicaragua knows it," Borge said. "No leader of the revolution has ever ordered a murder," he added. "I don't want to say that murders have not been committed, but those comrades who have committed murders have been prosecuted by courts and sentenced up to 30 years in prison."

Borge said that among the security forces, "hundreds have been punished" for various offenses, including abuse of prisoners.

According to figures released by Borge in the interview May 9, there were 10,293 prisoners in various Sandinista prisons, including 132 in state Security centers. He estimated that about 70 percent of the rest were jailed for "common crimes." He indicated that snags have delayed a plan to release about 600 former National Guardsmen jailed since 1979.

Vilma Nunez, the president of the National Commission for the Protection and Promotion of Human Rights, a government-sponsored group, gave somewhat different figures. She said there were about 9,500 prisoners, including 300 in State Security detention centers, 2,322 former National Guardsmen and 1,500 to 1,600 other "counterrevolutionaries."

However, according to Lino Hernandez, the head of the nongovernmental Permanent Commission on Human Rights, only the figure for the imprisoned National Guardsmen is not in dispute. In addition, he said, there are "no fewer than 7,000 political prisoners" in a total estimated prison population of about 14,000, including up to 1,500 held in State Security facilities.

In an interview, Hernandez criticized what he said were understated figures on political prisoners published by some international organizations, including Americas Watch, whose latest report gives figures for National Guard and "political prisoners" that total slightly less than the Sandinista commission's figures.

Hernandez also complained that anticontra U.S. groups such as Americas Watch, Witness for Peace and the Washington Office on Latin America tended to soft-pedal Sandinista human rights violations or explain them as "isolated cases" out of government control.

"They try to call attention to violations by the contras," Hernandez said. "They do work that is eminently political against the North American administration. We think these organizations have every right to oppose their government's policy of arming warring factions in any part of the world, but they don't have the right to distort our reality to achieve this."

A Witness for Peace spokesman in Managua countercharged that the Permanent Commission does "selective reporting" and takes a "biased view."

Hernandez mentioned the case of Sofonias Cisneros, president of the Nicaraguan Union of Christian School Parents' Associations, who was arrested May 14, 1985, at his home after making a speech denouncing what he said was the Marxist-Leninist orientation of the Sandinista education program.

In a written account, Cisneros said he was taken to El Chipote prison, where he was tortured and threatened with death by the chief of the General Directorate of State Security, Comandante Lenin Cerna. Later that night, Cisneros said, he was dumped naked in a Managua street, "You can't say it's a case out of control if it was handled personally by Lenin Cerna," Hernandez said.

A KIND OF ABUSE

Borge acknowledged that Cisneros was "subjected to a kind of abuse, but not to the extent he claimed," because he has "insulted" leading "martyrs of the revolution." But Borge denied that Cerna was involved and said "another comrade" had been punished in the case. Cerna did not respond to a request for an interview.

According to Hernandez and other Nicaraguan sources, Sandinista authorities recently have been cracking down on a new organization called the Jan. 22 Movement of Mothers of Political Prisoners. The group, founded in January to lobby for a general amnesty and better treatment for political detainees, says it numbers more than 150 active members and some 4,000 affiliated relatives of prisoners.

Several members interviewed said they had been threatened by State Security men recently and warned to quit the movement. At least five have been detained briefly by the secret police.

One member, Tomasa Hernandez, a former Sandinista militant who says her imprisoned husband was once a bodyguard for Daniel Ortega, said authorities had threatened to jail her for her activities and already had drafted her 16-year-old son in "reprisal." She said her husband had been jailed several times after falling out with the Sandinistas in 1980 and joining the Social Christian Party. He was sentenced in 1985 to three years for involvement in a contra "internal front."

"After the revolution, we saw that there wasn't democracy, that there wasn't the system we had been fighting for," Hernandez said. She said she would remain in the Jan. 22 Movement because "it's the only way we can face up to a totalitarian dictatorship."

Another member, Violeta de Rugama, said her 26-year-old son, Manuel Adan Rugama Suazo, was arrested in June 1984 shortly after graduating from medical school in Mexico and sentenced to nine years in jail for alleged involvement in the contra "internal front." She called the sentence "revenge" because a relative with a similar name, Manuel Adan Rugama Acevedo, also a doctor, is an active contra commander. She said her family's private hospital had been confiscated, her son had been punished in prison and a warden had warned her that the son would "disappear" if she continued in the movement.

In a separate interview at her shack in Tipitapa, Rosa Moreira Trana told of similar threats as she described her imprisonment last month in El Chipote with her sons, Marcial and Lorenzo, and a daughter, Maria Ignacia. At one point as she listened to the screams of a man she thought was a son, she said, a guard came and "told me, 'We're going to kill Lorenzo.' He said I had to say who were the contras among the people, that I was a leader of the counterrevolution, that my children and I were comrades of those who were blowing up pylons." She continued, "They told me I was a counterrevolutionary, that I was with the CIA, that I was in contact with Reagan. But I don't know the contras, and neither do my children."

Sitting on a stool in her yard as naked grandchildren played around her and chickens pecked in the dirt, Moreira sobbed as she recalled the terror or her interrogation:

"I'm afraid they're going to kill my children. They told me they were going to kill them all . . . kill all my children and grandchildren."

Her daughter, Maria Ignacia, added, "They told us that if we talk about what they said to us, they were going to make me disappear. They were going to take my brother Lorenzo and me and make it look like we were killed in combat by the contras."

"This is the clean revolution that we have in Nicaragua," Rosa Moreira said when she had calmed down. "If I were younger and healthy, maybe I would be with the contras."

In Managua, Vilma Nunez, the head of the Santinistas' rights commission, said she was not aware of such complaints and that her commission has not received "any denunications of torture." Seated in her office, which is decorated by a large Sandinista flag, portraits and busts of revolutionary leaders and books by Fidel Castro, Nunez acknowledged she is a "Sandinista militant" and said she believes in being a "good Sandinista."

Of the mothers' movement, she said, "Officially we don't know of their existence. They haven't come to the commission." She added, "I don't know why these persons don't come here. If they would come and make a complaint, we would immediately attend to it."

H.R. 5, THE SCHOOL IMPROVEMENT ACT OF 1987

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. GORDON. Mr. Speaker, I am proud to support H.R. 5. The School Improvement Act of 1987 is the most far-reaching education bill that the historic 100th Congress will consider. This legislation affirms the dual Federal commitments to the access to quality education for disadvantaged students and excellence in education for the Nation. As a supporter of this landmark legislation, I urge my colleagues to join me in making excellence in education a national priority.

H.R. 5 is an omnibus bill which extends and revises 14 of the most important Federal elementary and secondary education programs due to expire this year. Among these are the successful chapter 1 program providing funds to school districts to meet special needs of disadvantaged children; title II of the Education for Economic Security Act which creates enhanced mathematics and science education programs; the excellence in education demonstration programs, the Drug Free School and Community Act as well as a new program for gifted and talented children. This legislation, for the first time, also focuses Federal resources on dropout prevention, improving basic skills and preschool education.

Mr. Speaker, the House will be considering H.R. 5 at a time when interest in education is high. During the past 5 years, many improvements have been made to our educational system. The public, teachers, and administrators alike have demanded reform and supported measures to improve local school systems. The right time for Congress to enact a national comprehensive education reform package is now.

Our Nation is now grappling with ways to become and remain more competitive. America is searching for the means to compete internationally, to expand our economy and to create more and better jobs at home. In our quest for scientific and technological advances, we must not neglect the most vital and precious resource that holds the key to our Nation's future, our education system.

Mr. Speaker, I know the importance of a strong education. I am proud to say that I am a product of the Tennessee public school system. I have developed a strong commitment to quality public education through my parents who were both teachers. A day doesn't go by, whether here in Washington or at home in Tennessee, when either a parent, teacher, or student speaks with me about the importance of maintaining a strong educational system. Adoption of the School Improvement Act of 1987 is an important step in achieving our goal of creating the finest education system in the world.

THANKS TO THE BARTENDERS' BALL FOUNDATION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. FAUNTROY. Mr. Speaker, I rise before you today to pay tribute to a group of Washington, DC, restaurateurs, their suppliers, and friends who have contributed a half million dollars to various local charities since 1979.

The Bartenders' Ball Foundation, composed of local restaurant owners, sponsor an annual ball, with proceeds to benefit many nonprofit organizations that serve a variety of community needs. On March 21, 1987, this group held their ninth annual ball, which raised approximately $75,000. One of the recipient charities, the Shaw Community Center, benefited from this year's ball.

I especially commend the chairman of the Bartenders' Ball Foundation, Mr. Thomas J. Russo for his leadership on behalf of this important work. He and his fellow business persons have demonstrated their civic commitment and community service by utilizing their time, energy, creativity, and resources to aid the programs of those organizations dedicated to improving the quality of life for the residents of the District of Columbia.

A SYNTHESIS OF RESEARCH ON BILINGUAL EDUCATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MARTINEZ. Mr. Speaker, I would like to draw the attention of all members to an article by Prof. Kenji Hakuta and Laurie J. Gould. The article, "Synthesis of Research on Bilingual Education" was published in Educational Leadership, the journal of the National Association of Secondary School Principals, March 1987. The article provides a useful and highly readable summary of current research on bilingual education. At this point I would like to include a portion of the longer article for the RECORD.

SYNTHESIS OF RESEARCH ON BILINGUAL EDUCATION

(By Kenji Hakuta and Laurie J. Gould)

(Substantial research supports teaching language-minority children in their native language and suggests that bilingualism is a cognitive asset.)

Passions run high in the debate on bilingual education. Unfortunately, political static has often blocked the lines of communication between researchers and educators. Much confusion persists over both the phenomenon of bilingualism itself and the goals and methods of bilingual education. Until the terms of the debate are clarified, the policy debate will continue to be dominated by political rhetoric and folk notions.

WHAT IS BILINGUAL EDUCATION?

Contrary to popular perceptions, the term bilingual education encompasses a broad range of programs. To begin with, there is a great variety in the extent to which the first language is used in the classroom. In some cases, the first few years of instruction are conducted in the native language with English introduced only gradually. In other cases, language-minority/limited-English proficient (LM/LEP) children are placed immediately in all English classrooms (an approach usually called submersion). This tremendous variation in programs can be witnessed in a study done by Development Associates for the U.S. Department of Education (Development Associates, Inc., and Research Triangle Institute 1984). This study classified programs for LM/LEP students in the first grade by the amount of time they used the first language. Table 1 shows their results. Ninety-three percent of LM/LEP first-graders receive at least a substantial proportion of their instruction in English 26 percent receive only English instruction. . . .

EVALUATION RESEARCH

Several attempts have been made to evaluate the effectiveness of bilingual education programs, comparing them in most cases to submersion programs. Most notable are the often-cited large-scale study by the American Institutes for Research (Danoff et al, 1977a, b, 1978) and Baker and de Kanter's (1981) synthesis of smaller evaluation studies. Many researchers have criticized these studies, which have generally concluded that bilingual programs are no more effective in promoting English language and other school skills than alternative programs (McLaughlin 1985 provides an evenhanded and thorough review of the criticisms). These evaluations typically compared bilingual programs with submersion programs (which included, perhaps, a few hours a week of ESL help). As we have already seen, however, an extreme diversity of instructional methodology exists within programs that are labeled "bilingual." Some classrooms in "bilingual programs" looked very similar to some "submersion" classrooms. Without actual classroom observation and description of the instructional characteristics of the various programs, we do not really know what was being compared with what. Quite possibly, the negative results reflect weaknesses in the studies themselves, rather than in the bilingual education programs they sought to evaluate.

Another problem with the evaluation research is the selection of the comparison groups against which the bilingual education treatment groups were assessed. As Willig (1985) points out, very few studies use the ideal method of "random assignment." In some studies, the comparison group included students who had themselves formerly been in bilingual programs, thus biasing the results in the direction of the comparison group (since students who exit from bilingual programs early tend to be the more academically gifted students).

Willig re-analyzed the same set of studies used in Baker and de Kanter's report. By employing a more rigorous method of analysis that systematically took into account the quality of the individual studies, she was able to derive conclusions that relied more strongly on higher quality research. In contrast to Baker and de Kanter, Willig found evidence in favor of bilingual education programs. Most important was her finding that the better the research methodology used in the studies, the greater was the effect in favor of bilingual programs.

While the studies discussed above, for the most part, compared various bilingual approaches with submersion strategies, there have been few attempts to evaluate the use of immersion programs for minority students in the United States. SRA Technologies is conducting a Department of Education-funded study comparing students in immersion programs with students in "early-exit" or transitional bilingual programs, and children in "late-exit" or maintenance programs. Although the study has not yet been completed or released, in the first year of the four-year study, researchers found that students in bilingual programs with greater native-language components did considerably better on tests in reading, language arts, and mathematics (Crawford 1986, reporting in Education Week). Contrary to the expectations of the researchers conducting the study, the third group, which had the least exposure to English, made the greatest progress in both Spanish and English. These results, together with Willig's findings, suggest that programs with substantial native-language components may be very effective.

COGNITIVE AND LINGUISTIC RESEARCH

Less often quoted, but no less relevant, in the debate on bilingual education is the body of research on the cognitive effects of bilingualism and on the processes involved in language learning. The following are some of the broad issues addressed by this research. (For a more in-depth discussion of bilingualism and second-language learning, see Cummins 1984a, Grosjean 1982, Hakuta 1986, McLaughlin 1984, 1985.)

The nature of language proficiency. People tend to think of language, like intelligence, as a single, simple capacity that can be easily measured by a single test. However, recent research indicates that language is not a unified skill, but a complex configuration of abilities. Most important, it seems that language used for conversational purposes is quite different from language used for school learning, and that the former develops earlier than the latter (C.E. Snow 1983, Cummins 1984b).

In the context of bilingual education, this means that children become conversationally fluent in English before they develop the ability actually to use English in academic situations. Bilingual programs are commonly criticized for keeping students too long, even after their English is "adequate." But Cummins (1984b), for example, found evidence that while children may pick up oral proficiency in as little as two years, it may take five to seven years to acquire the "decontextualized" language skills necessary to function successfully in an all-English classroom. A child's English skill may be judged as "adequate" in an informal conversation, or even on a simple test; but this may not mean that the child's skills are adequate for understanding a teacher's explanation, for reading a textbook, or for writing a composition. Snow and Hakuta (in press) point out that prematurely mainstreamed students run the risk of being diagnosed as slow, disabled, or even retarded because of their language handicap.

The relationship of the two languages. One major argument often leveled against bilingual education is that it does not develop English rapidly enough because of its emphasis on the native language. However, research overwhelmingly refutes the major premise of this argument—that the time spent in the classroom using the native language is wasted or lost. First, a strong native language foundation acts as a support in the learning of English, making the process easier and faster (Cummins 1984b). Second, most of the learning that goes on in the native language transfers readily to English (Goldman et al. 1984; Cummins 1981, 1984c; Lambert and Tucker 1972; Stern et al. 1976; Genesee et al. 1977; Swain 1978; Genesee 1979). This is true not only for content areas like math, science, and social studies, but also for language arts skills like speaking, reading, and writing. The child who already understands why "tres por ocho es igual a cuatro por seis" will not need to be taught in English that "three times eight equals four times six." Similarly, the child who knows how to write a topic sentence or look up a word in the dictionary in Portuguese or Chinese will be able to use these skills in the English classroom. Becoming fluent in a second language does not necessarily mean losing the first language, nor does maintenance of the first language retard the development of the second language.

The relationship of language and general mental functioning. There exists a persistent belief that for minority children, bilingualism confuses the mind and retards cognitive development (see reviews by Arsenian 1937, Jensen 1962, Diaz 1983). This belief has its roots in some early attempts to explain why immigrants from southern and eastern Europe were performing poorly on IQ tests (Hakuta 1986). However, research now shows that there is no such thing as retardation caused by bilingualism; if anything, the development of a second language can have positive effects on thinking skills. A number of studies have shown that bilingual childen may gain some measure of cognitive flexibility (Peal and Lambert 1962, Bain and Yu 1980, Hakuta and Diaz 1984), particularly where the bilingualism is additive (i.e., where the first language is maintained, rather than replaced). Bilingualism is definitely not an intellectual handicap; quite possible, it is a cognitive asset.

The differences between individual children. Documented cases of children who rapidly acquire a second language do exist (see case studies in Hatch 1978), but research shows these cases to be the exception rather than the rule. There are tremendous variations in the rates at which children learn a second language, and the process is not as painless as we might like to believe. The rate of acquisition can be influenced by many factors, including cultural background, the strength of the native language, home language environment, personality, attitude, and linguistic aptitude (see discussion in Hakuta 1986).

Bilingual education programs should be adaptable to different children's needs. If individual and cultural factors support second-language learning, children may exit from bilingual programs fairly quickly. Other children, however, may need bilingual instruction for relatively long periods of time.

The optimal age for second-language acquistion. Many people believe that if children have not mastered the second language by early school years, they never will. But the belief that children are fast and effortless second-language learners has no basis in fact. Teenagers and adults are much more efficient learners than elementary school children, and fourth to seventh graders are faster than first to third graders (Snow and Hoefnagel-Hohle 1977 and 1978). Research in Canada has shown that one year of immersion in the second-language classroom at seventh grade is worth three years' immersion starting at first grade (Genesee 1981). It is important to realize that, especially for primary grade children, second-language learning is likely to be a very slow process, but that it can still be successful if started much later than age five or six.

Bilingual programs should be designed with the expectation that young school-age children learn second languages rather slowly and will need several years of learning before their English is as good as that of children who have been speaking it since birth. Furthermore, starting to speak English even as late as high school is no barrier to learning to speak it very well. The common sense of urgency about introducing English immediately to LM/LEP children, and about mainstreaming them as early as possible, has no basis in psycholinguistic fact.

Literacy. Perhaps the major task of schools is teaching children to read. Although reading scores for American children in general have improved during the last 15 years, the most recent results of the National Assessment of Educational Progress indicate that Hispanic children still lag far behind English-speaking children in reading achievement. Furthermore, the gap widens as higher grades; poor reading skills handicap older children in all their shool subjects.

Many factors influence a child's development of reading skills, according to the 1985 report of the Commission on Reading. Homes where children have access to time alone with adults, where literacy is modeled, displayed, and valued; and where parents emphasize learning and school achievement typically produce children who have little difficulty learning to read. For children whose homes do not provide this kind of literacy support, learning to read is a difficult task. These children often don't really know "what reading is all about"—the nature and purpose of literacy. Such children are at serious risk for failure to learn to read. This risk is compounded if the problem of reading is presented in a language they control poorly. Bilingual programs should concentrate on providing literacy skills in the home language, especially for those children whose parents have little education and poor literacy skills. Once the basic principles of reading are mastered in the home language, reading skills transfer quickly and easily to a second language (C. E. Snow 1986).

Social interactional factors in second-language acquisition. One criticism often leveled at bilingual programs is that they isolate non-English-speaking children from the English speakers who should be their friends, and who should be helping them to learn the language. It is not the case, though, that merely playing with other children contributes much to the kind of language skills needed for school success. Young children can play, and have fun, and even "talk" together with rather little solid knowledge of each other's languages (Wong Fillmore 1976).

Furthermore, putting minority children in mainstream classrooms does not ensure interaction. Children, like adults, only interact with people they like or admire. If non-English-speaking children in mainstream classrooms come from groups that are negatively stereotyped by the English speakers, interaction may be minimal (Genesee 1984, Giles and Byrne 1982). Bilingual education can upgrade the status of previously stigmatized languages and cultures if those languages are used in the school and teachers and administrators from that ethnic background are hired. In addition to facilitating social interaction between language-minority children and their English-speaking peers, such bilingual programs give an institutional boost to minority-group children's self-esteem (Inn 1983).

CONCLUSIONS AND FUTURE DIRECTIONS

Although bilingual education policymakers often claim that there is little research to guide them, the deficiency is to program evaluation research, rather than in research on the developmental psychology of the bilingual child. Basic psychological and linguistic research, while not directly addressing the implementation of bilingual education programs, shows that many of the commonly stated concerns about bilingualism in children are unfounded. In general, the research supports the use of the native language in the instruction of language-minority children.

Cognitive research can also expose and counterbalance the often dangerously inaccurate labeling of the program evaluation studies. The concern of these studies is naturally with the differential impact of the programs, although little effort is made to find out what goes on in them. Evaluation research provokes political heat because programmatic labels often represent different partisan interests (e.g., U.S. English groups arguing against bilingual programs, or Hispanic groups opposing efforts to reduce the use of the native language). Basic research in which the unit of analysis is the individual child reminds policymakers that the intricacy and the beauty of the developing child should not be overlooked in favor of programmatic and political concerns.

H.R. 2435 HAS BIPARTISAN SUPPORT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. GUNDERSON. Mr. Speaker, recently I introduced with my colleague from Idaho, Mr. STALLINGS, a bill to amend the Farm Credit Act of 1971 to create a secondary market for agricultural mortgages. This legislation, H.R. 2435, has bipartisan support, as seven Republicans and seven Democrats have combined to introduce it.

This concept is new to agricultural mortgages, but it has been successfully used for both residential home mortgages and student loans. What a secondary market would provide is the ability of a principal lender or loan originator to resell the mortgage to an investor, in this case either Farm Credit System institutions, commercial banks, insurance companies or other certified entities, thereby reliquifying its capital and creating the ability for further lending.

For farmers this would mean that regardless of local or national credit market conditions mortgage availability would be increased. Long-term, fixed-rate mortgages would become more available due to the liquidity of a secondary market. In addition, greater fund availability automatically means borrowers pay lower interest rates than they would otherwise.

For agricultural lenders a secondary market would translate into better risk management. A secondary market allows "pooling" of loans, which simply means packaging any number of loans for sale together on the secondary market. The more diversity in a pool, the lower the risk. Agricultural lenders would have the flexibility to diversify by geographic location as well as by commodity type.

The bill which I have introduced allows farmers and ranchers to continue to apply to local lenders for loans to buy farmland. These lenders, following the underwriting standards established by the governing body of the secondary market, would check with various certified poolers of farm mortgages to get the best terms for their qualified borrowers. The lenders then sell the loans to the loan pooler who offers the best terms while retaining the right to service the loans and maintain their relationship with farm borrowers.

A new entity would be created by the bill—the Federal Agricultural Mortgage Corporation or Aggie Mae. This corporation will be regulated by the existing Farm Credit Administration and will be limited to specific functions to ensure that it does not evolve into a large, centralized entity. The specific functions of Aggie Mae are to:

Adopt underwriting standards for farm real estate loans sold on the secondary market;

Adopt certification standards, then certify poolers;

Authorize the Farm Credit System's credit enhancement for qualifying pools; and

Pay the System's Funding Corporation a fee of up to 0.5 percent of the amount of each pool for the credit enhancement which assures timely payment of principal and interest on securities backed by the farm mortgages.

Mr. Speaker, while I am not wedded to each and every word of H.R. 2435, I do believe that it is the best proposal yet introduced on the secondary market for agricultural mortgages.

As we continue our hearings on farm credit in the House Agriculture Committee this summer, ultimately producing a bill for full House consideration late this summer or early in the fall, I will urge my colleagues to take a long hard look at the secondary market proposal. H.R. 2435 is a good starting point for this continued debate.

"ALL AMERICANS SHOULD BE BILINGUAL," AN ESSAY BY GERARDO TRUJILLO, GRADE 12, SIERRA VISTA HIGH SCHOOL, BALDWIN PARK, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. TORRES. Mr. Speaker, I ask my colleagues to read the essay of Gerardo Trujillo, a young constituent of the 34th Congressional District. Gerardo won third place in the National Association for Bilingual Education [NABE] Student Essay Contest. Winners were announced in Denver, CO, at an award luncheon sponsored by NABE and IBM Corp. on Wednesday, April 1, 1987.

ALL AMERICANS SHOULD BE BILINGUAL

Americans should be bilingual so they can have the opportunity to know me. Does this sound reasonable? If each American speaks one other language, then that doubles his chances to communicate with me and people like me. When he communicates with people like me, that increases his chances to make new friends and to share what he knows.

When I first came to this country, I saw people from all over the world and I was anxious to speak with them. I had never seen so many different faces crying to share their stories. But, since I didn't speak English, I had to restrict myself to Spanish speaking friends. I wanted American friends but they didn't speak Spanish and I didn't speak English and we were separated from each other before we even had the chance to know each other.

Why should Americans be bilingual? Principally, Americans should be bilingual so they can relate with people whose lives and cultures might be different from their own. Bilingual Americans can show the world they are open and capable and loving, that they are free thinking, caring people who don't need a third person to express their feelings and their thoughts. Bilingual American have an added perspective and insight into those who might be different from themselves.

Being bilingual gives the person more experiences and excitement. It helps the person to understand who others are and how they all stand together as members of one great society.

Why should Americans be bilingual? Americans should be bilingual so they can have the opportunity to know me. I'm here, ready to communicate and share who I am. I am an American who can share with other Americans the language and culture of Mexico. I'm also a Mexican with the ability to show interest in the American language and culture.

Why should Americans be bilingual? Americans should be bilingual so they can have the opportunity to know me, to hear my voice, my dreams, my aspirations. Why should Americans be bilingual? Americans should be bilingual so that I may have the opportunity to know them, to hear their voices, their dreams, their aspirations. We are, after all, all the same people.

Mr. Speaker, Gerardo's essay demonstrates that students participating in bilingual education classes are thinking about the impact of bilingualism as a positive factor in their lives. I ask my colleagues to join me in commending Gerardo for his thoughtful presentation on why he believes that all Americans should be bilingual.

CONTRAS AND TAX DOLLARS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. BONKER. Mr. Speaker, late this year the House will be taking up the President's request for $105 million in further military and humanitarian aid to the Contras. Given all the revelations about such misguided policies and the absence of leadership among the Contras, it is doubtful the Congress will go along with further funding. A prominent citizen, Sheila Guenther of Vancouver, WA, recently put the Contra aid issue in perspective by comparing the $40 million of U.S. Government funds going to the mercenaries in Miami to the lack of Federal support for needed projects closer to home. The article contains a lot of wisdom and common sense about our national priorities and foreign policy misadventures.

[From the Vancouver (WA) Columbian, May 6, 1987]

BRING CONTRAS TO VANCOUVER

(By Sheila Guenther)

On April 15th, when I mailed a large check to the IRS and I heard on the news that the IRS had mailed a $30,000 check to Ronald Reagan, I decided it's time we get our share of the defense budget.

It is only appropriate since what they gave us so far is Officers Row. Twenty huge old military houses in the midst of Vancouver and all but one seems to be falling apart.

We start with the Contras, who get our tax-money all the time and never seem to keep track of what they get or where it went.

As near as I can figure, the Contras are a bunch of men who wear uniforms and have planes and gunpowder and officers' mess and they live in Florida where they practice war. They are supposed to go do a real war in Nicaragua, except no one wants them in Nicaragua and they don't want to go there either. It's scary.

Life is a lot safer, plumbing's good, roads are better, movies and TV are more up to date in Florida. So there they sit with my taxes, helping Florida by spending money there. And it says in the newspaper our federal folks just gave the Contras another $40 million.

I suppose that might be OK except that the federal government isn't giving our city government any money to fix up our military houses. So there's nobody in them and the sewer pipes are bad. The city already paid a Portland expert over $500,000 to find that out and make plans for the houses. And then nobody liked his plans, including the federal people and now these sewer pipes will cost another $240,000. No one will be there to use the plumbing, anyway, because it's bad, the roofs are bad and the wood's rotting away.

This is where the Contras come in. We all have read they don't want to go to Nicaragua. They just want to dress up in uniforms, do maneuvers, parades, practice drills, whatever Contras do—in Florida.

Vancouver needs the Contras. No one else really does. Besides, the Contras have the bucks. And they need lots of houses for their officers. And a place to land planes.

We should bring the Contras here, but first bring their $40 million. Initial project, of course, is rebuilding and fixing up all the houses. The ovens at the Fort site could probably be expanded to accommodate historically authentic tortillas and frijoles.

Next, extend the Chelatchie Prairie Railroad with a side track to the fort. Now we can have Contra troop trains. They can board the trains and go up north to do practice maneuvers in the woods.

Then a proper garbage-gulping site at St. Helen's crater could be located, complete with tramway to lift the city and county garbage from the end of the tracks to the dump site.

Amenities? Of course, surely there will be enough in the Contras' $40 million to outfit their own "Contra Band" to hold forth in the bandstand and march in the Hazel Dell Parade of Bands, perform at the County Fair and Miss Washington pageant.

Security? Keep the police chief on salary and assign him to escort troop trains and the Chelatchie/Contra solid waste run.

Some of you may be worrying because I've left out Nicaragua. It seems logical to treat that nation as we do Russia and Japan. Establish a "sister city" bond with Managua. Expand trade to include a nifty contract with Jantzen Knitting Mills for cotton from Nicaragua.

The "wrinkled look" becomes a way of life. Diplomatic relations improve and no one ever has to fire a shot.

This brings me to the issue of gunpowder. There must be at least a hundred people here each year who worry a lot about raising $40,000 or so to buy gunpowder to blow up and make a Fourth of July fireworks display for one evening.

What's blowing up $40,000 worth of gunpowder in one evening to the Contras? Just a diversion. Something they can neatly justify in their entertainment budget. Besides, crawling in trenches and loading up gunpowder is their forte. So, I propose the Contras give the Fourth of July committee all the gunpowder fit to blow up. And all the enlisted men the committee needs, as volunteers, to create the explosions. Contras pay for insurance.

Presuming, of course, that the Contras have "enlisted men".

The possibilities defy the imagination. Just a few good Contras and that $40 million could save the economy of River City. Right off.

The Fort would finally get an army. The annual Chili Cook Off would finally get authentic judges. Tears of Joy would get their usual free rent in a house where the roof didn't leak and the plumbing worked. St. James Cathedral would get more parishioners. The Chelatchie Prairie Railroad would get a mission, purpose and schedule. The police chief would get a job. The garbage would get a dump. The Fourth of July gunpowder project would get funds. Jantzen would get the best price on cotton. Pearson Airpark could stay intact. (The Contras have all those planes and need to fly over Nicaragua now and then.) Contra Band concerts would be weekly events in the bandstand.

And just maybe, the kids around here could get a break.

Dare I suggest the Contra $40 million dollar budget might include a thrilling exciting skateboard plaza fully insured to accommodate occasional split lips, bloody noses and sprained ankles?

You think I jest. Not so. These folks already have my taxes and your taxes. This is only a creative spending plan.

And it beats the socks off war.

THE INTRODUCTION OF H.R. 2462, MARITIME AUXILIARY SEALIFT AND TRAINING ACT OF 1987

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. JONES of North Carolina. Mr. Speaker, our capability to effectively transport our military sealift needs is in serious trouble. We have always needed a strong merchant marine to support these operations. Navy vessels alone cannot transport all of the materials needed in a prolonged or major conflict. Because of the declining state of our merchant marine, we have neither the ships nor the trained seamen to logistically support overseas operations.

Under current plans, the Federal Government buys vessels for the Ready Reserve Force [RRF]. These are usually commercial vessels that are no longer commercially viable to operate. Ships like these, even if useful, are laid up, and do not provide us with a trained manpower base to operate vessels in a national emergency.

Today I have introduced H.R. 2462, the Maritime Auxiliary Sealift and Training Act of 1987, to reverse this dangerous situation. This legislation is really very simple. It takes money that we would be spending for acquiring vessels for the RRF, combines it with the money we would use to maintain these vessels, adds in the cost of maintaining naval reservists to operate the RRF vessels, and pays it to operators of U.S.-flag vessels for their supplying the Federal Government with vessels and trained crews useful for strategic sealift.

The Maritime Auxiliary Sealift and Training Act of 1987 [MAST] is a successor to the operating-differential subsidy [ODS] system in the Merchant Marine Act, 1936. Its purpose is to compensate operators of U.S.-flag ships for the contribution those ships make to strategic sealift.

Every 5 years the Secretaries of Defense and Transportation will identify the number of ships necessary to meet sealift needs, as well as the seamen required to man them. The initial number of ships is set at 600 and seamen at 19,362, in accordance with a Navy manpower study done in 1986. Sealift needs are met when the total of ships receiving MAST payments, receiving ODS payments, already in the RRF, operated by the Military Sealift Command [MSC], and in the coastwise trade equals the number set by the Secretaries. Acquisition of ships for the Government's standby National Defense Reserve Fleet is permitted only when the sum of vessels available to the Navy in an emergency does not meet the sealift requirement.

The owner of any U.S.-flag vessel over 5,000 deadweight tons that is in the foreign commerce but not receiving ODS may apply for a MAST payment. An eligible vessel may be constructed in a foreign shipyard. All crew must be U.S. citizens, 75 percent must be naval reservists, and the vessel and crew must be made available for compensation Reserve duty with the Navy.

Until the identified sealift needs have been met, an application for a MAST payment must be approved for qualified applicants. A MAST payment contract must be for between 5 and 20 years. The MAST payment for each vessel equals: One, the average cost of acquisition of a vessel for the RRF—using the purchase prices of the 20 most recently acquired RRF ships—divided by the average years of remaining useful life, plus, two, the average annual cost of maintaining a vessel in 5-day breakout status in the RRF, plus, three, the annual average cost of training officers and enlisted personnel for a "merchant marine reserve." Payments are monthly.

Coastwise operations by MAST recipients are permitted only if their vessels are eligible to engage in the coastwise trade under the Jones Act. This, of course, reiterates existing law. However, they will not be able to receive MAST payments for the days on a voyage during which they are engaged in the coastwise trade.

A vessel receiving a MAST payment may serve on an "essential service"—sometimes called an ODS trade route—as defined by the 1936 act only when the MAST vessel was serving the essential service on the date of enactment and the level of MAST service is not higher than the level of service of that ship in the year prior to enactment, or when the essential service by U.S. vessels is determined to be inadequate.

Further, a MAST vessel, regardless of where built or whether it was reflagged, may transport Government-impelled preference cargoes consistent with the terms of the 1936 act. However, payments are proportionately reduced for foreign-built MAST vessels documented for fewer than 3 years.

MAST recipients must end all foreign vessel operations, including foreign-flag feeder vessels, by January 1, 1990. The bill eliminates the temporary section 615 foreign building waiver for ODS vessels, unless the construction was contracted for before 1987.

Mr. Speaker, the United States lacks a modern and coherent maritime policy. I believe that the MAST program provides the framework necessary to build up a U.S. merchant marine capable of supporting the strategic sealift that will be needed in time of a national emergency. I urge my colleagues to support this much needed legislation.

FINANCIAL DISCLOSURE STATEMENT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. KASTENMEIER. Mr. Speaker, continuing a practice I first began in 1963, I am placing in the CONGRESSIONAL RECORD a report on my financial condition.

While the Ethics in Government Act of 1978 and the House rules require public financial disclosure, the statement I am presenting is more precise in certain respects in its reporting than that required by law and by the House rules.

This report covers the calendar year 1986 and also includes the amount of Federal, State of Wisconsin, and local real estate taxes paid in 1986.

Financial disclosure statement—statement of financial condition, December 31, 1986

Checking account, with the Sergeant at Arms, House of Representatives (includes pay for December)	$2,283.64
Cash	94.78
Securities (stocks, bonds, etc): 700 shares Air Wisconsin at 11¼	7,875.00
IMMA account at First Virginia Bank	77, 763.63
Residential real estate: Arlington house and lot (1986 assessment)	229,200.00
Equity	229,200.00
Sun Prairie house and lot (1986 assessment) [1]	57,800.00
Backlot (1986 assessment) [1]	1,700.00
Improvements (dep'd)	850.00
Watermain and sewer (dep'd)	3,407.00
New roof (dep'd)	7,412.00
Total	71,169.00
Less mortgage	9,501.00
Equity	61,578.00
Household goods and miscellaneous personally	9,000.00
Miscellaneous assets, deposits with U.S. Civil Service retirement fund through Dec. 31, 1986, available only in accordance with applicable laws and regulations	[2] 82,829.10
Additional retirement fund deposit	1,130.00
Cash value	None
Life insurance—GI policy $10,000 on RWK	None
Life insurance congressional policy on RWK	None

Life insurance policy on Dorothy C. Kastenmeier	544.00
Donaldson Run deposit	400.00
Auto: Mercury 1978	1,000.00
Net worth	389,739.05
Taxes paid in 1968:	
Federal income tax	[3] 15,903.04
Wisconsin income tax	6,108.00
Federal employers tax	155.18
Sun Prairie real estate taxes	1,661.83
Arlington County real estate taxes	2,154.68
State sales tax	856.00
Wisconsin sales tax, auto purchase	947.03
Total	27,785.76
1986 income congressional salary	75,100.00
Honoraria (7)	7,615.27
Tax refund, State	572.12
Rent Sun Prairie House—Gross $5,060 (net)	80.45
Interest IMMA bank account	2,275.34
Dividend, Lucille Kastenmeier estate	60.00
Sale of stock, Lucille Kastenmeier estate	717.66
Interest Lucille Kastenmeier estate	2,986.59
Total	89,407.43
1986 separate income of my wife, Dorothy C. Kastenmeier:	
Interest Fredonia State Bank	362.42
Interest First Virginia Bank (KEF)	1,748.89
Dividends, Fredonia State Bank	754.50
Dividends, Mabel Chambers estate	79.00
Capital gain, sale of shares Fredonia State Bank	7,690.00
Rents, (net) Texas properties (4)	3,575.76
Interest and rents (net) Mable Chambers estate	2,397.00
Total	16,571.57

[1] Add 5% for fair market value.

[2] Increased liability for full funding unascertained.

[3] Federal tax liability for 1986 is $23,559.88.

Note: Separate property of spouse not listed.

A DIVIDED CYPRUS BENEFITS NO ONE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MAVROULES. Mr. Speaker, the past few months have been a turbulent time in American government and politics. The entire Nation, including the Congress, now finds itself absorbed in such movie-perfect dramas as the Iran/Contra hearings and the Gary Hart controversy.

We should tear ourselves away from this excitement for a moment to remember the other compelling issues that continue to confront both the United States and the rest of the world. I would like to take this opportunity to once again remind my colleagues of the unacceptable stalemate that remains on the Island of Cyprus.

As we all know, the Turkish military has occupied the northern portion of Cyprus since its 1974 invasion. Turkish troops—which now number more than 30,000—continue to lay claim to 40 percent of the island. Let none of us in Congress forget the hardship that this has brought to the people of Cyprus, nor the compelling need to reach a peaceful resolution to this critical problem.

My distinguished colleague and friend from Ohio, Mr. ED FEIGHAN, recently wrote an eloquent and informative piece for the Washington Post on this issue. He accurately concludes that the continued division of the island is in no one's best interest. It creates tension between Greece and Turkey and within the NATO southern flank, and it perpetuates a gross injustice on the people of Cyprus.

I submit Mr. FEIGHAN'S statement for the RECORD and highly recommend it to all of my colleagues. It will serve as a useful reminder that this unfortunate stalemate continues. Equally as important, it will remind us that the United States must never waiver in its commitment to pursuing a peaceful and mutually acceptable resolution to this crisis.

Thursday, April 16, 1987

A DIVIDED CYPRUS BENEFITS NO ONE

(Charles E. Feighan)

Amy E. Schwartz's op-ed piece ["Cyprus Standstill," April 7] sets out to provide an "equal hearing" for the Turkish community on Cyprus to the readers of The Post. But her uncritical assessment of the Turkish-Cypriot case avoids even the pretense of balanced reporting and belies the suggestion that the Turks "have to come late and rather clumsily to the world propaganda game."

As the article notes, the Turkish army invaded Cyprus in 1974 following a coup against President Makarios' government. Rightly, Turkish Cypriots feared this extremist junta. So did all Cypriots: the new regime lasted less than a week. After a short interval, constitutional order was restored, and Makarios returned to the presidency. Yet Turkish troops stayed—and expanded their hold to 40 percent of the island. United Nations resolutions have repeatedly condemned this illegal occupation. But the troops—more than 30,000—are still there today, a fact Schwartz neglects to mention.

No op-ed piece can account for every facet of the Cyprus dispute. But Schwartz must be held accountable for her failing to analyze the "shruggingly obvious" observation that the Greek Cypriots are stonewalling a settlement.

To get a better sense of the Turkish position on Cyprus, it's essential to examine the actions behind their soothing rhetoric. Their leader, Rauf Denktash, did say yes to last year's U.S. document, but only after adding unacceptable preconditions that demanded that no troop withdrawals take place until after the legitimate government of Cyprus had been dissolved. In the year since then, the Greek Cypriots have accepted Secretary General Perez de Cuellar's new proposal for talks, but Denktash has refused.

Meanwhile, Turkey has placed 10,000 new troops along the Green Line, and modern U.S. weapons allocated to Turkey for NATO purposes have been diverted to modernize the Turkish occupation forces on Cyprus—a move that recently prompted the House Foreign Affairs Committee to pass a provision to prohibit the transfer of new U.S. arms to Cyprus.

But Schwartz's most astonishing contention is the suggestion that the continued division of Cyprus somehow—"paradoxically"?—serves the long-term interest of the Turkish Cypriots. She notes that bankers are wary of Turkish Cyprus because it is a war zone. But how one-sided is it to say there is a war zone on only one side of a military front line? The fact is that the war zone argument has not held back the victims of the invasion, the Greek Cypriots. On their side of the island, life booms. Before the 1974 invasion, the average imcome of Greek Cypriots was twice that of their Turkish Cypriot counterparts; now it is four times greater.

Why? The answer is simple. The Cypress government runs an open, democratic, free-market economy with close links to the West, and it has worked hard to rebuild from the rubble of invasion. The Turks are running a statist economy kept in place by an army and large subsidies from the Turkish mainland, and they have poured 60,000 settlers into the country to stabilize the regime. No wonder the northern Cypriot economy is lumbering along at less than half the rate of growth of its less-well-endowed southern half.

Three years ago Congress authorized $250 million for a special Cyprus peace and reconstruction fund. This authorization, which remains on the books today, could be used to solve the very real economic problems Schwartz mentions, and it underscores the very real belief in Congress that peaceful reconstruction can occur only after a settlement is reached.

The continued division of Cyprus is in no one's best interest. It drains the strapped Turkish economy of at least $120 million a year; it perpetuates tension on NATO's already unsettled southern flank; and it condemns the people of Cyprus—Turks and Greeks alike—to a future we would never accept for ourselves.

Time favors force, not the forces of accommodation. To suggest otherwise displays ignorance of political reality and insensitivity to the "loftinesses" of self-determination and the rule of law that Denktash—and Schwartz—treat so casually.

NEAL ENSMINGER: THEY JUST DON'T MAKE THEM LIKE THEY USED TO

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. DUNCAN. Mr. Speaker, Chuck Fedfern and the Daily Post Athenian have accurately summed up my thoughts regarding Neal Ensminger, retiring executive editor of that publication. I commend Neal on his 50 plus years in the newspaper business, serving the community through honesty and hard work.

THEY JUST DON'T MAKE PEOPLE ANYMORE LIKE NEAL ENSMINGER

(By Chuck Redfern)

The retirement of J. Neal Ensminger from The Daily Post-Athenian marks an end to an era that spans some 50 years of unmatched service, loyalty, productivity, training of young newspaper reporters, advertising sales people, future businessmen and women, and more important, financial success to the owners of the newspaper.

The DPA has been a daily newspaper some 56 years and Neal has been "Mr. Post-

Athenian" for 50 of them. There have been several owners, numerous managers, editors and hundreds of employees in those years. There have been good times and bad times as a newspaper is like any other business. Depressions, recessions, competition and personnel can threaten its existence.

Neal Ensminger was the "rock" that kept our daily chronicle afloat in tough times and a prize winning paper in good times. I'd venture to say that no other newspaperman in the state of Tennessee has served one newspaper for 50 years, in as many different jobs, and with such outstanding ability in all of them, as everyone's friend. J. Neal Ensminger.

His retirement does mark an end to his full-time work at The DPA but it does not mark an end to his contributions to his church and his community. You could label him a "legend in his time" and that legend will continue as his God given talent of superb oratory enriches our lives.

You see he is more than a newspaper man. He is a Sunday School teacher, a lay preacher, and a speaker at civic functions, graduation exercises, conventions, funerals and any occasion that calls for a person who has something to say and knows how to say it. He is recognized as the finest extemporary speaker in our area, a college debating champion and an eloquent orator.

In the past 50 years at The DPA, Neal was not only known for his newspaper acumen but is a recognized stalwart in the Methodist Church, locally and nationally. In this period he was considered a "born" Democrat (not a born-again one) and has been active in politics. Senators and congressmen sought him out when they came to town. Governors have called him on the phone and visited him in his office. In spite of his acknowledged partisan stand, he was always "fair" with those of the opposite party and Republican leaders knew they could talk to Neal and get a fair shake when it came to telling their side of the issues and stories.

I can only go back 40 years of those 50 of his life, as it was Jan. 1, 1946 that I came walking down depot hill after getting off the midnight special from Memphis and stepped into The DPA office on North Jackson Street. There was Neal to greet me and take me under his wing to further my education in the newspaper business and work with me in opening WLAR, the first Athens radio station. Incidentally, he has been a weekly voice on radio ever since that first broadcast in May 1946, another record that often goes unrecognized.

Of all the accolades that have been given this gentleman and there are many, including being the first "Athens Man of The Year," none is more important than being known as a human being who has helped others. It would be difficult to venture a guess as to how many individuals Neal Ensminger has started on their business career training. From newspaper carriers, to reporters, advertising salesmen, bookkeepers, job printers, linotype operators and whatever goes on in a newspaper. They will agree with me that we owe Neal a debt of gratitude that can never be repaid. Neal's Alumni Association has spread across the land, as well as in our community.

Lessons learned from the old professor Ensminger, by getting a start at The DPA, has resulted in his "students" becoming reporters in large metropolitan newspapers, job printing technicians for big companies, advertising managers, and successful businessmen and women. I can witness to the many techniques I learned from him and had it not been for Neal, I might not be writing the "Old Timer's" column that allows my printers-ink blood to flow. I've never heard an Ensminger protege say anything but praise for the man who helped them get started in their working life.

The unique thing about Neal Ensminger, besides being a renowned newspaper man, is that he has been Mr. Everything at the Post-Athenian. Through the years, if you wanted a story in the paper, you took it to Mr. "E." If you had an ad to run, call Neal.

If there was an obituary, a lost dog, or a business story release, you yelled for Neal, caught him as he went down the street or buzzed him on the phone. If you failed to get your evening paper, you called him at home. If a family needed food, call Neal. If you needed a speaker, a preacher, a friend, call Neal. His duties through the years were unlimited.

He has counted out the papers to the carrier boys and often delivered them himself. He has swept the floor, answered the phones, wrote the news stories, gathered the ads from merchants, helped repair the old flat-bed press, hired and fired employees, collected debts, greeted newcomers to the city and gave directions to tourists. If there was anything else to do, he has done it. Only in recent years has he been able to settle down a bit in his office, "make up" the paper, write editorials and let some others handle duties that were once all his.

The whole community has been made richer by his 50 years at The DPA. While the old newspaper sign "30" means the end to an article or story, there will be no "30" for Neal Ensminger's service to his beloved community or his newspaper until he starts checking the Associated Press wire service in that big newspaper in the sky, (and we hope that is a long time off). There is a lot more can be told about his 50 years of being Mr. DPA but that will have to come some day with "The rest of the story."

As many say, "They don't make them like Neal anymore," and that's for sure.

EDITORIAL OUTLINES SANDINISTA ABUSES, CONTRA POPULARITY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. SOLOMON. Mr. Speaker, the press ought to be given credit whenever it does a fine job. A case in point is an editorial published Sunday, May 17, in the Times Union of Albany, one of the finest papers in the Northeast. This editorial reminds us of three very important facts: First, whatever the revelations of the Iran-Contra hearings, they have absolutely nothing to do with the merits of the Contra cause itself. Indeed, the issue is not what Richard Secord or Ollie North did, or when, but whether or not we want Central America to become a Soviet satellite. Second, the most blatant violators of human rights in Central America are the Sandinistas, not the Contras as Sandinista agitprop would have us believe. Third, the overwhelming majority of people in all Central American countries favor the Contras and distrust the Sandinistas.

Mr. Speaker, It is my pleasure to enter this editorial in the RECORD, in the hopes that all 435 Members of this body will see that the undeniable can no longer be denied.

The article follows:

[From the Times Union, May 17, 1987]

ALL OVER FOR THE CONTRAS?

Many in this country who had approved of American support for the contras in Nicaragua now seem ready to write the whole thing off. Some feel that the Iran-contra scandal has somehow sullied what had been a worthy cause; others have come to believe the widespread perception that contras can't win or, alternatively, that they are no better than the regime they are trying to replace.

Aside from noting the fallacy of judging the worth of the cause in Nicaragua by the mistakes made in the United States in supporting that cause, there are two points to be made:

First, while the real and alleged atrocities of the contras are the major ingredient of the Sandinistas' agitprop campaign to undermine support for the contras in the U.S., little attention has been paid to the wholesale human rights abuses committed by the Sandinistas. A few years ago we heard a bit about the Sandinista campaign against the Miskito Indians and the forced relocation program of that people. A casual newspaper reader might have concluded that since then the communists have cleaned up their act.

But a new report by the Puebla Institute, a lay Catholic human rights organization, puts the Sandinista human rights record into a new, and fuller, light. Puebla reports that since the revolution in Nicaragua, torture and other serious abuses have led to the exodus of about 300,00 people—a full tenth of the population. That would be equivalent to having 23 million exiting the U.S.

Titled "Fleeing Their Homeland," the study was based on interviews with Nicaraguans at refugee camps in Honduras and Costa Rica. Most surprisingly—surprising when considering the monotonous diet of contra abuse stories we are so used to hearing—none of the refugees interviewed by Puebla testified to abuses by the U.S.-backed contras or said they had left Nicaragua for that reason.

The Puebla Institute, which doesn't take a stand on U.S. aid to the contras, reports that the reasons the refugees gave for leaving were: torture and ill treatment in detention; arbitrary arrest; Sandinista military attacks; and restrictions on freedom of religion and other freedoms.

Second, though it has been repeatedly said that the contras lack support both within Nicaragua and in the rest of Central America, a poll by the Gallup organization gives reason to believe otherwise.

In a poll of 1,200 Central Americans that were asked "Which side of the conflict do you think the majority of the Nicaraguan people support?", only 12 percent of the Costa Ricans, 14 percent of the Hondurans, 20 percent of the Salvadorans and 23 percent of the Guatemalans said the Sandinistas. About three fourths of the Costa Ricans and Hondurans think the people support the contras. Half the Salvadorans think so and 60 percent of the Guatemalans.

In answer to the question, "Who treats the civilians better in the war zones?", the Sandinistas got a favorable response from even fewer respondents (only 6 percent each in Costa Rica and Honduras and 10 percent in El Salvador), while the contras' marks were high.

Finally, when asked if they approved of U.S. aid to the contras, from 68 to 81 percent of the people said yes.

The U.S. is backing the contras to prevent the establishment of the kind of bloody totalitarian regime history has been repeatedly in this century. It is both a worthy and an honorable cause. The people in most Central American countries believe the cause is right and so, very likely, do the Nicaraguan people as well.

OLDER AMERICANS ACT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. GORDON. Mr. Speaker, I would like to bring my colleagues' attention to H.R. 1451, the Older Americans Act reauthorization, which will soon come before the House. Since its inception in 1965, the Older Americans Act (OAA) has provided millions of elderly Americans with transportation, meals, adult day care, legal services, employment opportunities and other essential services.

Elderly groups that previously had difficulties accessing programs and services will continue to be provided for with the reauthorization and expansion of the OAA. Such individuals include the rural elderly, older minorities, the frail elderly, and the elderly who are developmentally disabled and mentally impaired.

The increased longevity of Americans has caused our older population to grow steadily. The 65 and over age group increased by 2.8 million since 1980 and now represents 12 percent of the total population. Congress must act now to ensure that the Older Americans Act meets the changing needs of our elderly and provides them with the necessary assistance.

The Older Americans Act and the programs it authorizes are among the most successful of any Federal programs currently operating. In addition to its original mission of coordinating existing programs for the socially and economically needy older adult, the OAA has become responsible for distributing federal funds to support a variety of programs.

I encourage my colleagues to recognize the significance of the Older Americans Act and to support its programs.

CONCERNING CONGRESSMAN HAROLD FORD

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. FAUNTROY. Mr. Speaker, I rise this morning with a number of my colleagues to express my concerns about the unsavory process by which our esteemed colleague, Congressman HAROLD FORD of Tennessee, is being excoriated by our U.S. attorney's office—a process which I submit is inimical to the letter and spirit of the Constitution; and one which establishes dangerous precedent that could have far-reaching negative impact upon us all.

Specifically, I'm concerned about two things:

First, a gag order which, though modified, still restricts our colleague's communications with his constituents; and

Second, forum shopping by the U.S. attorney's office which after nearly 5 years, and several abortive attempts has enabled them to find a hostile body to indict Brother FORD on evidence others deemed insufficient.

At the outset, I express to you, Mr. Speaker, and the bipartisan leadership group, my personal gratitude for the amicus curiae brief you filed in the Ford case on the matter of the "no comment" order, enjoining Congressman FORD from discussing his case with either his colleagues on the Hill or his constituents. As you rightfully note in brief, there are both compelling legal and public policy reasons for not impinging the right of a Member of Congress to communicate with his/her colleagues and/or his/her constituents.

The court's May 7 amendment of its original gag order suggests that the court could not ignore your arguments against the restriction by court order of communications within the legislative branch. By its action of merely revising and not rescinding the gag order, however, the court appeared to have rejected the second and equally compelling argument outlined in the amicus brief, namely, the impermissibility of restricting by court order, communications between Members and their constituents. The modified order thus, puts into issue the extent of our constitutional rights as Members of Congress, to free and unimpeded communications with our constituents. Moreover, it raises far reaching separation of powers questions, for it suggests that the judicial branch has authority to prevent a member of the legislative branch from communicating with his/her constituents on a matter, admittedly of public concern. Such a notion is erroneous and flies in the face of the democratic principles upon which our Nation is grounded.

Equally as abhorrent as the precedent established by allowing the judicial branch to gag a Federal legislator in the free exercise of his/her rights and responsibilities as an elected official, is the entire process by which the Ford indictment was obtained—a process fraught with improprieties.

You should note that the Ford indictment came only after nearly 5 years of abortive efforts on behalf of the U.S. attorney to obtain an indictment from a Memphis grand jury, and a change of venue from Memphis to Knoxville. Memphis is, of course, the domicile of the accused and the city in which the Ford corporation in issue, is incorporated. By contrast, Knoxville is some 450 miles away from the defendant's domicile and is an area in which he is likely to confront a hostile jury. For, it is one of the areas hardest hit by the failure of the Butcher Bank Empire: The judicial district in which the Butchers were tried and convicted. Knoxville is also 8 percent black as compared with 58 percent in Memphis; and it is a district which has traditionally voted conservative and Republican.

These factors suggest to me, Mr. Speaker, that after years of failing to get an indictment against Mr. FORD by his peers, the U.S. attorney's office engaged in forum shopping designed to force its desired result—the indictment of HAROLD FORD. What it could not achieve observing ordinary judicial measures, it obtained by resolving to extraordinary measures, and measures of dubious legality.

In conclusion, Mr. Speaker, I believe that the entire Ford investigation is fraught with improprieties and illegalities which have direct impact upon us all. We must continue to provide collegial and legal support for Brother FORD.

IMAGINE YOU WENT TO PEKING AND SAT IN COURSES WHERE EVERYTHING WAS TAUGHT IN CANTONESE: RESEARCH ON BILINGUAL EDUCATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MARTINEZ. Mr. Speaker, imagine if you went to Peking and sat in courses where everything was taught in Cantonese. You'd quickly get frustrated and you might give up. This is the situation faced by many of America's students. To these kids English is the foreign language. While their English speaking peers get special lessons in everything from writing poetry on computers to basic auto mechanics, large numbers of limited-English proficient students sit confused in classes—a situation that educators say exacerbates the dropout rate and thwarts mastery of basic reading and mathematical skills.

As the President of the National Education Association pointed out in a recent statement, asking a child to compete in the classroom before they have taken the initial steps toward linguistic proficiency is like having the child "playing tennis without a racquet"—it is inherently unfair.

PLAYGROUND ENGLISH IS NOT ENOUGH

People tend to think of language as a single simple capacity measured by a single simple test. However, research shows that language is not a single skill but a complex configuration of abilities. Playground English develops earlier than other language skills. This means that children become conversationally fluent in English before they are capable of using English in academic situations. Playground English is not enough. A child's English skill may be judged as adequate in an informal conversation or even on a simple test, but this may not mean that the child's skills are adequate for understanding a teacher's explanation, for reading a textbook, or for writing a composition. Prematurely mainstream students run the risk of being diagnosed as slow, disabled, or even retarded because of their language handicap.

As Professor Hakuta, a leading psycholinguist at Yale University points out, bilingual programs are commonly criticized for keeping students too long, even after their English is adequate. But he notes that studies show that while children may pick up oral proficiency in as little at 2 years, it may take 5 to 7 years to acquire the decontextualized language skills necessary for academic excellance in an all-English classroom.

PRIDE WITHOUT PREJUDICE

If a child is not linguistically empowered in the early years, it is almost impossible to compensate for the failure later on. Research discredits the myth that instruction emphasizing the student's native language retards the development of English. The opposite is true, as demonstrated by the preliminary results of the Department of Education's own longitudinal study comparing immersion and bilingual education methods.

A failure to develop our Nation's linguistic resources is hurting us culturally and economically. As Frank Weil, former Assistant Secretary of Commerce for Industry and Trade put it, "our linguistic parochialism has had a negative effect on our trade balance. In fact, it is one of the most subtle nontariff barriers to our export expansion * * *. Language promotion, like export promotion would benefit the American business community and, in turn, our economy." America needs to bargain, buy, barter, and sell in many languages. A survey of Illinois exporting firms found that they used Spanish, German, Polish, Japanese, Russian, Portugese, Italian, French, Greek, Korean, Tagalog, Arabic, Rumanian, Dutch, Chinese, Hungarian, Serbian, Urdu, Indonesian, Danish, And Farsi. A Kansas survey added Guarani, Norwegian, Finnish, and Swedish.

The effects of our failure to develop America's language resources are evident from Iranscam to the trade deficit. And self-confidence—a knowledge of who we are—is a key step in protecting families and cutting dropout rates. To survive and thrive in our emerging world economy we must develop rather than waste our linguistic resources. America needs to utilize the educational resources that our minority language students bring to our schools.

Two-way bilingual programs do this. They seek to spread the benefits of bilingualism beyond the language-minority population. Also called developmental bilingual education, these programs bring language minority and language majority children together in the same classroom, with the intent of allowing all students to become proficient in at least two languages. This avoids the isolation of the minority groups, a phenomenon often criticized as a byproduct of bilingual education. Another advantage of this approach is that fewer minority language children are required to organize bilingual courses than with transitional bilingual education courses. This recognition of the reality of minority language and culture boosts minority self-esteem and encourages intercultural understanding. It also facilitates parent involvement and enhances the contributions parents can make to our school programs. Rather than wasting valuable resources by seeking to subtract language skills, developmental bilingual education adds language skills for students proficient in English as well as those proficient in other languages.

Is it harmful to delay a child's shift into an all English or another second language classroom? International comparison of teaching methods are hazardous due to the immense number of variables which differ among contries. Still, international comparisons can be suggestive. Research in Canada has shown that 1 year of immersion in the second-language classroom at the seventh grade is worth 3 years' immersion starting at the first grade. In brief, it is pedagogically more efficient to delay a child's transfer into a second-language classroom until she has a firm command of her mother tongue.

EVIDENCE SUGGESTS BILINGUAL EDUCATION CUTS DROPOUT RATES

One of the greatest advantages of transitional and developmental bilingual education is that they allow students to progress through school at an age-appropriate grade level and meet promotion standards.

This is no minor accomplishment. One of the strongest predictors of dropout is grade retention. On the flip side, one of the major drawbacks of immersion programs, particularly for young children, is that they set kids up to fail. They do this through a curriculum that causes limited-English students to lag in learning academic subjects and thus increasing the number that fail a grade. For example the immersion program in Houston which has been highly publicized for building English skills, has a retention rate of over 60 percent.

As Professor Galan at the University of Houston, who recently completed a study of school dropouts, put it in discussing the dropout problem, "the real issue is that the seeds of a potential dropout problem is worse than we can even imagine is brewing in kindergarten right now."

Dropout figures are notoriously imprecise because of the difficulty of measuring transfers and migration. But by all measures the dropout rate among the Nation's Hispanic youth is substantially higher than that for blacks or non-Hispanic whites.

Almost half of Hispanic students drop out of school—this is 10 percent more than the rate for blacks, and more than double the rate for non-Hispanic whites. American Indians also have very high dropout rates. This dropout problem becomes even more significant when we take account of the fact that the limited-English proficient school age population is growing at 2½ times the rate of the general school age population. If this dropout pattern continues at a time when these Americans constitute a growing proportion of the students in America, this country is generating trouble. If we act now, we have a window of opportunity to improve the opportunities, educational and otherwise, of all Americans.

It is important that we not lose sight of this big picture. These are long-term patterns—and it is important that we obtain data on how we are doing, and not get bogged down in short-term static in the statistics. It took nearly a decade of collecting and analyzing data on the Headstart Program before its long-term effects—which are perhaps its most important, were documented. It is for that reason that I have introduced an amendment, which has been incorporated in H.R. 5, mandating that the Department of Education conduct a longitudinal study of the impact of bilingual education programs, using a nationally representative sample of the programs funded under the program and providing data on grade retention, academic performance, and dropout rates.

SCHOOLS THAT SPEAK IN MANY TONGUES: THE NEED FOR A FINE-TUNED PROGRAM

In California 85 languages are spoken statewide by an estimated 567,000 limited-English proficient students. To keep perspective, 75 percent of the LEP students are Hispanic. The National Advisory and Coordinating Council on Bilingual Education reports that 181 languages were used in title VII funded bilingual education programs in fiscal 1986. That is, many minority languages are already served.

Bilingual education programs are flexible—perhaps too flexible in the sense that the programs vary so widely that reasonable evaluations of the program are very difficult. However, bilingual education is not designed to deal with situations where a large number of languages are spoken by different students. Administrative and pedagogic reality demands that we help these students—but not by gutting the bilingual program which works well and is already severely underfunded. We cannot afford to divert funds into programs that work less well. Rather programs appropriate for these school districts must be developed. I would be pleased to join with my colleagues in initiating such a program.

GALLAUDET UNIVERSITY HONORS SIL CONTE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. GUNDERSON. Mr. Speaker, on Monday, I had the opportunity to attend the 123d commencement ceremony at Gallaudet University.

As a congressional trustee of this unique institution serving the ageless educational needs of the deaf and hearing impaired, it was clearly a special day for many. It was a day marking the success of the 280 graduates in completing their studies, and for their family and friends. Second, it represented another historical milestone for the institution. Last October, Gallaudet, through its growth and development, proudly celebrated its achievements by being recognized as a university. Thus, this commencement marked the first for Gallaudet University, our Nation's newest university.

While celebrating the fine accomplishments of Gallaudet University's new graduates, two honorary degrees were presented that deserve special attention. Ms. Marlee Matlin, the first deaf performer nominated for an Academy Award, and the first to win an Oscar for best actress for her performance in "Children of a Lesser God," received an honorary doctor of humane letters degree. Ms. Matlin deserves Gallaudet University's recognition of her fine talents and for promoting greater awareness of the skills and talents of all deaf and hearing impaired individuals.

The second honorary degree was presented to our friend and colleague from Massachusetts, SILVIO O. CONTE. Gallaudet University honored him with a doctor of laws degree. In recognition of his accomplishments to the U.S. House of Representatives and Gallaudet University, his citation reads as follows:

Congratulations, SIL CONTE.

CITATION OF THE HONORABLE SILVIO O. CONTE ON BEING PRESENTED THE DEGREE OF DOCTOR OF LAWS, HONORIS CAUSA

Nurtured by the Berkshire hills, this illustrious son of Massachusetts, whose vision includes the entire nation, and whose distinction has been honored abroad, has never forgotten his roots.

In a lifetime of public service that has made him a legendary figure in the halls of Congress, he has been an indefatigable supportter for programs that enhance the individual decency and human fulfillment of all citizens.

Believing in a just, compassionate role of government, he has witnessed extraordinary accomplishments of individuals born with handicaps who are now productive members in society. Because he believes that every individual may attain greatness through dedication and sacrifice, he has served his nation in ways that extend the human potential.

Higher education, elementary and secondary education, research and profressional training, which he has supported from his days in the State Senate of Massachusetts, and during nearly three decades in the House of Representatives, owe him, and will always owe him, a lasting debt of gratitude.

As a spokesman for all that is honorable in our lives; as a consummate legislator who listens not only with his remarkable mind but with his enormous heart, and as an individual who, on countless occasions, has demonstrated the need for the saving grace of humor in the midst of national deliberations, Gallaudet University recognizes you for your extraordinary contributions to a complex and changing world.

For bringing new meaning to the highest ideals of public service, Gallaudet University is proud to welcome you to our family by proclaiming you Doctor of Laws, Honoris Causa.

GALLAUDET UNIVERSITY,
May 18, 1987.

HONORED FOR THEIR COMMITMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. TORRES. Mr. Speaker, I rise today to commend 23 dedicated individuals for their continued service to the students and the employees of the Norwalk-LaMirada School District. All of these individuals have worked for the Norwalk-LaMirada School District for at least 30 years, many for 35 years. On May 12, 1987, these distinguished retirees were honored for their commitment to the school district.

I am proud that these people are members of my community. They have all dedicated significant portions of their lives to assist in the development of the area's youth. I urge my colleagues to join me in recognizing the following people for their diligence.

Pauline Brown, cafeteria manager, Morrison Elementary School; William M. Campbell, director, Personnel Department; Betty Dvorak, teacher, Foster Road Elementary School; Abelardo M. Pena, teacher, John Glenn High School; Howard L. Rainey, administrator, Business Services; William Black, teacher, John Glenn High School; Saranne L. Chandler, teacher, La Pluma Elementary School; Richard H. Coleman, bus driver, Transportation Department; Dr. Robert J. Coughlin, program specialist, Special Education; La Doyne M. Craig, counselor, Norwalk High School; Rodney R. Daggett Jr., teacher, Norwalk High School; Mary E. Drake, teacher, Foster Road Elementary School; Nathaniel Erwin, substitute teacher; Mathilda B. Fenner, teacher, Morrison Elementary School; Donald W. Henry, principal, Escalona Elementary School; John H. Hergesheimer, teacher, Norwalk High School; Milan Jablan, teacher, La Mirada High School; Arthur L. Jessup, teacher, John Glenn High School; Gloria S. Lambrose, teacher, Adult Center; Raymond Mooshagian, teacher, La Mirada High School; Frank G. Restadius, teacher, Waite Elementary School; Carolyn E. Shepard, production assistant, central kitchen; Donna Lee Wells, teacher, La Pluma Elementary School.

CONGRATULATIONS PORT OF OLYMPIA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. BONKER. Mr. Speaker, yesterday at the White House, the Port of Olympia was awarded the President's "E" Award for excellence in export service. This award was in recognition of the port's efforts over the last 4 years to diversity their cargo and to promote export services within the community. As the only port in the Nation to be recognized yesterday, this was an extraordinary honor. In fact, the Commerce Department referred to the port as "one of the best run, best managed small ports in the United States today."

Changes in the shipping industry have intensified competition among ports in recent years. The Port of Olympia has demonstrated that by aggressively pursuing neglected segments of the export market and offering high quality, personal service, a small port can thrive.

Through my work on the Foreign Affairs Trade Subcommittee, I've made a strong commitment to policies which enhance export promotion. I couldn't be more pleased that the port's work has reinforced that effort.

The Port of Olympia commissioners, the port staff, and the longshoremen who move the cargo should all be proud of what they have accomplished together. They have made tremendous progress in making the port competitive and bringing jobs to the community. It is my great pleasure to congratulate them today. I look forward to working with them to meet the new challenges ahead.

UNEMPLOYMENT CRISIS CONTINUES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. CLAY. Mr. Speaker, the millions of Americans who are unemployed know the real meaning of unemployment statistics—the rest may be fooled by the figures. I urge my colleagues to read the following editorial, "A Hard Look at Unemployment" which appeared in the St. Louis Post-Dispatch, May 13, 1987:

A HARD LOOK AT UNEMPLOYMENT

The nation's unemployment rate fell three-tenths of 1 percent in April to 6.2 percent, the lowest level since 1980. On the surface, this is good news, but the figures require careful examination.

The sharp drop in joblessness certainly suggests the economy may be growing faster than most economists thought, allowing the Federal Reserve to raise interest rates to defend the dollar with less risk of pushing the nation into recession. But most of the new jobs created continued to be in services, the fastest-growing sector of the economy in the '80s. Only 42,000 of April's 247,000 new positions were in manufacturing, the key to permanently higher employment and improved international competitiveness.

Moreover, April's numbers showed no significant reduction in joblessness for the more than 1 million who have been without work for six months or more, or improvement for the 5.4 million who now hold part-time positions and want or need full-time work. In short, the unemployment problem among the nation's hardest hit hasn't been significantly alleviated.

What's more, unemployment statistics don't count discouraged workers—those who have given up looking for work. No one knows how many make up this group. And the official figures generally tend to undercount those needing work anyway.

Finally, the numbers say nothing about whether the new jobs created pay more or less than those previously lost. The economy has shed more than a million manufacturing jobs in recent years, replacing many of them with service work that in many cases pays less. Nor do April's figures indicate whether the economy will now grow faster or instead eventually slip into recession due to the budget and trade deficits. May's figures should tell us more.

HUMAN RIGHTS VIOLATIONS IN TIBET

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. GILMAN. Mr. Speaker, today I am, along with my colleague from North Carolina, Mr. ROSE, introducing legislation concerning human rights violations in Tibet by the People's Republic of China. It has been nearly 2 years now since 91 Members of Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and Representatives of his Holiness the Dalai Lama and the Tibetan Government-in-exile. However, no progress has been made in this area and I am sorry to say that it appears the situation is worsening.

China keeps roughly 20,000 Tibetans in the region's 84 prisons and a large number of these are for anti-State activity. Recently, two Tibetans were executed in Lhasa for serious economic sabotage. Three more have been sentenced to die and 30 given terms at hard labor. Similar crimes, last mentioned in the spiritual pollution campaign of 1983, were the pretext for executing dozens of Tibetan dissidents and imprisoning thousands more.

In addition, the People's Republic of China has been transferring millions of Chinese into Tibet and they are given housing, employment, education and health benefits that the Tibetans are never considered for.

However, of greatest concern to me is the way that China plans on funding these new additions to Tibet. After having destroyed all of Tibets monasteries they allowed a few to be rebuilt by Tibetans so that tourists may see some natives engaging their ancient ways. What the tourist don't know is that the monks and worshippers are not allowed religious freedom but they can only partake in some superficial practices so that the Chinese can benefit from the tourist trade.

This bill is simple and straightforward. It lists some of the gross human rights violations that have been going on in Tibet and it puts the United States on record in opposition to its continuation. The legislation also authorizes a small amount of assistance to Tibetan refugees.

In addition, if there are any more arms sales or transfers, the certification submitted to the Congress must be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

Accordingly, this bill represents a minimal response to the human rights violations in Tibet and I invite my colleagues to cosponsor it.

The bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the People's Republic of China invaded and annexed Tibet in 1949, imposed military rule, and continues to exercise dominion over the Tibetan people through the presence of large occupation force;

(2) over one million Tibetans have perished as a direct result of the political instability, imprisonment, and widescale famine engendered by the occupation of Tibet by the People's Republic of China;

(3) 6,250 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, have been destroyed and their irreplacable national legacy of art and literature either lost or removed from Tibet by the People's Republic of China;

(4) Tibet's vast mineral, forest, and animal reserves are being systematically exploited by the People's Republic of China, with no benefit accruing to the Tibet people;

(5) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(6) the People's Republic of China has undertaken a massive population transfer, entailing the immigration of millions of Chinese onto the Tibetan plateau in an effort to absorb and render insignificant the Tibetan people in their own homeland;

(7) the arrest and execution of Tibetan political and religious prisoners continues, with thousands of Tibetans currently interred in labor camps;

(8) Tibet, a nation dedicated to the principles of nonviolence and mutual coexistence for a millennia, has been militarized which has increased the instability of the entire Central Asian region;

(9) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost thirty years to secure peace and religious freedom in Tibet;

(10) since 1959, India has generously provided refuge and resources for Tibetan exiles so that they may maintain their unique culture and religion in the hope of returning to their homeland;

(11) the People's Republic of China continues to ignore United Nations General Assembly resolutions 1353, 1723, and 2079 calling for a cessation of human rights violations in Tibet and for implementation of the right of the Tibetan people to self-determination;

(12) 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China on July 24, 1985, expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetan Government-in-exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness and Dalai Lama and his people every consideration"; and

(13) there has been no evidence of any such consideration being granted by the Government of the People's Republic of China.

SEC. 2. STATEMENT OF POLICIES.

It is the sense of the Congress that—

(1) the United States should review its foreign policy toward and its relations with the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(2) the United States should reassess and review sales and other transfers of defense articles, defense services, and high technology to the People's Republic of China in light of the continued violation of human rights in Tibet by the People's Republic of China;

(3) the President should meet with His Holiness the Dalai Lama to express United States support for his efforts for world peace and particularly his efforts to find a peaceful solution to the Tibetan problem;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue over the future status of Tibet;

(5) the United States, through the Secretary of State—

(A) should address and call attention to the rights of the Tibetan people, as well as other minorities within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang) and the Mongolians of Inner Mongolia, and

(B) should support efforts to maintain Tibet's identity and preserve Tibetan culture and religion, both inside Tibet and among those in exile;

(6) congressional delegations should visit Tibet (including the areas of Kham and Amdo) and the Tibetans in exile in order to witness the progress being made and the problems faced; and

(7) the President should instruct the United States Ambassadors to the People's Republic of China and India to work closely with the Tibetan people to find areas in which the United States Government and people can be helpful.

SEC. 3. ARMS SALES TO THE PEOPLE'S REPUBLIC OF CHINA.

Any certification submitted to the Congress pursuant to the Arms Export Control Act with respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China shall be accompanied by a Presidential determination that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

SEC. 4. HUMAN RIGHTS REPORT REGARDING TIBET.

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the human rights situation in Tibet and the transfer of millions of Chinese to Tibet.

SEC. 5. ASSISTANCE FOR TIBETAN REFUGEES.

Of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, not less than $850,000 shall be available only for assistance for Tibetan refugees.

SEC. 6. SCHOLARSHIPS FOR STUDY IN THE UNITED STATES BY TIBETAN EXILES.

For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 50 scholarships for study at institutions of higher education in the United States.

IN SUPPORT OF HON. HAROLD FORD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. STOKES. Mr. Speaker, I rise today to join others of my colleagues in expressing concern and support of Harold Ford. I do not intend to debate questions of guilt or innocence in speaking of my colleague today. I do intend, however, to raise questions of fairness, justice, and protection of those freedoms guaranteed to each of us by the Constitution.

I am deeply disturbed by the treatment accorded our colleague, Harold Ford, by United States District Court Judge James H. Jarvis in the Eastern District of Tennessee and by the U.S. attorney prosecuting his case. I am particularly concerned that Judge Jarvis, in this case, has issued an unconscionable gag order that clearly violates Mr. Ford's constitutional rights as a Member of the U.S. House of Representatives and calls into question his ability to communicate with his colleagues and his constituents.

Under this gag order, Congressman FORD's ability to explain his position to his constituents has been gravely impaired. The gag order limits his freedom to speak in his own defense and curtails his efforts to explain the circumstances of the case and the charges brought against him.

Mr. Speaker, the Constitution of the United States guarantees to each of us the right to speak freely, and as an accused, the benefit of the presumption of innocence. The effect of this gag order, and of the treatment Mr. FORD is receiving at the hands of the prosecutor, is to deny to him both of these cherished guarantees.

The prosecutor has tried for 4 years to bring an indictment in this case. An indictment was finally brought only after the U.S. attorney elected to present the case to a different grand jury located in a jurisdiction 450 miles away from Memphis. Offers by Mr. FORD to present his case and to present evidence in his own defense have been ignored or rejected by the Justice Department.

Furthermore, I am concerned that the order by Judge Jarvis, by attempting to limit Mr. FORD's communications with his colleagues and his constituents, breaches the separation of powers between the Judiciary and the Congress. Where the Judiciary imposes a limitation on what a Member of Congress may or may not say to his colleagues and to his constituents regarding a matter so critical as his guilt or innocence of these charges, the Judiciary has effectively restricted his relationship with his constituents without due process under our Constitution.

I urge my colleagues in the House to join me in expressing concern about the propriety of the process in this case. I urge an end to the abuse of power reflected in this gag order restricting our colleague, and in the unjust usage of prosecutorial discretion in this case.

HIGH RISK BILL EXCESSIVE BURDEN TO SMALL BUSINESS: ANOTHER UNCONTROLLED OSHA?

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. STANGELAND. Mr. Speaker, as Congress considers the High Risk Disease Notification and Prevention Act—H.R. 162/S. 79, I would like my colleagues to consider the effect this legislation will have on the job creation engine of our Nation—small business.

Mr. John Sloan, president and CEO of the National Federation of Independent Business [NFIB] raises some important issues on how the legislation will adversely effect small business. I would like to submit his column for Members review.

ANOTHER OSHA LOOMS IN WASHINGTON

Opponents are calling it OSHA II, a new government bureaucracy that would harass small-business owners just as the Occupational Safety and Health Administration did in the late '70s.

The High Risk Disease Notification and Prevention Act, now working its way through congressional committees, would require the government to notify workers about health risks on the job and require business owners to pay for testing, evaluation and medical monitoring of employees the government finds to be part of "population at risk."

The law would require an employer to transfer an employee to a different job if, after testing, a doctor declared such a move necessary. The employer would be permitted to make the switch with no change in pay or benefits.

The legislation threatens severe hardship to smaller firms, because it would include as potential hazards not only chemicals, but practically everything in the workplace, even video display terminals.

OSHA already has a worker-right-to-know program. But backers of OSHA II say the present program doesn't go far enough. That objection will soon be moot because the existing program is about to be expanded to include all non-manufacturing businesses.

That's not good enough for advocates of the new, costly bureaucracy. They simply do not like the way the Reagan administration has managed OSHA. Sponsors of legislation to create OSHA II, Rep. Joseph Gaydos, D-Pa., and Sen. Howard Metzenbaum, D-Ohio, would, in essence, create a new bureaucracy with functions narrowly defined to prevent future administrations from deviating from labor goals.

The legislation creates a Risk Assessment Board of eight members, with appropriate staff, working for the Secretary of Health and Human Services. In addition to notifying employees they are at risk and dictating to employers about work rules and assignments, the board would certify occupational and environmental health facilities throughout the country. These centers would show doctors and health and social service professionals how to recognize, diagnose and treat occupational disease.

New worker notification legislation is unnecessary. It would be costly to small businesses because it compounds two of the most critical problems already hurting smaller firms: the cost and availability of liability insurance and the cost of health care.

With government notifying workers that they are "at risk" and workers encouraged to export potential hazards to a new bureaucracy, a wave of suits and counter suits could flood the courts. Such cases often inspire unreasonably high dollar awards.

Of equal concern is the prospect that health insurance costs would rise dramatically. Surveys by the National Federation of Independent Business show the cost of health insurance is already the No. 1 problem for small firms. The new law would force businesses to pick up the medical bills and related costs of workers found to be at risk. Small-business owners who do not have insurance would have to obtain it. Those that have it would pay much more for it.

OSHA II would be costly to employers and to taxpayers. In times of huge deficits, the country does not need it. The expanded worker-right-to-know program should be given a chance to work before any new schemes are considered.

OUR OWN WORST ENEMIES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. PORTER. Mr. Speaker, William R. Neikirk, a columnist for the Chicago Tribune, hit the nail square on the head in a recent piece on the budget deficit.

Following the failure of the Balanced Budget and Emergency Deficit Control Act—Gramm-Rudman—to stand up to Supreme Court review, Congress returned to business as usual. For fiscal year 1987, Congress was supposed to reduce the deficit to $144 billion. But official estimates now put the 1987 deficit at almost $180 billion and many analysts, myself included, expect that number to climb back to the familiar $200 billion mark by the time Congress finishes the year.

How do we manage to miss the target so wildly? Is it simply an accident? Is the Congress making a good faith effort to reduce the deficit? Is Congress merely a victim—unexpectedly buffeted by the vagueries of our economy and the difficulties inherent in accurately projecting future deficits?

Absolutely not. The gross violation of the Gramm-Rudman target is the direct result of an intentional congressional policy of evading budget enforcement mechanisms.

This process begins with the adoption of a budget resolution which intentionally underestimates the spending that results from certain policy assumptions. The process of fudging the budget resolution requires the use of a number of standard gimmicks—certain costs are assumed to be "absorbed" within general operating budgets, certain revenues are "double counted," changes in spending that everyone knows will never take place are included. And, of course, the fundamental economic assumptions used in the resolution are often ridiculously optimistic.

Next, Congress moves to an appropriations process in which it is too easy to evade spending ceilings. Again, there are a number of gimmicks employed. One is the appropriations "two step" where a mandatory program is intentionally underfunded and the money instead is spent on a discretionary program. The costs of the mandatory program are later covered in an "urgent" supplemental spending bill providing the necessary funds for the required activity.

If all the individual line-items in an appropriations bill are in danger of careful scrutiny by the budget conscious, Congress uses the continuing resolution—a vulgar agglomeration of individual spending bills slapped together in the days and hours prior to a recess. No one, except a handful of the congressional elite, is really sure what is in the CR—including the President who signs these monsters into law—but they often authorize entire programs in gross violation of congressional rules. Promises that the CR is within the total spending ceiling envisioned in the budget resolution usually turn out to be untrue. In practice, over the past few years the CR has provided a vehicle in which a few extra billion dollars in social spending, and a few extra billion in defense dollars—to ensure approval—can be included before the Congress goes home to campaign for reelection.

Finally, there is the budget "reconciliation" process in which an omnibus "deficit reduction" bill is moved through the Congress every year. This bill is supposed to make required changes in mandatory programs to bring them in line with the budget. But again, gimmicks proliferate in the annual deficit reduction bill. Only those changes required in the budget resolution by "instructions" are included in the deficit reduction bill. So the most basic trick of all is to assume a number of changes in the budget resolution while only instructing—requiring—committees to make some of those changes.

This deficit reduction measure, incidentally, routinely becomes a vehicle for the inclusion of new spending programs and program expansions. Another standard reconciliation gimmick is "deadline shifting" where Congress moves large expenditures from the last day of the budget year to the first day of the next year so they won't show up in the numbers. And yet another annual scam is to assume a few extra billion dollars in savings as a result of greater "enforcement" of the tax code by the IRS (never mind that this seldom materializes).

All of these gimmicks employed in the budget resolution, the appropriations process and the budget reconciliation bill occur in an atmosphere of delay and confusion. The congressional budget act contains deadlines for action on all aspects of the process, but these deadlines are rountinely evaded. Congressmen talk about budget numbers in an intentionally misleading fashion. At the end of the year, in the confusion and rush of events, the budget legislation is all passed, the promises are all made, and a new fiscal year begins. The results won't come in for another year, but is it really any surprise when the Treasury adds up the final numbers and finds a deficit that wildly exceeds the original target?

Mr. Speaker, in the context of our intentional violation of the spirit of deficit reduction and the letter of the Budget Act, Mr. Neikirk's article makes for good reading.

GOVERNMENT LIVES BEYOND OUR MEANS

WASHINGTON.—It has been common for economists to say that the United States is "living beyond its means," a rather depressing prospect for young people who fear that they will be left with the bills of a profligate generation.

This concept is not too difficult to understand for most of us already living beyond our means on a personal level—struggling to meet mortgage, tuition and car payments. We all know the necessity and lure of debt, and the sense of unease that it imparts, even as we casually sign on the bottom line.

When I get in my preachy mood, I like to blame this burst of fiscal irresponsibility on the values of a commercialized, yuppified culture that has lost all the traditions of thrift and austerity that made this nation great.

Today I feel distinctly unpreachy. Blaming this problem on "society" or the corporate "us" is just too easy and is, frankly, wearing a little thin with my own psyche, perhaps because I've been forced to ante up more than a little to the Internal Revenue Service lately.

I have a new villian in mind: the U.S. government. Yes, it's the government's goldarned fault, not ours, and it's about time the right party stood up and took the blame. As this year of the Constitution is teaching us, this is still a Republic, not a democracy, and ordinary citizens cannot of their own accord balance out federal financial accounts.

For years, I've heard politicians here complain that the real villains are us, that we demand Medicare and Medicaid, Social Security, food stamps, a strong national defense, housing subsidies, transportation grants, and on and on. They say they are just voting our wishes.

At times, in weak moments, I have come to believe their propaganda. But no more. It is their job to sort out our demands and fit them into a responsible national budget plan that will balance out our spending with our tax resources. That's what we hired them for.

By failing to do this, the President and Congress have shown themselves to be essentially incompetent. They are not governing the country when they cannot prevent the nation from living beyond its means.

What does it really mean to say that we are living beyond our means? One way to put it is that we are not living on our own collective savings, but are forced to go overseas to borrow money. We must pay interest on this money, and over time that will sap our standard of living.

The chief reason for this is not that all of us as private individuals and companies save too little [which we probably do], but that the federal government actually "dissaves," economist lingo for running a deficit.

From 1971 to 1980, private savings in the U.S. averaged 8.8 percent of gross national product while the government deficit was 1.8 percent of GNP. Our net savings during that era, in other words, was 7 percent of GNP.

In 1986, our private savings had fallen to 7.6 percent of GNP while the federal government had squandered 5 percent of our economic output on deficit spending. Result: net savings of only 2.6 percent of GNP.

Robert Dederick, chief economist at Northern Trust Co. in Chicago, noted that the aim of savings is to finance our investment, which is the main way of making our economy more competitive and wealthier. A good pool of savings keeps interest rates, and the cost of capital, low.

From 1971 to 1980, investment as a share of GNP averaged 6.7 percent. It has slipped in the 1980s, falling to 5.7 percent of GNP last year. Since our net savings averaged only 2.6 percent of GNP, that means we had to borrow from abroad to finance the 3.1 percent gap.

The bottom line here is that, despite our credit-card society and our penchant for consumption, we as private individuals save enough to finance the economic advancement of America. The government's inability to reform the budget and the thousands of programs is the main reason we are living beyond our means.

Don't blame the yuppie who drives the BMW. Blame Reagan, Wright, Byrd, Dole, Domenici, Rostenkowski, Bentsen, Gray, Chiles, Simon, Dixon, Gephardt, Hart, Kemp, Roth and their collection of followers. It is they who are making the U.S. more and more uncompetitive.

FIFRA REVISIONS INTRODUCED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. BROWN of California. Mr. Speaker, I rise today to join my colleagues in introducing legislation to revise the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA], the statute which authorizes the pesticide regulatory program at the Environmental Protection Agency [EPA]. As chairman of the House Agriculture Subcommittee with jurisdiction over this statute, I welcome this long overdue effort and pledge my energies to getting this bill enacted this year.

As many of my colleagues are too painfully aware, we have been unable to update FIFRA since the last major amendments were passed in 1978. During that period scientific advances and increased public scrutiny have exposed numerous shortcomings in the EPA's pesticide regulatory program. And the predictable results of regulating in the absence of adequate data and resources have resulted in numerous pesticide problems in ground water and in food safety. Tomorrow we will see another example of these shortcomings when the National Academy of Sciences releases its study regarding pesticide residues in food.

I have spent more time than I would care to admit since 1978 working on improvements to FIFRA. As chairman of this subcommittee in the 97th and 98th Congresses, I worked with members of our committee to get needed reforms enacted, only to see these efforts yield nothing. During the 99th Congress, under the able leadership of our former colleague from Iowa, Mr. Bedell, we came the closest to getting reforms into law when the House passed a bill three different times, twice on unanimous consent. The Senate responded with a bill as well, but we were unable to reconcile our differences before the Congress adjourned.

Today we are introducing the legislation which passed the House on October 16, by unanimous consent, having made three significant changes to that bill. We have deleted the sections of the bill dealing with farmer liability changes, changes to the process of setting pesticide residue tolerances on food, and making changes to patent treatment of pesticides. These are three provisions which fall all or in part outside of FIFRA and would result in joint referral of the bill. If and when these amendments are added to the bill in committee, it is our intention to willingly cooperate with the other committees of jurisdiction for subsequent examination of these matters.

There are some who will object to this legislation being introduced in its present form. Some groups feel that this legislation does not meet the requirements of their constituencies and should be strengthened in one form or another. Many other groups who were full participants in the process which resulted in the bill last year have reservations about a process which starts with what, for them, was their bottom line in negotiations. I share the views of some of these groups and feel that the bill could be stronger and better in a number of areas.

But I am driven by an overriding concern that if we do not fix the pesticide regulatory program soon, it will be too late. It will be too late for a rational Federal regulatory program as the State govenments fill the void which an inadequate Federal system leaves. It will be too late for those rural residents and urban consumers who may be unnecessarily exposed to pesticide contamination while our current program proceeds at a snail's pace to review pesticides and pesticide residue tolerances. And, it may be too late for an orderly process of agricultural production as farmer and processor decisions are increasingly driven by the day's pesticide emergency reported by the newspapers.

On April 8, 1987, the Department Operations, Research, and Foreign Agriculture [DORFA] Subcommittee, which I chair, heard from the head of EPA's pesticide regulatory program, Dr. John Moore. At the end of that hearing it was apparent that we could not just continue as we have since 1978. EPA does not have the resources to assure the public that the majority of pesticides currently in use are safe. They do not even have the resources to complete this task until well into the next century. And, even if they had the resources, their statutory authority to act is so convoluted that it now threatens rather than protects public health and safety.

If we are to put this difficult era behind us, we must act now. I hope that all of my colleagues will see the need to move rapidly and will see the need to exercise restraint in pursuit of the overriding goal of getting needed changes enacted.

H.R. 2463

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. DE LA GARZA. Mr. Speaker, I am joined today by Messrs. MADIGAN, BROWN of California, ROBERTS, GLICKMAN, STENHOLM, ROSE, COELHO, PANETTA, STAGGERS, GUNDERSON, and MORRISON of Washington, in introducing the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1987. This bill, with some important changes that I will explain, is virtually identical to legislation that last year passed the House by overwhelming margins on three separate occasions. The CONGRESSIONAL RECORD of October 18, 1986, page E3781, provides a description of the House amendment to the Senate amendment to H.R. 2482.

The bill approved by the House in the 99th Congress was the product of many months of negotiation and compromise. As such, it represented a delicate consensus among the many parties who have an interest in pesticide legislation. That bill enjoyed the support of some 92 agricultural chemical manufacturers, 41 environmental, consumer, and labor organizations, and the American Farm Bureau Federation.

The measure also included certain agreements reached between the Committee on Agriculture and other House committees that maintain an interest in this important environmental legislation. Those agreements were reflected in the bill's provisions regarding patent term restoration for pesticide products, tolerances for pesticide residues in food, and farmer liability for pesticide use.

It is these provisions affecting other committees that, for purposes of introducing a bill only, have been removed from the legislation and temporarily set aside. As the Committee on Agriculture proceeds to consider the bill, it is my intention to reaffirm last year's agreements with the other committees on these issues and reincorporate these provisions in the bill once again so that we may consider a comprehensive bill that resembles, as closely as possible, the measure approved by the House in the last Congress.

Mr. Speaker, I strongly believe that the failure of the Congress to pass a FIFRA bill in the 99th Congress was the result not of the intractable nature of pesticide legislation, but rather of the fact that time did not allow for final resolution of the few remaining differences between versions of the measure passed separately by the House and Senate.

In fact, last year the House successfully addressed and resolved a host of issues associated with the subject of pesticides, and came to agreement on those issues. Following approval in the Committee on Agriculture by a vote of 42-1, the House first passed a compromise FIFRA bill on September 19 by a vote of 329 to 4, and later approved two very similar versions of that measure by a voice vote. However, the press of legislative business in those final days of the last Congress did not allow sufficient time to resolve our differences with the other body in conference.

I am confident, Mr. Speaker, that with an early start in this Congress—and building upon the substantial progress we made last year—we can secure enactment of a comprehensive FIFRA bill before the end of this first session.

Mr. Speaker, I urge all of my colleagues to lend their support to this effort to ensure the safety and availability of pesticide products.

HOUSE OF REPRESENTATIVES—*Wednesday, May 20, 1987*

The House met at 10 a.m.

Rabbi Malcolm Cohen, Temple B'nai Israel, Dale City, CA, offered the following prayer:

O Lord, the one G-d of our world and all worlds, we acknowledge Thee as the Architect, Creator, and Ruler of the universe. We fervently implore Thee to endow all of us who are in this historic Chamber, and all others in high places with sound wisdom to deliberate, legislate, and implement the mandates of our Government for the good of all.

May the words we utter here pulsate from this great Capitol, the heart and symbol of our great Nation. As we observe this 200th anniversary of our Federal Constitution this year, let us be imbued with its spirit and inspired by its words. We fervently pray also for peace and justice throughout our world. Bless us and our loved ones with life and health. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. COURTER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. COURTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 103, not voting 42, as follows:

[Roll No. 134]

YEAS—287

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
DeWine
Dicks
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Patterson
Pease
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—103

Armey
Badham
Ballenger
Barton
Bentley
Bilirakis
Bliley
Boehlert
Boulter
Buechner
Bunning
Burton
Clay
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dreier
Dyson
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Gregg
Hansen
Hastert
Hefley
Henry
Hiler
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McGrath
Michel
Miller (OH)
Molinari
Moorhead
Nielson
Packard
Parris
Pashayan
Penny
Quillen
Ridge
Rogers
Roth
Roukema
Schaefer
Schroeder
Sensenbrenner
Sikorski
Skeen
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)

NOT VOTING—42

Annunzio
Applegate
Archer
Boggs
Boland
Bruce
Chandler
Chappell
Cheney
Cooper
Coyne
Daniel
Derrick
Dingell
Dixon
Duncan
Ford (MI)
Ford (TN)
Garcia
Gephardt
Gingrich
Gray (PA)
Hyde
Jones (NC)
Kemp
Konnyu
Leath (TX)
Lent
Mack
Neal
Pepper
Ravenel
Ray
Roberts
Rodino
Roemer
Slattery
Stokes
Vander Jagt
Whittaker
Williams
Wilson

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on today, Wednesday, May 20, 1987, while the House is in session.

Mr. Speaker, this has been cleared by the other side.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1025

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, if I may have the attention of the distinguished majority leader, I have asked for this time in order that I might inquire of the most knowledgeable gentleman on the other side as to how the program will unfold for the balance of this week, and then beyond that, I think we need to alert the membership of there being votes following this Memorial Day recess, because there have been rumors afloat that actually there would be no session perhaps on the following Wednesday and Thursday, and I think we ought to put those rumors to rest.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

Mr. Speaker, we will complete the Department of Defense authorization bill today and then take up both the rule and general debate on H.R. 5, the Elementary and Secondary Education Act. We assume that there will be an early adjournment this evening. Those who wish to participate fully in the debate on the education bill, of course, may do so. However, after the adoption of the rule this afternoon on the elementary and secondary education bill, there will be no further rollcall votes expected today.

Tomorrow the House will meet at 10 a.m. and will consider amendments to the Elementary and Secondary Education Act. After the completion of that bill, we will then adjourn for the Memorial Day recess.

Let me also say with the greatest emphasis that the House will conclude the Memorial Day recess and meet at noon on Wednesday next. We will not be out of session; we will be in session on Wednesday and Thursday, and there will be votes on those days.

Mr. MICHEL. Mr. Speaker, may I inquire, is there a possibility that there might be a conference report on the budget resolution?

Mr. FOLEY. There is that possibility. In addition to that, there is a certainty that we will have a special Suspension Calendar on Wednesday, unanimous consent having previously been given for that purpose.

There will be seven suspension bills under consideration, and as many votes as are ordered on those seven suspensions will be taken after the debate on all the suspensions on Wednesday.

On Thursday we will consider H.R. 1451, the Older Americans Act Amendment of 1987, under an open rule, 1 hour of debate and H.R. 1039, the Mineral Lands Leasing Act, under an open rule with 2 hours of debate.

The suspensions we will consider next Wednesday are as follows:

H.R. 1205, to release reversionary interest in certain lands in Putnam County, FL;

H.R. 1004, to convey certain national forest system lands to Unicoi County, TN;

H.R. 1659, VA State Home Program amendments;

H.R. 2166, Small Business Act amendments;

H.R. 1162, to provide for the selection of the Court of Appeals to decide multiple appeals of an agency order;

H.R. 1939, to provide for continuing interpretation of the Constitution in appropriate units of the National Park System; and

H.R. 900, West Virginia Wild and Scenic Rivers.

Mr. MICHEL. Mr. Speaker, if I may propound one more question, do I assume from the distinguished majority leader's response that that suspension list then is complete, with the bills that the gentleman enumerated?

Mr. FOLEY. Yes; we will not add more than one or two to this list.

Mr. MICHEL. And then the inevitable question comes: If we are meeting on Wednesday and Thursday, what does the gentleman's crystal ball look like for that following Friday?

Mr. FOLEY. Mr. Speaker, we will not meet on Friday.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader.

SERIOUS QUESTIONS ABOUT U.S. POLICY IN THE PERSIAN GULF

(Mr. LANTOS asked and was given permission to address the House for 1 minute.)

Mr. LANTOS. Mr. Speaker, as our flags are flying at half mast and as all Americans mourn 37 brave young sailors who died in the Persian Gulf, serious policy questions loom on the horizon. Let me just mention two.

While Japan is getting 70 percent of its petroleum from the Persian Gulf and while Western Europe is getting 50 percent of its petroleum from the Persian Gulf, we get only 7 percent. But it is the American Navy which is unilaterally expected to ensure the safety of the sealanes in the gulf.

Would it not be better for this administration to move to create a multilateral force involving all nations which are interested in the supply of oil from the gulf?

Second, Mr. Speaker, as the American-supplied AWACS aircraft is protecting Saudi Arabia, two Saudi F-15's refused to cooperate with us in forcing down the Iraqi aircraft which fired on a United States naval vessel and killed 37 young Americans.

Mr. Speaker, if there ever was a time to use this aircraft for our benefit as well, this was the time. The Saudis failed the test.

I hope that this Congress will consider carefully the request of the administrations to supply Saudi Arabia with more F-15's.

LET'S CONTINUE TO WATCH IRAN'S TREATMENT OF THE BAHA'IS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, several weeks ago 100,000 members of the American Baha'i community, commemorated the proclamation of the Baha'i faith in 1863.

As the largest religious minority group in Iran, Baha'is under the Khomenia regime are denied the right to practice their faith and are savagely persecuted and pressured to recant. In 1983 more than 100 Baha'is—including women and even teenage girls—were executed. Congress adopted resolutions highlighting their plight in 1982 and 1984, and more than 150 members signed a special appeal in 1985.

Some people discount these resolutions and appeals, saying that the Iranian Government doesn't care about outside opinion. But there is ample evidence to show that the Iranian regime does listen.

With the pressure of the United States and world opinion, only six Baha'is were executed in 1985, and only three in 1986. Our efforts must continue to help protect the Baha'is, who still suffer solely because of their religious beliefs.

Mr. Speaker, we cannot rest until there is an end to the executions, and the persecution. Our attention to the plight of the Baha'is is all that stands between them and the barbarism of their countrymen.

SCHOOL IMPROVEMENT ACT

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, later today this body will consider H.R. 5, the School Improvement Act. As a former educator, I urge all Members to support this reauthorizing legislation. Hanging in the balance are 14 crucial elementary education programs such as compensatory education.

That is a program which assists low-achieving students in poor areas to receive an adequate elementary education. By voting for this omnibus bill, you will be helping to give these students an even start in education, and a fair chance of success in life.

You should also vote for this bill if you support making America competitive in the international marketplace for contained in H.R. 5 is a $400 million authorization that will help our students acquire the math and science skills that are critical to success in our technological age.

My only reservation about this legislation has to do with the compromise on bilingual education. I am not sure that we are doing the right thing by targeting 75 percent of above fiscal year 1987 increases in appropriations for programs using the immersion method.

But even given that reservation, I still believe that overall H.R. 5 is a good bill that I am proud to have cosponsored. I urge all Members to support its passage.

NATIONAL TOURISM WEEK

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute.)

Mr. CAMPBELL. Mr. Speaker, this week we celebrate National Tourism Week. And in so doing we acknowledge and pay tribute to one of our most important sectors of the economy and one of our major successful exports—ourselves and our country.

The tourism figures are impressive. The tourism industry is the third largest retail industry in the United States. It directly employs 5.9 million people and accounts for a total of $59 billion in wages and salaries annually; $260 billion was spent on travel and tourism in the United States last year.

In my own State of Colorado, home of unparalleled beauty and grandeur, travel and tourism is the single largest employer with 42,000 employees. Over $4.7 billion is spent on travel and tourism in Colorado annually, with tourists spending an estimated $13 million per day.

I urge my colleagues to join together in saluting National Tourism Week and join in saluting what we as Americans have to offer of ourselves to the world.

THE MISERY CAUSED BY BAD CROWNS AND BAD SHILLINGS RIVALS THE MISERY CAUSED BY BAD KINGS, BAD PARLIAMENTS, AND BAD JUDGES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the following quotation is from the late American monetary scientist, Elgin Groseclose:

> No corruption is more destructive of present day civilization than that of money, for its infection spreads through society, breeding social and political unrest, disinclination for honest labor in favor of the quick gain at the gaming table or the stock market, impoverishment of the thrifty through the decay of values, and the collateral evil of hedonism, sloth, violence, sexual permissiveness. Macaulay's comment is as apt today as when written: "It may well be doubted whether all the miseries which had been inflicted on the English nation is a quarter century of bad kings, bad ministers, bad parliaments, and bad judges was equal to the misery caused by bad crowns and bad shillings." (History of England from the Accession of James II, vol. V, pp. 66–67.)
>
> The U.S. today—and not the U.S. alone but the world economy that has embraced Western monetary sophistries—wallows in a mire of currency depreciation for which no savant, no statesman has offered more than a cotton string to grasp for towage. Economists sit on the edge of morass and argue questions whether the "money supply" be this or that, whether controlled by the discount rate or the Federal funds rate, or some other barometer. But until the real corruption is squarely faced—that there is not integrity in the monetary system, and no confidence in the money, so long as the quantity and quality of the issue are at the caprice of political power—until a complete reform is achieved, economic convulsions and erratic markets will persist. (Viewpoints, July 1980.)

□ 1040

SALE OF F-15'S TO IRAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, the President wants to sell F-15's to the Saudis. We are not surprised. The Saudis happen to help the Contras.

The problem is that this policy threatens our ally Israel, a free nation surrounded by monarchs and dictatorships.

Has the President lost his senses? After the *Stark* was hit, our commander asked two Saudi jets to intercept the Iraqi craft. They said, no way, Jose, are you serious?

Let us review these policies. President Reagan last year asked countries not to sell to Iran. Then President Reagan sold weapons to Iran. China then sold missiles to Iran.

The President now says China should not sell to Iran. They are going to destabilize the world.

I say today that President Reagan is destabilizing the free world. He should come clean on Iran, or the President should resign, and Congress should start pushing him on it.

RECOGNIZING OUR ENEMIES

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rose yesterday to address the House on a matter of some importance, to congratulate the Washington Post for its article on the oppression and blackmail, extortion, and torture going on by the Communist government in Managua, Nicaragua.

I am here today to tell you that I arrived here from Managua last Sunday night, and I took a picture.

I wish you could all see it, and I am going to show it to the Members. I took this picture which is an arrest offense in Managua. Had I been caught with the camera taking this picture, I would have been arrested by Tomas Borge, the Minister of the Interior who presides over the oppression, blackmail, extortion, and torture of the Nicaraguan people in Managua.

Underneath this picture, it says "Minister of the Interior, Tomas Borge."

It is a picture of the Minister of Interior Building. The inscription under that is "Guardian of the Happiness of the People."

If that is not Orwellian, I do not know what is, the biggest misnomer in the world.

This afternoon, my colleagues on both sides of the aisle, you will have an opportunity to vote for the Davis amendment to break diplomatic relations with the Communist government in Managua and recognize that that Communist expansionist government in Central America is our enemy.

GENERAL DYNAMICS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I am dismayed at the decision by the Justice Department to end its 3 year investigation of General Dynamics. Justice Department officials said they lacked an identifiable victim in the case because the Navy acquiseced in General Dynamics action.

I find this rationale appalling. First, isn't it the duty of the Justice Department to represent the American public who was the real victim in this $639 million bailout?

Second, I think it is incumbent upon this body to examine more closely the Navy's role here. General Dynamics was suspended twice for defrauding the Government, but the Navy allowed General Dynamics to resume doing business under agreement that immunized the company against further suspensions even if new examples of misconduct were discovered! I trust the appropriate committees will hold hearings on this matter.

The bottom line is that the real losers in this case are the taxpayers. No one represented them, not the Navy, not the Justice Department. They both lacked the will to aggressively champion the taxpayer's interests and go after contractors.

I call on the Attorney General to fully explain his actions and to turn over to Senators GRASSLEY and PROXMIRE the full record of the case that they have requested.

INVEST IN OUR EDUCATORS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, in the Sun Belt and in other areas of our Nation, we are on the horizon of a critical shortage of teachers. We cannot stand by and watch the current trend of devoted young teachers being forced to leave the classroom because they cannot afford to stay. Cities across the country are providing incentives to attract new teachers recognizing the impending critical shortage.

That's why today I am introducing legislation which will encourage students to dedicate themselves to the teaching profession. Many potential teachers feel compelled to pursue other occupations with greater financial incentives in order to fulfill their obligation to repay their Federal student loans. My bill will provide a continuing financial incentive for students to commit themselves to the challenges of teaching, by offering them a special interest rate on their student loans.

We must invest in those who will educate our people. We must invest in those who will instill in our people the national values necessary for the strength and security of our country. I cannot think of a more worthy investment in our country's future.

QUESTIONS IN WAKE OF TRAGEDY ON U.S.S. "STARK"

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, there are many questions today that are emerging in the wake of the tragedy of the *Stark*. A multimillion-dollar frigate was destroyed by a small missile fired by an air force not known for its skill or its valor.

Will the huge defense bill we will vote on today prevent this from happening in the future?

Will the mammoth Reagan buildup prevent these kinds of things from occurring in the future?

The answer to both questions, I am sorry to say, is no. All the billion-dollar sophisticated systems in the world cannot make up for human judgment and expert training.

In recent years our attitude has become "the kid with the most toys wins." So we keep buying more and more toys, many of them no more than sitting ducks.

For the last 2 weeks we have seen over a hundred amendments to the Defense bill dealing with how many tanks or missiles we will buy, yet hardly a single amendment that would improve the way we train or recruit our forces.

This week we will vote to buy more F-15's, more M-1 tanks, more cruise missiles, more battleships, but not more protection.

In this game, the guy with the most toys does not necessarily win. Let that be the sad lesson of the *Stark*.

A POISONOUS LEGACY OF NUCLEAR WASTE

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, for 40 years, nuclear wastes, stored at the Hanford Nuclear Reservation, have spread a poisonous legacy on the landscape of the Pacific Northwest. These wastes have leached into the soil, fouled the ground water and threatened the Columbia River with lethal toxicity.

Yesterday, the voters in Oregon put the Department of Energy on notice that they're not going to take it anymore.

By a 3-to-1 margin, Oregon voters said, with undeniable clarity, that DOE's selection of the Hanford Nuclear Reservation as a leading site for the permanent nuclear waste dump violated the intent and mandate of the Nuclear Waste Policy Act.

By a 3-to-1 margin, Oregon voters said, with unmistakable clarity, that Oregon must be designated an affected State, and given an official role in the process, since a Hanford dump would directly threaten the health and safety of over 2½ million Oregonians.

And by a 3-to-1 margin, the voters of Oregon, without any ambiguity whatsoever, directed the Oregon congressional delegation to oppose a policy that calls for shipping 177,000 truckloads of nuclear wastes across the Northwest, for dumping 77,000 tons of radioactive wastes at Hanford, and for putting politics ahead of scientific merit.

Mr. Speaker, 2 years ago, voters in Washington State also opposed the Hanford dump, by similar margins. It's now time to get the nuclear waste program back on the merits or else stop it in its tracks.

PROPFAN FLIGHT

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, yesterday in Marietta, GA, aviation history was made. The Lockheed-Georgia Co., in combination with the National Aeronautics and Space Administration, conducted the first flight test of the propfan. This test was an outstanding success and is a major milestone in aviation propulsion history.

The propfan is a revolutionary type of propeller. It has the potential for reducing fuel consumpton by 50 percent or more, while allowing planes to travel at today's jet speed and comfort levels.

The propfan has both commercial and military applications. Reducing fuel consumption allows heavier loads to be carried and range to be extended. The propfan also has the potential for improving short takeoff and landing characteristics.

There are many individuals in the community of Marietta who have played an important role in the development and testing of the propfan. The propfan program manager, William E. Arndt, and the chief engineering test pilot, Frank Hadden, are to be commended along with all the many individuals who have dedicated themselves to the successful completion of this innovative and revolutionary propulsion system.

Mr. Speaker, many aviators are convinced the development of the propfan is as important to aviation as the development of the jet engine. The maiden flight of the propfan is a monumental step into the future of aircraft propulsion.

CONGRESS SPEAKS FOR THE PEOPLE ON CENTRAL AMERICA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, when our constituents watch closely what occurs on Capitol Hill today they might end up thoroughly confused. The House of Representatives will spend the better part of the day debating a series of amendments to the Defense authorization bill on Central America. We will hear Members loyal to the President stand up and say that Congress cannot tie the hands of the President when it comes to Nicaragua.

Yet as we engage in this debate, the Iran-Contra hearings continue and disclose daily that this administration ignores Congress in developing our Nation's foreign policy. When congressional funds have been cutoff, the administration has created a private network of fat-cat patriots, and rewards them with special visits to the Oval Office. When our governmental assistance is limited in scope, the administration twists the arms of our allies, otherwise known as countries 1, 2, 3, and 4, to keep the Contra coffers full. And when all else fails, the administration parades officials before our committees to misrepresent their activities.

A cynic might conclude that we are wasting our time here in Congress pretending that we have any constitutional authority when it comes to foreign policy, but those observers and the President's loyalists forget one basic fact: Congress does speak for the American people on this issue, and by overwhelming majorities they condemn President Reagan's failed policy in Central America.

WORLD'S LONGEST BREAKFAST TABLE—A CHALLENGE

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, the city of Battle Creek, MI, has for many years been the location of the world's longest breakfast table. Thousands of happy Battle Creekers gather annually to eat together and celebrate the august institution of breakfast. This is because Battle Creek is the home of the world's most wonderful breakfast cereals. As my noted constituent Tony the Tiger says, "they're g-r-e-e-a-t!"

Thus, you can imagine the mortification that I and all Battle Creekers felt on reading the news that on May 17, some 27,067 residents of Springfield, MA—a town famous for basketball—breakfasted together and ostensibly broke Battle Creek's breakfast record. Were the wire service stories correct? If so, what to do? Well, Michiganders are of sturdy stock. We shall meet the Springfield challenge.

On June 6, Battle Creekers will be getting together once again for breakfast. I am confident that we shall reclaim from Springfield the title that is properly ours. Thus, I want to lay down a challenge to Congressman EDWARD BOLAND, the distinguished Member who represents Springfield. I want to suggest that if Springfield retains the record for the most people at breakfast, I will personally present Congressman BOLAND with 10 boxes of the Battle Creek cereal of his choice. But if Battle Creek reclaims the title, he should present me with a fully inflated basketball purchased in Springfield.

May the best town win!

ISSUES RAISED BY EVENTS IN PERSIAN GULF

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Chairman, we have had a lot of conversation, a lot of words, about the events in the Persian Gulf. Many of them relate very much to the responsibilities that I have as chairman of the Subcommittee on Sea Power. Several I would like to address very briefly.

One is international cooperation. Obviously, that should be stepped up, not only in that area but also in the northern Pacific, where the Japanese could help us considerably.

Second, there needs to be some thought given to the procedures of response to threats.

Third, since it has been addressed here before today, is the question of material used in the construction of ships, aluminum. Some 10 years ago the *Belknap* burned because of the aluminum in it. At that time we decided not to use aluminum any more than we had to, and we are not using aluminum in ships that are planned for the future. There are some ships, however, already in the fleet, like the *Stark*, and there are a few others that have some aluminum on them. I want to reassure the American public that this is a type of material which we are moving away from.

These and other aspects of this particular event, this great tragedy, will be discussed and looked at in our seapower hearings in the near future.

PRESIDENT FAILS TO LEAD ON TRADE ISSUE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, President Reagan has proclaimed this week as World Trade Week. Many of us welcome the President's newfound interest in the trade issue. Unfortunately, a proclamation won't stop the erosion of America's defense industrial base, nor will it restore our ability to create manufacturing and agricultural jobs in America. Only strong, comprehensive trade legislation can help do that.

The House has passed a trade bill which responsibly addresses the complex trade crisis facing the Nation. Even before the ink was dry on the 1,000-page document, the administration ran the veto flag up the pole. That, Mr. President, was dead wrong. You have failed to lead on the most critical economic issue confronting the Nation. The House has filled the vacuum, and we're not going to give up until we have given America's workers and employers a trade policy that puts them first. When the job is completed, then we can celebrate a real World Trade Week.

OTHER NATIONS MUST LEND A HAND IN PERSIAN GULF

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, we have heard several speakers in the well before me today and yesterday comment on the events in the Persian Gulf and the firing by the Iraqis on our ship, the *Stark*. The question is: Why are we there? What purpose do we serve in being there?

The answer is that the principal reason we are there is to keep the sealanes open so that the oil coming out of the Persian Gulf can reach its destination. With the war between Iraq and Iran there has been an attempt by both countries to stiffle and shut off the flow of oil, and the question is then, Who is the principal beneficiary?

Well, the principal beneficiary of the oil coming out of that part of the world is not the United States, it is Europe and Japan. Mr. Speaker, I think that it is only common sense that we urge or insist that these sovereign nations who have great wealth and are really better off than we are participate, if only symbolically, by lending their presence in that part of the world so that it is not always just the United States standing out there and getting the lumps, so to speak, and the criticism when in fact we are there for other nations, not solely in our self-interest.

VA, DOD MOVING QUICKLY TO PROVIDE BENEFITS TO FAMILIES OF U.S.S. "STARK" VICTIMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I want to take this time to tell you that the Administrator of Veterans' Affairs has assured me that the Veterans' Administration will provide assistance to the families of those brave Navy personnel killed on the U.S.S. *Stark*.

We have an insurance program under the VA that is a $50,000 group life insurance policy for the servicemen.

The casualty reports that will be sent to the VA will contain information regarding the name and address of the designated beneficiary of each servicemen's $50,000 group life insurance policy. A little more than a year ago, we raised the benefit level from $35,000 to $50,000. I have no reason to believe that these brave young men, sailing in what some consider to be hostile waters, would not have availed themselves of these insurance benefits. I would think that 99 percent of those who lost their lives have the $50,000 coverage.

The VA will coordinate its activities with the insurance companies to make certain that the proceeds are paid promptly.

The VA regional office in Florida has assigned personnel to the home port area of the U.S.S. *Stark* in order to contact the families to offer assistance in securing other veterans' benefits, such as monthy payments of dependency and indemnity compensation, educational assistance for surviving spouses and children, VA home loans for surviving spouses, and medical benefits.

Mr. Speaker, I want to assure my colleagues that the Veterans' Administration is on top of this situation and will cooperate with the Department of Defense to deliver timely, compassionate service to these families.

□ 1105

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

The SPEAKER pro tempore (Mr. Moakley). Pursuant to House Resolution 152 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1748.

□ 1106

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such department for fiscal years 1988 and 1989, and for other purposes, with Mr. Rostenkowski in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, May 19, 1987, the amendment offered by Representative Schroeder, relating to testing of nuclear arms, had been disposed of.

Pursuant to the notice provided by the chairman of the Armed Services Committee on May 18 under paragraph 8 of section 2 of House Resolution 160, it is now in order to consider the amendments printed in section 1 of House Report 100-84, relating to Central America in the following order only:

(A) By Representative Foley, which is not subject to amendment except for the amendment printed on page 25 of section 1 of House Report 100-84 by Representative Hunter, or his designee;

(B) By Representative Mrazek;

(C) By Representative Boxer;

(D) By Representative Foglietta; and

(E) By Representative Davis of Illinois or their designees. It is in order for the Chairman of the Committee of the Whole to postpone recorded votes, if ordered, on any said first degree amendment, and the Chair may reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all additional amendments following the first vote in the series. The Chair announces that he will postpone said recorded votes, if ordered, until completion of consideration of the amendment offered by Representative Davis of Illinois.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Foley: At the end of title VIII of division A (page 117, after line 25) insert the following:

SEC. 812. LIMITATION ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT.

(a) Limitation.—Funds appropriated to the Department of Defense may not be obligated or expended for the purpose of introducing United States Armed Forces into or over Nicaragua for combat.

(b) Definition of Combat.—As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) Exceptions to Limitation.—This section does not apply with respect to an introduction of United States Armed Forces into or over Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

(d) Existing Requirements Preserved.—Nothing in this section shall invalidate any requirement of Public Law 93-148.

(e) Treaty Authority Preserved.—Nothing in this section shall invalidate any authority of the United States to act in accordance with the provisions of the Inter-American Treaty of Reciprocal Assistance.

The CHAIRMAN. Under the rule, the gentleman from Washington [Mr. Foley] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which I offer is similar to those that have been considered and adopted in the past two Congresses. It provides that funds appropriated to the Department of Defense may not be obligated or expended for the purpose of introducing United States Armed Forces into Nicaragua for combat. As used in the amendment the term "combat" means the introduction of the U.S. Armed Forces for the purpose of delivering weapons fire upon an enemy. The section contains clear exceptions.

It does not apply with respect to an introduction of United States Armed Forces into or over Nicaragua for combat if the Congress has declared war or enacted specific authorization for such introduction or in the case where such introduction is necessary to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy; or to meet a clear and present danger to, and to provide necessary protection for and evacuation of United States Government personnel or United States citizens. The amendment provides that nothing in the section shall invalidate any requirement of Public Law 93-148, the War Powers Act, or any authority of the United States to act in accordance with the provisions of the Inter-American Treaty of Reciprocal Assistance known as the Rio Treaty.

Under these circumstances, Mr. Chairman, I think the amendment should receive the same support it has received in previous consideration on the floor of the House. It does not limit the authority of the President to deal with emergency situations, particularly the kind that I have, enumerated. At the same time the amendment makes clear that it is United States policy, congressional policy, to support the President's continued assertions that he has no interest in and does not plan for the introduction of United States Armed Forces into Nicaragua.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. (Mr. Gray of Illinois). Does any Member desire to rise in opposition to the Foley amendment?

Mr. HUNTER. Mr. Chairman, yes.

The CHAIRMAN pro tempore. The gentleman from California [Mr. Hunter] is recognized for 10 minutes.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. Ballenger].

Mr. BALLENGER. Mr. Chairman, I rise in support of the amendment to be presented by the gentleman from California [Mr. Hunter].

Mr. Chairman, for more than 15 years, my wife Donna and I have worked with our friends in Central America to help, where we could, to improve medical and emergency services available to the people to El Salvador, Guatemala, and Honduras. To be perfectly fair, I must tell you that Donna has done a majority of the work in helping to build hospitals and an orphanage and to equip fire departments and rescue squads.

If you are traveling to Guatemala City you may want to stop by the Donna Ballenger Medical Clinic which is an appropriate tribute to my wife's work to help people in that city following a devastating earthquake.

During our many visits to Central America, Mr. Chairman, Donna and I have made many friends. And we have had frequent occasion to be concerned about their safety and welfare.

During recent years, we have observed these three nations reject military dictatorships and develop fragile democracies. It should be something of an embarassment to us, incidentally, that these freely elected governments were installed by some 80 percent of their eligible voters.

Today, we are discussing military aid to the people of El Salvador. For 7 years, the people of El Salvador have been waging a winning battle against Communist insurgents. Most of the cost of this fight has been borne by the people of El Salvador.

The Government of El Salvador asks little of the Government of the United States. It wants our moral support and what amounts to token financial assistance.

But what most concerns my friends in El Salvador is American indecisiveness and what they see as our indifference to their problems. They go to sleep every night fully aware that the third largest military machine in the Western Hemisphere is lurking just across the border in Nicaragua. While we are engaged in polite debate they are facing the reality of a possible life-and-death struggle for existence.

Time and again I have been asked: Why doesn't the United States Congress remember what El Salvador was like before the Contras? Once, not long ago, there were arms and men flowing across their borders from Nicaragua. Because of the presence of the Contra movement, today El Salvador enjoys a small extra measure of security because the Sandinistas are busy defending themselves.

Mr. Chairman, we now have four fragile democracies in Central America that depend on us for some measure of security. Without our aid to these nations and the Contras, these people face the possibility of seeing their freely elected governments overthrown and seized by Marxists dictatorships that take their orders from Cubans, Bulgarians, Russians, and the Sandinistas.

Mr. Chairman, the very least we can do is demonstrate our concern and show our good faith by supporting aid to these people who want most to follow the example of their American friends.

I ask you to vote for the Hunter amendment.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. Alexander].

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Washington.

I agree with the previous speaker that we should support our friends in Central America. Nicaragua, however, is not a threat to the security of the United States. Nicaragua is a country of about 3 million people. It is a nation about the size of the State of Arkansas, my home State.

Nicaragua may be considered to be a threat to possibly El Salvador, Honduras, or Costa Rica. The security of those nations, of course, is protected under the Rio Treaty which obligates the United States to come to the aid of those nations if their national security is threatened. Upon request the United States would send American troops to secure peace and to restore order in those nations.

The present policy of the administration, one of covert action, which is to use military force to overthrow the Sandinista government, is one which has been specifically rejected by the United States Congress and which policy is the subject of hearings now in progress by the Congress known as the Iran-Contra hearings.

The acts of the administration to overthrow the Sandinista government constitute acts of war; under the Constitution of the United States acts of war are to be considered by the Congress. A declaration of war by the Congress would make in order the policies of the Reagan administration which it has sponsored over the last 6 years.

I hope my colleagues in the House of Representatives will join me in supporting the proposal by the gentleman from Washington, which will ensure to the American people that our Constitution is upheld and that any declaration of war be debated here as such, debated in the open, so that Congress can discover its merits or demerits, and we can conduct a foreign policy based upon the principles, precepts and traditions of our own Nation, our own Constitution, and our own laws.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, I said on the House floor yesterday that Thomas Jefferson said, "Intelligent, decent men" and I will degenderize that to say men and women, that "people can be given the same set of facts and come up with honorable opposing conclusions."

Now I recall about 6 years ago after the distinguished gentleman from Arkansas and I won a battle to try and save the B-1 bomber, that he wrote a very thoughtful article in the New York Times, which said that it is time to talk to Castro. There were some very good points made in that editorial. However, this article was written before the Marielita boatlift when (Castro sent us his rapers and killers, along with 95 percent other decent people who he had imprisoned for years.

It was also before the stunning, and compelling book by Armando Valladares called "Against All Hope" came out, where we learned the absolute brutal filth, torture, and horror that have gone on for a quarter of a century in Cuba's prisons, their gulags.

Now, there were Members who got up in this body, good men and women, a quarter of a century ago and said, "Castro is no threat. Why, Cuba is only half the size of California." That would make it a lot bigger than the State of Arkansas. But still, what is 10 million people? Hungary has 10 million, that is no big deal.

Well, a year after those speeches were made, nuclear-tipped intermediate range ballistic missiles were on their way to Cuba. It turned out that Cuba was a threat to the national security of the United States of America.

So, let me contradict my good friend and colleague from Arkansas and state emphatically the exact opposite of what he has just stated in this well. Nicaragua, irrespective of its size, is a threat to the national security of the United States.

□ 1120

Nicaragua is a threat to the national security of Costa Rica. The Costa Rican President, Oscar Arias told me that on the day of his inauguration, 1 year ago, on the 8th of this month,

I had an opportunity to visit alone with just four or five other people with the President of Guatemala, Vinicio Cerezo who said that Nicaragua is a threat to the national security of Guatemala and every other nation in that area.

Some of the Members who are in the Chamber right now were with the President Azcona of Honduras in his home, just a few hours days ago, and he said the same thing, that Nicaragua is a threat to the national security of those nations in this hemisphere.

You do not have to watch the hearings going on now with the joint committee investigation and listen to Henry Hyde and the gentleman from the other body, Mr. Hatch, or this young idealist, Robert Owen, to realize that people up and down the land bridge of America are all threatened by Nicaragua and so is our security.

I look forward to a further dialog with my good friend, the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, I support the Foley amendment, and I would like to just go over a few of the policies of the President and try to bring this thing into perspective.

Originally, the President wanted to help the Contras so they can cut off arms going to Communists in El Salvador. From there it evolved to he later wanted to put pressure on the Sandinistas to hold free elections.

Later it evolved to where the President admitted, yes, he wants to overthrow the Sandinista government for the sake of stability in the American hemisphere.

What is next, though, I think is a logical question, and I believe Mr. Foley's amendment is directly applied to it. The bottom line is that the Contras cannot overthrow an outhouse in Central America. They do not even control, after all of these years, a hayride in Central America. In fact, many of the Contras indict their own leaders by saying, "They are so misdirected that the Contra leaders could throw themselves at the ground and miss."

Yesterday, Mr. Owens testified that one of the memos he sent to Lieutenant Colonel North basically said, and I quote, "This war has become a business for many of them," many of them meaning the Contras. Now we find out that Calero has been earning about $8,000 a month, being paid by the CIA and the National Security Council.

He later went on to say, "They," meaning the Contra leaders, "truly believe that we will send the Marines."

Mr. Foley's amendment gives the President the leeway, if there is an emergency, to send the Marines, but one thing it does not do, it helps to stomp out this obsession with McCarthyism going on at the White House to invade Central America.

I think if we are going to protect freedom, let us say it, and let us quit messing around on the floor. There is no one in this House who wants to see Communists in Central America run over this country. We will not let that happen.

Finally, I am very glad to stand here and support our leader, the gentleman from Washington [Mr. Foley] and state this: America should be working with the Organization of American States to help resolve some peaceful settlements here in Central America.

Fifteen years ago, every country down there looked like Nicaragua. Today there is one surrounded by some democracies.

I think we can go about this a different way. I support the amendment and ask everybody to support the amendment of the gentleman from Washington [Mr. Foley].

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the amendment as introduced by the gentleman from Washington and in support of the Hunter amendment.

The Foley amendment is a completely unwarranted attack on the constitutional powers of the Presidency. It is a prohibition taken in Central America that is not imposed in any other part of the world.

The Sandinista government in Nicaragua has done nothing to demonstrate that it deserves a shield against possible retaliation for aggression against its neighbors and against the national security interests of the United States.

The administration has said repeatedly that we would not send combat troops to Nicaragua. But to withdraw that option entirely gives the Sandinistas the message that the United States will not protect our friends and allies in the region. It will do nothing to discourage the Sandinistas from continuing their armed subversion of their neighbors.

Our allies in the region who are participating in the negotiating process to find a peaceful solution to the crisis in Central America and who are promoting the Arias peace initiative have not even suggested the United States forego the option of sending United States troops to Central America. They recognize as well as we that the Sandinistas must perceive there is pressure against them to force them to negotiate a peaceful settlement in the region.

On my last trip to El Salvador I was asked many times "Is this going to be another Bay of Pigs?"

I urge my colleagues to vote for the Hunter amendment.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. Davis].

Mr. DAVIS of Illinois. Mr. Chairman, the gentleman from California who spoke talked about the Member who had just returned from Nicaragua and from Honduras, and that was me. I spoke to President Azcona, who is the second President to take office without a junta, and I would remind the gentleman from Ohio that in Honduras, there is a great threat.

I would remind the gentleman from Ohio that the democracies in Central America are a result of this administration and have all been relatively created within the last 6 years.

I would also tell you that I could support the Foley amendment, frankly, because I think the marines are going to go in under one of his exemptions anyway when the embassy in Managua is taken, and it will be taken, Mr. Foley, and the marines will have to go in under that basis.

But the option to that is very simple, we will break our diplomatic relations with Managua and support the Contras because the gentleman from Ohio was wrong; they not only can win, they are beginning to win. They have shot down four Soviet helicopters flown by Cuban pilots and the Soviet expansionism in Central America is obvious.

They are not building an airport with 12,000-foot runways for helicopters. Bear aircraft will be surveilling the west coast of the United States before the year is out, as the Cubans are doing on the east, and the harbor at El Bluff on the east coast, Mr. Foley, is being deepened to 60 feet. That is not for a sport fleet of fishermen; it is for Soviet submarines 140 miles north of the Panama Canal, through which 75 percent of oil and imports flow.

Tell me, is Nicaragua a threat to the United States? You bet your boots.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Chairman, I will not have enough time to discuss this amendment adequately, but I would like to say a couple of things by way of preface.

I am personally sorry that it is offered by the gentleman from Washington [Mr. Foley] who is, indeed, a leader of the Democratic Party and one of the bright lights of Congress, because it gives it an aura of legitimacy to what I think is a terrible concept, and attempt to erase the President's powers as Commander in Chief and elevate the Congress' power to declare war, not to make war, but to declare war into the imperial encompassing authority that he wishes it would be now that his party controls Congress.

The question of patriotism. There are certain words of intimidation used around here when the debate gets a little hot. If you question what is going on in South Africa, you could be called a racist; if you have problems about the Middle East, you have to be careful that you do not run the risk of being called anti-Semitic.

When you point out the consequences of this kind of an amendment, who it helps and how it helps, you run the risk of being accused of questioning someone's patriotism. All of these efforts at intellectual intimidation stifle useful debate.

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The CHAIRMAN pro tempore (Mr. Gray of Illinois). The gentleman from Washington [Mr. Foley] has 2 minutes remaining.

Mr. FOLEY. Mr. Chairman, I yield myself 1 minute and I yield to the gentleman from Arkansas [Mr. Alexander].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding.

I take this time to correct the record. It has been stated by at least two speakers that the democracies in

Central America are the direct result of the administration's policy.

I recall traveling in Honduras and in Belize in 1980 prior to the election of President Reagan, during which time the elections in those countries were ensuing that resulted in democratic election. The current administration had nothing to do with the democratic regime in Honduras and Belize.

Mr. Chairman, I would add a response to the gentleman from North Carolina. When you get ready to invade Nicaragua, General Gorman, the former commander of the Southern Command, once told me that at least one division of American troops would be required to overthow the Sandinista government. Why do we not go ahead and introduce a declaration of war in order to debate this issue on the merits. Then, we can get it out in the open so the American people will know what we are getting them into?

Mr. FOLEY. Mr. Chairman, let me reiterate that this amendment provides for those occasions where under treaty or under other legitimate authority United States troops could be deployed in or over Nicaragua. Otherwise it states a clear prohibition under the Appropriations Act from assigning or appropriating funds for that purpose. It is very clear. It has been adopted in the last two Congresses, and I urge its adoption today.

Mr. DREIER of California. Mr. Chairman I rise in opposition to the Foley amendment and in support of the Hunter amendment if necessary. While I am here I might also add that I am opposed to the Mrazek, Boxer, and Foglietta amendments. All of these amendments seek, in one way or another, to undermine President Reagan's Central American policy and interfere with the President's constitutional perogative to conduct foreign policy. This amendment process has become a familiar tactic. However, this time, we are not even going to wait until a foreign policy debate—we are doing it on the DOD authorization.

At this very moment, the Iran-Contra hearings are exploring the possibility that the will of Congress was violated through some fancy maneuvering within the letter of the law by members of the administration. As it turns out, they may have been outside the law. But even if they are not, the participants have been roundly condemned for violating the spirit of the law. With this example in mind and aside from the merits of the Contra debate, doesn't it bother the authors of these amendments that they have had to find so many backdoors in order to undermine the spirit of the Constitution and the powers it grants the Presidency? The driving force behind all of these amendments is the need to make a political statement. Does this selfish need excuse the harmful precedents these amendments make?

Neither Mr. FOLEY nor the other authors were elected to be Commander in Chief of our Armed Forces, and none of these Members of Congress should be so presumptuous. I would suggest that we have plenty of checks and balances over the possibility of a President involving us in a war and that this legislation before us is just political tripe. It is consistent with an effort to defeat the President's policies, but it is also consistent in its failure to offer an alternative policy. Given what we know about the Sandinistas now, throwing the Contadora process on the table as a policy by itself just does not hold water. I challenge those colleagues who oppose the President's policy in Nicaragua to present an alternative policy. And in the meantime, if you genuinely care about the situation in Central America, withdraw these politically motivated amendments.

Mr. FEIGHAN. Mr. Chairman, this afternoon we will have the opportunity to vote for several amendments in support of a more responsible policy in Central America. These amendments will reduce the risk of a wider war in the region. At the same time, they will return us to an above-board policy, pursued with a measure of accountability that the American people deserve.

The Foley amendment will prohibit the use of funds for the introduction of United States combat forces into or over Nicaragua. It contains responsible waiver provisions that allow the flexibility to respond to an attack on the United States or to defend our citizens. The practical effect will be to avoid another Vietnam in Central America—preventing a temporary training mission from becoming a phased deployment, and from there becoming a full military mobilization. The American people have said again and again that this is a war they do not want and the Foley amendment addresses this concern in a thoughtful and flexible manner.

Mr. MRAZEK and Mr. BRENNAN will offer an amendment to bar United States military maneuvers within 20 miles of the Nicaraguan border. This restriction is a matter of simple common sense. The Sandinistas are well aware of our presence in Honduras. A heightened U.S. presence on the border only succeeds in raising tensions and inviting a situtation where an isolated border raid could quickly escalate to a military confrontation involving U.S. combat forces.

Mrs. BOXER will offer an amendment to address the so-called backdoor funding to the Contras. Over the past 7 years, the Contras have been the indirect beneficiaries of our military construction projects in Central America, specifically in Honduras. In one case, landing strips upgraded during joint United States-Honduran maneuvers were later used in the Contra resupply operation. The amendment simply asks that the President seek the necessary authorization from Congress to use funds for projects intended to benefit the Contras.

Mr. FOGLIETTA's amendment will delete $4.1 million for military construction in Honduras. For years we have been told that our military presence in Honduras is temporary. During that time, we have constructed airfields, radar stations, roads, and barracks. These new funds are slated for housing, dinning, and recreational areas. The request calls into question the temporary nature of our presence in Honduras. If we are stationing a permanent force in Honduras, then let's be up front about it, present it in the context of a regional military policy that makes sense, and defend it for what it is. Until there is a minimum consensus on our mission in Honduras, let's not make ourself at home.

I hope my colleagues will join me in supporting this package of amendments. It returns us to a policy of accountability, lessens the likelihood of military misadventure and ensures that the American public can read about our policy in the region on the front page of the newspaper and say, "that makes sense."

AMENDMENT OFFERED BY MR. HUNTER TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. HUNTER. Mr. Chairman, under the rule, I offer an amendment to the amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. HUNTER to the amendment offered by Mr. FOLEY: In the new section 812 proposed to be inserted by the amendment, strike out subsection (c) and all that follows and insert in lieu thereof the following:

"(c) EXCEPTIONS TO LIMITATION.—This section does not apply with respect to an introduction of United States Armed Forces into or over Nicaragua for combat if—

"(1) the Congress has declared war or enacted specific authorization for such introduction; or

"(2) such introduction is necessary—

"(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions or its allies; or

"(B) to meet a clear and present danger to, and to provide necessary protection for, the United States Embassy;

"(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens; or

"(D) to respond to hijacking, kidnaping, or other acts of terrorism involving citizens of the United States or citizens of any ally of the United States.

"(d) EXISTING PROVISIONS PRESERVED.—Nothing in this section shall invalidate any provision of Public Law 93-148.

"(e) TREATY AUTHORITY PRESERVED.—Nothing in this section shall invalidate any authority of the United States to act under the provisions of the Inter-American Treaty of Reciprocal Assistance.

"(f) EXPIRATION UPON ESCALATION.—This section shall not apply when Mig aircraft, or other aircraft of similar design or capability, or nuclear missiles or any other nuclear weapons are introduced into Nicaragua."

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. HUNTER] will be recognized for 5 minutes and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the amendment to the Foley amendment that we passed for 2 years running. It simply preserves the President's rights under the War Powers Act, it preserves his rights under the Rio Treaty, and it also preserves our right to act if a clear and present danger of attack upon the United States, our territories or possessions, or our allies is presented by the Communists in Nicaragua. It also provides for expiration of the Foley amendment upon the installation of Mig aircraft or similar aircraft or upon the introduction of nuclear weapons into Nicaragua. We have passed this amendment several times.

Mr. Chairman, I yield my remaining time to my friend, the gentleman from Illinois [Mr. Hyde] so he may continue the statement that he started to make.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. Hyde] is recognized for 3 minutes.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

As I was saying, Mr. Chairman, on the subject of patriotism, I hope to make it crystal clear that I do not assail or attack anybody's patriotism. I stipulate that any Member who votes for the Foley amendment is a red, white, and blue patriot.

But patriotism is a matter of intention, and there is a well-known road that is "paved with good intentions." I would rather criticize this Foley amendment, unamended by the amendment offered by the gentleman from California [Mr. Hunter] from the perspective of who benefits.

When you want to solve a murder mystery, the detective always looks around to see who benefits by the murder. And who benefits from the Foley amendment? Well, Mr. Ortega benefits, Cuba benefits, and the Soviet Union projecting of its power in our hemisphere benefits, because this amendment, giving it a gloss of constitutionality, which it does not deserve, says that the President may not come to the assistance of an ally under his own power as Commander in Chief. We will protect our property and our citizens from an attack on our country, but an ally, Honduras or El Salvador, could be invaded and under this amendment the President has no power whatsoever.

If the Foley amendment were on the books when President Truman responded to the invasion of South Korea by North Korea, he could not have responded unless he could have assembled Congress and had a debate. Meanwhile the North Koreans were marching to the sea. He would have had a debate, and maybe he could have prevailed upon the Congress to understand that our interests were served by protecting South Korea and ultimately Japan. But maybe not—who knows?

This is a very bad idea. It lacks the color of constitutionality, it is Reagan-bashing, and no matter how noble or how patriotic its source or its progenitor, it harms this country.

I ask the Members, in the Latin phrase, qui bono? Who benefits? Not freedom, not Ameria, not our national security. I hope and pray that the Foley amendment, unadorned, does not pass.

But with the Hunter amendment, which recognizes that we do not stand alone in this world, that we have to have some allies and they have to be able to count on us in a crunch, if the Hunter amendment passes, it makes it then an acceptable piece of legislation.

The CHAIRMAN pro tempore. Does any Member desire to rise in opposition to the Hunter amendment to the amendment offered by the gentleman from Washington [Mr. Foley]?

Mr. DELLUMS. Mr. Chairman, I rise in opposition.

The CHAIRMAN pro tempore. The gentleman from California [Mr. Dellums] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, I would simply make this brief comment: I came to Congress in 1971 against the backdrop of the Vietnam war. It seems to me that we ought to have learned something as we attempt to march our young people off to fight and die in some cause.

If we are truly committed to democratic principles and to political solutions, then what better time than now to stop the madness? What better place than in this hemisphere to attempt to test the ideas of a political solution?

We are all now grieving that a number of our young people are no longer alive because in the last 48 hours they indeed died as a result of war. Tired old men march into the well to announce the desire for brilliant people to go and fight and die in some cause. I came here to raise my voice in the name of peace.

At some point we have to get beyond the ludicrous notions of war. If indeed our President can travel to Reykjavik, if indeed our President can meet with superpowers, we certainly have the capacity to meet with Daniel Ortega and to meet with people in Third World countries in Central America to find some peaceful, nonviolent way to address the human misery in Nicaragua and Honduras, who are both struggling over who is the poorest nation in Central America.

But rather than our coming to grips with the poverty, the hunger, the disease, the inadequate education, and all the other crippling problems, including death squads, corporate oligarchies, and military juntas, we want to fashion some military solution. The problems of the world no longer lend themselves to a military solution.

Mr. DORNAN of California. Mr. Chairman, will my friend, the gentleman from California, yield?

Mr. DELLUMS. I will yield in 1 second.

The problems of the world no longer lend themselves to a military solution. This is bizarre and absurd. The problems of the world, and specifically in Central America, are political, social, economic, and cultural. They have to be solved in their context.

There is a framework within which all of these issues can be resolved. You and I, I say to my colleagues, come to this floor every day. We do not come to the floor armed to the teeth to murder and kill each other. We come to use our voices to find political solutions to our myriad problems that exist between and among us. If we can do it in this Chamber because we are indeed committed to democratic principles, why can we not, across borders that tend to divide us, find a way to sit down around a negotiating table to solve our problems short of the cruelty and insanity of war?

Finally, I go back to where I began. We should have learned something in Vietnam. Bombing and killing and maiming is not a way of solving problems. Thousands of Americans came back in body bags. No speeches, no money can ever bring them back. But still we want to walk down this road toward another Vietnam in Central America.

I believe that this is bizarre. I believe that there are millions of American people who do not want us to become militarily involved in Central America so that tens of thousands of people again are returned in body bags. I believe that we ought to move beyond that. I believe the rational mind ought to get beyond the notion of war. War no longer is a rational concept in the modern age.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I will first yield to the gentleman from California, and then I will be pleased to yield to the gentleman from Illinois.

Mr. DORNAN of California. Mr. Chairman, I thank the gentleman for yielding.

My friend, the gentleman from California, and I have had many discussions behind the railing back there, and we know that there are issues that we should debate for several hours on this House floor. This is certainly one of them.

Mr. DELLUMS. I certainly agree with the gentleman about that.

Mr. DORNAN of California. We try to keep a very low and polite tone in this because there are amendments on both sides that are going to be accepted.

However, I have made speeches following the gentleman against the dictator Pinochet, against apartheid in South Africa, and against hunger and starvation, but I honestly have never heard the gentleman make a speech about the killing fields in Cambodia, about half a million boat people drowned from Vietnam, or about the thousands executed——

Mr. DELLUMS. Mr. Chairman, if I may reclaim my time, I yielded to my colleague not for the purposes of attempting to denigrate this Member's character or his ability.

Mr. DORNAN of California. That is not meant to be denigrating.

Mr. DELLUMS. This gentleman came to this body committed to nonviolence and peace wherever it exists. I am not committed to the killing that takes place in rightwing countries or in leftwing countries. I am committed to ending the killing all over this planet. I believe the hope of the future is in peace, not in the pursuit of war. I have always maintained the integrity of that position.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DELLUMS] has expired.

The gentleman from California [Mr. HUNTER] has 1 minute remaining.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I want to say in response to my friend, the gentleman from California, that it is true that I am a tired old man. Some of my weariness came from fighting in World War II, hoping that a political solution could result from it, but I found that the Japanese Imperial Government did not want to talk, they wanted conquest, and as for Hitler, while we tried talking with him, it ended up in a shooting war, as the gentleman may recall.

While killing is a terrible thing, sometimes when people think freedom is more precious than life, they are willing to fight for it. I am one of those persons, and I dare to hope so is the gentleman.

The CHAIRMAN pro tempore. The gentleman from California [Mr. HUNTER] has 30 seconds remaining.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I have just a few words to say.

This is one of the most important issues to me that I came to Congress to do battle over. I feel that, knowing what the Communists said, that they would take us from within, they are on their way to do that. I do not think we are here to worry about whose side we are on in Central America. I think we are here to try to beat the President. I think the President beat up on this side for 6 years, and now they are going to try to beat up on him for 2 years.

I ask the Members to keep in mind what is at stake. We cannot say that Central America is not a key point after what has happened to us in Cuba.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana [Mr. HOLLOWAY] has expired.

All time has expired.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word, and I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY] so he may finish his statement.

Mr. HOLLOWAY. Mr. Chairman, I thank the gentleman.

Mr. Chairman, what I wanted to say is that I feel that Central Ameria will be written about in 20 years, and I only hope that we do not write how the 100th Congress totally forgot about the importance of Central America. I only hope that if we were debating war, we would vote to support the right side. I would only hope that if the Communists were crossing the Rio Grande, we would have the backbone to stand up and fight them. I sometimes have my doubts about this Chamber.

Mr. Chairman, I thank the gentleman from Alabama [Mr. DICKINSON] very much.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, we are about to move into a discussion of what this body and the other body would do if the Soviet Union introduced into Nicaragua Mig fighter aircraft. They would probably be Mig-21's. Nicaraguan pilots already trained in Mig's, and they keep their skills proficient by flying in Cuba. There are even some intelligence reports that they have flown the Mig-23's, which is a Mach-2 airplane.

As a former peacetime fighter pilot who has also flown as a congressional observer in the H-64 Apache and who flew two missions as an observer in Huey Cobra gun ships in Vietnam and who has watched the HIND helicopter in operation and photographed it at Sandino Airport, I can say without any fear of contradiction that there is not a military commander in the world, in a guerrilla effort or a civil war, who would not opt to use HIND-24 flying tanks, these killing machines, rather than Mig's, which come in to lob 500-pound bombs and pull off the target at 3,000 feet.

□ 1145

United States policy has been clearly stated, that we will take out the Mig's in Nicaragua, there are American boys going into combat.

I maintain that, as someone who has flown both, there are now far more HIND helicopters in Nicaragua than this Chamber discusses.

Our intelligence sources told me by tail number—you hear these words, by tail number—there are double the number of Soviet helicopters in Nicaragua than what we were discussing in this Chamber 2 years ago.

I maintain that the Soviet ship named after Lenin's older brother, the Alexander Ulyanov, will come back with more crates of HIND helicopters on its decks rather than Mig's. This House should be more concerned over the introduction of these flying tanks, like the one captured in Chad. The French and American intelligence forces are going over it now. I can assure you, it is more valuable in combat by a factor of three than is a Mig-21 flying out of Sandino.

I think we should speak about he problem of the HIND helicopters, and I would ask the gentleman from Washington [Mr. FOLEY], my good friend, to respond.

Are we going to do anything about the introduction of more HIND's when they are more dangerous than the introduction of a few Mig-21 lightweight air interceptor jet fighters?

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The Chair would advise the gentleman from California [Mr. DORNAN] that the gentleman should remove his remarks relating to the opinions of a Member of the other body.

Mr. DORNAN of California. Mr. Chairman, say that again.

The CHAIRMAN pro tempore. The Chair would advise the gentleman from California that the rules prohibit the gentleman from mentioning the opinions of a Member of the other body.

When the gentleman revises, the gentleman can remove that.

Mr. DORNAN of California. Mr. Chairman, I will.

Mr. Chairman, could I ask the gentleman from Washington [Mr. FOLEY], the distinguished majority leader, for a colloquy on what the gentleman feels about the relative balance between HIND helicopters—there may be over 18 there now—and a few Mig's?

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California [Mr. HUNTER] is the Member who offered the amendment for providing for restrictions on my amendment in the event of an introduction of Mig fighters.

The gentleman from California [Mr. DORNAN] seems to feel that that is insufficient, and it should extend to HIND helicopters.

I think the question is more appropriately addressed to the gentleman from California [Mr. HUNTER].

I would say that the question, however, of HIND helicopters is one that the gentleman has raised; and frankly, there is no evidence, as far as I know, that these helicopters have been used outside of Nicaragua.

Mr. DICKINSON. Mr. Chairman, if I might reclaim my time, I think we have seen by the use of United States troops in Vietnam, and now the Soviet troops in Afghanistan, the effectiveness and the threat posed by helicopters by whomever use them. I certaintly agree with the gentleman from California that the presence of HIND, or the followup-on HOKUM, if there should be there, Soviet helicopters in Nicaragua certainly is destablizing and gives them a tremendous advantage.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. HUNTER] to the amendment offered by the gentleman from Washington [Mr. FOLEY].

The amendment to the amendment was agreed to.

The question is on the amendment, offered by the gentleman from Washington [Mr. FOLEY], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MRAZEK

Mr. MRAZEK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MRAZEK: At the end of title VIII of division A (page 116, after line 25), add the following new section:

SEC. 812. LIMITATION ON MILITARY EXERCISES AND MANEUVERS IN HONDURAS AND COSTA RICA.

Funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended to carry out all or any part of a United States military training exercise or maneuver (including a National Guard training exercise or a joint United States-Honduran military training exercise) at any point in Honduras within 20 miles of the border between Honduras and Nicaragua or at any point in Costa Rica within 20 miles of the border between Costa Rica and Nicaragua.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New York [Mr. MRAZEK] will be recognized for 10 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 10 minutes in opposition to the amendment.

Mr. MRAZEK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the concept of this amendment is very simple. It simply restricts all United States military exercises from being conducted within 20 miles of the Nicaraguan border.

Its purpose is to ensure that United States personnel are not caught in what has become a free fire zone in the battle between the Contras and the Sandinistas along the border with Nicaragua.

Right now we know that fighting between the Sandinista forces and the Contra forces along the border is at a peak. At the same time the United States is conducting the largest military exercise, Solid Shield, in the history of Central America in the Caribbean.

Between 5,000 to 8,000 troops are scheduled to be deployed in Honduras, though not all at the same time.

Last year an amendment that I introduced to the Contra aid program was approved by this Congress and it restricted the use of active or inactive duty United States military personnel to that same 20-mile radius with the Nicaraguan border.

I think it is important to appreciate what this amendment does not do, because there are some important exemptions in the amendment. The purpose is not to block National Guard exercises or military Reserve force exercises in Honduras. These exercises which supposedly give United States personnel training on unique battlegrounds can be conducted throughout the rest of tens of thousands of square miles of Honduran territory.

Further, and more importantly, it would not restrict United States assistance to Honduras in the event that first, Honduras invokes the Rio Treaty and calls for direct United States military help in fighting to repel a Nicaraguan invasion; or second, if Honduras requests limited assistance from the United States, such as ferrying United States troops to the Nicaraguan border region, which has already happened twice, for a limited Honduran attack against the Sandinistas if they are in Nicaragua.

Certainly such activities would not be perceived as a normal U.S. military exercise.

The bottom line here is that in the event of a mistaken accident, the idea that somehow National Guard troops were put in too close proximity to the Nicaraguan border and were killed, this could not be used as a pretext for some type of escalated military action.

There is plenty of room in Honduras for military exercises by the United States and by the National Guard and by the Reserves.

We just simply believe that they should not be held within 20 miles of a free-fire zone.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 10 minutes.

Mr. DICKINSON. Mr. Chairman, this is just one more nail in the coffin of this Defense authorization bill, which I think is headed for the grave. This is another attempt to micromanage the authority of this administration.

We are imposing our judgment on the sovereign authority of Honduras. As a practical matter, I do not understand how we would know whether we were within 20 miles or not, if you have ever been in that bush country and in the jungles there.

This is an unwise amendment. It is unneeded. It unduly restricts the Department of Defense in sending our troops to train. We certainly have no intent or desire to get American troops involved in any way in Central America.

I certainly do not. I would not vote for one dime to send American troops down there except to save American lives or property if they were threatened.

I think this amendment is an intrusion into the Executive authority of this administration. It is unnecessary. It is unwise. Again, it is one more ornament that is going to be hung onto this bill which is going to make it certain to be vetoed—another reason to vote against it if it passes.

Mr. Chairman, I reserve the balance of my time.

Mr. MRAZEK. Mr. Chairman, I yield 2½ minutes to my distinguished colleague and former Governor of Maine, the gentleman from Maine [Mr. BRENNAN].

Mr BRENNAN. Mr. Chairman, I support the amendment of my colleague, Mr. MRAZEK, to prohibit United States military and National Guard exercises from being carried out within 20 miles of the Nicaraguan border.

United States military presence in Honduras is widely debated. It is not the intention of this legislation to further debate or challenge that presence. This measure is an attempt to ensure the safety of our soldiers in an extremely volatile region of the world.

There is a war going on in Central America and the United States is not exactly a neutral party in that war.

We have chosen Honduras as the site of major training exercises for United States troops and National Guard. The current maneuvers, "Solid Shield," will involve 45,000 United States troops—6,500 to be based in Honduras.

Honduras is the host of the Contra forces, the organization the United States created and finances to battle the Nicaraguan Government. Hundreds of clashes between the Contras and the Sandinista army occur along that border. Indeed, thousands of Honduran and Nicaraguan families have fled their homes and farms because the conflict extends for miles on both sides of the border.

Now, Mr. Chairman, we are sending thousands of U.S. military into this battle zone—for training.

Gen. John Galvin has explained that the exercises, in addition to offering ideal training opportunities, "demonstrate U.S. resolve," and that the large presence of U.S. troops are a "deterrent to foes in the region."

We all are aware of the allegations that airstrips and other infrastructure constructed as a result of exercises and used by the Contra forces. In fact, there are claims that one of the purposes of the exercises is to build facilities to assist the Contras.

Mr. Chairman, I am not reassured as to the safety of our troops by further explanations or debates over the intent of training exercises in Central America. Training maneuvers within 20 miles of the border with Nicaragua would only increase the likelihood of a United States soldier being killed—which could only lead to an escalation of United States military involvement in the war in Central America.

As Governor of the State of Maine, I was concerned for the safety of the Maine National Guard in Central America, and I decided that training in Honduras was too risky.

This measure—to prohibit training of United States military units within 20 miles of the Nicaraguan border—is an insurance policy against an incident that might further escalate United States involvement in the war in Nicaragua.

I urge my colleagues to support this amendment to make it less likely for young American soldiers and National Guard to become casualties of war, while supposedly training to keep the peace.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. Mr. Chairman, first of all, the United States is not at war with Honduras, Costa Rica, or Nicaragua.

Second, Nicaragua is not at war with Honduras, nor Honduras with Nicaragua. The same occurs between Costa Rica and Honduras.

The import of this amendment is not to protect American lives. The situation is very clear that what is happening is that this amendment makes a very strong implication that the sovereign state of Honduras is somehow incapable of maintaining the sovereignty of its territory.

Now, that is just plain not true. Twenty miles in the jungle is a long distance, and for us to put restrictions on the Government of Honduras as to where Americans may travel in that sovereign country, which is controlled by the Government of Honduras, is bizarre. We should not accept this amendment. We should not pass this amendment. We should not denigrate the ability of the Government of Honduras to maintain the sovereignty and protection of its own territory and the people within its borders. That is not correct and this amendment should be defeated.

Mr. MRAZEK. Mr. Chairman, I yield 2 minutes to my extraordinary colleague, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I strongly urge the adoption of this amendment.

Let me tell you why the 20-mile border zone is a good idea.

We have sent 22,000 American troops to Honduras on so-called training exercises. There were 6,500 there last week. We send not only crack units like airborne rangers and the Marines, but also our National Guard—the weekend warriors.

These troops have built massive facilities in the interior of Honduras. But they have also been sent on very hazardous and poorly thoughtout exercises right near the embattled border with Nicargua.

Personally, I don't think these troops should be in Honduras at all. But everyone ought to agree that they shouldn't be training within artillery range of Nicaragua.

We recently sent 230 Americans into a war zone in the Persian Gulf on the frigate *Stark*. And we lost 37 young sailors to an Exocet missile—a selective, highly accurate missile launched by a professional pilot. Those Americans died because of a mistake.

Well, we've sent 22,000 young Americans into Honduras, a war zone where the borders are ill defined, the combatants are ill disciplined, and the weapons are often indiscriminate. Let's be a little bit careful about training in a war zone. Let's not have another accident where American soldiers or National Guardsmen are senselessly sacrificed to the fighting in Central America. Let's not have another mistake.

Some people think the border zone is a good idea, but they ask, why 20 miles? I'll tell you why. Twenty miles is about the range of a standard 155mm howitzer. Twenty miles puts our troops beyond the reach of the BM-21 rocket launcher used by the Nicaraguan Army. Twenty miles may keep Americans out of the fighting on the Nicaraguan border.

This amendment does not affect any important training area in Honduras. It does not affect Tegucigulpa, it does not affect Palmerola Airbase, and it does not affect the Ports of Trujillo or La Ceiba. It does not include the Cerro la Mole radar site or Aguacate airstrip used by the Contras. What it does include is the war zone.

If American troops are in Honduras to train, they should not be in a battle zone. They should not be in that area of Honduras that is now called "new Nicaragua" because it is populated and controlled by the Contras, not the Hondurans. That border area is becoming a no-man's land, and we certainly should keep our National Guard out of it.

That's what this amendment is all about.

Let me refer to the map. What is the issue? The Sandinistas are here south of border zone. The Contras are here at border zone. And our boys are here north of border zone.

On training exercises. That is crazy: That makes about as much sense as training them on the Iran-Iraq border.

It was bad enough to send the U.S.S. *Stark* into the Persian Gulf undefended. Let's not send the National Guard into a war zone on the Nicaraguan border.

I urge my colleagues to support the Mrazek amendment.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York.

The gentleman offered an amendment last year which prohibited United States Government personnel from assisting the Nicaraguan democratic resistance within 20 miles of the Nicaraguan border. U.S. personnel fully complied with that prohibition. But to extend, now, the scope of such a prohibition to all United States military exercises held jointly with the Government of Honduras or Costa Rica would be an unwarranted infringement on the sovereignty of Honduras or Costa Rica. That would mean, in effect, that Honduras or Costa Rica could not determine for itself where such joint exercises would have the greatest benefit for its own country.

The administration has stated repeatedly that any exercises, whether conducted in Honduras or in Costa Rica, would not be related in any way to United States support for the Contras. To prohibit joint exercises in a 20-mile zone signals to Honduras or Costa Rica that they cannot be trusted to make decisions in their own right on what is best for their own national security.

I urge my colleagues to defeat this amendment, which is a direct slap in the face of our democratic allies—Costa Rica and Honduras—in Central America.

I view this amendment as another signal to our friends there that we are not to be relied on and maybe they had better cut the best deal that they can with the Communists in Nicaragua.

Mr. DICKINSON. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Chairman, I think that it is important to point out that, as the gentleman from California [Mr. LAGOMARSINO] said, this amendment is not the same Mrazek amendment that we dealt with a year ago, and I think that that passed by two or three votes here in the House. I think that the gentleman would agree that this is distinctively different, in that the amendment of last year spoke to U.S. personnel being within 20 miles of the border for purposes of providing aid or training to the Contras.

This amendment goes a Herculean step forward. It says for no purpose can we be there, and that includes training with the Honduran Armed Forces even when we are there at their request to help them in their training exercises.

This is not the Mrazek amendment of last year at all. What we are doing in Honduras in training with the Hondurans is to allow them to have the opportunity and the wherewithal to defend their own borders under any set of circumstances. This is far different from the Mrazek amendment of 1986 and I think that the gentleman will concede that. It says, "Hondurans, you can invite us to come to your country, but we can't go within 20 miles of the border of your country, within your country, to help you in your training."

If you have been to Honduras, you will find out that that is very rugged terrain. Indeed, Honduras is about the size of the great State of Pennsylvania, but there are some things that you do not have there like four-lane highways or even one-lane highways in some areas. They need and deserve our assistance particularly in airlift capability to deploy their meager defense assets. What we are doing there is attempting to assist them in their training program, and I want to underscore that this is not the Mrazek amendment of last year, this is Mrazek of 1987, and this speaks to telling our troops that we cannot even help the Hondurans train in their own country.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman certainly has my attention. Is he saying that we cannot go to an ally who invites us and train with their troops in their own country under the Mrazek amendment?

Mr. MARTIN of New York. I say to the gentleman from California in the simplest terms, "You got that right." We cannot even train with the Hondurans in their country at their request within 20 miles of one of their borders. I think that most Members suspected when they saw the Mrazek amendment that it was the one which was hotly debated and hotly contested on a totally different subject, dealing with the Contras last year. Now we are talking about exercises within the borders of Honduras saying to our allies, our neighbors, and our friends, "Look, you can invite us to come down, we will help you train, but wait a minute, we aren't even going to let you take us within 20 miles of your own borders. You do not have the territorial integrity over your own country."

That is what this amendment says, and irrespective of how Members voted on Mrazek 1986, Mrazek 1987 is a totally different ballgame, and it deals with the territorial integrity of Honduras. Additionally for the Members information, United States troops in their exercises attempt in every way to stay clear of the Nicaraguan border without this kind of language.

I urge Members to vote in opposition to this amendment.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The gentleman from New York [Mr. MRAZEK] has 2½ minutes remaining to close debate.

Mr. MRAZEK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to suggest that when it comes to the question of sovereignty, this amendment does not restrict the movement of the Honduran Armed Forces, nor does it even restrict the movement of the Contra forces, which are free to move throughout Honduras, as they have in the past.

We are talking about a war zone. We are talking about radar-controlled surface-to-air missiles right along the border. We are talking about fixed positions held by the Contras which are protected by pressure mines. We are talking about howitzers being moved into this area. We are talking about a hundred million dollars' worth of military equipment that has been provided to the Contras. And, if opponents of our amendment are correct, we ought to have the National Guard wandering into this war zone for exercises.

I suggest that the American people would find that preposterous when there are tens of thousands of square miles of territory for the National Guard to train in if they have to train in Honduras.

Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, this amendment is about the opposite of what our colleagues on the other side of the aisle have said. This amendment is about the sovereignty of the United States and the obligation of the United States Congress to protect young American boys when they are sent to Honduras. I do not want the Hondurans—who would not send arms to the Contras, who would not allow exercises to take place unless they could get money—to decide to put American boys into a war zone.

Today we are unloading 35 body bags from the U.S.S. *Stark* because somebody employed a euphemism and said that the ship is an escort service. It was not an escort service, it was in a war zone. We unloaded body bags of 250 marines from Beirut when this President said that they were keeping the peace where there was not peace. They died for that.

There is another euphemism here: That these boys in Honduras from different States of the Union are on exercises. They are not on an exercise, they are in a war zone. They are in a war zone where they are lobbing live ammunition, rockets, land mines, and everything else.

Would you want to apologize to their families should an incident develop? Is this another great miscalculation by Ronald Reagan? "Oh, I'm sorry, we should have put them on higher alert." Tell that to the parents.

Let us not have to apologize to any more families. Let us prevent a tragedy before it takes place.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. MRAZEK] has 30 seconds remaining.

Mr. MRAZEK. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the amendment of the gentleman from New York.

Mr. Chairman, this summer a battalion of citizens from the Arkansas National Guard will go to Honduras for military training. That is useful training and a good experience for soldiers. The exposure will help them to be better equipped to fight in Central America should they be needed to defend our Nation. But we need to protect those citizens from the military adventurism of this administration. The amendment offered by the gentleman from New York, will provide safeguards to prevent my citizens from Arkansas from being exposed to the war zone in Honduras which may needlessly cost their lives.

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Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to yield my 5 minutes to the gentleman from New York [Mr. MRAZEK].

The CHAIRMAN pro tempore (Mr. RUSSO). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. MRAZEK] is recognized for 5 minutes.

Mr. MRAZEK. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Chairman, I thank my friend from New York for yielding time to me.

Mr. Chairman, I have some difficulty understanding why this amendment is controversial. It has been argued by my friends on the other side of the aisle that somehow Honduras would be offended by this amendment.

I think it is important to remind my friends on the other side of the aisle that we are presently providing hundreds of millions of dollars in economic and military assistance to Honduras. We do that obviously because it is perceived to be in our interests, but it also helps the country of Honduras.

It also has been stated that we are conducting regular training exercises. We spend American taxpayer dollars on training Honduran military in our own country. I doubt very much in the context of our relationship with Honduras that this particular amendment is going to be seen as offensive. We are providing substantial assistance to that country.

It is also clear to me, as others have stated, that the training exercises which are being conducted in that country can be conducted well out of this war zone. So I would hope for the credibility of those who argue that we are not interested in involving American troops in conflict that they will accept this amendment as a reasonable precaution in the context of that policy.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from New York.

Mr. MARTIN of New York. Mr. Chairman, I want to speak a little bit about what my colleague from New York had to say and point out that this is substantially different from his amendment of last year. Would the gentleman from New York affirm that this is substantially different as I have described it from the Mrazek 1986 that speaks to the Contras, whereas Mrazek 1987 speaks to everything, including combined training with the United States and Honduras?

Mr. MRAZEK. Let me reclaim my time and indicate that this amendment, in fact, restricts all United States military exercises, all National Guard and Reserve forces from moving within that 20-mile border with Nicaragua.

I think it is important to note that in 1986 there was a different set of circumstances than exist today in 1987. I think it is important for me to express my appreciation to my colleague from Alabama who expressed, I think, the very cogent judgment that it is difficult to determine what the border line actually is between Nicaragua and Honduras.

For example, if the following scenario took place, there would be a serious problem if we did not adopt at least in good faith a 20-mile limit, because when the Contras are infiltrating into Nicaragua, and according to Colonel Bermudez, 10,000 to 12,000 of his best fighters are now inside Nicaragua, ready to pounce on the Sandinista troops and, in fact, they are pursued out of Nicaragua by the Sandinista counterinsurgency forces, there is no fence, there is no border, there is no sign saying, "You are now leaving Nicaragua." It is a fluid border, and the Contras are often pursued into Honduras after attacking inside Nicaragua. Now if we have a National Guard exercise being conducted in this war zone, I submit to the gentleman that it is going to be too late for Members to say they're sorry if our people are killed by mistake.

If this amendment is defeated, if the National Guard or Reserve components are involved in exercises where Americans are killed by mistake, or miscalculation in that war zone, let us not have anyone coming forward in this body saying, I did not realize this could occur.

This amendment, as best as possible, precludes the chances for that kind of miscalculation or accident.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, last night I had one of the saddest duties that a Congressman can perform, and that was to call the wife, and the aunt, and the mother of one of the sailors on the *Stark*. I could not explain to them why that boy was dead, 22 years old, and no one will be able to explain why a National Guardman or a marine or an airborne is killed inside a war zone in Honduras conducting exercises that could very well be conducted outside of that war zone.

We have no right, it is wrong, just plain wrong, to put those boys in a situation where their lives could be lost if similar types of experiences and wartime conditions can be in fact given to these boys outside the war zone. That is what this amendment talks about. It is not saying that we are going to handcuff our military from getting the proper experience, but only we are going to do it in a way that is not provocative, is not dangerous and is not deadly to the young boys of this country, and so that none of us have to make any more phone calls unnecessarily to the parents and the wives of young boys in this country.

Mr. MRAZEK. Mr. Chairman, with appreciation to my colleague, the gentleman from Maine [Mr. Brennan], who introduced this amendment with me, I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. Dickinson] is recognized for 5 minutes.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I am happy to yield to the gentleman from New York.

Mr. MARTIN of New York. Mr. Chairman, I appreciate that under any set of circumstances when we lose servicemen anywhere in the world there is no one who likes to make those phone calls that have been referred to. The resemblance between that situation and this situation is clearly different, and we are certainly going to have the opportunity to debate the other situation, the tragedy that has happened in the last 72 hours, without question and in the near future.

I do want to point out a couple of things on our time. I think the gentleman from New York has clearly suggested, and I would yield to him if this is not true, that this is significantly different than Mrazek 1986.

Mr. MRAZEK. If the gentleman will yield, I am a different person than I was in 1986, and I will probably be a different person in 1988 than I am today.

Mr. DICKINSON. Mr. Chairman, we concede that the circumstances are different and the legislation under consideration is different.

Mr. MARTIN of New York. Will the gentleman yield me just 30 additional seconds?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. MARTIN of New York. I want to let the gentleman know that a number of the members of the Armed Services Committee were recently in Honduras, not only with the Guard and Reserve units, but at Palmerola, something that has been referred to here by some as a war zone. I want to tell my colleagues something. In the briefing that we had, they bend over backward to have absolutely no association whatsoever with the Contras. They are training with the Hondurans. My colleagues can rest assured, and I think probably my colleagues on the committee who were there can assure that they bend over backward, not because of any 20-mile limitation, but because they do not want to have an association, for reasons that surprise none of us, or get any of our troops involved in any way in a border skirmish with Nicaraguan Communists. That is already in the regulations, and what they are trying to do. Believe me, we are bending over backward to keep a buffer zone, but it ought not be in our legislation.

Mr. DICKINSON. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Georgia [Mr. Gingrich].

The CHAIRMAN pro tempore. The gentleman from Georgia is recognized for 2½ minutes.

Mr. GINGRICH. Mr. Chairman, I came in earlier and I heard the very distinguished gentleman from California talking about the *Stark*, and then I heard the very distinguished gentleman from Massachusetts talking about the *Stark*.

Let me say this as directly as I know how to, and I say this as an Army brat whose dad went off to Korea when I was very young, then off to Vietnam when I was older. I say it from a lot of personal experience about U.S. Army families and U.S. Navy families.

First of all, any American elected official who cannot explain why the *Stark* was in the Persian Gulf has been, in my judgment, derelict in their duties to understand a clear policy by every American administration of the 20th century to keep open the seas. That policy is unequivocal, and to tell any family whose child died that you do not understand why they died I think is a sign that you have failed to understand the purposes and policies of this Congress, of both parties in the United States, and it is shameful for you to suggest to a mother or to a father that their son died for no reason. That ship was there for a reason, and if you do not know it you ought to learn it.

Second, where does the withdrawal end, I say to my friends on the left. Twenty miles this year. Do you know what signal you send? You will tell the Communist guerrillas to kill somebody in the Capitol. Then the next year we offer an amendment that says nobody can be in Honduras. Then you suggest to the Communists why not kill somebody on the Texas border. Then we will send a message, and we will offer an amendment that no American troops can go below Colorado.

This is madness. The world is dangerous. We have active enemies who watch C-SPAN who study our debates and who learn how to manipulate us.

Where do we draw these artificial lines, and where are we going to stop? Europe? We have had Americans killed in Germany. Do we withdraw from Germany?

The Persian Gulf? We had Americans killed. Do we withdraw from the Persian Gulf?

This is fundamentally an inaccurate view of the world.

Let me say this finally: Any member of the Uniform Services who asked two questions: What is the left saying about how dangerous the world is, and what kind of hearing would I get if I by accident was too aggressive and shot down an unarmed plane would have learned that on the left it is better to take American casualties than to be too aggressive, and on the left it is better to do nothing and be nowhere than it is to take any risk for freedom.

I have sat by for several days and listened to precisely the people who vote to disarm this country complain because the Navy was not adequate. I sat by for several days and listened to precisely the people who would withdraw everywhere explain that the Navy did not do a good enough job, and then I heard somebody say they could not explain to the mother.

I think it is shameful.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. MRAZEK].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160 and the Chair's prior announcement, further proceedings on this amendment will be postponed.

AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. BOXER: At the end of title III of division A (page 60, after line 11), add the following new section:

SEC. 315. LIMITATIONS ON EXERCISES IN CENTRAL AMERICA.

(a) POLICY.—It is the policy of the United States that any activities by the Department of Defense that have the effect, intended or unintended, directly or indirectly, of supporting the Nicaraguan democratic resistance in Central America shall be carried out only with funds specifically authorized for that purpose.

(b) LIMITATION.—In order to further the implementation of the policy set forth in subsection (a), no funds available to the Department of Defense may be obligated or expended for any exercise in Central America unless 30 days before such obligation or expenditure the President certifies to Congress that he has taken appropriate steps to ensure that no road, airfield or other facility constructed or improved as part of that exercise will be used in the future or in support of the Nicaraguan democratic resistance.

(c) EXCEPTION.—Subsection (b) shall not apply to the obligation or expenditure of any funds that are specifically authorized by Congress for the purpose of supporting the Nicaraguan democratic resistance.

(d) MATTERS TO BE INCLUDED IN CERTIFICATION.—The certification prescribed in subsection (b) shall also include a listing of the proposed location, purpose, cost, and duration of all construction or improvement of roads, airfields, or other facilities to be funded as part of the exercise.

(e) ANNUAL REPORT.—The President shall report annually to Congress on the steps taken by the United States to ensure that the prohibition in subsection (b) is adhered to.

(f) REPORTS OF VIOLATIONS.—The Secretary of Defense shall investigate and report to Congress any violation of the prohibition in subsection (b) within 30 days of the time any employee of the Department of Defense or member of the Armed Forces under the Secretary's jurisdiction becomes aware of a substantial allegation or reports concerning such a violation.

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from California [Mrs. BOXER] will be recognized for 10 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, this amendment is about honesty, directness, forthrightness—all attributes that are associated with true democracy and attributes which have been missing from our Central American policy.

Mr. Chairman, while Congress has voted for and against direct and indirect military aid to the Contras at different times, we have also provided Contra aid, without authorization in the form of facilities, such as roads and airstrips, improved or built during military exercises.

This aid to the Contras has been going on secretly and quietly and whether you voted for or against aid to the Contras, it ought not to have been done that way. Simply put, this amendment says if Congress wants the facilities built or improved during our exercises to be used by the Contras, let's say so. Our amendment would require congressional authorization of such aid to the Contras by requiring a direct vote of the Congress. If any exercise is not so authorized, the President would have to certify that the facilities improved or built as a result of such exercises would not be used for the benefit of the Contras.

The Pentagon has always claimed the purposes of these exercises is just to provide training for American service members, but events last fall provided dramatic proof that there was another motive.

In October, the cargo plane carrying Eugene Hasenfus was shot down over Nicaragua. The plane's flight logs indicated it had resupplied at Aguacate (Agua-ca-ta) airfield in Honduras, constructed by United States Army engineers during training exercises. In addition, two other United States Army improved airfields in Honduras were used by Colonel North's Contra supply operation: Mocoron (Mo-co-rone) and Jamastran (Hamastran).

In the view of many, this use of American built facilities by the Contras took place in apparent violation of the Boland amendment, which, until last October, prohibited direct and indirect military aid to the Contras. Today we can end this back-door funding of the Contras.

This amendment is long overdue. Since 1982 Congress has appropriated millions of dollars for these exercises. The House Judiciary Committee estimates as much as $170 million in Honduras alone.

It is time now, in this third week of the Iran/Contra scandal, to challenge the use of military exercises by the administration to further the Contra war. If we learned anything from these hearings, it is that in a great democracy, secrecy and cloak and dagger policy do not work.

This amendment brings the issue out in the open. It requires Congress to specifically authorize that facilities used in American military exercises will benefit the Contras. If Congress does not so authorize, the President would have to certify to Congress and the American people that we are paying for training and nothing more—and that the facilities will not be used for the Contras.

The Boxer-Miller-Edwards amendment does not ban military exercises in Central America. It does end the use of these exercises to obtain back-door funding of the Contra war. It does stop efforts to circumvent congressional debate about the true level of our military contribution to the Contra effort.

Support the Boxer-Miller-Edwards amendments to require greater honesty and accountability in the conduct of our military training exercises in Central America.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from California.

In the past, I know how outspoken the author of this amendment has been in her opposition to a permanent presence by U.S. military personnel in Central America. The effect of this amendment would undoubtedly have the opposite effect because its enforcement requirement would mean that a permanent U.S. presence would be needed to monitor facilities to ensure the amendment's prohibitions are observed.

Moreover, any facility constructed by the U.S. Government during the course of exercises held jointly with the host country does not become the property of the United States; it becomes the property of the host country. To dictate to that country the disposition of that property is a direct infringement of the sovereignty of that country.

As the administration has stated many times, United States military exercises conducted with Honduras and Costa Rica are totally unrelated to United States support for the Nicaraguan democratic resistance.

I urge my colleagues to defeat this amendment and to preserve the sovereignty of our allies in Central America.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding. Mr. Chairman, I rise in opposition to the amendment basically because it is unworkable. There are Honduran roads that belong to the Honduran Government, we can't be designating roads that are not ours. As the gentleman pointed out, most of the building of roads down there has been done by the National Guard and Reserve for humanitarian purposes. So actually, you are hurting the people themselves by adopting an unworkable amendment.

I hope that we will defeat the amendment.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in opposition to the amendment before us.

Mr. Chairman, there are a number of reasons why this amendment should be defeated. First, the language of the amendment is so broad, so ill-crafted that it should be opposed on technical grounds. For example, the amendment states that "any activities by the Department of Defense that have the effect, intended or unintended, directly or indirectly, of supporting the Nicaraguan democratic resistance shall be carried out only with funds specifically authorized for that purpose." What exactly is the meaning of such language? A close reading of that language in the amendment would declare that any funds spent by any DOD official on any activity, whether it be intelligence, operations, communications, anywhere in the world would have to be specifically authorized as funds specifically supporting the Contras if the activity had the unintended indirect effect of being of support. Furthermore, the policy statement is so very broadly drawn relating to all DOD activities and to all DOD funds that it is completely out of proportion with what follows in the heart of the amendment.

It would have been better to have crafted this amendment to target those specific funds, rather than use the broad paintbrush that was used.

A third problem with the amendment concerns subsection B. This section, if adopted, would require the administration to approach foreign governments in the region and attempt to gain agreement to that effect. No sovereign nation would be likely to agree to that.

Let me give you four reasons for our military presence in Honduras and the exercise that we conduct in that region, and why it is important: First, we are there to deter the Sandinistas from any adventurism; second, we are there to support and encourage the Hondurans and other allies in the region; third, we are there to help in the development of the Honduran armed forces through the combined training that such exercises provide; and fourth, we are there to get our own vitally needed training in realistic surroundings that cannot be accomplished here in the United States.

I have visited the Missouri National Guard in Honduras. They are not only getting excellent training, but let me point out they are some of the finest ambassadors that our country has had.

As many of you know, the National Guard has been involved in a series of road building exercises in Honduras, Costa Rica, and Panama over the past several years. It is this kind of realistic training that the National Guard has engaged in in some 40 different places overseas in the past years, including Korea, Central America, and in Europe.

We have invested a lot in weapons and equipment for the training of the U.S. National Guard since we went to the All-Volunteer Force in 1973. In the All-Volunteer Force of the 1980's, National Guard units will be among the first called into battle in any national emergency. We find that to be far different from what we had in the 1950's. We no longer have the weekend warriors of the fifties, with second-rate equipment and third-rate training. They are getting, the National Guard of today are getting the kind of equipment and training they need if they are to fulfill the critical role assigned to them. National Guard units of today, should there be a national emergency, will be among the first to be called up.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the dean of the California delegation, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentlewoman for yielding me this time.

Mr. Chairman, this is a very important amendment designed to stop unauthorized, back-door military aid to the Contras.

This month 50,000 American and Honduran troops are taking part in operation "Solid Shield," a huge display of military might designed to intimidate the Nicaraguan Government.

This exercise means more airfields, more military facilities to be built in Honduras with American dollars. If we don't approve this amendment, the Contras will use these bases and facilities to carry on their war. This will be military aid unauthorized by Congress.

This kind of secret, illegal, Contra aid has happened before, especially when the Boland amendment was in effect.

The airbase Aguacate, about 30 miles north of the Nicaraguan border, was built ostensibly for exercises by American and Honduran troops.

But today Aguacate is the main Contra airbase in Honduras, from which Contra airplanes fly into Nicaragua to drop supplies and to bomb selected targets.

Three other airfields in Honduras, built by the United States for American-Honduran exercises, were used frequently for mercenary flights such as those by Eugene Hasenfus for supply drops. Managua itself was bombed by a Contra pilot who used one of these airfields.

Because this amendment has not been in effect, many millions of dollars of unauthorized aid have gone to the Contras.

Every dollar of military aid to the Contras must be approved by Congress.

If the President wishes the Contras to get additional aid from the U.S. military exercises in Central America, let Congress authorize it.

In the meantime, let's close this loophole by approving the Boxer amendment.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. Davis].

Mr. DAVIS of Illinois. I thank the ranking Member for yielding me this 2 minutes.

Let me say to the prior speaker that I saw no evidence except Aguacate of airstrips in Honduras being used for any other purpose except for what they were being used for and that was—they are dirt strips whacked out of the jungle for training exercises of the American military and then abandoned after the exercise is over or left for commercial use in a country where roads are practically nonexistent. It is just incredible, if the Contras then take them over I can tell you this, that the Sandinistas use them as well. They cross the Rio Coco and use those same strips on the other side for their own operations for helicopter operations.

But let us look at this amendment if it should pass. Literally in the policy of the United States, activities of the Department of Defense have the unintended or intended, directly or indirectly of supporting the Nicaraguan democratic resistance in Central America shall be carried out with funds specifically authorized for that purpose. Well, that policy would say that any funds being spent for DOD under any activity, intelligence, operations, planning, communications, anywhere in the world that is shared with the Contras as a custom of the U.S. Intelligence Community would have to be stopped whether it was unintended or whether it was intended, whether it was direct or whether it was indirect, which would mean that the Southern Command under General Galvin, still under General Galvin until June 6 when he goes to NATO, the Southern Command would have to abandon all of its intelligence gathering activities in Central America, some of that which is shared on a user basis with virtually everybody and finds its way to the Contras. I mean, how in the world—do you want to shut down all the intelligence efforts in the Southern Command? I do not think that is probably true. Then it says what about an agreement, what about an agreement, Mr. President? We have got to have an agreement that none of these airfields or whatever these dirt strips, can be used by the democratic resistance in the open rebellion against the Communists in the future. Is any president, is Azcona in Honduras, or Arias in Costa Rica going to make some kind of future agreement when a hospital is built or a road is built that some Contra is not going to travel down it or wind up in that hospital? Absolutely not. He would lose his ability to govern. The man would lose his ability to govern. This amendment is too broad, too misdirected and too misguided. it has good intentions, but it will not work.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Miller], my good coauthor of this amendment and a longtime fighter against this administration's policies in Nicaragua.

Mr. MILLER of California. Mr. Chairman, the most revealing thing about the debate that has taken place so far is that it is very much like the hearings that are taking place in the investigative committee on the Iran-Contra scandal. The revelations there stun not only us, but the American public. So far we have found two people on the other side of the aisle that believe that we were invited freely by the Hondurans to come to their country and engage in these exercises. That is not so. We have testimony and evidence that these same generals in the Honduran army held up aid to the Contras—which I oppose and for which I thank them—until they could extort money from this Government. Then when we helped create an emergency on March 24 of last year on their border; the Hondurans were all at the beach and they said, "It was no big deal." And we said, "Take $20 million and airlift somebody in there so it looks like a big Nicaraguan incursion." Do you start to get the impression that we are getting ripped off by the Honduran Government because the Honduran Government will not admit that the Contras are in Honduras? They do not admit to the extent of these exercises because there is no support for them in Honduras.

Now we find another Member on the other side of the aisle, apparently the only Member in the United States Congress, who believes that these exercises are unrelated to what is going on in Nicaragua.

We have either got to raise the intelligence level in the Congress or let the people have a direct vote on this issue. The American public knows that the millions of dollars that we are spending in these exercises are directly related to the intimidation of Nicaragua; they know that we have left behind millions of dollars in infrastructure and in equipment so that the Contras can come along in the night and pickup the leftover guns and the leftover ammunition. These exercises are part of the same operation of people who went by a Chinese market, took $9,500 from the proprietor of the market, and dropped off money in a cab to a guy who spoke Spanish; I mean, this is a well-run operation. If you think that taxpayers support this effort, if you think they want to put American boys at risk in this effort, you are crazy, you are absolutely crazy.

The CHAIRMAN pro tempore (Mr. Russo). The time of the gentleman has expired.

The Chair would advise the Members that the gentleman from Alabama [Mr. Dickinson] has 3 minutes remaining and the gentlewoman from California [Mrs. Boxer] has 3½ minutes remaining.

The gentlewoman from California [Mrs. Boxer] has the right to close.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. Ravenel].

Mr. RAVENEL. Mr. Chairman, ladies and gentlemen, you know I am absolutely appalled at the voices I hear from over there on the left. I am new here and when I got here and participated and listened to the debate on whether or not to withhold the final $40 million to the Contras, I made up my mind then to go down there myself with an open mind and take a look. So five of us did. We just returned early Sunday morning.

I want to tell you and urge you that you all should go and take a look for yourselves into what is going on. It is a classic example of the forces of freedom opposing the forces of Godless communism in Central America. If you do not believe it, you ought to go down and take a look for yourselves.

□ 1240

I cannot for the life of me understand or see why there are voices in this country and people in this Congress who seem determined that at every opportunity that arises, amendments are introduced to stamp out, kill off, inhibit and prevent those forces who are fighting for freedom and liberty in Central America from being successful.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am very much impressed by the statements that have been made, especially from the two Members who have just spoken from this side of the aisle. These Members just returned from a factfinding trip to Honduras to speak to the people who are involved and I have to subscribe to the statements made by my good friend, the gentleman from South Carolina, who has just spoken in the well.

We have had a dialog on both sides of the aisle, but when you strip it of its rhetoric and verbiage and look at the substance and essence of what we are voting on here, we are voting either for or against communism being implanted in Central America.

If you vote for these crippling, hobbling, inhibiting amendments, you are really voting to promote communism in Central America. When you impose these amendments on this administration, that, in the final analysis, is what you are doing.

I would ask everyone, if you really want to oppose communism in this hemisphere, the adventurism of Cuba and the Soviet Union, and we know that the Soviet Union is assisting because of the material that they are given there, the helicopters, other weapons of war; if you want to vote for democracy, this is your opportunity.

If you want to vote to promote the presence of communism in Central America, then continue on and vote for the amendments that are being offered by that side.

Mrs. BOXER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, for years now we have seen this administration flout the letter and the spirit of the law that restricts U.S. aid to the Contras.

One of their favorite scams is to use operational funds allocated for training exercises to build air strips in Honduras. Oh no, these administration lawbreakers say, we aren't building anything, we are just making temporary improvements. You can't blame us, they say, if the Contras take over these airstrips after we leave.

Well, I say if there is anyone in this House who truly believes it is an accident that the Contras are using bases built with U.S. funds, then I have a bridge I want to sell you.

Let's put an end to this cynical charade once and for all. Here we have an administration, trying to assist what the President has called the moral equivalent of our Founding Fathers, sneaking around diverting funds from their allocated purposes.

I suggest we save our President the embarrassment of having to pretend our exercises are not for the benefit of the Contras. I suggest we adopt this amendment, and provide a forum for him to publicly take credit for his Contra-aiding activities.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Chairman, I rise in strong support of the Boxer amendment.

The amendment would require nothing more, I think, than truth and accountability for this administration on the use of military construction funds in Honduras, presumably for the benefit of the Contras.

I think that is important for no other reason than if we have learned anything from these hearings that are ongoing now in this Capitol today, simply that the Congress must be ever vigilant, watchful in its oversight role. The American people demand truth and accountability. We must give it to them.

We have heard here this afternoon that military funds were used, in fact, to construct facilities that were used by the Contras. We have been told time and time again that the cost of this war has been somewhere in the neighborhood on a yearly basis of $100 million or $25 million, when, in fact, we know that this war has cost the American people over a billion dollars.

The problem is that the cost has been hidden through appropriations in the military construction bill.

This will require accountability and certification that it is being used for the intended purpose, rather than to obfuscate the purpose by going around the law and aiding the Contras in a backdoor deal.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, the first gentleman who spoke on the other side said that the funds were totally unrelated. You know, I am new in Congress, but I was not born yesterday.

We have ample evidence that the facilities constructed at the expense of the U.S. taxpayers were used to resupply the Contras at a time when this body, when that gentleman served here, had declared such support illegal.

Totally unrelated? Has the gentleman heard of Aguacate? Aguacate has already been talked about. Unrelated? Has the gentleman heard that the cargo plane which Eugene Hasenfus was aboard was supplied with materials for the Contras at Aguacate?

The President either did not know about these activities or, as he has indicated, cannot remember whether he knew or not.

This amendment will at least give the President some incentive to be aware of the activities of his subordinates since he will be required to personally certify to the Congress that these facilities will not be used in support of the Contras, not now, not ever.

If it is unrelated, then there is no issue before us; if it is unrelated, we are restricting nothing.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I ask unanimous consent that I be permitted to grant the 5 minutes to the gentlewoman from California [Mrs. BOXER].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mrs. BOXER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I am a member of the Military Construction Appropriations Subcommittee and I find this to be a very reasonable amendment that moves in the direction of increased accountability.

I am rather troubled by all the hyperbole on the floor, democracy versus communism. We have had far too much heat and not enough light.

This amendment shines the light on what our policy is. When we are confronted with requests by the administration to fund legitimate projects in Honduras, we never know whether these are going to end up aiding the Contras and involving us in a war that is not declared and a policy that we do not fully understand or whether they are actually going to be used to project American interests in Central America.

Congress needs to know this, and I cannot find a better way to do it than require the administration to certify.

Mr. Chairman, I rise in strong support of the Boxer amendment barring the construction to any facilities to benefit the Contras unless explicitly authorized by Congress.

The issue is not whether this House supports or opposes aid to the Contras. The issue is whether or not the administration should be required to honestly and accurately report to Congress and the American people regarding all of its efforts to support the Contras.

The amendment will not prevent the administration from seeking funding for buildings, roads, and airstrips in Central America. It will simply require the administration to identify those facilities which will be used to benefit the Contras and request a specific congressional authorization for that purpose. If the facilities will not benefit the Contras but instead will support other legitimate military exercises, the President must simply certify that he has taken steps necessary to ensure the facilities will not benefit the Contras.

Since 1983, the Pentagon has conducted more than a dozen separate military exercises in Central America, particularly in Honduras. Millions of dollars have been spent on a variety of facilities and many have ultimately benefited the Contras. But these expenditures have been made without any accountability.

I urge adoption of the amendment.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, one of the more distressing aspects of this debate is that no matter what we end up adopting as part of the Defense authorization bill, it is pretty clear from the Iran-Contra hearings that this administration is going to find a way to bend it, to avoid it, to change it, and so when it is all finished, they are going to pursue their policy, regardless.

But I think it is important as part of the national debate that the gentlewoman from California's amendment be adopted. I heard the gentleman from California [Mr. LAGOMARSINO] say earlier, with a straight face, that there was no connection between the exercises in Honduras and our position when it came to the Contras.

□ 1250

Mr. Chairman, we all know better than that, and the people of the United States know better than that. With the millions of dollars we are investing in that country, the temporary airstrips that we are putting tens of millions of dollars in to sustain are being created for Contra assistance and to put pressure on the Nicaraguan Government.

This administration has created a tangled web of destruction. This amendment cuts through that web and requires the administration to state openly and honestly to the American people where and why their tax dollars are being spent. If there is one thing the Reagan administration and its Central American policy cannot take, it is sunlight.

Mrs. BOXER. Mr. Chairman, I intend to yield the balance of my time to my colleague, the gentleman from California [Mr. DELLUMS], but before doing that, I yield myself such time as I may consume.

I would just like to thank all the Members on this side who made this debate so worthwhile. I would say that all this amendment does is shine the light of day on this policy. It does nothing to stop training at all; it just says if we want the fruits and labors and facilities from that training to go to the Contras, for God's sake, let us stand here and vote for it. If other Members cannot see the simplicity and the intelligence of that, I am just at a loss.

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. DELLUMS].

The CHAIRMAN pro tempore (Mr. RUSSO). The gentleman from California [Mr. DELLUMS] is recognized for 3 minutes.

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman from California for yielding this time to me.

Mr. Chairman, let me say to my colleagues on the committee that I think this amendment is a very straightforward amendment, and I will in the brief time I have, attempt to make arguments that all the Members of this body should be able to embrace.

First of all, the gentlewoman is simply saying that if we indeed believe in aid to the Contras, then that should be done up front. If the rationale, Mr. Chairman, for sending troops into Central America is training, then I think all of us, irrespective of our political persuasion, ought to agree that the only benefit that should derive from it should indeed be training, nothing beyond that.

Training in Central America by National Guard troops and others is naturally quite controversial, and I believe very strongly that National Guard training or military training should in no way be related to the Contras. I think all of us should agree with that. It would be a mistake and a great misuse of training.

The third point I would make with respect to the issue of aid to the Contras is this: History is replete with the Congress of the United States involving itself in the shaping of that policy. It has done it in the past, it is doing it now, and in the foreseeable future this Congress will say what it believes ought to be the policy with respect to aid to the Contras.

I have my politics on that particular issue. Nevertheless, we have been there. History, however, demonstrates that aid to the Contras is again quite controversial. But whatever your position, whatever the position is that you assume, the policy should be up front, it should be out front, and it should be in front. It should be direct. Whatever aid is given to the Contras, it should not be indirect, it should not be clandestine, it should not be deceptive. Whatever position you assume, whether it be in support of aid to the Contras or in opposition to aid to the Contras, there should be no sleight of hand and there should be no deception.

This is a democracy. The cornerstone of our democracy is openness, not deception.

The final point I would make is that the Boxer amendment simply assures that appropriate training is carried out, and nothing beyond that. I would say to my colleagues on the Armed Services Committee that we have struggled very diligently to make sure that operation and maintenance funds have not been misused in the construction of permanent facilities in Central America. We have done that. I think this amendment allows us to go the next step, and that is to ensure that for all time there is no misuse of funds.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DELLUMS] has expired.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield briefly so that I may summarize my argument?

Mr. DICKINSON. I yield briefly to my colleague, the gentleman from California, so he may summarize his argument.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for his comity and for the generosity he has accorded me.

To summarize my argument, Mr. Chairman, the gentlewoman from California [Mrs. BOXER] is simply saying that aid to the Contras ought to be out front. If what we are involved in in Central America is simply training, then that is all it should be. If we go beyond training, then there is something wrong and immoral and impractical and unrealistic about that.

Whatever our position with respect to aid to the Contras, we should do it out front and do it up front. Let us not engage in any kind of deception.

So the gentlewoman's amendment is clearly appropriate, it is clearly straightforward, and no degree of demagoguery ought to distort what this whole thing is all about. There should be no backdoor efforts to aid the Contras. If we are going to do it, let us do it out front. Those of us who do not believe in it will be out on the floor diligently arguing against that position. Whatever we do, let us do it within the framework of openness, honesty, and integrity.

Mr. Chairman, I thank my colleague for yielding to me.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, under leave, I will be putting into the RECORD the letter of our four-star general, John Gavin, who has just left as commander in chief position of our Southern Command, one of our nine specified and unified commands, to move to the most important of those nine commands. On June 26, he will be sworn in as the commander in chief of EURCOM, our European Command, and, of course, he will also wear the hat as commander in chief of NATO.

Mr. Chairman, the general, in referring to the barracks in Honduras, said that the buildings are completely relocatable. We are not building bases like

Da Nang and Cam Ranh Bay that will someday be used by the Soviets if the majority position of the majority party prevails in this whole debate over whether or not we are going to accept a Communist bastion in Central America.

Mrs. BOXER. Mr. Chairman, will the gentleman yield on that point?

Mr. DORNAN of California. Yes; briefly I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, will the gentleman say that the airstrips can be movable and the roads can be movable?

Mr. DORNAN of California. No; I take back my time.

This is not the South Pacific where we are putting down pierced steel planking runways to put quickly from island to island to stop the war lords of Japan. What we are trying to do here is to secure freedom for the four democracies surrounding Nicaragua.

Here is the problem with my distinguished colleague, the gentleman from California [Mr. Dellums] saying he does not want the National Guard to go overseas. He has been on that committee for over two decades. He must know that John F. Kennedy sent the National Guard from South Carolina and Phoenix to go to Germany to defend freedom after the Berlin Wall incident. He must know that at least 64 countries around this world have had National Guard, international guard, and Air Reserve fighter squadrons that have been rotating for over a decade to countries all over the world.

The gentleman from Mississippi, Mr. Sonny Montgomery, one of the most distinguished Members of both the Committee on Veterans' Affairs and the Committee on Armed Services, has been the leading voice in this House to point out that pilots in the Reserve and the Guard—and the same applies to the Navy, the Marine Corps, and the Army—are now of equal caliber with active duty people.

I had my career interrupted to be activated in the Reserve to go down and fly in Santo Domingo in sea planes around Cuba to pick up any more U-2 pilots that might be shot down. I had to give something up that I did not get for 2 more years. People give up career opportunities to serve in the Guard.

And remember that you sleep better at night, I say to the gentleman from California [Mr. Dellums] because the National Guard and the Air Reserve and the Marine Reserve and the Navy Reserve are on the job and awake. Let us be realistic. This is another crippling amendment introduced by Members in this House who do not want our presence in Central America at all. They want to close down the Southern Command. They want to close down our remaining bases in the Canal Zone. They want us out so we can let nature take its course, whatever that is.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I am glad to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I do not want to engage the gentleman at the substantive level. I simply want to say that I realize that the gentleman walked on the floor late and was not privy to all of this gentleman's debate.

Mr. DORNAN of California. That is true.

Mr. DELLUMS. I am aware of the fact that we tend to do selective listening, and I forgive the gentleman for that.

Mr. DORNAN of California. But I maintain that the part I did hear—I did not comment on the part I did not hear—was that the gentleman would rather the National Guard people be trained in the United States. Unless you are in a combat, shooting, fighting situation, everything you do on a ship, in the cockpit, in a tank, on a road, everything you do is training. Training is the only thing we hope will happen for the rest of our lives in this Chamber. We hope that our men and women around the world will keep the peace by training, by bringing themselves up to the point of perfection and at the same time expertise, by wearing those patches and flashes and ribbons that say "combat ready," but never having to be combat experienced.

I know why every young man died in Vietnam, and the eight women, and I know why those men died on the *Stark*. It is too bad that some people do not.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentlewoman from California [Mrs. Boxer].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160 and the Chair's prior announcement, further proceedings on this amendment will be postponed.

AMENDMENT OFFERED BY MR. FOGLIETTA

Mr. FOGLIETTA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Foglietta: Page 122, strike out lines 9 and 10.

Page 126, line 9, strike out "$2,508,333,000" and insert in lieu thereof "$2,504,183,000".

Page 126, line 15, strike out "$335,539,000" and insert in lieu thereof "$331,380,000".

The CHAIRMAN pro tempore. Under the rule, the gentleman from Pennsylvania [Mr. Foglietta] will be recognized for 10 minutes in support of his amendment and the gentleman from Alabama [Mr. Dickinson] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Pennsylvania [Mr. Foglietta].

Mr. FOGLIETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a tremendous amount of our taxpayer's dollars have been spent on military construction in Honduras with only the slightest reservations from Congress. Since 1983, the Pentagon has laid down $45 million dollars worth of construction in the form of airstrips, radar installations, roads, bridges, tank traps, water wells, warehouses, and munition storage areas. This year the Defense Department has requested funding to begin a 3-year phased upgrade of the facilities at Palmerola Air Base. If this request is approved, the United States will have taken its first step toward a permanent military presence in Honduras.

Mr. Chairman, I am opposed to this request for two reasons. One, I believe that these new facilities are not needed. And two, that the continued United States military buildup in Honduras is destabilizing to the Central American peace process.

The Pentagon claims the existing buildings must be replaced due to severe wear and tear. However, these buildings have only been in service for 4 years. And, according to their original contract, they are guranteed to last 10 years. These buildings have been properly maintained and have not been subjected to the harsh weather conditions present when these same barracks were used in South Vietnam 15 years ago. Any repairs or improvements to the buildings are funded by the operations and maintenance account and not military construction. Yet, despite these facts, the Pentagon insists on building new facilities.

Let me say, that I want our troops, who are stationed in Honduras, to have the best living accommodations as possible. These men and women have devoted their valuable time and talent and should be treated the same as their counterparts in the United States. However, we must recognize that our presence in Honduras is temporary and, therefore the accommodations must reflect that policy. We are not asking our troops to live in unsafe or unhealthy conditions. The majority of the people who live in these temporary units are only in Honduras for 2 to 4 months. The quality of life of our military personnel has been properly addressed with the construction of tennis courts, racquetball courts, sundecks, three recreation centers, and a lighted baseball field. Therefore, I do not believe we have neglected the needs of our troops in Honduras and that instead we have provided the best possible accommodations under the present circumstances.

Mr. Chairman, the other concern I have about the Pentagon's plans to construct new facilities is the negative impact they will have on current peace negotiations in Central America. Clearly, the United States is sending the wrong message if we continue to increase our military apparatus in the region. How can the United States support peace efforts while at the same time becoming further entrenched in Honduras?

The Central American peace negotiations have reached a critical juncture. The two initiatives on the table, the Contadora proposal and Costa Rican President Airas' peace plan have begun to take shape. The five Central American Presidents are scheduled to meet in Guatemala next month to refine the terms of a peace settlement. We, in Congress, have an opportunity to demonstrate our commitment to peace by rejecting the Pentagon's attempt to expand the American military presence in Honduras.

Mr. Chairman, this amendment does not in any way reduce the Joint Exercise Program or diminish the mission at Palmerola. Nor does this amendment strike all military construction funding for Honduras. In fact, there are three other accounts: operations and maintenance, foreign military sales, and exercise related construction that will fund other construction projects this year. Rather, the intent of this amendment is to prevent the establishment of a permanent United States military presence in Honduras and to signal our support for the Central American peace process.

I urge my colleagues to support this amendment.

□ 1305

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as the Members know, we had hearings on this matter and these sorts of questions were asked. I think the Subcommittee on Military Construction felt that it was important to go ahead and provide our forces with what they need in Honduras.

As the Members know, for many, many years we have been having our Guard and Reserves to train in that part of the world. I think another point that we ought to mention also is that oftentimes we try to help the countries of Central America and other nations.

Mr. FOGLIETTA. Mr. Chairman, may I reclaim my time?

Perhaps the gentleman should be requesting time from the other side. I reclaim my time.

Mr. HUTTO. Mr. Chairman, I will be happy to get time later.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say to put this in context, so that this thing does not get blown out of proportion, let us find out what we are talking about.

In the military construction bill that our committee has passed, there are $4,150,000. What is it for? It is hardly for implements of war. The request includes: Twelve relocatable billeting buildings, one relocatable dining facility, one relocatable hospital, one relocatable recreation center, a sewer treatment facility, water storage, electrical upgrades and roads.

These items are nothing that the Contras or the Sandinistas can use. They are a hospital, billets, relocatable billets for our troops. Believe me, dust blows in the living facilities down there now.

Many Members talk about quality of life for our troops; believe me, in Honduras the quality of life is zilch. The gentleman said our troops are only there for 2 to 4 months. Well, 2 to 4 months living in the conditions down there is really bad news, so what we are trying to do in the Milcon bill is to improve the quality of life. This matter had nothing to do with the Contras, with Nicaragua, with our efforts in that area.

This is simply to try to help our Guard and Reserve when they are down there training.

Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. MARTIN], the distinguished ranking member on the Subcommittee on Military Installations and Facilities, who is very familiar with the subject matter.

Mr. MARTIN of New York. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to let the Members know from the outset that this amendment was offered up in our subcommittee, and resoundingly defeated; and here we are on the floor with it again and that is all well and good.

We are going to have precious few minutes to debate this issue. I thank the gentleman from Alabama for ticking off some of the projects that we are talking about. From my point, this amendment ought not even be included in the rule in this section dealing with things that relate to policy, because here we are talking about military construction in support of American troops only and their quality of life.

If there is something I take great pride in being the ranking member on the Subcommittee on Military Construction, and my chairman does as well, is that once the policy issues are debated, and it is determined that we are going to have a certain policy or a certain mission, we support our troops and do not take our frustrations, whatever they might be, out on them. What we do is try to provide the quality-of-life things that we can provide, and we have said that over and over again. We take pride in that.

We are talking about 1,000 to 1,400 Americans who are in Honduras in furtherance of a policy of the United States Government. If you do not agree with that, fine, get your time, hold a hearing, do whatever and we will deal with that on another occasion.

We are talking about such controversial items as the gentleman from Alabama mentioned such as, a relocatable dining hall, a dispensary, and recreation facilities.

I am not here to speak for the Chamber of Commerce of Honduras, and I regret if I say anything that means that that is not a mecca for vacationers, but let me tell the Members; I am talking hot; desolate; I am talking no roads; many, many miles to the nearest oasis. We are talking about things like providing a decent place where our troops can eat and sleep and have some recreation.

Another thing that might be really controversial is whether or not they ought to have a 30-bed clinic. We are talking about 1,000 to 1,400 Americans there not for 4 months, but 6 months to a year in furtherance of our activities in Honduras. This has nothing at all to do with the Contras, but with 1,000 to 1,400 Americans. They need a 30-bed medical facility. Is that too much to ask?

Let me talk about Honduras. If you have not been there lately, I'm talking dusty; one helicopter landing, and the next thing you know, you are in the Los Angeles basin for smog.

We are not building new roads. We are putting a top on 10 miles of roads around Palmerola to keep the dust down. Simple as that.

What could be fairer than that? We're talking quality of life.

Again, if you want to debate policy, come around some other time.

Let me tell you, we are talking about quality of life. We discussed some policy issues earlier.

We have American troops in Honduras. Can we not at least give them a little medical help? Can we not at least give them a decent place to live? Can we not at least keep the dust down so they can at least breathe?

Can we not have anything for anybody that is serving the U.S. armed services in this desolate area 6 months to 12 months a year?

Let us debate the policy issue later. Let us take care of the troops now.

Mr. FOGLIETTA. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I take this time to thank the administration for coming out of the closet on some of the activities that it is sponsoring in Central America.

Mr. Chairman, since early in this decade, I have been trying to get the administration to lay its cards face up on the table and let the American people and the Congress make informed decisions about its policy in Central America. More and more of you have joined me in this effort. We are still looking for those open and candid answers.

Three years ago this month, Deputy Secretary of Defense William H. Taft IV appeared before a hearing held by the Appropriations Subcommittee on Military Construction. We were looking into the administration's military training exercise construction program in Central America, generally, and Honduras, specifically. At that time I told Deputy Secretary Taft if the administration would send up its Honduras construction requests up through the normal budgeting process I believed it would find more friends in Congress than they believed existed.

Finally, the administration has sent this proposal up through the usual budget proposal process. The Armed Services Committee has recommended House approval.

Honduras is an ally of the United States. Honduras is strategically located between the United States and Nicaragua. The United States needs viable bases in Central America.

But, I remain concerned about the secretiveness of the administration about its Central American policy. The American people and the Members of Congress who are called on to finance that policy have a right to straight and honest answers.

I believe that the United States should not be sneaking around, building bases Congress has not authorized with money Congress has not approved. If the administration wants bases in Honduras it should face up squarely to the necessity of telling the Congress and the American people what it wants to do.

Instead we have Deputy Secretary William H. Taft IV, in a February 1986 letter to the chairman of the Committee on Appropriations, Mr. WHITTEN, saying:

> The U.S. has no military bases or other permanent installations in Honduras. We have no intention to establish such bases.

At the time he signed that letter, United States forces had been using, on an almost continuous basis, the base camp established at Honduras' Palmerola Air Force Base in 1983 and 1984, the airfield at San Lorenzo and facilities elsewhere. All were built with DOD operations and maintenance funds.

And, as a part of the "Construction Plan and Engineering Activities: Central America, Fiscal Years 1986-91" report attached to his letter, Deputy Secretary Taft acknowledged that the administration expected to request at least $29 million in military construction funds for projects planned in Honduras for the 1986-91 timeframe. Further, the report made clear that the administration planned to spend at least $1.5 million in DOD operations and maintenance funds, during military training exercises, on 21 separate construction projects of the type the U.S. Comptroller General had already identified as being of questionable legality.

I believe it is worth examining some more of the history of the ongoing, virtually continuous presence of United States forces in Honduras.

In 1982, the administration, as a part of its budget proposal asked for $13 million to build contingency facilities at Palmerola Air Force Base, Honduras, for the use of United States forces. Congress approved the money.

Then, in 1983, the administration asked for another $8 million for Honduras, this time to be used for contingency facilities at La Ceiba. Concerned about the lack of information provided and the lack of candor on the part of the administration about its intentions in Honduras, specifically, and Central American generally, the House refused to okay the funds. Congress eventually approved the $8 million.

But, it allowed the money to be spent only if the administration provided a report to Congress on its construction intentions in Central American and the probable impact on that situation.

Also, in 1983, the administration began its rapid and huge build up of United States military presence in Honduras. My continuing frustration at not getting straight answers about the administration's intentions prompted me to request the General Accounting Office to conduct an investigation of what was going down in these military training exercises.

The still classified report I got from GAO in March 1984 caused me to ask the United States Comptroller General for a ruling on the legality of the administration's military training exercise construction activities in Honduras.

On March 7, 1984, Nestor Sanchez, as Deputy Assistant Secretary of Defense for Inter-American Affairs told the House Military Construction Appropriations Subcommittee: "* * * we have no United States bases in Honduras and we do not seek to establish any bases."

The budget he was testifying on contained requests for two projects—7 million dollars' worth of military construction—for Honduras. One of these projects was for prepositioning facilities at an airfield located at San Lorenzo. With the Palmerola and La Ceiba requests, that made airfield number three in Honduras where so-called contingency facilities would be located, with military construction funds.

At the time Mr. Sanchez was testifying the administration had already used or was planning to use before June 1984 defense operations and maintenance funds to build or renovate or improve previously built base camps, airfields and/or radar installations at nine Honduran locations. In addition, as a part of its low-intensity warfare training exercises in Honduras, the administration was giving dental and medical treatment to thousands of Hondurans, veterinary treatment to thousands of domestic animals, and carrying out civic actions and other humanitarian activities.

On June 22, 1984, the Comptroller General, in response to a request I had made earlier in the year, issued his ruling on the legality of the administration's using defense operations and maintenance money for the kinds of projects being undertaken in Honduras in connection with the United States military training exercises.

The Comptroller General's report said: "* * * it is our view that the majority of the construction activities could not be funded out of O&M as ordinary operational expenses of the joint exercises * * *."

"Use of O&M funds * * *" for the training given to Honduran armed forces in connection with the military training exercises "was unauthorized."

The costs of civic action and humanitarian assistance during the 1983 and 1984 military training exercises "were improperly charged to DOD's O&M appropriations."

Because the administration appeared to be continuing its discredited military construction practice in Honduras, in connection with military training exercises, I asked the Comptroller General, in April 1985 to update his June 1984 decision. In his January 30, 1986, response, the Comptroller General confirmed that O&M funded construction projects carried out during Big Pine II in 1983 and 1984 were in violation of applicable law. He went on to say:

"In addition, DOD cost computations for O&M-funded construction after Ahuas Tara II (Big Pine II) have been understated, because of DOD's failure to include all costs attributable

* * *" under the applicable Federal law.

Congress has made changes in the applicable laws since June 1984. Congress has given indications and willingness to work with the administration in the matter of the United States presence in Honduras. Despite these, it appears the administration still would rather travel a crooked path than give the Congress and the American people straight answers about its intention to keep U.S. forces in that Central American nation and about its overall Central American policy.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the distinguished former ranking member on the Military Construction Subcommittee of the Appropriations Committee, the gentleman from Oklahoma [Mr. Edwards].

Mr. EDWARDS of Oklahoma. Mr. Chairman, the American presence in Honduras does help promote democracy, but that is not the issue here. Last year the Congress directed the Defense Department to submit this request to upgrade the facilities at Palmerola and we made it very clear that we would support this request.

The Congress told the Defense Department not to use operations and maintenance funds, but to use military construction funds. This money is in this bill at our request. This money is not for the Contras. This money is for Americans. It is to provide a clinic so our young people can receive medical treatment in clean and sanitary conditions. It is to provide a mess hall so that our young people going through training can eat meals prepared in clean kitchens and served in a clean dining hall.

If you do not want to support the Contras, fine. You will get the chance to vote on that issue. This is not about supporting the Contras. This is about whether you are willing to support the young men and women from your district and my district and to do it by passing this legislation and providing funds that we in the Congress told the Defense Department to request last year.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. Ravenel].

Mr. RAVENEL. Mr. Chairman, I am a member of the Milcon Committee and Sunday, this last Sunday, we were in Honduras and took a copter down to Palmerola. We took a look at just what is going on down there and what our mission is.

It is a very rudimentary air base, lots of dirt, a little bit of paving. We have got about 1,100 men there. They are quartered in wooden huts. The average stay of the average American there is for 2 months. That includes the National Guardsmen who come down for 2 weeks.

There is funding in the $4.2 million for a water and sewage system. Where do the men go to the bathroom? They go to the bathroom in a bunch of little privies. There are no inside flush toilets. The privies have everything but little half moons in the windows. The reason there are no flush toilets is because water is very limited.

There is money in the Milcon appropriation for a water system.

□ 1320

There are only two places where the men can take showers, and on the building where they can take a shower there is a sign which says "Take a Navy shower."

Now this Palmerola base is located in a great valley. It is a long way from the Nicaraguan border. It is a marvelous place for our National Guard to maneuver. One of the main things that the National Guard does at Palmerola is run a clinic twice a week for the Honduran citizens who line up by the hundreds and come from as far as 50 miles away to get dental care and health care and adequate food for their undernourished children. That is what is going on down there.

Mr. DICKINSON. Mr. Chairman, I yield my final 2 minutes to the distinguished gentleman from Illinois [Mr. Davis].

Mr. DAVIS of Illinois. Mr. Chairman, I would like to introduce the Chamber and the gentleman from Pennsylvania to Fernando Vasquez. This picture was taken Sunday morning in Palmerola.

Fernando is 3 months old. He was dying of hunger when he came into the American clinic that the money is in this amendment for that the gentleman is trying to strike to build a new clinic. This picture shows him in the arms of an American nurse who had checked the board the day before and was going to be there for 6 months.

There are 12 beds in that clinic. Three of them were occupied by Hondurans, and two by military who had been injured in the course of their duties on that base. The dining hall, which I also have a picture of, seats 150 people, for 1,100 troops. It leaks like a sieve. It is made of wood and tin. It is hot. There are flies. There is sand blowing through every crack and door. It is unsanitary at best.

Here is the sundeck that is talked about. Some of the boys got together and built a little deck that is 6 by 6 behind their hut, and you can see that that is made of canvas or of wood or a tent. And the gentleman from South Carolina is absolutely correct, they go to the bathroom in privies. I mean, the WPA is alive and well in Honduras.

Dining halls and hospitals. The hospital effort alone, 600 people a week show up at the clinic 2 days a week, and from there they Medrett out into the countryside and range 20 to 30 miles to small villages to bring inoculation to people. This is the kind of thing that we are talking about.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Oregon.

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has described in eloquent terms the medical care that is being administered there. I would ask the gentleman how much more medical care could be provided if all of the $4.1 million went for those purposes?

Mr. FOGLIETTA. Mr. Chairman, I yield myself my remaining minute.

Mr. Chairman, I would like to use the 1 minute if I may to discuss some of the issues that have been brought up by my colleagues on the other side of the aisle.

We talked about recreation facilities, the hospital, and the water and sewage treatment plant. The gentleman from Alabama said that these are not for the use of the Contras. I agree, and no one ever said that they were for the Contras.

Second, we talked about some of the quality-of-life provisions that have been taken care of, and we did look into the quality of life, we did make provisions for a better life for the servicemen in that area.

I was down in Palmerola. I did an investigation of the facilities there. I saw no real sanitation problems in Palmerola. When we asked the Pentagon about this issue, they described the problem as food dropping through the wooden cracks in the floors. This could be taken care of from money from operations and maintenance.

We have to also understand that the barracks that we now have there have a life of 10 years. They have only been in existence for 4 years. So they do have a life of 6 more years that they could be used.

But most important, what we are saying is that we do not want to detract from the quality of life of our service people. What we do not want to do is to give the messsage to the people of Central America that the United States is militarily in Central America on a permanent basis.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent that I be permitted to yield my 5 minutes to the gentleman from Pennsylvania [Mr. Foglietta].

The CHAIRMAN pro tempore (Mr. Russo). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FOGLIETTA. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, we were all told in the Congress that our purpose in supporting the Contra effort was to interdict arms going into El Salvador, and then we found out that that was not the case.

We were told that we were not—we as a country—were not violating the Boland amendment, and then we found out that that was not true.

We were told in this Congress that we did not mine the harbors or had nothing to do with the mining of the harbors of Nicaragua, and we found out that that was not true.

Now they are telling us that these facilities that they are trying to build in Honduras are not a part of an effort to install a permanent military presence, an installation, an infrastructure in Central America.

If you want to believe that, then you have to turn your back on the whole series of scams, lies, and deceptions that have led us up to this point. I disagree with that. I think that we all know what those facilities are being put in there for. They are being put in there for the purpose of putting in a permanent military infrastructure. That is why the gentleman's amendment should be passed, to prevent a permanent military infrastructure in Central America.

I listened to the heart-rending explanations of the deprivation that our National Guardsmen are going through in training in Honduras, and I would suggest to the gentleman who made that argument that there is a better answer: Camp Pendleton, in California. It has hot running water, and it is one of the world's best training bases for all kinds of purposes for our National Guard fighting forces.

They have running water, they have flush toilets, and hot running water for showers. It is a marvelous facility. You do not have to put in a military infrastructure in Central America, which is what this administration wants to do, to give that quality of life to our National Guardsmen.

Mr. FOGLIETTA. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Weiss].

Mr. WEISS. Mr. Chairman, in many ways I have great admiration for my colleagues on the other side of the aisle. They are people of boundless faith. Even as we speak and debate, and even as the select committee on the Iran/Contra scandal are unraveling thread by thread the fabric of lies that this administration not only have given to the American people and to this Congress for 6½ years, which has already been acknowledged by the President of the United States himself, they still believe the representations made by the same administration that these moneys are going for quality-of-life measures for our boys over there rather than for the permanent American militarization of Honduras.

Make no mistake about it, that is exactly what this money is going for, and if in fact Members are concerned about the continuation of support for the Contras, then they ought to cut this money off right now, and vote "yes" on the amendment.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania [Mr. Foglietta] has 2½ minutes remaining.

Mr. FOGLIETTA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Dellums], the chairman of the subcommittee.

MR. DELLUMS. Mr. Chairman, I serve as the chairperson of the Military Facilities and Installations Subcommittee, which deals with the issue of military construction. I will concede to my colleagues that this amendment did not prevail in the subcommittee markup. I will equally concede that if we were talking about the issue purely of quality of life of the troops serving in Central America, that this would not be an issue. But the fact remains that we are here talking about policy, and policy that is both controversial and policy that is indeed evolving.

If the decision was made to station troops in Honduras on a permanent basis, I would suggest then that we negotiate base rights the same way we negotiate base rights in other countries.

□ 1330

There are approximately 1,200 troops serving at Palmerola. We have 280 contract civilians providing contract services to operate the base and the mess hall. They carry out a number of functions.

The base has become so large that there is a need for contract services to carry out these functions. This is no longer, my colleagues, a contingency base, but rapidly becoming a permanent U.S. facility, regardless of whether the troops remain there permanently or on a temporary basis.

If this base were located in the United States, it falls only a minute degree away from base closing legislation because of the number of civilians that are presently serving aboard that base.

The question that ought to be raised here is whatever we do should we do it directly and openly or should we do it within the spirit of deception. I would suggest that it is currently United States policy that no permanent facilities exist in Honduras. I think that is a good policy, and I do not believe we ought to go beyond it.

I urge support of the amendment of my distinguished colleague to delete $4.15 million, first phase in a $10 million upgrade of a base that is rapidly becoming a permanent deployment facility in Honduras.

The CHAIRMAN pro tempore (Mr. Russo). The gentleman from Pennsylvania [Mr. Foglietta] has one-half minute remaining.

Mr. FOGLIETTA. Mr. Chairman, I want to make it very clear that this amendment will not eliminate all military construction funding for Honduras. It only seeks to strike funding for the upgrade of facilities at Palmerola. The military construction funding for roads, bridges, dams, water wells, and airstrips will continue. The joint exercise program and National Guard training will not be effected by this amendment.

The sole objective of this amendment is to prevent a permanent presence in Honduras. I urge my colleagues to support the amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. Dickinson] is recognized for 5 minutes.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. Badham].

Mr. BADHAM. Mr. Chairman, I think a little light should be shed on this situation. That is simply this: I do not think anybody on this side of the aisle would approve this amendment if it said let us wipe out the Peace Corps in Central America.

I have been to the jungles of Honduras, to the Contra training camp, and they had a better facility and a better meal than was provided for us by the Corps of Engineers and National Guard and Reserve people's road project out in Honduras out of Palmerola.

Palmerola is their Air Force training base. Not ours, theirs. But the closest thing to the Peace Corps in Central America is the use of Guard and Reserve engineers, not ground pounding foot soldiers carrying guns, engineers to build a road out there to help their infastructure, to help their people get food to the market and to have a better relationship with the Honduran people. In those kinds of countries the military usually builds the roads. So out in the obscure portions of Honduras, American Guard and Reserve engineering units get training in remote road building and logistics. The Honduran military get training and expertise in road building and the Compesinos of Honduras get a road to take their produce to market. A win, win, win, situation to be sure—let's preserve it—its good neighborhood policy at its best.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. Nichols].

Mr. NICHOLS. Mr. Chairman, I rise in opposition to the Foglietta amendment that would delete $4.1 million for construction at Palmerola, Honduras.

Approximately 1,400 U.S. military personnel are stationed at Palmerola in support of vital U.S. intelligence missions and critical U.S. military training exercises. These soldiers, deployed to Palmerola for periods of up to 6 months, conduct planning, intelligence, and protocol missions. The military construction projects requested are to upgrade living and working conditions for these personnel who must be there for extended periods of time.

Existing U.S. Army facilities are Central America tropical huts which are inadequate, deteriorating, and fast approaching the end of their useful life. Hut maintenance is a continuing problem and even those appearing to be sound will require major repair/replacement within the next few years.

Our delegation had dined in a mess hall, which is undersized and totally inadequate to accommodate the base population. Cooking and food preparation areas also are substandard and border on being unsanitary. The existing clinic cannot provide the degree and quality of health care required or which we owe to our soldiers, and recreation facilities are limited to nonexistent. There is no effective water distribution system, and the primitive sewage treatment system is unsuitable for anything more than a temporary field bivouac.

The proposed construction will correct these conditions by providing billets, dining facility, medical facility, recreation center, administrative facility, latrines, and associated utilities. The new building will be prefabricated, modular, and relocatable. They are designed to be easily erected, dismantled, and transported when they are no longer needed.

Mr. Chairman, our soldiers are in Honduras because their country sent them. They work long hours in a remote and austere environment with minimal reward. We have a responsibility to ensure that they have adequate facilities in which to live and work.

We can make political statements about policy without sacrificing well-deserved quality-of-life improvements for those troops serving in Honduras. Therefore, I urge my colleagues to vote against this amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hate to oppose my good friend, the gentleman from Pennsylvania [Mr. Foglietta] on his amendment. We do serve together on the subcommittee and I enjoy working with the gentleman, but in reality, the request by the Department of Defense is very reasonable, $4.1 million, and the funds will go, as has been mentioned over and over again, to barracks, dining rooms, hospitals, and some roads.

At that base, if my colleagues have been there, it is hot and dusty, almost unbelievable. Basically the buildings that will be built can be relocated. They can be moved out.

These units that would get the buildings are Active Forces. They support troops. They are Military Police, logistic support, the Signal Corps.

There are few combat troops that we have in Honduras. We have been misled. We do not have a lot of combat troops in Honduras. We have humanitarian troops doing things like engineering, helping out people on medical causes. The troops that are in combat, and the National Guard and Reserve, they stay in tents. I have been there three times and I have never seen any of them in any type of building.

I urge defeat of the amendment.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Hutto].

Mr. HUTTO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, Mr. Foglietta. We should not delete funding for military construction projects in Honduras. The projects provided for in this bill are badly needed for the quality of life of our forces in this Central American country. For a number of years our National Guard and Reserve units have trained in Honduras. It is an excellent training area for our troops. Our subcommittee on military construction held hearings on proposed projects in Central America and decided, rightly so I believe, that we should fund this construction in Honduras. Let me point out, also, that our forces are providing for many of the needs of the people in these areas by building infrastructure that is beneficial, by treating people especially youngsters at medical and dental clinics. Their humanitarian efforts are worthwhile and should be recognized. Mr. Chairman, the author of the amendment is well intentioned, but for the good of our country as well as the people of Central America, the amendment should be rejected.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The gentleman offers his amendment because, he contends, to allow military construction to go forward in Honduras would have a negative impact on peace negotiations in Central America.

I believe not to go forward with military construction plans would have a negative impact on peace negotiations in the region. Nothing in the Arias peace proposals even suggests the United States should limit its military exercises or military presence in Honduras. Nothing has been said in the ongoing discussions among the heads of state of the democracies of Central America against the United States presence in Honduras. Neither the President of Honduras nor the President of Costa Rica nor the Presidents of Guatemala and El Salvador has requested the United States to stop its military construction program at Palmerola. They have not requested the United States to reduce its presence in Central America and they have not asked the United States to curtail its exercises in the region.

The people who are most closely affected by the United States military presence in Central America and are most closely associated with the peace negotiations in Central America have not asked us to leave and have not asked us to end our military construction in Honduras.

When Costa Rican Foreign Minister Madrigal was in Washington recently, we talked about the Arias peace plan and what it would take to get the Sandinistas to agree to it. He said they would not agree to the peace negotiations if they did not feel pressured to do so. If we are truly interested in peace in Central America, we should be looking for ways to increase the pressure on Nicaragua, not decrease it.

The amendment by the gentleman from Pennsylvania takes the pressure off Nicaragua and is exactly the opposite of what we should be doing at this time. I strongly urge my colleagues to vote against this amendment.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the very distinguished gentlewoman from Tennessee [Mrs. Lloyd].

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the Foglietta amendment to cut $4.1 million for military construction in Palmerola, Honduras. However, I don't feel that this debate should be framed in the context of United States policy to Nicaragua. Upgrading the facilities in Honduras is a matter of maintaining a valuable presence in the region as a whole.

The fragile democracies in the region are faced with military insurgencies and instabilities. Our presence there merely confirms our belief in their future and confidence in the present. I must reiterate that this is not a Contra aid issue. This is an issue of commitment. The United States and Honduras traditionally have maintained close and cordial relations. The most visible manifestation of this tie is the conduct of joint military exercises.

The funds in the committee bill are there to improve the living conditions of our troops abroad who serve the United States well in our commitment to the region. The planned structures, such as barracks, a dining hall, a hospital, and a recreation center will be completely relocatable. Placed on concrete bases the structures are modular and moveable. They are not concrete structures. Should the situation become less threatening to regional security, U.S. presence could be decreased or eliminated.

This represents the flexibility we need in a complex environment. I urge my colleagues to oppose this amendment and spend more time focusing the Central American debate on more important topics.

Mr. DICKINSON. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Texas [Mr. ORTIZ].

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. ORTIZ] is recognized for 1 minute.

Mr. ORTIZ. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Pennsylvania, to delete $4.15 million of military construction funds in Honduras.

Last month I accompanied our distinguished chairman of the House Armed Services Subcommittee on Investigations, Mr. NICHOLS of Alabama; the distinguished ranking minority member of the House Armed Services Committee, Mr. DICKINSON, also from Alabama; and the ranking minority member of the House Armed Services Subcommittee on Military Installations and Facilities, Mr. MARTIN, of New York, on a visit to United States military installations and foreign defense and industrial facilities in Central and South America. Of particular interest to the delegation was the nature of United States military activities concerned with in Honduras and the type and condition of facilities being used by our personnel.

Existing substandard facilities used by our personnel are marginal to inadequate, particularly as they pertain to fire protection, water storage, and electrical systems. The facilities to be constructed are porta-camp type modular relocatable structures, and not permanent ones, consisting of 12 billets, and a hospital, dining hall and off-duty recreation center. Utilities installation and paving dirt roads are also required to facilitate effective operations and improve site security.

In talking with our on-site Armed Forces personnel, almost to a man from the lowest ranking enlisted to their commanders, they praised the in-country training they were receiving. Training, in their opinion, which was job/task, mission orientated and more practical than what they received statewide during their yearly 2 weeks annual active duty for training. The training time in-country is spent on constructing roads and other infrastructure that fosters economic growth by facilitating the more efficient flow of commerce within the country. Agricultural products grown in the country now are made readily available to the cities and built-up areas. Manufactured goods desired and needed in the outlying areas are now easily accessible, as a result of improved roads constructed by our military personnel.

Armed Services medical personnel not only relieve suffering and pain, but they, as well as our engineers and other personnel, are some of the best and most effective goodwill ambassadors we have overseas in foreign countries. Surely, it is incumbent upon us to provide our personnel with those quality of life necessities that foster this civil action and the broad aspect of support among the local populace. To this end, I urge my fellow Members not to support the deletion of funds.

Mr. Chairman, I thank the gentleman for yielding time to me.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. FOGLIETTA].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. FOGLIETTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160 and the Chair's prior announcement, further proceedings on this amendment will be postponed.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Under the rule, Mr. Chairman, if I understand it correctly, we have completed action on all but one amendment pending; is that correct?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. DICKINSON. I thank the Chair.

AMENDMENT OFFERED BY MR. DAVIS OF ILLINOIS

Mr. DAVIS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. DAVIS of Illinois: At the end of the bill (page 227, after line 7) insert the following:
>
> DIVISION D—NICARAGUAN DEMOCRATIC RESISTANCE
>
> SEC. 4001. RECOGNITION OF NICARAGUAN DEMOCRATIC RESISTANCE.
>
> It is the sense of the Congress that, in order to allow the Nicaraguan democratic resistance to seek military assistance from the United States under the regular military assistance programs, the President should withdraw United States recognition of the Sandinista Government of Nicaragua and should recognize the Nicaraguan democratic resistance as the legitimate government of Nicaragua.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Illinois [Mr. DAVIS] will be recognized for 10 minutes in support of his amendment, and the gentleman from Michigan [Mr. BONIOR] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. DAVIS of Illinois. Mr. Chairman, Augusto Caesar Sandino fought for national interests against U.S. Marines in the early part of this century. Sandino would be a Nicaraguan Resistance or Contra leader if he was alive today.

The so-called Sandinista Government in Managua is a blatant Communist, expansionist, and military aggressive government and if the Ortega brothers, Tomas Borges, and the rest of these totalitarian and repressive tyrants were arrested for being "Sandinistas" or followers of Sandino, there would not be enough evidence to convict them of that charge. The government of Managua should be called the Stalinista movement instead of the Sandinista movement.

In meeting with Pero Chamarro, son of the editor of the now prohibited Managuan newspaper La Prensa, he said:

> How difficult it is to have peace when liberty is snatched from an entire people which has spilled its blood to obtain it. Peace without liberty is the peace of the tomb, the peace of the totalitarianism of the Sandinista Front, or what might well be called the Stalinista Front. (For) instead of building in Nicaragua the homeland of Sandino, they have built the homeland of Stalin, the scourge of the Soviet peasant.

The Cuban Communists have become not only major allies, but the armorers of what Tomas Borges calls the "Revolution Without Borders."

It is clear, Mr. Chairman, what the intentions of the Sandinista Stalinistas are. And yet we ask the Nicaragua Resistance to fight Soviet built tanks with M-16's and AK 47's. With 5 percent of the weaponry and a lack of air superiority, the Nicaraguan Resistance has recently redeveloped its in-country strategy and has 15,000 troops in-country that are eager, well motivated and well equipped as a serious fighting force.

The liberals in this body will tell you they cannot win, we have to abandon our two-track strategy of pressure on the Sandinistas and then negotiation and they say we cannot. But do you know who believes that the Contras can win? The Contras and the Sandinistas both believe that the Contras can win.

What is the alternative? To give the country over to the Soviet and Cuban adventurers and the expansionist Stalinistas.

Well, what can we do? This amendment is a sense of Congress amendment only. It is not binding and has no effect. In fact, the President can do exactly what we ask to be done with this amendment, which is to break diplomatic relations with Managua, send a strong signal of consistent support to the neighbors of Nicaragua who fear another Anschluss.

This action will have several effects. First, we will guarantee that another Teheran does not occur here in our hemisphere because I predict today that barring recalling our Ambassador Harry Bergold, the Nicaraguan Stalinistas will eventually take our Embassy and those 55 people will become hostages.

Second, and more importantly in the whole thrust of the amendment, we cannot provide recognition of the Nicaraguan resistance in exile in order to start a lend-lease program to provide the resistance with countervailing support forces in opposition to the Soviet shipments of arms that have already been 10 to 1 to the resistance and now number over $2.5 billion of Soviet and Warsaw bloc military aid.

□ 1345

Mr. Chairman, our own country was recognized in rebellion in 1776 by France, in exile, and here, in World War II, Holland, Greece, Poland, Norway, Poland, Belgium, Yugoslavia were all recognized in exile in London by the United States Government. Churchill called lend-lease the most unsordid act in history. That is what this would do; if we recognize and break diplomatic relationships, we sever the relationship with the tyrannical Communist Government of Managua.

Mr. Chairman, I reserve the balance of my time.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, I take this time to ask the gentleman from Illinois a question. I, of course, oppose the gentleman's amendment, but I would like to ask the gentleman a question.

Assuming that the gentleman's amendment would be enacted, does the gentleman contemplate introducing a declaration of war against the Government of Nicaragua?

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. I thank the gentleman for yielding.

No, the gentleman does not contemplate that.

Mr. ALEXANDER. Does the gentleman contemplate a policy of U.S. military support for the so-called Contra government in exile which would involve the use of U.S. troops?

Mr. DAVIS of Illinois. No, the gentleman does not contemplate that.

Mr. ALEXANDER. Then what would be the effect of the gentleman's amendment should it be enacted?

Mr. DAVIS of Illinois. It is a sense of Congress amendment only. The President could do this now. And probably will, because I think he will do the right thing.

To break diplomatic relations with that country is an obvious benefit from that, you do not have hostages when it is taken by the Sandinista government. There is an obvious benefit there.

Second, to recognize the Contras in exile.

Mr. ALEXANDER. I thank the gentleman for his response and I thank the gentleman for yielding.

Mr. Chairman, I oppose the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The gentleman from Michigan [Mr. BONIOR] has 9 minutes remaining and the gentleman from Illinois [Mr. DAVIS] has 6 minutes remaining.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. COURTER].

Mr. COURTER. I thank the gentleman for yielding time to me.

Mr. Chairman, we broke relations with the Somoza government in 1979 first because of its appalling human rights record, and second because that record resulted in a civil war destructive of Nicaragua and dangerous to all of the Americas.

It is time to do the same with the Sandinistas, for they have far exceeded Somoza in their contempt for pluralism and democracy, and the civil war their repression has spawned is of far greater concern to Nicaragua's neighbors.

The amendment offered by Mr. DAVIS is in this sense not new. It simply demands that our Government hold the Nicaraguans to the same standard we, and the OAS, held them to in 1979. If we could demand then the "immediate and definitive replacement of the regime" why can we not do so now? Or do we permit leftist dictators barbarities we will not allow of rightist dictators?

Breaking relations would redouble the spirit of the democratic resistance.

It would reinforce the bold action taken by Ecuador, which severed relations with Managua in 1985 because of the Sandinistas' betrayal of their promises for democracy.

It would make it clear to all Americans, as well as to the Latin and Central American countries, that while the Government in Managua and the democratic resistance may be at war, our allegiences are not similarly divided.

Certainly there is no good reason to keep relations. We do very well without relations with Cuba. We have none with Angola, because the MPLA's seizure of tyranical power was in violation of explicit agreements made by Angolans when the Portuguese left.

We like having the Embassy as a listening post, yes. But to be blunt, we've listened long enough. For 7 years we've watched the totalitarian screws tighten down. What matters is not an exact count of, say, the numbers of demonstrators on any one day in Managua. What matters is that we are doing everything we can to support the freedom fighters.

The Sandinista junta is nothing but a Politboro without that name. Nine now dictate instead of one. If we still think democracy deserves a chance in Nicaragua, we should make it clear that the present regime doesn't leave room for any illusions.

Mr. Chairman, I urge a favorable vote on the important Davis amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Davis amendment which would withdraw diplomatic recognition of the Nicaraguan Government in return for recognizing the Contras.

Both supporters and opponents of Contra aid can unite today in opposing the Davis amendment which, if adopted, would damage long-term prospects for peace in the region.

To those of my colleagues who support Contra aid, I urge you to follow the lead of the administration, which had indicated its opposition to the Davis amendment in a letter from the Department of State to Chairman ASPIN.

The U.S. Embassy in Managua is an important source of information for the United States.

Without a diplomatic presence, the United States would be hampered in its ability to monitor the human rights record of the Nicaraguan Government.

Removing our Embassy would undermine the active democratic opposition in Nicaragua.

The administration has repeatedly stated that its goal is a two-track policy of pressure and diplomacy.

If the United States is serious about pursuing diplomatic initiatives, if we are serious about working for democratic reform, we need to keep channels of communication open.

I urge the growing number of my colleagues who have concern about the direction of U.S. policy in Central America to oppose this amendment as well.

This is no time to embrace the Contras with official recognition.

The Contras do not have a popular base of support inside Nicaragua. After several years of armed struggle, they still do not have any significant piece of territory.

Brooklyn Rivera, perhaps the most influential of the Miskito Indian leaders, said in an interview with the New York Times on April 14, and I quote:

> We refuse to ally ourselves with the Nicaraguan democratic force (popularly known as the Contras). The FDN project is not viable because the FDN has no legitimacy in the eyes of the Nicaraguan people and no credibility in the international community.

The Contras have made no effort to improve their deplorable human rights record. They remain a brutal fighting force, relying on attacks on innocent civilians, and hit-and-run tactics against economic targets such as bridges, powerlines, and agricultural cooperatives.

Today, as evidence mounts about the diversion of funds, secret bank accounts, and even drug smuggling, this is no time to open the door to spending greater U.S. tax dollars for the Contras.

This is not the time for a full-scale debate on Contra aid. That issue will be resolved later this year.

Today Members on both sides of the aisle, supporters as well as opponents of Contra aid, should unite in opposition to this amendment.

If we close the door on negotiations—if we remove diplomatic recognition of Nicaragua, we will be throwing away all hope of a peaceful solution.

The administration is not willing to take such a drastic step. Nor, do I believe, are most of my colleagues.

I urge you to oppose the Davis amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The Chair would advise that the gentleman from Michigan [Mr. Bonior] has 5 minutes remaining and the gentleman from Illinois [Mr. Davis] has 3½ minutes remaining.

The gentleman from Illinois [Mr. Davis] has the right to close debate.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Mr. Chairman, this is not a pro-Contra or anti-Contra issue. The issue before us is whether or not we have a diplomatic presence in the country of Nicaragua. I point out that the Constitution of our country leaves it up to the executive branch, that is the President, to determine diplomatic presence or not.

A letter from the administration's State Department opposes this amendment.

The purpose of our support of the Contras, which is another issue and not the issue before us today, is one that is not part of this amendment. The purpose of our support of the Contras is to bring pressure to cause that government to open up and have a democratic and open country. This is not whether the people that run that government are nice people. We have diplomatic relations with the people in the Eastern bloc also.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. Murtha].

Mr. MURTHA. I thank the gentleman for yielding.

Mr. Chairman, I remember going down to Nicaragua when the Sandinistas first took over. One of our speaker's top aides was along and we met with Ortega. Ortega had a tirade about communism and talked about how he was going to do this and that and he felt pretty important in those days.

He felt like he had just taken over the country and he really was feeling his oats, so to speak.

And I said, "How come you've got this runway, you are extending this runway down here in Nicaragua?" And he said, "We are going to put Migs in this runway." I said, "You put Migs in the runway and we will take them out, we will take those Migs out if you put them in."

Well, I can imagine, after Grenada, he decided that it was a good idea that he not put Migs into Nicaragua. But the point is I think we make a serious mistake if we want to take our presence out of Nicaragua. Nobody stands firmer in support of trying to limit the export of revolution outside Nicaragua than me. I feel very strongly about it. I felt very strongly about El Salvador. I supported Duarte when many people thought that was a lost cause, we were going in the wrong direction. It has worked out very well.

I think the democracies are doing a good part to what this administration has done.

But this is certainly not the right way to go. For us to remove our diplomatic presence from Nicaragua would be a mistake.

We have a two-track policy. That policy is, in my estimation, to keep pressure on the Sandinistas and at the same time try to negotiate. We certainly cannot have any semblance of negotiation if we do not have a presence in Nicaragua. It helps any Americans that might be there and we certainly are not going to prohibit them from being there.

I was in the lead of the ones that wanted to stop trading with Nicaragua. I think that was the right policy. But I do not think it is the right policy to withdraw diplomatic recognition from Nicaragua.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, I rise in support of the amendment, but so for clarity let me speak about the arguments against it for the first minute. The two compelling reasons why Mr. Davis' sense of the Congress should probably not pass is that, one, we do have a value in our Embassy in Nicaragua as the eyes and ears of the United States of America. We had an Embassy in Nazi Germany for the first 8 years of the establishment of the concentration camps and it did not stop that genocide. We have an Embassy in Afghanistan and it is not stopping the genocide taking place there before our eyes.

So there is intelligence value in having our eyes and ears down there. That is one good argument against this amendment.

No. 2, last Thursday in the Rayburn Room I had three Nicaraguans beg me not to support this amendment—I told them it was coming up—because they said our Embassy is the last shining beacon of freedom in that country, and that if we close down the Embassy there will be a massive exodus of people out of the country. They said at least half a million. There is already half a million up here. There is half a million Salvadorans and President Duarte begs us not to force them to go home, because they would destabilize his economy.

Now, those two reasons are compelling. But when I spoke to the President about breaking relations with Nicaragua on December 16 he said, "Bob, we are thinking about it."

□ 1400

Here is why I am supporting the amendment. I said, "Mr. President," and this has now come out in exhibit 13, Mr. Robert Owen's memo that is before the Iranian committee now, I said, "Mr. President, you taught the Congress a lesson about the U.S. Constitution, article 2, section 2, when you cutoff trade." I said, "All the pro-Sandinista people, the apologists in both bodies could not startup trade, could they? You spoke, it was cut, and that was that, except for cheating."

I said, "If you cut off this Embassy, you stop the travel down there of the religious left, the revolutionary touristas who go down there by the thousands, come back and poison the debate in this country, with disinformation.

"Mr. President, more than teaching this House a constitutional lesson, it will finally set the record straight that Nicaragun is a national security threat to our hemisphere. It comes under the heading, Mr. President, of getting serious," and that is exactly what Robert Owens said to Colonel North in a memo.

I think that we should not have a vote here. You do not solve this in 10 minutes, but we should enjoin this debate and decide if we are going to get serious about this threat to our security.

The CHAIRMAN pro tempore (Mr. Russo). The gentleman from Illinois [Mr. Davis] has 1¼ minutes remaining and the gentleman from Michigan

[Mr. Bonior] has 2 minutes remaining.

Mr. BONIOR of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Panetta].

Mr. PANETTA. Mr. Chairman, I believe it is important to recognize the importance of several of the amendments we are considering today. The amendments offered by the gentlemen from Washington, New York, Maine, and Pennsylvania, and the gentlewoman from California, taken together, are designed to prevent this Nation from being slowly or covertly dragged into a war in Central America. They are designed to set limits to what appears to be the administration's firm intention—to engage this Nation in armed conflict in Central America in support of the Contras.

These amendments provide that the United States may not enter Nicaragua for the purpose of combat except in very narrow and carefully defined circumstances; that U.S. military maneuvers in Honduras and Costa Rica must be conducted at least 20 miles from the border with Nicaragua; that no such maneuvers may be conducted unless the President certifies that any part of the infrastructure supporting such exercises will not be used to support the Contras; and that no additional funds for military construction in Honduras may be provided during this fiscal year.

These are not the kinds of amendments that the Congress usually considers. We do not normally tell the administration where and under what circumstances it may conduct military exercises. We do not normally set limits on the use of facilities built by the military and we do not normally object to the construction of support facilities abroad.

But the issue of U.S. involvement in Central America is not a normal issue. Despite ongoing revelations about misuse of federally appropriated funds, about private funds raised in violation of the Boland amendment, about allegations of Contra involvement in drug-running, and about comic book, cloak-and-dagger escapades involving the head of the CIA and senior National Security Council officials, the administration remains committed to providing more aid to the Contras and even to selling sophisticated jet fighters to Honduras.

Despite the clear intent of Congress in adopting the Boland amendment that no funds be expended in support of the Contras, we are treated almost every day of the select committees' hearings on the Iran-Contra affair to another novel interpretation of the straightforward and unambiguous language of that simple amendment, designed to show that covert aid to the Contras was somehow permitted. The latest theory which the President and his aides are offering is that the Constitution prohibits the Congress from imposing any limitations on the actions of the President or his staff in the area of foreign affairs. The amendments before us today are intended to set clear and objective limits on the administration, so that we will not hear a few years from now how the will of Congress was subverted once again.

We are not considering these somewhat unusual restraints on the conduct of military exercises abroad as an exercise in our own power or as an expression of partisan politics. Instead, it has been the unique approach of the Reagan administration to the conduct of foreign affairs—the disregard for the will of Congress and for the law—that has forced us today to consider these amendments.

Members should make no mistake about the importance of the measures before us: If we do not adopt these amendments, we will, in time, be drawn into armed conflict in Central America. What other possible conclusion can one draw from the growing evidence of the construction of permanent facilities in Honduras, such as an 8,000-foot airfield capable of handling gigantic cargo planes and sophisticated jet fighters and another field on the border of Nicaragua designed to land C-130's? What other conclusion can be drawn from the fact that some 1,200 American soldiers are stationed in Honduras? What other conclusion can be drawn from the fact that the United States is building or has built 10 airfields in Honduras and that it has rotated some 50,000 soldiers through Honduras for training?

Further involvement may come slowly, step by step, or it may come as a reaction to an attack on United States personnel or facilities operating right on the border of Nicaragua. But it will come. And the only way we can stop it before it begins is to draw lines over which the administration may not step. We can do this by adopting the amendments offered by the gentlemen from Washington, New York, Maine, and Pennsylvania, and the gentlewoman from California. I urge you to join me in drawing that line.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Chairman, once again this afternoon, the American people are witnessing the unraveling of a policy that was based in illegality, in sleazy tactics, and is a blight on the policy of this country.

The story that is being told in the Iran/Contra investigative committee is not a story of patriots and freedom fighters; it is a story of embezzlers and profiteers and drug runners who were prepared to put cocaine on American streets in American youths so they could continue their activities against the Government of Nicaragua.

It is a story of Contras that are better at murdering farmers and coffee pickers and women and children, men on their way to work, than they are engaging the Sandinista army. In the face of these hearings, in the face of this evidence, in the face of this revelation, our colleague, the gentleman from Illinois [Mr. Davis], would have us recognize these very same people as the legitimate Government of Nicaragua.

Nicaraguans may not like the Sandinistas, but they surely do not like the Contras. Mr. Davis would ask us to do what the Contras cannot do, and that is to overthrow the Government of Nicaragua.

The gentleman from Illinois would ask us to do what our allies do not support our doing, and that is breaking off diplomatic relations with the Nicaraguan Government, to overthrow the Nicaraguan Government.

Mr. Davis would continue a legacy of the darkest days of American policy in Central and South America. He would continue the legacy of Chile, of Guatemala, of El Salvador, of Nicaragua where this Government, time and again, tried to pick for the people of those countries their leaders. Each and every time, those governments turned out to be repressive; those governments turned out to be the tool of U.S. interests and those governments eventually were overthrown and now we wait. We wait as the Pinochet government, too, will fall under the popular pressure after being placed their by U.S. interests.

The policy that the gentleman from Illinois is suggesting we follow here today in withdrawing recognition from the Nicaraguan Government and the Nicaraguan people, that policy has no support in the neighboring countries. Those countries that are supposedly at greatest threat because of Sandinista activities want us to continue to negotiate. Those negotiating sessions are continuing this month.

Let us remember that it is that policy which this President has said he desires to pursue, and that is the policy of negotiation.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 1¼ minutes to the gentleman from Arizona [Mr. Kyl].

Mr. KYL. Mr. Chairman, today we do not have a credible foreign policy in Central America. Everywhere I go, people ask me, "Why do you still recognize the Communist government in Nicaragua?"

Everyone today recognizes that that government is bad, that its rulers are bad, that they rule by force, and they are repressive. What should we do?

This is a sense-of-Congress expression that says to Ortega, "Your government is illegitimate. It was not popularly elected, as you promised the OAS; it is not supported by the people; it is held by force; it is not a legitimate government."

By what Orwellian double talk do we recognize that bunch of thugs as a legitimate government? We must end our contradictory policy of aiding the freedom fighters and yet recognizing the Sandinistas. Should we also recognize the freedom fighters? They are not elected either. Yes, at least they hold out some prospect for free elections if they are given a chance.

As between the Communists supported by the Soviet Union and the freedom fighters supported by the United States of America, I say the choice is easy. We have no credibility as long as we support an illegitimate government.

It is time to express the sense of Congress that we support freedom, not repression.

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. Dickinson] is recognized for 5 minutes.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Dornan].

Mr. DORNAN of California. Mr. Chairman, I just wanted to point out that some of the Members who have just spoken in the well against this also voted and spoke out vociferously to close our American Embassy under the dictator Somoza's last days.

Now I just showed our distinguished chairman an article in today's Times on page 6-A where 30 Soviet-built helicopters—count them folks, 30, most HIPS, 3 HINDS—were flying air cover. Thirty of them overran a Contra camp inside Nicaragua. Do you know how many 30 is to see in the air? That is an aluminum overcast. We are talking about North America. We are talking about the land bridge between North and South America on our continent. There were 30 Soviet-built helicopters, most of them flown by Cubans, conducting a full-on war in the country of Nicaragua. You better believe that is a national security threat.

Read it and weep.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. Bunning].

Mr. BUNNING. Mr. Chairman, I rise today in support of the Davis amendment to H.R. 1748.

Having just returned with four of my colleagues, including Mr. Davis, from a 4-day factfinding trip to Central America, I bring firsthand knowledge of the oppresive, totalitarian Sandinista Government of Nicaragua.

Having met with other Central American government officials, Nicaraguan labor, church, human rights, and business representatives, as well as high ranking members of the Sandinista government and the opposition Contra forces, I am convinced more than ever that the only way the people of Nicaragua will experience true liberty and freedom is through our continued support and recognition of the democratic resistence.

When we met with Sandinista government officials and asked if we could visit a prison and talk with some of the over 7,000 political prisoners being held, our request was denied. Asked why the Sandinista's had forced the closing of La Prensa, the only independent newspaper in Nicaragua, their answer was for the good of the people. When we asked why the Miskoto Indians had been herded together into collectives, their answer was—for their own good.

We heard from a priest of Managua's largest and poorest parish about the conditions under which his parishioners live.

We saw firsthand the fear and suffering in the eyes of the people on the streets. We saw repression.

We heard from government officials in Costa Rica and Honduras of their public support for the region's Arias' peace plan and their private skepticism of it attaining lasting peace in the region as long as the Sandinista threat of exporting communism throughout the area exists.

As a matter of national security—our national security—we cannot tolerate such a destabilizing factor in our backyard.

As a matter of morality—we cannot and should not continue to lend legitimacy to the repressive Sandinista regime through continued recognition of that government.

We have an alternative. This past week the various factions of the democratic resistance signed a patriotic agreement which establishes a 54-member assembly and 7-member executive board which represents all the groups involved in the democratic future of Nicaragua. It is evident that there exists a legitimate and real government alternative to the present Sandinista rule of Nicaragua. This unified, coherent effort to create a democratic future is the only possible option which will stop the red threat in Central America. It is the only legitimate alternative to freedom which we, the greatest democracy in the world, can and should support.

For the future of freedom in Nicaragua and Central America and our own security, I urge your support of the Davis amendment.

Speech Given by Lic. Pedro Joaquin Chamorro Barrios Before the Assembly of the Nicaraguan Resistance Upon Assuming Responsibilities on the Directorate of the Resistance, Miami, May 13, 1987

Honorable members of this Assembly, Countrymen: During the long struggle for its liberty, a people always finds the one path that leads to it: unity.

If unity was necessary to put an end to the infamous dictatorship of the Somozas, today, eight years later, it is imperative in finding the exit from the crossroads of the Nicaraguan people which is between the eternal slavery of the tyranny of the Sandinista Front and the direction of the future which is the democratization of Nicaragua.

The thousands of combatants who fight united against all adversity have given the Nicaraguan people a model to follow, and especially to their political representatives the fighters have brought to fruition a national dream that scarcely a few months ago seemed only this: a fantasy.

Let it be clear to the journalists and political analysts: from this day forward the categories of "rightist and leftist," "moderate and radical," "hawk and dove," are obsolete. With the birth of the Nicaraguan Resistance a new spirit fills our hearts and minds.

All of us are one team, all function like a team. An attack on one is an attack on the whole Nicaraguan people and we will defend ourselves as one.

Let it be clear to journalists and political analysts that this new unit does not bow to external pressures but rather to the pressure of our people who demand unity in order to regain our liberty.

We have all given up a little to form the Nicaraguan Resistance, but no one has lost anything. Here, the only loser is Sandinista Front for National Destruction, they will regret this day when they see how, as Nicaraguans, we have learned how to overcome the trauma of the past in order to confront with decisiveness the challenge of the present and of the future which is to make Nicaragua a free and democratic republic, as Pedro Joaquin Chamorro Cardenal once dreamed it to be.

It is certain that it has taken time to reconcile ourselves and to make for ourselves declared principles, something more than nice words written in public declarations then filed away. But it has not been in vain, this Assembly is without doubt the most complete in the history of our country, and if we can transfer to the Nicaragua of the future what we have constructed in exile, we will have guaranteed social peace.

The process of national reconciliation that we have initiated must continue in Managua when the cancer, that has brought us to this fratricidal war, has been excised from our society.

a. To elect the Board of the Nicaraguan Resistance.

b. To draft and approve its internal regulations.

c. To draft studies and bills of law necessary to solve problems of an economic, social, and judicial nature that the Provisional Government of National Unity will face.

d. To receive periodic reports from the Board.

e. To fill the vacancies of the Board of the Resistance following the same procedures as its original election.

II. BOARD OF THE NICARAGUAN RESISTANCE

The Board is the executive body which directs the Nicaraguan Resistance and will be formed by seven members in the following way:

One member for each Nicaraguan political party (conservative, liberal, social christian and social democrat) one member of the Bloque Opositor del Sur (BOS), one member from the ethnic organizations of the Atlantic Coast and one member of any one of the sectors that constitutes the Assembly.

Once established, the Resistance Board will draft and approve its internal regulation.

The Board is the only body authorized to exercise management and administration of all the financial and material resources of the Nicaraguan Resistance in agreement with the rules of the Assembly. Once Nicaragua is liberated, the members of the Board and the leaders of the War Fronts of the Resistance, will not be able to act as members of the Provisional Governing Council and those who are part of this Council will not be able to be candidates to the Presidency and Vice Presidency of the Republic in the first general elections, ensuring in this manner, the principle of avoiding any continuity in power.

III. ARMY OF THE NICARAGUAN RESISTANCE (ERN)

The army will be formed by the fighters of all the organizations that constitute the Nicaraguan Resistance. As soon as this Patriotic Agreement enters into force the Nicaraguan Resistance Army (ERN) is irrevocably established and no other political organization will be permitted to maintain armed groups or military command as the ERN is the single (military force) and its Commander in Chief is the Board as a whole.

The Nicaraguan Resistance Army will be organized as follows:

A. Three War Fronts with their respective theaters of operation, as follows: North Front, Atlantic Front, and South Front.

To achieve this, we must be inclusive and not exclusive, because no one is too many when our country is in danger. No one is too many when tyranny perpetuates itself, destroying the whole society and submitting the people to the most absolute misery, no one is too many when the Nicaraguan people's dream of liberty disintegrates in treason.

Nicaraguans, countrymen, the hour has arrived to close ranks in the Nicaraguan Resistance, if we do not realize that the hour has come from the nation and not for parties, then we will never be able to have a time for parties, because such a time will not arrive while we do not have a free homeland, a Republic where parties grow without being treated like children.

How difficult it is to have peace when liberty is snatched from an entire people which has spilled its blood to obtain it!

Peace, without liberty, is the peace of the tomb, the peace of the totalitarianism of the Sandinista Front, or what well might be termed the Stalinista Front, because instead of building in Nicaragua the homeland of Sandino, they have built the homeland of Stalin, the scourge of the Soviet peasant.

If Sandino were living he would be fighting the 9 commandantes. President Arias said so, but he put it in other words, because he said that Sandino was the first "contra." And we should struggle against the Cubans, against slavery, against turning over the Nicaraguan people to the Soviet bloc, against the occupation of the country by thousands of internationalists, against the oppression of our people and the persecution of its church.

Sandino did not fight against U.S. marines in order to be a communist, but rather a nationalist. In the same way, we struggle today against the nine filibusters incarnated as the nine tyrants of the Sandinista Front for National Destruction.

It is possible that this is our last opportunity, our last campaign. In exile we will have plenty of time to point the finger and lament what others did or did not do and what we did or did not do ourselves.

The moment has arrived in which each one of us does his part for our liberty. All of Nicaragua demands it of us, all of America will thank us for it one day when the Central American democracies shake hands with a world waiting expectantly for the end of this nightmare.

The hour has arrived for our revolution of liberty; and when war is no longer in the news, when our glorious banner is no longer tainted with the blood of our brothers, when our people do not feel fear, suffer hunger and oppression, we will embrace everyone as brothers and sing with pride our national anthem, an anthem that is made for peace, an anthem that is made for liberty.

Long live the Nicaraguan resistance! Forward soldiers for liberty, the victory is ours! Nicaragua will once again be a republic!

PATRIOTIC AGREEMENT OF THE NICARAGUAN RESISTANCE

In the long road for the Nicaraguan liberation, the diverse forces of the Resistance have reached a decision to ensure victory from this time forth, through a single coherent and unified effort that will constitute an authentic alternative to the FSLN totalitarism.

The unfaltering commitment made to Nicaraguan democratization, the deep nationalism that enhances our principles and objectives, our identification with Western values and the unbreakable conviction in the success of our cause, have prompted us to create the Nicaraguan Resistance as the only national entity able to guarantee the liberation of our country and a peaceful and democratic future.

FORMATION OF THE RESISTANCE

Based on the principles and objectives of the organizations that form the Nicaraguan Resistance, on the Democratic Agreement of June 1986 and on the Democratic Commitment Act of January 1987, in which we committed ourselves to fight for the establishment of a State of Law and the enforcement of the liberties in our country, we agreed to form the Nicaraguan Resistance with the purpose of reaffirming the legitimacy and enlarging the representation of our struggle for liberation in accordance with the following basic principles:

1. To strongly reaffirm the political will to establish democracy in our country.

2. To adopt a single fighting strategy. This means not to negotiate with the Managuan regime, unless it has been clearly agreed upon by the Board of the Nicaraguan Resistance. The result of any negotiation shall be ratified by the Assembly. This same rule will apply to negotiations with international organizations and Governments of other countries.

3. All decisions shall be made according to the national interests, bearing in mind the interests of the other Central American countries with which we have deep historical ties.

4. To always give priority to general interests instead of individual ones, until the liberation of the country and the establishment of democracy are achieved.

5. To promote national reconciliation, especially taking into consideration the ethnic organizations of the Atlantic Coast, by respecting their historical rights, strengthening territorial integrity and our national identity.

6. To promote our democratic beliefs, the political commitment to jointly march, the political attitudes consistent with our people's will and the defense and integrity of our Nicaraguan territory and our unique and indivisible nationality.

Consistent with the above-mentioned principles, we agree to this Patriotic Resolution.

The framework of the Nicaraguan Resistance is as follows:

1. Assembly of the Nicaraguan resistance

The Assembly is the expression of the pluralism of the Nicaraguan Resistance and will consist of 54 members that represent the following sectors according to the list below: 6 Conservatives, 6 Liberals, 6 Social Christians, 6 Social Democrats, 6 from the Atlantic Coast, 6 from Bloque Opositor del Sur, 6 from the Private Sector, 6 from the Labor Sector, and 6 from the Agricultural Sector.

Duties of the Assembly among others, are:

B. Each War Front will maintain its structures and commands until the final stage of integration is reached. Their respective leaders will be assigned by the Board.

C. As a first measure toward the integration of the ERN a Military Coordination Committee (CCM) will be established with the leaders of the three War Fronts or their delegates. The process of forming the ERN will be completed as soon as possible.

D. All the ERN units will be identified only by the symbol given by the Board and will be governed by the Military Conduct Code already in force that guarantees the strict observance of norms of international human rights applicable in wartime, as established by the Geneva Convention.

POLITICAL SOLUTION

The organizations that form the Nicaraguan Resistance, aware of the sacrifice that our country is making in its struggle to obtain the establishment of democracy in peace and liberty, which to this date has been denied to the people, reaffirm the commitment to seek political solutions to the conflict in our country in order to reduce the suffering of the Nicaraguans.

The Nicaraguan Resistance, in accordance with their previously expressed will and convinced that the democratization of Nicaragua is the basis for the establishment of peace in Central America, agrees with the initiative of Dr. Oscar Arias, President of Costa Rica. The Nicaraguan Resistance has already stated its point of view to the presidents of the Central American democracies on certain definite aspects of the above-mentioned initiative and believes that, by being part of it, this initiative will be the best agent for the democratization and pacification of Nicaragua.

This patiotic agreement that we sign today, May 8, 1987, will enter into force when the Resistance Assembly is established and its Board elected and its contents can only be modified by the initiative of two thirds of the members of the Board and ratified by two thirds of the members of the Assembly.

On behalf of the United Nicaraguan Opposition (UNO); Pedro J. Chamorro Barrios, Alfonso Robelo Callejas.

On behalf of Bloque Opositor del Sur (BOS): Alfredo César Aguirre, Alvaro Jeréz Paguaga, Edgard Macía Gómez, Bayardo López Pineda.

On behalf of UNO-FDN: Adolfo Calero Portocarrero, Enrique Bermúdez Varela, Aristides Sánchez Herdocia, Indalecio Rodríguez Alaníz.

Advisors: Donald Castillo R., Luis Rivas L., Carlos Hurtado C., Leonardo Somarriba G.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. Burton].

Mr. BURTON of Indiana. Mr. Chairman, let the people of America know that the left in this House supports the Communist Sandinista government. Let the people of America know, Mr. Chairman, that the leftists in this House support any opposition to stem the tide of communism in our hemisphere.

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The Soviet Union sent 23,000 tons of war material in there last year. Communist fellow travelers from all over the world are helping the Communist Sandinista government. The freedom fighters are fighting not only for their own freedom but for ours as well and for the fledgling democracies down there. And let the people of the United States of America know where the leftist Democrats in this House stand. They stand with the Communist Sandinista government of Nicaragua.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. Russo). The time of the gentleman from Indiana [Mr. Burton] has expired.

Mr. DICKINSON. Mr. Chairman, I yield the balance of my time to the distinguished author of the amendment, the gentleman from Illinois [Mr. Davis].

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. Davis] is recognized for 1 minute.

Mr. DAVIS of Illinois. Mr. Chairman, to the gentleman from Michigan I can say that I had lunch with Brooklyn Rivera last Friday, and he told me at that point he was joining with the New United Directorate as the Director of the Miskito Indian Coast. So I think that is so much for that argument.

But here is the real argument right here: 18 MI-24 flight HIND helicopters with 20 more on order from the Soviets; 200 rocket launchers; 150 tanks; 220 amphibious vehicles; and $700 million in Soviet Communist aid to Nicaragua.

There is a Communist war going on down there, and the average age of those freedom fighters is 19. Most of them were not even around when Somoza was in power. It is 85 percent a campesino army, 15,000 well-equipped troops now because of American aid, and they are winning victories every day for freedom.

What other reason could there be? They are not paying those kids. I was in a Contra hospital, and there was a 15-year-old boy laying there with grenade fragments in his body. Yes, 15 years old, and he was fighting for freedom because he told me his mother was in prison in Managua, in Tomas Borge's jail. That is what this is all about. Why are we recognizing a government like that that is going to take our Embassy sooner or later anyway?

Mr. Chairman, I ask the Members to vote "yes" for the Davis amendment.

The CHAIRMAN pro tempore. All time has expired.

Mr. ASPIN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. Aspin] is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I ask unanimous consent that my time be granted to the gentleman from Michigan [Mr. Bonior].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BONIOR of Michigan. Mr. Chairman, I thank the committee chairman for the time, and I yield such time as he may consume to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's yielding time to me.

I hope that my colleagues will listen to what I am about to say. I am reading the amendment offered by the gentleman from Illinois [Mr. Davis]. It says here on line 8 that the United States should recognize the Nicaraguan Democratic Resistance as the legitimate government of Nicaragua.

I want to tell the Members that I have some fundamental problems with that, speaking as an American, and speaking as someone who feels he is just as much a patriot as the gentleman from Illinois.

I will tell the Members why I feel this way. First, here is a memorandum which has come out in the Iran scam investigation, written by Robert Owen to "Blood and Guts." Now, "Blood and Guts" is Ollie North, as we will recall from the hearings.

This is dated March 17, 1986. Robert Owen is a true believer. He believes in the cause of the Contras; he believes in Ollie North; he believes in "Blood and Guts." That is the code name they chose for Ollie North. Here is what Robert Owen said to "Blood and Guts" or Ollie North about Adolfo Calero, the head of the band of bandits who are shooting up civilians.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. No, I am not going to yield.

This is the head of the bandits who are shooting up civilians, who are killing civilians in farm cooperatives and targeting clinics and taking out civilian targets in Nicaragua today. Here is what he said about Adolfo Calero and his band of fighters. This is your true believer, who described himself as "eyes and ears" for Oliver North with the Contras. This is what he said to North. I am quoting from his memo.

He said, "Perhaps Adolfo Calero is a man to lead Nicaragua back to democracy. He is a creation of the U.S. Government and so he is the horse we chose to ride. I have no problem with this, as long as we know and understand his shortcomings. The best way to point these out is to take a close look at who he keeps around him, only those who he intimately trusts. Unfortunately they are not first-rate people. In fact, they are liars and greed and power motivated. They are not people to rebuild a new Nicaragua," Mr. Owen said to "Blood and Guts."

"In fact, the FDN has done a good job of keeping competent people out of the organization. If the U.S. Government," Mr. Owen continued, "does not know who and what it is dealing with, then it should learn."

Now, that is one reason I oppose the gentleman's amendment.

But I have another reason, and maybe the gentleman from Illinois would feel as I do if he were in my position. I am the first American Congressman to represent an American who was killed by the Calero band. Benjamin Linder was my constituent. Benjamin Linder was a civilian, a noncombatant.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield on that point?

Mr. AuCOIN. I will not yield, I say to the gentleman.

Benjamin Linder was a noncombatant, he was a civilian, and he was in Nicaragua working on a hydroelectric project to help the villagers get electricity. He was shot by the Contras, by the people the gentleman from Illinois wants to recognize as the legitimate government of Nicaragua.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I am not going to yield to the gentleman because he did not yield to me.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. Mr. Chairman, I repeat that I am not going to yield.

I do not believe that people who will shoot noncombatants who are building hydroelectric powerplants——

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield on that?

Mr. AuCOIN. Mr. Chairman, I insist on regular order.

The CHAIRMAN pro tempore. The Chair will state that it is obvious that the gentleman from Oregon declines to yield, so the Chair asks that Members allow the gentleman to finish his statement.

Mr. AuCOIN. Mr. Chairman, I will say to the gentleman that the reason I am not going to yield to him is that he did not yield to me.

Mr. Chairman, I do not believe the legitimate government of Nicaragua should be a band of people who will target and kill innocent, noncombatant civilians who are trying to build hydroelectric dams, harvest coffee, and run medical clinics in Nicaragua. Furthermore, I do not believe the legitimate government of Nicaragua ought to be a government made up of people that Robert Owen told "Blood and Guts"—excuse me, Oliver North—were liars motivated by greed and power.

I think that is not the legitimate government of Nicaragua. It does not serve America's interests to declare such a band of people a legitimate government of Nicaragua, and I urge my colleagues, in the name of Benjamin Linder and any right instincts the American people may have, to defeat the Davis amendment and get on with a sensible policy in Central America.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to thank the gentleman for yielding.

Mr. Chairman, I just want to make it clear that I heard one of the previous speakers on the other side say that this was an amendment to frustrate the leftists. Apparently we ought to declare the leftists as including Ronald Reagan and George Shultz, who can do just what they want to do.

PREFERENTIAL MOTION OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the enacting clause and all that follows.

The CHAIRMAN pro tempore. The Chair will inquire, does the gentleman have the motion in writing?

Mr. BURTON of Indiana. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Burton of Indiana moves that the Committee of the Whole do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN pro tempore. The gentleman from Indiana [Mr. Burton] is recognized for 5 minutes in support of his preferential motion.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I normally would not use this ploy to get a little bit of time, but I think it is important that the American people know that there is a great deal of doubt about what the previous speaker just said, that being that Mr. Linder was a noncombatant who had no way of defending himself.

It has been reported by numerous sources that he carried an AK-47 machinegun and quite frequently wore military garb in that area. He was in a combat zone and knew full well he was in a combat zone.

Now, we are all upset anytime an American is killed on foreign soil, and Mr. Linder is no exception. I, like all Americans, grieve for him and for the pain that his parents have to endure. But the fact of the matter is he was in a combat zone, he was carrying an AK-47, and it has been reported numerous times that he has been known to wear combat garb, and there was a firefight. The autopsy, as I understand it, reports that he was killed by shrapnel, by possibly a hand grenade exploding, and it hit him in the head.

But for Members to say in this body that he was a noncombatant, an engineer who was just there doing nothing but helping the people of Nicaragua, is a gross misstatement of the facts. This has been brought out in testimony before a number of committees on the Hill.

The CHAIRMAN pro tempore. The Chair will inform the gentleman from Indiana [Mr. Burton] that he has 3 minutes remaining.

Mr. BURTON of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. Davis].

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman for yielding this time to me.

To the gentleman from Oregon I would simply say that his memos notwithstanding, Mr. Calero, for instance, was the one fellow in the FDN that helped throw Somoza out, supported the Sandinistas, and then went to jail because he disagreed with them after that.

I have the other members of the new directorate, and I have this in my hand here. I suggest that you guys do your homework over there. This was adopted just last week by the United Democratic Nicaraguan Resistance, and it contains the following:

Pedro Chamarro, the son of the martyred editor of La Prensa, which was closed, the free newspaper in opposition to the Sandinistas, which was closed. He is a member and certainly a liberal and a leftist. Alfonso Robelo, another leftist, is on that list. He is certainly a liberal and a leftist. Roberto Ferrey, who was in Managua last week, is a director. Brooklyn Rivera, whom the gentleman from Michigan mentioned and who was opposed to this group, is going to be a director. The political organization is in place. It will be back in Nicaragua soon. It is not there now; it is based in Costa Rica.

I would just say to the gentleman that there were excesses probably on both sides, as there are in all rebellions in the early days. But nothing can be more oppressive than the Government in Managua, and I would say to the gentleman from Oregon that he should really travel to Managua to see the face of communism up close.

I would simply say to the Members that this is the only vote probably this year on a sense of Congress that we are going to get that clearly delineates communism on the North American Continent and our attitude toward it.

So I say to the Members, Mr. Chairman, that they should support the Davis amendment if for no other reason than that kid in the Contra hospital and that mother who is in Borge's dungeons.

Mr. BURTON of Indiana. Mr. Chairman, I believe I have 1 minute remaining, and I yield myself the remainder of my time.

Mr. Chairman, I would say to my colleagues on the other side of the aisle that this is not a duly elected government down there, as they have alluded to it earlier in this debate. The fact of the matter is that it is a Communist dictatorship that took power out of the barrel of a gun.

They are exporting revolution throughout Central America. I have been in Chiletenango Province and talked to a captured Communist guerrilla who was trained in Managua, and all of his weapons came from there.

If we talk to the Presidents of these other fledgling democracies, they will tell us as well that they are exporting revolution and they are a danger to the entire hemisphere.

Mr. Chairman, we should be supporting the freedom fighters who want to put that country back in the free column.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana [Mr. Burton] has expired.

The gentleman from Michigan [Mr. Bonior] is recognized for 5 minutes in opposition to the preferential motion.

Mr. BONIOR of Michigan. Mr. Chairman, I rise in opposition to the motion, and I yield 1 minute to my friend, the gentleman from Florida [Mr. Smith].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have listened very intently to the debate, and in a way I am almost glad that the little parliamentary ploy was employed so we could have another 10 minutes.

The debate has been very enlightening. Speaking as a Member who has supported the Contras in the past, I find this amendment to be rather offensive and very ill-advised. I joined last year with a number of Members in this body who called for the very strong possibility of breaking diplomatic relations with Nicaragua. But to suggest that we recognize a group in their place that has no standing in the community in Nicaragua, to represent that those people have any real ties, since all the leaders have in fact resigned two or three times in the last year, to say that the people who are now going to be recognized who have put themselves together as a group in the last few days, and to say they should have the benefit of the United States' blessing, is really stretching the facts beyond any historical precedent that this country has ever been engaged in.

□ 1425

Yes, I believe the Sandinistas are a corrupt Marxist-Leninist government. Yes, I believe that they should be replaced. Yes, there is no freedom of the press. Yes, there is no freedom of religion. Yes, there is no freedom of elections or freedom of assembly; but we do not have anybody to replace them with yet with any territorial or political integrity.

Until we find that these kinds of things cannot be done without some very grave consequences, and while half of this amendment might be good, the whole amendment is bad.

I urge the Members to vote against this amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Chairman, I have been waiting in vain for someone to stand up and defend Ronald Reagan. This amendment is an attack on Ronald Reagan, because it urges the House to insist that the President do something that he could have done yesterday, that he could do tomorrow, that he could have done last year.

All of these things we talked about, this unpleasant government is the government that Ronald Reagan recognizes.

Mr. DONALD E. LUKENS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. DONALD E. LUKENS. Mr. Chairman, I intend to defend the President of the United States. The gentleman has mistitled the whole thing. It is not a battle of Ronald Reagan, but the politics. We have two slobs; vote for your own. You guys continue to vote for the Communist slob.

Mr. FRANK. Mr. Chairman, reclaiming my time, because I think the level of that intervention helps illustrate the level of the amendment.

The point remains the same. Ronald Reagan has the power to do what the gentleman's amendment asks that he does.

He has not done it, so apparently when the gentleman from Indiana [Mr. Burton] said this was an intent to flush out the left, Ronald Reagan has reverted to his old ADA status.

I will have to ask the gentleman from New York to check and see if the gentleman repaid his old membership.

This is an attack on the Reagan administration. The Reagan administration has aligned itself with the slobs; and if the President of the United States has decided in contrast to the gentleman who offered the amendment, to recognize this government, then I wonder why the gentlemen on the other side had not talked to their President.

I will also be very interested the next time the gentlemen on the other side get up and say that we are cutting off the President's legs, tying his hands, stuffing his ears, all those wonderful metaphors that talk about interference, they are saying to the President, "You are wrong, we will tell you how to run Central American policy. How dare you run that government?"

This is not a debate on whether or not the Members like the Sandinistas or anything else, but it is an attack by the Republicans on the foreign policy of the Reagan administration, because it is Ronald Reagan who recognizes this government.

Reagan will do what you have had to seek in this amendment to get done.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to talk about Benjamin Linder. The Sandinistas have not been elected, so therefore, they ought to be supported.

Let me say to the gentleman, who elected the Contras? Who elected the people who shot in cold blood Benjamin Linder, the man I represented? Who elected them? No one elected them.

Mr. Chairman, I object very strenuously to the characterization of the gentleman from Indiana [Mr. Burton] who professes to know all the circumstances of Benjamin Linder's death which he cannot know.

The best information I have, and I admit there are some ambiguities; but the best information we have is that the Contras did it; that they used a grenade to bring him down; and that there were powder burns on his temple, indicating that he was finished off at close range.

These are not the kind of people that I think this Congress wants to go on record as recognizing as being the legitimate Government of Nicaragua.

I urge defeat of this amendment.

The CHAIRMAN pro tempore [Mr. Russo]. The question is on the preferential motion offered by the gentleman from Indiana [Mr. Burton].

The preferential motion was rejected.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. Davis].

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, and the Chair's prior announcement, further proceedings on this vote will be postponed.

Mr. ASPIN. Mr. Chairman, I think it would be useful to all of us if the Chair would delineate the order of voting and how much time and what the sequence is on these cluster votes coming up.

The CHAIRMAN pro tempore (Mr. Russo). The Chair was in the process of doing that.

Debate has been concluded on the amendments printed in section 1 of House Report 100-84, relating to Central America.

Pursuant to House Resolution 160, and the Chair's prior announcement, the Chair will now put the question on the adoption of each amendment on which further proceedings were postponed, in the order designated in paragraph (5) of section 2 of House Resolution 160.

Votes will be taken in the following order:

The amendment offered by the gentleman from New York [Mr. Mrazek], a 15-minute vote; the amendment offered by the gentlewoman from California [Mrs. Boxer], a 5-minute vote; the amendment offered by the gentleman from Pennsylvania [Mr. Foglietta], a 5-minute vote; and

The amendment offered by the gentleman from Illinois [Mr. Davis], a 5-minute vote.

The first order of business is the recorded vote on the amendment offered by the gentleman from New York [Mr. Mrazek].

The vote was taken by electronic device, and there were—ayes 197, noes 225, not voting 10, as follows:

[Roll No. 135]

AYES—197

Ackerman
Akaka
Alexander
Anderson
Anthony
Applegate
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Cardin
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank

Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McHugh
Meyers
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pease
Perkins
Price (NC)
Rahall
Rangel
Regula
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—225

Andrews
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Bosco
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Frost
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Robinson
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Annunzio
Biaggi
Bruce
Cooper
Duncan
Gephardt
Jones (NC)
Ray
Roberts
Roemer

□ 1440

The Clerk announced the following pair:

On this vote:

Mr. Biaggi for, with Mr. Roemer against.

Mr. VANDER JAGT and Mr. MICA changed their votes from "aye" to "no."

Mr. YATRON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1450

The CHAIRMAN pro tempore (Mr. RUSSO). The next order of business is the recorded vote on the amendment offered by the gentlewoman from California [Mrs. BOXER].

The Chair would advise Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 165, noes 257, not voting 10, as follows:

[Roll No. 136]

AYES—165

Ackerman
Akaka
Alexander
Anderson
Anthony
Applegate
Atkins
AuCoin
Bates
Beilenson
Berman
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Cardin
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gejdenson
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Howard
Jacobs
Jeffords
Johnson (SD)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pease
Perkins
Rahall
Rangel
Richardson
Rodino
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Slaughter (NY)
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—257

Andrews
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boner (TN)
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (TN)
Kasich
Kemp
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Robinson

Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Annunzio
Biaggi
Bruce
Cooper
Duncan
Gephardt
Jones (NC)
Ray
Roberts
Roemer

The Clerk announced the following pair:

On this vote:

Mr. Bruce for, with Mr. Roemer against.

Mr. ROSE changed his vote from "aye" to "no."

Mr. DICKS and Mr. SWIFT changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The next order of business is the recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. FOGLIETTA].

The Chair would advise Members that we have two votes remaining.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 126, noes 294, not voting 12, as follows:

[Roll No. 137]

AYES—126

Ackerman
Akaka
Alexander
Anderson
Anthony
Atkins
AuCoin
Bates
Beilenson
Berman
Bonior (MI)
Borski
Boxer
Brennan
Brown (CA)
Cardin
Clay
Collins
Conyers
Coyne
Crockett
Darden
DeFazio
Dellums
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Feighan
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gejdenson
Gonzalez
Grant
Gray (IL)
Gray (PA)
Hawkins
Hayes (IL)
Hertel
Howard
Jacobs
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
Lehman (CA)
Lehman (FL)
Leland
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Matsui
McCloskey
McHugh
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morrison (CT)
Mrazek
Nagle
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Perkins
Rangel
Rodino
Rostenkowski
Roybal
Sabo
Savage
Schneider
Schroeder
Schumer
Sikorski
Slattery
Slaughter (NY)
Solarz
St Germain
Stallings
Stark
Stokes
Studds
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Walgren
Watkins
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOES—294

Andrews
Applegate
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonker
Bosco
Boucher
Boulter
Brooks
Broomfield
Brown (CO)
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dornan (CA)
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
Kemp
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Ortiz
Oxley
Packard
Parris
Pashayan
Pease
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—12

Annunzio
Biaggi
Bruce
Cooper
Duncan
Foley
Gephardt
Jones (NC)
Ray
Roberts
Roemer
Whitten

□ 1505

The Clerk announced the following pair:

On this vote:

Mr. Biaggi for, with Mr. Roemer against.

Mrs. PATTERSON changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above-recorded.

The CHAIRMAN pro tempore (Mr. RUSSO). The next order of business is the recorded vote ordered on the amendment offered by the gentleman from Illinois [Mr. DAVIS].

The Chair would advise Members this is the last of the 5-minute votes.

The vote was taken by electronic device, and there were—ayes 74, noes 347, not voting 11, as follows:

[Roll No. 138]

AYES—74

Archer
Armey
Badham
Ballenger
Bartlett
Barton
Bilirakis
Boulter
Bunning
Burton
Callahan
Cheney
Combest
Courter
Crane
Daniel
Dannemeyer
Davis (IL)
DeWine
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Fields
Gekas
Gingrich
Hall (TX)
Hansen
Hastert
Hayes (LA)
Holloway
Hunter
Hyde
Inhofe
Ireland
Kemp
Kyl
Latta
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
McCandless
McCollum
McEwen
Moorhead
Pepper
Perkins
Petri
Quillen
Ravenel
Rinaldo
Ritter
Robinson
Roth
Shaw
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Solomon
Swindall
Tauzin
Taylor
Vander Jagt
Vucanovich
Walker
Young (AK)

NOES—347

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger

Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
Craig
Crockett
Darden
Daub
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Regula
Rhodes
Richardson
Ridge
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—11

Annunzio
Biaggi
Bruce
Cooper
Duncan
Foley
Gephardt
Jones (NC)
Ray
Roberts
Roemer

The Clerk announced the following pair:

On this vote:

Mr. Roemer for, with Mr. Biaggi against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1520

Mr. ASPIN. Mr. Chairman, I move to stike the last word.

The CHAIRMAN pro tempore (Mr. RUSSO). The gentleman from Wisconsin [Mr. ASPIN] is recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to announce to the House what we are doing here.

We have a couple of short colloquies and a couple of unanimous-consent requests for people to get some things into the RECORD about what we have done.

Mr. Chairman, I yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I note that in the bill before us, there is a provision which prohibits the Defense Department from paying to the Social Security trust fund the so-called noncontributory credits. I say for the record that there is something of a sacred trust in the Social Security coverage of the military.

If Uncle Sam is a deadbeat and does not pay his Social Security taxes, it is going to come out of the hide of the other Social Security retirees, and I should add for the record, that the military personnel who are covered by this Social Security Act will have their own benefits diminished if this is not paid.

Is there any chance that we can straighten this out?

Mr. ASPIN. Mr. Chairman, I will tell the gentleman that we will try to straighten it out as we go along.

Mr. JACOBS. Let me just say, Mr. Chairman, for the record, to put it in a nutshell, there are certain obligations of the Defense Department to the Social Security trust fund. This bill provides that those obligations not be made. If they are not made, they will diminish the benefits for military personnel when it comes time to retire and they will deplete the old-age and survivors trust fund.

Mr. ASPIN. Mr. Chairman, I appreciate the comments of the gentleman.

Mr. Chairman, I yield to the gentleman from California [Mr. DYMALLY] for the purposes of a colloquy.

Mr. DYMALLY. Mr. Chairman, do you agree that last year, the 99th Congress took a crucial step in strengthening the DOD acquisition system by adopting section 1207 of the fiscal year 1987 Defense authorization bill? That policy (Public Law 99-661) now requires that 5 percent of DOD contract awards be made to minority firms in fiscal years 1987, 1988, and 1989?

Mr. ASPIN. The gentleman from California is correct. Yes; I agree with that.

Mr. DYMALLY. Do you recall, section 1207 made certain policy tools available to the Secretary to enable the Department to achieve these goals?

Mr. ASPIN. Yes.

Mr. DYMALLY. Would you agree that now, we need to complete this strengthening of the competitive acquisition process by providing the minority private sector with the policy tools it needs to mobilize local and statewide resources, create the public/private partnerships, and provide the direct technical assistance to firms with DOD related contracting potentials to bring about the results contemplated by section 1207 of the fiscal year 1987 authorization bill?

Mr. ASPIN. Yes.

Mr. DYMALLY. Do you agree that there is a precedence for such a policy? It is the DOD Procurement Technical Assistance Cooperative Agreement Program (Public Law 99-145)?

Mr. ASPIN. Yes.

Mr. DYMALLY. Do you agree that the extension of Public Law 99-145 to specifically enable minority communities to participate in the development and operation of procurement outreach centers will provide the basis for a working partnership between the Department and the minority private sector? I understand that there is support in the other body of this action?

Mr. ASPIN. Yes.

Mr. DYMALLY. In conclusion, would you agree that the section of a firm like the Booker T. Washington Foundation as the lead minority private sector nonprofit organization to provide local communities with the technical assistance they require to establish and operate these procurement outreach centers in an effective manner would be a wise course to give this policy the best chance to succeed? And that, the foundation has worked directly with the Department in this area for more than 6 years and is uniquely capable of providing the leadership and the technical know-how to get this job done?

Mr. ASPIN. Yes.

Mr. DYMALLY. Mr. Chairman, I rise to support the proposal for a DOD procurement technical assistance program in the minority private sector in furtherance of the goals and objectives of section 1207 of the fiscal year 1987 Defense authorization bill.

I strongly endorse this proposal. Section 1207 will have limited value to our constituents unless we find a way to get them directly involved in the day to day marketing and capacity building activities required to successfully compete for, win, and perform $32 billion in DOD contract awards over the next 3 years. We believe that this is the way to get that job done.

I understand that there is support in the other body for this action. Senator LEVIN and his colleagues in the Senate took the initiative 5 years ago in putting Public Law 99-145 on the books to enable the Department to fund Procurement Technical Assistance Outreach Centers. We understand that this policy has worked well in local communities that are participating.

I strongly endorse and support the designation of the Booker T. Washington Foundation as the lead institution in the development of a national consortium of local minority private sector nonprofit organizations to develop and operate outreach centers in the major minority population centers throughout the country.

DESCRIPTION OF PROCUREMENT TECHNICAL ASSISTANCE SERVICES FOR SMALL DISADVANTAGED BUSINESS FIRMS

The objective of the program is to assist eligible firms in maketing and selling their goods and sevices to the Department of Defense; and thus, to assist the DOD in its acquisition goals while enhancing the business climate and the economies of the communities being served.

The program will develop and make available the following technical assistance services:

First. Market research and data analysis of historical DOD acquisition data to enable firms to identify contracting opportunities and to pin point their marketing efforts;

Second. Supply engineering and technical support to enable firms to correctly evaluate and document their DOD-related capacities and capabilities and to position this data with DOD-acquisition agencies and to assist firms in developing and maintaining military standard quality assurance and related systems;

Third. Provide direct marketing assistance to demonstrate to firms effective techniques for marketing to DOD and thus to strengthen their marketing capabilities;

Fourth. Act as an information management assistance system to broadly distribute firms' capacity and capability data to DOD acquisition agencies and to distribute DOD acquisition requirements to the firms:

Fifth. Give capacity building assistance in the form of bonding working capital, and equity and debt financing from State and local governments and private financial institutions; and

Sixth. Stimulate business expansion assistance through the structuring of joint ventures, mergers, acquisitions, and subcontracting, and teaming ventures and systems.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from California [Mr. DELLUMS] for the purpose of a colloquy with the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I would like to thank my distinguished colleague, the chairman for the Subcommittee on Military Installations and Facilities, for taking the time to engage with me in this colloquy for the purpose of discussing current policy regarding financial responsibility for educational facilities on military installations.

I would like to highlight as an example the current predicament of the Geary County Unified School District and Fort Riley Junior High School on the Fort Riley military base which is located in my district.

The situation is one common at many educational facilities located on military installations, the junior high is in dire need of additional classrooms. Presently, school district officials are getting by using relocatable barracks to house students and have them serve as makeshift classrooms.

The seven relocatables now housing 16 classrooms are worn out. This opinion is supported by evaluations done by local maintenance officials, the school district architect, and an engineer from the Region VI office—Dallas—of the Department of Health and Human Services.

The Department of Education has title to and owns the junior high school. The Department of Defense owns the land on which it sits. The Geary County Unified School District owns the relocatables. All agree, that when attending classes in the relocatables, students are at greater risk in life safety situations and that students are deprived of the quality of life they deserve and should expect to have in a school setting.

The Geary County Unified School District officials have pursued the matter of adding on for some 15 years. There have been repeated contacts with Department of Education officials who have acknowledged the needs, but have been unable to provide assistance.

The need for improved facilities has been endorsed by various ranking military officials at Fort Riley and by the Deputy Assistant Secretary of Defense for Military Installations and Housing, Paul Johnson, who has been to Fort Riley and seen the junior high and the relocatables.

In short, the result has been that the Department of Education is supportive but has no funds to help. The Department of Defense is supportive but has no authority to help. The local school district is willing to help itself but is legally unable to allocate its already underfunded budget for this purpose. A Kansas statute restricts local school districts from spending tax dollars on buildings it does not own.

The net result is a loss by the children who attend Fort Riley Junior High School and who have no role in this decisionmaking process.

I would like to suggest the possiblity of the Defense Department taking financial responsibility for educational facilities located on military installations and the potential transfer of title of these educational facilities from the Department of Education to the Department of Defense.

I understand that a joint study is currently being written by the Secretaries of Education and Defense for the purpose of determining the needs for construction, extension, remodeling, and rehabilitation of dependent's educational facilities on military installations in the United States and developing a joint policy to meet those needs.

I would like to encourage you in your capacity as chairman of the House Subcommittee on Military Installations and Facilities to do what you can to make sure that the concerns raised by this situation are given serious attention.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin [Mr. ASPIN] has expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, my colleague has raised a very significant issue and I would like to make the following statement in response.

While I appreciate the serious condition of this school, the Department of Defense does not have the authority to fund any construction for it. That authority and responsibility lies with the Education Committees of this body.

Furthermore, legislation is already on the books that presses for the transfer of the few schools operated by the Department of Defense to the local educational authorities or back to the Department of Education. If the Federal Government should be operating public schools in this country then that responsibility should fall to the agency of the Federal Government that has that mandate—the Department of Education.

While I believe it is important that we take care of the education of our children. I do not believe that the defense bill is the proper vehicle.

Hopefully the joint study currently being undertaken with the Departments of Defense and Education will provide some guidance on how to handle this problem. This study is to be completed by September 30, 1987.

I might say to my colleague from Kansas, and to my colleagues in the House, upon completion of this particular study, the Subcommittee on

Military Installations and Facilities will hold hearings and ask both the Departments of Defense and Education to address this issue and hopefully come to some resolution.

I might say to my colleague that there are a number of children to whom my colleague alludes that fall through this bureaucratic crack. I understand and empathize very powerfully and compassionately with the gentleman's concern.

Our subcommittee will attempt to focus attention and force some significant resolution of this problem.

Meanwhile, I can assure you that I will stand with you and any other Member of Congress to add funds for these schools to the Department of Education bill when it reaches the floor of Congress and challenge our colleagues to understand the significance and the import of the issue.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin [Mr. Aspin] has again expired.

(By unanimous consent, Mr. Aspin was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. Akaka].

□ 1530

Mr. AKAKA. Mr. Chairman, I rise today to express my serious concern over section 2732 of the bill, H.R. 1748, National Defense Authorization Act for fiscal year 1988-89.

Section 2732 designates Fort Derussy, a 71-acre military installation located on Waikiki Beach, as the primary Armed Forces recreation center for the Pacific. In addition, the section prohibits the obligation or expenditure of any funds available to the Department of Defense for the purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land at that location.

Mr. Chairman, it is with a heavy heart that I rise today to offer my remarks on this matter. Heavy, because I believe that section 2732 is faulty, and I am not convinced that we would be doing the right thing in accepting the language of that section.

Let me state at the outset that I have the highest respect for the members of our Armed Forces, and that I understand quite clearly the need for our government to offer them the best recreational facilities that we can afford. The designation of Fort Derussy as a primary Armed Forces recreational facility, in some fashion, does merit consideration. Without doubt, I believe that we should ensure the maintenance of the portion of Fort Derussy now committed to recreational use.

However, I take issue with the committee's decision to restrict consideration of the sale of parts of Fort Derussy to the State of Hawaii or the city and county of Honolulu so that other citizens of our Nation too may enjoy the beauty of that area.

This issue does not have to be the "no win" one that the committee envisions; lack of a prohibition on sale, lease or rental does not automatically translate to the loss of an Armed Forces recreation center. On the contrary, I am sure that this issue can be a "win-win" one, where the lives of both military and civilian communities can be enhanced.

To appreciate how fragmented the decision to include section 2732 is, one need only review the committee's analysis of present use, requirements and future utilization of Fort Derussy.

In its report of March 24, 1987, the Subcommittees on Investigations, Readiness, and Military Installations and Facilities of the Armed Services Committee cites reasons for which the possible sale of portions of Fort Derussy would be detrimental to the morale, welfare, and moral commitment of our Armed Forces.

With deep respect, I must question the committee's analysis. A review of the report reveals that the committee appears to be less concerned with the actual recreational needs of the Armed Forces, than with the potential use of the property in the event that it is sold.

Indeed, while the report is quick to note that the issue of local potential land use, "constructing a convention center," is beyond the jurisdiction of the subcommittees, it nevertheless commits nearly six pages of attention to an in-depth analysis of that very issue. This, compared with a mere two and one-quarter pages to the need for Armed Forces recreation center.

Now, I realize that a page-to-page comparison may not be adequate statistical rebuttal, however, I do believe that it serves to illustrate the subcommittees' true concern. Is it, Mr. Chairman, proper for the subcommittees to determine whether or not the land should be sold for a particular purpose? Is it really the subcommittees' duty to decide how the State of Hawaii chooses to speculate on potential land use? And, is it even the subcommittees' job to decide whether or not the community could afford to construct a convention center on the site? I should say not.

The residents of Hawaii have shown their support for development at the site. The Department of Defense has indicated that the sale of land at Fort Derussy would be feasible. And, Congress, last year made clear that if the sale of a portion of Fort Derussy is found to be feasible, then that portion should be sold and, conveyed to the State of Hawaii or the city and county of Honolulu.

Passage of section 2732 will deny those desires for the time being. But, a lot of things have to happen between now and the time that the bill gets signed into law. I intend to keep alert every step of the way.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Pickle].

Mr. PICKLE. Mr. Chairman, in these times of world unrest when it's necessary to get the maximum benefit out of our limited budget, it becomes obvious to me we must rely on cost-effective technological solutions and place technically superior systems in our military inventory. We, as Members of Congress, have the responsibility to provide the means necessary to equip our young men and women of the Armed Forces with the weapons they must have when we ask them to face a numerically superior adversary, and win.

A practical, innovative technology to help meet these objectives is remotely piloted vehicle technology. The most cost-effective, technologically superior RPV system in the world is the Army's Aquila remotely piloted vehicle system. It allows the battlefield commander to see deep, beyond the enemy lines—utilizing his weapons effectively to their maximum range. Unfortunately, for budgetary reasons, the Aquila Program was not adequately provided for in this authorization bill. That must be changed.

Aquila is designed to be used for reconnaissance, acquisition, target designation, and damage assessment. It is the only remotely piloted vehicle system in the world designed to operate in the threatening nuclear, biological, and chemical battlefield environment of a Warsaw/NATO conflict.

We are at the crossroads in our defense posture here in the United States. With the possibility of a nuclear disarmament agreement in the near future, we here in Congress must ensure that our conventional forces are maintained at a level commensurate with any threat to this Nation. Decisions made over the next few months will, in a large part, determine the future strength and war fighting capability of our conventional forces. The Army has thoroughly tested the Aquila system, it has proven its capabilities, and we need to help get it into production.

The Army's remotely piloted vehicle may be a small part of our defense posture, but it will have a significant impact in a high-intensity military conflict. It is fully militarized and is capable of operation anywhere in the world.

Unlike other RPV's, Aquila designates for laser-guided munitions such as Copperhead and Hellfire. Aquila has the ability to guide a round to high payoff stationary and moving targets with surgical precision deep in enemy territory. For the first time in the history of warfare, artillery weapons can fire and immediately destroy moving targets.

Aquila minimizes the number of rounds fired against each target, allowing more targets to be destroyed in less time with less artillery rounds. In addition, this helps reduce the demand on our already overburdened supply lines.

An Aquila pilot will never be taken hostage behind enemy lines because there is no pilot. The air vehicle flies into a high-threat environment while personnel in the distant ground control station conduct the mission—out of reach of the enemy threat.

With Aquila's ability to see deep, the battlefield commander can attack and destroy enemy units before they have an opportunity to attack our forces.

Mr. Chairman, we hear a lot about the advantages of buying a system "off the shelf" from a brochure's unproven claims. We must be careful to avoid the trap of the man who "knew the cost of everything but the value of nothing." We must have a system that is fully militarized and designed for a multitude of environments—that's value. The Aquila system fits the bill. It is a fully militarized system, ready to go to war if need be. The development of this valuable weapons support system is behind us. The system has reached a maturity level far beyond any other RPV system. The testing is complete. The system has proven that it works.

Aquila has just completed the U.S. Army's operational test series at Fort Hood, TX. The tests were the most rigorous, robust, and extensive unmanned air vehicle tests ever conducted. The tests required that the system be integrated into the force structure and operated in a simulated wartime environment. The tests were conducted by Army troops in the field who lived with the system for 4 to 9 days at a time.

In rain and snow and Texas mud, the artillery soldiers of the Aquila battery from the U.S. Army Field Artillery Center, along with the First Cavalry Division troops at Fort Hood, flew 143 flight operational tests of this system. These soldiers flew the Aquila air vehicle more than 310 hours without a single crash. Many of the flights exceeded the air vehicle's 3-hour endurance requirement. Completion of the operational test was one of the final milestones leading to an Army production decision later this year.

The Aquila system is superior to other remotely piloted vehicle systems in the world today. Only Aquila meets the demanding requirements dictated by the Warsaw/NATO battlefield scenario. From its compact size to its versatile payload, Aquila meets combat support system requirements for mission survivability and ease of operation.

Its small size makes Aquila a difficult target. Its minuscule infrared signature makes it virtually impossible for enemy infrared-guided missiles to engage successfully. Aquila acquires precise target information. It has antijam features that enable it to evade enemy electronic countermeasures. These features were demonstrated during recent operational testing. No other RPV system existing or planned has these capabilities.

Aquila is automated from launch to recovery. It can be operated by Army personnel drawn from enlisted personnel with no specialized experience. The air vehicle operator is not required to be a trained pilot. Automated computer controls allow the operator's attention to focus on the mission.

Aquila is the only system in the world with an automatic day or night recovery system. This recovery system has been tested under the rigors of Army operational testing and proved most reliable in the recovery of Aquila air vehicles. Manual recovery techniques do not provide the responsiveness necessary to recover an RPV reliably. An automatic recovery system removes the operator from the recovery loop and is by far the superior, more reliable approach.

As would be expected, the Aquila's extensive test program uncovered system anomalies. Aquila's prime contractor, Lockheed Missiles & Space Co. and associate contractor Harris Corp., made a long-term commitment to ensure program success. The Army and Lockheed team made a total commitment to solve the problems as they were uncovered during the various test phases and to integrate necessary complex technologies to make the system effective and simple to operate by our soldiers. The Army/industry team has met their commitment!

The Aquila system is a cost-effective weapons support system. Studies show that investing in Aquila assets for one division allows that division, in a wartime situation, to accurately destroy targets many times the cost of the Aquila system. Additionally, the reduction in ammunition expense due to the increased artillery accuracy of Aquila's precision targeting and the tremendous amount of intelligence data Aquila provides, increases the cost effectiveness of the system.

Aquila, more akin to an advanced cruise missile rather than model airplanes, is very cost-effective in mission effectiveness and its capability to provide realtime, jam-resistant reconnaissance, target acquisition and target designation for laser-guided munitions over enemy territory. This fearless warrior can go where penetration by manned aircraft would be too risky. Risking an unmanned Aquila seems greatly preferable to risking expensive manned aircraft and valuable pilots' lives.

Aquila has experienced growth in the cost of the system and duration of its development. System cost growth was more apparent than real. Early system cost estimates, both by the Army and the contractor, were too low because of an underestimation of complexity of the technology required to do the system's mission, including its militarization. The initial estimates were victims of the "model airplane" syndrome, where many of us thought all that was necessary was to equip a model airplane with a sensor and go to war. Mr. Chairman, I assure you that is not the case.

In addition to understanding the task, program cost and duration grew as a result of funding cuts by Congress and early systems integration problems, and a lengthening of the test program via a "test fix test" mode that ensured that the system would sustain the Army's stringent operational testing. This cost growth, not unusual in high-technology weapon systems, is behind us. I believe that we are ready to field a cost-effective system.

Mr. Chairman, no other RPV system in the world has been so thoroughly tested. Aquila is here. It's ready for production. It meets the needs of the Army. The technical problems are solved. Its price is auditable. It is an effective weapons support system. The Army needs the Aquila system to achieve a decisive edge over a numerically superior enemy in today's environment and the postulated year 2000 battlefield. Aquila has passed its tests and is the most proven RPV in the world.

Congress is to be commended for its vision and tenacity in supporting the development of this critical capability in the past. I urge my colleagues to continue this year to support the U.S. Army Aquila. The Army wants this system. Our country needs this system.

Mr. JEFFORDS. Mr. Chairman, I rise in strong opposition to the Lujan amendment.

The stated purpose of the amendment is to retain small business eligibility for subcontracts on the ground-based free electron laser technology integration experiment at White Sands, NM. That is certainly a laudable purpose and I could support an amendment to that effect if it was carefully crafted so as not to disrupt other Federal laws. Unfortunately, this amendment is not tightly written and could cause mischief.

Although the author of the amendment has stated that he has no intent to disrupt labor agreements on the projects, the wording of the amendment itself is so imprecise that such a result could occur.

First, let me explain what the National Labor Relations Act allows in construction contracts. section 8(e) of the act—the so-called hot cargo prohibition—prohibits collective-bargaining agreements from including restrictions on the signatory employer's ability to deal with other, separate employers. This would include any restrictions against subcontracting with other employers who refuse to hire through the union hiring hall.

However, section 8(e) contains an exception to this rule in the construction industry. In the interest of avoiding friction on construction industry jobsites, the so-called construction industry provisio permits labor contracts to require the employer to subcontract exclusively to unionized subcontractors or subcontractors who agree to hire through the union hiring hall for work performed on the jobsite itself.

Such a provision can have the effect of limiting a particular project to unionized subcontractors, precluding nonunion subcontractors, who, more often than not, are small businesses. It is my understanding that a limited variation of such an agreement is in place at the White Sands project.

If this amendment were to contain an exception that would allow agreements permitted under section 8(e) of the National Labor Relations Act, I would have no objection. But, in the absence of such an exception, I think we are taking a very dangerous step toward setting up different rules governing collective bargaining related to Federal contracts.

I am also concerned that the rules would be changed in the midst of the White Sands project. It is my understanding that the entire project was bid, but under the amendment the second phase of the project would be reopened under different rules. After negotiating a project agreement that contained several concessions by the building trades, the contractor won the bid fair and square. Undermining that process does not strike me as fair.

Nor does it seem to square with the notion of Government neutrality in labor relations. On the double breasting bill, H.R. 281, some of my colleagues and I are arguing that the union share of construction has declined not so much because of double breasting but because they haven't been able to compete with open shop labor. Here they bargained on a project agreement, competed and won, and now it is proposed that we should change the rules. I can't support such an effort.

I recognize that there are those who believe that the Federal labor laws go too far in creating special rules for the construction industry. At the same time, there are those who say they don't go far enough in recognizing the unique nature of that industry and that's why we will be debating H.R. 281—the anti-double-breasting bill—on the floor soon.

Although I strongly oppose H.R. 281, I believe there are concerns on both sides which are worth addressing. But in addressing those questions, it is essential that the debate occur within the context of the National Labor Relations Act itself. We must not tread down the path of setting up separate rules for each Federal project.

For that reason, I must regrettably oppose the Lujan amendment and support the motion to strike it from the bill.

Mr. KYL. Mr. Chairman, we are about to conclude business on the fiscal year 1988 Defense authorization bill. For the past 3 weeks, we have been doing what the Constitution calls on us to do; that is, provide for the common defense, or have we?

Has this House acted responsibly in providing for this Nation's defenses? I suggest not. To begin with, the first action this body took on the defense bill was to adopt a substitute bill, $17 billion less than the President requested—representing a third straight year of negative growth in defense spending. Why? To meet our national security needs? No. The House accepted a substitute defense bill to meet an artificial, arbitrary budget resolution number!

Then the House, in its infinite wisdom deemed it in the best interest of the United States to enact the Soviet arms control negotiating position into American law. The House voted to mandate United States compliance with the never ratified and often violated by the Soviets, SALT II Treaty—without at the same time requiring the Soviets to comply with all the provisions of that same treaty.

Then the House voted to require continued adherence to the restrictive interpretation of the ABM Treaty—which just happens to be the new Soviet interpretation of that treaty. Of course, since 1972, when the treaty was negotiated, the Soviet Union has been pursuing a ballistic missile defense system under the broad interpretation of that treaty. The United States voluntarily and unilaterally restrained itself to the narrow interpretation. Now that this country has its own ballistic missile defense program—SDI—the Soviets and the liberal majority in the House have teamed up to prevent us from testing components of SDI as would be allowed under the broad interpretation of the ABM Treaty. This action is simply an attempt to kill SDI.

Speaking of killing SDI, this body took actions that are truly amazing. Nothing embodies our charge to provide for the common defense more than the strategic defense initiative. SDI offers us and our allies a true defense. But we may never see it happen. The House adopted an SDI funding level of $3.1 billion. Funding at this level represents research forever. Research forever means going nowhere fast. We need to get moving on getting this defense system up and operational as fast as we can.

And then, to add insult to injury, yesterday the House adopted an antinuclear testing amendment that is so poorly written that, if it were to become law, would prohibit—perhaps unintentionally—the United States from retaliating in the event of a nuclear attack by the Soviet Union. I can only conclude by this action that the liberals choose as a deterrence doctrine "unilateral assured destruction." Quite intentionally and in contradiction to earlier House action, this amendment would also adversely impact on this country's strategic modernization program—a program that was overwhelingly supported by this House last week when we voted to reject amendments to kill the Trident II—D-5—missile and the small ICBM programs.

Mr. Chairman, I am surprised at the choices this body has made on the most important issue we face as representatives of the citizens of the United States—defending this great country. Call it freshman inexperience, call it naivete, call it what you want, but it seems to me that on this one issue, we all could recognize the threat that faces us and the free world and act together, in a united way to address that threat. I guess not.

I am frustrated but not discouraged. I will continue to hope that this body will someday meet its constitutional responsibility. A good starting point would be to vote no on passage of this antidefense bill. Join me in providing for the common defense. Vote no on passage of this bill.

Mr. LEVINE of California. Mr. Chairman, I rise today in support of several amendments to the DOD authorization bill which would restrict direct U.S. involvement in Central America. The amendments offered today by Representatives FOLEY, MRAZEK, BOXER, and FOGLIETTA strike at the administration's continuing efforts to devote resources authorized by Congress for other purposes to the Contras.

The evidence is clear that, in addition to its covert activities, this administration has utilized funds authorized for military exercises in Central America to support the Contras in an indirect fashion. These amendments would ensure that the Contras only benefit from those funds explicitly authorized by Congress to assist them.

The Foley amendment, identical to the amendments offered by the majority leader to the DOD authorization bill in previous years, prohibits the use of funds for the introduction of United States Armed Forces into or over Nicaragua for combat. Exceptions to this ban are provided in the instance of an attack on the United States or on U.S. citizens. One would think this amendment would be unnecessary, in light of the Constitution's grant of the power to declare war to the Congress. Unfortunately, this administration's shadowy efforts to support military conflict in Central America has made such an explicit requirement necessary.

The Mrazek, Boxer, and Foglietta amendments seek to limit DOD activities in Honduras to those which are intended by the Congress to be authorized. The administration contends that the purpose of the continuing military exercises in Honduras is to maintain United States readiness, and rejects suggestions that the exercise are designed to show support for the Contras or build a permanent United States military presence on Nicaragua's northern flank.

If Congress is to take these assertions seriously, the administration should not object to these amendments.

These amendments would:

First, bar United States manuevers within 20 miles of the Nicaraguan border in either Honduras or Costa Rica;

Second, require the President to certify that construction undertaken by the United States military in Honduras will not subsequently be used in support of the Contras unless specifically authorized for this use by Congress; and

Third, delete $4.1 million for military construction in Honduras that is earmarked for semipermanent housing and recreational facilities for United States troops.

Unfortunately, it appears clear that the administration refuses to back down from its one-track military solution for Central America. Honduras is becoming littered with semipermanent United States military installations. Even as new details of the administration's illegal actions in support of the Contras are being unearthed, it is pressing on with its program of indirect support for the Contras.

The time is coming, though, when this administration will no longer be able to get the direct support for the Contras which it won last year. Let us take action today to prevent the administration from circumventing congressional intent once again when that day comes.

I urge your support for the Foley, Mrazek, Boxer, and Foglietta amendments.

Mr. AuCOIN. Mr. Chairman, I will vote for this defense authorization bill. There are various changes I would make if I could, but overall it has some extremely valuable advances.

This bill renews the bilateral prohibition on flight testing antisatellite weapons against targets in space. This is the only new arms control of the 1980's. It first became law as the AuCoin amendment to the fiscal year 1986 continuing resolution, and now I'm pleased to have helped in its second 1-year renewal.

We have the bilateral 1-kiloton nuclear warhead test ban, which the Appropriations Committee recently passed, and the House approved, as another AuCoin amendment. Now we've repassed it as the Schroeder amendment, and I was honored to have been chosen by the leadership to head the whip task force in support of this amendment.

We have the enforcement of the restrictive interpretation of the ABM Treaty, which began as House Joint Resolution 42, the AuCoin resolution, which I introduced at the beginning of the year. Now the Armed Services Committee brought it to use in somewhat different form, but the result is the same.

Finally, the bill has compulsory SALT II compliance, on which I have worked with Mr. DICKS since President Reagan first indicated his intention to violate this treaty.

Mr. Chairman, if I sound a bit like a proud father here, that's because I am. Seeing a defense spending bill that actually promotes peace is a heartening experience. I hope and expect that, before the year runs its course, we will have persuaded the other relevant branches of Government that there is no substitute for controlling arms.

The CHAIRMAN pro tempore (Mr. RUSSO). Pursuant to section 3 of House Resolution 160, all amendments printed in House Report 100-84 having been disposed of, as permitted by House Resolution 160, the question is on the amendment in the nature of a substitute, as modified, as amended.

The amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. RUSSO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1748) to authorize appropriations for fiscal years 1988 and 1989 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1988 and 1989, and for other purposes, pursuant to House Resolution 160, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. MURPHY. Mr. Speaker, I demand a separate vote on the so-called Lujan amendment, amendment No. 62, and I ask unanimous consent that I be given 3 minutes to explain the motion.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DICKINSON. Mr. Speaker, reserving the right to object, is my understanding of the rules of the House correct that this amendment would just automatically be up for a separate vote without discussion; is that correct?

Mr. SPEAKER. The gentleman correctly states the rule.

Mr. DICKINSON. Mr. Speaker, I very reluctantly interpose an objection to that unanimous-consent request.

The SPEAKER. Objection is heard.

Mr. COLEMAN of Texas. Mr. Speaker, I must rise in opposition to the amendment offered by the gentleman from New Mexico, Mr. LUJAN.

On Monday, I and other colleagues had a colloquy with Mr. LUJAN to express our concern that his amendment would have an adverse impact on the existing contract between Fluor Constructors, Inc., and the U.S. Army Corps of Engineers for the construction of the Ground Based Free Electron Laser Technology Integration Experiment at White Sands Missile Range, NM. In that colloquy, Mr. LUJAN stated that his amendment would not delay phase I or phase II of the existing contract, was not intended to "upset existing contracts," nor was the amendment "directed at union or nonunion activities." Based on those assurances, we did not seek to modify or oppose his amendment, for we agreed that small businesses should be given every opportunity to compete for subcontracts.

Since that time, however, two issues regarding the amendment have come to light which contradict Mr. LUJAN'S statements.

First, Mr. LUJAN has made statements to the press indicating that indeed his amendment would address the existing contract and phase II of the existing contract and agreements between the contractor and unions. This is contrary to what he told me and other Members on the floor of the House when his amendment was under consideration.

Second, the chairman of the Armed Services Committee, the chairman of the Labor-Management Subcommittee, and the contractor have all informed me that they believe the amendment as drafted is contrary to Mr. LUJAN'S statements on the floor and therefore would not correctly address the problem he has raised. They also believe the language in its ambiguous and broad form would in fact jeopardize the existing contract.

I am greatly concerned with these revelations about the Lujan amendment. Surely, we all seek to provide assistance to small businesses in our region of the country. In fact, small businesses and small-disadvantaged businesses have received contracts. According to the contractor, of 22 purchase order contracts awarded, 9 have gone to small businesses and 5 to small disadvantaged businesses. Of this amount, 11 were in New Mexico and 3 in Texas. Of the two subcontracts awarded to date, one has gone to a small business in New Mexico, the other to El Paso Sand and Gravel. So we are aware that small businesses and small disadvantaged businesses are indeed in the running.

What disturbs me about these contradictions is that they could potentially delay the existing contract and later contracts. As drafted, the existing contract could be enjoined or defaulted which would delay the project for a minimum of 6 months. That will delay a project for which funds have already been appropriated. Any economic impact on the economy of west Texas or southern New Mexico this project would have had would be delayed, and quite possibly could be terminated if the funds appropriated were to slip. I find it hard to believe that is the intention of the gentleman in offering this amendment.

Finally, let me say that I am disgusted by the underlying attitude of debate on this issue. Many people are treating the Ground Based Free Electron Laser-Technology Integration Experiment as nothing more than a public works project. Certainly we would like to benefit from the jobs, but that is not the goal of this project. Just because one firm got a contract and another did not is no grounds for dismissal of a contract and delay of an important experiment.

If these special interests seek to overturn New Mexico's labor statutes, they should do so in the State legislature, according to Taft-Hartley. If they seek to prohibit unions from working on Federal construction projects, they should introduce legislation.

I do not want this project delayed or possibly terminated and I therefore must oppose the gentleman's amendment.

Mr. BENNETT. Mr. Chairman, I am pleased that this bill contains, in section 809, as reported, provisions to establish a conventional defense advisory board in the Department of Defense [DOD]. This provision is the same as a bill I have introduced, H.R. 52, which has been cosponsored by a bipartisan group of 43 Members. As the committee report notes, the committee has incorporated my bill into the Defense Authorization Act in order to complement the committee's other conventional defense initiatives. The purpose of the bill is to ensure that conventional defense matters receive greater consideration in both the DOD and Congress.

PROVISIONS OF THE BILL LEGISLATION

The board would be established within the Department of Defense, and would examine all aspects of conventional warfare relating to our Armed Forces, with particular regard for the conventional defense of Europe. The board would specifically examine and make recommendations concerning the adequacy of research and development programs, procurement and all programs affecting the sustainability of forces.

The board members would be appointed by the Secretary of Defense. Members would be selected from within DOD itself, from defense industries, and from the academic and research community. In order to carry out its mission the board would be granted access to such information as it may require, subject to the usual security precautions.

At a minimum, the board would prepare by March 1 of each year an annual report for the Secretary of Defense. The annual report would address the relationship between current programs within DOD and their impact on improving the conventional deterrent. The report would, at a minimum, address both shortfalls and excesses, and recommend actions to correct these imbalances. The Secretary of Defense would then forward this annual report to Congress within 30 days of its receipt, along with any additional views he may desire to express. In addition, the Secretary may require additional reports from the board.

The proposed board is an inexpensive but excellent tool for initiating needed improvements. The bill does not call for funding, since DOD members would serve on the board as an additional unpaid duty, while academics and industrialists would be asked to perform this partriotic duty without pay. A similar arrangement within the Defense Science Board [DSB] has proven successful. Furthermore, as within the DSB, the board members would only meet as required by the workload and would function within ad hoc committees. This would avoid the growth of a large associated bureaucracy.

NEED FOR THE LEGISLATION

This board is both needed and long overdue. Ever since the end of the Second World War, a disproportionate amount of attention has been devoted to glamorous strategic nuclear systems at the expense of nuts and bolts conventional defense matters such as airlift, heavy ground forces, sealift, CAS aviation and air superiority aviation. A prime example of the need for greater attention to conventional weapons is the case of the infantry antitank weapon. The Army has yet to deploy an effective antitank weapon for the infantry soldier. A conventional defense advisory board could spur the development of such a weapon, and prevent similar failures in the future.

This bill in no way downplays the supreme importance of strategic nuclear systems. We all realize the importance of this weaponry to our Nation's defense. Nevertheless, it is widely recognized that our conventional forces could not alone defeat a Warsaw Pact attack in Europe. The Warsaw Pact has a decided advantage in conventional combat potential over the NATO alliance.

At present, NATO's strategy of flexible response calls for the use of conventional forces until defeat is imminent, and then escalation to the use of tactical nuclear weapons. The supreme allied commander in Europe, Gen. Bernard Rogers, has made it clear that if war broke out in Europe it would only be a matter of days before he would be forced to request permission to employ nuclear weapons. Such a hair trigger situation is absolutely intolerable, more importantly, it need not exist at all.

In light of the momentum in the negotiations to reduce or remove intermediate and short range nuclear weapons from Europe, we must improve our conventional deterrent. We are firmly committed to the defense of Europe and have been for more than 40 years, not only because of our historically close ties and the sacrifices of our soldiers in two wars, but because we realize the immense importance of Europe to our security and to the security of all free nations in the world.

Improving our conventional forces would accomplish very important goals. First, by increasing the viability of our conventional deterrent, we raise the dangerously low nuclear threshold. Second, by improving the conventional deterrent, we further the possibility of effecting major reductions in nuclear arsenals without sacrificing our security. Third, a conventional defense advisory board would indicate our commitment to a credible conventional deterrent and may give the Soviets incentive to agree to substantial conventional reductions. Senator NUNN recently suggested, among other things, the removal of 30 Soviet tank divisions from Europe as a means of establishing a more equitable conventional balance. Before we agree to large reductions in our nuclear arsenal, we must demonstrate our commitment to conventional forces. It would be a shame to forego achievable cuts in nuclear weapons and increased security and stability because of correctable weaknesses in the conventional realm.

Mr. FRENZEL. Mr. Chairman, we have debated our defense policy for 1988 for over 2 weeks now, and finally reconfronted with final passage of a huge and complex bill. Despite the great effort put into the bill by committee members and by the House, and despite my approval of several arms control and program reforms, I oppose its passage. I do so primarily on fiscal grounds.

Mr. Chairman, when the House adopted the Aspin substitute, it on paper brought this bill to within the guidelines of the House-passed budget resolution. However, its savings were, in my estimation, insufficient given the need to make dramatic spending reductions in order to reduce our budget deficit.

The House achieved the budget goal only by some outright deception, including $4.7 billion of "savings" to be achieved simply by not paying any Defense Department bills in the final 10 days of the fiscal year. Moreover, in my judgment the level provided in the House budget was more than necessary. A budget I introduced after careful study of possible defense savings set 1988 Defense budget authority at $284 billion, compared to this bill's final level of $288.6 billion.

Adding the fake "savings," this bill becomes nearly $10 billion higher than my standard. In an authorization bill, some excess enthusiasm can be tolerated, but $10 billion is a little strong for me.

Beyond my disappointment in the aggregate levels, I oppose the bill for several specific failures. The House once again refused to consider Davis-Bacon wage standard reform that would save huge sums of money. It provided for production of two new multibillion dollar replacement aircraft carriers, which in my view are certainly premature and probably unnecessary. And the House rejected the Armey amendment to facilitate closing of outdated or unnecessary military bases, a provision that could save up to $5 billion.

These failures are basic. They indicate to me that the House has yet to take seriously the need to eliminate major wasteful, or unnecessary expenditures, particularly if they affect interests in a large number of congressional districts. Instead the House indulged itself mostly in fly-specking. It toyed with amendments best described as micromanaging, rather than grappling with basic spending problems.

Of course, we ought to have a defense authorization bill. We need most of the spending provided in this bill. However, this bill overdoes it, and despite my approval of several provisions affecting arms control and other program reforms, I shall oppose it.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: At the end of title VIII of division A (page 117, after line 25), add the following new section:

SEC. 812. PROHIBITION ON CERTAIN CONTRACTS FOR GBL-TIE.

The Secretary of Defense may not enter into a contract for the ground-based free electron laser technology integration experiment at White Sands, New Mexico, if the contract would hinder the ability, either directly or indirectly, of any small business to be awarded subcontracts under the contract.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. LUJAN. Mr. Speaker, I have a parliamentary inquiry.

Was that on the request of the gentleman from Pennsylvania?

The SPEAKER. The voice vote, the Chair will advise the gentleman from New Mexico, has just been taken on the adoption of the amendment offered by the gentleman from New Mexico to the committee amendment.

Mr. LUJAN. In that case, Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 93, nays 324, not voting 15, as follows:

[Roll No. 139]

YEAS—93

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Byron
Callahan
Chandler
Cheney
Coble
Combest
Crane
Daniel
Daub
DeLay
Dickinson
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich

Gregg
Hall (TX)
Hansen
Hefley
Herger
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Kolbe
Kyl
Latta
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Mack
Marlenee
McCandless
McMillan (NC)
Meyers
Molinari
Montgomery
Moorhead
Nichols
Packard
Parris
Ravenel
Rhodes
Rogers
Schaefer
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stump
Sweeney
Swindall
Valentine
Vucanovich
Walker
Weber
Whittaker
Wolf
Young (FL)

NAYS—324

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Burton
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Courter
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson (FL)
Nielson (UT)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NOT VOTING—15

Annunzio
Biaggi
Bruce
Cooper
de la Garza
Duncan
Ford (TN)
Gephardt
Gray (PA)
Green
Jones (NC)
Ray
Roberts
Roemer
Vander Jagt

☐ 1545

Messrs. McMILLEN of Maryland, HENRY, PURSELL, NIELSON of Utah, COLEMAN of Missouri, GOODLING, LEACH of Iowa, HUGHES, and McEWEN changed their votes from "yea" to "nay."

Mr. STENHOLM changed his vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment in the nature of a substitute, as modified, as amended.

The amendment in the nature of a substitute, as modified, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BROOMFIELD. Yes, Mr. Speaker; in its present form, I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Broomfield moves to recommit the bill, H.R. 1748, as amended, to the Committee on Armed Services, with instructions to report the bill back to the House forthwith following amendment: At the end of division A of the bill add the following new section:

SEC. . RECIPROCITY OF OBLIGATION TO OBSERVE STRATEGIC ARMS AGREEMENTS.

(a) Reciprocity.—Section 812 (relating to SALT II sublimits), section 224 (relating to the ABM Treaty), and section 3135 (relating to nuclear testing) shall not apply during any period in which the Union of Soviet Socialist Republics is not in compliance with a U.S.-Soviet arms control agreement.

(b) Definition.—For purposes of this section, "U.S.-Soviet arms control agreement" means any treaty or other international agreement between the United States and the Union of Soviet Socialist Republics concerning limitation of offensive or defensive strategic arms or of the testing of nuclear explosive devices.

The SPEAKER. The gentleman from Michigan [Mr. Broomfield] is recognized for 5 minutes.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. Dickinson] the ranking member of the Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have come to the end of a very long and arduous deliberation on this bill, 2½ weeks.

There is a motion to recommit that will make the bill somewhat better. If it does not pass, I am asking all of the Members to vote final passage down.

This bill, and I have a letter here from the head of OMB, and it is my feeling also, the Aspin substitute, the very thing you voted on to take out $18 billion out of this bill gives us the third year of negative spending.

We have imposed conditions in this bill that the administration cannot live with, such as the moratorium on the Asat, such as the inability to pass our over 1 kiloton weapons, to develop many programs that are necessary that have been put in here that should not be in this bill, but they are.

This is a bad bill. I would urge a no vote.

I have asked the President to veto it, and I believe that he will veto it, so I would urge the Members, this is a bad bill. It is the wrong time; it contains the wrong things, and vote no at this time. If this does not pass, it certainly is in order; and I would urge you to do it.

☐ 1600

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are coming to the close of a long and difficult debate on defense authorization.

The bill, as it stands now, falls short on our national security needs and represents 3 straight years of negative growth in the defense function.

What troubles me most is that the bill contains amendments on arms control that assault the President's ability to conduct foreign policy. These provisions are sure to invoke a Presidential veto. It seems as though the majority leadership is seeking confrontation with the President.

Arms control negotiations should be between the United States and the Soviet Union—not between the President and the Congress. Would anyone argue that there are dynamic, substantive, negotiations going on right now in Geneva? Congressional pressure for selective compliance with arms control agreements undercut the United States response to Soviet violations.

It is a sad commentary, indeed, when the Congress cannot produce a bipartisan bill that successfully promotes the defense of our Nation.

The House was not given the opportunity, provided for in the rule, to vote on my reciprocity amendment embodied in the motion to recommit.

My motion to recommit is simple and self-explanatory.

We should not be forcing our Nation to adhere unilaterally to arms control agreements which everyone knows the Soviets have violated.

Yet, this bill forces us to do exactly that. It contains provisions that requires our Nation to adhere to the SALT II Treaty, the ABM Treaty, and creates a moratorium on nuclear testing. In each of these areas there is ample evidence that the Soviet Union is violating existing agreements.

I believe Members should have the opportuntity for a straight up or down vote on whether the Soviet Union can violate its arms control commitments with total impunity.

The DOD defense bill should be designed to promote national security. The so-called arms control provisions currently in this bill do just the opposite. They undermine that goal.

Once again, let me repeat, this motion to recommit is very simple. It embodies a principle which has the broad support of the American people. For that reason, I think every Member of this body should ask a basic question: Should the United States be forced to adhere to arms control agreements which everyone agrees the Soviet Union is violating?

The motion to recommit gives every Member of the House an opportunity to support the President and to return to bipartisanship in the conduct of our national security policy.

Let's support our President in his effort to conduct meaningful negotiations with the Soviet Union in Geneva.

I urge Members to support my motion to recommit.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have already dealt with the issues that the gentleman from Michigan is raising in his motion to recommit at several points in the debate the last 2½ weeks. We are hearing the same arguments that we have heard before on each of these arms-control amendments. For us to vote now for this motion to recommit having voted for the arms control amendments before would be totally inconsistent. I urge a "no" vote on the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 172, nays 247, not voting 13, as follows:

[Roll No. 140]

YEAS—172

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Gradison
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers
Nielson (UT)
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Upton
Valentine
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—247

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson (FL)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—13

Annunzio
Biaggi
Bruce

Cooper
Duncan
Ford (TN)
Gephardt
Green
Jones (NC)
Ray
Roberts
Roemer
Vander Jagt

☐ 1610

The Clerk announced the following pair:

On this vote:

Mr. Roberts for, with Mr. Biaggi against.

Mr. COUGHLIN changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 177, not voting 16, as follows:

[Roll No. 141]

YEAS—239

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Bevill
Bilbray
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Coughlin
Coyne
Daniel
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Richardson
Ridge
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—177

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Crockett
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
Dellums
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Dymally
Edwards (CA)
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Garcia
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kastenmeier
Kemp
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mineta
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Nowak
Owens (NY)
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Quillen
Rangel
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Rogers
Roth
Roukema
Rowland (CT)
Roybal
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stark
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weiss
Weldon
Whittaker
Williams
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—16

Annunzio
Berman
Biaggi
Bruce
Conte
Cooper
Duncan
Ford (TN)
Gephardt
Green
Jones (NC)
Markey
Ray
Roberts
Roemer
Vander Jagt

☐ 1625

The Clerk announced the following pair:

On this vote:

Mr. Green for, with Mr. Roberts against.

Mrs. COLLINS changed her vote from "nay" to "yea".

So the bill was passed.

The result of the vote was announced as above-recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 1988 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for fiscal year 1988 for the Armed Forces, to authorize appropriations for fiscal year 1989 for certain specified activities of the Department of Defense, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONTE. Mr. Speaker, I was unavoidably detained during the vote on final passage of H.R. 1748, the Defense authorization bill. Had I been here, I would have voted "yea."

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Wednesday, May 20.

If I had been present:

On rollcall No. 134, on voting to approve the Journal, I would have voted "yea."

On rollcall No. 135, the Mrazek and Brennan amendment to bar military maneuvers by U.S. forces in Honduras or Costa Rica from being conducted within 20 miles of the Nicaraguan border, I would have voted "yea."

On rollcall No. 136, the Boxer amendment to require the President to certify to Congress that facilities constructed as part of any U.S. military exercise in Central American will not be used in support of the Contras unless specifically authorized by Congress, I would have voted "yea."

On rollcall No. 137, the Foglietta amendment to delete $4.1 million for military construction in Honduras, I would have voted "yea."

On rollcall No. 138, the Davis amendment to express the sense of Congress that the President should withdraw recognition of the current Nicaraguan Government and recognize the Contras as the legitimate government, I would have voted "nay."

On rollcall No, 139, the separate vote on the Lujan amendment, I would have voted "nay."

On rollcall No. 140, on the motion to recommit, I would have voted "nay."

On rollcall No. 141, on final passage, I would have voted "yea."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1846. An act to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1748, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1988

Mr. DYSON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1748, as amended, the Clerk be authorized to make such clerical and technical corrections, including title and section numbers and cross references, as may be necessary.

The SPEAKER pro tempore (Mr. COELHO). Is there objection to the request of the gentleman from Maryland?

There was no objection.

GENERAL LEAVE

Mr. DYSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 1748, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ADJOURNMENT OF THE HOUSE, AND SENATE FROM THURSDAY, MAY 21, 1987 TO WEDNESDAY, MAY 27, 1987

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 127) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 127

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 21, 1987, it stand adjourned until 12 o'clock meridian on Wednesday, May 27, 1987, and that when the Senate adjourns on Thursday, May 21, 1987, it stand adjourned until 11 o'clock ante meridiem on Wednesday, May 27, 1987.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SCHOOL IMPROVEMENT ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 172 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 172

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 172 is an open rule providing for the consideration of the bill H.R. 5, the School Improvement Act of 1987.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Education and Labor.

All points of order against the bill for failure to comply with clause 2(L)(6) of rule XI, that is the rule that requires that committee reports be available for members for 3 days prior to consideration on the floor, are waived, Mr. Speaker, the Committee on Education and Labor filed their report on May 15, 1987. However, since printed copies of the report were not available for members until May 18, the waiver of rule XI, clause 2(L)(6) is necessary.

The rule also provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Education and Labor now printed in the bill as original text for the purpose of amendment under the 5 minute rule, and further provides that the committee substitute shall be considered for amendment by titles, and that each title will be considered as having been read.

Mr. Speaker, The rule makes in order two waivers of points or order against the committee substitute. The first waiver is clause 7, of rule XVI, the germaneness waiver. This is necessary because language that makes permanent changes in law is not germane to a bill. The committee amendment in the nature of a substitute provides several permanent changes in law, for this reason, a waiver is needed.

The second waiver against the committee substitute, is clause 5(a) of rule XXI, which prohibits appropriations in a legislative bill. There are several provisions in the bill that require this waiver, and because of the importance of the bill and to allow for the consideration of the bill the rules committee felt it necessary to provide the waiver of clause 5(a) of rule XXI.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 5, the School Improvement Act of 1987 is one of the most important education bills that we in Congress have dealt with in many years. The bill we have before us today would reauthorize every major program that the Federal Government supports for elementary, secondary, and adult education for 6 fiscal years, 1988 through 1993.

The bill is an omnibus bill that incorporates vital education programs into one major piece of legislation. Programs such as chapter I of the Education and Consolidation and Improvement Act, which deals specifically with disadvantaged children. Chapter 2 of the same act which provides elementary and secondary education block grants to States. The bill further provides for bilingual education programs, drug awareness programs, and adult education programs, to help alleviate the serious adult literacy problem that this country is facing today.

Mr. Speaker, I would like to commend the chairman of the Education and Labor Committee, Mr. HAWKINS, and the ranking minority member, Mr. JEFFORDS, for the effort and the leadership that was shown in constructing a bill that will continue to improve our Nation's education system.

I urge my colleagues to adopt this resolution and to adopt H.R. 5, the School Improvement Act of 1987.

□ 1640

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained by the gentleman from Massachusetts [Mr. MOAKLEY], and I, too, want to congratulate the majority, the gentleman from California [Mr. HAWKINS], the gentleman from Pennsylvania [Mr. GOODLING], and other members of the committee for bringing out such an important bill today.

It is mandatory that we pass it because education is so important to the future of this Nation.

Mr. Speaker, I am always happy to support education programs because they are a wise investment in the country's future. I have seen the beneficial results of Federal assistance to our school systems up and down my district. We have a long way to go, to be sure. But we have made progress since my school days and part of this process is because of Federal aid and Federal programs.

Nothing is more distressing than the waste of human potential through lack of a good education. And nothing is more important in preventing such waste than the effort to dispel ignorance with good schools, good teachers and first rate instruction materials. Without a good education, most young people are deprived of a chance to reach their full potential. And if allowed to become widespread, this personal defeat can produce defeat for the country. In this competitive world, America cannot succeed if a large part of her people are uneducated or poorly educated.

So this education bill is one of the most important bills we will vote on this year because it will affect the future of our people and of our country in ways that few other bills will.

The Education and Labor Committee has earned our support for this bill. I urge adoption of the rule so we may proceed to its consideration and passage.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. WEISS). Pursuant to House Resolution 172 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5.

□ 1645

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, with Mr. VOLKMER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, education is the single most important issue facing the Nation today. It is the foundation upon which our economic security, international competitiveness, and national defense are based. It is the key to a balanced budget and a growth economy.

As the National Commission on Excellence in Education, so poignantly stated:

> Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world.
>
> While we can take justifiable pride in what our schools and colleges have historically accomplished and contributed to the United States and the well-being of its people, the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people * * * others are matching and surpassing our educational attainments.
>
> If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. We have, in effect, been committing an act of unthinking, unilateral educational disarmament.

We have before us, today, in the provisions of H.R. 5, a rearmament declaration: the tools necessary to attack illiteracy; to stem the tide of educational drop-outs; to reverse declining test scores; to close the gap in math, science, and advanced skills; and to achieve equity and excellence.

H.R. 5 is the most comprehensive education reauthorization bill to be considered by this body in almost a decade. The School Improvement Act of 1987 has broad bipartisan support, and I would like to take this moment to express my commendation of Mr. JEFFORDS—and my deep appreciation to my colleague, Mr. GOODLING, for his tireless efforts in working to fashion this consensus bill, as well as the other dedicated members of the Education and Labor Committee who worked so hard to bring this omnibus legislation before us today.

SUMMARY OF H.R. 5

Briefly, I would like to summarize the major provisions of H.R. 5.

First, it is the consolidation of 14 expiring programs and reauthorizes them through 1993.

Second, adds new authorizations over current policy of $779 million without exceeding function 500 budget limits.

Third, extends the current chapter 1 program with a preschool component—$50 million—which also includes parental involvement; a secondary program to target dropout prevention and national demonstrations to upgrade basic skills development—$100 million.

Fourth, the bill orders a concentration of funds to reach the neediest without shortchanging any districts currently receiving aid.

Fifth, we strengthen accountability.

Nonimproving schools are held accountable to the State educational agencies.

Improving schools are rewarded—schoolwide plans; 5 percent local matching for innovative programs.

Sixth, H.R. 5 restores parental involvement in design and planning.

A. Without mandating councils, we call for participation in parent-school relations through training, and training in assisting parents in their children's learning.

Seventh, this bill helps private schools that were adversely affected by the 1985 Supreme Court Felton decision, to better cope with the additional costs of services for chapter 1 private school children.

Eighth, we reauthorize the Adult Education Act, and increase funding, provide outreach, State matching, and community input to encourage volunteer action.

Ninth, in bilingual education, we strongly support a continuation of using the student's native language as an effective way to reach English proficiency, while at the same time, have fashioned a delicate compromise which will continue these programs and allow the increased use of alternative methods of instruction provided additional funds are voted.

Tenth, chapter II contains greater encouragement of innovation and effectiveness.

Eleventh, refocus of math and science programs; provide $25 million for gifted and talented; and retention of Impact Aid and Drug Free Schools Program.

Twelfth, cost in every decision we, as policymakers, debate, we must weigh the benefits and the costs of our actions. In the case of investing in the education of our children.

Achieving a more skilled and productive work force;

Increasing our international competitiveness; and

Increasing individuals' earnings, so that more money flows into the Treasury instead of out in the effort to deal with the negative effects brought on by lack of education.

There are all benefits which far outweigh the costs envisioned in H.R. 5.

This omnibus legislation epitomizes what a strong democracy is all about. I urge you to join with me and our colleagues from both sides of the aisle in voting yes on H.R. 5. The most significant investment the 100th Congress will make in our greatest assets, the education of our children, and the development of our human capital.

□ 1650

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the distinguished ranking member, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise to speak in support of H.R. 5, the School Improvement Act of 1987.

The Committee on Education and Labor is once again being looked to as a source of important legislation to address the major problems facing our Nation. Current legislation dealing with trade, health, and welfare all contain significant education provisions. Congress is looking to educators and students across the country to create the conditions for change that must occur in order for America to maintain its social, economic, and competitive position in the world.

H.R. 5, the School Improvement Act of 1987, is the backbone of the Federal effort to assist elementary and secondary schools in this effort. This legislation would reauthorize chapter 1, chapter 2, the Education for Economic Security Act—the math and science program—the Bilingual Education Act, the Adult Education Act, and many other smaller programs which focus on specified educational areas. In addition, it would create a limited number of new authorizations to address pressing national problems, such as school dropouts.

During the past 7 years the Federal involvement in education has evolved. Programs that were no longer needed have been eliminated, small categorical programs have been consolidated with great success, and the programs that have proven track records, strengthened and improved.

Chapter 1, educational assistance for disadvantaged students, is an excellent example of this latter category. After 20 years, it is now widely acknowledged as a program that is fine tuned and effective. Every year thousands of Vermont youngsters receive extra educational assistance through chapter 1. At a committee hearing held in Waterbury, VT, we heard from teachers, parents, and students that this is a successful program and that its continuation is critical.

Members of the Education and Labor Committee have taken great care to make adjustments in chapter 1 while avoiding the temptation to tinker with those parts that work. At the full committee markup, I offered an amendment which would create a minimum grant level of one-quarter of 1 percent in the chapter 1 basic grants section. This will allow small States to continue to serve its students regardless of changing economic and demographic conditions in the State and the Nation. For example, with sufficient new funding, Vermont's chapter 1 grant would increase over 20 percent when compared to what it would receive under H.R. 5 without such a provision. I would add that the minimum funding provision was carefully constructed to ensure that no State would lose existing chapter 1 funds as a result of its implementation. I am convinced that chapter 1, as reported from committee, will effectively continue to serve our children into the next decade.

H.R. 5 also includes amendments to the chapter 1 Handicapped Program. The effect of these amendments would be to clarify the purposes of the program, bring the chapter 1 program into alignment with part B of the Education of the Handicapped Act, and foster new and innovative approaches to increasing opportunities for handicapped children to participate with their nonhandicapped peers. These amendments would not alter the funding formula in current law, nor change the fundamental structure or purpose of the chapter 1 Handicapped Program. Under these amendments States can continue to support preschool programs for the handicapped, educational programs for the severely handicapped in a variety of settings, and support handicapped children from State programs who are transferred to local education agencies.

There are many other provisions in H.R. 5 that are worthy of attention and praise, but given the length of the bill and the shortness of time, I will only address one other specific part of the legislation. Title VII of H.R. 5 contains the reauthorization of the Bilingual Education Act. This program is both very controversial and very important to the education of millions of limited English-speaking students. I was involved in the negotiations that led up to the compromise we are considering today and can report on the good faith of all the members involved. There were some of us who originally felt that this legislation should go further in terms of allowing increased flexibility for school districts. However, this compromise moves the bilingual education program in this direction, while establishing a broad base of support for its continuation.

In closing, I would like to congratulate all my colleagues on the Committee on Education and Labor for their hard work in constructing this bill. I would like to especially recognize Mr. HAWKINS and Mr. GOODLING, chairman and ranking member of the Elementary, Secondary, and Vocational Education Subcommittee, for their fine craftsmanship that is evident throughout the bill. H.R. 5 is a disciplined piece of legislation, avoiding the temptation to create numerous new programs. Its most important function is to extend a number of tried and true educational programs, while extending the federal role into a select number of new areas. I urge my colleagues on both sides of the aisle to join me in support of this legislation.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I am pleased to rise in support of H.R. 5, the School Improvement Act of 1987.

I would like to observe that in 1965, at the very earliest stages of that Congress, it was my privilege as a new Member of this body to come to this floor with the same subcommittee and stand beside the gentleman from California [Mr. HAWKINS] as we passed Lyndon Johnson's initiative of that year for the Elementary and Secondary Education Act, which is really the father of all these programs that are being reauthorized in this legislation.

Over the many ensuing years we have learned a lot, and we have had some tough budget times. We have had to accommodate to those, and they have done some damage to the legislation. But basically over the years it has brought us to where we are now, with a piece of legislation that takes a very realistic view of the budget and a very realistic view of the needs of education for the targeted population. I think it strikes a reasonable balance that will be supported overwhelmingly by this House.

Mr. Chairman, I want to pay my special tribute and give thanks to the gentleman from California [Mr. HAWKINS], chairman of the full committee, and I want to acknowledge the cooperation of the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Vermont [Mr. JEFFORDS], from the minority side of the committee in bringing to the floor as well-balanced and a good piece of legislation that all of us can proudly support. I think it is in the fine tradition of the Committee on Education and Labor that has tried always to move ahead to the future.

Mr. Chairman, this is an omnibus bill, incorporating extensions of authorization for 14 Federal elementary and secondary education programs slated to expire in fiscal years 1987, 1988, and 1989. H.R. 5 continues the Federal commitment to education begun many years ago, and we continue it now for another 5 years into the future. Everything that I see and hear out across the country indicates that the American people would want this to be so.

I believe this is a good piece of legislation, I commend it to all the Members for their study, and I know they will be proud later to have participated in putting this legislation on the books.

Mr. Chairman, it was in 1965 that what is still known and referred to as title I of the Elementary and Secondary Education Act [ESEA] was originally enacted as a cornerstone of President Lyndon B. Johnson's War on Poverty. In 1981, the legislation authorizing this program of compensatory education for educationally disadvantaged children, was substantially revised and is now chapter 1 of the Education Consolidation and Improvement Act [ECIA]. Even so, the program's stated aim remains the same as it was in 1965, to serve disadvantaged children who attend schools serving relatively low-income areas.

Chapter 1 has always been a highly targeted program, and studies show that those children intended to be served are being served. Recent studies show that program objectives, such as enhancing educational opportunities for children in low-income families, and raising the academic achievement of those children, are being met. Chapter 1, as improved and expanded under H.R. 5, will continue to provide equal educational opportunities for disadvantaged children.

Mr. Chairman, H.R. 5 continues and enhances our longstanding commitment to educational opportunity in this country, not only for chapter 1, but for 13 other Federal education programs encompassed in the bill. H.R. 5 achieves this by offering programs that are intended to reaffirm, as a Federal policy, the assurances that each school-age child and, in many cases their parents, will have access to quality education, that children with special needs will have those needs met, and that excellence will continue in abundance, to be an integral part of our public education system.

Because the overwhelmingly successful chapter 1 program is primarily intended to reach a targeted group of children—those attending school in low-income areas, but who also have need of remedial education, the committee strongly believed that there was a need to make concentration grants available—so that school attendance areas—counties and school districts—could concentrate their chapter 1 grants in schools with high numbers or percentages of disadvantaged children—and thus reach many more eligible children than such schools have been able to serve in the past. This provides for better targeting, while protecting the basic chapter 1 grant by providing for $400 million over and above the fiscal year 1987 funding level specifically for concentration grant purposes.

H.R. 5 extends and revises chapter 2, the education block grant to the States. It has been streamlined to the extent that, while it still serves all school-age children, it does so through programs selected at state and local discretion and implemented according to established need. Chapter 2 has been further revised to impose new requirements as well as provide incentives for State and local educational agencies, so that block grants will be used to support effective schools and to require State and local accountability for the expenditure of these scarce Federal grant funds.

In the case of both chapters 1 and 2, H.R. 5 expresses the sense of the Education and Labor Committee that each program deserves and very much requires full funding so that no child will be deprived of a free and appropriate public education.

I would be remiss if I did not commend my colleague, Mr. Goodling the ranking minority member of the committee, for his foresight in offering the Even Start Program as part of H.R. 5—a program designed to assist not only eligible chapter 1 children with remedial education needs, but also to provide literacy training programs for semiliterate parents of those children. This will involve those parents in the education of their own children, while being educated themselves. This important program will give answer to the urgent recommendation of the experts that a child that is read to at home, by his or her parents, is better able to achieve academically than the child whose parents cannot read to them, or otherwise be involved in their scholastic experiences. The parents of those children will now have that chance. I am very pleased that 3 percent of funds appropriated for Even Start will go to migrant children and their parents.

H.R. 5 extends and revises title II of the Education for Economic Security Act, better known as the Math-Science Act. It revises the program in a manner that will focus more of those scarce dollars at the local level, to enable teachers and students alike to prepare for and respond to an increasingly technologically oriented society.

The Adult Education Act, as extended and revised by the provisions in H.R. 5, makes a concerted effort to address the adult illiteracy problem that besets our Nation, by targeting funds so that "all adults are able to acquire basic literacy skills." It is estimated that between 17 and 21 million young and old adults in this country today are illiterate. It is my sincere hope that these new program initiatives will be funded so that we, the richest nation in the world, can begin to eradicate illiteracy.

Mr. Chairman, H.R. 5 continues the historic requirement that private school children residing in eligible school districts received chapter 1 services on an equitable basis with children in public elementary and secondary schools.

In 1985, the Supreme Court ruled in Aguilar versus Felton that publicly paid teachers could not provide compensatory education services on private school premises, particularly religious schools. As a result of that court ruling, there was an estimated 35-percent drop in the number of private school children receiving compensatory education services in the year following the decision.

H.R. 5 authorizes $30 million in fiscal year 1988, and such sums thereafter as may be necessary for a program to help school districts purchase capital equipment—such as mobile units—to provide chapter 1 compensatory education to eligible private schools in a manner compatible with the court's 1985 ruling.

Because the provision to appropriate Federal funds to assist school districts in meeting capital expenses required in order to continue to serve private and religious schoolchildren under chapter 1 is unprecedented, I amended H.R. 5 to require a GAO study of the impact of the Felton decision on priviate schools, and whether the provision of capital expenditures will enable school districts to again serve the numbers of children they were serving prior to the Felton decision, as is intended by the amendment.

Mr. Chairman, other programs being initiated and reauthorized under H.R. 5 include: Bilingual Education, Magnet Schools, Drug Free Schools and Communities Act, Indian Education, Impact Aid, Women's Educational Equity, Territorial Teachers Programs, the Ellender Fellowships, Dropout Prevention, Gifted and Talented, Immigrant Education and Secondary Schools Basic Skills Programs.

While I have been a strong supporter of education programs at all levels during my 22 years of service on the Education and Labor Committee, and while it has been a responsibility I have addressed with great personal pride and sense of duty over the years, I would like to specifically outline two major programs being reauthorized under H.R. 5: The Migrant Education Program and the Education Audit Reform Act, which have had my close personal attention:

AUDIT REFORM

The audit reform amendments have evolved over a period of almost 4 years. There has been extensive consultation between representatives of State and local educational agencies, civil rights and child advocacy groups and the Department of Education. The amendments strike a balance. On the one hand, they provide relief for State and local education agencies from the unfair and arbitrary features of the audit process. On the other hand, they preserve the process of accountability through auditing that ensures that funds are spent for their purposes as stated in law.

An oversight hearing on audit reform was held by the Subcommittee on Elementary, Secondary and Vocational Education on April 10, 1984, and a staff reauthorization forum on this subject was held on December 17, 1987.

Legislation comparable to these amendments was adopted by the House as part of H.R. 11, the Education Amendments of 1984. Unfortunately, the audit reform provisions of H.R. 11 had to be deleted in conference with the Senate, and audit reform provisions in last year's Higher Education Act reauthorization were also dropped in conference. This year the prospect for Senate agreement to audit reform appear to be much better.

Let me highlight five features of these audit reform amendments:

First, the amendment replace the Education Appeals Board with administrative law judges. Administrative law judges will have legal training, experience with educational programs and be full time. The members of the current Education Appeals Boards do not have to have legal training, they need not be experienced with educational programs, and they are part time.

Second, the amendments provide for an orderly and limited process of discovery available to the State and local education agencies. Currently, discovery is not available to these agencies, and they do not have the opportunity to review the Department's case against them in deciding whether and how to appeal.

Third, the Secretary of Education will be required to establish a prima facie case for the recovery of funds in the preliminary departmental audit decision. These is no current requirement that a prima facie case be established to support an audit finding. A prima facie case is one that would sustain the finding if there were no evidence to the contrary.

Fourth, the amendments provide that the amount of funds recovered in an audit will be proportional to the amount of harm that has been done to the achievement of the purposes of the Federal education programs. For example, if a State or local educational agency receives a $5 million grant under a Federal education program and misuses $100,000, then the maximum audit liability of the educational agency will be $100,000, not $5 million as in current practice.

Finally, the amendments provide for mitigating circumstances under which funds could not be recovered in an audit. If a State or local education agency relied on erroneous written guidance from the Department of Education, if they received no written guidance from the Department in response to a specific written request or if the alleged violation resulted from following a judicial order, the State or local educational agency will not have to repay funds.

The Migrant Education Program was first enacted in 1966 in recognition that the Federal Government has a compelling responsibility to address the severe educational problems which are unique to the children of migrant workers in this country. When viewed against any indicator of the probability of failure in school, migrant students stand out as the most likely group to fail. As a whole, they tend to be older than their peers in school; they exhibit a high degree of language difficulties; they come from families in which the combined annual incomes of both parents is $10,000 or less and in which as a rule neither parent has graduated from high school; and they have a pattern of high mobility with frequent interruptions in their schooling. The list goes on and on. These children have had every reason not to succeed in school. Indeed, in 1974 the dropout rate for migrant students was estimated to be as high as 90 percent.

Today, there is strong evidence that the dropout rate for migrant students has been dramatically lowered to somewhere between 40 and 50 percent. Furthermore, this extraordinary achievement is attributed largely to the efforts of federally funded migrant educators working directly with these children and to the consolidated approach to the problems taken by the State directors of migrant education and the Interstate Migrant Education Council. Together they've provided a comprehensive plan of services to migrant children traveling within and between the States throughout the school year. An integral component of this overall approach is that of the migrant student record transfer system [MSRTS] which transmits vital up-to-date information on the academic and health records of the individual child when he or she arrives at each school.

H.R. 5 continues the migrant program in its present form with several important improvements which will strengthen its overall thrust.

The program is reauthorized retaining the language of current law which calls for full funding of this State administered program. Within this context, the bill extends for funding purposes the age range of children served of 5 to 17 years to an expanded 3 to 21 years. This provision highlights the need to establish a national policy which recognizes and addresses the severe educational needs of children of migrant workers, beginning before they enter formal schooling and continuing well beyond the average age of graduation from high school.

The bill encourages parents to continue their strong participation in all aspects of their children's education by requiring that the Migrant Education Program be planned and operated in consultation with parent advisory councils in addition to conforming to the improved provisions for strong parent participation for the chapter 1 basic grant program.

The bill expands the requirement that the migrant programs be coordinated with other Federal programs from which migrant children can benefit. This provision will help to formalize the relationship between the Migrant Education Program and other programs leading to better services to migrant children and greater educational opportunities beyond high school.

The bill also authorizes the development of a national certificate of eligibility to assist with the administration of the program, and it provides for the development of a program of accrual and credit exchange to facilitate graduation from high school.

Finally, the bill establishes a National Commission on Migrant Education to examine the changing demographics of the migrant student population and to develop a blueprint of the program for the remainder of this century.

Mr. Chairman, in exercising its responsibility for oversight and reauthorization of the vital education programs contained in H.R. 5, the committee went about its work in the strong belief that now is the time for the Federal Government to fulfill its role in education reform. We did not do so in a vacuum. We undertook our task, fully armed with a plethora of information and statistics gleaned from reports such as "A Nation at Risk," "High School," "Action for Excellence," and "Making the Grade." We have also relied on studies and reports by the U.S. General Accounting Office [GAO], the National Assesement of Educational Progress [NAEP], the National Center for Statistics, the Office of Technology Assessment, and many others.

H.R. 5 embodies our principles of promoting access and excellence in new, innovative programs. For example, there is a separate national demonstration program to address the basic skills needs of secondary students, and for dropout prevention programs that will work. There is a new Gifted and Talented Education Program for those children who find themselves on the other end of the spectrum—that of being able to achieve beyond their age and grade level, but who need the teachers and special educational resources in order to grow to their full potential.

Throughout the bill that is before us today, the committee has made a great, and I believe successful, effort to improve the quality of all the education programs encompassed in the omnibus H.R. 5, and to hold schools more accountable for the outcomes of the programs authorized. We have successfully provided for more accountability with respect to how funds are spent, and with regard to improving the achievement levels of the children intended to benefit. And I believe we have done so without imposing excessive administrative burdens, or an undue hampering of local flexibility.

I believe, Mr. Chairman, that through our collective efforts, we have revised and extended 14 important education programs in a manner that will not raise the cry of "budget busting." We have achieved our goal in a manner that allows us to regain much ground lost over the past 6 years, while allowing for modest growth among our programs contained in H.R. 5.

Again, I congratulate Chairman Hawkins, and the ranking minority member, Mr. Goodling of Pennsylvania, for their foresight, their commitment to excellence, their energy and, in fact, their overwhelming sense of caring about the education of children in the United States that is so superbly evident in H.R. 5.

Mr. Chairman, I commend H.R. 5 to my colleagues in the Whole House as a comprehensive, yet thoughtfully crafted, package that will, when enacted, have an immensely beneficial effect on education throughout the remainder of this decade, and the beginning of the next.

Mr. GOODLING. Mr. Chairman, I yield myself 5 minutes.

Mrs. SAIKI. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentlewoman from Hawaii.

Mrs. SAIKI. Mr. Chairman, I rise to express my strong support for H.R. 5, the School Improvement Act of 1987.

H.R. 5 continues Federal programs which are vital to our Nation's educational system. The bill provides for the reauthorization of both the Chapter 1 Program for disadvantaged children as well as the Chapter 2 Education Block Grant Program.

In addition, several other important Federal programs will be continued under this legislation. H.R. 5 reauthorizes the Federal Impact Aid Program through fiscal year 1993. The Impact Aid Program provides financial assistance to local education agencies affected by Federal activities. This program is particularly important to those of us from Hawaii because of the many military dependents in our State. If we are to maintain educational opportunity for the children of our military servicemen, this program must be continued.

I applaud the continued funding for the Women's Educational Equity Act which increases the authorization from $14 million to $20 million. The WEEA provides discretionary grants and contracts to private nonprofit organizations and individuals, as well as public agencies, for various programs such as model personnel training, guidance and counseling, and women's educational equity textbook development.

Several other proven education programs are also reauthorized under H.R. 5, including Bilingual Education, Adult Education, and Drug Education.

I support the innovative approach to help talented young people reach their full educational potential. This bill authorizes $25 million for fiscal year 1988, and such sums as are necessary for subsequent years, for the Jacob K. Javits Gifted and Talented Children and Youth Education Act. This is a new program which will provide targeted grants designed to meet the unique educational needs of gifted and talented students.

I would also like to commend the committee for including Congressman Akaka's legislation to authorize several native Hawaiian education programs. This legislation recognizes the Federal Government's trust responsibility for the betterment of native Hawaiians through the establishment of native Hawaiian family based education centers, and several demonstration programs. Demonstration programs will be developed for higher education, scholarship assistance, gifted and talented education, special education, and for curriculum development. This legislation is the right step to take in providing needed education assistance to native Hawaiians.

Mr. Chairman, I want to commend the members of the Education and Labor Committee for the legislation they have brought forth today. In particular, I extend my thanks to Vice Chairman Goodling, Chairman Hawkins, and Congressman Kildee for their hard work on this bill, and for their willingness to listen to the concerns of Members.

I urge my colleagues to support this important legislation.

Mr. GOODLING. Mr. Chairman, for the last 3 or 4 weeks we have heard a lot of discussion on this floor in which we were solving all of the trade problems, all of the trade deficit problems, all of the defense problems, and all of the foreign policy problems, and I am here to say that we cannot solve any of those unless we solve another serious problem that we have in this country. That problem is that we have somewhere between 26 million and 60 million functional illiterates. Unless we attack that problem, all the rest of the things we do will go for naught.

So I rise in support of H.R. 5, the School Improvement Act.

First of all, I want to say that I think our committee chairman should get the honor of being the gentleman of this century that carries a big stick and talks softly, because certainly that is what happened when we put this bill together. The chairman of our committee insisted that it was going to be bipartisan. The chairman of our committee insisted that we were going to do all of our fighting in committee. I hope that we will show the Members when we come to the floor that that is just exactly what we have done. We believe we have put together through cooperation and through a bipartisan effort a bill that is going to serve the best interests of the young people of this country.

No matter what problem arose, we were always able to work it out. Whether it was the gentleman from California [Mr. Martinez], the gentleman from Michigan [Mr. Kildee], the gentleman from New Mexico [Mr. Richardson], or the gentleman from Texas [Mr. Bartlett], or whether it was the gentleman from Illinois [Mr. Hayes] or myself, whoever it was, we found a way not to give everybody what they wanted but to give everyboday at least a piece of the action and an opportunity to improve our educational system.

It was mentioned, I think, earlier today on the floor of the House how we have to do all sorts of things to attract teachers. That is the one part of our bill where I am not sure what we can do at the Federal level. The problem with attracting the brightest and the best deals with the starting salaries, and I do not know that we are in a position to do much about that in this committee or perhaps on the Federal level.

We have authorized chapter 1, and we have reauthorized the largest and most ambitious of the programs. It has had a long history of success. However, there were some things that people said needed to be improved as we traveled throughout the country. I think we have improved those.

We have added a few different things to the program. I tried to put in the Even Start Program, and I got the support of the committee, which we hope will attack the functional illiteracy problem at home, dealing with the preschool youngsters and with their parents at the same time.

The chairman's effective school program should enhance a good learning environment for all. It should help end the dangerous dropout problems facing this Nation, which was a part of the proposal of the gentleman from Illinois [Mr. HAYES].

So I think we have improved a good program in chapter 1, and I think we have made it an even better program. We have used targeting, which causes some problems, but at the same time we knew we had to target better than we had in the past.

We also took chapter 2, one that has enjoyed great success, and I think we have improved that program also. We say that the purposes include using the funds for at-risk and high-cost children, effective schools, instructional educational materials and equipment, personnel training and development, and special projects such as programs for gifted and talented students, youth suicide prevention, technological education, community education, and career education.

Again I cannot give enough congratulations to the chairman of the committee for being an outstanding chairman and bringing about a consensus and a bipartisan effort, one that I think most Members of the House of Representatives can go back to their districts with and say, "We did our share. Now it is up to the local district and the State to implement some of these things and improve education."

Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act. This bill is a culmination of months of work. We have held hearings around the Nation and here in Washington to develop this comprehensive bill. H.R. 5 includes all expiring elementary and secondary programs in this the 100th Congress. It includes a reauthorization of such vital programs as chapter 1, chapter 2, adult education, and math and science for teacher training as well as providing for new programs like Even Start which are good additions to the framework set by this bill.

Chapter 1, the largest and most ambitious of the programs, has enjoyed a long history of success. The program directs Federal dollars for basic skills to economically and educationally disadvantaged youngsters. Since its inception in the midsixties this program has changed the lives of millions of our Nations young people by improving education within our Nation's neediest schools. But as good as any program can be there is always room for improvement. I believe we have substantially improved a sound and successful program which addresses the changing demographics in our Nation without altering the program in any radical way.

Within the framework of chapter 1 we have added a preschool program, Even Start, which brings together illiterate parents and their preschool-aged children. Even Start is designed to educate these parents and get them involved in their preschool aged children's educational development. It attacks educational disadvantage by breaking the cycle of illiteracy within families. The chairman's effective schools program which will enhance a good learning environment for all and help end the dangerous dropout problems facing this Nation.

We also included a reauthorization of chapter 2, a program authorized in 1981. This program too enjoys widespread support. It allows for flexibility by allowing the State and local educational agencies to decide how best to structure a program to meet their particular needs within five broad Federal purposes. These purposes include using the funds for at-risk and high-cost children, effective schools, instructional and education materials and equipment, personnel training and development, and special projects such as programs for gifted and talented students, youth suicide prevention, technology education, community education, and career education. The bill retains the flexibility which has made chapter 2 so popular and so successful.

Furthermore, the bill includes such vital programs as the Adult Education Act which will attack a growing problem in our Nation, the illiteracy among our Nation's adult population. It includes a reauthorization of a major teacher training program in mathematics and science. Without getting better qualified teachers and updating teacher's skills, how can we hope to improve the quality of education in our Nation schools.

Furthermore, the bill includes necessary changes to the auditing process in the Department of Education by amending the General Education Provisions Act. These amendments make both substantive and procedural changes to the auditing process in the Department. For many years States have had to fight enormous Federal audits without the tools to defend themselves. These amendments strike the necessary balance between giving the States the ability to defend themselves, yet, retain the Department's ability to seek out and recover misexpended funds. The amendments ensure States will receive a fair opportunity to present their cases before professional judges with expertise in education law. We have guaranteed the States discovery rights, which they lacked in the past, to acquire information which will allow them to prove what the facts truly are. The amendments include a provision for mediation of matters, so that disputes can be fairly and efficiently resolved before an adversary relationship ensues. They also require that the Department publish its decisions so that these decisions are easily accessible to State and local educational agencies.

Finally, this bill fits well within the budget. The bill calls for $779 million in new authorizations. The budget allows for $2.2 billion over current services for fiscal year 1988 for new education authority. The Appropriations Committee will have plenty of budget authority to include funding for these programs and authorizations.

Again, I rise in support of this bill. I have enjoyed working on this legislation with my colleagues on both sides of the isle. I encourage Members to join me in voting for its passage.

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Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of the bill and in support of some amendments that I will be offering tomorrow.

Mr. Chairman, I rise today to comment on reauthorization of the School Improvement Act. This legislation includes many important programs at the elementary and secondary levels aiding our Nation's youth to become well-educated and productive citizens. Among these programs are several to aid the educationally deprived and to improve basic skills in several areas, bilingual education programs to help those born into non-English speaking families successfully integrate into our society, and Impact Aid funds to assist the many school districts in our country that serve large numbers of federally connected children, many of them from families in the armed services.

There is, however, one area of focus which until now has been largely neglected at the Federal level: foreign language and international education in our Nation's elementary and secondary schools. Because there is a recognition that these areas should be a major focus before as well as after students leave high school, I am proposing amendments to H.R. 5 which would authorize the creation of two new foreign language programs in the School Improvement Act and restore funds for a third program.

Clearly, this country is sorely lagging behind in training its young people, and future workers and leaders, to be able to communicate with the rest of an ever-shrinking world. Our future national security and economic prosperity depend to an increasing extent on improvements in foreign language and international education.

In today's highly competitive international economy, inferior language capabilities are handicapping our domestic industries from the outset. Former Assistant Secretary of Commerce for Industry and Trade Frank A. Weil has noted that our language deficiency is "one of the most subtle nontariff barriers to our export expansion." As technology shrinks the distance separating the nations of the world, we find ourselves dealing with foreign nationals with greater and greater frequency.

Across the negotiating table, in our laboratories, through business deals, and in academic conferences we place ourselves at an immediate disadvantage by our limited ability to communicate. We must wake up and recognize that English is no longer the only game in town. One of the key themes, and tasks, for this Congress is restoring America's "competitiveness" in a highly complex, rapidly changing world. Improving our foreign language training capability is a concrete and attainable goal in the context of international trade and our place in the world economy. It is a substantial way to give content to the "buzzword" of competitiveness.

We must improve the quality and scope of our foreign language and international training at all educational levels. There is much evidence that children learn foreign language best at an early age, and in many countries around the world, foreign languages are studied from the primary grades onward. Yet in the United States, only 1 percent of elementary school students are exposed to a foreign language in school, and fewer than that number studies languages spoken by three-fourths of the world's population: a 1982-83 survey showed that only 21.3 percent of all high school students were enrolled in foreign language courses, 88 percent of which were in Spanish and French.

While it is true that important provisions in the area of foreign languages have been included in both House and Senate trade legislation, and this is laudable, it is unfortunately by no means certain that this legislation will become enacted in its present form in this session of Congress or that the foreign language provisions will be retained. In addition, the importance of foreign language training, on which all seem to agree, seems sufficient in and of itself to warrant inclusion of this area in the most important education legislation in Congress.

My first two amendments would add new foreign language programs to the School Improvement Act: grants to the States to establish model foreign language programs, and Presidential awards for excellence in teaching foreign languages. The third amendment would restore the earmarking of funding for a "critical languages" program under the Secretary of Education's discretionary fund. The total cost of this package is less than the elementary and secondary foreign language component of the trade legislation.

The reauthorization of the School Improvement Act is an important step in ensuring a sound future for our Nation's educational system and, most importantly, the children who learn in our schools. The additional investment in our future national security and economic prosperity that would be required by adding these foreign language programs to H.R. 5 is relatively small, yet the stakes are high. I urge you to ensure a solid, proper place for foreign language training at the elementary and secondary levels by supporting these amendments when considering the School Improvement Act.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I rise in strong support of H.R. 5, the School Improvement Act of 1987. I am pleased to have worked with my colleagues on the Education and Labor Committee to author bipartisan legislation designed to serve the children of our Nation. I would also like to commend Chairman HAWKINS for skillfully guiding this important measure through the committee.

H.R. 5 is a comprehensive piece of legislation which reauthorizes 14 Federal elementary and secondary education programs. Although this bill addresses a number of programs critical to the education of our children, I would particularly like to highlight title VII, the Bilingual Education Act.

Mr. BARTLETT and myself, along with Mr. JEFFORDS and Mr. GOODLING, have crafted a compromise bill on bilingual education that enables us to bring this bill to the floor with strong bipartisan support. The purpose of bilingual education, as stated in this year's legislation, reads:

> Such programs shall be designed to enable students to achieve full competence in English, and to meet school grade-promotion and graduation requirements.

Two goals are stated here: To enable children to become proficient in English and at the same time, to prevent them from falling behind in other subjects.

It would be a terrible failure for a student to go through this Nation's school systems without learning English. Not only would the educational system of this country have failed, but society as well would bear the blame. Title VII ensures continued growth and support for proven methods of bilingual instruction, but allows for growth in alternative programs also.

Title VII also contains a new provision, which I authored, that allows programs under part A, financial assistance for bilingual education programs, to use funds under this section to provide technology-based instruction to students in these programs. A recent report by the Office of Technology Assessment reveals that technology is still a small part of bilingual education. The report indicates, however, that where computers are being used, limited-English-proficient [LEP] students are assisted in the acquisition of English.

Title VII also requires the Clearinghouse authorized in part B, data collection, evaluation and research, to coordinate its activities with the National Diffusion Network. This year's legislation simply ensures that the two systems work together with the goal of more effective dissemination of exemplary bilingual education programs.

H.R. 5 also incorporates H.R. 1896, the Magnet Schools Assistance Act, a bill I introduced, to support specific activities in magnet schools operating in desegregating school districts. Magnet schools specialize in different subjects and draw students from throughout an area with an interest or aptitude in that subject. As a result of this creative approach to education, magnet school classes bring together children from varying social, economic, and racial backgrounds. I am pleased to be the author of legislation which has historically enjoyed strong bipartisan support.

Finally, as the author of legislation, which became law, to establish a specific authorization for the National Diffusion Network [NDN] within the Secretary of Education's discretionary fund, I would like to emphasize new language that I have inserted in H.R. 5 to strengthen the program. The language simply ensures that funds for the NDN can be used only for activities directly related to that program.

Mr. Chairman, H.R. 5 is carefully designed legislation which ensures that the Federal commitment to education continues and develops. I urge my colleagues' support for this vital measure.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I yield to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise in strong support of the bill.

Mr. Chairman, I rise today in strong support of H.R. 5, which revises and extends through fiscal year 1993 14 major elementary and secondary education programs slated to expire in the next 3 years.

This legislation marks an occasion in the legislative process where we have the opportunity to pass the most far-reaching education bill of the decade. H.R. 5 reaffirms the Federal Government's promise to join States and local school districts in enhancing the quality of our Nation's elementary and secondary schools. This legislation offers a package of programs that collectively confirm our commitments to the access of quality education for students with special needs, and excellence in education for the Nation as a whole.

The cornerstone of this reauthorization bill is the continuation of the chapter 1 program, a program to educate low-achieving students in poor areas. In this bill, the central purpose of chapter 1 is strengthened through provisions to target more funds on the neediest areas and to expand the program to the preschool and secondary level.

H.R. 5 also contains several elements aimed at upgrading the quality of instruction of our Nation's schools. The chapter 2 block grant is refocused to make it clear that these funds are to be on the cutting edge of educational improvement. Chapter 2 grants are used to help implement innovative programs or make special purchases when school districts do not have the local funds to do so.

Another noteworthy program in H.R. 5 is the mathematics and science education program. This program will be very beneficial in helping to strengthen economic competitiveness and national security by improving the skills of teachers and the quality of instruction in math and science.

Finally, I would like to express my support for the inclusion of the Gifted and Talented Children and Youth Education Act in H.R. 5. This new program which is designed to identify and meet the special educational needs of gifted and talented students would see that the special abilities of these children are developed and their potential for contributing is not lost.

Again, I urge my colleagues to vote in favor of H.R. 5. The future of our Nation depends on ensuring that our children receive a quality education. This is an excellent piece of legislation which will have a meaningful impact on education through the end of this decade and the beginning of the next.

Mr. GUNDERSON. Mr. Chairman, let me join with those Members who preceded me in saying a special thank you and our congratulations to the chairman of the full committee, and our distinguished vice chairman of this particular subcommittee, Mr. GOODLING, and others who have worked so hard on this legislation.

For 12 years of my life and 12 years of his life my father served on our local school board; and during that time he said, we talk about college, and we talk about high school reform, but I think we forget that the real basic education in this country is in the elementary grades.

For the most part today the legislation before the House, while focusing on both elementary and secondary, is clearly a commitment to elementary education, and making sure we at the Federal level provide the quality of assistance that we can.

I would like to suggest briefly in my time period that there are three different elements that are very significant to us.

One of those deals with what we call carryover funds in chapter 1. Schools with small enrollments absolutely need flexibility in their allowance to carry funds over from one year to another.

As a result of hearings held in my district and other districts, our committee accepted an amendment which restored the 15-percent carryover funds in chapter 1. Likewise, an equally important concern to rural districts is the whole area of concentration grants.

There has been a great deal of discussion as to what proper formula ought to be enacted for concentration grants.

The gentleman from Kentucky, my good friend, and others had joined with me in that vow to make sure that we use true concentration grants as the test, not just numbers, and as the true cost.

We have made great progress in this particular effort in the full committee, and I am pleased to indicate that both the chairman of our committee and vice chairman have indicated that if the General Accounting Office is able to come up with further recommendations and options, that we can still look at that process down the road in conference committee.

The third and final concern that I have from a rural area focuses on chapter 2. Chapter 2 is our basic block grant of education. There is perhaps no more program that is necessary for local schools to utilize in buying basic equipment, teacher training or their other basic needs to meet their local needs.

There is some concern by various parties that this program ought to be focused into categorical grants. We have maintained our commitment to those local educators, that they truly indeed know what is best.

From these and other perspectives, we have maintained a proper Federal commitment to the quality of elementary and secondary education in H.R. 5.

I commend it to you for its approval.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, it gives me great pleasure to rise in strong support of H.R. 5, the School Improvement Act of 1987.

This is indeed a momentous occasion. The House of Representatives has the historic opportunity to reauthorize 14 Federal elementary and secondary education programs. As a member of the House Education and Labor Committee, I know first hand that each section of this measure has been carefully crafted to reaffirm the Federal Government's commitment to providing access to a quality education for each and every one of America's schoolchildren and at the same time, ensuring that that education is the best it can be.

In addition to the many noteworthy programs reauthorized by H.R. 5, the measure also contains many new and innovative programs which hold the prospect of significantly improving the lives of countless American children and their families. I would like to make particular note of the Secondary School Programs for Basic Skills Improvement and Dropout Prevention and Reentry.

I take particular pride in this section since the dropout portion is based on my legislation H.R. 738, the School Dropout Demonstration Assistance Act. The committee has heard repeated testimony as to the tragedy that befalls hundreds of thousands of our young people who needlessly jeopardize their futures by dropping out of school. The number of children who drop out of school is truly a national tragedy that requires a national solution. Translated into actual numbers, one out of every four American schoolchildren, or upwards of 1 million per year, drop out before completing their education.

The dropout prevention and reentry section of H.R. 5 will provide the national focus that is necessary to bring about effective and innovative approaches to address our Nation's dropout problem. Recognizing the fact that children are dropping out of school not only in our large urban centers but also in our rural communities, the selective dropout prevention and reentry demonstration projects authorized in H.R. 5, will provide us with specific, and more importantly, proven dropout prevention and reentry strategies that work. In turn, this will allow us to use our limited financial resources in a more efficient and effective manner.

Mr. Chairman, while there are many many noteworthy aspects to H.R. 5, I want to also mention what I perceive to be one area that did not get the attention which I believe it so rightfully deserves. This is the impact aid section.

Since it was first passed by the Congress in the 1950's, there have been a patchwork of amendments added to it over the years. As a result, there is an unquestionable need for simplification and fine tuning of the program. That is exactly what would have occurred with a package of amendments I was prepared to offer if I had been able to obtain the necessary commitments to move forward in that regard.

As you know Mr. Chairman, in recognition of the Federal Government's obligation to reimburse public school districts for their inability to generate revenue due to the nontaxable presence of Federal property, impact aid was created. Over the years it has been expanded to include coverage for nontaxable low-rent housing units. I would like to say a few words on behalf of one category of youngsters in that area, the "low-rent housing children."

These are the youngsters who are concentrated in school districts which predominantly serve the poorer selections of our cities. These are very high-cost youngsters, in many cases coming from single-parent families which are already on public assistance and are in desperate need of an education to break the poverty and welfare cycle. These youngsters come to the public schools with remedial needs in the areas of math and science, as well as in discipline, attendance, and even health education.

These children live in federally owned apartment buildings which, due to the high demand for rental units of inner city houses, would be an extremely valuable resource to the school district if it were able to produce real estate taxes. Due to its tax exempt nature and due to Federal ownership, this high priced low-rent housing youngster is placed into the school district from a family who is unable to generate sufficient tax revenue to even provide for its own needs and who lives in an apartment in a building which also generates no revenue.

Right now hundreds of thousands of low-rent housing children are being subsidized by as little as $25 apiece through this program toward an education which costs thousands of dollars. My amendments would have corrected that inequity.

I submit to you that education is one of the ways to help these youngsters out of their poverty situation and into a more comfortable, productive lifestyle. While many of the programs reauthorized in H.R. 5 will address the educational needs of those youngsters, the school systems charged with the responsibility of educating these children are being shortchanged due to the present funding formulas contained in our current impact aid law.

The undeniable fact is that these youngsters are not found in large numbers in the rural areas of our Nation. Unfortunately, they are found in our large urban centers, areas which are already financially burdened. Whether we want to face that fact or not, it is a reality that cannot be voided much longer. Sooner or later, this Congress must come to grips with balancing the needs of our urban centers with those of our rural areas. Increasing the reimbursement for low-rent housing children in impact aid is but one avenue to start that process. Hopefully, it will come about in the not too distant future.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTLETT], who has helped very much in pulling this together.

Mr. BARTLETT. Mr. Chairman, H.R. 5 contains a number of provisions that will improve the basic educational services provided to needy students around the country. I would like to focus on two of those programs: the State-operated Program for Handicapped Children and the Bilingual Education Program.

The State-operated Program for Handicapped Children Act. The State-ferred to as the 89-313 Program, is the predecessor to the centerpiece of Federal special education policy, Public Law 94-142, the Education of the All Handicapped Children Act. The State-operated program under chapter 1 was enacted by Congress in 1965 when most students with severe handicaps were being served in segregated facilities with little or no opportunity to interact with their nonhandicapped peers. The world of special education has changed considerably since 1965.

Ten years after Public Law 89-313 was passed by Congress, Public Law 94-142 was enacted and because of 94-142, segregation of severely handicapped student is today the exception rather than rule. However, our efforts to desegregate facilities serving handicapped students are not completed.

Provisions in H.R. 5 will take us another small step toward the goal of allowing handicapped students the opportunity to be educated alongside their nonhandicapped peers. I am convinced that more still needs to be done.

Today, more than 10 years after the passage of Public Law 94-142, there are thousands of mentally retarded and multiply handicapped school-age students who are inappropriately shut off from their nonhandicapped peers in segregated facilities. At the same time, in another State, or perhaps across a county line, handicapped children just as severely handicapped, are going to schools with their nonhandicapped peers, attending school activities, assemblies, and sports matches; eating lunch, playing games at recess, and probably most importantly of all, making friends with their nonhandicapped classmates. The fact that the majority of severely handicapped students are being successfully integrated and benefitting educationally, reinforces the inappropriateness of routine and wholesale segregation of these students.

Placing certain severely handicapped students in a self-contained program in a regular educational environment for instructional purposes is recognized as appropriate when such placement decisions are tailored to the individual needs of that student. When parents and handicapped students are not given an option to place their child in an integrated setting which provides an appropriate educational program, then one of the major principles of Public Law 94-142, and the intent of Congress are being ignored.

Integrating handicapped and nonhandicapped students has given special education students a host of opportunities that simply do not exist when they are placed in separate buildings. It has also done something quite incalculable for nonhandicapped students. Students in our public school system who interact daily with handicapped students are being given a lesson that past generations were deprived of. They are learning in a profound sense about the range of human conditions that makes up our society. For many of our students, that educational experience may very well be the most important lesson they learn in school.

The majority of school systems around the country integrate their severely handicapped students with nonhandicapped students. However, too many handicapped students are still being segregated for no valid educational reason. If these same students were being segregated without educational cause on the basis of race, or religion, or national origin, the Committee on Education and Labor and the Congress of the United States would be outraged.

H.R. 5 requires that States in their application demonstrated the plans, policies, and guidelines they have in place for transferring segregated students into appropriate integrated regular educational environments. I had urged the Committee on Education and Labor to move further toward integrating handicapped students but accepted this compromise in H.R. 5.

H.R. 5 also contains amendments to the Bilingual Education Program which testify to the bipartisan support this very important program is capable of generating. H.R. 5 modernizes and strengthens those provisions in the act which comprise the two-fold goals of the act: enable students to progress educationally and remain at grade level while becoming proficient in English.

The bill's provisions protect all of the current programs under part A of the act while providing for greater flexibility by the Secretary in funding alternative methods of instruction. These changes have broad bi-partisan support.

The need to improve and expand bilingual education programs is particularly critical at this time in light of the growing number of non-English-speaking students entering our educational system. I am confident that the improvements in the Bilingual Education Act will protect and maintain the positive elements of the current program, while providing local school systems with the flexibility they need to properly serve their limited English proficient students.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield to my friend and colleague, the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I would like to urge the support of my colleagues for H.R. 5, the School Improvement Act of 1987. In particular, I wish to express support of a provision of H.R. 5 which seeks to expand our Nation's efforts dealing with the basic skills of secondary school students.

Since the 98th Congress, I have jointly authored with Congressman WILLIAMS of Montana the Secondary Schools Basic Skills Act in order to ensure that our educational system will provide necessary support to bolster our students' basic skills. I am pleased that H.R. 5 includes a provision which uses the Florio-Williams bill as a springboard and provides funding for basic skills programs at the secondary school level.

Too many of our youth in this Nation lack the basic skills necessary to function and contribute productively to our society. In the short space of one generation, we have not only lost our position of economic leadership in areas where we prided ourselves on our technical prowess.

At the same time, we have witnessed deeply troubling developments in the educational attainments of our people. Twenty-seven million American adults are functionally illiterate. A 1982 international test of math skills showed that the better U.S. secondary school students had average scores well below those of students from other countries.

As chairman of the Subcommittee on Commerce, Consumer Protection and Competitiveness, I am concerned about the deterioration of the ability of our people to compete in the world market. Without some prompt response, our situation will become even worse.

It is estimated that 13 percent of all 17-year-olds have inadequate basic skills. Functional illiteracy among urban youth may run as high as 40 percent. A fair proportion of our youth have trouble reading a newspaper or instructions on medicine labels or filling out a job application. Some of these people are in the position of defending our Nation. A Navy report recently indicated that one-quarter of its recruits cannot read at the 9th grade level, the minimum requirement for reading simple safety instructions.

In my own State of New Jersey in 1983, of the 50,000 entering freshmen taking the New Jersey college basic skills test, less than one-third were proficient in verbal skills and basic math. Only 12 percent were proficient in elementary algebra.

Because of inadequate preparation, colleges are now having to teach basic skills. Throughout the country, efforts are underway to develop remedial instruction programs to high school students who are achieving at a low level. But such efforts are sorely underfunded at the secondary level. Less than 5 percent of chapter I compensatory funds are currently being spent at the high school level.

Some schools are doing a great job of making sure that all students are mastering their basic skills. However, the great majority of the schools do not have adequate funding or access to the expertise other schools develop to carry out these programs. The basic skills provisions of H.R. 5 reverse this trend.

The bill authorizes $100 million for the next three years for demonstration projects for basic skills programs at the secondary school level and for dropout prevention programs. During phase 1 of the program, half of the $100 million would go to both efforts. The bill also authorizes funding for phase 2 of the program which would allot States money on a formula basis in order to be able to implement the techniques developed during the first phase of the program.

I am confident that these provisions of H.R. 5 will offer secondary schools and their students a fighting chance. Although the funding in this bill is much less than the original Florio-Williams proposals, these provisions would set the stage for an important undertaking. It is only through efforts such as this that we will be able to build out Nation's resources and once again take a leading place in the world market.

I urge my colleagues to support H.R. 5 and oppose any efforts to delete these necessary provisions.

Mr. WILLIAMS. Mr. Chairman, I rise today in support of H.R. 5, and I commend the Chairman, the gentleman from California [Mr. HAWKINS] and Mr. GOODLING for their excellent leadership in developing this comprehensive legislative package for extending and amending Federal programs in elementary and secondary education. These efforts are the foundation of the Federal effort to provide quality educational opportunity to all America's school children and thus form the foundation upon which our Nation's very future rests.

I thank the chairman for including my adult education amendments in H.R. 5. These amendments are important because they clarify that the purpose of the act is to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment. As an additional focus, my amendments will help States establish adult education programs that will enhance the level of literacy in the Nation, and will provide the targeted adult population with sufficient basic education to enable them to benefit from job training and retraining programs and to obtain and retain productive employment.

I especially want to commend the gentleman from California on your efforts to continue and expand programs to meet the special needs of disadvantaged children through the chapter 1 program. As the largest program of Federal assistance to elementary and secondary schools, chapter 1 has received bipartisan support from Congress and praise and support from virtually all segments of the education enterprise—parents, teachers, administrators—as well as persons from the business community because the program has effectively contributed to students' achievement. We know this program works.

I am pleased that this legislation incorporates much of the Secondary School Basic Skills Act, H.R. 1227, which I authored, along with my colleague, JIM FLORIO, to provide assistance to our secondary schools to meet the special needs of low-achieving economically disadvantaged high school students.

We need this bill now more than ever. Our Nation's preeminence in international trade is facing unprecedented challenges from foreign competition. Our friends around the globe are seriously challenging us both in the marketplace of goods and in the marketplace of ideas.

There is no single cause nor is there a single solution to our current predicament. However, improvement in the basic skills of our secondary school students must be an integral part of the solution.

There is compelling evidence from numerous sources of a disturbing decline in recent years of high school students' math and reading skills. This decline is particularly pronounced among those who are economically disadvantaged. Clearly, something must be done, and, I believe, there should be a Federal role in finding the solution.

In 1965 Americans identified a crisis in our schools, and Congress enacted title I of the Elementary and Secondary Education Act to address it. Educators responded to the call to improve the basic skills of our elementary school children who are educationally and economically disadvantaged. Our elementary school teachers succeeded in dramatically improving the skills of these children.

Just as we are succeeding in the elementary grades, I believe we also can succeed in the secondary grades if we direct sufficient resources to provide the compensatory programs so badly needed. The Congressional Research Service reports that according to data from the Department of Education, only 1 percent of chapter 1 participants are in grade 12; 2 percent in grade 11, and 3 percent in grade 10. CRS also reports that, although there has been extensive effective schools research concerning elementary schools, very little has been done in the secondary schools.

The legislation before us today provides additional resources to enable our secondary schools to sustain the successes made in the elementary grades. Though we have a long way to go, I believe this legislation represents a significant step forward, and I am pleased that it incorporates significant provisions of H.R. 1227.

Again, let me commend the excellent leadership provided in bringing together this omnibus legislation. I urge my colleagues to join us in supporting this bill. H.R. 5 represents an investment in our Nation's most precious resource—our children. There is simply no more important investment we will make.

□ 1720

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, the chairman of the Education and Labor Committee, Mr. HAWKINS, and the vice chairman of the Elementary and Secondary Education Subcommittee, Mr. GOODLING, are to be commended for their fine effort in putting together H.R. 5, the School Improvement Act.

The School Improvement Act reaffirms a strong Federal commitment for elementary and secondary education. The bill makes several improvements in major elementary and secondary education programs, particularly in chapter 1 compensatory education, math and science education, and bilingual education. Although I have some very serious concerns about the increased authorization levels proposed for these education programs in 1988, I believe the improvements cannot be overlooked. I think it is important to highlight the bill's major improvements in these programs.

Chapter 1 is the centerpiece of Federal elementary and secondary education for improving the basic skill needs of educationally disadvantaged children. H.R. 5 makes needed improvements in this program to help these children attain grade-level proficiency.

One major improvement is a new provision which allows local school districts to establish innovative projects for enhancing chapter 1 services. A school district will not be able to use up to 5 percent of its chapter 1 allocation for various innovative activities. These activities include offering incentive payments to schools with successful chapter 1 programs, training regular classroom teachers to work with chapter 1 children, and fostering active community and private-sector involvement in chapter 1.

Schools will now be accountable for their chapter 1 programs and be required to demonstrate student achievement. Schools that have declining chapter 1 achievement must turn to the local education agency [LEA] for technical assistance. If there is not improvement in chapter 1 achievement rates, the State educational agency [SEA] must intervene and provide the technical assistance to reverse the declining achievement trend. This provision ensures that schools will be accountable for addressing the educational needs of chapter 1 students.

Parental involvement is also critical to successful academic achievement. H.R. 5 recognizes the strategic role parents have in the education of their children. School districts must implement programs to involve parents in chapter 1. Allowable parental involvement activities include training parents to work with their children at home, encouraging school personnel to work and consult with parents, and establishing parent advisory councils.

Parental involvement in chapter 1 is also achieved through a new Even Start Program. The purpose of this program is improve the education of at-risk children by integrating early childhood education and adult education for parents into a unified, family-centered program. The Even Start Program recognizes that childhood advancements in education are linked to the presence of literate parents at home.

Targeting of chapter 1 funds was also an issue of serious debate in committee. The committee rightfully recognizes that a correlation exists between low academic achievement and areas with high levels of poverty. The first $400 million of new chapter 1 appropriations will be targeted to school districts with high concentrations of poverty.

The committee is commended for essentially retaining the chapter 2 block grant in its present form. By continuing the current State formula allocation, whereby 80 percent of the funds is distributed to the LEA's and 20 percent to the SEA, State and local authorities will maintain the flexibility and discretion to implement programs that respond to new challenges in education.

The committee wisely did not consider turning back the clock to restore categorical set asides for the use of chapter 2 funds. Instead, the committee maintains the program's flexibility by allowing the use of funds for at-risk and high-cost children, effective schools projects, instructional and educational materials, personnel enhancement, and special projects, including gifted and talented education.

The School Improvement Act provides a teacher training program in math and science education—Title II of the Education for Economic Security Act—which should produce successful results. The current program, established in 1984, has been ineffective because of hampering set-aside and reporting requirements. The bill streamlines many of these reporting requirements and attempts to channel most of the appropriations to the local level. H.R. 5 now gives us a program which should produce good things in math and science education.

One of the problems, however, of driving funds to the local level is that too many school districts receive small grants. This is particularly true of this program, which has never received an appropriations in excess of $100 million. The committee responded to this concern by accepting an amendment which requires school districts that receive grants of less than $3,000 to form a consortium with other school districts or higher education institutions. An exemption from this requirement is provided for schools in rural and sparsely populated areas.

Although the consortium requirement is an improvement, a better approach I pursued in committee is to award teacher training funds to school districts on a competitive grants basis if the title II appropriations is less than $150 million. The rationale for a competitive grants program is sound. A $150 million appropriations allocated to LEA's on a formula basis results in grants of less than $1,000 to 33 percent of the country's school districts and grants of less than $5,000 to 71 percent of the country's school districts. A competitive grants competition ensures that all of the title II funds are used efficiently and for effective teacher training purposes.

The committee also accepted an amendment to increase the allocation for the Secretary's discretionary fund for national programs from 3 to 5 percent. Because title II is a relatively new program, direction at the Federal level to determine what works in math and science teacher training is critical. With funds for national programs, the Secretary will be required to inform State and local school authorities of exemplary teacher training programs conducted at the national level.

The changes made in bilingual education are also a step in the right direction toward recognizing that native-language instruction is not the exclusive method of instruction for teaching limited-English proficient [LEP] children. H.R. 5 allows up to 75 percent of new appropriations in bilingual education to be used for special alternative instruction programs, usually English as a second language [ESL] and English immersion.

Although this change moves in the right direction, it does not go far enough. A better approach is found in legislation proposed by the Secretary of Education which would lift the 4-percent cap under part A programs for special alternative instruction. This cap effectively earmarks an overwhelming majority of part A funds for transitional bilingual education programs in native-language instruction, although the research does not demonstrate that transititional instruction is more effective than alternative instruction in teaching LEP children.

It has been demonstrated, however, that many school districts want to provide special alternative instruction to LEP children because they believe this approach best suits their bilingual needs. In 1985, the first year special alternative instruction funds were available, one-fourth of the applications for Federal funding were for special alternative instruction programs; 25 percent of the applications were for 4 percent of part A funds.

In hearings before the Elementary and Secondary Education Subcommit-

tee this year, the director of Prince Georges County Public Schools ESOL program, Lillian Falk, testified in support of giving local school districts the flexibility to determine which method of instruction best suits the need of LEP children. Ms. Falk convincingly showed that Prince Georges County, which must educate LEP children from 126 different language backgrounds, cannot use transitional bilingual isntruction in its programs. According to Ms. Falk, the county's ESOL approach "provides the very diverse students we are serving with the most efficient, most rapid way of preparing them to understand, speak, read, and write English."

Congress should recognize what is desired at the local school level and eliminate the set-asides in part A. Local school districts are in the best position to determine the needs of its LEP children. Although the changes in H.R. 5 are positive, I would have preferred that our committee had eliminated any prescription on the type of instruction for this program.

The School Improvement Act is the first major elementary and secondary education bill to come along since 1981. The next one will not come until this reauthorization expires in 1993. The improvements made in current programs by H.R. 5 deserve the support of my colleagues.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 5, the School Improvement Act.

Mr. Chairman, I rise in strong support of the School Improvement Act, H.R. 5, to improve and enhance the quality of education in America's elementary and secondary schools.

Let me first of all commend Chairman HAWKINS for his perseverance and commitment to the development of an initiative that not only ensures access to quality education for disadvantaged students and other students with special needs, but also maintains excellence in education for the Nation as a whole.

Likewise, I would like to take this opportunity to praise and thank Representatives WILLIAM FORD, JAMES JEFFORDS, DALE KILDEE, WILLIAM GOODLING, PAT WILLIAMS, BILL RICHARDSON, and their staffs, for their unrelenting commitment to this measure, and their forthright response to my calls for assistance.

Mr. Chairman, it is a privilege for me today to rise in support of H.R. 5, because I think it is an important bill. In particular, title VIII, part E of the bill addresses a problem that has long gnawed at our country: The severe educational status of our native Hawaiians.

Part E of title VIII is the culmination of more than 10 years of effort to provide services to native Hawaiians so that they may experience the scholastic achievements they so rightly deserve. That persons of native Hawaiian ancestry have suffered disproportionately from educational inequality for some time has been clearly documented. Six years ago, Congress authorized the creation of a Commission to Study and Identify the Educational Needs of Native Hawaiians. The native Hawaiian educational assessment project which resulted was generously completed by the Kamehameha Schools/Bishop Estate at no public expense, and by 1984 had been submitted to both the Department of Education and the Senate Select Committee on Indian Affairs.

The study revealed some very devastating findings:

Overall, native Hawaiians score below parity with national norms on standardized achievement tests. Furthermore, while native Hawaiian students in general continue to score below parity with national groups, the disparity with local groups is even greater;

Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs. Lower educational achievement among native Hawaiians has been found to relate to lower social-economic outcomes. Indeed, educational needs of native Hawaiians are inextricably interwoven with other social and physical needs. Many of these have either direct educational spinoff effects or are themselves conditions which could be alleviated through educational means; and,

Native Hawaiian students have educational needs which are related to their unique cultural situation.

In addition, recent studies indicate that native Hawaiian students continue to score well below national norms in achievement tests of basic skills. An estimated 37 percent of Hawaiian elementary students register in the lowest scoring groups, compared with a meager 12 percent in the uppermost groups—versus 23 percent nationally in each class.

The list of dire statistics goes on and on, Mr. Chairman.

H.R. 5 exhibits a sensitivity to the needs of native Hawaiian students heretofore unseen on the floor of this body. The bill, rightfully, recognizes the power and the obligation of the Federal Government to legislate for native Hawaiians who are in critical need of educational success.

Indeed, the question of providing services to a distinct group of native Hawaiians arises when comparisons are made between native Hawaiians and American Indians. While the political/historical relationship between native Hawaiians and the United States is not identical to that between the United States and Indian tribes, in some ways they are parallel. The similarities are many: both groups lost most of their homelands and their sovereignty over such lands to conquerors of European extraction. In turn, both Indians and Hawaiians became minorities in their own countries and their numbers were decimated by white man's diseases. Significantly, both groups are at the bottom of virtually all the charts of socioeconomic indicators—health, education, income, job status, and so forth.

While the similarities are many, including the fact that the United States made and broke treaties with governments of Indian tribes as well as the Hawaiian kingdom, the differences are important too: those American Indian tribes which survived as units have kept intact tribal governments which are still recognized as sovereign by both the Federal and State Governments. Hawaiians were self-governing until 1893, when the government of Queen Liliuokalani was overthrown in an insurrection engineered by a group of western businessmen who sought the annexation of Hawaii to the United States. The U.S. Minister to Hawaii ordered the landing of U.S. marines and sailors and recognized the new provisional government even before the Queen's defenses had surrendered. It was 4 years before the U.S. Government accepted annexation and in 1898, Hawaii became a U.S. territory.

The economic conditions of the native Hawaiians deteriorated and, in 1920, the U.S. Congress legislated directly for their benefit by enactment of the Hawaiian Homes Commission Act. The act established a 200,000-acre land base for native Hawaiians for homes, ranches, and farms. The lands are currently administered by a Commission composed entirely of persons of Hawaiian ancestry. When the act was before the Congress, one of the issues considered was whether Congress has the power to legislate for the benefit of native Hawaiians. At that time, the solicitor of the Department of the Interior provided an opinion upholding Congress' power to enact legislation for native Hawaiians under its power to legislate for the benefit of Indians in general. A similar conclusion was reached by the attorney general of the territory of Hawaii.

When Hawaii became a State in 1959, the responsibility to administer the Hawaiian Home Lands Commission was transferred to the State of Hawaii but Congress retained the sole authority to amend the essential terms of the act, as well as for enforcing the act. This, in fact, has indeed been tested, and upheld, by the passage of a measure which I authored, House Joint Resolution 17 (Public Law 99-557) during the 99th Congress. Public Law 99-557 renders the consent of Congress to amendments to the Hawaiian Homes Commission Act, 1920. There is, therefore, a continuing trust obligation on the part of the United States that is vested in Congress to make sure the Hawaiian lands are properly managed for native Hawaiian people.

The power of Congress to legislate for Hawaiians has been exercised through several different laws passed by Congress: native Hawaiians are eligible for programs operated by the administration for native Americans, for job training programs at the Labor Department, and for vocational education, adult education, and library services programs through the Department of Education.

Just as the U.S. Government was created without the consent of the Indian tribes, so was Hawaii made a U.S. territory without consent of its native population. Just as treaties and executive orders reserved to Indian tribes certain aboriginal lands for their exclusive use and benefit, so the Hawaiians Home Commission Act ceded original Hawaiian lands back to native Hawaiian people for their exclusive use and benefit.

In consideration and recognition of the trust relationship between the Federal Government and native Hawaiians, H.R. 5 authorizes the Secretary of the Department of Education to make direct grants for the implementation of native Hawaiian model curriculum projects in public schools. In addition, it directs the Secretary to assure implementation in a minimum of 20 public schools by the 1992-93 school year.

The measure further directs the Secretary to make direct grants to native Hawaiian organizations to develop and operate 11 family-based education centers through the State. Centers shall include parent-infant programs, preschool programs, and a long-term followup and assessment program.

The Secretary, under the bill, is also directed to make grants to the Kamehameha Schools/Bishop Estate for demonstration programs to provide higher education fellowship assistance, and postbachelor degree fellowship assistance to native Hawaiian students.

Finally, the bill authorizes projects that address the special education and gifted and talented needs of native Hawaiians.

With respect to the gifted and talented provisions, I would like to simply mention that, while the bill does not address the possibility of a centrally-located Gifted and Talented Program, I recognize the value of launching such an endeavor. Indeed, the Senate has already approved a similar native Hawaiian educational measure to that contained within H.R. 5, S. 360.

S. 360 directs that the gifted and talented demonstration project authorized under the bill be located at the Hilo campus of the University of Hawaii. Native Hawaiians make up the largest ethnic group of high school students on the big island and, with the current 51 percent Hawaiian birth rate, this population group will dominate the island's schools in a few years.

A gifted and Talented Program is in place at Waiakea High School in Hilo with an experienced staff. This will constitute a valuable resource for the demonstration project at the university. Additionally, Hilo High School is now a magnet school for the performing arts, attracting students gifted in those fields.

Clearly, these factors favor location of the gifted and talented project at the University of Hawaii at Hilo, and I will support any initiative that achieves such action. Likewise, I would urge the committee's favorable consideration of such an initiative.

In closing, Mr. Chairman, I would like to extend the thanks and support of our native Hawaiians to the committee for its gracious consideration of these provisions. This legislation provides a promising option in addressing the needs of native Hawaiians. It is comprehensive, innovative, prudent, and most importantly, responsive.

I urge my colleagues support for the measure.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Owens].

Mr. OWENS of New York. Mr. Chairman, I rise in support of H.R. 5, and I would like to congratulate the chairmen of the committee and the subcommittee and all the members of the subcommittee for their long and tedious work which produced a bill which returns to the original spirit of this Great Society piece of legislation. The spirit of the original enactment will be found in this bill. It is a monumental piece of landmark legislation. It covers many different areas, and I would like to comment on just two of those areas.

I think that it is very important that this bill did return in some measure to the requirement in chapter 2 that libraries and librarians be involved in the planning processes, and that more of a priority be assigned to books and library resources. We pay a great deal of lip-service to the idea of libraries and books and information being at the center of the activities of our society, but when it comes to resources, the allocation of resources, we fall down. There is a blind spot that runs through the entire society, and that blind spot is most devastating in our elementary and secondary schools.

The other aspect that I think is very important is the recognition in a small way, a greater recognition, of the original intent of the Great Society legislation which emphasized participation by parents and participation by the communities in the development of programs related to chapter 1. We do have some language, not as strong as I would like it to be, which recognizes in greater measure the role of parents in the process. Again, we pay great lipservice, a great deal of lip service, to the concept of parents as partners in the educational process, but professional educators repeatedly refuse to allocate resources to allow parents to really participate by offering them the kind of training that they need and the kind of opportunities for participation that they need. In some small measure we have begun to get back to some of the spirit of the original legislation which called for greater parent participation.

I wish that it would be possible for me to say to the parents who are involved in this program across the country that we now have a requirement in that a certain percentage of the budget must be set aside for parent-participation activities, but that is not there. There is enough language there, I hope, for parents to begin to make demands on their local administrators for greater participation and more resources to participate.

In all, it is a remarkable piece of legislation, and I support it wholeheartedly.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 5, the School Improvement Act of 1987, and I commend the distinguished gentleman from California [Mr. Hawkins], chairman of the Committee on Education and Labor, and the ranking minority member, the gentleman from Pennsylvania [Mr. Goodling], for their work on this fine legislation and for their leadership in making education once again a high priority of this Congress.

H.R. 5 revises and extends through fiscal year 1993, 14 major elementary and secondary education programs. The measure focuses largely on two programs—chapter 1 and chapter 2—but also confronts such important issues as adult education, bilingual education, impact aid, and drug education. H.R. 5 retains the current chapter 1 formula-grant distribution method and authorizes $2.6 billion for the remaining 13 programs. This bill is obviously the most far-reaching education bill of the decade.

The Federal commitment to access for special needs students is underscored through the continuation of the chapter 1 program as the cornerstone of this reauthorization. In the bill, the central purpose of chapter 1—educating low-achieving students in poor areas—remains the same and is ultimately strengthened through provisions to target more funds on the neediest areas and to expand the program to the preschool and secondary levels. Chapter 1 grants to school districts support supplementary educational services designed to increase the academic performance of children whose skills fall below expectation. Studies consistently have shown modest improvements in the reading and math skills of chapter 1 participants for every grade level. In addition to being a successful, effective program, chapter 1 is also cost effective. The cost per pupil is less that one-fourth the cost of grade repetition for the same child.

H.R. 5 also expands access to special needs groups in other ways. The bill focuses additional dollars on the most disadvantaged, illiterate adults and students with limited English proficiency. The bill also reauthorizes other equity-related programs; the Women's Educational Equity Act and the magnet schools assistance program, to encourage voluntary school desegregation.

As the ranking minority member of our House Select Committee on Narcotics Abuse and Control, I am particularly interested in title 5 of this measure, the Drug-Free Schools and Communities Act of 1986, which would authorize $200 million for fiscal year 1987, $250 million for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 through 1993 for Federal grants to assist State and local governments in developing their drug education and prevention programs.

Title 5, which is nearly identical to title 4 (B) of the Omnibus Drug Act that became Public law 99-750 last year, primarily removes the $250 million authorization cap for drug education programs enacted under Public Law 99-570.

Funds from this authorization would also be available to the Governors of each State in the form of discretionary grants directed toward high-risk youth as well as grants to local governments, nonprofit groups—including parent groups, community action agencies, and community-based organizations—for local, broadly based substance abuse prevention programs. Funds would also be available for grants to institutions of higher education, for drug abuse training, demonstration and prevention programs and activities.

Under H.R. 5, the Omnibus Drug Act of 1986 would be expanded by adding a youth suicide prevention program to other programs where the States pass funds to local governments and other nonprofit entities for drug abuse prevention programs.

Regrettably, the administration's proposed budget for fiscal year 1988 would drastically reduce drug education programs from $250 million that the Congress authorized in Public Law 99-570, to $100 million, on the ground that, according to the administration, these programs represent one-time startup costs.

Mr. Chairman, preventing and controlling drug abuse will not be achieved today or tomorrow and it does not represent a onetime commitment. Rather it is a constant, neverending battle in which we must help raise the consciousness of our citizens as to the dangers of drug abuse. The measure before us today represents congressional commitment to help achieve that objective: To assist our State and local communities in protecting our citizenry by developing drug prevention programs. At a time when marijuana, cocaine, and heroin and other dangerous drugs are sweeping across our shores by the plane load and by the boat load, we must provide our communities, and our front line drug agencies—those who actually reach our youth—with the resources to combat this deadly menace.

Mr. Chairman, H.R. 5 is a bill for the times. It confronts head-on most of the critical issues in education today. It enjoys bipartisan support and has received support from all segments of the education community, including; the National Education Association, the American Federation of Teachers, the National PTA, and the U.S. Catholic Conference. Accordingly, I urge my colleagues to join in supporting this omnibus education bill.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I would like to take this time, as many others have before me, to congratulate the chairman, congratulate the staff, and congratulate the ranking minority member and the people who have been working together to try to make this piece of legislation law.

Mr. Chairman, it is with great pleasure that I rise to speak of my support for H.R. 5, the School Improvements Act of 1987. The many hours of negotiations and compromise have led us to the floor today with a piece of legislation that, I hope, will be supported by all Members of this distinguished body.

In particular I want to congratulate the chairman of the Education and Labor Committee, Chairman HAWKINS, for his fine job of leadership throughout this process. His willingness to work with all members of the committee on important issues, such as the concentration grants, insured that this bill would address the educational needs of all sectors of our communities.

H.R. 5 is a compilation of many programs, ranging from the popular and well known chapter I programs to the less publicized programs for gifted and talented children and the adult literacy initiatives. Because of this broad spectrum of programs we will be touching the lives of many Americans in the coming years and this legislation provides the structure to do it in a very positive and meaningful way.

From my perspective the countinuation of the chapter I program is the cornerstone of this bill. This program targets extra educational assistance to the low-achieving students in the poor areas of our country. A criticism of the program in the past was that some of the children receiving the benefits of chapter I were not poor enough. Well, we address these concerns in this legislation by requiring the use of the most recent census data in the determination of need and the targeting of funds to the poorest of the rural and urban children with the creation of the concentration grants. These grants would use the next $400 million of new money that flows into the program to target the funds on those that are the neediest.

I feel that with the passage of H.R. 5 we will be renewing our commitment to the children of today. With this commitment these are the children that will be carrying on our dreams of exploring the universe, discovering cures for today's diseases, and leading this country back to the world leadership position in technology and education. Without this commitment then we will be admitting that we are willing to accept our Nation's rapidly approaching status as a second-tier country that follows rather than leads in today's world environment.

Overall the committee has been able to report an excellent bill and I would urge the Members of the House to send a strong signal to both the Senate and the President, saying that we want to see the educational commitment to our children passed and supported.

□ 1730

Mr. GOODLING. Mr. Chairman, I yield 1 minute to an outstanding new member of our committee, the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I rise in support of H.R. 5. As a member of the authorizing committee, I can assure the Members of the House that this legislation is vitally important to every community in the country.

Education is primarily a function and responsibility of the States. This bill gives the States a great deal of flexibility and discretion in carrying out the programs it authorizes. We are continuing the philosophy reflected in the Education Consolidation and Improvement Act of 1981, which improved the ability of the individual States to implement the programs they believe would best serve their students. I applaud that effort. And the leadership of our chairman and vice chairman which has continued the committee's commitment to excellence in education.

Reauthorization of the chapter 2 program, at a level above the fiscal year 1987 level, provides for flexibility. The chapter 2 program has broad support across the country—parents, teachers, and school administrators have all indicated that chapter 2 funds have made a significant contribution to basic skills development, educational improvement, and support services. Many districts use these funds to purchase equipment and supplies or for improving library resources. Without these dollars, many districts would be unable to strengthen instructional programs and supplement the instructional skills of their teachers.

I would also like to call attention to Federal research on rural districts authorized by H.R. 5. Many Members know full well the difficulties being faced by some of our rural districts. Declining enrollments and consolidations are increasingly posing severe problems in districts across the country. This legislation directs the Secretary to study ways of improving the delivery of services to these districts so that the dollars we allocate are spent most efficiently.

Mr. Chairman, I urge my colleagues to support this legislation and commit this body to improving the future of our children.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act of 1987. I want to commend Chairman HAWKINS and Representatives JEFFORDS and GOODLING, the ranking minority members of the Education and Labor Committee, for their efforts in creating a bipartisan, comprehensive reauthorization of our elementary and secondary education programs.

This measure represents the Federal Government's commitment to our greatest resource, our children, and to public education as we head toward the 21st century.

Education is a national priority and should be treated as such in the Federal budget. H.R. 5 is a sound and cost-effective means to invest in our Nation's future, to increase productivity, and to extend the benefits of a democratic society to all our citizens.

During debate on the trade bill, we talked about competitiveness and our need to level the playing field in the international trade field. We cannot compete effectively if we ignore a growing population of undereducated and unprepared citizens.

H.R. 5 strengthens public education which is the foundation that must be built upon to ensure that we maintain our competitive edge. Among other items, this bill reinforces mathematics and science education by authorizing $400 million for fiscal year 1988 and such sums as may be necessary for the next 5 fiscal years for the critical skills improvement program. I urge all of my colleagues to support this measure.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I recognize that the world will little note nor long remember anything I say on this occasion, but in the 2 minutes allotted to me for this great debate on H.R. 5 I did want to rise not only in strong support of the legislation, but to pay tribute to you, our very distinguished chairman, to my very good friend, the ranking minority member, to the other members of the committee, and to the staff for the really marvelous work they all did in producing the profoundly significant piece of legislation which is now before us.

There are so many important sections of H.R. 5, that time precludes me from mentioning them all. The bill strengthens such vital programs as chapter 2, Adult Education, Immigrant Education, Math and Science Education, Magnet Schools, and others. H.R. 5 also includes a new Gifted and Talented Program championed by my friend and colleague from New York, MARIO BIAGGI. The largest provision in H.R. 5 is the reauthorization of chapter 1—compensatory education for disadvantaged school children. This program, born during the Great Society initiatives of 1965, provides economically and educationally disadvantaged children with the remedial help they so desperately need to keep pace with their peers.

The strength of the chapter 1 bill is reflected in its bipartisan support. The primary authors of the legislation, Chairman HAWKINS and Congressman GOODLING, are to be commended for their tremendous efforts. The bill strengthens the chapter 1 program with the inclusion of several new provisions. The even start and dropout prevention initiatives will expand remedial education to eligible children in younger and older age groups. The concentration grant provision will target resources to the poorest—and the neediest—school districts. And the new section dealing with private schools represents a significant step forward in helping school districts cope with the crippling blow dealt to private school children by the misguided Supreme Court decision in Aguilar against Felton.

Mr. Chairman, I would like to draw the attention of my colleagues to what I consider to be the most crucial aspect of the debate over chapter 1—the issue of funding. In chapter 1, we are clearly dealing with one of the most popular and successful of all Government programs. During our hearings, the committee received hundreds of hours of testimony from rural and urban school districts, from teachers, parents, and administrators, from corporate leaders and children's defense organizations, from public as well as private schools. Each witness lauded the fruits of chapter 1 while at the same time decrying the fact that the program is sorely underfunded.

The question that must be addressed, Mr. Chairman, such a popular and clearly effective program is serving only 50 percent of the eligible students? So as we reauthorize chapter 1, we must make every possible effort to ensure that as much money as possible is made available for chapter 1—and the sooner the better.

I therefore want to point out to our colleagues, and to anyone in the country who may be listening, that one of the virtues of the bill is that it does provide full funding through fiscal year 1993 for the chapter 1 program by increasing the level of authorized funds for chapter 1 by $500 million a year beginning in the 1989 fiscal year. So by the time this reauthorization expires, if the Appropriations Committee and the Congress see fit to actually appropriate the full amount we are authorizing, there should be enough money available to provide every educationally and economically deprived youngster in this Nation with the remedial educational services which they require.

Mr. Chairman, an investment in chapter 1 is an investment in our children's future, and the future of our Nation. The high numbers of needy children unserved by chapter 1 jeopardize our country's ability to develop educated, literate, and self-sufficient youths and adults. This negligence threatens our ability to maintain a healthy national economy and a productive work force and weakens our standing as the preeminent leader in economic leadership.

There are those who argue that adding $500 million a year to this program will "bust the budget." Please bear in mind that a half a billion dollars is a drop in the bucket of the overall budget—amounting to 5 hundredths of 1 percent of the trillion dollars we spend each year. It would represent less than a 1-percent increase in new Federal spending. We will have to look long and hard to find other Federal programs with such a minimal impact on our budget but which bring such dramatic benefits to our Nation.

The consequences of underfunding chapter 1 are frightening. I would like my colleagues to consider what happens to children who turn 18 with the weakest math and reading scores relative to their peers. They are eight times more likely to bear children out of wedlock. They are seven times more likely to drop out before graduation. They are four times more likely to be out of work and school. And they are four times more likely to be forced to turn to welfare. Chapter 1 has a proven track record in reducing the danger of these unconscionable scenerios. Full funding of the program is, therefore, an obligation we owe to our children, and to our Nation's future.

Earlier today we passed the Defense Authorization Act. But the security of our country lies not only in the strength of our military, but in the education of our children. I urge my colleagues to support full funding of chapter 1. I also urge all the Members of the House to cast their vote today for final passage of H.R. 5, one of the finest pieces of legislation to be deliberated by this body for a long time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I want to express my support for H.R. 5, and my appreciation to Chairman HAWKINS and to the ranking Republicans on the subcommittee and full committee, Mr. GOODLING and Mr. JEFFORDS, for their efforts in getting to this point with this legislation. The degree of bipartisan support for H.R. 5, and the acclaim for the improvements in the bill from the education community, are testimony, I think, to their efforts in leading the committee through this reauthorization process.

I particularly want to commend the chairman for what is a fiscally responsible elementary and secondary education bill. We are well aware of the fact that by most estimates we are only serving about one-half of the children deemed eligible for services under chapter 1, and the bill makes it a goal to increase this share each year until full funding is reached. At the same time, we all know very well the budget constraints we face, and are likely to continue to face for some time. Our challenge in the 1980's is to make those programs begun in the sixties and seventies to expand opportunities more accountable, more carefully targeted, and yet flexible enough to address new and emerging areas of concern. I am pleased that H.R. 5 attempts to do just that.

Last year, Mr. PETRI and I, along with a number of other members of the House Wednesday Group, introduced legislation to substantially revise the chapter 1 program. We made very clear at that time that our intent was to identify areas of concern with the chapter 1 program, and to provoke discussion, and hopefully legislative change, toward addressing these concerns.

Although not all of the issues we raised have been addressed in H.R. 5, many of them have been. Two of our chief concerns were the issues of targetting of services, and accountability on the part of those who receive Federal funds to provide compensatory education services. I want to briefly note the legislative changes in H.R. 5 which address these concerns.

First, on the issue of targetting of services, the bill makes changes, as others have noted, in the concentration grant formula and in the way in which funds may be spent amongst schools within a district, so as to target those areas which have the greatest concentration and intensity of poverty. The bill emphasizes a second important aspect of targetting—that is, which students within a school which has a chapter 1 program should be served. Under the bill, each such school must rank its students, using educationally related objective criteria, and serve those most in need of services, unless one of the exceptions to this requirement applies. Thus chapter 1 cannot be used, for example, as a way to get troublesome students out of the regular classroom for part of the day. Only those students most in need of services may receive the services.

The second issue which our bill focused on, and which H.R. 5 makes important improvements in is the whole area of accountability. The chapter 1 program, as the studies show, has had a measure of success in raising the reading and math skills of these students who participate. The concern is for those school-specific programs which for whatever reason do not work, and for those students who, for whatever reason, do not show improvement as a result of receiving chapter 1 services. The bill requires that first the LEA, and then, if that is not successful, the SEA, provide help and assistance to individual schools in improving their programs, where those programs have not succeeded in improving the skills of the students being served by chapter 1. There is a range of program improvement initiatives which should be considered in doing so, taking into account the particular circumstances of the school—in some cases it might only require some training and technical assistance, in other cases it might require the reassignment of personnel—and the LEA and the SEA should look at all of these possibilities. In addition to accountability at the school level, we are concerned about individual students who remain in the program for several years without significant improvement. In those cases, the school should consider whether the chapter 1 program is the appropriate placement for the child, or whether another compensatory program might be necessary.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I want to commend the chairman and his staff for the time and energy they have expended in assembling and advancing this omnibus education bill. Thanks to the chairman's direction, the committee carried out a comprehensive and thorough review or more than a dozen basic Federal education programs covered in this legislation.

H.R. 5 will lay the foundation and enhance our capacity to solve the critical problems which confront us—our lack of economic competitiveness; domestic unemployment and dependence on government assistance; the threats to public health posed by drug use and teenage pregnancy, to name a few—all depend on education and effective schooling.

H.R. 5 reaffirms the fact that furthering our educational opportunities is in the national interest, the Federal Government shares responsibility with the States and local communities in providing our young people with effective schooling. In so doing, the bill repudiates the administration's ideological arguments against Federal support for education.

I am particularly pleased with the strides that have been made in Indian education. The committee has adopted language that will clearly prohibit any attempt by the BIA to unilaterally force Indian schools to contract. Consultation provisions were included to ensure greater participation by the tribes—this is a long-awaited improvement. In response to Assistant Secretary Swimmer's proposal to require Bureau schools to contract, I authored an amendment that would provide for five model schools that would offer the stability of a Bureau school and the economic independence of a contract school. My legislation says, "yes we do have problems in Indian education, but let's not run away from these problems, Let's meet them head on."

I am pleased to have worked with Congressman KILDEE on the Indian Self Determination Grants Act of 1987. This legislation was developed after long and hard deliberations within the Indian community. It builds upon the Indian Self Determination Act of 1975, and provides for specific timelines and guidelines for each set of schools. This act will provide for increased self-determination and a better quality of education in our Indian schools.

For many illiterate adults, adult education is their only hope for adapting to recent changes in our economy which have largely wiped out their traditional livelihoods. These adults do not have the basic reading and writing skills needed for most jobs, nor are they likely to be accepted or to benefit from job and vocational training without further education.

Yet most adult education programs tend to serve mostly those adults who already read and write at the sixth-grade level or above. We clearly see the need to focus more attention on the most needy. For this reason, Congressman COOPER and I successfully passed an amendment to redirect adult education funds to those reading at the fifth-grade level or below. This is an important step toward reaching the most illiterate in our society and I look forward to more efforts in this regard.

Mr. Chairman, honesty compels me to share my disappointment over the compromise amendment adopted by the committee regarding bilingual education provisions. The amendment calls for expanding future funding of monolingual, English-only instructional programs under the Bilingual Education Act.

The amendment flies in the face of the testimony presented to the committee in three separate hearings. It runs counter to the facts available to the committee.

This spring the General Accounting Office released a report on the research evidence concerning bilingual education. The GAO report confirmed that dual language instruction—teaching in English and the student's native language—is more effective than English-only instruction in helping children learn English and academic subjects. GAO's central finding is repeated in other national studies and reports. The studies show that limited-English-proficient students learn faster, learn more, and stay in school longer when schools utilize and build upon their native language skills.

This is the reason why bilingual education is supported by language-minority parents and a growing number of professional education associations, including the American Society for Curriculum Development, the National Education Association, the Joint National Committee on Languages, the National Council of Teachers of English, and the National Association of School Administrators.

During the debate on the committee amendment, my distinguished colleague from Michigan, Mr. FORD, noted that the amendment has nothing to do with education; nothing to do with teaching or learning; it is a political compromise, pure and simple. The gentleman's observations are accurate.

Since September 1985, the Secretary of Education has waged war on the Bilingual Education Act. First, he branded the entire program a "failure" declaring that:

> After 17 years of Federal involvement, and after $1.7 billion of Federal funding * * * we have no evidence that the children who we sought to help * * * have benefited.

Next, the Secretary argued that there was no research evidence to support native language instruction for LEP students while they are learning English.

Appropriations for the Elementary and Secondary Education Act title VII have been slashed by nearly 250 percent since 1980—through inflation and budget reductions. As a result, the Bilingual Education Act today serves over 100,000 fewer students than it did 6 years ago. Meanwhile, the limited-English-proficient students population continues to grow 2½ times as fast as the overall student population.

Despite my deep concerns over the bilingual compromise amendment, I strongly support H.R. 5. The bill's other amendments to the Bilingual Education Act, originally set out in H.R. 1755 which I coauthored with Chairman HAWKINS and my colleagues Mr. KILDEE and Mr. MARTINEZ, make many important changes in this vital and successful program.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to another new, bright light on our committee, the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I want to commend the chairman and the ranking member for the work they have done on this program.

Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act. This legislation reaffirms the Federal role in elementary and secondary education through such programs as chapter 1 compensatory education, chapter 2 block grants, math and science education, bilingual education, and several other programs.

Chapter 1 and chapter 2 represent the heart of the School Improvement Act. I strongly support reauthorization of chapter 1 which has been a very effective program in raising basic reading and mathematics skills for disadvantaged children. H.R. 5 also strengthens the chapter 1 program in a number of ways, but most importantly by enhancing the role of parental involvement in the education of their children. Studies have shown that when parents are involved in their child's education that the child does better in school. This is particularly important in the education of disadvantaged children. Chapter 1 encourages training parents to work with their children at home, consultation between teachers and parents and establishing parent advisory councils.

The chapter 2 block grants are essentially preserved in their current form and the changes that were made will enhance the effectiveness of the program. Chapter 2 will continue the current formula allocation which allows State and local authorities the ability to administer this important program in a way that meets the educational challenges of tomorrow. I also am pleased that chapter 2 maintains flexibility for effective school projects, instructional and educational materials, personnel enhancement and gifted and talented education projects.

The reauthorization of elementary and secondary education programs represents important contributions to our Nation's children and I encourage all Members to support this legislation.

□ 1740

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we consider this bill, nothing less than the future is at stake. The School Improvement Act helps build a better future. I would like to congratulate Mr. HAWKINS, the chairman of the Committee on Education and Labor, who has provided outstanding leadership in developing this important legislation. I also congratulate the minority for its role in developing and supporting this landmark legislation. The School Improvement Act builds on what works in the current programs, targets money where it will do the most good, and supports research and other actions to help create the foundations of the future.

However, I am especially concerned about bilingual education. It is one of the most vital issues that will be considered in this Congress. It will help determine whether this country will continue to build the American community by opening the doors to opportunity for all its citizens, or will isolate its minority language citizens into linguistic haves and have nots. Bilingual education can help keep kids in school and build the academic excellence they need to take advantage of the opportunities in our country.

Politeness is the art of choosing among your thoughts. There are many laudable things about the agreement reached on bilingual education. The compromise that Members reached may be politically expedient. However, I am seriously concerned that we are sending exactly the wrong messages in requiring that the overwhelming majority of new money, after holding harmless current activities, go only to SAIP while this disproportion in funding may have a certain short-term political logic, it is pouring money into immersion programs which show the least evidence of working when there is not enough money for the programs that have proven they work well. But it is the best we could do now, and we can only hope that the Members will learn more about the programs and come to realize the full importance of native language education.

Mr. GOODLING. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding me this time. I would like to commend the gentleman from Pennsylvania [Mr. GOODLING], the ranking member, and the chairman of the committee for a very fine job in putting together a bill which I strongly support.

Mr. Chairman, I appreciate the fact that we will be considering some very important educational programs through H.R. 5, and I would like to make special mention of the impact aid program.

As many Members may know, impact aid is reimbursement by the Federal Government to local school districts. Such reimbursement is necessary when a school district loses part or all of its tax base due to a Federal presence such as a military base, Indian land, or Federal public housing.

Impact aid is payment in lieu of taxes. It is the Federal Government paying for the education of federally connected children. It is payment for services rendered.

However, impact aid funding is never what it should be. Today, we speak of percentages of entitlements and distribution of insufficient funds.

Mr. Chairman, this is just not fair. Those of us who support impact aid do not want to take away from educational programs, such as programs for the gifted or handicapped. These are very important programs. We just want the Congress to recognize the difference between impact aid and special programs. While other educational programs are over and above a school's basic operating budget, impact aid is part of a school's basic operating budget.

Since impact aid, unlike other programs, is indeed payment for services rendered, it should be an entitlement program. I have introduced legislation, H.R. 2371, to make impact aid an entitlement. I will not pursue this goal during the consideration of H.R. 5, but I do believe it is a matter which should be given consideration.

I am very concerned that to get even 50 percent of full funding is an annual battle. I am also concerned that school districts do not even know how much impact aid they will be receiving until they are in the middle of their budget year.

I have some very clear ideas about where this program should be. I want an impact aid program that is fully funded. I want a program in which funding is automatic and we do not have to engage in yearly battles. I want a program that does not place an undue tax burden on permanent residents. And most important, I want an impact aid program which allows school districts to plan with confidence.

I therefore urge reauthorization of impact aid today, and I invite my colleagues to cosponsor my bill H.R. 2371.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to commend Chairman HAWKINS for his stewardship of this bill. As a new member of the Education and Labor Committee, I have been privileged to work with the chairman and my respect for him has only increased. His unfailing efforts to bring to the House floor such a comprehensive measure that is strongly supported by both sides of the aisle is a tribute to his leadership. Additionally, I would be remiss if I did not acknowledge the contributions of Congressmen JEFFORDS and GOODLING, the ranking minority members on the committee. Their efforts to place education above partisan politics is admirable.

This bill reauthorizes 14 programs that address the educationally needy and disadvantaged. Throughout our history, education has played a central role in allowing each successive generation to achieve beyond their predecessor. During the extensive hearings and subsequent markup of H.R. 5, I was constantly reminded of the critical role education has played in improving the lives of Americans and bringing about continued progress for the Nation.

Included in this measure is an amendment that I authored whose purpose is to strengthen the Center for Education Statistics. Education is the second largest industry in the Nation. It is overwhelmingly supported by public tax dollars, thus making it crucial that adequate data be available to determine its efficiency and progress in providing educational services to the American people.

The general design and duties of the Center for Education Statistics are to acquire and diffuse useful statistical information on subjects connected with education. Data and information provided by the Center is used by Congress to help formulate policy and monitor progress in education. The National Academy of Sciences, funded by the Department of Education, recently issued a report in September 1986, that concluded that unless there were wide-ranging actions to change both the image and reality of the Center, we are unanimous in our conviction that serious consideration be given to the more drastic alternatives of abolishing the Center and finding other means to obtain and disseminate education data.

For example, the committee and Congress are deeply concerned about the impact school dropouts have on the country. However, in spite of some efforts of the Center, there is no way of determining exactly what constitutes a dropout nor how many dropouts there are. The amendment puts into law many of the National Academy of Sciences' major recommendations, as well as those of the administration, leaders in the education and statistic fields and various congressional committees. Among other things, the amendment:

Established the first national education indicator to be presented to Congress on an annual basis examining dropout and retention rates of students. This is similar to other national indicators that document unemployment, productivity, poverty, and family income.

Sets up a system to accept data from all the States that is comparable, using common definitions and parameters. A small State training program is provided to train the States to collect and provide quality and uniform data. This is identical to several of the President's proposals contained in his competitiveness initiatives.

Models the improvements to the Center on the other major established statistical agencies, such as Bureau of Labor Statistics, Census and the National Center for Health Statistics.

Provides for partial reimbursement for the States for establishing comparable statistical standards using funding models from other such centers.

Provides privacy protections to those who provide information. Presently, there are no such measures. If financial information provided to a college for financial aid information is used by the Center in a study, there are no quarantees that this information will remain private.

Makes the Director of the Center a Presidential appointee, like their counterpart at the Bureau of Labor Statistics. Additionally, like the BLS Commissioner, the 4-year term does not run concurrently with the President's, thus insuring independence from political pressure.

Authorizes appropriations for the Center of approximately $26 million for fiscal year 1988, $5 million more than the President's present request for the Center.

In conclusion, I believe that this bill is perhaps the most far-reaching education measure that the 100th Congress will consider. I urge my colleagues to support this important legislation. By doing so, we reaffirm our committment that education is, and must remain, a national priority.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just point out three additional things that I failed to point out, one of which is the most important which will come at the end.

First of all, the gentleman from Michigan [Mr. FORD] and I worked for years to try to do something about the auditing problem that we were having in many school districts.

In this bill we, as a matter of fact, now give school districts and States an opportunity to defend themselves before they really were out there with no defense whatsoever. We had some bright staffers that figured out a way how we could do this, and so that is part of the bill that is very important.

Second, I think it is important to point out particularly to my side of the aisle that we are talking about $779 million in new authorization; but it is important to point out to the Members that we really in this budget, as well as the Senate budget, the House budget and the Senate budget allowed $2.2 billion, so we are only asking for $779 million of that.

□ 1750

That gives the Committee on Appropriations a lot of room to take care of the additional authorization.

Lastly, let me say that we do not say enough about the effort of the staff. What we do, as Members, we throw the staff to the wolves. The wolves are all the lobbyists out there, and we say—including some of our colleagues, as a matter of fact—and we say you go and you soothe their feelings and you go straighten them out and you go work something out with them, and then we come to the floor and take credit for what has happened. I cannot say enough about the effort of the staff on both sides because they have provided tremendous leadership.

We have a good bill. We are well under the budget with the bill and it would be my hope that we can get a unanimous vote tomorrow and then we will show some of these other committees how you are supposed to do things in committee, and not write bills on the floor of the House.

Mr. Chairman, I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] has 3 minutes remaining and the gentleman from Pennsylvania [Mr. GOODLING] has yielded back his time.

Mr. HAWKINS. Mr. Chairman, I yield the remaining 3 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, it is a great source of satisfaction for me to rise in strong support of this bill. I cut my eyeteeth in Congress in 1965 as a first-term member of the Committee on Education and Labor in helping to write the Education Act and helping write title I and title III. I was very proud to have played even a minor role in this great piece of legislation which we are enhancing and enlarging on today.

I want to express my admiration to the chairman, the gentleman from California [Mr. HAWKINS], for the outstanding leadership he has provided this committee and, as well, my admiration for the gentleman from Pennsylvania [Mr. GOODLING] for having brought this bill to the floor with virtually total bipartisan support.

He is absolutely right, the minority ranking member, when he says this is the way we ought to legislate. This is a splendid outstanding piece of legislation and I congratulate all, on both sides of the aisle, that had anything to do with it.

All of this bill is constructive and needed and necessary. I would simply like to highlight one aspect of the bill that I am particularly concerned with; namely, the question of adult illiteracy, which is a plague on our society, an albatross around our necks, the most important social problem facing America. How can we have a whole, how can we have a healthy, how can we have a sound economy or a healthy society when we are faced with this pitiful subclass of Americans who cannot read, write and count?

Of the people in our prisons today, 50 percent are functionally illiterate; 75 percent of the unemployed are functionally illiterate; and 85 percent of the youth in our juvenile court system are functionally illiterate.

We talk about productivity, and I echo the words you have just heard. How can we be a productive Nation and compete with the nations of Western Europe, with Japan, with Korea, with Singapore, with Hong Kong, with Taiwan when these nations are 95 percent-plus literate; most of them 99 percent-plus literate? It is a shame and a blight on America that one-third of our adult workforce, by many estimates, are functionally illiterate.

The committee report says 20 to 70 percent. With $200 million diverted to adult literacy, that means we are spending between $3 and $10 for adult illiterate in this country.

It is obvious that we are only barely beginning to meet the challenge, but this bill is a great step forward. It includes some kind of programming for the 5 million people now of our 25 to 75 million functionally illiterate.

Mr. BIAGGI. Mr. Chairman, as a senior member of the House Education and Labor Committee, I rise today to give my full and enthusiastic support to H.R. 5, the School Improvement Act. Without question, this is the most important and sweeping elementary and secondary education legislation to be considered by the House in more than a decade.

This omnibus bill extends through 1993, many of our most critical education programs, especially those directed at the most needy of our people. These programs include chapter 1—the largest Federal aid program to elementary and secondary schools—chapter 2, adult education, bilingual education, and impact aid. This measure also creates a new program for the gifted and talented, a provision of which I am proud to have authored; focuses additional resources and services on drop-out prevention efforts and basic skills improvements; and establishes a new preschool and literacy program.

But most importantly, H.R. 5 ensures that the Federal Government meets the challenge and fulfills its role in the education of our citizens. It represents the Federal response to the clamor for education reform—a response demanded by the people of this country as they recognize the crucial role education plays with respect to the strength, vitality, and well-being of our Nation.

Nowhere is the need for education reform more accurately reflected than in the theme of "competitiveness", now espoused by the administration, Congress, business, and the public at large. We are grappling with ways to compete more effectively in the international marketplace, and strengthen our scientific and technological edge. We are struggling to reduce the budget and the trade deficits, while we are working to expand the economy. We, as a Nation, can no longer afford to ignore our most precious national resource—the minds and potential of our people, especially our children, who hold the promise and the key to this country's future.

This potential is perhaps greatest in our gifted and talented students—students who can transform and invigorate our culture and economy and provide our society with the contributions we so desperately need. But unless we recognize and develop the abilities of these students during their elementary and secondary years, much of their special potential for contributing to the national interest will be lost. The new Gifted and Talented Program within H.R. 5 is critical if we are to maximize the capabilities of our brightest and most promising students and ensure they receive adequate, appropriate, and more specific educational services.

Since the start of this decade, with the demise of the National Program for Gifted and Talented Education, and the abolishment of its office within the Department of Education, gifted and talented programming in this Nation has suffered from acute educational neglect. Of all evidence pointing to deterioration in this area, none is more alarming than the decline in the achievements of these students. One out of every five of our Nation's gifted and talented students is a high school dropout. Of those that do graduate, 40 percent will not go on to college if they have not received specialized instruction in school. Approximately half of gifted and talented students work at least four grades below this potential.

These statistics are consistent with "A Nation At Risk," a report issued by the National Commission on Excellence in Education. The report noted, "over half of the gifted students do not match their tested ability with comparable achievement in school" and that "both the number and proportion of students demonstrating superior achievement in the scholastic aptitude test have also dramatically declined." One clear recommendation emerged: "The Federal Government, in cooperation with States and localities should help meet the needs of key groups of students such as the gifted and talented.

Is the Federal Government now meeting that challenge? Are we really trying to tap this vast unexplored resource? Consider that at this time, we are spending less than $5 per child in Federal funds to support the brightest and most promising of our Nation's students. Clearly, if there is to be a reasonable response to promote quality and excellence in the classroom, then we must adopt this provision within H.R. 5. It is a modest effort designed to support State and local programs that address the unique and pressing needs of gifted and talented students.

Funds will also be used for teacher training activities, and to establish a national center for the education of the gifted. Both of these components are vital if we are to succeed in redeveloping a gifted and talented program at the national level. This provision is identical to my bill, H.R. 543, which enjoys the strong, bipartisan support of 102 Members. It is similar to the bill I introduced last year, which received unanimous House approval. It is a program that is long overdue.

Yet at the cornerstone of this reauthorization is the Chapter 1 Program—the bedrock of Federal efforts to meet the special educational needs of low-income and disadvantaged children.

The Chapter 1 Program is a shining example of what can, and what must be done to improve the educational opportunities of our Nation's needy children. It is a proven and successful program that exemplifies the best in education efforts at the Federal level. This reauthorization will allow the Chapter 1 Program to retain its existing structure, while permitting expansion and refinement of this very effective program.

For example, the concentration grant provision in chapter 1 will focus additional resources and services on those areas most in need. This provision is a result of a carefully constructed compromise by our committee, designed to ensure that large States, small States, urban, suburban, and the rural areas of this country all benefit from these new and extra resources.

The schoolwide projects provisions will permit schools with a substantial population of needy students—75 percent—the flexibility and the opportunity needed to upgrade the entire school's educational program, thus benefiting more students. This year, the committee deleted the State and local matching requirement, which prevented almost all of the eligible schools from participating this unique project, but retained the relatively large percentage—75—needed to qualify under this provision. I am pleased that the committee approved a number of my amendments regarding schoolwide projects, amendments I firmly believe will strengthen and enhance this provision.

This reauthorization also marked the very first time the committee has had an opportunity to address the Aguilar versus Felton Supreme Court decision—a decision that left services to our needy nonpublic schoolchildren vitually paralyzed. I believe the committee has made an important effort in addressing this issue, and I am proud to note a number of amendments I authored designed to ensure that our nonpublic school students are also granted much-needed chapter 1 supplemental educational services.

And finally, I wish to recognize the new Dropout Prevention and Reentry Program—a critical step in efforts to address one of the most serious and pressing education crisis in my own district in New York City, and across the entire Nation. The dropout problem is a tragedy reaching epidemic proportions. The new program contained within H.R. 5 is a first and firm step forward toward addressing this crisis. I commend my good friend and colleague from Illinois [Mr. HAYES] for the leadership he has provided to both the committee and the Congress in this area.

I would be remiss if I did not recognize the fine efforts of our chairman, GUS HAWKINS, and the ranking minority member, BILL GOODLING for the exceptional work they performed in crafting this important legislation. Their contributions to this process have been outstanding, and their leadership of the highest caliber. It was a pleasure to work with these fine gentlemen, and all of the members of the Education and Labor Committee, in the development of H.R. 5. This bill is a commitment on the part of my fellow committee members, and must be a commitment on the part of the entire Congress, that each and every American be granted a sound, a solid, and an enduring education.

Passage of this legislation provides us the tools—but we must be given the resources to ensure the tools complete the work. As President Reagan noted in his State of the Union Address, "Excellence Is What Makes Freedom Ring!"

Mr. CARDIN. Mr. Chairman, we have an opportunity today to improve the tomorrow for thousands of disadvantaged children. American education is at a crossroads and we can no longer afford to be a "Nation at Risk," providing unequal educational experiences for our children.

H.R. 5 is vital for this country and I urge my colleagues to join me in supporting this legislation. While corporations desperately seek a qualified labor pool and we grapple with the problem of a trade deficits, vast numbers of our youth waste away their days on street corners, barely literate and incapable of finding a decent job.

Consider the following: 14 million children live below the poverty level. Fifty percent of all black children and 40 percent of all Hispanic children are poor. Eighty percent of all children eligible for Headstart programs receive no service. Twenty percent of all newborns—many born to teenage mothers—are premature and at risk of becoming educationally delayed. Consider also that programs serving children and families have already lost $10 billion a year since 1980.

All the news in education is not bleak, however, thanks to programs like Chapter I and II. More than 60 percent of Maryland's disadvantaged students are gaining a year scholastically for each year in school. Over 82,500 volunteers helped out in schools with 4 million hours of service in 1985. That's a lot of commitment—and a lot of love. Maryland's schools regularly provide special programs to 51,000 gifted youth. That represents almost 8 percent of our school population.

During the 1987–88 school year, 116 public schools and approximately 21 nonpublic schools will be eligible for Chapter I services in Baltimore City. After school tutorial programs, high intensity reading and math labs, elementary guidance counselors and parental involvement programs are all possible because of Federal funding. Chapter II funds provide teacher assistance, dropout retrieval programs and curriculum development. These programs can make a tremendous impact on a child's life, especially if his opportunities for enrichment at home are negligible.

We cannot afford to renege on our commitment to educational opportunity during the coming era in which youth will be in short supply. We cannot afford to have a different standard of education for the privileged and another standard for the poor. Targeting our resources makes sense, both educationally and morally and I urge the support of this House for this important legislation.

Mr. ALEXANDER. Mr. Chairman, I rise in strong support of H.R. 5, the School Improvement Act of 1987.

We call my State of Arkansas, the Land of Opportunity. Arkansans have strong values. Arkansans want to work to support themselves. In fact, yesterday I received in my office a petition containing more than 60 pages of signatures of people from Phillips and Lee Counties who want training and job opportunities. Arkansans need the education opportunities this bill will help support.

A major effort to improve the education opportunities available to our people is underway in Arkansas. My State is not looking for a handout from the Federal Government. It does need a helping hand. It does need the Federal Government to recognize and respond to the education needs of Arkansas and the Nation. The Nation has a deep, vested interest in the quality of education Arkansans and all Americans get.

This is the most far-reaching education bill of the decade. It comes before us at a time of when there is almost unprecedented concern and interest, at the State and local level, in quality education. Under this bill, the Federal Government would strengthen its commitment to be supportive of State and local efforts toward excellence in education.

In its "Action for Excellence" report, the Education Commission for the States' Task Force on Education for Economic Growth said:

> This is no time for the Federal Government to shirk these responsibilities, or to shrink suddenly from the issue of education as a national priority. The Federal Government's role, to be sure, is a supporting role. But that role is essential.

The brain power of the people of Arkansas and the Nation is our most valuable natural resource. It is vital that we put it to work for our economic, political, and military security by liberating this brain power through education.

The 1980 census found that only 55.5 percent of the Arkansans 25-year-old or older were high school graduates. In the First District, which I represent, the percentage was 45.7. The bill before us would not only help State and local educational institutions remove obstacles to learning, it would support efforts to encourage school age youngsters to stay the course through graduation.

Like many other States, Arkansas is experiencing a rising concern over the numbers of young people and adults who can neither read nor write well enough to fill out a job application, if they can read and write at all. This bill would support programs to improve literacy among Arkansans and Americans.

Teachers are among the most dedicated, self-sacrificing, most poorly rewarded, and most important professionals in our Nation. This bill backs programs which would help better equip and support our teachers in accomplishing their goal of educating our people.

These are but a few of the important programs which would be authorized under this bill. It is a good bill. It is a bill this Nation needs. I urge my colleagues to vote for its passage.

Mr. FAUNTROY. Mr. Chairman, as a cosponsor of H.R. 5, the School Improvement Act, I rise in support of this most important legislation.

H.R. 5 seeks to reauthorize the very crucial programs of our Federal Government in elementary and secondary education. Programs to be reauthorized under the School Improvement Act are chapter 1 compensatory education, bilingual education, education block grants, and Impact Aid. Other provisions of H.R. 5 would authorize mathematics and science education, magnet schools in school districts undergoing desegregation, and very importantly drug education.

Mr. Chairman, much is being said these days about the imperative that our Nation maintain a competitive place in the changing international economy. H.R. 5 and the programs it would reauthorize will do much to improve our educational system and thereby advance our Nation's future ability to compete.

H.R. 5 is also a prodemocracy bill seeking to open up opportunity to participate in civil life through education for all of our children.

The School Improvement Act would provide assistance for school districts with high concentrations of low-income families and would authorize new preschool and high school programs to encourage the expansion of compensatory education services beyond the elementary school level.

One feature of H.R. 5 that will prove most valuable is the Even Start Program which will combine basic adult literacy education for parents with preschool education for their children. An additional provision would authorize funds to prevent students in high school from dropping out.

This legislation represents government at its best, enhancing the national interest and opening up the doors of opportunity for all the people of the United States of America.

I urge my colleagues to approve H.R. 5, the School Improvement Act.

Mr. DREIER of California. Mr. Chairman, at this time when we are debating the reauthorization of 14 education programs, I think it is highly appropriate that we consider the content and quality of the education we provide for our children.

Mr. Chairman, in our value-free society, we often fear being identified with specific values. I'd like to draw your attention to a new movement, termed "cultural conservatism," that is based on one central theme: That Judeo-Christian values are necessary for the survival of Western society. Cultural conservatism does not require a belief in God nor in religious absolutes. Rather, a cultural conservative as defined by a prominent conservative and a prominent liberal, is someone who believes that "There is a necessary, unbreakable, and casual relationship between traditional Western, Judeo-Christian values, definitions of right and wrong, ways of thinking and ways of living * * * and the secular success of Western societies. If the former are abandoned, the latter will be lost."

In a November 1986 American Spectator article, Mr. Chester Finn, counselor to Department of Education Secretary William Bennett, applies the themes of cultural conservatism to the field of education. I believe these tenets of "educational cultural conservatism" would go a long way in improving our education system, and in establishing sound values in our children. Finn's 10 tenets follow:

First, the public and private school curricula should be revised to include, alongside the three R's, a new discipline called cultural literacy.

Second, educators should stop denigrating "beliefs," especially religious beliefs, as having no place in public discussion.

Third, parents, teachers, and professors should make moral development and character formation explicit goals, and they should serve as role models of moral behavior. Government policy should support good behavior.

Fourth, schools should stop teaching that different cultures are morally equal. They should start teaching that democracy is superior to communism and that every citizen's participation in democracy is vital to its survival.

Fifth, schools should extol limited government as a fundamental value of a democratic state, but at the same time, teach that within limits government and all major institutions should foster the fundamental values of Western culture.

Sixth, The United States should promote pluralism over monopoly in education and decentralization over centralization in all areas outside of a core curriculum. Individual schools should be granted more institutional sovereignty.

Seventh, parents should be allowed to select their children's schools and be held accountable for their choices.

Eighth, elementary and secondary schools should teach American history, and colleges and universities should extend and deepen the institution.

Ninth, all schools should provide children with "a solid core of essential skills and knowledges." Differences between the schools should lie outside of that core.

Tenth, discipline standards should be firmly and fairly enforced. Continual efforts should be made "to replace external sanctions with internal controls," largely through the exemplary moral conduct of the student's teachers and professors.

In addition, Mr. Chairman, I'd like to draw your attention to an article found in the Washington Post this morning. The article follows:

TEACHING OF DEMOCRATIC VALUES URGED—COALITION CALLS FOR END TO NATIONAL SELF-CRITICISM IN SCHOOLS

(By Barbara Vobejda)

A broad mix of leaders from government and the private sector, ranging from People for the American Way to the National Association of Evangelicals, joined yesterday in calling for restructured school curriculum that would extol democracy as "the worthiest form of government ever conceived."

The statement, which calls for an end to the self-criticism of the Vietnam and Watergate eras in school curriculum, bears 150 names, including Secretary of Educaton William J. Bennett, Walter F. Mondale, Jimmy Carter, Gerald R. Ford and leaders of both major teachers' unions, as well as the organization of evangelicals and People for the American Way, an organization founded to counter the religious right.

In a document titled, "Education for Democracy," the group said "we fear that many young Americans are growing up without the education needed to develop a solid commitment to those 'notions and sentiments' essential to a democratic form of government."

It urged that history and humanities be taught in more depth, starting as early as the primary grades and called for more attention to world studies, with students required to study thoroughly at least one non-Western society. The curriculum, the group said, should be reordered around a core of history and geography, taught from the perspective of "understanding under what conditions people can enjoy rights and freedom."

"The idea is that history should be taught with objectivity, but not with neutrality," said Diane Ravitch, chairwoman of the Educational Excellence Network, which sponsored the project with the American Federation of Teachers and Freedom House, an organization that monitors political and civil liberties.

The statement, released at a news conference in Washington yesterday, was the most recent in a series of recommendations that the nation's schools move away from the "values-free" teaching said to be prevalent in the 1960s and '70s. At a conference sponsored last month by People for the American Way, it became clear that politially liberal groups had moved closer to their conservative counterparts in advocating that schools should teach civic virtue and take clear positions or right and wrong behavior.

Yesterday's statement echoed that theme.

"Education for democracy . . . must extend to education in moral issues," the document said. "The basic ideas of liberty, equality and justice, of civil, political and economic rights are all assertions of right and wrong, or moral values, . . . It is absurd to argue that the state, or its schools, cannot be concerned with citizens' ability to tell right from wrong. . . ."

In criticizing the current curriculum, the document cited a teaching guide on human rights that gave equal significance to the "right" to take vacations, freedom of speech and the right to vote. It also cited surveys of high school seniors that showed confidence in democracy has declined since 1968 and that half the students couldn't identify Winston Churchill or Joseph Stalin.

AFT president Albert Shanker said that the project, which is funded by the Department of Education, the California Department of Public Instruction and several private foundations, will review social studies textbooks this year and train teachers across the country to evaluate curriculum materials to determine how well the materials cover the development of democracy.

The document, which is meant to serve as a curriculum guide, will be distributed to state and local school superintendents, legislatures, governors and more than 600,000 members of the union, Shanker said.

"There will be some controversy," he said, referring to expected criticism that the recommendaitons are ethnocentric or deny the worth of other cultures. "We believe that the values of freedom and democracy . . . are preferable to their alternatives. And we believe that the curriculum should reflect this."

Emphasizing the central role that history must play in teaching democratic values, Ravitch recommended that schools teach history in the early grades, infusing more "real content" through the tales of heroes who fought for democracy. History should not be "just memorizing a parade of facts," Ravitch said, but should be "organized around the struggle of people "to enjoy democracy."

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of the legislation, H.R. 5, the School Improvement Act of 1987. As a strong advocate of public education and a believer in the importance of youth in our society and the future of this Nation, I am pleased to have this opportunity to support this comprehensive and crucial piece of legislation.

Education reform has been and will continue to be the issue of the 1980's. With this package, Mr. Chairman, the Congress is restating its firm commitment to excellence in education. Advancements in technology begin in the primary grade levels when firm foundations of phonics, arithmetic, and discipline are nurtured at home and in the classroom.

In this era of budget constraints and budget cuts, Mr. Chairman, it is mandatory that we as a nation and we in Congress set our national priorities. Dedication to the education of our children is fundamental to progress in science, in international trade, in the creative arts, in space technology, in an informed electorate, and in a vital society.

Probably one of the most significant aspects of the School Improvement Act is the reauthorization of chapter 1 of the Education Consolidation and Improvement Act. As my colleagues know, chapter 1 is the largest Federal elementary and secondary program and provides compensatory education programs for educationally deprived children in low-income areas. Over the last 20 years, Mr. Chairman, chapter 1 with its reading, math, and nutrition services, and special assistance for children of migrant workers and handicapped children has made tremendous strides in meeting the needs of our Nation's children.

On the national level, one study after another has come to the conclusion that these services are effective and productive. The Department of Education's report shows an increase in the percentile ranks of chapter 1 students in reading and math for every grade except 12th grade. In the March 1987 testimony presented by five senior executives of major corporations to the congressional Education Subcommittees, these business leaders stressed that "Chapter 1, because of its widespread acceptance, both politically and educationally, must remain the central element of our compensatory education initiatives."

In my own State of New Jersey, Mr. Chairman, significant gains have been made in the testing scores of students in grades 2 through 8. In school year 1985-86, the reading scores rose in all but one grade and the math scores were outstanding and improved across-the-board.

The chapter 1 programs are enhanced by the commitment this bill makes to the total education of these children and their parents. Placing renewed emphasis on parental participation and involvement, activities and training programs for parents will be stressed as an integral aspect of the overall chapter 1 program. A new program called the Even Start Program will focus on high rate of illiteracy among adults. Mr. Chairman, not only will parents with limited skills be instructed in the basics of reading and math, they will have the opportunity to become partners in their own children's education.

In addition, the Federal commitment to the education of handicapped children under the chapter 1 program is again reiterated in this comprehensive bill. Mr. Chairman, never shall Congress weaken its support for the handicapped, and I am pleased that the funds are used to support the traditional programs such as preschool programs, education programs for multiple-handicapped, and for improvements in the development of individualized education programs. New and expanded opportunities will be fostered that allow handicapped children to participate with their nonhandicapped peers in various educational settings and experiences.

Mr. Chairman, in addition to providing needed funds for educational programs for the underprivileged, H.R. 5 meets the challenge to excel beyond the level of our international peers in math and science education. By increasing authorization levels and boosting the amount of funds provided on the local level, this education bill recognizes our need to raise student achievement levels in math and science programs. The funds are targeted for basic skills programs, teacher training initiatives, and the development of partnerships with public, private, and nonprofit agencies. With a comprehensive approach of beefing up the critical skills, Mr. Chairman, I believe this program will complement the new programs encompassed by the recently House-approved trade legislation which focus on foreign language proficiency and training in technological areas.

As cosponsor of the Jacob Javits Gifted and Talented Children and Youth Education Act, I am pleased that this measure has been incorporated into the final version of the measure before us. The children who have exceptional capabilities for intellectual, creative, and leadership skills hold one of the keys to America's scientific and technological advances, and our competitiveness in the international arena. The new gifted and talented provisions of H.R. 5 will significantly improve the education agenda for these children through promoting model programs, stimulating research and providing special training for educators.

Mr. Chairman, I urge my colleagues to vote in favor of this legislation and display Congress' strong support for education in America and the future of our most precious commodity—our children.

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. OLIN] having assumed the chair, Mr. VOLKMER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1987

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1846) to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "Higher Education Technical Amendments Act of 1987".

(b) Reference.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. INSTITUTIONAL AID.

(a) Technical Provisions.—Title III of the Act is amended—

(1) in section 311(b)(1), by striking out "section 358(a)(1)" and inserting "section 360(a)(1)";

(2) in section 312(b)(1)—

(A) by inserting "which" before "is" each place it appears in subparagraphs (C) and (D);

(B) by inserting "which" before "has" in subparagraph (E); and

(C) by inserting "which" before "meets" in subparagraph (F);

(3) in section 312(b)(3), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(4) in section 312(b)(5), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(5) in section 312(c)(1), by inserting "in the second fiscal year preceding the fiscal year for which the determination is being made" immediately after "Act";

(6) in section 312(c)(2)—

(A) by striking out "preceding fiscal year," and inserting in lieu thereof "fiscal year preceding the fiscal year for which determination is being made,"; and

(B) by striking out "such fiscal year" and inserting in lieu thereof "second preceding fiscal year";

(7) in section 323(a), by striking out "section 358(a)(2)" and inserting "section 360(a)(2)";

(8) in section 325(a)(1), by striking out "section 322" and inserting "section 323";

(9) in section 326(a)(2), by inserting before the period at the end thereof the following: "except that the Morehouse School of Medicine shall receive at least $3,000,000";

(10) in section 326(c), by striking out "section 333" and inserting "section 332";

(11) in section 327(a), by striking out "Act" and inserting in lieu thereof "part";

(12) in section 332(f)(1), by inserting "(or section 355)" after "part A or B";

(13) in section 351(b)(6), by striking out "section 356" and inserting "section 357";

(14) in section 352(a)(2), by striking out "low- and middle-income" and inserting "low-income";

(15) in section 352(b), by adding at the end thereof the following:

"(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.";

(16) in section 355(a) by inserting "or part B" immediately after "part A" each place it appears; and

(17) in section 355(b), by inserting "part A or" immediately before "part B" each place it appears.

(b) Application Review Process.—Part A of title III of the Act is amended by adding at the end thereof the following new section:

"APPLICATION REVIEW PROCESS

"Sec. 314. (a) Review Panel.—(1) All applications submitted under part A by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

"(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islanders (including Native Hawaiians).

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that must receive special consideration for grants awarded under part A;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A, the amount of any such grant, and the duration of any such grant.

"(b) Recommendations of Panel.—In awarding grants under part A, the Secretary shall take into consideration the recommendations of the panel established under subsection (a).

"(c) Notification.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A and any modifications, if any, in the recommendations of the panel made by the Secretary.".

SEC. 3. PELL GRANTS.

(a) Clarification of Reference.—Section 411(g)(2) of the Act is amended by striking out "paragraph (1)" and inserting "paragraph (1)(B)".

(b) Exclusion of Forced Sale Proceeds.—(1) Section 411A of the Act is amended by adding at the end thereof the following new subsection:

"(b) Exclusion of Forced Sale Proceeds.—In the computation of family contributions for the program under this subpart for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.".

(2) Section 411B(g) of the Act is amended—

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(3) Section 411C(f) of the Act is amended—

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(4) Section 411D(f) of the Act is amended by striking out paragraph (5).

(c) Treatment of Excludable Income.—(1) Sections 411B(d)(1)(A), 411C(c)(1)(A), and 411D(c)(1)(A) are each amended by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))".

(2) Section 411B(i)(1)(A) of the Act is amended—

(A) by striking out "other than amounts earned under part C of this title"; and

(B) by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))".

(d) Effective Family Income.—Section 411B(d)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out "minus" at the end of subparagraph (B) and inserting "and"; and

(3) by inserting after such subparagraph the following:

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period, minus".

(e) Contribution From Student's and Spouse's Assets.—Section 411B(l) of the Act is amended by inserting before the period at the end thereof the following: ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(f) Assessment of Discretionary Income.—(1) Section 411B(f)(1) of the Act is amended to read as follows:

"(f) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (d)), minus (B) the total offsets to such income (as determined under subsection (e)). If such discretionary income is a negative amount, the contribution from the parents' income is zero.".

(2) Section 411C(e)(1) of the Act is amended to read as follows:

"(e) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

(3) Section 411D(e)(1) of the Act is amended to read as follows:

"(e) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

(4) Sections 411B(f)(2), 411B(j)(2), 411C(e)(2), and 411D(e)(2) of the Act are each amended by striking out "effective family income" each place it appears in the text thereof and inserting "discretionary income".

(5) The tables in sections 411B(f)(2) and 411C(e)(2) of the Act are each amended—

(A) by striking out "**Effective family income**" and inserting "**Discretionary income**"; and

(B) by striking out "effective family income" and inserting "discretionary income".

(g) Treatment of Dislocated Workers and Displaced Homemakers.—Sections 411B(g)(1), 411C(f)(1), and 411D(f)(3) of the Act are each amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(h) Correction of References.—(1) Section 411F(1)(B) is amended by striking out "paragraph (13)" and inserting "paragraph (15)".

(2) Section 411C(f)(5)(B) of the Act is amended by striking out "the calculation of effective family income required by subsection (c)" and inserting in lieu thereof "the assessment of discretionary income under subsection (e)".

(i) Tuition and Fees.—Section 411F(5)(A) is amended by striking out "student's tuition and uniform compulsory fees" and inserting "tuition and uniform compulsory fees normally charged a full-time student".

(j) Dependent of a Student.—Section 411F(6) is amended to read as follows:

"(6) Except as otherwise provided, the term (A) 'dependent of the student' means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year; and (B) the term 'dependent of the parent' means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.".

(k) Excludable Income.—Section 411F(9) of the Act is amended—

(1) in subparagraph (A), by striking out "(B), (C), and (D)" and inserting "(B) through (E)";

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) For a Native American Student, the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act or the Maine Indians Claims Settlement Act.";

(3) in subparagraph (D), by inserting "(including any income earned from work under part C of this title)" after "financial assistance"; and

(4) by adding at the end thereof the following new subparagraph:

"(E) Annual adjusted family income does not include any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act.".

(l) Independent.—Section 411F(12) of the Act is amended—

(1) in subparagraph (B)(iii), by striking out "gradulate" and inserting "graduate"; and

(2) in subparagraph (B)(vi), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources

(including all sources of resources other than parents)".

(m) Untaxed Income and Benefits.—Section 411F(15) of the Act is amended to read as follows:

"(15) The term 'untaxed income and benefits' means—

"(A) child support received;

"(B) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(C) workman's compensation;

"(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(E) interest on tax-free bonds;

"(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(G) cash support or any money paid on the student's behalf;

"(H) the amount of earned income credit claimed for Federal income tax purposes;

"(I) untaxed portion of pensions;

"(J) credit for Federal tax on special fuels;

"(K) the amount of foreign income excluded for purposes of Federal income taxes;

"(L) untaxed social security benefits;

"(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.".

SEC. 4. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) Formula.—Section 413D(d)(2) of the Act is amended—

(1) by striking out subparagraph (D) and inserting the following:

"(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;"; and

(2) by striking out subparagraph (F) and inserting the following:

"(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;".

(b) Technical Amendments.—(1) Section 413D(d)(3)(A) of the Act is amended by striking out "and for graduate and professional students".

(2) Section 413D(d)(3)(B) is amended—

(A) by striking out "and graduate and professional"; and

(B) by striking out "and graduate".

SEC. 5. STATE STUDENT INCENTIVE GRANTS.

Section 415E(1) of the Act is amended by striking out "literary" and inserting "literacy".

SEC. 6. STUDENT SUPPORT SERVICES.

Section 417D(d) of the Higher Education Act of 1965 is amended by striking out "Post-Baccalaureate Achievement Program" and inserting in lieu thereof "Ronald E. McNair Post-Baccalaureate Achievement Program".

SEC. 7. SEPARATION OF HEP/CAMP AUTHORIZATION.

Section 418A(g) of the Act is amended to read as follows:

"(g) Authorization of Appropriations.—(1) There are authorized to be appropriated for the high school equivalency program $7,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $2,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

SEC. 8. VETERANS' EDUCATION OUTREACH.

Section 420A of the Act is amended—

(1) in subsection (b)(2)(B), by striking out "subchapter V or VI" and inserting "subchapter V";

(2) in subsection (b)(5), by striking out "paragraph (3)(A)" and inserting "paragraph (4)(A)";

(3) in subsection (c)(2)(A)(i), by striking out "subsection (e)" and inserting "subsection (b)(5)"; and

(4) in subsection (c)(2)(C)(ii)—

(A) by striking out "(I)"; and

(B) by striking out "and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34".

SEC. 9. SPECIAL CHILD CARE SERVICES.

Section 420B of the Act is amended—

(1) in subsection (b)(2)—

(A) by striking out "to pursue a successful program" in subparagraph (C) and inserting "to pursue successfully a program";

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(2) by striking out subsection (d) and inserting the following:

"(d) Definition.—For purposes of this subpart, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.".

SEC. 10. GUARANTEED STUDENT LOANS.

(a) Inapplicability of Aggregate Loan Limits to Supplemental and PLUS Loans.—Sections 425(a)(2)(A) and 428(b)(1)(B) are each amended—

(1) in clause (i), by inserting ", excluding loans made under section 428A or 428B" after "undergraduate education"; and

(2) in clause (ii) by inserting ", excluding loans made under section 428A or 428B" after "graduate or professional student)".

(b) Teacher Deferment; Internship Deferment.—(1) Sections 427(a)(2)(C)(vi) and 428(b)(1)(M)(vi) of the Act are each amended by inserting "nonprofit" before "private".

(2) Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training".

(c) Multiple Disbursement.—Sections 427(a)(4) and 428(b)(1)(O) of the Act are each amended by striking out "more than $1,000" and inserting "$1,000 or more".

(d) Variable Interest Rates on Supplemental and PLUS Loans.—(1) Section 427A(c)(4) of the Act is amended—

(A) in subparagraph (A), by striking out "to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987," and inserting "and disbursed on or after July 1, 1987,";

(B) in such subparagraph (A), by striking out "any calendar year" and inserting "any 12-month period beginning on July 1 and ending on June 30"; and

(C) by striking out subparagraph (B) and inserting the following:

"(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.25 percent.".

(2) Section 438(b)(2)(C) of the Act is amended by striking out "12.5 percent" and inserting "12 percent".

(e) Compliance With Loan Limits.—Section 428(a)(2)(D) of the Act is amended by striking out "permits the student" and inserting "certifies the eligibility of any student".

(f) Insurance Program Agreements.—Section 428(b)(1) of the Act is amended—

(1) by striking out "first or" in subparagraph (A)(i) and inserting "first and";

(2) by inserting before the semicolon at the end of subparagraph (N) the following: "and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student";

(3) by striking out "being dispensed" in subparagraph (O)(i) and inserting "being disbursed";

(4) by striking out subparagraph (P) and inserting the following:

"(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;"; and

(5) by inserting in subparagraph (T) after "eligible institutions" the following: "(other than nonresidential correspondence schools)".

(g) Clarification of Reference.—Section 428(b)(5) of the Act is amended by striking out "paragraph (1)(M)" and inserting "paragraph (1)(M)(i)(III)".

(h) Guaranty Agency Information Transfers.—Section 428(b)(6) of the Act is amended—

(1) in subparagraph (A), by striking out "Prior to the implementation of section 485B" and inserting "Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section"; and

(2) in subparagraph (B), by striking out clause (ii) and inserting the following:

"(ii) the amount borrowed and the cumulative amount borrowed.".

(i) Supplemental Preclaims Assistance.—Section 428(c)(6)(C)(iv) of the Act is amended by adding at the end thereof the following: "In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.".

(j) Secretary's Equitable Share; Garnishment.—Section 428(c)(6)(D) of the Act is amended by inserting "and enforces" after "enacts".

(k) Reinsurance Fees.—Section 428(c)(9) of the Act is amended—

(1) by inserting "covered" before "loans" each place it appears in clauses (i) and (ii) of subparagraph (A); and

(2) by adding at the end thereof the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'covered loans' means loans made under this part to which the insurance applies, but does not include loans made under section 428A(d), 428B(d), or 428C.".

(l) Escrow of Disbursements.—(1) The first sentence of section 428(i)(1) of the Act is amended by striking out "multiple".

(2) The third sentence of section 428(i)(1) of the Act is amended by striking out "45" and inserting in lieu thereof "21".

(m) Lenders-of-Last-Resort.—Section 428(j) is amended by adding at the end thereof the following new sentence: "The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.".

(n) Use of Supplemental Loan Program by Undergraduates.—Section 428A(a) of the Act is amended by adding at the end thereof the following: "In addition, undergraduate dependent students shall be eligible to borrow funds under this section if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that extenuating circumstances will likely preclude the student's parents from borrowing under section 428B for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution.".

(o) Loan Deferments for Supplemental and PLUS Loans.—(1) Sections 428A(c)(2) and 428B(c)(2) of the Act is amended by striking out "and interest" after "principal" the first time it appears.

(2) Section 428B of the Act is amended—

(A) in subsection (a), by striking out ", but such a parent borrower" and all that follows through "clauses (i), (viii), and (ix) of such sections";

(B) in subsection (c)(1), by striking out "subject to deferral pursuant to sections 427(a)(2)(C) (i), (viii), and (ix) and 428(b)(1)(M) (i), (viii), and (ix)" and inserting in lieu thereof "subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 427(a)(2)(C) or 428(b)(1)(M); and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section"; and

(C) in subsection (c)(2), by striking out "under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i)" and inserting "pursuant to paragraph (1) of this subsection".

(p) Limitation on Supplemental and PLUS Loans.—(1) Section 428A(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).".

(2) Section 428B(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).".

(q) Repayment of Supplemental and PLUS Loans.—Sections 428A(c)(2)(A) and 428B(c)(2)(A) of the Act are each amended by inserting "monthly or" before "quarterly".

(r) Refinancing of Supplemental and PLUS Loans.—(1) Sections 428A(d) and 428B(d) of the Act are each amended—

(A) in paragraph (1)—

(i) by inserting "at any time" after "An eligible lender may" in the first sentence;

(ii) by striking out "Unless the borrower complies with the requirements of paragraph (2)," in the second sentence and inserting "Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3),"; and

(iii) by inserting "(if required by them)" after "shall be reported" in the third sentence;

(B) in paragraph (2)—

(i) by inserting "under this section before July 1, 1987, or" before "under section 428B";

(ii) by striking out "to reissue a loan" and inserting "to reissue a loan or loans"; and

(iii) by striking out "reissuing such loan" and inserting "reissuing such loan or loans"; and

(C) in paragraph (5)—

(i) by striking out "January 1, 1987" and inserting "October 1, 1987"; and

(ii) by inserting before the semicolon at the end of subparagraph (B) the following: "and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples".

(2) An eligible lender who has refinanced a loan or loans under section 428A(d) or 428B(d) between the date of enactment of the Higher Education Amendments of 1986 and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).

(s) Consolidation Loans.—Section 428C of the Act is amended—

(1) in subsection (a)(1)(C), by striking out "(C) and (E)" and inserting in lieu thereof "(C), (E), and (J)";

(2) in subsection (a)(3)(A)—

(A) in division (i), by adding "and" at the end thereof;

(B) in division (ii), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a period; and

(C) by striking out division (iii);

(3) in subsection (a)(3)(B)—

(A) by striking out "loans received under this title" in the first sentence and inserting "eligible student loans received";

(B) by striking out "under this part" and inserting "under this title";

(C) by striking out "and 428(b)(1)(B)" in the second sentence and inserting ", 428(b)(1)(B), 428A(b)(2), and 464(a)(2)"; and

(D) by adding at the end thereof the following new sentence: "Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan.";

(4) in subsection (a)(4)(A), by inserting before the semicolon at the end thereof a comma and the following: "except for loans made to parent borrowers under section 428B, including loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986";

(5) in subsection (b)(1)(C)—

(A) by striking out "subsection (a)(2)" in clause (i) and inserting "subsection (a)(3)"; and

(B) by striking out "all loans received by the eligible borrower under this title" in clause (ii) and inserting "all eligible student loans received by the eligible borrower";

(6) in subsection (c)(2)(A)(v), by striking out "more" and inserting "equal to or greater"; and

(7) in subsection (c)(5), by inserting before the period at the end thereof the following ", but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan".

(t) State Garnishment Program.—Section 428E of the Act is amended—

(1) in subsection (a)(1) by inserting before the semicolon a comma and the following: "except that any State which has a garnishment law in effect on the date of the enactment of the Higher Education Amendments of 1986 which provides for the deduction of an amount not to exceed 15 percent of disposable pay, shall be deemed to meet the requirements of this paragraph";

(2) in subsection (a)(6), by striking out "proper notice under paragraph (2)," and inserting in lieu thereof "notice of the withholding order,"; and

(3) in subsection (c), by striking out "notice given to the employer pursuant to subsection (a)(2)" and inserting in lieu thereof "notice of the withholding order".

(u) Rehabilitation Program.—Section 428F of the Act is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(v) Information Concerning Borrowers.—Section 430A(e) of the Act is amended by adding at the end thereof the following new sentence: "To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.".

(w) Clarification of Reference.—Section 431(a) of the Act is amended by striking out "section 422(c)(4)(C)" and inserting "section 422".

(x) Audits of Financial Transactions.—Section 432(f) of the Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) Audit procedures.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.".

(y) Civil Penalties.—Section 432(g)(2) of the Act is amended by striking out "representation" each place it appears in subparagraphs (A)(i) and (B) and inserting in lieu thereof "misrepresentation".

(z) Student Loan Information.—Section 433 of the Act is amended—

(1) in the first sentence of subsection (a), by inserting "(other than a loan made under section 428C)" after "guaranteed under this part";

(2) in subsection (a), by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;";

(3) in subsection (b)(7), by inserting before the semicolon at the end thereof the following: ", except that such explanation is not required when the loan being made is a consolidation loan under section 428C"; and

(4) in subsection (d), by striking out "makes the first disbursement of a loan with respect to a borrower" and inserting "notifies a borrower of approval of a loan".

(aa) Definitions.—Section 435 of the Act is amended—

(1) in subsection (b)(3), by inserting before the semicolon the following: ", or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training";

(2) in subsection (d)(1)—

(A) by striking out "and" at the end of subparagraph (H);

(B) by striking out the period at the end of subparagraph (I) and inserting "; and"; and

(C) by inserting after such subparagraph the following:

"(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market.";

(3) in section 435(d)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by inserting after subparagraph (B) the following:

"(C) shall make loans to not more than 50 percent of the undergraduate students at the institutions; and

"(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.";

(4) by striking out paragraph (2) of subsection (g) and inserting the following:

"(2) Disabled dependent of a borrower.—Such term when used with respect to a disabled dependent of a borrower means a spouse or other dependent who, during a period of injury or illness of not less than 3 months, requires continuous nursing or similar services."; and

(5) by striking out "Definition of" in the heading of subsection (h).

(bb) Special Allowances.—Section 438(b) of the Act is amended—

(1) by striking out "subsection (c)" in paragraph (2)(B)(iii) and inserting "subsection (d)"; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Use of average quarterly balance.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.".

(cc) Report on Special Allowances.—Section 438(d)(4)(C) of the Act is amended by striking out ", as evidenced by the information submitted under paragraph (2)(G) of this subsection".

(dd) Correction of Reference.—Section 439(d)(1)(E)(iii) of the Act is amended by inserting "Labor and" before "Human Resources".

SEC. 11. COLLEGE WORK-STUDY.

(a) Reallocation.—Section 442(e)(2) of the Act is amended—

(1) by inserting "not to exceed" immediately before "25 percent";

(2) by striking out "section 448" and inserting in lieu thereof "section 447"; and

(3) by striking out "subsection (c)" and inserting in lieu thereof "section 447(c)".

(b) Work-Study Agreements.—Section 443(b) of the Act is amended—

(1) in paragraph (2)(A), by striking out "clause (6)(B)" and inserting "paragraph (5)(B)"; and

(2) in paragraph (5)(B), by striking out "clause (2)(A)" and inserting "paragraph (2)(A)".

(c) Private Sector Agreement.—(1) Section 443(c) of the Act is amended by striking out "In addition to the" and inserting in lieu thereof "As part of its agreement".

(2) Section 443(c)(1) of the Act is amended by inserting "and subsection (b)(3)" before the semicolon.

(d) Job Location and Development Agreements.—Section 446(b) of the Act is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 12. INCOME CONTINGENT LOAN DEMONSTRATION.

Section 454(a)(4) of the Act is amended to read as follows:

"(4)(A) The interest rate on loans under this part shall, at the discretion of the participating institution, be (i) computed in accordance with subparagraph (B) based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan, or (ii) variable each calendar year based on the interest rate computed in accordance with subparagraph (B) for such calendar year.

"(B) The interest rate applicable on such loans in accordance with subparagraph (A) shall be obtained by—

"(i) computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period ending September 30 preceding such year; and

"(ii) by adding 3 percent to the resulting percent.".

SEC. 13. DIRECT STUDENT LOANS.

(a) Allocations in Proportion to Fiscal Year 1985 Federal Capital Contribution.—Section 462(a)(1) of the Act is amended by striking out subparagraph (A) and inserting the following:

"(A) 100 percent of the amount of Federal capital contribution such institution received under this part for fiscal year 1985, multiplied by".

(b) Correction of Reference.—Section 462(d) of the Act is amended by redesignating paragraph (3) the second time it appears as paragraph (4).

(c) Correction of Heading.—Section 462(e) of the Act is amended by striking out "; Cash on Hand".

(d) Correction of Reference.—Section 462(f) of the Act is amended by striking out "under paragraph (2)" and inserting "under subsection (g)".

(e) Notice of Default.—Section 463(a)(4) is amended by striking out "given to the Secretary" and everything that follows through "semiannually" and inserting "given to the Secretary in an annual report describing the total number of loans from such fund which are in such default".

(f) Correction of Reference.—Section 463(b) of the Act is amended by striking out "section 485" and inserting "section 489".

(g) Estimates of Balances.—Section 463A(a) of the Act is amended by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;".

(h) Defense Educational Loan Repayment.—Section 463A(a)(10) of the Act is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);" and inserting "the Department of Defense educational loan repayment program (10 U.S.C. 2172);".

(i) Internship Deferment.—Section 464(c)(2)(A)(vi) is amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training".

(j) Reference to Other Programs.—Section 465(a)(2) of the Act is amended—

(1) in subparagraph (A) by striking out "title I of the Elementary and Secondary

Education Act of 1965" and inserting "chapter 1 of the Education Consolidation and Improvement Act of 1981";

(2) in subparagraph (A), by striking out "such title I" and inserting "such chapter 1"; and

(3) in subparagraph (B), by striking out "section 222(a)(1) of the Economic Opportunity Act of 1964" and inserting "the Head Start Act".

SEC. 14. NEEDS ANALYSIS.

Part F of title IV of the Act is amended—

(1) in sections 475(c)(2), 475(c)(4), 475(d)(2), 476(b)(2), 476(c)(2), 477(b)(2), 477(c)(2), and 477(d), striking out "section 479" and inserting "section 478";

(2) in sections 475(c)(7) and 477(b)(7), by striking out "National";

(3) in sections 475(d)(2), 476(c)(2), and 477(c)(2), strike out "dislocated homemaker" and insert "displaced homemaker";

(4) by striking out the table contained in sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C) and inserting the following:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1-$60,000	40 percent of NW
$60,001-$180,000	$24,000 plus 50 percent of NW over $60,000
$180,001-$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000";

(5) in sections 475(d)(4)(B) and 477(c)(4)(B), by striking out "$15,000" and inserting "$15,999";

(6) in sections 475(d)(4)(C) and 477(c)(4)(C), by striking out "$15,000" each place it appears and inserting "$16,000";

(7) in section 475(d)(4)(D), by striking out "equal to or less than zero" and inserting "less than zero";

(8) in sections 475(e) and 477(d), insert a minus sign before "$3,409" each time it appears in the chart in each such section;

(9) in section 475(g)(1)(C), by striking out "paragraph (3)" and inserting "paragraph (2)";

(10) in section 475(g)(3), by inserting after "following table" the following: "(or a successor table prescribed by the Secretary under section 478)";

(11) in section 475, by striking out subsection (h) and inserting the following:

"(h) Student (and Spouse) Income Supplemental Amount From Assets.—The student (and spouse) supplemental income from assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 35 percent, except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero.";

(12) in such section, by adding at the end thereof the following new subsection:

"(i) Adjustments for Enrollment Periods Other Than 9 Months.—For periods of enrollment other than nine months, the parents' contribution from adjusted available income is determined as follows:

"(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income (determined in accordance with subsection (b)) is divided by 9 and the result multiplied by the number of months enrolled.

"(2) For periods of enrollment greater than 9 months—

"(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the standard maintenance allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

"(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

"(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

"(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.";

(13) in section 476(b)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (C) and inserting "subparagraph (C)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by striking out everything preceding clause (i) of subparagraph (A) and inserting the following:

"(A) adding the student's adjusted gross income and any income earned from work but not reported on a Federal income tax return, and subtracting excludable income (as defined in section 480);

"(B) computing the student's available taxable income by deducting from the amount determined under subparagraph (A)—";

(14) in section 476(b)(2), by striking out "total taxable income" and inserting "total income";

(15) in section 476(b)(1)(C), by inserting after "section 480(c))" the following: "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code";

(16) in section 476(b)(4)—

(A) by striking out "$8,900" each place it appears and inserting "$8,600"; and

(B) by striking out "$6,230" and inserting "$6,020";

(17) in section 476(c)(1)—

(A) by striking out the period at the end of subparagraph (C) and inserting a semicolon; and

(B) by inserting at the end thereof (flush with the margin of paragraph (1)) the following:

"except that the student's income supplemental amount from assets shall not be less than zero.";

(18) in section 477(a)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon at the end of subparagraph (B); and

(C) by inserting after such subparagraph the following:

"(C) the amount of veterans' benefits to be paid during the award period under chapters 32, 34, and 35 of title 38, United States Code;";

(19) in section 477(b)(5)(A), by striking out "$2,000" and inserting "$2,100";

(20) in section 478(d)—

(A) by inserting ", rounded to the nearest $100," after "present value cost";

(B) by inserting "of 40 and above" after "each age cohort"; and

(C) by inserting after the second sentence the following: "For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.";

(21) in section 478(c)(2), by striking out " '$26,000,' '$91,000', and '$169,000' " and inserting " '$24,000', '$84,000', and '$156,000' ";

(22) in section 478(f), by striking out "Consumer Price Index for Wage Earners and Clerical Workers" and inserting in lieu thereof "Consumer Price Index for All Urban Consumers";

(23) in section 479(a)—

(A) by striking out "paragraph (2)" and inserting "subsection (b)";

(B) by striking out "families which" and inserting "families (1) who"; and

(C) by striking out "and which file a form 1040A pursuant to the Internal Revenue Code of 1954" and inserting "and (2) who file a form 1040A or 1040EZ pursuant to the Internal Revenue Code of 1986, or are not required to file pursuant to such Code";

(24) in section 479(b)—

(A) by striking out "and State" in paragraph (2);

(B) by striking out "and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting "; and"; and

(D) by inserting after paragraph (5) the following new paragraph:

"(6) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents, or (B) for State and local income taxes, as defined in section 476(b)(2) for independent students without dependents.";

(25) in section 479, by adding at the end thereof the following new subsection:

"(c) Simplified Application Form.—The Secretary shall develop and use a simplified application form for families described in this section to qualify for the use of a simplified needs analysis.";

(26) by striking out section 479A and inserting in lieu thereof the following:

"DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

"Sec. 479A. (a) In General.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

"(b) Adjustments To Assets Taken Into Account.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

"(1) the administrator determines, in his or her discretion, that the effective family income of the applicant is small in relation to—

"(A) the net value of the principal place of residence;

"(B) the net worth of a farm on which the family resides; or

"(C) the net worth of a family owned and operated small business;

"(2) such administrator reduces or eliminates the amount of such net value or net worth that is subject to assessment in the computation of the expected family contribution of that applicant; and

"(3) the administrator reports the amount of such adjustments made with respect to determinations for Pell Grants to the contractor or contractors processing applications for such grants for the award year.

"(c) ASSET ADJUSTMENT AS EXAMPLE.—The asset adjustment described in subsection (b) is an example of the type of adjustment which financial aid administrators are authorized to make by subsection (a), and shall not be considered to be the only adjustment that is so authorized.";

(27) by striking section 479B and inserting in lieu thereof the following:

"STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

"SEC. 479B. (a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"NATIVE AMERICAN STUDENTS

"SEC. 479C. In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

"(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

"(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act."; and

(28) in section 480—

(A) by striking out "paragraphs (2) and (3)" in subsection (a)(1) and inserting "paragraphs (2) through (4)";

(B) by inserting before the period at the end of such subsection the following: "minus excludable income (as defined in subsection (f))";

(C) by striking out paragraph (2) of subsection (a) and inserting the following:

"(2) In the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.";

(D) by inserting at the end of subsection (a) the following:

"(4) No portion of any student financial assistance received from any program by an individual shall be included as income in the computation of expected family contribution for any program funded in whole or in part under this Act.";

(E) by striking out subsections (b) and (c) and inserting the following:

"(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(c) UNTAXED INCOME AND BENEFITS OF DEPENDENT STUDENTS OR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.—For the purpose of this part, the term 'untaxed income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.";

(F) in subsection (d)(2)(F), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources (including all sources of resources other than parents)"; and

(G) by inserting after subsection (e) the following new subsections:

"(f) EXCLUDABLE INCOME.—The term 'excludable income' means—

"(1) any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act; and

"(2) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title.

"(g) ASSETS.—The term 'assets' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(h) NET ASSETS.—The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities or indebtedness against the assets.".

SEC. 15. GENERAL PROVISIONS.

Part G of title IV of the Act is amended—

(1) in section 481(c), by striking out "subsection (d) of this section" and inserting in lieu thereof "section 484(d)";

(2) in section 482(b)—

(A) by striking out "or 442(e)" and inserting ", 442(e), or 462(j)"; and

(B) by striking out "and part C" and inserting ", part C, and part E";

(3) in the second sentence of section 483(a)(1), by inserting "or institutions in which the students are enrolled or accepted for enrollment" after "that applicants";

(4) in the second sentence of such section 483(a)(1), by inserting before the period at the end thereof the following: "and on which the applicant shall clearly indicate a choice of lender";

(5) in section 483(a)(2)—

(A) by striking out "not less than 3" and inserting "not less than 5"; and

(B) by adding at the end thereof the following: "The Secretary shall not select new multiple data entry processors after the date of enactment of the Higher Education Amendments Act of 1986, until the Advisory Commission on Student Financial Assistance has examined and made recommendations on the expansion of the number and kind of processors and its impact on students, has assessed and made recommendations on the relative cost of processing applications and development fees, and has examined and made recommendations on the implementation of a standardized fee for the reimbursement of all processors by the Federal Government.";

(6) in section 483—

(A) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(B) by inserting after subsection (a) the following:

"(b) Certification of Capability.—Beginning with the 1988-1989 processing year, the Secretary shall be authorized to enter into agreements with institutions of higher education, States, or private organizations for the purpose of certifying the capability of their systems for determining expected family contributions under part F of this title.";

(7) in section 484—

(A) in subsection (a)(1), by inserting before the semicolon a comma and the following: "except as provided in subsection (b)(2)";

(B) in subsection (b), insert "(1)" before "In";

(C) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end of subsection (b) the following new paragraph:

"(2) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

"(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title. The eligibility described in this paragraph shall be restricted to one 12-month period.";

(8)(A) in section 484(d)—

(i) by striking out "or" at the end of paragraph (1); and

(ii) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

"(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

"(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.";

(B) in section 484(d), by adding at the end thereof the following new sentence:

"In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.";

(9) in section 484(f), by adding at the end thereof the following new sentence: "In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year.";

(10) in section 485(b), by inserting "(other than loans made pursuant to section 428B)" after "part B of this title";

(11) in section 485(d), by inserting after the second sentence the following: "In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.";

(12) in section 485A(a), by striking out "clause (i), (ii), or (iii)" and inserting "subparagraph (A), (B), or (C)";

(13) in section 485B—

(A) by striking out "Federal agencies" in subsection (b)(1) and inserting "public agencies";

(B) by striking out "of a borrower for whom the guaranty agency provides insurance" in subsection (b)(2)(D) and inserting "of any borrower"; and

(C) by striking out "Federal agency" in subsection (b)(3) and inserting "public agency";

(14) in section 488, by striking out "or 446" and inserting "or 442";

(15) in the second sentence of section 489(a), by striking out "section 448" and inserting in lieu thereof "section 447";

(16) in section 491(b), by adding at the end thereof the following new sentence: "The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.";

(17) in section 491(i), by striking out "An amount, not to exceed $500,000 in any fiscal year" and inserting in lieu thereof "In each fiscal year not less than $500,000"; and

(18) in section 491, by adding at the end thereof the following new subsection:

"(j) Special Institutional Lender Study.—

"(1) The Advisory Committee shall conduct a thorough study of institutional lender policy. In carrying out the study, the Advisory Committee shall examine, but not be limited to—

"(A) the relevance and current applicability of the institutional lender criteria established in section 435(d);

"(B) the appropriateness of using default rates for loans made under part E or other institutional criteria to determine institutional participation;

"(C) whether or not a portion or all of any special allowance or other payments paid to institutional lenders should benefit need-based scholarship or grant programs;

"(D) whether or not institutional lenders should be required to hold loans made to eligible borrowers through graduation or termination of matriculation;

"(E) examine the extent and degree to which student access to loan capital would be adversely affected by the restrictions contained in section 435(d)(2); and

"(F) assess the potential impact on State secondary markets and lender portfolios if student borrowers at higher cost colleges and universities, who come from higher income families, concentrate their lending with a few large lenders and secondary markets.

"(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

"(3) The Advisory Committee shall, not later than 2 years after the date of enactment of the Higher Education Technical Amendments Act of 1987, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the study required by this section.".

SEC. 16. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Subpart 2 of part C of title V of the Act is amended—

(1) in the matter preceding paragraph (1) of section 541(b), by striking out "contractors" and inserting in lieu thereof "grantees";

(2) in section 542, by striking out "for any fiscal year" and inserting "for fiscal year 1987 or any succeeding fiscal year";

(3) in section 543—

(A) in subsection (a)—

(i) in the subsection heading, by striking out "Contracts" and inserting in lieu thereof "Grants"; and

(ii) by striking out "enter into contracts with" and inserting in lieu thereof "award grants to";

(B) in subsection (b)—

(i) in the subsection heading, by striking out "Contract" and inserting in lieu thereof "Grant";

(ii) in the matter preceding paragraph (1), by striking out "contract entered into" and inserting in lieu thereof "grant awarded"; and

(iii) by striking out "contractor" each place it appears and inserting in lieu thereof "grantee"; and

(C) in subsection (c)—

(i) in the subsection heading, by striking out "Contractors" and inserting in lieu thereof "Grantees"; and

(ii) by striking out "contract" and inserting in lieu thereof "grant";

(4) in section 544—

(A) in the section heading, by striking out "contracts" and inserting in lieu thereof "grants";

(B) in subsection (a), by striking out "Contract" and "contract" each place they appear and inserting in lieu thereof "Grant" and "grant", respectively; and

(C) in subsection (b), by striking out "Contract", "contract", and "contractor" each place they appear and inserting in lieu thereof "Grant", "grant", and "grantee", respectively; and

(5) in section 545—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(3) the term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

SEC. 17. CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAM.

(a) Designation of Congressional Teachers' Scholarships.—

(1) Section 551 of the Act is amended by inserting "(a) Purpose.—" after the section designation;

(2) by striking out the second sentence of such section; and

(3) by adding at the end thereof the following new subsection:

"(b) Designation.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.".

(b) Applications.—Section 553 of the Act is amended—

(1) in subsection (a), by striking out "section 546" and inserting "section 551";

(2) in subsection (b)(4)(A)—

(A) by striking out "elementary or" and inserting "preschool, elementary school, or";

(B) by inserting "or private nonprofit" immediately before "education program in any State"; and

(C)(i) by inserting "or" after "State," the first time it appears; and

(ii) by striking out "or, on a full-time basis handicapped children or children with limited English proficiency in a private nonprofit school,"; and

(3) in subsection (b)(4)(B), by striking out "section 557" and inserting "section 556".

(c) Repayment Provision.—Section 557 of the Act is amended by inserting after "interest" the following: "(but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of this title)".

(d) Exceptions to Repayment.—Section 558(a)(6) of the Act is amended by inserting before the semicolon the following: "for a single period not to exceed 27 months".

SEC. 18. LANGUAGE AND AREA CENTERS.

Section 602(b)(1)(B) of the Act is amended by striking out "in a program of competency-based training," immediately after "in a program of competency-based language training,".

SEC. 19. ACADEMIC FACILITIES.

Title VII of the Act is amended—

(1) in section 701(b), by inserting "part A or B of" after "grants under";

(2) in section 702(a), by inserting at the end thereof a comma and the following: "or for a preceding fiscal year";

(3) in the matter preceding paragraph (1) in section 731(a) by striking out "and insure";

(4) in section 733—

(A) in the section heading, by striking out "AND INSURANCE"; and

(B) in subsection (a) by striking out "and insuring";

(5) in section 764(c)(1), by inserting "at least a two-year program acceptable for full credit toward" immediately before "a baccalaureate degree"; and

(6) in section 782(1)(B)—

(A) by striking out "section 724" and inserting "section 701", and

(B) by striking out "section 843" and inserting "section 853".

SEC. 20. JACOB K. JAVITS FELLOWS PROGRAM.

Part C of title IX of the Act is amended—

(1) by striking out the heading of section 931 and inserting the following:

"AWARD OF JACOB K. JAVITS FELLOWSHIPS";

(2) in section 932(a)(1), by striking out "National Graduate" and inserting "Jacob K. Javits";

(3) in section 932(a)(2)(C), by striking out "directing" and inserting "selecting"; and

(4) in section 933(b)(1), by striking out the period at the end thereof and inserting in lieu thereof a comma and "except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.".

SEC. 21. GENERAL PROVISIONS.

(a) Technical Amendment.—Section 1201(a) of the Act is amended by striking out "have the ability to benefit from the training offered by the institution" and inserting in lieu thereof "meet the requirements of section 484(d) of this Act".

(b) Peer Review Process.—Title XII of the Act is amended by redesignating section 1210 as section 1211, and by adding after section 1209 the following new section:

"APPLICATION OF PEER REVIEW PROCESS

"Sec. 1210. All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.".

SEC. 22. EFFECTIVE DATES OF THE HIGHER EDUCATION AMENDMENTS OF 1986.

(a) SEOG Allocation.—Section 401(b) of the Higher Education Amendments of 1986 is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) The changes made in section 413D of the Act shall apply with respect to the allocation of funds for the academic year 1988-1989 and succeeding academic years.".

(b) GSL Amendments.—Section 402(b) of such Amendments is amended—

(1) by striking out paragraph (2) and inserting the following:

"(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;";

(2) in paragraphs (3) and (4), by inserting "disbursed on or after January 1, 1987, or" after "only to loans"; and

(3) in paragraph (7), by inserting "disbursed on or after 30 days after the date of enactment of this Act or" after "with respect to loans".

(c) CWS Amendments.—Section 403(b) of such Amendments is amended by striking out "(b) Effective Date.—" and inserting in lieu thereof the following:

"(b) Effective Dates.—(1) Section 442 of the Act shall apply with respect to the allocation of funds for academic year 1988-1989 and succeeding academic years.

"(2)".

(d) NDSL Amendments.—Section 405(b) of such Amendments is amended—

(1) by inserting "and section 463A" after "Section 463(a)(9)" in paragraph (2);

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after the subsection heading the following:

"(1) Section 462 of the Act shall apply with respect to academic year 1988-1989 and succeeding academic years.".

(e) Effective Date of Certain Need Analysis Provisions.—Section 406(b) of such Amendments is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraphs (2) through (4)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Section 479B of the Act (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment.".

(f) Sunset for Disclosure of Foreign Gifts.—Section 1206(b) of such Amendments is amended by striking out "section 1208" and inserting "section 1209".

SEC. 23. EDUCATION ADMINISTRATION.

Title XIII of the Higher Education Amendments of 1986 is amended—

(1) in section 1301, by striking out "section 484(d)" and inserting "section 484(c)";

(2) in section 1302(b)(1), by striking out "this title" and inserting "title VI of the Act";

(3) in section 1303—

(A) by striking out "shall, through the Office of Education Research and Improvement or the Center for Education Statistics," in subsection (a) and inserting ", through the Office of Educational Research and Improvement,";

(B) by striking out "the Department of Education," in subsection (b)(3);

(C) by striking out "Resources," in such subsection and inserting "Resources"; and

(D) by adding at the end thereof the following:

"(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.";

(4) in section 1304—

(A) by striking out "of this title" in subsection (a) and inserting "of title I of the Act";

(B) by inserting "the provision of" before "an information network" in subsection (b)(2);

(C) by striking out "under this title" in subsection (c) and inserting "under this section"; and

(D) by striking out "purposes of this title" in such subsection and inserting "purposes of title I of the Act";

(5) in section 1307—

(A) by striking out "$2,700,000" and inserting in lieu thereof "$1,000,000"; and

(B) by striking out "this part" and inserting in lieu thereof "sections 1301 and 1302";

(6) in section 1314 by adding at the end thereof the following new sentence: "Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors to maintain or report records relating to the loans discharged by borrowers in receiving a consolidation loan pursuant to section 428C of the Act."; and

(7) in section 1341, by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Report Required.—Not later than one year after the date of entering into a contract with the Department of Education for the study described in this section, the National Academy of Sciences shall prepare and submit to the Congress a report, together with a description of programs on the use of volunteers and with such recommendations as deemed appropriate.".

SEC. 24. GENERAL EDUCATION PROVISIONS ACT.

(a) Educational Research.—Section 405(g)(1)(C) of the General Education Provisions Act is amended to read as follows:

"(C) not less than $5,700,000 shall be available in each fiscal year to assist a separate system of 16 education resources information clearinghouses (including direct supporting dissemination services) pursuant to subsection (d)(3)(A) of this section, having the same functions and scope of work as the clearinghouses had on the date of enactment of the Higher Education Amendments of 1986;".

(b) Education Statistics.—Section 406(e)(1) of the General Education Provisions Act is amended by adding at the end thereof the following new sentence: "All funds received in payment for work or services described in this paragraph shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.".

SEC. 25. UNITED STATES INSTITUTE OF PEACE.

Section 1703 of the United States Institute of Peace Act is amended by inserting after "(3)" the following: "establish a Jeannette Rankin Research Program on Peace to".

SEC. 26. EXEMPTION FROM CERTAIN PROVISIONS OF LAW.

The parties to the term loan and security agreement dated March 3, 1986, as amended, pursuant to which up to $21,000,000 of loans will be made to students and parents of students at a university located in California by a branch of a foreign bank located in New York shall, with respect to loans made on or before February 20, 1987, and the transactions relating thereto under such term loan and security agreement, be deemed not to be in violation of the provisions of sections 435(d)(5)(A) and 490(c) of the Higher Education Act of 1965.

SEC. 27. EFFECTIVE DATE OF TECHNICAL AMENDMENTS.

The amendments made by this Act shall take effect as if enacted as part of the Higher Education Amendments of 1986.

Mr. WILLIAMS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I do so for the purposes of allowing the chairman of the subcommittee and myself to explain the provisions of the Senate amendments.

I would ask the gentleman, for the information of our colleagues, is it not correct that all of the House amendments, I believe, with one exception, have been adopted by the other body and we are only dealing with additional Senate amendments? Is that correct?

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I say to the gentleman that that is correct, and for purposes of the record, and our colleagues, I would like to make a short statement at this point in the Record about the legislation.

Mr. Speaker, today we complete action on the Higher Education Technical Amendments Act of 1987, H.R. 1846. This legislation makes technical changes to Public Law 99-498, which reauthorized the Higher Education Act of 1965. This act was signed into law last October.

The House passed H.R. 1846 on April 21, 1987, with strong bipartisan support. My colleagues, Tom Coleman and Jim Jeffords, were key players in putting together these needed corrections, which are explained in my April 21 statement in the Congressional Record.

Subsequent to House action, Senate staff met regularly with House staff to reach agreement on several amendments the Senate wished to add. Once agreement was reached the Senate amendment H.R. 1846 and passed the amended version on May 19, 1987. The revised CBO estimate on the total package is $1 million, a 50-percent reduction from the earlier estimate.

Like the original House bill, the Senate's additions reflect further technical corrections or additions. They made such changes as the following: clarified several procedures dealing with title III schools, modified further the definition of "dependent of a student," made more clear the conferees' intent with respect to deferrals for certain health professionals; clarified several provisions with respect to use of State garnishment laws; reinstated provisions affecting educational institutions serving as lenders and added a further requirement that the Student Financial Aid Commission make recommendations to the Congress regarding institutional lender policy; added a requirement that the Secretary develop a simplified application form for families who qualify for use of simplified needs analysis; and raised the required number of multiple data entry processors to five but required the Student Financial Aid Commission to study and make recommendations about the expansion of such processors as well as other issues surrounding the use and the costs of applications for applying for student aid.

In addition the Senate added language clarifying that a student in need of remedial work before enrollment in a degree program may be eligible for a loan under part B of this act, clarified several authorizations contained in Public Law 99-498; clarified the interest to be charged on Congressional Teacher Scholarships and the deferral period associated with these scholarships; and added quite a few administration requests further clarifying changes.

The Senate amendment also names several programs. The Post-Baccalaureate Achievement Program contained in title IV was renamed in honor of the memory of Ronald E. McNair, one of our astronauts killed in the *Challenger* disaster. The scholarships provided under the Congressional Teachers' Scholarships are now to be called the Paul Douglas Teacher Scholarships. And, at my request, the bill creates the Jeanette Rankin Program of Research on Peace within the U.S. Institute on Peace.

I commend my colleagues in the House for their support of the programs contained in the Higher Education Act and for their support of H.R. 1846. The Senate has likewise been very supportive, and the two bodies have worked in a very collegial manner on these technical corrections. I wish to thank Senator Pell and Senator Stafford and their staff for their fine work, and I also wish to express my appreciation to Gus Hawkins, Tom Coleman, Bill Ford, and Jim Jeffords, and to their staffs, for their fine work on this legislation.

Mr. JEFFORDS. Mr. Speaker, I appreciate the gentleman's remarks.

There are three amendments that have been added by the other body that I think we ought to briefly mention for the purpose of elucidating our legislation.

First, in the conference, we modified the Higher Eduation Act by dropping language which limited the lending practices of institutions to no more than 50 percent of the undergraduate population and then only to students who had been denied a loan by an eligible lender.

There was no restriction on graduate or professional students borrowing from these institutions.

That language has been reinstated; is that not correct?

Mr. WILLIAMS. The gentleman is correct, Mr. Speaker.

□ 1800

Mr. JEFFORDS. Mr. Speaker, I understand H.R. 1846 mandates a new study by the Advisory Commission on Student Financial Assistance which will examine the institutional lender question in order to see whether or not that provision ought to be modified in any way.

Mr. WILLIAMS. Mr. Speaker, if the gentleman will yield, yes, the gentleman's understanding is also correct on that.

Mr. JEFFORDS. There is another Senate amendment that I think may be of some note. There is added language that caps at 30 percent the number of applications at a college for which verification is required. I understand problems had arisen on verification because certain institutions were being required by the department to verify a majority of their applications. We have mandated that that be capped at 30 percent; at a given institution is that correct?

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, the gentleman is correct.

Mr. JEFFORDS. Finally, Mr. Speaker, there is some concern that the 16 educational resource information clearinghouses might be reduced in number, and I believe there is a technical amendment which provides that the 16 clearinghouses remain in operation; is that correct?

Mr. WILLIAMS. The gentleman is also correct in that understanding.

Mr. JEFFORDS. Mr. Speaker, I have closely reviewed, I report to my colleagues, the other amendments, and I believe they are minor and not really worth noting at this time. I commend the gentleman and all the staff as well for their work in bringing about these technical amendments.

Mr. WILLIAMS. Mr. Speaker, will the gentleman continue to yield to me under his reservation?

Mr. JEFFORDS. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I do want to comment more fully on one of the issues. The only change from the House bill that is left and not fully explained here is the deletion of language which sought to clarify current law regarding the availability of a free form for use in applying for student aid.

As the gentleman knows, there was disagreement about the language in the bill, and we had agreed to drop it. However, I want to point out that the Congress has created student financial aid programs to help students in need of financial assistance to further their education. It is clearly highly desirable that students not be required to make financial outlays simply for the purpose of determining their eligibility for title IV student aid programs. Section 483(1)(a) of the Higher Education Act was passed with the intent that no institution or State agency should mandate the use of a form for which a fee is charged solely to determine the student's eligibility for assistance under this title or the amount of such assistance.

It seems to me that both sides want to be sure that the financial aid officers in the various institutions of postsecondary education across the country understand that we do not intend that they should require or mandate the use of a given form for which a fee has to be charged.

Although that is not in the law, it seems to me that that is clearly our intent.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from Montana [Mr. WILLIAMS] for that further explanation, and I agree with him completely.

Mr. Speaker, today, the House reconsiders H.R. 1846, the Higher Education Technical Amendments Act of 1987. This legislation was approved by the House on April 21, 1987, by voice vote on the Suspension Calendar. The Senate amended and passed the House version which is before us now.

The amendments added by the Senate to the House bill are technical changes to the Higher Education Act that was passed last year. It is a tribute to the members of the House Education and Labor Committee and the Senate Labor and Human Resources Committee that the bill we are now considering is purely technical in nature.

We have resisted pressures to reopen battle that took place last year on the reauthorization bill. Further, we have rejected suggestions, many of them of merit, to make modifications to the Higher Education Act which would have greatly increased the cost of the various postsecondary programs.

I'm pleased to inform the House that the CBO informally estimates H.R. 1846 would add only $1 million to the cost of the Higher Education Act. This cost is associated with a study agreed to by the conferees, but the authorized amount was inadvertently missing from the conference report.

Finally, I applaud the efforts of all the Members who worked so diligently on this bill: I especially want to thank Mr. WILLIAMS of Montana, for the cooperation he has extended to me and the Republican members of the committee; Mr. HAWKINS and Mr. FORD who are to be commended for their persistence in bringing this bill to completion; and Mr. COLEMAN of Missouri, for the leadership he has once again exhibited.

I strongly urge the House to approve H.R. 1846.

Mr. HAYES of Illinois. Mr. Speaker, I rise today in support of H.R. 1846. There are many excellent provisions in this bill that will ensure the effective workings of the Federal student financial assistance programs. I would however like to bring to your attention one amendment which was included in the House-passed version of H.R. 1846, but has been deleted in the Senate amendment.

During the reauthorization of the Higher Education Act in 1986, sections 483 and 487 of the act were rewritten to indicate the intention of the Congress that students who were applying solely for Federal student financial assistance could not be charged a fee either for applying for Federal assistance or for the processing of applications for student assistance. The intent of course included that students could not be required to use a form for which a fee is charged. Unfortunately, institutions across the country have violated these sections and are continuing to require that students use forms for which fees are charged. The House version of H.R. 1846 attempted to further clarify congressional intent.

The Senate felt that the language in the reauthorization bill was clear, both in its statutory language and its intent. If schools were charging fees, they were violating the statute. I agree with that reading of the language. The reauthorization bill contained strong language in this area because the Congress understood how important it was for the poorest and most needy students in our country to have Federal aid available without costs. My distinguished colleague from Illinois, Representative TERRY BRUCE, recently outlined the reasons for the reauthorization provisions in a letter to the Chicago Tribute. I would like to insert that letter into the RECORD at this point.

[From the Chicago Tribune, Mar. 17, 1987]

NEW STUDENT AID FORM WAS NEEDED

WASHINGTON.—The Feb. 23 Voice of the people column contained a letter regarding the Illinois State Scholarship Commission's [ISSC] attempts to streamline the student financial aid application process. Since the ISSC's actions were in response to changes in federal law, I feel it is important that the reasons for those changes be brought to light.

On Oct. 17, 1986, President Reagan signed into law a new Higher Education Act. I was fortunate to have served on the House Subcommittee on Postsecondary Education which wrote the first version of the new law. During the two-year process of writing the new legislation and reviewing old provisions, there were two goals uppermost in the minds of senators and congressmen: To the extent possible, the programs needed to be streamlined and made more accessible to truly needy students, and new provisions needed to be adopted to ensure that the scarce federal dollars that were available went only to students with real need.

To meet these goals, provisions were added to the law to establish the needs test in the statute; students applying for all forms of federal assistance, including guaranteed student loans, were required to demonstrate that they needed assistance; institutions and the Department of Education were directed to provide single applications determining need for all forms of federal aid to students free of charge.

The Congress has always maintained that needy people should not have to pay to prove they are needy. Unfortunately, over the past several years, unintentional loopholes in the law have allowed schools to charge students to determine their need for federal aid. That loophole was closed in the new law. While the charges for financial aid applications may seem nominal to most people, for very low-income students, they are exorbitant.

With all the changes in the new law, none of the previously existing applications were satisfactory and all had to be rewritten at least in part. Ironically, the first form to be completed that adequately met all the new requirements [a single application, a needs test for the guaranteed student loan progam, and no fee] was the ISSC form. Rather than being condemned for its actions, the ISSC should be complimented for its quick action and effectiveness in meeting the federal law.

The author of the Feb. 23 letter states, "If it ain't broke, don't fix it." In the minds of the Congress, many students and parents who have to pay fees to fill out overly long and complicated forms, and many financial aid administrators who testified before congressional committees on the issue, it was broke, and the new Higher Education Act fixes it.

Mr. BRUCE. Mr. Speaker, I rise today in support of H.R. 1846 as amended by the Senate. I would however, like to express my concern about the deletion of a provision in the House bill which would have prohibited institutions from mandating that students use a form for which a fee is charged if they were applying for Federal student financial assistance only.

I understand that the Senate felt that the language included in the 1986 Reauthorization of the Higher Education Act was clear that students applying solely for Federal student assistance should not be charged a fee either for applying for student or for processing the application for Federal assistance. The intent of course included that the students could not be required to use a form for which a fee is charged if they were applying only for Federal assistance.

Unfortunately some institutions have misread the Higher Education Act and are continuing to require that students use applications which require a fee. The House-passed version of H.R. 1846 attempted to clarify congressional intent further. I agree with my Senate colleagues that there is no question about the intent of the language in the reauthorization bill, but I think it is important to reiterate the intent of Congress in this regard, so that there can be no doubt that students can not be charged fees, in any form, for applying for Federal aid.

The Congress has always maintained that needy people should not have to pay to prove they are needy. An unintended loophole in the Higher Education Act prior to 1986 allowed schools to charge students to determine their need for Federal financial aid. The Reauthorization Act closed that loophole. It is now time for institutions to recognize the clear intent of the Congress and abolish their fee charging policies for Federal student aid applications and for the Department of Education to carefully monitor institutions to ensure that the intent of Congress that students not be required to use forms for which fees are charged to apply for Federal assistance is carried out.

Mr. HAWKINS. Mr. Speaker, the Higher Education Act was reauthorized in the 99th Congress. It was a mammoth effort under the leadership of the distinguished gentleman from Michigan, the then chairman of the Subcommittee on Postsecondary Education, Congressman WILLIAM FORD, and the Senator from Vermont, Senator ROBERT STAFFORD, then chairman of the Education, Arts and Humanities Subcommittee. They are to be commended for the bipartisanship engendered in their leadership, and for the excellent provisions in the act which provide for equal opportunity in higher education, and for their commitment to equity in providing student financial aid for low- and middle-income students.

I would also like to commend the members of the House Committee on Education and Labor and their staffs, and the members of the Senate Labor and Human Resources Committee and their staffs—for a job well done, especially when one remembers the enormous number of months spent in conference on the act last year, by those Members and staff representing the House and those Members and staff representing the Senate.

In a similar vein, outstanding work by both the Senate and House Subcommittees responsible for Higher Education legislation, has occurred regarding the Higher Education Act Technical Amendments of 1987, which I support.

And once again, bipartisanship on both sides of the aisle, under the expert guidance of Congressman PAT WILLIAMS, chairman of the Postsecondary Education Subcommittee, and Senator CLAIBORNE PELL, chairman of the Senate Subcommittee on Education, Arts and the Humanities, has been the key in this endeavor of promoting opportunity and equity in higher education.

A major question has arisen, however, concerning part B of title III of the Higher Education Amendments of 1986. The question is which institutions come within the definition of section 322(2) and therefore which colleges would qualify for part B assistance. Since the enactment of this new provision, various institutions have come forward to claim that they are, in effect, historically black institutions of higher education. This matter, in my view, therefore requires clarification.

In order to prevent the perversion of the Congress' legislative intent in establishing the Black College and University Act as part B of title III, I have discussed this matter with the leadership of the three major organizations representing black colleges: the National Association for Equal Opportunity in Higher Education [NAFEO], the United Negro College Fund [UNCF], and the Office for the Advancement of Public Black Colleges at the National Association of State Universities and Land Grant Colleges—as well as several of the college presidents.

The Higher Education Act of 1965 included the "Developing Institutions" title for black colleges. This surrogate was used because it was believed by the advocates of the assistance program for black colleges that Congress would not enact language clearly indicating that the program was for black colleges. The absence of clear criteria for identifying the original beneficiaries or target schools made it difficult, if not impossible, to substantiate the claim of the black colleges that title III was intended solely for them. In drafting H.R. 2907 the predecessor to title III in S. 1965, we carefully crafted a statutory definition which would include a classification of historically black institutions of higher education which met two tests: First, they had a historical record of providing postsecondary educational opportunities to black Americans; and second, they had been discriminated against prior to 1964 in the allocation of Federal grants and contracts or other resources, and under the Morrill Act, when discrimination was outlawed by the Congress of the United States in the Civil Rights Act of 1964. Both factors are key, when coupled with the congressional findings in section 321, to establishing a constitutionally permissible basis for the race specific nature of the part B program. The Supreme Court of the United States in Fullilove versus Klutznick upheld the authority of Congress to enact "race conscious" legislation to remedy past discrimination under the general authority of the Civil War amendments to the Constitution of the United States.

In order to avoid further confusion and to assure that the constitutional and statutory premises on which the race specificity of the statute are based will not be eroded, both Senator PAUL SIMON—who serves as member of the Senate Education, Arts and Humanities Subcommittee—and I, as authors in our respective legislative bodies of the Black College and University Act as part B of title III, have determined that we should simply list all of the schools that fit the part B definition. This will eliminate any question in the Department of Education's mind or in the mind of any institution seeking designation as a part B institution. Those historically black institutions of higher education which meet the requirements of the part B definition, and which were intended to be included by the authors of the legislation and the definition are:

Eligible Part B Institutions by State and Name

Alabama: Alabama A&M University, Alabama Lutheran Academy, Alabama State University, Bishop State Junior College, Lawson State Community College, Lomax-Hannon College, Miles College, Oakwood College, Selma University, Stillman College, Talladega College, Tuskegee University.

Arkansas: Arkansas Baptist College, Philander Smith College, Shorter College, University of Arkansas (Pine Bluff).

Delaware: Delaware State College.

District of Columbia: Howard University, University of the District of Columbia.

Florida: Bethune Cookman College, Edward Waters College, Florida A&M University, Florida Memorial College.

Georgia: Albany State College, Atlanta University, Clark College, Fort Valley State College, Morehouse College, Morris Brown College, Paine College, Savannah State College, Spelman College.

Maryland: Bowie State College, Coppin State College, Morgan State University, University of Maryland (Eastern Shore).

Michigan: Shaw College at Detroit [1].

Mississippi: Alcorn State University, Coahoma Junior College, Jackson State University, Mary Holmes College, Miss. Industrial College, Mississippi Valley State University, Natchez Junior College, Prentiss Normal and Industrial Institute, Rust College, Tougaloo College, Utica Junior College.

Missouri: Lincoln University, Harris-Stowe State College.

North Carolina: Barber Scotia College, Bennett College, Elizabeth City State University, Fayetteville State University, Johnson C. Smith University, Livingstone College, No. Carolina A&T University, North Carolina Central University, Shaw University, St. Augustine's College, Winston-Salem State University.

Kentucky: Kentucky State University.

Louisiana: Dillard University, Grambling State University, Southern University (3 campuses) Baton Rouge, Shreveport, New Orleans, Xavier University.

South Carolina: Allen University, Benedict College, Claflin College, Clinton Junior College, Denmark Technical College, Friendship Junior College, Morris College, So. Carolina State College, Voorhees College.

Tennessee: Fisk University, Knoxville College, Lane College, LeMoyne-Owen College, Meharry Medical College, Morristown College, Tennessee State University.

Ohio: Central State University, Wilberforce University.

Oklahoma: Langston University.

Pennsylvania: Cheyney State College, Lincoln University.

Texas: Bishop College, Huston-Tillotson College, Jarvis Christian College, Paul Quinn College, Prairie View A&M University, Southwestern Christian College, Texas College, Texas Southern University, Wiley College.

Virginia: Hampton University, Norfolk State College, St. Paul's College, Virginia College, Virginia State College, Virginia Union University.

Virgin Islands: University of the Virgin Islands.

West Virginia: Bluefield State College, W. Va. State College.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

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[1] Not currently in operation.

The SPEAKER pro tempore (Mr. OLIN). Is there objection to the request of the gentleman from Montana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Montana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1846, the Higher Education Technical Amendments of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

A TRIBUTE TO HICKORY, NC, ALL AMERICA CITY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I want to share with my colleagues my pride in the recognition of my hometown of Hickory, NC, which has been selected for the second time as an all America city.

In their presentation to the jurors of the competition, representatives of the city of Hickory cited the willingness of our citizens to become involved in problem solving and in creating opportunities for planned growth and quality development of our community.

The team that assisted in the presentation to the jurors included Mayor William R. McDonald III, Mr. Charles M. Snipes, Dr. Alphonso Evans, Mickey Shuford, Fred Abernethy, Natalie Hala, Anne Bolick, and Tom Carr.

Those who are seeking to create communities that respond positively to challenge may find a blueprint for their efforts in the remarks by Mayor McDonald and other members of the Hickory team. I urge my colleagues to consider these remarks a tribute to the citizens of Hickory who have volunteered their time and money in laying the groundwork for a more bountiful future.

Let me also say that my district receives less Federal money than any other district in the United States—we did it on our own.

ALL AMERICA PRESENTATION, HICKORY, NC

I want to tell you how the citizens of Hickory are working together to face the challenges that a growing population, increasing urbanization and a changing economy are presenting to our city and its quality of life.

Hickory is located on the Catawba River in the foothills of the Blue Ridge Mountains of western North Carolina. Our city has a population of only 25,000, but we are the center of a recently recognized metropolitan area with 280,000 residents. Hickory is the service, financial, employment, and cultural hub of this area. Our central position and the fact that we have a strong tradition of volunteerism have produced many instances of citizens confronting and solving problems. Let me tell you about some recent examples.

High Hope of Hickory was formed four years ago by a group of parents and professionals concerned with the needs of disabled children. High Hope now offers day care and individualized programs of education and therapy for handicapped preschool children.

A major problem facing our schools was a lack of parental involvement due to the high percentage of working parents. In response to this need, local businesses founded an Adopt-A-School program which permits 129 employees to volunteer time during their workday in each of the 38 schools in our county. Last month this program received a Governor's Business & Education Award.

Hickory has a long tradition of support for the performing arts, and we have one of the finest old theatres in our state. The Hickory Community Theatre has recently completed a $500,000 fund drive to restore this historic downtown theatre for the continued enjoyment of our citizens.

When deterioration of our downtown reached problem proportions, the leadership of our local financial institutions initiated a rehabilitation loan program which has spurred major renovations to our central business district.

The Hickory area is attracting an increasing number of retirees, consequently the leaders of several local churches, senior adult groups and civic organizations have banded together to establish Adult Life Programs, a day care which allows more elderly people to continue living in their own homes.

There is also a need for better housing in Hickory. In response, a group of minority churches formed Inter-Faith Housing, a non-profit corporation which has renovated derelict rental housing and is now developing a homeownership program.

Among larger organizations, the Hickory and Catawba County United Way drives merged this year in order to make more efficient use of the human and financial resources that support many of these volunteer efforts. Their first fund drive, which raised $1,179,066, was successfully concluded this week.

Now, we would like to highlight two community projects which illustrate the way that citizens in Hickory stimulate public involvement to produce benefits for our area. First, Charles Snipes, Vice Chairman of the Catawba County Foresight Project, will describe two citizen based community planning projects. Then, Mickey Shuford, former President of the Catawba County Council for the Arts, will give a description of the development of the Arts Center of Catawba Valley.

LONG RANGE PLANNING

Since April 1985, over 230 local citizens have been involved in two community based efforts to develop strategies for improving the quality of life in our area. These efforts, known as the Catawba County Foresight Project and the Hickory Horizons Project, were undertaken because our local governments wanted to learn how the public and private sectors could work together to improve the local economy, enhance our quality of life and overcome local liabilities which might cause serious problems in the future. Both the City and County governments began by appointing small task forces of local leaders, provided professional facilitators to assist the groups, and then backed away to allow more creative problem solving. For many months the task forces studied issues and trends, finally identifying a total of six issues of critical importance.

They are: education, government services and finance, economic development, transportation, housing and urban design. Once these issues were selected, subcommittees of 35 or more citizens tackled the job of developing goals and recommendations for these key areas. An unusual feature of this process was that the city went beyond its borders to invite participation from concerned citizens in neighboring towns, suburbs and counties. The preliminary reports of these committees are already producing results: commercial development efforts are underway to achieve the goal of diversifying the local economy; joint water and sewer plans are being developed to avoid duplication of services; an innovative trust fund to secure the rights-of-way needed for future streets and highways has been established; and the City has begun to revise its land use ordinances.

The final Foresight and Horizons reports will be presented by December 31, but already the process has produced tremendous interest throughout our community. The largest number of citizens in the history of our City have been directly involved in local government, and these people will stay involved in monitoring the progress of their recommendations for community betterment. The cooperative effort required by these projects has produced a keen awareness of the need for all of us to work together to realize our maximum potential as a community.

CULTURAL DEVELOPMENT

Hickory has always had a cultural vitality far out of proportion to its size. As our area has grown, cultural activities have increased, and many of our organizations began to outgrow their facilities. By 1982 an idea developed among the leadership of these organizations that the old city high school, which had been abandoned for ten years, might be made into an arts center to provide larger and more modern quarters for these agencies. That idea was truly visionary given the condition of the school, the scattered locations of the organizations and the cost of such an undertaking. That year, the Arts Center of Catawba Valley and the United Arts Fund, joined forces to begin the work of making this vision a reality. Ambitious reconstruction plans were proposed, and a fund raising campaign was developed. The campaign was endowed at its outset with a challenge grant from a local industrialist which would be applied to future operations if the community would raise the money needed for capital improvements. The campaign to "support the work of art" was launched in 1984. Leading corporations and citizens were challenged first to make the arts center a reality. Then, appeals were made to the population throughout the community. A special appeal was made to the alumni of the old school who contributed over $160,000 to the project.

Within four months, the $2.4 million dollar goal was reached, and ultimately $2.8 million dollars was raised, 97 percent of which came from the private sector. The success of the fund drive was due to many factors, including the generosity of its original benefactor, the hard work and careful planning of its organizers, the quality of the architectural proposals, the recognition of the importance of the arts to the community's civic life and the appeal of preserving a beautiful landmark. In the end, the fund drive exemplified one of the best qualities of our civic life: if a challenge is worthy, the people will respond.

The preservation work was so well done that last week the Arts Center received the 1986 Gertrude Carraway Award from the Historic Preservation Foundation of North Carolina. The Arts Center has now been open, free to the public, for seven months. With an average weekly attendance of 1,000 people it is the home of the Hickory Museum of Art and its gift shop, the Catawba Science Center and its emporium, the Hickory Choral Society, the Western Piedmont Symphony and the Catawba County Council for the Arts as well as exhibit space for the Catawba County Historical Association. The Center provides space for the arts to grow and a focal point for involving more of the community in cultural activities. The challenge before us is to expand the program offerings and to make the arts accessible to every segment of our community and not to rest on our laurels.

We hope that you recognize in these projects certain unifying characteristics of the civic life in Hickory. In our city, citizens have a way of viewing problems as opportunities in work clothes. Volunteerism is highly esteemed and is rewarded when combined with persistence, planning, vision, concern, broad involvement, cooperation and leadership. We in Hickory are proud of these qualities and pleased that you have chosen to consider us for selection as an All America City.

VOLUNTARY LEAVE TRANSFER PROGRAM FOR FEDERAL EMPLOYEES

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today I am introducing legislation to establish a new leave policy for Federal employees who require leave for major medical or family emergency situations. The lack of an adequate leave policy for employees who face such situations was brought to my attention in January 1986 by a constituent, Robert Hague, a Federal employee from McLean, VA. Hague wrote me detailing the plight of a blind friend and coworker whose seeing eye dog, Fritos, was developing cataracts and needed to be replaced. To train a new dog, Mr. Hague's friend needed to take leave. As a relatively new Federal employee, however, she had not accumulated enough time off to take leave to train her dog.

To solve her dilemma, Mr. Hague proposed the idea of leave sharing where employees who have extra leave could donate that time for the use of employees facing emergency situations without enough accumulated leave.

I agreed with Mr. Hague's suggestion and the legislation I am offering today would create a permanent leave sharing program in the Federal Government.

Upon investigating the concept of leave sharing, other cases of hardship appeared. The case of Deborah Moorleghan of Arlington, VA, points out some of the difficulties that newer Federal employees can encounter. Mrs. Moorleghan and her husband are civilian employees of the Department of the Navy. Her two children are each ill and require very specialized care. Kelly Denise, age 8, has cancer and has been treated at the National Institutes of Health in Bethesda for the past 4½ years. Donna Kay, age 6, is a spastic quadraplegic, who is unable to walk, talk or sit and is classified as blind.

As Mrs. Moorleghan wrote:

> It's hard to put down in words the amount of time it takes to raise children like ours * * * (A)ll my leave is gone as fast as I earn it, and leave without pay doesn't help.

Mr. Speaker, here are other examples:

An IRS examiner: An individual 28 years old with leukemia. He has had three remissions, recently went into relapse, and didn't think he would live for the next 6 months. He was scheduled to get married this August, got married 3 weeks ago. There are 150 to 200 employees in the IRS willing to contribute leave. He has been with the Government for about 7 years, and has been ill since 1984.

A postman: Another individual 44-year-old postman, married with three sons has cancer. He finished the run for Terry Fox, the heroic Canadian with the mechanical leg who died before he could complete the run across Canada—was 22 years old—and is now very ill and needs the income from postal employment. A fellow postmaster wants to give him 500 hours of his sick leave.

After being approached by Mr. Hague and learning of cases such as Mrs. Moorleghan's, I worked with my colleagues on the House Treasury-Postal Service-General Government Appropriations Subcommittee to include a leave study directive in the fiscal year 1987 Treasury spending bill. The report accompanying the bill directed the Office of Personnel Management to study the feasibility of setting up a Governmentwide leave-sharing program. That study is currently underway.

Office of Personnel Management Director Constance Horner mentioned a number of benefits of such a system in a letter to me last year. She wrote:

> (Leave sharing) has a number of attractive features. It could encourage individual initiative, foster a greater sense among fellow workers and create a common goal toward which both the Federal Government and individual employees could work together.

Finally, and perhaps most importantly, a leave-sharing program would fill the gap that exists in the current leave system for newer employees who become injured or ill but who have not had the opportunity to accumulate sufficient leave to cover an extended absence.

Public service is a high calling. Those who answer that call deserve to be treated fairly and to be recognized for their important services. To attract and retain qualified people, such as Deborah Moorleghan and her husband and Robert Hague and his blind coworker to staff our Government, we must ensure adequate pay and benefits.

Mr. Speaker, in a legislative climate where deficit reduction and budget cutting are at the top of the agenda, finding ways to improve or increase employee benefits has become a difficult task. If we work creatively within the context of existing programs we can develop attractive options and make positive changes in the compensation package such as leave sharing, to encourage good employees to stick with Federal service. And that's good for all American taxpayers.

I urge my colleagues to join me in cosponsoring and supporting this leave-sharing program.

FEDERAL EMPLOYEES LEAVE ACT OF 1987—BILL ANALYSIS

SECTION 1. TITLE

SEC. 2. VOLUNTARY LEAVE TRANSFER PROGRAM.

This section establishes a "shared leave" policy by which employees may donate some of their annual leave to a colleague who is facing a personal emergency but has accrued insufficient leave to cover the hardship situation.

Section 6331. Definitions

This section explains the terms to be used in the Act including the term "personal emergency" which means a medical or family emergency or other hardship situation which will require an absence from work and could result in the loss of income. OPM should issue guidance to federal agencies to substantiate that a personal emergency does exist.

Section 6332. General authority

This section directs the Office of Personnel Management to establish a program for the sharing of leave between federal employees. This statutory authority is similar in scope to limited authority granted under P.L. 99-591 for use during a congressionally directed study of the leave sharing concept. The general authority of this legislation expands on the original concept of testing the shared leave initiative by establishing a five-year experimental program to which all federal employees will have access.

Section 6333. Receipt and use of transferred leave

This section outlines the procedures by which leave may be received by the individual facing a hardship or illness. These requirements mirror OPM's regulations of March 30, 1987, setting forth the parameters for the short-term leave study directed by the 99th Congress.

Application: An individual making application for additional leave needs to provide basic information including name, position title, grade or pay level, a brief description of the nature, severity, and anticipated duration of the personal emergency involved and any other information which may be required by the agency or may be useful in making a determination of the eligibility for use of donated leave.

Stipulations: There are several stipulations on borrowing leave, including the prerequisite that the employee who is receiving borrowed leave has exhausted his or her own annual and sick leave accounts first and the need for clearance by the employing agency (just as is current policy in approving leave) to ensure that extension of leave does not adversely affect the mission of the agency, cause morale problems, or affect the efficiency of on-the-job employees. This last requirement is especially important when the personal emergency does not involve a medical condition of the employee receiving the additional leave.

Accumulation: An individual may accumulate additional leave from colleagues without limitations and such leave may be used to liquidate an indebtedness for advanced annual leave.

Section 6334. Donations of annual leave

Application: This section sets forth the requirements by which an employee may donate leave.

Stipulation: Congress recognizes the altruistic nature of many federal employees who will want to be quite generous in sharing leave with seriously ill colleagues. It is necessary, however, to take precautions to guard against "burn-out," exhaustion and general poor productivity of the individual giving the leave. Annual leave serves an important role in maintaining a healthy and productive workforce.

Given these concerns, sitpulations are legislated to guard against the "burn-out" factor including the requirement that the donating employee must have personally used some of his or her annual leave, the employee is not eligible to contribute more than half of all the leave he or she would have available in a calender year (unless waived by the employing agency), and an individual cannot contribute more leave days than the number of days left in the calendar year.

For example, on December 14, an employee cannot turn in 20 leave days to a colleague when there aren't enough days left in the year for that individual to have personally used those days. The fabled "use or lose" policy has been one area in which federal employees have been forced to take a break and get the needed end-of-the year break. **The last stipulation is designed to ensure that the leave contributory system is one of voluntary, and that leave is contributed to help fellow colleagues and not as a means for gaming the system or giving away leave that would not have been used.**

Section 6335. Termination of personal emergency

Monitoring: Consistent with previously stated intent for monitoring shared leave usage, this section outlines that agencies will monitor the personal emergency by which an individual received donated leave time to assess when the personal emergency no longer exists.

Termination: The transferred leave will no longer be available for use once the personal emergency has passed or the leave recipient's employment terminates.

Section 6336. Restoration of transferred leave

This section states that unused transferred leave will revert on a prorated basis to the individuals who donated the leave.

Section 6337. Prohibition of coercion

This section outlines that this is a voluntary system and it is unlawful to directly or indirectly intimidate, threaten or coerce an individual into donating leave, especially in exchange for benefits such as promises of appointment, promotion or compensation or for reprisals such as deprivation of appointment, promotion, or compensation.

Section 6338. Inclusion of postal employees

This section states that through a congressional oversight in drafting the legislation for OPM's previous shared leave study, the employees of the U.S. Postal Service were inadvertently excluded in the original study. This statute outlines that such employees are eligible to participate.

Section 6339. Negotiated contracts; exclusion authority

This section states that the authority of this statute will not interfere with existing bargaining agreements unless specifically negotiated between the agency and recognized organizations.

Section 6340. Reporting requirements

This section outlines that agencies need to maintain records on this program so as to provide information to OPM should Congress require a report on the program for its eventual termination or extension.

Section 6341. Regulations

This section outlines technical amendments to the statute and delineates the five-year experimental nature of this program.

SEC. 3 EXPERIMENT ON USING LEAVE PROGRAM TO RECOGNIZE OUTSTANDING PERFORMANCE BY FEDERAL EMPLOYEES

This section establishes a five-year experimental program in which agencies can participate (in accordance with OPM regulations and guidelines) in using additional leave as a possible incentive reward. Additional leave may be used instead of, in addition to, or in conjunction with financial compensation or other mechanisms for recognizing outstanding performance. Such usage, though, is only available upon the consent of the employee involved.

H.R. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Leave Act of 1987".

SEC. 2. VOLUNTARY LEAVE TRANSFER PROGRAM.

(a) IN GENERAL.—(1) Chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"Subchapter III—Voluntary Leave Transfer Program

"§ 6331. Definitions

"For the purposes of this subchapter—

"(1) the term 'employee' means an employee as defined by section 6301(2);

"(2) the term 'personal emergency' means a medical or family emergency or other hardship situation that is likely to require an employee's absence from duty and to result in a loss of income to the employee because of the unavailability of paid leave;

"(3) the term 'leave recipient' means an employee whose application under section 6333 to receive donations of leave is approved;

"(4) the term 'leave donor' means an employee whose application under section 6334 to make donations of leave is approved; and

"(5) the term 'transferred leave' means annual leave transferred under this subchapter.

"§ 6332. General authority

"Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, of the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual leave account of any other employee if such other employee requires additional leave because of a personal emergency.

"§ 6333. Receipt and use of transferred leave

"(a) An application to receive donations of leave under this subchapter, whether submitted by or on behalf of an employee—

"(1) shall be submitted to the employing agency of the proposed leave recipient; and

"(2) shall include—

"(A) the name, position title, and grade or pay level of the proposed leave recipient;

"(B) a brief description of the nature, severity, and anticipated duration of the personal emergency involved; and

"(C) any other information which the employing agency may reasonably require.

"(b) A leave recipient may use annual leave transferred to the leave recipient's annual leave account under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that—

"(1) any annual leave and (if appropriate) any sick leave accrued, accumulated, or otherwise available to the leave recipient shall be used before any transferred leave may be used; and

"(2) unless the personal emergency involves a medical condition affecting the leave recipient, the employing agency may consider the likely impact on morale and efficiency within the agency in considering a leave recipient's request to use transferred leave.

"(c) Transferred leave—

"(1) may accumulate without regard to the limitation imposed by section 6304(a); and

"(2) may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced annual leave granted on or after a date fixed by the employee's employing agency as the beginning of the personal emergency involved.

"(d) Transferred leave remaining to the credit of a leave recipient when the leave recipient's employment terminates—

"(1) may not be transferred to another agency, except with the consent of such other agency;

"(2) may not be included in a lump-sum payment under sections 5551 or 5552; and

"(3) shall not be available for recredit under section 6306 upon reemployment.

"§ 6334. Donations of annual leave

"(a) An employee may, by written application to such employee's employing agency, request that a specified number of hours be transferred from such employee's annual leave account to the annual leave account of a leave recipient.

"(b) Upon approving an application under subsection (a), the employing agency of the leave donor may transfer all or any part of the number of hours requested for transfer, except that the number of hours so transferred may not exceed—

"(1) the number of hours remaining in the leave year (as of the time of the transfer) for which the leave donor is scheduled to work and receive pay; or

"(2) one-half of the maximum number of hours of annual leave accruable by the leave donor during the leave year, except with the written approval of the leave donor's employing agency.

"(c) Regulations prescribed by the Office of Personnel Management under section 6341 shall include—

"(1) procedures to carry out this subchapter when the leave donor and the leave recipient are employed by different agencies; and

"(2) provisions under which appropriate adjustments shall be made when the leave donor and the leave recipient are under different leave systems.

"§ 6335. Termination of personal emergency

"(a) The personal emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated as of the date on which—

"(1) the leave recipient's employing agency determines that the personal emergency no longer exists; or

"(2) the leave recipient's employment by the employing agency terminates.

"(b) A leave recipient's employing agency shall continuously monitor the status of the personal emergency affecting the leave recipient and, consistent with guidelines prescribed by the Office of Personnel Management, shall establish procedures to ensure that a leave recipient is not permitted to use or receive transferred leave after the personal emergency ceases to exist.

"§ 6336. Restoration of transferred leave

"(a) The Office of Personnel Management shall establish procedures under which any transferred leave remaining to the credit of a leave recipient when the personal emergency affecting the leave recipient terminates shall be restored on a prorated basis by transfer to the annual leave accounts of the respective leave donors.

"(b) Transferred leave restored to a leave donor under subsection (a) before the beginning of the third biweekly pay period before the end of a leave year shall be subject to the limitation imposed by section 6304(a).

"(c) Transferred leave restored to a leave donor under subsection (a) after the beginning of the third biweekly pay period before the end of a leave year shall not be subject to the limitation imposed by section 6304(a) until the end of the leave year following the leave year in which the transferred leave is restored.

"(d) The Office shall prescribe regulations under which this section shall be applied in the case of an employee who is paid other than on the basis of biweekly pay periods.

"(e) Restorations of leave under this section shall be carried out in a manner consistent with regulations under section 6334(c), if applicable.

"§ 6337. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using annual leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate threaten, or coerce' includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6338. Inclusion of postal employees

"An individual employed by the United States Postal Service or the Postal Rate Commission shall be eligible to participate under this subchapter to the same extent and subject to the same conditions as in the case of an employee under section 6331(1).

§ 6339. Negotiated contracts; exclusion authority

"(a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included under this subchapter except to the extent expressly provided under a written agreement between the agency and such organization.

"(b)(1) Upon written request by the head of an agency, the Office of Personnel Management may exclude that agency from this subchapter if the Office determines that inclusion under this subchapter is causing substantial disruption to agency functions.

"(2) Section 2(b)(2) of the Federal Employees Leave Act of 1987 shall apply with respect to any transferred leave remaining to the credit of an employee whose personal emergency has not terminated before that employee's employing agency is excluded pursuant to this subsection.

"§ 6340. Reporting requirements

"The Office of Personnel Management may require agencies to maintain records and provide pertinent information to the Office for purposes of any report which the Office may be required to prepare with respect to this subchapter.

"§ 6341. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.".

(2) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"Subchapter III—Voluntary Leave Transfer Program

"Sec.
"6331. Definitions.
"6332. General authority.
"6333. Receipt and use of transferred leave.
"6334. Donations of annual leave.
"6335. Termination of personal emergency.
"6336. Restoration of transferred leave.
"6337. Prohibition of coercion.
"6338. Inclusion of postal employees.
"6339. Negotiated contracts; exclusion authority.
"6340. Reporting requirements.
"6341. Regulations."

(b) COMMENCEMENT AND TERMINATION OF PROGRAM; AUTHORITY TO USE RESIDUAL LEAVE REMAINING AFTER PROGRAM TERMINATES.—(1) The voluntary leave transfer program shall be implemented beginning not later than 4 months after the date of the enactment of this Act and shall terminate 5 years after its commencement date.

(2) if the voluntary leave transfer program terminates before the termination of the personal emergency affecting a leave recipient, any annual leave transferred to the annual leave account of the leave recipient before the termination of the program shall remain available for use (including by restoration to leave donors, if applicable) as if the program had remained in effect.

(c) REPORT.—The Office of Personnel Management shall submit a written report to the President and the Congress with respect to the operation of the voluntary leave transfer program not later than 6 months before the date on which the program is scheduled to be terminated.

SEC. 3. EXPERIMENTAL PROGRAMS INVOLVING ADDITIONAL LEAVE AS A MEANS OF RECOGNIZING OUTSTANDING PERFORMANCE BY FEDERAL EMPLOYEES.

(a) GENERAL GUIDELINES.—As soon as practicable after the date of the enactment of this Act, the Office of Personnel Management shall by regulation establish general guidelines in accordance with which agencies shall be permitted to conduct experimental programs to determine the desirability and feasibility of providing additional leave under subchapter I of chapter 63 of title 5, United States Code, as a means of recognizing outstanding performance or other achievements by Federal employees.

(b) SPECIFIC CONDITIONS.—(1) An experimental program—

(A) may be designed in such a way so that the additional leave could be used in lieu of, in addition to, or otherwise in conjunction with, any monetary award or other form of recognition otherwise available under existing provisions of law; but

(B) may not be implemented in the case of any particular employee except with the consent of the employee involved.

(2) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition may not be included in an experimental program except to the extent expressly provided under a written agreement between the agency and such organization.

(c) TECHNICAL ASSISTANCE.—The Office shall, upon request of an agency, provide technical assistance relating to the design or implementation of an experimental program under this section.

(d) INFORMATION TO OPM.—The Office may require agencies to maintain such records and to provide such information as the Office may require in order to prepare its report under subsection (e)(2).

(e) TERMINATION; REPORT; REMAINING LEAVE.—(1) All experimental programs under this section shall terminate not later than 5 years after the date of the enactment of this Act.

(2) Not later than 6 months after the termination of the experimental programs, the Office shall submit to the President and the Congress a report containing the Office's findings and conclusions with respect to each such program. Included as part of such report shall be recommendations for any administrative action or legislation which the Office considers appropriate.

(3) Any additional leave standing to the credit of an employee upon the termination of the experimental program under which such leave was granted shall remain available for use by such employee as if the program had remained in effect.

IRRESPONSIBLE ACTION OF HOUSE ON NUCLEAR TESTING AMENDMENT

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, yesterday, this House adopted an amendment to the DOD authorization bill which has gravely dangerous consequences to this Nation's defense. The amendment would stop nuclear testing above 1 kiloton. We will live to regret this irresponsible action.

I want to insert into the RECORD at the conclusion of my remarks a letter from the Secretary of Defense which notes just a few of the reasons why this amendment was such a bad idea.

The Secretary noted that the House would be absolutely inconsistant in adopting the amendment after it earlier overwhelmingly rejected amendments that would have terminated two important programs—the Trident II D-5 missile and the small ICBM. Both of those programs require nuclear testing; the W-88 warhead for the Trident II and a modified version of the W-87 warhead for the small ICBM.

As the Secretary pointed out, nuclear testing has enabled us to discover and correct serious problems with one-third of all nuclear weapon designs introduced into our stockpile since 1958.

In addition, such testing is necessary to determine nuclear weapons effects on our systems.

The Secretary's letter is an important contribution to the continued debate on the test ban issue—and, rest assured, the debate will continue. Our irresponsible action yesterday cannot be the last word.

THE SECRETARY OF DEFENSE,
Washington, DC, May 19, 1987.

Hon. WILLIAM DICKINSON,
Ranking Minority Member, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR BILL: In response to your inquiry, I would like to describe for you the implications of a one kiloton nuclear testing threshold on key elements of our strategic modernization program.

Last week, the House of Representatives overwhelmingly rejected amendments that would have terminated two important elements of our strategic modernization program—the Trident II (D-5) missile and the Small ICBM programs. A vote in support of a one kiloton testing threshold would be inconsistent with the votes of the House last week, because it would adversely impact the development and deployment of these systems.

The warhead for the Trident II missile system the W-88, is nearing the completion of its development phase. After developmental testing has allowed us to certify warhead performance and to test design features that will be incorporated into production units, we will conduct stockpile confidence testing to demonstrate that the warhead we are producing and deploying is effective. A one kiloton nuclear testing threshold would preclude us from conducting the stockpile confidence testing of the W-88 warhead required to demonstrate that the system we have deployed is effective.

We could deploy the Trident II warhead without doing this stockpile confidence testing, but this would be tantamount to deploying a weapon system without conducting operational testing. The Defense Department and the Congress are committed to thorough and realistic testing of all defense systems. It would be irresponsible for us to lower our standards in the case of nuclear weapons, which are highly complex, and upon which we rely for the deterrence of nuclear war. Nuclear testing has enabled us to discover and correct serious problems with one-third of all nuclear weapon designs introduced into our stockpile since 1958.

The Small ICBM will use a modified version of the W-87 warhead used in the Peacekeeper missile now being deployed in Minuteman silos. Additional security features, called "use control" devices, are required for the Small ICBM since it will be a fully mobile system. There are a number of use control devices currently being evaluated for the Small ICBM. Under a one kiloton testing threshold, we would be forced to identify a use control device that would not require testing, rather than basing that choice on considerations of effectiveness. Thus, a one kiloton testing threshold would risk undermining the security features in the Small ICBM.

Finally, a one kiloton nuclear testing threshold would preclude the nuclear weapons effects testing that we plan to conduct to demonstrate that Trident II and Small ICBM missile components are adequately hardened and survivable. We conduct nuclear tests above one kiloton to determine that our critical defense systems, like satellites, are survivable against nuclear effects. If the House of Representatives believes that it is important to make our satellites surviviable, it should not adopt a one kiloton testing threshold. Weapons effects testing that duplicates the complexity of a nuclear environment cannot be simulated.

If we are going to maintain a modern and effective strategic deterrent, we must be able to conduct nuclear test up to 150 kilotons as permitted under the Threshold Test Ban Treaty. To preclude this testing through the imposition of a one kiloton testing threshold would undermine the credibility and effectiveness of our deterrent. In addition, the adoption of such a provision would be at odds with the clear stand taken by the House last week in support of the Trident II and Small ICBM programs.

Sincerely,

CAP.

LAST PLEA FOR HOSTAGES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I rise this morning to talk about our hostages in Beirut probably for the last time this year. If that sounds peculiar, let me explain why.

I would like to put in the RECORD at this point an editorial from the New York Times last week that made a compelling case that the more we give prominence to our American citizens held in brutal captivity in Beirut, the more we probably hurt them.

The article follows:

[From the New York Times, May 16, 1987]

GROWING UP ABOUT HOSTAGES

Something interesting has happened—or hasn't happened—since the Iran-contra affair burst into the headlines six months ago. The plight of remaining American and European hostages in Lebanon no longer dominates the front page and the television screen.

Terry Waite, the envoy of the Archbishop of Canterbury, vanished in Beirut on Jan. 11; news items now calibrate his ordeal in two paragraphs. That's also the case with eight Americans still held captive; even recent threats by their captors failed to galvanize media attention. A video cassette of the hostage Alann Steen, released this week to a Beirut newspaper, was treated correctly in low-key news accounts as reassuring evidence that he was alive, not as a call to action.

Though hostage families have expressed fear that diminishing attention will prolong captivity, the reverse is more likely to be true. When hostages lose attention-grabbing value, there's less incentive to abduct them. When captors cease believing that media can be manipulated to bring pressure for concessions, their captives cease being controlling assets. When there are no White House fetes and no yellow ribbons for liberated hostages, all Americans abroad are safer.

It's taken time for these lessons to sink in. On Nov. 4, 1979, Americans and their President were taken unawares when the mob burst into the U.S. Embassy in Teheran. Patriotism and sympathy for the hostages welled up over 14 months. Every night, Walter Cronkite of CBS counted the days of captivity. Ronald Reagan won the Presidency in part because of this yearlong humiliation, setting himself up for criticism later when he was unable to free other Americans seized in Beirut under different circumstances.

The White House could not deliver, even if it wished to do so, on the demand most frequently made by Lebanese captors—release of a group of terrorists jailed in Kuwait. Most important, Mr. Reagan tried, and failed, to appease Iran by giving arms as ransom. That, at least, has shown the folly of currying terrorists' favor.

One benefit of Mr. Reagan's failure is that even Teheran's clerical zealots realize that there can be no more of that. Out of necessity, Washington has returned to its earlier policy: no concessions, no deals, but a willingness to talk.

Hostage families no longer clamor for public attention. Finally and mercifully, the Beirut hostages are off the front page. Attitudes might change in the face of some new hijacking, but Americans are no longer quick to sentimentalize compatriots who have ignored warnings and needlessly put themselves at risk in Lebanon. To that degree, Americans are no longer held hostage by their eagerness to do something, when so little can really be done.

Four of the hostages wrote to me on November 8, 1985, and two of them fortunately have been freed and have joined their loved ones, Father Marty Jenko and a citizen from southern California, David Jacobsen.

I feel sorry for Peggy Say, the sister of Terry Anderson. Terry has been in captivity for over 2 years and 4 months now, and I apologize to her that I have adopted an approach that she does not believe in. My wife and I flew up to New York and had lunch with the Episcopalian Bishop of New York and a heroic fighter for the hostages' freedom, Terry Waite. All that I could tell him was to be careful, and now, since January 21, he is a hostage, and I apologize in advance to Terry. I do not know what he will tell me when, God willing, he comes home, about adopting a silent policy, but Terry operated silently and effectively behind the scenes.

I just think that raising the hostages to such a level just enables these brutal Arab kidnapers, torturers, and murderers of our citizens to whiplash us around. Rather than increasing the attention that we pay to this, maybe by using quiet diplomacy for awhile is the way to get our Americans out.

I am not sure that this approach is correct at all, but I agree with the New York Times that we should try it for a few months. Every Member in this Chamber signed my letter to President Assad in Syria, and even signed another letter that I decided not to deliver to him because his hands were bloody from the killing of two American sergeants and a young Turkish lady at the disco bombing in West Berlin a year ago April 5.

So I adopt a silent policy, and I apologize to our Americans in captivity.

SANDINISTAS HAVE ROBBED NICARAGUAN PEOPLE OF FAITH AND HOPE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, one of my constituents, Randall P. Wittenauer of Santa Maria, CA, recently wrote a letter to the editor of his local newspaper, the Santa Maria Times to describe how the Sandinista revolution has affected his wife's family. His description of what has happened in Nicaragua since 1979 is a vivid account of how the Sandinistas have robbed the Nicaraguan people of faith and hope. His letter shows in very real and very personal terms both the heartless nature of the Sandinista regime in Nicaragua and the damaging effect of divided, inconsistent United States policy toward supporting the Contras in opposition to the Communist regime in Nicaragua.

I urge my colleagues to read the following letter carefully and consider the implications for the future if nothing meaningful is done to oppose the Sandinistas in Nicaragua.

LOSING COUNTRY

To the Editor:

I write this so that others may gain an understanding of what it means to lose your country to communism. I make no judgment concerning communism as an economic or political system; however, I do wish to convey the sense of loss whan a capitalist country falls to communism.

A few weeks ago, my father-in-law was visiting one of his sons in Miami. He called us to say "hola" and then dropped the bomb—he and his wife are leaving Nicaragua to live here in the States. At first, I was glad for them: they've had a rough time since the revolution in 1979. But as I began to consider the implication of such an action, I became saddened.

They spent an entire lifetime in Nicaragua building a successful ranching operation and raising six children. As a rancher, the land means everything to Jose. Land put food on his family's table, the land made possible their home, the land made possible their children's education; and the land, made possible a seemingly bright future. With old-age approaching, the golden years just around the corner, the country fell. My wife's family lost all but their house. The land they once owned and lived from was taken by the Sandinista government. It now lies fallow. Even the savings accumulated over the years for security in retirement, dwindled away in response to the drastic devaluation of the Cordoba.

Most of the family has been out of the country for many years now. I've talked with my in-law's before about leaving, but I always got the same reply: our lives are in Nicaragua and we are too old to start over again—our lives are in Nicaragua. My brothers-in-law and I have had many lively discussions concerning the possible return to democracy through the Contra effort; however, Contra support in this country is far from committed. It now appears that Contra aid will not continue, unless Ronald Reagan can rally some across-party-line support. The Sandinistas are convinced the U.S. will not support the counter-revolution: my in-laws report that the government has been acting quite bold and arrogant ever since their first news of the Iran/Contra scandal was released. Recent waning U.S. support is a main determinant in my in-law's decision to move here.

Can you even fathom having your country being completely turned upside-down, your property taken, your money grown worthless, and even viewed as an enemy of the state because you gained and prospered under the former system? No patriotic Nicaraguan liked Somoza: he stepped on too many peoples feet, both rich and poor. And perhaps, since things for my wife's family were going well, they were less than actively pushing for badly needed reforms; however, that does not make them pro-Somoza.

The Sandinistas don't see it that way. All they see is the capitalist grown old and weak. Their leaving is a major symbolic victory for the marxist government of Nicaragua. My wife's parents were the die-hard optimists, they held on to faith and hope long after most had left.

It seems rather in vogue to poke fun at old notions of communist imperialism, the domino theory, and the like. The left of our own nation tells there's nothing to worry about, and those who wish to appear neutral or to avoid being labeled "leftist" may go so far as to cite idealistic and organizational deficiencies within the Contra membership. My in-law's assure me that Nicaraguans will fight if they receive support, but a popular front will not develop any time soon without it. Meanwhile, the Sandinistas grow stronger and Communist bloc support increases more intensely as the U.S. fails to make a full commitment to the Contra effort.

What is so ironic about this whole situation is that my in-law's are moving to the very country that allowed their's to fall to the communists. They cannot understand the Carter administration's past decisions in Central America. I too, am concerned about our country's apparent inability to formulate and maintain foreign and domestic policy over the long-term. To me, this the strongest advantage the communists hold over us. Reagan couldn't pave our streets with gold, so prepare for another swing of the pendulum to the other end of the continuum, and yet further inconsistent policies that will continue to undermine the stability of the free-world.

For my wife's family, the war is over; but even more ominous their faith and hope is gone. They have given up. Please join me in welcoming them to our great nation. We are one of the few remaining places of refuge for those who fell victim to our own weaknesses and folly in the international game of chess.

RANDALL P. WITTENAUER,
Santa Maria.

INTRODUCTION OF RESOLUTION URGING JAPAN TO REFORM ITS TRADE POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HERGER] is recognized for 5 minutes.

Mr. HERGER. Mr. Speaker, the United States trade imbalance with Japan reached an unprecedented $58.6 billion in 1986.

Because of this huge imbalance and because of Japan's continued refusal to import certain American agricultural products, I am today, introducing a sense of the Congress resolution urging Japan to reform its trade policies by eliminating its quotas and lowering its high tariffs on competitive United States farm exports.

Recently, Secretary of Agriculture Lyng and United States Trade Representative Yeutter visited Japan to discuss opening that Nation's markets to a number of American products, including rice, beef, citrus, peanuts, cheese, dried beans, tomato juice and preserved or prepared fruit. They returned to the United States deeply disappointed by the Japanese Government's intransigence on the trade issue.

Mr. Speaker, American rice currently is barred from Japan. This is a direct violation of the GATT accords. Tariffs on beef and veal are 25 percent and this figure does not include quotas on those products. Oranges, also, are treated very unfairly under Japanese trade laws. From June 1 until November 30, there is a 20-percent tariff on American oranges imported into Japan. The remainder of the year that tariff is doubled. The list of high tariffs and unfair quotas goes on and on.

While I still feel that tough negotiations and not protectionist measures are the key to prodding the Japanese to open their markets, I also believe this resolution offers the Congress an excellent opportunity to support our trade negotiators, sending a very strong signal to the Japanese Government that we will no longer tolerate their continued refusal to treat American agricultural exports equitably.

Mr. Speaker, I want to stress that this resolution is not intended to be yet another exercise in Japan-bashing. There are many thoughtful citizens of Japan who question the wisdom of that nation's protectionist agricultural policies. For example they realize that Japanese consumers pay 10 times the price it would cost if California rice were allowed into their country because of their ban on United States rice imports. A recent study by a former head of the Bank of Japan urged Japanese officials to reconsider their current policy of protecting domestic agriculture from international competition.

The resolution I am offering today should assist these reasonable proponents of open trade in Japan to persuade their government to change its outmoded trade policies.

The purpose of this resolution is to send a strong signal and put the Congress on record in opposition to Japanese policy toward our agricultural goods. Given the many problems our farm economy faces today, this small step toward expanding American Agricultural exports offers farmers hope for a brighter future.

Mr. Speaker, this resolution already enjoys the bipartisan support of members of both the California congressional delegation and the Agriculture Committee.

I urge my colleagues to join me in support of this bill.

□ 1810

THE COMPETITIVE EQUALITY BANKING ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, on March 27 of this year, the Senate passed S. 790, the Competitive Equality Banking Act of 1987.

Section 105 of that bill generally provides that the Federal home loan banks cannot make advances to member institutions unless such institutions meet the new qualified thrift lender test established by the bill.

Inasmuch as this provision does not contain any separate reference to its effective date, it would become effective upon enactment of S. 790 should S. 790 or other legislation containing this provision become law. In the meantime, the existence of this provision in the Senate passed bill has cast a cloud over the legal validity of ongoing commitments to make advances and agreements in the nature of letters of credit between the banks and their member institutions pending ultimate enactment into law or other disposition of this provision.

To rectify the situation and to make it clear that in adopting section 105 of S. 790, the Senate intended it to have only prospective effect, the chairman of the Senate Committee on Banking, Housing, and Urban Affairs, Senator PROXMIRE, and the committee's ranking member, Senator GARN, in a letter response to an inquiry from the Federal Home Loan Bank of New York clearly established that section 105 was intended to be purely prospective in nature and even should it be enacted into law, it would not affect the ability or authority of the banks to make advances or other extensions of credit to member institutions pursuant to commitments or agreements entered into prior to the date upon which section 105 became law. This response, in pertinent part, states:

> This is to advise you that, as chairman and ranking minority member, respectively of the Senate Banking Committee, we believe that the Senate Banking Committee and the Senate intended section 105 of S. 790 to have only prospective effect. Accordingly, we believe that, if it were to become law, section 105 would not affect the ability of the FHLB-NY or any other FHLB to make advances or other extensions of credit to members pursuant to binding agreements so long as such binding agreements were entered into by the FHLB prior to the date upon which section 105 became law, even if such members did not, either at the time of such agreement or at the time of such advance, satisfy the qualified thrift lender asset test contemplated by section 105.

My opinion has also been sought. I want to point out that S. 790 and its provisions are a long way from enactment into law. There is no way to predict which sections of S. 790 might be accepted by the House.

I fully concur in the conclusion reached by my counterpart in the other body and by the ranking member of his committee as to the effect to be accorded section 105 of S. 790. I believe the Federal home loan banks' advances program is important to their member thrift institutions and should not be jeopardized while the Congress deliberates what should be done with respect to a qualified thrift lender asset test and what, if any, effect such a test should have on the ability of the banks to make extensions of credit and advances to member institutions.

ALLENTOWN HOUSING AUTHORITY MARKS 50TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, it is my honor and privilege to call attention to the 50 years of solid action by the Allentown, PA, Housing Authority which will officially celebrate its golden anniversary with a number of special events during the next several months. However, the anniversary celebration kickoff will come May 26 and I point with pride that the Allentown Authority has gained national prominence for its initiative.

The housing authority was appointed one-half century ago in response to the new U.S. Housing Act. It is interesting to note the authority's first project, Hanover Acres, with 322 family units, was completed in 1940 with an aim to serve tenants described as the temporarily poor, middle-class people who were in financial straits and without housing because of the Depression. As the proclamation points out, this action represented the first such response of its kind by a State municipality in Pennsylvania and only the fifth of any city across the Nation.

Now the authority serves about 8,000 people or about 9 percent of the city's population. Its work has focused on families, homes for the elderly, the poor needing rent assistance for private landlords, and most recently, in the rehabilitation of downtown buildings to fulfill housing needs. This action represents those deliberate steps and processes whereby the cooperation of the private sector and the Federal and local governments can successfully resolve the health and welfare problems of its citizens. From this we can see that collaboration, not stultification of private initiative, is the hallmark of success, as exemplified by Allentown, which fosters the development of its individuals and guards the foundation in the family.

Mr. Speaker, under unanimous consent I include the proclamation as follows:

> Whereas, a half century ago, Allentown officials recognizing a need to provide "decent, safe and sanitary housing" responded to the new U.S. Housing Act by appointing a five member panel to serve as the Allentown Housing Authority; and
>
> Whereas, Allentown was the first municipality in the state, and only the fifth across the nation to respond to the new law; and
>
> Whereas, the Allentown Housing Authority golden anniversary is being celebrated in a number of special events during the next several months, but the anniversary celebration kick-off is being held May 26, 1987 at the Americus Centre featuring political satirist Mark Russell; and
>
> Whereas, the celebration is warranted in view of the Authority's accomplishments in its first 50 years,
>
> Now, therefore, I, Joseph S. Daddona, Mayor of the City of Allentown, do hereby declare May 26, 1987 as Allentown Housing Authority Day in the City of Allentown and extend sincere congratulations on this 50th anniversary celebration and very best wishes for continued success in all future endeavors.

THE U.S.S. "STARK" AND THE AMERICAN LEFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to speak this evening about the U.S.S. *Stark* and the American left. I want to expand on some comments I made earlier today. I will not refer to any individual Member by name, but I will talk about a pattern of behavior which I think was in some ways described yesterday by the distinguished ranking Republican on the Armed Services Committee.

We have a tragic situation. The U.S.S. *Stark*, a naval ship, found itself in harm's way. Young men serving their country were killed and the initial immediate reaction on the part of some members of the American left was to jump up and engage in oratory and explain their version of what America's defenses should be, how the Navy should work, what is wrong with the Reagan administration, and so forth.

I think for those of us who have been engaged for several weeks on the defense bill, who have fought through amendment after amendment, who have tried to talk about defending America, who have been concerned about how dangerous the world is, it has been a little difficult to deal with our friends on the left who are emotionally militant when there is a crisis, but who systematically and methodically vote to disarm and weaken the United States, thereby creating the environment in which a crisis might occur.

Two people spoke yesterday about their reaction to watching our colleagues on the left. I think that it is worth putting those in the RECORD as a starting point.

The gentleman from Alabama [Mr. DICKINSON], who had been sitting as the senior Republican on the Armed Services Committee through days of debate, who had listened to disarmament vote after disarmament vote, argument for weaker America after argument for a weaker America, hearing suddenly the passionate hawk-like cries of unilateral disarmors, got up and said the following (page H3572):

> Mr. Speaker, as has been observed by those who have preceded me in the well, a terrible incident occurred yesterday when Iraqi aircraft, either one or two of them, attacked the United States frigate, the U.S.S. *Stark*. In this unprovoked attack in waters we have patrolled for many months, the U.S. ship was not in a combat situation. The ship had every right to be where it was, but none the less we sustained 28 dead, two severely burned, and many others wounded. At this point we do not even know how many are missing. It was a terrible thing. Several constituents of mine have loved ones that were serving aboard the *Stark* and as of yet they do not know whether they are living or dead.
>
> I would like to point out, however, an irony in this situation. Several people in the well today, and I suspect in the days to come, will call on the United States to do something, to arm ourselves to be able to repel such an attack; but the irony is that some of the statements made on the floor this morning by people calling on us to do something to defend ourselves, to take reprisals perhaps, are being made by the same people who have voted to cut this defense budget right down to the bone and the sinew and to deny us the capability that we need.
>
> Mr. Speaker, where does the hypocrisy end?

Now, I do not question the emotions, I do not question the anguish, but I think it is worth every citizen and every Member asking themselves when someone who is a committed dove, someone who is passionately devoted to disarming America, someone who preaches weakness and votes weakness, suddenly leaps up in the middle of a military event and begins to talk about the American position and how we have to be tougher and we have to be stronger and our Navy has to be better.

Why are they quite so outspoken? Why are they quite so angry?

Now, I know that many people will just say, "Well, that is just politicians. Given a good television opportunity, they are going to be play-acting." But I do not believe that is true.

I believe two other things are at stake. First of all, for many of our friends on the left, I think they sincerely wish we lived in an orderly, in a legal world, where disagreements with the Soviet Empire or with Iranian terrorists could be resolved by subcommittee hearings and amendments on the floor and somehow it would all magically work and we would all be reasonable and live happily ever after.

I think those folks on the left who are genuine and sincere pacifists, they react with shock and rage because the brutal reality of the real world intrudes on their fantasy and genuinely shocks them. They are truly angry to discover that in fact the world is dangerous. They are truly outraged to discover that violence exists.

Those folks, for example, spoke again and again last year in a debate on Nicaragua and outlined on March 19 and 20, 1986, their absolute commitment to a world in which we would not have violence.

They said things like, "War is an anachronism."

Well, clearly, if you believe war is an anachronism, then a missile hitting an American ship is a terrible shock.

Someone else said, "National reconciliation is ordered by diplomacy, not by guns."

Well, if you truly believe that diplomacy is the only answer, then clearly you are shocked to find somebody who uses violence.

Someone else said, "All the guns in the world cannot win over a people ready for democracy."

Clearly, if you think that somehow nice, well-meaning young men, floating in the Pershing Gulf on a ship watching the Sunday evening movie should not be bothered by a missile, it comes as an enormous shock.

Someone else said, "There is no military solution. There is no military answer."

Well, again, if you believe that there is no military solution, that the military never matters, then, in fact, when suddenly a naval ship is hit, it is an enormous shock.

So the first thing I think people need to be aware of, when you see someone on the left, someone who normally would vote for disarmament, someone who normally is opposed to any American military strength and they react with great emotion, recognize that for some, those who are truly and sincerely pacifists, the very shock of the real world arouses an emotion almost beyond their ability to articulate.

□ 1820

I think that there is a second group, those who are psychologically stunned by a sense of, if not guilt, a sense of agony that voting for weakness may have failed.

You know, those of us who are consistently concerned about strength, who consistently want an America strong enough to be able to do what is necessary, are consistently careful to react to military intervention. We are consistently careful to say, "Let's get the facts," because we do not have any emotional pressures to make us feel guilty. We do not have any emotional pressures that make us wonder if we voted wrong. Our concern is to slowly and calmly and systematically ensure that America can survive in a dangerous world.

Let me suggest this. One Member yesterday, speaking with relatively little information, made the point, and I quote, and I will not cite the Member because they are not on the floor. "* * * operating without air cover in missions for which they were not designed beyond the ability to have any protection from our Armed Forces."

Well, I would ask, Did that Member vote for more carriers? Did that Member seek to increase the strength of the U.S. Navy? Did that Member seek to provide the opportunity for the air cover that they claim was not there?

To the Members on the left who got up and talked about the inadequate defensive system, the inadequate Navy, I would ask the question, Did those Members on the left who talked about an inadequate Navy vote for a strong Navy, or did they vote for a weaker Navy? Did they vote for better recruiting, better training, better ships, better equipment, or did they vote against improving the Navy? Did those of our friends on the left who now claim that the ship should have been more aggressive, have they ever voted or spoken up for more aggression?

Let me explain it this way: Americans live in a remarkably peaceful country. We believe in the rule of law. We assume that you should be allowed to walk down the street without getting attacked. We are willing to assume the best of our neighbor. The great tradition in America is giving the other guy the benefit of the doubt. American heroes always accept the first punch in a fight, and then win the fight.

So psychologically young Americans are trained from childhood not to pick a fight, not to start the fight, not to throw the first punch. Imagine then the schizophrenia of our friends on the left who say immediately, "Ah, obviously the ship should have been on alert. Obviously they should have launched a missile or fired a gun. Obviously they should have done something."

Now, I would suggest that almost every lesson of the leftwing behavior in the last 15 years is exactly the opposite. What if the U.S. Navy had a policy that said, "If in doubt, shoot," and sometime in the eastern Mediterranean an innocent plane was shot down? What would our friends on the left say then? They would say, "Those fascist uniformed warmongers irresponsibly killed innocent people." They would demand a hearing as to why the Reagan administration is running amok with military force.

What if the young officer who was in charge on Sunday night had been under orders that said, "When in doubt, take a risk?" What if they had taken the wrong risk, and what if they had shot down a plane that was not launching a missile? Then the investigations would have been immediate and the same people would have been on the floor saying what we have to do is investigate whether or not this President is trying to start a war.

Now I said something today that I think is absolutely defensible in the context of the leftwing of this Congress and the leftwing of American politics. There is a philosophy in the American left which sends the signal to our officer corps that it is better to accept American casualties than to be aggressive at the risk of hurting others, that it is better for America to take the first punch than to be aggressive and possibly make a major mistake. So we do not react quite as fast.

We are possibly the most easily surprised country in the world. We were surprised at Pearl Harbor; we were surprised in Korea in 1950; we were surprised on the *Pueblo* when it was captured by North Korea; we were surprised with the U.S.S. *Liberty* when it was hit by Israeli aircraft; we were surprised when the Russians invaded Czechoslovakia in 1968; we and the Israelis were both surprised in 1973 in the Yom Kippur war; we were surprised when the Russians invaded Afghanistan; we were surprised in the Tet offensive in 1968; we were surprised on Sunday night, when the U.S.S. *Stark* was hit by a missile.

Now the lesson that I would learn out of that and would say to my friends on the left is, this is a very dangerous world, and we had better be so strong that even when we are surprised, we survive. But the very people who rise up to complain, who attack the Navy and attack the Reagan administration, are the people who have for 3 weeks been promising us that we can trust the Russians, that we can verify, that we will not be surprised, that we have plenty of margin of error, that the world is understandable and rational.

I find it a bit much to have those who have been arguing for weeks about disarmament, those who have been voting consistently for a weaker America, to then have them jump up and have them say that the U.S. Navy should somehow have been tougher, that this was all avoidable, and that somehow someone is to blame, but never the American left.

Why do I talk about the American left? I had a good friend who happens to belong to that faction who asked me the other night why I use that language. Well, because there are clear-cut definitions. Take, for example, four recent votes on the strategic triad, which is the base of American survival. The strategic triad is the idea that we have three legs to our defense. We have bombers, we have nuclear submarines carrying missiles, and we have land-based missiles. For a period now of 27 years those three have given us a very safe and a very stable America.

What do we discover? We discover that there are dozens of Democrats who consistently and systematically voted against all three legs of the triad in the last 3 weeks. That is, given a chance to vote against submarines, they voted against them. Given a chance to vote against land-based missiles, they voted against them. Given a chance to vote against manned bombers, they voted against them. And they voted against all three legs.

One might ask the question: How strong are we going to be if in fact we cannot even maintain the triad? But on the part of these particular Members, they seem to be comfortable with a weaker America. They seem to be comfortable with none of the three legs of the triad, because literally they voted 100 percent against the strategic triad which is the base of American long-range security.

Let us go a stage further. If you take 14 votes in the last 2 weeks and you ask the question—and these were pretty consistently votes for more or for less defense; these were amendments to the defense bill—you find a considerable number of Democrats—and entire faction, if you will—that voted every single time, 100 percent, for a weaker defense, for less strength for America, for fewer weapons.

Now, you could say out of 14 votes maybe you should have voted 3 times or 4 times or 5 times, but for 14 times out of 14 to have voted every single time, 100 percent, for a weaker America suggests to me that there is a faction, that there is a group of people who collectively believe either that the world is not dangerous, or that America should not survive.

I think that most of them, probably all of them, believe that the world is just not that dangerous, that in fact we should not be particularly concerned, that we have too much defense.

□ 1830

All I would say there is that those who believe that we have too much defense are not in a very good position to then stand up and argue that in the Persian Gulf that we should have been stronger. My first argument was simply that those on the left who consistently vote to disarm America should at least have the decency to not turn around then and suggest a stronger Navy would have done a better job since they are the reason the Navy was not strong in the first place.

But there was a second argument that led me to say something today, and that was when one of my colleagues, a well meaning man, a man who represents passionately and articulately his point of view, when he said that he had somebody in his district who lost their son on the *Stark* and he could not tell them why their son had been killed. I found it really difficult to deal with, because the *Stark* was not in the Persian Gulf by accident. The *Stark* was in the Persian Gulf defending America, defending the interests of every citizen. The *Stark* was doing its job. It was a military ship built to go in harm's way. It was designed to protect America.

The men who had joined the Navy swore to defend their country, just as we in the Congress swear to defend our country. It was not there on some whim. This was not a show-boating effort by some politician.

The United States for 200 years has stood for freedom of the sea. We fought the War of 1812 during which this Capitol was burned down on the issue in part of freedom of the sea. We entered World War I on the issue of freedom of the sea. We built the Panama Canal to maintain freedom of the sea. We have consistently under Democrat and Republican alike, under liberal and conservative, insisted on freedom of the sea.

In addition, in the last 40 years we have insisted on the importance of the Middle East. I sat as a freshman in this room and listened to President Carter in his 1980 State of the Union, and after the Russians had invaded Afghanistan, after the Iranian Revolution had imposed a radical tyranny on the country, and they had seized Americans, and I listened to President Carter pledge that if necessary he would go to war to defend the oil fields, to defend the Persian Gulf.

President Carter was far more liberal than President Reagan, but he had been to Annapolis, he had been in the Navy. He knew that as a seagoing Nation our survival is based on the ocean. He knew that the entire Western alliance from Japan to Germany to Canada to the United States depended on proving that we could protect the oil fields, we could keep open the Persian Gulf.

The fact is that there are risks and there are dangers in the real world, that while our friends on the left may deny reality, reality exists, and that reality is dangerous. But we have real interests, and the real debate in America should be simply do you think the world is basically safe, then vote with our friends on the left. But when the world proves not to be safe, at least keep quiet and do not pretend to know what is going on. If you think the world is dangerous, does America have interests? If we do not have interests, if you think we can exist in a fortress America, that we can hide in isolationism and pull back the Navy, pull back the Army and the Air Force, accept the notion that the Soviet Empire can dominate, that terrorists can dominate, that Iran can dominate and that we do not care, but if you believe that freedom can only survive if most of the world is free, if you believe that it is far better to have American ships patroling the Persian Gulf than have Russian ships patroling off Galveston, if you believe that it is far better to have oil available to the West rather than to have the Soviet Empire controlling the oil, then I think you have to conclude that we must have a Navy, it must be strong, and we must be prepared to go in harm's way.

Had that mother called me rather than the Member she talked to, I would have shared her concern for her son, I would have shared her grief. But I also would have told her that we celebrate Memorial Day, we celebrate Veterans' Day because we want to honor those who loved their country enough that they stood between America and danger, that we honor those who care for their Nation enough that they were willing to take the risk, that her son did not die in vain, that he died in fact so that freedom could exist. He died so that her neighborhood could be safe. He died so that civilization as we know it could go on without either the Soviet Empire or Iranian tyranny tearing it apart.

I thought it incredibly sad that a Member of this Congress could not understand that the United States of America from its beginning has stood for freedom more than it has stood for appeasement. I thought it sad that in this very room, with George Washington looking down on one side and Lafayette on the other, men who believed in freedom and civilization enough to fight for it, that a Member could say they did not know why we were there.

I would say finally to those of my friends on the left who do not know why we are there that the burden is on them. It is their job to read the history books, it is their job to understand these state papers, it is their job to listen to every President since World War II. It is their job to study the alliances we have signed. It is a Congressman's duty to understand why we defend freedom, why both parties have been committed for over 40 years to strength, and why it is important in the future as in the past that America be strong enough to survive.

Then at least, even if they do not vote for strength, even if they vote to disarm America, even if they vote for weakness, when a constituent calls and says why they can tell them why the Nation, not a particular President, not a particular Secretary of State, not a particular Secretary of Defense, not the Chief of Naval Operations, not the local admiral, not the captain of that ship, but the Nation, America, was doing certain things.

I could think of nothing that must have been more saddening to that mother than to be told that a Congressman thought her son died in vain. I hope that this President, this Congress, and this country will continue to insist on freedom of the seas. I hope that we will continue to insist on the survival of freedom against the threat of both the Soviet Empire and Iranian tyranny. I hope that we will continue to insist on being strong enough that we can move forward.

Yes, there should be an investigation. Yes, a court of professional naval officers should determine whether or not what was professionally correct was done. Yes, if there are procedures that need to be changed, they should be changed.

But the men who were on that ship that night were doing what they could to keep America strong and to keep America free. The people who spoke so emotionally on television the following 2 days had not earned the right, had not voted the strength, had not committed the support to justify their comments. And I simply had to take the well to say that it is a little indecent for those who vote weakness to condemn when those who risk their lives do what is necessary to protect America despite the weakness of the left.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BRUCE (at the request of Mr. FOLEY), for today and tomorrow, May 20 and May 21, on account of illness.

Mr. MRAZEK (at his own request), to May 27, 28, and 29, on account of an official trip to Vietnam.

Mr. ROBERTS (at the request of Mr. MICHEL), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BALLENGER) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 5 minutes, today.

Mr. INHOFE, for 5 minutes, on May 21.

Mrs. BENTLEY, for 5 minutes, on May 21.

Mrs. BENTLEY, for 5 minutes, on May 22.

Mr. GINGRICH, for 60 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. RITTER, for 5 minutes, today.

(The following Members (at the request of Mr. WILLIAMS) to revise and extend their remarks and include extraneous material:)

Mr. ST GERMAIN, for 5 minutes, today.

Mr. CROCKETT, for 15 minutes, on May 21.

Mr. GEJDENSON, for 60 minutes, on June 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. COLEMAN of Texas, prior to the Lujan vote today in the Committee of the Whole.

Mr. CONTE, immediately following the vote on H.R. 1748, in the House today.

(The following Members (at the request of Mr. BALLENGER) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. BADHAM.
Mr. LENT.
Mr. WELDON.
Mr. GEKAS.
Mr. DORNAN of California.
Mr. MCDADE.
Mr. SPENCE.
Mr. GINGRICH.
Mr. CRANE.
Mr. HENRY.
Mr. COBLE.
Mrs. MORELLA in four instances.
Mr. RITTER in two instances.

Mr. COURTER.
Mr. DUNCAN.
Mr. SHUMWAY.
Mr. CALLAHAN.
Mr. MILLER of Washington.
Mr. GRANDY.
Mr. MCGRATH.
Mr. DIOGUARDI in four instances.
Mr. FAWELL.

(The following Members (at the request of Mr. WILLIAMS) and to include extraneous matter:)

Mr. ASPIN.
Mr. SWIFT.
Mr. FASCELL in two instances.
Mr. FAUNTROY.
Mr. HAMILTON.
Mr. MINETA.
Mr. BATES.
Mr. HOYER.
Mr. MARKEY in two instances.
Mr. BOLAND.
Mr. CARDIN.
Mr. FUSTER.
Mr. TRAFICANT.
Mr. WOLPE in two instances.
Mr. BONKER in two instances.
Mr. MORRISON of Connecticut.
Mr. EARLY.
Mr. GRAY of Illinois.
Ms. OAKAR.
Mr. LANTOS in two instances.
Mr. LEWIS of Georgia.
Mr. AUCOIN.
Mr. SOLARZ.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following title:

H.J. Res. 270. Joint resolution to recognize the one hundred and twenty-fifth anniversary of the United States Department of Agriculture, and

H.R. 1085. An act to amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30, of such title, and for other purposes.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.), the House adjourned until Thursday, May 21, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1444. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 1007 of title 37, United States Code, to authorize the collection of moneys owed to the service relief societies from the pay of members of the uniformed services; to the Committee on Armed Services.

1445. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to clarify the method of payment for instructors in the Junior Reserve Officers' Training Corps; to the Committee on Armed Services.

1446. A letter from the Assistant Secretary (Legislative Affairs), Department of Defense, transmitting a transmittal letter from Secretary Weinberger, and the report on the ABM Treaty, pursuant to Public Law 99-661, section 217; to the Committee on Armed Services.

1447. A letter from the Secretary of Commerce, transmitting the annual report on the activities of the U.S. Travel and Tourism Administration for fiscal year 1986, pursuant to 22 U.S.C. 2123a; to the Committee on Energy and Commerce.

1448. A letter from the Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State, transmitting a report, on behalf of the Secretary, prepared in consultation with Justice, Drug Enforcement Administration, Customs, and the Central Intelligence Agency, which includes the appropriate certifications by the Secretary, is the first of a series on official involvement in narcotics trafficking by governments and senior officials, and provides additional information on the investigation into the murder of DEA Agent Camarena and the issue of hot pursuit raised with the Government of Mexico, pursuant to Public Law 99-570, section 2013, Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

1449. A letter from the Secretary-Treasurer, Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1986, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

1450. A letter from the Secretary of Energy, transmitting the sixth annual revised comprehensive program management plan which presents the current strategy of the Federal wind energy program, related progress in the private sector, and management structure and major elements of the Federal program, including milestones for fiscal years 1987 and 1988, pursuant to 42 U.S.C. 9203(c); to the Committee on Science, Space, and Technology.

1451. A letter from the Assistant Secretary of Defense (Force Management and Personnel), transmitting on behalf of the Departments of Defense and Education, an interim report describing preliminary facility requirements for construction, repair, and rehabilitation of dependent educational facilities on military installations in the United States; a final report on school facility needs, financial requirements, and policy recommendations will be forwarded by September 30, 1987, pursuant to Public Law 99-661; jointly, to the Committees on Education and Labor and Armed Services.

1452. A letter from the Secretary of Energy, transmitting the second report, which supplements the earlier summary report (Ex. Com. No. 1222) of the Department's clean coal technology program announcement issued in November 1986, analyzing the technologies that were addressed in the submittals, and containing the project summary forms, pursuant to Public Law Nos. 99-500 and 99-591, section 101(h); jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN (for himself, Mr. DEFAZIO, Mr. DENNY SMITH, Mr. ROBERT F. SMITH, and Mr. WYDEN):

H.R. 2475. A bill to enable States located on a river or acquifer affected by the siting of a repository for high-level radioactive waste or spent nuclear fuel to participate effectively in the site selection, review, and approval process for such repository, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. ROSE (for himself, Mr. GILMAN, and Mr. SOLOMON):

H.R. 2476. A bill concerning human rights violations in Tibet by the People's Republic of China; to the Committee on Foreign Affairs.

By Mr. COELHO:

H.R. 2477. A bill to amend the National School Lunch Act to require the Secretary of Agriculture to establish a certification program for imported food products purchased by schools that participate in the School Lunch Program; to the Committee on Education and Labor.

By Mr. DONNELLY:

H.R. 2478. A bill to amend the Immigration and Nationality Act to provide a seventh preference category for the admission of natives of countries adversely affected by the enactment of Public Law 89-236; to the Committee on the Judiciary.

By Mr. DOWDY of Mississippi:

H.R. 2479. A bill to require the Federal Communications Commission to repromulgate certain regulations prohibiting trafficking in station licenses except when ownership is sought by minorities; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina (for himself and Mr. YOUNG of Alaska):

H.R. 2480. A bill to extend temporarily the governing international fishery agreement between the United States and the Republic of Korea, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 2481. A bill to amend the Black Lung Benefits Act to prohibit the reduction of disability benefits under the Social Security Act; to the Committee on Education and Labor.

By Mr. ROBINSON:

H.R. 2482. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of annual pap smears and mammograms; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ROTH:

H.R. 2483. A bill to provide for 3 years duty free treatment of certain power-driven weaving machines and parts thereof; to the Committee on Ways and Means.

By Mr. SHAW:

H.R. 2484. A bill to amend the Higher Education Act of 1965 to provide reduced rates of interest under the Guaranteed Student Loan Program to individuals who enter the teaching profession; to the Committee on Education and Labor.

By Mr. WAXMAN (for himself, Mr. Dingell, Mr. Bruce, Mrs. Collins, Mr. Leland, Mr. Scheuer, and Mr. Roybal):

H.R. 2485. A bill to amend title XVIII of the Social Security Act to provide for coverage of catastrophic expenses for prescription drugs and insulin under the Medicare Program; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. WILSON (for himself, Mr. Bryant, and Mr. Barton of Texas):

H.R. 2486. A bill to authorize the Secretary of Agriculture to acquire certain private lands to be added to wilderness areas in the State of Texas; to the Committee on Interior and Insular Affairs.

By Mr. WOLF (for himself, Mr. Ackerman, Mr. Bateman, Mr. Akaka, Mrs. Bentley, Mr. Dicks, Mr. Dymally, Mr. Dyson, Mr. Gilman, Mr. Gradison, Mr. Hall of Ohio, Mr. Horton, Mr. Hoyer, Mr. Lehman of Florida, Mr. McMillen of Maryland, Mr. McEwen, Mrs. Morella, Mr. Myers of Indiana, Ms. Oakar, Mr. Parris, Mrs. Schroeder, Mr. Smith of New Jersey, Mr. Taylor, and Mr. Young of Alaska):

H.R. 2487. A bill to amend title 5, United States Code, to provide for the establishment of a Voluntary Leave Transfer Program for Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WYDEN (for himself and Mr. Waxman):

H.R. 2488. A bill to amend section 112 of the Clean Air Act to regulate the emissions of certain hazardous air pollutants; jointly, to the Committees on Energy and Commerce and Agriculture.

By Mr. ASPIN:

H.J. Res. 286. Joint resolution requiring the United States Trade Representative to seek a reduction in the European Community tariff on imported agricultural tractors in the current Uruguay round of negotiations under the General Agreement on Tariffs and Trade; to the Committee on Ways and Means.

By Mr. LUJAN (for himself, Mr. Atkins, Mrs. Bentley, Mr. Bryant, Mr. Dornan of California, Mr. Frank, Mr. Horton, Mrs. Kennelly, Mr. Kostmayer, Mr. Owens of New York, Mr. Scheuer, Mr. Synar, Mr. Wilson, and Mr. Fish):

H.J. Res. 287. Joint resolution directing the Secretary of Agriculture to conduct a study of the effectiveness of current laws and regulations in protecting dogs and puppies bred and raised for sale to retail pet stores from inhumane treatment and premature shipment; to the Committee on Agriculture.

By Mr. MARTINEZ:

H.J. Res. 288. Joint resolution designating the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.J. Res. 289. Joint resolution to designate the month of May, 1988 as "National Foster Care Month"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 127. Concurrent resolution providing for an adjournment of the House and Senate from May 21 to May 27, 1987; considered and agreed to.

By Mr. HERGER (for himself, Mr. Madigan, Mr. Huckaby, Mr. Lagomarsino, Mr. Emerson, Mr. Dymally, Mr. Hunter, Mr. Stark, Mr. Stangeland, Mr. Lewis of Florida, Mr. Morrison of Washington, Mr. Dreier of California, Mr. Dannemeyer, Mr. Gallegly, Mr. Schuette, Mr. Jontz, Mr. Konnyu, Mr. Badham, Mr. Pashayan, Mr. Espy, and Mr. Campbell):

H. Con. Res. 128. Concurrent resolution expressing the sense of the Congress regarding the trade barriers and high tariffs Japan places on competitive agricultural exports from the United States; to the Committee on Ways and Means.

By Mr. LAGOMARSINO (for himself, Mr. Solarz, Mr. Leach of Iowa, and Mr. Sunia):

H. Res. 173. Resolution expressing the sense of the House of Representatives regarding the 25th anniversary of the independence of Western Samoa; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

80. By the SPEAKER: Memorial of the House of Representatives of the State of Florida, relative to Jose Pujals Mederos; to the Committee on Foreign Affairs.

81. Also, memorial of the Legislature of the Territory of Guam, relative to memorializing the late Honorable Antonio Borja Won Pat; to the Committee on Interior and Insular Affairs.

82. Also, memorial of the Legislature of the State of Louisiana, relative to the dumping or disposal of garbage or wastes of any origin in Federal waters of the Gulf of Mexico; to the Committee on Merchant Marine and Fisheries.

83. Also, memorial of the General Assembly of the State of South Carolina, relative to the Artic National Wildlife Refuge coastal plan; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Nagle and Mr. Mfume.

H.R. 21: Mr. Nagle and Mr. Mfume.

H.R. 281: Mr. Foley and Mr. Durbin.

H.R. 295: Mr. Fuster and Mr. Kleczka.

H.R. 379: Mr. Gallo.

H.R. 442: Mr. Weldon.

H.R. 468: Mrs. Bentley and Mr. Packard.

H.R. 469: Mr. Lagomarsino and Mrs. Bentley.

H.R. 544: Mr. Sweeney, Mr. Traficant, and Mr. Price of North Carolina.

H.R. 588: Mr. McCollum, Mr. Edwards of Oklahoma, Mr. Hunter, Mr. Daub, Mr. Kolter, Mr. Neal, Mr. Horton, Mr. Emerson, Mr. Gilman, Mr. Gingrich, Mr. Mack, Mr. Stokes, and Mr. Lewis of California.

H.R. 593: Ms. Snowe, Mr. Traficant, Mr. Archer, Mr. Bereuter, Mr. Bilirakis, Mr. Burton of Indiana, Mr. Broomfield, Mr. Conte, Mr. Crane, Mr. Dannemeyer, Mr. Dickinson, Mr. Dornan of California, Mr. Fields, Mr. Frenzel, Mr. Gilman, Mr. Gradison, Mr. Grandy, Mr. Hansen, Mr. Hyde, Mr. Kasich, Mr. Kemp, Mr. Leach of Iowa, Mr. Lent, Mr. Lewis of California, Mr. Lott, Mr. Lowery of California, Mr. Lujan, Mr. McGrath, Mrs. Martin of Illinois, Mr. Miller of Ohio, Mr. Rhodes, Mr. Shumway, Mr. Robert F. Smith, Mr. Stangeland, Mr. Weber, and Mr. Wolf.

H.R. 637: Mr. Lehman of Florida.

H.R. 791: Mr. Jontz.

H.R. 792: Mrs. Vucanovich.

H.R. 954: Mr. Clay.

H.R. 975: Mr. Gray of Pennsylvania, Mr. Wheat, Mr. Gonzalez, Mr. Mavroules, Mrs. Roukema, Mr. Clay, Mr. Pepper, Mr. Leland, Mr. Hayes of Illinois, Mr. Markey, Mr. Traficant, Mr. Foglietta, Mrs. Schroeder, and Mr. Gejdenson.

H.R. 979: Mrs. Boxer.

H.R. 1108: Mr. Kolter.

H.R. 1201: Mr. Ford of Michigan and Mr. Owens of New York.

H.R. 1212: Mr. McMillen of Maryland and Mr. Lipinski.

H.R. 1231: Mr. Feighan and Mr. Jacobs.

H.R. 1443: Mr. Huckaby, Mr. Harris, Mr. Miller of Ohio, Mr. Stark, and Mr. Schuette.

H.R. 1506: Mr. Mineta.

H.R. 1520: Mr. Cardin and Mr. Mineta.

H.R. 1534: Mr. Bilirakis, Mr. Wise, and Mr. Kolter.

H.R. 1566: Mr. Stenholm.

H.R. 1572: Mr. Owens of Utah.

H.R. 1634: Mr. Hunter.

H.R. 1729: Mr. Roemer, Mr. Traxler, Mr. Bilbray, Mr. Lipinski, Mr. Callahan, and Mr. Molinari.

H.R. 1764: Mr. Weber and Mr. Lowry of Washington.

H.R. 1807: Mr. DeFazio, Mr. Tallon, Mr. Hawkins, Mr. Leland and Mr. Owens of New York.

H.R. 1891: Mr. Wolpe, Mr. Swindall, Mr. DeLay, Mr. Nielson of Utah, Mr. Solarz, and Mr. Andrews.

H.R. 1919: Mr. Morrison of Connecticut.

H.R. 1971: Mr. Upton.

H.R. 2062: Mr. Dellums, Mr. Chapman, Mr. Towns, Mr. Crockett, Mr. Leland, Mr. Frank, Mr. Bustamante, Mr. Foglietta, Mr. Dymally, Mr. Russo, Mr. Flake, Mr. Owens of New York, Mr. Rangel, Mr. Mfume, Mr. Stokes, Mr. Kennedy, Mr. Applegate, and Mr. Wheat.

H.R. 2126: Mr. Miller of California, Mr. Mrazek, Mr. Biaggi, Mr. Synar, Mr. Conyers, Mr. Hochbrueckner, Mr. Lipinski, Mr. DeFazio, Mr. Jeffords, Mr. Morrison of Connecticut, Mr. Owens of New York, Mr. Panetta, and Mr. Studds.

H.R. 2148: Mr. Udall, Mr. Lewis of Florida, Mr. Owens of New York, Mr. Alexander, Mr. Evans, and Mr. Morrison of Connecticut.

H.R. 2189: Mr. Chapman.

H.R. 2229: Mr. Perkins, Mr. Towns, Mr. Sundquist, Mr. Owens of New York, Mrs. Lloyd, Mr. Tallon, Mr. Wilson, Mr. McEwen, Mr. Dwyer of New Jersey, Mr. Saxton, Mr. Martinez, Mr. Savage, Mr. Kolter, Mr. Lancaster, Mr. Marlenee, Mr. Williams, and Mr. Penny.

H.R. 2232: Mr. Baker, Mr. Buechner, Mr. DeLay, Mr. Emerson, Mr. Frenzel, Mr. Gregg, Mr. Solomon, Mr. Swindall, and Mr. Upton.

H.R. 2306: Mr. Lagomarsino.

H.R. 2312: Mr. Rahall and Mr. Bates.

H.R. 2398: Mr. Tallon and Mr. English.

H.R. 2399: Mr. Coelho and Mr. Jontz.

H.R. 2401: Mr. Robert F. Smith, Mr. Coelho, and Mr. Hatcher.

H.R. 2433: Mr. Packard.

H.J. Res. 21: Mr. Petri.

H.J. Res. 90: Mr. McHugh and Mr. Swindall.

H.J. Res. 114: Mr. Courter, Mr. Pepper, Mr. Skeen, Mr. Atkins, Mr. Callahan, Mr. Hunter, Mr. Stokes, Mrs. Saiki, Mr. Packard, Mr. Studds, Mr. Kennedy, Mr. Kleczka, Mr. Obey, Mrs. Bentley, Mr. Whittaker, Mr. Boehlert, Mr. Rangel, Mr. Hammerschmidt, Mr. Lujan, Mr. Synar, Mr. Gibbons, Mr. Jones of North Carolina, Mr. Alexander, Mr. Valentine, Mr. Smith of New Jersey, Mr. Boulter, Mr. Conte, Mr. Baker, Mr. Flippo, Mr. Moody, Mr. Gregg, Mr. Kanjorski, Mr. Chapman, Mr. Ballenger, Mr. Mrazek, Mr. Coyne, and Mr. Sawyer.

H.J. Res. 162: Mr. Akaka, Mr. Aspin, Mrs. Bentley, Mr. Boland, Mrs. Boxer, Mr. Brennan, Mr. Kennedy, Mr. Kolter, Mr. Lehman of California, Mr. Pepper, Mr. Saxton, and Mr. Towns.

H.J. Res. 196: Mr. AuCoin, Mr. Berman, Mr. Blaz, Mr. Boucher, Mr. Conyers, Mr. Clinger, Mr. Duncan, Mr. Dixon, Mr. Flippo, Mr. Fields, Mr. Hansen, Mr. Hyde, Mr. Jones of Tennessee, Mr. Cardin, Mr. Schaefer, Mr. Campbell, Mr. Martin of New York, Mr. Hoyer, Mr. Rinaldo, Mr. Savage, Mrs. Bentley, Mr. Bilirakis, Mr. Borski, Mr. Chandler, Mr. Courter, Mr. DioGuardi, Mr. Dwyer of New Jersey, Mr. Evans, Mr. Donnelly, Mr. Gunderson, Mr. Hopkins, Ms. Snowe, Mr. Jones of North Carolina, Mr. Perkins, Mr. Henry, Mr. Kolter, Mr. McDade, Mr. Ortiz, Mr. Rodino, Mr. Sawyer, Mr. Olin, Mr. Huckaby, Mr. Roberts, Mr. Tauzin, Mr. Valentine, Mr. de la Garza, Mr. Carper, Mr. Moody, Mr. DeFazio, Mr. Jontz, Mr. Carr, Mr. Lehman of California, Mr. Dingell, Mr. Owens of Utah, Mr. Hayes of Louisiana, Mr. Darden, Mr. Harris, Mr. Montgomery, Mr. Hefley, Mr. Barnard, Mr. Sabo, Mr. Smith of New Hampshire, Mr. Sundquist, Mr. Traxler, Mr. Watkins, Mr. Mfume, Mr. Lewis of Georgia, Mr. Johnson of South Dakota, Mr. Anthony, Mrs. Kennelly, Mr. Fazio, Mr. McMillen of Maryland, Mr. Schumer, Mr. Grant, Mr. Mavroules, Mr. Gingrich, Mr. Holloway, Mr. Ballenger, Mr. DeWine, Mr. Udall, Mr. Hughes, Mr. Hochbrueckner, Mrs. Collins, Mr. Kennedy, Mr. Garcia, Mr. Ritter, Mr. Gray of Pennsylvania, Ms. Kaptur, Mr. Dornan of California, Mr. Schuette, Mr. Robert F. Smith, Mr. Young of Alaska, Mr. Rangel, Mr. Brown of California, Mr. Lancaster, Mr. Shaw, Mr. Conte, Mr. Frost, Mr. Hayes of Illinois, Mr. Leland, Ms. Oakar, Mr. Vento, Mr. Crockett, Mr. Lewis of Florida, Mr. Ackerman, Mr. Boland, Mr. Morrison of Washington, Mr. Volkmer, Mr. Lehman of Florida, Mrs. Meyers of Kansas, Mr. Brennan, Mr. Walgren, Mr. Sweeney, Mr. Wolf, Mr. Stangeland, Mr. Callahan, Mr. Bevill, Mr. Roth, Mr. Feighan, Mr. Chappell, Mr. Sikorski, Mr. Bliley, Mr. LaFalce, Mr. Gordon, Mr. Miller of Ohio, Mr. Wyden, Mr. Stokes, Mr. Coleman of Missouri, Mr. Yates, and Mr. Rahall.

H.J. Res. 197: Mr. Duncan.

H.J. Res. 206: Mr. Buechner, Mr. Gray of Illinois, Mr. Miller of Ohio, Mr. Lewis of Georgia, Mr. St Germain, and Mr. Hughes.

H.J. Res. 229: Mr. Mineta and Mr. Levin of Michigan.

H.J. Res. 245: Mr. Stokes, Mr. Lungren, and Mr. DeWine.

H.J. Res. 249: Mr. Smith of New Hampshire.

H.J. Res. 280: Mr. Mack, Mr. Bliley, Mr. Coble, Mr. Olin, Mrs. Lloyd, Mr. Hefner, Mr. Lagomarsino, Mr. Moorhead, Mr. Dreier of California, Mr. Houghton, Mr. Green, Mr. Burton of Indiana, Mr. Smith of Texas, Mr. Natcher, Mr. Whitten, Mr. Hutto, Mr. Espy, Mr. Kennedy, Mr. Pickett, Mr. Sisisky, Mr. Mica, Mr. Quillen, Mr. Chappell, Mr. Clay, Mr. Porter, Mr. Michel, Mr. Fish, Mr. Crane, Mr. Courter, Mr. McCollum, Mr. Marlenee, Mr. Ridge, Mrs. Meyers of Kansas, Mr. AuCoin, Mr. Florio, Mr. Jeffords, Mr. Grandy, Mrs. Vucanovich, and Mr. Akaka.

H. Con. Res. 67: Mr. Bliley, Mr. Richardson, Mrs. Meyers of Kansas, Mr. Bereuter, Mr. Eckart, Mr. Edwards of Oklahoma, Mrs. Lloyd, Mrs. Bentley, Mr. Smith of New Hampshire, Mr. Daub, Mr. Schulze, Mr. Lungren, and Mr. Lantos.

H. Con. Res. 70: Mr. Sawyer.

H. Con. Res. 74: Mr. Akaka, Mr. Atkins, Mr. Coughlin, Mr. DioGuardi, Mr. Fauntroy, Mr. Fuster, Mr. Guarini, Mr. Hunter, Mr. Lagomarsino, Mr. Levine of California, Mr. Lewis of Florida, Mr. Matsui, Mr. Ortiz, Mr. Oxley, Mr. Parris, Mr. Scheuer, Mr. Sensenbrenner, Mr. Shaw, and Mr. Towns.

H. Con. Res. 87: Mr. Richardson, Mr. Campbell, Ms. Slaughter of New York, Mr. Atkins, Mr. Horton, Mr. Owens of New York, and Mr. Fauntroy.

H. Con. Res. 101: Mr. Kanjorski, Mr. Lowry of Washington, Mr. McCloskey, Mr. Murphy, Mr. Rodino, Mr. Roybal, Mr. Sawyer, Mr. Stokes, and Mr. Lagomarsino.

H. Con. Res. 105: Mr. Nielson of Utah and Mr. Bateman.

H. Con. Res. 114: Mrs. Bentley.

H. Res. 143: Mr. Rogers and Mr. Howard.

H. Res. 158: Mr. DeLay, Mr. Armey, and Mr. DioGuardi.

SENATE—*Wednesday, May 20, 1987*

(Legislative day of Wednesday, May 13, 1987)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

The PRESIDING OFFICER. Our prayer today will be offered by Rabbi Milton Balkany, dean of Bais Yaakov, Brooklyn, NY. Rabbi Balkany is sponsored by Senator CRANSTON.

PRAYER

The guest chaplain, Rabbi Milton Balkany, offered the following prayer:

Everlasting G-d: In the sight of Thee, and in the fellowship of the distinguished Members of the Senate of the United States of America we pray. Prosper our Nation so that there be no want or scarcity. May Thy blessings rest upon all our free institutions, so that this land shall remain forever the home of liberty.

Liberty is not a statue, but a living thing. It is not a word, but a condition. It is not an abstract concept, but a vital reality.

Liberty is not the privilege of the few, but the G-d given right of all.

Liberty cannot breathe in an atmosphere of fear.

Liberty cannot flourish upon the sail of economic inequity. For poverty is moral inequity.

Liberty is in total harmony with law.

Liberty is a commodity which can neither be imported nor exported. It is homegrown. It is the most precious of all the resources of our great Nation.

We therefore thank you, G-d, for our legislators in this Senate, who, with dedication, wisdom and courage enact the manifestations of our celebrated Constitution, thus perpetuating the principles of our Founding Fathers, pronouncing the fervent desire of our far flung population, and fulfilling the word of G-d—which we read in the Bible—"Proclaim liberty throughout the land unto all the inhabitants thereof." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 20, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished majority leader.

SCHEDULE

Mr. BYRD. Mr. President, today the Senate will vote for the third time on a motion to invoke cloture. I hope that cloture will be invoked today. The cloture motion goes to the motion to proceed to take up the defense authorization bill. I hope that the Senate will allow itself to debate the bill, and allow Senators to have an opportunity to offer amendments to the bill.

Whatever the amendments, the Senate should work its will thereon. Each Senator will reach his own judgments. But until the bill is before the Senate, no amendments, of course, are in order.

If the Senate does not invoke cloture today, I hope that we can take up the supplemental appropriations bill. That bill was before the Senate a few days ago. The Senator from Texas [Mr. GRAMM], exercising his right, made a point of order against the bill. I offered a motion to waive the provisions of the law so that the point of order would not stand. My waiver motion got 51 votes, 9 of which were Republican votes and, I believe, 42 votes were Democratic votes. Sixty votes are required.

If the bill is called up today, and I intend to try to do that if the cloture motion fails on the motion to proceed to take up the defense authorization bill, in that case I hope that support from the other side of the aisle will be forthcoming. I thought I had the support of more Senators on that side of the aisle than I got. I will not name names, but I hope that Senators will help on that measure. There are items in the supplemental appropriations bill that the President wants, that the Defense Department wants, that the State Department wants, that the farmers of this country want, and I think many of those items are supported by Members who are not voting to support the waiver.

We have 2 days left in this week. We do not have much to show for our efforts thus far. I hope that the Senate will get on with the supplemental appropriations bill if it does not invoke cloture today on a motion to proceed to take up the defense authorization bill so that at the close of business on tomorrow, which is Thursday, the Senate can show that it has disposed of the supplemental appropriations bill. That is an important bill. There are about $6.6 billion for the Commodity Credit Corporation. There are moneys for foreign operations. There are moneys in the bill for national defense. There are moneys for Federal pay increases, for pensions, and moneys for Central America.

The Senate ought to get off the dime and move. The Senate should be allowed to work its will.

I expect votes today. I expect and hope for action on one or the other of the two bills. It would be my plan if cloture is not invoked today to offer a cloture motion today which would mature on the first day after the recess. There will be a vote on cloture tomorrow by virtue of the cloture motion which was offered on yesterday. So we are not going to avoid the issue soon. Pretty soon the people back home are going to begin to see who is holding up the defense authorization bill. It will be up to Senators to decide as to whether or not they want to continue trying to stall that bill by simply being against a motion to even take it up, or whether they want to let the Senate get on with the people's business. They will have the opportunity to do so. I hope the Senate can move.

Mr. President, if I have any time remaining, I reserve it.

RECOGNITION OF ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished acting Republican leader.

THE VISITING CHAPLAIN

Mr. SIMPSON. Mr. President, first I want to thank Rabbi Balkany. I have come to know this remarkable gentleman and enjoy him thoroughly. He is a real patriot and a delightful friend. It has been my distinct privilege to have shared various times with him and various delightful visits. He gives us a special message today as he always does on every opportunity I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

have been present with him. It is a special treat to have him here and to honor us with his gift of his particular craft. I thank him very much.

MINORITY PROTECTION

Mr. SIMPSON. Mr. President, we are ready to help on our side. We have proven that many times. The Republican minority of the U.S. Senate is not here to slow down the Senate. That is not our function. The function of a minority is to protect those with minority views.

It is a marvelous institution, because we even see it sometimes protect a minority within a minority within a minority. One person can tie this place in a knot. It does not take 41. Two people can do it more beautifully. Three can do it in ever more guile and skill because they can sneak off from time to time to humor their functions and then leave someone else to do the work.

So we have all been through that. It is very frustrating. It is. And Senator Robert Dole knows that and certainly this Senator knows it. Senator Byrd knows it.

I happened to be here in 1964, right there in the family gallery, and watched this magnificent man conduct a filibuster for an extraordinary number of hours. And it was done with great skill on an issue that he deeply believed in—deeply.

That is what we have here. We are not talking about Republicans slowing the Senate of the United States. The Senate is controlled by the Democrats.

On the supplemental budget waiver we had 11 Democrats voting on our side. Let us not forget that. We talk about the 60 votes. Sixty votes were not reached there because Democrats did not want to help reach it. There were more Republicans than Democrats who did not want it, but that is the way it is.

So I do not think we want to lose track of those things as we go through this exercise, and the people of America, as I say, recognize it as an exercise. They are not out sorting it out as to who is doing what. They just wonder why we do not get about our business.

As I related to you last night, there were some 23 cloture votes in the last session of the Senate. That means that at some point in time the Republicans were trying to cut off the debate, and that is the way the place works. Cutting off debate is something you do under the rules of the Senate. It is done by all parties, all ideologies and all players, and we are all very skilled at it, some more than others.

But the issue here to at least some on our side is very clear, and that is what they feel—and let us get to the nub of it. It is always fascinating in this place; there is a reason for everything and then there is a real reason. The real reasons are tough to find in this place. But there is a real reason here, and that is that the Levin-Nunn amendment to a great majority of the people on our side of the aisle directly and totally ties the hands of the President of the United States as he deals in arms control in Geneva, period; no further mystery; do not look any deeper. There is not anything else to find—the issue of the broad versus the narrow interpretation to some who feel very deeply, as deeply as my remarkable friend from West Virginia felt on an issue many years ago or as my father felt when he stood in this well and fought for things in which he deeply believed, or Senator Metzenbaum on that side or Senator Helms on this side. They are not done in frivolous ways. They are done because they deeply believe.

So let us get back to the way the system works. And it is a deep, rich, pure belief of some on our side that with a wrong interpretation of that particular treaty, that Max Kampelman will be shackled, and Paul Nitze, and all the rest of them who are doing the Nation's business in Geneva.

It is that simple. That is a view held here by some. I do not think you can scoff it away. Sure, the Secretary of Defense wants a defense bill. The Secretary of Agriculture always wants an agriculture bill. The Secretary of Labor always wants a labor bill. That is the way that works, too.

We all want a defense bill. It has nothing to do with the protection of our country. We all are committed to that. There is not a lesser commitment by Republicans to defending our country. In fact, we get blamed for doing too much. That is an ironic thing.

And so we will be here to help. I think the Senate has been moving rather significantly since we came back in this first session of the 100th Congress, and we care just as much as anyone in this Chamber at any time.

As I say, the people back home do watch us in puzzlement and some bemusement at times, obviously. I would, if I were back practicing law in Cody, WY. I used to watch this body with great amusement—before I came here, that is. And we do care. We are here to do the Nation's business in the best way we can—stumbling, searching, grappling.

It goes back to my definition of politics and no one has ever improved on it. Here it is: In politics there are no right answers, only a continuing flow of compromises between groups resulting in a changing, cloudy, and ambiguous series of public decisions where appetite and ambition compete openly with knowledge and wisdom. Boy, this place has a lot of that. Appetite, you bet. Ambition, you bet.

I do not run out and powder my dome every day so I can do something out here on the floor. That is not why I am here. I try to do the work. I am a legislator. I love to legislate. I do not always do it right, but that is why we are here. We are here to legislate. And it is tough to do when you have these things, but, thank heaven, there are people on both sides of the aisle who do the heavy lifting and do care and bring knowledge and wisdom to the fore to overpower those who are here just to fuel appetite and ambition.

So we review the things that happened in the last session. You will find the same weighted number of votes on cloture and on frustration. You could scratch out the name "Dole" and insert "Byrd." You can go back through the Congressional Record for about 200 years and find that. It just depends on who is in the minority and who is in the majority, and that is what makes it a remarkable system, too. Indeed, it does.

We are here to produce for our country, and we will. But we have some people with some deeply held beliefs, and it is my hunch, just as an aside and I am going to stop, that there are people on the other side of the aisle who are very loyally staying with the majority leader, just as we did when we were in the majority on these votes, who will jump ship when we get into the actual amending process, so it is going to be extended in time in either process. Either time for debate is going to be extended during the time of amendment or it is going to be extended now. Then we will eventually vote, and that is what is important.

Now we are going to vote again tomorrow on cloture and we will vote when we return here on cloture, and that is the perfect province of the majority leader. But I wanted to share some of those things just to kind of refresh our memory, and then of course Republicans look at it differently now, too. We see the ranks refreshed on the other side of the aisle by clotures and that type of activity in the last session and that is an interesting aspect of the game, too.

So I thank the majority leader for his additional forebearance. I know I went a bit over my time. He is always very gracious with me.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I do not know of any Senator in this Chamber who is more forebearing than I am. I try to be forebearing. I know that Senators are forebearing of me at times when perhaps it goes against the grain.

I am becoming somewhat amused at the distinguished assistant Republican leader's preoccupation with the past. He is always delving into the Congressional Record to see what the Democrats did——

Mr. SIMPSON. That is right.

Mr. BYRD. Two years ago or 6 years ago. Now he talks about 1964 when this Senator engaged in a little filibuster.

What the distinguished assistant Republican leader does not point out is that on that occasion it was not a Democratic Party bloc that was fighting the legislation. Moreover, the legislation was before the Senate and had been before the Senate a good many days—weeks, as a matter of fact. Once the filibuster was broken, of course, I think there were 34 rollcall votes in 1 day, the most rollcall votes that ever occurred on any single day of the Senate's history, except for the day when the Senate broke the filibuster on the Natural Gas Act when we had 38 rollcall votes.

I have been in the leadership one way or another for 21 years, so if we start looking back on the record, I suppose I can go back and rehash a few events, too. But on that occasion, this Senator spoke out for, I believe, 16 hours against a bill, but the Democratic Party had not willfully aligned itself against taking up the bill. We had Members of both parties who were for the bill, and Members of both parties who were against the bill, and Senators in both parties who were filibustering.

But what we are talking about now, and I think what the American people are probably more interested in, is not going back and picking up those exciting little tidbits the distinguished Senator referred to last night in the Record of years ago to point out where the Democrats did this, or the Democrats did that. We could go back perhaps and find where the Republicans did this and did that, but what is to be gained by that?

May I also say to the Senator, he need not worry about my frustrations. I have been in this spot now for 21 years. My blood pressure is 100 over 60, so I handle the frustrations pretty well. But it is the frustrations of the American people and the frustrations of the Senate, the efforts to frustrate the Senate's will that are of concern to this Senator.

I understand the minority is putting out the word that they have at last found a way now to slow down the fast-moving Senate. Big deal. What kind of message is that? The minority has found a way to slow down the Senate. The American people want action by the Senate on the big issues that confront them, and some of those issues are involved in this legislation that we are trying to get up.

So I hope the message will be heard by the American people, if that is what it is, that the minority has now at least found a way to block the Senate, to slow down the Senate, to obstruct the Senate, to slow down the fast-moving Senate.

Mr. President, I hope that the minority will join in helping the majority to get on with the business of the Senate. They have been very good at that up to this point, and I compliment them and I thank them. But we need help now, and I hope that we will not go home for the Memorial Day recess with nothing more in our report card for this week's activities other than the confirmation of a nominee for Director of the CIA.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may speak for 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, in my remarks, I was not reflecting on the party aspect of what Senator Byrd was doing years ago. My father joined him in that filibuster. I remember that very distinctly, as I watched from the family gallery. My father participated by your side on that issue. So I do recall that. It is an institutional memory.

Remember that five members of our party are assisting in trying to stop this filibuster. There is no lockstep on this side of the aisle. The lockstep is on the other side of the aisle, without a single deviant Member. Now, that is the way it is.

So, continuing to try to reflect that this ragged band of 46 are somehow messing up the world is just not so. It will not sell. It will not sell here. It will not sell in Peoria, either.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, the motion to proceed to the consideration of S. 1174, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to the consideration of S. 1174, Order No. 120, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order the time between now and 1 p.m. shall be divided and controlled by the majority and minority leaders or their designees.

Mr. BYRD. Mr. President, from the time under my control, I yield to the distinguished Senator from Wisconsin [Mr. Proxmire] whatever time he desires to speak, either out of order or on the subject.

Mr. PROXMIRE. I thank my good friend the majority leader.

THE DEATH OF ARMS CONTROL

Mr. PROXMIRE. Mr. President, all of us are painfully aware that for some 8 years now, there has been no progress in arms control. We live in the most dangerous age in world history. Mankind, as the Catholic bishops remind us, may be working its way toward its own self-extermination. The time to act is getting short. But what real progress are we making?

The United States and the Soviet Union have not negotiated an arms control treaty of any kind since 1979. It is worse. Over the past 20 years, there have been two major nuclear arms control agreements negotiated between the superpowers. Both were designed to restrain the nuclear arms race. First there was the ABM Treaty signed by President Nixon in 1972. The United States pushed that treaty on the Soviet Union for years before winning reluctant Soviet agreement. We ratified that treaty in the Senate by an overwhelming 89 to 2 vote.

Why was that a significant arms control achievement? Because it stopped the development of a comprehensive Soviet antimissile system. It prevented a Soviet attempt to build a star wars or SDI defense. Why did the U.S.S.R.—a country that had for centuries concentrated its military strategy on defense—agree to negotiate an end to that defensive strategy? The U.S.S.R. was much farther along than we were with their star wars. Why did they agree to stop? Answer: The U.S.S.R. knew that such a Soviet SDI would require us to build up nuclear offensive capability that could overwhelm their SDI or star wars. We knew and they knew that a Soviet missile defense designed to destroy the credibility of our nuclear deterrent could not succeed. For a fraction of the cost of a Soviet star wars, we could and would build the offensive nuclear capability to overwhelm it. An offensive defensive nuclear arms race would become a certainty. That arms race would bring our country closer—much closer, tragically closer—to nuclear war. So we agreed on the ABM Treaty in 1972. That was a significant arms control progress.

Right now, that first of our two major superpower arms control agreements lies in the trauma unit of the hospital emergency room. It's on the verge of death. The Reagan administration has made star wars, or SDI, its No. 1 military priority. That means the administration now has the ABM Arms Control Treaty in its gunsights. What was the whole purpose of the ABM Treaty? It was to block either superpower from building a star wars defense. So if Congress proceeds with SDI, if we produce it, if we deploy it, by that action, we repudiate the ABM Treaty. We kick off an immensely dangerous, offense-defense nuclear arms race.

The second of the two great arms control achievements in superpower negotiations of the past 20 years was the second Strategic Arms Limitation Treaty, SALT II. The President signed the treaty in 1979. Like the ABM Treaty, it was regarded, when it was signed, as highly favorable to the U.S. military position. In hindsight, it seems even better. The Joint Chiefs of Staff have testified strongly in its favor. They have pointed to a whole series of restraints and cutbacks it has imposed on Soviet weapons. As the experts contended, it has imposed virtually no restraint on the United States. Indeed, during most of its 7 year life, we couldn't have violated it if we tried. Of course, it does put limits on future military build-ups by both superpowers. But the President has never submitted this treaty for Senate ratification. It expired last December 31. The administration has made no attempt to extend or renegotiate it. It's dead.

What does all this mean? It means that we have no superpower treaty in effect now to restrain the offensive nuclear arms race in any respect. That isn't all. The lone major superpower Arms Control Treaty, designed to prevent a defense-offense stimulated arms race, the ABM Treaty, is on its way to its death bed.

Oh, yes, the press is full of stories about the current negotiations to remove intermediate nuclear weapons from Europe. Any arms control agreement, including this one, is welcome. The fact that the process of negotiations is continuing is important. The precedent that would be set by this agreement that the superpowers can agree to reduce a part of their nuclear arsenal is useful. Perhaps in the future we can build on it.

But having said all this, we can't escape the blunt truth that this intermediate nuclear weapons agreement would leave both powers free to develop, produce, and deploy an infinite number of new weapons. There is no present restraint on offensive nuclear missiles. If this administration has its way, there will be no effective restraint on defensive nuclear systems. We will be off to the races in an all-out superpower offensive-defense nuclear arms race.

COMMENDATION OF SENATOR WIRTH

Mr. PROXMIRE. Mr. President, I congratulate the distinguished occupant of the chair, Senator WIRTH. Senator WIRTH is a new member of the Senate Banking Committee.

Yesterday, we had a markup on the trade legislation, which is under the jurisdiction of the Banking Committee, and Senator WIRTH, in his first opportunity to serve on the committee, was extraodinarily successful and impressive and convincing. He convinced us that the SEC should be able to continue to have civil injunctive authority with respect to accounting violations. That is essential not only with respect to our trade but also to provide for the kind of effective regulation the SEC has provided for 50 years.

THE JOKE IS ON US

Mr. PROXMIRE. Mr. President, with respect to what happened yesterday and what is happening in the financial world in the last day or so, the last 24 hours, I do not know whether to laugh or cry.

Late yesterday afternoon, the bankers with their briefcases filled with bland assurances persuaded the Senate Banking Committee to remove the section from our Trade Enhancement Act that would have required banks to increase their reserves on troubled Third World debt. The bankers even persuaded a majority of the committee that increased banking agency reporting on this situation was unnecessary.

Here's the irony: At almost the same instant the Banking Committee was removing the reserving provision from its bill, Citicorp was announcing in New York an increase in its reserves amounting to 25 percent of its troubled Latin American debt—as clear an acknowledgment of the need for a general reserving provision in the committee bill as this Senator could imagine. At the same time the Banking Committee was adopting a policy of willful myopia, Citicorp was facing up to reality and making the hard decisions.

Here's another irony: Citicorp's increase in reserves is larger than would have been called for in the committee's reserving provision.

But Citicorp is not the only money-center bank with troubled Third World debt. What are the other banks going to do? I expect that the ones with ample earnings like Citicorp will increase their reserves. The banks with less ample earnings—the very banks about which we should be most concerned—will probably not. It was the situation of these institutions that motivated some of us to try to obtain enactment of a general reserving provision. If we can get it passed, our banking system will be safer.

Mr. President, the Citicorp action strengthens this Senator's conviction that a provision mandating a general increase in reserves on troubled foreign loans is needed. The Senate needs to revisit this issue when the trade bill is debated next month. At that time I will consider offering a reserving amendment—if I can convince enough of my Banking Committee colleagues of the error of their ways.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, I do not see any Senator requesting time, other than the Senator from Florida, on this side.

How much time does the Senator want?

Mr. GRAHAM. Ten minutes.

Mr. BYRD. I wonder if any Senator on the other side wishes time.

Mr. SPECTER. I thank the distinguished majority leader. I am here to proceed with the debate on the Department of Defense authorization bill. I see that the distinguished Senator from Florida is seeking 10 minutes. I have no objection to that.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, Mr. NUNN is engaged at the moment in the Iran-Contra hearings, and he will be arriving on the floor rather shortly. Until then, I yield 10 minutes to the distinguished Senator from Florida [Mr. GRAHAM]. I ask unanimous consent that he may speak out of order, if he so desires; that if he wishes to conduct morning business, he may do that; and that he be permitted to speak out of order or on the subject which is before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

I thank the majority leader for his generous extension of time to discuss an important issue for our Nation.

(The remarks of Mr. GRAHAM relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I yield the time under my control to Mr. NUNN.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WARNER. Mr. President, I yield such time as the distinguished Senator from Pennsylvania would wish to use, not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished ranking Member for yielding the time to me at this point.

Mr. President, I disagree with the assertions of the distinguished majority leader articulated this morning on the floor of the Senate, that there is an effort to delay by those of us who were opposing the motion to proceed.

There has been some debate on this subject, but it has not been extensive. In statements last Wednesday and yesterday, this Senator outlined substantial reasons for not proceeding at this time to the consideration of the Department of Defense authorization bill because a key provision of this bill relates to the interpretation of the ABM Treaty, and simply stated, this body is not ready to proceed to that issue at this time because there is a great deal of material which has not been digested.

Since my speech yesterday I have received a copy of the report filed by the distinguished chairman of the Armed Services Committee of approximately 150 pages; it was filed yesterday and received by this Senator this morning. Senator NUNN's part 4, which is an analysis of the negotiating record, contains a great many complex issues which have yet to be digested, analyzed and considered by Senators who must make a rational choice on what the ABM Treaty means as it relates to the matters pending before this body.

Mr. President, there are still hearings to be held by the Judiciary Committee sitting jointly with the Foreign Relations Committee. I sit on the Judiciary Committee and am the ranking Republican on the Constitutional Law Subcommittee.

There has been a series of hearings on this subject. Another was to have been held yesterday at which Judge Sofaer was to have testified, but that hearing has been postponed until June. It has been the suggestion of this Senator that when Judge Sofaer does appear there be someone who has a detailed knowledge on the other side such as Senator NUNN, if he chooses to appear, or Senator NUNN's staff member, Mr. Bell, who has a comprehensive knowledge of this subject. Then, we can get right to the complicated questions which have to be decided.

Mr. President, beyond the treaty itself, the ratification record and the negotiating record, there is the issue of the subsequent practices of the parties, that bears materially on the question before the Senate. It was only last week that the administration finally made available some documents relating to the subsequent practices. Yesterday, Senator NUNN and I had a brief exchange on that subject. Senator NUNN suggested that there was a "smoking gun" which, he submitted, supported the narrow interpretation, and I countered with the statement that there may well be a smoking gun, but it may support the broad interpretation. I am not sure at this point.

For several hours yesterday afternoon, I reviewed with staff some of the documents on the subsequent practices of the parties. There are many, many documents to be reviewed and there are statements in those documents that go both ways.

There are some very telling documents in the period prior to 1982 which are strongly supportive of the broad interpretation of the ABM Treaty.

The situation changed in 1983 when the President announced the strategic defense initiative and at that juncture, I submit, the relevancy or weight to be given to what happened is substantially diminished.

Mr. President, a key factor to be considered and borne in mind in our analysis of these issues is that the determination of "narrow" versus "broad" does not really determine the ultimate issue which has to be decided by the Senate: whether the strategic defense initiative ought to be pursued and, if so, at what cost.

The distinguished Senator from Wisconsin [Mr. PROXMIRE] argued earlier on the floor that the strategic defense initiative was not realistic. Well, that may be so. That is certainly a very important consideration for analysis by this body. And I agree with what Senator LEVIN had and Senator NUNN had to say about the very important role of the U.S. Senate and the House of Representatives in deciding what should be done about SDI. We do have to make a decision as to whether it is realistic.

For reasons which I gave on this floor last Wednesday, I believe the strategic defense initiative is worth pursuing. Last year, when the votes came up on funding, however, I was in favor of a lesser level of funding than was proposed by some others.

Frankly, Mr. President, I have grave problems with the level of funding of $4.5 billion which has been proposed by the Armed Services Committee on the bill which is the subject of the current motion. My own instinct is that that figure may well be too much. But those are the issues which ought to be considered by this body, in a context where we have all the facts before us on the ABM Treaty to make a determination as to whether the narrow or broad interpretation is correct.

Make no mistake about it, Mr. President, the provision in this bill that would constrain the Executive not to conduct any tests which exceed the narrow interpretation will have a very profound effect on that issue. And once the Senate has voted on that matter, then I suggest that the decision has effectively been made and it is not subject to a cancellation or change, unless some new facts come to light.

These are the facts which I submit ought to be considered before we make the decision on this important issue:

The negotiating record contains substantial evidence that the Soviet Union was unwilling to limit testing and development of mobile exotic antiballistic systems. The United States clearly had sought to limit such testing at the very outset. And to achieve that objective, the U.S. delegation had placed on the table proposed article 6 which had two provisions. Mr. President, if these provisions had been adopted, there is no question but what the narrow interpretation would have been decided with finality.

Article 6(1), as proposed by the United States, contained the following text:

> Each party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components.

Mr. President, the critical language here was the language "to perform the functions of these components." Had this language been included in the ABM Treaty, we would not be arguing this issue today. And there are strong reasons to conclude that the Soviets refused to accept this language because they refused to accept the narrow interpretation of the ABM Treaty.

Article 6(2) which was tabled by the United States and, again, it was not adopted, provided:

> Each party undertakes not to develop or produce or test or deploy sea-based air-based, space-based, or mobile land-based modes, ABM interceptor missiles, ABM launchers, ABM radars, or other devices to perform the functions of these components.

That provision, Mr. President, 6(2) later became the essence of article 5(1). But it eliminated the key proposal which would have established the narrow interpretation, which is advocated by some on this floor, because the following language on future systems was deleted: "other devices to perform the functions of these components."

There is great debate, Mr. President, as to whether the negotiators had their own language and all understood what was intended by the treaty. But on the face of the document itself, there is no clear-cut statement as to what this language of article 5.1 means.

Agreed Statement D was entered into by the parties. On its face, and again giving the logical construction and meaning to all sections of the document and giving such construction to Agreed Statement D, there is good reason to believe and again I do not state this categorically and with positive assertions because I want to see the completion of the hearings but there is good reason to contend that Agreed Statement D is the only provision which applies to exotics in outer space.

The argument has been made that Agreed Statement D applies only to fixed land-based systems. The question logically arises: If it applies only to fixed land-based systems, why does it not say so? And the reason which was given to the negotiators—and I have had an opportunity to talk to Mr. Rhinelander, Mr. Garthoff, and Ambassador Smith and to hear Mr. Graybeal's testimony—in the hearings and several have been gracious enough to come also to my office to talk to me about these issues—the statement is made that it was understood that Agreed Statement D applied only to fixed, land-based systems. But had the treaty itself made that statement, these questions may well have been foreclosed. And had the treaty itself contained the language which I just referred to in either article 6(1) and 6(2) then this debate would be moot.

Mr. President, yesterday I started to refer to some of the documents from the negotiating record and due to the limited time available then, I could not go very far into these documents. Presently there is time and I shall proceed to do so.

In discussing some parts of the negotiating record, Mr. President, I want to emphasize that I do so on a tentative basis because I have not yet had time to review Senator NUNN's approximately 150-page document issued yesterday. In addition, the negotiating records are not easy to understand because they refer to various provisions in the treaty and are subject to a variety of interpretations. That is the reason, Mr. President, why this Senator has sought to have knowledgeable witnesses like Judge Sofaer, like Mr. Bell perhaps, appear side by side before a hearing to answer questions on these issues.

Some of the key documents predate a key meeting on September 15, 1971, and some came after. The September 15 meeting as shown in the negotiating record is one which contains language which, candidly, is supportive of the narrow interpretation. But other documents contradict it. One was an exchange in a document dated August 31, that followed up on previous discussions which had reference to both 6(1) and 6(2), which I have previously discussed. Here again, Mr. President, I want to emphasize that I am not representing that this is a comprehensive statement on the document. It is subject perhaps to contrary interpretation and it is subject to perhaps having other parts of the negotiating record disclosed. But these documents are relevant and I think are supportive of the broad interpretation and certainly show the complexity of the issue.

But this is what appears in a reference to article 6(1) which the United States had tabled—about one-half to two-thirds of the way into the paragraph on page 1. "Trusov"—who is the Soviet negotiator—"said that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas." And later on the same page, he—Trusov—went on to say that, "A provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement."

The PRESIDING OFFICER (Mr. SHELBY). The Senator has used the 15 minutes that he had yielded to him.

Mr. SPECTER. Mr. President, I should like to yield the floor, if another Senator seeks recognition at this time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. How much time does the majority leader have?

The PRESIDING OFFICER. Twenty-nine minutes.

Mr. NUNN. How much time does the minority leader have?

The PRESIDING OFFICER. Thirty-one minutes.

Mr. NUNN. Mr. President, I suggest to the Senator from Pennsylvania that perhaps he could ask unanimous consent that he be allowed to proceed on the minority leader's time, which is 31 minutes.

Mr. SPECTER. I do so ask. The ranking member controls the time, I believe.

Mr. WARNER. Might I inquire how much additional time the Senator needs?

Mr. SPECTER. I should say several weeks.

Mr. WARNER. That is slightly beyond what I have under my control, but why does the Senator not proceed and use such time as the Senator feels necessary?

Mr. SPECTER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania may proceed.

Mr. SPECTER. Mr. President, I might say I will be glad to yield for questions or debate from the other side if someone wishes to interject or raises other arguments. In the absence of that, I think this material is worthy of the consideration of the Senate.

Mr. President, I said "several weeks," because on the basis of what we now have received there is an enormous volume of material to be presented, analyzed, digested and debated. We do not have all the material, however. There is other material which we do not have which we ought to have for a comprehensive consideration of this issue.

We have to analyze, as I say, some of the materials which have just been made available such as Senator NUNN's report, and also the materials in S-407.

I come now, Mr. President, to a document dated September 15, 1971, which states: "Karpov agreed with Graybeal's interpretation that the Soviet text meant 'any type of present or future components' of ABM systems."

It is this language, Mr. President, which has been cited as the reason for the United States delegation thinking that the Soviet delegation had agreed to the narrow interpretation of the ABM Treaty, because it referred to Soviet language, which was accepted, for article V, 1. I would caution on reaching that conclusion too quickly, however, because of the question whether the language cited by the proponents refers to "systems" or "devices." If it does not, then the language cannot be realistically viewed to conclusively establish the narrow interpretation.

There is, I submit, another caveat, and that is other language that this was proposed on what is called "ad referendum" so that it is the agreement, at most, of Mr. Karpov and Mr. Graybeal, and it does not necessarily comprehend the authority of the delegations as in full plenary session.

Mr. Graybeal testified before a joint session of the Judiciary and Foreign Relations Committees, and this Senator questioned Mr. Graybeal about this issue. Mr. Graybeal said that he believed there was an adequate basis for the position of Ambassador Nitze who contends that the broad interpretation of the ABM Treaty is correct. Mr. Graybeal made his statement because he said that there had not been an agreement in plenary session which ratified or approved finally what had been agreed upon by Mr. Karpov and Mr. Graybeal.

So even under the assessment of Mr. Graybeal, who adamantly insisted that the narrow interpretation is correct, this language is not necessarily conclusive because Mr. Graybeal has conceded on the record that there is an ample basis for the opposite viewpoint expressed by Ambassador Nitze that the broad interpretation is correct.

Mr. President, perhaps of greater weight is the fact that even after the discussion by Mr. Karpov and Mr. Graybeal, there appear in the negotiating record substantial additional references by negotiators for the Soviet Union questioning the agreement of the Soviets to be bound by the narrow interpretation.

I now refer to a document dated December 20 and comments by their chief delegate, Minister Semenov, as follows:

> Minister Semenov said that the Soviet Delegation has repeatedly asked what the U.S. side has in mind specifically under other ABM systems. This question has never been answered. He asked how then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? References had been made to the Outer Space Treaty and the Seabed Treaty. In the Soviet view these references were not convincing. The Outer Space Treaty and the Seabed Treaties had as their subject obligations of a much more general nature than ABM systems. They

> dealt with a ban on emplacement in outer space and on the seabeds of weapons of mass destruction, that is, nuclear, bacteriological, and chemical weapons. Could the sides include in an ABM Treaty the unknown without risk of making the treaty indefinite and amorphous? On December 10 the Soviet side had already noted the importance of avoiding the temptation to go beyond the scope of our negotiations. We should ask ourselves the question: By including other systems in an ABM Treaty, would we not be placing ourselves in the position that the people refer to in the saying "Go I know not where, bring I know not what?" The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM Treaty.

It goes on, Mr. President, but that language is hardly consistent with the intent of a delegation which had agreed to limit testing and development of future systems. It is hardly consistent with the delegation which had agreed to the narrow interpretation of the ABM Treaty.

Now, Mr. President, because of the shortage of time, I skip ahead to another passage and perhaps will come back to some of the earlier documents which are relevant to this point. I now refer to a document dated January 11, 1972. This is a discussion involving the issue, again, of restraints on future development, narrow versus broad. I start with this quotation:

> A substantial portion of the discussion was devoted to the issue of future ABM systems.

Skipping down to the bottom of the page, I read the following:

> Grinevsky said that was a question which did not need to be asked, that the whole question was at present hypothetical. Garthoff said that such systems might at present be hypothetical, but the treaty as a whole either would or would not allow a party to deploy some presently unidentified ABM system or component at a future time if the matter were not resolved through consultation.

Then there is some other discussion, and then in the full first paragraph:

> Grinevsky said that the treaty referred to ABM systems, which were defined in article II. It could not deal with unknown other systems. Garthoff challenged this interpretation on two grounds: First, the treaty dealt not only with ABM systems comprising components identified in article II, but all ABM systems; second, the issue did not concern "other" systems but rather future ABM systems.

Well, if Mr. Graybeal had gotten an agreement from Mr. Kavpov on September 15 which bound the Soviet Union to the narrow interpretation, then, why, in January, were Mr. Garthoff and the Soviet negotiator having a difference of opinion and an argument?

Mr. President, this is the man who was part of the delegation which is supposed to have had the understanding with the Soviets on the narrow interpretation, which is hardly consistent with that kind of an approach. Reading on in the second page and this is the Soviet negotiator speaking:

> Also, other systems might or might not be for ABM purposes, but the United States wanted to have the veto over them.
>
> Garthoff remarked that he had noted that morning constant Soviet reference to other systems rather than future systems, but the two issues should not be confused.

Finally, a later reference:

> In a side conversation, Grinevsky indicated to Parsons his own understanding of our concern, but implied that other (presumably military) members of his delegation were unyielding, and in any case it was not an actual problem at this time.

Mr. President, there are these references and many, many others which raise enormous questions as to whether the Soviet delegates every agreed to the narrow interpretation of the ABM Treaty.

Mr. President, rather than use all of our time, since I see other Senators are on the floor who may have other contentions or may need some time to reply I will yield the floor in a moment. I ask unanimous consent that the full text of these documents be made part of the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Memorandum of Conversation]

SALT DELEGATION,
Helsinki, Finland.

Date: August 31, 1971.
Time: 1155 to 1255.
Place: U.S. Embassy, Helsinki.
Subject: SALT.
Participants: U.S.: Captain W. O. McLean, Lt. Col. F.P. DeSimone, USSR: Lt. Gen. K.A. Trusov, VAdm. P.V. Sinetsky, Col. V.N. Anyutin, Mr. Yu. K. Bardin.

Trusov said that he would like to return to clarification of paragraph 1, Article 6 of the U.S. draft ABM Agreement which General Allison had promised him at the end of their last conversation. He wanted to know what we had in mind when we spoke of an ABM system which does not include launchers, interceptor missiles and radars, and asked for an example. I told him that I could not give a concrete example, and that was an important part of understanding the reason for the paragraph in question. Since both sides agree that the ABM limitations we develop will be long-lasting and that we can only specifically limit the systems and components which exist today, the U.S. side feels that there should be a provision to take account of the fact that it is reasonable and desirable to prohibit the deployment of components which might perform the ABM mission tomorrow but which are not in existence today. Trusov said that he did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient. He said that development, testing and deployment of such future systems would be observed by our national means of verification and the review process could take care of the necessary prohibition or limitation. He went on to say that a provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement.

Date: September 15, 1971.
Time: 10:00-11:30 a.m.
Place: Soviet Embassy.
Subject: Discussion of Articles 2 and 6 (V).
Participants: U.S.: Mr. S.N. Graybeal, Col. Charles FitzGerald; USSR: Mr. Viktor Karpov, Mr. A.A. Fedenko.

At the September 15 meeting between Graybeal and Karpov, accompanied by FitzGerald and Fedenko, the Soviets tabled new Articles 2 and 6(V). (See attachment.)

The discussion started with Article 6(V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word (komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems.

Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording.

Agreement was also reached that, consistent with the "new Article 6", the Soviet text would use "and" between systems and components, while the U.S. text would retain "or" between systems and components.

Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal.

SALT VI

US/USSR Mini-Plenary Meeting No. 10
Soviet Embassy

Persons Present: Ambassador Smith, Ambassador Parsons, Mr. Nitze, Dr. Brown, General Allison, Dr. Garthoff, Colonel FitzGerald, Mr. Krimer (Interpreter), Minister Semenov, Academician Shchukin, General Trusov, Mr. Grinevsky, Mr. Kishilov, Colonel Anyutin, Mr. Artemiev (Interpreter), Mr. Novikov (Military Interpreter).

Minister Semenov said, in regard to other ABM systems, suppose that the draft treaty on limiting ABM systems had a provision on limiting systems other than those now known which use interceptors and launchers. What would result from such a provision? Undoubtedly, such a provision would create the grounds for endless arguments, uncertainties, and suspicions with all the undesirable implications for relations between the two countries. He asked if the sides could in working out a draft ABM Treaty advocate such a situation. He also asked if the goal of the two Delegations isn't just the opposite, that is, to reach agreement on limiting known ABM systems referred to in Article III of the draft ABM Treaty. Certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. Such a responsible international document as a treaty on limiting ABMs must be precise as to the subject of the agreement to the maximum extent possible. This would ensure the viability of a treaty which has an important bearing on the national security of the sides.

Minister Semenov said that the Soviet Delegation has repeatedly asked what the U.S. side has in mind specifically under other ABM systems. This question has never been answered. He asked how then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? References had been made to the Outer Space Treaty and the Seabed Treaty. In the Soviet view these references were not convincing. The Outer Space and Seabed Treaties had as their subject obligations of a much more general nature than ABM systems. They dealt with a ban on emplacement in outer space and on the seabeds of weapons of mass destruction, that is, nuclear, bacteriological, and chemical weapons. Could the sides include in an ABM Treaty the unknown without risk of making the treaty indefinite and amorphous? On December 10 the Soviet side had already noted the importance of avoiding the temptation to go beyond the scope of our negotiations. We should ask ourselves the question: By including other systems in an ABM Treaty, would we not be placing ourselves in the position that the people refer to in the saying "Go I know not where, bring I know not what?" The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM Treaty. At the same time, the sides undertake obligations not to create to territorial ABM system and to limit ABM deployments around capitals by the limitations contained in the draft treaty.

Minister Semenov then asked what would be done if something appears in the future that the sides should talk about. He believed that the draft ABM Treaty envisaged provisions on this score. Both sides recognize that the Treaty on limiting ABMs would be of unlimited duration. This does not preclude the possibility of supplementary and regular review when the need arises. Articles XIII and XIV, which are preliminarily agreed to, provide for such review. If it should appear necessary to supplement the ABM Treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

Minister Semenov declared that, in connection with the possibility of withdrawal from the ABM Treaty, the sides have agreed in the Joint Draft Text that the ABM Treaty should be of unlimited duration. This is provided in paragraph 2 of Article XV which provides for the possibility of withdrawal * * *.

[Memorandum of Conversation]

U.S. SALT Delegation,
Vienna, Austria.

Date: January 11, 1972.
Time: 7:30–10:30 p.m.
Place: Drei Husaren Restaurant, Vienna.
Subject: Narrowing Differences in SALT.
Participants: U.S.: Ambassador J. Graham Parsons, Dr. Raymond L. Garthoff; USSR: Mr. O.A. Grinevsky, Mr. N.S. Kisholov.

FUTURE ABM SYSTEMS

A substantial portion of the discussion was devoted to the issue of future ABM systems. Kishilov, whom Garthoff had advised earlier that day that the US side might wish to make some changes in the formulation provided in December, pressed on what these changes would be. He asked if Garthoff had a new text. The latter replied in the negative. Kishilov then produced a text from his pocket, which on quick inspection turned out to be a Soviet translation of the language which Garthoff had provided in mid-December. He asked Garthoff to mark the changes which the American side would wish to make. Garthoff repeated that he was not prepared to provide a new text, and would not undertake to do so. However, he would point out some things that might be rendered more precisely. He then suggested that, for example, rather than referring to "consultation and agreement in the Standing Consultative Commission", it would be better to refer to consultation in the Commission and agreement between the Parties. Grinevsky nodded understanding. Garthoff said that no doubt certain other editorial improvements could be made, concerning precise reference to ABM components, etc. In general, the formulation could probably be refined in a number of ways; the important thing was the Soviet reaction to the substance of the proposition it contained. Grinevsky then suggested a "simplified" approach, which both he and Kishilov pointedly (and no doubt disingenuously) said they had just worked out on the way to the restaurant. The gist of Grinevsky's suggestion was that if the occasion should arise to consider such other systems, they could be considered in the Standing Consultative Commission in accordance with Article XIII (conveying the Commission's mandate). Garthoff asked what would happen if such consultation did not lead to an agreed conclusion. Would a party, wishing to deploy such a system, be able to do so or not? Grinevsky said that was a question which did not need to be asked, that the whole question was at present hypothetical. Garthoff said that such systems might at present be hypothetical, but the treaty as a whole either would or would not allow a party to deploy some presently unidentified ABM system or component at a future time if the matter were not resolved through consultation. Grinevsky said that it could do so, and that the other side always had the recourse of "Article XV" (withdrawal). Garthoff and Parsons noted that withdrawal would be a rather severe action, and while always available as a last resort, should not be relied upon as a solution to a problem which could be resolved in other ways. Garthoff suggested that instead of relying on Article XV, reliance should be placed on Article XIV (amendment). He suggested that perhaps an Agreed Minute might refer to both Articles XIII and XIV. At this point, the conversation divided into separate discussions between Parsons and Grinevsky on the one hand, and Garthoff and Kishilov on the other. While Grinevsky was adamant on resting with Article XIII, Kishilov (initially) agreed with Garthoff on possible resort to Article XIV. When the two conversations again merged, this discrepancy came to light, and after brief spirited and disjointed exchanges, Kishilov agreed with Grinevsky that the attempt to word a formulation concerning Article XIV "had not worked out".

Grinevsky said that the treaty referred to ABM systems, which were defined in Article II. It could not deal with unknown other systems. Garthoff challenged this interpretation on two grounds: first, the treaty dealt not only with ABM systems comprising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems, but rather future ABM systems. He asked Grinevsky whether in the light of Articles I, II, and III, Grinevsky considered that a party would have the right—assuming consultations were held and did not lead to agreement—to deploy all around the country, say, a thousand stations for firing anti-ballistic missile laser interceptor beams. Grinevsky said no, it would not have such a right. But, he countered, it should be able to place "telescopes". Garthoff asked if he meant sensors which could serve the role played by ABM radars, and Grinevsky replied that was part of the problem. Also, "other" systems might or might not be for ABM purposes, but the U.S. wanted to have a veto over them. Garthoff remarked that he had noted that morning constant Soviet reference to "other" systems rather than "future" systems. But the two issues should not be confused. If there were a question as to whether some system was in fact an ABM system or component or not, that would clearly be a subject for consultation, and if there were a serious divergence perhaps there would be need for recourse to withdrawal, as Grinevsky had suggested. However, what Garthoff was referring to—and what the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example. In a side conversation, Grinevsky indicated to Parsons his own understanding of our concern, but implied that other (presumably military) members of his Delegation were unyielding, and in any case it was not an actual problem at this time.

In a briefer separate conversation, Kishilov conceded that Articles I, II, and III together would ban future ABM systems or components. (Comment: The confusion and discrepancy between the Soviet participants over interpretation of the effect of Articles I, II, and III of the ABM draft Treaty with respect to future ABM systems, and over possible solutions, seem to indicate absence of a clear and thought-through position on the part of the Soviet Delegation at the present time.)

Garthoff emphasized, and Parsons concurred, that it was essential to establish a common understanding between the two Delegations with respect to the effect of Articles I, II, and III on future ABM systems, and to reach agreement on a position concerning this subject. Notwithstanding the differences which had emerged in the discussion (as indicated above), Grinevsky reaffirmed the interest and readiness of the Soviet side to continue discussion directed at reaching a solution on this subject. Grinevsky specifically endorsed Garthoff's statement that this subject should be resolved in the current phase of the talks.

Mr. SPECTER. Mr. President, I might add yesterday I asked that the full text of the Sofaer document be made part of the RECORD so that is already presented. But for easy reference, I think it useful to have these records put into the RECORD at this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, first let me thank the Senator from Pennsylvania for the very diligent effort he is making in this regard. It is not hard after you have studied the ABM Treaty at length, which he has done, which I have done, and which others have done in this body—it is not hard to agree with the proposition that it is extremely complicated and complex. It requires a lot of thought.

The Foreign Relations Committee, I hope, will continue to probe into this. The Foreign Relations Committee has already acted. I talked to Senator BIDEN, who is leading this effort in the committee, and he says they have already acted and there are no immediate plans for hearings. But I told him about the conversation I had with the Senator from Pennsylvania and I suggested the kind of format the Senator from Pennsylvania has advocated, having two people there, and I always find that very helpful, isolating the differences and areas of agreement, which might be very helpful.

I would like to make an important point, and this is where I disagree with the Senator from Pennsylvania. This provision, Levin-Nunn provision in this bill, does not determine the interpretation of the ABM Treaty. All the Senator says about the need for further study on that is absolutely correct. This provision does not determine the interpretation. This provision simply says to the administration, "You came up; you identified nine tests; you asked for $4½ billion; you said you were going to stick to these tests; you said that all these tests were within that traditional interpretation of the treaty."

Our staff analyzed it. They came to the same conclusion, that all the tests in this bill that are going to be funded are within that interpretation. And all we are doing here is saying to the administration, "Now, you told us that. We took you at your word, and we are going to make it law that you cannot depart from what you have told us until you come back and you make a presentation for more funding or different funding and you make a presentation for different tests. At that time, we will consider it."

We are doing the same thing on the MX basing mode. We are giving the administration money for research on the MX basing mode but we are not agreeing to go to rail mobile. There is no way they could go to rail mobile with that MX basing mode without coming back to the Congress.

These people who are talking about one-House veto are badly off base by any understanding I have of the Chadha Supreme Court decision, because that decision basically says that you cannot give the administration the right to act affirmatively but then say that either one House or the other can stop that action by a veto.

That is not what we are doing at all. What we are saying is, like any other new program, if you are going to have to come before the Congress, you are going to have to show us what is in that program, and we are going to have to reach agreement on it.

So I say to my friend from Pennsylvania, there is nothing in this provision we are debating, and on which this bill is hung up, that is determinative of the ABM Treaty interpretation. It simply says stick to what you have been doing, stick to your present program unless we know what your new program is going to be and you give us your definition of that and we approve it and give you the money for it. That is all we are saying.

Mr. WARNER. Mr. President, will the Senator yield for a question.

Mr. NUNN. Certainly.

Mr. WARNER. First I want to observe my respect for the Senator from Pennsylvania and his valuable contribution in this debate. He is known in the Senate as one who does deep and thorough research on legal issues and brings a tested background of legal advocacy to the Senate, and we value his contribution.

I say to my good colleague from Georgia, he has accurately portrayed the technical application of the Levin-Nunn amendment. But my good friend has been a part of the 10-member delegation, of which I am also a member, that has gone back and forth to Geneva observing the progress of the arms control talks. Yesterday the chief negotiator, Ambassador Kampelman, came to the Senate, as he does frequently, to visit us in our secured room, S-407, at which time when I was there there were six other Members of the Senate present. And, of course, his communications to us are confidential. But my good friend from Georgia is fully aware of the critical nature of these talks, and while the amendment is technical and simply solidifies the present posture of the President and his representation to the Congress to date, my friend knows that SDI is an integral part of those negotiations.

Mr. NUNN. If I could interrupt, may I ask the Chair, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. WARNER. Will the Senator yield for a question?

Mr. NUNN. Mr. President, I yield for a question, but I state to the Senator I will be delighted for him to go on as long as he chooses without asking a question, but I would ask that it come out of his time because I have to manage my time carefully.

Mr. WARNER. I would be happy for my question to come out of my time, Mr. President. I am coming to the question now. Recognizing that the SDI Program and the issues of broad versus narrow are integral to those negotiations, why would the Senator want the Congress to take away from this President or a future President the flexibility to make a quick decision in terms of the negotiations? I heard our good friend from Wisconsin [Mr. PROXMIRE] this morning clearly indicate under the Constitution the President is the chief negotiator, and yet the amendment would have the effect of tying his hands, taking away from him the ability to make a quick decision in the course of these negotiations relating to SDI, possibly relating to what he intends to do on the broad versus narrow program. That flexibility would be taken away. My question is, Why should the Congress at this critical time remove that flexibility?

Mr. NUNN. First I would say to my friend from Virginia, this provision has nothing whatsoever to do with the President's ability to negotiate in any fashion he chooses to negotiate at Geneva. It does not instruct him with even one word about what his negotiating position should be at Geneva. He can take any position he wants. He can take the narrow view; he can take the broad view; he can come up with a third view; he can get a lawyer and come up with another interpretation; he can do anything he wants. As a matter of fact, there is very little negotiation going on in this area in Geneva at this moment. And there is not much likelihood there is going to be much negotiation going on in this particular area right now.

This has nothing to do with the President's negotiating ability. It has nothing to do with his position in Geneva, which can be whatever he shapes it to be. It does have to do with what he spends the money for between now and the time he comes back and presents a different program than what he presented to the Armed Services Committee.

I suppose you could make an argument, if you really believe the Congress of the United States does not have a role, that what we ought to do, maybe to take it to somewhat an extreme view but nevertheless you could follow the logic of the Senator from Virginia and do this, we ought to in the strategic program simply figure out the total number of dollars and not say whether it is used for the MX or the cruise missiles or not say whether it is going to go on the B-1 bomber or the ATB, simply give him a hunk of money and say, "Mr. President, here is $30 billion; we trust you; you spend it any way you want to."

Congress does not do that. The reason we do not is because the Constitution gives us certain responsibilities. I have heard people say on the floor in recent days that Congress has no role in foreign policy, an absolutely incredible statement. I do not know what course they took in school in history, let alone any understanding of constitutional law. Not only do we ratify treaties, we appropriate all the money used for the conducting of foreign policy all over the world.

I think it is very relevant to that question to quote from the former majority leader, the Senator from Kansas [Mr. Dole]. Mr. Dole raised a question last week about section 233, if I could have the attention of the Senator from Virginia, because this goes directly to the heart of his question. The then majority leader raised a fundamental question. He said, and let me quote him:

> Section 233—

And that is the Levin-Nunn amendment—

> raises a fundamental question which cannot be overlooked, and that question is, who is going to make foreign policy in this country, a couple of us or the President of the United States.

Now, let me quote the majority leader again, but let me give him an answer to his question. And I think it is an answer that he will have a hard time refuting.

The answer to this question is contained in the debate on the Taiwan Treaty, which was the treaty that President Carter terminated during his administration, the defense treaty, and these words were part of the congressional debate at the time. I am quoting from that congressional debate, the Senate part of the Record, June 6, 1979, page 7030:

> The Constitution clearly meant for foreign policy powers to be shared by the executive and legislative branches, when tied by formal means in binding instruments affecting vital security interests, and the Constitution divided the power of treatymaking between the two branches as a check and a balance. The President's action [terminating the Mutual Defense Treaty] was clearly in violation of this principle and a direct challenge to this body.

From that same debate, June 6, 1979, the same Congressional Record, page 7031, I again quote from that dialog:

> There seems to be a legal question of whether or not the President could, under the terms of the treaty itself, terminate the treaty as one of the two contracting "parties." Many of us believe the term "party" to include both the executive and legislative branches * * *.

Now, I ask my friend from Virginia, does he know where this quote came from?

Mr. WALLOP. Mr. President, will the Senator yield for just a second?

Mr. NUNN. I would like to complete my thoughts right here. The quote came from none other than the Senator from Kansas, [Mr. Dole]. So he has answered his own question here. The legislative branch has a role in foreign policy circumstances, too. I have heard almost incredible statements going around this Chamber in the debate we have had in the last 4 or 5 days about the President having absolute, total, complete authority in foreign affairs.

Mr. WALLOP. Mr. President, will the Senator yield for just a brief observation on that?

Mr. NUNN. I would not want to yield for an observation. I yield for a question.

Mr. WALLOP. A question then. Is the Senator aware then that that was resolved in favor of President Carter?

Mr. NUNN. I am aware of exactly what the Supreme Court held in that case. They held in that case it was a matter between the two branches of Government.

Mr. WALLOP. I am talking about the issue of Taiwan.

Mr. NUNN. I say two points to my friend from Wyoming. One point is the Senate of the United States by vote of 59 to 35 stated that the Senate of the United States had to be brought in on any kind of abrogation of a treaty. And that was a Harry Byrd amendment. Senator Dole voted for that amendment, as did the Senator from Georgia. So the Senate of the United States went on record.

The Supreme Court of the United States took the petition of the Goldwater group and they looked at it. They had about four or five different views. They never came to a determination of the issue of whether President Carter was right or wrong.

That issue was determined not to be ripe because the Congress had not spoken on that issue. They said it was a matter between the legislative and executive branches of Government. I happen to think it is a matter between the legislative and executive. I am not sure the Supreme Court of the United States ought to make that decision. This is a balance of power question between the Congress and the executive branch.

I want to go ahead and talk a little bit more—I wish the minority leader was here, but here is another interesting thing that came up. And I would like for our body to concentrate on some of these things. One thing we all are is Senators. We may have different views on issues, and we do on this but we all have a certain amount of pride and stake in the institution of the U.S. Senate and we all take our duties under the Constitution seriously.

The Senator from Kansas brought a case against the President of the United States. It was called Dole versus Carter, and it related to the Paris Peace Treaty of 1947.

In the case brought by Senator Dole he argued contrary to the Carter administration's treaty interpretation that the courts should rule that the Paris Peace Treaty of 1947 involved a "silent agreement" which provided that Hungarian coronation regalia would not be returned to Hungary until Soviet troops were removed.

According to the court's opinion, Senator Dole went further and asserted that the "silent agreement" was an integral part of the Paris Peace Treaty of 1947 that could not be varied or modified without the making of another formal treaty ratified by the Senate.

That, for anyone's reference, is at 444 Federal Supplement, page 1067.

Both the district court and the circuit court were not persuaded by Senator Dole's proposed interpretation. The case did determine the powers of the Senate of the United States versus the executive branch. It turned on the fact that the courts could find no evidence of the "silent agreement" that related to that Hungarian question.

I find it truly amazing that we could have a statement before the courts, saying that "the Paris Peace Treaty could not be varied or modified without making another formal treaty ratified by the Senate"—varied or modified—but when we have President Reagan in the White House and there is a reinterpretation of the fundamental treaty that departs from four different administrations, three of which have been Republican, at that stage everything is flipped over and we hear the arguments coming the other way, and we have the incredible statement that the President of the United States has total control over foreign policy.

So I say in response to the question Senator Dole asked last week, the fundamental question—who is going to make foreign policy in this country, "a couple of us or the President of the United States?"—the answer is clear, by Senator Dole's own Congressional Record statement back in the debate and by his petition, which was unsuccessful, relating to the Paris Peace Treaty.

The reason it was unsuccessful was that the court could not find any evidence of a silent agreement. The agreement we are talking about in this section is not silent. Whatever we may have in terms of difference and views on it, no one can say it is silent.

If a silent, unwritten, oral agreement, which the court can find no evidence of, cannot be modified without getting the approval of the U.S. Senate—what would my colleagues conclude about a treaty ratified and adhered to by four administrations with the same interpretation, until the reinterpretation appeared not long ago?

Mr. WARNER. Mr. President, may I say one thing, on my time?

This side of the aisle has not arrogated unto itself that the Congress of the United States, and particularly the Senate, does not have a voice in the foreign affairs of this country. We simply point out to the Senator from Georgia the criticality at this time of negotiations. We do assert that Congress has no role in negotiations, that the President has the exclusive role, and at this time the issues raised by the Levin-Nunn amendment are on the negotiating table. The Senator and I are not able to expand on that.

Mr. President, I want the Senator from Wyoming to participate in this at the appropriate time.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 16 minutes and 51 seconds.

Mr. NUNN. Mr. President, I had intended going into more depth this morning. We are going to have a really interesting debate before this is over, because I am going to go into extensive detail about the petition to the Supreme Court of the United States that was filed by our former and great chairman of the Armed Services Committee, Senator Goldwater, which related to the Taiwan Treaty, in 1979, when that defense treaty was canceled by President Carter.

Senator Goldwater was joined by 25 other Members of Congress in asserting a role for Congress in deciding the fate of the Mutual Defense Treaty with the Republic of China when President Carter terminated the treaty.

Interestingly enough, a number of current Members of this body participated as plaintiffs with Senator Goldwater in that case, including Senator THURMOND, a very valuable member of our committee; Senator GARN; Senator HATCH; Senator HELMS; Senator HUMPHREY, another member of the committee; Senator MCCLURE; Senator SYMMS; and Senator QUAYLE.

At the appropriate time, I want to go through it with great care, particularly relating to the report filed by the minority on this section last week, joined in by Senator THURMOND, Senator HUMPHREY, Senator SYMMS, and Senator QUAYLE, who also happened to be petitioners before the Supreme Court of the United States in that case. Virtually everything they said in that case is totally and completely opposite to what they are saying in this debate.

I think that what we all have to do as Senators is figure out what the principle that is at stake. We can vary our principle from time to time, but it is difficult, particularly when we have people say that this is a partisan situation—it is very difficult for me to remain silent when people are taking precisely the opposite positions when a Democratic President is in office and when a Republican President is in office. I, at least, whether right or wrong, have been consistent in that respect. I voted for the Harry Byrd amendment, which said that the President of the United States should not terminate a defense treaty without coming before the Senate and getting approval.

Mr. President, the Senator from Rhode Island has requested time, and the Senator from Michigan has requested time. I yield to the Senator from Rhode Island 5 minutes of the time on this side.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished Senator from Georgia.

Mr. President, I will vote again today, for the third time, in favor of ending the filibuster that is preventing the Senate from beginning its work on the Department of Defense authorization for fiscal years 1988 and 1989.

Although Pentagon officials often view Congress as excessively meddlesome, the fact is that our oversight and guidance play an essential role in the management of the country's defenses. As a former official of the Department of Defense, I know that as well as anyone.

This DOD bill covers issues on which we have a duty to set policy. At this point, the most prominent of these is the strategic defense initiative, but there are others that I believe are just as important. Will the Senate speak, for example, on the SALT II arms limits? The President announced 1 year ago that this country would no longer adhere to those limits.

The President's SALT II decision, in my opinion, was a mistaken reaction to Soviet violation of parts of the treaty outside the crucial numerical sublimits. I am convinced that these violation problems can and should be solved within the context of the Standing Consultative Commission, which was established for exactly such purposes but which this administration does not employ in a proper fashion.

This Defense bill is the proper place to take up these questions of controls on strategic arms. Maybe a majority of the Senate will agree with this Senator that the SALT II sublimits are worth preserving. Maybe a majority of Senators will disagree with me. The point is that I, and many of my constituents, are anxious to have these matters debated and a decision reached.

There are other pressing arms control questions for which the defense authorization bill traditionally and appropriately provides a forum. These include the nuclear testing issue and the question of whether we should extend the current ban on testing of antisatellite [ASAT] weapons against objects in space.

These are subjects that are on the minds of this country. They directly affect our role in the world and we should have a thorough discussion of them.

The "limitation on development or testing of space-based and other mobile antiballistic missile systems," also known as the Levin-Nunn amendment is, quite understandably, a provision that arouses strong emotions. It is an attempt by the Senate to assert influence in a controversial area of defense policy and treaty interpretation.

Some members of this body believe it is an excessive extension of senatorial power. Others, myself included, see it as an entirely appropriate measure, in keeping with two of the most significant responsibilities of the Senate: To approve defense expenditures according to how they serve the best interests of the Nation, and to provide advice and consent on treaties.

I support the Levin-Nunn amendment because I believe that the Senate has a role to play in setting the defense policy and the foreign policy of the United States.

Congressional control of the Nation's "purse" places defense spending firmly under our purview.

The Senate's role in foreign policy is less clear and a matter of constitutional debate. Frequently in this body we engage in discussions of the extent to which we should legislate foreign policy. I am one of those who usually comes down on the side of placing minimal congressional controls over the President's management of foreign policy. There is no doubt in my mind that it is the President who must set the agenda and lead us in our dealings with the rest of the world.

But, as a number of Senators have pointed out over the last few days, there is one area in which the Constitution gives the Senate an indisputable role—treaty ratification. Article II, section II of the Constitution states it in no uncertain terms: "He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties * * *"

In my view, this constitutional duty of the Senate was not meant to be an empty approval of the rubberstamp variety. The advice and consent of the Senate is a crucial part of the treaty-making process. When we consent to the ratification of a treaty, we do so based on the substance of the agreement placed before us. That, in the case of the ABM Treaty, is the nub of the issue.

Based on my understanding of the ABM Treaty, which I have arrived at through study of the agreement and discussions with those who negotiated it, the Senate consented to the ratification of a treaty that prohibited the testing, development, and deployment of all antiballistic missile systems or components which are seabased, airbased, spacebased, or mobile landbased. The distinguished senior Senator from Georgia has argued persuasively that the record shows the

Senate approved a treaty that would not allow the SDI Program to move beyond the laboratory.

Perhaps most troubling are the constitutional implications of the current disagreement. If it is true that the Senate believed it was ratifying an ABM Treaty different in meaning from the treaty actually signed, then we have a serious constitutional problem on our hands.

The arguments of those in favor of reinterpreting the ABM Treaty imply that the Senate did not get the whole story on that treaty, that the Senate was somehow left in the dark about several key provisions.

I do not subscribe to that argument. It is my view that the enthusiasm of some individuals to support the SDI Program has led them to give the ABM Treaty a new and, I believe, incorrect interpretation.

The PRESIDING OFFICER. The Senator from Rhode Island has used the time yielded.

Mr. NUNN. Mr. President, first I express my profound appreciation to the Senator from Rhode Island, who has been a stalwart leader in this respect for some time. He pays close attention to constitutional issues and the role of the Senate.

Second, I yield him another minute.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am adamantly opposed to abandonment of the ABM Treaty, the single most effective arms control agreement in history.

I am not in favor of a new and costly and potentially destabilizing SDI Program. The reinterpretation is akin to some, it seems to me a sleight of hand, legalistic sleight of hand, and if it prevails, I am convinced will initiate a new arms race in space.

But it is true that this is not a simple matter. With all the arguments and counterarguments on the real meaning of the treaty, the Senate is in need of extended discussion on that.

Following the debate there ought to be a vote on whether or not the Levin-Nunn provision merits retention. I am in favor of moving on to such a vote.

I wish to thank the senior Senator from Georgia for yielding me that time.

Mr. NUNN. I thank the Senator from Rhode Island. I was going to yield to the Senator from Michigan. I see the Senator from Wyoming is on his feet. I am glad to defer on that so he may speak.

The PRESIDING OFFICER. Who yields time?

Mr. QUAYLE. Mr. President, how much time remains on the minority side?

The PRESIDING OFFICER. Fifteen minutes seven seconds remain.

Mr. QUAYLE. I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Indiana as well as the Senator from Georgia.

Mr. President, I am somewhat amused by the debate, if it were not so serious. It seems to me the nub of the issue is not the semantical distinctions between sophistry over interpretations or the words abrogation or interpretation. There is a difference in each of those instances as to what roles might be. The real nub of the issue is the safety of America. The real nub of the issue is the strategic situation in which a series of governments have allowed this country to fall.

Mr. President, I come to the floor today to inform Senators of the release today of an extremely important report to Congress required by last year's defense authorization bill. The administration has prepared an excellent report in response to section 217 of last year's bill, giving decisive evidence that moving to the broad interpretation of the ABM Treaty will allow our country to deploy a ballistic missile defense earlier and cheaper than without it.

Mr. President, last year I offered an amendment requiring this report that asked, how would we reconfigure the SDI Program under the less restrictive interpretation of the ABM Treaty and, under such a new program, how will costs, time schedules, and performance confidence be effected? This report provides the first answers to these questions we in the Senate have seen. They obviously bear greatly on the issue we are considering today. I believe it is imperative that every Senator interested in this debate take the time to study this report before casting votes on this most important issue for our national security.

Mr. President, the report is classified, but some of its findings have, as usual, found their way into the press, and still others are contained in an unclassified cover letter to the report. Let me summarize its findings for the Senate now, but I again urge that Senators take the time to look at the full classified report.

The broad interpretation will allow program managers to design realistic, integrated tests of space-based SDI components. The effect of these tests will be increased confidence in defense feasibility, and confidence will grow at an increasing rate, allowing us to move toward informed deployment decisions earlier. This is extremely important if we are to have a stable transition from offenses to defenses. We must have engineering confidence in proposed systems.

A move to the broad interpretation will reduce overall costs significantly and will allow for greater program efficiency. For example, where some tests must be conducted separately to avoid restrictions of the narrow interpretation, under the broad, they can be conducted together, using the same space boosters and ground-based tracking elements. It is estimated that such a move will allow us to save 2 years in the research program and at least 3 billion taxpayer dollars in establishing the feasibility of an initial defense against ballistic missiles. More savings in time and funds can be expected in follow-on generations of weapons.

Another benefit of the broad interpretation will result from reducing the program uncertainty which has been caused by the inherent ambiguities of the restrictive interpretation. I have been out to the labs, the contractors, and believe me, the engineers feel constrained to even contemplate new and innovative ways of doing things because of the narrow interpretation. Under the broad interpretation, I predict that we will undergo an engineering renaissance in the strategic defense field, a field we have neglected intellectually and materially since the late 1960's.

Finally, Mr. President, the broad interpretation of the ABM Treaty allows the United States to maintain options to deploy strategic defenses in the mid-1990's. For every day we stay bound by the narrow interpretation, 2 days are lost in the race to deploy a strategic defense that Americans want and, indeed, believe we already have. Those 2 days are significant also because the United States can and must stay ahead of the Soviets in defensive technology. It will be extremely difficult to do this if we stay bound by the restrictive interpretation. It is like sending an able fighter into the ring with one arm tied behind his back.

Mr. President, I urge Senators to study carefully this report. Its findings portend greatly on this debate and debates we will have in the future. It is essential that we take the findings of this report into consideration before we take action on the questions before us.

Mr. President, I would say one last thing. Those who favor remaining under the ABM Treaty will be those who most fervently and predictably advocate the broad interpretation in the nineties because at one moment in time this country is going to have to decide whether its safety lies in defense or its safety lies in lying belly up to the Soviet Union.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, will the Senator yield for one question on my time?

Mr. WALLOP. Absolutely.

Mr. NUNN. Could the Senator give his own position about whether the Senators staying under the ABM Treaty, under either the broad or narrow interpretation?

Mr. WALLOP. This Senator would favor providing the Soviet Union with notice under the terms of the treaty for eventual withdrawal or absent that renegotiating a circumstance where we could provide ourselves with a defense that this public of ours thinks we already have.

Mr. NUNN. So the Senator from Wyoming does not believe we ought to remain under the treaty, under either the broad or narrow interpretation?

Mr. WALLOP. The question that the Senator asked is do I favor providing notice or renegotiating the terms of the treaty. Absolutely.

Mr. NUNN. Does the Senator believe the President of the United States has the authority to abrogate the ABM Treaty without coming before the Senate or House either?

Mr. WALLOP. Under the terms of the treaty, absolutely.

Mr. NUNN. So the Senator disagrees with the statements made by the Senator from Arizona and many others of his colleagues when they said the treaty could not be abrogated without approval of the Congress?

Mr. WALLOP. It is not abrogation as the Senator is aware of the treaties, as extensive studies would indicate and would see that the treaty provides for not abrogation but just moving out from under it with the provision of notice. That is a provision that is in the treaty. It is not abrogation. It is a perfectly clear provision of that treaty which permits either ourselves or the Soviet Union.

Mr. NUNN. We have a similar clause in most treaties. The words are not always the same. Does the Senator think that, let us say, the next President of the United States can terminate the NATO treaty unilaterally?

Mr. WALLOP. Mr. President, I think the question is totally extraneous to this situation and as for this debate it is over interpretation. I am just saying that the treaty as we have it and interpret it, any treaty by any law that man has ever conceived, can be abrogated in the extreme national interest. If the extreme national interest provides for the survival of this Nation I would say go with it.

Mr. NUNN. The question the Senator is being asked is not that. The question is who has the right to abrogate the treaty? The Senator is saying the President of the United States has the unilateral right to abrogate this ABM Treaty under the terms of the treaty.

Mr. WALLOP. I am not saying any such thing. The treaty provides for withdrawal after giving notice. It is not an abrogation.

Mr. NUNN. Say withdrawal then. Does the Senator believe the President can withdraw from the ABM Treaty without consulting or without approval of the Congress?

Mr. WALLOP. I believe he can legally. I do not believe it would happen.

Mr. NUNN. Does the Senator believe the next President could then withdraw from other treaties like the mutual defense treaties, without the approval of Congress?

Mr. WALLOP. Depending on the provisions of the treaty under the circumstances that surround them.

Mr. NUNN. But if it has a similar clause to this one?

Mr. WALLOP. If it has a similar clause and the national interest were in there, I believe that would be the case.

Mr. NUNN. Including our most sacred alliances?

Mr. WALLOP. I do not know what sacred alliances. There are a lot of sacred cows.

The most sacred duty of this Congress and the constitutional oath we undertake is to defend this country.

Mr. NUNN. I hope the Senator will recall the Taiwan Defense Treaty which a number of people and the Senate of the United States decided could not be withdrawn from by President Carter.

Mr. President, I reserve the remainder of my time.

I yield such time as the Senator from Michigan desires.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Senator. How much time does Senator NUNN have under his control?

The PRESIDING OFFICER. Two minutes, forty-five seconds.

Mr. LEVIN. Mr. President, first I was very happy to hear the ranking member, Senator WARNER, this morning concede that the Levin-Nunn language does not decide the narrow-broad issue. It leaves that issue open for later decision by the President and by the Congress.

That is an important statement of Senator WARNER, very different from the number of statements that have been made on this floor.

In fact, it does not decide the issue. It is premature to decide the issue for a number of reasons. They have been given on this floor, but we have to maintain a participatory role in the decision of that issue if we are going to carry out our obligation under the Constitution.

What we are doing is not new. We did the same thing in the dense pack, the MX basing mode dense pack debate.

Here I would quote from the Congressional Research Service which points out that in November of 1982 President Reagan proposed a dense pack basing mode for MX. The Congress, as part of its consideration, debated an amendment by Senator Jackson and others that, would prevent funds from being spent to start full-scale development of an MX basing mode until both Houses approved a basing mode. It was argued at that time during that debate that we would be tying our negotiators' hands in Geneva, the same argument was made.

And I think Senator BYRD perhaps put it best when he answered that, that we should not simply go along with any scheme that the administration sends to us based on the argument that we would be tying our negotiators' hands to do otherwise. Senator BYRD pointed out that if we did that, if we accepted that argument, we would not be doing our job. Our job as a Congress is to approve the expenditures of funds. If we believe any such expenditures violate the Constitution, laws, or treaties of this country, it is our obligation not to approve such expenditures.

Mr. President, I ask unanimous consent that an interpretation of the ABM Treaty which has been carried out by Senator NUNN, entitled "Part Four: An Examination of Judge Sofaer's Analysis of the Negotiating Record," be printed in the RECORD. I understand from Senator NUNN it has been declassified and that it is appropriate that I make that unanimous-consent request.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERPRETATION OF THE ABM TREATY

PART FOUR: AN EXAMINATION OF JUDGE SOFAER'S ANALYSIS OF THE NEGOTIATING RECORD

(Senator Sam Nunn)

(Background Considerations)

I. INTRODUCTION

On March 11, I presented Part One of this report, which dealt with the Senate ratification proceedings on this Treaty.[1] In that report, I concluded that the Nixon Administration explicitly told the Senate during the treaty ratification proceedings that the Treaty prohibits the development and testing of mobile/space-based ABMs using exotics. I also concluded that the Senate clearly understood this to be the case at the time it gave its advice and consent to the Treaty and that the evidence of this is compelling beyond a reasonable doubt.

On May 13, the Administration released a new report by Judge Sofaer, the State Department Legal Adviser, dated May 11, which examines the record of the Senate ratification proceedings.[2] The May 11 report contains the material omitted from the original analysis of the subject ratification proceedings conducted by his office. However, it fails to make a convincing case for its conclusion that the Senate was not provided with a clear meaning of those provisions of the Treaty relating to mobile/space-based exotics. I do not agree with Judge Sofaer's conclusion, nor do I accept the State Department's new doctrine that when the Senate gives its advice and consent to a treaty, it is to the treaty that was negotiated, "irrespective of the explanations it is provided." [3]

Footnotes at end of article.

I believe this new doctrine is totally unacceptable from the perspective of the Senate. If adopted by the Administration, it would inflict serious long-term damage on the institutional relationship between the President and the Congress and have destructive consequences for the conduct of U.S. foreign policy. Unless this doctrine is modified, a reasonably prudent Senate would have to take the following steps:

First, the Senate would have to obtain the negotiating record of the treaty, since the Senate certainly could not trust that executive branch witnesses were accurately representing those documents. Because the negotiating record, including the confidential memos and recommendations of our negotiators, would be the focal point of the Senate debate, the Senate would have to insist that it be made public at the commencement of the ratification debate.

Second, the Senate would have to record each and every understanding it has as to the meaning of a treaty in its resolution of ratification—including those points on which there is no apparent disagreement between the Senate and the President. This safeguard would be necessary not only to allow the Senate to assure itself that states party to the treaty agreed with its understanding of the treaty, but also to avoid the risk that fifteen years or so later some future Administation might unilaterally conclude that the negotiating record supports a conflicting conclusion.

Senate resolutions of ratification prepared under this doctrine wound be so laden that they would sink under their own weight. More fundamentally, they would effectively precipitate a renegotiation with all states party to the treaty since they might well object to the wording employed in stating the Senate's interpretation of the meaning of the treaty.

Unless the new doctrine is significantly modified, a reasonably prudent Senate would have to follow these steps in acting on all treaties that are submitted for its advice and consent, including a possible INF treaty, if the Senate is not to be derelict in exercising its constitutional responsibilities.

I hope that this course of action will not be required. I would much prefer that we return to a method of conducting treaty ratification proceedings wherein the Senate can confidently rely upon the representations of executive branch officials. This approach has served the Nation well for 200 years and I believe it can continue to do so.

In Part Two of my report on the ABM Treaty interpretation issue, which I presented on March 12, I reviewed the record furnished by the State Department of U.S. and Soviet practices and statements during the thirteen year period between signing of the Treaty and the announcement of the Reinterpretation in October 1984.[4] Under both international and domestic law, such evidence may be considered in determining the meaning of the Treaty. Based on the information provided to the Senate to date by the State Department, I found no evidence which contradicted the Senate's original understanding of the meaning of the Treaty. On the contrary, I noted that successive administration, including the Reagan Administration, had consistently indicated prior to 1985 that the Treaty banned the development and testing of mobile/space-based ABMs using exotics.

On May 14, the State Department provided the Senate with a previously unavailable volume of classified documents bearing on the question of subsequent practice.[5] A preliminary review of this material reveals that the case for the Reinterpretation is substantially weaker than the Administration's previous analysis had indicated. In particular, Soviet statements in March, 1976 during the SALT II negotiations and in May, 1985 in the Standing Consultative Commission unequivocally underscore the Traditional Interpretation. Other documents in this volume dealing with the negotiation in the SCC in 1977-1978 of an Agreed Statement to the ABM Treaty add to my already considerable skepticism that the SDI's proposed Space-Based Kinetic Kill Vehicle (SBKKV) could be developed and tested under the Treaty even if the Reinterpretation were implemented.

On March 13, I presented Part Three of my report, which contained my summary conclusions about the treaty negotiating record and recommendations as to specific steps the Administration should take to resolve this controversy.[6] Based on my review of the documents submitted by the State Department to the Senate on August 12, 1986, I first noted that Judge Sofaer had identified some ambiguities in the negotiating history. However, I emphasized that these ambiguities were not of sufficient magnitude to demonstrate that the Nixon Administration reached one agreement with the Soviets and then presented a different one to the Senate. On the contrary, the negotiated record contains substantial and credible information which indicates that the Soviet Union and the United States agreed that the development and testing of mobile/space-based exotics was banned. I concluded that the preponderance of evidence in the negotiation record supports the Senate's original understanding of the Treaty—that is, the Traditional Interpretation.

On May 13, the Administration released a new 82-page review by Judge Sofaer of the ABM negotiating record.[7] The new Sofaer report, dated May 11, addresses a number of recently-discovered documents which had not previously been made available to the Senate and presents a substantially revised analysis of the negotiating history. Nonetheless, it reaches the same basic conclusion as in Sofaer's August 6, 1986 memo, which has been available in Room S-407 to Senators and certain staff members since August 12, 1986.[8] With the release of the May 11 report, the Administration declassified Sofaer's analysis along with a number of the memcons and cables from the negotiating record. I am pleased that the Administration also agreed to declassify the report I am submitting today.

Since the August 6 Sofaer memo is the document Senators have had before them for the last nine months, this report will examine that document in considerable detail. I have, however, attached an appendix (Appendix B) which provides some summary observations on the latest Sofaer analysis of the negotiating record.

This report is based on the many hours my staff and I spent in S-407 reviewing the negotiating record. I have been assisted in this review by Robert Bell, a Professional Staff Member on the Armed Services Committee. Mr. Bell, who was one of the six Senate staff members originally granted access to the documents maintained in S-407, has spent a considerable amount of time since August reviewing this file. In addition, I have been assisted in my analysis of legal and international law issues by two other members of the Committee staff, Andrew Effron and Jeffrey Smith. Mr. Effron and Mr. Smith did not have access to the documents in S-407 but contributed in other respects in the preparation of this report, including my review of the newly-declassified studies.

II. DESCRIPTION OF MATERIAL

At the outset, it is important to note that the "negotiating record" provided to the Senate by the Department of State consists of a disjointed collection of cables, internal working documents, prepared talking points, memoranda of conversations (memcons), and National Security Decisions Memoranda (NSDMs) prepared by or sent to the U.S. SALT I Delegation between August 1971 and May 1972.

There is no single document or set of documents that constitutes an official negotiating history. There is no verbatim transcript of the proceedings. Instead, we have a variety of documents of uneven quality. Other than the Treaty itself, the most authoritative documents in the negotiating record are the NSDMs codifying the official instructions to the U.S. Delegation. These directives were signed by the President and represented the formal, coordinated judgment of the executive branch as to U.S. negotiating objective and limitations on the authority of the negotiators.

The bulk of this material is comprised of memcons. These memos recorded the drafter's own recollections of meetings or discussions with the Soviets as written down in the hours or days following such exchanges. Some memcons are quite detailed and contain attachments with prepared statements or talking points which were used in meetings with Soviet delegates; others contain nothing more than cryptic comments. As I noted in Part Three, these unilateral memos are the least persuasive evidence of a Treaty's meaning as a matter of international law.[9] These memcons were not "cleared" with the Soviet Union, and with the exception of the Joint Draft Texts of the Treaty, none purport to represent a mutually agreed view or account of the proceedings unless otherwise noted. Nonetheless, this is the record on which the Reagan Administration's decision was primarily based.

These materials simply do not compare in quality to the debates and reports normally relied upon for interpretation of legislation. Nonetheless, the records provided to the Senate contain a significant amount of material bearing on the issue of the development and testing of exotics.

The material submitted to the Senate by the State Department in August, 1986 also contains two recently prepared reports. The first is the August 6, 1986 Sofaer memo previously mentioned. This document is entitled, "Application of the ABM Treaty to Systems and Components Based on Other Physical Principles." This document is not the original memorandum by Sofaer on which the Administration based its Reinterpretation in October 1985, but rather an updated version which was revised by Sofaer at Ambassador Nitze's request to take into account the so-called "FitzGerald Report."

The FitzGerald Report, which was also submitted to the Senate last year, was authored by Col. Charles FitzGerald under a Department of Defense contract in March 1985.[10] Col. FitzGerald, who was a participant in the SALT I negotiations, prepared the report under the auspices of the Systems Planning Corporation (SPC). The FitzGerald Report was written in the form of a history and did not draw explicit conclusions as to the interpretation of the Treaty.

Nonetheless, the report offers strong support for the Traditional Interpretation of the Treaty. Judge Sofaer has indicated that he had not read the FitzGerald Report prior to presenting his original opinion in October, 1985.

III. IDENTIFICATION OF KEY PLAYERS

The following U.S. and Soviet negotiators played leading roles in the negotiation of the ABM Treaty and are frequently mentioned in this report:

A. U.S. negotiators:

Gerard C. Smith, Head of the U.S. Delegation.

Sidney Graybeal, ACDA Representative; Lead negotiator for Article V.

Raymond L. Garthoff, Executive Secretary to U.S. Delegation, Lead negotiator on Article II and Agreed Statement D.

J. Graham Parsons, State Department Representative.

Lt. Gen. Royal Allison, JCS Representative.

Paul Nitze, Representative of the Secretary of Defense.

Harold Brown, Delegate-at-Large.

John Rhinelander, Legal Adviser.

B. Soviet negotiators:

Ambassador Semenov, Head of Soviet Delegation.

Victor Karpov, Ministry of Foreign Affairs (MFA) Representative; Lead negotiator for Article V.

Oleg Grinevsky, MFA Representative; Lead negotiator on Article II, Agreed Statement D, and Article III.

Kishilov, MFA Representative; Negotiator on Article II, Agreed Statement D and Article III.

Academician Shchukin, Scientific adviser to Soviet Delegation.

General Trusov, A senior Ministry of Defense (MOD) representative.

IV. SITUATION AS OF AUGUST 1971

From the start of SALT I in November 1969 until the summer of 1971, the question of futuristic ABM systems had not been on the table. However, the issue was raised on July 2, 1971, when the U.S. Delegation was instructed, pursuant to National Security Decision Memorandum (NSDM) 117, that the treaty "should make clear that any systems for rendering ineffective strategic ballistic missiles or their components in flight trajectory are prohibited *unless permitted by this agreement*" (emphasis added).[11]

The only "permitted" systems listed in the NSDM were then-current systems—ABM missiles, ABM launchers, ABM radars, and other large phased-array radars. As a result, the directive seemed to call for a ban on the deployment, and perhaps even the development, of all future ABM systems or components other than these three specific types.

Once this was recognized, three different positions developed within the Administration. One faction favored no limitations whatsoever on "exotics"—whether mobile/space-based or fixed, land-based. A second group urged a ban on the deployment of any "exotics." A third faction agreed with a ban on deployment of "exotic" ABM components, but argued there should be an exemption for some related adjuncts, such as sensors.

The issue was resolved in NSDM 127.[12] This directive represented a compromise between the various views represented within the government on the exotics issue. With respect to fixed, land-based exotics, deployment would be banned, but development and testing would be allowed; for mobile/space-based exotics, development, testing, and deployment would be prohibited.

JUDGE SOFAER'S ANALYSIS AND THE NEGOTIATING DOCUMENTS

In this part of my report, I will first summarize Judge Sofaer's analysis of key developments and issues in the negotiating history. I will then assess his analysis on each point in light of my own review of the negotiating documents that were submitted to the Senate by the Department of State last August 12.

I. THE NEGOTIATIONS CONCERNING MOBILE/SPACE-BASED EXOTICS UNDER ARTICLE V(1)

A. *The President's August 12, 1971 instructions to the negotiators concerning mobile space-based exotics.*

1. *Sofaer finds that the negotiators were instructed to achieve an agreement that embodied the "restrictive" view of the treaty, banning development, testing, or deployment of mobile/space-based ABMs using exotics.*

In his analysis, Sofaer takes note of the transmission of NSDM 127 to the U.S. Delegation in Helsinki: [13]

> [O]n August 12, 1971, the U.S. Government issued the following instruction to its ABM negotiators:
>
> [NSDM 127:]
>
> 3. The agreement should contain a provision whereby neither side shall deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the function of these components. (This paragraph along with that in the next paragraph, should not prohibit the development and testing of future ABM components in a fixed, land-based mode.)
>
> 4. The agreement should contain a provision whereby neither party shall develop, produce, test, or deploy:
>
> (a) sea-based, air-based, space-based, or mobile land-based ABM launchers, ABM missiles, or ABM radars;
>
> (b) ABM components other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components.

2. *The negotiating record validates Sofaer's finding with regard to the instruction.*

As noted above, the internal U.S. dispute in the summer of 1971 over the question of how the ABM Treaty should apply to exotics was resolved by President Nixon on August 9, 1971, in NSDM 127. Sofaer accurately notes that the August 12 cable transmitting this decision to the Delegation instructed the U.S. negotiators to reach two separate outcomes on this issue, as reflected in paragraphs 3 and 4 of the directive.

In effect, the negotiators were instructed to differentiate exotics ABMs depending on their basing modes. For exotics that were fixed, land-based, only deployment would be prohibited (Paragraph 3). For "exotics" that were mobile/space-based, however, development, testing, and deployment was to be banned (Paragraph 4). This dichotomy reflected the consensus of the time within the U.S. Government and scientific community that there was a greater potential for laser and other futuristic reasearch evolving into a technology that could be used in the development of ABMs that were ground-based, rather than space-based or air-based.

In sum, the negotiating record supports Sofaer's conclusion that the Delegation was ordered by the President to obtain an agreement that would have the effect of banning the development and testing of mobile/space-based exotics.

B. *The August 17, 1971 U.S. proposal.*

1. *Sofaer finds that the proposal presented by the U.S. negotiators pursuant to NSDM 127 differentiated between fixed, land-based exotics and mobile/space-based exotics and that it contained a comprehensive ban on development, testing, and deployment of the latter, while only prohibiting the deployment of the former.*

In his analysis, Sofaer takes note of the initial presentation of the new U.S. position on exotics: [14]

> On August 17, pursuant to NSDM 127, the U.S. delegation proposed two new sections in the draft of Article 6. Article 6(1) sought to ban the deployment of substitute "devices" for ABM systems:
>
> [U.S. Proposal for New Article 6(1):]
>
> Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components.
>
> Article 6(2) sought to prohibit development, production, testing, or deployment of current ABM components based in any mode other than fixed, land-based, as well as of all substitute "devices":
>
> [U.S. Proposal for New Article 6(2):]
>
> Each Party undertakes not to develop or produce for or test or deploy in sea-based, air-based, space-based, or mobile land-based modes:
>
> ABM interceptor missiles,
> ABM launchers,
> ABM radars or
> *other devices to perform the functions of these components.* (Emphasis in original.)

2. *The negotiating record validates Sofaer's finding with regard to this proposal.*

a. *The U.S. Proposal:*

As Sofaer notes, five days after receiving NSDM 127, Ambassador Smith presented the Soviet negotiators with the following proposal which differentiated between fixed, land-based exotics and mobile/spaced exotics: [15]

> *Initial U.S. Proposal on Exotics:*
>
> 1. Each Party undertakes not to deploy ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components.
>
> 2. Each Party undertakes not to develop or produce for or test or deploy in sea-based, air-based or mobile land-based modes,
>
> ABM interceptor missiles
> ABM launchers
> ABM Radars, or
> other devices to perform the functions of these components.

The first paragraph of the U.S. proposal, which was ultimately included in the Treaty in modified form as Agreed Statement D, implemented Paragraph 3 of NSDM 127, which dealt exclusively with fixed, land-based exotics. Paragraph 2 of the proposal—which included a total prohibition on the development, testing and deployment of mobile/space-based ABMs using "other devices" to perform the functions of interceptor missiles, launchers, and radar (i.e., exotics)—ultimately emerged in modified form as Article V(1).

b. *The U.S. put great emphasis on restricting exotics:*

During the intitial presentation of the new U.S. proposal, the U.S. Delegation took great pains to emphasize that the Treaty should apply to *all types* of future ABM systems and components, including exotics. For example, on August 17, Ambassador Smith stated, "the Agreement would apply to all types of ABM systems, including possible future types of ABM systems, and not only to ABM systems employing ABM interceptor missiles, ABM launchers, and ABM radars. We believe that the Agreement should reflect this explicitly"[16] Sofaer's analysis takes note of this statement by Smith. Later that day, Harold Brown told Academician Shchukin that the U.S. proposal would cover "future kinds of systems, not using the usual components."[17] At an August 27 meeting, Ambassador Smith warned that "if such future systems were not covered, uncertainties would increase, and the result would be an arms race in other ABM systems with the opposite result from that which we sought in an arms control agreement."[18]

c. *Harold Brown's discussion of exotics:*

In addition to the general comments on coverage of future systems, the specific issue of development of exotics was expressly addressed in remarks presented by Harold Brown on August 27. Brown's comments are of particular importance, because his remarks have been cited repeatedly by the United States as an authoritative U.S. statement on the issue of what precisely constitutes "development" under the ABM Treaty. His text, which had been prepared carefully in advance with the specific objective of providing the Soviets with a definitive U.S. statement in response to questions raised by Academician Shchukin, said the following with respect to the new U.S. draft proposal on exotics, which was then denominated as U.S. Article 6:[19]

"With regard to Paragraph 1 of Article 6, Academician Shchukin asked what is meant by "ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." By this we refer to any present or future system which employs other means or devices to perform the functions of interceptor missiles, launchers, or radars in rendering ineffective strategic ballistic missiles or their components in flight trajectory. Our objective in this Article 6 is to establish a commitment that neither side will deploy ABM systems—including possible future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars. Surely we would not want an agreement wich would permit either side to deploy an ABM system both thick and nationwide simply because the system did not use interceptors, launchers or radars. Paragraph 1 of Article 6 is an undertaking not to do so, thus preventing systems or components from using such new concepts from being used to circumvent the ABM agreement. Academician Shchukin noted that paragraphs 2 and 3 of Article 6, as well as paragraph 2 of Article 2 of the U.S. text, refer to limitations on "development". In this connection, he asked for our views on the meaning of "development" and the practicality of limitations on development. By "development" we have in mind that stage in the evolution of a weapon system which follows research (in research we include the activities of conceptual design and laboratory testing) and which precedes full-scale testing. The development stage, though often overlapping with research, is usually associated with the construction and testing of one or more prototypes of the weapon system of its major components. *In our view, it is entirely logical and practical to prohibit the development—in this sense—of those systems whose testing and deployment are prohibited.*" (Emphasis added.)

Sofaer cites this statement by Brown, but he does not mention Brown's comments as to the *practicality* of incuding a prohibition on the development of any mobile/space-based ABMs covered by U.S. Article 6(2), including exotics (i.e., the underlined section cited above).

d. *Other U.S. Statements Concerning Exotics:*

In other meetings prior to September 15th, U.S. negotiators continued to hammer at this theme in their meetings with the Soviet side, stressing the necessity of not leaving open a loophole in the treaty restrictions which could be exploited through the development and deployment of exotics. On September 3, Ambassador Smith declared that a "fundamental question before the sides is whether we are trying to limit ABM *systems* or just ABM interceptors, launchers and radars," adding that the Treaty would be a "cruel illusion" if exotics were left out.[20] This statement is also noted by Sofaer.

During a meeting with Karpov on September 8, Graybeal stressed that the proposed U.S. Article was intended "to address future ABM systems that would utilize components or devices other than launchers, interceptor missiles, or radars."[21] When asked why limitations on exotics could not be left for the SCC to negotiate, Graybeal replied that "an operative article indicating clearly the obligations with regard to improvement of existing ABM systems and with regard to future systems would be far more useful than merely referring these questions to the Standing Commission."[22]

This statement, in particular, could have left no doubt on the Soviet side that the U.S. proposal to ban development, testing, and deployment of mobile/space-based systems applied *not only* to new versions of the then-current fixed, land-based ABM components, *but also* to future systems using components or devices other than these three elements. In this statement, which is not discussed by Sofaer, Graybeal clearly distinguished between "future systems" and future versions of then-current ABMs—a distinction which goes to the heart of Sofaer's hypothesis concerning a crucial discussion that followed between Graybeal and Karpov on September 15.

e. *Summary:*

The U.S. negotiators were consistent in forcefully advocating the position set forth in their instructions, as embodied in the U.S. proposal, that development, testing and deployment of mobile/spaced-based ABM exotics should be prohibited; development and testing (but not deployment) of fixed, land-based exotics could go forward. Sofaer agrees that the U.S. Delegation faithfully presented this proposal consistent with its original instructions, though he fails to point out that the U.S. side explicitly confirmed that its proposal included not only future versions of then-current ABM components but also futuristic or exotic ABM components.

C. *Initial Soviet reaction to the U.S. proposal in August and early September, 1971.*

1. *Sofaer finds that the Soviet delegation categorically rejected the U.S. proposals limiting exotics.*

Sofaer contends that Academician Shchukin's initial response to the new U.S. proposal, as stated by the Soviet delegate in response to a question by Harold Brown on August 17 (the day the new U.S. proposal was first presented), was indicative of the position that the Soviet negotiators would repeat for the next five months. As characterized by Sofaer, Shchukin told Brown "that the Parties should not attempt to deal with future possibilities."[23]

Sofaer supports his assertion by citing a number of Soviet statements during the following four weeks critical of the new U.S. proposal, including statements by Shchukin on August 24, Semenov on August 27, Trusov on August 31 and September 3, Karpov on September 8 and 13, and Fedenko on these same dates. Sofaer's presentation of these statements is accurate, but incomplete and misleading.

2. *Contrary to Sofaer's claim, the negotiating record demonstrates that the initial Soviet response left open the potential for agreeing on limitations on ABMs using exotics.*

As noted above, Sofaer cites a number of negative Soviet statements about the U.S. proposal. However, he fails to take note of other Soviet statements suggesting that the U.S. proposal might be *accepted* if the U.S. Delegation would disclose details about U.S. futuristic systems. Moreover, in contending that the U.S. proposal was categorically rejected by the Soviet side, Sofaer fails to consider various tactical explanations for the Soviets' initial decision to hold the proposal at arms length. these include their desire to probe for secrets about U.S. research, their interest in obtaining clarifying language in order to assess whether the U.S. proposal would unduly restrict their air defense program, and their need to stall for time pending receipt of instructions from Moscow. Each of these aspects of the initial Soviet response will be considered below.

a. *Probing for U.S. Secrets:*

Rather than immediately and categorically rejecting the U.S. proposal—as Sofaer claims—the Soviets in fact took a far less prejudicial position. For example, Sofaer neglects to mention the *official* response of the head of the Soviet Delegation, Ambassador Semenov. Following Ambassador Smith's presentation of the new U.S. position, Semenov replied that "the proposal of the U.S. side on Article 6 would be carefully studied."[24]

Indeed, Sofaer fails to acknowledge that the Soviet side repeatedly raised the possibility of *favorable* consideration of the U.S. position if the United States would provide detailed information on the specific exotic ABM systems it had in mind. In the days immediately following the initial U.S. presentation of the new proposal on exotics, members of the Soviet delegation all appeared to be working from a script designed to discover as much as possible about U.S. programs and capabilities in this highly classified area.

A case in point is the August 17 discussion between Academician Shchukin, Harold Brown, and Paul Nitze. As noted above, Sofaer argues that Shchukin's comments at this informal meeting were representative of the negative Soviet reaction to the U.S. proposal. However, Sofaer's characterization of Shchukin's remarks fundamentally misrepresents what Shchukin actually said. Contrary to Sofaer's claim, Shchukin did *not* indicate (in Sofaer's words) "that the parties should not attempt to deal with future possibilities." What he *did* say was that "there might be some difficulty in getting the politicians and diplomats to consider this problem, because if one could not point to specific systems in or near development, the politicians and diplomats would probably not be interested in future possibilities."[25]

Sofaer also fails to mention that while Shchukin downplayed the importance of agreeing to restrictions in this area, he also said that "it might be all right to include such a ban." In fact, Shchukin appeared to suggest that such an outcome was certainly conceivable by commenting: "The wording and terminology covering such things would have to be determined in the end by the diplomats, advised by the rest of us." This statement, too, is omitted by Sofaer. Finally, Sofaer fails to note the interesting remark by Nitze at this same meeting that "Shchukin himself had raised the possibility of future kinds of systems in informal conversations." [26]

On August 24, Shchukin probed further on the new U.S. proposal, saying: "This is an entirely new provision and the Soviet side is not clear on its meaning and substance. What did the U.S. have in mind in speaking of such ABM systems, and such devices?" [27] Sofaer notes this question by Shchukin, but he fails to mention Shchukin's two succeeding questions about U.S. Article 6(2): First, Shchukin asked: "Would it be possible for the U.S. to clarify its understanding of the notion of 'development' and of the practical application of limitations at this stage?" Second, he inquired as to how the United States would propose to verify such a ban *"if it were accepted by the sides."* (Emphasis added.) None of these three questions reflects a categorical rejection of the U.S. proposal, as Sofaer maintains.

At an informal meeting with two U.S. delegates on August 31, General Trusov firmly opposed trying to limit in the Treaty what he termed "undefined ideas", a criticism which Sofaer cites in some detail.[28] However, Sofaer omits Trusov's request that the U.S. side provide him an example of "what we had in mind when we spoke of an ABM system which does not include launchers, interceptor missile and radars."

It is also interesting that Sofaer cites—but fails to address the full implication of—another statement by Trusov at this meeting. According to the memcon prepared by the U.S. side, Trusov *conceded* that "development, testing and deployment of such future systems *would be observed* by our national means of verification and the review process could take care of *the necessary prohibition or limitation.*" [29] (Emphasis added.)

In other words, Trusov did not claim that it would be impossible to detect the development or testing of mobile/spaced-based exotics. Nor did he claim that it would be impossible to negotiate limitations in such areas. Rather, he was simply arguing that the task of negotiating such limitations should be left to a succeeding phase via the SCC rather than be taken on during the treaty negotiations themselves. It is interesting to note that this is the same position the Soviets took initially with regard to limitations on the deployment of fixed, land-based exotics—a position the U.S. Delegation eventually overcame, just as it overcame the initial Soviet position that the question of limiting the development and testing of mobile/space-based extoics should be deferred until after the Treaty as signed.

Three days later, Trusov made a major intervention on the subject of exotics at a mini-plenary session. Trusov declared that "the Soviet side does not believe it is correct to include such limitations." [30] However, he also again dangled the "carrot" of possible Soviet *agreement* if the U.S. Delegation would be more specific. Trusov declared: "If such systems exist, then they should be named and the subject would be made more clear and *could become the subject for further discussion.*" (Emphasis added.) This statement is not cited by Sofaer.

Karpov reinforced this theme on September 8, saying that "if the U.S. side believes that such systems exist, then it should identify them and name them so that the possibilities to limit them could become clear."[31] Colonel Fedenko—another Soviet MOD representative—also weighed in, saying at another meeting that day that "these 'other means' should be identified if they are known at the present time." [32] Sofaer cites Fedenko's comments at this meeting that were critical of the U.S. propoals, but he omits the Soviet delegate's concluding—and far less categorical statement—that "the Soviet side realized the U.S. side had required a long time to arrive at its foundation of this paragraph and consequently, the Soviet side would require some time to understand the need for including such a paragraph." [33]

Sofaer also fails to mention Fedenko's statement five days later that:

"[I]f the U.S. side could define what it was talking about then national means could probably verify such activities because presumably it would be mandatory to test such conceptual devices. The Soviet side would then be in a position to determine whether such systems should be in an ABM Treaty." [34]

Even more damaging, though, is Sofaer's surprising failure to discuss—or even take note of—a crucial portion of the August 12 instructions from President Nixon to the U.S. negotiators which outlined the basic strategy for handling the issue of exotics. This portion of National Security Directive Memorandum 127, denominated as Paragraph 5, read as follows: [35]

[Paragraph 5, NSDM 127:]

"In presenting this position, the Delegation should not invite a detailed negotiation or discussion of future ABM systems. Our objective is to reach agreement on the broad principle that the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components. We intend to handle any problems that may arise through the Joint Commission and the formal review procedures."

This key instruction helps explain the negotiating environment which produced a final text on mobile/space based ABMs that is less explicit with respect to exotics than originally proposed by the U.S. Delegation. Paragraph 5 of NSDM 127 reflected the extreme sensitivity within the U.S. Government about the dangers of revealing too much information about highly-classified U.S. military research then being conducted in such areas as lasers and particle-beam weapons.

The initial Soviet response to the U.S. offer on exotics placed the U.S. Delegation in a difficult position. It was under strict instructions not to accede to the Soviets' requests that they provide details of the "other devices" we had in mind. As Graybeal said in an interview, "I knew if I talked details I was going to catch hell." [36] At the same time, the U.S. Delegation had to ensure that the ban on mobile ABM systems and components left no loopholes for exotics. In this situation, NSDM 127 instructed the Delegation to hold firm in refusing to divulge details of our own programs, *even if* that meant settling for a provision on exotics less explicit than the United States had originally preferred. In short, NSDM 127 pushed the Delegation toward a compromise outcome.

b. *Protecting Soviet air defenses:*

As Soviet efforts to learn the details of futuristic U.S. programs were rebuffed, the thrust of Soviet commentary on the U.S. proposal began to shift, and another—but equally parochical—Soviet interest came to the fore. By early September, it became clear that a principal reason the Soviets were concerned about U.S. Article 6 was that the language dealing with "other devices to perform the functions" of ABM components was in their view so broad that the United States might try to apply it to elements of the Soviet air defense network, especially surface-to-air missiles (SAMs) and air defense radars.

That the Soviets were insistent that the ABM Treaty not limit their air defenses was not a new discovery for the U.S. Delegation. Deep-rooted Soviet concern on this point had been raised early in SALT I and it remained a central stumbling block in negotiations that were continuing on other provisions of the accord, including Article II, which defined the scope of the Treaty, and the U.S. proposal for Article VI(a), which would bar any upgrades of non-ABM capable missiles, launchers or radars to give them an ABM capability.[37] Indeed, the level of Soviet anxiety on the air defense issue was so pronounced that Harold Brown described it at a later mini-plenary as an "aversion" and Paul Nitze felt obliged to assure Shchukin that the United States "fully understood" the Soviets' "sensitivity" on this score.[38]

Yet, surprisingly, the words "air defense" do not appear anywhere in Sofaer's memo. There is no indication that he was cognizant of the role that this Soviet concern played in the negative Soviet reaction to the original draft of the new U.S. proposal on "exotic" ABM systems, despite the crucial role that the issue of air defenses played in the overall context of these discussions.

c. *Stalling for time:*

The Soviets' initial response also apparently reflected the fact that the new U.S. proposals on exotics caught the Soviets off guard—a point which was underscored in interviews with a number of the former negotiators. Graybeal, for example, stated that Karpov apparently did not recieve instructions as to how to reply until later in the summer.[39] In Graybeal's view, once Moscow provided guidance on how to proceed, the two sides rather quickly were able to conclude an understanding on mobile/space-based "exotics", though differences on fixed, land-based exotics (which were further along in both the U.S. and Soviet research programs) continued to tie up the negotiations for months.

D. *U.S. and Soviet offers and counteroffers on exotics during the first two weeks of September 1971.*

1. *Sofaer maintains the Soviet side gave no indication it was prepared to agree that the restrictions under Article V(1) on mobile/space-based ABMs should extend to exotic systems.*

In his discussion of a key U.S./Soviet discussion of Articles 2 and 6 of the U.S. draft during a September 8 meeting of the Karpov-Graybeal Ad Hoc Committee, Sofaer cites a number of Soviet statements critical of the U.S. texts and concludes, "The statements of Karpov and Graybeal make clear that Soviet opposition to dealing with unknown 'devices' related, not only to the proposed regulation of such substitute 'devices' in fixed, land-based systems under Article 6(1), but also to the regulation of such 'devices' in mobile (including space-based) systems in Article 6(2)." [40]

Similarly, with reference to another Karpov-Graybeal exchange on this subject on September 13, Sofaer finds, "Thus, while the U.S. wanted to prohibit testing, development, and deployment of any 'device' that could be used to substitute for an ABM mobile system or component, the Soviets wanted to apply these prohibitions only to existing components, which they contemplated would be specially constructed for such ABM systems." [41]

In short, Sofaer sees no indication of a possible Soviet intent to compromise on the issue of including exotic systems under the restrictions of Article V(1) during the two weeks precedent to the crucial September 15 meeting.

2. *The negotiating record demonstrates that the Soviets declared that Article V had a broader scope than that of Article II, which the Soviets were then limiting to existing ABM components.*

Once it became evident that the negotiations over the new U.S. proposal on exotics were going to be difficult, the two sides agreed that the matter should be referred to an ad hoc SALT I sub-panel, headed on the Soviet side by Victor Karpov and, on the U.S. side, led by Sidney Graybeal. The mandate of the Graybeal-Karpov Ad Hoc Committee in August and September of 1971 included more than the issue of exotics. It had also been assigned the responsibility for resolving differences over the definitional provisions, which were contained in Article II of the Treaty.

From an early stage in the negotiations, both sides had wanted Article II to define the ABM systems and components that would be limited under the Treaty, but they disagreed on the formulation and scope of this article. The Soviets initial approach, which they followed until December 1971, would have limited the ABM components defined in Article II to those ABM components then in use; i.e., ABM missiles, launchers and radars. The Soviets described this as an "obligational" approach—that is, the article would have contained a precise list of the systems covered by the obligations of the Treaty.[42] The U.S. side put forward what is described as a "definitional" approach wherein Article II would provide definitions of terms used throughout the Treaty.

Despite their initial divergence in approach, the two sides agreed that their respective texts for Article II, standing alone, created no obligations under the Treaty. For example, on September 2, Karpov said: "It seems clear the Soviet version [of Article II] precisely expresses no obligations, but the systems that should be covered by the obligations." [43] At another meeting of the subpanel, Graybeal agreed, noting that Article II "is not intended to represent a list of obligations to be assumed." [44] During the same meeting, Graybeal stated that "neither the U.S. nor the Soviet versions of this paragraph set forth obligations to be assumed." [45]

With this background in mind, a September 2 statement by Karpov pointing to a key distinction between Article II and Article V is particularly significant. During a discussion of Article II, Graybeal asked Karpov is the obligations contained throughout the Treaty would apply only to the ABM systems and components listed in Article II of the Soviet draft. In other words, would the ban on the development, testing, or deployment of mobile/space-based ABMS in Article V(1) apply *exclusively* to ABM missiles, launchers and radars?

Karpov replied that the "fundamental basic obligations which deal with *numerical* limitations in the Soviet Article III would be applied to these systems," but added that that "does *not* mean that there would not be *other obligations* listed in the treaty which would cover *other systems*." [46] (Emphasis added.) He then specifically declared that Article V was one such "other" article. In short, Karpov distinguished between, on the one hand, those provisions in the Treaty which dealt with "numerical" limitations (e.g., how many ABMs could be deployed) and would therefore deal narrowly only with existing types of ABM missiles, launchers, and radars and, on the other hand, those provisions that dealt with "other obligations" (e.g., qualitative issues, such as a flat ban on the development, testing, or deployment of certain types of ABMs) and would therefore have a broader scope. Article V, he confirmed, fell into the later category.

Sofaer concedes that this important Karpov statement is consistent with the traditional interpretation, saying that the Karpov statement "provides limited support for the position that the Soviets would have accepted regulation of any ABM system with substitute devices for the usual components." [47] However, he makes this concession almost in passing and never reconciles it with his basic thesis that the Soviets never agreed to include exotics under the coverage of Article V.

E. *U.S. and Soviet decisions on Articles V(1) between September 15-24, 1971.*

1. *Sofaer finds that the parties failed to agree on limiting exotics in this Article.*

In a crucial exchange on September 15, 1971, Karpov and Graybeal discussed proposals for limiting exotics, Sofaer takes the position that any agreement reached at that time on Article V(1) dealt only with future versions of then-existing ABM components, and not with exotics. In Sofaer's view, the discussions during the September 15 meeting "fail to reflect Soviet acceptance of regulation of 'other devices.' Rather, they indicate a Soviet willingness to drop language from the Soviet draft Article V(I), to which the U.S. had objected on grounds unrelated to the 'other devices' issue, in exchange for agreement by the U.S. to drop the language extending the Treaty's regulation to 'other devices.' [48]

2. *The negotiating record shows that the parties explicitly agreed that the restrictions on testing and deployment of mobile/space-based ABMs applied to any type of present or future components of ABM systems, and this included exotics.*

a. *Background: The Soviet counter-offer and U.S. response.*

During the discussion of the U.S. proposal at the September 8 meeting, Karpov presented a proposal aimed, inter alia, at prohibiting testing of mobile/space-based systems, a proposal which the memcon of that meeting describes as a Soviet attempt "to merge the language" of the two sides' respective texts: [49]

"Each Party undertakes not to construct, not to test and not to deploy mobile land-based, sea-based, air-based or space-based, ABM systems and their components, specially constructed for such systems."

Graybeal asked whether the language of the Soviet working paper covered devices other than ABM launchers, interceptors, and radars, and whether transportable systems or components would be considered as mobile systems or components. Karpov initiated a lengthy discussion related to transportable systems, but did not address that aspect of the question dealing with devices other than missiles, launchers, and radar.

At the next meeting of the subpanel on September 13, Karpov proposed a new text for Article V which incorporated a few changes in paragraph (2) but left paragraph (1) unchanged from the text he had proposed on September 8. In a statement not mentioned by Sofaer, Karpov said that the Soviet proposal for Article V "took into account the wishes of the U.S. side." [50]

Graybeal responded by presenting a new U.S. proposal on mobile/space-based exotics, which read as follows: [51]

"Each Party undertakes not to develop, test or deploy sea-based, air-based, space-based, or mobile land-based ABM interceptor missiles, ABM launchers, ABM radars, or other devices for performing the functions of these components."

Graybeal and Karpov then spent the rest of the meeting discussing Article II. Nonetheless, at the close of the meeting they agreed that the negotiations on Article V(1) had progressed the stage that a special meeting, with only two officials from each side present, would be "useful." [52]

b. *The September 15 Karpov-Graybeal exchange:*

To recap, this decisive meeting began with the following respective Soviet and U.S. texts for that became Article V(1) of the Treaty on the table:

Proposed Soviet Text For Article V(1):

Each Party undertakes not to construct, not to test and not to deploy mobile land-based, sea-based, air-based or space-based, ABM systems and their components, specially constructed for such systems.

Proposed U.S. Text For Article V(1):

Each Party undertakes not to develop, test or deploy sea-based, air-based, space-based, or mobile land-based ABM interceptor missiles, ABM launchers, ABM radars, or other devices for performing the function of these components.

The U.S. memcon of the meeting provides the following account of the events that then transpired: [53]

"Karpov argued that the new formulation [of the Soviet test] . . . obviates that requirement for the phrase "other devices for performing the functions of these components" appearing at the end of [the U.S. test] . . . The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors, and radars) and substitute the word "components" (using the literal Russian word "komponenty") for this instead of the word for "Components" ("predstva") used in Article 2 when referring to launchers, interceptors or radars. *Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components" of ABM systems.* Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording . . . Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 [i.e., the U.S. proposal to prohibit the deployment of fixed, land-based exotics] would remain bracketed as a U.S. proposal." (Emphasis added.)

Several points from this account deserve emphasis. First, and most importantly, Karpov—the senior Soviet delegate tasked with negotiating an agreement on this provision—provided a clear verbal confirmation that the United States would be correct in interpreting the words in the new Soviet proposal as applying to *"any type of present or future components"* of ABM systems.

The memcon presents the words underlined above in quotation marks, indicating that this was a verbatim account of the words actually spoken by Graybeal and confirmed by Karpov. In this regard, it is important to note that the plain meaning of the words "any type" is precisely that; i.e., *all* types, not *some* types.

Second, Karpov's statement was not made casually or in an off-hand manner. Rather, he made the statement expressly to confirm a specific interpretation of a proposed compromise on this issue—a compromise which he believed would resolve the issue of the Treaty's applicability to mobile/space-based exotics. To repeat, this was not an idle observation offered by a junior Soviet delegate at a cocktail party; on the contrary, it was an authoritative statement made by the senior Soviet official handling this matter at a formal negotiating session that had been called for the express purpose of concluding a final deal on this issue.

The 1985 FitzGerald report amplifies on the account in the memcon and provides an explanation of two working papers which are attached to the memcon of the September 15 meeting which was submitted to the Senate last August. The FitzGerald report notes that after Karpov confirmed Graybeal's interpretation of the meaning and effect of the Soviet text, Graybeal put forward two "alternatives"—either of which he said could be selected by the two sides as representing the end product of the six meetings of the Ad Hoc Committee.

Alternative 1, including the original footnotes and parentheticals, reads as follows:[54]

"Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM interceptor missiles, ABM launchers, [or] ABM radars [or other devices for performing the functions of these components.] [specially constructed for such systems.]"

This "alternative" would have reflected the position of the two sides before the September 15 discussion; i.e., with a basic disagreement remaining as to which of the two bracketed phrases to include—the U.S.-proposed text, "or other devices for performing the functions of these components"; or the Soviet-proposed text, "specially constructed for such systems". In short, Alternative 1 would have reflected an acknowledgement that the parties had ended the round unable to agree on this issue.

Graybeal's second alternative read as follows:[55]

"Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems *or any components therefore.*" (Emphasis added.)

Graybeal's use of the words "or *any* components therefor" was expressly intended by him to make explicit his agreement with Karpov that the provision covered, literally, *any* type of present or future component—that is, *all* types of future components, including exotics.[56] In short, Alternative 2 embodied the explicit understanding between Karpov and Graybeal that all future ABM components would be covered under the prohibition.

The September 15 memcon does not indicate whether Karpov chose between these two alternatives at the meeting. However, the comment in the memcon that "Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase 'specially constructed for such systems' be dropped from the Soviet wording" can be read as evidence that Karpov was inclined to accept Alternative 2, since this phrase was bracketed in Alternative 1. With this Soviet concession in hand, Graybeal then said—as noted in the memcon—that "he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation."

Thus at the close of this important meeting, the question for the American side was whether Alternative 2—which incorporated both the Soviet concession on "specially constructed" and Karpov's commitment that the text applied to "any type of present or future ABM components"—satisfied the delegation's instructions as contained in National Security Decision Memorandum 127. In short, did this text provide for a ban on the development and testing of mobile/space-based exotics even though it did not contain the explicit language on "other devices"?

For the Soviets, the question was whether Alternative 2 was acceptable in the context, first, of Karpov's assurance that this text would be read by the Soviet Union as applying to future ABM components and, second, of Karpov's agreement to delete wording which their side had previously insisted upon (i.e., the wording on "specially constructed").

c. *The Soviets accept Alternative 2:*

On September 17, the Soviet side accepted Alternative 2 at a meeting of the U.S./Soviet Special Working Group, which was tasked with drafting a Joint Draft Text (JDT) of the Treaty.[57] A U.S. proposal to make a technical correction in the provision by changing the words "or any components therefor" in Alternative 2 to read "or their components" was accepted by the Soviets on September 22. As a result, the mutually agreed U.S./Soviet Joint Draft Text (JDT) of September 23, 1971 read as follows:[58]

"Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems or their components."

d. *The U.S. Delegation advises Washington of the Article V(1) agreement on exotics.*

On September 24, the U.S. Delegation reported to Washington in its end-of-round cable that the text of the proposal for U.S. Article 6(2) "including components for future ABM systems which are not fixed and land-based . . . was agreed ad referendum."[59] To repeat, the U.S. Delegation closed out this round of the negotiations by formally reporting to Washington that it had reached agreement with the Soviets that the development, testing, or deployment of mobile/space-based ABM systems or components, "including components for future ABM systems", would be banned.

There is thus a clear line from the initial U.S. proposal on exotics on August 17 through the September 15 Karpov-Graybeal exchange to the formal report of the delegation on September 24 that is consistent with the Traditional interpretation of the treaty (i.e., a prohibition on the development and testing of all mobile/space-based ABMs, including those using exotics). The negotiating record reveals no dissent as to this outcome from within the Delegation, nor is there any evidence in this time frame that Washington expressed any concern or doubt as to the fact that the wording of this provision satisfied the instructions to the negotiators in National Security Decision Memorandum 127.

The absence of any dissenting views in the negotiating record is particularly telling in view of the manner in which the U.S. Delegation was organized. Ambassador Smith has pointed out that each government agency had its representatives on the Delegation, producing a number of separate "groups" within the team.[60] Each group kept its own checklist of the negotiating instructions, and a particular item would be crossed off only after agreement was reached among all groups. Smith has characterized this process as extremely competitive, in the nature of a "continuous audit." In his view, this "built-in" system of checks and balances meant that if there had been any significant disagreement as to what had been negotiated, that dissent would have "jumped right out" of the negotiating record.

3. *Sofaer's reinterpretation of the September 15 Graybeal/Karpov exchange.*

Sofaer has raised a number of challenges to the traditional view of the September 15 Graybeal/Karpov understanding. These are discussed below.

a. *Meaning of the word "components":*

Sofaer's case for the reinterpretation of the ABM Treaty rests in large measure on the hypothesis that Karpov did not mean what he appeared to say on September 15, 1971—that he in effect uttered an imprecision. Sofaer contends that Karpov did not intend to agree that *all* types of future components of ABM systems would be covered by Article V(1), but rather only *some* types. Specifically, Sofaer argues that Karpov was only agreeing that future versions or follow-on generations of *then-current* ABM components (i.e., ABM missiles, launchers and radars) would be subject to this provision. To illustrate, this would mean that the Soviet Union could not develop, test or deploy in a mobile/space-based mode the ABM missiles, launchers, or radars *then-deployed* around Moscow, nor could it develop, test or deploy a *future* version of any of these three fixed, land-based ABM components in any of these mobile basing modes, but it could develop and test all mobile/space-based ABM components *other than* missiles, launchers or radars (i.e., all exotics).

Sofaer presents no *direct* evidence that Karpov excluded exotics from coverage under Article V(1). He points to no explicit statement in the negotiating record wherein Karpov or any other Soviet negotiator expressly declared that this provision did *not* apply to such systems. Instead, Sofaer's case is basically deductive and inferential.

(1) *Sofaer contends that the parties used the word "devices" when referring to exotics and the word "components" when referring to then-current ABMs.*

The central premise of Sofaer's argument is that the wording of the Karpov-Graybeal agreement consisted of narrow "words of art" which effectively excluded mobile/space-launched ABMs using exotics.[61] Sofaer contends that the semantic distinction between 'devices' and 'systems and components' was an important one, recognized as such by the negotiators. In the specific case of the September 15 exchange, he argues: "when the Soviets used 'systems and components' in the context of Article V(1), they understood those words to exclude 'other devices' as used in the U.S. working papers on Article 6(2)."[62]

The essence of Sofaer's argument is that both the U.S. and the Soviet delegations equated ABM missiles, launchers and radars with the word "components" but when they wanted to refer to lasers or other exotics, they used other words. In the case of the U.S. it was the phrase "other devices." Sofaer contends that the Soviets refused to accept the phrase "other devices" and instead used such phrases as "undefined ideas" or "conjectural systems" to describe exotics.

Proceeding from these assumptions, Sofaer asserts that when Karpov agreed that Article V(1) applied to "any type of present or future components" of mobile/space-based systems, he "agreed to regulate only future 'systems' and 'components,' as he said, and not devices other than those systems and components, words he refused to accept." [63]

(2) *Sofaer's suggestion that the parties used the terms "devices" and "components" as specialized terms of art is inconsistent with his analysis of Agreed Statement D.*

This hypothesis is inconsistent with Sofaer's own analysis of Agreed Statement D. The core of Sofaer's case for the Reinterpretation is the argument that Agreed Statement D, and Agreed Statement D alone, represents the parties' agreement on the questions of what limits should apply to exotics. He reads Agreed Statement D to bar their deployment, but not testing and development. The word "devices," however, which Sofaer equates with exotics, appears nowhere in Agreed Statement D. Instead, Agreed Statement D, which expressly addresses exotics ("ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars") and which is cited by Sofaer as the basis for prohibiting their deployment, refers directly to the "obligation not to deploy ABM *systems and their components.*" Sofaer fails to explain how Agreed Statement D, which uses the word "components," can be read to ban deployment of exotics, while the September 15 Graybeal-Karpov exchange—which used the word "components,"—cannot be read to apply to exotics because it did not expressly use the word "devices."

(3) *The negotiating documents repeatedly refute Sofaer's contention that the parties used the terms "devices" and "components" as specialized terms of art.*

An even more substantial problem for Sofaer's suggestion that "components" and "devices" were narrow terms of art is that it is directly contradicted throughout the negotiating documents. Although the original texts of the formal U.S. proposals for what became Article V(1) and Agreed Statement "D" used the words "other devices" in referring to futuristic systems, the negotiating documents are replete with examples in which Soviet and American negotiators routinely referred to "future systems" or "future components" when they were talking about lasers and other exotics.

The untenable nature of Sofaer's discussion of the word "components" is illustrated by the instructions to the negotiators in National Security Decision Memorandum 127. In each of the three key paragraphs of this crucial document, the U.S. Government used the word "components" as applicable to exotics. In Paragraph 3, NSDM 127 directed the Delegation to protect the right to develop and test fixed, land-based exotics, describing them as *"future ABM components."* (Emphasis added). In Paragraph 4, the directive instructed the Delegation to achieve a ban on the development, testing, and deployment of mobile/space-based exotics, referring to them as *"ABM components* other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components." (Emphasis added). And in Paragraph 5, NSDM 127 cautioned that Article V should not be interpreted in a way that would allow the Soviets to circumvent its restrictions "through *future ABM systems and components."* (emphasis added)

If Sofaer's analysis were correct, each of these provisions would have referred to "devices" rather than "components." Instead of providing a basis for Sofaer's reinterpretation, the consistency between the instructions and the September 15 Graybeal-Karpov exchange reinforces the validity of the Traditional Interpretation presented to and accepted by the Senate in 1972.

The following selections from the negotiating record (underlining not in original memcons) further illustrate the extent to which U.S. and Soviet negotiators used the words "components" or "system" in a broader sense than merely missiles, launchers and radars, or used words different than "other devices" to describe exotics. Rather than revealing a scrupulous observance of a narrow definition of the words "systems" and "components"—as Sofaer claims—the record indicates an extraordinary degree of interchangeability of such phrases as "future systems", "future components," "future devices," "future means," "future types," and "future kinds."

August 17, 1971. Ambassador Smith: "the Agreement should apply to *all types of ABM systems,* including possible *future types of ABM systems,* and not only to ABM systems employing ABM interceptor missiles, ABM launchers, and ABM radars.[64]

August 17, 1971. Harold Brown: ". . . *future, kinds of systems,* not using the usual components . . .[65]

August 27, 1971. Harold Brown: "Surely we would not want an agreement which would permit either side to deploy an ABM system both thick *and* nationwide simply because the system did not use interceptors, launchers, or radars. Paragraph 1 of Article 6 is an undertaking not to do so, thus preventing *systems or components* using such new concepts from being used to circumvent the ABM Treaty.[66]

August 27, 1971. Ambassador Smith: "If such *future systems* were not covered, uncertainties would increase and the result would be an arms race in *other ABM systems* with the opposite result from that which we sought in an arms control agreement.[67]

August 31, 1971. General Trusoy: ". . . development, testing and deployment of such *future systems* would be observed by our national means of verification. . . .: [68]

September 2, 1971. Victor Karpov: ". . . a *system whatever it might be,* if it is tested in an ABM mode it is an ABM *system.*[69]

September 3, 1971. General Trusov: "The U.S. side's objective in including a paragraph in Article 6 to provide obligations not to deploy ABM systems, *including future systems which use components other than* ABM launchers, interceptors and radars is not clear . . . what is, in fact, involved is conjectural systems, i.e., some possible *future systems* not now known to anybody.[70]

September 6, 1971. Victor Karpov: ". . *any* system tested in an ABM mode would be an *ABM system.* . . ." [71]

September 8, 1971. Sidney Graybeal: (the August 17 U.S. proposal on exotics) "is intended to address *future ABM systems* that would utilize *components or devices* other than launchers, missiles, or radars." [72]

September 8, 1971. Colonel Fedenko: "The same situation would prevail in the future as regards *other means* that might be used for ABM systems." [73]

September 8, 1971. Sidney Graybeal: "(Article V(1)) is intended to address *future ABM systems* that would utilize *components or devices other than launchers, interceptor missiles or radars."* [74]

September 8, 1971. Victor Karpov: "The (SCC) would make it possible to handle such questions of *future systems.*[75]

September 8, 1971. Sidney Graybeal: "An operative article, indicating clearly the obligations with regard to improvement of existing ABM systems and with regard to *future systems* would be far more useful than merely referring these questions to the Standing Commission." [76]

These statements by U.S. and Soviet negotiators, which preceded the decisive September 15 Graybeal-Karpov exchange, confirm that both sides routinely referred to future ABM "systems" and "components" when they were discussing exotics. There is simply no basis for Sofaer's claim that there was an inviolable rule by which all references to future ABM "systems" and "components" excluded exotics and referred only to ABM missiles, launchers, and radars. From the point of view of both semantics and common usage of these words by the negotiators themselves, there is no reason to believe that when Karpov agreed with Graybeal's interpretation that Article V(1) applied to "any type of present or future components" of ABM systems, the two men were under any misconception as to exactly what they were discussing.

This conclusion is underscored by the fact that when the U.S. Delegation reported this agreement to Washington on September 24, it did *not* use the words "other devices." Instead, as previously mentioned, it reported that the agreement on mobile/space-based ABMs included *"components* for future ABM systems which are not fixed and land-based." (emphasis added) Yet, the Delegation did *not* inform Washington that this reflected a fundamental failure to carry out its instructions, as communicated six weeks earlier in NSDM 127. To the contrary, the intent of the cable was to inform Washington that an important part of the U.S. Delegation's instructions *had* been successfully achieved.

The conclusion that "future components" and "other devices" were seen by both sides as essentially interchangeable is further substantiated by a subsequent important statement by General Allison on February 1, 1972. In the course of a discussion with General Trusov about the use of the words, "systems," "components," and "devices," Allison observed that:[77]

"Both sides have a clear understanding for some time that within the context of our negotiations when we speak of an AMB system we are referring to a system made up of three components—ABM launchers, ABM intercepter missiles, and ABM radars. We also appear to agree that substituting a different *component* for one of these three in the future would result in what we refer to as a *"future"* or *"other"* ABM system." (emphasis added)

In his memcon, Allison notes: "General Trusov agreed with my observation." Thus, both generals agreed that when the two sides referred to "future ABM systems," they were talking about a system involving the substitution of a "different *component"* for the then-current missile, launcher, and radar components.

b. *Reliability of the accounts of the meeting.*

Perhaps recognizing the difficulty raised for the Reinterpretation by the September 15 exchange, Sofaer's opinion attempts to use rhetorical devices to downplay its significance or question the accuracy of the U.S. report of this meeting. For example, the opinion gratuitously implies that the U.S. record of what was transpired at the meeting is suspected because it is attended on the U.S. side "only" by Graybeal and FitzGerald. [78] This ignores the fact that limiting the number of participants is a standard diplomatic procedure when negotiations are deemed to have reached a penultimate stage. Sofaer also states that the record of this meeting is "sparse and ambiguous."[79] This comment might fairly be applied to many other memcons, including those which Sofaer believes support his case. Finally, Sofaer appears to attempt to cast doubt on the veracity of Graybeal and FitzGerald's memcon of this meeting by stating that Karpov *"reportedly"* agreed to the prohibition on future components at the September 15 exchange." [80] Given the September 24 report by the Delegation and the absence of any indication in the negotiating record that any member of the delegation had a contrary view, there is no basis for suggestion or unreliability contained in Sofaer's portrayal of these events.

c. *Harold Brown's views.*

Sofaer's next line of attack is based upon a statement on December 10, 1971 in which Harold Brown cited the Outer Space and Seabed treaties as precedents for including a ban on future systems in the provision that became Agreed Statement D. Sofaer maintains that Brown logically would have cited the September 15 Karpov-Graybeal agreement on banning mobile/space-based exotics had there been such an agreement, and implies that the omission of that citation casts doubt as to whether Brown believed such an agreement had been reached.[81]

This argument completely overlooks reasonable explanations for Brown's remarks—that he cited treaties then in force as the most persuasive support for his point and did not want to risk reopening a tentative agreement which had only been reached *ad referendum.* It should be noted that final (and formal) agreement by the full delegations to the text of Article V(1) did not occur until May 1972.

Moreover, Sofaer's memo reflects no effort to determine the views of Harold Brown on this very point. In an interview with my staff, Dr. Brown stated that he had no doubt in December 1971 that Graybeal and FitzGerald had achieved what they said they achieved with regard to mobile/space-based exotics, and he recalled no dissension within the U.S. Delegation as to the outcome of the September 15 meeting.[82]

d. *Ambassador Nitze's views.*

In making the case for the reinterpretation, Sofaer did not interview any of the principal negotiators except for Ambassador Nitze, who is a member of the current Administration. All of the principal negotiators except for Nitze, have stated that they viewed the September Graybeal-Karpov exchange as supportive of the Traditional Interpretation.

Ambassador Nitze has recently stated that he believes the September 15 Graybeal-Karpov understanding was viewed by the Soviet side to cover only future development of any type of the three then-current components for ABMs.[83] On March 19, 1987, Ambassador Nitze submitted to the Senate a seven-page classified memo (maintained in Room S-407) in which he summarizes his position on the negotiating record, including his belief that it provides "strong evidence that supports the so-called 'broad' interpretation". It is noteworthy, though, that in a July 8, 1977 letter (mentioned in Part Two of this report), he expressed the view that the term "ABM systems and their components" includes future systems, a view which is fundamentally inconsistent with the reinterpretation.

e. *The translators' memorandum.*

A related issue regarding the September 15 exchange involves a change in wording used by the Soviets to describe ABM components. In the prior Soviet texts, they had used the Russian word "sredstva" (which signifies "components"—or, more literally, "means") in the description of ABM components. The text which Karpov tabled on September 8—which set the stage for the September 15 exchange—used the Russian word "komponenty" (another word for "components") in place of "sredstva."

As described above, Karpov noted on September 15 that the Soviet proposal not only eliminated from the U.S. text the specific listing of ABM system components (launchers, interceptors, and radars) but also used the word "komponenty" instead of the word "sredstva." "Sredstva" had been used by the Soviets in Article II (the definitional article) when referring narrowly to launchers, interceptors, or radars. The emphasis Karpov placed on this word change was consistent with his previously noted statement (on September 2) that Article V entailed "other obligations" broader than those applied narrowly to the three then-current components listed in Article II and helped establish the basis for the exchange in which Graybeal and Karpov agreed that the text meant "any type of present or future components."

Sofaer attempts to reject the relevance to "exotics" of the Graybeal-Karpov exchange by citing a subsequent discussion by the U.S. and Soviet translators. The gist of Sofaer's argument is that on September 17, two days after the Graybeal-Karpov exchange, U.S. and Soviet translators agreed that these two Russian words were for all intents and purposes interchangeable.[84]

Sofaer's analysis does not reflect the complete record on this issue. His opinion relies on a portion of the memcon of the September 17 meeting which states that the translators agreed that the world "components" as it appeared in the phrase "systems and their components" could be translated as either "sredstva" or "komponenty" by the Soviets "as they wished." [85] Having highlighted this part of the memcon, Sofaer fails to assess a crucial qualifying phrase—that either word could be used "so long as there is no substantive problem involved." There was, however, a reason for the change in wording. Karpov deliberately chose to use a different word ("komponenty") as a means of underscoring the difference between Article V (which Karpov confirmed included "other obligations") and Article II, (which, at the time, specifically referenced ABM launchers, interceptors, and radars.)

This differentiation was further underscored by the Soviet decision in mid-December to change "sredstva" in their draft of Article II to "komponenty." Sofarer contends that this change offers further indication of the insignificance of this word choice issue. What Sofaer overlooks, though is that this change occurred at precisely the same time that the Soviets were, in the course of extended discussions with U.S. negotiator Raymond Garthoff, grudgingly moving toward final acceptance of the formulation for Article II, broadening its scope to include future ABM components different from the three then-current components.

As Sofaer himself notes (though he never connects it with his discussion of the "sredstva/komponenty" issue), the Soviets on December 10 began to "waiver" on the U.S. insistence that the deployment of future "exotics" of a fixed, land-based mode had to be banned.[86] Three days later, Soviet negotiator V.S. Grinevskiy tabled a new Soviet text for Article II, which used the word "komponenty" for the first time. The text read as follows: [87]

"An ABM system is a system specially constructed and deployed to counter strategic ballistic missiles or their elements in flight trajectory and including the following components. . ."

In sum, there is nothing in the translator's memorandum or in Sofaer's analysis of it that shows either inconsistency with the Traditional Interpretation or that expressly supports the proposition that the parties agreed to permit testing and development of mobile/space-based ABMs using exotics.

f. *The effect of reaching a compromise.*

Sofaer also refers to the memcon of a September 20 meeting of the SWG in which Garthoff mentions "the compromise proposal" of September 15. According to Sofaer: "Had the Soviets agreed that 'components of ABM systems' included other devices to substitute for missiles, launchers and radars, this draft would have been a U.S. victory, not a compromise." [88]

As previously noted, Sofaer's memo fails to note or take account of Paragraph 5 of the U.S. Delegation's original instructions and the effect of that provision in establishing a predisposition for compromise. This may explain why Sofaer's analysis ignores the nature of the disagreement between the U.S. and Soviet delegations prior to the September 15 meeting as to the wording that should be used to address future systems. The Soviet Union wanted to ensure that any explicit reference in the treaty to "devices" (the term used in the U.S. proposal) could not be used to restrict the development of their non-ABM defense systems. The U.S. was concerned that the Soviet proposal (which referred only to missiles, launchers, and radars) could be easily circumvented through exotic systems.

The compromise language also reflected the tension between the U.S. proposal to ban "devices" and the Soviets interest in having the U.S. divulge the details of its research by providing them with a detail list of such devices. The result of the September 15 Graybeal-Karpov meeting (i.e., a prohibition on development or deployment of mobile/space-based ABM systems "or any components therefor") was—as Garthoff recognized—a compromise, *not* on the principle which underlay the U.S. proposal (future systems must be included) but rather in the choice of words that satisfied the primary interests of both parties.

Sofaer has correctly noted that the United States agreed to drop the explicit reference to "other devices." Nonetheless, the fact that the United States elected to accept a "compromise" does not support Sofaer's conclusion that the Soviets refused to prohibit the development and testing of mobile/space-based ABM components using exotics. Rather, it underscores the fact that in negotiations one rarely has its original proposals accepted verbatim. In most diplomatic dealings, it is often necessary to find an acceptable middle ground that satisfies the basic objectives of both parties. In the case of the ABM negotiations, the essence of the compromise was an agreement that in exchange for dropping the word "devices," the U.S. Delegation secured a Soviet pledge that the word "components" would apply to all future "components"—including future components other than missiles, launchers, and radars.

II. SOVIET STATEMENTS REGARDING EXOTICS DURING NOVEMBER AND DECEMBER, 1971

A. *Sofaer finds that Soviet conduct in the November-December timeframe confirms that they had not agreed to ban the development, testing, or deployment of mobile/space-based exotics.*

Sofaer's basic premise is that "Had the Soviets agreed to prohibit development, testing, and deployment of all future, unknown mobile 'devices' that could replace known systems or components, they should have been far more accommodating in accepting Article 6(1)." [89] Rather than being more receptive to limits on fixed, land-based exotics, however, Sofaer concludes that "the record demonstrates that the Soviet position against attempting to regulate future, unknown substitute devices was profound, and continued unabated after September 15." [90]

B. *The negotiating record demonstrates that Soviet statements subsequent to the September 15 agreement are consistent with the prohibition on testing and development of mobile/space-based exotics. There were no subsequent statements that expressly exempted mobile/space-based exotics from Article V.*

(1) *General discussion concerning exotics.* As noted, Sofaer contends that however one views the September 15 understanding, Soviet conduct in the November-December timeframe suggests that they had not agreed to ban the development, testing, or deployment of mobile/space-based exotics. This view reflects evidence in the negotiating record that the parties continued to discuss exotics, without expressly distinguishing between fixed, land-based systems and mobile/space-based systems.

However, there is not a single instance in the negotiating record in which a Soviet delegate denies that the September 15 agreement on Article V(1) applied to mobile/space-based "exotics." There is no statement in the post-September timeframe in which a Soviet negotiator says that Karpov had intended that the only "future ABM components" covered by this provision were future versions of the three then-current ABM components. Nor is there any indication in the documents submitted to the Senate in 1986 that the Soviets ever informed the U.S. Delegation that it had decided to reverse its position on these questions, that it had been overruled by Moscow, or that Karpov had erred.

Moreover, Sofaer's hypothesis discounts the fact that as a result of the key September 15 discussion, the two sides agreed to remove the brackets from Article V(1) (thereby signifying agreements on that portion of the Treaty dealing with *mobile/space-based* exotics) while agreeing to leave the brackets around the provision dealing with *fixed, land-based* exotics (thereby signifying continued disagreement). In short, in the context of the key September 15 breakthrough, it would have been abundantly clear to both parties that the discussions on future systems in November and December were focused on a provision in the Joint Draft Text that remained bracketed—that is, the provision proposed by the United States for limiting *fixed, land-based* exotics.

2. *Soviet statements recognizing the Article V(1) limitations on exotics.*

Contrary to Sofaer's contention that the Soviet statements reflect a lack of agreement on limiting exotics, various statements by Soviet negotiators in the post-September period discuss the September 15 agreement in a manner consistent with the traditional interpretation. For example, on November 30, 1971, Academician Shchukin described the September agreement on Article V(1) as "of fundamental importance" and revealed that it had been "confirmed in Moscow" during the recess in the negotiations.[91] Elaborating he said: "This provision in particular confirmed the importance both sides attached to preparing a draft which *excluded the possibility* of the deployment of ABM defenses of the territory of a country." (emphasis added) Shchukin would hardly have said Article V(1) "excluded the possibility" of such a defense if the September 15 agreement had left totally unconstrained the development, testing, *and deployment* of all mobile/space-based exotics—in short, if at that stage there had been no limitations whatsoever on all future systems. In this regard, it is important to note that when Shchukin made this statement, the parties had not adopted Agreed Statement D, which Sofaer cites as the basis for the ban on deployment of exotics.

Sofaer notes this statement by Shchukin, but he claims that Shchukin was "unwilling despite this overall objective, to accept an obligation against deploying substitute devices." [92] Sofaer then quotes a lengthy statement by Shchukin which begins as follows:[93]

[November 30 Statement By Shchukin:]

"The Soviet side cannot recognize as well-founded *the proposal* of the U.S. involving an obligation not to *deploy* ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components" (emphasis added)

In Sofaer's view, this satement provides strong evidence that the Soviet Union was not only still opposed to including limitations on fixed, land-based exotics, but also that it had not agreed to any limitations on mobile/space-based exotics. A close examination of Shchukin's statement, though, indicates that Sofaer's representation of it is flawed. First, it should be remembered that in August the United States made *two separate* proposals on exotics—one dealing with mobile/space-based devices or components, the other dealing with fixed, land-based devices or components. However, in his November 30 statement, Shchukin objects only to "*the* proposal" of the U.S. side. "*The* proposal" which Shchukin then goes on to describe (in Shchukin's words, the proposal "involving an obligation not to *deploy* ABM systems using devices other than ABM interceptor missiles, ABM launchers, or ABM radars") is obviously a restatement of the still bracketed (i.e., unresolved) U.S. proposal to ban the *deployment* of fixed land-based exotics. Recalling that the two sides had ended the previous round by agreeing that U.S. Article 6(1) would have to remain bracketed, it is not unusual that Shchukin would choose to reiterate Soviet objections to this U.S. proposal during a plenary meeting soon after the reconvening of the talks.

Sofaer's characterization of Soviet statements in this time frame is also contradicted by a December 4, 1971 statement by Soviet negotiator Chulitsky:[94]

"The prohibition on air-based, space-based, land-based, etc., ABM systems is adequate to cover the problem of future systems."

Sofaer contends that Chulitsky was only referring to future mobile versions of then-current ABM missiles, launchers, and missiles.[95] This is not accurate. Chulitsky made his statement in the course of a discussion with U.S. delegate David Aron that focused on what Chulitsky termed "unknown" systems and included Chulitsky's explicit statement that "no one knew what future systems might be." [96] Chulitisky's comments clearly referred to exotic ABMs, and not, as Sofaer claims, to future versions of then-current ABM missiles, launchers and radars.

III. ANALYSIS BY THE U.S. DELEGATION OF THE TREATY'S IMPACT ON MOBILE/SPACE-BASED EXOTICS IN JANUARY-MAY 1972

A. *Sofaer finds that the analysis of the Treaty prepared by the U.S. Delegation reflects the lack of agreement with the Soviets in Article V(1) on the issue of exotics.*

The Delegation's Legal Advisor, John Rhinelander, prepared a series of memoranda during the January-May time period in 1972 containing article-by-article descriptions of the treaty. Sofaer notes various points in which Rhinelander placed language dealing with exotics in or used qualifying language, thereby suggesting uncertainty as to whether an agreement had been reached on Article V(1) during the fall of 1971 limiting mobile/space-based exotics.

For example, Sofaer cites a footnote in Rhinelander's treatment of Article V(1) in his February 16, 1972 "Article-by-Article Analysis" that read as follows: "U.S. has not made its position clear to Soviets, and Soviet position not clear." Sofaer then states: [97]

"Consistent with this conclusion, Rhinelander made no claim in February 1972 that Article II extended beyond 'current components'. Instead, he wrote: 'An ABM system is described in paragraph 1 of Article II in terms of 'current' ABM components.' "

B. *Sofaer's position is directly refuted by the negotiating record. The analyses of the negotiations prepared by the U.S. Delegation reflects the parties' agreement that Article V(1) contained a comprehensive prohibition against development, testing, and deployment of mobile/space-based ABMs, including those using exotics.*

As noted, the negotiating record includes a series of memos prepared during the last five months of the negotiation by the legal adviser to the Delegation, John Rhinelander. Each memo, entitled "Article-by-Article Analysis of ABM Treaty," consisted of two parts. The first part of the memorandum set forth the text of each provision. Where disagreement remained between the U.S. and the Soviets, the language was bracketed. The second part of the memo set forth comments, with brackets indicating definitions, descriptions, or interpretations which were not yet agreed upon within the U.S. Delegation. The brackets would not be removed until the Delegation collectively agreed on the meaning as set forth in the accompanying commentary.

1. *The discussion of mobile/space-based exotics in Rhinelander's January 24, 1972 Article-by-Article Analysis.*

In the first Rhinelander Article-by-Article Analysis, dated January 24, 1972, the text of Article V(1) appears as follows: [98]

"Each Party undertakes not to develop, test, or deploy [ABM systems or their components that are] sea-based, air-based, space-based, or mobile land-based [ABM systems or their components.]"

Rhinelander's memo provides no explanation for the brackets. However, as highlighted in later memos, it appears that there was concern about proper placement in this sentence of the words "ABM systems or their components". If the words appeared at the end of the sentence (as was the case in the U.S./Soviet Joint Draft Text), there was the potential for misreading it as only banning ABM systems all or most of whose components were mobile, but not prohibiting an ABM system in which *only one of the* components was mobile. As the brackets imply, this problem could be corrected by moving the words "ABM systems or their components" forward in the sentence. The following comments in Rhinelander's January 24 memo make it clear that Article V(1) was intended to serve a comprehensive ban on the development, testing, and deployment of mobile/space-based ABMs, including exotics: [99]

[Excerpt from Rhinelander's January 24 memo:]

Paragraph 1 of Article V prohibits the development, testing or deployment of:

An ABM system that is sea-based, air-based, space-based, or mobile land-based.

An ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, or mobile land-based.

A device, which would replace an ABM interceptor missile, ABM launcher or ABM radar in an ABM system, that is sea-based, air-based, space-based, or mobile land-based.

The absence of brackets in this notation in Rhinelander's memo means that the U.S. Delegation collectively agreed that Article V(1) covered exotics. The comprehensive nature of the coverage under Article V(1) is further illustrated by the following comment that appears elsewhere in Rhinelander's January 24 memo: [100]

[Excerpt From Rhinelander's January 24 memo:]

Nothing in the Treaty prohibits testing and deployment of ABM systems based on future technology other than paragraph 1 of Article V which prohibits the development, testing or deployment of *any* ABM system, or *any* ABM components, which is sea-based, air-based, space-based or mobile land-based. (emphasis added)

Sofaer's opinion completely omits Rhinelander's January 24 Article-by-Article Analysis. This is an inexplicable omission in light of the clear support it provides for the comprehensive nature of the prohibition against testing and development of any space-based systems.

2. The discussion of mobile/space-based exotics in Rhinelander's February 16, 1972 Article-by-Article Analysis

The next Article-by-Article Analysis, dated February 16, also contains the relevant material on the interpretation of Article V(1). In the following excerpt from Rhinelander's February 24 memo, the Treaty text is underlined. The narrative below the underlined text describes the U.S. Delegation's views on the meaning of the text. The narrative also contains two footnotes designated by asterisks—the second of which is crucial to Sofaer's analysis of the negotiating record.[101]

[Excerpt from Rhinelander's February 16 memo:]

Each Party undertakes not to develop, test, or deploy sea-based, air-based, space-based, or mobile land-based ABM systems or their components.*

Paragraph 1 of Article V prohibits the development, testing or deployment of:

An ABM system that is sea-based, air-based, space-based, or mobile land-based.

[An ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, mobile land-based.]**

[A device (which would perform the functions an ABM interceptor missile, ABM launcher, or ABM radar in an ABM system) that is sea-based, air-based, space-based, or mobile land-based.]**

As previously noted, Sofaer suggests that the second footnote (designated by a double asterisk) indicates that the parties were not in agreement as to the application of article V(1) to exotics. He apparently reaches this conclusion on the assumption that this footnote applies exclusively to the sub-paragraph in the narrative dealing with devices that would perform the functions of then-current ABM components.

Sofaer's theory is undermined, however, by his failure to recognize that the footnote designated by a double asterisk applies to *two* sub-paragraphs in the narrative, and only the second sub-paragraph relates to future devices. The first time the double asterisk appears is in reference to mobile ABMs using then-current components. For Sofaer's view of the footnote to be correct, one would have to conclude that the U.S. Delegation also was uncertain as to whether the parties had agreed that Article V(1) prohibited development, testing, and deployment of mobile systems using then-current ABM components. Such a reading would be contrary to the express words of Article V(1), rendering it meaningless.

There is a much more reasonable explanation for the second footnote in this excerpt from Rhinelander's February 16 memorandum. As discussed above, Rhinelander's January 24 memo had noted a drafting problem in the text that left open the possibility that the text could be read in a manner that would exempt both then-current components and "exotic" components from the prohibition on testing and development if they were *mobile* but part of a larger *fixed* system. The "fix" proposed by ACDA, as noted in Rhinelander's February 16 memo was intended to rectify this problem, both with respect to then-current and future components.

The reference in the footnote ("U.S. has not made its position clear to the Soviets and Soviet position is not clear") is consistent with the fact that the U.S. Delegation had not yet offered any clarifying language and it did not know how the Soviets would respond.

A separate comment in the Rhinelander February 16 analysis—which is not cited by Sofaer in his discussion of the double asterisk footnote—confirms the prohibition on testing and development of mobile systems based on future technology: [102]

[Excerpt from Rhinelander's February 16 memo:]

Nothing in the Treaty prohibits testing or development (as distinguished from deployment) of ABM systems or ABM components *based on future technology* other than paragraph 1 of Article V, which prohibits the development, testing, or deployment of any ABM system, or any ABM component, which is sea-based, air-based, space-based or mobile land-based. (emphasis added)

The foregoing excerpt from Rhinelander's February 16 memo underscores two points: First, Article V(1) covered mobile/space-based exotics by banning their development, testing, and deployment. Second, the Treaty distinguished between development and testing, on the one hand, and deployment, on the other, as it applied, in Rhinelander's words, to "ABM systems or ABM components based on future technology." This is consistent with both the formal instructions to the negotiators and the original meaning of the Treaty presented to the Senate.

3. The discussion of mobile/space-based exotics in Rhinelander's April 20, 1972 Article-by-Article Analysis.

Before considering Rhinelander's next Article-by-Article Analysis, dated April 20, 1972, it is necessary to consider the events that transpired in late March and early in April.

a. *Events preceding April 20, 1972.*

(1) *Mobile components in fixed, land-based systems.*

On March 23, 1972, National Security Decision Memorandum 158 directed the Delegation to seek modification of Article V(1) to address the word order problem noted by ACDA: [103]

[Excerpt from NSDM 158 (April 20):]

ABM Treaty, Article V(1) (Mobile ABM Components). The Delegations should make it clear to the Soviets that this provision applies to all ABM components (viz., launchers, interceptors, radars, and other devices capable of substituting for them) which are not fixed, land-based. The Delegation should seek to revise Article V(1) along the following lines: "Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." If the Soviets raise the issue, the Delegation should state that the revised provision does not apply to such as satellites providing early warning by detection of missile launch.

Sofaer contends that instruction "apparently reflects concern that 'other devices' might not be covered" under Article V(1).[104] This is an inaccurate reading of the instruction because, as previously noted, the concern was over closing a loophole which might have allowed the Soviets to deploy a mobile ABM component (whether then-current or "exotic") if such a mobile component was part of a larger fixed, land-based ABM system, and *not* whether Article V(1) failed to extend to exotics.

(2) *The distinction between "adjuncts" and "components".*

The last sentence of NSDM 158 reflected the U.S. concern over the issue of "adjuncts." An adjunct was considered to be a device that (1) was part of an overall ABM system; (2) involved technologies other than missiles, launchers, or radars; and (3) could not, standing alone, substitute or perform the functions of an ABM missile, launchers, or radar. The U.S. considered the distinction between "components" and "adjuncts" to be crucial. Although the U.S. wanted to prohibit testing and development of mobile/space-based ABMs that used either present and future technology, the U.S. did not want the Treaty to be interpreted in a manner that would ban the testing, development, or deployment of "adjuncts" essential to early warning systems.

(3) *The Soviet accept the U.S. clarification.*

On April 6, U.S. Ambassador Graham Parson executed the instructions contained in NSDM 158 at a meeting of the Special

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*ACDA proposes this paragraph be revised as follows: 1. Each Party undertakes not to develop, test or deploy ABM systems or their components that are sea-based, air-based, space-based, or mobile land-based.

**U.S. has not made its position clear to Soviets, and Soviet position is not clear.

Working Group. Parsons proposed changing the word order of Article V(1) as directed by the NSDM. His prepared talking points for that meeting stated: "For the sake of greater clarity, we suggest that this paragraph be slight reworded . . ." His paper also noted: "This revision makes clear that the paragraph applies to all ABM components and not just to overall ABM systems." [105] Parsons' remarks underscore the fact that the change in wording was a minor drafting change, and rebut Sofaer's theory that NSDM 158 embodied a new proposal on mobile "exotics."

In attempting to deal with Parsons' remarks, Sofaer asserts that Parsons "did not attempt to accomplish the task of making sure that the Soviets understood 'components' to include substitute 'devices' other than missiles, launchers, or radars." [106] This is an irrelevant observation because there was not a requirement for Parsons to do so. Having created a task for Parsons out of whole cloth (a requirement to obtain a *new* agreement on future devices), Sofaer is unable to explain why Parsons failed to pursue the matter with the Soviets. The simple answer is that neither the text of the instructions nor the context of the negotiations required Parsons to obtain a *new* agreement; rather, he was only required to ensure that the technical change in words ensured that neither side could deploy a mobile ABM component (whether then-current or "exotic") in the guise of it being part of an *overall* system that was fixed, land-based.

On April 10, Soviet negotiator Grinevsky informed Parsons that he was "pleased to report that the Soviet side agreed to amend paragraph of Article V of the Treaty Joint Draft Test (JDT) in accordance with the April 6 proposal of the U.S. side." [107] The routine and business-like manner in which the Soviets responded to this proposal provides further evidence that *both* sides regarded this matter as a technical drafting problem, and not a fundamental policy issue on whose outcome rested the handling of mobile exotics under the Treaty.

b. *The clarification is noted in Rhinelander's April 20, 1972 Analysis.*

The successful agreement on the technical change in wording was noted in Rhinelander's next Article-by-Article Analysis which quotes and describes Article V(1) as follows: [108]

[Excerpt from Rhinelander's April 20 memo:]

"Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

Paragraph 1 of Article V prohibits the development, testing or deployment of:

An ABM system that is sea-based, air-based space-based, or mobile land-based.

An ABM interceptor missile, ABM launcher, or ABM radar that is sea-based, air-based, space-based, or mobile land-based.

[A device (which would perform the functions an ABM interceptor missile, ABM launcher or ABM radar in an ABM system) that is sea-based, air-based, space-based, or mobile land-based.][1]

As reflected above, the Rhinelander commentary on this provision lists the same three "bullets" as the February 16 draft, but drops the brackets around bullet two (concerning ABM missiles, launchers, and radars) while keeping brackets around bullet three—which dealt with exotics. As will be explained, the concern indicated by the retention of the brackets around this sub-paragraph most likely related to the "adjuncts" issue.

c. *Inconsistencies and omissions in Sofaer's interpretation of Rhinelander's memos.*

As previously noted, Sofaer contends that the use of brackets around the bullet dealing with exotics reflected uncertainty within the U.S. Delegation as to whether Article V(1) covered exotics. This line of analysis, however, ultimately is fatal to Sofaer's case for the Reinterpretation, because Rhinelander's final Article-by-Article Analysis, dated May 24, 1972, deleted the brackets around the bullet addressing exotics.[109] In so doing, using the logic of Sofaer's explanation of the April 20 draft, the May 24 analysis removed any implication of uncertainty within the U.S. Delegation as to the agreement on exotics. A consistent rule should be applied: if Rhinelander is to be believed when he documents doubts within the delegation (as denoted by his use of brackets), he should also be believed when he documents a collective agreement by the delegation (as denoted by the removal of the brackets).

A further flaw in Sofaer's approach is the failure to adequately address the footnote in Rhinelander's April 20 memo, which refers to the "Four Points" presented by Garthoff on January 31, 1972, in the course of negotiations over what became Agreed Statement "D". The "Four Points" reflected specific points or understandings on which Garthoff believed the two sides agreed.[110] During the discussions at the January 31 meeting, Garthoff had addressed the problem of "adjuncts" in the following terms: [111]

[January 31 statement by Garthoff on "adjuncts" issue:]

Devices other than ABM interceptor missiles, launchers or radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of a substitute for ABM interceptor missiles, ABM launchers, or ABM radars. For example, a telescope could be deployed as an adjunct to an ABM system whereas a laser for performing the function of an interceptor missile by rendering ineffective a strategic ballistic missile in flight trajectory could not be deployed.

Page 13 of Rhinelander's April 20 memo, which makes reference to the Garthoff statement quoted above, indicated that although the Delegation had raised the "Four Points" with the Soviets, "We have yet to learn Soviet reaction." This explains the brackets around bullet three in Rhinelander's April 20 description of Article V(1)'s applicability to future systems: it was still not clear at that point whether the U.S. position on the definition of "adjuncts" had been accepted by the Soviet side. The uncertainty was not as to the general agreement on prohibiting testing and development of exotic *components;* rather there was uncertainty as to how the Soviet's would react to the U.S. position that the prohibition should not apply to *adjuncts.*

This reading of the footnote is reinforced by another footnote in Rhinelander's April 20 memo, which notes that Article V(1) does *not* prohibit mobile early warning sytems, but warns that there is a question as to whether a "satellite using long-wave infrared technology that could observe the boost phase of ICBM trajectories and alert that an attack was underway" would be exempt. Rhinelander then noted that *Guidance indicates U.S. should not raise this issue. Soviets apparently agree in principle."* [112] (Emphasis added) In light of this notation, it is clear that when Rhinelander noted in the earlier footnote (that is, the footnote to the bracketed sub-paragraph commenting on the meaning of Article V(1) as it applies to "devices") that: "U.S. has not emphasized position in text, *which is based on guidance,"* the *"guidance"* he was referring to was guidance to the delegation from Washington on how to handle the *adjuncts* issue—and not guidance, as Sofaer implies, to revisit the fundamental question of whether the Soviet side had agreed that Article V(1) applied to future components capable of performing the function of existing ABM missiles, launchers or radars.

Although, as noted, Rhinelander acknowledged that the delegation's guidance was not to raise the adjuncts issue (since, in his words, the Soviets "apparently agree in principle"), he nevertheless recommended that "An agreed interpretation or U.S. statement differentiating 'permitted' non-ABM systems from 'prohibited' space- or air-based ABM components, using either *Current or 'future' technology,* might be useful." [113] (emphasis added) This recommendation was rejected. However, it further illustrates the fact that Rhinelander's principal concern in these footnotes was the important question of whether the U.S. side had adequately protected its interest in keeping ABM adjuncts out of the Treaty—and not whether it had failed to get exotic ABM components in.

4. *The discussion of mobile/space based exotics in Rhinelander's May 24, 1972 Article-by-Article Analysis.*

a. *The distinction between adjuncts and components.*

Further confirmation of the U.S. Delegation's concern about carefully distinguishing between permissible ABM adjuncts and prohibited ABM exotics is provided by the final Rhinelander Article-by-Article Analysis, dated May 24, 1972—just two days prior to the signing of the Treaty in Moscow. This memo provides the following illustration in the course of noting that Agreed Statement "D" is based on the "Four Points": [114]

[Excerpt from Rhinelander's May 24 memo:]

For example, a "killer" laser system or particle accelerator which substituted for one or more ABM components would be prohibited. In addition, a satellite sensor, using advanced technology such that it could observe the boost phase of ICBM trajectories and obtain sufficiently accurate data that would permit launching an ABM interceptor without relying on other ABM tracking sensors, would be considered a prohibited, future system based on devices which substituted for current ABM components.

This explanation reflects an agreement on a rule of thumb concerning the distinction between adjuncts and components: If the "device" could, *standing alone,* substitute for one of the three then-current ABM components, then it was a component. If the "device," standing alone, could not so substitute, then it was an adjunct.

b. *Further refutation of Sofaer's reinterpretation.*

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[1] U.S. has not emphasized position in text, which is based on guidance, and the Soviet position may not be clear. Issue: Whether U.S. should make U.S. position in "Four Points" on future systems; see footnote 1.

The distinction between adjuncts and components is also reflected in the commentary in Rhinelander's May 24 memo on Article V(1), which deletes the brackets around bullet three (reflecting agreement on the prohibition against development, testing and deployment of mobile/space-based exotics) and expressly cites as an example of an exotic ABM component "an air-based 'killer' laser." The description of Article V(1) in the final Rhinelander Analysis, in which *all brackets were absent,* read as follows: [115]

[Excerpt from Rhinelander's May 24 memo:]

Paragraph 1 of Article V prohibits the development, testing, or deployment of:

an ABM system that is sea-based, air-based space-based, or mobile land-based.

an ABM interceptor missile, ABM launchers, or ABM radar that is sea-based, air-based, space-based, or mobile land-based.

a device capable of substituting for an ABM interceptor missile, ABM launcher or ABM radar that is sea-based, air-based, space-based, or mobile land-based (such as an air-based "killer" laser).

In this form, the memorandum fully confirms the Traditional Interpretation of the Treaty as presented to the Senate and directly refutes Sofaer's reinterpretation.

IV. THE NEGOTIATIONS CONCERNING THE DEFINITION OF ABM SYSTEMS AND COMPONENTS IN ARTICLE II

A. *Sofaer finds that the definition of ABM systems and components in Article II, which refers to ABM interceptor missiles, ABM launchers, and ABM radars, limits the restrictions in the Treaty to those three then-current components.*

The traditional view of the negotiations over Article II of the Treaty holds that the U.S. Delegation, in discussions led by Raymond Garthoff, was able on December 20-21, 1971 to obtain Soviet consent to change the text of this provision to incorporate the connective phrase "currently consisting of" and that this change thereby had the effect of extending the definition of "ABM systems" to include all future ABM components, including exotics. This version of events is strongly endorsed in the 1985 FitzGerald Report.

In his analysis, Sofaer disputes this account: [116]

[Excerpt from Sofaer analysis:]

The developments of December 20-21 are described in the FitzGerald study as an "impasse" that "was suddenly broken . . ." One might infer from this that the Soviets had changed their minds and agreed to the U.S. view that "ABM system" should be defined potentially to extend to all substitute devices. In fact, however, the Soviets agreed to the change in Article II, only after Garthoff assured them "that the question of constraints on future systems would be settled elsewhere than in Article II" . . . and after Garthoff and the U.S. Delegation had made this assurance tangibly credible by agreeing to drop Article V(3) of the U.S. draft and to seek instead a separate, agreed minute to the Treaty on the subject of future devices.

Article II(1) of the treaty states: "For the purposes of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: [ABM interceptor missiles, ABM launchers, and ABM radars]." Sofaer contends that "the definition in Article II(1) was not merely illustrative, but was intended to describe the actual components covered by the Treaty." [117] Consistent with this view, he also maintains that: [118]

"The premise that Article II(1) defines 'ABM system' in a functional manner, meant to include all future systems and components, is difficult to sustain. The provision can more reasonably be read to mean that the systems contemplated by the Treaty are those that serve the functions described *and* that currently consist of the listed components." (emphasis added)

B. *The negotiations concerning the definition of an ABM system in Article II contradict Sofaer's analysis and underscore the parties' intent that the definition would cover exotics.*

The following review of the negotiating record demonstrates that the "currently consisting of" language was adopted with express recognition that Article II would thereby apply to future systems.

1. *The December 1971 agreement to cover exotics.*

a. *Insertion of the phrase "currently consisting of" to modify the listing of then-current ABM components.*

On December 9, 1971, the Soviets informed the U.S. Delegation that their "difficulties" with the definition of ABM systems in Article II were related to the differences of the parties over a separate U.S. proposal for a ban on the deployment (but not development and testing) of fixed, land-based exotics, then identified by mutual consent as Article V(3).[119] Grinevsky suggested a tradeoff: the Soviets would agree to a functional definition in Article II (as proposed by the U.S. side) if the U.S. side would agree to drop Article V(3). Interestingly, though, he candidly informed his American counterparts that: [120]

"It would be necessary for his Delegation to go through the ritual of trying to get concessions from our [i.e., the U.S.] side on Article V before he could be authorized to reach an agreement accepting the basic U.S. position on Article II."

This very revealing comment by the senior Soviet delegate tasked with resolving the disagreement over Article II is not cited by Sofaer.

On December 20, Garthoff gave the Soviets a new U.S. draft for Article II that maintained a functional definition of "ABM system"—that is, defining an ABM systems as "a system to counter strategic ballistic missiles or their elements in flight trajectory"—but which also retained separate definitions for ABM missiles, ABM launchers, and ABM radars without any connective between the definition for "system" and the definitions for the three different system components.[121]

At a meeting later that day, Garthoff and Grinevsky engaged in a give-and-take discussion of this draft which resulted in a change, inserting the connective wording "currently consisting of" between the definition provided in the text for "ABM system" and the definitions provided for the three system components.

b. *Direct recognition of the possibility of future systems.*

The document concerning this decisive meeting reflects the following discussion:[122]

[Memcon of December 20 exchange on Article II:]

Grinevsky stated that the second problem [of three concerns he had about the new U.S. text] was the absence of a connective between the sub-paragraph defining ABM systems, and the three sub-paragraph following which defined components. His Delegation strongly believed that there should be some connective such as "namely" or "consisting of." Garthoff stated that the American side did not consider that a connective of this kind was either necessary or desirable. If, however, there was to be one, it should be precise. Therefore, he suggested, we might consider use of the phrase "currently consisting of" as a connective. This was clearly a new thought to Grinevsky and Kishilov and they appeared uncertain of the reaction of their side. *Garthoff noted that the Soviet side, as well as the American, recognized that there could be future systems,* and while the question of constraints on future systems would be settled elsewhere than in Article II, the correct way of indicating a valid connection between components and systems would be to include the word "currently". Grinevsky agreed to take up this possibility with his Delegation. (emphasis added)

Garthoff's proposal, in short, was that the parties go ahead and agree then on a text for Article II that would define "ABM systems" to include future ABM systems while leaving it to other provisions of the Treaty to settle the question of what *specific* limitations would apply to such systems.

The next day, the Soviet side presented a new draft text that incorporated the connective "currently consisting of"—thereby accepting Garthoff's proposal. The memcon of the December 21 meeting reveals that in accepting the U.S. proposal, Grinevsky and Kishilov emphasized "a very delicate situation within the Soviet Delegation" wherein "the expression 'currently consisting of' had been strongly objected to by some members of the Soviet delegation." [123] The members in question were presumably the Soviet military. In short, the two Soviet negotiators were revealing that it had taken a struggle to gain approval for Garthoff's proposal.

Sofaer does not explain why there would have been such a fight within the Soviet delegation if, as he believes, Garthoff's language did not have the effect of bringing future systems under the definition of "ABM system" in Article II. Indeed, Sofaer fails even to note that Grinevsky and Kishilov revealed this information.

c. *Other deficiencies in Sofaer's analysis of the agreement on Article II.*

The Grinevsky-Garthoff exchange undermines Sofaer's textual analysis of Article II, in which he asserts that Article II applies only to the three then-current systems or future versions of those three systems. As previously noted, Sofaer claims that the Soviets accepted the phrase "currently consisting of" only after the U.S. side provided two assurances: first, "that the question of constraints on future systems would be settled elsewhere than in Article II," and second, "the U.S. Delegation made this assurance tangibly credible by agreeing to drop Article V(3) of the U.S. draft [banning deployment of fixed, land-based exotics] and to seek instead a separate, agreed minute to the Treaty on the subject of future devices."

Rather than supporting the Reinterpretation, this observation contradicts Sofaer's premise that Article II(1) applies only to the three then-current ABM components. It is an express acknowledgement by Sofaer that the parties intended to address future systems in the Treaty. Under those circumstances, it was natural that the definition be sufficiently flexible to cover both present and future systems. The fact that the parties had not yet agreed on the degree to which fixed, land-based exotics should be limited in the obligational provisions of the Treaty is irrelevant to the scope definition of ABM systems in Article II(1).

Aside from the fact that this episode does not support the Reinterpretation, it is also noteworthy that Sofaer does not accurately portray the actions of the U.S. Delegation in these exchanges. The U.S. did not take the position, as suggested by Sofaer, that it would "drop" Article V(3) and "seek instead" a separate Agreed Minute. On the contrary, the U.S. took the position that withdrawal of Article V(3) was *contingent on* "a clear agreed understanding" in the form of an Agreed Minute.[124] In other words, the U.S. did not retreat from the position which was then represented by the U.S. proposal denominated as Article V(3) (and which later became Agreed Statement D) that fixed, land-based ABMs using exotics should not be deployed. This is reinforced by the statement in the negotiating record that the option of an Agreed Minute was offered by the U.S. side "to contribute to negotiating progress, *while maintaining our basic position in this matter.*"[125] (emphasis added)

2. *Post-December statements concerning the definition of "ABM systems."*

Sofaer points to three separate exchanges or comments by U.S. or Soviet negotiators subsequent to the December 21 Garthoff/Grinevsky understanding in support of his proposition that not only the Soviets, but also the U.S. side, did not believe Article II applied to future systems. The negotiating record reveals that none of the three statements substantiate his argument.

a. *The January 26 Garthoff-Grinevsky discussion.*

(1) *The U.S. concern about adjuncts.*

Sofaer cites a January 26, 1972 discussion between Garthoff and Grinevsky during which the U.S. Delegation proposed, and the Soviets rejected, the addition of a clarifying clause to Agreed Statement D dealing with adjuncts.[126] At that stage, the text of Agreed Statement D dealt with the possibility that ABM components "other than ABM inerceptor missiles, ABM launchers or ABM radars" might be created. The U.S. Delegation wanted to add words making it clear that "components" limited by this provision were those capable of performing the functions of ABM missiles, launchers, or radars. The U.S. concern was that absent this qualification, the Soviets might call a sensor a "component"—even though it could not substitute for one of the three then-current components.

(2) *Sofaer's description of the discussion.*

Sofaer attempts to support the proposition that Article II applied only to the three then-current components by summarizing the discussion as follows:[127]

[Sofaer's characterization of the January 26 discussion]

On January 26, both Parties stated that Article II applied to three then-current components of ABM systems, and that Agreed Statement D would apply to all future components that would take the place of interceptors, launchers, or radars.

(3) *The negotiating record does not support Sofaer's description*

Sofaer's account does not provide an accurate description of the negotiating document. The memcon of this discussion reads as follows:[128]

[Memcon of January 26 discussion]

Garthoff explained that . . . [the additional language] . . . was intended to make more precise the intention of the sentence, which he believed both sides shared, that we were talking [in Agreed Statement D] about future system components which might take the place of ABM interceptor missiles, ABM launchers or ABM radars. He recalled Grinevsky's earlier reference to telescopes supplementing but not supplanting radars, and noted that we believed this additional language would help make clear that additional elements of such kinds were not the subject of the sentence."

The memcon adds that Grinevsky rejected Garthoff's proposal as unnecessary.[129]

[Grinevsky] noted that the sentence already makes clear that reference is to future ABM system components other than the three indicated in the sentence and in Article II of the Treaty. Article II made clear that these are the three components currently comprising ABM systems, and the language under discussion makes clear that it was referring to precisely such system components other than the three current ones which were listed.

Contrary to Sofaer's suggestion, the discussions did not draw a distinction between Article II's supposed exclusive concern with then-current components and Agreed Statement D's supposed exclusive concern with exotics. Instead, the discussion involved a distinction, applicable both to Article II and Agreed Statement D, between the treatment of "components" (which could perform the function of traditional ABM components) and "adjuncts" or "sub-components" (which could not substitute for a traditional component). Grinevsky was merely pointing out that the three then-current components were a baseline from which all future components were distinguished as "other" components. His statement was neutral on the question of whether such "other" components were or were not covered under Article II. He did not express the view, as Sofaer claims, that Article II "only" covered ABM missile, launchers, and radars.

b. *The February 1 exchange between Allison and Trusov*

Sofaer also cites the February 1, 1972 exchange between General Allison and General Trusov as "another exchange . . . suggesting that both Parties assumed that Article II did not bring within its definition future, substitute ABM systems or components."[130] Sofaer bases this assertion on the previously cited comment by General Allison that "both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars."[131] He cites no supporting evidence for the suggestion that Allison was making a precise and delimiting comment on the scope of Article II. Moreover, the significant Sofaer attaches to this comments is dubious in light of what General Allison said next: "We also appear to agree that substituting a different component for one of these in the future would result in what we refer to as a 'future' or 'other' ABM system."[132] In short, the February 1 exchange between the two generals offers no support for Sofaer's claim that General Allison and General Trusov both doubted that Article II covered future systems.

c. *Rhinelander's Article-by-Article Analysis*

(1) *Sofaer misrepresents Rhinelander's February 16, 1972 Analysis*

As previously noted, Sofaer states that "Rhinelander made no claim in February, 1972 that Article II extended beyond 'current' components." Sofaer's comment misrepresents this particular memo by Rhinelander and omits a crucial sentence.

Rhinelander's February 16 Article-by-Article Analysis contained the following notation with regard to Article II:[133]

[Excerpt from Rhinelander's February 16 memo]

An ABM system is described in paragraph 1 of Article II in terms of 'current ABM components.' See discussion of prohibition on deployment of future ABM systems under Article III. Examples of possible future ABM components are 'killer' lasers and particle accelerators.

While Rhinelander's memo stated that Article II is "described" in terms of then-current ABM components, it did not assert that Article II was limited to these three components. On the contrary, as is evident in the above excerpt, Rhinelander cites two possible types of future systems in the course of commenting on Article II.

(2) *Rhinelander's April 20 and May 24 Analysis make it clear that the definition in Article II covers future systems*

Whatever ambiguity may exist in the February 16 memo was removed in subsequent drafts of Rhinelander's Article-by-Article Analysis. In his April 20 analysis, Rhinelander wrote the following about Article II:[134]

[Excerpt from Rhinelander's April 20 memo]

An ABM system is described in paragraph 1 of Article II in terms of "current" ABM components. This does not, however, limit the generality of the term ABM system as used in the Treaty to systems composed of "current" ABM components, but would also include "future systems" based on physical principles other than those used for "current" ABM components.

In his May 24 Analysis, the final version prior to signing of the Treaty, Rhinelander used much the same terminology to describe the scope of this provision:[135]

[Excerpt from Rhinelander's May 24 memo]

An ABM system is described in paragraph 1 of Article II in terms of "current" ABM components. This does not, however, limit the generality of the term ABM system as used in the Treaty to systems composed of "current" ABM components, but would also include "future systems" based on physical principles other than those used for "current" ABM components and capable of substituting for a "current" ABM component.

Rhinelander's descriptions represented the formal collective position of the U.S. negotiating team. These memoranda directly refute the claim that the negotiating record supports the Reinterpretation.

V. THE NEGOTIATIONS CONCERNING RESTRICTIONS ON DEPLOYMENT UNDER ARTICLE III OF THE TREATY

A. *Sofaer finds that the negotiating record supports his theory that Agreed Statement D is the only provision of the Treaty covering exotics.*

Article III of the Treaty bans the deployment of all ABM systems with the exception of two fixed, land-based systems using then-current components. Sofaer contends that Article III imposes no limitation on the deployment of exotics:[136]

[Excerpt from Sofaer's analysis]

In the subsequent negotiations, a change was made in Article III that made clearer than in earlier drafts that only those systems and components specified in the Article could be deployed. The provision did not, however, expressly prohibit the deployment of substitutes for "systems" or "components".

B. *Contrary to Sofaer's contention, the negotiating history of Article III, which governs deployment of ABM systems and com-*

ponents, demonstrates that Article III covers deployment of exotics.

Sofaer's position that Agreed Statement D is the only provision of the treaty covering exotics is contradicted by three separate parts of the negotiating record: (a) the discussion on January 31 of Garthoff's "Five Points," (b) the April 28 discussion when the Soviets first indicated they could accept the final U.S. proposal for Article III, and (c) Rhinelander's Article-by-Article Analysis. The following considers each of these portions of the negotiating record.

1. *The January 31 point paper on future ABM systems.*

As previously noted, on January 31, 1972, Garthoff handed his Soviet counterparts a point paper, entitled, "Statement on 'Future ABM Systems' ".[137] The point paper was based on the proposition that there was agreement on five separate considerations establishing the mutually understood framework for final agreement on the text of Agreed Statement "D". Point Four of Garthoff's "Five Points" read as follows:[138]

Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions."

If as Sofaer maintains, the Soviet Union did not intend Article III to apply to "exotics," Point Four—which applied to exotics—certainly would have met with Soviet opposition. However, the memcon of this meeting states: "After reading the talking points, Grinevsky said that he believed they were in *complete agreement.*"[139] (emphasis added)

Grinevsky was the official tasked by the Soviets with reaching an accord on this provision *ad referendum* to the full delegation. His favorable disposition toward this interpretation of Article III was confirmed on April 28, 1972, in response to an April 11 U.S. proposal for Article III that had the effect of incorporating Point Four of Garthoff's Five Points—that is, it modified the lead-in clause to Article II in a manner which would ban the deployment of all ABM systems (including exotic ABM systems) while permitting an exception only for specified fixed-land based systems using then-current ABM components.[140]

2. *The April 28 agreement on Article III*

On April 28, Grinevsky informed the U.S. side that the Soviet side could agree to the new U.S. formulation. The text of Ambassador Parson's memcon of this discussion reads as follows:[141]

[Memcon of April 28 discussion on Article III]

I [Parsons] said that if I understood him correctly, he [Grinevsky] was saying that they could agree to a formulation undertaking not to deploy ABM systems or their components except as the Article would provide. Grinevsky said that they could, as this would ban *"other systems"*. (emphasis added)

Sofaer initially concedes that Grinevsky's statement could be read as leading supporting to the "restrictive" interpretation, stating that "conceivably, Grinevsky meant systems based on other physical principles, and therefore indicated that the Soviets were finally willing to agree that Article III banned the deployment of such systems."[141] Sofaer then pronounces this reading "doubtful," contending that a "more likely explanation" is that Grinevsky's reference to "other systems," was intended to affirm that the U.S. formulation would prohibit deploying then-current ABM missiles, launchers, or radars at *locations* "other than" the two sites described in Article III. Sofaer insists that Grinevsky was not agreeing that the new U.S. text for Article III would ban deployments of "exotics," a function which Sofaer reserves for Agreed Statement "D".

There are four major problems with Sofaer's hypothesis. First, he points to nothing in the record of the April 28 discussions that affirmatively expresses the view that exotics are excluded. Second, as noted earlier, Grinevsky indicated "complete agreement" on January 31 that Article III *should* prohibit "the deployment of devices *other than* ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions."[143] Third, Sofaer provides no explanation, other than that a conclusory statement, as to why Grinevsky would have said that the provision banned "other systems" if he had meant to say that it only permitted deployments at the two specified locations. In short, had that been his intent, he more logically would have said explicitly that the new text for Article III banned "other *sites*" or "other *locations*"—not "other systems."

This reading of Grinevsky's comment is reinforced by the memcon of the January 26 Garthoff-Grinevsky meeting, which notes the following under the heading of "Future ABM Systems": [144]

[Memcon of January 26 meeting]

Future ABM Systems

Grinevsky then asked about the subject of "other" or future ABM systems.

What followed was an extended discussion on the exotic ABM systems covered in Agreed Statement D. In short, it is clear that Grinevsky equated "other systems" with exotics, and this was the focus of his crucial remark when Article III was signed on April 28. Sofaer points to no documents supporting adopting a view to the contrary.

Finally, it is worthwhile recalling General Allison's statement of February 1, 1972, in which he noted that both sides agreed that substituting a different component in the future for an ABM missile, launcher, or radar "would result in what we refer to as a 'future' or 'other' ABM system.[145] Allison noted that Trusov agreed with his observation. In this context, it is apparent that when Parsons and Grinevsky agreed that the final text for Article III would ban "other systems," the parties meant "other ABM systems" in the same sense as described by Allison and agreed to by Trusov—i.e., future components capable of substituting for ABM launchers, missiles, or radars.

3. *Rhinelander's Article-by-Article Analyses*

The application of Article III to all future systems is also substantiated by the four successive versions of Rhinelander's Article-by-Article Analysis:

Rhinelander's January 24 memo states that Article III, as intended by the U.S. Delegation, would permit deployments of ABM systems "consisting *only* of systems based on ABM interceptor missiles, ABM launchers and ABM radars, and not a system based on technology which substitutes for any one of these components . . ." [146]

Rhinelander's February 16 memo states that Agreed Statement "D" (which, by then, had been agreed to by the two sides) was based, *inter alia*, on the following "consideration": "Article III, as drafted, does not permit the deployment of devices other than ABM interceptor missiles, ABM launchers, or ABM radars to substitute for and perform their functions." [147] The February 16 memo further notes that this understanding (Point Four of Garthoff's "Five Points" from January 31) had been informally presented to the Soviets and "the Soviets have not agreed that further clarification is necessary." [148]

This point is again reiterated in Rhinelander's April 20 draft, with a footnote indicating that the U.S. Delegation had decided to raise Garthoff's points with the Soviets again to ensure there was no misunderstanding.[149]

Rhinelander's final Article-by-Article Analysis—written ten days after the formal acceptance of the April 28 Parsons/Grinevsky agreement on Article III at the full delegation level (and just two days before the Treaty was signed)—states that "Article III limits the deployment of ABM systems to those based on ABM interceptor missiles, ABM launchers and radars." [150]

Sofaer correctly notes that Rhinelander's final, May 24 memo declares that Article III bans the deployment of "substitute components." However, Sofaer assets that this result is allegedly only achieved by Rhinelander "through the combination of that Article and Agreed Statement D." [151] Sofaer provides no substantiation for this allegation other than his general theory that it is only Agreed Statement D (and not Articles II and III) which effectively prohibits the deployment of exotics.

VI. THE NEGOTIATIONS CONCERNING TESTING AND DEVELOPMENT UNDER ARTICLE IV OF THE TREATY

A. Sofaer finds that Article IV only applies to then-current ABMs

Article IV states:

The limitations provided for in Article III (governing fixed, land-based ABMs) shall not apply to ABM systems or their components used for development and testing and located within current or additionally agreed test ranges. Each party may have no more than a total of fifteen ABM launchers at test ranges."

This provision reflected both sides' appreciation that the ABM deployment limitations in the Treaty would be rendered meaningless if either side could circumvent them through the guise of development of testing. The concern voiced repeatedly by both sides was that a party might "deploy" ABM systems and components on a widespread basis by claiming that the systems and components were not really "deployed," but were only development or test models."

The term ABM systems and components, which appears in Article IV, is defined in Article II. Sofaer insists that this term is limited to three components existing in 1972 (missiles, launchers, and radar) and does not include future technologies capable of substitution for those components. As noted above, his discussion of Article II is not supported by the negotiating record. The viability of the reinterpretation is further refuted by the inadequacy of its discussion of Article IV.

Sofaer's only reference to Article IV is the following:

Article IV . . . limits to fifteen the number of "launchers" at those ranges, thereby suggesting that it is addressed only to current technology." [152]

B. Contrary to Sofaer's claim, the negotiating record demonstrates the parties' understanding that Article IV would apply to exotics

The question of the applicability of Article IV to exotics was addressed explicitly in the Rhinelander memos. Rhinelander's

April 20 Article-by-Article Analysis sets forth the following description of Article IV:[153]

[Exerpt from Rhinelander's April 20 memo]

[This Article would permit development and testing only at current or additionally agreed test ranges of fixed, land-based devices capable of substituting for fixed, land-based ABM interceptor missiles, ABM launchers, or ABM radars, the deployment of which is prohibited by Article III.]

The brackets around this statement indicated that as of April 20, the U.S. Delegattion was not in agreement that this understanding had been achieved with the Soviets. In a footnote to the statement, Rhinelander explained: "This issue has not been raised with Soviets." However, in his May 24 memo, Rhinelander removed the brackets and deleted the footnote, thus reflecting the U.S. Delegation's final judgement that this understanding had indeed been reached with the Soviet side.[154]

This conclusion by the delegation directly undercuts Sofaer's reinterpretation. Because the reference to ABM systems or components in Article IV applies to exotics, it is reasonable to conclude that the same term in Article V (which prohibits development, testing, and deployment of mobile/space-based ABMs) also applies to exotics. Moreover, Sofaer's failure to address or note the discussion of Article IV's applicability to exotics in Rhinelander's April 20 or May 24 memos is damaging to the credibility of his analysis.

VII. NEGOTIATING DOCUMENTS CONCERNING THE RELATIONSHIP BETWEEN AGREED STATEMENT D AND THE LIMITATIONS ON TESTING, DEVELOPMENT, AND DEPLOYMENT IN THE MAIN BODY OF THE TREATY

A. *Sofaer finds that in order to avoid redundancy with other parts of the Treaty, Agreed Statement D must be read as the only portion of the Treaty addressing deployment of exotics*

Agreed Statement D, as contained in the final version of the Treaty, reads as follows:

In order to ensure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Under the Traditional Interpretation, Agreed Statement D complements Article III (which bans deployment of all ABM systems, including exotics, except for fixed, land-based systems expressly permitted at the two specified deployment sites) and Article IV (which permits testing and development of fixed, land-based exotics at agreed test ranges). Agreed Statement D, under the Traditional Interpretation, provides that if such testing and development leads either side to propose deployment of such exotics, the parties should negotiate the limitations which would govern such deployments. If, however, there is no agreement on appropriate amendment to the Treaty, the deployment of exotics remains prohibited.

Sofaer, in his Reinterpetation, takes a different view. He contends that the Traditional Interpretation results in a reading of this provision that duplicates other parts of the Treaty (i.e., the ban on deployment of exotics in Article III and the procedure for discussing and agreeing upon amendments in Articles XIII and XIV). To address this ambiguity and give independent meaning to this provision, he argues it should be interpreted in light of the fact that it is the only part of the treaty that expressly mentions exotics. Therefore, Agreed Statement D should be read as banning deployment of all exotics (including fixed, land-based and mobile/space-based) unless the parties agree to amendments permitting such deployment. Moreover, because it only addresses deployment, it should be read as permitting testing and development of all exotics, including mobile/space-based as well as fixed, land-based.

B. *The negotiating record refutes Sofaer's description of the relationship between Agreed Statement D and the main body of the Treaty*

Sofaer's redundancy argument contains a major flaw in that it fails to consider adequately the relationship between Agreed Statement D and Articles III and V(1) in the negotiating record.

1. *The chronology refutes Sofaer's redundancy argument*

By the end of 1970, the parties had agreed on the basic principle of a total ban on testing and deployment of mobile ABMs.[155] As noted above, the parties confirmed in September 1971 that this principle would be applied to "exotic" as well as then-current ABM systems and components, and broadened the prohibition to include development as well. During the same period of time, the parties had not yet reached agreement on fixed, land-based systems—using *either* then-current *or* "exotic" technologies. Although there was a general understanding that Article III would severely restrict the deployment of fixed, land-based systems, there was no agreement on the scope of deployment or on this provision's applicability to "exotic" technologies. Thus, the negotiations over Agreed Statement D took place in the winter of 1971-72 in the context of an agreed prohibition on testing, development, and deployment of all mobile systems, but in the absence of any agreement on the details concerning fixed, land-based systems, including exotics.

Even if one were to assume, for purposes of argument, that the text of Agreed Statement D is redundant in light of the Article III ban on deployment of all ABM systems and components not specifically authorized, it was not redundant *at the time* the parties concurred on the text of Agreed Statement D, because the lead-in clause to Article III was not in its final form and there was no formal agreement that the final version of this article would be drafted to cover exotics.

The negotiations over the number of ABM interceptors and the number of deployment sites permitted under Article III proved to be the most difficult aspect of the negotiations. Thus, the question of whether Article III would also have the effect of banning deployment of all fixed, land-based "exotics" was held hostage to this dispute. The text of Article III was not agreed to by the parties until May 12, 1972—less than two weeks before President Nixon and General Secretary Brezhnev were scheduled to meet to sign the treaty.

In light of this chronology, the issue raised by the final agreement of Article III was not whether Agreed Statement D should be *added* to the Treaty, but whether this extremely complicated issue should be reopened by proposing to *delete* the agreed statement. Given the affirmative purposes served by Agreed Statement D under the Treaty as adopted, as will be discussed in Appendix A, it is not particularly remarkable that there was no move to delete Agreed Statement D.

2. *References to Article V*

Sofaer fails to adequately deal with this chronology. He cites various statements in the negotiating record in which Agreed Statement D is referred to in the context of Article V as lending support for his view that the exotics covered under the agreed statement were not limited to fixed, land-based devices.[156] These references to Article V are not very significant, however, in light of the fact that Agreed Statement D was once denominated as Article V(3). None of the references in the negotiating record to Article V expressly tie Agreed Statement D to any of the substantive provisions of Article V that remained after Article V(3) was transformed into Agreed Statement D. Indeed, Sofaer concedes that the reference to Article V might simply have been a careless notation in light of its evolution during the negotiations.[157]

3. *Relationship between Agreed Statement D and the limitations on deployment of fixed, land-based systems under Article III*

A further problem is that Sofaer overlooks specific statements in the negotiating record expressly relating Agreed Statement D to the limitations on deployment of fixed, land-based ABMs under Article III. For example, on December 7, 1971, Kishilov "urged that some way be found to express the difference over this point (i.e., limits on fixed, land-based 'exotics') in Article III rather than in Article V." [158] On December 14, Shchukin, in a meeting with Harold Brown, further associated the U.S. proposal on fixed, land-based exotics with Article III: [159]

[December 15 statement by Shchukin]

[I]t should be possible to provide that if components based on new technologies were developed which could substitute for the components limited under Article III . . . the matter should be referred to the (SCC) and agreements thereon reached by Governments so there would be no circumvention of the limitations on Article III."

Further indication that the Soviet side understood Agreed Statement D as applying exclusively to fixed, land-based exotics is provided by a candid comment by Grinevsky at a meeting with Garthoff on January 26. At this meeting, the two sides finally reached agreement in principle on the basic thrust of Agreed Statement D, though some haggling over final word choices persisted for another week. Recognizing that the two sides had effectively closed this issue (save for final drafting), Grinevsky informed Garthoff that the Soviet Union "*had accepted the American position on the subject entirely, save only that it would be a jointly agreed interpretation rather than a paragraph in the Treaty.*"[160] (emphasis added)

This important statement is not cited by Sofaer in his analysis. Given that "the American position" was to differentiate between types of exotics—with a ban on development, testing and deployment applied to those that were mobile/space-based and a ban only on deployment for those that were fixed, land-based—Grinevsky's confirmation that the Soviet side recognized that it had "accepted the American position on the subject entirely" offers strong support for the Traditional Interpretation of the Treaty.

In addition, Rhinelander, in each of his Article-by-Article Analyses, placed Agreed Statement D under Article III and described it as an authoritative interpretation of this article. These aspects of the record undercut Sofaer's assertion that Agreed Statement D modifies or supercedes the ban on testing and development of mobile exotics in Article V.

4. *Sofaer's inconsistency in assessing the difference between fixed and mobile exotics*

Sofaer also suggests that Agreed Statement D should not be viewed as differentiating between fixed and mobile exotics because it would have been "a scientific and practical incongruity" to have established one set of restrictions on mobile exotics (banning testing, development and deployment in Article V) and another set of restrictions on fixed, land-based exotics (addressing only deployment) in Article III.[161] This proposition is refuted directly by the negotiating record. The U.S. Delegation was instructed to achieve just such an agreement—precluding testing and development of mobile exotics while permitting such testing and development in a fixed, land-based mode—in explicit instructions signed by President Nixon on August 9, 1971.[162]

Sofaer's failure to reconcile these instructions with his claim concerning "a scientific and practical incongruity" is another example of the serious deficiencies within his analysis. When discussing the negotiating instructions—which distinguish between fixed, land-based and mobile/space-based exotics—Sofaer takes the view that the negotiators failed to achieve an agreement that embodied such a distinction. When discussing the relationship between Agreed Statement D and Articles III and V—which embodies the distinction between fixed, land-based exotics and mobile/space-based—the opinion takes a wholly contradictory approach, stating that it would have been a scientific and practical incongruity to achieve such an agreement—the very agreement that the Delegation was instructed by President Nixon to secure.

5. *Summary*

In summary, Agreed Statement D was adopted at a time when there was no other agreed provision banning the deployment of fixed, land-based exotics. By the time Article III had been modified to achieve this same result and had been agreed by the two sides, the negotiators were under enormous pressure to finalize the Treaty prior to a meeting of the heads of state in less than two weeks. Because Agreed Statement D was not inconsistent with any part of the Treaty—and provided useful guidance in terms of handling the adjuncts issue—there was no reason to delete it. In the absence of any significant evidence refuting this explanation for the retention of Agreed Statement D, Sofaer's "redundancy" argument does not provide an adequate basis for rejecting the Traditional Interpretation.

VIII. CONCLUSION

In the final analysis, Judge Sofaer's case for the Reinterpretation rests on his contention that Agreed Statement D is the only provision in the Treaty in which the Soviet Union consented to limit exotic ABM systems or components. Consistent with this position, Sofaer claims that:

a. Article III, which restricts ABM deployments to two specified sites, did not establish a ban on the deployment of exotics;

b. Article II, which defines the terms used throughout the Treaty, did not cover exotics;

c. Article IV, which deals with permissible development and testing, did not limit the development and testing of exotics to agreed test ranges; and

d. Article V, which limits mobile/space-based ABM systems and components, did not apply to exotics.

For the Reinterpretation to be valid, Judge Sofaer cannot simply be right on one of these four points; nor can he afford to be right on only two or three of these points. Rather, to substantiate his Reinterpretation, Judge Sofaer must be right on four out of four of these points.

A careful review of the negotiating documents provided to the Senate reveals that Judge Sofaer is *not* right on four out of four of these points. He is not right on three of them; nor is he right on two of them. Indeed, Judge Sofaer is wrong on all four points:

a. With respect to Article III, the negotiating record establishes that on April 28, 1972, the senior Soviet negotiator tasked with reaching agreement on this provision accepted the final U.S. proposal for the article after he specifically acknowledged that it would have the effect of banning the deployment of what he called "other systems"—that is, by his own usage of those words, exotics.

b. With respect to Article II, the negotiating record reveals that on December 20, 1971, the U.S. side proposed a word change (adding the connective phrase "currently consisting of") after noting explicitly that both sides recognized that there were going to be "future systems" (i.e., exotics) and therefore the connective phrase used in the article had to take account of this fact. Moreover, the negotiating record reveals that when the senior Soviet negotiator tasked with reaching agreement on this provision accepted the U.S. proposal the next day, he confided in his American counterparts that the U.S. proposal had been accepted by the Soviet side over the strong opposition of some members within his delegation (i.e., the Soviet military).

c. With respect to Article IV, the internal working documents of the U.S. Delegation reveal that prior to the signing of the Treaty on May 26, 1972, the delegation formally and collectively agreed that the Soviet negotiators had agreed that this provision restricted the development and testing of fixed, land-based exotics to agreed test ranges.

d. With respect to Article V, the negotiating record reveals that on September 15, 1971, the U.S. Delegation obtained a binding commitment from the senior Soviet negotiator tasked with reaching agreement on the article that the Soviet Union would interpret the words "ABM components" as they appeared in this provision as applying to "any type of present of future components" of ABM systems. Furthermore, the negotiating record establishes that in the view of both delegations, "future components" included exotics.

On close analysis, Sofaer's reconstruction of each of these four episodes proves deficient. In addition, the credibility of Sofaer's analysis is undermined by a number of serious omissions. These include:

His failure to note or take into account a key paragraph in President Nixon's original instructions to the U.S. negotiators directing them to avoid a detailed discussion of such systems;

His failure to note or take into account the tactics of the initial Soviet response to the U.S. proposal on exotics, including their efforts to probe for U.S. secrets, protect their air defenses and stall for time pending receipt of instructions from Moscow.

His failure to note into account numerous statements by Soviet negotiators indicating possible flexibility on the U.S. proposals on exotics.

His failure to note or take into account numerous statements by Soviet negotiators which contradict his hypothesis that the Soviets did not associate the word "components" with exotics.

His failure to note or take into account the fact that both sides agreed that Article II, standing alone, established no obligations.

His failure to note or take into account the split within the within the Soviet delegation over its acceptance of the U.S. proposal for Article II.

His failure to adequately present the role played in the negotiating record by the U.S. interest in protecting the right to deploy ABM "adjuncts".

His failure to note numerous comments in the analyses of the Treaty text prepared by the U.S. Delegation's legal adviser that substantiate the Traditional Interpretation.

His failure to note or take into account the overriding importance both sides attached to preventing any circumvention of the Treaty's limits on deployment through clandestine deployments disguised as permitted deployment and testing activities—i.e., the central role of Article IV in maintaining the integrity of the agreement.

His failure to consult with or interview all but one of the former U.S. ABM negotiators, even though he speculates on the intent which underlay the statements and actions of these U.S. officials ar various points in the negotiations.

Based on my review, I have concluded that the preponderance of evidence in the negotiationg record supports the understanding which the Senate held at the time it gave its advice and consent to the ratification of the Treaty—that is, the Traditional Interpretation. In a situation where the United States Senate, the former U.S. ABM negotiators, and four successive administrations (including, prior to 1985, the Reagan Administration) have upheld the Traditional Interpretation, the burden of proof is on those who would claim that this has all been an extraordinary mistake. In light of the basic flaws and repeated omissions in Judge Sofaer's analysis of the negotiating record, I do not believe that the case presented to date by the Administration meets this test.

IX. FOOTNOTES FOR PART FOUR

[1] 133 *Cong. Rec.* 5296 (daily ed. March 11, 1987).

[2] Office of the Legal Advisor, Department of State, "The ABM Treaty, Part II: Ratification Process," May 11, 1987.

[3] *Senate Consideration of the ABM Treaty in 1972 and Constitutional Implications: Hearings before the Senate Foreign Relations and Judiciary Committees,* March 26, 1987, prepared statement of Abraham D. Sofaer, at 31.

[4] 133 *Cong. Rec.* 5582 (daily ed. March 12, 1987).

[5] "Document on Subsequent Practice: ABM Treaty", May 13, 1987, with transmittal letter, dated May 14, 1987, from the Acting Secretary of State Michael H. Armacost to Senators Pell and Helms, the Chairman and Ranking Member, respectively, of the Senate Foreign Relations Committee.

[6] 133 *Cong. Rec.* 5688 (daily ed. March 13, 1987). 1987).

[7] Office of the Legal Adviser, Department of State, "The ABM Treaty, Part I: Treaty Language and Negotiating History," May 11, 1987.

[8] "Application of the ABM Treaty to Systems and Components Based on Other Physical Principles,"

August 6, 1986, Memorandum prepared by Abraham D. Sofaer, [hereinafter cited as Sofaer.] The Sofaer memorandum, the FitzGerald Study, *infra* note 12, and all other negotiating documents referred to herein are located in the United States Senate, Room S-407.

[9] 133 *Cong. Rec.* 5688 (daily ed., March 13, 1987).

[10] "SALT I Negotiating History Related to Limitations on Future ABM Systems and Components Based on 'Other Physical Principles.'" March, 1985, prepared by Charles L. FitzGerald, System Planning Corporation, Contract DNA 001-84-C-0309, [hereinafter cited as FitzGerald].

[11] NSDM 117, *quoted in* FitzGerald, *supra*, at 17.

[12] NSDM 127, *quoted in* FitzGerald, *supra*, at 18.

[13] Sofaer, *supra* note 8, at 12.

[14] Sofaer, *supra* note 8 at 12-13.

[15] A-408, Annex 1, p. 9 (August 17, 1971).

[16] *Id.*

[17] A-398, at 12 (August 17, 1971)

[18] A-438, at 9 (August 27, 1971).

[19] *Id.*, Annex 1.

[20] A-458, at 6-7 (September 3, 1971).

[21] A-540, Ad Hoc Committee Meeting No. 4, p. 1 (September 8, 1971).

[22] *Id.*, at 5.

[23] Sofaer, *supra* note 8, at 14.

[24] A-408, at 1 (August 17, 1971).

[25] A-398, at 2 (August 17, 1971).

[26] *Id.*

[27] A-424, at 6 (August 24, 1971).

[28] A-442, at 2 (August 31, 1971).

[29] *Id.*

[30] A-458, at 5 (September 3, 1971).

[31] A-540, Ad Hoc Committee Meeting No. 4, at 5 September 8, 1971).

[32] A-481, at 2 (September 8, 1971).

[33] *Id.*

[34] A-498, at 2 (September 13, 1971).

[35] *Quoted* in FitzGerald, *supra* note 10, at 19.

[36] Interview with Graybeal, February 4, 1987.

[37] For example, when Ambassador Semenov submitted the first Soviet draft for "Basic Provisions for an Agreement on Limiting the Deployment of ABM Systems" on December 4, 1970, he said that the obligations in the accord should apply "precisely to radars, missiles, and launchers and that it would be superfluous to establish limitations of any kind on any type of antiaircraft SAM systems, and also on missile attack warning radars, space monitoring radars and antiaircraft radars."

[38] A-647, at 2.

[39] Interview with Graybeal, February 4, 1987.

[40] Sofaer, *supra* note 8, at 18.

[41] Sofaer, *supra* note 8 at 19.

[42] A-540, Ad Hoc Committee Meeting No. 1, at 4 (August 31, 1971).

[43] A-540, Ad Hoc Committee Meeting No. 2, at 2 (September 2, 1971).

[44] A-540, Ad Hoc Committee Meeting No. 3, at 2 (September 6, 1971).

[45] *Id.*, at 3.

[46] A-540, Ad Hoc Committee Meeting No. 2, at 2 (September 2, 1971).

[47] Sofaer, *supra* note 8 at 29.

[48] Sofaer, *supra* at 23-24.

[49] A-540, Ad Hoc Committee Meeting No. 4, at 6 (September 8, 1971).

[50] A-540, Ad Hoc Committee Meeting No. 5, at 1 (September 13, 1971).

[51] *Id.* (attachment)

[52] *Id.*, at 4.

[53] A-503, at 1 (September 15, 1971).

[54] *Id.*, at 5.

[55] *Id.*, at 6.

[56] Interview with Graybeal, February 7, 1987.

[57] FitzGerald, *supra* note 10, at 28.

[58] *Id.*

[59] SALT #1056.

[60] Interview with Smith, February 5, 1987.

[61] Sofaer, *supra* note 8, at 24.

[62] *Id.*, at 24.

[63] *Id.*

[64] A-408, Annex 1 (August 17, 1971).

[65] A-398, at 1-2 (August 17, 1971).

[66] A-438, Annex 1 (August 27, 1971).

[67] *Id.* at 9.

[68] A-442, at 2 (August 31, 1971).

[69] A-540, Ad Hoc Committee Meeting No. 2, at 3 (September 2, 1971).

[70] A-458, at 5 (September 3, 1971).

[71] A-540, Ad Hoc Committee Meeting No. 3, (September 6, 1971).

[72] A-540, Ad Hoc Committee Meeting No. 3, (September 8, 1971).

[73] A-481 (September 8, 1971).

[74] A-540, Ad Hoc Committee Meeting No. 4, (September 8, 1971).

[75] *Id.*

[76] *Id.*

[77] A-766, at 2 (February 1, 1972).

[78] Sofaer, *supra* note 8, at 20.

[79] *Id.*

[80] *Id.* at 24.

[81] *Id.* at 37

[82] Interview with Brown, January 16, 1987.

[83] Interview with Nitze, February 5, 1987.

[84] A-511 (September 17, 1971).

[85] Sofaer, *supra* note 8, at 22-23.

[86] *Id.* at 26. On this date, Academician Shchukin repeated the oft-stated Soviet preference for deferring this issue to the SCC. However, when pressed by Nitze whether the Soviets were likely to agree to such a limitation in the SCC, Shchukin stated that "if it were necessary, they (i.e., the Soviets) could agree to that." (A-639).

[87] A-644 (December 13, 1971).

[88] Sofaer, *supra* note 8, at 27.

[89] *Id.* at 25.

[90] *Id.*.

[91] A-592 (November 30, 1971).

[92] Sofaer, *supra* note 8, at 36.

[93] A-592 (November 30, 1971).

[94] A-613 (December 4, 1971).

[95] Sofaer, *supra* note 8, at 36.

[96] A-613 (December 4, 1971).

[97] Sofaer, *supra* note 8, at 48.

[98] "Article-by-Article Analysis of ABM Treaty," January 24, 1972 (Analysis of Article III-VI) John B. Rhinelander. [hereinafter cited as Rhinelander No. 1].

[99] *Id.*

[100] *Id.*

[101] "Third Draft of Article-by-Article Analysis of ABM Treaty," February 16, 1971, John B. Rhinelander [hereinafter cited as Rhinelander No. 2].

[102] *Id.*

[103] *Quoted* in FitzGerald, *supra* note 10, at 30.

[104] Sofaer, *supra* note 8, at 28.

[105] A-819 (April 6, 1972).

[106] Sofaer, *supra* note 8, at 28.

[107] A-840 (April 10, 1972).

[108] "Article-by-Article Analysis of Treaty", April 20, 1972, John B. Rhinelander, [hereinafter cited as Rhinelander No. 3].

[109] "Article-by-Article Analysis of ABM Treaty," May 24, 1972, John B. Rhinelander [hereinafter cited as Rhinelander No. 4].

[110] A-763 (January 13, 1972).

[111] *Id.*

[112] Rhinelander No. 3, *supra* note 108.

[113] *Id.*

[114] Rhinelander No. 4, *supra* note 109.

[115] *Id.*

[116] Sofaer, *supra* note 8, at 37.

[117] *Strategic Defense Initiative, Hearings before the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Committee on Armed Services,* 99th Cong., 1st Sess. 143 (1985) (statement of Abraham D. Sofaer).

[118] *Id.*

[119] A-633 (December 9, 1971).

[120] *Id.*

[121] A-677 (December 20, 1971).

[122] *Id.*

[123] A-678 (December 21, 1971).

[124] *Id.*

[125] *Id.*

[126] A-743 (January 26, 1972).

[127] Sofaer, *supra* note 8, at 34.

[128] A-743 (January 26, 1972).

[129] *Id.*

[130] Sofaer, *supra* note 8, at 35.

[131] A-766 (February 1, 1972).

[132] *Id.*

[133] Rhinelander No. 2, *supra* note 101.

[134] Rhinelander No. 3, *supra* note 108.

[135] Rhinelander No. 4, *supra* note 109.

[136] Sofaer, *supra* note 8, at 44.

[137] A-763 (January 31, 1972).

[138] *Id.*

[139] *Id.*

[140] FitzGerald, *supra* note 10, 54.

[141] A-863 (April 28, 1972).

[142] Sofaer, *supra* note 8, at 46.

[143] A-763 (January 31, 1972)

[144] A-743 (January 26, 1972).

[145] A-766 (February 1, 1972).

[146] Rhinelander No. 1, *supra* note 98.

[147] Rhinelander No. 2, *supra* note 101.

[148] *Id.*

[149] Rhinelander No. 3, *supra* note 108.

[150] Rhinelander No. 4, *supra* note 109.

[151] Sofaer, *supra* note 8, at 48.

[152] Sofaer, *supra* note 8, at 6.

[153] Rhinelander No. 3, *supra* note 108.

[154] Rhinelander No. 4, *supra* note 109.

[155] FitzGerald, *supra* note 10, at 15.

[156] Sofaer, *supra* note 8, at 44.

[157] *Id.*

[158] A-619 (December 7, 1971).

[159] A-647 (December 14, 1971).

[160] A-743 (January 26, 1972).

[161] Sofaer, *supra* note 8, at 8.

[162] NSDM 127, *supra*, note 12.

X. Appendix A

THE TREATY TEXT REVISITED

This appendix revisits the pertinent provisions of the text of Treaty, as well as the meaning ascribed to these provisions under both the Traditional Interpretation and Judge Sofaer's Reinterpretation, in light of the negotiating record and the explanations of the meaning of the Treaty presented to the Senate in testimony by the Nixon Administration in 1972.

I. THE TRADITIONAL INTERPRETATION

A. *Article V(1)*

Article V(1) explicitly bans the development, testing, and deployment of mobile/space-based ABMs. This provision provided the express basis for the Senate's consideration of the Treaty's impact on testing and development of exotics, particularly the July 19 exchange between Senator Jackson and the Administration's witnesses. There is nothing in the express language of this provision which indicates that some types of ABM systems or components (i.e., those which are "exotic" in design) are exempted. The negotiating record contains substantial and credible evidence that the parties intended this provision to extend to exotics.

B. *Article II*

Article II defines the terms used in the Treaty, including the terms used in Article V's ban on deployment of mobile systems. This provision defines an ABM as a "system to counter strategic ballistic missiles or their elements in flight trajectory," and illustrates the definition by describing ABMs as "currently consisting of" launchers, missiles, and radar. The negotiating record indicates that the parties knowingly and deliberately inserted the word "currently" into this text to ensure that the definition was not limited in scope to systems "consisting of" the three then-current components.

This reading of the treaty is further underscored by Secretary Rogers' official letter transmitting the Treaty to the President, in which he expressly described Article II as serving illustrative purposes. Moreover, Secretary Rogers directly tied Article II to the issue of exotics by listing it under the heading "Future ABM Systems". Likewise, Ambassador Smith, on the day that the Treaty was signed, said that Article II "has a very important bearing on the problem of future systems."

C. *Article III*

Article III bans the deployment of all ABM systems or components other than the fixed, land-based components authorized at two agreed deployment sites. The negotiating record indicates that the Soviets accepted the U.S. proposal for the text of this provision with the explicit understanding that it would apply to then-current systems as well as exotic systems.

D. *Article IV*

Article IV limits "ABM systems or their components" deployed for test or development purposes to agreed test ranges. As with Article III, there is nothing in the broad language of this provision that either limits its application to then-current systems or excludes exotic systems from the ban on deployment for test or development purposes.

This provision reflected both side's appreciation that the ABM deployment limitations in the Treaty would be rendered meaningless if either side could circumvent them through the guise of development and testing. The concern shared by both sides was that a party might "deploy" ABM systems or components on a widespread (i.e., territorial) basis but claim that the systems or components so deployed were only development or test models. The negotiating record indicates that the two sides expressly agreed that fixed, land-based exotics could only be developed or tested at the agreed test ranges.

E. *Agreed Statement D*

Agreed Statement D begins by noting that it serves "to insure fulfillment of the obligations not to deploy ABM systems and their components except as provided in Article III. . . ." the parties then agree that "in the event ABM systems based on other physical principles [i.e., exotics] . . . are created"—a permissible development with respect to fixed, land-based ABMs under Article III—deployment of exotics is subject to discussion and agreement under the consultative and amendment provisions of the Treaty.

Under the Traditional Interpretation, Agreed Statement D serves a useful function in making explicit that which is otherwise implicit in the Treaty: if either side exercises its right (consistent with the Traditional Interpretation) to develop and test fixed, land-based "exotics", the Treaty expressly envisions that there would be a discussion and possible amendment to allow the deployment of such systems. Because the Treaty expressly pemits the development and testing of fixed, land-based "exotics", it is reasonable for a separate document containing Agreed Statements to provide an explicit "roadmap" of the procedure to be followed in the event that the development and testing of such components proved to be successful.

There is another important purpose served by Agreed Statement D. It provides an authoritative interpretation of the Treaty by limiting the Treaty's restrictions on exotics to devices that meet both of the following two criteria: first, such a device must be based on "other physical principles"; and second, that it must include "components *capable of substituting* for ABM interceptors missiles, ABM launchers, or ABM radars" (Emphasis added). This explanation was extremely important to the United States because the Nixon Administration wanted to avoid any interpretation of the Treaty that would preclude the option of deploying "adjuncts"—that is, elements of an ABM system (such as sensors or telescopes) which, in and of themselves, were not capable of subsituting for an ABM radar, launcher, or missile.

In short, had Agreed Statement D *not* been included in the Treaty, the Soviet Union might have been able to argue that ABM adjuncts being developed, tested, or deployed by the U.S. were actually "components" that violated the Treaty.

F. *Assessment of the Traditional Interpretation*

The Traditional Interpretation incorporates the following interlocking network of restrictions preventing any direct *or indirect* territorial deployment.

The direct deployment of then-current fixed, land-based ABM missiles, launchers or radars is limited by Article III to 200 launchers with associated radars at two specified locations.

The indirect deployment of then-current ABM missiles, launchers or radars throughout either nation in the guise of development or test models is prohibited by Article IV. This provision confines such models to the agreed test ranges and allows no more than 15 test launchers.

The direct deployment of "other" fixed, land-based ABMs including exotics, is prohibited by Article III.

The indirect deployment of fixed, land-based ABMs in the guise of development or test models is prohibited by Article IV. This includes exotics.

The deployment, as well as the development or testing, of all mobile ABM systems or components—whether "exotic" or not—is banned by Article V.

Agreed Statement D, which was set forth in a separate document, complements these provisions by providing more detailed guidance in the event that the authorized development and testing of fixed, land-based exotics proves successful. It also provides interpretive guidance ensuring that adjuncts (i.e., components not capable of substituting for then current ABM components) are excluded from the prohibitions on testing, development, and deployment.

In short, the Traditional Interpretation provides a structure designed to preclude either party from achieving a result which is contrary to the express object and purposes of Article I of the Treaty; i.e., "not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense." Agreed Statement D complements this structure in terms of the procedure for addressing fixed, land-based exotics, while also ensuring that the Treaty does not preclude testing, development, and deployment of adjuncts.

II. THE REINTERPRETATION

A. *Article II*

Sofaer acknowledges that it is "plausible" to read the definition of ABM systems in Article II(1) as including future systems, but asserts this provision also "can reasonably be read to mean that, for the purposes of the Treaty, an 'ABM system' is one that serves the functions described *and* that consists of the type of components that existed 'currently' (that is, at the time the Treaty was signed)." 99 Harv. L. Rev. at 1974. According to Sofaer's reading, the Article II(1) definition of ABM systems is limited to those systems based on physical principles in use in 1972.

Sofaer's reading of Article II flies directly in the face of the plain meaning of the provision because it converts an illustrative phrase into a limiting phrase through insertion of the conjunctive "and" before the phrase "currently consisting of." Sofaer, in effect, has created an ambiguity by addiing a word to the text that does not appear therein. As this report has demonstrated, his view of Article II is directly contradicted by numerous statements during the ratification process in which Article II was cited by the Nixon Administration in connection with exotics. It is also contrary to the treatment of Article II in the negotiating record.

B. *Implications For Articles V & III and Agreed Statement D*

Sofaer concedes that the Treaty precludes deployment (but not testing and development) of all ABMs using exotics, but denies that this ban is found in the broad prohibitions of Article III (which precludes deployment of ABMs except for two fixed, land-based systems). His interpretation requires a series of assumptions about the Treaty:

First, he assumes that the definition of "ABM systems and components" in Article II excludes exotics, an assumption that is compelled neither by the text nor the purpose of the Treaty. The negotiating record contradicts this claim.

Second, on the basis of that assumption, he concludes that the prohibition against deployment of "ABM systems and components" in Articles III and V does not include exotics. The negotiating record also disproves this claim.

Third, because he has acknowledged that the negotiating record supports a ban on deployment of exotics, some other provision of the Treaty must be found as a basis for that prohibition.

Fourth, because Agreed Statement D discusses exotics, he assumes that it must be sole source of the prohibition against their deployment.

His analysis of Agreed Statement D will not withstand close scrutiny. The only portion of the Agreed Statement that discusses deployment is the introductory clauses, which sets forth the purpose of Agreed Statement D—"to insure the fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III". It is readily apparent that this clause, by itself, does not prohibit deployment; rather, it is a mere statement of purpose introducing the subject of the Agreed Statement by referencing (not establishing) the obligation not to deploy ABMs except as provided in Article III.

A further problem for Sofaer's theory is that it is internally inconsistent. If, as Sofaer asserts, the term "ABM systems and components" is defined for purposes of the Treaty as excluding exotics, then the use of that term in Agreed Statement D also excludes exotics. If that were the case, the introductory clause of the provision could not serve as the basis for prohibiting deployment of such ABMs.

Under questioning from the Senate Armed Services Committee, Sofaer was unable to support his theory on the basis of the text of Agreed Statement D; rather, he relied on the "spirit" of the introductory clause. 1985 Senate Hearings at 187. In effect, he is asking us to believe that deployment of ABMs using exotics was not addressed in those portions of the Treaty, signed by President Nixon and General Secretary Brezhnev, that broadly prohibit deployment of ABMs, but instead was covered only by the "spirit"—not the express wording—of a side agreement signed by the heads of the negotiating teams. To reach this result, he has had to read words into Article II that are not present, deprived Articles III and V of their plain meaning, created an inconsistency between his treatment of the same phrase in Article II and Agreed Statement D, and relied on the "spirit" rather than the actual wording of Agreed Statement D.

Sofaer also asserts his interpretation of Agreed Statement D is required because the traditional view (that deployment of exotics is banned by Articles III and V) renders Agreed Statement D superfluous, and therefore "violates accepted canons of construction." *Id.* at 143. There are several problems with this theory:

First, it overlooks at least two reasonable purposes for Agreed Statement D, discussed in the prior subsection: (1) providing a basis for distinguishing permissible "adjuncts" from prohibited "components," a distinction found nowhere else in treaty; and (2) removing any possible doubt that "exotics" tested and developed under Article IV in a fixed, land-based mode, were subject to discussion and further agreement prior to deployment.

Second, it is misleading to imply that the Traditional Interpretation must fall because it "violates accepted canons of construction." The only such canon of international law cited by Sofaer is the norm that: "All words of the Treaty are, if reasonably possible, to be given a meaning, and rules of construction may not be resorted to to render them meaningless." 99 Harv. L. Rev. at 1976 n.12. This is a rather weak reed to rely on for purposes of giving a different meaning to a Treaty than that presented by the Executive Branch to the Seante at the time of ratification. Moreover, it does not provide a sound basis for rejecting the Traditional Interpretation. Some perspective on Sofaer's use of this norm of construction is provided by the following comment from Ian Brownlee, in his 1973 treatise, *Principles of Public International Law*, at 605:

"Jurists are in general cautious about formulating a code of 'rules of interpretation', since the 'rules' may become unwieldy instruments instead of the flexible aids which are required. Many of the 'rules' and 'principles' offered are general, question-begging, and contradictory. As with statutory interpretation, a choice of a 'rule' . . . may in a given case involve a preliminary choice of meaning rather than a guide to interpretation." [Citations omitted]

Although the parties might have achieved the effect of Agreed Statement D through interpretation rather than an Agreed Statement, the purpose served by Agreed Statement D—providing amplifying details for matters discussed broadly in the body of the Treaty—is more than sufficient to avoid a construction that would render it "meaningless." Indeed, it is hardly remarkable that an Agreed Statement, set forth in a document separate from the main body of a Treaty, would cover the same subject as primary text, using somewhat different emphasis and a greater level of detail.

Finally, even assuming that Agreed Statement D duplicates matter covered elsewhere in the Treaty, Sofaer's analysis is deficient because he ignores the clear evidence in the negotiating record that Agreed Statement D was not redundant at the time it was adopted. At the time agreement was reached on Agreed Statement D, the ban on deployment in Article III had not yet been proposed by either side in a form that would have applied to exotics. Eventually, Article III was revised to serve this purpose. An agreement on Article III, however, was not achieved until shortly before the summit at which Nixon and Brezhnev were scheduled to sign the Treaty. The negotiating documents reveal that the issue, therefore, was not whether to add Agreed Statement D to the Treaty, but whether to delete it. It was retained for two reasons. First, it served the substantive purposes noted above. Second, because there was no inconsistency between Agreed Statement D and any other provision, it made little sense to reopen an issue with the Soviets by proposing deletion virtually on the eve of the summit.

C. *Article IV*

Another implication of Sofaer's Reinterpretation of the Treaty's text is that it would exempt exotics from the requirement in Article IV that all ABM development and testing be restricted to agreed test ranges. Thus either side could "deploy" ABMs using exotics such as lasers or particle beam weapons anywhere in their country and in any number as long as it claimed that the weapons so "deployed" were for development and test purposes.

Sofaer's reading would result in the following anomalies:

The direct deployment of fixed, land-based ABM missiles, launchers and radars would be limited by Article III, but indirect deployment of fixed, land-based "exotics" in the guise of development or test models would be totally unconstrained—either quantitatively or geographically.

The direct deployment of mobile/space based ABMs involving missiles, launchers or radars would be banned by Article V, but there would be no constraint on the indirect deployment of mobile "exotics" under the guise of development and test models.

In short, if Sofaer's reading of the Treaty text were accurate, the two sides would have opened the door to deployment options directly contrary to the basic object and purpose articulated in Article I—"not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense. . . ."

D. *Implications For Other Provisions*

The Sofaer Reinterpretation would also mean that prohibitions in other parts of the accord would not apply to "exotics"—for example, the ban in Article IX against transferring "ABM systems or their components" to other states or deploying them outside one's national territory. One would then also presumably read Agreed Statement "G" as permitting the United States to provide other states with the blueprints or technical descriptions of "exotic" ABM systems an components. Here, too, there is an obvious problem of consistency. Is it logical that the Treaty would ban the transfer to or deployment in third party states of then-current ABM systems and components while leaving the door open to such actions for futuristic ABM systems and components?

III. CONCLUSION

The Reinterpretation identifies some ambiguities in the negotiating record and highlights provisions of the Treaty that might have been drafted more clearly. However, it produces an analysis of the treaty that is marked by inconsistencies in logic and conflicts with the the purposes of the Treaty. The Traditional Interpretation is internally consistent and in accord with the purposes of the Treaty and it is supported in a preponderance of the evidence in the negotiating document.

XI. APPENDIX B

SUMMARY OBSERVATIONS ON SOFAER'S MAY 11, 1987 REPORT ON THE NEGOTIATING RECORD

On May 13, 1987, the Administration released a new report by Judge Sofaer on the ABM Treaty negotiating record. This report is dated May 11, 1987. In the introduction to the report, Sofaer states: [1]

"The present report is an updated version of a study completed by this office in August 1986, and sent thereafter to the Senate along with relevant parts of the negotiating record. This version deals with arguments and evidence developed or discovered in recent months. No study of this subject can be treated as totally complete. Nothing said or found concerning the Treaty, however, has altered the conclusions reached in October 1985 that the Treaty text is ambiguous, and that the negotiating record establishes that the Soviet Union refused to agree to prohibit the development and testing of mobile ABM devices based on OPP ["other physical principles"].[1]

Despite Sofaer's assertion that nothing in his latest report has altered the basic conclusions of his Reinterpretation, a careful review of this document identifies a number of instances in which Sofaer has made important new concessions supportive of the Traditional Interpretation.

The most significant change in the new report is Sofaer's retreat from his claim that Article III of the Treaty did not extend to exotics. In his August 6, 1986 report, Sofaer had maintained that Article III did not prohibit the deployment of exotic ABM systems or components.[2]

"In the subsequent negotiations, a change was made in Article III that made clearer than in earlier drafts that only those systems and components specified in the Article could be deployed. The provision did not, however, expressly prohibit the deployment of substitutes for "systems" or "components".

In his May 11, 1987 report, Sofaer now admits that: [3]

"Discussions during the negotiation of Agreed Statement D, and thereafter during the final drafting of Article III's introductory language, indicate that the parties believed that Articles I, II, III together expressed their intention to bar *deployment* of all OPP devices." (emphasis in original)

In his previous report, Sofaer had taken note of—but dismissed as inconclusive—statements made by the lead Soviet negotiator on Article III to Ambassador Parsons, his American counterpart, at the April 28, 1972 meeting at which agreement was reached on the article: [4]

"Parsons asked if he understood correctly that the Soviets "could probably agree to a formulation undertaking not to deploy ABM systems or their components except as the Article would provide." Grinevsky said that they could, as this would ban "other systems".

Sofaer includes this memcon in his latest report but makes a new concession that confirms that by "other systems", Grinevsky meant exotic ABM components: [5]

[Excerpt from Sofaer's May 11, 1987 report]

"The parties were using the words 'other' and 'future' interchangeably, in that both were meant to signify a system that served the ABM function but that relied (or in the case of 'future' systems that might rely) on one or more substitute components."

This explanation makes clear that when Grinevsky accepted the U.S. proposal for Article III on April 28, noting specifically that it would ban "other systems," the Soviet side agreed that Article III covered exotics.

Sofaer's concession on Article III exposes a fundamental deficiency in his entire line of reasoning. If Article III prevents the deployment of exotics, then the phrase "ABM systems or their components," as it appears in that provision, necessarily incorporates exotics. Since the definitions of terms used in the Treaty are provided exclusively by Article II, the phrase "ABM systems or their components" must have the same meaning in Article II and Article III. In other words, the definition of "ABM systems or their components" in Article II necessarily includes exotics. Because the definitions provided in Article II must be consistently applied wherever they appear in the Treaty, this would logically mean that the words "ABM systems" in Article V also include exotics—thereby prohibiting the development, testing or deployment of ABMs using exotics. In short, if it is established that Article III covers exotics, then the case for the Reinterpretation is undermined.

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[1] Office of the Legal Advisor, Department of State, "The ABM Treaty, Part I: Treaty Language and Negotiating History," May 11, 1987, at 3.

[1] "Application of the ABM Treaty to Systems and Components Based on Other Physical Principles," August 6, 1986, Memorandum prepared by Abraham D. Sofaer, Legal Adviser, Department of State, at 44. [hereinafter referred to as "Sofaer".]

[3] *Id.* at 6.

[4] A-873 (April 28, 1972), at 2-3.

[5] Sofaer at 58.

Sofaer recognizes this problem and, in another extraordinary concession, admits that it allows one to "make an arguable case" for the Traditional Interpretation: [6]

[Excerpt from May 11, 1987 Sofaer Report]

"The argument could be made that this change showed that the Soviets had come to accept the U.S. view that "ABM systems" should be defined throughout the Treaty in purely functional terms. This assumed result, together with the references by Karpov to "collateral" obligations in the drafting of Article II(1), and his reference on September 15 to the inclusion of "any type of future component" in Article V(1), *could make an arguable case* for the proposition that Article V(1) should be viewed in the final analysis as applying fully to all mobile OPP devices. "(emphasis added)

Nevertheless, Sofaer stands by the Reinterpretation, declaring: [7]

"This line of argument, based as it is on scattered, oral statements and unexpressed intentions, fails to undercut the strong case that the Soviets had not agreed to the U.S. view on all these issues."

With regard to this statement by Sofaer, it should be emphasized that the so-called "scattered, oral statements" by Soviet officials were in point of fact statements made by the senior Soviet negotiators tasked with reaching agreement on specific articles of the Treaty which were communicated to their American counterparts during precisely those formal negotiating sessions at which agreement was reached on these provisions. Moreover, these statements were communicated to the U.S. side for the express purpose of establishing the intent of the Parties as to the interpretation of the meaning and effect of the texts on which agreement was then being reached.

Sofaer insists that even though he now concedes that exotics are covered under Article III: [8]

"This fact does not establish, however, that Article II(1) defined ABM systems, as used in the Treaty text, to include all OPP devices."

This assertion not only flies in the face of logic, it is also inconsistent with yet another significant concession in his new report—Sofaer's admission that the language of Article II is "functional." In his May 11, 1987 report, Sofaer states: [9]

"The Parties intended ultimately to regulate all ABM devices that could perform the ABM function, as reflected in the functional language of Article II(1)."

In short, Sofaer is now conceding that Article II was expressly drafted by the two sides to reflect their recognition that there were going to be exotic ABM systems and that Article II was therefore made "functional" in scope. This concession forces Sofaer to try to reconcile his admission that the Soviets intended Article II to be "functional" in scope with his insistence that they did not intend Article II to limit "any ABM system other than the ones currently consisting of ABM missiles, launchers, and radars."[10]

Sofaer's approach to this appears to be to suggest that the Soviet side agreed to draft Article II in a functional form in anticipation of the need for limits on future systems only after achieving a consensus with the U.S. side that the question of agreeing on precise limitations would be deferred until such time as such systems began to be developed and tested pursuant to Agreed Statement D. As noted above, Sofaer states that, "The Parties intended *ultimately* to regulate all ABM devices that could perform the ABM function, as reflected in the functional language of Article II(1)." [11] (Emphasis added)

Sofaer fails to explain how Article II could have such a bifurcated effect—that is, banning the deployment of exotics under Article III immediately upon the Treaty's taking effect while reserving until some future date the question of additional limitations on exotics in the area of development or testing. In short, Sofaer's position on the applicability of Article II to other provisions in the Treaty is inconsistent and unpersuasive. In conjunction with his newfound recognition that Article III establishes limitations on exotics, Sofaer's acknowledgement of the "functional" scope of Article II in devastating to his entire Reinterpretation theory.

It should be noted, though, that in this latest version of his analysis, Sofaer does take note of several aspects of the negotiating record which had been omitted in his August 1986 memo. These include:

Guidance provided the U.S. negotiators in August, 1971 in Paragraph 5 of National Security Decision Memorandum 127 (which enjoined the U.S. negotiators from engaging in a detailed discussion of secret U.S. programs in the area of exotic ABMs).

Soviet efforts to probe for these U.S. secrets.

The sequence of events with respect to reaching agreement on Agreed Statement D and Article III and the effect of this chronology on Sofaer's arguments about the former's alleged "redundancy."

In addition, the new Sofaer report contains a large volume of new material not previously made available to the Senate. This material provides new information on a number of points, including communications between Dr. Kissinger and Ambassador Smith, reports filed by the U.S. Delegation when it was back in Washington during breaks in the negotiations, details of internal U.S. Government (USG) communications related to the scope of Article IV, and internal USG communications in which some officials questioned whether the September 1971 Graybeal/Karpov understanding on Article V(1) extended to exotics.

Sofaer's recent discovery of documents indicating that some U.S. officials, including the JCS representative, General Allison, may have raised questions in the fall and winter of 1971-1972 as to whether the Soviet Union had agreed in September, 1971 to include exotics under the limitations of Article V(1) complements his case for the Reinterpretation. However, these documents must be weighed against the clear evidence in the negotiating record that when the Treaty was signed in May, 1987, the U.S. Delegation collectively and formally agreed that Article V(1) in fact achieved this result.

The new documents discovered by Sofaer also reveal that when the White House was preparing for the Treaty ratification proceedings after the Treaty was signed, it did not question the comprehensive and restrictive nature of Article V(1). It is also important to reiterate that during the 1972 ratification hearings General Palmer testified to the Senate Armed Services Committee that with regard to the ban under Article V(1) on development and testing on mobile/spaced-based exotics, "The Chiefs were aware of that and had agreed to that and that was a fundamental part of the final agreement." Finally, it is also worth noting that the JC representative, General Allison, has recently testified before the Senate Foreign Relations and Judiciary Committees that Article V(1) covers exotics.

The discovery of these documents adds to the body of information now available to the Senate. The new material does not, however, provide a basis for the Reinterpretation. In sum, although the May 11, 1987, Sofaer report is more comprehensive, the preponderance of evidence in the negotiating record still supports the Senate's original understanding of the Treaty, i.e., the Traditional Interpretation.

APPENDIX C

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILE SYSTEMS

Signed at Moscow May 26, 1972.

Ratification advised by U.S. Senate August 3, 1972.

Ratified by U.S. President September 30, 1972.

Proclaimed by U.S. President October 3, 1972.

Instruments of ratification exchanged October 3, 1972.

Entered into force October 3, 1972.

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

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[6] *Id.*, at 71.

[7] *Id.*

[8] *Id.*, at 6.

[9] *Id.*

[10] *Id.*

[11] *Id.*

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

ARTICLE I

1. Each party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the terriorty of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

ARTICLE II

1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) Operational;

(b) Under construction;

(c) Undergoing testing;

(d) Undergoing overhaul, repair or conversion; or

(e) Mothballed.

ARTICLE III

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifth kilometers and centered on the Party's national capital, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and having a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

ARTICLE IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

ARTICLE V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

ARTICLE VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by the Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode; and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

ARTICLE VII

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

ARTICLE VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

ARTICLE IX

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

ARTICLE X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

ARTICLE XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

ARTICLE XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) Consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) Provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed:

(c) Consider questions involving unintended interference with national technical means of verification;

(d) Consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(e) Agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(f) Consider, as appropriate, possible proposals for further increasing the viability of this Treaty; including proposals for amendments in accordance with the provisions of this Treaty;

(g) Consider, as appropriate, proposals for futher measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate. Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

ARTICLE XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

ARTICLE XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America,

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics,

L.I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

AGREED STATEMENTS, COMMON UNDERSTANDINGS, AND UNILATERAL STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILES

1. Agreed Statements

The document set forth below was agreed upon and initialed by the Heads of the Delegations on May 26, 1972 (letter designations added):

AGREED STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILE SYSTEMS

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to be three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area continuing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D]

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

[E]

The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[F]

The Parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[G]

The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blue prints specially worked out for the construction of ABM systems and their components limited by the Treaty.

2. Common Understandings

Common understanding of the Parties on the following matters was reached during the negotiations:

A. Location of ICBM Defenses

The U.S. Delegation made the following statement on May 26, 1972:

Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers. The two sides have registered agreement on the following statement: "The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers." In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launcher deployment area. (See Agreed Statement [C].)

B. ABM Test Ranges

The U.S. Delegation made the following statement on April 26, 1972:

Article IV of the ABM Treaty provides that "the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges." We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. It is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S. ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM test ranges. We interpret the reference in Article IV to "additionally agreed test ranges" to mean that ABM components will not be located at any other test ranges without prior agreement between our Governments that there will be such additional ABM test ranges.

On May 5, 1972, the Soviet Delegation stated that there was a common understanding on what ABM test ranges were, that the use of the types of non-ABM radars for ranges safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

C. Mobile ABM Systems

On January 29, 1972, the U.S. Delegation made the following statement:

Article V(1) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1971, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which was not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?

On April 13, 1972, the Soviet Delegation said there is a general common understanding on this matter.

D. Standing Consultative Commission

Ambassador Smith made the following statement on May 22, 1972:

The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XIII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreement,[1] agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail: when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations: when SALT is not in session, ad hoc arrangements for any desired consultations under these Articles may be made through diplomatic channels.

Minister Semenov replied that, on an *ad referendum* basis, he could agree that the U.S. statement corresponded to the Soviet understanding.

E. Standstill

On May 6, 1972, Minister Semenov made the following statement:

In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim Agreement and the ABM Treaty beginning from the date of signature of these two documents.

In reply, the U.S. Delegation made the following statement on May 20, 1972:

The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they entered into force. This understanding would continue to apply in the absence of notification by either signatory of its intention not to proceed with ratification or approval.

The Soviet Delegation indicated agreement with the U.S. statement.

3. Unilateral Statements

The following noteworthy unilateral statements were made during the negotiations by the United States Delegation:

A. Withdrawal from the ABM Treaty

On May 9, 1972, Ambassador Smith made the following statement:

The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the USSR does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms. The U.S. Executive will inform the Congress, in connection with Congressional consideration of the ABM Treaty and the Interim Agreement, of this statement of the U.S. position.

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[1] See Article 7 of Agreement to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics, signed Sept. 30, 1971.

B. Tested in ABM Mode

On April 7, 1972, the U.S. Delegation made the following statement:

Article II of the Joint Text Draft uses the term "tested in an ABM," in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing on non-ABM components for ABM purposes: not to prevent testing of ABM components, and not to prevent testing of non-ABM components for non-ABM purposes. To clarify our interpretation of "tested in an ABM mode," we note that we would consider a launcher, missile or radar to be "tested in an ABM mode" if, for example, any of the following events occur: (1) a launcher is used to launch an ABM interceptor missile, (2) an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategic ballistic missile flight trajectory, or is flight tested in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range, or is flight tested to an altitude inconsistent with interception of targets against which air defenses are deployed, (3) a radar makes measurements on a cooperative target vehicle of the kind referred to in item (2) above during the reentry portion of its trajectory or makes measurements in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range. Radars used for purposes such as range safety or instrumentation would be exempt from application of these criteria.

C. No-Transfer Article of ABM Treaty

On April 18, 1972, the U.S. Delegation made the following statement:

In regard to this Article [IX], I have a brief and I believe self-explanatory statement to make. The U.S. side wishes to make clear that the provisions of this Article do not set a precedent for whatever provision may be considered for a Treaty on Limiting Strategic Offensive Arms. The question of transfer of strategic offensive arms is a far more complex issue, which may require a different solution.

D. No Increase in Defense of Early Warning Radars

On July 28, 1970, the U.S. Delegation made the following statement:

Since Hen House radars [Soviet ballistic missile early warning radars] can detect and track ballistic missile warheads at great distances, they have a significant ABM potential. Accordingly, the U.S. would regard any increase in the defenses of such radars by surface-to-air missiles as inconsistent with an agreement.

Mr. LEVIN. Mr. President, before I yield the floor, let me commend Senator NUNN for this analysis. It is lengthy. He has done a service again to the Nation and to this Senate by the kind of commitment that he has made in the energies, intellect, integrity that is applied to the study of the ABM Treaty.

Mr. NUNN. I thank my friend from Michigan. I must add, I would like to thank, in turn, Mr. Bob Bell, who spent several hundred hours in S-407 on this and Andy Effron, who was not part of the staff in S-407 but has spent numerous hours in handling the legal implications of this. I thank both of them.

Mr. WARNER. Mr. President, could the Chair inform the Senator from Virginia as to the time situation?

The PRESIDING OFFICER. The Senator from Virginia controls 10 minutes.

Mr. WARNER. Mr. President, momentarily I will yield to my colleague from Indiana.

I was sitting in another portion of the Chamber at the time I heard my good friend from Michigan characterizing my earlier comments. I shall examine the RECORD, but it was the intention of this Senator to say that, while the Levin-Nunn amendment is technical in nature, it does force, in the context of the debate, a preliminary decision by this Chamber in terms of the narrow versus broad interpretation. It is my hope that, once we get on the bill, we will have a very lengthy debate on this issue. There are strong views held on both sides. But at this time, I do indicate that it is a technical amendment in its nature in terms of the funding, but it forces the debate and which debate, by virtue of the vote, would certainly be a strong indication as to the disposition of considering that issue of broad versus narrow.

Mr. NUNN. Mr. President, will my friend from Virginia yield for a brief procedure question?

Mr. WARNER. Yes.

Mr. NUNN. I find that the time on our side has run out. The Senator from Mississippi is here and I had not known he was going to be here. He desires 2 minutes and I ask if the Senator would yield in that time.

Mr. WARNER. Mr. President, we would like to accommodate the Senator from Mississippi for 2 or 3 minutes, whatever he wishes.

Mr. NUNN. I thank the Senator from Virginia.

Mr. SPECTER. Would the Senator yield to me?

Mr. WARNER. At this time, I yield to the Senator from Indiana. How much time would you like.

Mr. QUAYLE. Five minutes.

Mr. WARNER. Five plus three is eight, plus three is eleven, and we are over our time.

Mr. QUAYLE. How many minutes do we have left?

The PRESIDING OFFICER. Eight minutes and ten seconds.

Mr. WARNER. Mr. President, I yield 4 minutes to Senator QUAYLE, 2 minutes to the Senator from Pennsylvania, and let the Senator from Mississippi be the concluding speaker.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, very briefly, let me outline the objections that we have to the Levin amendment.

First, I think there is a serious constitutional question. I really believe that this amendment does get to the interpretation of the treaty. I think the interpretation of the treaty clearly resides, in a constitutional basis, with the executive branch and not the congressional branch. I think there are serious constitutional question.

Second, this, in fact, is harmful to our negotiators. It takes the wind out of their sails at a very sensitive time, when they, in effect, are sailing toward getting some sort of an agreement on INF and they are also talking about space and defense. At this particular time it is going to undercut our negotiators. We are simply kicking them in the shins at a very inappropriate time. The Congress is once again inserting itself in a place that it should not be inserting itself. We ought to let those negotiations go forward and see what the results may be.

Third, I really do believe, listening to the discussion today, that this amendment has a very negative impact on the future of the strategic defense initiative, though the authors say it does not. And I take them at their word and I have no reason to dispute that. But I think a lot of people that, in fact, support this are not friends of the strategic defense initiative and for that reason I think this would be very much of a detrimental impact to the future of the strategic defense initiative which I think is vital to national security.

Fourth, Mr. President, I hope the Senators at some time realize what they are doing by inviting all of these arms control amendments. The Senate of the United States has the power to ratify. That is our constitutional responsibility. But what we are doing by putting this amendment on and other amendments on, what we are inviting by majority vote, by majority vote of the Senate and majority vote of the House of Representatives, is to engage the House of Representatives, by a majority vote, into interpretations of treaties, into what the limits of treaties ought to be. I really think that Senators are really beginning to give up something that is not only their constitutional responsibility, but, sometime down the road, when we start to invite the House to be a participant in these types of activities, we are going to rue that day.

Mr. BUMPERS. Will the Senator yield?

Mr. QUAYLE. And I came from the House of Representatives and I know that the House of Representatives would enjoy having that additional constitutional authority and responsibility given to them.

Mr. BUMPERS. Will the Senator yield?

Mr. QUAYLE. They do not like and many do not particularly care for the fact we are the only ones that ratify treaties and this is a way that involves them.

Mr. BUMPERS. Mr. President, I am trying to be helpful to the Senator.

Mr. QUAYLE. Unfortunately, I only have about 40 seconds and if I yield to you——

Mr. BUMPERS. I only have one point.

Mr. QUAYLE. Will you take 15 seconds?

Mr. BUMPERS. The Senate does not ratify treaties. We approve treaties. We do not ratify them.

Mr. QUAYLE. OK, we approve them. I am sure the House of Representatives wants to get involved in the approval of treaties as well as the interpretation of treaties. I think it is something that the Senate ought to think about.

Finally, I believe that the negotiating record is going to prove to be quite clear when we get into it, and I am sure that we will get into it at length. Let me just read a couple of pertinent comments from the negotiating record that has now been declassified. I have not had a chance to look at Senator Nunn's statement. I intend to do so.

But this is study of the ABM negotiating history done in October 1972 by ACDA's historical division. Here is what it concluded:

> They also agreed in article V to ban sea-based air-based, space-based, and mobile land-based ABM systems, as well as automatic launchers; the American future-systems provision remained unagreed.

And that is the essence of this whole debate, is whether the United States wanted to not have futuristic systems considered and the Soviets did not agree to that and that is what we will find out in this debate.

The PRESIDING OFFICER. The Senator from Indiana has used his 4 minutes.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, make no mistake about section 233. If this section is decided in this bill, the constitutional issue will have been resolved. And if one thing is plain from this debate, this body is not ready to decide the constitutional issue because of the complexity of the matter and because of the substantial body of evidence which supports the broad rather than the narrow interpretation.

When Senator Nunn articulates the analogy to rail deployment of the MX and Senator Levin makes the comment about MX Dense Pack, that is not like section 233. If they want to limit specific tests, then let them articulate which tests they want to oppose because they are not wise.

I agree with Senator Levin and Senator Nunn that the Senate has a major role to decide how the money ought to be spent. But that decision should be made, if we say, "Dense Pack is bad, don't do it"; if we say, "Rail deployment is bad, don't do it." But that is the specific context as opposed to the Senate passing a bill which decides the constitutional issue.

This is probably the most important issue which will face the Congress this year. It is important enough, involving $4.5 billion, but it is even more important because it will affect materially the future of the strategic defense initiative as a defensive measure and it will affect materially the negotiating record. So that this matter ought not to be decided at this time, especially in the context of the evidence adduced earlier which very strongly favors the broad interpretation and emphasizes the complexity of the matter.

I thank the Chair.

Mr. LEVIN. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I do.

Mr. LEVIN. Does the Senator from Pennsylvania have 30 seconds remaining for a question?

The PRESIDING OFFICER. The Senator has used his 2 minutes.

The Senator from Mississippi.

Mr. STENNIS. Mr. President, it seems to me—and I speak with all deference to everyone—that this is one of the gravest and most serious minutes or times or occasions that we have had here since I have been around. Here we are with the authorization bill—which authorizes military supplies and weapons, pays the cost of the manpower, womanpower, for everything for a 12-month period, approximately $303 billion—and still, we are not allowed to bring that bill in here without its having to undergo delay and having to resort to a motion to overcome that delay. It is a sad, sad day. It was not intended that way, I am sure.

We have here a military authorization bill that has been very carefully considered by highly competent Members of experience and judgment. All you have to do, though, to stop any part of it is just let it fail to get a majority vote.

It makes no difference how small or how large the consequences, it cannot stay in this bill if the judgment of a majority says, "No, it has to go out." It will go out.

But the whole thing fails, it falls in, if we do not permit it to come here and indeed be considered.

I tell you, this is a test of the understanding, a test of the patience of the people, and a test for all of us. I speak of no particular individual; everyone has acted in good faith. But if we can minimize and downgrade the whole military concept we have, then we are making a grave mistake and there is a soft spot somewhere.

I think beyond all doubt this is the finest, the greatest, the strongest military organization in the world. It reaches around the world. It is the forerunner for not only our freedom but the freedom of countless millions of additional people.

How can we downgrade it to the extent that we have the bill run a gaunlet of this kind?

I pray that that will not happen, that we will not make that error, and that we can proceed with this highly important measure which has been so carefully considered, voting against any part or any amendment that may be in the bill now.

Let us resort back to those old standards and keep going. We have no time to lose.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 1 p.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration S. 1174, a bill to authorize appropriations for fiscal year 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Robert C. Byrd, Kent Conrad, Terry Sanford, Bob Graham, J. Bennett Johnston, Howard M. Metzenbaum, Paul Sarbanes, Donald W. Riegle, Howell Heflin, Spark Matsunaga, Harry Reid, Lloyd Bentsen, Alan J. Dixon, Ernest F. Hollings, Daniel K. Inouye, Brock Adams and John D. Rockefeller.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 1174, the Department of Defense Authorization Act, shall be brought to a close? The yeas and nays are automatic under the rules. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—59

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Stafford
Stennis
Weicker
Wirth

NAYS—39

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Danforth
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stevens
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—2

Dole
Symms

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, every Democrat was present and every Democrat voted and every Democratic Senator voted for the motion to proceed to take up the defense authorization bill.

Another vote on cloture is scheduled for tomorrow. I may ask unanimous consent to vitiate that cloture vote and just forget about the motion to proceed and let the President show a little support for the legislation himself.

This is a defense authorization bill. We have had men killed in the Persian Gulf. Our military people want assurance that they are going to be protected. The President can exercise a little muscle here, if he really supports this bill, and get some people on the other side to at least vote for cloture, to take up the authorization bill.

Senators may have good reasons for opposing the bill or good reasons for opposing certain provisions in it. If we can get the bill up before the Senate, Senators can exercise their rights to offer amendments or offer motions to recommit with instructions, or whatever. But the Senate cannot do anything with this bill—it can do nothing, period, nothing with the bill—unless and until the bill is before the Senate.

We have had a consistent showing on the part of a block of determined Senators on the other side who are determined to show this Senate that they can exercise 41 votes, I suppose from now on, to prevent this Senate from taking up the bill—even taking up the bill.

Mr. President, as I say, I have filed another cloture motion which will mature on tomorrow. I had started another cloture motion, so that there would also be a vote when the Senate returns after the Memorial Day holiday, but I am not going to enter that cloture motion today.

Let the Senators go home, and let the people back home talk to the Senators. If the people back home want to see this Defense Department authorization bill brought up before the Senate, if they want the national security of this Nation not to be undermined by the Senate's failure to come to grips with a motion to take up a bill, then let those people talk to the Senators, and perhaps it will have some effect.

This is not to question any Senator's right to vote against cloture. I have done that on a few occasions myself. But here we see the party of the President showing consistently a determined effort to hold 41 votes in line and not let this Senate work its will on the motion to proceed.

There are plenty of opportunities to filibuster available after the bill is up. One can filibuster the bill. Then when the motion is made that the Senate ask for a conference with the House, that it insist on its amendments, and that the Chair appoint the conferees on the part of the Senate. There are three different motions—three lovely, sweet separate opportunities to filibuster—right there. One can have filibusters to the heart's content.

Then, when the conference report comes back to the Senate we can have another filibuster on that. If there are amendments in disagreement between the two Houses, we can have a filibuster on every single one of those amendments in disagreement. We can have filibusters—all that our sweet hearts could possibly hope and pray for after the bill is up for debate. Why do we not get the bill up?

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. BYRD. I yield for a question.

Mr. MOYNIHAN. I ask the majority leader: Is it correct to say that 3 days after the attack on the *Stark*, our frigate in the Persian Gulf, in which 37 American sailors died, we are refusing to take up a bill that authorizes funds for the Navy? Is that what the Senate is doing?

Mr. BYRD. That is what the Senate is doing.

Mr. MOYNIHAN. With the men of the *Stark* still entombed in there.

Mr. BYRD. That is what the Senate is doing.

Mr. MOYNIHAN. I do not see at what level of conscience we could refuse to do our duty. They did their duty. Can we not do ours, sir?

Mr. BYRD. I would hope so.

Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, I have the floor, and I will be glad to yield to the Senator and yield the floor shortly.

Let me mention some of the programs which are authorized in this bill which are important to arms control and important to the NATO alliance and important for strengthening our conventional defense: Technology for monitoring compliance for any agreement on chemical weapons, a program to destroy our existing stock of chemical munitions and build new versions, $100 million for study of extended air defense, including tactical ballistic missiles for NATO, the balanced technology initiative, the key to preserve the NATO deterrent and strengthening the conventional defense, especially if there is an arms control agreement, many other programs, such as the advanced radar, improvements on tank barriers, milestone authorizations for such critical programs as the Army tactical missile system, two new aircraft carriers.

Mr. President, these are just some of the key programs which cannot go forward without this bill and those who are holding this bill up are playing politics with our security, with the security of our allies, and contrary to the arguments that are being made they are playing politics with arms control.

Failure to pass this bill undermines the President and our negotiators far more seriously than could be done by any amendment to it.

Mr. President, I may not support one or more of the amendments that deal with arms control. I may not, depending on what amendments are offered. But we have to get the bill up before amendments can be offered.

I will shortly yield the floor. But I would like to know before I yield the floor what the prospects are for getting up the supplemental appropriations bill this afternoon and what the prospects would be for waiving a point of order so that the Senate could proceed with action on the supplemental appropriations bill.

I do not know if there is anyone here who can answer that question or not.

Mr. WARNER. Mr. President, momentarily the distinguished Senator from Oregon——

Mr. BYRD. I have not yielded the floor yet.

The PRESIDING OFFICER. Has the majority leader yielded?

Mr. BYRD. I am happy to yield. I asked a question and wonder if I could get an answer.

Mr. WARNER. I was about to indicate how that question would be answered.

Mr. BYRD. Fine.

Mr. President, I will yield the floor so that, I hope, I can get an answer to the question. Before I yield the floor, we have 1 more day after today and then the Senate goes on its Memorial Day holiday. There is not much to show for the Senate being in session this week thus far. We did confirm a nomination on yesterday. The Senate can take up the supplemental appropriations bill this afternoon. In view of the fact that the Senate did not invoke cloture on the motion to proceed to the defense authorization bill I would like to at least consider returning to the supplemental appropriations bill today.

There are defense moneys also in that bill and moneys for foreign operations, Commodity Credit Corporation moneys; there are Federal pay increase moneys, there are pension moneys, and there are moneys for Central America.

If the Senate could take up that bill, work its will on it today and tomorrow perhaps we could complete action on it, I may later ask consent to vitiate the action on a cloture motion tomorrow on the motion to proceed to the Defense bill.

As I say, I intended earlier to offer another motion to invoke cloture which would mature on the day that the Senate returns following the Memorial Day holiday.

But I am not going to do that. I am not going to offer that motion, and I may seek to vitiate the cloture motion for tomorrow and just let the matters rest where they are. We have had three tries and we have failed and after a while it becomes obvious that it is needless to try to press on.

I yield the floor.

Mr. WARNER. Mr. President, momentarily the acting minority leader will address the pending request of the majority leader to address the issue of the supplemental. But at this moment I would like to state that I regret the Senator from New York has left the floor. Both the Senator from New York and I were privileged and I say "privileged" to wear the uniform of the U.S. Navy in World War II, and I have had the privilege of working with the Navy in years subsequent to that.

Mr. President, his remark struck me in the heart because although this filibuster coincides with the tragedy of the loss of our brave sailors, in no way is there a relevance. I have throughout this filibuster—and, incidentally, it is the first filibuster that I have led in the 8 years I have been in the U.S. Senate, and I do so together with my colleagues because we profoundly believe that the Levin-Nunn amendment undercuts the national security of this Nation and the President shares in that belief because he has said publicly on several occasions that he would be compelled to veto an authorization bill or any other bill from the U.S. Congress if it were to contain an amendment of this type. So the issues are drawn.

Now it remains for Senators of goodwill and clear conscience to work together to see if there is not a basis on which this body may turn to the bill and begin its debate and at the same time preserve the rights of those who feel very strongly, both sides, as to the issues raised by the Levin-Nunn amendment.

I have been prepared throughout to address any options presented. Indeed, I spoke briefly with the chairman of the Armed Services Committee this morning. I will be speaking with the minority leader later today when he returns. I am hopeful that we can have a basis on which both sides can reach a consensus.

I pledge my best to the majority leader, minority leader, and all others that we will work toward a common basis on which neither side wins or loses in this filibuster, but both sides have preserved their rights and that we can proceed with the bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, unless the leader desires to do some other business here, I would proceed with another subject.

First, I supported the vote to cut short the filibuster and I appreciate the feelings of the Senator from Virginia on this matter, and I am not certain if perhaps he would not prevail if we could go ahead with this bill. I think it is important that we do proceed with this bill and not continue to demonstrate to the public that we do not have the capacity to take up an authorization bill for the defense of this country.

I am not committed to the Nunn-Levin approach in the bill, but I am committed to getting a bill. I hope this body will do that.

BOLIVIA'S COOPERATION IN THE WAR ON DRUGS

Mr. DECONCINI. Mr. President, I would like to take a few minutes of this body's time today to talk about a country that has begun to work hand-in-hand with the United States in the War on Drugs—Bolivia. I also want to insert into the RECORD a report on Bolivia prepared by members of my staff and Senator D'AMATO's.

Mr. President, we have had a long history with that nation, and we have had many, many problems with that nation, and they have internal problems that have been enough to eat anybody alive and devastate them. And yet, they have fought back, at times without our help, because we have decided that we could not tolerate the drug involvement in their body politic there.

There have changed that. They have not only asked the United States to participate but, indeed, we have responded to that country and things are changing. If we had other allies and trading partners and friends that would make the commitment and the sacrifices that the Bolivian Government and people are making, I believe we would have a chance to dent the flow of illegal drugs into our Nation.

Let me first say that by no means do we have the cocaine problem in Bolivia licked or even under control. But what we do have is cooperation from the Government and people of Bolivia. This is far more than what we have from Mexico—the No. 1 source of marijuana and heroin coming into our country.

In 1985, Bolivia elected the democratic government of President Paz. With the support of the main opposition party and the business community, President Paz undertook a major restructuring of the Bolivian economy. The reforms have stabilized the currency, improved tax collection, and reduced the size of the public sector. The inflation rate was over 24,000 percent when economic reform started; today it is running at 10 percent.

After tackling their economic problems, Bolivia went after the cancer that threatens to destroy their country—cocaine. The first step was Operation Blast Furnace. From July to November 1986, U.S. Army support personnel, with the use of six Blackhawk helicopters, destroyed cocaine producing laboratories in Bolivia. Blast furnace resulted in a sharp decline in the price of coca leaves—below the cost of production, in fact.

The United States and Bolivia have continued interdiction raids on the cocaine labs since Operation Blast Furnace ended. In their effort, we provide six Huey helicopters, technical training, transport aircraft, and police and field support to the Bolivians.

The second step was to enter into a joint antinarcotics program with the United States. The basic agreement was signed by the Bolivians earlier this year. It includes interdiction, outlawing of nontraditional coca production, and voluntary eradication for a 12-month period. If voluntary eradication is not successful, it will be followed by forced eradication.

The Bolivian Senate has overwhelmingly passed a sweeping anti-narcotics bill, and the other House of Congress, the Deputy Chamber, will begin debate on the legislation in August.

It is important for the Bolivian Congress to pass this drug bill. It will send a strong message to the Bolivian people, the United States, and to other countries in South America that they are serious about the war on drugs.

These are positive steps, but Bolivia must still address the problem of corruption. The efforts of our DEA agents working in that country are continually hampered by corruption in the Bolivian Government and military. The Bolivians must also get tough on the prosecution of drug traffickers. It doesn't deter the trafficker if they know when they are arrested they will never spend any time behind bars.

Bolivia, like the United States, still has a long way to go in their fight against the drug trafficker and his deadly poisons.

The point that must be made is that the Government of Bolivia is working with us on combatting illegal drugs.

I wish our good neighbor Mexico would do the same.

I ask unanimous consent that the full text of the staff report on the April 1987 trip to Bolivia be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ON-SITE EXAMINATION OF NARCOTICS CONTROL EFFORTS IN BOLIVIA—APRIL 10-14, 1987

(Report by the staff of Senator D'Amato and Senator DeConcini for the Senate Caucus on International Narcotics Control)

The staff members were part of a Congressional staff delegation that traveled to Bolivia to examine the narcotics control efforts of the United States and Bolivian governments.

FRIDAY AND SATURDAY, APRIL 10 AND 11

We arrived at Viru Viru Airport in the city of Santa Cruz, the capital of Santa Cruz Department in the eastern-most section of Bolivia on the evening of Friday, April 10. We had dinner with Frank Foulger (U.S. Embassy political officer), Doug Dobson (U.S. Embassy administrative officer), and Carlos Barrero (American Chamber of Commerce representative) This was followed by a tour of the city, and brief explanations of the current anti-drug effort.

On Saturday morning, we flew east from Santa Cruz in a Spanish-made CASA 212 transport plane to San Ignacio, soon to be the new forward base of the joint DEA-Bolivian Police (UMOPAR, the Spanish language acronym for "Mobile Rural Patrol Unit") drug interdiction effort. Traveling with us were Jim Bradley (DEA), Tom Cepeda (U.S. NAU, for Narcotics Assistance Unit), Rodrigo Navarro (Bolivian Embassy, Washington), Becky Gold (U.S. Embassy, La Paz), Captain Carlos Borriga (UMOPAR), a sergeant with U.S. Army Special Forces, and two DEA pilots.

There was some question whether the helicopters that were supposed to take us to the lab site would be at San Ignacio when we landed. Law enforcement personnel that day stressed the enormous difficulties that logistics and the coordination of personnel and equipment present in Bolivia.

Our target was a cocaine lab near Estancia La Silva that had been decommissioned two weeks before our arrival. It was hidden away in the triple canopy jungle more than 100 miles east of San Ignacio and 30 miles from the Brazilian border. It is at such labs that the coca sulfite purchased in the Chapare region to the west is converted to cocaine base and hydrochloride (HCI).

Three single-engine UH-1 ("HUEY") helicopters were available at San Ignacio. The helicopters are loaned to the Bolivians by the State Department's Narcotics Assistance Unit. Each helicopter has a three-man crew, which includes a Bolivian Air Force pilot, co-pilot, and mechanic, who also serves as a machine gun operator.

In one helicopter, there were a few UMOPAR police armed only with 1930's vintage M-1 rifles and one cartridge per policeman. Although the DEA takes along more modern M-16s for use in an emergency, it was obvious that in any serious firefight, the UMOPAR officers could be easily defeated. One DEA agent put it this way, with only slight exaggeration: "I've never seen them hit something they were aiming at yet."

The vastness of the Bolivian jungle became evident during the more than one-hour flight. The area we flew over was made up of hundreds of square miles of seemingly unbroken jungle, with an occasional dry river bed, path or road, and a number of ponds, swamps, streams, and curving rivers.

If a helicopter developed engine trouble in this region, and was forced to land, chances of it being located would be slim.

The Bolivian Air Force pilots had some difficulty locating the lab site. They got completely lost returning from it. Although they have received training from the U.S. military, we were told they constantly have problems navigating effectively.

The problem with the pilots is not limited to their navigational shortcomings. According to those we traveled with, the involvement of the Bolivian Air Force is a major weakness of the interdiction program. The pilots do not care about the drug problem or the interdiction program, which they see as strictly an American and UMOPAR operation.

We were also told that they are notoriously corrupt. There have been several missed opportunities to seize cocaine labs because of the pilots' refusals to fly. UMOPAR and DEA personnel strongly suspect that the excuses the pilots give for not flying (e.g., bad weather and lack of fuel) are covers for the fact that the pilots have been paid off to prevent missions from taking place.

In fact, the pilots almost refused to fly the day we were there because they had not received their $20 per diem.

Unfortunately, UMOPAR police are not qualified to fly the helicopers, and it has not been politically possible to exclude the Air Force from the interdiction program. Nevertheless, we recommend pushing forward with the effort to find an alternative source of pilots, whether by training UMOPAR police, or hiring pilots in the private sector.

Our helicopters landed in thick six-foot high grass about 100 yards from the actual lab site. The temperature rose to about 100 degrees Fahrenheit, and we were constantly bothered by swarming mosquitos and other insects. The UMOPAR police working under such conditions regularly develop malaria, skin diseases, and other illnesses.

At the lab, our first sight was a collection of about a dozen drums containing acetone. We proceeded to a series of sheds containing: three electric generators used to pump water and operate the other equipment; a small Brazilian-made tractor; a centerfuge separator used to separate ether from cocaine hydrochloride; and a cocaine drying area. Off to one side was a shack with a cement floor that had been used to store cocaine.

The generators, tractor and chemical separator were destroyed because the available HUEY helicopers were too small to remove them.

We recommend that the DEA consider providing its personnel in Santa Cruz with two-engine helicopters that have the ability to remove equipment found at lab sites.

The lab had been found two weeks earlier because of a tip provided by an informant. It was a moderate-sized lab that represented a basic investment of less than $1 million: $500,000 for chemicals; $100,000 for equipment; and the rest for labor and miscellaneous startup and operating costs.

Although the lab's production capacity cannot be stated with certainty, it could probably produce 500 kilograms (or 500,000 grams) of cocaine per month. With the street price of cocaine approximating $100 per gram, it is significant that an investment of less than $1 million can, in a very short time, yield a $50 million return ($100/gram x 500,000 grams).

The probable scenario was that Bolivian traffickers would sell the cocaine produced at this lab to Colombian traffickers for $3,000 per kilogram. Cocaine's street price, which has been as high as $40,000 per kilogram, is creating a trend among Bolivians toward greater involvement in all levels of cocaine trafficking. Under this process, known as "vertical integration", coca producing peasants are starting to become more involved in cocaine processing, while those operating the labs are becoming more involved in distribution.

In addition to the destruction of over $200,000 worth of ether, our visit served to educate us in the fundamentals of interdiction at the source.

The potential of an effective interdiction campaign was demonstrated last year during Operation Blast Furnace, in which DEA, U.S. Army, and Bolivian forces combined from July through November in a massive lab destruction effort. Prior to Blast Furnace, a 100-lb. bag of coca leaf (known as a "carga") could be purchased in Bolivia for $100 to $110. At a production cost of $45, each bag represented a $55 to $65 profit. During Blast Furnace, the price of a carga dropped to $15. This is because interdiction at the source had succeeded in almost completely stifling cocaine production activity in Bolivia. By cutting off the production of cocaine in Bolivia, Blast Furnace effectively eliminated the demand for coca, its raw material.

Prior to Blast Furnace, the street price of cocaine was about $40,000 per kilogram. Immediately after Blast Furnace, traffickers hungry for cash flooded the market with the cocaine they had stored up during Blast Furnace. This resulted in an oversupply of cocaine that briefly reduced the street price to $11,000 per kilogram.

In the month before our arrival, DEA-UMOPAR had destroyed 8 labs in a 110-mile radius. These labs contained 152 55-gallon drums of ether and acetone.

There is evidence that drug production had revived during the rainy season that was coming to an end during our visit. Two of the sites destroyed in the last month had been hit during Operation Blast Furnace last year.

In the course of our visit to Santa Cruz Department, we learned that lab raids result in almost no arrests or drug seizures. One reason is that the noise and sight of the DEA helicopters in the remote jungle give sufficient advance warning to those working in the labs.

According to DEA personnel in Bolivia, they rely on tips provided by informants to locate cocaine labs. Finding labs through searches of the jungle without prior information would be extremely difficult, if not impossible.

We also learned that there is great ambivalence among the Bolivians about the drug interdiction efforts. On the one hand, they recognize that drug addiction in their own country is increasing, and that drug traffickers are taking over legitimate businesses and may eventually take over the government. On the other hand, coca provides a livelihood for about 50,000 peasant families and accounts for about 60 percent of the value of Bolivia's annual exports ($600 million out of an estimated $1 billion).

Another problem is the seeming inability of Bolivian police to learn how to conduct follow-up drug investigations. The surest way to improve the results of our effots in Bolivia in the short-term, therefore, is to increase the number of DEA and NAU personnel. We were encouraged to learn that DEA plans to nearly triple its assignment of permanent positions in Bolivia, from 11 to 31, by September. The State Department should follow DEA's lead and recognize the need to reinforce NAU's operations in the Chapare with at least two more contract employees.

As we previously noted, there is no perfect method of locating lab sites. Each possible method has its own drawbacks and limitations.

According to one theory, a network of informants will provide agents in the field with basic information about possible sites. The field personnel will then conduct fly-overs and photograph suspected sites. Unfortunately, these fly-overs may well alert drug traffickers that an enforcement operation is about to take place.

After analyzing the photographs and other information they have received, intelligence personnel in La Paz search for "signatures", or reliable signs of cocaine processing activity, and set priorities.

Another frustrating aspect of intelligence gathering is that the drug traffickers continually change the signatures. As one DEA agent said, "They're always changing, always one step ahead of us."

Although signatures are constantly changing, two varieties have been common:

1. an airstrip in the middle of the jungle, and a narrow road leading away from it and leading up to a partial clearing with a few small building; and

2. an airstrip near a small town or river, a boat dock, some cattle placed there for show, and as many as 15 or 16 buildings.

The current plan is for DEA intelligence personnel in La Paz to attempt to stay 10 days ahead of the people in Santa Cruz.

Given the problems with existing intelligence gathering methods, there is some question whether it might not be better for field personnel to make on the spot decisions about which sites to attack. It may be that the time it takes for a decision to be made in La Paz gives the traffickers too much time to escape. At the same time, field personnel are spread very thin, and cannot afford to go to locations that do not turn out to contain cocaine processing laboratories.

At the lab site on Saturday, April 10, DEA, NAU and U.S. Army personnel also conducted a test of a radio transmitter loaned by the U.S. Army in Panama. There is a critical need for sophisticated radio equipment that will allow personnel in the field to keep in constant communication with one another. Clearly, we should be providing DEA with more suitable radio equipment.

Despite the many constraints on our current effort, three positive statements can be made:

1. Captain Borriga is an honest, intelligent and dedicated officer. He represents an element of the UMOPAR officer corps that, while small in number, is genuinely attempting to combat narcotrafficking. We did not know it at the time, but the level of honest, competence and dedication represented by Captain Borriga is a thin one throughout Bolivian government and law enforcement agencies. The low salaries that top officers earn (some earn no more than $300 per month) encourages corruption. The situation is made even worse when, as often happens, the Bolivian government finds itself without the funds to pay salaries on a timely basis.

During our visit, we would repeatedly hear that there are relatively few such individuals in upper and middle level government and law enforcement positions. The ability of these people to plan and follow through on projects is necessarily hampered by their small numbers.

2. The UMOPAR forces in Santa Cruz, while probably not totally free of corruption, are generally honest and dedicated. The same, unfortunately, cannot be said of the UMOPAR forces in the Chapare region to the west.

3. There is a high degree of cooperatiion between the Americans and Bolivians in Santa Cruz that needs to be encouraged and supported.

Despite these positive aspects, there are clear limits to what the interdiction operation can accomplish as it is currently constituted:

1. It does not break the so-called "Colombian Connection", made up of powerful Columbian families who are throught to be the key instigators of international cocaine trafficking;

2. It does not eradicate coca. One DEA agent stated that we will only succeed in the war on cocaine when coca-producing countries eradicate coca on a scale similar to Mexico's opium poppy eradication program in the 1970s. "You have to send in the bulldozers with root plows," he said.

3. It does not put drug traffickers in prison. Up to now, the Bolivian government has put no major drug traffickers in prison. One agent put it this way: "We can knock off three labs a week, but if the owners and operators aren't arrested, they can set up someplace else."

4. It is constantly hampered by low and upper-level corruption.

Each of these problems must be addressed forcefully and directly in the very near future if lasting progress is to be made. Progress in three other areas is also needed if results from the current interdiction are to be improved:

1. Because ether today has very limited legal uses, control of the production and transportation of this precursor chemical should be a major law enforcement priority. The governments of South America, including the Bolivian government, are doing far too little about this, however.

2. Another limitation on the current operation is the inefficiency in the area of logistics. There are long delays in supplying field personnel with the most basic and essential maintenance materiel, such as oil, air and gas filters. The State Department and DEA should determine the causes of these delays and work to eliminate them.

3. There is a Spanish word that we heard repeatedly from Captain Borriga to express the need of the forces in Santa Cruz: "apoyo" or support. He said they need more training and more reliable supply lines. Everything we saw on Saturday bears out the truth of that statement.

The actual process of exploding the chemicals at the lab site provides a good example. The present method involves pouring highly volatile ether from one drum around all the other drums, and then firing from close range at the drums until they start exploding. One alternative that should be carefully studied and considered is the training of UMOPAR police in the use of plastic explosives.

The destruction of equipment at the lab site must also be addressed. One option suggested by the sergeant with the U.S. Army Special Forces was a thermite grenade that, in effect, melts the equipment. It is not clear that the method now used, which consists primarily of firing bullets at the equipment and setting it on fire, completely destroys the equipment.

We have spend a total of about 1½ hours at the lab site. Shortly after our departure, the lead helicopter made an unscheduled stop at what appeared to be a start-up lab, containing about $50,000 worth of ether and acetone in storage drums. The machine gun that was fired at these drums jammed after 8 to 10 rounds. Had our people been attacked by armed drug traffickers, they might not have survived.

The other two helicopters found an airstrip nearby. A close on-site examination determined that it had been used within the last week.

After an extended period of about an hour in which the pilots lost their way, the helicopters landed at San Ignacio and refueled. We left at 4:20 p.m. and landed back at Santa Cruz at 5:30 p.m.

Conclusion after a day in Santa Cruz: we will never beat the drug traffickers at this rate. Our personnel in the field deserve the reinforcements they have been promised, and more.

SUNDAY, APRIL 12

We departed Viru Viru Airport at 8:20 a.m., aboard the CASA 212, accompanied by NAU Agent Tom Cepeda. Our destination was the Chapare region, the leading growing area in Bolivia for the coca used for the production of cocaine.

The day was very cloudy, and there was a chance of heavy rains, so it was not clear that the CASA would be able to land on the gravel landing strip near Iviragazama. However, the weather held, and we were met at the strip by NAU's Bolivia Chief, Don Yellman.

Only one helicopter was available. One was being repaired, and another was being used to transport someone who had been injured in a car accident one half hour before we arrived. Half of our group flew in a helicopter to the UMOPAR base at Chimore, and the other half drove there.

At Chimore, we took turns in the helicopter flying over vast areas where coca is grown and where the coca leaves are picked and dried in the sun.

During our stay, we heard again that UMOPAR forces in the Chapare are not as dedicated as those in Santa Cruz, and that there is a need for more commitment by the Bolivian government to eradication and law enforcement in the Chapare, and for less foot dragging and excuses. A very extensive corruption problem also hinders our efforts in the area. It pervades the UMOPAR forces in the Chapare, where the word for it is "charla." We were told that the problem of corruption extends throughout Bolivian law enforcement and government. As recently as March, Fernando Barthelmy, the Minister of the Interior responsible for the anti-narcotics effort, was forced to resign because of widespread complaints he was corrupt.

We were also told that NAU has identified five airstrips that are controlled by small towns in the Chapare that are adjacent to them. A typical scenario is that three days in advance of the traffickers' use of the airstrips, they approach the town officials for permission to land. The traffickers pay off the town officials in amounts ranging from $15,000 to $25,000. This ensures use of the airstrips by the traffickers without interference by law enforcement officials. These fees are usually split up among the town officials, and are sometimes used for town projects. When NAU and UMOPAR have entered these areas to intercept these aircraft, they have found the roads blocked with broken down vehicles.

The American personnel in the Chapare laboring against such great obstacles must be reinforced. As previously noted, NAU has requested two additional helicopters.

One of the main barriers to coca eradication in Bolivia is an economic one. Over a five year period, it is estimated that a peasant, or campesino, can earn $2.50 to $3.50 per pound of coca leaf. Since a hectare of land can produce over 4400 pounds (2 metric tons) of dry leaf a year, a hectare of coca can produce an annual income of well over $10,000.

Outlawing the growing of cocaine is very unpopular among tens of thousands of peasants for whom coca is the number one cash crop. Even if the price of coca can be reduced to Blast Furnace levels, and alternative crops such as oranges, bananas, avocados, and coffee introduced, it will take several years before they produce yields and provide a new source of income. Assuming all these problems can be worked out, export markets must be found for the new crops.

Under the three-year eradication plan proposed by Bolivia, there is to be one year in which peasants will be paid to eradicate their coca crops voluntarily. They are to be paid $2,000 per hectare eradicated. Not until interdiction at the source drives down the price of coca well below current levels, however, will such a voluntary program attract more than a few peasants. Not until the Bolivian government, and particularly the Chamber of Deputies, demonstrates more political will by passing and enacting the anti-narcotics bill into law, can we expect an effective eradication program in Bolivia.

Although the eradication and interdiction programs in the Chapare are in their infancy, NAU agent Tom Cepeda has been threatened several times with violence. He tells of making his rounds at night, leaving his car at the end of a road, proceeding by foot into the jungle, and hearing peasants cutting down a tree and placing it behind the car to block his exit. Shortly afterwards, on occasion, dynamite has exploded near him. Also at times, peasants have blocked the NAU's and UMOPAR's exit from a town by closing the roads.

After viewing the coca fields from the air, we were able to see that access to many areas is extremely limited, and in fact are almost inaccessible, due to the lack of roads. We learned that spraying the fields is not an effective means of eradication. Spraying only kills existing leaves. Immediately after a spraying, new leaves will begin to sprout.

Not even bulldozing the fields with root plows would guarantee effective eradication. The peasants can replant their fields and, within nine months, new plants will grow and be ready to start producing.

From Chimore, we drove to the "Villa Tunari", a small house in the Cochabamba Department. Along the way, we had to drive across two small rivers because the bridges over them had been washed out during the rainy season. After lunch, we all got into a van and continued on to the city of Cochabamba. The drive lasted more than two hours, and took us over many miles of unpaved mountain roads.

We departed Cochabamba Airport at 5:30 p.m., and arrived in La Paz just after 6 p.m.

That evening, U.S. Ambassador Edward Rowell and his wife Lee hosted a reception for us at their residence. Opinions on the situation in Bolivia and the Bolivian commitment to law enforcement and eradication varied considerably.

The DEA chief in Bolivia stated that the Bolivians are more cooperative than at any time since the early 1970s. He did admit, however, that corruption continued to frustrate progress in the interdiction campaign. He told of the wife of one UMOPAR officer who told him she did not want her husband to stay in his present job for too long. He is honest now, she had said, but did not know how long he could remain so.

Investigators from the General Accounting Office (GAO) were more negative in their assessment. They indicated that the U.S. Mission in Bolivia had estimated a much higher number of hectares of coca under cultivation than is reported in the State Department's International Narcotics Control Strategy Report.

A second problem cited by the GAO representatives was that the U.S. military group in Bolivia has chosen eight very expensive boats for DEA to operate as part of an interdiction program it plans to operate on Bolivia's rivers. Staffing these boats will constitute a drain on DEA manpower, and paying for them will be a drain on the NAU budget.

A third problem is that the Bolivians do not regularly meet to review their action plan, and to resolve problems of logistics and coordination among their various agencies involved in the antidrug effort.

The fourth problem cited by GAO investigators is in the area of intelligence. By the time fly-overs of suspected lab sites are complete, photographs are relayed to headquarters in La Paz, and headquarters approves an enforcement action, the traffickers are long gone, and all that remains are the acetone and ether.

MONDAY, APRIL 13

The American Embassy

At 9 a.m., we were briefed by the Ambassador and representatives of DEA, AID, the military group, and other members of the Country Team. United States efforts in Bolivia have three principal aims:

1. Support the move toward democratization that has been under way in Bolivia since the 1985 election of President Paz Estenssoro. As a result of the 1985 elections, Bolivian cities and towns are now governed by elected mayors and councils for the first time since 1951.

2. Encourage the government's economic reforms, which are based on a free market philosophy. The Paz government has denationalized the mining industry, reducing employment in that sector from 57,000 two years ago to 17,000 today; kept government salaries extremely low (e.g., $1,000 per month for Cabinet ministers and members of Congress, and $50 to $100 per month for teachers and police); eliminated price controls; and reduced inflation from 25,000% a few years ago to less than 25% today. The government is run almost literally on a cash basis. No money is spent unless it is in the national treasury.

3. Score major successes against drug trafficking. There is serious concern that by the next Presidential election in 1989, the economic power of the traffickers will allow them to dictate the results. Banks, car dealerships soccer teams, and other enterprises are being taken over by drug dealers interested in finding ways to launder their illegal profits. Legitimate businesses are being driven into bankruptcy because they cannot compete with traffickers.

The anti-narcotics legislation now pending in the Bolivian Congress is essential to the implementation of a three-year anti-narcotics plan. Under this plan, it is hoped that interdiction will cut off the flow of drugs and drug money within Bolivia. The proposed legislation outlaws coca production everywhere but in traditional coca producing regions, and sets 10,000 hectares as the ceiling for legal cultivation. Leaves of legally grown coca are used for tea and are chewed by the Indian population.

The proposed law, which has passed the Senate and is pending in the Chamber of Deputies, also provides explicitly for the extradition of drug traffickers, the control of precursor chemicals, long prison terms for violators, and drug prevention and rehabilitation.

All these measures are expected to lead to a second stage, marked by a decline in the price of coca leaf. It is hoped that, at this point, it will be easier to persuade peasants to abandon coca cultivation and to permit the eradication of coca crops. The third step under the proposed plan is the development of new economic activities and substitute crops (rice, bananas, coffee, etc.).

Proponents of this strategy cite their experience during Operation Blast Furnace, in which 40,000 peasants did leave the coca producing regions, as proof that the peasants can be persuaded by low coca prices and effective law enforcement to abandon coca cultivation.

The first problem that must be surmounted before this strategy can be put into effect is the passage of the anti-narcotics legislation by the Chamber of Deputies. The Bolivian legislative process can be as complicated as ours, and provides as many opportunities for delay.

Complicating matters is the system of weighted voting in the Chamber, where rural (i.e., coca producing) regions are heavily favored. Also, Chamber rules provide for extensive debate, on a line-by-line basis, of every section of the bill. Opponents can kill the bill by extended debate.

The Chamber can approve this legislation first in principal (en grande), and can then proceed with a protracted article-by-article debate before a first vote. The bill would then go back to Committee for editorial correction, and be sent back to the floor for a final vote. Even in the more friendly Senate, this process took 3½ months.

The only way this legislation is likely to pass is if the Bolivian Government can demonstrate to the peasants and to the Chamber that it has the funds necessary to pay the peasants $2,000 per hectare to eradicate their coca crops. The peasants have a deep mistrust of the central government, and it is well known that even today, salaries go unpaid for months.

Although the United States has promised to contribute $115 million, subject to passage of the anti-narcotics plan by the Bolivian Congress, to assist the Bolivian government and to provide the peasants with food, clothing and commodities as they abandon coca cultivation, it has refused to pay cash to the peasants, citing restrictions in the Foreign Assistance Act.

Another very serious problem with our anti-narcotics strategy is that it can take as long as four to six years for the substitute crops to grow and to become profitable.

Everything need not be put on hold pending enactment of the new law, however. Extradition offers important opportunities for breakthroughs against narcotraffickers in Bolivia. Our 1901 treaty with Bolivia provides for extradition, although it does not specifically mention narcotics offenses. However, both the United States and Bolivia are signatories to the 1961 Single Convention on Narcotic Drugs, which provides that narcotics offenses are to be considered covered by all extradition agreements between signatory nations.

Several other important points were raised during our briefing at the Embassy:

1. The Roman Catholic Church has been driven out of several coca cultivation areas. Threats have been made against the lives of Catholic priests.

2. The American Embassy has been attempting to get Anti-Terrorism Assistance funds to help with the training of Bolivian law enforcement officers. They would like to build on DEA's program, which has trained four new Bolivian special narcotics prosecutors and about thirty Bolivian police as part of its Office of Special Investigations.

3. There will be an important opportunity to encourage the Bolivian democracy during this year's election cycle leading up to the municipal elections in December. These elections will be only the second free elections in Bolivia since 1952. The results will have major implications for the 1989 Presidential elections. We have asked the Bolivian government for details concerning how we can provide technical and material assistance.

The foreign ministry

At 10:30 a.m., we called on Foreign Minister Dr. Guillermo Bedregal Gutierrez. He had just returned from Vienna. He described his visit as the first occasion in which an independent country has appealed to the world community for assistance in its own internal struggle against narcotics. Nevertheless, his reception was cool, and the results disappointing.

The Foreign Minister singled out the Italian Government as being the most forthcoming. He also praised Giuseppe Di Benaro, the President of the United Nations Fund for Drug Abuse Control (UNFDAC). He concluded the meeting by appealing to us for help in developing a method of paying the peasants to eradicate coca. However, he said, this is not a precondition to passage of the anti-narcotics law, and, "Even if the United States does not support this, we will fight."

The confederation of private businessmen (CEPB)

During lunch, we had extensive discussions about the Bolivian economy. The hyperinflation in Bolivia before 1985, we were told, was the seventh highest in human history. At one point, the dollar on the black market was worth ten times the legal rate of exchange. Since 1985, under the comprehensive economic plan contained in Supreme Decree 21060 and supported by the country's two largest political parties, Bolivia has moved from a state-controlled economy to a free economy. The exchange rate has stabilized, while inflation has been reduced to less than 25 percent. There are no trade barriers, other than a 20 percent across-the-board tax on all imports.

Nevertheless, stabilization has not yet led to a reactivation of the economy. Enormous problems remain. The country is in the midst of a profound recession. The bottom has fallen out of the tin market, formerly Bolivia's leading export. In one week, tin lost 70 percent of its value. Oil and coffee prices are also depressed.

Since Bolivia is such a small country, Bolivian businessmen have no opportunity to take advantage of economies of scale. They face enormous transportation costs due to the lack of a road system connecting Bolivia to markets in neighboring countries. When they seek financing from banks, they have to pay fees up to 30 to 35 percent in the form of interest and various duties.

Bolivia's national debt and gross domestic product are both about the same: $4 billion. Coca accounts for 60 percent of the value of its exports.

In all this bleak picture, there is some good news and reason for hope. Despite hyperinflation, Bolivia turned to democracy, not totalitarianism. We were also told by the Mayor of La Paz that his city's tax receipts are up tenfold over last year.

Planning ministry.

We met with the Minister of Planning, Gonzalo Sanchez de Lozada, at about 3 p.m. In the course of this meeting, we urged him to work for a visit of President Paz Estenssoro to the United States. The Minister, who at first had serious reservations about such a visit, seemed convinced by the end of our talks that it could prove very helpful.

The Minister offered a very interesting perspective on the narcotics isssue. He said many in government avoid it because it is an extremely difficult one, and the chances of success are perceived to be slim. His analysis of the anti-narcotics law's chances of passage was considerably more pessimistic than the Foreign Minister's.

The stumbling block, he said, is the absence of money to pay the peasants $2,000 per hectare of coca eradicated during the one-year voluntary eradication period. He did warm to one possibility we raised, namely, that the United States might agree to provide these funds subject to Bolivia's enactment of the anti-narcotics law, and implementation of a peasant-assistance plan that the President of the United States certifies is effective. Another idea raised during the meeting was the paying of money to the peasants on a monthly or bi-monthly basis, rather than in a lump sum, and that the distribution of funds be made a responsibility of the U.S. Agency for International Development, or the U.N. Fund for Drug Abuse Control.

The Planning Minister also offered a new perspective on how cocaine production adversely affects the Bolivian economy. It drives up the cost of labor, particularly in the Santa Cruz and Cochabamba Departments. It also renders the labor supply for legal activities (canning, construction, ranching, etc.) highly unreliable, as workers disappear for weeks and months at a time to work in the coca fields.

We raised with the Minister our concerns about corruption and lack of cooperation by the Bolivian pilots in Santa Cruz, the possibility of training UMOPAR pilots to fly the helicopters or finding alternative sources of pilots, the importance to American public and Congressional opinion of passage of the anit-narcotics law, and the need for Bolivia to make significant progress against drug trafficking in the near future.

We concluded by calling the Minister's attention to the problem in getting maintenance supplies from Cochabamba to the helicopters in Santa Cruz, and by suggesting the need for closer coordination among Bolivian law enforcement agencies and the military. The Planning Minister responded by indicating that negotiations over the anti-narcotics bill had diverted the government's focus away from operational questions of logistics and interagency cooperation.

He also suggested that his government was considering the establishment of a Cabinet-level position dedicated to that purpose. Whether this plan is implemented or not, the need for better coordination is a very real one that must be addressed immediately.

Bolivian Congress

At 4:30 p.m., we met with several members of the Bolivian Senate and Chamber of Deputies: Senator Hector Ormachea, President of the Economic Committee; Senators Daniel Cabezas and Alfredo Cuellar Vargas of the Narcotics Committee; and Deputies Alvaro Perez del Castillo and Antonio Ormachea of the Foreign Affairs Committee.

The newest idea concerning the anti-narcotics law is to convoke a special commission of specialists next month to study the law in detail. The Bolivian Congress will invite American observers to participate in this review process. When Congress returns from its recess in August, the commission will report a bill.

We were asked a number of detailed questions about our own Anti-Drug Abuse Act of 1986 and other laws, particularly about provisions relating to money laundering and the forfeiture of drug profits and proceeds. We were also asked for technical assistance in developing anti-corruption and conspiracy laws, such as RICO.

We raised the possibility that the American Embassy might help obtain the services of a knowledgeable Assistant U.S. Attorney or other lawyer from the Justice Department to assist the Commission in its work. Other possibilities raised were: providing a clear, written explanation of these laws, or providing assistance through the Administration of Justice program.

During the meeting, the legislators demonstrated a real concern about the need to approve the anti-narcotics legislation and to rid their country of the drug problem. They also made the point several times that combating cocaine production is the responsibility not only of Bolivia, but also of the United States, where so much of the demand and money for cocaine exist.

TUESDAY, APRIL 14

American Chamber of Commerce of Bolivia

A working breakfast with this group began at about 8:30 a.m. We reviewed many of the findings of our trip, and what is referred to as "the Bolivian reality." We were told that the idea of a visit by President Paz Estenssoro is being seriously considered.

The visit of the Pope to Bolivia next year was also discussed. We suggested that this visit might offer an opportunity to encourage the Catholic Church in Bolivia to become more active in the war on drugs.

Ambassador Roswell made a few remarks, which deserve repetition:

"Things often move here more slowly than you expect, and then suddenly change unexpectedly. The only advice I want to offer here is never to assume that you understand the entire problem, and never give up."

Peasant and Agricultural Affairs Ministry

At 9:30 a.m. the Ambassador joined us in a meeting with Peasant and Agricultural Affairs Minister Justiniano. The minister cited three different kinds of Bolivian agriculture:

1. the traditional labor-intensive agriculture in the Altiplano, where most Bolivians live;

2. the cultivation of coca, primarily in the Yungas region around La Paz and the Chapare; and

3. the more mechanized and commercial, the less labor-intensive, agriculture in Santa Cruz Department in the east. This area, he said, is the one offering the greatest potential.

Looking to the future, he predicted that the role of agriculture in Bolivian life is expected to become greater as the dependency on minerals decreases. Meanwhile, a way must be found to absorb the unemployed miners who have been streaming into the cities and causing unrest.

Another serious danger looming on the horizon is the expiration of Bolivia's contract to sell natural gas to Argentina. The contract expires in 1991, and Argentina has found natural gas sources in its own territory.

There is concern that terrorism may emerge, as it has in Peru, as a serious problem if the economy continues to be weak. There is also concern that if the government were to take action against the coca growers without providing compensation, leftists would attempt to exploit the situation.

The experience with Operation Blast Furnace, however, has emboldened the Bolivians. There was no major unrest, and the economy weathered the drop in cocaine revenues.

Minister Justiniano outlined a four-step eradication program that he believes will work:

1. interdication drives down the price of coca so it becomes less profitable;

2. the government facilitates, through agricultural development and credit programs, the departure of the campesinos from the Chapare and the return of as many as possible to their homelands. The experience with Operation Blast Furnace encourages him to believe that this number will be a very large one;

3. the government establishes an income support program for those that remain. Support continues while they wait for the alternative crops (e.g., citrus and coffee) to grow; and

4. work proceeds on the development of an infrastructure of roads that will allow legal products to be moved to market profitably. Coca prices are so high, the Minister pointed out, that they can absorb current high costs of transportation and still yield a substantial profit. No other product can do that, so there is a need to reduce transportation costs dramatically.

We asked the Minister if he believed the elimination of two labels per week would be enought to achieve the first goal he outlined. He said he did not think so, but an aide with him added that, since the program has only been operational one month, it is too early to say for sure. He also said we do not know if the program will destroy two labs every week for a year.

One encouraging development is that the Minister has met with the organization of coca growers, which expressed the interest of many of its members in getting out of the coca business because of the pressure they have felt since Blast Furnace.

Minister Justiniano also expressed reservations about the cash payment proposal that others in the government are supporting. He is concerned that, without the strictest controls, recipients could take the money and go into coca production in a new area.

Towards the end of our conversation, the Minister informed us that the night before, the Congress approved a $120 million incentives program using Industrial Development Bonds and loans to stimulate the private sector, particularly in the area of exports. Also, the nation's "economics cabinet" was expected to meet in the next few weeks to begin to develop other incentives to help reactivate the economy.

We concluded by asking whether the government has any plans to reform the educational system. We indicated that we had learned that the public universities were more interested in leftwing ideology than in providing their students the management skills and other technical expertise Bolivia needs.

He responded that this was a very sensitive political matter in Bolivia, that the government recognizes the need to reform the system, and is attempting to obtain more technical assistance in the area of export promotion, and for various educational programs, such as IDEA, a private-sector management training program.

Note: At 10:50 a.m., we met Frank Foulger at the American Embassy, and learned that demonstrations by students and workers had become more serious. We could see a large group of demonstrators two blocks away.

Ministry of the Interior

At 11:00 a.m., the Ambassador joined us for a meeting with Interior Minister Juan Carlos Duran. The Ambassador explained that the Interior Minister had taken office very recently (in March).

The Interior Minister is Bolivia's chief law enforcement officer. As such, he represents Bolivia's central police authority; is responsible for narcotics enforcement and domestic peace and tranquillity; and supervises the justices of the peace, who exercise quasi-judicial functions and have investigative powers.

Minister Duran is also the chief political representative of the President in the partisan political arena and the legislative process.

The Ambassador added a few words about Bolivia's legal system, saying that it derives from Roman Law, and is comparable to Italy's and France's.

We asked what the Minister's personal opinion was concerning the Huanchaca case, Bolivia's most notorious drug trafficking case, named for the site of the lab whose destruction gave the case its start. We also asked about the related killings of a world-famous scientist and a member of the Chamber of Deputies.

The Minister replied that the government had recently concluded its investigations. After a raid on one of the largest cocaine labs in the country, the government uncovered evidence of an extensive international narcotrafficking organization made up mostly of Colombians and Brazilians.

He said that the killing of the scientist, Noel Kempf, shocked the conscience of all Bolivians, focused national attention on the dangers of narcotrafficking, and galvanized Bolivian public opinion.

Deputy Salazar of the Chamber of Deputies was investigating the Huanchaca case when he was killed. Mr. Salazar was a friend of Mr. Duran. They had both been elected from Santa Cruz, and were colleagues in the Chamber of Deputies. There is strong evidence that the murder of Salazar was narcotics-related.

Mr. Duran concluded by stating that specific results from this particular investigation are expected soon. He added that the Huanchaca case has led to other investigations that are also being pursued.

Finally, we asked if Bolivia could follow the example set by the Italian magistrates, who have shown great bravery, energy, and success in bring major drug traffickers to justice.

He replied by stating that passage of the anti-narcotics law would make this more likely. He referred to a "resume of accomplishments" summarizing what had been done during his first six weeks in office. He noted the seizure of tons of coca paste, and a long list of arrests. Also, for the first time because of his order, Bolivian officers known as "fiscales" have begun to accompany UMOPAR police to certify drug seizures. These certifications can be introduced as evidence in court, so the actual drugs can be destroyed, thereby reducing opportunities for diversion and corruption.

When we asked when we would see prosecutions of major traffickers, he referred to the many problems of proof, and the concern that if they proceed against such people and fail to obtain convictions, then the defendants will have acquired, in effect, a clean bill of health. However, he did indicate that significant developments could be expected soon.

Finally, we urged him to proceed against the corruption that is hindering the drug law enforcement effort in Bolivia. He indicated that the government had stepped up its arrests of police and would continue the effort.

Note: Tim Carlsgaard and Doug Dobson did not attend the meetings that morning with us. They were outside the United States Embassy during the demonstration. As the protest heated up, blasting caps were thrown in front of the Embassy. A short time later, a piece of dynamite was thrown at the door of the Embassy. Its explosion injured two guards. News reports on local radio soon after said that someone from the United States Embassy had come out and tossed a bag of explosives into the crowd. This is a good example of negative reporting that leads to anti-American sentiment.

On Wednesday, April 15, the day we returned to the United States, the Washington Post carried a brief mention of this incident at page A28 under the heading, "Bolivian Violence":

LA PAZ, BOLIVIA.—Dynamite sticks and a gasoline bomb hurled during a protest march by 12,000 workers and students injured at least nine people, including two men guarding the U.S. Embassy, witnesses said. Marchers protested the government's austerity measures.

The following is a list of recommendations and questions that arose from our site visits and many conversations with American and Bolivian officials.

RECOMMENDATIONS

1. The State Department, DEA, and U.S. representatives in Bolivia must reiterate to the Bolivian government, and particularly the Chamber of Deputies, that coca eradication must proceed, and the delays in passing the anti-narcotics law must be overcome.

2. A visit by President Paz Estenssoro to the United States should be carefully considered. It may be that only by raising the issue of narcotics production and trafficking, and the many barriers to an effective anti-narcotics campaign, to the highest levels of attention can a real breakthrough be achieved.

3. The State Department should follow DEA's lead in adding personnel in Bolivia. There is a clear need to reinforce NAU operations in the Chapare region with at least two more contract employees.

4. DEA should analyze its intelligence-gathering operations to determine whether it might not be better for field personnel to make on the spot decisions about which sites to attack. It may be that the time it takes for a decision to be made in La Paz gives the traffickers too much time to escape. At the same time, we recognize that field personnel are spread very thin, and cannot afford to go to locations that do not turn out to contain cocaine processing laboratories.

5. We should be providing DEA with radio equipment that is suitable for communications between its field personnel and with headquarters in La Paz.

6. DEA and NAU need additional helicopters. They should carefully consider whether two-engine helicopters would be appropriate additions to existing fleet of HUEY helicopters. They should also attempt to find an alternative source of helicopter pilots, whether by training UMOPAR police, hiring pilots from the private sector, or otherwise.

7. There is a need for a major enforcement initiative against the so-called "Colombian Connection," made up of powerful Colombian families who are the key instigators of international cocaine trafficking, and the Bolivian families that assist them.

8. A major anti-corruption drive is urgently needed.

9. Because ether today has very limited legal uses, control of the production and transportion of this precursor chemical should be a major law enforcement priority throughout South America.

10. Inefficiency in the area of logistics must be reduced significantly. There are long delays in supplying field personnel with the most basic and essential maintenance materiel, such as oil, air and gas filters for helicopters.

11. The possibility of training of UMOPAR police in the use of plastic explosives should be carefully studied and considered, as should improved methods of destroying equipment that cannot be removed from lab sites. One possibility is the use of thermite grenades that can melt through equipment DEA determines needs to be destroyed. The current method of shooting bullets at the equipment or burning it, allows parts of the equipment to be salvaged.

12. The Bolivians should be encouraged to set up an inter-agency council that meets regularly to solve problems of cooperation and coordination;

13. The Departments of State and Justice should express to the Bolivian government our continuing strong interest in the extradition of narcotraffickers from Bolivia.

14. The Bolivians should be encouraged to pursue all investigations and leads developed as a result of the Huanchaca case.

QUESTIONS

Q 1. In 1986, how many acres did the U.S. Mission in Bolivia estimate are dedicated to coca cultivation? How does this compare to the State Department's International Narcotics Control Strategy Report? Why the discrepancy, if any?

Q 2. What was the decisionmaking process by which eight very expensive boats were chosen for DEA to operate as part of a planned marine interdiction program? To what extend did DEA make the decision to select these particular boats? To what extent was the decision made by the military group in Bolivia? What are the staffing requirements for these boats? How much will they cost? Which agency will pay for them, and what percentage is that amount of said agency's budget in Bolivia?

Q 3. What is the status of the American Embassy's request for Anti-Terrorism Assistance funds to help with the training of Bolivian law enforcement officers?

Q 4. Is there a clear State Department plan or Bolivian Government request for assistance that the United States can act on to support and encourage peaceful municipal elections in Bolivia this year?

Q 5. We should ask CRS to prepare a clear legal analysis of the legality, under the Foreign Assistance Act or other U.S. law, of our providing funds to pay Bolivian peasants who eradicate coca voluntarily during the first year of the eradication program. Also, would it be legal for the State Department to agree to provide these funds subject to Bolivia's enactment of the anti-narcotics law, and Bolivian implementation of a cash payment plan that the President of the United States certifies is effective?

Q 6. Is it possible for the American Embassy to help obtain the services of a knowledgeable Assistant U.S. Attorney or other lawyer from the Justice Department to assist the Chamber of Deputies and its Anti-Narcotics Law Commission in its work this spring and summer? If not, can it provide a clear, written explanation of these laws, or provide assistance through the Administration of Justice program?

Q 7. How far along are the plans for development of roads in Bolivia that will allow legal products to be moved to market profitably? Has Bolivia made a formal request for U.S. assistance on such a project? If so, what is the status of that request?

Q 8. How many cocaine labs does DEA plan to destroy this year? At one point, agents in the field indicated that their goal was the destruction of 40 labs for all of 1987. In La Paz, we were told that the goal was the destruction of 2 labs per week. How was the actual goal set? Does DEA believe that, if this target is achieved over one year, the price of coca will be reduced so that coca cultivation will become unprofitable? If not, how many labs would have to be destroyed each week, and over what period of time, to achieve that goal?

Q 9. What controls does the Bolivian government propose in order to prevent recipients of cash from taking money provided under its proposed cash payment plan, and going into coca production in a new area?

Q 10. What assistance is AID providing Bolivia's educational system? The Universidad Privada de Santa Cruz de la Sierra has applied for assistance. Can any be provided? We are informed that the Bolivian government is attempting to obtain more technical assistance in the area of export promotion, and for various educational programs, such as IDEA, a private-sector management training program. Does AID have any information about these or similar projects in Bolivia?

Q 11. What was the request for personnel, equipment, supplies, and budget submitted by the DEA and NAU offices in Bolivia in FY 1986 and 1987, and what have they been provided? If they have been provided less than they requested, what is the rationale? What is their request for FY 1988? What are they expected to receive? If this is less than their request, what is the rationale?

Q 12. Finally, there is some uncertainty whether we have a clear understanding of who the owners of the Chapare coca fields are. do the Bolivians have reliable land ownership records? If so, do they indicate whether the peasants working in the coca fields are the owners of these lands? Has any attempt been made to determine how prevalent absentee land ownership is in the Chapare and other coca producing regions where the voluntary eradication program would operate? Has any attempt been made to determine the extent to which the payment of $2,000 per hectare would correlate to payments of $2,000 per family, and the extent to which it would result in multiple payments of $2,000 to relatively wealthy owners of extensive holdings?

A copy of this report will be submitted to the Senate Appropriations Committee and Caucus of International Narcotics Control, of which Senator D'Amato and Senator DeConcini are members. A copy will also be submitted to the Senate Foreign Relations Committee, the Department of State Bureau of International Narcotics Control and Agency for International Development, the Drug Enforcement Administration, and the Government of Bolivia. The State Department agencies and the DEA will be asked to answer the questions at the end of this report that pertain to their programs and responsibilities. These answers, in turn, will be submitted to the Senate Foreign Relations Committee, Appropriations Committee, and Caucus on International Narcotics Control.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. SIMPSON. Mr. President, I want to get to the answer of the question of Senator BYRD, the majority leader. There are an awful lot of questions to be answered regarding the incident in the Persian Gulf. There is not one of us here that does not believe that that is the case. And there will be congressional investigations and military investigations, and that is as it should be.

But I must say that to me personally—and I am one, too, who wore those colors for a couple of years near the tail end of the Army of Occupation in Germany; and I am very proud of that—that to continue to hear—and it is almost as if you cannot really believe what you are hearing—that somehow because of this cloture vote that men are being killed in the Persian Gulf; that is highly offensive to me. That is some theme that I think need not be repeated in this place. I wore that uniform. To think that in use of a procedural device on an important bill that somehow on this side of the aisle we are stopping the ships from steaming and the men from fighting is offensive.

I was stunned when the Senator from New York made that retort, in some kind of mode that I am not familiar with from watching the Senator from New York. Startling. It is not like him at all. It is unbecoming.

And the remarkable Senator from West Virginia, the majority leader, surprises me greatly in the return to this theme which—to anyone listening or watching what this place is and what it means—ought to gall any throughtful American. These are not dummies watching this screen, whatever they watch us do in this place. We are the dull ones if we think they believe that guff. We are the ones.

So, again, this continuing effort, this smokescreen to try to connect the tragedy involving the U.S.S. *Stark* with an action today or yesterday or next week on this bill is absolutely and patently absurd.

Now if we are going to start looking for reasons why there may be potential problems in other branches of the military, let us look back 20 years. let us get out everybody's voting record, see who was putting the bucks up for defense and who was not. That would be a good way to find out, instead of this most extraordinary activity in the last days that every time there is a gap in the action, suddenly it is some reflection on patriotism or the willingness to assist the armed services of the United States. That one will not wash anywhere.

Now, there is a problem. There is a problem and obviously we are seeing it. It is not the Republican Party of this Senate that is delaying this issue. Some of our Members voted for cloture, five of them did. The Democratic majority is voting as a bloc, just as we would if we were on the other side. The Democratic majority chooses to do that. They respect their leader and they are doing it.

Senator WARNER and Senator NUNN, we know them well. They are superb, we know our fellow cast of characters in this place. They are trying to make some movement, some alternative ways to proceed. Maybe they can get that done. We will know soon. We are going to have another cloture vote tomorrow, and we will have one when we get back.

Yes, we are at an impasse. Yet there has been no real suggestions from the other side, perhaps, for discussion or negotiation. That is what this place is about. I do not believe that anyone, whether they are in the majority or the minority, ever should get to the position where it is just simply: "Do it our way, or it won't be done."

No that is not what this place is about.

If the majority finds itself in this position they will reach out, like we did when we were in the majority. You reach out for compromise and consideration and they will indeed find us accommodating. But it is an irony of the first water when now we hear that everything that happens now on this floor that does not work out right we should blame on the President.

The President has never been in this Chamber. The Vice President is the President of our Chamber.

The successes of the past few years of the party of the opposition have been in running against the President of the United States. I do not blame them, if that is what they wanted to do, if they feel this helped the switch of majority to minority and minority to majority.

But they are in the majority now and they have the responsibility of moving forward with legislation, with responsible legislation that satisfies the concerns of this strong minority on this side of the aisle that has such a deep concern over a very specific thing, the Nunn-Levin amendment. They also have a very specific concern over the supplemental budget. That is a $2.6 billion deficit increase, on which we will have to waive the Budget Act.

Those are not dishonest objectives of the minority. They are deeply held concerns and they should be just as easily accepted as to what we in our terrible frustration would hear if someone on that side of the aisle shared that same, deep, rich concern.

I do not speak in the capacity of leadership. I am the junior Senator from Wyoming and I am very proud of it. But if I hear any further references to any kind of reflection that if we do not do our job on this Department of Defense authorization that the country will be less served, or that somehow we are less patriotic, or that somehow somebody is being killed, I will be right here at the post. We will let the American people decide that one because I will not let it go by.

Now to answer the question of the majority leader.

(Mr. ADAMS assumed the chair.)

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SIMPSON. Yes.

Mr. BYRD. Mr. President, nobody that I know of has said anything that would question the patriotism of any Senator on that side of the aisle. If I quote a scriptural passage, "the wicked flee when no man pursueth," in quoting the passage, I do not imply that the distinguished Senator from Wyoming is wicked or that any Senator on that side of the aisle is wicked.

Nothing that any Senator on this side has said implies a lack of patriotism on the part of any Senator, on either side of the aisle. Any suggestion to the contrary, I think, is a misreading of what has been stated. I do not see the reason for all the high dudgeon concerning what has been said. As far as what I have said, I have only stated the facts. I said that men have been killed in the Persian Gulf. At the same time, we have a defense authorization bill that we would like to get up before this Senate. That defense authorization bill is important to the men and women who serve in uniform. It is important to the national security of this country.

But that is not to say that any Senator who voted against cloture is not patriotic. I would not say that. I do not believe that, and I do not think any Senator on this side believes that, or intends to leave that impression.

What was meant here was that we have a bill that is important to the national security of the country; it is important to the national defense of the country; it is important to the Navy, the Army, the Air Force, the Marine Corps; the men and women in uniform. We have something going on in the world right now that should attract our attention to this defense authorization bill. Other things may go on tomorrow, next week, next month, or in the months ahead. We have a bill that we are trying to get up that is not irrelevant to what is happening in the world. That is what we are trying to say. That is what I have tried to say.

I certainly have never meant to cast any reflection on any Member's patriotism in this body.

I did not wear the country's uniform, but it was not because I did not have the courage to wear it.

But I would take umbrage, too, if any Senator should question another Senator's patriotism, but I have said nothing that would leave the inference to be drawn that I questioned the patriotism of anyone. Nor has anyone else.

I am not unpatriotic myself, and I am not unaware of the sacrifices made by those men and women who have worn the uniform.

I am not going to stand on this floor and say that any Senator who votes against cloture is unpatriotic. That would be petty. I hope I am not that petty.

I hope we do not lose sight, though, of what is going on. Nobody can gainsay the fact that we have problems in the Persian Gulf. Nobody can gainsay the fact that the bill we have been trying to get up is relevant, because we have to look at the future and what may occur in the future.

I shall read the transcript of what I said, and if I have said anything that would reflect on the patriotism of the Senator from Wyoming, or any other Senator in this body, I will come to this floor and I will read it publicly and I will correct it. I hope that is enough to put this aspect of the matter to rest.

Yes; we were in the minority on this side not too long ago, but never did we attempt to just throw up a 41-vote roadblock to taking up measures of this importance. I do not think we did. That was not our desire. We did not reach any strategic decision to that effect as a party.

We have all participated in filibusters from time to time, and all of us cherish the rights of the minority. Sometimes I think we are a little myopic in this body. Preventing the Senate from even moving to take up an important piece of business, is not what is meant by protecting the rights of the minority.

There have been occasions when a Senator, two Senators, or three Senators—I know on my side of the aisle even when we were in the majority and I had the responsibility for trying to move the program along—I had on my side one, two or three Senators who decided they would stop the Senate from acting on the Natural Gas Act of 1977.

But as a party, I do not think we ever decided that we would stand against a motion to take up, or that our strategy was to have 41 votes against any cloture motion. I do not think that any such paralysis of the Senate floor is in accordance with the people's will.

I hope that what I have said will debunk any idea any Senator on this side or that I have any thought—and I can only speak for myself—any thought of casting any aspersion on any other Senator's patriotism. That has not been in my heart and is not in my heart now. I hope the Senator will realize that.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I said exactly what I intended to say. I said that the issue galled as it continues to rise, with continued reference to the U.S.S. *Stark* in connection with the defense authorization bill. It was just exactly what I intended to say.

I will leave it right at that. I will let the record speak for itself. But I certainly challenge the one statement, because I believe in my mind it was indeed intended to leave exactly that impression or else it would not be revisited and revisited like a theme. I would like the record to also disclose how many times since the U.S.S. *Stark* incident there has been a direct tie made with that incident and this bill on this floor by the majority leader. I refer to the CONGRESSIONAL RECORD of May 19 at page S. 6691, at page S. 6708, and at page S. 6710, and also to the majority leader's opening statement this morning and to his remarks immediately following the cloture vote today.

I would like the colloquy of Senator MOYNIHAN and Senator BYRD to also appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLOQUY

Mr. MOYNIHAN. I ask the majority leader: Is it correct to say that 3 days after the attack on the *Stark*, our frigate in the Persian Gulf, in which 37 American sailors died, we are refusing to take up a bill that authorizes funds for the Navy? Is that what the Senate is doing?

Mr. BYRD. That is what the Senate is doing.

Mr. MOYNIHAN. With the men of the *Stark* still entombed in there.

Mr. BYRD. That is what the Senate is doing.

Mr. MOYNIHAN. I do not see at what level of conscience we could refuse to do our duty. They did their duty. Can we not do ours, sir?

Mr. BYRD. I would hope so.

Mr. BYRD. Will the Senator yield?

Mr. SIMPSON. Yes, I will.

Mr. BYRD. Just as the Senator has said he said what he intended, I said exactly what I intended to say. What we see going on in the Persian Gulf, we have seen men killed, and here is the Senate now trying to take up a defense authorization bill and unable to even get the bill up. I do not apologize for saying that. But in my judgment that is no reflection on any Senator's patriotism.

I did not mean it that way, and if any Senator takes it that way, I am sorry. But I may say that again.

Mr. SIMPSON. And I may say it again, too.

Mr. BYRD. Well, yes, the Senator is welcome to say it again, but I am not going to say I am sorry that I made reference to what is going on in the Persian Gulf. I am not sorry that I said that we should be taking up the defense authorization bill. I think the two are somewhat relevant to each other.

But what I am saying to the Senator is that I do not mean to cast any reflection on any Senator's patriotism. If the Senator wants to take umbrage at that, he may do so. I can only say what is not in my heart, and I have said it again and again and I do not intend to go on and on saying it the rest of the day.

Mr. SIMPSON. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I understand what the majority leader is saying. That will become clear to the American public. But I also would again express that, indeed, the continual reference of some tie between the U.S.S. *Stark* and this DOD authorization is always then connected with this side of the aisle. That is the offensive part to me.

I do not need any credential checking on my patriotism at all. I will leave it at that. But if we are going to have a triple tie on each occasion among the U.S.S. *Stark* and the Department of Defense authorization bill and the activities of this side of the aisle, that is most offensive to me, especially when five of our Members have supported the majority leader in his quest. Nothing here in the way of bloc voting or Republicans trying to stall. That is not part of this issue. And each time those three things are drawn together in some kind of a web, I will hope someone might call me in my chambers and I will respond and come here at each and every one of those occasions.

Mr. BYRD. Will the Senator yield?

Mr. SIMPSON. Indeed.

Mr. BYRD. The Senator hears the debate that goes on on the floor all the time. He may come here and stay as long as he wishes. I do not intend to cast any reflections on any Senator's patriotism.

Mr. SIMPSON. I have already heard that said.

Mr. BYRD. But I also do not intend for any Senator by a threat to put a gag on me as to what I will say or not say. For what I have said I do not think I owe any apology to anyone. I meant to hurt no one's feelings as to their patriotism. That is the farthest thought from my mind, and I do not care to go on ad infinitum the rest of the afternoon proclaiming my innocence. The RECORD will speak for itself. And as far as I am concerned there it is.

Mr. SIMPSON. I have nothing further at this moment.

The **PRESIDING OFFICER**. The Senator from New Jersey is recognized.

THE U.S.S. "STARK"

Mr. **LAUTENBERG**. Mr. President, I wish to take a couple minutes to reflect a feeling that is shared in by all in this body and across our Nation, sadness and shock at the tragic loss in the Persian Gulf of our brave young men aboard the Navy frigate, the U.S.S. *Stark*.

Among those who sacrificed on behalf of their country were three young people from the State of New Jersey. Their names are Christopher DeAngelis of Dumont, NJ; John Anthony Ciletta, Jr., from Brigantine, NJ; and Daniel Homicki, from Elizabeth, NJ.

As we review the events of that sad day, we must ask the hard questions about what our mission in the gulf is and how our Navy should respond when it is faced by threats such as the one posed by the Iraqi aircraft. We are all waiting very anxiously for the answers to those questions from the review currently underway. Those are questions that must be asked. One thing, however, that cannot be questioned is the loyalty and the commitment of the young people who lost their lives on the U.S.S. *Stark*. They gave their lives for their country, as other Americans have done in other conflicts. One need only hear or see the interviews being conducted with the families and friends of these young sailors to see how strong the commitment was of these young people to their country and to the U.S. Navy.

We send our sympathy and good wishes to all of the members of the families and friends of those who perished on that terrible day in the Persian Gulf.

INDIA INCREASES TENSIONS WITH CHINA

Mr. **HELMS**. Mr. President, I think it is important to bring to the attention of the Senate a potentially dangerous situation developing in that part of Asia known as the Roof of the World or the Himalaya Mountains. The Communist Chinese and the Indians are engaged in a territorial dispute and their military forces are now within handgrenade range of each other.

Unfortunately, the Indians have initiated this latest increase in tensions.

The Communist Chinese occupy the high ground at a place called Wangdung Ridge. The Indians have been moving their outposts quite close by. Both sides claim the disputed territory based on a 1914 treaty between the British and Tibet. The area in question is a tricorner area where Tibet, India, and Bhutan come together in the eastern Himalayas. The Communist Chinese and the Indians fought over this area in 1962, after which the Chinese Communists withdrew unilaterally behind the line shown on most maps.

The issue lay dormant for 22 years until the Indians established an outpost in the most sensitive of the disputed territory. Very recently, the Indians have started a military buildup which the Chinese have begun to match.

Most alarming are the internal dynamics on both sides, especially India. As the Washington Post pointed out recently, both Chinese Communist leader Deng Xiaoping and Indian Prime Minister Rajiv Gandhi "face delicate domestic political situations, making it difficult for either side to make concessions in any new round of talks.

On the one hand, the Chinese Communists are illegally occupying Tibet and engaged in a confrontation with Chinese intellectuals over human rights abuses. As the Wall Street Journal notes, Prime Minister Ghandi has been "pummeled in recent weeks by political scandals and setbacks." In such cases, a foreign adventure becomes an attractive option.

Unfortunately, neither side is sufficiently powerful to impose its will on the other. An attempt to give the other side a bloody nose could escalate into something approaching the Iran-Iraq war.

Let me stress that this is potential, not actual—certainly, as of the moment. With good fortune, the monsoon rains will come early and military operations will become difficult, if not impossible. The fact that a quick victory is not assured may cause cooler heads to prevail.

Nonetheless, there is some risk involved. The last time the Indians and the Chinese Communists fought over this territory, neither was a nuclear power. Now, both are nuclear powers. At the same time, the Indians are bound to the Soviets by treaty commitments which indicate that the Russians have at least a political obligation to be in India's corner.

Most outside observers believe that India is mostly to blame for the current escalation of tensions. The New Dehli Sunday Mail which appeared on May 3 carried a perceptive and well-written analysis of Indian policy on the confrontation over the border question. The article was written by an Indian national who teaches Chinese foreign policy at Delhi University. According to her, Indian diplomacy has been inflexible, unimaginative, and even dishonest, and is to blame for much of the recent tension. Although India has violated the longstanding modus vivendi by trespassing on the Tibet side of the demarcation line, an agreement is still possible, she believes.

Wangdung Ridge has no obvious strategic value. The area has a low population and little economic potential. Based on prior experience, the Chinese Communists will strenuously resist efforts to throw them off the ridge. It does not appear to be worth the life of even one Indian soldier.

Mr. President, I ask unanimous consent that articles from the Washington Post, Wall Street Journal, and New Delhi Sunday Mail be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 7, 1987]

CHINA WARNS INDIA ABOUT BORDER FORCES

(By Daniel Southerland)

BEIJING, May 6.—China today threatened possible retaliatory action against India if New Delhi does not withdraw its troops "as soon as possible," from border areas claimed by China, a Foreign Ministry spokesman said.

Spokesman Ma Yuzhen said China hoped that "the intruding Indian military personnel will be withdrawn as soon as possible so as to relax the tense situation . . . and avoid an unpleasant event."

The statement, delivered in an answer to a question at a regular weekly press briefing, was the second public statement by the Chinese in two weeks concerning reports of an Indian troop buildup on the border and alleged intrusions into Chinese territory.

Today's statement, which warned of possible action if Indian troops were not withdrawn from unspecified sections of the disputed Himalayan mountain region, appeared tougher than the one Ma delivered two weeks ago. There was no talk of retaliation in the previous statement.

"Faced with the tense situation emerging in the border areas . . . the Chinese side cannot stand by without taking any action," said Ma.

Most diplomats in Beijing rule out the possibility of a major war erupting between Asia's two largest nations. Some said today's hardening of the Chinese position was probably designed to elicit Indian concessions in another round of border talks. No date has been set, but the Indians are reported to have proposed that new border talks be held soon.

Diplomats do not rule out, however, the possibility of further tensions as the snow melts in the Himalayas and troops on both sides are able to move more freely.

Both the Chinese leader, Deng Xiaoping, and Indian's prime minister, Rajiv Gandhi, face delicate domestic political situations, making it difficult for either side to make concessions in any new round of talks.

Seven previous rounds of border talks since 1981 have made little progress, diplomats say. "They don't even spread out maps," said an Asian diplomat recently.

Indian government officials two weeks ago disputed Beijing's accusation that Indian troops crossed the Sino-Indian border.

Chinese Foreign Ministry spokesman Ma said today that if India withdrew all the troops who have "crossed the line of actual control between the two sides," it would be "easy" to settle the border conflict.

Ma also said India has violated Chinese air space and conducted military exercises in the border areas.

An Indian Foreign Ministry spokesman in New Delhi today dismissed the Chinese charges as "baseless and without foundation."

The Indian press has reported that the Indians carried out exercises in recent months. It was not clear, however, how close Indian troops came to the border.

China has denied reports in the Indian press that it has conducted a military buildup in Tibet.

In 1962, the two nations fought a brief border war in which Chinese troops routed the Indian Army and occupied 14,500 square miles of territory in the desolate Aksai Chin region of the western Himalayas.

China claims 56,000 square miles of territory in the eastern Himalayas bordering Tibet that India has declared to be its state of Arunachal Pradesh. China annexed Tibet in 1950 and refuses to recognize the McMahon Line drawn by India's British colonial rulers in 1914 to mark the Sino-Indian border.

[From the Wall Street Journal, May 19, 1987]

INDIA BLAMES WOES ON A "FOREIGN HAND"—GANDHI REVIVES MOTHER'S ANTI-WESTERN RHETORIC

(By Matt Miller)

NEW DELHI, INDIA.—The "foreign hand" is back in India.

After being pummeled in recent weeks by political scandals and setbacks, Prime Minister Rajiv Gandhi's ruling Congress (I) Party leaders met one Saturday last month to assess damage and pin blame. The party's Working Committee concluded that India has been subjected to a "grand design of destabilization" perpetrated primarily by Pakistan, the U.S. and multinational corporations.

Since then, various party officials, including Mr. Gandhi, have delivered tirades against the U.S. Central Intelligence Agency, Western media and Pakistani agents. In the lingo of Indian newspeak, the country once more is in the grip of the "foreign hand."

Conspiracy theories are nothing new here. Former Prime Minister Indira Gandhi saw the foreign hand behind just about anything that went wrong with the country. She once blamed the CIA for the absence of an expected monson.

But the recent spate of anti-Western rhetoric is something new for her son, who came to power 2½ years ago. So far, there isn't any indication this is more than political bombast.

Some businessmen and political analysts dismiss the resurrection of the foreign-hand shibboleth as an attempt to bolster sagging domestic popularity and deflect criticism of government miscues.

"At times of political distress, you go back to the past," says Bhabani Sen Gupta, a specialist in political science with the New Delhi-based Center for Policy Research. "But it isn't taken seriously by most people in the country, even among leftist forces." Adds a Western diplomat: "It's a reversion to the claptrap of the pre-Rajiv era."

EASY WAY OUT

Nevertheless, the cries of "foreign hand" are taken seriously enough for their validity to be debated by the Indian press. Says one political analyst: "You just can't dismiss this as a joke."

A few analysts and the country's opposition warn that a sustained dose of such rhetoric could lead to a shift in Mr. Gandhi's pragmatic approach to both foreign policy and the economy. "We are now in the sloganeering phase," says opposition leader Jaswant Singh. "But governments become captives of their own rhetoric, and as much as style influences substance, rhetoric will influence government policies."

Whatever importance they may attach to the development, many analysts agree the reappearance of the foreign hand is yet another indication of Mr. Gandhi's growing penchant for saying—and doing—whatever he believes to be politically expedient, no matter how contradictory this may be.

In recent weeks, he has called for more foreign investment and approved his party's condemnation of those same foreign investors. He has derided his administration for being sycophantic, but earlier this year he fired a high-ranking civil servant, Foreign Secretary A.P. Venkateswaran, who tended to be outspoken. he sidelined cabinet member Vishwanath Pratap Singh, shifting his portfolio from finance to defense (a post he eventually resigned). Mr. Singh, who isn't related to the opposition leader, had been vigorously pursuing Mr. Gandhi's own policies when they ran afoul of the country's entrenched business community.

Mr. Gandhi recently chastised labor for being uncompetitive. Yet he has refused to close Scooters India Ltd., a hopelessly bankrupt and labor-bloated public-sector company.

Analysts say these twists and turns demonstrate Mr. Gandhi's inability to set and see through policy. As the Indian Express executive editor, Arun Shourie, recently wrote, the prime minister is "addicted to the convenience of the moment."

SNAIL'S PACE

Lacking a clear direction and a stable administrative hierarchy, already slow-moving bureaucrats are becoming even more cautious and inclined to pass the buck. Says an exasperated former Industries Ministry official: "We spend all our time formulating policy, but ultimately it's a case-by-case system."

The muddle is reflected in foreign policy. Sri Lankan Tamil militants complained they were shunted recently from one Indian official to another for secret talks because no one appeared to have the authority to take charge.

The conspiracy rhetoric coincides with a deterioration in India's relations with its longtime adversary Pakistan and with the U.S. Late last month, the current defense minister, Krishna Chandra Pant, told Parliament that India is rethinking its nuclear-weapons policy in light of further evidence that Pakistan has the capability of manufacturing a nuclear bomb. (India detonated a nuclear device in 1974 but has since refrained from testing.)

Indian officials have warned that ties with the U.S. would be severely strained if the American Congress, as expected, approves a $4 billion package of military and economic aid for Pakistan and supplies that country with airborne warning-and-control system aircraft known as Awacs. In addition, a U.S. legislator proposed that aid to India be slashed to $35 million from $50 million as punishment for the country's voting record in the United Nations and its ties to the Soviet Union.

Foreign-hand theorists had a field day with the two U.S. aid packages. Talk of a conspiracy showed up in a parliamentary debate last month on the Finance Ministry's use of a U.S. detective agency to investigate illegal funds abroad.

And last Saturday, in some of his toughest language yet, Mr. Gandhi took the U.S. to task for its assistance to Pakistan. "The big powers are talking to us about morality," he told a New Delhi rally. "They ask us to sign the non-proliferation treaty while our neighbor is being armed with Awacs and $4 billion in aid."

The conspiracy debate became a forum for an orchestrated campaign by Mr. Gandhi's advisers to discredit then-Defense Minister Singh. Some Congress (I) members with no apparent knowledge of the detective agency were speaking of it as having known CIA links and of the ministry's probe as a vehicle for a CIA disinformation campaign.

Within two weeks, the government faced two further crises. The highly popular and respected Mr. Singh resigned three days after ordering an investigation into possible illegal kickbacks in the purchase of West German submarines. He was condemned by his own party for the action.

SECRET PAYMENTS

A Swedish radio report subsequently alleged that Indian officials had been paid secret commissions of $5 million by Swedish arms manufacturer AB Bofors, which sold India $1.3 billion of artillery. In the debate that followed, the foreign hand played a prominent role.

One Congress (I) stalwart insisted that the recent crises were part of a "world conspircy" to get the party. Multinationals, said S.K. Mehta, were upset because Mr. Gandhi had thwarted their plans to capture India's economy. The "imperialists" were angered because Mr. Gandhi had become the international leader of the nonaligned movement and an opponent of South African apartheid.

But in Parliament, Mr. Mehta's tirade provoked as much laughter as alarm. "Blaming multinationals for political problems is absurd," says a New Delhi-based foreign businessman.

And many outside Parliament continue to scoff at the notion of a conspiracy beyond the ruling party's own propensity for repeatedly shooting itself in the foot.

[From the New Delhi (India) Sunday Mail, May 3, 1987]

TELEGRAM

If the summer of 1987 does turn out to resemble, however faintly, the dark events of 1962, it will represent one of the most serious failures of Indian diplomacy. Even more, it will bring into question the ability of the present political leadership to provide governance and policy at this critical stage in both domestic and international politics.

Any military confrontation with China will bring upon us a most unnecessary war or military confrontation at a time when any serious and objective foreign policy analysis of today's China points toward the real possibility of arriving at an honorable and negotiated settlement of the longstanding boundary question. Those who insist that India and its Prime Minister could do no wrong in China policy, do this nation a grave injustice. It takes, as the familiar saying goes, two hands to clap.

Much of the present tension which has been rising steadily since last July would seem to be of our own making. In each of the three mini-crises that have strained the already fragile India-China relationship in this past year, the Sumdorong Chu affair, the grant of statehood to Arunachal Pradesh and the current military moves in the north-east the wisdom of Indian policy and initiatives can be questioned. All these moves have not only fed border tensions, but have come close to nullifying the negotiating process. More significant perhaps is the likelihood that these moves may even have eroded what little basis there was for common ground and shared approaches to the border problem.

This is symbolized by what happened in the Sumdorong Chu Valley: Injured and therefore blind nationalism has it that some time in June-July last year, Chinese personnel moved down to occupy an Indian outpost, and have stayed on through the winter, reinforcing their bunkers, building a helipad etc. This was described as an "intrusion" into undisputed Indian territory south of the McMahon line. Nine months later, the Ministry of Defence annual report—a document that will be read as indicating serious and considered national policy—stated that the Chinese intrusion had forced us "to take appropriate defensive measures" along the border.

What has not been acknowledged by government, but is widely known, is that the area in question is north of the McMahon line drawn according to map coordinates. It is also known though, again, is not officially admitted. That it lies within that triangular hedge of disputed territory known as the Thagha Ridge area. It is however not so widely known that this area and the Longju area were recognized as critical disputed pockets along the border even by the Colombo powers, and both areas were to remain unadministered or unoccupied by China and India following the Chinese withdrawal in 1962. The Chinese too, in their three-point ceasefire proposal had made it clear to India that they would withdraw unilaterally from these areas and that any move by India into these same areas would be regarded as highly provocative. This was said in response to an official query by the Foreign Secretary on 21 November, 1962. Both sides, the Chinese said, should avoid clashes in this area and should defer these differences to be settled by future negotiations.

The Colombo proposals remained on paper and India did not formally accept the Chinese three-point proposal. India also spelt out its understanding of where the McMahon line should lie. It argued that the line should be drawn according to McMahon's intentions i.e. That it should follow the highest ridge line (which China rejected) and not be taken to be the rough line drawn on a small-scale map in days of primitive surveying technology. The variation between these two lines has been indicated on official Indian maps. The differences between the two countries on how the McMahon line should be drawn gave rise to grey areas where genuine disputes regarding the ownership of certain places could arise.

From 1962 to 1984, the McMahon line as drawn according to map coordinates, otherwise called by China the line of actual control, remained inviolate, respected (as far as we know) equally by both sides. India did not attempt to recover the Dhola Post—the dispute over the location of which had triggered off the 1962 war. The Chinese (again as far as is known) did not establish any presence, however symbolic, in the two areas which they could claim to be theirs by a treaty delineation that India, not China recognizes as being legally valid. In 1981 India and China agreed to hold bilateral talks, and the analysts' presumption had to be that there was some basic understanding both on what should constitute the starting point for discussion and on what were the real, hard-core territorial claims on both sides. In other words, the presumption was that each had explored the others' stand and had communicated their own interests. Since no negotiations can possibly succeed without a measure of respect for the adversary and his. Negotiating position, and without minimum trust, it was also presumed that this too existed. And that the talks were agreed to because both sides believed that it was in their mutual interest to resolve the dispute through peaceful means.

But after maybe three rounds of talks, sometime in 1984 India took the initiative to open a post in the Sumdorong Chu Valley—in this most sensitive of disputed areas. From what can be gathered in this "leaky" capital, the Chinese gave local warnings to Indian personnel that they were intruding into Chinese territory. The warnings were obviously ignored and there is no indication that this matter was taken up diplomatically. Two years later, in the summer of 1986, Chinese personnel moved in to pre-empt the post-winter return of the Indians. This was announced by an official spokesman on the very eve of the seventh round of talks. India charged China with "intruding" into undisputably Indian territory, south of the McMahon line as interpreted by India. The Chinese response, as could have been anticipated, was to reassert that the area was on the Chinese side of the line of actual control. The resulting tension was however quickly contained and the mattrer was discussed at the seventh round. Both sides, it seems, held fast to their traditional positions.

By late autumn there were rumors of Indian reinforcements in Arunachal Pradesh. And, by December when Parliament granted statehood to Arunachal Pradesh, commentators wrote of an eyeball-to-eyeball situation beginning to develop on the border. The second mini-crisis thus developed over Arunachal Pradesh. Unfortunately the Chinese response was couched in such harsh language that it did nothing to dispel Indian fears. It may instead have confirmed the growing belief that China was no longer interested in negotiated settlement. That it would seek to exert all kinds of pressure on India to "force" it to accept Chinese terms for a border resolution. Out of all this developed the current and third mini-crisis. China has charged India with crossing the line of actual control. Of "nibbling" at its territory, of violating Chinese air space and of massing troops along the border. The Indian spokesman denied these allegations and said that no exercises had taken place within the proximity of the border. He did not deny operation chequerboard, nor did he officially charge China with massing troops in Tibet.

This latest mini-tension too was immediately contained for the time being with both sides advising the other to take the necessary precautions to avoid border clashes. Both again expressed their desire to resume negotiations at the eighth round later this summer. There is some talk of setting up a mechanism to prevent and diffuse future clashes like that in the Sumdorong Chu Valley. Hopefully these measures will be agreed upon before we slide, willy-nilly, into a hot and bloody summer.

In short, despite the miscalculations of Indian policy, there is still time and opportunity to recoup the situation and return to the negotiating table. However, this is while the problem lies. India was not perhaps entirely casual about the opening of the Wangdong Post. The entire Thagla Ridge area represents territory that India needs to buttress its defences on in the eastern sector. The Chinese can have little doubt about this for it has been made amply clear to them. The problem is how to ensure that the Chinese will make the necessary adjustments at the negotiating table. If the decision to open the controversial post was an attempt to probe Chinese thinking, it is now evident that it complicated, rather than enhanced, the negotiating process. Also, if one swallow does not make a summer, neither does one post establish Indian ground control over the areas it seeks. In this case, India has had to take not one but two steps backwards. The first because we were unable to retain control over that post. The second because all the signs show that even if the Chinese are not massing troops in Tibet, they will in all probability, relocate troops, so that they are in position to prevent any further Indian move across the line that existed for a quarter century. This has to be understood rationally and carefully. Indian actions not only have undercut the Chinese negotiating position, they may have eroded the validity of the line of actual control. In which case the danger is that the claims of both sides could be maximized and become open-ended.

It is widely believed that both these Indian initatives were taken despite advice to the contrary by the Ministry of External Affairs. The Ministry is also in a position to carefully analyse what the Chinese will give up, what they will insist upon retaining, as also whether it is at all possible to discuss the eastern sector without giving the Chinese some assurances on the western sector. Finally, from the outside at least, it is far from clear where the geographic features that India insists upon are located. It could be that aerial mapping will bring some unpleasant surprises. The Indian negotiating position should therefore be flexible enough to adopt additional principles such as those of population, even sentiment, to ensure that it will have the legitimate right to the areas it claims and controls.

All this means that much homework and preparation is still called for. Above all it means that the lack of communication and rapport between the Foreign Office, its research wing, outside experts and those who make China policy, has to be urgently bridged.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, for the time being, there be a period for morning business; that Senators may speak for not to exceed 5 minutes each therein; and that the period not extend beyond 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNOLOGY ADVANCEMENT

Mr. SHELBY. Mr. President, at last month's meeting of the American Physical Society, scientists gathered into a tightly packed meeting room to discuss research toward an important scientific breakthrough. A captive audience listened intently through 6 hours of presentations—until after 3 o'clock in the morning. The topic of discussion? Startling progress toward developing materials with superconductive properties. In layman's terms, superconductivity means that electricity would flow—be conducted—through a material without losing any of its power along the way. Should the research going on at U.S. universities and corporations and at sites around the world prove successful, superconductors would take a well-deserved place in the technology hall of fame next to the light bulb and the transistor—because the impact would be as great in the 21st century as these previous breakthroughs were in the 19th and 20th centuries.

At this early stage, potential uses for superconductors range from electric power generation and transmission to electronics to diagnostic techniques for medicine. The challenge posed by the superconductor reminds us once again that we have entered a new technological age. Our situation is not unlike what past generations faced in the industrial revolution of the early 20th century or in the battles for control of the sea in the 17th and 18th centuries. The winner of the technological revolution, like the winners of past revolutions will reap the rewards of global economic leadership.

The spoils are plentiful for the victor, and it is dangerous to settle for anything less in the race for economic dominance of world markets. Already, we are suffering from the results of being second best in the world economy. In just 6 years, our trade deficit has increased 400 percent, from $36 billion in 1980 to a recordbreaking $170 billion last year. Imports now account for almost 14 percent of the goods and services purchased in the United States, up 3 percent in just 5 years. We are getting beat both at home and abroad.

The impact is real and devastating to many American families. In just one industry in just one State—my home, Alabama—104 textile and apparel plants closed over the past 5 years. Over 17,000 jobs were lost in the fight for U.S. and international sales. Similarly, in Alabama's steel industry, 30,000 jobs have been lost since the peak years of the 1950's and 1960's. These aren't just statistics—these are real families who have to buy real food and real clothes and whose standard of living has declined because of America's lack of competitiveness in our own and in world markets.

Unless we are satisfied with a steadily declining standard of living, we cannot settle for being second best in the international marketplace. If we do, we also risk our national security. Because of our declining share of the world market for semiconductors, the Pentagon is concerned about our continued ability to build the weapons needed to defend ourselves from outside threats.

To emerge victorious in this technological age, we Americans must rally together to regain dominance in the international marketplace. In order to regain our competitive edge, we must have a sound strategy and a united commitment to achieving success. Everyone—as individuals, as management or labor, as a nation—must be committed to winning, or surely we will fail in our quest to be No. 1.

Let us look at the separate components of our challenge, to see more clearly what our strategy should be and what commitment is needed from each of us.

We should start with our most basic and powerful resource—our God-given ability to read and write, to solve math and science problems, to think clearly. As Franklin Roosevelt once said:

> The only real capital of a nation is its natural resources and its human beings. So long as we take care of and make the most of them, we will survive as a strong nation. * * * If we skimp on that capital, if we exhaust our natural resources and weaken the capacity of our human beings, then we shall go the way of all weak nations.

These words are as true today as they were nearly a half century ago.

Yet, we are slipping. In comparison with other industrialized nations, American students scored last on 7 of 19 achievement tests given a decade ago. And, as recently as 1982, U.S. students ranked 14th out of 15 in an international evaluation of mathematics skills. We placed just ahead of Thailand, trailing behind the Japanese and the Hungarians. Further, in terms of basic literacy, over 20 million Americans—13 percent of our adult population—cannot even read and write. It is no surprise, then, that colleges have been forced to dedicate scarce resources to remedial courses.

More than any other aspect of our competitive strategy, achieving educational excellence will require an individual commitment from each of us. Our students must work rather and tackle more demanding coursework, studying mathematics harder than study hall. Parents must provide support and guidance and instill in their children values leading to the pursuit of excellence. Our primary and secondary schools must insist on high educational standards and provide the quality of teaching necessary to achieve these goals. Many States and local school boards have already responded to the call for education reform, strengthening curriculums and graduation requirements and instituting proficiency exams. These are noble efforts to ensure that every single American working in a factory, laboratory, or corporate boardroom will master basic skills—the ability to read and write, to add and subtract, and to think clearly.

Once armed with these fundamental abilities, our young people will work more productively in any job. However, to better identify and refine those skills most in demand, we must rely on business to provide some direction to our educational institutions. Joint industry-university projects expose students and faculty to the market's most pressing challenges. Also, business executives who share their knowledge in the classroom provide better exposure to the real life problems graduates will face in the workplace. In the great transition currently occurring in our economy, job retraining for employees in shrinking industries is critical. This is a challenge requiring the resources of business and government as well as the efforts of individuals. We all must realize that education does not end at graduation—it is a lifelong endeavor leading to individual and corporate economic success.

Along with our commitment as students and parents, as schools and businesses, we as a nation must make a commitment to improving education. Only as a nation do we have the resources to provide our colleges and universities with the expensive, technologically up-to-date equipment for science and engineering instruction. We must also ensure that we do not suffer because talented young people cannot afford higher education. We must continue our loan program for needy students and incentives to encourage math, science, and engineering studies.

With a pool of Americans trained in a wide range of skill levels, we will be better prepared to accomplish the second part of our competitive strategy—making American products more attractive, in terms of price and quality, to domestic and international markets. A basic factor in this equation, and indeed the cause of our economic transition, is technological improvement. Like the industrial revolution of the turn of the century, the technological revolution is here to stay and we will live in it until the next one comes along. If Americans want a rising standard of living, and I believe we do, we must meet this challenge.

We have a great head start, and continue to hold an outstanding lead, in developing new technologies. However, other nations have taken the lead in using our scientific discoveries—for their advantage in the market. For example, in the 1950's, a California company developed the technology and design for a videotape recorder. The company first sold the recorders to television stations, and it still does today. However, neither this company, nor any other American company, manufactures home videocassette recorders—the VCR's which outsold many other products during several busy Christmas seasons. We have the ingenuity to invent and discover, yet we are not reaping the harvest from the sales. Further, while industrial robots were invented and initially manufactured in America, it is the Japanese who have incorporated robotics into their manufacturing processes. This technology is a factor in their ability to build a car in 80 to 100 hours, versus the 160 hours required to manufacture an American automobile.

Our competitive strategy must address how to reap the benefits—the sales and the jobs—which come when we apply our technological advances to business and manufacturing problems. As a nation, we should make the strategic decision to focus more of our research and development efforts toward solving commercial problems. Our scientific discoveries do us no good if we are not able to put them to use. It's like having a perfectly good pair of legs, but not taking the time to learn how to walk. The United States has fallen behind the West Germans and the Japanese in Federal R&D dollars allocated toward commercial use. We spend only 1.9 percent of our total output versus their 2.6 percent. The crucial issue, though, is not how much we spend on R&D, but how we spend it. Most of our research efforts are tailored to the Federal Government's priorities rather than to industry or consumer demand. The active players in the free market can best determine where advanced technology will lead to increased sales, jobs, and profits.

We should rely more on business to set the priorities for our R&D efforts, and for a larger share of the funding. American business can take a lesson here from the Japanese. Ninety-eight percent of the industrial R&D effort going on in Japan is funded by business compared to 68 percent by United States industry.

Incorporating advanced technology into our business would have a direct and positive impact on the price and quality of American products and on our economy as a whole. Computer technology used to improve manufacturing processes has been shown to eliminate many direct costs of production plus 45 percent of indirect labor and overhead costs. This, however, requires a commitment from labor for the flexibility to implement these cost-saving measures. The service sector of our economy, whose recent and tremendous growth is based on technological progress, now accounts for two-thirds of our gross national product. However, one-third to a half of America's total postwar economic growth can be attributed to technological advances. Clearly, using advanced technology is critical—not only for spawning new industries but for keeping our traditional manufacturing base competitive.

A united commitment to these two fundamental goals—improving education and developing advanced technology for commercial use—will go a long way toward making America more competitive in international markets. That is, in those markets in which we are allowed to compete and against foreign competitors who play the game fairly. The third part of our strategy must be a commitment from the Federal Government to fight against unfair trade practices and for open markets to U.S. products. We must also have a Federal commitment to reduce the budget deficits which drain available credit and raise the cost of capital for American industry 5 to 8 percent over their competitors. I am a long-time supporter of a balanced budget amendment to achieve this goal.

Further, the Congress should pass legislation providing stronger copyright and patent protection for American inventions and intellectual property. Also, we need to take down the legal barriers which prevent U.S. companies from pooling their research and development efforts.

If we stand together on these three legs of a competitive strategy—demanding educational excellence, using advanced technology to our advantage, and Federal commitment to improving the business climate—then I believe America will win the race for global economic leadership. Let's go back to the example of superconductivity—a single discovery with potential industrial, medical, and military uses. Teams of scientists are currently working in university and corporate laboratories across the United States—American scientists who are the pioneers in developing this new technology.

Now that they have planted the seed, American business and industry must be prepared to reap the harvest using a competitive strategy: We must use the technology to improve the industries we have and to spawn new ones. We must not lose the technology we invent to our competitors, but adapt it ourselves to the demands of the marketplace. Further, we must train our people to work effectively as new technology is applied in the factory and in the office. And we must ensure that future scientists and engineers are well trained to build on the technology we have.

What we have achieved in superconductivity thus far can, in part, be attributed to those already acting in accord with the competitive strategy I have outlined. One of the superconductivity research teams is working at University of Alabama at Huntsville, an institution with close ties to local industry. And other institutions in Alabama are well prepared to adapt this technology for practical use—for new diagnostic techniques using nuclear imaging at the University of Alabama at Birmingham and for SDI research at Auburn University.

So, in my home State and, indeed, across the Nation, we have embarked on the course toward renewed American competitiveness. However, we must navigate this course together—with a united commitment to our competitive strategy. There is so much to gain should we emerge triumphant in this technological age. Surely, new discoveries have helped us before—with business and manufacturing equipment making us more productive and appliances freeing us to enjoy more leisure time. Try to imagine, or remember how it was, before your home had a clothes washer or your office a paper copier. The bottom line is that improvements in technology mean basic improvements in our daily lives, in health care, in our national defense. These are commodities, if you will, which everyone would like to enjoy. We just need to ensure that Americans have the education, the jobs, and the income to enjoy the fruits produced in this era of technology advancement.

It is time to unite—with strong commitment as individuals and as a nation—behind a competitive strategy for America.

LEVIN-NUNN LANGUAGE TO LIMIT TESTING OR DEPLOYMENT OF SDI IN VIOLATION OF THE ABM TREATY

Mr. LEAHY. Mr. President, this filibuster of the motion to take up the defense bill is one of the most bizarre and disturbing exercises I have witnessed in my dozen years in the Senate.

Loyal, patriotic members of the Republican Party are refusing to allow the Senate to consider the 1988 defense budget—the bill that provides over $300 billion to defend the United States.

Their objection is not that the bill authorizes too little ammunition for our troops, or too few nuclear missiles or bombs, or not enough destroyers or fighter planes. The reason for this filibuster is a single sentence relating to the ABM Treaty in a 218-page bill.

The sentence—the so-called Levin-Nunn language—reads:

> Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missile systems or components

which are sea-based, air-based, space-based, or mobile land-based.

There is more, setting up a way for the President and Congress to set this restriction aside. But this is the heart of the issue.

I urge my colleagues to read that sentence closely, because maybe there is some large misunderstanding which is causing the Senate to waste so much time in an absurd filibuster.

As I look at this language, three things are crystal clear to me:

First, it requires the President to obey the law.

The ABM Treaty, signed in May 1972, and ratified by the Senate, is international law and the law of this land.

That treaty permits each side to develop, test, or deploy only ABM systems or components which are land-based and fixed. It allows each side to defend one site with 100 land-based, fixed ABM launchers and interceptors.

Everything else—nationwide ABM defense, development, testing or deployment of mobile land-based, sea-based or space-based ABM systems or components, or development, testing or deployment of exotic ABM technologies based on other physical principles not known in 1972—is prohibited.

You do not have to be a constitutional scholar or strategic expert to see at once that this is a huge legal barrier to the President's dream of a space-based, nationwide, death ray defense against ballistic missiles. As long as the ABM Treaty is accepted to prohibit what its words convey, star wars cannot get very far out of the laboratories.

The U.S. Senate—and our entire Nation—owes a great debt to the chairman of the Armed Services Committee, Senator NUNN, for making this point so abundantly clear in his authoritative study on the subject.

Second, it withholds funding for 2 years for activities that the administration concedes could not be carried out during this period in any event.

A Martian who suddenly dropped by to observe the Senate in action could be forgiven for being a little puzzled about this cosmic debate.

The bill would not authorize funds for certain SDI tests that the administration says it could not conduct within the next 2 years anyway.

General Abrahamson, the head of the SDI Program, testified to Congress that he can carry out the President's research and development program for at least the next 2 years without violating the so-called traditional interpretation of the ABM Treaty.

Third, it defers—rather than settles—the issue of the traditional versus the broad interpretation of the ABM Treaty.

The original Levin amendment, as I understood it, would have prohibited funding for any activity which would violate the traditional interpretation of the ABM Treaty; that is, any development or testing of the space based kinetic kill system the administration has fixed on.

The Levin-Nunn compromise draws back from that flat prohibition on violating the traditional interpretation of the ABM Treaty. It in effect defers the issue of which interpretation is correct, and provides a mechanism for the President to set aside the funding restriction and carry out tests that would go beyond the traditional interpretation.

Frankly, I consider this dodging of the basic issue a flaw in the Levin-Nunn language. It fails to quash once and for all the Reagan administration's attempts to rewrite the meaning of a treaty that was ratified by the Senate 15 years ago. If the U.S. Senate's role in ratifying treaties is to remain more than a formality, I believe we should be reaffirming our unequivocal commitment to the ABM Treaty as presented to the Senate during the ratification process in 1972.

I will join my good friends, the Senators from Michigan and Georgia, in voting against efforts to strike or weaken their provision in this defense bill. Deferral of the issue for 2 years and maintenance of the traditional meaning of the ABM Treaty for that period is certainly far better than leaving the administration a free hand to gut the treaty. But, let the record be clear that I would rather settle the issue here and now that the ABM Treaty means what it says, and the United States has entered into a solemn international commitment to abide by that clear meaning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I would like to explore in the next few minutes, if I could, what the wishes are of the managers of the appropriations bill on the calendar and the inclinations of other Senators to proceed with that bill this afternoon.

The distinguished Republican leader will be returning later in the afternoon. I would like to have some discussion perhaps before he returns as to what the prospects are for getting the bill up and waiving any point of order that may be raised against it. A point of order, if it were to be sustained, would put it back on the calendar. A point of order to be waived would require 60 votes in this instance. I hope we can have discussion of that matter.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. In the meantime, how many additional minutes would the distinguished Senator from Alaska require?

Mr. MURKOWSKI. This Senator would like 4 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the morning hour may continue for an additional 10 minutes and that Senators be permitted to speak during that period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

IN TRIBUTE TO THE CREW OF THE U.S.S. "STARK"

Mr. MURKOWSKI. Mr. President, for over 200 years, the men and women of the U.S. Navy have sailed "in harm's way" to protect the interests of the United States. The crew of the U.S.S. *Stark* are the latest of a long, proud tradition of men whose faithful service has resulted in death and injury.

I rise today with my colleagues to praise these men as individuals and as a crew. Since February, these men have been at sea, isolated from the world beyond the decks of their ship. Since February, their lives had been dominated by the routine of daily duty and watch some of us have experienced in the service.

In an instant, that routine was shattered. For many the explosion of the missile warhead was probably the first warning.

Mr. President, every early report indicates these men reacted as they had been trained. Every report indicates they reacted as men must, if they are to survive and prevail in conflict at sea.

In an instant, the world of the crew of the *Stark* became one of explosion and fire. In that instant, the men of the *Stark* joined the long tradition of men in the naval service who have reacted to unexpected danger by turning to and saving their ship and caring for their wounded. In that instant, the men of the *Stark* demonstrated that the discipline and traditions of naval service still provide men with the tools they need to prevail. In that instant, the men of the *Stark* proved that the cities, small towns, and farms of the United States still nurture brave men of the calibre needed for a maritime nation to survive and prosper.

Mr. President, I join with my colleagues in praise of the heroism and bravery of all the crew of the *Stark* and I stand in sorrow for those wounded and for the survivors of those who died, who made the ultimate sacrifice.

For over 200 years, this country has sent brave men to sea to defend our right to use international waters. For over 200 years, these men and their ships have been at risk. This aluminum ship with her steel crew, joins the U.S.S. *Philadelphia* lost in 1803 at Tripoli, the U.S.S. *Panay,* lost in 1937 in China, the U.S.S. *Reuben James,* lost in October 1941 in the North Atlantic, and the U.S.S. *Liberty,* attacked in 1967 in the Mediterranean.

But the real importance of this tragic incident comes in the context of the announcement that the United States is planning to put 11 Kuwaiti oil tankers under the U.S. flag, with U.S. captains, a move which will inevitably bring us closer to additional confrontations in the Persian Gulf.

Providing Kuwait with this protection may well be the right policy. Kuwait is a friendly and pro-Western country whom we have repeatedly pledged to help protect against Iran. In recent weeks, Iran has deliberately targeted for attack those ships proceeding to or from Kuwait. And it is vitally important to our credibility as the leader of the free world that we not allow ourselves to be pushed out of the international waters of the Persian Gulf or fail to make good on our pledges to help our friends there. But also, Mr. President, we are taking on a responsibility of patrolling the oceans of the world. Make no mistake about it.

But once we put those vessels under the U.S. flag, we are responsible for defending them against attack—most probably not by Iraq but by Iran.

While we should not shirk from committing our Navy, we should insure we have a clearly defined, decisive, and attainable objective. We should insure that the U.S.S. *Stark* and other ships of the Mideast Task Force have a clearly thought-out role to play. And we should insure that the force committed to the mission is adequate.

What exactly do we plan to do if these tankers are attacked? If U.S. Navy warships are provided to escort them through the gulf, will they be given orders to return fire if they are fired on?

If so, we need to be very clear about what we are doing: We are making a decision to help protect our neutral allies in that area against Iran even if this means we may become directly involved in combat with Iranian forces.

Now, let us be clear as well about whose interests we are protecting. For the Western World as a whole, it is essential that Iran not be allowed to close the Persian Gulf to oil shipments. But the United States depends on the Persian Gulf for less than 6 percent of its oil. Western Europe depends on it for over 35 percent. And Japan relies on the Persian Gulf for almost 70 percent of its oil needs.

So we are risking American lives to protect a flow of oil which is much more important to our allies than ourselves. We have to ask the question: What efforts are these nations making to assist us in protecting the oil pipeline which is so much more important to them and their economies than us?

Japan is the real beneficiary of our effort. I understand the interpretation of their law does not allow their small defense force to be deployed that far away, even to protect their sea lanes. But perhaps Japan should give some serious consideration to making some kind of material contribution to this common effort even if they cannot provide a naval presence.

The British kept the peace in the Persian Gulf for decades. When they pulled out of their bases in the 1970's because they could not afford them any longer, they said, the United States decided not to pay the small amount involved to share the costs of keeping a joint United States-United Kingdom peacekeeping presence there. In retrospect, that may have been a mistake. In any event, we should go back to our European allies and suggest they share this burden with us of keeping these oil lanes open through the gulf.

That brings me to the missile which killed our sailors—A French-made Exocet. The French have sold 500 or more of these deadly weapons to Iraq. That missile has now killed British sailors on the *Sheffield* in the Falkland Islands war and American sailors on the U.S.S. *Stark.* Quite frankly, I am tired of seeing this kind of deadly missile sold to dangerous areas and I wonder what is being done to get the French to stop this practice.

Mr. President, the gulf is a dangerous area. We may indeed need to be there to protect the oil flow, and we need to show that we cannot be driven out by the Ayatollah or anyone else. But if we go forward with this plan to introduce the U.S. Navy further into a combat zone, we must be sure that we have thought through very carefully our objectives and have given our captains realistic orders so that we do not have another tragedy like that of the U.S.S. *Stark.*

Since the time of John Paul Jones those who man our fleet have been willing to sail "In Harm's Way". We should take pride in our Armed Forces and the men and women who wear our uniform and ensure that the operations to which we commit them have a clearly defined, attainable objective. These men and women have earned our pride, they deserve our support.

TOSHIBA AND KONGSBERG VAPENFABRIK

Mr. **MURKOWSKI.** Mr. President, in the past I have criticized Japanese Government policies, particularly in the area of trade. Today I would like to commend a recent Japanese Government decision and to indicate my support for that decision.

Between 1982 and 1984 the Toshiba Machine Co. and the Norwegian defense contractor Kongsberg Vapenfabrik conspired to ship three room-sized milling machines to the Soviet Union in violation of the international export control rules established by NATO and Japan. The Soviets used these machines to "tune" the propellers of Soviet submarines so that they were not easily detectable. Apparently, the Soviets learned of the need to change the propellers from the Walker family spy ring.

As a consequence there was a substantial shift in the strategic balance. Soviet ballistic missile submarines could now slip up undetected to Japanese and American shores. It has cost the Japanese and American taxpayers hundreds of millions of dollars to drive our technical capabilities up to a new level of sophistication so that the strategic balance could be redressed.

In time we discovered what had happened. As an old Navy man, Prime Minister Nakasone knew instantly the implications of the propeller change. His inclination was to fall on the guilty, and hard.

On April 28 the Detroit News ran a copyrighted story, "Toshiba Aided Soviets With Sub Technology." Versions of this story ran in all major Japanese newspapers and TV the next day.

The Prime Minister moved and he moved decisively. Before dawn on April 30 the Japanese National Police Agency raided Toshiba Machine and 13 other firms across Japan. The highly efficient Japanese police are today combing through hundreds of thousands of documents searching for the paper trail.

Last Friday the Japanese Government announced a series of severe sanctions against Japanese executives and firms:

First, the president of Toshiba Machine resigned.

Second, Toshiba Machine may not export to the Soviet block or China for a year.

Third, all of Toshiba Machine's exports to all locations will be monitored for 1 year.

Fouth, service, maintenance and parts to the milling machines already shipped have been cut off.

Fifth, Toshiba Machine must take certain internal actions to ensure that this sort of thing does not happen again.

Sixth, a major Japanese trading firm which got caught up in this affair but might have been also victimized has been forbidden to export machinery to the Soviet block or China for 3 months.

Seventh, the trading company is also subject to monitoring and reporting for 3 months.

Eighth, the trading company must also tighten its internal procedures.

Ninth, a third Japanese firm, Wako Koeki Co. received a severe warning and is still being investigated.

Tenth, the Japanese Government sent notices to 150 trading companies and 9 major trading companies.

Eleventh, the Japanese Government has sent up a special committee to scrutinize exports to sensitive destinations.

The case is not closed. The statute of limitations has already run on the hardware but not the software needed to operate the machines. Sometime before the end of June there may be criminal indictments.

Some may criticize by saying that the Japanese Government did not go far enough. In my opinion, Prime Minister Nakasone, MITI Minister Tamura and Foreign Minister Kuranari deserve tremendous credit for acting quickly, decisively and courageously. The Congress will be watching to see if the government of Norway follows the Japanese lead and imposes severe punishments as well.

Mr. President, I ask unanimous consent that a number of newspaper articles be included in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Detroit News, Apr. 28, 1987]

Toshiba Aided Soviets With Sub Technology

(By John E. Peterson)

Washington.—Japan's Toshiba Corp. sold the Soviet Union high-tech machines to produce "silent propeller" submarines able to penetrate the outer ring of U.S. coastal defenses, Capitol Hill and administration sources said Monday.

Disclosure of the sale prompted congressional demands for immediate sanctions against Toshiba and could worsen already tense U.S.-Japanese relations as Japanese Prime Minister Yasuhiro Nakasone begins an official Washington visit Thursday.

Toshiba is a diverse company; in electronics, it is a familiar label on TVs, VCRs and other products sold in the United States.

The sources said Toshiba sold the Soviet Union four huge computerized milling machines in 1985 that allowed the Soviet navy to equip its most advanced submarines with noiseless propeller blades.

They said the specially contoured blades allowed Soviet submarines to move virtually undetected to points off the U.S. mainland where their nuclear-tipped missiles were within a few minutes flight of major seaboard cities.

Previously, the U.S. Navy was able to easily track Soviet subs from the time they left bases in the Arctic Ocean and northeastern Pacific by locking on to the sounds of their relatively noisy propellers.

"Last year, our sophisticated underwater sonar detectors began picking up silent-prop Soviet submarines offshore that we hadn't managed to track," a Defense Department source said. "It was apparent the Soviets had managed to leapfrog into a technology they weren't capable of producing on their own."

"The situation was like *The Hunt for Red October*," the best-selling novel about the maiden voyage of a Soviet silent-propulsion submarine, the source said. "Unfortunately, that was fiction; this is fact."

A Defense Department source said the recently convicted Walker spy family provided the Soviets with the listening frequency of U.S. submarine detectors, which pinpointed the excessive noise of Soviet sub propellers.

"Once they had that information," he said, "(the Soviets) were able to go on a shopping expedition in the West for the machine tools needed to produce a quieter blade."

Former Navy Secretary John Lehman, in a farewell speech at the National Press Club last month, said the new generation of Soviet submarines poses the biggest single threat to the Navy because of secrets the Soviets learned from the Walker spy ring.

"The Soviets have closed the gap," to the point "their new submarines are virtually as quiet as the subs we were building just a few years ago," Lehman said. He attributed the Soviet gains "in no small measure to the years of compromise of our antisubmarine warfare tactics and weapons systems . . ."

Documents circulating in national security offices and on Capitol Hill show that Toshiba routed the machines to the Soviet Union through Kongsberg, a state-owned Norwegian defense contractor. The sales price of the four machines, which were described as "room-sized," was not revealed.

But the documents indicate the sale violated export-control rules laid down by the Coordinating Committee on Trade (CoCom), a Paris-based agency set up by the United States, other NATO members and Japan to monitor technology sales to the Soviet Union. "There's no doubt this was an unequivocal violation of CoCom regulations," one of the documents states.

"We have no idea about violating any export-control rules," a spokesman for Toshiba America said.

Spokesmen for the Norwegian and Japanese embassies in Washington confirm the sale took place and is currently under investigation by authorities in both nations and the United States.

"Kongsberg was a part of it," said Per Aasen, a press counselor at the Norwegian Embassy. "We don't have too much information on it at this point. It's under investigation by police authorities in Norway. They are in direct contact with American investigators and are cooperating closely with them."

A Japanese Embassy spokesman added: "This affair is under investigation in our country. We don't know what finally will be the outcome, but if any violations are found, we will take appropriate actions against Toshiba. However, we believe we have been faithfuly implementing CoCom rules."

A senior staff official on the Senate Banking Committee, which oversees export controls, said that as a result of the sale, the Defense Department earlier this year sought to impose sanctions against Toshiba consumer products on U.S. military bases at home and overseas.

State Department officials reportedly urged against any such action that could damage bilateral relations between Japan and the United States.

"It's absolutely outrageous that the State Department would intervene in this matter, given the gravity of the threat to our national security caused by this sale," the official said. "There's no doubt it alters the strategic balance."

Spokesmen for State Department officials involved in export controls did not return telephone requests for information Monday.

Rep. John Dingell of Michigan, chairman of the House Energy and Commerce Committee, called on President Reagan to vigorously pursue the matter when he meets with Nakasone on Thursday.

"He has no excuse not to," the Trenton Democrat said. "This is something, which not inconceivably, could shift the balance of power and threaten the ability of the U.S. to defend its coasts against Russian missile attack submarines."

Dingell last week sent a letter to Reagan warning that the U.S. policy of allowing Japan to produce U.S. military equipment at home rather than purchasing it directly from American contractors was resulting in the wholesale transfer of sensitive technology to civilian industry in Japan. It is not known if Toshiba's technology in this case came from the United States.

Sen. Donald Riegle, D-Mich., a ranking member of the Senate Banking Committee, said Reagan "should take the strongest possible action against both Toshiba and Kongsberg if CoCom rules this sale was a violation.

TOSHIBA CORP.

Toshiba Corp. is Japan's larget electonics conglomerate, selling more than 5,000 consumer and industrial products ranging from VCR's and television sets to computerized machine tools and nuclear power plant equipment. Toshiba America is a subsidiary.

Employees: more than 120,000 employees world-wide with nearly 70,000 of them located abroad.

1985 assets: More than $17.5 billion.

Gross profit: $1.2 billion in Japan alone in 1984.

CEO: Shoici Saba, chairman.

Toshiba America: Headquartered in New York City, currently has 13 subsidiaries in the United States, manufacturing such consumer goods as vacuum cleaners, TV sets, microwave ovens, stereos, VCRs and CB radios.

[From the Detroit News, May 1, 1987]

Japan Raids; Toshiba Charged—Firm Accused of Selling "Silent Sub" Machinery

(By John E. Peterson)

Washington.—U.S. officials Thursday hailed Japan's move in charging giant Toshiba Corp. with major export violations for selling the Soviet Union high-technology machines to produce undetectable "silent propeller" submarines.

The charges were filed early Thursday after Japanese police confiscated records of Toshiba Corp.'s subsidiary, Toshiba Machine Co., and 13 other firms in a coordinated predawn raid across Japan.

Toshiba Machine was charged with violating a Japanese government ban on the sale of sensitive technology to Eastern Bloc nations and with filing false applications to ship the sophisticated machines out of the country.

Officials at Japan's Ministry of International Trade and Industry (MITI) said the firm could face stiff monetary fines and future export restrictions.

Disclosure of the raid, coming at the time of Japanese Prime Minister Yasuhiro Nakasone's state visit to Washington, brought renewed congressional demands for immediate sanctions against Toshiba.

"Obviously, Congress is going to have to take a thorough look at ways we can strengthen our own export-control laws and the international agreements we have with our allies," said John Dingell of Michigan, chairman of the House Energy and Commerce Committee.

"I think the president should personally discuss this with Mr. Nakasone in the strongest language, because it has needlessly compromised our national security," the Trenton Democrat added.

A White House official said President Reagan did not raise the issue during discussions with Nakasone Thursday. He said both Secretary of State George Shultz and Defense Secretary Caspar Weinberger expressed serious concerns about the matter in lengthy conversations with Japanese Foreign Minister Tadashi Kuranari.

The issue was raised when Nakasone met Thursday with 12 senators, including Majority Leader Robert Byrd, D-W.Va., and Minority Leader Robert Dole, R-Kan., on Capitol Hill.

Both Byrd and Dole urged Nakasone to take immediate steps to strengthen Japan's export security to prevent further sales, according to a senior Senate aide who attended the meeting.

He said Sen. Jesse Helms, R-N.C., the ranking minority member of the Foreign Relations Committee, told the Japanese leader that the sale jeopardized free-world security, and he warned that Japan might not be a trustworthy research partner in Reagan's Strategic Defense Initiative, popularly called Star Wars.

Sen. Donald Riegle, D-Mich., called on Reagan to "personally seek a pledge from Nakasone that this won't happen again." Riegle also urged Congress to investigate the sale.

Toshiba Machine is 50 percent owned by Toshiba Corp., the leading Japanese electronics firm. Toshiba is a diverse conglomerate selling products ranging from consumer goods to nuclear power equipment worldwide. In electronics, it is a familiar name on televisions, video cassette recorders, stereos and other products sold in the United States.

A Defense Department official Thursday lauded Japanese authorities for their swift action in the case, which has been under investigation since U.S. officials informed Japan of the sale last December.

"We're extremely pleased with the cooperation of MITI and the Japanese police in this matter," said Dr. Stephen Bryen, undersecretary of defense for trade security policy.

"The damage to national security is significant, but the important thing now is to make sure it doesn't occur again," Bryen said. "It's in both countries' security interests. There are almost as many Soviet subs operating in Japanese coastal waters as there are in ours."

A Japanese government source said the raid was quickly planned after major Japanese newspapers and television networks reported a Detroit News story Tuesday that disclosed the sale.

"Japan has been sitting on this for months, hoping it wouldn't leak out during a time of tense trade anxieties with the United States," Bryen said. "This is a very sensitive matter, but once the lid blew, there was no choice but to act. It's no accident that the raid occurred within 24 hours after the Detroit story was widely circulated in Japan."

The News story quoted Senate staff and Defense Department sources, who said Toshiba sold the Soviet Union four huge milling machines for contouring the "silent sub" propeller blades.

The machines, valued at $22 million, were routed into the Soviet Union through Kongsberg, a state-owned Norwegian defense contractor. Norway is cooperating closely with the United States in investigating Kongsberg's role in the transaction and expects to announce its findings sometime next month.

Japanese police said Toshiba Machine, using Kongsberg as a middleman, shipped the four "room-sized" milling machines to the Soviet Union between December 1982 and September 1983. In June 1984, the company provided the Kremlin with a sophisticated computer software program designed to control operation of the machines, they added.

U.S. Defense officials said the specially contoured blades allowed Soviet submarines to move virtually undetected to points off the U.S. mainland where their nuclear-tipped missiles were within a few minutes flight of major seaboard cities.

Previously, the U.S. Navy was able to easily track Soviet subs from the time they left bases in the Arctic Ocean and northeastern Pacific by locking on to the sounds of their relatively noisy propellers.

[From the Detroit News, May 2, 1987]

NAKASONE VOWS SWIFT PROSECUTION FOR TOSHIBA

(By John E. Peterson)

WASHINGTON.—Japan's prime minister Friday vowed swift prosecution of Toshiba Corp. for selling the Soviet Union high-tech machines to produce "silent" submarines.

"There has been a violation of law, and police currently are investigating this as a criminal case," said Yasuhiro Nakasone, who had just concluded two days of talks with President Reagan. The sale was unfortunate and regrettable, he told a luncheon audience.

In addition to legal action, Nakasone said his government is considering further steps against Toshiba and 13 of its suppliers—including a ban on making and exporting militarily sensitive machinery.

Japanese authorities Thursday charged Toshiba Machine Co., a subsidiary of the giant electronics firm, with two major export violations after predawn raids to seize records at 14 plants and offices across Japan.

The raids occurred after Japanese media reports based in a Detroit News story Tuesday that outlined the $22-million sale of four computerized milling machines to the Soviets between 1982 and 1984.

During a question session after his National Press Club speech, Nakasone said the high-tech transfer was tough to detect "because the various parts and components of the machines were broken down before they were shipped, so Toshiba was able to escape inspection procedures."

Foreign Minister Tadashi Kuranari, who accompanied Nakasone, said in an interview: "There seems little doubt Toshiba knew this was a transfer of sensitive military technology when they made (the) sale."

A Soviet delegation, apparently including naval attaches, visited Toshiba Machine Co. sites on several occasions "to make sure the machines were being produced to exact specification and that computer programing would do the task," Kuranari said.

In addition, he revealed, Toshiba several times sent engineers to install the machines in Soviet military shipyards. "It seems little doubt that they (had to) know the Soviets weren't building cars with this know-how," Kuranari said.

The machines, which let the Soviets create quiet propeller blades for attack submarines, were routed through a state-owned Norwegian defense contractor, Kongsberg Vapenfrabrik—which translates as "weapons maker."

Norwegian officials said they are investigating Kongsberg's role in the sale and expect to take action against the firm this month.

Disclosure of the illegal sale and the subsequent police raid embarrassed the Japanese leader during his four-day Washington mission to mend deteriorating trade relations with the United States.

President Reagan didn't discuss the issue with Nakasone, a White House official said. But Secretary of State George Shultz and Defense Secretary Caspar Weinberger expressed concerns Thursday to Kuranari, the aide added.

The topic also was raised by Senate leaders during a one-hour meeting with Nakasone.

The revelations brought congressional demands for a full-scale inquiry and prompted the introduction of a House bill that would ban imports from Toshiba Corp. and Kongsberg.

Toshiba America, a U.S. marketing branch, annually sells more than $1 billion worth of consumer and industrial goods—including video recorders and televisions.

Kongsberg, a much smaller firm, seeks a contract worth several hundred million dollars to supply anti-ship missiles to the U.S. Navy.

Defense Department officials said they traced the sale after discovering in early 1986 that Soviet submarines slipped out of their ports without detection by U.S. air and sea patrols.

Many of the Soviet subs weren't noticed until they reached U.S. coastal waters and were picked up by more sophisticated electronic listening devices, Pentagon sources said.

During his luncheon speech Friday, Nakasone renewed pledges to take major steps to reduce Japan's $59-billion annual trade surplus with the United States.

"The widening of our bilateral trade imbalance has escalated into a serious problem that could threaten the very foundations of our otherwise excellent relations," Nakasone said. "In the interest of healthy management of the world economy, we cannot let Japan's huge external surplus and the United States's huge external deficit continue to grow unchecked."

He said Japan is "resolutely acting" in a number of areas to reduce its U.S. trade surplus, including these steps:

A $36-billion government public-works programs to improve roads, sewer systems and housing starts.

A request to major Japanese firms to buy an additional $6 billion worth of imports this year.

A three-year, $30-billion program of public and private investment in less-developed nations in southeast Asia, Africa and Latin America.

Letting U.S. construction firms bid on all segments of an $8-billion airport in Osaka.

The Japanese leader, who is under political fire at home for making too many trade concessions to the United States, said his discussions with Reagan and congressional leaders would let him cite progress when he returns home today.

Nakasone failed, however, to get the president to announce an early withdrawal of 100 percent tariffs on a wide range of Japanese electronics goods. The tariffs were imposed because of Japan allegedly "dumped" below-cost computer chips.

[From the Detroit News, May 15, 1987]

Toshiba Faces Penalties for Technology Sale to U.S.S.R.

(By John E. Peterson)

Washington.—The government of Japan will order stiff penalties against Toshiba Machine Co. for selling sensitive submarine technology to the Soviets, according to Japanese sources in Washington.

The actions could come next week and are expected to include a ban on Toshiba Machine exports for up to one year, as well as indictments against several of the company's executives.

Earlier this month, authorities in Norway arrested an official of a state-owned defense contractor that joined in the sale with Toshiba.

Toshiba Machine, a subsidiary of the electronics giant Toshiba Corp., is accused of conspiring with Kongsberg Vaapenfabrik, the Norwegian firm, to supply Moscow with advanced machine tools needed to produce silent propellers for submarines.

The transactions were discovered by the Defense Department last year after Soviet submarines began penetrating the outer ring of U.S. coastal defenses.

Pentagon officials said the specially contoured blades produced by the computerized machinery allowed the subs to move virtually undetected to points off the U.S. mainland where their nuclear-tipped missiles were within a few minutes flight of major cities.

Previously the Navy was able to easily track Soviet subs from the time they left bases in the Arctic Ocean and northeastern Pacific by locking on to the sounds of their relatively noisy propellers.

Japanese authorities charged Toshiba Machine with violating national export control laws and filing false export applications after police confiscated company records in raids across Japan this month.

Japanese sources said a decision on the severity of sanctions will be made after Hajime Tamura, Japan's Minister of International Trade and Industry, returns from a visit to Paris.

Toshiba Machine and Kongsberg Vaapenfabrik netted more than $22 million from the transaction, which the CIA, during a briefing for congressmen last week, called "the most serious export control violation since the end of World War II."

[From the Wall Street Journal, May 18, 1987]

Japan Tightens Reins on Sensitive Goods After Unauthorized Exports to the Soviets

(By Eduardo Lachica)

Tokyo.—Japan is tightening controls on the export of strategic goods following Western criticism of local companies' unauthorized shipments of computerized machine tools to the Soviet Union.

The Ministry of International Trade and Industry, or MITI, signaled its tougher stance on Friday by prohibiting Toshiba Machine Co., a subsidiary of Toshiba Corp., from shipping any goods to the Soviet bloc and China for a year and barring C. Itoh & Co., a large trading house, from selling machine tools to those countries for three months.

Apparently acting on information provided by the U.S., MITI has charged that the two companies were involved in the illegal export of four metalworking machines that are believed to have helped the Soviets design quieter submarines. A Pentagon spokesman earlier confirmed that ultraquiet propellers produced with the help of illegally acquired Japanese and Norwegian technology are already installed in some Soviet attack submarines.

MITI also has advised 150 industry and trade associations to urge their members to comply strictly with export regulations. And the ministry said it will more closely scrutinize shipments to the Soviet bloc.

STIFF PENALTIES

The penalties against Toshiba Machine are the stiffest ever imposed on a Japanese concern that has violated export controls. By being shut out of Communist markets for a year, the company stands to lose about $36 million in sales—12% of its total exports. Some individuals in the company could have been subject to criminal penalties, including a maximum of three years in prison, but the statute of limitations relating to such crimes had already expired, Japanese officials said.

Toshiba Corp. spokesmen were unavailable for comment, but the Japanese officials confirmed that Kazuo Iimura, Toshiba Machine's president, has resigned.

C. Itoh, which stands to lose $18.7 million because of its three-month ban, was given a lighter penalty because MITI doesn't have enough evidence that the trading house intentionally violated export regulations, the officials added. A small trading company, Wako Koeki Co., was given a written reprimand by MITI and warned that it could be subject to further sanctions pending the outcome of a current investigation. C. Itoh acted as contractor in the sale; Wako Koeki's role wasn't specified.

Yukio Okamoto, director of the Foreign Ministry's national security division, called MITI's actions "a clear message to the entire Japanese industry." He said the "severe penalties" against Toshiba Machine, combined with other administrative measures, will help deter further export-control violations.

PENTAGON COMMENDS MITI

The Pentagon has commended MITI for its actions. Still MITI has a maximum of 30 officials engaged full time in screening the 200,000 export applications it receives annually. That is far smaller than the U.S. export-control system, even though Japan has become a major source of computers, semiconductor-making equipment and other sensitive goods that the Soviet bloc wants.

Japan is obliged to deny the Soviet bloc several categories of high-technology products in concert with the other members of the Coordinating Committee on Multilateral Export Controls, or Cocom, a watchdog body created by the U.S. and its allies. But earlier reports of Japanese negligence have irked the U.S. and some of Cocom's Western European members.

MITI concedes that its export-control system still has to rely heavily on the cooperation of exporters. However, the new measures are meant to plug some possible loopholes. For instance, MITI is creating a high-level committee to review proposed shipments of unusual value and to coordinate the actions of various divisions processing export applications.

AN EMBARRASSING CASE

The Toshiba case is particularly embarrassing to Japan because some members of Congress became aware of it only days before Prime Minister Yasuhiro Nakasone's April 30 meeting with President Reagan. The legislators threatened to introduce punitive legislation against the Japanese company. On the same day that the two leaders met, Tokyo police raided Toshiba Machine's offices and factories in search of documents connected to the transaction.

According to Japanese officials. Toshiba Machine illegally misrepresented the machine tools' capabilities in obtaining export permission from MITI. The officals said the machines were shipped to the Soviet Union between December 1982 and June 1984 under a contract with the Soviet trading concern Techmashimport.

The officials said computers supplied by Kongsberg Vaapenfabrik, a Norwegian state-owned arms maker, were attached to the Toshiba machines before shipment to the Soviet Union. The officials declined to say where the assembly took place.

As previously reported, Norway's government is investigating its export-licensing procedures in an effort to soften U.S. anger over Kongsberg's role in the case.

Japanese officials said Toshiba Machine also could have sold the Soviets a computer software program for operating the milling machines some time in June 1984. Police are still investigating that aspect of the case.

[From the New York Times, May 1, 1987]

Toshiba, Norway Unit Assailed in Soviet Sale

(By Clyde H. Farnsworth)

Washington, April 30.—The Central Intelligence Agency has told members of Congress that a Japanese corporation and a state-owned Norwegian company have violated Western export controls by selling technology to the Soviet Union that makes submarines run more quietly.

Five of the legislators introduced a bill today banning all imports of the two companies, the Toshiba Corporation of Japan and Kongsberg Vapenfabrik of Norway.

Toshiba, one of the leading Japanese electronics companies, has an American subsidiary, Toshiba America Inc., which sells about $1 billion a year and employs 2,000 workers.

Kongsberg, a weapons manufacturer, is currently adapting the Penguin anti-ship missile to the SH-60B Navy Seahawk helicopter. According to Jane's Defense Weekly, the loss of that contract would be "financially disastrous for the company."

A Pentagon spokesman, Robert Sims, said today that the Defense Department is "seriously concerned" about the matter and has begun a formal investigation.

The State Department raised the issue with both Norwegian and Japanese authorities last month, and both countries have begun investigations, officials of those governments said.

"Japan is making a determined investigation because, if this kind of thing has actually happened, it would be serious for the national security of both Japan and the United States," said Koichi Haraguchi, a Japanese Embassy spokesman.

Other Japanese sources reported that earlier today police conducted a search of Toshiba facilities in Japan.

A Toshiba official in Washington said he had no comment.

A SERIOUS VIOLATION

The equipment was sold by the Toshiba Machinery Company, which is 51 percent owned by the Toshiba Corporation. The other stockholders are Japanese.

Military officials said that this incident was one of the most serious violations of export controls in the postwar period, a point echoed today by the legislators.

Representative Duncan Hunter, a California Republican who was a sponsor of the punitive legislation, reported that Toshiba earned $17 million on the sale, "but it will cost the West $30 billion to regain the superiority that we lost from the sale."

The equipment that the two companies sold the Soviets includes four milling machines that make advanced submarine propeller blades. These blades eliminate the noise that enables the United States to easily detect Soviet submarines.

As a result, Mr. Hunter contended, the Soviet submarines can get within 10 minutes of missile-flying time from the United States coast.

Intelligence officials said they began receiving reports about six to eight months ago that Soviet submarines were having significantly more success at evading detection by the United States.

The Soviet Union made its acquisition based on information it obtained from the spy ring of John A. Walker Jr., the former American Navy radioman, intelligence officials said.

Transfer of the equipment represents a violation of regulation IL 1091 of the Allied Coordinating Committee for export controls, which includes most members of the North Atlantic Treaty Organization and Japan.

According to a fact sheet provided by the legislators, Toshiba sold the room-sized milling machines and Kongsberg the numerical control systems to the Soviet Union.

The legislators said that Toshiba went to some lengths to conceal the sale of sensitive equipment from the authorities. It changed the name of the machine, made certain other changes and submitted a new machine for export licenses as an uncontrolled vertical lathe.

A Soviet team of technicians tested the controlled propeller milling machine at the Toshiba plant in Japan. Later, it was installed in a Soviet shipyard by Toshiba and Kongsberg employees.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I believe that Senator HATFIELD and Senator STENNIS are on their way to the floor, the chairman and ranking member of the Appropriations Committee. I have been discussing with Senators the possibility of bringing up the supplemental appropriations bill again today. I do not wish at the moment to ask that the Senate take up that bill. Meanwhile, I would like for us to have some discussion to see what the prospects might be for getting action on the bill. I would hope that if the bill is called up, the Senate could complete action on it tomorrow before we go out for the Memorial Day holiday.

It may be that a little discussion prior to my calling up the measure would give some indications as to where the Senate will go once the bill is called up. It would be subject to a point of order, and any waiver of the provisions against which that point of order would be made or a matter to which the point of order would be addressed may take 60 votes in order to waive the act and therefore avoid having a point of order put the bill back on the calendar.

So I have asked the distinguished Senator from Louisiana [Mr. JOHNSTON], who is a senior member of the Appropriations Committee and who from time to time manages various bills from the Appropriations Committee while they are being debated on the floor, to come to the floor. He has a deep interest in this measure. He was very active in the committee markup and in getting the bill reported.

While awaiting the return of the able Republican leader, I would suggest that we, if we could, entertain some debate on the subject matter before I attempt to call it up. The distinguished assistant Republican leader and I have been conversing about the bill, and I do not think there would be any objection to getting the bill up at this point, but I would like to, of course, test the waters, if we could, before we call it up again and see it put back on the calendar because of a point of order.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Senator BYRD and I have been speaking on this matter, hoping we can get on with items of business, and I certainly want to help with that. Senator DOLE will return about a little before 5. We have the point of order that could be raised with regard to the waiver of the budget. And we have a discussion that could go on. I understand that Senators GRAMM and HATFIELD and STENNIS are talking about a possible package, and Senator JOHNSTON, too, perhaps. I have not seen any recognition in his eyes to that effect. We must be visiting with him truly—and hopefully coming out with something that might be a package that we could get finished before we go to the recess period. That would be at the close of business tomorrow.

The majority leader has made the assurance there will be no vote on that point of order by any Senator. Of course, we cannot prevent any Senator from doing that, but at least no vote on that before the leader returns. Of course, not any further than that period. To continue activities, I know Senator ROTH has asked and has inquired of the majority leader if he might proceed with the introduction of a bill—I believe the majority leader has accepted that—and then come back to this issue after that.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BYRD. Mr. President, I had asked the distinguished Senator from Louisiana to come to the floor to discuss the supplemental appropriations. The distinguished Senator from Delaware wants to introduce legislation. The Senator from Louisiana has the floor. I ask unanimous consent that at such time as the Senator from Delaware gets the floor, he may proceed to introduce legislation as in morning business and may be permitted to speak therein up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Louisiana.

SUPPLEMENTAL APPROPRIATIONS, 1987

Mr. JOHNSTON. Mr. President, I came to the Senate about 15 years ago, and in that time, as most new Senators, I found many of the rules and many of the folk ways of the Senate unusual, sometimes arcane, sometimes difficult to understand. But with the passage of time many of those rules and those ways and those customs became clear to me. Some, of course, continue to mystify me. And we learn why it is that this great institution operates as it does for the most part, why it serves the national interest, and how it is that with all these arcane rules the national interest somehow is served and our forefathers really did know what they were doing for the most part, at least in constructing these rules. But I must say, Mr. President, every now and then something happens on the floor of the Senate which, after 15 years, totally mystifies me.

Mr. President, the present status of the supplemental appropriations bill is such a matter, and this is such a time on the Senate floor.

Quickly to review, the President has asked for a supplemental appropriations bill specifying certain items as being urgent, as being not susceptible of delay to the next year's regular appropriations bill but, rather, requiring immediate action. The principal, the largest item among those is the funds for the CCC, Commodity Credit Corporation, which needs some $6.6 billion.

Those funds have already run out. Farmers need their funds replenished in order to plant the crop. They have already planted in many parts of the

South. Now they must have their funds replenished. In many northern areas, now is planting time, and they need that money immediately.

Suffice it to say, it is urgent that the Commodity Credit Corporation receive $6.6 billion. They need it now; in fact, they needed it 2 weeks ago. The President says it is urgent; everybody agrees that it is urgent.

There is a list of items that are mandatory and urgent: a VA loan guarantee revolving fund; a special milk program; a pay provision, where we have already put into law the requirement for pay and that must be funded, and indeed the President has asked for those funds. So the list goes on.

The President has asked for an urgent supplemental. Well, the bill has worked its way through the House of Representatives. It came to the Senate, the Senate Appropriations Committee, the largest committee in the Senate, with 29 members—15 Democrats and 14 Republicans. It operates on a very bipartisan basis. I guess there is less partisanship on the Appropriations Committee than any other committee I know of—almost. We try to do the Nation's business with very little rancor—in fact, with no rancor at all—and very little partisanship.

Members of the Appropriations Committee, for the most part, are veterans. Those of us on the committee like the committee because it deals with many different areas, and once one gets on the Appropriations Committee tends to stay. So we are nonpartisan, we are veterans, and we worked our will, the 29 of us, on this urgent supplemental appropriation bill.

Mr. President, the most important single item in that bill, the thing that engendered the most conversation, the hottest debate, the greatest amount of time, was the so-called Bumpers amendment, which would have required the country to adhere to the limits in the SALT II Treaty for strategic missiles. It would have required that we not exceed those numbers and that, as a matter of fact, we reduce the number of missiles to those as required by the SALT II Treaty.

I happen to agree strongly with Senator Bumpers in his proposal. I think it is very much in the Nation's interests to adhere to the numerical limits in the SALT II Treaty because those happen to inhibit the Soviets' growth more than they do our growth. They are a greater restraint upon the Soviet Union than upon the United States, in my view and in the view of many of us. For that reason, I had coauthored a Bumpers bill, which is a discrete measure, which is still to make its way through committee. Nevertheless, Senator Bumpers sought to attach that amendment in the appropriations bill, and there the debate was framed and the issue was joined in the Appropriations Committee.

The administration representatives came to me with entreaties that I vote against the Bumpers amendment. It happened to be a very close vote. It was obvious to everyone that it would probably hang on one vote, and that was my vote.

The administration representatives—I could identify them by name, but everyone knows who they are—came to me and said:

> Senator, can't you vote against the Bumpers amendment? The President will veto this urgent supplemental; the farmers will be in great difficulty; the country, at least in part, will shut down while we go through this terrible maneuver of a veto and start all over again. Can't you vote with us on this?

I announced in the meeting that I was having difficulty with the issue because, while I agreed with Senator Bumpers, I did not want this bill to be vetoed, because I knew the plight of the farmers, I knew the urgency of this measure. I announced publicly that everything I was saying was done on the record. It is found now in the Record.

I stated to the chairman at that time: "Mr Chairman, I am undecided on this measure," and related how I felt about the Bumpers amendment. But I said: "What I want to know, Mr. Chairman"—and I am speaking now to the administration, as I spoke in that committee—"is, will the President sign this bill in the shape it is right now?" This is myself speaking, a week or two ago. "Will the President sign this bill in the shape it is in now? If he is going to veto it anyway, then I want to vote for the Bumpers amendment and vote for a measure which I think is good, if he is going to veto it anyway."

The debate proceeded, because obviously the President was not in the room, and they had to go back and check with the President.

The message came back, which I duly announced: "Mr. Chairman, I have just been informed that the President will sign this bill in the shape it is in right now"—and this was the last amendment; nothing was added to it at that time. I said: "On the basis of that representation, I will vote against the Bumpers amendment."

At the same time, I also looked to my colleagues across the way and said: "Do I understand, also, that Republican Senators will support the bill?" While I did not get it on the record about who shook their heads in agreement, that signal was communicated openly and publicly to me.

So there we are, Mr. President. There are certain agreements you make in politics, in Government. Most that are made are not made so publicly. Most are not spread upon the record of the Appropriations Committee. This agreement was spread on the record of the Appropriations Committee. It was explicit. It was detailed. It was without any misunderstanding.

Now, what happens? We bring that self-same bill, with the Bumpers amendment defeated by a single vote, my vote, and it is brought up here on the floor, and there is a point of order which does not pass. The Republicans, whose bill this is, and the President, whose bill this is, oppose the bill on a point of order. We are mystified.

I must say that we had a meeting with the majority leader today and the Director of OMB, Mr. Miller, and let me tell you what the explanation is. It is really very curious.

He said: "Yes, the President agreed to sign that bill in the shape it was in, and the President will still sign it. However, we opposed it on the floor and we opposed the point of order because in order for us to go along with it, you have to make"——

Mr. BYRD. Oppose the waiver.

Mr. JOHNSTON. They oppose the waiver, which is to say that they oppose the bill—because you cannot bring up the bill without the waiver—unless you make all these changes.

In other words, it is a Catch-22: "Yes, he will sign the bill; but, no, we are not for the bill."

Mr. President, I told the Director of OMB that if this were under the honor system at West Point, it would be called quibbling. I happened to have been at West Point. They had a rule there that a cadet does not lie, cheat, or steal, or condone anyone who does. As part of those rules, they say you do not quibble.

I recall very well one incident that took place at West Point. A cadet was told by a tactical officer to get rid of a pair of shoes because they did not look good. The cadet got rid of another pair of shoes, keeping those he had, and sent the tactical officer a note that said, "I have gotten rid of a pair of shoes."

They kicked that poor cadet out because they said he was quibbling. He was, in effect, misrepresenting, not really telling a lie, meaning that is was not a lie to say, "I got rid of a pair of shoes," but it was misleading.

As we said at our greatest institution, certainly one of them, which has a great tradition of honor and duty to the country, "You don't quibble. If you give your word, you stick to it."

Mr. President, this administration is quibbling. They have given their word publicly and openly. The President says, "I will sign that bill." Then what happens? "Oh, we didn't mean we would be for it to come up on the floor of the Senate. We reserved our right to oppose it. We reserved our right to invoke all these procedural rules."

Mr. President, if that is the game we are playing, then the word of this administration is not worth anything; because any Philadelphia lawyer, any Washington lawyer, any Senator, certainly any parliamentarian, can figure out 10,000 ways to get out of the word plainly given.

I might say, Mr. President, as an aside, that that is the problem that is plaguing this administration. We would not have this problem with Irangate right now if the spirit of the Boland amendment had been respected. But, no, you have some of these smart lawyers over there who say: "No, we found this deal under the Constitution, where the President has the power and authority to make foreign policy, and therefore the President doesn't have to respect the Boland amendment, and therefore the NSC does not have to respect the Boland amendment, and therefore Colonel North and a whole bevy of other people don't have to respect it."

Mr. President, the American people do not feel that way.

We also have this treaty—this ABM Treaty. Two great powers, the United States and the Soviet Union, make a deal and they decide what these words mean in the treaty, and then along comes the United States, years later, 15 or 16 years later, with a new discovery.

Some new smart lawyer over there in the State Department figures out a new interpretation, 15 years later, just discovered. He went back through all these slips of paper and discovered this new interpretation. So we have a new and broad interpretation of the treaty, and that is what has this Senate hung up now.

I do not want to get off on that treaty and on Irangate, even though I guess I have, except to say, Mr. President, that it does not bode very well for the country when the country cannot rely upon the word of the President, the word of the administration, solemly given, when the President says, "No, I don't know anything about the Contras or about arms for hostages," and then it turns out he does know something about it.

It is a pretty sad day, I think, for the Congress when we cannot make a deal, and I do not mean a deal in a pejorative sense—I mean in a good sense—because there were a series of deals that were made in Philadelphia at the Constitutional Convention, compromises, if you will—where we cannot make a compromise and agreement with the White House and stick to it.

I do not mean, Mr. President, that President Ronald Reagan has lied to me about this matter. I do not know what the President specifically knew about this bill and when he knew it. But I know that he was represented by lobbyists and very capable and very good lobbyists, and I must say I have very, very high regard for the President's representatives who represent him on the Hill. I like them. I trust them. I think they are people of great integrity.

We ought, in turn, to be able to rely upon their representations when they come up and say, "This bill in this shape we want it, we will sign it." We should not have to go behind that and say, "Well, now, does that mean that you will get your Senators to be for it on the waiver, does that mean this, does that mean that," because if we had to do that, we would write a contract 45 pages long, covering every contingency and dealing with all of those different sections. We would have to name every different department of Government.

Really, the President ought to speak for the Office of Management and Budget because the Office of Management and Budget is the President's own office. He appoints its Director. He is responsible to him.

They should not be speaking with different voices, Mr. President. There ought to be one voice.

So do I feel like we have been sort of shortchanged on this agreement? You bet we have. We had a deal, we had a compromise, and that has been gone back on, quibbling, to use the phrase that they use at West Point.

Mr. President, aside from that, aside from whether we have a deal and it is perfectly plain it is spread upon the pages of the committee, it is also perfectly plain that this is a good bill. It is less than the White House asked for. To be sure, the White House takes the position that they have asked for offsets and those offsets were not given.

But, Mr. President, in the first place, the offsets are against 1987 appropriations. There are only 4 months left in the fiscal year. So the ability to make most of those offsets is gone at least in part, in many instances in whole. Many of these were rescissions which were sent to the Congress in the budget in January. Those rescissions expired 45 days later. That is no longer a possibility. They expired back in March. So we cannot do that.

Many of the other items, Mr. President, are simple disagreements where the White House simply wants to go in and undo that which the Congress did in 1987 acts. For example, the Congress provided money for the national parks, some $110 million for maintenance and operation of our national parks, which every one agrees are in a terrible state of disrepair and need help, and another $64 million for land acquisition, which the Congress has long felt is a very high priority, which this administration has not.

The administration wants to go and go back in the acts of Congress and undo that which is the Federal law, in this case $110 million for our national parks.

Mr. President, we simply happen to disagree with the President as to what these priorities are and we should not have to go back in and undo a whole series of Federal laws that the Congress has already acted upon.

So many of these items, Mr. President, were items specifically requested by the White House.

Just yesterday, we heard the Secretary of Defense testify as to the overriding importance of the heavy lift launch vehicle, the big rocket. The Soviets now have a new rocket, a new heavy lift rocket called Inergia, which has several times the lift capacity of anything the United States has, and your morning paper is filled with the fact that the Soviet Union is well ahead in heavy lift launch vehicles from where the United States is.

Yesterday Secretary Weinberger came to the Subcommittee on Defense Appropriations and talked about the heavy lift launch vehicle, that we need it for a number of reasons, among which are the space station, also the lifting of satellites, and not to mention a possible use of the Strategic Defense Initiative. Yesterday Secretary Weinberger was saying he wants this supplemental because we specifically set out what the situation was and, "Do you want it?"

"Yes, I want it."

There are also what we call CHAMPUS funds which are funds for military people who do not live on the base for health care. There are a whole series of things in here, Mr. President. The CCC money is the biggest item, and that is over $6 billion. There are a whole list of other items which in turn are urgent. There is a very small percentage of items, I suppose less than one-half of 1 percent, that really are not urgent but that Congress in its wisdom thought we ought to have.

Someone identified $150,000 for some archeological matters in the State of Nevada when we debated this matter last week. I do not really know anything about it. I suspect they have some archeological artifacts that need to be preserved.

But those small numbers of add-on items that may not be of an absolutely urgent matter were in the bill when the President said he would sign it while we appeared before the Appropriations Committee. He knows about all those items minuscule though they may be, maybe less than a half of 1 percent.

The basic idea here is, Mr. President, we have a good bill, requested by the administration, scrubbed down of all but the significant matters.

Now, Mr. President, I believe what we should do is we should all stand up and give the President the bill he asked for, which is this bill, the bill he said he would sign, which is this bill, and if we do not have the votes to do it, then I think the administration ought to send up another bill and start the process all over again, because I do not think we ought to let the administration go back on its word solemnly given, publicly given, spread upon the record, and come in and nitpick what we are trying to do in giving the administration the bill it asked for.

Mr. President, it is just as clear as the noonday sun on a cloudless day. The administration gave its word; it ought to stick to it. It asked for a bill. We gave it to them. We gave the President a supplemental bill that is $2 billion less than that which the President asked for. It is fiscally responsible. It meets the needs of the country. It ought to be passed. I hope we will get the necessary 60 votes.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Mikulski). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1987

Mr. BYRD. Madam President, I have been in touch with the distinguished assistant Republican leader, Mr. Simpson, and I am informed that it is agreeable with him if I proceed at this time to call up H.R. 1827, an act making supplemental appropriations for fiscal year ending September 30, 1987. And I also understand that he authorizes me to do this in his absence from the floor.

Mr. HATFIELD. If the majority leader will yield for just a second.

Mr. BYRD. Yes.

Mr. HATFIELD. I would like to affirm the majority leader's understanding. I have had the instructions from the assistant minority leader, Mr. Simpson, to proceed on the basis of bringing the supplemental up, as I will be comanager of that bill when it is placed before the Senate, but the Senator is correct, it is with the approval and the support of the assistant minority leader to bring the bill up at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Oregon, the ranking member of the Senate Appropriations Committee. Mr. Stennis, may I say, is prepared to manage the bill.

With the understanding from the assistant Republican leader that I might proceed without his presence on the floor, this understanding having been confirmed by the distinguished Senator from Oregon, the ranking member of the committee, I therefore ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 105, H.R. 1827.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1827) making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I would like to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, if I withhold from making a 311 budget point of order against this bill now and the committee amendments are adopted under the normal procedure, and if additional amendments are adopted but yet a 311 point of order under the Budget Act still lies against the bill as amended at that point, regardless of how the committee amendments are adopted or other amendments are adopted to that point, will a point of order under the Budget Act still lie against the bill at any point?

The PRESIDING OFFICER. A point of order under section 311 of the Budget Act would be in order at any time——

Mr. GRAMM. And would that be true of——

The PRESIDING OFFICER. If the Senator will withhold so I can complete the whole concept because I know this is very important—unless the effect of the amendment adopted was to bring the bill in compliance with the Budget Act.

Mr. GRAMM. Madam President, would that include other budget points of order as well under 302 and 303?

The PRESIDING OFFICER. If the Senator will withhold because I know he is laying out some important parliamentary questions while we consult with the Parliamentarian, the Parliamentarian has advised me that the latter question has not been explored. He needs a moment or two to check this. And in fairness and making sure that the Senator's rights are protected, if the Senator from Texas will be patient until we get the proper ruling from the Chair, I would appreciate it.

Mr. GRAMM. Madam President, I will just withhold at the moment and allow us to proceed and then at the proper moment, without intervening action, would ask the question through the President to the Parliamentarian.

The PRESIDING OFFICER. And the Senator's rights will be protected.

Mr. GRAMM. I yield the floor.

The PRESIDING OFFICER. What Senator seeks time?

Mr. STENNIS. Madam President, as I understand, the Senator from Texas has withdrawn his discussion about the ruling and that is all deferred for future decision, is that right?

The PRESIDING OFFICER. Yes. While the Parliamentarian is evaluating his request for information, he has temporarily withdrawn his question.

Mr. STENNIS. All right. We just wanted to be sure we understood it. That wipes out what has been said. There will be a new question when we come back to it.

The PRESIDING OFFICER. Yes.

Mr. STENNIS. All right. Madam President, this bill has already been reported by the clerk and there are certain committee amendments that accompany the bill.

Madam President, I ask unanimous consent that the committee amendments, except the amendments as follows:

1. Line 9, page 31 through line 20, page 42;
2. Lines 8 through 11, page 63;
3. Lines 1 through 7, page 64; and
4. Line 19, page 166 through line 2, page 167, be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment, provided that no point of order be considered as having been waived by agreeing to this request.

Mr. HATFIELD. Madam President, reserving the right to object, which I will not.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, the request made by the chairman of the committee and the comanager of the bill, the Senator from Mississippi, is approved and cleared on this side. I would like to say that it is with the understanding that we have protected every Senator's rights to offer further amendments to this bill at any time during the consideration of this bill. It is the usual procedure we use to protect every Senator's rights because of the exception made to the committee amendments. So I want to indicate that that has been cleared on this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Madam President, we meet today to present before the Senate the 1987 supplemental appropriations bill, H.R. 1827, which reflects the recommendations of the Senate Appropriations Committee. This bill, which provides a total of approximately $9.4 billion in new budget authority for fiscal year 1987, reflects the careful thought and hard work of our entire committee. In fact, the markup of H.R. 1827 was accomplished over 2 day's time and involved the direct participation of all 29 members of the committee.

Before I turn to a brief discussion of the committee's recommendations regarding this bill, I wish to highlight the three objectives which H.R. 1827 seeks to accomplish.

First, the committee's recommendations regarding this supplemental appropriations bill reflect a serious attempt to impose fiscal restraint during a period of budgetary discipline. For this reason, the committee's overall fiscal year 1987 supplemental recommendations are $2.6 billion below the President's funding request of $12 billion and are roughly equal to the House-passed measure of $9.2 billion even after that body's imposition of a 21 percent across-the-board cut in virtually all programs. If we exclude the House-imposed 21 percent across-the-board cut, this committee's recommendations would be $1.6 billion below the House-passed bill. The committee's total recommendations for defense and foreign affairs, for example, are below both the President's funding request and the House-approved measure, as are the committee's recommendations for certain domestic programs.

Second, the committee's recommendations regarding H.R. 1827 reflect a serious attempt to fund only those programs which are sufficiently urgent or mandatory to require action in a supplemental appropriation. For example, we are advised that funding for the $6.7 billion reimbursement to the Commodity Credit Corporation is urgently required since CCC is out of money and has ceased making payments. Similarly, the committee's recommendations to fund increased Federal pay costs and Federal employee retirement contributions at a level equal to the House-approved measure of $1.5 billion and slightly above the President's original request of $1.2 billion, reflect the essentially mandatory nature of these items. For this reason, even though this bill requires a waiver of the Budget Act for such mandatory items, the appropriations in this bill must be kept within strict limits. Accordingly, it is the committee's fervent hope that as many items as possible be deferred until the regular fiscal year 1988 appropriations bills. Again, I wish to emphasize to all Senators: Only items of a very urgent nature should be included in this bill.

Finally, the Senate Appropriations Committee's recommendations regarding H.R. 1827 reflect a serious attempt to fashion a product which will not be vetoed. For this reason, the committee has not included either of the two arms control amendments contained in the House version of H.R. 1827—the first which imposed the unratified SALT II limits and the second which banned all but small nuclear tests. As we all know, the President has advised the Congress that he will veto this bill if the two arms control amendments approved by the House remain in this bill. Needless to say, this supplemental appropriations bill requires passage—not veto.

I would like to briefly discuss the committee's recommendations regarding the fiscal year 1987 supplemental appropriations bill, H.R. 1827.

At pages 5 and 6 of the report, the committee has highlighted the major items and the amounts recommended by the committee in this bill. Briefly stated, the committee is recommending:

That $768 million for defense; $154 million for foreign assistance; $6.8 billion for nondefense domestic; $408 million for increased pay costs; $1.1 billion for Federal employee retirement systems contributions; and $137.5 million for the homeless initiative for a total of approximately $9.4 billion in new budget authority for fiscal year 1987.

The committee's recommendations regarding urgent, important or mandatory domestic programs are funded at virtually the same levels requested by the President and passed by the House:

Commodity Credit Corporation: $6.6 billion; Immigration and Naturalization Service: $147 million; Veterans compensation and pensions: $80 million; Internal Revenue Service: $80 million; Student financial assistance: $287 million.

The committee's recommendations regarding foreign assistance programs are $154 million over the zero funding by the House and are aimed at only essential programs which comprise the President's $1 billion supplemental request.

The committee's recommendations regarding defense are directed at two major program supplementals only—operations and maintenance [O&M] and research, development, testing and evaluation [RDT&E]—for a total funding of $768 million. This compares to the House-passed measure for defense of $1 billion and the President's request of $2.8 billion.

Before I conclude my remarks, I wish for all Members to bear in mind certain key considerations regarding this supplemental appropriations bill. First, Senate rules specifically prohibit legislative amendments to appropriation measures. Accordingly, I urge each Senator to withhold all legislative amendments. Second, the funds in this bill must be kept within strict limits. Accordingly, only amendments of a very urgent nature which do not add to the deficit should be included in this bill. And finally, major amendments of a substantive nature should not be proposed in this bill. They should and must be deferred until the regular fiscal year 1988 authorization bills are considered.

In conclusion, Madam President, the committee's specific recommendations are discussed in detail in the remainder of this report, by subcommittee, on a chapter-by-chapter basis.

In chapter 1 on Commerce, Justice, State and the Judiciary, the committee recommends a total of $215,588,000 in new budget authority. This recommendation is for urgent items associated with implementing the Immigration Reform and Control Act of 1986—$147,793,000, for costs associated with the creation of 52 new bankruptcy judges—$34,600,000, and a supplemental to compensate for the costs of currency fluctuations of the Board for International Broadcasting—$33,195,000. In addition, the committee recommends $1,375,000,000 for the liquidation of debt of the Federal Ship Financing Fund. This amount provides no new funding, but is a bookkeeping transaction within the Department of the Treasury.

In chapter 2 on Defense, the committee recommends a total of $768,000,000 for the program supplemental and $570,940,000 for contributions to the Federal employee retirement system, for a total recommendation of $1,338,040,000 in new budget authority. The committee has also provided for the transfer of $300 million in unobligated balances from the Department of Defense to provide economic support assistance to Central America. The committee directs the Department of Defense to submit the program detail to the committee as soon as possible for prior approval before transferring any funds from the Department of Defense.

In chapter 3 on Energy and Water Development, the committee received no budget requests from the President for program supplemental funding and has not included additional budget authority for programs and supplementals.

In chapter 4 on Foreign Operations, the committee recommends new budget authority totalling $145,813,486. The committee recommendation includes $300 million by transfer for economic support assistance to Central America which is sought by the administration, $50 million for economic assistance to southern African nations, and $257,813,486 for contributions to various international financial organizations. These supplementals are partially offset by a reduction of $200 million in direct loan authority by the Export-Import Bank.

In chapter 5 on Housing and Urban Development—Independent Agencies, the committee recommends net new budget authority of −$316,654,000. This recommendation includes the following rescissions:

Department of Housing and Urban Development, rental supplement, $389,340,000;

Department of Housing and Urban Development, rental housing assistance, $72,873,000;

Department of Housing and Urban Development, salaries and expenses, $4,266,000; and

Veterans' Administration, medical care, $10 million.

The committee recommendation also includes supplemental appropriations of $80 million for veterans compensation and pensions, an entitlement program, and $20 million for veterans job training program.

In chapter 6 on Interior and Related Agencies, the committee recommends net new budget authority totaling $25 million for the National Park Service, Bureau of Indian Affairs and various other programs.

In chapter 7 on Labor Health and Human Services, Education and Related Agencies, the committee recommends a total of $233,844,000. Of this amount, $122 million provides for new authority for family social services. In addition, the committee recommends an additional $44 million by transfer to the family social services programs and $287 million by transfer for the Pell Grant Program.

In Chapter 8 on the legislative branch, the committee recommends a total of $14,337,700 in new budget authority for program supplementals and a deferral of $4 million for activities. This is $5,839,500 in budget authority below the requested amounts, and $1,826,200 in budget authority more than the House allowance.

In chapter 9 on military construction, the committee denied the request program supplemental of $250 million for design and construction of processing facilities for the demilitarization of the existing stockpile of chemical munitions. The House also denied this request.

In chapter 10 on Agriculture, Rural Development and Related Agencies, the committee recommends funding of $6,692,465,000 for agricultural programs. Of this amount, the major item is a supplemental of $6,653,198,000 for reimbursements to the Commodity Credit Corporation for net realized losses sustained in CCC programs. These funds are urgently needed by our Nation's farmers.

In chapter 11 on Transportation and Related Agencies, the committee recommends new authority of —$146,775,217 for various transportation programs. Program supplementals recommended by the committee have been offset by a rescission of $150 million in contract authority available for grants-in-aid for airports. The committee also recommends $50 million by transfer for FAA operations.

In Chapter 12 on Treasury, Postal Service and General Government, the committee recommends a total of $98,097,000 in new budget authority for various activities and programs. This funding level represents a decrease of $67,980,000 below the President's total revised request for program supplementals and a decrease of $84,677,000 below the House allowance. The major item in this chapter is $80 million, requested by the President, for Internal Revenue Service costs.

In title II of the bill, the committee recommended $408,323,000 in increased pay costs. This is $210,781,000 above the President's request, but $48,529,500 below the House allowance.

In title III of the bill, the committee has recommended $1,149,358,600 in funding to meet costs associated with retirement contributions due to the enactment of the Federal Employees Retirement System Act of 1986. This is $130,749,600 above the President's request and $12,431,600 above the House allowance.

In title IV of the bill, the committee recommended funding of $137,500,000 which is less than the House allowance of $425,000,000 for the homeless initiative.

In title V of the bill, the committee has also recommended a number of general provisions. Perhaps of greatest interest is the committee's recommendation regarding the deletion of the 21 percent across-the-board cut passed by the House.

Madam President, we have had a fine discussion of this matter in the committee, the markup by the full committee—first the subcommittee and then a complete argument and discussion and adoption of amendments.

I will just touch on two or three items that show something about the extent of the bill. It is highly important. It includes sums of money that are not small.

The supplemental bill totals some $9 billion. It is $2.6 billion below the President's budget request for these items. It is $1.8 billion below the House-passed bill, before the House cut the bill 21 percent across the board. There are other matters here that I think the Senate can well consider.

I have never seen a supplemental matter have more attention and genuine consideration than this one. There is a lot of interest in it. They are highly important matters, and I call them to the attention of the Members.

Mr. HATFIELD. Madam President, first I want to congratulate the chairman and the other members of the committee for their work in bringing this bill to the floor. I believe it is a lean, responsible bill, representing the committee's best effort to balance the requirements of necessary government operations with the need to restrain spending and reduce the Federal deficit. While I do not agree with all aspects of the bill as recommended by the committee, notably the committee's action on the arms control provisions adopted by the House, I believe that it is a good bill overall, and I hope we will move on it quickly so that we can go to conference and get this measure to the President for his approval.

As the chairman has outlined H.R. 1827 as recommended by the committee provides a total of $9,433,478,569 for the balance of fiscal year 1987. This is a reduction of $2,570,576,293 from the President's request and an increase of $196,401,069 over the amount provided in the bill as passed by the House. It should be noted that the House adopted a 21-percent across-the-board reduction just prior to their passage of the bill. The committee's recommendations are slightly higher than the House bill without resorting to such a draconian provision. And, we have provided approximately $354 million of new budget authority for foreign assistance programs and $300 million by transfer for Central American assistance, neither of which was included in the House bill.

The supplemental as recommended by the committee contains five titles. The first title recommends a total of $7.7 billion in program supplementals, of which $6.7 billion is for the Commodity Credit Corporation and $768 million is for defense. Title II recommends $408,323,000 for increased pay costs associated with the cost of living increase of January 1, 1987. Title III provides $1,149,358,600 in contributions to the new Federal employees retirement system. And, title IV recommends $137,500,000 in additional funding for programs to the homeless. Title V contains a number of general provisions, including language on the administration's drug testing proposal, the sale of depleted uranium shells to foreign nations, and a prohibition on the restarting on the "N" reactor at Hanford, WA.

Madam President, I repeat that I believe this is a good bill overall and worthy of our expeditious considerations and passage.

Madam President, again I congratulate the chairman of the committee, the members of the committee, and the staff for the diligence with which they pursued this very difficult task in providing the Senate with a supplemental.

The chairman of our committee has outlined the comparative figures, the comparison to the bill we received from the House of Representatives.

This bill consists of about five titles totaling about $7.7 billion. The major part of that expenditure is title I, which is the Commodity Credit Corporation.

By the way, I might observe that the Commodity Credit Corporation ran out of money as of May 1, so that program is really in a state of suspension. That is a total of $6.7 billion out of the $7.7 billion.

Title II of the supplemental recommends in excess of $400 million for the increased pay costs which are associated with the cost of living increase as of January 1987. That is, again, one of those commitments that we have made under law. Consequently, there is not a great deal of discretion in that particular title.

Title III provides $1.149 billion for the contribution to the new Federal Retirement Program. This, again, is one of those mandatory expenditures upon which this committee or the will of the Senate has very little flexibility.

Title IV recommends $137 million for the Homeless Program which was adopted by the Senate. I might say that it does not reach the authorization level, but it certainly is a major start on a program for the homeless. That bill passed in the authorizing form by a rather substantial margin, and of course that is highly discretionary. But I would hope that the Senate would fulfill the expectations that it raised in the public for doing something substantial to help relieve the problems of the homeless.

Title V of the bill is what we call the general provisions, and there are a number of items in this particular title. I will not attempt to recite all of them, but part of this title relates to the President's drug testing legislation; therefore, again, it is one of those matters which I think has a degree of urgency that we should act upon. It also includes the sale of depleted uranium shells to foreign nations—to give a little idea of the breadth and diversity of subjects that title V of this bill incorporates.

Madam President, we have had a number of comments made on this floor about specific projects and other items in this bill. Let me reiterate that when one looks at the task that was set before us, I will only recount that the President had asked for some $12 billion in supplemental and the House had reduced that, and we have reduced it further.

So, of the three components that will require final action on the legislative matter before us—namely, the White House, the House of Representatives, and the Senate of the United States—we have proposed to our body the lowest figure to meet the demands, the requirements, and the obligations that this supplemental incorporates.

Again, I think that one could find objectionable parts to this bill or items or projects, but this is the opportunity for the Senate now to raise those questions, once we have proceeded along the way. Those amendments could be offered at this time, and hopefully we will begin the amendment process very quickly.

Let us face the fact that we are going to have a budget waiver. That is part of the requirement in this process. If we appropriated $1, in a sense we would be required to waive the Budget Act, because we are in excess of that budget figure now by some $13 billion. So we will have to face the question of the budget waiver.

I think everyone knows that we attempted that last week. We failed to get the 60 votes required. It is my expectation that today, at some point in time, we will have that question put before the body again, through a process of a point of order to be made by any colleague, but I understand that the Senator from Texas will probably raise the point of order at an appropriate time. Then there will be the question of setting aside or waiving the Budget Act.

Let me emphasize again that this bill is now ready for amendments, but the amendments will follow after the Budget Act is waived, and I am hopeful that I can say it after it is waived, because that would be my expectation, that that will occur. Then let us bear in mind that any amendment offered from the floor that would add money to the appropriation measure would be subject to the same requirement that is put to the bill, once that budget question is raised, and that is 60 votes.

In the meantime, before we reach that point, if there is an amendment offered to add, then I would say that a point of order would have to be raised against the amendment; because if a point of order is not raised against the amendment at that time, it would require only 51 votes.

I merely wanted to outline the procedure that we can anticipate, or hopefully anticipate, during the evening. I hope that the leadership will agree that once we move to the question of waiving the Budget Act, and if that act is waived, perhaps we could complete this bill very shortly—very shortly in the sense that I hope we could stay in long hours. I am speaking as one of the comanagers of the bill. I hope we could complete it for certain tomorrow before we commence the recess.

So, Madam President, I wanted to more or less outline the schedule as I see it, as a comanager of the bill.

Mr. STENNIS. Madam President, going back for a moment to the material I put in the RECORD earlier, relating the facts in connection with these billions of dollars:

The $6.7 billion of this money to which we have referred is not what is called new money. These figures cover an obligation that has already been earned, so to speak. It is an entitlement, as we use the term now. It is like compensation for certain matters in the passage of time, so much a month, and the party gets the money as a matter of right then. That $6.7 billion is what we call the entitlement.

I mention that just to show that it is not new money and it is not added expenditures, in fact, as we ordinarily use that term. The statement that has been put into the RECORD is rather complete with reference to these items.

They are subject to examination, of course, by anyone who is interested and someone to give lengthy information and data about it as might be desired by anyone.

It is late in the afternoon getting started with this matter. I was abbreviating it just as a matter of saving time.

The PRESIDING OFFICER. The Senator from Nevada.

STILLWATER NATIONAL WILDLIFE REFUGE ARCHEOLOGICAL RESOURCES—URGENT SUPPLEMENTAL

Mr. REID. Madam President, I would like to address an issue that one of my colleagues raised concerning a $100,000 appropriation request in the supplemental. The specific appropriation is for the Fish and Wildlife Service to conduct a study and to protect archeological resources in the Stillwater National Wildlife Refuge in Nevada, which also happens to be on the National Register of Historic Places as a historic district.

My colleague made the statement that the "bones and pottery have waited for thousands of years to be discovered," and from that premise he made an intuitive leap and concluded that the study was not of an emergency nature. I will attempt to dispell that notion.

Beginning in 1982 through 1985, the Stillwater Wildlife Refuge experienced extreme high water episodes. High water caused erosion of topsoil so when the Carson Sink began receding, numerous archeological sites were discovered. These discoveries at Stillwater are of such size and concentration that they have no equivalent in the rest of the great basin area, a very large area that makes up a major part of seven States in the western part of this country. This is the major geologic province of the Western United States. The artifacts are expected to reveal a great deal of information about prehistoric man and his resource use and settlement. The human remains offer an unprecedented opportunity to examine such things as prehistoric nutrition and stress, genetic relationships, and demography. Yet, at this moment these important sites are being subjected to the ravages of wind and water erosion, in addition to looting and vandalization of the area.

It is interesting to note that just last week a special on the ABC news program "Good Morning America" depicted the looting and vandalism that has ruined forever various Indian sites in the West, and these sites are being ruined today.

If money is not made available now to begin archeological recovery and cataloging, this important cultural resource may be gone forever.

My predecessor, Senator Laxalt, attempted to get the moneys needed last year for this important project, but the issue became bogged down for a number of reasons, not the least of which was a bureaucratic jurisdictional dispute. That problem has now been resolved with the Fish and Wildlife Service willing to be the administering agency for the study. Let us not allow the degradation of this important cultural resource to go on one more day. This is, in fact, an emergency appropriation for an emergency project that should have been funded several years ago. If we do not keep the money for the study in the bill there will be some savings of course, but lost forever to this Nation will be knowledge about the prehistoric occupants of this continent.

One philosopher said: "Truth is the only merit that gives dignity and worth to history." How can we have truth without work such as this going forward?

STILLWATER NATIONAL WILDLIFE REFUGE ARCHEOLOGICAL RESOURCES

Mr. INOUYE. Mr. President, I want to address an issue that was raised on the floor last Tuesday when the Senate was trying to begin consideration of the urgent supplemental. There was some concern expressed that the $100,000 included for the U.S. Fish and Wildlife Service to protect archeological resources at the Stillwater National Wildlife Refuge in Nevada was not urgent. As a matter of fact, the exact statement made was:

> I submit that all of these archeological finds—bones and pottery—have waited for thousands of years to be discovered. Yet, all of a sudden we have concluded that we should raise the deficit by $2.6 billion so that someone can rush out to Nevada on an emergency use of funding.

Mr. President, as the chairman of the Select Committee on Indian Affairs, I apprise my distinguished colleagues that any time Indian burial pits, human skeletal materials, and the related archeological remains are exposed by fluctuating water levels, or for any other reason, it is an emergency. These burial sites are sacred. I would ask my colleagues if funding to preserve the artifacts in Arlington National Cemetery would be considered an emergency expenditure if the Potomac overflowed sufficiently to expose human remains.

I do not need to dwell on this, Mr. President, but it is my understanding that this site represents a concentration of sacred Indian burials unique in North American prehistory, and that these remains must be dealt with now, not only in order to meet the cultural resource stewardship responsibilities imposed by the National Historic Preservation Act and the Archeological Resources Protection Act, but in order to meet basic human dignity and ethical standards related to any sacred burial ground.

Mr. REID. Madam President, I have a letter from the Society for American Archeology expressing their interest in this project and outlining the emergency nature of the appropriation. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOCIETY FOR AMERICAN ARCHEOLOGY,
Washington, DC, May 19, 1987.

Hon. ROBERT BYRD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BYRD: Enclosed is a copy of a letter we have sent to Sen. Gramm concerning his remarks on the Senate floor May 12 regarding $100,000 for archeological excavations for the Stillwater National Wildlife Refuge, Nevada in the fiscal year 1987 supplemental appropriations.

We appreciated your comments on the floor on this matter. Because of the emergency nature of the Stillwater project, we urge you to keep the requested funding for it.

Sincerely,
MARK P. LEONE,
Chair, Governmental Affairs Committee, Society for American Archeology.

SOCIETY FOR AMERICAN ARCHEOLOGY, OFFICE OF PUBLIC AFFAIRS,
Washington, DC, May 19, 1987.

Hon. PHIL GRAMM,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR GRAMM: The Society for American Archeology is greatly concerned over your remarks on the Senate floor May 12 regarding $100,000 for archeological excavations for the Stillwater National Wildlife Refuge, Nevada in the fiscal year 1987 supplemental appropriations. While we sympathize with your concerns about the federal deficit, we would like to bring to your attention the emergency nature of the Stillwater project.

The problem facing Stillwater is complex and began approximately two years ago. The unusually high snow falls in the mountains of the Great Basin region have led to melt off which has inundated marsh areas including the Stillwater Refuge. In the last year and a half, as much as a meter of top soil been eroded from the Stillwater Refuge due to the flood waters receding. Hundreds of human skeletons have been exposed as a result of this erosion. These skeletons are clearly associated with house pits of hunter-gatherer occupation periods, some dating as far back as 3-4 thousands years ago.

Experts agree that the archeological significance of this site is great, especially since the site is on the National Register of Historic Places as an historic district. Archeologically, the Stillwater find is unique, not only to Nevada, but maybe to the entire Great Basin area. Traditionally, hunter-gatherer cultural sites do not have associated burial assemblages. There has never been a burial this extensive discovered in the Great Basin region.

To date, the Fish and Wildlife Service in cooperation with the Nevada State Museum has recovered remains from 125 individuals. Professional evaluations estimate that there are probably remains from at least a hundred more individuals. All of these are in danger of being washed away during the next spring thaw. In addition, the site is in danger from looters. There have been reports of vandalism and looting and one confirmed case of an entire skeleton being removed by wheelbarrow during the night.

In the last two years, the Fish and Wildlife Service has recognized the problem and the extent of the site significance. Their efforts have been to perform emergency archeological recovery. It should be noted that human skeletal remains are fragile. When inundated and then dried and left exposed, they will rapidly deteriorate. The Native Americans on the Fallon Paiute Shoshone Reservation have expressed their deep concerns about the exposure. Even if the human remains are not ancestral to the group, the site is a sacred area and they see the need to protect the remains, including excavation if necessary.

The Fish and Wildlife Service has already developed a Memorandum of Agreement with representatives of this Reservation and other groups to allow for two years of study of the skeletal remains and then reinterment in an area close to the excavation area.

The emergency nature of the request for $100,000 lies in the fact that the Fish and Wildlife Service must perform site survey, tests, excavations and study in order to determine the extent of the occupation and the possible number of human remains to be expected. The site is endangered by from natural and human causes. Once human remains are exposed they begin to deteriorate. A representative from the Fish and Wildlife Service said that under normal conditions this process would not be listed as an emergency. But with natural exposure, looting and concerns from the Native American community it is vital that the Fish and Wildlife Service take action before more human skeletal remains are destroyed. This is not a normal archaeological project; it is a salvage operation against the clock in order to preserve human remains.

The Society for American Archeology strongly supports the requested $100,000 for emergency protection of fragile archeological resources. If the Society can provide any additional information to you or your staff please do not hesitate to contact Kathleen Reinburg, Office of Public Affairs, Society for American Archeology, 2000 P Street, NW, Washington, DC 20036 (202) 833-2322.

Sincerely,
Mark P. Leone, Chair,
Governmental Affairs Committee, Society for American Archeology.

Mr. REID. I yield back the remainder of my time.

The PRESIDING OFFICER. What Senator seeks recognition?

The Senator from Texas.

Mr. GRAMM. Madam President, let me first say in the long discussions that have been under way for the last 3 weeks I would like to begin by saying that both the distinguished chairman of the Appropriations Committee and the distinguished ranking member have worked with me to try to promote a potential compromise in the funding levels in the supplemental. They have always been helpful and kind to me, and I would like to say to them that I deeply appreciate it.

Our problem with this bill is not that there are not many worthy programs in the bill. Our distinguished colleague from Nevada has just pointed out a program where we have a proposal for an emergency supplemental appropriation for archeological digs in Nevada.

Our colleague has put in the Record now a letter which was sent to me and to other Members by the president of the Archeological Society pointing out the delicate nature of the circumstance where a spring thaw has unearthed bones of approximately 100 or 200 people, finds that are very important because of the concentration of burial and because of the location.

In fact, I could literally go through, Madam President, and list dozens of other worthy programs in this bill, assistance for the Polish Free Trade Union, the Peace Corps, cleanup of collapsed buildings in Connecticut, a Guadalcanal memorial, and the list extends on and on to a landfill in Idaho and New Mexico, to land acquisition in Louisiana, to dealing with that long time pest, the boll weevil, in the Southeast, to weed reserve centers at South Dakota State University, to feed mill demonstration projects in the Northwest.

But I would like to remind my colleagues that there is an alternative to simply raising the deficit. When a thaw occurs in the springtime and through a process of nature bones are unearthed in Nevada, and those bones are exposed to the elements and to looters, putting an archeological find at risk, there is an alternative to raising the Federal deficit. When we applaud what is being done by the Solidarity labor union in Poland, and there are Members who want to send them the taxpayers' money, worthy as the cause may be, there is an alternative to raising the deficit. And when we want to do research on weeds or on milling or on the boll weevil, as important as they may be, and as worthy as all these things I've mentioned might be, there is an alternative to raising the deficit. It is not an alternative that this Congress uses very often.

In fact, one of the ways we got into the circumstance we are in today with the $2.3 trillion debt is that every time something happens that could be deemed an emergency or a priority item, we rush out and fund it and if anybody worries about the costs they are asked: well, do you want to have these bones lying on the ground in Nevada? Do you not want to reward the Solidarity labor unions? Do you want the boll weevils in the cotton? Do you want—and the list goes on and on and on and on and we all know what happens.

We end up funding these programs and raising the deficit, and the Government goes out to borrow the money and those who would build new homes and new farms and new factories to generate new economic growth find the Government has gotten into the capital market ahead of them and as a result interest rates are higher and young families do not get homes. And with interest rates being higher, foreigners seek to invest in the American economy, they bid up the demand for dollars, make American goods noncompetitive on the world market, discouraging our exports, encouraging imports, and then the same people who raise the deficit come back and say well, we have to protect American industry because we have a trade deficit.

Madam President, the problem is that we do not look at the alternative that exists. If the exposed bones in Nevada are important, and I believe they are important—I believe that what is past is prologue—we should look to the alternative.

The alternative for dealing with the exposed bones in Nevada and dealing with the boll weevil and building buildings for research at the various colleges and universities, many of which have had no peer review in terms of setting priority, but that aside, the alternative is to take the money away from some other use, not to increase the deficit.

What we are hearing here is that we have looked at all these other uses and in $1.010 trillion budget there is not $100,000 in a $1.010 trillion budget; there is not $100,000 that is less worthy than the project of digging up the bones that have been exposed of some prehistoric men in Nevada so that we might understand their successes and failures and learn from both; that in a trillion-plus dollar budget there is no project that is less worthy than the weed center at South Dakota State University or of the feed mill demonstration project at the same school, or of the boll weevil infestation or of the assistance to the Peace Corps in this supplemental.

We have concluded that, in that whole budget of $1 trillion, there is no lower priority item, and so, therefore, we have decided that we are going to go out and borrow the money. And that in adopting this supplemental appropriation bill, despite the fact that we have on many occasions said that we are concerned about the deficit, and in fact we have setup a process whereby those bills that raise the deficit, once the budget is adopted, are subject to a point of order requiring 60 votes, that what we are saying, if this bill proceeds to conclusion without reducing the proposed deficit increase of $2.6 billion, and if a point of order at that point is not sustained, what we have really said is that we have looked at the $1 trillion budget of the Federal Government and there is less fat in that budget than there is in the family budgets of all the working men and women of America. Because what we are going to do is we are going to protect every item in the Federal budget and we are going to do it by imperiling all the items in the family budget, imperiling those items by either at some point in the future raising taxes—though we are not willing to do it here—or by raising the deficit. We want to do all these things, but we are not willing to pay for it up front by raising taxes.

What we are doing is paying for it by raising the deficit, which means Government, if this bill is adopted and the President signs it into law, as he says he is willing to do, what we are saying is we are going to go out and borrow another $2.6 billion and those funds will be denied to the private sector. Those funds will not be available to modernize American industry; at the same time that our lips literally drip with the word "competitiveness," that these funds will not be available to make American industry more competitive by fueling free enterprise. They will not be available for building new homes. Yet, what Member, when the homebuilders come calling does not say, "Homebuilding is a top priority of America." The funds that will have to go to feed the deficit, by not being available for other purposes, deny the kind of growth and opportunities that our people need.

Madam President, I am hopeful, as we go through this supplemental appropriation bill and as amendments are offered to reduce spending, that Members will basically ask the following question on each amendment: Not, "Is the project worthy?" I would submit that archeological digs in Nevada, under the circumstances, are worthy. I would submit, in fact, Madam President, if we turn that down, that those who are concerned about it will go out and even in the State of Nevada alone will raise $100,000 from the private sector to do the digging. I submit that there might be those in Texas who would contribute to the effort if we do not deem it worthy in terms of raising the Federal deficit.

But the issue is not whether it is worthy or whether it is not worthy. The issue is, is there anything in a $1 trillion budget that we could cut to pay for it? I submit the answer to that is yes.

The second question is, if it is worthy, if it is indeed an emergency, is it not worthy of being paid for by letting Members vote on raising taxes at the same time that they spend the money? That is the relevant issue.

So I am sure others will offer amendments to various sections of the bill. I will certainly offer amendments as we proceed. I hope that Members will look at each of these amendments, recognizing that to strike a section of this bill is not to say that it is unworthy. It is to simply say that if a program is not worthy enough to take money away from something else, then it is an indication that everything else in a $1 trillion budget is more worthy than the proposed item and that it may not therefore, be an emergency. Remember that we are not saying that an item would never be funded. We are just saying that in an emergency supplemental appropriation bill, these various provisions, these add-ons, hundreds of millions of dollars of them, are not justified as emergency provisions when the Nation has a deficit.

I will conclude by reminding my colleagues that, after 4 years of progress in bringing inflation rates down, inflation rates are starting to rise again. After 5 years of progress in bringing interest rates down, interest rates are starting to rise again. Even as our balance of trade is beginning to improve because of a shift in the value of the dollar relative to foreign currencies, we are taking action today that, when combined with the water bill and the highway bill and the budget, represents a movement in the opposite direction from the direction that we have tried to move in to try to bring spending under control.

I think this is a movement in the wrong direction. I think there are many features of this bill that do not belong. I hope that there are those here—in fact, 50 others—who will agree with that when the time comes and when amendments are offered.

I yield the floor.

TERN ISLAND NWR, HAWAII

Mr. INOUYE. Madam President, I want to take a few minutes to address an issue that was raised the other day while the Senate was discussing projects funded in the supplemental appropriations bill. The implication was that there were projects that were funded that did not meet the emergency or urgent criteria that has traditionally been applied to items funded in the supplemental bill. One project that was mentioned in particular was the $200,000 included in the Interior chapter that was to be used for increased maintenance expenses at Tern Island, in Hawaii.

One of the most frequently heard statements is that we shouldn't fund it in the supplemental unless it would have the effect of closing down the Government.

In February of this year, the Fish and Wildlife Service issued a press release proposing a change in the mode of operation for the Tern Island facility, which is a component of the Hawaiian and Pacific Islands National Wildlife Refuge Complex. The proposal calls for reducing the continuously staffed, year-round operation to a seasonally staffed, field camp operation, under which most of the facilities will be abandoned. In effect, Madam President, what the Fish and Wildlife Service wants to do is to close down the Government on Tern Island. I ask unanimous consent that the February 1987 press release by the Fish and Wildlife Service be printed in the Record immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INOUYE. The press release states that the reason for the proposed change in the mode of operation of Tern Island is the lack of adequate funding to perform adequate maintenance on the Government-owned facilities on Tern Island. While we do not necessarily agree with that as a reason, the fact is that unless the Service receives some additional funding, the facility will be closed before fiscal 1988 money would be expendable.

Madam President, I am not sure that many of my colleagues know about Tern Island, so let me take just a few minutes to describe Tern Island, and I am sure that they will agree that this is an urgent item.

In World War II, the Navy was faced with a temendous problem, that being the 1,200 miles between the islands of Kauai and Midway. There was no airstrip in this important section of the Pacific Ocean, so in 1942 the Navy dredged a boat channel and a seaplane landing area to create a permanent airstrip about 450 miles northwest of Kauai. The Navy moved out at the end of World War II and the Coast Guard established a long-range navigation station there in 1952. The Coast Guard spent $1.2 million in 1972 for new facilities but improvements in navigation techniques led to the Coast Guard transferring the island to the U.S. Fish and Wildlife Service in 1979.

The site has six endangered or threatened species that use the island for resting, feeding, and breeding. There are several major maintenance projects that need to be done if the U.S. Fish and Wildlife Service is to stay at Tern Island. The $200,000 included in the supplemental will enable the Fish and Wildlife Service to stay at Tern Island year-round.

Madam President, it is not just my assessment that the Fish and Wildlife Service needs to maintain a presence year-round at Tern Island. The Marine Mammal Commission in a letter dated December 22, 1986 urged that Tern Island be kept open and I ask unanimous consent that that letter be printed in the Record immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. INOUYE. Furthermore, Madam President, the Western Regional Office of the National Audobon Society, in a letter dated February 13, 1987, also urged that the Tern Island facility be maintained year-round. I also ask unanimous consent that this letter be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. INOUYE. Madam President, I know that it is easy for any Member of the Senate to look at a list of activities or projects funded in an urgent supplemental and express concern that the projects funded are not of sufficient urgency that they can't wait 6 months. But in this instance, Madam President, I think the facts are clear that without this money Tern Island would be closed leading to undesirable impacts on endgangered species populations in the area and I urge my colleagues to agree with me that this is urgent.

EXHIBIT 1

HAWAIIAN ISLANDS NATIONAL WILDLIFE REFUGE

MASTER PLAN/EIS COMPLETED

The Final Master Plan/Environmental Impact Statement for the Hawaiian Islands National Wildlife Refuge (HINWR) was completed last July. The Record of Decision adopting the Preferred Alternative as the most suitable management option was published in the Federal Register on October 9, 1986.

The Fish and Wildlife Service (FWS) will continue the distribution of Planning Updates such as this one to appraise concerned organizations and individuals of significant developments related to planning and operations for the HINWR.

CHANGE PROPOSED FOR TERN ISLAND OPERATION

The subject of this Planning Update is a proposed change in the mode of operation for the Tern Island facility at French Frigate Shoals. The change is dictated by funding constraints resulting from the need to reduce the Federal budget deficit, specifically a 15% reduction in Fiscal Year 1987 funding for the Hawaiian and Pacific Islands National Wildlife Refuge Complex. Simply stated, there are insufficient funds to continue the year-round occupation and maintenance of the Tern Island facility and discharge the other responsibilities of the Complex.

The new proposal calls for reducing the continuously staffed, year-round operation of the full facility to a seasonally staffed, field camp operation, under which most of the facilities transferred to the FWS by the U.S. Coast Guard, will be abandoned. The change will eliminate costs associated with maintaining facilities (i.e. electrical generating system, fresh water catchment and delivery system, refrigeration system, buildings, runway, seawall, tractor, etc.) and allow all funds to be used directly for conservation and management of wildlife resources and habitat.

Biologists from the FWS and other agencies such as the National Marine Fisheries Service will establish long term field camps for ten months each year (February-November) to continue research and population monitoring efforts during critical reproductive periods. Limited entry policies relating to vessel traffic and permittee access will continue to be enforced and supervised by on-site personnel.

Ongoing effort to monitor the Hawaiian monk seal population and pup production throughout French Frigate Shoals will continue, but at a slightly reduced level because of the two-month winter hiatus. The green sea turtle population and hatchling production will be monitored as before throughout the reproductive season (April-November). Seabird population monitoring efforts involving studies of population size and breeding chronology, reproductive success, chick growth and food habits will continue at nearly undiminished levels. Direct assistance to basking seals and nesting and hatchling turtles trapped behind the seawall or by vegetation and coral debris will be provided as needed during the ten-month period. The operational change, therefore, is unlikely to have significant negative impacts on wildlife.

The change will result in a savings of approximately $100,000 during the transitional year (FY 1987) and $150,000 each year thereafter. A portion of this savings will be used to implement high priority management strategies included within the Preferred Alternative of the Master Plan such as: regulating and monitoring nearshore vessel traffic, conducting biannual aerial photo surveys, and conducting comparative population monitoring studies on Midway and Kure.

COMMENTS

The proposed change is subject to compliance with Section 7 of the Endangered Species Act and final review by the FWS before implementation, which is planned for Spring 1987. Public and outside agency comments are welcome and should be directed to the Refuge Manager at the following address: Richard C. Wass, Refuge Manager, Hawaiian Islands National Wildlife Refuge 300 Ala Moana Boulevard, Room 5302d Honolulu, HI 96850 (808) 541-1201.

EXHIBIT 2

MARINE MAMMAL COMMISSION,
WASHINGTON, DC,
December 22, 1986.

Hon. FRANK H. DUNKLE,
Director, Fish and Wildlife Service, Department of the Interior, Washington, DC.

DEAR FRANK: On 1 August 1986, I wrote about the reservations of the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals with respect to the possible closing of the Tern Island Field Station. During the week of September 22nd, I met with Mr. Marmelstein and that conversation led me to believe that active consideration might well be being given to closing the Station. Although we had expected to be kept apprised of any developments, we have heard nothing from the Service since.

For the reasons set forth in the 1 August 1986 letter, the Commission views a closure with grave concern. The situation on Tern Island is one in which irreversible damage could easily be done either through station closure or by transferring management responsibility to a different authority. Improper use of the Island could severely affect any number of species of sea birds, endangered sea turtles, and the endangered Hawaiian monk seal. In this regard, it is important to note that this is the only area in the entire Archipelago where there has been any increase in the monk seal population since the 1950's. Monk seal populations have continuously declined everywhere else.

In our letter of August 1st, we asked that if any review, including the five-year review, recommended that the Service consider closing down operations on Tern Island, that the Service provide the Commission, the National Marine Fisheries Service, and other interested parties an opportunity to comment on the results of that review. The Commission also recommended that the Service take no action to abandon Tern Island unless it had first: 1) amended the Refuge Master Plan to describe the modified refuge management system; 2) re-initiated a review of the revised system and its effect on endangered species through consultations with the National Marine Fisheries Service under section 7 of the Endangered Species Act; and 3) provided the public the opportunity to review and comment on the amended plan.

We are concerned that matters may be proceeding apace without adequate consultation. Since the long-term ramifications of abandoning Tern Island are so serious, any consideration of such an approach should only be taken after full consultation with all interested and involved parties, both governmental and non-governmental. Among those appropriate for inclusion would be the members of the Hawaiian Monk Seal Recovery Team.

This is a matter of grave concern to the Commission. Every effort will be made to provide the Service as much help as is possible to successfully address the issue.

Sincerely,

JOHN R. TWISS, Jr.,
Executive Director.

EXHIBIT 3

NATIONAL AUDUBON SOCIETY,
SACRAMENTO, CA,
February 13, 1987.

Dr. RICHARD C. WASS,
Refuge Manager, Hawaiian Islands National Wildlife Refuge, Honolulu, HI.

DEAR DR. WASS: We have received your Planning Update No. 7, February 1987, which details the proposed change for the operation of Tern Island.

The National Audubon Society is opposed to the proposed changes in operation at Tern Island. We believe it will be extremely difficult if not impossible to meet the refuge objectives as effectively stated in your recently finalized master plan if Tern Island becomes a field camp type of operation.

Our opposition to the dismantling of the Tern Island facility is largely based upon the compelling narrative contained in the draft EIS for the Hawaiian Islands National Wildlife Refuge (HINWR) which argued in favor of a continued year-round operation. This document, by the way, serves as an excellent example of top quality refuge planning. Your staff is to be commended for its preparation.

From our reading of the draft EIS discussion, a year-round station base on Tern Island was essential if not indispensable for the refuge to meet its high priority wildlife goal of the Preferred Alternative including protection of the Hawaiian monk seal, the green sea turtle, endemic terrestrial species, seabirds, and research studies.

Now we are told that a reduction from a continuously staffed, year-round operation to a seasonally-staffed field camp operation is "unlikely to have serious negative impacts on the endangered species and migratory birds of the HINWR." Those two statements appear contradictory.

We call upon the Fish and Wildlife Service to revisit the decision to promote a curtailed Tern Island operation. We also believe that such an action should not be undertaken without full environmental review including, in addition to NMFS consultation, an environmental assessment of the proposed action.

We also question whether the anticipated savings from Tern Island can in fact be counted upon to help other activities of the Service in Hawaii. We would appreciate receiving an explanation on how this can be accomplished.

The National Audubon Society recognizes the serious budgetary realities which confront our major federal agencies, charged with protecting wildlife. While the decision to significantly change the operation at Tern Island may save money, it could lead to an unavoidable erosion of the very values which led to the refuge's establishment. At this point we can only characterize the proposal as one of false economy.

Thank you for your consideration of our views.

Sincerely,

DANIEL TAYLOR,
Regional Representative.

MC CHORD AIR FORCE BASE

Mr. ADAMS. Mr. President, I noticed that the Appropriations Committee struck some language adopted by the House which has the effect of preventing any expenditure of funds for the "deactivation of the 36th Tactical Airlift Squadron, McChord Air Force Base, Washington." As the chairman well knows, from our conversations and his knowledge of this issue, the 36th Tactical Airlift Squadron at McChord has several unique advantages associated with it. For example, the proximity of Fort Lewis to McChord enhances the ability of air crews and Army personnel to interact with each other and gain experience with the equipment they will be expected to deliver in a combat situation. Beyond that, McChord is one of the few operating locations where crews encounter terrain and weather conditions typical of the European operating theater. For these and other reasons, I believe that efforts to deactivate this force would be a serious mistake, and I am hopeful that the chairman might give these concerns serious consideration during the conference with the House.

Mr. STENNIS. I appreciate the concerns raised by the Senator from Washington. We have discussed this issue in the past, and he knows that the committee spent a good deal of time considering this issue. As the Senator understands, there are a number of constraints operating on us as we consider this bill. Furthermore, as a matter of principle, I do not believe Congress should legislate the status of specific units at particular bases. Still, I agree that the 36th Tactical Airlift Squadron at McChord plays an important role, and I will certainly be willing to review carefully the arguments presented by the Senator and our colleagues in the House when we go to conference.

Mr. ADAMS. I thank the chairman, and I indicate to him that I am more than willing to work with him on this and other issues as this bill moves forward.

Mr. JOHNSTON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, while I was not present on the floor when the arrangements were made about the calling up of the supplemental, it is my understanding that it is before us and that with reference to any Budget Act waivers the Senate has reserved judgment on that so we may proceed but the point of order may be raised if somebody desires to raise it at a later time as we move through the bill. Is that correct, Madam President?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 199

(Purpose: To prohibit the Department of Energy from expending funds to review that portion of Superconducting Super Collider site proposals pertaining to financial and other incentives)

Mr. DOMENICI. Madam President, I will send an amendment to the desk. It has absolutely no dollar budgetary impact. I am not sure how this whole bill is going to be handled with reference to its budgetary impact, but in the event we are going to pass it, there is a section of the bill that comes from the Subcommittee on Energy. I am offering an amendment that I will send to the desk shortly that addresses that particular portion of the bill.

Madam President, I send to the desk an amendment and ask for its immediate consideration. I will describe it briefly once it is the pending amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici], for himself, Mr. Evans, Mr. DeConcini, Mr. McCain, Mr. Wallop, Mr. Bingaman, Mr. Pressler, Mr. McClure, Mr. Symms, Mr. Baucus, Mr. Daschle, Mr. Garn, Mr. Burdick, Mr. Hecht, Mr. Simpson, Mr. Karnes, Mr. Melcher, and Mr. Cochran proposes an amendment numbered 199.

Mr. DOMENICI. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert between lines 2 and 3 on page 35, the following new section:

"DEPARTMENT OF ENERGY

"Administrative Provision

"Sec. ( ). None of the funds appropriated by this or any other Act to the Department of Energy shall be used by the Department to implement Section 2.2.2.2. of DOE/ER 0315 (financial and other incentives) in its review of Superconducting Super Collider proposals, in order to ensure that the Department of Energy bases its final decision on where to site the facility solely on the overall suitability of the site."

Mr. DOMENICI. Madam President, as part of my discussion to show the broad nature of support, I will shortly, before I conclude my remarks, indicate the Senators who are cosponsors of this amendment. They come from both sides of the aisle, and I think they share a common concern about so-called superconducting supercollider project for the United States of America.

In essence, Madam President, our President has, after literally many years of debate among the physicists of the United States, recommended to the Congress, because a majority of the physicists in our country recommended to our Government, that we proceed with a rather large—as a matter of fact, that is the understatement of the year—a very mammoth physics project in our country called the superconducting supercollider. It will be built somewhere in these United States in one of the sovereign States. As a matter of fact, it will be the largest public works project, if you want to look at it that way, in one site that we will ever build. It might indeed cost as much as $5 billion, and then it will cost many hundreds of millions of dollars to operate each year thereafter for perhaps as long as 20 years.

There is no doubt that the superconducting supercollider, if it is ever built, will once again put the United States on the cutting edge of advanced physics, and there is no doubt that the United States has been on that cutting edge and has been in advance of everyone else in the world. But at this point, unless we do something like this, it is thought that we will begin to take a back seat in terms of the basic essence of matter and how matter actually exists and how it reacts. Thus, we might fall behind in terms of the essence of science.

So obviously, there is a great deal of support in this country to get on with building the superconducting supercollider somewhere in these United States. It is supposed to be built by the United States of America. The Senator from New Mexico is a strong supporter of the superconducting supercollider as a project. I do not rise here today with my amendment to in any way indicate my lack of support.

But, Madam President, there is really something very strange about the approach of our national government, at least at this point, with reference to this project.

I call it the rich get richer and the poor get poorer part of the process of site selection. Let me explain what that means.

As I understand it, if the U.S. Congress decides to proceed putting money into the appropriations process to start this superconducting supercollider—and incidentally, we have a small amount already in our appropriating processes—we will set in motion a site selection process. Our national government has already, through the Department of Energy, sent out to anybody who is interested, a series of technical criteria for the site selection of this mammoth project called the superconducting supercollider.

I want to make it eminently clear that the Senator from New Mexico has absolute trust in the scientists of America to select a site.

The way we presently plan it under executive criteria is that the States or local communities, or combinations thereof, will send some proposals with reference to sites. Those proposals are supposed to contain the facts, the geological facts about the site contemplated, and offer to the U.S. Government. I have no objection to those criteria.

The present plan is to take that site application as far as it pertains to geology, as far as it pertains to environment, as far as it pertains to all of the surrounding environment into which you will put this huge facility and literally hundreds and hundreds of scientists. Those criteria, as far as this Senator is concerned, are all right.

The first evaluation is supposed to be made by the National Academy of Science and a subgroup, the National Academy of Engineers. The Senator from New Mexico has no objection to that.

They will evaluate scores of applications and apparently pick five, six, or seven sites that they, as experts, say qualify in terms of these criteria that I have just described. There is nothing wrong with that.

The amendment which I offer to the Senate today in no way attempts to change that.

I believe the sites out there in the United States ought to compete fair and square on the environment, on the soundness of the geology, on the social and economic environment and scientific environment into which you ask the Federal Government to locate this major project and personnel.

But the next step that the Federal Government is recommending is after the scientists of America select the site and send off to the national government their list—whether it be 3, 5, 7, or 10—there is another criteria that comes into play. It has been called the cost-sharing criteria. It has been called the life-cycle, cost-deferral criteria. But in essence, Madam President, what it is is any location that meets the criteria must also say to the Federal Government, "We offer you, Federal Government, our dollars as an incentive to locate in our community."

(Mr. DIXON assumed the Chair.)

Mr. DOMENICI. We have already heard that some cities and States are getting ready to say, "We would like to give the Federal Government $200 million if they will locate here."

I guess we heard one saying they might even offer one-half billion dollars if we locate it in one of their cities or one of their counties, or somewhere within their State.

It is that portion of the evaluation process that this amendment would abolish because it would not permit the Federal Government to spend any money appropriated to implement that criteria of cost sharing, which I have chosen to call the rich-get-richer and the poor-get-poorer aspect of the superconducting supercollider site selection process.

Mr. President, it seems to this Senator that we are going to engage the U.S. Government in a process that says, "We have this big national project. It is imminent, it is important, it is urgent. Now, sovereign States and cities, why do you not bid on it?"

It is ours. It is the people's project. But if one of these States can come up with the money and say to the Federal Government, "We want to pay for part of it," we send it there.

Mr. President, I think this is the beginning of changing the way we locate national projects. The next thing we will see is the next military base that is supposed to be built will have a cost-sharing provision, and we will suggest that a State that wants to offer some money to the Federal Government for a nationally needed project will have a better chance of getting it than a location that is as adequate and indeed perhaps more adequate but does not have the dollars to defer the expenses.

So it is obvious to the Senator from New Mexico that we ought to address that issue: Do we want the Federal Government picking the site for the superconducting supercollider based upon what a city or State or combination thereof will give to the Federal Government by deferred expenses or cost sharing or just plain old "We want to buy the project for our State because we got more money than anybody else" approach.

Second, Mr. President, I believe it is going to be difficult to fund the superconducting supercollider. We do not have $4 billion, $5 billion, or $6 billion in excess money around. I believe it needs the broadest support. Frankly, if we are going to narrow down the ultimate selection by saying it will go to that city or State or combination thereof which offers the most money to the Federal Government, I think we have narrowed the support almost instantly to two, three, or four States—and maybe even fewer than that—that feel they can come up with substantial amounts of money to buy this project for either their economic development or for their scientific and research base development. I just do not think it is the way to do business.

If the United States of America wants to build a superconducting supercollider for the benefit of all our people, our competitive posture in the world, our scientific superiority in the world, then I think we ought to decide to pay for it, and the most we ought to expect of any State is the site, that perhaps the land itself might be in some way contributed.

I have no objection to that, and the amendment of the Senator from New Mexico does nothing to that.

So, Mr. President and fellow Senators, I am joined by Senators EVANS, DECONCINI, MCCAIN, WALLOP, BINGAMAN, MCCLURE, SYMMS, PRESSLER, BAUCUS, GARN, BURDICK, HECHT, SIMPSON, KARNES, and MELCHER. I am sure there will be some others when they know that this amendment is being offered, because I think every State wants a fair opportunity to submit to their Government a site in their State that has the right geology, the right social and economic environment, the right scientific environment, the right environment in terms of health and the other things that people will be looking for.

I do not think very many Senators want their States to be eliminated because they do not have an awful lot of money to offer to the Federal Government to encourage the site to be in their States.

So, essentially, in a nutshell, this says all the criteria for the superconducting supercollider that the President and the executive branch have sent up are in effect excepting that one that will require cost sharing by our cities and our States as an ultimate add-on to the other site criteria as the potential for ultimate location of the superconducting supercollider.

I hope the Senate adopts this amendment. If the Senate does, I think the House will have no alternative other than to ultimately adopt it. I think it is a good policy. If our country needs this, we ought to pay for it. We ought not put it out to bid to the sovereign States for cost sharing.

If we are going to start down that trail, we are going to really be sorry. We will not be able to treat our States fairly.

We will on many occasions go out there and say, "How much do you offer us for something that we the people of the United States need?" I think I have quite properly assessed this as the rich will get richer and the poorer or smaller States will get poorer, and if they are small, they will never get any of these kinds of assets, even if they in all respects have as good a site as a State with a lot of money or the ability to bond themselves and contribute to the Federal Government's Treasury.

I hope the amendment is adopted and I yield the floor.

Mr. STENNIS. Mr. President, I ask the Senator from Louisiana, the chairman of the committee that handled this, put together this portion of the bill, to respond for the committee.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am indeed the chairman of the authorizing committee, the Energy and Natural Resources Committee, as well as chairman of the Appropriations Subcommittee on Energy and Water that funds the matter.

Let me say at the outset that I have tried in my dealings with those who are interested in this matter—the distinguished Governor of Illinois just this last week, and others—to try to cool the water a little bit—I think there are 35 States in this competition now—to cool the expectations of this matter because it is vastly premature to talk about the supercollider at this point because it is neither authorized nor funded, nor is there any matrix, any plan, any figment of anybody's imagination as to how we fund this multibillion-dollar colossus.

I say at the outset, I support it. I have been following this matter of particle physics for many years now because it has been in both our funding and our authorizing subcommittees.

So I say to my colleagues, we are a long way from getting the matter authorized or funded because the one thing that is clear about which all scientists and everyone else agrees is that we should not stop all other science or at least cannibalize other basic scientific programs in order to fund this. So I way we for the matter, but we have yet to find a way to fund it.

Now, Mr. President, with respect to this amendment offered by Senator DOMENICI, two things are clear. First, that this amendment would not prohibit a State from putting up the money, if it wishes, nor would it prohibit the Senate or the Congress from requiring of any State that it put up a certain percentage of money or a certain amount of money or certain conditions in order to be eligible for getting the super collider. All this amendment does is directs in effect the Department of Energy to make their decisions as to where to site this facility solely on the overall suitability of the site, reserving, of course, to the Congress the ability to make conditions such as putting up money or putting up facilities for roads or egress or ingress or whatever conditions we might dream up.

Again, it does not prohibit a State from trying to make itself more suitable by improving its road system, for example, on its own.

So, Mr. President, on behalf of the committee, we have no objection to the amendment. We do not propose it as our own, but we have no objection because we think it bases the selection of the site upon the suitability of that site, which is, after all, the prime criteria on which the Nation ought to make the selection.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I normally find myself in agreement with the distinguished Senator from New Mexico, but I am totally in disagreement with the amendment that is before us.

I think the amendment, if adopted, will greatly reduce the probability that the superconducting super collider will ever be adopted by this Congress in terms of authorization and funding, and it will certainly minimize the chances that it will ever be built.

I guess the best way to sum up the comments of the distinguished chairman of the Energy Committee is that States would be free to put up money and good luck to them, but we will not give them any credit for it.

Now, Mr. President, let us first go back and try to analyze the remarks made by the distinguished Senator from New Mexico. Basically, what he is saying is that this is a national asset and therefore it ought to be built in the place that is best for it, in some kind of technical sense; that somehow there is something wrong with local citizens showing their support for it.

Well, I am amazed, Mr. President, when we begin the debate by saying we do not know how to come up with the $6 billion and then we say that if any local people, any local community, any State decides they want to help us pay for it as a way of showing how badly they want it, we will not take their money; we will not let that count in the selection process.

Now, imagine if we were talking about buying something else for the Federal Government. We have had Members of this body stand up and yell about us overpaying for hammers or wrenches or toilet seats, and yet we are saying here in a $6 billion item we are buying that we want to preclude competition. We want to say that those who want the project, those who can see the benefit to their community, those who want to be national leaders, we are not going to allow those who are willing to put up their own money to lower the cost to the taxpayer.

In fact, I am sure there are going to be many in this body who are going to want to see this as a "little State-big State" issue. But there is only one problem with that logic. The interest that is not preserved by the amendment of the Senator from New Mexico is the interest of the working American, the person who does the work and pays the taxes and who will pay for this project and who pays for every other project.

Now, when we selected home port for the Navy, the Navy went out and set out technical criteria. They designated several sites as technically feasible sites. Then they made a final selection, in part, based on how badly the local communities and the States involved wanted home port.

I am proud to give an example of my State and a city that I am very fond of—Corpus Christi, TX. I think my colleagues who know Corpus Christi know that it is not a rich city. In fact, unemployment in Corpus Christi was running 14 percent when the home port decision was made. The people of Corpus Christi, TX, wanted a naval home port so badly that they raised their property taxes to put $25 million on the deck as matching funds.

My State, which had a large deficit problem at the time, which was facing a tax increase which did not occur, put up $25 million of State money; so that, with local participation, home port in Corpus Christi, TX, is being funded with more than a third of the money coming not from the Federal taxpayer but from local people and their State governments that said: "We want to be a leader in the projection of naval power. We want the Navy to come to our State and our community, and we are willing to put our money where our mouth is in order to make that a reality."

There may be some who say: "Well, we should have just gone ahead and paid the extra $50 million and built the naval base anywhere." I do not make that argument. First of all, that $50 million would have been taken out of the pockets of the working men and women of America—or, more likely, it would have been added to the Federal deficit.

I think it is very foolish indeed for us to set out criteria that exclude how much something costs as a net cost to the taxpayer. I do not know of any better way that a local community, whether that community is near the Fermi lab in Illinois, or whether that community understands science and understands the benefits of having such a facility, or whether it is a community near the linear accelerator, or whether it is a community near New York City or anywhere else—how do you show that you want something more than being willing to put up your own money to pay for it? What measure is there, other than love? We do not have the ability to look into people's hearts or to look into their minds as to who really wants to be a leader here. Why should we exclude local people from being willing to put up their money as part of that process?

Finally, let me say, Mr. President, that I think I can sum up the whole issue as follows: First of all, we do not have the $6 billion. So, if there is a community somewhere that is willing to put up money to help pay for it, why should we not accept their help?

Second, why should we give an innate advantage because some particular community might have flat land? Let us say the people from Colorado come to Congress and say: "Look, we have all these mountains the Lord put here, but we are willing to pay the difference to bore through granite rather than limestone or through chalk to help build this." Should we preclude them from consideration simply because of the lay of the land in their State? I say "No."

Finally, the distinguished Senator from New Mexico says that if some State should end up or some community should end up putting their own money into the project, it would lose support. Let me submit, Mr. President, that exactly the opposite is true.

I object to the way the Department of Energy did this, because I do not think they went far enough in terms of local enhancement. The plain truth is that there are virtually no technical criteria involved here. This facility can be built anywhere in America at a given price.

If the people of New York City are willing to put up the money to pay the differential for digging up their subway system, digging up their sewer lines and power lines, and we can build it with their inducements below New York City, should the Department of Energy come in and say, "No, we're not going to let you compete because of the makeup—physically, geographically, and geologically—of New York City"?

I think the fairest way to do this is do not show anybody a red light. Let every State in the Union compete. Let every State in the Union submit its proposal. Let every State in the Union give a package to the Department of Energy of what they are willing to do to make this possible. Then throw out the sites that do not have the technical feasibility. But when you get down to the decision, get the National Academy of Sciences, the National Academy of Engineering, and let them look at the various criteria involved. Let them audit to a common denominator in cost. Then, on behalf of the taxpayer, build it where it is the cheapest, which is what will benefit all the taxpayers the most.

Should we not make this decision based in the same way that the taxpayer decides where to buy an automobile or where to build a house or where to buy bread? Are we to throw out basic cost and benefits in spending $6 billion, when the working men and women of America have to look at cost and benefits in deciding to spend 60 cents?

This amendment makes sense if you think your State might be benefited by taking money out of the pockets of the working men and women of America. This amendment might make sense if you think your State will be benefited by making the working people of your State and other States pay more taxes because we do not let price competition occur. But I submit that that is not in the national interest.

Let people decide what they are willing to put up. If people are willing to put their own money on the line, what better indication is there of local support than that? That is what we need more of, not less of. I think that putting competition to work for Federal procurement makes totally good sense.

What a paradox it is now that we go out and, in building a facility, we pay people to let Government into their community, when we know that communities would pay the Government to come. That may make sense in a bureaucratic sense, but it makes absolutely no sense to the taxpayers and the working people of this country.

I remind my colleagues that this is a $6 billion project. We are going to have a hard time coming up with $6 billion. In fact, as the distinguished chairman of the Energy Committee says, it is going to be an uphill battle.

If some State or community is willing to help us pay for it, since the Nation will benefit equally wherever it goes, the same atoms will be smashed, the same scientific knowledge will be gained. It is not as though if it goes to the highest bidder, so to speak, it is lost. It is not lost; it is gained, because it ends up being built. We get the same scientific information, the same expansion of knowledge and science, but we do it for a smaller cost to the taxpayer.

So, if you are for balancing the budget, if you are for saving the taxpayer's money, it seems to me that you want to vote against this amendment; because this amendment means that if it is built, it is more expensive; the probability of it not being built is higher. So, if you are for science or saving money or for all good works and the taxpayer, I hope you will vote "no" on this amendment.

(Mr. JOHNSTON assumed the chair.)

Mr. DIXON. Mr. President, I want to fully support what my friend from Texas has just said regarding this amendment.

It astounds me that some of my colleagues would suggest to those of us in the Senate that we should not encourage participation by the respective States in support of this project.

Obviously, my State of Illinois wants this project. We can make a lot of arguments why we think our State is best situated for the superconducting super collider.

My friend from Texas has referred to Fermi Laboratory in his discussions, and we would argue that that institution which is already doing this important work is the best location for the future gigantic superconducting super collider.

But the important thing is that people are interested in participating.

The direct result on the adoption of the amendment offered by my friend from New Mexico is that every dollar would have to be paid by all the taxpayers of America.

I want to state, Mr. President, that the people of my State and the people of the locality involved are willing to pay some share. We have spent millions of dollars already in the work that we have done in the preparation of our application.

The Illinois Legislature has before it now a request by Gov. Jim Thompson for an additional $15 million for additional work to be done this year.

I want to thank the Presiding Officer, the distinguished Senator from Louisiana for meeting with Governor Thompson and myself and others in my State this past week concerning that discussion.

Only the week before I met in Chicago with a group of representative businessmen and businesswomen and people from the educational institutions, 50 or 60 of them. We spent several hours discussing what our State can do, how we can participate, how we can help, how we can bring in all of the business community through its joint economic efforts to begin to support on a grand scale the effort to bring the superconducting super collider to my State.

I think it is a remarkable thing that my distinguished colleague from New Mexico who has been so much involved in a very important way with all our budgetary problems here would now suggest that we cannot ask States somehow to help with the financial problems that are involved in the superconducting super collider undertaking and as my friend from Texas has said, we are talking about a $6 billion investment in a great new scientific undertaking in this country.

I think it is important that we have community support. I think it is significant that some of the States of this Union are willing to do their share and pay their part of the price and be a participant in this great effort.

I would hope that people do not look at this on the basis of a big or little State question. I think there are a lot of things that ought to be taken into consideration. I think my friend from Texas is exactly correct. We ought to look at the best sites. We ought to look at the best scientific community. We ought to look at community participation at the very local level in the area involved, at State participation, at the business community participation in the undertaking so that there is an entire satisfaction at the Federal level that we are getting the best bargain all the way around, the best location, the best scientific undertaking, and everything else that is involved in bringing out this great new scientific undertaking of the superconducting super collider.

So I would entreat my colleagues who are concerned about doing the right thing here who want to see the superconducting super collider happen and it is not going to happen this year, it is going to take some time, my distinguished friend, the chairman of the jurisdictional committee who is presiding now knows that it is going to take time, it is going to take a lot of effort, it is going to take a lot of money and we ought not to be adopting amendments that are bound to discourage or even deal harshly with the possibility of having a superconducting super collider some time in the near future.

So I would hope that every Member here, every Senator regardless of what State he or she represents who really wants to see the reality of a gigantic superconducting super collider, I would hope every one of them would oppose this amendment which I think can do fairly serious damage to the future possibility of this in the immediate next few years.

I urge my colleagues to oppose the amendment by the Senator from New Mexico.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment. I have a high regard for my friend from New Mexico. I, too, am often in accord with him, but I must say that I am surprised with the tenor of this amendment. In effect, it wipes out the cost as a factor in the procurement of the SSC.

I wrote a letter to the Secretary of Energy concerning the fact that DOE already put cost in a secondary position.

I ask unanimous consent to have my letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 1, 1987.

Hon. JOHN S. HERRINGTON,
Secretary of Energy, Department of Energy, Independence Avenue, Washington, DC.

DEAR MR. SECRETARY: I write you in regard to a document, entitled "Invitation for Site Proposals for the Superconducting Super Collider (SSC)," that was issued on April 1, 1987, by the Office of Energy Research at the Department of Energy ("DOE"). The document ("Invitation") sets out the terms and conditions under which interested parties may propose to DOE sites on which the Superconducting Super Collider ("SSC") may be located.

I read the Invitation carefully. While I was impressed by its broad scope and clear organization, I noted certain deficiencies. One deficiency in particular seems especially serious to me and prompts me to contact you today.

Section 3.0 of the Invitation recites both the procedures for selection of a site and the criteria that will distinguish the site. As one would expect, the cost of locating the SSC on a site (the "life cycle cost estimate," which includes "[a]ny financial or in-kind contributions offered by the proposer, other than the cost of the land") figures in the process of selection. Indeed, "[c]ost considerations are important to the selection process and will be used in conjunction with the technical evaluation criteria in selecting the most desirable site." Subsection 3.5.

The discussion of cost in Subsection 3.5 of the Invitation is reasonable as far as it goes, but it does not prepare one for the idea that surfaces in the next subsection. In assigning to cost its relative importance, the Invitation specifies that "[a]lthough cost considerations are significant, primary emphasis will be placed on the results from the evaluation of the technical evaluation criteria by the NAS/NAE [National Academy of Sciences/National Academy of Engineering] in the development of their BQL [Best Qualified List] recommendation to the DOE." Furthermore, "[t]he DOE will place similar emphasis in its determination of the preferred site." Subsection 3.6. Thus, cost will be a secondary factor at each level of review, both when the National Academy of Sciences and National Academy of Engineering consider proposals on their technical merits, and when DOE considers proposals in the national interest. Throughout the process of selection, the technical evaluation criteria will be more heavily weighted. I take this to mean in essence that technically qualifying, low-cost sites will be outranked by technically superior, high-cost sites as a matter of principle.

I must voice my strong objection to the inclusion of such a principle in the Invitation. It is unrealistic, unwise, and, given the nature and ordering of the technical evaluation criteria, ultimately indefensible. Permit me to explain my objection in greater detail.

I say that the principle is unrealistic because it ignores the budgetary constraints within which Congress is operating. The reality on Capitol Hill today is one of towering deficits stretching years into the future. Budgetary considerations will continue to color every legislative decision and will dictate more than a few. I guarantee you that such will be the case when Congress has the funding of the SSC before it, much more so next year when the request for the SSC increases some tenfold to $348 million and the full commitment of Congress to a project costing $4,375 million is demanded. In my view, it is risky to believe that Congress can be persuaded to embrace a technically superior project costing hundreds of millions, or even billions, more than a technically qualifying competitor. The money to buy technical frills simply is not there. The low-cost site has the best chance of winning, and keeping, congressional support for the SSC.

I say that the principle is unwise because it ignores the opportunity costs that attach to any large-scale endeavor of the federal government. In the context of the SSC, these costs are of great concern to me, as they are to scientists who have testified in favor of the SSC in recent congressional hearings. It is apparent that the budgets of other large-scale federal projects, such as that of the space station, may be jeopardized by excessive spending on the SSC. Equally troubling is the possibility that an outsize budget for the SSC may displace some federal involvement in small-scale science. A portion of the support that the SSC enjoys in the scientific community would vanish if it became clear that the SSC was being put in place without strict attention to cost. President Reagan does not intend that the SSC have such an effect on other scientific initiatives of the federal government, but without due regard to the cost of the SSC his plan to maintain a balanced federal program of research and development could become another victim of budgetary circumstances.

Finally, I say that the principle is indefensible because it ignores common intuitions about what ought to be taken into account in a technical review of the site on which the SSC will be placed. I am disturbed to see that the second most important of six technical evaluation criteria, "regional resources," has to do in part with what one might call the "quality of life" of the staff of the SSC. I am not sure in what sense this criterion is technical. I have no idea why it is judged to be more important than the availability of utilities or the impact of the SSC on the local environment. Also, I question why the cost of an already costly project should be run up on account of the amenities that exist in a community near the site of the SSC. No one would suggest that the staff of the SSC be asked to live in inhospitable surroundings, but neither should the taxpayer be asked to pay more so that the staff can be pampered. Motivated by the idea of participating in cutting-edge science of enormous value to the nation, scientists moved themselves and their families to the mountains of northern New Mexico in the 1940's to do atomic research for the federal government. My guess is that the SSC would inspire today's scientists in a similar way no matter where it was placed.

I urge you to reconsider and upgrade the role that cost will play in the process of selecting a site for the SSC. I hope that you will modify the Invitation as quickly as you can so that interested parties may prepare their proposals in accordance with more acceptable assumptions about cost.

Sincerely,

LLOYD BENTSEN.

Mr. BENTSEN. What concerns me, Mr. President, is this. You have a situation in which DOE has said that cost will have a secondary role in the SSC procurement. This is at a time when we are hemmed in by real budgetary constraints. They are telling me in the budget resolution that we may have to raise $18 billion in fiscal year 1988 in the Finance Committee, and that means additional taxes. That shows what kind of a burden we have on us. If you are talking about the outyears, you are talking about $30 billion and $40 billion in revenue increases in the Senate version of the budget resolution.

That tells you what we are up against. That also tells you that there are many other projects about which we ought to be concerned. Will the SSC push out other projects? We are looking at the space station and are trying to decide, since the Russians already have had one up there for a year, whether or not we should be launching one of our own.

There are going to be some very difficult choices. Why should we put down matching contributions of States, participation by State and local agencies? I really do not understand it. We have matching grants in many programs. Whether we are talking about harbors, or highways, or mass transit, we are talking about States not getting the programs unless they participate and help pay part of the cost.

So I do not see any reason for now wiping out cost as a consideration in the procurement of the SSC. I think that it is a very important criterion and one that we have to preserve and one that we have to work on.

I might say also to some of my friends from other States that I think that they will have a very difficult time competing for the SSC unless cost is a criterion.

I do believe that there is excellence in sites around the country. We will be able to have a great number of competitive sites of almost equal excellence and cost and in those instances cost-sharing should be a very important criterion.

But already under the criteria as set forth by the Secretary of Energy you have seen cost in a secondary role. From the Invitation for Proposals, I quote: "* * * although cost considerations are significant, primary emphasis will be placed on the results from the evaluation of the technical—criteria both by the national academies and by DOE."

Throughout the process of selecting a site, unfortunately, cost is going to be an afterthought.

DOE has created a process of selection in which technically qualifying, low-cost sites will be outranked as a matter of principle by high-cost sites with technical embellishments. When it came down to a choice between costly frills and taxpayers' dollars, unfortunately I think the frills won out. So much for the idea that cost is getting too much emphasis now. The amendment before the Senate would make a bad situation even worse.

Like DOE's treatment of SSC, the amendment being debated today, I think, is frankly unrealistic. Consider the atmosphere that we have now in the way of budget constraints.

The reality on Capitol Hill today is one of towering deficits stretching out for years to come.

What is going to endanger a project like this is the amount of cost in the $6 billion project stretched out over a period of years. If we can get the cost lessened, then we ought to be trying to do it. I think that will be of more concern to Senators in years to come.

A concern of mine is that you have all of these States competing for the SSC, and they are going to receive some benefits if they win the project. What is wrong with their helping to reimburse the taxpayers of this country for the benefits that accrue to them? That is equity, and I think it ought to be a part of the process of site selection.

The amendment is not only unrealistic. It is unwise because it does not take account of all the costs that attach to a project the size of the SSC—especially, the opportunity costs. Numerous supporters of the SSC have worried aloud that the budgets of other important Federal projects, such as that of the space station, may be jeopardized by excessive spending on the SSC. Equally troubling is the possibility that an outsize SSC budget may undercut Federal involvement in small-scale science. Much of the support that the SSC enjoys in the scientific community would vanish if it became clear that we were not doing our best to control spending on the SSC. No one wants other Federal projects and programs to be sacrificed on account of this one. Therefore, the low-cost deal may be the best deal all around.

The amendment under consideration derives its support from the notion that a Federal project of great importance should not be for sale to the highest bidder. I dislike that notion as much as the next Senator. But is that really what we are seeing in the efforts of States like Texas and Illinois to share costs with the Federal Government? Don't believe it for a minute. The simple truth is that these States are going to put forward technically excellent proposals. Texas wants to give the Federal Government something that, win or lose, we can be proud of, and we will put that kind of proposal on the table in August of this year.

So I, for one, am not going to look down my nose at the efforts of Texas or Illinois or any other State to do its part to make an important contribution to science and to the Nation. The people of my State are suffering from one of the very worst recessions in their history. In those kind of circumstances, the offer of financial help that they may make is to be praised, not one to be disregarded. It is not an expression of greed. It is an expression of commitment.

Mr. President, I urge the defeat of the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, obviously we have a super collision upon us here on the "superconducting super collider."

It gives me no pleasure to oppose an amendment by my distinguished able friend from New Mexico, but I must.

The simple truth, Mr. President, is that if this amendment should be approved, and I certainly hope it will not, it would stop the entire proposal process and cause a major delay in the site selection process.

The present invitation to submit proposals tells the States that financial and in-kind incentives can be given some weight in the site selection process. If they were to be given no weight in the site selection process, a new invitation would be required and the submission process would have to start all over again. It is just as simple as that. Any site selected, regardless of any incentives provided by the States must be completely geographically, topographically, geologically, seismologically and hydrologically proper.

If you are surprised I got all those words out, Mr. President, so am I.

In addition there must be the adequate utility, water supply, transportation and other amenities such as housing and schools, and so forth. The incentives come into play only after these criteria are satisfied fully.

Thus, it is not fair to say that any State or community could possibly buy its way into giving the Federal Government an otherwise inadequate or improper site under the present scenario.

Now, as far as the total picture is concerned, I agree absolutely with PHIL GRAMM. It does not make sense, it does not make even good nonsense not to consider this in terms of a contribution and support by the States and/or whole communities.

If you look at the budget situation, this is the last time that we should consider ignoring incentives provided by the States. Of course, the States can and should reduce the cost to the Federal Government, and the U.S. taxpayers deserve this.

Now, locating the superconducting super collider in a particular State will provide great benefits to the recipient State and its entire region. As a result, the recipient State, the business community, and the universities and educational systems therein, all of which will benefit from the SSC, should pay part of the cost in exchange for the benefits. Furthermore, if they pay something for receiving it, they will put forth more effort during the construction and operational phases.

Now, I have in my hand a copy of a draft letter written by the Secretary of Energy, John Herrington, to the distinguished chairman. He supports everything that has been said by the distinguished Senator from Illinois [Mr. DIXON] and the distinguished Senators from Texas [Mr. BENTSEN and Mr. GRAMM] and this Senator.

Secretary Herrington said that the Department is opposed to the amendment now pending. He said:

> The goal in evaluating sites is to select a site that will permit the highest level of research productivity and overall effectiveness of the SSC facility at a reasonable cost of construction and operation.

And he adds:

> To prohibit the Department from considering financial or in-kind contributions in its site selection would unnecessarily overlook potential savings to the taxpayer as a result of cost-sharing.

To which, Mr. President, I say "amen." I ask unanimous consent that a copy of Secretary Herrington's letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, May 20, 1987.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you in your capacity as Chairman of the Appropriations Subcommittee on Energy and Water Development and as Chairman of the Senate Committee on Energy and Natural Resources. Last month, the Department of Energy issued its Invitation for Site Proposals for the Superconducting Super Collider (SSC), initiating the first major step in the site selection of this historic project.

An amendment is expected to be offered during consideration of the Supplemental Appropriations Bill (H.R. 1827) to prohibit the Department and the National Academies of Sciences and Engineering (NAS/NAE) from spending any funds to implement site selection criteria that consider financial or in-kind contributions offered by interested parties.

The Department is opposed to this amendment. We believe that the process for site selection issued by the Department provides an open and competitive site selection process which ensures fair and equitable treatment for all prospective sites. The goal in evaluating sites is to select a site that will permit the highest level of research productivity and overall effectiveness of the SSC facility at a reasonable cost of construction and operation. While cost considerations are a factor, primary emphasis will be placed on the results from the evaluation of the technical criteria by the NAS/NAE in the development of their recommendations for the best qualified sites. The Department of Energy will place similar emphasis in its determination of the preferred site.

To prohibit the Department from considering financial or in-kind contributions in its site selection would unnecessarily overlook potential savings to the taxpayer as a result of cost-sharing. The location that is chosen for the SSC would almost certainly receive substantial economic benefits. It would thus not be unreasonable for those competing for the SSC to offer to contribute to the cost of construction and operation of the facility. Since this project was initiated, the Department has pursued a wide range of options for cost-sharing from all sectors, including state and local, private, and international participation in SSC research and operational funds. Inclusion of financial and in-kind considerations in the site selection process is consistent with this objective.

Yours truly,

JOHN S. HERRINGTON.

I hope Senators will pay attention to the arguments in this connection and vote against the amendment of my friend from New Mexico.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Montana.

Mr. BAUCUS. Mr. President, the superconducting super collider project offers tremendous potential for research and development in all areas of energy resources.

This will be the largest and most powerful particle accelerator in the world. It will allow us to do the formost research in high energy physics.

In addition, it will provide at least 5,000 new jobs and promote careers in science and engineering. It will obviously have a profound impact on the area in which it is eventually located. As a result, many States are competing fiercely to become the SCSC site.

In light of this competition, it is important that fair site selection criteria be established. However, the existing Department of Energy criteria are not fair. These criteria include an evaluation of the financial and other economic incentives offered by the various States seeking to be designated as the final site.

However, the process has now turned into a giant bidding war. States with smaller populations or that have fewer resources are now finding themselves out of the game, even though they may actually have the best location for supporting and housing this facility.

I am becoming increasingly concerned that Federal expenditure policies too often favor wealthy urban areas at the expense of poorer rural areas. The predictable result is that in terms of economic growth and development, the rich get richer and the poor get left out.

Auctioning off publicly financed capital projects to the highest bidder may relax the funding burden on the Federal Treasury, but I do not believe it does anything to assure that the overall national interest is best served. Imagine the inequities of economic benefits and development incentives if it were a general Federal Government policy to site all capital projects in such a manner.

This is a Federal project and not a project that is sponsored by a specific State. It is time to halt this auction and get back to the basic reasons for choosing the site. Those reasons should be based on the assumption that the SCSC site will be chosen solely on the overall suitability of the site.

I ask you to support this amendment is order to ensure that the super collider goes to the best site and not simply to the highest bidder.

Mr. DOMENICI. Mr. President, I note that my distinguished colleague, Senator BINGAMAN, is here. I assume that he wants to address the issue, but first, I want to try to clear up a couple of things.

First, my good friend, the junior Senator from Texas, finds a working man and working woman's issue in every case. He has found one here, too. It is just that what he would really like to have is an advantage for this project to be for Texas working men and working women. That is what he is really talking about. He is saying that the Senator from New Mexico wants to tax the American people. But, the State of Texas wants to tax their people so they can buy this project. That is all right, if that is what the Federal Government wants to do.

We can already see, by the nature of this discussion, what is happening to this project. I hope no one thinks that it is years away. The Department is asking for the applications in the next 4 or 5 months.

I am not going to mention States, but I do know that my good friend who occupies the chair mentioned $15 million. I might say to my good friend, he is a pauper. The Fermi Lab in Chicago, is not even in the ballpark. Consider that one State which borders my State of New Mexico, is talking about a half a billion dollars that they might find to say to the Federal Government: "Here is our incentive."

Now, Mr. President, so there will be no confusion, the section that I address in my amendment is nothing more than the section on financial incentives and compensation. If there are Senators who are worried about a site in their State and they want to fix that site up, in order to offer it to the Federal Government, that may be considered. If anybody wonders whether we have gotten it down technically, whether we really want a good, sound geological site that means all the science in the world, that may all be considered.

All I am saying, and nothing more, is that if we are going to let the Department of Energy evaluate the sites across this land, they cannot take into consideration financial incentives and compensation to the Federal Government.

I think the chairman of the committee said it right. If the U.S. Congress ultimately wants to do that and if States want to send it in with their package, that is all right. All I am saying is that it ought to be on the best site in the country, from the standpoint of geology, science, environment, both social, economic and scientific, and not, as far as the Department of Energy is concerned, on what a State offers as financial incentives or compensation.

If you are talking about the working men and working women of America, the taxpayers, I say they all deserve in their States an equal opportunity to have that magnificent scientific project in their States with only one criterion: if it is, in fact, the best site in the United States, not the best site in the United States if you can offer the Federal Government financial incentives for it.

That is what the amendment is about. Nothing more; nothing less.

I say to my good friend who occupies the chair, there is no question that the Fermi Lab and those communities of scientific interest around it make an extremely strong competitor. But I think you ought to win it on the environment, on the scientific community, on the geology, and on what the Federal Government sets as the criteria.

I believe you will be a fair competitor. I think my State will be, too. But there is no doubt in my mind that you will not and we will not, if we literally put it out to bid. Because you have got to get back on the telephone line with that good Governor of yours and you have got to tell him, "We are not talking about $15 million, Governor. We already have one State that had in their offer that they already authorized a half a billion dollars in some kind of a bond issue as their incentive."

I say, on the first round, the Department of Energy ought not consider that. That is the extent of the amendment. I hope everybody understands it.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak in support of my colleague's amendment. I think it is clear that the amendment is very carefully designed to bring about the best possible result in the location of this project. I think to do otherwise would be to skew the decisionmaking process and would set a terrible precedent for the way in which the Federal Government is going to make decisions about the location of a wide variety of facilities.

We have a great many defense-related facilities that are in the defense authorization bill that we have been struggling to debate here on the Senate floor. I would hate to think that the decision as to where we locate those facilities would depend upon which community could bid the most. The same is true with space-related facilities. The same is also true with many of the facilities that the taxpayers of this country fund.

I think it is crucial, Mr. President, that we adopt the amendment of my colleague and that we direct the Department of Energy to make the decision on where we locate the superconducting super collider on the basis of the merits and overall suitability of the site and not on the basis of which State or which community can bring forth the greatest financial incentive. I want to ensure that the State of New Mexico has the same opportunity as every other State in consideration of this project. I encourage my colleagues to support the amendment.

Thank you very much, and I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, there are a couple of things that have been said I think I need to answer.

First of all, this "terrible precedent" we are being warned about is nothing other than being a good steward of the taxpayers' money. What is being called for there ignores the fact that we are not going to see this superconducting super collider given away: It is going to cost $6 billion to build. What we are being asked to do is to completely ignore the impact of the siting decision and what local and State governments are willing to do to help defray part of the cost.

I submit, Mr. President, that in any decisionmaking body on Earth, except government, that would be an absolutely absurd position to take.

What we are seeing here is an effort by some States that do not want to engage in the competition to outlaw the decision or outlaw the competition.

Mr. President, I do not know whether my State is going to be successful or not in terms of the state of the economy. I would guess that the State of Texas is probably in as bad a shape economically, and our State budget deficit is probably bigger, than any other State here, at least one that has a balanced budget amendment to their constitution where they have to deal with it. So I am not certain that I accept the premise here that those who are defending the right to have price competition are necessarily going to be the winner. In fact, they might well be the losers.

Let me also point out that the criteria for selection are very clear. You have to meet certain physical criteria. The question is, if you meet all those physical criteria and you get down to the final selection, should you count State and local matching money?

There are those who say, "No, do not count it." Why do they say that? Does anybody here think that any State would argue that we "Do not count it" unless they think that will help them?

I want to speak to my colleagues who represent States that probably will not get it, States that are probably not going to end up in the final consideration.

I want to ask them to look at it this way: There is going to be 1 winner, and we do not know who the winner is going to be. It is going to depend on technical criteria, and unless this amendment is passed, it is going to depend in part on who is willing to put up money.

(Mr. DASCHLE assumed the chair.)

Mr. GRAMM. I submit that if the Domenici amendment is adopted, that when the selection is made relative to current law, there will be 1 winner and there will be 49 losers. The 49 losers will be those who live in States that were not selected, but who are paying a higher price because Government is not looking at cost. So 49 States that are not selected under the Domenici amendment will all be losers because they will be paying a higher cost than they would have potentially paid had we let local communities and local government compete for the project in terms of providing incentives.

If we reject the Domenici amendment, there will still be only one winner, and we do not know who that is going to be. It may be Illinois, it may be New York, it may be California, it may be Florida, it could be a lot of States, obviously I want it to be Texas. But we know that relative to the Domenici amendment there are going to be 49 other winners because the price to the taxpayer will be lower.

Mr. President, as a final point, the tragedy of any selection is there is only going to be one State that is a winner. Forty-nine States are going to be losers. At this beginning point, my guess is no State has more than a 15- to 20-percent chance, no matter what their package looks like as of today. So the probable outcome for each of our States is that we will be losers.

I want to reiterate what I think is a telling point on this amendment.

The advantage of allowing local communities and States to put up resources as part of the process is that at least the winner helps pay for the project. So I can go back to the people of Texas and say, "Look, in New Mexico they had some natural advantages geographically and they were willing to put up this amount of money and the plain truth is they just beat us."

And in my State we try not to let anyone beat us, but when it happens fairly we accept it.

On the other hand, if you do not let communities compete, if they do not have an opportunity to put up their time, their talent and their money to be competitive, then we go back home and we say, "Well, we were willing to raise our taxes to help defray part of the cost but we lost anyway because we were not given consideration for what we were willing to pay."

So the Domenici amendment makes no sense economically; it raises the cost of this project to people in all 50 States and the District of Columbia, and it eliminates the ultimate fairness because in this case if a State is willing to put up money, willing to provide facilities, willing to run utility lines, willing to build roads, then that State can make itself more competitive.

What is wrong with that? What is wrong with that? What is right with it is it means that the 49 other States that do not get chosen benefit as well because they do not pay as much. That is the issue here.

This is not a "small State-big State" issue. This is an issue as to whether we are going to procure a $6 billion project the same way that we try to procure eveything else. The bottom line is what does it cost? Do we want to have competition in buying hammers and wrenches and then throw competition in the trash can when you are spending $6 billion? That makes absolutely no sense.

I urge my colleagues to remember there are going to be 49 losers under the Domenici amendment and only one winner. If we let price competition occur, there are going to be 50 winners, one State that gets it but 49 State taxpayers who pay less.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has sought recognition for some time. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Mr. President, our discussion today regarding the location of the Department of Energy's superconducting super collider should center on one basic issue: What's the best for America? Not for New Mexico; not for New York; but for America. We cannot decided this in a vacuum. We cannot decide this without considering the wide range of resources that a State or region has to offer. We cannot decide this without considering what is best for the American taxpayer.

The proposed amendment restricts decision criteria "solely * * * (to) overall suitability." Mr. President, I'm not sure I know what that means. Surely a region's resources of research capacity—including the presence of institutions offering Nobel Prize winning scientists—should be considered. And why shouldn't a region's willingness to help defray the cost be a factor? To hold otherwise is to increase automatically the cost for all Americans.

Mr. President, New York is willing to compete for this project, fair and square. We are willing to put together a proposal which clearly states what we have to offer. It is in the best interest of America for as many States as want to do the same. We only seek an open, healthy discussion of all relevant factors. The American people will be the winners.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, we have had this site selection process underway now for months. We have situations down in Texas where much money was spent in the way of studies and research, in trying to decide how to best submit a particular site.

If you change the criteria now, what is the next criteria you are going to change?

I think it is critically important that we try to have a stable platform here so that these communities and these States understand what the true criteria are.

Now, my friend from New Mexico is saying that he wants the very best site in the country. So do I. And that is the way the criteria are set up.

Now, frankly, I think part of being the best site is a low site cost. But if you read what DOE has done, you will see that it has already dropped cost to a secondary role, to a subordinate role. They have already said the top criteria are going to be the geological site and the amenities available in the area. All of these things, some of which are, frills and are also going to be included, and they are going to be the focus of attention.

Now, in all candor, I think that it is going too far that way. At a time of budgetary constraint, cost has to be a very major item in consideration. I look at all the other projects the scientists want around the country. The space station is a very major one, and we are very concerned about that. But what you are going to see is that these things will be stretched out, and some of them will be dropped, if we do not keep cost a primary consideration in how we award the SSC.

Let me reiterate.

One of the reasons for the intense competition is the benefit that flows from having the SSC located in your State. There are some spinoffs that we all think will come about. What is wrong with having to pay for some of the benefit—having the local citizenry that benefits from having that project in their State paying a little more to cut down the costs for the rest of the taxpayers around the country? I think that it is fair, and I think that it is equity. Since when did matching funds become something we do not consider in this Chamber time and time again when we talk about building a new port, deepening a port—such as in the water bill that we just passed, in which the distinguished Senator from New York played such a major role—we talk about cost-sharing. We put provisions in the highway bill that say you have to come up with matching funds if you want to participate. We have used cost-sharing for years around here: Do you really want a project in your State? Then help take some of the costs and take some of the burden off the rest of the taxpayers.

We have a budget resolution coming over telling us we have to raise these billions of dollars in extra revenue, and that is going to be difficult. It is going to be an extremely difficult thing to do. Why is it not all right, on the other hand, that we cut down some of these costs and take care of some of that budget problem and some of that deficit on the spending side and not have to raise taxes that much? Why is it not all right to say that in those States where they are going to have an economic gain because of a project going in, they should bear a greater part of the cost and cut down the cost to other taxpayers? I think that this amendment moves just in the other direction. I certainly urge that we defeat it.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President. First, let me say to my colleague from Texas that we are not in the middle of this process. It has just begun. This document from the Department of Energy, the invitation for site proposal, was issued on April 3, 1987. This is really the first opportunity after the hearings in the Committee on Energy and Natural Resources the Senate has had to respond to what we heard as testimony in that hearing.

I join enthusiastically with my colleague from New Mexico in cosponsoring this amendment based primarily on the questions I and my colleagues asked in that committee and the responses we got from the Department of Energy.

There is some irony in this debate, Mr. President. I join with my colleagues from Texas, for instance, our considerable concern about how we are going to site a permanent repository for nuclear waste disposal. Our State has the privilege, along with the States of Texas and Nevada, of being one of the three finalists in that hard-fought race. There were suggestions made in the Energy and Natural Resources Committee that there be a fund raised to give to the State which would accept this nuclear waste facility. The idea of compensating States for that facility—really the reverse, the flip side of what we are debating here today—was thoroughly rejected by all States, including my colleagues from Texas, myself, and virtually everyone who represented a State that potentially would be a site for a nuclear waste repository. Everyone said the same thing—it ought not to be a lottery dependent on how much money you get instead of how much you give, but it ought to be determined on the basis of science: Where is it safest? Where is it best? What serves America's interests best, not the interests of a particular State or particular people?

Mr. President, we do not site strategic air bases for the United States on the basis of which State puts up the most money for the location of that base. We site that air base where it will do the Nation the most good, on the basis of the military and strategic considerations. All of the elements that go into making that decision do not include a bidding war by whichever State happens to have the most money to attract that particular facility.

It is not too ludicrous to assume that if we continue this logic of highest bidder that ultimately we will make decisions on national parks not on the basis of where are the most unique features but who has some land available and wants to bid a little to attract tourists to it. It might be pretty good land, it might be pretty interesting, but it does not match at all the standards we would expect of a national park. But if you bid enough, we will put the national park there. It's a modest, not great, area on site, but you bid and you cost the taxpayers less money.

Now, that is just as silly as the ideas being expressed here this afternoon that we are just saving the taxpayer money by including cost considerations in the super collider proposal.

Mr. President, are we going to put the whole country up for sale? Are we going to walk out of this Capitol, look down the Mall and see that we have sold advertising space on the Washington Monument because we can relieve the taxpayers of some of their tax money?

We can go on and on and on about this whole concept of bidding, of seeing who can put up the most money for a proposition like this.

I listened to my distinguished colleague from Texas talk at some length about highways and port facilities. There is no question that matching funds are put up for many of those facilities, which has been a consistent policy over a long period of time. But there is a very important difference. That important difference is not where you put something; the port is already there.

The question is whether you build something and ask for a financial contribution. It is not in the determination of where you happen to build it. You build it because there are certain physical facilities, certain needs, certain requirements for that project to be built, and then the determination of how you will do it.

Mr. President, I think it is important for us to take a few minutes and look more carefully at the scientific side of DOE's proposal because there are some cost considerations, some legitimate cost considerations on the scientific side.

In descending order of relative importance—and DOE has made this very clear and it should be understood by every State and locality looking for this project. Let me list what the criteria are and in what order they will be measured. In order of relative importance the criteria are: geology and tunneling, regional resources, environment, setting, regional conditions, and utilities. In a little more detail, geology and tunneling include what you would expect, the identification and description of significant geologic features that may pose construction problems—soft clay, water resources underground, local aquifers, identification of ground water resources, the characterization of seismicity. It is pretty important that we pick a site that is the best we can pick in terms of the absence of potential earthquakes, not move it to a second or third-best site where you have a broader chance of an earthquake but you can pay more.

Mr. President, the regional resources include accessibility to airports, the available highways, streets, roads and railroads, public transportation, the industrial and construction resources, the educational and cultural resources.

The environment includes surface water that may be available, air quality, and background radiation. The setting includes the real estate acquisition plan, the scope of acquisition, and the method of acquisition. The regional conditions include vibration and noise and climatic condition. Finally there is the utilities criterion, which means the electric power required for the facility and there is a lot of power required.

Those elements that I have described all are scientific in nature, but they do include legitimate cost considerations. They should be included in a life cycle cost determination. But those elements are ones which are readily characterized by what exists today, such as what are the relative costs of utilities. The electric power that is required may cost more in one place than another. That is a legitimate element in cost characterization.

Mr. President, this is too important a project for the United States to put it up for bid. The scientific points were carefully constructed. They are listed in great detail. They are listed in order of their importance. They can be characterized and each site can be measured one against another for its merit.

The superconducting supercollider is on the front edge of science, Mr. President. We cannot afford to pick even a second-best site.

We must find the best site on a scientific and technical basis, if we are dealing with a project that is perhaps the most important public project we have put forward at least in the last two decades and perhaps in a longer time.

With that, let me turn to my objections to the Department's proposal and the reason for this amendment.

In testimony before the Energy and Natural Resources Committee, the Department of Energy candidly said, "Yes, we might come to a circumstance where there are two final sites." Maybe even more than two. But they indicated that with two final sites, although one better than the other scientifically, the technically inferior site could bid more, offering more in cash, as an encouragement for this project to come to their State. That is not the way to do business in science.

Let me further tell you the cost considerations as they have been set forth in section 3.5 of DOE's proposal, which is the guide to all States that wish to compete: "Any financial or in-kind contributions offered by the proposer, other than the cost of land, will be considered, as appropriate, in the life cycle cost estimate."

Remember, the life cycle cost estimate is an important concept. It goes on to say in section 3.6: "Although cost considerations are significant, primary emphasis will be placed on the results from the evaluation of the technical evaluation criteria by the NAS/NAE in the development of their BQL recommendation to the DOE. The DOE will place similar emphasis in its determination of the preferred site."

However, the last, and I think the critical sentence in this proposal states:

> NAS/NAE and DOE, in their overall evaluations of proposals, will consider whether a higher technical evaluation is worth the extra cost of a particular proposal and whether the LCC of a particular proposal is low enough to overcome a lower technical evaluation.

In plain and simple language, Mr. President, that means to the highest bidder goes the spoils—not to the best bidder, not to the best site, not to that which will be in the long-term best interests of the United States, but the one who simply bids the most.

Let me turn to the questions which have been asked by many States which are interested in this proposal and the answers of DOE to those questions following a meeting several weeks ago here in Washington, DC.

Question No. 1, on life cycle costing:

> In the proposal and the environmental impact statement process, will this be done by the proposer, DOE, or an independent cost evaluation house?

Answer:

> Proposers are not requested to provide cost estimates. DOE and its contractors are developing the LCC estimate model and will prepare estimates for each proposal meeting the qualification criteria. The inputs to the model are based on the information requested by the ISP, the SSC Conceptual Design, available cost indices, other sources, and proposer contributions. Prior to the receipt of proposals, the model and methodology will be developed and will be applied equally to all proposals. The model will not be made available to the proposers.

In other words, we have a circumstance where DOE is saying: put in all the technical considerations, put in the costs that legitimately go into the construction and development of this project, and then throw in the contributions of the State that wants to be selected. Then we will stir it all around in an unknown pot, with unknown elements, with unknown weighing, in a model that will not be shared with any of the proposers. That is a wide-open invitation to all sorts of shenanigans, and we have had too many shenanigans in this country in recent years.

Let me go on briefly, Mr. President. A number of other questions were asked. Remember, I just read the answer to question No. 1. Other questions asked by the States and proposers were:

"What are the cost elements?"

Answer: "See answer to question No. 1."

Question: "What is the time value of money or inflation factor?"

Answer: "See answer to question 1."

On and on it goes for several pages. Every question asked that deserves a specific answer has only the answer, "see answer to question 1," and the answer to question No. 1 is no answer at all.

Mr. President, I think there is a legitimate arena, time and opportunity for State contributions, to such a big facility. I think that every dollar of the benefits the junior Senator from Texas suggested can be achieved in a process that picks a site based solely on technical qualifications and the legitimate construction and other infrastructural costs that go with it. Let me tell you how.

After the site selection, just as in a nuclear waste repository site, then I think it is appropriate and desirable that the recipient State of a nuclear waste repository receive a benefit—after it has been selected. This is a cost, if you will, or a payment—for the use of their land and for whatever dislocation it impacts on their people. That is the legitimate way to do it.

You do not do it on an upfront bidding, to see who can avoid technical site criteria and who will receive enough money or be bribed enough to get that site. Just as that is true in nuclear waste, it also can be true in this particular project.

Once a State or locality has been chosen, once we have figured out what is best for our country in terms of technical qualifications, there is nothing to prevent the particular State in which this site is located from contributing the very same amount it would have contributed earlier in the process. Presumably, they would still have had that kind of investment, or financial contribution, but they can do it in gratitude for receiving that benefit.

In Texas, if there is a desire, pay what you are willing to pay up-front, but do so only after that site has been picked as the most suitable one. I cannot believe that any State would withdraw its proposed financial contribution after it had been selected, when it was no longer necessary in competition. I am sure that that contribution, if proposed in good faith, would be available under any circumstances and would be available after the site has been selected.

Mr. President, this Senator, for one, does not believe that important projects of this nature should be for sale. I do not believe our country should be for sale. I do not believe we ought to spread advertising over all the public monuments of this Nation. I do not think we should pick anything less than the best for our national parks, for our strategic Air Force bases, or even the ultimate site for nuclear waste repositories. We certainly should not do it for an almost $6 billion investment in the cutting edge of scientific research in this Nation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise briefly in this useful and informative debate to offer an observation and a proposition.

The observation: The senior Senator from Texas was generous enough to mention that for a decade my distinguished friend from New Mexico and I worked together to establish the principle of cost sharing for the Nation's water programs. Indeed, the last piece of legislation to have passed the 99th Congress, the Water Resources Act, was the first comprehensive water bill in 17 years. It came about because, at long last, the Congress of the United States adopted the principle of cost sharing with respect to water projects.

We accepted the fact that so long as water projects were free goods, as the economists use that term, they were wastefully used. As the waste began to become clear, the willingness of Congress to support such programs diminished; in the end, a matter of great consequence to the infrastructure and the economy of the country simply ceased as a program of the Federal Government. After literally 17 years without such an enterprise, we finally got it back into place on the principle of cost sharing.

No one was more vigorous in advocating that principle than my friend from New Mexico. He knows my admiration for him on that count.

However, might I make a further essay into this particular project, which is a chief aspect of the capital-intensive science of this latter part of the 20th century.

It is a large and new development. The men and women who brought us the general theories of physics and the atom, the whole modern notion of the structure of matter, frequently had no more resources than pencil and paper. To this day, theoretical physics is often done by pencil and paper.

Theoretical physics typically takes the form of predicting outcomes. Experimental physics, at great expense, proves. It is one of the great qualities of this age that a paper can be published in one decade, and three decades later the theory will turn out to be proven. In effect, the laboratories can now be 52 miles in circumference.

It is only in this generation that the experimental physicists began cleaning up and, to an almost extraordinary degree, verifying the propositions Einstein set forth in the second decade of this century.

May I speak, without asserting more than a marginal competence with respect to this kind of science. I have served on the President's Science Advisory Committee. I have been a vice-president and a member of the board of the American Association for the Advancement of Science, which is the largest of our science organizations, a century and a quarter old.

I would like to note that Alvin Trivelpiece, who was the Director of the Department of Energy's Office of Energy Research and in charge of the superconducting super collider project, has left the Department of Energy to become the executive director of the American Association for the Advancement of Science, succeeding, after a long and distinguished career, Mr. William Carey.

But in the hierarchy of considerations the distinguished senior Senator from Washington described for the SSC, which is indeed set forth in the invitation for site proposals, the first, of course, is geology and tunneling. That is as it ought to be. This large project is to be built underground, and it has to be in an appropriate setting, where prospects of geological faults, earthquakes, and such like are as minimal as can be had.

The second set of criteria in the actual invitations is called regional resources. Regional resources are described in terms of local amenities and such like.

I offer the proposition that altogether the most important regional resource is the scientific community in that region available to do the work.

That science community does not develop in random fashion. It builds up over generations in response to specific interests, supported and advanced by universities with local and State support. In the end, the faculty of those universities are recognized by peers as having the greatest capacity for certain undertakings. This is something as specific as a thing can be.

If you would like to know the great regional resources of the country for an enterprise of this kind, you look to the locations of the great universities, the great departments. The United States is singular in this capacity; it is widely but not evenly distributed. There is the matter of time, of interests, and the ever random appearance of extraordinarily talented persons, but in a free community that knows what its peers do, there is also a gathering into certain places of particular strength and interest of faculties of notable and indeed international reputation.

The fact that such research capacity exists is a reflection of local interests, fixed to the particular university or to the State. Invariably States have had major roles in such enterprises. The Federal Government has also had such roles.

And it is a normal and entirely intelligent function of a State government which knows it has the research faculities that want to do this work, to want to find them the work to do. To want to contribute to the development of this intensely capital-intensive project, and to see that the three and four generations of physicists that are in the universities can continue both their theoretical and their experimental work.

I would offer a thought, Mr. President, obviously I am thinking of New York in this case, but only because of the specifics: we are dealing here with a superconducting super collider. The whole new extraordinary field of superconductors has broken out as the newest great change in the paradigms of physicians, if I can use Thomas Kuhn's term for discussing the history of science.

The fact that certain materials could conduct electrons with no loss in energy at temperatures near absolute zero has been known for a very long time.

What has only recently come forward on an experimental basis is the fact that this can be done at higher temperatures, and indeed may one day come to be at almost normal temperatures. This is the great change.

It is one of those moments in science, and scientists are intensively involved. At the American Physical Society meeting in New York, this April, researchers gathered to report on their work at a meeting that began on one morning and continued to 3 the following morning, with papers limited to but a 10-minute length. Everyone heard, listened to, and attended to an extraordinary breakthrough.

The theoretical understanding of these experimental findings is incomplete, and the scientists who know most about it are frank to say, "We do not fully understand what we are discovering, but we will hope to do," reversing somewhat that process I described earlier where theoretical explanations are followed a generation later by experimental proofs.

Now, in New York State, Alfred University is an old institution founded by the church of which our dear friend, Jennings Randolph, was a member. Since 1900 there has been a school of ceramics at Alfred; a third of the doctorates granted in ceramics engineering in the country come from this one very small college in western New York State. Not far away is Cornell, an extraordinary center of physical research. Hans Bethe, who was standing alongside Oppenheimer at Alamogordo, still meets his seminar in Ithaca at Cornell University. Not far from there is Corning, NY, where Corning Glass, which developed fiber optics not 15 years ago, is beginning to work in this same field.

There is another regional point in which I hope the Senator from Washington would be interested. There is a very real possibility—I hope we can explore it—that we can get Canada, as a nation or as provinces, to join in this enterprise. We have every reason to want their participation. Their physics are also world class; the University of Toronto is an institution of international standing.

In Europe, the Center for Nuclear Research, CERN in the French initials, is located in both France and Switzerland, and crosses those borders underground with no problems of any kind. It is in fact both a European and a world facility. The idea that the Canadians should join us is a sound one.

I would say, sir, that the existence of the capacity to do this job well and successfully is a function of previous investment by universities and State and local communities in research capacity—and that this same research capacity will be reflected in their willingness to contribute on a cost-sharing basis to this enterprise.

I make the proposition that if we want good science, if we want to know where we will get good science in the future, we look to where we are getting it now. We should build on strength; a measure of that strength, and an outgrowth of it, will be the willingness to share the costs of such an enterprise.

I respectfully hope we will not accept this measure. I think it would be counterproductive to the interest of the science community and of the Nation.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the distinguished junior Senator from Mississippi, Senator COCHRAN, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Senator from Mississippi indicated he wanted about 2 minutes. I am just sending word out by my comments to colleagues that I do not know if there are very many more people that would like to speak, but clearly, as the proponent of the amendment, I am getting close to being ready to vote, as far as my arguments. So, unless they come down shortly or send some word, from our side I think we will be ready to vote very shortly.

Before I yield the floor, let me suggest that the eloquence of my friend from New York should not in any way escape us with reference to science and physics and his State's role therein. But, frankly, Mr. President, the Senator from New Mexico is doing nothing that suggests that if his State has the best site, including a combination of those marvelous universities that he speaks of in some kind of consortia, that they should be precluded. I have nothing at all to say about that.

He mentioned Canada. As a matter of fact, we are seriously talking to the Japanese about sharing in some of these costs, because this is, indeed, an international facility. My amendment has nothing to do with that.

As a matter of fact, Europe may be interested, because they have been thinking about building one of these themselves. And perhaps they ought to join us.

This is going to be pure, basic knowledge with reference to what material is made, how its essence is. So we talked about the science expertise of this land and its regions.

I could take an hour and a half telling you that New Mexico has had all those scientists that my friend from New York spoke of at one time or another, even living in my State, because the greatest laboratories in the world are there. We are not talking about precluding those kinds of centers of excellence that New York has or that is in Chicago because of Fermi and other institutions. We are merely saying that the Department of Energy shall not consider incentives and compensation as part of the criteria as we move through the site selection. If Congress wants to end up doing that later on, it is their prerogative. But we do not have to put this facility up to the highest bidder. It is a national facility.

My friend from New York compliments me about cost sharing. There is all the difference in the world in what we decided in terms of cost sharing for the Corps of Engineers or the Bureau of Reclamation. We are talking about cost sharing of a project of local significance, saying: "If you want it bad enough because it is for you only, it is your dam, it is your irrigation system, prove it by some cost sharing."

This is not that. This is America's premier singular multibillion-dollar institution in higher physics. We are just saying, let us not put it up for bid. Let us find the best possible site in the United States. And that is it.

I believe that is how we ought to do it and that is what prompts my amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from New Mexico in cosponsoring this amendment because I think that he brings to the attention of the Senate a problem in this site selection process that needs to be addressed now. That is why it is important that we do it on this supplemental appropriation bill.

The site selection criteria have already been sent out to the States and work is going on in my State, and probably in many other States as well, to develop a proposal suggesting to the Department of Energy that there is a suitable site in our area that ought to be considered. I think all that we are trying to say in this amendment—and I hope Senators will approve it—is that the Department ought not to base its decision on who has the biggest bucks to put in its proposal. We ought not to get into a contest of scientific snobbery nor of who has the deepest pockets and make the decision on those bases. There are many other criteria that are described in the material that has been sent out to the States by the Department of Energy.

I happened to come across in my file, Mr. President, an article dated April 10 from the Houston Post which says a committee of the State legislature there had decided to recommend that the State come up with $1 billion to induce the location of this super collider in the State of Texas. The sum of $500 million was being proposed for long-term general obligation bonds of the State of Texas and another $500 million in revenue bonds if the State constitution could be amended. That is an indication, Mr. President, of the length to which some are willing to go in an effort to induce the Department to select their State as a location for this super collider.

There was in the same article an indication that another State was willing to put up $2 billion. The State of Idaho, which is having problems economically, has already appropriated $400,000 to put with its application to attract this site. Many States are going to be excluded, and wrongfully so and unfairly so, unless this amendment is adopted. I hope the Senate will approve it.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I want to underline the point made by the Senator from Washington, which I think is a very good one. This amendment comes down to one thing and one thing only: Do we want a bidding war for the superconducting super collider? That is all this comes down to.

Now, that is very critical because of the point made by the Senator from Washington, Mr. EVANS, namely that the financial incentives that are contemplated by DOE are no minor matter. They are very significant. The Senator from Washington read from letters and documents provided by DOE which showed very dramatically time after time again, that financial and economic considerations that a State may offer which have nothing to do with the scientific requirements of the project may override valid scientific considerations which would otherwise determine where this super collider is located. This is no minor matter. It is a very major matter. Financial and economic considerations a State may offer are very, very significant.

We do not have a lot of super colliders. We do not have super colliders in all the ports and on all the highways around the country. We have one, and it is not a minor matter. It is up to a $6 billion matter. It is a project that should be decided on the basis of science, not on the basis of which State is the wealthiest and, therefore, can pay the most to get it in their State. After all, this is a Federal project, not a State project.

I hear big, wealthy States saying: "Well, gee, States ought to contribute." I say to them, if they want a super collider, put up the $6 billion of your own and get it in your own State. That is fine.

What does all this mean? It obviously means that there are only a few States, the biggest, the wealthiest, that are going to win in this financial auction.

Mr. President, I hear the opponents of this amendment offering only one argument: Namely, why not let the taxpayers from a certain State, if they want to contribute, to do so to lower the Federal deficit? Besides, we have all kinds of cost-sharing anyway—highway projects, water projects, ports, and so forth.

Mr. President, we have lots of highways in this country. we have lots of ports in this country. We have lots of water projects in this country. We have only one super collider. If a State wants to match funds to get a highway project or wants to match funds for filling and dredging to get a port, if States want to match funds to get a proper water project, that is fine because there are a lot of them to go around.

But, no, they do not want that. They just want to put up a little bit and get a 5 for 1 return; put up $1 billion and get $5 billion back. They want a good deal here, but there are only a few States in this country that can qualify for that, the biggest and wealthiest.

I say let us get on with it. Let us pass the amendment. Let us be sure the super collider is located on the basis of the best scientific evidence, not on the basis of which State is the biggest and wealthiest and can pay the most to get it.

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. WILSON. Yes, Mr. President. Thank you.

Mr. President, I think this subject has been well stated. I think that most of what needs to be said has already been said.

Mr. President, like those who have spoken before me, I, as a representative of my own State would be delighted if my State were selected. And, in fact, it enjoys a very good chance of being selected on the merits.

But the real question under debate this afternoon is, what should be the basis for selection of the site of what will be the only super collider or likely the only super collider in our time? We would not be having this debate at all if it were not for the obvious fact that this asset is viewed as a sufficient national importance so that it is worthy not only of this debate but the investment by Federal taxpayers of very substantial dollars.

The question is, Should the States be engaged in a bidding war to win the honor of hosting this facility?

It may surprise some of my colleagues that I am going to take the position that that should not be the case; that there should not be a bidding war. It may surprise them, because my State is in a position to do well in a bidding contest.

But, just as I think that we have, over history, supported the location of truly national assets on the basis of what was the true national interest, where the greatest good to the people of the Nation would be, so should we, in the siting of this project, be concerned with the best site possible. There will only be one, as has been pointed out. And national assets of varying kinds have been and should be sited to achieve the best national purpose, a purpose that I emphasize is of overriding national importance, overriding local significance that can accrue to the State that wins.

There has been a discussion that we do not site the Strategic Air Command facilities on the basis of competition between localities. It is at Offutt Air Force Base in Omaha, not because Omaha outbid Houston or Los Angeles, but because it served the national interest to have it located there in the heartland of the United States.

Similarly, the Hurricane Research Center is located at Miami. It is not at Wichita Falls or in Wichita because it serves the national interest that it be located where it is.

We have space launches from Cape Kennedy because that location and that location almost alone permits orbital achievements of certain kinds that simply are not possible from other launch sites. It is not because Cape Kennedy outbid other interested communities.

And the list could go on and on. In the interest of time I will leave the rest to our own knowledge and imagination.

Let me just say that I think we need to have a concern that there be truly national support for what is a truly national asset, one that does offer the prospect of breakthroughs in the realm of physics that can benefit untold generations. That is truly a national purpose. It is the kind that warrants national support. That is why this is indeed distinguishable from all those other projects that have been cited, the legion of projects for which we demand cost sharing. Yes, we should have cost sharing for port development, for highways and for sewage systems. Almost all communities require highways, require sewage, storm drains, and, of course, it is appropriate to demand cost sharing in those instances.

But we do not require cost sharing for the SAC base because it serves our common defense.

What we are talking about is something that we are going to be doing for the common good. We ought to be concerned with whether that site is seismically correct. Is it safe? Are we going to hit ground water? Are we going to have the kind of climatic conditions that permit the optimum functioning of the super collider? Are we going to have the kind of conditions that attract the maximum in talent that is necessary to sustain the level of research required?

These are the kinds of technical questions that should outweigh even the willingness of a State or a community to participate financially as the host site.

It is that simple, Mr. President. What we are saying is that this truly nationaly significant asset should be sited where it will best achieve its national purpose, rather than sited in response to a bidding war. It is that simple, but it is a decision which will have lasting significance.

I hope, and frankly am confident, that in a contest where the higher bidder is not the winner, but where technical considerations will determine which State and which community has the honor of being chosen as the site, that my State will do very well. Again, I emphasize that we could do well in a bidding war, but I do not think that is the way to make this important decision.

Mr. President, I hope that we will make the decision correctly.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Washington.

Mr. ADAMS. Mr. President, I will be brief. I do not support a bidding war, Mr. President. My State has had a great deal of experience in cost-sharing programs. These have basically been formulas established for particular purposes, such as highways, sewers, and so on throughout the United States. We have a much greater national purpose here.

In many cases we will be able to tap into resources where the value cannot be measured.

For example, if there is a large work force of highly skilled people who are being placed out of work, either because of the closure of a plant, whether it be a steel plant, a very skillful medical plant, a nuclear plant, or others with skilled people whose skills would precisely fit this kind of a project, that is something that in the national interest we may decide that we as a Nation want to take advantage of that particular resources.

To start a bidding war among the States will lead to a series of bidding wars on project after project as they come up. The last time that we were involved in this was with NASA projects and we had to arrive at some compromises there, but we did get a little politics into it.

As has been well stated in this before, we tried very hard in this national effort to be certain that we located things where they most properly should be located in the national interest. Therefore, I hope that the amendment of the Senator from New Mexico will be adopted, that we will not enter into a cost bidding war, and certainly not in a cost bidding war where the Department of Energy is going to be deciding which bid is best and thereby awarding a project potentially to the wrong place.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I understand that we are close to a vote and I, too, want to be brief. It is very important that from South Dakota's perspective we address the issue, however briefly.

I commend the Senator from Washington [Mr. EVANS] for what I consider to be a very relevant statement, a comprehensive statement, on the reasons why a bidding war in this regard is not in our best national interest. But I must say that as we have considered the broad range of issues before this body already this year, the thing that comes back time and again, whether it is national or international, is the quest for what we call a level playing field, whether it is in trade, whether it is in a number of domestic issues. Our Senate has always sought out what we have considered to be a fair and a level playing field.

In essence, that is what we are talking about here, a level playing field, criteria by which we all can compete fairly. When one considers the prospects of competing with a State the size of Texas or a State the size of New York, the possibility or the probability of a level playing field is completely gone.

In essence, that is really what the issue is here, do we create a level playing field? Do we compete by the same set of rules? If we do, how do we enunciate those rules articulately and clearly for all concerned? Senator EVANS has outlined those very well as he has presented them. I hope people will consider whether or not that is the issue here.

The second point I will make very briefly is this: There have been a number of references made to cost sharing and how cost sharing ought to be a factor here. But every time we have considered cost sharing in the past we have considered it under a very delicate formula. That formula took into account the differences between big States and small States and set out a broad range of a number of considerations that have been decided by this body.

There is no such formula for a bidding process that we now have with regard to the super collider, and until we have that kind of formula, until we somehow arrange a means by which we can take this into account in equitable terms under that level playing field, I think it would be foolhardy for us to include a bidding in this process.

So for those reasons, I rise in strong support of the amendment by the Senator from New Mexico. I am pleased to be a cosponsor of the amendment. I hope the Senate will adopt it shortly.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I had asked for the yeas and nays. I have consulted with a few Members on the floor, especially those who are still here who are the principal opponents of my amendment. I do not believe that I need the yeas and nays. I understand the ranking Member on this side, Senator HATFIELD, will accept the amendment. I am not going to ask that it be accepted, but I will withdraw, if the Senator concurs, my request for a rollcall vote and we will vote by voice. If there is no objection to that, Mr. President, I ask unanimous consent that the yeas and nays be vitiated on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EVANS. I would like to clarify with the primary sponsor of the amendment, Senator DOMENICI, some of the language in our amendment.

Does the Senator from New Mexico agree that legitimate improvements to existing infrastructural assets by a proposer will be allowed to be submitted in the proposal under this amendment?

Mr. DOMENICI. Yes; it is my understanding that such improvements are allowed under section 2.2.3.2, termed Regional Resources, of the DOE's invitation for site proposal (ISP).

Mr. EVANS. Therefore, a State or proposer is allowed, in fact nearly required, to include the following infrastructural improvements in its proposals to DOE: contributions to land acquisition and rights-of-way; access roads; sewer systems; water transportation lines; and power transmission lines.

This list is not meant to be exclusive, but indicative of the types of improvements that could be submitted by a proposer under our amendment.

Mr. DOMENICI. The Senator from Washington is correct. Such types of infrastructural improvements are intended to be allowed, not prohibited, under our use of the phrase "other incentives."

The intent of this amendment's prohibition on "other financial incentives" and "in-kind contributions" in the life and cycle cost is meant primarily to cover cash and other financial incentives by the proposer. It is those contributions that shouldn't be allowed in the DOE's life and cycle cost estimate.

Mr. EVANS. I thank the Senator.

Mr. DECONCINI. Mr. President, I am pleased to be a cosponsor of the amendment introduced by my distinguished colleague, Senator DOMENICI which sends a clear message to the Department of Energy on the selection of a site for the super collider. The purpose of this amendment is to require the Department of Energy to base its decisions on site selection for the superconducting super collider on merit and not money. There is tremendous interest in the scientific community throughout this Nation in the construction of the superconducting super collider [SSC]. I am an enthusiastic supporter of this project, and congratulate the administration for having the foresight to approve long overdue physics research into the nature of matter and the explanation of the universe. The SSC is the largest physics research project to be undertaken in this country. Estimates are that the cost will be about $4.6 billion. It may well exceed $4.6 billion by the time it is completed.

With a project of this size and with the great scientific interest, there is a heated competition among the States to see who can put together the best site proposal and who can put up the most money in State, local, and private contributions to lure the Federal Government and scientists to their site. I think competition is good and to be expected with a project of this magnitude. It will help the National Academy sort out the most promising premier sites from those that are mediocre. Nonetheless, I believe the Department of Energy must base its site selection criteria on the actual physical merits of the site and not on the amount of money State or private interests can or will contribute to the project. Recognizing that the cost to the Federal Government for the SSC will be substantial and that some sharing of the costs should be encouraged, too much reliance on non-Federal contributions, in my view, constrains the ability of States with excellent sites to compete. If this occurs, Mr. President, I fear that the DOE will chose a site based on which State has the money to buy the SSC and not on the objective merits of a particular site and surrounding attributes.

The SSC is a genuinely unique, exciting, and intellectually profound scientific concept. If the Federal Government does not seize the opportunity to select a site based on the best qualities and characteristics for scientific achievement, we are all losers.

Mr. President, I urge my colleagues in the Senate to support this important amendment.

Mr. SYMMS. Mr. President, I want to add my support to Senator DOMENICI's amendment regarding the superconducting super collider.

This $4.5 billion facility has the potential to alter the course of most sciences. However, because of the high cost of the facility, there is a growing concern among the States competing for the project that it will go to the State that provides the greatest number of dollars, rather than the State with the greatest advantages.

The Department of Energy has made it clear that the land for the project must be provided without cost. This makes it possible for a number of Western States to compete with those Eastern States that are raising millions of dollars to buy land on which to put the SSC. After all, the one thing we have in the West is land and a lot of it belongs to the Federal Government. However, since our Western States are public land States, we lack the tax base of more densely populated States. Therefore, if DOE's primary criteria for choosing a site is based on the amount of actual dollars a State offers for the SSC project, then I think it will violate the entire principle of fair play in which competitors usually start with a level playing field. Senator DOMENICI's amendment gives everyone an equal chance at this project.

In Idaho we have nearly 900 square miles of Federal land available, which means property would not need to be purchased at an additional expense. But the ultimate draw in Idaho is the self-supporting site at the Idaho National Engineering Laboratory. The savings from putting the SSC in Idaho will cut the cost on every level: From the people in Idaho who are pursuing this project—to the American taxpayers who are financing it.

INEL offers a number of services already in place which would be a real plus for this type of project. There is a fully operational transportation system that includes trains and buses that connect the INEL to nearby communities. There is a computer system, fire department, medical facility, excellent technical capability, an abundant water supply, plenty of low cost energy, cafeteria services, a guard force, roads and fences, and more than $2 billion in existing facilities.

In addition, INEL is located near one of Idaho's State supported universities, Idaho State University in Pocatello, which would develop in conjunction with the needs of the SSC facility.

Besides all of this, the INEL site has already been environmentally characterized, and there is a management system in place to oversee all of its resources.

Idaho has a well-trained labor force, and the INEL labor relations are excellent. Wages and the cost of living in Idaho are generally lower than most Eastern States. We have an existing techological base of technicians, scientists, and engineers with 35 years of experience at handling large projects. In short, selecting Idaho for the SSC could mean a possible savings of nearly $1 billion to the SSC budget.

In conclusion, I would like to point out that the first nuclear reactor to generate electricity was built at INEL, and the prototype for the first nuclear submarine was developed at INEL. Idahoans have a long and strong commitment to science and technology, and we welcome the opportunity to continue this long history by providing a location for the SSC project.

Mr. President, I thank the Senator from New Mexico for the amendment.

Mr. SIMPSON. Mr. President, the proposed amendment restricts the Department of Energy from considering financial incentives as being a sale criterion for the final site selection.

My State of Wyoming is suffering from a very severe economic depression and just does not have the millions of dollars needed to compete with other States in order to sweeten the pot for the Department of Energy in their final site selection. However, based on its overall remarkable suitability, the proposed site in Wyoming is the most geologically attractive having a minimal amount of environmental impact. On its overall suitability according to all the specifications determined by the Department of Energy, the Wyoming site could compete strongly and fairly for the project.

For those States that have the big population numbers and a diversified economic base which can provide the extravagant moneys needed to encourage the Department of Energy to choose their site—but are lacking in the overall suitability of the lands they have to offer—this amendment is a threat. But for those States that simply want a fair shot, a chance to be evaluated solely on merit instead of deep pockets, voting for this amendment is surely a must.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

All those in favor will indicate by saying aye; those opposed will indicate by saying no.

The ayes appear to have it.

The ayes do have it. The amendment is agreed to.

The amendment (No. 199) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I wish to thank those who have spoken on this matter. I think the wish of the Senate is that on the superconducting super collider we pick the best site and not take into account financial remuneration from cities or States or compensation they may offer to the U.S. Government with reference to the best site in the country.

I thank all Senators for their statements of support. I am delighted that the amendment has been adopted and will go to conference.

The PRESIDING OFFICER. The question recurs on the first excepted committee amendment, as amended.

Is there further debate?

If not, the question is on agreeing to the first excepted amendment as amended.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I would like to see the Senate work for a while yet this evening if we can make some progress and dispose of some amendments so that we can have a full day tomorrow on the bill. The Senate will begin its recess at the close of business tomorrow, and I am not talking about 1 o'clock tomorrow afternoon. I am not talking about midnight either. I am not saying midnight. But it seems to me that if the Senate goes a while yet this evening, let us say 8:30 or 9, if we can make progress, it would probably be well for the Senate to do that; perhaps that would put us within shooting distance of final icing on the bill at a reasonable hour tomorrow evening.

So I think Senators should have this information. I have had a few inquiries as to whether or not we will have any more rollcall votes tonight. My desire is that we press on for a while but not a great deal longer.

The Senator from North Carolina, I believe, is going to call up an amendment. Is he in a mood to have a time agreement on that amendment if others are?

Mr. HELMS. Mr. President, I certainly am. It is a very simple amendment. I would say 20 minutes equally divided or whatever is satisfactory with the other side.

Mr. BYRD. All right.

Mr. HELMS. I can advise what the amendment is. I think the managers already know, but on page 35, strike all beginning with line 6 through line 13 on page 36. It relates to multilateral bank loans.

Mr. BYRD. It relates to multilateral bank loans?

Mr. HELMS. Yes.

Mr. BYRD. All right. I believe that Senator INOUYE is the Senator on this side who would handle this, or would Senator JOHNSTON be prepared to do that?

Mr. EVANS. Will the majority leader yield briefly? I also have an amendment that I believe has been cleared on both sides, would be accepted, and requires virtually no debate whatsoever.

Mr. BYRD. Very well.

Mr. EVANS. If that would be convenient.

Mr. BYRD. Very well. I thank the Senator.

Mr. President, I yield the floor.

AMENDMENT NO. 200

(Purpose: To eliminate appropriations for multilateral development banks)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment No. 200: On page 35, strike all beginning with line 6 through line 13 of page 36.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. Mr. President, with regard to the overall levels of foreign aid spending, I feel obliged to point out that the budget resolution approved by this Senate did not include any assumption of an increase in foreign aid for fiscal year 1987; not a dime.

Now, I did not support the budget resolution, but I certainly support the restraint that was shown with respect to function 150, that is to say, the foreign aid account. The budget resolution calls for a reduction of approximately $600 million below a freeze. Mr. President, it is inconsistent to pass a resolution 2 weeks ago calling for restraint and then break the bank today. The Central American portion of the bill is offset by reducing defense spending. If that is not convoluted thinking, I cannot imagine what is.

Now, this Senator is not widely enthusiastic about that formula for cost neutrality, but at least it does preserve the integrity of the budget.

However, the $257 million of the taxpayers' money in additional spending for multilateral development banks is not assumed in the budget resolution anywhere. It was not included in last year's continuing resolution precisely because we could not afford it. We cannot afford it this year either, not as a part of this supplemental legislation any how.

Now, I am not dealing with the merits of these banks. This Senator has reservations about some of the practices of the banks, but that is not my point this evening. My point is that we simply cannot afford these increases as proposed.

The amendment now pending is intended to strike from the bill the $257 million in increased appropriations that are proposed for various multilateral development banks.

Frankly, Mr. President, I find myself in agreement with much of what the committee report says on this subject. But I come to the opposite conclusion. Looking at what the report says, and I quote:

> When the Committee considered the President's request for foreign operations in the fiscal year 1987 appropriations bill, it recognized that, in the context of the existing budget situation, it could not fund all of the President's requests that merited funding. The Committee made a decision to fund bilateral and military assistance programs as fully as the budget situation permitted. It was, therefore, not possible to meet the minimal requirements of the President's request for the multilateral banking institutions.

Now, as best as I can understand it, the context of the existing budget situation as referred to in that report has not changed. Mr. President, let me say again for the purpose of emphasis, that the budget resolution that this Senate approved 2 weeks ago still has an enormous deficit. I do not think we have hit a gold mine since last October. Very frankly, we just cannot afford these large amounts of money for foreign aid spending.

These banks still represent an enormous portion of our overall Foreign Aid Program, and the committee report also notes, by the way, that even with the $257 million supplemental appropriation the United States will be $500 million in arrears in making contributions to these banks.

Now, nothing adverse is going to happen if we remain in arrears. As a matter of fact, I, for one, do not believe that this Congress ever should have obligated this Government for these large increases to the extent we did. I believe the majority of the American taxpayers feel the same way. Nonetheless, Mr. President, there is nothing urgent about funding these banks, and that is the point of the pending amendment. This supplemental is supposed to represent urgently needed funding, not merely additional appropriations that somebody may feel are worth funding.

We can consider multilateral bank funding in the context of the foreign aid appropriations bill and in the context of the foreign aid authorization bill, but I submit, Mr. President, that it does not make sense to try to move this kind of thing on the urgent supplemental.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I see that the subcommittee chairman is here and I will take only a brief time, but while he is preparing let me speak in opposition to this amendment. I think it would be more appropriate, Mr. President, if we oppose the concepts and the participation we have long enjoyed in these international financial agencies, that we should make an appropriate amendment to withdraw. That would be the appropriate amendment. But to say that we are going to continue as a member, we are going to get further and further in arrears because we will not pay our share of the capital for these institutions, it seems to me, does not make very much sense.

Mr. President, we have to do one thing or the other—either get out, which I think would be extraordinarily bad for our own self-interests, our own security interests, our own position in an increasingly interdependent world, or if we choose not to get out, then we should carry out our responsibilities. I know, as the Senator from North Carolina has pointed out, that this supplemental will not fully bring us back out of the arrearage that we are now in, but it will take a large step in that direction. It will handle some of the most significant problems we do have and will enable us to continue in the multilateral kinds of assistance that are so important to America's security interests.

Mr. President, I would not be for this kind of appropriation if I did not believe that it was the most efficient, cheapest, most inexpensive way to help carry out America's interests in its international affairs.

It is far cheaper to help others become independent, to help others grow economically, to help others get to the point where they are not only producers but consumers, where they cannot only sell to us and others but they can buy from us. I cannot think of any better way to help reduce our trade deficit than to help build the capacity of other nations to get to the point where they can afford to buy the products and the technology that we have produced so well in this Nation.

Mr. President, the committee report also says, in addition to the words the Senator from North Carolina has used:

> It was not possible to meet the minimal requirements of the President's request for multilateral banking institutions in the 1987 appropriations bill. This committee made the difficult choice in spite of the fact that it believes that the multilateral banks are vitally important to the United States' overall economic and strategic interests throughout the world.

Mr. President, I do not serve on the Appropriations Committee nor the subcommittee, but I do serve on the Foreign Relations Committee, where we have an opportunity to deal with the authorizations for these institutions. I suggest that they are extraordinarily important to America's self-interest. They are extraordinarily important in building a better and a more economically independent world; and that, too, is in our ultimate best interests.

Therefore, Mr. President, I hope that we will reject this amendment, which would have us withdraw at least partially from what I believe to be appropriate responsibilities internationally.

Mr. INOUYE. Mr. President, of all the items before us, the item most misunderstood is obviously foreign aid. Foreign aid somehow conjures up an image among most Americans as being a wasteful giveaway.

As my distinguished colleague from Washington indicated, these recommendations are in our national interest.

It has been suggested by men and women wiser than most of us that for our democracy to flourish, we must flourish in a world of stability. We look around us, and all we find is instability. How do we help bring about stability?

About 15 years ago, we decided to make a study—this is a Nation of studies, but this was an important study, a very interesting one—to determine for ourselves the goods that were necessary to keep this Republic afloat. What are the strategic goods that are necessary? We had all our experts look around the world and look at our economy and look at our democracy, and they came out with 100 items. It was a very remarkable study—100 items.

These 100 items included things like cobalt, platinum steel. Lo and behold, of the 100 items that are absolutely necessary to keep this Republic afloat, 85 did not exist in the United States. We had to go out of our country to get 85 of them.

For example, chromium. Without chromium, we will not have the alloys that are necessary to build automobiles, to build refrigerators. Small items, but where do you find chromium? In Zimbabwe and the Soviet Union. Ah, they tell us, do not deal with Zimbabwe, a very poor country. What would they have us do? Deal with the Soviet Union?

There is another item called aluminum. What is the base metal of aluminum? Bauxite. Where do you find bauxite? In the United States? No. In fact, there is a place in the United States where you do find bauxite. It lies below the city of Lihue, on the Island of Hawaii, in the State of Hawaii; and we are not going to dig up the City of Lihue to meet the needs of bauxite in the United States.

These items all come from Third World countries of instability. What we are proposing to do here is to provide them the wherewithal to help themselves bring about stability. It does not take much imagination to realize that where there are poor people and hungry people, you are bound to have instability.

I have received hundreds upon hundreds of letters from concerned citizens througout this land who have seen pictures of distended stomachs of little kids in Africa. Every church group is pleading for money. We have the Africa Fund in this bill so the people in Africa can help themselves, so that they can help to see that distended stomachs become a thing of the past.

Ah, but foreign aid is a bad thing. I think it is about time we realize that it is in our national interests to bring about stability in this world—unless we think we can foster a military solution to everything and have a world dictatorship.

Mr. President, the democratic path is not an easy one. It is often frustrating. It is often filled with failures. But it is the best route. This is the route that we propose: the route of providing the wherewithal to these countries so they can help themselves.

I realize that my colleague is not striking the other parts of foreign aid. I am happy for that.

However, just to tell my colleagues what our insistence in cutting down foreign aid has meant to the United States: Spain is not telling us, "Get out." Portugal is now telling us, "Get out." I hope the whole world does not tell us to get out.

Mr. President, I do not know if others wish to speak, but if not, I move to table the amendment.

Mr. NICKLES. Mr. President, will the Senator withhold that for a moment?

Mr. INOUYE. Yes.

Mr. BYRD. Mr. President, will the distinguished Senator from Oklahoma yield to me for an inquiry?

Mr. NICKLES. I yield.

Mr. BYRD. I thank the Senator.

Mr. President, Mr. HELMS had indicated earlier that he was willing to enter into a time agreement on this amendment. Mr. INOUYE is ready, I am sure, to move to table. I wonder if we could reach an agreement on time on this amendment, the remaining time.

Mr. NICKLES. For the Senator's information, I do not believe that my comments will take more than 10 minutes.

Mr. BYRD. Ten minutes to the Senator from Oklahoma.

Mr. LUGAR. I would like 5 minutes.

Mr. BYRD. Five minutes to the Senator from Indiana.

Mr. KASTEN. I would like to speak for 10 minutes.

Mr. BYRD. That is 25 minutes.

Mr. EVANS. Mr. President, I had talked to the majority leader about calling up an amendment I have which is agreed to on both sides. I ask that that be included in the agreement.

Mr. HELMS. Mr. President, if the Senator will yield, why do we not say 10 minutes past 8?

Mr. BYRD. Ten after eight to close the debate on this amendment?

Mr. HELMS. That is correct.

Mr. BYRD. That is agreeable here.

How much time would Mr. EVANS need on his amendment, which he indicates will be agreed to?

Mr. EVANS. Two minutes. I could do it as soon as we get this unanimous-consent agreement.

Mr. BYRD. I am told by the chairman that he is unaware of what the Senator's amendment does.

Mr. EVANS. It deals with clarification with respect to the Columbia Gorge. I have checked with the majority and minority staffs. It has no budgetary impact. It is a clarification as to a wildlife refuge.

Mr. BYRD. I am informed that in view of the fact that the Senate is on the first committee amendment, there is a request that the amendment of the Senator from Washington come later. So if we can proceed with the pending amendment and dispose of it——

Mr. EVANS. That is perfectly acceptable.

Mr. BYRD. Mr. President, I ask unanimous consent that the time remaining on the pending amendment expire at 10 after 8.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I shall not object. I just want it understood that I want 5 minutes of the time. So I think 10 minutes past 8 will be all right.

Mr. BYRD. I include that in my request.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. I thank all Senators.

Mr. NICKLES. I thank the majority leader.

Mr. President, I want to compliment the distinguished chairman of the Foreign Operations Subcommittee, Mr. INOUYE, for the fine work he has done, as well as Senator KASTEN, the ranking member.

I have mentioned to them during the markup of this bill my intention to offer an amendment to do the same thing the Senator from North Carolina has done, to delete funds for the multilateral development banks.

I think we need to send a signal to these banks. They have wasted a lot of money. The $257 million provided in this urgent supplemental bill mostly goes to fund the IDA. The IDA makes loans, if you would call them loans—no-interest loans. Not only are they no interest, but they waive principle and interest payments for as much as 10 years. The term of the loan is 50 years, again, with no interest.

So, I don't know whether you call that a loan, I do not know.

Mr. President, the IDA is spending a lot of money that is very contrary to the interests of United States. Such as the coal interest in West Virginia. They have made loans to compete with our coal interests. They have made loans to compete with agricultural interests throughout the United States, whether it be soybean farmers or wheat farmers. They have made a lot of loans to turn around and compete with our domestic interests. And they are making loans at terms which our farmers do not receive, which our coal producers do not receive, again a no-interest loan.

While I agree that the majority of this money goes to developing countries, there is a considerable amount that goes to our international competitors, to Argentina, to Brazil, to a lot of countries that we find ourselves losing ground to in international competition.

Mr. President, I ask unanimous consent for printing in the RECORD a couple of articles. One is from the Wall Street Journal dated April 22, 1987, called "A Sneaky Supplemental for the World Bank."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 22, 1987]

A SNEAKY SUPPLEMENTAL FOR THE WORLD BANK

(By Joe O. Rogers)

The Appropriations Committee is preparing to bring before the full House April 22 substantial increases in funding for farm subsidies, modernization of the machine-tool industry and support of ailing oil producers. This time, however, no Americans need apply.

The funds are for the World Bank's notoriously profligate International Development Association (IDA)—50-year loans, no interest and 10 years of grace—and the African Development Bank. Total tab: just over $250 million.

The vast majority of funds channeled through the World Bank and its sister agencies find their way to the nationalized industries and state-run agricultural cartels. Like most welfare, this spending is ultimately destructive of the economies and people who receive it. Rather than providing credit for competitive, market-determined uses, it goes to feed swollen bureaucracies and to appease the political elites who allow them to remain in place. Where it does lead to production, it undercuts any unsubsidized producers elsewhere.

Until substantial reform in the operation of the World Bank and its affiliates is obtained, new funding should be withheld. If reform is not possible—the Reagan administration has failed in six years of continuing effort—funding should be terminated. (This applies equally to soft loans from IDA and the "hard-loan" window of the World Bank; only their repayment terms differ.)

A few examples illustrate the continuing problems.

The World Bank has recently approved a $100 million loan to China to rehabilitate its machine-tool industry. State-run by definition, it is in direct competition with our own beleaguered industry. If successful, this project will reduce the sizable Chinese market for American producers and create the potential of a major new international supplier. Should this have occurred as a result of a competitive environment there could be no quarrel with the growth of China's industry. As part of a wave of subsidies, it is outrageous.

In February, the World Bank approved a so-called "trade-policy loan" for Indonesia that, the World Bank reports, "will be used to support the government's efforts to respond to the sharp fall in oil prices . . . while enabling it to regain stability in its balance of payments and in its budget." According to the Far Eastern Economic Review, the World Bank plans an additional loan this year aimed at improving agricultural production. Total cost: about $500 million. In combination with similar loans made by the Asian Development Bank, this package yields a substantial floor under the price of Indonesian crude oil not available to market-economy producers.

Unfortunately, these are not isolated cases. The 1986 World Bank Annual Report provides a classic description of its activities. On page 118, citing a $90 million IDA loan, the directors worte: "Funds will be onlent by the Agriculture Bank of China to individual farmer, household, collective units, and enterprises owned by local governement and entities and collectives . . . for the development of aquaculture orchards, agroprocessing, and livestock enterpises." No farm-bank crisis there!

Similar examples abound: $30 million went to Burma to increase rice exports; $15 million to the Bolivian National Oil Co.; $64 million went to Hungary, a communist nation, to reduce its coal imports—sorry, West Virginia; $3.9 million of IDA funds went to Guinea to manage government-owned mining operations; $100 million to Hungary "to enable it to achieve international competitiveness;" $12 million of IDA funds went to the Yemeni government for its national oil company.

Perhaps the most interesting aspect of the legislation up this week is the fact that it is part of a "supplemental" appropriations package. At one time such legislation was interested to accommodate emergency situations that could not be foreseen at the time regular appropriations were enacted. An example is the $50 million included for humanitarian earthquake relief for El Salvador, a real and tragic emergency.

For most of what's involved here, there is no real emergency. Congress considered requests for funding all of these agencies in the regular appropriation passed in October. At that time, with full information available and after extensive hearings, a deliberate decision was made not to appropriate during the current fiscal year the funds now being proposed. Nothing of substance has changed to warrant a reversal of that decision.

What has changed is that the supplemental appropriation receives less scrutiny than the regular legislation. Spending requests shaved in that fall legislation can be reborn in the spring with little chance of detection. The fiscal budget now under consideration is for 1988; fiscal 1987, currently under way, can be bloated with impunity. To cap the legislation legerdemain, Speaker Jim Wright pulled this bill from the pre-Easter calendar because the House was considering its budget. The speaker did not wish to be seen spending on foreign-aid extravagances while advocating substantially increased taxes and further reductions in the nation's defense. Now the coast is clear.

Congressional largess is likely to go on, but altering U.S. policy toward subsidized competition may be possible. Rep. Beau Boulter (R., Texas), Sen. Steven Symms (R., Idaho) and others have introduced a bill to allow U.S. representatives at the World Bank and its sister organizations to support only those loans that do not provide subsidies to competitors of American agricultural or mineral producers. This would require that the borrowing government must lend the proceeds to its producers at locally competitive interest rates and that no production, operating or export subsidies be provided.

Enactment of this legislation would be a good first step toward reform. Perhaps creative floor strategies can substitute it for the folly of the supplemental package. At the very least, their efforts can focus attention on what is being done and send this legislation back to the Appropriations Committee for badly needed rewriting.

Mr. NICKLES. Mr. President, I will not read this entire article, but I will highlight a couple of loans that it mentions.

It says that "The World Bank has recently approved a $100 million loan to China to rehabilitate its machine tool industry."

It is a state-run industry. The machine tool industry which I happen to be quite familiar with, that is what I did for some time before coming to the Senate. The U.S. machine tool industry is having serious trouble.

As a matter of fact, the machine tool industry in the United States, and the Senator from Pennsylvania is probably aware, has been hurting. Yet we are talking about giving a $100 million loan to a Communist country to assist their machine tool industry, a state-controlled economy. I find that absurd.

The United States representative had reservations on this loan, but they overrode the United States. As a matter of fact, the United States abstains or votes "No" in a number of these loans and yet the World Bank continually overrides the United States interests even though we put up a very generous portion of the money. And the United States taxpayers fund our competition.

I find that to be wrong.

Again I compliment our chairman because I think he has tried to get the attention of various officials to change and reform their policies. I know the Senator from Wisconsin has tried to do the same thing.

They have been very vigorous in their examination of Treasury officials and others in trying to enact some reforms.

I even compliment the Treasury officials. They have tried to make some reforms, but the final result is in many cases they have not been successful. I think they have made progress, however.

But when you see these kinds of loans being approved, and there are many—I mentioned a $100 million loan to China. There was a $100 million loan to Hungary to enable it to achieve international competitiveness, again a Communist country; a $30 million loan went to Burma to increase rice exports. That should be of interest to the Senators from rice-producing States. A $15 million loan went to the Bolivian national oil company. A $64 million loan went to Hungary to reduce its coal imports; $3.9 million went to Guinea to manage government-owned mining operations; $12 million went to the Yemeni Government for its national oil company and on and on.

I have a list of just a couple pages that I asked my staff to pull together of very questionable loans. Again many of these are loans that are no interest loans.

A $130 million loan to Colombia for petroleum development. Again I know the Senator from West Virginia has petroleum problems, energy problems, coal problems, and yet we are making that kind of a loan to Colombia. I remember a $350 million loan that went to Argentina to increase their agricultural exports of hard red winter wheat. They are competing with Oklahoma wheat farmers.

We had I think $500 million that went to Brazil, $400 million, so they could increase their exports of soybeans and soybean oil, again to compete with American farmers.

That is absurd.

Mr. President, on top of questionable lending practices and on top of the fact that in many cases they have ignored United States administration and committee requests to reform their policies, the banks continue irresponsible administrative practices. In the Washington Post on Friday, May 8, there was a report that the World Bank is proposing a severance pay plan that is estimated would cost, and I would like to get the chairman's attention on this, a maximum of $150 million. We are talking about severing 600 out of a total 6,000 employees. That is an estimated severance cost of about $250,000 per employee. That is absurd.

To read from the article, it said $150 million works out to an average of $250,000 per severed employee if all 600 lose their jobs and and as much as $500,000 each if only 300 are cut from the payroll.

I personally have contacted Barber Conable, President of the World Bank, to ask him about this. I understand that the United States has indicated their opposition to this plan, but, as I have stated before, many times the United States will indicate opposition to various loans or various policies of the World Bank, but they do it anyway. We cannot afford this type of extravagant, unbelievably expensive proposal on an urgent supplemental.

This is not urgent. We cannot afford this. The taxpayers cannot afford it. We need significant reform.

In the Washington Business Journal, the week of March 23, 1987, it says a building sold for the highest price ever in Washington, DC, to the Inter-American Development Bank. They paid $145 million for a building in Washington, DC, $145 million, just recently, March 1987.

Again I think this is not the time to be giving an urgent supplemental of $257 million to international development banks that have been very loose with our money in the past, not to mention the fact that they subsidize our competition. I know that the chairman has tried to get their attention. I think the way we will get their attention is by reducing their flow of funds.

I would hope that our colleagues would support the amendment.

I ask unanimous consent to be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to have the Washington Post article of Friday, May 8, 1987, printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, May 8, 1987]

U.S. WILL OPPOSE GENEROUS WORLD BANK SEVERANCE PLAN

(By Hobart Rowen)

The Reagan administration is actively opposing as "excessively generous" World Bank President Barber B. Conable Jr.'s proposal to give an enhanced severance-pay package to top officials who could lose their jobs as part of a reorganization plan announced Monday.

Conable has announced that as part of his effort to make the bank more efficient, at least 300 jobs will be eliminated immediately, and that as many as 300 more eventually could be trimmed from the 6,000-person staff. The severance pay, he estimated, would cost a maximum of $150 million, while the cost of operating the bank would be reduced by $50 million a year.

The $150 million works out to an average of $250,000 per severed employe if all 600 lose their jobs, and as much as $500,000 each if only 300 are cut from the payroll.

A bank official said that the $150 million estimate related only to the 600-job reduction, but cautioned against simply dividing one figure by the other.

The World Bank, which lends money to the world's poorer countries, adjusts employes' salaries so they effectively pay no federal income taxes.

U.S. government officials will oppose the Conable plan at sessions of the bank's executive board, and they appear to have support from some other governments, it was learned yesterday.

The U.S. government also has registered formal regret that Conable passed over an American when he appointed Moeen Qureshi, a Pakistani, as senior vice president for operations and W. David Hopper, a Canadian, as senior vice president for policy and planning.

On the severance issue, an official said that "a variety of approaches" are being considered and that there would be different separation packages. He said part of the $150 million would pay for retraining employes shifted to new jobs.

He acknowledged that for some highly paid senior officials from foreign countries with long service at the bank, the severance cost would be high, perhaps $200,000. The payments would be in addition to earned pensions.

The high cost of separation, he said, is because the bank is obligated to pay resettlement costs for foreign nationals—who constitute about 75 percent of the staff—as well as other benefits earned by service. Foreigners employed by the World Bank work in the United States on special visas, and must leave the country or find employment at another international institution if they lose their bank jobs.

One bank official said the "enhanced" termination package that the United States objects to also covers "educational and health benefits for a transitional period for the foreign staff, and full pay for a set initial period while [undergoing] counseling for new jobs."

In complaining about the Qureshi and Hopper appointments, the Reagan administration said that those officials "are of the highest quality" and that "these views in no way reflect upon the individuals chosen for the jobs." But the statement, made available at the Treasury Department, said "we would have preferred" that these posts had gone to individuals from a major shareholding country. And in the case of the job to which Hopper was appointed, the statement said the American preference would have been for Conable to go "outside the bank."

The major shareholding countries are the United States, West Germany, Japan, France and the United Kingdom. But a spokesman acknowledged that the United States was annoyed that at least one of these jobs, preferably the key operations assignment, did not go to an American. Prior to the reorganization, that post was held by Ernest Stern, a U.S. citizen.

Mr. NICKLES. Mr. President, a final request. I ask unanimous consent to print a list of series of questionable loans in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF QUESTIONABLE WORLD BANK LENDING FISCAL YEAR 1985–86

Date	Bank	Borrower	Amount	Purpose	U.S. vote	Reason for no vote
Nov. 6, 1984	IBRD	Colombia	$130.0	Petroleum development	No	Potential displacement of foreign private capital.
Feb. 1985	IFC	Brazil	3.00	Consigua Steel modernization		
Mar. 14, 1985	IBRD	China	126.0	Increasing coal production by about 4.5 mtpy by the early 1990's	Yes	
Mar. 21, 1985	IBRD	Morocco	27.0	The Jerada coal mining project. The main benefits of the project are: foreign exchange savings and earnings.	Yes	
Apr. 1985	IDA	Ethiopia	30.00	Drought recovery program	No	Expropriation.
Apr. 2, 1985	IBRD	Hungary	80.0	Increase convertible foreign exchange earnings through the expansion of exports of processed animal products; produce cattle, pigs and sheep and processed meat and cheese; provide funds for pasture, farms, slaughterhouses and export marketing services. Beneficiaries ranging from farms to meat processing plants.	Yes	
Apr. 11, 1985	IDA	Liberia	2.6	Will consist of offshore exploration promotion; onshore exploration; will enhance the capacity of the petroleum subsector to attract further private capital to undertake hydrocarbon exploration on acreage that is still free.	Yes	
Apr. 30, 1985	IDA	Bangladesh	110.0	The second gas development project. Will consist of drilling 9 wells, the workover of 2 existing wells, and approximately 117–mi long gas pipeline.	Yes	
May 7, 1985	IBRD	Malaysia	31.2	Will assist in constructing 7 palm oil mills	Yes	
June 25, 1985	IBRD	Argentina	180.0	Investments in gas field development; producing high value liquid hydrocarbons from natural gas; increasing the total amount of oil recoverable from known field and to improve the transportation of petroleum and petroleum products.	Yes	
July 15, 1986		Malaysia	55.0	W. Jabor ADP 11	No	Economic.
Sept. 18, 1986		India	8.6	Carbon black	No	Do.
July 23, 1985	IBRD	Mexico	180.0	Raise agricultural productivity with a view to increasing food production, agricultural exports, and real farm income; improve agricultural sector policies by reducing interest rate subsidies and restricting them to special target groups.	Yes	
Nov. 26, 1985	IBRD	Guinea	3.9	Mineral sector management	Yes	
Dec. 17, 1985	IDA	China	90.0	Development of aquaculture, orchards, agro-processing and livestock enterprises.	Yes	
Do	IBRD	Mauritania	20.0	Help will be provided to the Societe Nationale Industrialle et Miniere. Purchase of critical equipment and provision of technical assistance and training.	Abstained	
Jan. 14, 1986	IDA	Bangladesh	78.0	Population III	No	Possible abortion.
Mar. 4, 1986	IBRD	China	100.0	Rehabilitation of the machine-tool industry	Abstained	
Apr. 22, 1986	IBRD	Brazil	155.0	2d agricultural-extension project; seeks increase in scope, efficiency, and effectiveness of the National System for Technical Assistance and Rural Extension.	do	
Apr. 29, 1986	IBRD	Zaire	110.0	Provide financing for Gecamines' 5-yr rehabilitating program aimed at maintaining present production capacity while raising productivity and reducing production costs.	Yes	
Do		Brazil	110.0	Gecamines rehabilitation	No	Economic.
May 20, 1986	IBRD	Hungary (3.00)	64.0	Increase utilization of domestic coal; institution-building assistance to the Hungarian electric power trust.	Abstained	
May 29, 1986	IBRD	Burma	30.0	Increase rice exports	do	
May 27, 1986	IDA	Hungary	100.0	Increase international competitiveness	Yes	Additional IFC equity not necessary, and therefore could displace local private investment.
June 19, 1986	IBRD	Brazil	500.0	Electric power sec. I–A	No	Economic
July 15, 1986		Malaysia	55.0	W. Jabor ADP II	No	Do.
Sept. 18, 1986		India	8.6	Carbon black	No	Do.

Mr. NICKLES. I yield the floor.

The **PRESIDING OFFICER.** The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Washington mentioned at the outset of this debate that it is clear that some Senators do not like these banks at all. As a matter of fact, they fault them for lack of administration. They fault them for making loans to Communist countries on occasion. They fault them for specific loans to industries that cry for protection in this country. All of this is true.

Demonstrably, as the Senator from Oklahoma has pointed out, loans have been made to Communist countries. It is also a fact that sales of wheat to the Soviet Union a couple of weeks ago, high subsidies, were widely applauded by both sides of the aisle here to the

Soviet Union, not simply to a satellite for Warsaw Pact countries.

I would suggest that there are a number of Senators who are very eager to promote trade with the Eastern bloc, given certain provisos that wheat, after all, is not a strategic weapon.

Mr. President, before we condemn these banks because they make the occasional loan that facilitate trade with the East, we ought to at least be consistent about overall thought of moving products, including agricultural products. We ought to also be consistent, it seems to me, in pointing out that if protectionism is the game and if we are talking about trade, and we certainly are this year, and about American jobs and exports and what have you, we really ought to zero in on what is at the heart of the matter on this debate.

Those on the side that will oppose the amendment of the Senator from New York will contend that these banks are absolutely required, if the United States is to boost exports, if we are to increase jobs, if we are to make any difference as a matter of fact in expanding our trade in the world today, the facts are, Mr. President, that there are very few nations left with money to buy our agricultrual products or to buy our industrial products, very few.

We will have many speeches on the floor this year about imbalance of trade and about how jobs are being lost, but, Mr. President, this is a crucial moment right now. It comes at an unusual time, a quarter to 8. Members may not be interested any longer, but we are about to terminate U.S. influence in international finance. That is a serious subject. And the amendment of the Senator from New York does that very effectively.

It does not repeal our participation in the banks, per se. It does it de facto. That is the intent of the amendment.

We debated in the Foreign Relations Committee very frequently the foreign assistance situation. There are some Senators who are not in favor of foreign aid. There are some that are not in favor of rural banks. I appreciate that, and it is an honest debate. But let us have it right out here on the table in the event that Senators want to term national this money they do have an urgent situation on their hands. The urgency is jobs. The urgency is exports. The urgency is customers and their ability to pay.

Without our facilitating the international banking system we are going to have big trouble.

Mr. President, I would hope that all Senators remind those who want to terminate these international banks tonight, that when we get around to the textile bill, to the shoe bill, to the support of any number of agencies and products that want protection in this country, let us just say we had an opportunity tonight to facilitate trade, to build jobs, to build this country, as opposed to making a mean-spirited attitude that somehow or other the taxpayers of the United States are going to be hurt if some $200 million goes to these banks.

I advocate the contrary. The taxpayers of America tonight will get their money's worth because there will be more exports, more jobs, more prosperity, and less meanspiritedness in the whole trading issue.

I hope Senators would rally around the cause. This is a good time to do so. We ought to indicate still that we have our eye on the ball with regard to international trade in the ways it might be paid for, in the ways customers might arise to embrace our exports and get back into the ballgame with us.

I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I want to associate myself with the remarks of the Senator from Indiana, the Senator from Hawaii, and others who have spoken out in favor of the committee position on the multilateral development banks. I want to say, at the same time, that I agree with almost all of the points raised by the Senator from Oklahoma in his opposition to some of the past policies of the multilateral development banks, particularly the World Bank. As he stated, he knows that Senator INOUYE and I have been working to reform the bank and working in this direction.

But, right now, I believe that this amendment is inappropriate. I want to just outline, if I can, to my colleagues a couple of different reasons.

First of all, this bill, most particularly our foreign assistance section, is a carefully worked-out compromise. There are a number of parts of this compromise. If this amendment were to pass, other parts of the compromise would also be likely to fall and we would find ourselves in the position not only of just eliminating this section of the bill but, in fact, eliminating the entire foreign aid compromise and section of the bill, which I think is very, very important and is of an emergency nature.

First of all, it has to be understood that these appropriations are not for new programs. They are for replenishments which have already been agreed upon, not only by the members of the individual financial institutions, but by the administration. And these numbers have also been agreed upon and voted on by the U.S. Congress. In fact, we are behind. The funds that we are recommending here are for arrearages of these replenishments, which funds we are going to have to provide eventually anyway.

That is the second point I would like to make. I think all of us are familiar with the fact that in the budget, all different versions of the budget that we have seen, we have seen a continued reduction in the overall foreign aid account. There is some flexibility in some parts of the foreign aid account, but in the cases of agreed-to funding levels, as these multilateral development banks are, those dollars are going to be paid. They are going to be paid either here in the supplemental or we will simply get further and further behind and then they will be paid and picked up in the bill this fall. Any dollars that we are unable to fund now are going to make our budget problems worse this fall.

And, as the Senator from Hawaii realizes, absolutely, we are already in a difficult situation in terms of being able to fund our basic responsibilities within the 150 account.

The largest portion of the multilateral development bank appropriations in this supplemental is for the World Bank soft loan window, and almost half of that goes to Africa. The Senate, in fact both Houses, the House of Representatives and the Senate, and indeed the American people, have, over the last few years, expressed a strong commitment in a number of different ways to helping that continent solve its development problems and also its problems of drought and problems of emergency food aid.

It is important to note that it is this administration which changed the amounts of World Bank soft loans going to Africa, as before, fully 40 percent of those funds were going to India. That has been changed now, and roughly half of those funds are slated to go to Africa, which is where we, as a Congress, have also put our emphasis. I think it is important that we recognize our commitment right now to the continent of Africa.

Third, I think it is important to point out that the World Bank, which is the primary beneficiary of these funds, is a different institution today than the institution which the Senator from Oklahoma was describing. In other words, we are making progress. It is getting better. It is not perfect. We have not solved all the problems we are trying to work on, but it is getting better. The institution is greatly improved on a whole number of fronts.

A lot of us have been concerned, for example, with bank-supported projects which tended to increase the production of commodities which were already in surplus in world markets, and which, therefore, harmed U.S. producers of those commodities. Work still needs to be done on that issue and it is important that we discuss it tonight. But we have, in fact, come a long way.

This issue is foremost in the minds of bank managers, as well as the board of directors when they are in the process of considering loans. In fact, there are cases in which they have backed off from support because of this very fact. Testimony, which we received in the committee from the Department of the Treasury, flatly states that such loans are greatly reduced over previous years and we have to keep the pressure on and continue to work and see that we continue to make progress.

But it is a different institution today than it was in this particular area.

Another area that a number of us have been concerned about is the overall organization and the bureaucracy, the bloated bureaucracy, I would say, not only of the World Bank but the Inter-American Development Bank and the other multilateral development banks as well. Again, here we are seeing change and a number of reforms have been instituted.

In addition to the reorganization overall, we are seeing a reduction, a significant reduction, in staff.

Mr. NICKLES. Will the Senator yield?

Mr. KASTEN. I am happy to yield.

Mr. NICKLES. I do not know if the Senator caught my comments, but I was trying to get his attention on this. There was a report recently stating that the severance plan, as proposed by the World Bank, would cost $150 million and possibly as much as $250,000 or more per severed employee. Does the Senator agree with this Senator that that is excessive?

Mr. KASTEN. Absolutely. And I agree not only that it is excessive, I agree with your characterization in terms of the overall cost.

Now, they can argue they are going to be making savings and you can look out over 10, 15, 20, 25, whatever, years, and you can argue there is an economic benefit even with those severance costs. But the Treasury Department is against those severance charges. The Congress, I believe, will be against those severance charges. And if that particular plan goes into effect, I think it is fair to say that the World Bank is going to have an even more difficult time going through our subcommittee working for the appropriations which it needs.

I hope that our Treasury Secretary and our representatives to the World Bank and, in fact, the president of the World Bank, Barber Conable, are going to work in opposition to that severance pay plan. I hope it is defeated. I think it is wrong. I think it is costly. I think it is overly generous. It is much more than would be the case in private industry.

I think it is unnecessary. I hope that we are going to see changes in that area, as well. I do not accept the severance pay plan as has been announced. I hope we will be able to change it.

But, once more, in the area of environment, the third area I would like to touch on, we have seen a change. A number of us have been critical over the years in terms of the lack of environmental considerations in bank projects. This also is an issue that now is being forthrightly dealt with by the new president of the bank as part of the reform proposal which he outlined.

In a speech made last Wednesday, Barber Conable announced his environmental reforms as part of the reorganization. I commend him for being responsive to the environmental criticisms which I and others have raised. We still have work to do. The job is not done. We still have work to do. We are not prepared to say the plan is working now we are going to go away. We are going to keep the pressure on.

But they are moving in the right direction and I think it would be wrong to cut their funds now, particularly in terms of the delicate compromise that we have reached.

Mr. President, for all of these reasons, I am hopeful that the amendment would be defeated.

First of all, this section of the urgent supplemental is, in fact, urgent. The funds are in arrears.

Second, it is within the budget.

Third, it is within the administration's request.

Fourth, it is important that we meet our overall commitment to the multilateral development bank at this time.

Mr. President, I ask unanimous consent that a speech made by Barber B. Conable, president of The World Bank, to the World Resources Institute on May 5 concerning the Bank's environmental reforms be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address as Prepared for Delivery by Barber B. Conable, President, the World Bank and International Finance Corporation

It is an honor to address members and supporters of the World Resources Institute.

The Institute is a global resource itself. Policymakers owe you a lasting debt of thanks for the research you pursue and the admirable balance with which you present it.

What I owe you on this occasion is a report on the World Bank's actions, plans and progress in matching our fight against global poverty with our commitment to environmental protection.

The two goals are not just consistent. They are interdependent. Sustained development depends on managing resources, not exhausting them.

Economic growth based on any other premise is a costly illusion. What is wasted or poisoned today leaves that much less to nourish the world tomorrow.

"Environmental neglect," as I said to the Governors of the World Bank seven months ago, "destroys assets vital not just to the quality of life but to life itself." Environmental planning, I would add tonight, can make the most of nature's resources so that human resourcefulness can make the most of the future.

I share the optimism of the recently released report of the World Commission on environment and Development. With its members I, too, "see . . . the possibility for a new era of economic growth . . . based on policies that sustain and expand the environmental resource base."

My optimism, like theirs, is tempered by caution.

In environmental affairs, as in many others, science has outdistanced government. Yet many of the problems the world has come to recognize as urgent are still beyond man's technical, as well as political, capacities.

We know that we must stop the advance of the deserts. We do not yet know how.

We know that population control is essential to environmental protection. But, for all the progress of past decades in family health and planning, population growth in many of the poorest lands continues to outrun resources.

We know that we must save the tropical rain forests. But neither developing nations nor international institutions have adequate alternatives for hungry people in search of food, and the land to grow it on. And researchers are only beginning to discover the potential of the forests to support settled and wildlife together.

Most broadly, we know of the planet-wide threat to the basic resources of air and water on which the survival of earth depends. But common effort to save the global commons requires a degree of institutional coordination and a measure of sustained political resolve that man applies more readily in destroying than in preserving life.

In measuring the influence of the World Bank against the environmental challenge, I see how long a road there is to travel from awakened environmental consciousness to effective environmental action.

The Bank has long been at the forefront of that march. Ours was the first international lending institution to set explicit policies on limiting any harmful environmental consequences of development projects it supported. In the early 1970s, for exemple, a Bank-financed iron ore terminal was built on a Brazilian beach under strict safeguards against pollution and with real respect for the site's natural beauty.

Inevitably, the Bank has also stumbled. For instance, a more recent Brazilian project, known as Polonoreste, was a sobering exemple of an environmentally sound effort which went wrong.

The Bank misread the human, institutional and physical realities of the jungle and the frontier.

A road which benefited small farmers also became a highway for logging companies.

Protective measures to shelter fragile land and tribal people were carefully planned. They were not, however, executed with enough vigor.

In some cases, the dynamics of the frontier got out of control.

Polonoreste teaches many lessons. A basic truth is that ambitious environmental design requires realistic analysis of the enforcement mechanisms in place and in prospect.

When mistakes associated with the Polonoreste project became obvious in early 1985, the Bank interrupted payments as a way to encourage important corrective measures. We learned not that we should avoid projects with environmental implications, but rather that where institutional safeguards are weak, the Bank must be a positive force to strengthen them.

Brazil has now made progress in building safeguards for environmental protection. And the Bank is anxious to support Brazil's government in pursuing a National Environmental Program that can become a model for other nations.

For a second basic truth is that development cannot be halted, only directed. And the Bank cannot influence progress from the sidelines. It must be part of the action.

With the developing nations, we must go on learning by doing. If the World Bank has been part of the problem in the past, it can and will be a strong force in finding solutions for the future.

"Nothing so needs reforming," Mark Twain observed, "as other people's habits." The Bank will begin by reforming its own.

First, we are creating a top-level Environment Department to help set the direction of Bank policy, planning and research work. It will take the lead in developing strategies to integrate environmental considerations into our overall lending and policy activities.

At the same time, new offices in each of the four regional technical departments will take on a dual role. They will function both as environmental watchdogs over Bank-supported projects, and as scouts and advocates for promising advances in resource management. In this process, they will routinely consult with environmental officials in developing countries, and will work to strengthen local institutions. The establishment of these offices will increase significantly the number of staff directly involved in environmental programs.

These organizational changes do not just add layers of interference to head off errors of commission. The added staff will also help define policy and develop initiatives to promote growth and environmental protection together. They will work to ensure that environmental awareness is integral to all the Bank's activities.

Environmental action adds a new dimension to the fight against global poverty. It recognizes that sound ecology is good economics. Indeed the objectives of sustainable economic growth, poverty alleviation and environmental protection are often mutually reinforcing.

Population pressure, pushing farmers onto increasingly marginal land, is a major cause of ecological problems in many countries, particularly the poorer ones. Curbing population growth is essential for sustainable economic growth; otherwise it will not be possible to introduce policies and programs that steer farmers to the best land, that induce the production of crops which strengthen the soil and stem erosion, that bring livestock to graze where pasture is rich, and that educate city and country dwellers alike to respect and safeguard the balance of nature.

The World Bank is a force for development and will remain so. We will continue to support major investments in energy and infrastructure, in industrialization and irrigation.

Our role in such projects, however, will include greater sensitivity to their long-term environmental effects. And we will put new emphasis both on correcting economic policy incentives that promote environmental abuse, and on stimulating the small-scale activities that can combat human and environmental deprivation.

Not only will we strengthen the Bank's long-standing policy of scrutinizing development projects for their environmental impact and withholding support for those where safeguards are inadequate, but we will also institutionalize an approach to natural resource management that puts a premium on conservation.

As part of these philosophical and institutional changes, I propose to allocate new resources to a number of new environmental initiatives.

In partnership with member countries and with the rest of the development community, we will begin with an urgent, country-by-country assessment of the most severely threatened environments in developing nations.

We will promote a continent-wide initiative against the advance of the desert and the destruction of forests in Africa.

We will contribute to a global program to support tropical forest conservation.

And we will participate in a cooperative effort by the nations of the Mediterranean and other international agencies to prepare a long-term campaign to protect that sea and its coasts.

As recent events have demonstrated, environmental protection is a subject which warrants increased efforts in industrialized as well as in developing countries. But progress is especially hard to achieve in the developing world.

So many other priorities demand simultaneous attention. So few skilled personnel are available. And so much must be done to build the institutional capacity to handle complex environmental issues.

Acknowledging those realities, the World Bank also acknowledges its special responsibilities in helping developing nations shape their growth. As an advisor, a source of intellectual as well as financial support, the Bank must be responsive and innovative. And as a lender, it must exert new and persuasive influence to integrate better management of natural resources into development planning and investment.

Fortunately, we are far from alone. The Bank can profit from and contribute to the valuable work of our member nations, the expert and dedicated efforts of non-governmental organizations and the wide, continuing experience of other international agencies such as the United Nations Environment Program.

We must start, however, with better knowledge of the problems and the opportunities we face.

To gain that understanding, the Bank will use our added staff resources in a collaborative effort to assess environmental threats in the 30 most vulnerable developing nations. That five-year process will involve not just study but education, and not just in the Bank but also with responsible developing country policymakers.

Our goal will be to develop a new appreciation of the forces at work against environmental balance. Our objective is a sort of natural resources balance sheet, a coherent planning instrument for better management.

I believe we can make ecology and economics mutually reinforcing disciplines. By looking closely at market forces and broadly at all key sectors of development activity, we can identify both the effective and perverse factors shaping and misshaping the environment.

I am not proposing make-work research. What I seek from data—much of which is already on hand—is a composite inventory of environmental assets and liabilities.

With such a planning instrument, we could move toward establishing the value of those priceless resources—topsoil and grass cover, water and drainage, human skills and traditional lifestyles—we too often treat as worthless.

Let us show in economic and environmental terms what subsidies to pesticide producers and timber cutters and livestock growers actually cost in ruining the land and driving families from it.

Let us weigh the real price of wilderness resettlement against the expense of health and family planning clinics, of agricultural extension services, new crops and new farming techniques.

Let us hold pricing policies and currency values up to the light of environmental analysis to see if and how they encourage over-exploitation of natural resources.

And let us acknowledge that, while we must exercise increasing care with large-scale development projects, small is not necessarily beautiful. It is time we recognize that individual practices driven by poverty and ignorance and unexamined economic policies have cumulative effects that are just as environmentally destructive as any badly planned wilderness road or hydroelectric project.

We must reshape not just the Bank's outlook and activities but also the customs and ingrained attitudes of hundreds of millions of individuals and of their leaders. In doing so we must remember another piece of Mark Twain's wisdom: "Habit is habit, and not to be flung out of the window, but coaxed downstairs a step at a time."

Our environmental assessment surveys will move us one big step forward. They will assemble the knowledge we need to move further and faster toward environmental rationality in our lending programs.

In Africa, while country assessments proceed, the Bank will also lay the ground for action that crosses national boundaries and tackles regional environmental dangers.

Africa's needs are critical. Over the last 15 years, despite the best efforts of African governments and the international community, per capita income and per capita food production in most of sub-Saharan Africa have declined. At the same time and in the same areas, deserts have spread, forests have dwindled, soil has washed away.

With population projected to rise from 380 million to 690 million in the last two decades of the century, the pressures of urbanization, fuelwood consumption and slash-and-burn farming are stripping West Africa alone of 3.6 million hectares of forest a year. Continued over three years, that tempo of deforestation would denude an area the size of Greece; over ten years, the Ivory Coast.

The rate of forest loss in five West African nations is seven times the world average, and desertification in just one country—Mali—has drawn the Sahara 350 kilometers farther south in the last 20 years. The Congo River carries an average of 65 million metric tons of soil into the ocean each year.

Against these natural and man-made forces, I believe we must mount an international environmental rescue and development effort in sub-Saharan Africa. I will ask World Bank staff experts to draw up a special program of technical studies to identify and assess urgent, promising environmental protection projects, regional, not just national, in their sweep.

Environmental threats do not respect political lines of demarcation. Environmental solutions must generate political and technical responses as broad as the challenge.

Our work should point the way for action by donor and recipient nations and non-governmental organizations. The latter have a particularly important role to play, in that problems of deforestation and natural resource degradation are development problems and can best be solved with the active participation of people at the grossroots level. Our common priority should be coordinated intervention against the spread of deserts and for the conservation of forest resources.

We must be bold in both the scope of our enterprise and in testing untried ideas. Unless we reach beyond today's limits and doubts, we cannot truly measure our capacity for progress.

Tropical forests in Africa, Asia and Latin America also demand priority attention. Tropical deforestation is not only a major environmental problem, it is a critical development problem as well. Deforestation is leading to widespread degradation of the natural resource base, undermining the capacity of the environment to support developing country economies and populations.

The World Bank is the world's largest single source of financing for tropical forest conservation and development. Over the past decade World Bank investments and technical assistance grants in forestry have exceeded one billion dollars. We are ready to do more.

The Bank intends to more than double its annual level of funding for environmentally sound forestry projects from $138 million this year to $350 million in fiscal 1989. At the July meeting in Bellagio, Italy sponsored jointly by your Institute, the Rockefeller Foundation, FAO, UNDP and the Bank, we will propose specific strategies for expanding priority work in forest management and reforestation.

Our Tropical Forestry Action Plan is a direct outgrowth of the World Resources Institute's excellent 1985 report, "Tropical Forests: A Call for Action". That study called for a doubling of forestry investments over the next five years. It redefined the challenge of conservation by making it clear—in cost-benefit terms—how deforestation impoverishes both man and nature. It also recognized that simply providing more funding for forestry is not enough; increased investment in forestry must be accompanied by policy measures designed to ensure sustainability.

We are improving our understanding of the connection between the loss of tree cover in upland watersheds and flood damage downstream, between fuelwood scarcity and fertilizer shortages and between the annual destruction of 11 million hectares of tropical rain forest and the loss of plant and animal species of great, potential genetic benefit to mankind.

We are becoming increasingly able to define investment programs to correct past mistakes and prevent new ones.

We can mobilize resources for agroforestry and sustainable farming systems based on it.

We can help nations determine the wooded areas to protect and those to use more intensively.

We can help train foresters and farmers in new techniques of tree breeding, in the cultivation of medicinal plants and the conservation of wildlands.

We are, in short, better aware of the gravity of the global danger, better equipped to address it. Now we must be prepared to mobilize resources to combat deforestation on a global scale.

Lastly, in the Mediterranean region, the Bank stands ready to assist in an intensified international effort to protect the heritage of beauty and natural resources that 18 nations and some 400 million people hold in common.

The governments of the Mediterranean states have long recognized the danger of pollution to public health and to fishing and tourism industries. The World Bank, the European Investment Bank and Regional Development Fund, the United Nations Environment Program, with many other agencies, have been active in providing financial and technical help to alleviate this problem.

Now we are exploring together the possibility of designing a broad, international project to improve the Mediterranean environment and strengthen it with a long-term preservation plan. It is an ambitious political as well as technical undertaking, involving many separate governments and technical support agencies.

The World Bank is well placed to help coordinate their effort. And if, with our assistance, the peoples of the Mediterranean can make progress in managing the great resource they share, they can set an example to the whole world of cooperation in protecting the global commons.

I have given you only an introduction to the World Bank's environmental action agenda. Events, not speeches, will test its sweep and its impact. But I cannot end these remarks without a note of combined caution and exhortation.

While there is much we can do, no one knows better than I do the actual limits of the Bank's influence on the policies and practices of the developed and developing nations. No one knows better than you do the power of informed and aroused public opinion to command and redirect the attention of decision makers.

The World Bank needs the help of environmental activists in every nation, in those where organized groups have already proven their effectiveness and in those where consciousness is only now dawning.

We need your advice, your expertise, your pressure and your imagination to make the urgent work of environmental protection a coordinated campaign for a safer, richer, healthier world.

As ours is a common cause—the battle against global poverty is also the fight for a sustainable environment—let us be allies for progress on every front. There is a long campaign ahead. We cannot accept anything less than victory.

Thank you.

Mr. INOUYE. Mr. President, has all time expired?

The PRESIDING OFFICER (Mr. BINGAMAN). Under the order, the vote was to occur at the hour of 8:10, with the Senator from North Carolina guaranteed 5 minutes of debate.

Mr. INOUYE. Mr. President, I yield back the remainder of my time, if I do have any time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not yield back the time, nor do I want the unanimous-consent request to be altered, because two or three Senators are counting on the 10-minutes-past-8 voting time. I do not choose to speak at this moment, so I suggest the absence of a quorum.

Mr. PRYOR. Mr. President, would the Senator from North Carolina withhold the request?

Mr. HELMS. I withdraw the request.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I do not want to take the time this evening of any of those other Senators who are in line to speak. But if there are no other Senators available or desiring to speak at this time, I might like 1 or 2 moments.

Mr. President, more often than not, I have, as a Senator in this body, voted against foreign aid.

I have become interested, however, in the allegations that a World Bank severance pay plan costing $150 million is going to be paid for out of the funding of this proposal in the supplemental. In doing some research in this matter, I say respectfully to my friend from Oklahoma, to the best of my knowledge and the best of the research that we have been able to do in the last few minutes, this amendment, if all of this money is put in or taken out, would not have any bearing whatsoever on the funding for the severance pay proposal for the World Bank.

I think, under the circumstances, this is going to be one of the few times that I have voted for an increase in foreign aid. I think my distinguished friend and colleague from Oklahoma may not be accurate. I am not saying his motive is wrong, but I am saying that the funds that we are talking about tonight do not relate to the World Bank in the proposal where they would fund the severance pay from.

Mr. NICKLES. Will the Senator yield just for a comment?

Mr. PRYOR. I am happy to yield.

Mr. NICKLES. Mr. President, I do not think I said that this $250 million that will be going in will be funding strictly the severance pay plan. I used that as an example, as I also used the fact that the Inter-American Development Bank paid $145 million for a bank in D.C. The United States pays 20-some percent of the total contributions going to the World Bank. Certainly, if we put in, in this case in the soft loan window, $207 million, some of those moneys may be used for loans and some of the money may be used for severance plans, termination plans, and some of it may be used for buildings in Washington, DC, or for 6,000 employees, or a significant amount of it.

I do not think I was trying to imply that, of the $257 million, $150 million would be used for severance pay plans, although a portion of it may be. The money is fungible, as the Senator knows.

I was just trying to show that the World Bank, in many cases, has used money in a way that is almost unheard of in Arkansas or Oklahoma, even in Washington, DC.

A severance plan that would pay an employee $250,000 is outrageous. The fact that the taxpayers of the United States would pay 20-some percent of that is outrageous as well.

Mr. PRYOR. I did not refer to the employees under these conditions. I wanted to make the record clear that that severance proposal should be divorced from the issue that is at this moment on the Senate floor. I thank the Chair.

Mr. HELMS. Will the Senator from Arkansas yield to me?

Mr. PRYOR. I yield.

Mr. HELMS. The Senator is aware of the predicate that I laid down with the amendment, that it is a budgetary matter. This is an add on. Mr. President, the thing that puzzles me, I will say to the Senator from Arkansas, is that I have not heard one mention during this debate, not even by the Senator from Indiana, that already, in fiscal year 1987, this Congress had appropriated $622,623,251 for the largest of these banks, the International Development Association of the World Bank. We are talking about an add on in spending. We are talking about an urgent supplemental bill. I do not think there is anything urgent about this specific appropriation, and I certainly cannot understand, I will say to the Senator, why $622 million already appropriated to these banks is in any way closing down the banks, as my distinguished friend from Indiana suggested a while ago.

Where I come from, $622 million is a lot of money. It may not be in Indiana, it may not be in Arkansas, but in North Carolina it sure is.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, it is true this is an add on but we have made it up by reducing the Exim-bank by $220 million.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to share some information on how the funding for the International Development Association has grown over the last several years.

In 1979, the association—and these are outlay figures—was $375 million; in 1980, it was $472 million; in 1981, it was $489 million; in 1982, it was $747 million; in 1983, it was $913 million; in 1984, $911 million; 1985 was $873 million, and 1986 was $785 million. To date, as the Senator from North Carolina has already mentioned, we have already appropriated $622 million. This would add another $207 million to the IDA Fund, for a total of $829 million.

You can see from my statement that this funding for the IDA has increased in the United States from $375 million in 1979 to a high of $913 million in 1983. That is an enormous rate of growth, from $375 million to $913 million. Since then it has declined somewhat. Now we are debating whether or not we will bring it back up over the $800 million level.

I think in light of the fact that the development banks have spent money in the way they have, with 6,000 employees for the World Bank, with very generous salaries, and with the IDB buying a building for $145 million. Also, making loans of hundreds of millions of dollars in many cases to countries not only to buy American products but to compete against American products, and in my opinion cost American jobs. I think we have to send a signal that enough is enough and a limitation or a reduction, or at least by not giving them and rewarding them for these past practices with more money. It is certainly a message that needs to be sent.

Whether or not they take the $150 million in severance pay from this money or the fact that they take it from the $600 million we have already sent them this year—maybe they will take it from the $785 million we sent them last year—a significant portion of that is coming from American taxpayers and I do not think American taxpayers can afford it.

The PRESIDING OFFICER. There are 5 minutes remaining under the control of the Senator from North Carolina.

Mr. HELMS. I thank the Chair. We will vote in about 5 minutes.

A few years ago, one of my constituents wrote me and asked, "How much has the foreign aid program cost the American taxpayers? I do not mean just the money appropriated and spent. You have to assume since we have been operating the Federal Government in a deficit year after year that there was borrowed money, sent by the American taxpayers, spent by the American taxpayers, in foreign aid."

I did not know, so I began to try to collect the information. Finally, I got it, on the basis of what my constituent requested me to do—and I think it was a pretty good suggestion. He said, "I want you to factor in the interest in the first year, roll it over, add the appropriations for the next year, add the interest on the borrowed money, roll it over, and go on down to the present time."

This was 6 or 7 years ago.

Mr. President, do you know how much the foreign aid program has cost the American taxpayers since 1946 when it began? Over $2 trillion, on the basis of the question asked by my constituent.

There was such an enormous amount of money and such large figures that I had to ask the Library of Congress to put their computers to work on it. But it came out to over $2 trillion.

I mention that figure because the national debt is something over $2 trillion.

It may be argued, and it may be argued accurately—but I will save that for another day—that this has done great wonders for the United States of America. If so, how come we are in the problem of balance of trade deficits; why do we have all of the exercise about various groups just clamoring to do business with Communist countries?

The truth is that our own economy is about to go down the tubes because of excessive spending all across the board, including foreign aid.

Notwithstanding what my dear friend from Hawaii, Danny Inouye, has said, I wish there were some way that we could have a referendum on this question. I wish the American people could vote on it. I would be very willing to have a debate, to lay out the facts on both sides, and let them vote on it. I do not think the results would be very pleasant to those Senators who tonight are going to vote to spend another $207 million, for one of these banks this year after having already appropriated $622,623,251, and a total of $257 million for several banks that already have received $949 million this year.

Senator Nickles has pointed out that the American taxpayers pick up anywhere up to 25 to 27 percent of the tab.

Where are the other countries? Are they all destitute? If it is such a big thing, why are not Japan and all the rest of these countries doing more than they do? I think the American taxpayer has been played for a sucker, and I think it is time to put an end to it. If you want to put an end to it, vote against the motion to table. I yield back the remainder of my time.

Mr. INOUYE. Mr. President, Senator Kasten joins me in my motion to table. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Massachusetts [Mr. Kennedy], the Senator from Massachusetts [Mr. Kerry], the Senator from North Carolina [Mr. San-

Ford], the Senator from Illinois [Mr. Simon], are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kerry], would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—57

Adams
Bentsen
Bond
Boschwitz
Bradley
Breaux
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dodd
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kasten
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Quayle
Reid
Riegle
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Weicker
Wirth

NAYS—38

Armstrong
Baucus
Bingaman
Boren
Bumpers
Burdick
Byrd
DeConcini
Dixon
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
McCain
McClure
Melcher
Murkowski
Nickles
Pressler
Proxmire
Rockefeller
Roth
Rudman
Shelby
Simpson
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—5

Biden
Kennedy
Kerry
Sanford
Simon

So the motion to lay on the table amendment No. 200 was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. Graham). The Senate will be in order. The majority leader is recognized.

Mr. BYRD. Mr. President, I seek recognition at this time in order that we might get some indication of just what the picture is, so that we will know what the program will be for the rest of today and tomorrow.

My inquiry at this time goes to the amendments that remain. I would like to know how many amendments are going to be called up, what Senators have amendments that they intend to call up which would very likely result in rollcall votes, and whether they would be willing to enter into a time agreement, and to indentify the nature of the amendment.

Mr. CRANSTON. I have an amendment cosponsored by Senator D'Amato which is simply appropriating money that was authorized for the homeless people by previous action we took. That is $225 million for this year. We would be happy to accept a very small amount of time.

Mr. BYRD. And the distinguished Senator from Hawaii?

Mr. INOUYE. Just a technical amendment. The committee bill has section 215. We meant to say 215(2). It is a typographical error.

Mr. DeCONCINI. I have an amendment on Angola, and I would be glad to enter into a time agreement of 20 minutes to a side or something like that.

Mr. BYRD. I hope the managers on both sides are listening to the time and the identification of each amendment, so that I can put these requests.

How much time does the Senator from Arizona say?

Mr. INOUYE. I can accept the amendment.

Mr. BYRD. Then, that will not require a rollcall vote.

On the other side—the Senator from Texas [Mr. Gramm].

Mr. GRAMM. I have 21 strike amendments and a motion to recommit, and I would be willing to take a short time limit on each.

Mr. BYRD. Would the 21 strike amendments be included in the motion to recommit with instructions?

Mr. GRAMM. No. I would want to preserve my right to offer each one of those.

Mr. BYRD. Each of the 21 amendments?

Mr. GRAMM. That is correct. Some of them might be accepted.

Mr. HELMS. Is the majority leader referring to the entire bill?

Mr. BYRD. Yes, the entire bill.

Mr. HELMS. I have one for sure and probably two.

Mr. BYRD. Very well.

Would the Senator identify those at the moment?

Mr. HELMS. One relates to AIDS.

Mr. BYRD. The other?

Mr. HELMS. I want a multiple choice on the other. I am trying to cut it down.

Mr. BYRD. The Senator from Connecticut.

Mr. WEICKER. I gather the distinguished Senator from North Carolina has an amendment on AIDS. And likewise, there was a committee amendment which I gather was going to be a subject of debate on AIDS, and I think it is entirely appropriate that we have full debate on AIDS, be it on the amendment of the distinguished Senator from North Carolina or on defense or the committee amendments.

So I can only say that I would not agree to any time limit insofar as this particular subject is concerned.

Mr. BYRD. All right. I thank the Senator.

Mr. Pressler.

Mr. PRESSLER. I have an amendment pertaining to the Southern African Conference.

Mr. BYRD. Would the Senator speak louder.

Mr. PRESSLER. I have an amendment that might require a rollcall vote on the South African Conference on necklacing. That might require a rollcall vote.

Mr. BYRD. Does the Senator have the time? Is he willing to enter into it?

Mr. PRESSLER. As the leader says, I rarely take more than 10 minutes. I say 10 minutes on the side.

Mr. BYRD. Very well.

Any other Senators?

Mr. PELL. I have a point of order I may raise.

Mr. BYRD. All right.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes, indeed.

Mr. DOLE. I am going to join with the Senator from Iowa [Mr. Grassley] on the amendment that would change the date to make advance feed grain payments possible. It will not take long. I guess 10 minutes on a side.

Mr. BYRD. Very well.

I wonder if we might reach an agreement that there be no more amendments in order after the amendments that have been identified are called up. Would there be a disposition on the part of anyone to object to that request?

Mr. HEFLIN. The majority leader is inquiring to those who would require rollcall votes. I do not think I will have an amendment but I believe it will be accepted.

Mr. DOLE. If the leader will yield, I will be happy to try to identify, while we are taking up the next amendment, the amendments on this side in writing. Some may not want to make such an agreement without knowing precisely what they are. I will be happy to take that on this side. I will probably do it in the next 15 minutes.

Mr. BYRD. Very well.

I will make this suggestion: That is that we vitiate the cloture vote on tomorrow. We have a supplemental appropriation bill up. I think there is a reasonably good chance that the Senate could complete action on this bill tomorrow. I could enter another cloture motion this evening which would mature on the day the Senate returns after the Memorial Day recess.

I would prefer not to offer a cloture motion and just let the cloture motion that is in, mature on the day that the Senate returns and not have a cloture vote tomorrow so that the Senate can stay on the supplemental appropriations bill tomorrow and not get sidetracked on something else.

Mr. DOLE. Fine with us.

Mr. BYRD. Hopefully finish the bill tomorrow.

Mr. DOLE. If the majority leader will yield, there will be no objection to that request on this side. There is no objection to finishing the bill tomorrow if we can.

Mr. BYRD. Yes. Very well.

I think I will put this request and then Senators who do not have amendments can go home at this time if they wish.

Let me get the request in first.

DOD AUTHORIZATION BILL

I ask unanimous consent that the vote which is to occur under rule XXII on the motion to invoke cloture tomorrow not occur and that it occur instead on Wednesday upon the reconvening of the Senate following the Memorial Day recess.

The PRESIDING OFFICER. Are there objections?

Mr. NUNN. Mr. President, I reserve the right to object.

Mr. ADAMS. Mr. President, I reserve the right to object.

Mr. NUNN. I will not object, but I advise the leader on the cloture vote on the defense authorization bill as chairman of the committee I see no need for us to continue to pursue votes.

I think it is clear as long as the minority leader and the ranking member of the committee and the White House prefer not to have a defense authorization bill up, and as long as they have 41 votes, it is not going to come up.

As far as I am concerned, we can put that bill away and maybe get a signal that the Republican side is ready to bring it up and then we can bring it up because I just do not see the need of continuing to pursue cloture.

I think Senators who have an interest in this authorization bill should probably be looking toward the appropriations process, the continuing resolution for their amendments.

I think there are an awful lot of important things that can be left out. It will be the first time in 34 years we have not had an authorization bill but that is the way I see the picture right now.

The majority leader probably has the cloture amendment. I am not pushing for any more votes.

Mr. BYRD. I thank the distinguished Senator who is the chairman of the committee and whose position has very considerable persuasive impact on this Senator.

I would like to have my request in.

Mr. LEAHY. Mr. President, reserving the right to object.

Mr. ADAMS. What time would you be considering this on Wednesday, late in the day or when? It makes a difference to those of us traveling.

Mr. LEAHY. Western Senators.

Mr. BYRD. I would try to schedule it for rather late in the early afternoon. [Laughter.]

Taking into consideration the problem that the Senator has, say around 4 or 5 o'clock on that particular day, because it is the first day after a recess.

Mr. LEAHY. Reserving the right to object, and I shall not object, I had to step off the floor a moment for a phone call, but has the distinguished majority leader locked in the number of amendments on the supplemental appropriations bill?

Mr. BYRD. No. My thought was——

Mr. LEAHY. Because the Senator from Vermont has one minor matter involving ROBERT STAFFORD, et cetera.

Mr. BYRD. This would be agreeable with the distinguished Republican leader.

The PRESIDING OFFICER. Is there objections to the request offered by the majority leader?

Mr. BAUCUS. Reserving the right to object, Mr. President, as another Western Senator, I wonder if the leader could amend his statement with respect to the Senator from Washington by saying the vote will be in the late afternoon, delete the words "late in the early afternoon"?

Mr. LEAHY. How about early late afternoon.

Mr. BYRD. What is the reasonable hour for the people in the far west to return on a day after a holiday—5 o'clock?

I want to be accommodating.

Mr. BAUCUS. Five-thirty would be all right.

Mr. BYRD. I will arrange with the distinguished Republican leader to have the vote on the cloture occur that late in the day even though we come in earlier if it is agreeable. We might still be on the supplemental. We may very well be still on the supplemental.

The PRESIDING OFFICER. Are there any other objections?

Mr. DECONCINI. Mr. President, reserving the right to object.

Mr. BYRD. Let me withdraw that request.

CLOTURE VOTE TOMORROW VITIATED

Mr. President, I ask unanimous consent that the vote on cloture be vitiated on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This will enable the Senate to stay on the supplemental appropriations bill without wasting time on the other matter at this point. Hopefully, when the Senate returns after the recess, that matter involving the motion to take up the defense authorization bill can be resolved.

If I might suggest that the Senators who have amendments, if they or their staffs could remain just a short time so that we could get a list of those amendments and see, while the managers of the bill and the Republican leader are here, if we could reach agreement on those. Other Senators who have no particular interest in calling up amendments could go home. I do not intend to have any further rollcall votes tonight.

I thank all Senators.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 201

(Purpose: Technical correction to foreign operations section)

Mr. INOUYE. Mr. President, on behalf of Senator KASTEN and myself, I call our amendment up now.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for himself and Mr. KASTEN propose an amendment numbered 201: On page 42 of the bill, delete all of line 4, and the words "Section 215" in line 5, and insert in lieu thereof:

"REPEAL OF SECTION 215(2)

Section 215(2)"

Mr. INOUYE. Mr. President, this is a typographical error. We put in section 215 when we intended to draft section 215(2).

The PRESIDING OFFICER. Is there any further debate?

Mr. KASTEN. I support the amendment. It is a technical correction. I hope the amendment will be agreed to.

The PRESIDING OFFICER. Is there any further debate?

The question is on agreeing to the amendment.

The amendment (No. 201) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, so that Senators will know what time the Senate is coming in tomorrow, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This would mean that the Senate would resume consideration of the appropriations bill about 10 o'clock tomorrow morning if that is agreeable to the two managers. I understand that it will be.

There will be rollcall votes tomorrow. I hope we can finish the bill tomorrow. This means that Senators cannot be assured that there will be no rollcall votes into the reasonably late afternoon, 5 or 6 o'clock or 7 or if we are within shooting distance of completing action.

SUPPLEMENTAL APPROPRIATIONS, 1987

The Senate resumed consideration of the bill.

Mr. LEAHY. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. LEAHY. Mr. President, I ask the distinguished majority leader is it his intent to try to get unanimous-consent agreement either for order of amendments or time agreements on amendments to the bill this evening?

Mr. BYRD. I would like to get time agreements on amendments this evening if at all possible.

Mr. LEAHY. I ask the distinguished majority leader further if he has some idea when that kind of agreement might occur?

Mr. BYRD. I would be ready to promulgate the request as soon as we can get a list of the amendments and those who indicated that they have amendments.

Mr. LEAHY. I thank the distinguished majority leader.

Mr. CONRAD. Will the majority leader yield for a further question?

Mr. BYRD. I yield.

Mr. CONRAD. I would like to be added for time for an amendment to be very short and I would like to give the subject matter tomorrow if that is possible.

Mr. BYRD. I am afraid we would not be able to get an agreement on the amendment unless we knew what the nature of it was. If the Senator would indicate to the member of the staff—I hope that staff people will contact Senators and Senators will contact our floor staff people in the effort to close the matter of the identification of amendments and the number of amendments and how much time we need on amendments. That will expedite our getting out this evening.

The PRESIDING OFFICER. Is there further debate on the first excepted committee amendment, as amended? Is there further debate on the first excepted committee amendment, as amended?

Mr. HATFIELD. I move the adoption.

The PRESIDING OFFICER. If there is no further debate——

Mr. PRESSLER. I object.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, I believe that Mr. PELL wanted to be notified before this amendment is agreed to.

Mr. President, I was misinformed and the Senate may proceed.

The PRESIDING OFFICER. Is there further debate?

Mr. PRESSLER. A point of parliamentary inquiry. Does this block other amendments?

Mr. HATFIELD. Mr. President, I would withdraw my motion to adopt this committee amendment to accommodate the Senator from South Dakota to offer an amendment.

The PRESIDING OFFICER. The Chair would advise the Senator from Oregon that no motion to adopt an amendment is in order. The amendment is before us, as amended.

Mr. BYRD. What did the Chair say?

The PRESIDING OFFICER. There is no such motion as a motion to adopt.

Mr. BYRD. That is what I thought.

The PRESIDING OFFICER. There is before us a committee amendment which has been amended. The matter before the Senate is debate on that amendment, as amended. Is there further debate on that amendment, as amended?

Mr. PRESSLER. Mr. President, I have no debate about that amendment, but I have an amendment.

Mr. BYRD. Mr. President, I ask for order in the Senate. There are too many conversations going on. The Senate is still transacting business.

Mr. STENNIS. May we have quiet?

The PRESIDING OFFICER. Those persons who are not engaged in this debate, please exit and conduct their private conversations off the floor.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, as I understand it, my amendment would be blocked out if this amendment goes forward. I am prepared to offer my amendment. Perhaps I am misunderstanding. But I have an amendment that I wish to offer, either tonight or tomorrow morning, that will require a rollcall vote. I am prepared to offer my amendment now. I thought we were working on getting a time agreement. I am perfectly happy to work with you. I am trying to understand the parliamentary situation.

Mr. HATFIELD. Mr. President, I would like to make an inquiry of the Chair. Am I not correct that the Senator from South Dakota can offer his amendment to some other part of the bill? It is not required that he has to offer it to this particular committee amendment; is that correct?

The PRESIDING OFFICER. As the Chair has not seen the amendment that is proposed to be offered by the Senator from South Dakota, I cannot respond as to its appropriateness to other sections of the bill.

Mr. HATFIELD. Mr. President, may I suggest to the Senator from South Dakota that he present the amendment to the Parliamentarian to review, because we can get these committee amendments acted upon if people are not ready to offer amendments to the committee amendment and if they can offer them elsewhere.

We have four committee amendments that are pending. We really could reduce it down to one and still keep everybody's options open.

I would just like to move the business of the committee without in any way forestalling or foreclosing any Senator's rights.

Mr. BYRD. Mr. President, would there be a disposition on the part of Senators to accepting the four remaining committee amendments with the understanding that they would be adopted as original text for the purpose of further amendment? Perhaps that would facilitate the matter.

Mr. PRESSLER. Mr. President, a point of inquiry. I submitted my amendment to the Chair. Would I be precluded? I am prepared to offer the amendment. I want to work with the leaders. I am prepared to offer my amendment now or tomorrow morning.

The PRESIDING OFFICER. I understand that the amendment, as drawn, is an appropriate amendment to the committee amendment which is now the order of business before the Senate. Do you wish to offer your amendment?

Mr. PRESSLER. If I can offer it now, I will. It will require a rollcall vote. I do not want to go against the grain of the majority leader or minority leader. My amendment will require a rollcall vote. Shall I offer it now?

Mr. BYRD. If the Senator intends to offer his amendment, would there be any reason why he should not offer it this evening and let it be pending so that it will be an amendment that is pending in the morning? Senators who have other amendments who wish to debate them tonight could ask unanimous consent that that amendment be temporarily laid aside.

Mr. PROXMIRE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. PROXMIRE. I have a technical amendment and a substitute amendment, neither of which would require rollcall votes. I am ready to offer them at any time.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Does the majority leader yield to the Senator from Wyoming?

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I want to share with the majority leader and the manager of the bill on our side that, in the splitting up process here with regard to this measure, there is an amendment which has to do with the extension of employer sanctions for an additional 4 months under the original immigration bill, and I would want to have a separate debate and discussion on that. A time limit is perfectly appropriate to Senator DeCONCINI and me, but we have not agreed to a time agreement. But that certainly should be separate and apart from that particular technical motion on the adoption of the amendments of the committee.

Mr. BYRD. Mr. President, I hesitate to keep getting the floor. I wonder if the Senator from Wisconsin could proceed with his amendment or amendments, which I understand will be short in nature and take very little time.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 202

(Purpose: Technical amendment to clarify congressional intent regarding borrowing authority provision included in Superfund's appropriation)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. An amendment to the committee amendment is in order.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 202.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

After line 26, page 46, add the following:

ADVANCES TO TRUST FUNDS

Pursuant to Public Law 99-500 and Public 99-591, amounts advanced to the Hazardous Substance Response Trust Fund shall remain available until expended.

Mr. PROXMIRE. Mr. President, is the committee amendment pending?

The PRESIDING OFFICER. The Chair will inform the Senator from Wisconsin that the amendment, as submitted, is not drawn in a form of an amendment to the committee amendment, which is the pending business of the Senate.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the committee amendment be laid aside temporarily while this amendment is being considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment is technical in nature. It would implement congressional intent regarding the borrowing authority provision included under Superfund's current appropriation. Although Superfund is financed primarily through excise taxes levied on oil and chemical manufacturers as well as a corporate environmental tax, much of its fiscal year 1987 appropriation is supported by repayable advances of borrowed funds, since the taxes in question did not take effect until January of this year and available revenues are thus insufficient to meet program mandates. No further advances are anticipated. The committee intended that, consistent with Superfund's fiscal year 1987 appropriation, amounts provided under the borrowing authority provision would remain available until expended. Some question has arisen as to whether this can be accomplished, since it is not explicitly spelled out in existing bill language. The amendment I am proposing makes it clear that those advances will remain available until expended.

Mr. HATFIELD. Mr. President, the technical amendment offered by the Senator from Wisconsin has been cleared by Senator GARN of the minority side.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment offered by the Senator from Wisconsin.

The amendment (No. 202) was agreed to.

AMENDMENT NO. 203

(Purpose: Provide $100,000,000 for Veterans Administration's Loan Guaranty Revolving Fund)

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily laid aside, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE], for himself and Mr. GARN, proposes an amendment numbered 203.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 50, after line 20, insert the following:

LOAN GUARANTY PROGRAM

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. Chapter 37, except administrative expenses, as authorized by section 1824 of such title) $100,000,000, to remain available until expended.

Mr. PROXMIRE. Mr. President, Senator GARN, who is the ranking member of the Appropriations Subcommittee on HUD-Independent Agencies, which includes jurisdiction over the Veterans' Administration, and myself have sent this amendment to the desk.

The amendment would implement an administration budget request which arrived after the Appropriations Committee reported H.R. 1827. The amendment would add $100 million to the Veterans' Administration's Loan Guaranty Program which provides credit assistance for the home-buying veteran or those veterans who want to refinance or make home repairs. The $100 million shortfall is the result of higher than planned foreclosures and defaults occurring under the program this year. The proposal would increase outlays in fiscal year 1988 by $100 million.

Frankly, I'm reluctant to increase Federal spending by $100 million. However, the VA has advised the committee that the program will have to shut down 2 months from now without additional resources, which means the Federal Government will renege on its obligation to buy back from lenders defaults and foreclosures that occur under this program.

I hope that the committee managers can accept this amendment, which I offer on behalf of Senator GARN and myself.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, we have to apparently discuss this amendment a little further. Therefore, I ask unanimous consent that I may withdraw the amendment without prejudice.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn without prejudice.

The question recurs on the committee amendment, as amended.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have an agreement with the leadership to offer my amendment at this time. I prefer to offer it in the morning because it is going to require a rollcall vote. I prefer to offer it in the morning.

Mr. HATFIELD. If the Senator is putting a question to me, I would answer that, of course, we would like to take his amendment tonight, and if he does not want a rollcall vote tonight, we should at least debate it and get that business behind us. What he would suggest as to a rollcall vote would be up to him.

AMENDMENT NO. 204

(Purpose: To prohibit assistance to countries aiding any organization which supports "necklacing")

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 204.

On page 38, after line 22, insert the following:

Provided further, That none of these funds may be available to any country for which the President proposes to disburse funds within the Southern Africa Development Coordination Conference until the President certifies that such country (1) has renounced the form of terrorism, commonly known as "necklacing", used against South African blacks; (2) has provided assurances that the government of that country opposes and is making a concerted effort to prevent the operation in its territory of any organization that supports, encourages, or will not renounce the practice of terrorism, including "necklacing" and state terrorism, against South African blacks; and (3) is, according to the best information available to the United States, making a concerted effort to prevent the operation in its territory of any organization that supports, encourages, or will not renounce the practice of terrorism, including "necklacing" and state terrorism, against South African blacks.

Mr. PRESSLER. Mr. President, since the fall of 1984, more than 2,500 South Africans, mostly moderate blacks, have been killed in the bloody battles in the black townships of South Africa. Many of those killed have been brutually executed by fire, a practice commonly referred to as necklacing, in which a tire filled with gasoline is placed around the victim's neck and set aflame.

This vicious form of public execution is usually reserved for black South Africans accused of collaborating with the government. Additionally, those who refuse to cooperate fully with the activities of terror designed to disrupt the reform process undertaken by the Government of South Africa often become victims of this savage form of execution.

According to Time magazine, "Even payment of rent for government-owned housing can be a capital offense," punishable by necklacing. South Africans and outside observers were shocked last year when Winnie Mandela endorsed necklacing while at an antiapartheid rally. "Together, hand in hand, with our boxes of matches and our necklaces, we shall liberate this country," cried Mandela. Oliver Tambo, leader of the outlawed African National Congress [ANC] refused to renounce necklacing when questioned by the Foreign Affairs Committee of the British House of Commons. "I regret it, but I cannot condemn it," he stated. Again, during his trip to the United States, he refused to denounce this odious practice during a cordial chat with Secretary of State George Shultz.

Last year, during Senate consideration of the Antiapartheid Act of 1986, this body expressed its strong abhorrence of the use of the necklace in the escalating black against black violence throughout the townships. We called for an end to U.S. assistance to any individual or group which supported the use of necklacing.

The United States' strong condemnation of necklacing, and our refusal to provide any assistance to those who advocate the savagery of necklacing may have saved numerous black South Africans from death by fire.

The amendment I am offering today further underscores U.S. opposition to necklacing in South Africa. It prohibits funds under this act from being used to assist the SADCC states that have not renounced the practice of terrorism, including necklacing. Additionally, this amendment requires Presidential certification that recipient countries are making concerted efforts to prevent organizations which support terrorism and necklacing from operating in their territories.

Mr. President, at the appropriate time, I shall ask for the yeas and nays on this amendment but I understand there will be no further rollcall votes this evening.

The PRESIDING OFFICER. Is there further debate?

The Senator from Montana.

Mr. MELCHER. Mr. President, as I understand, this amendment may require a rollcall vote. If that is the case, would it be appropriate at the conclusion of whoever wants to debate the amendment tonight, to ask unanimous consent to temporarily set it aside? Have we cleared up the committee amendment, or are we still on the committee amendment?

The PRESIDING OFFICER. We are on the committee amendment. This is an amendment to the committee amendment.

Mr. MELCHER. Would it be appropriate to ask for both amendments to be laid aside to be able to offer an amendment which I understand is acceptable to both sides?

The PRESIDING OFFICER. The request would be appropriate. It would require unanimous consent.

Mr. MELCHER. Mr. President, would the Senator from South Dakota yield?

Mr. PRESSLER. I yield.

Mr. MELCHER. Would the Senator advise me if it would interfere with his amendment to make such a request at this time?

Mr. PRESSLER. It was my hope to offer this amendment tomorrow. I thought I would lose my right if I did so this evening. As I said, there will be opposition to this amendment. It will require a rollcall vote. But I will be perfectly happy to do it tomorrow.

I felt I would lose my position. I am perfectly happy to lay it aside, or whatever the body wants to do.

Mr. MELCHER. I thank my friend.

Mr. President, I ask unanimous consent that both of the amendments now pending be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 205

(Purpose: To delay the implementation of BIA regulations pertaining to the Higher Education Scholarship Program.)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself, Mr. BINGAMAN, Mr. INOUYE, Mr. MCCAIN, Mr. MURKOWSKI, and Mr. STEVENS, proposes an amendment numbered 205.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. MELCHER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, line 11, insert after "implement" the following: "any regulations (and any amendments to, or revisions of, regulations) relating to the Bureau of Indian Affairs' Higher Education Grant Program that were not in effect on March 1, 1987, until after Congress has completed the fiscal year 1988 appropriations process, nor may the Bureau implement".

Mr. MELCHER. Mr. President, I am offering this amendment on behalf of myself, Senators BINGAMAN, INOUYE, MCCAIN, MURKOWSKI, and STEVENS. The amendment will simply delay the final implementation of some regulations which the Bureau of Indian Affairs has proposed for its Higher Education Grant Program. We believe that Congress must evaluate the effects of these particular regulations before they are implemented. Federal law and Federal policy have clearly held that the Federal Government has a trust responsibility to Indian people for education. And education is so critical to the future of Indian people that Indian leaders consistently cite it as the No. 1 tribal priority. The Montana Indian Education Association, for example, proclaims that "Education is the key to the future of Indian people." It follows that Indian people are very concerned, as all of us should be concerned, about Bureau of Indian Affairs actions which would in any way limit or threaten educational opportunities.

The BIA Higher Education Grant Program is the major source of support for Indian college students. This program is similar to other Federal student grant programs such as Pell grants, supplemental education opportunity grants, or veterans' assistance grants in that the grants are provided to eligible Indian tribal members enrolled full-time in an accredited college program.

The BIA grant is the core of the financial aid package which is supplemented by Pell grants, work studies, loans or tribal scholarships. Under the Indian Self Determination Act a large number of Indian tribes contract with the BIA to deliver the program. Since the early 1970's, in response to tribal and Federal policies of encouraging Indians to attend and complete college, there has been a steady increase in the number of Indian college students but BIA appropriations have kept pace with the need.

In order to allocate these inadequate funds fairly, most tribes have developed stringent standards that set priorities for the award of BIA higher education grants. Students are required to maintain acceptable grades in line with the academic requirements of their institution. They must complete degree programs in a certain time period and generally the more academically promising students are funded first.

The program has been very successful. It has enabled hundreds of American Indians to obtain college degrees and pursue professions in education, social work, health, law, medicine, and so forth. This is just the beginning and much more needs to be done.

Now, here comes the bad part, Mr. President. This spring the BIA proposed some new regulations for the program. These proposed regulations would make questionable departures from existing practice. My primary concern is with the proposed repayment provisions. Under the proposal, Indian students receiving grants from the BIA would be treated differently from students who get Pell or veterans' grants.

The BIA has proposed that if any student fails or withdraws from a term of school the student would, first of all, be ineligible for future assistance. Second, be required to repay the amount of the grant because it would be converted to a loan. And third, the tribal education departments would act as collecting agents for these grants which would become loans.

These proposals would establish stringent and unreasonable penalties for Indian students.

Now, I want this to be clear, Mr. President. These proposed regulations are antiredskin, pure and simple, antiredskin. They do not have them on Pell grants; they do not have them on veterans' grants. These are some new, more stringent regulations that apply to those grants just for Indians. I think it is outrageous. Furthermore, I think it is a terrible precedent. These proposals ignore the fact that the American Indian student population is the most underprivileged and needy group in this country and that Indians need extra help in overcoming barriers to success.

We certainly do not need to erect additional barriers, to make it tougher for Indians to get educated. These youngsters are already screened by the tribal process and then they apply for the grant and when their turn comes they get some help. It is the very core of education for Indian students beyond their high school years. They need it and they need it badly. As the tribes have indicated, education for Indians is their No. 1 priority.

BIA in these proposed regulations is attempting to make it harder. I think Congress needs to review the situation and while we do that during the next 5 months I think the regulations should be held in abeyance. That is what the amendment does.

Mr. President, I hope that we can have the amendment accepted.

Mr. STENNIS. Mr. President, this amendment has been approved by this side of the aisle, and I can recommend that it be adopted.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Oregon.

Mr. HATFIELD. Mr. President, the amendment of the Senator from Montana has been cleared on the minority side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 205) was agreed to.

Mr. MELCHER. Mr. President, I thank the chairman and the ranking member of the committee for their gracious acceptance.

Mr. STENNIS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Pressler amendment to the first committee amendment to the bill. Is there further debate?

Mr. PRESSLER. Of course, I can move adoption of the amendment. Could we have it set aside, to be considered at 10:30 tomorrow?

Mr. STENNIS. Mr. President, we do not have complete information on this matter. I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum call has been requested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, on my pending amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Now, Mr. President, we are in a situation where I know of no other amendments that Senators wish we consider tonight. The majority leader has indicated there would be no more rollcalls tonight. So from our side of the aisle, I would say to my colleague, the Senator from Mississippi, the chairman of the Appropriations Committee, I know of no other amendments that will be offered at this time, so I yield to the chairman as to what he wishes next.

Mr. STENNIS. We do not have anything ready either, so it looks like it is a good time to call it off for the night and come in in the morning.

Mr. INOUYE. Mr. President, the funding recommendations which the Committee on Appropriations has placed before the Senate do not represent the full amount of funding which we believe should be provided for the programs and activities in the foreign assistance bill. Rather, they reflect our sense of priority requirements for funding. I believe we have demonstrated our adherence to the dictates of budgetary restraint.

Before detailing our funding recommendations let me note that the committee's proposals are $896.8 million below the amount requested by the President. Furthermore, our recommendations are largely offset by proposed reductions in balances of prior-year funding of Department of Defense accounts and by a reduction in fiscal year 1987 funding for the direct loan program of the Export-Import Bank. The proposed defense spending offsets have been made pursuant to recommendations and requests made by the administration.

Insofar as the Export-Import Bank funding is concerned, I would note that the Bank has not financed as many loans as had been expected when we acted on the fiscal year 1987 direct credit ceiling. There are many reasons for this—most notably the high exchange value of the dollar earlier in the year. In any case, we believe that the overall limit can now be reduced without harm to the program. I would hasten to add that this in no way indicates any lessening of our support of the Export-Import Bank direct lending program or in our belief in the necessity of continuing the program to meet foreign export financing competition.

Mr. President, the funding recommendations are:

MULTILATERAL ECONOMIC ASSISTANCE

For international financial institutions, we recommend full funding of the administration's request for supplemental funding of the International Development Association—the concessional loan window of the World Bank, full funding for the African Development Bank and the African Development Fund, and partial funding for the International Finance Corporation [IFC]. We did not recommend full funding for the International Finance Corporation simply because of our concern for budgetary restraint. The funding we have recommended for the IFC, $7.2 million, clears an arrearage dating back to August of 1985. The remaining arrearage will be addressed in the context of fiscal year 1988 appropriations.

BILATERAL ECONOMIC ASSISTANCE

For bilateral economic assistance, we recommend the appropriation of $300 million in economic support funds for the four Central American democracies. Some have termed this a "catch up" for funding authorized by the Congress in support of the recommendations of the National Bipartisan Commission on Central America, the so-called Kissinger Commission. But, in truth, this is an effort to address current realities and current requirements for funding in Central America.

Democracy in Guatemala was but a hope when the bipartisan commission issued its report. Now democracy is planted in Guatemala; we must nurture it. Our recommendations will provide $55 million in urgently needed balance of payments assistance to Guatemala.

In El Salvador, the Kissinger Commission spoke of the devastation of war. Now a terrible earthquake has devastated the homes and workplaces of many Salvadorans. We seek to ease their misery by providing earthquake relief assistance.

Within the $300 million in recommended assistance, funds are also provided in support of economic reform programs in Honduras and Costa Rica.

SOUTHERN AFRICA

For urgent assistance to the region of southern Africa and in support of efforts to reduce the dependence of African countries on the South African transportation network, we are recommending the appropriation of $50 million.

The committee recommends a funding limitation stating that none of the funds provided for assistance to the region of southern Africa, for railway infrastructure development and humanitarian assistance programs, may be made available for activities in Mozambique or Angola. This prohibition is similar to those which are in the current continuing resolution and which have been carried in Foreign Assistance Appropriation Acts in recent years.

PEACE CORPS

Mr. President, the committee recommends the provision of an additional $7,200,000 in support for the Peace Corps. The committee's recommendation signals its support for progress toward the congressionally mandated goal of placing 10,000 Peace Corps volunteers in the field by the year 1992 and to achieve certain programmatic improvements. Most of the amount we are recommending would be used to expand Peace Corps operations in the Philippines.

SOLIDARITY

Finally, under bilateral assistance, in response to numerous requests, the committee has recommended the appropriation of an additional $1 million in support for the Polish labor union solidarity.

MILITARY ASSISTANCE

For the military assistance accounts, funding is recommended for only the most urgent programs. Unfortunately, the overall budget situation does not allow the provision military assistance grants. What we have recommended is all in the form of military loans under the Foreign Military Sales [FMS] Credit Program.

Our recommendation provides $3 million for Kenya in response to Kenya's cooperation and support of our activities in the Indian Ocean.

We also recommend $10 million in assistance to Morocco in support of Morocco's continued readiness to host U.S. Armed Forces and important radio transmission facilities. I might also note the political and personal courage King Hassan has exhibited in meeting with Israeli Foreign Minister Peres and in his efforts to contribute to peace in the Middle East.

Our recommendation for military assistance to the Philippines takes cognizance of the great importance of our continuing relationship with the Philippines, particularly with regard to stable and continued access to Clark Air Force Base and Subic Bay Naval Base. These bases are the irreplaceable outposts of America in the Pacific.

For the Philippines, we recommend $25 million in FMS loans on concessional terms. In addition, we recommend legislation which will have the effect of converting prior year loans into grants. The amount is limited—$29.6 million. The Government of the Philippines is confronting an insurgency which, despite strict adherence by the Government to cease-fire agreements, has embarked on a renewed campaign of violence. The assistance we recommend is intended to help the Philippines counter this insurgency while, at the same time, recognizing the need to reduce the insupportable debt burden inherited by the new government.

GENERAL PROVISIONS

Finally, Mr. President, I believe it is important that all Members of the Senate support the recommendation to repeal section 215 of the fiscal year 1987 Military Construction Appropriations Act.

This section established a set of expedited procedures for consideration of additional aid to Central America. We recommend the deletion of these procedures because they have proved to be impracticable and because they undermine the integrity of the appropriations process.

Mr. President, that completes my discussion of the foreign assistance chapter. I would only add that the foreign assistance chapter now before the Senate represents a balanced foreign assistance supplemental which must be considered as a package. It is a bipartisan compromise which preserves essential elements of the President's funding requests while deferring, without prejudice, elements which have lesser urgency.

FISCAL YEAR OF 1987 INTERNATIONAL TRADE ADMINISTRATION APPROPRIATION

Mr. BUMPERS. Mr. President, the report prepared by the House Appropriations Committee accompanying the House bill, H.R. 1827, contains language beginning on page 9 stating that:

> The [House Appropriations] Committee did not intend to prohibit fiscal year 1987 funds for the trade adjustment assistance program, appropriated in Public Law 99-591, from being used for industry project grants. The Committee expects ITA to make funds available for this activity out of the total amount appropriated for trade adjustment assistance for FY 1987, at approximately the same level as was made available for this activitiy in FY 1985 and FY 1986.

This language, while in the House report, was not included in the Senate report.

I am interested in assuring that industry project grants are made from funds not obligated by the Department of Commerce for other activities of the Trade Adjustment Assistance Program. The general rule that the Appropriations Committee follows is that language in the report of one body that is not disavowed by the other body, is binding. I would like to ask the chairman of the Subcommittee on Commerce, Justice, State, and the Judiciary and Related Agencies, Senator HOLLINGS, to verify this principle, particularly with regard to the language concerning ITA industry project grants that I have just mentioned.

Mr. HOLLINGS. I thank the Senator from Arkansas for seeking to clarify this point. The point that language that appears in the report of one body, when not specifically disavowed by the other body, stands. So, in this case, the language appearing in the House report allowing fiscal year 1987 funds appropriated to the International Trade Administration to be used for trade adjustment assistance industry project grants has not been disavowed by the Senate Appropriations Committee, and, therefore, stands. And, in this case, as is stated in the House report, the committee would expect that the ITA would fund grants for industry projects at about the same level as was available in fiscal year 1985 and fiscal year 1986.

Mr. BUMPERS. I thank the distinguished subcommittee chairman for this clarification.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote in relation to the amendment by Mr. PRESSLER occur at 9:45 tomorrow morning.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I withhold my request momentarily.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order on tomorrow, the Senate resume consideration of the pending amendment by Mr. PRESSLER; that there be 20 minutes equally divided on that amendment, in the usual form; that at the expiration of time on the amendment, the vote occur on or in relation to the amendment by Mr. PRESSLER, at 9:40 a.m.

The PRESIDING OFFICER (Mr. LEAHY). Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

Has the Senator gotten the yeas and nays on the amendment?

Mr. HATFIELD. Yes.

Mr. BYRD. Do we know whether that will be an up-and-down vote or whether that will involve a motion to table?

Mr. HATFIELD. I have no knowledge, other than an up-and-down vote. I believe it will be an up-and-down vote.

Mr. BYRD. Mr. President, for the purpose of getting on with the business tonight I will move to table the amendment tomorrow. I may vitiate. I will put it this way.

I ask unanimous consent that in the event there is a motion to table the amendment on tomorrow, it be in order to order the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I think we have done all the business we can do. Senators are calling in. If they are not here to register their objections perhaps they ought to be here to register their objections.

We hope that we do have a few amendments now that the staffs have worked out on both sides that we might be able to get some time agreements on. If we can do that we will stay in just a few minutes to try to get that done.

I thank all Senators, the managers of the bill, and staffs for their patience.

I thank the Senator who is willing to have his vote on his amendment the first thing in the morning. That vote will occur at 9:40 a.m. and I ask unanimous consent that no quorum call be in order prior to that vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. This will mean then, Mr. President, there will definitely be a rollcall vote at 9:40 a.m. tomorrow.

I would hope that when Senators come in for the rollcall vote then we could have a steady flow of amendments and with the off chance perhaps that we might be able to finish the bill tomorrow.

Mr. STENNIS. Great.

Mr. PRESSLER. I wonder if it would also be appropriate to ask unanimous consent that the vote not be delayed by latecomers who ask for 5 or 10 minutes past the time by unanimous consent.

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. BYRD. I would not want to make that request because when there is an early vote there are some Senators who may not have an opportunity to be informed of it. They should have a chance to get in.

But I do thank the Senator for being willing to lay down his amendment tonight and have an early vote on it tomorrow. That helps to expedite the business of the Senate.

Mr. President, while a quorum call is being had, I wonder if we might get a listing of those amendments that we have pretty clear indications that we can get agreement on tonight. It may not be many. If it is a few, that can at least give us a good running chance tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN addressed the Chair.

Mr. BYRD. Mr. President, will the Senator from Alabama yield to me if he gets recognition?

Mr. HEFLIN. Yes.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me just 2 minutes.

Mr. HEFLIN. Yes, go ahead.

The PRESIDING OFFICER. The Senator from West Virginia.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I understand that the following nominations have been cleared on the other side of the aisle. I ask the acting Republican leader if Calendar Order Nos. 159, 160, 161, and 170 are cleared on the other side of the aisle?

Mr. HATFIELD. Mr. President, they have been cleared on the minority side of the aisle.

Mr. BYRD. Mr. President, I thank the able Senator from Oregon.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Order Nos. 159, 160, 161, and 170; that they may be considered en bloc, and that the motion to reconsider be en bloc, be adopted; and that the President be notified of the confirmation of the nominees; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Carl D. Covitz, of California, to be Under Secretary of Housing and Urban Development, vice Lee L. Verstandig.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Louis L. Guy, Jr., of Virginia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1989, vice Philip D. Winn, term expired.

Federal Reserve System

Edward W. Kelley, Jr., of Texas, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1976, vice Emmett John Rice, resigned.

United States Postal Service

Norma Pace, of Connecticut, to be a Governor of the United States Postal Service for the term expiring December 8, 1994, vice George Watson Camp, term expired.

CONFIRMATION OF CARL D. COVITZ AS THE UNDER SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. WILSON. Mr. President, today I have the distinct privilege and honor to express my satisfaction in the Senate's confirmation of Carl Covitz as Under Secretary of the Department of Housing and Urban Development. It would be unfair, and quite frankly outright dishonest of me to stand before this body and pretend to be dispassionate about Carl. He is a friend and a very good friend.

However, quite aside from this personal friendship, I am pleased that we have taken action to bring as superbly qualified an individual as Carl Covitz into the service of this country. He has acquired a housing and financial expertise that have prepared him well for the responsibilities he will soon undertake, and quite unselfishly, on behalf of the American public. He will exercise on their behalf the kind of buisness judgment and extensive knowldge of the housing industry that has made him a great success in the private sector.

He comes to this new responsibility, having already contributed admireable public service. He has been a member of the Young Presidents' Organization, he has been a good citizen serving on the board of directors and, presently, serves as vice chairman of the Los Angeles County Delinquency and Crime Commission.

He is a graduate of the Wharton School of Finance and Commerce, where he took his bachelor of science degree. He went on to get an MBA from Columbia University's Graduate School of business where he serves as one of the board of directors.

Mr. President, his business background is extensive and varied, demonstrating broad ability, and has won success in all endeavors. He was the director of marketing for Rehingold Breweries, a national manager for Canada Dry. He was with the ITT Corp., Levitt & Sons as their vice president and director of corporate development, before coming to his most recent position at Landmark Communities, Inc. a national real estate and investment company where he has been a very successful chief executive officer. His record of achievement has brought him membership on the Executive Committee of the President's Private Sector on Cost Control, the Grace Commission.

It is clear from Carl Covitz' many accomplishments that he understands the housing community—he has first hand experience in the financing, construction, and development of housing, both residential and commercial. Carl Covitz understands the developers' interest in HUD, and having worked nationally in real estate, he is familiar with the markets in the major cities in the United States.

It is clear he understands financing. He understands construction. He understands development. And, it almost goes without saying that he understands the kind of concerns that have necessarily caused apprehension among the developers and, more importantly, he recognizes and understands the realities of the market forces to be addressed, if you are directing the fortunes of HUD.

As you know Mr. President, the Under Secretary position has been vacant for most of these past 2 years. To Carl Covitz we are entrusting a very important task, and I am confident that he, being the responsible businessman and administrator that he is, will translate his own expertise and success into an advantage for the country. He is a man of the highest integrity. He is respected, thorough, and he is conscientious.

Mr. President, I am proud that the Senate has acted today to allow him to give back to his community and to his nation still more in a different and very important role.

ORDER DISCHARGING COMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 104 to designate the week of May 31 to June 6, 1987 as National Intelligence Community Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the joint resolution be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PASSING OF SENATOR ZORINSKY

Mr. LEAHY. Mr. President, it is with great sadness and respect that I offer this tribute to Senator Edward Zorinsky. His death came as a complete shock to me, and I know to all the Senate. We had been working closely together since the beginning of the Congress on the Agriculture Committee, and it is still difficult for me to accept the fact that he has passed on.

I served beside Ed Zorinsky for 10 years on the Agriculture Committee. We sat beside each other. And over the years I came to understand his deep feeling for the people of his State, especially the farm families.

Ed was a devoted member of the Agriculture Committee. He was our ranking member during the consideration of the 1985 farm bill. He sat through all those meetings, markups, and conference committee deliberations, for days and weeks at a time. In fact, in the 10 years that he was on the committee I do not recall times when his seat was empty.

He was a leader on soil conservation, farm credit, trade, and pork promotion programs. He fought against the Soviet grain embargo. In all his activities, he worked to protect his Nebraska farmers and ranchers. He made his views well known before the committee. Everyone knew exactly where Ed Zorinsky stood.

I also want to pay tribute to Ed's wife, Cece. They had an amazing partnership. I know, because my office was right next door to Ed's, and I used to see Cece in there every day. The two of them were inseparable, an example to us all.

I will not only miss Ed Zorinsky as a good friend and neighbor, but I will also miss seeing Cece there each day. I know how difficult a time this is for her and their children: Barry, Jeff, and Susan.

Ed will be well remembered by all his colleagues in the Senate, by the good people of Nebraska, and by the larger agriculture community in this Nation. He was a hard worker, a dedicated Senator, and a devoted husband and father. We will all miss him and we will miss the exemplary people he had working with him on his Senate staff.

SANCTIONS AGAINST COMMUNIST REGIME IN ANGOLA

Mr. HOLLINGS. Mr. President, yesterday I introduced with Senators DOLE and CHILES S. 1228. This bill puts in place a set of tough sanctions against the Communist regime in Angola and its Soviet and Cuban supporters.

United States support of the Angolan freedom fighters is a matter of renewed urgency. The Soviet Union has invested over $2 billion in new military aid to shore up a faltering, unpopular Marxist regime. From MIGs to attack helicopters to personnel carriers, the aid has poured in at a staggering rate. Propped up by 1,500 Soviet military personnel and 35,000 Cuban troops, Angola has become little more than a staging ground for Soviet adventures throughout southern Africa.

Yet in the face of this Soviet neocolonialism, the administration stands paralyzed. The State Department continues to play footsie with negotiations and dangles the prospect of diplomatic recognition in front of the Communist Angolan government. With official U.S. blessing, the Chevron Oil Co. pumps oil for Angola—generating nearly all of the hard currency used to pay for Soviet military hardware.

Mr. President, we have an administration policy that talks loudly but carries a small stick. Rambo rhetoric comes cheap. It is easy to expound a Reagan doctrine. But it is more difficult to put it into action. Yet that is precisely the challenge presented in Angola today.

It is too easy to forget that ideas have consequences. If we are going to proclaim support for people fighting for freedom and democracy, then we must back up our rhetoric with action and material support. But we cannot have it both ways. The administration cannot proclaim its support for freedom fighters, yet abandon them in favor of the umpteenth useless round of so-called negotiations. The administration cannot invite Joseph Savimbi to the White House, yet refuse to order Chevron out of Angola.

At this late hour, talk is not enough in Angola. Savimbi and Unita need assistance and they need it now. The dry season offensive spearheaded by Soviet and Cuban shocktroops is imminent.

Mr. President, the bill provides assistance that goes right to the heart of the Angolan matter—economic aid, oil, and Soviet and Cuban support. These are the elements that keep the discredited Marxist regime in power. These are the levers that allow the regime to snub its nose at Savimbi's call for national reconciliation and free elections.

Specifically, the bill would impose an economic embargo on Angola until such time as free and fair elections are held. This embargo includes prohibiting the import of Angolan oil into the United States. The bill also repeals the tax-free treatment of income earned by Chevron workers in Angola. While these actions alone would not shut down Chevron operations, it would send a clear signal to Chevron and the State Department that the days of business-as-usual in Angola are past. In combination with last year's legislation raising the tax rate on Chevron's Angolan profits, this bill would render Chevron's continued corporate presence all but worthless.

This bill would also impose a heavy price on the Cubans and Soviets for their continued presence. Against the Cubans, who serve as the Hessians of the Soviet empire, we will apply pressure on sugar sales and international lines of cerdit. Against the Soviets, who are the colonial overseers in Angola, we will prohibit their merchant ships from calling on the United States and Cuba during a single voyage.

Mr. President, these are urgent measure. Unita has the leadership, the guns, the popular support, and the muscle to get the job done in the field. What Unita lacks are western actions that put the Soviets and Cubans on notice that their oppression of Angola will carry a high price.

And let us have no doubt: This is a momentous struggle. We have a clear moral responsibility to help those who resist totalitarian regimes. Moreover, we have a clear strategic responsibility to prevent Angola—with its vital mineral reserves, strategic location, and deep water port—from being consolidated into a permanent Soviet colony and springboard for Marxist mischief throughout southern Africa.

Mr. President, I am well aware of the polls. Regrettably, the cause of supporting those fighting for democracy and freedom is not always popular. Our annual struggle to fund the Contras in Nicaragua is just one manifestation of America's long post-Vietnam hangover. But as a great Nation, we must live up to our responsibilities. We cannot remain passive in the face of an aggressive Soviet foreign policy. As John Stewart said in 1859:

> The doctrine of non-intervention, to be a legitimate principle of morality, must be accepted by all governments. The despot must consent to be bound by it as well as the free states. Unless they do, the profession comes to this miserable issue—that the wrong side may help the wrong side, but the right must not help the right.

Now we face a choice in Angola—to stand aside and allow Soviet and Cuban adventurism free reign, or to actively support the forces of freedom. To this Senator, and to those who support democratic forces around the world, it is an easy choice. The freedom fighters in Angola deserve our assistance.

CONGRATULATIONS TO MATH WHIZ RUSSELL MANN

Mr. SASSER. Mr. President, I would like to take this opportunity to join with the citizens of Tennessee in congratulating 13-year-old Russell Mann of Clarksville upon being named national champion in the fourth annual Mathcounts competition.

Russell recently beat out over 200 seventh and eighth graders during the competition finals in Washington, DC. He clinched the title by correctly answering a question posed by Vice President GEORGE BUSH about the number of square tiles it would take to cover a certain floor. Russell's uncanny ability to answer quickly the most difficult math questions duly impressed the Vice President and all the rest in attendance at the pressure-packed finals.

Winning the national championship comes as no surprise to those who know young Russell. He has already scored a perfect 800 on the math SAT—a test most students wait to take in their junior or senior year of high school. Also, for the last 2 years, he has received the highest score in a math talent search sponsored by Duke University.

Russell has a tremendous God-given talent. I know he will continue to work to develop that talent to its fullest.

Knowledge in mathematics is more important now than ever before. With growing shortages of natural resources, our Nation and the world must strive to improve the quality of people's lives through technological advancements. Mathematics is the key, and young mathematical geniuses, like Russell Mann, are the individuals we can count on to pursue society's technological goals.

Mr. President, I know Russell's parents and classmates at Richview Middle School in Clarksville are extremely proud of him. I want Russell to know that his achievement is a source of pride for all Tennesseans, especially this Senator.

MAY 20, 1987—CUBAN INDEPENDENCE DAY

Mr. GRAHAM. Mr. President, 85 years ago today the Cuban flag was raised for the first time over an independent Cuban nation. Today we celebrate Cuban Independence Day with vivid memories of that sweet freedom and an unshakeable resolve to fly that flag of liberty again.

Just before the moment of independence in 1902, President Theodore Roosevelt characterized the American feeling about Cuba when he said, "Cuba is so near to us that we can never be indifferent to misgovernment and disaster within its limits. Cuba's position makes it necessary that her politcal relations with us should differ from her political relations with other powers."

We have always been, and continue to be, more than just geographic neighbors with the Cuban people. Our ancestors shared the same ships on the same voyages of discovery. Our struggles to develop a new society, new economies and a new culture have paralleled each other for centuries.

The Cuban people and the American people bravely built a homeland in this New World with all its limitless possibilities. We are saddened together at the harsh limits under which Cuba is suffering now.

Americans are appalled and angered at the violations of human rights and the indifference to human freedom in Cuba today. Armando Valladares, the former Cuban political prisoner who writes so eloquently of his abusive incarceration and of Fidel Castro's Communist regime, visited with us in Washington recently. He is a compelling spokesman for all those souls longing for liberty in Havana, and in Matanzas; in Camaguey, and in Santiago.

His call to action is a reminder that Theodore Roosevelt was right: we can never be indifferent to Cuba. We hold a common heritage, we still have the same dream of that bright New World. Together we are free people; when one of us is oppressed, we are all oppressed.

The world we wake to each day is rife with conflicts and with sorrows. The dreams we believe in are darkened by war and by repression. But the image of that Cuban flag raised high, flying free, is the symbol of our common hope, which can never be erased. It is the symbol of our common faith, that the island of Cuba will once again be independent. It is the symbol of that wild and unquenchable love of freedom which is in our blood and in our hearts and in our inevitable destiny.

A SALUTE TO GORDON E. KRAMER

Mr. HECHT. Mr. President, this morning I would like to salute a very important man in my State, Mr. Gordon E. Kramer. Mr. Kramer is president of Safety Direct, Inc. in Sparks, NV; and has been honored as Nevada's Small Business Person of the Year for 1987.

In my view, small businesses are the backbone of this Nation's economy. They have contributed to the wealth of this Nation by providing millions of jobs, creating vital products and supplying essential services. These entrepreneurs supply the innovative ideas that help keep America at the forefront of an aggressive world market.

Mr. President, the buzz word around Washington these days is competitiveness. Well, I know that given the opportunity to compete freely, many of these small businessmen would run circles around our foreign competitors. Mr. Kramer is a good example of one such businessman. He founded Safety Direct in 1972, to handle earmuff hearing protector products made by another company. Two years later, Kramer bought the company, moved the production facility to Nevada and has expanded his product line to include a wide variety of hearing protection products.

Now, today, Safety Direct has 75 percent of the shooting sports market, has captured the hearing protection business of 12 major airlines and does extensive business with the Department of Defense. Company sales were $6,000 during Kramer's first year; and 1986-87 fiscal year sales are projected at about $4.25 million. Now that's competitiveness!

It is with great pride that I recognize Mr. Kramer and his wife, Tina for their accomplishments. They embody the hard work and determination that this country was founded on. Keep up the good work.

HOW THE JAPANESE GET AROUND THEIR VOLUNTARY RESTRAINT AGREEMENT ON VEHICLES AND ADD TO OUR TRADE DEFICIT

Mr. RIEGLE. Mr. President, last week the Japanese reported a trade surplus with the United States of $5.15 billion in April of this year. Last year, our trade imbalance with Japan was $59 billion. The automobile sector accounts for nearly 60 percent of that deficit.

There is a voluntary restraint agreement in effect, which is imposed by the Japanese, on their manufacturers. It is generally believed that their self-imposed quota is 2.3 million. However, that pertains only to automobiles. Japanese vehicle exports to the United States are actually running at an annual rate of 4 million cars and trucks—a far cry from the 2.3 million that is too frequently reported as their export figure. The 2.3 million level only pertains to automobiles.

The Japanese Government recognizes the significance of the auto sector in our overall trade imbalance which is why it has continued to live with the self-imposed voluntary restraint agreement. But Japanese manufacturers have found ways around the voluntary restraints, and the Ministry of International Trade and Industry seems to be looking the other way by condoning massive circumvention of its own policy.

This is yet another example of the Japanese agreeing to one policy and practicing another. How can the Congress or the administration have any confidence in Japanese Government policy if such blatant violations are permitted to continue unchecked? We only have to look at the most recent dispute between our Governments over the semiconductor agreement which Japan violated to appreciate the difficulties we have in forcing compliance with trade agreements. Japan was accused of not living up to its commitments on semiconductors, and the United States held our trading partners to their word by imposing sanctions.

I have asked the Department of Commerce to look into the possibility that the Japanese are dumping trucks on the United States market by selling below the costs of production, transportation, insurance, distribution, advertising, profit, and so forth. I encourage the Department to continue to investigate this situation.

Another way that the Japanese manufacturers by-pass their own policy is by shipping virtually all vehicle component parts to the United States or other countries for assembly. Very little is added to these cars in the way of domestic content. These "knock-down-kits" are really cars-in-crates, shipped to get around the voluntary restraint agreement.

I also want to note a third category of imports—the so-called van category. This is a classification composed of jeep-like vehicles, multipurpose or sports-utility cars. They have high axles and have four-wheel drive. They can be seen in increasing numbers on our streets as Suzuki Samurais, Mitsubishi Monteros, Nissan Pathfinders and Toyota 4-Runners. Japan has a quota on these vehicles of about 112,000 units per year. However, over 260,000 were sent to our shores last year. How did the carmakers get around the official quota by 150,000 units? Well, they were shipped without rear seats and called trucks, which are not subject to any export quota at all. Once in the United States, these units were installed with rear seats which were shipped separately from Japan. Since this is one segment of the car market that is expanding, I believe we can expect a total of about 350,000 multipurpose vehicles in this country this year from Japan. This annual figure is calculated by extrapolation from early monthly figures for this year. If the projection holds true, it would mean over 200 percent more jeep-like vehicles will be coming to our shores than are allowed under the Japanese restraint policy. Is there any wonder the trade deficit increases? Mr. President, these are passenger cars by virtually every reasonable definition. Their chassis, configuration, axle ratio, windows, strength of construction, and even marketing are for passengers, and they are not designed or sold to carry cargo.

The Japanese Government should count their importation of knock-down-kits in the 2.3 milion voluntary restraint figure. Our Government should proceed immediately with its investigation into the possibility that the Japanese are dumping light trucks in this country. And, the Japanese Government should live up to the agreement it imposed on its auto industry by stopping jeep-like, multipurpose vehicles from being exported outside its own quota for this classification.

ERNEST L. CUNEO

Mr. PELL. Mr. President, in just a few days we will mark the birthday of an outstanding American, the Honorable Ernest L. Cuneo, who will observe his 82nd birthday on May 27. Ernie is a marvelous individual who has truly given of himself to his family, his friends, his community, and his Nation. He is possessed of a rollicking style, immense common sense, and incomparable spirit. He is a rare person and one for whose presence we are all the richer. I would like to share with my colleagues a few highlights from his very singular life and accomplishments.

Ernest Cuneo is truly a modern day Renaissance man, literally a direct descendent of the Cuneos of Genoa, Italy. One of his ancestors, Michael Cuneo of Savona, sailed with Columbus, and Ernie has exemplified the Renaissance tradition of scholarship, athletic attainment, and illustrious public service. At Columbia University he earned his undergraduate and law degrees, and excelled as an All-American football player. Following graduation he briefly played professional football in the fledgling National Football League, an experience which he later recounted, in his inimitable style, in a short memoir entitled "Professional Football in the Twenties: A Last Look."

Ernie's introduction to politics was as a confidential legal assistant to an equally memorable individual, the incomparable Fiorello LaGuardia, then a reform Congressman from New York City. LaGuardia was defeated for reelection in 1932, but Ernie's infatuation with politics was complete. Through his association with LaGuardia, Cuneo became a member of a small circle of influential, liberal attorneys informally advising President Franklin Roosevelt. His behind the scenes contributions in this role were legion, perhaps most memorable being his vital work with the media in laying the ground work for public acceptance of President Roosevelt's unprecedented bid for a third term in 1940.

World War II provided a unique opportunity for Cuneo to serve his Nation. He became a highly valuable OSS officer, ultimately serving as a liason between President Roosevelt and Winston Churchill. Ernie's services as an assistant to General Donovan at OSS prompted Sir William Stephenson, the famed "Intrepid" of British wartime intelligence, to write recently:

> Of my many vivid memories of World War II, those of Ernie Cuneo are among the most gratifying. I admired him then, as I do now, for his brilliant intellect, but even more impressive over all these years has been his extraordinary sense of patriotism to the United States of America. He, as "Crusader" and I, as "Intrepid," cooperated in many British and American intelligence operations during the war. I have long believed that Ernie's efforts for the OSS during that time were not sufficiently understood by the American side. So much of what he did—that I am aware of—was clearly above and beyond the call of duty.

The facets of Cuneo's personality are many and varied. He is perhaps best described in Ivar Bryce's memories of Ian Fleming—the creator of James Bond—"You Only Live Once":

> Cuneo is the repository of innumerable secrets; he is on intimate terms with the denizens of the corridors of power; and his advice, and can easily be imagined, is widely sought by the famous. So is his company.

I have recounted only a few of Ernie's many attainments, leaving out his long and distinguished service as counsel for American and foreign corporations, as head of the North American Newspaper Alliance, as director of Freedom House and of the Woodrow Wilson Institute of International Scholars, and as author of many books and articles including a biography of Fiorello LaGuardia and many remarkable accounts of wartime intelligence and military history. As Ian Fleming has said:

> Cuneo's encyclopaedic wisdom, his fine sense of humor and his kindness to all around him contributed to making him a personality of titanic proportions. Ernest Cuneo is an outstanding American patriot, and I join with his legion of enthusiastic admirers in extending warm greetings upon the occassion of his eighty-second birthday.

BICENTENNIAL MINUTE

MAY 20, 1862: HOMESTEAD ACT BECOMES LAW

Mr. DOLE. Mr. President, on May 20, 1862, 125 years ago today, President Abraham Lincoln signed into law the Homestead Act, granting free family-sized parcels of public land to actual settlers after 5 years' residence. The bill was the culmination of nearly four decades of controversy.

As early as 1825, Senator Thomas Hart Benton of Missouri moved that an inquiry be made into the expediency of donating lands of settlers. In a message to the Senate in 1832, President Andrew Jackson expressed the opinion that "the public lands should cease as soon as practicable to be a source of revenue." In 1846, Representative Andrew Johnson of Tennessee introduced a bill in the House calling for free land for settlers. But when a general bill for free land actually came to a vote in Congress in 1852, it was defeated in the Senate.

The "homestead" issue took on sectional tones in the Senate debate. Southern Senators opposed the bill, fearing it would result in the populating of territories with antislavery settlers. Eastern Senators were afraid a homestead bill would accelerate western movement and lower land prices in the East. Western Senators were the most consistent supporters until the issue was taken up in 1860 by the new Republican Party. That year a homestead bill was passed by the House and Senate, but vetoed by Democratic President James Buchanan. The attempt to override the veto failed by a small margin.

In the absence of the mostly democratic southern Senators, who withdrew in January 1861, the Republicans in the Senate, by a vote of 33 to 7, were finally able to push through the Homestead Act on May 6, 1862. By any standard, this was one of the most significant pieces of legislation ever to emerge from the U.S. Senate.

MESSAGES FROM THE HOUSE

At 6:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H. Con. Res. 127. A concurrent resolution providing for an adjournment of the House and Senate from May 21 to May 27, 1987.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution, which was placed on the calendar:

S.J. Res. 104. Joint resolution to designate the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week".

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 20, 1987, he had presented to the President of the United States the following enrolled bill:

S. 942. An act to amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees in the Tucson wage area whose basic pay would otherwise be subject to reduction pursuant to a wage survey.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1267. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from October 1, 1986, through March 31, 1987; ordered to lie on the table.

EC-1268. A communication from the Secretary of Defense, transmitting, pursuant to law, a "Report on the Anti-Ballistic Missile Treaty"; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOREN, from the Select Committee on Intelligence, without amendment:

S. 1243. A bill to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities fo the United States Government, to Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 100-59).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 328. A bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 496. A bill to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1238. An original bill to amend the Bilingual Education Act to make Federal financial assistance available for children of limited English proficiency without mandating a specific method of instruction, to encourage innovation at the State and local level through greater administrative flexibility, to improve program operations at the Federal level, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY from the Committee on Labor and Human Resources:

S. 1238. An original bill to amend the Bilingual Education Act to make Federal financial assistance available for children of limited English proficiency without mandating a specific method of instruction, to encourage innovation at the State and local level through greater administrative flexibility, to improve program operations at the Federal level, and for other purposes; placed on the calendar.

By Mr. ARMSTRONG (for himself, Mr. Daschle and Mr. Durenberger):

S. 1239. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain short-term loans; to the Committee on Finance.

By Mr. GRAHAM:

S. 1240. A bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining healthy lifestyle; to the Committee on Finance.

S. 1241. A bill to amend title IV of the Older Americans Act of 1965 to establish demonstration projects for community care preventive health services; to the Committee on Labor and Human Resources.

By Mr. HUMPHREY (for himself, Mr. Armstrong, Mr. Danforth, Mr. Garn, Mr. Gramm, Mr. Hatch, Mr. Hecht, Mr. McClure, Mr. Nickles, and Mr. Symms):

S. 1242. A bill to prohibit the use of Federal funds for abortions except where the life of the mother would be endangered, and to prohibit the provision under title X of the Public Health Service Act of Federal family planning funds to organizations that perform or refer for abortions, except where the life of the mother would be endangered, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOREN from the Select Committee on Intelligence:

S. 1243. A bill to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the U.S Government, to Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on the Judiciary and the Committee on Armed Services, jointly, by unanimous consent for the 30-day time period provided in section 3(b) of Senate Resolution 400, 94th Congress, provided that the Committee on the Judiciary be restricted to the consideration of title IV; Provided further that if either committee fails to report within the 30-day time limit, such committee shall be discharged from further consideration of the bill.

By Mr. ROTH:

S. 1244. A bill to provide that past-due amounts owed by physicians and other health professionals who breached a contract under the National Health Service Corps Scholarship Program shall be deducted from amounts otherwise payable to the physician under the Medicare and Medicaid Programs, and for other purposes; to the Committee on Finance.

By Mr. CHILES (for himself and Mr. Graham):

S. 1245. A bill to amend the Internal Revenue Code of 1986 to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1246. A bill to authorize the Administrator of General Services to convey property to the Museum of the American Indian, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCAIN (for himself, Mr. DeConcini, and Mr. Stennis):

S. 1247. A bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknowns"; to the Committee on Veterans Affairs.

By Mr. HEFLIN:

S. 1248. A bill to make technical amendments to the State Justice Institute Act of 1984; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 1249. A bill to promote excellence in economic performance in the United States and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. Kennedy, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, and Mr. Specter):

S. 1250. A bill to strengthen the criminal justice partnership between the States and the Federal Government; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. Lautenberg, Mr. Wilson, Mr. Cranston, and Mr. Durenberger):

S.J. Res. 133. Joint resolution prohibiting the sale to Saudi Arabia of 12 F-15 aircraft; to the Committee on Foreign Relations.

By Mr. WARNER (for himself, Mr. Hollings, Mr. Inouye, Mr. Rockefeller, Mr. Sasser, Mr. Danforth, Mr. Pressler, Mr. Trible, Mr. Wilson, Mr. Hecht, and Mr. McClure):

S.J. Res. 134. Joint resolution to designate the week commencing on the third Sunday in May, 1988, as "National Tourism Week"; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. Riegle):

S.J. Res. 135. Joint resolution to designate October 1987 as "Polish American Heritage Month"; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. Thurmond, Mr. DeConcini, Mr. Dole, Mr. Simon, Mr. Stevens, Mr. Armstrong, Mr. Wilson, Mr. Bond, Mr. Warner, Mr. Boren, Mr. Trible, Mr. Boschwitz, Mr. Shelby, Mr. Burdick, Mr. Rudman, Mr. Chiles, Mr. Pryor, Mr. Cochran, Mr. Proxmire, Mr. D'Amato, Mr. Nickles, Mr. Garn, Mr. Murkowski, Mr. Glenn, Ms. Mikulski, Mr. Graham, Mr. Levin, Mr. Heinz, and Mr. Helms):

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WILSON (for himself, Mr. DeConcini, Mr. Dole, Mr. Moynihan, Mr. Armstrong, Mr. Bond, Mr. Boschwitz, Mr. Bradley, Mr. Lautenberg, Mr. Chafee, Mr. D'Amato, Mr. Gramm, Mr. Heinz, Mr. Hecht, Mr. Kasten, Mr. McConnell, Mr. Simpson, Mr. Symms, Mr. Quayle and Mr. Wallop):

S. Res. 217. A resolution regarding Soviet participation in a Middle East Peace Conference; to the Committee on Foreign Relations.

By Mr. QUAYLE (for himself and Mr. Bumpers):

S. Res. 218. A resolution to express the sense of the Senate that each Senate committee that reports legislation that requires employers to provide new employee benefits secure an objective analysis of the impact of the legislation on employment and international competitiveness and include an analysis of the impact in the report of the committee on the legislation; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG (for himself and Mr. Daschle):

S. 1239. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain short-term loans; to the Committee on Finance.

TAX TREATMENT OF CERTAIN SHORT-TERM LOANS

● Mr. ARMSTRONG. Mr. President, today I am introducing legislation to clarify tax law so that small banks, particularly agricultural banks, will be able to retain the cash method of accounting. This clarification is needed so that these lenders will not be required to pay taxes on loans for which payment has not yet been received. Many small, rural banks are under financial stress. To ask these lenders to pay taxes on income they have not received is simply not wise. Moreover, it was clearly not the intent of Congress in passing last year's tax reform bill to impose such taxation.

Here's the background: Corporations used to be able to choose between the cash method or the accrual method as their system of accounting for tax purposes. Under cash accounting, income is recognized for tax purposes, when actual payments are received. Under accrual accounting, income is recognized when all events have occurred that establish the right to receive income.

The Tax Reform Act of 1986 changed all this. That law tried to reduce the number of corporations using the cash method of accounting. Large corporations could no longer use the cash method of accounting. Only individuals, some farming businesses, qualified personal service corporations and businesses with average annual gross receipts of $5 million or less can still use the cash basis of accounting. This $5 million test exempted many small, independent, community banks that are critical to the survival of their communities.

But another section of the tax reform legislation effectively required that short-term obligations must be accounted for on an accrual basis. Worse, this change retroactively applies back to September 27, 1986. Banks are thus forced to file amended returns. In other words, a small bank using the cash method of accounting must use the accrual method for income earned on short term loans. Imposing two methods of accounting plus requiring banks to pay taxes on income not yet received—all on a retroactive basis—can be a hardship.

I note, Mr. President, that both the Senate and House committee reports accompanying the Tax Reform Act say this latter section that is causing the problem applies only to "* * * those for whom the cash method of accounting for interest income from short-term obligations is considered inappropriate." Clearly, then, Congress did not intend to require those allowed to use cash accounting to be forced to use accrual accounting for these short-term obligations. The legislation I am introducing simply makes the law conform to congressional intent.

Many agricultural loans are made on a fixed-rate basis and payable on an annual basis. Such loans may straddle the bank's taxable year. Requiring a cash basis bank to accrue income from those loans in one tax year when payment comes in another tax year is contrary to the intent of preserving the less complicated method of cash basis accounting for small firms.

This is not just an operational problem for community banks, but a financial one as well. A cash basis bank may have a heavy concentration of short-term agricultural loans. If income from these loans has to be brought into income on an accrual basis for tax purposes, this adds additional financial demands on those institutions.

What this bill accomplishes is this: It clarifies that for banks who use the cash method of accounting that they can also account for the income from short-term obligations for tax purposes using the cash method. The bill modifies the retroactive nature of the Tax Reform Act of 1986 to insure that banks qualifying to use this method of accounting will be spared the necessity of having to file amended returns for 1985. Short-term obligations are meant to include loans to individuals and businesses where there is stated interest or acquisition discount, of one year duration or less. It does not include T-bills, Government securities or related obligations.

I urge my colleagues to join me in supporting this legislation to provide consistent tax treatment for these affected taxpayers.●

● Mr. DASCHLE. Mr. President, my distinguished colleague from Colorado and I have worked together in a bipartisan effort to address a problem that affects people in rural areas of my State of South Dakota and across the country.

As you may know, Mr. President, small banks in rural areas have traditionally used the cash method of accounting for tax purposes. This means that they do not recognize income until they actually receive it. As a result of a provision enacted in the Tax Reform Act last year, all banks are now required to accrue the interest on all short-term obligations, including short-term loans. The effect of this requirement on small banks is to force these banks to pay taxes on substantial amounts of money which they have not yet received. This in turn has a detrimental effect on residents of towns and counties in which these banks are located. Permit me to explain, if I may.

Many of the people I represent in the rural areas of South Dakota live in a local economy that revolves around seasonal income. So, for example, a farmer putting in winter wheat may need a loan in October at planting time. Five or six months later, in February or March of the next year, he will repay the entire principle and stated interest on that loan upon harvesting and selling his wheat.

Let's assume that the bank in this example is on a calendar year for reporting of income taxes, as most of these banks are. The provision that Mr. ARMSTRONG and I seek to change today requires the bank in this example to show as income at the end of the first calendar year a portion of the interest which it will ultimately receive from the farmer. The bank is taxed on this amount, even though it has not yet received a penny from the farmer. Furthermore, because the bank is on the cash method of accounting, it is unable to take a corresponding deduction based on the fact that the money has not yet been received.

If we were talking about large banks that use the accrual method of accounting and that have diversified portfolios, this provision might not be a problem. But in rural communities, these types of loans represent the primary service provided by banks. Small banks in these areas make hundreds of these short-term loans each year, not just to farmers but also to small businesses that are tied to the farming economy.

If these banks are forced to comply with this provision of the 1986 tax bill, their ability to provide these much-needed loans in rural communities where the incomes of their customers are seasonal will be substantially diminished.

The bill that we are introducing today would solve the problem for these small banks and enable them to continue serving their customers. It would exempt small banks—those banks with $5 million or less in annual gross receipts—from the requirement of accruing interest only on short term loans of less than one year. Instead, these banks would continue to use a full cash method, recognizing the interest income from these loans only as the amounts are actually received.

The 1986 provision has an effective date of September 27, 1985, and is, therefore, retroactive in effect. So, for those banks that would continue to fall under that provision, our bill changes the effective date of the 1986 provision to October 22, 1986, thereby alleviating the retroactivity problem.

Mr. President, an estimate of the revenue impact of Mr. ARMSTRONG's and my bill is currently being prepared by the Joint Committee on Taxation. We do not anticipate that it will be very large. Nonetheless, I intend to study alternative means for raising any revenues that are lost based on the joint committee's estimate, and I will present my suggestions for raising those revenues at an appropriate time and in an appropriate manner in the future.

I hope my colleagues will review this legislation in more detail and lend their support to our bill. It will be a significant help, not just to South Dakotans and Coloradans, but to people in rural communities across the United States.●

By Mr. GRAHAM:

S. 1240. A bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining a healthy life style; to the Committee on Finance.

S. 1241. A bill to amend title IV of the Older Americans Act of 1965 to establish demonstration projects for community care preventive health services; to the Committee on Labor and Human Resources.

PREVENTIVE HEALTH SERVICES LEGISLATION

Mr. **GRAHAM.** Mr. President, we have a health care system in this country which focuses on illness and institutionalization. What we should strive for is a system which would focus on wellness and the quality of life.

America is growing older. By the year 2000—13 percent of our population will be over the age of 65, and 1½ percent of our population over the age of 85. Those older Americans can increase their healthy years and avoid early incapacitation if today we shift our emphasis from medical crisis to prevention.

I am introducing two bills to address the need for preventive health services by redirecting and expanding our existing system for elderly Americans.

Our present Medicare Program narrowly defines medical needs as acute care.

Our first bill will expand the definition of Medicare through screenings for high-risk conditions, through a prescription drug benefit and through a "healthy lifestyle" premium discount.

Mr. President, we propose to provide optional health care benefits to help reduce the medical risks to the beneficiaries. Risk reduction in the long term by the Federal Government through an investment in prevention, will enhance the quality of life and improve the daily productivity of our Nation's elderly.

Under the legislation which will be introduced, Mr. President, an annual preventive health check-up will screen for early indications of such high risk conditions as hypertension, glaucoma, precancerous conditions and impaired mental health.

Such early warnings could prevent strokes, blindness, diabetes, cancer, and acute clinical depression, all potentially disabling diseases.

To defray the relatively minor expense attached to an annual check-up and screening, we have proposed that the plan be an optional benefit to Medicare. The beneficiaries would pay an optional premium of $3 per month to receive these benefits. The Federal Government would pay the balance of this program. It is estimated that the $3 per month will cover approximately 50 percent of the costs of those eligible beneficiaries.

For a second small additional cost, an addition to the existing Medicare monthly payment, services will be expanded to cover a limited list of common prescriptive medicines for those chronic diseases which would be identified. Often such medication can arrest the progress of a disabling condition and allow the patient to continue a normal lifestyle. This minimal extra premium is intended to cover any costs incurred by the medication benefit.

In addition, immunizations to patients at high-risk for some illnesses such as tetanus, influenza, and hepatitis, will be provided at no cost to the patient.

The additional cost will take the form of a $100 annual deductible, a $4 per month additional premium, and a 5 percent copayment for individual prescriptions.

Finally in the expansion of Medicare, a proposal for a $1 per month premium discount, a reduction from the current Medicare annual or monthly premium for healthy lifestyle beneficiaries.

This discount will be awarded to those Medicare recipients who fit a good life profile at their annual health screening.

Those who do not smoke, who consume only moderate amounts of alcohol, who maintain an appropriate weight as determined by their doctors, will be eligible for this discount. This is a small but tangible incentive for personal responsibility for good health and good health practices, to be an active participant in working for one's own wellness.

Passage of this legislation will signal our intent to create a healthier, more productive, more independent America. There is no adequate measure for an improved quality of life. There is abundant documentation of the relatively low expense of preventive, outpatient programs compared to costly confinements in hospitals and nursing homes.

To complement the Medicare move toward prevention, we also offer a second bill to expand our Older Americans Act through community demonstration projects.

There are five basic things we can do to improve the quality and productivity of older Americans' lives: accident-proofing; dietary education; physical therapy; supervised exercise; mental health screenings.

Through locally-based projects such as the community care for the elderly program—which has been successful in Florida—we can identify groups of high risk elderly living at home or in congregate living facilities and improve their chances of avoiding institutionalization.

Through demonstration projects we can screen for injury control, mostly in the home where accidents can immobilize a frail, elderly person.

In 1984, 200,000 elderly in the United States suffered hip fractures. Of that group about 40,000 died of complications within 6 months; 40,000 more were confined to nursing homes for the remainder of their lives.

Through demonstration projects we can provide nutritional counseling to those with special medical conditions and to older people living alone.

We can offer physical therapy and exercise classes to increase mobility and overall good health.

We can screen for mental health problems before they become disabling.

This bill will provide seed money to set up State-managed programs—and limited matching funds to start up actual demonstration projects—beginning with five States and graduating up to a maximum of 20 States during the next 5-year authorization of Medicare and the Older Americans Act.

That is a modest goal, but it is a pragmatic goal. It is one which will afford years of productivity and independence to a most valued segment of our society, our older Americans.

Mr. President, we have an obligation to work for a healthy and vigorous America. That includes an obligation to all Americans.

We cannot shortchange our older citizens, whose resources are limited, by limiting their health care to the catastrophic or to permanent confinement.

With that narrow view we also limit older Americans' chances to contribute their experience and energy to a better America.

By choosing wellness over illness, we can offer older Americans the kind of health care they deserve. By choosing wellness over illness, we take the necessary first step toward achieving our national health care goals.

Thank you, Mr. President.

I ask unanimous consent to print in the RECORD the legislation which will be introduced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTIVE COVERAGE OF CERTAIN DRUGS AND BIOLOGICALS UNDER MEDICARE PART B PROGRAM.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) in the case of an individual who (in such manner and for such period as the Secretary shall provide) elects to receive coverage under this subparagraph and pay the additional premium required under section 1839(g), such prescription drugs and biologicals as the Secretary designates (from among such drugs and biologicals included under subsection (t)) for treatment of hypertension, diabetes mellitus, arthritis, cardiovascular disease, hypercholesterolemia, osteoporosis, chronic obstructive pulmonary disease, mental illness, and such other chronic disease states as the Secretary may provide;".

(b) ADDITIONAL PREMIUM FOR INDIVIDUALS ELECTING TO RECEIVE COVERAGE.—Section 1839 of such Act (42 U.S.C. 1395r) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this section, the amount of the monthly premium otherwise determined under this section with respect to an individual for months occurring in a calendar year shall be increased by $4 with respect to any individual who elects to receive coverage for the items described in section 1861(s)(2)(L).".

(c) DEDUCTIBLE AMOUNT.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" at the end of subdivision (3), and

(2) by inserting before the period at the end of subdivision (4) the following: ", and (5) such deductible shall be $100 in the case of expenses incurred for the items described in section 1861(s)(2)(L)".

(d) COPAYMENT AMOUNT.—

(1) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before subdivision (H); and

(B) by adding at the end thereof the following: "and (I) with respect to expenses incurred for the items described in section 1861(s)(2)(L), the amounts paid shall be 95 percent of the reasonable charges for such items,".

(2) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after the second sentence the following new sentence: "In the case of items described in section 1861(s)(2)(L), clause (ii) of such sentence shall be applied by substituting 5 percent for 20 percent.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after the first day of the first calendar month to begin more than 60 days after the date of the enactment of this Act.

SEC. 2. ELECTIVE COVERAGE OF ROUTINE PHYSICAL CHECKUP UNDER MEDICARE PART B PROGRAM.

(a) IN GENERAL.—

(1) Section 1862(a)(7) of the Social Security Act (42 U.S.C. 1395y(a)(7)) is amended by inserting "except as provided in subsection (j)," immediately after "(7)".

(2) Section 1862 of such Act (42 U.S.C. 1395y) is amended by adding at the end thereof the following new subsection:

"(j) In the case of an individual who (in such manner and for such period as the Secretary shall provide) elects to receive coverage for the services described in this subsection and pay the additional premium required under section 1839(h), the exclusion from coverage under subsection (a)(7) shall not apply to expenses incurred for services furnished by a family practitioner, general practitioner, internal medicine specialist, general preventive medicine specialist, obstetrical/gynecological specialist, or any other primary care physician during a routine physical checkup (without regard to the location at which such services are furnished, but no more than once each year for any patient) to diagnose or prevent illness or injury. Such services shall include hypertension screening, glaucoma screening by tonometry, cholesterol screening, screening for any of the infectious diseases specified in section 1861(s)(10), a routine exfoliative cytology (Papanicolaou) test for the detection of cervical cancer, test for blood in the stool, rectal examination, breast examination, a mammogram for the detection of breast cancer, and appropriate referral for diagnosis or treatment of mental illness.".

(b) ADDITIONAL PREMIUM FOR INDIVIDUALS ELECTING TO RECEIVE COVERAGE.—Section 1839 of such Act (as amended by section 1) is further amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this section, the amount of the monthly premium otherwise determined under this section with respect to an individual for months occurring in a calendar year shall be increased by $3 with respect to any individual who elects to receive coverage for the services furnished in connection with the routine physical checkup described in section 1862(j).".

(c) WAIVER OF COPAYMENTS.—

(1) Section 1833(a)(1) of such Act (as amended by section 1 of this Act) is further amended—

(A) in subdivision (D) by inserting "for tests furnished in connection with a routine physical checkup (as described in section 1862(j))" after "1870(f)(1),";

(B) by striking out "and" before subdivision (I); and

(C) by adding at the end thereof the following: "and (J) with respect to expenses incurred for the services furnished in connection with the routine physical checkup described in section 1862(j), the amounts paid shall be 100 percent of the reasonable charges for such services,".

(2) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "with the first opinion)," the following: "with respect to services furnished in connection with the routine physical checkup described in section 1862(j),".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services furnished on or after the first day of the first calendar month to begin more than 60 days after the date of the enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN IMMUNIZATIONS UNDER MEDICARE PART B PROGRAM.

(a) IN GENERAL.—Section 1861(s)(10) of such Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) by striking "and" at the end of subparagraph (A), and

(2) by adding at the end thereof the following new subparagraph:

"(C) such immunizations as the Secretary designates for prevention or treatment of tuberculosis, influenza, meningococcal meningitis, tetanus, and such other infectious diseases as the Secretary determines present a public health problem, furnished to individuals who, as determined in accordance with regulations promulgated by the Secretary, are at high risk of contracting any of such diseases; and".

(b) WAIVER OF COPAYMENT.—

(1) Section 1833(a)(1) of such Act (as amended by sections 1 and 2 of this Act) is further amended in subdivision (B) by striking "1861(s)(10)(A)" and inserting in lieu thereof "1861(s)(10)".

(2) The last sentence of section 1866(a)(2)(A) of such Act (as amended by section 2 of this Act) is further amended by striking "1861(s)(10)(A)" and inserting in lieu thereof "1861(s)(10)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services furnished on or after the first day of the first calendar month to begin more than 60 days after the date of the enactment of this Act.

SEC. 4. MEDICARE PART B HEALTHY LIFESTYLE PREMIUM DISCOUNT.

(a) IN GENERAL.—Section 1839 of the Social Security Act (as amended by sections 1 and 2 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the amount of the monthly premium otherwise determined under this section with respect to an individual for months occurring in a calendar year shall be reduced by $1 if the individual is certified by a physician for that year (in accordance with procedures established by the Secretary in regulations) as an individual who maintains a healthy lifestyle.

"(2) An individual may be certified as maintaining a healthy lifestyle under paragraph (1) if—

"(A) the individual does not use any tobacco or tobacco product,

"(B) the individual does not consume medically detrimental amounts of alcohol, and

"(C) the weight of the individual is within a weight range that is appropriate for an individual of the same age and health status.".

(b) CONFORMING CHANGES.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(2) by striking "provided in subsections (b) and (e)" and inserting in lieu thereof "otherwise provided in this section".

(2) in subsection (a)(3) by striking "subsection (e)" and inserting in lieu thereof "this section".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to premiums after December 31, 1987.

S. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMUNITY CARE PREVENTIVE HEALTH SERVICES DEMONSTRATION PROJECTS UNDER TITLE IV OF THE OLDER AMERICANS ACT OF 1965.

(a) IN GENERAL.—Part B of title IV of the Older Americans Act of 1965 is amended by adding at the end thereof the following new section:

"COMMUNITY CARE PREVENTIVE HEALTH SERVICES DEMONSTRATION PROJECTS

"SEC. 427. (a) The Commissioner shall make grants to and enter into contracts with States selected under subsection (b) for the purpose of paying the federal share of the cost of conducting demonstration projects to furnish the community care preventive health services specified in subsection (b).

"(b)(1) The community care preventive health services specified in this subsection are—

"(A) exercise and physical therapy services furnished pursuant to a community center exercise program developed and provided by a physician, physical therapist, exercise physiologist, or specialist in the field of health and wellness of older adults.

"(B) home injury control services,

"(C) mental health services furnished to older individuals who are at a high risk of suffering depression, including individuals who have a chronic or acute medical condition or who are recently bereaved, and

"(D) nutritional counseling services furnished by a physician, nutritionist, or dietician in coordination with services furnished under existing community programs.

"(2)(A) The exercise and physical therapy services furnished under paragraph (1)(A) shall include—

"(i) screening of current activity levels of participants,

"(ii) screening of medical and physical limitations for exercise programs for participants, and

"(iii) injury protection educational assistance.

"(B) The home injury control services furnished under paragraph (1)(B) shall include—

"(i) screening of high-risk home environments,

"(ii) case managed evaluations and home environmental alterations for reducing home injuries, and

"(iii) educational programs on injury protection in the home environment.

"(C) The mental health services furnished under paragraph (1)(C) shall include—

"(i) screening for the prevention of depression,

"(ii) coordination of community mental health services,

"(iii) referral to psychiatric and psychological services, and

"(iv) group education and therapy in a community center setting.".

"(D) The nutritional counseling services furnished under paragraph (1)(D) shall include—

"(i) education and counseling in a community setting as to the medically appropriate diet for older individuals,

"(ii) screening for capacity to prepare meals, and

"(iii) diet evaluation.

"(c) For each of the fiscal years 1988 through 1991, the Commissioner shall select five States to submit proposed demonstration projects under this section. If the Commissioner determines that a State's proposal should be funded under this section, the Commissioner shall enter into a contract with such State for the purpose of conducting demonstration projects under this section through fiscal year 1992.

"(d) Each State conducting a demonstration project under this section shall collect data reflecting the results of such project and shall develop a management information system for processing such data.".

"(e) For purposes of this section, the Federal share in each fiscal year shall be 50 percent.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of such Act is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "(other than section 427)" after "title"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) There are authorized to be appropriated $250,000 for each of the fiscal years 1988 through 1991 for the purpose of providing grants to assist States selected under paragraph (1) of section 427(a) in developing proposed demonstration projects for submission to the Commissioner.

"(B) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $50,000,000 for fiscal year 1990, $75,000,000 for fiscal year 1991, and $100,000,000 for fiscal year 1992 for the purpose of paying the Federal share of conducting demonstration projects under section 427.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1987.

By Mr. HUMPHREY (for himself, Mr. ARMSTRONG, Mr. DANFORTH, Mr. GARN, Mr. GRAMM, Mr. HATCH, Mr. HECHT, Mr. MCCLURE, Mr. NICKLES, and Mr. SYMMS):

S. 1242. A bill to prohibit the use of Federal funds for abortions except where the life of the mother would be endangered, and to prohibit the provision under title X of the Public Health Service Act of Federal family planning funds to organizations that perform or refer for abortions, except where the life of the mother would be endangered, and for other purposes; to the Committee on Labor and Human Resources.

PRO-LIFE LEGISLATION

● Mr. HUMPHREY. Mr. President, I am pleased to introduce legislation proposed by President Reagan, that would terminate all direct Federal subsidies of the monstrous practice of abortion. I am joined in this effort by Senators ARMSTRONG, DANFORTH, GARN, GRAMM, HATCH, HECHT, MCCLURE, NICKLES, and SYMMS.

On January 27, 1987, in remarks accompanying the State of the Union Address, President Reagan said:

> Since 1973, after a divided Supreme Court ruled in *Roe* v. *Wade*, nearly 20 million unborn children have perished in our land due to abortion. This toll continues to climb—despite increasing evidence of the humanity of the unborn child and the growing desire of millions of young couples to adopt. My administration will submit legislation this year to further my commitment to protect the rights of unborn children. Our proposals would prohibit Federal Government funds from being used to: (1) perform abortions, except when the life of the mother is endangered if the unborn baby were carried to term; and (2) support, through title X family planning grants or contracts, any organization (except a grant or contract directly administered by a State or local government) that provides abortion procedures or referral for abortion, unless the life of the mother would be endangered.

On February 10, 1987, at the request of the White House, Health and Human Services Secretary Otis R. Bowen submitted legislation to the Congress which would achieve the expressed aims of the President with regard to his opposition to Federal funding of abortion. The Secretary summarized the intent and provisions of the legislation, and urged Congress to: Give its immediate and favorable consideration to this important legislation to protect the basic civil rights of unborn children.

The administration's proposal marks an historic occasion—the first time that a President has proposed legislation to end all Federal involvement with abortion.

This legislation is long overdue. Our Nation is deeply mired in an era of legalized abortion on demand for any reason throughout the 9 months of pregnancy. For 14 years, the Federal Government and the Nation as a whole have countenanced the deliberate destruction of prenatal infants. The offspring of human beings are human beings, and abortion kills human beings. For that reason, abortion is the greatest civil rights issue of our time. At the very least, the Federal Government should not facilitate this killing.

Yet, the Federal Government continues to subsidize directly abortion activity in a number of ways:

Through the title X Family Planning Program, the Government funds organizations which perform and refer for abortion. Current guidelines actually require abortion counseling and referral, in direct contravention of section 1008 of title X which prohibits the use of title X funds in programs where abortion is a method of family planning.

Some of the Nation's largest abortion providers receive millions of dollars in title X funds ostensibly intended for family planning and infertility programs. Instead, the funds subsidize abortion counseling and referral, ultimately damaging the credibility of the title X program and promoting a procedure that Congress and the American people have consistently refused to fund.

In addition, the Congress currently must pass annual appropriations legislation which prohibits Federal funding of abortion on an annual basis. This requires that the Congress repeatedly reaffirm what is already certain—that the Nation's taxpayers oppose Federal funding of abortion.

After a dozen years of Hyde amendment funding restrictions on Federal programs and agencies—including Medicaid, Indian Health Services, the Department of Defense, the Agency for International Development, the Peace Corps, the Federal Employees' Health Benefits Program, and most recently the Bureau of Prisons—the will of the American people will has been made starkly apparent: They do not wish to subsidize the deliberate killing of prenatal human beings. This legislation will end direct Federal subsidies of this killing.

The first provision—section 2—states three findings of the Congress with regard to abortion and the Supreme Court's decision in Roe versus Wade legalizing abortion on demand. The findings—that "abortion takes the life of * * * a living human being;" that the Constitution does not provide for a right to abortion; and that Roe versus Wade was in error—restate the good commonsense basis for the movement on behalf of preborn children.

These findings will put the Congress on record as recognizing the humanity of preborn children. And the findings will effectively put both the legislative and executive branches on record as opposing the judicial branch's fatally misguided Roe decision legalizing abortion on demand. The findings will restate the obvious—that the Constitution does not by any stretch of the imagination provide for the right to an abortion—the right to end the life of another human being.

The second provision (section 3) would permanently apply the Hyde amendment to all Federal agencies. Each and every agency would be prohibited from funding abortions except where the life of the mother is endangered. This will end the need to pass annual appropriations legislation, and would make consistent Federal policy with respect to funding abortions.

The third provision (section 4) addresses Federal funding of abortion activity under title X. This section will impose on those private, nonpublic organizations receiving or intending to receive title X funds, requirements in addition to, not in lieu of, those requirements now found in section 1008 of the title X statute. Nothing in this section is intended to preclude the continued and full enforcement of section 1008 restrictions on both public and private organizations.

Section 1008 has for 14 years been interpreted, I believe in violation of the original congressional intent for the section, to apply only to specific programs conducted by an organization, and not to the entire organization itself. This section will now add to these program-specific provisions, and, in certain and undeniable terms, reassert original congressional intent that no private organization or program is to include abortion as a method of family planning, if the organization intends to be eligible for title X funding. In no way is the parenthetical exception in this section to be interpreted as an authorization for States to provide abortion or abortion referral in their title X programs.

Mr. President, this bill will put an end to virtually all Federal funding of abortion. I am pleased to join in the historic offering of the first pro-life legislation to be proposed by any President. The bill, once signed into law, admittedly will not end abortion on demand, or reverse Roe versus Wade. But it will be the first step on our journey toward the eventual demise of abortion on demand.

I ask unanimous consent that the text of Secretary Bowen's letter to the Congress, the text of the President's letter to me in support of the bill, and the text of the President's bill, be printed in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "President's Pro-Life Bill of 1987".

SEC. 2. The Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution of the United States; and

(3) in *Roe* v. *Wade* (410 U.S. 113), and *Doe* v. *Bolton* (410 U.S. 179), the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the several states to protect the life of each person before birth.

SEC. 3. No funds appropriated by Congress shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 4. No funds appropriated by Congress pursuant to title X of the Public Health Service Act shall be awarded by grant or contract to any organization (except a grant or contract directly administered by a State or political subdivision thereof) that provides abortion precedures or referral for abortion procedures, unless the life of the mother would be endangered by carrying the fetus to term.

THE WHITE HOUSE,
Washington, DC, March 19, 1987.

Hon. GORDON HUMPHREY,
U.S. Senate,
Washington, DC.

DEAR GORDON: As you and Congressman Hyde today introduce our legislative proposal to further protect the lives of unborn children, you may be assured that you and those who have joined in this bipartisan effort have my sincere thanks and appreciation.

Together, we can bring to end the tragedy of abortion in America. The enactment of this bill would be an important step toward the day when the right to life of unborn children is respected again by our Nation's laws.

I look forward to working with you toward passage of this vital legislation.

Sincerely,

RONALD REAGAN.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, February 10, 1987.

Hon. JIM WRIGHT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a draft bill "To prohibit the use of Federal funds for abortions except where the life of the mother would be endangered, and to prohibit the provision under title X of the Public Health Service Act of Federal family planning funds to organizations that perform or refer for abortions, except where the life of the mother would be endangered, and for other purposes."

This proposed legislation carries out the President's commitment to protect the rights of unborn children. This commitment was expressed most recently in his Legislative Message to Congress and the accompanying fact sheets, and is an issue of the greatest concern to the Administration.

The first section of the bill states the findings of Congress that would underlie the mandate of the statute. It would clarify Congress' position that the rights of unborn children should be protected and that the Supreme Court erred in its decision in *Roe* v. *Wade.*

The second section of the draft bill would enact as permanent legislation the anti-abortion provision included annually in the appropriation act for the Department of Health and Human Services. By placing this prohibition in general legislation, rather than having it appear as a limitation on funds appropriated to a single department, it will cover all Federal funds regardless of which agency administers them. Further, the permanent provision will obviate the repetition in each HHS appropriation act of the prohibition on funding abortions.

The final provision of the bill relates to the programs of family planning services supported under the authority of title X of the Public Health Service Act. Section 3 would prohibit funding under that authority any organization that provides abortions or refers for abortions. Enactment of this provision will change the focus that is applied under current law. Rather than requiring the Secretary to determine whether the funding under consideration would be used by the organization to support only permissible activities (with the attendant problems of having one funding source merely replace another), the Secretary would be able to make the much clearer decision about the organization and the nature of the activities it supports.

We urge that the Congress give its immediate and favorable consideration to this important legislation to protect the basic civil rights of unborn children.

We are advised by the Office of Management and Budget that enactment of the enclosed draft legislation would be in accord with the program of the President.

Sincerely,

OTIS R. BOWEN, M.D.,
Secretary.●

By Mr. ROTH:

S. 1244. A bill to provide that past-due amounts owed by physicians and other health professionals who breached a contract under the National Health Service Corps Scholarship Program shall be deducted from amounts otherwise payable to the physician under the Medicare and Medicaid Programs, and for other purposes; to the Committee on Finance.

PHYSICIANS EDUCATION LOAN COLLECTION ACT

Mr. ROTH. Mr. President, I am today introducing the Physicians Education Loan Collection Act of 1987.

Many years ago, Congress enacted legislation to help worthy medical students become doctors. As a result, we were able to help supply a sufficient number of physicians for areas that were not covered by any physician at all, for example, in the poor urban areas or in many rural areas.

It is a program that has been very successful. But unfortunately, like all good programs, there are those who have exploited it, who have failed to live up to the conditions of the National Health Service Corps scholarship.

What I am proposing today is legislation that is necessary to ensure the recovery of millions of dollars owed the Government by doctors who, as I say, have not lived up to the terms of the NHSC Scholarship Program.

The vast majority have, and I want to pay public respect and attention to those who have served this country well as doctors who have enjoyed these scholarships.

But, unfortunately, out of the some 13,500 recipients of such scholarships, something like 1,800 have breached their contracts, have defaulted on their agreements, thus defaulting on $61.3 million worth of loans as of December 1983.

This legislation is designed to strengthen and extend debt repayment methods available to the Department of Health and Human Services to collect past-due defaulted obligations of doctors receiving National Health Service Corps [NHSC] scholarships. The bill accomplishes this through provision for offset of Medicare and Medicaid payments made to defaulting doctors accompanied by mandatory Medicare assignment of claims. The bill provides for an additional measure to be utilized, after exhaustion of all other debt collection methods, that of exclusion from the Medicare and Medicaid Programs. Such exclusion would be accompanied by civil collection action through the Attorney General, IRS, or other available means. The legislation also addresses means of collections from doctors who are employed by a medical plan or organization, or by a group practice. The bill assures that availability of medical services for beneficiaries of Medicare and Medicaid is not limited by doctor exclusion from the program.

I am pleased to say that Representative MICHAEL ANDREWS introduced this legislation in the House on Thursday, April 30.

Mr. President, I believe that this legislation is a necessary measure to ensure recovery of millions of dollars owed the Government by doctors who have decided not to live up to the terms of the NHSC Scholarship Program. The inspector general of the Department of Health and Human Services has described the nature and severity of the problem in a recent review of the NHSC repayment situation. The problem is not just that doctors are breaching scholarship agreements and owe the Government millions of dollars, but that these same doctors are being paid millions of dollars by the same agency, the Department of Health and Human Services, for services provided under the Medicare and Medicaid Programs. These doctors, in breach of contract and in default of payment, continue to supplement their income with Federal dollars. I can hardly imagine that any of us, in managing our business or personal finances, would continue to pay for services of an individual or company that owes us money. We would withhold the party's payments until all the debt was collected. That is exactly what my legislation will enable the Department of Health and Human Services to do: Remedy what the HHS inspector general termed an "illogical situation" of Government payments flowing to Government debtors.

Mr. President, another distressing aspect of this problem is the amount of Government money outstanding. The inspector general's report of April 12, 1985, states that 1,813 NHSC scholarship recipients had breached their agreements, thus defaulting on $61.3 million worth of loans as of December 1983. Over 1,000 of these recipients were in statutory repayment or grace period. Of these, over 400 were not making any payments on their defaulted loans. The IG studied 80 of these defaulters and found that while they owed the Government $2.3 million in principal alone, they received about $3.5 million in Medicare and Medicaid reimbursements in either 1982, 1983, or the first quarter of 1984. Eleven of these eighty doctors received reimbursements over $100,000. For example, one doctor, delinquent for $50,325, received about $150,000 in Medicare and Medicaid payments and made only one $500 payment between January 1983 and February 1984.

In many cases, doctors who are making payments instead of meeting their obligation to work in health manpower shortage areas are paying at a much lower level than was scheduled upon contract breach. For example, a doctor's 1983 payments of $133 a month were used solely for late penalties; nothing was paid on the loan's interest or principal. It certainly did not appear to the IG investigators that doctors could not afford to pay their debts. One doctor, owing $43,000 in principal and interest on his NHSC debt, bought real estate costing $318,000 and an automobile for $14,000. This doctor's $400 a month payments barely covered accumulating interest.

Mr. President, that is the nature and the scope of the problem we are addressing in this bill. Now some will wonder what HHS, and more specifically, the Public Health Service [PHS] has been doing in their collection efforts to date. Currently the PHS gives defaulting doctors several opportunities, through demand letters, to resolve their indebtedness, either through service or financial means. If these efforts are not successful, the cases may be referred to a collection agency or to the Department of Justice for legal action.

The Public Health Service is very concerned about this problem and is attempting to step up collection efforts. However, the agency requires some legislative assistance to expand the scope of remedies available for collection. I believe this legislation can help the Department of HHS improve their collection results, and thus save taxpayers millions of dollars.

Mr. President, in ths time of deep concern about Government spending and deficits, all programs are being scrutinized for further means of economizing. Government health programs, with their growing obligations, have been examined extensively for both efficiency improvements and program cost savings. Certainly, Mr. President, before we reduce services or benefits for those presently entitled, we must assure that we are doing everything possible to eliminate program mismanagement, fraud, and abuse. This includes assuring that all available steps are taken to collect health care dollars owed the Government.

Thus, the purpose of my legislation is twofold. It will send a clear signal to doctors signing on for a NHSC scholarship or loan that the Government expects the obligation to be fulfilled and the strong penalties for default stated in the agreement will serve as a deterrent to default. The legislation will also put some teeth into current PHS efforts to collect on loans already in default and thus help the financial condition of these worthwhile health programs.

My bill has three sections that amend the Medicare and Medicaid titles of the Social Security Act and the Public Health Service Act. The first section, the Medicare amendment, will add provision to title XVIII of the Social Security Act for offset of payments to physicians to collect past-due obligations arising from breach of scholarship contract. It provides that the loan agreement will state that deductions of defaulting physicians' Medicare or Medicaid payments will be made according to a formula and schedule agreed upon by the agency and the doctor until obligations—including accrued interest—have been met. In order to assure that it is the doctor, not the beneficiary who pays, the doctor is required to accept Medicare assignment during offset of payment.

If the doctor does not agree to such offset, breaches the offset agreement, or has insufficient Medicare/Medicaid payment to warrant offset as a collection method, other recovery methods will be used by the Attorney General. The bill also provides that further collection methods available to the Government, including tax refund offsets, may be used for NHSC debt collection. In addition, the physician failing to repay loans through all other reasonable means will be excluded from participation in Medicare and Medicaid Programs until the past-due obligation has been repaid.

I strongly believe, Mr. President, that we must not, in our efforts to sanction defaulting doctors, endanger the availability of medical care to our poor or elderly citizens. Therefore, my bill provides that a physician will not be barred from Medicare and Medicaid if he or she is the sole community physician or is the sole source of specialized medical services in a community.

Some doctors who have chosen not to meet their commitments to the Government in the NHSC Scholarship Program will find employment in health maintenance organizations [HMO's], group practice, or some other form of competitive medical plan where a centralized Medicare/ Medicaid billing and payment system exists. My bill provides that the defaulting physician's group or organization will be offset by Medicare and Medicaid payments no earlier than 6 months after notification of the physician's obligation and the collection plan. While such means of group or organization collection will relieve the member physician from obligation to the Government, the organization will retain the right to collect such amounts from the physician.

The Department of Health and Human Services will be required to coordinate with State Medicaid agencies for deduction by the States of the Federal share of the defaulting physician's Medicaid payments according to agreed upon formulas.

Finally, the bill provides that defaulted NHSC contracts entered into after enactment of the act may not be discharged through title 11 bankruptcy procedures.

Thus, Mr. President, this bill will provide the Department of HHS two additional tools to utilize in collection of past-due obligations from NHSC doctors. The provision for offset of the doctor's Medicare and Medicaid payment offers the doctor an alternative means of repayment, not dissimilar to the increasingly common practice of automatic deductions or funds transfer for loan payments. If the doctor does not agree to such offset or if offset does not provide necessary repayment, the legislation provides for doctor exclusion from Medicare and Medicaid Programs, coupled with further civil collection actions. In addition, incorporating these two new provisions into future NHSC scholarship agreements and assuring that both incoming and practicing NHSC doctors are aware of these sanctions should effectively deter defaults within this program.

Mr. President, in these times of belt-tightening, we must develop creative cost savings proposals that enhance program efficiency and effectiveness, but not reduce services and benefits. In the realm of health care programs, this strategy is particularly crucial, as many of our needy citizens depend on these programs for necessary medical services. While much attention has been focused on patient program abuses, it is my belief that we must look closer at the millions of dollars fraudulently billed and owed to the Government by health care providers. My bill, if enacted, will assist the Department of Health and Human Services in making those doctors who have received Government money for their medical education repay the taxpayer with the earning power made possible by these loans. This proposed legislation provides a simple, commonsense solution to this important problem. I urge my colleagues to support it and ask that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE AMENDMENT.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT.

"SEC. 1890. (a) IN GENERAL.—

"(1) The Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title or under a State plan approved under title XIX, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1); and

"(C) if the physician does not provide services, for which payment would otherwise be made under this title or a State plan approved under title XIX, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule, or if the physician breaches any provision of the agreement—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately bar the physician from the program under this title and from any State program of medical assistance under title XIX of this Act, until such time as the entire past-due obligation has been repaid.

"(3) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338D of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338D of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1876, the Secretary shall deduct the amount of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(3) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(4) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(5) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) NOTIFICATION TO AND AGREEMENT WITH STATE MEDICAID AGENCIES.—The Secretary shall notify each State agency which administers a State plan approved under title XIX of the name of each physician who owes a past-due obligation. If such physician receives any payments, or is employed by an entity which receives any payments, under a State plan, the Secretary shall enter into an agreement with such State under which amounts otherwise payable under the State plan to such physician or the employing entity will be deducted in accordance with the formula and schedule agreed to under subsection (a), or as provided in subsection (d). Deductions made by the State shall be made only from the Federal share of the amount otherwise payable to the physician or employing entity, and the amount otherwise payable to the State under section 1903 shall be reduced accordingly pursuant to section 1903(c).

"(f) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 2. MEDICAID AMENDMENTS.

(a) State Plan Requirement.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking out "and" at the end of paragraph (46);

(2) by striking out the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State shall make deductions, as specified by the Secretary pursuant to section 1890(e), from the Federal share of amounts otherwise payable to physicians for services furnished under the State plan.".

(b) Reduction in Federal Payment.—Section 1903 of such Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

"(c) The amount otherwise payable under subsection (a) to a State shall be reduced by the amount of any reductions in payments to physicians made by the State pursuant to section 1902(a)(49). An amount equal to the amount of the reduction in payment under this subsection shall be credited by the Secretary as repayment of past-due obligations under section 338D of the Public Health Service Act by the physicians from whom, or with respect to whom, the payments were offset.".

(c) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 3. PUBLIC HEALTH SERVICE ACT AMENDMENTS.

(a) Breach of Contract.—Section 338D(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare and Medicaid payments pursuant to section 1890 and 1902(a)(49) of the Social Security Act.".

(b) Elimination of Discharge in Bankruptcy.—Section 338D(c)(3) of such Act (42 U.S.C. 254o(c)(3)) is amended to read as follows:

"(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 of the United States Code.".

(c) Effective Date.—

(1) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to damages arising from contracts entered into after the date of the enactment of this Act.

By Mr. CHILES (for himself and Mr. Graham):

S. 1245. A bill to amend the Internal Revenue Code of 1986 to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances, and for other purposes; to the Committee on Finance.

HIGH-SPEED INTERCITY RAIL TRANSPORTATION BOND FINANCING ACT

● Mr. CHILES. Mr. President, I am today introducing legislation which will help meet the transportation needs of this country well into the 21st century. This is a time when budget deficits limit Federal expenditures on essential infrastructure needs. It is a time when present modes of transportation have reached their limits and costly congestion seems unavoidable. It is a time when we have to look for new answers lest old problems overwhelm us. My legislation puts forward new answers to those problems, envisioning a partnership of public agencies and private initiative to meet our transportation needs of the future.

First, let us look realistically at our current situation. The Congress has recently enacted highway and transit legislation to fund construction for the next 5 years. But there are many areas of the country where demand will continue to exceed the capacity of our transportation system. There are many areas where growth will outstrip all efforts to supply capacity. And there are many areas where congestion cannot be solved by the construction of yet more lane-miles of highways.

There are some areas, Mr. President, where the environmental cost of new highway construction will exact a high price. And yet we know that growth will come to these places, including my home State of Florida. Will we be able to plan for that growth and preserve our quality of life? Or will growth areas experience the same old problems of environmental decline seen elsewhere in our country?

Some of these problems are new to us. But they are not new to other parts of the world, including Western Europe and Japan. It makes sense to look at how the Europeans and Japanese have dealt with their transportation problems. When one looks, the remarkable success of high-speed rail is readily apparent. The French TGV system has far exceeded ridership and revenue estimates. The European Community is now developing plans to extend the system into Belgium and West Germany, and under the English Channel to Great Britain.

High-speed rail, carrying intercity passengers at speeds exceeding those of our fastest passenger trains, has great potential for application in the United States. I believe it makes sense to encourage and develop this technology. The direct and indirect benefits of developing high-speed rail in this country are enormous.

Most directly, high-speed rail will relieve congestion in many traffic corridors where other means of increasing capacity are impossible or environmentally unacceptable. High-speed rail will limit the need for additional lane-miles of highways. It will relieve crowding at our congested airports. And because development of high-speed rail capacity will replace other capacity improvements which would otherwise be necessary, it can be achieved at little or no additonal cost to the taxpayers.

We will also benefit from development of this technology in the United States. All too often we see American research and innovation capitalized on by others. In the case of high-speed rail, the Japanese and the Europeans have been the innovators. But we have the potential to move high-speed rail transportation far beyond where it is today. In the not-too-distant future trains utilizing magnetic levitation and linear induction motors may be capable of speeds over 300 miles per hour. The exciting breakthroughs occurring almost daily in superconducting materials bring this vision closer to reality. Even at much lower speeds, trains traveling from city center to city center will bring passengers to their destinations much faster than will air transport over short- and medium-range routes.

And last, apart from the direct and indirect benefits of the new technology itself, look at what will happen if we fail to meet our basic infrastructure needs. Lack of adequate transportation will cause inefficiences and added costs in the American economy. It will make our industry less competitive in world markets. Failure to address our infrastructure needs will ultimately cause a decrease in our standard of living.

The legislation I am introducing today is essential if we are to move quickly in developing this new and innovative technology. My legislation would provide for high-speed rail the same opportunities for tax-exempt bond financing currently enjoyed by other forms of transportation, including airports, seaports and mass transit. Specifically, the High-Speed Intercity Rail Transportation Bond Financing Act of 1987 would authorize the issuance by States of tax-exempt bonds for high-speed rail intercity transportation projects. The act envisions a partnership of public agencies and private corporations to achieve, without reliance upon Federal grant funds, infrastructure improvements of enormous benefit to the public interest.

Mr. President, we have learned a painful lesson the last few years. The world does not stand still. In many ways we are living today off investments made 10 and 20 years ago. We have to plan today if we are not to be caught short tomorrow. I am proud to say that in my own State of Florida much thought and planning has gone into meeting those future needs. The Florida High-Speed Rail Transportation Commission has looked closely at present high-speed rail systems. The commission has concluded that high-speed rail will help my State handle present and future transportation needs in an efficient, environmentally sound way. And further, the commission has determined that high-speed rail can be developed in Florida by private initiative, without direct Federal cost, provided that high-speed rail is given the same bond financing privileges granted other forms of transportation.

That makes sense to me. I believe it makes sense for other States as well. And I believe this approach will help the United States meet its transportation infrastructure needs of the future.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "High-Speed Intercity Rail Transportation Bond Financing Act of 1987."

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. DECLARATION OF POLICY.

The Congress finds that—

(1) the development of high-speed intercity rail transportation systems within certain high-density traffic corridors in the United States is in the public interest and that high-speed intercity rail facilities generally should be treated the same under the tax-exempt bond sections of the Internal Revenue Code of 1986 as highway, airport, and port facilities.

(2) to the extent that high-speed intercity rail facilities would be constructed in lieu of increased capacity in other modes of transportation, there would be no increased cost to the United States Treasury from the issuance of tax-exempt bonds for that purpose but only a substitution of one type of tax-exempt bond for another.

(3) partnerships of State or local public agencies and private corporations to achieve, without reliance upon Federal grant funds, infrastructure projects of benefit to the public, such as high-speed intercity rail systems, are to be encourage and are in the public interest; and

(4) development within the United States of state-of-the-art technologies, such as high-speed intercity rail systems operating at speeds between 120 and 300 miles per hour, helps assure the Nation's continued competitiveness with other countries.

SEC. 3. BONDS FOR HIGH-SPEED INTERCITY RAIL FACILITIES TREATED AS EXEMPT FACILITY BONDS.

(a) In General.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(11) high-speed intercity rail facilities.".

(b) Special Rules for High-Speed Intercity Rail Facilities.—Subsection (c) of section 142 (relating to special rules for airports, docks and wharves, and mass commuting facilities) is amended—

(1) by striking out "paragraph (1), (2), or (3) of subsection (a)" each place it appears in paragraphs (1) and (2) thereof and inserting in lieu thereof "paragraph (1), (2), (3) or (11) of subsection (a)", and

(2) by striking out "and Mass Commuting Facilities" in the heading thereof and inserting in lieu thereof "Mass Commuting Facilities and High Speed Intercity Rail Facilities".

(c) High-Speed Intercity Rail Facilities Defined.—Section 142 is amended by adding at the end thereof the following new subsection:

"(i) High-Speed Intercity Rail Facilities.—For purposes of subsection (a)(11), the term 'high-speed intercity rail facilities' means any facility (including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are capable of operating at speeds in excess of 120 miles per hour, but only if such facility will be made available to members of the general public as passengers.".

SEC. 4. HIGH-SPEED INTERCITY RAIL FACILITIES EXCLUDED FROM VOLUME CAP.

Paragraph (3) of section 146(g) (relating to an exception for certain bonds) is amended to read as follows:

"(3) any exempt facility bond issued as part of an issue described in paragraph (1), (2), or (11) of section 142(a) (relating to airports, docks and wharves, and high-speed intercity rail facilities).".

SEC. 5. LIMITATION ON USE OF BOND PROCEEDS FOR LAND ACQUISITION WITH RESPECT TO HIGH-SPEED INTERCITY RAIL FACILITIES.

Paragraph (3) of section 147(c) (relating to limitation on use for land acquisition) is amended by inserting "high-speed intercity rail facility" after "mass commuting facility" each place it appears.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to bonds issued after September 30, 1991.●

By Mr. MOYNIHAN:

S. 1246. A bill to authorize the Administrator of General Services to convey property to the Museum of the American Indian, and for other purposes; to the Committee on Environment and Public Works.

CONVEYANCE OF CERTAIN PROPERTY TO THE MUSEUM OF THE AMERICAN INDIAN

● Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 1246, a bill to authorize the Administrator of the General Services Administration to convey the U.S. Custom House in New York City to the Museum of the American Indian. On February 12, 1987, as chairman of the Subcommittee on Water Resources, Transportation and Infrastructure of the Environment and Public Works Committee, I held a hearing in New York City on this proposed transfer.

The search for further facilities for the magnificent collection of the Museum of the American Indian has evoked great interest and support, bringing together such diverse institutions and persons as the President of the United States, the Governor of New York, the mayor of New York City, the supreme court of New York, the Museum of Natural History, the New York State Board of Regents, the General Services Administration, the U.S Bankruptcy Courts, Mr. David Rockefeller, and Mr. H. Ross Perot.

At the hearing, the issues presented were the following:

First, how to retain the Museum of the American Indian in New York in facilities that will permit the study, preservation, and display of its unsurpassed collection in buildings appropriate to such a collection and accessible to the largest number of visitors and scholars.

Second, if the Custom House were to be conveyed to the museum, how to provide facilities for the U.S. Bankruptcy Courts, soon to be located temporarily in the Custom House until the Foley Square Courthouse Annex is completed by GSA.

PURPOSE OF MY LEGISLATION

My legislation meets these objectives, by conveying the Custom House to the Museum of the American Indian as long as the museum continues to function. It stipulates that the bankruptcy courts are to move in and to remain on the fifth and sixth floors of the Custom House until the Foley Square Courthouse Annex is completed. Moreover, the bill requires that the museum continue to operate a branch museum at its present location on Audubon Terrace in West Harlem/Washington Heights.

Before covering the history of the Custom House and the museum, I want to note that many other groups, including the American Indian Community House and the Arts Consortium had an interest in space in the Custom House. However worthy their goals, and both these organizations perform important services to the city and State, we cannot accommodate all the needs of every nonprofit agency in the Custom House. We take note of the legitimate needs of these organizations, and will urge in our committee report that the GSA, State, and city work to make available other suitable space for their purposes.

CUSTOM HOUSE RENOVATION

By way of background, Mr. President, allow me to explain that the renovation of the Custom House at 1 Bowling Green in New York City is nearing completion. The Environment and Public Works Committee, at my urging, provided 29 million dollars' worth of funds for restoration and renovation in 1979. This action by the committee recognized that the Custom House, designed by Cass Gilbert and completed in 1907, is one of America's finest examples of the beaux-arts style of architecture.

Daniel Chester French created the four massive white limestone sculptures that grace the front of the building. They represent the continents—Asia, Africa, Europe, and America. And the figure representing the American Continent features the head of Quetzacatl, the feathered serpent deity of the Toltecs and Aztecs, as well as a Plains Indian chief and a northwest coast totem pole.

At this point, Mr. President, I ask unanimous consent that my statement from the hearing which explains the history and significance of the Museum of the American Indian, be placed in the RECORD as if read. In addition, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide a suitable location for a national center to preserve and commemorate the customs and history of the North and South American Indians and to recognize the contributions of the North and South American Indians, the Adminstrator of General Services is authorized and directed to convey to the Museum of the American Indian, a private nonprofit trust in the State of New York, its successors or assigns, without cost, the Old United States Custom House located at 1 Bowling Green, New York, New York.

SEC. 2. The deed of conveyance—

(1) shall provide that the property be used by the Museum of the American Indian, its successors or assigns, solely for the purpose of a museum to preserve and commemorate the customs and history of the North and South American Indians;

(2) shall provide that, if the Administrator determines that the property is not used by the Museum of the American Indian, its successors or assigns, for the purposes of a museum to preserve and commemorate the customs and history of the North and South American Indians, the property shall revert to the United States.

(3) shall provide that, if the Administrator determines that the Museum located at 3753 Broadway, New York, New York, is not continued in operation as a branch of the Museum to be established at 1 Bowling Green, New York, New York, the property shall revert to the United States.

(4) shall provide that the property be maintained in perpetuity in a manner to preserve the distinctive and historic architectural character of the site and that the Museum of the American Indian, its successors or assigns, shall afford the Advisory council on Historical Preservation established under section 470i to 470n of title 16, United States Code, a reasonable opportunity to comment with regard to any renovations or alterations in accordance with regulations established by the Council applicable to Federal agencies;

(5) shall provide that, if the Administrator determines that the Museum of the American Indian, its successors or assigns, have failed to maintain the building in a manner adequate to preserve its distinctively and historic architectural character, the property, in its existing condition, shall revert to the United States;

(6) shall provide that the property cannot be used as security for any obligation incurred by the Museum of the American Indian, its successors or assigns;

(7) shall reserve to the Administrator all rights, title, and interest to air rights and developmental rights connected to or associated with the property;

(8) shall provide that the United States reserves the right of occupancy to the fifth and sixth floors of the Old U.S. Custom House until suitable permanent accommodations are provided by the Administrator to the U.S. Courts at the Foley Square Courthouse Annex to be built; and shall provide that the Museum of the American Indian, its successors or assigns, shall, at all times during said occupancy, operate and maintain the property in a manner satisfactory to the Administrator to insure that adequate services are provided to the U.S. Courts; and that the Museum of the American Indian shall take no actions prior to the termination of said occupancy which would interfere with the beneficial use of the property by the U.S. Courts; and that in the event of a failure to comply with the provisions of this subsection, the property shall revert to the United States; and

(9) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

SEC. 3. Prior to any major renovations of the property referred to in Section 1, the Museum of the American Indian must—

(a) submit plans for all major renovations required, which plans shall be reviewed by an architectural engineering firm selected by and under contract to the General Services Administration. The Museum of the American Indian shall reimburse the General Services Administration for all costs incurred under such contract.

(b) receive approval from the Administrator of General Services in accordance with the criteria in Section 2, paragraphs (3) and (4), which approval shall not be unreasonably withheld.

HISTORY AND IMPORTANCE OF THE MUSEUM'S COLLECTION

The Museum of the American Indian has the most important ethnological collection in the world. The mandate of the museum is to collect, study, preserve and exhibit all things connected with the aboriginal peoples of North, Central, and South America. Its collection of nearly 1 million artifacts extends geographically from point barrow to Tierra Del Fuego: the entire Western Hemisphere. The collection extends temporarily from prehistoric to contemporary times, encompassing the great civilizations of the new world (such as the Incas, Aztecs and Mayans), to remote forest tribes in the Amazon and to Eskimo in the Arctic. Some of the collection's strengths include:

Fine carving in wood, horn and stone from the Indians of the Northwest Coast of North America;

Kachina Dance masks and dolls from the American Southwest;

Archaeology from the Carribean;

California ethnology;

Textiles from Peru, Mexico and the Navajo;

Basketry from the American Southeast and Southwest and Peru;

Sophisticated goldwork from Colombia, Mexico and Peru;

Jade from the Olmec and Maya;

Aztec mosaics;

Brilliant featherwork from the Amazon and Peru;

Painted hides and costumes from the North American plains;

80,000 photographic negatives and prints; and

A 40,000 volume library.

HISTORY OF THE CONTINENT'S INDIANS

In the waning Pleistocene Ice Age, small bands of hardy men and women crossed into the new world, in pursuit of game, over a broad land bridge that connected Asia with Alaska. Although there is evidence that he may have arrived sooner, the earliest date for man's presence in the new world for which we have clear evidence is less than 20,000 years ago.

Until that time, no human had set foot on the Western Hemisphere. Although they shared a common origin from the first people to cross that land bridge, the peoples we call native Americans, Indians, and Eskimos became exceedingly diverse culturally, linguistically, and physically. In North America alone it is estimated that in the 16th century when European settlers began to arrive, the natives spoke 500-600 languages. Perhaps half or more of these are now extinct.

The enormous diversification that typifies native Americans required both the passage of time and the relative isolation of groups so that unique features of culture, language and physical character could develop in different ways.

GEORGE GUSTAV HEYE

The museum is a tribute to this rich and diversified culture. As Kevin Wallace of the New Yorker wrote in 1960," * * * the most remarkable aspect of the Heye collection is its comprehensiveness; it is so complete, in fact, that in many cases a student seeking a Ph.D in the field of Indian material culture not only could do all his field work within New York City, but might have no other choice."

Who was George Gustav Heye, the collector and benefactor of the museum who began collecting in 1897 and employed scores of anthropologists to direct expeditions all over the American continent until his death in 1957? He managed to obtain the Wampaum belts that William Penn received from the Lenape Tribe to secure the bargain he made for Pennsylvania; the rifles which the U.S. Army took away from Geronimo, Rain-in-the-Face, Chief Joseph, Nahche, and Sitting Bull, and scores of other artifacts.

George G. Heye was a second-generation German-American. His father, Carl Gustav Friederich Heye, developed a refinery and pipeline in Oil City, Pennsylvania. In the 1870's the elder Heye sold his refinery to John D. Rockefeller in a deal that included stock in Standard Oil and a job which eventually made him head of Standard Oil's export department.

George graduated from the old Columbia School of Mines, class of '96. After graduation he went west to a railroad construction job near Kingman, Arizona, where at the age of 23 he encountered his first Indian. He bought a deerskin shirt from the wife of one of his Indian foremen. In his words, "naturally, when I had a shirt I wanted a rattle and moccasins. And then the collecting bug seized me and I was lost."

Lost, you might say, and found. With the encouragement of experts such as Dr. Marshall H. Saville, a Columbia archaeologist, by 1904 he began his collecting expeditions. In 1912, he put his fortune into public utility stocks, and devoted himself fulltime to his collecting.

Heye was fond of driving cross country, stopping at small towns to peruse estates of recently deceased citizens which contained Indian artifacts. He also visited reservations where he bought items by the "boxcar method," a term used for collectors that buy not just a few fine examples of art or craft, but a carload containing an assortment of everything. This has proved very valuable to scholars who need to examine everyday items from a culture, as well as unusual ones, in order to assemble a complete historical record.

HUNTINGTON'S PROJECT AT AUDUBON TERRACE

By 1915, Heye needed more space for his treasures. Archer M. Huntington, son of railroad builder Collis P. Huntington, had a large amount of property near the old John James Audubon Farm. Huntington wanted to contribute to the area's development, so he began a project of giving land, money and architectural plans to specialized institutions that would assemble research materials for use by scholars. Heye embraced this concept immediately, and formed the Heye Foundation. Huntington and Heye together built the buildings along Audubon Terrace that today house the museum as well as other scholarly endeavors:

The Hispanic Society of America;

The Numismatic Society of America;

American Academy of Arts and Letters;

Borica College; and

National Institute of Arts and Letters.

The existing museum at Audubon Terrace must remain open. This will be a precondition of any legislation I will move in the Senate.

The present museum building is small, to be sure, but beautiful. It is part of a marvelous and thriving complex of cultural institutions in a marvelous and thriving neighborhood.

There will be no leaving Harlem, period.

On this matter I have given my word to the Honorable Herman D. Farrell, Jr., chairman of the Committee on Banks of the New York State Assembly.

As condition of receiving the customs house we must require the museum to maintain its present site as an active exhibit center, with a periodically changed exhibit.

Mind, one can envisage a time when there could be half a dozen such satellite facilities across the Nation. It would seem particularly appropriate to locate one in Texas, given Mr. Perot's generous interest and offer, and of course in Arizona given Chairman Udall's indispensable assistance in everything we do.

(To those not familiar with museums, a collection of this size can never display more than the tip of its iceberg, no matter how many exhibits it may establish.)

Currently the museum's collections and library are spread over three separated, crowded facilities;

1. The building on Audubon Terrace in West Harlem (Broadway at 155th St.) This houses the public exhibition galleries and administrative offices.

2. The Research Building (3401 Bruckner Blvd., the Bronx). This houses the curatorial offices, conservation facilities, laboratories and the bulk of the artifact collection. It is not open to the public.

3. The Library (9 Westchester Square in the Bronx). The Library is open to the public by appointment.

The inadequacy of these quarters led the museum to search for many years for another site. Recently, H. Ross Perot proposed buying the collection and moving it to Texas. The New York office of the attorney general, acting as overseer of charitable trusts in the State, made known its intention to oppose such a move.

In the words of Judge Martin B. Stecher of the Supreme Court of New York who recently reviewed the terms of the Heye trust which established the museum:

"There is no question that Heye identified New York City as the site for his collection . . . [S]imilarly, there is abundant evidence that Heye desired his museum to be independent, particularly of the American museum of natural history, and exist as a monument to his efforts."

Judge Stecher went on to state:

It does not appear from these papers that there is any substantial dispute that the present physical sites of the museum are inadequate for the museum's purposes.

Judge Stecher was writing in response to a preliminary ruling sought by the trustees when H. Ross Perot had offered to buy the museum and move it to Texas. Mr. Perot has since withdrawn his offer.

THE CUSTOMS HOUSE IS AN APPROPRIATE SITE FOR THE MUSEUM

A study completed in December 1986 by E. Verner Johnson and Associates, concludes that the U.S. Custom House would provide 457,908 square feet of gross area for the museum. The Johnson plan illustrates that space for the exhibits, curatorial, and research work of the museum could be accommodated in the Custom House. The study estimates that the costs of installation for the museum would be between $32 to $35 million. Dr. Force will explain these plans in more detail.

The point is that this beautiful Federal Building would serve well as a home for a collection of national and indeed, international significance. Use of the Custom House for the collection would be an amiable combination of historic preservation with cultural preservation.

And the Federal Government would do well to act to preserve this extraordinary collection of Indian artifacts, for it must, sad to say, bear much of the blame for destruction of much of Indian culture.

SENATE LEGISLATION

Last year, Representative Udall introduced legislation to transfer the Custom House to the museum for so long as it continued to maintain the museum. There were some problems with this legislation, however. It did not address the need of the bankruptcy courts and other branches of the Federal court for more space in New York City.

Therefore I am prepared to introduce legislation which will transfer the Custom House to the museum, but also guarantee that the Federal courts which are badly in need of expanded and improved facilities, will remain on the 5th and 6th floors of the Custom House until a new courthouse is built.

On Tuesday of this week Mr. Terence Golden, Administrator of the General Services Administration came to New York to discuss his plans with me, and I am greatly heartened. We hope to see a new building close by, and perhaps connected by a skyway to the present Federal Court House in Foley Square. We want a good building: Plain—it is to house, after all, the bankruptcy courts!—but distinguished in design. I reminded Mr. Golden of Paul Goldberger's observation made when contemplating the design of the nearby Federal building it is possible to believe that the Federal Government really does have it in for New York. This matter will pass through our subcommittee, and I will certainly recommend if not require an architectural competition.

Representative Udall has indicated he will introduce an amended version of his bill as a companion to the one I introduced on the Senate side.

The legislation will have the support of the administration. The President has said he wants to help solve this problem. Mr. David Rockefeller and the Honorable Donald R. Regan spoke to President Reagan about this matter when he stayed at Pocantico Hills during the Statue of Liberty celebration.

I thank all of you for coming today, and I will listen with great interest to your testimony.●

By Mr. HEFLIN:

S. 1248. A bill to make technical amendments to the State Justice Institute Act of 1984; to the Committee on the Judiciary.

STATE JUSTICE INSTITUTE TECHNICAL AMENDMENTS ACT

Mr. HEFLIN. Mr. President, I rise to introduce legislation to amend the State Justice Institute Act. That act established the State Justice Institute, a private, nonprofit corporation charged with improving the administration and operation of our courts, both Federal and State.

I offer technical amendments to enhance the effectiveness of the Institute; not alter the intent of the enabling legislation.

Specifically, my bill would amend the rulemaking requirements of the

State Justice Institute. Presently, the Institute is required to publish, without exception, all rules, regulations, guidelines, and instructions in the Federal Register 30 days prior to their effective date. My proposed amendment would bring the Institute in line with the less restrictive rules imposed on Federal agencies by the Administrative Procedure Act. Only substantive rules would be subject to the advance notice, and the Institute would be able to waive the 30-day requirement for good cause. This would enable the Institute to establish a more efficient and orderly grant program in its first year of activity.

My bill would also resolve the ambiguity of whether Institute employees qualify for retirement benefits under the Federal Employees Retirement System by making it clear that they do qualify for such benefits. Although Institute employees are presently treated as Federal employees for the purposes of the Civil Service Retirement System, the Office of Personnel Management has advised the Institute that it will not consider the Institute employees eligible for Federal retirement. The availability of this option is critical in attracting and retaining highly qualified, competent Federal employees.

In addition, my bill would make minor changes in the Institute's funding authority. The Institute would be given the authority to sponsor research projects that involve judicial personnel, since many projects such as alternative dispute resolution projects require either direct involvement or oversight by judges and clerks. The Institute's funding authority would be narrowed in that Institute funds could not be used to help State or local courts meet the legal requirements necessary to qualify for a Federal grant. Originally, this provision was intended to help State courts qualify for grants from the Law Enforcement Assistance Administration [LEAA]. Neither the LEAA nor its administrative requirements exist; therefore, this provision is no longer needed.

My bill would eliminate provisions of the act that require the Institute to continue providing interim funds to a grantee who has been denied refunding until after the conclusion of a formal administrative hearing. By eliminating these provisions, the Institute would be better able to fund projects which reflect the priorities and needs of the State courts.

Finally, my bill would create a new section in the act to protect the confidentiality of information made available to persons conducting research under a grant from the Institute. This provision is substantially identical to the confidentiality provision governing research conducted under grants from the National Institute of Justice and other Department of Justice grant agencies. Absent a statutory promise of confidentiality, researchers cannot protect their records from unintended disclosure, and hence, cannot expect their subjects to respond candidly to their questions. As a result, valuable findings and recommendations may never come to light.

Mr. President, in its first year of operation, the Insitute received 193 grant proposals totaling approximately $31 million. These proposals are competing for the available $3 to $4 million. Clearly, there are complex legal issues facing both State and Federal courts. It is important that the Institute's efforts to address these issues not be hampered.

I look forward to working with my colleagues to enact this legislation, and I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "State Justice Institute Technical Amendments Act of 1987".

Sec. 2. Section 203(f) of the State Justice Institute Act of 1984 is amended by—

(1) striking out "at least thirty days prior to their effective date,"; and

(2) adding at the end thereof the following: "The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute, for good cause found and published with such rule.".

Sec. 3. Section 205(d)(2) of th State Justice Institute Act of 1984 is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

Sec. 4. Section 206(c) of the State Justice Institute Act of 1984 is amended by—

(1) inserting "judicial and" before "nonjudicial" in paragraph (3);

(2) repealing paragraph (4); and

(3) redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

Sec. 5. Section 207(a) of the State Justice Institute Act of 1984 is amended by—

(1) inserting "and" at the end of paragraph (1)(B);

(2) striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(3) repealing paragraph (3).

Sec. 6. Section 209 of the State Justice Institute Act of 1984 is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

Sec. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing the information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

By Mr. BIDEN:

S. 1249. A bill to promote excellence in economic performance in the United States, and for other purposes; to the Committee on Finance.

ECONOMIC EXCELLENCE ACT

Mr. BIDEN. Mr. President, the record trade and budget deficits we have experienced in recent years have focused attention on the need for new strategies to encourage economic growth. Traditional manipulation of fiscal and monetary policies is important, but cannot ultimately affect the preeminent challenge facing our managers and workers: The need to increase productivity to meet and beat the challenge posed by international competition.

Greater productivity, of course, cannot be legislated. Ultimately, our attitudes toward work, management, and education must change. But Congress can act to encourage the flexibility our economy needs to adapt to modern realities. Workers need job security, a stake in the product they produce, protection from sudden dislocation, and the means to balance the demands of work and family. Corporations and managers need to stop pursuing short-term profits at the expense of long-term growth. And the workers and managers of tomorrow—our children—must have the access to the best possible education.

The legislation I am introducing today is the first of many steps we need to take to revitalize our economy. My program is a combination of ideas from some of America's most innovative economic thinkers. In effect, this legislation represents the antithesis of "trickle-down" economics. America in the 1990's needs to pursue economic growth from the bottom up—through changes in the way we work and do business.

The Economic Excellence Act of 1987 contains the following ten titles:

SECTION-BY-SECTION DESCRIPTION

TITLE I. CONVERSION OF IMPORT QUOTAS TO TARIFFS

When temporary relief from imports is needed, relief should be in the form of tariffs or auctioned quotas. Quotas give monopoly benefits to foreign companies and hurt American consumers, as foreign companies earn greater profits per unit sold. Tariffs, on the other hand, give any benefits to the U.S. Government and American taxpayers. Trade analysts estimate that auctioning all present quotas would raise up to $10 billion in the first year. This legislation requires the U.S. Treasury to submit a plan to Congress for auctioning all present quotas.

TITLE II. WAGE INSURANCE

American productivity can never rise as long as prolonged unemployment exists in manufacturing industries. Workers who lose their jobs need to find new ones as quickly as possible. Yet many people are understandably reluctant to accept new jobs at wages substantially lower than the one they lost. If incentives existed for workers to accept new jobs as quickly as possible, both the workers involved and the economy would benefit. Putting workers back to work more quickly would also mean lower Federal expenditures, as unemployment payments would be reduced and tax revenues would rise.

My legislation adds a new component to the Trade Adjustment Assistance Program. Any unemployed worker displaced by foreign competition who accepts a new job within a year of exhausting his unemployment benefits would receive a wage supplement to bring his earnings up to 80 percent of his old salary for a year. I am also exploring ways of applying this principle to unemployment compensation.

TITLE III. COMMUNITY TAX BASE INSURANCE

Many communities are vulnerable to sudden natural or economic catastrophes which devastate their tax bases. My bill encourages the Federal Government and private insurers to offer communities insurance against such sudden losses of their tax bases.

Private insurers who wish to participate in a joint program would be required to sign an agreement with the Treasury. Local communities would pay premiums to both the private insurer and the Treasury; premiums would be determined on an actuarial basis.

Communities would be eligible for payments if they suffered a reduction in tax revenue exceeding 5 percent of the previous fiscal year's revenue. Private insurers would pay 50 percent of actual reductions in revenue, up to 10 percent revenue loss. The Federal Government would pay 50 percent of any losses which exceed those privately insured.

TITLE IV. MANDATORY PLANT CLOSING NOTICE

Firms permanently closing major plants should give advance notice to their employees of plant closings. Notice is only fair to employees and their families faced with a sudden loss of income, and it is widely recognized that the sooner workers learn they are going to be laid off, the sooner they will be placed into new jobs, reducing short-term unemployment.

This title of my legislation is identical to title II of S. 538, Senator METZENBAUM's bill, of which I am a cosponsor. This legislation requires employers with plants employing between 50 and 100 employees to provide notice of 90 days, and requires employers with larger plants to provide still greater notice. I will work to support the efforts of Senator METZENBAUM and others working to achieve final passage of this plant closing notice legislation.

TITLE V. PORTABLE PENSIONS

Our dynamic economy requires that managers and workers be flexible and capable of moving to new opportunities where they arise. If we need new workers in an industry—especially one with good-paying jobs—we should encourage workers with skills and experience to make the shift. Unfortunately, workers often hesitate to switch careers because they may lose their pension savings when they leave their jobs.

My legislation would declare that it is the policy of the United States to permit employees covered by ERISA-approved pensions to maintain lifelong retirement savings by transferring the cash value of vested pension rights either to a new employer or to a central Pension Portability Fund within the Pension Benefit Guaranty Corporation. This legislation requires the Board of Directors of the Pension Benefit Guaranty Corporation to submit to Congress a plan for implementing this policy, and specifies a number of elements that such a plan must include.

TITLE VI. INCREASED WORKER PARTICIPATION IN PROFIT-SHARING AND MANAGEMENT

Naturally, workers who share the benefits of their employer's success and the price of failure develop greater pride in the products they make and services they deliver. Workers with a stake in their company are likely to be more productive and more conscious of quality control. But in addition to a share in the profits, workers should be given greater participation in management, since workers often know best how to improve outputs and cut costs.

Many companies have begun to adopt employee stock ownership plans [ESOP's]. My legislation would encourage employees to invest in ESOP's by allowing them to deduct $2,500 invested in ESOP's from their taxes each year. I am also exploring additional new ways of encouraging profit sharing.

TITLE VII. HALT "GREENMAIL"

A productive economy must encourage long-term investment. Yet the investment plans of many companies are often stymied by corporate raiders who buy up large chunks of stock in the pursuit of immediate profits.

My proposal would amend the securities laws so that large shareholders—those who own more than 5 percent of a corporation's stock—would be required to return to the corporation any profits made from the sale of that stock if it is held for less than 2 years. Under current law, the holding period is only 6 months.

TITLE VIII. REALLOCATION OF FEDERAL SPENDING ON MILITARY AND CIVILIAN R&D

We have always prided ourselves on America's technological superiority, and this pride has always been reflected in our commitment to basic civilian research and development. In the 1960's, U.S. spending on civilian R&D as a percentage of GNP exceeded that of Japan and West Germany; yet by the 1970's, our major trading partners' spending exceeded ours. In recent years, spending on military R&D has soared while civilian research has stagnated; in the 1980's alone, spending on military research has more than doubled, while civilian appropriations have actually fallen by $1 billion. Meanwhile, our trade deficit has soared. We simply cannot compete if we neglect the basic research needed to fuel technological innovation.

A reallocation of priorities needs to take place. My legislation expresses the sense of the Senate that Congress should act to reduce spending on military research and development and increase nondefense activities when considering relevant authorization and appropriations bills.

TITLE IX. ON-SITE CHILD CARE

Despite the increasing participation of women in the work force, our economy has been slow to adapt to the greater need for child care services. Clearly the values of family our society has always held call for the greater availability of child care at job sites, so that parents can be close to their children. Furthermore, as common sense would tell us, studies have shown that employees whose children are close are happier, more productive, and more likely to remain with a particular employer.

This legislation would encourage private employers to provide on-site care by providing a tax credit of 10 percent of all expenses incurred in the provision of child care.

TITLE X. HIGHER EDUCATION LOANS

The link between national excellence in education and national economic success has always been clear. Unfortunately, the current administration has been insensitive to the difficulties many students face in paying for higher education. This attitude is penny wise and pound-foolish, and must be reversed.

My legislation expands the student loan program, and provides that a borrower's annual repayment obligation is dependent upon his postschool income level and his borrowing history. The legislation requires the Secretary of Education to submit a plan to Congress for establishing the financing mechanism of this program.

COST IMPACT

Title I of this legislation would raise an estimated $10 billion in the first year. The cost of titles II through X would vary between $1 and $2 billion. Therefore, the net effect of this legislation would be an additional $8 to $9 billion available for deficit reduction.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. HEFLIN, Mr. SIMON, and Mr. SPECTER):

S. 1250. A bill to strengthen the criminal justice partnership between the States and the Federal Government; to the Committee on the Judiciary.

CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT

● Mr. BIDEN. Mr. President, I rise today to introduce the Criminal and Juvenile Justice Partnership Act of 1987. This bill would reauthorize several of the most important and effective programs in the Department of Justice, which provide assistance to State and local criminal and juvenile justice agencies. Congress reorganized these programs in the Comprehensive Crime Control Act of 1984. That reorganization established a streamlined structure to provide limited Federal funds to help State and local agencies develop innovative approaches to fighting crime and drug abuse. This legislation would keep in place a crucial component of this Nation's efforts to significantly reduce the levels of violent crime, juvenile delinquency, and drug abuse.

Crime, particularly violent crime, continues to be one of the most pressing problems afflicting this country. In 1986, more than 34 million households were victimized by criminals; more then 6 million were victims of violent crime. According to the latest FBI statistics, crime rose more than 6 percent in 1986. In addition, the economic costs this Nation pays because of criminal activity are staggering. Federal, State, and local governments spent $35 billion on criminal justice programs in 1986. And the direct costs to the victims exceeded $10 billion.

I am introducing this legislation with the firm belief that law enforcement and the operation of the criminal justice system are primarily a State and local responsibility. Ninety-four precent of all violent crime occurs within the jurisdiction of State and local agencies. The Federal Government should avoid possible infringement on State and local law enforcement responsibilities. In addition, sheer economic limitations preclude the Federal Government from offering funds that would be used to subsidize existing local or State criminal justice programs.

However, just as our experience tells us that the Federal Government should not infringe on State and local jurisdictions, experience also shows that State and local governments alone can not fight the battle against crime and drug abuse. The national and international nature of drug trafficking, for example, clearly places the primary responsibility for drug control on the shoulders of the Federal Government. And the increasing complexity and sophistication of organized criminal syndicates in America require active participation by the Federal Government in law enforcement efforts across the country. The fact is, no single entity of government can fight this battle. Federal, and State, and local units of governments must operate as partners in this struggle, cooperating and coordinating their efforts.

This legislation represents the Federal Government's down payment on a long-term comprehensive plan for reducing crime, drug abuse, and juvenile delinquency in America. This bill targets limited Federal funds to advance a state-of-the-art criminal justice system at the State and local level. Consistent with a true partnership, in most cases these programs require State and local governments to match Federal funds. Finally, this bill makes a long-term commitment to these programs so that State and local governments can develop comprehensive strategies to decrease crime and drug abuse in their communities and jurisdictions.

The Criminal and Juvenile Justice Partnership Act of 1987 would reauthorize the following programs:

The Drug Enforcement Grant Program, contained in the Anti-Drug Abuse Act of 1986. This program provides vital funds to State and local law enforcement agencies for drug investigations, prosecutions, adjudication, and corrections. In addition, the language emphasizes the need to implement effective drug enforcement programs quickly through technical assistance and training programs, and requires Federal and State and local governments to coordinate their drug enforcement and drug demand reduction programs.

The Office of Juvenile Justice and Delinquency Prevention. I believe strongly that dollars spent to prevent juvenile delinquency will pay the best dividends in reducing crime. This legislation authorizes the office of Juvenile Justice and Delinquency Prevention, the Runaway and Homeless Youth Act, and the Missing Children's Assistance Act. All of these programs that work with children and young adults I believe are worthy of continued support.

The Bureau of Justice Assistance. This office was established in the Comprehensive Crime Control Act of 1984 to develop innovative criminal justice programs that offer a high probability of success, with an emphasis on violent crime and serious offenders. In addition, this bill contains language recognizing family violence as a priority Law Enforcement Program. And requires the Attorney General to collect and publish data on family violence as part of the uniform crime report and the national crime survey.

The regional information sharing systems. This legislation provides an explicit authorization for these highly successful programs that facilitate intelligence and information cooperation between States during investigations of multistate criminal conspiracies.

The Bureau of Justice Statistics and the National Institute of Justice. These programs provide vital research and statistical data to criminal justice professionals and policy makers across the country. The Comprehensive Crime Control Act structured these agencies to be separate in terms of funding and grant making authority in order to ensure their independence and objectivity.

The State Justice Institute. For many years, the adjudication component of the criminal justice system has been a bottle-neck in the process. The State Justice Institute provides valuable research, education, and technical assistance aimed at improving the justice system at the State and local level, as well as ensuring that each citizen has access to a fair and effective system of justice.

The crime victim's fund. This fund, established in the Comprehensive Crime Control Act, provides direct compensation to victims of crime and assistance to State and local agencies to establish crime victims assistance programs within their jurisdictions. The bill I introduce today would reauthorize the fund at its existing level.

In addition to continuing these programs that have proven to be effective, the Criminal and Juvenile Justice Partnership Act of 1987 contains several initiatives designed to assist State and local agencies. Among the new programs:

The Public Safety Officers' Death Benefits Improvement Act of 1987, which would increase the existing level of benefits that the families of public safety officers receive if an officer is killed in the line of duty. This Act also provide funding for national programs aimed at assisting the families of slain officers.

The Criminal Justice Information Improvement Act of 1987, which would help State and local agencies improve the accuracy of their hot files and other criminal justice data bases.

The College and Railroad Police Information Act of 1987, which would provide access to certain Federal criminal justice data bases for certified college and railroad police departments.

The legislation I introduce today would also call on the National Academy of Sciences to assemble a panel of the top minds in the country in the field of criminal justice to analyze the effectiveness of existing programs to reduce crime and drug abuse. The results of this study will assist policymakers in formulating the State and local component of a national strategy for decreasing the level of crime and drug abuse in America.

Crime, drug trafficking and juvenile delinquency are problems that cannot be addressed by any single unit of Government. The Criminal and Juvenile Justice Partnership Act of 1987 would demonstrate a commitment on the part of Congress to join with States and local governments in finding new approaches and solutions to the ever increasing problem of crime and drug abuse in America.

I ask unanimous consent that the bill be printed in the RECORD directly after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal and Juvenile Justice Partnership Act of 1987".

TITLE I—DRUG LAW ENFORCEMENT

SEC. 101. DRUG GRANT REAUTHORIZATION.

(a) REAUTHORIZATION.—Section 1001(a)(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)) is amended to read as follows:

"(6) There are authorized to be appropriated $230,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part M of this title.".

(b) LIMITATION ON DISTRIBUTION.—Section 1305 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l) is amended by adding at the end thereof the following new subsection:

"(e) No funds may be provided under this part to a grant recipient for a program or project for which funds have been provided under this part for four years (in the aggregate), including any period occurring before the effective date of this part.".

SEC. 102. COORDINATION WITH STATE AND LOCAL EDUCATION, PREVENTION AND TREATMENT PROGRAMS.

(a) APPLICATION TO INCLUDE A DETAILED PLAN.—Section 1303 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796j), is amended by—

(1) adding a new paragraph (2) as follows:

"(2) a detailed plan for coordinating the programs to be funded under this part with federally funded State and local drug abuse education, prevention, research, and treatment programs;"; and

(2) redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively.

(b) ALLOCATION OF FUNDS.—Section 1305 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796l) is amended by adding at the end thereof the following new subsection:

"(f) In allocating funds under this part, the Director shall ensure proper coordination with officials from all Federal agencies authorized to provide funding to State and local drug abuse education, prevention, research, and treatment programs. This coordination shall include a review of the State coordination plan required under subsection (a)(2) of section 1303.".

(c) REPORTS.—Subsection (b) of section 1306 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796m(b)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph 3 and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(4) a detailed summary of steps taken by each State, and by the Bureau, to ensure that any funds allocated under this part are fully coordinated and integrated with Federal programs providing assistance to State and local drug abuse education, prevention, research, and treatment programs.".

SEC. 103. TECHNICAL ASSISTANCE AND TRAINING.

Section 1302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) striking out "and" after the semicolon in clause (6);

(2) striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new clause:

"(8) provide technical assistance and training for the programs and purposes described in clauses (1) through (7).".

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Justice and Delinquency Prevention Act Reauthorization

SEC. 201. AMENDMENT TO JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.

The first sentence of section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended by striking "1985, 1986, 1987, and 1988" and inserting "1988, 1989, 1990, 1991, and 1992".

Subtitle B—Runaway and Homeless Youth Act Reauthorization

SEC. 211. RUNAWAY AND HOMELESS YOUTH ACT AMENDMENTS.

Section 331(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended by striking out "1985, 1986, 1987, and 1988", and inserting "1987, 1988, 1989, 1990, 1991, and 1992".

Subtitle C—Missing Children's Assistance Act Reauthorization

SEC. 221. AMENDMENT TO MISSING CHILDREN'S ASSISTANCE ACT.

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by—

(1) striking "$10,000,000 for fiscal year 1985, and"; and

(2) striking "1986, 1987, and 1988" and inserting "1987, 1988, 1989, 1990, 1991, and 1992".

TITLE III—LAW ENFORCEMENT

Subtitle A—Justice Assistance Act Reauthorization

SEC. 301. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There are authorized to be appropriated $20,300,000 for fiscal year 1988, $22,500,000 for fiscal years 1989 and 1990, and $24,500,000 for fiscal years 1991 and 1992 to carry out the functions of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated $22,100,000 for fiscal year 1988, and $24,000,000 for fiscal years 1989, 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $60,000,000 for fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the functions of the Bureau of Justice Assistance, other than functions under parts F, G, and L of this title.

"(4) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs, other than functions under parts D, F, G, L, and M of this title.

"(5) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out part L of this title.

"(6) There are authorized to be appropriated $230,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part M of this title.

"(7) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D, E, and M may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

Subtitle B—Criminal and Juvenile Justice Family Violence Prevention Act of 1987

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Criminal and Juvenile Justice Family Violence Prevention Act of 1987".

SEC. 312. STRENGTHENING CURRENT LAW.

Section 403(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)) is amended by—

(1) redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively; and

(2) adding after paragraph (16) the following new paragraph:

"(17) improving the criminal justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly;".

SEC. 313. DATA COLLECTION AND REPORTING.

(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicates—

(1) the age of the victim; and

(2) the relationship of the victim to the offender,

for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1987, 1988, 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

Subtitle C—Multijurisdiction Criminal Conspiracy Information and Targeting Grants

SEC. 321. MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS.

(a) GRANT AUTHORIZED.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. et seq.) is amended—

(1) by redesignating part N as part O,

(2) by redesignating section 1401 as section 1501, and

(3) by inserting after part M the following new part:

"PART N—MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS

"SEC. 1401. CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS.

"(a) The Director is authorized to make grants to State and local criminal justice agencies for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multi-jurisdictional offenses and conspiracies, and that are capable of providing controlled input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunications system designed to directly support the operation of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications.".

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART N—MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS

"PART O—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1501. Continuation of rules, authorities, and proceedings.".

(c) FUNDING.—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 4793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and M" and inserting in lieu thereof "M, and N",

(B) by redesignating paragraph (7) as paragraph (8), and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) There are authorized to be appropriated $15,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part N of this title."; and

(2) in subsection (b) by striking out "and M" and inserting in lieu thereof ", (M), and (N)".

Subtitle D—Public Safety Officers' Death Benefits Improvement

SEC. 331. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

SEC. 332. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

(a) PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY."

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National programs for families of public safety officers who have died in the line of duty.".

Subtitle E—Criminal Justice Information Improvement

SEC. 341. SHORT TITLE.

This subtitle may be cited as the "Criminal Justice Information Improvement Act of 1987".

SEC. 342. CRIMINAL JUSTICE INFORMATION.

(a) GRANT AUTHORIZED.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by adding at the end thereof the following new section:

"GRANTS TO IMPROVE CRIMINAL JUSTICE INFORMATION

"SEC. 305. (a) With funds appropriated under section 1001(a)(7) of this title, the Director shall establish and carry out a program to make grants to States and units of local government to improve the accuracy, timeliness, or completeness of criminal justice information compiled and maintained by State and local criminal justice agencies. Under such program, grants may be made to develop, establish, or enhance—

"(1) uniform documents, forms, and procedures for reporting of arrests and dispositions;

"(2) an editing and verification system in order to identify errors and other inappropriate information;

"(3) a tracking system to match arrest and charge entries with dispositions;

"(4) a delinquent disposition monitoring system to identify aged entries;

"(5) a capability to audit information systems for the accuracy, timeliness, or completeness of criminal justice information;

"(6) an error notification system to facilitate the exchange of updated or corrected criminal justice information among criminal justice agencies;

"(7) a capability to query the appropriate State central repository or source agency before disseminating criminal justice information;

"(8) a transaction log system to record and describe the instances of criminal justice information dissemination;

"(9) automated criminal justice information systems to improve the accuracy, timeliness, or completeness of criminal justice information;

"(10) communications with the courts and other parts of the criminal justice system in order to maximize the reporting of disposition and other data;

"(11) initiatives to ensure that information is collected, used, or released only on the basis of positive identification of the record subject;

"(12) programs for verification, validation, and purging of information that is no longer accurate or timely; or

"(13) such other programs that, as determined by the Director, can reasonably be expected to produce improvements in the accuracy, timeliness, or completeness of criminal justice information.

"(b) No grant may be made under subsection (a) to an applicant unless the application for such grant—

"(1) contains a detailed summary of the results of an audit of the component or aspect of the criminal justice information system for which the grant is being sought;

"(2) identifies each of the activities specified in subsection (a) for which such grant will be expended and describes in detail how such activities will be carried out;

"(3) specifies with respect to the component or aspect of the criminal justice information system for which the grant is being sought, numeric goals of accuracy, timeliness, or completeness that will be achieved as a result of carrying out such activities and the period of time, but not more than 2 years, within which such goals will be achieved;

"(4) provides an assurance that such applicant will conduct an audit, at the applicant's expense, to determine whether the goals established pursuant to paragraph (3) have been achieved; and

"(5) identifies the State or local agency, as the case may be, that will be responsible for administering such grant.

"(c) Any State or unit of local government that—

"(1) receives a grant under subsection (a); and

"(2) fails to achieve each goal of accuracy, timeliness, or completeness specified in the application for such grant, as required by subsection (b)(3), within the period to which such goal applies;

is ineligible to receive any other grant under subsection (a) unless the Director determines that the failure to achieve such goal was caused by circumstances beyond the control of the State or unit of local government involved.".

(b) TECHNICAL AMENDMENTS.—Section 303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733) is amended—

(1) by striking out "A grant" and inserting in lieu thereof "(a) Except as provided in subsection (b), a grant" after "Sec. 303.", and

(2) by adding at the end the following:

"(b) From 80 per centum of the funds appropriated for a fiscal year to carry out section 305, each grant may be up to 50 per centum of the total cost of the project for which such grant is made. The amount expended by the grant applicant to conduct the audit required by section 305(b)(1) shall be treated as a part of the cost of such project paid by such applicant.".

SEC. 343. DEFINITIONS.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended—

(1) in paragraph (20) by striking out "and" at the end thereof,

(2) in paragraph (21) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(22) 'criminal justice agency' means an agency that carries out criminal justice; and

"(23) 'criminal justice information' means—

"(A) criminal history information;

"(B) records and related data contained in an automated or manual system, compiled by criminal justice agencies, regarding arrest warrants; and

"(C) records and related data contained in an automated or manual system, compiled by criminal justice agencies, regarding stolen motor vehicles.".

SEC. 344. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by sections 301 and 302 of this Act, is amended—

(1) in paragraph (1) by inserting "(other than section 305)" after "functions",

(2) by redesignating paragraph (8) as paragraph (9), and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out section 305 of this title.".

SEC. 345. TECHNICAL AMENDMENT.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal justice information.".

Subtitle F—College and Railroad Police Information

SEC. 351. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice.".

Subtitle G—The Racial and Religious Violence Information

SEC. 361. THE RACIAL AND RELIGIOUS VIOLENCE INFORMATION.

Under the authority of section 534 of title 28, United States Code, the Attorney General shall collect and publish, as part of the uniform crime reports, information regarding the incidence of the following offenses:

(1) Robbery, burglary, theft, arson, vandalism, trespass, or any other offense involving property which symbolizes, or is customarily used in the performance of a religious activity or the achievement of a religious purpose.

(2) Homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, or any other offense committed to manifestly express racial, ethnic, or religious prejudice.

Subtitle H—Victim Compensation and Assistance

SEC. 371. VICTIMS OF CRIME ACT OF 1984 AMENDMENT.

Paragraph (2) of subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992.".

TITLE IV—ASSISTANCE TO STATE AND LOCAL COURTS

SEC. 401. STATE JUSTICE INSTITUTE REAUTHORIZATION.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"AUTHORIZATIONS

"SEC. 215. There are authorized to be appropriated $15 million for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out the purposes of this chapter.".

TITLE V—NATIONAL ACADEMY OF SCIENCES

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in the past 10 years, the Federal Government, along with State and local governments, has increased the level of resources devoted to law enforcement and drug control programs, with no apparent effect on the levels of crime or drug abuse;

(2) the United States Government does not have a long term, comprehensive strategy to combat drug abuse and related criminal activity;

(3) the Federal Government should enter into a long-term partnership with State and local governments to decrease the level of drug abuse and related criminal activity;

(4) such a partnership should explicitly recognize that State and local governments bear the primary responsibility for criminal justice initiatives, while the Federal Government bears primary responsibility for drug control; and

(5) the United States Government should codify this partnership as part of a long term, comprehensive strategy for decreasing the level of drug abuse and associated criminal activity that would guide the efforts of the Federal, State and local governments into the next decade.

(b) PURPOSE.—The purpose of the study authorized by this title is to provide an analysis of the effectiveness of programs to reduce violent and property crime associated with drug trafficking in America. The results of this study should assist policymakers in formulating the State and local component of the national strategy for decreasing the level of drug abuse and associated criminal activity in America.

SEC. 502. NATIONAL ACADEMY OF SCIENCES STUDY.

(a) STUDY AUTHORIZED.—The Attorney General, acting through the Director of the National Institute of Justice, shall provide for a study of policies and programs at the State and local levels to reduce violent and property crime by drug users. The policies and programs to be studied shall include—

(1) community-wide programs to discourage drug use and to disrupt drug distribution networks;

(2) criminal justice agency policies concerning the classification and disposition of cases involving violent and property crimes committed by drug users;

(3) mandatory requirements for arrested or convicted violent and property offenders who have been identified as drug users; and

(4) initiatives designed to coordinate the policies and programs listed in clauses (1), (2), and (3) with—

(A) State and local drug demand reduction agencies and programs; and

(B) Federal law enforcement agencies and programs.

(b) NATIONAL ACADEMY OF SCIENCES TO CONDUCT STUDY.—The Director of the National Institute of Justice is authorized to enter into a contract with the National Academy of Sciences to conduct the study described in subsection (a). Such contract shall provide that—

(1) the actual expenses incurred by the Academy in conducting the study shall be paid by the Institute; and

(2) the Academy shall report to the President and to the Congress on the results of the study no later than 18 months after the contract is signed.

(c) FUNDING.—There are authorized to be appropriated $1,000,000 to conduct the study authorized by this title, with funds to remain available until expended.●

By Mr. DECONCINI (for himself, Mr. LAUTENBERG, Mr. WILSON, and Mr. CRANSTON):

S.J. Res. 133. Joint resolution prohibiting the sale to Saudi Arabia of 12

F-15 aircraft; to the Committee on Foreign Relations.

PROHIBITING SALE OF F-15 AIRCRAFT TO SAUDI ARABIA

Mr. DECONCINI. Mr. President, the tragedy of the U.S.S. *Stark* has taken the lives of 37 brave American sailors. In dedicated service to their country and carrying out the unyielding U.S. commitment to Middle East security, these individuals have given the ultimate sacrifice to all of us—preservation of freedom. These courageous and valiant American sailors knew the risks and perils of seeking to secure peace and stability in the volatile Persian Gulf. This involves defining the U.S. role in this region, and our allies can depend upon us to be there, whether it is in attacking terrorism in the Gulf of Sidra, encouraging Middle East peace through the Camp David Accord, or consistently providing assistance to our allies from Tel Aviv to Cairo.

Mr. President, in the wake of the catastrophe of an Iraq F-1 Mirage firing upon a U.S. Naval frigate, a great deal of confusion arises over the role played by Saudi Arabia. The Joint Chiefs of Staff, in a briefing on Capitol Hill, directly alluded to the possibility that the Saudi's had a viable opportunity to pursue the Iraqi Mirage that fired upon the U.S.S. *Stark*, but declined. In a briefing that has been confirmed by armed services liaison officers on the Hill, AWAC's picked up the Iraqi Mirage fighter before it fired the Exocet at the *Stark*. Two Saudi F-15's were reportedly instructed to patrol the area. After the Exocet missile was released, the AWAC aircraft attempted to instruct the two Saudi F-15's to follow the Iraqi Mirage aircraft. Again, according to reports and briefings on the Hill, the Saudi F-15's received conflicting orders from Saudi ground control and were dissauded from a possible mission to track the Mirage.

There is a great deal of controversy surrounding this report. Some confusion exists as to whether the Saudi's were asked to pursue the Iraqi Mirage or not. Additionally, if asked, as briefing have indicated, did the Saudi's actually refuse? These are extremely important issues and questions which need to be clarified and, consequently, thought through. I am confident and hopeful that the Department of Defense, through the Naval Board of Inquiry, will seek out answers to these questions.

Mr. President, the answers are critical for U.S. security. The answers are crucial for Middle East peace. And the answers are imperative for the future. What is, was, and will be the response of the Saudi's in this region of the world where stability is so important? The answers to this particular disaster, resulting in the death of 37 Americans, are vitally needed, and very soon. But, what role will we expect the Saudi's to play in the future and can we count on the Saudi's as "the moderate ally" the Reagan administration claims them to be?

There is a possible arms sale to Saudi Arabia involving 12 F-15's worth $400 to $500 million. The State Department estimates that notification of this sale to Congress will take place in the next month. I strongly believe, and I hope my colleagues agree, that this sale should not proceed until Congress receives the answers to this confusing situation involving F-15 aircraft sold by the United States to Saudi Arabia and what they did do and did not do. And even when these answers are provided, I will still have doubts.

Mr. President, I will still firmly oppose future arms sales to Saudi Arabia until we have more accurate and predictable assurances about the Saudi role in the Middle East peace process. In addition, there are answers which need to be required on Saudi Arabia's role in the Iran-Contra affair that is before the Congress this very moment.

In 1953, we sold the Saudi's $2 million worth of weapons or military-related equipment. Ever since 1953, the United States has sought to win over an ally by selling F-5's, AWAC's, Sidewinders, Stingers, Mavericks, Bradley Fighting Vehicles, and F-15's among other items. The total has surpassed $50 billion.

Mr. President. That is a lot of money. Fifty billion dollars—and we do not have adequate answers as to whether or not U.S.-manufactured F-15's sold to the Saudi's will help preserve stability in this region. Fifty billion dollars for what, Mr. President?

Today, I am introducing along with Senators LAUTENBERG, CRANSTON, and WILSON, a resolution of disapproval regarding this sale. The State Department has said that these 12 new F-15's will keep the Saudi fleet at 60 and replace outdated F-5's. We have seen that the F-15's and AWAC's work just fine, as they did detecting the Iraqi Mirage fighter that did this devastating deed to our naval ship. Two or even one F-15's would have been sufficient to track the Iraqi jet. It does not seem like we need to provide more arms and sophisticated aircraft to the Saudi's, but determine precisely what role they will play, if any, in the stability of the Middle East.

Saudi Arabia condemned the U.S. attack on terrorism in Libya, because we defended ourself. According to the front page of today's Washington Post, Pentagon officials are outraged by the latest Saudi action or inaction in the Persian Gulf. I am unyielding in my opposition to this possible sale of F-15's to Saudi Arabia, especially given the Saudi's apparent lack of commitment to Middle East peace. I ask unanimous consent that a copy of the Joint Resolution disapproving the sale be printed in the RECORD, as well as the articles which appeared in The Washington Post regarding this possible sale.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. Res. 133

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proposed sale to Saudi Arabia of 12 F-15 aircraft, with related defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act, described in the numbered certification transmitted to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on ——, 1987 (Transmittal No. 87-—), is prohibited.

[From the Washington Post, May 20, 1987]

ADMIRAL TELLS OF SURPRISE ABOARD STARK; TOLL IS 37—SAUDI JETS REFUSED REQUEST BY U.S. TO INTERCEPT IRAQI

(By George C. Wilson)

Two Saudi Arabian F15 fighters refused a U.S. Air Force request to intercept an Iraqi aircraft after it attacked the USS Stark in the Persian Gulf, Defense Department sources disclosed late yesterday.

The Saudi refusal has infuriated Pentagon military leaders who have learned about it and may provoke protests in Congress at a time when U.S.-Saudi relations are under scrutiny in the Iran-Contra hearings. "You better believe we're angry about it," said one official, who asked not to be identified.

At a crucial moment in the tracking of the Iraqi jet, the sources said, the Saudis balked at the U.S. request for an intercept, which would have required the F15s to maneuver alongside the Iraqi jet. Intercepts are used to identify craft, force them to land, or, if ordered, to shoot them down close range. Pentagon sources said there was no indication that U.S. commanders intended to ask the Saudis to fire on the Iraqi jet.

The Saudis, according to the sources, said they would need their ground commander's approval for an intercept. U.S. officials acknowledged that there are no standing agreements that call upon the Saudis to take such military actions on behalf of U.S. forces.

The sources, in giving the chronology of the incident, said a U.S. AWACS (airborne warning and control system) plane had taken off from Riyadh, Saudi Arabia, Sunday night without a fighter escort. Air Force commanders had anticipated a routine surveillance mission as the big plane with the doughnut-shaped, long-range radar on top followed its usual racetrack pattern over the gulf.

About 9 p.m. gulf time, the sources said, a radar operator noticed an unusually long green streak on his screen, indicating that a plane had taken off in Iraq and was racing south. Pentagon officials said they do not know whether the AWACS crew radioed warnings to U.S. ships in the path of the Iraqi plane.

After the Iraqi jet, subsequently identified as a single-seat Mirage F1 fighter-bomber, had flown about 40 miles south of the edge of Iraqi-Iran combat zone, the AWACS crew noticed that the plane made a sharp turn toward the guided missile frigate Stark. A few seconds later, sources said, the AWACS detected an Exocet missile closing in on the Stark.

"I think he hit the Stark," someone inside the AWACS exclaimed over a radio link that reportedly was picked up by other U.S. ships in the gulf.

The AWACS commander, the sources said, immediately radioed the Saudi air base in Riyadh to request fighter protection. The Saudis complied, sources said, launching two F15s into the night sky. The Saudi F15s, apparently guided by commands from the AWACS, soon were in the area of the attack. The fighters, which are usually armed with long-range radar-guided missiles and shorter-range heat-seeking missiles, fell in behind the Iraqi jet returning to Iraq.

At that moment, the sources said, the AWACS commander requested the F15s to intercept the Iraqi plane, an easy task because of the AWACS' radar-tracking capability.

"This is not our forces," one of the Saudi pilots radioed back to the AWACS. He said he could not intercept the Iraqi jet unless he received permission to do so from "my colonel," presumably on the ground at the Riyadh air base.

But the Saudi F15 pilots did not hear from their commander, sources said, and broke off the chase. The Iraqi Mirage landed safety at its base.

Military officials acknowledged that the Saudis are not obligated under standing agreements to chase down a plane that attacks U.S. forces. The Saudis provide air cover for the U.S. AWACS on grounds that the surveillance plane protects Saudi forces, officials said.

"Technically they may be right," said one U.S. offical in discussing the Saudi refusal to help. "But that doesn't make us feel any better about what happened."

[From the Washington Post, May 16, 1987]

U.S. Plans Arms Sale to Saudis—White House to Notify Congress of $500 Million Deal

(By Barry Schweid)

In a move certain to touch off heated debate, the White House will notify Congress next week that it intends to sell $500 million worth of F15 fighter planes to Saudi Arabia, Reagan administration and congressional sources said yesterday.

Congress, which has the authority to veto the purchase, is likely to take a close look at the plan in light of reports that the Saudis secretly provided financial help to the Nicaraguan contras.

The Washington Post reported this week that sources close to the Saudis estimate their contribution to the contras at $23 million in 1984-85. Some members of the congressional committees investigating the Iran-contra affair have estimated Saudi contributions to have been as high as $32.5 million.

Israel's supporters, meanwhile, are bound to challenge the deal as posing a potential military danger.

The sources, who demanded anonymity, said the planes—12 to 15, depending on ultimate production costs—would be kept in the United States and provided to the Arab kingdom only to replace jets lost in accidents.

"It is under active consideration as attrition replacements," one official said.

After bitter debate in Congress, the Carter administration in 1978 won approval for the sale of 62 jets to the Saudis.

Four or five planes have since been lost in accidents, and the United States wants to keep the level up to 60, an official said.

Congress was to have been notified this week. But the plan was "short-circuited" by the congressional hearings on the Iran-contra affair, the sources said.

Saudi aid to the contras came at a critical period when Congress had prohibited U.S. military assistance to the rebels.

In the period, the administration shipped 400 Stinger antiaircraft missiles to Saudi Arabia and also said it was considering a proposal to sell $12 billion in additional arms to the oil-rich kingdom.

While Congress was unaware of the secret contra aid, opponents threatened to reject the purchases—and with enough votes to override a veto by President Reagan.

He scaled down the deal, but the Saudis withdrew the entire package.

Their new request includes both F15C and F15D jets, which are produced by McDonnell Douglas Corp. The Saudis initially bought 47 F15Cs and 15 F15Ds.

McDonnell Douglas is due to end production of both types of airplanes in May 1988. It will turn out the more potent F15E, which an official described as a "strike aircraft" that the administration would not sell to the Saudis and Congress would not approve.

The official, who declined to be identified, estimated that it would take three years to manufacture the first of the replacement jets.

The first group of four or five—or more if other existing planes are lost—would be sent to Saudi Arabia then, while the others would be kept in the United States to be supplied as needed.

Mr. LAUTENBERG. Mr. President, I join with my colleague, Senator DeConcini, in introducing a resolution to block the sale of F-15's to Saudi Arabia. The administration has announced plans to sell between 12 and 15 F-15's, very advanced fighter aircraft. The State Department has estimated that notification of this sale to the Congress is going to take place sometime in the next month.

Mr. President, I am unalterably opposed to this sale for several reasons. First, I have an overall concern about the role played by Saudi Arabia in the peacemaking process in the Middle East. But I am particularly concerned today with their response to the attack on the U.S.S. *Stark.* Today's Washington Post states that two Saudi Arabian F-15 fighters denied a United States Air Force request to intercept an Iraqi aircraft after it attacked the U.S.S. *Stark* in the Persian Gulf. That attack that killed the 37 people including those I earlier mentioned from my home State of New Jersey.

According to the article in the newspaper, at a critical moment in the tracking of the Iraqi jet, the Saudis hesitated at the United States request for an intercept which would have required the F-15's to maneuver alongside the Iraqi jet. They responded by saying they needed approval from their ground command.

The Joint Chiefs of Staff have hinted at the possibility that Saudi Arabia had an opportunity to pursue the Iraqi Mirage that fired upon the *Stark,* but declined to do so.

These reports raise questions about whether we ought to continue to sell arms to Saudi Arabia at this time. But even should the questions raised by today's headlines be resolved to our satisfaction, I remain opposed to this sale. There is no convincing rationale to this Senator for this sale. Saudi Arabia certainly has legitmate security concerns in the gulf region, but these weapons would do little, if anything, to address them.

The F-15C and F-15D aircraft models are designated for aerial warfare and are not equipped for ground attack missions. They would be of little use to the Saudis in combatting the most likely Iranian assault, an assault on the ground.

The administration also says that these F-15's will replenish Saudi F-15's lost by attrition in order to keep the fleet at 60 and will replace outdated F-5's. However, it is reported that the Saudis have lost only four or five aircraft, so the intent appears not to be to maintain but to increase the arsenal of F-15's in the Saudi inventory.

Mr. President, we have sold Saudi Arabia over $50 billion in weapons since 1953, in a seemingly fruitless effort to win their friendship and secure their cooperation in the peace process. I have not seen any evidence that we have come closer to these goals since I opposed the sale of Stinger missiles and other weapons to Saudi Arabia last year.

I wish the Saudis would come forward and play an open, active role in the peace process. They have an enormous amount of influence in that region, and they could make a difference. They could, once and for all, help us establish a movement toward peace in that region and help us in the effort to protect the free world. It has not happened.

Recent developments in the Middle East may present an opportunity for them to come forward and join in, but unless and until they do, I hope that my colleagues will join us in asking that this sale; when it is proposed, be denied approval.

By Mr. WARNER (for himself, Mr. Hollings, Mr. Inouye, Mr. Rockefeller, Mr. Sasser, Mr. Danforth, Mr. Pressler, Mr. Trible, Mr. Wilson, Mr. Hecht, Mr. McClure):

S.J. Res. 134. Joint resolution to designate the week commencing on the third Sunday in May 1988 as "National Tourism Week"; to the Committee on the Judiciary.

NATIONAL TOURISM WEEK

● Mr. WARNER. Mr. President, it is my great pleasure to introduce today a joint resolution to recognize "National Tourism Week, 1988."

I am honored to be joined by the Senator from Tennessee, Senator SASSER, who cochairs the Senate tourism caucus with me, and Senators ROCKEFELLER and TRIBLE, chairman and ranking Republican, respectively, of the Senate Commerce Subcommittee on Foreign Commerce and Tourism.

Also joining us in this effort are Senators HOLLINGS and DANFORTH, chairman and ranking Republican of the full Committee on Commerce, Science, and Transportation.

Also joining us as original cosponsors are Senators INOUYE, PRESSLER, and WILSON, all esteemed members of the Commerce Committee.

And last, but certainly not least, our colleagues from Nevada and Idaho, Senators HECHT and MCCLURE, are original cosponsors.

Just this Monday, May 18, 1987, the country began the celebration of National Tourism Week, 1987.

The National Tourism Week Coalition, consisting of tourism industry organizations, is well prepared for the week's events in both the public and private sectors across the Nation.

Here in the Nation's Capital one of the most exciting events of the week will be held tonight in the big tent on The Mall.

The Southeast Tourism Society is sponsoring its third annual hoedown for Members of Congress from Alabama, Florida, Georgia, Louisiana, Mississppi, North Carolina, South Carolina, Tennessee, and Virginia.

I look forward to attending this special celebration, featuring regional music, foods, and entertainment.

I have often commented on the importance of cooperation between the Federal Government and the travel and tourism industry.

I would like to take this opportunity to commend the U.S. Travel and Tourism Administration [USTTA] for its consistently successful role as coordinator of State tourism promotions.

Under the able leadership of Under Secretary Donna F. Tuttle, USTTA has developed tourism policy initiatives each year which have been successful in making tourism the first, second, or third largest employer in 41 States.

I would also like to commend the Travel Industry Association [TIA] of America—the umbrella association for the travel industry—for contributing to the success of travel and tourism in each of the 50 States.

TIA and its affiliates, the U.S. Travel Data Center and the Travel and Tourism Government Affairs Council, serve as invaluable sources of information and data which are essential to the development of a coherent and cohesive tourism policy for the Nation.

Economists in newspapers and journals everywhere are discussing the development of the U.S. service economy.

Like the hard industries of decades past, the service sector now accounts for over two-thirds of the gross national product.

In 1986, approximately 22 million international visitors to the United States contributed $12.7 billion to our economy through purchases of goods and services.

These astounding figures are only going to increase in the coming years, as domestic and international tourism, already a giant industry, continues to grow.

Tourism does in fact work for America.

In the Commonwealth of Virginia, the tourism industry is a powerful force in the economy.

Let's not forget that individual cities and localities benefit from the economic growth produced by the tourism industry.

In this bicentennial year, Virginia will be remembering Thomas Jefferson at his home at Monticello—Patrick Henry, in Richmond's St. John's Church, the site of his famous "liberty or death" speech—and George and Martha Washington at beautiful Mount Vernon in Fairfax County and in Alexandria, where they attended services at Christ Church.

The entire Commonwealth will benefit from the visitors coming to help us celebrate, just as each region of the Nation benefits from special attractions on the local level.

I need say no more about the strength of the industry. The statistics speak for themselves.

Let us begin the tourism season for 1987 by committing ourselves to an aggressive effort throughout the coming year.

I hope that all our colleagues will attend the week's events to celebrate National Tourism Week, 1987.

And I hope that every Senator will become a cosponsor of National tourism Week, 1988 as the first step toward an even more successful year in 1988.●

● Mr. TRIBLE. Mr. President, I am pleased to be an original cosponsor of the National Tourism Week resolution. As ranking member on the Subcommittee on Foreign Commerce and Tourism, I am aware of just how important tourism is to my State and to this country. Tourism creates jobs in every community and is a major export industry for the United States.

We Virginians know just how important tourism and travel is to our State. America's history began with our first international travelers arriving in Virginia. We have preserved our heritage for tourists to see. Today people travel thousands of miles to see Mt. Vernon, George Washington's home and Montecello, that architectural landmark illustrating the genius of Thomas Jefferson. Similarly, the beauty of the restored colonial capital of Williamsburg attracts thousands of tourists each year. Modern Virginia has lively theme parks as well as serene ocean beaches and breathtaking mountain splendor.

In practical terms, tourism produces 94,000 jobs in Virginia every year. Tourists spend over $4.5 billion in my State and generate over $450 million in tax revenues. In fact, the Commonwealth of Virginia receives $28.45 in taxes for every dollar it spends on tourism promotion, an excellent return on investment. If we consider the contribution of foreign tourists in those figures, we find that international visitors spend $100 million annually, generate almost $10 million in tax revenues, and 2,100 jobs.

The travel industry is the second largest employer in this country. The industry encompasses all kinds of small and large businesses. The industry provides an opportunity for many minorities and immigrants to move up the ladder of success.

This week we take time to honor and celebrate the freedom of mobility and recreation through National Tourism Week. I salute all those who work in this vital industry.●

● Mr. ROCKEFELLER. Mr. President, today I am pleased to join with my colleagues in introducing a joint resolution to proclaim the third week in May 1988, as "National Tourism Week."

The Commerce Committee has a long history of interest and involvement with travel and tourism. Over the years we have watched it grow to a $270 billion industry and our Nation's second largest private employer. And throughout this period of growth and development, the committee has played a leading role in the formulation of government policies that recognize the industry's importance to our Nation's economy.

I first learned about the tourism industry's potential for jobs and economic growth when I was Governor of West Virginia. I merely took a good look around me—at our renowned natural beauty, the white water rivers, our ski slopes, our rich history. It didn't take long to realize that we had a marketable product that could bring tourist dollars to our State. So we promoted ourselves—on television, on radio, in newspapers, and magazines. And within 10 years we tripled the size of our travel and tourism industry. Today, it employs nearly 28,000 West Virginians.

Mr. President, the travel and tourism industry includes many large corporations, but the vast majority of it is comprised of small businesses. National Tourism Week is a time for the many diverse interests within the industry to recognize their unity of purpose, as well as to direct the attention of the American public to their importance. Since this week is National Tourism Week, 1987, I salute the travel and tourism industry on a terrific record of success, and I urge my colleagues to support this joint resolution.●

● Mr. SASSER. Mr. President, I am pleased to join together with my colleagues Senator Warner, Senator Hollings, Senator Rockefeller, Senator Inouye, Senator Danforth, Senator Pressler, Senator Trible, and Senator Wilson in introducing a joint resolution designating National Tourism Week, 1988.

As cochairman of the Senate Tourism Caucus I simply cannot overstate the growing importance of travel and tourism in today's economy. Indeed, travel and tourism ranks as the first, second, or third largest employer in 41 States, and is the largest employer in 14 of those States.

Tourism works for America. In these times of budgetary restraint and tremendous budget and trade imbalances, and in these times of continually shrinking employment opportunities, tourism means jobs and revenues, a potent one-two economic punch.

In a single year, the task of transportation, lodging, and feeding the more than 240 million Americans traveling within the United States generates $300 billion in revenues nationwide. It also means that over 5 million jobs were created in 1985-86.

Each year, tourism creates more than $30.6 billion in tax dollars. Almost $11 billion of that amount goes to the States and almost $3 billion to local governments. The Federal Government gets the rest—over $16 billion.

At a time when the balance of trade deficit has become a major item on the legislative agenda, tourism is the second largest export industry in terms of export receipts, and it is the largest earner of export receipts among tradeable services.

In 1985, 21 million foreign visitors spent $11.7 billion in the United States directly supporting 227,000 jobs. That year, foreign visitors spent $29,918 every minute in the United States.

And why not? Selling America is an enviable job. The history of our culture, the diversity of our people, and the wondrous beauty of our landscape provide for a very marketable product.

In my home State of Tennessee we see the benefits of tourism every day. The Smokey Mountains National Park is by far the most visited park in the country. In 1984, the last year that statistics were available, tourists spent nearly $9.3 million per day in Tennessee, generating some $389 million in total tax revenues, and providing $182 million in Federal tax revenues, which is enough to fund the entire Federal tourism budget for 15 years.

Further, travel and tourism has generated 73,300 jobs in Tennessee, with annual payroll surpassing $678 million.

So today, we are here to once again honor the tourism industry by introducing a resolution commemorating National Tourism Week, 1988. I pledge to do all that I can in the coming months as cochairman of the tourism caucus to encourage and promote travel and tourism amongst my Senate colleagues.

Senator Warner and I have developed a goal of getting 100 percent enrollment in the caucus. Currently, there are 67 members of the caucus. I urge those Senators not represented to join us in helping to promote this growing and vibrant industry. I also urge all of my colleagues to join us in support of the joint resolution we are introducing today.●

● Mr. HOLLINGS. Mr. President, today I join the co-chairmen of the Tourism Caucus and my friend from West Virginia in the introduction of this National Tourism Week, 1988 joint resolution.

My experiences with travel and tourism in my own State are very similar to those of Senator Rockefeller and many other Governors and former Governors across the country.

I can remember back more than 25 years ago, when I was a Governor, I had thought that my hometown of Charleston was the preeminent tourist attraction in South Carolina. And I was surprised to read a report that Myrtle Beach was flooded with tourists.

Now, I could not understand at the time why anyone would want to go to Myrtle Beach. But I took a closer look and discovered that government and business people there got together a promotional budget and went out to tell the world about what a great vacation spot their community is. And the investment was paying off many times over with vastly increased tourism.

I learned a great deal from that experience. We got together on the State level and established a legislative committee on tourism. In 1965, the first Governor's Conference on Tourism and Trade was launched. Later, our State established the Department of Parks, Recreation, and Tourism.

It has all paid off very handsomely. Today, travel and tourism is the number one industry in South Carolina—providing an estimated 94,000 jobs and adding more than $4 billion to our State's economy.

I was so impressed with tourism's potential back in the 1960's that when my friend Luther Hodges left North Carolina to become the Secretary of Commerce under President Kennedy, I talked to him about starting a tourism agency in his department. And so he instituted the U.S. Travel Service, which has evolved into the United States Travel and Tourism Administration.

This national effort has also paid off with significant dividends. Travel and tourism has become this country's second largest private employer and third largest retail industry. The growth in travel industry sales continues to outpace the rest of the economy. And it has become our second largest export.

Mr. President, the U.S. travel and tourism industry is highly diverse. It includes large corporations—airlines, hotel chains, large travel agencies—but the overwhelming majority of this industry is comprised of small businesses. National Tourism Week is intended to recognize this diversity, as well as tourism's vast potential for development and job creation.

I enthusiastically support this joint resolution, just as I enthusiastically support the nurturing of the travel and tourism industry. As Chairman of the Commerce Committee, it is my intention to see that our Government's support of the industry follows the ideals set forth in the National Tourism Policy Act of 1981. Specifically, that means continued support for USTTA and its mission of promoting the United States as an international travel destination.

I look forward to this week's celebration of National Tourism Week, 1987, and I urge my colleagues to support this joint resolution to proclaim National Tourism Week, 1988.●

● Mr. DANFORTH. Mr. President, with the 1987 National Tourism Week activities in full swing, I would like to take this opportunity to join with the members of the Foreign Commerce and Tourism Subcommittee and the Senate Tourism Caucus in supporting a joint resolution establishing May 15 through 21, 1988 as next year's week in honor of the travel and tourism industry.

Is tourism important to this country? You bet it is! Consider this: the United States has a $1 billion tourism trade surplus with Japan. This is a glimmer of hope given our $60 billion deficit with Japan in the area of manufactured goods. With the recent including of services in the GATT negotiations, it is important to recognize that tourism has emerged as the fastest-growing component of world trade in services, now representing $96 billion, or roughly 28 percent, of world earnings in this area. Now more than ever as we face a disturbing $170 billion trade deficit, this country needs to work to maximize our tourism business from foreign visitors.

I am pleased to report that the United States Travel and Tourism Administration (USTTA) is making good progress in this area, and we surely feel the impact of its overseas tourism promotion efforts at home. Indeed, Missouri may need to be nicknamed the "Show You" State if current tourism trends continue. We seem to have something for everyone: we have St. Louis, the "Gateway to the West," and bustling Kansas City; the Royals, the Chiefs, the Cardinals and the Comets; the Ozark Mountains and a million acres of rivers and lakes; the home of Mark Twain and the birthplace of the Pony Express; and as many theme parks as you can think of themes. It is little wonder folks are following up on the State's tourism motto, "For Good Old Fashioned Fun, Wake Up to Missouri!"

As Missourians observe National Tourism Week, 1987 they are recognizing that travel and tourism is one of Missouri's top three revenue producing industries: tourists spent $4.7 billion in the State last year and generated $533 million in Federal, State, and local taxes. Travel and tourism is our second largest employer providing 91,200 jobs and generating a payroll of $961 million. Foreign visitors spent about $61 million in Missouri, employing about 1,200 of our citizens.

Now that's something to celebrate, and you can be sure that the travel and tourism industry back in my home State is doing just that. Last evening, State legislators took time out to "Savor the Flavor of Missouri" at the travel and tourism industry's fabulous festival out at the Jefferson City airport. All this week, travelers visiting information centers on the State's interstates are being treated to cookies in the shape of Missouri and other delightful delectables by none other than Hannibal's Tom Sawyer and Becky Thatcher! All across the State, in observances large and small, people are paying tribute to the travel and tourism industry of Missouri and all it means to our economy all year long.

Mr. President, I believe this tradition is well worth preserving in years to come and I urge my colleagues to cosponsor and support this joint resolution establishing National Tourism Week, 1988.●

● Mr. WILSON. Mr. President, I am happy to join with the Senator from Virginia in cosponsoring National Tourism Week. I represent a State which depends heavily upon the tourism industry, and passage of this legislation is a goal which we must attain as soon as possible.

A thriving tourism industry is crucial to the economic health of California. The travel and tourism industry was the third largest employer in our State during 1984—the last year for which such statistics are available—and 5.4 percent of all jobs in California were generated by the industry. More workers are employed in the travel and tourism industries in California than in any other State. Tourists spent over $87 million per day in California during 1984, and foreign visitors contributed almost $3 billion to our State's economy during that same year.

Nationally, the travel industry is the third largest retail or service industry in the United States. Travel receipts account for a little over 6 percent of U.S. GNP and almost 4 percent of the combined tax revenues of Federal, State, and local governments in 1985.

Mr. President, I look forward to working with my colleagues to pass this legislation and to ensure that tourism remains a thriving industry in the United States. I commend my friend from Virginia for his active leadership on this issue.●

● Mr. PRESSLER. Mr. President, as a member of the Senate Tourism Caucus, I rise today to remind my colleagues that this week we are celebrating National Tourism Week. This is the fourth year that Congress has set aside time to pay tribute to the travel and tourism industry in America. As we begin the 1987 National Tourism Week, we should take time to recognize the key role tourism plays in keeping our economy strong and healthy.

Travel and tourism is a very important sector of our Nation's economy. It is the second largest private employer in the Nation. In fact, it is the first, second, or third largest employer in 39 States and it contributed 460,600 jobs in 1985 alone. Over the past 10 years, the travel and tourism industry employment grew 60.4 percent. In 1986, the United States earned $15.5 billion from sales of tourism services and transportation to foreign visitors. Tourism is the largest earner of export receipts among tradeable services.

Observing National Tourism Week in May is quite appropriate because it is at a time when many Americans begin looking forward to summer vacations. However, I think it's necessary to keep in mind that while this week we are formally recognizing National Tourism Week, the importance of the industry continues year round. No matter what your interest or what time of year, travel and tourism is present. The real marvel is that the travel and tourism season never really ends.

At this time, I would also like to commend the U.S. Travel and Tourism Administration for its excellent work in promoting U.S. travel and tourism internationally. Recently, the Subcommittee on Foreign Commerce and Tourism held a hearing on the reauthorization of the USTTA. Donna Tuttle, Under Secretary of Commerce for Travel and Tourism, updated us on the many beneficial programs of the USTTA.

The USTTA has been very successful in helping States work together to reap the benefits of international tourism. For example, over the past year it has been working with the States of the Old West Trail Foundation, which includes my home State of South Dakota, to increase overseas visits and revenue to our area. Overall, the increased international business resulting from USTTA's efforts helps to reduce our huge budget deficits, creates many new jobs, and is one of the few positive factors in our ever-widening trade deficit.

When the full Senate addresses the reauthorization for USTTA, I will be strongly supportive of its funding. USTTA's goal is to increase international tourism in the United States and to increase the number of U.S. exports and the U.S. share of the international travel market. Without USTTA, international travelers might never discover the 90 percent of America that awaits them beyond the coastal States.

I urge my colleagues to take time this week to appreciate the importance of the travel and tourism industry to their State and our Nation. The travel and tourism industry provides jobs for Americans and aids our balance of payments. The strength of the travel and tourism industry is crucial to the future prosperity of this country. Tourism really works for America.●

By Mr. HUMPHREY (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. DOLE, Mr. SIMON, Mr. STEVENS, Mr. ARMSTRONG, Mr. WILSON, Mr. BOND, Mr. WARNER, Mr. BOREN, Mr. TRIBLE, Mr. BOSCHWITZ, Mr. SHELBY, Mr. BURDICK, Mr. RUDMAN, Mr. CHILES, Mr. PRYOR, Mr. COCHRAN, Mr. PROXMIRE, Mr. D'AMATO, Mr. NICKLES, Mr. GARN, Mr. MURKOWSKI, Mr. GLENN, Ms. MIKULSKI, Mr. GRAHAM, Mr. LEVIN, Mr. HEINZ, and Mr. HELMS):

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

● Mr. HUMPHREY. Mr. President, I am pleased to once again introduce a resolution designating "National Drunk and Drugged Driving Awareness Week." For the past 5 years, many of my colleagues have joined me in introducing similar resolutions. The weeks, which have taken place right before the Christmas and New Year holiday season, have proven enormously successful in increasing public awareness of the dangers of driving while impaired from drugs or alcohol.

Over the past 5 years, hundreds of volunteers throughout the Nation have participated in the programs and activities of National Drunk and Drugged Driving Awareness Week. Activities during the week have included the issuance of parallel proclamations by many Governors, mayors, and local officials; introduction of new drunk driving legislation in various States; the appointment of task forces, and issuance of task force reports; roadblocks and other increased enforcement efforts; candlelight vigils; a "Speak Out for Safety" campaign; and voluntary efforts to provide rides from holiday parties. All of the groups involved in this effort have asked that we once again designate such a week right before the holidays this year.

Traffic accidents result in more violent deaths each year than any other cause, approximately 46,000 in 1986. According to the National Highway Traffic Safety Administration, about 39 percent of all drivers killed in 1986 had blood alcohol concentrations of 0.10 or above and this figure rises to about 54 percent for single vehicle crashes. The cost to society of drunk driving has been estimated to be more than $26 billion a year, which does not include the needless pain and suffering caused by drinking and driving.

In addition, we are continuing to hear reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs. Scientists are just beginning to collect data on the concentrations of various drugs in the blood of fatally injured drivers and to conduct studies of the effects of drugs on driving ability.

Of increasing concern is the combination of drugs and alcohol and its impact on the incidence of traffic accidents. Surveys of our young people show that drinking and driving often accompany marijuana use. We have also been made aware that driving after the use of therapeutic drugs, either alone or in combination with alcohol, counter to the advice of physician, pharmacist, or manufacturer, may create safety hazards on the roads. Clearly we need more research to determine the effect of drugs, both alone and in combination with alcohol, on the incidence of traffic accidents and we must alert the public to the risks of combining alcohol and drugs with driving.

In large part due to the volunteer efforts of citizens such as Mothers Against Drunk Drivers [MADD] and Remove Intoxicated Drivers [RID], the public has been demanding changes in the Nation's approach to drunk driving. It is important that we press forward with current efforts to develop new and creative approaches, by combining the expertise of government, community groups, and voluntary organizations, and bringing the unique talents of each to bear on this devastating national problem.

I believe we should designate 1 week annually as National Drunk and Drugged Driving Awareness Week, to insure that the momentum does not slip away as society turns its attention to other pressing problems. It is my hope that each year, this week will be marked by radio and television programs, articles in the print media, and local initiatives such as dial-a-ride, candlelight vigils, and roadblocks, all aimed at increasing the public awareness of the risks of drunk and drugged driving. This will provide an annual opportunity to focus attention on the problem, assess our progress, and address the question of further measures needed. It will guarantee we do not forget the enormous costs in human suffering and dollars caused by the deadly combination of alcohol, drugs and driving.

I urge all my colleagues to join me in sponsoring this Senate joint resolution to designate the week beginning December 13, 1987, as "National Drunk and Drugged Driving Awareness Week."

Mr. President, I ask unanimous consent that the text of the resolution I am introducing today be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S.J. Res. 136

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-six thousand in 1986;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 39 per centum of all drivers fatally injured in 1986 had blood alcohol concentrations of .10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as 10,000 lives each year.

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last five years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 13, 1987, through December 19, 1987, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.●

ADDITIONAL COSPONSORS—MAY 19, 1987

S. 24

At the request of Mr. Moynihan, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 24, a bill to amend title II of the Social Security Act to waive, for 5 years, the 24-month waiting period for Medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], to require the Secretary of Health and Human Services to make grants to State and local governments for the establishment of programs to test blood to detect the presence of antibodies to the human T-cell lymphotrophic virus and to make grants to eligible State and local governments to support projects for education and information dissemination concerning acquired immune deficiency syndrome, and for other purposes.

S. 101

At the request of Mr. Inouye, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 101, a bill to amend titles XVIII and XIX of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes.

S. 104

At the request of Mr. Inouye, the names of the Senator from Colorado [Mr. Wirth] and the Senator from Vermont [Mr. Stafford] were added as cosponsors of S. 104, a bill to recognize the organization known as the National Academies of Practice.

S. 123

At the request of Mr. Inouye, the names of the Senator from Illinois [Mr. Simon] and the Senator from Minnesota [Mr. Durenberger] were added as cosponsors of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

At the request of Mr. Inouye, the name of the Senator from Idaho [Mr. Symms] was withdrawn as a cosponsor of S. 123, supra.

S. 232

At the request of Mr. Wilson, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 232, a bill to permit placement of a privately funded statue of Haym Salomon in the Capitol Building or on the Capitol Grounds and to erect a privately funded monument to Haym Salomon on Federal land in the District of Columbia.

S. 272

At the request of Mr. Humphrey, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 272, a bill to require certain individuals who perform abortions to obtain informed consent.

S. 273

At the request of Mr. Humphrey, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 273, a bill to require certain individuals who perform abortions to obtain informed consent.

S. 332

At the request of Mr. DeConcini, the names of the Senator from North Carolina [Mr. Sanford] and the Senator from Maryland [Ms. Mikulski] were added as cosponsors of S. 332, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 368

At the request of Mr. Matsunaga the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 368, a bill to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs in the United States, to place restrictions on drug samples, to ban certain resales of drugs purchased by hospitals and other health care facilities, and for other purposes.

S. 375

At the request of Mr. Breaux, his name was withdrawn as cosponsor of S. 375, a bill to amend title 10, United States Code, to permit the President to order to active duty units and members of the Army National Guard of the United States and the Air National Guard of the United States in cases in which the Governor of a State or other appropriate authority withholds consent.

S. 440

At the request of Mr. Heinz, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 440, a bill to extend the temporary duty-free treatment for certain types of hosiery knitting machines and certain types of knitting needles and to temporarily exempt certain other types of hosiery knitting machines and certain types of knitting needles.

S. 533

At the request of Mr. Thurmond, the names of the Senator from Hawaii [Mr. Matsunaga] and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 541

At the request of Mr. Pryor, the names of the Senator from Kentucky [Mr. McConnell], the Senator from Missouri [Mr. Bond], and the Senator from New York [Mr. Moynihan] were added as cosponsors of S. 541, a bill to amend title 39, United States Code, to extend to certain officers and employees of the U.S. Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive services.

S. 567

At the request of Mr. DeConcini, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 598

At the request of Mr. Mitchell, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 598, a bill to amend title XIX of the Social Security Act to protect the welfare of spouses of institutionalized individuals under the Medicaid Program.

S. 604

At the request of Mr. Pryor, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 617

At the request of Mr. Glenn, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 617, a bill to establish labor productivity assistance loans to provide financial assistance to certain individuals, to increase job skills and productivity, and for other purposes.

S. 685

At the request of Mr. Quayle, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 685, a bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans.

S. 696

At the request of Mr. Cochran, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 696, a bill to provide that full-time magistrates and bankruptcy judges receive a salary equal to 92 percent of the salary paid to judges of the district courts of the United States.

S. 718

At the request of Mr. Matsunaga, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 718, a bill to eliminate discrimination with regard to mental illness under Medicare.

S. 719

At the request of Mr. Pryor, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 719, a bill to amend the Internal Revenue Code of 1986 to provide that certain minimum tax and accounting rules (added by the Tax Reform Act of 1986) applicable to installment obligations shall not apply to obligations arising from sales of property by nondealers.

S. 744

At the request of Mr. MITCHELL, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 744, a bill to assist States in responding to the threat to human health posed by exposure to radon.

S. 769

At the request of Mr. JOHNSTON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 769, a bill to amend the Public Health Service Act to authorize assistence for centers for minority medical education, minority pharmacy education, minority veterinary medicine education, and minority dentistry education.

S. 860

At the request of Mr. BOREN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 860, a bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

S. 927

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

S. 934

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. REID], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 934, a bill to authorize payments to States to assist in improving the quality of child-care services.

S. 998

At the request of Mr. DECONCINI, the names of the Senator from California [Mr. WILSON], the Senator from Nevada [Mr. REID], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. ARMSTRONG], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act".

S. 1020

At the request of Mr. MOYNIHAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1020, a bill to create the Office of Librarian of Congress Emeritus.

S. 1027

At the request of Mr. HUMPHREY, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1027, a bill to prohibit trade between the Soviet puppet regime in Afghanistan and the United States.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immune deficiency syndrome.

SENATE JOINT RESOLUTION 14

At the request of Mr. HELMS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. STAFFORD], and the Senator from New Hampshire [Mr. HUMPHREY], were added as cosponsors of Senate Joint Resolution 14, a joint resolution to designate the third week of June of each year as "National Dairy Goat Awareness Week".

SENATE JOINT RESOLUTION 21

At the request of Mr. HOLLINGS, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 62

At the request of Mr. REID, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. BOND], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Delaware [Mr. ROTH], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 62, a joint resolution to designate May 21, 1987, as "National Flight of the Voyager Day".

SENATE JOINT RESOLUTION 72

At the request of Mr. GORE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week".

SENATE JOINT RESOLUTION 101

At the request of Mr. CRANSTON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 101, a joint resolution designating June 19, 1987 as "American Gospel Arts Day".

SENATE JOINT RESOLUTION 109

At the request of Mr. DURENBERGER, the names of the Senator from Nevada [Mr. REID], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 109, a joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week".

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November, 1987, and November, 1988, as "National Hospice Month".

SENATE JOINT RESOLUTION 120

At the request of Mr. SYMMS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 120, a joint resolution to void certain agreements relating to the site of the Soviet Union's embassy in the District of Columbia.

SENATE JOINT RESOLUTION 122

At the request of Mr. METZENBAUM, the name of the Senator from North Dakota [Mr. BURDICK], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 122, a joint resolution to designate the period commencing on October 18, 1987, and ending on October 24, 1987, as "Gaucher's Disease Awareness Week".

SENATE JOINT RESOLUTION 125

At the request of Mr. ROTH, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week".

SENATE JOINT RESOLUTION 127

At the request of Mr. DOLE, the name of the Senator From Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 127, a joint resolution designating the month of May 1987 as "National Asthma and Allergy Awareness Month".

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. HEFLIN, the name of the Senator From Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital impatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of Congress regarding the imposition of charges for outpatient care provided in medical facilities of the uniformed services to retired members of the Armed Forces, dependents of retired members, and dependents of members serving on active duty.

SENATE RESOLUTION 176

At the request of Ms. MIKULSKI, the names of the Senator From Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Massachusetts [Mr. KERRY], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of Senate Resolution 176, a bill calling for the immediate release of all children detained under the state of emergency regulations in South Africa.

SENATE RESOLUTION 194

At the request of Mr. CRANSTON, the names of the Senator From Montana [Mr. MELCHER], the Senator from North Dakota [Mr. CONRAD], and the Senator from Hawaii [Mr. MATSUNAGA] were added as a cosponsors of Senate Resolution 194, a resolution to express the sense of the Senate regarding the air traffic controller work force.

SENATE RESOLUTION 208

At the request of Mr. GRAHAM, the name of the Senator From Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 208, a resolution to express the sense of the Senate regarding the Caribbean Basin Initiative.

ADDITIONAL COSPONSORS—MAY 20, 1987

S. 14

At the request of Mr. BIDEN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 14, a bill to amend the Energy Reorganization Act of 1974 to create an Independent Nuclear Safety Board.

S. 74

At the request of Mr. GRAMM, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 74, a bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefit of an institution of higher education.

S. 104

At the request of Mr. INOUYE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 104, a bill to recognize the organization known as the National Academies of Practice.

S. 181

At the request of Mr. RIEGLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 181, a bill entitled the "Public Safety Officers' Death Benefits Amendments of 1987".

S. 249

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 249, a bill to grant employees parental and temporary medical leave under certain circumstances, and for other purposes.

S. 321

At the request of Mr. MITCHELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 321, a bill to amend the Clean Air Act to better protect interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes.

S. 429

At the request of Mr. DURENBERGER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 429, a bill to amend the Tax Reform Act of 1986 to delay for 2 years the exception for certain technical personnel from certain rules for determining whether an individual is an employee or independent contractor for employment tax purposes.

S. 476

At the request of Mr. DODD, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 476, a bill to provide assistance in the development of new or improved programs to help younger persons through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; and to provide for a White House Conference on Young Americans.

S. 612

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 698

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 698, a bill to amend title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music.

S. 769

At the request of Mr. JOHNSTON, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 769, a bill to amend the Public Health Service Act to authorize assistance for centers for minority medical education, minority pharmacy education, minority veterinary medicine education, and minority dentistry education.

S. 780

At the request of Mr. REID, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 780, a bill to amend the enforcement provisions of the Federal Election Campaign Act of 1971.

S. 840

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.

S. 902

At the request of Mr. MCCLURE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 902, a bill to amend the Food Security Act of 1985 and the National School Lunch Act to extend to 1992 the eligibility of certain school districts to receive alternative forms of assistance for school lunch programs and to amend the Agriculture and Food Act of 1981, the Child Nutrition Amendments of 1986, and the School Lunch and Child Nutrition Amendments of 1986 to extend to 1992 the national donated commodity proceeding program.

S. 907

At the request of Mr. HOLLINGS, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 907, a bill to further United States technological leadership by providing for support by the Department of Commerce of cooperative centers for the transfer of research in manufacturing, and for other purposes.

S. 943

At the request of Mr. ADAMS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 943, a bill to amend the Federal Aviation Act of 1958 to ensure the fair treatment of airline employees in airline mergers and similar transactions.

S. 966

At the request of Mr. ADAMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 966, a bill for the relief of Frederick Paul of Seattle, Washington.

S. 967

At the request of Mr. ADAMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 967, a bill for the relief of Frederick Paul and Aileen Paul.

S. 978

At the request of Mr. HEFLIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 978, a bill for the relief of Jens-Peter Berndt.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act".

S. 1009

At the request of Mr. MATSUNAGA, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1017

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1017, a bill to amend title 11 of the United States Code to make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of a violation of State law.

S. 1070

At the request of Mr. RIEGLE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1070, a bill to increase the amount authorized to be allotted under title XX of the Social Security Act.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1188

At the request of Mr. SYMMS, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1195

At the request of Mr. CRANSTON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1195, a bill to amend title 38, United States Code, to provide authorities to help the Veterans' Administration overcome difficulties in the recruitment and retention of nurses, pharmacists, occupational and physical therapists, and other health-care personnel in its Department of Medicine and Surgery, and for other purposes.

SENATE JOINT RESOLUTION 14

At the request of Mr. HELMS, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 14, a joint resolution to designate the third week of June of each year as "National Dairy Goat Awareness Week".

SENATE JOINT RESOLUTION 26

At the request of Mr. PELL, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 26, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 40

At the request of Mr. KASTEN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arkansas [Mr. PRYOR], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to give special recognition to the birth and achievements of Aldo Leopold.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month".

SENATE JOINT RESOLUTION 75

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 75, a joint resolution to designate the week of August 2, 1987, through August 8, 1987, as "National Podiatric Medicine Week".

SENATE JOINT RESOLUTION 87

At the request of Mr. RIEGLE, the names of the Senator from Kansas [Mr. DOLE], the Senator from Montana [Mr. BAUCUS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from California [Mr. CRANSTON], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 87, a joint resolution to designate November 17, 1987, as "National Community Education Day".

SENATE JOINT RESOLUTION 105

At the request of Mr. LAUTENBERG, the names of the Senator from Mississippi [Mr. STENNIS], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arizona [Mr. DECONCINI], the Senator from Oklahoma [Mr. BOREN], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. SYMMS], the Senator from Virginia [Mr. WARNER], the Senator from Oklahoma [Mr. NICKLES], the Senator from Utah [Mr. GARN], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 106, a joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 126

At the request of Mr. PACKWOOD, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day".

SENATE JOINT RESOLUTION 128

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Joint Resolution 128, a joint resolution prohibiting the sale to Honduras of certain defense articles and related defense services.

SENATE RESOLUTION 187

At the request of Mr. ADAMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Resolution 187, a resolution referring the bill for the relief of Frederick Paul to the Chief Judge of the United States Claims Court.

SENATE RESOLUTION 217—REGARDING SOVIET PARTICIPATION IN A MIDDLE EAST PEACE CONFERENCE

Mr. WILSON (for himself, Mr. DECONCINI, Mr. DOLE, Mr. MOYNIHAN, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. LAUTENBERG, Mr. CHAFEE, Mr. D'AMATO, Mr. GRAMM, Mr. Heinz, Mr. Hecht, Mr. Kasten, Mr. McConnell, Mr. Simpson, Mr. Symms, Mr. Quayle, and Mr. Wallop) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 217

Whereas the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

Whereas the government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David Accords of 1979 and the Reagan plan of 1982;

Whereas the government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

Whereas a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements among the Arab and Israeli states: Now, therefore, be it

The Sense of the Senate that the Soviet Union should not even be given consideration as a possible participant in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless and until the government of the Soviet Union has first:

(1) re-established diplomatic relations with the State of Israel at the ambassadorial level;

(2) publicly re-affirmed its acceptance of U.N. Resolutions 181, 242, and 338, and, finally,

(3) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel.

It is the further Sense of the Senate that in the event that the Soviet Union should perform these conditions, Soviet participation shall require the approval and joint invitation of the governments of Egypt, Israel, and Jordan.

Mr. WILSON. Mr. President, I rise today for the purpose of introducing a resolution which has broad bipartisan cosponsorship. I introduce it on behalf of myself and the Senator from Arizona, Senator DeConcini; as well as the Senator from Kansas, Mr. Dole; both Senators from New York, Mr. Moynihan and Mr. D'Amato; the Senator from Colorado, Mr. Armstrong; the Senator from Missouri, Mr. Bond; the Senator from Minnesota, Mr. Boschwitz; the Senator from Rhode Island, Mr. Chafee; the Senator from Texas, Mr. Gramm; the Senator from Pennsylvania, Mr. Heinz; the Senators from New Jersey, Mr. Bradley and Mr. Lautenberg; the Senator from Nevada, Mr. Hecht; the Senator from Wisconsin, Mr. Kasten; the Senator from Kentucky, Mr. McConnell; the Senators from Wyoming, Mr. Simpson and Mr. Wallop; the Senator from Indiana, Mr. Quayle; and the Senator from Idaho, Mr. Symms.

I ask unanimous consent, Mr. President, that when the resolution is sent to the desk it be held there until the close of business so that other cosponsors may add their names.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, the resolution that I will be introducing on behalf of myself and my colleagues is one that occupies less than a page, but I think that it addresses a subject of enormous importance to us all. It has to do with peace in the Middle East. It has to do with the hope, now burning more brightly than in some time, that a Middle East peace conference may be convened which will allow the State of Israel and its neighbors to reconcile their differences and move ever closer to a new regional community of nations living in security and freedom.

Almost every proposal offered for such a conference has embraced the idea of participation by the two superpowers and the other permanent members of the United Nations Security Council.

Burden of moving toward an enduring Middle Eastern peace clearly rests with the parties at war with one another—Israel and the Arab nations.

We would ignore history should we not discuss the pattern of Soviet intervention in the Middle East, a pattern modeled on a search for power rather than a search for peace.

So this brief resolution addresses that reality. It does not dwell on the financial and material support for terrorist groups nor does it cite the massive rearmament efforts that the U.S.S.R. undertook on behalf of its regional allies following each of the wars between Israel and its Arab neighbors.

This resolution, then, states that it is "the sense of the Senate that the Soviet Union should not even be given consideration as a possible participant in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than in the Middle East unless and until the Government of the Soviet Union has first reestablished diplomatic relations with the State of Israel at the Ambassadorial level; second, publicly reaffirmed its acceptance of United Nations resolutions 181, 242, and 338; and, third, substantially increased and maintained the number of exit visas granted to "individuals and families within the Soviet Union who have applied for emigration to the State of Israel."

"It is the future sense of the Senate," according to this resolution, "that in the event that the Soviet Union should perform these conditions"—which it seems to me are the decent minimum that can be expected from any state that would presume to play a role in this Middle East peace process—"Soviet participation shall require the approval and the joint invitation of the Governments of Egypt, Israel and Jordan."

Mr. President, the purpose of this resolution is obvious. It is to state that the Soviet Union must take a responsible diplomatic stand as the price for its participation in the peace process. Ever since 1967, they have not officially recognized Israel nor have they acknowledged its right to exist as a free state within safe boundaries. They must do so if they are to presume to have any role in this peace process. And too many hours have been consumed upon this floor by Members on both sides of the aisle in a unified effort to try to bring about some humanity to the considerations of the Kremlin that would lead them to the decent and humane conduct resulting in the release of any numbers of prisoners of conscience and allowing those who wish to emigrate from the Soviet Union to Israel to do so freely.

So much time, indeed, has been spent that it has become almost a truism that the United States Senate finds woefully lacking the humanity and conduct of the Kremlin in this specific area.

The purpose, obviously, Mr. President, of the final proviso is to assure that the main regional parties accept the legitimacy of the Soviet role in peace process.

It is up to Egypt, Israel, and Jordan on whether they can agree on any conditions for Soviet participation. But I think that without this proviso these three nations would be under pressure in this to entertain the goals of outside powers instead of their own disputes.

For that reason, Mr. President, I offer this resolution on behalf of myself and the colleagues mentioned. It had been my hope that we might gain unanimous consent to act upon this measure today as a means of advancing the hopes that have been expressed not only by Secretary of State Shultz but by members of both the leading political factions and parties within the State of Israel. But I have been requested by the chairman of the Foreign Relations Committee to instead simply offer the resolution so that it may be referred to the Foreign Relations Committee for their consideration.

I will do that, hoping that the calendar of the committee will allow it to take early action because it seems to me that it is important for the United States Senate to be on record very clearly in support of peace in the Middle East, but here, as in the all too important area of arms control, we and our allies in the Middle East cannot be satisfied just with an agreement; it must be the right agreement.

It seems to me, therefore, that the conditions that are stated in the resolution exact no great or difficult toll upon the Soviet Union. They are, indeed, the decent minimum that any civilized nation presuming to participate in that process should be expected to fulfill.

Shortly, I think, my colleague from Arizona, Senator DeConcini, will be on the floor wishing to make his own statement in support of the resolution. But at this point I will yield the floor.

Mr. DeCONCINI. Mr. President, I am glad to join with Senator Wilson in introducing this resolution expressing a sense of the Senate concerning Soviet participation in any conference or meeting on Middle East peace. The proposed conference, which has been widely reported in the press, would involve Israel, a joint Jordanian-Palestinian delegation, other Arab governments willing to participate, and the five permanent members of the U.N. Security Council. The Soviet Union is a permanent member of this Council.

This conference would provide the opportunity for direct face-to-face peace talks between Israel and Jordanian-Palestinian delegations for future peace proposals. The participating Security Council members would not have any substantive power to influence or veto decisions made in these face-to-face talks, but playing a "spoiler role" could have serious implications on the outcome. This resolution simply seeks to assure that the Soviet Union will not play the spoiler role in this critical opportunity for peace.

The resolution states that the Soviet Union's participation in an international conference should not even be considered unless it reestablishes diplomatic relations with Israel; publicly reaffirms U.N. Resolutions 181, 242, and 338 recognizing the legitimacy of the Israeli State; and liberalizes emigration quotas for Jews who want to leave the Soviet Union. Furthermore, it advises that if the Soviets meet these conditions, the U.S.S.R. must still receive a joint invitation from the Governments of Egypt, Jordan, and Israel to take part in any conference.

Mr. President, my concern here is to address Soviet intentions or potential to disrupt any such conference. Addressing this possibility, Secretary Shultz said Soviet intentions are unclear on this issue. The Secretary of State supports the Soviet Union reestablishing diplomatic relations with Israel and increasing the Soviet Jew's emigration opportunities. This resolution will ask Mr. Gorbachev exactly what his intentions are. Mr. Gorbachev has often spoken for reduced nuclear arms and sought peace through arms control. Peace in the Middle East is an important U.S. policy objective, as is reaching verifiable nuclear arms agreements. Mr. Gorbachev has been effective in public relations in arms control, let's see how he is with respect to substantive questions of exactly how the Soviets stand on peace in the Middle East. Let's see if Mr. Gorbachev will pursue a legitimate path to peace or will use smoke and mirrors to disrupt this truly fruitful opportunity.

I am optimistic about the possibilities of such a peace conference, especially if the Soviets sit at the table having taken these substantive steps. I encourage my colleagues to support this resolution.

SENATE RESOLUTION 218—TO EXPRESS THE SENSE OF THE SENATE THAT EACH SENATE COMMITTEE THAT REPORTS LEGISLATION THAT REQUIRES EMPLOYERS TO PROVIDE NEW EMPLOYEE BENEFITS SECURE AN OBJECTIVE ANALYSIS OF THE IMPACT OF THE LEGISLATION ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS AND INCLUDE AN ANALYSIS OF THE IMPACT IN THE REPORT OF THE COMMITTEE ON THE LEGISLATION

Mr. QUAYLE (for himself and Mr. Bumpers) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. Res. 218

Whereas, in times of budgetary stringency, it is difficult to enact legislation providing new employee benefits at an additional cost to the taxpayer.

Whereas there is an attractive theory that employee benefits can be provided at no cost to the taxpayer by requiring that the benefits be provided by employers; and

Whereas requiring employers to provide new employee benefits imposes substantial costs on employers (especially small businesses), the economy (in terms of international competitiveness), and employees (in terms of lost jobs): Now, therefore, be it

Resolved, It is the sense of the Senate that each Senate committee that reports legislation requiring employers to provide employee benefits—

(1) secure an objective analysis of the impact of the legislation on employers (especially small businesses), the economy (in terms of international competitiveness), and employees (in terms of lost jobs), before the committee reports the legislation; and

(2) include an analysis of the impact in the report of the committee on the legislation.

● Mr. QUAYLE. Mr. President, today, I am introducing on behalf of myself and the distinguished chairman of the Small Business Committee, Mr. Bumpers, a resolution expressing the sense of the Senate that committees reporting legislation that would require employers to provide new employee benefits must secure an objective analysis of the impact that legislation will have on employment and international competitiveness. In addition, these analyses would be included in the committee's report of the legislation.

This resolution does not prejudge the merit of any bill. Rather, its purpose is to give us an opportunity to consider the employment and competitive impacts of proposed increases in labor costs when individual bills are reported to the floor. I think it is vital that we make these key assessments regarding our employment and our international competitive position.

The United States plays an important role in the global economy. But lately, Americans have come to perceive that we may be at a serious competitive disadvantage in comparison to such nations as Japan and Korea, and that imports from such developing nations as the Philippines, Mexico and Brazil are hurting both our economy and our manufacturing base. Dislocated workers, who will never return to their old jobs in the textile, steel, auto, electronics, banking or any number of other industries, are blaming our consumption culture. Our citizens are charging that antiproductivity habits and a failure to keep ahead of the mature and declining economies in the advanced industrial world have put us at a serious competitive disadvantage. Surely we should not enact legislation to impose additional labor costs on business without first seriously and objectively assessing its impact on our international competitiveness. That is all this resolution requires.

At the same time, Mr. President, the Federal Government is broke. There is no money for new Federal programs, and opposition to more taxes intensifying. Because we are running a deficit, many of my colleagues have proposed an indirect method of financing new benefits for current workers. Several Members of Congress have resolved to establish a Federal mandate that new benefits for current workers will be paid in full, not by the Federal Government, but directly by employers.

Proposals have been advanced to remedy a number of perceived social ills. All of the proposals have good intentions. Legislation has been introduced to provide for parental leave and mandate health insurance, and soon we will see federally mandated occupational disease compensation. My concern stems not from the good that the initiatives propose to do, but rather from the inadvertent harm that they may inflict on our competitive position in today's international marketplace.

Mandated benefits offer a benefit to employees at no cost to the Federal Government. But they are not free. They cost money—and they cost jobs. Ultimately, the price of benefits for currently employed workers is paid for by those who cannot get jobs because higher labor costs are styming job growth.

Increased labor costs have some adverse impact on employment. If this were not the case, the minimum wage could be much higher than it is now, and all workers would presumably have "Cadillac" benefit packages. A number of authoritative individuals have commented on this effect. During testimony on the minimum wage increase in 1977, then Secretary of Labor Ray Marshall said that raising the minimum wage would cost about 90,000 jobs—but he thought this cost was worth paying. Title I of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978 calls for the President's budget to give "proper attention to the dislocation of jobs caused by Federal laws, regulations, and policies." In March of this year, Secretary Brock was quoted as saying that increased FICA taxes would discourage hiring. Messrs. Marshall, Humphrey and Hawkins and Brock all know that labor costs affect our employment level.

However, economists differ about the extent of the impact that mandated benefits, of all kinds, have on employment. My resolution is designed to help us measure that impact in an objective manner. Since we measure inflation, unemployment, interest rates, the stock market, housing starts and a multitude of other key economic factors, we should begin to take a look at another key factor in the economy—benefit mandates.

The States have mandated benefits for some time. In the area of health insurance, some States mandate that business must provide employees with mental illness coverage, others treatment for alcoholism, others optometrists' services, services of a nurse-midwife and nutritionists' services. The list is extensive. Some groups and individuals argue that the cost of health insurance under these State laws has increased as mandated benefits multiplied. Still others say that the mandates serve a purpose and benefit workers.

In response to a plethora of new benefit mandates, several States have passed laws to require an analysis of the social and financial impact of proposed mandates before they can be enacted. Washington, Pennsylvania, Arizona and Oregon have passed legislation to require such impact assessments. Bills requiring impact assessments have been introduced in eight other States. I am proposing that we assess the economic impact of mandated benefit proposals on the national level.

An objective analysis of the impact that mandated benefit legislation may have on employers, especially small businesses, must be an essential part of the legislative process. Small businesses have created a majority of the jobs in our economy, and these job-generating establishments are particularly sensitive to changes in labor costs. In addition, we have a duty to forecast the impact that new benefit mandates will have on workers—and lost jobs, and on our economy—particularly their effect on our Nation's competitive stance vis-a-vis, both our major trading partners, and our prospective competitors.

I encourage my colleagues to join me in cosponsoring Senate Resolution 218 so that we can follow the good example of Washington, Pennsylvania and Oregon and assess the impact that increasing mandated benefits will have on the economy in an impartial and objective manner that does not prejudge the merit of individual bills.●

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1987

DOMENICI (AND OTHERS) AMENDMENT NO. 199

Mr. DOMENICI (for himself, Mr. Evans, Mr. DeConcini, Mr. McCain, Mr. Wallop, Mr. Bingaman, Mr. Pressler, Mr. McClure, Mr. Symms, Mr. Baucus, Mr. Daschle, Mr. Garn, Mr. Burdick, Mr. Hecht, Mr. Simpson, Mr. Karnes, Mr. Melcher, and Mr. Cochran) proposed an amendment to the bill (H.R. 1827) making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes; as follows:

Insert between lines 2 and 3 on page 35, the following new section:

"DEPARTMENT OF ENERGY

"Administrative Provision

"Sec. ( ). None of the funds appropriated by this or any other Act to the Department of Energy shall be used by the Department to implement Section 2.2.2.2. of DOE/ER 0315 (financial and other incentives) in its review of Superconducting Super Collider proposals, in order to ensure that the Department of Energy bases its final decisions on where to site the facility solely on the overall suitability of the site."

HELMS (AND NICKLES) AMENDMENT NO. 200

Mr. HELMS (for himself and Mr. Nickles) proposed an amendment to the bill (H.R. 1827) supra; as follows:

On page 35, strike all beginning with line 6 through line 13 of page 36.

INOUYE (AND KASTEN) AMENDMENT NO. 201

Mr. INOUYE (for himself and Mr. Kasten) proposed an amendment to the bill (H.R. 1827) supra; as follows:

On page 42 of the bill, delete all of line 4, and the words "Section 215" in line 5, and insert in lieu thereof:

"REPEAL OF SECTION 215(2)

"Section 215(2)".

PROXMIRE AMENDMENT NO. 202

Mr. PROXMIRE proposed an amendment to the bill (H.R. 1827) supra; as follows:

After line 26, page 46, add the following:

ADVANCES TO TRUST FUNDS

Pursuant to Public Law 99-500 and Public 99-591, amounts advanced to the Hazardous Substance Response Trust Fund shall remain available until expended.

PROXMIRE (AND GARN) AMENDMENT NO. 203

Mr. PROXMIRE (for himself and Mr. Garn) proposed an amendment to the bill (H.R. 1827) supra; as follows:

On page 50, after line 20, insert the following:

LOAN GUARANTY PROGRAM

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. Chapter 37, except administrative expenses, as authorized by section 1824 of such title) $100,000,000, to remain available until expended.

PRESSLER AMENDMENT NO. 204

Mr. PRESSLER proposed an amendment to the bill (H.R. 1827) supra; as follows:

On page 38, after line 22, insert the following:

Provided further, That none of these funds may be available to any country for which the President proposes to disburse funds within the Southern Africa Development Coordination Conference until the President certifies that such country (1) has renounced the form of terrorism, commonly known as "necklacing", used against South African blacks; (2) has provided assurances that the government of that country opposes and is making a concerted effort to prevent the operation in its territory of any organization that supports, encourages, or will not renounce the practice of terrorism, including "necklacing" and state terrorism, against South African blacks; and (3) is, according to the best information available to the United States, making a concerted effort to prevent the operation in its territory of any organization that supports, encourages, or will not renounce the practice of terrorism, including "necklacing" and state terrorism, against South African blacks.

MELCHER (AND OTHERS) AMENDMENT NO. 205

Mr. MELCHER (for himself, Mr. Bingaman, Mr. Inouye, Mr. McCain, Mr. Murkowski, and Mr. Stevens) proposed an amendment to the bill (H.R. 1827) supra; as follows:

On page 55, line 11, insert after "implement" the following: "any regulations (and any amendments to, or revisions of, regulations) relating to the Bureau of Indian Affairs' Higher Education Grant Program that were not in effect on March 1, 1987, until after Congress has completed the fiscal year 1988 appropriations process, nor may the Bureau implement".

NOTICE OF HEARINGS

SUBCOMMITTEE ON COMPETITION AND ANTITRUST ENFORCEMENT

Mr. BUMPERS. Mr. President, I would like to announce that the Senate Small Business Committee's Subcommittee on Competition and Antitrust Enforcement will hold a field hearing on Monday, June 1, 1987, in Waterloo, IA, to examine the effect of airline deregulation on airline service to small- and medium-size communities and small businesses. The hearing will commence at 10 a.m., at the University of Northern Iowa at Cedar Falls, Gilchrist Hall—room 209. For further information, please call Patty Barker or Deborah Merrick of the committee staff at 224-5175, or Richard Bender of Senator HARKIN's office at 224-3254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 20, 1987, at 2 p.m., to meet to consider the nomination of Gen. John R. Galvin, USA, to be reappointed to the grade of general and to be supreme allied commander Europe, and commander in chief, U.S. European Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 2 p.m., Wednesday, May 20, 1987 to receive testimony concerning the recent report of the President of the United States concerning energy security issues required by the Omnibus Budget Reconcilation Act of 1986; and to examine the "Energy Security" report to the President and the Congress prepared by the DOE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EASTERN MICHIGAN UNIVERSITY 1987 NATIONAL FORENSIC CHAMPIONS

● Mr. LEVIN. Mr. President, recently Eastern Michigan University was awarded the National Forensic Association's 1987 national tournament title in competition at Mankato State University in Mankato, MN, with a tournament record score of 517 points.

In addition to capturing the national team title, EMU students took two of the Nation's top spots in individual competition. Kimberly Roe of Kettering, OH, won the national title in after dinner speaking and Laura Duncan of Morehead, KY, won the national title in poetry.

Eastern, which also took the national championship last year, has won the tournament nine times in the last 16 years. This year, the team is directed by Jerry Bluhm, assistant professor of communication and theater arts. Lecturers Tracy Anderson and Carole Bennett are assistant directors.

Other students placing in the individual finals were Brenda Dempsey of Battle Creek, MI, who placed second nationally in persuasive speaking; Mark O'Brien of University Heights, OH, who was second in prose interpretation, third with Kim Roe in dramatic duo interpretation, and fourth in dramatic duo with Michael Connell of Sterling Heights, MI; David Tyler of Port Huron, MI, who was fifth in poetry; Daniel Jerore of Wixom, MI, who placed fourth in after dinner speaking; and Robert Laine who placed second in after dinner speaking.

Also, poetry champion Laura Duncan placed third nationally in after dinner speaking, third in rhetorical criticism and second with Tyler Hill in dramatic duo interpretation.

Additionally, seven EMU students were in the top 11 pentathlon—for those who participated in five or more events—which names the best all-around speakers in the Nation. The 2d place pentathlon winner was Laura Duncan, Mark O'Brien was 3d, Brenda Dempsey was 5th, Kim Roe was 6th, Michael Connell placed 9th, Brad Ulrich of Centerville, OH, was 10th and Robert Laine was 11th.

I congratulate this outstanding group of young orators and their excellent team of directors at Eastern Michigan University. Their proven forensic skills will serve them well. Their voices will be heard throughout the land in future years.●

NATIONAL PRESS CLUB SPEECH BY SENATOR BENTSEN

● Mr. DANFORTH. Mr. President, on Tuesday, the chairman of the Senate Finance Committee, Senator LLOYD BENTSEN addressed the media and the Nation at the National Press Club. He spoke of American trade policy and the need for legislation that will expand, rather than reduce, international trade flows. He spoke of the tough but fair trade bill that recently earned a "95-percent approved rating" under his leadership in the Finance Committee. And he spoke of the need to enact this trade measure into law in a timely and responsible manner.

Many in Congress give speeches on trade, but few can claim the longstanding commitment, knowledge, and leadership that characterizes the Senator from Texas.

Mr. President, I commend Senator BENTSEN's speech to my House and Senate colleagues with an interest in U.S. trade policy and ask that it be printed in the RECORD.

The material follows:

REMARKS BY SENATOR LLOYD BENTSEN

In the early part of this century, at a time when all things seemed possible, Teddy Roosevelt captured the robust, can-do spirit of America when he asked: "Have you got a problem? Do what you can where you are with what you've got."

As we approach the end of the century, America has a major problem with trade. We can quibble about its precise dimensions, and there is room for honest disagreement on proposed solutions. But there is no denying a trade deficit that has exploded from $36 billion to $170 billion in six years.

There is no denying two million industrial jobs lost to trade during the same period.

We can't finesse our high-tech trade deficit or the fact that we are no longer the world's largest exporter. We can't duck questions about our ability to compete. And we can't hide our embarrassing emergence as the greatest debtor nation in the history of mankind.

Who would have imagined that by the end of this decade America will owe three quarters of a trillion dollars to our creditors abroad? Our situation reminds me of the tee-shirt slogan that says: "I can't be broke. I've still got checks."

We're skating on thin ice, and so far we've been fortunate. Countries like Germany and Japan have used their huge surpluses to purchase our debt. But you know as well as I do that Germany and Japan aren't running a Marshall Plan. They expect to be paid back, with interest. And the bill will burden our economy for decades.

Ever since the 100th Congress convened, the Senate Finance Committee has been following the strategy outlined by Teddy Roosevelt. We've been trying to do what we can where we are with what we've got to address America's trade crisis.

Twelve days ago we finished the first phase of our work, and I'm proud of the product. We reported out a tough but fair trade bill that has a ninety-five percent approval rating on the committee. I just wish our numbers were that high in the White House.

We're going to take the bill to the floor of the Senate next month. We're going to pass it, take it to conference, and put it on the President's desk before the August recess.

I hope the President signs the trade bill, but we're already hearing dark whispers about a veto. If the President wants to throw down the gauntlet on trade, then we'll fight to override his veto. And I think we'll win. I think we'll win because the whole purpose of this excercise has been to produce the best possible trade bill that can become law, preferably with the President's blessing but—if necessary—over his veto.

I don't think America can afford to wait any longer for a trade policy. If we miss this moment, if we fail to enact a trade bill this year, if could be mid-1989 before we get another shot at legislation.

Sure, I know the White House has problems and reservations. They'd like to have a completely free hand on trade. They'd like to have maximum flexibility—including the discretion to do nothing.

This Administration had a free hand on trade for years—and they sat on it. They talked free trade rhetoric and turned the other cheek while markets were closed to American exports, deficits multiplied, and American industries were targeted for destruction.

The days of free hands and unlimited White House discretion on trade are over. The trade bill approved 19-1 by the Finance Committee does not usurp presidential privilege or seize power that does not belong to us. The Bentsen-Danforth trade bill doesn't do that. But it does recognize that Congress has a clear constitutional role in the formation of trade policy.

And it demonstrates that this Congress is prepared to meet its responsibilities.

Recently the Administration has become more active and aggressive on trade. What has brought about these new initiatives? Pressure from the Congress. I welcome the changes, but I don't think Congress should have to goad the Administration into action every time there's a problem.

The Bentsen-Danforth Bill establishes a partnership between Congress and the Administration in the formation of trade policy. It helps guarantee that trade will no longer be the handmaiden of foreign policy, it makes the point that America can no longer afford to treat trade as an afterthought.

It takes courage to propose changes in trade policy. Because anyone who questions the current system is immediately branded as a protectionist and a linear descendant of the legislators who brought about the Smoot-Hawley Tariff and The Great Depression.

That kind of criticism is unfair. I do not believe in protectionism. Never have and never will. But I do believe that America needs a tough, comprehensive trade policy that recognizes reality, strives for fairness, and protects our vital national interests.

Other nations must understand that they cannot erect barriers to our products with impunity. For years industrialized nations all over the world have been following a simple, single-minded trade policy: protect the domestic market and export to America.

That's not the free trade we read about in textbooks. It's not the famous rising tide that lifts all boats. It's mercantilism, plain and simple. And it's working to our disadvantage.

Now that the Administration has been prodded into action by Congress, we're beginning to see welcome evidence that American leadership can be a force for fairness in trade.

Take the recent flap over semi-conductor trade sanctions with Japan. At first many people were shocked that the United States would actually do something. They were afraid the temple would come tumbling down. They predicted trade wars and retaliation. The market took a dive.

But now we can see that the policy is working. Sure, the Japanese grumbled and blustered a bit. But they didn't cut back on American beef or soybean purchases. In fact, they've been moving aggressively since the sanctions to clean up their act and abide by the free market rules that benefit us all.

The people who predicted a trade war over semi-conductor sanctions missed one important fact. Access to the American market is a gold mine for Japan. We bought $90 billion of their goods last year; they had a $50 billion surplus with us. I spent sixteen years in the business world, and one lesson I learned is that you never drive off your best customer. Our markets give us vast power as a trading nation. And we have every right to insist that countries that sell in our markets grant us equal access to theirs.

There is something to be said for certainty and consistency of retaliation, for setting limits. Remember when Spain joined the E.C. and they tried to stiff us on grain and soybeans? We stood up for our rights, we made our point, and we prevailed. We've succeeded again on semi-conductors. If we can hold to that pattern, if we can set limits and be consistent, other nations will be less likely to test us. We can actually strengthen the trading system. And that's part of what we're trying to do with Bentsen-Danforth.

When you think about it, the whole business about the semi-conductor crisis is really incredible. Here we had a country that, in good faith, negotiated a significant trade agreement with us. They did not abide by the agreement. They put American companies out of business and American workers out of jobs. They got caught. And when the Administration finally retaliated, there were charges of Japan-bashing and protectionism.

There's no question that when it comes to trade we are up against some very tough, talented, and determined competition. We're fighting not just for world markets, but for public opinion here at home.

The Japanese spent more than $60 million on lobbying in this country last year—that's four times what they spent in 1984. There are over 100 individuals and firms registered as foreign agents for Japan—which is twice as many as Canada, our largest trading partner.

That lobbying team has enjoyed some success in peddling the myth of American protectionism, when in fact the United States is probably the least protectionist, most patient—and most naive—of all trading nations.

Those of us in Congress get a lot of mail from distributors of foreign-made products. But it doesn't take long for a fellow from Texas to understand the difference between grassroots and astroturf.

Sometimes I think the most effective way to break down barriers to our agricultural exports and open new markets in Japan would be to distribute the supermarket ads from our newspapers. If the hard-working Japanese consumer ever discovered that he's paying thirty dollars for beef we can sell for three dollars, you'd see markets open up and barriers come down.

One of the points I have been stressing about Bentsen-Danforth is that it sets out to solve the problem of trade by increasing the volume of trade.

It's important to understand that in the decade of the eighties trade has been growing at only half the rate of the seventies. That creates cutthroat competition for a generally stagnant world market.

In just a few weeks we have an important economic summit coming up in Venice. I hope the world leaders who gather in Venice can agree on a new strategy for stability and growth in world trade.

That summit will take place against a backdrop of unprecedented changes in the value of world currencies. Most of those changes are long overdue and generally welcome.

Two years ago I chaired a Senate Task Force that recommended a joint effort with our major trading partners to bring down the value of the dollar.

Well, it took a while for people to get the idea. But once they caught on, we certainly saw a change. I hope the rates have stabilized but we all know that the true value of the dollar will ultimately be determined in the marketplace. And today those markets are searching for hard evidence that the United States is serious about controlling our deficits.

I think we're beginning to see the broad outlines of a Venice strategy that could help restore growth and stability to the world economy.

Major surplus countries like Germany and Japan are under pressure to lower interest rates and expand their economies. Germany has no inflation and ten percent unemployment—they could use some expansion.

The Japanese are talking about lending $20 billion to the Third World, and that is a commendable gesture. But most of the potential recipients of those loans are already burdened by a heavy debt load. What Japan should really do is start buying manufactured goods from the developing world.

Let me give you an example of what I mean. We take about sixty percent of the manufactured exports of the developing world. Europe takes twenty-eight percent, and the Japanese take a little less than nine percent. It Europe and Japan imported manufactured goods at the per capita rate of the United States, then developing country exports and world trade would increase by $250 billion a year. The pie would get larger. We'd all be winners, and the Third World debt crisis would start to look more manageable.

Secretary Baldrige recently warned about the possibility of a global recession—and I think he's got a point. One way to head off that danger would be for Germany and Japan to lower interest rates and expand their economies. That would help stabilize the dollar and avoid higher interest rates here in the United States. Holding down rates also takes pressure off the Third World debtor nations; every time rates go up by a point, their debt service bill goes up by $5 billion.

But we can't look just to Germany and Japan to solve the problems of the world economy. The world is also looking to us for progress on the deficit. And I frankly don't see how we can demonstrate credible progress unless our President becomes involved in the process. If he'll work with the Congress over the next few weeks, if he'll join us in looking for honest answers, the United States can take a credible program to Venice. We can bring something to the table. Without the President's involvement we're likely to come up empty-handed.

What we're really talking about is leadership, and when you look to the future you can see there is no alternative to American leadership of the world economy. Neither Japan nor Europe want the responsibility. As far as most of the world is concerned, trade works fine when America is the only importer.

As the nation that built the system, as the world's most powerful economy, the United States has a responsibility to press for change and lead by example.

In the past leadership meant Marshall Plans, reducing duties, and opening our markets to the world. Today leadership may entail sacrifices to lower the deficit, and pressure on our friends to expand their economies. Today's leadership may demand bilateral trade agreements—like the one we are trying to negotiate with Canada. It requires the will to retaliate when necessary and the determination to insist on market access. Leadership today demands a willingness to test new answers to old problems.

Leadership is not always easy. It involves risks as well as rewards. But if we can help open world markets . . . if we can insist on a new era of growth and fairness in trade, American leadership can spark greater prosperity and opportunity throughout the world.

That's an exciting challenge. I think Bentsen-Danforth must be part of the response, part of the effort to set aside our differences and search together for answers that will help America lead the way to the future.●

MAY IS OLDER AMERICANS MONTH

● Mr. SARBANES. Mr. President, I am pleased to join as a cosponsor of Senate Joint Resolution 64, legislation to designate May 1987 as "Older Americans Month." For almost 25 years we have celebrated the month of May as "Older Americans Month" to express appreciation and respect for achievements of older Americans and their continuing role in the life of our Nation.

I am happy to report that Older Americans Month continues to be widely celebrated across the country by senior citizen organizations, community groups, and State and local governments. It is through these activities and programs we focus on the importance of older citizens in our society and the need to be deeply concerned about their well-being. Older Americans, who have contributed so much to our country throughout their working careers, must be able to live in dignity and independence during their retirement years.

As recently as 1985, 1 out of every 5 older Americans was living near the poverty level, and 12.4 percent of older Americans were below the poverty level. The Federal Government, as well as State and local governments, have enacted programs to provide income security, health care, nutrition, and social services for the purpose of improving the quality of life of older Americans and assisting them in remaining independent. These important programs include, among others, Social Security, Medicare, and the Older Americans Act.

However, many programs which are of vital importance to older citizens have been targeted for reductions in every budget the President has submitted to Congress over the past 7 years. I fully understand the difficulties confronting older Americans living on fixed incomes and believe it is imperative to continue to provide funding and legislation to enable adequate assistance in health, nutrition, housing, energy, and other services to the elderly.

It is important to set aside the month of May as "Older Americans Month," and I am pleased to join in sponsoring Senate Joint Resolution 64 to honor older persons for their valuable contributions to our Nation.●

QUIET RHODE ISLAND HEROES AVERT CATASTROPHE

● Mr. PELL. Mr. President, I would like to share with my colleagues a story of quiet heroism that kept one of Rhode Island's most spectacular fires from turning into one of our State's greatest disasters.

The fire occurred Wednesday night at the Agway Petroleum Corp. fuel depot in West Warwick, RI, when a worker had just connected a hose from his tanker truck to deliver 10,000 gallons of diesel fuel to a holding tank.

The fire burned out of control, fed by fuel from the leaking tank and by safety valves on a 30,000-gallon tank of propane gas. Experts agreed that if that huge propane tank had exploded, a huge fireball would have been unleashed—cutting a wide path of destruction.

When it became evident that the propane tank was threatened, about 200 people were evacuated from their homes and two factories in the area. Firefighters, leaving their truck behind, regrouped about 1,000 yards away as they listened to the explosions of small cylinders "popping like popcorn."

At this point, Raymond D.J. Robichaud, 52, an Agway technician, arrived on the scene. He donned a fire-resistent "crash crew" suit and walked into the inferno to close the valves on the propane tank and a valve on the leaking storage tank containing about 7,500 gallons of heating oil.

Mr. Robichaud and firemen who kept fire hoses trained on him as he entered the fire are the quiet heroes who averted a catastrophe. Mr. Robichaud's act of courage is an inspiration to us all.

I would like to share accounts of this heroism with my colleagues, so I ask that two articles from the May 13, 1987, edition of the Providence Evening Bulletin be printed in the RECORD.

The articles follow:

WEST WARWICK ESCAPES DISASTER

MAN RISKS LIFE TO CLOSE VALVES ON FUEL TANKS

(By Dave Crombie)

WEST WARWICK.—It had all the makings of a disaster. Firefighters struggled to contain the flames leaping in the air; bystanders watched helplessly.

Then, in the middle of the conflagration, a hero emerged—someone who put personal safety aside.

Last night Raymond D.J. Robichaud was the hero at the Agway Petroleum depot in West Warwick.

The father of five put on a crash crew rescue suit walked past shooting flames toward a 30,000-gallon propane gas tank and calmly shut off three valves. In another minute, fire officials say, the huge tank—the biggest one of a number of tanks at the depot—could have exploded, bringing devastation to the area.

A few minutes later, about 12:30 a.m., Robichaud, 52, a service technician at Agway, also turned off a valve on a 10,000-gallon fuel oil tank, further lessening the possibility of an explosion.

"He knew where the valves were, and without him we could not have done it," said Battalion Chief Ronald F. Sousa. "It would have been a disaster (if the tank had exploded). He is a hero and he deserves all the credit he is getting."

This morning, in his home at 8 Pearson St., Robichaud said he was only doing his job.

"I didn't really think about" what might have happened if the tank had exploded, he said. "The propane tank was only 30 feet away and, if it had exploded, everything would have gone."

"My husband is not the type who likes to talk or say that he did something great," said Lorraine Robichaud, his wife of 32 years. "I didn't even know what he had done until the news people called. Now, I am very nervous. It has gotten me frightened."

Mrs. Robichaud said she and her husband were awakened from their sleep by a call from Agway at 10:20 p.m., just after the fire started. "When he arrived home at 2 a.m., he told me he had shut off the valves," she said, "That is all he said."

Neighbors who know Robichaud said that he is a quiet man who keeps to himself. Russell Walker of 4 Pearson St. said he has lived near Robichaud for 15 years.

"He is a very dedicated man—dedicated to his work at Agway," said Walker. "I know he works an awful lot of hours. He is the type of guy who would do something like that—who would walk calmly into a fire or a dangerous area and turn off a valve and say later. 'No big deal.'"

"That is what he is like. I am not surprised to have read that he did that."

Robichaud and his wife live with four of their five children (one lives in California) in a ranch-style house. They have lived there since 1973. He has worked at Agway, for 10 years.

"He works very hard," said his wife. "He is dedicated. I have to convince him to stay home when he is sick. He never misses a day."

This morning Ray Robichaud nervously handled questions from the press. "Okay, I have to take a shower now," he said, reluctant to even seem impolite. He had received a call from his boss this morning. "He did tell me I did a good job."

After a shower and breakfast Ray Robichaud, last night's hero, went back to work at the plant.

OFFICIALS, FEARING HUGE EXPLOSION, EVACUATED AREA AROUND FUEL DEPOT

(By Dave McCarthy)

WEST WARWICK.—Deputy Fire Chief Ronald Sousa stood this morning in the rubble that was the Agway Petroleum Corp. fuel depot and, pointing to a 30,000-gallon propane tank, talked of what might have been.

"I would have bet all the money I had it was going to blow," Sousa said. "It would have been like an atomic bomb."

The heroics of an Agway worker, Raymond D.J. Robichaud, 52, of West Warwick, averted what fire officials said could have been a disaster—at least a quarter-mile path of devastation.

Robichaud, wearing a crash rescue suit, walked through flames to close three leaky valves on the big propane tank, saving the tank from exploding. "He's a real hero," Sousa said.

If the tank had exploded, it would have taken off like a missile, Fire Chief Don A. Centracchio said.

The tank, Centracchio said, would have "taken everything in its path—people, buildings, vehicles."

Centracchio and Sousa commanded the 50 firefighters from West Warwick, Warwick, Coventry and Green State Airport who battled for 2½ hours to quell what the deputy chief called the "very scary" blaze that destroyed the fuel depot off Providence Street and forced the evacuation of tenements and factories in a half-mile radius.

Truck driver Wayne Martini, 30, of 52 Cottonwood Drive, Cranston, was delivering 10,000 gallons of fuel to the depot when the fire broke out shortly before 10:30 p.m.

Raymond Jackman, 28, of 1342 Main St., West Warwick, was driving on Providence Street when an explosion shook his car. "There was a pillar of fire at least 400 feet in the air." The next thing he saw, Jackman said, was "a guy (Martini) running down the road. He was on fire."

Almost simultaneously, a West Warwick rescue squad truck pulled up. By then, the flames on Martini had gone out. The rescue squad took Martini to Kent County Memorial Hospital in Warwick. He was later transferred to Rhode Island Hospital in Providence, where he was listed today in fair condition with second- and third-degree burns over 35 percent of his body.

Martini and his wife, Jennifer, have a 2-year-old daughter. He is a partner in the Macera & Martini Transportation Co., founded two years ago. Before that, he was a full-time technician with the Rhode Island Army National Guard.

Sousa said two West Warwick firefighters suffered minor injuries.

The first explosion shook buildings as far away as Cranston and Warwick.

Jo-ann Colicchio, who lives on Wakefield Street a mile from the depot, said, "The whole house shook. I thought a plane had crashed." She lives on Wakefield Hill, which looks down on the depot from across the Pawtuxet River. The hill was quickly dotted with dozens of spectators.

Near the depot, hundreds of spectators rushed to the scene. "How many people are there in West Warwick? That's how many people were there," said Doreen Puckett of Central Street, a half mile from the depot.

When firefighters arrived at the scene, they found Martini's truck on fire, with its fuel oil running from its tank through the small depot. Two fuel storage tanks on a hill in the rear of the depot—one containing 10,000 gallons and the other 15,000 gallons—let go.

Sousa said burning fuel, some home heating oil and other diesel, ran down the hill "like a river" and settled in flames beneath the propane tanks.

At the point, shortly after 11 p.m., I ordered a complete evacuation of the area by everyone, including firefighters," Sousa said. "There was a chance the tank would go, and if it did there would have been devastation for over a quarter of a mile."

About 200 people were ordered from their homes and two factories within a half-mile radius of the depot, which sits in a predominantly industrial area. The closest residences, two tenements with three apartments each, are a quarter mile away.

Firefighters, withdrew about 1,000 yards and waited in frustration. They could hear the small, residential propane tanks "popping like popcorn" and could see flames shooting as high as 400 feet into the night sky. In all, firefighters counted 40 explosions.

A water cannon atop an almost vertical ladder remained trained on the huge propane tank, which was about one-third full, and another firehose was aimed at the yard's front building, a small office.

"I can't remember in 37 years on the Fire Department where we had to give an order to evacuate the equipment," Battalion Fire, Chief Frank Parente said. "That's how bad it was. If that thing had blown it would have ended in Arctic (a mile away). We could have lost a half-dozen police and dozen firemen if that tank had blown."

Centracchio said his firefighters had had several drills at the depot, with the cooperation of Agway. "But we didn't know we'd have a truck with 10,000 gallons of burning fuel in the middle of the place," Centracchio said. "We went down and regrouped. We said. 'This isn't working guys. What do we do next?' "

After about a half-hour without any additional explosions. Sousa and Centracchio inspected the depot themselves, then ordered firefighters back to the scene.

Robichaud was summoned from home to ascertain whether anything could be done with the leaky valves on the big propone tank. The valves, which are kept open, connect with pipes that lead to pumps used to fill the residential-sized tanks. The pipes have shut-off valves, but they burned off. To keep the propane tank from igniting the main valves had to be shut off.

Robichaud knew where the valves were located on the bottom of the tank, and volunteered to shut them off.

Robichaud was "the only one who knew what to do in there," Sousa said. "He put on one of the airport (crash crew rescue) suits and walked right into the fire," Sousa said. "I had hoses on him to help as much as we could, but he was a real hero. He knew what to do and did it."

He also closed a valve on one of the burning fuel tanks.

With the valves shut, firefighters concentrated on the truck and a small rear building that was also in flames. Meanwhile, firefighters kept a steady stream from the water cannon on the propane tank.

Then, almost abruptly, a few minutes after 1 a.m., the battle was won. The fire was ruled out and those evacuated were allowed back to their homes and factories.

The fire looked like something out of a war—exploding tanks, huge fireballs, the lightning of electrical wires melting on utility poles. But at first light today, the evidence showed the firefighters confined the damage to the 200-foot-square depot, except for singed trees on the perimeter.

Centracchio, working with investigators from the state fire marshal's office, said he has yet to pinpoint what caused the initial explosion or what actually exploded in that initial blast.

While the fire was at full-force, West Warwick's animal control officer, Arthur P. Soares, waded a stream and weaved through fire and police vehicles to get eight dogs and three cats out of the town's pound, about 100 feet from the depot.

Ronald Gumpper, manager of the Agway facility, said, "firefighters did a fantastic job. They kept pouring water on the propane tank and the front building, and they saved both of them. They couldn't do anything to save the rear building, and it's gone, level to the ground. But they saved more than I expected.

The Agway depot sells fuel oil and propane gas to businesses and residences. Unlike Agway stores—which sell a wide variety of farm and household equipment—the depot handles only those two products.

Mrs. Puckett said fire trucks came through the neighborhood and announced the evacuation over loudspeakers. She was clipping coupons for the grocery store. She ran to her two sons, Justin, 7, and David, 3, and dressed them as quickly as she could. She headed for a relative's home in another section of West Warwick.

When she heard of the all-clear, she returned home. Her children were still in a sleepy daze, not knowing what had happened. "Ma," Justin asked her, "how come I only have one sock on?"●

WHITE PINE COPPER MINE: A MICHIGAN SUCCESS STORY

● **Mr. LEVIN** of Michigan. Mr. President, at a time when many economists are talking about the "deindustrialization of America," it is heartening to hear about a success story in the industrial sector of our economy. It is particularly heartening and unusual to hear a success story from a part of American industry that had essentially been written off a few years ago—the U.S. copper mining industry.

The price of copper on the world market has fallen precipitously since 1981 due to a simultaneous drop in demand and increases in production from Third World producers Zambia, Zaire, Chile, and Peru. All four countries are deeply in debt and starved for foreign exchange. They have continued with uneconomical and inflationary production, heavily subsidized by the government, in order to maintain foreign exchange inflows at levels necessary to repay their debts. Imports of refined copper now account for 25.3 percent of total U.S. consumption.

The drop in the world price of copper has been devastating for the U.S. copper industry. Twenty-five thousand jobs have been lost in the copper-mining industry since 1980. From March 1981 to January 1983, 28 domestic mines closed or cut back production, and total U.S. utilized mine capacity stood at 65 percent. At the end of 1982, about 42 percent of the total copper workforce had been laid off. Domestic mine production fell to its lowest levels since the 1960's, and the United States lost its position as the world's leading copper producer.

In 1984, the copper industry sought import relief under section 201 of the Trade Act of 1974. President Reagan denied relief, despite a unanimous finding in the industry's favor of the International Trade Commission.

The White Pine copper mine in the Upper Peninsula of Michigan wasn't spared the effects of the industrywide crisis. It shut down in 1982, and there was considerable doubt that it would ever reopen. But the efforts of labor and management—working together—led to a restructuring of the operation. The mine reopened in 1985, with the workers owning a majority share in the mining company.

The turnaround of White Pine's fortunes shows the potential benefits of labor-management cooperation. White Pine has been brought back to life and is moving in a positive direction. While the ultimate fate of White Pine and the U.S. copper industry is not yet assured, we ought to look closely at this White Pine success story. It might contain lessons for other copper mines and other American industries.

I refer my colleagues to an Associated Press story appearing in the Daily Mining Gazette of May 4, 1987, which discusses the implications of what happened at White Pine for the future of industry in the United States.

Mr. President, I ask that the Associated Press article entitled "White Pine: A Model for the New Era?" be printed in the RECORD.

The article follows:

WHITE PINE: A MODEL FOR THE NEW ERA?

(By Tim Bovee)

The White Pine copper mine is emerging from the dreariness of a northern winter as one of Michigan's most innovative economic success stories.

The White Pine in the early 1980s represented an industry that had fallen on hard times. Copper prices had dropped, along with those of other commodities, and the mine was the scene of a bitter strike when the owners shut it down in 1982.

It reopened in 1985, and this year the new owners received the fruits of the first full year of operation, in the form of a cash and stock distribution.

At White Pine, the owners are the workers.

Altogether, 140,000 shares of stock in the mining company, Copper Range Co., were credited to workers' accounts. They can't be sold until after 1990, but their potential value at present, the company said, is $24.40 per share, or about 53.4 million altogether.

For Ontonagon County, where the White Pine mine is situated, the distribution would be big money if it were in cash, working out to about $450 for every resident.

The stock's value would be equal to about one-sixteenth of Ontonagon County's total personal income in 1983. As something extra on top of wages, it would be a tidy sum.

But if the money alone were all White Pine had to offer, the enterprise would have little signficance beyond the western Upper Peninsula.

Turn-arounds, after all, are a dime a dozen in the history of Michigan business.

It is the way White Pine succeeded that makes us take notice.

White Pine is recovering because labor and management decided to lay aside the bitter struggles of the past and work together. The lesson of White Pine may be that the traditional gulf between workers and managers has outlived its usefulness.

White Pine, of course, is not alone. The state hired a consultant in labor-management relations to help McLouth Steel Products south of Detroit stave off bankruptcy.

The consultant's first recommendation, announced with much fanfare at a news conference called by state Commerce Director Doug Ross, was the information of a joint committee of management and labor to try to work out a more efficient way of running the business.

A recent Harvard University study of the auto industry, listing signs that Michigan's premier manufacturers were finding ways to compete, noted their newfound recognition of the need to include workers in strategy planning at all levels.

The study concluded: "What they need are new principles of shared responsibility, authority and interest."

What all of this constitutes is a sweeping redefinition of self-interest on each side of the labor-management divide.

Under the White Pine system, management must no longer assume that labor is a horse to be beaten until it drops. Labor must no longer assume that management is a cash cow to be milked for all the market will bear.

Both sides, under the new way of doing things, must consider each has a stake in the enterprise's continued success and must recognize that if it fails, each will be the loser.

The flop side of the coin is that each side must be confident it will be rewarded, as were the workers at White Pine.

Should the industry recover further and should Copper Range ever decide to offer its shares to the public, and should stock prices soar, some miners might find themselves wealthy as owners of the enterprise.

If things work out that way, White Pine could indeed be a model for a new era of labor-management relations.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.9 billion in budget authority, but over in outlays by $13.3 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 18, 1987.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 120. This report meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32 and is current through May 15, 1987. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended. At your request this report incorporates the CBO economic and technical estimating assumptions issued on January 2, 1987.

Since the last report, the President has signed H.R. 1157, a temporary increase in the public debt limit.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF May 15, 1987

[Fiscal year 1987—in billions of dollars]

	Current level [1]	budget resolution (S.Con.Res. 120)	Current level (+/− Resolution)
Budget authority	1,089.5	1,093.4	−3.9
Outlays	1,008.3	995.0	13.3
Revenues	833.9	852.4	−18.5
Debt subject to limit	2,257.9	[2] 2,322.8	−64.9
Direct loan obligations	42.5	34.6	8.0
Guaranteed loan commitments	140.5	100.8	39.8

[1] The current level represents the estiamted revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estiamtes are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,320 billion (H.R. 1157).

FISCAL YEAR 1987, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF MAY 15, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			833,855
Permanent appropriations and trust funds	720,451	638,771	
Other appropriations	542,890	554,239	
Offsetting receipts	−185,071	−185,071	
Total enacted in previous sessions	1,078,269	1,007,938	833,855
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100–4)	−4	−4	
Emergency supplemental for the homeless (Public Law 100–6)	−7	−1	
Surface Transportation and Relocation Act (Public Law 100–17)	10,466	−80	2
Technical Corrections to FERS Act (Public Law 100–20)	1	1	
Total enacted this session	10,456	−84	2
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses:			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	6	3	
Veterans compensation	173		
Readjustment benefits	9		
Federal unemployment benefits and allowances	33	33	
Advances to the unemployment trust funds [1]	(3)	(3)	
Payments to health care trust funds [1]	(224)	(224)	
Family social services	110		
Medical facilities guarantee and loan fund	5	4	
Payment to civil service retirement and disability fund [1]	(33)	(33)	
Coast Guard retired pay	3	3	
Civilian agency pay raises	358	373	
Replenishment of disaster relief funds [2]	57	50	

FISCAL YEAR 1987, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF MAY 15, 1987—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total entitlements	754	467	
Total current level as of May 15, 1987	1,089,479	1,008,321	833,857
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution		13,321	
Under budget resolution	3,871		18,543

[1] Interfund transactions do not add to budget totals.

[2] Included at request of Senate Budget Committee.

Note.—Numbers may not add due to rounding.

ISRAELI INDEPENDENCE DAY

● Mr. SIMON. Mr. President, May 4 was Israeli Independence Day. Twenty-nine years ago the State of Israel was born and was immediately engulfed in a war for survival. The new Israeli people, still traumatized by the horror of the Holocaust, came from all over the world to defend the new state. They did not have a common language and many had never before seen the land they had come to defend. But they came with a common purpose and yearning—to live as a free and independent people in their own country. The whole world watched as the new nation fought valiantly against overwhelming odds until the armistice ended the fighting. Even then, many wondered whether Israel could survive more than a few years.

Today Israel is the most stable nation in the Middle East and the only democracy between Athens and New Delhi. The people of Israel have reclaimed rock and sand and turned them into farms, orchards, factories and homes. Israel's contributions in science, agriculture, scholarship, and literature, are well known. Its technical assistance teams and volunteer groups have helped less fortunate nations throughout the world. Finally, the biblical hills leading up to Jerusalem, stripped bare during the last century of Ottoman rule, are green and alive once again following an intensive reforestation effort.

In an area of the world characterized by continuing turmoil, Israel is a force for peace. More than anyone else in the region, the people of Israel ask only to be left alone to live in peace. They proved their willingness to swap land for peace in the Camp David accords. And they have demonstrated on numerous occasions that they are willing to sit down at the peace table with their other neighbors.

Finally, the people of Israel are perhaps our closest friends and allies. Our two people share in common a commitment to liberal democratic values, an ethical system rooted in the Old Testament, and a pioneering spirit born of religious persecution and forged in a fight for independence.

Mr. President, I hope my colleagues will join me in sending congratulations and best wishes to the people of Israel on the occasion of their independence celebration.●

HEALTH CARE

● Mr. SIMON. Mr. President, a great deal has been said lately about the quality of health care in the United States. And fingers of blame and criticism have been pointed in many directions.

One of the health provider groups that seems to get hit from all sides is our Nation's physicians. With increasing medical malpractice costs, accusations of unnecessary services and excessive charges and with proposals to bring physicians in under the DRG's, doctors have found themselves increasingly practicing defensive medicine. And we have all heard about the profitability of private practice.

Not all of the charges and allegations appear to be without some degree of merit, but likewise, such generalizations are hardly universally true.

It is difficult to find good news in health care these days. It is difficult for all of us to graciously accept our shares of the burden, be they financial or moral. One does not need to be a physician to appreciate the difficulty in maintaining a fair and balanced perspective of public service.

And so I was delighted to find, in the May 8 American Medical News, an opinion editorial by Dr. Forrest P. White of Norfolk, VA. He wrote of his own personal experiences in medicine, his reasons for entering the profession—complete with its ups and downs. It is pertinent, I think, not just for physicians, but for all of us who, from time to time question the rewards of public service. It is provoking and I recommend it for the enjoyment of my colleagues.

I ask that the following article be printed in the Record.

The article follows:

"Double Joy" Still Exists In Medical Practice

(By Forrest P. White, MD)

As I join my colleagues in deploring the changes in medicine, I realize that economically I'm heading back toward where I started—indeed, toward where I expected to be near the end of my medical career. Those of us contemplating medical careers in the '30s and '40s expected to live a pretty hard life. We were motivated by the twin joys of learning and of helping people. Sure, we didn't expect to be actually poor, but very few looked on medicine as a way of getting rich. We followed our inclinations and our role models into various specialties with little thought of which would be more lucrative. Even if I had known that my switch from radiology to pediatrics would result in about 30 percent less lifetime income, I would have said, "So what?"

Now that forces beyond our control are changing the way we practice medicine, I keep reminding myself that the double joy is still there: I'm learning fascinating things every day, and every day I can help people in some way. As long as they don't take that away, they can't make me sorry I'm a physician.

Sure, I detest the constraints being put on the practice of medicine. But there have always been constraints. When I started practice in 1950 we all took care of a certain number of no-pay and poor-pay patients, and attended clinics with no thought of remuneration. It was very frustrating to be able to do so little for patients who often needed so much. I attended clinics run by the Norfolk City Clinic of the King's Daughters, who looked after the poorest of the poor. When we saw a child with an infection of any kind, the best we could usually do was to write a prescription for sulfadiazine, which could be obtained from the health department in tablet form, to be crushed and gotten into the sick child the best way the mother could. There were a few beds in the clinic building where very sick children could be kept overnight to receive penicillin shots and hypodermoclysis.

King's Daughters never turned a child away, but what we could do for them was severely limited. Of course, things were much worse only 20 years earlier. William Carlos Williams, the pediatrician poet, expressed it with controlled pathos when he told of the feeling of guilt at saving a bright-eyed little girl from a serious disease, knowing she would go back to a foundling home where death was almost inevitable. Now that's talking constraints!

Physicians of my generation saw Medicare and Medicaid come in. We were glad that the elderly and the poor young would be given care, though we knew full well that no system of unlimited medical services could survive indefinitely. The widespread development of private medical insurance expanded our economic base, as well as our ability to offer our private patients maximum care. These third-party payers allowed our hospitals to develop in an unbelievable manner. King's Daughters still turns no child away, but now the typical problem is how to get another million out of the state legislature for the Children's Hospital's state-of-the-art intensive care units.

It seems to me that the beginning of the end of the physician's merry economic ride came with the nearly universal adoption of the "usual, customary, and reasonable" (UCR) concept. Each physician would be paid for each visit or procedure the rate that 90 percent of his colleagues were charging. The trouble was, as soon as that level became known, it instantly became the minimum fee, and everybody kept pushing ever higher until a new UCR was reached, which again became the minimum, and on and on. Thanks to insurance, we physicians no longer had to worry much about our patients' ability to pay. Third parties had allowed us to take our services out of the marketplace and charge essentially what we wanted. No matter how conscientious we were, escalation became inevitable.

The surprise is that our comeuppance appeared not from the liberal left but from the conservative right—from businessmen who found that health care costs were severely limiting their ability to compete with imported products. They had to wield the cost-cutting ax, and couldn't worry too much on whom it might fall.

Now we're faced with a whole new set of constraints, and many think we're going back to a two-tiered system of health care. I regret this as much as the next physician. I chafe at government and third-party intervention. But I realize that things are not as bad as they used to be. Our ability to look after our patients is still far ahead of what it has ever been, and our financial status is still far advanced in comparison with physicians in other countries, and with the economic mean in our own.

Perhaps we need to face the fact that our services are not worth quite as much as we thought they were. This is especially true for procedures versus cognitive medicine. Looking at the whole fabric of American life, perhaps it doesn't make sense for so many Jaguars and mansions and offshore bank accounts to belong to physicians. Of course, I'm glad to have been around when even we pediatricians, along with the general practitioners and family practitioners at the bottom of medicine's ladder, were doing pretty well. I feel sorry for the young men and women who mortgaged their future to the hilt to get through med school, in the full expectation that the payoff would come soon. They may be analogous to the farmers who thought that the price of an acre of fertile land could only go up.

Maybe my attitude is analogous to that of the optimist who, after falling off the top of the Empire State Building, called out to a window washer on the 27th floor, "OK so faaaar." Still, I urge my colleagues to keep a sense of perspective as they read the doom and gloom editorials in every medical society publication. Yes, we've lost some freedom and, yes, there are many battles still to fight. But let us not forget that we're practicing a fascinating and noble profession in a wonderful country. Whatever the forces arrayed against us, let's not allow them to take away that job.●

100TH ANNIVERSARY OF BIRTH OF ALDO LEOPOLD

● Mr. KASTEN. Mr. President, this year marks the 100th anniversary of the birth of one of America's foremost conservation leaders. Aldo Leopold was both a leading practitioner of wildlife management principles and shaper of national policy on environmental conservation.

I ask that a copy of a recent article from Wisconsin Natural Resources describing some of the achievements of Mr. Leopold be printed in the Record.

In addition, I ask to have printed in the Record a list of additional cosponsors of Senate Joint Resolution 40.

The material follows:

ALDO LEOPOLD

The year 1987 marks the 100th anniversary of the birth of Aldo Leopold. World renowned for enunciating the land ethic and founding the science of wildlife management, Leopold had a special connection with this magazine. Several chapters of his most famous book, Sand County Almanac, were first published in the old Wisconsin Conservation Bulletin. The Bulletin changed its name and became the publication you're now reading, Wisconsin Natural Resources in 1976.

While commemorative events are planned in Leopold's honor nationwide this year, they have a deeper meaning in Wisconsin where his ideas were nurtured and turned into action. Leopold served as head of the U.S. Forest Products Laboratory in Madison, as a professor and department chairman at the University of Wisconsin and as a member of the Wisconsin Conservation Commission before it became the Natural Resources Board.

As part of the 100th anniversary, DNR has designated 1987 as the "Year of Leopold" and scheduled a variety of activities in his honor. Numerous other Wisconsin institutions will also commemorate him during the next 12 months. To make sure details of these events get to the public, DNR will inform the media and other interested parties as schedules are received from various organizations.

This magazine's celebration of the Year of Leopold begins here with the story by Clay Schoenfeld, a student and colleague of Leopold's. During the rest of 1987, Wisconsin Natural Resources will reprint Leopold essays first published in the old Bulletin between 1943 and 1946. While some were included in a Sand County Almanac, others were not, but are charming examples of the Leopold philosophy and style.

Wednesday, April 21, 1948 was one of the first real days of spring in the valley of the Wisconsin. The sun glinted brightly on the swollen river. Frogs croaked incessantly in the sloughs. And in the air was the piquant smell of grasssmoke as the farmers along the Baraboo hills went about their spring burning.

Down by Plummer's Marsh, in Sand County, Jim Reagan's grass fire began to get out of hand. A neighbor, planting young Norway pines nearby, saw the danger and ran over to help. He filled a bucket of water at the farm well and disappeared in the billowing smoke. He never came back.

Yet in a larger sense Aldo Leopold is not gone. Today his figure towers like a veteran oak over a forest of seedling environmentalists seeking that "ecological conscience" Leopold bespoke.

Oddly enough, eight years earlier to a day I had tramped with Aldo Leopold that same Plummer's Marsh where he was to die of a heart attack at the untimely age of 62.

"It is a revelation to walk in the open with the Professor," my field journal reads for April 21, 1940. "Every grass blade is a challenge, every bird a question. High points of the day: a pair of mallards feeding in the shack 'front yard,' a big hen woodcock flushing near an inky-black pothole, grouse droppings three inches deep under a grape tangle, two deer bounding across the road, Estell's pet squirrel, and Mrs. Leopold's stew."

After a similar inspring hike with the Leopolds at their sand county acres the next fall, I reported in my column as editor of the University of Wisconsin student *Daily Cardinal* that "Aldo Leopold is undoubtedly one of the great figures in American conservation."

At the time such a statement could stem only from a personal acquaintanceship. While it was true that Leopold was widely recognized then in professional circles, even later, at the time of his death, he was virtually unknown to the public at large. Many of what were to become his most famous essays had already appeared in such journals as *Bird Lore*, the predecessor of *Audubon Magazine*, but a frustrating number of publishers had rejected his *Sand County Almanac* concept.

This is a sentimental visit to the Aldo Leopold I saw for 14 years, to the tints and shadows of a very human being. As H. Albert Hochbaum, one of his perceptive students, once wrote to him: "It is only by accepting ourselves for what we are, the best of us and the worst of us, that we can hold any hope for the future." In partial response Leopold was to compose "Thinking Like a Mountain," the single essay that best traces the evolution in his own thinking, up blind alleys and down bright paths. "The important thing," Leopold said, "is to strive." The opportunity to share in his striving is the Aldo Leopold legacy.

The general outlines of the Leopold career are well documented. From a boyhood in Burlington, Iowa, he had gone on to acquire a professional degree from Yale's School of Forestry, only recently endowed by the parents of Gifford Pinchot. He then immediately joined the burgeoning U.S. Forest Service in the Southwest in 1909. Leopold instinctively grasped an as-yet-unnamed "ecological" approach to forest management. His concern ranged far beyond cellulose production to include watershed protection, grazing, fish and wildlife conservation, outdoor recreation, and, particularly, the idea of designated wilderness areas preserved inviolate. The Forest Service may not have known quite what to do with a man of such eclectic interests. Despite a severe bout with nephritis Leopold rose steadily up the field ranks, but when he was offered a Washington assignment he declined. In 1924 the Forest Service sent him to a post as associate director of the U.S. Forest Products Laboratory at Madison, Wisconsin. As a capable administrator Leopold plunged into his new assignment with his usual gusto. But his heart was really not in the technical problems of converting sawdust into wall board, and he returned to his commitment to game management by helping sportsmen in a reorganization of the Wisconsin Conservation Commission. His Izaak Walton League friends thought he should be appointed Department Director. When that did not materialize, Leopold resigned from the Forest Service in 1928 to undertake a monumental game survey of the North Central states under the sponsorship of sporting arms and ammunition manufacturers. Meanwhile, his prolific pen was bringing him to the attention of readers of varied conservation periodicals. Then in 1933 he brought out his classic treatise on *Game Management*, and was called to be professor of game management at the University of Wisconsin, a new chair funded by a special grant from the Wisconsin Alumni Research Foundation. The rest is history I can try to interpret from memory. Aldo Leopold was a many-faceted person. All I know is what I saw and admired. Others may have varying perceptions.

I first met Aldo Leopold in the early spring of 1934. He came to the small-town Wisconsin high school where I was a sophomore to organize a "Youth Conservation Club." The activity was typical of the man. Unlike the impression you might draw from *Sand County Almanac*, Leopold was no philosopher-writer operating in an attic, nor a latter-day Thoreau musing beside some Walden pond. He was invariably out on the hustings organizing people. The number of leagues, associations, and societies he fomented, founded, or fostered exceeds a score.

The program he proposed for our conservation club was also vintage Leopold. We weren't supposed to make wildflower scrapbooks or bird life lists; we were going to help build up huntable populations of ringneck pheasants and Hungarian partridge on nearby farmland. Leopold had just signed on a group of farmers and sportsmen at crossroad Faville Grove in a wildlife research and development project, and we high school students were to be the privates in a holy war—planting shelter belts, stocking hens, counting nests, marking pullets, warning poachers, collecting gizzards, filling feeding stations, recording weather data—all around the calendar.

The whole arrangement was pure Leopold. Federal alphabet agencies were already abroad in the land, but Leopold has a profound disrespect for bureaucracy, and little confidence in Washington sticks and carrots. Ours was to be a local, voluntary cooperative. The farmers were to loan land in exchange for trespass control. We pupils were to invest muscle and sweat in exchange for free ice cream. Leopold put in managerial time for access to an outdoor laboratory. This Jeffersonian faith in grassroots action as opposed to big government was a Leopold tenet throughout his life. While the National Environmental Policy Act indeed became in a sense the institutionalization of Leopold's own dictum that "a thing when it tends to preserve the integrity, stability, and beauty of the biotic community," what Leopold personally would have thought of the DPA apparatus in problematic, although he certainly would have applauded the NEPA insistence on public involvement in land use planning.

A goodly number of us Lake Mills sophomores volunteered with alacrity for duty with Leopold. The mission was exciting, but it was more than that. Leopold was a born leader in a very physical sense. The studio portraits most people associate with him suggest a sort of benign countenance befitting a halo. In person Leopold didn't come on like that to me at all. Remember the opening scene in the recent movie, *Patton,* in which George C. Scott strides out to dominate an otherwise-empty stage? That was somewhat the Leopold I knew. He had what the army calls "command presence," exuding a certain tall-in-the-saddle air. Even his street attire often had a field-campaign flair. Students in his classes were always alerted to his approach down the corridor by the lively "click-click" of the steel plates he wore on the heels of his shoes. Put another way, the Professor could be like a dynamic chamber of commerce secretary, which indeed he actually was for a time in Albuquerque, New Mexico. Or say he had "a courtly quality which simply wowed the ladies," as a contemporary recalls. Unquestionably, in Susan Flader's assessment, he was no introvert; he was "extraordinarly persuasive in personal contact—a master at appealing to diverse interest groups.

Each of us who knew Aldo may recall his personality in different ways, but all of us would agree with Frederick and Frances Hamerstrom that he had a compelling "magnetism." Yet it was no put-on. We would likewise agree with Professor Robert McCabe that here at heart was the epitome of the "kind, sincere, gentleman."

Another basic side of Aldo Leopold came through very quickly to us conservation clubbers. We weren't simply to be field hands; we were to observe, to ask questions, to try to put things together; in short, to "perceive," as he later called it. We were to begin to practice "deep digging" for facts, yet we were not to be blind to natural beauty.

On one of our first spring excursions with The Professor, as we all called him, we "drove down to the prairie to get a count on the upland plover, which had just arrived back from South America." My field journal for the day tells how we began to apply Leopold's ornithology lessons:

"We watched one bird beat up high in the sky, its eerie twitter coming down the wind. Then it plummeted to earth, elevating its wings after alighting and then carefully folding them on its back. The birds seemed to be paired already, and were sneaking about in the grass as if investigating nesting sites, as well as feeding on insects. A bird of one pair had a distinct yellow bill, the other a drab brown one. I thought this might be a sex characteristic, But The Professor said it was a sign of each bird's age."

Leopold was later to immortalize the upland plover in has *Almanac* vignette called "Back from the Argentine."

Our exposure to Aldo Leopold at an early age made a lasting impression on at least three of us sophomores. Unable to encompass the whole Leopold, one of us is now a research geologist, I purport to be a professor-writer, and another of us is an evangelical preacher.

With Faville Grove well off the ground, Professor Leopold bowed out as sole director in 1935 to move on to new fronts: taking an eye-opening sabbatical in Germany, forming a pioneer department of game management at the University of Wisconsin, and buying his sand county acres. The latter, incidentally, was not to be just a retreat; it was to be a family laboratory where there was peace, happiness, and creativity as the Leopolds sought "to take a tract of wornout land and bring it back to its original state of harmony," as his oldest daughter Nina recalls.

In Leopold's stead at Faville Grove, we conservation clubbers were ably tutored by two of Leopold's first graduate students, Arthur S. Hawkins and Irven O. Buss, both of whom went on to distinguished careers in wildlife biology. In the process, Art met and married an ardent club member, Elizabeth Tillotson, whose grandfather was the Faville of Faville Grove.

I next heard from Aldo Leopold in the spring of 1937. After high school I had gotten a job as combination reporter-editor-printer's devil in my hometown weekly, the *Lake Mills Leader,* where I proceeded to give front page news coverage to a favorite topic—the Faville Grove Wildlife Area. "Predators Insignificant When Compared to Farmer's Mower," one headline read—a story about field research into why we weren't getting an upswing in natural pheasant reproduction because ringneck nesting habits conflicted with land use patterns. The Professor liked the report, and took time to pen me a hand-written note of encouragement.

What Leopold wrote was in effect what he later told the Wildlife Society in his 1940 presidential address, that there was a real need for wildlife people with a writing bent, or vice versa. "These intergrades in human taxonomy," he was to say, "are perhaps more important than those which so perplex the mammalogists and ornithologists. Their skulls are not yet available to the museums, but even a layman can see that their brains are distinctive."

It wasn't going to be easy, Leopold told me. He knew from practice. Although his felicitous style may seem to have distilled on his paragraphs like dew, the Professor worked diligently at diction. I was later to see in his office the sheets of yellow ruled copy paper that gave clear evidence of considerable carpentering. His offhand field notes in Round River bear little resemblance to the polish cadences of his much-recast "Land Ethic."

Many of the Professor's essays were initiated as convention speeches or poems. The necessary absence of the convoluted sentence helps account for his high marks on modern readability scales; that, and his nice feeling for metaphor, simile, and the alliterative phrase. While in their original form Leopold's writings were often highly topical, their sentiments invariably looked far down the road to the future. The man's sense of vision was positively uncanny. Although "The Land Ethic" did not enter the ken of the general public until the publication of a paperback Sand County in 1966, that seminal essay had actually appeared in truncated form as early as 1933 in The Journal of Forestry. Today's environmentalists may find it hard to reconcile the thrust of the essay with the official publication of the Society of American Foresters, unless they remember that Leopold was a card-carrying member and contributing editor. Otherwise it is quite likely his unconventional message would not have found acceptance. He must have thoroughly enjoyed pricking the conscience of his colleagues. Indeed, a sophisticated sense of humor was a Leopold trademark, exceeded only by his rare ability to make manifest in compelling words the intrinsic beauty and insidious degradation of "the organism called America," words as pulsing and provocative today as in the years they were honed and sharpened.

To become a specialist in conservation reporting: that was challenging advice for a junior journalist, and I took it to heart, enrolling that fall as a freshman at Madison. By chance, my laboratory partner in Botany 1a was Carl Leopold, youngest of the three Leopold boys, now Dean of the Graduate School at the University of Nebraska. Through our friendship then I gained occasional entre to the Leopold family circle. It was a close, happy family, marked by music and quiet laughter. Yet its collective style was patrician. For example, the Leopold table was well-set. You didn't eat with the Leopolds; you dined, at least so it seemed in the eyes of a country preacher's son. The Leopolds were a family of some substance. If your desk is made of hardwood, inside the center drawer you may find a little plaque bearing the Leopold factory family crest. Leopold had been educated at private Eastern schools. Mrs. Leopold was of old Southwest Spanish landgrant sheep rancher lineage. Their relative security gave Leopold the perspective to tell the US Forest Service off on at least two occasions. At ease with business and businessmen, the Professor never proposed that the laws of ecology should repeal all the laws of economics. A close family friend was a prominent manufacturer and "boss"of the Wisconsin Republican Party. Leopold himself was no party man, but he accepted politics as the grease that made the gears of government go. I'm sure he would have welcomed the environmental movement as a long-overdue revolt against the fat-cat complacency of our culture, but I don't think he would have gone as far as some environmentalists in rejecting "the system." As he said in the foreword to Sand County Almanac, "one must make shift with things as they are."

All the Leopolds had a nice feeling for the fitness of things. They did not carry the trappings of a good life into the out-of-doors. Their Sand County shack was literally that, a slightly-remodeled ex-chickenshed, with only a fireplace for cooking and warmth, and no indoor plumbing. For them, the horse was the only proper mode of transportation in western wildlands, and the hand-made bow and arrow the proper weapon for stalking deer. It was a Leopoldian sense of fitness that could conceive our system of national wilderness preservation areas so early as 1919 when the rest of the country was not yet ready to accept a blank space on the map.

The young eco-activists in my university classes today tend to reject the idea of an "establishment" Leopold, and it can be overdrawn, of course, but any image of Leopold as a Muir-like "trampo" is equally erroneous. I do not remind my air-pollution-conscious students that the Leopold they revere was a smoker. It is really irrelevant. The expensive commissioned oil painting of him, towering down in the new Wildlife Ecology Department reference room on the UW-Madison campus today, and otherwise not-too-likelife portrait, does indeed display Leopold with cigarette in hand, and the Rierson Studio photograph he once selected shows him nonchalantly puffing a pipe. Yet he tried to keep his smoking down to a minimum, and often would leave his cigarettes behind when he was heading for the Shack for a weekend. If he had lived to read a surgeon general's report, he would probably have sworn off for good.

Another aspect of Leopold my students try to reject as a momentary aberration is Leopold's role as a hunter. But it can't really be done. By his own admission, as a growing man he had "congenital hunting fever." It is no accident that his *Almanac* includes a sketch called "Red Legs Kicking," the account of the dignified death of the boy Aldo's first black duck. Only a committed hunter would preserve such a moment.

Yet a Leopold ruffed grouse hunt was no search-and-destroy expedition; it was a ceremony, complete with ritual and incantation, as we played the role of substitute for fox or hawk. And the stage setting was an essential part of the drama—a staunch dog, invariably called Flick, forging through "smoky gold" tamaracks or coming on point in a tangle of blackberry "red lanterns." With profound respect we matched the quarry against only light double barrels, and reverently dissected any harvest in a continuing study of food habits, disease, and population dynamics.

Leopold abhorred the conduct of "goon" hunters, and inveighed against them, but he would have surrendered to no one his own right to garner game in a sportsmanlike manner. If he were here, he would undoubtedly participate in today's debate against anti-hunting sentimentality. Yet I doubt he would have joined the self-righteous uproar that followed the showing of *Guns of Autumn*. He would more likely have pointed his own verbal guns at the hunting abuses the TV camera may have exaggerated but did not invent. In his later years he spent as much time studying bird songs as he did hunting, and what is perhaps his most scientific paper is on that subject. It was his personal "voyage of discovery" onto a high sea of perception, a rejection of the "factory-made gadgets," "where-to-go" management mentality, and abominable ethics that could destroy for Leopold the personal and cultural values in sport hunting.

Leopold certainly wouldn't have much empathy, either, with some current "environmental education" doctrines; the proposition, for example, that environmental education is some mysterious, existential, affective "process," divorced from tough ecological cognitive content. I know from sharp experience. As a student in his then-unique Wildlife Ecology 118 course at the University in 1940-41, I had a number of papers rejected because my answers to his weekly questions were more platitudinous than precise.

The first class day, my notes record, Professor Leopold lectured on Ecological Principles, and wrote on the boards his "criteria of conservative land use: (1) maintain soil fertility, (2) preserve the stability of the water system, (3) yield useful products, and (4) preserve the integrity of fauna and flora to a reasonable degree." As he told us, "There is something more than esthetic grounds for writing Number 4 into this list of criteria; in the long run the stability of soil and water systems will be maintained only with the protection of flora and fauna." Thus "the most important question in history becomes, how and to what extent can biotas adapt themselves to violence?" Leopold then went on to ask us who could be counted on to cherish which criterion in the above list. His answer: the agricultural college, 1, 2, and 3; the sportsman, only 3; the forester, 2 and 3; the erosion engineer, 1, 2, and 3; and only the nature lover, 4. Conservation, we gathered, was not simply preservation; it was wise use. But "use" in the Leopold lexicon was defined to encompass an ecological imperative at once utilitarian and universal—an ethic of community life; and his community included "the soil, waters, fauna, and flora, as well as people." His inclusion of people was not accidental; it was they who could bring to hear a conscience that would cease being intimdated out of hand by the argument that an action is impossible if it does not yield quick profits, or that an action is necessarily to be condoned because it seems to pay: "That philosophy is dead in human relations, and its funeral in land relations is long overdue."

Here was Leopold in essence, a forecast of the *Sand County Almanac* to come.

Any hunch that a Leopold course was simply a series of nature essays would be erroneous. There were 99 tomes on his list of required readings, and a weekly quiz that tested our acquisition of what those readings contained. The core of the course was a series of practical field trips on which we were expected to demonstrate clear competence in reading the landscape through ecological glasses.

Our final exam in 118 took place on a back 40 west of the campus. After a morning of field observation we were to describe in detail the existing biota and interpret thereby the history of the land use on that particular plot. There was no way you could "mix" that test without a good working knowledge of botany, zoology, soils, climate, and farm practices. A mood essay wouldn't cut it at all. I got a "B−," which did nothing for my ego but a great deal for my determination to "perceive."

Yet I do not mean to picture Leopold as a classroom czar; quite the contrary, he was as patient as he was demanding. Art Hawkins vividly recalls how he and the Professor struggled together over a thesis: "On the days I went to his office, he always cleared his desk of personal business, closed the door, and listened to me attentively. Nothing in the world was so important as my manuscript, or so he made me feel. It went through about 13 drafts. In this way he built confidence in his students. No other teacher I've ever had could compare with him in abilities of this kind." This was the Socratic Leopold who, as Charles Bradley recalls, "never tired of asking the questions that ended by blowing my mind, revealing me to me, and me to him."

That Leopold was a stickler for facts, a generation of his students can attest. But he never assumed that a learned degree necessarily signified knowledge, nor that knowledge could be discovered only in fancy laboratories. He was a great believer in what the amateur could learn on a corner lot, given the eyes to see. He had a profound admiration for an Ohio woman who made major contributions to the science of ornithology by studying song sparrows in her neighborhood.

His own lack of a PhD never bothered Aldo Leopold, but it did seem to bother some of his faculty colleagues; that and the paucity of so-called "solid" research papers in his existence bibliography. Not knowing quite what to do in 1933 with one of the country's first professors of game management, the University put Leopold initially in the department of agricultural economics in the College of Agriculture. E.B. Fred, distinguished bacterologist, dean of the Graduate School, and later a great president of the University, always harbored certain doubts about Leopold as a bona fide scholar. When I was President Fred's special assistant and confidant after World War II, he once told me he knew Leopold "had something" but he wasn't sure exactly what. The feeling was shared by some other orthodox UW scientists, but not by Leopold's close compatriots or students. We knew him, as Susan Flader has written, for "his youthful, inquiring mind, his openness to new ideas, his willingness to move in new directions," the intellectual drive he demanded and the lilting language he inspired.

The Professor liked to go to bat for the students in whom he saw promise. When Dean Fred wouldn't admit Al Hochbaum to the Graduate School because of an undergraduate "gentleman's C average," Leopold had a long talk with the Dean—and got Hochbaum accepted on a year's probation. Al went on to make profound contributions to waterfowl management.

It is one of life's little ironies that an Aldo Leopold type without a doctorate could not now get appointed as an assistant professor in the department he founded, much less get promoted to tenure. I can almost hear the Professor sputter and stomp about that. If Leopold had lived to see the E-Day era, of course, he would have acquired a drawerfull of honorary degrees—which he might or might not have cherished as much as the revolver and watch grateful New Mexico sportsmen once gave him.

I did get an "A on one Wildlife Ecology 118 paper. Like any professor, Leopold was not immune to the charm of a student giving back to the professor what the student heard in class:

> *When it comes to conservation, we sportsmen remind me of my dog. If my dog runs into another dog too big for him, instead of dealing with the other dog, he deals with a tree bearing his trademark. That way he salves his ego without exposing himself to danger. Just so we sportsmen often deal with bureaus and laws and programs, which are the symbols of our conservation problem, instead of dealing with the land and its products and ourselves, which are the problem.*

That can be recognized as a sort of plebian version of Leopold's own "ecological conscience." In a slightly different form it was later to appear over my bi-line in a

Sports Afield article called "Conservation Needs Reconversion."

In the late spring of 1941 I joined the Leopold crew for the annual wildlife census on the University Arboretum. It was the last time I was to see him for five years. Along with most of his students, I trooped off to war that June. It was while we were gone that he had time to begin to put together *Sand County Almanac,* and to plunge into state biopolitics as a Conservation Commissioner. I kept in touch only through reports from Robert A. McCabe, the Faville Grove manager at the time, who very kindly often visited with my father. Bob now chairs the department of wildlife ecology at UW-Madison. He still refers to Leopold eloquently as "the Boss."

Art Hawkins and I did make a sentimental journey back to Faville Grove in the fall of '41, hitchhiking from army posts in the West. We hunted mallards together on the marsh, but the Professor couldn't join us. We've always regretted that. While he was in service, Art left Gus, his German shorthair, with the Professor. Gus' last hunt is recorded in *Round River.* His first hunt was not so noble. As Art and the Professor launched out for pheasants from the Faville Grove barnyard, Gus came immediately on point. When the gunners closed in, Gus broke point—and retrieved a squealing piglet. As Art says, "This was my most embarrassing moment, ever." Under the Professor's training, Gus became a polished performer. With dog or horse Leopold was the soul of himself: "softly strict, certain of obedience, yet indulgent of some dalliance." A hunting dog was simply a part of the Leopold family. When you dined at the Leopolds you were always aware of a "Flick" flopped down nearby.

During the war, Leopold got up to his neck in a knock-down and drag-out fight over Wisconsin's whitetail deer management policy. The Wisconsin deer herd had irrupted, steadily eating itself out of house and home, leaving ruined range, starved fawns, and stunted bucks. It was the Kaibab Plateau problem all over again, and Aldo knew the only answer was a substantial reduction in the deer population, via the gun in the absence of natural predators. But Wisconsin's deer hunters, brought up on the sanctity of short seasons and bucks-only laws, couldn't see the light, and they controlled the regulatory process through the Wisconsin Conservation Congress. What was needed was a massive adult education program.

I had no sooner returned to the campus in mid-1946 to pursue graduate work than I got a call from Professor Leopold. He had read my "Conservation Needs Reconversion" piece, and he thought I was just the guy to put some life in the Wisconsin Conservation Department's public information shop. I was flattered, but I said, "No." I was too committed to getting my master's degree under the GI Bill, and was not about to exchange one uniform for another so quickly. I was never confident the Professor really appreciated why I backed away from the campaign in which he was so totally immersed. But he didn't let any feelings make me less than welcome in the weekly seminar he began to run again. I did at least freelance several Field and Stream articles about the problems of "too many deer," one of which the Professor caused to be reprinted in the Wisconsin Conservation Bulletin.

Those were heady days. Bright, young minds were back from worldwide battlefronts, wartime laboratories had released a whole new kit of research tools, what has been the art of game management was about to become the science of wildlife ecology, and the public was more willing to listen to university experts of the type that had fabricated the bombs and chemicals and people who had won the war.

We all met in the slightly-refurbished attic of the old house on Farm Place that passed for an office building and lab. After you climbed the creaking stairs you had to duck your head to clear the rafters. The chairs were army surplus, the slide screen a bedsheet. But the ideas that churned up out of that evening seminar were mint fresh. Many a principle of wildlife management in practice today was born or refined in that Leopold think-tank. Nor have there ever been taller tales exchanged about hunting and fishing exploits or about rare plants or birds identified in unlikely places. The red Wealthy apples the Professor always provided helped prolong our discussions far into the night.

Then with a suddenness that left us stunned, it was over. All who knew Aldo Leopold well were even then fully cognizant of the depth of the country's loss.

In one of his last essays, Leopold's news peg was the dedication of a plaque to the passenger pigeon in a Wisconsin state park. What he wrote I chose as the theme of the official University epitaph I wrote in May 1948 as editor of the Wisconsin Alumni Magazine:

The pigeon lived by his desire for clustered grape and bursting beechnut, and by his contempt of miles and seasons. Things that Wisconsin did not offer him today he sought and found tomorrow in Michigan, or Labrador, or Tennessee; to find them required only the free sky, and the will to ply his wings. but there are fruits in this land unknown to pigeons, and as yet to most men. Perhaps we too can live by our desires to find them, and by a contempt for miles and seasons, a love of free sky, and a will to ply our wings.

Aldo Leopold knew of such fruits, the obituary read. He was unrestrained by the ironbound taboo that decrees the construction of instruments in the domain of science, while the detection of harmony is the domain of poets. He conceived of the good life as being at once efficient and esthetic.

Aldo Leopold had a contempt for miles and seasons. He was as familiar with the grouse of Scotland, the spruce of Silesia, the pike of Canada, and the mule deer of Mexico as he was with the Wisconsin cottontail. He was as alert and open-minded the day he died in 1948 as the morning he "commenced" at Yale in 1909.

Aldo Leopold had a will to ply his wings. He knew more about land ecology than any person of his time. He had developed a deep understanding of the interactions of biotic forces and the mechanisms of their integrated expression in the life and landscape of America. It is no uncommon thing for a specialist to sound a record depth of knowledge in a singly limited field, but Leopold acquired the knack of putting together a mental clock made of parts from the whole gamut of the earth sciences, and then listening to it tick.

Those sentiments were written on the spot, as it were, many years ago. Time has only strengthened the assessment.

To America's wildlife lovers, he left a body of conservation principles that can improve habitat quality and species quantity a hundred years hence.

To America's resource managers, he left a philosophy of perception and a code of conduct that can protect and even enhance the intrinsic value of every landscape.

To America's scholars, he left a pattern of putting the sciences and the arts together for the purpose of understanding our environment."

To the American public, he left a continent better for his having lived on it, and a natural heritage safer for his having limned it.

There was no pompous church funeral for Aldo Leopold, no painful memorial service, only a simple commitment to the family plot in Iowa. That is the way he would have wanted it. He was more conscious than most men that death is merely one of the inevitable processes of nature. He had watched giants of the forest topple to become rich humus on the sodland floor. He had seen the antlers of ancient bucks contributing their nutrients to meadow soil, and spent trout turning belly-up on the shallows while their roe milked the waters.

And so it is with Aldo Leopold. Spring will come to the valley of the Wisconsin again, and he will surely be there, in all the manifold inheritors of his spirit—listening to the "peenting" of the woodcock, casting for walleyes at the head of the island, mulching a stand of young pine, recording insights, and watching Jim Reagan's son as he burns his marsh grass.

ADDITIONAL COSPONSORS

Senators Kassebaum, Pryor, Lautenberg, Bradley, and Nunn.

BRENT DeLAND

● Mr. DIXON. Mr. President, for 10 years, the Illinois Association of Community Action Agencies has had the outstanding direction of my dear friend, Brent DeLand.

Not only has the agency benefited from his experience, but the State of Illinois has gained more than a decade of devotion.

Brent has worked toward the goal of antipoverty for 21 years. On June 6, he began his 10th year at the association as CEO. Throughout the years, he has expanded membership services and programs of the organization by 350 percent.

His job far surpasses IACAA. Brent was appointed chairperson for the Governor's Consumer Coordinating Council, and holds positions on the Mid-America Community Action Association, the Governor's Task Force on the Homeless, the Domestic Affairs Council, and the Emergency Food and Shelter Board. Before Brent joined the association, he has served the Governor's Committee on the Handicapped. Those are only a few of the organizations Brent has added to.

Brent's success goes beyond his work. In 1974, he completed his master of arts degree in social planning from Sangamon State University with high honors. Before SSU, he was a Franciscan brother and served as a missionary in Brazil. His first academic training was as a radiologic technologist at Northwestern University Medical School in Chicago.

I would like to recognize Brent's commitment to improving the quality of life in Illinois and everywhere. With great pride, I join the IACAA in honoring Brent.●

JUST SAY NO TO DRUGS WEEK

● Mr. SHELBY. Mr. President, today I rise to acknowledge "just say no to drugs" week. Like many of my colleagues, I am an original cosponsor of this resolution that so designates this week of the 17th through the 23d. I would like to share with my colleagues my attempt to participate in commemorating this week. I have sent a letter to the principals of Alabama's schools in the hopes that my message would be passed on to each and every student across the State. Simply, I have told the students of my concern about their well being and my hopes for their future. It is my sincere hope that this letter, which will be read in Alabama classrooms throughout this week, will, on some level, reach these students.

I commend my colleagues for their efforts in the past and I know this 100th Congress will continue with dedication on behalf of America's youth. Mr. President, I ask that my letter to the students of Alabama be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, May 13, 1987.

DEAR STUDENTS: Today I have set aside time from my Senate duties to write you a letter about something that's on my mind. In my new job as a United States Senator, I work on many important issues every day. But to me, you are every bit as important as balancing the budget, protecting our environment and defending the nation. I have started to write this letter many times today. Each time, I have paused and tried to put myself in your shoes. I have thought about what I would like to hear and more importantly, what would have the most impact on me. The problem is, it is very difficult for me to try to understand what you are all going through. When I was in school things were not as complicated as they are for you today. Drugs were only found in the neighborhood drug store not in the neighborhood school yard. I think it is very hard for any adult to understand what you have to deal with every day.

That's what we adults—mothers and fathers, teachers and doctors, politicians and preachers—ask you to just say no to drugs. What else can we say?

From my office here in Washington, I promise you that I will do my part—I will work for programs to teach young people the danger of drugs. I will work for programs to help young people who have fallen into the trap of drugs. And I will work to stop drugs from sneaking into our country and finding their way into your schools.

But the bottom line is that your future rests with you. Please promise me that you will do your part. Only you can make the decision to stay away from drugs—only you can say "No." I can't say it for you—your parents can't say it for you—your friends can't say it for you.

If it is hard for me to put myself in your shoes, maybe for a moment, you could put yourself in mine. As a United States Senator, I am in a special position to fight drugs. But I can't do it alone. I am calling on you—America's future—to write to me and suggest how I can help Alabama win the war against drugs. I believe that with your help, Alabama can lead the nation as a state made up of drug-free, healthy and happy students.

Finally, I know the "Just Say No" theme has become a bit over used, but don't let that stop you.

Please, don't use drugs.

Sincerely,

RICHARD SHELBY,
U.S. Senator.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objectives of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator ROBERT W. KASTEN, Jr., and Mr. Alexander Echols, a member of Senator KASTEN's staff, to participate in a program in Santiago, Chile, sponsored by the U.N. Economic Commission for Latin America, from May 16 to 18, 1987.

The committee has determined that participation by Senator KASTEN and Mr. Echols in the program in Santiago, Chile, at the expense of the U.N. Economic Commission for Latin America, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. John Starrels and Mr. Stephen Quick, members of the Joint Economic Committee staff, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from May 21 to 28, 1987.

The committee has determined that participation by Messrs. Starrels and Quick in the program in Taipei, Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.●

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1243, an original bill reported today by the Intelligence Committee to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the U.S. Government, and for other purposes, be read twice and referred jointly to the Committees on Armed Services and Judiciary for the 30-day time period provided in section 3(B) of Senate Resolution 400, 94th Congress, provided that the Committee on the Judiciary be restricted to the consideration of title IV, provided further that if any of the committees fails to report the bill within the 30-day time limit, such committee shall be automatically discharged from further consideration of the bill in accordance with section 3(B) of Senate Resolution 400, 94th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators, and I yield the floor.

PROGRAM

Mr. BYRD. Mr. President, staffs have been working diligently to compile lists of amendments that are going to be called up by Senators. Several of the Senators have indicated they would be willing to enter into time agreements on the amendments, but the managers will not be able to clear those time agreements until tomorrow when Senators are present.

We have a good list to start with. We have an amendment pending. When the Senate comes in tomorrow and the two leaders have spoken under the standing order, there will be a short time limit for debate on the amendment by Mr. PRESSLER; 20 minutes to be exact. A vote will occur on the amendment or in relation to the amendment at 9:40 a.m. No quorum call will be in order prior to that vote.

I would urge that our respective cloakrooms notify all Senators of this early vote so we will be off and running fairly early tomorrow. Hopefully, the Senate may complete action on the bill tomorrow. It is does not, then it will resume consideration of the bill upon the Senate's return following the Memorial Day holiday.

As to the length of the day tomorrow, my judgment at this point is that the Senate will not be in later than 7 o'clock tomorrow. If we can finish by that time, fine. If the Senate cannot finish by that time, and it looks as though we are going to be late, there is no point in blunting our pick. We will have work to do when we get back, in any event.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 9:45 p.m., the Senate recessed until Thursday, May 21, 1987, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 20, 1987:

U.S. POSTAL SERVICE

Norma Pace, of Connecticut, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1994.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Carl D. Covitz, of California, to be Under Secretary of Housing and Urban Development.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Louis L. Guy, Jr., of Virginia, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1989.

FEDERAL RESERVE SYSTEM

Edward W. Kelley, Jr., of Texas, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1976.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duty constituted committee of the Senate.

EXTENSIONS OF REMARKS

CAMPAIGN COST REDUCTION AND REFORM ACT INTRODUCED

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. SWIFT. Mr. Speaker, I take this opportunity to discuss a comprehensive campaign finance bill I am introducing today, along with Mo Udall, Lee Hamilton, Leon Panetta, Dan Glickman, George Brown, Bruce Vento, Don Pease, Sam Gejdenson, Jim Bates, and Mervyn Dymally.

I have introduced this bill, the Campaign Cost Reduction and Reform Act of 1987, because I am committed to improving our current campaign financing system. In particular, I am deeply concerned about the spiraling cost of running for the House of Representatives, which is increasing twice as fast as inflation. Limiting this spending arms race is the single most important change we can make.

First, however, before addressing the kinds of changes I would like to see in the law, and why those changes are important, let me step back a moment to say that suggesting the law can be improved is not to imply that the current law is fatally flawed.

It is often asserted that campaign laws produce different results from those that had been expected; that there is a "law of unintended consequences." To some extent, that is true. But I think those kinds of statements leave an implication with which I do not agree. The implication is that nothing we do makes the situation better—that every time we try to improve the campaign financing system, we make it worse instead. That is wrong. While we might all agree that our campaign financing system is not everything we would like, it is certainly better than it was 15 years ago. Contribution limits have reduced the influence of large individual contributors. Spending in the Presidential system, which of course is publicly financed, has kept pace with inflation, rather than spiraling out of control like spending in congressional races. Disclosure, which is probably the single most important element of the law, is infinitely better than it was before the Federal Election Campaign Act [FECA] took effect.

To the degree that we have experienced "unintended consequences," I would like to remind my colleagues that the Congress that passed the FECA and its amendments in the 1970's did not pass the law we know today. Most importantly, the law that Congress passed contained spending limits for congressional races. Those limits were stricken by the Supreme Court. If those limits were still in place, we would not have the dramatic increases we have today, either in PAC contributions, or in overall campaign spending. The problems we face today have come about, not so much because Congress failed to anticipate undesirable consequences of certain provisions in the law, but because the Court eliminated portions of the law that were intended to avoid those undesirable consequences.

The most important improvement we can make in the current law is not something new; it is to return to the law an element that was intended to be there all along. That element is campaign spending limits. Congress knew limits were important then, and they are even more obviously crucial now.

The cost of running for a House seat is rising more than twice as fast as inflation. In 1974, a House campaign cost about three-and-a-half times the average income for a family of four. By 1986, the cost had risen to eight times the average family income. Perhaps, as the Supreme Court has suggested, that kind of increase alone is not sufficient reason to support campaign spending limits—but what that kind of increase leads to in our campaign finance system is more than sufficient reason. Trying to raise anywhere from half a million to a million dollars for a competitive race, within a year or two, invites the current massive flows of PAC dollars into the system, and it inevitably brings enormous pressure to bear on all participants.

First, our current fundraising system interferes with our responsibilities as legislators and as representatives. We spend a disproportionate amount of our time raising money, and worrying about raising money. The fundraising process can become so all-consuming that we could spend less and less time doing the things we spend all the money to come here and do in the first place, from solving the Nation's problems to meeting with individual constituents.

Second, the current system increasingly prevents nonwealthy candidates from even considering offering themselves for public office. Nonwealthy challengers—particularly nonincumbents—are either priced out of the market at the start, or finish with heavy loads of debt.

Third, there is no question that the appearance of corruption, and the potential for actual corruption as well, are serious and growing when candidates take increasingly large percentages of their campaign funds from well-financed, well-identified, influential, economic interest groups—each with an interest in legislation before the Congress; many with little or no connnection to the candidate's home district. Certainly, I am not inherently opposed to PAC's, or to their right to participate in the process. They have a role to play that I believe is a completely legitimate one. I accept campiagn contributions from PAC's myself. What does trouble me is the way their role is increasing by leaps and bounds from one election cycle to the next. Ten years ago a House candidate was likely to get about one-fourth of his money from PAC's; 5 years ago it was about one-third; now, it is edging perilously close to half.

Fourth, as many PAC's themselves recognize, they are on accelerating treadmill of fundraising they cannot control. They are constantly subject to increasing demands from candidates for more and more contributions. Since they do have an interest in legislation before the Congress, they are susceptible to pressure from candidates, just as the reverse is true.

Fifth, small individual contributions are tending to disappear. Not that there are fewer small campaign contributions. Far from it. The amount of money in campaign contributions of $200 or less to House candidates has been rising at roughly the same rate as inflation. The problem is that overall campaign spending is rising twice as fast as inflation. The difference is being made up from PAC contributions, and individual contributors—our constituents—are getting submerged.

So what do we do? We seek voluntary campaign spending limits.

The problem with spending limits last time was that Congress sought to impose limits on all candidates, rather than encouraging candidates to accept the limits. The Court has indicated that candidates must be offered the opportunity to accept limits, rather than having them imposed.

The conventional inducement for candidates to agree to spending limits, of course, is public financing. Personally, I have always supported public financing in concept. I have absolutely no philosophical objection to it, and I believe it has worked well in Presidential races. However, the more I tried to figure out how to take a system that functions smoothly with a relative handful of Presidential candidates, and apply it to 800 or more House candidates, the more I became convinced that public financing in House races would be enormously complex and expensive to administer.

Furthermore, I believe that the cost reduction package I am introducing will not only be tremendously easier to administer, it will also provide a better inducement than public financing, and at much less cost.

This proposal, unlike public financing, does not give money to candidates to pay their campaign costs. Instead, it seeks to limit the rapid increase in some of the costs themselves, particularly those that are most important in a competitive campaign: broadcasting time and postage. Under this proposal, candidates who agree to an overall spending limit are entitled to reduced postage and broadcasting rates.

Briefly, the proposal is as follows:

1. *The spending limit.*—Just as under current law, a candidate would have to file with the FEC immediately upon having raised or spent $5,000. Under the new system, part of the filing would be a statement as to whether the candidate accepted the inducements and the spending limit. A "participating candidate" would be one who accepted the spending limit of $200,000 per election—$400,000 per cycle,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

since primary and general are considered separate elections—in return for the benefits of the system. Once a choice was made, it could not be altered in the same election cycle.

2. *Inducements.*—A participating candidate would be entitled to the following benefits:

Reduced broadcasting costs.—The participating candidate would be entitled to radio and television rates discounted 30 percent from the "normal and usual" charge. The nonparticipating candidate would pay the full cost for broadcasting—since the lowest unit rate provision in current law would be repealed.

Reduced postage costs.—The participating candidate would be entitled to mail at either (1) one-half the first-class postage rate; or (2) the nonprofit third-class rate. The participating candidate could choose either option for any given mailing.

Encouragement for reduced print media costs.—Unlike broadcasters, the print media cannot be required to sell space to candidates. In fact, under current law the print media are prohibited from providing discounts to candidates, because the discounts are considered corporate contributions. The cost reduction proposal will at least provide that discounts may be offered to participating candidates—so long as the same discount is offered to all participating candidates—without being considered corporate contributions.

4. *Aggregate PAC Limit.*—The cost reduction proposal includes an aggregate PAC limit of $75,000 per election—$150,000 per cycle— that applies to all candidates, both participating and nonparticipating.

5. *Removal of spending limits for candidate with nonparticipating opponent.*—A participating candidate with a non-participating opponent may spend money without limitation, while still enjoying the benefits of the cost reduction package. Therefore, the nonparticipating candidate with a nonparticipating opponent more than $1 for every $1 raised by the participating candidate. The spending ceiling for the participating candidate would be lifted once the nonparticipating candidate had raised or spent half the limit.

6. *Enforcement.*—Candidates who spent more than the limit, but less than 5 percent more, would have to repay the excess amount. For overspending by more than 5 percent, a candidate would be required to repay three times the excess expenditure. For overspending by 10 percent or more, the FEC could impose additional penalties, over and above triple repayment of the excess expenditure.

Among the advantages of this kind of system is, first, that the plan supports campaign expenditures—broadcasting and postage—that are likely to be low in noncompetitive races and high in competitive ones. The maximum discount value is just where it is needed most: at the margin in competitive races, where large portions of the campaign budget go to broadcasting and postage. It supports the elements that are most important to a candidate's ability to get his message out, so it enhances the campaign debate.

A related advantage is that this package will provide relatively little value in noncompetitive races. Unlike public financing, for instance, this plan provides little benefit to candidates with little or no opposition. Similarly, this package provides little benefit to nonserious candidates, because a candidate has to raise a reasonably significant amount of money to be able to buy the broadcast time or postage and take advantage of the discounts.

Second, the cost reduction plan subsidizes only fundamental campaign expenses—radio, television and mail—that are crucial to getting a candidate's message to the voters. It does not support any nonessential campaign expenditures.

Third, there are few administrative burdens associated with this proposal. There is, for instance, no requirement that the FEC and the Treasury process thousands of checks, from hundreds of candidates—nearly 800 in 1986 House races—during the election year. There is no necessity for FEC auditors to go over the books of House candidates to second-guess whether all campaign funds were "qualified campaign expenses."

Fourth, this approach will cost the Federal Treasury little, and the FEC almost nothing. It will cost only the revenue foregone for the postal subsidy.

I am well aware, Mr. Speaker, that other campaign finance ideas have been around much longer than this, and that people might initially feel an inclination toward one or more of them just because of their familiarity. But I would urge anyone who is interested in improving our Campaign Finance System to take a moment to look this over, to think about it, to think about the alternatives, and then to think about this a little more. This is a new concept, and some parts of it certainly are subject to refinement, but in basic outline I believe it has significant advantages, both over our current system and over other proposals to change the current system.

Included below is a complete summary of the bill. I welcome your thoughts, comments, ideas and suggestions as the Subcommittee on Elections proceeds to examine the whole area of campaign finance reform:

CAMPAIGN COST REDUCTION AND REFORM ACT OF 1987 COMPLETE SUMMARY

I. MAJOR COMPONENTS OF PROPOSAL

A. Eligibility [Sec. 101 and 104]:

Just as under current law, a candidate will file with the FEC after raising or spending $5,000. Part of the filing will be a statement by a candidate accepting or rejecting a campaign spending limit. A "participating candidate" will be one who accepts the spending limit in return for the benefits of the system. Once a choice is made, it cannot be altered in the same election cycle.

Explanation: Each candidate will have to decide at the outset of an election cycle whether or not to participate. A candidate cannot wait to see, for instance, how much money he can raise, or exactly who his opponent will be.

B. The spending limit [Sec. 110]:

The spending limit is $200,000 per election, $400,000 per cycle. (Primaries and generals are considered separate elections, just as under current law). There is a separate spending limit of $100,000 for possible runoff elections in the twelve states that have runoffs.

Also, a participating candidate will agree to abide by a personal spending limit of $50,000 on his own or his family's money.

Explanation: The spending limit of $400,000 per election cycle is high enough to accommodate more than 75% of all 1986 House candidates. Also, when the value of the postage and broadcasting discounts is taken into account, candidates will receive additional value beyond the actual dollars they spend. Furthermore, the greater the portion of his campaign budget that a candidate devotes to postage and broadcasting—the items most important to disseminate his message—the greater the value of the discounts will be.

Consequently the spending limit has built-in flexibility to accommodate competitive races. This spending limit, plus the value of the discounts, is high enough to allow an open and full discussion of the issues in virtually any House district.

At the same time, it will reduce costs of the most expensive races, and will help to restrict future growth.

(The limits are not indexed because the bill has a sunset provision.)

C. Inducements:

A participating candidate is entitled to the following benefits:

Reduced broadcasting costs. [Sec. 202 and 203(b)]

The lowest unit rate currently in the law (which no longer functions as a meaningful discount, especially for television) will be repealed. Instead, the Federal Communications Commission will determine the "normal and usual" charge for various classes of time. At least 7 days before each election period, broadcasters will be required to publish the "normal and usual" rates that will be in effect for each such period. The election period is 45 days before each primary, and 60 days before each general election.

A participating candidate will receive radio and television rates that are discounted 30% from the "normal and usual" charge. A non-participating candidate will not be entitled to the discount.

Reduce postage costs. [Sec. 204]:

For each mailing, a participating candidate will be entitled to choose either: (1) one-half the first class postage rate; or (2) the non-profit third class rate.

Encouragement for reduced print media costs. [Sec. 102(c)]:

The print media may offer discounts to participating candidates, so long as the same discount is offered to all participating candidates, without the discounts being considered corporate contributions.

[Note: Under current law the print media is prohibited from providing discounts to candidates, because such discounts are considered corporate contributions. Unlike broadcaster, the print media (newspapers and magazines) cannot be required to offer discounts, of course, but the prohibition can at least be removed. This bill does that, so long as a given media outlet provides the same discount to all participating candidates (to prevent discrimination).]

Explanation: This package of items, particularly the broadcasting and postage rate reductions, provides the inducement for candidates to opt into the system by agreeing to overall spending limits.

Among the benefits of this kind of package is that the maximum discount value is just where it is needed most: in competitive races, where large portions of the campaign budget go to broadcasting and postage. It supports the elements that are most important to a candidate's ability to get his message out, so it enhances the campaign debate.

A related advantage is that this package will provide relatively little value in noncompetitive races. Unlike public financing, for instance, this plan provides little benefit to candidates with little or no opposition.

Similarly, this package provides little benefit to non-serious candidates, because a candidate has to raise a reasonably significant amount of money to be able to buy the broadcast time or postage and take advantage of the discounts. (Among other things, this means that minor and independent candidates are treated exactly the same as major candidates, which is an important Constitutional consideration.)

D. Aggregate PAC Limit [Sec. 109]:

The cost reduction proposal includes an aggregate PAC limit that applies to all candidates, both participating and nonparticipating. The aggregate limit is $75,000 per election (again with the primary and general considered separately), and an additional $25,000 in the event of a runoff.

Explanation: This limits the rapid growth—both in absolute terms, and a percentage—of PAC contributions to House candidates. It will help reduce candidate reliance on PAC funds, and will also help reduce the pressure candidates bring to bear on PACs to raise more money. Finally, the provision will encourage candidates to opt into the system by limiting their ability to raise special interest money outside the system.

E. Removal of sending limits for candidate with nonparticipating opponent [Sec. 110]:

If a participating candidate has a nonparticipating opponent, the spending limit is removed from the participating candidate once the opponent raises or spends half the limit. The participating candidate continues, however, to enjoy the postage and broadcasting (and print) discounts.

Explanation: This provision protects a participating candidate's ability to compete effectively when faced with a nonparticipating opponent.

Like other proposals, this bill does not remove spending limits simply because a nonparticipating candidate is in the race. Such a system would be easily abused by non-serious candidates. It must be clear that the nonparticipating candidate is able to mount a serious challenge before the spending limits come off.

Unlike other proposals, however, this bill does not force the participating candidate to wait until his opponent has actually gone beyond the spending limit before he can begin to respond. By then it may be too late for the participating candidate to catch up. This bill allows the participating candidate to take action once an opponent raises or spends half the spending limit.

Furthermore, the participating candidate enjoys a significant advantage in the spending arms race that then ensues, because a large percentage of the marginal dollars in such a competitive race go into postage and broadcasting, which are discounted for the participating candidate. Consequently, the nonparticipating candidate must raise substantially more than $1 for every $1 raised by the participating candidate.

F. Enforcement [Sec. 110]:

Candidates who spent more than the limit, but less than 5% more, would repay the excess amount. For overspending by more than 5%, a candidate would be required to repay three times the excess expenditures. For overspending by 10% or more, the FEC could impose additional penalties, over and above triple repayment of the excess expenditure.

Explanation: Effective enforcement is a crucial element of any proposal, particularly one that includes spending limits. Consequently, the penalties must be severe for violations beyond the margin (here set at 5%) of what might reasonably be considered an error or an oversight.

These penalties are, of course, civil. "Knowing and willful" violations of the law are subject to criminal penalties, under other provisions that already exist in the Federal Election Campaign Act.

G. Effective Date and Sunset [Sec. 301]:

This bill will be in effect for federal elections after 1988, and will cover three complete election cycles.

Explanation: Although there has been interest in a bill effective for the 1988 election, it is simply not possible to change the campaign financing system in the midst of an election cycle.

The cost reduction elements of this bill are sunset in six years. Three election cycles will provide sufficient information for Congress to gain experience with the new system. At the end of that time, the decision will be made as to whether the system should be continued, modified or terminated.

Other elements of the bill are not sunset.

II. OTHER IMPORTANT ELEMENTS OF THE PROPOSAL

A. Independent expenditures [Sec. 106, 114 and 115]:

First, separate segregated funds (that is, PACs that are affiliated with other organizations, such as labor unions, corporations and trade associations), will be limited to making contributions. They will be restricted from making independent expenditures.

Second, similar to the Senate bill, this bill further defines "independent." Among other things, it stipulates that a person or political committee is not truly independent of a candidate if: (1) there has been arrangement or coordination between the "independent" and the candidate committee; (2) any person associated with the "independent" effort was involved in the candidate's campaign during the same election cycle; or (3) the "independent" has counseled the candidate during the same election cycle.

Third, also similar to the Senate bill, this proposal requires that television ads of an independent person or committee continuously display a scrawl on the screen identifying the name of the person or committee responsible for the ad. Also, newspaper, magazine, billboard, direct mail and other kinds of general public communications must include similar identifying information, along with the sentence: 'The cost of presenting this communication is not subject to any campaign expenditure limits.'

Explanation: By far the most important provision of this section is the first one, limiting separate segregated funds to contributions. Currently, separate segregated funds operate under an exception in the law. The exception says that no union, corporate or trade association funds may be used for political purposes except, and one of the three exceptions is for the establishment and administration of a separate segregated fund.

This amendment narrows the existing exception. It stipulates that union, corporate or trade association funds may be used for the establishment and administration of a separate segregated fund only when it is used solely for the purpose of making contributions. This provision will do two things. First, it will restrict the handful of separate segregated funds that already have poured hundreds of thousands of dollars in independent spending into races in the last few election cycles. Second, it will prevent PAC dollars that will no longer be going to candidates (due to the aggregate PAC limits in this bill) from going into independent expenditures instead.

B. Bundling [Sec. 111]:

This proposal stipulates that campaign contributions are applied both to the contribution limits of those who actually made them, and to the limits of intermediaries through which the contributions came.

Explanation: This proposal limits a loophole that has grown in the current law. Currently, certain entities (usually PACs) solicit contributions from their members and transmit the contributions to a candidate. The entity that is acting as a conduit does not count the "bundled" contributions toward its contribution limit; the contributions apply only to the limits of those who initially wrote the checks.

Present interpretation of the law has allowed some political committees to channel many thousands of dollars over and above their contribution limits to favored candidates. This proposed amendment to the law will prevent that practice.

C. Direct mail targeting an opponent [Sec. 204]:

This provision stipulates that mail matter sent by a political committee that: (1) comments on the "views, position, or character" of a House candidate; and (2) is mailed during the 30-day period before an election, must be made available to the candidate referred to at least 48 hours before mailing in order to be eligible for a postage discount.

Explanation: Direct mail pieces sent in the closing days of a campaign have sometimes been negative at best, and at worst inaccurate. However, unlike broadcasting, print, billboards, and almost any other means of mass communication, direct mail is private. The candidate criticized often is not aware of the contents of a mailing until it is too late to respond.

This provision of the bill continues to allow any House candidate complete freedom to say whatever he wishes in a mail piece; it simply requires that a copy of the piece be provided to any other House candidate the piece targets.

D. Personal use [Sec. 107]:

No campaign funds raised after the effective date of this bill could be converted to personal use.

Explanation: In 1980 the Federal Election Campaign Act was amended to prohibit conversion of campaign funds to personal use, except that all individuals who were then Members of the House were covered by a grandfather clause. In addition, there is a House rule that prevents personal use of campaign funds by sitting Members. Consequently, the present system is: (1) all Members are prohibited from using campaign funds for personal use; (2) Members elected prior to 1980 may convert campaign funds to personal use when they leave the House (so long as they pay taxes, etc.); and (3) Members elected in 1980 or later may not convert campaign funds to personal use, even after they leave the House.

This provision is not retroactive. That is, it will not affect funds already in campaign accounts; they will continue to be treated just as they are under current law and House rules. But it will prevent the conversion to personal use of all campaign funds raised after the effective date of this bill.

E. Leadership PACs [Sec. 105]:

This provision will prevent House candidates from establishing or controlling multicandidate committees.

Explanation: Currently, House candidates may establish so-called leadership PACs separate from their own campaign committees. These additional PACs raise contributions in addition to those made directly to the candidate's campaign committee. The candidate PACs then make contributions to other candidates. Those contributions are subject to the limit on multicandidate PACs of $5,000 per election, rather than the limit on a candidate's own political committee of $1,000 per election.

This provision would eliminate leadership PACs.

III. MISCELLANEOUS AMENDMENTS TO THE FECA AND THE COMMUNICATIONS ACT

A. General:

1. Method of valuing certain contributions and expenditures. [Sec. 102(a)(1) and 103(a)(1)]:

This provision clarifies the term "anything of value" that is presently in the law. It stipulates that the value is to be determined by the highest of: (1) the cost to the person making the contribution; or (2) the fair market value.

Explanation: In the current law, contributions and expenditures are defined as gifts, loans, etc. or "anything of value." This last provision has been interpreted so broadly that polls, concerts, art work and other items donated to campaigns have been ascribed virtually no monetary value. This provision will tighten the definition.

2. Clarification of certain contributions and expenditures. [Sec. 102(a)(2), 102(a)(3), 103(a)(2) and 103(a)(3)]:

These provisions clarify that "any gift, subscription, loan, advance, or deposit of money or anything of value" is a contribution or an expenditure if it is made: (1) by a person to encourage an individual to become a candidate; or (2) by a political committee" with respect to a clearly identified candidate in an election for Federal office."

Explanation: These provisions tighten existing definitions.

2. Clarification of exclusion of mailing costs from party-building provisions. [Sec. 102(b) and 103(b)]:

This provision strikes certain references to "direct mail" in the law, and inserts "mail."

Explanation: This clarifies the original intent of the provision. The exclusion was to allow more volunteer-related activities, and not general public advertising through mass mailings.

3. Prohibitions of false representation to solicit contributions. [Sec. 116]:

This provosion prohibits persons soliciting campaign contributions from falsely representing themselves as agents of a candidate or political committee.

Explanation: This is a recommendation submitted to the House Administration Committee by the Federal Election Commission. There have been instances in recent years in which individuals represented themselves as working on behalf of certain candidates, and raising money that never made its way to the candidates. Currently such activity is not against the law; under this provision it will be.

B. Communications provisions:

1. Discrimination against candidates by broadcasters. [Sec. 201]:

Broadcasters are prohibited from discriminating against candidates in the "amount, class, or period of time made available to such candidate on behalf of his candidacy."

Explanation: This provision is intended to ensure that a candidate is not foreclosed by a broadcast station from obtaining the time he believes necessary to his campaign.

2. Priority to candidates. [Sec. 202]:

Broadcasters are required to give priority to candidates in selling political time.

Explanation: This provision assures that in allocating scarce time, broadcasters give priority to candidates over other political users.

3. Candidate debates. [Sec. 203(a)]:

This provision exempts debates between candidates from the equal opportunities provision of the Communications Act.

Explanation: This provision will allow broadcasters to sponsor debates.

c. Presidential:

1. Contributions to draft committees. [Sec. 112]:

This provision clarifies that presidential draft committees are political committees subject to the provisions of the Federal Election Campaign Act.

Explanation: The Federal Election Commission has recommended this provision, since their authority over draft committees has been undermined by several court decisions. As the Commission noted, the current situation creates "a serious imbalance in the election law and the political process because a nonauthorized group organized to support someone who has not yet become a candidate may operate completely outside the strictures of the [FECA]. However, any group organized to support someone who has in fact become a candidate is subject to the Act's registration and reporting requirements and contribution limitations. Therefore, the potential exists for funneling large aggregations of money, both corporate and private, into the Federal electoral process through unlimited contributions made to nonauthorized draft committees that support a person who has not yet become a candidate."

2. Increased personal contributions for presidential candidates. [Sec. 113]:

This provision raises the limit on individual contributions to presidential candidates only from $1,000 per election to $2,500.

Explanation: While spending limits in presidential elections are indexed to inflation, contribution limits are not. In the years since the $1,000 limitation was passed its value has eroded considerably, and presidential candidates have had increasing difficulty raising sufficient funds. Several have ended up with substantial debts. This provision will ease some of their fund-raising burden, without doing violence to either the letter or the spirit of the law.

3. Eliminate state-by-state spending limits. [Sec. 108]:

This provision would eliminate the state-by-state limits that, in addition to an overall expenditure limitation, presently govern presidential primary spending.

Explanation: This is another suggestion made to the House Administration Committee by the Federal Election Commission. The Commission has indicated that the limitations have little impact on campaign spending in a given state, with the exception of Iowa and New Hampshire. And even in those two states, the limits are so easily evaded, by a variety of means, as to be virtually meaningless. In most other states, campaigns either are unable or unwilling to spend the permissible total. In any case, the overall national limit serves as an adequate constraint on state spending, even in the early primaries.

Removal of the state-by-state limits, then, would: (1) have little impact on overall spending; and (2) allow candidates broader discretion in running their campaigns. Furthermore, the Commission argues that "the allocation of expenditures to the States have proven a significant accounting burden for campaigns and an equally difficult audit and enforcement task for the Commission."

In short, the Commission's view is: "Given our experience to date, we believe that this change to the Act would be of substantial benefit to all parties concerned."

PAYING TRIBUTE TO SEAMAN KENNETH JANUSIK, JR.

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. YOUNG of Florida. Mr. Speaker, we grieve today with the families of the 37 American servicemen who were killed Sunday under tragic circumstances aboard the U.S.S. *Stark*.

Among those who died was Seaman Kenneth Dale Janusik, Jr., of Pinellas County, FL. Kent, as he was known to his families and friends, enlisted in the U.S. Navy in 1985 after graduating from Clearwater High School and was an operations specialist. His dedication and valor is typical of the men serving aboard the U.S.S. *Stark* who volunteered to serve our Nation and protect our freedom and liberty.

Americans proudly serve around the world knowing that their uniforms and the American flag are signs of U.S. strength and freedom to our friends and allies. This is the case in the Persian Gulf where U.S. naval ships signal that these international waterways will not be denied to us or to our allies who depend so greatly on the oil shipped from this region.

The brave men and women who give so much of themselves to serve our country know that there is always the risk that they will come under attack no matter where they serve. The crew members of the U.S.S. *Stark* were aware of the daily dangers that surrounded them, especially in an area as volatile as the Middle East.

The truth of the events surrounding the attack upon the U.S.S. *Stark* must be determined—not only so we know what happened and why, but also to ensure that Americans serving abroad are never left vulnerable in similar threatening situations. As a member of the House Appropriations Subcommittee on National Defense, it is my responsibility and the responsibility of each Member of this Congress to ensure that our military personnel have the best and most advanced military weapons and technology available to defend themselves from hostile attacks.

Mr. Speaker, the death of Kent Janusik and his 36 shipmates is a tremendous tragedy and every American shares the sorrow of their families and friends. We salute them for their sacrifice in the defense of freedom and liberty and we must take from this experience the strongest possible resolve to do all that can be done to reduce the threat to the safety of other Americans serving wherever they may be in the world.

WHO'S MINDING THE KIDS?

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MILLER of California. Mr. Speaker, just last week, the U.S. Bureau of the Census released a study, "Who's Minding the Kids?", the most comprehensive data collection effort ever conducted by the Census Bureau on the child care arrangements of working families.

Until now, we have had little systematic national information about how and where children are being cared for while their parents are at work. The new Census study makes an important contribution to the dearth of data that now exist.

The Census Bureau reports that in 1984–85:

More than 29 million children under age 15 had mothers who worked; almost 19 million—66 percent—of these children had mothers who worked full time.

The estimated annual child care expenditures made by working families for their children are more than $11 billion.

There are 8.2 million pre-school-age children who have working mothers and require some form of child care arrangement. Sixty percent of preschool children are cared for outside the home, mostly by nonrelatives, while their parents are working.

One in four working women with a child under age 5 used some type of organized child care facility for their youngest child, up from 16 percent in 1982.

Almost 1.4 million infants under age 1 required child care services while their mothers were at work. Almost 55 percent were cared for outside the home, again mostly by nonrelatives, including organized day care center providers.

Fourteen percent of infants were cared for in organized child care facilities, a substantial increase over the 5 percent estimated for infants in 1982.

The study is especially timely because we are hearing a lot these days about making America more competitive in the international marketplace. Becoming more competitive, however, means using the full resources of our work force—men and women alike.

We also hear that one answer to removing families from welfare dependency is to compel work, or provide the opportunity to work—for men and women alike.

For most families today, just to keep up their standard of living and raise their children depends on the incomes of both parents. When children are living with only one parent, that parent's participation in the workforce becomes almost mandatory.

Consequently, in today's world, achieving our national goals requires that both mothers and fathers have jobs. If another of America's goals—that of healthy and stable families—is to be achieved in tandem, then reliable, decent child care become absolutely essential.

For low-income mothers trying to get training, enter the job market, or hold on to hard-won employment, the absence of decent affordable child care for their children creates an insurmountable barrier. Too often, returning to the certainty of AFDC becomes the only rational choice to protect their children.

The Census Bureau study corroborated the extensive investigations of the Select Committee on Children, Youth, and Families, which first organized all of the available piecemeal data to describe the child care arrangements of working families.

The select committee's work also established that the current child care system is fragmented and unstable at best. The supply of care is woefully low, waiting lists are common, especially for infants, and the numbers of families needing out-of-home care for their children is increasing. The result is children whose care is haphazard at best, or frequently dangerous or nonexistent.

As a recent front page story in the Washington Post, "Babies Need Not Apply," May 12, 1987, confirmed, even in the Washington metropolitan area, for every infant in care, hundreds remain on waiting lists.

When child care arrangements fail, the work productivity of parents predictably declines. According to the Census Bureau, thousands of families report that they lost time from work in a given month because of a disruption or failure in their child care arrangement.

As policymakers we must recognize how the critically short supply of child care, especially for infants, is affecting the Nation's families, as well as our economic stability. I urge my colleagues to apply this information to upcoming legislation on welfare reform, educational equity, and comprehensive child care which will help expand the opportunities for quality care for America's working parents and their children.

HIGHER GASOLINE TAXES? NO!

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. ANDERSON. Mr. Speaker, I think that most of us in this body agree that we must act to reduce and eventually eliminate the terrible deficit that is facing our Nation. In my view, our failure to do so will, sooner or later, be economically devastating. Clearly, difficult choices lie ahead. I am increasingly concerned, though, that an effort will be made to reduce the deficit by increasing the Federal gasoline tax.

I am pleased that the Washington Post yesterday ran an op-ed piece pointing out the shortcomings in this approach. I ask that it be printed in the RECORD and commend it to our colleagues for their study and consideration.

[From the Washington Post, May 18, 1987]

HIGHER GASOLINE TAXES? NO

(By Robert S. McIntyre)

Congress is on the verge of adopting a budget resolution that calls for higher taxes. Soon it will have to face the big question: Whose taxes should be raised?

In rejecting President Reagan's simplistic view that the answer to the deficit problem is a constitutional amendment, Congress is being realistic. But not all the budget news is heartening.

Some of those who usually style themselves as defenders of tax fairness and average taxpayers have called for meeting the budget targets with the most regressive kind of tax increase imaginable: sharply higher federal excise taxes. At the heart of these proposals are increased gasoline taxes.

Thus, The Post speaks favorably of a 10-cent or an 18-cent-a-gallon gasoline tax hike, and The New York Times concurs. The New Republic goes even further, supporting a 50-cent-a-gallon jump. And Ways and Means Chairman Dan Rostenkowski, one of the heroes of last year's tax reform fight, has said he'll consider proposing a gasoline tax increase as well.

Increasing gasoline taxes may not seem like such a big deal in Washington. Because of its extensive system of public transportation, the District ranks dead last in the share of personal income that would be paid through a gas tax hike, compared with any of the 50 states. Residents of other highly urbanized northeastern areas also may tend to minimize the impact of higher gasoline taxes. Illinois, Massachusetts, New York and Connecticut, for instance, rank 47th through 50th in terms of the impact of a gasoline tax increase as a share of personal income.

Geographically, the big losers from a gasoline tax increase live in the South and the West. South Carolina, Wyoming, Montana, South Dakota, Arkansas, Mississippi, Alabama, Tennessee, New Mexico and Utah are the top 10 when it comes to a gasoline tax hike as a share of personal income.

But the problems with a gasoline tax increase go beyond geography. The more important inequity shared even in "winner states" is that gasoline taxes, like all excise taxes, take a much higher share of the income of poor and middle-income families than they take from the rich.

The recently enacted federal tax reform bill, Rostenkowski's proudest achievement, was designed to begin to restore fairness to the federal tax code, notably by ensuring that the poorest people—those with the least ability to pay taxes—would no longer be subject to federal income taxes. But a big increase in the gasoline tax would undercut the purpose and spirit of the tax reform act.

If Congress were to meet its budget targets with a gas tax increase, families earning less than $10,000 would have to shell out 3 percent of their incomes in higher taxes—almost double the tax cut they got from the tax reform act. Middle-income families would lose about 1 percent of their income to increased gasoline taxes. But for people making more than $200,000, the added gasoline taxes would amount to only a trivial one-tenth of a percent of income.

Some defend higher gasoline taxes as an energy conservation incentive. But energy-efficient cars are here to stay with or without added taxes on gasoline. And whatever marginal reduction in driving might occur as a result of higher taxes on gasoline must be balanced against the clear and substantial damage to tax fairness that a gasoline tax increase would incur.

With higher revenues mandated as part of the budget, Congress will have to choose. One path would be to enact regressive measures, such as increasing gasoline or other excise taxes. The other path is to continue in the spirit of tax reform by closing more loopholes or adopting Speaker Jim Wright's proposal to postpone indefinitely the tax cuts for the wealthy scheduled for next year.

Some who have supported fair taxes in the past are now backing the first alternative on the theory that if a tax increase is sufficiently regressive, the president might be willing to tolerate it. But trying to figure out what the president's promise to veto "any" tax increase really means is a daunting task, especially since his own budget calls for $20 billion in excise, payroll and income tax increases over the next three years.

Those who think tax fairness is important, including Rostenkowski, ought to stop trying to divine the path of least presidential resistance and instead heed Rostenkowski's words from a speech last September:

"If we need more money for government, then let's go through the front door and collect it from those who can pay—not through the back from those who can't."

USDA CONTRACT GOES TO HITACHI

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. HORTON. Mr. Speaker, for my colleagues who might have missed it, I wanted to insert into the RECORD a recent column from the Washington Post written by Jack Anderson and Dale Van Atta. In it, the article details how the U.S. Agriculture Department, on the very same day that President Reagan announced sanctions against some Japanese imports, awarded a huge multimillion dollar contract to Hitachi, one of Japan's leading electronics companies.

To make matters worse, Mr. Speaker, the article states that two U.S. firms, StorageTek and IBM, actually came in under the figure bid by Hitachi. One of the firms was more than $10 million less. To make the situation even more frustrating, when the contract award was announced, Agriculture Secretary Lyng was in Tokyo trying unsuccessfully to get the Japanese to eliminate import restrictions against American citrus, rice and beef.

The contract award has been appealed by the two American firms, and is currently pending in the courts. Sadly, this example is not unique. American companies can point to case after case of similar double standards. President Reagan, in announcing the Japanese sanctions, was sending a signal to Tokyo that we are not going to play patsies any more. Too bad the message was not heard several blocks away at the Agriculture Department.

The article follows:

[From the Washington Post, May 15, 1987]

USDA CONTRACT GOES TO JAPANESE FIRM

(By Jack Anderson and Dale Van Atta)

The Agriculture Department is only a few blocks from the White House, but apparently its purchasing people did not get word that President Reagan was declaring a trade war against Japan.

On April 17, the very day the president announced sanctions against some Japanese imports, an American computer manufacturer was informed by an Agriculture Department contract officer that it had lost out on a multimillion-dollar contract—to Hitachi, the Japanese electronics giant.

The $48 million computer contract, awarded to Hitachi's American distributor, ViON Corp., has been put on hold because of appeals by the American firm, Storage-Tek, and another U.S. bidder, IBM. According to corporate documents obtained by our reporter Karen Talley, StorageTek's bid was at least $10 million less for the Agriculture contract, while IBM's bid was "several" million dollars lower than the winning Hitachi price.

The General Services Administration is reviewing the bidding, and a decision on the appeals by StorageTek and IBM is expected in June.

The particular Hitachi equipment that Agriculture wants to buy from ViON is not subject to the president's trade sanctions. But Hitachi is one of the Japanese companies whose practice of dumping computer chips on the U.S. market at below-cost prices led to the sanctions imposed last month, according to Gary Holmes of the U.S. Trade Representative's office.

The idea behind the sanctions was that a get-tough approach would persuade the Japanese government to eliminate some of the trade barriers that have made it difficult or impossible for U.S. exporters to sell their goods in Japan.

The Agriculture Department's get-soft approach to Japan manifestly has not worked. At about the same time that his procurement division was awarding the computer contract, Agriculture Secretary Richard E. Lyng was in Tokyo trying without success to get import restrictions lifted on American beef, rice, and citrus fruit.

Documents filed by StorageTek pointedly state that its computer "is manufactured in the United States" while ViON's "is manufactured by Hitachi in Japan." While StorageTek and IBM say their bids were substantially lower than ViON's, neither firm would reveal its exact bid, in case the contract is reopened in response to their appeal.

Agriculture officials said the Hitachi system is better suited to the department's needs than either IBM's or StorageTek's. The equipment is needed for a variety of administrative functions, such as finance and payroll, for offices in Washington and across the country.

The department's bid proposal stated that "technical superiority will be considered more important than cost," and added: "Award, however, will go to the offerer whose offer represents the combination of technical merit and cost most favorable to the government."

Both IBM and StorageTek maintain that the Agriculture Department judged their equipment improperly. Each said it would have won the contract if the evaluation had been done correctly.

HAROLD FORD

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MFUME. Mr. Speaker, it is indeed unfortunate that in this, the year of the bicentennial celebration of the signing of the Constitution, there remain those who would subvert its intent and resort to arbitrary and blatant unconstitutional interpretations to suit their selfish whims. I am speaking in this instance of the current gag order issued by U.S. district court Judge James H. Jarvis in the case against our distinguished colleague HAROLD FORD.

Not being a lawyer, I will not attempt to argue against this gag order on legal grounds. But from even a cursory knowledge of constitutional rights, it is clear that this gag order, preventing the Congressman from explaining his position to his constituents and, in effect, limiting his ability to defend himself, violates his first amendment right of free speech and, more importantly, casts an immovable shadow of guilt over his head. This is an unconsicionable and totally inappropriate restriction to place on a Member of Congress.

There are numerous questions surrounding the handling of this case which demand explanations. Why was the Congressman indicted only days before the expiration of the statute of limitations on the original grand jury, and after 4 years of unsuccessful attempts to indict him?

Why have the Justice Department, grand jury, and the U.S. attorney refused to allow HAROLD FORD and his attorneys to present his case and evidence in his own defense?

Why is there the appearance of a vendetta against HAROLD FORD and his family?

The process has obviously been flawed and raises the ugly spectre of discrimination against all Members of Congress in the application of constitutional protections.

HAROLD FORD has served his constituents and this Nation well during his six elected terms. I believe he deserves the implication of innocence as guaranteed by the Constitution and I also believe he deserves the opportunity to present his case to his constituents, colleagues, and the American people in the spirit of fairness and free speech that he has dedicated his life to uphold.

THE HOMELESS VETERAN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues an article published in the Homeless Advocate that highlights an alarming problem faced by veterans—homelessness. The Advocate found that an estimated 60 percent of homeless men in Denver are veterans.

HOMELESS VETERANS

Two years ago a group of veterans got together to find out if there was any truth to the notion that there were large numbers of homeless veterans in Denver.

Clad in jeans and work shirts, they went out on the streets, to the shelters, under loading docks and bridges, to soup kitchens and churches.

What they learned was that the stories were not rumors. They spoke with many who identified themselves as veterans, most of whom had served in or during the Vietnam war. These men did not trust the group that sought them out. They were angry, bitter, demoralized, depressed, and like all homeless people, their lives were caught up in the struggle to survive. From the data and evidence accumulated, they estimated that some 60% of all homeless men in Denver were veterans. Based on this information they went forward to the federal government and sought assistance to help homeless veterans.

Following many months of research and development, the American G.I. Forum Veterans Outreach Program of Denver, Inc. received a $25,000 matching grant to implement a project for the provision of services to homeless veterans in Denver. It is one of ten veterans pilot projects in targeted cities nationwide and administered through the Denver Employment and Training Administration.

The G.I. Forum then negotiated with the Volunteers of America for the provision of office and classroom space at their York Street Shelter, in addition to an arrangement for extended stays for homeless veterans making use of this Outreach Program.

A broad-based resource network and tracking system was implemented and by mid-February the first employability classes for veterans was held at the York Street Shelter.

Services include referrals for emergency and transitional housing, mental health counseling, substance abuse treatment, veterans benefits, food, clothing, employability training, and various other emergency referrals and assistance.

Once barriers to employment have been addressed effectively, veterans are transferred into the agency's employment program and assigned to a counselor who assists with job applications, resumes, job referral and placement, as well as with transportation, food and clothing. If the veteran is offered a position, but requires tools and equipment, the agency is able to assist through La Raza Supportive Services.

The Homeless Project also includes provision of workshops to service providers, veterans organizations, government and civic agencies to exchange information and enhance cooperation and coordination of services to the homeless. Community cooperation and coordination is reflected in the success of the Homeless Veterans Program thus far in assisting veterans toward self-sufficiency.

Provides are urged to refer veterans in need to the project and can count on the agency to do whatever is necessary and possible to get veterans and others who are economically disadvantaged back on their feet.

The outreach team is headed by Homeless Programs Director Paul Sandoval with Outreach Specialist Ruben Gomez developing additional support services and jobs. Training classes are conducted by Larry Simkins. All three are veterans, two served in the Southeast Asia theater and are bi-lingual Spanish. They are professional and committed to helping veterans help themselves, with caring and compassion.

If you would like to refer a veteran to the program, obtain more information, attend workshops, donate time, food, clothing, or financial assistance, please contact Paul Sandoval at 893-3745.

NATIONAL TOURISM WEEK

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. BATEMAN. Mr. Speaker, it is a special pleasure for me to have this opportunity to discuss tourism and its impact on Virginia and on America. During this week, May 17–23, our Nation will celebrate National Tourism Week recognizing the bounty of America, its beauty, its excitement, and the history offered by its exploration. With some 240 million Americans traveling within the United States each year, people are central to the travel industry, therefore we must be aware of the fact that tourism works for America. The travel industry is a growing force—an economic heavyweight vital to our national and State economy. In a single year, the task of transporting, lodging, and feeding Americans on the move creates $300 billion in revenues nationwide.

Today, the travel and tourism industry is America's third largest retail or service economy, and in Virginia, it is the second largest industry. In 1985, U.S. and foreign travelers spent $258 billion while traveling in the United States which is 6.5 percent of the gross national product.

It is important to note that over 5 million jobs are directly and indirectly supported by the travel and tourism industry. At a time when various sectors of the economy are faltering, the travel industry pushes ahead employing 1 of every 15 Americans in a job relating to tourism.

Travel and tourism rank as the first, second, or third largest employer in 41 States. In 13 States, it is the first employer; in 14 States it is the second largest employer. In my State of Virginia, some 33 million travelers cross our borders each year. They spend a total of $6 billion traveling for either business or pleasure. As a result, travel provided more than 37,000 jobs in 1985–86, more than 5 percent of all of the jobs in Virginia. International visitors comprise a crucial segment of our industry marketplace considering 22 million international travelers visited the United States last year, spending $13 billion. The payments visitors from abroad make for buses, planes, trains, hotels, meals, and museums are considered "invisible dollars" that greatly help our economy.

Travel industry inflation has remained low while the disposable personal income of Americans has increased by 6.6 percent. As a result, consumers are enjoying real income allowing them to purchase discretionary items such as pleasure trips.

Annual vacations and even shorter excursions are increasingly common and have become the third largest household expenditure, not far behind the house and car.

One important point: gasoline prices, which nearly doubled during the 1979–80 period have now declined making travel in the United States a tremendous buy. Lodging and food costs are increasing only two-thirds as fast as they did over the last decade, and food service costs, only one-half as rapidly.

National Tourism Week was initiated 4 years ago to highlight the economic importance of tourism in the United States and to provide the industry the opportunity for recognition it deserves. For example, we are trying to implement ways to reduce the Federal deficit. As we do this, we must be aware and not take actions that might discourage travel into the United States.

In fact, we need to support reasonable and responsible efforts to promote and encourage international visitors to come to our country. It is with great pleasure that I pay tribute to this multibillion dollar industry and its enormous contribution to our society and our economy—as well as to the millions of men and women who help make it a success.

Truly, tourism works for Virginia—and for America.

A TRIBUTE TO A VERY SPECIAL SCHOOL FOR VERY SPECIAL CHILDREN ON THE OCCASION OF ITS 10TH ANNIVERSARY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. KEMP. Mr. Speaker, I rise today to recognize an outstanding organization in western New York on the occasion of its 10th anniversary. The Language Development Program of Western New York is to be highly commended for its efforts to promote greater understanding of communication disorders among children. In the past 10 years, the Language Development Program has made great strides in improving the lives of children with special education needs. We are fortunate to have such a dedicated organization within our community. This outstanding program and its fine staff deserve our highest praise, support, and recognition for the caring and assistance they provide to young children and their families in western New York.

Fourteen years ago, Nancy Harris, the executive director of the Language Development Program, became interested in expanding the speech and language skills of her own severely hearing impaired son. She worked with him as well as three other preschool children in the kitchen of her own home. Nancy felt strongly that these young children needed to develop meaningful speech and language by "doing, by touching, feeling, and experiencing everything in their environment." In June 1977, the Language Development Program was approved as a nonprofit agency providing special services to preschool children with speech, language, and hearing disabilities.

Today, as the Language Development Program celebrates its 10th anniversary, 172 full-time, part-time, and contractual staff members are dedicated to helping these very special children with communication disorders. I regret that I am unable to be with these special friends at the 10th anniversary dinner-dance on June 6, but my thoughts and prayers are with them.

I am pleased to have this opportunity to call attention to their accomplishments and wish them even more success as they begin the next 10 years of service to the community. I encourage my colleagues to read the following article from the Kenmore-Tonawanda Bee which pays tribute to the efforts and accomplishments of this outstanding group.

LANGUAGE DEVELOPMENT PROGRAM GIVES LOTS OF LOVE—NO STRINGS ATTACHED

(By Sharon Petrell)

Demeaning words, failure or abandoned cannot be found behind the walls which encase the Language Development Program of Western New York.

Instead, the walls of the Town of Tonawanda facility echo with sounds of love for the more than 350 children with speech, language, and hearing disorders who attend this program.

Love seeps from the cracks in the tiles covering the floors, hangs in the air and can be heard in a voice which calmly, carefully punctuates every syllable while she asks a 2½ year-old student "can you find me the rabbit?"

A giggle is emitted from the little girl as she shakes her head, understanding the movement of her hair revealing a hearing aid attached to her ear. With a smile she grabs the rabbit from the puzzle and proudly hands it over to her instructor while looking to her lips for the motion which means "yes, that's the rabbit."

Laughter filled with emotion rings throughout a classroom when an eight-year-old with cerebral palsy and confined to a wheelchair speaks to his classmates the only way he can—through a computer attached to the bottom of his vehicle.

When he sees a stranger enter the room, he proudly pushes the mechanical arms located near his head and a "hello, my name is Matthew" is transferred into the air in a voice, which is and isn't his. A smile grows on his face when the words are construed by those around him.

These are just two of the situations apparent within the building that once was the elementary school, where children could be heard laughing, talking, screaming and joking among themselves. Today, children still are in the classrooms and walking down the halls, but silence is something which isn't golden.

The Language Development Program or LDP has come a long way since Nancy Harris, the executive director, began it in her kitchen 14 years ago.

Harris' son, Stefan, was born severely hearing impaired and she felt his speech and language skills needed to be expanded from the clinical program he was enrolled in.

"He was attending a clinical program which offered him a one-to-one environment," she said. "The only problem was that real life isn't one-to-one. I knew there had to be more that could be done for him."

One day, she decided to stray from the waiting room of the clinic and visit a nursery school, where she saw nine normally developed children interacting with two hearing impaired youths.

"Those two children were completely lost in that classroom," she said. "The teacher would say 'it's time to go to the table' and they would be the last to get up and go."

Harris said the children were in an environment which did not offer them a chance to be independent, but, instead they were learning imitation.

"It bothered me when the parents came to pick up the children and the teacher would say how well they were behaving," she said. "Those children had no idea what was going on. They were only doing what the other children were. They weren't being themselves.

Harris added she noticed a similar situation with Stefan. In the clinical room he understood hot from cold because it was placed before him in the form of flames and ice depicted in photographs. When he returned home, Stefan had no idea how to tell the difference because there were no photos for him to choose from, she said.

"There weren't going to be photos for him all his life," she said. "He'd have to learn the difference by experiencing it."

It is at this point Harris made up her mind there was a void in the community that needed to be filled.

She said she felt strongly that these young language and hearing impaired children needed to develop meaningful speech and language by "doing." Touching, feeling, smelling and experiencing were important to developing.

In 1973, Harris joined forces with another professional trained in speech and language and, "Nancy's School" as it was called, moved. Four pre-school children in her kitchen became six children serviced in a basement of an office building on Niagara Falls Blvd.

The children, she said, were not all hearing impaired, but they all had communication problems. Some didn't speak well, some had difficulty understanding what was spoken and some didn't speak at all.

"I have always had a love of literature, but I never expected to be familiar with the vocabulary of deafness," she said. "In the beginning, I had to look decibel up in the dictionary.

"I had to learn to understand them," she said. "English is a foreign language to a deaf child, so you have to keep repeating it and surround them in it."

In the fall of 1974, Harris moved the facility to Trinity United Methodist Church, 711 Niagara Falls Blvd.

Soon, several more children were enrolled and a teacher and voulnteers were added to the list. Because not every parent could afford the program, Harris looked to the New York State Education Department for approval and family court funding.

In June 1977, the Language Development Program of Western New York was approved as a non-profit agency providing special services to preschool children with speech, language and hearing disabilities.

Finally, Harris said, the hard work paid off. Children with communication disorders were able to attend LDP with no cost to their families for tuition or transportation.

Today, Harris estimated it costs about $7,000 a year for a preschool age child to attend the school and close to $12,500 for school age youths.

After the program outgrew the church during the middle of 1978, Harris was able to lease the Brighton Elementary School.

With the celebration of its 10th anniversary, the facility has a staff of more than 172 full-time, part-time and contractual employees. Priding it as one of the best staffed facilites in the country, Harris said the members include a multidisciplinary administrative staff, early childhood/special education teachers, speech-language pathologists, teacher assistants, occupational and physical therapists, psychologists, audiologists, social workers, home trainers, adapted physical education teachers and intake diagnosticians.

In order to serve the children living in Niagara County, LDP opened a satellite in the Starpoint School District in Lockport. There also are satellites in Grover L. Preiss School in Eden, Maplemere Elementary School in the Sweet Home District, Thomas Jefferson Elementary School and Green Acres Elementary schools in Kenmore.

The LDP program has gained so much respect all over the country that parents from Chicago, Vermont and Denver have even up-rooted their homes to relocate nearer to the facility.

The primary component of LDP is the preschool program which serves children 2 to 5. A second component is a prescriptively designed program for school age children. The Committee on Special Education places school-age children at LDP who are in need of an intensive language-based program within an educational curriculum.

A home-based instruction program also is available for children under the age of two. Through this program, a speech/language pathologist and or teacher of the deaf provide therapy and education to both the child and parents.

More today than ever before, people are beginning to understand communication and language are the magical words at LDP, Harris said.

LDP is so successful because it believes in the philosophy that the earliest possible identification and intervention is essential in order to improve the communication skills of a young child.

Joan O. Lippa, community relations coordinator at the facility, said LDP offers highly individualized attention which bathes the child in language.

"The earlier the children hear the sound, the earlier they will understand speech and language," she said. "You have to get the language into them for them to understand what it is.

Lippa, whose daughter also was born with a severe hearing impairment, said a deaf child who all of a sudden can read lips or use a hearing aid doesn't understand English.

"For them to understand one word it might take someone to repeat it 100 times," she said. "It is a long process, but it works."

The one unique thing about LDP which sets it apart from all other facilities country-wide, Harris said is the staffing.

The program combines a speech/language pathologist, an early childhood/special education teacher and a teacher assistant in every classroom.

This, "transdisciplinary team" helps the program achieve its goals, Harris said.

"This approach makes the whole difference," she said. "The pathologist works with the child in the classroom, so a child isn't singled out to leave the room."

Harris added the pathologist can then keep an eye on the child during the class to make sure he is using words or sounds properly.

"They're not going to be getting away with anything."

Barbara Kozlowski, a pathologist in the 2-5 year-old program, said the job entails a lot of repetitiveness.

"Simple utterance will increase into expressions as the child gets older," she said. "Our focus is to incorporate one concept into the day's activities."

For example, Kozlowski said the children recently were told the story of Humpty-dumpty. That day, they learned about eggs, tasted eggs, cooked eggs, smashed eggs and touched eggs.

It's all a reinforcement, she said.

When the children are "bathed" in language, Harris said it is not watered down words or phrases.

"I love language and have no hesitation in exposing these children to good language, words and poetry," she said. "We don't water down the language, but we may break it into small parts before we get to the real thing."

Music also is an important concept at LDP. The program encourages children to try to play the piano, violin or any other instrument available at the facility.

"Music is important because it shows creativity and when played the children gain self-confidence." Harris said. "I want them to know who Bach is, even if they don't play like him."

Early intervention not only helps the child progress at a faster pace, it also is saving the taxpayer money.

According to Harris, research proves that early intervention keeps children with learning disabilities out of the juvenile court system.

"Most juvenile offenders have learning disabilities," she said. "If we can catch the language disabilities early, the child will have a chance to develop other areas before it's too late."

She added the older the child is before a disability is caught, the harder it is to instruct.

The most crucial years for the development and learning of all children are between birth and seven years, Harris said. Delayed language development may affect growth in other developmental areas, often leading to behavorial disorders.

Not every child is right for LDP. Harris said a child must first qualify, then they are evaluated four times a year.

"If they don't need to be here, we won't recommend them," Harris said. "We will recommend other facilities for the child."

If, when the child is evaluated, they no longer fit the mold at LDP, then they are either placed in public schools, with or without continued support services, or BOCES or private agencies.

"Parents are reluctant to have their children leave," Harris said. "I'm happy if a child can no longer stay at the facility, but I've had parents cry because they don't want them to leave."

Once LDP determines a child can no longer stay at the facility, Harris said she is careful what happens.

"A lot still has to be done," she said. "You just can't push them into the pool of life without a watchful eye because chances are they won't stay afloat."

Although a child may look exceptional in the environment at LDP, Harris added it is different when they enter a world surrounded by kindergarten children who are progressing normally.

With a glowing smile on her face, Harris explains the special kind of love you will find in LDP.

"It is a love which is unconditional," she said. "These are children with special needs, so the love must be special. There are no strings attached."

She added the children need to be loved not only when they succeed to our standards, but at any and all times.

"This provides them with self-confidence," Harris said. "You're a good person because of what you are, not what you do."

Many times, Harris pointed out, the most difficult task is getting parents to develop this "unconditional love."

"Parents must involve the child in whatever they are doing," she said. "It doesn't matter what it is. Involvement opens up effective communication between the parent and the child. This is all important."

On occasion, Harris said parents are reluctant to acknowledge their child has a hearing or speech problem.

A family from Colorado visited the facility recently to have their child evaluated for the program. Harris said she could feel the tenseness in the air from the mother and realized that she didn't spend enough time with the child.

"I stopped by the house on the way home to speak with the mother and she began to cry. She told me she could not look at her child or deal with her.

Harris added this is normal because when you have a child born with a handicap it feels as if a dream has been taken away from you.

"You always dream you're going to have a beautiful baby," she said. "Then it's shattered. It's all of a sudden a lost dream."

She said most parents go through stages similar in accepting death. Denial, grief and, finally, acceptance, are a part of what a parent may feel.

The families which have enrolled their children in the program at LDP are all facing lost dreams, she said. But, she added, they also are learning to cope with them.

That's the primary reason LDP offers a parents' group. It gives parents the chance to share their griefs, pains and joys with others who face the same difficulties of having a child with a hearing or speech disorder.

"Part of the success of LDP is the parents are involved with everything," she said. "We want them to be involved. They are a vital force in the development of their child."

Today, the little boy who used to sit at the kitchen table and help his mother make Jello to distinguish between hot and cold is a student at Ithaca College. Harris said she never dreamed that what she had started in an effort to help contribute to Stefan's "quality of life" would grow to this.

"There's still so far to go," she said. "We are preparing the children for only a part of their life. There is much more to be done after they leave here."

Harris already has the next ten years mapped out and goals have been set for LDP.

First off, she would like a model of LDP reproduced and constructed in cities all over the United States.

Next a residential program for involved children and a language-oriented prevocational program to help children with the transition to an existing occupational program.

And finally, her own building designed specifically for LDP.

"Perseverance has made us successful," Harris said. "I'm excited every day I come into this building because it's always an experience.

"These children are special to me. I have no favorites because they all are my favorite."

A TRIBUTE TO MRS. MARY J. ROCHE OF REVERE, MA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MARKEY. Mr. Speaker, I rise to pay tribute to Mrs. Mary J. Roche, a third grade teacher, who is retiring from the Revere school system after 37 years of distinguished service. This Thursday, May 21, 1987, Mary's many friends and family will gather to honor her at a retirement party.

Mary is an extraordinary woman who is highly regarded and loved by all who have had the privilege of knowing her. In an age when the educational system is under attack, Mary Roche exemplifies the best of the teaching profession. Over the years, she has been a mentor to her students. Her dedication to them extends far beyond the classroom as she is always willing to help her students and their parents with any problems that may confront them.

Mary Roche was graduated from Salem State College where she earned her bachelor's degree and to which she later returned to receive her master's degree. While there, she was active in many organizations, especially playing an important role in the administration of the Newman Club.

Her interests in this club resulted in her becoming a great humanitarian. This became the paradigm for her devotion to the elderly in ensuing years. This is evidenced by the many visits she makes to nursing homes and the transportation she provides for them to doctor's offices and hospitals. She is most generous with her time for all worthy causes.

Mary Roche's creative and artistic talents have always been mirrored in her classroom which affords a delightful atmosphere for teaching. Combined with her gentle manner and love for children, learning becomes a happy experience.

Mrs. Roche personifies the ideal teacher—one of excellent character, pleasing personality and caring nature.

It pleases me greatly to call this retirement to the attention of my colleagues, and to pay tribute to this woman, a person of strength and gentleness.

HELEN KOSS AND LUCILLE MAURER TO BE HONORED FOR DEDICATED SERVICE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mrs. MORELLA. Mr. Speaker, on Wednesday, May 20, two of my former colleagues in the Maryland House of Delegates are being honored for their dedicated service to the State of Maryland and to Montgomery County.

I was privileged to serve with Helen Koss and Lucille Maurer during my two terms as a State delegate, and I am proud to join in saluting them. As legislators and public servants, they elevated the level of discourse in a very special way, constantly striving to attain for the people they served the best possible solution to the needs of the people. As women legislators, they enhanced, through their strength, competence and grasp of issues, the stature of all women in public service.

Helen Koss retired following the 1986 legislative session in Annapolis, after serving four terms, including two terms as chairman of the constitutional and administrative law committee. But her distinguished career extends considerably beyond the State legislative chamber, including service as a delegate to the State constitutional convention of 1967–68, during which she served as chairman of the committee on suffrage and elections, and as State president of the Maryland League of Women Voters.

Lucy Maurer, who entered the house of delegates in 1969, has capped a distinguished legislative career with her appointment by Governor Schaefer as State treasurer, one of the principal administrative positions in the Governor's cabinet, chairman of the joint committee on Federal relations, and vice chairman of the Montgomery County delegation, she too was a delegate to our State convention, and saw service, as well, as a member of the Montgomery County Board of Education.

Mr. Speaker, Helen Koss and Lucy Maurer exemplify the highest qualities which all, men or women, who aspire to public service may emulate. I am pleased and proud to inform my colleagues of the well deserved honor that is being bestowed upon them.

CALIFORNIA SCHOOLS GET HIGH MARKS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to salute the 248 elementary schools that recently received the California Distinguished Elementary School Award. Four schools in my district received the award. The students, teachers, and school administrators at Pioneer Elementary in Union City and Northwood Elementary, Ruskin Elementary and Hayes Elementary in San Jose have done an exceptional job of improving the quality of education in their schools.

The award winners are the best all-around schools within each grade and socioeconomic grouping. They were selected through a rigorous statewide process involving all 4,500 of California's elementary schools. Awards were based on school test scores, improved student attendance and increased writing and homework assignments.

It is high time to acknowledge the efforts and accomplishments of the California Distinguished Schools. Their commitment to excellence in public education is admirable and deserving of recognition. However, the California Distinguished Elementary School Award serves not only as a reward for achievement, but as motivation for other schools to strive for excellence. I look forward to other schools following the exceptional example the winners of this award have set.

THE IMPORTANCE OF EDUCATING BLACK YOUTH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. RANGEL. Mr. Speaker, academic growth and development among America's youth has always been one of top priority; however, academic enhancement for American blacks and other minorities has never received top billing.

Realizing the importance of a well-rounded education, one that doesn't stop only at the high school level, but one that extends further into a college setting, we must continue to impress upon the black youth of this country the need for a higher level of study.

As a young man, I learned the importance of education. I knew that the key to upward mobility in our highly technological society would be primarily through one means, and that being education. Seeking excellence through education, I decided to equip myself with the knowledge necessary for success in our fast-paced society by obtaining a higher degree of education.

We must encourage young blacks to seek more education. We must remind them of their self-worth and ensure them of their mental abilities to achieve, to endure, and conquer.

After reading a recent newspaper article titled "Lost On Campus: Minority Momentum" I urge that black leaders tighten the gap between themselves and black youth.

Reading the very grim statistics on the decling numbers of blacks on college campuses over the past 4 years, due largely to the Reagan administration's massive amount of financial aid cutbacks for students, I am more convinced that the burden of informing and making known the importance of academic opportunities for black youth has fallen on me and other concerned individuals.

Even though many colleges recruit blacks and other minorities to provide diversity among their students, this diversity has been proven flawed, judging from the recent rash of racial incidents on college campuses.

Black youth must be once again reminded that an apathetic and nonchalant attitude on schooling and furthering their intelligence is unacceptable. We must help them build self-confidence so that they might realize aspirations and attainable goals. The foolhearted notion of being academically deficient and that "excellence is for other folks" must be erased from their minds and their vocabularies. If not, the idea of being an equal opportunity society leaves much to be desired.

TURKISH PEACE ASSOCIATION TRIAL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. HOYER. Mr. Speaker, last month the long-running trial of the Turkish Peace Association came to an end in Istanbul. Twelve of the defendants, including TPA President Mahmut Dikerdem and Reha Isvan, were convicted; 31 were acquitted; and 28 had the cases against them dropped for various reasons.

None of the defendants will have to serve further time in prison. Yet while the verdicts were not as harsh as many defendants had expected, they—and the simultaneous banning of the TPA—delivered a strong message: Despite Turkey's progress to date toward democracy, freedom of association is severely limited in that country.

The Turkish Peace Association [TPA] was founded in 1977 to promote nuclear disarmament and the peaceful settlement of disputes and to monitor the security provisions of the Helsinki Final Act.

Like other associations, the TPA was banned after the imposition of martial law in Turkey in September 1980. In February 1982, the 28 members of its executive committee were arrested and charged with violating certain articles of the Turkish Criminal Code which ban organizations and activities directed at establishing the superiority of one social class over the others.

In November 1983, 23 of the TPA defendants were convicted and 18 of them received sentences ranging from 5 to 8 years in prison. After a lengthy appeals process, the case was returned to court for a retrial. Six of the defendants were released in 1984; by March 1986 all of the defendants had been released from prison. A second trial involving 48 TPA members commenced in 1984, focusing on the same charges.

Last week's TPA convictions followed 275 convictions in December in another notorious Turkish trial, that of the Disk Trade Union Confederation. In that case, too, the court decided that Disk and 28 affiliated unions would be prohibited from resuming their activities.

Mr. Speaker, the state signatories to the 1975 Helsinki Final Act pledged to respect and protect their citizens' rights. I would hope that as Turkey continues on the road to democracy, it will not limit any of the rights—such as the freedom of association—which we in the United States regard as basic and fundamental to a democracy.

AROUND THE COUNTRY PEOPLE SEE A NEED FOR REQUIRING TAX-EXEMPT, CHARITABLE ORGANIZATIONS TO DISCLOSE CERTAIN FUNDRAISING ACTIVITIES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. STARK. Mr. Speaker, last week I introduced legislation which would require civic leagues and other organizations that are granted the 501(c)(4) tax-exempt status and solicit money from the public to pay out at least half of their gross revenues for their tax-exempt qualified activities each year and to disclose certain financial information in each solicitation. I have introduced this legislation as a result of the many complaints I have heard from constituents about their dissatisfaction with organizations that sent out official-looking mailings containing very persuasive solicitations for money. Having introduced the legislation, I have heard from people from various parts of the country who share these concerns.

From Florida a woman wrote in:

> The public needs protection from slick letter writers. All of them have a desperate, immediate need for money. Not one of them gives any financial information.
>
> To be effective information like fundraising costs, salaries, gross revenues, etc., should be included with each mailing.

From Oregon a man wrote in:

> Thank you for considering legislation requiring tax-exempt organizations to show the amounts spent on salaries and promotion versus the amount which actually goes

> to the cause itself. This has disturbed me greatly.

From Illinois a woman wrote in:

> Your bill to deny tax-exemption to "charitable" groups that do not use contributions for stated purposes, has long been needed.

And from New York a woman wrote in:

> In recent years I have ended up on more and more mailing lists, and last year had over 1,000 pieces asking for money. My decisions on whom to give how much would be greatly simplified if I knew what the various organizations did with the funds.

I am encouraged by this response. My bill will tighten up standards for those groups that may be misusing their privileged tax-exempt status. I would encourage my colleagues who have been contacted by constituents about this type of mailing and who share my concern to cosponsor and support my bill.

H.R. 2472

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MARKEY. Mr. Speaker, today I am introducing legislation to authorize appropriations for activities of the National Telecommunications and Information Administration. The bill authorizes $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989 and allows for necessary nondiscretionary cost increases. The funding levels, identical to the figures President Reagan requested in his 1988 budget request to Congress, will enable the agency to continue its important role in developing our national policy for the telecommunication industry.

Since its formation in 1978, the NTIA has served as the principal executive branch adviser to the President on domestic and international communications policy. NTIA reports and recommendations have fueled debate and promoted improvements on a wide range of domestic telecommunications issues. NTIA's international activities have advanced the U.S. trade and technology interests in the world's telecommunications marketplace. Additionally, NTIA allocates and manages the Federal radio frequency spectrum and conducts extensive research in telecommunications sciences at the Institute of Telecommunications Sciences.

NTIA also administers the Public Television Facilities Program, a matching grant program designed to fund facilities and to increase the coverage of public television and public radio. The Reagan administration has repeatedly proposed to abolish this program which provides a vital service in insuring that public television and public radio is available to all the citizens, not just those living near urban centers. Under NTIA's management, the PTFP has proven to be an exceptionally successful and necessary program that deserves to be continued.

The funding levels for NTIA contained in this legislation are consistent with the needs of the agency and the needs of our Government in the development and coordination of our national policy for the critically important telecommunications industry. I ask my colleagues to support this legislation.

BETHESDA/SILVER SPRING ZONTA CELEBRATES 35TH YEAR

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mrs. MORELLA. Mr. Speaker, I would like to honor a very special women's organization in my county which is celebrating its 35th birthday. Since 1952, the Bethesda/Silver Spring Zonta Club has served our community, but even more uniquely it has worked to be of service to the worldwide community.

A service organization made up of professional and business women, Zonta International was founded in Buffalo in 1919. Its incoming president, Clare Cumberland; vice president, Lorri Simmons; and all the officers and members have worked tirelessly over the years to return in service what they have received from their business and professional successes.

Zonta International's new biennium project, called UNIFEM, will work in five third world countries and Argentina. Their goal is to bring seed money to women's groups who are helping their sisters to work, and to support child care and education in each country. Throughout the United States, Zonta women work to help battered women and, locally, the organization will continue its support of the Montgomery Hospice, special projects in cancer research, touch toys, and again give a scholarship at the University of Maryland to a woman in aeronautical engineering, called the Amelia Earhart Scholarship.

I am proud to honor this organization: proud to be an honorary member and proud of its accomplishments.

Mr. Speaker, I commend the Bethesda/Silver Spring Zonta Club on its 35th birthday, and I wish the club continued success in its important work.

A CASE OF JUSTICE DENIED

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. TOWNS. Mr. Speaker, I would like to associate myself with the remarks of my colleagues, given earlier today, regarding the miscarriage of justice experienced by a Member of this body, Mr. FORD of Tennessee. The court case involving our colleague from Tennessee, Mr. FORD, calls into question the abuse of prosecutorial discretion as well as the abuse of the grand jury system.

The extreme measures undertaken by the prosecution, against the gentleman from Tennessee, have been further exacerbated by the judge's gag order which prevents our colleague from telling his side of the story. While this restriction is difficult enough for anyone facing criminal charges in a court of law, the order makes no allowances for the fact that the gentleman from Tennessee represents over 500,000 citizens in the Congress of the United States. Yet, he is prohibited from explaining his innocence to his constituents and/or his colleagues. This bar is particularly devastating to any Member of Congress and serves as an extremely dangerous precedent.

Mr. Speaker, 1987 is the 200th anniversary of our Constitution. The right of free speech and the right of the accused to have the presumption of innocence are among the many constitutional guarantees that we cherish. The case of the gentleman from Tennessee, Mr. FORD, demonstrates that we must be ever vigilant in ensuring that the protection afforded by the Constitution is not sacrified for the sake of political expediency.

AN ARTISTIC DISCOVERY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. ORTIZ. Mr. Speaker, it gives me great pleasure to present to my colleagues the work of Mr. Pat Garcia, a student at Homer Hanna High School in Brownsville, the winner of the Artistic Discovery competition in the 27th Congressional District of Texas. His outstanding entry, entitled "At Peace With Nature," demonstrates superior artistic talent for a person of such a young age.

Mr. Speaker, I am very proud to have Pat represent my home district in the Artistic Discovery competition. His work was selected as grand prize winner out of 31 entries from several high schools in the 27th District. This week Pat's artwork will be displayed at the Art Museum of South Texas in Corpus Christi.

Mr. Garcia's silkscreen will soon be shipped to Washington, DC, where it will be displayed with other winning entries from across the country. The works will hang for a year in the corridors of the Capitol. I urge you to take the time to stop and admire this fine collection of artwork, especially the silkscreen entered by Pat Garcia of my congressional district.

STOP THE WAR ON PAKISTAN

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. BUECHNER. Mr. Speaker, I wish to submit for the RECORD a copy of a recent editorial that appeared in the Detroit Free Press.

Those who would have us believe that Afghanistan is simply "another Vietnam" and that the Soviets only want to consolidate control inside the country should think again. A couple of weeks ago, the Soviet's puppet regime in Afghanistan shot down a Pakistani Air Force jet. This latest border violation inside Pakistan, just 1 of at least 1,000 reported incursions this year, clearly shows that the Soviets are interested in expanding their influence in the Middle East. The only logical explanation for this Soviet strategy is that they seek to absorb northern Afghanistan, turning the rest of the country into puppet buffer states.

Pakistan is a part of the buffer state strategy. But gaining control of Pakistan would give the Soviet Union its first warm water port * * * something the Soviets have long desired. The best way to stop this frightening spread of Soviet expansion is through increased funding to the Afghan freedom fighters. We have an obligation to support our friends in Pakistan who are helping to resist the Soviet bear for the cause of freedom. As the Detroit Free Press writes, we must rally world opinion against the Soviets, who have flinched in the past when their conduct was subjected to intense world scrutiny and condemnation.

The editorial follows:

STOP THE WAR ON PAKISTAN

The situation on the Afghanistan-Pakistan border took a turn for the worse last week when a Pakistani Air Force jet was shot down for the first time by the Soviet Union's puppet regime of Afghanistan. The apparent violation of Pakistani air space is just one of at least 1,000 incursions that Pakistan authorities have reported this year, more than three times the rate of last year. These Soviet-instigated confrontations fit into the Soviet Union's long-term campaign to take over Pakistan, a development that would destabilize the region.

According to conventional wisdom, the Soviets are mired in their own sort of Vietnam War in Afghanistan and merely want to consolidate control. Yet as Defense Department analyst Elie Krakowski points out in the recent issue of the National Interest, Soviet practices seem to contradict this strategy. Indeed, the Soviets have moved from their initial policy of consolidation to one of ensuring favorable conditions to expand their influence in the Middle East.

Soviet policies indicate the Kremlin wants to annex the northern part of Afghanistan and turn the rest of the country into a subservient wasteland. The Soviet Union already annexed a small northeastern strip of territory in 1980 ostensibly to clarify its borders.

But the other areas of Afghanistan, where development would be more badly needed for true consolidation, are scorned. The military concentrates its efforts here, annihilating and depopulating the cities. These barbaric efforts explain why Pakistan has the world's largest refugee population, with 3.5 million to four million Afghanistans. An estimated two million internal refugees wander throughout Afghanistan.

The only logical explanation for the Soviet strategy is that Moscow wants to absorb northern Afghanistan, with its compatible ethnic population and comparatively vast natural resources, and turn the rest of the country into puppet buffer states. By laying waste to these areas, the Soviets would ensure the new states would be economically and militarily dependent. Without an overt Soviet presence, these puppet states would be more acceptable to surrounding countries and world opinion, much like the Afghanistan regime is today.

Pakistan is part of the buffer state strategy. Sure, the Soviets are attacking Pakistan in part because the American-supplied Afghan rebels, who have successfully shot down Afghan planes with shoulder-launched Stinger missiles, and their supplies pass through that country. But gaining control of Pakistan would give the Soviet Union its first warm water port, a traditional goal of Russia's czarist and Communist regimes.

Soviet designs on Pakistan could be first detected during the 1970s. Two rulers with military ties to the Soviet Union were overthrown with the help of pro-Soviet Afghan military officers—and both had seriously attempted to improve relations with surrounding states, particularly Pakistan. In addition, puppet Afghan leader Babrak Karmal met in Septmber 1985 with Pushtun tribes from both sides of the Afghanistan-Pakistan border, openly calling for reunification of the separated tribes under Afghan sovereignty. This call was backed with increased training of some tribe members for terrorism in Pakistan and large bribes to tribe leaders to interdict supplies to the Afghan rebels.

In the light of recent events, the United States urgently needs to refine its Pakistan strategy. With Pakistan—and a warm water port—under its control, the Kremlin would gain the potential to regulate the flow of oil shipments from the Middle East, North Africa, and Persian Gulf region to the United States and its allies. In addition, the Soviets could increase their influence from this centrally located country to the Middle East, Southeast Asia, and Africa.

The best way to stop the spread of Soviet expansion is through increased funding to the Afghan rebels, who have pestered the Soviets for seven years and could do even more with more supplies and weapons, and an unrelenting publicity campaign. The Soviets have been able to pursue their strategy quietly because they intimidated the media by publicly threatening to kill reporters inside Afghanistan—threats they have carried out. The United States therefore must rally world opinion against the Soviets, who have flinched in the past when their conduct was subjected to intense world scrutiny and condemnation.

HONORING JOAN M. KENNY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to salute a celebrated member of the New York City public education community. I am not alone in acknowledging the accomplishments of Joan M. Kenny, community superintendent of School District 25—Queens. On May 26, the students, teachers, and residents of the school district will hold a testimonial dinner to honor Miss Kenny in recognition of her 15 years of outstanding service to the school system she cares about so dearly.

Joan Kenny's entire career has been devoted to education—first as a teacher, later as a principal, and then a community superintendent. Miss Kenny came to district 25 in 1971, and was appointed supervising principal. A short 1 year later she was appointed as community superintendent, a position she still proudly holds today.

In her 15 years in administrative and supervisory roles, Joan has many great accomplishments of which she can be very proud. She has launched innovative programs to improve the learning environment for students who are exceptionally bright, just as she has done for those students who may be learning impaired. Miss Kenny has implemented strategies to identify and teach gifted children, and directed effective academic mainstreaming programs for children in special education. This outstanding educator can also take credit for staff-development programs in computer technology, establishing parent workshops, and implementing a special cultural/arts program.

Although Joan does not do what she does for recognition or fame, it is nice to know that her peers have taken note of her devotion to the schools and their students. Others in the field of education have recognized the illustrious career of Joan Kenny, and have rightly honored her. In 1982, she received the Educator of the Year Award from the National Council of Administrative Women in Education. The New York State Reading Association made her a Friend of Reading in 1984.

It is obvious that this woman, who has served district 25 for the last 15 years, is an exceptional educator. All of us in New York, in Queens, and in the educational community, are very proud of this woman. Mr. Speaker, I ask all of my colleagues to join me in honoring Joan M. Kenny and her lifelong devotion to educating our youth.

NEW JERSEY HIGH SCHOOL SENIOR AWARDED SCIENCE PRIZE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues the achievement of a young man from New Jersey. Alan Stein, a senior at the Cherry Hill West High School in Cherry Hill, NJ, was recently awarded a silver medal at the Delaware Valley Science Fairs held in Philadelphia from April 7 through 11.

The Delaware Valley Science Fairs, a series of five science fairs held for different grade levels and including more than 700 students from Philadelphia, southern New Jersey, and Delaware, is a showcase for the knowledge and the dedication of all the entrants.

For his entry in the computer sciences, Alan becomes a pioneer for the rest of the students at Cherry Hill West. This is the first time that a student representing the school has won this award.

But Alan is also continuing in a long line of winners and entrants. In the past 39 fairs that have been held, hundreds of students have had the opportunity to apply themselves and the principles that they have learned in their studies. They are all a tribute to their education and their desire to learn. By participating in these fairs, they have gone that extra mile to demonstrate what they have learned and to contribute to the betterment of our world through their projects.

For the past 5 years, James Priest, a teacher at the Brainerd Middle School in Cherry Hill, has sponsored Alan and his projects. For those 5 years, Alan has gained from the inspiration, the help, and the expertise of his teacher.

Many other people have given their time, not only to Alan, who has had an opportunity to compete with his peers and to build upon his knowledge in the computer sciences, but also to the hundreds of other students who have participated in the past. Among them are the sponsors of the Delaware Valley Science Fair, the Philadelphia College of Pharmacy and Science, the Franklin Institute, and the Philadelphia Inquirer.

At a time when the debate in Congress focuses on improving the education of our children, Alan and his classmates have proven that the tools of education can go far, indeed.

I commend Alan for his sterling accomplishment, and I urge him and his classmates in Cherry Hill West and throughout the country to pursue their studies further, forging a better world for themselves and for all of us.

SALUTE TO MICHAEL P. KEARNEY

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to salute one of the outstanding leaders in my district, Michael P. Kearney of Seymour.

Mr. Kearney's efforts on behalf of his fellow workers at the Seymour Specialty Wire Co. have earned him the first annual Nat Weinberg Award—an award established to recognize and encourage individuals who seek pioneering solutions to the problems of working people worldwide.

I remember well the summer of 1984, when Mr. Kearney's employer, the Bridgeport Brass Co., wanted to sell their Seymour plant. Hundreds of jobs and in many ways the future of the entire town of Seymour were at stake. Often we see troubled companies simply close their doors without much of a fight. However, the workers at Seymour Specialty Wire weren't quitters.

Through the dedicated leadership of Mike Kearney and his fellow workers of United Auto Workers Local 1827 a solution was found. Agreements were hammered out with management and community groups to devise a worker buyout plan. They developed cost containment and marketing plans, and found the necessary capital to make the buyout work. There are many people in Seymour who contributed to the buyout's success, but Mike Kearney was their leader.

Seymour Specialty Wire is perhaps the most impressive success story in the industrial resurgence we have seen across the Naugatuck Valley. Since the buyout was completed pay levels have been restored, new markets, and new jobs have been created, and union members have actively helped lead the firm to a better future.

We have heard talk about how America is destined to be deindustrialized and that it has no future except for high-technology and service businesses. Brass wire is not an industry in vogue, but Mike Kearney and the workers at Seymour Specialty Wire have proven that workers in Connecticut can outproduce any competitor.

The former president of the UAW, Douglas Fraser, said it best. "Again and again these days, we hear how American workers can't compete, can't adjust to the changing economy. Try telling that to Mike Kearney."

Mike Kearney can tell us a lot. He can tell us that the creativity and initiative of the American worker are our greatest economic asset. He can tell us that one man can make a difference and that with hard work and dedication we can work together for a better future.

I hope that the leadership of Mike Kearney and the success of Seymour Specialty Wire prove to be an example both for my colleagues and for all Americans who want our Nation to stay at the forefront of industrial prosperity.

IN HONOR OF THE MEMORY OF WILBUR J. COHEN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. SKELTON. Mr. Speaker, I was saddened to learn of the sudden death of former HEW Secretary Wilbur J. Cohen. His name may not be a household word, but his tireless, lifelong work in making Social Security and Medicare realities will benefit virtually every American family for years to come.

Wilbur Cohen came to Washington at a time when attitudes toward Government were quite different. In those dark days of the Great Depression, the American people looked to the Federal Government as their last source of hope. If the Federal Government failed, the country may have slipped into chaos. But Wilbur Cohen, and others like him, helped maintain the faith of common Americans in their Government.

It must have been with great irony that Wilbur Cohen saw in his later years an unprecedented attack on the Federal Government's role in improving the lives of the less privileged members of our society. For it was during those later years that it became increasingly apparent that the two programs he championed throughout his life were lifting the elderly and disabled out of poverty and sickness.

When a great American passes from the scene, we have a tendency to erect a monument or name a building in his or her honor. Wilbur Cohen was, indeed, a great American. But we should not memorialize him in stone and mortar. Our greatest tribute would be to dedicate ourselves to preserving and improving Social Security and Medicare. Those programs are truly Wilbur Cohen's living legacy to the Nation.

REV. DR. BILL HENDERSON RETIRES FROM FIRST UNITED METHODIST CHURCH IN JOPLIN, MO

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. TAYLOR. Mr. Speaker, On Sunday, May 31, 1987, the Reverend Dr. William H. Henderson will preach his retirement sermon at the First United Methodist Church in Joplin, MO.

Following the completion of his theological training at Asbury Theological Seminary in Wilmore, KY, Pastor Henderson was ordained in 1942.

He served a number of churches in the State of Illinois during the succeeding years and also served as chaplain in both the State house of representatives and the senate in Springfield, IL.

In 1960, Bill and his wife, Jean, transferred to the Missouri Conference where the next 6 years were spent as the pastor of the First United Methodist Church in St. Joseph. In 1966, Reverend Henderson moved to First United Methodist in Joplin, where he has served for the past 21 years.

During those years he received an honorary doctor of divinity degree from Asbury College in Wilmore, KY, and served both as a member of the Asbury Alumni Board and currently as a member of the board of trustees of the college.

He is a member of the board of the newly organized Mission Society for United Methodists concerned about the evangelical thrust of the United Methodist Church on the mission field.

Not only has Reverend Henderson and his wife served the spiritual needs of the Joplin community these past years, they have also been active in civil affairs and Jean has taught in the public school system.

I join the congregation of the First United Methodist Church in thanking Reverend Bill and Jean for their devotion, their dedication, and their commitment to the church. We hope they enjoy their well earned retirement and convey to them our sincere best wishes.

TRIBUTE TO THE MEMORY OF EDWIN C. "BILL" BERRY

HON. GUS SAVAGE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. SAVAGE. Mr. Speaker, today my heart is saddened, as it is for many Chicagoans as we eulogize Edwin C. "Bill" Berry. He stood tall among us all. His concern ran deep to reach all who believed in the equality of all men. He was a supreme organizer, strategist, and humanitarian whose efforts served to benefit the furtherance of peace throughout this land.

He stood as a beacon of fairness and justice, moderating between militancy and conciliation. He was a bridge builder and visionary whose leadership forced American society to live up to its promises.

As a civic leader and civil rights activist, he attained national prominence during his 14-year tenure, beginning in 1956, as the executive director of the Chicago Urban League. Under his stewardship, the urban league entered into the most formidable task in its history—attempting to dismantle the practice of racism in a city which had been described as the most segregated large city in America.

His efforts were not in vain. We all benefit from a society that believes in open housing, equal employment opportunities, and a quality education for all its citizens.

Edwin C. "Bill" Berry was truly a giant of a man. His contribution was a great one; his legacy, everlasting. Let's hope history serves to portray him in as bright a light as we do, because he was friend to us all.

A TRIBUTE TO MR. JOHN ALFONA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. John Alfona, a very special resident of my 17th Congressional District. As one of the senior citizens of the Mahoning Valley, Mr. Alfona is an integral part of the community. Through his tireless efforts as an active member of numerous senior citizens' groups, he has enabled many to find comfort in knowing that their physical and psychological encumbrances are not barriers to living an enjoyable and meaningful life.

In spite of debilitating health problems, Mr. Alfona has attained a very active and productive employment history. After working at one of the district's State liquor stores, he then became an employee of the city of Youngstown where he worked at the Youngstown Municipal Airport. As a result of an unfortunate accident incurred at the airport, John Alfona was unable to continue working and has been retired ever since. It was then that Mr. Alfona became interested in senior organizations, joining several as an active member. Through these associations, he was able to relate to the anxieties of fellow seniors and realized the benefits of open discussion. As a result of a strong conviction to extend these important services to other seniors, Mr. Alfona formed the Royal Senior Citizens Club of which he is founder and president.

Since its inception in May 1986, the Royal Senior Citizens Club has been one of the communities most important assets. Complete with bylaws and elected officers, this organization provides an enlightened forum for helpful interaction during its monthly meetings. Due to his wise and dilligent planning, guest speakers are a common occurrence as Mr. Alfona seeks to keep the members informed concerning the issues that affect them. In addition, Mr. Alfona has planned several 1 day tours, as well as yearly overnight trips, all of which engage the seniors in imaginative educational activities. During the meetings and activities, one can sense the special feeling of love and kindness that is a result of the gentle characters of the members and club founder, John Alfona.

The month of May marks the first anniversary of the founding of the Royal Senior Citizens Club. Due to his sincere commitment and remarkable dedication to community service, John Alfona has made this occasion a very special landmark in the ongoing pursuit for a truly caring and compassionate society. Through the founding of the Royal Senior Citizens Club, he has broadened and enriched the lives of many senior citizens who are all too often neglected and ignored. Thus, it is with pleasure and special thanks that I join the people of the 17th Congressional District in honoring the accomplishments and admirable character of John Alfona.

OUR LADY OF MOUNT CARMEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. SOLARZ. Mr. Speaker, I would like to pay tribute to Our Lady of Mount Carmel Church, located in the Greenpoint section of my district, which is celebrating its centennial this year. Our Lady of Mount Carmel has been in the forefront of spiritual and community activities since its founding in 1887. I am proud of the exemplary service that the church has given to the residents of my district for so many years.

The church has been located on several different sites during the past century, but has always been a gathering place for religious, cultural and civic groups. The church's home from 1912 to 1930 was a beautiful, cathedral-like structure. In 1936, Eugenio Cardinal Pacelli visited the parish. Cardinal Pacelli was later elected Pope Pius XII. In 1947, this neighborhood landmark was razed to permit construction of the Brooklyn-Queens Expressway. Not only did the expressway's construction force the church to find a new location, but it served to split Greenpoint into two separate sections. Three years later, a new church was completed. Our Lady of Mount Carmel has remained on that site ever since.

Our Lady of Mount Carmel has long held the philosophy that community service goes hand in hand with religious service. It has established a tradition of community involvement that will continue to benefit Greenpoint residents for years to come. Despite neighborhood changes and numerous relocations, the church has continued to administer sacraments, care for the elderly and destitute and educate the young. The spiritual and civic strength that the Greenpoint community has drawn from Our Lady of Mount Carmel has enabled Greenpoint to grow into one of the safest and most prosperous neighborhoods in Brooklyn.

On the anniversary of its centennial, I am proud to honor Our Lady of Mount Carmel as one of the finest religious and community organizations in my district.

TRIBUTE TO DR. FRED STEWART

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Dr. Fred Stewart upon his retirement after his service to the Sacramento City unifed school district as well as the San Juan unified school district during the past 38 years. Dr. Stewart's hard work, dedication, and compassion in a variety of capacities has earned him the respect and admiration of friends and colleagues throughout the community.

After receiving his bachelor's degree from the University of California, Santa Barbara, in 1949, Dr. Stewart began his teaching career at Sutter Junior High School in Sacramento. Subsequently, Dr. Stewart assumed various administrative positions, culminating in his appointment in 1979 as superintendent of schools for the San Juan unified school district in Carmichael, CA.

Dr. Stewart has also served our community by participating actively in various organizations. The United Way, the Boy Scouts of America, the Arden-Arcade Rotary Club, and the Community Action Against Drug Abuse are just several of the organizations which have benefited from Dr. Stewart's energy and expertise.

Mr. Speaker, it is impossible to adequately thank Dr. Stewart for his service to the community, but I would like to add my voice to those thanking him for his distinguished service and wishing him every success in the future.

A TRIBUTE TO JEAN TOOHEY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. YOUNG of Alaska. Mr. Speaker, at the end of this month, the Committee on Interior and Insular Affairs will lose the services of one of its most valued professional staff members. At that time, Jean Toohey will leave Federal service and take a position in the private sector.

For the past 8 years, Jean has played an important role in shaping countless Federal laws dealing with the Nation's public lands. With professionalism, competence, and fairness, she dealt with competing interests in one of our most difficult environmental areas, that of wilderness designation. By its nature, legislation regulating uses of Federal lands raises difficult issues and provokes hard-felt feelings by competing interest groups. Jean has handled these competing interests extraordinarily well.

Far more than most staff members, Jean Toohey understood individual Member concerns and looked out for the interests of new Members and those not on the Interior Committee. Her ability and diligence in this regard has been a model for other professional staff.

On behalf of the other members of the Committee on Interior and Insular Affairs and other Members of this body, I would like to thank Jean for her dedicated professional service and to wish her well in her new employment and with her young family.

COMMENDATIONS ON THE SALE OF CONRAIL

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. SWIFT. Mr. Speaker, the privatization of Conrail is now history. The initial public offering authorized by the Conrail Privatization Act was the largest ever in the United States, raising $1.65 billion. Together with $300 million in cash transferred to the Government from Conrail's treasury, the sale raised nearly $2 billion, all of which has been used to reduce the Federal deficit. I am sure my colleagues would agree that, all things considered, the sale of Conrail has been a huge success.

The process that led to the sale, however, was long and arduous. Hearings in the Energy and Commerce Committee extended over some 15 months. The Senate initially approved a sale plan that few in the House supported. The administration did not quickly come to the negotiating table as our committee crafted a public offering bill. And the conference was complicated by arguments over Staggers Act reforms and labor protection.

Viewing the Conrail sale process in retrospect, it is not surprising that some have questioned Washington's enthusiasm for any further privatization efforts. An article in the May 25, 1987 issue of Fortune magazine raises precisely this issue. A sidebar article, titled "Why Privatization is Stalled," suggests the unlikelihood of any further Federal asset sales.

The administration, in a quest driven more by ideology than economics, would like to put the power marketing administrations, TVA, Amtrak, the naval petroleum reserves, and other assets on the auction block. The Fortune articles not only illustrate the difficulty in accomplishing such sales, but discuss the substantive arguments against them.

Clearly, Conrail was a unique situation, and even there the task was not a simple one. As these articles point out, the Conrail legislation would never have made it to the finish line were it not for the careful study and diligent efforts of our distinguished chairman, JOHN DINGELL, and the invaluable help of the committee's financial adviser, Lazard Freres & Co.

Because the Fortune articles provide a number of interesting insights into the process that led to the Conrail sale, as well as an explanation of why other privatization efforts are unlikely to meet with similar success, I am including them in the RECORD at this point:

IS THIS ANY WAY TO SELL A RAILROAD?

(By Lee Smith)

When the U.S. government sold Conrail in March, records fell right and left. At a price of more than $1.6 billion, it was the largest initial public offering in U.S. history. With railroads, investment banks, and other companies spending hundreds of thousands in Washington to press their views, the deal was also one of the most expensive lobbying efforts ever. The Conrail sale signaled the dramatic start of the Reagan Administration's move toward privatizing big federal projects. It may also have heralded the end of that effort. The six-year ride from when the Administration first looked into selling Conrail until the CRR symbol lit up on the New York Stock Exchange was tiring and bumpy, and demonstrated how painfully difficult it is to unite government and Wall Street even behind such an eminently reasonable idea as placing a once bankrupt federal operation in private hands.

Although Ronald Reagan campaigned in 1980 on a pledge to sell to the private sector businesses that govenment should not be in the President stayed above the Conrail fray, partly because the details were tedious. "When you talk about housing and transportation, the President's eyes glaze over," says a former White House aide. His Department of Transportation, under the leadership of Secretary Elizabeth Hanford Dole, resisted selling stock in Conrail to the public, the freest of free-market solutions, until the end. The unlikely savior of the public offering was a Democrat, Representative John Dingell from industrial Dearborn, Michigan, the chairman of the Energy and Commerce Committee. His ally: Morgan Stanley, a big, aristocratic New York investment bank. Says one of the participants: "It was wild. All of the roles were reversed."

To fully savor this tale of a world turned upside down, it may help to have a précis at the outset. In 1976 the government assembled Consolidated Rail Corp. out of the financial wreckage of Penn Central Railroad and five other bankrupt Northeast lines. A soon as Reagan came to Washington in 1981. Transportation Secretary Drew Lewis started looking for a way to get rid of Conrail. Dole inherited the project from Lewis when she became Secretary in 1983 and by February 1985, after lengthy study, decided to sell Conrail to Norfolk Southern Corp., in the process rejecting the alternative of a public offering. The Senate, no doubt at least somewhat influenced by her husband, Bob Dole, then majority leader, approved her plan 54 to 39 the following February. Several months later, however, Congressman Dingell declared he could not support the Norfolk Southern Sale. Mrs. Dole capitulated.

In retrospect, Dole, 50, and Deputy Transportation Secretary James Burnley, 38, on whom she relied heavily, were wrong for the job of selling Conrail. Not that they lacked integrity, dedication, or intellect. Both Liddy Dole, a Phi Beta Kappa from Duke, and Jim Burnley, a magna cum laude from Yale, are Harvard Law School graduates. But they thought too much like lawyers; they were cautious and legalistic to the point of rigidity. Twice Dole asked Goldman Sachs, the DOT's financial adviser on Conrail, to look into a public offering that would have preserved the railroad as an independent company. Twice she rejected such a scheme because of the twin risks it carried; In a bear market Conrail might not be able to sell all its shares: in a bull market the issue might be underpriced, leaving too much money—taxpayers money—on the table. "I had to think of the public interest," says Dole, holding her hands around her eyes like blinders to emphasize the narrowness of her focus. "We were lucky the market was so good on March 26 when we sold Conrail. A week later the market had dropped almost 100 points." She neglects to mention that Conrail shares did not suffer (see Personal Investing).

Burnley is a conservative Republican who, according to those who have worked with him, has a phobia about Democrats that goes beyond the requirements of his political persuasion. His feelings about the party in control of the House made him just as fearful of a public offering as his boss. Suppose the market wouldn't take Conrail in a single bite and the railroad had to be sold off in pieces over a long time. As long as the government owned even just a piece of Conrail, Burnley worried. Congress would treat it like a cow, milking it for cash when the railway business was good and feeding it subsidies when times were bad. Above all, Dole and Burnley did not want Conrail, which had already taken $7 billion in federal handouts, coming to the Treasury for more. They reckoned that the safest thing to do with this cripple was put it in a stable, supportive home through a private sale. After looking at 15 bids, they accepted the one that seemed to offer the sturdiest shelter, Norfolk Southern, one of the best-managed railroads in the country.

What brought Dole and Burnley to this pass was their unshakable assumption that Conrail was a loser, an attitude established at DOT before they arrived. Because freight revenues in the slow-growing Northeast were not likely to rise, Dole felt duty-bound to advertise the product she was selling as a lemon—not a technique that Lee Iacocca would use. Stephen Berger, a former investment banker who from 1980 to early this year headed the U.S. Railway Association, an agency created by Congress to oversee Conrail, says: "I've bought and I've sold, but when I've been selling I've never made it a point to knock the product."

The irony is that even though Dole and Burnley genuinely believed they were peddling a clunker, this was no longer the case. In 1981 Conrail got an inspiring new chief executive, Stanley Crane, a sort of Sugar Ray Leonard of the railway industry; small, smart, scrappy, and bored in retirement. The year before, at age 65, Crane had been forced to step down as chairman of Southern Railway Co., shortly before it merged with the Norfolk & Western Railway to become Norfolk Southern. Conrail hired Crane as chairman. After studying the situation, he concluded that the railroad could be run for profit, and launched an effort to win Congress and the workers to his view.

Crane acknowledged that revenues were not likely to highball, but he knew as well as any railway man the other way to skin the cat. He cut costs, with enormous help from federal legislation that allowed him to abandon some freight routes, turn over commuter operations to local governments, and lay off excess workers with settlements of up to $25,000 each. In 1981 Conrail made a small profit.

Dole's decision to sell the newly profitable Conrail to Norfolk Southern did not please some of her supporters. The Heritage Foundation, a Washington think tank that serves as a sort of theological seminary for Reagan Administration clerics, favored a public offering that could work as a model for future privatizations. Daniel Burke, the president of Capital Cities/ABC and a Reagan-appointed member of the Conrail board, let it be known that he was willing to consider a public offering. The Thatcher government had impressed him with its public sale of

British Telecom. Burke says: "The American taxpayers had put a lot into Conrail, and I thought they were entitled to buy in if they wanted to." In response, Burnley told Burke he would not be reappointed to the board.

Determined and inflexible, the Department of Transportation isolated itself in its Seventh Street fortress. Proponents of the public offering made their case to Joseph R. Wright, deputy director of the White House's Office of Management and Budget. When Burnley found out the antimerger forces had taken a back door to the White House, he told Wright to mind his own business: The Conrail sale was a DOT matter.

Much to the anger of Dole and Burnley, Crane fought the proposed sale like any chairman threatened with a hostile takeover. Crane's most important ally was Thomas A. Saunders III, 50, an intense and ferociously competitive managing director of Morgan Stanley. Crane had hired Saunders to see how Conrail could become independent. The investment banker came up with a plan in which a syndicate of big investors, including Harvard, Princeton, and Stanford universities, the CSX railroad, and Morgan Stanley itself, would buy Conrail. The government would get a guaranteed $1.4 billion up front, eliminating the uncertainties of a public offering. The investors would later sell shares to the public. Dole told Saunders, in effect, to get lost. "There were too many ways for the investors to get out at the last minute," she says. "Norfolk Southern was cash on the barrelhead." Saunders, a relentless salesman whose aggressiveness would be insufferable if it were not softened by a Virginia gentleman's manner, declined to give up. Morgan Stanley let him gamble what may have been as much as $5 million on efforts to secure an independent Conrail.

And so the great lobbying war began. On one side were Conrail, Morgan Stanley, and CSX; on the other the Department of Transportation and Norfolk Southern. Each competitor hired K Street lawyers and lobbyists by the dozens. "If you laid the lobbyists out like ties, you could have built another railroad," quips Berger.

The pro-public-offering forces pointed out that at the $1.2-billion figure proposed by Norfolk Southern, Conrail was a bargain. The railroad had over $800 million in cash and another $300 million in securities above what it needed to fund its pension plan. Also, Norfolk Southern would have been able to reduce its taxes by using Conrail's depreciation and investment tax credits. That could have cost the Treasury $400 million or more.

By selling Conrail to another railroad the government would be taking a big hand in consolidating the railroad industry. Such a move represented a significant departure from the policy that railroads should initiate mergers and government should decide whether the proposed combinations violate antitrust laws. Besides, the anti-Dole forces argued, the merger threatened to reduce competition in another way. Even though trucks fight penny for penny with the railroads to haul cargo everywhere in the East, some commodities, such as coal and bulk chemicals, move almost exclusively by rail. The Conrail-Norfolk Southern merger would have put CSX at a considerable disadvantage. Norfolk Southern would be able to ship paper from Georgia mills to New England over its own track, for example, while CSX would have to hand that load over to the merged Conrail to reach the same market.

The Senate was the first to judge between Crane's arguments for an independent Conrail and Secretary Dole's push for cash. The two antagonists went to extraordinary lengths to get regional politicians, shippers, and voters to pressure Washington. Morgan Stanley staked out governors' conferences and sponsored symposiums where state transportation officials were briefed on Conrail's prospects. The firm dispatched a managing director to alert city fathers in Seattle and Tacoma and Portland, Oregon, that if Norfolk Southern were to take over Conrail, traffic patterns in the Northwest would suffer. Rubber from Singapore that now disembarks at Northwestern ports, for example, might be unloaded in New Orleans.

Meanwhile. Dole spent days in the halls of Congress and hours on the telephone seeking support. Norfolk Southern and its staff of four professional lobbyists, including Edward T. Breathitt, a former governor of Kentucky, spent at least $3 million to promote the sale. Mrs. Dole's powerful husband did not bottonhole his Senate colleagues for votes; since his sentiments were obvious, he did not have to.

Saunders, the outsider, didn't seem to stand much of a chance in the Senate. He kept roaming the corridors of power, though, pushing open the great mahogany doors. Behind them he discovered Senators like Russell Long, who was thoroughly familiar with the pros and cons of public offerings, and San Nunn, who invited the combatants to debate in his office so that he could master the issues. But Saunders also found many other lawmakers who were poorly informed and preferred to stay that way. One elderly Senator, after years of hearing about Conrail, did not realize the government still owned it. "Senators kept asking thing like. 'What does Morgan Stanley know about running a railroad?'" says Saunders. He pointed out to them that under the American system those who buy and sell the stock do not necessarily run the company.

When the Senate finally voted to go along with the sale of Norfolk Southern, the battle shifted to the House, where the Democrats were in control. As Burnley feared, the Democrats less enthusiastic about privatization than the Republicans. But on the subject of a Conrail public offering, the Democrats were open-minded. For one thing, labor was not opposed.

In the end, Conrail's future rested with one man, the imperious Congressman Dingell. The Conrail bill, like more than a quarter of all legislation, had to pass Dingell's committee. Observes lobbyist Breathitt: "There were two keys to getting the merger approved by the House—find out what Chairman Dingell wanted and give it to him."

What Dingell wanted was facts. "I wasn't especially excited about doing anything with Conrail," he says, "It was making money for the government. But I felt if you're going to sell a damn railroad, do it right." His staff surveyed several dozen shippers and discovered that many were concerned that a merger might reduce competition and drive up costs. Dingell cooled to the merger plan.

To help analyze the public offering, Dingell turmed to what might seem an improbable source—a rare and trusted friend on Wall Street, namely Frank Zarb, senior partner of the investment company Lazard Freres. For 2½ years Zarb had been energy czar in the Ford Administration, and Dingell, as head of the committee inspecting Zarb's labors, had made his life miserable. But when Zarb moved to New York, the two became friends and hunting buddies. "The firm came to the conclusion that a public offering would work," says Zarb. "And the government should get at least $1.8 billion." In the unlikely friendship of Dingell and Zarb, Wall Street and Washington saw eye to eye. The proposal to sell Conrail to Norfolk Southern died in Dingell's committee. Congress later voted to endorse the public offering.

Ultimately Dole embraced the public offering. She graciously salutes her former adversary, Stanley Crane, with whom she had not spoken for more than two years, as "a fine railway man." For the record he considers her a "fine Southern lady." The taxpayers came out well. As a condition of the sale, the government was allowed to get $300 million back from Conrail before the offering. Since the issue yielded $1.65 billion, minus $70 million for underwriting fees, the government netted, $1.88 billion from the sale. Before it quit the field Norfolk Southern had upped its offer to $1.9 billion, but that figure included $500 million of Conrail's assets. Dingell called the bid "a shell game." At the insistence of Congressman Dan Rostenkowski, chairman of the Ways and Means Committee, Congress wrote down the value of Conrail's assets before the sale, which will lower the amount of depreciation the railroad can claim in the years to come and therefore raise its taxes. If that hadn't happened, Conrail could have been worth roughly $200 million more in the public offering.

Though the free-market forces won in the end, the Conrail saga points out that Wall Street and Washington are separated by more than a few hundred miles. Representatives of the securities industry, who are likely to be before Congress testifying about insider trading or lobbying against restrictive legislation should learn from the Conrail epic that most lawmakers do not understand what investment bankers do, and most regulators, even those in a sympathetic Administration, do not care.

One more lesson for Wall Street firms: Try to iron out your differences before you go looking for something on Capitol Hill. Goldman Sachs and Morgan Stanley spatted about which would be first among equals as underwriters for the initial public offering. In an unusual arrangement six main underwriters get equal fees of about $7 million each, but only one can boast that it managed the issue. Goldman had a claim to that honor because its contract with the Department of Transportation stipulated that if Conrail were sold in a public offering Goldman would be lead underwriter. Morgan Stanley insisted that its unceasing efforts for the issue entitled it to the prize. For two successive weekends. Zarb refereed a nasty argument between the two, finally deciding in Goldman's favor. He says of the squabble: "It could have blown up the public offering."

Why Privatization is Stalled

When the sale of Conrail was almost complete, some supporters of privatization gathered to celebrate, and Ronald Reagan asked: "Okay when do we sell the TVA?" The faithful looked at their shoes. The President told about a tiff he had had with TVA years ago. Everyone laughed. Then someone changed the subject.

TVA is not likely to go on sale. Nor are many other major federal assets the Administration would like to put on the block except perhaps for loans. Not just in the U.S., but around the world, governments are meeting resistance in trying to unload projects and properties that the private sector could run better. Of 1,000 attempts to privatize state-run operations, only 150 have been successful, says the International Monetary Fund.

In the U.S. the movement has stalled for several reasons. TVA and other major agencies that produce electric power, like Bonneville in the Pacific Northwest, will not be sold because the buyers would inevitably raise rates for local customers. "Legislators from those regions would be nailed to a cross before they'd allow anything like that," says a Congressman. In fact, Congress passed legislation forbidding the Administration from even thinking about such sales last year.

Amtrak. which operates passenger trains across 24,000 miles of track, might seem likely to chug off into the private sector after Conrail. Indeed, the Administration is counting on the sale of Amtrak's Northeast corridor to reduce the deficit by as much as $1 billion in the next fiscal year. But no buyers have stepped forward. Amtrak trains do not make enough to cover operating expenses, much less provide for capital improvements.

The government also wants to sell off the Naval Petroleum Reserves, oil fields in California and Wyoming. But oil prices are so low that a Mobil or an Exxon might not be willing to pay more than $5 a barrel. At that price, some politicians would surely cry sellout. Stuart Butler, a Heritage Foundation scholar, thinks that if Conrail had been sold quickly and smoothly through a public offering, the deal would have served as a model for spinning off the petroleum reserves as an independent company. Since the Conrail sale was anything but smooth, the chances of selling the petroleum reserves are slim.

A THIRD GENERATION OF NUKES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MARKEY. Mr. Speaker, yesterday the House voted overwhelmingly to suspend funding for nuclear tests over one kiloton, so long as the Soviets agree to limit their tests to this level and accept in-country verification.

The administration has argued that testing is needed for safety and reliability, but as an article that appeared in Time magazine this week suggests, the push to develop new nuclear warheads for the President's allegedly nonnuclear star wars program may be the real reason why Reagan refuses to negotiate a test ban.

In voting against more nuclear testing, the House has sent a strong signal to the world that it favors arms control over an arms race in third generation nuclear weapons such as the hydrogen bomb-pumped x-ray laser.

I commend the Time article to my colleagues attention.

A Third Generation of Nukes

The Hazebrook nuclear device that was detonated some 700 ft. below the Nevada desert last Feb. 3 was puny by most measures. Equal to about 40 tons of TNT, a mere .2 percent as strong as the Hiroshima blast, it would be feeble in a missile warhead. But in space, packed into the closed end of a stubby barrel and tamped down with hundreds of thousands of metal pellets, the low-yield weapon could wreak havoc. Unlike a standard nuclear explosion, which would vaporize the pellets and barrel, this one would spray the pellets through space at speeds up to 100 times that of a high-velocity rifle bullet. These pellets could not only burst the decoy balloons that would accompany a swarm of warheads but also destroy incoming missiles before their warheads were released.

Lieut. General James Abrahamson, director of the Strategic Defense Initiative, has confirmed that such a weapon, which he calls a "kind of nuclear shotgun with little pellets," is being developed under the code name Prometheus, despite SDI's supposedly nonnuclear status. It is only one among several new approaches to nuclear weaponry secretly under study in the nation's bomb-design shops, including the Lawrence Livermore and Los Alamos national laboratories.

The first generation of nuclear weapons were the fission bombs of the 1940s and early '50s. In their quest for more powerful blasts, scientists developed fusion bombs, which became the second generation of nuclear weapons. Now a third generation is being developed that stresses finesse and pinpoint targeting.

Among these new weapons is a bomb that would produce mostly microwaves; exploded in space, it could fry the electronic circuitry and computer chips of an enemy command center. Another bomb would concentrate the force of a nuclear blast on a small target; aimed at, say, the Kremlin, it could leave the rest of Moscow intact. The result, says Physicist Ted Taylor, "is a weapon as different from current nuclear weapons as a rifle is technologically from gunpowder." It is, he continues, "qualitatively a new phase in nuclear weapons development."

Taylor should know: a nuclear-weapons designer at Los Alamos from 1949 to 1956, he later worked for General Dynamics' atomic division and served as deputy director of what is now the Defense Nuclear Agency. In the April *Scientific American*, he argues that designers can enhance or suppress any of a bomb's destructive effects, including shock waves, heat and various types of electromagnetic radiation.

One advanced version is the Excalibur, already being tested, which boosts the X rays produced by a nuclear explosion. The idea is to use the X rays to power lasers, which would then be targeted at enemy missiles as they fly through space. Taylor argues that microwaves are a better bet for enhancement. Microwaves—the same kind of electromagnetic emissions that cook TV dinners—have a longer wavelength than X rays and can scramble electrical systems (hence the warnings to wearers of the early, unshielded heart pacemakers to stay away from some microwave ovens). Unlike X rays, microwaves can penetrate the atmosphere, reaching the earth's surface from space.

Rudy Garbely, an electrical engineer with ITT Cannon in Phoenix, says the microwaves from a ten-megaton detonation in space could turn virtually every unprotected electronic and electrical circuit within a 2,000-mile radius into a "piece of junk." Microwaves could be an effective way to destroy an enemy's mobile missiles. Because these missiles are not sitting in an easily targeted, fixed silo, it would take a large barrage of standard nuclear warheads to ensure that they were knocked out. But, as John Pike, a weapons expert with the Federation of American Scientists, points out, "a single third-generation nuke could blanket a wide area with microwaves, which would short-circuit the electronic mechanisms disabling the missiles."

Another third-generation technique is to shape bombs in such a way that their blast is focused in specific directions, as is now done with conventional explosives. Making a nuclear bomb disk-shaped, for example, channels most of the destructive force into two opposite-directed cones of energy, rather than sending it evenly in all directions. The result: destruction of specific targets rather than entire cities.

The debate is not over whether these weapons can be developed but whether they should be. Physicist Edward Teller, the father of the hydrogen bomb, argues that they are "uniquely designed for defensive purposes" and that "we need to know what the other side is doing and how to defend against it." But IBM's Richard Garwin, a weapons expert and active arms-control advocate, disagrees: "We shouldn't be going this route, not just because it's a Pandora's box but because it serves as justification for further nuclear testing. The human race has enough destructive weapons already.

Lowell Wood, the weapons designer at California's Livermore Laboratory who headed the Excalibur X-ray project, notes approvingly that the "obvious direction of weapons design is to increase the utility of weapons and at the same time decrease the disadvantages intrinsic to their use." But that is precisely what worries opponents. Because the new nukes will be smaller and less indiscriminately destructive, they will blur the line between nonunclear and nuclear weapons, thus making it more probable that a conventional skirmish would escalate into a nuclear exchange.

Despite the controversy, the Reagan Administration is proceeding with the new weapons. Sylvester Foley Jr., Assistant Secretary of the Department of Energy for defense programs, says his department spends "about 10%" of its $1.85 billion research, development and weapons-testing budget on directed-energy nuclear bombs. The push to perfect third-generation nukes, some experts say, is the main reason that the U.S. has refused to accept repeated Soviet proposals for a ban on nuclear testing.—By Michael D. Lemonick. Reported by Bruce van Voorst/Washington

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A TRIBUTE TO THEO E. SKARTSIARIS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a very special constituent of mine, Mr. Theo E. Skartsiaris. On Sunday, May 17, Theo was honored by the Kalamazoo Chapter of the Daughters of Iphigenia for his outstanding leadership within the Greek community and for his selfless service to the people of Kalamazoo. It is an honor that is well-deserved, indeed.

Theo Skartsiaris came to the United States from his native Greece shortly after his graduation from high school. He—along with his wife, Stacy, and their two children—moved to Kalamazoo, MI, in 1973 and has since established himself as a most successful restaurateur. Currently serving as governor of the Order of Ahepa, District 10 of Michigan, Theo has held many positions of leadership in Ahepa and has served as an officer of the Annunciation Greek Orthodox Church.

While Theo serves on several public and professional committees in the Kalamazoo area, he and Stacy are most noted for their philanthropic endeavors. Eight years ago, they began a tradition of opening one of their downtown restaurants on Thanksgiving Day to the needy, the elderly, and the lonely—serving 1,800 meals each year. Recently, Theo and Stacy were successful in convincing other Ahepans to do the same throughout the State of Michigan. This successful program fed 7,200 people and may become an annual event of Ahepa. For their unselfish deeds, the city of Kalamazoo has twice proclaimed "Theo and Stacy Day" and the Southwest Michigan Association of Social Workers has recognized Theo and Stacy as its "Citizens of the Year."

Despite his success since immigrating to the United States, Theo has never forgotten his roots nor turned his back on his country of origin. In 1986, for example, when Stacy's hometown was struck by an earthquake, Theo rounded up a truck full of clothing and convinced the Upjohn Co. to contribute over $4,000 in medical supplies to aid the disaster victims.

Theo Skartsiaris is a perfect example of what makes this country special. Here, people can succeed by the dint of their energy and hard work and imagination. Theo has done exactly that. Here, people give of themselves to help others who need help, whether they're in the same town or another continent. And Theo has done that, too.

Mr. Speaker, last week, Kalamazoo celebrated Theo Skartsiaris. His service, his philanthropy, and his personal success are all qualities to be honored and emulated. And in a broader sense, our celebration of Theo was really a celebration of Kalamazoo's entire Greek community—a community of people who, like Theo, have worked hard to uphold common values of family and community, of giving and democracy.

I'm delighted to have Theo as a constituent, and I'm proud to have him as a friend. I want to congratulate him and to wish him and his family many more years of happiness and success.

CANADA COLLEGE CELEBRATES 100TH ANNIVERSARY OF THE BIRTH OF SIGMUND ROMBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. LANTOS. Mr. Speaker, I am delighted today to join in Canada College's salute to Sigmund Romberg. The Center of the American Musical founded at Canada 3 years ago has compiled an exciting 2½-hour program of the songs and dances of this distinguished composer who was born 100 years ago. I am delighted that my colleagues in Washington, DC, will also have the opportunity to view this show when it is presented at the Smithsonian Institution on September 25.

Often called the American successor to Johann Strauss, Viennese-educated Sigmund Romberg brought a nostalgic flavor to his lilting melodies which Americans have been humming for years. I congratulate Canada College on helping new generations of Americans enjoy his music. Their newly established Center of the American Musical is playing a crucial role in keeping alive a unique American tradition—the American musical.

Sigmund Romberg's delightful songs, musicials, and operettas have been a source of pleasure and pride for many years. This native Hungarian generously shared his gift of music with his new-found nation, and left behind a musical legacy that has inspired young American talent to this day. Tonight, the students of Canada College have demonstrated that Romberg's enduring music can be enjoyed by all generations.

I congratulate Mr. Joe Markey of Canada College on his work in compiling this tribute to Sigmund Romberg. He and his students are helping keep alive one of our great traditions, the musical. I wish them success with their future endeavors, and encourage the Center for the American Muscial to continue sharing with us this unique part of our musical legacy.

Born in 1887 to a middle-class Hungarian family of artists and musicians, Romberg was encouraged by his father to study engineering. He enrolled in the Vienna Techische Hochschule, but spent his leisure hours in Vienna musical circles. Young Romberg taught himself the basics of composition, and was soon writing his first scores. However, when he turned 20, Romberg's studies were interrupted by Austria's compulsory 1-year army training. Afterward, he had no desire to resume his studies in civil engineering. It was decided that Sigmund would travel to America—"the land of boundless opportunity"—to begin life in the new world.

In September 1909, Sigmund Romberg saw Lady Liberty for the first time. His heart was filled with dreams of endless opportunities, and his pockets with his life savings of $300. Romberg began working at the Eagle Pencil Co. in New York City for $7 a week. On his fourth day of work, Romberg found himself penniless. After borrowing 25 cents from a coworker, he walked to the Second Avenue Cafe, where a plate of Hungarian goulash, half a loaf of rye bread, and a stein of beer could be purchased for a quarter. It was the music, rather than the food, however, that attracted Romberg to the little cafe. The cafe featured music by a string quartet, and was a rendevous for musicians.

The young foreigner had won an audition and was offered a job as a pianist. Romberg was to be paid $15 a week, plus all the goulash he could eat in a working day. Less than a month later, the manager of Pabst's Harlem Restaurant heard Romberg play, and persuaded him to work at has restaurant for $25 a week, plus all the fried chicken he could eat. Within the year Romberg had published his first American composition, "Memories."

Two years later, Romberg, organized his own orchestra. His group secured a job at Bustanoby's, one of the most popular cafes on the New York circuit. Not only was Romberg able to handle the 17-hour grind of playing dance tunes from noon to 5 in the morning, but he also found time to compose such dances as "Leg to Mutton," "Some Smoke," and "The Poem."

Romberg is best remembered, however, for his wonderful musical scores and operettas. J.J. Shubert engaged Romberg to write a score for the first Winter Garden show in 1913. Romberg's first show, "The Whirl of the World," was an immediate success, establishing both the reputation of Romberg and of the Winter Garden shows. In his lifetime, Romberg composed over 70 operettas; "The Midnight Girl" (1914), "The Blue Paradise" (1915), "Maytime" (1917), "Blossom Time" (1921), "The Rose of Stamboul" (1922), "The Student Prince" (1924), "The Desert Song" (1926), "My Maryland" (1927), "The New Moon" (1928), and "Up in Central Park" (1945) being among the best loved. In fact, Sigmund Romberg is the only composer in the history of the New York stage to have had three shows that each have seen more than 500 performances on Broadway.

WORLD TRADE WEEK, 1987

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BONKER. Mr. Speaker, as you are aware, we are in the midst of World Trade Week. The purpose of this commemoration is to call our attention to the large and growing importance that trade plays in our economy. In 1986, in spite of poor economic performance overseas, persistent trade barriers and 5 years of battering by unfavorable exchange rates, U.S. exporters shipped 358 billion dollars' worth of goods and services overseas, accounting for 8.5 percent of U.S. GNP. Over 9 million Americans owe their jobs directly to these exports.

The U.S. exports 20 percent of its agricultural output, 30 percent of its output of computer equipment, 25 percent of its aircraft production, 22 percent of its construction machinery, and 75 percent of its oilfield machinery, to name just a few sectors.

It has been a long time in coming, but the falling dollar finally appears to be having a positive impact on our exports. In volume terms, exports have been increasing steadily since the fourth quarter of 1986. Economists have noted that what little economic growth we have had in the past 6 months has been largely export driven. In the first part of this year, as compared to the same period last year, exports of paper products are up 22 percent, electrical equipment 9 percent, and textile mill products 9 percent. Exports to the European Community are up 7 percent, exports to Japan are up 7 percent, and exports to Hong Kong are up to 18 percent.

Although the outlook is brighter, we are still a long way from balancing our trade accounts. The United States ran a trade deficit of

$169.7 billion in 1986—imports c.i.f., an increase of 14 percent over the 1985 deficit of $148.5 billion. It took us 6 years to get ourselves into this position, and it will take at least that long to get ourselves out. By the time we do balance our trade account, we will also be worrying about paying interest on the foreign debt that we have run up, which could approach $800 billion before leveling off. So not only must we reverse the $170 billion trade deficit, we must also achieve a substantial trade surplus.

The fact is, even if we do nothing at all, the trade deficit will cure itself, but few of us would want to endure the wrenching economic changes. As foreigners lose confidence in our ability to remain competitive, the dollar will fall, and it could fall so far that imports become prohibitively expensive, and our exports become the bargains of the world. While at first glance the hands-off scenario may seem like the way to go, it in fact would bring unprecedented hardship to the United States. Prices would rise, interest rates would rise, and our standard of living would fall.

While there will no doubt be a certain amount of pain associated with balancing our trade account, we can and must work to lessen that pain. Restoring the competitiveness of the United States in the world economy is the key. Our import competing sectors must become more productive in order to replace more expensive imports, and the export sectors must become more aggressive in winning world markets.

The United States has the most open economy in the world, yet at the same time our exporters must compete with a plethora of unfair trade practices. While we want the market to remain open, we should do so only if trade is conducted fairly. In order words, we cannot allow anarchy to exist in world trade markets. Our goal must not be to place artificial limits on the imports coming into the Nation, but to ensure that we are filling the ships leaving our ports with high-value, competitive exports.

H.R. 3 goes a long way toward accomplishing our goals. First it reasserts U.S. leadership in the world trading system. The rules and principles of free and fair trade must be enforced, and H.R. 3 gives the President new and enhanced tools to do so. The second major thrust of the bill is to improve the export performance of U.S. business by making important changes in U.S. export policy.

UNFAIR TRADE PRACTICES

H.R. 3 includes a new subsection to section 301 which is designed to reduce large foreign trade surpluses caused by unfair trading practices. If negotiations taken by the USTR fail to eliminate trade abuses, the USTR is required to take action against those practices in an amount equal to the burden they caused to U.S. exporters.

EXPORT PROMOTION PROGRAMS

Government has an important role to play in helping U.S. business break into and retain export markets. Export promotion services are offered by the Commerce Department, Agriculture Department, State Department, and the Small Business Administration. H.R. 3 enhances these programs, providing new tools and authority to give our exporters the help they need.

EXPORT CONTROL REFORM

While we often complain about the trade barriers erected by other countries against our exports, we must recognize the barriers we impose on ourselves. A blue-ribbon panel sponsored by the National Academy of Sciences estimated that excessive export controls cost U.S. firms $9.3 billion in 1985. H.R. 3 goes a long way toward eliminating these excessive controls. We must recognize that national security depends not only on preventing technological leadage, but on maintaining a strong technology base within the United States.

REDUCING REGULATORY BURDENS

Exporting from the United States will impose some unavoidable extra costs on transactions, but these costs can be lessened. H.R. 3 contains language to ease the burdens caused by compliance with the Foreign Corrupt Practices Act [FCPA] and preshipment inspection requirements. We can make our exporters more competitive by reducing the number of hoops that they must jump through to complete a transaction.

INTERNATIONALIZING THE ECONOMY

We are in the midst of a period of unprecedented change in our economy and our society, in which we are being forced to become more competitive and integrated with the world around us. H.R. 3 institutes new programs to internationalize our educational system by providing the Secretary of Education with the authorization to make grants to State educational agencies for such programs as vocational education, foreign language training, and an improved science and mathematics curriculum. The bill also provides funds for worker readjustment and job training for displaced Americans who have lost their jobs due to a decease in world demand for the commodities they produce.

World Trade Week serves to remind us of the rapidly changing world economic environment in which we will either sink or swim. Gone are the days when the United States could establish the rules of trade and assert unchallenged leadership. This new environment provides us with opportunities as well as challenges from which we cannot back down.

If we are to maintain our high standard of living and our position of world leadership we have no choice but to strengthen our position in the world economy. We must restore the image of the Yankee Trader, spreading the "Made in the U.S.A." label to the far corners of the globe.

BALTIMORE SUN CELEBRATES 150 YEARS OF SERVICE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mrs. MORELLA. Mr. Speaker, on Saturday, May 17, the Baltimore Sun celebrated its 150th anniversary. But, despite the parties and hoopla, this was no ordinary business celebration. The entire city of Baltimore, and the surrounding environs turned out because, in a sense, it was their celebration as well.

Since that first issue—a four-page tabloid which in itself made journalism history—the Sun has been the mirror of the region. "Light for All" was the refrain of Arunah Shepherdson Abell, the 31-year-old Yankee Puritan printer who founded the Sun, and the newspaper through the years has shed light—and knowledge—on every aspect of life, not only within Baltimore, but throughout the entire world.

While it is considered fashionable in some circles to denigrate the mass media, particularly television, it is useful to consider the communications environment of 1837, and the vision that Arunah Abell brought to it. Though newspapers were the "mass media" of those days, most were avowedly partisan, and filled with opinion and even works of fiction, and they were expensive for the time. Not surprisingly, circulations tended to be small.

Arunah Abell's vision was of a newspaper that would report the news, and would sell for 1 cent. It was virtually revolutionary, and it succeeded beyond belief. In the very first edition, Abell produced a first, with a report that the Baltimore City Council had decided, in an extraordinary session, had approved the issuance of "scrip" as substitute money to cope with a national banking emergency. None of the city's six other newspapers had that story.

The Sunpapers have gone on to be not only the reporter, but the teacher, conscience and booster as well as critic of the community. Readers of the Baltimore Sun know they are well informed, not only on matters close to home, but on important events and developments wherever they occur in the world.

The record of historic achievements logged by what all recognize as one of the world's preeminent newspapers is truly significant, and I would like to cite just a few, in addition to the 12 Pulitzer Prizes the Sun has won:

The Baltimore Sun played a major role in securing congressional support for Samuel F.B. Morse's experiments with telegraphy;

When World War I hit, the Sun sent a reporter to cover the 29th Division and printed an overseas edition for Maryland troops;

The Sun put up the bail for John W. Scopes, the high school science teacher who defied the law by teaching the theory of evolution;

A Sun reporter was the only reporter for an individual newspaper on hand when the Germans surrendered at Threims to end World War II in 1945, and three Sun reporters witnessed the Japanese surrender aboard the U.S.S. *Missouri.*

Through the years, the Sun has become more than merely a newspaper, but a major institution.

Mr. Speaker, I am proud that Maryland is home, if you will, to a world-class newspaper such as the Baltimore Sun. I am pleased to salute it and those who produce it on its 150th anniversary, with the very deepest wish that we may look forward to at least another 150 years of this great newspaper.

MEANS FOR ACHIEVING U.S. FOREIGN POLICY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BROOMFIELD. Mr. Speaker, as the House begins its consideration of legislation to authorize appropriations for U.S. foreign affairs agencies and their operations, Members should consider what instruments the United States has available for achieving its foreign policy goals. The debates on the Foreign Relations Authorization Act and the International Security and Development Cooperation Act, known less formally as the State Department authorization bill and the foreign aid bill, focus on which of these instruments to employ and to what degree, to achieve U.S. foreign policy goals.

President Reagan issued the National Security Strategy in January 1987 to guide U.S. diplomatic, military, and intelligence activities. The following excerpt from the National Security Strategy sets forth succinctly the instruments of foreign policy available to the United States:

INSTRUMENTS OF FOREIGN POLICY

The United States has an exceptionally diverse array of tools for protecting its international interests and for supporting the drive toward democracy across the globe. It is possible that no other nation has ever been comparably endowed. These instruments are normally most effective when used in concert with others. All of them must be adapted to changing situations. The resurgence of our national strength in this decade has been broadly based. It will endure into the next decade only if we protect this base and ensure that the tools available to us are properly sustained and effectively used. The separate, but interrelated tools on which the success of our foreign policy depends are:

MORAL AND POLITICAL EXAMPLE

American spirit and prosperity represents a critical challenge to the ideology and the practical record of our adversaries: free, pluralist societies *work.* This power of example represents a potent advantage of American society, but we should not leave its expression to chance. It is in our interest to spread this message in an organized way.

MILITARY STRENGTH AND ECONOMIC VITALITY

A strong U.S. military capability is essential to maintaining the stable, secure environment in which diplomacy can be effective and our adversaries are deterred. America's economic power sustains this strength and fortifies our relations with the other countries that share our interest in a free and open international order.

ALLIANCE RELATIONSHIPS

The pursuit of American goals depends on cooperation with like-minded international partners. This relationship enhances our strength and mitigates the understandable reluctance of the American people to shoulder security burdens alone. The predictable difficulties that arise from time to time in all alliance relationships must be measured against the enormous value that these ties bring us and our friends.

SECURITY ASSISTANCE

By helping friends, allies, and those targeted by our adversaries acquire the means to defend themselves, we limit the potential of our own involvement in dangerous conflicts. Security assistance abroad is productive investment in our own security. It aids deterrence, promotes regional stability, helps to ensure access to vital overseas military facilities, and lessens our own military requirements. Resolute use of this valuable foreign policy tool directly promotes our security interests.

ECONOMIC ASSISTANCE

In the decades since World War II, America has contributed nearly $200 billion to the economic development of other countries. These financial resources have played a vital role in ensuring critical U.S. objectives are met. A well structured economic assistance program provide essential support for our world leadership position.

TRADE POLICY

The impact of economic assistance is maximized when it is matched by a sound trade policy that facilitates the best use of our assistance. Moreover, a trade policy that aggravates the economic difficulties of others may only increase the need for future American assistance. Adherence to the principles of an open and fair world trading order ensures that countries acquire the economic strength to stand on their own feet, and contributes to our own well-being through mutually beneficial trade. Security considerations will sometimes require restrained trade and allied cooperation to prevent enhancing the military capabilities of our adversaries.

SCIENCE AND TECHNOLOGY COOPERATION

For most countries, access to advanced scientific and technological resources is critical to prosperity and long-term economic growth. U.S. world leadership and vast resources in science and technology constitute important strategic assets to strengthen existing ties with friends and allies, and promote positive relationships with emerging nations.

PRIVATE INVESTMENT IN DEVELOPING ECONOMIES

The free flow of international investment is as central to global economic growth as an open trading order. U.S. private investment in less developed countries contributes significantly to their economic growth and promotes social stability. At a time when developing countries are striving to meet their debt-servicing obligations and the resources of our national budget are under pressure, the contribution of private-sector investment assumes increased importance.

DIPLOMATIC MEDIATION

In regions where conflict threatens our interests and those of our friends, political efforts are essential to ending violence, promoting freedom and national self-determination, and laying the foundations for future stability. The initiatives of American diplomacy take their strength from effective and integrated use of the other tools already discussed, and from the ability of U.S. representatives to act credibly as mediators of disputes. Making clear the firmness of our commitments to friends and allies will, in fact, increase the incentives of their adversaries to negotiate seriously.

INTERNATIONAL ORGANIZATIONS

Multilateral diplomacy and participation in international organizations provide an opportunity to address common global problems and share the task of solving them. Skillful U.S. diplomacy within these organizations has served to enhance our overall goals on issues such as peacekeeping, promotion of human rights, and encouraging the development of free economic and political systems.

SUPPORT FOR FREEDOM FIGHTERS

The tools of foreign policy must encompass the special needs of those who resist the Soviet-style regimes implanted in Third World countries in the 1970's and 1980's. America has a long history of private and government support to groups seeking national independence and freedom. This is a vital and important effort, as aggressive Marxist-Leninist regimes clearly threaten international peace and stability. We seek to advance the cause of freedom and democracy, and to demonstrate to the Soviets that their actions aimed at spreading Marxist-Leninist totalitarianism will bring them no enduring gain.

CURE MAY BE WORSE THAN THE ILL

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. HENRY. Mr. Speaker, yesterday the Education and Labor Committee voted to report to the full House of Representatives the bill H.R. 162, the "High Risk Occupational Disease Notification and Prevention Act of 1987."

Those of us who have opposed this legislation have repeatedly emphasized that it has very laudable purposes, but that there are very sound reasons for believing that in attempting to reach those purposes, the program established by the legislation will create an avalanche of new liability problems which many employers simply are not in a position to handle. We have also criticized the duplication involved in establishing a new Federal program, and have proposed, instead, to strengthen and expand the current OSHA hazard communication program. In other words, the bill does the wrong things for the right reasons.

These same points were recently made in an editorial in Business Insurance, the trade publication of the insurance industry. The insurance industry is not necessarily one that would be expected to oppose this type of legislation—they are not, after all, likely to have their employees or former employees receive notice of possible exposure from the Risk Assessment Board. So, I think it is particularly worth noting their concerns with this legislation.

CURE MAY BE WORSE THAN THE ILL

The principles underlying the proposed federal High Risk Occupational Disease Notification and Prevention Act are sound risk management principles, but we are concerned that implementing them as currently envisioned will prove more costly than our economy can afford.

As we reported last week, this legislation would create a Risk Assessment Board to identify substances that are likely to cause employees to become ill. That's implementing the risk management principle of identifying risk.

Employers that have exposed workers to substances declared hazardous by this board would be required to notify current and past employees who are or have been exposed to the hazardous substances in the workplace that they should seek medical testing to determine whether that exposure has or is likely to result in illness or disease. This requirement, which would aid doctors in diagnosing patients' illnesses and result in early treatment of illness, clearly implements the risk management principle of loss control.

Loss control also is implemented by the legislation's requirement that employers assign workers who are at risk of illness to a less hazardous job.

Under this risk management analysis, the legislation appears to be entirely appropriate. And, it appears to complement the Occupational Safety and Health Administration, which provides not only for the identification of hazardous substances, but also requires risk reduction and loss prevention through reduction or elimination of exposure to hazardous conditions and substances.

But, some business groups and legal experts are greatly concerned that the High Risk Occupational Disease Notification and Prevention Act, as drafted, will result in billions of dollars in expenses that businesses cannot afford to pay. Employers, for example, would be required to pay for the medical screening required for current employees. "It turns the workplace into a national health system," contends an official with the Alliance of American Insurers.

Further, some legal experts predict a large increase in the number of workers compensation claims and liability lawsuits filed by workers, including work comp claims based on stress created by fear of future illness and liability lawsuits alleging employers should have known years ago about the toxcity of certain hazardous substances. The costs will begin adding up for defense alone, even when liability is not found.

Some observers suggest the proposed act's requirements will drive more U.S. businesses out of the country.

These appear to us to be legitimate concerns that must be addressed by proponents of the bill.

Also of concern to us is the apparent duplication of efforts under the legislation and the OSHA hazard communication standard, also known as the right-to-know standard, which took effect May 25, 1986. The OSHA standard requires many employers to implement an employee hazard communication program that includes container labeling and employee training (*BI*, Sept. 30, 1985).

We support efforts to identify hazardous substances in the workplace, to eliminate harmful exposure to them and to practice early identification and treatment of illnesses. This is morally right. It also is economically sound, since prevention and early treatment should in the long term reduce workers compensation and medical care costs.

However, we have seen other federal programs with good intentions, such as the Black Lung Disability Trust Fund, result in unforseen costs, requiring amendments to bring costs under control.

The High Risk Occupational Disease Notification and Prevention Act is on a fast track in both houses of Congress and could pass as early as August. The Reagan administration has said the bill would be vetoed, but there is no guarantee that will be.

We don't want to see the whole concept of notification and prevention of illness involving hazardous substances derailed. We do think action on this bill should be slowed down to permit further study and analysis to determine if it is needed, what its costs will be, whether opponents' concerns are legitimate and what additional provisions could be included to satisfy legitimate concerns.

SMALL BUSINESS IN AMERICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 20, 1987, into the CONGRESSIONAL RECORD:

SMALL BUSINESS IN AMERICA

Small businesses are the backbone of the American economy. They form a large part of our economic structure, are the major source of new jobs, and provide many important technological innovations. The prosperity of our country owes a great debt to small business. We must take effective action to meet the challenges currently facing this vital segment of the economy.

Small businesses are defined in various ways—those with employees of 20 or less, 100 or less, or even 500 or less. By any definition, small firms are critical to our economy. By most estimates, there are over 15 million small businesses in the U.S., 98% of the nation's total. They provide ten times more jobs than the federal government, and three times more jobs than state and local governments, and three times more jobs than the Fortune 500 companies. In addition, small firms are an especially important source of job creation, producing over half of all new jobs. They also generate 47% of our gross domestic product (that portion of our national wealth produced from activities within the U.S.).

Small firms contribute innovative products and important services to all aspects of our society. They build houses, design and build electronic equipment, create new technologies, develop new medical procedures and equipment, and repair our automobiles. Over the last 30 years, small companies have created about half of all major product and service innovations. Further, these firms form an integral part of the operation of large corporations, which look to them as their suppliers, manufacturers, and distributors.

Despite the crucial role that small businesses play in our economy, they face many important challenges today. They have been particularly hard hit by high real interest rates, a strong dollar, and large trade and budget deficits. The failure rate for small businesses has been at record levels recently. In fact, during the last five years, more businesses have failed than since the Great Depression, 99% of them small businesses. While the states are taking many important steps to help small business, the federal government also needs to address several key issues.

One major issue for small business is obtaining adequate capital to start new enterprises and modernize existing ones. Banks and financial institutions are often reluctant to invest in these firms, preferring to fund more established ones. New legislation seeks to double the guarantee limits on Small Business Administration (SBA) backed loans. Although the Tax Reform Act of 1986 should help small business overall by sharply lowering tax rates, we must closely monitor its effect on their access to capital. We need to take a closer look at more creative strategies to help finance those starting and expanding their businesses.

A second major challenge is the array of government rules and regulations with which small business must comply. The cost per employee of meeting these requirements is nearly three times higher for small firms than for large ones. Regulatory flexibility, which allows the federal government to tailor regulations for small businesses, has been enacted into law, but the coverage of this law should be expanded. A growing problem is the extent to which the federal government is mandating that the private sector provide wage and fringe benefits. The Congress, for example, has required businesses to provide health insurance coverage for separated workers and is considering a raise in the minimum wage and mandatory parental and family leave policies. While these kinds of proposals address real needs of workers, some can place heavy burdens on small business.

The sharply rising cost of liability insurance is another concern. Some congressional action may be needed to stabilize these rates. While the Congress is holding hearings on the need for a uniform product liability law and on the problem of high insurance premiums, we need to act soon. Without effective action, many small firms may not be able to survive.

Technological innovation is increasingly an issue for small business. Because these companies have often been the principal laboratories for new products and processes in the past, we need to encourage them to continue to undertake innovative research. As research costs have risen in recent years, small businesses have fallen behind. The federal government has begun to encourage more participation by these companies in government-funded research and development programs as a stimulus to innovation. These efforts should be continued and enhanced.

The export market is another major challenge for small business. Small firms are not yet exporting in any significant way. Only about 10% of American firms now export, with just 250 large companies accounting for about 80% of all U.S. exports. The trade bill, recently passed by the House, has several provisions directed toward promoting exports of small firms, including a new $5 million SBA program to promote small business exports and technology transfer. In addition, the bill takes several major steps towards opening up foreign markets to American products.

While the federal government can assist small business with many of its specific concerns, sound national economic policy may yet prove to be the biggest help. Budget deficits especially hurt small business by reducing the amount of capital for expansion and limiting the ability of consumers to purchase the goods and services of small business. Serious efforts must be undertaken to trim the budget deficit to ensure that interest rates and inflation remain low.

In such a climate, the small business community will have a better chance of flourishing, and it will continue to form an integral part of the American economy. We must ensure that our system still provides industrious and innovative individuals the opportunity to start up their own companies and realize the benefits of their labors.

HOW TO AVOID A RECESSION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. GINGRICH. Mr. Speaker, the performance of our Nation's economy is an issue that should concern us all. However, a cause for even greater concern is the fact that there are many in Government today who advocate policies which only serve to undermine our economy. A recent article by Dr. Richard Rahn, who is the vice president and chief economist of the U.S. Chamber of Commerce, provides a four part plan to avoid the recession that will inevitably result if we continue to follow the counterproductive policies advocated by some. I commend his comments to my colleagues.

[From the Washington Times, May 8, 1987]

HOW TO AVOID A RECESSION

(By Richard Rahn)

The current turmoil in the foreign exchange and securities markets is indicative of the growing uncertainty about the course of the world economy. The U.S. economy has been growing at a less robust rate than forecast, leading to increased fears of an impending recession. But, recessions are almost always the result of policy mistakes, and if the United States and the world economy does fall into a recession in the next few months, it will be clearly because of policy mistakes. The villains will be apparent: the Japanese and German governments and a majority of the U.S. Congress.

The Japanese and Germans have engaged in excessive deflationary policies which have slowed their economic growth. The Japanese have also engaged in blatant protectionism which forces their own abused consumers to pay many times the world price for such items as rice, beef, citrus fruit, etc. Japanese mercantilist policies have caused not only their own citizens to suffer, but the rest of the world's people, in particular the populations of the developing countries which need the Japanese market for their exports.

The Germans and Europeans in general have contributed to the economic malaise by continuing to practice the economics of austerity rather than growth—they continue to pursue excessive taxation, government spending, and regulation.

Many members of the U.S. Congress, rather than acting responsibly by reducing the growth rate of government spending and making the tax system more internationally competitive, have instead been promoting economic suicide, through higher taxes, greater government spending and protectionism.

But it is not too late—there is still time to take corrective action. The following steps should be taken immediately:

1. The U.S. Congress needs not only to avoid passing a tax increase, but also to stop talking about the possibility of a tax increase—because such talk increases uncertainty. The empirical evidence is overwhelming: It is unambiguously clear that major tax increases seriously reduce the rate of economic growth.

Congress made a mistake last year in the tax reform process by substantially increasing the tax on capital and phasing in the rate cuts. To compound that mistake by delaying the tax cuts or increasing taxes would be dangerous and destructive folly.

2. The U.S. Congress needs to get serious about reducing the growth rate in spending. The evidence is conclusive that high levels of government spending reduce the rate of economic growth rather than enhance it. Many government spending programs are clearly counterproductive and result in higher levels of unemployment and economic misery. A responsible Congress, eager to avoid a recession, would get rid of much of the destructive spending and achieve the Gramm-Rudman-Hollings targets without gimmicks or tax increases.

3. Congress must not pass any protectionist trade measures. There isn't a responsible economist in the world who won't tell you that protectionism only leads to retaliation and higher domestic prices, which in turn slows economic growth and causes higher rates of unemployment and economic misery. The destructive effects of protectionism have been well-known for more than 200 years. Only the grossly irresponsible (and demagogues counting on public ignorance) would choose to go down the protectionist road.

4. The G-3 nations (Japan, Germany, and the United States) must come to an agreement on international monetary coordination, such as a commonly agreed "price rule." This is the most volatile part of the problem and must be addressed soon.

The economic ministers for the major countries should identify a group of internationally produced and traded commodities, or perhaps even gold, that have a one-world price, to which they can tie their monetary policy.

Specifically, if the market basket of commodities begins to rise in price in one currency, that would be a cue for the monetary authorities to reduce the growth rate of that country's money supply, while if the market basket of commodities in another country begins to fall that would be a cue for that country's monetary authorities to increase the growth rate of the money supply.

Such explicit, coordinated monetary policy should over time reduce the wide swings in exchange rates, thus reducing investment risk, which in turn would lead to higher levels of investment and economic growth.

If an international "price rule" monetary agreement cannot be worked out, the U.S. Federal Reserve should adopt an explicit one as a domestic monetary policy guide. Given that several of the current members of the Federal Reserve Board have publicly acknowledged that they do use certain commodity prices as an implicit policy guide, the transaction should be smooth.

It's really very simple: If responsible economic policy-makers want to avoid a recession, they need only to stop doing those things which are demonstratively destructive. Specifically, they need to seek price stability by using sensitive prices as a guide to monetary policy, avoid protectionist legislation and regulation, reduce the growth of real government spending, and avoid increasing taxes.

If we do get a recession, you can bet that one and probably more of the above rules will have been violated. It is cold comfort that, at that time at least, we will be able to identify those individuals who caused their fellow citizens the misery and pain of unemployment, diminished opportunities and a lower standard of living.

TO CELEBRATE 50TH ANNIVERSARY OF PRIESTHOOD

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. WELDON. Mr. Speaker, on June 7, 1987, the family and friends of Father Lawrence J. Conneen O.S.A. will gather to celebrate Father's 50th anniversary of ordination into the priesthood. Father was ordained on June 15, 1937, here in Washington DC.

Mr. Speaker, I take this time to pay special tribute because of Father's dedication and service to his fellow man. On this special occasion, we look back on a life of selfless giving: we look forward to the richness of our continued association with him.

After ordination, Father was assigned to the seminary at Villanova University. He served the seminary until 1941 when he was assigned to the Malvern Preparatory School. He served Malvern for more than 20 years. In 1962, Father was then made pastor of Our Mother of Good Counsel parish in Bryn Mawr. Father then went to Lawrence, MA, in 1971 where he served as pastor and prior of St. Mary parish. Transfered to St. Thomas Monastery at Villanova in 1979, Father then "retired" in 1983.

Mr. Speaker, in sum, a life of dedicated service. On behalf of his family and many friends, we gather to wish Father much happiness on the occasion of his 50th anniversary.

WILLIAM RALPH HANSEN

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MARKEY. Mr. Speaker, today I received the sad news that William Ralph Hansen, of Reading, MA, was killed in the attack on the U.S.S. *Stark* in the Persian Gulf last Sunday. Mr. Hansen was 22 years old. His tragic death affects us all, and I offer my sincere condolences to his family. Mr. Hansen died in the service of his country.

Mr. Speaker, words cannot fully describe the sadness we feel at moments like this; still, the tragic deaths of William Hansen and his comrades aboard the U.S.S. *Stark* remind me of a verse written for the fallen. I would like to have this verse in the RECORD:

They shall not grow old, as we that are left grow old:
Age shall not weary them, nor the years condemn.
At the going down of the sun and in the morning
We will remember them.

TRIBUTE TO BEDFORD, MI

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to Bedford, MI, on the occasion of the sesquicentennial of its settlement. The village of Bedford, nestled in a pleasant valley within the township of Bedford at a point where the Waubascom Creek crossed the Old Stagecoach Trail from Jackson to Grand Rapids, MI, was established when Mr. Hutchinson financed the construction of a sawmill and sold parcels of land to anxious buyers willing to construct the area's first houses.

There are many dates and many individuals that are important to Bedford's history: 1840, when Erastus Wattles, one of the earliest settlers of the area, was appointed the first postmaster and Everett Sitter carried mail on horseback between Bedford and Hastings, MI, and when a stagecoach line was begun between the same two towns by John Stuart; 1842, when the first school was launched and David Sutton, and later his brother, Aaron, taught the pupils of the area; 1844, when the village had grown large enough to attract an herb and medical doctor, Dr. Doane; the early 1850's, when the tiny village had progressed to the point that a cemetery was located on property donated by Mr. Hutchinson and a tavern was opened, to be followed later in the decade by the first general store run by Stephen Gilbert and the first grist mill erected by H.M. Marvin; the Civil War years, and the days of World War I and World War II, when many men from the Bedford area proudly served their country and several gave their lives to protect friends and family back home.

Mr. Speaker, Bedford has been going and growing strong for 150 years. There is much in the town's history that brings pride to the hearts of those who reside there. But it is also a time to celebrate its present and its future. I am honored to represent the Bedford area and to work with constituents who help their neighbors, contribute to their community, and teach their children to do the same.

GUEST CHAPLAIN—RABBI MALCOLM COHEN OF DALY CITY, CA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. LANTOS. Mr. Speaker, I am delighted to pay tribute to the guest chaplain who opened the session of the House today—Rabbi Malcolm Cohen of Daly City, CA. It is a great pleasure for me to have Rabbi Cohen from my congressional district as the guest chaplain, and I welcome him to the Congress today.

Rabbi Cohen serves Congregation B'nai Israel, the oldest Jewish congregation in San Mateo County, which has served residents of the San Francisco Peninsula since it was founded in 1908. Rabbi Cohen also served as a chaplain for the U.S. Air Force in Texas and England between 1952 and 1955.

In addition to his activity on behalf of Congregation B'nai Israel in Daly City, Rabbi Cohen has also been part-time chaplain for the California State Correctional Facility at Soledad since 1973. Furthermore, he frequently lectures at old age homes in the bay area.

IRENE BACHHUBER OF LONGVIEW, WA, GETS CHEVRON CONSERVATION AWARD

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BONKER. Mr. Speaker, I am pleased to note that Mrs. Irene J. Bachhuber of Longview, WA, was honored for her efforts to preserve the ancient cedar grove on Long Island in the Willapa National Wildlife Refuge at the Chevron Conservation Awards Program last Thursday.

As on who was personally involved in that effort, I can attest to the importance of Irene's grassroots coordination, as well as the work of her husband, Stephen. Without her tireless and enlightened efforts, I doubt that Federal protection for the Cedar Grove could have been achieved.

The 274-acre Cedar Grove on Long Island is the last remnant of a maritime forest type that was once prevalent in coastal areas of the Northwest. The location and terrain of Long Island provided sufficient protection from wind, fire, and loggers that the cedar forest perpetuated itself for thousands of years without change. It is one of the best examples of a stable climax community known to scientists and is home to a multitude of wildlife. Individual trees are over 1,000 years old and 12 feet in diameter. My visits to the Cedar Grove, at the request of Irene and others, left me with a sense of awe and a determination to ensure its preservation.

The groundwork for acquisition of the Cedar Grove was laid in 1983 when the U.S. Fish and Wildlife Service, which owns all the land on Long Island, and the Weyerhaeuser Co., which retained cutting rights to 155 acres of the grove, agreed to terms for Federal acquisition of the cutting rights. In appropriations for fiscal years 1986 and 1987, Congress made available $3.23 and $3.3 million, respectively, to complete acquisition of the Cedar Grove.

Given severe budgetary constraints, this was no easy feat. It took a well-coordinated, regional and national campaign to win the unbudgeted funds necessary for acquisition. Irene, acting under the auspices of the Willapa Hills Audubon Society and working through the network of 22 audubon chapters in Washington State, generated the grassroots support that made protection of the Cedar Grove a statewide and, ultimately, a national issue. She coordinated a campaign that resulted in hundreds of letters and calls to key Members of Congress as well as media coverage of the issue. Irene's dedication, knowledge of the issue, organizational skills, and personal qualities made her involvement critical to the effort.

It is therefore fitting that Irene should receive one of the annual citizen volunteer awards at the 1987 Chevron Conservation Awards Program. The conservation award dates back to 1953 and is the oldest privately sponsored conservation award program in the Nation. I am honored to have worked with Irene Bachhuber and am proud that her efforts have been recognized with the presentation of this prestigious award.

WASHINGTON GROVE MARKS 50TH ANNIVERSARY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mrs. MORELLA. Mr. Speaker, on Sunday, May 17, the town of Washington Grove celebrated its 50th anniversary of incorporation. Located alongside the Baltimore & Ohio Railroad, just east of the heavily traveled Gaithersburg-Frederick Road, Washington Grove is listed as an historic district with the National Register of Historic Places.

Washington Grove is a very special community, retaining the qualities of the country village which it became in the years after it was first formed as a Camp Meeting Association in 1873.

Today, amid the increasing urbanization of the surrounding area, Washington Grove is a quiet, wooded oasis, with footpaths that wind past homes set individually among the tall trees.

In 1950, Washington Grove was described as "a town within a forest, an oasis of tranquility." That statement rings as true today, a testament to the dedication of a community to maintain its identify and environment in harmony with nature.

I am proud to salute Washington Grove on the gold anniversary of its incorporation, and I know that my colleagues join me in wishing its leaders and residents continued success in the future.

CARIBBEAN BASIN INITIATIVE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 19, 1987

Mr. FUSTER. Mr. Speaker, as Puerto Rico's elected Representative to the U.S. Congress, I would like to share with my colleagues a remarkable and perceptive speech by our Governor, Rafael Hernández Colón, who addressed a large and enthusiastic crowd on May 13 at the National Press Club in Washington. In that address, Governor Hernández Colón spoke of the progress and problems of the Caribbean Basin initiative, and of Puerto Rico's pivotal, even catalytic, role in an imaginative program designed to serve the best interests of the United States, the various Caribbean nations, and Puerto Rico.

As Governor Hernández Colón said in his speech, "Today the Caribbean Basin is a testing ground for democratic ideals and social justice." Moreover, as the Governor noted, "A strong and confident Puerto Rico, working in constructive partnership with the United States, is central to the stability and progress of the region."

With that in mind, the Governor used the forum of the National Press Club to announce the creation of the Council for Puerto Rico-United States Affairs. This new council is not just a paper organization, not just another group with an unfocused agenda; rather, the council, which is composed of some very prominent residents of Puerto Rico and the United States mainland, will have, as Governor Hernández Colón said, "a compelling message to convey."

That message is that despite Puerto Rico's exemplary recent history as a people lifting themselves from seemingly hopeless poverty to reach the highest standards of living in all of Latin America, as the Governor observed, and despite our locked-in-concrete bond with the United States, too often we confront ignorance which can injure our partnership as surely as outright hostility.

Because of this failure of our fellow citizens of this Nation to acknowledge Puerto Rico's role and potential, the Governor said he was announcing the creation of the Council for Puerto Rico-United States Affairs.

Mr. Speaker, it is my pleasure to present to my colleagues the full text of Governor Hernández Colón's speech:

Remarks by Hon. Rafael Hernández-Colón, Governor of Puerto Rico

I am honored to be here because I value this organization—and what it represents. One of the many principles which Puerto Rico and the United States hold in common—one which, in a very real sense, has been strengthened through our relationship with the United States—is a deep belief in freedom of the press. We have a vigorous democracy in Puerto Rico because we have a vigorous public debate—and a tradition of vigilant journalism.

In Puerto Rico our perspective is Caribbean. We stand at the crossroads of the Americas, where the problems of underdevelopment were conquered not so long ago; where we have worked for many years to escape poverty and advance democracy; where the conflicts of Central America are close to home; where we care deeply about our neighbors in the Caribbean Basin, and in the vast continent to the south and about our fellow citizens in the North.

Our Commonwealth is a unique link between the United States and the Caribbean. For nearly a century, we have been part of the United States; for nearly half a century the federal government has explicitly supported Puerto Rico's own efforts to attract investment, to develop our potential, to create productive work for our people. The United States has helped Puerto Rico to help itself. We have asked for an opportunity, not a handout; for a chance, not a guarantee—and the distance we have come is powerful testimony to the virtues of freedom and the vitality of free enterprise.

Today the Caribbean Basin is a testing ground for democratic ideals and social justice. The entire world is watching what we do here. If we fail or falter in this region of vital geo-strategic significance, others elsewhere will question the capacity of free societies. But if we succeed, the Caribbean and the Caribbean Basin Initiative will become a model everywhere—and the most powerful rebuke to those who suggest that liberty is incompatible with social justice.

A strong and confident Puerto Rico, working in constructive partnership with the United States, is central to the stability and progress of the region. Puerto Rico is the Caribbean's economic and geographical pivot. With sophisticated infrastructure is communications, transportation, education and industrial facilities, Puerto Rico has much to offer the Caribbean. Our democratic institutions and free market system reinforce, psychologically and politically, our region's commitment to freedom and economic progress.

As a freely associated Commonwealth of the United States, indeed as a stragegic ally of Washington, Puerto Rico stands on the front line of freedom. Puerto Rico remains, and will remain, a part of the United States because an overwhelming majority of Puerto Ricans so desire. And the United States has committed to support this special relationship with Puerto Rico, and the economic progress of the island. A strong partnership between U.S. commitment and Puerto Rico's will to extend freedom and progress can advance our common interests. Together, we can assure economic growth and justice in Puerto Rico, and throughout the region—the social and political stability of important strategic outposts—and provide a vital platform for regional and Hemispheric understanding.

To this common cause, we offer our values and ideas, and our unique vantage point as U.S. citizens in Latin America. With so much to contribute, we seek to be—we must become—full partners with Washington in defending and extending democracy in our region.

We see the directions we must go; we believe we have a vital role to play and we are ready to do our part. A vital political, economic, and security connection for the United States is the North-South axis that runs from Canada to the top of Argentina.

We are a pivot upon which that axis turns. We must be involved—and so must the United States. Separate efforts will be weaker efforts; a common effort will yield far more than the sum of our separate parts. The United States cannot be isolationist in this hemisphere; Puerto Rico cannot be isolationist in the Caribbean.

We have shared experiences that span most of this century; we have shared ideas and dreams that can shape the next one. For in the end, the things which unite us are far stronger than any of the pressure which may ever push us apart.

Our closeness to the United States is not merely a matter of miles; our common bond is more than a matter of recent memory. We are tied together by events and a vision which reaches across five centuries.

The greatest barrier to a productive partnership is not how we see ourselves, but the failure of our fellow citizens of this nation to acknowledge Puerto Rico's role and potential. Too often we confront ignorance which can injure our partnership as surely as outright hostility.

With this difficulty in mind, we have create a Council for Puerto Rico-U.S. Affairs. This group of prominent private citizens, in Puerto Rico and the States, will act as public advocates for our island. The Council has a compelling message to convey.

The history of Puerto Rico is the story of a people lifting themselves from seemingly hopeless poverty to reach the highest standard of living in all of Latin America. Indeed no ohter place in this hemisphere has come so far, so quickly in building a modern economy.

It is the transformation of an underdeveloped agrarian economy into an advanced center for high technology. We have become a manufacturing center of pharmaceutical and health care products, a leading producer of computer chips and the pacemaker. We are the seventh largest trading partner of the United States.

Just as the United States has inspired and assisted us, we are working closely with our Caribbean neighbors in their quest for economic growth and enduring liberty.

We have seen in the Caribbean Basin Initiative an outstanding opportunity to achieve these objectives. We were present at the creation of this historic program. We have been the catalyst for major new investment in the region. We remain deeply—indeed frevently—devoted to its success, and determined to make it work.

Puerto Rico is the central force behind one of the most hopeful parts of the CBI—the program of complementary production or twin-plants.

Under this initiative a corporation splits the production process between Puerto Rico and a neighboring Caribbean or Central American country. Puerto Rico offers financing, on concessionary terms, to enterprises starting or expanding complementary production facilities. In a region deprived of capital, Puerto Rico provides a major new source of financing. With these investment incentives we supplement the free-trade provisions of the CBI. We believe that the best way to advance the competitive position of the Caribbean is to combine the comparative advantages of our economies.

Within that framework of cooperation, we have made substantial progress on twin-plants and production-sharing ventures. In less than a year we have generated almost $25 million in new private investments.

In Grenada, three complementary production projects represent virtually the only new investment that has entered that nation since the U.S. military left more than four years ago. For Grenada, newly emerged from oppression, twin-plants represent a downpayment on democracy.

Puerto Rico is also playing a central role in improving the region's infrastructure, vital to its continued growth. Our Ports Authority has contributed to the establishment of two major Caribbean hubs, by American and Eastern Airlines. This $80 million dollar expansion has significantly increased intra-Caribbean transport, and represents a major boost to the region's tourism industry. We are hard at work studying the feasibility of building an electric cable between Puerto Rico and the Dominican Republic. This $100 million project would significantly enhance our neighbor's economic growth, and improve the realiability of our electrical systems. And we are working with various companies on the Caribbean's first fiber-optic cable, which would link the region with North America and beyond.

The task of economic integration of the Caribbean will not be fully achieved in a few months, or even a few years. Our twin-plant initiative has made an impressive beginning, but it is only a beginning. It must be said—and said plainly—that serious obstacles have been placed in our way.

When it launched the CBI, Washington saw the link between democracy and development. Now we must reclaim that vision and reaffirm that linkage. We must revise bad policies that have overcome good intentions.

Let us agree today on a new start for the CBI. Let us pledge to provide an economic renaissance for the Caribbean and Central America.

The debt-burdened nations of the Caribbean desperately need access to new sources of low-cost capital. Yet Puerto Rico's offer to share access to pur pool of low-cost funds has been severely restricted by Washington. Under present tax law, only the three CBI beneficiary nations that have signed tax-information sharing agreements with the U.S. Treasury may have access to these funds. This restriction has succeeded only in limiting Caribbean development.

The present restriction should be made more flexible if we are to achieve the full potential of the twin-plant program.

Just as U.S. tax laws are curtailing twin-plant investments in the Caribbean and Central America, U.S. trade laws are curtailing the exports of the some of the region's leading products. A principal feature of CBI—one-way free-trade access to the U.S. market—has never been fully realized. In those areas where the Caribbean can compete most effectively—agriculture and labor intensive products—it has faced trade barriers. Access for goods not profitably produced in the Caribbean is effectively no access at all.

Indeed, not only in North America, but in Europe and Japan, agricultural and labor intensive exports from the Caribbean and Central America have been allowed only the most limited entry.

Even as it criticizes Japan for excluding American agricultural products, even as it pledges allegiance to free markets, the United States has cut its own market for Caribbean sugar to one-fifth the level of 1981. From Washington's perspective sugar quotas constitute merely a footnote in overall U.S. trade policy; but in certain CBI nations U.S. sugar quotas have had a devastating effect.

America's sugar policy calls into question U.S. support for the principles of the CBI. It belies American commitment to free trade and belittles the efforts of Caribbean leaders to provide jobs for their people.

For the Dominican Republic, El Salvador, and other Caribbean Basin sugar producers, drastic sugar quota cutbacks have proven disastrous. The Prime Minister of St. Cristopher-Nevis has noted that the CBI has created 140 jobs on that island but the most recent US sugar quota threatens 2000 jobs.

And now we see increased protectionist pressures in Washington and elsewhere threatening to further erode the trade benefits of the CBI. The Caribbean must not be a casualty of trade wars. New restrictions on exports from CBI countries must be resisted. Indeed, we must work, not to undermine, but to expand, the trade benefits of CBI.

The list of items eligible for duty-free access into the United States, especially in agriculture and labor-intensive industries, must be broadened, particularly where the article is not produced in the United States, or would not adversely effect existing enterprises. Duty-free access should also be granted to certain products partially made from U.S. components. These sensible steps would significantly boost Caribbean economies, enhance the twin-plant initiative, yet only minimally impact the U.S. economy.

We must also remove the uncertainty over the future of the investment and trade incentives available to the Caribbean. Congress should extend the life of CBI 20 years beyond the 1995 expiration and give investors the assurance they need that the CBI benefits will last well into the future.

The economic growth and vitality of the Caribbean and Central America, indeed of all of Latin America, is also imperiled by a crushing debt burden. Efforts to lift Latin American economies through new investments will avail us little if these nations sink in the quicksand of heavy debt payments.

At a minimum, the industrialized countries must encourage flexible and far-sighted solutions that can lift part of the burden of debt from the backs of Latin America's democrats. Nor can we reduce the flow of direct aid, as well as multilateral assistance through the World Bank and Inter-American Development Bank. And those nations accumulating massive trade surpluses have a special obligation to re-cycle these funds through international institutions assisting the new democracies.

Certainly the nations of Latin America and the Caribbean are affected by policies set in other capitals. But these nations hold the primary responsibility for their own future. Rather than wait for external solutions, we must generate our own opportunities for economic growth.

It is essential that we expand trade within the region, stem capital flight and promote capital formation, and remove regulatory barriers that limit much-needed foreign investment. And to assist the fledging private sector of many Caribbean Basin countries, we should promote joint-ventures between local enterprises and multinational firms.

We make these proposals in a spirit of optimism about the ability of our region to sustain economic growth. We reject the cynicism of those who see the CBI as doomed to failure, and the region condemned to a permanent state of underdevelopment.

To these voices of despair we offer a counter-argument: Puerto Rico. We have made democracy and development work. We have moved from deprivation to a prosperity unparalleled in Latin America. We see, in our own recent history, how a small impoverished island can achieve an economic and social transformation.

And so today we say that the economic integration and democratic unity of our region, the creation of an alliance of prosperity, is not a distant dream, but a challenge within our reach. We are determined to work with Washington on behalf of the basic values we share. Puerto Rico has joined the struggle for the soul of the Caribbean and Central America. The Puerto Rico of today is an invaluable strategic ally of the United States. It is not just that our sons have been willing to take up arms for the U.S. We bring to the political battle elements beyond weaponry—the power of democratic example, the proof that free enterprise means economic growth, a will and a way to help those committed to helping themselves along the path of liberty and national development.

VALLADARES OFFERS US A CLOSER LOOK

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. SHUMWAY. Mr. Speaker, for nearly three decades, Fidel Castro has been the leader of one of the most respressive societies in this hemisphere with the highest number of political prisoners per capita in the world.

I find it absolutely incredible that there are still individuals who refer to this self-avowed Communist as a Christian head of state and a crusader for social justice.

In Cuba it is a crime of ideological deviationism to share your religious beliefs with your children.

It is a crime to celebrate Christmas and Holy Week has been replaced by a celebration of the failure of the Bay of Pigs invasion.

The powerful prison memoirs of Armando Valladares, "Against All Hope", as well as the latest reports from the State Department and Amnesty International clearly document the religious persecution in Cuba.

I commend to my colleagues' attention an article on this subject which recently appeared in the Washington Times.

[From the Washington Times, May 8, 1987]

VALLADARES OFFERS US A CLOSER LOOK

(By Michael Novak)

Ernesto Cardenal, the priest admonished by the pope on the runway in Managua a few years ago, has written that Fidel Castro exhibits the qualities of a "Christian prophet." Astonishingly, some North American Christians believe this.

In the Jesuit magazine "America," Andrew A. Reding has recently written of Mr. Castro: "Here is one of those very rare leaders who have never sought personal enrichment, who have repeatedly risked their lives for others and who have established a system that affords preferential attention to the poor, the hungry, the naked, the homeless, the sick."

Nor is this all. "Here is a lifelong crusader against racism who now seeks to extend his labors for social justice to unraveling the profoundly immoral political and economic structure that is squeezing the life-blood out of Third World nations."

Admiration at last overcomes Mr. Reding: "Where in the world may we find so Christian a head of state?"

Mr. Reding believes that Mr. Castro's new tactical alliance with "progressive and revolutionary Christians" is "less a marriage of convenience than a convergence of kindred spirits. It is not so much Castro who has changed over the past decades, but the Latin American church."

Mr. Reding sees glorious possibilities for "profound transformations in Latin American Marxism and theology," such as those "currently being witnessed in Central America, most notably in Nicaragua and El Salvador."

Mr. Reding believes that the bright future of Nicaragua and El Salvador is to become like Cuba.

But hold on a moment. A few facts.

The Christian faith of Armando Valladares, the Cuban poet jailed for 22 years by Mr. Castro, was tested in the filth and deadening brutality of Mr. Castro's prisons. About his prison experiences, Mr. Valladares has written one of the most powerful books of our time: "Against All Hope" (Knopf).

Taken to prison, Mr. Valladares was stripped naked; all his belongings were taken by the guards. Lt. Paneque himself ripped off Armando's watch and, offended by the crucifix around his naked neck, "stretched out toward the crucifix and grabbed it with fury. He brutally stomped and kicked the wooden cross until it was scattered in pieces across the floor."

One of the prisoners was outraged and lunged at a guard. "Several militiamen jumped on him. The prisoner fought, bit, scratched, until the guards best him to the ground. His head was smashed and his face was covered with the blood gushing from his nose. He tried to stand up, but they booted him to the floor once more."

Years later, Mr. Valladares and a fellow prisoner surreptitiously built a little Christmas tree out of bits of cotton balls, decorated fragments of eggshells, and empty medicine bottles, hung on a "tree" of broomstick and wire. "Some nurses couldn't keep back their tears; seeing that Christmas tree of ours had brought back memories of the Christmases they had spent before Christmas was abolished by Castro's Revolution."

The head of the political police came with other officials and charged them with "stealing the state's cotton balls," and took the tree away.

The prisoners were subjected to medical experiments, such as being denied vitamins so that pellagra would ravage them. Mr. Valladares watched the dark stains creep up his chest and across his shoulders like a necklace. The skin of his fellow prisoner, Fernandez Gamez, peeled and flaked.

The absence of protein disfigured them. "First your ankles and your legs would swell up, then your thighs, testicles and abdomen, and then your chest and face." Doctors "performed all sorts of tests and anaylses—they carefully measured the food going into the men's bodies and the excrement and urine coming out; they did stool analyses and urinalyses; they took temperatures and blood pressures every four hours. The research lasted four or five days, at the end of which they administered doses of diuretics. You couldn't sleep then because you'd constantly have to get up to urinate. You seem to burst, like a balloon."

Mr. Valladares' body became soft, like dough, and by pressing on it with the finger he could produce an indentation almost an inch deep. When his stomach began to swell, they took him to the hospital. Thirty pounds had been squeezed out of him in five days. "Now I was nothing but skin and bones. Still I was taken back to the blackout cells again. They had to practically drag me between two soldiers, because I couldn't walk a straight line."

When in the darkness he was reduced to dread, Mr. Valladares "prayed to God. Lying in a corner of the dark dungeon, I closed my eyes and prayed to Him. Then a sense of tranquility began to take the place of the terror and fear and I felt comforted, my faith renewed."

Even today, Mr. Valladares remembers those who suffered torment with him during those long years: "Estebita and Piri dying in blackout cells, the victims of biological experimentations; Diosdado Aquit, Chino Tan, Eddy Molina, and so many others murdered in the forced-labor fields, quarries, and camps. A legion of specters, naked, crippled, hobbling and crawling through my mind, and the hundreds of men wounded and multilated in the horrifying searches . . . Eduardo Capote's finger's chopped off by a machete. Concentration camps, tortures, women beaten, soldiers pushing prisoners heads into a lake of shit, the beatings of Eloy and Izaguirre. Martin Perez with his testicles destroyed by bullets. Robertico weeping for his mother."

He remembers his long "orgy of beatings and blood, prisoners beaten to the ground," and on one occasion a prison friend of his emerging, "the skeletal figure of a man wasted by hunger, with white hair, blazing blue eyes, and a heart overflowing with love, raising his arms to the invisible Heaven and pleading for mercy for his executioners. 'Forgive them, Father, for they know not what they do.' And a burst of machine-gun fire ripping open his breast."

This is the work of Fidel Castro, that "Christian head of state" whose like is not found anywhere else in the world.

This, one supposes, is to be the future of Nicaragua and El Salvador, under Mr. Castro and his lovely Marxist regimes.

U.S. SMALL BUSINESS WEEK: MAY 10-16, 1987

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. McDADE. Mr. Speaker, more than a century ago the renowned foreign observer of American democracy, Alex de Tocqueville, made this trenchant remark: "No people in the world have made such rapid progress in trade and manufactures as the Americans. In democracies nothing is greater or more brilliant than commerce." As we celebrated U.S. Small Business Week during May 10–16, we could not help but to be struck by the wisdom and foresight of de Tocqueville's words. His message is as valid for the time in which it was written as it is for today and for those who read it. Were he alive today to observe the phenomenal growth of U.S. small business and its contributions to the economic strength and prosperity of this country, de Tocqueville would know with surety that his comment was not a casual, passing remark, but a statement of truth.

For years, our view of what constitutes the essence of U.S. economic power and commercial life has been shaped and dominated by large corporations. Small business has been largely relegated to a position of seemingly secondary importance. In truth, small business is and always has been important to our economy, but its contributions have gone mostly unnoticed. Yet, it continues to fulfill a role larger than the importance typically accorded it. Today, the popular notion of small business is undergoing change as we arrive at a fuller understanding of its importance to our Nation. Small business is a vibrant, growing section of our economy that has boosted the economic vitality of this country.

What is at the heart of the growth of small business and the rise of entrepreneurship? Basic industries have experienced economic hardships that have forced unpleasant but necessary decisions. These have resulted in belttightening, costcutting, layoffs, and even plant closings. As large corporations struggle to adjust to new challenges during a period of economic transition, working Americans increasingly view these adjustments as threatening their economc well-being and long-term security. Many have seen in these unsettling changes an opportunity to strike out on their own and make their own mark. The enduring dream and ideals of ownership and self-employment appeal to those who travel the path leading to these goals.

Men and women who pursue this course desire to unfold their creative talents and give them full expression in a worthwhile venture. These self-same individuals yearn for the independence and economic freedom—and satisfaction, too—that derive from self-proprietorship and self-employment.

Small business is making signficiant gains and contributing to the strengthening of our free enterprise system. More and more Americans than ever before are reaching for the dream of owning and operating a small business. Increasingly, women, minorities, veterans, and others are joining the ranks of small business owners. American consumers are profiting from their participation in the marketplace and share in the benefits of increased availability of goods and services at lower costs that are made possible through enhanced competition.

Today, it is estimated there are nearly 19 million small businesses nationwide which are providing employment for millions of Americans, most recent figures indicate that nearly 19 million Americans, or 53 percent of the total U.S. work force, are employed by firms with 500 or fewer workers. Since 1980, approximately three-quarters, or 8.8 million, of all news jobs were created by small firms. Growth in jobs is expected to continue. Industry analysts forecast for 1987 healthy employment growth in industries with substantial small business representation. Most industries are expected to increase their employemnt in 1987 by nearly 25 percent.

As we observed Small Business Week, we reflected on the achievements of small business and its substanital contributions to the building of this Nation's material progress and prosperity. Yet, the courage, initiative, creativity, individualism, talents, and vision of the nearly 19 million small business men and women of America who have made these accomplishments possible did not escape our attention or fail to win our admiration. Theodore Roosevelt once praised the enterprising spirit of those individuals who typify our small business men and women of today when he said, "Far better is it to dare mighty things, to win glorious triumphs, even though checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat."

In his approbation of democracy, de Tocqueville surely would have agreed that it is the spirit of a free people that is essential to the achievement of success in commerce. We are thankful for that spirit and grateful to our small business men and women for they are truly America's partners in growth.

BOTTOMFISH INDUSTRY IN NORTHWEST ECONOMY

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MILLER of Washington. Mr. Speaker, we have heard a lot in this Chamber recently about American industrial competitiveness and about what we in Government can and should do to improve our ability to compete in the international marketplace. As part of this debate, I'd like to share with the House some important news about an emerging American industrial success story in the Pacific Northwest.

Eleven years ago Congress enacted the Fisheries Conservation and Management Act, also known as the Magnuson Act. Named for Washington State's much esteemed Senator Warren G. Magnuson, this law established U.S. control over our 200-mile fishing conservation zone. The seeds of economic development planted more than a decade ago by the Magnuson Act are now bearing fruit.

Today, the world is beating a path to our fisheries. And thanks to the Magnuson Act, foreign fishing fleets can no longer just "take the fish and run." Today, American fishermen, American processors and American fishing support services reap the economic benefits of the "Americanization" and development of the Gulf of Alaska and Bering Sea fisheries.

Nearly a billion dollars has been invested in this development, creating thousands of new jobs. First came the joint venture fishermen, who used the processor preference provision in the Magnuson Act to create a brandnew industry for American fishermen—catching bottom fish and selling them over the side to foreign motherships. These creative businessmen really pioneered the bottom fishery. Now we are seeing American-owned catcher-processors and shore side processors entering the fishery. A decade ago, there were no U.S. factory trawlers, today there are about 20, next year there will be 30.

Mr. Speaker, fishing is the fourth largest industry in Washington State, contributing $1.6 billion to my State's economy. The 15,000 people working on fishing boats land about half the fish caught in U.S. waters. Another 10,000 people work in processing the fish. And this is a growth industry.

The North Pacific fishing industry is headquartered and homeported in Washington State. I am now working on key bills concerning reflagging of foreign processors, fishing vessel safety and liability reform, and examining possible changes in the Magnuson Act when we consider it next session. The goal of all of this legislative activity is the same: to help the American fishing industry continue to grow and develop.

Mr. Speaker, recently I hosted, along with Congressmen BONKER, LOWRY, and YOUNG, two conferences on the North Pacific fishery. I ask unanimous consent to insert into the RECORD the following newspaper articles which describe the conference held in Seattle. I hope my colleagues who are concerned about the decline of American competitiveness will take a moment to see that in Alaska and Washington, the fishing industry is booming because it is the most competitive and creative fishing community in the world.

[From the Everett Herald, May 5, 1987]

EXPERTS PUSH COOPERATION WITHIN BOTTOMFISH INDUSTRY

SEATTLE.—U.S. fishing interests have been advised to seek closer cooperation in the face of growing competition, especially in the bottomfish industry.

"It's up to you to try to work your problem out" Undersecretary of Commerce Anthony Callo told about 300 people at a North Pacific fisheries conference.

Failure to follow the rules and cooperate could bring harmful repercussions for fishermen as more and more people seek a living on the fishing grounds off Alaska.

Callo, who heads the National Atmospheric and Oceanic Administration, also said Monday he expected more pressure for an increase in the allowable catch for white fish in the Bering Sea and Gulf of Alaska. Most of the boats used in that fishery are based in Seattle.

Callo warned that scientists won't have enough information on fish populations to grant those wishes, partly because foreign boats that once were predominant in the region had to carry on-board observers who collected data on the catch.

"You will want another 10 to 15 percent out of the (optimum yield) next year, and we won't have the data," he said.

The conference, with more than 30 cosponsors, was a shirt-sleeves-up affair with plenty of give-and-take. Co-chairmen were Reps. Don Bonker, Mike Lowry and John Miller of Washington and Rep. Don Young of Alaska.

Despite some cautious notes, numbers presented to the conference by Lee Alverson of Neutral Resources Consultants of Seattle showed U.S. fisherman have cause to celebrate about North Pacific bottomfish.

In 1976, said Alverson, 1.7 million metric tons of bottomfish, mostly pollock, cod, flounder and sable fish, were harvested in Alaskan waters—almost all by foreign fleets.

In 1986, 1.8 million metric tons were caught almost all by U.S. boats.

"In about seven years, we have come from (catching) about 2 percent of the resource to 8 percent of the resource," Alverson said.

The turnaround, implemented under the 200-mile economic sea limit established a decade ago occurred in large part because industry and government worked together, said Alverson.

Also, he said, markets, prices paid fishermen and other factors had been kind to the industry.

The bottomfish industry was worth $370 million to America's last year and will be close to $500 million in 1987, vying with salmon as the most important Alaska fishery in terms of earnings, Alverson said.

Bill Woods of Trident Seafoods of Seattle said the future could be much greater for the Alaska fishery. With processing changing from foreign to U.S. hands, he said, the bottom line could be three times the 1986 return.

John Peterson, former president of Ocean Beauty Seafoods of Seattle, argued the case for processing interests. While U.S. fishermen have managed to catch virtually all of Alaska's bottomfish in joint ventures with foreign processing ships, America's shore-based processing industry has largely been left back at the dock.

He argued that the fish in U.S. waters should be processed by Americans, as well as caught by them bringing benefits in the value added to the resource through processing.

[From the Seattle Post-Intelligencer, May 5, 1987]

BOTTOMFISH INDUSTRY IS CATCHING ON AS A MAJOR PART OF THE NORTHWEST ECONOMY

The North Pacific bottomfish industry, which has boomed over the last five years, is experiencing growing pains.

Industry leaders fear profits made over the last few years in pollock, cod and other bottomfish will attract too many newcomers, who will invest more capital than the fishing resource can support.

They also say there is a problem with foreigners converting their vessels to U.S. registry to take advantage of laws that favor American ships in allocating the resource.

And industry officials say research must be increased to provide enough data to keep track of the size of the bottomfish resource and properly manage it.

"You tend to be conservative," said Seattle fisheries consultant Dayton Alverson, suggesting a shortage of data could lead to underutilization of the resource. Alverson said there also is the possibility decisions based on inadequate data could lead to overfishing.

A number of industry concerns emerged yesterday at a conference in Seattle on North Pacific fisheries. Co-chairmen of the conference were Reps. Mike Lowry, D-Seattle, John Miller, R-Seattle, and Don Bonker, D-Vancouver.

A similar conference was held during the weekend in Anchorage.

While the bottomfish industry is experiencing some strains as it comes of age, the more than 300 people at the Seattle session seemed generally bullish on its future.

"It's one of the—maybe the major growth industry in the Pacific Northwest," Miller said during a break. "And this has happened over the last four or five years."

In that time, he said, it has gone from "basically nothing" to a billion dollar industry providing 25,000 jobs. "And the prospects for growth are very good."

The industry, according to Miller, also is helping the U.S. trade balance, because much of the catch is exported. Annual per capita consumption of bottomfish in Japan, for example is many times greater than it is in the United States.

The growth of the U.S. bottomfishing industry was mapped out in the 200-mile limit legislation passed in 1976 with support of then Washington Sen. Warren G. Magnuson.

The law provided for the "Americanization" of an industry that was dominated by foreigners then. Under the law, Americans, as they geared up to the task, could displace foreigners in catching and processing bottomfish inside the 200-mile zone.

Americanization is now in full swing. This year, for the first time, foreign fishing is barred in the Gulf of Alaska and greatly reduced in the Bering Sea.

A number of factors are now combining with the law to improve industry conditions, said participants in yesterday's conference. Among them are low fuel costs, low financing costs, and the weak U.S. dollar that helps exporters.

Larry Bach, a vice president of Rainier Bank, said the potential of the fishery is "enormous," and capital investment will be large. But Bach cautioned:

"It must be a renewable resource." He said he hopes the bottomfish will not go the way of the Alaska king crab, a resource that went bust after a boom in the late 1970s.

Anthony Calio, head of the National Oceanic and Atmospheric Administration, predicted the industry will increase fishing pressure on groundfish and some will seek increases in the allowable harvest.

Calio noted, however, that the Northwest fishing industry in the past "has been willing to make sacrifices in the interest of conservation."

His agency is the parent of the National Marine Fisheries Service, the federal government's ocean fisheries regulatory authority.

Congress is considering several bills dealing with the "reflagging" of foreign vessels—converting them to U.S. registry.

And Walter Pereyra, who heads a company now building a 334-foot factory trawler, said it is important the United States retain control of the bottomfish industry.

"Reflagging would appear to be contradictory to the stated purposes of the Magnuson Act," he said.

TRIBUTE TO CONGRESSMAN McKINNEY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MORRISON of Connecticut. Mr. Speaker, I want to share with my colleagues an eloquent tribute to our late friend and colleague Stewart B. McKinney which appeared in the Bridgeport Post and Telegram on May 8, 1987.

REP. STEWART B. MCKINNEY—HE DID US HONOR

It has been said, "A dying man needs to die, as a sleepy man needs to sleep.

U.S. Rep. Stewart B. McKinney was a man with intuitive perception and infinite compassion. From 1971 until his death, he represented Connecticut's 4th District in the U.S. House of Representatives.

Some of the wealthiest people in the country reside in the district. Conversely, pockets of poverty exist in the cities. These neighborhoods have been injected with the poison which is the plague of the 20th Century—drugs.

Stew was deeply concerned about the urban ghettos for a number of reasons, especially because the youths in these areas are prey for the human parasites who sell drugs. In a sense, Stew was a Republican whose thinking and actions paralleled those of the late Senator Robert F. Kennedy.

There was no phony pretense about him. In conversation, he was candid. Perhaps, at times, Stew was reckless with words. But, always, he spoke his mind.

Stew never feigned to be what he was not. He loved being a congressman. The U.S. Senate had no appeal for him, nor did the governorship. The gentleman who has been taken from us had a special affection for the House of Representatives.

The facts of the Congressman's life do not fully reveal the nature of the man. Yes, he dealt with international and national issues with intelligence and decisiveness. Of equal or more importance was his genuine desire to help the disadvantaged. Because Stew McKinney never saw himself as a man deserving special treatment, he could visit shelters for the homeless and provide comfort and encouragement for people cruelly trapped by fate.

Always alert to the possibility that he might be able to make life a little better for others, he obtained a multimillion-dollar grant last year for the rebuilding of Father Panik Village in Bridgeport.

It was not difficult in Congress for Rep. McKinney to cross the aisle and gather the support of Democrats for his proposals. The public good, not politics, dominated his thinking and actions. His colleagues knew this. Stew was dedicated to the belief that the American process, if not tinkered with, would work for the benefit of all.

Not generally known is the fact that he and the late Gov. Ella T. Grasso corresponded regularly. Many of the notes were written by Ella when she was bored during a meeting in the state Capitol. Often, Stew's writings were done while a long-winded bureaucrat or representative of a special group testified during a committee hearing.

Ella, the Democrat, and Stew, the Republican, had much in common. Both enjoyed good humor and had little regard for practitioners of pomposity.

Stewart B. McKinney cherished the principles upon which this nation and state were built. He loved to debate, but he did not seek the wound. Back in the 1960s, while in the General Assembly, he made a remark which was reported out of context. It appeared that he had questioned the integrity of Gov. John N. Dempsey.

The following morning, the legislator from Fairfield went to the Capitol early, awaited the governor's arrival and apologized for any embarrassment the reports may have caused Gov. Dempsey. On the occasion, a bond was formed, a friendship that endured, with each man holding the other in high esteem. There was nothing superficial about Rep. McKinney. When he believed a Republican or Democratic president was right, he supported the chief executive. If he disagreed with policies emanating from the White House, he followed the dictates of his conscience.

At 56, Stewart B. McKinney was too young to die. And at 56, he had suffered from pain far too many years. While Stew was in his forties, a coronary bypass saved his life. In the past few years, he was beset by a variety of medical problems, but somehow he managed to carry on, insisting that tomorrow would be a better day.

Maybe he knew the odds were against him, but he fought hard and was cheerful to the end. During his campaign in 1986, Stew was open and frank. He invited voters to scrutinize his record. They did and he won a 9th term. As he traveled about the 4th District, the unthinkable was thought. It might be the last campaign for the elected official people had come to view as "Old Reliable."

Members of the Congressman's staff knew people were his first priority. This was a reflection of his thoughtful nature, his belief that government exists to serve people, not cause them grief. It was an endearing characteristic of the man.

U.S. Rep. Stewart B. McKinney did the 4th District, the entire state of Connecticut and the U.S. Congress honor by devoting much of his adult life to public service.

He never demanded. or asked, or maneuvered anything for himself, Always, he was alert to the possibility of privately performing an act of kindness. Sadly, today the old saying, "*The good die young,*" rings true.

A LEADING KILLER OF BLACK AMERICANS

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to address the issue of alcoholism and alcohol abuse in the black community. Currently, both are leading social and health problems for black Americans. We must focus upon this issue. To ignore it would be to jeopardize the future of our children—the very core of any community.

I am submitting, for the RECORD, an editorial written by Barbara Jordan, former Congresswoman from Texas, and George Hacker, director for alcohol policies at the Center for Science in the Public Interest. The editorial details the extreme health risks as well as other devastating effects brought on by alcohol abuse. It is my hope, that by bringing this problem to the forefront, we can drive this negative force out of our communities.

The article follows:

[From the Washington Post, May 17, 1987]

DEATH BY THE GLASS: ALCOHOL IS STILL A LEADING KILLER OF BLACK AMERICANS

(By Barbara Jordan and George A. Hacker)

America is moderating its drinking behavior. In response to public-service education campaigns, a trend toward health and fitness, beefed-up enforcement of laws against drunk driving, and the gradual aging of the population, consumption of alcohol in this country has been declining steadily in the past few years. As a result of this relative temperance, society suffers fewer alcohol-related traffic fatalities and a decreasing number of alcohol-related cirrhosis deaths.

Despite these health and safety gains, alcoholism and alcohol abuse are still the leading social and health problems in black America. When compared to similar problems among white Americans, the results of alcohol abuse are disproportionately high, despite an overall lower rate of drinking in the black community. The rate of cirrhosis mortality is twice as high among black males as it is among white males nationally; in some urban areas the rates are three to twelve times higher than for white males.

The leading causes of "excess death" among blacks—for example homicide, accidents of all kinds and cancer—indicate a correlation with alcohol and other drug abuse. The rate of cancer of the esophagus among black males 35-49 years old—a condition closely linked to alcohol consumption and smoking—is a staggering 10 times that of their white counterparts.

In the face of this carnage, blacks are being targeted, as never before, by alcohol producers intent upon expanding their sales and profits. The appeals range from implicit promises of elegance, power and sexual conquest to outright bribes of community groups who are asked to deliver more alcohol consumers in return for jobs and other economic development assistance.

Scholarship donations and sponsorship of Black History Month, though worthy contributions to the community, are often little more than public relations efforts carefully staged and publicized to maximize good will and forestall serious inquiry into prevention policies to reduce the harm from alcohol abuse.

The time has come to question the commercial activities of alcoholic beverage producers who aim to flood the black community with this country's most damaging, albeit legal, drugs. Black civic and religious organizations, community groups, and business and political leaders must develop a strategy to reduce alcohol-related problems in our community.

Alcohol marketers, too, have a role to play, beginning with reducing the pressure on blacks to drink. Celebrating Black History Month in advertisements or providing scholarships and other economic opportunities are helpful, but shallow, gestures when compared to massive advertising campaigns that promote drinking.

Young black men don't need Billy Dee Williams' or Fred Williamson's promises of fulfillment through drink. Black communities don't need the plethora of billboards extolling the virtues of alcohol.

Why must so many of our community events from school-yard basketball tournaments to the annual meeting of the Congressional Black Caucus Foundation—be sponsored by beer and liquor companies? The help may be gratifying, but is it worth the price? And why do so few makers of products other than alcohol and cigarettes court black consumers? Likewise, is it healthy for black-owned media and advertising agencies to be so heavily dependent on alcohol—and tobacco—marketers? We must ask why they are largely ignored when it comes to advertising more wholesome products to black audiences.

What is needed immediately is a commitment—on the part of alcohol marketers and the black media—to extend their community service in the black community by launching a full-scale, frontal assault on alcohol, as one of the many drugs that is undermining our community. We suspect that a sincere endeavor would be rewarded by enhanced positive brand awareness as well as by solid improvements in the conditions of black lives. A forthright acknowledgement of responsibility to do their share to reduce the toll of alcohol problems in the black community would also help reduce suspicions among many blacks and other industry critics about the true motives of alcohol producers.

Compared to the incessant advertising reminders in the black community that create an air of acceptability and necessity for drinking, there is a virtual vacuum of pro-health information and resources. Alcohol producers may do a little, but we must demand that government, insurance companies, and others greatly expand programs to correct this imbalance.

We can no longer afford to sit back as the very fabric of our community is torn asunder by those who, wittingly or not, put profit above the best interests of the black community. We must not ignore the future of our children, the stability of our families, the safety of our neighborhoods and the health of our people. The time is ripe for serious discussion among black—and white—civic and political leaders, advertising agencies, alcohol producers, governmental agencies and community groups about how to work together to fight alcohol problems rather than exacerbate them. Our society can only benefit as a result.

TRIBUTE TO RALPH D. CROWLEY, SR.

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. EARLY. Mr. Speaker, I am pleased to have this opportunity to bring to your attention a truly outstanding individual, Ralph D. Crowley, Sr., of Worcester, MA. Mr. Crowley has been selected as 1987 Small Business Person of the Year in Massachusetts. Appropriately, he will be honored by the U.S. Small Business Administration in Washington during Small Business Week, May 10 to May 14 of this year.

Ralph Crowley truly personifies the entrepreneurial spirit which has enjoyed substantial growth in the central Massachusetts region over the past decade. Here is a man who took a small family run business, Polar Beverages Corp., and transformed this modest company into the largest nonfranchise bottler in New England and one of the largest nonfranchise bottlers in the country. Ralph, through innovative business practices and hard work, has increased the sales of his company from less than $2 million per year to $36 million per year in less than two decades. His company now employes more than 300 people. These achievements, alone, warrant the well-deserved recognition which Ralph is receiving. This phenomenal success, however, is but one of Ralph's major accomplishments in the business world.

In 1986 Ralph purchased a small ski area, Wachusett Mountain in Princeton, MA. Previously this State-owned ski area had been run at a financial loss for at least 6 years. Today, after major renovations and expansion, Wachusett Mountain holds the reputation as the No. 1 ski area in Massachusetts and is among the top 20 ski areas in the United States. Ralph turned a losing venture into one of the most successful and well-run ski areas in Massachusetts.

Here is a man who sought to fill a need to the public and against enormous odds and skepticism from the business community and has surpassed all initial expectations for success. Wachusett Mountain offers skiers the largest teaching school in the Northeast. More than 215,000 skiers visited Wachusett Mountain last season. Ralph has also established an educational foundation designed specifically to meet the needs of the physically challenged. Last year more than 100 adults and children had access to skiing through this very special program. The recreational complex which Ralph has created at Wachusett Mountain offers year-round access to the public. Its close proximity to several major cities has made it a favorite spot among Massachusetts residents as well as visitors from Rhode Island and Connecticut.

It is projects such as these which separate Ralph Crowley from the average businessman. Ralph has taken his entrepreneurial talents and applied them successfully in every major project which he has undertaken. I am pleased to call attention to the dynamic individual who leads not one, but two, very successful and thriving businesses in Massachusetts. His leadership, dedication and commitment have earned him great respect among the people of central Massachusetts.

Ralph is also a trustee of the Worcester Art Museum and a member of the board of the New England Science Center Corp. He also serves on the boards of a local bank and hospital. He has served as a chairperson for the Worcester Heart Association and is the chairman of the annual fund drive for the Boy Scouts of America. Here is a man who has received numerous private and civic awards and is as dedicated to the service of his community as he is to his business and professional obligations.

Mr. Speaker I ask that you join with me in recognizing this truly unique individual, Ralph Crowley, who has been selected as 1987 Small Business Person of the Year for Massachusetts. He is a wonderful example of why small business is so very important. It is with great pride and joy that I bring to your attention today this remarkable individual from my district who is most deserving of the award for which he has been chosen.

TRIBUTE TO MR. JOSEPH HOFHEIMER

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to a distinguished resident of my district in New York, Mr. Joseph Hofheimer.

Mr. Hofheimer is to be honored on June 3 at the Westchester Country Club for his 5 years of dedicated service as chairman of the board of directors of White Plains Hospital Medical Center.

Joe's many activities as a member of the board have included membership on the: Executive Committee; Joint Conference Committee; Committee on Governance; Development Committee; Finance Committee; Long Range Planning Committee; Standards Committee; and Director's Education and Legislative Committee.

Under Joe's leadership and direction, White Plains Hospital Medical Center has launched major new programs such as the Family Health Center, the Ambulatory Surgery Center, and the Hospice and Geriatric Program. He has greatly extended the scope of hospital services provided and he greatly enhanced the hospital's fundraising efforts.

Joe's work for the community is as extensive as his work for the hospital. He served 6 years on the Scarsdale Board of Education, including 1 year as president. He has lent his considerable fundraising skills to such groups as Barnard College, the UJA Federation and Blythedale Children's Hospital where he served as chairman of the board and is currently a member of the board. He has been president of the Jewish Community Center and a member of the boards of the Scarsdale Town Club and the Family Counseling Services in Scarsdale. In 1986, Joe was awarded the Scarsdale Bowl Award as an outstanding citizen.

Joe graduated from Cornell University in 1944 where he majored in Government. He proudly served his country as a corporal in the U.S. Army in World War II where he was stationed in Europe during the Battle of the Bulge. He has been happily married to Natalie since 1946. They have 3 daughters, 1 son and 10 grandchildren.

Joe's family must be very proud of him and all of his accomplishments. I am certainly proud to represent him.

Mr. Speaker, it makes me proud to stand here today and pay tribute to such a hard working, decent human being.

A SALUTE TO CANTERBURY ELEMENTARY SCHOOL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. STOKES. Mr. Speaker, for the past several years, I have had the honor of bringing to my colleagues' attention the outstanding achievements of Canterbury Elementary School in Cleveland Heights, OH.

I can now boast that the school, located in my congressional district, has been cited for the third consecutive year by the National School Public Relations Association for exemplary performance. Canterbury is the 1987 recipient of the Association's Outstanding Public Relations Award. This distinguished award is presented to only one school in the United States each year.

In 1985 Canterbury School received an award from the Association for its Energy Education Day. The following year the school was honored for its Senior Citizens Day.

This year's program, "Harvest Festival" demonstrated a community public relations initiative. These activities, designed to bring the school and community together, are the ongoing efforts of Katie M. Shorter, principal of Canterbury Elementary School. Through her efforts and those of her dedicated faculty, the school has gained recognition for its academic achievements. More importantly, its students are instilled with a sense of pride and accomplishment for their efforts.

Mr. Speaker, we don't often hear enough about the "good things" achieved by our youth as they strive to obtain knowledge and skills. Canterbury Elementary School is a special place. I have visited the school on many occasions and witnessed firsthand the hard work of the students and faculty.

I know that I speak for the entire Cleveland community when I congratulate Mrs. Shorter and her school for this outstanding honor. I hope that my colleagues in the House will join me in saluting Canterbury Elementary School—a very special place.

A TRIBUTE TO HARRY C. PATCHIN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. GEKAS. Mr. Speaker, I am no different from many central Pennsylvania citizens who have fond memories of stuffing envelopes or otherwise performing volunteer services for Easter Seals under the watchful eye of Harry Patchin.

For us, Easter Seals and Harry Patchin are synonymous.

Mr. Speaker, today I would like to call to the attention of my colleagues in the U.S. Congress the achievements of Mr. Harry C. Patchin, a friend and constituent of mine from Harrisburg, PA. Harry is being honored by his family, friends and his Congressman on May 22 at the Hershey Motor Lodge for his many years of distinguished service to the Tri-County Easter Seal Society for the Handicapped and his community.

Harry Patchin will retire as executive director of the Tri-County Easter Seal Society for the Handicapped ending a career that spanned nearly four decades. Harry graduated from Penn State University with a B.S. degree in health education in 1948. After a 1 year stint with the Department of Public Assistance at Ford City, PA, Harry became the Easter Seal Society's top man on March 7, 1948—a position he has held to date.

Harry's activities and accomplishments over the years were not confined to his work for Easter Seals. In fact, his long list of activities for the benefit of his community, while too numerous to name them all here, would seem to be enough to satisfy most of us for a lifetime. For example, Harry has served in a variety of leadership positions as president of the Paxtang Manor Civic Association, the Cosmopolitan Club and Susquehanna Little League; chairman of the Susquehanna Board of Health; and treasurer of the Dauphin County Health Council to name just a few.

Harry Patchin's participation in many different projects and community services have won him special merits of honor, most notably the Big C Award in 1976 bestowed by Cosmopolitan International, Citizen of the Year in 1982 and Outstanding Distinguished Citizenship for 1981-82 both presented by the Harrisburg Elks, and a recognition plaque from Open Doors for the Handicapped for advocating the rights of the handicapped. He has also received recognition for his leadership under the Tri-County Easter Seal Society.

Mr. Speaker, I would like to express my congratulations and gratitude to Harry C. Patchin for many jobs well done. He has truly enriched the lives of all who have been privileged to know him and work with him.

IT IS TIME TO GET SERIOUS ABOUT OUR BUDGET PROBLEMS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. COBLE. Mr. Speaker, I have criticized this legislative body more than once for its inattentiveness to important budgetary matters. The failure of Congress to meet budget deadlines and live within other fiscal limitations came back to haunt us on May 13: We were given the choice of extending our already mind-boggling national debt limit or permitting the Government to default on its obligations.

At first blush, default sounds like a good idea. Given the amount of havoc Congress wreaks on the taxpayers, actually shutting down the Federal Government might solve more problems than it creates. As tempting as this alternative was, however, I opted to support a temporary 60-day debt extension. I did so for two reasons.

First, while the Federal Government is too big, intrusive, and inefficient, it should offer certain services to our citizens. There are many needed, worthwhile programs which would have shut down along with the rest of the Government in the event of a default. My chief concern was for the welfare of the Social Security system. I am tired of Congress holding Social Security hostage in such budgetary debates. The system is financially strong, serving millions of elderly Americans who once supported it with their payroll taxes. These Americans need and deserve their monthly checks, and this is one Congressman who will ensure that those checks continue to go out on time.

Second, extending the national debt for another 60 days gives us some breathing room—not to relax, but to work for budget reform. As I noted in other remarks to this body, our budget-making process is in need of a major overhaul. We can no longer afford to miss deadlines and waive spending limitations. We must begin to work with the Senate and the administration on shaping a new budget format which demands that we exercise discipline and responsibility. The 60-day debt extension better suits this purpose than the permanent debt extension, which I opposed. The latter would have extended the limit through September 30, 1988. This additional time would compel Congress not to act so much as to delay. In contrast, the shorter 60-day limit generates a serious sense of urgency which is too often missing in our budgetary deliberations.

I am pleased that the Senate followed suit by approving the House-passed 60-day extension. We must also commend the President for his recent pledge to work with Congress to enact budget reforms. The hard work lies ahead, but we are off to credible start.

In closing, Mr. Speaker, I once heard a member of the Grace Commission address a group of North Carolina businessmen on the subject of the national debt and Government spending. He tried to create a reference point that would allow his audience to understand the significance of the number, 1 trillion, by stating that 1 trillion seconds have not passed in time since the birth of Christ. Our national debt will exceed $2.3 trillion by July. It's time to get serious about our budget problems.

AGRICULTURAL TRACTOR TARIFF LEGISLATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. ASPIN. Mr. Speaker, I am today introducing legislation to direct the U.S. Trade Representative to seek a reduction in the tariff imposed by the European Community on agricultural tractor imports. This bill would require the USTR, to add the farm tractor tariff to the agenda of the current Uruguay round of the GATT talks.

The European Community currently imposes an 8.5-percent tariff on all imported farm tractors. This contrasts with EC tariffs on other types of farm machinery, which range from 3.5 to 4.1 percent. For over 20 years, tractors exported to the United States have entered duty free. This tariff advantage enjoyed by the European Community has served as a disincentive for domestic manufacturers of farm tractors to continue production in the United States, and has contributed to an increased flood of imports. Last year, 83 percent of all farm tractors sold in this country were imported.

Since 1980, the U.S. farm tractor industry has experienced declining sales and has responded by laying off over 50,000 employees and reducing production by 50 percent. In 1982, seven major domestic manufacturers produced agricultural tractors. Today, only two such manufacturers are still producing tractors.

To be sure, many factors have contributed to the decline in U.S. production of farm tractors, among them the overall slump in the farm economy, lower labor and material costs overseas, higher market demand in Europe, and the increased value of the dollar through the mid-1980's. However, it has become increasingly clear that the inequitable tariff structure also has been a significant factor.

It is essential for our Government to tackle the problems facing the domestic agricultural tractor industry. My bill would address one of these major problems by requiring our trade officials to start negotiations to eliminate the tariff inequity. A reduction in the EC tariff would help to improve the export market for agricultural tractors and encourage our domestic producers to increase production.

Finally, I should point out that conditions in the domestic farm tractor market have not improved in 1987. In fact, imports are expected to rise by another 5 percent. A lower tariff in Europe will not be a miracle cure for the industry, but it will help to make the rules of the trading game more fair. I urge my colleagues to support this legislation.

CUBAN INDEPENDENCE DAY—MAY 20, 1987

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. FASCELL. Mr. Speaker, today marks the 85th anniversary of Cuban independence from the domination of Spain. It is a day of celebration and of sadness. For, unfortunately, the freedom that was so valiantly wrested from colonial Spain by Jose Marti, Maximo Gomez, Antonio Maceo, and countless other Cuban patriots many years ago has been stolen from the people of Cuba by Fidel Castro and his followers.

However, almost 30 years of Communist dictatorship has not quenched the Cuban people's thirst for freedom. This burning desire has been kept alive in the hearts of Cuba's captive people and in the hundreds of thousands of Cubans who were forced from their homeland, often with little more than the clothes on their backs, to take refuge in the United States.

Cuban Independence Day marks the culmination of a 30-year struggle to free this island nation from domination by a foreign power. An alien force, international communism, today dominates Cuba, so the struggle for freedom continues. This new struggle will end as the old one did, because no amount of repression can kill the longing of people to live in dignity and freedom.

Many of those who fled Cuba in the past few decades represented that nation's best and brightest, and Castro's loss has been this country's gain. These dedicated and hardworking exiles readily assimilated into south Florida; our traditions and values became theirs, and they have proved loyal and constructive citizens of this country. Cuban-Americans have enriched the community economically, culturally and politically, and we have all benefited enormously from their contributions.

Their successes and apparent in myriad forms and at every turn—from small, thriving family businesses to large industries. The vitality of the Cuban people and their unfailing dedication to the principles of freedom and democracy has made them an example for all of us. Therefore, it is only fitting that on this important anniversary we share in their dream that Cuba will once again be free. The achievement of this goal is vitally important, not only for the Cuban people, but for our Nation as well. We are reminded on this occasion that freedom is fragile at best, and must be protected and nurtured by each succeeding generation.

TRIBUTE TO MSGR. JOHN PATRICK CARROLL-ABBING

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to a man whose contributions to the youth of the world, and to mankind, are limitless. The Rev. Msgr. John Patrick Carroll-Abbing, founder and president of the Boys' and Girls' Towns of Italy, will be receiving a remarkable award in recognition of his work. June 4, the anniversary of the liberation of Rome, will be the investiture of the monsignor as an Honorary Citizen of Rome.

Monsignor Carroll-Abbing will be the 29th person over the centuries to receive the distinction of Honorary Citizen of the Eternal City. Thus far, only 3 of the 29 citizens have been non-Italians. Monsignor Carroll-Abbing stands now in the company of President Woodrow Wilson and President Franklin D. Roosevelt.

Monsignor Carroll-Abbing played a leading role in defending the persecuted and assisting the populations in battle areas during World War II. The monsignor developed a nationwide network of medical services for the poor in 1944, and in that same year founded the National Organization for Street Boys which fed homeless children. His organization has turned into one which provides a fresh start in life to homeless youngsters from five continents in his democratic self-governing communities.

Mr. Speaker, I ask that this body commend Monsignor Carroll-Abbing's unceasing activity on behalf of the suffering and his dedicated service to children and young people all around the world. His actions have inspired the city government of Rome to celebrate his 50 years of service to humanity by conferring to Monsignor Carroll-Abbing the extraordinary award of Honorary Citizenship of the Eternal City.

A SALUTE TO CONGRESSIONAL SENIOR CITIZEN INTERN LOUISE JOYCE PICKETT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. STOKES. Mr. Speaker, As you know, May is National Senior Citizen Month. May also marks the beginning of our Annual Congressional Senior Citizen Intern Program which is being held May 18–22, 1987. At this time, I would like to salute an outstanding senior from my congressional district who is serving as one of my senior citizen interns for 1987—Mrs. Louise Joyce Pickett.

Mrs. Pickett has resided in Cleveland since her childhood. Through the years, she has become an integral part of our community.

Mrs. Pickett is currently employed as a communications specialist with the Ecumenical Senior Ministries of Collinwood and as an outreach worker with the Euclid Beach Villa Senior Center. She also serves as vice president of the Collinwood Community Congress and helped to organize the Collinwood Community Centers Geriatric Nutrition Program.

Mrs. Pickett is chairman of the Handicap Advisory Committee of the Western Reserve Area Agency on Aging; publicity chairman of the Eastside Retired Workers Golden Age Center and chairman of the Northeast District Church Women United. She is a member of Beulah Baptist Church in Cleveland.

Mr. Speaker, Mrs. Pickett has received numerous awards and citations for her community service. However, despite these achievements, she has not rested on her laurels. She maintains a leadership role in the fight for critically needed programs to assist seniors, and is an advocate for seniors in the 21st Congressional District of Ohio and throughout the State.

Mrs. Pickett and her late husband, William, are the parents of five children: James, Abdul Raheem, Charles Henry, Janice and Ronald. The character and spirit of Mrs. Pickett is best described by her favorite quotation: "God grant me the serenity to accept the things I cannot change, Courage to change the things I can, and Wisdom to know the difference". Mr. Speaker, I hope that my colleagues will join me in saluting Mrs. Louise Pickett—an outstanding senior.

TOBACCO PRODUCTS SHOULD BE SUBJECT TO CONSUMER PROTECTION REGULATION

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BATES. Mr. Speaker, I am today introducing legislation which would remove the special and unwarranted exemption accorded to tobacco and tobacco products under the Consumer Product Safety Act.

Under the act, the Consumer Product Safety Commission [CPSC] is denied any authority to regulate the safety of tobacco and tobacco products. It has no jurisdiction to address the hazards of cigarette smoking to consumers.

This special treatment is especially ironic considering the serious health effects of tobacco. Tobacco accounts for 30 percent of cancer deaths and the CPSC is denied any authority to regulate consumers' exposure to tobacco. According to the Department of Health and Human Services, more than 300,000 Americans a year die prematurely from smoking-related diseases. There is no justification for allowing such a harmful product to escape the safety system we have established for other products.

Every serious study that has been done documents the dire health effects, on smokers and nonsmokers, of inhaling tobacco smoke. Medical authorities across the country repeatedly urge that we find ways to reduce exposure to smoking and to tobacco products.

If we deny our regulatory agencies the ability to investigate tobacco products, as they do all other products, we will never make progress in our efforts to reduce the health effects of tobacco exposure. It is time that we turned the attention of our safety agencies on smoking and tobacco, and take action at the Federal level to protect people.

Mr. Speaker, this legislation does not require that the CPSC take action in this area. It merely gives the agency the jurisdiction to do so. I will be exploring additional legislative initiatives to ensure that some action is taken by the CPSC. In addition, I will be looking at other methods to achieve the goal of reducing smoking and the harmful effects of exposure to tobacco. This legislation is a first step in my efforts to eliminate the hazards of exposure to tobacco.

HONORING AUSTIN E. CANNON, JR.

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. LENT. Mr. Speaker, on June 5, the Bellmore Council of the Knights of Columbus will host a testimonial dinner honoring a constituent of mine, Mr. Austin E. Cannon, Jr., who served for 11 years as master of the Ninth District of New York, which encompasses Nassau and Suffolk Counties. In honor of this memorable occasion, I would like to say a few words in recognition of Mr. Cannon's significant contributions to the betterment of the Bellmore community.

Mr. Cannon is an outstanding American who has given selflessly of his time and energy to benefit his church, his community, and his country. As a teacher of social studies at the Lindenhurst Junior High School for the past 26 years, Mr. Cannon has worked tirelessly to provide our young people with the finest education possible and to challenge them to reach their fullest potential as individuals. Mr. Cannon also enjoys working with young people in Scouting and other community activities. He is affiliated with numerous professional organizations and is an active member of the St. Barnabas Church parish. His demonstrated leadership in the community and commitment to helping his fellow man are a source of inspiration to many.

Mr. Cannon exemplifies the basic values of honor and integrity, love of family and country which are the foundation and strength of our great Nation. Therefore, it is appropriate that Mr. Cannon should be honored for his many years of service as master of the Fourth Degree which holds patriotism as its main theme. Among the many accomplishments during his long and distinguished tenure in this position, Mr. Cannon coordinated local activities for the Nation's bicentennial celebration.

I'd like to join his family and friends in offering my sincere appreciation to Mr. Cannon for his many years of dedicated service to the community and best wishes for continued happiness and success.

SAN JOSE JOB CORPS CENTER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MINETA. Mr. Speaker, I am pleased to salute the San Jose Job Corps Center [SJJCC] for 15 years of excellent service to our community. Job Corps is a specialized training program for young, low-income adults, ages 16 through 21, who volunteer for job skill training.

The SJJCC is part of the nationwide Job Corps system which began in 1965 as part of the Office of Economic Opportunity, then was transferred in 1969 to the Comprehensive Employment and Training Act and in 1982 was moved to the title IV section of the Job Training Partnership Act.

The SJJCC was one of the forerunners of the Job Corps Center aimed primarily toward helping Hispanic youths. Recent immigration trends have changed the target population to now encompass a large Indochinese population, as well as Afghans, Central Americans, Ethiopians, and Eritreans.

The SJJCC is a complete residential facility providing housing for members during training. This unique feature is designed to cater to the needs of students in an environment geared toward developing maturity and self-discipline, both of which are vital ingredients toward greater knowledge. Also, Job Corps has a nonresidential facility that enables qualified individuals with family obligations to participate in training.

The SJJCC instills the value of education and teaches its students the necessary skills required for success in the workplace. Of particular emphasis at the SJJCC is a solid instructional program underscoring the importance of the work ethic in our society. In the past 15 years, more than 10,000 young men and women who were previously assisted by welfare and other Government subsidy programs have now been trained to compete in the workplace.

Mr. Speaker, I respectfully request that my distinguished colleagues in the House of Representatives join me in commending the SJJCC for 15 years of outstanding service to our young people in Santa Clara County. As is often stated, "Job Corps works—and so do its graduates."

WHAT THE PHILIPPINE REVOLUTION MEANS TO ONE NEW YORK CITY SCHOOLGIRL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. SOLARZ. Mr. Speaker, I rise today to bring to the attention of my colleagues an excellent essay written by Emily May Jocson, a student at P.S. 115 in Floral Park. This essay demonstrates not only the quality of written work which our public schoolchildren can produce, but also the appreciation which many of our students, even at a tender age, have of the importance of freedom and democracy.

Emily was born in the Philippines, but her parents fled to the United States in search of freedom and democracy when she was but an infant. Like millions of other Americans, Emily Jocson was deeply moved by the sight of huge crowds of ordinary Filipino citizens rallying to end the repression they had suffered under the Marcos regime. They were willing to risk everything to restore democratic rule to their country.

Recently, Emily had an opportunity to visit the Philippines with her family, where she was privileged to read her essay to many different audiences. She was invited to read it to President Corazon Aquino, whom Emily described to me as "the kindest and most caring person I have ever met."

Mr. Speaker, I insert this essay in today's CONGRESSIONAL RECORD:

WHAT THE PHILIPPINE REVOLUTION MEANS TO ME AS AN AMERICAN

The Philippine Revolution happened thousands of miles away twelve months ago, but my family and I felt it as though it happened right here in New York City. What did it mean to me? Two words I can think of are pride and hope.

I feel proud because I have Filipino blood and their freedom means my freedom, too. When I was one year old, we left the Philippines because my parents did not want me to grow up in a country without freedom. I never learned to speak the language nor do I know a lot about the Philippines. I used to dream that one day, Marcos would leave the country and make the sorrow of the Filipinos go away.

I feel proud because Cory Aquino and the Filipino people did what no one else in the world has done. They won a revolution without violence but with "People Power". I still remember happily, the night we watched on television how Filipinos in the home country and in New York celebrated this wonderful "miracle". We saw nuns and children kneel in front of tanks and the tanks stopped. We have learned from our teachers about Martin Luther King and his work for peace. He was before our time but

Cory Aquino is during my time. I feel proud to have her as my heroine.

I end with hope, hope that the rest of the world make Cory and the events in the Philippines an example for peace and understanding without having to use guns and bombs to kill people. And maybe, just maybe, I will learn more about the Philippines and even learn to speak the language because, you see, I have Hope.

SILVER JUBILEE OF MAYOR'S COMMUNITY RELATIONS COMMITTEE

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to a distinguished committee of volunteers in Yonkers, NY, a city which I am honored to represent.

On June 20, 1987, at the Hudson River Museum in Yonkers, four past mayors of Yonkers, along with current mayor Angelo R. Martinelli, will honor the Mayor's Community Relations Committee [MCRC] on its silver jubilee.

The MCRC, which is staffed entirely by volunteers, was created in 1962 to, among other things, "promote understanding and respect among all racial, religious and cultural groups;" "integrate all groups into the general life and activities of the community;" "make citizens understand the importance of working as a team in order to make the city better;" and "enhance the image of the city."

While the MCRC maintains a low profile, several highlights of their outstanding community work deserve mention here. At Kubasek Trinity Manor, a group of senior citizens gathered in the first senior citizens library specifically furnished and dedicated to the memory of the seven astronauts who lost their lives aboard the *Challenger.* This library, organized under the direction of Steve Luchka, is the only one of its kind.

Another outstanding example of their compassionate achievements is the ongoing Sharing Community for the Homeless. This group, in conjunction with several churches and other groups, provides clothing, food, books, and various other items that are often in short supply.

Mr. Speaker, this is just a small sampling of all that has been accomplished by this amazing group of volunteers. To list all of their gracious deeds would require more time and space than we have. I am honored to serve in a district where the people care about one another and make the job of governing that much more worthwhile.

Mr. Speaker, please join me in congratulating the Mayor's Community Relations Committee on their silver anniversary.

A SALUTE TO CONGRESSIONAL SENIOR CITIZEN INTERN EVELYN JOYCE CULVER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. STOKES. Mr. Speaker, it is a pleasure for me to salute Mrs. Evelyn Joyce Culver, one of my Congressional Senior Citizen Interns for 1987. Mrs. Culver is here this week participating in the Congressional Senior Citizen Intern Program. At this time, I would like to share information on Mrs. Culver with my colleagues.

Mrs. Culver is a graduate of the University of Wisconsin with a bachelor degree in philosophy. Her family moved to the Cleveland metropolitan area in 1948. From 1965 until her retirement 10 years later, Mrs. Culver served as director of the Cudell Senior Center, now a subsidiary of the Golden Age Centers of greater Cleveland. As director, she implemented critical programs and services for the elderly, as well as educated seniors about legislation affecting the elderly.

Mrs. Culver's involvement and commitment to the elderly in the 21st Congressional District is worthy of the highest praise. She is the recipient of the Ohio Commission on Aging Community Service Award; the board of trustees of the Golden Age Centers of Cleveland Distinguished Service Award; and has received special citations from the Cleveland City Council for her work with seniors.

Mrs. Culver is married to John W. Culver. They are the parents of five children: Elizabeth, Joan, David, Alexander, and Sally. She is a member of the Society of Friends.

Subscribing to the philosophy, "People can help one another by taking an interest in their fellow man," Mrs. Culver has been a champion for seniors in the 21st Congressional District. She is an outstanding individual and I am proud to have her serve as my Congressional Senior Citizen Intern for 1987.

Mr. Speaker, I deem it an honor to have the House join me in saluting Mrs. Evelyn Joyce Culver.

IN TRIBUTE TO SISTER CHRISTINE MORVAN FOR HER 40 YEARS IN TEACHING

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BOLAND. Mr. Speaker, I would like to call my colleagues' attention to a remarkable woman, Sister Christine Morvan. Sister Morvan is retiring from teaching after 40 years of dedicated service. This in itself merits recognition, but to cite her retirement alone would be to paint only a partial picture of her lifetime of accomplishment.

Sister Christine Morvan has dedicated herself to the role of servant. First and foremost, she is a selfless servant of God who answered a call to a religious vocation as a Daughter of the Holy Spirit in France and was sent to the United States some 48 years ago. She is also a servant of the people, particularly the young, with whom she has worked as an educator over the last 40 years, sharing her own extensive knowledge with literally generations of students.

Sister Morvan's field of expertise is mathematics, for which she received both a master's degree and a doctorate from Catholic Universtiy. She has taught at a number of educational institutions in Vermont, Connecticut, and most recently at the College of Our Lady of the Elms, in Chicopee, MA. I should also add that she furthered her already advanced education with a year's study of computer science at the University of California at Berkeley just 5 years ago at age 70. I don't think I have to describe to any of my colleagues the rigors of a university curriculum; such an undertaking at age 70 is truly a testament to her ability and her thirst for knowledge.

Mr. Speaker, Sister Morvan is a talented mathematician, with an exceptional ability to make the mysteries of that science clear to her students. She will be honored on her lifetime of service this Sunday, May 24, at the commencement ceremonies at Our Lady of the Elms, and will return to her native France in September. It is my belief, however, that she will be long remembered in our country for the selfless devotion and fine example she displayed in one of society's most important undertakings, that of teacher.

A TRIBUTE TO CHANCELLOR AND MRS. CHARLES E. YOUNG

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today on behalf of Chancellor Charles E. and Sue Young, this year's recipients of the Neil H. Jacoby International Award. The Youngs will be honored by the International Student Center at the University of California at Los Angeles on June 2, 1987. To mark this occasion, I would like to share both the history of this esteemed award, and the Youngs' numerous accomplishments with my colleagues in the U.S. House of Representatives.

Since 1963, the International Student Center at UCLA has been a force for international understanding through the exchange of ideas among foreign students and the citizens of southern California. In 1983, the center created the Neil H. Jacoby International Award in order to recognize those whose lives exemplify, in the manner of Dean Jacoby, an active commitment to the quest for peace.

Past recipients have been selected from various fields of human endeavor—Jean and Irving Stone in the arts; Frances and Armand Hammer, commerce and personal diplomacy; Peter Ueberroth and Mayor Bradley, world wide communication through the Olympics; Ellen and Norman Cousins, humanitarian activists and intellectual leaders.

Dr. Young was selected in recognition of his monumental success in guiding UCLA from a good university to one of the world's great international research institutions.

During the 18 years of his leadership, UCLA has become international in every respect. The faculty is drawn from throughout the world. Its five multidisciplinary foreign study centers are ranked as national resources by the U.S. Office of Education. These centers bring to the students, faculty and community, a focus on Africa, Russia, and Eastern Europe, the Near East, East Asia, and Latin America. In addition, the Center for International and Strategic Affairs has achieved international recognition for its studies in arms control and international security, and the most recent addition, the center for Pacific Rim studies, brings an issue-oriented approach to the common concern of the peoples of the Pacific Rim.

Exchange with foreign universities and active in Japan, Yugoslavia, Israel, Saudi Arabia, Mexico, Liberia, Somalia, and Togo.

Over 5,000 foreign students—immigrant and nonimmigrant—from 108 countries study at UCLA, and UCLA enrolls the most ethnically mixed and culturally diverse undergraduate student population, both in total and as a percentage of enrollment, of any major university in the United States.

The International Student Center at UCLA, which is bestowing the Jacoby award upon Chancellor and Mrs. Young, was built through the contributions of volunteers in the Los Angeles area, and is supported as a joint venture of the community and the university. Dating back even before he was chancellor, Dr. Young recognized the importance of such a community effort, and he has consistently worked to keep the partnership vibrant. Now, Chancellor Young is the guiding light for a project to build a new, larger international center on the campus of UCLA.

Sue Young has been an integral part of the success of UCLA. She has pioneered new thinking about what the role of chancellor's wife entails, and has achieved national recognition as an advocate for the full recognition and appreciation of that role, having recently served as chairman of the Council of Presidents/Chancellors Spouses of the National Association of State Universities and Land-Grant Colleges.

Among her many professional duties, Sue Young was the keynote speaker for the 1986 conference of the American Association of University Women, and she served with distinction on the Los Angeles City Civil Service Commission.

Chancellor and Mrs. Young have two children and five grandchildren.

It is an honor to be able to pay tribute to Charles and Sue Young. They are extraordinary Americans and I cannot think of two more deserving individuals to receive this award. I ask that the leadership and other Members of this body join me in saluting the Youngs for their outstanding accomplishments and wishing them the very best in all their future endeavors.

COMMENDATION OF MRS. IVONNE ABD-EL-BAKI BY REPRESENTATIVE MARY ROSE OAKAR

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Ms. OAKAR. Mr. Speaker, I would like to commend to my colleagues, and to all art aficionados, a splendid cultural exhibit that I had the pleasure of attending earlier this month. The renowned Lebanese artist, Ivonne Abd-El-Baki, held more than 1,000 guests in thrall with her showing at the IMF on May 6.

This inaugural American exhibit of Ivonne's works, "Shadows of the Orient," is inspiring art. it is also much more: Mrs. Baki is a political woman making her statement through her art. To cement the strong bond of friendship that exists between the Lebanese-American community and the people of Lebanon, Ivonne Abd-El-Baki interweaves the beauty of our Lebanese heritage with our people's hopes for peace.

Ivonne dedicated her new gouache, "The Passage," to the resilience of the Lebanese people. If I may quote Mrs. Baki for a moment, "The Passage was inspired by the response of Renoir when urged to lay aside his brushes and rest his arthritic hands. 'The pain will pass,' he said, 'but the beauty remains.'" So we all pray for Lebanon, in her hour of struggle.

Mrs. Baki has won numerous international awards, including the coveted Le Merite de l'Excellence Europeenne and the Award of the Festival of Graphic Arts of Osaka. Many of her paintings are on permanent display at such esteemed institutions as the State Presidential Palaces of Lebanon and Ecuador, the Museum of Cannes, and the Goethe Institute of Beirut.

I hope our own National Museum of Women in the Arts as well as the National Gallery of Art, will acquire representative pieces of this Lebanese art. I commend Mrs. Baki's work to my friends here in this Chamber and around our Nation.

THE SPIRIT OF AMERICAN TOURISM

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BADHAM. Mr. Speaker, recent reports show the trade deficit is shrinking, but there is more good news about the international economic situation than is immediately apparent. Today, as we take note of National Tourism Week, and its theme, "Tourism Works for America," I would like to share with my fellow Members some information about the tremendous impact of the travel industry upon all of our lives.

My more dramatically inclined colleagues have called the trade deficit a terrible thing. But what do those numbers mean? Quite simply, we are sending more dollars abroad than we are receiving. Often, however, we forget that many of those dollars are coming back with tourists to create more jobs and sustain our economic growth.

And even more of those dollars are expected to return this year and in the future. Tourism is, indeed, on the rebound. According to the Department of Commerce, nearly 23 million international travelers will visit the United States this year. That is up 4 percent from last year.

It seems tough to please the so-called experts, who first complain that the dollar is too strong and is hurting exports and then complain that it is falling too quickly and hurting the world economy.

But the news about tourism is unequivocally good.

Besides shrinking the trade deficit, tourist dollars contribute to tax revenue. That revenue reduces the Federal budget deficit and helps State and local governments finance the education of our youth, aid the less fortunate among us and build the roads that contribute to economic growth.

In fact, the benefits we receive from tourism are more than economic. Tourism is an ideal means to foster good will and improve relations with other countries on the most personal and effective level.

When receipts from domestic and international tourism in the United States are combined, the industry generated more than a quarter of a trillion dollars last year. The tourism industry deserves recognition as one of the largest industries in the world, and the more than 5 million peope who work in tourism in the United States deserve recognition as vital and important couriers of good will.

And the U.S. Travel and Tourism Administration, which organized the "America—Catch the Spirit" campaign promoting the United States as a destination for foreign travelers, deserves recognition from the Congress for its excellent work. Clearly, "Catch the Spirit" is an appropriate slogan. Tourism itself has been called America's greatest export, but it is our spirit that is our most important asset and tourism allows us to show off that spirit.

TRIBUTE TO DR. THOMAS SOBOL

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay special tribute to a distinguished and dedicated academic administrator, Dr. Thomas Sobol. Dr. Sobol has served as the superintended of schools in Scarsdale, NY, for the past 16 years and has recently been selected as commissioner of education for New York State.

Dr. Sobol's service to New York State education does not begin and end in Scarsdale, however. A graduate of Teachers College of Columbia University with a masters degree from the Harvard Graduate School of Education, Dr. Sobol has held various teaching and administrative positions throughout New York. The positions he has held include director of instruction in Bedford, as well as chairman of the department of english; assistant superintendent for instruction in Great Neck; president Lower Hudson Council of Chief School Officers; chairman, Distinguished Service Committee, New York State Council of School Superintendents; president, Metropolitan School Study Council, Teachers College, Columbia University. Dr. Sobol is currently a member of the Alumni Council of Teachers College at Columbia. In addition, Dr. Sobol has recently written a book entitled "Your Child in School" to be published by Arbor House Publishing Co.

It is obvious that this impressive list of achievements shows us a man who is unceasingly committed to education. His work in New York State has certainly contributed to the improvement of the education of the young people throughout the State. Quality of education would greatly suffer were it not for academicians and administrators such as Dr. Sobol.

In honor of Dr. Sobol, the village of Scarsdale has announced that Sunday, May 31, 1987, will be Thomas Sobol Celebration Day.

I would like the Members of the House to join me in congratulating Dr. Sobol for his accomplishments during his 16 years of service for Scarsdale schools and wish him continued success as commissioner of education for the State of New York.

MARY BOWMAN WILL BE RETIRING AT THE END OF MAY

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. GRAY of Illinois. Mr. Speaker, unfortunately, another institution is leaving Capitol Hill. At the end of May, Mary Bowman, Supervisor of Accounts in the Office of the Postmaster will be retiring after 32½ years of service to the U.S. House of Representatives.

Over the years, Mary has seen a great many changes in the Office of the Postmaster and in the House as a whole. She has developed warm relationships with all those she has touched with her warmth and understanding and left an indelible mark on all.

Mary's devotion to her job and her colleagues is legendary. She is always willing to take the time to help her friends no matter what the situation.

Mary's professionalism and dedication to her job and to the U.S. House of Representatives have won her great respect and admiration over these many years. She has seen the operation of the Office of the Postmaster grow tremendously and has been a vital part of its development. Her input and experience has been invaluable to all of us.

Mary Bowman will be sorely missed and the Office of the Postmaster will never quite be the same without her kind words and smiling face.

I know my colleagues join me in wishing a great abundance of health and happiness in her retirement.

NATIONAL PARKINSON'S DISEASE AWARENESS WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. BIAGGI. Mr. Speaker, I rise today in recognition of "National Parkinson's Disease Awareness Week," and the many activities held throughout the Nation this week by the Parkinson's support groups of America. I am proud to be the author of House Joint Resolution 111, along with my good friend and a champion of the elderly, CLAUDE PEPPER. We sponsored this resolution in the hope of increasing public awareness and understanding of Parkinson's, and ultimately, assisting in efforts to treat and cure this disease.

While I am deeply saddened that the Members did not approve this measure prior to this week, I believe it only appropriate that we mark this occasion. Over 1.5 million of our elderly suffer from Parkinson's disease. It strikes 1 out of every 100 Americans over the age of 60. It is a devastating illness—one of the most crippling disorders of the central nervous system.

This resolution signifies our commitment to ameliorate Parkinson's disease, and assist Parkinson's patients and their families. It represents the promise of our Government to meet the challenge and fulfill its role with respect to the prevention, treatment, and cure for this affliction. It is time for our country to renew and strengthen its efforts regarding knowledge and the treatment capacity of Parkinson's disease.

I want to thank all of the Parkinson's support groups across this Nation for joining me in the observance of "National Parkinson's Disease Awareness Week." It is my hope that my colleagues will join me in this tribute next year. By approving this important legislation. For the benefit of everyone, the text of the resolution follows:

HOUSE JOINT RESOLUTION 111

Whereas Parkinson's disease is a devastating illness afflicting an estimated one million five hundred thousand persons in the United States;

Whereas Parkinson's disease strikes one out of every one hundred Americans over the age of 60;

Whereas Parkinson's disease is one of the most severely crippling disorders of the central nervous system;

Whereas the various Parkinson's support groups of America, which are composed entirely of volunteers, are devoted to working for the amelioration of Parkinsonism and dedicated to assisting Parkinson's patients and their families in coping with this illness; and

Whereas our knowledge and treatment capacity continues to grow and bring new hope to those who bear the burden of this affliction: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning May 17, 1987 is designated "National Parkinson's Disease Awareness Week."

NATIONAL FOSTER CARE MONTH

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. SPENCE. Mr. Speaker, I rise today to offer a resolution that would designate May of 1988 as, "National Foster Care Month."

It is well known that a family environment with loving and caring parents is the best possible situation for children, however, in this country today, there are hundreds of thousands of foster children who through no fault of their own, have been stripped of this normal home relationship that contains love, shelter, and the other basic needs of all children. Foster parents give their time, energy, material resources, and most important of all, love, 24 hours a day, every day of the week to help these children develop into mature, responsible, and productive adults.

Foster parents have a long and proud tradition of reaching out to those children who need them most and it is our duty to publicly recognize their efforts and call attention to the vital needs of all foster children in the United States.

Mr. Speaker, I urge my colleagues to cosponsor this most worthy resolution.

MEDICARE REIMBURSEMENT FOR MAMMOGRAMS

HON. TOMMY F. ROBINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. ROBINSON. Mr. Speaker, today, I am introducing legislation to provide Medicare reimbursement for mammograms, the x-ray screening procedure used to detect breast cancer, and pap smears, a test used to detect uterine cancer. These tests will help save lives and reduce unnecessary surgery and increased medical costs due to late detection of breast and uterine cancer.

As an old adage states, "an ounce of prevention is worth a pound of cure." The prevention of diseases is one area where Medicare coverage is sorely lacking. In my opinion, for Medicare to continue as a viable health care policy it must take on an increased role in the advocacy of disease prevention. The whole idea of health care is to maintain a healthy citizenry that will be able to live out a productive life, free from debilitating and painful diseases.

Breast cancer strikes 1 out of 10 women in America today. Each year, 40,000 women will die from the disease and thousands more will undergo extensive surgery in order to survive. What is worse is that much of this tragedy is preventable.

The purpose of breast screening by mammography is to improve the survival of women by detecting breast cancer at an early stage. Mammograms can detect a tumor 2 to 3 years before a physician is able to by physical exam. It is a highly safe, reliable, and acceptable procedure. Mammography is capable of providing the diagnosis of breast cancer before it spreads to other parts of the body. Treatment applied at this stage can produce a cure rate in excess of 90 percent, according to the American College of Radiology.

Furthermore, mammograms are cost effective. Mammograms can range in cost from $65 at a breast screening clinic to $140 in a hospital setting. Compare this to the overall costs to a patient who has terminal breast cancer, which can run, in the later years of life, $80 to $85,000.

An additional provision in my bill will allow Medicare coverage for mammograms when the technical component of the test is performed by a certified radiologic technologist under the supervision—though not necessarily in the presence—of a physician, rather than by a physician. However, the interpretation of the tests and the reportage of results to the patient will remain the responsibility of the physician or physician-radiologist. This measure will provide less expensive breat screening while not compromising quality health care in the least.

The presence of a full-time physician is unnecessary for the technical component of breast cancer screening tests and would significantly impact the cost of service. My legislation will correct this oversight in Medicare policy and will further serve to facilitate rather than hinder efforts aimed at the early detection of breast cancer.

In order to further advance the prevention of uterine cancer, my bill will help encourage regular pap tests among women for the early detection of cervical and endometrial cancer. In 1987, there will be an estimated 48,000 new cases of uterine cancer in the United States—17,000 cases of cervical cancer and 35,000 cases of endometrial cancer. Over the last 40 years, the incidence of uterine cancer has decreased by about 70 percent, primarily because of the advent and increased use of the pap smear.

The routine pap smear has proven to be highly effective in the early detection of uterine cancer. Over 90 percent of cervical cancer cases and 50 percent of endometrial cancer cases can be diagnosed at an early stage through the use of the pap test. Endometrial cancer is a little bit more difficult to detect because it is prevalent among mature women, aged 55 to 69. These women in the high risk group should also have an endometrial tissue sample taken to aid in the detection of this type of uterine cancer. As part of a routine pelvic exam the pap smear costs about $15, a small price to pay for peace of mind and the prevention of uterine cancer.

My legislation will enable Medicare recipients to benefit from these well-known screening techniques. It provides Medicare reimbursement for an annual mammogram and pap smear. This legislation will enable older women to obtain these inexpensive preventative procedures that will save lives and reduce later health care expenses and trauma by reducing the severity of breast and uterine cancer.

SMALL BUSINESS WEEK

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DURBIN. Mr. Speaker, today I rise in recognition of Small Business Week. Small business has been the backbone of our Nation since its inception. It is our largest employer and the principal source of growth in our economy. It employs, researchers and produces activities that have made America's economy the strongest in the world.

The statistics on small business demonstrate the importance of the group to our Nation's welfare. Ninety-eight percent of our Nation's businesses are considered "small businesses," over 15 million in all. Last year, these businesses accounted for 39 percent of our gross national product.

Small Business Week is just a small period of time set aside for us to recognize this important economic sector. However, the work of small businesses goes on year round. They provide jobs for over one-half of the American population, and over 45 percent of America's nonagricultural work force.

Congress has a responsibility to come to the aid of these businesses, by creating demand for domestic products, fostering a positive trade atmosphere with our trading partners, and providing economic assistance to allow small businesses to thrive.

We also have a responsibility to reduce the Federal budget deficit. It is clear that this deficit is depriving small businesses of success in two ways: by absorbing capital needed to modernize and expand business, and by taking away capital from consumers to purchase more needed goods and services.

As a member of the House Budget Committee, it was my privilege to play a role in this year's budget process. The committee resolution, which was adopted by the House on April 9, meets the deficit reduction goals set by Congress. In reducing this deficit, we can contribute to the health of small businesses and lessen their burden.

In recognizing the Nation's producers during Small Business Week, we should keep in mind how important their contribution is to our economy. We need small businesses if we are to remain competitive in the world market, and maintain the standard of living that makes America the example by which other countries judge their success.

NEAL ENSMINGER: THEY JUST DON'T MAKE THEM LIKE THEY USED TO

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DUNCAN. Mr. Speaker, Chuck Redfern and the Daily Post Athenian have accurately summed up my thoughts regarding Neal Ensminger, retiring executive editor of that publication. I commend Neal on his 50-plus years in the newspaper business, serving the community through honesty and hard work.

THEY JUST DON'T MAKE PEOPLE ANYMORE LIKE NEAL ENSMINGER

The retirement of J. Neal Ensminger from The Daily Post-Athenian marks an end to an era that spans some 50 years of unmatched service, loyalty, productivity, training of young newspaper reporters, advertising sales people, future businessmen and women, and more important, financial success to the owners of the newspaper.

The DPA has been a daily newspaper some 56 years and Neal has been "Mr. Post-Athenian" for 50 of them. There have been several owners, numerous managers, editors and hundreds of employees in those years. There have been good times and bad times as a newspaper is like any other business. Depressions, recessions, competition and personnel can threaten its existence.

Neal Ensminger was the "rock" that kept our daily chronicle afloat in tough times and a prize winning paper in good times. I'd venture to say that no other newspaper man in the state of Tennessee has served one newspaper for 50 years, in as many different jobs, and with such outstanding ability in all of them, as everyone's friend, J. Neal Ensminger.

His retirement does mark an end to his full-time work at The DPA but it does not mark an end to his contributions to his church and his community. You could label him a "legend in his time" and that legend will continue as his God given talent of superb oratory enriches our lives.

You see he is more than a newspaper man. He is a Sunday School teacher, a lay preacher, and a speaker at civic functions, graduation exercises, conventions, funerals and any occasion that calls for a person who has something to say and knows how to say it. He is recognized as the finest extemporary speaker in our area, a college debating champion and an eloquent orator.

In the past 50 years at The DPA, Neal was not only known for his newspaper acumen but is a recognized stalwart in the Methodist Church, locally and nationally. In this period he was considered a "born" Democrat (not a born-again one) and has been active in politics. Senators and congressmen sought him out when they came to town. Governors have called him on the phone and visited him in his office. In spite of his acknowledged partisan stand, he was always "fair" with those of the opposite party and Republican leaders knew they could talk to Neal and get a fair shake when it came to telling their side of the issues and stories.

I can only go back 40 years of those 50 of his life, as it was Jan. 1, 1946 that I came walking down depot hill after getting off the midnight special from Memphis and stepped into The DPA office on North Jackson Street. There was Neal to greet me and take me under his wing to further my education in the newspaper business and work with me in opening WLAR, the first Athens radio station. Incidentally, he has been a weekly voice on radio ever since that first broadcast in May 1946, another record that often goes unrecognized.

Of all the accolades that have been given this gentleman and there are many, including being the first "Athens Man of The Year," none is more important than being known as a human being who has helped others. It would be difficult to venture a guess as to how many individuals Neal Ensminger has started on their business career training. From newspaper carriers, to reporters, advertising salesmen, bookkeepers, job printers, Linotype operators and whatever goes on in a newspaper. They will agree with me that we owe Neal a debt of gratitude that can never be repaid. Neal's Alumni Association has spread across the land, as well as in our community.

Lessons learned from the old professor Ensminger, by getting a start at The DPA, has resulted in his "students" becoming reporters in large metropolitan newspapers, job printing technicians for big companies, advertising managers, and successful businessmen and women. I can witness to the many techniques I learned from him and had it not been for Neal, I might not be writing the "Old Timer's" column that allows my printers-ink blood to flow. I've never heard an Ensminger protege say anything but praise for the man who helped them get started in their working life.

The unique thing about Neal Ensminger, besides being a renowned newspaper man, is that he has been Mr. Everything at the Post-Athenian. Through the years, if you wanted a story in the paper, you took it to Mr. "E." If you had an ad to run, call Neal. If there was an obituary, a lost dog, or a business story release, you yelled for Neal, caught him as he went down the street or buzzed him on the phone. If you failed to get your evening paper, you called him at home. If a family needed food, call Neal. If you needed a speaker, a preacher, a friend, call Neal. His duties through the years were unlimited.

He has counted out the papers to the carrier boys and often delivered them himself. He has swept the floor, answered the phones, wrote the news stories, gathered the ads from merchants, helped repair the old flat-bed press, hired and fired employees, collected debts, greeted newcomers to the city and gave directions to tourists. If there was anything else to do, he has done it. Only in recent years has he been able to settle down a bit in his office, "make up" the paper, write editorials and let some others handle duties that were once all his.

The whole community has been made richer by his 50 years at The DPA. While the old newspaper sign "30" means the end to an article or story, there will be no "30" for Neal Ensminger's service to his beloved community or his newspaper until he starts checking the Associated Press wire service in that big newspaper in the sky (and we hope that is a long time off). There is a lot more can be told about his 50 years of being Mr. DPA but that will have to come some day with "The rest of the story."

As many say, "They don't make them like Neal anymore," and that's for sure.

TRIBUTE TO MR. PETE LANZI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a truly extraordinary individual, Mr. Pete Lanzi. Pete Lanzi was the head coach of the East High School football team in Youngstown, OH, from 1952 to 1961.

In 1961, Pete left Youngstown and went to Riverside, CA, to teach and work with deaf and hearing-impaired children. Youngstown's loss was Riverside's gain. More importantly, over the past 26 years, Pete Lanzi has impacted upon the lives of countless hearing-impaired youngsters. Pete has given of himself to serve young kids who need guidance, patience, and love. Pete is a giving and humble man who has dedicated his life to serving others.

On May 24, 1987, Pete Lanzi is being honored at a testimonial dinner in Niles, OH. I am glad to see him return to the Mahoning Valley, and I am deeply honored to pay tribute to such a fine individual—welcome home, Pete, we're privileged to have you.

ALL AMERICAN PRINCE GEORGES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. HOYER. Mr. Speaker, in this country we spend an inordinate amount of time concentrating on our failings, when we would be wise to look at all the positive accomplishments around us. There has been a lot of good news lately coming out of my district, Prince Georges County, MD.

This week the National Civic League named Prince Georges County one of the eight winners for 1987 of the designation an "All-American City." This award highlights the unique blend of citizen, business, and government involvement which has done so much to improve the quality of life in our county over the past several years.

In 1978, the citizens of Prince Georges County adopted one of the toughest property tax limitation initiatives in the country. While this had a dramatic effect on the ability to deliver services, it also had a unifying effect in developing a government-business partnership. In 1982, that coalition joined together in working with many civic groups to amend the property tax limitation.

Prince Georges County is today the home of fiscal restraint, but with an excellent array of services delivered to citizens in cooperation with an active and involved business community and vibrant civic organizations.

Under the leadership of our visionary superintendent of schools, Dr. John Murphy, our education system is making great strides forward, with test scores continuing to rise. We have a magnet school program which is a model for the country.

In the business community, relocation of corporations to Prince Georges County is at an all-time high. Much of the credit can be given to our dynamic Economic Development Department, and to the leadership of our County Executive Parris Glendening.

Less tangible than progress in education, or the prosperity reflected by new businesses, is the pride people feel about where they live and work. Prince Georges County includes one of the largest minority populations of any suburban jurisdiction in the United States. It also has a cooperative spirit among communities unlike many other places. There is a sense among our citizens that Prince Georges County is an exciting place, a good place to raise one's family; it is a place of which we are all proud to be a part.

The recognition as one of our country's "all-American cities" is vindication of the enthusiasm that we feel in Prince Georges County. I congratulate our county leaders, and every one of the thousands of citizens who have worked together to bring this award home.

The Washington Post today recognized the achievement of Prince Georges County in the following editorial:

[From the Washington Post, May 20, 1987]

ALL-AMERICAN PRINCE GEORGES

Maybe now—having won a coveted national award as one of the best places to live in the country—the great county of Prince Georges will get the respect it deserves from all its neighbors around the region. Prince Georges is one of eight communities around the country, and the only county, to be named "All-American" by the National Civic League (formerly the National Municipal League). Though there's no money for winning, county officials hope this finally will curb any negative stereotyping of Prince Georges by residents of the rest of the region. We hope, too, that any inferiority complexes that have remained with some Prince Georgians will vanish. As longtime county council member Sue V. Mills said, "All they're doing is recognizing what I've always known: Prince Georges County is a great place to live."

The award is more than just nice words about a county's physical amenities; the sponsors cited the county for its "citizen-championed fiscal turnaround, a business-financed public relations and marketing campaign and a privately led revitalization of county economic growth and development." This "renaissance" began in 1984, the league points out, with a resident-led rollback of a tax-freeze initiative called TRIM. With increased revenue, the county could work to improve police, fire and education services.

Credit must go as well to County Executive Parris N. Glendening, who campaigned hard for relief from TRIM, and to the council members, for a generally smooth legislative act. Mr. Glendening said of the award, "I suspect, with all candor, that some in the metropolitan area will say, 'Really? Prince Georges won?' But after they say that, I hope they go on to say, 'Let's investigate this and see what's happening over there.' "

CAN THE UNITED STATES HAVE A WINNING FOREIGN POLICY?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DORNAN of California. Mr. Speaker, I rise today to submit to the RECORD an article by Morton C. Blackwell, president of the Leadership Institute and the International Policy Forum, which provides very concrete suggestions on improving U.S. foreign policy. His suggestions are directed toward the inherent liberal bias of the Department of State—a phenomenon which consistently frustrates the President's policies around the globe. I commend this article to my colleagues' attention because I believe, Mr. Chairman, that the Blackwell approach allows the Reagan doctrine to function unencumbered.

[From the Constitution magazine, February 1987]

CAN THE UNITED STATES HAVE A WINNING FOREIGN POLICY?

(By Morton C. Blackwell)

During the transition period between the 1980 election and the January 1981 inauguration of President Ronald Reagan, I worked in the personnel office of the President-elect. At that time, conservative friends from all across the country asked me what could be done to "clean out the rotten State Department." They knew that despite any verdict of the voters, federal law protects members of the Foreign Service. Foreign Service officers can be fired if convicted of a felony. But merely an obvious loathing for the policies of the President of the United States is not a legally valid reason for their dismissal.

To these friends I replied, in jest, that we would simply have to swell the size of our U.S. embassy staff in Lagos, Nigeria. (Lagos is considered the worst diplomatic post of all. Quite often nothing works in Lagos—not the electricity, the telephone, the water, the sewage system, or even the roads.) Leftists in the State Department would find themselves facing a choice between resignation or long years in Lagos.

But, of course, it didn't happen. That sort of fate is reserved for conservatives.

In the spring of 1985, I was invited by students to speak in Connecticut at Choate, the exclusive preparatory school which nurtured John F. Kennedy.

After my remarks and a lengthy question-and-answer period, a 16-year-old student, wearing a *Jack Kemp for President* button, came up to me. He said "Mr. Blackwell, I agree with everything you said, particularly about foreign policy. My dad is in the Foreign Service, and he has told me all these things before."

I replied, "You mean your father is in the Foreign Service, and he's a conservative?"

'Yes," he said.

"Where is he posted?" I asked.

"Lagos, Nigeria," came the reply.

Former Reagan National Security Adviser Richard V. Allen, both a foe and a victim of the U.S. foreign-policy establishment, said last year, half in fun and all in earnest, "To say there are no conservatives in the State Department is preposterous. . . . I know of a solid half-dozen."

A DEPARTMENT ENTRENCHED IN LEFTISM

What's wrong with the U.S. foreign-policy establishment? Here are two examples from my own experience:

1. In the spring of 1980, in a briefing at the U.S. embassy in Guatemala city, an embassy staff member stressed to me that the United States must force Guatemala to break up all large farms and to nationalize all banks and the export industry.

I responded, "It sounds to me as if you are saying we must force Guatemala to adopt Marxism in order to save it from Marxism."

The briefer, one Arnold M. Isaacs, replied haughtily, "I am describing the policy of the United States."

And Mr. Isaacs, whom I met in Guatemala in 1980, is still going strong in the State Department. Today he's in Foggy Bottom itself at the State Department's Board of Examiners, interviewing and evaluating people who have applied to join the Foreign Service.

Two conservative presidential landslides later, little is changed in the minds of many Foreign Service Officers. For instance, the economy of endangered El Salvador is crippled by so-called land reform and the nationalization of the banks and export industry. Until these steps are reversed, that country will remain an economic basket case. But the State Department does not push for reprivatization of the productive sectors of that economy.

It is true that in six years many Central and South American countries have passed from authoritarian to democratic governments. But the pattern is clear. The stronger the State Department influence in a country in transition to democracy, the more certain that the election will be won by the left-most major candidate.

El Salvador, Guatemala, and Honduras are cases in point. With respect to their ability to lead their countries to long-term political and economic freedom, the State Department's favorite new leaders in these countries look more like Alexander Kerensky than Konrad Adenauer.

2. My second example. While on President Reagan's staff, I was Project Officer of the White House Outreach Working Group on Central America. The group's purpose was to generate public support for the President's anticommunist policies in Central America. I found the power of the State Department and many career officers from other federal agencies in opposition to most proposals for effective action.

For instance, the President's pollster, Dr. Richard Wirthlin, conducted a nationwide survey for us. Our aim was to find the issues which would generate the most support for the President's Central American policy.

One issue stood out sharply in the poll results, and it was not democracy. (That's reasonable: Very few Americans would be willing to die, or even to spend huge sums, to ensure honest elections in Chicago. Why should we expect public enthusiasm for sacrificing American treasure, or perhaps American lives, to guarantee honest elections in foreign countries?) The poll covered many issues, including Sandinista oppression of Catholics, Protestants, and Jews; Sandinista covert aggression against Nicaragua's neighbors; the systematic destruction of free enterprise in Nicaragua; and the possibility of Soviet nuclear missile bases in Central America. But none of these issues proved to be of overriding concern to American voters.

The one issue pollster Wirthlin found most exciting to Americans was the predictable rush to the United States of additional millions of refugees from Central America. This will surely happen if communism takes control of more countries south of our border. That prospect proved to be of great concern for 82 percent of the national sample.

"Ah," I thought, "here is how we can win the support the President needs."

I had previously initiated a new concept called *White House Digests* (informational papers we issued directly from the White House Outreach Working Group on Central America, rather than from the State Department). So my office prepared a thoughtful paper about the real problems of homes, jobs, and social services that would be created when millions of refugees came north to the United States as the Sandinistas' self-proclaimed "revolution without borders" spread.

All but one of the several federal departments and agencies participating in our working group approved our paper for release. But the one exception prevailed. The State Department vetoed the draft paper, calling it "xenophobic."

So we revised the paper pouring in quarts of the milk of human kindness, discussing the personal tragedies for refugees as they abandoned their homes and endured unspeakable deprivations and dangers as they fled for haven in the United States.

The State Department vetoed our second draft "Still ethnocentric," they said.

We produced a third draft, with the same effect.

After I left the White House Staff in early 1984, the paper on refugees went through two additional re-drafts. In all, five drafts. The paper has not been published to this day. And the President still struggles to get support for even the half-measures now proposed for *Contra* aid.

Any knowledgeable conservative observer could cite dozens of other instances of the State Department establishment's weighing in against a winning foreign policy. For example: Selective recruitment of liberals in the Foreign Service.

Harassment of genuinely conservative political appointees in Foggy Bottom and in our foreign embassies.

The co-option of nominally conservative political appointees.

The resistance to aid for Jonas Savimbi's freedom fighters in Angola.

The outrageous policy of aid to the communist regime in Mozambique, despite that government's maintenance of huge death camps and its hosting of thousands of Soviet empire military forces.

The clear animus against the Republic of China on Tiawan.

The constant emphasis on pursuit of the so-called Contadora process, which, in fact, is dominated by Mexico, whose foreign policy tracks closely with that of Fidel Castro's Cuba.

Surely the State Department has been less affected by the 1980 and 1984 elections than any other important federal department or agency.

SELF-PERPETUATING DEFIANCE OF THE PRESIDENT

The defiance by the permanent State Department of presidential election results is implemented in many ways. One of the least known and most effective is the selection of U.S. ambassadors to foreign countries.

In theory, our ambassadors are the personal representatives of our President. In form, all ambassadors are appointed by the President. But in practice, there are two types of U.S. ambassadors: political appointees and career ambassadors.

During the Reagan admimistration, about two-thirds of all ambassadors have been foreign-service careerists. The one-third who are citizen ambassadors are almost always men and women with close ties to the President.

But let me here reveal a secret: Of course, the White House picks the citizen ambassadors, the one-third. But hardly any American knows who picks the other two-thirds.

The truth is that, by an articulated if not written agreement, the White House allows the *State Department* to pick all the career ambassadors who will then be nominated by the President. That's quite a chilling worry for any pro-Reagan careerist tempted to buck the liberal establishment.

Politically appointed, often strongly conservative ambassadors tend to be sent where they can have little effect. Sometimes they are sent to major allies, such as France or the Court of St. James's, where Foggy Bottom always controls dozens of ongoing bilateral exchanges. More often they are sent to small, placid countries such as the Bahamas or Luxembourg.

But a country such as Chile, in which the East-West struggle is intense, gets career Ambassador Harry G. Barnes, Jr., and an equally leftist, equally competent Deputy Chief of Mission George F. Jones. Neither of them ever took to heart Ambassador Jeane Kirkpatrick's work on "Dictatorships and Double Standards."

Barnes and his deputy treat the anti-communist government of Chile more as Jimmy Carter treated Anastasio Somoza's Nicaragua than as the United States treated Francisco Franco's Spain. The results of Ambassador Barnes' policy may one day be a Chile more like Sandinista Nicaragua than like democratic Spain today.

To a high degree, U.S. foreign policy is controlled and conducted by an unelected, self-perpetuating, liberal bureaucracy which is militantly unresponsive to national election victories by conservatives. These entrenched bureaucrats routinely act as if it were possible to make friends of our enemies by making enemies of our friends.

Is it any wonder this bureaucracy cannot develop a winning foreign policy?

Decade by decade, the map grows more red as the U.S. foreign-policy establishment keeps us desultorily on the defensive and allows the Soviets to choose their best targets of opportunity. The Soviets, of course, are by doctrine always on the offensive. They trumpet the inevitability of their continuing territorial advance through "scientific socialism," which may be usefully defined as the empirical study of how to accumulate and keep power.

ELEVEN STEPS TO A WINNING FOREIGN POLICY

What can we do to oppose this systematic encroachment? Can the United States have a winning foreigh policy?

I believe so. But, like the building of the current strenth of our U.S. conservative movement, it won't be easy. Here in bare outline are some steps which should be taken toward that end:

1. Build a stronger, better organized U.S. political constituency for national defense and a winning foreign policy. Surely the world will be more safe and more free when we have, in these areas of national policy, specialized structures as well organized as the National Right to Work Committee, the National Rifle Association, and the U.S. pro-life organizations. More politicians must see their elections closely tied to their support of national strength.

2. Recruit and prepare a large number of young conservatives for diplomatic service and for careers in related public-policy work in the executive and legislative branches of government.

3. Elect a U.S. President who will pick and sustain a Secretary of State prepared to play Samson, if necessary, to bring down the massive liberal infrastructure of our State Department.

4. Develop offensive strategies. Focus on the enemy's weak points. Devote as much time, talent, and money to destabilizing units of the Soviet empire as they expand trying to destabilize noncommunist governments. Today in this category of conflict our foreign policy establishment has unilaterally disarmed us, despite massive ongoing Soviet activity. Democracies are weakest in the formation of long-term national strategy, and the United States today is no exception to this rule.

5. Achieve two, three, many Grenadas, and thus break the image of irreversible, constant communist conquest presented to us in the form of the Brezhnev Doctrine.

6. Weaken further the political power of the U.S. labor unions, the engine of socialism. Many union leaders voice anti-communism, but their justly famous political muscle is employed more than 90 percent of the time for candidates opposed to military strength and to a winning foreign policy.

7. Break the monopoly of the Left on international cooperation and network building outside official government channels. Ten years ago we found in a meeting in Washington, D.C., that the leaders of the U.S. conservative movement knew not a single active ally in Canada. Now, however, we are making progress.

8. Learn and use effective political technology. Conservatives in all countries must recognize that being right, in the sense of being correct, does not necessarily persuade public opinion. Moreover, public opinion itself does not always control public policy. If one side alone understands and works effectively in the political system, that side wins in the long run, right or wrong.

9. Persuade foreigners philosophically compatible with U.S. conservatives that political parties, while necessary, are not sufficient to turn the tide for freedom. Many other public policy institutions and organizations are needed.

10. Spread internationally such ideas as privatization, deregulation, and supply-side economics, which will lead to greater prosperity and more stable democratic governments.

11. And not least, pray as if it all depends on God, and work as if it all depends on us.

Can the United States have a winning foreign policy? The Soviets know we can. And they are afraid of our capability.

Consider this: Why are there virtually no Marxist terrorist bombings now in the United States? Why are U.S. anti-communist political leaders not assassinated routinely in our streets, as in so many other countries?

Is it because the Soviets have scruples against such actions? No.

Is it because they lack explosives or lack willing agents or surrogates? No.

Is it because we could catch all their agents or close our borders to infiltration? No.

The reason is this: A wave of Marxist-Leninist terrorism in the United States now would be counterproductive for the Soviets. And they know it. Before long the question in our Congress would not be *whether* to aid the *contra* freedom fighters, but *how much* help we could give them and how quickly we could send it.

Then our attention might be directed toward other Soviet empire vulnerabilities, starting with places like Mozambique, Angola, Guyana, Cuba, and so on.

And even the State Department bureaucracy might then fail to confuse us as to the best ways to advance the cause of freedom in the world.

COMMENCEMENT OF 1987 GRAPHIC INTERNATIONAL CONTACT CONFERENCE

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to take this occasion to announce the commencement of the 1987 Graphic International Contact Conference in Miami, FL. The Graphic International Contact Group, which is based in New York, is an international consortium of the foremost sales promotion and marketing firms in the world. The annual conference provides an opportunity for the free exchange of advertising and marketing concepts among the members of the group. The conference allows for various countries to share their ideas and to discuss trends with companies from other countries, a vital link in working toward a successful world marketplace and economy. I can see only benefit coming out of the differences in style within the group.

This year the Merchandising and Marketing Corporation [MMC] of Mamaroneck, NY is the host of the conference. I would like to extend my best wishes to Mr. Marc Kent, president, of MMC, and all of the participating companies for a successful, fruitful conference.

AL FRANK RECOUNTS THE BATTLESHIP IOWA'S JOURNEY THROUGH HISTORY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. COURTER. Mr. Speaker, in the following article from the Newark, NJ, Star-Ledger, columnist Al Frank recounts the long round-trip odyssey of the battleship *Iowa*, from her launching at the Brooklyn Naval Shipyard in 1942 to her arrival at the new strategic homeport on Staten Island, NY.

The *Iowa's* new home on Staten Island, once it is completed, will be 1 of 10 strategic homeports planned for the east, gulf and west coasts of the United States. The principle of strategic homeporting is easily understood. With approximately 300 Soviet attack submarines available to bottle up naval vessels in port, good sense dictates that we complicate Soviet naval warplans through dispersal of our warships and submarines.

In case we had any doubts about Soviet intentions in this area, the Soviets obligingly dispelled them with a recent port attack exercise off the Eastern seaboard. This exercise featured five attack submarines capable of launching cruise missiles against surface ships and land targets.

Such enormous, crowded naval facilities as Charleston, Norfolk, and Groton virtually invite the type of the attacks that the Soviet submarines were practicing. Strategic homeporting is a logical, cost-effective response to this growing threat. I commend Al Frank's article on the battleship *Iowa* and strategic homeporting to your attention.

[From The Newark (NJ) Star-Ledger, May 17, 1987]

THE IOWA MYSTIQUE IS FIRMLY ANCHORED IN HISTORY

(By Al Frank)

Shrouded in a morning mist and cloaked in its traditional coat of gray paint, the USS Iowa is an awesome sight.

As a utility boat ferrying a crowd of veterans and other visitors bobbed across Narragansett Bay in Rhode Island on Friday morning, the 887-foot battleship towered over the water.

Twelve stories above the bay was its mast, topped by radar and antennas. Below the turrets and the superstructure were the outlines of its nine 16-inch guns.

Finally, as the boat closed in on the dreadnaught's ladder, hardly more could be seen than a wall of 12-inch armor, extending yards and yards above and across the water line.

After a month at sea, the 58,000-ton ship, with a crew of 1,500 and some 300 guests, was about to begin the next-to-last leg of a journey back to its homeport in Norfolk, Va.

Ever since the Navy announced in 1983 that the battlewagon and six other ships would be based at Stapleton on Staten Island, the Iowa has made periodic visits to the port where it was built in 1940 and launched two years later.

The Iowa, which served in two wars, is one of only three Navy battleships afloat. A visitor approaching it is struck with a sense of history.

Despite the teak decks, Capt. Larry Seaquist, the ship's commanding officer for the last year, emphatically warns, "This is not a museum."

Critics in Congress have charged that spending $402 million to recommission the Iowa was a waste of money. They argued that small, computerized missiles have transformed the battleship into one of the Navy's biggest targets.

But Seaquist said the money would hardly buy a small frigate these days and, for the same amount, the taxpayers got "an exceptional ship they couldn't get without spending billions of dollars."

Besides, he continued, "the Soviets pay attention to a battleship," and despite versatile missiles, the Iowa—with a top speed exceeding 33 knots, or close to 40 miles per hour—is highly maneuverable.

"It's a myth that the battleship is a dinosaur," the skipper said.

In addition to its speed and armor, the Iowa has a host of defenses—electronic as well as conventional armaments—that it can draw on to fend off an attack. Also, in an alert, the battleship travels in the company of other men-o'-war that can provide further cover.

"The quality that went into its construction is unbelievable," Seaquist said, adding that the Iowa is good for another 25 to 30 years of service.

The Iowa was recommissioned in April 1984, the third time since it was launched from the New York Naval Shipyard in Brooklyn on Aug. 27, 1942.

During World War II it served in the Pacific, where it won nine battle stars. It was in Tokyo Bay when the Japanese surrendered and would have been the ship used for the ceremony "if the President (Harry Truman) wasn't from Missouri," Seaquist joked.

Decommissioned in San Francisco in 1949, it was recommissioned in 1951 and served in the Korean War, where it won two battle stars.

It was decommissioned again in 1958 and mothballed in Philadelphia until the Reagan administration began its efforts to expand the Navy to 600 ships.

Under the program, the battleship New Jersey was the first to be overhauled. It was recommissioned in Long Beach, Calif., in December 1982 and is based on the West Coast.

After the Iowa, the Missouri was recommissioned, while the Wisconsin is now undergoing its refurbishment and is scheduled for recommissioning in 1989.

Stapleton is one of 10 homeports the Navy wants to construct to strategically disperse its fleet around the country.

In February the first contract for the $203 million project was awarded but several outstanding permits must be obtained before construction can begin in earnest.

Compared to the crew of almost 2,000 that it carried during World War II, today's Iowa has 1,500 enlisted personnel and 60 officers.

"It's like running a little city," said Capt. Frank Kalas of Toland, Conn, who is in charge of keeping the ship in food, fuel, water and other supplies.

He said there is "no recipe card" to tell him what to load, and he counts on his staff to help in the planning.

"It depends on where you're going and what you're going to do," Kalas said.

There are certainties, however.

With 900 members of the crew in their teens or just emerging from that age group, diets are high on carbohydrates.

Hamburgers, of course, are a staple, while last year, 20,000 cans of Coca-Cola Classic were sold from the vending machines around the vessel.

Bakers turn out 8,000 cookies a day.

"Every Tuesday night they make chocolate chip," Kalas said." And seven hours later they're gone."

In addition to food, Kalas is also in charge of diesel fuel for the ship—it gets 14,000 miles, or halfway around the world, on a full tank—as well as keeping its barbershop, ship's store and laundry running.

So it can do some of its own repairs, he stocked about $4.5 million worth of parts last year.

For quite a while, even a moderately tall visitor to the ship will walk inside passageways with a slight hunch because low ceilings and suspended pipes give the illusion that a bump on the head is a distinct possibility.

But Cmdr. Dominick Rascona of Long Island, N.Y., one of two doctors who man the ship's hospital, said such accidents are more than a possibility.

"A lot of people wear the official scar here," he said, pointing to an area of the scalp above the forehead.

In addition to the trademark 16-inch guns, the Iowa also has 12 five-inch guns, 32 Tomahawk cruise missiles and 16 Harpoon cruise missiles.

The Navy said the ship is capable of firing nuclear weapons but will not say when such weapons are aboard.

Cmdr. Gene Kocmich, of Lesterville, S.D., the Iowa's weapons officer, said he tried to schedule 20 minutes of battle practice every day. With all the calculations and refinements that go on, however, such practices usually last more than an hour.

It requires 85 men to run one of the turrets housing the 16-inch guns, down from 120 during World War II.

"Everything is manual," Kocmich explained. "They'll forget how if they don't do it repeatedly, so every one is fired at least once a week. With a certain amount of repetition, the discipline builds up."

In the main battery fire control room, Master Chief William McCalla of Rosemark, Tenn., said the analog computers make calculations that compensate for many variables.

Included are the average temperature at which the powder has been kept because, with warmer powder, the velocity of a shell increases.

In the meantime, the roll of the ship must be figured into the firing calculations and—since the shell can travel 21 miles to its target—so must the curvature of the earth. Also, since the globe has rotated in the one minute the shell is in the air, that movement must also be taken into account.

"Everything was built in 1942," McCalla said of the computers. "And it's still as accurate as it was then."

With some shifts lasting up to 20 hours, life can be hectic, said Barry Walters of East Orange, one of the 100 members of the crew that joined in 1983 before the Iowa was recommissioned.

But, like Bernard Isaza, a budget officer from Elizabeth, he said the Iowa is the envy of the Navy.

"You get the best ports and the best liberty," he said.

Also proud is Joseph Castellanos of Newark, one of 56 Marines who provide security on the ship.

"Less than 1 percent of the Marines get sea duty," he observed.

Steve Leitz of Jersey City, a crew member for seven months, has similar duty.

Leitz, a technical officer in the electronic warfare department, said he expects things to get particularly busy this fall when the Iowa cruises the Mediterranean.

As chain links the size of picnic tables dropped the Iowa's anchor into Upper New York Bay, some watching the hovering helicopters and the flotilla of welcoming police, Coast Guard and fireboats, wondered whether the sight would ever become so commonplace future arrivals would go unmarked.

But others doubted the magic will ever disappear.

For Philip Giarrizzo, a Montclair native who was an electrician's mate on board "The Big Stick" from 1942-45, the magic has endured for more than 40 years.

Giarrizzo remembers the day the Iowa raised its anchor in Tokyo Bay. He also recalled her mothballed in Philadelphia.

"She looked like an old scow," he said. "Then she was refurbished and she looked like the day she was first commissioned—just like today."

VALLEY STREAM, NY, STUDENT SELECTED FOR OUTSTANDING ESSAY ON THE CONSTITUTION

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. MCGRATH. Mr. Speaker, Sabrina Jane Yazdpour, a seventh grader from Valley Stream, NY, was recently selected as one of 150 students nationwide for literary excellence in penning as essay under the theme: "What the United States Constitution Means to Me and to Our Country."

Conducted under the direction of the U.S. Department of Education, the project attracted essays from over 1 million students throughout America. Of these entrants, 1,350 were nominated by State departments of education, the Council for American Private Education, and individual schools in cases where State education agencies did not participate. One hundred and fifty essays were then deemed exceptional by an eight-member national selection panel of educators and private citizens under the auspices of Secretary of Education, William J. Bennett.

I would like to take this opportunity to include Sabrina's essay in the RECORD. I think all of my colleagues would agree that Ms. Yazdpour's interpretation of the Constitution warrants congressional recognition.

WHAT THE U.S. CONSTITUTION MEANS TO ME AND OUR COUNTRY

(By Sabrina Jane Yazdpour)

Every morning when I step outside of my door and take a deep breath, the air I breathe is the clear, sparkling air of a free nation. The freedom of this nation is guaranteed to me and to every American, by the brilliance of the Constitution.

The Constitution is not a dusty and dead paper but is a living link that bonds every other American who has ever lived.

The genius of the Constitution lies in the fact that even though it is 200 years old, it is still in perfect harmony with modern life today. The Constitution lives, every time an American reads a newspaper, gathers on his front steps with his friends, casts his vote, serves on a jury, or pays his taxes. Even though sometimes we don't realize it, we are carrying the spirit and soul of the Constitution next to our hearts every moment of our lives.

The poorest man in the land sits in his tiny room; the wind may blow and shake his roof; the rains and storms may enter, but without his consent, not even the President, with all his might and power, may enter this poor man's home. The Constitution is alive and belongs to every American. So take a deep breath—that's FREEDOM you're breathing.

PERSONAL EXPLANATION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DERRICK. Mr. Speaker, since the beginning of this historic 100th Congress, I have been unavoidably absent on official business during four rollcall votes. I respectfully request that the record show how I would have voted had I been present.

"Yea" on rollcall No. 40, House Concurrent Resolution 34, a motion to suspend the rules and adopt the concurrent resolution to protest continuing human rights violations in the Soviet Union.

"No" on rollcall No. 41, House Resolution 121, a motion to suspend the rules and adopt the resolution to commend the European Community in recognition of the 30th anniversary of the signing of the Treaty of Rome.

"No" on rollcall No. 49, House Concurrent Resolution 93, the Administration Budget Resolution for fiscal 1988.

"Yea" on rollcall No. 124, an amendment to H.R. 1748, Department of Defense authorizations for fiscal 1988, to require that the fiscal year 1988 appropriated funds for the ADCAP Torpedo not be obligated until the torpedo passes operational evaluation tests or particular test failures are identified for correction.

AFFECTED STATE STATUS FOR ALL AFFECTED STATES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. AuCOIN. Mr. Speaker, today I am introducing on behalf of the entire Oregon House delegation a bill which would broaden the affected State status provided to States impacted by the Energy Department's civilian nuclear waste repository decisions.

The Nuclear Waste Policy Act of 1982 does allow affected States to review siting proposals and participate in the decisionmaking process. In fact, affected States may veto a siting decision, with Congress being able to override that veto.

The Energy Department's decision to select the Hanford, WA, Yucca Mountain, NV, and Deaf Smith County, TX sites has, in my opinion, destroyed the finely balanced process devised by Congress to select the most geologically appropriate site for permanent waste disposal.

The Department's abuse of the law makes it even more important for Congress and States to have added input into the repository siting process. Review of the Energy Department's decisions should be done by all States which will have to bear the impacts of these decisions.

The Energy Department, however, has limited its identification of affected States to those which host the candidate sites. My legislation, which Senator HATFIELD has introduced in the Senate, would broaden the number of affected States.

It takes a logical step in increasing the role of States. One of the most important concerns with selection of the repository site is the threat of migrating, leaking radioactive waste through nearby rivers and underground aquifers.

Since rivers and aquifers know no State bounds and often wander into neighboring States, it is only logical that neighboring States be given affected State status.

Since Oregon shares the Columbia River with Washington, and the Hanford reservation is located on the Columbia, Oregon would receive affected State status through this legislation. In addition, States which use water from the huge Ogalalla aquifer would also receive affected State status, since the Deaf Smith County site would be located above that aquifer.

Mr. Speaker, just yesterday Oregonians by a 3-to-1 margin voted in favor of giving Oregon a stronger voice in the repository siting process. And, just last year, the House passed an amendment of mine giving Oregon $2,500,000 over 5 years to review the Energy Department's activities at Hanford.

I think these actions speak strongly in favor of congressional and public support for this legislation. Oregonians want the Nuclear Waste Repository Program put back on the right track. This bill would move the Energy Department in that direction.

DRUG EDUCATION CHANGES TO H.R. 5, THE SCHOOL IMPROVEMENT ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. FAWELL. Mr. Speaker, when the House considers H.R. 5, the School Improvement Act, the chairman of the Education and Labor Committee, Mr. HAWKINS, will offer a package of technical amendments to the bill. These amendments will also include important changes in the Drug-Free Schools and Communities Act of 1986.

I have been working very closely with Congressman CHARLIE BENNETT on legislation he introduced earlier this year, the Drug-Free Schools and Communities Act Amendments (H.R. 1752). This bill makes some much-needed improvements in the drug education and prevention programs administered by the Department of Education.

Mr. HAWKINS has agreed to include several provisions of Congressman BENNETT's bill in his technical amendments package. The amendments are designed to make our drug education programs more effective in four important ways.

First, the amendment ensures that drug education funds are used to serve students enrolled in school. Current law requires that funds be distributed to local school districts on the basis of school-age population. There are two problems with the current law. Distributions on the basis of school-age population rely on outdated 1980 census information. Also, distributions on the basis of school-age population include teenagers who have dropped out of school or who are no longer enrolled for other reasons.

The amendment requires that drug education funds be allocated to local school districts on the basis of school enrollments. Because these programs are school-based, the distributions should follow the young people who are to be served by this program—the students enrolled in school. Enrollment data is also more current than school-age population data.

Second, the application submitted by local districts requires certain types of information. The application does not, however, require that the school district describe the extent of the drug and alcohol problems in its schools. The amendment requires that school districts include such information in their applications. This provision ensures that funds are being used to respond to an identified drug or alcohol problem.

Third, school districts will now be required to submit a progress report to the State educational agency [SEA] after the first 2 years of the program. If the SEA determines that the school district is not fulfilling the objectives of the Drug-Free Schools and Communities Act, the SEA must step in and provide technical assistance to the school district.

Finally, the amendment requires each State to submit an annual report to the Secretary of Education which contains information on State and local drug problems carried out under the act. This new provision allows the Secretary and Congress to determine whether the objectives of the act are being fulfilled. It also allows the Secretary to identify and promote effective drug education programs. Without such a reporting requirement for this new program, the Secretary and Congress will never really know what good things are being done at the State and local level with Federal drug education funds.

The changes made by this amendment to the Drug-Free Schools and Communities Act are positive and designed to determine what works in drug education and prevention. Congressman BENNETT is to be commended for putting together legislation which improves the current law.

IMMIGRATION LEGISLATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. DONNELLY. Mr. Speaker, the passage of the landmark Immigration Reform and Control Act of 1986 happened after more than 15 years of arduous deliberations in Congress and intense lobbying from immigration experts, employer interests, and advocates for aliens anticipating amnesty.

In this massive document, there is a tiny provision allowing for an additional 10,000 nonpreference visas—5,000 a year for fiscal years 1987 and 1988—for 36 countries. Section 314 of the Immigration Reform and Control Act of 1986 was the result of many months of discussions in the House of Representatives and Senate on what to do about the decline of immigration from Europe and other countries since 1965. Out of that debate came a commitment from some Members of Congress to revisit this issue again during the 100th Congress.

Section 314 and the explosion it created, was the final result of legislation I introduced in 1985 to allow for more flexibility in American immigration policy. My bill (H.R. 2606) took into account, not only immigrants who have arrived in recent years as a basis for future generations, but also the historical patterns of immigration. H.R. 2606 provided for the issuance of additional visas to countries that had contributed to our melting pot in past generations and 30 percent of those visas would have been for those individuals who, through no fault of their own, were unable to claim one of the narrowly defined existing preference categories.

Early in the fall of 1986, my bill was incorporated into the omnibus immigration bill enacted by Congress, the Immigration Reform and Control Act of 1986. Unfortunately, the Immigration Reform Act whittled down my original proposal and permitted the one-time only provision defined in section 314 of the act which came to be called, the now famous, NP-5 Program.

The NP-5 Program produced an outpouring of inquiries from every corner of the globe with over 1 million written requests for one of the 10,000 nonpreference visas to be granted during fiscal years 1987 and 1988. The requests came from natives of those countries that have experienced a decline in immigration to the United States since the passage of the 1965 reform which created the present worldwide preference category system.

The success of the NP-5 Program, although a bureaucratic nightmare, silenced those who believe that there is no great need to reform our current preference category system, which in 1965, was intended to correct the apparent discrimination against residents of southern and eastern Europe. Still, even with the additional nonpreference visas under the NP-5 Program, the huge number of immigrants qualifying for visas still outstrips the worldwide quota. Would-be immigrants who do not qualify for a preference visa have not been admitted since 1978.

The goals of the 1986 immigration reform are noble and far-reaching. However, section 314 of the act is but a mere drop in the bucket of the need to address the decline in immigration from the nations in Europe that enjoy long, historic, and family ties with our country.

Today, I am introducing legislation that expands that purpose of section 314 of the Immigration Reform and Control Act of 1986. My bill would establish a seventh preference category for the admission of immigrants from those countries adversely affected by the 1965 immigration reform law, Public Law 89-236.

The new seventh preference would be created by reducing the present third and sixth preferences 10 percent of the overall limitation to 5 percent each. The new seventh preference would provide for 10 percent of the overall annual limitation of 270,000.

The beneficiaries of the new seventh preference would be immigrants from the 36 adversely affected countries designated by section 314 of the Immigration Reform and Control Act of 1986. Immigrant visas will be issued by the Department of State from among the originally signed preliminary applications, filed during the month of June of the proceeding fiscal year of intended immigration.

The effective date of this legislation would apply to aliens admitted for fiscal years beginning in 1989, the year after the conclusion of the NP-5 Program.

My intention in filing this legislation today is threefold. First, our Nation must reintroduce into the immigration stream those countries that have been determined to be adversely affected by the reform act of 1965 and face the same barriers with the passage of the 1986 reform act. Second, it holds out the possibility of legal immigration to people who see their only hope in illegal entry. Third, it would allow natives of these 36 countries to compete in a more fair and equitable manner, under the new seventh preference category.

Our Nation has always been a beacon of hope and opportunity to people from foreign lands. We rightly pride ourselves on being a melting pot, a nation built by succeeding generations of immigrants who have constantly enriched our Nation with their strong commitment to the ideas of freedom, democracy, and opportunity of their new land.

The powerful attraction of the United States is both a tribute to our way of life and a challenge to our society. We wish to remain open to continuing and transfusion of idealism and diversity caused by immigration, while at the same time protecting our citizens, our economy, and our resources from the impact of uncontrolled growth. Striking that balance is the focus of my legislation.

SUSANNAH BRAD BRADLEY, WINNER, MINNESOTA VOICE OF DEMOCRACY SCHOLARSHIP

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 20, 1987

Mr. PENNY. Mr. Speaker, as we approach Memorial Day, the time set aside to honor all those who made the ultimate sacrifice on behalf of our Nation, it is fitting to refect on the obligations that we who remain must fulfill in order to preserve all for which they fought and died.

A young woman in my district has provided us with an impressive reminder of the privileges and responsibilities of American citizenship in her State award-winning script for the 1987 VFW Voice of Democracy Scholarship Program. Susannah Bard Bradley, 16-year-old daughter of Philip and Maryjane Bradley of Owatonna, MN, is a junior at Owatonna High School where she participates in music activities including jazz band, as well as in drama and speech. Susannah won the Minnesota Voice of Democracy competition, sponsored by the Veterans of Foreign Wars, in January and participated in the national judging in March. The residents of Minnesota's First Congressional District and I are justifiably proud of this young woman and her accomplishments. We are also grateful to the Veterans of Foreign Wars for giving Susannah and 300,000 other secondary school students this opportunity to express their views on the challenges of American citizenship.

The script follows:

THE CHALLENGE OF AMERICAN CITIZENSHIP

I remember being very excited, and ready to go, but my mother was moving so slowly. I felt like a whale, in my two blouses, two sweaters, and two pairs of pants, but my mother made me dress that way because she said our suitcases were only supposed to look like we were going to Vienna for the weekend, and not leaving for good. I was almost running down the walk in excitement, but I suddenly stopped and looked back through the gate at my grandmother, with her apron full of apples. Then, mother ran back, tears streaming down her face, and hugged Grandma over and over. At that moment, I realized that this was for good; I'd never see my grandmother again.

These are the words of Liba Stafl, a young mother and teacher, who is a member of our community. She and her family fled

Czechoslovakia in 1968, sacrificing their established lifestyle for citizenship in the free world.

Unlike Mrs. Stafl and her family, to most of us here, our citizenship has come easily, having been born on American soil, or having had a parent who was a citizen. Here in the United States, our challenge as citizens is to be active and responsible: to take our citizenship seriously and to become a real participant in our government. This starts with voting, but it includes so much more. We can be informed about political issues, we can serve on juries or testify in court, and we can become active in political parties and community projects. We can pay our fair share to taxes ungudgingly and give to charities. We can even serve in the military to defend our country. But perhaps the most vital act we can perform for our country as United States citizens is to challenge the government when we feel that it no longer meets society's ever-changing needs.

Even after hearing Mrs. Stafl describe her life in Czechoslovakia, I still can't completely grasp the idea of living in a totalitarian system. The idea of personal freedom is so basic, so fundamental to me. Having grown up with it, I realize that freedom is easy to take for granted.

Mrs. Stafl said that the role of a Czechoslovakian citizen is merely to carry out the government's wishes—no more, no less. The government was created for the people, yet the people have no right to let the government know if their needs are being met.

Those who make the government suspicious in any way can be punished by repercussions in state employment, like the loss of privileges or demotion. Those who openly oppose the government can be thrown into jail, or sometimes worse. This is almost unimaginable to us in America. Here, we have a chance to voice our opinions and change things if we wish to. We can start petitions, appeal unfair laws, become involved in government, and even run for political office. We have the privilege of being questioning citizens. Without this privilege, our country would be a very different place.

Many values that we hold as basic were once minority stands. The court case of Brown vs. The Board of Education is a perfect example of this. In 1896, the Supreme Court ruled that "separate but equal" black and white schools were constitutional. But, Jim Brown, a citizen of Topeka, Kansas, challenged this decision in 1954 on behalf of his children who attended a segregated school. The Court overturned its earlier ruling and decided that segregation meant inequality. Brown, being a questioning citizen, had the chance to change what he thought was wrong. Many of our accepted freedoms, including the entire Civil and Equal Rights Movements, came about this way. Under a dictatorship system, citizens don't have the chance to peacefully oppose the government. In meek compliance, they must follow the government's commands. Look what happened in Nazi Germany, or what is happening in other countries today as a result of totalitarian regimes. Situations such as those can never happen in America as long as we have caring, questioning citizens.

We are very fortunate to live in a place where it is possible for us to make a difference in our country. Citizens of other countries all around the world do not have this opportunity. It is our privilege as well as our responsibility to become involved and to challenge America to remain the democracy that it is.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 21, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 27

10:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

MAY 28

9:00 a.m.
*Rules and Administration
To meet, to consider a request from the Committee on Agriculture, Nutrition, and Forestry for supplemental funds for the fiscal year ending September 30, 1987, and to receive testimony on the alternatives to the proposal to replace the Senate subway system.
SR-301

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on activities of the National Science Foundation and its role in U.S. industrial competitiveness.
SR-253

Judiciary
To hold hearings on the nomination of Charles F. Rule, of the District of Columbia, to be an Assistant Attorney General, Department of Justice.
SD-226

10:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on air traffic control capacity.
SR-253

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

MAY 29

10:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

2:00 p.m.
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To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

JUNE 2

9:30 a.m.
Energy and Natural Resources
To holding hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume oversight hearings to review rail safety issues.
SR-253

JUNE 3

10:00 a.m.
Foreign Relations
Business meeting, to mark up S.J. Res. 128, prohibiting the sale to Honduras of certain defense articles and related defense services.
SD-419

JUNE 4

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

2:00 p.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

JUNE 5

9:30 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on current water-related programs of the U.S. Geological Survey, focusing on quantification and analysis of ground water resources.
SD-366

JUNE 8

10:00 a.m.
Environment and Public Works
Environment Protection Subcommittee
To hold hearings on pending clean air proposals.
SD-406

JUNE 10

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 453, Veterans' Ionizing Radiation Compensation Improvements Act, S. 1002, Veterans' Radiation Exposure Disability and Death Benefits Act, and other related measures.
SR-418

10:00 a.m.
Environment and Public Works
Environment Protection Subcommittee
To resume hearings on pending clean air proposals.
SD-406

JUNE 11

9:30 a.m.
Energy and Natural Resources
To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on clean air proposals
SD-406

JUNE 12

9:30 a.m.
Energy and Natural Resources
To continue hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Finance
Health Subcommittee
To resume hearings on the quality of long-term health care.
SD-215

JUNE 17

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the implementation of the Veterans Administration loan guaranty program, and on proposed legislation relating to the VA loan guaranty program.
SR-418

JUNE 18

9:30 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To resume hearings on current water-related programs of the U.S. Geological Survey, focusing on quantification and analysis of groundwater resources.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To resume oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.
SD-406

JUNE 30

9:30 a.m.
Veterans' Affairs
Business meeting, to consider S. 6, Veterans Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, proposals providing VA compensation, pension, education assistance, home loan, and other related benefits, and proposed legislation providing for disability payments based on nuclear-detonation radiation exposure.
SR-418

POSTPONED

MAY 21

10:00 a.m.
Labor and Human Resources
Business meeting, to consider proposed legislation authorizing funds for the National Science Foundation, and pending nominations.
SD-430

11:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on the nominations of Thomas C. Ferguson, of Florida, to be Ambassador to Brunei Darussalam, Victor H. Frank, Jr., of New Jersey, to be U.S. Director of the Asian Development Bank, with the rank of Ambassador, Nicholas Platt, of the District of Columbia, to be ambassador to the Republic of the Philippines, and Samuel B. Thomsen, of California, to be U.S. Representative to the Republic of the Marshall Islands.
SD-419

HOUSE OF REPRESENTATIVES—*Thursday, May 21, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In spite of the many tasks that need to be accomplished and the anxiety over the divisions in our world, we pray, O God, that we may not be weary in well-doing or in facing the challenges before us. Give to each person the resources to accept new truths, the vision to see solutions, the will to do great things, the commitment to take responsibility for the work that must be done.

Bless every person, O gracious God, and may Your good Word follow us all our days.

In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 278, nays 102, not voting 52, as follows:

[Roll No. 142]

YEAS—278

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boggs
Bonior (MI)
Borski
Boscp
Boucher
Brennan
Brooks
Brown (CA)
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Cooper
Coyne
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Herger
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Lungren
MacKay
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Robinson
Rose
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schuette
Schulze
Schumer
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—102

Armey
Badham
Ballenger
Barton
Bentley
Bilirakis
Bliley
Boehlert
Brown (CO)
Bunning
Burton
Callahan
Chandler
Clay
Coble
Courter
Craig
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Hiler
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Latta
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (IL)
McCandless
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Nielson
Oxley
Parris
Pashayan
Penny
Quillen
Ridge
Roberts
Rogers
Roth
Roukema
Saxton
Schaefer
Schroeder
Sensenbrenner
Sikorski
Skeen
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—52

Annunzio
Baker
Biaggi
Boland
Boner (TN)
Bonker
Boulter
Boxer
Broomfield
Bruce
Cheney
Conte
Conyers
Coughlin
Crane
Crockett
Dixon
Duncan
Dyson
Eckart
Emerson
Espy
Ford (TN)
Garcia
Gephardt
Hall (OH)
Hawkins
Hayes (LA)
Hopkins
Hyde
Jenkins
Jones (NC)
Kemp
Konnyu
Leach (IA)
Livingston
Luken, Thomas
Mack
Markey
Martin (NY)
McCollum
Neal
Ray
Ritter
Rodino
Roe
Roemer
Rostenkowski
Sharp
Vander Jagt
Whitten
Williams

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

THE BANK'S CREATIVE EFFORTS TO SKIM CUSTOMERS' SAVINGS—INVESTABLE INCOME

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, during the course of the Banking Committee's efforts to enact truth-in-savings legislation, we have uncovered yet another gimmick in the banking industry's creative schemes to skim the cream from their customers' hard-earned savings dollars—investable income.

Now, we learn that some banking institutions—instead of paying interest on the full amount of the savings account—deduct from the principal—before applying the interest—a sum equal to the reserves the banks maintain behind their accounts. The Consumer Federation of America, in a

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

telephone survey, found sums ranging from 3 percent to 12 percent of the account were being deducted before banks applied interest.

Mr. Speaker, most customers—all customers—assume that $1,000 of savings is $1,000 of savings that is earning money in the bank. But, now we learn that $1,000 in a savings account may be regarded as only $970 in one bank, $880 in another bank when the interest is calculated. A dollar is a dollar everywhere but in banking.

Mr. Speaker, it is bad enough that many banks mislead their customers about interest rates and other terms on savings accounts. It is bad enough that the banks often pay exceedingly low interest on small savings. But it is unconscionable when they skim the reserves right off the top of the customers' accounts.

The American Bankers Association should use some of its massive budget to let its member banks know that the American public will not accept such deceptive practices as investable income.

□ 1025

A NEW APPROACH TO DEALING WITH THE ACID RAIN PROBLEM

(Mr. GREGG asked and was given permission to address the House for 1 minute.)

Mr. GREGG. Mr. Speaker, this is Clean Air Awareness Week, and that is appropriate because our air is not clean. We in the Northeast and our friends over the border in Canada are suffering from significant environmental degradation as a result of acid rain. The Congress unfortunately has not been willing to address this issue. For over 8 years legislation has been pending on the acid rain question and has not been acted on.

In order to try to break this logjam, I have today introduced a new piece of legisation. This legislation changes the whole approach to addressing the issue of acid rain. Instead of approaching it from a controlled technology aspect, I approach it from an economic aspect, trying to create economic incentives amongst those areas which are creating the pollution to reduce their pollution. This bill will add a tax which will be tied to the emission levels of those polluting industries, and the revenue from that tax will be used to finance corrective actions so that those industries can correct the problems which are causing the rain.

THE AMERICAN PEOPLE ARE ENTITLED TO KNOW ALL THE FACTS OF THE PERSIAN GULF TRAGEDY

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the indiscriminate and criminal attack by Iraq's Air Force on an American naval vessel operating in international waters has been compounded by Iraq's reluctance in bearing up to its responsibilities for this tragedy—a tragedy that has claimed the lives of 37 brave young Americans and has injured many more.

The Iraqis first dragged their feet in admitting that it was their aircraft that perpetrated this outrage. Only after demands by Members of Congress for compensating the families of our victims did they indicate a willingness to do so. But as of this moment they have not yet produced the pilot who alone can give our board of inquiry all we need to know. Who ordered this ill-fated mission, how was it executed, and who is responsible for our dead and injured? It did not take long for the Iraqi pilot to complete his mission of death; it should take no longer to fly him to Bahrain, where our board of inquiry has now convened. That Iraqi pilot must be made available for interrogation by our military board of inquiry before sundown.

CHINA-BURMA-INDIA VETERANS APPRECIATION DAY

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, today I am introducing a bill to commemorate the 42d anniversary of a distinguished group of veterans, those who served in the Far East in China, Burma, and India during World War II. The resolution would designate August 29, 1988, as "National China-Burma-India Veterans Appreciation Day." My distinguished colleagues Sonny Montgomery of the Veterans' Affairs Committee, Mickey Edwards, and John P. Hammerschmidt are all original cosponsors of the measure.

I would also like to recognize Mr. and Mrs. William S. Dorman and former Tulsa Mayor George Norvell for all their help in preparing this resolution.

The purpose of this resolution is to provide recognition of the fact that 1988 marks the 42d anniversary of the National China-Burma-India Veterans Association [CBIVA] whose members total more than 9,000 across the Nation. The ties that this group shared during their assignment between December 7, 1941, and March 2, 1946, have not been severed. On the contrary, they seem to grow stronger through the years. One of the most famous members of the CBIVA is retired Senator Barry Goldwater.

The group was formed with the belief that those who served in the Far East didn't receive the same recognition that those veterans who served in Europe received. They banded together to highlight their efforts and to share experiences from the war.

Burma fell to Japan in 1942 causing the loss of the famous Burma Road used to transport military supplies to China from India in their efforts to stop the invasion of the Japanese. Many heros worked to supply China after the land route was severed. Many remember the United States Air Transport Command who flew the 500-mile route known as the "Hump" over the Himalayans from India to western China.

In 1943, the allies sought to reestablish a supply route. American, British, and Chinese troops in northern Burma hacked through jungles and scaled mountains to build a road to connect the railroad in India with the Chinese end of the old Burma Road. The Japanese, attempting to break up this new link, fought to capture airfields in northeast India. Time and again Americans and their Allies halted these drives. In February 1945, the first supplies were brought into China over the "Stillwell Road." These and many other battle campaigns are the stories of our China-Burma-India veterans.

It has been more than 40 years since the end of World War II, but the spirit of the brotherhood continues to flourish among these brave men and women. The closeness derived through battle with a common purpose creates a unique feeling of togetherness not duplicated in any other of life's ventures.

The China-Burma-India Veterans Association represented in every State in the Union continues to build on this common bond established during World War II by providing many services, as well as working to preserve the history of this era.

I am sure there are many colleagues who want to join this worthy cause.

THE MARS OBSERVER MISSION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, it was more than two decades ago that President Kennedy stood before a joint session of Congress and stated that this Nation should commit itself to landing a man on the Moon and returning him safely to the Earth. He gave a timetable for this goal which was met ahead of schedule. I don't think there's a Member in this Chamber who can forget where he or she was when Apollo 13 landed on the Moon in 1969. Anyone near a TV set watched the historic event.

Since the end of the Apollo Lunar Program, our Nation has lacked a goal in space to match our earlier exploits.

In fact, Mr. Speaker, our space program has become a yawn. This has had an effect on the morale of the personnel in the space program, and apathy about future goals on the part of the American people. Why has this been allowed to happen? A country with a $4 trillion gross national product can afford—in fact I think we are obligated—to pursue a vigorous space program. The program wasn't helped any by NASA's recent decision to delay the Mars Observer mission for 2 years. This is no call for this. This Nation and the space program cannot be satisfied with past exploits—content to shut off knowledge and live with the many shields of ignorance that still exist. While I can appreciate technological advances in recent space programs created by our country's scientists—tremendous scientists that deserve commendation—the fact is that we have not been setting our sights as high as they should be.

Mr. Speaker, this Nation was not founded by people who thought small and rode the wave of past accomplishments. We have gone to the Moon, and now it is time to go beyond. A manned trip to Mars is well within our grasp and will be aided by the timely launch of the Mars Observer mission in 1990. I would urge my colleagues here in the House to work against proposals to delay this project for 2 years. Let's work to get the luster back into the space program. This Nation should commit itself to sending a space capsule to further study Mars by the year 1990, and to launching a manned spacecraft to Mars and returning it safely to Earth no more than 15 years later—by the year 2005. I strongly urge my colleagues to work for the launch of this spacecraft on time.

STOP TRADE WITH TERRORIST NATIONS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, not long ago, the House passed a bill that could impose strict penalties on countries such as Japan, the Republic of Korea, and Taiwan. These are some of our best friends in the community of nations.

As we consider these and other important issues, we should not forget the continuing danger our country faces from a terrorist attack. Do my colleagues realize that we continue to extend official most-favored-nation preferential trade statust to nations that support terrorism?

Our State Department lists those nations which are shown to be consistent supporters of international terrorism. This list includes Libya, Syria, and Iran. It is obvious to most Americans that these terrorist states are not favored by our country, and they should not receive special trade breaks.

With the very distinguished chairman of the Interior Committee, Mr. UDALL, and over 50 original cosponsors from both parties and every region, I have introduced the Antiterrorism Sanctions Act of 1987. This bill would remove the most-favored-nation status from nations that are declared to be supporters of terrorism.

Our Nation cannot continue business as usual with terrorist states. I urge all of my colleagues to cosponsor the Antiterrorism Sanctions Act.

THE PRESIDENT'S INVOLVEMENT IN THE IRAN-CONTRA AFFAIR

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLORIO. Mr. Speaker, enough is enough.

The President of the United States a few weeks ago told his own appointed Commissioners, and the Tower Commission so reported, that he was detached from, and uninvolved with, the arms to the Contras affair.

Then his own supporters, testifying under oath before a congressional committee, clearly established the President's involvement in the undertaking.

So exposed, the President reverses himself and acknowledges total involvement and admits initiating the unauthorized arms to the Contras activities.

I have waited in vain to this point for someone to utter the word: lie.

The American people were being lied to by their President and no one has said anything.

The press, that this month drove a mere Presidential candidate from contention for a character deficiency, refuses to acknowledge the fact, now admitted by the President, that the American people were not told the truth, by him, regarding his involvement in the Iran-Contra affair.

The transparent cynicism that undoubtedly prompted the 180-degree turn from detachment to initiation of the arms deal, is in the process of being rewarded by silence.

The belief that the public's attention span lasts only a week at a time, and that its retention capability is limited, is not compatible with democratic values.

The media's selective approach, toward its recently announced responsibility to expose character flaws, undermines confidence in the objectivity and courage of a free press.

A healthy dose of the righteous indigation and public outrage is overdue. Where are the media now that the Nation really needs them?

The following New York Times article is relevant to this matter:

[From the New York Times, May 20, 1987]

REAGAN IGNITES A CONSTITUTIONAL CRISIS

(By Laurence H. Tribe)

After President's Reagan's former national security adviser, Robert C. McFarlane, testified that he had briefed the President "dozens" of times about the steps that he and various aides were taking to raise funds for the contras' military operations, the White House defense began edging away from the increasingly implausible "factual" claim of no Presidential involvement and toward an even more troubling legal claim of Presidential immunity.

This latest position continues to hold that the President played no role in diverting profits from the Iran arms sale to the contras—a claim that remains to be explored in further hearings.

But the White House also insists that however active a role the President played in efforts to encourage private and foreign assistance to the contras from sources outside the Iranian arms deal, no law passed by Congress either attempted to, or could, restrict his freedom to deploy his own office, or the offices of his National Security Council, to obtain third-party support for the contras.

This was not the Administration's expressed understanding of the Boland Amendment of October 1984 when the Assistant Secretary of State for Inter-American Affairs, Langhorne A. Motley, testified before the Senate Foreign Relations Committee shortly after Saudi Arabia's King Fahd had met with President Reagan and doubled the Saudis' clandestine aid to the contras, to $2 million a month.

At that time, Mr. Motley testified that soliciting aid from third countries would violate the amendment's prohibition against "direct or indirect" support for the contras. The Administration was right then; it is wrong now.

First, the Boland Amendment bars support for the contras drawn from any "funds available to . . . any . . . agency or entity of the United States involved in intelligence activities."

The amendment's legislative history makes clear that this includes Government revenues devoted to paying the salaries and expenses of intelligence operatives whenever their actions—such as the solicitation of contributions—"would have the effect of supporting" the contras "directly or indirectly," in the amendment's words.

Second, even if the costs of paying agents were not covered, the funds that such agents raised were indirectly made "available to" agencies that became "involved in intelligence activities," as the National Security Council had certainly become by 1985.

Having covertly turned the National Security Council into an operational intelligence unit in order to sidestep Congressional restrictions on, and oversight of, the Central Intelligence Agency, the White House cannot now invoke the view held by Congress, the Tower Commission and many others that the N.S.C. was not intended to serve as an intelligence agency.

That the funds obtained from domestic and foreign sources circumvented agency coffers and may have gone straight into the contras' hands cannot obscure their availability for intelligence agency purposes and projects.

Third, it is irrelevant whether the Presidential office is deemed an "entity of the United States involved in intelligence activities," because the President—if his latest "recollections" are accepted—either encouraged entities involved in intelligence to circumvent the amendment or, at the very least, did not "take Care that the Laws be faithfully executed" by such entities, as Article II, Section 3 of the Constitution requires.

In other words, if the puppets are subject to the law and violate it, the puppet master cannot escape accountability.

Therein lies what appears to be the most serious breach of duty by the President—a breach that may well entail an impeachable abuse of power, however, politically unlikely impeachment of this affable officeholder may be.

The Constitution is, after all, indifferent to popularity and blind to personality. Yet, stripped of its technical camouflage the latest White House position ultimately reduces to the claim that the President, being somehow outside the Government, is above the law.

Our entire constitutional system—not to mention common sense—rebels as any such notion.

The carefully crafted requirement of Article I, Section 9, that all funds raised by the Government or its agents must enter and leave the Federal Treasury, and must do so only pursuant to laws passed by Congress, would be rendered utterly meaningless if the President, seeing himself not as an agent of the Government but as an outsider, could preside freely over the creation of a shadow treasury designed to aid his shadow intelligence network in pursuit of his private schemes.

Congress' control over the purse would be rendered a nullity if the President's pocket could conceal a slush fund dedicated to purposes and projects prohibited by the laws of the United States.

When Ronald Reagan was elected on an antigovernment platform, pundits smiled. When incumbent President Reagan was reelected on such a platform, political scientists were puzzled. But when the President's status as a perpetually bemused and patriotic outsider is transformed from a political stance into a shield against the rule of law, a constitutional crisis is at hand.

RESTORE DEMOCRACY IN KOREA

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, South Korea is in a state of political turmoil. President Chun Doo Hwan recently suspended all debate on constitutional and electoral reform. He also enforced strict house arrest of opposition leader Kim Dae-Jung, forbidding face-to-face contact with anyone except his family and staff. To top this, Justice Minister Kim Sung-ky instructed the police to punish those who support constitutional change with "the maximum penalty available under law."

The people of Korea have not reacted favorably to the elimination of rights guaranteed by their own constitution. During the last few weeks, numerous protests have erupted, drawing thousands of students into violent confrontations with the police.

Mr. Speaker, last year President Chun announced his determination to have a peaceful transition of power when his term ends next February. But by preventing political discussion in Korea, he is answering that this will not occur.

Chun must lift his ban on constitutional debate, free Kim Dae Jung, and let the people choose their own leaders. These actions would help secure Korea's democratic and economic progress and strengthen her against the tyrants of the north.

NATIONAL TOURISM WEEK

(Mr. OLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLIN. Mr. Speaker, this week, May 17-23, our Nation celebrates National Toursim Week recongizing the importance of tourism to all Americans. It is with great pleasure that I pay tribute to this multibillion-dollar industry, its enormous contribution to our society and economy, and to the millions of dedicated men and women who make it a success.

My district, the 16th District of Virginia, has attractions to satisfy any visitor. Natural Bridge and the Blue Ridge Mountains demonstrate the wonders and beauty of nature. In Lexington, the burial place of both Robert E. Lee and Stonewall Jackson, visitors can study our history and traditions. Smith Mountain Lake provides boating and swimming. Our universities and museums satisfy the intellectually curious.

With similar sites abounding throughout Virginia, it is small wonder that toursim is the State's second largest industry. Thirty-three million travelers cross our borders each year and spend a total of $6 billion for both business and pleasure. Tourism provides more than 37,000 jobs.

Tourism is indeed a major asset to Virginia's economy. The same is true throughout the Nation.

Two hundred and forty million Americans travel within the United States each year; transporting, lodging, and feeding them creates $300 billion in revenue nationwide.

International visitors comprise an additional segment of the industry. Twenty-two million foreign visitors experienced American hospitality last year, spending approximately $13 billion. And the money they spent was in "invisible dollars" that augment our sagging economy.

In 1985, the combination of domestic and foreign travelers spent a total of $258 billion. That figure represents 6.5 percent of America's gross national product and makes travel and tourism America's third largest retail or service industry.

Over 5 million jobs are supported, directly and indirectly, by the travel and tourism industry. At a time when various sectors of the economy are faltering, the tourist industry is pushing ahead, employing 1 in every 15 Americans.

Inflation in the tourist industry has remained relatively low, while the disposable personal income of Americans has increased by 6.6 percent. Gasoline prices are down. Lodging and food costs are increasing only two-thirds as fast as they did over the last decade, and food service costs only one-half as rapidly. As a result, consumers are getting more for their travel dollar. Annual vacations and short excursions are on the increase, making travel the third largest household expense after a home and car.

National Tourism Week was initiated 4 years ago to recognize the economic importance of tourism. Also, National Tourism Week highlights the need to further expand our tourist industry, including steps to encourage more international visitors.

Tourism works, for both Virginia and America. National Tourism Week helps keep it working.

MEMORIAL DAY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this weekend, we celebrate Memorial Day. The holiday falls on May 25 this year. This is about as early as it can happen. It has become, thanks to the Congress, a holiday, not a Memorial Day. We no longer commemorate those brave men who gave their lives in our country's wars to preserve for us a nation which prizes freedom and has always been willing to pay the price for that freedom.

May 30, the real Memorial Day is now just another day. In some quarters, unfortunately including some in the Congress, it is not fashionable to remember the cost in blood and suffering paid to allow us the luxury of high standards of living and the ability even to attack those who defend us.

Before it became chic to deride our veterans and their sacrifices, Memorial Day was a very special day. Our veterans and their families decorated the graves in national cemeteries and anywhere that our honored dead repose. The Nation was awash with small American flags. It was a day to recall our national purpose and destiny.

It is time to return to the real world. It is time to remember who paid for our trips to the beach and to the ski slopes. It is time to restore Memorial Day and forget, for just 1 day in the year, the 3-day weekend. I have again this year reintroduced a bill to restore Memorial Day to May 30 each year. I urge those of you who wish to reaffirm their awareness of our debt to our military dead and restore the memory to its place of honor, to join me in sponsoring H.R. 2438, the Memorial Day Restoration Act.

A NEW LIFE FOR AN AMERASIAN BOY

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK Mr. Speaker, according to the schedule for next week announced by the Democratic leadership, we will be in session and have recorded votes on Wednesday and Thursday.

While I commend the leadership and my colleagues for this resolve, I must admit that this schedule creates a personal dilemma for me. On May 26, I am scheduled to depart for Vietnam on a mission that will mean a new life for Le Van Minh, a crippled Amerasian boy whom many of my colleagues will remember as the subject of a recent humanitarian initiative they joined to Secretary of State Shultz.

Le Van Minh is coming to America for medical treatment and a new life. I am proud to be associated with this mission which is the result of a campaign begun by an idealistic group of students at Huntington High School on Long Island.

Because of this journey to Vietnam, I will necessarily miss votes during the week of May 26. Upon my return, I intend to again take the well to report on how I would have voted on the Older American Act and other business scheduled before the House.

□ 1040

TRIBUTE TO KENNETH D. JANUSIK

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I would like to speak with you today about a young man from my district in Florida: Kenneth D. "Kent" Janusik.

Kent loved his country, and he was proud to enlist in the U.S. Navy. Last February, he set sail on his first tour of naval duty to the Persian Gulf aboard the U.S.S. *Stark*.

Sunday night, 19-year-old Kent Janusik paid the ultimate sacrifice: He gave one more moment than life would allow while patrolling those troubled waters.

Mr. Speaker, who will be our heroes today? I say we must offer only one answer: The soldiers of democracies, the guardians of liberty and peace.

America pays a price for keeping the peace—and that price is vigilance. We pay it by keeping a constant watch on a troubled world—and it is a price we sometimes pay, even in peacetime, with the loss of brave Americans who represent our Nation abroad.

Today, I am sure that all of my colleagues here in the House will join me in paying tribute to one of those brave Americans: Kent Janusik.

SAFE RAIL TRANSPORT OF HAZARDOUS WASTES

(Mr. COYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COYNE. Mr. Speaker, on the afternoon of April 11, two Conrail trains passing each other suddenly skipped off the tracks while traveling through a residential neighborhood in Pittsburgh. The resulting derailment of 33 rail cars twice forced the evacuation of hundreds of residents when a hazardous chemical leaked from one of the tank cars. How did this accident happen?

Since it occurred, there have been many questions but too few answers. Why did it take so long to complete drug and alcohol tests on the crewman? Why was one train traveling at such a high rate of speed in such a densely populated area? Were the trains being properly monitored by track controllers for speed, and if so, were any warnings radioed to the crew of the train that was exceeding the prescribed limit? Were the tank cars that were carrying hazardous chemicals secured safely and in compliance with all Federal regulations?

The people of Pittsburgh want some answers. The Nation, as well, has a right to know just how safe it is to be moving hazardous chemicals through densely populated urban centers.

Perhaps it was only luck that prevented this accident from being a major disaster. And maybe all of the probes now underway will show that the crews were alert and all safety procedures were carefully followed. But the Congressional Research Service has reported that human error was the cause of an astonishing 65 percent of all accidents involving hazardous materials.

Clearly, stronger, more rigorous training programs for workers would be one place to start. Better monitoring of train speeds by controllers is also clearly needed. Congress should also consider stricter rules governing how and where hazardous materials and nuclear wastes are transported by rail in an effort to minimize the opportunity for disaster.

TRIBUTE TO THOMAS JOSEPH McMULLEN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, yesterday I received the sad news that Thomas Joseph McMullen of Darby, PA, in southwest Philadelphia, was killed in the attack on the U.S.S. *Stark* in the Persian Gulf last Sunday.

Mr. McMullen, a 30-year-old, a gunner's mate, a 9-year veteran of the Navy, he leaves behind a wife and a family.

His tragic death affects us all, and I offer my sincere condolences to his family.

Mr. McMullen died in the noblest service to his country.

Mr. Speaker, words cannot fully describe the sadness that we feel at moments like this. As we approach this solemn Memorial holiday, I would ask that the Members, and all Americans, remember these young patriots who died in the service to our country.

ACCOUNTING FOR MIAS AND POWS IN VIETNAM

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, last night public television aired the provocative and compelling BBC documentary "We Can Keep You Forever" about the possibility of U.S. POW's who may still be held captive in Vietnam. This is must viewing for all of those dedicated to resolving the MIA-POW issue.

On April 30, I introduced House Concurrent Resolution 114 to urge the President to restructure and upgrade our diplomatic efforts to solve this issue. On the same day, my friend and colleague from New Hampshire, Congressman Bob Smith introduced H.R. 2260, which would require declassification in an appropriate manner of live sighting reports of American POW's.

Mr. Speaker, our efforts to obtain a full accounting of U.S. servicemen missing throughout southeast Asia have resulted in only slow and painful progress. While we all welcome General Vessey's selection for a mission to Hanoi, this must be seen as a first step in our determination to elevate the overall level of our contacts on this issue. Such a decision need not and should not involve diplomatic recognition at this time. We should understand assistant secretaries and deputy assistant secretaries have done as much as they can. I urge my colleagues to support House Concurrent Resolution 114 and H.R. 2260.

PRICE FOR WORLD PEACE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, as we approach this Memorial Day, I again want to make the Members aware, and all Americans, of the price we pay for peace.

The 37 fine young Americans who died in that terrible tragedy in the Persian Gulf are just added to that toll that most of us do not notice week after week of young men and young women, and some not so young, who die in combat training accidents.

Since the Vietnam war, just since we have left the roof of the U.S. Embassy in Saigon, over 11,000 young Americans have died in jet fighter crashes, Navy carrier approach crashes, paratrooper training, on the gunnery ranges, marching and trudging through swamps, other types of explosive accidents around the world. If you put in there the marines who died at Beirut, the young men who crashed on that chartered airplane coming back home for Christmas in Newfoundland, all around the world just since Ronald Reagan has been President, over 3,600 people have died in combat training accidents.

This is the price that we pay for peace around the world.

RESTORE CONGRESSMAN HAROLD FORD'S CONSTITUTIONAL RIGHTS

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I rise to express my deep concern about the gag order placed on the gentleman from Tennessee, Harold Ford, by Judge James Jarvis of the U.S. District Court for the Eastern District of Tennessee following the indictment of the gentleman from Tennessee [Mr. Ford].

The gag order is unusually broad, prohibiting Representative Ford from discussing the case with his family, his colleagues in Congress, or even his constituents. It is so extreme in fact it appears to impinge Representative Ford's constitutional rights to communicate with his congressional colleagues and with his constituents.

It is for the legal system to determine the ultimate guilt or innocence of the gentleman from Tennessee [Mr. Ford].

The gag order seems to clearly infringe upon Representative Ford's rights and inhibit the carrying out of Representative Ford's constitutional responsibilities to communicate with his constituents about a whole range of topics, including the gentleman's own fitness for office.

To impose this kind of order on any citizen infringes that right of public free speech, but in the case of an elected official, public opinion is the difference between professional effectiveness and ineffectiveness, between public accomplishment and public impotency and, of course, between victory and defeat.

I hope the district court will restore Representative Ford's full rights.

NATIONAL TOURISM WEEK

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, this week as our country celebrates National Tourism Week, I'd like to say a few words about some of the very unique aspects of this industry. Many times before, I've taken the floor to extol the economic virtues of tourism. Travel around the United States creates jobs, it broadens a community's economic base, and it generates tax revenues for local, State, and Federal Governments.

Yet, tourism has more to offer communities than just dollars. Tourism, more than any other industry I can think of, has the ability to bring together a variety of ethnic, geographical, and cultural experiences. By establishing contact between people of different backgrounds, tourism offers vast opportunities for people to know and understand one another. For example, travel around the United States enables people of a particular region to share their rich heritage of music, arts, and crafts with visitors from all over the world. These exchanges can only lead to greater understanding and appreciation of our Nation's people.

Last night, a group of tourism organizations from nine States across the Southeast were in town celebrating National Tourism Week. This group is the epitome of tourism. They brought their culture, their crafts, their ethnic foods, and their Southern hospitality to Washington. They did so to help create a better understanding of their industry and our region of the country. I'd like to show my appreciation for their work and involvement in celebrating this special week for tourism. I'd like to commend all the members of the Southeastern Tourism Society and all of the employees of tourism throughout the country for the work they perform to make us better understand our country, our heritage, and our regional differences.

REPRESSION BY CHUN GOVERNMENT IN KOREA GETTING WORSE

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, the potential progress for democratic reform in South Korea was effectively halted on April 13 of this year. President Chun announced the end of all debate on the revision of the constitution. Likewise, the opportunity for fair and free elections in 1988 was terminated. I find this situation very disturbing, in light of the honest attempt by the political opposition in South Korea to help facilitate a peaceful transition of presidential power.

New reports from Seoul indicate that the repression by the Chun government is only getting worse. Protesters have been beaten and tortured and many opposition leaders have been arbitarily arrested. Mr. Kim Dae Jung, a high profile opposition figure, is now serving his 42d day under house arrest.

I call on the Members of this body to take a close look at the events in South Korea. The American Government, which has 40,000 troops stationed in Korea to protect democracy, must make it clear that we will not tolerate a continuation of military rule and violations of human rights.

SUPPORT H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987, AND SUPPORT CONSTITUTIONAL RIGHT OF CONGRESSMAN HAROLD FORD

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, I would like to speak on two topics. First, I would like to urge my colleagues to support H.R. 5, the School Improvement Act of 1987. This is the most important educational bill we have faced since 1978. I would urge Members to look particularly at the elementary and secondary provisions of the bill: the $200 million authorization, which is an outstanding level, and also the fact that for the first time in recent years these moneys will be targeted at those most in need.

Another topic of vital concern to all of us is the right of our colleague, the gentleman from Tennessee [Mr. Harold Ford], to express his constitutional right on the floor of the House. It is my understanding the gentleman from Tennessee will be speaking today or in the near future. I would urge all my colleagues to pay close attention and to respect our colleague's constitutional right.

NATIONAL MARITIME DAY

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, as we celebrate the 200th year of our Constitution, let us not forget to honor an American institution that is even older—but vital to the Constitution's decree—the U.S. merchant marine. While we honor the past victories of the merchant marine, we look with hope to honor its future as well, and not to memorialize its past outstanding record by decommissioning the merchant marine vessel by vessel, shipyard by shipyard. Since colonial times, America recognized the need for a "home fleet" when the mother country's ships were unavailable. The second and third laws passed by the first Congress of the United States encouraged domestic citizen-owned and operated vessels. Government support for the merchant marine has been solid and strong for decades, but for a number of reasons we cannot yet clearly pinpoint, today's U.S. maritime industry is in serious trouble—both commercially and for national defense purposes. Thomas Jefferson, a strong supporter of the U.S. merchant marine, maintained that the fleet "will admit neither neglect nor forbearance." He would be distressed to witness the deplorable decline of an institution so near and dear to his heart. We presently face a crisis point in sealift and shipbuilding and must remedy the problem as soon as possible. Last year I authored legislation that established a Commission on Merchant Marine and Defense to study the problem and develop recommendations for rebuilding a troubled industry. It is my sincere hope that the Commission's recommendations, when finalized, will be implemented, so that we can achieve and sustain a strong and invaluable U.S. maritime industry.

SCHOOL IMPROVEMENT ACT OF 1987

The **SPEAKER** pro tempore. Pursuant to House Resolution 172 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1051

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, with Mr. VOLKMER in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** When the Committee of the Whole rose on Wednesday, May 20, 1987, all time for general debate had expired.

Pursuant to the rule, the substitute committee amendment now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Improvement Act of 1987".

The **CHAIRMAN.** Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

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The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—BASIC PROGRAMS

Subtitle A—Aid for the Educationally-Deprived and for Educational Innovation

CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—In recognition of—

(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

(B) expand the program authorized by this chapter over the next six years to serve all educationally deprived children by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year from fiscal year 1989 through fiscal year 1993; and

(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

(b) STATEMENT OF PURPOSE.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

Subpart 1—Allocations

SEC. 1005. BASIC GRANTS.

(a) AMOUNT OF GRANTS.—

(1) GRANTS FOR TERRITORIES.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 1291). The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter.

(2) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

(i) the percentage determined under the preceding sentence and

(ii) 32 percent of the average per pupil expenditure in the United States.

(3) SPECIAL ALLOCATION PROCEDURES.—

(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibil-

ity shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

(4) DEFINITION.—For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

(c) CHILDREN TO BE COUNTED.—

(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

(A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

(B) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

(C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2) DETERMINATION OF NUMBER OF CHILDREN.—

(A) For the purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) PROGRAM FOR INDIAN CHILDREN.—

(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 percent of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F.

(e) TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN.—Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this chapter of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

(f) STATE MINIMUM.—(1) Subject to paragraph (2), for any fiscal year for which sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1987 and sums available for the purposes of section 1006 equal or exceed $400,000,000, the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1987.

(3) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than 150 percent of the allotment of that State in the

fiscal year preceding the fiscal year for which the determination is made.

(g) Duration of Assistance.—During the period beginning October 1, 1987, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

(a) Eligibility for and Amount of Special Grants.—

(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

(A) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

(B) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year,

except that no such State shall receive less than one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year.

(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

(A) the greater of—

(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of subparagraphs (A) and (B) of paragraph (1). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

(B) In counties where no local educational agency meets the criteria of subparagraph (A) or (B) of paragraph (1), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

(i) In accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of subparagraphs (A) and (B) of paragraph (1), but are otherwise ineligible.

(b) Payments; Use of Funds.—

(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

(c) Reservation of Funds.—For any fiscal year for which amounts appropriated under this part subsequent to the date of enactment of this Act exceed amounts appropriated to carry out chapter 1 of the Education Consolidation and Improvement Act in fiscal year 1987, such excess sum, not to exceed $400,000,000, shall first be available for the purposes of this section.

Subpart 2—Basic Program Requirements

SEC. 1011. USES OF FUNDS.

(a) Program Description.—

(1) A local educational agency may use funds received under this chapter only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

(3) Educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

(b) Innovation Projects.—

(1) Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for not more than 50 percent of the costs of conducting innovative projects developed by the local educational agency that include only—

(A) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

(B) the provision of extended services to eligible children transferred to ineligible areas or schools as part of a desegregation plan;

(C) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

(D) training of teachers and librarians not paid with funds under this chapter with respect to the special educational needs of eligible children and to integrate activities under this chapter into regular classroom programs;

(E) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs; and

(F) encouraging community and private sector involvement and resources in meeting the needs of eligible children.

(c) Waiver for Poor Local Educational Agencies.—The provision under subsection (b)(1) limiting the Federal share of projects to not more than 50 percent shall not apply

to any local educational agency which demonstrates to the State educational agency that it lacks the financial resources to comply with that requirement.

SEC. 1012. APPLICATIONS.

(a) IN GENERAL.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years and which describes the desired outcomes, in terms of basic and more advanced skills, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency.

(b) ASSURANCES.—Such application shall provide assurance that the programs and projects described—

(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017; and

(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program.

SEC. 1013. ELIGIBLE SCHOOLS.

(a) GENERAL PROVISIONS.—

(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as "eligible school attendance areas"), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence.

(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than one thousand children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

(1) A local educational agency may designate as eligible and serve any of its attendance areas if the percentage of children from low income families in each attendance area of the agency is within five percentage points of the average percentage of such children for the entire local educational agency;

(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year.

(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally derived children from low-income families in project areas served by the local educational agency.

(4) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

(5) If an eligible school attendance area or eligible school was so designated in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify in such additional year.

(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, except that (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

(c) ALLOCATIONS.—

(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this chapter among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

(2) Children in eligible schools, who receive services under this chapter and subsequently become ineligible due to academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

SEC. 1014. ELIGIBLE CHILDREN.

(a) GENERAL PROVISIONS.—

(1) Except as provided in subsections (c), (d), and (e) of this section and section 1015, a local educational agency shall use funds received under this chapter for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

(2) The eligible population for services under this part are—

(A) those children up to age 21 who are entitled to a free public education through grade 12, and

(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this chapter only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.

(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—(1) Educationally deprived children who begin participation in a program or project assisted under this chapter, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this chapter, may, if the local agency so determines, continue to participate in a program or project funded under this chapter for the duration of that same school year.

(2) In providing services under this chapter a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this chapter.

(3) A child who, in the previous year was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this chapter for two additional years.

(d) SPECIAL RULES.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this chapter, if they have needs stemming from educational deprivation and not related

solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this chapter. Funds under this chapter may not be used to provide services that are otherwise required by law to be made available to such children.

(2) A student who in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

SEC. 1015. SCHOOLWIDE PROJECTS.

(a) Use of Funds for Schoolwide Projects.—In the case of any school serving an attendance area that is eligible to receive services under this chapter and in which, for the first year of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this chapter to upgrade the entire educational program in that school if the requirements of subsections (b), (c), and (d) are met.

(b) Designation of Schools.—A school may be designated for a schoolwide project under subsection (a) if—

(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

(D) describes the specific uses of funds under this chapter as part of that program; and

(E) describes how the school will move to implement an effective schools program as defined in section 1471;

(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

(3) the plan provides for consultation among such individuals under paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (d);

(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

(5) the plan includes procedures for measuring progress, as required by subsection (d), and describes the particular measures to be used; and

(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

(c) Approval of Plan; Operation of Project.—

(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

(2) For any school which has such a plan approved, the local educational agency—

(A) shall, in order to carry out the plan, be relieved of any requirements under this chapter with respect to the commingling of funds provided under this chapter with funds available for regular programs;

(B) shall use funds received under this chapter only to supplement, and to the extent practicable, increase the level of funds that would in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a school-wide project under paragraph (1); and

(C) shall comply with the provisions of section 1018(c).

(d) Use of Funds.—In addition to uses under section 111, funds may be used in schoolwide projects for—

(1) planning and implementing effective schools programs, and

(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended schoolday programs.

(e) Accountability.—

(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of three years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional three-year period.

(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of eligible children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of eligible children in that school exceeds the average achievement of such children in that school in the three fiscal years prior to initiation of the schoolwide project.

(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels do not decline.

(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

SEC. 1016. PARENTAL INVOLVEMENT.

(a) Findings; General Requirement.—

(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activities, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

(b) Goals of Parent Involvement.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating children, develop programs, activities, and procedures which have the following goals—

(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students; and

(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children.

(c) Mechanisms for Parental Involvement.—

(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all

such parents are given an opportunity to participate.

(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and to the extent practical hold a parent-teacher conference with parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter.

(4) Local educational agencies shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children.

(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided in a language and form which the parents understand.

SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011, 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—

(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 or chapter 1 of the Education Consolidation and Improvement Act shall remain in effect to the extent consistent with the purposes of this chapter.

(d) CAPITAL EXPENSES.—

(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agencies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter.

(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected.

(4) For the purposes of this subsection, the term "capital expenses" is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (in-

cluding but not limited to mobile educational units and computer equipment and materials), insurance and maintenance costs, transportation, and other comparable goods and services.

SEC. 1018. FISCAL REQUIREMENTS.

(a) MAINTENANCE OF EFFORT.—

(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

(c) COMPARABILITY OF SERVICES.—

(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

(i) a districtwide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

(3) Local educational agencies shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. State educational agencies shall monitor the compliance of local educational agencies within their States with respect to the requirements of this paragraph.

(4) Local educational agencies with not more than one building for each grade span shall not be subject to the provisions of this subsection.

(5) Local educational agencies which are found to be out of compliance with this provision shall be subject to withholding of funds only to the amount or percentage by which the local educational agency has failed to comply.

(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children (which meets the requirements of subparagraph (B).

(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

(i) all children participating in the program are educationally deprived,

(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and

(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

(i) bilingual education for children of limited English proficiency,

(ii) special education for handicapped children or children with specific learning disabilities, and

(iii) certain State phase-in programs as described in subparagraph (B).

(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

(i) the program is authorized and governed specifically by the provisions of State law;

(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

(v) the program will benefit all children in a particular school or grade-span within a school;

(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determination. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

(e) PROHIBITION REGARDING STATE AID.—No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

SEC. 1019. EVALUATIONS.

(a) LOCAL EVALUATION.—In accordance with national standards, each local educational agency shall—

(1) evaluate the effectiveness of programs assisted under this part at least once every three years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

(2) submit such evaluation results to the State educational agency at least once during each three-year application cycle;

(3) conduct a review of the program's effectiveness in improving student achievement in any year in which the local educational agency does not conduct an evaluation pursuant to paragraph (1) and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

(4) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year; and

(5) use the results of such evaluation and review in program improvement efforts.

(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1124(e), 1132(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every two years, submit that evaluation to the Secretary and make public the results of that evaluation;

(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

(3) collect data on the race, age, and gender of children served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

SEC. 1020. PROGRAM IMPROVEMENT.

(a) SCHOOL PROGRAM IMPROVEMENT.—With respect to each school which shows no improvement or a decline in aggregate achievement of children served under this chapter for one school year, the local educational agency shall—

(1) develop and implement in coordination with such school a plan for program improvement which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children including—

(A) technical assistance,

(B) alternative curriculum that has shown promise in similar schools,

(C) improving coordination between the chapter 1 and the regular school program,

(D) evaluation of parent involvement,

(E) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter,

(F) other measures proposed by the local educational agency, and

(2) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

(b) STATE ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES.—(1) If for two consecutive years, the aggregate achievement of children served under this chapter in a school does not improve or declines, the local educational agency shall, in consultation with the State educational agency, school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved achievement in the aggregate is sustained over a period of more than one year.

(2) The State educational agency shall provide appropriate technical assistance to each school identified under paragraph (1) and shall jointly establish with local educational agency representatives objective measures of educational performance in identified schools and disseminate such criteria to local educational agencies.

(c) LOCAL CONDITIONS.—The local educational agency and the State educational agency, in performing their responsibilities under subsections (a) and (b), shall take into consideration—

(1) the mobility of the student population;

(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter, and

(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter.

(d) STUDENT PROGRAM IMPROVEMENT.—On the basis of the evaluations and reviews under section 1019, each local educational agency shall—

(1) identify students who have been served for a program year and have shown no improvement or a decline in achievement,

(2) consider modifications in the program offered to better serve students so identified, and

(3) conduct a thorough assessment of the educational needs of students who remain in the program after two consecutive years of participation with no improvement in achievement.

(e) TECHNICAL ASSISTANCE.—In carrying out the program improvement and student improvement activities required in subsections (a), (b), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers established by section 1437(d) to the full extent such resources are available.

PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SEC. 1051. STATEMENT OF PURPOSE.

It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as "Even Start". The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

SEC. 1052. GRANT ALLOCATION.

(a) STATE ALLOCATION.—Except as provided in subsections (b) and (c), grants shall be made to each State in the same proportion as grants are allocated under section 1005.

(b) STATE MINIMUM.—

(1) Except as provided in paragraph (2), no State shall receive less than three-fourths of one percent of the amount appropriated for this part for any fiscal year. For any fiscal year for which amounts appropriated are less than $50,000,000, no State shall receive more than 5 percent. For any fiscal year for which amounts appropriated are greater than $50,000,000 no State shall receive less than three-fourths of one percent of sums appropriated in excess of $50,000,000.

(2) Subject to the availability of appropriations, no State shall receive less than $100,000 for any fiscal year.

(c) RESERVATION FOR MIGRANT PROGRAMS.—The Secretary shall reserve an amount equal to three percent of the sums appropriated for this part for programs consistent with the purposes of this part for migrant children and their families to be conducted through the Office of Migrant Education.

SEC. 1053. USES OF FUNDS.

(a) IN GENERAL.—Funds made available to local educational agencies under this part shall be used to provide family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) PROGRAM ELEMENTS.—Each program assisted under this part shall include—

(1) the identification and recruitment of eligible children;

(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

(A) scheduling and location of services to allow joint participation by parents and children;

(B) child care; and

(C) transportation;

(4) the establishment of instructional programs that promote adult literacy, training parents to support the education and growth of their children, and preparation of children for success in regular school programs;

(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

(7) coordination of programs assisted under this part with programs assisted under part A, the Adult Education Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

(c) LIMITATION.—Funds under this part may be used for not more than 80 percent of the total cost of the program in the first year of funding, 60 percent in the second year, 40 percent in the third year, and 20 percent in the fourth and any subsequent year of funding. Funds may not be used for indirect costs. Additional funds may be obtained from any available source (including Federal, State, and local programs and part A of this chapter).

SEC. 1054. ELIGIBLE PARTICIPANTS.

Eligible participants shall be—

(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

(2) the child or children (aged 1 to 7, inclusive) of any individual under paragraph (1) who reside in a school attendance area des-

ignated for participation in programs under part A.

SEC. 1055. APPLICATIONS.

(a) Submission.—To be eligible to receive a grant a local educational agency shall submit an application in such form and containing or accompanied by such information as the State educational agency may require.

(b) Required Documentation.—Such application shall include documentation that the local educational agency has the qualified personnel required—

(1) to develop, administer, and implement the program required by this part, and

(2) to provide special training necessary to prepare staff for the program.

(c) Plan.—Such application shall also include a plan of operation for the program which includes—

(1) a description of the program goals;

(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

(3) a description of the population to be served and an estimate of the number of participants;

(4) a statement of the methods which will be used—

(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

(5) a description of the methods by which the applicant will coordinate programs under this part with programs under part A of this chapter, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

SEC. 1056. AWARD OF GRANTS.

(a) Selection Process.—Each State educational agency shall appoint a review panel that will award grants on the basis of proposals which—

(1) are most likely to be successful in meeting the goals of this part;

(2) are serving areas of the State in greatest need of services provided under this part;

(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

(4) submit budgets which appear reasonable, given the scope of the proposal;

(5) demonstrate the local educational agency's ability to provide additional funding under section 1053(c);

(6) are representative of urban and rural regions of the State; and

(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

(b) Review Panel.—A review panel shall consist of 7 members as follows:

(1) an early childhood education professional;

(2) an adult education professional;

(3) a representative of parent-child education organizations;

(4) a representative of community-based literacy organizations;

(5) a member of a local board of education;

(6) a representative of business and industry with a commitment to education; and

(7) an individual involved in the implementation of programs under this chapter within the State.

(c) Duration.—Grants may be awarded for a period not to exceed 4 years.

SEC. 1057. EVALUATION.

(a) Independent Annual Evaluation.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) Criteria.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) Report to Congress and Dissemination.—The Secretary shall prepare and submit to the Congress an annual review and summary of the results of such evaluations. The annual evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

SEC. 1058. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of this part $50,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

Subpart 1—Authorization and Funds Distribution

SEC. 1101. PURPOSE.

It is the purpose of this part to reduce the number of youths who do not complete their elementary and secondary education and to improve the basic skills of secondary school students by providing—

(1) national demonstration grants for 3 years to local educational agencies to establish and demonstrate dropout prevention and reentry or secondary school basic skills improvement programs; and

(2) funds to States on a formula basis for the subsequent 3 years for grants to local educational agencies to implement effective dropout prevention and reentry or secondary school basic skills improvement programs.

SEC. 1102. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of this part $100,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993. Funds appropriated pursuant to this section shall be used in accordance with section 1103.

SEC. 1103. USE OF FUNDS FOR NATIONAL DEMONSTRATION GRANTS AND STATE IMPLEMENTATION GRANTS.

(a) From the funds appropriated under section 1102 for fiscal years 1988, 1989, and 1990, the Secretary shall carry out a program of national demonstration grants as provided under subpart 2.

(b) From the funds appropriated under section 1102 for fiscal years 1991, 1992, and 1993, the Secretary shall allocate funds to State educational agencies to carry out a program of State implementation grants as provided in subpart 3.

(c) The provisions of section 414 of the General Education Provisions Act shall not apply to the national demonstration program authorized in subpart 2 and funded under subsection (a) of this section.

Subpart 2—National Demonstration Program

SEC. 1121. RESERVATIONS OF FUNDS.

(a) Reservation for Migrant Programs.—From the amount appropriated under section 1102 for fiscal years 1988, 1989, and 1990, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purposes of this part for national demonstration programs for migrant children conducted through the Office of Migrant Education.

(b)(1) Subject to paragraph (2), from the remainder of such amount for fiscal years 1988, 1989, and 1990, the Secretary shall reserve 50 percent, for national demonstration grants for dropout prevention and reentry activities (as described in section 1142) to be distributed in accordance with the provisions of section 1122, and 50 percent for secondary school basic skills improvement activities (as described in section 1143), to be distributed in accordance with the provisions of section 1123.

(2) The percentage allotments of funds for dropout prevention and reentry activities or secondary school basic skills improvement activities in paragraph (1) may be adjusted by the Secretary, if additional funds remain after meeting the funding needs for activities described in section 1142 or section 1143, based on the number of applications and the types of programs being proposed.

(3) In calculating the percentages under paragraph (1), the Secretary shall, for those applicants which propose both dropout prevention activities and basic skills improvement activities, attribute an appropriate share toward each percentage reservation, on the basis of the amount which the applicant estimates in its application will be required for each category of activity.

SEC. 1122. ALLOTMENT OF FUNDS FOR DROPOUT PREVENTION AND REENTRY GRANTS.

(a) Categories of Local Educational Agencies.—From the funds reserved for dropout prevention and reentry activities in section 1121(b), the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 250,000 or more elementary and secondary school students shall be allotted 20 percent of the amount appropriated.

(2) Local educational agencies administering schools with a total enrollment of at least 50,000, but less than 250,000 elementary and secondary school students, shall be allotted 25 percent of the amount appropriated.

(3) Local educational agencies administering schools with a total enrollment of at least 20,000, but less than 50,000 elementary and secondary school students, shall be al-

lotted 25 percent of the amount appropriated.

(4) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies with a total enrollment of less than 20,000 elementary and secondary students. Such units and consortia may apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(b) FUNDS TRANSFER.—If all applicants in a category have received grants which sufficiently address the needs as stated in their applications with regard to the number of students to be served and the level of funding requested and funds remain available under that category, the Secretary may use such available funds for purposes of grants for other categories of local educational agencies with unmet needs.

(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies that propose dropout prevention and reentry programs pursuant to section 1142, whose applications have been approved by the Secretary for such fiscal year, and whose applications propose a program that will be of value as a demonstration of the activities in section 1142. The Secretary shall give first priority within each category under section 1121(a) to applicants that have either very high numbers or very high percentages of school dropouts.

(d) AMOUNT.—The amount of a grant awarded under this section to a local educational agency for any fiscal year, to the extent practicable, shall be proportionate to the extent and severity of the local dropout problem.

(e) MATCHING REQUIREMENT.—

(1) For the first fiscal year of assistance under this part, a local educational agency shall provide, from other Federal, State, or local public or private sources, a cash amount which is not less than 10 percent of such grant for the purposes of projects under this part.

(2) A local educational agency shall provide 25 percent of such grant for the second year and 40 percent for the third and each subsequent year for the purposes of projects under this part. Such matching assistance under this paragraph shall be from other Federal, State, or local public or private sources and may be in the form of cash or of in-kind contributions (such as facilities, overhead, personnel, and equipment) fairly valued.

SEC. 1123. ALLOTMENT OF FUNDS FOR SECONDARY SCHOOL BASIC SKILLS IMPROVEMENT GRANTS.

(a) From the funds reserved for secondary school basic skills improvement activities in section 1121(b), the Secretary shall award grants to local educational agencies that propose basic skills improvement activities pursuant to section 1143, whose applications have been approved by the Secretary for such fiscal year, and whose applications propose a program of sufficient size and scope to be of value as a demonstration.

(b) In awarding such grants, the Secretary shall—

(1) consider the quality of the applicant's proposal and the extent to which it proposes remedial activities specifically tailored to the needs of secondary students; and

(2) provide for an equitable distribution of awards on the basis of geographic area, urban and rural areas, size of school districts and schools, and characteristics of students involved in the program.

SEC. 1124. GENERAL PROVISIONS FOR NATIONAL DEMONSTRATION GRANTS.

(a) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies under this subpart not later than July 1 preceding such fiscal year.

(b) MAXIMUM NUMBER OF GRANTS.—

(1) A local educational agency may receive no more than one grant for each of 3 fiscal years under this part.

(2) In any application from a local educational agency for a grant to continue a project for the second or third fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary shall review the progress being made toward meeting the objectives of the project. The Secretary may refuse to award a grant if the Secretary finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

(3) If additional funds become available in the second or third fiscal year after continuation grants have been funded, the Secretary may use such additional funds to initiate new demonstration projects under this subpart, equally divided between activities for section 1142 and section 1143, for a shorter duration than 3 years.

(c) The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this subpart.

(d) In administering the national program, the Secretary shall ensure maximum coordination between the dropout prevention grants and basic skills improvement grants awarded.

(e) With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under this subpart. Such evaluation shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be made available to the Congress, State educational agencies, and the National Diffusion Network.

Subpart 3—State Implementation Grants

SEC. 1131. DISTRIBUTION OF FUNDS.

(a) RESERVATION FOR MIGRANT PROGRAMS.—From the amount appropriated under section 1102 for fiscal years 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purposes of this part for dropout prevention and reentry and secondary school basic skills improvement grants for migrant children conducted through the Office of Migrant Education.

(b) ALLOCATION TO STATES.—From remaining funds appropriated under section 1102 for fiscal years 1991, 1992, and 1993, the Secretary shall make grants to States to carry out dropout prevention and reentry and secondary school basic skills improvement programs in local educational agencies within the State. Such grants shall be allocated among States in the same proportion as grants to States are allocated under section 1005.

(c) AWARD OF GRANTS TO LOCAL EDUCATIONAL AGENCIES.—(1) From funds received under subsection (a), each State may first reserve not more than 5 percent of the amounts available under this subpart for any fiscal year for State administrative costs.

(2) The remainder shall be used for grants to local educational agencies that—

(A) have the greatest need for services under this subpart based on their numbers or proportions of secondary school children from low-income families, low-achieving secondary school children, or dropouts;

(B) are representative of urban and rural regions within the State; and

(C) have the greatest financial need for funds to initiate or expand the programs authorized under this part.

(d) DURATION.—Grants may be awarded for a period not to exceed 3 years.

SEC. 1132. PROGRAM REQUIREMENTS.

(a) A local educational agency may use funds under this subpart for dropout prevention and reentry activities pursuant to section 1142, for secondary schools basic skills improvement activities pursuant to section 1143, or for a combination of such activities.

(b) Local educational agencies shall annually evaluate the effectiveness of programs under this subpart and shall, every 2 years, submit the results of such evaluations to the State educational agency, either in conjunction with the evaluations required under section 1019 or separately.

(c) Programs under this subpart shall comply with the provisions of section 1018.

(d) SUPPLEMENTARY FUNDING.—

(1) Local educational agencies shall use funds under this subpart to supplement the level of funds under this chapter that are used for secondary school programs.

(2) In order to comply with paragraph (1) local educational agencies which operate secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which are operating secondary school basic skills programs under this subpart shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

Subpart 4—General Requirements

SEC. 1141. APPLICATIONS.

(a) Any local educational agency which desires a grant under subpart 2 or subpart 3 shall submit to the Secretary or to the State educational agency, as appropriate, an application describing the program to be supported with funds under this part and complying with the provisions of subsection (b).

(b) GENERAL CONTENTS.—Applications under subsection (a) shall—

(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, dropouts, and potential dropouts;

(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this subpart);

(3) assure that the programs will be conducted in schools with the greatest need for

assistance, in terms of achievement levels, poverty rates, or dropout rates;

(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part;

(5) assure that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

(7) describe the methods by which the applicant will coordinate programs under this chapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part. If the Secretary determines that a local educational agency has substantially failed (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students;

(10) in the case of a local educational agency that is seeking funding for both dropout prevention and reentry and secondary school basic skills improvement activities, identify which activities in the applicant's proposed program are primarily dropout prevention and reentry activities, and which activities are primarily secondary school basic skills improvement activities and the amount of funding requested for each such type of activity;

(11) contain annual procedures for (A) evaluating the effectiveness of the project, and (B) where possible, determining the cost-effectiveness of the particular methods used and the potential for reproducing such methods in other areas of the State or the country; and

(12) provide such other information as the Secretary or the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

(c) SPECIAL PROVISIONS FOR DROPOUT PREVENTION PROGRAMS.—In addition to the requirements of subsection (b), an application from a local educational agency which proposes to use funds under national demonstration grants or implementation grants for dropout prevention and reentry activities in section 1142 shall also—

(1) be developed in consultation with any appropriate community-based organizations of demonstrated performance;

(2) provide the best available information concerning (A) the number of children formerly enrolled in the applicant's schools who have not completed their elementary or secondary education, and (B) the percentage of such children in the total school-age population in the applicant's schools;

(3) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem, in accordance with requirements for data collection, reporting, and evaluation established by the Secretary; and

(4) include a plan for the development and implementation of a project which, through the provision of educational, occupational, and testing services and activities, will—

(A) implement comprehensive identification, prevention, outreach, and reentry programs for dropouts and potential dropouts;

(B) address the special needs of school-age parents, Indians, migrants, and other identified high-risk populations, and coordinate with migrant programs under sections 1121(a) and 1131(a);

(C) disseminate information to students, parents, and the community related to the dropout problem;

(D) include coordinated activities involving at least one high school and its feeder junior high or middle schools and elementary schools for those local educational agencies having such feeder systems;

(E) establish an advisory council, or designate an existing council which is broadly representative of the entire community and the populations to be served and, as appropriate, includes representatives of business, juvenile justice and social services agencies, labor unions, professional associations, and community-based organizations;

(F) as appropriate, provide mechanisms which focus on the importance of developing occupational competencies which link job skill preparation and training with other employee training programs and genuine job opportunities; and

(G) as appropriate, utilize educational telecommunications and broadcasting technologies and educational materials for programs of dropout prevention, outreach, and reentry.

(d) SPECIAL PROVISION FOR BASIC SKILLS IMPROVEMENT PROGRAMS.—In addition to the requirements of subsection (b), an application from a local educational agency which proposes to use funds under a national demonstration grant or an implementation grant for secondary school basic skills improvement activities pursuant to section 1143 shall also provide information on the number of educationally deprived students in the secondary schools of the school district of such local educational agency that are not being served by existing programs under this chapter or similar programs and provide information on the number of schools and students to be served by programs under this part.

SEC. 1142. USES OF FUNDS FOR DROPOUT PREVENTION AND REENTRY.

(a) IN GENERAL.—Funds received under national demonstration or State implementation grants may be used by local educational agencies for effective programs to—

(1) identify potential dropouts and prevent them from dropping out;

(2) identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) identify at-risk students in elementary and secondary schools and provide early intervention for such students; and

(4) develop model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

(b) AUTHORIZED ACTIVITIES.—In addition, grants may be used for educational, occupational, and testing services and activities, including the following:

(1) to establish systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) to provide social work services (including peer interaction activities);

(3) to provide ombudsman or mentor services;

(4) to develop and implement activities, including extended day or summer programs, to address poor achievement, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

(5) to establish or expand work-study, apprentice, or internship programs;

(6) to use the resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

(7) to evaluate and revise program placement of students at risk;

(8) to review curriculum relevancy;

(9) to implement activities which will improve student motivation and the school learning environment;

(10) to provide training for school staff on strategies and techniques to identify children at risk of dropping out, to intervene in the instructional program with support and remedial services, to develop realistic expectations for student performance, and to improve student-staff interactions;

(11) to coordinate dropout prevention and reentry programs with appropriate drug prevention and youth gang prevention programs, such as those funded under the Drug-Free Schools and Communities Act of 1986;

(12) to study and conduct a comparative analysis of the incidence of dropouts among gifted and talented students and the incidence of dropouts among the general student population; and

(13) to provide other educational, occupational, and testing services and activities which directly relate to the purpose of this subpart.

SEC. 1143. USES OF FUNDS FOR SECONDARY SCHOOL BASIC SKILLS IMPROVEMENT.

(a) IN GENERAL.—Funds received under national demonstration or State implementation grants may be used by local educational agencies for effective programs to improve the basic skills of secondary schools students who meet the requirements of section 1014.

(b) AUTHORIZED ACTIVITIES.—Funds made available under this subpart shall be used—

(1) to initiate or expand programs to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills;

(2) to develop remedial programs specifically tailored to the needs of secondary school students;

(3) to develop and implement remedial activities to address the problems of poor achievement and course failure among eligible children;

(4) to develop innovative approaches for surmounting barriers that make secondary

school programs under this chapter difficult to administer, such as scheduling problems and graduation requirements;

(5) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(6) to provide counseling, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; and

(7) to recruit, train, and supervise secondary school students (including the provision of stipends to low-income students) to serve as peer tutors of other students eligible for services under this subpart, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

(c) Limitation.—Not more than 25 percent of amounts available for this section may be used by a local educational agency for noninstructional services.

SEC. 1144. FISCAL AND COORDINATION PROVISIONS.

(a) Administrative Costs.—Not more than 10 percent of a grant may be used for local administrative costs.

(b) Coordination and Dissemination.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

(c) Reporting Requirements.—The Secretary shall establish uniform requirements for applications, data collection, reporting, and evaluation under this part. In developing such requirements, the Secretary shall consult with representatives of State and local educational agencies and with the General Accounting Office. The Secretary shall give special consideration to the interim and final findings of the studies concerning school dropouts of the General Accounting Office.

PART D—PROGRAMS OPERATED BY STATE AGENCIES

Subpart 1—Programs for Migratory Children

SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT.

(a) Entitlement.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 1202.

(b) Amount of Grant.—

(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged three to twenty-one, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged three to twenty-one, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States shall not exceed a standard error rate of 5 percent.

(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 percent of the average per pupil expenditure in the United States.

SEC. 1202. PROGRAM REQUIREMENTS.

(a) Requirements for Approval of Application.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen; and

(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

(b) Continuation of Migrant Status.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of five years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

(c) Definitions.—The Secretary shall continue to use the definitions of "agricultural activity", "currently migratory child", and "fishing activity" which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965. No additional definition of "migratory agricultural worker" or "migratory fisherman" may be applied to the provisions of this subpart.

(d) By-Pass Provision.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

(a) Activities Authorized.—

(1) The Secretary is authorized to make grants (in consultation with and with the approval of the States) to State educational agencies for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant issued under this paragraph shall not exceed 3 years for its stated purpose.

(2) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including indi-

vidualized education programs). For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $6,000,000 nor more than 5 percent of the amount appropriated.

Subpart 2—Programs for Handicapped Children

SEC. 1221. AMOUNT AND ELIGIBILITY.

(a) ELIGIBILITY FOR GRANT.—A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year.

(b) APPLICATION.—In order to receive a grant under this section, an eligible State educational agency shall provide assurances that—

(1) all grant recipients under this part will comply with the requirements of part B of the Education of the Handicapped Act and, if appropriate, part H of such Act;

(2) it will monitor compliance under paragraph (1);

(3) programs and projects under this subpart are coordinated with services under the Education of the Handicapped Act;

(4) for fiscal year 1991, and each subsequent fiscal year, the State office responsible for administering part B of the Education of the Handicapped Act shall administer the program authorized by this subpart;

(5) the agency shall report, annually, to the Secretary the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

(6) the agency shall report, annually, to the Secretary the number of children served under this subpart in each of the educational placements described in section 618(b)(1) of the Education of the Handicapped Act (and shall report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs);

(7) the agency shall report, annually, to the Secretary on the uses of funds and the allocation of such funds for such uses under this subpart; and

(8) the agency shall report to the Secretary such other information as the Secretary may reasonably request.

Consistent with part B of the Education of the Handicapped Act and regulations pursuant to such part related to least restrictive environment, a State educational agency shall set forth policies, procedures, and guidelines for transferring children from State operated or supported institutions and programs and from separate schools and programs operated or supported by local educational agencies into regular educational environments operated by a local educational agency.

(c) AMOUNT OF GRANT.—

(1) Except as provided in section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of such handicapped children enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants or children operated or supported by a State agency, including programs and schools providing special education and related services or early intervention services for handicapped infants and children operated or supported by a State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 percent of the average per pupil expenditure in the United States.

(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where a child described in subsection (a) leaves an educational program for handicapped children operated or supported by the State educational agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—(1) the child continues to receive an appropriately designed educational program; and (2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 1222.

SEC. 1222. PROGRAM REQUIREMENTS.

(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children or the early intervention needs of handicapped infants. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children or early intervention services for handicapped infants.

(c) LIMITATION.—Funds under this subpart may not be used for any program, project, service, or activity which in the previous year was funded by State or local funds. The Secretary may waive the limitation under this paragraph if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

(d) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children or infants served.

(e) LETTER OF REQUEST.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than five children with its payment or to use the payments for a single purpose. In such a letter the agency shall include an assurance that the payment shall be used to supplement the provision of special education and related services or early intervention services.

SEC. 1223. USES OF FUNDS.

Programs and projects under this subpart may include, but are not limited to—(1) services provided in early intervention, preschool, elementary, secondary, and transition programs; (2) acquisition of equipment and instructional materials; (3) employment of special personnel; (4) training and employment of education aides; (5) training in the use and provision of assistive devices; (6) training of teachers and other personnel; (7) training of parents of handicapped infants and children; (8) training of nonhandicapped children to facilitate their participation with handicapped children and infants in joint activities; (9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living; (10) outreach activities to identify and involve handicapped infants and children and their families more fully in a wide range of educational and recreational activities in their communities; and (11) planning for such programs and projects assisted under this subpart.

SEC. 1224. APPLICATIONS.

(a) IN GENERAL.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than three years, and such applications have been approved by the State educational agency.

(b) ASSURANCES.—Any such application shall provide assurances that services, programs, and projects to be conducted under this subpart—

(1) comply with the requirements of part B of the Education of the Handicapped Act, and, as appropriate, part H of such Act;

(2) are of sufficient size, scope, and quality to contribute a demonstrable benefit to the children served; and

(3) comply with all reporting requirements in a timely manner.

(c) REQUIREMENTS.—At a minimum application shall—

(1) indicate the number of children to be served;

(2) specify the ages and handicapping conditions of the children to be served;

(3) describe the purpose or purposes of the project and the method or methods of judging the effectiveness of the services, projects, or program;

(4) specify the services to be provided with these funds; and

(5) include other requirements the Secretary may request.

SEC. 1225. ELIGIBLE CHILDREN.

The eligible population for services under this subpart are—

(1) those handicapped children from birth to 21, inclusive, who—

(A) the State is legally responsible for providing education to, and

(B)(i) who are participating in a State-operated or State-supported school or program for handicapped children, or

(ii) who previously participated in such a program and are being educated by local educational agencies;

(2) other handicapped children, if children described in paragraph (1) have been fully served.

SEC. 1226. GAO STUDY.

The Comptroller General of the United States, through the General Accounting Office, shall conduct a study of the implementation of the State Operated Program for Handicapped Children under chapter 1 and its relationship to part B and part H of the Education of the Handicapped Act. Not later than January 30, 1989, the Comptroller General shall submit a report containing the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Subpart 3—Programs for Neglected and Delinquent Children

SEC. 1241. AMOUNT AND ENTITLEMENT.

(a) ENTITLEMENT TO GRANTS.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

(b) AMOUNT OF GRANT.—

(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 percent of the average per pupil expenditure in the United States.

SEC. 1242. PROGRAM REQUIREMENTS.

(a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 2 of part F and sections 1011 (other than subsection (b)), 1014, and section 1018 (other than subsection (c)). The transfer among State and local educational agencies, institutions, and programs of neglected and delinquent student records shall include any individualized education programs of such students.

(b) COMPLIANCE.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources, shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

(c) THREE-YEAR PROJECTS.—Where a State agency operates programs under this chapter in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

(d) EVALUATION.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program operated by a local educational agency.

SEC. 1243. TRANSITION SERVICES.

(a) TRANSITION SERVICES.—Each State may reserve not more than 10 percent of the amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.

(b) CONDUCT OF PROJECTS.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

(c) LIMITATION.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

SEC. 1244. DEFINITIONS.

For the purposes of this subpart, the following terms have the following meanings:

(1) The term "institution for delinquent children", as determined by the State educational agency, means a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

(2) The term "institution for neglected children" means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

Subpart 4—General Provisions for State Operated Programs

SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES.

There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter.

SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS.

Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

PART E—PAYMENTS

SEC. 1401. PAYMENT METHODS.

The Secretary shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under section 1052 or 1131 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.

(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this chapter for such year, the allocations to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

(b) ADDITIONAL FUNDS ALLOCATION.—(1) In case additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced.

(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter, except that the total of such payments in any fiscal year shall be the greater of the following:

(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

(2) $300,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

SEC. 1405. LIMITATION ON GRANT TO PUERTO RICO.

Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which they are eligible under section 1005.

PART F—GENERAL PROVISIONS

Subpart 1—Federal Administration

SEC. 1431. FEDERAL REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

(b) LIMITATION.—Programs under this chapter may not be required to follow any one instructional model, such as the provision of services outside the regular classroom or school program.

(c) REVIEW PANEL.—The Secretary shall ensure that before publication in the Federal register, proposed regulations pursuant to this chapter are reviewed by regional panels of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter. In an emergency situation where such regulation must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional panels to review the emergency regulation prior to issuance in final form.

SEC. 1432. AVAILABILITY OF APPROPRIATIONS.

(a) GENERAL PROVISION.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

(b) CARRYOVER AND WAIVER.—Notwithstanding section 412 of General Education Provisions Act, subsection (a) or any other provision of law—

(1) not more than 25 percent of funds appropriated for fiscal year 1988 and 15 percent of funds appropriated for fiscal year 1989 and each subsequent year may remain available for obligation for one additional year;

(2) a State educational agency may grant a one-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

SEC. 1433. WITHHOLDING OF PAYMENTS.

(a) WITHHOLDING.—Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

SEC. 1434. JUDICIAL REVIEW.

(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act.

(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari of certification as provided in section 1254 of title 28, United States Code.

SEC. 1435. EVALUATION.

(a) NATIONAL STANDARDS.—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. Such standards shall ensure a common reporting format to allow national aggregation of evaluation results. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluation.

(b) REPORTS.—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

SEC. 1436. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN.

(a) NATIONAL LONGITUDINAL STUDY.—The Secretary shall contract with the organization or agency conducting the National Assessment of Educational Progress to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the impact of participation in programs under this chapter on academic achievement, delinquency rates, truancy, pregnancy rates, school dropout rates, employment and earnings, enrollment in and completion of postsecondary education, and incidence of suicide. The study shall be conducted throughout the country in urban, rural, and suburban areas and shall be of sufficient size and scope to assess and evaluate the effect of the program in all geographic areas of the Nation.

(b) FOLLOW-UP.—The National Assessment of Educational Progress shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

(c) REPORT.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

SEC. 1437. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

(a) POLICY MANUAL.—The Secretary shall, not later than six months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, apply, and enforce requirements under this chapter throughout the United States.

(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

(1) a statement of the requirements applicable to the programs carried on under this chapter including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

(6) summaries of appropriate court decisions concerning programs under this chapter; and

(7) model forms, policies, and procedures developed by State educational agencies.

(c) RESPONSE TO INQUIRIES.—The Secretary shall respond in not more than 90 days to any written request from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

(d) TECHNICAL ASSISTANCE.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruction, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

(e) FEDERAL DISSEMINATION OF EXEMPLARY PROGRAMS.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network authorized by section 583(a) of the Education Consolidation and Improvement Act. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with such network.

(f) FEDERAL REVIEW OF STATE AND LOCAL ADMINISTRATION.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement activities, and the detection and resolution of problems of local noncompliance.

SEC. 1438. FEDERAL RESEARCH AND INNOVATION.

(a) GRANTS.—The Secretary is authorized to make small grants for applied research and innovative projects on promising educational models for serving educationally deprived children under this chapter and promoting parental involvement. Such funds as may be available to the Secretary for studies, evaluation, and technical assistance may be used for the purposes of this subsection.

(b) RESEARCH ON TUTORING PROGRAMS.—If sums are available for the purposes of this section, the Secretary shall give priority to research on tutoring programs for eligible children under section 1014 carried out by students in institutions of higher education. In such research, the Secretary shall (1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs would be effective if conducted on a volunteer basis or whether it would be necessary to offer material incentives, such as tuition assistance or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) examine similar programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

(c) RESEARCH ON RURAL DISTRICTS.—If sums are available for the purposes of this section, the Secretary shall give priority to research on the problems of providing effective services under this chapter in rural school districts and districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of two or more school districts.

SEC. 1439. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION, TECHNICAL ASSISTANCE, AND RESEARCH.

There are authorized to be appropriated for the purposes of sections 1435, 1436, 1437, and 1438, for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $12,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

SEC. 1440. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

(a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter.

(2) Section 426(a) of such Act is superseded by section 1437 of this chapter.

(3) Section 427 of such Act is superseded by section 1016 of this chapter.

(4) Section 430 of such Act is superseded by sections 1012, 1055, 1105(b), 1153, 1202, and 1224 of this chapter.

(5) Section 453 of such Act is superseded by section 1433 of this chapter.

(6) Section 455 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments.

(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

SEC. 1441. NATIONAL COMMISSION ON MIGRANT EDUCATION.

(a) ESTABLISHMENT.—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed four members of the Commission and designated a chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) STUDY.—The Commission shall make a study of the following issues:

(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas.

(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

(10) How many of the students being served are identified as "currently migrant" and how many are "formerly migrant"; what differences are there in their needs; and how do services provided differ between those of "currently migrant" and those of "formerly migrant".

(11) How does interstate and intrastate coordination occur at the State and local levels.

(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

(d) REPORTS.—

(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate committees of the Congress on the studies required to be conducted under this section. The reports for the studies required shall be submitted as soon as practicable.

(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

(e) COMPENSATION.—

(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(g) ADMINISTRATION.—

(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

(i) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1987, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

SEC. 1442. STUDY OF THE IMPACT OF THE DECISION OF THE SUPREME COURT IN AGUILAR V. FELTON ON THE PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to assess the extent to which the participation in programs under this chapter of eligible children enrolled in private nonprofit schools has been adversely affected by the decision of the Supreme Court in Aguilar v. Felton. The study shall consider:

(1) The disruptive effect of the decision on local educational agency plans to provide services under this chapter in the fall of 1985 to eligible public and private school children.

(2) Changes in the numbers of eligible private school children in programs under this chapter and in the quality of services provided to these children since July 1985 resulting from the decision.

(3) The effect of the August 1985 and June 1986 Department of Education "Questions and Answers" issued as guidance to Chief State School Officers on the participation of eligible private school children in programs under this chapter.

(4) An evaluation of the various methods of delivering off-site services adopted by local educational agencies to comply with the requirement that private school children continue to receive equitable services under this chapter, and identification of methods which are educationally sound.

(5) The effectiveness of various methods in providing services comparable to those provided eligible public school children.

(6) Of the methods adopted by local educational agencies, which methods are most effective in increasing achievement levels of private school children and which methods are most acceptable to parents and school officials.

(7) What other methods of providing services to eligible private school children are available which would comply with the limitations of the Court's decision.

(8) Identify those elements that contribute to or inhibit the development of practical, successful programs within local educational agencies to serve eligible private school children.

(9) In local educational agencies which have not yet developed workable programs for private school children to continue to receive equitable services under this chapter, how have chapter 1 funds which should have been used to provide services to eligible private school children actually been used.

(10) Whether funding for serving private school children is adequate.

(11) Whether eligible public school children are losing services under this chapter as a result of the Felton decision.

(12) The differences in and adequacy of methods used to serve eligible private school children in rural and nonrural school settings.

(13) The formula and procedures used by State educational agencies in making allocation to local educational agencies for capital expenditures under section 1017(d).

(b) REPORTS.—Not later than April 15, 1989, the Comptroller General shall submit a report of such study to the appropriate committees of the Congress and shall annually update such study and submit reports by April 15th of each year.

Subpart 2—State Administration

SEC. 1451. STATE REGULATIONS.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, math, or language arts) to be addressed; instructional settings or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

(b) REVIEW BY COMMITTEE OF PRACTITIONERS.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

(c) IDENTIFICATION AS STATE REQUIREMENT.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

SEC. 1452. RECORDS AND INFORMATION.

Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

SEC. 1453. ASSIGNMENT OF PERSONNEL.

(a) LIMITATIONS.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as prevails with respect to similarly situated personnel at the same school site except that such time may not exceed one period per day.

(b) USE IN STATE PROGRAMS.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs.

Subpart 3—Definitions

SEC. 1471. DEFINITIONS.

Except as otherwise provided, for purposes of this Act:

(1) The term "average daily attendance" means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(2) The term "average per pupil expenditure" means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(3) The term "Secretary" means the United States Secretary of Education.

(4) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(5) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(6) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2, or chapter 2 of the Education Consolidation and Improvement Act.

(7) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(8) The term "equipment" includes machinery, utilities, and building equipment

and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(9) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

(10) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) The term "parent" includes a legal guardian or other person standing in loco parentis.

(12) The term "project area" means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

(13) The term "school attendance area" means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

(14) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(15) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(16) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(17) The terms "pupil services personnel" and "pupil services" mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

(18) The term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and particularly educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

(ii) emphasis on the acquisition of basic and higher order skills;

(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

(iv) a climate of expectations that virtually all children can learn under appropriate conditions; and

(v) continuous assessment of students and programs to evaluate the effects of instruction.

(19) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(20) The term "parent advisory council" means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

(21) The term "more advanced skills" means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

(22) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

Subpart 4—Miscellaneous Provisions

SEC. 1491. REPEAL OF OTHER ACTS.

(a) Education Consolidation and Improvement Act of 1981.—Chapter 1 of the Education Consolidation and Improvement Act of 1981 is repealed.

(b) Elementary and Secondary Education Act of 1965.—Title I of the Elementary and Secondary Education Act of 1965 is repealed.

SEC. 1492. TRANSITION PROVISIONS.

(a) Regulations.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of the Elementary and Secondary Education Act of 1965 (as in effect on the date before the effective date of this Act), or which are issued under such Acts on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(b) Effect on Pending Proceedings.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapter 1 of the Education Consolidation and Improvement Act of 1981 or title I of the Elementary and Secondary Education Act of 1965.

(c) Transition.—With respect to the period beginning on October 1, 1987, and ending June 30, 1988, no recipient of funds under this Act or the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL INNOVATION

SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

(a) Findings.—The Congress finds that—

(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

(2) State and local governments have placed a new focus on education; and

(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management.

(b) Statement of Purpose.—It is the purpose of programs under this chapter—

(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

(3) to place the basic responsibility for the administration of funds made available under this chapter with the State educational agencies, but in a manner that requires a minimum of paperwork;

(4) to place the responsibility for the design and implementation of programs assisted under this chapter principally with local educational agencies, school superintendents and principals, and classroom teachers and support personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of the students in their own districts; and

(5) to enhance the quality of teaching and learning through initiating and expanding effective schools programs.

PART A—STATE AND LOCAL PROGRAMS

Subpart 1—Funding

SEC. 1511. AUTHORIZATION OF APPROPRIATIONS; PAYMENTS.

(a) Authorization of Appropriations.—There are authorized to be appropriated $580,000,000 for fiscal year 1988 and such sums as may be necessary for each of the five succeeding fiscal years to carry out the provisions of this chapter.

(b) Payments.—During the period beginning October 1, 1987, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purposes of this chapter.

SEC. 1512. ALLOTMENTS TO STATES.

(a) Reservation.—From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve—

(1) not more than 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to

be allotted in accordance with their respective needs; and

(2) not more than 6 percent to carry out national programs and activities under part B.

(b) ALLOTMENTS.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "school-age population" means the population aged five through seventeen.

(2) The term "States" means the fifty States, the District of Columbia, and Puerto Rico.

SEC. 1513. ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.

(a) BASIS OF ALLOCATIONS.—

(1) From the sum made available each year under section 1512, a State educational agency shall reserve not more than 20 percent for the purposes of State programs under subpart 2. A State shall distribute the remainder of that sum among eligible local educational agencies within the State according to the adjusted relative enrollments in public and private nonprofit schools within the school attendance areas served by such agencies in accordance with paragraphs (2) and (3).

(2) Relative enrollments under paragraph (1) shall be calculated on the basis of the total of (A) the number of children enrolled in public schools, and (B) the number of children enrolled in private nonprofit schools who desire to participate in programs or projects assisted under this chapter. Nothing in this paragraph shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

(3)(A) Relative enrollments under paragraph (1) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

(i) children from low-income families, or

(ii) children living in sparsely populated areas.

(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

(b) PAYMENT OF ALLOCATIONS.—

(1) From the funds paid to it pursuant to sections 1512 and 1513 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1531 the amount of its allocation as determined under subsection (a).

(2) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(3)(A) may only be used by the local educational agency for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a)(3)(A) and enrolled in such schools within the local educational agency.

Subpart 2—State Programs

SEC. 1521. STATE APPLICATIONS.

(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

(F) institutions of higher education;

(G) the State legislature;

(H) librarians; and

(I) school counselors and other pupil services personnel.

to advise the State educational agency on the allocation among authorized functions of funds reserved for State use under section 1513, on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

(3) describes how the funds reserved for State use under section 1513 will be distributed among the various activities authorized under section 1522, as well as the reasons for the proposed distribution;

(4) describes how funds reserved under section 1522(b)(2) will be used to carry out subpart 4;

(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

(6) provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee and shall be made available to the public;

(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has exercised and will exercise no influence in the decision-making processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

(9) provides the following information: (A) how the State will adjust its formula to comply with section 1513(a)(3), (B) how children under section 1513(a)(3)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1513(a)(3)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1513; and

(10) contains assurances that there is compliance with the specific requirements of this chapter.

(b) DURATION OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

SEC. 1522. STATE USES OF FUNDS.

(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this chapter only for—

(1) State administration of programs under this chapter including—

(A) supervision of the allocation of funds to local educational agencies;

(B) planning, supervision, and processing of State funds;

(C) monitoring and evaluation of programs and activities under this part; and

(D) operations of the State advisory council;

(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to accomplish the purposes of this chapter;

(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

(b) LIMITATIONS AND REQUIREMENTS.—

(1) Not more than 25 percent of funds available for State programs under this part may be used for State administration under subsection (a)(1).

(2) Not less than 25 percent of funds available for State programs under this part may be used for the purposes of subsection (a)(3).

Subpart 3—Local Programs

SEC. 1531. LOCAL APPLICATIONS.

(a) A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

(1) sets forth the planned allocation of funds among authorized programs and projects under section 1532 and describes the specific programs which such local educational agency intends to support, including the allocation of such funds required to implement section 1552;

(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of children enrolled in private nonprofit schools in accordance with section 1552;

(3) agrees to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as

librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

(b) DURATION OF APPLICATION.—An application filed by a local educational agency under subsection (b) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) LOCAL DISCRETION.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the authorized purposes of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

SEC. 1532. LOCAL USES OF FUNDS.

(a) GENERAL PROVISION.—Local educational agencies shall use funds available for the purposes of this subpart to carry out innovative programs and projects selected from the full range of activities that are authorized by this section or to promote educational excellence by enhancing the quality and effectiveness of the instructional program and materials.

(b) AT-RISK AND HIGH COST CHILDREN.—

(1) Funds may be used for programs and projects to assist in meeting the educational needs of at-risk and high cost children through services and programs that supplement, complement, and enhance other programs targeted to such individuals.

(2) For the purposes of this section, the term "at-risk and high cost children" includes children who are potential dropouts, children subject to drug and alcohol use and abuse, neglected or abused children, children of limited English proficiency, migratory children of migrant and seasonal workers, economically disadvantaged children, and children with special educational needs stemming from minority group isolation, educational deprivation, or handicapping condition.

(c) EFFECTIVE SCHOOLS.—Funds may be used for effective schools programs and activities as provided under subpart 4.

(d) INSTRUCTIONAL AND EDUCATIONAL MATERIALS IMPROVEMENT.—

(1) Funds may be used to support innovative instructional programs, curricula, library books, and reference and other materials which show promise for improving student achievement in basic skills (including reading, writing, and computational skills) and other critical subject areas, such as science and mathematics.

(2) Improvement activities may include the development of model curricula; the provision of grants to schools or teachers for innovative instructional approaches; the purchase of library books, reference materials, and instructional aids; and testing programs which lead to better academic achievement.

(e) PERSONNEL ENHANCEMENT.—Funds may be used—

(1) for programs of training and development to enhance the knowledge and skills of all educational personnel, including teachers, teacher aides, librarians, school counselors, other pupil services personnel, administrators, supervisors, and school board members; and

(2) to improve the recruitment and training of individuals working with preschool children in education programs.

(f) SPECIAL PROJECTS.—

(1) Funds may be used to carry out selected activities designed to improve or expand educational services to students. These special projects include programs for gifted and talented students, programs for youth suicide prevention, technology education, community education, and career education.

(2) For the purposes of this section—

(A) the term "gifted and talented" means those preschool and elementary and secondary school children who demonstrate potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability; and

(B) the term "technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

Subpart 4—Effective Schools Programs

SEC. 1541. ESTABLISHMENT.

As provided in sections 1522 and 1532, funds shall be available under this chapter to—

(1) plan, implement, support, evaluate, and revise effective schools programs;

(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

(4) develop and implement systems to evaluate and analyze effective schools programs;

(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

(6) support model and demonstration programs related to effective schools programs; and

(7) develop and disseminate educational materials related to effective schools programs.

SEC. 1542. EFFECTIVE SCHOOLS.

For the purposes of this chapter the term "effective schools programs" means school-based programs that may encompass preschool through secondary school levels and that have the objective of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

(B) emphasis on the acquisition of basic and higher order skills;

(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

(E) continuous assessment of students and programs to evaluate the effects of instruction.

Subpart 5—General Provisions

SEC. 1551. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

(a) MAINTENANCE OF EFFORT.—

(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

SEC. 1552. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

(a) PARTICIPATION ON EQUITABLE BASIS.—

(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) FUNDS.—

(1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) WAIVER AND PROVISION OF SERVICES.—

(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

(h) REVIEW.—

(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

SEC. 1553. EVALUATIONS AND REPORTING.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1532. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this chapter shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit annually a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

SEC. 1554. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

(b) RULEMAKING.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

PART B—NATIONAL PROGRAMS AND ACTIVITIES

SEC. 1561. BASIC AUTHORITY.

(a) FUNDING.—From funds reserved under section 1512(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

(b) PRIORITY FUNDING.—

(1) Subject to the availability of funds for any fiscal year the Secretary shall make available for the purposes of section 1562 an amount which is not less than 34 percent of the funds available under subsection (a).

(2) Subject to the availability of appropriations and subject to subparagraph (1), for any fiscal year from funds available for the purposes of this part the Secretary shall make funds available for the purposes of programs under section 1563 at least in amounts necessary to sustain the activities described in that section at the level of operations during fiscal year 1987 under section 583 of the Education Consolidation and Improvement Act of 1981.

(3) Subject to paragraphs (1) and (2) and subject to the availability of appropriations, for any fiscal year from funds available for the purposes of this part the Secretary shall make funds available for the purposes of programs under sections 1564 and 1565 at least in amounts necessary to sustain the activities described in those sections at the level of operations during fiscal year 1987 under section 583 of the Education Consolidation and Improvement Act of 1981.

SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary educational programs, products, and practices to inter-

ested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts. The National Diffusion Network shall be directed toward improving the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

(2) assist such persons in implementing programs, products, and practices, which such persons determine may improve the quality of education in the schools for which they are responsible by providing materials, initial training, and ongoing implementation assistance;

(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

(c) ELIGIBLE RECIPIENTS OF GRANTS AND CONTRACTS.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.

SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

(a) AUTHORIZATION.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the "contractor"), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF CONTRACT.—The contract shall provide that—

(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary schoolchildren;

(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) DEFINITIONS.—For purposes of this section the term "Federal share" means—

(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

SEC. 1564. ARTS IN EDUCATION PROGRAM.

(a) The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as—

(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the National Committee, Arts for the Handicapped.

SEC. 1565. LAW-RELATED EDUCATION PROGRAM.

(a) AUTHORIZATION.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

(b) DEFINITION.—For the purpose of this section, the term "law-related education" means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

(c) AUTHORIZED ACTIVITIES.—Funds made available for the purposes of this section may be available for activities such as—

(1) awareness activities, to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

(4) training for law-related personnel in the substance and practice of law-related education, including preservice and in-service seminars, workshops, institutes, and courses;

(5) research and evaluation to study and improve the effectiveness of materials and methods in law- related education;

(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and

(7) youth internships for outside-the-classroom experiences with the law and the legal system.

SEC. 1566. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

From funds available for the purposes of this part, the Secretary shall design and implement a study to determine the impact of effective schools programs, particularly such programs under this chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

SEC. 1567. SECRETARY'S DISCRETIONARY FUND.

From funds available for the purposes of this part, the Secretary is authorized to carry out programs and projects which further the purposes specified in section 1532 and shall give priority consideration to projects of technology education. Such programs and projects may be carried out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions. Any such projects or programs shall have the goals of identifying and disseminating innovative educational approaches, facilitating program improvement from a national perspective, or meeting urgent national needs within the categories identified in section 1532.

PART C—GENERAL PROVISIONS

SEC. 1591. REPEAL OF CHAPTERS 2 AND 3 OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981.

Chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 are repealed.

SEC. 1592. TRANSITION PROVISIONS.

(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of this Act), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education

Consolidation and Improvement Act of 1981.

(c) TRANSITION.—With respect to the period beginning October 1, 1987, and ending June 30, 1988, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act.

Subtitle B—Miscellaneous Provisions

SEC. 1601. STUDY OF SCHOOL REFORM.

(a) The Secretary of Education shall conduct a study of school reform efforts, in order to evaluate the impact of recent State and local elementary and secondary educational reforms related to—

(1) student achievement, particularly as compared to the educational achievement of students in other nations with which the United States competes for world trade;

(2) the number of students completing high school and the number who drop out of school in States which have increased graduation requirements as part of recent educational reform programs;

(3) the amount and proportion of State funding for elementary and secondary education in States with educational reform programs;

(4) relative enrollment in academic courses, vocational education courses, and general education courses at the secondary school level; and

(5) achievement of low-income, handicapped, limited-English proficient, and educationally disadvantaged students.

(b) Not later than July 1, 1989, the Secretary shall submit a final report on such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(c) There are authorized to be appropriated $1,000,000 to carry out this section.

SEC. 1602. OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

AMENDMENTS OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HAWKINS: Page 71, strike lines 10 through 18, and insert the following:

(1) Except as provided in paragraph (2), for any fiscal year, no State shall receive less than three-fourths of one percent of the total amount appropriated for this part and no State shall receive more than 5% of the first $50,000,000 appropriated for this part. The only limitation on funds appropriated for this part in excess of $50,000,000 is that no State shall receive less than three-fourths of one percent of such funds.

Page 109, line 18, strike "618(b)(1)" and insert "618(b)(2)".

Page 111, line 12, after the period insert "The State educational agency shall distribute such funds on the basis of the December 1 child count by distributing an equal amount for each child counted.".

Page 112, line 3, strike "subsection (a)" and insert "subparagraphs (A) and (B)(i) of section 1225(1)".

Page 173, line 23, strike "materials" and insert "instructional materials and equipment".

Page 244, strike line 20, and insert "their relative enrollments in public and private nonprofit schools".

Page 262, strike line 18 and all that follows through "education" on line 19 and insert "State, agency, or consortium".

Page 249, after line 8 insert the following paragraph (and redesignate the subsequent paragraphs accordingly):

(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

Page 250, after line 19, insert the following:

(b)(1) An applicant shall submit to the State educational agency a progress report on the first two fiscal years of implementation of its plan. The progress report shall include—

(A) the applicant's significant accomplishments under the plan during the preceding two years; and

(B) the extent to which the original objectives of the plan are being achieved.

(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

Page 250, after line 19, insert the following section (and amend the table of contents accordingly):

SEC. 5127. STATE REPORTS.

Each State shall submit to the Secretary an annual report that contains information on the State or local programs the State conducts under this Act.

Page 253, line 15, after "shall" insert "directly or through grants, cooperative agreements, or contracts".

Page 255, line 17, strike "operated" and insert "funded".

Page 256, line 18, strike "enter into" and insert "make grants to or enter into cooperative agreements or".

Page 257, line 4, after "Secretary" insert ", through grants, cooperative agreements, or contracts,".

Page 345, line 22, strike "No" and insert "Notwithstanding any other provision of law, no".

Page 345, line 23, insert ", or contracted" after "terminated,".

Page 346, line 20, strike "(i) no action under this provision can be for longer than one academic year or one calendar year, whichever is shorter, and (ii)".

Page 347, line 22, after "consideration," insert "the views of the Indian tribe or tribes affected,".

Page 347, line 24, strike "Notwithstanding" and insert "Within two years of the date of enactment and notwithstanding".

Page 348, line 22, strike "1986" and insert "1987".

Page 348, line 25, after the period insert "Where these provisions are determined not to be in conformity with a previous statute, the statutory provision will govern.".

Page 349, line 1, strike "99-288" and insert "99-228, regulation to implement a gifted and talented factor for the formula, as set forth in section 1128(a)(1)(H)".

Page 349, lines 15 and 16, strike "shall use a factor of 200 students when determining an adjustment for a small school factor" and insert "for purposes of implementing the small school adjustment factor a school with less than 50 students in average daily attendance shall be considered to have 50 students in average daily attendance".

Page 350, beginning on line 12, strike the comma and all that follows before the period on line 13, and insert after the period "This percentage will then be multiplied times the weighted student units for each school program, as determined by regulation, and added to the total weighted student unit count for each school before the weighted student unit counts for all schools are computed.".

Page 351, strike lines 8 through 15.

Page 351, after line 7, insert the following:

"(iv) Computations under this paragraph shall be based upon data from the fiscal year preceding the fiscal year for which computation is being made.

"(v) This provision shall take effect for the fiscal year beginning October 1, 1988.".

Page 353, after line 4, insert the following:

"(D) The percentage determined in subparagraph (2)(A) shall be applied to each grantee's total direct program funding for Bureau elementary and secondary education functions, as defined under paragraph (3) and all other Bureau programs or parts of programs contracted for, or for which grants are received from the Bureau, for the fiscal year for which this computation is being performed which will share common administrative services (as defined by subsection (g)).

Page 353, line 12, strike "(4)" and insert "(5)".

Page 353, after line 11, insert the following:

"(4) Each year, the Secretary shall send to Congress a projection of the costs associated with paragraph (2)(A) of this section.".

Page 353, line 15, after "conducted" insert "through the same organizations and".

Page 355, line 1, strike the period and insert ", but which are not normally carried on by the Assistant Secretary in his direct performance of the function or is provided to or by the Assistant Secretary or other Federal official in support of the function from resources other than those under contract.".

Page 355, line 5, after "direction", insert ", insurance, audit, legal,".

Page 356, line 7, strike "tribes" and insert "tribe or tribes whose children are served by a Bureau operated program".

Page 358, line 3, strike "by" and all that follows through line 4 and insert "striking 'employee' and inserting in lieu thereof 'applicant' ".

Page 359, line 21, strike "The presence of more than 10 percent vacancy in staff positions or".

Page 363, line 24, strike "95" and insert "90".

Page 364, line 1, after "percent" insert "or $400,000, whichever is least,".

Page 364, line 2, after the period insert "All funds must be spent at a school site covered by the grant on education related activities covered by the grant.".

Page 364, after line 2, insert the following:

"(d) For purposes of this section, 'school site' means the physical location and the facilities of an elementary or secondary educational and/or residential program operated by or under contract with the Bureau of Indian Affairs, for which a discret student count is identified under the funding formula established in section 1128 of the Education Amendments of 1978, P.L. 95-561.".

Page 365, line 13, strike "other" and insert after "entity" "other than a tribe or tribal organization".

Page 356, line 18, strike "the applicant can maintain a tribally controlled school", and insert "to approve an application under this subsection".

Page 371, line 3, after "Education Officer" insert "or the Director of the Office of Indian Education Programs".

Page 371, line 7, strike "this" and insert "the designated".

Page 371, line 10, after "taken" insert ", including the costs associated with such actions,".

Page 373, line 20, after "(d)" insert "Grants under this Act may not be terminated, modified, suspended, or reduced for the convenience of the administering agency.".

Page 374, line 2, after the period insert "The Bureau shall provide to the tribe or tribes served by a grant which is retroceded for cause not less than the same quantity and quality of service as would have been provided at the level intended by the grant.".

Page 374, line 5, after "notice" insert "to the tribally controlled school and".

Page 376, after line 4, insert the following:

"(d) The Secretary shall make payments to grantees under this Act in two payments, one to be made no later than October 1 of each fiscal year, said payment to be one-half the amount paid to the grantee or a contractor electing to be covered by this Act during the preceding fiscal year, and the second payment to be the full remainder to which said grantee or contractor is entitled for the fiscal year, said payment to be made no later than January 1 of the fiscal year. For any school for which no payment was made in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.".

Page 376, line 6, strike "109".

Page 376, line 10, strike "Until 120 days after the date of enactment, contractors for activities covered by this Act" and insert "Contractors".

Page 376, lines 13 and 14, strike "shall be afforded an opportunity to" and insert "may".

Page 376, line 15, before the period insert "upon notice to the Secretary of such election, provided that the election shall become effective no less than 60 days after notice is given, or October 1 of the fiscal year following the fiscal year in which notice is given, whichever is later.".

Page 422, line 21, after "percent" insert "or $50,000, whichever is greater,".

Page 466, strike "the preliminary" on line 10 and all that follows through line 11, and insert "final agency action under section 452(e) is taken".

Page 468, line 7, after the comma insert "libraries,".

Page 469, line 23, strike "paragraph" and insert "paragraphs".

Page 469, after line 24, insert "(E) Chairman, National Commission on Libraries and Information Science.";

Page 472, line 17, after "schools," insert "libraries,".

Page 473, line 9, after the comma insert "libraries,".

Page 479, after line 14, insert the following (and redesignate the subsequent clauses accordingly):

"(iii) the availability and use of school libraries and their resources;".

Page 479, strike line 15 and insert the following:

"(iii) teachers, librarians, and school administrators;".

Page 477, line 19, strike "shall be fined not more than $5,000" and insert "shall be fined under title 18, United States Code,".

Page 477, line 13, after the comma insert "knowingly".

Page 477, line 7, before the period in-sert ")".

Page 480, line 6, strike the semicolon and insert ", including the timely dissemination of such data;".

Mr. HAWKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Chairman, these are purely technical amendments. They are committee amendments. I know of no objection to the amendments, and I ask that they be adopted.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. HAWKINS].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: Page 198, after line 9, insert the following new section:

SEC. 1603. STUDY OF FUND DISTRIBUTION.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as the reliability and currency of poverty data used for purposes of chapter 1 program allocations. The Secretary shall submit an interim report of such study on June 30, 1988, and shall submit a final report of such study not later than June 30, 1989.

Mr. OWENS of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Chairman, I want to commend Chairman HAWKINS and the Education Committee for their work in drafting this bill and to express my support for H.R. 5, the School Improvement Act of 1987.

Federal aid to education has been one of this country's great success stories. Because of our emphasis on educational values, and through heavy investment, we have created one of the best educational systems in the world—one that attempts to provide equal educational opportunities for children throughout the country. We can be proud of our efforts to provide adequate education to all of our children, including the poor, the handicapped, and the children of immigrants.

While this system is good, it is not perfect. The Department of Education, with the direction of Congress, has sought ways to fairly distribute limited funds to meet the educational needs of the country. The various educational programs are allocated funds according to many different criteria, usually based on genuine need. By establishing the need of different States or localities, the Federal Government under chapter 1 is able to assist children who are educationally disadvantaged. This is an admirable goal and one that I fully support.

Many States, however, face real educational economic disadvantage because their children do not meet the traditional criteria. Many factors can contribute to this problem, for example, a higher than average birthrate or a lower than average tax base. Many States, including my own, find themselves spending an unusually high percentage of their revenues for the support of their schools. And the citizens of these States find themselves paying an unusually high percentage of their personal incomes in taxes for their children's education. My State also has a birthrate that is twice the national average. Because of these factors, the quality of education delivered to our children is compromised. This educational economic disadvantage is not covered by the current chapter 1 criteria.

I represent a district which faces this kind of problem. The State of Utah, and my district, Salt Lake County, do not face the traditional problems of inner-city, urban poverty. Neither do we face the problems of rural poverty. This is not to say, however, that the children of my State are not facing educational economic disadvantage. The "Digest of Educational Statistics" for 1985-86 indicates that

Utahns pay 6.1 percent of their personal income for the support of the public elementary and secondary schools. This is well over the national average of 4.2 percent. And yet, despite the fact that each taxpayer in my State is paying much more than national average for our schools, the latest "Secretary's Wall Chart" published by the Department of Education indicates that Utah has the lowest expenditure per pupil than any other State, and has the second highest pupil-teacher ratio in the country. These children are also educationally disadvantaged, although their parents are dedicating a greater than average portion of their incomes to the support of the public schools.

I am proposing an amendment to study the question of whether, given the unique, educationally disabling economics I have just described, we can find a more equitable method of allocating our funds which would recognize those States and districts which make a greater tax or fiscal effort to support their schools. The study would also investigate various methods of defining tax and fiscal efforts. I believe that such a study will help us to develop a broader interpretation of educational economic disadvantage. The amendment authorizes no new funds, nor does it change any of the existing criteria for fund allocation.

I urge my colleagues to support this amendment. It will help us to address a serious problem in providing equal educational opportunities, and to assist those States and local school districts that are making greater, though inadequate, efforts to educate their children.

DIGEST OF EDUCATION STATISTICS, 1985-86

(By W. Vance Grant and Thomas D. Snyder, Specialists in Education Statistics, Center for Statistics)

TABLE 74.—PERSONAL INCOME, 1982, RELATED TO TOTAL EXPENDITURES AND TO STATE AND LOCAL REVENUES FOR PUBLIC SCHOOLS, BY STATE: 1982–83

State	Personal income		Estimated total expenditures for public elementary and secondary education [1]		State and local revenues for public elementary and secondary schools	
	Total (millions)	Per capita	Amount (thousands)	As a percent of personal income	Amounts (thousands)	As a percent of personal income
1	2	3	4	5	6	7
United States	$2,575,847	$11,113	$119,093,398	4.6	$108,572,797	4.2
Alabama	34,223	8,683	1,561,110	4.6	1,343,858	3.9
Alaska	7,491	16,854	602,174	8.0	560,279	7.5
Arizona	29,068	10,050	1,333,600	4.6	1,135,885	3.9
Arkansas	19,451	8,432	906,628	4.7	700,445	3.6
California	311,609	12,617	12,180,000	3.9	10,218,860	3.3
Colorado	37,590	12,242	1,636,181	4.4	1,814,056	4.8
Connecticut	43,642	13,963	1,858,683	4.3	1,636,911	3.8
Delaware	7,097	11,828	325,146	4.6	300,015	4.2
District of Columbia	9,135	14,597	306,258	3.4	306,518	3.4
Florida	114,370	10,927	4,421,307	3.9	4,028,735	3.5
Georgia	54,521	9,654	2,437,020	4.5	2,362,416	4.3
Hawaii	11,552	11,590	541,100	4.7	438,346	3.8
Idaho	8,801	9,008	450,000	5.1	375,691	4.3
Illinois	137,731	12,012	5,356,892	3.9	4,789,712	3.5
Indiana	55,136	10,057	2,554,628	4.6	2,369,020	4.3
Iowa	30,914	10,638	1,548,288	5.0	1,459,358	4.7
Kansas	28,274	11,743	1,297,833	4.6	1,236,342	4.4
Kentucky	33,587	9,097	1,508,400	4.5	1,123,777	3.3
Louisiana	44,038	10,048	2,078,800	4.7	1,922,990	4.4
Maine	10,543	9,278	560,262	5.3	508,660	4.8
Maryland	52,359	12,261	2,350,020	4.5	2,075,113	4.0
Massachusetts	70,632	12,285	2,993,931	4.2	2,981,553	4.2
Michigan	97,975	10,748	5,683,799	5.8	5,219,238	5.3
Minnesota	46,605	11,277	2,335,900	5.0	2,218,083	4.8
Mississippi	19,972	7,775	895,242	4.5	678,054	3.4
Missouri	51,732	10,469	1,948,607	3.8	1,845,319	3.6
Montana	7,741	9,618	532,000	6.9	494,270	6.4
Nebraska	17,299	10,885	732,600	4.2	757,531	4.4
Nevada	10,425	11,902	47,465	3.9	355,050	3.4
New Hampshire	10,606	11,189	417,996	3.9	398,354	3.8
New Jersey	97,209	13,089	4,864,300	5.0	4,479,177	4.6
New Mexico	12,714	9,301	876,815	6.9	730,636	5.7
New York	214,697	12,222	11,600,000	5.4	10,973,315	5.1
North Carolina	55,063	9,148	2,439,684	4.4	2,011,798	3.7
North Dakota	7,306	10,877	383,480	5.2	347,133	4.8
Ohio	114,873	10,664	5,080,000	4.4	4,876,137	4.2
Oklahoma	35,752	11,084	1,865,000	5.2	1,659,563	4.6
Oregon	27,131	10,168	1,607,012	5.9	1,416,634	5.2
Pennsylvania	129,944	10,939	6,160,900	4.7	5,943,294	4.6
Rhode Island	10,422	10,937	444,947	4.3	439,935	4.2
South Carolina	27,765	8,605	1,459,657	5.3	1,184,525	4.3
South Dakota	6,504	9,366	309,340	4.8	298,206	4.6
Tennessee	41,960	9,013	1,763,898	4.2	1,332,696	3.2
Texas	174,148	11,378	8,184,426	4.7	7,464,679	4.3
Utah	13,693	8,714	865,510	6.3	831,453	6.1
Vermont	4,949	9,516	278,687	5.6	262,753	5.3
Virginia	62,457	11,386	2,697,940	4.3	2,504,802	4.0
Washington	49,952	11,682	2,435,243	4.9	2,368,399	4.7
West Virginia	17,588	8,970	943,036	5.4	850,905	4.8
Wisconsin	51,139	10,777	2,571,853	5.0	2,393,345	4.7
Wyoming	6,192	12,157	499,800	8.1	548,973	8.9

[1] Compiled by the National Education Association.

Note.—Because of rounding, details may not add to totals.

Sources: (1) U.S. Department of Education, National Center for Education Statistics, "Common Core of Data" survey; (2) U.S. Department of Commerce, Bureau of Economic Analysis, unpublished tabulations, and (3) National Education Association, "Estimates of School Statistics, 1983–84" (Copyright 1984 by the National Education Association. All rights reserved).

The following States would benefit from an "effort provision" in Federal education funds: Alaska, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.[1]

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Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from California.

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[1] According to "Digest of Education Statistics 1985-1986."

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Utah [Mr. OWENS] has proposed in his amendment a study to be conducted by the Secretary of Education on changing Federal allocation procedures. I think that his amendment is correctly drafted. It does address a problem that is a serious one, and we on this side are willing to accept the Owens amendment, because it leads to what we consider to be a very thoughtful consideration of an important policy issue.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Chairman, we have examined the amendment and accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The amendment was agreed to.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill, and I am glad that the Committee on Education and Labor has reported a bill. It is helpful to those of us involved in the appropriations process to have an authorization. Often we do not, and often it is a problem for us. It is incumbent, it seems to me, Mr. Chairman, that we have authorizations, separate appropriations, and no continuing resolution. If only we had a budget conference agreement, we could get on with our work as well as the work being done here.

In this bill specifically there are two subjects that interest me. The first is impact aid. I understand that the bill reauthorizes current law for impact aid, and efforts to change this have been abandoned.

Members of Congress need to know about impact aid. It should not be seen as simply another discretionary appropriation. It seems to me that impact aid is an absolute obligation of the Federal Government. It compensates local education agencies for lost revenue, lost because of the Federal Government. When the Feds control land and people live there, school districts lose property taxes. When people work on Federal land, school districts lose other tax revenue. When people both live and work on Federal land, school districts get devastated. The school district is still obliged to teach these people's children.

Current impact aid appropriations do not compensate for the loss—often it is not even close. Even the higher authorization in this bill does not fully compensate for the loss. So the local school districts, often in low-income areas, are forced to make up the difference, Mr. Chairman, because the Federal Government does not take care of the problems that we create. Without enough money in the kitty, a fight develops between the A impacted districts and the B impacted districts.

Yes, there is great merit to helping the A's first—the A's revenue base is much more seriously compromised. Like many Members, I would have supported the initiative developed by the gentleman from Illinois [Mr. HAYES] had it been offered here today. But the root problem is scarce resources and our inability to face the deficit. Nevertheless, over the long term, the U.S. Government must meet its obligations. The gentleman from New Jersey [Mr. SAXTON] and I share a view of impact aid—it should be an entitlement program, Mr. Chairman. H.R. 2371—to make impact aid an entitlement—should be enacted. This is not just another discretionary program. Over the long term we need to make it automatic. We have created this problem, and we must compensate for it.

Another issue of interest to me is the reform of the audit appeals process. This bill replaces the Education Appeals Board with administrative law judges and requires abiding by the Administrative Procedures Act. The Education Appeals Board was a good idea which became, Mr. Chairman, a sham. It is a sham because it was designed to be a good faith way to expedite audit settlements—an alternative to the courts. But instead, the Department of Education—specifically, the General Counsel's office—has utilized the appeals board to pursue the return of unfairly high amounts of money. This is because the Education Appeals Board makes it too easy to deny States numerous due-process rights. Instead of being a good-faith settlement process, the EAB process has become a tool of the General Counsel's office to deny States their due-process rights. Numerous States, including my own, Mr. Chairman, have had ridiculous experiences with this board and the way in which the General Counsel's office has used it. Over at the Department of Education, the audit process has become stacked and inequitable, and I salute the committee's decision to go to the root of the problem and eliminate the Education Appeals Board and replace it with a process working under the Administrative Procedures Act.

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I stand in support of the Education Committee's technical amendments, which include important improvements in the fight against drug abuse.

Mr. Chairman, the committee's package includes language that I introduced to improve the Drug-Free Schools and Communities Act of 1986 that was part of last year's omnibus drug bill. These amendments will increase the State and local accountability for the results of programs undertaken with the grant funds and rectify a funding complication that every State has encountered.

The Drug Free Schools Act provides $200 million for States to help rid their schools of drugs. This amendment will improve the quality of State programs by requiring an annual report to the Secretary on the effectiveness of State and local programs.

The 1987 act required that the Federal Government distribute money to the States on the basis of State population and that the States, in turn distribute the money to the localities on the basis of local population. Unfortunately, as the law now stands, local population statistics for educational purposes are derived from 1980 census data. This amendment will allow States to use current local enrollment data which is updated annually so that the money would be distributed to where the students are—rather than where they were.

I urge my colleagues support for the Education Committee's amendments.

AMENDMENT OFFERED BY MR. GRANT

Mr. GRANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRANT: Page 175, after line 2, insert the following paragraph (and redesignate the subsequent paragraph accordingly):

(2) No funds made available for the purposes of this subsection may be used to conduct special projects for the development or operation of programs related to youth suicide prevention or death education before the completion of a study conducted by the Secretary to determine the effects of such curriculum on students and on the incidence of youth suicide.

Mr. GRANT. Mr. Chairman, the incidence of suicides among the adolescents of America is growing at an alarming rate. This past year we had over 5,000 teenage suicides. That is almost 13 a day. Ten thousand more of those suicides were passed off as accidential deaths. The rate has tripled in the last 30 years, and annually—and this is an even more alarming figure—we have 400,000 attempted suicides in the 15- to 24-year-old age group. That is one every 80 seconds.

I think that there is unanimity in the fact that we want to help alleviate this devastating problem among the young people of America, but what is the best way to do it? Is classroom awareness the best way to do it? It may be the best way to do it, but it may not be the best way to do it.

I have an article in my hand that William Raspberry recently wrote in the Washington Post in which he says that the difficulty with classroom awareness regarding this problem is that "very few teachers, and perhaps not many putative experts, know how to help without running the risk of exacerbating the problem."

In Florida, Dr. Charles Madsen, a psychologist at Florida State University, in a survey among teachers and counselors, said:

Those teachers who are closest to the students feel that traditional death education topics, any sensationalism of suicide or demystification of death and suicide and suicide poems, pictures and methods (details) make matters worse instead of better.

Then quoting from the New England Journal of Medicine, a September 11, 1986 article on "the Impact of Suicide in Television Movies—Evidence of Imitation":

Increasing evidence suggests that imitative behavior may have a role in suicide among teenagers. We studied the variation in the numbers of suicides and attempted suicides by teenagers in the greater New York area two weeks before and two weeks after four fictional films were broadcast on television in the fall and winter of 1984-85. The mean number of attempts in the two-week period after the broadcasts * * * was significantly greater than the mean number of attempts before the broadcasts * * *.

☐ 1105

In the same New England Journal of Medicine, September 11, 1986, another article by two eminent, David P. Phillips and Lundie L. Carstensen, made this finding:

At present, the best available explanation of the findings is that television news stories about suicide trigger additional suicides by teenagers. The precise nature of the triggering mechanism is currently unknown but the evidence is consistent with the idea that imitation and modeling are involved.

Then finally, in a statement by Dr. David Schaffer, chief of child psychiatry at Columbia University, who is presently engaged in a study in Bergen County, NJ, where those tragic suicides occurred recently say:

It's significant that in an area where there's been a recent outbreak of suicide they have a very highly developed suicide prevention approach. My own view is that coupled with incresing suicide rates, there is every reason to believe the two may be linked.

Mr. Chairman, this amendment to House Resolution 5 is designed to prohibit the Department of Education from offering grants for the development and implementation of suicide awareness and death education programs until the Secretary can conduct a thorough study of the myriad local programs now in place to determine what effect, positive or negative, they have had on the incidents of youth suicide.

Mr. Chairman, I applaud the efforts of several of our colleagues in proposing initiatives to deal with this devastating problem. But I simply do not believe we as a Congress should encourage a specific course of action when so many distinguished experts in the field strenuously maintain that this approach could produce exactly what we do not want and that is more suicides.

We just do not know enough about the issue yet to be approving courses in our public schools.

This is not a liberal versus conservative issue, this is not a Democrat versus Republican issue, it is an issue that crosses all ideological, all political and economic lines and goes straight to the heart.

I hope that you, my colleagues, will join me in taking the safe road until we know which other road is the right road for our children.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, the gentleman has made an excellent speech, I think, in support of the action of the committee.

May I inform the committee that this subject has been of long duration in the Committee on Education and Labor. As a matter of fact, a year ago we passed in this House the Ackerman-Lantos bill which addressed this subject. So the House has already spoken on the subject and has already approved a plan of action in this very critical and very sensitive area.

In the committee, an amendment was offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] which was adopted, which made reference to moving ahead on the subject.

I know of no Member of the Congress who has such a close relationship to the problem as the gentlewoman [Mrs. ROUKEMA].

This amendment, if you would simply read it, would stop all action on doing anything in this very sensitive area until such time as the Secretary, in his wisdom, elects to make a study.

Now, that could be next month, it could be several years hence, that the study would be made and completed.

We know of no effort at this time, there has been certainly no indication before the Committee on Education and Labor that such a study will be made.

So in the meantime if this amendment is adopted it would stop all efforts to move ahead to have programs to reach this particular problem. I think it is a very dangerous amendment, regardless of ideology it is a very dangerous amendment because in a sense it says, "You do nothing." I am not so sure that the American people would approve of us doing nothing.

I think the amendment therefore should be rejected.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, we are States righters on my side of the aisle so I could never accept this amendment. States righters say that the State and local governments make these kinds of determinations. That is why we do not have an amendment in chapter 2 that says. "You must teach this particular program."

In committee, we had an amendment that would have made it mandatory to offer suicide prevention programs. The beauty of chapter 2, as we toured this country and listened to everyone, was that the money could be used to do what the local and State governments believed was important in order to improve the situation in their particular school district.

There is nothing in this bill that says any school district or any State must design a curriculum in youth suicide prevention. It says that if you believe that is an area that you must deal with, and an area that needs attention, you can use some of these funds to do that. And no one tells them they have to. So let us let the local community and let us let the State determine what is most important as far as they are concerned when they use chapter 2 funds. So, I would hope that everyone would be in opposition to this amendment. It is just unbelievable to me that anyone could approach an issue such as this in the way it is being approached by some of those outside of the Congress of the United States.

So as a States righter, I say let the State and let the local government determine whether they want to do this or do not want to do this.

Mr. Chairman, I yield back the balance of my time.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak on behalf of the gentleman from Florida's amendment.

Ladies and gentlemen, there is probably nothing that will touch the hearts and the compassion and the desire to move and to act and to do something fast and something definitive more than when this addresses concerns related to our young people. We are in that regard a generous body, an active body, and a very, very compassionate body. That compassion, that desire to be active, that willingness to put the next generation ahead of the next election is obvious in the provisions of this bill that are addressed by the amendment. I want to tell the framers of those provisions how much I respect their work and their commitment, their sincerity, their good intentions, which do deserve to be respected.

Congresswoman ROUKEMA and I are in a unique position of both being married to people in the health care professions. By virtue of our mutual tendency to be involved with concerned, caring involvement with our spouses and their careers we do achieve a good deal of understanding and care. She has been motivated by her awareness of the problem to advance this legislation.

But in this case, in particular, I would like to relate also to the legislative experience of the gentleman from Florida. He is not a new visitor to this problem. He has visited it before in Florida and he has done so with good results for the State of Florida and for the youngsters of Florida. His work and his insight and his understanding deserve consideration, deserve respect.

But perhaps more importantly than that, at this time I would like to pay respects to the courage that is demonstrated by the gentleman from Florida. I fear that as we passed the legislation last year, too many of us came to the floor more concerned about the possible political travails of being conceived as having voted against youth suicide prevention measures than we were the finer details of the implementation of the law.

We must understand that we are dealing here with a very sensitive area. We are dealing with the minds and the behavior of our young people and that is an activity that requires professional expertise and in this particular area of youth suicide prevention expertise that goes beyond what is normally found in the high schools, even in the guidance personnel of the high schools.

I have had academic experience in counseling guidance. I know the curriculum. I know the limits of their curriculum. And they do a good job, but they do know their limits.

Anybody who is in the health care profession who is a competent person will know their limits and know when it is time to do referrals. For us to advance legislation that would tend to validate and encourage the tendency that we all have to want to intervene when we see youngsters in peril and to do so with the misguided idea of what can be done and with misguided procedures, puts those youngsters in even deeper risk. I think the gentleman from Florida is wise to come to this floor to risk being maligned as one who does not care, which is not the case, to exhibit his compassion by telling us we must exercise restraint, we must go forward slowly and cautiously, because we are dealing here with the most precious of all things to all of us, the lives of our youngsters.

We are dealing here also with the most sensitive and difficult areas, the emotions, the thought processes, the confusion, the identity crisis that our youngsters all have; their tendency to emulate behavior. The gentleman from Florida has documented how that tendency can, in fact, be enhanced by careless dissemination of information even for the best of reasons.

So I would ask this body to pay heed to the cautions that are given to us by the gentleman from Florida, to encourage and, yes, even demand that the Department of Education go forward and study this issue, and to make responsible recommendations to our education establishment, when we knew enough and can act responsibly and with certainty that we will protect not endanger the lives of our youngsters.

Mr. Chairman, I urge a "yes" vote on the amendment.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a very well intentioned amendment and I do not question the sincerity or the purpose of the gentleman from Florida. I think it is unfortunate in terms of the timing that his "dear colleague" did not arrive until this morning and it put us a little bit at a difficulty in terms of discerning both what the gentleman's amendment would do and also his rationale.

For that reason the gentleman and I have only a brief conversation on the subject but agreed to explore his amendment further.

I had hoped that the gentleman would hold back his amendment and perhaps he yet will.

However, I want to speak directly to the subject, and suggest that the gentleman is ill-advised in deferring the issue for study.

I am not only the author of the amendment inserted in the suicide prevention section in the bill about which we are speaking, but I also come to the subject with some credentials.

The recent suicides in Bergenfield, NJ, which assaulted the public mind and brought this tragic subject into the living rooms of America, through network television coverage, happened in my district. I am very familiar with the school system there, with the local officials and have worked closely with them before the suicides and since.

In addition, my husband has practiced psychiatry for almost 30 years and has dealt with all kinds of problems, including the problems of adolescent suicide. I think what is shocking—and no amount of sweeping the subject under the rug is going to change these facts—the shocking facts are that we now find young people coming into the offices of mental health centers and doctor's offices, not because of so-called death education, but because somehow our society has developed an attitude that suicide is an option here.

□ 1120

This is what doctors and other health-care professionals will tell you. That is a distinct change from one generation ago. Suicide was not an option.

We are not talking about making it an option; somehow our other institutions, whether family or religious institutions or our schools or whatever have failed a generation of young people in making them think that somehow suicide is an option.

We are not in the business in this bill of teaching young people that suicide is an option. Rather, what we are teaching them, and what we should be teaching them and what the schools systems and the mental health groups in our area are trying to do, working cooperatively, is precisely the opposite, to teach that it is not an option.

Second, we are recognizing something that all authorities recognize, the direct relationship between substance abuse, whether alcohol or drug abuse, and suicide. Substance abuse are symptoms of deeper problems, of which suicide may be the end result if those symptoms are not understood in the proper context.

So the purpose of the bill is not, to use the unfortunate phrase, of promoting death education. It is exactly the opposite. It is acknowledged that the school is the one institution that is the common denominator for all these students, that the purpose is to use the schools to identify high-risk students, identify them before they drop out of schools, identify them when there is evidence of substance abuse and recognize that that is part of a pattern that all too frequently leads to suicide.

The CHAIRMAN. The time of the gentlewoman from New Jersey has expired.

(By unanimous consent, Mrs. ROUKEMA was allowed to proceed for 3 additional minutes.)

Mrs. ROUKEMA. Besides identifying high-risk students, our local option provides the opportunity for the community to decide that there is a need, and consistent with the values of that community, to train personnel in the schools, not be mental health professionals, but train them to identify these high-risk students and make the proper referrals.

That is really what we are talking about here.

Finally I would like to say that I have been on the phone, staff has been on the phone with Dr. Schaffer, who has been quoted widely here today. Dr. Schaffer, of Columbia University, to whom my colleague from Florida has referred, is a consultant to the Bergenfield school system and many other school systems across the country and he is a noted authority.

Dr. Schaffer has authorized me to say that the statement that has been made on his behalf here was never made by him with reference to Bergenfield or any other school system; that most likely the situation is that the statement was taken out of context. But he stated categorically that that statement was not made, as quoted, with reference to the Bergenfield school system or any other school system regarding suicide.

Finally, his staff has indicated, and I think this is very important and I recognize the sincerity of concern from the gentleman from Florida, but Dr. Schaffer's offices reports that there is no known correlation between the numbers of suicides and the implementation of programs across the country.

I guess we can say there are a lot of things that we do not know about the issue, but one thing we do know is that it is not a problem that is going to go away by closing our eyes to it. It is not something that can be swept under the rug. It is something of serious purpose that parents and students, peer groups, schools officials, mental health professionals and local school boards and the clergy should be working on together and, Mr. Chairman, that is what this bill provides.

I urge defeat of the gentleman's amendment.

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I would like to make a few points.

Certainly, I do not think it appropriate to criticize the gentleman from Florida for his timing on this measure. He, like the rest of us, could have had no idea that we would have this bill up. We all expected this week to spend this day on DOD, and the gentleman's work was hurried, not by him, but by the——

The CHAIRMAN. The time of the gentlewoman from New Jersey [Mrs. ROUKEMA] has again expired.

(On request of Mr. ARMEY and by unanimous consent, Mrs. ROUKEMA was allowed to proceed for 1 additional minute.)

Mr. ARMEY. Also, if I might say, I, too, have had suicides in my district, and my heart has been touched. I am concerned, but I do recognize that that incident and even the association I have had with their families, does not make me an expert, and it is that tendency to believe that some association with the problem makes us experts that frightens me so much about this legislation.

Also, finally, I do not believe it is appropriate to suggest that the gentleman from Florida wants to sweep the problem under the rug or close our eyes to it. On the contrary, he wants us to get it in a responsible and meaningful manner out from under the rug and open our eyes to it before we take legislative action.

I thank the gentlewoman for yielding.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with great reluctance because I do not know of anybody that I more greatly admire in Congress than my colleague from Florida, but I think this bill, as it now stands, is an effort to do what we can do in our time to fight suicide.

I lost a son to suicide. He was 2 years in a hospital trying to correct it, but the day he got out of the hospital, he took his life. I have a granddaughter in the hospital today who is in her teens and there because of suicidal statements.

So I speak with a great deal of background in this matter. It is a complicated subject. Suicide may be, in some cases, even genetic. Certainly environment has a lot to do with it. Very fine wonderful people are taking their lives today, not only younger people, but older people. It seems to me that the purpose of this legislation is good. To say that it could be abused, yes that is true of every piece of legislation that you pass.

It seems to me that this purpose is to do good, and I think that the urgency is so tremendous upon our country today, with the large instance of particularly youthful suicide, that I think it is wise for us to try to see if we can get this kind of assistance down at a grassroots level.

The problem is that a lot of local schools really have only one or two schools, or maybe a county, as their maximum boundaries, and they need assistance from the Federal Government, not only financial, but some kind of guidance. To wait for this overall report to come in before assistance is given, when one can ask what harm could it do and when so much good can be done by it, I think that is a very great mistake.

As reluctant and I am, because I do not know of anybody in the world that I admire more than the gentleman who represents part of the district I used to represent, a perfectly wonderful person, and very well-intentioned in this amendment, but I think the amendment is a negative amendment, and I hope that the House will turn it down.

□ 1130

Mr. ACKERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, on behalf of the 5,000 children who took their lives within the past year, on behalf of the 500,000 who attempted suicide last year, on behalf of their parents and friends, I urge my colleagues to reject the amendment offered by the gentleman from Florida [Mr. GRANT].

The amendment would further a centuries-old misconception that suicide ought to be kept a big secret, and that responsible national leaders have no role to play in alleviating the No. 2 killer of America's young—that by making believe we are all ostriches, suicide will go away. The silence which this amendment advocates is both deafening and deadly.

For the past 30 years, we have followed the prescription for death proposed by this amendment—we did nothing; we watched kids die; and we mourned. During the past three decades we had no suicide prevention programs and the suicide rate jumped by 300 percent. We studied the problem. Clearly, just studying does not solve anything.

Mr. Speaker, I commend my friend, the gentlewoman from new Jersey [Mrs. ROUKEMA], for having a suicide prevention provision included in H.R. 5. I think it is an important first step to attempt to reduce the American tragedy of youth suicide.

During the 99th and 100th Congresses, there have been four hearings on youth suicide. Experts, parents, teachers, and yes, even children testified about the need for suicide pevention legislation. Last year, the House passed by a unanimous vote, bipartisan legislation introduced by myself, the gentleman from California [Mr. LANTOS], and the gentleman from New York [Mr. DIOGUARDI].

The National Parents and Teachers Association supports suicide prevention programs, the American Association for Counseling and Development supports suicide prevention programs, the Youth Suicide National Center supports suicide prevention programs, the American Academy of Child Psychiatry supports suicide prevention programs, and the list goes on and on. But most important, I have received countless letters from parents expressing their belief that if prevention programs had existed their children would still be alive today.

The lone voice of opposition came from Phyllis Schlafly and her cohorts. Obviously, today, she speaks again.

The "Dear Colleague" circulated this morning said that we ought to study the problem and not do anything about it.

Yesterday 15 kids committed suicide in our country, the day before 15 kids committed suicide, today another 15, and it goes on every single day of the year at an accelerated rate.

Should there be a study, Mr. Chairman? In November 1986, the Department of Health and Human Services did have a conference and they did study youth suicide, and the conference embraced the idea of school-based suicide prevention models. The Grant amendment would literally study suicide to death.

Additionally, there is absolutely nothing in this suicide prevention provision which promotes, sanctions or permits what the sponsors of this amendment claims to be "death education." I challenge the sponsors of this amendment to prove that the provision does anything more than allow school districts who so desire, to apply for Federal funds to save their children. How dare the proponents of this philosophy impose their own views and the position of Ms. Schlafly, at the cost of thousands of young lives?

Mr. Chairman, later this year, H.R. 457—the Youth Suicide Prevention Act—will come to the floor. This is a bill which was introduced by myself the gentleman from California [Mr. LANTOS], the gentleman from New York [Mr. DIOGUARDI] and the gentleman from Michigan [Mr. KILDEE]. It carries the bipartisan sponsorship of over 75 Members of Congress. Ms. Schlafly cannot silence the Members of Congress, parents, and educators.

Mr. Chairman, any loss of a life is tragic. The loss of a child is devastating. The self-inflicted death of a youngster is an unthinkable horror. Yet, think we must, so we can begin to understand it, recognize it, and in some cases to prevent it. Let us not allow this amendment ot tie the hands of those who seek to save the lives of Americas kids.

Mr. GRANT. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. GRANT] is recognized for 5 minutes.

There was no objection.

Mr. GRANT. Mr. Chairman, it is apparent even to a new Member of Congress that I am not prevailing, at least here on the floor. I am not entirely sure how I am going to be situated if we ask for a recorded vote. I do not think I am going to do that. But I do want to point out to some of my colleagues who, if I may paraphrase one of them, are well-meaning and well-intentioned, but nonetheless erroneous in their statements, a few facts. In fact, the last gentleman made the point that perhaps someone on the floor today was speaking for Phyllis Schlafly, a person whom I have never met and whose philosophy I do not entirely ascribe to, although maybe some other Member subscribes to that philosophy.

It has also been indicated that maybe I did not have any knowledge in the field, and that I wanted to sweep the problem of teenage suicide under the rug. The entire opposite is the truth. Were those people who made such a point of my inexperience in the field to check the record, they would find that we passed comprehensive legislation 3 years ago in Florida before the press got hold of the issue and decided to make it glamorous, which I think was counterproductive to the whole issue. They would also find that our bill has been requested by no fewer than five other States to deal with the problem of teen suicide. Those States are Oregon, Minnesota, Washington, Michigan, and Illinois.

I believe it is a sound approach. I did not get into the nuts and bolts of the approach that we happened to use in Florida, which I think is very positive toward doing something about this awful problem in America, because that was not my intent. My intent in this amendment was simply to say that before we spend our money—and that is what this bill would have us do, spend these dollars for special projects under the local program section of the bill—before we spend our money, I think it makes a great deal of sense to study the situation. In fact, all prudent people, I think, believe that what we should do is see where we are going first.

There is a certain cadre of professional psychologists, psychiatrists, school counselors, and others who believe that the glorification of suicide is counterproductive to combating the increasing rate of teen suicides in this country. I happen to be one of those. I subscribe to the efforts that the gentleman from New York [Mr. ACKERMAN], the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from Texas [Mr. ARMEY], and others, including the distinguished chairman of the committee, are attempting to do with this very significant problem. I must say, however, that I do resent just a little bit the fact that my motives are inpugned because the Members did not even discuss this with me and there are several Members I have tried to reach for over 2 months to talk about this issue, but I have been put off.

So, Mr. Chairman, this is not just a spur-of-the-moment thing. It is something that I only discovered was in the bill just yesterday. So that was the reason we only made this amendatory attempt last night and this morning.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GRANT. Yes, now that I have sort of vented my spleen, I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I think we all appreciate the statements of the gentleman from Florida. I know that I do, and what I most appreciate is the previous conversation I had with him in which we shared some of our mutual concerns about the advisability of applying only known procedures and acceptable procedures and techniques that are acceptable and reputable and attributable to both local authorities and existing mental health officials on the scene. I think the gentleman has attempted to make that point, as have I.

I also think, in fairness to the gentleman, that it should be pointed out that many of us share the concerns, because we know there is kind of an epidemic of a contagious nature with the problem of teenage suicide. Certainly that has been verified by authorities in the field, and I think the gentleman from Florida is quite correct to point that out. We want to avoid that kind of perverse or unintended effect.

But I think the local authorities, with the acceptable local health authorities and school officials, are in the best position to make that decision, consistent with the values of the local community, and I would hope the gentleman would agree that the bill has been constructed to give the authority solely to the local entity and there is no attempt here to have the Federal Government impose its will on local authorities. It is an effort to supplement and help them deal with a tragic problem within their communities, if they choose that option.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GRANT] has expired.

(On request of Mrs. ROUKEMA, and by unanimous consent, Mr. GRANT was allowed to proceed for 1 additional minute.)

Mrs. ROUKEMA. Mr. Chairman, if the gentleman will yield further, I would certainly pledge to work with the gentleman as we go into the discussion of the Ackerman bill at another time to be sure that the safeguards and the gentleman's concerns are addressed and my concerns are addressed in that piece of legislation, so that it will be a piece of legislation that all the Members of this body can support.

Mr. GRANT. Mr. Chairman, I appreciate the gentlewoman's remarks. I do want to point out, however, to this committee and to my colleagues here that the effort in this amendment is designed to prohibit the very thing that the gentlewoman is referring to, and that is the dissemination of information that might aggravate the problem. It is not that we do not want to deal with the problem. We simply do not want to aggravate the problem. I think it would be appropriate for us to complete a study to see if TV or the initiation of deaf education or suicide prevention programs in the school actually do aggravate the problem.

Mr. Chairman, it is simply that, and I would urge a positive vote on the amendment.

The CHAIRMAN. The question is on the amendent offered by the gentleman from Florida [Mr. GRANT].

The amendment was rejected.

The CHAIRMAN. Are there any further amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—CRITICAL SKILLS IMPROVEMENT

SEC. 2010. SHORT TITLE.

This title may be cited as the "Critical Skills Act".

SEC. 2020. STATEMENT OF PURPOSE.

The purpose of this title is to strengthen the economic competitiveness and national security of the United States by improving *the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools.*

SEC. 2030. PROGRAM AUTHORIZED.

(a) The Secretary is authorized to make grants to States in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics and science.

(b) There are authorized to be appropriated for the purposes of this title, $400,000,000 for fiscal year 1988 and such sums as may be necessary for each of the five succeeding fiscal years.

SEC. 2040. ALLOCATION OF FUNDS.

(a)(1) From the amount appropriated under section 2030 for any fiscal year, the Secretary shall reserve—

(A) not more than one half of one percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title;

(B) one-half of one percent for programs for Indian students consistent with the purposes of this title; and

(C) five percent for section 2130.

(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

(A) one-half of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to that one-half of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States; and

(B) one-half of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act or chapter 1 of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than one-half of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State under title II of the Education for Economic Security Act for fiscal year 1987.

(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

SEC. 2050. WITHIN STATE DISTRIBUTION.

(a) From the amount allocated to any State pursuant to section 2040, the State educational agency may reserve not more than 20 percent of such amount for the conduct of State programs, planning, and administration pursuant to section 2080. Of this amount one-half shall be made available to the State agency for higher education for the conduct of programs under sections 2080 and 2100 which directly relate to training teachers for or improving instruction in math and science at the elementary and secondary levels.

(b)(1) From the remaining funds not reserved under subsection (a) the State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and (A) private nonprofit schools, or (B) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.

(2) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged five to seventeen who—

(A) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and

(B) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;

in the schools of the local educational agencies within the State.

(c)(1) Except as provided in paragraph (2), in any case where the distribution under subsection (b) will result in a local educational agency receiving less than $3,000, such local educational agency must apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. If a local educational agency is unable to form such a consortium, the State educational agency shall arrange with other local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency, unless the local educational agency rejects such option. The State educational agency shall reallocate any amounts which would have been distributed to local educational agencies which reject such option, to other local educational agencies within the State in accordance with subsection (b).

(2) The State educational agency may waive the requirements of paragraph (1) if a local educational agency in a rural and sparsely-populated area demonstrates the inability to form a consortium for administering programs in mathematics and science instruction.

SEC. 2060. STATE APPLICATION.

(a)(1) Any State desiring to receive a grant from funds allotted under section 2040 for any fiscal year shall submit to the Secretary a State application which covers a period of three fiscal years, is submitted at the time and in the manner required by the Secretary, and contains the information required under this subsection and any other information the Secretary may reasonably require.

(2) An application shall be developed in consultation with the State agency for higher education or if no such agency exists, with representative institutions of higher education in the State. This application shall include a description of how the State agency for higher education and State educational agency have coordinated the use of their respective funds.

(b) Each such application shall provide the following assurances that:

(1) Federal funds under this title will be used to supplement, not supplant, State and local funds;

(2) The State will provide such fiscal control and funds accounting as the Secretary may require;

(3) During the three-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

(4) The State will involve institutions of higher education in implementing the programs under this Act;

(5) The State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and the handicapped.

(6) That the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use.

(7) That the programs conducted with State funds will be evaluated annually (including statistics on the number of students and teachers involved in these programs) and that the results of such evaluations, as well as a summary of the local evaluations required under section 2070 will be submitted to the Secretary.

(c) Each application shall also contain the following:

(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science and a description of how those needs will be addressed by this Act.

(d) Each application shall also contain the following descriptions:

(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsection (c);

(2) The specific activities that will be undertaken that involve institutions of higher education.

(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

(e) The Secretary shall expeditiously approve any State application that meets the requirements of this section.

SEC. 2070. LOCAL APPLICATION.

(a) A local educational agency shall submit an application which covers a three-year period singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit.

(b) A local educational agency application shall—

(1) assess the needs of its current teachers in mathematics and science, project the number of teachers needed in these areas and assess the degree to which there are currently shortages of teachers in these areas;

(2) provide information on the number of teachers in subjects or specialities for which they are not licensed or certified;

(3) assess the current levels of mathematics and science student achievement in the local educational agency and how funds under this Act will be used to improve it;

(4) assess curricular needs in mathematics and science and describe how the local educational agency will improve its curriculum;

(5) describe the programs and activities which funds under this Act will support;

(6) describe how funds under this Act will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the National Science Foundation;

(7) describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

(8) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

(9) assure that the programs will be evaluated, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

(c) The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this Act. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

SEC. 2080. USES OF STATE FUNDS.

(a) Subject to the provisions of this section, funds reserved for State use may be used for direct grants to local educational agencies, institutions of higher education, educational television stations, and other nonprofit organizations, agencies, and institutions, or for statewide programs in mathematics and science, technical assistance, State administration, in order to carry out the following activities—

(1) teacher training activities described in section 2100;

(2) competitive grants for exemplary programs to improve mathematics and science teacher training, and instruction;

(3) evaluating and improving State licensing and certification procedures and preservice curriculum for mathematics and science teachers;

(4) special programs to recruit minorities and women into mathematics and science teaching;

(5) mathematics and science curriculum evaluation, development, or modernization, which may not include the purchase of materials and equipment;

(6) activities to coordinate mathematics and science programs with increased graduation requirements and other State reforms;

(7) development and implementation of instructional strategies using computer, video, and other telecommunications technologies for use in mathematics and science programs, particularly in sparsely populated areas;

(8) technical assistance, especially for isolated areas; and

(9) small grants to teachers for innovative projects to improve instruction in their classrooms.

(b) Not more than 5 percent of funds available to a State under this part may be used for State administration, of which 1 percent shall be available for the State agency for higher education and 4 percent shall be available for the State educational agency.

(c) Each State shall devote a portion of its funds available under this section for programs operated in conjunction with institutions of higher education.

SEC. 2090. LOCAL EDUCATIONAL AGENCY USES OF FUNDS.

(a) Funds distributed to local educational agencies in accordance with section 2050(b) may be used for—

(1) teacher training as described under section 2100;

(2) recruitment or retraining of minority teachers to become mathematics and science teachers;

(3) bonuses to be used as an incentive in the hiring of teachers in critical mathematics and science subject areas where the school does not have a certified subject area teacher in that area or in schools with an enrollment of 50 percent or more of students from low-income families;

(4) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families);

(5) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum;

(6) coordinating elementary and secondary curriculum in mathematics and science with each other and with higher education curriculum;

(7) special instructional programs in mathematics and science involving partnerships with public and private agencies, organizations, and institutions listed in section 2070(b)(7);

(8) intensive academic programs and counseling to prepare students to enter careers in mathematics and science, especially females, minorities, individuals with limited English proficiency, the economically disadvantaged, and the handicapped;

(9) matching grants for the purchase of apparatus and essential supplies to increase opportunities for hands-on or laboratory experiences for students in mathematics and science;

(10) start-up funding for magnet schools in mathematics and science which are designed to attract young people from among majority and minority groups, and both males and females;

(11) leadership workshops for school administrators to improve their ability to improve the mathematics and science instruction within their schools; and

(12) any other activity to modernize, expand, or improve mathematics and science education.

(b) A local educational agency may carry out the activities authorized by this section with one or more other local educational agencies within the State, the State educational agency, institutions of higher education, or intermediate educational units.

(c) Not more than 5 percent of funds available for the purposes of this section may be used for local administration.

SEC. 2100. TEACHER TRAINING ACTIVITIES.

State and local funds may be used for the following activities to improve teacher training and skills:

(1) Providing opportunities for elementary and secondary school teachers of mathematics and science, to increase their subject matter knowledge and teaching effectiveness through—

(A) academic year and consecutive summer inservice programs for teachers of high potential who are teaching out of their major or minor fields of preparation or in grade levels for which they are not adequately prepared;

(B) evening and weekend academic year, and summer programs of subject matter for elementary and secondary school teachers who are teaching eligible subjects for which they have never had an introductory college course;

(C) inservice workshops and institutes on subject matter and appropriate education offered by schools, local educational agencies, institutions of higher education, and public and private nonprofit agencies, institutions, and organizations, to enhance the currency of eligible subject matter preparation and teaching skills of teachers in their major field of preparation;

(D) programs to recertify teachers who are in other specialities or other fields;

(E) recruitment and inservice of minority teachers;

(F) stipends and payment of expenses to teachers to attend training under this paragraph;

(G) training school administrators to be instructional leaders and supervisors in mathematics and science; and

(H) improving skills of teachers while employed in summer jobs.

(2) Developing exchange programs in which outstanding teachers or school administrators from one school district or State are temporarily assigned to another school district or State to act as consultants or mentors in mathematics and science.

(3) Developing model programs for the exchange of mathematics and science personnel between education and private industry.

(4) Developing programs for the exchange of mathematics and science professional personnel between education and other fields.

(5) Supporting programs, including scholarships and internships, for qualified persons in business and the professions, including retired military personnel, who wish to become teachers of mathematics and science but lack coursework in education.

(6) Providing funds to local educational agencies for small grants projects for individual teachers to undertake projects to im-

prove their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

SEC. 2110. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

(a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

SEC. 2120. FEDERAL ADMINISTRATION.

(a) The Secretary shall provide technical assistance and shall develop procedures for State and local evaluations of the programs under this Act.

(b) The Secretary shall submit to the Congress an annual summary of the State evaluations of programs under this Act.

(c) In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2060 and 2070.

SEC. 2130. NATIONAL PROGRAMS.

(a) From 5 percent of amounts appropriated under section 2030(b), the Secretary shall make grants in accordance with this section.

(b) The Secretary shall make grants to State and local educational agencies, institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private private nonprofit organizations, providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

(c) The Secretary shall disseminate information concerning grants under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

SEC. 2145. REPEAL.

Title II of the Education for Economic Security Act is repealed.

SEC. 2146. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

(2) by striking "1986," and inserting "1986 and"; and

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.".

AMENDMENTS OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendment is as follows:

Amendments offered by Mr. PANETTA:

Page 217, lines 2 and 3, strike "and engineering" and insert "engineering, and foreign language".

Page 217, line 4, strike "mathematics and science" and insert "mathematics, science, and foreign languages".

Page 217, line 10, strike "mathematics and science" and insert "mathematics, science, and foreign languages".

Page 217, line 15, strike "mathematics and science" and insert "mathematics, science, and foreign languages".

Page 217, after line 17, insert the following:

(d)(1) For any fiscal year, the Secretary shall reserve 25 percent of the sums available for the purposes of this section for grants for the improvement and expansion of instruction in critical foreign languages, as determined by the Secretary in accordance with paragraph (2).

(2) In determining which languages are cirtical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

Page 217, after line 17, insert the following section (and amend the table of contents accordingly):

SEC. 2135. PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES.

(a) PRESIDENTIAL AWARDS.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

(b) SELECTION PROCESS.—Each year the President is authorized to make one hundred and four awards under subsection (a) of this section. In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) ADMINISTRATIVE PROVISIONS.—The President shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with the Secretary of Education, other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $1,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 through 1993 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to paragraph (1) shall be available for making awards under this section, for administrative expenses, for necessary travel by teachers selected under this section, and for special activities related to carrying out the provisions of this section.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Arkansas.

Mr. ROBINSON. Mr. Chairman, I rise today to speak in favor of H.R. 5, the School Improvement Act of 1987. It is a good bill, and will mean good things to the school children of Arkansas' Second Congressional District. The School Improvement Act reauthorizes virtually all Federal programs providing aid to elementary and secondary education, and represents the Federal Government's commitment to education through 1993.

H.R. 5 is the most far-reaching education bill of the decade. It makes good on the Federal promise to join with States and local school districts in enhancing the quality of our Nation's elementary and secondary schools. It does so by offering a package of programs that collectively reaffirm the twin Federal commitments to: First, access to quality education for disadvantaged students and other students with special needs; and second, excellence in education for the Nation as a whole.

This is an omnibus bill. It extends and revises 14 elementary and secondary education programs. Some of these are: chapter 1, chapter 2, the Adult Education Act for adult literacy, the Magnet Schools Assistance Program, the Drug-Free Schools and Communities Act, the Excellence in Education Demonstration Grant Program, the Impact Aid Program of assistance to schools in federally affected areas, and others.

Chapter 1 is the largest Federal elementary and secondary program in America, and is the cornerstone of this bill. The central purpose of chapter 1 is educating low-achieving students in poor areas—a goal in which the Federal Government has been extremely successful.

H.R. 5 strengthens chapter 1 through provisions to target more funds on the neediest areas and to expand the program to the preschool and secondary school levels. In connection with this targeting on secondary schools, the bill adds a new initiative for dropout prevention programs. The bill also seeks to improve the quality of chapter 1 programs by instituting new provisions to hold schools more accountable for the outcome of chapter 1 and to encourage successful programs.

H.R. 5 contains several components aimed at generally upgrading the quality of instruction of our Nation's schools. The chapter 2 block grant is refocused in a way that makes clear that these funds are to be on the cutting edge of educational improvement in the school district. Chapter 2 is the pot of money to be used to help school districts implement innovative programs or make special instructional purchases that they do not have the local funds to support.

Another noteworthy excellence program in the bill is the Mathematics and Science Education Program which authorizes funds for teacher training and other activities to strengthen math and science instructions. Finally, the bill institutes a new authorization for education of gifted and talented children.

Of special interest to my State and congressional district is the increased authorization level of the Magnet Schools Assistance Program. Previously funded at $75 million per year, this bill raises the level to $115 million. That's good news for all school districts currently undergoing court-ordered desegregation efforts.

I want the Federal Government to become a better partner with State and local governments in education. Budget cuts in the area have been dramatic. The Federal contribution to public education spending declined from 9 percent in 1980 to 6.5 percent in 1984. The declines in Federal program spending are particularly sharp: chapter 1 lost 17 percent in its purchasing power between fiscal years 1980 and 1987; chapter 2 lost 55 percent; bilingual education 45 percent; impact aid 36 percent; and adult education 28 percent.

Mr. Chairman, this bill will restore some of the ground these programs lost by increasing the fiscal year 1988 authorizations to a level adequate to allow for some modest growth. It is the best investment we can make, and I will continue to stand tall in support of these basic educational programs.

Mr. PANETTA. Mr. Chairman, I rise to offer two amendments en bloc to H.R. 5, the School Improvement Act, on elementary and secondary foreign language programs. The first would restore a provision for the Critical Foreign Languages program in the Secretary's Discretionary Fund of the Department of Education, while the second would establish Presidential Awards of Excellence in the teaching of foreign languages. I am very pleased to be joined by Representative SAWYER in introducing the first amendment, and equally pleased to have your support and that of the ranking minority member for both measures.

The Critical Foreign Languages Program of the Secretary's discretionary fund is a small but important component of the Federal Government's involvement in foreign language education at the elementary and secondary levels. For the past 3 years, this program has been allocated $2 million each year, mostly for grants to fund a total of 70 foreign language programs at the elementary and secondary levels.

The types of programs funded are those that are superior in and of themselves or are good models, mostly in the areas of teacher training and curriculum development for critical foreign languages. This category officially includes a total of over 100 languages, though there is a narrower category of the 11 most critical, and a large portion of the programs are actually in just 3 languages: Chinese, Japanese, and Arabic. There is a concentration on these three because, among those languages critical to our national security and economic prosperity, there is a special need for programs in these three. Most of the programs to date have been cooperative ventures between local schools and institutions of higher education. In addition, some money has gone directly to State education associations to aid in the development of statewide plans for foreign language curriculums.

The Critical Languages Program has become one of the most effective among those funded by the Secretary's Discretionary Fund, and, as I mentioned, one of the best foreign language programs at the Federal level. Nonetheless, it was deleted from the School Improvement Act by the committee largely, as I understand, because the Discretionary Fund, is mostly intended to fund math and science programs and because an option to spend money on foreign language programs would still be retained. However, historically, nearly all the money in the Discretionary Fund not specifically earmarked for foreign languages has been used to meet pressing math and science needs. While I applaud the increased attention to foreign languages recently demonstrated by Congress in H.R. 3, the Critical Foreign Languages Program of the Secretary's Discretionary Fund is much more valuable than its small funding level of approximately $2 million would suggest. It is the only part of title III specifically earmarked for foreign languages, and departmental staff have ensured that these funds are used for innovative and solid programs. Eliminating Critical Foreign Languages from the Discretionary Fund would mean that little or no title II money would go toward foreign languages, and a small but important portion of the Federal Government's foreign language program would be lost.

My amendment would add "foreign languages" to math and science as an eligible area for funding under section 2130: National Programs, of "Title II—Critical Skills Improvement" of the School Improvement Act. It would, in addition, set aside 25 percent of the funds in National Programs specifically "for the improvement and expansion of instruction in critical foreign languages." This amendment restores the status quo for this program before the drafting of H.R. 5, and would not increase the cost of H.R. 5 because funds would be taken out of those authorized for the entire program.

This amendment would guarantee the continuation of a small but important program focusing on languages essential to our security and economic well-being, and therefore constitute a contribution to our country far in excess of the resources devoted to it.

My second measure would establish a system of Presidential Awards for Teaching Excellence in Foreign Languages in order to focus national attention on the critical need for foreign language teachers. Few people would, I believe, deny that such a pressing need exists. In a recent survey by the National Association of State Supervisors of Foreign Language Teachers, 57 percent of the States responding reported a current shortage, and almost 65 percent expect to experience such a shortage in the near future.

While considerable attention has been devoted to decreasing the shortage of teachers in other areas, notably math and science, important to our security and economic prosperity, relatively little effort has been made to remediate a comparably great shortage of foreign language teachers.

My amendment, which would add a new section 2135 to "Title II—Critical Skills Improvement," would take a small but significant step toward correcting this major deficiency in our educational system. A total of 104 awards would be made by the President to elementary and secondary teachers who have demonstrated outstanding teaching qualifications in the field of foreign languages. At least one elementary and one secondary school teacher from each State, as well as the District of Columbia and Puerto Rico, would be selected, thereby ensuring attention across the Nation to foreign language teachers. The cost of this program would be $1 million for fiscal year 1988, with the necessary sums being allocated in subsequent years.

While this amendment would not actually create a new Federal foreign language program, these Presidential awards would significantly add to the prestige of good foreign language teachers, and thereby motivate a greater number of more highly qualified persons to become and remain foreign language teachers. This would have significant value beyond the relatively small cost of the program, as it is now difficult for many school districts across the country to attract and retain highly qualified foreign language instructors.

In general, as I noted, foreign language instruction has been neglected in favor of other "critical skills." Given that the ease of learning a second language is inversely proportional to age, it is discouraging to find that only 1 percent of students in our elementary schools receive any kind of foreign language training. Moreover, a 1982–83 survey showed that only 21.3 percent of all high school students were enrolled in foreign language courses, 88 percent of which were in Spanish and French. These distressing facts attest to the need to devote much more, and higher quality, attention to foreign languages, especially at the elementary and secondary levels. This measure would dramatically increase the prestige of teaching foreign languages, and therefore help improve instruction in and attention to foreign languages in the crucial years to come.

Mr. Chairman, global interdependency is a fact of life, and America can no longer exist in this world wearing linguistic blinders. The investment in our future national security and prosperity represented by these two measures is very minimal, yet the stakes are high. We must act now to put our foreign language and international education system back on track, and these amendments represent small but significant steps in this direction. I therefore urge the support of my colleagues for both measures.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Mr. Chairman, I yield to the gentleman from California [Mr. Hawkins].

Mr. HAWKINS. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from California is correct. He has discussed the three amendments, two of which are now before the House, with the ranking minority member and me.

We had objections to one of them which is not included in the two which are under discussion now because of the amount of money involved.

The CHAIRMAN pro tempore (Mr. Gray of Illinois). The time of the gentleman from California [Mr. Panetta] has expired.

(At the request of Mr. Hawkins, and by unanimous consent, Mr. Panetta was allowed to proceed for 2 additional minutes.)

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield further, a very small, modest amount is included in one of the two amendments now under discussion. The amendments have a great deal of merit.

As a matter of fact, they have already been approved in the trade bill which this House has passed.

For that reason, we were reluctant to duplicate what we had already done. However, we share with the gentleman from California [Mr. Panetta] some reluctance to say that the trade bill will eventually be enacted.

We have assured the gentleman that in such case, we will consider not only the two amendments before us now, but the third one which is not now being offered.

I think that is a reasonable accommodation. We think the two amendments before us now, the foreign language training amendment and Presidential awards for outstanding foreign language teachers, are two concepts that are certainly highly acceptable; and it is for that reason that we on this side are willing to accept the two amendments.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. Goodling].

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have looked at these amendments, discussed these amendments, and are pleased to accept the two that are being offered, with the understanding that we are not pleased to accept the third at this particular time.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Mr. Chairman, I yield to the gentleman from Illinois [Mr. Durbin].

Mr. DURBIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I stand in support of the amendment offered by the gentleman from California [Mr. Panetta].

Our former colleague, Paul Simon, was active in promoting this area of education.

If we are to become truly competitive in the world, we have to start educating our sons and daughters to speak the languages of the world.

It has been a source of great dismay over the years to see this concentration of high school curriculum and elementary school curriculum diminish instead of increase.

The gentleman from California [Mr. Panetta] has made a valuable and important contribution to our foreign languages program and to our continued efforts to increase world competitiveness.

Mr. SAWYER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am privileged to rise in support of the Panetta-Sawyer amendment to title II of H.R. 5.

As our distinguished friend and colleague, the gentleman from California, explained, this amendment would add foreign language instruction as an allowable activity under the Secretary's discretionary fund.

For the benefit of the Members, title II is a provision that I sponsored, along with Chairman Hawkins, which seeks to increase the role played by the Federal Government in encouraging the improvement of math and science instruction in our Nation's elementary and secondary schools. When this legislation was drafted, the decision was made to remove foreign language instruction and computer learning as allowable activities under the bill.

It is important to understand that this was done for two reasons. First, the committee conducted a careful analysis of the current law, particularly how title II had targeted academic deficiencies in critical areas and applied the programmatic goals of the legislation to effect improvements.

In addition, we weighed the availability of funding against the overall scope of the program.

In general, the conclusion that the committee drew was that title II was badly in need of the kind of focus that would lend itself to the efficient expenditure of federal funds to meet more directly the needs of the targeted population.

Just consider the following statistics: Seventy-one hundred high schools offer no physics courses at all. Forty-two hundred offer no chemistry courses and 1,900 offer no courses in biology. The reason for this is obvious. There simply are not enough science teachers.

It is almost as disturbing to note that in many schools that do offer these courses, they are taught by otherwise well-qualified teachers who have themselves never ever taken an introductory course in the subject that they are teaching.

We heard comparable and troubling testimony regarding mathematics instruction where data indicates that our top secondary students are at best average when viewed in an international context.

Second, and I think this is really important, something that the chairman mentioned, the trade bill, H.R. 3, contains some $50 million for grants to States to implement foreign language programs. I think that without that provision in the trade bill the committee would never have considered going the particular route for the particular kind of focus that we achieved.

I share the view of the distinguished Member from California that the acquisition of foreign language skills is of fundamental importance if we as a nation are to participate effectively in the international arena.

This amendment provides a rational solution by placing foreign languages in the Secretary's discretionary fund where State and local educational institutions, institutions of higher education and public and nonprofit organizations can apply for grants to conduct foreign language programs of national significance.

Mr. Chairman, I would like to thank the gentleman from California for working with me on this provision and urge the Members of the House to approve this amendment.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The time of the gentleman from California has expired.

(At the request of Mr. HAWKINS, and by unanimous consent, Mr. PANETTA was allowed to proceed for an additional 30 seconds.)

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the distinguished gentleman from California.

Mr. HAWKINS. Mr. Chairman, I take this time only to commend the gentleman from Ohio [Mr. SAWYER]. He is one of the permanent members of the committee and in his first term as a member of the Education and Labor Committee he has proven to be an outstanding contributor to the success of the committee, particularly in the math and science fields.

This component in H.R. 5 we think is one of the greatest contributions that we can possibly make in the field of American education. I think the people of this country and certainly the people of the gentleman's district should be proud of this contribution the gentleman has made.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California [Mr. PANETTA].

The amendments were agreed to.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had a third amendment at the desk which I will not offer at this time, which is the amendment that would authorize grants to States for the creation and operation of model foreign language programs. This is a proposal, the proposal that is contained in the trade bill, and was adopted and now is on the other side.

My concern in proposing this was because of the concern whether or not we would get trade legislation. It is important that we have the funding for these model foreign language programs.

I would just ask the chairman to assure me that should the trade bill not be adopted, for one reason or another, or not move for one reason or another, that the gentleman would assure me that he could move this legislation creating these model programs as separate legislation in that event.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the distinguished gentleman from California.

Mr. HAWKINS. Mr. Chairman, I am of the opinion that a trade bill will be passed; however, in the event that one is not passed or that this foreign language component is not included in the passed bill, I would certainly want to assure the gentleman that the committee will consider his third amendment, which he is now withdrawing, and give serious consideration to it.

I, for one, am highly in favor of it. I am confident that his bill will be given every possible consideration in the the committee.

Mr. PANETTA. Mr. Chairman, I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I just want to join with the chairman's comments. I understand what the gentleman is attempting to do and I certainly agree with it.

I certainly will also do all I can in the event that it does not come through on the trade bill to assist the gentleman in his efforts.

Mr. PANETTA. Mr. Chairman, I thank the gentleman.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, with respect to the chairman indicating that he would consider it, are we suggesting that it would be considered at a later date, possibly in conference?

Mr. PANETTA. As I understand, that provision is now a part of the trade bill and it is the hope of the chairman that it will remain a part of the trade bill and that a trade bill will be adopted.

My concern was in the event that does not happen, I would like to see this legislation move as a separate piece of legislation.

Mr. PURSELL. Well, that was my point. From a vehicle standpoint, where would this be?

We need some debate on that particular issue. I may have some problems with it, because I am not sure that policy-wise we should be directing curricula, math, science, foreign policy, reading, literature, history, government—you know, if we start getting into that role, I think we are building a concern here that I have from a local school board vantage point.

So I am asking, where will the debate take place? In the light of this, it may or may not be a good amendment. This is not my point. Where would the vehicle be in respect to coming back with it, if we think it is appropriate?

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield, it is my understanding that the amendment referred to is included in both the Senate and the House versions of the trade bill. We are only speaking now of insurance that this highly acceptable amendment which we think has a great deal of merit is protected in the event that a trade bill is not passed.

We have given the assurance to the gentleman from California that if that happens, that his third amendment would be the subject of a freestanding bill, along with the other two amendments, and that that bill would be acted upon and considered in the Education and Labor Committee.

We anticipate, with the assurance also from the ranking minority member, that the bill would then be passed out of the committee and, obviously, then would be before the House; so that as I understand is the scenario to which we have tentatively agreed.

Mr. PANETTA. And I think, Mr. Chairman, the answer to the gentleman's question is that would obviously offer the opportunity to debate the issue at that time should it come to the floor as a separate vehicle.

Mr. PURSELL. Well, Mr. Chairman, if the gentleman will yield further, we have already started down the road at looking at a different section of this bill. The gentleman has elected not to put it in the first section, which was I think math and science. The gentleman has elected to amend another line in another section, so I am just saying that the gentleman has already embarked on a course of looking at one priority versus another priority in respect to substantive curriculum issues. I think that is a very dangerous game to be playing here until we have full debate on that as an overall comprehensive policy in respect to should the Federal Government be dictating specific curriculum pieces to various States and various local school boards. I think that is fundamentally an issue that we ought to be debating.

Mr. PANETTA. Mr. Chairman, I understand the gentleman's concern, but I have offered that amendment. It is not on the floor. I have just moved to strike the last word, so I am sure the gentleman will get that opportunity at some point.

Mr. PURSELL. Well, Mr. Chairman, if the gentleman will yield further, I understand, but I read the message here that it is an acceptable practice and therefore an acceptable policy to be taking it up at a later date in another vehicle. I am not opposed to that, except the fact that we need some debate on the specific curriculum policy issue with respect to education in this country.

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Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 5, the School Improvement Act of 1989, which reauthorizes 14 major elementary and secondary education programs. The most important programs are, of course, chapter 1, which provides supplemental education for economically disadvantaged children, and chapter 2, which provides State block grants for needy school districts to improve basic skills development. The legislation also extends a number of programs authorized under the Elementary and Secondary Education Act, creates a new program for gifted children and focuses new resources on math and science, basic skills, dropout prevention, and drug abuse prevention.

As a former teacher and school board member I am acutely aware of the need for legislation such as this, that encourages and rewards excellence in education, and provides necessary assistance to children who might otherwise never catch up with their more fortunate classmates. However, I must reiterate my belief that the role of the Federal Government in education is a limited one; local governments are clearly best equipped to know what their particular community needs most. They are attuned to the priorities of the community. They share its values.

Local governments are also in a better position to fund certain programs. Some States have actually enjoyed budget surpluses while the Federal Government continues to grapple with an enormous deficit. This particular legislation will cost us $4 billion next year. I think it is apparent that we must work toward limiting Federal involvement in education.

I am grateful that the committee accepted my amendments to the education provisions of the Anti-Drug Abuse Act of 1986. The Roukema amendments provide for the inclusion of youth suicide prevention programs in the authorized drug abuse prevention programs. The amendments are particularly timely in light of the recent wave of highly publicized teenage suicides. As some of you may be aware, in March of this year four young people in my congressional district committed suicide together.

There is no doubt that suicide among teenagers is among the most serious social problems in that group. Suicide is a leading cause of death among persons between the ages of 15 and 24, second only to traffic fatalities. The number of young people taking their lives has increased greatly in the last few decades. Last week the Subcommittee on Elementary, Secondary, and Vocational Education held hearings on teenage suicide prevention.

A distinguished panel of experts offered their advice on how to prevent these tragedies. The experts confirmed that there is a well established relationship between drug abuse and youth suicide. My amendment recognizes this connection between drug problems and other problems facing our young people.

I would like to commend my colleagues, Mr. Hawkins and Mr. Goodling, for their excellent work in forging a bipartisan bill.

Mr. Chairman, there is one program included in H.R. 5 about which I do have serious reservations—that is the Bilingual Education Act. I have long been a critic of the bilingual education program for its failure to recognize the need to teach English to non-English speaking children as early as possible. As you know, Federal law mandates that school districts receiving money for bilingual education must teach in the native language of the school children. This method has not proven effective. This year's bill will allow additional funding for alternative teaching methods such as "immersion," and "English as a second language." While this provides some flexibility I believe the legislation should have gone much further. Bilingual education programs should be geared toward getting school children assimilated into English-speaking classes rapidly and effectively. The inability to speak English can severely hamper a citizen's ability to participate fully in the mainstream of America. We should not hestitate to support educational methods that ensure such participation.

Mr. Chairman, I would like to make a statement on behalf of the chairman and the vice chairman of the committee and the excellent work that they have done. An editorial in the Washington Post of April 22 entitled "An Education Bill Without Losers," quite correctly commends the leaders of our committee and members of the committee for developing a bill that will singularly help education in this country, and there are all winners and no losers.

The editorial follows:

AN EDUCATION BILL WITHOUT LOSERS

The goals of federal aid to education have always been greater than the funds. The gap has grown in recent years as the poverty rate among children has increased (the main program aids the poor) while appropriations basically have not. Within the administration and, for somewhat different reasons, among some advocacy groups with which the administration is normally at odds, this mismatch has rekindled interest in the old issue of concentrating funds in areas of greatest need.

The idea is that, to do discernible good, the available money must be bunched in fewer school districts and fewer schools. but this is a difficult course to follow for the mostly elected officials who must distribute the money—Congress at the national level, school boards locally—even if they agree with it. All the obvious pressures on them are to spread the money out to enlist and please as many people as they can.

In the House, where work has begun on a reauthorization of the existing programs, the leadership of the Education and Labor Committee has worked out a compromise. Here you have a major program for the poor that continues, in part because the money is widespread, to receive broad support. The chairman, Augustus Hawkins, wants to move a bill quickly without jeopardizing that—and any effort to change the funding formula in the main program by taking money away from some school districts to give it to others would roil the waters instead. The bill, on which the full committee began work yesterday, would therefore leave the funding formula alone up to the amount of the present appropriation; to that extent there would be no losers. It then seeks to require that as appropriations rise in future years, the next $400 million be distributed on a more selective basis, favoring districts with the greatest concentrations of need. Then the old formula would kick in again.

Whether the appropriators can be bound this way is not completely clear. The appropriations committees have tended to shun a program for the neediest districts in the past. But this may be the best resolution of this important issue that can be achieved in the House, while the Senate may be better disposed. Mr. Hawkins and the ranking Republican on the education subcommittee, William Goodling, have generally done a good job of avoiding distractions—showy program expansions, for example, or the administration's school voucher plan—and easing this workmanlike bill along. Good legislation doesn't have to produce good theater.

The CHAIRMAN pro tempore (Mr. Gray of Illinois). Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—MAGNET SCHOOLS ASSISTANCE

SEC. 3001. SHORT TITLE.

This title may be cited as the "Magnet Schools Assistance Act of 1987".

SEC. 3002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this title $115,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

SEC. 3003. ELIGIBILITY.

A local educational agency is eligible to receive assistance under this title if the local educational agency—

(1) has received $1,000,000 less in the first fiscal year after the repeal of the Emergency School Aid Act by section 587(a) of the Omnibus Budget Reconciliation Act of 1981 as a result of the repeal of that Act; or

(2) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

(3) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

SEC. 3004. STATEMENT OF PURPOSE.

It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

SEC. 3005. PROGRAM AUTHORIZED.

The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

SEC. 3006. DEFINITION.

For the purpose of this title the term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

SEC. 3007. USES OF FUNDS.

Grants made under this title may be used by eligible local educational agencies for—

(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the operation of programs in magnet schools; and

(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the operation of programs in magnet schools; where with respect to paragraphs (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

SEC. 3008. APPLICATIONS AND REQUIREMENTS.

(a) Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

(b) As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

(1) to use funds made available under this title for the purposes specified in section 3004;

(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students; and

(6) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

(c) No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances contained in paragraphs (3), (4), and (5) of subsection (b) will be met.

SEC. 3009. SPECIAL CONSIDERATION.

(a) In approving applications under this title the Secretary shall give special consideration to—

(1) the recentness of the implementation of the approved plan or modification thereof;

(2) the proportion of minority group children involved in the approved plan;

(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

(b) The Secretary shall not make a determination about the award of funds under this title solely on the basis of whether an applicant received an award in a prior funding cycle.

SEC. 3010. PROHIBITIONS.

Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

SEC. 3011. LIMITATION ON PAYMENTS.

(a) No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

(b) No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

(c) No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title. The Secretary may waive the prohibition against the reduction of assistance received under chapter 2 and permit such a reduction if the State demonstrates that the assistance under such chapter 2 is not necessary to the local educational agency concerned.

SEC. 3012. PAYMENTS.

(a) The Secretary shall pay to each local educational agency having an application under this title the amount set forth in the application.

(b) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

(c) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412(b) and (c) of the General Education Provisions Act.

SEC. 3013. WITHHOLDING.

The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

SEC. 3014. REPEAL.

Title VII of the Education for Economic Security Act is repealed.

The CHAIRMAN pro tempore. Are there amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—GIFTED AND TALENTED PROGRAMS

SECTION 4001. SHORT TITLE.

This title may be referred to as the "Jacob K. Javits Gifted and Talented Children and Youth Education Act of 1987".

SEC. 4020. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) gifted and talented children and youth are a national resource vital to the future of the Nation and its security and well-being;

(2) unless the special abilities of gifted and talented children and youth are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

(3) gifted and talented children and youth from economically disadvantaged families and areas are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented children and youth for the provision of educational services and programs appropriate to their special needs; and

(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented children and youth, and thereby serve a profound national interest.

(b) STATEMENT OF PURPOSE.—It is the purpose of this title to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in our elementary and secondary schools to identify and meet the special educational needs of gifted and talented children and youth. It is also the purpose of this title to supplement and make more effective the expenditure of State and local funds, and of Federal funds expended under chapter 2 of this Act and title II of this Act, for the education of gifted and talented children and youth.

SEC. 4030. DEFINITIONS.

For the purposes of this title the following terms have the following meanings:

(1) The term "gifted and talented children and youth" means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or

activities not ordinarily provided by the school in order to fully develop such capabilities.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "institution of higher education" has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

(4) The term "Hawaiian native" means any individual any of whose ancestors were natives prior to 1778 in the area which now comprises the State of Hawaii.

(5) The term "Hawaiian native organization" means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

SEC. 4040. AUTHORIZED PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—From the sums appropriated under section 4090 in any fiscal year the Secretary (after consultation with the advisory committee established pursuant to section 4070) shall make grants to or contracts with State educational agencies, local educational agencies, institutions of higher education, or other public and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) which submit applications to assist them in carrying out programs or projects authorized by this section that are designed to meet the educational needs of gifted and talented children and youth, including the training of personnel in the education of gifted and talented children and youth or in supervising such personnel.

(b) USES OF FUNDS.—Programs and projects funded under this section may include—

(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented children and youth;

(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented children and youth, including summer programs and cooperative programs involving business, industry, and education;

(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented children and youth;

(4) programs of technical assistance and information dissemination; and

(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

(A) research on methods and techniques for identifying and teaching gifted and talented children and youth, and

(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this title.

(c) ESTABLISHMENT OF NATIONAL CENTER.—The Secretary shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Director shall consult with the advisory committee appointed by the Secretary pursuant to section 4070 with respect to the agenda of the National Center. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

SEC. 4050. PROGRAM PRIORITIES.

In the administration of this title the Secretary (and the advisory committee established pursuant to section 4070) shall give highest priority—

(1) to the identification of gifted and talented children and youth who may not be identified through traditional assessment methods (including the economically disadvantaged, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented children and youth from such groups; and

(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented children and youth.

SEC. 4060. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.

In making grants and contracts under this title, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of children and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel serving such children in preservice and inservice training programs.

SEC. 4070. SECRETARY'S ADVISORY COMMITTEE.

(a) APPOINTMENT AND MEMBERSHIP.—The Secretary shall appoint a committee composed of at least five persons who are not Federal employees to advise on the administration of this title, including the content of regulations governing the administration of the title. The committee shall have as members at least one person who is a director of programs for gifted and talented children and youth in a State educational agency, one person who has substantial responsibility in an institution of higher education for preparing teachers of such children and youth, one person who is nationally recognized as an authority on research in the field of special education of such children and youth, one person who is engaged as a teacher in a special program for such children and youth, and one person who is a parent of a child enrolled in an elementary or secondary school program for such children and youth.

(b) DUTIES.—The Secretary shall meet with the advisory committee at least twice during each fiscal year for which appropriations are made to carry out this title, and shall seek the advice and counsel of the committee with respect to—

(1) identification of the most urgent needs for strengthening the capability of elementary and secondary schools nationwide to plan and operate effective programs for the identification and education of gifted and talented children and youth, and for addressing the program priorities set forth in section 4050;

(2) the kinds of programs and projects authorized by this title that are best calculated to help meet the needs identified by the Secretary and the committee pursuant to clause (1);

(3) the assessment of the effectiveness of programs and projects funded under this title, and of progress under the title in expanding and improving educational opportunities and programs for gifted and talented children and youth; and

(4) such other matters relating to the administration of this title as the Secretary may find useful.

SEC. 4080. ADMINISTRATION.

The Secretary shall establish or designate an administrative unit within the Department of Education to administer the programs authorized by this title, to coordinate all programs for gifted and talented children and youth administered by the Department, and to serve as a focal point of national leadership and information on the educational needs of gifted and talented children and youth and the availability of educational services and programs designed to meet those needs. The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional qualifications and experience in the field of the education of gifted and talented children and youth.

SEC. 4090. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $25,000,000 for fiscal year 1988, and such sums as may be necessary for each of the five subsequent fiscal years, for the purpose of carrying out this title.

The CHAIRMAN pro tempore. Are there amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—DRUG EDUCATION

SEC. 5101. SHORT TITLE.

This title may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 5102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to

combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 5103. PURPOSE.

It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

(3) to States for development, training, technical assistance, and coordination activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 5111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this title, there are authorized to be appropriated $200,000,000 for fiscal year 1987, $250,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(b) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this title, no authority to enter into contracts or financial assistance agreements under this title shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS.

(a) From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian youth under section 5133;

(3) 0.2 percent for programs for Hawaiian natives under section 5134;

(4) 8 percent for programs with institutions of higher education under section 5131;

(5) 3.5 percent for Federal activities under section 5132; and

(6) 4.5 percent for regional centers under section 5135.

(b)(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

PART B—STATE AND LOCAL PROGRAMS

SEC. 5121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

(b) An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

SEC. 5122. STATE PROGRAMS.

(a) Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

(6) other drug abuse education and prevention activities consistent with the purposes of this title, which shall include a youth suicide prevention program.

(b)(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

(2) For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

(A) is a school dropout;

(B) has become pregnant;

(C) is economically disadvantaged;

(D) is the child of a drug or alcohol abuser;

(E) is a victim of physical, sexual, or psychological abuse;

(F) has committed a violent or delinquent act;

(G) has experienced mental health problems;

(H) has attempted suicide; or

(I) has experienced long-term physical pain due to injury.

SEC. 5123. STATE APPLICATIONS.

(a) In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

(b) The application submitted by each State under subsection (a) shall—

(1) cover a period of three fiscal years;

(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part;

(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative numbers of children in the school-age population within such areas. Any amount of the funds made available for use in any area remaining unobligated for more than one year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

(b) Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

(5) programs of drug abuse treatment and rehabilitation referral;

(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

(b) A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

SEC. 5126. LOCAL APPLICATIONS.

(a)(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

(D) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

(E) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(F) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(G) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(H) provide assurances of compliance with the provisions of this part;

(I) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(J) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART C—NATIONAL PROGRAMS

SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b) Training grants shall be available for—

(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

(c) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

(e) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

SEC. 5132. FEDERAL ACTIVITIES.

(a) From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

(b) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

(c) From the funds available to carry out this section, the Secretary shall make available $500,000 to the Secretary of Health and Human Services for the clearinghouse established under section 509 of the Public Health Service Act.

(d) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, (1) a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and (2) a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of the Drug-Free Schools and Communities Act of 1986.

SEC. 5133. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 5112(a)(3), the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

SEC. 5135. REGIONAL CENTERS.

The Secretary shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

PART D—GENERAL PROVISIONS

SEC. 5141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

(b) For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "school-age population" means the population aged five through seventeen (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(5) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(6) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(7) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association

listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(8) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) The term "consortium" (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this title.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

SEC. 5144. MATERIALS.

Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

PART E—MISCELLANEOUS PROVISIONS

SEC. 5190. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 5191. REPEAL.

Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (P.L. 99-570) is repealed.

The CHAIRMAN pro tempore. Are there amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—SPECIAL PROGRAMS

PART A—WOMEN'S EDUCATIONAL EQUITY

SEC. 6001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This part may be cited as the "Women's Educational Equity Act".

(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

(c) DEFINITIONS.—As used in this part, the term "Council" means the National Advisory Council on Women's Educational Programs.

SEC. 6002. GRANT AND CONTRACT AUTHORITY.

(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research and development activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

(b) LIMITATION.—For each fiscal year, the Secretary shall use $6,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection

(a). Any funds in excess of $6,000,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

SEC. 6003. APPLICATION; PARTICIPATION.

(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(2) describe a program for carrying out one or more of the purposes set forth in section 6002(a) which holds promise of making a substantial contribution toward attaining such purposes; and

(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

(b) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

SEC. 6004. CHALLENGE GRANTS.

(a) PURPOSES.—In addition to the authority of the Secretary under section 6002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 6002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

(1) comprehensive plans for implementation of equity programs at every educational level;

(2) innovative approaches to school-community partnerships;

(3) new dissemination and replication strategies; and

(4) other innovative approaches to achieving the purposes of this part.

(b) GRANT RECIPIENTS.—For the purposes described in clauses (1) through (4) of subsection (a), the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.

SEC. 6005. CRITERIA AND PRIORITIES.

The Secretary shall establish separate criteria and priorities for awards under sections 6002(a)(1) and 6002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

SEC. 6006. NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS.

(a) COMPOSITION.—There is established in the Department of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public and including (A) individuals who are experts in a wide range of issues of educational equity for women at all levels of education, including preschool, elementary and secondary education, higher education, and vocational and adult education; (B) individuals who are representative of and expert in the educational needs of racial and ethnic minority women, older women, and disabled women; (C) both women and men who have demonstrated commitment to and expertise in the purposes of this part; and (D) individuals who are representative of and expert in student financial assistance programs authorized under title IV of the Higher Education Act of 1965;

(2) the staff Director of the Civil Rights Commission; and

(3) the Director of the Women's Bureau of the Department of Labor.

The Council shall elect its own Chairperson from among the members described in paragraph (1).

(b) TERMS.—The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(c) DUTIES.—The Council shall—

(1) advise the Secretary and the Congress on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

(2) make recommendations to the Secretary with respect to the selection of funding priorities and allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(3) advise all Federal agencies which have education programs concerning those aspects of the programs which relate to the educational needs and opportunities of women;

(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(5) disseminate information concerning the activities of the Council under this part.

(d) OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.—The program under this part shall be administered within the Office of Educational Research and Improvement within the Department of Education, by an individual reporting directly to the Assistant Secretary of such office.

(e) APPLICATION OF GEPA.—The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

SEC. 6007. REPORTS, EVALUATION, AND DISSEMINATION.

(a) REPORTS.—The Secretary is directed, not later than September 30 of each of the years 1985 through 1993, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Secretary, the Council shall oversee the evaluation of the program and projects assisted under this part and report on such evaluation in its annual report.

(b) EVALUATION AND DISSEMINATION.—The Office of Educational Research and Improvement shall evaluate and disseminate (at low cost) all materials and programs developed under this part.

SEC. 6008. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part there are authorized to be appropriated $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987, $20,000,000 for fiscal year 1988, and such sums as may be necessary for each of the five subsequent fiscal years.

SEC. 6009. REPEAL.

(a) REPEAL.—Part C of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3341) is repealed.

PART B—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

SEC. 6201. FINDINGS.

The Congress makes the following findings:

(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

SEC. 6202. ESTABLISHMENT.

(a) The Secretary is authorized to make grants in accordance with the provisions of this part to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

(b) Except as provided in subsection (c), grants received under this part shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this part by such students and teachers shall be known as Allen J. Ellender fellowships.

(c) Up to 5 percent of the funds made available pursuant to this part may be used to develop additional program opportunities for educators and the elderly and to help establish learning activities at the local and State government levels through planned seminars, civic education competitions, residential conferences, teleconferences, and intergenerational meetings, in order to broaden the outreach of the program.

SEC. 6203. APPLICATIONS.

(a) No grant under this part may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

(2) that not more than one secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

(3) that every effort will be made to ensure the participation of students and teachers

from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, and ethnic minority students;

(4) that the activities permitted by section 6202(c) are fully described; and

(5) the proper disbursement of the funds of the United States received under this part.

SEC. 6204. ADMINISTRATIVE PROVISIONS.

(a) Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

(b) The Comptroller General of the United States or any of his duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

SEC. 6205. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this part $2,500,000 for fiscal year 1988 and such sums as may be necessary for each of the five subsequent fiscal years.

SEC. 6206. REPEAL.

The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

PART C—IMMIGRANT EDUCATION

SEC. 6301. SHORT TITLE.

This part may be cited as the "Emergency Immigrant Education Act of 1984".

SEC. 6302. DEFINITIONS.

As used in this part—

(1) The term "immigrant children" means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

(2) The term "elementary or secondary nonpublic schools" means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

SEC. 6303. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

(a) Authorizations of Appropriations.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 6304 $30,000,000 for fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) Allocation of Appropriations.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

SEC. 6304. STATE ADMINISTRATIVE COSTS.

The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

SEC. 6305. WITHHOLDING.

Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

SEC. 6306. STATE ENTITLEMENTS.

(a) Payments.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993 for the purpose set forth in section 6307.

(b) Entitlements.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

(A) at least five hundred; or

(B) at least 3 per centum of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

(c) Determinations of Number of Children.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Reallocation.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

SEC. 6307. USES OF FUNDS.

(a) Supplementary Educational Services and Costs.—Payments made under this part to any State may be used in accordance with applications approved under section 6308 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 6306(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Kinds of Services and Costs.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs,

costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

SEC. 6308. APPLICATIONS.

(a) Submission.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this part will be used for purposes set forth in section 6307;

(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 6306(b)(1), adjusted to reflect any reductions imposed pursuant to section 6306(b)(3) which are attributable to such local educational agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

(6) provide assurances—

(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) Approval of Application.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

SEC. 6309. PAYMENTS.

(a) Amount.—Except as provided in section 6303(b), the Secretary shall pay to each State educational agency having an application approved under section 6308 the amount which that State is entitled to receive under this part.

(b) Services to Children Enrolled in Nonpublic Schools.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 6308(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

SEC. 6310. REPORTS.

(a) Annual Report.—Each State educational agency receiving funds under this part shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress.—The Secretary shall submit annually a report to the appropriate committees of the Congress concerning programs under this part.

(c) Assessment by Comptroller General.—The Comptroller General of the United States shall periodically conduct a national assessment of programs under this part. The Comptroller shall submit a report of such periodic assessment to the appropriate committees of the Congress on March 15, 1989, and every third year thereafter.

SEC. 6311. REPEAL.

Title VI of the Education Amendments of 1984 (20 U.S.C. 4101) is repealed.

PART D—TERRITORIAL ASSISTANCE

SEC. 6404. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

There are authorized to be appropriated $5,000,000 for fiscal year 1988 and for each of the five subsequent fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

SEC. 6405. TERRITORIAL TEACHER TRAINING ASSISTANCE.

There are authorized to be appropriated $2,000,000 for fiscal year 1988 and for each of the five subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

SEC. 6410. REPEAL.

Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

PART E—EXCELLENCE IN EDUCATION

SEC. 6501. SHORT TITLE.

This part may be cited as the "Excellence in Education Act".

SEC. 6502. STATEMENT OF PURPOSE.

It is the purpose of this part to make awards to local educational agencies, after a competitive selection process, in order to carry out programs of excellence in individual schools of such agencies designed to achieve excellence in education, which—

(1) demonstrate successful techniques for improving the quality of education,

(2) can be disseminated and replicated, and

(3) are conducted with the participation of school principals, schoolteachers, parents, and business concerns in the locality.

SEC. 6503. DEFINITIONS.

For the purpose of this part—

(1) The term "Secretary" means the Secretary of Education.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 6504. SCHOOL EXCELLENCE AWARDS AUTHORIZED.

(a) The Secretary is authorized, in accordance with the provisions of this part, to make awards to local educational agencies for school excellence programs which are consistent with the purpose of this part.

(b)(1) There are authorized to be appropriated $16,000,000 for fiscal year 1984 and each of the subsequent fiscal years ending prior to October 1, 1987, to carry out the provisions of this part. There are authorized to be appropriated for fiscal year 1988 $5,000,000 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out the provisions of this part.

(2) From the amount appropriated in each fiscal year, the Secretary shall reserve $3,000,000 for each fiscal year in which the appropriations for that year exceed $15,000,000 to carry out the provisions of section 6507.

(3) From the amount appropriated in each fiscal year, the Secretary shall reserve $1,000,000 for each fiscal year in which the appropriations for that year exceed $15,000,000 to carry out the provisions of section 6508.

SEC. 6505. SELECTION OF SCHOOLS FOR AWARDS.

(a)(1) The Secretary is authorized to establish, in accordance with the provisions of this section, criteria for the selection of schools to receive awards under this part. Each local educational agency desiring to participate in the awards program authorized by this part shall submit a proposal nominating each specific school of that agency for school improvement activities designed to carry out the purpose of this part. Each such submission shall be made to the chief State school officer of the State in which the local educational agency is located.

(2) The criteria required by paragraph (1) of this subsection shall include standards for each local educational agency to nominate schools of that agency—

(A) which have the potential to experiment with standards of quality; and

(B) which show promise of demonstrating that the school will carry out well-planned, creative, or innovative activities designed to carry out the purposes of this part in a successful manner.

(3) Each proposal submitted under this subsection shall contain—

(A) a description of the activities which will be conducted in the school nominated,

(B) assurances that the school to be nominated will carry out the activities so described, and

(C) such other information as may be necessary to carry out paragraph (2) of this subsection.

(b)(1)(A) The chief State school officer of each State shall in each fiscal year from the proposed nominations made pursuant to subsection (a) select twenty-five schools for submission to the Secretary.

(B) In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer of such jurisdiction shall nominate five schools in accordance with this subsection.

(2) In selecting schools from proposed nominations submitted under subsection (a), the chief State school officer shall assure a fair and equitable distribution of schools within the State, after considering—

(A) all categories of elementary and secondary schools within the State, including elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more of the schools;

(B) socioeconomic conditions in the State;

(C) geographic distribution within the State;

(D) school size;

(E) the size and location of the community in which the school is located;

(F) the local governmental arrangements between the government and the local educational agency making the nomination;

(G) the potential for the proposed project to successfully demonstrate techniques for improving the quality of education which can be disseminated and replicated; and

(H) such other relevant factors as the Secretary may prescribe.

(3) Each State shall submit to the Secretary the school nominations made in accordance with this subsection. Each such submission may include such additional information as the chief State school officer (the chief educational officer as prescribed in paragraph (1)(B)), and the local educational agency concerned deem appropriate.

(c)(1) The Secretary shall select not more than five hundred schools from among the nominations submitted pursuant to subsection (b) of this section. The selection under this subsection shall be made by the Secretary after an impartial review panel has considered each submission. The review and selection shall be based upon the factors described in subsection (b)(2) and in accordance with uniform criteria developed by the Secretary.

(2) In making the selections under paragraph (1), the Secretary shall give priority to proposals which have the highest potential for successfully demonstrating techniques to improve the quality of education and which can be disseminated and replicated. In addition the Secretary shall give priority to proposals which have as their purposes—

(A) modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(B) the elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(C) improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(D) demonstrations designed to increase learning time for students;

(E) experimentation providing incentives to teachers, and teams of teachers for outstanding performance, including financial awards, administrative relief such as the removal of paperwork and extra duties, and professional development;

(F) demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(G) new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as mathematics, science, and foreign language instruction, as well as other partnerships between business and education, including the use of equipment.

SEC. 6506. AMOUNT AND CONDITIONS OF AWARDS.

(a)(1) A school award made to a local educational agency pursuant to this part may not exceed $25,000 in any fiscal year or a total of $40,000.

(2) The amount of each individual school award made pursuant to this part shall be determined by the Secretary based upon the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

(b) Awards made under this part may not be made for more than two school years. No individual school may be eligible for any additional award under this part.

SEC. 6507. SPECIAL SCHOOL AWARDS.

(a) From the amount reserved under section 6504(b)(2) in any fiscal year, the Secretary is authorized to make awards to schools nominated in accordance with the provisions of section 6505 to pay the Federal share of the activities described in the proposal if the local educational agency provides further assurances that funds from the private sector will be contributed for carrying out the activities for which assistance is sought.

(b) For purposes of this section, the Federal share for each fiscal year shall be not less than 67⅔ percent nor more than 90 percent. The Secretary shall set the Federal share for categories of school awards based upon uniform criteria established by the Secretary.

SEC. 6508. RESEARCH, EVALUATION, DISSEMINATION, AND MONITORING ACTIVITIES.

(a) From the amount set aside under section 6504(b)(3), the Secretary shall conduct research, evaluation, and dissemination activities to assure that exemplary projects and practices which are developed with assistance provided under this part are made available to local educational agencies throughout the United States.

(b) The Secretary shall use such amount of the funds reserved pursuant to section 6504(b)(3) as is necessary to carry out the provisions of this subsection. The Secretary shall establish an independent panel to monitor the success of the programs assisted by this part in achieving the national objectives in improving instruction and the achievement of the students.

SEC. 6509. REPEAL.

Title VI of the Education for Economic Security Act (20 U.S.C. 4031) is repealed.

The CHAIRMAN pro tempore. Are there amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—BILINGUAL EDUCATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Bilingual Education Act".

SEC. 7002. POLICY; APPROPRIATIONS.

(a) STATEMENT OF POLICY.—Recognizing—

(1) that there are large and growing numbers of children of limited English proficiency;

(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

(4) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

(5) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

(7) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual education methods and techniques;

(8) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

(9) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

(10) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

(11) that children of limited English proficiency have a high dropout rate and low median years of education;

(12) that the segregation of many groups of limited English proficient students remains a serious problem;

(13) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

(15) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those pro-

grams and instructional practices which result in effective education;

(16) that parent and community participation in bilingual education programs contributes to program effectiveness; and

(17) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

(b) Appropriations.—(1) For the purposes of carrying out the provisions of this title, there are authorized to be appropriated for fiscal year 1988 and each of the five succeeding years such sums as may be necessary, subject to paragraph (6).

(2) There are authorized to be appropriated to carry out the provisions of section 7032, such sums as may be necessary for fiscal year 1988 and each of the five subsequent fiscal years, subject to paragraph (6).

(3) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve an amount which is not less than 60 percent of such sums for the programs carried out under part A.

(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve for the purposes of part C the greater of—

(A) an amount which is not less than 20 percent of such sums, or

(B) an amount which is equal to the amount made available for such activities for fiscal year 1987.

(5)(A) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve amounts equal to each amount made available for fiscal year 1987 for each of the programs under paragraphs (1), (2), and (3) of section 7021(a).

(B) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve an amount equal to the aggregate amount made available for fiscal year 1987 for the programs under paragraphs (4), (5), and (6) of section 7021(a).

(6) Subject to paragraphs (3), (4), and (5), from the sums appropriated for any fiscal year under paragraph (1) which exceed sums appropriated for such purposes for fiscal year 1987 the Secretary shall—

(A) first, reserve such amounts as may be necessary to increase each amount reserved under paragraphs (4) and (5) by any percentage increase for the preceding fiscal year in the Consumer Price Index for All Urban Consumers;

(B) second—

(i) reserve not less than 70 percent and not more than 75 percent of such remaining funds for special alternative instructional programs for students of limited English proficiency under section 7021(a)(3); and

(ii) reserve 25 percent of such remaining sums for programs of developmental bilingual education under section 7021(a)(2) and programs of transitional bilingual education under section 7021(a)(1), of which—

(I) for developmental bilingual education programs, $1,000,000 shall be available for fiscal year 1988, and for each subsequent fiscal year an amount which exceeds by $150,000, the amount for the preceding fiscal year; and

(II) for transitional bilingual education programs, all remaining sums reserved under clause (ii).

(7) Notwithstanding paragraphs (1) and (2), no amount in excess of $246,000,000 is authorized to be appropriated to carry out the provisions of this title (including section 7032) for fiscal year 1988.

SEC. 7003. DEFINITIONS; REGULATIONS.

(a) Definitions.—The following definitions shall apply to the terms used in this title:

(1) The terms "limited English proficiency" and "limited English proficient" when used with reference to individuals means—

(A) individuals who were not born in the United States or whose native language is a language other than English;

(B) individuals who come from environments where a language other than English is dominant; and

(C) individuals who are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(2) The term "native language", when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

(4)(A) The term "program of transitional bilingual education" means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to ensure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(5)(A) The term "program of developmental bilingual education" means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English-language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

(6) The term "special alternative instructional programs" means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

(7) The term "family English literacy program" means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the

extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

(8) The term "programs of academic excellence" means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction which have an established record of providing effective, academically excellent instruction and which can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students.

(9) The term 'Office" means the Office of Bilingual Education and Minority Language Affairs.

(10) The term "Director" means the Director of the Office of Bilingual Education and Minority Language Affairs.

(11) The term "Secretary" means the Secretary of Education.

(12) The term "other programs for persons of limited English proficiency" when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(a)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

(b) REGULATIONS.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

(c) NOTIFICATION OF PARENTS.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Such information shall be in a language and form the parents understand.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

(a) USES OF FUNDS.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

(1) programs of transitional bilingual education;

(2) programs of developmental bilingual education;

(3) special alternative instructional programs for students of limited English proficiency;

(4) programs of academic excellence;

(5) family English literacy programs; and

(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

(b) APPLICATIONS.—(1) A grant may be made under subsection (a) (1), (2), or (3) of this section only upon application therefor by one or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with one or more local educational agencies.

(2) A grant may be made under subsection (a) (4), (5), or (6) only upon application by one or more local educational agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

(2) Applications for grants authorized under subsections (a) (1), (2), and (3) of this section, shall contain information regarding—

(A) the number of children enrolled in programs conducted by the local educational agency;

(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates, rates of referral to or placement in special education programs, and student dropout rates;

(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

(H) the resources needed to develop and operate or improve the proposed program;

(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

(3) Applications for grants authorized under subsection (a)(3) of this section from applicants who desire to obtain priority in the awarding of such grants may contain information regarding (A) the administrative impracticability of establishing a bilingual education program due to the presence of small number of students of a particular native language, (B) the unavailability of personnel qualified to provide bilingual instructional services, or (C) the applicant's current or past efforts to establish a bilingual education program.

(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; rates of referral to or placement in special education programs; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

(C) the extent to which the persons to be served by the program have been involved in its development;

(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

(d) GRANT LIMITATIONS.—(1)(A) Grants made pursuant to subsections (a) (1), (2), and (3) of this section shall be for three years.

(B) During the first twelve months of grants made pursuant to subsections (a) (1), (2), and (3) of this section, an applicant may engage exclusively in preservice activi-

ties. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

(C) Upon reapplication, grants authorized under subsections (a) (1), (2), and (3) of this section shall be renewed for two additional years unless the Secretary determines that—

(i) the applicant's program does not comply with the requirements set out in this title;

(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

(iii) there is no longer a need for the applicant's program.

(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. The information provided to parents pursuant to this subsection shall be in a language and form the parents understand.

(2) Grants made pursuant to subsections (a) (4), (5), and (6) shall be for three years.

(e) Application Requirements.—An application for a grant authorized under subsections (a) (1), (2), and (3) of this section shall—

(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served; and

(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council.

(f) Approval of Applications.—An application for a grant under subsections (a) (1), (2), and (3) of this section may be approved only if the Secretary determines—

(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

(4) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

(A) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

(5) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

(6) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

(7) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

(A) the geographic distribution of children of limited English proficiency;

(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs;

(8) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

(g) Priority Consideration of Grants.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

(h) Priority for Programs Serving Underserved Children.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

(i) Programs in Puerto Rico.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

(j) Bypass Provision.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

SEC. 7022. INDIAN CHILDREN IN SCHOOLS.

(a) Eligible Entities.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

(1) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) The term "tribally sanctioned educational authority" means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such

school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

(b) Bureau of Indian Affairs Schools.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

(c) Annual Report.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

SEC. 7031. USE OF FUNDS.

Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

SEC. 7032. GRANTS FOR STATE PROGRAMS.

(a) Data Collection and Dissemination.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

(b) Report to Secretary.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

(c) Other Uses of Funds.—State programs authorized under this section may also provide for—

(1) the planning and development of educational programs such as those assisted under this title;

(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

(5) the training of State and local educational agency staff to carry out the purposes of this title; and

(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

(d) Payments.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year shall not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

(e) Supplement Not Supplant.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

The Secretary shall issue, within six months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program; and

(4) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, referral to or placement in special education classes, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

SEC. 7034. EVALUATION ASSISTANCE CENTERS.

The Secretary shall establish, through competitive grants to institutions of higher education, at least two evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of three years.

SEC. 7035. RESEARCH.

(a) Research and Development.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) Authorized Activities.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students; and

(9) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

(c) Consultation and Delegation of Authority.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, repre-

sentatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) Publication of Proposals.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

(e) Limitation of Authority.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 7036. COORDINATION OF RESEARCH.

Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

SEC. 7037. EDUCATION STATISTICS.

(a) Data Collection.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

(b) Use of Data.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

PART C—TRAINING AND TECHNICAL ASSISTANCE

SEC. 7041. USE OF FUNDS.

(a) Use of Funds.—Funds available under this part shall be used for—

(1) the establishment, operation, and improvement of training programs for educational personnel, including teachers, administrators, counselors, paraprofessionals, and teachers aides, who are preparing to participate in, or who are participating in, programs of bilingual education or special alternative instructional programs for limited English proficient students;

(2) the training of persons to teach and counsel such persons;

(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

(b) Applications.—(1) A grant or contract may be made under subsection (a) (1), (2), or (3) of this section upon application of an institution of higher education.

(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

(c) Application Requirement for Training Programs.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

(d) Training Program Requirements.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

(e) Preference in Assistance.—In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

(1) teaching English as a second language;

(2) use of a non-English language for instructional purposes;

(3) linguistics; and

(4) evaluation and assessment;

and involving parents in the educational process. Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.

(a) Establishment.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

(b) Required Services.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

SEC. 7043. FELLOWSHIPS.

(a) Authorization.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1988 and each of the five subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

(b) Study.—The Secretary shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education and alternative instructional programs for students of limited English proficiency and shall, through the clearinghouse established pursuant to section 7035(b)(5) of this title, disseminate research undertaken by recipients of such fellowships.

(c) Fellowship Requirements.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

SEC. 7044. PRIORITY.

In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

SEC. 7045. STIPENDS.

In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

PART D—ADMINISTRATION

SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGE AFFAIRS.

(a) Establishment.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Language

Affairs (hereafter in this section referred to as the "Office") through which the Secretary shall carry out functions relating to bilingual education.

(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Language Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on the grants and contracts made pursuant to this title in the preceding fiscal year and the number of individuals benefiting from the programs assisted under this title.

(c) REPORT ON BILINGUAL EDUCATION.—The Secretary shall prepare and, not later than February 1 of 1988, 1990, 1992, and 1994, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a report on and evaluation of the activities carried out under this title during the preceding two fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

(4) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(5)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States;

(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years; and

(7) a report on the research activities carried out under this title during the preceding two fiscal years and the major findings of research studies.

(d) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation among with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under subsection (c) shall include demonstration that such coordination has taken place.

(e) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

(f) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

SEC. 7052. LIMITATION OF AUTHORITY.

The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

PART E—REPEAL AND TRANSITION

SEC. 7063. REPEAL AND TRANSITION.

(a) REPEAL.—Title VII of the Elementary and Secondary Education Act of 1965 is repealed.

(b) APPLICABILITY.—This title shall not apply to grants and contracts entered into under the Bilingual Education Act before the effective date of this title.

The CHAIRMAN pro tempore. Are there amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—INDIAN EDUCATION

SECTION 8001. SHORT TITLE.

This title may be cited as the "Indian Education Amendments of 1987".

PART A—INDIAN STUDENTS IN FEDERALLY OPERATED SCHOOLS

SEC. 8101. RECOGNITION OF FEDERAL SCHOOLS.

Section 1121 of the Education Amendments of 1978 (Public Law 95-561; 25 U.S.C. 2001) (hereinafter in this subtitle referred to as "the Act" is amended by striking paragraphs (1) and (2) of subsection (g) and inserting in lieu thereof the following:

"(g)(1) All Bureau funded schools and dormitories (including but not limited to those operated by the Bureau under contract or grant with the Bureau, those scheduled within appropriations or administrative action to begin or to be expanded as of January 1, 1987, those eligible for contract under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), those eligible to receive a grant under subtitle B of this title and the facilities improvements, and repairs and new construction associated with such schools and dormitories) which operated or were funded as of January 1, 1987, or which are funded after such date by the Bureau under any authority, are hereby specifically recognized and authorized by Congress.

"(2) No education program covered under this subsection may be terminated, transferred to any other authority or consolidated or have its programs substantially curtailed without the express permission of Congress except upon formal request of the tribal council where only one tribe is provided services, or where the facility serves a multitribal base, the tribal councils representing an aggregate of 90 percent or more of the students served by the school under consideration.".

SEC. 8102. TRANSFERS.

(a) Section 1121(g)(3) of the Act (25 U.S.C. 2001) is amended by striking "Such standards and procedures shall require that whenever" and inserting "Whenever".

(b) Section 1121(g) (3) and (4) of the Act (25 U.S.C. 2001) are amended by inserting "transfer to any other authority," after "close" and "closure," each place either appears.

SEC. 8103. EMERGENCY ACTIONS.

Section 1121(g) of the Act (25 U.S.C. 2001) is amended by adding at the end the following new paragraphs:

"(5)(A) Subject to subparagraph (B), the requirements of paragraphs (2), (3), and (4) shall not apply when temporary closure, consolidation, or substantial curtailment is required by facility conditions which constitute an immediate hazard to health and safety, except that (i) no action under this provision can be for longer than one academic year or one calendar year, whichever is shorter, and (ii) no action may be taken until the Bureau has requested, and provided a reasonable period for the conduct of, an inspection by the appropriate tribal or county, State, or municipal building inspector, to determine the presence of an immediate threat to health and safety.

"(B)(i) No building inspector other than one designated by the tribe shall make an inspection under this paragraph unless notice is given to the involved tribes at the same time that the request is made.

"(ii) No action shall be taken under this paragraph if the inspection by the outside inspector finds no immediate hazard to health and safety.

"(6) The Assistant Secretary shall develop regulations to establish new schools and to make program expansions in existing schools operated by the Bureau, and contracted under the Indian Self-Determination and Education Assistance Act, except that no regulations may be promulgated which base the decision primarily upon the geographic proximity of public education, and which do not give equal weight to geographic and demographic factors, the history and record of success or failure of the programs offered by the Bureau and by all alternative providers or potential providers of education services for the students under consideration, and the input of all parties, including the public school.

"(7) Notwithstanding any other provision of law, subject to a determination by the local school board, the schools at the Pueblo of Zia and the Tama Settlement shall expand to kindergarten through grade 8.".

SEC. 8104. BOARDING STANDARDS.

Section 1122 of the Act (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and adding after subsection (c) the following new subsection:

"(d) The standards under this section shall be subject to the waiver provisions in section 1121(d), provided that no school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with these standards) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet these standards. Before February 1, 1988, the Assistant Secretary shall submit to Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the standards under this section.".

SEC. 8105. REGULATIONS.

Section 1123 of the Act (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of 25 CFR parts 31, 32, 33, 36, 39, 42, 43, as in effect on January 1, 1986 are hereby incorporated and made a part of this Act. Except as may be specifically authorized by law, such provisions may not be changed or amended.

"(b) Except as required by Public Law 99-288 or as may be specifically required by this Act or any subsequent Act, the Assistant Secretary for Indian Affairs or the Secretary of the Interior shall publish no regulations, guidelines, policies, or procedures of general effect on the issues covered by paragraph (1)."

SEC. 8106. FORMULA PROVISIONS.

Section 1128(a) of the Act (25 U.S.C. 2008) is amended by adding after the second sentence the following new sentence: "For the fiscal year 1989 and for each subsequent fiscal year in which the Assistant Secretary does not provide funds to educational programs in accordance with the last sentence of this subsection, the Assistant Secretary shall use a weighted student unit of 1.2 for students in the seventh and eighth grades; shall use a factor of 200 students when determining an adjustment for a small school factor; and, where requested by the local supervisor and school board, shall make provision in the formula for the provision of residential services on a less than 9-month basis.".

SEC. 8107. ADMINISTRATIVE FORMULA.

Section 1128(c) of the Act (25 U.S.C. 2008) is amended to read as follows:

"(c)(1) The Secretary shall compute, on an annual basis, and shall pay from funds appropriated for payment of the formula under subsection (a) of this section an administrative cost payment based upon this subsection to each contractor (under the Indian Self-Determination and Education Assistance Act; Public Law 93-638) or grantee (under the Self-Determination Grant Act of 1987). Any other provision of law notwithstanding, the Secretary shall not compute administrative cost by any other means.

"(2)(A) Subject to the adjustments in subparagraph (B), the administrative cost shall be the sum of 12 percent of the amount under clause (i) of this paragraph added to the amount under clause (ii) of this paragraph, divided by the sum of the amounts in clauses (i) and (iii) of this subparagraph, calculated as a percentage to two decimal places, multiplied by the amount of clause (iv) of this paragraph. For purposes of this subparagraph, the following will be used:

"(i) The total direct program funding of each grantee for all Bureau elementary and secondary education functions, as defined in paragraph (3) of this paragraph, and all Bureau of Indian Affairs programs or parts of programs contracted for, or for which grants are received from the Bureau during the preceding fiscal year, which shared common administrative services (as such term is defined in subsection (g)) with the programs covered by subsection (a) of this section, irrespective of the number of contracts involved.

"(ii) Fifty percent of the amount under clause (iii).

"(iii) The average total direct program funding for all Bureau programs or parts of programs included under clause (i) for all contractors contracting Bureau of Indian Affairs elementary and secondary education functions during the preceding fiscal period.

"(iv) Each grantee's total direct program funding for Bureau elementary and secondary education functions, as defined under paragraph (3) of this paragraph and all other Bureau programs or parts of programs contracted for, or for which grants are received from the Bureau, for the fiscal year for which this computation is being performed which will share common administrative services (as defined by subsection (g)).

"(B) The percentage rate as determined under subparagraph (A) of this paragraph shall be adjusted as follows:

"(i) An additional 1 percent shall be added for each 100 miles that the average of the distances from the principal offices of the grantee or contractor to the nearest office of the banking institution used by the contractor for regular business, the nearest office of the banking institution used by the grantee or contractor at which a draw down upon a letter of credit request must be presented, if different, the nearest site for regular procurement of bulk school, office and janitorial supplies, office and school equipment and related maintenance and repair items, and the nearest post office, exceeds 20 miles.

"(ii) An additional ¼ percent for each school in excess of one administered by the same contractor or grantee.

"(iii) An additional ¼ percent for each Bureau program or part of a program contracted for, or for which a grant is received, which requires bookkeeping and fiscal management procedures in excess of those normally maintained by the contractor or grantee for the program under this section.

"(C) The Bureau, as lead agency, shall pay administrative costs as determined by the formula under this subsection for the total program dollars contracted pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or granted pursuant to title II and chapter 1 of this Act for basic educational operations including ISEP, chapter 1 of the Education Consolidation and Improvement Act, the Education of the Handicapped Act, and operation and maintenance or the part or parts contracted or granted by a tribally controlled school, except that the Secretary of the Interior may (i) reduce administrative costs payments from the Bureau to the extent of administrative costs funds actually received by tribally controlled schools under such Acts and programs and (ii) shall take such steps as may be necessary to collect any additional sums under such Acts and programs.

"(3) For purposes of this section, the term 'Bureau elementary and secondary functions' shall include, but not be limited to, all programs funded under this section, all contracted or granted programs or projects distributed by the Bureau but funded under authorities of the Department of Education, and all contracted or granted operations and maintenance funds, from whatever source derived.

"(4) Subject to this subsection, .133 percent of the funds under subsection (a) shall be reserved by the Assistant Secretary for distribution under this section for national school board training to be conducted in the manner in which it was conducted in fiscal year 1986, except that the contract for such training may not be awarded after May 1 of each fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations. For a school operated by the Bureau of Indian Affairs—

"(A) for each year in which the Assistant Secretary funds education programs under a weighted unit formula, a school which generates less than 168 weighted units will receive an additional 2 weighted units, to defray school board activities; and

"(B) from the funds received under subsection (a) of this section, an amount which is the greater of $4,000 or 2 percent of the funds received shall be reserved for school board activities, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in and support of organizations engaged in activities on behalf of Indian education.

"(3) For each fiscal year beginning October 1, 1987, and each succeeding fiscal year, Bureau operated education programs are hereby authorized to carry forward, at the election (made at any time in the fiscal year) of the local school authority, with the approval of the local board, an amount equal to no more than 15 percent of the amount received under this section, and shall remain available until expended.".

SEC. 8108. ADMINISTRATIVE COSTS DEFINITION.

Section 1128 of the Act (25 U.S.C. 2008) is amended by adding at the end the following new subsection:

"(h) The term 'administrative costs' as used in this section shall mean the additional costs which a tribe or tribal organization incurs as a result of a contract or grant operation of a function authorized by or previously accomplished by the Assistant Secretary. The additional costs may include but not be limited to contract supervision, program management, fiscal management, planning and development, personnel, property and procurement, corporate and safety, executive management, office services, policy direction security, and recordkeeping.".

SEC. 8109. LOCAL PROCUREMENT.

Section 1129(a)(4) of the Act (25 U.S.C. 2009) is amended—

(1) by striking "Pursuant to guidelines established by the Assistant Secretary, notwithstanding" and inserting "Notwithstanding";

(2) by inserting "for the fiscal year 1988 and thereafter," immediately before "supervisor"; and

(3) by adding at the end the following: "Purchases made pursuant to this authority shall (A) be restricted to funds received under section 1128 of this Act, (B) include certification by supervisor of the school that the price paid is fair and reasonable, (C) have specific school board authority for each purchase, (D) be documented by a journal which details the name of the school, the type of items purchased, and the amount, date, and size of the transaction, business, (E) specifically cite this provision of law for authority to make the purchase, and (F) not

exceed a cost of $10,000 for any single item purchase.".

SEC. 8110. COORDINATED PROGRAMS.

Section 1129 of the Act (25 U.S.C. 2009) is amended by adding after subsection (e) the following new subsection:

"(f) Subject to the funds generated by the provisions of this Act, where specifically requested by the tribes, the Bureau of Indian Affairs shall implement any cooperative agreement involving a Bureau operated education program entered into between the tribe and the local public school. The tribe and the local school district shall decide what shall be encompassed by the agreement, and the agreement may encompass coordination of all or any part of the following:

"(1) The academic program and curriculum (if a Bureau operated facility which is currently accredited by a State or regional accrediting entity would still be State accredited).

"(2) Support services, including procurement and facilities maintenance.

"(3) Transportation.".

SEC. 8111. CONSULTATION.

Section 1130 of the Act (25 U.S.C. 2010) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by inserting after subsection (a) as so designated the following subsection:

"(b)(1) All actions under this Act shall be done with active consultation with the tribes.

"(2) For purposes of this Act, the term 'consultation' means a process of meeting with tribes, Alaskan natives entities, and Indian and tribal organizations on a periodic and systematic basis not less than every 3 months. Notice of all such meetings shall be given at least 30 days prior to any such meeting. Notice shall be given in the Federal Register, along with a list of topics to be covered. Meetings will be held in different regions of the country, so as to facilitate participation. During such meetings, department officials shall provide information on all matters, including budget initiatives and discussions, all regulatory provisions which will be or are being considered for, amendment or change within the next 6 months, all administrative changes affecting delivery mechanisms, and seek input on all issues considered important by the Indian entities participating, including those issues affecting programs in other Federal agencies. Unless for clear and convincing reasons, Department officials shall give effect to the views of these entities. The consultation requirement of this section will be met only by open discussion at the required meetings. Bureau officials shall meet if requested by the Indian entities.".

SEC. 8112. INDIAN PREFERENCE.

Section 1131(f)(1) of the Act (25 U.S.C. 2011) is amended by inserting "initial hire or any other" before "personnel".

SEC. 8113. PERSONNEL.

The Act is amended by adding after section 1140B the following new section:

"PERSONNEL

"SEC. 1140C. (a) Not later than March 1, 1988, from funds appropriated for administration, the Assistant Secretary shall conduct a study and make a report to the Congress of Bureau of Indian Affairs funded school personnel costs, including—

"(1) current salaries paid to education personnel in Bureau of Indian Affairs funded schools;

"(2) current salaries paid to personnel in positions comparable to Bureau of Indian Affairs education positions in proximate local educational agencies of States in which Bureau of Indian Affairs funded schools are found; and

"(3) State average salaries.

Such surveys shall take into consideration starting salaries, tenure, length of service, educational requirements, and fringe benefits and projections for the next five years.

"(b) The Bureau shall detail such staff to the study as may be necessary. Such staff shall include not less than 2 career employees from the Division of Education who have substantial experience in the administration at the agency level of school operations and in the drafting of personnel regulations, including but not limited to those under the Education Amendments of 1978.

"(c) The Assistant Secretary may conduct the study required by this section by contract with an Indian educational organization.

"(d) For purposes of this section, the term 'educational personnel' shall mean a person who fills an 'education position', as such term is defined in section 1131 of the Education Amendments of 1978.

"(e)(1) In those instances where the Assistant Secretary determines that the disparity of compensation affects the recruitment and retention of employees at a school to the extent that the ability to provide education services (including support services) is impaired, the Assistant Secretary shall grant the local Bureau school supervisor the authority under section 1131(h)(3), subject to the approval of the local school board.

"(2) The presence of more than 10 percent vacancy in staff positions or a 5 percent disparity in compensation rates (as determined by survey to be conducted by the Agency Education Office no less than once every 5 years) at a school at any one time shall automatically trigger the authority under paragraph (1).

"(3) The Assistant Secretary shall make a separate report to the Congress each fiscal year (at the time of the budget submission) of all requests of authority under paragraph (1), of all grants of this authority, and all positions contracted under such grants.".

PART B—SELF-DETERMINATION GRANTS

SEC. 8201. SHORT TITLE.

This part may be cited as the "Indian Self-Determination Grants Act of 1987".

SEC. 8202. CONGRESSIONAL FINDINGS.

(a) The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that—

(1) the Indian Self-Determination and Education Assistance Act of 1975, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the Public Law 93-638 contracting process has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and

(3) the Indian people will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons.

(b) The Congress further finds that—

(1) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(2) the Federal administration of education for Indian children has not effected the desired level of educational achievement nor created the diverse opportunities and personal satisfaction which education can and should provide;

(4) true local control requires the least possible Federal interference; and

(5) the time has come to enhance the concepts made manifest in Public Law 93-638.

SEC. 8203. DECLARATION OF POLICY.

(a) The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will further deter further perpetuation of Federal bureaucratic domination of programs.

(c) The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(d) The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These can best be met through a grant process.

(e) The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) The Congress hereby repudiates and rejects any policy of unilateral termination of Federal relations with any Indian Nation.

SEC. 8204. GRANTS AUTHORIZED.

(a) Grants under this part shall go into a general operating fund of the school to defray, at the determination of the tribally controlled school board, any expenditures, including but not limited to, expenditures for school operations, academic, educational, residential, guidance and counseling, and administrative purposes and for the operation and maintenance (where funds for same are provided at the request of the tribally controlled school board) and for support services, including transportation, of the school. Funds provided pursuant to this Act may not be used in connection with religious worship or sectarian instruction.

(b) Funds may not be expended for administrative costs (as defined under section 1128(g) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128(c) of such Act.

(c) In the case of a grantee which operates more than one schoolsite, the grantee shall expend no less than 95 percent of the funds

generated under section 1128 of such Act for each schoolsite at each school site.

SEC. 8205. GRANTS ELIGIBILITY.

(a) To be eligible for grants under this part, a tribally controlled school shall fulfill one of the following criteria—

(1) was a school for which funds were received under the authority of the Indian Self-Determination and Education Assistance Act (Public Law 93-638) on the date of the enactment of this Act;

(2) was a school operated (as either an elementary or secondary or combined program) by the Bureau of Indian Affairs on the date of the enactment of this Act, meets the requirements of a tribally controlled school, and has met the requirements of section 8206(a); or

(3) is a tribally controlled school for which funds were not received by the Bureau of Indian Affairs on the date of the enactment of this Act which has met the requirements of section 8206(b).

(b) Any application which has been submitted by a tribe for a school which is not in operation on the date of the enactment of this Act shall be reviewed under the guidelines and regulations in effect at the time of submission, unless the tribe or tribal organization elects to have the application reviewed under the provisions of section 8205(b).

(c) Any application for expansion under section 8205(c) which has been submitted prior to the date of the enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date of submission or the provisions of section 8206(c), at the discretion of the applicant.

(d) Nothing in this Act may or shall be construed to require a tribe or tribal organization, or allow the coercion of any tribe or tribal organization, to apply for or accept, a grant under this Act to plan, conduct, and administer all or parts of any Bureau program. Such applications, and the timing of such applications are strictly voluntary. Nothing in this Act shall be construed as allowing or requiring any grant with any other entity, whatsoever.

SEC. 8206. DETERMINATION OF ELIGIBILITY.

(a)(1) Within 120 days after receiving a request submitted by an Indian Tribe or tribal organization for eligibility under subsection (b) of section 8205, the Secretary shall make an initial determination of whether the applicant can maintain a tribally controlled school. The Secretary shall award a grant based upon such application unless the Secretary finds by clear and convincing evidence that the services to be provided will be deleterious to the welfare of the Indian beneficiaries of the particular program to be operated under this authority. In the award of a grant under this paragraph, the Secretary shall consider whether the tribe or tribal organization would be deficient in performance under the grant with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the program to be operated, (D) adequately trained personnel, or (E) other necessary components of grant performance.

(2) An application from a tribal organization shall be accompanied by an action of the tribal governing body authorizing such application. A grant shall become effective beginning with the academic year succeeding the fiscal year in which such application is made or at an earlier date, at the Secretary's discretion.

(3)(A) Whenever the Secretary declines to issue a grant under this section, the Secretary shall (i) state the objections in writing to the tribe or tribal organization within the allotted time, (ii) provide assistance to the tribe or tribal organization to overcome all stated objections, and (iii) provide the tribe or tribal organization a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objection raised.

(B) Whenever the Secretary has provided an opportunity and the technical assistance necessary to correct stated objections under subparagraph (A), the Secretary shall reconsider the amended application within 60 days.

(b)(1) The Secretary, within 180 days after receiving a request by an Indian tribe or tribal organization seeking a grant for a tribally controlled school program for which funds from the Bureau of Indian Affairs have not been previously received, shall conduct an eligibility study to determine whether there is justification to maintain a tribally controlled school and shall make an initial determination of eligibility under this Act. In making this determination, the Secretary shall give equal weight to all of the following factors:

(A) Within the applicant's proposal—

(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(ii) geographic and demographic factors in the affected areas;

(iii) adequacy of applicant's program plans;

(iv) geographic proximity of comparable public education, provided that no negative decision can be made primarily based upon the proximity of such programs; and

(v) the wishes of all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(B) with respect to all educational services already available—

(i) geographic and demographic factors in the affected areas;

(ii) adequacy and comparability of programs already available;

(iii) consistency of available programs with tribal education codes or tribal legislation to education; and

(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(2) An application from a tribal organization under this authority shall be accompanied by an action by the tribal governing body authorizing such application. Submission of information on the factors in paragraph (1)(A) shall constitute an adequate submission for purposes of an application under this section, provided that the applicant may also provide such information relative to the factors in paragraph (1)(B) as it considers appropriate. Except as provided in paragraph (3), a grant shall become effective beginning with the academic year succeeding the fiscal year in which such application is made or at an earlier date, at the discretion of the Secretary. Whenever the Secretary declines to issue a grant under this subsection, the Secretary shall (A) state the objections in writing to the tribe or tribal organization within the allotted time, (B) provide assistance to the tribe or tribal organization to overcome all stated objections, and (C) provide the tribe or tribal organization a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objection raised.

(3) If the Secretary fails to make a determination within 180 days of receipt of the application, such application is approved, provided that in these cases, the grant shall become effective 18 months after the date of application, or an earlier date, at the Secretary's discretion.

(c)(1) Expansions of the grade levels offered or modification to initiate residential services by eligible tribally controlled schools shall require an application. Such application shall be by a tribe or be accompanied by an action of the tribal governing body authorizing such application. The Secretary, within 120 days after the receipt of an application under this subsection, shall make a final determination on such application. Expansion or change of services or programs within grade levels shall not require Secretarial approval. In reviewing all applications under this subsection, the Secretary shall give equal weight to the factors in subsection (b)(1), and to the enhancement of the quality of the overall program offered by the applicant. Whenever the Secretary declines to agree to the expansion proposed under this subsection, the Secretary shall (A) state the objections in writing to the tribe or tribal organization within the allotted time, (B) provide assistance to the tribe or tribal organization to overcome all stated objections, and (C) provide the tribe or tribal organization a hearing under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act and an opportunity to appeal the objection raised.

(2) A modification to a grant under this subsection will become effective beginning with the academic year succeeding the fiscal year in which such application is made or at an earlier date, at the discretion of the Secretary, except that an expansion involving more than two grade levels, or their equivalent, or the addition of residential services to a program not now offering them shall become effective 12 months after the application, or earlier, at the discretion of the Secretary. Whenever the Secretary declines to modify a grant pursuant to this subsection, the Secretary shall (A) state the objections in writing to the tribe or tribal organization within the allotted time, (B) provide assistance to the tribe or tribal organization to overcome all stated objections, and (C) provide a tribe or tribal organization a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objection raised.

(d) All applications under this section shall be filed with the Office of the Agency Education Superintendent or Education Programs Officer or Area Education Officer, at the discretion of the Director of the Office of Indian Education Programs (hereinafter referred to as the "Office"), and the calculation of the timeliness will begin on the date of receipt by this Office.

(e) The Bureau of Indian Affairs shall submit an annual report to Congress on all applications received and actions taken under this section at the same time as the budget is submitted.

SEC. 8207. GRANTS.

(a) Tribally controlled schools as defined by section 8205(a) or which have a positive determination under section 8205 shall receive grants under this part.

(b) The eligibility determination made under section 8205 shall only be made for the initial grant. Extension shall be auto-

matic, subject to the availability of appropriations and satisfactory performance, as defined in this Act.

(c)(1) For purposes of this Act, satisfactory performance shall be defined only as the submission of the reports stipulated under paragraph (2) and one of the following:

(A) Certification or accreditation by a State or regional accrediting association as determined by the Secretary of Education, or candidacy in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education program are or will be accepted at grade level by a State certified or regionally accredited institution provided that the Secretary may waive this requirement for a period not to exceed three years if the Secretary determines that there is a reasonable expectation that candidacy or accreditation will be reached within that time and that the program offered is beneficial to the Indian students.

(B) Accreditation by a Tribal Division of Education.

(C) Acceptance of the standards promulgated under section 1121 of the Education Amendments of 1978, evaluation of performance under this section to be done in conformance with the regulations pertaining to Bureau operated schools by an outside evaluator chosen by the grantee provided that no grantor shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(D) A positive evaluation conducted once every three years for performance under standards adopted by the contractor under the contract for a school contracted under Public Law 93-638 prior to the date of enactment, such evaluation to be conducted by an outside evaluator agreed to by the Secretary and the grantee provided that upon failure to agree on such an evaluator, the tribal authority shall choose the evaluator or perform the evaluation.

The choice of standards shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The reports to be submitted shall be limited to—

(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(B) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(C) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(D) a program evaluation conducted by an outside entity, to be based on the standards under paragraph (1).

(d) Grants under this Act do not terminate, modify, suspend, or reduce the Federal responsibility to provide such a program. Whenever an Indian tribe requests retrocession of any program receiving a grant under this Act, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days from the date of the request of the tribe or such later date as may be mutually agreed or by the appropriate Secretary and the tribe.

(e) The Secretary shall not make a determination of a lack of satisfactory performance or reassume a program until the Secretary provides notice to the tribal authority authorizing the tribally controlled school, giving the specific deficiencies which lead to the negative determination and the actions which are needed to remedy said deficiencies and afford such authority an opportunity to effect any remedial actions, except that the Secretary shall provide such technical assistance as is necessary to effect such actions. Such notice and technical assistance shall be in addition to hearing and appeal to be conducted pursuant to the regulations established under section 8205.

SEC. 8208. GRANT AMOUNTS.

(a) One grant shall be made to each tribally controlled school for each fiscal year for a sum which is not less than the total of—

(1) the amount the tribally controlled school is eligible to receive under section 1128 of the Education Amendments of 1978, including, but not limited to, any funds provided under this or any other authority for transportation costs;

(2) funds provided for operations and maintenance and other facilities accounts, pursuant to the provisions of section 1126(d)(1) of the Education Amendments of 1978, if such funds have been requested by the tribally controlled school;

(3) any other provision of law notwithstanding funds received and distributed by the Bureau under authority of chapter 1 of the Education Consolidation and Improvement Act of 1981, chapter 1 of this Act, and the Education of the Handicapped Act, on the same basis as these funds are distributed to Bureau operated programs, provided that programs which are within the basic grant of authority under the legislation for funds so distributed are conducted within the grantee's program, the Bureau shall place no program priority or activity limitations whatsoever upon receipt of these funds; and

(4) administrative costs as determined under section 1128(c)(1) of the Education Amendments of 1978.

(b) No grantee receiving a grant shall be held accountable for interest earned on grant funds, pending their disbursement for program purposes. Interest derived is not to be used to reduce Federal dollars under the Federal funding levels generated by the contractors under this authority, or any other authority. The investment of Federal dollars must be only in federally insured investments.

(c) For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this Act shall not be taken into consideration.

SEC. 8209. APPLICABILITY OF OTHER STATUTES.

All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638) except those provisions pertaining to indirect costs and length of contract, shall apply equally to grants under this Act. Until 120 days after the date of enactment, contractors for activities covered by this Act who have a contract under the Indian Self-Determination and Education Assistance Act in effect upon the date of enactment shall be afforded an opportunity to elect to have the provisions of this Act apply to such activity.

SEC. 8210. ROLE OF THE DIRECTOR.

Applications for grants pursuant to this Act and all application modifications shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such office.

SEC. 8211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this title. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this Act, the Secretary shall not issue regulations. Regulations issued pursuant to this title shall not have the standing of a Federal statute for the purposes of judicial review.

SEC. 8212. DEFINITIONS.

For the purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities, except that in any case where a grant is made to an organization to perform services benefiting more than one Indian tribe, the approval of Indian tribes representing 80 percent of those students attending such a tribally controlled school shall be considered a sufficient prerequisite of tribal authorization for such a grant.

(4) The term "Secretary", unless otherwise designated, means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in grades kindergarten up to grade 12, including preschools, which is not a local educational agency as defined in this Act, and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" has the meaning given such term in chapter 1 of this Act.

PART C—OTHER PROGRAMS OF INDIAN EDUCATION

SEC. 8301. EXTENSIONS OF AUTHORIZATIONS OF OTHER INDIAN EDUCATION PROGRAMS.

(a) Section 307(a) of title III of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended—

(1) by striking "each of the fiscal years 1987, 1988, and 1989," and inserting in lieu thereof "fiscal year 1987"; and

(2) by adding at the end of such subsection the following: "For the purposes of making payments under this title there are authorized to be appropriated $70,000,000 for fiscal year 1988 and such sums as may be necessary for each of the five succeeding fiscal years.".

(b)(1) Section 1005(g)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3385) is amended by striking "1989" and inserting in lieu thereof "1993".

(2) Section 1005(g) is further amended by striking paragraph (3).

(c) Section 422(c) of the Indian Education Act (20 U.S.C. 3385a, Public Law 92-318) is amended to read as follows:

"(c) There is authorized to be appropriated for each of the fiscal years 1988, 1989,

1990, 1991, 1992, and 1993, such sums as may be necessary.".

(d) Section 423(a) of the Indian Education Act is amended by striking "1989" and inserting in lieu thereof "1993".

(e) Section 423(d) of the Indian Education Act is amended to read as follows:

"(d) There is authorized to be appropriated for the purposes of this section such sums as may be necessary for each fiscal year ending prior to October 1, 1993.".

(f) Section 442(a) of the Indian Education Act is amended by striking "1989" and inserting in lieu thereof "1993".

SEC. 8302. PROOF OF ELIGIBILITY.

(a) Section 453(a) of the Indian Education Act is amended by inserting ", as defined by the tribe, band, or other organized group," after "member".

(b) Section 453 of the Indian Education Act is further amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(c) Section 453(b) of the Act (as so redesignated) is amended by striking "On the form establishing a child's eligibility for entitlement under part A of this Act, the Secretary shall request at least the following information on the student eligibility form:" and inserting in lieu thereof the following: "For the purpose of collecting statistical information only, and not for the purpose of establishing eligibility, forms provided by the Department may provide for the provision of the following information, where available to the parent and at the option of the parent:".

(d) Section 453(b) of the Act (as so redesignated) is further amended by adding at the end the following new sentence: "Failure to provide any of the information listed above shall have no bearing on the determination of eligibility of the student.".

(e) Section 453 is further amended by adding the following new subsection:

"(c) DETERMINATION OF ELIGIBILITY.—Determination of a student's eligibility to participate in this program, under the definition of subsection (a), shall vest solely with the parent committee and the local educational agency. It shall be based upon such information of eligibility as the parents may submit, include written proofs that the student is and has been for his or her life regarded by the community in which he or she resides as Indian. Such information shall be initially reviewed by the parent committee (under written guidelines established by such committee and the local educational agency which shall be on file and available to the public), which shall make a finding as to eligibility and shall submit such finding to the local educational agency. The local educational agency shall review and may accept or eject such finding with respect to any individual, except that a local educational agency may not count as eligible any student that the parent committee has found ineligible. Determinations of eligibility which are agreed to by the parent committee and the local educational agency shall not be subject to further administrative review.".

PART D—NATIVE AMERICAN INDIAN SCHOOLS

SEC. 8401. SHORT TITLE.

This part may be cited as the "Native American Indian School Act".

SEC. 8402. DEFINITIONS.

For purposes of this part, the following terms have the following meanings:

(1) The term "School" refers to an elementary or secondary school that is established by this part.

(2) The term "Indian" means any person who is a member of an Indian tribe.

(3) The term "Indian tribe" means any tribe, band, nation or other organized group or community of Indians, including any Alaska Native Village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Board" means the Board of Trustees of the School established under this part.

SEC. 8403. ESTABLISHMENT OF SCHOOL.

(a) CONSULTATION.—The Secretary of the Interior is directed to consult with Native American Indian tribes concerning the establishment of not more than five Native American Indian Schools on Indian lands to serve Indian students residing on Indian lands, and to make provision for the establishment of such schools. Indian tribes interested in establishing such schools shall petition the Secretary for the authority to establish such elementary and secondary schools. The Secretary shall establish criteria for applications and procedures for the establishment of such schools.

(b) ESTABLISHMENT.—Each school shall be established as a separate corporation. The appropriate name shall be indicated in the Indian tribe's application. Each school shall be under the direction and control of a Board of Trustees established under section 8404.

(c) TERMINATION.—The corporation established under subsection (b) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

SEC. 8404. BOARD OF TRUSTEES.

(a) PETITION.—A petition from an Indian tribe shall indicate the number and composition of the Board of Trustees and the methods to be used in electing the members of the Board of Trustees of each school.

(b) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 3 years.

(2) Of the members of the Board first appointed under subsection (a)—

(A) one-third shall be appointed for terms of office of 1 year;

(B) one-third shall be appointed for terms of office of 2 years;

(C) one-third shall be appointed for terms of office of 3 years, as determined by the drawing of lots during the first meeting of the Board; and

(D) no member of the Board appointed shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) VACANCIES.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board, a replacement shall be appointed in the same manner in which the original appointment was made.

(d) REMOVAL.—No member of the Board may be removed during the term of office of such member, except for just and sufficient cause.

(e) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected from among the members of the Board and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board, and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) QUORUM.—Unless otherwise provided by the bylaws of the School, a majority of the members shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the School;

(2) to direct the management of the School; and

(3) to make such bylaws and rules as it considers necessary for the administration of its functions under this part, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board shall serve without compensation. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(i) REVIEW BY THE SECRETARY OF THE INTERIOR.—For so long as any employee of School is covered under title 5, United States Code, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.

SEC. 8405. GENERAL POWERS OF THE BOARD.

In carrying out the provisions of this part, the Board shall have the power, consistent with the provisions of this part—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the School;

(9) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(10) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this part;

(11) to obtain insurance or make other provisions against losses;

(12) to use any funds or property received by the School to carry out the purpose of this part; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the School in order to carry out the provisions of this part and the exercise of the powers, purposes, functions, duties, and authorized activities of the School.

SEC. 8406. SUPERINTENDENT OF THE SCHOOL.

(a) Appointment.—The School shall have a Superintendent who shall be appointed by the Board. The Superintendent of the School shall serve as the chief executive officer of the School. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the Superintendent of the School shall have the responsibility for carrying out the policies and functions of the School and shall have authority over all personnel and activities of the School.

(b) Compensation.—The Superintendent of the School shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS-15 of the General Schedule.

SEC. 8407. STAFF OF SCHOOL.

(a) Exemption From Civil Service.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the School.

(b) Appointment and Compensation.—

(1) the Superintendent of the School, with the prior approval or authorization of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the Superintendent of the School deems necessary for the efficient administration of the School.

(2) The Superintendent of the School shall fix the basic compensation for officers and employees of the School at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, applies.

(3)(A) Not later than 180 days after the Superintendent of the School is appointed, the Superintendent of the School shall make policies and procedures governing—

(i) the establishment of positions at the School,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation;

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(C) Any officer or employee of the School may appeal to the Board any determination by the Superintendent of the School to not reemploy or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the Superintendent of the School with respect to the employment of such officer or employee.

(c) No Reduction in Classification or Compensation.—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(d) Leave.—

(1) Any individual who—

(A) elects under subsection (g) to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the School, shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the School, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6303 of title 5, United States Code, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(e) Applicability.—This section shall apply to any individual appointed after the effective date of this part for employment in the School. Except as provided in subsections (d) and (g), the enactment of this part shall not effect—

(1) the continued employment of any individual employed immediately before the effective date of this part, or

(2) such individual's right to receive the compensation attached to such position.

(f) Termination of Civil Service Positions.—

(1) At the end of the 2-year period beginning on the date referred to in subsection (f), any position at the School which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5, United States Code, may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such part may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such part shall, so long as continually employed by the School without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the School without break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The School shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(g) Collective Bargaining.—The School shall be considered an agency for the purpose of chapter 71 of title 5, United States Code.

(h) Workmen's Compensation.—Employees of the School shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

SEC. 8408. FUNCTIONS AT THE SCHOOL.

The primary functions of the School shall be—

(1) to provide instruction in basic skills, educational programs, courses in elementary and secondary schools, and in Indian culture; and

(2) to establish programs which culminate in the completion of the program of studies for elementary and secondary schools.

SEC. 8409. INDIAN PREFERENCE.

(a) In General.—Notwithstanding any other provisions of Federal or State law, the School is authorized to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the School,

(2) employment by the School, and

(3) contracts, fellowships, and grants awarded by the School.

(b) Hiring Preference.—In carrying out section 8407(b)(1), the Superintendent of the School shall, to the maximum extent practicable, give preference in hiring to Indians.

SEC. 8410. NONPROFIT AND NONPOLITICAL NATURE OF THE SCHOOL.

(a) Stock.—The School shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit Nature.—No part of the income or assets of the School shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical Nature.—The School may not contribute to, or otherwise support, any political party or candidate for elective public office.

SEC. 8411. TAX STATUS.

The School and the franchise, capital, reserves, income and property of the School shall be exempt from all taxation imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

SEC. 8412. REPORTS.

(a) Annual Report.—In accordance with regulations issued by the Secretary, the Superintendent of the School shall submit an annual report to the Congress and to the Board concerning the status of the School during the 12 calendar months preceding the date of the report. Such report shall include, *among other matters, a detailed summary of student achievement in academic and other areas, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the School during such 12-month period and the disposition thereof as well as any recommendations for improving the School.*

(b) BUDGET PROPOSALS.—

(1) In accordance with regulations issued by the Secretary, the Board shall submit a budget proposal to the Secretary of the Interior.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year, and the Board shall propose a budget for the School for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the School on the basis of such proposals, the amount of private fundraising or bequests made on behalf of the School during any preceding fiscal year shall not be considered.

SEC. 8413. COMPLIANCE WITH OTHER ACTS.

(a) IN GENERAL.—The School shall comply with the provisions of:

(1) Public Law 95-341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act.

(2) The Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(3) The National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) CRIMINAL LAWS.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the School.

SEC. 8414. ENDOWMENT PROGRAM.

(a) ESTABLISHMENT.—The Board of Trustees is authorized to establish an endowment fund, and such funds shall be deposited into a trust fund maintained by the School at a federally insured banking or savings institution as follows:

(1) The Superintendent of the School shall provide for the deposit into the trust fund—

(A) of any of capital contribution secured by the School; and

(B) any earnings on the funds.

(2) Funds in the trust fund described in paragraph (1) shall be invested in a manner as to ensure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time.

(3) No part of the net earnings of the trust funds shall enure to the benefit of any private person.

(4) The Board of Trustees, upon recommendation of the Superintendent of the School, shall provide for such other provisions governing the trust fund as may be necessary to promote the purpose of this part, including recordkeeping procedures for the expenditure of accumulated interest which allow for an external audit and permit the monitoring of programs and activities conducted with such interest.

(b) USE OF FUNDS.—Interest deposited in the trust fund may be periodically withdrawn and used, at the discretion of the School, to defray any expenses associated with the operation of the School, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

SEC. 8415. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING.—To ensure continued funding for the operation of the Native American Indian Schools, the Secretary shall provide funds for these schools in accordance with—

(1) the formula for allocating funds to BIA-operated schools and contract schools under the Indian School Equalization Program under Public Law 95-561, as amended;

(2) procedures for providing funds for administration and related matters to contract schools under Public Law 93-638, as amended; and

(3) any other Federal programs for schools funded by the Secretary and operated on Indian reservations.

(b) ELIGIBILITY FOR FUNDING.—Schools created under this Act shall be eligible for funding under the Indian Education Act in the same manner as current contract schools funded by the Secretary of the Interior.

(c) The Secretary is authorized to expend such sums as may be necessary to ensure the orderly establishment of Schools under this part.

PART E—NATIVE HAWAIIAN EDUCATION PROGRAMS

SEC. 8701. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are overrepresented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students; and

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

(9) Special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required.

SEC. 8702. PURPOSE.

It is the purpose of this title to—

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 8703. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT.

(a) In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to—

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) There is authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993. Of the amounts appropriated, no more than 10 percent may be used for administrative purposes. Such sums shall remain available until expended.

SEC. 8704. NATIVE HAWAIIAN FAMILY BASED EDUCATION CENTERS.

(a) The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands; such centers shall include—

(1) Parent-Infant programs (prenatal through age 3);

(2) Preschool programs for four and five year-olds;

(3) continued research and development; and

(4) a long term followup and assessment program.

(b) In addition to any other amount authorized for such centers, there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993. Of the amounts appropriated, no more than 10 percent may be used for administrative purposes. Such sums shall remain available until expended.

SEC. 8705. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAMS.

(a) The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to

be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section; and

(4) appropriate research and evaluation of the activities authorized by this section.

(b) The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

(c) For purposes of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) There is authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a). There is authorized to be appropriated $750,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project provided under subsection (b). Of the amounts appropriated no more than 10 percent of the funds may be used for administrative purposes. Such sums shall remain available until expended.

SEC. 8706. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

(a) The Secretary shall make grants to and enter into contracts with the State of Hawaii, including its junior or community colleges, and/or the Kamehameha Schools/Bernice Pauahi Bishop Estate for demonstration projects designed to address the special needs of Native Hawaiian gifted and talented elementary and secondary school students.

(b) Demonstration projects under this section may include—

(1) the identification of the special needs of gifted and talented students who are eligible for assistance under this Act, with a priority for early identification, particularly at the elementary school level;

(2) the conduct of educational activities which hold reasonable promise of making substantial progress toward meeting the educational needs of such gifted and talented children;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation and related activities pertaining to the needs of such children.

(c) In addition to any other amount authorized for such project, there is authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Of the amounts appropriated, no more than 10 percent shall be used for administrative purposes. Such sums shall remain available until expended.

SEC. 8707. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

(a) The Secretary shall make grants to and enter into contracts with the State of Hawaii, and/or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special educational services;

(2) the conduct of educational activities which hold reasonable promise of making substantial progress toward meeting the educational needs of Native Hawaiian children who are identified as being learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special educational services; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Of the funds appropriated, no more than 10 percent shall be used for administrative purposes. Such sums shall remain available until expended.

SEC. 8708. MISCELLANEOUS PROVISIONS.

(a) No grant may be made, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) Each application shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

SEC. 8709. DEFINITIONS.

For purposes of this title—

(1) the term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development;

(4) the term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians;

AMENDMENTS OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc and considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. KILDEE: Page 381, after line 25, insert the following new section (and amend the table of contents accordingly):

SEC. 8303. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS.

Section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3385) is amended—

(1) in subsection (c)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and";

(C) by adding after paragraph (2) the following:

"(3) the development, establishment, or improvement of tribal divisions of education, particularly with respect to the provision of services (comparable to those provided by State departments of education) to tribally controlled and Bureau of Indian Affairs operated schools which serve children of a tribe or tribes."; and

(D) by inserting after the second sentence "In addition, the Secretary is authorized to make grants to consortia of Indian tribes or tribal organizations, local educational agencies, and insitutions of higher education for the purpose of developing, improving, and implementing a program of encouraging Indian students to acquire a higher education and reducing the incidence of dropouts among elementary and secondary school students.";

(2) in subsection (d) by adding at the end the following sentence:

"In making grants under this subsection, the Secretary shall consider prior performance and may not limit eligibility on the basis of the number of previous grants or the length of time for which the applicant has received grants."; and

(3) in subsection (g) by adding after paragraph (3) the following paragraph:

"(4) For any fiscal year, from the sums appropriated under this subsection for activities under subsection (c), the Secretary shall reserve an amount which is not less than 10 percent of such sums for grants under subsection (c)(3).".

Mr. KILDEE. Mr. Chairman, I rise to offer four amendments to the Indian Education Act programs operated by the Department of Education. I ask for their consideration en bloc, since they are noncontroversial and have the support of both sides of the aisle.

Briefly, these amendments are to part B of the act, which funds a wide range of demonstration and model programs to benefit Indian students. One amendment recognizes the need to encourage and strengthen tribal divisions of education. This is particularly important due to recent congressional actions which have placed growing emphasis on tribal involvement in the education of Indian students. Many tribes have already taken the first steps to develop these divisions. However, more needs to be done in this area. Another amendment makes this activity a priority, by setting aside 10 percent of the funds for developmental activities for this purpose.

Another amendment allows grants to be made to consortia of tribes, elementary and secondary schools and postsecondary institutions to establish programs to coordinate services and support. The goals of these projects will be drop-out prevention and encouragement of Indian students to attend college.

The final amendment addresses an issue regarding eligibility to compete for a grant. There has been a recent administrative interpretation of the statute to state that an institution which has received grants to train Indian graduate students can only be eligible for a limited period. This is not the intent of the statute, which seeks to utilize the best program available, and not to upset ongoing, excellent programs unnecessarily. The amendment clarifies that such a program is eligible to recompete, regardless of past receipt of grants.

These amendments have no budget impact.

As I stated at the beginning of my statement, these amendments are noncontroversial and I hope they will be accepted.

Mr. GUNDERSON. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I rise in behalf of the vice chairman of our committee to indicate that these amendments have been checked out by our side of the aisle and they meet with out approval, and we are in support of them.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to concur in the acceptance of these amendments. We think that they are excellent, and we certainly concur in the acceptance of them.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to indicate that we have examined the amendments and we approve the amendments. I particularly want to call attention to the fact that this would allow colleges and universities that are already involved in the program to continue to apply for grants. It makes good sense to allow those schools with established track records to continue to provide this important training function for Indian students, and we accept the amendments.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Michigan [Mr. KILDEE].

The amendments were agreed to.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to discuss the new concentration grants that are in this legislation, which I think address a very real need.

Connecticut is a State that for all intents and purposes eliminated county government many years ago, and while we have county lines, they are not significant. Consequently, it is difficult for some of the towns within those counties to be seen as servicing the distressed children that they do in fact service. So I was very pleased to see this attempt to recognize those towns that do not reside in counties that qualify for special treatment.

I would like to ask my colleague, who I understand was the author of the amendment in committee that set aside some of this money within the concentration-grant program, to enlarge a little bit on the concerns that he sees it addressing.

Mr. GUNDERSON. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. The gentlewoman is correct that a number of us are concerned about the formula for concentration-grant funding. Clearly one of the new initiatives in this legislation is to not only authorize "concentration grants" but to try to require that the next additional $400 million appropriated for chapter 1 would be distributed under a concentration-grant formula.

The problem with the concentration-grant formula as I understand it is while concentration grants are intended to focus on concentrated areas of low-income populations, the fact is that we do not use a concentration-grant formula, we use a numbers formula. So if you have a large number of students or people in a county who are "economically disadvantaged," then you get the funds.

That presents some real problems. As the gentlewoman has indicated, first, the problem is that we are using 1980 statistics, which are very frankly too old, and I think that in this modern day we ought to be able to have statistics a lot more current than that.

Second, as the gentlewoman has indicated, we use countywide statistics. Let me give an example of one of the urban counties in my congressional district. That urban county happens to have a low-income population of I believe 13 percent, so they would not qualify under the 15 percent or 6,500 criteria of low-income population in that county.

Now, the problem with that is within that urban county we happen to have a rural school district that believe it or not has a 33-percent low-income population in that school district. But because they happen to be in this urban county, they do not qualify for concentration grants.

In appreciation of both the chairman of the full committee and our vice chairman, the gentleman from Pennsylvania [Mr. GOODLING], they have made modifications in the concentration-grant formula from the original proposal. Now, rather than using a 5,000 population level of low income, they have upped it to 6,500, and they have also reduced the percentage of low income from 20 down to 15 percent. That is very significant to many rural counties.

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The other provision, the one which I included, was a provision which gives each State in the concentration grant formula a 2-percent discretionary fund. That 2 percent discretionary fund allows the State to go into selected counties where there happens to be an aberration such as the one I indicated. So we have made great progress in this area.

In addition, I want to point out to the gentlewoman that both the chairman and again the vice chairman have indicated to me that they are going to be willing as this process moves along in the Senate and in conference to look at alternatives which would better target those funding formulas.

The General Accounting Office, at my request, is presently pursuing what methods of distribution of concentration grant funding might target that money to those intended under the concept of concentration grants. In other words, the most needy getting the assistance.

So this issue has not been resolved. It is an issue that is very fluid, but because of the commitment from the chairman and the vice chairman I do not see any purpose served by debating it further today until, very honestly, we have better concrete information from the General Accounting Office as to how we might proceed.

Mrs. JOHNSON of Connecticut. I thank the gentleman from Wisconsin and want to commend the chairman of the committee and the ranking Member for their sensitivity and dedication to this issue, as well as to many other issues in this reauthorization of chapter 1. The changes they have made to increase the flexibility of the use of these funds, the changes in the parent involvement program, the even start component in this bill marks this as really a great step forward.

AMENDMENTS OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer eight technical amendments and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. RICHARDSON: Page 383, line 1, insert "or recognition" after establishment.

Page 383, line 8, after the period insert "Subject to the consultation required under this subsection, the Secretary of the Interior may recognize schools currently funded by the Bureau of Indian Affairs as schools for the purposes of this part.".

Page 383, lines 9 and 10, after "established" insert "or recognized".

Page 388, strike lines 8 and 9, (and redesignate the subsequent paragraphs accordingly).

Page 389, line 8, strike "Except" and insert "In the case of a school which was operated by the Bureau of Indian Affairs prior to establishment or recognition under section 8403, except".

Page 394, line 22, after the semicolon strike "and".

Page 394, after line 22, insert the following:

(2) to provide programs, as determined by the Board, for gifted and talented students and students with special needs;

(3) to provide programs, as determined by the Board, for college preparation; and

Page 394, line 23, strike "(2)" and insert "(4)".

Page 395, strike lines 5 and 6, (and redesignate the subsequent paragraphs accordingly).

Page 396, after line 26, insert the following paragraph (and redesignate the subsequent paragraph accordingly):

(3) Funds appropriated pursuant to this subsection shall be in addition to sums distributed under section 8415.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I have eight technical amendments to my Native American Indian School Act which was incorporated into H.R. 5 in committee. My amendment has been met with great enthusiasm by many Indian schools, but the specific language has raised some questions as to how to interpret the legislation. My amendment establishes five model Indian schools to serve Indian students living on Indian lands. Each school would be established as a separate entity with a board of trustees.

These amendments simply seek to clarify the current provisions of the act. The amendments clarify the Indian Schools Act to be sure that:

First, current BIA and contract programs can be considered for the new program;

Second, the personnel provisions only apply to current BIA operated programs;

Third, the programs offered by these model schools will encompass college prep, gifted and talented, special needs populations, and other programs deemed necessary by the local individuals. After all, if it is to be a model program, these activities should at least be considered, and

Fourth, clarify the current provisions on submission of a locally determined budget, to make clear that this provision is to act in concert with the other current provision on funding through the Indian student equalization formula.

Mr. Chairman, I would like to point out what I believe will make an exemplary model school—the Santa Fe Indian School located in my home State of New Mexico. The Santa Fe Indian School has a long history of service to Indian education. The school was the first school to contract under the 1975 Indian Self-Determination Act. Santa Fe Indian School is a true success story. The school was ready to close its doors when the 19 Pueblos of New Mexico assumed responsibilities for a failing Bureau program at the Albuquerque Indian School. Ten years later, the school has documented proof that Indian students attending the school grow a minimum of 1 year academically for each year of attendance—no other Indian school can claim this rate of success. Santa Fe Indian School recently gained national attention by being nominated by the U.S. Office of Education to receive recognition under the President's Secondary School Recognition Program—they are the only school under consideration for this prestigious award.

Mr. Chairman, I would hope when the Secretary considers potential applicants for my model Indian schools, that the Santa Fe Indian School be seriously considered. The school has set a standard that we can all be proud of and I believe that it would certainly fall in line with the legislative intent of my legislation.

Mr. Chairman, I believe these amendments are not controversial and enjoy bipartisan support.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so only to indicate that the gentleman from New Mexico has certainly offered clarifying amendments and we are willing to accept them on this side.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—AMENDMENTS TO OTHER LAWS

PART A—ADULT EDUCATION

SECTION 9101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1987".

SEC. 9102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

"TITLE III—ADULT EDUCATION PROGRAMS

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

"SEC. 311. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

"SEC. 312. DEFINITIONS.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(B) who are not currently required to be enrolled in schools and are not enrolled in school; and

"(C) whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993 for carrying out the purposes of this title.

"(b) ALLOTMENT.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently enrolled or required to be enrolled in schools in such State bears to the number of such adults in all States.

"(c) REALLOTMENT.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required, for the period of such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

"(d) MINIMUM ALLOTMENT.—Notwithstanding any other provision of this section, the sum of any State's allotments under this section for any fiscal year shall not be less than the total amount of payments the State received for fiscal year 1987. Any amounts necessary for increasing the sum of allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments received by the State for fiscal year 1987.

"(e) RESERVATION OF FUNDS FOR NATIONAL PROGRAMS.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than 3 percent of such amount shall be reserved to carry out the programs described in part C, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS.

"(a) USE OF FUNDS.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

"(3) The State educational agency shall not approve any application unless evidence that such consultation has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) Not more than 20 percent of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

"SEC. 323. PRIVATE SECTOR ADULT EDUCATION TRAINING.

"(a) LITERACY PROGRAMS FOR EMPLOYEES.—From the grants awarded to States described in section 322(a), a State may designate up to 10 percent of its State allotment for use to support, consistent with section 361(a), programs designed to provide literacy and other basic skills in order to improve the productivity of current employees through the use of business, industry, labor organizations, and education partnerships.

"(b) REQUIREMENTS FOR PROGRAMS.—Programs funded under this section shall be designed to improve the productivity of the workforce and shall be jointly applied for and conducted by a business or industry or labor organization, or private industry council as defined under the Job Training Partnership Act and a local educational agency or institution of higher education.

"SEC. 324. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 per-

cent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION.

"(a) State Agency Responsibilities.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) State Imposed Requirements.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"(c) Limitation on State Administrative Costs.—From the amount appropriated to each State, pursuant to section 313, for any fiscal year, not more than 5 percent may be made available to pay the cost of administration and development of the State plan and other activities required pursuant to this title (including the operations of the State Advisory Council under section 332).

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION.

"(a) Requirement.—Any State which desires to participate in programs under this title for any fiscal year shall designate a body, or establish a new body if there is no suitable existing body, to act as a State advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(b) Representation on Council.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) Certification.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) Procedures.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least one public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) Terms.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) Duties.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

"Subpart 3—Planning and Applications

"SEC. 341. STATE PLAN AND APPLICATION.

"(a) Requirement.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1988 and during each fourth fiscal year occurring thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) Procedure for Submission and Consideration.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within sixty days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA Provision.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for purposes of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN.

"(a) Procedures Required in Formulating State Plan.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, established pursuant to section 332 of this title.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

"(3)(A) Not less than sixty days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than sixty days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council. Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Required Assessments.—In developing the four-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

"(c) Components of State Plan.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the four year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the ex-

pansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7003(a) of title VII of the School Improvement Act of 1987 or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

"(7) describe how the special education needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purposes of this title during the four-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965 and the Domestic Volunteer Service Act to assure maximum utilization of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 374 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"SEC. 343. STATE APPLICATIONS.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant each State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

"Subpart 4—Evaluation and State Plan Amendments

"SEC. 351. STATE PLAN AMENDMENTS.

"(a) TIMELY SUBMISSION.—When changes are necessary in the State plan, a State shall submit by July 1 preceding the fiscal year of operation, amendments to its State plan.

"(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, the State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"SEC. 352. EVALUATION.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the four-year period of the State plan shall—

"(1) arrange a program review of grant recipients each year. During the first year of the State plan at least 15 percent of the grant recipients shall be evaluated; during the second year, at least 20 percent shall be evaluated; and during subsequent years, at least 25 percent of the grant recipients within the State receiving funds under this title shall be evaluated. These evaluations shall review—

"(A) the planning and content of the program;

"(B) the curriculum, qualifications of all personnel, equipment, and instructional materials;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other such factors as are determined to affect program operation; and

"(2) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 5—Demonstration Projects

"SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) USE OF FUNDS.—Of the funds allotted to a State under section 312 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this title, or

"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) APPLICATIONS.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 6—Federal Share; Federal Administrative Responsibilities

"SEC. 361. PAYMENTS.

"(a) FEDERAL SHARE.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 percent of the cost of carrying out the State's programs for fiscal year 1988, 87 percent for fiscal year 1989, 83 percent for fiscal year 1990, and 80 percent for fiscal years 1991, 1992, and 1993, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 percent.

"(b) MAINTENANCE OF EFFORT.—(1) No payment shall be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—NATIONAL PROGRAMS

"SEC. 372. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

"The Secretary shall carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

"SEC. 373. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) FEDERAL ASSISTANCE.—The Secretary shall assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance will include, but are not limited to—

"(1) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

"(2) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first two years after enactment of the Adult Education Amendments of 1987, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every four years to the President and to the Congress on the status of literacy and adult education in the Nation.

"(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1987, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 374. ADULT LITERACY VOLUNTEER TRAINING.

"The Secretary shall carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"SEC. 375. JOINT STUDY OF SERVICES.

"The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of the Adult Education Amendments of 1987, a joint report shall be submitted to the Congress describing the findings of the study.

"SEC. 376. NATIONAL RESEARCH ACTIVITIES.

"(a) APPROVED ACTIVITIES.—The Secretary shall, with funds set aside under section 313(e), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

"(b) RESEARCH CONCERNING SPECIAL NEEDS.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 312(e) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

"SEC. 377. LIMITATION.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"SEC. 378. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) USE OF FUNDS.—The Secretary shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluation thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) IMPROVEMENT OF EDUCATIONAL OPPORTUNITY.—The Secretary is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) EVALUATION AND DISSEMINATION.—The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

"(d) APPLICATIONS.—Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section there are authorized to be appropriated $8,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

"SEC. 379. NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION.

"(a) APPOINTMENT.—The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the 'Council').

"(b) MEMBERSHIP.—The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Secretary and elect from its number a chairman. The Council *will thereafter meet at the call of the chairman, but not less often than twice a year.*

"(c) DUTIES.—The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

"(d) REPORTS.—The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with comments and recommendations. The Secretary of Education shall coordinate the work of the Council with that of other related advisory councils.".

PART B—IMPACT AID

SEC. 9201. REAUTHORIZATIONS FOR IMPACT AID.

(a) P.L. 81-874.—Title I of the Act of September 30, 1950 (20 U.S.C. 236, P.L. 81-874) is amended—

(1) in section 2(a) by striking "1988-" and inserting "1993-";

(2) in section 3(b) by striking "1988," both places it appears and inserting "1993,";

(3) in section 3(d)(2)(E)(ii) by striking "1988" and inserting "1993";

(4) in section 4(a) by striking "1988-" and inserting "1993-"; and

(5) in section 7(a) by striking "1988," both places it appears and inserting "1993,".

(b) P.L. 81-815.—The Act of September 23, 1950 (20 U.S.C. 631; P.L. 81-815) is amended—

(1) in section 3 by striking "1988" and inserting "1993";

(2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and

(3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989".

SEC. 9202. LIMITATION ON IMPACT AID PAYMENTS.

(a) P.L. 81-874.—Title I of the Act of September 30, 1950 (20 U.S.C. 236, P.L. 81-874) is amended by inserting at the end the following new section:

"LIMITATION ON PAYMENTS

"SEC. 8. Notwithstanding any other provision of this title, amounts appropriated for the purposes of this title for fiscal year 1988 may not exceed $735,000,000.".

(b) P.L. 81-815.—The Act of September 23, 1950 (20 U.S.C. 631; P.L. 81-815) is amended by inserting at the end the following new section:

"LIMITATION ON PAYMENTS

"SEC. 18. Notwithstanding any other provision of this Act, amounts appropriated for the purposes of this Act for fiscal year 1988 may not exceed $24,000,000.".

SEC. 9203. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, P.L. 81-874) is amended by adding at the end "Tuition funds under this section may be paid for any student not eligible for funding under section 1128 of P.L. 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.".

PART C—GENERAL EDUCATION PROVISIONS ACT

SEC. 9301. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

"(1) recovery of funds hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 455 of this Act,

"(3) cease and desist hearings pursuant to section 456 of this Act, and

"(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local education agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. With respect to any case, the judge shall not have been a party to, or have had any responsibility for, any particular matter assigned to that judge.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

"SEC. 452. RECOVERY OF FUNDS.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. The Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which, the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within ten days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further

evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

“(d)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (e).

“(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

“(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

“(e) A decision of the Office regarding an application for review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

“(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

“(2) remands the decision to the Office.

“(f) The Secretary shall publish decisions that have become final agency action under subsection (e) in the Federal Register or in another appropriate publication within 60 days.

“(g) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (e), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

“(h)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

“(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

“(i) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than five years before the recipient received written notice of a preliminary departmental decision.

“SEC. 453. MEASURE OF RECOVERY.

“(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award.

“(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

“(b)(1) In no case shall a State or local educational agency that is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, be required to return funds with respect to a violation for which mitigating circumstances exist, as described in paragraph (2). The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

“(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

“(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

“(B) made an expenditure or engaged in a practice after—

“(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

“(ii) the Department official did not respond within 90 days of receipt by the Department of such request; or

“(C) actually and reasonably relied upon a judicial decree issued to the recipient.

“(3) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

“(4) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

“(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

“(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

“(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was not permissible under then applicable State and Federal law.

“(5) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (4), that reflect significant interpretations of applicable law or policy.

“(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

“SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

“(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

“(1) withhold further payments under that program, as authorized by section 455;

“(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

“(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457(a); or

“(4) take any other action authorized by law with respect to the recipient.

“(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

“SEC. 455. WITHHOLDING.

“(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

“(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

“(1) the intent to withhold payments;

“(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

“(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

“(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

“(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient after such recipient has been given reasonable notice and an opportunity to show cause why future payments should not be suspended.

“(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

“(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

“(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

“(2) remands the decision of the Office.

“SEC. 456. CEASE AND DESIST ORDERS.

“(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

“(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

"(1) make a report in writing stating its findings of fact; and

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

"SEC. 457. COMPLIANCE AGREEMENTS.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not genuinely feasible until a future date.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than three years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

"SEC. 458. JUDICIAL REVIEW.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provision of this section. The Secretary may not take any action on the basis of a final agency decision until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 459. USE OF RECOVERED FUNDS.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the fiscal year in which the preliminary departmental decision under section 452(a) was issued.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

"SEC. 460. DEFINITIONS.

"For purposes of this Act, the following terms have the following meanings:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

(b) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2) the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

SEC. 9311. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended—

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following:

"The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education, in the most general and comprehensive sense of the word, particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.".

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substan-

tial experience and knowledge of programs encompassed by the National Center. The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for terms of 4 years, except that in the case of the initial appointment, the Commissioner shall serve until June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for International Education Statistics who shall promote United States participation in international research on educational statistics. The Commissioner shall appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

(c) Advisory Council on Education Statistics.—Section 406(c) of the Act is amended—

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following subparagraph:

"(D) Commissioner of Education Statistics.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) Condition of Education Report.—Section 406(d) of the Act is amended—

(1) in paragraph (1) by striking "Secretary" and inserting "Commissioner"; and

(2) by striking the semicolon at the end of paragraph (1)(C) and all that follows through the end of such paragraph and inserting a period;

(3) by redesignating paragraph "(2)" as paragraph "(3)"; and

(4) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary may submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth his views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) Authority of Commissioner.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

"(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts or other financial arrangements. Contracts or financial arrangements may include sole source contracts with States, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

"(6) The Commissioner is authorized to use information collected by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.".

(f) Reports on Education Indicators.—Section 406(g) of the Act is amended—

(1) by adding "(1)" after "(g)"; and

(2) by adding after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) Special Study Panel on Education Indicators.—Section 406(g) of the Act is amended by adding after paragraph (2) the following new paragraph:

"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of enactment of the School Improvement Act of 1987, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

(h) Dropout and Retention Study and Reports.—Section 406(g) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator.

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the School Improvement Act of 1987, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1988 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) Financial Aid Study.—Section 406(g) of the Act is amended by adding after paragraph (4) the following new paragraph:

"(5) As of March 30, 1990, and every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Act Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study.".

(j) Decennial Analysis of School Districts.—Section 406(g) of the Act is amended by adding after paragraph (5) the following new paragraph:

"(6) On April 1, 1992, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.

(k) National Longitudinal Survey.—Section 406(g) of the Act is amended by adding after paragraph (6) the following new paragraph:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school concerning educational progress, intellectual development, and economic prosperity. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1988, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

(l) Confidential Treatment of Data.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) no department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having *taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), publishes or communicates any individually identifiable information (as defined in subparagraph (E), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.*

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

(m) Education Information and Data.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by adding at the end a new subsection (i):

"(i)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policy-making at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) teachers and school administrators;

"(iv) the financing of elementary and secondary education;

"(v) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vi) the progress of education reform in the States and the Nation; and

"(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

"(3) To establish and maintain the system, the Commissioner—

"(A) shall—

"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data; and

"(ii) to the extent possible, implement standard definitions and data collection procedures; and

"(B) may—

"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.".

(3) in subsection (f)—

(A) by inserting "(1)" after "(f)"; and

(B) by adding after paragraph (1) the following paragraph:

"(2) The Commissioner may contract with States to carry out subsection (i). Such contracts may not exceed 33.5 percent of the cost to the State of meeting the information and data gathering requirements in compliance with such subsection.".

(n) State Training Program.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)".

(o) Authorization of Appropriations.—

(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:

"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $25,809,000 for fiscal year 1988, $32,823,000 for fiscal year 1989, $37,323,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, and 1993.".

(2) Section 405(f)(1) of the Act is amended by striking "and section 406".

(p) Conforming Amendments.—The heading of section 406 of the Act is amended to read as follows: "NATIONAL CENTER FOR EDUCATION STATISTICS".

SEC. 9350. SCHOOL IMPROVEMENT ACT OF 1987 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the School Improvement Act of 1987 and chapter 1 of the Education Consolidation and Improvement Act of 1981.".

AMENDMENT OFFERED BY MR. DAUB

Mr. DAUB. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Daub: Page 447, line 14, before "Section" insert "(a)".

Page 447, after line 20, insert the following subsection:

(b) Section 3 of the Act of September 30, 1950 (20 U.S.C. 236, P.L. 81-874) is amended by adding after subsection (h) the following subsection:

"(i) For any fiscal year, a local educational agency which does not receive the full amount to which such agency is entitled under subsections (a)(2) and (b)(3), shall be eligible, at the discretion of any Federal executive agency, to receive funds from such agency in an amount which is not in excess of any deficiency under this section.".

Mr. DAUB (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. DAUB. Mr. Chairman, I rise today to offer an amendment to the Impact Aid Program.

My amendment seeks to introduce an element of flexibility to the Impact Aid Program for those school districts who are impacted by the Federal presence of a military base or installation. The amendment provides a mechanism to allow any local education agency that does not receive the full amount to which it is entitled in order to pay for the education of military "A" and "B" children, to apply for supplemental funds from the Department of Defense.

The decision to award these supplemental funds would remain at the discretion of the Department of Defense, and the funds could not exceed the amount of shortfall that the school district had incurred.

Under current law, the only recourse that the militarily impacted school districts have should they be faced with a funding shortfall, is to file an application for funding under section 6 of the Impact Aid Program.

Section 6 is funded by the Department of Defense, a district that qualifies under section 6 of the Impact Aid Program must meet very specific criteria, and must receive all of its funds through section 6.

The amendment, therefore, would allow the Defense Department to make supplemental payments to heavily impacted military school districts if these districts are unable to receive full entitlement payments during any fiscal year.

Finally, Mr. Chairman, I want to indicate that this is not an attempt to transfer the responsibility for funding military "A" and "B" students from the Department of Education, but rather, I seek to allow a school district to receive funding concurrently from both the Defense and Education Departments—should the funding shortfall necessitate such actions.

I would like to add my sincere thanks to Chairman Hawkins and my good friend and colleague, Mr. Goodling, for their exemplary efforts at crafting H.R. 5, and for their assistance on crafting my amendment.

Mr. Chairman, it would be my intention at some point later in the debate on my amendment to ask my colleagues to consider the opportunity to support this amendment in conference should it get to the conference table this year or next via the other body's bill as distinguished from it being included by a vote in the work that we here today are considering.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all I would like to explain a little how we have gotten to this point in relationship to impact aid. In every other area in this bill we were able to work very closely with all of those interested. They did not all get what they wanted, but they all got something.

When we were dealing with impact aid and during the period where the impact aid people were testifying I asked the question: Is there some disunity among this group, because it seemed things were not falling together, nor have we seen anything from them that was concrete. I was told by one of the gentleman that no, they are unified, and they would have their proposal to me the very next day. That was several months ago. As yet I have not seen that proposal, my staff has not seen that proposal. To the best of my knowledge, no one on the other side has seen that proposal.

So we had a dilemma. I then decided to give in on the issue that I have always argued for for the last 13 years. The gentleman from Minnesota, BILL FRENZEL, tells me we should do something about the B people in the impact aid because in my area, for instance, they were getting money that I did not really think they deserved. I said I would not fight that issue this time. I would just go with the current legislation. That is the way we left it.

The gentleman from Illinois [Mr. HAYES], who had a proposal that came to him late, which he put together, was willing to say that we will put this off and we will deal with the issue at a later time. Normally I would not have any problem with what the gentleman is trying to do. If he can get any money from the Defense Department, that would be fine. I do not think he can get any money, but that is fine.

The problem is that we then open this gate which we have closed, and in fairness it seems to me to the gentleman from Illinois, Mr. HAYES, and to many others who had individual issues, I must reluctantly oppose the amendment.

I do not have any problem with the proposal, that if it becomes a conferenceable item because the Senate is dealing with it I would very much support what the gentleman from Nebraska [Mr. DAUB] is trying to do.

I yield back the balance of my time.

Mr. DAVIS of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to rise to say to the gentleman from Nebraska, Mr. DAUB, that I think this is an excellent amendment and I would hope in the final analysis, and as I understand he is perhaps going to withdraw the amendment, but there should be an agreement among all of us here and those who will be working on the bill that it will be considered when and if the bill goes to conference. It is a good amendment. It does allow, as the gentleman has indicated, an opportunity for the Defense Department, if there should be a shortfall from whatever source, whether the shortfall is from the State or Federal Government, it would allow the Defense Department to be able to contribute some money to that school system to keep that school system in operation.

I think it is an excellent amendment and a good idea. I would hope that this amendment will be finally agreed to when the bill goes to conference.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I am pleased to yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I want to thank the gentleman from Michigan for his support. I know that he too has other concerns with respect to the impact aid program, and it is an important concern.

For a small State like Nebraska, it is not just a military impaction which was the principal vehicle years ago, as the gentleman from Michigan [Mr. FORD] has indicated to me I know in many discussions was the reason this all came about, but we have added to it since low-income housing provisions and provisions that take care of the impaction problem with our native American Indian reservational circumstances. I happen to have in Nebraska three very large Indian reservations. I am as concerned as are many members of the committee with fair treatment for educational opportunities for the children of the folks who live on our native American reservations across this country.

By the same token, I am concerned about some States that have different allocation formulas, as I think the gentleman's State does, and I want to be very supportive of his intentions as well which may occur at a later point in this debate. But I do thank the gentleman very much for supporting the amendment.

It would be my hope, as I indicated, at some point when I withdraw the amendment, with the appropriate signals from the majority and the minority side, I would hope that this does get favorable consideration by the conferees should the matter make it to conference through the other body's efforts.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding and would like to commend both gentlemen for their interest in this area. As someone who represents both Fort Riley and Fort Leavenworth and the surrounding communities, yesterday perhaps my colleagues did not hear the colloquy I had with the chairman of the Subcommittee on Armed Services dealing with this very basic issue, because there we have a situation where the land is owned by the Army, the building is owned by the local school board, and there is a hassle over whether the DOE or the Department of Education is going to pay the bill or whether the Department of Defense is going to pay the bill, and the problem we are having, of course, is the kids are falling between the cracks, so to speak.

It is just very important for us to come together and resolve this issue to make sure that the quality of the education the kids are being exposed to is excellent and that we can all be proud of it, so I look forward to working with the gentleman and my friend from Nebraska in the next few months in trying to once and for all resolve this question about who is going to be paying for this education.

Mr. DAVIS of Michigan. I appreciate the gentleman's comments.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], I think has described the problem that we have before the Committee today and the tremendous efforts that we put forth in trying to bring into play and into place before the House a package.

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Unfortunately, the statesmanship exhibited by Mr. GOODLING and by Mr. HAYES did not accomplish a satisfactory compromise to many individuals. We have these individual proposals to deal with specific items in the package which we obviously would oppose, because we think that they relate to each other and they should not be considered in isolation. It is for that reason we decided that the best approach and the wisest approach would be to oppose the amendments. At the same time we commit to you and if and when this matter is considered in conference that we will give favorable consideration to the proposal.

We think they have a lot of merit. We are not passing on the merit today, but merely on the procedure. We can assure you full consideration in conference committee.

Mr. BUSTAMANTE. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Texas.

Mr. BUSTAMANTE. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Daub amendment. It is a good amendment. It is a fair amendment. I will work with the gentleman from Nebraska to get the other body to adopt it.

Mr. HAYES of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to express my profound appreciation to the colleagues who have expressed, through this amendment, their interest and concern in the whole issue of impact aid. I am glad also to be able to support the position that has been taken by the chairman of our committee, Congressman Hawkins and vice chairman, Congressman Goodling.

I favor, as has been said, a balanced approach to this whole question of impact aid. This is the reason why I tried my best to package, and the staff in my office worked feverishly to try to put together all entities of the impact aid issue and approach it from that angle, because I did not want to see a fragmented approach which would throw the whole funding issue out of line.

Agreement could not be reached on the packaging approach. For that reason, I withdrew my amendment.

I will be glad, as has been suggested by our chairman, to participate in the discussion in conference to see if we can reach an agreement on all angles and all parts of this impact aid situation.

I frankly appreciate the approach of our keeping the issue alive, because we do have many of our kids, not only in the military but those who live in public housing, those who have no taxing base to support our education system, are in need of help as they seek to get the education that they deserve and need.

I think it is to the interests of our whole country to make sure that we see that people who are economically disadvantaged have an opportunity to get the kind of education that will make them the kind of citizens that our great country deserves and needs.

For this reason and this reason alone at this time I agree with the chairman, with Congressman Daub, in the withdrawal of his amendment and I do hope and pray we can reach agreement in conference on this particular issue involving all interests of the impact aid.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

I want to also join in commending my colleague from Nebraska, Hal Daub, for agreeing to withdraw his amendment. He is in the unique position here, acting with enormous sensitivity, of having three Indian reservations and a military district. He is trying to deal with the problem as effectively as he can.

I think it is critically important that in the equalization formula on impact aid that we do everything we can to make this program better. But the effect of some of the amendments which have been proposed and which I now understand will be dealt with in conference, is that the coalition that is so vital to keep this impact aid coalesced together might be hurt. I say this because you have many important critical school districts in the country operating under the military, which, obviously, are very strong. Then you have many other school districts operating under the BIA, the Committee on Interior and Insular Affairs representing Indian children, that many times are politically weak. They are politically weak, because many times the Department of Interior does not adequately represent Indian students.

If you look at the budget for Indian education, if you look at the budget for many Indian programs, the Interior Department, which traditionally stands behind Indian programs, has not been doing, that. They have been decimating Indian programs at a time when the Assistant Secretary of Indian Affairs, Ross Swimmer, proposed a sweeping proposal which radically altered Indian education programs, which many Indian leaders felt insulted because they had not been consulted, which basically almost took the decisionmaking out of the hands of the Indian people and put it in the hands of the bureaucracy; it has been rejected. For that reason, there has been a tremendous amount of discomfort in Indian tribes on Indian reservations about the future of Indian education.

The Federal trust responsibility says there is such a commitment by the Federal Government to provide for Indian education. But I want to praise my colleague from Nebraska is trying to deal with a difficult problem. I feel very strongly that this is something that we can deal with better in conference, in future hearings.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding and I thank the gentleman very much for the interest he has shown. This is not any easy one when you consider the payment in lieu of tax idea, particularly for States west of the Mississippi, those which have sparsely settled areas, even perhaps more Federal parkland than they do square miles with a tax base; this is a very important program, one which the committee, I think, has always dealt with very well. It is a program that has had little respect by any President, regardless of which political party occupies the White House. The program has constantly been nickeled and dimed and sort of been the whipping boy at the end of the trail when we tried to put budget matters together. It is a critical program of more quality education for low income families, for folks who live on native American Indian reservations as well as the children of the folks who proudly wear the uniform of their country and want that same kind of education no matter how transient they might be, in terms of their assignments, over their careers.

So I appreciate what the gentleman is saying. It is unfortunate that confusion and dissension and perhaps in some cases the lack of outright being forthcoming on the part of some of the special interests that we here today seek to accommodate in terms of getting this matter moved forward with unanimity so that we in the Congress did not have the concerns that we are expressing here today.

I thank the gentleman for yielding.

Mr. RICHARDSON. Mr. Chairman, the Daub amendment potentially hurts the coalition that impact aid has tried to hold together. Encourages the politically strong military districts to go to other departments or agencies. Leaves the politically weak out.

While this may help in the short run, in the long run it would destroy the program.

If this constitutes an authority to use any other funds, then:

First, broadest authority ever enacted;

Second, we have no control over where the Defense Secretary may take the money from. Most likely from programs politically unpopular with an administration; and

Third, we have no reason to believe that any payments from the Defense Department would be stable and continuing. If they fluctuate—based upon personalities, philosophies, or politics—then in a very short time there would be chaos.

We need to keep impact aid intact and stable.

New Mexico State Department of Education—Impact Aid Questions and Answers

1. Q. What is the "big deal" about being an equalization state, and why is equalization important?

A. When a state has such diversity in its school districts in terms of wealth, student population, ruralness and isolation such as New Mexico, it becomes necessary that education be funded in such a way that students can be guaranteed a free and appropriate education. In New Mexico we found out 14 years ago that it was necessary that we establish an equalization funding formula for this exact purpose. New Mexico's equalization formula is second to none, and according to the Federal Impact Aid Office, this state's disparity from district to district in student expenditures is approximately 5 percent.

2. Q. Why should states be allowed to take credit for Impact Aid funds? These funds were intended for local education agencies to make up for the loss of property taxes when the federal government's property ownership in a school district reduces that district's ability to generate local revenue to fund education.

A. When a state provides the majority of funding for a school district and property taxes are not a major consideration as a revenue source for funding education, it is then imperative that a state be allowed to consider the Impact Aid revenue as part of the total revenue available to the state to fund education.

New Mexico has an equalization funding formula for education which considers many different elements in an effort to equalize revenue to districts with different needs and conditions. New Mexico is a large state with 88 school districts. We have many rural and a few urban districts. We have districts with less than 100 students covering many square miles, and a metropolitan school district with 75,000 students. We have so-called "rich" school districts where property valuation is high due to oil and gas resources, and districts with property values extremely low because of the mountainous or desert land. Property taxes are not a good basis of funding local education agencies or school districts.

The State of New Mexico, through its general fund system, provides over 90 percent of the revenue needed to fund education. Consequently, it is imperative that states such as New Mexico be allowed to continue to count Impact Aid revenue as part of the state's revenue to fund education. By doing so, New Mexico can retain EQUALIZATION as it funds education statewide for all students.

3. Q. What significance does local property tax have in funding education?

A. In New Mexico, practically none. For operational purposes, school districts can generate revenue from a half mill levy. In total, this represents approximately $5 million out of total statewide funding of $785 million. School districts retain only 5 percent of the $5 million and the rest is distributed on a per-unit basis to school districts. Most other states rely on property taxes as the main basis for funding education. But then, again, many are under federal court order to provide students with an appropriate and equal opportunity education. That is done through forced bussing and other ways that may disrupt the educational system.

4. Q. What happens if that section of federal statute is removed and school districts retain 100 percent of their Impact Aid revenue?

A. Disequalization. Other mechanisms, including the possibility of an entirely new equalization formula, would need to be considered for New Mexico. That would mean sending New Mexico back to the drawing board after it has fine-tuned its formula over 13 years.

5. Q. Do New Mexico school districts that receive Impact Aid feel shortchanged because they do not retain their Impact Aid revenues?

A. To our knowledge, not one New Mexico school district receiving Impact Aid has contacted its Congressional delegation to support an attempt to allow Impact Aid school districts to retain the Impact Aid revenues. Why? Because they realize that such an action would result in disequalization in the state, and ramifications will be felt by every school district in New Mexico.

6. Q. Does equalization work?

A. Yes, particularly when a poor state like New Mexico has to maximize its revenues to provide the best education possible to *all* of its students. New Mexico's commitment to education is amongst the highest in the nation with over 60 percent of its general fund expended for education.

STATE OF NEW MEXICO,
DEPARTMENT OF EDUCATION,
Santa Fe, NM, May 15, 1987.

Hon. BILL RICHARDSON,
U.S. Representative, 332 Cannon Building, Washington, DC.

DEAR CONGRESSMAN RICHARDSON: We have been advised by your office that an attempt will be made to eliminate Subsection 5(d)(2)(A) of Public Law 874, which provides the following:

". . . If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) Financial need of such agencies for the provision of free public education for children served by such agency provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues."

As you are aware, New Mexico is an equalized state and it takes credit for ninety-five (95%) of Impact Aid revenue received by local educational agencies (LEAs). New Mexico expects to receive approximately $35,000,000 in Impact Aid in School Year 1986-87. The Impact Aid districts retain one-third (⅓) of the 874 revenue generated by Special Education Handicapped pupils (approximately $1,400,000) plus five percent (5%) of the balance ($3,100,000). The ninety-five percent (95%) retained by the state is approximately $31,900,000.

The state recognizes the ninety-five (95%) as state revenue, and those funds are reallocated to all public school districts. This amount approximates $73.15 per program unit.

New Mexico vehemently opposes the proposal that payments under this title may not be taken into consideration by an equalized state for the following reasons:

1. New Mexico utilizes an equalized formula to ensure that pupils throughout the state are afforded a free and appropriate public education. We will lose approximately $31,900,000 that we are presently able to distribute to all school districts on a per unit basis.

2. As an equalized state, this change would cause a significant disparity between the per unit revenue received for those districts who receive Impact Aid and those Non-Impact Aid districts. See Attachment A(1) and A(2).

New Mexico's state equalization formula distributes funds on a per unit basis. Units are determined by considering membership, rural isolation, high cost pupils, teacher training and experience, as well as district size.

As Attachment B, we are providing a letter to Governor Carruthers which explains the problem of New Mexico not having the ability to take credit for Impact Aid, and Attachment C provides a question and answer document to respond to some issues which may be raised.

Again, losing the ability to take credit for Impact Aid will cause two very major problems to this state. First, the state has that much less to distribute to all school districts, and second, the impact on Impact Aid districts and Non-Impact Aid districts are such that a large disparity (disequalization) will exist in the state.

Please realize that we have been given but one (1) day to analyze, review and consider the implications of the proposal that will be brought up on the House floor. We hope that the information we've provided will be of some assistance to you as this issue is addressed.

Should you need additional information, please let me know.

Sincerely,

ALAN D. MORGAN,
State Superintendent of Public Instruction.

STATE OF NEW MEXICO,
DEPARTMENT OF EDUCATION,
Santa Fe, NM, May 20, 1987.

Mr. DAMIAN THORMAN,
U.S. Courthouse, South Federal Place—Room B26, Santa Fe, NM.

DEAR MR. THORMAN: As per your request, attached is an analysis which reflects the impact that the proposed change to eliminate states from taking credit for P.L. 81-874 will have on Congressional District #3.

Column 8 reflects revenue that school districts would receive on a per unit basis while column 9 reflects revenue on a per pupil basis. While the proposed change would benefit a few school districts it would hurt a great deal more. For example, Zuni Public Schools would receive $2,560 per unit or $4,378 per pupil while Belen Public Schools would receive $1,616 per unit or $2,356 per pupil.

If you have any questions regarding this information or need additional information, you may contact us at (505) 827-6610.

Sincerely,

KATHY LOPEZ,
Federal Funds Accounting Unit.

NEW MEXICO STATE DEPARTMENT OF EDUCATION ANALYSIS OF PUBLIC LAW 81-874 IMPACT OF PROPOSED CHANGE CONGRESSIONAL DISTRICT NO. 3, MAY 20, 1987

	1987-88 projected units [1]	1987-88 projected membership [2]	Total 1987-88 State appropriation [3]	Total 1987-88 State appropriation without 95 percent Public Law 81-874 [4]	1987-88 projected Public Law 81-874 revenue 95 percent [5]	Total revenue to districts as per proposed change [6]	Net gain or (loss) to school district (col. 3 less col. 6) [7]	Per unit allocation (col. 6 divided by col. 1) [8]	Per pupil amount (col. 6 divided by col. 2) [9]
Impact aid districts:									
Aztec	4,122.606	2,880.00	$6,963,081	$6,661,530	$73,991	$6,735,521	($227,560)	1,634	2,339
Bermalillo	5,065.924	2,977.00	8,556,345	8,185,794	1,646,682	9,832,476	1,276,131	1,941	3,303
Bloomfield	5,135.612	3,453.00	8,674,048	8,298,400	354,377	8,652,777	(21,271)	1,685	2,506
Central Construction	9,644.475	6,375.00	16,289,517	15,584,065	6,939,374	22,523,439	6,233,922	2,335	3,533
Chama	1,265.823	564.50	2,137,975	2,045,386	2,821	2,048,207	(89,768)	1,618	3,628
Cuba	1,373.362	680.00	2,319,607	2,219,152	519,041	2,738,193	418,586	1,994	4,027

NEW MEXICO STATE DEPARTMENT OF EDUCATION ANALYSIS OF PUBLIC LAW 81-874 IMPACT OF PROPOSED CHANGE CONGRESSIONAL DISTRICT NO. 3, MAY 20, 1987—Continued

	1987–88 projected units [1]	1987–88 projected membership [2]	Total 1987–88 State appropriation [3]	Total 1987–88 State appropriation without 95 percent Public Law 81–874 [4]	1987–88 projected Public Law 81–874 revenue 95 percent [5]	Total revenue to districts as per proposed change [6]	Net gain or (loss) to school district (col. 3 less col. 6) [7]	Per unit allocation (col. 6 divided by col. 1) [8]	Per pupil amount (col. 6 divided by col. 2) [9]
Dulce	1,233.536	593.50	2,083,442	1,993,214	906,413	2,899,627	816,185	2,351	4,886
Espanola	8,290.530	5,113.00	14,002,705	13,396,289	74,326	13,470,615	(532,090)	1,625	2,635
Farmington	12,129.920	8,356.00	20,487,434	19,600,182	159,290	19,759,472	(727,962)	1,629	2,365
Gallup	17,372.990	11,937.00	29,342,980	28,072,220	10,824,761	38,896,981	9,554,001	2,239	3,259
Grants	6,468.554	4,137.00	10,925,387	10,452,241	1,265,021	11,717,262	791,875	1,811	2,832
Jemez Mountain	1,085.911	471.50	1,834,103	1,754,673	35,392	1,790,065	(44,038)	1,648	3,797
Jemez Springs	959.896	488.00	1,621,264	1,551,052	322,397	1,873,449	252,185	1,952	3,839
Las Vegas East	4,277.599	2,548.00	7,224,865	6,911,977	3,618	6,915,595	(309,270)	1,617	2,714
Las Vegas West	3,152.829	1,815.00	5,325,128	5,094,512	4,476	5,098,988	(226,140)	1,617	2,809
Los Alamos	5,822.035	3,554.00	9,833,416	9,407,559	392,621	9,800,180	(33,236)	1,683	2,758
Los Lumas	6,422.712	4,468.00	10,847,960	10,378,166	152,407	10,530,573	(317,387)	1,640	2,357
Magoalena	744.230	349.00	1,257,004	1,202,567	177,281	1,379,848	122,844	1,854	3,954
Matwell	318.234	110.00	537,497	514,219	2,671	516,890	(20,607)	1,624	4,699
Mesa Vista	979.411	438.00	1,634,224	1,582,584	2,713	1,585,297	(68,927)	1,619	3,619
Pemasco	1,388.610	764.00	2,345,361	2,243,790	17,719	2,261,509	(83,852)	1,629	2,960
Pojoaque	2,621.020	1,676.50	4,426,902	4,235,186	565,329	4,800,515	373,613	1,832	2,863
Quemado	518.596	234.80	875,909	837,976	1,788	839,764	(36,145)	1,619	3,577
Quemado	518.596	234.80	875,909	837,976	1,788	839,764	(36,145)	1,619	3,577
Raton	2,777.640	1,786.00	4,691,433	4,488,261	3,359	4,491,620	(199,813)	1,617	2,515
Reserve	705.634	334.00	1,191,815	1,140,200	22,071	1,162,271	(29,544)	1,647	3,480
Santa Fe	17,115.829	11,163.00	28,908,634	27,656,685	23,498	27,680,183	(1,228,451)	1,617	2,480
Socorro	3,137.435	1,922.00	5,299,127	5,069,637	9,122	5,078,759	(220,368)	1,619	2,642
Springer	974.055	398.00	1,645,178	1,573,930	2,413	1,576,343	(68,835)	1,618	3,961
Taos	4,874.437	3,070.00	8,232,924	7,876,380	97,151	7,973,531	(259,393)	1,636	2,597
Zuni	2,537.480	1,484.00	4,285,804	4,100,198	2,396,360	6,496,558	2,210,754	2,360	4,378
Subtotal	132,516.922	84,139.80	223,821,069	214,128,025	26,998,486	241,126,511	17,305,442		
Non-impact aid districts:									
Belen	5,869.805	4,025.00	9,914,101	9,484,750		9,484,750	(429,351)	1,616	2,356
Cimarron	927.969	417.00	1,567,339	1,499,462		1,499,462	(67,877)	1,616	3,596
Mora	1,486.788	753.00	2,511,184	2,402,432		2,402,432	(108,752)	1,616	3,190
Mosquero	200.507	60.00	338,655	323,989		323,989	(14,666)	1,616	5,400
Pecos	1,477.851	746.50	2,496,090	2,387,991		2,387,991	(108,099)	1,616	3,199
Questa	1,515.380	770.50	2,559,477	2,448,634		2,448,634	(110,843)	1,616	3,178
Roy	298.071	101.00	503,441	481,639		481,639	(21,802)	1,616	4,769
Mason Mound	415.604	173.00	701,955	671,555		671,555	(30,400)	1,616	3,882
Subtotal	12,191.975	7,046.00	20,592,242	19,700,452	0	19,700,452	(891,790)		
Grand total	144,708.897	91,185.80	244,413,311	233,828,477	26,998,486	260,826,963	16,413,652		

Mr. BUSTAMANTE. Mr. Chairman, I move to strike the requisite number of words.

The Chairman, I had an amendment that I intended to offer, but because of the problems that have arisen I would like to engage in a colloquy with the chairman regarding my amendment which will hold harmless impact aid payments to coterminous school districts. The chairman has indicated that he will encourage the Senate to consider this amendment and then the amendment can possibly be fully debated in conference.

Mr. Chairman, is that the agreement of the chairman?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BUSTAMANTE. I yield to the chairman.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, my understanding is that the Senate will be encouraged. That does not place on this chairman the full responsibility of doing it. I had understood that Mr. BUSTAMANTE will join with us in encouraging the Senate to do so. In that event we will give every possible consideration to the amendment which he has offered and I believe has agreed to withdraw.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. BUSTAMANTE. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I certainly have appreciated the opportunity to visit with my colleague, Mr. BUSTAMANTE, about the nature and intent that he sought to improve the impact aid section of this particular piece of legislation.

I want to rise in support of what he is attempting to do. I think his language is fair, appropriate and beneficial and I would like to join with the chairman in working with the gentleman and with our colleagues in the other body to see to it that it is a conferenceable item.

Mr. BUSTAMANTE. I thank the chairman and I thank the gentleman.

Mr. DAUB. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). Without objection the gentleman is recognized for 5 minutes.

Mr. DAUB. Mr. Chairman, I rise to speak for the purpose of entering appropriately into the RECORD at this time my intention.

I thank the Chair for recognition and the chairman of the committee and the ranking member for their interest in helping to perfect this idea as the process moves along.

I have tried to be accommodating over the years and I appreciate the committee's accommodation. It is a good program. I also want the RECORD to show that I rise in support of this legislation and ask my colleagues, in the end, to cast an "aye" vote in favor of the very good work which the committee has done.

With that, Mr. Chairman, I ask unanimous consent that my amendment be withdrawn at this point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Are there further amendments to title IX?

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAXTON: Page 447, after line 20, insert the following section and amend the table of contents accordingly:

SEC. 9204. AMENDMENTS TO PUBLIC LAW 874, 81ST CONGRESS.

(a) Section 3(d)(2)(B)(i) of such Act is amended—

(1) by striking "computed under" and inserting in lieu thereof "of payment resulting from";

(2) by inserting "but not including any cash balance at the end of a year allowed under State law, or, where no State law governing cash balance exists, not including 30 percent of the local educational agency's total current expenditures," after "the funds available";

Mr. SAXTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, this is an amendment which I feel is a very important amendment and one that I would like to take just a few minutes to discuss because of its importance. Before I do that, if I may just indicate to the Members present and to the gentleman from Illinois [Mr. HAYES], who I know has worked so diligently on impact aid problems, and Mr. DAUB from Nebraska and others, that the Impact Aid Program—I had first said problem and it probably is—the Impact Aid Program is one that is of great significance and importance to school districts all around our country. To the extent that it provides aid for our school districts, it has been a great success. However, a "total" success it is not. Our formula to which our statute computes the amount of impact aid to be distributed this year, I am told, would have provided for about $1.2 billion. Our budget this year suggested that we spend about $800 or $400 million less than would have been called for.

Now that is not the fault of the impact aid formula. That has to do with our fiscal situation in our country, but it is a failing in any event, of the system.

The second problem with impact aid is that the way Congress has implemented the formula, the way this House has gone about its business of appropriating from that formula, school districts never know from one year to the next how much money they are going to have to spend. It therefore makes it impossible for them to plan their budget for the succeeding year.

Now I started to look at this problem some time ago and I thought, "Wouldn't it be great if we could just make this program an entitlement program?" As Mr. PORTER mentioned earlier, I introduced a bill to that effect. I was told that approach is unrealistic it is unrealistic because we are not going to create another entitlement program.

That entitlement program would appropriate through an entitlement process the entire $1.2 billion that the program called for. Because of our fiscal situation that is not a practical approach to use, at least this year.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

I just want to rise in support of what the gentleman is undertaking to do. I think it is a creative amendment, a constructive amendment, trying to essentially take unused moneys in a forward funding problem and carry it forward.

I want the record to show clearly that I want to work with the gentleman in supporting his amendment at the appropriate time.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman implying that if the impact aid section were left untouched there would be less money this year than previously allocated for this purpose?

Mr. SAXTON. The amount to be allocated pursuant to the formula I am told is $1.2 billion and we are budgeting this year $800 million or $400 million less than what the formula calls for.

Mr. GEKAS. But the formula remains the same, is that correct?

Mr. SAXTON. The formula remains the same. However, we have chosen not to appropriate the amount that we authorized pursuant to the formula.

Mr. GEKAS. I have been told by my colleague from Pennsylvania that by and large this issue on impact aid will not reach full resolution until conference. Is your amendment geared toward increasing the formula or the allocation of moneys?

Mr. SAXTON. I would say to the gentleman that before I yielded I was about to explain what my amendment would do and I wanted to get the previous statement in by way of background to show the importance of the amendment that I want to present.

Mr. GEKAS. Then I thank the gentleman for yielding.

□ 1240

Mr. SAXTON. So in beginning to approach the problem, and understanding that the entitlement concept and the process to go through was not practical, given the fiscal situation of this year, I began to look, like Mr. HAYES and others, for other solutions.

Together with other Members of Congress, I put together a package of what I thought were reasonable amendments. The other Members of Congress thought they were reasonable, as well, and they formed a package of amendments. They had to do with equalization and they had to do with States that had equalization formulas and a whole raft of things that we perceived to be wrong and unfair in the current formula.

But once again, we were prevailed upon by certain Members, who are certainly well-meaning, please do not do this this year. We are not ready for that in the House. The coalition of States that are concerned about impact aid are not together, and so again, I chose to heed the advice of those who took that position and I have now one simple amendment to offer, and one that I think strikes at the heart of the unfairness of this entire situation. It does not affect all of the other situations, but is one that I consider to be very important.

Certain impacted aid schools are entitled to aid under a program known as 3(d)(2)(B). In order to qualify for that aid, you need to fit into two sets of circumstances. One set of circumstances is that you have to have in the school more than 50 percent of the school children military connected.

(By unanimous consent, Mr. SAXTON was allowed to proceed for 5 additional minutes).

Mr. SAXTON. Criteria No. 1, more than 50 percent of the children in the school must be federally connected. Criteria No. 2 says that in order for Federal aid under the 3(d)(2)(B) to be forthcoming, the school would have to be below the average of certain comparable districts.

Once having fit into those two categories, and I am told that there are a number of schools across the country that fit into that category, once fitting into that category and approaching the end of a budget fiscal year for that school district, the superintendent must look at those books and say, "I am going to have a problem with my 3(d)(2)(B) aid this year because I am not going to be able to spend all of the money that I had budgeted this year unless I hurry up and do so."

So these school districts that qualify for this money have to hurry up and spend their money out, many times in most unwise, fiscally unsound ways, just to get rid of the money so they qualify for their aid for next year.

My amendment simply says that those schools that fit into these two categories can put forward, carry forward, 30 percent of their budget from the previous year without being disqualified for the 3(d)(2)(B) program.

I am told, again, that many people agree with this approach and I have been forewarned that perhaps this amendment will not meet with a great deal of success because of a reluctance, and I understand why, on the part of many here to change the formula piecemeal.

But that is my amendment. I ask for your support for it. I believe it is a good amendment and a real start toward correcting a serious flaw in the Impact Aid Program.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

May I ask the gentleman whether or not it is his intent to have a vote on the amendment or to withdraw it?

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I have been advised that at the appropriate time, and I believe I have agreed, to withdraw the amendment.

Mr. HAWKINS. In anticipation of that, may I indicate my agreement with the analysis given by the gentleman. It is my understanding that in current law, there is no specific provision which would disqualify a school district with carryover funds, but that this is a provision that has been added by the Department of Education through regulations.

Based on that fact, we understand that the Department is currently considering regulations which would allow a carryover, and perhaps——

Mr. SAXTON. If the gentleman would yield on that one point, you are correct, and I did not mean to overstate the fact that there is something in the law. However, there is a provision which permits the Department of Education to communicate to those school districts near the end of their budget cycle that they are, in effect, not going to receive this funding for the ensuing years because they have too many funds left. Frankly, the school districts do not know what to plan for because that is an arbitrary decision made by the Department of Education pursuant to statute or regulation, whichever, and that is what I seek to correct.

Mr. HAWKINS. Regardless, I want to assure the gentleman that in terms of discussing it with the Department of Education, as well as the possibility that it may be an item which will be considered in conference, that we will certainly move to do everything we possibly can to accomplish the goal which the gentleman seeks.

We give you that commitment. I am confident that we will have considerable influence on the outcome in the direction that the gentleman has spoken.

Mr. DYMALLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 5, legislation which is important for the children of our country. This bill reauthorizes one of our most successful Federal programs—the Chapter 1 Compensatory Education Program. Over its many years history, chapter 1 has been responsible for raising the basic reading and mathematic skills of millions of children. As chairman of the Congressional Black Caucus, I must emphasize how essential this program and its services have been for black children fortunate enough to participate.

But far too many children—black, Hispanic, and white—in desperate need of such educational assistance and eligible for the program, have been denied chapter 1 services and the lifelong opportunities associated with them. This is a tragedy for our children and for our Nation.

H.R. 5 makes valuable improvements in the Chapter 1 Program, and importantly, it declares national policy that these critical services will, over time, be provided to all educationally disadvantaged children. That is a goal, a national policy that I hope all my colleagues will embrace, and it is one we can achieve through the modest addition of funds to this program in a planned and incremental way. For if we added $500 million to this program each year between 1989 and 1993, we could fund chapter 1 at a level that would ensure services to all educationally disadvantaged children.

All of us benefit when our children succeed in school and in life. But for millions of black children today, the future does not hold the promise of success. The odds against them are mounting. The poverty rate among all black children under 18 is higher now than at any time since 1967. Each year over 100,000 black children drop out of school, and the numbers of black youth enrolled in college are declining.

Providing additional children chapter 1 services is one step—an important one—toward their future success, achievement and self-sufficiency because this program has been shown to raise the basic skills of participating youngsters. And we know from several studies that the level of a child's basic skills is strongly related to the likelihood of finishing school and finding employment or dropping out and being unemployed, success and hope or failure and despair.

We can no longer write off a large proportion of our children and youth, but must ensure that all children of every race and ethnic group are fully prepared for the future. Reauthorizing the Chapter 1 Program, with important improvements, and then fully funding this program over the next several years is one of the most important investments we can make in our Nation's future.

I urge my colleagues to support this bill, and support its implementation at the Federal, State, and local district level.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, want to join with the chairman in assuring the gentleman from New Jersey that, No. 1, I do not believe the Department has handled this very well. They do not tell you how much carryover money you are going to be allowed to carry over until the last minute, or even after the last minute. It makes it very difficult to plan.

Second, I want to assure the gentleman that as they write these regulations, we from the committee will certainly indicate to them that we think that your provision of a 30-percent carryover is a good provision and that we believe that they should make the regulations once and for all so that the school districts know exactly where they stand, and furthermore, that we will do what we can do in conference—I would think this would become a conferenceable item before the Senate is finished with their deliberation and do everything in conference to support the gentleman's initiative.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, if I may ask the gentleman, he indicated that this would be a conferenceable item. I was wondering, pursuant to what has happened here today, would that automatically make this a conferenceable item in your opinion?

Mr. GOODLING. I cannot give the gentleman a legal interpretation. I would think, however, that before the Senate is finished, impact aid will be written differently than we have provided here in the House, and therefore, I think it would become a conferenceable item.

Mr. SAXTON. Mr. Chairman, I thank the chairman of the committee and the vice chairman of the committee for their consideration, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. COATS

Mr. COATS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COATS: In title IX, part C, insert after section 9301 the following new section:

SINGLE STATE APPLICATION; FAMILY IMPACT

SEC. 9302. Section 435(b) of the General Education Provisions Act is amended—

(1) in paragraph (8), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and following new paragraph (9):

"(9) that the State educational agency, in developing the application and in administering the programs covered by the application, has taken and will take into account the impact that the operation of such programs will have on the family.

Mr. COATS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. COATS. Mr. Chairman, this amendment would require that State education agencies to include in their applications for Federal money in the State grant programs an assessment of how their use of the money would affect the family.

One of the things that I think all of us have learned in the educational process is the importance of the role of the parents in the educational process.

This bill recognizes this, and I commend the chairman and the ranking member and others on the committee for incorporating into the bill a number of procedures which do that. This amendment simply expands the concept to assess the impact of a number of programs contained in the bill on the family.

If we agree, and I think we all do agree that the family is a key element in the educational process, then I believe it is important that we know what the impact of the particular program is on the family.

With this information, we can better assess these programs and better define how the parents should be involved in the programs.

I would urge and appreciate the committee's support.

□ 1250

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the chairman of the committee.

Mr. HAWKINS. Mr. Chairman, let me assure the gentleman that we accept his amendment on this side.

Mr. COATS. Mr. Chairman, I thank the gentleman.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we also accept the amendment on this side.

I do want to make sure that the Department of Education understands that we are not looking for a lot of rules and regulations and we are not looking for a lot of paperwork. It seems to me that the applicant merely says that in their estimation the program they are recommending also takes into consideration the family.

Sometimes the Department, whether it is this Department or any department, gets carried away. I want to make sure they understand that we are not looking for a lot of paperwork and we are not looking for a lot of rules and regulations that could be misinterpreted.

Mr. COATS. Mr. Chairman, I have discussed this matter with the Department of Education, and they assure me that the inclusion of this will not amount to any significant increase in the amount of administrative burden or paperwork burden. They estimate no essential additional cost with this amendment.

I agree with the gentleman, we do not want to load on additional administrative burdens for the State education agencies or the Department of Education. Hopefully, this will direct us toward the stated purpose of the amendment, and that is to determine what the assessment of the benefit of the particular program is to the families.

Mr. GOODLING. Mr. Chairman, if the gentleman will yield further, with that understanding, we are happy to accept the amendment.

Mr. CHAIRMAN pro tempore (Mr. GRAY of Illinois). The question is on the amendment offered by the gentleman from Indiana [Mr. COATS].

The amendment was agreed to.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 5, and I commend the committee chairman, the gentleman from California [Mr. HAWKINS], and the ranking member, the gentleman from Vermont [Mr. JEFFORDS], on a very thoughtful, careful reauthorization and expansion of chapter 1.

AMENDMENT OFFERED BY MR. DAVIS OF MICHIGAN

Mr. DAVIS of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Michigan: Page 447, after line 20, insert the following new section (and amend the table of contents accordingly):

SEC. 9204. METHOD OF MAKING PAYMENTS.

Effective October 1, 1988, section 5(d)(2) of the Act of September 30, 1950 (20 U.S.C. 240) is amended by striking clause (ii).

Mr. DAVIS of Michigan. Mr. Chairman, let me explain what this amendment does. It involves impact aid in those States—and there are eight States—that do deduct money from the State allocation to the States from impact aid. In other words, let us take as an example my State of Michigan where we have numerous school districts that receive impact aid. The impact aid goes back to the school district, and then in our case the State is deducting the amount of money that normally would go to that school district, deducting the amount that is given in impact aid. There are eight States, as I have indicated, that have this same problem.

We have talked to the gentleman from Michigan [Mr. FORD] and we have talked to the gentleman from Pennsylvania [Mr. GOODLING] actually for a number of weeks in trying to work out a proper solution to this, and I would have to say, frankly, that my amendment is just introduced as a means of being able to reach a satisfactory conclusion to this particular issue.

The amendment in and of itself, which I may withdraw, merely says that that section which allows the State to deduct money would expire in 1 year's time.

Mr. Chairman, I would now like to engage my friend and colleague, the gentleman from Michigan [Mr. FORD], who knows a great deal about this particular issue, especially as it relates to my State, in a colloquy.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for yielding.

The problem arising under subsection 5(d)(2) of Public Law 81-874 which permitted States that had true equalization to take account in their equalization of moneys received from the impact aid formula. That contemplated a true equalization where they equalized the educational opportunity for every child, no matter whether they went to a wealthy school district or a property poor school district.

On examination, as a result of the gentleman's efforts, we find that seven States—Alaska, Arizona, Kansas, Maine, Michigan, New Mexico, and Wisconsin—have been permitted by the Department to take advantage of this opportunity to divert money or offset it against State aid from impact aid districts, and if we look at the way in which the seven States do it, they are each a little bit different.

On the one end of the scale, you have a State like New Mexico, which the Department tells us pays for 90 percent of the cost of operating the local school districts from State funds, and you go in the other direction from that State down. With the 90 percent, this kind of provision seems to make some sense, but when you look at the districts in the gentleman's district, it does not make much sense at all.

I am frankly shocked that our legislature in Michigan would have done this. Both the gentleman and I served in that legislature, and would that we had been there when this was being done. If any of my colleagues were there then, I forgive them because they must not have noticed it. But the fact is that we have a very strange system in Michigan. Out of the $7.5 million which the State gets, which is not very much, of the total $7.5 million, almost $5 million of it is earned for the State by two school districts, both in the gentleman's district, which is in the northern part of our State.

Now, on average the State takes back from the impact aid school districts 95 percent of the money that they receive for impact aid. This stands the whole purpose of the program on its head because the purpose of the impact aid is exactly what the title means, to recompense a local school district for the impact of federally generated children which become a financial burden on the local school district, and if indeed we give that local school district money to offset the Federal activity and then the State finds a way to offset that money against State aid, the net result is that we have not done anything to help that school district with the Federal money at all.

What is even more distressing about the Michigan attempt to do this is that Michigan has in its formula those districts that are considered in formula and out of formula, and roughly a school district that is in formula is one that is so poor in terms of local assets that it needs State aid. So the poorer it is, the more it gets from the State.

There are some that are called out of formula, and if we look at the some 23 school districts in Michigan that get impact aid, we will find that about half of them are in formula and about half of them are out of formula. The really crazy thing about this is that both of the gentleman's districts are in formula, which means they are not rich school districts. They get a big chunk of their money taken away from them, but the other half of the school districts that are in formula keep all of their aid money.

If that makes sense to any educator at the State or Federal level, they will have to explain it to me better than it has been explained so far.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The time of the gentleman from Michigan [Mr. FORD] has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. DAVIS of Michigan was allowed to proceed for 4 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, I have worked on the Impact Aid Program now for the 23d year. My very first bill, within months after I came to Congress, was successfully passed and became a public act, and that was to increase impact aid for construction of Public Law 815 provisions. I have been a consistent supporter all these years, but I have never seen an education lobby that has done such a successful job of creating confusion as this one has. The chairman and the ranking Republican member and the other members of the committee have worked very diligently through this very complex bill. We have solved public school-private school problems which a year ago we thought would be insurmountable, we have solved problems having to do with parental involvement, and we have solved problems that existed with bilingual, and a lot of controversies that have plagued us in the past have gone through very easily. But then suddenly a smooth-running program that ever since 1951 had never really been seriously challenged on this floor finds itself with no supporters, except those few Members who have been up here offering amendments that are ill-fated because it is too late and we cannot put the pieces together without having them totaled before us.

I am not as optimistic as the gentleman from Pennsylvania [Mr. GOODLING] that the Senate will have a different provision on impact aid, but if there is anybody here within the sound of my voice that represents impact aid, they ought to be put on notice right now that if the Senate does not have provisions for impact aid in the bill that meet our needs—and I am guessing, only guessing—sometime next year, when we go to conference with the Senate on this bill, there will be no conference on these items, and there will be no opportunity for them to get the remedies they are seeking.

So I am really telling them that they had better get to work and do a better job than they have done here. They have let down the people who represent their districts. I am not aiming this at the gentleman or his specific districts, but I say that as an association the wheels have come off the buggy, and it is about time somebody told them that.

I am glad that the gentleman has let me impose on his time to serve notice on them that that is the position they are in. If there is somebody back home who is relying on them to continue doing a job for them, they had better start looking at what they are doing, because this was the poorest-handled section of the entire bill, and in trying to accommodate the warring factions within impact aid, what we succeeded in doing was divide all the committee so we could not reach a consensus, even on matters that on their face, like the gentleman's amendment, seemed eminently reasonable and rational and representing things that ought to be done.

I hope that we will have a chance between now and next year when we go to conference to get the players in this game together and come up with a rational way to approach the gentleman's problem, as well as the problems of others that are presented here by Members who withdrew their amendments. I appreciate the consideration for the committee and the hard work done by the chairman and the minority members in withdrawing their amendments.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. DAVIS] has again expired.

(By unanimous consent, Mr. DAVIS of Michigan was allowed to proceed for 4 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield further, just briefly?

Mr. DAVIS of Michigan. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I will tell the gentleman now that if this gets a chance in conference, I will be supporting the gentleman's position.

Mr. DAVIS of Michigan. Mr. Chairman, I would like to further engage my colleague, the gentleman from Michigan [Mr. FORD], in colloquy on another point. He has done an excellent job of explaining the problem in my particular State and in my particular area, and as he is well aware and as others are aware, if we solve one problem in one State, we have to solve a problem in another one. I indicated that there were eight States involved, but there are actually only seven States.

My question is this: My amendment merely says that this section of the bill, the one that allows a State to deduct, shall expire on October 1, 1988. That is what it does, and the reason I provided that was to be able to have something that we could go to conference on.

My question is this—and anyone who cares to answer it may answer—if we do nothing, if we pass nothing on this particular issue, does that mean that we will not be able to go to conference on this, if in fact the Senate does not do anything on it? Am I correct in that?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, the problem arises that this legislation merely reauthorizes the current law, and if the Senate were to merely reauthorize the current law with no different provision from what we have had before, then that item is not open in conference for any debate. So the conference ability on this issue will depend on whether or not between now and next year the impact aid people are able to make their case with the Senate and present us with some alternative that we can work with.

□ 1305

They have not successfully presented us with alternatives, and I do not blame the chairman and the ranking member for taking the position that they have taken on this.

Mr. DAVIS of Michigan. Mr. Chairman, my amendment only says that, if this particular section of the law expires on January 1, 1988, and I am wondering if we could get an agreement by the chairman of the committee, and two subcommittee chairman, to go ahead with this amendment, because it will have no adverse effect.

It just gives us an opportunity to be able to go to conference and means that we will have a conferenceable item.

It does not really have that much affect, but it does affect the gentleman from New Mexico [Mr. RICHARDson], his State. The idea is to be able to come up with an agreement that will solve the problem in this gentleman's State, as well as it would in mine.

This amendment will give us an opportunity to go to conference. It does not say anything other than it expires on October 1, 1988.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. Mr. Chairman, I yield to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was hopeful that the gentleman from Michigan [Mr. Davis], my good friend, would consider what I thought was the original agreement; and that is, that the gentleman withdraw his amendment, and in conference we deal with the gentleman's concern.

If we proceeded with this amendment, and basically sent the signal that it is going to end by 1988, in communities like mine and the eight other States affected, it would have a very, very negative effect.

I recognize the gentleman's problem. I agree with the view of the gentleman from Michigan [Mr. Ford] that this program needs some review.

But once again, I would strongly urge the gentleman from Michigan [Mr. Davis], my good friend, to work with us to see if we can reach some kind of agreement, but do so in the context of the conference.

We do not know what the other body is going to do.

The gentleman from Pennsylvania and the gentleman from Michigan [Mr. Ford] has stated that they are willing to consider some changes.

I would urge the gentleman from Michigan [Mr. Davis] not to deprive us of that option by going forth with his amendment.

Mr. DAVIS of Michigan. Mr. Chairman, I suppose that that is probably what we are going to end up doing.

I remind the gentleman from New Mexico [Mr. Richardson] that if the other body takes no action on this section of the bill we have nothing to go to conference on. That solves this gentleman's problem but it does not solve about five other States' problems.

I am trying to accommodate the gentleman from New Mexico and the other five States.

Alaska and New Mexico have a special problem. The other five States need a change.

The CHAIRMAN pro tempore (Mr. Gray of Illinois). The time of the gentleman from Michigan [Mr. Davis] has again expired.

(By unanimous consent, Mr. Davis of Michigan was allowed to proceed for 2 additional minutes.)

Mr. DAVIS of Michigan. Mr. Chairman, my point is at this time we have not figured out how to solve the problems of the other five States.

That is the only thing I am concerned about, and I guess I have the concurrence of both the minority and the majority that they will do everything they can to see that we resolve this problem.

I would be willing to withdraw it if we can.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. Goodling].

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman has my assurance that we will look at all of these issues.

I am sure that the other body will do everything differently than we have done in impact aid.

I would suggest that the gentleman make very sure that it happens by doing some really good lobbying and making sure that the organization, as the gentleman from Michigan [Mr. Ford] said, get their act together.

We would have been very happy to entertain many things if we could have ever found out what it was that they wanted to do as a group, but we could not find that out.

Mr. DAVIS of Michigan. As the gentleman from Pennsylvania [Mr. Goodling] is well aware, I am not a Johnny-come-lately on this issue.

I have been talking to the gentleman, and to the majority side, for weeks and weeks on this particular issue trying to get some kind of a consensus that would solve the problems of all seven States.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. Mr. Chairman, I yield to the gentleman from California [Mr. Hawkins].

Mr. HAWKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I quite agree with the gentleman from Pennsylvania [Mr. Goodling]. We will do everything we possibly can.

We have given that assurance to you and the other Members that have amendments that affect the same issue.

We are confident the other body will do something different, and that there will be the possibility of a conference; and we will work with the gentleman from Michigan [Mr. Davis] to accomplish what the gentleman is intending to do.

To do otherwise, I would say, is a greater risk. If this is voted down, it will discourage the issue before the conference committee and place the gentleman in a worse position.

I am not assuring the gentleman an ideal situation.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. Davis] has expired.

(By unanimous consent, Mr. Davis of Michigan was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield further, I think the course we are pursuing is certainly the less risky course.

I would encourage the gentleman from Michigan [Mr. Davis] to withdraw his amendment rather than risk what may be a rejection of the amendment.

Mr. DAVIS of Michigan. Mr. Chairman, based on the strong indication from the gentleman from California [Mr. Hawkins], the chairman, and the gentleman from Pennsylvania [Mr. Goodling], and the gentleman from Michigan [Mr. Ford], I will withdraw my amendment and certainly expect that we will resolve this issue in conference.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan to withdraw his amendment?

There was no objection.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 161, after line 18, insert the following:

(4) Teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

Mr. JEFFORDS. Mr. Chairman, I just want to take a moment to talk about what we ought to be concentrating on, and that is the teachers of this country.

This adds to the findings of fact in chapter 2 that, of course, teachers make a very significant and wonderful contribution to the educational process and that it would be a good idea for local educational agencies in this country to recognize that fact.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman from California [Mr. Hawkins].

Mr. HAWKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this gentleman is very willing to accept, and at the same time, to commend the gentleman from Vermont [Mr. Jeffords] for the gentleman's contribution to this subject, and for the statesmanlike manner in which the gentleman has helped both the ranking minority member on the subcommittee and me.

Mr. GOODLING. Mr. Chairman, I, too, want to join in supporting the amendment. I am married to an outstanding teacher and I think she does not receive enough recognition.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I just want to take a moment to again thank the chairman and the ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. Goodling], for the tremendous work they have done on this bill. I think that has been exemplified by the fact that we have had little controversy over the tremendous areas of potential conflict that existed in the committee. We have taken the time to try to find the answers, and although we obviously have some areas, that some Members are not happy with, above all we have kept in mind the value of this program and I think we have come up with an excellent bill, as demonstrated by the fact that we are going to get through here without a vote until final passage.

Mr. PENNY. Mr. Chairman, I move to strike the last word.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of H.R. 5, the School Improvement Act of 1987. I especially want to applaud the committee's actions on this important legislation and its improvements in chapter 1, a program which reaffirms the Federal commitment to quality and excellence in education for all students.

Chapter 1 has been critical to my congressional district. For example, North Avenue Elementary School in Sacramento, CA, which has about 360 students, 238 of which come from families receiving public assistance, has been cited for its educational excellence, in large part as a result of this program.

Three years ago, however, at North Avenue, fewer than 50 percent of the students between grades one and six achieved test scores at their grade levels or above. Today, I am pleased to report that 95 percent of the first graders and 92 percent of the sixth graders tested at their grade level or above. These changes would not have occurred without chapter 1 and the use of the schoolwide program.

Although under current law, schools with 75 percent or more poor children are permitted to implement schoolwide projects, this provision has not been widely used, primarily because a matching contribution by State and local funds for every child who does not meet chapter 1 eligibility is required. Consequently, less than 5 percent of schools that are permitted to operate schoolwide projects take advantage of the program.

H.R. 5 eliminates this matching provision and the administration burden associated with it and will mean that a greater number of eligible schools will participate and receive the benefits of using schoolwide funds. These funds, therefore, can be used in a number of ways, such as to reduce class size, an issue which has been of great concern to California, especially since we have such an unacceptably high student/teacher ratio.

For many of our Nation's students, learning is a challenge looked upon with vigor; however, for many disadvantaged students, it's a major challenge to merely get through each school day. These students need special attention. The reauthorization of chapter 1 and other important programs contained in H.R. 5 will enable us to reach these children and continue the work we have begun and reduce reliance or more drastic welfare programs for these children later on in life.

Mr. PENNY. Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act of 1987. This measure is the product of a year's work on the part of the Education and Labor Committee, of which I am a member.

H.R. 5 is a comprehensive measure that reauthorizes a number of elementary and secondary education programs, including the Math and Science Education Act, the State Education Block Grant Program, adult education, as well as a number of other, smaller, programs. The primary focus of the commitee's work over the last few months, however, has been in reauthorizing the chapter 1 program. The largest and most successful national program of assistance to elementary and secondary education, chapter 1 services are provided to disadvantaged students in both public and nonpublic schools. Currently, 5 million children are served.

As approved by the committee, the bill strengthens methods for service delivery, expands access to more eligible students, and provides for more parental involvement in local chapter 1 programs.

Mr. Chairman, recently I had the opportunity to meet with students, parents, teachers, and school officials in my district to discuss chapter 1, and I learned first hand the results compensatory education bring to students. In all the schools I visited I found enthusiastic students and teachers who presented me with documentation of the success of their chapter 1 programs. The fact is, Mr. Chairman, that chapter 1 students on average score higher than other students on standardized tests and most pursue a postsecondary degree.

Mr. Chairman, for many students, chapter 1 is the difference between success and failure in school. If agreed to, H.R. 5 will insure that chapter 1 programs continue. I commend Mr. Hawkins, the chairman of the committee, and the gentleman from Pennsylvania [Mr. Goodling] for their leadership in developing this bill.

I urge a vote in favor of H.R. 5.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Texas.

Mr. ANDREWS. Mr. Chairman, the School Improvement Act represents the Federal commitment to America's schoolchildren and public education at a time when the competitiveness of our Nation is more dependent than even before on a strong educational system, and I heartily endorse its passage.

Today in the United States, 27 million adults cannot fill out an application or read a newspaper, cannot maintain a checkbook or understand the warning label on a bottle of medicine. An additional 47 million people have only marginal abilities to perform these tasks.

Illiteracy in our Nation poses both a financial and emotional impediment to progress. The cost to our economy is enormous. Illiteracy feeds crime, unemployment, and economic dependence and saps the strength of our Nation.

In addition, 90 percent of all high school graduates are scientifically and technologically illiterate. Our students' math skills are ninth out of 12 industrialized nations. Astoundingly, one-third of all entering college freshmen in the United States regularly read below a seventh grade level.

The House of Representatives cannot afford to ignore these statistics.

Education is the key to empowering our economy. Franklin Roosevelt recognized this central fact a half century ago when he said:

> The only real capital of a nation is its natural resources and its human beings. So long as we take care of and make the most of them, we will survive as a strong nation * * *. If we skimp on that capital, if we exhaust our national resources and weaken the capacity of our human beings, then we shall go the way of all weak nations.

Forty-eight years later, the fundamental truth of Roosevelt's statement has been realized. To empower our economy, this Nation must rededicate itself to education.

The School Improvement Act does this by extending Federal programs for aid to elementary and secondary education. In addition, programs are authorized for mathematics and science education, gifted and talented children, drug education, dropout prevention and technology education.

These programs represent the Federal Government's commitment in assisting the educational reform movement.

There are those who argue that this Nation cannot afford these investments in empowering our people and our economy. To the contrary, we can no longer afford to neglect them.

A nation that cannot or will not educate its people is not a nation bound for greatness. The test of genuine patriotism today is our willingness to invest our personal and national treasure in the skills and talents of our young people—the future of our Nation.

The CHAIRMAN pro tempore (Mr. GRAY of Illinois). The question is on the amendment offered by the gentleman from Vermont [Mr. JEFFORDS].

The amendment was agreed to.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know we are finishing the bill. I am not a member of the committee, but I am a member of the Subcommittee on Appropriations for this bill. I just want to relay, I think I can speak for most of the members of our subcommittee, that we are very happy that this bill has come to final passage early before our markup in mid-June.

I think there are some basic elements of this piece of legislation that have needed national attention. I think compensatory education in chapter 1 is really the hallmark of this bill.

I believe our subcommittee will add additional funds to help more young American children who need that help at that funding level to improve the quality of education in America.

I also noticed that there is a gifted and talented program in there. I believe it is $25 million for 5 years. I think that is a step to the Biaggi bill that we debated last year. I hope the Senate looks favorably on that particular segment.

I just want to say to this bill and to the leadership on the Democratic and Republican sides, that I wish our foreign policy and national issues could take a lesson in bipartisan work on this particular bill. They have worked hard in the subcommittees and full Committee on Labor and Education to put an excellent bill together for this country.

I think it is time that we look back to the days of the Truman-Vandenberg history of foreign policy, that we could take a lesson from the various leadership on this subcommittee and full committee. I want to congratulate this group on this bill. I am going to fully support it on final passage.

Mr. OWENS of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 5.

Mr. Chairman, the School Improvement Act of 1987 (H.R. 5) is the most important piece of legislation that we in the Congress will enact as it relates to the children of our Nation, and ipso facto the security and future of our great society. Indeed, it most probably is paramount to any other piece of legislation that we will consider in this historic 100th Congress.

H.R. 5 provides educational opportunity for all socioeconomic classes, and does it in a manner that facilitates the continued growth and development of the Nation as a whole, but more specifically, the growth and development of poor and minority children in our Nation.

Mr. Chairman, I represent a congressional district which is the 10th poorest in the country. My district has a significant percentage of schools which are in total chapter 1 schools. This monumental legislation, which has my devoted support, enables me to tell my constituents that the future of the education of their children is a priority in this Nation. H.R. 5 enables the parents of my congressional district to be able to participate in the growth and learning processes and learning environments of their children, participation, which research and data bears out, that is necessary for completion of high school and participation as a valued citizen in the American society.

As a result of the improvements in chapter 1, the parents of my congressional district now have an avenue to participate in the educational planning of their children. In addition, these parents can now request that they are made aware of the amounts of funds that are being spent on parent involvement activities by their local educational agencies, and in conjunction with the local educational agencies, determine what activities most benefit and facilitate the learning processes of their children.

Recognizing the oftentimes erratic working conditions and hours of the working poor, the Education Committee has in its wisdom seen fit to include the in loco parentis concept in the bill. This concept allows parents who are not able to attend important meetings, seminars, conferences, and various other learning sessions on the attainment and achievement of their children to designate a parent representative. This concept is very important not only for the working poor, but also for disabled parents.

While this bill does not go as far as I would have liked to have seen in the areas of legal recourse for parents who have complaints against the local educational agencies with respect to compliance with the law, H.R. 5 does state that all policies shall be made available to the parents of children participating in chapter 1 programs, and it is expected that these policies are inclusive of policies of legal recourse which are available to parents.

Mr. Chairman, one of the greater strengths of chapter 1 is the inclusion of librarians in the process of formulating educational plans and working with parents in this formulation. This is most important because librarians are the greatest resource persons for current information, books, and learning and resource aids which are most effective to provide specific help to the educationally disadvantaged.

Mr. Chairman, chapter 2 also has been significantly enhanced in H.R. 5. Prior to the Education Consolidation and Improvement Act of 1981, libraries had separate legislation which assured the continued existence and expansion of learning and resource centers in elementary and secondary schools. The bold steps taken in H.R. 5 now reestablishes the national demand for librarians to be a part of the total grant application process and includes librarians as eligible representatives to the Governor's advisory committee—the committee which advises on the content and formulation of the chapter 2 plan for the State.

As a result of the high levels of poverty in my congressional district, impact aid is of critical concern to the people of the 12th Congressional District of New York. Impact aid helps to ensure that those children living in the various public housing facilities of my congressional district will receive appropriate education.

The education of the handicapped is well served in H.R. 5 and I sincerely hope that when this bill leaves the conference committee that this section remains intact as it presently stands.

In conclusion, Mr. Chairman, let me say that this piece of legislation was well crafted. I commend the Education Committee, the staff, and all of the Members of the House who participated in the creation of this legislation and I anxiously await our passage of the bill.

The CHAIRMAN. If there are no further amendments to title IX, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—GENERAL PROVISIONS

SEC. 10001. DEFINITIONS.

Except as otherwise provided, for purposes of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of this Act.

SEC. 10002. BUDGET ACT PROVISION.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 10003. EFFECTIVE DATE.

Except as otherwise provided, this act shall take effect October 1, 1987.

Mr. MURPHY. Mr. Chairman, I want to commend Chairman HAWKINS for his efforts in bringing H.R. 5 to the floor. H.R. 5 reauthorizes virtually all of the Federal funding programs to elementary and secondary education. Only vocational education and education of the handicapped are not included. This bill was reported with bipartisan support by the Education and Labor Committee and is supported by teacher organizations and State and local school officials. The Education and Labor Committee has produced a bill that encompasses such issues as gifted and talented education and adult illiteracy. My colleagues and I on the committee are proud that we have fashioned a bill that will benefit so many people. We as a nation must provide all of our citizens with every opportunity for an education.

Chapter 1, the largest Federal Elementary and Secondary Education Program, is designed to help low-achieving students in low-income areas. It funds programs for handicapped, neglected, and delinquent children. Chapter 1 is essential to providing education to these forgotten children. This year two programs have been added to insure maximum participation in education. The new Even Start Program teaches parents basic skills as well as involve their preschoolers in educational projects. The problem of parents not being able to help with their child's education has been overlooked in this fast-paced era. The new Dropout Prevention Program is a must if we do not want to be looked upon as a society who does not care if our children stay in school and get a good education.

The Gifted and Talented Program meets the needs of these students who otherwise would find a regular classroom dull and uninspiring. The Drug Education Program is a great necessity in our society today. We have to educate our children about the fact that drugs do not make life any better and can only make life worse if relied upon.

H.R. 5 authorizes funding for adult education programs. Teaching basic literacy skills which enable adults to then go to high school and benefit from employment-related training is essential if we are to progress as a competitive nation.

The committee struck a compromise on the controversial subject of bilingual education. Children with little or no proficiency in English are at a disadvantage when they enter school and can fall behind quickly. English is the basis in all of our schools. If the student does not understand enough English to learn other subjects how can he become a productive citizen? These students are prime candidates for the dropout roles and unemployment lines.

If the United States wants to compete we must educate all of our citizens. An educated well-informed population is the most valuable asset any country can have.

Mr. RANGEL. Mr. Chairman, I rise today to express my support for the School Improvement Act of 1987 which reauthorizes major Federal aid programs for elementary and secondary schools across the country.

One of the things this Nation and the Congress have grappled with over the years, particularly in recent years, is the setting of priorities for our Nation's future. Not just in terms of how we want to set priorities for our individual constituencies, but how we want to set the agenda for the future of the Nation as a whole. The questions that we quite often find ourselves faced with here in the U.S. Congress are: Where do we spend the tax dollars? Where do we put emphasis in terms of looking for a brighter tomorrow? Simply put, it is a question of having the foresight to properly plan for meeting head-on the problems this country is destined to face down the road.

If it has not been clear before, then it is now more clear than ever that we need to strengthen our efforts in the area of education. In all of the planning and budgeting for the future, this is where we can really make a mark. This is an area where a good bit of this Nation's resources are sorely needed.

In my own congressional district, the 16th District for the State of New York, a clear and convincing case has been made for the passage of the School Improvement Act of 1987. Schools have not done well in the 16th District for about the last two decades.

In a recent survey of preschool age children in New York City, it was discovered that about half of all schoolchildren entering the public school system at the kindergarten level come from homes where no English is spoken. More than 30 percent of all children aged 4 live below the povertyline. And the number of minority children in the city's public school system is growing at a rapid rate. The 1980 census reported that nearly two-thirds of the 4-year-old public schoolchildren in New York were either black or Hispanic. At least one projection says that the minority population of New York City will rise to near 60 percent by the end of the century. Many studies have indicated that poor and minority children, whether in New York or some small town in some other State, have a greater tendency to drop out along the way.

Given these facts, there is reason to worry about improvements to our educational system at the elementary and secondary level. We would be shirking our responsibility by not passing this important piece of legislation.

For those of you who say we should find alternatives to change and upgrade besides Federal aid, let me again use my district as an example, and this time as a shining example.

Realizing that one of the ways to improve education is through giving kids an early start, New York City will phase in over a 4-year period a universal education program for 4-year-olds. Operating under a 10-point set of guidelines that features increased parental involvement, better pupil review and more frequent staff training, New York will become the only city in the country with a full-fledged education program for its 4-year-olds.

So you see, New York is trying to help itself. It is not sitting back entirely dependent on the Feds to step in and answer the problem with dollars and more dollars. I imagine that there are other school systems throughout the country that are doing all they can to improve the qualify of educational training they are giving to their elementary and secondary pupils.

As legislators, we need to do our part to make sure that these school systems and their respective students will have the necessary resources to accomplish these important objectives aimed at improving education.

All of the problems that we are coming in contact with now that can be traced to an educational shortcoming of one type or another—such as adult illiteracy, deficiencies in math and science, less-than-adequate teacher training, a need for more bilingual education and lack of resources in our public schools, especially in our inner cities—are addressed in the School Improvement Act of 1987.

The School Improvement Act of 1987 is an investment in our future, an endorsement of the platform that America needs to look first toward providing for the adequate education of its youth. There has been debate in recent years about the quality of our education when matched up against that of some other Western nations, such as Japan. Let's take this opportunity to end the debate once and for all, and get on with the work ahead of us to show our young people that we care.

You build on tomorrow by taking care of business today, and the leaders and contributors of the future deserve our present attention.

I urge my distinguished colleagues to support the School Improvement Act of 1987.

Mr. AuCOIN. Mr. Chairman. I want to commend the chairman and the committee for their work on this bill. It is a good bill, and it clearly responds to the needs of our schools now and in the future.

The committee has done its homework. My constituents who have monitored the development of this legislation tell me that it rates an "A."

There are 40 million Americans who have a surpassing interest in this bill, but they have no voice in making policy. They do not vote. They don't lobby. They aren't aware of our debate today.

But 40 million schoolchildren depend on us to make the right decision. The depend on us to make sure they have the greatest possible opportunities to make the most of their lives.

They are the future of this country. And the questions they will ask a few years from now are questions we must be prepared to answer today.

They will ask: Did we clear the obstacles to opportunity—the barriers of poverty and prejudice—so that everyone had every chance to make the most of their abilities? We must be able to say yes, we did.

They will ask: Did we demand of each child sufficient effort to learn basic skills, so that each could succeed and contribute something back to the society that nurtured them? We must be able to say yes, we did.

They will ask: Did we train them to work and compete effectively in a global economy, where rapid changes and new technologies demand quick intelligence and flexible minds? We must be able to say yes, we did.

Mr. Chairman, the basic responsibility for our schools remains with local leaders. But programs in this bill can spark innovative projects and highlight the most successful initiatives.

Chapter 1 programs serve over 47,000 children in Oregon. These programs have become an essential part of the landscape, fulfilling our national commitment to full opportunity for all students, regardless of whether they or their schools are rich or poor. The committee is to be commended for continuing and adding improvements to chapter 1. I appreciate the concentration grant formula for distributing funding above current levels to districts with higher proportions of children in poverty.

Oregon schools are among the leaders in compensatory education. Portland Public Schools was recognized recently for exceptional success in teaching disadvantaged children in reading, math, and language arts.

More than 8,000 students drop out of school in Oregon each year, despite the creative efforts of our teachers and districts. While the causes are complex, there is no question we can do an even better job of challenging marginal students to remain in school and to acquire basic skills. With the bill come new resources to do this, and I welcome these provisions.

Finally, Mr. Chairman, I want to mention the math and science education programs, which are investments we cannot afford not to make. In Japan 21 percent of college students are studying engineering, while our number is only 6 percent. We have to do better if we are going to pass along to the next generation an economy that's on the same map as our global competitors. The place to begin is in grade school, where interests and incentives are embedded, and the time for a new effort is now. I support the provisions in the bill for math and science education, and will work for more adequate appropriations for these investments.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise today to thank my colleagues on the Education and Labor Committee for their diligent efforts to bring the School Improvement Act to the floor. This omnibus reauthorization bill is an excellent package, offering us the opportunity to focus our attention on the wide variety of assistance provided by the Federal Government for essential education programs.

For too long State and local school agencies have borne the brunt of deep cuts in vital programs. While the results of these cuts may not be as tangible as cutting funds for a new water project, the long-term impact will be far greater. Unlike the water project, which we could fund at a later date, we face a difficult task when trying to make up for lost educational opportunities. H.R. 5 may not repair the damage that has been done to school systems over the past 6 years, but it goes a long way to ensure reliable and consistent programming for the next 6 years.

While the package offers impressive increases for many programs, the increases for chapter 1 and reauthorization of the Impact Aid Program are particularly important to my home State of North Dakota. With more than 10,000 students in North Dakota who qualify for chapter 1 funds and more than 9,000 who qualify for impact aid funds, these two programs account for more than $16 million in Federal assistance to the local education agencies across the State each year. These funds are a vital component of the State's effort to provide quality education for all students in North Dakota.

A few weeks ago, this body debated trade legislation and the problems caused by the outrageous trade deficit. As we look at the challenges we must meet to overcome this deficit, it is clear that one of the most effective solutions is a well-educated population equipped with the knowledge to enable us to proceed into the 21st century as a leader in technology and innovation. H.R. 5 recognizes this need by increasing the authorization for the Math and Science Education Program, for the Gifted and Talented Students Program and a host of other important programs.

It is my hope that the Appropriations Committee will see the wisdom in this reauthorization package and will follow its lead by ensuring that adequate funds are available for the wide variety of education programs reauthorized in the Schools Improvement Act.

Mr. FOGLIETTA. Mr. Chairman, I rise today in strong support of H.R. 5, the School Improvement Act.

The future of our country depends on education, a strong educational base is essential for all industrial and military development, as well as for our general prosperity, Of those who support the Reagan education budget, I would ask, how will the United States remain competitive in the world marketplace if we continue to underfund and eliminate those very programs, such as math-science teacher training, which help increase our competitiveness? How can we work to eliminate drug abuse among our Nation's youth if we reduce current funding for drug abuse education and prevention programs by 50 percent? How will we reduce the need for public assistance if we do not adequately fund chapter 1 compensatory education programs now?

We can no longer skew our priorities in favor of Pentagon spending at the expense of vital domestic program funding. If our manufactured goods are to compete in world markets, for example, we must work to improve the literacy of our citizens. One recent survey revealed that 57 percent of Americans in their early twenties could not decipher a street map. The National Alliance of Business has repeatedly warned that the "less well-educated" segments of our population will continue to grow unless we act quickly and decisively. These findings have grave implications for U.S. manufacturing. With an uneducated work force, we will not see enough innovations coming from workers on plant floors. With an uneducated work force, employees will not understand the nature of an error, and, consequently, the same errors will be repeated. In the end, an uneducated work force will result in products of poor quality and a manufacturing industry unabled to adapt to change.

H.R. 5 addresses many of the problems in the administration's education budget. This bill recognizes that the Federal Government must work with State and local governments by providing adequate funding for such programs as compensatory education, education block grants, and impact aid. Education must be a high priority for all citizens, and this bill provides the necessary resources to achieve excellence in American education. I urge my colleagues to support H.R. 5.

Mr. HEFLEY. Mr. Chairman, I rise today in support of impact aid.

The Impact Aid Program provides vital financial assistance to many local school districts that are financially burdened as a result of Federal activities or Federal ownership of land. The burden on the school districts is the removal of land from the local tax base. Federal funds, in the form of impact aid, attempt to replace the moneys lost due to this Federal presence.

In my congressional district I have over 10 school districts which are dependent on impact aid funding. These school districts rely on this funding to pay for their general operating expenses.

For example, one school district has had an assessed valuation per student that for the past 9 years has averaged 60.6 percent of the State average assessed value per student. This assessed value per student would have averaged about 82.3 percent if the land owned by the Federal agency had remained on the tax rolls. The low assessed valuation has made it very difficult for the school district to raise additional revenues from property taxes and it would require a huge increase in the mill levy to generate additional dollars.

The low assessed value of the school district that I mentioned, like many other school districts, is detrimental to the capital reserve fund which allows the district to raise money from a mill levy for capital improvement purposes. These schools have not been able to generate significant dollars to effectively meet their needs for maintenance, repairs, improvements, and replacement of their facilities.

Generally, I feel that State and local governments should be responsible for the educational systems. However, in this situation I believe the Federal Government has the responsibility to intervene because Federal agencies are involved. Therefore, I urge my colleagues to endorse the legislation to continue the Impact Aid Program.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act, which extends and revises many of our most important Federal elementary and secondary education programs, and establishes a program for preschool children. This important legislation reaffirms congressional commitment to education equity and acknowledges the value of early intervention.

The Select Committee on Children, Youth, and Families has documented significant savings accrue in human potential as well as in dollars when investments are made in successful early intervention programs such as those authorized in this legislation.

The cornerstone of the legislation is chapter 1, compensatory education for disadvantaged children, which assures children who are educationally disadvantaged with equal access to educational services. Chapter 1 has made great strides in raising the academic achievement levels of these students. A study commissioned by the U.S. Department of Education found that chapter 1 students gained 7 to 12 months in reading and 11 to 12 months in math for every year they participated in the program—a significantly higher gain than a control group.

Chapter 1 is also essential to family self-sufficiency. In tandem with efforts to expand child care opportunities for families, this legislation can help provide necessary services to allow parents to seek and maintain employment, securing and strengthening the Nation's economy. With 60 percent of mothers with preschool age children in the work force, most of them working full time, such cooperative and coordinated efforts are essential to long-term family stability and workplace productivity. I am especially pleased that provisions to strengthen the quality of chapter 1 preschool programs allow school districts to train early childhood education professionals.

Almost half of all educationally disadvantaged children, however, do not receive chapter 1 services. While chapter 1 served 75 students for every 100 poor school-aged children in 1980, by 1985, it served only 54 students per 100. The administration again proposed cutting chapter 1 funding for fiscal year 1988, including a $1.4 million reduction for fiscal year 1988 in my district of Contra Costa County alone.

The Budget Committee has indicated its continuing support for chapter 1 programs through the children's initiative in fiscal year 1987 and fiscal year 1988. A funding level for chapter 1 that ensures its vital services will be available to all educationally disadvantaged children should be supported, and is clearly the goal set out in H.R. 5.

One of the improvements authorized by the legislation is the Even Start Act, which emphasizes strong parental involvement by combining basic adult education for parents and early childhood development for their children. Perhaps no service is more critical to averting costly special education services, or to preventing crime, unemployment, and welfare dependency in adulthood, than early educational opportunities. In addition, program quality has been assured by including provisions to train staff, including child care staff, to work with parents and children participating in even start. As a result of this new effort, not only will children be better prepared to enter school, parental guidance, and self-sufficiency will be fostered.

The legislation maintains and strengthens the important Bilingual Education Act, which has proved critical to assuring the academic success of non-English-speaking students. As the Select Committee learned, culturally appropriate curriculum can mean the difference between success in school or eventually dropping out. This program especially benefits Hispanic youth who are of special concern because their high school drop out rate is high, and because they face increasing poverty and limited employment opportunities at a higher rate than any other group.

National concern about the high incidence of drug and alcohol abuse among the Nation's youth is also addressed in this bill through the establishment of drug education programs. Given the increasing use of cocaine among teenagers, such efforts are especially timely and build on work begun by Congress last year to ameliorate the growing drug problem.

Another provision will fund innovative efforts to prevent students from dropping out of school. As many as 25 percent of the Nation's youth may never finish high school. In some communities this percentage may be as high as 50 percent. Without a high school education, few will be able to compete in the new, high-technology centered labor market. Dropout prevention programs are essential to securing family self-sufficiency and to preventing the cycle from starting over again with a new generation of children.

This legislation makes tremendous strides by fostering educational equity for handicapped students, female students, and high-risk disadvantaged students through a continuum of services from preschool to high school. A new Federal program, long overdue, creates a program to identify and meet the needs of gifted and talented children as well, such as those which now serve gifted and talented students in my district of Contra Costa County. I am delighted that Federal effort will permit replication of similar programs nationwide.

Chairman HAWKINS and the members of the Education and Labor Committee are to be commended for conducting a thorough evaluation of the program and for instituting important reforms. I urge my colleagues to support their efforts by supporting this legislation.

Miss SCHNEIDER. Mr. Chairman, I rise today in support of H.R. 5 the School Improvement Act of 1987. I would like to commend the members of the Education and Labor Committee for putting together a forward-looking package which will assist our young people build their personal skills, find employment and rebuild America's competitiveness in the world economy.

Education is a critical element in the competitiveness equation. As a nation, we are rich in technology and natural resources. But our edge in global markets doesn't depend on oil wells or high speed computers. Our real strength is the knowledge, skills, enthusiasm and flexibility of the American people. As the economy shifts from manufacturing to service jobs, our human resources will be even more critical. In the years ahead, we will need workers who are better educated then ever before.

There was a time when, if you could screw a bolt or weld a joint, that was enough. Today we need people who can solve problems, who are creative and intuitive, and who can translate abstract concepts into concrete solutions. We'll need workers who won't necessary come to a job knowing all they have to know, but knowing how to figure out what they need to know, where to get it and how to make meaning out of it.

Some of the most significant steps that the Federal Government can take to rebuild America's competitive edge are included in the bill before us today. This legislation incorporates a number of the recommendations made by the Congressional Competitiveness Caucus in our short-term legislative agenda.

In the area of basic skills, the caucus recommended expansion of compensatory education. After all, children who learn to read, write and solve problems at an early age are less likely to drop out of high school or be on public assistance. To address this concern, H.R. 5 provides a substantial increase for chapter 1 and targets those new funds into areas with the greatest concentration of disadvantaged children. It provides an additional authorization to extend chapter 1 services to secondary school students. It also provides funding for a new Even Start Program which will work with adult illiterates and their preschool children, in an effort to get families reading together.

In the area of math and science education, the caucus recommended that the Education for Economic Security Act be reauthorized. International comparisons consistently show that American students study less science and math than their counterparts in Japan and West Germany. In fact, half of all U.S. high school students take no math or science beyond the 10th grade. H.R. 5 provides a significant increase in funding for teacher training and retraining in math and the sciences.

In the area of adult literacy, the caucus recommended better coordination of State and local programs and an increased role for businesses in reaching out to workers with basic skill deficiencies. A more comprehensive effort is needed to reach the tens of millions of Americans who can neither read the newspaper, decipher a bus schedule or fill out a job application. H.R. 5 increases funding for adult basic education and increases the State-matching requirement for Federal grants. It allows the States to use up to 10 percent of their allotments to provide literacy training to currently employed individuals, in programs operated by education-business-labor partnerships. In addition, it requires each State to include private sector initiatives in its 4-year plan.

Mr. Chairman, H.R. 5 will not solve all our problems overnight. It will not ensure that there are no school failures; it will not guarantee that every high school graduate is proficient in math, science, and language skills. But then there are no easy answers to our competitiveness woes. The solutions will require commitment and cooperation from educators, policymakers, and business leaders. We have to work as partners, not antagonists, in an effort to rebuild American competitiveness. I urge my colleagues to join in supporting this important bill.

Mr. LEWIS of Georgia. Mr. Chairman, I rise today in strong support of H.R. 5, the School Improvement Act of 1987. Education is and must continue to be our highest national domestic priority. Our country cannot continue to prosper if we do not support our educational system. While I am concerned about the overall growth and well-being of our educational system, I want to specifically address the problem of our Nation's horrendous high school dropout rate.

Dropping out of school is a very costly endeavor—to the individual and to society as a whole. It is, in fact, economic suicide. For example, in December 1986 the overall unemployment rate rested at 6.7 percent. However, for teenagers it remained at 17.3, and for black teenagers, many of whom are dropouts, it was a staggering 36.9 percent.

In the late 1960's a high school graduate was 30 percent more likely than a dropout to have a job. By the late 1970's that figure had risen to 50 percent. And through the first half of this decade, the number has climbed still higher to 60 percent. Three out of four new jobs by 1990 will require some training beyond high school. Those jobs will also require a mastery of basic skills such as reading, writing and simple math reasoning—skills which most dropouts simply do not attain.

Most dropouts share similar characteristics. They are from low-income families; their parents have low educational levels, are likely to be behind in their studies, have feelings of low self-worth and do not feel that they fit in at school. The pressing question remains: "What can be done?" Many of the problems which I mentioned, can be addressed by early childhood training programs. The benefits of programs, such as Headstart are well known and have been well documented. Also, teachers, counselors, and administrators must be on the lookout for students with problems in the classroom, as well as at home.

As elected officials we are obligated to address this issue head on. We must join with teachers and counselors in the effort to combat this growing problem. I call upon my colleagues to support H.R. 5. The bill authorizes $100 million in fiscal year 1988 for new programs to prevent dropouts, encourage dropouts to return to school, and to assist high school students in developing basic skills.

While the enactment of this legislation may not rid our Nation of its prevalent dropout rate, it is definitely a positive step in the right direction. One that will work to protect our future by strengthening our educational foundation.

Mr. LOWERY of California. Mr. Chairman, I rise in support of H.R. 5 and would like to comment on one important, but little understood, program in this omnibus bill. Specifically, I refer to the Impact Aid Program which is vital to educational needs of my district in San Diego.

Many of my colleagues may not know that impact aid was established in Public Law 81-874 to provide reimbursement to districts whose tax base is adversely affected by a Federal presence. The degree of Federal presence is broken down into "A" and "B" categories and payments to districts are based on A and B impaction. An A student is one whose parent(s) both work and live on Federal property, quite often a military base. These children are seen as a heavy burden on districts and are paid between 40 and 100 percent of their entitlement under Public Law 81-874. B children are those whose parent(s) either live or work on Federal property—less of a burden to districts—and are paid between 10 and 60 percent of their entitlement.

The scenario is further complicated when the super category is considered. If districts have a 20-percent impaction of either A or B students—that is, if A's or B's comprise 20 percent or more of a district's average daily attendance—then the district is seen as very seriously burdened and are classified as "super" districts. Thus, super A districts receive 100 percent of entitlement for each of their A students, roughly $1,500. In contrast, payments to nonsuper districts for A students can and often does drop to $500. Similarly, super B students are entitled to $250 while regular B's receive as little as $25.

While personally believing that regular B students are dramatically underfunded, I would like to discuss the overall funding schedule for the Impact Aid Program. For example, it is difficult to understand the logic which supports a $1,500 payment for an A child in a 20-percent ADA district but only a $500 payment for a similar child in the neighboring district which only has 19 percent of its kids in this category. These deficiencies are largely the result of political fighting by legislators who are seeking to provide their school districts with the greatest Federal assistance. While acknowledging that their actions are in the interests of their schools, I also assert that these endeavors are jeopardizing support for the overall impact aid program.

The national impact aid association has been working diligently to unite behind a single, fair, and equitable funding formula for all 2,661 impacted school districts. Payments to my district will not alter significantly if the national association's plan is enacted; nevertheless, I do believe it is a sound policy worthy of support from all impacted districts. Accordingly, I would urge my colleagues to carefully review and resist amendments to the impact aid section of this legislation. Most of these efforts are of parochial concern and will only hinder efforts for the impact aid community to unite behind a single, more workable payment schedule.

Thank you, Mr. Chairman. I urge my colleagues to support H.R. 5 and the impact aid program in particular.

Mr. RAHALL. Mr. Chairman, it is with pleasure that I rise today in support of H.R. 5, the School Improvement Act. As the reauthorization measure for nearly all Federal programs providing aid to elementary and secondary education—including chapter 1 compensatory education and chapter 2 education block grant—H.R. 5 is an extremely important bill to my fellow West Virginians and indeed to all Americans.

Under the chapter 1 compensatory education program, H.R. 5 authorizes additional funding for school districts with high concentrations of poor children, while continuing the present formula for distributing funds up to current appropriation levels. Funds for school districts—up to the current appropriation level—would continue to be allocated under the existing formula. However, the first $400 million of additional appropriations above the fiscal year 1987 appropriation level would be distributed according to a different formula that focuses funding on districts with high concentrations of poor children.

H.R. 5 authorizes new preschool and high school programs to encourage the expansion of compensatory education services beyond the elementary level. The Even Start Program, authorized by the bill at $50 million in fiscal year 1988, combines basic adult literacy education for parents with preschool education for their children. The measure also authorizes $100 million in fiscal year 1988 for a program to prevent high school students from dropping out of school, and to develop basic skills among high school students.

As an original cosponsor of H.R. 738, the School Dropout Prevention Assistance Act, I am especially pleased with the incorporation of its provisions into H.R. 5. there are a number of dropout prevention programs in West Virginia which I have had the pleasure of working with to coordinate my efforts at the Federal level to coincide with local school districts and community efforts. In particular, the Cabell County Public Schools Dropout Prevention Program, under the direction of Dewey Parr of Huntington, WV, has been a model effort in the dropout prevention battle. Dewey's firsthand experience and diligent efforts have been of great assistance to me in directing my efforts at the Federal level to promote dropout prevention effectively. I am pleased with H.R. 5's provisions in this regard and encouraged by the national recognition of the devastating effects of this problem on our entire society—and most importantly on the students who give up, for whatever reason, the future that a high school diploma can provide.

H.R. 5 authorizes $30 million in fiscal year 1988 to help school districts purchase equipment, such as vans, buses, or mobile classrooms, so they can provide compensatory education to children in private religious schools. This provision was necessitated by the 1985 Supreme Court decision which prohibits public school teachers from going into religious schools to provide compensatory education services.

The bill makes a number of changes designed to improve the chapter 1 program, reward successful programs, provide greater flexibility to school districts, and increase parental involvement.

A section of the bill which is of great concern to West Virginia's education network is the treatment of the chapter 2 education block grant. The bill authorizes $580 million in fiscal year 1988 and such sums as may be necessary in fiscal year 1989 and through fiscal year 1993 for the education block grant. This program, which was created in 1981, consolidated over 40 separately authorized programs into a single block grant to States. Funds are allocated to States on the basis of their school-age population, and the States are required to pass on at least 80 percent of their allocations to local school districts. States and school districts are permitted to use these funds for over 30 approved activities.

H.R. 5 continues the current formula for allocating chapter 2 funds among States and the requirement that States pass through 80 percent of their allotment to local school districts. Of the 20 percent of funds retained at the State level, the bill requires that one-quarter be used for effective schools programs, which use schools with high-performing students as models for others. The measure also provides that no more than one-quarter of the funds retained by the State can be used for administration of the block grant.

Under the bill, States would continue to allocate funds to local school districts in a way similar to current law. The bill does, however, clarify the provision of current law under which States adjust allocations to local school districts on the basis of the number of high-cost students—defined as children from low-income families and children living in sparsely populated areas. The bill's provisions are designed to insure that the higher per pupil allocations for such high-cost children actually get to the school such children attend. The measure also specifies that States should make such adjustments only for school districts with the largest numbers of such high-cost children.

In place of the more than 30 kinds of activities for which current law permits chapter 2 funding, the bill substitutes 5 broader categories: programs for "at risk and high-cost children," such as the economically disadvantaged, potential dropouts, drug and alcohol abusers, and children with limited English proficiency; effective schools programs; instructional and educational materials improvement; personnel training; and, special projects including gifted and talented, youth suicide, and technology education.

One important restriction on the program as a result of H.R. 5 would be the elimination of drug abuse education as one of the permitted uses of these funds. This elimination follows the inclusion of drug abuse prevention programs in the omnibus drug bill which became law last year making these discretionary funds in the chapter 2 program unnecessary. The bill does, however, authorize $250 million in fiscal year 1988 and such sums as may be necessary in succeeding years for drug education programs.

Other provisions of special interest to West Virginia are the provisions relating to adult literacy, mathematics and science education and gifted and talented education.

The measure authorizes $200 million for adult education in fiscal year 1988, and such sums as may be necessary for fiscal year 1989 through fiscal year 1993. This program aids States in providing programs to teach school and benefit from employment-related training. Adult education programs are implemented by local school districts, or by public or private agencies. The fiscal year 1987 appropriation for this program is $106 million.

This measure requires States to pay a larger share of the program's costs by raising the State matching requirement from its present level of 10 percent, to 13 percent in fiscal year 1989, 17 percent in fiscal year 1990, and 20 percent in fiscal year 1991 and thereafter.

H.R. 5 authorizes $400 million in fiscal year 1988 and such sums as may be necessary for the next 5 fiscal years for the critical skills improvement program, commonly known as the mathematics and science education programs. This program, originally enacted in 1984, provides funds to States and local school districts and colleges and universities to improve the quality of teaching and instruction in mathematics, science, computer learning, and foreign languages. The program is currently authorized at $350 million, but actual appropriations have been far below the authorized level. The fiscal year 1987 appropriation, for example, is $80 million.

In order to focus funds on mathematics and science, the bill eliminates foreign languages and computer learning from the list of activities that may be supported under this program.

The bill makes a number of changes in the allocation formula so that a larger share of the funds go to the local school district level. Under the bill, nearly 75 percent of the funds would go to the school districts, 6 percent is reserved for territories, Indian programs, and other national activities, and the remainder will be distributed to States on the basis of a formula based 50 percent on enrollment and 50 percent on the chapter 1 poverty formula.

H.R. 5 authorizes $25 million in fiscal year 1988 and such sums as may be necessary in the next 5 years for grants to States, school districts, institutions of higher education, and other private and public agencies to support programs that identify and meet the needs of gifted and talented students. As an original cosponsor of H.R. 543, the Jacob K. Javits Gifted and Talented Children and Youth Education Act, I am pleased with these provisions of H.R. 5 which incorporate the provisions of H.R. 543. During the 99th Congress, I sponsored as well as cosponsored legislation in this regard. I also had the opportunity to testify before the Subcommittee on Elementary, Secondary, and Vocational Education on the need for Federal funding in this regard. As an original cosponsor of H.R. 543, I continued my efforts during this Congress and find the provisions of H.R. 5 encouraging.

The education of our youth must be a national priority. All the Federal dollars to enhance defense, technology, medical training, disease control, and even higher education, are useless without the basic education provided at the elementary and secondary level. Our children are the key to this Nation's future. Our children are the enlisted personnel and officers of tomorrow's Armed Forces. Our children are the computer operators and the high-tech developers of tomorrow. Our children are the health care givers and administrators of tomorrow. Our children are the scientists of tomorrow. Our children are tomorrow's educators, Federal employees, diplomats, corporate executives, and Members of Congress. Today, we are voting on the future of this Nation. The Federal dollars in this bill contribute to that future. The Federal, State, and local levels of government and community must work together to provide a future of hope and promise for our children. I will cast my vote for a promising tomorrow by supporting passage of this authorization bill.

Mr. BRENNAN. Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act. This measure revises and extends 14 important elementary and secondary education programs through 1993.

At a time when the word often heard here in Congress is competitiveness, education is one sound and important step toward restoring our Nation's competitiveness. Without the fundamentals provided by education, we cannot expect to effectively compete in this increasingly complex world economy. A first step toward resolving our trade deficit and employment problems is ensuring an adequate education is available to our students.

As the Governor of Maine, I made education reform an important part of my administration. While education funding is largely a State and local government concern, the leadership of the Federal Government is of paramount importance. Federal funding provides a beacon which guides the States in their education system. I urge this body to continue the Federal Government's commitment toward achieving educational excellence for all students—whatever racial, economic, or geographical composition.

An important provision contained in this legislation relates to dropout prevention programs. Throughout my years in public life, I have heard testimony and personally witnessed the tragedy that befalls hundreds of thousands of our young people. It has been estimated that some 1 million students per year drop out. This national tragedy requires a national commitment to achieving a solution. All of us know the difficulties individuals face without the proper foundation education gives a youngster. The problem no longer exists solely in large urban centers, but also in rural America.

The fundings in this measure will allow us to focus on the dropout problem and seek to prevent dropping out or encourage them to return to the classroom. The societal costs associated with school dropout is truly a national disgrace. This provision will allow for a directed and efficient approach to resolving this serious problem.

The future of our Nation is dependent upon the quality of today's young students. The Federal Government's commitment to education must continue and H.R. 5 tries to address the needs of our Nations school systems.

I urge my colleagues to join me in providing strong support for this vital legislation.

Mr. DURBIN. Mr. Chairman, I would like to commend the chairman, Mr. HAWKINS, and the other members of the House Education and Labor Committee for their efforts to address what I believe is our Nation's most critical need, to strengthen our educational system. H.R. 5 includes significant changes to enhance the educational opportunities provided to disadvantaged children and to strengthen the quality of education.

I am particularly interested in the provisions to expand and strengthen compensatory education programs for disadvantaged children. Over the last several years I have had the opportunity to visit a number of chapter 1 programs in central Illinois. I have been impressed with the dedication and commitment of these teachers. However, it is the sparkle in the eyes of the children participating in these programs, their enthusiasm for learning and the hope for the future, which makes the strongest impression.

Unfortunately these programs have not been given a high priority in the President's budget over the last several years. Chapter 1 programs have experienced a 17-percent cut in real dollars, adjusted for inflation, since 1980.

As a result, although the percentage of children living in poverty has increased, the number of children served by chapter 1 has actually declined from 5.4 to 4.9 million children. Only 55 percent of the children living in poverty are participating in chapter 1 programs. The Chapter 1 Program is reaching only 43 percent of the children achieving below the 25 percentile.

Our national security and our future economic competitiveness demands that we do more. H.R. 5 includes important initiatives to expand the services provided to preschool and secondary children. I am particularly pleased that the committee has included the legislation proposed by my colleague from Illinois, Congressman HAYES to expand the chapter 1 service to secondary schools and to establish effective dropout prevention programs.

While passage of H.R. 5 is an important first step in meeting these needs, adequate funds must be appropriated to fulfill the promise of this legislation. The House has again identified the Chapter 1 Program as high priority initiative in the fiscal year 1988 budget. I urge my colleagues to support the efforts of the Budget and Appropriations Committees to provide increased funding for these programs.

Mr. SAWYER. Mr. Chairman, I rise in enthusiastic support of H.R. 5, the School Improvement Act, and to express my high regard for Chairman HAWKINS in particular, and for the members of the Education and Labor Committee on both sides, who have worked in a strong bipartisan spirit to produce this landmark reauthorization.

This legislation, which reauthorizes 14 elementary and secondary education programs, contains the renewal of the Federal Government's commitment to what is, in my mind, the most important privilege Americans enjoy; a universal, quality education.

The School Improvement Act is comprehensive in scope, and integrated in its approach. This legislation offers encouragement to teachers, parents, and school districts implementing innovative programs in their schools, and it mobilizes and coordinates Federal, State, and local efforts to assist those students who are on the margins of our system of education or are at risk of falling out of the system altogether.

Chapter 1, the centerpiece of H.R. 5, provides increased Federal support and guidance for communities working to improve the achievement of educationally disadvantaged children living in poor areas. This new chapter 1 legislation, which is already the most successful Federal education program, contains new provisions upgrading the basic skills of preschool and secondary students, enlarges the role of parents—making them partners in their children's education—and authorizes a new dropout prevention program. The beauty of this proposal is in its harmony, it makes the program responsive to the vast array of problems faced by educationally disadvantaged students. It avoids the mistake of making a one-time intervention and then losing track of that same student who may face new risks further along in the system. I commend the chairman and the gentleman from Pennsylvania, BILL GOODLING for their landmark efforts.

I would also like to thank the chairman for working with me on the Title II Math and Science Program. Our legislation, the Critical Skills Improvement Act, will address a severe problem in our Nation's schools; a serious shortage of qualified math and science teachers, which is having a disasterous effect on our school systems' ability to teach the basic principles of math and science, not to mention computational and higher order, thinking skills. If we want to talk about the absolute raw material of our ability to compete economically, this is it. I just want to point out to the Members that:

The mathematics achievement of the top 5 percent of 12th grade students—almost all of whom are enrolled in similar college-bound curricula in all countries—is lower in the United States than in other industrialized nations. The average 12th grade mathematics student in Japan outperforms 95 percent of comparable United States 12th graders.

In science, there are similar problems. Only one-third of the students in grades 10 through 12 take any science course at all.

The Critical Skills Improvement Act doubles the authorization to $400 million and drives most of the funding down to the local education agency, and encourages innovative teacher training programs that will help existing teachers upgrade their skills and encourage promising students to choose math and science teaching as a career. Funds are also reserved at the State level to conduct model programs on a statewide basis. These funds are to be divided equally between the State agencies for higher education and the State education agencies, who are to coordinate the planning and implementation of programs. What we have done is to facilitate an alliance between colleges and universities, who train teachers, and the States, who need their services.

In closing, I urge every Member of the House to vote for H.R. 5, it will probably have the most profound and far-reaching impact as any piece of legislation we will consider in this Congress.

Mr. MFUME. Mr. Chairman, after spending the last 2 weeks debating a defense authorization bill authorizing over $288 billion for various weapons systems and defense programs, I welcome the opportunity to get back to basics as we consider a $13 billion bill for the education of this Nations' most precious resource—our children.

I suggest that H.R. 5, the School Improvement Act, which I wholeheartedly support, is one of the most important pieces of legislation yet to be considered by this Congress and that the teachers, parents, and children of this Nation are looking to us now for vigorous, bipartisan leadership on this critical issue. Anything less than that kind of support would be a signal, not only to our youth, but to the entire Nation, that we are not really serious when we say that education is the key to both individual and national progress.

Let me just take a moment to emphasize my support for the continuation and expansion of funding for the Chapter 1 Program, which is dedicated to providing programs to help educationally disadvantaged students throughout the Nation, and is the cornerstone provision of H.R. 5. We must stop the tragic waste of thousands of young minds due to the disillusionment and obstacles resulting from poverty, particularly in our inner cities. For over 20 years now the chapter 1 program has helped millions of educationally disadvantaged children by providing them with specially designed compensatory educational services.

The current bill would strengthen that commitment by authorizing new preschool and high school programs and through the authorization of $100 million in fiscal year 1988 for a program to prevent high school students from dropping out of school, as well as assisting dropouts to reenter school and complete their education.

Also, Mr. Chairman, I don't have to recite to you or my colleagues the litany of social ills—from crime to drug abuse to unemployment to family disintegration—that can be directly attributed to the problem of school dropouts. We must commit the resources to deal with this problem and I applaud the efforts of my distinguished colleague from Illinois for introducing the School Dropout Demonstration Assistance Act as a part of the chapter 1 provision of H.R. 5.

On behalf of the children of this Nation, I offer my strong support of H.R. 5, and urge my colleagues to join with me today in passing this most important legislation.

Mr. HOPKINS. Mr. Chairman, as a friend of public education, I am pleased and proud to rise in support of H.R. 5, the School Improvement Act of 1987, and urge its passage as a token of the determination of this 100th Congress that the Federal Government continue to fulfill its responsibilities in the quest for quality education throughout America.

H.R. 5 confronts head on the most critical issues facing education today: The need for excellence for all students in such vital subjects as math and science; the growing number of disadvantaged students; the dropout crisis; and adult illiteracy.

This bill comes before us at a time when America's ability to compete in the world is being questioned here at home and challenged abroad. With the strong support of Congress and the continued leadership and dedication of America's educators, I believe H.R. 5 can help prepare today's students for the immense challenges that await them in adulthood.

The cornerstone of this legislation is the reauthorization of chapter 1 programs for disadvantaged children. Funding in this bill recognizes the expanding need to improve basic education skills at the determinative preschool, elementary, and secondary levels. This measure also targets continued support to inspire the gifted and talented to fulfill their fullest potential, as well as addressing the urgent problem of dropout prevention.

Education is one of the crucial building blocks of freedom and an essential element in securing for ourselves and our posterity the blessings of our liberty. No measure which comes before this body is irrelevant. None, however, is more important than this and I urge my colleagues to give it their overwhelming support.

Mr. GALLO. Mr. Chairman, I rise today in strong support of H.R. 5, the reauthorization of vital primary and secondary education programs. The School Improvement Act of 1987 deals both comprehensively and realistically with the most critical issues in education today. It addresses the growing number of disadvantaged students, the crises of drugs and teenage suicide, the importance of bilingual education, the necessity of impact aid and the special needs of gifted and talented children.

These Federal programs have been proven effective in my own district and throughout New Jersey. Specifically, students in the Chapter 1 Program in the 11th District of New Jersey have shown up to a 20-percent improvement in their reading and math skills. This is success. This is progress. With the help of the Chapter 1 Program today, these students will be able to face and meet the challenges of tomorrow.

These statistics prove that chapter 1 deals effectively with educationally disadvantaged children, allowing them to get an even start. I am especially pleased that the reauthorization of the Chapter 1 Program does not include the proposed voucher plan, which I oppose. Local school districts need to concentrate chapter 1 resources so they can serve the maximum number of students. Vouchers would only serve to dilute these funds and cripple the program which has proved successful in its present form.

The bill will also provide some aid to help schools comply with the recent Supreme Court ruling which makes it difficult for students in parochial schools to receive assistance under the Chapter 1 Program.

I also support the Chapter 2 Block Grant Program. By allocating moneys in this way, the Chapter 2 Program allows local school districts the flexibility to meet their students' individual needs. Programs such as those promoted by chapter 2 funding will encourage excellence in education and help to ensure our Nation's future.

Impact aid is another important element of this bill. For those areas which have Federal military bases, impact aid is a necessary supplement to their local education funding. It is my hope that the committee will take impact aid one step further by considering the legislation introduced by my colleague, Representative SAXTON, that makes impact aid an entitlement. Impact aid is clearly the responsibility of the Federal Government. Local school districts should not have to worry about the level of this funding from one year to the next.

With this bill, we affirm education as the key to our children's future and our No. 1 priority. We must carry this commitment through to the appropriations process and see to it that stable funding for these programs is provided while simultaneously remaining consistent with our goal of deficit reduction.

The success of these programs and the bipartisan support they receive year after year in the Congress is proof that we have employed the right people for the challenge of educating the next generation. Our teachers, our school administrators, our Federal program administrators, our local school boards, our PTA's, and many others are working hard to make all of these programs work for our children. They deserve this reauthorization because they are meeting the challenge of excellence in education.

Mr. SCHUETTE. Mr. Chairman, I am pleased to rise in support of H.R. 5, the School Improvement Act of 1987, a measure which I also was proud to cosponsor. H.R. 5 enjoys broad, bipartisan support because it is an excellent and much-needed piece of legislation. I urge my colleagues to support this bill.

H.R. 5 is the most important piece of education legislation we will address in this session of the Congress. The act tackles many of the most nagging problems in education today, including adult illiteracy, increasing dropout rates, and the critical need to promote excellence in math and the sciences. Because it attacks these critical needs head on, I believe that the passage of H.R. 5 will be an important step in both improving our competitive standing in an increasingly global economy and in assuring that our Nation is adequately defended.

The nuts and bolts of this bill includes both the reauthorization and improvement of 14 of the Federal Government's most important elementary and secondary education programs through 1993. The extension of the Chapter 1 Program for disadvantaged children and the Chapter 2 Educational Block Grant Program are perhaps the most notable of these programs. At the same time, however, H.R. 5 also contains important new initiatives—such as the Even Start Program and grants to States and localities for programs which serve the gifted and talented—which are designed to meet urgent needs.

In closing, I would like to commend my colleagues on the Education and Labor Committee from both sides of the aisle for their hard work on this bipartisan and important legislation. I urge all my colleagues to give H.R. 5 the bipartisan support it deserves when the bill is voted on later today. Thank you very much.

Mr. RANGEL. Mr. Chairman, I rise in support of H.R. 5, the School Improvement Act of 1987. This comprehensive bill extends and revises 14 Federal elementary and secondary education programs that expire in 1987, 1988, or 1989. All these programs are reauthorized through 1993.

As chairman of the Select Committee on Narcotics Abuse and Control, I especially want to commend the Committee on Education and Labor for extending the authorization for the Drug-Free Schools and Communities Act of 1986. This act, included in the omnibus Antidrug Abuse Act of 1986, authorizes for the first time a comprehensive program of Federal assistance to educate our young people about the dangers of drugs.

The Drug-Free Schools and Communities Act is, in a very real sense, the linchpin of the major antidrug program Congress enacted last year. Under the best of circumstances, it will take years to reduce the supply of illicit drugs affecting our cities and communities. Drugs are more readily available, cheaper, and purer than ever before. Each year, the production of illicit narcotic crops abroad increases. Each year, the amount of illegal drugs smuggled into and distributed throughout our country continues to grow.

In the select committee's study missions and official visits abroad, we have seen how powerful drug traffickers operate with near impunity through a combination of violence, intimidation, bribery, and corruption. In some countries, particularly in Latin America, the illicit drug traffic is so pervasive that it threatens the stability of democratic governments.

In our hearings around the country, we have seen how drug trafficking has overwhelmed law enforcement. Our borders are a sieve against the flood of illicit narcotics traffic. Federal law enforcement officials from Customs, Coast Guard, Border Patrol, the Drug Enforcement Administration, and others have testified that their agencies can do little to reduce drug availability as long as demand continues to grow. Federal officials from the President on down have been adamant in their statements that drug abuse education and prevention is the ultimate answer to our drug crisis.

Yet, prior to the Antidrug Abuse Act, the Federal Department of Education spent only $3 million a year for drug abuse education out of a budget of nearly $18 billion.

Our hearings also revealed strong support at the State and local level for comprehensive, school-based drug abuse education programs. But few States and localities have the resources to mount such efforts on their own.

In the Antidrug Abuse Act of 1986, Congress took strong action to try to protect our children against the onslaught of drugs. Congress authorized $200 million in 1987, $250 million in 1988 and $250 million in 1989 for a variety of initiatives to encourage the development of drug abuse prevention and education programs in elementary and secondary schools and institutions of higher education; to support community-based drug prevention programs; and to foster a strong leadership role by the Department of Education in drug abuse education efforts.

This historic legislation, enacted with overwhelming bipartisan support and cooperation in the Congress, makes a good start toward bringing drug abuse and drug trafficking under control.

It is only a first step, however. Much more remains to be done. In the area of drug abuse education, the testimony of State and local education officials before the select committee this year emphasized the need for a long-term commitment by Federal, State, and local governments if we are to have any impact at all on drug abuse by our Nation's youth.

For this reason, many of us in Congress were disappointed and angered when the President's budget for 1988 proposed deep cuts in drug abuse education and other programs authorized in the Antidrug Abuse Act of 1986. Just 2 months after the President embraced the Antidrug Abuse Act of 1986 in an elaborate signing ceremony at the White House, his 1988 budget proposed to cut funding for drug abuse education by $100 million from the 1987 level and by $150 million from the authorized level for 1988.

H.R. 5 sends the right message to the American people. By extending the authorization for the Drug-Free Schools and Communities Act through fiscal year 1993, it demonstrates that Congress is serious about making a long-term commitment to drug abuse education. By reauthorizing this program at $250 million in 1988 and such sums as may be necessary for 1989 through 1993, the bill provides flexibility for this program to grow as needed. The bill demonstrates that Congress did not intend the Antidrug Abuse Act to be merely one-time seed money but a downpayment on continuing Federal support for drug abuse education as part of a comprehensive strategy to fight drug abuse and drug traffic.

H.R. 5 also revises the Drug-Free Schools and Communities Act to assure the integration of youth suicide prevention efforts with State drug and alcohol education programs and to direct the Secretary of Education to conduct a study of the relationship between drug and alcohol abuse and youth suicide. Because drug and alcohol abuse appear to be an important factor contributing to the upsurge in youth suicide, I support these revisions to the act.

I also understand that the en bloc amendments to H.R. 5 to be offered by the distinguished chairman of the Committee on Education and Labor—Mr. HAWKINS—include some technical changes in the Drug-Free School and Communities Act and some revisions to increase the accountability of State and local programs. I have reviewed these changes and support their inclusion in the bill.

I urge Members to support H.R. 5.

Mr. VENTO. Mr. Chairman, I am pleased to rise in strong support of H.R. 5, the School Improvement Act. I would like to join my colleagues in thanking the distinguished chairman of the Education and Labor Committee, Mr. HAWKINS, and the ranking member, Mr. GOODLING, for their outstanding efforts in bringing this vitally important piece of legislation to the floor of the House with such strong bipartisan support.

The School Improvement Act consolidates 14 expiring Federal elementary and secondary education programs and extends them until 1993. These vital programs include chapter 1 compensatory education, chapter 2 block grants, Indian education, impact aid, bilingual education, magnet school assistance, and others. As an educator, I know how important this legislation is to our youth and to the Nation as a whole. Although the responsibility for most formal education rests primarily with State and local government, the National Government must do its share to encourage excellence among all of our students while it strives to reduce illiteracy and dropout rates in our schools. H.R. 5 demonstrates the National Government's commitment to education as a national priority of high status.

The centerpiece of this legislation is the reauthorization of the chapter 1 compensatory education program for disadvantaged, at-risk children. It is important to note that while our national economy is demanding a more educated work force, more and more students entering schools are at-risk students. Of the 3.6 million children who began school in 1986, over 25 percent were from families living in poverty. Numerous studies have shown that the chapter 1 program has been extremely effective in raising basic skills of the children participating in the program. H.R. 5 contains an increase in funds for chapter 1 to expand the program to reach a higher percentage of disadvantaged children. In addition, it improves targeting of funds to school districts with the highest concentrations of disadvantaged students and adds an Even Start Program which combines adult basic education for parents and early childhood development for their children.

Mr. Chairman, this Chamber was recently engaged in a divisive debate about our Nation's enormous trade deficit. Thoughout this debate and other forums on this topic there has been a recurring theme: In order for America to remain competitive in an increasingly complex, technological, and international economy, we need to have a more educated work force. In addition to increasing the basic literacy skills of our population, we need to improve math and science programs at the elementary and secondary levels. H.R. 5 reauthorizes the Education for Economic Security Act, providing increases in funding for teacher training and recruitment in math and the sciences. Improved math and science teaching will lead to increased interest in these subjects by the Nation's high school students, half of whom do not take math and science after the 10th grade.

The distressing statistics of illiteracy in our society are well known. Current estimates by the Department of Education indicate that there are 27 million adults in the United States who are illiterate by the simplest tests of reading, writing, and comprehension; and an additional 47 million who have only marginal abilities to perform these tasks. These people cannot read a newspaper, fill out a job application, keep a checkbook, or help their children with their homework. It is a shocking fact that as we celebrate the 200th Anniversary of our Constitution, over one-third of the American people cannot read or understand it. Several provisions of H.R. 5 address this critical problem, the main one being the increased funding authority for the Adult Education Act. This program, along with chapter 1 and bilingual education programs, will produce a more literate work force and help us meet the economic challenges facing us now and looming ahead of us in the 21st century.

H.R. 5 is a comprehensive bill which extends vital education programs 5 years into the future. The impact of this legislation, however, goes far beyond that. It addresses the needs of a generation of children-immigrant children, Indian children, handicapped children, gifted, and talented children—and it provides resources to many types of schools—magnet schools, federally impacted schools, and schools with high concentrations of disadvantaged children. It allocates Federal resources to fight the critical problems of student dropouts, suicides, and drug and alcohol abuse. It accomplishes these goals and more while staying within budget limits set by the House budget resolution. In suporting H.R. 5, my colleagues and I are making a wise and prudent investment in our children and our Nation's future.

The CHAIRMAN pro tempore. Are there any amendments to title X?

Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FAZIO] having assumed the chair, Mr. GRAY of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, pursuant to House Resolution 172, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HAWKINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 1, not voting 30, as follows:

[Roll No. 143]

YEAS—401

Ackerman
Akaka
Anderson
Andrews
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)

Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Crane

NOT VOTING—30

Alexander
Annunzio
Baker
Biaggi
Boner (TN)
Bonker
Boxer
Cooper
Duncan
Ford (TN)
Gaydos
Gephardt
Hatcher
Hayes (LA)
Hopkins
Jones (NC)
Kemp
Konnyu
Lewis (CA)
Lipinski
Livingston
Lloyd
Markey
McCurdy
Ortiz
Ray
Roe
Roemer
Rostenkowski
Vander Jagt

□ 1330

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BONKER. Mr Speaker, due to a long-standing commitment in my district, I was unavoidably absent for the vote on final passage of H.R. 5, the School Improvement Act. I strongly support this legislation and had I been present, I would have voted "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5, SCHOOL IMPROVEMENT ACT OF 1987

Mr. HAWKINS, Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill just passed, H.R. 5, the School Improvement Act of 1987.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OBSERVING 300TH COMMENCEMENT EXERCISE AT OHIO STATE UNIVERSITY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 280) to observe the 300th commencement exercise at the Ohio State University on June 12, 1987, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I have no objection, and would like to inform the House the minority has no objections to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. WYLIE] who is the chief cosponsor of House Joint Resolution 280 to observe the 300th commencement exercise at Ohio State University on June 12, 1987.

Mr. WYLIE. Mr. Speaker, I thank the gentlewoman for yielding and I thank the gentleman from California [Mr. DYMALLY] for bringing this resolution up and my thanks to both for being cosponsors of my resolution.

As has been pointed out, this will observe the 300th commencement exercise at Ohio State University. As 1 of Ohio State's 260,000 alumni, I am proud to say that the Ohio State University is in the district I represent. Our delegation takes pride in introducing this resolution which honors our State's flagship university in this way.

The university's 300th commencement will be marked by the theme, "A Distinguished Past, A Dynamic Future." This theme recognizes Ohio State University's overall excellence in past accomplishments and its potential for continued pre-eminence in future graduates, faculty and staff members.

Ohio State University will reflect on this historic opportunity to create and promote academic events focused on the past and the future of the university's role in society and on the achievements of the Ohio State University in particular. It is with great pride that I, and the entire Ohio delegation salute a great university by this joint resolution.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I also would like to point out that I am a cosponsor of the resolution designating the 300th commencement exercise at Ohio State University on June 12, 1987.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 280

Whereas the Ohio State University's 300th Commencement ceremony is scheduled for June 12, 1987;

Whereas the 300th Commencement is of particular significance and honor to the rich heritage of the University;

Whereas this very special occasion in the life of the Ohio State University should be observed with all appropriate and due celebration of academic excellence; and

Whereas this landmark event commemorates a truly historic occasion for the University, its faculty, staff, and students, and its 260,000 proud alumni nationwide: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the date June 12, 1987, is observed on the occasion of the 300th Commencement exercise at the Ohio State University, and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to commemorate this date with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF MOURNING FOR THE VICTIMS OF THE U.S.S. "STARK"

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 290) designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. *Stark,*" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

□ 1345

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania, [Mr. WELDON] who is the chief sponsor of House Joint Resolution 290 designating May 25 of this year, 1987, as National Day of Mourning for the victims of the U.S.S. *Stark*.

Mr. WELDON. I thank the gentlewoman for yielding.

Mr. Speaker, this is, in fact, a very important piece of legislation that we consider today which recognizes those heroes who lost their lives this past week in that unfortunate incident in the Persian Gulf.

I am the Representative of the Seventh Congressional District of Pennsylvania. Earlier today I delivered a 1-minute speech about one of my constituents who lost his life and who left his family behind.

Tomorrow I plan to travel to Florida as many of my colleagues do to honor those 37 individuals who are true heroes of America.

I think it appropriate that on this Monday, Memorial Day, when all of us take time to recognize those people who have done so much for all of us, to allow our democracy to thrive, that we make a special effort to recognize and remember those 37 heroes of America.

I have also asked for a similar introduction of a resolution in the other body and have been assured that the President will, in fact, sign this into law.

I ask for a full consideration of this body to designate May 25, 1987, as a national day of mourning for the victims of the U.S.S. *Stark* in honor of the courageous crewmembers of the U.S.S. *Stark* who were killed or injured in the attack upon the U.S.S. *Stark* and the President hereby be authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities and I thank the gentlewoman for yielding.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I yield to the chairman of my subcommittee, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. I thank the gentlewoman from Maryland [Mrs. MORELLA].

Mr. Speaker, I join with Mr. WELDON, the gentleman from Pennsylvania, in expressing my deep sympathy to all of the families of the victims of the recent unfortunate bombing in the Persian Gulf. I know I speak for the subcommittee and indeed the full Committee on Post Office and Civil Service in expressing our deep sorrow to the families of the 37 crewmembers of the U.S.S. *Stark* and I express my deep sympathy for their beloved ones.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I would like to say that the sentiments, I believe, of this entire House have been expressed by the gentleman from Pennsylvania [Mr. WELDON] and the gentleman from California [Mr. DYMALLY]. I also very humbly join in cosponsorship of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 290

Whereas the U.S.S. *Stark*, a frigate in the United States Navy on duty in the Persian Gulf, was struck by Iraqi missiles on May 17, 1987;

Whereas the missile attack killed 37 crewmembers of the U.S.S. *Stark* and injured another 15 crewmembers;

Whereas the people of the United States share the loss and grief being experienced by the families of the crewmembers killed or injured in the attack; and

Whereas Memorial Day is observed May 25, 1987, and commemorates the courageous men and women who have given their lives in the service of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1987, is hereby designated as "National Day of Mourning for the Victims of the U.S.S. *Stark*" in honor of the courageous crewmembers of the U.S.S. *Stark* who were killed or injured in the attack upon the U.S.S. *Stark*, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess at any time today subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, May 27, 1987, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, May 27, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

TRIBUTE TO KELLY QUICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. KILDEE] is recognized for 5 minutes.

Mr. KILDEE. Mr. Speaker, I rise with great sadness today to speak in memory of Kelly Quick, a brave crewmember of the U.S.S. *Stark* who lost his life in the unfortunate incident in the Persian Gulf. This week brought much fear, uncertainty and pain to all the families of the *Stark*'s crew. Kelly's parents and friends had a particularly painful period of waiting because until yesterday, Kelly was listed among the missing crewmembers. Moreover, a ray of hope was held out to Kelly's family by the possibility that, prior to the attack on the *Stark*, Kelly had been temporarily transferred to the U.S.S. *Groves*, which required his skill as an electronic technician.

Mr. Speaker, I would like to commend the Navy, particularly Comdr. Roger Copeland of the Navy's Congressional Liaison Office, for their efforts to determine whether or not Kelly had been transferred to the U.S.S. *Groves*. Unfortunately, the result of their efforts was to confirm that Kelly was indeed on board the *Stark* at the time of the attack, and it has now been confirmed that Kelly Quick died with his shipmates in the early morning missile attack by the Iraqi fighter-bomber.

Mr. Speaker, Kelly Quick and his shipmates represent the best of our

Nation's youth. Kelly graduated in 1984 from Linden High School in Linden, MI. Kelly participated in the school band and played on the baseball team. He has been described by his high school principal as, "a nice boy. This is the kind of kid you build a good school around." He attended the Genesee area skill center where he honed the science, math, and industrial arts skills which served him in good stead when he began his naval service as an electronic technician. The great tragedy of this incident is the loss to their families and our Nation of so many fine young men who had so much more to contribute.

Mr. Speaker, I am sure that all Americans share the pain and sorrow of the families of the deceased members of the *Stark*'s crew. They and their loved ones will always be in our thoughts and our prayers.

FIGHTING INSIDER TRADING FROM THE INSIDE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 5 minutes.

Mr. BOUCHER. Mr. Speaker, today I am introducing legislation which authorizes the SEC to offer rewards for information which leads to the detection and prosecution of unlawful insider trading and other forms of market manipulation.

The bill is patterned after a similar provision in the Internal Revenue Code which in 1985 assisted the IRS in the recovery of $17 million based on information for which it paid rewards of about $400,000. That's a record worth emulating at the SEC.

The SEC typically prosecutes cases based on telephone records and other circumstantial evidence. The use of credible witnesses providing direct evidence of insider trading and market manipulation would provide a stronger foundation for the Commission's legal actions.

By their nature, insider trading and market manipulation are difficult to detect. Informants can play a critical role both as witnesses at trials and in providing reliable information to SEC investigators.

The concept of paying rewards to informants was well received by SEC and Justice Department representatives at a recent hearing before the House Telecommunications Subcommittee. SEC Commissioner Cox supported the idea as did U.S. attorney Rudolph Giuliani. While their comments fell short of an endorsement, John Phelan, chairman and chief executive officer of the New York Stock Exchange, and Stephen Hammerman, executive vice president and general counsel for Merrill Lynch, conceded that the idea was worthy of consideration.

Surely a rewards system is not a panacea, but it does provide a new weapon in the effort to detect and successfully prosecute insider trading and other forms of market manipulation.

The bill follows:

H.R. 2494

(To amend the Securities and Exchange Act of 1934 to authorize the Securities and Exchange Commission to pay rewards for information leading to the detection and prosecution of unlawful insider trading and market manipulation, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 21 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(i)(1) From the amount appropriated pursuant to paragraph (2), the Commission is authorized to pay such sums as the Commission may deem appropriate for detecting and bringing to trial and punishment any person—

"(A) for violation of any provision of this title, or the rules or regulations thereunder, by purchasing or selling a security while in possession of material nonpublic information; or

"(B) for violation of any provision of section 9 of this title, or the rules or regulations thereunder.

"(2) There are authorized to be appropriated to carry out this subsection such sums as may be necessary. Sum appropriated under this paragraph are authorized to remain available until expended.".

HEARINGS ON THE THREAT OF INFLATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, the Subcommittee on Domestic Monetary Policy, which I chair, plans to hold an extensive set of hearings on the threat of future inflation.

The contraction of inflation has been the most impressive economic achievement of the past 6 years. In 1979 consumer prices rose at an annual rate of 13.3 percent. By 1986 that rate had dropped to 1.1 percent. It has now begun to creep up again. In the first quarter of 1986 consumer prices rose at an annual rate of 5.3 percent, in comparison with the last quarter of 1986. From February 1986 through January 1987 the producer price index fell each month, in comparison with its level 12 months earlier. That downward trend turned around in February of this year. In March producer prices rose by 1.5 percent, compared to their level in March 1986.

These upticks would not, by themselves, cause great alarm. But they are accompanied by other indications of incipient inflationary pressures: commodity prices are rising, long-term interest rates are climbing, the dollar is falling.

Does this pattern of price and interest rate movements suggest that we face a serious resurgence of inflation? There are reassuring signs that these inflationary pressures need not be severe or long-lasting. Wages are growing at modest rates. In March of this year hourly earnings in the nonagricultural sector were up only 2 percent over March 1986. This compares quite favorably with annual increases of 7.9 percent in 1979, 9 percent in 1980, and 9.1 percent in 1981. Capacity utilization rates for manufacturing and for industrial materials were 79.8 percent and 78.6 percent, respectively, in March of this year, compared with 84.6 percent and 87.1 percent in 1979. This suggests we are not yet straining the capacity of our industrial base. Nor have we yet reached the limits for utilization of labor. Unemployment, at 6.5 percent in March, still remains above levels that are generally thought to represent "full employment." In short, the overall picture is mixed—inflation is edging upward, but with no pressure from wages, and with no overstraining of our capacity to expand the real output of goods and services.

Should we, then, view inflation as a serious threat? The Blue Chip Economic Indicators reports, in early April, a consensus forecast for the CPI of 3.4 percent for 1987 and 4.3 percent for 1988. This is certainly cause for some unease, since it represents a fairly sharp jump from the 1.1 percent of 1986. Still, oil prices in 1986 were extraordinarily low by recent standards, and the decline in the dollar, which began in 1985, had not yet significantly affected consumer prices. The low inflation of 1986 was bound to be temporary, in the sense that it could not easily be sustained in the face of a recovery in oil prices and a continuing fall in the dollar. The pickup in inflation to the 3- or 4-percent level, as suggested by the consensus forecast, could be viewed as nothing more than the inevitable emergence of a stable underlying rate of inflation that is slightly uncomfortable, but no harbinger of the explosion we experienced in the late 1970's.

There are, however, grounds for real concern. Our basic macroeconomic imbalance—the fact that we are spending much more than we are producing—would normally tend to put greater upward pressure on prices and interest rates than we have in fact experienced. We have enjoyed a splurge of overconsumption concomitant with falling interest and inflation rates because the rest of the world has willingly and massively financed our excessive demands for credit. Our monetary policy has been highly expansionary, generating unprecedented rates of monetary growth in 1986. At some point, in the face of a falling dollar, the flow of foreign funds into our economy will decelerate substantially, and, unless we reduce our budget deficit by similar magnitudes, our interest rates will begin to rise. In fact, that day may already be upon us. The Federal Reserve will then feel enormous pressure to dampen this rise in interest rates by even greater monetary expansion. The special features that rendered the inflationary consequences of the monetary expansion of 1986 temporarily harmless could well be transitory. The Fed would be caught, once again, between contradictory objectives: the need for monetary restraint to forestall inflation, and the need for monetary expansion to hold down interest rates and stave off a recession.

I do not know how the Fed will resolve this dilemma, if it is posed as sharply as I am concerned it may be. I do know that the dilemma, if it occurs, will be entirely of our own making, a consequence of the cumulative macroeconomic imbalance stemming from several years of massive budget deficits.

Mr. Speaker, I am scheduling these hearings in order to raise the alarm that we could well face intolerable macroeconomic pressures in the foreseeable future. If we do, the temptation to inflate our way out of our troubles may be irresistible. For a short while inflation could even look like the least undesirable answer to our problems, since it could bring some relief to overburdened debtors. But I cannot believe inflation would offer any lasting solution—and it may not even offer temporary respite, if the financial markets quickly raise nominal interest rates to stay well ahead of anticipated inflation.

I have invited a very distinguished and expert group of witnesses to give us their analyses of the threat of inflation, and their advice on how we should conduct monetary policy over the coming year, in light of that threat. Not all think the threat is real or severe. Many fear the greater danger is sluggish growth. They may be right. But I doubt it.

I have asked our witnesses to focus on several central questions: First. What were the major factors and forces which dampened inflation over the past few years? How much of this decline was due to government policies—which ones?—and how much was due to exogenous developments? Second. How do you explain the recent anomalies of monetary policy? Why has historically unprecedented growth in monetary aggregates failed, so far, to generate new inflation? Are there fundamental factors which have permanently reduced velocity? Third. Does the recent substantial depreciation of the dollar presage a new round of inflation? If so, should the Federal Reserve tighten monetary policy sufficiently to forestall further depreciation and ensure that the inflationary impact of the dollar's decline is transitory? Fourth. Should we worry about a resurgence of inflation? If so, what should be done to forestall it? If not, why not? Should monetary policy be primarily concerned over the next year, with restraining inflation or with stimulating a weak economy?

Our witnesses will be: June 4. Mr. Michael Sumichrast, former chief economist, National Association of Home Builders; Prof. Donald Ratajcvak, director, Economics Forecasting Center, Georgia State University; Dr. Paul Craig Roberts, former Assistant Secretary of the Treasury, CSIS; Mr. Lawrence Kudlow, chief economist, Bear Stearns & Co. June 10. Mr. Roger Brinner, group vice president, Data Resources; Dr. James Annable, chief economist, First National Bank of Chicago; Prof. William Poole, former member of Council of Economic Advisers, Brown University; Dr. Keith Johnson, senior vice president, Townsend-Greenspan & Co. June 11. Hon. Michael R. Darby, Assistant Secretary of the Treasury for Economic Policy; Hon. Michael L. Mussa, member of the Council of Economic Advisers. June 17. Dr. Allen Sinai, chief economist, Shearson Lehman Brothers; Dr. Jerry L. Jordan, former member of Council of Economic Advisers, First Interstate Bancorp.

In mid-July the subcommittee will host the semiannual Humphrey-Hawkins hearings on the conduct of monetary policy, at which Chairman Volcker will be asked to address the threat of inflation in the context of his report to Congress on Federal Reserve targets and objectives for the coming year.

THE NATIONAL LAWYERS GUILD: 50 YEARS OF DEDICATION TO THE U.S. CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 15 minutes.

Mr. CROCKETT. Mr. Speaker, today in Washington, DC, the National Lawyers Guild begins its 50th anniversary convention, celebrating the first half-century of involvement and commitment by its members to the principles of our Constitution.

As a member of the guild since 1940—and, I believe, the most senior black member of the guild in terms of continuous service—I am proud to acknowledge the important contributions the guild has made to constitutional freedoms and the exercise of the Bill of Rights. The times in which the guild has operated have included some of the darkest days in our history, when the Constitution was under attack from the forces of McCarthyism, from racial and sexual bigotry, and from Reaganism. Yet it has endured these tests of time, and has remained one of the strongest advocates for justice and freedom in our country and around the world.

Today, when the climate of political rhetoric and action is again swinging toward the intolerance and innuendo that characterized the McCarthy era, it is important to remember where similar words and similar actions led this Nation before. I think a recent speech, given by Leonard Boudin, a National Lawyers Guild member and general counsel of the National Emergency Civil Liberties Committee, to the NLG in Chicago on January 13, 1987, gives a remarkable overview of the guild's activities and the climate in which it has operated. I'd like to share his remarks with my colleagues:

NATIONAL SECURITY AND THE FIRST AMENDMENT

(By Leonard Boudin)

I was a very early member of the Guild and very active on its constitutional law and labor law committees during its first three decades.

A discussion of the Guild, I believe, should be predicated upon the Guild's contribution to our constitutional rights, a contribution which has been made in the areas of scholarship, legal advocacy and its self-protection from attacks in early years by the Attorney General against which it successfully defended itself in litigation.

As I looked at the Lawyers Guild Review, some years ago, with its articles by my uncle, Louis B. Boudin, by Osmond K. Fraenkel and Earl Dickerson, among others, I was impressed by the prescience of those great people and many of their colleagues. The Review's issue dealing with the Coplon espionage case in which I was court-appointed counsel for the defendant was the first public revelation of the true nature of the F.B.I.'s activities, viz massive secret violations of the First Amendment rights of American citizens. J. Edgar Hoover was prepared for that report because he had wiretapped the Guild offices just as he was prepared a few years earlier when Professor Thomas I. Emerson of Yale Law School, one of the Guild's great presidents, wrote an article for the Yale Law Journal on the government's "loyalty" investigations of its employees. Hoover was ready with his reply in the next issue of the Journal because the F.B.I. had secured Prof. Emerson's drafts of his article by burglarizing his office at the Yale Law School.

The explanation for this governmental behavior in what is called the Cold War is still in dispute. This was long before the period of the Big Mullah or the Great Satan, to use more contemporary terms for our relations with Iran. It was the Soviet Union beginning with 1917, which we have been taught to fear. How much of it was due to cynical operators like Joseph McCarthy or political idealogues like Senator Jenner or Congressman Walters, who were determined to advance politically on the bodies and careers of other people? Or how much was due to the China lobby which decimated the State Department, depriving us of loyal, knowledgeable civil servants who could have helped us relate to China several decades earlier than we have begun to do so. How much of it was due to the fear of nuclear war? * * *

The Cold War decade of 1946 to 1956 was perhaps the longest such period of political repression in American history. . . . The congressional committees, in subpoenaing American citizens and examining them in inquisitorial executive sessions and publicly as to their political beliefs and associations, were not carrying out legitimate legislative functions; their objectives were to stigmatize people for their political associations when they asserted (in the pre-North days) the Fifth Amendment and to jail them for asserting the First Amendment. . . .

The Cold War was a period in which, as today, foreign nationals were denied visas to enter the United States and American citizens were denied the right to travel. In Kent v. Dulles, we prevailed by a vote of five-to-four on an issue that seemed to me to be impossible to resist; that citizens should not be denied the right to travel because of their political affiliations. Yet, the vote was five-to-four with as respectable and scholarly a justice as Harlan voting with the dissenters. . . .

We all remember the criminal prosecutions under the Smith Act based essentially upon the teachings of Marx, Lenin and others, prosecutions which were a disgrace to a democracy and in which Guild lawyers who represented the defendants were themselves the subject of the sanctions of contempt, suspension and disbarment. More recently, I read a then contemporaneous New York statute suspending and revoking automobile drivers' licenses for Smith Act convictions of advocating the overthrow of the government. The legislators denied that this was an example of political blacklisting, a violation of the First Amendment. They said that the state was simply exercising its right to regulate automobile traffic in the interest of public safety. I have seen some bad drivers on the road but I don't think any of them were ever convicted under the Smith Act. . . .

No person asserting their First Amendment rights in that period ever won on the merits. In these cases, the majority always "balanced" the alleged national security interests against the civil liberty involved; under this equation, First Amendment rights were never held to override the so-called national security considerations.

More recently, in Regan v. Wald, the Supreme court upheld President Reagan's regulations permitting American citizens to travel to Cuba as long as they spent no money; you could sleep in the streets of Havana (with Jean Valjean) but if you wanted to spend money traveling to or eating meals in Cuba, you were violating the Trading With The Enemy Act of 1917, which authorized government control of financial expenditures in time of national emergency. In this case, the government relied upon the Korean War emergency declaration of 1950! The government's theory, implicitly adopted by the Court, was that tourism would build up the Cuban economy, giving the Cuban government enough money to overthrow the governments of other Central American countries.

This irrational proposition was not challenged by the Court. * * *

The problem is still with us: when will the Supreme Court be willing to inquire whether there is actually a national emergency or whether that proposition is a gigantic fraud? * * *

During this period, the academic community also was stripped of many of those with views contrary to those of the Administration. Thousands of American citizens and their families—perhaps a hundred thousand—suffered economic and other injury. We know of the thousands who were denied the right to travel. There were such tragic cases, like that of Paul Robeson, whose great voice was stilled for ten years by the denial of a passport. * * * Thousands were driven out of government employment in the State Department and elsewhere.

Suddenly we found ourselves in a period of rehabilitation, through the Southern civil rights movement involving the youth of this country. Then came the anti-Vietnam War movement which brought forth many more young people. * * * Both issues merged in the successful Supreme Court suit of a black leader, Julian bond, to take his seat in the Georgia legislature despite his opposition to the Vietnam War.

Under President Nixon, we saw the development of the concept of the "palace guard," the White House posse, as Arthur Schlesinger called it. You may recall the White House efforts to enjoin the publication of the Pentagon Papers and the criminal prosecution and burglarizing of Daniel Ellsberg for his important role in making the papers available for publication. * * *

Then came the so-called renovation of the presidency by the Church Committee's revelations about Watergate and the misuse of the C.I.A., the F.B.I. and the other intelligence services. Finally, we arrive at this man who is now or was recently running the country from the White House.

Our constitutional system does not permit the withholding of information from the people of the United States. Nevertheless, President Reagan moved in very quickly with a secret instruction to the C.I.A. in March of 1982, to draw up a plan for the military overthrow of the Nicaraguan government. He never told Congress or the public his true objective. It was only when the C.I.A. over-reached a bit and actually planted mines in Nicaragua's harbor, injuring other countries' ships that even Senator Goldwater revolted, said that this was "an act of war" and asked why C.I.A. director Casey had lied to the Committee. Today, in 1987, we are still asking why Casey lied. . . .

The country was shocked when a few months ago it learned of our government's "disinformation program" about Libya. The next shock occurred when the sale of arms to Iran was revealed; this disturbed the American people more than the diversion of its proceeds to the Contras because the President had "stood tall" against the sale of any arms to Iran and our citizens remembered the Hostage Crisis of 1979-1981.

Then came the second untruth, that the motivation for the arms sales was the President's desire for peace in the Middle East and his alleged broad "geopolitical" view of that area. On the President's theory, you give arms to a country because you want peace and then you give military and aerial surveillance information to the opponent because you want peace. Then you give disinformation to both because you want peace * * *.

My conclusions, I suspect, are no different from yours. National security and the First Amendment are not counterpoised against one another. A democratic system vitally demands the public's knowledge and participation and that of the Congress which, with all its limitation, is closer to the public than the President. The more information these two groups possess, the greater the national security of the country. It all sounds so simple! In a democracy the people have the right to know and the right to decide what the foreign policy will be.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 782 and H.R. 1195

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent to have my name removed from two bills, H.R. 782 and H.R. 1195.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISCUSSION OF THE ARIAS PEACE PLAN FOR CENTRAL AMERICA

The SPEAKER pro tempore. Under previous order of the House the gentleman from Nebraska [Mr. BEREUTER] is recognized for 60 minutes.

Mr. BEREUTER. Mr. Speaker, I wish to express my appreciation to the Speaker for the courtesy just extended to me.

Two days ago I presented a special order which not only traced some of the human rights abuses attributed to the Sandinista government of Nicaragua as documented and explored by an article in the Washington Post, but I also began a discussion of a plan, a demilitarization, pacification, democratization plan prepared by President Arias of Costa Rica.

At that time I was able to present to the House the preamble to the Arias plan which has been approved by Costa Rica, Guatemala, Honduras, and El Salvador. As I indicated at that time I ordered a future special order, the special order I am about to engage in at this moment, to discuss the plan itself, a 10-point plan called the Arias plan, which will be under consideration by those four Central American countries and hopefully by the nation of Nicaragua as well next month, probably in Guatemala.

At this point I would like to emphasize that this plan is at this point not approved, but I think it is very important that my colleagues here in the House and, indeed, Members of the entire Congress be familiar with the Arias proposal. I think it is important that the administration fully examine, as I am sure they have, but then be supportive in a very open, forthright fashion, of the Arias plan.

Second, I think it is incumbent upon the nation of Nicaragua, especially the Sandinista government of that country, to examine the Arias plan and to explain why they are not supportive of the Arias plan for demilitarization of Central America, democratization of those individual nations and in general move toward peace in Central America. It is a plan unlike the Contadora process and a plan which is prepared by a Central America which is proposed to be adopted by Central American nations themselves.

Now, as for the Arias plan, this is a translation of the plan as presented to this Member via a second party from the Foreign Ministry of Costa Rica. It has 10 major elements in it. I will explain in exact detail as presented to me the elements of that plan. I hope that my colleagues will have a chance to examine not only these 10 points, but the preamble which has been adopted by four of the five nations as shown in my special order presented in this Chamber 2 days ago.

The first element of the Arias plan is entitled "National Reconciliation." There are two subpoints under that plan. The first is the amnesty portion and the second is the dialog section.

First under the amnesty part, part A:

1. NATIONAL RECONCILIATION

(A) AMNESTY

Over a period of 60 days following the date in which the present document is signed by all Central American Governments, wherever there may exist armed conflicts in such countries, a general amnesty should be decreed for political and related offenses. Such amnesty decrees should establish all arrangements that may guarantee the inviolability of life, freedom in all aspects, guaranty of assets, and security of all people.

Also, these decrees will in each one of such states create a National Commission for Reconciliation and Dialog, made up of Government representatives, internal political opposition representatives, Catholic Church representatives, and representatives from the Inter-Americans Human Rights Commission; such a Commission will have the responsibility of attesting the effective enforcement of the national reconciliation process.

Over a period not to exceed 6 months after this document is signed, the amnesty decree should have been fully executed in all its particulars, in a real and effective manner, as determined by the above Commission.

(B) DIALOG

The Governments of the Central American states that are suffering armed conflict must, from the signing of this document, initiate or strengthen, as the case may be, an extensive dialog with all nonmilitary internal opposition groups as a means of strengthening civic institutions and of "promoting actions of national reconciliation that permit participation in processes of a democratic character, in accordance with the law, in cases where deep divisions have been produced within a society." (Document of Objectives.)

2. CEASE FIRE

Simultaneous with the initiation of dialog, parties in conflict in each country will end all military actions.

3. DEMOCRATIZATION

In a maximum period of 6 months, beginning on the date this document is designed, the "real pluralist, democratic process shold be initiated. Such a process should involve promotion of social justice, respect for human rights, sovereignty and territorial integrity of the states, and the right of all nations to freely and without external influences of any kind, determine its economic, political, and social model" (Declaration of Esquipulas), and will begin to adopt, in a verifiable manner, "Measures leading toward the establishment or improvement, where applicable, of democratic, representative, and pluralistic systems that will guarantee the effective participation of the people in making decisions and that will ensure free access to honest and periodic elections to the different tendencies of opinion. Such processes to be based on full observance of civil rights." (Document of Objectives.)

As a means of verifying the good faith in the development of this process of democratization, it is understood that:

First, in 60 days starting from the signing of this document there must exist complete liberty of television, radio, and press. This complete liberty includes the opening and continued functioning of communications media for all ideological groups without any exceptions and the operation of such media without prior censorship.

Second, during the same time period full political pluralism must be shown. Political groups will have full access to the media, total enjoyment of the right to association, and the ability to hold public demonstrations as well as the unrestricted right to communicate orally, in writing, and via television in order to publicize their ideas.

4. FREE ELECTIONS

Once the intrinsic conditions to a democracy have been established, there must be free, pluralist, and honest elections.

The first joint expression of the Central American states in finding reconciliation and lasting peace for their people will be an election process for the integration of the Central American Parliament. Creation of such Parliament was proposed in the "Declaration of Esquipulas," dated May 25, 1986.

Such elections should take place simultaneously in all countries in Central America during the first 6 months of 1988, on a date to be agreed upon by the Presidents of the Central American states. The elections will be subject to the close observation of the Organization of American States to give the whole world assurance of the integrity of the process. Such a process will be governed by the most severe standards of equality of access to all political parties, to the social communication media, as well as to extensive opportunities for public demonstrations and any other type of partisan propaganda.

After the elections for the Central American Parliament have taken place, there should be, in each one of the countries, equally free and democratic elections for nomination of popular representatives in all municipalities, for the Parliament and for President of the country. Such elections should have equal or same guarantees and observation by international entities over the period of time as set forth in the respective political constitutions.

5. SUSPENSION OF MILITARY AID

Simultaneous with the signing of this document the Governments of the five Central American states will request that extraregional governments which are overtly or covertly supplying military aid to insurgent or irregular forces suspend such aid. The five also will request at the same time that the abovementioned insurgent or irregular forces abstain from accepting such aid in demonstration of an authentic spirit of Latin American fellowship. These requests will be made in compliance with what was established in the "Document of Objectives" regarding the "Elimination of arms trafficking both intraregional or coming from outside the region, earmarked for persons, organizations, or groups that are trying to destabilize Central American Governments".

6. NONUSE OF TERRITORY TO ATTACK OTHER STATES

The five countries signing this document reaffirm their obligation "Not to permit the use of their own territory and not to give or permit military or logistical support to individuals, organizations or groups that attempt to destabilize the Governments of the Central American countries". (Document of Objectives.)

7. REDUCTION OF ARMAMENTS

Over a period of 60 days, beginning the date this document is signed, the Governments of the five Central American states will initiate "Negotiations on the control and reduction of the present inventory of weapons and over the number of military forces" (Document of Objectives). In order to do that, the five Governments accept the procedure included in the "Joint Proposal From Costa Rica and Guatemala," submitted during the deliberations of the Contadora group.

These negotiations will also involve arrangements concerning the disarming of the irregular forces presently operating in the region.

8. NATIONAL AND INTERNATIONAL SUPERVISION

(A) FOLLOWUP COMMITTEE

Within a 3-day period, beginning from the date this document is signed, a followup committee must be established composed of the United Nations Secretary General, the Secretary General of the Organization of American States, the Ministers of Foreign Relations of the Contadora group, and the Ministers of Foreign Relations of the support group. This committee will supervise and verify execution of obligations as included in this document. Its followup functions will also apply in those cases as may be established in any other instruments for supervision and execution.

(B) SUPPORT AND FACILITIES TO SUPERVISORY ORGANIZATIONS

In order to strengthen the efforts of the followup committee, the Governments of the five Central American states will make declarations in support of their work. To such declarations, there may be added all such others from countries interested in promoting freedom, democracy, and peace in Central America.

The five Governments will provide all the necessary facilities for the complete fulfillment of the duties and investigations falling under the responsibility of the National Commission for Reconciliation and Dialog in every country and of the followup committee.

9. EVALUATION OF PROGRESS TOWARD PEACE

On a date to be established as convenient, but in any case within the 6-month period following the signature of this document, the Presidents of the five Central American states will meet at Esquipulas, Guatemala, for the purpose of evaluating progress in the obligations herein accepted.

10. DEMOCRACY AND FREEDOM FOR PEACE FOR DEVELOPMENT

In the atmosphere of freedom that democracy assures, the Central American countries will undertake economic and cultural agreements which will permit accelerated development in order to bring about societies that are more equitable and free from misery.

The points included in this document set up a harmonic and indivisible unit. Its signing involves the obligation, accepted in good faith, to execute, within the terms as set forth, all points in this "Process to bring a stable and lasting peace in Central America."

This document will enter into force on the date of its signature by the Presidents of the five Central American states.

□ 1410

Mr. Speaker, I say to Members of the Congress of the United States, my colleagues in the House, that this is the body of the Arias plan for peace for democratization and for demilitarization within Central America. It is preceded by the preamble which has already been adopted by four of the five nations, all except Nicaragua.

I am presenting this, I reemphasize, so my colleagues here will know the full details of the Arias proposal which will be considered shortly by the nations of Central America and so the administration will understand that this Member and other Members of the Congress are concerned that we present a full and supportive position for the Arias proposal and so that the presidents and other governmental officials of all five of the Central American countries understand that there is a large and growing support for this body, not only in the Central American nations but also in the Congress of the United States and among the people of this Nation.

Finally, Mr. Speaker, I think it is important to begin to understand, examine, and draw support for this Arias proposal, a Central American peace plan presented by a Central American, a respected Central American from Costa Rica, the shining light of democracy in Latin America.

I think it is incumbent then upon the Nicaraguan Government to show why the demilitarization and democratization and peace plan presented by President Arias is unacceptable. I think the burden will shift then to the Sandinista government to show why they are not willing to support and be signatories to and live within the agreements of the peace plan.

ORDER OF BUSINESS

Mr. RITTER. Mr. Speaker, I understand the gentleman from Missouri [Mr. EMERSON] wishes to proceed for 5 minutes with his special order. I am willing that he be allowed to take his 5 minutes prior to my 60 minutes, and I ask unanimous consent that he proceed before I am recognized.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENE HUCKSTEP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, as Members of Congress, we are all invited to participate in many community activities of a wide variety, and many of them have a very special significance. Recently I attended a recognition banquet in Cape Girardeau, MO, in honor of Mr. Gene Huckstep, who is a presiding commissioner of Cape Girardeau County.

For more than two decades, Cape Girardeau County presiding Commissioner Gene E. Huckstep spent much of his time within arm's reach of a telephone or two-way radio, ready to roll at a moment's notice to aid victims of car, truck, or even airplane accidents.

Hundreds of people, all victims of accidents over the years, credit Mr. Huckstep for the fact that they are alive today—thanks to his rescue service, offered at no charge from 1965 until last year, when he turned over the extrication duties to the Cape Girardeau Fire Department.

During those years of service, Gene Huckstep was personally involved in 1,550 extrications, and he says he remembers every last one of them.

Deservedly, Gene Huckstep is being recognized for his many years of emergency rescue work in a very appropriate manner: The newly remodeled and enlarged emergency services department of Cape Girardeau's St. Francis Medical Center is being dedicated as the "Gene E. Huckstep Emergency and Trauma Center."

Likewise at the recognition banquet held in Mr. Huckstep's honor, the St. Francis Medical Center Board of Directors presented a resolution pointing out that "he and his men have saved an untold number of lives and minimized injuries by being on the scene of accidents within minutes." The resolution also states that, while serving on the St. Francis Medical Center Board, Mr. Huckstep "has diligently and faithfully worked to ensure that the emergency medical services available to the people of southeast Missouri and southern Illinois are second to none."

Adding to this well-deserved praise, a long-time associate of Mr. Huckstep and former owner of a local ambulance service said, "We delivered many a patient to a hospital who recovered and went home, thanks in large part to the extrication. Without the extrication service, many would have died at the scene."

Through the years, Huckstep has received numerous local, State, and national recognitions for his efforts. Among his awards and citations are a citation for bravery in 1968 from the National Police Officers Association; the 1971 Service Above Self Award from the Cape Girardeau Rotary Club; the Peace Officer of the Year Award for 1973 from the Cape Girardeau Exchange Club; the 1975 Liberty Bell Award from the Cape County Bar Association; and a 1978 Certificate of Appreciation from the Veterans of Foreign Wars.

Mr. Speaker, what made this recognition banquet so unusual was that the people in attendance were community leaders and citizens and indeed people who have worked with Mr. Huckstep over the years in his extrication efforts, but, most significantly, the victims or the people whose lives he had helped to save. There was a genuine feeling of real gratitude and thanks in that room for this person who has done so much for his fellow man. This was the kind of experience that I felt merited the attention of the House, because the efforts that Mr. Huckstep has made over the years represent one of those intangible factors that make us all so proud to be a part of the communities in which we live. He is certainly one of those kinds of people that make us proud to call them a neighbor and a friend.

□ 1420

IMPROVING AMERICAN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 60 minutes.

Mr. RITTER. Mr. Speaker, the legislation improving American education we passed today, H.R. 5, the School Improvement Act, is a step in the right direction.

I am pleased to have supported this bill and want to underscore the Federal Government's commitment in assisting in the educational reform movement. These programs in H.R. 5 will mean smaller class size, stronger parental involvement, more intense instruction for longer periods of time, inservice training for teachers and parents, and equal access to educational programs.

This legislation represents a commitment to initiatives which will enable more children to speak fluent English and become more proficient in math and science. It is important to increase the number of children who graduate with at least a minimal level of skills. To increase our average level of competency will eventually lead to a stronger position in our competitiveness with other countries by assuring a more effective work force for American enterprise.

This legislation alters existing law to permit more Federal funding for alternative approaches to teaching children whose native language is not English. It is a compromise which guarantees that native language bilingual education programs will be funded at current levels, adjusted for inflation. It takes the constraints off the local school district and allows it to do what it can best assess is most appropriate for its students as well as what their parents want for them.

Some suggestions in the report, "A Nation At Risk," are finally being addressed in this legislation such as providing opportunity for increased parental involvement. That report also addressed the need for increased homework which can be encouraged by parents becoming increasingly involved. This begins to change the current situation in which the average Japanese students do 2 hours of homework per evening compared to the one-half hour that American students spend.

This measure authorizes $400 million in fiscal year 1988 and such sums as may be necessary for the next 5 fiscal years for the critical skills improvement program, commonly known as the mathematics and science education programs. This program, originally enacted in 1984, provides funds to states and local school districts and colleges and universities to improve the quality of teaching and instruction in math, science, computer literacy, and foreign languages.

This bill focuses solely on math and science. Readjusting the allocation formula to enable a larger share of funds to go to the local school district allows discretion of the local education entity rather than Federal direction which is far from the local situation and frequently distorts the problem.

There are some paths where the Federal Government can lead the way toward improving the climate for education. Research sponsored by the Federal Government which seeks to gain a broad, national perspective on different experiences in recruitment and retention across the country is essential.

Mr. Speaker, the shortage of math and science teachers exemplifies the magnitude of the long-range teacher supply problem.

The shortage is also a significant drain on U.S. competitiveness. It is not possible for American workers and even managers to work in advanced technology situations with vastly increased individual responsibility for quality and continuous improvement without basic knowledge of math and science. Total quality approaches require a knowledge of statistics on the part of many workers who can't even divide.

According to one set of estimates, of a total teaching force of about 200,000 math and science teachers, 9 percent left the profession in 1982-83; 30 percent are not fully qualified for the subjects they are teaching; and over 40 percent will retire within the next decade. The National Science Teachers Association estimates that 300,000 new math and science teachers will be needed by 1995. That is more than the total number of math and science teachers currently teaching!

Furthermore, there is no indication that the teaching profession is attracting new math and science teachers at a rate that meets the increased demand. In fact, exactly the opposite is true. In 1981, the Nation's colleges granted fewer than 1,400 bachelor's degrees in the fields of math and science education combined. This number repesents less than 1 math or science teacher for every 10 school districts in the United States. In the following school year, 1982-83, about 18,000 math and science teachers left their teaching positions. About 37 percent of these teachers left for non-teaching employment; 9 percent retired; and the remainder took other teaching-related jobs.

Mr. Speaker, it is alarming that the average SAT scores of those students entering teachers colleges is 70 points lower than the average student entering college. Think of it.

Those individuals who will teach our children are coming in to the profession at a level below average of the entering college student.

There is no sign that supply is responding to demand even in fields where there are widely publicized shortages. The number of education degrees conferred in math and science, for example, continues to decline. Further, less than half of the present teaching force say they plan to continue teaching until retirement. I might add that the above data was extracted from "Beyond the Commission Reports: The Coming Crisis in Teaching," July 1984, by Dr. Linda Darling-Hammond, Rand Corp., pages 3-8, which is amply footnoted.

Our House Republican Task Force on High Technology and Competitiveness, will be considering problems of education, particularly in math and science. Investigation of the concept of market-sensitive teacher salaries is in order. As noted in, "A Nation Prepared: Teachers for the 21st Century," the Report of the Task Force on Teaching as a Profession, May 1986 by the Carnegie Forum on Education and the Economy, "Teaching must offer salaries, benefits, and working conditions competitive with those of other professions." (P. 99) But, recruitment and retention has been an unmitigated disaster because the very basic American forces of supply and demand are not at work in our schools. Salaries based on supply and demand, particularly in areas of teacher scarcity will reward those individuals who possess skills in disciplines where it is harder to attract teachers. Higher pay is also in order to attract competent and reliable individuals. The key point made by the Carnegie Foundation was that the salary problem is not so much one of average salaries which have been moving upward in recent years, but one of the absence of any peak rewards. The individuals who excel or teachers who are in short supply get the same reward as all the other teachers. This may well be the crux of the shortages we face in the teaching profession today.

We, and other government entities, have denied any impact of the marketplace on hiring and retaining teaching professionals. While the entire cross section of professional talent in America is faced with one system, teachers face another. Thus, vastly enhanced recruitment and retention can be achieved without having to overburden taxpayers and property owners, simply by giving flexibility to the school districts responsible for recruiting and retaining teachers.

The time has arrived for an M&M strategy to solve this teacher shortage problem. M&M stands for merit and market.

Once again, research and the gathering of data by Federal agencies such as the Department of Education and the National Science Foundation can help us make policy decisions in this important policy area.

I commend the authors of this legislation and seek their support to further the competitiveness of our educational system, by starting a new M&M philosophy for rewarding teachers in the United States of America, rewarding them on the basis of merit, market, just the way so many other professionals receive their rewards in American society.

□ 1430

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House granted earlier today, the House will stand in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 30 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1720

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GRAY of Illinois) at 5 o'clock and 28 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 127. Concurrent resolution providing for an adjournment of the House and Senate from May 21 to May 27, 1987.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hopkins (at the request of Mr. Michel), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bereuter) to revise and extend their remarks and include extraneous material:)

Mr. Lungren, for 5 minutes, today.

Mrs. Johnson of Connecticut, for 60 minutes, today.

Mr. Ritter, for 60 minutes, today.

Mr. Emerson, for 5 minutes, today.

(The following Members (at the request of Mr. Darden) to revise and extend their remarks and include extraneous material:)

Mr. Kildee, for 5 minutes, today.

Mr. Wise, for 60 minutes, on May 27.

Mr. Boucher, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the requst of Mr. Bereuter) and to include extraneous matter:)

Mr. Grandy.

Mr. Barton of Texas.

Mr. Holloway.

Mr. Daub.

Mr. Bereuter.

Mr. Lewis of California in two instances.

Mr. Shumway.

Mr. Burton of Indiana in two instances.

Mr. Skeen.

Mr. Boehlert in two instances.

(The following Members (at the request of Mr. Darden) and to include extraneous matter:)

Mr. Biaggi.

Mr. Donnelly.

Mr. Hoyer.

Mr. Guarini.

Mr. Dingell.

Mr. Bennett.

Mr. Ford of Michigan.

Mr. Florio in two instances.

Mrs. Boxer.

Mr. Roe.

Mr. Lowry of Washington.

Mr. Wyden.

Mr. Hochbrueckner.

Mr. Williams.

Mr. Darden.

Mr. Lantos.

ADJOURNMENT

Mr. HAYES of Illinois. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 127 of the 100th Congress, the House stands adjourned until 12 noon, Wednesday, May 27, 1987.

Thereupon (at 5 o'clock and 30 minutes p.m.), pursuant to House Concurrent Resolution 127, the House adjourned until Wednesday, May 27, 1987, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1453. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 06-87, concerning a proposed memorandum of understanding with the Government of the United Kingdom on the cooperative development and production of a satellite communications modulator/demodulator (universal modem), pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1454. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 05-87, concerning the proposed memorandum of understanding with the Governments of Canada, France, Italy, the Netherlands, Spain, United Kingdom, and the Federal Republic of Germany for the cooperative development of a NATO frigate (NFR-90), pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1455. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 04-87, on the NATO Airborne Early Warning and Control Cooperative Program, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1456. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to improve the efficiency and effectiveness of the management, and disposal of Federal real and personal property; to the Committee on Government Operations.

1457. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period January 1, 1987 through March 31, 1987, pursuant to 2 U.S.C. 104a (H. Doc. No. 100-78); to the Committee on House Administration and ordered to be printed.

1458. A letter from the Secretary of Transportation, transmitting the fifth annual report of accomplishments under the Airport Improvement Program, fiscal year 1986, pursuant to 49 U.S.C. app. 2220; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1444. A bill to amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that Act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs (Rept. 100-85 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space and Techology. H.R. 1612. A bill to authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988 and 1989; with amendments (Rept. 100-89, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. Report on allocation of budget totals to subcommittees under the concurrent budget resolution for fiscal year 1987. Rept. (100-101). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2167. A bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that Act, to increase the maximum daily benefit provided under that Act, and for other purposes; with amendments (Rept. 100-102, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1522. A bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; with amendments (Rept. 100-103). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1414. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; with amendments; referred, for a period ending not later than July 20, 1987, to the Committee on Energy and Commerce for consideration of such portions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X, and to the Committee on Science, Space, and Technology for consideration of such portions of the bill and amendments, except sections 2 and 15 thereof, as fall within the jurisdiction of that committee pursuant to clause 1(r), rule X (Rept. 100-104, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARTON of Texas (for himself, Mr. Udall, Mr. Ackerman, Mr. Armey, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Bliley, Mr. Boland, Mr. Boulter, Mr. Bryant, Mr. Burton of Indiana, Mr. Crane, Mr. Combest, Mr. Dannemeyer, Mr. Dornan of California, Mr. Eckart, Mr. Fish, Mr. Gingrich, Mr. Horton, Mr. Howard, Mr. Hughes, Mr. Hunter, Mr. Inhofe, Ms. Kaptur, Mr. Kolbe, Mr. Kolter, Mr. Lagomarsino, Mr. Levine of California, Mr. Lowery of California, Mr. Donald E. Lukens, Mr. Martinez, Mr. McEwen, Mr. McGrath, Mr. Packard, Mr. Porter, Mr. Robinson, Mr. Scheuer, Mr. Shumway, Mr. Smith of New Jersey, Mr. Smith of Florida, Mr. Stallings, Mr. Swindall, Mr. Valentine, Mr. Wilson, Mr. Wise, Mr. Wolf, Mr. Wortley, Mr. Wylie, Mr. Smith of New Hampshire, Mr. Bartlett, Mr. DeLay, and Mr. Fields):

H.R. 2489. A bill to amend the act of September 13, 1961, relating to the destruction or injury of property moving in interstate or foreign commerce, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GONZALEZ:

H.R. 2490. A bill to amend title 10, United States Code, to provide for improved control of excess profits on negotiated defense contracts; to the Committee on Armed Services.

By Mr. BOEHLERT:

H.R. 2491. A bill to amend the Federal Aviation Act of 1958 to require certain air carriers to provide seating to persons holding tickets issued by certain bankrupt air carriers and to employees of such air carriers, and to amend the Internal Revenue Code of 1986 to establish a separate account in the airport and airway trust fund for reimbursement of air carriers which provide such seating and of persons holding such tickets; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. BOEHLERT (for himself and Mr. MacKay):

H.R. 2492. A bill to establish within the National Bureau of Standards an Office of Extension Services to support, advise, and assist the various State Industrial Extension Services, and to provide for a 3-year pilot grant program to demonstrate methods by which the Federal Government can help States establish, improve, and expand such Services; to the Committee on Science, Space, and Technology.

By Mr. BONER of Tennessee:

H.R. 2493. A bill to amend the Airport and Airway Improvement Act of 1982 relating to the amount of funds available for noise compatibility planning and programs, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BOUCHER (for himself, Mr. Cooper, and Mr. Slattery):

H.R. 2494. A bill to amend the Securities and Exchange Act of 1934 to authorize the Securities and Exchange Commission to pay rewards for information leading to the detection and prosecution of unlawful insider trading and market manipulation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANIEL:

H.R. 2495. A bill to direct the Secretary of the Interior to purchase certain land for addition to the Saint Croix National Scenic Riverway in the State of Wisconsin; to the Committee on Interior and Insular Affairs.

By Mr. FORD of Michigan (for himself and Mr. Goodling):

H.R. 2496. A bill to amend the National School Lunch Act to improve the distribution procedures for commodities donated for the purposes of assistance under the National School Lunch Act, the Child Nutrition Act of 1966, and title III of the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. GREGG (for himself, Mr. Downey of New York, Mr. Frenzel, and Mr. Jeffords):

H.R. 2497. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the emission from certain boilers of sulfur dioxide or nitrogen oxides and to create a trust fund for revenues from such tax; to the Committee on Ways and Means.

H.R. 2498. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the emission from certain boilers of sulfur dioxide or nitrogen oxides and to establish a program to provide assistance to sources of sulfur and nitrogen emissions to encourage the adoption of air pollution control measures; jointly to the Committees on Ways and Means and Energy and Commerce.

By Mr. HAMILTON:

H.R. 2499. A bill to amend section 313 of the Federal Election Campaign Act of 1971 to eliminate a provision that permits certain Members of Congress to use excess campaign funds for personal purposes; to the Committee on House Administration.

By Mr. UPTON (for himself, Mr. Sensenbrenner, Mr. Bonior of Michigan, Mr. Vander Jagt, Mr. Davis of Michigan, Mr. Hiler, Mr. Dingell, Mr. Stangeland, Mrs. Martin of Illinois, Mr. Schuette, Mr. Wolpe, Mr. Broomfield, Mr. Gunderson, Mrs. Johnson of Connecticut, Mr. Boehlert, Mr. Pursell, Mr. Henry, Mr. Kyl, Mr. Porter, Mr. Horton, Mr. Kildee, Mr. Kolter, Mr. Rhodes, Mr. Cardin, Mr. Buechner, Mr. Holloway, Mr. Traxler, Mr. DeFazio, Mr. Petri, Mr. Roth and Mrs. Roukema):

H.R. 2500. A bill to amend the National Flood Insurance Act of 1968 to revise the schedule for payment of flood insurance to encourage the owners of structures located on land subject to imminent collapse or subsidence to dismantle and remove the structures; to the Committee on Banking, Finance and Urban Affairs.

By Mr. INHOFE:

H.R. 2501. A bill to amend title 11 of the United States Code to provide an exception to certain provisions of such title relating to avoidable transfers; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 2502. A bill to prohibit the denial or abridgment of the right of former criminal offenders to vote in elections for Federal office; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.R. 2503. A bill to direct the Secretary of the Interior to acquire certain real property adjacent to the Andrew Johnson National Historic Site in Greeneville, TN, for inclusion with the national cemetery located in that site; to the Committee on Interior and Insular Affairs.

By Mr. SKEEN (for himself and Mr. Lujan):

H.R. 2504. A bill to withdraw certain public lands in Eddy County, NM; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Armed Services.

By Mr. SUNDQUIST:

H.R. 2505. A bill to amend title 18, United States Code, regarding sentencing for capital offenses; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 2506. A bill to provide for establishment of a roll of the Tohono O'odham Indian people and clarify certain of their rights; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. Young of Alaska, Mr. Campbell, Mr. Smith of Florida, and Mr. Bereuter):

H.R. 2507. A bill to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WAXMAN (for himself, Mr. Hawkins, Mr. Clay, and Mr. Murphy):

H.R. 2508. A bill to amend the Public Health Service Act and the Fair Labor Standards Act of 1938 to provide minimum health benefits for all workers in the United States; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. WILLIAMS (for himself, Mr. Coleman of Missouri, Mr. Perkins, Mr. Lewis of Georgia, Mr. LaFalce, Mr. Solarz, Mr. Wyden, Mr. Davis of Illinois, Mr. Eckart, Mr. Martinez, Mr. Robinson, Mr. Richardson, Mr. Wolpe, Mr. Sundquist, Mr. Flippo, Mr. Chapman, Mr. Kildee, Mr. Penny, Mr. Owens of New York, Mr. Smith of New Jersey, Mr. Atkins, Mr. Biaggi, Mr. Ackerman, Mr. Clay, Mr. Grandy, Mr. Hayes of Illinois, and Mr. Scheuer):

H.R. 2509. A bill to create a National Postsecondary Education Trust, to prescribe the powers and duties of the trust and of its board of trustees; to provide for advance tuition payment plan agreements; to establish an advance tuition payment fund and to provide for its administration, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. WYDEN (for himself and Mr. Donnelly):

H.R. 2510. A bill to amend title XVIII of the Social Security Act with respect to payment to hospitals for capital-related costs in a manner that encourages hospitals to close unneeded beds; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WELDON (for himself, Mr. Ford of Michigan, Mr. Coelho, Mrs. Morella, Mr. Lungren, Mr. Denny Smith, Mr. Bliley, Mr. Wylie, Mr. Pashayan, Mr. Callahan, Mr. Gallo, Mr. Schuette, Mr. Ireland, Mr. Ravenel, Mr. Hunter, Mr. Lagomarsino, Mr. Miller of Washington, Mrs. Martin of Illinois, Mr. Swindall, Mr. Holloway, Mr. Shuster, Mrs. Smith of Nebraska, Mr. Rowland of Connecticut, Mr. Shaw, Mr. Buechner, Mr. Roth, Mr. McMillan of North Carolina, Mr. Miller of Ohio, Mr. Saxton, Mr. McCandless, Mr. McDade, Mr. Sensenbrenner, Mr. Young of Florida, Mr. Parris, Mr. Craig, Mr. Inhofe, Mr. Archer, Mr. Davis of Illinois, Mr. Hiler, Mr. Emerson, Mr. Weber, Mr. Nielson of Utah, Mrs. Bentley, Mr. Molinari, Mr. Livingston, Mr. Stump, Mr. Bateman, Mr. Kasich, Mr. Lightfoot, Mr. Myers of Indiana, Mr. Martin of New York, Mr. Donald E. Lukens, Mr. Sundquist, Mr. Dickinson, Mr. Gekas, Mr. Kyl, Mr. Shumway, Mr. DeWine, Mr. Schaefer, Mr. Ritter, Mr. Mack, Mr. Smith of

Texas, Mr. McEwen, Mr. Oxley, and Mr. Dymally):

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. Stark"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR (for herself, Mr. Annunzio, Mr. Frenzel, Mr. Swift, Mr. Clay, Mr. Gingrich, Mr. Roberts and Mr. Jones of Tennessee):

H.J. Res. 291. Joint resolution conferring the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin; to the Committee on House Administration.

By Mr. SHUMWAY (for himself, Mr. Archer, Mr. Armey, Mr. Broomfield, Mr. Burton of Indiana, Mr. Craig, Mr. Daniel, Mr. Fawell, Mr. Ireland, Mr. Konnyu, Mr. Donald E. Lukens, Mr. Porter, Mr. Denny Smith and Mr. Wortley):

H. Con. Res. 129. Concurrent resolution expressing the sense of Congress that the English language is the official language of the United States; to the Committee on Education and Labor.

By Mr. HAMILTON:

H. Res. 174. Resolution to amend the Rules of the House of Representatives to restrict the honoraria any Member may receive from persons with legislative interests before committees upon which the Member serves; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

84. The SPEAKER presented a memorial of the Legislature of the State of Arizona, relative to a proposed amendment to the Constitution regarding voluntary prayer in public schools; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. SCHUMER introduced a bill (H.R. 2511) for the relief of Tarek Mohamad Mahmoud; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 189: Mr. Gekas.

H.R. 192: Mr. Pepper, Mr. Bosco, Mr. Howard, Mr. Hughes, Mr. Hertel, Mr. Florio, Mr. Gray of Illinois, Mr. Torres, Mr. Berman, Mr. Savage, Mr. Dixon, Mr. Scheuer, Mr. Fuster, Mr. McHugh, Mr. Bates, Mr. Mineta and Mr. Levine of California.

H.R. 372: Mr. Crane.

H.R. 378: Mr. AuCoin, Mrs. Boggs, Mr. Price of Illinois, Mr. Torres, Ms. Snowe, Mr. Dellums, Mr. Richardson and, Mr. Traficant.

H.R. 432: Mr. DeFazio, Mr. Sunia, Mr. Savage, Mr. Schaefer, Mr. Donald E. Lukens, Mr. Kolbe, Mr. Owens of Utah, Mr. Feighan, Mr. Chandler, Mr. Stallings, Mr. Packard and, Mr. Leland.

H.R. 567: Mr. Downey of New York, Mr. Anthony, Mr. Ford of Michigan, Mr. Clarke, Mr. Gejdenson, Mr. Penny, Mr. Hatcher, Mr. Wortley, Mr. Rowland of Georgia, Mr. Ravenel, Mr. Sawyer, Mr. Lewis of Florida, and Mr. Emerson.

H.R. 637: Mr. Davis of Illinois.

H.R. 655: Mrs. Bentley.

H.R. 809: Mr. Schuette.

H.R. 898: Mr. Young of Alaska.

H.R. 1008: Mr. Waxman and Mr. Feighan.

H.R. 1013: Mr. Mfume and Mr. Owens of New York.

H.R. 1028: Mrs. Kennelly, Mr. Crane, and Mr. Pease.

H.R. 1082: Mr. Konnyu, Mr. Stangeland, Mr. Whittaker, Mr. Lewis of Florida, Mr. Murphy, Mr. Quillen, Mr. Kemp, Mr. Wylie, Mr. Hefner, Mr. Slaughter of Virginia, Mr. Gregg, Mr. Bevill, Mr. Chappell, Mr. Houghton, Mr. McCollum, and Mr. Bliley.

H.R. 1084: Mr. Clinger.

H.R. 1101: Mr. Feighan.

H.R. 1106: Mr. Young of Florida, Mr. Guarini, and Mr. Jacobs.

H.R. 1115: Mr. Solomon, Mr. Hiler, Mr. Roth, and Mr. Gray of Illinois.

H.R. 1186: Mr. Markey and Mr. Berman.

H.R. 1213: Mr. Perkins, Mr. Scheuer, Mr. Smith of New Jersey, Mr. Jontz, Mr. DioGuardi, Ms. Kaptur, Mr. Bliley, Mr. Davis of Illinois, Mr. Howard, Mr. Shumway, Mr. Hayes of Illinois, Mr. Savage, Mr. Boulter, and Mr. Dwyer of New Jersey.

H.R. 1249: Mr. Mineta.

H.R. 1327: Mr. Durbin, Mr. McMillen of Maryland, and Mr. Thomas of Georgia.

H.R. 1424: Mr. Quillen.

H.R. 1481: Mr. Crane.

H.R. 1516: Mr. Fawell, Mr. Donnelly, Mr. Scheuer, Mr. Schumer, Mr. Stark, Miss Schneider, Mr. Yates, and Mr. Sawyer.

H.R. 1532: Mr. Bereuter.

H.R. 1544: Mr. Edwards of Oklahoma.

H.R. 1566: Mr. Dornan of California.

H.R. 1583: Mrs. Johnson of Connecticut, Mr. Downey of New York, Mr. Fawell, Mr. Shumway, Mr. Rahall, Mr. Wilson, Mr. Fields, Mr. Dornan of California, Mr. Morrison of Connecticut, Mr. Bilirakis, Mr. Crane, and Mr. McCollum.

H.R. 1633: Mr. Buechner, Mr. Espy, and Mr. Byrant.

H.R. 1692: Mr. Hansen, Mr. Saxton, Mrs. Morella, Mr. Buechner, Mr. McCollum, Mr. Kasich, Mr. Williams, Mr. LaFalce, Mr. Lewis of Florida, Mr. Bennett, Mr. Quillen, and Mr. Smith of New Hampshire.

H.R. 1726: Mr. Kolter, Mr. Lewis of Florida, Mr. English, Mr. Chapman, Mr. Sundquist, and Mr. Jontz.

H.R. 1742: Mr. Martinez.

H.R. 1808: Mr. Sawyer.

H.R. 1811: Mr. Johnson of South Dakota, Mr. Williams, Mr. Leath of Texas, and Mr. Stump.

H.R. 1866: Mr. Pursell, Mr. Gray of Illinois, Mr. Kastenmeier, Mrs. Johnson of Connecticut, Mr. Sawyer, Mr. Coelho, Mr. Lowry of Washington, Mr. Espy, Mr. Johnson of South Dakota, Mr. Bonker, Mr. Fazio, Mr. Gejdenson, Mr. Richardson, Mr. Bonior of Michigan, Mr. Owens of Utah, Mrs. Schroeder, Mr. Feighan, Mr. Campbell, Mr. Kennedy, Mr. Upton, Mr. Markey, Mr. Miller of California, Mr. Grant, Mr. Harris, and Mr. Mfume.

H.R. 2052: Mr. Bliley, Mr. Lewis of Georgia, Mr. Upton, and Mr. Weber.

H.R. 2115: Mr. Swift, Mr. Robert F. Smith, Mr. Vander Jagt, Mr. Holloway, and Mr. Davis of Michigan.

H.R. 2132: Mr. Courter and Mr. Armey.

H.R. 2148: Mr. Bereuter.

H.R. 2204: Mr. Atkins.

H.R. 2238: Mr. Packard, Mr. Ballenger, and Mr. Pursell.

H.R. 2239: Mr. Lagomarsino, Mr. Owens of New York, and Mr. Fish.

H.R. 2248: Mr. Denny Smith.

H.R. 2249: Mr. Howard, Mr. Gray of Pennsylvania, Mr. Torres, Mr. Sawyer, Mr. McHugh, Mr. Perkins, Mr. Wolf, Mr. Clay, Mr. Gray of Illinois, Mr. Ackerman, Mrs. Byron, Mr. Jontz, Mr. Brown of California, Mr. Hawkins, Mr. Owens of New York, Mr. Stokes, Mrs. Morella, Mr. Wolpe, and Mr. Crockett.

H.R. 2306: Mr. Dornan of California and Mr. Donald E. Lukens.

H.R. 2310: Mr. Hayes of Louisiana.

H.R. 2316: Mr. Ackerman, Mr. Kolter, and Mr. Weiss.

H.R. 2340: Mr. Jones of North Carolina and Mr. Watkins.

H.R. 2429: Mr. Gray of Illinois, Mr. Biaggi, Mr. Murphy, Mr. Anderson, Mr. Mrazek, Mr. Dornan of California, Mr. Robinson, and Mr. Coyne.

H.R. 2433: Mr. Henry.

H.R. 2434: Mr. Cheney, Mr. Fuster, Mr. Walgren, Mr. McCurdy, Mr. Annunzio, Mr. Murphy, Mr. Olin, Mr. Sunia, Mr. Perkins, Mr. Beilenson, Mr. Kostmayer, Mr. Donnelly, Mr. Biaggi, Mr. McHugh, Mr. Young of Alaska, Mr. Robinson, Mr. Stallings, Mr. McDade, Mr. Ackerman, Mr. Darden, Mr. Derrick, Mr. Mrazek, Mr. Jacobs, Mr. Hamilton, Mr. Roe, Mr. Leath of Texas, Mr. Smith of Florida, Mr. de Lugo, Mr. Hansen, Mr. de la Garza, Mr. Markey, Mr. Skaggs, Mrs. Vucanovich, Mr. Bereuter, Mr. Waxman, Mr. Conte, Mr. Rahall, Mr. Rhodes, Mr. Barnard, Ms. Slaughter of New York, Mr. Coelho, Mr. Hoyer, Mr. Campbell, Mr. Miller of California, Mr. Lewis of Georgia, Mr. Howard, Mr. Baker, Mr. Vento, Mr. Dornan of California, Mr. Roybal, Mr. Visclosky, Mr. Barton of Texas, Mr. Huckaby, Mr. Jenkins, and Mr. Levin of Michigan.

H.J. Res. 61: Mr. Stratton.

H.J. Res. 151: Mr. Mineta, Mr. Brennan, and Mr. Towns.

H.J. Res. 180: Mr. Kanjorski, Mr. McEwen, Mr. Moody, and Mr. McDade.

H.J. Res. 208: Mr. Gray of Illinois, Mr. Wolf, Mr. Miller of Ohio, Mr. Anderson, Mr. Beilenson, Mr. Hoyer, Mr. Lagomarsino, Mr. Dornan of California, Mr. Daniel, Mr. Berman, Mr. Boner of Tennessee, Mr. Frenzel, Mr. Horton, Mr. Hayes of Illinois, and Mr. Smith of Florida.

H.J. Res. 220: Mr. Mineta, Mr. Edwards of Oklahoma, and Mr. Wolpe.

H.J. Res. 231: Mr. Smith of Florida, Mr. Leland, Mr. Brennan, Mr. Horton, Mr. Frost, Mr. Coelho, Mr. Leach of Iowa, Mr. Green, Mr. Miller of Ohio, Mr. Watkins, Mr. Coats, Mr. Gordon, Mr. Ritter, Mr. Johnson of South Dakota, Mr. Foley, Mr. Synar, Mr. Alexander, Mr. Craig, Mr. Traxler, Mrs. Vucanovich, Mr. Hughes, Mr. Wylie, Mr. Hefner, Mr. Lewis of Florida, Mr. Traficant, Mr. Lagomarsino, Mr. de la Garza, Mrs. Bentley, Ms. Oakar, Mr. Vento, Mr. Buechner, Mr. Callahan, Mr. Tallon, and Mr. Anthony.

H.J. Res. 253: Mr. Wyden, Mr. Gray of Illinois, Mr. Roe, Mr. Lehman of Florida, Mr. Sabo, Mr. Schaefer, Mr. Smith of Florida, Mr. Hefner, Mr. Aspin, Mr. Mrazek, Mr. Levin of Michigan, Mr. Scheuer, Mr. Savage, Mr. Coelho, Mr. Wilson, and Mr. Olin.

H.J. Res. 254: Mr. Roberts, Mr. McHugh, Mr. Dixon, Mr. Dymally, Mr. Biaggi, Mr. Lantos, Mr. Anderson, Mr. Lehman of Florida, Mr. Sabo, Mr. Dornan of California, Mr. Lagomarsino, Mr. Boucher, Mr. Coelho, Mr. Kostmayer, Mr. Scheuer, Mr. Roe, Mr.

Schaefer, Mr. Rahall, Mr. Borski, Mr. Pickle, Mr. Hefner, Mr. Burton of Indiana, Mr. Mrazek, Mr. Gray of Illinois, Mrs. Patterson, Mr. Dicks, Mr. Wolf, Mr. Coyne, Mr. Lipinski, Mr. Smith of Florida, Mr. Roemer, Mr. Kastenmeier, Mr. Nielson of Utah, Mr. Chapman, Mr. Savage, Mr. Schumer, Mr. Conte, Mr. Lehman of California, Mr. Daub, Mr. Boland, Mr. Dowdy of Mississippi, Ms. Oakar, Mr. Wilson, Mr. Whittaker, Mrs. Collins, Mr. Early, Mrs. Saiki, Mr. Fazio, Mr. Gray of Pennsylvania, Mr. Petri, Mr. Bryant, Mr. Miller of Ohio, Mrs. Boxer, Mr. Sawyer, Mr. Bevill, Mr. St Germain, Mr. Stokes, Mr. DeWine, Mr. Lancaster, Mr. DeFazio, Mr. Lungren, Mr. English, Mr. Holloway, Mr. Callahan, Mr. Kennedy, Mr. Horton, Mr. Fauntroy, Mr. Bonior of Michigan, Mr. Blaz, Mr. Hensen, Mr. Durbin, Mr. Hughes, Mr. Leland, Mr. Wortley, Mr. Valentine, Mr. Jeffords, Mr. Fish, Mr. Hatcher, Mr. Dyson, Mrs. Kennelly, Mr. Stump, Mr. Morrison of Connecticut, Mr. Parris, Mr. Bilbray, Mr. Martinez, Mr. Smith of New Jersey, Mr. Dorgan of North Dakota, Mr. Barnard, Mr. Baker, Mr. Torricelli, Mrs. Byron, and Mr. McMillen of Maryland

H.J. Res. 225: Mr. Clarke, Mr. Grant, and Mr. Hefley.

H.J. Res. 261: Mr. Lancaster, Mr. Horton, Mr. Dyson, Mr. Atkins, Mr. Weiss, and Mr. Martinez.

H.J. Res. 280: Mr. Kemp, Mr. Coats, Mr. Roe, Mr. Boehlert, Mr. Horton, Mr. Coughlin, Mr. Sabo, Mr. Whittaker, Mr. Synar, Mr. Bevill, Mr. Howard, Mr. Gilman, Mr. Leath of Texas, Mr. Chandler, Mr. English, Mr. Flippo, Mr. Traxler, Mr. Levin of Michigan, Mr. Crockett, Mr. Weber, Mr. Hastert, Mr. Barton of Texas, Mr. Foley, Mr. Hamilton, Mr. Wyden, Mr. Mfume, Mr. Evans, Mr. Bilirakis, Mr. Levine of California, Mr. Miller of California, Mr. Oberstar, Mr. Davis of Illinois, Mr. McCloskey, Mr. Kostmayer, Mr. Murphy, Mr. Visclosky, Mr. Moody, Mr. Kastenmeier, Mr. Durbin, Mr. Fawell, Mr. Kolter, Mr. Ballenger, Mr. Wolf, Mr. Swindall, Mr. Perkins, Mr. Yatron, Mr. Jacobs, Mr. Yates, Mr. Rahall, Mr. Lipinski, Mr. Russo, Mr. Gray of Illinois, Mr. Dymally, and Mr. Aspin.

H. Con. Res. 96: Mr. Sweeney and Mr. Lott.

H. Res. 158: Mr. Donald E. Lukens.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 782: Mr. Martinez.

H.R. 1195: Mr. Martinez.

SENATE—*Thursday, May 21, 1987*

(Legislative day of Wednesday, May 13, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him and He shall direct thy paths.—Proverbs 3:5-6.

Eternal Father, infinite in love and mercy and grace, make Your presence felt in this place. You know our hearts. We have no secrets from You. You know where there is frustration, discouragement, intransigence, anger. You understand the pressure upon the lives of Your servants, which is relentless here. You know the plans that have been made for Memorial Day recess, family expectations, travel, speeches, demand performances, constituent requests, Gracious God, touch the Senate with love and healing and renewal. Fill this day with surprising efficiency, resolution, achievement, satisfaction, blessing. We ask this in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

SCHEDULE

Mr. BYRD. Mr. President, there will be a rollcall vote at 9:40 o'clock this morning on the amendment by Mr. PRESSLER, or in relation to the amendment. I hope our respective Cloakrooms are notifying Senators that there will be the early vote. While some consideration is always given to very early votes and they are probably extended a few minutes, I trust that Senators will do their best to get to the Senate floor in time to cast their vote within the normal period.

Mr. President, there will be several votes during the day on amendments. The staff on this side of the aisle has presented me with a list of the amendments that we expect to deal with. They have names and identifications thereon as to the contents.

The staff on the other side of the aisle as well has been working hard to gather from Members on that side the information needed for identification of amendments. So there will be plenty of action on the supplemental appropriations bill today.

Mr. President, whether or not action is completed on the bill today remains to be seen. I do not intend to stay in late-late in order to finish the bill. If the bill is not finished by around 7 o'clock this evening, give or take a little bit, the Senate will resume consideration of the bill when it returns on Wednesday next following the Memorial Day holiday.

ANNA REEVES JARVIS—AN EXTRAORDINARY WOMAN

Mr. BYRD. Mr. President, on May 10, I was the guest speaker at the 79th anniversary service at the International Mother's Day Shrine in Grafton, WV.

Grafton was the longtime home of Anna Reeves Jarvis, a woman who, throughout her life, voiced the idea that 1 day a year should be set aside for honoring mothers, and the mother whom an inspired daughter resolved to honor in launching the movement that made Mother's Day the third most observed holiday worldwide.

Mrs. Jarvis died on May 9, 1905, in Philadelphia. On that day, her daughter, Anna, pledged beside her mother's grave that she would found the Mother's Day of which Mrs. Jarvis had spoken so often.

The following year, on the first anniversary of Mrs. Jarvis' death, the Andrews Methodist Church in Grafton was the scene of a memorial service in honor—a ceremony that some historians regard as the first Mother's Day observance. Andrews Methodist Church had been Mrs. Jarvis' home church, and she was richly and sincerely remembered by that congregation for her many years of leadership and civic accomplishments.

As a result of the efforts of Mrs. Jarvis' daughter, Anna, and with the help of philanthropists such as H.J. Heinz I and John Wanamaker, on May 10, 1908, the world's first official Mother's Day services were held consecutively. The first celebration was conducted from 8 a.m. until noon at Andrews Church in Grafton. Starting at 1 p.m. and continuing until 5 p.m., the second official celebration took place in the auditorium of the Wanamaker Store in Philadelphia.

On May 8, 1914, President Woodrow Wilson signed a congressional resolution officially designating the second Sunday in May as "Mother's Day." That date was based on the anniversary of Mrs. Jarvis' passing.

Today, Grafton, WV, and Philadelphia continue sharing the honor of being the birthplaces of Mother's Day. Annually, the Mother's Day Shrine in Grafton is the site of a moving service, and the city of Grafton takes real pride in its celebrity.

The background of the universally loved celebration of Mother's Day is interesting, and is wrapped in a rich history of events out of America's past.

That background, and the biography of the exceptional Mrs. Jarvis, were recounted this month in the Mountain Statesman of Grafton, WV.

For the information and enjoyment of our colleagues, I ask that that article, entitled "Life, Triumphs of Anna Reeves Jarvis Recalled," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIFE, TRIUMPHS OF ANNA REEVES JARVIS RECALLED

EDITOR'S NOTE.—The following account of the life of Anna Reeves Jarvis has been printed in Missing Chapters II, West Virginia Women in History, a book recently published by the West Virginia Women's Commission. It is being reprinted here with their permission in conjunction with the celebration of Mother's Day in Grafton this weekend.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mother's Day is a legacy—a gift handed down to all generations. Celebrated in many countries of the world, the holiday is especially meaningful to West Virginians who know the story behind the occasion.

The story begins with the birth of Anna Maria Reeves. Tracing her life of service, it shows the extraordinary accomplishments that made her daughter want to establish a day in honor of all mothers.

Anna Maria Reeves Jarvis' life encompassed all the elements of drama: love, service, loyalty, war, and death. Her story will continue as long as Mother's Day is celebrated.

Most of the history of Anna Maria Reeves Jarvis would be lost if it were not for Howard H. Wolfe's book, "Mother's Day and the Mother's Day Church." In writing this history of Andrews Methodist Church, Wolfe included most of the biographical information known about the woman in whose honor Mother's Day was established.

Ann Maria Reeves was born in Culpeper, Virginia, on September 30, 1832, to Reverend Josiah W. and Nancy Kemper Reeves. Josiah Reeves was a Methodist minister who was transferred to Philippi in Barbour County in 1845 when Anna Maria was twelve years old. The family included her older brother, James Edmund, younger sister, Emily, and younger brothers, Thomas and Joseph. The move of less than 150 miles must have been an exciting one, because it required crossing the Appalachian Mountains and probably included a long train trip as well as horse-drawn wagons to move the family and all their household goods to their new home in Philippi.

While Reverend Reeves served the Methodists, the Reverend Soloman Jarvis was pastor at the Baptist Church in Philippi. Reverend Jarvis also owned and operated a large farm, feed store, and mill. He and Henrietta Righmire Jarvis were the parents of Granville E. Jarvis, born in 1829 at Pruntytown. The two families, Reeves and Jarvis, must have been well-acquainted in the small town of Philippi.

Anna Maria Reeves grew to maturity, developing into a charming and accomplished young woman. She possessed a lovely singing voice and was a talented public speaker. Her voice, personality, intelligence, and general abilities assured her destiny as a leader.

The Reeves and Jarvis families were united in 1852 by the marriage of Granville E. Jarvis and Anna Maria Reeves. The young couple made their home in Philippi for the next two years, during which time two children were born to them. Their first child, Josiah would live to maturity. The second child would survive only two years. The couple would have twelve children, only four of whom would live to adulthood.

In 1854, the young Jarvis family moved sixteen miles north to the village of Webster, in Taylor County. Granville Jarvis considered this railroad terminus town an excellent place to establish a mercantile business, as his father had done. The feed and general supply store flourished and he built a two-storied frame home for his growing family.

By 1858, three more children had been born to the Jarvis family. Only one of these, Claude, would live to maturity. Anna Maria had devoted herself to homemaking activities and caring for her family, but the early deaths of three of her five children brought her to a decision: she would take action against the unsanitary conditions that existed in all of the small local communities and were largely responsible for fatal diseases of children. Doctors were unable to cure these illnesses, and nursing and medical facilities were inadequate.

Anna Maria's natural gifts of leadership and intelligence enabled her to form an organization of women called the Mother's Day Work Clubs in each of the small towns of Webster, Grafton Junction, Fetterman, Pruntytown, and Philippi. Through her insistence, nearly every mother in the area belonged to one of the Clubs. The objective was to clean up and correct unsanitary conditions. She recruited her brother, Dr. James Edmund Reeves, and Dr. Amos Payne to lecture and teach the Club members about health and sanitation. The two physicians outlined the work that had to be done, assigned tasks, inspected completed projects, and acted as general advisors to the Clubs.

The Clubs raised money to provide medicine for indigent families and employed women to help care for families in which mothers were found to have tuberculosis. All bottled milk for children was inspected, and the water supply, food preservation, and sewage disposal were carefully monitored. By 1860, the success of these Mother's Day Work Clubs was so apparent that the doctors issued a statement urging other communities to follow the same plan to solve their problems. Ironically, Anna Maria's sixth child, a son, born in the same year, would live only two years.

Despite her own tragedy, Anna Maria Jarvis worked even harder. Her Mother's Day Work Clubs remained active and were destined to provide a much needed service during the Civil War.

The year 1861 found Taylor County a center of activity for both the Union and Confederate Armies. Both sides were vigorously recruiting men throughout the western part of Virginia. Although Virginia had seceded, many people living west of the mountains protested the disruption of the Union. Anna Maria Jarvis, a Virginian by birth, is believed to have been sympathetic with the Union cause. However, in the interest of the people of her community, she maintained an attitude of strict neutrality. After the first cannon was fired on Fort Sumter on April 12, 1861, the members of the Mother's Day Work Clubs began to voice their sympathies for either the Union or the Confederate cause. Anna Maria quickly realized the implications for the Clubs of possible political disagreement and called a meetings of all Clubs at the church in Webster. At that meeting, she persuaded all the women to swear an oath that friendship and good-will would prevail in the Clubs for the duration and aftermath of the war.

The first Union casualty of the war occurred at Fetterman on May 22, 1861, when Thornberry Baily Brown was shot by a Confederate sentry. Tension in the community was strained to the limit due to the divided sympathies. At the funeral of Private Brown, there was only one person in the audience with enough courage to offer a prayer. Colonel James K. Smith wrote later that Anna Maria Jarvis came forward, and, with head bowed over the dead soldier, made a beautiful and moving prayer.

In the meantime, troops were being moved into the area by the North and South. Located about halfway between Washington, D.C., and the Ohio River, Grafton, Fetterman, and Webster were strategic points in the country's transportation system. Generals Lee and McClellan both dispatched companies of soldiers whose orders were to secure the railway terminals. The first land battle of the Civil War was won by the Union Army at Philippi on June 3, 1861.

General George B. McClellan was commander of the Union Army of Ohio and was ordered to secure the western counties of Virginia for the Union. Following the victory of his forces at Philippi, his officers urged him to join them. He left Ohio and took personal command at Clarksburg about June 20, 1861. A few days later he inspected the area around Grafton Junction. About June 24, he commandeered the downstairs rooms of the Jarvis home in Webster as his headquarters. He remained there for several days before moving south to the Rich Mountain area to be in position for the next battle.

The personalities of these two strong individuals, General George B. McClellan and Mrs. Anna Maria Reeves Jarvis, must have made for an interesting household. While the General was planning the strategies for the battles of Rich Mountain and Corricks Ford, Anna Maria was occupied with directing the Mothers' Day Work Clubs as they nursed the sick and wounded soldiers of both the Union and Confederate Armies. Typhoid fever and measles were epidemic in the community. One war bulletin read, "Our soldiers are dying like rats. Can't get coffins fast enough." The road in front of the Jarvis house was clogged with a constant stream of soldiers on their march east. Supplies of food and clothing, sanitation facilities, and shelter were quickly exhausted. More than 15,000 military personnel were gathering in Taylor, Barbour, and Randolph counties. Anna Maria grieved for the soldiers and the mothers who had reared them for better things than the senseless war in which they were caught up.

General McClellan was a quiet and considerate man who required all of his troops to respect the property of the civilian population. He was a gentleman and family man whose frequent letters to his wife provided a clear picture of his character. He must have had great admiration for his hostess in Webster. This extraordinary woman managed her home, gave birth to her seventh child, was active in all of the community activities, and directed virtually all of the nursing efforts for both the Union and Confederate Armies in the area.

On July 2, General McClellan transferred his headquarters to Buckhannon. After his successes in western Virginia, he was called to Washington, D.C. to take command of the Grand Army of the Potomac. The counties west of the mountains had been secured for the north.

As the war moved into its second year, hopes for a quick resolution to the conflict dimmed. Civilian and military alike faced a life of deprivation and hardship. The year 1862 must have been the worst year of Anna Maria Reeves Jarvis' life. Three of her children died: seven-year-old Clara, two-year-old Ralph, and baby Maria.

Amid her sorrow, Anna Maria found that she was expecting her eighth child, but she continued to provide the leadership necessary to hold the dissident factions of her community together. By all accounts, her Mother's Day Work Clubs and the oath of unity she had extracted from the members served to maintain peace among neighbors. In 1863, another son, Wesley, was born and died, and, by autumn, Anna Maria was pregnant with her ninth child.

On May 1, 1864, Anna Jarvis was born. It was Anna whose great love for her mother resulted in establishing of the second

Sunday in May as Mother's Day. At the end of the war, Anna Maria's husband decided that Grafton would be a better location for business and moved his family to that growing community. The next two years brought two more children. Thomas was born in 1866, but lived only to age seven. Elsinor Lillian, born in 1867, survived and grew to maturity. Another daughter, the twelfth child, Ellen, died in infancy sometime after 1868.

By 1868, Anna Maria Reeves Jarvis had given birth to twelve children and lost eight of them; participated actively in her church; successfully tackled her community's public health problems; maintained peace among hostile neighbors during the Civil War; helped nurse the sick and wounded soldiers of both the Union and Confederate Armies; housed the Commander General of the Union Army; and always served as a forceful leader in her area. All of this happened by the time she was 36 years old.

Throughout Anna Maria's life, she often expressed the idea that there should be a day set aside on which everyone would honor mothers. She was often heard to say, "I hope someone, sometime, establishes a Memorial Mother's Day, for mothers—living and dead." Perhaps it was her personal anguish at the loss of eight of her twelve children, or her empathy with mothers of those poor soldiers trudging past her home in 1861, or perhaps the strength exhibited by the mothers of the community in correcting inadequate health problems and maintaining peace in the neighborhood that made Anna Maria a champion of motherhood.

The soldiers returning to Taylor County in 1865 included neighbors and relatives who had fought on opposing sides. Intense hatred resulted in feuds, reprisals, and retaliation. Once again Anna Maria Jarvis rallied her Mothers' Day Work Clubs. Reminding them of their sworn oath of impartiality, she organized, "Mothers' Friendship Day" to be held in Pruntytown at the Courthouse. Each member was asked to invite veterans of both sides. She instructed the mothers to mingle freely among the crowd as a deterrent to trouble. The members were cautioned to use the "Mothers' Friendship Day" because Granville Jarvis believed the title did not suggest anything negative, such as division, prejudice, or enmity. Anna Maria and half of the women dressed in gray, while the others dressed in blue.

On the appointed day that summer of 1865, such an immense crowd gathered that the leading citizens became fearful of violence. Most of the men wore their uniforms and carried guns. Anna Maria was asked to dismiss the crowd at once, to which she replied, "I will not; I'm no coward." The program began with a short speech by Anna Maria Jarvis, followed by band music and the singing of "Dixie," "The Star Spangled Banner," and "Auld Lang Syne." People began weeping and embracing one another. One of the leading ministers later said that it was the most remarkable meeting he had ever attended.

"Mothers' Friendship Day" continued to be observed for several years in Pruntytown. Anna Maria's Clubs are credited with averting much of the post-war strife and bloodshed that many border communities endured after the Civil War.

A short time after the war, Grafton had grown into a fairly large town. The Methodist Church congregation purchased land on Main Street in 1871 and broke ground for Andrews Methodist Church the following spring. Anna Maria, a lifelong member of the Methodist Church and daughter of a Methodist minister, directed her considerable energies toward the fund-raising activities necessary to complete the new building. She helped to organize suppers, fairs, and festivals to support the building fund. The new church was dedicated in 1873, and Anna Maria became the Sunday School teacher of the nursery and primary departments. She served in this capacity for over 25 years. Her singing voice was a welcome addition to the church music programs. She was exceedingly well versed in the scriptures, and she was a popular speaker. Her two main topics were "Women of the Bible" and "Great Mothers of the World."

The four Jarvis children who survived were never neglected, despite the incredibly busy life of their mother. Josiah W. P. Jarvis, the oldest, graduated from Western Medical College in Baltimore in 1876 and practiced medicine in Marion County. Claude, the second surviving son of Granville and Anna Maria Reeves Jarvis, was a successful businessman who established the first large taxi cab business in Philadelphia. Their daughter Anna was educated at Mary Baldwin College and returned to Grafton to teach in the high school. Elsinore Lillian was educated in Grafton's public schools and remained at home with the family.

Church, family, and community activities continued to be the center of Anna Maria's busy life for the remaining years of the 19th century. Her husband's failing health occupied much of her attention until his death in 1902. Soon after his death, son Claude invited his mother and sisters, Anna and Lillian, to make their home with him. The women sold their property and joined him in Philadelphia, where the two sisters eventually became wealthy stockholders in their brother's taxi company.

Anna Maria Reeves Jarvis lived only two years after her move to Philadelphia. She died on May 9, 1905, and was buried in West Laurel Hill Cemetery, Bala-Cynwyd, in West Philadelphia. Her three grief-stricken children were standing beside her open grave when daughter Anna vowed, "Mother, that prayer made in our little church in Grafton calling for someone, somewhere, sometime to found a memorial to Mother's Day—the time and place is here and the someone is your daughter, and, by the grace of God, you shall have that day."

On that day, Anna Maria's home church in Grafton tolled out solemnly 72 tones, one for each year of her life. One year later the church commemorated her death by decorating the sanctuary in her honor and delivering eulogies during the services. That year and the next were to witness one of the most intensive campaigns ever waged by one individual, and for a cause that became all but an obsession to Anna Jarvis.

On the second anniversary of Anna Maria Jarvis' death, May 12, 1907, a brief unofficial program was presented at Andrews Methodist Church in Grafton and several other places in the country. The great movement toward establishing a world-wide observance of Mother's Day was gaining momentum as a result of the single-minded purposefulness of daughter Anna. Among the supporters for her cause, Anna Jarvis counted philanthropist H.J. Heinz and John Wanamaker of Philadelphia.

The first official Mother's Day celebration was held in Grafton and Philadelphia on May 10, 1908. It was first observed in a service from 8:00 a.m. until noon at Andrews Church, and in a second service held from 1:00 p.m. until 5 p.m. in the Wanamaker Store Auditorium in Philadelphia. The second Sunday in May was selected as Mother's Day by Anna Jarvis, who wished to provide her mother with this fitting and well-deserved memorial.

President Woodrow Wilson signed the Congressional Resolution that confirmed and established Mother's Day on May 8, 1914. It designated the second Sunday in May as an official day for displaying the American flag and for publicly expressing love and reverence for the mothers of the country.

In 1952, the General Conference of the Methodist Church adopted a resolution designating Andrews Methodist Church in Grafton, West Virginia, as a National Methodist Shrine. The church includes a Jarvis Memorial Room and Sunday School Class. This beautiful and historic church contains many reminders of Anna Maria Reeves Jarvis, including stained glass windows and paintings. Many people from all over the world have made pilgrimages to the church, which is marked with a plaque that reads: "Mother Church of Mother's Day." Each year the church is open on Thanksgiving Day and again on Mother's day for a joint memorial service for the founder of Mother's Day and her mother. Anna Jarvis lived to participate in the celebration for 40 years.

Anna Maria Reeves Jarvis was a woman whose lifetime is a monument to values and virtues that are held in high esteem. On the one hand, her strength, determination, and indomitable spirit moved her to try to correct the problems of her time, and on the other, her graciousness and appealing personality made her achievements possible. Hers was a life to inspire the founding of Mother's Day, the third most widely-celebrated holiday in the world, preceded only by Christmas and Easter.

Mr. BYRD. Mr. President, I yield the remainder of my time back to the Chair.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

AMENDMENTS INDICATED TO SUPPLEMENTAL APPROPRIATIONS BILL

Mr. DOLE. I thank the Presiding Officer.

Mr. President, I might indicate first that we do have a rather large number of amendments on this side, but I have a feeling that many of those amendments will not be offered. Senator GRAMM has 21 amendments. He may have one or two, or one large one. Other amendments I assume may be accepted.

I have a total of 15 Senators who have indicated they have amendments. I must say that with some regret to the distinguished majority leader. I would like to finish the bill today, too.

Mr. BYRD. Will the distinguished minority leader yield?

Mr. DOLE. Yes.

Mr. BYRD. I suppose that Senators who are out in the hustings today on

Presidential sweepstakes may not be voting.

Mr. DOLE. I have a feeling they will account for at least seven of eight votes. We will do everything we can to shrink the number.

Mr. BYRD. Shrink the number of Presidential candidates? [Laughter.]

Mr. DOLE. Not candidates, no. Amendments. We do not want to shrink the field.

Mr. President, we will obviously try to cooperate with the majority leader.

BICENTENNIAL MINUTE

MAY 21, 1929: OPENING THE SENATE'S EXECUTIVE SESSION

Mr. DOLE. Mr. President, 58 years ago today, on May 21, 1929, the Senate adopted a resolution to investigate how a United Press reporter learned the vote on a nomination taken in closed session. This was not the first time that the Senate sought to uncover leaks from its executive sessions, but it proved to be the last time that this Chamber would routinely close its doors for all debates on treaties and nominations.

President Herbert Hoover had nominated former Senator Irvine L. Lenroot of Wisconsin to become a judge on the U.S. Court of Customs Claims. As was its tradition, the Senate approved the nomination in secret session. Several days later, Reporter Paul Mallon published a list of Senators voting for Lenroot. Incensed at this breach of confidence, Senator David A. Reed, of Pennsylvania, demanded an investigation. When Mallon refused to divulge his source, Reed moved to cite him for contempt of the Senate.

Senator Robert LaFollette, Jr., rose in Mallon's defense. The reporter had actually performed a valuable public service, LaFollette claimed, because voters must be able to hold elected officials accountable for all their actions. Any attempt to punish Mallon for his supposed offense would suppress the freedom of the press, and violate the first amendment.

Senator LaFollette then quoted from a newspaper article written by Theodore Huntley, which not only divulged a secret session, but contained a direct quote from Senator Reed. LaFollette observed that instead of citing Huntley for contempt, Reed had hired him as his personal secretary. This news convulsed the entire Senate Chamber with laughter, including the red-faced Senator Reed. LaFollette had deftly made his point. Thus, we now cast our votes on nominations and treaties in sessions open to the public and the press.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. Mr. President, until the vote occurs on the amendment by Mr. PRESSLER, the time is equally divided between Mr. PRESSLER and I take it the chairman of the committee on this side under the usual form.

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Wisconsin [Mr. PROXMIRE].

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

A U.S. MILITARY DISASTER—THE REPUDIATION OF SALT II

Mr. PROXMIRE. Mr. President, tomorrow, the Reagan administration will add another deadly MIRV'd launcher, bringing to 1,332 the number of our nuclear MIRV'd launchers. And so the terrible and senseless nuclear arms race pushes on, ruthlessly, inexorably edging civilization closer and closer to total destruction. But isn't there some kind of arms control restraint that is supposed to stop this mindless, costly, futile race to extinction? Not now. It is gone. There used to be, Mr. President. It was the second Strategic Arms Limitation Treaty—Salt II. Senator DALE BUMPERS has gallently led the fight to save Salt II and strengthen our national security in the process. In 1979, the then President of the United States signed an agreement with the then General Secretary of the Soviet Communist Party to limit the number of MIRV'd launchers on both sides to 1,320. That agreement expired on December 31, 1986, and last December the administration pushed beyond that limit. Each month since then we have added additional MIRV launchers. Tomorrow another B-52 bomber will be modified to add one more launcher. That raises the number of modified B-52's from the 132 level last December, when we were in compliance with SALT II, to 142 tomorrow. The Air Force will add more next month and still more in July, August, and September. We know the schedule calls for additional launchers month after month after month the rest of this year and into 1988 and beyond.

That is not all, Mr. President. Our immense nuclear buildup goes relentlessly on—not only with bombers but with submarines. We will deploy more and more and more MIRV'd launchers on our Trident submarines as we add them to the fleet. The ninth Trident—the U.S.S. *Tennessee*—goes to sea trials in August 1988. The 10th Trident goes to sea trials in May 1989, the 11th in January 1990, the 12th in late 1990. Keep in mind that each Trident increases the MIRV'd totals by 24. So our already immense nuclear arsenal is scheduled to grow with each one of these launchers carrying a number of nuclear warheads. To say that the added destructive power is beyond imagination is an understatement. Each—I repeat each—one of these Tridents could—over time—destroy every major city in the Soviet Union.

Now, Mr. President, we do need a credible deterrent. Indeed, in this Senator's book it has been exactly the immense destructive power of our deterrent that has kept the peace for the past 40 years. But we should recognize the full consequences of this immense buildup far beyond deterrent credibility that alarms this Senator. First, there is the cost of this buildup at a time when the country is suffering the worst deficits in its history. All of us must recognize that our military strength depends on our economic strength. When we pour our resources into excessive military spending it erodes the very base that President Eisenhower so emphatically reminded us is quintessential for our long-run national security.

What reaction does this huge buildup necessarily provoke from our great adversary the Soviet Union? Isn't the answer obvious? Doesn't the history of our relationship since the dawn of the nuclear age tell us exactly what their reaction is sure to be? The Soviets will do their very best to match us MIRV for MIRV. That is precisely what they have done in the past. So what is the result? Here are these two huge superpower nuclear giants already armed with more than 10,000 strategic nuclear warheads each, exhausting their resources, and steadily increasing the likelihood of a terrible accident by adding bombers and submarines and land-based launchers pell mell in what is surely the most insane arms race of all time. Why is this arms race proceeding? Because we have abandoned SALT II our major treaty controlling offensive nuclear arms with the Soviet Union.

There are some in this body and many in the administration who count on the strategic defense initiative—SDI or star wars—as our salvation from the Russian nuclear arsenal. Just think what the Russian build up that our abandonment of SALT II has provoked in the form or a Soviet buildup. Think what that means to whatever viability SDI had. The National Academy of Science as well as the American Physical Society have raised serious scientific questions on the real prospects of SDI. But beyond that isn't it clear, as the Soviet Union builds up its nuclear arsenal to match ours, that the remote hope that SDI could defend our cities diminishes in direct proportion to the Soviet nuclear buildup. If the United States develops an SDI that can prevent 90 percent of the Russian ICBM's from penetrating our SDI and hitting our cities, the Soviet Union can diminish that defense by simply increasing their offensive missile arsenal. If they double their arsenal, twice as many nuclear warheads hit American targets. While SALT II was in effect, their buildup was arrested. Now the administration has allowed SALT II to die. We have zoomed ahead beyond our already enormous nuclear arsenal. The Russians will do the same. With every passing month, with every increase in the Russian nuclear arsenal, the always remote prospect for the success of SDI diminishes further. The cost of our huge strategic capability expands. And the great irony is that our natural security suffers a greater danger than ever.

Mr. President, I want to thank my good friend, the majority leader, for so graciously yielding me time, and I yield the floor.

SUPPLEMENTAL APPROPRIATIONS, 1987

AMENDMENT NO. 204

Mr. PRESSLER. Mr. President, last night I laid down an amendment which opposes the atrocious crime of "necklacing" and puts the Congress on record in favor of a better standard of human rights in Southern Africa.

The bill before us would provide $50 million to the Southern Africa Development Coordination Conference. This organization consists of nine southern Africa countries: Mozambique, Zambia, Zimbabwe, Tanzania, Botswana, Malawi, Lesotho, Angola, and Swaziland.

Mr. President, I do not oppose helping these poor countries improve their economic circumstances. However, I am aware of the deplorable human rights situation in some of these countries. In fact, during Senate Foreign Relations Committee markup of the foreign assistance authorization bill this year, I included in the record the U.S. State Department's country reports on human rights practices for 1986 for several of them.

I believe that we should read these human rights reports very carefully. We do in other parts of the world; I do, and I think that we should be concerned about where these human rights violations are occurring. In these countries there are extensive human rights violations. There are throughout southern Africa. Their record is terrible and unacceptable by any standard of civilized behavior.

We demand conditions on U.S. assistance to many countries, based on human rights standards, but I think we set a poor example if we start giving aid do those SADCC countries with terrible human rights records without stating our concerns about those records.

That is why I am offering this amendment. It does the following:

If any individual SADCC country fails to do the following things, it would be denied assistance under this bill:

First, it must renounce the form of terrorism known as necklacing.

Second, it must give assurances that it is not harboring terrorists who practice necklacing against South African blacks; and

Third, it is making an effort to prevent terrorists who practice necklacing from operating in its territory.

Now, Mr. President, according to my information, five of the SADCC countries, to some extent, may be harboring terrorists who practice necklacing. They are: Angola, Zambia, Zimbabwe, Tanzania, and Botswana. That is five of the nine SADCC countries. Some may be worse than others. Zimbabwe, for example, is essentially the headquarters for the African National Congress, which began the practice of necklacing and has encouraged this practice, particularly among young black South Africans. The important thing to remember is that this evil crime has been perpetrated by blacks against other blacks.

I am encouraged by the fact that reports of necklacing have declined since last summer. But the practice still exists and it is abominable. No standard of civilized behaviour can condone necklacing.

I am opposed to apartheid and have spoken to South African leaders about the need to end the apartheid system. Indeed, I have asked to be a cosponsor of the antiapartheid week resolution. But we cannot leave the impression with the SADCC nations of southern Africa that we would condone their collaboration in this evil business of necklacing.

That is the purpose of my amendment. I think it would not be difficult for the administration to provide the required certifications for most of these countries. If the five who are most suspect in this regard—Angola, Zambia, Zimbabwe, Tanzania and Botswana—cannot see the widsom of denouncing necklacing in South Africa against black South Africans, then they do not deserve to receive contributions from American taxpayers. If they do not renounce necklacing, then the other black South African countries should pressure them to do so. They are all part of SADCC. They all have a stake in improving human rights conditions in southern Africa and should force those who have adopted equivocal or questionable postures on necklacing to simply renounce that crime and demonstrate their efforts against any cooperation with it.

Mr. President, this is not an amendment to kill aid to southern Africa. It is an amendment to uphold a certain standard of civilized human conduct. I would hope that all of our colleagues could see that it is addressed against the problem of terorrism in the particular form of necklacing. Even defining this crime makes one shudder: Necklacing is a practice in which a tire filled with gasoline is placed around a victim's neck and set aflame. Since the fall of 1984 over 2,500, mostly black, southern Africans have died by this method. In passing the Anti-Apartheid Act last year, the Senate expressed its strong abhorrence of necklacing and said there should be no U.S. assistance to any individual or group supporting necklacing. My amendment carries forward that concept. The SADCC countries are important to the United States, and we are concerned about their progress, but I feel strongly that we cannot leave the impression that we condone violence, such as necklacing, as an ordinary means to achieve desirable goals.

A vote against my amendment would send the signal that the U.S. Senate does not care if SADCC nations condone, encourage, or harbor terrorists who commit the crime of necklacing.

Mr. President, if I have any time remaining, I reserve it in order to respond to any questions or opposing points raised by my colleagues. I would hope the managers could accept my amendment.

I think I have consumed the time I have yielded to myself. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. LEVIN. The issue in the Pressler amendment is not endorsing or opposing the abhorrent practice of "necklacing," or endorsing or opposing organizations that support necklacing. Obviously, I'm appalled by that practice. The issue is whether we should stop all our dealings with countries which may renounce necklacing or other acts of terrorism, but nonetheless tolerate the presence of organizations on their soil which might disagree with the government policy on this issue. It is not a traditional American position to hold one person responsible for the action of others. Before we decide to pursue that policy with the states bordering South Africa, states which are on the front line in the opposition to the evil of apartheid, we should spend much more than 15 minutes considering the implications of what we do.

The Pressler amendment is not a generic amendment applying the same standards to all governments and groups to whom we provide assistance. For example, Jordan and Egypt have tolerated some PLO presence on their territories, and the PLO has certainly not renounced terrorism, yet the United States continues to supply aid to those countries. And what about applying the Pressler amendment standards to our aid for the countries around Nicaragua like Honduras which allow the Contras to operate using such terrorist tactics as blowing up civilian buses? Or how about those countries which allow the UNITA rebels fighting against the Government of Angola to operate on their soil, when some UNITA operations can be termed terrorist acts? The Pressler amendment would not deal evenhandedly with these countries; instead, it singles out those countries which are in the best position to put pressure on the Government of South Africa and says to those governments that we will hold you responsible not just for your own positions but also for every organization that operates on your soil.

Aid to the frontline states is an integral part of the strategy to end apartheid. These neighboring states have suffered under apartheid because of their support for the freedom-seeking majority black population of South Africa. Their railway lines have been bombed and their populations terrorized in military strikes. They urgently need help to recover from South Africa's attacks. They are trying to rescue their populations from poverty and underdevelopment, providing fertile ground for peace in the region.

Clearly, aid that helps these countries reduce their dependence on the apartheid political economy helps to weaken apartheid. Conversely, any obstacle to such economic aid strengthens apartheid. This would be the effect and perception of Senator PRESSLER's amendment, and I must therefore oppose it.

Mr. WEICKER. Mr. President, I ask unanimous consent that the following article from the New York Times of May 14, 1987, about Oliver Tambo be included in the RECORD. Contrary to assertions made on this floor during debate on the Pressler amendment, the article reports that Mr. Tambo, president of the African National Congress, told a group of about 300 church leaders that he discourages necklacing.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 14, 1987]

SOUTH AFRICAN REBEL IMPRESSES CHURCH PARLEY

LUSAKA, ZAMBIA.—The young South African black stood up before about 300 church leaders to ask the president of the African National Congress, Oliver Tambo, a question.

"There are people in our community who are being recruited by the police, and now they are working against us," he began. "We know how to deal with such people, you know what I mean." He was alluding to the "necklace" form of killing, in which a tire, sometimes filled with gasoline, is placed around the victim's neck and set on fire.

With that, those attending the World Council of Churches meeting here last week became distinctly uncomfortable.

"Some clergymen and our parents have discouraged us from dealing with our black brothers and sisters who are sell-outs," the youth said. "So I ask you, how do we deal with them?"

INSURGENT LEADER'S RESPONSE

Mr. Tambo, whose organization is fighting to overthrow white rule in South Africa, thought for a moment and said: "I can understand why your parents say you shouldn't do what you're doing. I know the enemy's strategy is to recruit and use these people against their own people. The best weapon against the vigilantes is political. Isolate those who are recruits so they know the entire community does not want anything to do with them. They will be less effective."

The church leaders heartily applauded Mr. Tambo's response.

The session focused on the central issue of the special meeting on southern Africa last week of the World Council of Churches: the role of the church in the fight against apartheid.

As the meeting was held in Lusaka, the African National Congress headquarters in exile, Mr. Tambo met with virtually all the church leaders, and the positive impression he made on them helped persuade the conference to endorse the Congress' use of force.

"I was greatly surprised to see Mr. Tambo discourage the necklace killings because we have always been told that the A.N.C. likes that kind of violence," said the Rev. Willem Nicol of Pretoria, an Afrikaner clergyman who belongs to the Dutch Reformed Church. "Mr. Tambo impressed all of us as a thoughtful man, and we go back with a different view of the A.N.C."

The conference's statement said, "We affirm the unquestionable right of the people of Namibia and South Africa to secure justice and peace through the liberation movements," or the African National Congress, the Pan-Africanist Congress and the South-West Africa People's Organization.

It added, "While remaining committed to peaceful change, we recognize that the nature of the South African regime compels the movements to the use of force along with other means to end oppression."

The statement is certain to stir controversy among the world church group's membership of more than 300 Protestant and Eastern Orthodox churches, representing some 300 million Christians.

FOREFRONT OF THE CRUSADE

"This message will put us at the forefront of the crusade to support the struggle of the South African and Namibian people," said the Rev. Joan Campbell, executive director of the church group's United States office. She acknowledged that she expected significant opposition within the World Council of Churches membership.

Among the South Africans who attended the Lusaka conference were two dissident Afrikaner clergymen, the Rev. Beyers Naude and the Rev. Nico Smith, as well as the Moslem leader Molana Farid Esak.

Dr. Naude, secretary general of the South African Council of Churches, also invited three ministers of the all-white Dutch Reformed Church, who met privately with Mr. Tambo. They said Mr. Tambo told them his group was committed to a multiparty democracy in South Africa.

The ministers told Mr. Tambo that they would work in their churches to encourage support for negotiations with the Congress. They joined Mr. Tambo in prayer to close their meeting, which they described as emotional and moving, and expressed the wish for his return to South Africa.

Mr. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged to this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I think it would not be difficult for the administration to provide the required assurances for most of these countries. This is a human rights vote.

I am very much opposed to the apartheid system. I think we should be as concerned about human rights in one region of the world as we are in another. I am a critic of the South African Government, but I am also a critic of the human rights violations that have occurred throughout southern Africa.

We find ourselves giving aid to those countries without raising questions. We seem to have a different standard in different parts of the world. I would hope that we would apply the same standard everywhere. That is the purpose of my amendment.

In particular, the odious practice of necklacing—that is, placing a tire around a victim's neck, filling it with gasoline, and lighting it—has been used on at least 2,500 persons and continues to be used, and it has been condoned and indeed encouraged by many groups in southern Africa.

I find it passing strange that we are sending American taxpayers' dollars there without opposing this or without protesting this. That is the purpose of my amendment.

Mr. President, I have concluded my arguments, and I yield back the remainder of my time, if there is no further debate. If there is further debate, I will retain a small portion of it. But I do not desire to speak any more, unless some additional points are raised.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

RECESS UNTIL 9:40 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 9:40 a.m. today.

There being no objection, the Senate, at 9:34 a.m., recessed until 9:40 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order the hour of 9:40 a.m. having arrived the Senate will proceed to vote on or in relation to the Pressler amendment.

Mr. INOUYE. I move to table the Pressler amendment, and I believe the yeas and nays have been ordered.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

The question is on agreeing to the motion of the Senator from Hawaii to lay on the table the amendment of the Senator from South Dakota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber desiring to vote?

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Massachusetts [Mr. Kerry] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kerry] would vote "yea."

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici] and the Senator from Kansas [Mrs. Kassebaum] are necessarily absent.

The result was announced—yeas 35, nays 58, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—35

Baucus
Bradley
Byrd
Chafee
Chiles
Cranston
D'Amato
Danforth
Dixon
Dodd
Evans
Exon
Glenn
Graham
Heflin
Inouye
Johnston
Lautenberg
Levin
Lugar
Matsunaga
Metzenbaum
Mikulski
Moynihan
Pell
Proxmire
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Stennis
Weicker

NAYS—58

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Cochran
Cohen
Conrad
Daschle
DeConcini
Dole
Durenberger
Ford
Fowler
Garn
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Humphrey
Karnes
Kasten
Leahy
McCain
McClure
McConnell
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Reid
Roth
Rudman
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NOT VOTING—7

Adams
Biden
Domenici
Gore
Kassebaum
Kennedy
Kerry

So the motion to lay on the table was rejected.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its—

The PRESIDING OFFICER. The amendment is not in order at this time. The motion to table having not been agreed to, the yeas and nays—

Mr. STENNIS. Mr. President, may we have quiet. This is an important matter.

The PRESIDING OFFICER. The Senate will be in order. The Chair will make an announcement. The motion to table having failed, the yeas and nays having already been ordered, the question now occurs on agreeing to the amendment of the Senator from South Dakota [Mr. Pressler].

Mr. PRESSLER. Mr. President, I move to vitiate the rollcall vote.

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard to the request for vitiation. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Delaware [Mr. Biden], the Senator from California [Mr. Cranston], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Massachusetts [Mr. Kerry] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. Kerry] would vote "nay."

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici], the Senator from Kansas [Mrs. Kassebaum], and the Senator from New Hampshire [Mr. Rudman] are necessarily absent.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 15, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—77

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Leahy
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—15

Bradley
Chafee
Danforth
Dodd
Evans
Inouye
Lautenberg
Levin
Lugar
Moynihan
Pell
Proxmire
Sarbanes
Stennis
Weicker

NOT VOTING—8

Biden
Cranston
Domenici
Gore
Kassebaum
Kennedy
Kerry
Rudman

The amendment (No. 204) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 206

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. Hatch] proposes an amendment numbered 206.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38 after line 13, add new paragraph (g).

(g) Of the funds specified for Honduras in paragraph (b), such amounts as may be necessary, shall be made available only to compensate those citizens of the United States that have lost their property and businesses in Honduras as a result of the establishment and operation of the Regional Military Training Center. Such compensation shall be paid in U.S. dollars through a United States bank during the fourth quarter of fiscal year 1987.

Mr. HATCH. Mr. President, the purpose of the amendment I am submitting is to resolve a grave injustice to an American citizen caused inadvertently by the establishment of the Regional Military Training Center in northern Honduras in 1983. The center was used primarily to train Salvadoran soldiers because the United States Government was restricted in the number of advisers it could place in El Salvador. While the center had a commendable purpose, the United States failed to do its homework. We did not verify the assertion of the Honduran Government that they owned the property. In fact, the property was and is owned by an American citizen, Temis Ramirez, and the U.S. Government was informed of this at least 2 weeks before construction of the center began.

Mr. Ramirez built from scratch, over 20 years, a multimillion-dollar ranch and meat and seafood packing business in this remote corner of Honduras. The business was a model of a

Central America success story. Mr. Ramirez employed the most sophisticated ranching techniques and developed his own strain of beef cattle widely believed to be one of the best in the Caribbean. His packing plants were equipped with state-of-the-art technology. He employed over 700 local Hondurans and he furnished fresh water to the local village. In short, his was exactly the type of business that the United States encourages to ensure economic prosperity and the perpetuation of democratic principles in Central America.

Mr. Ramirez' dream came to an abrupt end with the arrival of the Regional Military Training Center. He first tried to recover his land and continue operating his business, but by early 1984 Mr. Ramirez was forced to close down his entire operation. In 1985, long after Mr. Ramirez had ceased to be able to operate his business, the United States removed its troops from the Regional Military Training Center. The Honduran military has now established the center as the permanent base of its 15th Battalion.

Since early 1984, Mr. Ramirez has been seeking just compensation for the loss of his life's work. The problem he is facing is that he has been bounced back and forth between the Government of Honduras and the United States Government, both of which have openly acknowledged his right to compensation but neither of which has been willing to accept the responsibility for doing so.

This is not the first time that the Congress has heard this sad but true tale. Indeed, in 1984 Congress expressed its strong interest in seeing that this matter gets resolved by including in the continuing resolution for 1985 and in the Department of Defense Authorization Act for 1985 a direction to the administration to work with the Government of Honduras to provide just compensation to Mr. Ramirez. Under that legislation, if the matter had not been resolved in 180 days the President was to recommend economic measures that he proposed to take with respect to Honduras. For whatever reasons, that process did not produce any results and no measures were recommended.

More recently, Congress again expressed its concern about Mr. Ramirez' case in the 1987 Military Construction Appropriations Act. The report to Congress that was due from the Department of Defense under that act simply was never issued, ostensibly, on the ground that DOD thought the case had been settled.

In November 1985, an independent factfinder appointed by the United States Department of State, the Government of Honduras, and Mr. Ramirez determined that Mr. Ramirez should be compensated for the loss of his entire integrated enterprise in Honduras. But still, neither Government has been willing to accept this responsibility.

Mr. President, for 4 years Mr. Ramirez has been a political football being tossed back and forth between his own Government and the Government of Honduras. After numerous attempts at reaching a settlement through negotiations with the two governments, it is now clear that justice will not be served through this process. Nor is it reasonable to refer this matter to the courts because it is intimately tied up with our foreign policy and affairs of state and, therefore, subject to numerous tangential arguments. This is a unique and extraordinary problem that requires a unique and extraordinary legislative remedy.

Mr. President, we all recognize that Honduras is an important partner in our effort to establish and preserve democracy in Central America. There is a cloud hanging over our relationship with Honduras, however, as a result of this matter. Since 1983, when Mr. Ramirez' problems began, the United States has provided over $1 billion in assistance to Honduras. Recently, we have been notified that the President wants to send F-5E fighter jets to Honduras. These issues are extremely important ones and should be considered without extraneous issues to further complicate them.

Mr. President, my amendment provides a mechanism for the resolution of this matter in a prompt, just, and effective manner. The amendment simply directs how a small portion of the funds already in this bill for Honduras should be expended. It creates no further budgetary outlays and is therefore completely revenue neutral. It removes a cloud from our relationships with an important ally. Finally, it corrects an injustice that should have been corrected long ago.

I urge the support of my colleagues for this amendment.

Mr. President, this amendment has been discussed with both managers and they are in agreement. It has had much debate through the years.

Mr. President, I move the amendment.

The **PRESIDING OFFICER.** If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 206) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The Senator from Pennsylvania [Mr. HEINZ] is recognized.

AMENDMENT NO. 207

(Purpose: To provide an additional $10,000,000 for title V of the Older Americans Act of 1965, relating to community service employment for older Americans)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], for himself and Mr. BINGAMAN, Mr. COCHRAN, Mr. MATSUNAGA, Mr. SIMON, and Mr. GRASSLEY, proposes an amendment numbered 207.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 62, between lines 8 and 9, insert the following:

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000.

For an additional amount for "Community service employment for older Americans", to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000.

The **PRESIDING OFFICER.** The Chair must inform the Senator from Pennsylvania that the only amendments that are in order at this time are those drafted to amend the pending amendment of the committee, the first committee amendment.

Mr. HEINZ. I modify my amendment to do so.

The **PRESIDING OFFICER.** The Chair will consult with the Parliamentarian to respond to the Senator.

Mr. HATFIELD. Mr. President, If the Senator will yield, I ask unanimous consent at this point to temporarily lay aside the pending committee amendments so then the Senator's amendment could be attached to any other part of the bill, I believe, at this point.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I thank the Senator from Oregon for making that unanimous-consent request. The effect of it is that I do not need to modify my amendment so that it lies to the committee amendment, but that my amendment will lie to the underlying bill, and if the committee amendment is adopted, as I anticipate it will, nonetheless my amendment would still, if it is adopted by the body, be a part of the final legislative product. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Thank you.

Mr. President, I rise today on behalf of thousands of older Americans who are eager to make a contribution to their communities through productive employment, and the amendment that I have sent to the desk would make a very modest increase in title V of the Older Americans Act by including an additional $10 million authorization for that portion of the act.

The reason I do it, Mr. President, is that in the bill before us the entire Older Americans Act has received a cost-of-living increase. Meals-on-Wheels, the nutrition aspects, has received a cost-of-living increase. Every other aspect has, and the net effect of this $10 million addition to the supplemental for title V of the Older Americans Act is simply to bring that into line with all the other aspects.

Let me explain to my colleagues a little bit about title V of the Older Americans Act. It is the portion of the act that funds part-time jobs for low-income persons aged 55 and over. Last year there were some 61,000 Americans, individuals who worked on average about 24 hours a week with their paychecks coming from title V appropriations.

These are senior citizens or people over 55 who are of very modest means. They have very moderate earnings. Indeed, they could not participate in this program unless they met an earnings test. The qualification to be an older worker under title V, the income combined from Social Security, from savings, from pensions and from all other sources cannot exceed 125 percent of the poverty level.

For the older Americans living alone, Mr. President, what that means is an income of about $125 a week, for a couple about $156 a week, and, frankly, as we all know, after we deduct food, utility bills, medication, there is not left very much at all if there is anything left. And as a result, these workers not only can use the money but in some cases it is vital to them.

But the most important thing about the people who work under title V is that they provide absolutely vital, necessary services to their communities, and I will give you an example. Holda Kaufman is a 66-year-old constituent of mine from Bedford County. She supplements a small supplemental Social Security payment with $3.37 an hour wage she earns from a title V job, and what she does is spend a very good part of each week driving the back roads of Bedford County visiting the other elderly in the rural area, and for many of those senior citizens her visits are the only contact they have with the outside world, and she performs for them a number of useful services and tasks that they otherwise might not be able to perform for themselves.

She is quite typical of thousands of other title V workers. These are among our most economically vulnerable seniors. They are anxious to buffer themselves, of course, against poverty, through not welfare but gainful employment.

That is what they receive under title V, that they are willing they are able bodied, they are talented, and those talents can be harnessed for the benefit of others if these workers are given the chance and the encouragement.

Let me just note that nearly 50 percent of the jobs created under title V provides services to other senior citizens and other jobs benefit the greater community.

In Pennsylvania, for example, we have 51 workers in nutrition programs. They work as cooks in senior centers, as van drivers for meals on wheels. Others are employed in housing or home rehabilitation programs for the elderly and low-income families and still others assist health and home care programs.

In my State further there are about 130 of those title V workers who devote their labors to the State recreation, park and forest services, and that list goes on.

Mr. President, I will just repeat that my amendment requests $10 million in additional budget authority to bring title V funding up to a full inflation increase.

I am told by the Budget Committee that the actual outlay for fiscal year 1987 will only be $2 million. Title V is the only Older Americans Act program that did not receive an inflationary increase for 1985. The additional dollars that I have requested would create roughly 2,000 additional part-time jobs.

I might add that, on the House side, the House has decided to incorporate these funds and I hope we will do likewise.

Mr. GRASSLEY. Mr. President, I intend to support the amendment offered by Senator HEINZ.

As my colleagues may know, the Community Services Employment Program Authorized by the Older Americans Act provides community service jobs in local communities. The funds provided through title V go to every State government and to eight national aging organizations, including the American Association of Retired Persons, the National Council on Aging, the National Council of Senior Citizens, Green Thumb, the National Council and Center on the Black Aged, the Urban League, the U.S. Forest Service, and the Association Pro Personas Majores. These organizations then arrange jobs for eligible older people.

The 65,000 jobs which the program has supported in recent years are of great value to local communities. Through these jobs, older workers provide considerable assistance to other older people. They volunteer to help in congregate meal sites or to assist in delivering meals to homebound people. They help in the administration of area agencies on aging.

They are of great help to the Forest Service. I wonder if my colleagues know that many of the campsites and hiking trails in our national parks are open only as a result of the work done by older workers who participate in the Forest Services' title V program?

Furthermore, Mr. President, I want to stress that this is a program for low-income workers. In fact, although for many years now the Older Americans Act has required States and area agencies on aging to target their Older Americans Act resources on particular groups of older people, the title V program is the only Older Americans Act program which specifically restricts participation to low-income people.

Mr. President, the title V program has not had an increase in funding since 1985. Furthermore, this program, with the other Older Americans Act programs, did take a cut to $312 million in the 1986 sequestration. While other Older Americans Act programs did receive increases for fiscal 1987, the title V program was only brought back to the 1985 and original 1986 level of $326 million.

Finally, in the 1984 amendments to the Older Americans Act, we reduced the administrative overhead which was allowable from 15 to 12 percent of total program funds, to be achieved over 3 years. During this time, of course, the costs of administering the program have risen. While I believe, until I see evidence to the contrary, that this program can be administered with 12 percent of the total program funds, an increase in the funding level for the program should ease the strain of accommodating to a 12-percent overhead ceiling since there is not a dollar-for-dollar tradeoff between increased program moneys and the cost of administering those dollars.

For these reasons, I intend to support the amendment of my colleague from Pennsylvania.

The PRESIDING OFFICER. The question occurs on the amendment offered by the Senator from Pennsylvania [Mr. HEINZ].

All in favor indicate by saying "aye."

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this puts us in a very awkward and difficult situation, as one of the managers of the bill at least, and as one who supported the authorizing legislation for the Older Americans Act and for one who believes very definitely in the program.

Let me set before the body at this moment a parliamentary and a procedural question. This adds money to the supplemental appropriations bill. No matter what good cause it may be, it adds $10 million. This amendment is subject to a point of order. The whole bill is subject to a point of order because we exceed the debt limitation.

Now, last night, I asked the Senator from Wisconsin [Mr. PROXMIRE], to withhold an amendment that would have added $100 million, as I recall, for a veterans' assistance program—a very valid, very legitimate program—because we have had individuals here in the body who have indicated that they initially wanted to raise the point of order against the entire bill. That action has not been taken. But, by the same token, I want it to be clearly understood that it is a very simple matter to raise a point of order against an entire bill that is here subject to a point of order and it is far more difficult to raise a point of order against a specific add-on that is very popular. Now, we in the committee have to take that responsibility, and we have.

But I am very concerned about two things. One is that there have been Members who have asked me to protect their rights to raise a point of order against any matter that added to the bill. Those individuals, some of them, are not here at the moment.

But, second, I think that people who are really concerned about the point of order against the whole bill ought to be willing to stand here and raise that point of order against the specifics. Let it be raised against the older Americans add-on. Let it be raised against the veterans add-on or whatever other program that is very easy to get lost and blended into the entire bill that then becomes nothing but *x* number of dollars. It does not translate into interest groups or to constituent groups or to important bodies of our constituencies.

So all I am saying is that this amendment does add to the bill. The amendment is subject to a point of order. The bill is subject to a point of order.

Mr. HEINZ. Will the Senator yield for a question?

Mr. HATFIELD. One final point. This money is in the House bill. I would say to the Senator from Pennsylvania that that will be a part of the conference with the House of Representatives. It is not as if the Senator from Pennsylvania is mandated to add it here in order to make it conferenceable. It is already a conferenceable item.

I would urge the Senator from Pennsylvania to at least accommodate us for about another 40 minutes by either withholding or withdrawing his amendment temporarily, or temporarily setting it aside, because then some of the Senators that I have made a commitment to protect their right to being able to raise a point of order against add-ons will be here present to do it for themselves. I do not plan to raise a point of order at this point.

Mr. HEINZ. Will the Senator yield?

Mr. HATFIELD. Yes; I yield to the Senator.

Mr. HEINZ. I have been advised that this amendment will actually spend $2 million.

Mr. HATFIELD. In outlays.

Mr. HEINZ. In outlays. Would my understanding be correct that, if I found a way of offsetting that $2 million, a point of order would not lie against the amendment?

Mr. HATFIELD. The Senator is correct; except the bill to which he attaches his amendment, even with outlays making it deficit neutral, that he is attaching his amendment to a vehicle that is also subject to a point of order.

Mr. HEINZ. The Senator from Pennsylvania understands that. I thank the Senator from Oregon for making that point.

Mr. HATFIELD. And that is a more difficult procedure.

Mr. HEINZ. What I want to make clear to anybody who disagrees with this amendment is that what they are disagreeing about is $2 million.

Mr. HATFIELD. Well, I have to say to the Senator that the committee has not made sufficient offsets to make the bill not vulnerable to a point of order. I am in a position to make any kind of a commitment to the Senator, absent some given offset that he might identify within the bill, because, as I say, the bill has already failed to achieve the offsets to make it deficit neutral.

Mr. HEINZ. Mr. President, I would be willing to temporarily lay aside my amendment to accommodate the Senator from Oregon and other Senators.

Mr. HATFIELD. I appreciate that, without prejudice to the Senator's amendment whatsoever.

Mr. President, I ask unanimous consent to temporarily lay aside, on behalf of the Senator from Pennsylvania, his pending amendment in order that other amendments might be taken up.

The PRESIDING OFFICER (Mr. GRAHAM). Is there objection? Without objection, it is so ordered.

The question recurs on the first committee amendment, as amended. Is there further debate on the first committee amendment, as amended?

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, will the Chair indicate the pending question?

FIRST EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. The first excepted committee amendment, as amended, is the pending business.

Is there further debate on the first excepted committee amendment, as amended? If not, the question is on agreeing to the first excepted committee amendment, as amended.

The first excepted committee amendment, as amended, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the first committee amendment, as amended, was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECOND EXCEPTED COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, we have three remaining excepted committee amendments. Let me indicate again that amendments can be offered affecting any of these excepted committee amendments, even once they are adopted, by the proper wording of the committee amendment to be put on the bill. I do not know of any other amendments that are being proposed that would affect the second excepted committee amendment.

I believe this has been cleared on both sides of the aisle as to the possibility of now adopting the second excepted committee amendment, which leaves two additional excepted committee amendments we will have to reserve for amendments which have been indicated by Members.

The PRESIDING OFFICER. The question is on agreeing to the second excepted committee amendment. Is there further debate? If not, the question is on agreeing to the second excepted committee amendment.

The second excepted committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the second excepted committee amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, if I could make one general report, as I can best determine, and Senator STENNIS, our chairman, and I have consulted on the list that was prepared last night of some of the amendments—

and I hope it is most of them—it appears that we have about four or five which can be handled rather quickly that are technical in character and which have been pretty well cleared, as I understand, on both sides.

We have one rather controversial amendment which I would judge probably the most controversial one, which has to do with AIDS. The Senator from North Carolina [Mr. HELMS] will be offering that amendment. He is on his way and will be here very shortly.

Mr. WEICKER, the Senator from Connecticut, is ready to represent the other position, the other view, on that issue. I am hopeful that we can get a time agreement on that.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. LAUTENBERG. I have an amendment which has been cleared on both sides. I would like to offer it. I ask if this is an appropriate time to offer it.

If so, Mr. President, I ask unanimous consent that the pending excepted committee amendment be temporarily laid aside while I offer this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending excepted committee amendment be temporarily laid aside so that I might offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 208

(Purpose: To permit the city of Camden, NJ, to retain certain land disposition proceeds)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 208.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

URBAN RENEWAL LAND DISPOSITION PROCEEDS

SEC. . Notwithstanding any other provison of law or other requirement, the City of Camden in the State of New Jersey is authorized to retain any land disposition proceeds from the financially closed-out Center City Urban Renewal Project (No. N.J. R.150) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Camden shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this section, all past and future earnings from such proceeds, including any interest.

Mr. LAUTENBERG. Mr. President, this is a simple, noncontroversial amendment that would provide much-needed assistance to Camden, one of the most economically distressed communities in my State of New Jersey. The amendment allows Camden to dispose of a specific parcel of land held under the Urban Renewal Program without returning the proceeds to the Department of Housing and Urban Development. Camden could then apply the sale proceeds to a project that promises to revitalize Camden's downtown area.

Campbell Soup Co. has agreed to build its world headquarters in Camden and has entered into an agreement with the city, The New Jersey Economic Development Agency, the New Jersey Sports and Exposition Authority and the RCA Corp. to facilitate the construction of the headquarters, along with a $40 million State aquarium.

The plan depends on the sale of land now held by Camden under the Urban Renewal Program. The proceeds from the sale would allow Camden to fund public improvements in the area and to provide a portion of the land to State authorities for construction of the aquarium and for commercial development. However, under the current agreement between HUD and the city, the proceeds of such a sale must be remitted to the Department of Housing and Urban Development. Given Camden's current financial difficulties the city could not afford this. The Department has thus agreed that the requirement of reimbursement should be waived.

Such a waiver is not unusual and has been granted by the Congress in the past for projects far larger than this. For example, provisions of the 1983 housing bill allowed waivers for projects in Denver and Baltimore that cost approximately $10 million and $22 million respectively. By contrast, the cost of a waiver for Camden is only $790,000.

Immediate action on this amendment is needed to ensure that the project will go forward. I urge my colleagues to support the amendment given the importance of the project for Camden, the small cost involved, and the many precedents of similar waivers.

In summary, Mr. President, this is a very simple, noncontroversial amendment. As I said, it has been cleared by the subcommittee chairman and the ranking member of the HUD Subcommittee on Appropriations.

As I said, it would provide some assistance to Camden, NJ, one of the Nation's most economically distressed communities.

I ask that my colleagues support the amendment, given the importance of this project and the fact that it has been reviewed by, and approved by, the floor leaders on both sides. I move its adoption.

CAMDEN URBAN RENEWAL LAND DISPOSITION PROCEEDS

Mr. BRADLEY. Mr. President, I urge my colleagues to support this amendment offered by my colleague Senator LAUTENBERG and by me to permit the city of Camden, NJ, to retain the proceeds from the sale of certain lands. The money from the sale of this land will finance important improvements that are fundamental for a major revitalization program in Camden.

The Department of Housing and Urban Development and the city of Camden have an agreement that the proceeds of such a sale must be returned to HUD. Due to the distressed economic conditions of Camden, the city cannot afford to do so and HUD has agreed to waive this requirement.

The city of Camden is beginning a waterfront development program that is expected to reverse almost 30 years of urban decline in the area. Implementation of this plan depends on the sale of land now held by Camden under the Urban Renewal Program.

I urge my colleagues to support this amendment to ensure that this important project is not jeopardized.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STENNIS. There is no objection on this side to the amendment, Mr. President.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 208) was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 209

(Purpose: To require a report on security arrangements in the Persian Gulf prior to implementing any agreement for United States military protection of Kuwaiti shipping)

Mr. BYRD. Mr. President, I have an amendment which Senator DOLE and I will join in offering.

The events surrounding the unprovoked attack on the U.S.S. *Stark* have raised questions about the appropriate role for the United States in the Persian Gulf and about how that role can most effectively and prudently be implemented.

The administration is in the final stages of reaching an agreement with the Government of Kuwait regarding an arrangement whereby United States warships would escort Kuwaiti tankers transiting to and from Kuwait through the Persian Gulf.

I think it is appropriate under current circumstances for us to carry out such a role in support of Kuwait's interest, as a friend of Kuwait, and also in our own interest, and as a measure of our steadfastness in keeping the gulf open, in support of friendly states bordering on the gulf such as Oman, United Arab Emirates, Saudi Arabia, Qatar, and others. Nevertheless, the Persian Gulf is a hostile environment caused primarily by the war between Iran and Iraq and by increasingly aggressive behavior on the part of Iran toward Kuwait. It our operations are not conducted in such a way as to recognize the gravity of the threats that face our warships and our military personnel, and if appropriate measures are not now taken to prepare for all possible contingencies, then we should think twice, and perhaps three times, about putting ourselves in harm's way.

What specific measures am I talking about? First, the rules of engagement whereby our naval skippers have guidance as to when they can defend themselves with their weapons systems must be changed to recognize the threats that are in the gulf, primarily threats of missiles launched both from aircraft and shore installations. This means that the alert status, the readiness conditions of our forces will have to be upgraded. Even without the final detailed analysis now being conducted by the Navy, circumstances of the *Stark* attack certainly lead one to this obvious conclusion.

Second, cooperation with our friends and allies in the region to protect our men and equipment and to upgrade our operational effectiveness should be pursued.

The White House admitted yesterday that, in fact, there were no prearranged plans for the Saudi Air Force to come to the aid of United States vessels in the gulf. Why not? Is it not reasonable to expect that some clearly defined cooperative arrangement be in place with the Saudis, to whom we have provided top-of-the-line military hardware and are talking about providing more of the same?

Similarly, the French and the British, both of whom have regularly deployed warships to the gulf and the Arabian Sea, might reasonably be expected to join with us in cooperative arrangements. After all, oil from Kuwait goes to those nations as well as to Japan, and it goes to other European nations. The United States should not be expected to carry the lion's share of the burden of security arrangements in the gulf. Our allies and our friends in Europe and in the Persian Gulf area all have a stake in peacekeeping arrangements. So, I believe that the administration should move to develop such cooperative arrangements.

Third, the cooperative arrangements I have just described should be extended to appropriate air cover for our vessels. Air cover provides a layer of protection for our warships that can deter or, if deterrence fails, interdict hostile activity directed at our ships and the ships of our allies and friends. Certainly, it would be desirable to have land-based air arrangements with Saudi Arabia and other gulf States. If we are going to protect other ships, we want to protect our own. And, importantly, the administration, if it is to expect support on its agreement with Kuwait to protect oil tankers from Iranian attack, needs to demonstrate an overall coherent strategy for accomplishing this mission with more than a questionable margin of security. If we have to err, it should be on the side of extra security, extra protection for our men and women in uniform, and our ships.

We also need to demonstrate to the world that we can, indeed, operate in the Middle East and the Third World effectively and that we know what we are doing.

I spoke to Secretary Weinberger on these matters yesterday morning, and he assured me that the administration is reassessing the need for air cover in the gulf and is going to attempt to develop cooperative arrangements with other powers to share the air cover burden and the overall security burden. That is welcome news.

The White House, according to reports today, is in a major internal battle over whether to report to Congress under the War Powers Resolution. There is noting productive right now about a fight over what authority the administration reports to the Congress. The issue at this time is how to avoid a repetition of the *Stark* tragedy and pursue American interests in the Persian Gulf, and be ready and well prepared in advance to avoid the repetition of that tragedy.

The resolution which Mr. Dole and I are joining in introducing addresses the realities of security in the gulf and where and how American power and influence are going there. It requires a report as expeditiously as possible so that the Congress and the American people are confident of our policy and confident of our approach.

So, Mr. President, our country is again faced with the question of credibility, effectiveness, and forethought in the Middle East. I believe it is appropriate to ask the administration to provide the Congress with a full report on the security program I have outlined, both in classified and unclassified forms, before we implement any agreement with the Kuwait Government for protection of oil tankers in that very, very hostile environment. I think that the requirement for such a report should be acted upon today.

This amendment would require a report on security arrangements in the Persian Gulf prior to implementing any agreement for United States military protection of Kuwaiti shipping. It would call upon the Secretary of Defense to submit such a report to the Congress in appropriately classified and unclassified form.

I believe the distinguished Republican leader wishes to speak on this amendment. In the meantime, I ask unanimous consent that the pending committee amendments be set aside and that Mr. Dole and I may offer this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. Sasser be joined as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I will withhold the offering of the amendment until the distinguished Republican leader has had an opportunity to make some remarks thereon. In the meantime, I believe I have consent to offer the amendment and to lay the other amendments aside.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. HATFIELD. Would it be satisfactory to the majority leader if we could temporarily lay aside his amendment as well? We have two technical amendments that the Senator from Missouri and the Senator from Washington could offer and be acted upon. In the meantime, when the Senator from Kansas arrives, we would be happy to yield the floor again for that purpose.

Mr. BYRD. Yes. I would be very agreeable to that.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the majority leader's amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe the Senator from Washington and the Senator from Missouri have technical amendments that can be handled and have been cleared on both sides. I urge that they present those amendments.

Mr. BYRD. Mr. President, before proceeding, I suppose in order to lay my amendment aside temporarily I have to first offer it. So I will offer the amendment with the understanding that I will not proceed with it until Mr. DOLE has had a chance to speak to it. I send it to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. DOLE, Mr. SASSER, and Mr. MURKOWSKI proposes an amendment numbered 209:

At the appropriate place, insert the following:

SEC. . Prior to the implementation of any agreement between the government of the United States and Kuwait for United States military protection of Kuwaiti shipping, the Secretary of Defense shall submit a report to the Congress, in appropriate classified and unclassified form, which includes a plan which fully meets the security needs of our forces, in conjunction with the forces of our friends and allies in the Persian Gulf region, and specifically addresses, at a minium:

(a) an assessment of the threats to American forces, to Kuwaiti interests and shipping, and otherwise impacting on the interests of the United States and its friends and allies in the Persian Gulf region;

(b) the Rules of Engagement, alert status and readiness conditions under which our military forces will operate under in the Persian Gulf, and when such conditions will be in force;

(c) cooperative arrangements entered into, being negotiated or contemplated with our European allies with a stake in the Persian Gulf, who have forces deployed or planned for deployment in the Persian Gulf region, and with states littoral to the Persian Gulf for a shared security system, including provision for air cover of those forces.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

AMENDMENT NO. 210

(Purpose: To clarify the status of the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery in the Columbia River Gorge National Scenic Area in the State of Washington)

Mr. EVANS. Mr. President, I send an amendment to the desk, on behalf of myself and Senator ADAMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. ADAMS, proposes an amendment numbered 210:

On page 61, after line 5, insert the following new provision:

GENERAL PROVISION

Notwithstanding the provisions of Public Law 99-663, which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the Refuge Administration Act by the U.S. Fish and Wildlife Service.

Mr. EVANS. Mr. President, I have sent to the desk an amendment to the 1987 supplemental appropriations bill. This amendment does not have any budgetary impacts. It is a clarification of the status of a national wildlife refuge and a national fish hatchery associated with that refuge that is located inside the boundaries of the Columbia River Gorge National Scenic Area in Washington. This amendment is cosponsored by my colleague from Washington, Mr. ADAMS, and it has been cleared on both sides of the aisle.

The Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery are located inside the boundaries of the gates of the Columbia River Gorge Special Management Area of the Columbia River Gorge National Scenic Area. Both the refuge and the hatchery are presently administered by the U.S. Fish and Wildlife Service. The purpose of this amendment is to clarify that Congress intends that the U.S. Fish and Wildlife Service continue to administer, operate and maintain the Pierce National Wildlife Refuge and the Little White Salmon Fish Hatchery.

This type of land use is compatible with the purposes of the Columbia River Gorge National Scenic Area Act. This amendment does not mean that the refuge and the hatchery will not be affected by the Columbia River Gorge National Scenic Area Act. The Fish and Wildlife Service will have to manage them consistent with the purposes of the act and the management plan that will be developed for the scenic area.

The reason for attaching this amendment to the supplemental appropriations bill is a concern about the status of the refuge due to a reversionary clause in the warranty deed for the refuge. The deed contains a restriction that the property continue to be used for refuge, recreation or park purposes or the property would revert to the donor. This amendment will clarify that the use of that property in the future will continue to be a national wildlife refuge. The Fish and Wildlife Service operates the national fish hatchery in conjunction with the refuge. It has recently acquired additional acreage for the hatchery and needs legislative clarification that the lands pertaining to the hatchery will continue to be used primarily for purposes related to the operation of the fish hatchery.

Mr. President, this is a noncontroversial amendment. Further, it does not have any budgetary impacts. I urge my colleagues to support its adoption.

Mr. President, this amendment has been cleared on both sides of the aisle.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. EVANS. I am delighted to yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not know the merits of this amendment, but is it not a fact that this is not a proper item for the appropriations bill and is actually legislation on an appropriations bill? Does this not properly belong in the jurisdiction of the Energy Committee?

Mr. EVANS. It is a simple clarification. I presume that it could have budgetary impact if there were a change in management required, which might well be required if this clarification is not put forward.

Mr. METZENBAUM. Without wishing to raise a parliamentary inquiry, I inquire of the Chair: If a parliamentary point were made, is it not a fact that this would be deemed legislation on an appropriation bill?

The PRESIDING OFFICER. The Chair will take a moment to consult with the Parliamentarian.

The Senator from Ohio is correct—the amendment would be considered a legislative matter on an appropriations bill.

Mr. METZENBAUM. I say to my colleague from Washington that I do not intend to raise a point of order, but I would suggest to the managers of the bill that I think we have some right to be protected against legislative proposals on appropriations bills without having to guard the floor constantly.

While we have done that before, and it would not be the first time, the fact is that I do not think this is particularly objectionable but I do believe that we ought to go through the authorizing process, go through the appropriate committee process.

I am not attempting to remonstrate with the managers of the bill, but I think it is a practice that creates more problems for us rather than solve problems.

Mr. HATFIELD. Mr. President, I would like to respond to the Senator from Ohio.

I say to the Senator from Ohio that I have led the battles for many years against legislating on appropriations, whether it was an abortion question, a school prayer question, or a lot of other very burning issues that people have found necessary to raise on an appropriation.

I also remind the Senator from Ohio that the chairman of the Judiciary Committee and the leadership of the Judiciary Committee, with the full support of the Judiciary Committee, came and asked the Appropriations Committee one year to put the comprehensive crime bill on the appropriation bill. We piggybacked that at the request of the authorizing committee.

The chairman of the Foreign Relations Committee came one year and asked us to put the full foreign aid authorization bill on an appropriation vehicle.

All I am saying to the Senator from Ohio is that this particular amendment, involving the Columbia Gorge legislation, which I had some part in offering, is to correct something that we assumed was understood.

We were not changing the administrative responsibilities of this particular hatchery in the State of Washington. For some administrative reason or other which I do not know, it came up as if they assumed that we had.

So I would call it a technical matter. It does not affect policy. It does not affect basic legislation. It does not affect the budgetary impact.

I assure the Senator that if there were a major policy change or a question raised on an appropriation bill, I would probably be one of the first to stand and say, "Wait a minute. Let's go back to the authorizing committee." But I have to say to the Senator, in all honesty, that we have to have sort of a gentleman's agreement, at least, if we all going to try to uphold the basic question of legislating on an appropriation.

We cannot be selective, as we tend to be. Sometimes the authorizing committees feel that we are invading their domain by accepting or putting legislation on an appropriation. Other times, those committees may come and say, "Please let us put our bill on your vehicle." It is a complicated issue.

I appreciate the watchdog role the Senator from Ohio plays. He and I have stood shoulder to shoulder on many of these questions. Sometimes we agreed and sometimes we disagreed. On abortion, we disagreed, but we fought the abortion question being put on an appropriation bill from the beginning.

I welcome the Senator's watchdog role on this, but I assure him that his amendment by the Senator from Washington does not constitute a threat to any authorizing committee nor does it invade any authorizing committee's jurisdiction on this particular question.

Mr. METZENBAUM. I thank the Senator from Oregon.

I do not intend to make any further point of the subject; but I happened to be on the floor, and it sort of bothered me that we were going down this road again.

I know of the role of the Senator from Oregon in watching this issue in the past.

Mr. STENNIS. Mr. President, I have listened closely to the points that have been made by the Senator from Oregon. He has certainly correctly stated the situation.

I have said, since the debate started on the presentation of this bill, that we were going to have to work out a new system of completing, wrestling with these matters that are presented by a great number of amendments. Some have skipped the regular committees. Some have gone in different forms to another committee handling a bill. But we have to start over.

I have seen the evolution of legislation and appropriation running together on the same bill. It has gradually gotten worse, and it is an injury to legislation as a whole. I do not think we make any real progress by doing it one amendment at a time and one bill at a time. It has to take thorough and exhaustive consideration and planning by competent authorities and experienced people in the field of legislation.

That is the way I see the problem. I have hoped that in time—and I believe that in time we will—we could get an effective remedy that will meet the situation. It is almost impossible to carry on with some of these bills now without getting them greatly confused because of additions and repetition before the committees, and then they come here in modified form.

Those are my observations on a very difficult subject that has to be studied, as I have said.

Mr. EVANS. Mr. President, I intend to take no further time, except to say that I thoroughly agree with the Senator from Ohio and the remarks of the Senator from Mississippi and the Senator from Oregon.

I would join enthusiastically in any remedies we could make that would represent an absolute denial of this privilege.

I suspect that in past years we have used the superhighway of legislating on appropriations bills and all I sought this morning was to open a tiny little footpath and would be glad to see even that footpath closed if we would all join in doing so.

I hope that with that we can accept this small corrective item as the most convenient and easy way to handle the matter in front of us.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 210) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 211

(Purpose: To waive certain financial technical provisions with respect to a school construction grant for the Winona R-III School District in Winona, Missouri, on account of harsh economic conditions in the jurisdiction served by the school district)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] for himself and Mr. BOND proposes an amendment numbered 211.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, between lines 6 and 7, insert the following:

IMPACT AID

The Secretary of Education shall make a grant pursuant to section 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) to the Winona R-III School District located in Winona, Missouri, pursuant to the application approved by the Department of Education, in an amount agreed upon by the Secretary and such school district, without regard to the provisions of section 14(c) (3) and (4) of such Act.

Mr. DANFORTH. Mr. President, this amendment is offered by Senator BOND and myself. It has been cleared on both sides. It relates to the Winona R-III School District in Missouri, which tops the list of the Department of Education for impact aid.

It is a very poor school district. The per capita income of the school district is $10,000.

The requirements now, as I understand it, of the law are that certain self-help is required to take advantage of the impact aid grant, that this self-help requirement is measured by local bonding capacity, that the present statutory measurement would require the Winona R-III School District to double its property taxes, that this school district is in such an impoverished state and the need for a new school building is so obvious that the Department of Education has recognized that it is willing to enter into negotiations with the school district to provide the imapct aid with the self-help requirement that is somewhat more flexible than that now found in the statutes. That is the whole point of the amendment.

The Winona R-III School District is truly in desperate need of legislative relief. Because of the dilapidated condition of the school building and the unstable geological situation, the lives of the students housed in the school building are at risk. The district is willing to make a contribution toward the costs of constructing a new school building. However, the district is unable to make a contribution in the form specified under the statute.

Mr. CHILES. It is my understanding that the Winona School District is prepared to make a contribution toward the costs of constructing the school building. This amendment does not release Winona from covering a portion of these costs. It simply changes the technical requirement with respect to the form of the district's contribution.

Mr. DANFORTH. That is correct. The Winona School Board is committed to do all that it can to raise funds to shoulder a portion of the costs of construction. The district cannot, however, raise the funds in the form specified in the statute.

Mr. CHILES. I recognize that this situation is truly extraordinary in that the lives of the students housed in this building are in jeopardy. I also understand that the Department of Education ranked the Winona School District first in priority to receive impact aid construction funds. I believe that funds for the Winona project have already been reserved by the Department.

Mr. DANFORTH. Yes. The Winona district has demonstrated special need and the Department of Education has assigned the project the highest priority in the Nation. Winona is located near the New Madrid Fault, which is subject to tremors and earthquakes. Geologists expect a tremor of significant magnitude by the year 2000. Because of the deterioration of the mortar in the building, the building, which is three stories, could easily collapse.

Mr. CHILES. This amendment does not completely relieve Winona of its requirement to share the costs of constructing a new building and does not set, what would be an admittedly bad precedent, of allowing a school district to avoid making a local contribution. Winona will indeed make a contribution but not in the form specified in the statute. On this basis, I agree to accept the amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, from this side of the aisle, I am happy to accept the amendment offered by my colleagues from Missouri and to waive certain financial requirements for eligibility of funding of schooling.

There is nothing that has any budgetary impact on this because the Department of Education has already established this in a priority of their commitment under existing funding, but I do think this is an example of occasionally when there are extraordinary circumstances in which congressional action is called for to meet the hardship. Therefore, on that basis I am happy to support the amendment.

The PRESIDING OFFICER. Is there any further debate?

Mr. STENNIS. Mr. President, there is no objection to the amendment on this side of the aisle.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 211) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 209

Mr. DOLE. Mr. President, has the distinguished majority leader offered his amendment?

Mr. BYRD. Yes, I have offered it.

The PRESIDING OFFICER. The question occurs on the amendment.

Mr. DOLE. Mr. President, I will just make a brief statement. I am pleased to join the distinguished majority leader on the amendment that has been offered because I fully share the view that we need to make certain we have adequate procedures in place to take care of the defensive needs of our forces; and to ensure that all other nations involved understand the terms of our action before we go forward.

I have been calling for just such assurances for several days. We should make no more commitments, like the Kuwaiti tanker arrangement, until we are absolutely sure it is in our long-term interest and the commitment can be fulfilled.

I should note that I do have some reservations about requiring the administration to report to the Congress before it goes ahead. I would hope, and expect, the President would consult fully with us, and report to us, and I would strongly support the Senate urging him to do so.

Nonetheless, on balance the aim of the amendment, in my view, is right on target, and I join the distinguished majority leader in urging the Senate to adopt the amendment.

Mr. BYRD. Mr. President, the distinguished Republican leader has taken a strong forthright position. He has taken it publicly and I welcome the support of the amendment and his cosponsorship of it, and I thank him for it.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, 2 days ago, I laid out before my colleagues here in the Senate, my very deep concerns that we are overextending ourselves in the Persian Gulf.

Yet, it would appear that this administration is bent upon making a hasty decision on military protection for Kuwaiti oil tankers—a decision that could result in the loss of even more American lives.

The *Stark* should not have been in harm's way, but the tragic events speak for themselves and they speak to all those who would listen, and learn.

The lesson is this—now is not the time to rush blindly into an agreement that could cost more American lives. We must take the time to carefully assess the situation, to measure our interests and to prepare for the contingencies.

The amendment offered to the Senate today requires the administration to do just that.

The amendment seeks an assessment of the threat to United States forces if we undertake the responsibility of protecting Kuwaiti tankers through the gulf and into the Straits of Hormuz.

The amendment requires that we set out rules of engagement and that any cooperative agreements be spelled out so that our allies are not forced to watch, helplessly, another situation like that of the *Stark*.

Mr. President, my feelings about the participation of our allies are well known. The United States is preparing to assume the lion's share of the risk for keeping the Persian Gulf safe at a time when our interests are less than those of our allies.

In fact, less than 2 percent of the oil consumed in the United States passes through the gulf. On the other hand, Western Europe gets about 50 percent of its oil from Gulf States and Japan about 90.

I believe that the risks should be shared more equitably among our allies—particularly among those who have a much greater stake in the area in terms of their energy needs.

The American people have a demonstrated willingness to shoulder the extra load when our friends were in need. But, when we send our sailors into a dangerous, hostile situation, we expect that every precaution has been taken, every possible contingency has been planned for.

Similarly, when our allies have had the wherewithal, the resources, we Americans have expected them to share in the risks of any endeavor in the common good.

Mr. President, this resolution seeks only what the American people expect and deserve from this administration—namely an approach and policy that is reasonable and responsible with assurances that everything possible has been done to ensure the safety of our men and ships in that region.

We can pursue American interests in the Persian Gulf and I believe that it can be done without a repetition of the *Stark* tragedy.

Mr. McCAIN. Mr. President, I rise in support of the amendment offered by the distinguished majority leader.

I support the amendment not because of any disagreement with the policy of sending U.S. naval vessels to the gulf, but because a clearer understanding of their operational orders is needed. For the foreseeable future, the duty of ensuring the security of the free world's oil supplies will fall to the United States. Were we to withdraw from the gulf, it is quite possible that those oil lifelines would be cut, plunging the industrialized world into economic chaos. U.S. Navy ships have been in the gulf since 1949; withdrawing from the region would be an abrogation of the Carter doctrine.

At the same time, the deaths of 37 Americans aboard the U.S.S. *Stark* last Sunday remain unexplained. It is important that the legislative branch and the American people know the rules of engagement, alert status, and readiness conditions before vessels of the Middle East force begin escorting Kuwaiti tankers in a war zone.

The report will also highlight the efforts of our European allies to protect Persian Gulf sealanes. It is important to remember that while the United States received approximately one-tenth of its oil supply from the gulf, European nations and Japan depend on Gulf States for between half and 80 percent of their energy requirements. While the security of gulf sealanes is, at the moment, dependent on the United States, the report should serve as a basis for more equitable burden-sharing in assuring the flow of oil to the free world.

In sum, the report is a wise step in assuring full communication between the executive and legislative branches on a subject of great political and military concern. I urge my colleagues to accept this amendment.

The **PRESIDING OFFICER.** Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

Mr. **BYRD** addressed the Chair.

The **PRESIDING OFFICER.** The majority leader.

Mr. **BYRD.** Before there is a response to the call, would it suit the convenience of the Republican leader or other Senators if the vote on this amendment occur at noon rather than now? I do not know of any other amendments that are on the floor at the moment.

Mr. **HATFIELD.** Why not now?

Mr. **BYRD.** Very well.

I thank the Senator.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUYE] is absent because of questioning witness in Iran-Contra hearing.

I further announce that, if present and voting, the Senator from Delaware [Mr. BIDEN] would vote "yea."

Mr. **SIMPSON.** I announce that the Senator from New Hampshire [Mr. RUDMAN] is necessarily absent.

The **PRESIDING OFFICER** (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—5

Johnston
McClure
Nickles
Symms
Wallop

NOT VOTING—4

Biden
Gore
Inouye
Rudman

So the amendment (No. 209) was agreed to.

Mr. **HATFIELD.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **BYRD.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. **HATFIELD.** Mr. President, the comanagers of the bill have attempted to accommodate Senators in their schedules this morning and we have been able to keep the bill moving along pretty well.

We had indicated, so there could be some kind of planning ahead, that we would urge them to be on the floor ready to go. The next amendment would be the AIDS amendment to be offered by Senator HELMS. He was here about an hour ago waiting to make his presentation.

I am not trying to intervene with the Senator from Ohio, but I am merely saying that the managers of the bill are trying to help by saying each Senator is scheduled. Senator DECONCINI asked to come up next. Then the schedule got interdicted so we indicated to Senator DECONCINI that we would take him up just as quickly as possible. We accommodated the leadership amendment which has just been completed. We were very happy to do that.

We have no authority to say to the Chair who to recognize, and I am not suggesting that. But we are trying to keep the schedule of Senators in mind and their activities on the floor coordinated. That is what we have been trying to do. Senator HELMS and Senator DECONCINI have been here for an hour and we alerted them to the time we thought we would be able to handle their amendments.

Mr. **METZENBAUM.** Mr. President, if I may respond to the Senator from Oregon, the amendment that I am about to offer would not be voted upon. It would involve a colloquy with the Senator from Florida. He is on the floor now. The Senator from Ohio would make a short statement as well. I am perfectly willing to step back at this point. I do not believe there will be any problem, if the Senator from Florida would be agreeable.

Does the Senator from Florida want to go forward at this point?

Mr. **CHILES.** Mr. President, I want to accommodate what the committee is trying to do. It was my understanding that we would take care of this amendment in colloquy and it would not take very long. I want to be under the authority of the committee in what it is trying to do.

Mr. **HATFIELD.** May I inquire of the Senator how long the colloquy will take?

Mr. **METZENBAUM.** Not over about 5 minutes each.

Mr. **HATFIELD.** The only problem is that I would have to ask the Senator from Arizona about his schedule because he has planned his schedule to follow the Helms amendment.

Mr. **METZENBAUM.** I might say to my colleague from Oregon that I am not totally sold on this arrangement of who comes when and where. The Senator has pointed out that the Senator from Ohio is within his rights, but he is not trying to upset the applecart. It seems to me that as long as I am not bringing up an amendment that will tie up the Senate for 2 or 3 hours, we might as well bring it up and get rid of it. It would be one more down.

Mr. **HATFIELD.** The committee amendment is pending. We would have to get unanimous consent to set it aside. The amendment offered by the Senator from North Carolina is not to the committee amendment and, therefore, we would not have to get unanimous consent.

In order to keep someone on the floor ready to move in, and we have about 30 more amendments to try to get through today, I would hope that we would let the managers schedule the time so that it would be convenient to all, and to keep the schedule as we have it.

Mr. METZENBAUM. I will not make an issue of it, but I want to say to my colleague from Oregon that I am not concerned about this amendment, but on earlier occasions in the past when the Senator from Oregon was handling a bill I have indicated very, very strong objections to this question of unanimous consent in order to have the right to bring up an amendment. I do not believe that is the way the floor should be managed.

I want to say that the Senator from Ohio may very well object to anyone getting unanimous consent at any point, but just to go forward with an amendment. I do not think we should manage the floor to preclude Members from bringing up their amendments when they want to.

Mr. HATFIELD. It is a rule of the Senate, it is not my rule, about getting unanimous consent to set aside amendments.

Mr. METZENBAUM. I expressed myself on this issue when the other side was in the majority. I said I do not believe you should have this procedure. It is simple to knock it out of the box, just to sit there and object to setting an amendment aside.

Mr. HATFIELD. We did not exclude the amendments of the committee bill to be a traffic cop. We only excluded them because we had requests from certain Senators that they be excluded. I would have liked to have adopted them all. But the point is, we have had Senators say, "Exclude that committee amendment" or another one. That is why we have done that. It is not to be a policeman.

Mr. DECONCINI. Mr. President, I thank the Senator from Oregon and the Senator from Mississippi for accommodating this Senator. I had to chair a Veterans' Affairs Committee meeting which we have had scheduled for a long time. One of my amendments would have been in order without asking unanimous consent. That is part of the problem.

I understand what the Senator from Ohio is saying. I appreciate this body accommodating this Senator because I might have missed an opportunity had they not set it aside. I would like to follow the Senator from North Carolina next but I will be more than happy to wait 10 more minutes for the Senator from Ohio. I know the Senator is not trying to be a traffic cop, as such, but that he is only trying to accommodate all Senators.

Mr. METZENBAUM. Does the Senator from Oregon prefer that I go forward?

Mr. HATFIELD. I yield to the chairman.

Mr. STENNIS. Mr. President, let me assure every Senator that there has been absolutely no effort, daytime or nighttime, to try to preclude any Senator from having his rightful place in this debate to offer amendments, to oppose amendments, and so forth. Nothing like that has happened.

We have planned ahead a little, trying to get through a long list, a highly important list.

The Senator from Ohio is a very capable Senator and he knows as much as any other Member here about these involved matters and their consequences. I do like to hear his suggestions, too.

We are not trying to exclude anyone. We are trying to pass the bill today.

I have already said, Mr. President, I think that this whole matter with reference to appropriations bills having legislative amendments attached to them is something that has been outlawed by the Senate rules a long time and has worked mighty well until the last several years.

There has been a gradual falling away, a deterioration and there is going to have to be given special attention to reviving that rule and working it out for the modern conditions we operate under now.

I commend the Senator for his interest and his effort.

Mr. HELMS. Mr. President, who has the floor?

Mr. METZENBAUM. I think I had the floor. But I an going to yield the floor and yield to the——

The **PRESIDING OFFICER.** The floor is available for Senators to seek recognition.

Mr. HELMS addressed the Chair.

The **PRESIDING OFFICER.** The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I would be perfectly amenable, and I am sure Senator WEICKER would as well, to let the Senate handle any short-term amendments that may be presented—Senator METZENBAUM, for example.

I just want to know when it is proper and convenient for my amendment to be called up.

Now, if the Senator wants to proceed under a time agreement—he said 10 minutes—that is perfectly satisfactory to me.

Mr. METZENBAUM. Go ahead.

Mr. HELMS. Very well. I thank the Senator. I thank the Chair. I thank all concerned.

AMENDMENT NO. 212

Mr. HELMS. Mr. President, in a moment I shall ask that the clerk state an amendment which I already have at the desk, an unprinted amendment, but let me say that I am motivated by a deep concern about the spread of AIDS in this country and I think there is too little being done about it.

Now, this amendment will do only what needs to be done in terms of adding AIDS to a list of communicable diseases that already have test requirements, and it is my intent, regardless of the parliamentary developments, to the best of my ability, to the length of my cable tow, to have a vote one way or another so that the Senate will speak on this question.

If it is a tabling motion, fine. If a point of order is raised, then depending on how the Chair rules—if the Chair rules that it is not in order, I am going to do something that I am very reluctant to do and that is appeal the ruling of the Chair.

I do not want to take up much time. I shall not take up much time. I am perfectly willing to enter into a time agreement right now, I say to my distinguished friend from Mississippi, but I want a vote. I want an expression on what this Congress intends to do with respect to a disease that is life-threatening in increasing numbers to innocent people.

So, Mr. President, I now call up the amendment which I have at the desk. I ask that it be stated.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 212:

On page 64, line 7, strike the period and insert in lieu thereof the following: ": *Provided,* That none of the funds appropriated under this heading shall be available for use in any State, the District of Columbia, or any territory of the United States unless such State, District, or territory requires, as a condition for the granting of a marriage license, testing negatively for infection with the human immunodeficiency virus: *Provided, further,* That Section 212(a)(6) of the Immigration and Nationality Act is amended by inserting before the semicolon at the end thereof the following: 'or who test positively for infection with the human immunodeficiency virus'.".

The **PRESIDING OFFICER.** The Senator from North Carolina.

Mr. HELMS. I thank the Chair and I thank the clerk for reading the amendment including the tough word that he had to pronounce.

Mr. President, the purpose of this amendment is to protect the general population against the spread of AIDS, and to accomplish it I propose two things: First, the amendment would give the States a strong incentive to test for AIDS before granting marriage licenses. Let me say as emphatically as I know how, a majority of States already require testing for various communicable diseases including rubella, syphilis, tuberculosis, and so forth. So I do not want to hear too much about States rights in this matter because this Senator believes in States rights as strongly as anybody.

Second, it would require that this country, this Government, begin testing immigrants coming into this country for the AIDS virus.

Now, there may be a great deal of argument about this amendment, but I cannot see why. Specifically, the amendment, first, provides that in order for a State's residents to be eligible for the $30 million the Appropriations Committee has allocated for drugs for individuals with AIDS the State must require AIDS testing as a condition for granting a marriage license.

Now, Mr. President, as I have already said, State and Federal Governments have spent substantial sums on AIDS research and education. For example, the Federal Government has appropriated over $1.4 billion for AIDS research during the past 6 years. Now, I am not arguing today about whether the huge amounts already spent on AIDS research and education are too much or too little. I am saying in proposing this amendment that we should try to stop the spread of AIDS as well as try to find a cure for AIDS. They are parallel tracks. If it turns out there is no cure at all, then our efforts directed at prevention will be the most important steps we could possibly have taken.

Mandatory premarital testing makes good sense as a preventive measure. Marriage licenses authorize couples to engage in sexual activities and to bring children into this world. Many States do not issue marriage licenses to individuals infected with rubella or syphilis. Common sense dictates that States should not do so for individuals who are infected with AIDS.

Scientists have now determined that the AIDS virus can be passed from the female to the male as well as from the male to the female. In addition, females who are infected with the AIDS virus can pass the AIDS infection to their unborn children. Of those who test positive, the Public Health Service predicts that approximately 30 percent will go on to develop full-blown AIDS. Other authorities have said that this figure could be as high as 50 percent.

Dr. Roy Schwarz of the AMA has reportedly stated, and I quote him, "As an immunologist I do not see any reason not to see 100 percent" of those infected developing the disease.

Mr. President, some States may have only a handful of AIDS cases and the incidence of AIDS cases among heterosexuals, even in the high-risk areas, is minimal. Nonetheless, I believe it is imperative that States not be "a day late and a dollar short" in their efforts to contain the spread of AIDS.

According to the statistics from the Center for Disease Control, the proportion of women who contracted AIDS through heterosexual contact rose from 12 percent in 1982 to 26 percent in 1986. According to a November 24, 1986 article, AIDS infection may be increasing at a faster rate among heterosexuals than among those in the established risk group, and we all know what that is.

Premarital tests are nothing new for the majority of the States, as I have indicated earlier. By my count, 27 States, maybe more than that, and the District of Columbia currently require testing for syphilis or rubella prior to issuing a marriage license.

If we can test for those diseases, Mr. President, I can see no reason at all why we cannot test for AIDS, a disease which is far deadlier for parents and for unborn children than syphilis or German measles ever could be.

Again, I would note that some Senators may during this debate get up and say, "This is an invasion of States' rights." I do not agree. This amendment will not, I repeat for emphasis, will not, force States to enact laws to require premarital testing for AIDS. Quite to the contrary. It simply says that if the State, the District of Columbia, or U.S. territories or residents within such State, district or territory want free drugs paid for by the American taxpayers, then they must also begin to take serious preventive steps to curb the spread of the AIDS virus.

That is all it says. I believe as one Senator, as one American, that premarital testing is a step in the right direction. Hence, my offering of this amendment.

Do not think I am very much alone on this, Mr. President. The American people want this Government, this Congress to take some action. According to an April poll taken by U.S. News and CNN Cable News Network, the majority of Americans favor mandatory AIDS testing in certain situations. Seventy-seven percent according to that poll favor mandatory premarital testing.

So much for the first part of the amendment.

The second part would simply amend the Immigration and Nationality Act to make infection with the human immunodeficiency virus a ground for exclusion from entry into the United States. In other words, if people come to our borders to immigrate, to become American citizens they have to take a test. If they have AIDS, they do not come. It is fair enough in terms of protecting the lives of the American people, because currently the immigration law already lists 33 grounds for barring aliens from the United States, and on that list are certain physical and mental impairments.

For example, if the immigrant has—and I quote from the statute—"a dangerous contagious disease," he or she cannot come in. That is already the law. So what is the big deal about saying that we cannot add infection with the AIDS virus to that list?

Mr. President, we ought to know some of the dangerous contagious diseases already specified under regulation. I do not know whether I can pronounce them all correctly, but I will do the best I can. They are chancroid, gonorrhea, granuloma inguinale, leprosy—infectious; lymphogranuloma venerium, syphillis—infectious or tuberculosis—active.

If people wanting to come into this country have any of those, they are excluded from entry into the United States.

I say again, what is the big deal? Why the opposition to adding AIDS to that already long list?

The reason why these grounds for exclusion were enacted is obvious, Mr. President. The Federal Government has the obligation to protect its citizenry from foreigners immigrating to this country who carry deadly diseases which threaten the health and safety of U.S. citizens.

So I say again, what is wrong with adding one more, a disease that is on the minds of every American today?

I agree with this principle of exclusion, which is why this amendment is pending in the Senate today. The AIDS epidemic is one of the most dangerous and most deadly diseases of this century. We have all heard the statistics on Americans who have it—35,219—and the numbers who have died—20,352—and those infected with the virus—between 1.5 and 3 million. But, the epidemic extends beyond our borders. In December 1982, the World Health Organization [WHO] reported 711 cases of AIDS from 16 countries. By January 1987, 85 countries reported 37,872 cases of AIDS.

On January 15, 1987, Jonathan Mann, director, Special Program on AIDS of the World Health Organization, testified before the Senate Labor and Human Resources Committee. He reported that Africa has reported 2,323 cases of AIDS, the Americas—31,320 cases; Asia—86 cases; Europe—3,847 cases and Oceania 386 cases. These numbers, according to Dr. Mann, represent only a fraction of AIDS cases, which he estimates to be somewhere in the neighborhood of 100,000—and still counting. Furthermore, he predicted that between 5 and 10 million people are infected with the AIDS virus.

Nothing to be alarmed about? Is this something to debate about? I think not—not if we want to do everything we can to protect the health and the lives of the American people.

Despite the growing numbers of individuals who have contracted the AIDS virus worldwide and the deadly nature of the disease, this country is continuing to welcome with open arms individuals who are infected with the AIDS virus.

We are excluding individuals with infectious syphilis. This is in the law, and that is being done. In all candor, does it make any sense that we should not exclude—or, to put it more succinctly, forbid—the entry of individuals infected with the AIDS virus as well? Just add infection with the HIV virus to the list of things for which people are excluded already, under the law. That is the point I make.

It is unclear how many individuals infected with the virus have been allowed to enter this country. All we have are estimates. We do know that between January 1, 1981, to December 1985, more than 2.8 million people have come into this country: 43,312 persons have immigrated from Haiti and 73,257 have immigrated from various countries in Africa. We do know that, insofar as the disease AIDS is concerned, Haiti and Central Africa are high risk areas.

Do Senators want to take a position today that "Well, we had better not do anything about this; let's think about it. Let's talk about it; let's pump some more money into this kind of program or that kind of program?"

This Senator from North Carolina feels that we had better do something now, if we are really concerned about the future of the young people, the middle-aged people, and the old people.

It is only elementary that as the epidemic continues to spread abroad, immigrants in greater numbers will be bringing the AIDS virus to the United States.

So my amendment, I think, simply makes common sense. It is what the American people want, by every poll I have seen, and I think they have a right to expect it. As a matter of fact, I think they have a right to demand it. According to the April 20, 1987, U.S. News-CNN poll, I reiterate, 74 percent of those surveyed favored mandatory AIDS testing of immigrants.

Mr. President, no matter what turn this debate takes today, I intend to be here and do the best I can to get a vote one way or another on this question, because it makes good sense. It will help contain the spread of the AIDS virus, it is clearly in the best interests of the American people, and it is in thorough accord with the wishes of the vast majority of the American people.

Mr. President, I yield the floor.

Mr. WEICKER. Mr. President, I rise to oppose the amendment of the distinguished Senator from North Carolina, and I welcome the opportunity to bring the matter of AIDS before my colleagues for a thorough discussion, in the hope that what we do today and in the future weeks and months will be guided by science and not by philosophy.

Certainly, the threat of AIDS—the existence and the threat of AIDS—is the most severe crisis to be posed to this country in the lifetime of all of us, within and without this Chamber. I might add that that includes any armed conflict that occurred during that period of time.

I find it ironic that with that kind of threat posed to the safety of this Nation, with that kind of threat posed to the lives of this Nation, we have an administration that is split in terms of its leadership response to the AIDS crisis.

There are those who are the philosophers, led by Secretary of Education Bennett and adviser Gary Bauer, who, without any expertise or scientific knowledge, choose to make their remarks to an AIDS response based on philosophical grounds.

Then, there are those who are men of science—Dr. Mason at the Centers for Disease Control; the Surgeon General of the United States, Dr. C. Everett Koop—those in the administration with scientific credentials, who base their response to the threat on the facts and on the promise of science.

The reason why this debate is important—and I do not want anybody to feel that it is going to be an endless debate, because it is not; I share the sentiments of the distinguished Senator from North Carolina in wanting an up and down vote on this amendment in a fair amount of time—the reason why this debate is important is that it is the opening debate. That is why I attach special significance to it.

Either we are going to go down the philosophical path or we are going to take the advice and the directions from the men and women of science and from the repositories of knowledge that are repositories of scientific knowledge.

The response has already been declared by the executive branch of Government to be philosophical and that is the reason we do not have direction at the highest level of government that has impacted on the ability of the executive branch to respond. I do not want it to happen here in the Senate of the United States. I do not want that to be how the legislation responds.

Nothing can set a better example than the amendment that is currently before us. Dr. Mason, of the Centers for Disease Control, is opposed to mandatory testing for those persons wishing to get married. Dr. C. Everett Koop, the Surgeon General of the United States, is opposed to manadatory testing for those seeking a license to get married. The National Academy of Sciences is opposed to mandatory testing for those seeking a marriage license.

And against the Centers for Disease Control, the Surgeon General of the United States, and the National Academy of Sciences, stands the amendment of the distinguished Senator from North Carolina.

I am no better than he in terms of our knowledge. We are both laymen. But the basis of our promoting or opposing legislation is very much different. He cares to opine and philosophize. I care to base my arguments on science.

The question is whether or not this Nation in a time of extreme crisis, a crisis which will become even more extreme over time, will respond out of fear and emotion, in which case we are going to lose the fight, or whether this Nation is going to use the tools that we uniquely have with the greatest scientific and educational establishment known to man. If we use those tools, we are going to win. If we react to our fear and emotion, not only will we lose our own Nation, but indeed the world, and the crisis is just that serious.

I think it is important as one who has tracked the events of the past several years that we step back and look at what has been done in the area of AIDS.

First of all, everyone in this Nation should take great pride in the rapidity of the discovery, isolating and cloning of the AIDS virus. Never before in the history of man has any Nation accomplished what was accomplished by our scientists and colleagues around the world in identifying, isolating, and cloning the AIDS virus. Usually what would have taken a decade was accomplished in a very short time.

Why? Because over the objections of those who feel that government has a small role to play in our lives, this country over the past several decades has ever increasingly made more and more of a commitment to basic biomedical research, and we have made more and more of a commitment to the National Institutes of Health. With that background of knowledge in hand and with the moneys that were spent, sometimes moneys that were ridiculed for this study or that study we were in a position to confront the enemy very fast and we did.

That is the good news.

The next step: What should we do in terms of chemoprophylactics, that is, stopping the progression or the shredding of the virus within the body? And what should we do about developing a vaccine the ultimate control of the threat?

It was one year ago, along with my colleague, BILL PROXMIRE, that I stood on the floor of the Senate, and in the course of the Labor, Health and Human Services appropriations bill, asked for a $47 million appropriation to go toward clinical trials for the development of those drugs which looked promising for the treatment of AIDS. Specifically, what had motivated me to bring the amendment up on the Senate floor—it had not been a part of any hearing—what brought that amendment to the floor was the success to some degree that had attended the experimental drug AZT. Again, Congress was responding immediately where there was even a glimmer of hope and, indeed, where the

National Institutes of Health and those who were in the know said we ought to take a gamble, we ought to try. There was no delay whatsoever.

There is no question of the fact that AZT is not the answer, but it is another building block in resolving the puzzle.

Within the bill before the Senate today is $30 million which is to go to those individuals who no longer will get AZT free through the clinical trial process and would have to pay for it or die. It is money that is to cover the cost of AZT and other drugs which prove to prolong the life of a person with AIDS for those who are medically eligible for the drug but are unable to pay for it.

Believe me when I say this Nation has responded very dramatically to trying to find the answers through science. In 1984, the President, and I am talking about AIDS funding, requested $33.8 million; Congress appropriated $61.4 million. In 1985 the President requested $60 million; Congress appropriated $108.6 million. In 1986 the President requested $128 million; Congress appropriated $244 million. In 1987, $213 million from the President; Congress appropriated $413 million.

It is no longer just a question of AZT. There are other drugs which show even greater promise than AZT, but they have come to pass by virtue of our commitment, commitments of minds and money to resolving this deadly threat.

It was not cheap and it is not going to be cheap to resolve it. And I cannot say to you that the money spent on AZT will result in life for those who get it. It may not. You are only prolonging the time that they can live, hoping that in the meantime something will come along to give them life. That is the theory. That is the hope.

Already we know that since I stood on this floor a year ago we have made even larger strides toward achieving a better chance of some form of chemoprophylactics. I repeat that is not the vaccine. The matter of the vaccine, and I will get into that, certainly is a ways off, probably no sooner than 1995.

The point I am trying to make is that we have responded in a traditional way toward this threat of disease. We have never asked people in the past, and we should not now ask, how did you get your disease. We never passed judgment on lifestyle or any other matter. If there has been a threat we have met it. We have always spoken loudly for life in this Nation. We have never asked why. We have merely understood that threat and we have gone to meet it. We have never engaged in moralistic debate over disease ever, such as is going on now in the higher echelons of the administration.

We have left the conquering of diseases to the men and women of science, not to the politicians and not to the philosophers.

I do not rise to oppose the amendment of the distinguished Senator from North Carolina on the basis that I am a liberal and he is a conservative. That has absolutely no part in this debate. What has part in this debate is that every single credible scientific source opposes what the Senator from North Carolina is asking for.

States' rights—I am going to oppose his amendment on a State's rights basis? I certainly am not.

May I remind you it is the administration that more than once through spokesmen has said this is really a matter of education for local school boards, and let the States decide.

No, it is not. This is a threat posed to the United States of America. The AIDS virus or HIV virus has absolutely no knowledge of State lines or boundaries. We did not ask Connecticut to go ahead and do its part in World War II. And we did not ask Texas or California to act on their own.

We faced that threat as a nation. And we have to face this as a nation.

Why oppose mandatory testing in cases of an application for a marriage license. First of all, the implication is, with an amendment such as this, that we have a test which is completely accurate. The testing process, as indeed the chemoprophylactic drug process, as indeed the process for developing vaccine, is far from perfect. We have a good test, but in nowise a perfect test.

There are those that say there should be an awareness of those that test positive and we should ensure the protection of their rights. That is an issue.

But for 1 minute I would like to cite the other aspect of the test which does not receive as much discussion. Those that test negative when in fact they may be positive there are those that test negative, are told they do not have AIDS when indeed they are positive. And so they may go out in the world, to infect further people with the supposed knowledge that they are not infected when in fact they are.

The fact is that there is period of time anywhere from 2 or 3 weeks to 3 months in the incubation of the virus and if the test takes place during that time, it can come out negative, when, the person is positive and clearly a risk.

Mr. KENNEDY. Will the Senator yield just on this point?

Mr. WEICKER. Yes.

Mr. KENNEDY. I am sure the Senator is aware of the testimony that we had in our Health Committee 1 week ago by Dr. James Mason from the Centers for Disease Control. He was asked specifically about the advisability of mandatory testing for those that were going to be married. His response was unequivocally negative. Dr. Mason does strongly support encouragement of testing, as the Senator from Connecticut knows very well, of high risk groups. However, he pointed out that marriage license applicants are probably one of the lowest risk groups in our society, since there has been a heavy presumption, in a number of instances, that some people are living together prior to the time that they are married and some will obviously continue to live together.

At our hearing, it was pointed out that—due to scarce resources—people now have to wait a period of up to 9 weeks to be tested in New York, and in California. The system is basically overloaded. From a public health point of view, the areas to be tested ought to be those areas where there is the highest risk—particularly with the kind of resources which are available to the States.

I thought that this testimony was extremely convincing and logical, and resulted from a conference of public health officials that was sponsored by the Centers for Disease Control.

The second point, if the Senator would continue to yield further, concerns the testing of immigrants. It was pointed out that there are high risk populations and there may be some justification for testing certain groups that may be coming to the United States. But, again, there may be much less reason to test groups from a number of the geographical areas from around the world.

And another point was raised during those conferences: if we are really going to be serious about testing those that are coming into the United States, it may very well make more sense to test businessmen that are coming from those areas with high incidence of AIDS. This might make a great deal more sense, in terms of the public health, than instituting legislation that would require every immigrant coming into the United States to be tested.

So I hope that our colleagues would, as the Senator so ably pointed out, listen to those who are on the front line of this public health issue and who have made recommendations. I know, too, that the Senator from Connecticut and Senators generally on this issue have demonstrated a profound leadership in this area. They have demonstrated a concern. They have noted why it is important to have mandatory testing in the military, where you are going to have blood transfusions in times of conflict; and the Foreign Service Corps where they provide blood for their own in-house kind of exchange. There should be testing in those particular groups for very sound public health reasons.

But I hope that our colleagues would pay heed to the message of the Senator from Connecticut in reference to the recommendations of the Centers for Disease Control which have made, I think, very powerful recommendations to the Congress of the United States as to who are the high risk groups. They have pointed out the urgent need to get about the business of addressing the real public health issues and not just falling into a blind alley, which I think is being raised by this particular amendment.

I am just wondering if the Senator from Connecticut would agree with at least some of those observations.

Mr. WEICKER. I would agree entirely with all of the observations of the distinguished Senator from Massachusetts. He, along with a handful in this body, has been involved in AIDS issues as the threat has grown. The points that he is making are not philosophical points. They are not the points of a New Englander or a Democrat. They are derived from the advice of men and women of science whom he has listened to over the past several years, as, indeed, has this Senator. I agree completely with all of his remarks.

I might add, because I think it is significant, I have a letter in front of me that was written by Dr. Koop, the Surgeon General, to Dr. Robert Wilson, a New Hampshire State representative.

Let me just read one paragraph, because it confirms those remarks the distinguished Senator from Massachusetts has made.

The Surgeon General writes:

> Currently there are proposals in several states to provide mandatory testing for AIDS (e.g., those applying for marriage licenses). While well intentioned, such laws would spend a lot of money testing a group for AIDS at low risk and finding few cases.

Exactly the point the Senator from Massachusetts was making:

> Scarce public funds would be better spent providing anonymous voluntary test sites for those who believe they may have been exposed. This method would uncover more cases, be more cost effective and lead to more behavioral changes. I am not opposed to strong laws, but rather favor laws and programs that will enhance public health and contain the AIDS epidemic.

This letter from the Surgeon General of the United States very well confirms what the Senator from Massachusetts said and what those that have been monitoring this disease know.

Let me also say that for those who think that testing is some simple device without expense, we are talking here about probably somewhere in the area of $105 million to $125 million. Testing has to go with counseling, and that procedure costs about $42 to $50 per person.

The dollar amount does not bother me, very frankly. As I said, whatever is needed we are going to go ahead and provide.

Mr. DANFORTH. Will the Senator yield for a question?

Mr. WEICKER. I yield to the Senator from Missouri.

Mr. DANFORTH. Let me first say to the Senator from Connecticut, as he knows from talking to me, I think that this is an enormously serious question, a question that we have not spent enough time at as a body in the Senate.

I must say that I am a little bit concerned that it is coming up at all on a supplemental appropriations bill because I think there are a lot of people in the Senate who feel that the AIDS question is maybe the largest question of our time and yet we have not really thought out exactly where we are going on it.

I want to say to the Senator from Connecticut, publicly, as I have privately, I am not sure what my opinion is on it. I know I am very concerned.

But let me just ask the Senator a few questions.

First, it is my understanding of Surgeon General Koop's letter that his objection to mandatory testing for people who are getting marriage licenses is that the yield would not be very high. It would be a relatively low yield. These are people who are currently at low risk for AIDS and, therefore, why spend the funds to test this group?

Mr. WEICKER. That is one of the points that he makes.

Mr. DANFORTH. With respect to that point, when I got married almost 30 years ago, I was required to take a Wassermann test. Is that not the name of it?

Mr. WEICKER. Yes, I believe that is correct.

Mr. DANFORTH. Well, whatever, it was for a blood test. Anyhow, blood was drawn from my arm to determine whether I had a venereal disease. I would guess it would be equally a low-risk group at that time. I think I paid for the test. I do not think it was paid out of public funds.

Is it the point of the Surgeon General with respect to the cost pertaining to charging $40, or whatever it is, for the test to people who are applicants for marriage licenses?

Mr. WEICKER. I am not sure I understand the question.

Mr. DANFORTH. If the objection of the Surgeon General is that the cost of testing is a drain on public funds, would not that problem be obviated by placing the burden on the person seeking the marriage license? In other words, you would just say: "A requirement for getting married is you pass a blood test."

Mr. WEICKER. But I do not think that is the point the Surgeon General makes.

Mr. DANFORTH. But just addressing that point, which I take it was the point that was made by the Senator from Massachusetts.

Mr. WEICKER. Again, it was one point.

(Mr. HARKIN assumed the chair.)

Mr. DANFORTH. Let us just deal with this point.

Mr. WEICKER. Let me respond to the distinguished Senator from Missouri. The Senator from Missouri raises a good point insofar as how to gain more resources in this fight. I do not disagree, but I have to say to the distinguished Senator from Missouri that those who have opposed funding for basic biomedical research have opposed additional AIDS money and they are going to oppose $30 million so that people might live longer, a chance they might live, period. And they are often with those who say, "No new taxes." It is usually the same group.

Mr. DANFORTH. If the Senator will forgive me, I have questions about the $30 million and I hope at some point during this discussion to get into those questions. But with respect to the argument that is made by the Surgeon General and the Senator from Massachusetts that this is a low-risk group, why spend the money testing this low-risk group, my question would be, "Why not simply charge them?"

Mr. WEICKER. I am not arguing——

Mr. DANFORTH. It would be the same as saying the individual would have to get a blood test.

Mr. WEICKER. To my distinguished colleague, I would have to say, number one, it is not the only point made by the Surgeon General, the Senator from Massachusetts, or by me. No. 2, I have conceded that this is a fine point, to go ahead and raise the funds.

Mr. DANFORTH. It is just saying that those who are getting married we are not interested in raising funds for, but we are interested in their paying the cost of the test. It will not be a public test, but one of the requirements to getting married in State X is that "you have a blood test and you pay for it yourself."

Mr. WEICKER. The main point that I made, and I will also read from the Surgeon General's report, was that unfortunately the test is not totally conclusive. The Surgeon General in this pamphlet "Acquired Immune Deficiency Syndrome," which I think should be in the home of every American, states that, "Compulsory blood testing of individuals is not necessary. The procedure could be unmanageable and cost prohibitive. It can be expected that many who test negatively might actually be positive due to recent exposure of the AIDS virus and give a false sense of security to the individual and his or her sexual partners concerning necessary protective behavior. The prevention behavior described in this report, if adopted, will protect the American public * * *."

The point I have tried to make about mandatory testing is that there are imperfections with the test medically and what is at risk here is not just a medical risk but a risk in terms of the individual's life.

Mr. DANFORTH. Let me ask the Senator this question: What degree of accuracy would be required for the Senator to say that direct testing should be required?

Mr. WEICKER. Again, I am a layman. All I can say is that I do not have a percentage or a figure to give you. What I am saying is that these are the opinions delivered both by the Centers for Disease Control, the Surgeon General, and the Institutes of Medicine.

Mr. DANFORTH. Let us suppose——

Mr. WEICKER. Senator, I am not playing a numbers game, whether it is 60 percent or 50 percent.

Mr. DANFORTH. How about 100 percent?

Mr. WEICKER. The fact remains that there are two big problems here. The biggest problem to me is the person who tests negative, who goes out there with a false sense of security. The other problem is the person who tests positive and is not. That can ruin a life as well as AIDS can take a life.

I might add the report of the Centers for Disease Control indicated that if indeed we pass this kind of mandatory testing law, then testing should be accompained with those laws that guarantee confidentiality and privacy.

Mr. DANFORTH. But the Senator's argument really is a mathematical argument, is it not? As I understand your argument, what you are saying is that in creating a false sense of security, and so on, maybe mandatory testing would cost more lives than it would save.

What I am saying is that if that is the kind of calculation that we are going to make, then what statistical probability would be required to show that, on the basis of the best medical knowledge, mandatory testing would save more lives than it would cost? Either it costs lives or saves lives.

Mr. WEICKER. The problem is that we do not know all the answers. You are going to have to make a judgment, as I had to make a judgment, when I stood on the floor last year and asked for $47 million to allow the clinical trials to proceed for AIDS drugs such as AZT. I could look like a fool if AZT had not proved effective. It still might not be effective. But it has brought some relief and it probably is a precursor to more efficacious drugs that will come on the market.

What I am saying is that the same question marks will apply to you. You will not have the certainty you are looking for any more than the doctors, scientists, and researchers have.

This is probably one of the most complex problems that has ever been posted in the world. All I can tell you is there is apparently a lack of satisfaction by the scientific community that these tests are of a nature or are so guaranteed of result that we should impose them on low-risk groups in a mandatory fashion.

I am not pleading States' rights, I am not pleading philosophy. I am saying that the best medical scientific advice that I have would indicate that they are not up to the task that is presented to them.

Mr. DANFORTH. I am not pleading philosophy or States' rights either. I am not asking for certainty. All I am saying is that it seems to me that the first issue—well, it seems to me there are three basic issues under the heading of AIDS. One issue is saving lives. The second issue is the civil liberties issue, which is very important.

The third issue has to do with how much are we, the Congress, willing to pay for what? We are going to get into that, hopefully, in this discussion with respect to AZT, but I am not pressing that point just now.

What I am asking about is testing and the degree to which testing addresses item No. 1 on the agenda. That is, saving people's lives.

I can imagine, under certain circumstances, that it would backfire. I can imagine that there would be some people who might get a false sense of security and go out and infect more people. Maybe there would be some people like that. Maybe not. I do not know.

Mr. WEICKER. Senator, I just got through telling you we have been told there are people like that, that do test negative that are positive.

Mr. DANFORTH. Maybe——

Mr. WEICKER. It is not maybe.

Mr. DANFORTH. Then you make another leap from reasoning and say, therefore, these people will get a psychological sense of security and—what? Not use prophylactics?

Mr. WEICKER. I assume that when they go in for testing, Senator, they have something in mind after testing other than seeing a movie.

Mr. DANFORTH. Yes.

Mr. WEICKER. I think I have answered the question.

Mr. DANFORTH. Would they not have the same thing in mind whether or not they tested positive?

Mr. WEICKER. I suspect those who are going in for testing are doing so for reasons that have to do with sexual behavior. Senator, I think the best thing to do is let me finish my presentation and then allow you to go at it any way you want to.

Mr. DANFORTH. I am honestly asking questions. If you do not want to respond to the questions, fine. But I am honestly seeking answers to questions that I do not have the answers to and I do not think you do either.

Mr. WEICKER. Senator, I do not have the answers. The medical profession, the research people, do not have the answers. If we had the answers, there would be no debate on this at all. But what we are confronted with is not specific, insofar as dollars for research and dollars for testing are concerned.

Mr. DANFORTH. It is a judgment call.

Mr. WEICKER. We are being asked to take a step which every aspect of the medical community advises against, for the following reasons:

Number one, you will drive those people away that should be tested and you are going to give false security to some who test negative but may well be positive. Second, very frankly—you have not addressed the matter of privacy and civil rights for those who test positive.

There is a whole range of reasons that obviously cause those that have greater knowledge than I to say this is not the way to go.

I might add, in the matter of the other part of the amendment that deals with immigrants, the Public Health Service has made a recommendation there. Now we have a conflict. The second part of the amendment addresses immigrants. The Public Health Service has apparently made a recommendation to the administration that there be a screening of the more than 530,000 immigrants who seek permanent residence in the United States.

The National Academy of Sciences and the Institute of Medicine, however, has stated:

> The U.S. government has recently proposed adding clinical AIDS to the list of "dangerous contagious diseases" for which aliens may be denied admission to the United States. This action acknowledges the risk that such people may pose to sexual contacts and the burden that they may put on the U.S. health care system. It overlooks, however, the risk posed by the larger number of seropositive aliens without AIDs and, more important, the vastly larger number of U.S. citizens already infected with the virus, who are the most likely source of infection for others in the United States. If much effort goes into excluding infected people from the United States, it will waste resources that could otherwise go to more effective control measures. It may also result in other countries establishing restrictions on travel from the United States.

So there is a dispute in this particular area. There is no dispute on the matter of mandatory testing for those who are seeking marriage licenses.

Mr. DANFORTH. Maybe there is not.

Mr. WEICKER. I am saying within the scientific community.

Mr. DANFORTH. I think that is a very good argument, but I think we should at least be asking telling questions on the basis for such a conclusion.

Mr. WEICKER. Senator, I could not agree with you more, but I cannot satisfy you with a figure, a number, a certainty. I cannot do that.

Mr. DANFORTH. I am not asking for certainty. I am simply asking for the Senator's judgment as to the degree of probability in a test which would justify mandatory testing for people who seek a marriage license.

Mr. WEICKER. It is my understanding, for example, there are tests even now being developed out of private laboratories in this country that are far superior to the one we have in hand. I cannot tell the Senator how much more superior, but clearly present tests leave everybody with a great sense of unease as to how effectively they do the job.

Mr. DANFORTH. The Senator would agree that if a person were seeking a marriage license and did test positively that positive test may have the effect of saving somebody's life, would it not?

Mr. WEICKER. That certainly is a possibility, absolutely.

Mr. DANFORTH. Right. So it is a question of trying to balance how many lives you saved and how many lives are lost by the testing process.

Mr. WEICKER. Absolutely. I am sure that those considerations very definitely went into the reports issued by the Centers for Disease Control, the Surgeon General, and the National Academy of Sciences. Absolutely. Indeed, as the Senator well knows, for those groups at high risk there has been advocated, in some instances put into place, mandatory testing. There may be a value to it. Nobody is going to deny that.

Mr. DANFORTH. I take it this is not the time to ask the Senator about the AZT issue?

Mr. WEICKER. Absolutely. Go right ahead.

Mr. DANFORTH. OK. Let me hasten to say again I do not come to the floor with any preconceived view of any of this. I honestly do not. I do not know whether testing is a great thing or not a great thing, and I have to say it is to me a very strong argument if Surgeon General Koop and other experts say mandatory testing is a bad idea. But I must say I am not persuaded by the argument.

Now, on AZT, as I understand the bill, there is an appropriation of $30 million.

Mr. WEICKER. That is correct.

Mr. DANFORTH. Which funds are to be used for what purpose?

Mr. WEICKER. Which funds are to be used to assure that those who have been on a clinical trial, during the course of which trial they have received the medication free, can continue that life-prolonging drug even though they themselves do not have the funds to pay for it. It includes not only AZT but there could be other drugs which are as effective or maybe even more effective than AZT. The fact is that during the clinical trial period for AZT, Burroughs Wellcome Co. gave the drug for the purposes of those trials. It was free. In any event, those that had AIDS did not pay for it.

At the time the drug was approved for general use then the "free" stopped, if you will, and now somebody has to pay. Some of those who have AIDS have third-party payers such as Medicaid or private health insurance which will cover the cost of AZT. But there is a large body—around 7,500—that do not have the funds to pay to continue this life-prolonging drug. They then would be the beneficiaries of these funds. Again, AZT is not going to save their lives forever, there is not any cure involved here but, rather, in the additional time allotted by the drug—and it has been found to be life-prolonging—maybe something better might come along to save them from death.

Mr. DANFORTH. So under this program, take two individuals, one has been under the clinical testing program for AZT and has AIDS and the second person has not been under the clinical testing program and has AIDS. Under this $30 million the people who have been part of the testing program would be entitled to receive funds to pay for either AZT or whatever other treatment is prescribed, but the person who was not part of the clinical testing program would not receive any of the benefits.

Mr. WEICKER. No, that is incorrect. Both would be eligible.

Mr. DANFORTH. Anybody with AIDS in the country would be eligible?

Mr. WEICKER. Yes. There are income requirements and you have to be medically eligible but they would be eligible.

Mr. DANFORTH. Is it means tested? Is this program means tested?

Mr. WEICKER. Counsel indicates that this is a matter of eligibility under the Medicaid provisions State by State.

Mr. DANFORTH. So in other words, the people who are Medicaid beneficiaries would receive the program, but people who are not——

Mr. WEICKER. It depends on the State. State by State they very. Some States have specifically excluded any sort of payment.

Mr. DANFORTH. What I am saying is, people whose income is over Medicaid standards, would they be eligible to participate in the program?

Mr. WEICKER. I would doubt they would be.

Mr. DANFORTH. OK. This AZT does not cure AIDS, does it?

Mr. WEICKER. It does not.

Mr. DANFORTH. And what is the cost per person of treating somebody with AZT?

Mr. WEICKER. The cost per person of AZT right now runs around $10,000 a year. Again, I will try as best I can to differentiate between that which I know and that which I do not know. I would guess that cost would come down quite substantially as two things happen: As more of the drug and its components become available to the maker, Burroughs Wellcome, and they produce more and sell more and as competing products come on the market. There are several competing products which may prove as good as, if not better than, AZT. So the answer is that at the present time the $10,000 figure would be accurate and I would expect within a year's time that would be reduced substantially.

Mr. DANFORTH. Let me just raise my question and then ask the Senator if he would respond. I am told that there are in the neighborhood of 4 million people in the country who have been infected with AIDS and that that is a rough figure; nobody really knows; some people say 2 million, 3 million, 4 million, some say 4 million is an underestimate. But I am told that. I am further told that of these 4 million people, virtually all of them will die of AIDS. I am further told that the cost of AZT is $10,000 per year and that it maybe will prolong life for a year or so and people will feel better because of it but that eventually they will die. I am further told that the cost of the entire treatment for a person who has AIDS could run $100,000 or more.

Now, my concern is—and I hate to just talk budget, but that is something that we decide around here. We do make decisions in the Congress as to how we are going to spend our national resources.

Are we getting into what amounts to an entitlement program or what will develop into an entitlement program? Are we getting through this appropriations bill into a program in which many millions of people will rightfully claim that they cannot afford the cost of treatment for AIDS and that the Federal Government through the enactment of this legislation has said, as we did with kidney dialysis, that we are going to pick up the tab here?

Mr. WEICKER. Well, I am delighted to go ahead and have the question posed because it should have been posed 2 or 3 or 4 years ago so far as our national priorities are concerned. Yes, the business of life is expensive, not as expensive as the business of death. There are not many questions posed around here on that multibillion-dollar budget.

It is expensive. Let us get that right out front. And we have had to beg and borrow—not steal—a paltry sum of money every year on this budget debate for the National Institutes of Health basic research for cancer, for heart disease, for diabetes. I can go right on down the checklist. Does the Senator realize we pay $2,000 per person in this Nation on health care costs, $2,000 health care costs per person, and we spent $25 on research per person? I would suggest that if we go ahead and get that turned around we can also get the matter of priorities turned around as to what is important. Every day person after person says to each other in this Nation, "You don't have anything if you don't have your health." That is not the way we translate it when it comes to the national budget.

Now, let me give you a little figure, just so you understand what is involved here, again in the Surgeon General's report:

> AIDS is a life-threatening disease and a major public health issue. Its impact on society is and will continue to be devastating. By the end of 1991, an estimated 270,000 cases of AIDS will have occurred with 179,000 deaths within the decade since the disease was first recognized. In the year 1991, an estimated 145,000 patients with AIDS will need health and supportive services at a total cost of between $8 billion and $16 billion.

The Senator is a member of the Finance Committee. This is his province. I would hope that if I do my job as a member of Labor, Health and Human Services Appropriations Committee and the Labor and Human Resources Authorizing Committee that maybe I can reduce what you are going to have to pick up down the line. But the only way I am going to reduce it is through the channels of science and research, and I need the money not just to go ahead and tend to the dying. What satisfaction do you think that gives me? That is the $30 million. That is the dying.

I want the money for research and for life. Believe me, I cannot get that out of this administration or this Congress.

So when you turn to me and say: "Hey, this is going to be expensive," it is going to be expensive. It is going to be even more expensive if we do not turn our priorities around as to what is important in this Nation.

We are discussing catastrophic health insurance around here and I think that is very important. But I suggest that the figure of $25 per person for research—we are far better spending money on research so that we do not get to the catastrophic costs.

Mr. DANFORTH. I assume that the cost of AIDS is going to be enormously expensive.

Mr. WEICKER. Yes.

Mr. DANFORTH. The figures I have of 3 million or 4 million people are higher than the figures you gave.

Mr. WEICKER. Wait a minute. What I have given to you in the way of figures is what I got from the National Institutes of Health and Centers for Disease Control. If you will cite your source, maybe we can see a difference.

I am not trying to mislead and I do not want to create a sense of panic, more than that sense of panic has already started.

The numbers reported, as of May 11, in the United States: cases reported, 35,219; deaths, 20,352; number infected, 1.5 million; cases expected by 1991, 270,000; deaths by 1991, 179,000.

I cannot go ahead and cite any other figures because they would be speculative by me.

Mr. DANFORTH. Whatever the figure is, it is extraordinarily high.

Mr. WEICKER. There is no question about that. That is a lot of dying.

Mr. DANFORTH. The question is, what other funds are available, how do we spend them wisely? My own view would be that anything that should be spent on research must be spent on research. My own view is that anything that should wisely be spent on education must be spent on education.

My question is this: The extent to which whatever dollars we are willing to commit to AIDS should be spent for AZT. If the cost of AZT is $10,000 per person, then, if my math is right, this appropriation would pay for the treatment of only 3,000 people for 1 year.

So you have an enormous cost per person. If what we are doing here is creating an entitlement program, not to cure the disease but to treat it for a limited period of time, I think we should at least know that. Maybe that is what we want to do. Maybe we want an entitlement program; $10,000 per person per year for AZT or for some other chemical that would make people feel stronger and better for as long as they live, which would be a short period of time.

However, I do think that as we get into the AIDS question and debate the AIDS question and determine where we go in the AIDS question, we should realize beforehand whether or not we have a kind of kidney dialysis program going on for AIDS.

Mr. WEICKER. My response comes in several parts.

First of all, the technical side of it, roughly talking about 7,500 individuals who would not be covered by third-party payments. It would not make any difference to me whether it was one person. The problem is that I have to put myself in this person's shoes. Never mind being a U.S. Senator. I have a life-threatening disease. I am a human being. I want to live. I want to live as long as possible. I want to have a chance at life.

I cannot say to you that AIDS has been my special cause while I have been in the Senate, because I have been out there pounding on the doors on behalf of every conceivable disease in this Nation and for giving everybody a chance at life.

But, yes, very frankly, if it is only one or two people, I am not going to say to them: "No, you can't have this. We don't have enough money. If you don't pay, you die."

All I am saying to you is that I am doing the best I can for those who are infected and/or dying. I am giving them the greatest chance at life.

Very frankly, I recognize my obligations; and I do not even want it to come to your doorstep, where you have to pay $8 billion to $16 billion for Medicaid. I am doing the best I can at the other end of the spectrum so far as research is concerned--basic research and AIDS research.

What should bother you, for example, is that the President of the United States announced to the public that we are going to have $100 million for AIDS research and everybody says how great that is, while he is cutting the basic research of NIH by $649 million. This is the same President who would go ahead and gut basic research.

I am saying, in terms of AIDS or any other disease in this Nation, yes, life comes probably even more expensive than death. We hand out the money for death willy-nilly around here, with nowhere the debate and discussion you and I are having.

Mr. DANFORTH. I think the debate is exceptionally important, and it is a difficult debate, and it raises profound ethical questions.

Mr. WEICKER. I have an easier task. I am not going to pick and choose who should live or die.

Mr. DANFORTH. You have done that. You have provided only $30 million. At $10,000 a head, it only allows you to treat 3,000 people. I am told that there are about 3 million or 4 million who have been infected with this disease and that they are going to contract full-fledged AIDS.

Mr. WEICKER. What is your source? Senator HELMS' staff person?

Mr. DANFORTH. That was passed to me but——

Mr. WEICKER. If that is going to be the essence of this debate, you may have Senator HELMS' staff. I will take the Centers for Disease Control and the National Institutes of Health and the Surgeon General of the United States. I have tried to give you the figures.

I might add, do we all think there might be more out there? We might. But as we proceed down this road and this debate, I think it is absolutely necessary that we stick to science.

Otherwise, the situation is going to get out of control.

Normally, an amendment like this would not bother me too much, but it is going to set the pace for the debate on AIDS. I am going to do the best I can to make sure that what is happening in the administration, in the Oval Office, is not going to happen on the Senate floor. I am not going to get into a debate between philosophers and scientists. This is a matter of science.

Mr. DANFORTH. With all due respect, you are making the philosophical attack.

Mr. WEICKER. What is the philosophical attack?

Mr. DANFORTH. You are the one who keeps making philosophical attacks against the White House and Senator HELMS.

Mr. WEICKER. Oh, no.

Mr. DANFORTH. I am simply asking questions as a person who honestly has not made up his mind.

Mr. WEICKER. You keep stating the figure of 3 million.

Mr. DANFORTH. Forget 3 million. You give the figure.

Mr. WEICKER. The figure I have is 1.5 million.

Mr. DANFORTH. 1.5 million people are infected with AIDS?

Mr. WEICKER. Yes.

Mr. DANFORTH. How many of those will probably die of AIDS?

Mr. WEICKER. By 1991, 179,000 deaths.

Mr. DANFORTH. Let us take only 179,000. Let us take your figure.

Mr. WEICKER. Not my figure. The figure of the Centers for Disease Control.

Mr. DANFORTH. Name a figure and name why you want to take it. One hundred and seventy-nine thousand people. You have provided for treating 3,000 people for 1 year.

Mr. WEICKER. No.

Mr. DANFORTH. With AZT.

Mr. WEICKER. I have provided much more than that in terms of the other clinical trials which are proceeding at this time. This is the group that was in the forefront of our clinical research, if you will. They will die. These are the indigent ones in the clinical trials. They will die an earlier death if they do not get the drug.

Mr. DANFORTH. I thought you told me it was supplied to the people in the clinical testing group and the others not in the clinical testing group.

Mr. WEICKER. It also depends on the Medicaid laws State by State. I am doing the best I can with those I know are indigent and need help.

Mr. DANFORTH. Let me put this question finally to you——

Mr. WEICKER. Correct me if I am wrong in interpreting your questions, but you are saying that this might be too expensive and a waste of money.

Mr. DANFORTH. My question is, Should there be, as a matter of policy, any limitation on the exposure of the Government for paying for AZT treatment in the future? That is my question.

Mr. WEICKER. I do not want to limit it to AZT, because the money is not just for AZT. It is for other drugs that might be better than AZT.

Mr. DANFORTH. Let me rephrase the question. Should there be any limitation, in the opinion of the Senator from Connecticut, on the exposure of the Federal Government to provide drugs free, whatever the drug, for the treatment of people who have AIDS, despite the fact that the treatment that is being used does not cure AIDS but only makes people feel better for a year or so?

Mr. WEICKER. I would answer the question no—no limitation.

Mr. DANFORTH. There should be no limitation?

Mr. WEICKER. No limitation; that is right.

Mr. DANFORTH. Therefore, this really is an entitlement.

Mr. WEICKER. No; it is not an entitlement. It is in a supplemental bill before this body. Nobody is asking for an entitlement. You know as well as I that it has to be a matter of law, not a matter of appropriation.

Mr. DANFORTH. But the standard that the Senator is setting is that the policy of the Federal Government should be that if a person has AIDS then that person should be treated with AZT or something similar to AZT without regard to the cost to the Treasury.

Mr. WEICKER. That is correct.

Mr. DANFORTH. If it is 3,000 people that have to be treated, then it is 3,000.

Mr. WEICKER. That is right.

Mr. DANFORTH. If it is 179,000 people at $10,000 a head it should be 179,000 people.

Mr. WEICKER. Absolutely right.

Mr. DANFORTH. All right. That is a very, very clear statement of the Senator's position.

Mr. WEICKER. That is my opinion. Obviously there are others that feel there ought to be a limitation. And that is fair enough. Forget we are talking about AIDS. Let us say that there is a promising development in cancer and it is imminent and I have a chance to live and probably will be the beneficiary of the new development. Do I want my Government to spend a few dollars on that? God knows, we spend enough as I said on the business of death. How about life and the chance at it?

So to me this is not an AIDS argument. I get back to the point I made earlier in the debate. I feel in all areas of research, in all areas of science, we ought to spend a great deal of money, a great deal more than we ever conceived of.

The National Academy of Sciences has recommended $1 billion in education and $1 billion more in research between now and 1990. That is a big chunk of dough. Should we go ahead and spend it? This is AIDS we are talking about now.

I say yes we should spend it. Indeed, I repeat to the Senator I would far rather have the money in research and have a product which cures AIDS than to have to spend money on prolonging life. But at least what I think I ought to do while that is going on, since the research effort on the vaccine and appropriate chemoprophylactic drugs is going on, at least I ought to give that person who is dying now the chance of being the beneficiary of such a discovery.

Mr. DANFORTH. I thank the Senator for entertaining me and my questions at such length on the floor and I know that I did interrupt the Senator's presentation of his position.

I would only repeat what I have said several times in the past. I think that this is an enormously important issue. I think that this is an issue that should not be dealt with on the basis of political philosophy but on the basis of questions of life, questions of civil liberties, questions of costs to the Treasury. These are the kinds of difficult questions that we are here to entertain. I think they should be discussed and I would hope that the Senator would devise some ways to bring the issue before the Senator hopefully in a very dispassionate way. I do not think that this is an issue that should become a matter of volatility, but rather that it is an issue that should be discussed factually and the matter put before us and the various options put before us as a Congress. This is what we are here to decide.

Mr. WEICKER. First of all, let me say that since I think it necessary to get my figures from sources which have the knowledge I ask staff to once again contact CDC and the low side of these who are infected is 1.5 to 2 million and that comes from the Centers for Disease Control, 1.5 to 2 million.

If a staff member has better figures, fine, the Senator may use them, but I am trying to give him facts. And I cannot do that when I give it to him and then I find it contested by some lay person who comes roaring out of the Republican cloakroom. That to me is not a debate as it should take place on this issue.

On the matters of cost and dollars, I tried to indicate to the Senator exactly what the dollars are. I have tried to indicate to him—now we do get into the area of opinion—that we need to do whatever is necessary to prolong life, to save life.

I do not know the overall tab. I can only tell him what the tab is both in the bill and the bill coming up in the 1988 appropriations bill.

But, the Senator is correct, he is absolutely correct when he says we are dealing with a problem of enormous proportions. It is the biggest problem this place will ever deal with.

Mr. DANFORTH. 1.5 to 2 million people per year if the figure is frozen at 1.5 to 2 million, and I would doubt if the Senator from Connecticut will suggest it will be frozen.

Mr. WEICKER. No; it will not be.

Mr. DANFORTH. But 1.5 to 2 million at $10,000 per person is $15 to $20 billion.

Mr. WEICKER. This is the type of argument I am going to knock down when I see it on the floor, whether a good friend philosophically of mine like the Senator, or my friend from North Carolina, who I oppose on just about every issue.

I already indicated to the Senator that the $10,000 figure is accurate right now but that probably is going to decline precipitously within a short matter of time.

To go ahead and use that in light of the facts I have given the Senator I think in some ways is to overegg the pudding a little bit on the cost side.

I think the point that the Senator wants to make which would be entirely valid is this is going to be an expensive proposition. Yes; it certainly is going to be an expensive proposition.

Just think of the Medicare figures that I have already cited to the body, $16 billion, that is the high side of Koop's estimate, by 1991.

The Senator is on the Finance Committee. Has he prepared for that one? We talk about balancing the budget. Is he prepared for $16 billion in additional Medicaid costs?

It is expensive.

Then, again, I have to repeat I would seek this money for a lot of other illnesses and have and will continue to do so. But I think that what I do have to say is that I will only try to come before the Senator and this body with dollar amounts and with scientific analysis that is not of my conjecture or my staff's conjecture, but rather emanates from the Office of the Surgeon General and Centers for Disease Control and National Academy of Sciences and others who are qualified to opine.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. WEICKER. I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I say to my colleague I think he has given us an excellent discussion here on a highly important problem, and I wish the others could have been here, but they still have committee meetings.

I was trying to put a time limitation on the Senator, but there are many amendments to pass.

Could the Senator give me an indication?

Mr. WEICKER. As I indicated to the distinguished Senator, as he said in his remarks, I do not intend to go ahead and delay a vote here. I am more then glad to have a vote at such time as he would like to go ahead and have a vote.

Mr. STENNIS. I appreciate that.

Mr. WEICKER. I want to make that clear. I realize the distinguished chairman has a bill to manage here. Neither he nor I want to delay the matters after each person has spoken.

Mr. STENNIS. May I finish this point with him? Senator HELMS feels the same way, does he not?

Mr. HELMS. Absolutely, I say to the distinguished chairman.

Mr. STENNIS. Does the Senator want to suggest additional time?

Mr. SYMMS. All I need is 1 minute.

Mr. STENNIS. Does the Senator want 10 more minutes to the side or what?

Mr. HELMS. I would say to the distinguished chairman, Mr. President, I am ready to vote now, if no other Senator wishes to speak, but Senator SYMMS does wish a minute or two. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. I am not trying to cut the Senator down to 10 minutes to the side.

Mr. WEICKER. I understand.

Mr. STENNIS. I mention it at the start.

Mr. HELMS. The Senator is being generous and I appreciate it.

Mr. STENNIS. Does the Senator agree to that 10 minutes to each side?

Mr. HELMS. I do not need any more time.

Mr. STENNIS. All right.

Mr. WEICKER. I would have a few more minutes and I know that Senator WILSON from California wants to speak so I cannot agree to a time limit at this stage.

I can assure the Senator that I imagine this is something we will be able to wrap up in the next 15 or 20 minutes. I do not want to have a time agreement.

Mr. STENNIS. That is all right for him if I may tell him.

The Senator may go ahead and use his time now.

Mr. SYMMS. Mr. President, I did want to make an inquiry of the Senators on the floor who are running this debate.

I just had the opportunity just yesterday to read an article that was printed in the Reader's Digest. "The AIDS Plague." I wondered if that article has already been inserted in the RECORD in this debate by any of the Senators?

I will ask unanimous consent to print that article in the RECORD during the course of this debate and I will have someone bring it to the floor now.

I will just say in the discussion of the Senate on this issue that I think that the AIDS issue—I was discussing this with a man who is responsible for running about 600 restaurants in the country, and the problems that they are starting to have with insurability, and so forth, is going to be a phenomenal problem in this country in the very near future.

I think it is something that the Senate has to become aware of and I compliment all the Senators who are participating in this debate.

That is why I ask unanimous consent to print that article in the RECORD. We have to get on top of this issue because it is going to be a much bigger issue than any of us had ever heretofore imagined it would be.

I yield the floor.

Mr. HELMS. The Senator is correct.

Mr. WEICKER. I thank the Senator.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Reader's Digest, June, 1987]

AIDS: THE PLAGUE THAT KNOWS NO BOUNDARIES

(By John Pekkanen)

When AIDS (acquired immune deficiency syndrome) was first recognized in the United States in early 1980s, it involved mainly homosexual males, intravenous drug abusers, Haitians and Hemophilacs and was confined largely to major cities on the East and West Coast—primarily New York, San Francisco and Los Angeles. It is now moving into smaller cities, into rural areas and into other regions of the country. The Centers for Disease Control in Atlanta predict that within five years, 80 percent of all AIDS cases will be found outside New York and California. Another significant shift: AIDS is being transmitted more and more through heterosexual contact. Both changes make the epidemic more threatening to the general population.

An estimated 35,000 Americans have already been identified as having AIDS, and some 20,000 of them have died. One and a half million more are believed to be infected with HIV, the virus that causes AIDS. Among the latter group, the risk of developing this universally fatal disease rises with each year that passes after infection. Experts estimate that by the end of 1991 the total number of cases in this country will reach 270,000—with 179,000 deaths—unless better treatment are found. The number of deaths for 1991 alone is projected at 54,000, a figure roughly equal to the American death toll of the entire Vietnam war.

In a number of victims, our AIDS is second only to that of Central Africa, where so many millions of men, women and children are affected that the disease is being compared to the Black Death, the plague that swept Europe in the Middle Ages. Here is a Reader's Digest exclusive report on the African crisis and its implications for us.

The doctor is a small, thin man dressed formally in a black suit and white shirt. When he talks about AIDS, his dark eyes grow pained and sad. In the hospital where he works, one-third of the patients in the internal-medicine ward have AIDS, he says. He has seen so much agony and death that he is thinking about transferring to another specialty. At times, his voice becomes almost inaudible as he talks in a quiet corner of a restaurant in a Central African capital.

When he sounded an alarm about the gravity of the AIDS epidemic in Africa, he nearly lost his job. Since then he has not spoken to the Western press. But now he is willing to break his silence, provided he is not identified. He and other medical experts consider the epidemic and accelerating catastrophe that, in the words of one, "will make the Ethiopian famine look like a picnic."

The doctor understands why African governments downplay the existence of AIDS: a natural aversion to bad news, coupled with bitterness over reports that the virus originated in Africa. Some governments require Western AIDS researchers working in Africa to sign agreements precluding press interviews. One result: as of February 1987, the *official* total of AIDS cases in Africa was only 2627.

In fact, the epidemic is so widespread and so lethal that experts are comparing it to the Black Death that killed a quarter of Europe's population in the 14th century. Some believe it may be a harbinger of things to come in the rest of the world. For instance, in America and Europe, the disease has been confined primarily to homosexuals and intravenous drug abusers; in Africa, the victims are overwhelmingly heterosexuals and are not drug users. "In terms of the way the virus is transmitted, you could have exactly the same conditions in the United States and Europe five years from now," says Dr. Robert Redfield of the Walter Reed Army Institute of Research in Washington, D.C.

AIDS has already spread throughout sub-Saharan Africa. Eighteen African countries have reported cases. Uganda, Tanzania, Zambia, the Congo, the Central African Republic, the Ivory Coast and Kenya appear to have the most. But among the countries not reporting, Zaire, Rwanda and Burundi are at least as seriously struck.

The AIDS virus, which is called HIV (for human-immuno-deficiency virus), stimulates the production of particular antibodies that can be detected in the blood of an infected person. Such a person is labeled HIV-antibody-positive and can transmit the AIDS virus to others.

Just how badly Africa is infected with HIV is ominously evident from a number of studies:

In Kinshasa, Zaire, a city of four million, tests of thousands of blood samples revealed six to seven percent were HIV-positive.

A broad-based study in the Zambian capital of Lusaka found that 18 percent of blood donors were HIV-positive.

In Nairobi, Kenya, street prostitutes tested 67-percent positive.

No one knows how many people now carry the AIDS virus, but Western researchers conservatively estimate the number to be as high as ten percent of the urban population of Central Africa. Dr. Peter Piot, a microbiologist at the Institute of Tropical Medicine in Antwerp, Belgium, who in 1983 helped make the first confirmation of AIDS in Africa, says, "My guess is that several million are not infected."

Equally alarming is the speed of the epidemic's spread, which scientists have measured by comparing older blood samples with more recent ones.

Among high-risk groups, the epidemic is advancing the most rapidly. A study of Nairobi prostitutes revealed 4 percent were HIV-positive in 1981. But by 1985, 59 percent were infected. None of the male patients at a clinic for sexually transmitted diseases in Nairobi were infected with HIV in 1980. Five years later, the figure was 18 percent.

Even more disheartening is the fact that only a small fraction of HIV-infected people are likely to escape AIDS. Between 10 and 30 percent develop AIDS within five years, but a recent German study suggests that 75 percent will develop it within 15 years. Many experts suspect that the number of "healthy carriers" who eventually develop AIDS could be close to 90 percent.

Further complicating the crisis may be the fact that HIV-infected Africans are exposed to a vast array of conditions that AIDS researchers call co-factors.

To what extent these co-factors increase susceptibility to AIDS is not well understood, but they all affect the body's immune system to some degree. Infectious diseases such as tuberculosis and malaria, as well as malnutrition, are suspected of playing a role. Likely co-factors are other sexually transmitted diseases, which are widespread in Africa. Pregnancy seems to be emerging as a factor as well. It alters a woman's immune system, and given the very high birth rate in Africa, coupled with a high level of HIV-positivity among young African women, it is not difficult to foresee a catastrophe for young African mothers and their families.

The Best and the Brightest. AIDS began to infect Africans in significant numbers as early as the mid- to late 1970s. Africa's AIDS epidemic appears to have originated around East Africa's vast Lake Victoria bordered by Uganda, Tanzania and Kenya. One researcher calls the area "ground zero."

In Tanzania and Uganda, the disease has spread in both urban and rural areas. In southwest Uganda, for example, entire villages have been decimated. But in other African countries, AIDS mostly afflicts city dwellers. Sheer numbers of people may be one reason, but some African leaders also contend that traditional values erode in the cities. This, they say, has led to greater sexual freedom and the spread of AIDS.

Hardest hit are sexually active adults between ages 20 and 39. But just as devastated will be Africa's future, as illustrated in a story told by a physician who witnessed it.

A tall, dignified woman in her late 30s walked into University Hospital in Kinshasa, assisted by her grown son. A schoolteacher and mother of six, she appeared gaunt and weary. At times it was difficult for her to breathe.

She told the physician about her symptoms in detail. Twenty months earlier she had developed a fever that did not go away. It was followed by prolonged fatigue, then pain in her joints, and finally severe diarrhea. She had weighed 165 pounds before her illness began; she now weighed less than 80.

Blood tests and clinical examinations showed that the woman had AIDS. Because the virus was destroying her immune system, she suffered from opportunistic infections, for which she was treated. But it was only a matter of time before she would die.

"The plight of this intelligent, educated woman epitomizes one of the cruelest twists of the African epidemic," explained the Western doctor who told her story. "AIDS is taking away the very people on whom Africa's development depends."

Unlike the developed world, Africa does not have a large reservoir of trained people to run its schools, banks, hospitals, businesses and governments. So each loss has broader social ramifications.

Consider this: In Uganda, where there is only one doctor per 22,000 people, a 40-year-old physician who administered a clinic serving a large section of the country's southwestern region died last July of AIDS. In Kinshasa, a neurosurgeon—a specialist in acutely short supply in Africa—recently died of AIDS. In the Zambian copperbelt, two-thirds of the men who tested HIV-positive are skilled professionals. Another Zambian study found over eight percent of mostly "middle-class or well-to-do" expectant mothers to be HIV-positive. High government officials, teachers, military leaders and professionals in many African countries have also been infected.

A European doctor who has spent years in Africa believes the loss of these people "could return much of Africa to subsistence farming." An even darker assessment was advanced in "AIDS and the Third World," a report published by The Panos Institute, an international information and study group, in association with the Norwegian Red Cross. The report said: "The young elite represents Africa's first post-independence generation to come to power. In several capitals they are already heavily infected, and will die in increasing numbers. The political, social, economic and psychological impact of this gathering death-march cannot be underestimated." If these gloomy predictions prove true, AIDS may not only crush Africa's development, but also cause profound socio-political changes, as the plagues of old did in Europe.

If the AIDS epidemic should lead to the crumbling of fragile political, social or military institutions, might that trigger new civil wars, such as those that recently devastated Uganda? Will one country's AIDS problem grow severe enough to prompt attack by another?

And what about other regions of the world? In the next five, ten or 20 years, might not an uncontrolled epidemic cause serious problems there too?

A Zairian doctor told the story of a young widow who worked as an executive secretary. She became romatically involved with a married bank manager, who was also seeing two other women. Soon the widow became ill, and despite the doctor's best efforts, she died. Then the banker developed similar symptoms and he, too, died. Finally his two girlfriends died. All four deaths, the doctor came to realize, were caused by AIDS. Only the banker's wife was spared.

The story illustrates a central fact about AIDS in Africa: while the disease is caused by the same virus seen in other countries, it seems to be transmitted differently. In Europe and North America, AIDS has been confined primarily to homosexuals and intravenous drug users. In Africa, the virus is transmitted primarily through heterosexual contact, and as many women as men are infected. The only other country where AIDS infects men and women almost equally is Haiti, but already there are clear signs of accelerating heterosexual spread in the United States and Europe.

Innocent Victims. One of the major routes of AIDS transmission in Africa appears to be prostitutes. Although prostitution may not be any more rampant in Central Africa than in New York City, it exists very openly there, driven by poverty and the lack of other work for young African women.

A study by a team of 12 scientists and researchers examining the spread of AIDS in East Africa found low-income prostitutes in Kenya averaged 963 partners a year, middle-income ones 124 annually. The latter's customers are frequently foreign tourists and international businessmen who will carry the AIDS virus back to Europe and America. One American AIDS expert says African prostitutes have such high HIV-infection rates that their clients would have "better odds playing Russian roulette."

Within Africa, transmission of AIDS is also facilitated by a high tolerance for extramarital affairs by men, as well as wide acceptance for unmarried men and women having many sexual partners. This promiscuous life-style is reflected in studies showing higher incidence of sexually transmitted diseases among Africans than among Westerners.

But AIDS also infects innocent children. The desperate plight of these victims was painfully evident during an unauthorized visit to Mama Yemo Hospital, one of Central Africa's largest.

Mama Yemo is located along a narrow, rutted street near downtown Kinshasa. The pediatric ward, on this sweltering day, was stuffy, almost airless. Rows of plain beds, occupied by children, were lined up along both side walls. Some children appeared curious, but most looked scared. All were thin. A dozen young mothers with worried faces hovered near their children. Some mothers lay in the beds, their arms around their children, giving comfort when there was little else to give. A nurse acknowledged that some of the children had AIDS and were doomed to die. "It is very bad," he said.

The AIDS virus is passed from mother to child in utero, during birth, and possibly through breast-feeding. Because of the high HIV-positive rates among pregnant African women, the AIDS epidemic among children will only grow worse. In Kinshasa in 1984-85, for example, eight percent of the women in a prenatal clinic tested HIV-positive. A Zambian study of 272 expectant mothers turned up the same percentage.

As many as half the children born to HIV-positive mothers will themselves be infected. Right now in some parts of Africa, five percent of newborns are HIV-positive, and one-half to two-thirds of those will develop AIDS within two years. In Rwanda, for example, 22 percent of AIDS victims are children. And this year 6000 Zambian children will be treated for AIDS. Thus AIDS jeopardizes not only this generation of Africans, but the next as well.

Bad Blood. Besides mother-to-child, AIDS is transmitted to innocent victims in another way. A European doctor in Zambia told this story: Robbers broke into the home of a prominent family and, before escaping with the family's valuables, shot the two daughters. In saving the young women's lives, doctors gave them blood transfusions. The blood contained the AIDS virus. Now one of the sisters has AIDS and is dying, and the other is HIV-positive.

Over ten percent of Africans who are HIV-positive are believed to have received the virus through infected blood. In Central Africa, that could mean over half a million people.

The major reason, inadequate blood screening, is unlikely to improve in the near future. In most of Central Africa, the cost of screening can easily outstrip a country's annual per-capita health budget, which on average runs between $2 and $3. And confirmatory testing of positive samples will increase the cost severalfold.

Throughout Africa, doctors are asking the same pleading question: Do we spend the money for AIDS screening, or do we use it to vaccinate against a host of potentially fatal diseases, such as polio and measles?

The spread of AIDS through contaminated blood is widened by a number of special health problems that require transfusions. One is sickle-cell anemia, a genetic disease that damages red blood cells. Of the 150,000 children born with sickle-cell anemia each year, 100,000 are in sub-Saharan Africa. Another problem requiring transfusions is malaria, which kills one million Africans each year.

Many pregnant women in Africa need transfusions because of severe anemia from malaria, sickle-cell disease and iron deficiency. One hematologist estimates that an obstetrical bed in Central Africa uses ten times as much blood as does one in North America or Europe. Getting more blood transfusions obviously increases a patient's risk of contracting AIDS. In Kampala, Uganda, for example, 14 percent of the blood stored at St. Francis General and Maternity Hospital was found to contain HIV antibodies.

According to Dr. Jonathan Mann, director of the World Health Organization's Special Program on AIDS, who spends most of his waking hours trying to find ways to control the epidemic, the only hope of ensuring the safety of the blood supply is to develop a simpler and cheaper test, "like the dipstick test for diabetes."

Coupled with the contaminated-blood problem is the reuse of needles and syringes. In some rural health centers, needles are reused many times before they are sterilized. The transmission of AIDS through unsterilized needles could be stopped simply by boiling or by the application of ordinary house-hold bleach, both of which kill the virus. The problem is, boiling requires fuel, and even bleach is in short supply in Africa.

A Deadly Abettor. Amid all the concern as to how, where and how fast AIDS is spreading, one consequence has gone largely unnoticed. This is the insidious effect HIV infection has on other diseases widespread in Africa. Here AIDS exacts a hidden cost being paid, to a large extent, by Africa's children.

Because HIV compromises the immune system, say researchers, it will leave the victims more susceptible to other infections such as dysentery, malaria and TB. HIV infection has already increased TB incidence in parts of sub-Saharan Africa. According to Dr. Piot, 30 to 40 percent of African TB victims are infected with HIV. Children are especially hard hit.

Dr. Pierre M'Pele, a Congolese public-health specialist trained in Paris, says, "We are going to see a variety of infections unknown to us, not to speak of those which were decreasing before but will now blossom anew. The increase in malaria alone can overburden the health systems in this part of the world. To me, this is the biggest problem posed by AIDS." HIV is even undermining the immunization protection, and improved life expectancy, that vaccination has given many young African children against measles, polio and other infectious diseases.

Under a hot, equatorial sun last November, American and European doctors and researchers were riding along the bumpy road from downtown Brazzaville, Congo, to Africa's first major AIDS conference, being held at WHO's Regional Office for Africa. The bus passed a cemetery with a freshly dug grave. The gravesite was near the road and, as is the local custom, a picture of the young man who was buried there was displayed. Many in the bus wondered: did he die of AIDS? That question is often asked now when a young adult dies.

Representatives from over 30 African countries attended the historic conference. It was the first time so many Africans had talked publicly about the epidemic, and their ambivalence about AIDS soon become clear. At the same time that health officials admitted deepening concern, they recognized, as one said, that AIDS remained a "political disease." Some delegates, for instance, took pains to point out that the AIDS patients in their countries were "outsiders"—either foreigners or natives who had lived abroad. Others blamed AIDS on neighboring African countries.

This head-in-the-sand attitude was a recurrent theme at the conference. The problem it poses, according to Dr. Anthony Lwegaba of Uganda, which is open about its problem, is this: "Countries that deny they have AIDS do their people a great disservice. People will say, 'There is no AIDS here, sex is free, nothing can happen to me.' And they will spread it more and more."

Many conferees expressed confidence that the West will soon develop an AIDS vaccine. But hope for a quick fix is about as unrealistic as wishing AIDS would just go away. WHO officially estimates that a safe, effective vaccine won't be ready for at least five years. Dr. Luc Montagnier of France's Pasteur Institute—which, in 1983, first reported the existence of a human retrovirus possibly linked to AIDS—makes a similar estimate. Dr. Robert Gallo, head of a U.S. National Institutes of Health (NIH) team that provided convincing evidence of the AIDS link, says if there is not a vaccine that works in chimpanzees by the end of this year, "I'll be very worried." Even then, it would take several years for the vaccine to be proved out.

Finding an AIDS vaccine is difficult because HIV is extremely complex. It also undergoes "antigenic drift"—surface changes that confound the body's immune system. According to Dr. John La Montagne, director of the AIDS program at the NIH's National Institute of Allergy and Infectious Diseases, "If the drifts turn out to be significant, the search for a vaccine will become much more difficult."

Despite the virus's complexity, however, some promising avenues are being pursued:

In Kinshasa, a Franco-Zairian team headed by French immunologist Dr. Daniel Zagury is testing a form of immunization that may prevent HIV infection or dissemination. His technique stimulates the immune system to produce both neutralizing antibodies and white blood cells called killer lymphocytes. Dr. Zagury is also the first researcher to test on himself an AIDS-vaccine candidate—obtained by cloning an HIV-envelope gene onto a smallpox vaccine virus.

In another approach, Dr. Max Essex, chairman of the cancer biology department at Harvard University's School of Public Health, is trying to develop a vaccine based on his studies of a simian virus called STLV-III. Common yet harmless in Africa's green monkey, STLV-III resembles the AIDS virus. Essex and his colleagues have detected a similar virus, which they called HTLV-IV, among several hundred people in Senegal, West Afica, who also show no symptoms.

As distant as the development of an AIDS vaccine may be, it appears much closer than a cure does. Says Dr. La Montagne, "With vaccines, we have at least approached the point where some are testable. Curative therapy will be much more complicated because HIV is a 'latent' virus. Right now, we don't have drugs that affect the latent form."

Azidothymidine (AZT) is the only drug that has prolonged the lives of AIDS victims, but researchers do not know yet if it will offer long-term remission. It also has toxic effects on bone marrow. However, it has been promising enough to win FDA approval.

"We Must Do Something Now." While the world anxiously awaits a magic bullet against AIDS, the epidemic marches on. By early this year, 91 countries had reported cases. Perhaps ten million people worldwide are now infected with the virus. But nowhere in the world does the epidemic compare with Africa's. That is why many experts feel the battle must ultimately be won there.

International support for the African fight is increasing. A number of bilateral programs are under way. One involves two U.S. health agencies, the NIH and the Centers for Disease Control. Others are ongoing in France, Belgium, and elsewhere in Europe.

These are encouraging signs, but against the enormity of the AIDS threat they offer slender hope. In Africa, as elsewhere in the world, ignorance and superstition about AIDS are still widespread. Delivering reliable information is extremely difficult, given this continent's primitive communications network, low literacy rate and multiplicity of languages.

Perhaps the biggest obstacle of all is Africa's meager resources. Says Elizabeth Ngugi, AIDS coordinator for Kenya: "My fear is that too many other priorities are going to compete with AIDS, such as food production and education."

But Dr. Mann refuses to relinquish his optimism. "AIDS poses an unprecedented health problem, so it will require unprecedented solutions," he says. "To simply write off Central Africa, as some have suggested, would be wrong."

Virtually every AIDS expert in Africa and the West agrees that the international community must recognize how devastating the African epidemic is, and how urgently Africa needs help. Dr. Mann worries that the world may not understand this in time. "Almost everyone I have talked to underestimates the AIDS problem," he says. He and others feel they are in a race to save Africa—and perhaps mankind itself.

To win this race, Africa needs much more financial, technical and educational assistance. Help in the following areas is especially vital: methods to protect the blood supply; training for health workers; development of creative public-information programs; screening and counseling for women of child-bearing age; research on AIDS in Africa.

For those who understand what Africa is up against, there is no doubt that the world stands at a critical moment in history. The chairman of one African country's AIDS committee said it best: "We must do something now, because in ten years there may not be enough of us to do anything."

A worldwide effort will be needed to control AIDS. Contributions to the World Health Organization's Special Program on AIDS can be sent to WHO AIDS Program, Acct. No. 949-2-418240, Chase Manhattan Bank, International Agencies Banking, 380 Madison Ave., New York, N.Y. 10017.

WHAT YOU MUST KNOW ABOUT AIDS

Because no vaccine or cure yet exists, public education is the only way the AIDS epidemic can be controlled. This question-and-answer guide, prepared by Reader's Digest in conjunction with the Special Program on AIDS of the World Health Organization, could save your life—or the life of someone you love.

For a complimentary reprint of this guide, send a self-addressed, stamped envelope to: Reprint Editor, Reader's Digest, Box 25, Pleasantville, N.Y. 10570. (For information on multiple copies, see page 230.)

WHAT IS AIDS?

AIDS is a disease caused by a virus called HIV, for human immunodeficiency virus. The disease destroys part of the body's immune system, leaving victims unable to defend themselves against infections and certain cancers.

DOES EVERYONE WHO IS INFECTED BY HIV DEVELOP AIDS?

We don't know. Ten to 30 percent of HIV-infected persons develop AIDS within five years, and the percentage increases as more time passes. HIV infection is believed to be lifelong.

CAN HIV-INFECTED PEOPLE WHO DO NOT HAVE AIDS SPREAD THE VIRUS?

Yes. These so-called "healthy carriers" play the major role. They can be infected for years without knowing it and be unwittingly transmitting the virus to others.

HOW IS HIV TRANSMITTED?

Sexual Intercourse. Because HIV is found in semen and vaginal fluids, sexual transmission can occur from man to woman, woman to man or man to man. The highest risk groups for sexual transmission are clearly those men and women (homosexual or heterosexual) who have many sexual partners.

Blood and Blood Products. Transfusion of HIV-contaminated blood can infect the recipient. However, an increasing number of countries systematically screen and reject blood containing virus antibodies. Blood-clotting products for disorders such as hemophilia are treated to kill HIV.

Shared Needles. Users of illegal intravenous drugs are a major risk group because many of them share needles and syringes without proper cleaning. But any unsterilized, skin-piercing instrument—including earpiercing or tattooing needles—can spread the disease from one person to another.

Mother-to-Child. A woman infected with HIV may spread the disease to her child during pregnancy, during birth or shortly after birth. It is also possible that an infected mother could transmit the virus through breastfeeding.

HOW IS HIV NOT SPREAD?

HIV is not spread through casual contact in school, on the job, in the swimming pool, or at the market. It is also not spread by toilet seats, handshakes, hugs, casual kissing, eating from the same dish, drinking from the same glass, or by food handlers in restaurants. Nor is it spread by mosquitoes or other insects.

HOW CAN YOU PROTECT YOURSELF?

Avoid having multiple sexual partners. Noninfected couples who have maintained a mutually faithful relationship for at least five years are not at risk for AIDS through sexual transmission. Abstain from sex with people whose activities put them in a high-risk group.

If you are not absolutely certain that neither you nor your sexual partner is carrying the virus, you must take protective measures. Either avoid penetrative intercourse (vaginal, oral or anal), or use a condom, which prevents contact with semen and vaginal secretions. The condom should be worn even during foreplay if there is a chance of genital-to-genital contact. A condom does not guarantee protection but, used correctly, and each time, it sharply reduces the risk.

Do not share items that could become contaminated with blood: for example, razors, toothbrushes or any skin-piercing instrument.

WHAT IF YOU ARE INFECTED WITH HIV—OR THINK YOU COULD BE

If you suspect you are infected or if you have been involved in any of the high-risk activities described, seek medical evaluation. For testing, a small amount of blood is drawn from the arm, as in any standard blood test.

Inform your partner and, if you continue sexual activity, protect him or her by avoiding penetrative intercourse or by always using a condom.

Do not donate blood, sperm or body organs.

Women of child-bearing age who are infected, or have reason for concern about infection because they had intercourse with someone in a high-risk group, should consult with their doctors. Pregnancy can be dangerous for the infected mother and there is a fifty-fifty chance that her baby will be born infected.

Mr. WEICKER. I thank the distinguished Senator.

I agree with him. Again I have to repeat that what is needed is going to be money and lots of it both in terms of education and in terms of research.

Figures of the National Academy of Sciences are $1 billion for education, and that should be frontloaded because it is the best weapon we have right now, and $1 billion for research.

Well, just wait until you hear the debate. It is great for everybody to cite the problem and the problem is everything the Senator says it is, everything he says it is, everything the Senator from Missouri said it was. It is all there, the greatest threat ever posed.

But, what I suggest to the Senator is that the way to resolve it is going to be in this well-measured scientific way both by education and research, and right now for me to reply contrary to the advice of those of medicine insofar as marriage licensing is concerned, I do not think is the way to start this congressional response to the threat of AIDS.

I am still waiting, Mr. President, for Senator WILSON to appear. He wants to address this matter. I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have been listening to the debate with great interest, I really have, because it is such a serious issue. I listened to Senator WEICKER and Senator HELMS and Senator DANFORTH.

Let me pose a question. And I share this with you as a sincere question because I brought it up recently in a forum at the National Press Club. As you know, I have been involved in this issue of immigration reform, and that is tough enough.

The Immigration Reform and Control Act is in existence. This is such a sensitive thing to bring up anywhere, but it is an important issue regarding the legalization program which is now going on. It will last for a year. It will go from May 5, 1987 to May 5, 1988 with regard to the legalization program, and that must be done. People have to come forward within that year to seek this extraordinary act of grace of legalization.

Now, these are people who we do not know anything about. We do not know where they came from. All we do know is they come from about 82 different countries, because that is what shows in the INS apprehension figures. Last year, we apprehended at our borders 1,800,000 human beings who were undocumented. We think we apprehend one out of three. Some say we apprehend one out of two. Some say we apprehend one out of five.

It is an extraordinary number. We know nothing about them whatever, but we are offering them this extraordinary act of grace, which is legalization. And that is, as I say, taking place in America. It is estimated that between 2 to 5 million human beings may come forward during this year to take advantage of this one-time-only extraordinary act of grace, as I call it.

A large majority of those who come forward will qualify. Almost all of them are qualifying now because, of course, they are the ones who have the best documentation and they have been ready to go and ready to do this.

But as we learn more about the ways one can be exposed to AIDS, and especially in the current atmosphere—I do not like to put it on any ideological ground at all or any antihomosexual ground or antigay. That is not where this debate should go. This debate should go just exactly to a thoughtful and honest appraisal of just exactly where we are.

As we learn more about it and we learn about the contraction of its symptoms, I believe we should very seriously—and obviously this amendment of the Senator from North Carolina is saying this also—we should include this within the definition of excludable diseases under legal immigration. And under legal immigration, we presently screen people for gonorrhea, syphilis, active tuberculosis, certain cancerous tumors on the surface of the skin and certain diseases of the lymph system. We do that now.

If you are going to add the AIDS test—and I must say I think we should do that—if you are going to add the AIDS test to the tests of legal immigrants, you surely ought to add it to those who are being admitted under the aegis of illegal immigrants. There is ever more reason to do it with those than there is with legal immigrants.

I think this is a very important thing to pursue and I throw it out here because it is a most puzzling thing. It is a a vexatious thing. It is a sensitive thing. It is lots of things.

But the Public Health Service is giving mixed signals. The Surgeon General is giving mixed signals. The CDC is giving mixed signals. The people are impatient. But the average citizen who sees that, just by a minimum exposure, whether it is through a burst test tube or whether it is through exposure through chafed hands, to the layman, once that begins to move along, you have got problems that you do not overcome with scientific evidence. That is a serious issue.

Mr. WEICKER. Will the Senator yield?

Mr. SIMPSON. If I might just pose the question. The question is, If we are to do this with legal immigration and include this exclusionary test, would it not seem, even though you are obviously opposed to the issue, that you would have to do that with those who are here in illegal status who are receiving the legislation under this immigration bill?

Mr. WEICKER. Well, that is one of the problems the distinguished Senator raises which is a valid point. As the distinguished Senator knows, the Public Health Service has recommended mandatory AIDS testing for the 530,000 immigrants seeking permanent residence. And that now goes to Secretary of Health Bowen and to the Office of Management and Budget, to the White House, for their approval. It raises a whole other problem. And, I might add, on the amnesty program, that again has to be addressed.

One of the points I am suggesting to the Senate and also to the individual, the Senator from North Carolina, who proposes the amendment is, No. 1, on the immigration question, that is in the mill from the Public Health Service to Dr. Bowen to be resolved by them. And this amendment here, in effect, changes the immigration laws on a supplemental and that is not the way to go ahead and handle it.

So, again, to get the proper response, both as to those seeking permanent residence and those that come under the new immigration laws which were so carefully crafted by the distinguished Senator from Wyoming, these matters require far more thought than an amendment to the supplemental appropriation bill and, I might add, far more action.

Mr. SIMPSON. Mr. President, here is another quandary. If you are dealing with a person who has the excluded disease and they are here illegally, and we are testing illegal immigrants—and I think that should be done—I guess that is what I am saying is that I think they have to take a physical anyway—that is part of the legalization process and they have to pass all the tests that a legal immigrant has to pass with regard to the dangerous contagious diseases. I think if then we are to test for AIDS, then we have to remember that these people will not then be legalized and yet what do we do? Deport them then to their country? And knowing and respecting their right of privacy—and I think we have to do that—then are you going to send a person back to their country with confidential information that he is positive on the exposure to AIDS or leave him here, he or she here, on the basis that they can stay in the United States but they are deportable if they are found?

So there are lots of things that need to be addressed. And even though maybe this is not appropriate, I will not get into that issue, that is for you and the Senator from North Carolina, but it is an issue that when we are going to bring 2 to 6 million people into the United States that we have no possible idea from whence they came or how they got here, then we better be paying awfully close attention to this issue and very seriously so.

Mr. WEICKER. I thank the distinguished Senator.

Mr. HELMS. Will the Senator yield?

Mr. SIMPSON. I yield the floor.

Mr. HELMS. I want to ask him a question, if I may. I commend him on his statement. I agree with him absolutely. I simply do not see the distinction from the legal standpoint between syphilis and AIDS. If you are going to exclude him or her for syphilis or some of the other diseases listed, why does it disrupt things to just add AIDS, particularly when we have that problem? Now, I imagine you do not make public the positive syphilis diagnoses, either, do you?

Mr. SIMPSON. Mr. President, I am not certain of that, as to whether a diagnosis of syphilis is retained in the confidential file. But I believe that it would be. Then we get back into a lot of the material on AIDS. Do you tell the intended spouse? Where does confidentiality go? There are some awfully serious social, personal, privacy decisions here. But it is an issue that is not going to go away. We do awfully well with issues that do not go away. We just hope they will.

Mr. STENNIS. Will the Senator from North Carolina yield to me just temporarily?

Mr. HELMS. Yes.

Mr. STENNIS. Mr. President, we had a very generous agreement just a few minutes ago by the Senator from North Carolina that we would close the debate down, the two Senators would, and then the Senator from California would have some time. I am not trying to terminate this entirely, of course, but we do have some promises out to others.

Mr. SIMPSON. Mr. President, I yield the floor. I thank the manager of the bill.

Mr. STENNIS. I thank the Senator very much.

Mr. CRANSTON. Mr. President, I rise in opposition to this amendment. Although I fully support all responsible public health measures to combat this terrible epidemic and have pressed for increased appropriations every year for research and public health activities to fight AIDS, I do not believe that this amendment would contribute to that most important effort.

The great majority of public health officials, including Surgeon General Koop and the CDC, have repeatedly stated that mandatory testing is not an appropriate public health measure. As they have noted, requiring tests of people applying for marriage licenses would not be an effective use of resources and would focus efforts on those least likely to be at risk.

AIDS is a national and, indeed, an international crisis. Strong, rational measures are needed. But they must be based on sound public health policy. In that regard, I would like to express my appreciation to the chairman, Mr. Chiles, and the ranking minority member, Mr. Weicker, of the Labor-HHS-Education Appropriations Subcommittee for their compassion and foresight in including in the committee-reported bill $50 million for AIDS public health activities. That funding would bring the total fiscal year 1987 funding for AIDS programs to $493 million.

The sum of $30 million of that add-on would fund the public health emergency fund, set up as a result of legislation I authored in the Senate in 1983, for the purpose of covering the cost of AZT and other drugs for AIDS for individuals who have no other source of funding.

Mr. President, last September, when the Senate considered the fiscal year 1987 Labor-HHS-Education appropriations bill, my friend and colleague from Connecticut [Mr. Weicker], who has consistently shown such great leadership on and compassionate commitment to increasing funding for AIDS programs, offered an amendment to provide $47 million in additional funding to the NIH for the purpose of enabling all AIDS patients to obtain treatment with experimental drugs. I strongly supported and worked closely with Senator Weicker on that effort in order to give each individual with AIDS an opportunity to obtain an experimental drug which may give them that extra month or year of life until an effective treatment is ultimately discovered. Research on AIDS is progressing at such a rapid pace that every year, every month we move closer to finding a treatment and, maybe, a cure.

Since last September, AZT has been approved by the FDA and is now available through prescription. The drug is estimated to cost about $10,000 a year per patient. Although some health insurance and Medicaid plans will cover the cost, many will not. Moreover, many individuals with AIDS have no health insurance. Consequently, thousands of people with AIDS may not be able to afford to buy AZT or other potential life-prolonging drugs.

This emergency funding is essential to ensure that all people with AIDS can have access to AZT or other drugs, as they are approved. It will directly save lives. Yet if this amendment is adopted and States do not enact a premarriage mandatory testing law, low-income residents in those States will not have access to AZT and other drugs and will face certain death.

In order to prevent the further spread of this disease, we need more education. We need expanded voluntary testing. We need counseling, and we need assurances of confidentiality—no breaches of confidentiality. We need nondiscrimination provisions for people who do test positive.

The Senate should devote its energies to those efforts, not to imposing mandatory testing programs over the objection of the Nation's leading public health experts. I urge defeat of this amendment.

MANDATORY AIDS TESTING

Mr. LAUTENBERG. Mr. President, I intend to vote to table the Helms amendment to require States to institute mandatory testing for applicants for marriage licenses and for immigrants seeking entry to this country. I would like to explain the reasons for this vote.

AIDS is a deadly disease which has aroused much fear and concern in the medical community and the general population. It is contagious and has no cure. There is also no prevention other than avoidance of contact with the bodily fluids of an infected person.

Testing and counseling are needed for people who have been exposed to the AIDS virus. The question is what is the best way to test vulnerable people. The Surgeon General and the Centers for Disease Control both oppose mandatory testing for people with a low risk of exposure to the virus. They believe that a mandatory testing program is likely to send into hiding the groups most likely to have been exposed and to need counseling. They also believe that it would not be effective, in terms of cost or benefits.

An effective testing program would identify large numbers of exposed individuals. This requires that the test be highly accurate and that it be given to people who are likely to be exposed. Our current AIDS virus tests are good, but imperfect. Research done at the Harvard School of Public Health showed that testing in a low-risk population, the ratio of correctly identified exposed people to falsely identified exposed would be 28 to 11, with an additional 2 being falsely cleared of exposure. The so-called false positives would be people who would be told they have been exposed to the virus and are in danger of developing AIDS, when in fact they had no exposure.

Should Government really require a test with a high probability of needlessly frightening healthy people into thinking they are under a death sentence? At the same time, would the test be identifying and leading to counseling for people who might develop AIDS? The answer to both questions is no.

The need is clear to find people who have been exposed to the AIDS virus in order to get them to change their behavior and stop the spread of the virus. Given the current state of affairs, compulsory testing of the general population is not going to achieve this goal. The medical and scientific experts who have been concerned with this question do not recommend mandatory testing of general population groups. I believe that Congress should look to these experts for their policy advice on this difficult issue. Based on the best medical advice, I cannot support the Helms amendment.

Mr. ADAMS. Mr. President, there is no doubt or debate about the threat of AIDS to our people, our society or our world. There is also no doubt or debate about the need to address this threat.

Senator Helms, in offering this amendment, does a public service; he begins what will be a long debate about the best way to structure our response.

Testing for AIDS is certainly going to be an element of our response. But what Senator Helms seeks to do here is test precisely those groups at the lowest risk. I have no philosophic objection to testing these groups, but I do have some practical problems.

First, given limited resources, we ought to focus the funds we have on testing higher risk groups, doing research, providing counseling, increasing our education efforts. If we are going to spend an estimated $125 million, it ought to be in those areas and not in testing these relatively low-risk groups.

Second, testing has to be placed in the context of scientific uncertainty.

As Senator WEICKER and the Surgeon General have pointed out, testing often yields both false positives and false negatives. Yet this amendment would, for example, deny immigration status to individuals based on uncertain evidence and inconclusive results.

Third, while testing may be desirable, it is essential that those tests be conducted in an environment which assures privacy and affords people certain protections. This amendment does not contain such protection and I believe it does not because it is a response which has been developed without the benefit of hearings and open debate. In the Labor Committee, we are in the process of developing the sort of informed background which will allow us to develop a more comprehensive piece of legislation.

In conclusion, Mr. President, this is an amendment which we may ultimately want to adopt. But as the Surgeon General has indicated, as the Centers for Disease Control have indicated, as the bulk of the scientific and health care communities have indicated, this is not the time to adopt it. Accordingly, at this time, for the reasons stated, I will oppose the amendment.

Mr. MOYNIHAN. Mr. President, I rise today in opposition to the amendment offered by Senator HELMS regarding acquired immune deficiency syndrome [AIDS].

To date, AIDS has claimed the lives of 20,242 Americans and the number of reported cases has increased by more than 50 percent just in the last year. We must recognize that this disease threatens all of us and we must take action to stop it. Now.

We must allocate sufficient funds for research into the causes of this illness and work toward an eventual cure. We must change our health care financing system to provide for the enormous costs borne by AIDS patients and their families. Finally, we must inform our people as to how to prevent the spread of AIDS, through public information and dissemination.

What we must not do is begin discriminating against those who have AIDS or who have tested positive for AIDS antibodies. This disease is not a punishment, consequently, those who have it should not be punished. They should not be denied access to insurance, employment, housing, or proper medical care. It is my fear that imposing mandatory AIDS testing on our citizens would result in undue harassment and discrimination. To connect mandatory AIDS testing with urgently needed funds is not only inappropriate but does nothing to help those that have already contracted this disease.

In addition, the Senator from North Carolina has not mentioned any guarantees which the States must provide against releasing such information. Individuals who test positive for the AIDS virus may take adequate precautions against its spread but still face discrimination in housing and employment. These people are guaranteed by our Constitution against invasion of their privacy. I fear that this amendment would violate that privacy by failing to guarantee the results of mandatory testing.

Even the Surgeon General, Everett Koop, the most respected of physicians in this Nation, has stated his opposition to mandatory testing. If our scientists, those most familiar with this epidemic and how to stop it, do not feel that this step is a necessary and productive one, we in the Senate should heed their advice.

But more importantly, by focusing on this one aspect of the AIDS epidemic, we miss the point. We have in this Nation over 1 million people who might be infected with this virus. A great many of these individuals will develop full-blown AIDS and need care. We must not waste valuable resources testing millions, most of whom are low risk for AIDS, when funding voluntary test sites would be much more effective in accomplishing our goal—to stop the spread of AIDS.

It is our responsibility as national public officials to see that this epidemic is dealt with in an effective and appropriate manner. This amendment suggests neither. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I will be mindful of the gentle admonition of the distinguished majority manager.

Mr. STENNIS. Mr. President, may we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. This is a very important debate, with very valuable information.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President.

I was just saying, when the senior Senator from Mississippi kindly asked for attention for my remarks, that I would be mindful of his gentle admonition that we not dwell on this at an inordinate length, but the temptation is great to do so because of the importance of the subject under discussion.

Mr. President, let me begin by voicing admiration, it may seem strange, both for the Senator from North Carolina and the Senator from Connecticut.

What they agree on is that we are facing what is perhaps the most serious public health hazard in the history of the Nation. It is difficult to exaggerate potential harm in what some have described as potentially a pandemic health problem.

The dispute is not about those basic facts. The dispute is how we are to deal with this enormous and very, very grave hazard. That, of course, is the subject that divides us.

What is being proposed is rather narrower than a number of pieces of legislation that have already been introduced. When I say that I commend my two friends, I commend, obviously, their attention to this problem. I heard with considerable understanding the frustration voiced by the Senator from Connecticut. He has been an eloquent pleader for more attention, more resources, to deal with the health problems of this Nation for many, many years, and he has given special attention to the problem of AIDS because it is indeed a problem that requires that special attention.

I will submit that we are only beginning to pay the kind of attention to it that be required.

It has the potential, in one anecdotal measurement, to increase the number of people in the city of San Francisco infected with the AIDS virus by fivefold in less years than that, by 1991.

What is being proposed in this amendment is that there be mandatory AIDS testing of two categories or two classes of people: those entering the country and those who are applicants for marriage licenses.

I thought that the very illuminating colloquy between the Senator from Missouri and the Senator from Connecticut bespoke a certain agonizing lack of certainty.

The Senator from Missouri, it seemed to me, was voicing many of the doubts that I have as to the wisdom of proceeding in this area and at the same time questioning a number of the underlying assumptions that have been argued in opposition to the amendment of the Senator from North Carolina.

There was first the question of cost effectiveness; a number of very distinguished public health officials have said the money would be much better spent financing an expanded capability for voluntary testing of those who are at risk, high risk, because by comparison what we are talking about in terms of testing involuntarily those who are applicants for marriage licenses is not cost effective because the cost is great and the effectiveness will be little because the at-risk population is very small.

There is something to that argument about cost effectiveness, but only if you make the assumption that the cost should be paid by the taxpayer.

This amendment does make that assumption.

It seems to me that the more valid point is the one raised by the distinguished Senator from Missouri. Why not draw the analogy to the testing for veneral diseases, conducted by number of tests, which is borne by the applicant for the marriage license. It is about $40 to $50. The total cost to the taxpayer, if we do it at public expense, is about $105 million, money that I quite agree would be much better spent in other ways.

But because it could be paid for in this different fashion, perhaps I would argue that it should be.

I would also say that because those who are likely to be found to have the virus, to be either infected or carriers who can infect others, is likely to be a very small group. That in and of itself is no argument against their having knowledge. That is certainly no argument against those who are prospective spouses having that knowledge in order to protect themselves and any children of the union who would almost assuredly be infected.

So candidly, I do not find those arguments especially persuasive unless you make the assumption that the way that we should finance this is through public taxes.

Next came the argument that—and this is perhaps a much more serious point—mandatory testing will be counterproductive because it will, in effect, drive underground those who are at high risk whom we should, by counseling and education, and every other inducement, seek to undergo this testing voluntarily so that they can be identified, so that they can themselves be treated and be persuaded not to infect others. And yet, if you examine those arguments, you have to do it very much on a case-by-case basis. Clearly, those who are entering the service, undergoing mandatory testing, I think should undergo it. And their choice is not to avoid the testing except by avoiding entering the service.

What about those seeking a marriage license? Will they be driven underground? Will they simply avoid mandatory testing by the expedient of choosing not to be married? Perhaps some will, although I doubt that very many will. It certainly would occasion question or suspicion on the part of the prospective spouse.

If we are looking at those entering the country, we have every right, in my judgment, to test those coming in legally or illegally, and, in fact, to say to them that if they are found to be positive, or if they are at least positive that they are infected, that they cannot enter the country.

If we look at other groups beyond the scope of this amendment, if we look at those of certain ages entering hospitals, or perhaps even better if we look at those who are involuntarily, clearly, the inmates of penal institutions having been convicted of a crime that requires their incarceration, then there is no valid argument that mandatory testing of those inmates is going to drive them undergound.

If we look at certain populations, the argument may have validity but clearly in other cases it does not. Indeed, the Senator from Massachusetts indicated that both members of the armed services and members of the Foreign Service for very valid public health reasons are required to undergo this testing, not voluntarily. They are required to undergo it.

I will not even spend time on the States rights argument because I think it has been adequately dealt with.

What I find most disturbing is that this is basically, a debate, it seems to me, about being compelled to make a choice about whether or not we are going to protect public health from what is clearly an enormous and growing, a snowballing, a dramatically accelerating, health hazard, to choose between that and whether we are going to protect the civil rights of those who are victims of this breakdown in their immunity system; whether we are going to have to choose between protecting the public health on the one hand and the confidentiality and the rights of the affected population on the other.

I would suggest to you that that is a false choice; that indeed we should not be compelled to make that choice; that, rather, what is most desirable from the standpoint of society is that we do both.

If we were compelled to make that choice, then I think clearly we have to come down on the side of protecting public health. Even the most ardent civil libertarian, it seems to me, has to be concerned with the gravity of this health threat and has to concede that if we were compelled to make that choice, the choice would have to be in favor of protecting the innocent from being subjected to that health hazard.

But do we have to make that choice? Are we not much better off, in fact, doing both, both protecting the health of the public and protecting the rights, insofar as it is possible to do so, of those who are undergoing the test?

There are certain people who have a right to know, it seems to me, in the case of marriage applicants, with or without legal compulsion. I would hope that anyone with a decent respect for the person they are seeking to marry would want to know that they pose no health threat to their prospective spouse.

There are, in fact, cases where even hospital records have proved to be not as confidential as in fact they should be, as confidential as we customarily think health records to be, and the consequences have been very serious. Those identified as positive, having undergone the AIDS test, have lost employment; they have lost housing, even though in the particular case there was really no justification because they were in no danger of transmitting this disease to others.

Today's amendment, it seems to me, is the first of many that we will entertain, not necessarily on this legislation but the first of many legislative efforts to deal with the problem. Like many first efforts, I find it deficient, though it is well intended. It is better than well intended. You have to commend the Senator from North Carolina for being concerned with what is an imminent health hazard. He is not late. He is not premature in dealing with the problem. We are late as a society in dealing with it. But the fact of the matter is, as the Senators from Connecticut and Missouri made clear, we are at the beginning, the scientific beginning, and there is much that has to be done. Greater resources have to be allocated to the development of vaccines as well as to education.

What is necessary, though, I think, is that we not rush headlong into the kind of action that we may very soon have reason to regret.

The President has announced the formation of a national AIDS commission. The Senator from Connecticut and I and many others on this floor joined in urging that there be some kind of national AIDS commission. We introduced legislation to that effect.

The President, by Executive order, has now indicated that he wishes to do this in a fashion that will save time, that will lend prestige to that effort, that effort to create a national clearinghouse, a needed coordinating body.

Clearly, one of the very first questions that will occupy the concerns of those appointed as members of that Presidential commission is this entire subject of mandatory testing.

My own gut reaction at this point tells me that there will have to be some mandatory testing coupled with as much protection of civil rights as the law can give, protection of employment, protection of housing, protection of confidentiality insofar as that does not compromise health concerns. And it is because this first effort does not contain that kind of protection that I think we would do well to wait—not long because we cannot wait for perfect certainty, but wait at least until the body which has been chosen by the President for that purpose has had the opportunity to focus its expertise upon not that question but all of the subquestions embraced by it so that they can make the nice distinctions that will be required factually in order to give protection both to public health and to the rights of the victims who are part of that infected population.

For that reason, Mr. President, with great admiration for the Senator from North Carolina and reluctantly, because we are not early in addressing the question, I think that this amendment should not pass today. I do not know whether it will be the subject of an up or down vote. I do not know whether it will be the subject of a motion to table, but I do not think it should become law today because there are other groups who clearly pose a health hazard and we need to address this duality of concerns. This amendment does not do so.

Mr. DURENBERGER addressed the Chair.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Mississippi seek recognition?

Mr. STENNIS. Will the Senator yield to me for 1 minute?

Mr. DURENBERGER. Yes.

Mr. STENNIS. Gentlemen, we have had a splendid presentation by several Members on this complicated subject. If we are going to get through today, we are going to have to move along a little faster. I am not trying to get you to agree on a limitation of any kind, but let us set a goal somewhere and make this as brief as we can. I thank the Senator from Minnesota.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank my colleagues who have carried the burden of this debate very well over the last several hours and in respect to them and the burden they have carried and the job that our chairman of the Appropriations Committee has just articulated I will be brief.

There are a lot of things that we need to be concerned about in the United States today—espionage, drug abuse, and now AIDS.

Mr. President, I have considerable experience with the first two but only a deep and a very recent apprehension about the third. What is common in our reaction to all three is that the solution offered for these very complex, very difficult, and very personal problems is what I call trust technologies.

By a scientific test, it is argued, we can root out individuals and groups who threaten our society. We have lie detector tests. We have urinalysis. Now we have AIDS tests. And all, Mr. President, are put forward as solutions to these problems.

Well, the truth technology approach is neither good science nor good law. First, there is no such thing as a truth technology. The reliability of any test to deliver a foolproof answer is open to legitimate challenge. Second, the fourth amendment of the Constitution guarantees that all of our citizens will be "secure in their persons" and free from unreasonable searches and seizures. That means that Government needs ironclad justification to violate the privacy of individuals.

Third, detection does not solve problems. As a matter of fact, fear of detection and its consequences may actually make matters worse.

It may be comforting to turn these issues to people in lab coats who can produce graphs or numbers, but they solve nothing.

The amendment before us, presented by our colleague from North Carolina, would require AIDS testing for those applying for marriage licenses and for permission to immigrate. Its proponents are seeking to address a very serious problem, but they do so in an impractical and a potentially counterproductive way.

There is an urgent public health need to slow the spread of this deadly epidemic. Last week, the 200th of my constituents died of AIDS. But the Institute of Medicine of the National Academy of Sciences, the Centers for Disease Control, and the Surgeon General of the United States all have spoken in detail to the proper lines of attack. It must involve several steps: Getting people in risk groups to come forward voluntarily for testing. In order to achieve this objective, confidentiality must be guaranteed for those who come forward.

Careful and helpful counseling for those who present themselves for testing. It is a difficult task to penetrate a risk group with information, information that they need to prevent further spread of AIDS. Voluntary testing providing a rare opportunity.

General education to young people. Private and public efforts to disseminate information on how we can help change lifestyles to save lives.

Therefore, Mr. President, the problem with this amendment, especially as it pertains to marriage license applicants, is that it puts a lot of financial and human resources by financially pressed States into a low priority task, testing a very large and a very low-risk population.

The specter of a State-sponsored, widespread test of AIDS will have the effect of driving sufferers, carriers, and worst of all AIDS victims underground where they will continue to risk and to spread that infection.

The amendment makes no provision for either the reliability of testing or the confidentiality of the results. The very bases of a reasonable government demand for information from an individual are ignored by this amendment.

So, Mr. President, as long as we treat the serious threat to our society of AIDS like a law-enforcement problem—find the perpetrators and punish them somehow—the disease will continue to spread unchecked. But when we get serious about treating this as a public health problem, where we try to deal with the problem among the people who are at risk and commit the resources necessary to that task, then we will see results.

I view this amendment, Mr. President, as a diversion from that urgent course.

I ask unanimous consent that a number of supporting documents appear at this point in the Record and I urge my colleagues to defeat this amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times]

When To Test for AIDS

Why not compel everyone to be tested for AIDS as the basis for halting further spread of the virus? That's a natural first thought to anyone who ponders the deadly epidemic. But it's only a first thought. That some senior Administration officials argue for mandatory AIDS testing shows how late in the day they have arrived at step one.

William Bennett, the Secretary of Education, wants AIDS tests to be given to everyone admitted to the hospital or applying for a marriage license. Gary Bauer, a senior White House aide, says opponents of such tests are promoting "a bizarre type of enforced ignorance." The Public Health Service now says that all immigrants will be screened for AIDS virus.

There are at least six reasons for believing that advocates of general forced testing are opinionated, hasty or poorly informed.

Lesson One: Don't drive victims underground. Homosexuals and intravenous drug abusers, the principal victims, are not mainstream America. Living at the edge of social tolerance in many states, they face plenty of discrimination already. Their cooperation in changing their own behavior is crucial in showing the disease's spread to other groups. Mandatory testing is the surest way to discourage them from contact with health authorities.

Lesson Two: A consensus is not a conspiracy. No one should lightly deny public health officials the tools they need to combat AIDS, including use of the AIDS antibody tests. What public officials want—for the reason cited above—is more voluntary testing, not mandatory testing. Mr. Bennett seems to believe that the federal public health agency has fallen under the influence of homosexuals who oppose mandatory testing for self-interested reasons. But the reason for agreement is not conspiracy. Both groups believe voluntary testing is the better way of halting AIDS.

Lesson Three: Why in hospitals? Hospital patients are predominantly the elderly and the very young, two categories least likely to have AIDS. Why does Mr. Bennett propose to look there for the virus instead of among high-risk groups? Because hospitals are where testing is easiest. So too argued the drunkard who lost his keys in the dark and explained he was searching for them under the lamppost because the light was better.

Lesson Four: Like it or not, morals have changed. Many states require a syphilis test for those seeking a marriage license. Mr. Bennett can't understand why an AIDS test isn't given too. The reason is that a minute proportion of known syphilis cases are detected this way. New York recently dropped the syphilis test because the results were not worth the cost, and because of suspicion that some couples nowadays have sex before marriage. The same logic applies to AIDS, but there's another, far more cogent reason.

Lesson Five: False alarms have grim consequences. The two present tests for AIDS virus are highly specific but even in conjuction are not totally accurate. The danger of "false positives"—diagnosing individuals as exposed to AIDS when they are not—is probably minuscule with high-risk populations. But the danger grows rapidly when screening large populations at low risk.

According to a paper to be published shortly by Michael J. Barry and colleagues at the Harvard School of Public Health, the two standard AIDS tests would identify 28 true positives, 2 false negatives and 11 false positives when applied to a low-risk population, defined as 30 AIDS cases per 100,000 people. What those figures say is that, for every 28 cases correctly diagnosed, the tests risk falsely informing 11 individuals that they carry the virus of a deadly disease and should never have children. Without guarantees of confidentiality, the insurers, employers, landlords and classmates of these 11 individuals may also learn, and act, on the false information. What a burden for mandatory testers to bear.

Lesson Six: AIDS makes a poor political football. Mr. Bauer believes that public health officials have few qualms in urging explicit sex education for young children, offensive as that may be to conservatives. But when it comes to testing, "the left's political agenda takes over." He says, "Either this is potentially the Black Death or it isn't." In fact, no one knows how widely AIDS will spread, but it's prudent to take precautions. Teaching teen-agers safe sex is an effective precaution—and mandatory testing is not.

AIDS is a medical issue. Those who politicize it, or see political motives where none exist, are seriously delaying national policy on AIDS and measures to save lives. The only known way to curb AIDS is to persuade people to change behavior. The Administration still has not mounted a massive public education program of the sort already underway in several European countries. The Secretary of Education should be leading the charge for education about AIDS and voluntary testing. Mandatory testing should be his last thought, not his first.

[From the Institute of Medicine—National Academy of Sciences]

CONFRONTING AIDS

(Directions for Public Health, Health Care and Research)

MANDATORY SCREENING

Mandatory screening of the entire U.S. population for HIV infection at the present time would be impossible to justify on either ethical or practical grounds. The number of seropositive persons in the United States in mid-1986 is estimated to be between 1 million and 1.5 million. To identify these and newly infected persons, screening of the entire population would have to be instituted and repeated periodically—perhaps every year or six months—to track changes in antibody status.

Another policy option would be mandatory screening of selected subgroups of the population—for example, homosexual males, IV drug users, prostitutes, prisoners, or pregnant women. However, such screening may not be feasible for some of these groups. Persons whose private behavior is illegal are not likely to comply with a mandatory screening program, even one backed by strong sanctions. Furthermore, mandatory screening programs based on sexual orientation would at least appear to discriminate against entire groups. For example, some homosexual males have only one sexual partner or are not sexually active, whereas some heterosexuals have numerous sexual partners. Members of the latter heterosexual group are more likely to transmit HIV infection than members of the former homosexual group. In addition, with the exception of perinatal transmission and transmission by rape, the acquisition of HIV infection requires consensual behavior by the recipient.

For the aforementioned reasons, the committee is opposed to the mandatory screening of population subgroups. Furthermore, should an effective therapy for HIV infection be developed, mandatory screening of at-risk subgroups might prove unnecessary, because at-risk individuals would have much stronger incentives to step forward voluntarily for testing.

Screening of certain populations has been suggested in a number of specific situations. It has been proposed for a variety of professional, occupational, or client groups, such as health care workers, food handlers, or residents of prisons or jails. The Public Health Service has published extensive guidelines for health care workers, for workers generally, and for school and foster care children. None of the PHS guidelines recommends mandatory testing. They do, however, recommend voluntary testing where transmissibility has been shown to be a serious problem—e.g., the screening of donated blood and tissues and the screening of women at risk who might consider having children.

The justification for selective screening programs requires a clear demonstration that the benefit to health outweighs the considerable potential loss of privacy and damage to occupational, professional, or personal status that could result from disclosure of test results. Mandatory premarital screening for HIV infection is one program that has been debated and rejected by groups such as the American Medical Association. The committee believes that including HIV antibody testing as part of a mandatory premarital examination is inadvisable. It would counter a trend away from such testing generally, would yield few positive test results while labeling many thousands of individuals falsely positive, and would not extend to persons having sexual relations who do not intend to marry. Persons at high risk could be reached much more effectively by being encouraged to take part in voluntary testing programs.

HIV screening and testing programs should be examined in the context of the increasing use of medical tests in other arenas—e.g., genetic screening (Kolata, 1986). There are special considerations when a test yields ambiguous results or information about which there is little that can be done (Garreau, 1986). Tests for infection with HIV share certain characteristics with genetic screening tests that yield equivocal information or tell of increased risk of developing disease some decades hence. Obviously, testing for infection with HIV differs in that it involves an infectious disease with ramifications considerably different from those of inherited diseases and conditions.

One example of a mandatory testing program can be found in the military (U.S. Department of Defense, 1985). All recruit applicants are screened for HIV infection; those who test positive are ineligible for admission to any service branch. Active-duty personnel are also screened; seropositive individuals are limited to service in the continental United States and become part of large-scale epidemiologic research programs (Norman, 1986).

The military's rationale for testing is unique; considerable caution should be exercised in arguments about extending any such progam to the private sector. Part of the armed forces' argument stems from concerns about military preparedness—that the nation needs soldiers who are fit to serve, which may entail their being stationed in areas where diseases unknown in this country might put immunocompromised persons at even greater risk. The military also claims that soldiers have provided blood for each other in battlefield transfusion emergencies, without time for extensive testing (although, admittedly, such occurrences are rare with the use of blood-volume expanders to stablize the wounded). Other concerns involve immunocompromised inductees' susceptibility to live-virus vaccines, which are required for military personnel. There are also the political ramifications of the potential further spread of the disease to distant lands where servicemen are stationed and may have sexual relations with citizens of host countries. Finally, an unstated rational for excluding seropostive applicants from recruitment likely includes the considerable health care and opportunity costs the military would have to bear if newly recruited personnel were to develop AIDS or ARC.

VOLUNTARY TESTING

In a therapeutic context the HIV antibody test allows physicians to determine whether their patients have been infected with HIV. Individual and aggregate data concerning antibody test results also enable epidemiologists to assemble baseline data for longitudinal studies monitoring the natural history of the disease. Furthermore, while there is no currently agree-upon therapeutic intervention for those who test positive, knowledge of antibody status for those in high-risk groups may encourage adherence to safer sex practices and a reduction in or abstinence from drug use.

This last point is the assumption underlying the Public Health Service's recommendation that all those at risk voluntarily seek out testing. Actually, little is known about the short- and long-term adjustments to seropositivity undertaken by either those found to be positive or their loved ones. The potential certainly exists for dramatic impacts in terms of psychological and physical health, sexual behavior, social functioning and prevention of the spread of infection. The committee urges that such effects be the subject of additional research studies in the context of programs of voluntary, confidential testing.

Knowledge of antibody status no doubt has differeing implications for various subgroups of the population, though the ability to cope with this information depends on the individual's own personality and social support network as well as on the social and political context. Attitudes regarding testing have changed considerably in the short time during which the test has been available (Eckholm, 1985a). The behavioral relevance and influence of the knowledge of one's serologic status have presumably also evolved.

Few would argue that persons who wish to know their antibody status do not have the right to such information. Such an argument would fly in the face of decades of increased support for truth-telling in medicine, exemplified by a virtually complete reversal in physicians' willingness to share a terminal diagnosis with competent, adult patients. The most important implication of the knowledge of infection and likely infectivity is the added motivation to forgo behavior that may put others at risk (or that may put oneself at possible further risk). Persons in high-risk groups who know that they have risked infection in the past have reason to be aware of the dangers their behavior might represent to themselves or others. Yet screening programs might well uncover many who have had no reason to suspect their having been infected—blood donors who had no awareness of their sexual partners' bisexuality or drug use, for example.

How should information about seropositivity be imparted? Perhaps the best forum for such disclosure would be in the setting of a well-established physician-patient relationship. Yet this ideal might fall far short of reality for many of those at risk, such as IV drug users who have not been integrated into the health care system.

The difficulties in informing patients of a condition that may be fatal or of imparting information couched in probabilities and statistics have been encountered in other contexts. As described earlier in this chapter, there are very great challenges involved in encouraging behavioral changes among those who are asymptomatic, especially changes concerning sexual and drug abuse behavior motivated by biological, psychological, and cultural factors. Measures taken to reduce the likelihood of further spread of the virus may have a devastating impact on an individual's social relationships and mental health.

Pilot studies of blood donors who were notified of their positive status revealed that some of these persons had been left by their spouses or lovers after being apprised of blood test results. In describing the experience of prospective recruits who were refused induction into military service because of their seropositive status, newspaper accounts have told of a number of young men sent home with little understanding of the implications of their test results (Spolar, 1985). Some found their spouses or families unwilling to take them back, unable to understand why they could not continue their family heritage of military service, and wondering if their test results meant that they "had AIDS."

Social scientists have described systematic differences in the way people perceive risks and adopt strategies to avoid risks and minimize their own vulnerability. With HIV infection, risk perception may depend on one's identification with the problem. Homosexual men have been exposed to considerable information about HIV testing and are, of course, more likely to know personally someone who has succumbed to AIDS or is currently sick with HIV infection. Those not in high-risk groups may be less likely to know someone with AIDS but may have felt the impact of the widespred media attention that AIDS has attracted.

One 1985 study of homosexual men's attitudes toward testing, whether or not absolutely representative, points out some of the problems inherent in processing information about the HIV antibody test (Coates et al., 1985). The longitudinal study of 728 men in San Francisco included questions about antibody testing. More than two-thirds (69.2 percent) indicated that they would like to receive the test, because knowing whether they were infected would reduce anxiety or help them make decisisons about behavorial changes. This majority view contradicted the advice of most opinion leaders in the local community, who raised concerns about the potential emotional damage from testing, the possible breach of confidentiality, and the ambiguity of the test. The most disturbing finding from the survey was the number of subjects (a majority) who believed that a positive antibody test somehow conferred immunity, that they had successfully "fought off" the virus.

The committee believes that the largely undesirable social response to the identification of individuals as being antibody positive argues for voluntary, anonymous systems of testing, but this would entail potential loss of certain public health benefits. Where such systems exist, individuals who believe that their behavior has placed them at risk may decide whether or not to avail themselves of antibody testing. For some, the specific knowledge of a positive test might encourage prudence in sexual or IV drug use activities that might put others at risk; knowledge of a negative test might encourage individuals to safeguard this status. All individuals who believe that they may be infected have an obligation to refrain from activities that put others at risk by adopting safe sex behaviors and following the related recommendations of public health services.

The question of whether to undergo testing should be a personal health care decision to be made by an individual, ideally following counseling by health care professionals. However, even though the committee believes that testing should be voluntary, it encourages the use of testing and advocates that it be widely available. The benefits that could accrue to the individual form such a system include the following: (1) a heightened alertness to the possibility of clinical manifestations of HIV infection, leading to more rapid diagnosis and the early institution of treatment; (2) identification of potential candidates for receipt of investigational or, eventually, licensed drugs; and (3) reinforcement of the motivation to adopt precautions to protect others. Even though further research will be needed to show whether knowledge of antibody status has a salutary impact on health-promoting behaviors, such knowledge may be helpful to many individuals. If voluntary testing were linked with confidential identifiers, certain public health benefits would also accrue: the spread of the epidemic could be effectively monitored, appropriate follow-up such as counseling could be provided, and opportunities for epidemiologic research could be pursued.

In arguing for a system of voluntary, confidential testing (but with provision for anonymous testing if desired), the committee simultaneously recommends that steps be taken to minimize any adverse or discriminatory ramifications of antibody testing so that those who might benefit from knowing their status can avail themselves of it without apprehension. This requires consideration of administrative mechanisms to protect confidentiality with regard to information about HIV infection. Additional or bolstered sanctions against unwarranted disclosure through state or federal laws or regulations may be necessary.

In no case should a test be made without the subject's prior knowledge (or that of a duly appointed proxy when the test subject's competence is questioned). The test should never be offered without substantial pre-test and post-test counseling. This is particularly important when knowledge of antibody status might result from donating blood or seeking entry into the military.

The committee believes that one critical area of voluntary testing involves perinatal transmission. As discussed in Chapter 2, HIV can be transmitted from infected women to their offspring during pregnancy or during labor and delivery. Breast-feeding has also been suggested as a potential mode of transmission. And while it is far from clearly established, some have suggested that pregnancy itself is associated with an increase likelihood of developing disease for HIV-infected women.

Because of these concerns, the Centers for Disease Control advises women at risk of HIV infection to consider delaying pregnancy until more is known about perinatal transmission of the virus and health risks to their offspring (Centers for Disease Control, 1985c). The low infection rates in the female population of childbearing age in general would not warrant routine screening, but women in high-risk groups should consider seeking antibody testing. This would include IV drug users, prostitutes, women who have had many sexual contacts in areas where HIV infection is prevalent, women with a history of multiple sexually transmitted disease, or women who have had sexual contacts with men in high-risk groups. These women should have the opportunity to seek testing and counseling. Much of this advice would naturally be given in IV drug abuse centers, comprehensive hemophilia treatment programs, sexually transmitted disease clinics, family planning centers, and so on. The health care professionals staffing such institutions need to be aware of the risk of infection, transmission, and the interpretation of test results. The committee recommends that associations of health care professionals who deal with women as clients in such situations—for example, obstetricians and gynecologists—develop guidelines detailing the situations in which to offer voluntary testing and how best to counsel women at risk. The CDC guidelines are recommended for those wishing more details on this issue (Centers for Disease Control, 1985c).

COMPULSORY MEASURES

There have been a number of proposals involving coercive measures with regard to members of risk groups, HIV-infected individuals, and patients with AIDS. These have appeared in legislative proposals and on editorial pages. They range from such unusual proposals as a call for tattooing seropositive individuals to isolating or quarantining those at risk of transmitting the virus. Frequently such proposals invoke control measures traditionally used to contain certain airborne contagious diseases (e.g., tuberculosis), and even in such cases they were used only for recalcitrant patients. Such proposals must, however, be viewed in the light of knowledge about the predominant modes of HIV transmission, which generally involve voluntary behaviors (with the exception of perinatal transmission, rape, and blood and blood product transmission). Moreover, while there have been a handful of celebrated cases involving AIDS sufferers who continue to engage in risky sexual activity, the fact is that those dying from AIDS do not pose the greatest danger in this regard. Rather, greater spread is likely from the million or more persons who are already infected and who are asymptomatic.

The active, voluntary cooperation and participation of members of high-risk groups will be needed to curtail the epidemic. Coercive programs may not only be ineffectual, they may actually undermine individuals' sense of responsibility for the community. The committee believes that coercive measures would be ineffective, if not counterproductive, in altering the course of the epidemic.

Probably because the general public has not fully or widely understood the predominant modes of HIV transmission, there has been considerable public concern about the likelihood of infection by other than the sexual, parenteral, or perinatal routes. Given the potentially fatal nature of the infection, such concern is understandable. Increasing awareness of the modes of transmission has resulted in the development of policies to protect the health of the public in settings where contact with infected individuals may occur. Precautions appropriate to the workplace, schools, and health care institutions have been elaborated by the CDC (Centers for Disease Control, 1985a). The committee concludes that these guidelines represent a reasonable approach to protecting the public health and that they are soundly based on the available scientific evidence.

Despite the lack of potential for altering the course of the epidemic by isolation or quarantine, some states may seek special compulsory powers to deal with the unusual situation of a recalcitrant individuals who is seropositive and who repeatedly refuses to follow reasonable public health control directives. No state has enacted special compulsory isolation or quarantine programs for AIDS cases, although at least one state—Connecticut—has amended a quarantine statute specifically to include AIDS. A quarantine of AIDS patients or carriers has been favored by as much as 40 percent of the general public when queried by pollsters.

All states have laws on the statute books or regulations promulgated by their public health departments to prevent, treat, and control communicable diseases in general and venereal diseases in particular. Many states enumerate specific venereal diseases, while others require health deparment officials to specify such a list for subsequent regulation. Many such statutes allow for criminal sanctions in the case of individuals who knowingly transmit disease. These sanctions are seldom imposed.

Historically, in all but a few states, physicians and private laboratories have been required to report the names of individuals with certain communicable or venereal diseases to departments of health. (This is a rare departure from the general rule of physician-patient confidentiality, prompted by concern for the health of third parties.) With syphilis, for example, a public health model of response has been developed that includes prompt treatment of the "index case" and the identification and notification of sexual partners through contact tracing.

In many states the definitions and lists of venereal diseases are decades old and do not reflect current concerns about such diseases as herpes and chlamydia. Most of the states have not, at least as of yet, designated AIDS or HIV infection as a sexually transmitted disease. Many state health authorities are of the opinion that they already have effective laws and regulations that could be made applicable to AIDS if and when necessary, but public health statutes concerning infectious diseases are outmoded and may not afford the civil rights protections adopted by American courts. States should review their statutes to ensure compatibility with current concepts of confidentiality.

The usefulness of traditional public health infection contol measures to be taken by public health authorities is uncertain. As discussed above, because of the severe consequences of HIV infection, a few states have required that ARC and even seropositivity be reported. Since there is no compulsory blood testing of individuals is not necessary. The procedure could be unmanageable and cost prohibitive. It can be expected that many who *test* negatively might actually be positive due to *recent* exposure to the AIDS virus and give a false sense of security to the individual and his/her sexual partners concerning necessary protective behavior. The prevention behavior described in this report, if adopted, will protect the American public and contain the AIDS epidemic. Voluntary testing will be available to those who have been involved in high risk behavior.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I would like to comment on the amendment that my distinguished colleague from North Carolina has offered regarding testing for AIDS. As I understand the amendment, it would withhold AIDS designated funds from States that do not require a negative test for the human immunodeficiency virus before issuing a marriage license. In addition, the amendment would require that AIDS testing be done for individuals who wish to immigrate to the United States.

It was not long ago that we passed in this body, by unanimous vote, a sense of the Senate resolution that the President appoint a commission. That was done for the very purpose that I will touch on in a moment—to make certain that we have leadership from the top, to make certain that the decisions on testing and other things are going to be made by the experts, those who have the knowledge, those who have the understanding, and I hoped that that commission would have been appointed by now, but it is my understanding it will be forthcoming very soon.

It is my hope that we could deal with this epidemic in a logical and orderly fashion. To make a mistake or even an error in judgment at this time could interfere with our best efforts to protect the American public and every individual citizen. I say this with good reason—and with specific reference to mandating testing for any reason at this time. I have been working with a number of my colleagues in developing AIDS legislation. In fact, we hope to have it ready to introduce, in the near future.

In doing so, we have consulted with experts, including public health experts, scientific experts, financing, and health care delivery experts. In short, every kind of expert we can identify. In addition, we have talked with special interest groups and the private sector.

What I have learned is that this is a very complex area and requires careful thought. In fact, there would be no need for a commission if the answers were obvious. With regard to testing for marriage licenses, I have been informed that there are many false positive tests. The number of false positive tests vary with the group being tested, but at the present time, a group such as a premarriage group, a Red Cross blood bank group, or any other normal group—as opposed to a high risk group, would have a very high incidence of false positive tests on the initial screen for AIDS.

In fact, a full 50 to 80 percent of the initial positive screening tests in a normal group are false positive results. This is a very high figure. Now, what are we going to do with these results? A young, happy couple, who wish to form a stable family, is suddenly told that one or both may have AIDS. And, moreover, there is a 50 to 80 percent chance that information is wrong. What are we going to do to those young people? Well, first they will have to undergo repeat testing to confirm the results. In addition, what will happen to the test results? This amendment for example says nothing about confidentiality. Will jobs be lost, careers destroyed, families interrupted—all for the sake of false positive test? I would suggest that we had better go very carefully into this area.

Let us say somebody in this Chamber took the test and had a false positive return and that information is made public. What would the reaction be among the collegues in this Chamber?

I can understand the desire of the distinguished Senator from North Carolina to get to the point, I understand that we need to move very quickly. But I do believe that this matter is of such epidemic proportions that we had better make very certain before we start trampling on the lives of many people who may not be afflicted at all and have them lose their jobs, lose their reputations, lose their families.

The debate will not be easy. We do not have clear-cut recommendations in many of these areas yet. Before any testing is mandated it seems to me that we must have a better idea of what will become of the test results, and how the needs of the individual are going to be balanced with the needs of society.

In addition, the test is expensive. To do the series of tests that have to be done to confirm an initial positive test costs an average of $105 per positive test. Are we going to demand a $200 investment from everyone who wants to get married, and a full 50 to 80 percent of those individuals will not have AIDS or be infected with the AIDS virus?

Now, this is not to say that there is not, or never will be, a need for mandatory testing in some areas. I am saying that to take action now is premature, and in fact may do more harm than good. For example, let us consider high-risk groups. If we are to believe our public health experts, the current recommendations are to provide testing, but with counseling, on a voluntary basis. The reasons for this are clear.

To mandate testing in high-risk groups may force them to go underground, thus not only avoiding testing, but, more important, missing the counseling that would accompany testing.

We are all in agreement that education is the answer, since there is no cure or vaccine. However, you cannot educate anyone if they are afraid and will not come in for testing. The high-risk groups must be the targets for education, and perhaps if we can reach enough of the individuals in high-risk groups and educate them, we can prevent some of the spread of the disease. However, one thing is certain: If we do not reach them, we cannot educate them. If we are to believe our public health experts their current recommendations are to provide voluntary testing, with counseling. The reasons for this are clear.

We have to move very carefully and with some degree of caution in the area of mandating testing.

I have heard all kinds of suggestions. In fact, somebody asked me one day about immigrants, and I said that is an area there ought to be mandated testing. That may be. We ought to be very careful, though, before we embark on any program.

Mistakes could be made which could interfere with the control of the disease. I think it is premature to be making decisions about mandated testing. So I hope we do not make any decisions today. Again, that is not to say that it may never be appropriate, given the possible increasing accuracy of the testing.

The leadership on this issue must come from the top. We are facing an epidemic. The President of the United States must provide moral leadership, and I think he will. He has indicated that he will.

It seems to me that the Commission could give us, the legislative branch, some recommendations on testing and many other areas. Otherwise, I fear that we are going to have 300 or 400 programs dealing with AIDS. Every Member of Congress could have a program. We are going to have duplication after duplication after duplication.

Maybe they will recommend mandated testing. Maybe they will say that before a marriage license is issued, there has to be a test.

As I suggested earlier, some mandates may make sense in the future. For example, it has been suggested by many that we should test those who desire to immigrate to the United States. I think that has some merit. Even some opponents of widescale mandatory testing have suggested this step may be necessary because of the tremendous financing problems we will be facing in the years to come if we do not do the testing. In addition to the questions relating to the spread of the disease, the question of who should share our scarce resources should, and will, be discussed. I am prepared to support that effort, however we must also be prepared to decide what position we will take regarding those who are already in the United States and will apply under our new amnesty law?

This issue may have been addressed earlier, in my absence, by the distinguished Senator from Wyoming [Mr. Simpson], who is an expert in this area. I do not have the answer, and I am not certain anyone else has the answer.

Therefore, Mr. President, I must at this time decline to support mandatory testing for AIDS because it is not clear to me that this is the best way to handle the disease. In my office alone, we have been working on this with experts, trying to find some definitive answer.

To be candid, this is going to be an issue in 1988. Everybody is out there searching for some easy answer to AIDS. There are no easy answers to AIDS; and those who advocate easy answers, in my view, may find themselves in deep difficulty.

I am going to stick right now with the advice of the public health experts. I am not certain that we should be legislating public health policy when the debate is so acute. I need more information. To quote from the Hippocratic Oath, "Above all else do no harm." I believe that was a good recommendation for our physicians, and I believe it is good advice for us today.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, let me state to the Senate my Hamlet-like quandry about where we are.

I do not know whether mandatory testing of people who are getting marriage licenses is a good idea or a bad idea. Maybe at some future time I will decide it is a good idea. I am not prepared to say that today, and I am not prepared to say that today for at least three reasons.

The first reason is that I am told that the false positives are 50 percent to 80 percent on AIDS tests.

The second reason is that, as Senator Weicker has said, the medical experts, by and large, have said that this is a mistake and that mandatory testing should not be done.

The third reason, as I understand the Helms amendment, is that there is no protection for the privacy of people, as the amendment is now drafted.

With respect to the underlying amendment, the committee amendment, it really is a terrible thing to say, well, let us not spend money when people are sick and they are dying. Let us keep them alive for another year.

Obviously, we are going to have an enormous call on our national resources to deal with the problem of AIDS. There is no doubt about it. My view is anything that should be spent on research must be spent; anything that should be spent on education must be spent.

I have to say that whether we should be committing ourselves as a matter of policy today to spending $10,000 a year per person on AZT is to me a matter that is debatable. I do not know. Maybe that is exactly what we should be doing as a country. I am not prepared to say so today.

I was on the floor earlier when Senator Metzenbaum raised with Senator Hatfield the question of legislating on an appropriations bill. Why do we not legislate on appropriations bills? Because it is the wrong kind of process. We have authorizing committees to try to wrestle with matters of substance.

If there has ever been a matter of substance before the Congress since I have been here it has been the question of AIDS. This is a crisis. I hate to suggest putting it off even another week. But I do believe that the authorizing committees should deal with this question. I think this is what authorizing committees are for.

I suggested to the Senator from Connecticut earlier today that he figure out some way of bringing the Senate together, perhaps for a morning, and having a couple of experts come in, not a host of them, not 12 people or so, but maybe a couple of people who really know the issue who can tell us (a) the facts in an unvarnished way and (b) the policy alternatives before us.

You know it sounds so easy to say we should spend an unlimited amount of money on health. But is that really the considered policy of the Congress of the United States, that there should be no limit whatever?

I think we should at least debate that. I do not think this is the time. I do not think this is the forum. I do not think an appropriations bill is right for this.

So, Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Conrad). The Senator will state it.

Mr. DANFORTH. If a point of order were made that the underlying committee amendment, that relating to AZT, were legislation on an appropriations bill, would that point of order lie?

The **PRESIDING OFFICER.** The point of order would in fact lie.

Mr. DANFORTH. If a point of order were made against the underlying committee amendment relating to $30 million for AZT, would that point of order carry with it the amendment of the Senator from North Carolina?

The **PRESIDING OFFICER.** The point of order were sustained, that would be the effect.

Mr. DANFORTH. Is it the position of the Chair that both the underlying AZT amendment and the amendment of the Senator from North Carolina amount to legislation on an appropriations bill?

The **PRESIDING OFFICER.** That is the position of the Chair.

Mr. DANFORTH. Then, Mr. President, reluctantly I make the point of order that the underlying amendment, the AZT $30 million committee amendment, is legislation on an appropriations bill.

The **PRESIDING OFFICER.** The point of order having been made, the Chair sustains the point of order against the underlying committee amendment.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I have a problem here. I respect the point of order made by my distinguished colleague from Missouri. But there is a little difficulty in this Senator's mind. It might very well take the motion of the distinguished Senator from North Carolina down. In the meantime you deny the $30 million to those who are medically eligible for AZT but who are also indigent. We would indeed close the book on their lives. That is the problem.

What the Senator has done here is in effect bring down both amendments. There are many of us here who feel strongly against the amendment of the distinguished Senator from North Carolina, but are trying to make money available so some individuals might have a few more months of life, maybe life for good if something else comes along.

I cannot accept that.

I want to vote up and down on the amendment of the distinguished Senator from North Carolina. I want to vote up and down on the $30 million for the AZT or some other drug, some other life-prolonging drug for those who cannot afford it.

When the time comes, I would hope that we would overrule and not sustain the ruling of the Chair, so that we can move on to those two votes and people can pick and choose.

This might be some sort of smart politics here having both sides sort of meshed into one vote. I think it very unfair in terms of health policy and unfair to those who are eligible for AZT but cannot afford to pay for it.

Mr. President, I suggest the absence of a quorum.

Mr. ADAMS. Will the Senator from Connecticut withhold for a moment?

Mr. WEICKER. Without losing my right to the floor.

Mr. ADAMS. Yes.

I would like to propound a question to the maker of the point of order. Was his point of order directed toward the amendment in the second degree which was the Helms amendment, which would fall without taking the total amendment under rule XVI(4) or was his point of order to the total section of the bill which is an amendment because I would be prepared to ask unanimous consent and inquire of the Senator if he did not wish to make a point of order against the Helms amendment which is in the second degree and which is subject to a point of order which would allow the original amendment to stay in place?

I think that is what the Senator from Connecticut was inquiring about. I wanted to make certain before we had the vote on the appeal of the ruling of the Chair whether it was his intention to take down both parts of the amendment or just the second part.

I thank the Senator from Connecticut for allowing me to spend that moment because I would be prepared to make the point of order against the second part of it if the Senator wishes to withdraw the original.

Mr. WEICKER. Mr. President, I believe I have the floor.

The **PRESIDING OFFICER.** The Senator from Connecticut does have the floor.

Mr. WEICKER. Parliamentary inquiry. If the point of order is sustained, the point of order raised by the distinguished Senator from Missouri, will that not take down both the Helms amendment and the committee amendment providing for $30 million for the AZT?

The **PRESIDING OFFICER.** That would be the effect of sustaining the ruling of the Chair.

Mr. WEICKER. That then would be my response to the distinguished Senator from Washington. As presented to this Chamber by the distinguished Senator from Missouri, both would fall.

Mr. ADAMS. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. ADAMS. I understand if the point of order is made to the first amendment to what is in the bill then both fall. I was inquiring of the Senator from Connecticut and hopefully would inquire of the Senator from Missouri if the point of order is made simply to the Helms amendment which is an amendment to the amendment then only that part would fall and would fall under rule XVI(4) that would leave the $30 million which I thought is what the Senator from Connecticut wished to have happen as a result. I did not want a parliamentary maneuvering to obscure the potential for achieving what the Senator from Connecticut wishes to do.

Mr. WEICKER. I would like to respond to the distinguished friend from Washington saying I think the distinguished Senator from Missouri meant what he said and I am not here to speak for him but neither is he here to speak for me. This would not have been a point of order I would have made for the reasons of exactly what it does which is to take down both amendments; whereas, I think this body should have an up and down vote on the Helms amendment and up and down vote on the AZT amendment.

I think these are two separate matters and should be addressed separately.

The distinguished Senator from Missouri is well within his rights to make his point of order and at this juncture I am trying to figure out how we can get us out of the bind without an inordinate amount of time.

Mr. HATFIELD. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. HATFIELD. Could I make the inquiry of the Chair without the Senator from Connecticut losing the floor?

Mr. WEICKER. I so ask unanimous consent.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HATFIELD. I make an inquiry of the Chair: We are in a situation where some are concerned about upholding the Chair as a parliamentary question. That is really a third question here in this situation.

Would it not be possible for the Senator from Connecticut should the ruling of the Chair be upheld by a vote of the body then to phrase an amendment to the bill now that the committee amendment has been dropped and the Helms amendment attached to it is dropped, phrase an amendment to the bill to provide $30 million for the program as identified in the committee amendment?

The **PRESIDING OFFICER.** If the amendment falls on a point of order, it cannot be reoffered unless a substantive change has been made. Any such amendment so offered would remain subject to the provisions of rule XVI and the Budget Act.

Mr. HATFIELD. If I may make a further inquiry, the committee amendment has some very interesting language that identifies a specific target group to be eligible for this drug, but it is identified in the contingency of another agency finding the eligibility. What if an amendment were offered to just put $30 million for AZT identifying the amendment as an expenditure amendment without the contingency language and then make a record in the committee report or otherwise to identify really in more detail. Is that possible?

The PRESIDING OFFICER. Such an amendment would not be subject to the point of order that was a legislative amendment.

Mr. HATFIELD. I thank the Chair.

Mr. HELMS. Mr. President, I would advise against any such parliamentary legerdemain. It also is possible to me to make a substantive change in my amendment and that is that.

Let me remind the Senate, and I hope we are not becoming a body of nervous Nellies, that at the outset I said I wanted a tabling motion up or down vote, whatever. I just want a vote.

Now, under the point of order that has just been raised by the distinguished Senator from Missouri, I will not get that. We have had a flood of telephone calls, and inquiry saying please do not push this. Next year is 1988.

Well, what are we talking about? Are we talking about politics or are we talking about doing something about AIDS?

All this amendment, stripped of the obfuscation, has proposed is that a test for AIDS be added to the list of tests required already by the majority of States in terms of a marriage license, and also testing aliens coming into this country, immigrants, either lawfully or unlawfully.

Now, I will lose here, apparently, in my effort to get a vote. But so are the majority of the American people. Let me read you a few figures.

Eighty percent of the people of this country, according to a United Press International poll, 80 percent favor testing for AIDS for marriage licenses.

Four thousand doctors who responded to the poll said that they favored tough measures to confine the spread of AIDS. MD magazine conducted the poll and 45 percent of the doctors said if a family member was about to have elective surgery, they would shun public-donated blood, and so forth. But a little over half of the doctors said an AIDS blood test should be a prerequisite for a marriage license and 28 percent said AIDS patients should be quarantined. I have not even suggested that.

Now, in the distinguished Senator from Connecticut's own State in this poll, 83 percent of the respondents favored requiring AIDS testing for anyone seeking to immigrate to the United States; nearly 78 percent favored testing for couples seeking a marriage license. So, thus far, the Senator from North Carolina is doing pretty well with the American people. And I would rather do well, frankly, with the American people than with the Senate on this, because there is too much nervousness to suit me on this issue this afternoon.

Mr. WEICKER. Will the Senator yield?

Mr. HELMS. In just a minute I shall be through and the Senator may say whatever he wishes.

In the State of Virginia, the poll shows that 85 percent of those polled supported the AIDS blood test for couples seeking a marriage license.

I have a number of States here, Mr. President, and I am going to put them all in the RECORD just so they will be a part of the record.

Mr. President, I ask unanimous consent that the poll information be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

NATIONWIDE

The idea of widespread AIDS testing has been discussed in the past, but never at such high levels as last week. Officials of the Federal Centers for Disease Control suggested that the Government might consider recommending mandatory blood testing for exposure to the AIDS virus for pregnant women, couples applying for marriage licenses, people seeking treatment for other sexually transmitted diseases and all patients admitted to hospitals. In a flurry of protest, politicians, ethicists, lawyers and public-health experts condemned the idea as prohibitively expensive, morally and legally wrong and, as a practical matter, unworkable.

The Federal Government now requires AIDS testing for active-duty military personnel, recruits and Foreign Service officers. All donated blood is also screened. Dr. Robert E. Windom, Assistant Secretary for health at the Department of Health and Human Services, emphasized that no specific government proposals had been made for expanding mandatory testing to other groups. The CDC, he explained, had simply announced that a public meeting would be held in Atlanta at the end of this month to examine strategies that might slow the AIDS epidemic.

As many as 2 million Americans are thought to be infected with the AIDS virus without realizing it and can pass it to their sexual partners. Thus, mandatory blood screening might seem like a useful weapon against the epidemic. In a NEWSWEEK Poll last week (box), more than three-quarters of those surveyed favored testing for people applying for marriage licenses or admitted to hospitals, and more than half of those surveyed thought the entire U.S. population should be tested.

The Public Says: Yes.

Despite complicated civil-liberties issues and medical questions, there is widespread support for broader AIDS testing. Which of the following groups should have their blood tested for AIDS? [1]

87 percent High-risk groups such as homosexuals, intravenous drug users and their sex partners.

71 percent people in certain occupations such as food handlers, teachers and healthcare workers.

80 percent People applying for marriage licenses.

77 percent People entering hospitals for treatment.

52 percent Everyone.

For this NEWSWEEK Poll, the Gallup Organization interviewed 606 Americans over the age of 13 on Feb. 5 and 6 by phone. The margin of error is plus or minus 5 percentage points. The NEWSWEEK Poll (c) 1987 by Newsweek, Inc.

Who should have access to AIDS test results?

[Figures in percent]

	Current	November 1986
The government	18	38
Employers	15	16
Insurance companies	10	12
Only the individual tested	58	42
Don't know	9	9

For this NEWSWEEK Poll, the Gallup Organization interviewed 606 Americans over the age of 13 on Feb. 5 and 6 by phone. The margin of error is plus or minus 5 percentage points. The NEWSWEEK Poll (c) by NEWSWEEK, Inc.

Intrusion on privacy: But massive, mandatory screening for AIDS remains highly problematic. For one thing, such a program would fail to identify people recently exposed to the AIDS virus, since it takes from six to 12 weeks for antibodies to show up in the blood. And if testing were mandatory, many people who suspect they might have been exposed would simply avoid testing, fearing that a positive result might not remain confidential.

If the results of AIDS tests were made widely available, those who tested positive could face discrimination—as many AIDS victims already have—in employment, housing, health- and life-insurance eligibility; some companies won't provide insurance to applicants who refuse an AIDS blood test. Would pregnant women infected with AIDS be advised to have abortions? (There is a 30 to 60 percent probability that the fetus will be infected.) If one member of a couple seeking a marriage license turned out to carry AIDS antibodies, would the pair be told to abstain from sex? (Many states require a premarital test for syphilis, which differs from AIDS because it is curable and does not carry the same stigma.)

Bioethicist LeRoy Walters of Georgetown University's Kennedy Institute of Ethics believes mandatory testing of the groups mentioned by the CDC "could be quite counterproductive." But he favors vigorous measures to halt the spread of the deadly epidemic. "We need public education that is specific, that is pervasive and that reaches down to young people in the elementary-school years," he declares. "That will be a much more effective and more respectful approach to the American public than a mandatory testing program."

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[1] Percent saying yes.

Baltimore, Maryland

Three out of four Baltimore-area residents believe couples should be tested for the deadly AIDS virus before being allowed to receive a marriage license, a poll showed Wednesday.

In addition, more than 90 percent of those polled in Baltimore and its five surrounding counties believe AIDS is a major threat to public health, a copyrighted Evening Sun poll said.

The telephone poll was conducted March 5, 6 and 7 by the Savitz Research Center of Dallas on 610 heads of household. The survey has a 4.2 percent margin of error.

A proposal to require couples applying for marriage licenses to be tested for the acquired immune deficiency syndrome (AIDS) virus was supported by 75.4 percent of those polled, while 19.5 were opposed to the plan. About 5 percent has no opinion.

The plan was more popular among men than women. Eighty percent of the men polled approved of the plan, compared to only 70 percent of the women.

Twenty-two states currently require blood tests before marriage, but Maryland is not one of them. Generally, the tests do not, however, screen for AIDS.

The State Department of Health and Mental Hygiene has opposed such a plan, saying the testing would be expensive, difficult to implement and an inefficient use of money.

The Maryland General Assembly, however, is currently considering a blood-testing program.

While 90.2 percent of those polled believed AIDS, which destroys the body's immune system, is a major threat to public health, 7.2 percent believed it is not. Some 2.6 percent had no opinion.

The use of condoms is recommended by health officials as a way to discourage the spread of AIDS.

Proprietary to the United Press International, March 18, 1987.

While many television stations, magazines and newspapers do not allow condom advertisements, 69.9 percent of those polled favored such ads. Some 25.3 percent did not want condoms to be advertised, while 4.8 had no opinion.

Nevada

A public opinion poll by the University of Nevada shows that a majority of Nevadans oppose any restrictions on the sale of "girlie" magazines; favor AIDS testing for persons getting a marriage license and believe the federal government has already decided to locate a high level dump in the state.

The 1,100 persons telephone poll, conducted by the research centers in Las Vegas and Reno, also showed 62 percent of those questioned felt payments to welfare families were too low but only 29 percent "strongly supported" an extra $11 million to raise the level.

In the tradition of letting the other guy pay the taxes, 54 percent favored corporate income tax while 69 percent were opposed to a personal income tax.

The centers asked those polled 34 questions, many of which are issues before the Legislature.

In the area of civil liberties, 38 percent opposed and 23 endorsed a law restricting sale of magazines such as Playboy and Penthouse; 63 percent opposed one-party consent wiretap and 74 percent were against lie detector tests in employment.

Eighty percent said people applying for marriage licenses should be required to take a test for AIDS. If the test showed one partner had been exposed to the virus, the poll showed overwhelming support for notifying the other partner, former sex partners and health officials. But 65 percent of those polled were against stopping the marriage.

The poll said 69 percent of those questioned believed the federal government has already decided to locate the nuclear dump in Nevada, even though the studies have not been completed. Sixty-two percent opposed the dump.

Ohio

Nearly all Ohioans are aware of AIDS, but race, income and educational background appear to play a part in their understanding of the deadly disease, a survey shows.

The vast majority of Ohioans believes AIDS victims should be allowed to continue working and attending school, according to the University of Akron poll, and nearly three-fourths of the respondents say education about the deadly disease should begin in elementary school.

The survey of 1,056 Ohioans, conducted April 20–30, shows nearly all the respondents have heard about AIDS, but 17 percent don't know or have wrong ideas about how the virus spreads.

That 17 percent showed characteristics similar to high-risk groups, a profile showed. People who earn less than $10,000 a year and who did not graduate from high school are more likely not to know how the disease is transmitted than are people with greater incomes and education.

Blacks also are more likely to be misinformed about the disease than whites. While AIDS affects all groups, the same income, race and education factors are noted among a disproportionate share of AIDS victims.

Most Ohioans said they are not at all concerned about AIDS as a personal health problem, but two-thirds said they are very concerned about AIDS as a potential threat to the general population.

Half of the respondents admitted not knowing very much about the disease.

Eighty-seven percent of the respondents said AIDS victims should be allowed to continue working as long as they can do their jobs properly, but 54 percent said people applying for a job should be required to take an AIDS blood test.

Ninety percent said people should be required to take such a test when they apply for marriage licenses.

Seventy-six percent of the respondents said children with AIDS should be allowed to go to school with healthy children, and only 2 percent said they did not think students should be taught about AIDS in school.

Fifty percent said AIDS education should begin in elementary school and 45 percent said middle school; only 5 percent said students should be in high school before they are taught about AIDS.

Seventy-four percent of the respondents said school health programs should include instruction on the use of devices like condoms to prevent AIDS. Twenty-one percent said such programs should be directed only at teaching abstinence, and 5 percent suggested that other types of instruction should be offered.

The random telephone poll was paid for by WKYC-TV in Cleveland, WCMH-TV in Columbus and the Akron Beacon Journal. There is a 95 percent chance that results would not differ by more than 3 percentage points if every telephone number in Ohio have been dialed.

California

Californians consider AIDS the most important issue facing the state today and research for a cure should be the top priority for increased state financing, the California Poll reported.

Pollster Mervin Field found that 73 percent of Californians believe that state spending on acquired immune deficiency syndrome should be increased. The AIDS problem outpolled public education, drug problems and programs to aid the elderly and disabled in the list of Californians' priorities.

The poll, made public Sunday, found that 69 percent of Californians rate AIDS as an "extremely important" issue facing the state. Improving public schools and reducing the spread of illegal drugs were given the next highest ratings of importance in the poll taken in early April.

Through March, AIDS has claimed the lives of nearly 4,200 of the 7,700 Californians diagnosed with the fatal disease. The national death toll is 20,352 with 35,219 diagnosed as of a week ago.

These numbers have raised great apprehensions about AIDS among Californians, said Mark DiCamillo, spokesman for the Field Institute.

"The public is quite well informed about AIDS, " he said. "They are very concerned and they would like government to do more about it."

The poll found that about 40 percent of adults polled said they are taking special precautions against AIDS. The poll did not ask what those precautions were.

It also found that more than 70 percent would favor mandatory AIDS testing of prisoners and people who apply for a marriage license, but a majority of 58 percent would object to proposals that the entire population be tested.

Large majorities opposed any restrictions on school attendance for children with AIDS or evictions of AIDS victims by landlords.

Further, the poll found that 81 percent believe AIDS can not be transmitted by casual contact, but about three-quarters are worried that they could get AIDS from a blood transfusion.

Holly Smith, a spokeswoman for the San Francisco AIDS Foundation, lauded the results of the poll.

"Obviously, all the education people have obtained about AIDS, despite some sensationalist hype, is paying off," she said.

Connecticut

Connecticut residents favor AIDS tests for couples who plan to marry, new immigrants, members of the armed services and anyone entering a hospital, a poll released Sunday said.

The poll, conducted by the Institute for Social Inquiry at the University of Connecticut, also showed Connecticut residents consider acquired immune deficiency syndrome to be more serious on a national level than in their state but still consider the AIDS epidemic to be serious in Connecticut.

The poll also indicated Connecticut residents favor allowing children with AIDS to attend regular classes.

The telephone survey of 500 people, conducted March 3–9, had a margin of error of plus or minus 5 percent, the pollster said.

About 83 percent of the respondents favored requiring AIDS testing for anyone seeking to immigrate to the United States and nearly 78 percent favored tests for couples seeking a marriage license, the poll said.

Asked if patients entering a hospital should be tested for the deadly virus, 74 percent said yes, and 19 percent said no, the pollsters said.

About 74 percent were in favor of having members of the armed forces tested for AIDS, and 20 percent were opposed, the poll showed.

Paradoxically, nearly 80 percent of those polled said the privacy of those with AIDS should be protected.

Asked, "How serious a problem do you think AIDS is for the United States?" 80 percent responded very serious; 18 percent responded somewhat serious; and 1 percent said not very serious.

In addition, 69 percent said children with AIDS should be allowed to attend school with other children, 17 percent said they should not and 14 percent had no opinion, the poll showed.

About 74 percent said they favor condom advertising on radio and television, while 23 percent opposed it, the poll showed.

About 78 percent said they favored condom ads in newspapers and 19 percent said no, the poll indicated.

About 51 percent said they opposed condom advertising on billboards and buses, while 45 percent said they favored it, the pollster said.

State health officials say about 380 AIDS cases have been reported in Connecticut, and about half of those victims have died. In 1986, intravenous drug users became the highest AIDS risk group in Connecticut, the Department of Health Services said.

SURVEY AMONG DOCTORS

Nearly half the doctors in private practice are so worried about AIDS contamination in the public blood supply they would refuse transfusions for family members undergoing surgery, a national survey said Tuesday.

A significant number of the approximately 4,000 doctors who responded to the poll also said they favored tough measures to confine the spread of AIDS—measures already rejected by the Surgeon General and American Medical Association.

"These results indicate a skepticism among physicians about the conclusions reached by researchers and other public health authorities," said A.J. Vogl, editor of MD magazine, which conducted the poll of its readers.

"There are discrepancies between doctors in practice and the ivy tower sorts, but this is extreme," he said in a telephone interview.

According to the results, 45 percent of doctors said if a family member were about to have elective surgery they would shun public donated blood and make arrangements to have their own blood, or that of other family members, used instead.

Another 9 percent said they were unsure what they would do if faced with such a dilemma.

All donated blood is routinely tested for antibodies that indicate the presence of acquired immune deficiency syndrome, according to the Red Cross, which calls the nation's blood supply safe.

AIDS, which is always fatal, is passed through blood, semen or the birth canal.

Another 78 percent of doctors polled said the government should test high risk individuals and then track down the sex partners of those who test positive for the disease, a measure rejected by the Surgeon General and AMA as ineffective because of the disease's long incubation period and the social stigma attached to it.

A little over half of the doctors said an AIDS blood test should be a prerequisite for a marriage license and 28 percent said AIDS patients should be quarantined.

About 48 percent of the respondents—doctors of all disciplines from across the nation—said they had encountered at least one AIDS patient in their practice.

Their comments, written on a reader survey card printed by the magazine, indicate many take a hard approach to AIDS, a disease the medical professional as a whole has asked the public to combat with education and consider with compassion.

"I think everybody over the age of 10 should be tested," wrote one family physician from Colorado.

"AIDS can be eliminated by quarantining all AIDS patients on a desert island," a 70-year-old general practitioner from California wrote. Another California doctor who believed in quarantine, aged 35, wrote, "I feel the public health agencies are negligent for not quarantining infectious persons already."

"My sympathy for the AIDS problem is lowered by the awareness of the lifestyle that initiated the vast majority of cases," wrote an obstetrician, aged 52, from Illinois.

But not all doctors took a hard line against AIDS.

"Physicians are going to have to have more humanism," wrote a 37-year-old Los Angeles internist. "AIDS patients are the most courageous I have seen."

VIRGINIA

A recent poll shows Virginians resoundingly support AIDS blood testing for marriage license applicants and the teaching of lessons on the deadly disease to schoolchildren.

The poll, conducted April 25-30 by Mason-Dixon Opinion Research, found that 85 percent of those polled supported the AIDS blood test for couples seeking to wed. The poll also found that 77 percent wanted children to learn about the sexually-transmitted disease in school.

A total of 831 registered voters were polled by telephone in the survey, which has a 3.5 margin for error. The poll was commissioned by the Danville Register and several other Virginia news organizations.

Mr. HELMS. All I wanted, I reiterate, at the outset, and I said so, was a vote for the Senate to speak on this question of whether we are going to talk about controlling AIDS or whether we are going to try to do something about it. I submit that it is not a violation of anybody's civil liberties to add to the list of already-stipulated diseases tests required by the majority of States for marriage licenses and for aliens coming into this country.

Mr. NICKLES. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. NICKLES. Mr. President, I appreciate the Senator from Connecticut's comments, but in regard to the amendment of the Senator from North Carolina concerning testing for aliens coming into this country, there presently is a test right now—correct me if I am wrong—and they test for gonorrhea, syphilis, leprosy, for active tuberculosis, and so forth.

Mr. HELMS. The Senator is exactly right.

Mr. NICKLES. So the Senator's amendment basically—correct me if I am wrong—adds the AIDS test to a test that is already being conducted, a blood test which is already being conducted.

Mr. HELMS. That is correct.

Mr. NICKLES. To the list of what is commonly called a "dangerous contagious disease."

Mr. HELMS. Correct. The Senator is abosolutely correct.

Mr. NICKLES. To the definition of a "dangerous contagious disease." And presently in the world today there is no more dangerous—and I guess you would have to define contagious—but certainly there is no more dangerous disease in the world than AIDS.

Mr. HELMS. That is my impression. I thank the Senator.

Mr. NICKLES. I thank the Senator.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I am not going to rehash the arguments. I think they were effectively presented by the distinguished Senator from North Carolina. I tried to present the other point of view on this matter, specifically that every medical authority of Government has advocated against mandatory testing for marriage license. I made the point that the test as we now know it is not always accurate; that in going ahead and conducting it, very frankly, we could have people wandering around with a false sense of security and infecting others. I made the point that this amendment changes the immigration laws of the United States. I made the point that the cost of this, in both instances, is probably a half billion dollars, which we are attaching with the amendment of the Senator from North Carolina. I am not going to rehash all of that, because I think we have tried to address it.

The point that I agree on with the distinguished Senator from North Carolina is that he should have an up or down vote on his amendment and there ought to be an up or down vote on whether or not we are going to appropriate these moneys to enable those that are presently dying from AIDS to have a chance at life.

Now, I pleaded with the distinguished Senator from Missouri not to phrase the question that way to the Senate. We ought to stand up and get counted on both issues. And, for his own reasons—and I am sure they are good ones—he decided it was far better to go the point-of-order route.

I am not disputing that, but what I am saying to you is that I am not willing to have that happen.

Now, I have appealed the ruling of the Chair. We have the yeas and nays. Maybe there is some way that we can get votes so that people can vote up or down on these matters, which are quite pertinent to the crisis facing the Nation.

But, again, I agree with the distinguished Senator from North Carolina. We are not going to tiptoe into recess without at least assuring—even if we do not have it today—without assuring that we are going to have up or down votes. That is what we are here for.

How are we going to win this battle against AIDS—we might be coming at it from two different directions, but neither one of us is denying the magnitude of the disease—if we tiptoe away from our responsibilities?

What I would like to do is suggest the absence of a quorum so that the parties involved here might sit down in the quiet of some room to see exactly how we can get this particular thing to a point where we can vote up or down. Because I can assure you—and I think the Senator from North Carolina feels as I do—we are not going to sit here and vote on a point of order today or, if we are, we will do everything we can to bring it around to where we overrule the Chair. And clearly there are matters here where the Chair probably should be sustained.

What I would like to do is to see whether or not a discussion can take place to resolve this.

Mr. NICKLES. Will the Senator yield for a question?

Mr. WEICKER. Of course, I will.

Mr. NICKLES. I appreciate the Senator's comments. I agree, as far as the up-or-down vote.

Would the Senator possibly be amenable to an idea that would more target testing higher risk groups? Because I heard the Senator's comment—and we have been in contact with the Centers for Disease Control and they have told us, as well—that in premarital testing you are not going to find very many people with AIDS. That is not a high-risk group. We have also done some work with them and found out that certain groups are very high-risk groups. Certainly, convicted drug users, people who have been convicted of sex-related crimes, and possibly immigrants from particular countries have a very high incidence.

Would the Senator be amenable to trying to come up with testing on very targeted, limited high-risk groups, or is there just total opposition to any testing whatsoever?

Mr. WEICKER. I am sorry?

Mr. NICKLES. Would the Senator be amenable to the consideration of a possibility of limiting testing to targeted high-risk groups?

Mr. WEICKER. I say to the Senator that at the present time there are ongoing efforts to draft legislation which comprehensively addresses all of these problems. Hearings will be held. And, believe me, the type of things which the Senator suggests should receive investigation and deliberation and a decision will happen. It should not happen on an appropriations bill.

Indeed, I have already conceded part of the Senator's amendment is not that bad. The Public Health Service itself feels that certain immigrants, the 530,000 that are asking for permanent residence, should be tested. That recommendation is before Secretary Bowen and others.

But what we should not be doing, when all of this is in the works right now, is taking this amendment on the whole, if you will, and sticking it on the supplemental.

The answer to the Senator's question is, "yes, these matters should be tended to and, indeed, testing on high-risk groups should take place." Maybe it will be mandatory, although there is one other problem, and that is assuring that the laws of privacy also are at the same level as the testing.

Mr. NICKLES. I understand.

Mr. WEICKER. We are faced with an immediate crisis that needs immediate resolution. I again repeat, I have to oppose the amendment, but I do not oppose the ideas presented by the distinguished Senator from Oklahoma.

Mr. NICKLES. I appreciate the Senator's comments. I feel very strongly that we do need mandatory testing for those high-risk groups and I am afraid that if it is not worked out as the Senator suggested, we may only have one vote and it may be a procedural vote and that may be interpreted as a vote of whether or not you are in favor of testing, as such, as interpreted by the media.

Mr. WEICKER. I will tell you what it is going to be interpreted as. It is going to be interpreted as being against testing as presented by the distinguished Senator from North Carolina.

Mr. HELMS. I certainly hope not, Mr. President.

Mr. WEICKER. And against the $30 million in moneys to prolong the life of those presently infected with AIDS. To me, this is just about the messiest way it could be presented to the U.S. Senate. I would hope that we could have some discussion here as to how we can get out of this particular problem which has been presented to us.

Mr. NICKLES. One final question. I know the Senator from Missouri asked this question, but I did not quite understand all the answer.

On the $30 million which would provide for AZT or some other assistance, right now it is estimated that 1½ million to 3 or 4 million people are now carrying the virus?

Mr. WEICKER. Again, I want to repeat. The Senator from Missouri is a dear friend of mine, but I am afraid there was confusion because of the debate between the two of us. After the debate was over I once again contacted the Centers for Disease Control. One and a half million Americans are affected. The May 18 statistics say there are 35,658 reported cases. One and a half million people in the United States are infected by the HIV virus.

Mr. NICKLES. I appreciate the Senator's clarification. I think the 1½ million is an estimate. I think there are other estimates that go higher. Let us say 1½ million people are carrying the virus. Would they be eligible for funding under this $30 million?

Mr. WEICKER. I am sorry?

Mr. NICKLES. There are 1½ million people carrying the virus. Would each of those be eligible for funding under this $30 million?

Mr. WEICKER. No. This is a one-time appropriation under the Public Health Emergency Fund for those individuals that received AZT free on the clinical trials and are now unable to pay for it and for those who are medically eligible for AZT but cannot afford to pay for it. That is what this provides for. You have roughly 7,500 people who do not receive third-party payments, many of whom will be medically eligible for AZT.

Mr. NICKLES. This is just the kind of a crux to the problem, as I see it. The demand is so large, you have thousands of people who have AIDS, who are dying of the AIDS disease. Maybe some of them are in this category of testing and maybe they would qualify. So they are going to get $10,000 worth of AZT. What about the ones who do not?

Mr. WEICKER. Again, this is an emergency. It comes from the public health emergency fund. That fund is authorized with $30 million. We are not creating a new program. It is authorized at $30 million. The funds cover those who are medically eligible but cannot afford to pay for the treatment. That is what the money is used for, for an existing program with an existing authorized amount. If this is not an emergency, I do not know what is. These people will die if they do not get the money.

Mr. NICKLES. Will the Senator agree with me that there are thousands of people, if not hundreds of thousands of people, who will also die who will not get one dime of benefit from this?

Mr. WEICKER. Thousands of people will die if we do not go ahead and appropriate more moneys for both AIDS research and basic research. Nobody likes to see their money, excuse the expression, go down the chute, and I am hoping it does not go down the chute because some miracle will happen in the next several months for those who have the diesase and in its full-blown stage will be the beneficiary of a new discovery. I do not know when that is going to come. I cannot give you the date. I cannot tell you who is going to manufacture it. I am just hoping and in the meantime trying to buy some time. That is the essence of this Nation. And I am doing it within a program for emergency funding. I am seeing those who stand up on the floor and say, "This might lead to an entitlement. We might have to pay more money in the future."

This is to me almost the worst moment of the U.S. Senate as far as that $30 million is concerned. I can understand the debate with the Senator from North Carolina. We are going to debate on a variety of issues ad infinitum. But to see this point of order raised and that $30 million go away is one of our bleakest moments around here. I will not see it happen because people do not want to stand up and be counted. The Helms amendment is for a long-term issue, and this one is more immediate.

I yield to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I wonder if I might pick up on a thought expressed a while ago by the Senator from Connecticut. That is that we might momentarily lay this matter aside in order that we might proceed with about 40 other amendments that we have to act upon before we finish this supplemental appropriation, and ask the interested parties to this particular debate to retire to the cloakroom or some other appropriate place at least to see how this matter might be resolved. I fear that at this point in time after 2½ hours of very excellent debate, that we are now kind of hung up in a parliamentary situation that is clear—it is not confused, it is very clear—and to save time there may be some other way to handle this in order that all parties to this may feel a little bit more satisfied. I am not saying that there is going to be total agreement, but what I am suggesting is that after 2½ hours I think we have had a very excellent debate.

Would it not be possible to invite the parties to consult, at least, and find out where their points of difference are and where their common points are and give the managers of the bill a chance to proceed with other amendments?

Mr. DANFORTH. At some point, I would like the floor for just a few minutes to state my position which I thought was clear, but I do not now think is. Senator ADAMS asked me a direct question and the distinguished Presiding Officer came over and asked me a similar question. I would like to reiterate my position sometime before we retire to wherever we are retiring to.

Mr. HATFIELD. Mr. President, if the Senator would yield further, do I understand the Senator from Missouri, the Senator from North Carolina, and the Senator from Connecticut would not object to the possibility of a brief conference and the unanimous consent request after the Senator from Missouri has had a chance to make his statement to permit us to move this amendment process along? Would there by any problem with that?

Mr. DANFORTH. No problem.

Mr. HELMS. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. HELMS. I certainly enjoy meeting with Senator DANFORTH and Senator WEICKER anytime for any reason. But it all has to start, if it starts at all, with vitiating the point of order. Of if it is not, I am perfectly willing to meet.

The PRESIDING OFFICER (Mr. WIRTH). The Chair will note that the Senator from Connecticut has the floor.

Mr. WEICKER. Mr. President, I yield the floor.

Mr. HATFIELD. I had understood he had. Mr. President, I ask unanimous consent at this time that following a statement by the Senator from Missouri, that we temporarily lay aside the point of order that is the pending matter before the Senate in order that the Senator from Arizona [Mr. DECONCINI] might offer another amendment to the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, first let me say in response to a comment made by the Senator from Connecticut, I have no desire to, as I said, tiptoe away from the AIDS problem. The contrary is the case.

I view this as a national, in fact an international, calamity of the highest order. I view it as a time bomb in this country that has already been a tragedy for who knows how many thousands of Americans.

The Senator from Connecticut took great umbrage when I suggested 3 or 4 million people were infected and he came back and said, "Well, it is only 1½ million or 2 million people who are infected."

I am not here to quibble. One point five million Americans, a minimum figure, are infected by this disease and they will die. I do not need any lecture from the Senator from Connecticut about how one Senator is more compassionate than the others. I think this is a disaster.

And it is the responsibility of the Congress to face up to it. I am not tiptoeing away from anything.

We had lunch yesterday, a group of Republican Senators, maybe a dozen were present, and we went around the room raising issues on anyone's mind. When my turn came, I said, "I am concerned about AIDS. I am concerned about the people who are going to die from AIDS. I am concerned about the civil liberties consequences of this problem. I am concerned about the cost."

How can we say that we are not concerned about the cost? It is wonderful speechmaking, I guess, to say any amount of money is to be spent for a human life, but how many billions of dollars are we going to spend for health care? Is there an unlimited claim on the health care dollar? Is it absolutely unlimited? Is the position of the Congress of the United States to be there is no cap? Send the bill.

Maybe that is to be our position. Maybe that should be our position. It is an ethical question. It is a profoundly ethical question. How much should be spent to keep somebody alive for 1 year? That is what the AZT issue is.

The cure is not going to come in a year, Mr. President. The Senator from Connecticut expressed the wish that it might come within a year. Nobody suggests that. The cure may be 10 years or more off. It is not going to be in the next year.

So there are two issues now at least before the Senate this Thursday afternoon, really important issues. One is the testing issue. I do not know how I feel about it. I know that if it came to up or down, I would vote against the Senator from North Carolina this afternoon. I am impressed with some of the arguments—not all of them—that are made by the Senator from Connecticut.

Maybe we will come to testing some day. I am not going to foreclose it now in my own mind at least. But I would vote against it if I had to this afternoon.

And on the question of AZT, $30 million to keep some people alive, how can you vote against that? But the bigger question is, How do we deploy what resources we are willing to deploy in the wisest possible way to deal with this crisis?

The Senator from Oklahoma pointed out very well this program, $30 million, would pay for at most 3,000 people at $10,000 a year. So 3,000 people go to Uncle Sam and say, "Give me my AZT money so I can stay alive for a year." And Uncle Sam says, "Yes." And then No. 3,001 comes through the door and No. 5,000 comes through the door and then 10,000, then 100,000 and then 1 million come through the door over the next 10 or 15 years or whatever it takes before we have a cure for this dreadful disease and they say, "Where's ours?" And we say, "Oh, this was a one-shot emergency appropriation, you have to understand, and we were willing to take care of the chosen 3,000 but not everybody else."

Does anybody believe that this is a program that is going to be confined to 3,000 human beings? Does anybody believe that there is any moral principle for picking 3,000 names out of a hat? There is none.

So what are we going to do? I do not know. We had a whip check. I do not know exactly what it showed, but I asked our secretary of the minority a couple of hours ago, how did it look. And he said, "I am just getting question marks."

This I think is the first time this dreadful issue, this momentous issue has been debated on the floor of the Senate. This bill does not come from an authorizing committee. Senator WEICKER says he has the expertise to settle the issue. I am sure he does.

Mr. WEICKER. Will my distinguished colleague yield?

Mr. DANFORTH. No, I will not.

Mr. WEICKER. Where is my statement?

Mr. DANFORTH. I am not yielding.

Mr. WEICKER. Where is that statement made?

Mr. DANFORTH. I am not yielding.

Mr. WEICKER. Will the Senator yield for a question?

Mr. DANFORTH. I will not yield. The Senator from Connecticut, I am sure, has enormous wisdom on the question of AIDS. I do not, Mr. President. I do not know how many Senators do. I know we have to face up to it. I suggested to the Senator from Connecticut earlier this afternoon what we should do is to get some experts and give us a briefing on the facts and on the policy implications, give us a briefing, spend hours with us, do it not in the public domain. Do it up in room 407 or whatever, the Intelligence Committee room if necessary. Give us a briefing—that was my suggestion—so we can address this matter and address it quickly. We should not put it off forever. But not under an appropriations bill. It is just wrong to do it this way. It is just plain wrong to do it thoughtlessly.

I am not for tiptoeing out into the recess, but the Senator from Connecticut said, "How do you win the war on AIDS?" Can I tell you how to win it if it can be won? I do not know if it can.

Do not panic. Do not panic.

This is panic. This is really panic. Both of these amendments are panic. And that is why I made my point of order, Mr. President. That is exactly why I made the point of order. Nobody wants to say, "Oh, I voted for or against testing" or "I voted for or against $30 million." What happens to all the people who are going to die?"

I understand that. And people say, "Let me vote for the $30 million, please." I understand that. But this is no way to decide matters of life and death. It just is not.

That is why I made the point of order. If there is any policy reason ever not to legislate in an appropriations bill, this is it. This is the textbook example of why we should not legislate on an appropriations bill right now. Do not tiptoe into the recess. Do not legislate on an appropriations bill. Do not panic.

Why could not the committee having that responsibility—Labor and Human Resources, I guess—convene a meeting? Why could not we convene a meeting in room 407, do it next week, do it next week and address this issue not an appropriations bill, but as thoughtful men and women in the United States Senate?

Mr. STENNIS. Will the Senator yield to me?

Mr. DANFORTH. Doing a job on the most important question of public policy we could face in decades.

Mr. STENNIS. Will the Senator yield to me for a question?

Mr. DANFORTH. I certainly will.

Mr. STENNIS. The Senator has been here all day and made a remarkable speech. I know he is as interested as anyone could be but we have other amendments.

Mr. DANFORTH. I am through.

Mr. STENNIS. Would the Senator mind just taking a recess here for a short time at least and see if there is any way to get together? In the meantime, we can be taking other amendments.

Mr. DANFORTH. I appreciate it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent request offered by the Senator from Oregon, the Senate has agreed to set aside the existing amendment and the appeal of the ruling of the Chair and move to the amendment to be offered by the Senator from Arizona, who is not recognized.

The Chair recognizes the distinguished Senator from Arizona.

AMENDMENT NO. 213

(Purpose: To express the sense of the Senate condemning the Soviet-Cuban build-up in Angola and the severe human rights violations of the Marxist regime in Angola)

Mr. DECONCINI. I thank the Chair and I thank the distinguished chairman of the Appropriations Committee, and the ranking member.

I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 213.

Mr. STENNIS. Mr. President, will the Senator suspend for just a minute so we can kind of readjust here and hear much better?

The PRESIDING OFFICER. The chairman of the Appropriations Committee makes a good point.

The Senate will be in order.

The clerk will report the amendment.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a) The Congress finds that—

(1) the people of Angola have suffered under colonial domination for centuries;

(2) the Portuguese promise of independence and free elections for Angola embodies in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola (hereinafter in this resolution referred to as the "MPLA") illegally and militarily seized power with the support of Soviet and Cuban troops;

(3) the Marxist regime in Angola has continually denied the most basic human rights to the people of Angola since 1975 culminating in one of the worst human rights records reported by the Department of State, as described in the report entitled "Country Reports on Human Rights Practices for 1986";

(4) the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in southern Africa, including the expansion of a Soviet naval port, the presence of 35,000 Cuban troops, and the influx of $4,000,000,000 in Soviet weaponry;

(5) the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope;

(6) the Soviets and Cubans have engaged in the most blatant foreign intervention in post-colonial history of Africa, and the MPLA is hostage to these foreign forces as evidenced by the fact that the MPLA had the worst anti-United States voting record in the United Nations last year;

(7) the MPLA government of Angola in 1986 obtained 90 percent of its foreign exchange from the extraction and production of oil with the assistance of American companies;

(8) most Angola's oil is extracted in Cabinda Province, where 65 percent of it is extracted by an American oil company;

(9) United States business interests are in direct conflict with overall United States foreign policy and national security objectives in aiding the MPLA government;

(10) the United States currently refuses to recognize the Marxist government of the MPLA;

(11) representatives of the Government of Portugal's three main political parties have recently visited the liberated territory and will soon announce a commission to promote national reconciliation in Angola;

(12) the United States has an obligation to encourage peace, freedom, and democracy and to condemn tyranny where it may exist; and

(13) the growing intensity of war, the mounting suffering of the Angolan people,

the growing presence of communist forces in Angola, and the failure of the MPLA to respond to diplomatic initiatives gives new urgency to efforts to reach a peaceful settlement.

(b) It is the sense of the Congress that the United States, so long as Soviet and Cuban military forces occupy Angola, should encourage peace and national reconciliation in Angola through a negotiated settlement to the eleven-year military conflict and stress the holding of free and fair elections as outlined in the 1975 Alvor Agreement through—

(1) continued multilateral initiatives designed to support Soviet and Cuban withdrawal and a negotiated peaceful settlement acceptable to the people of Angola; and

(2) consistent efforts by the President and the Secretary of State to convey to the Soviet leadership that continued military build-up and presence in Angola directly hinders future positive relationships with the American people and the United States Congress.

(c) The Congress hereby requests the President to use his special authorities under the Export Administration Act to block United States business transactions which conflict with United States security interests in Angola.

(d) It is further the sense of the Congress that the Secretary of State should—

(1) review the United States policy with respect to the United States refusal to recognize the Marxist MPLA government, the abysmal human rights record of the MPLA government (as reported by the Department of State), and the worst 1985 voting record supporting United States interests in the United Nations; and

(2) prepare and transmit to the Congress a report containing the findings of the review required by paragraph (1), together with a determination as to whether it is in the United States interest to continue under the current trade and business policy with respect to Angola.

Mr. DECONCINI. Mr. President, this amendment is offered by myself and on behalf of the following Members of this body: Senators BINGAMAN, BUMPERS, CHILES, D'AMATO, DOLE, DURENBERGER, FORD, GRAHAM, GORE, GRASSLEY, HATFIELD, HECHT, HELMS, HOLLINGS, INOUYE, KASTEN, MURKOWSKI, NICKLES, PRESSLER, PROXMIRE, RUDMAN, SHELBY, SYMMS, and THURMOND.

The reason I take a moment to read those Members who have joined me is that this is indeed what I consider a bipartisan amendment.

Mr. President, I will interrupt myself at this moment and seek the counsel of the chairman of the Appropriations Committee. The Senator from Vermont is here and has been waiting for some time. He has an amendment that he indicates will be immediately accepted. I am more than happy to ask unanimous consent, if the chairman and the ranking member agree, to let the Senator from Vermont proceed with his amendment. It will not require a rollcall vote. And then return to my amendment.

The PRESIDING OFFICER. Is there objection.

Mr. DECONCINI. Is there objection to the unanimous-consent request from the ranking member of the committee?

Mr. HATFIELD. We have no problem with that on this side.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Chair recognizes the Senator from Vermont.

AMENDMENT NO. 214

(Purpose: To provide additional funds to assist in the rehabilitation and improvement of certain railway lines)

Mr. LEAHY. Mr. President, I thank my good friend from Arizona for going way above and beyond normal senatorial courtesy because I know, too, he has been waiting several hours to bring up his amendment.

Mr. President, I am submitting this amendment on the assumption that it will be accepted. I ask unanimous consent that the pending business be set aside and an amendment proposed by myself regarding Amtrak be in order and be considered.

The PRESIDING OFFICER. By unanimous consent the pending business has been set aside. The clerk will report the amendment.

The legislative clerk will report the amendment.

The Senator from Vermont [Mr. LEAHY] for himself and Mr. KERRY, proposes an amendment numbered 214.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, between lines 7 and 8, insert the following:

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for grants to the National Railroad Passenger Corporation, $5,000,000, to be derived from unobligated balances of redeemable preference shares acquired by the Secretary of Transportation under the Railroad Revitalization and Regulatory Reform Act of 1976, to be available only for the rehabilitation, renewal, replacement, and other improvements on the line between Springfield and East Northfield, Massachusetts, and the line between Brattleboro and Windsor, Vermont, to bring the most severely slow-ordered segments to the speeds agreed to in the operating agreement between the National Railroad Passenger Corporation and the Boston and Maine Corporation, dated February 1, 1977, as amended.

Mr. LEAHY. Mr. President, my amendment will restore passenger rail service to Vermont—service that was cut off by Amtrak on May 6.

The amendment has no budgetary effect.

Amtrak announced 2 weeks ago that it was indefinitely suspending Montrealer train service north of Springfield, MA, to Vermont and Montreal. The suspension is due to the poor condition of 107 miles of track in Massachusetts and Vermont.

The track is in such bad shape that the 107 mile trip takes more than 5 hours. The Montrealer must travel at speeds of less than 15 miles per hour on one-third of the track and must slow to less than 30 miles per hour on two-thirds of the track.

As a result of the poor condition of the Connecticut River line, my State of Vermont is left without passenger rail service. My amendment corrects that problem.

This amendment is not only important to Vermont, however. More than 40 percent of all the Montrealer's riders travel to Vermont. Without service to Vermont, the Montrealer's service to New York, Connecticut, and Massachusetts is threatened. This is an amendment to save the whole train.

My amendment will provide $5 million to quickly repair the damaged track. Amtrak President Graham Claytor has indicated that the Montrealer will run again and passenger rail service will be restored to Vermont as soon as the track is fixed.

My amendment will not add to total spending in the bill, nor will it increase the Federal deficit. The amendment includes an offset from the unobligated balances of the redeemable preference shares at the Department of Transportation.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment offered by the distinguished Senator from Vermont? If not, the question is on agreeing to the amendment.

The amendment (No. 214) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the Senator from Arizona.

AMENDMENT NO. 213

Mr. DECONCINI. Mr. President, I offer this amendment on behalf of myself and Senators BINGAMAN, BUMPERS, CHILES, D'AMATO, DOLE, DURENBERGER, FORD, GRAHAM, GORE, GRASSLEY, HATFIELD, HECHT, HELMS, HOLLINGS, INOUYE, KASTEN, MURKOWSKI, NICKLES, PRESSLER, PROXMIRE, RUDMAN, SHELBY, SYMMS, and THURMOND.

Mr. President, Angola is a mineral-rich West African nation, strategically located near the Cape of Good Hope sealanes, and has been the scene of an 11-year civil war. Angola had hoped to gain independence from Portugal in 1976. However, before the democratic process could begin, the Communist MPLA political party in Angola illegally and militarily seized power with the support of Cuban troops and Soviet weaponry. Today, this Communist regime maintains power with 35,000 Cuban troops, 2,500 Soviet advisers, and thousands of North Korean, East German, and Soviet bloc advisers.

Eleven years ago Angola's strategic minerals, oil and diamonds, fell into the hands of the Communist MPLA. Ever since, the minerals have been extracted and purchased largely by Westerners—including Americans. The United States, which does not have diplomatic relations with Angola, is its largest trading partner. The United States supplies Angola with over 80 percent of its hard currency earnings, through the extraction of oil, to help house Cuban troops and purchase over 1 billion dollars' worth of arms from the Soviet Union. The United States has provided money for loans through banking institutions to Angola. The list goes on and on.

My colleagues might ask: What do the Angolans do for us? We seem to be so willing to assist them. The Angolans have voted against United States interests in the United Nations more than any other country in the world. The MPLA Government has one of the most abysmal human rights records in the recent human rights report issued by the Department of State. The MPLA Government allows the Soviets to improve and expand their geostrategic presence on the African Continent. A U.S. rear admiral in NATO recently said, and he was quoted in the Washington Post, that the Soviets now operate destroyers, cruisers, submarines, and other vessels from Angola, as well as a few Bear long-range aircraft. The implications for the strategic oil lanes around the Cape of Good Hope are staggering. The current relationship does not seem to be fair or balanced. Despite the blatant contradictions in foreign and economic policy, America does business as usual with Angola.

Now, Mr. President, there are extremely complex variables influencing the regional situation in Angola. Namimbia is seeking its independence; South Africa, with its deplorable apartheid regime, is worried about the Communist MPLA and will not move out of Namimbia until the Cubans and Soviets withdraw from Angola; and Dr. Jonas Savimbi, the leader of UNITA, is reportedly receiving United States support to fight the MPLA. Without getting too immersed into the detail of each variable, the United States position should seek immediate Cuban and Soviet withdrawal based upon the Truman Doctrine. Forty years ago President Truman outlined a doctrine which declared the policy of the United States "To support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures." This Truman Doctrine pledged the United States to contain Soviet power and promote freedom wherever it could around the world. The people of Angola have a right to peace. The people of Angola have a right to democracy and free elections. And the people of Angola have a right to freedom from human rights abuses and for practicing whatever religion they desire.

As we discuss and debate African regional policy, it seems both prudent and wise to pursue options one-at-a-time. It is vital that the Senate address the situation in Angola. A judicious and diplomatic first step would be to stress peaceful reconciliation; condemn the human rights abuses and the Cuban-Soviet expansionism; curtail U.S. business supporting the MPLA; and ask Secretary Shultz to issue a report on future foreign policy with respect to Angola. This represents a policy which vigorously pursues peaceful reconciliation for the people of Angola, uses economic rather than military sanctions, and stresses political leverage rather than covert assistance.

This resolution is a sense of the Senate and will hopefully be attached to this particular bill due to the urgency and timing of this issue. The United States has reopened negotiations with the Angolans, principally through Assistant Secretary Crocker. Future meetings are reportedly scheduled, possibly later this month. First of all, it is imperative that the administration convey to the Angolan's the Senate's deep feeling on Soviet-Cuban presence and human rights abuses. Second, an article in Janes's Defense Weekly stated that the Angolans are seeking to replace the Cuban troops with North Korean troops. I cannot believe that this could be accurate. This would not make the situation any more agreeable with the Senator, and again, the administration needs to hear about how strongly Congress feels about even the remote possibility of Koreans in Angola.

In closing, I would like to briefly refer to President Reagan's remarks on American-Soviet relations. He said, in remarks to the Los Angeles World Affairs Council:

> We have adopted a framework for dealing with the Soviets. We have insisted that progress must proceed in four critical areas: First, the pursuit of verifiable and stabilizing arms reductions * * *; second, negotiated solutions to regional conflicts; third, the advance of human rights; and fourth, expanded contacts between our peoples.

Mr. President, this amendment stresses precisely these concerns of the President. We must address regional conflict with the Soviets, along the lines of the Truman Doctrine. And, as a pillar of U.S. foreign policy, advance the cause of human rights. This amendment is cosponsored by Democrats and Republicans and includes Senators CHILES, DOLE, INOUYE, HOLLINGS, HATFIELD, FORD, THURMOND, GRAHAM, BUMPERS, GORE, PRESSLER, PROXMIRE, KASTEN, HELMS, DURENBERGER, BINGAMAN, RUDMAN, SHELBY, NICKLES, GRASSLEY, D'AMATO, HECHT, and MURKOWSKI. It is important to support democracy and peaceful reconciliation in Angola. We will hopefully focus on the country and people of Angola with this amendment. Following is a passage from the State Department's Annual Country Reports on Human Rights Practices for 1986:

> Political dissention is not tolerated. In fact, the Angolan people live under censorship, intimidation, and government control of the media. Opposition views are not tolerated * * * The government publicly emphasizes the importance of propagating atheism and has been critical of all religious activities.

This human rights record is tragic and immoral. I find this to be absolutely indefensible. I believe that the United States position in regard to Angola is contradictory and the Senate needs to clear the record on this, especially with United States businesses. This amendment provides an opportunity to apply the principles of the Truman Doctrine, the cause of human rights, and support the goal of democracy and freedom in Angola.

Mr. President, I think it is very important that we proceed to express a sense of the Senate condemning the Soviet-Cuban buildup in Angola and the human rights violations committed by the Marxist government in Angola. It expresses peaceful reconciliation and democracy for the people of Angola. It does not involve us in the internal affairs, but it says that the United States recognizes the problems that this country has faced for some time, and we expect them to move in a different direction; and if they do not, we are not going to continue to participate in the trading we are involved in.

When I introduced this as a resolution earlier this year, Democrats and Republicans alike cosponsored this legislation, and that is evident by the 25 cosponsors. I am proud to have the support and interest in this, what I consider a moderate approach.

Let me say quickly what this amendment does.

First of all, it states clearly that whenever the United States and the Soviet Union meet, when the President and the Secretary of State meet with the Soviet leadership, they convey that further Cuban-Soviet presence in Angola will impede future positive relations with the United States and the United States Congress. It does not call them names or anything else but says just that.

Second, that the President use the Export Administration Act to remove United States business from Angola.

Third, the Secretary of State issue a report on future United States-Angola business and trade policies between these two countries.

Mr. President, some might argue that removing U.S. business seems a little harsh. This Marxist government is founded to the tune of almost 90 percent of its hard currency by American companies exporting their oil and using the U.S. dollar equivalence for funding the war that they are lodging against their own people.

These United States companies are being protected by Cubans and by Soviet personnel. It is estimated that there are 35,000 Cuban soldiers there. That is not a classified number. The classified number is something that each Member would have to obtain from the intelligence community. It also is publicly known that 2,500 Soviet advisers or more are in that country at this time.

This Marxist government had one of the most abysmal human rights records reported by the U.S. State Department in its last report on the subject of human rights violations.

This Marxist government votes against the United States in the United Nations more than any other country, and we have ample countries around the world which do not support us in many ways, and certainly the United Nations is one. This is the No. 1 country that opposes the United States.

This Marxist government is not recognized by the United States, nor do we have formal diplomatic relations with it. So Angola is so far out of step with the world community in human rights and in its aggressive Communist determination to impose its will on its people, contrary to all our beliefs, that we do not even recognize that this country exists.

As can be seen from the map behind me, the star in the left-hand corner is the capital of Angola. That is a deep-water port. That is where the oil from Angola is shipped. There is a substantial contingency of Soviet naval vessels there. There are Soviet airplanes. The NATO commanders and our chief of staff of NATO indicate that it is a threat today to world trade, and certainly our own.

For us to continue to permit American companies to do business there, with the approval of the U.S. Government, seems to me to be out of step. The Senate needs to take a strong position, in my judgment, and needs to send a signal to the Soviets and the Cubans that we are not going to continue to permit this to happen; and though we do not recognize the country, and though we are involved in activities to try to have the people there have self-determination, we are not going to recognize American business interests over the principles of what this country believes in.

Mr. President, I hope we can have a vote on this amendment, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleague from Arizona, Senator DECONCINI, in sponsoring this amendment. This legislation, originally introduced as Senate Resolution 174, condemns both Soviet-Cuban expansionism in Angola and the open violations of human rights by the ruling Marxist leadership in Angola.

Angola's Marxist government [MPLA], has not held a free and fair election since assuming power from the Portugese in 1975. The U.S. Government officially considers the Government in Luanda as illegal. There are presently 35,000 Cuban troops and thousands of Cuban, Soviet, and East German advisers in Angola. Since coming to power, estimates indicate that Angola has received over $4 billion in total assistance from Moscow—$1 billion, or 25 percent, of which was received in the last year alone.

This recent military buildup will enable the MPLA to engage in the expected spring offensive against the pro-Western freedom fighters of the National Union for the Total Liberation of Angola [UNITA].

In 1985, Congress repealed the Clark amendment, which prohibited assistance to any nation or group for military operations in Angola. Last year our Nation finally began to provide much needed aid to UNITA. Although our monetary assistance is most vital, I believe the moral support from the leader of the free world is as equally important to UNITA. By openly daring to support and promote freedom fighters in Africa, as well as other parts of the world, the U.S. demonstrates its willingness to commit itself not only to defend freedoms already cherished, but to restore freedoms being denied.

Unfortunately, Mr. President, policy does not always conform with practice. Even though we have severed diplomatic relations with Luanda government, we continue to conduct substantial commercial relations with them. It is outrageous that, while we support the efforts of UNITA and Jonas Savimbi, U.S. oil companies provide the Marxist government with a high percentage of its foreign exchange. One U.S. oil company alone accounted for $600 million in hard foreign currency for Angola in 1985. What does this foreign exchange buy for the Luanda government? More Soviet weapons and Cuban troops.

The United States must challenge the expansion of Soviet and Cuban influence in this country. The Luanda government cannot survive without the support of the massive infusion of aid and troops from the Soviet Union and its surrogates. This government has been, and will continue to be, hostile to the United States and our interests. One only need look at its U.N. voting record to realize that Angola holds one of the lowest percentages of voting with the United States. MPLA is a vassal state of the Soviet Union, and our foreign and economic policies should not treat them as anything more.

Mr. President, this amendment is in addition to a long line of legislation Congress has passed on the issue of Angola. For example, I sponsored successful legislation last year that eliminated tax credits for U.S. companies that continue to do business in Angola.

I support negotiated efforts to resolve the conflict in Angola. However, we must be prepared to counter Soviet military actions. As the United States pushes for negotiations, the Soviets, with the help of the Cubans, seek total victory. We should pursue a dual-track approach: increased military assistance to UNITA and economic sanctions against the Luanda government. Economic sanctions, similar to those imposed upon the Government of South Africa, would encourage the illegal Government of Angola to promote a fair political solution and a peaceful settlement.

I urge my colleagues to join this amendment to help send a clear signal to democratic forces resisting the illegal Luanda government that we support them, and to send a signal to the Soviet Union that we plan to oppose their policy of expansionism in Africa.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the vote will occur on the amendment.

Mr. DECONCINI. Mr. President, I think it is important for us to recognize and underscore the latest report by the State Department, the annual country report on human rights practices. I should like to read a paragraph from it. It reads as follows, as it relates to Angola:

> Political dissension is not tolerated. In fact, the Angolan people live under censorship, intimidation, and government control of the media. Opposition views are not tolerated . . . The government publicly emphasizes the importance of propagating atheism and has been critical of all religious activities.

I read this, which is part of my statement, just to point out the severity that our State Department feels about what is going on in this country at this moment.

I should like to refer briefly to President Reagan's remarks on American-Soviet relations. He said, in remarks to the Los Angeles World Affairs Council:

We have adopted a framework for dealing with the Soviets. We have insisted that progress must proceed in four critical areas: First, the pursuit of verifiable and stabilizing arms reductions . . . ; second, negotiated solutions to regional conflicts; third, the advance of human rights; and fourth; expanded contacts between our peoples.

Mr. President, the amendment touches these things that President Reagan has recently spoken of, and I feel that there is really not a whole lot of argument for not adopting this amendment.

I think it would be clear, if we did move on this, that the U.S. Government and Congress are not going to continue to tolerate the abusiveness by this regime and in fact are going to take a strong position and have the President cut off the continuous trade that we are having with that country.

I hope that, if nothing more, the American companies that are involved there will see this as a strong position that Congress takes, that profits do not come before principle. I understand the importance of profit, believe me, and I appreciate that somebody will be there shipping that oil out and that there may be a little less profit from those companies that are doing it now. But it is really difficult for me to accept our not condemning this country and the lack of support for anything we believe in in the United Nations by Angola and still permit the trade and economic investment in Angola.

Mr. STENNIS. Mr. President, as I understand it, we have the third committee amendment which has been temporarily set aside.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. I hope we can go to the fourth committee amendment, which is the last one, and take it up now.

Mr. DECONCINI. Mr. President, will the chairman yield?

Mr. STENNIS. We have two or three that are ready. I yield.

Mr. DECONCINI. I was waiting for the distinguished minority leader to come to the Chamber to speak on this amendment. He is here now.

Mr. STENNIS. Excuse me. I did not know that.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Mr President, I thank the distinguished chairman, Senator Stennis, and also my colleague from Arizona, Senator DeConcini.

NEED FOR CONSISTENT, EFFECTIVE POLICIES

Mr. President, I am pleased to join Senator DeConcini as a cosponsor of this amendment. Its language parallels that of Senate Resolution 174, which we introduced in March.

This amendment is another powerful statement of American opposition to the illegal, oppressive MPLA regime in Angola, and to the presence of more than 40,000 Cuban mercenary troops and Soviet advisers in Angola.

The amendment raises a fundamental question about Angola policy: Is everything we as a government do in Angola consistent and complementary? In particular, the resolution urges that the President take action, under authority given him in the Export Administration Act, to block further private American business activities in Angola which undermine our national security interests there. It also asks the administration to undertake a formal review of overall American trade and business activities in Angola, to determine if the current pattern of such activities makes any policy sense.

ADDITIONAL LEGISLATION PLANNED

I would note that I see passage of this amendment as only a first step. On Tuesday, I joined Senators Chiles, Symms, and Hollings in introducing legislation that will get more directly at American commercial relations with the MPLA—relations which buttress that illegal regime and help it pay the bills for the Cuban mercenary troops there. I hope that we will be able to deal with that bill promptly.

NEW DIPLOMATIC CONTACTS UNDERWAY

Of course, our diplomatic policies must be consistent, too, and be aimed squarely at the achievement of our basic goals in Angola—getting rid of all the Cuban troops, and establishing a government which will reflect the will of the Angolan people.

As the Senate knows, the administration has underway a new series of diplomatic contacts with the MPLA. In principle, I have no objection to such contacts—as long as they are part of an overall policy process that meets the standards of coherence set out in the amendment; and are in pursuit of the goals I have just outlined.

I have been assured informally by the administration that its recent contacts with the MPLA have indeed been aimed at a solution which would rid Angola of all Cuban troops, and which would lead to a government reflecting the will of the Angolan people. I would hope that passage of this amendment would send yet another strong signal to the administration that any negotiated settlement in Angola must meet these minimum standards, if it is to win acceptance and support in the Senate.

AID TO UNITA ESSENTIAL

Finally, the amendment lists a number of steps which the United States should take in pursuit of our interests in Angola. However, it does the explicitly express support for aid to UNITA, the democratic resistance force in Angola, under the leadership of Dr. Jonas Savimbi.

I believe continuing such aid is absolutely essential if we are to have any chance to achieve our overall goals in Angola. Yesterday, I had the opportunity, at the Cuban Independence Day celebration in Miami, to discuss the situation in Angola with UNITA's Vice President, Jerry Chitunda. Jerry stressed to me how important American aid was to UNITA; and I indicated to him that I would continue to do all I can to insure that such aid continues.

I have also had an exchange of correspondence with Secretary Shultz on this issue—correspondence I have already put in the Record. And both that correspondence, and recent informal contacts with the administration, affirm that such aid is continuing. I welcome that affirmation. Many of us in the Senate will be keeping a close eye on the situation in Angola, to assure that the needed aid continues to flow.

Mr. President, I urge all Senators to support this important and timely amendment.

I thank the distinguished chairman.

Mr. STENNIS. Mr. President, I understand the yeas and nays have already been ordered in this instance.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. If there is no other one to make remarks, I think we could call the roll.

The PRESIDING OFFICER. If there is no further debate on the amendment of the Senator from Arizona, the question is then on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], and the Senator from Illinois [Mr. Simon] are necessarily absent on official business.

I also announce that the Senator from Hawaii [Mr. Inouye], is absent because of questioning witnesses in Iran-Contra hearing.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. Rudman] is necessarily absent.

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—94

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin

Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—6

Adams
Biden
Gore
Inouye
Rudman
Simon

So the amendment (No. 213) was agreed to.

The PRESIDING OFFICER. Before we proceed, the Senate will be in order.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1846) to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. Stark".

Mr. HEINZ. Mr. President, will the Senator from Missouri yield without losing his right to the floor? I ask if he will yield me 2 minutes.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I might yield 2 minutes to the Senator from Pennsylvania without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DAY OF MOURNING FOR THE VICTIMS OF THE U.S.S. "STARK"

Mr. HEINZ. Mr. President, I take this slightly unusual step to draw to the attention of my colleagues the joint resolution which just arrived from the House of Representatives, earlier introduced today in the House by a Member from my home State of Pennsylvania [Mr. Weldon].

It is, as you might have understood, a joint resolution designating May 25 as a national day of mourning for the victims of the U.S.S. *Stark* in honor of the courageous crew members of the *Stark* who were killed or injured in the attack on the *Stark*.

The President is authorized under this joint resolution, and requested, to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

It is my understanding that the distinguished majority leader intends to call that resolution up later today. I am delighted that he will do so. It is indeed appropriate that we set aside this particular day, as indeed Memorial Day, to honor just these kinds of brave individuals who have sacrificed for this, our country.

Mr. President, earlier today I introduced a resolution designating this Memorial Day, May 25, as a national day of mourning for the victims on the U.S.S. *Stark*.

The tragic events of last Sunday, in which 37 American sailors aboard the U.S.S. *Stark* were killed, have saddened and alarmed all of us. The Nation is saddened at this terrible loss of life, alarmed that it happened, and hopeful that it will not happen again.

We feel deep sorrow at this loss. And our hearts have gone out to the victims' families and loved ones.

Memorial Day is set aside to honor and remember those who gave their lives defending this country. Designating this Memorial Day as a day of national mourning for the *Stark* does not diminish the sacrifices made by others. Rather, it provides a special, timely opportunity to honor those who died in the service of their country.

This Memorial Day is an appropriate time to express support and appreciation for the courage and sacrifice of these men. Their deaths are a shattering tragedy for families and friends. They should know that the people of their country share their grief, and deeply appreciate the patriotism that motivated these servicemen to put themselves in harm's way for the sake of their country.

Sailors join the Navy to serve their country. It is a dangerous task, and one that should earn the highest tributes from a free people. Our legislation is a symbol of the respect that by right belongs to those who chose to serve their countrymen by defending them.

A moment ago, the Senate received from the House of Representatives a resolution identical to mine. Congressman Curt Weldon of Pennsylvania introduced this resolution in the House earlier today where it passed by unanimous consent. I hope that my colleagues will join similarly in supporting this special tribute to the sailors of the *Stark* by approving this resolution today.

Further, I ask unanimous consent that an article from the USA Today entitled "Sailors of Stark," with the names and brief biographies of the 37 servicemen, appear in the Record immediately following my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the USA Today, May 21, 1987]

Sailors of Stark

(The 37 servicemen—ages 19–36—lost in Iraq's missile attack on the USS Stark came from 16 states. Trained as radio operators, firemen, torpedomen, they were also sons and brothers, husbands and fathers—including one who hadn't yet seen his baby)

Doran Bolduc, 29, Lacey, Wash.: a seaman following in his father's footsteps, Bolduc joined the Navy just over a year ago. "I think if you have to die, it's an honorable way," said his father, Roland.

Braddy Brown, 28, Calera, Ala.: Father of three, Brown enjoyed fishing with his oldest son, Cedric, 10. The 10-year veteran "had one of the sweetest smiles you ever saw," said his high school basketball coach Richard Gillian.

Jeffrey Calkins, 20, Richfield Springs, N.Y.: a 120-pound football running back at Richfield Springs High School, he's remembered more for his courage than ability. "I remember he came out of one game with his knuckles bleeding, half conscious. He sat down for one play and then told me he was ready to go back. He had a lot of guts," said his coach, Floyd Bourne.

Mark Caouette, 26, Fitchburg, Mass.: Home on leave in January, he did not reveal his next assignment. "He said he wasn't sure," said his father, Robert. "He was sure, but that was his way of not telling me. He loved the Navy. . . . that made me very proud."

John Ciletta Jr., 21 Brigantine, N.J.: "I had fears constantly that something could happen," his mother, Kathleen, told the Press of Atlantic City, N.J. He was due home Aug. 5. His wife, Nancy, is pregnant.

Bryan Clinefelter, 19, Barstow, Calif.: He joined in December, the sixth in his family to sign up. Father Gary, brother Dennis, 21, and uncle, Hal Hazel are with the Navy.

Antonio Daniels, 21, Greeleyville, S.C.: Friend Rudy Tisdale said Daniels' family was upset and in seclusion because they had been led to believe he survived the attack.

Christopher DeAngelis, 23, Dumont, N.J.: "It was just like in the movies," said father Robert, shown here with DeAngelis' mother, Renata. "Two officers walked up to the house . . . and said, 'Sir, we regret to inform you that your son gave his life in the line of duty.'". President Reagan phoned the couple Wednesday and ordered military planes for them and other victims' families so they can attend Friday's memorial service in Mayport, Fla. DeAngelis' wife, Donna, whom he married New Year's Day, lives in Florida.

James Dunlap, 20, Osceola Mills, Pa.: He was in such a hurry to join he got an early enlistment before graduating from high school. "He thought that ship he was on was the greatest thing in the fleet," said his father, Charles.

Steven Erwin, 22, Troy, Mich.: He followed the lead of a friend, joining 3½ years ago soon after graduating from Athens High

School. He had decided to leave this summer.

Jerry Farr, 36, Charleston, S.C.: A 16-year Navy veteran, he had experience on several Mediterranean tours.

Vernon Foster, 33, Jacksonville, Fla.: Father of seven, he joined the Navy in 1971. "My brother's life was sacrificed for a mistake," said his brother Arthur Robinson.

Dexter Grissette, 19, Macon, Ga.: Grissette, who was to marry in August, signed up after graduating from Central High School last year. He wanted a Navy career.

William Hansen, 22, Reading, Mass.: Hansen's wife, Bonnie, and his son Brendan, 9 months, were visiting his parents in Reading when the Navy gave them word of his death.

Daniel Homicki, 36, Elizabeth, N.J.: "They said it was a mistake," said his sister, Pat Krahling. "Then we hear we're just supposed to forgive and forget, but it's not fair."

Kenneth Janusik Jr., 19, Clearwater, Fla.: He graduated from Clearwater High School in 1985, where he played on the golf team. Like his father—a commercial fisherman—he loved the water.

Steven Kendall, 30, Honolulu: The 11-year veteran was a science whiz at Radford High, class of 1975. "It's too late for our son," said his mother, Shirley. "A total retaliation is called for." He and second wife, Jewel Lynn, were married Dec. 9.

Steven Kiser, 36, Elkhart, Ind.: As a boy he was so interested in graphic arts he had his own printing press. "With Steve, it was either do it all or don't do it," said his mother, Norma. His wife lives in Bahrain, along with their son, 5. He also has a daughter, 11.

Ronnie Lockett, 30, Bessemer, Ala.: He joined in 1976, a year after high school, and saw 6-month-old daughter, Krystal, before shipping out in February. He and his mother, Eldora, planned to get together over Labor Day. She'll bury him instead.

Thomas MacMullen, 30, Darby, Pa.: He planned to be home in March after his discharge. He and his wife, Diane, grew up in Philadelphia.

Charles Moller, 26, Columbus, Ga.: "He just wanted to better himself, and he thought the Navy was a good way to do it," said his mother, Ella Mae. He was married, with an 8-month-old daughter. "Iran is not dumb enough to fire on one of our ships. Neither is Iraq," he wrote home in a letter that arrived last weekend.

Jeffrey Phelps, 21, Locust Grove, Va.: Fredericksburg area businesses pitched in to help Phelps' family to Friday's memorial service in Mayport, Fla.; the White House since has arranged flights.

Randy Pierce, 28, Midwest City, Okla.: Wife Diana gave birth last month in Jacksonville, Fla., to Logan Mitchell Pierce, a son the father never saw. The couple has another son, Randy, 2.

James Plonsky, 22, Van Nuys, Calif.: His adoptive father, Albert Plonsky, was a 20-year Navy man. Son James was "a professional who was there to obey orders and protect the flag," he said.

Kelly Quick, 20, Linden, Mich.: "His grandfather was a Navy man. He heard the stories and slowly got into it," said his father, Robert. He played the tuba in high school and liked to work on cars. His pride and joy: a 1970 Buick.

Earl Ryals, 25, Boca Raton, Fla.: He enlisted in December 1985, one month after marrying longtime girlfriend, Susan, 25. She last heard from him a month ago. "When I'm not talking, I'm crying," she said.

Robert Shippee, 35, Adams Center, N.Y.: The 16-year veteran planned to settle on a farm near home after retiring. Son of a World War II Navy veteran, he lived with his wife, Carol, and their three children in Pontevedra, Fla.

Jeffrey Curtis Sibley, 21, Metairie, La.: He played bass drum at Grace High School. "Jeff was a big guy and he just dove into physical things," said band director Carl Hellmers.

Lee Stephens, 23, Pemberton, Ohio: He had spent four years on the Stark, joining the Navy after dropping out of high school. Said his mother, Judy: "If I had to do it over again, I'd never tell my son to go into the Navy or any other branch of the service."

James Stevens, 27, Visalia, Calif.: He enlisted 5½ years ago and signed up again for a second six-year stint in January 1986. His family last heard from him when he called home from Bahrain on Mother's Day. "He sounded fine," said his mother, Pat. "But he wouldn't let me know if anything's wrong anyway."

Martin Supple, 27, Jacksonville, Fla.: During football season, the North Olmsted, Ohio, native set up a "Browns Shrine"—pennants, shirts, hats—in the apartment where he lived with his wife, Karen, 25. "He was a big Cleveland Browns fan," she said.

Gregory Lee Tweady, 36, Jacksonville, Fla.: A 16-year veteran, he was going to make this cruise his last, said the Rev. Allen Kelly of the First Southern Baptist Church of Paxton, Ill., the Tweady family church for 23 years. He was married with a son, Troy, 14.

Joseph Watson, 25, Ferndale, Mich.: Youngest of six, he would have celebrated his second wedding anniversary in June. "He died doing what he liked and wanted to do," said his father, Harold.

Wayne Weaver, 22, New Bethlehem, Pa.: An electronics technician, he was a "very good kid, a wonderful boy," said stepmother Helen Strong. He and his wife, Laurie, were married two years.

Terance Weldon, 20, Selden, N.Y.: He loved his duties as a data processor, married a Navy nurse. "He was going to get out and get a good job, settle down and raise a family," said his father, Arnold.

Lloyd Wilson, 24, Summerville, S.C.: 'I hope the other parents and the president know it's not just that a person has died, but that a life—a way of living, a personality—has been lost,' said his father, Joseph. Third of six children, Wilson was a born leader and had a boundless sense of humor: 'He'd make up jokes and spring them on you. The fireman apprentice planned to marry after his tour.

Vincent Lenard Ulmer, 21, Bay Minette, Ala.: 'He loved to dance, 'recalled his mother, Mary, shown above with father A.C. He played football and basketball at Baldwin County High School. Ulmer's wife, Lillian 'Rene,' lives in Akron, Ohio.

SUPPLEMENTAL APPROPRIATIONS, 1987

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, prior to the last vote, I made a point of order that the committee amendment, the so-called AZT amendment, was legislation on an appropriations bill. That point of order was sustained by the Chair and an appeal was made by the Senator from Connecticut.

My reason for making the point of order was that I truly believe this is legislation on an appropriations bill; that I think this is not the way to address the AIDS catastrophe. I think we should do it in a more reasoned manner.

We met in the Cloakroom, Senators WEICKER, HELMS, and myself, and it occurred to me at that time that should the Senate vote on the appeal from the ruling of the Chair it is highly likely that the Chair would be overruled. I think that would make the Senate go through three votes instead of two.

I think it also would be an unfortunate precedent for the Senate.

But I continue to feel that this is not the time, on an appropriations bill, to address these major issues relating to AIDS, and it would be far better if we could meet on this issue right after the recess but in a more reasoned way.

What I intend to do, Mr. President, what I would like to do, is to ask unanimous consent to vitiate my point of order.

Then if that unanimous consent is given, it would be my hope first to move to table the Helms amendment relating to testing. And then after the disposition of the Helms amendment, to then regain the floor, if it is permissible to the Senate, and move to table the $30 million AZT amendment. That is what I would like to do, Mr. President. So I ask unanimous consent that my point of order relating to legislation on an appropriations bill be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. DANFORTH. Mr. President, I further ask unanimous consent that after disposition one way or another of the Helms amendment, I be recognized by the Chair for the purpose of making a tabling motion immediately to the underlying committee amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. DANFORTH. Mr. President, I move to table the Helms amendment.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], and the

Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 63, nays 32, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—63

Adams
Baucus
Bingaman
Bond
Boschwitz
Breaux
Bumpers
Burdick
Chafee
Chiles
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Riegle
Roth
Rudman
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Trible
Warner
Weicker
Wilson
Wirth

NAYS—32

Armstrong
Bentsen
Boren
Byrd
Cochran
Cohen
D'Amato
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Hollings
Humphrey
Karnes
Kasten
McCain
McClure
Murkowski
Nickles
Pressler
Reid
Rockefeller
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop

NOT VOTING—5

Biden
Bradley
Gore
Mikulski
Simon

So the motion to lay on the table was agreed to.

THIRD EXCEPTED COMMITTEE AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I move to table the committee amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri to lay on the table the committee amendment.

On this question, the yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 74, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—21

Armstrong
Bond
Danforth
Dole
Evans
Exon
Ford
Gramm
Helms
Humphrey
Karnes
Lugar
Murkowski
Nickles
Proxmire
Quayle
Thurmond
Trible
Wallop
Warner
Wirth

NAYS—74

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Weicker
Wilson

NOT VOTING—5

Biden
Bradley
Gore
Mikulski
Simon

So the motion to lay on the table was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. WEICKER. Mr. President, will the Senator from Montana yield for a parliamentary inquiry?

Mr. MELCHER. I yield.

Mr. WEICKER. Mr. President, a parliamentary inquiry. Do we not now have before us the third excepted committee amendment? Does that require a vote?

The PRESIDING OFFICER. The Senator is correct. The pending order of business is the third excepted committee amendment. Is there further debate?

If not, the question is on agreeing to the third excepted committee amendment.

The third excepted committee amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the third excepted committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, on vote No. 212, the Helms amendment, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. HATFIELD. Mr. President, may I first of all——

The PRESIDING OFFICER. Will the Senator suspend? The Chair had recognized the Senator from Montana. He yielded time to the Senator from Connecticut.

Does the Senator from Montana yield to the Senator from Oregon?

Mr. MELCHER. I yield.

FOURTH EXCEPTED COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, I would like to inquire of the Chair what the pending question is before the Senate.

The PRESIDING OFFICER. The question is now on the fourth excepted committee amendment.

Mr. HATFIELD. Mr. President, I would like to say to the Senator from Montana that the comanagers of this bill, Senator STENNIS and I, had hoped to complete the committee amendments. That was our plan. Senator DECONCINI and Senator SIMPSON are key to finishing that committee amendment. It has to do with immigration.

If the Senator from Montana would permit, we have to have unanimous consent to set it aside in order to reach the amendment of the Senator from Montana.

I would request the Senator from Montana to permit the committee amendment to be disposed of and then we will be happy to consider the amendment of the Senator from Montana.

That is the pending question and the Senator from Arizona is prepared to offer his amendment so that we could wrap up the fourth and final excepted committee amendment.

Mr. MELCHER. Mr. President, I thank the distinguished Senator from Oregon, the ranking member of the committee, for that observation. I only sought recognition to ask unanimous consent that after the committee amendment is disposed of that I be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Chair is informed that the Heinz amendment will recur following disposition of the fourth committee amendment. With that understanding, the unanimous-consent request by the

Senator from Montana would displace the amendment of the Senator from Pennsylvania. Is there objection to the request?

Mr. HEINZ. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MELCHER. Might I inquire, Mr. President, if there has been a rollcall vote ordered on the Heinz amendment?

The PRESIDING OFFICER. There has not been a rollcall vote ordered on the Heinz amendment.

Mr. MELCHER. Mr. President, since the Senator from Pennsylvania is on the floor, if he would yield, I would like to ask him if he anticipates an extended debate or a rollcall vote on his amendment.

The PRESIDING OFFICER. The Senator from Montana controls the time.

Mr. HEINZ. Mr. President, if the Senator will yield, I will be happy to respond.

Mr. MELCHER. I yield.

Mr. HEINZ. The ranking member on the committee asked me if I would mind putting my amendment aside. I said I would not object. He asked unanimous consent to put my amendment aside. I am quite content to allow the amendment to be put aside. I think it is the preference of the Senator from Oregon that the amendment be taken to a conclusion on Wednesday when we come back. So if the Senator from Montana wishes to ask unanimous consent to lay my amendment temporarily aside, I would have no objection.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. MELCHER. I yield.

Mr. HATFIELD. May I ask what the subject of the amendment is?

Mr. MELCHER. It is an oil shale amendment.

Mr. HATFIELD. Does the Senator expect a rollcall vote on that?

Mr. MELCHER. I do not anticipate one, but Senator McCLURE would like to be here. I understand he has an amendment to it, or a motion.

Mr. HATFIELD. Might I ask, if the Senator will yield for a further question, it was the hope of the managers that, since we are not going to be able to finish the bill before the recess, possibly we could finish the subject of the fourth excepted committee amendment, which will require a rollcall, and hopefully we could get a 40-minute time limit. At that point, we were hopeful that we would not have to have additional rollcalls. That was just our view.

I am not saying what the leadership has planned. I am only saying what the comanagers of the bill are saying. It would put us out somewhere around 6:30 tonight.

Early on, there was some general discussion about the possibility of being out between 6 and 7 o'clock. I will remain for any nonrollcall amendments that Senators would like to offer that they think would not require rollcalls. I am only saying that we hope to be finished with the business of the day around 6:30 p.m.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I do not mean to take the floor away from anyone.

The PRESIDING OFFICER. The Senator from Montana controls the floor at this time.

Mr. MELCHER. Mr. President, I yield to the majority leader.

Mr. BYRD. I thank the Senator.

Mr. President, so that all Senators may know what the rest of the day's program will be, I would like to have the last rollcall vote no later than 6 o'clock today. We cannot finish this bill today. There is no necessity to go until 1 or 2 o'clock in the morning in order to have a few days off. I would propose that we close up by 6 o'clock. But I would like to have the final rollcall vote in. Could we have some understanding whereby we could schedule the rollcall vote that the distinguished Senator has in mind and have that vote at no later than 6 o'clock? In the meantime perhaps we could get some agreements, or immediately thereafter would be the best time, some agreements on time on other amendments and perhaps even lock in the sequence of amendments if agreeable to the managers so that on Wednesday of next week when the Senate returns we would have amendments with time agreements thereon. We would have a sequence of amendments so Senators would know when their amendments are going to be called up. There would be a good flow of amendments. Then we could get on with the Senate's business on that Wednesday.

I should state to Senators the Senate will come in at 11 o'clock on Wednesday next. I would hope that the Senate could get on the bill by 11:30 or noontime, no later than that, and that we could resume the consideration of the amendments and perhaps finish action on the bill next Wednesday. It may be doubtful that we can finish on Wednesday because there are a great number of amendments.

I would assume that we could start voting on Wednesday by 2 or 3 o'clock. We could perhaps stack some votes so that we could have some rollcall votes by 2 or 3 o'clock on Wednesday.

Last evening I mentioned something to the effect of 5 o'clock or 5:30, but I was talking about cloture, where one vote might have made the difference, as it would have yesterday if we had gotten it. But on this, there are many amendments. I do not want to see the Senate go through next week without finishing the bill on Wednesday, Thursday, and Friday of next week.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request with regard to the 6 o'clock time?

Mr. BYRD. Not at this time, no.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. MELCHER. I yield to the Senator from Vermont for a question.

Mr. LEAHY. I thank the Senator.

I wonder if I can have the attention of the managers for a moment.

I have a noncontroversial amendment regarding the Robert T. Stafford-George David Aiken Center which could be disposed of in about 1 minute, certainly without a rollcall vote. I would not push it if somebody desired a rollcall vote. I would love to do that this afternoon before a number of people interested in it return to Vermont this weekend.

I wonder if there is any possibility that we might be able to do the Stafford-Aiken matter before this weekend.

Mr. BYRD. I cannot respond to that question. I doubt there will be any problem with it. We will have our floor people run the hotline.

Mr. LEAHY. If the managers were able, we could do it, if everybody would agree, in 49 seconds right now.

The PRESIDING OFFICER. The Senator from Montana retains the floor.

Mr. MELCHER. I yield to the majority leader.

Mr. BYRD. If the Senator from Vermont will withhold that for a moment, let me see if I can get this vote nailed down so that all Senators will know what time the vote will occur today and until what time the Senate will remain in session today.

The pending amendment, I understand, is the fourth excepted committee amendment. That is the amendment on which the rollcall will occur.

Mr. President, I ask unanimous consent that on the DeConcini amendment to the committee amendment, that there be 40 minutes to be equally divided in accordance with the usual form, and that at the conclusion of the 40 minutes or the yielding back thereof, the vote occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. DeCONCINI. Reserving the right to object, let me advise the majority leader that I do not have an amendment. The amendment is pending as the excepted committee amendment. I believe that this is the question that the Senator from Wyoming wants to discuss, whether to strike that amendment. The unanimous-consent request would have to be modified in that regard.

Mr. BYRD. I am sorry, I was mistaken.

Mr. President, I ask unanimous consent that the vote on the fourth excepted committee amendment occur at the conclusion of 30 minutes, that there be 30 minutes for debate on the fourth excepted committee amendment, and that the time be equally divided and controlled in accordance with the usual form, and that the vote on the fourth excepted committee amendment occur at the expiration of 30 minutes.

The PRESIDING OFFICER. Is there an objection?

Mr. LEAHY. Reserving the right to object, and I will not, of course, but would the majority leader be willing to amend that to say that I be allowed to proceed for no more than 2 minutes, assuming nobody asks for a rollcall, on the Stafford-Aiken matter,

Mr. BYRD. Mr. President, will the Senator allow me to get this first?

Mr. LEAHY. Of course.

Mr. BYRD. Before something comes out of the woodwork.

Mr. LEAHY. I withdraw any objection.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Senator from Montana.

Mr. BYRD. Now, will the Senator from Montana allow me——

Mr. MELCHER. Mr. President, I yield to the Senator from Vermont for the purpose of a unanimous-consent request.

Mr. LEAHY. Mr. President, my unanimous-consent request, which I will not now make, would be that I be allowed to proceed right now for no more than 2 minutes, no more than 1 if they want, but, say, no more than 2 minutes on the Stafford-Aiken matter, which I believe has been cleared all around, certainly with Senator BURDICK and Senator COCHRAN and others. There is an offset. It does not add money. I have a brilliant statement which I will then put in the RECORD and then I would move its passage. And if someone were to ask for a rollcall, I would take it down, but I do not think anyone is going to so ask.

Mr. BYRD. Mr. President, I am not in a position to agree to that yet. We will try to get that cleared by the time we vote on the pending amendment. But I hear from my staff that they have not even seen the amendment yet.

Mr. LEAHY. I am sorry; I understood it had been provided.

Mr. BYRD. Mr. President, if the Senator would allow me just 2 minutes now, and I will not ask him to indulge me further.

Mr. MELCHER. I yield.

The PRESIDING OFFICER. The Senate is not in order.

ADJOURNMENT OF THE HOUSE AND SENATE UNTIL WEDNESDAY, MAY 27, 1987

Mr. BYRD. While the assistant Republican leader is on the floor, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 127. This is the adjournment resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 127), providing for an adjournment of the House and Senate from May 21 to May 27, 1987.

The PRESIDING OFFICER. Is there further debate on the concurrent resolution? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 127) was agreed to.

NATIONAL DAY OF MOURNING FOR THE VICTIMS OF THE U.S.S. "STARK"

Mr. BYRD. Mr. President, there is one further message from the House, which designates May 25, 1987, as National Day of Mourning for the Victims of the U.S.S. *Stark*. I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 290.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 290) designating May 25, 1987, as National Day of Mourning for the Victims of the U.S.S. *Stark*.

The PRESIDING OFFICER. Is there further debate on the resolution?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the majority leader for bringing this joint resolution to the floor. I said a few words on it earlier today. I do believe that our Nation is terribly saddened by the loss of life, alarmed that it happened, and hopeful that it will not happen again. We feel deep sorrow for this loss and our hearts go out to the victims' families and loved ones. This joint resolution is tangible proof of that.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on the third reading and passage of the joint resolution.

There being no objection, the joint resolution, House Joint Resolution 290 was ordered to a third reading, was read the third time and passed.

The preamble was agreed to.

Mr. BYRD. I thank all Senators. I particularly thank the Senator from Montana.

SUPPLEMENTAL APPROPRIATIONS, 1987

Mr. MELCHER addressed the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I am going to yield the floor in a moment but before I do it is clear that the amendment that Senator WIRTH and I would like to offer would not be proper tonight because the Senator from Idaho [Mr. MCCLURE] may want to have a rollcall vote on it. Therefore, I ask unanimous consent that on Wednesday after the first vote, or after a series of stacked votes our amendment be in order and I have permission to offer it.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, reserving the right to object, I cannot, unfortunately, clear that on our side of the aisle. I wish I could. But at this point I know there have been some continual holding objections to that type of thing and I would have to clear that. I regret that.

Mr. MELCHER. Mr. President, I withdraw the request. I do not want to make this any more complicated than it is right now. Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I thank the Senator from Montana. It sounded like a rather eminently reasonable request but I have a standing situation here and I regret that. I am sure that can work out. I thank the Senator for withdrawing that request.

Mr. President, if I might ask the majority leader if he could share with us the prospect of any more votes after this next measure relative to the committee amendment.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I think the Senate will have put in a good day and will have accomplished a considerable amount of progress. Inasmuch as we cannot finish this bill today, it would be impossible to do so, I see no reason for us to stay longer than the next rollcall vote. That will be the last rollcall vote, unless it is a very, very close vote and there is a motion to reconsider, a situation we sometimes get into. So I would just warn Senators that in this case we might have to have another vote on reconsideration or tabling.

But barring that, I have no plans to go further today. I think this is in accordance with the wishes of the two managers. But I would like for Senators in the meantime to help us get amendments lined up for the day we return with time agreements thereon so that we put those requests before we go out today.

Mr. SIMPSON. I thank the majority leader very much.

The PRESIDING OFFICER. The question now occurs on the fourth committee amendment. Under the unanimous-consent agreement, all those in favor will indicate——

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I wish to speak against the committee amendment and will move at the appropriate point that it violates rule XVI.

I would share my surprise at the recent action of the Appropriations Committee to attempt to delay the implementation of employer sanctions. Just a very brief argument or two in that cause.

The immigration bill was signed on November 6, 1986. It delayed the effective date of legalization until May 5, 1987. It delayed the enforcement date of employer sanctions until June 1, 1987. If this amendment were to pass, it would cause great disruption in the Immigration Reform and Control Act. The DeConcini amendment, which became part of the committee amendment process by voice vote, would delay these sanctions until October 1, 1987, although legalization has proceeded according to the original schedule.

Now, that distorts terribly the balance that Congress originally intended that somehow sanctions and legalization should begin in a nearly simultaneous mode; after 6 years of hopefully thoughtful legislating it should be kept in that form.

It has been argued that delaying sanctions would reduce confusion in the employer community. I think actually the amendment would have just the opposite effect. Any change or delay in the bill would add to any confusion that may exist. What is going to happen is the INS is going to mail information to the 6.6 million employers of America who have their addresses listed with the IRS.

Now, that is going to go out. That is on its way. There have been countless newspaper stories, countless public addresses given by many Members of Congress, by the original proponents of the bill, Democrats and Republicans alike, Congressman RODINO, FISH, MAZZOLI, LUNGREN, SCHUMER, many more, all of us working on it, Senator KENNEDY, myself. We know what the issue is and we have told America and the American employers. The INS has had literally hundreds of sessions around the country about when the sanctions begin and what is required of employers. Changing the effective date would only undermine and make very useless those efforts.

Finally, the DeConcini amendment would send exactly the wrong signal, I think, to potential illegal immigrants. It would imply that Congress did not really intend to stop illegal immigration, something I believe would be a wholly inaccurate interpretation. We did intend to stop illegal, undocumented immigration; hopefully by closing the back door we could increase our compassion and open the front door to legal immigration. That is what we were up to. So I think the employers of America did know what we were doing. The delay was occasioned by a public relations contract awarded over 1 month ago on the Public Education Program. On April 20, 1987, we had two public service announcements. Thirty major television markets are receiving this information. More radio and television information will be broadcast before June 1, 1987, all about employer sanctions.

The bill states, and I think this is key, that from June 1, 1987, to June 1, 1988—this is critically important—there will be no penalty assessed against any employer before a warning is first given. And in addition, the INS Commissioner, Alan Nelson, gave the following statement for the hearing record of the Immigration Subcommittee:

> During the first citation period, which extends from June 1, 1987, through May 31, 1988, we will not even issue a warning upon discovery of initial violation, if the violation is determined to be the result of misunderstanding of the law.

The education of employers will continue well into the 1-year warning period. Employers need not fear any penalties through mere ignorance or misunderstanding of the law.

I think the DeConcini amendment is unnecessary and inappropriate at this time as it came through the committee process. I say this with the greatest deference to Senator DECONCINI. He and I have had some dazzling scraps in this place—not outside this place, except in committee—and I have the greatest respect for what he does in these issues, especially legal issues, Judiciary Committee issues. But I think this is a bit of an overreaction to what is perceived to be a problem, and it is not actually a problem.

I appreciate the support of Chairman HOLLINGS in the committee, who opposed this amendment.

The administration opposes this delay, citing the problems I mentioned before. There are some serious doubts among those who do back the amendment—I do not speak of Senate colleagues—who have never been of assistance with regard to the immigration bill in any way, and I understand that with some of the organizations in the United States, but most of the business groups have been very supportive and very helpful.

The U.S. Chamber of Commerce, the National Restaurant Association, the major hotel chains, the National Association of Manufacturers, the American Retail Federation, the American Federation of Independent Businesses, the American Farm Bureau, the National Small Business Federation, and many other business groups had an opportunity to comment—and did—on all these employer conditions.

So I say—and I come to a conclusion—that it is very inaccurate to state that U.S. employers are unaware of the effective date of employer sanctions or that they did not have full participation in the regulation-writing process.

In my time here—and there are Senators who have been here much longer than I—I have never seen an agency that presented its regulations to the American public on a draft basis and said: "There, you look at them; then come back, and then we will go through the formal process." I have never seen that in my time in this city.

On January 20, 1987, the INS released the preliminary working drafts of the regulations before publication in the Federal Register to 6,800 groups, and I have just named some of those. Comments were received on that draft from thousands of groups, and the stacked comments were 2 feet high, whatever that means with respect to correctness or incorrectness.

In any event, the proposed regulations were published in the Federal Register on March 19, and over 4,000 comments were received on employer sanctions alone. After publication, there has been full engagement and full information accorded to the employment community.

If we were to delay this by 4 months—and that is the essence of this amendment—then the INS material that has been sent out, sent to the printers May 19, the INS handbook containing all employer instructions—the INS will then mail the employer compliance material to 6.6 million employers on the mailing list. This is the only opportunity to do it, because we have the quarterly employer mailing to do. The information would have to be printed and mailed commercially at great cost—at least $3 million or $4 million.

Thus, the effect of the amendment would be delayed information to employers and new dates. I believe there would be much more confusion in the employer community, and not less.

Today, I announce to my colleagues, in answering employers, the INS has said that the Immigration Service—and this was issued today, and I think it is very important—will not issue any written citations or warnings or take any other enforcement action on the informational and educational activities for failure by employers to have completed their required I-9 employee work eligibility verification forms during the month of June. I think that should relieve the employer community. That should allay employer fears about insufficient information, without disrupting the timetable in the bill and the efforts to educate the people about the new law.

I ask unanimous consent to have the INS statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ALAN C. NELSON

The Immigration Reform and Control Act of 1986, signed into law by President Reagan on November 6, 1986, is being implemented in a gradual, step-by-step manner. The next significant step in this implementation occurs on June 1, 1987, when the employer sanctions provisions of the law go into effect as provided by the law.

In developing the employer sanctions implementation approach, the Immigration and Naturalization Service has emphasized employer cooperation and education efforts to assure a smooth transition for employers to their new responsibilities.

ACCOMPLISHMENTS

To date, the Immigration and Naturalization Service has done the following to communicate with employers about this new law:

Held more than 1,000 meetings with employers and employer groups to discuss the new law;

Reviewed more than 4,000 written comments during the two step comment process on the implementing regulations;

Held five nationally covered news conferences on its provisions;

Conducted hundreds of interviews with the national and local news media and trade press;

Distributed one-half million Employer information brochures, and discussed the provisions of this new law with countless businesses at the local level;

Involved many Employers and labor organizations in the detailed review of the I-9 Form and the Employer Handbook. This included the U.S. Chamber of Commerce, the AFL-CIO, and National Manufacturers Association.

I-9 MAILING

During the month of June, the INS will mail to nearly seven million employers both the I-9 form and a detailed Handbook containing instructions for verifying employment eligibility and for making a record of the verification which will provide complete compliance with the law.

The I-9 form, available through INS offices and other sources, effective June 1st, can be photocopied and used by employers. INS plans to provide wide distribution of this form during the month of June.

PHASED-IN APPROACH

In taking this phased-in approach, the Immigration and Naturalization Service has made, and will make, every effort to encourage voluntary compliance among American Employers.

Consistent with this approach, the Immigration Service will not issue any written citations or take any other enforcement action, beyond informational and educational activities, for failure by employers to have completed the required I-9 employee work eligibility verification forms during the month of June. This action is being taken to ensure that employers have received and reviewed the I-9 form and understand the required procedures.

THREE STEPS

This policy follows a three-step approach which is to be pursued by the INS:

(1) Continued information period to assure employers knowledge and compliance;

(2) A citation period where employers will be issued a citation for "knowingly hiring illegal aliens." As a basic procedure, citations will only be issued after "information contacts" have been made and indications that Employers have received information concerning their new responsibilities and are found out of compliance.

(3) A graduated scale of penalties will be phased in after the employer has been (a) informed of the new requirements, (b) provided the necessary I-9 forms, and (c) given one warning if they are still hiring illegal aliens, or are not in compliance with the paperwork retention requirements.

This is an important law, both for Employers and for America. INS intends to make voluntary employer compliance as practical as possible. Our continued educational efforts during the month of June will inform every American employer about this law and how it applies to them.

Mr. KENNEDY. Mr. President, I want to join Senator SIMPSON in expressing opposition to the proposal by my distinguished colleague, Senator DECONCINI, because I, too, feel it is unnecessary—and at this point in time would add to the very confusion he seeks to avoid. I also feel it is extremely dangerous to open up for amendment key features of the immigration bill we passed last October after 6 agonizing years of debate.

I did not vote in favor of the bill at that time. But it is now the law of the land, and as chairman of the Judiciary Subcommittee on Immigration and Refugee Affairs, I will see to it that it is implemented as Congress intended, and assure, through our oversight responsibilities, that it is implemented effectively and fairly.

It is in this spirit that the subcommittee has already held two oversight hearings on the implementation of the bill. As we all know, Congress gave the Immigration and Naturalization Service an enormous task when we enacted the Immigration Reform and Control Act. It is legislation with far-reaching consequences, and which takes us into some uncharted waters. It also touches every employer and every worker in this country.

It is critically important that there be the greatest possible clarity in the messages that we and the Immigration Service give to employers, particularly as we approach the June 1 date when employer sanctions become law. Therefore, it is my fear that we further confuse the message, rather than clarify it, if we shift the rules of the game at this late hour, which the DeConcini amendment would do.

Many employers in this country have already been told about the new law's provisions—that starting June 1 they have certain paperwork obligations when hiring new employees. In the coming days, almost every employer in the country will have received a packet explaining in simple terms their new responsibilities. So by June 1, most employers should have in their mailboxes a fairly complete explanation of the new requirements.

Some employers, however, may not get the news. Our subcommittee has been concerned about this possibility. Both Senator SIMPSON and I have addressed the Immigration Service about the manner in which its officers will be approaching employer sanctions enforcement over the next 12 months.

I am convinced, following our hearings and subsequent discussions with INS Commissioner Alan Nelson, that the next 12 months will really be an extension of the current education period—a transition period, if you will, between the present and the time next summer when the full weight of employer sanctions will be put in place. Instead of just a 4-month extension, as proposed by Senator DECONCINI, the INS is properly exercising its discretion to permit, in essence, a 12-month extension of the education effort.

As Commissioner Nelson stated to me:

> We are fully cognizant of our responsibilities to educate employers about the law and believe that our education program will dissipate fears and concerns. Our objectives are of an educational rather than a punitive nature. . . . For example, during the first citation period which extends from June 1, 1987, through May 31, 1988, we will not even issue a warning upon discovery of initial violation, if the violation is determined to be the result of a misunderstanding of the law.

And, Mr. President, he has followed this statement with other public statements reinforcing this as INS policy.

In addressing the needs of employers in this careful way, we are also addressing the needs of workers. Employers are going to discriminate and unnecessarily fire employees if there is confusion and fear of overenforcement. We minimize confusion by sticking to the rules of the game which have already been communicated to so many employers. And we reduce employer fears by treading softly on enforcement.

I am satisfied with the assurances we have received on this issue from the Immigration and Naturalization Service. And I can assure my colleagues that we will be watching this matter carefully within the subcommittee. As with any major new law, there is initially some uncertainty in its implementation. I think we all knew in passing the Immigration Reform and Control Act that this was inevitable. But I believe the steps which I have mentioned will serve to control the chaos.

I fear the DeConcini amendment will merely add to it, especially since it is now clear that this supplemental appropriations bill will clearly not be signed into law until well after June 1, making the DeConcini amendment far too late to accomplish its objectives—objectives which INS is already committed to follow in any case.

The PRESIDING OFFICER. The Chair informs Senators that there was 15 minutes on each side at the beginning of the debate on the amendment.

Mr. BYRD. The Senator from Wyoming has consumed 10 minutes. The Senator from Arizona is now recognized.

Mr. DECONCINI. I thank the Senator from Wyoming.

Mr. President, there is no one who has worked harder in the area of immigration than the Senator from Wyoming. He has labored on this issue through three Congresses. Though we have been on opposite sides of this issue, we have joined many times on other legislation. I know that our differences here are based on what we think the effect of this legislation is.

I assure the Senator from Wyoming that it is not this Senator's intention to attempt to repeal this legislation. Though I voted against it and would prefer that it not have been passed, it is the law. I recognize that, and I understand the strong position that the Senator from Wyoming feels he must take to see that the law be implemented on precisely the dates and with the procedures in the law.

It is important, Mr. President, to realize that this law became effective on December 1, 1986. When that happened, it provided for a 6-month period, until June 1, 1987, in which there would be a public information program sponsored by the INS to inform employers as to the significance of the sanctions and what the results would be if they did not comply with this law, and to inform employees who might be caught up as being here without proper authority.

Mr. President, the amendment before us simply extends this period of time for 4 months—nothing more. Why do we do that?

The Senator pointed out that it was not until April 8 that the INS finally contracted with a California firm to carry a public information program. It seems difficult to believe that all public information could be put together and disseminated to the employers of this country by June 1. In fact, it cannot.

I am informed by the Joint Committee on Printing that they talked to the Immigration and Naturalization Service at 3 o'clock this afternoon and were told that the handbook that is to be printed has not been approved in its final form by INS. So it has not been mailed as of today.

How long is it going to take? There are 6.3 million handbooks that are going to be mailed to everyone who gets an IRS quarterly mailing, and the forms will be arriving by June 1 to June 10 at the very best. These sanctions begin on June 1, 1987. So people are going to get this educational information handbook on the very day that the bill becomes implemented.

The Joint Committee on Printing, as I have said, has informed me that GAO has not even received the final form of the book for printing. Current plans are to print a million copies and mail them to the employers, hopefully by express mail, on the 29th of May. They do not have them yet. Two million more will be mailed on June 2. The Government Printing Office has not received the handbook.

So what we have here is an impossible situation in which we are placing employers as well as employees. It is my hope and earnest belief that we would be better served to extend this period for 4 months to let that public information period play out.

The Senator from Wyoming says that they are going to go lightly, that they are only going to look at the Fortune 500 companies, and that the employees should not worry. We have had lawsuits in Texas based on the discrimination of employers in dismissing people because of the fear that they might be caught up in those sanctions.

We have had a court saying employers cannot do that. The reason I raise that point is just to demonstrate the severity of what is going on in this country today with employers and employees because of not knowing that this is the law. I realize it is the law, and it is going to come down and come down hard on a lot of people.

There is tremendous support for this very, very small extension. I have a telegram here. I will ask unanimous consent that it be printed in the RECORD, along with a letter from the American Bar Association.

There being no objection, the telegram and letter were ordered to be printed in the RECORD, as follows:

TELEGRAM

The Immigration Reform and Control Act is a complex new law whose employer sanctions' provisions are misunderstood by employers and the public. The INS has emphasized the need for voluntary compliance from employers and the public for the success of sanctions and to reduce discrimination. Prior to implementation of employer sanctions, Congress mandated a 6-month public education campaign to minimize confusion. This campaign has unfortunately just begun.

The public education campaign is vitally important. The following organizations support the DeConcini amendment to H.R. 1827 providing a 4-month extension of the public education campaign until October 1, 1987.

American Civil Liberties Union;
American Immigration Lawyer's Association;
American Council on Education;
American Council for Nationalities Service;
American Jewish Committee;
American Retail Federation;
American Subcontractors Association;
Association Builders and Contractors;
Association for Regulatory Reform;
Hebrew Immigrant Aid Society (HIAS);
Jim Hightower, Commissioner, Texas Department of Agriculture;
Hispanic National Bar Association;
Kmart Corporation;
League of United Latin American Citizens;
Luthern Immigration and Refugee Service;
Mexican American Legal Defense and Educational Fund;
National Association of Latino Elected and Appointed Officials;
National Association of Manufacturers;
National Council of La Raza;
National Federal of Independent Business;
National Food Processors Association;
National Restaurant Association;
National Retail Merchants Association;
Southwest Voter Registration and Education Project;
The Associated General Contractors of America;
United States Catholic Conference;
U.S. Chamber of Commerce.

AMERICAN BAR ASSOCIATION,
Washington, DC, May 7, 1987.

Hon. DENNIS DECONCINI,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: It is my understanding that the Senate will begin consideration later today of H.R. 1827, the 1987 supplemental appropriations bill. On behalf of the American Bar Association, I am writing to express firm support for your statement to that bill, extending by four months the public education period which precedes enforcement of the employer sanctions provisions of the Immigration Reform and Control Act of 1986.

The American Bar Association has been actively involved in every stage of the immigration reform effort. Although the ABA expressed serious reservations regarding the effectiveness and wisdom of the employer sanctions proposal during consideration of IRCA, we are firmly committed to the successful implementation and enforcement of the new law. It is precisely because of this commitment that the Association regards extension of the public education period as essential.

Congress determined that public misunderstanding with regard to the employer sanctions provisions was likely, and therefore mandated that the relevant federal departments and agencies mount a six-month public education effort—disseminating information regarding sanctions to employers, employment agencies, and organizations representing employees—before the enforcement of these provisions. Notwithstanding the good intentions of the Immigration and Naturalization Service and others, such a six-month effort has not taken place. The education campaign has been very late, with key forms and informational materials only now being made available, and the depth of public confusion which exists today with respect to employer sanctions confirms the Congressional determination of need for adequate education.

In the opinion of the American Bar Association, passage of your amendment to delay enforcement of sanctions until October 1, 1987 will not substantively alter law. It will simply make possible fulfillment of the public education plan already prescribed by Congress in IRCA.

Sincerely,

ROBERT D. EVANS, *Director.*

Mr. DeCONCINI. Why do all these groups support my amendment? Because it is going to give a chance to have an orderly implementation of this very major piece of legislation.

So I think that it would be most helpful if we could adopt this amendment.

Mr. President, I support the 4-month extension of the public information period prior to imposition of the employer sanctions under the Immigration Reform and Control Act of 1987. At the very outset of my statement, I want to stress that I take this step with no intention of attempting to repeal the sanctions provision. I opposed the employer sanctions for many years in this body, but I lost that fight. My efforts today are not to oppose the sanctions, but rather to see them implemented fairly, reasonably and in an atmosphere of understanding and cooperation.

I believe that an extension of the public information period is necessary for two simple reasons. First, we must protect the employees from discrimination and disruption of their employment. Second, we must protect the employers from the confusion and apprehension caused by misinformation and no information. The Immigration and Naturalization Service has announced that it intends to enforce the sanctions law lightly at first. That will tend to help the employers, but it leaves the employees at risk. The I-N-S has also announced that it will focus on "Fortune 500-type companies" at the beginning. I don't think Congress intended that the public information period it required would consist of light enforcement of Fortune 500-type companies.

There is a great deal of evidence of general confusion and misunderstanding concerning the employer sanctions provision of the Immigration Act. The public information provision of the act has not been carried out in the manner that Congress intended. Business Week magazine conducted a national survey that "found widespread evidence that many small and medium-sized businesses are firing alien workers en masse to escape the threat of sanctions . . ." If employers had been adequately informed of their responsibilities under the act, these firings would not have taken place. Business Week went on to conclude that "I-N-S has complicated matters further by failing to mount an effective effort to educate the public about the law."

The Governor's Task Force on Immigration Affairs in New York has found 64 cases of discrimination under the Immigration Act. The report attributes these cases to the absence of Federal regulations interpreting the act, employer ignorance of the provisions of the act, the failure of the Justice Department to appoint a special counsel, and the delay in the promulgation of guidelines for addressing discrimination.

In the United States District Court for the Southern District of Texas, the League of United Latin American Citizens brought suit against a public school district to enjoin the district from dismissing employees who were qualified for legalization. The court granted such injunction to protect the employees future rights. I bring this case up because it should never have been necessary. The activity engaged in by the employer in this case clearly was not contemplated by the act. An adequate public information program, beginning with the November 6, 1986 enactment and continuing until and after June 1, 1987 would have prevented such incidents.

Instead, we find that the public information program is just now beginning. I do not quarrel with the I-N-S decision to focus its attention and resources on the legalization program. Perhaps Congress underestimated the difficulty of implementing two such programs simultaneously. Whatever the reasons for the delay in proper implementation of the public information period, I believe it is in all of our best interest employers, employees, the I-N-S and the American people that it be properly carried out before the sanctions go into effect.

The I-N-S has contracted with a California public relations firm to carry out the public information campaign. The contract was signed on April 8, 1987. In other words, the contract to carry out a 6-months public information period was signed 4 months into the period.

Final regulations for the employer sanctions program were printed on May 1, 1987, exactly 1 month before they go into effect. Handbooks for employers are being written, but are not yet available. The forms that employers will be required to fill out and keep for each employee are not yet available.

The job of preparing for implementing the employer sanctions provision is a very difficult one. I do not mean my remarks to be overly critical of 1-N-S' handling of the program. I am simply convinced that an orderly implementation of the employers sanctions program will not be possible in 1 week. Believe that the I-N-S can do a better job if they are given 4 more months.

Let me briefly respond to a few of the arguments opponents of the extension provision make in attempting to strike it.

They say that the extension sends the wrong message to employers and illegal aliens. I believe that we send the wrong signal by implementing a penalty system before we are prepared when the people affected by it do not understand it, and in conjunction with another complex system which by all accounts also has had its problems in getting off the ground. Let us keep in mind that the extension provision does not delay the date on which it became illegal to knowingly hire an illegal alien. It became illegal to knowingly hire an illegal alien on November 6, 1986. If the extension provision is enacted, it will be just as much a violation to knowingly hire an illegal alien between June 1, 1987 and September 30, 1987 as it was for the 6-month period ending May 30, 1987. After October 1, the employer would be subject to sanctions for knowingly hiring an illegal alien during this entire 10-month period.

Another argument made by the opponents of the extension is that it undermines the balance between enforcement and legalization. I would say again that the extension provision does not delay the date on which it became a violation to knowingly hire an illegal alien. The provision will not further encourage illegal immigration because an individual arriving now will not be eligible for legalization and will subject an employer, after October 1, to sanctions if knowingly hired. The fact is that our immigration policy has always had an imbalance between enforcement and our knowing acceptance and dependence on illegal aliens. If this act corrects this imbalance, let us do it properly.

Finally, opponents argue that there is no justification for the delay. They argue that I-N-S is prepared and that employers are prepared. I-N-S did not issue final regulations until May 1. Forms are not ready for instruction and assistance to employers. Seminars and counsel by I-N-S have not yet begun. It is instructive to read carefully the list of organizations and companies that support the extension. These groups, who we will be relying on in the future to enforce our immigration laws instead of I-N-S, do not feel they are ready yet. The national association of manufacturers, the chamber of commerce, and other business associations report widespread confusion and misinformation among their members.

While the act required a 6-month public information period, that education period has in fact, just begun.

I would be glad to yield at this time to my colleague from Arizona, Senator McCAIN, for 2 minutes.

Mr. McCAIN. I thank my colleague from Arizona, Senator DeCONCINI, the senior Senator from Arizona for introducing this amendment.

Mr. President, when we passed the Immigration Reform Act after 4 years of extremely contentious and divisive debate in both Houses of Congress, we all hoped this issue would be put behind us.

I share the view of my distinguished colleague from Wyoming that all of us did not choose to revisit this issue at any time soon. But I think that it is important to point out here that when we passed the Immigration Reform Act we made certain provisions to ensure that there was an educated public, educated group of Americans on what exactly this bill meant to both employers and employees under this immigration reform bill.

To safeguard against action which would be either discriminatory or unfair to either of those groups, we have incorporated into the bill various provisions to ensure that our concerns would be adequately addressed, but one such provision has not received congressional intent, and I am speaking, Mr. President, that it was of vital importance in the provisions that were to include a 6 months' education period on the employer sanctions provision because of the civil and criminal penalties that our Nation's employers would incur from employing illegal aliens.

As my colleague from Arizona pointed out, there has been no action taken to provide this information to the American people. Indeed, efforts have been made but when you look at the 6-month commitment that was supposed to be made as opposed to what is actually taking place, there is confusion, there is ignorance, and there is misunderstanding throughout the Nation, particularly in the Southwest, where this immigration law most applies and we need, I believe, a brief 4-month respite to provide those citizens with a kind of information they need in order that the Immigration Reform Act can be properly carried out in fairness to all of our citizens.

I appreciate the efforts of my colleagues from Arizona on this very important point.

I might add this does nothing to this bill except give a 4-month breathing period, one that I think is deserved by both employers and employees.

Mr. President, our Nation's immigration problems are back on Congress' front burner. At a time when we are embarking upon our country's most ambitious, but justifiably moral, legalization program, it is necessary for Congress to once again address an inexcusable situation.

We are all well aware of the trials and tribulations endured during our 4 year debate on the contentious immigration reform measure. But I believed then, as I believe now, that our immigration policy and the laws which effectuated this policy were in dire need of immediate reform.

Those involved in the effort to revamp our immigration policy had many varying reasons for doing so, however, we all agreed on a basic premise—institutionalized discrimination as a result of our efforts was unacceptable. We did not want our Nation's predominantly receptive attitudes toward immigrants to give way to imagined evils and ambivalent xenophobic views. To safeguard against such action we incorporated into the immigration reform initiative various provisions to ensure that our concerns would be adequately addressed. But one such provision has not achieved congressional intent.

Congress felt that it was vitally important to include a 6-month education period on the employer sanctions provision because of the evil and criminal penalties our Nation's employer's would incur for employing illegal aliens. But the public information program Congress envisioned has not yet come to fruition. I acknowledge that some information has been disseminated to the public. However, I do not believe we have attained nationwide, a program that clarifies the misunderstanding, confusion, and incertitude that exists in our business community regarding employer sanctions and the role of employers under the new law. Indeed, the campaign the INS had proposed is still on the drawing board.

I did not support the employer sanctions provision to the Immigration Reform Act, but now that it is law, it must be enforced. However, when enforcing this provision we want to make absolutely sure that we penalize those deliberately violating the law and not get bogged down harrassing those who do not comprehend the law's application. That is why we must extend by at least 4 months the public information period of the employer sanctions provision. We must provide our Nation's business community with sufficient time to understand their responsibilities under the new law. This will help ensure a smoother transition into the sanctions era.

In closing, let me reiterate what most of you know. There are many pressures in Mexico, Central America, and other countries that impel illegal immigrants toward the United States. A climate of political uncertainty and endemic fear concerning the future precipitates a continuous migration of people who seek freedom and the economic benefits our great Nation has to offer. Until we solve these conditions, we will not solve our country's illegal immigration problems. But we can eliminate the many problems ignorance creates by supporting the amendment to extend the public education period.

Mr. DECONCINI. Mr. President, I thank the Senator from Arizona for his support and leadership in the area. I talked to this Senator from Arizona. He opposed this legislation when it was before the House. He, like myself, is not trying to kill or diminish the capability of this becoming law. We are trying to make it in a very orderly fashion.

I yield 2 minutes to my distinguished senior Senator from New Mexico.

Mr. DOMENICI. I thank my friend from Arizona.

Mr. President, I rise to support the DeConcini employer sanctions provision in the supplemental appropriations bill. I joined with my good friend, the distinguished senior Senator from Arizona [Mr. DECONCINI], in offering this provision in committee. I also am a cosponsor with the Senator from Arizona of S. 1083, a free-standing bill which is identical to the DeConcini employer sanctions provision.

This provision would extend the public education period prior to the implementation of the employer sanctions provision of the Immigration Reform and Control Act of 1986 for 4 months. Such an extension is essential to assure even a measure of fairness under what is really a bad law.

Let me emphasize that this is not a discussion on the merits of the Immigration Act. I opposed the enactment of the Immigration Act, but that is not the issue here, as the provision extending the education period does not substantively alter the law. The point that needs to be addressed is that extension of the education period is a matter of simple fairness. Employers must comply with the provisions of the Immigration Act mandating that they verify the legal status of all new hires of June 1. The employers, however, haven't been provided with the information and the forms to fulfill their legal obligations yet, and the Immigration and Naturalization Service [INS] has not conducted an adequate education program on the employer sanctions provision, as required by law.

Therefore, rather than penalize employers for the delays in providing the forms and information necessary to meet the requirements of the Immigration Act, we should extend the education period to give INS more time to educate employers and the general public on the requirements of the act.

Last year, I declined to support the Immigration Act for several reasons. First, I thought that it was improper for the Federal Government to place employers in a position where they had to enforce the immigration laws of the country.

Second, I was concerned that increased discrimination againat Hispanics might result from the employer sanctions provision.

Third, I believed the act would not halt the flow of illegal immigration to the United States because it failed to address the cause of illegal immigration: the lack of adequate jobs in the developing countries of the world.

Finally, I believed that the bill would have a devastating effect on the agricultural interests in this country, failing as it did to assure an adequate supply of workers at harvest time.

It does not please me to say this, but events since the bill became law have demonstrated the validity of my concerns:

We have seen an industry spring up to provide phony documents to persons seeking amnesty. We have seen employers fire illegal aliens, even when the act stated clearly that persons already employed could keep their jobs. We have seen allegations of discrimination because of the act. We have seen illegal immigration continue across our borders. We have seen the future of some agricultural interests threatened because our seasonal agricultural worker provisions in the law fail to work for them.

Some changes must be made in this law. Last month, I addressed myself to the draft regulations proposed by the Department of Agriculture on the Special Agricultural Workers Program and the need for the Department to reevaluate them. Earlier this week, I wrote to the Secretary of Labor expressing my opposition to portions of the regulations issued to implement the H-2A program under the Immigration Act because they would devastate agriculture in this country. Additional areas require attention.

One is the effective date for implementing the employer sanctions provision of the act. A first offense under the act makes an employer who knowingly hires illegal aliens subject to a fine of up to $2,000 per illegal alien hired. Employers are also required to keep records on all employees hired after December 1, 1986. Failure to do this properly can result in a $1,000 fine.

Because of the heavy fines that can be levied, the act included a 6-month education period, during which no enforcement actions could take place. During this time, which ends on June 1, the Government was to distribute forms and information to employers, and conduct a public education program about the employer sanctions provisions.

So far, the education effort has been inadequate. The Immigration and Naturalization Service [INS] was to send employers a handbook explaining the employer sanctions provision, plus copies of all the necessary forms, but has yet to do so. The I-9 employment eligibility verification forms won't be made out to employers until June 1 at the earliest, and it will take 20 days to mail the forms to all employers.

In addition, the final regulations and forms to implement the employer sanctions provision were just published less than a month ago. Because of the delay in issuing the final regulations on the employment of unauthorized aliens, the new procedure for verifying the status of new hires are not completely clear nor understood by most employers.

The INS admits that a great deal of ignorance exists about these provisions of the act.

So what should we do? I really do not blame INS for the problem; they have done a reasonable job under very difficult circumstances. But the effort, sadly, has been inadequate. The employers of this Nation should not be held accountable for that.

One key way to ease this situation would be to extend that education period—a period that really has yet to begin—through September. A 4-month extension would give the INS the time it needs to develop and distribute materials that explain just what the law does, and what employers must do to adjust to these important requirements.

Such a solution won't solve the basic problem, but it will ease the difficulties. For this reason, I support the provision extending the education period under the Immigration Act. This provision is also supported by the American Bar Association, the American Civil Liberties Union, the League of United Latin American Citizens, the Mexican American Legal Defense and Educational Fund, the National Association of Manufacturers, the National Federation of Independent Business, and the U.S. Chamber of Commerce, as well as 22 other national legal, civil rights, church, and business organizations.

Mr. President, clearly those of us who support this 4-month extension do so because it is a matter of simple fairness.

Under the immigration bill, we have 6 months before we start to implement the employer sanctions provision. The law is eminently clear. The reason for the 6-month education period is because a lot of work had to be done. Thousands and thousands of American employers, large and small, had to find out what the rules were. We were indeed very specific. We said the INS had to do certain things so that employers would know what the rules were.

It is very difficult to know who is and who is not a legal employee. This is a total change in the workplace for many employers and employees.

The Immigration Service is not to be blamed. They have been so busy that as of June 1, the date that the 6-month education period is supposed to lapse, the information will not even be mailed to employers.

We are asking nothing more than what is fair for thousands and thousands of small and large business owners and employees. Thus we ask for 4 months' delay just as simple as that, urging that all the information and education possible get out there, that the rules get put in concrete so everybody knows what they are.

I know that employers are not going to get fined in the interim, but what businessman or woman wants to get a citation even if it does not carry a fine when they have hardly had enough time to be educated about the rules and regulations and certainly have not gotten the information that we contemplated they would receive under this law.

I hope the Senate will leave this provision in this bill.

I thank my friend from Arizona.

Mr. DeCONCINI. How much time does the Senator from Arizona have?

The PRESIDING OFFICER. The Senator from Arizona has about 3½ minutes remaining.

Mr. DeCONCINI. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, how much time is remaining to this side?

The PRESIDING OFFICER. About 4½ minutes remaining.

Mr. SIMPSON. I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I remember in the waning hours of the Senate in October 1986 I fought against this bill and if others had joined me at that time, it would not be the law of land today. But it is the law of the land.

All over our country hundreds of thousands of people are applying for amnesty and they are getting amnesty.

Now, this was a two-part deal. One was that we set out certain criteria for qualifications for amnesty and the other was we set out employer sanctions for knowingly hiring illegal aliens and we set out a timetable.

And now as the bill is going into effect, as people are lining up getting amnesty, we are in the process of now extending the deadline in terms of employer sanctions coming into effect.

I remind my colleagues it is not a case of anybody being fined for a single infraction today or tommorrow or next month or in fact 12 months from today.

Now, if we are going to start out this law, this very difficult law, by changing the dates, by putting off having to deal with the realities of the law, I submit that we are not going to get the job done.

Finally, I think it is very important that we recognize that there are problems with this law. This law needs to be changed. We do not have a workable agricultural worker program. We need a new H-2 program to allow people to come into the country under reasonable circumstances to work in agriculture. And to simply extend the deadline is, I submit, an open invitation to when we come back to try to correct what is a flawed law, for people to say, "Look, we have already given you an extension; now we are going to enforce the law."

So this was a dual-track process. We have started down the road to amnesty. I think to back up now on our commitment to employer sanctions and to the enforcement of that law is a mistake.

We have over a year during which people are going to get warnings. What we need to be doing is looking at this bill and making changes in law, not delaying implementation but changing the law to get a workable H-2 program in agriculture, to make this thing function.

I think it would be a mistake to start backing up on half of the law, the half that was supported by the American people. General blanket amnesty was never supported by the American people. I would doubt a third of the American people supported it, but it was accepted as part of the process of getting what most people did support and that is enforcement of the law in terms of hiring illegal aliens.

If the law is wrong let us change the law, and I am in favor of doing that, especially in the area of agriculture.

But let us not start backing up on the timetable when half the law is in effect, when amnesty is being granted. Let us not back away from enforcement.

I urge my colleagues to vote to sustain the point of order that this is in fact legislation on an appropriation bill.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wyoming has 1 minute remaining. The Senator from Arizona has 3½ minutes remaining.

Mr. SIMPSON. Mr. President, let me just summarize. That was a powerful statement of the Senator from Texas. It is kind of a rerun for me.

Senators who are speaking on this issue never supported this bill at any time. Here we go again. It is on the books. You have never had better oversight in your life in the U.S. Congress. All the players are still here. Representatives Rodino, Fish, Lungren, Mazzoli, Schumer, Berman; Senators Simpson, Kennedy, Simon. We are all here. We are not going to see this crumble.

But I guess I think somewhere in the debate they miss the point of what has happened today with the INS.

I have submitted into the Record that the Immigration Service will not issue any written citations or warnings or take any other enforcement action and that will be during the month of June so employers are completely off the hook if they fail to complete I-9 employee work eligibility verification forms. Informational and educational activities will be pursued.

I ask unanimous consent to print in the Record the Legislative Alert of the AFL-CIO supporting my position.

It would be absurd to allow the most unpopular part of the bill to go forward and the most popular part of it to suddenly stall in high center. It cannot work. This is not an "extension of education." This is a delay in enforcement. Nothing more.

The INS has said that they would be very careful on employer discrimination. That is one we have heard forever. If employer discrimination takes place under this bill, the bill will be sunsetted. We cannot do any better than that.

The PRESIDING OFFICER. The Senator's time has expired.

Is the Senator seeking unanimous consent to add in the Record that data?

Mr. SIMPSON. I made that request.

There being no objection, the data were ordered to be printed in the Record, as follows:

American Federation of Labor
and Congress of Industrial Organizations,
Washington, DC, May 7, 1987.

Dear Senator: As the Senate considers H.R. 1827, the FY 1987 Supplemental Appropriations bill, we urge your support for an amendment by Senator Simpson to *delete* from the bill an extension of the time period before employers are required to verify the employment eligibility of their workers under the terms of the Immigration Reform and Control Act of 1986.

As the law stands now, employers, on June 1, 1987, will be subject to, first, citation and then, civil penalty if they knowingly hire persons not legally authorized to work in the U.S. This issue of employer sanctions was debated by Congress for more than 6 years before it was finally adopted by the 99th Congress. U.S. employers have known since the law went into effect on November 6, 1986 that it was unlawful to hire undocumented workers. They were given a six-month education and adjustment period under the law. That period of adjustment ends on June 1. There is no evidence that would indicate that the Nation's employers are not ready to abide by the terms of the statute. In fact, an extension of this adjustment time could send the wrong message and weaken the resolve of some to live under the terms of this law.

We appreciate your attention to this issue.

Sincerely,

Robert M. McGlotten,
Director, Department of Legislation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I want to respond to finish that up. I again say there is no one who worked as hard as the Senator from Wyoming to see that this law is the law today.

It is not the intent of this Senator or anyone else who spoke here that I have spoken to that they do not want the law to be implemented. What we would like to do is ease the time and provide for a true public information period of time where people can be educated.

The junior Senator from Texas said if we just joined him. I was there. I was there joining him in opposition to this. Right today it is illegal for an employer to hire someone. That is the law today.

That is the law today. It is already in effect. We have a public information period until June 1 when there will be no citations and no sanctions imposed. And now we have the word of INS. I am not here to criticize and tear down the INS, but I must say I would much rather see the law very clear and say that there are 4 months or until October until the INS can go out there and impose sanctions.

How would you like to be a businessperson and have sanctions against you? Do you think that would not hurt your business, particularly when you have not even received the handbook that will tell you what the law is and how you will go about complying with that law.

It will not be until well into June, after the effective date of these sanctions, before these handbooks and information are available to employers.

So I implore my colleagues that this is not an effort to undo the fine work the Senator from Wyoming has done and labored through many Congresses. It is merely to grant fairness, because the INS is unable to get the education out to provide a public information period until June 1; that is, the handbooks and information are not even available today.

This would merely extend that 4-month period when people would have some idea of what the law is and what the effectiveness of this law would be. The law is going to come on, and all we are asking is for fairness. I think that is something that this body could easily accept.

Mr. President, I am ready for a vote. Would the Senator from Wyoming care to just have an up or down vote on the amendment?

Mr. SIMPSON. Mr. President, originally, I intended to make the point of order that the committee amendment would have violated rule XVI and that it was legislation on an appropriation bill. But I believe, under the form of the amendments presented by the committee, that, under the time agreement, that would not lie. So I think this would be then the vote on the amendment—and I would intend to vote no—and it will appear to our colleagues in that form.

Mr. DeCONCINI. A parliamentary inquiry on whatever time I have left, if the Senator would yield. We are going to have an up-or-down vote, yea or nay. If you support the position of the Senator from Arizona, you vote yea. If you oppose it and support the Senator from Wyoming's position, you vote no.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Handbook for Employers be printed in the Record. That has been issued.

There being no objection, the handbook was ordered to be printed in the Record, as follows:

HANDBOOK FOR EMPLOYERS

INSTRUCTIONS FOR COMPLETING FORM I-9 (EMPLOYMENT ELIGIBILITY VERIFICATION FORM)

To American Employers: When the Congress passed and the President signed into law the Immigration Reform and Control Act of 1986, the result was the first major revision of America's immigration laws in decades. The new law seeks to preserve jobs for those who are legally entitled to them: American citizens and aliens who are authorized to work in our country.

The Immigration and Naturalization Service is responsible for implementing this new law. Public cooperation is crucial to the success of this national effort.

Put briefly, the laws says that you should hire only American citizens and aliens who are authorized to work in the United States. You will need to complete and retain a one page form (I-9) contained in this packet, which verifies employment eligibility of anyone hired after November 6, 1986.

We have worked to make the process as simply as possible. This handbook provides a step-by-step explanation of what you must do. We hope you will find it helpful.

All Americans stand to benefit from the successful implementation of the Immigration Reform and Control Act. We seek your cooperation.

PART ONE—WHY EMPLOYERS MUST VERIFY EMPLOYMENT ELIGIBILITY OF NEW EMPLOYEES

The Immigration Reform and Control Act of 1986 is the most comprehensive reform of our immigration laws since 1952. In recent years, our nation has been increasingly affected by illegal immigration. This law, passed by Congress through a bipartisan effort, preserves our tradition of legal immigration while closing the back door to illegal entry. By combining prohibitions against employing illegal entrants with increased border enforcement, the law represents a step forward in the effort to secure our nation's borders.

Employment is the magnet that attracts persons to come to or stay in the United States illegally. The purpose of the new law is to remove the magnet by requiring employers to hire only citizens and aliens who are authorized to work here.

This new law was strongly supported by the American public. Employers will want to join the effort to protect our heritage of legal immigration and to preserve jobs for those who are legally entitled to them. This cooperation will make jobs available to American citizens and to aliens who are authorized to work in our country. It also can be a means to help people get off welfare and into jobs. The law deserves your support.

The Form I-9 has been developed for verifying that persons are eligible to work in the United States. The following instructions will help you assess your responsibilities for completing the Form and understanding the law.

The law requires you as an employer to do five things:

1. Have your employees fill out their part of the Form I-9 when they start to work.
2. Check documents establishing employees' identity and eligibility to work.
3. Properly complete the Form I-9.
4. Retain the Form for at least three years (if you employ the person for more than three years, you must retain the Form until one year after the person leaves your employment.
5. Present the Form for inspection to an INS or Department of Labor (DOL) officer (you will be given at least three days' advance notice).

PART TWO—WHEN YOU MUST COMPLETE FORM I-9

If you employ persons to perform labor or services in return for wages or other pay, you must complete form I-9 for:

Persons hired after May 31, 1987. For these employees, you must complete a Form I-9 within three business days of the date of the hire. (If you employ the person for less than three days, you must complete the Form I-9 before the end of the employee's first working day.)

Persons hired between November 7, 1986 and May 31, 1987. For these employees, you must complete Form I-9 before September 1, 1987.

Note: If you employ people for domestic work in your private home on a regular (such as weekly) basis, these requirements also apply to you.

You do not need to complete form I-9 for:

Persons hired before November 7, 1986.

Persons hired after November 6, 1986, who left you employment before June 1, 1987.

Persons you employ for domestic work in a private home on an intermittent or sporadic basis.

Persons who provide labor to you who are employed by a contractor providing contract services (e.g., employee leasing).

Persons who are independent contractors.

Persons who are self-employed do not need to complete Form I-9.

PART THREE—HOW TO COMPLETE FORM I-9

Form I-9 contains two sections. The employee completes the first section (Steps 1, 2, and 3). If a preparer or translator assists the individual, he or she completes Step 4. The second section (Steps 5 and 6) should be completed by the employer.

When completing the Form I-9, the employee will need to provide a document or documents that establish identity and employment eligibility. Some documents establish both identity and employment eligibility. These documents appear in List A on the bottom half of the Form. Other documents establish identity alone (List B) or employment eligibility alone (List C). If the person does not provide a document from List A, he or she must produce one from List B and one from List C. A complete list of acceptable documents appears in Part Nine.

The employer should review the document or documents provided by the person. Documents should appear to be genuine and to relate to the individual.

If employees cannot complete Section 1 by themselves or need the Form translated, someone may assist them. The preparer or translator should read the Form to the employee, help with Step 1 and Step 2 as needed, have the employee sign or mark the Form, and follow Step 4.

If an employee indicates that he or she intends to or has applied for legalization. Specialization Agricultural Worker (SAW), or Cuban/Haitian entrant status, the employee is covered by a "special rule" and the employer should follow the instructions on page 4.

If a minor (under age 16) cannot produce a List A document or one of the identity documents listed in Part Nine (List B), he or she is exempt from producing one if: (1) a parent or legal guardian completes Section 1 and writes in the space for the minor's signature the words, "minor under age 16;" (2) the parent or legal guardian completes the "Preparer/Translator Certification;" and (3) the employer writes in Section 2 the words, "minor under age 16" under List B in the space after the words "Document Identification #." If this procedure is followed, the minor must still produce a List C document showing employment eligibility.

Section 1: To be completed by the employee:

(Material not reproducible in the Record.)

Section 2: To be completed by the employer:

(Material not reproducible in the Record.)

How to fill out form 1-9 if the special rule applies:

The new immigration law also provides that certain qualified aliens who have resided illegally in the United States can legalize their status. In order to legalize their status, aliens must apply under the legalization, Special Agricultural Worker (SAW), or Cuban/Haitian entrant programs.

Employers may hire applicants or prospective applicants for legalization, SAW, or Cuban/Haitian intrant status. Until September 1, 1987, these applicants are covered by a "special rule" that authorizes them to work without providing employment eligibility documents. "Special rule" employees will need to fill out the I-9 as shown below and provide one of the specified documents that establish identity (see List B in Part Nine). The employer should review the identity document. It should appear to be genuine and to relate to the individual.

After September 1, 1987, the "special rule" expires, and these applicants will need to show a work authorizatoin document to be hired or to continue to work. Employers must update the Form I-9 by recording the work authorization.

(Material not reproducible in the Record.)

Employment eligibility verification (Form I-9)

(Material not reproducible in the Record.)

Employment Eligibility Verification

Notice: Authority for collecting information on this form is Title 18, United States Code, Section 1324A, which requires employers to verify employment eligibility of individuals on a form approved by the Attorney General. This form will be used to verify the individual's eligibility for employment in the United States. Failure to present this form for inspection to officers of the Immigration and Naturalization Service or Department of Labor within the time period by regulation, or improper completion or retention of this form, may be a violation of the above law and may result money penalty.

Section 1. Instruction to Employee/Prepare for completing form

Instructions for the employee:

All employees, upon being hired, must complete Section 1 of this form. Any person hired after November 6, 1986 must complete this form. (For the purpose of completion of this form the term "hired" applies to those employed, recruited or referred for a fee.)

All employees must print or type their complete name, address, date of birth, and Social Security Number. The block which correctly indicates the employee's immigration status must be checked. If the second block is checked, the employee's Alien Registration Number must be provided. If the third block is checked, the employee's Alien

Registration Number or Admission Number must be provided, as well as the date of expiration of that status, if it expires.

All employees whose present names differ from birth names, because of marriage or other reasons, must print or type their birth names in the appropriate space of Section 1. Also, employees whose names change after employment verification should report these changes to their employer.

All employees must sign and date the form.

Instructions for the preparer of the form, if not the employee:

If a person assists the employee with completing this form, the preparer must certify the form by signing it and printing or typing his or her complete name and address.

Secton 2. Instructions to Employer for completing this form

(For the purpose of completion of this form, the term "employer" applies to employers and those who recruit or refer for a fee.)

Employers must complete this section by examining evidence of identity and employment eligibility, and; checking the appropriate box in List A or boxes in both Lists B and C; recording the document identification number and expiration date (if any); recording the type of form if not specifically identified in the list; signing the certification section.

Note: Employers are responsible for reverifying employment eligibility of employees whose employment eligibility documents carry an expiration date.

Copies of documentation presented by an individual for the purpose of establishing identity and employment eligibility may be copied and retained for the purpose of complying with the requirements of this form and no other purpose. Any copies of documentation made for this purpose should be maintained with this form.

Name changes of employees which occur after preparation of this form should be recorded on the form by lining through the old name, printing the new name and the reason (such as marriage), and dating and initialing the changes. Employers should not attempt to delete or erase the old name in any fashion.

Employers may photocopy or reprint this form as necessary.

Retention of Records.

The completed form must be retained by the employer for: three years after the date of hiring; or one year after the date the employment is terminated, whichever is later.

PART FOUR—UNLAWFUL DISCRIMINATION

The new immigration law also prohibits discrimination. Under this law, if you have four or more employees, you may not discriminate against any individual (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or, in the case of a citizen or intending citizen, because of his or her citizenship status.

Title VII of the Civil Rights Act of 1964 and the remedies against discrimination it provides also remain in effect. Title VII prohibits discrimination against any individual on the basis of national origin in hiring, discharge, recruitment, assignment, compensation, and other terms and conditions of employment with respect to employers subject to its coverage. Claims of national origin discrimination against employers with fifteen or more employees should be filed with the Equal Employment Opportunity Commission.

Under the new immigration law, charges of national origin discrimination against employers with four through fourteen employees and charges of citizenship discrimination against employers with four or more employees should be filed with the Office of Special Counsel in the Department of Justice. Discrimination charges may be filed either by persons who believe they were discriminated against in employment on the basis of national origin or citizenship status (or by a person on their behalf) or by INS officers who have reason to believe that discrimination has occurred. Discrimination charges must be filed within 180 days of the discriminatory act. The Office of the Special Counsel will notify the employer by certified mail within ten days upon receipt of a charge of discrimination. After investigating the charge, the Special Counsel may file a complaint with an administrative law judge. If the Special Counsel does not file a complaint within 120 days of receiving the charge, the person making the charge (other than an INS officer) may initiate filing a complaint with an administrative law judge. The administrative law judge will conduct a hearing and issue a decision.

Employers found to have engaged in discriminatory practices under the new immigration law will be ordered to stop the prohibited practice. They may also be ordered to hire, with or without back pay, individuals directly injured by the discrimination; pay a fine of up to $1,000 for each individual discriminated against (up to $2,000 for each such individual in cases of employers previously fined); and keep certain records regarding the hiring of applicants and employees. If a court decides that the losing party's claim has no reasonable basis in fact or law, the court may award attorneys' fees to prevailing parties other than the United States.

For more information concerning the antidiscrimination section of the new immigration law, write the Office of the Special Counsel for Immigration-Related Unfair Employment Practices, P.O. Box 65490, Washington, D.C. 20035-5490.

For more information on Title VII and policies and procedures of the Equal Opportunity Commission, call 1-800-USA-EEOC.

PART FIVE—PENALTIES FOR PROHIBITED PRACTICES

1. Civil Penalties

If an investigation reveals that an employer has violated the new immigration law with respect to employees hired after November 6, 1986, INS may take action. During the first year of implementation (June 1, 1987-May 31, 1988) INS will continue to assist employers in complying with the law. In addition, INS will only issue a citation for first violations. Further violations during this period may result in the penalties described below. When INS intends to impose those penalties, the Service first issues a Notice of Intent to Fine. Employers who receive a Notice may request a hearing before an administrative law judge. If a hearing is not requested within 30 days, the penalty will be imposed. After May 31, 1988, INS will no longer issue warning citations, and first violations may result in penalties.

Hiring or continuing to employ unauthorized employees. Employers determined to have knowingly hired unauthorized employees (or to be continuing to employ persons knowing that they are or have become unauthorized) may be fined as follows:

First Violation. Not less than $250 and not more than $2,000 for each unauthorized employee.

Second Violation. Not less than $2,000 and not more than $5,000 for each unauthorized employee.

Subsequent Violations. Not less than $3,000 and not more than $10,000 for each unauthorized employee.

Failing to comply with record-keeping requirements. Employers who fail to properly complete, retain, and present for inspection the Form I-9 as required by law face civil fines of not less than $100 and not more than $1000 for each employee for whom the Form was not completed, retained, or presented. In determining penalties, consideration shall be given to the size of the business, good faith efforts to comply, the seriousness of the violation, and whether the violation involved unauthorized employees.

Requiring indemnification. Employers found to have required a bond or indemnity from an individual against liability under the new law may be fined $1000 and ordered to make restitution, either to the person who was required to pay the indemnity, or, if that person cannot be located, to the United States Treasury.

Recruiting unauthorized seasonal agricultural workers outside the United States. Employers who knowingly recruit unauthorized workers outside the United States to perform seasonal agricultural labor face the same penalties as for hiring unauthorized workers, unless the workers recruited have been granted seasonal Agricultural Worker (SAW) status.

2. Criminal Penalties.

Engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized employees. Employers convicted for having engaged in a pattern or practice of knowingly hiring unauthorized aliens after November 6, 1986, may face fines of up to $3000 per employee and/or six months imprisonment. The same penalties apply to engaging in a pattern or practice of recruiting unauthorized seasonal agricultural workers outside the United States. Criminal sanctions will be reserved for serious or repeated violations.

Engaging in fraud or false statements, or otherwise misusing visas, immigration permits, and identity documents. Persons who use fraudulent identification or employment eligibility documents or documents that were lawfully issued to another, or who make a false statement or attestation, for purposes of satisfying the employment eligibility requirements may be imprisoned for up to five years or fined or both.

PART SIX—TIMETABLE FOR EMPLOYER VERIFICATION REQUIREMENTS

December 1, 1986 through May 31, 1987

Public Education Period. This is an initial period established by law for the publication of regulations and dissemination of forms and information. During this period, citations are not issued and fines are not levied.

June 1, 1987 through May 31, 1988

Citation Period. This is a one-year period for public education and enforcement. INS will work with employer associations, labor unions, and others to provide assistance, develop voluntary cooperation, and encourage efforts to hire legal employees. Penalties are not imposed for first-offense violations during this time, and a warning citation is issued which explains the nature of the violation. For subsequent or repeated violations, civil or in some cases criminal penalties can be imposed.

June 1, 1987 through September 1, 1987

Special Rule Period. Employers may hire or continue to employ employees who attest on the Form I-9 that they have applied or intend to apply for legalization, Special Agricultural Worker, or Cuban/Haitian status even if the workers have not yet received authorization documents from the INS.

June 1, 1988

Effective Date for Full Enforcement. As of this date, citations will no longer be issued for first violations. Employers who violate the law may face civil or criminal penalties.

June 1, 1987 through November 30, 1988

Deferral Period for Employers of Seasonal Agricultural Workers. Penalties will not apply to employers of seasonal agricultural workers during this period. This deferral does not apply to the prohibition against recruitment of unauthorized employees who are outside the United States. As of December 1, 1988, INS will begin full enforcement of the law with respect to these agricultural employers.

PART SEVEN—INSTRUCTIONS FOR RECRUITERS AND REFERRERS FOR A FEE

The provisions of the new law that apply to employers also aply to those who recruit persons and refer them to potential employers in return for a fee and those who refer or provide-documents or information about persons to employers in return for a fee. The provisions do not apply to persons who recruit for their own company or business. In addition, union hiring halls that refer union members or nonunion individuals who pay membership dues are not considered to be recruiters or referrers for a fee.

Recruiters and referrers for a fee are not required to verify the status of persons referred between November 6, 1986, and May 31, 1987. Starting June 1, 1987, they should complete Form I-9 when a person they refer to an employer is hired by that employer. The Form should be completed within three business days of the hire.

Recruiters and referrers may designate agents to complete the verification procedures on their behalf, such as notaries, national associations, or employers. If the employer who hires the referred individual is designated as the agent, the employer needs only to provide the recruiter or referrer with a photocopy of the Form.

Recruiters and referrers must retain the Form I-9 for three years after the date the referred individual was hired by the employer. They must also present Forms for inspection to an INS officer after three days' advance notice.

The penalties described in Part Four apply to recruiting and referring unauthorized employees for a fee which occurs after May 31, 1987.

PART EIGHT—SOME QUESTIONS YOU MAY HAVE ABOUT THE FORM I-9

Q. Do United States citizens need to prove they are eligible to work?

A. Yes. While United States citizens are automatically eligible for employment, they too must provide the required documents and complete the Form I-9.

Q. Do I need to complete an I-9 for everyone who applies for a job with my company?

A. No. You need to complete I-9's only for people you actually hire. For purposes of the new law, a person is "hired" when he or she begins to work for you.

Q. If someone accepts a job with my company but will not start work for a month, can I complete the I-9 when the employee accepts the job?

A. Yes. While the law requires you to complete the I-9 when the person actually begins working for you, you may complete the Form when he or she accepts the job.

Q. Do I need to fill out an I-9 for independent contractors or their employees?

A. No. For example, if you contract with another company to provide temporary secretarial services, you do not have to complete I-9's for that company's employees. The other company is responsible for completing the I-9's for its own employees. However, you must not knowingly use contract labor to circumvent the law against hiring unauthorized workers.

Q. Do I need to complete an I-9 for people I hired after November 6, 1986, if they left the job before June 1, 1987?

A. No.

Q. Does the new law apply to my current employees if I hired them before it was passed?

A. No. You are not required to verify status or complete I-9's for current employees hired before November 7, 1986. However, if you choose to complete I-9's for these employees, you should do so for all your current employees hired before November 7, 1986.

Q. What if a current employee was hired before November 7, 1986, but has recently taken an approved leave of absence?

A. You do not need to complete an I-9 for that employee if he or she was temporarily absent from work for approved paid or unpaid leave, strike, or temporary layoff, or was transferred to another location of your business. However, if the employee quit or was terminated, you should complete an I-9 as you would for others hired after November 6, 1986. You must also verify employment eligibility and complete an I-9 if an employee leaves or is removed from the United States because of an order by a judge or INS.

Those conditions also apply to employees hired after November 7, 1986. Once you have completed an I-9 for those employees, you will not need to fill out a new Form if they have a temporary absence for approved leave, strike, layoff, or transfer.

Q. Will I be subject to employer sanctions penalties if a current employee I hired before November 7, 1986, is an illegal alien?

A. No. You will not be subject to employer sanctions penalties for merely retaining in your workforce an illegal alien hired before November 7, 1986. The fact that an illegal alien was on your payroll before November 7, 1986, does not give him or her any right to remain in the United States. Unless the alien is legalized or otherwise obtains permission from INS to remain in the United States, he or she is subject to apprehension and removal.

Q. What should I do if illegal alien employees ask me to help them in legalizing their status?

A. You can assist past and present employees who may qualify by providing documentation of employment history. Employment documentation furnished by employers and presented by legalization applicants will be used only to determine the applicant's eligibility for legal status. The government will not use the documents against the employer except in cases of fraud by the employer.

If aliens do not know how to apply for legal status, they may be able to get help from various organizations, such as churches, community groups, or business associations, which have been designated by INS to advise aliens and help them prepare applications.

You can also advise them that the Internal Revenue Service (IRS) may be able to provide them with documentation to verify residence. To obtain this documentation, employees should contact IRS in person or by correspondence to the service center where they filed their tax return(s). A letter to IRS should include name, address of filing, social security number (both spouses' numbers if a joint return was filed), tax year or years required and copies of any correspondence received from IRS relating to the requested years. IRS will then issue them a Form 6166 (Certification of Filing a Tax Return) if the tax information is verifiable.

Q. May I specify which documents I will accept for verification?

A. No. You must accept any document or combination of documents listed on the I-9 or in Part Nine of this Handbook that appear to be genuine.

Q. What should I do if the person I hire is unable to provide the required documents within three days?

A. If an employee is unable to provide the required document or documents, within three days he or she must at least produce a receipt showing that he or she has applied for the document. The employee must produce the document itself within 21 days of the hire.

Q. What is my responsibility concerning the authenticity of documents?

A. You should examine the documents and if they appear to be genuine on their face and to relate to the person, you should accept them. If on their face the documents do not appear to be genuine or to relate to the person, you should not accept them. In addition, if the work authorization documents carry restrictions, you should abide by them.

Q. What identity documents are acceptable for minors?

A. You should also be aware that any social security number starting with a "9" is an invalid number. Employees who are using such numbers should be instructed to get a proper social security number using Form SS-5, available from the Social Security Administration.

If the minor does not have any of the identity documents listed in Part Nine, he or she does not have to produce an identity document if a parent or legal guardian completes the appropriate sections of the Form for the minor.

Q. When do I fill out the I-9 if I hire someone for less than three days?

A. Some time before the end of the employee's first working day. If the person is providing intermittent domestic service in your home, how do not need to complete an I-9.

Q. What if the person I hire after November 6, 1986, is an illegal alien who has applied or intends to apply for legalization?

A. There is a "special rule" for these applicants. Up until September 1, 1987, you should fill out the I-9 as illustrated on page 4.

After September 1, 1987 even these aliens must provide work authorization documents and you should update the I-9 to reflect the authorization.

Q. What if I rehire someone who previously filled out an I-9?

A. You don't need to complete a new I-9 if you rehire the person within three years of the initial hire, and the information on the

Form indicates that the person is still authorized to work.

Q. What do I do when an employee's work authorization expires?

A. You will need to update the I-9 if you want to continue employing the person. At that time, the employee must present a document that either shows an extension of employment eligibility or that is a new grant of work authorization. If the employee cannot produce such a document, that person is no longer eligible to work. Continuing to employ that a person is a violation of the law, even if the employee was previously authorized to work.

Q. As an employer, do I have to fill out all the I-9's myself?

A. No, you may designate someone to fill out the Form for you such as a personnel officer, foreman, agent, or anyone else acting in your interest. However, you are still responsible for compliance with the new law.

Q. Can I contract with someone to complete I-9's for my business?

A. Yes. You can contract with another person or business to verify employees' work eligibility and complete the I-9's for you. If you do so, of course, you are still responsible for the contractor's actions and could be liable for any violations of the new law.

Q. As an employer, can I negotiate my responsibility to complete the I-9's in a collective bargaining agreement with a union?

A. Yes. You are still responsible for compliance with the new law.

Q. When I review the identity and work authorization documents, should I make photocopies of them?

A. The law does not require you to photocopy documents. However, if you wish to make photocopies, you must retain them with the I-9. Photocopies must not be used for any other purpose.

Q. What are the requirements for retaining the I-9?

A. You must retain the Form for at least three years. If you employ the person for more than three years, you must retain the Form for one year after the person leaves your employment.

Q. Will I get any advance notice if an INS or DOL officer wishes to inspect my I-9's?

A. Yes. The officer will give you at least three days' advance notice before the inspection. He or she will not need to show you a subpoena or warrant at that time. Failure to provide the I-9's for inspection could result in civil money penalties.

Q. What happens if I do everything the new law requires and INS discovers that one of my employees is not actually authorized to work?

A. Unless the government can show that you had actual knowledge of the illegal status of the employee, you will have an affirmative defense against the imposition of employer sanctions penalties if you have done the following things:

Had employees fill out their part of the I-9 when they started to work:

Checked the required documents (they should appear to be genuine and to relate to the individual);

Properly completed the I-9;

Retained the Form for the specified time; and

Presented the Form upon request to an INS or Department of Labor officer (you will receive at least three days' advance notice).

Q. How can I avoid discrimination while complying with the new immigration law?

A. Employers can avoid discrimination by applying the verification procedures of the Act to all newly hired employees and by hiring without respect to the national origin or citizenship status of those authorized to work in the United States. Seeking identity and employment eligibility documents only from individuals of a particular national origin or from those who appear or sound foreign violates the new immigration law and may also be a violation of Title VII of the Civil Rights Act of 1964. Employers should not discharge present employees, refuse to hire new employees, or otherwise discriminate on the basis of foreign appearance, language, or name. It is also a violation of Title VII to discriminate against employees or applicants for employment on the basis of national orgin.

Q. I have heard that state employment agencies can certify that people they refer are eligible to work. Is that true?

A. Yes. State employment agencies may elect to provide individuals they refer to employers with a certification of employment eligibility. If one of these agencies refers employees to you and an employee presents you with one of these certifications, you do not have to check documents or complete I-9 and present it for inspection if requested. Employers who hire people referred by state employment agencies should become familiar with what an authorized state employment agency certification looks like.

Q. Where can I get the Form I-9?

A. There are copies of the Form I-9 in this Handbook. If you need more, you can photocopy or print the Forms. You may obtain a limited number of copies from INS. Or you may order them in bulk from the Superintendent of Documents at the following address:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Tel. (202) 783-3238).

Q. What if one of my employees tells me that his or her Social Security Number is invalid?

A. You should tell the employee to get a proper Social Security Number by completing a Form SS-5. This Form is available from the Social Security Administration. You do not need to amend your employment tax returns. However, when the employee gives you the new number, you should file Form W-2C with the Social Security Administration for the years in which you reported income and withholding under the incorrect number.

Q. What advice should I give to my employees applying to legalize their status concerning the Federal Tax obligations?

A. You can advise employees that when they apply to INS for permanent resident status, they will be given an IRS publication explaining requirements for filing Form W-4 or W-4A to insure correct withholding of tax on wages, procedures for correcting prior year tax records (if an invalid social security number was used) and other guidelines relating to tax benefits.

Q. What advice should I give to newly-hired employees who ask about their Federal income tax obligations?

A. First, you can tell them it is important to have a valid social security number and to properly complete a W-4 or W-4A so that the employer can withhold the proper amount for income tax. Second, you can encourage employees to apply for social security numbers for their dependent children who will be five years old or older by the end of the year. Beginning in 1987, such numbers are required to be provided for dependents claimed on tax returns.

PART NINE—ACCEPTABLE DOCUMENTS FOR VERIFYING EMPLOYMENT ELIGIBILITY

The following documents have been designated for determining employment eligibility by the Immigration Reform and Control Act of 1986 and the implementing regulations. As stated in Part Two, the employee will need to provide a document or documents that establish identity and employment eligibility. A complete list of acceptable documents is given below. Samples of acceptable documents appear on the following pages.

Some documents establish both identity and employment eligibility. These are listed on the Form I-9 under List A, "Documents that Establish Identity and Employment Eligibility."

If a person does not provide a document for List A he or she must provide one document that establishes identity and one document that establishes employment eligibility.

In order to establish identity, the person must provide a state-issued driver's license, a state-issued identification card, or one of the other documents in List B, below.

In order to establish employment eligibility, the person must provide a Social Security card, a United States birth certificate, or one of the immigration documents in List C, below.

If an employee is unable to provide the required document or documents within three days, he or she must at least produce (within three days) a receipt showing that he or she has applied for the document. The employee must produce the document itself within 21 days of the hire.

List A—Documents that establish identity and employment eligibility

United States Passport

Certificate of United States Citizenship. (INS Form N-560 or N-561)

Certificate of Naturalization. (INS Form N-550 or N-570)

Unexpired foreign passport which:

Contains an unexpired stamp which reads "Processed for I-551. Temporary Evidence of Lawful Admission for permanent residence. Valid until ——. Employment authorized;" or

Has attached thereto a Form I-94 bearing the same name as the passport and contains an employment authorization stamp, so long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Form I-94.

Alien Registration Receipt Card (INS Form I-151) or Resident Alien Card (INS Form I-551), provided that it contains a photograph of the bearer.

Temporary Resident Card. (INS Form I-688).

Employment Authorization Card. (INS Form I-688A)

List B—Documents that establish identity

For individuals 16 years of age or older:

State-issued driver's license or state-issued identification card containing a photograph. If the driver's license or identification card does not contain a photograph, identifying information should be included, such as name, date of birth, sex, height, color of eyes, and address.

School identification card with a photograph

Voter's registration card

United States Military card or draft record

Identification card issued by federal, state or local government agencies

Military dependent's identification card

Native American tribal documents

United States Coast Guard Merchant Mariner Card

Driver's license issued by a Canadian government authority

For individuals under age 16 who are unable to produce one of the documents listed above:

School record or report card

Clinic doctor or hospital record

Daycare or nursery school record

List C—Documents that establish employment eligibility

Social Security number card, other than one which has printed on its face "not valid for employment purposes."

Note: This must be a card issued by the Social Security Administration; a facsimile (such as a metal or plastic reproduction that people can buy) is not acceptable.

An original or certified copy of a birth certificate issued by a state, county, or municipal authority bearing an official seal.

Unexpired INS employment authorization.

Unexpired re-entry permit. (INS Form I-327).

Unexpired Refugee Travel Document. (INS Form I-571).

Certification of Birth issued by the Department of State. (Form FS-545).

Certification of Birth Abroad issued by the Department of State. (Form DS-1350).

United States Citizen Identification Card. (INS Form I-197).

Native American tribal document.

Identification Card for use of Resident Citizen in the United States. (INS Form I-179).

Document list A.

Certificate of United States Citizenship N-560

Issued by INS to individuals who derived citizenship through parental naturalization; acquired citizenship at birth abroad through a United States parent or parents; acquired citizenship through application by United States citizen adoptive parents; and who, pursuant to section 341 of the Act, have applied for a certificate of citizenship.

(Material not reproducible in the Record.)

Certificate of Naturalization N-550 or N-570

Issued by INS to naturalized United States citizens.

(Material not reproducible in the Record.)

I-94 Arrival-Departure Record

Arrival-departure record issued by INS to nonimmigrant aliens and attached to an unexpired foreign passport. An individual in possession of this document may only be employed if the document bears an employment authorization stamp. The expiration date is noted on the face of the document.

(Material not reproducible in the Record.)

Alien Registration Receipt Card I-151

Issued by INS prior to June 1978, to lawful permanent resident (lawful immigrant) aliens. Valid indefinitely, this card is also commonly referred to as a "green card."

(Material not reproducible in the Record.)

Resident Alien Card I-551

Issued by INS to lawful permanent resident (lawful immigrant) aliens. Valid indefinitely, this card is commonly referred to as a "green card" and is a revised edition of Form I-151.

(Material not reproducible in the Record.)

Temporary Resident Card I-688

Issued by INS to applicants for temporary resident status after their interview for legalization or SAW status. It is valid until the expiration date stated on the face of the document.

(Material not reproducible in the Record.)

Employment Authorization Card I-688A

Issued by INS to legalization and SAW applicants after they file their applications. It is valid for a period of six months from issuance and has the expiration date stated on the face of the card.

(Material not reproducible in the Record.)

Document List B.

Driver's License.

(Material not reproducible in the Record.)

Document list C.

Social Security Card.

(Material not reproducible in the Record.)

Birth Certificates.

(Material not reproducible in the Record.)

Unexpired Re-Entry Permit I-327

Issued by INS to lawful permanent resident (lawful immigrant) aliens before they leave the United States for a one to two year period.

(Material not reproducible in the Record.)

Unexpired Refugee Travel Document I-571

Issued by INS to aliens who have been granted refugee status. The expiration date is stated on page four.

(Material not reproducible in the Record.)

Certification of Birth issued by the Department of State FS-545

Issued by the Department of State to children of United States citizens born abroad.

(Material not reproducible in the Record.)

Certification of Birth Abroad issued by the Department of State DS-1350

Issued by Department of State to children of United States citizens born abroad.

(Material not reproducible in the Record.)

United States Citizen Identification Card I-197

Issued by INS to United States citizens. INS no longer issues this card.

(Material not reproducible in the Record.)

Identification Card for use of Resident Citizen in the United States I-179

Issued by INS to United States citizens who are residents of the United States. INS no longer issues this card.

(Material not reproducible in the Record.)

HOW TO OBTAIN MORE INFORMATION

If you have questions after reviewing this Handbook, you may obtain information from one of the following local INS offices. Direct your call or letter to the attention of the Employer Relations Officer.

Alabama

75 Spring Street S.W., Atlanta, GA 30303

Alaska

701 "C" Street, Room D-251, Lock Box 16, Anchorage, AK 99513

Arizona

230 North First Avenue, Phoenix, AZ 85025

Arkansas

701 Loyola Avenue, Room T-8005, New Orleans, LA 70113

California

300 North Los Angeles Street, Los Angeles, CA 90012

880 Front Street, San Diego, CA 92188

630 Sansome Street, San Francisco, CA 94111

Colorado

1787 Federal Building, 1961 Stout Street, Denver, CO 80202

Connecticut

JFK Federal Building, Government Center, Boston, MA 02203

Delaware

601 Market Street, Room 1321, U.S. Courthouse, Philadelphia, PA 19106

District of Columbia

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Georgia

75 Spring Street S.W., Atlanta, GA 30303

Guam

595 Ala Moana Boulevard, Honolulu, HI 96813

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Kentucky

701 Loyola Avenue, Room T-8005, New Orleans, LA 70113

Louisiana

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Maine

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Ohio

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Oklahoma

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Border patrol headquarters

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P.O. Box 2020, Del Rio, TX 78841-2020
P.O. Box 32639, Detroit, MI 48232
1111 North Imperial Avenue, P.O. Box 60, El Centro, CA 92243
P.O. Box 9578, El Paso, TX 79986
P.O. Box 1657, Grand Forks, ND 58206-1657
P.O. Box 112, Havre, MT 59501
P.O. Box 706, Houlton, ME 04730
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OPPOSITION TO STRIKE DECONCINI PROVISION TO DELAY IMPLEMENTATION OF EMPLOYMENT SANCTION PROVISIONS OF THE IMMIGRATION ACT FOR 4 MONTHS

Mr. CRANSTON. Mr. President, I rise in opposition to Senator SIMPSON's amendment to delete the provisions requiring a 4-month delay in the implementation of the employer sanctions provisions of the Immigration Reform and Control Act of 1986. It is clear that this delay is warranted in light of the many problems which have been encountered in the implementation of the act.

The Immigration Reform and Control Act represents compromises which were reached after long hours of negotiations both here in the Senate and in the House. Many of us had grave concerns regarding the burdens the employer sanctions provisions would place on employers and the threat that these sanctions would lead to increased discrimination against Hispanics, Asians, and other foreign-looking individuals. We were also doubtful that the act's legalization program would succeed unless adequate assurance could be given to long-time undocumented workers to cause them to risk their security by coming forward and revealing themselves to the Immigration and Naturalization Service.

Now, with the May 5 commencement of the 1-year legalization application period and the fast-approaching June 1 termination date for the "education" period for employers—during which employers are not subject to sanctions—we find that this effort may fail to achieve the results intended. Across the country there are reports of light turnouts of applicants for legalization and of anxiety in the undocumented community that the cost and risks associated with legalization may not be worth the indefinite chance of obtaining legal status. With regard to the employer sanctions provisions, I share Senator DECONCINI's perspective that there has been an inadequate effort to educate employers regarding their responsibilities under the new law and that if the sanctions provisions were to go into effect as scheduled, we would see additional confusion and discriminatory behavior.

Mr. President, I believe that the current situation calls for congressional action if the act is to be successfully implemented. This week I introduced two legislative proposals to address issues which have arisen in connection with the legalization program. The first is a bill, S. 1225, which permits the installment payment of legalization fees charged by the Immigration and Naturalization Service for temporary resident status. The second is a joint resolution (S.J. Res. 131), expressing the sense of Congress that Immigration and Naturalization district directors should exercise their discretion to utilize existing administrative procedures to assure that families are not split apart as a result of legalization. In addition to my proposals, I was glad to learn that the Appropriations Committee accepted Senator DECONCINI's amendment to delay the implementation of the employer sanctions provisions by 4 months. I believe it would be a mistake now to delete this provision given that INS has failed to conduct an adequate education campaign to inform employers of their responsibilities under the act.

The delay in the implementation of the employer sanctions provisions is necessary in light of the severity of the sanctions the act imposes and the discriminatory effect that is likely to result from employer confusion. Furthermore, the regulations which define employer obligations under the act were barely published on May 1, exactly 1 month in advance of the date that the sanctions are scheduled to take effect. While INS made a commendable effort expeditiously to draft and publish the implementing regulations, the bottom line is that during the previous 5 months employers have not received concrete information regarding their obligations because those obligations were not finally determined. Given this situation, and what is at stake, I believe that the 4-month delay in the implementation of the sanctions is a very reasonable step to take. I therefore hope that my colleagues will vote against Senator SIMPSON's amendment to delete this provision from the supplemental budget.

The PRESIDING OFFICER. Is there further debate? All time has expired.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is now on the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 45, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—48

Adams
Baucus
Bentsen
Bingaman
Boren
Breaux
Bumpers
Chiles
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Domenici
Exon
Garn
Harkin
Hatch
Hecht
Heflin
Helms
Inouye
Johnston
Karnes
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
Melcher
Mitchell
Nickles
Pell
Pryor
Reid
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Wallop
Wilson
Wirth

NAYS—45

Armstrong
Boschwitz
Burdick
Byrd
Chafee
Cochran
Cohen
Danforth
Dodd
Dole
Durenberger
Evans
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Hatfield
Heinz
Hollings
Humphrey
Kassebaum
Kasten
Kerry
Lugar
McConnell
Metzenbaum
Moynihan
Murkowski
Nunn
Packwood
Pressler
Proxmire
Quayle
Riegle
Rockefeller
Roth
Rudman
Specter
Stafford
Thurmond
Trible
Warner
Weicker

NOT VOTING—7

Biden
Bond
Bradley
Gore
Kennedy
Mikulski
Simon

So the fourth excepted committee amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. Mr. President, I move to reconsider the vote after the time we return from the Memorial Day recess.

The PRESIDING OFFICER. The Senator from Arizona had the floor.

Mr. DECONCINI. I move to reconsider the vote.

Mr. HARKIN. I move to lay it on the table.

The PRESIDING OFFICER. The question is on the——

Mr. SIMPSON addressed the Chair.

Mr. HARKIN. Mr. President, I move to lay it on the table.

Mr. BYRD. Mr. President, only a Senator voting with the prevailing side can qualify. I believe that Senator does qualify.

Mr. DECONCINI. So did I. I had the floor.

Mr. SIMPSON. I was standing here at my post——

Mr. DECONCINI. The Chair recognized me and I moved to reconsider the vote and the Senator from Iowa moved to lay it on the table.

Mr. SIMPSON. I ask for the yeas and nays.

Mr. BYRD. The motion to reconsider has been made. It is good in either case. They both qualify.

Mr. DECONCINI. The motion was made to table the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMPSON. I ask for the yeas and nays.

The PRESIDING OFFICER. On the motion to table.

Mr. DECONCINI. Does the Senator want the yeas and nays on the motion to table?

Mr. SIMPSON. Certainly.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I did enter a caveat earlier when we agreed on the vote to occur at the end of 30 minutes. I said if it were a close vote, on a motion to reconsider, we could have another vote, but I also told Senators that that would be the last vote. I know Senator CHILES had gone on the strength of the promise that that would be the last vote, and other Senators may have done the same thing.

I would now hate to have a rollcall vote with Senators having gone with the understanding that would be the last rollcall vote, even though I added the caveat Senators have in the past experienced votes, there could be a second vote on the motion to table.

I am in a little bit of a bind. I do not intend to let the vote occur today. I have got to protect Senators who left with that understanding. I hope that I will have the understanding of everyone and that no Senator will feel I am doing this because I am trying to prejudice the decision on the other side, because I can vote either way on this question.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. BYRD. Yes; I yield.

Mr. LEAHY. Mr. President, I might ask the Senator, Is it correct that even though a motion to table the motion to reconsider was made, the yeas and nays were requested, by unanimous consent that vote could be placed next week when we return and, in fact, then leaving it open for matters that otherwise might be handled by voice vote or unanimous consent?

Mr. BYRD. It could be, and I would like to reach an understanding with the distinguished Senator from Arizona and the distinguished Republican whip as to what time on Monday they would prefer to have that vote. We can stage it at any time by unanimous consent on Monday.

Mr. DECONCINI. Wednesday.

Mr. BYRD. On Wednesday, I mean.

Mr. SYMMS. Will the majority leader yield?

Mr. LEAHY. I wonder if the majority leader——

Mr. BYRD. Let me for the record, so people who read the RECORD will understand, say I know the first day the Senate is back is not Monday, but Wednesday.

Mr. LEAHY. Will the Senator yield for a further question?

Mr. BYRD. Yes.

Mr. LEAHY. I wonder, while they are working out the possibility of that, if it would be possible to set the matter aside for, say, about 3 minutes for me to take care of a matter that has been cleared.

Mr. SIMPSON. Mr. President, I think it would be perfectly appropriate if the majority leader wanted to establish a vote on the motion to table at a similar time as the first vote, I believe scheduled for around 5 o'clock on Wednesday, that is certainly agreeable to me because I think we have had a commitment. Our pad here said "Last vote tonight." We have to be fair to both sides. And the majority leader has always been that.

Mr. BYRD. Mr. President, I also had on the table, I instructed the floor staff to put on the table our 1987 beautifully colored note is "There will be no more rollcall votes tonight."

Mr. SYMMS. Will the majority leader yield?

Mr. BYRD. So I would be happy to ask unanimous consent, if it is agreeable with the Senator from Arizona, that the vote occur on the motion to table the motion to reconsider at 5 p.m., on Wednesday next.

Mr. SYMMS. Reserving the right to object, and I just want to inform the majority leader what I was seeking recognition for was to inform the majority leader that I will object to any motion that puts this vote prior to Thursday, because this Senator has plans I cannot get out of. I will not be here and I do want to vote on this issue.

Mr. BYRD. Well, all the Senator has to do to ensure that it will occur prior to Thursday——

Mr. SYMMS. I mean on Thursday.

Mr. BYRD [continuing]. Is to object.

Mr. SYMMS. On Thursday. So I object. I would agree to a Thursday vote.

Mr. BYRD. Well, the vote will occur Wednesday. It will occur automatically on Wednesday. That vote will occur right now if I yield the floor.

Mr. SYMMS. Then, I object.

Mr. BYRD. All right, it will occur on Wednesday.

The **PRESIDING OFFICER.** Objection is heard.

Mr. SYMMS. I would not object. I would like to get the time on Thursday.

Mr. BYRD. If it is all right with these two gentlemen, it is all right with me. But to object to this request would leave it at that—it will occur on Wednesday.

Mr. DECONCINI. Mr. President, may I make a suggestion?

Mr. BYRD. Yes.

Mr. DECONCINI. It is a close vote, and there were several Senators not here, including the Senator from Massachusetts [Mr. KENNEDY], who is not going to be here Wednesday. I did not plan to be here Wednesday, but if this vote comes up, I will be.

Maybe the majority leader will consider asking that this vote be set on Thursday morning and that there be votes in between on Wednesday.

Mr. BYRD. That is agreeable with me, if it is agreeable to all sides.

Mr. EXON. Reserving the right to object, Mr. President, I do not know how many times I have heard on this floor that we should give up some of our individual rights because we want this place to run more like it should. I am not going to object, but I am going to make a statement.

I do not believe we should go so far as to accommodate Senators who cannot be back here on Wednesday. It has been well known that the Senate was going to be in session on Wednesday. This Senator canceled some plans so that I could come back on Tuesday. Now, since I have missed my plane at 5 o'clock and will have to take a later flight, I am asked to accommodate a Senator because he cannot be here on Wednesday.

I do not think there is anybody in this body who tries to be more accommodating than the Senator from Nebraska.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, I have the floor, and I yield to the Senator from Nebraska.

Mr. EXON. I understand that Senator DECONCINI won with his amendment. The majority leader, to accommodate several Senators who wanted to catch a plane, very properly said that this is the last vote.

I think people are taking advantage of those people, their colleagues, who could have been asked to stay here. I do not think it is the right way to run the U.S. Senate.

I hear so much about the quality of life in the U.S. Senate. The majority leader has already accommodated some people who cannot be back until early afternoon—it was a couple of days ago. I think the majority leader said early afternoon. Now it is 5 or 6 o'clock. What does that mean? That means the quality of life is going to go down a little further in this body because we are going to be around here late Wednesday night, I suppose—7, 8, or 9 o'clock.

I think it is ridiculous, I say to my colleagues, that we continue to allow these things to happen, to accommodate one or two Senators. I cannot help it that some Senators are going to be gone and cannot be here to vote. But I think it takes a lot of crust to stand up on the floor of the U.S. Senate and say, "Can't you please hold something until Thursday?"

If we were back here on Wednesday, as we were supposed to have been, and started voting at 10 or 11 o'clock in the morning, it is just possible we could finish this measure on Wednesday. But now we are already going over to Thursday, and another week is going to be shot.

I am not going to object, but I think that once in a while somebody has to stand up and say, "This ain't the way to run the show."

Mr. BYRD. Mr. President, the distinguished Senator from Nebraska has made my speech, and I want to thank him for it. I have made the same speech quite a number of times. He speaks as though he stands in my shoes, and I appreciate what he has said. I underline and emphasize every bit of it and add my name as a cosponsor of his speech.

However, having said that, Mr. President, here is the position I take in this instance: We will not finish this bill on Wednesday, even if we were to start voting on it at 9 o'clock in the morning.

We are in a situation with the overall calendar right now in that there is not anything immediately behind this bill that has me in a quandry. We cannot take up the defense authorization bill. We tried to invoke cloture three times on the motion to proceed, and I do not intend to try again for a while on that. There is nothing else on the calendar at the moment that is really pushing us. There will be, of course before too much longer. We will at some point reach a crunch.

Here is a very tightly fought amendment, a very close vote. It cannot be any closer. If the Vice President had been here, I suppose he could have broken the tie. I do not know where he is.

Mr. DOLE. I do not know, either. [Laughter.]

Mr. BYRD. Mr. President, I had put out the word there would be no more votes. All Senators were put on notice that this very situation could occur, but it does not happen very often, and we put our sign on the table that this would be the last vote. I would be breaking my word to Senators if we proceeded now to vote.

It is a very tight vote, and I see no harm in putting this vote over until Thursday, if Senators want it done that way. Then all their colleagues who voted with them can do so—and some of us may change our vote by then—but in any event, we will have other votes on Wednesday.

The Senate is coming in at 11 o'clock on Wednesday. We want to get back on the bill by noon. We agreed that the managers will be here by noon, and we will be calling up amendments. In a few minutes, I hope to get some time limitations on amendments, and we will start acting on amendments on Wednesday at noon.

Because it will be the first day after a holiday, I will try to stack votes into the reasonably late afternoon on Wednesday. If it were not the first day after a holiday, I would feel no obligation to do that. But Senators have worked hard all week; and although we did not get enough done, we got a good bit done today.

I am willing to have someone suggest an hour for a vote on Thursday. I believe that has already been done, although I have not put the request yet. I hope there will be no objection to it.

This does not mean—I say to my good friend from Nebraska—that we will not have votes on Wednesday. We will.

Mr. SIMPSON. Mr. President, I inquire of the majority leader: I really appreciate the request. I understand the intensity of my friend from Nebraska. The majority leader is trying to accommodate Senators, and he graciously accommodated many, and he is also trying to accommodate the others who saw this notice.

I know that my friend Senator DECONCINI is going to be absent on Wednesday, as will Senator SYMMS, on the other side.

I am ready to suggest going to Thursday, which is an evil thing for a guy to say. But let us go to Thursday, and then they will pick up two more votes from my colleagues, against my position. I think that is important. Maybe we can set it for 2 o'clock Thursday afternoon.

Would that be appropriate, I ask the Senator from Arizona?

Mr. BYRD. Could we make it before noon?

Mr. DECONCINI. Any time Thursday is fine.

I thank the Senator from Wyoming. But I point out that the Senator from Massachusetts is not here, so he is going to get one more vote for sure on Wednesday or Thursday. It works both ways.

The majority leader realizes that this is a close vote, and the Senator from Nebraska is exercising something that I cannot disagree with. But because it is a close vote and it is a reconsideration, trying to make it on Thursday any time is more than fair.

Mr. BYRD. Could we say 10 on Thursday morning?

Mr. EXON. Mr. President, reserving the right to object, the Senator from Nebraska may be absent on Thursday. I think it is tremendously important that I be here to cast my vote on this subject. Would it be out of order if we put off this vote until sometime between 7 o'clock and 7 a.m. Friday and Saturday morning, or until next week? Certainly the Senator from Nebraska is entitled to the same consideration as the other Senators.

Mr. DeCONCINI. Mr. President, will the Senator yield?

Mr. EXON. Would the majority leader feel that that would be an unreasonable request by the Senator from Nebraska?

Mr. BYRD. Well, if I felt that the Senator from Nebraska were speaking in jest, I would say yes; but I do not feel that he is speaking in jest, so I say no. [Laughter.]

Mr. EXON. I withdraw my objection. I hope I have made my point in this body; because I do not know that, going on 9 years now, I have ever gone over to that majority leader sitting over there or this majority leader and said, "Can you please hold off because this Senator can't be here?"

It is not vitally important that I be here for each and every vote in the United States Senate. If I have something to do, campaigning or otherwise, I just might give up a vote once in a while, in consideration of my colleagues.

I wish there could be a little bit more of that in this body. I made my point and will object no further.

Mr. BYRD. Mr. President, I add my name as a cosponsor of the speech just made again by my friend from Nebraska.

I have been in this Senate for 29 years. I am in my 29th year and I have never, never yet objected to a unanimous consent agreement for a vote to occur at a given time just because I could not be here to make the vote, and I do not ever expect to do that. I would be happy if they do not occur when I am not here. But I have never been opposed to a request because I have always felt that there are 99 other Senators and that I would be imposing on them if I did that.

Mr. President, I ask unanimous consent that the vote occur on the motion to table the motion to reconsider on Thursday next at the hour of 10 o'clock a.m.

Mr. LEVIN. Mr. President, reserving the right to object, and I will not, I would like to inquire of the leader and Senators SIMPSON and DECONCINI. The reason the vote is close is the issue is extremely important. Because a week is going to occur before the vote, I wonder if it might not be appropriate for a half-hour of debate evenly divided prior to this vote.

Mr. BYRD. Yes, Mr. President, I make that unanimous consent request that there be a half-hour equally divided in accordance with the usual form prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, would the majority leader be willing to respond to a question?

Mr. BYRD. Yes.

Mr. HATFIELD. Would it be the intention of the majority leader that once we begin the supplemental on Wednesday to continue even if it includes Friday to the point where we finish the supplemental?

Why I ask the question, there are probably close to 40-some amendments that could yet be brought up, 21 strike amendments that the Senator from Texas alone expects to offer first as a package and if it does not win then one by one and perhaps a rollcall one by one.

I am merely indicating to the majority leader that I am very hopeful that as we interdict that appropriations supplemental with other matters that are important that we must do, I am very hopeful that once we started on Wednesday we will push through to complete it even if it includes votes on Friday.

Mr. BYRD. Mr. President, that will be my intention.

I hope that we will be able to get agreements on amendments. Our staffs on both sides of the aisle have worked diligently in an attempt to line up amendments and make a listing of them and identify them, and in some cases, put time limits on them.

When we get back on Wednesday, we will have some time before we have the first vote, because it is my intention to stack the votes. I have to have unanimous consent to do it.

But during that time, I hope that we can get some agreements on amendments, time limitations, that will see us finish this bill by Thursday. I do not want to stay in Wednesday night late. I feel that reasonable men working together can complete action on this bill sometime next Thursday and if not, then on Friday of next week. I think the managers are entitled to that cooperation from all of us.

Mr. President, did the Chair put the question?

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we have a challenge ahead of us in research if we are to stay competitive in the world economy. In a report to the Secretary of Agriculture, the Joint Council on Food and Agricultural Sciences lists as its first priority basic biotechnology research.

The Center for Microbiology and Agricultural Sciences at the University of Vermont was conceived as a response to the national need for basic research in microbiology. In the words of the National Academy of Sciences, "biotechnology, like the green revolution before it, could have a dramatic effect on the problems of food production and hunger around the world." Moreover, the application of biotechnological research will have a significant impact on human health, directly through improvement in the nutritional value of plants and animals, and indirectly through the use of the results of biotechnological research on plants and animals in human biomedical research.

The University of Vermont seeks to address this national need for basic biotechnological research through the establishment of a Center for Microbiology and Agricultural Science. Building upon their long history of involvement in biomedical and agricultural research, the center will combine the resources of the medical and agricultural colleges. The center will be named in honor of our distinguished colleague Senator ROBERT STAFFORD and the late Senator George Aiken.

The heart of the center will be the newly created Department of Microbiology that will include microbiologists from the Colleges of Agriculture and Medicine. In addition, the center will draw upon the resources of the School of Business Administration, the College of Engineering and Mathematics, and the School of Natural Resources to sponsor interdisciplinary research on urgent issues related to microbiology, agriculture, animal and human health, and environmental resources.

The university has on-going research programs in such areas as the causes, prevention, and treatment of animal and plant diseases; the impact of acid rain on human and natural resources; genetic toxicology; methods for improving agricultural productivity through nitrogen fixation; and the relationship between agricultural land use and water quality. Research conducted at the center will build upon these programs and lead to new advances in the understanding and treatment of diseases related to environmental causes that stem from agricultural uses of land and water. To this end, University researchers have already made major contributions in the fields of genetic toxicology, the biological impact of acid rain, and the development of environmentally safe biological herbicides that promise to allow farmers to control velvetleaf and other threats to agricultural production and human health.

The center, combining the University of Vermont's historic strengths in medical microbiology and agricultural biotechnology, will be the only center in the Nation drawing upon the resources of a nationally known medical faculty and a nationally respected agricultural college. I anticipate that research conducted in the center will lead to major breakthroughs in both medicine and agriculture and contribute significantly to the national biotechnological research effort.

With $900,000 in planning funds to the University of Vermont in the fiscal year 1987 continuing resolution, the U.S. Department of Agriculture has fully reviewed and approved the university's proposal. The university is now preparing to enter the construction phase of the center, which will come to a total of $9.6 million in Federal funds. In support of this project, I request an initial Federal contribution of $6 million, which will be matched by over $5.5 million in State and private donations.

Mr. President, my amendment will be offset by a rescission in the Rural Clean Water Program. Congress appropriated $70 million in fiscal year 1980 and 1981, available until expended, for this program. This program was designed to test means of controlling agricultural nonpoint source water pollution in rural areas.

Twenty one projects were funded, providing financial and technical assistance to land owners. According to the Department of Agriculture, declining inflation rates and other revised cost estimates will enable the Department to complete these projects for $64 million. Therefore $6 million will not be spent and can be used to offset the initial cost of the Microbiology Center.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont be recognized for not to exceed 2 minutes to transact some morning business, which has been cleared on both sides.

Mr. LEAHY. It is an amendment to the bill.

Mr. BYRD. Oh, it is. I am sorry. I misunderstood the Senator.

Mr. LEAHY. It can be done in 2 minutes.

Mr. BYRD. Very well. Fine.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 216

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask unanimous consent that it be in order that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes amendment No. 216.

Mr. LEAHY. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78 strike line 16 and insert in lieu thereof "14,000,000 to remain available until expended: *Provided*, That of available funds under "Agricultural Stabilization and Conservation Service, Rural Clean water program," $6,000,000 are rescinded."

Mr. President, this is an addition or is a continuation of a project begun last year for the Center for Microbiology and Agricultural Sciences, properly known as the Robert T. Stafford-George David Aiken Center for Microbiology and Agricultural Sciences, coincidentally at the University of Vermont.

I understand it has been cleared.

I have nothing further to say.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. That is cleared, as I understand it, Mr. President, that is cleared as I understand by the Agriculture Committee subcommittee.

Mr. LEAHY. The distinguished chairman, Senator BURDICK, has and I know the distinguished ranking member, Mr. COCHRAN of Mississippi is on the floor.

Mr. COCHRAN. Mr. President, we are happy to commend the Senator from Vermont. We have voted the construction of this center. There is an offset provided in his amendment from an account where funds were appropriated in 1981 and which have not been used and are not now needed.

So with the offset and the fact that this is a project that has been reviewed by the peer committee at the Department of Agriculture which has approved its construction, we suggest that the amendment be agreed to and the Senate approve it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 216) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from West Virginia for his usual courtesy and helping through it.

Mr. BYRD. Mr. President, I thank the Senator from Vermont for his courtesy and his patience.

Mr. President, I have four items on which I understand the Senate might agree on with respect to time limitations. There is an amendment by Mr. HEINZ, amendment No. 207, and my paper shows that as being pending.

Is that correct?

Mr. COCHRAN. Mr. President, will the leader yield?

The PRESIDING OFFICER. That amendment would be the pending question.

Mr. BYRD. I understand there could be an agreement on that amendment of 30 minutes to be equally divided. That is the Older Americans Act refunding bill.

Mr. COCHRAN. Mr. President, if the distinguished leader will yield, it is my understanding it is an amendment of Senator HEINZ and he would be agreeable to a time limitation of 30 minutes to be equally divided.

Mr. BYRD. Is that agreeable to the Chairman?

Mr. STENNIS. Yes.

Mr. BYRD. Mr. President, I make the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank both Senators from Mississippi.

Mr. President, Mr. PELL intends to make a point of order against the Moscow Embassy language and I understand that a 30-minute time limitation on that point of order will be agreeable.

May I ask if there is an objection to my putting such a request?

Mr. COCHRAN. Mr. President, there is no objection on this side of the aisle to that request.

Mr. STENNIS. No objection, Mr. President, over here.

Mr. BYRD. All right. The chairman and the acting manager have agreed there will be no objection.

I make the request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand that Mr. DIXON, who has an amendment for $50 million for the Summer Job Program, would be willing to enter into a time limit agreement of 60 minutes on that amendment to be equally divided.

Mr. COCHRAN. Mr. President, there is no objection to that request on this side of the aisle.

Mr. STENNIS. No objection here, Mr. President.

Mr. BYRD. Mr. President, I make that request that there be 60 minutes time limitation on the Dixon amendment and that it be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am told that Mr. MELCHER has an amendment which would be in reference to the Department of Labor Consumer Price Index. He would be agreeable to a time limitation of 10 minutes equally divided.

Mr. COCHRAN. Mr. President, there is no objection to that on this side of the aisle.

Mr. STENNIS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I make that request having gotten the approval of both managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments and points of order appear in the order that I shall state, and that no amendment to an amendment as enumerated in my request be in order, that the first amendment on Wednesday when the Senate resumes consideration of the pending bill be the Heinz amendment No. 207, that following that amendment, keeping in mind that I hope to stack the votes, the Pell point of order would be the next item; followed by the amendment by Mr. MELCHER, on which we have just gotten a time limitation; followed by the amendment by Mr. DIXON; again I say with no amendments in order to the amendments named.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That on Wednesday, May 27, 1987, when the Senate resumes consideration of the unfinished business, H.R. 1827, an act making supplemental appropriations for fiscal year ending Sept. 30, 1987, and for other purposes, that the following matters be in order as listed:

Heinz amendment, No. 207, on which there shall be 30 minutes, equally divided and controlled;

Pell point of order dealing with the Moscow language, on which there shall be 30 minutes, to be equally divided and controlled;

Melcher amendment dealing with Department of Labor Consumer Price Index, on which there shall be 10 minutes, to be equally divided and controlled;

Dixon amendment dealing with summer job program, on which there shall be 60 minutes, to be equally divided and controlled: Provided, That no amendments to the listed amendments be in order.

Ordered further, That the vote on the motion to table the motion to reconsider the vote by which the fourth excepted committee amendment was agreed to occur on Thursday, May 28, 1987, at 10:00 a.m., to be preceded by 30 minutes debate, to be equally divided and controlled in the usual form. (May 21, 1987)

Mr. BYRD. Mr. President, I thank the staffs on both sides, the Democratic and Republican floor staffs for the diligence and the work they have put into getting these agreements.

Under the circumstances, it is hard to get agreements in advance as we find ourselves doing now.

Now, Mr. President, I thank all Senators for their patience.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 7:15 p.m. today and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTES BEGIN 5 PM WEDNESDAY

Mr. COCHRAN. Mr. President, if the distinguished leader will yield, I wonder if we could be advised at what point those stacked votes may occur that we just reached an agreement on.

Mr. BYRD. Yes. I hope I will have cooperation of all Senators in this because, as I say, it will be my intention to try to stack the votes to begin at 5 o'clock p.m. on Wednesday. I am afraid that Senators who have amendments will not come to the floor, might not even come back to town and, therefore, the managers sit here all afternoon and we get very little done.

I would hope that we can stack the votes to begin at or around 5 p.m. on Wednesday.

Mr. COCHRAN. Mr. President, I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Nebraska.

NEH GRANTS CRITERIA

Mr. LAUTENBERG. Mr. President, the National Endowment for the Humanities supports research projects that have been highly rated in a peer review process which assures that the projects will be of significant advantage to all scholars and scholarly research. This review process generally operates to weed out proposals that are narrowly self-interested, restrictive, or likely to effect a distinct commercial advantage.

I support this review process, as do my colleagues. I became aware of a proposal for funds to support a Center for American English. To underscore the concurrence of the Appropriations Committee that consideration of the potential for grants to provide an unfair commercial advantage is a legitimate concern of the peer review panels, I asked the committee to include language in the report on the supplemental appropriation bill to this effect. I was pleased that the committee agreed to endorse this statement.

Mr. PROXMIRE. Mr. President, yesterday I called up an amendment to H.R. 1827, the supplemental appropriations bill that would have provided $100 million for the Veterans' Administration's Home Loan Guaranty Program. The funds have been requested by the Administration and are going to be needed within the next 2 months so that the VA can honor its commitment to pay financial institutions when defaults occur on VA-issued home loans to veterans.

Although the Government is obligated to honor its commitments under the Home Loan Guarantee Program, I reluctantly withdraw the amendment because of expressions of concern that it violated the Budget Act.

It is not clear at this point whether or not objections to the amendment can be overcome. Consequently, I do not intend to reoffer the amendment at this time although I hope it may be possible to advance the amendment at some point before final passage of H.R. 1827.

COMMUNITY RIGHT TO KNOW FUNDING

Mr. LAUTENBERG. Mr. President, I am pleased that this bill provides funding for 1987 for the Community Right to Know Program, enacted recently as title III of the Superfund Amendments and Reauthorization Act of 1986 [SARA]. I worked to get the $16 million in the bill for this program, and our success in doing this should push this vital effort forward.

Title III of SARA established a comprehensive, Federal Community Right to Know Program. The program consists of emergency planning measures designed to prevent accidental chemical releases from occuring, and to assure effective response in the event of such accidents. The program also requires facilities to report on their emissions into the environment.

Title III requires a significant and ongoing commitment of agency resources and imposes rigorous deadlines for meeting a variety of large tasks, including collecting and disseminating information, performing complex rulemakings relating to the health and environmental effects of large numbers of substances, processing petitions relating to such covered substance, developing trade secret regulations, processing petitions relating to trade secrets, studying ways to detect and prevent extremely hazardous releases, and comprehensive enforcement of title III.

As the report language accompanying the Senate supplemental makes clear, the Federal role in implementing title III is a continuing and significant effort. Although the States must play a major role, title III calls for an important Federal involvement over the life of the program. This fact makes clear that we must continue to provide full and significant funding in the years ahead.

Mr. President, this bill is a good start. I thank Senator PROXMIRE, our distinguished chairman of HUD-Independent Agencies Subcommittee, for his support of this effort, and I look forward to working with him and ranking minority member GARN in pushing for full funding in the coming years.

Mr. COCHRAN. Mr. President, the supplemental appropriations bill for fiscal year 1987, as reported by the Appropriations Committee on Friday, May 1, appropriates a total of $6,715,670,000 in program supplementals for activities under the jurisdiction of the Agriculture, Rural Development and Related Agencies Subcommittee.

The largest item, and the most critical item in the agriculture chapter, is the supplemental appropriation of $6,653,189,000 for the reimbursement for net realized losses of the Commodity Credit Corporation [CCC]. This amount is sufficient to finance CCC activities for the remainder of this fiscal year. Recently, the Department of Agriculture advised the Congress that it was notifying its county ASCS offices that no further cash payments could be made as of the close of business Friday, May 1, 1987. This means that: (a) dairy payments and purchases cannot be made; (b) some 1986 crop payments cannot be made; (c) crop loans for tobacco, corn, wheat, and rice cannot be made; and (d) no payments can be made for commercial storage, handling and transportation of commodities. It is essential, therefore, that Congress move as expeditiously as possible to resolve this problem.

Other important items in the agriculture chapter of the bill include: (a) a transfer of $24 million from the CCC for salaries and expenses of the Agricultural Stabilization and Conservation Service [ASCS], the agency responsible for the administration of the programs of the CCC; (b) additional funds to indemnify dairy farmers and milk processors in Arkansas, Missouri and Oklahoma for milk products contaminated with the pesticide heptachlor; (c) an $8 million appropriation for the boll weevil eradication program in Alabama, Georgia, and Florida; (d) a provision which will make an additional $20 million available to the Soil Conservation Service to perform work required by the Food Security Act of 1985; and (e) an additional $2 million for the Foreign Agricultural Service. This is necessary because of the sharp decline in the value of the dollar, particularly in Europe and Japan, and the purchasing power of the dollar has eroded to the extent that funds budgeted for overseas operating costs are not sufficient to meet fixed expenses.

In addition, this bill also provides funding to meet increased pay costs for fiscal year 1987 and the costs associated with retirement contributions due to the enactment of the Federal Employees Retirement System [FERS] Act of 1986 (Public Law 99-335). This includes the estimated additional costs for cooperative extension agents who participate in the Federal retirement system.

Mr. President, I support the agriculture chapter and the entire supplemental appropriations bill as reported by the Appropriations Committee. I commend the chairman of the Committee, Senator STENNIS, and the ranking member, Senator HATFIELD, for their dedicated efforts and work in bringing this bill to the floor. I would urge my colleagues to refrain from offering amendments so that final passage of this bill can be obtained as quickly as possible.

POMPANO BEACH AIR PARK

Mr. CHILES. Will the distinguished chairman of the Appropriations Subcommittee on Transportation yield for a question?

Mr. LAUTENBERG. Most certainly.

Mr. CHILES. The committee has included language prohibiting the Federal Aviation Administration from using appropriated funds for the purposes of compelling redesignation of nonaviation use land at the Pompano Beach Air Park, in Pompano Beach, FL, or from taking action to revert the Pompano Beach Air Park. Concerns have been expressed that the effect of this provision is to relieve the city of Pompano Beach of its obligations under the Surplus Property Act.

Is it your understanding that the committee has taken this action because of concern about the FAA's interpretation and implementation of an FAA hearing officer's order as affirmed by the eleventh circuit court of appeals relating to the leasing of aviation use property to fixed base operators at the Pompano Beach Air Park, and that the committee has in no way relieved the city of Pompano Beach of its obligations under the Surplus Property Act?

Mr. LAUTENBERG. Yes; the Senator is correct.

Mr. CHILES. Perhaps some background information would help clarify the issue. As the distinguished chairman is aware, this matter has now been pending since a November, 1985 court of appeals decision and has impeded aviation operations at the air park. The city of Pompano Beach has sought to meet the requirements of the hearing officer's order.

The purpose of the committee's provision is to ensure that the FAA works with the city of Pompano Beach to devise a mutually acceptable solution to this impasse which is consistent with both the requirements of the hearing officer's order and the present designation of aviation and nonaviation use property at the air park. I am sure the distinguished chairman agrees that the FAA should work to resolve the matter as quickly as possible, and, in the meantime, should take no action, including civil fines and penalties, against the city of Pompano Beach.

Mr. LAUTENBERG. Yes; the Senator is correct.

Mr. CHILES. I thank the distinguished chairman.

BLOCK SALE OF DEPLETED URANIUM SHELLS

Mr. LAUTENBERG. Mr. President, I rise to draw my colleagues' attention to a provision in the supplemental appropriations bill to prohibit the sale of M833 depleted uranium shells to all countries except our NATO allies and countries designated as major non-NATO allies. Major non-NATO allies include Israel, Egypt, Japan, Australia, and Korea.

I offered this provision as an amendment to the supplemental in the Senate Appropriations Committee, and am pleased that the amendment was adopted. This language is already contained in the Senate and House fiscal year 1988 Foreign Assistance authorization bills, but those bills may not be passed in time to stop the sales of these shells to Saudi Arabia and Bahrain, or the sale of additional shells to Jordan.

The M833, a 105-mm kinetic energy antitank ammunition round with a depleted uranium penetrator rod, breaks a new technological threshold in antitank artillery. Its highly lethal nature stems from its core of depleted uranium. That core gives the M833 a much greater ability to pierce armor than the current tungsten round, which is the status quo in antitank artillery.

The depleted uranium round also increases the probability that any hit will result in the destruction of a tank, rather than just its damage. That probability is much less with the tungsten or steel penetrator found in most ammunition.

The sale of these depleted uranium shells to Bahrain and Saudi Arabia would pose a grave threat to Israel, whose tanks would be particularly threatened by this depleted uranium ammunition round. Israel's Merkava tank has heavy armor that minimizes the effectiveness of the more commonly available tungsten penetrator rounds. However, the Merkava is much less effective against the depleted uranium shells. These sales would erode the qualitative military edge the Israelis have enjoyed in tank to tank warfare.

This ammunition is not needed by Saudi Arabia or Bahrain to counter the Soviet or Syrian threat. Both Saudi Arabia and Bahrain already have tungsten ammunition, which is perfectly adequate to combat the T-72 tanks now in the region. The depleted uranium shell, designed to counter advanced Soviet T-80 tanks, is unnecessary, since there are currently no T-80 tanks in the Middle East. It is doubtful that the Soviets would sell their most advanced tank in the region. However, if and when they do, we are free to reconsider the issue of selling depleted uranium shells.

The sale of these weapons to Saudi Arabia and Bahrain would also open up the possibility that they could fall into the hands of more radical Arab States or terrorists.

For all of these reasons, I support the provision in the supplemental appropriations bill to prohibit the sale of such weapons to any nation except our NATO and major non-NATO allies.

Mr. MOYNIHAN. Mr. President, I wish to ask if the distinguished chairman of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, would engage in a colloquy with myself, the Senator from Maryland, the Senator from Tennessee, the Senator from Nevada, the Senators from Pennsylvania, and the Senator from New Jersey, concerning several employment programs which are very short of funds?

Mr. CHILES. I know My friend from New York is very concerned about employment programs, and I am pleased to discuss them.

Mr. MOYNIHAN. I thank the chairman. Mr. President, my colleagues and I are concerned with the funding, or lack of it, envisioned for four employment programs: the Work Incentive [WIN] Program that provides work and training opportunities to recipients of Aid to Families with Dependent Children [AFDC] benefits; Employment Services Operations, which includes the administration of the Targeted Jobs Tax Credit; the Summer Youth Employment Program; and administrative funds for the Unemployment Insurance Program.

WIN

Last year, Congress agreed to an appropriation for WIN of only $110 million for the first three quarters of fiscal year 1987. Absent funding for the fourth quarter, WIN will have suffered nearly a 50 percent cut from its fiscal year 1986 appropriation of $211 million.

At the time Congress agreed to this abbreviated fiscal year 1987 appropriation, we anticipated new legislation that would replace the WIN Program with a more comprehensive work and training program. I will shortly introduce such legislation as part of a broader initiative that will replace AFDC with a new national child support program that emphasizes work, training, and schooling for public assistance recipients. It is evident, however, that we will not be able to complete action on this major legislation before the WIN Program's appropriations expire at the end of June.

My own State of New York has already drawn down its allocation of fiscal year 1987 funds, roughly $9 million. Even though the Federal contribution has dwindled, New York is currently serving nearly 145,000 AFDC recipients through this program. In fiscal year 1986, WIN Program operations resulted in net welfare savings of some $4 million in New York. The first quarter fiscal year 1987 welfare savings attributable to WIN came to $1 million.

It is important, therefore, that we appropriate funds sufficient for fourth quarter WIN operations. The Senate bill now proposes a supplemental appropriation of $17 million; the House-passed bill would provide $28 million.

Under the Senate proposal New York could expect to receive $1.4 million for the fourth quarter; under the House-passed provision, $2.3 million. Both of these figures are below the $3 million per quarter that New York has received so far this year. Consequently, fewer numbers of WIN recipients will be served, far fewer under the fourth quarter appropriation proposed in the Senate bill.

TJTC

New York State leads the country in using the Targeted Jobs Tax Credit [TJTC]. In 1985, employers hired more than 600,000 persons through the TJTC Programs nationwide; in New York, 52,000 individuals were hired, 60 percent of whom were disadvantaged youth and 25 percent of whom were welfare recipients.

In the first 10 months of 1986, New York State received 150,000 requests from employers for TJTC certifications. Because of the lack of funds for administrating this program, most of those requests have not been processed. The consequences are clear: In an average month, some 1,800 welfare recipeints are certified to take jobs with the help of the TJTC. Without the TJTC, the rate falls to 1,300 per month.

The Senate bill does not now provide a supplemental appropriation for this program. The House-passed bill would appropriate $24 million for adminstering the TJTC. Under the House provision, New York would receive $1.7 million. State officials estimate that this sum would permit 51 additional staff to be hired and that they could place an additional 5,900 individuals in jobs.

SUMMER YOUTH EMPLOYMENT

In New York State, the unemployment rate for young people 16 to 19 years of age is over 18 percent. In New York City, the unemployment rate for these youngsters rises to nearly 27 percent. In the summer of 1986, with the help of the Summer Youth Employment Program, New York State provided jobs to 66,000 teenagers. This summer, we will be able to assist only 48,000 unless the State receives additional Federal help.

The Senate bill provides no approporiation for this program. The House-passed bill would provide $40 million, of which my State could expect to receive $2.5 million. With this sum, State officials estimate they could assist an additional 3,000 young people take summer jobs.

ADMINISTRATIVE FUNDS FOR THE UNEMPLOYMENT INSURANCE PROGRAM

Because of insufficient funds to administer the Unemployment Insurance [UI] Program, New York State has terminated 600 staff positions and closed 11 offices. Six more offices are about to be closed.

As my colleagues are aware, unemployment benefits continue to be funded through the states' trust funds. The shortage of administrative funds, however, causes long delays in processing claims and results in hardship for the families awaiting their unemployment compensation.

The Senate bill does not appropriate additional funds for administering the UI Program; the House-passed bill would provide $79 million. If the House figure were accepted, New York would receive about $5 million. With this sum, State officials estimate that they could restore 138 of the staff positions already lost. Unemployed workers would not have to wait quite so long for their rightful benefits.

Mr. President, many other States are facing the same sorts of difficulties with respect to these important employment programs. That is why I join my colleagues in urging the able chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies to consider moving closer to the House-passed figures for these programs.

Ms. MIKULSKI. I want to join the Senator from New York in urging the House figure for WIN, and also emphasize the serious problems we will face this summer if the Summer Youth Employment Program of the Job Training Partnership Act does not receive additional funds. The current program year provided only $636 million for Summer Youth, a level which the committee raised substantially for next year. Next year there will be $114 million more. The problem is that we are not going to be able to serve tens of thousands of inner-city youth this summer, and once we pass them by we may never get them back again. Maryland alone stands to lose nearly 4,000 summer youth jobs without additional funding. The House transferred $40 million for Summer Youth Employment into this Program year, and I strongly urge the chairman to accept the House transfer in conference.

Mr. SPECTER. The Senator from Maryland and the Senator from New York have clearly stated the problems we are going to face this year in providing jobs for the neediest Americans. With too little funds for WIN and Summer Youth Employment, we are going to lose people we must help. Similarly, we are not able to provide adequate administration for the Targeted Jobs Tax Credit Program. TJTC provides employers with a credit against tax for a portion of the wages paid to new employees from targeted categories, including the handicapped, Vietnam-era veterans, ex-offenders, and AFDC recipients, among others. There is no money to administer this program, which the Tax Reform Act reauthorized Nationwide, there are one million requests for certification—1 million new jobs—in some stage of approval around the country. Many States cannot provide assistance to employers under this program, and as a result employers are being made wary of this program. The employment service must take personnel off of unemployment insurance and related activities, to administer TJTC. It's not fair, and the House has provided $30 million to administer TJTC. I urge the chairman to work for this level of funding in conference. Without it, we will lose employment opportunities.

Mr. SASSER. The Senator is absolutely correct. In Tennessee well over 32,000 certification requests were filed last year, and there is no money for the employment service to administer these requests. Nationwide, there were over 1 million requests for certification filed despite the fact that the program was in virtual hiatus. That is an extremely impressive number of new jobs for disadvantaged Americans. In fact, TJTC is the only job creation activity we have which results in real employment, rather than training or job search assistance. The funds to adminster the program are badly needed and I hope the chairman will be able to assist.

Mr. REID. I want to join my colleagues in pointing out how important it is that the final supplemental appropriation include the funds necessary to administer the Targeted Jobs Tax Credit. We can not expect each State's Job Service to continue to administer a Federal Tax Credit Program unless we provide them with the funds they need to do the job. After all, the savings in Federal expenditures by getting people off of welfare, S.S.I., and general assistance saves well over 12 times the amount we are seeking to administer the program.

Mr. HEINZ. I also wish to join my friends in seeking the chairman's assistance for WIN, Summer Youth Employment, and the Targeted Jobs Tax Credit. Last year Senator Specter and I sought to provide administrative funds for TJTC in the continuing resolution, but were not successful. Administrative funds are sorely needed. Similarly, in Pennsylvania without additional WIN and Summer Youth funds, we are simply not going to provide jobs to needy people.

The Finance Committee, on which I serve, extended the Targeted Jobs Tax Credit retroactively. This was important, because otherwise employers would have lost credits for people they hired in reliance upon congressional assurances that this program would be extended. I am simply concerned that our work will go for naught if there is no money to administer the credit.

Similarly, the Finance Committee has authorizing jurisdiction over unemployment insurance. As member of the committee, I am deeply concerned that staff cut-backs and short funding have seriously eroded the quality of the Employment Service, and thus the ability of this Nation to provide for the unemployed. The House has included $79 million to cover the costs of administering unemployment insurance and employment services generally. I believe we need this funding. Let me give one example: in most western Pennsylvania employment offices, workers are unable to get information about their benefits, are often given incorrect information, fail to receive timely benefit payments, and as a result thousands of complaints are undergoing judicial review in the Commonwealth of Pennsylvania. Let me say to the chairman that it costs a lot more to handle all the appeals and lawsuits which result from poor administration, than it is to provide proper administration. Thus, I urge the chairman to work toward the House level of funds for unemployment insurance and employment service activities.

Mr. BRADLEY. I commend my colleague from New York for bringing these issues to the attention of the chairman of the Labor Subcommittee, the Senator from Florida. We don't want to see unemployment offices closed, or jobs and training cut back for youth and welfare recipients. I also urge the chairman to work towards the House levels for funding these vital programs.

Mr. KERRY. Mr. President, I have listened with interest to the comments of my distinguished colleagues from New York, Maryland, Pennsylvania, Tennessee, New Jersey, and Nevada with the Senator from Florida. I would like to add some remarks about my own State of Massachusetts to that colloquy.

In Massachusetts, we depend heavily on employment programs such as Unemployment Insurance, Work Incentives, the Trade Adjustment Act, and the Summer Youth Program to ensure employment opportunities for all and to contribute to the economic vitality of the Commonwealth. However, the last 3 years have seen a major decline in funding for all of these programs. Cuts in the Division of Employment Security Federal UI administrative account total 16 percent in real terms since 1985 and, therefore, the Commonwealth's ability to deliver timely and effective services to jobless workers is seriously threatened. Work Incentive funding for fiscal year 1987 was not only reduced, but limited to the first three quarters in anticipation of welfare reform legislation. Full fourth quarter funding is required to ensure smooth transition to a new work and welfare program. Trade Adjustment Act moneys authorized for fiscal year 1987 have already been exhausted and increased training moneys are necessary to provide dislocated workers the opportunity to sustain their economic self-sufficiency. Finally, the Summer Youth funds received by the commonwealth are enough to provide training for only 11,000 of the 200,000 economically disadvantaged youth in Massachusetts. It is imperative that funding for these programs remain intact so that the Commonwealth can continue its economic prosperity and contribute to the economic well-being of our entire Nation.

Mr. CHILES. Let me say that I appreciate my colleagues bringing their concerns to me. At the same time, to do all that you ask would require an adjustment in the outlay ceiling for this subcommittee. Nevertheless, employment opportunities are certainly of great importance to this Senator, and in conference I will try to be of assistance.

Mr. HEINZ. Mr. President, I thank my friend for his words, and for his kind consideration. Senator Chiles has been committed to improved job training and employment for a very long time, and I am looking forward to working with him and my friends from New York, Maryland, Tennessee, Nevada, New Jersey, and Pennsylvania to assist these programs. Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, I join my friend from Pennsylvania in commending the distinguished Senator from Florida for his consideration and assistance.

WIN AND SUMMER YOUTH PROGRAMS

Mr. ADAMS. I would like to compliment the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Senator Chiles, for his hard work on his subcommittee's portion of this appropriations bill. I do, however, have concerns about the recommended funding levels reported in the bill before us for two important employment training programs, WIN and the Summer Youth Employment and Training Program.

The WIN Program is the basic source of support for employment and training programs for those receiving

Aid to Families With Dependent Children [AFDC]. In last year's budget, funding of $110 million was provided for the first 9 months of fiscal year 1987. The main rationale for this decision was the expectation that some type of replacement program would be enacted to replace WIN.

It is clear that we will not have a replacement for the WIN Program in place by the end of fiscal year 1987, and possibly not for quite some time. It is also clear that the services provided by the WIN Program are valuable, and should be kept in place until welfare reform legislation is passed by Congress.

The House supplemental appropriations bill recommends $28 million for the WIN Program. This would essentially continue the program at a level slightly below the current level of funding for the remainder of fiscal year 1987. The Senate bill before us today recommends an appropriation of $17 million. The accompanying report notes that unexpended balances of $25 million are expected to be available as of June 30, 1987; and that this combination of funds will be sufficient to sustain the WIN Program for the balance of fiscal year 1987.

I appreciate the subcommittee's efforts to ensure that WIN is funded for the remaining quarter of fiscal year 1987. I am concerned, however, that the appropriation proposed in the bill before us continues a pattern of slowly decreasing funding for the WIN Program in the expectation that something better will take its place. Right now, the WIN Program is the major Federal program providing employment and training programs to people on welfare. Starving the program of funding in the hope that we will soon replace it with something better is a disservice to the people it serves. Instead, the existing program needs a stable level of funding so that it can continue to adequately function until a replacement is developed.

I am also concerned by the Appropriations Committee's decision to delete the $40 million appropriated in the House bill for the Summer Youth Employment and Training Program. Without this needed supplemental appropriation, the ability of this program to adequately serve disadvantaged youth during the upcoming summer will be severely impaired.

Furthermore, this large reduction in this program comes 1 year after Congress amended the Job Training Partnership Act to include major remedial education efforts in the summer job programs.

Under current fiscal year 1986 levels, approximately 119,000 summer jobs for disadvantaged youth will be lost, including over 2,371 in my State of Washington. As the distinguished chairman will recall, I sent him a letter last month asking that $100 million be included in this year's supplemental to restore these lost jobs, and enable the program to carry out the additional basic remedial education component.

The House bill appropriates $40 million for the Summer Youth Program by borrowing from the fiscal year 1987 appropriation for the Title II-B Program. This appropriation would allow cities to provide 37,500 additional jobs this summer. Although the program would still provide less jobs than it did last summer, this proposed increase in the current level of funding is very important.

I believe we must make every effort to find additional funding for this program. At a time when drug abuse, teenage pregnancy, and suicide afflict our young people, programs like this one that help give them the confidence, work experience, and skills they need to become productive adults are essential.

In the case of both of these programs, I believe that the funding levels in the House bill, while in my opinion still too low, are preferable to the levels proposed in the Senate bill before us today. I hope that the House funding levels will be included in the final bill, and I ask the chairman to be sensitive to my concerns in conference.

Mr. CHILES. I thank Senator ADAMS for bringing his concerns to my attention. These are good programs that provide employment opportunities to disadvantaged Americans, and we will try and do our best to address his concerns in conference.

MATCHING GRANT PROGRAM FOR SOVIET JEWISH REFUGEES

Mr. KENNEDY. Mr. President, a recent and welcome development is the apparent willingness of the Soviet Government to permit the departure of more Jewish refugees. Already this year, the number of Soviet Jews departing the Soviet Union has far exceeded previous estimates for the entire year. Many of these refugees have relatives and other ties to the United States, and are therefore being received in this country.

The principal resettlement program which for the past several years has assisted these refugees is the Matching Grant Program administered by the Office of Refugee Resettlement within the Department of Health and Human Services. HHS has requested of the Office of Management and Budget that $2 million of available discretionary funds be reprogrammed into the Matching Grant Program to meet this new demand.

Regrettably, Mr. President, OMB thus far has been unresponsive to this request, despite the modest amounts involved and the fact that no new money would be required. In fact, a small investment of $2 million will incur savings many times that amount given this program's record of early employment and low use of public assistance.

If I may ask of the Senator from Florida, as chairman of the Appropriations Subcommittee with responsibility in this area, and the Senator from Connecticut as its ranking member, do you support the urgent need for this transfer? And would you support a $2 million reprogramming request once received by your subcommittee?

Mr. CHILES. I agree with the Senator from Massachusetts that this reprogramming is urgently needed to respond to the new emigration of Soviet Jewish refugees and would view it favorably. I encourage OMB to proceed expeditiously to request this modest reprogramming of funds to expand the Matching Grant Program, which has such a fine record in successfully resettling Soviet Jewish refugees.

Mr. WEICKER. I concur with the statement of the Senator from Florida, and would encourage OMB to move swiftly to respond to the welcome emigration of Soviet Jewish refugees.

Mr. KENNEDY. I thank the Senator from Florida and the Senator from Connecticut. Mr. President, I submit for the RECORD a letter on this issue from all the members of the Subcommittee on Immigration and Refugee Affairs dated April 30.

The letter follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 30, 1987.

Senator LAWTON CHILES,
Chairman, Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, U.S. Senate, Washington, DC.

DEAR LAWTON: You have probably read press accounts regarding the increased willingness of the Soviet Union to permit the emigration of Soviet Jewish refugees. This is a welcome development, and one for which we must prepare, given that some of these refugees will resettle in the United States.

Accordingly, with Appropriations Committee consideration of the supplemental appropriations bill imminent, we wanted to raise with you the possibility of a small transfer of unused funds within the Department of Health and Human Services Office of Refugee Resettlement (ORR) to accommodate this and other appropriate refugee flows. Specifically, a small augmentation of ORR's highly successful "matching grant" refugee resettlement program is in order, a program which originated eight years ago to assist Soviet Jews as well as other refugee groups. The modest expansion required in the matching grant program should require no new money; instead, a transfer of unspent funds from other ORR programs should be sufficient to meet present need.

The matching grant program has been small, but extremely successful in facilitating the early employment of those refugees within it. This success was recognized when last year members of the immigration subcommittees of the House and Senate—which have oversight responsibility for the Office of Refugee Resettlement—included specific language in support of the matching grant program within the enacted bill to reauthorize the Refugee Act of 1980.

Currently, $3.8 million has been appropriated to assist in the resettlement of some 4,000 refugees. This is matched many times over by private sector resettlement groups. These groups report that at least 80% of the refugees are self-sufficient upon completion of the program, as compared with a 54% welfare dependency rate nationally among refugees. Obviously, this program saves the federal and state governments considerable public assistance dollars. A transfer of approximately $2 million would suffice for these purposes, but, as we have indicated, no new money would be required.

Can our staffs get together to work this out?

Thank you for your help, and best wishes.

Sincerely,

Edward M. Kennedy,
Chairman.
Paul Simon.
Alan K. Simpson,
Ranking Minority Member.

TINKER AIR FORCE BASE

Mr. BOREN. Mr. President, I join my good friend and colleague, Mr. Nickles, in bringing a military construction project to the attention of the floor managers of this bill. I commend my colleagues on the good work accomplished in this most difficult task of providing the best possible defense of our Nation at the most responsible cost to American taxpayers.

Oklahoma is proud to have been assigned by the U.S. Air Force the management and maintenance of the B-1B and many of its subsystems at Tinker Air Force Base. In accordance with the planning for this mission, the administration included in the fiscal year 1988 military construction program the construction of an advanced composite repair facility at a cost of $9.2 million.

I am well aware, Mr. President, of the budgetary constraints with which the members of the Senate Committee on Armed Services must contend. At the same time, however, the postponement of the composite repair facility severs an important link in a smooth transition of the maintenance mission of the B-1B.

This project, approved and included by the administration in the fiscal year 1988 budget request, has also been included in the House version of the military construction authorization. I urge my colleagues on the committee to reconsider the importance of this project and accept the House provision during the conference on this legislation.

Mr. NICKLES. Mr. President, rise today to join my colleague from Oklahoma, Mr. Boren, in requesting the attention of the floor managers to a military construction project which I believe is vital for the air defense of this Nation.

As my good friend has mentioned, we are very proud to have been entrusted by the Air Force to manage and maintain the B-1B and many of its subsystems at Tinker Air Force Base. In order for Tinker to properly maintain these aircraft, the administration requested $9.2 million in fiscal year 1988 for the construction of an advanced composite repair facility.

The B-1B contains more composite material than any other weapons system. Thirty-three percent of the structure of the B-1B is composite material, and today we have 45 B-1B's flying. The repair of materials such as graphite, boron, Kevalar and fiberglass is an exacting and specialized process, necessitating an exact and specialized repair facility.

Any delay of funding this composite repair facility would cause an inability to fulfill the mission the Air Force has entrusted to Tinker, as it would not be able to do all the work on B-1B aircraft required during programmed depot maintenance and would not allow Tinker to be responsive to the needs of the Air Force or to quality control.

I urge my colleagues on the committee to reconsider the importance of funding this project for fiscal year 1988 and to accept the House provision during the conference on this legislation.

THE VETERANS' ADMINISTRATION'S MEDICAL CARE INFORMATION SYSTEMS

Mr. MURKOWSKI. Mr. President, as former chairman and now ranking minority member of the Committee on Veterans' Affairs, I would like to bring to the attention of my colleagues a matter of significant importance to our Nation's veterans.

I speak today out of great concern that at least $1 billion—and perhaps almost $2 billion—may be spent by the Veteran's Administration [VA] on the development and implementation of a hospital information system that may be inadequate to meet the VA's information management needs.

The VA Health-Care System is the largest in the Nation. It has an annual budget of nearly $10 billion. It is obviously an enormous challenge to manage a medical-care system of this size. I applaud the VA for their diligent efforts to do so.

Let me be clear, Mr. President, that I fully support modernization of the VA's information management system. It is long overdue. This effort is vital if the VA is to operate effectively and efficiently.

Mr. President, a tremendous controversy is currently brewing regarding this effort. I find this to be most unfortunate. The VA has developed software to run a system known as the Decentralized Hospital Computer Program [DHCP]. This system is currently being used—in a limited capacity—in all but three VA hospitals. Off-the-shelf computer systems—developed by private sector companies—known as Integrated Hospital Systems [IHS]—are operating at the remaining VA hospitals.

The question which is so troubling to me is that the VA intends to move forward with a plan to fully implement DHCP when various studies—one of which was commissioned by the VA itself—seriously question that approach.

The surveys and investigations staff of the House Appropriations Committee examined this issue and in December 1986, released a report to that committee. That report concluded:

> Even with considerable additional investment of time and funds, the DHCP will not result in the development of a complete, operational medical care ADP system. This is due to the lack of an integrated system concept and architecture, and because of VA's current decentralized ADP management and development philosophy.

In addition, the VA contracted with Booz, Allen & Hamilton to conduct an investigation into these issues. Booz, Allen & Hamilton concluded that in nearly every way—support services, management support, systems engineering and design—the commercial products were more effective. Further, the report stated:

> We feel that the DHCP approach involves major risks that ADP program goals and objectives will not be fully achieved. The risk, as compared to the risk of the IHS Program, is significant.

The study concluded, however, that due to the high cost of commercial systems and the relatively low cost of DHCP, the VA should move forward with DHCP. The report cited figures that DHCP would have a lifecycle cost of $777 million while the cost of commercial solutions would be about $1.2 billion. For that reason—the cost issue—the VA decided to go full steam ahead with DHCP. Unfortunately, the projected costs do not appear to be anywhere near realistic.

The General Accounting Office [GAO] shortly will release a report which contains rather damaging information regarding the cost of DHCP. During briefings with members of my staff, GAO stated that the VA had underestimated the cost of full implementation of DHCP by as much as $1.2 billion. GAO estimates that the cost for full implementation could be $2 billion, $2 billion, Mr. President. If GAO is correct, this indicates that DHCP is far more expensive than off-the-shelf products—and thus the reason for moving forward with DHCP is simply not valid.

Because of these most serious questions regarding the effectiveness and cost of these systems, the House Appropriations Committee has asked the Office of Technology Assessment to conduct an independent review of all of these issues and to provide them with a report in September of this year.

Relative to the supplemental for fiscal year 1987, the Senate Appropriatons Committee bill allows the VA to spend money—about $35 million—for hardware acquisition for DHCP for medical centers which have reached full system capacity.

I am very concerned that the VA will receive this funding and move forward with procurement before decisions regarding the future of the program are made. If it is our collective judgment that OTA should review all of these issues, would it not be more prudent to await their report to Congress before spending additional sums for hardware?

Let us be assured that we are not throwing good money after bad. At this time, let us not be locked into a system—which in the long term may not fulfill the VA's needs or be cost-effective until we are sure that the approach is wise.

I would like to ask my colleague, Senator PROXMIRE, the chairman of the HUD-Independent Agencies Subcommittee, a question regarding this funding.

Senator PROXMIRE, what is your plan with regard to funding VA's medical modernization program, and what are the implications of all these studies in general and the OTA study in particular?

Mr. PROXMIRE. I share many of your concerns about the implementation of the DHCP system just as I agree with you that the VA should be encouraged to implement that system which is the best and most cost-efficient. As you indicated, the Office of Technology Assessment has been asked to examine the VA's current and proposed system, the VA's needs and the opportunities which exist in the public and private sectors to take advantage of the advances which have been made in computer technology over the last few years. Once the OTA report is available, I believe that a consensus will arise which will allow the VA to move quickly to implement an effective program. Further, I expect that the overall result of this will be the faster and more efficient implementation of a full computer system, and that an overall saving of time and money will occur.

However, the VA has told us that in the interim they need sufficient funding to maintain current computer operations.

For that reason, $34,178,000 is being made available until September 30, 1988, to ensure a speedy implementation of whatever final approach is selected, and to allow the VA to maintain current capacity.

Mr. MURKOWSKI. I thank my colleague for his outstanding commitment to ensuring that the VA implements a cost-effective hospital information system.

Mr. SIMPSON. Mr. President, I note that the Senate report accompanying the bill now before us directs the Department of Energy to make available to the National Academy of Sciences up to $200,000 for the purpose of carrying out additional work on the design of facilities for low-level radioactive waste disposal. I wonder if I might ask the distinguished chairman of the Subcommittee on Energy and Water Development, Senator JOHNSTON, to clarify the nature of the work that the National Academy of Sciences is to perform, the steps that are to be taken to ensure that this effort does not duplicate work already done on alternative disposal methods, and the impact of this specific directive on the milestones established in the "low-level Radioactive Waste Policy Amendments Act of 1985"?

Mr. JOHNSTON. I thank the Senator from Wyoming for the thoughtful question, Mr. President, and for the opportunity to expand on what is intended by this specific directive in the Senate report. First, Mr. President, there are a number of States that are interested in pursuing alternatives to shallow land burial for the disposal of low-level radioactive waste. As the Senator from Wyoming will recall, we discussed this issue in great detail when the Senate took up and considered the "low-level Radioactive Waste Policy Amendments Act of 1985" in the 99th Congress. In fact, it was because of this concern that the 1985 act includes a provision—section 8—directing the Nuclear Regulatory Commission to identify and publish all relevant technical information concerning alternative methods for the disposal of low-level radioactive waste using techniques other than shallow burial. Section 8 is quite comprehensive, Mr. President, directing the NRC to provide States with information on site suitability, site design, facility operation, disposal site closure, and environmental monitoring.

In my view, Mr. President, the approach taken in the 1985 act strikes the proper balance between two interests: First, it establishes a procedure for providing those States that might be interested in pursuing alternatives to shallow land burial with the necessary information to make a timely and informed decision. And second, it recognizes that much of this information is currently available and, accordingly, those States that elect to pursue alternatives to shallow land burial can do so and still meet the milestones established in the 1985 act. Indeed, in this regard, Mr. President, it is worth pointing out that the Army Corps of Engineers has already completed a comprehensive, five-volume report on alternative methods for disposal of low-level radioactive wastes that address many of the key issues regarding alternate technologies.

Nevertheless, to the extent that there are still specific areas or discrete questions about alternative disposal technologies that need to be addressed, this provision will enable the Department of Energy to use such funds as it deems appropriate, up to $200,000, to examine those remaining questions.

Mr. SIMPSON. Do I understand the Senator to say that the work to be carried out in response to this directive is not to duplicate existing work on alternate disposal technologies?

Mr. JOHNSTON. The Senator is correct. The Department of Energy should first examine the existing information available to States on alternate disposal technologies and ensure that no funds are spent duplicating any of this existing work.

Mr. SIMPSON. And do I also correctly understand that this directive is to have no effect whatsoever on the obligations of the various States to meet the milestones in the 1985 act?

Mr. JOHNSTON. That, too, is a correct reading of this provision.

Mr. SIMPSON. Finally, Mr. President, I should like to ask my good colleague from Louisiana whether there are specific areas or questions that, in his view, warrant further attention by DOE—and that, accordingly, would be an appropriate subject of further study by the National Academy of Sciences, using the funds designated in the Senate report?

Mr. JOHNSTON. As I indicated, Mr. President, I certainly think that much of the work on alternate design technologies is now complete—and that States are in a position to decide which basic technology they wish to pursue for low-level radioactive waste disposal. Nevertheless, there are specific questions that may be worth pursuing—issues such as the effectiveness of engineered barriers in ensuring that radioactivity does not escape into the human environment. In that regard, I must say, Mr. President, that I have been greatly impressed with the work that the Swedes are doing in this particular area—and the high degree of public confidence that characterizes the Swedish program for the disposal of low- and intermediate-level radioactive waste. And as one who accompanied me on a recent trip that I led to Sweden to see firsthand the Swedish disposal program, I suspect that the Senator from Wyoming no doubt shares those same positive thoughts.

In view of the Swedish experience, Mr. President, it would seem that we might have a great deal to learn from the Swedish program in this area and that, accordingly, DOE may wish to consider allocating some part of the designated funds to studying the steps that the Swedes have taken to ensure the safe and effective disposal of low- and intermediate-level radioactive waste. Where it is feasible, Mr. President, we should draw on the experiences of other countries—particularly where, as in the case of Sweden, that experience has been so positive.

Mr. SIMPSON. I certainly concur in what the Senator says. Indeed, as he correctly points out, I did accompany him on a recent trip to Sweden and was greatly impressed with the "SFR" repository for low- and intermediate-level radioactive waste disposal. One area, in particular, where the Swedes are taking great care to ensure that the waste remains isolated—and where I think we could benefit greatly from further study—is in their construction of barriers surrounding the waste in order to contain the radioactive materials. After construction of a concrete silo to contain the waste, the Swedes then surround this silo with an impervious clay buffer. This buffer—which consists of bentonite clay—serves to limit the rate of groundwater turnover and also provides protection in the event of rock movements. The benefits of bentonite— a natural material with high durability in this particular environment—appear to be significant and, accordingly, deserve further attention. Indeed, it may well turn out that bentonite clay would be an appropriate buffer for use in conjunction with the various alternate disposal technologies already examined in the Army Corps of Engineers study referred to by the Senator from Louisiana—particularly where we are dealing with nonarid sites. I trust, Mr. President, that further consideration in this specific area would be consistent with the directive contained in the Senate report. Is that consistent with the Senator's understanding of the purpose of this provision?

Mr. JOHNSTON. It certainly is, Mr. President. As I indicated, the basic work on the various alternate disposal technologies is quite comprehensive—and I do not envision a need for further work by the Department of Energy or the National Academy of Sciences on developing other alternatives beyond those that have been studied to date. In addition to shallow land burial, for example, we now have an extensive technical record on five other alternatives: below ground vaults, above ground vaults, earth mounded concrete bunkers, mined cavities, and augured holes. The information on these atlernatives is, in my view, sufficient to enable States to select a basic approach from one of these alternatives and then proceed with the development of a site in a manner that complies with the milestones in the 1985 act. But if, after selecting one of these basic approaches, a State wishes to consider the use of bentonite as a buffer material—employing it as a part of one of the basic alternatives already identified—it would be useful, in my view, as a complement to the work already done to date, if we had a solid technical understanding of the advantages of bentonite as a buffer material to contain the release of radioactivity. Accordingly, it would be most appropriate in my view for DOE to examine this question with the funds designated under this provision.

Mr. SIMPSON. I thank the Senator for his clarification.

Mr. PELL. Mr. President, I rise today to call to the attention of the Senate the work of our distinguished colleague from the State of Oregon, Mr. HATFIELD, for his efforts to alleviate the suffering of those unfortunate citizens with Alzheimer's disease.

I am extremely pleased that funding has been included in the Senate version of the fiscal year 1987 supplemental appropriations bill, H.R. 1827. Those of us concerned about Alzheimer's disease research can now be assured that the important clinical study into the efficacy of the drug tetrahydroaminoacridine or THA, will be able to begin this year. Senator HATFIELD was insistent that the National Institute on Aging receive sufficient funds to begin this year the clinical studies that will determine the effectiveness of THA in reducing the effects of Alzheimer's disease. As you know, my own bill, S. 997, will provide funding for this critical study beginning in fiscal year 1988. The final funding total for fiscal year 1987 will be determined in the House and Senate conference on the bill but we can at least be sure, thanks to the efforts of Senator HATFIELD, that this study will begin this fiscal year. There is not a moment to lose in the battle against the degenerative effects of Alzheimer's disease and related dementia.

I look forward to working with Senator HATFIELD as the work on the 1988 budget continues to assure that the NIA will be able to continue the study for the next 3 years.

R.D. BAILEY DAM SETTLEMENT

Mr. BYRD. Mr. President, I would like to enter into a brief colloquy with the distinguished chairman of the Appropriations Subcommittee on Energy and Water Development and Related Agencies.

The U.S. Army Corps of Engineers entered into an agreement this spring with several landowners and owners of mineral rights at the R.D. Bailey Dam. The Corps of Engineers condemned these properties in 1977 in order to construct this necessary flood control dam. In the interim period, the landowners and mineral lease holders have had neither their property nor just compensation paid to them.

I think it is important that the Government compensate the individuals as promptly as possible so that they will not be further inconvenienced. It is my understanding that the U.S. Army Corps of Engineers intends to prepare a reprogramming from construction general funds to meet the settlement requirements.

Would the distinguished chairman of the subcommittee join me in encouraging the Corps of Engineers to expedite the submission of that reprogramming to the Congress for approval so that the property owners and others will not be needlessly convenienced by further delays?

Mr. JOHNSTON. I can assure the majority leader that we will work together on this both to encourage the Corps of Engineers to send the reprogramming up in a timely manner and to give that request an expeditious consideration by the subcommittee.

Mr. BYRD. I thank the Senator for his consideration.

● Mr. KENNEDY, Mr. President, there are a couple of issues which have come to the attention of those of us on the Subcommittee on Immigration and Refugee Affairs on which I would like to address my colleagues—with Senator SIMPSON, our able ranking member, and Senator HOLLINGS, the distinguished chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and related agencies.

As they know, the responsibility for the implementation of the Immigration Reform and Control Act enacted last year—and for which Senator SIMPSON was chief sponsor—is spread across a number of Government agencies. While Senator HOLLINGS is to be commended for his work in offering the bare-bones funding needed for the Immigration Service's role in implementation, significant funding questions remain on key aspects of the implementation of employer sanctions within the Department of Justice. These are:

First, funding for the "Special Counsel" on immigration-related employment discrimination—a key ingredient to the delicate balance within the immigration bill for which the Justice Department has asked $1,359,000;

Second, funding for the administrative law judges needed to adjudicate employer sanctions cases against employers, for which $5,823,000 was requested; and

Third, $936,000 for the Civil Division of the Department of Justice for litigation anticipated to arise from the new law.

These employer sanctions items total just over $8 million, yet they represent fundamentally important ingredients to the balance of the various provisions in the new immigration law. For example, a key element in the agreements that helped move the bill toward passage last year was the special counsel on discrimination. This special counsel was the insurance which the Congress provided ethnic Americans, immigrants, refugees, and others that their concerns about the possibility of employment discrimination will be taken seriously.

● Mr. SIMPSON. Mr. President, I share Senator KENNEDY's concerns. Just as he and I have joined to oppose the amendment to alter the employer sanctions provisions of the bill by delaying them, so, too, must we maintain the delicate balance in the bill we so often talk about by ensuring that the special counsel has the minimum funds to function. Indeed, this Office of Special Counsel is important and we need to be certain it is functioning and effective. We may each have voted for or against specific provisions, but it was the total package of provisions which got the bill through initially and we should keep the package intact.

I think that also includes, Mr. President, funding for the administrative law judges which Senator KENNEDY mentioned, and the needed funding for litigation challenges which may be mounted against the Government. I don't want to see a situation in which employees have access to an adjudication system in the Special Counsel's office, but employers don't have access to an effective ALJ system to handle their needs. So we need to deal with both.

I will also say that the Appropriations Committee has done the country a great service in approving the $147 million for the Immigration and Naturalization Service. INS is in desperate need of this money, especially since not one dollar has been appropriated for the implementation of the Immigration Reform and Control Act. This is no one's fault. It is just that the immigration bill passed last year after the continuing resolution had already been dispensed with. I think it is important that every effort be made to get no less than this amount to the INS—and quickly.

● Mr. KENNEDY. Mr. President, I agree with Senator SIMPSON. We have taken a look at that $147 million and really consider it to be the minimum required.

Mr. President, if I may address the Senator from South Carolina, I understand that funding for these matters is included in the version of the supplemental passed by the House. I know that he has very ably steered this element of the Supplemental through difficult budgetary waters, and that the budgetary constraints are real. I would simply ask whether we might be able to work with the Senator to explore ways in which funds might be found for the concerns which Senator SIMPSON and I have identified.

● Mr. HOLLINGS. Mr. President, I appreciate learning of these concerns of Senator KENNEDY and Senator SIMPSON, and I want to assure them that I look forward to working with them to see if we can find ways in conference to come up with the necessary funds as we make final adjustments in this Supplemental Appropriations bill.

● Mr. SIMPSON. I thank my friend from South Carolina for those words, and also want to thank him for his assistance over the years in the passage of immigration reform. His support and generosity have been unfailing.●

THE PERSIAN GULF

Mr. EXON. Mr. President, earlier today we had a vote on a measure sponsored by the majority leader and minority leader calling on the President of the United States not to proceed as he has announced, with further risk to American men and ships in the Persian Gulf pending further consultation with the Senate. I thought that was a very timely amendment.

But as a member of the Armed Services Committee, we have spent 2 days being briefed by officers of the Pentagon on what happened over there in the gulf, and we have learned very little.

I feel that the officers who have briefed us are in an extremely defensive posture. I find that, by and large, I wasted my time going to those briefings. They were typical nonbriefings called briefings that we customarily receive as U.S. Senators after a momentous event and then we can read all about it in the next morning's newspapers as we have for the last 2 or 3 days.

I will not mention any names, but I called some of the highest ranking officers the day before yesterday in the Pentagon and asked for an explanation, and I got none whatsoever. In checking back, they said they did not have any information, they did not know anything and there would be no further statements until the official Naval investigation.

The next morning, in the Washington Post, I found out that our Naval commander in the area had indeed had a full-scale press conference. And yet I guess the people down at the Pentagon did not know what was going on over there, and I do not think they do.

But far more than not putting out information, I wonder if they know what is going on. I wonder if they know that we have men serving in a war zone over there. Men are getting killed and they have no explanation.

I am not about to judge what happened specifically over there because I do not think anyone knows. But I have come to one fateful conclusion and I think the Members of this Senate and the people at large ought to know about it: That, basically, is, Mr. President, that—unbelievable as it sounds, it is true—we are unnecessarily, in my view, risking the lives of our servicemen by having ships in a war zone and having absolutely no air cover. I think it is a violation of every principle of modern-day warfare.

As a result thereof, I sent a letter to the President of the United States today. It was delivered to the White House today. I want to read it to the Senate.

MAY 21, 1987.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: After extensive briefing on the tragic accident involving the frigate *Stark* and the loss of 37 men, I have more questions remaining unanswered than answers. Evidently, we should await the official naval inquiry for answers, but the services' reports thus far have left me with the impression they are defensive in their posture. My concern and my plea to you, as Commander in Chief, is to become directly involved in this and take immediate corrective action.

I know that you are as much concerned as all of us about the continued tragedies of our armed forces in the Middle East and our obvious shortcomings and losses of life. By and large we all share in the responsibility for these failures and must work cooperatively for solutions.

My urgent request and plea to you, Mr. President, is to recognize that we are taking unusual and fool-hardy risks in the Persian Gulf today by exposing, unnecessarily, men and ships to combat situations without any viable air cover for protective and deterrent missions.

Obviously aircraft carriers are not a viable option, given the limited maneuvering area in the narrow waterway where such a ship would be at high risk and insufficient room for its necessary protective fleet.

It is therefore apparent that we require immediately, if not sooner, an operational landbase for fighter aircraft from one of the friendly Middle East countries adjacent to the upper reaches of the Gulf. Without question this is a requirement if we are to pursue an even more dangerous involvement of escorting foreign tankers flying the American flag as you have suggested.

As you know, we do not depend greatly on Gulf oil which is required in volumes of approximately 60% by the Japanese and 28% by the Europeans. The other primary beneficiaries are the Arab oil states as suppliers whose economies would be strangled overnight by a closed Gulf.

With all of this, Mr. President, I can support your resolve to discharge our responsibilities as the military leader of the free world, but only if at least one Gulf state has the courage to at minimum provide a base for us to protect our men and ships with obviously badly needed air cover.

Suffice to say that it is highly unlikely the Iraqi aircraft could have maneuvered to attack range on the *Stark* had it been challenged by our protective aircraft.

I plead, Mr. President, with all respect, that we seek and receive at least one adequate and temporary aircraft-operational facility from a country not a combatant before we take on any additional responsibility.

If that cannot be provided, then it would be clear that we are not wanted by those we are attempting to assist in bringing a measure of order to that part of the world, and it would be a clear signal that we should begin an orderly withdrawal.

What I respectfully suggest for your consideration, Mr. President, is that if we are to remain in the Gulf, we go in with sufficient redundancy of all required and combined forces to do the job right or make a determination we should not be there at all.

Respectfully,

J. JAMES EXON,
U.S. Senator.

Mr. EXON. Mr. President, I will just close by saying that I think this is a fundamental flaw and it is very likely to become the center of debate on our involvement in the gulf region.

I emphasize once again that there may well be a reason that we should be there, but I still feel that our allies, who most benefit from the oil flowing out of the gulf, both the producing countries and the receiving countries who make Toyotas and other things in competition with Americans, are not doing their share.

So I hope that the President will recognize and realize the folly of our ways. I hope that the President of the United States would correct what possibly bad military information that he has received from those who are supposed to advise him. I cannot imagine that anyone with any basic military skills would recommend that we risk the lives of our sailors and our ships by sending them into a combat zone without air cover.

Mr. President, I yield the floor.

MEMORIAL DAY 1987

Mr. DOLE. Mr. President, with the loss of 37 American lives in the Persian Gulf this week, Memorial Day 1987 will be extra poignant.

The shocking, unwarranted attack on the U.S.S. *Stark* reminds us again that the cost of freedom is high; and that our responsibilities as leader of the free world are heavy indeed. It is not easy. It is often painful. And we pray for peace. But the real world is a dangerous place, with tyranny on the march. It is a challenge that we have always met, with courage, determination, and yes, sacrifice time and time again, American service men and women have put their lives on the line to keep the flame of freedom burning around the globe.

Mr. President, I understand that Memorial Day is a holiday—a long weekend for America. It is a time for family and some fun. But let us remember the true spirit of Memorial Day. A special day to honor the brave men and women who made the ultimate sacrifice for this great land: In the bitter cold of Valley Forge; in the agony of Chateua-Thierry, and Belleau Wood; on the bloody beaches of Normandy, Iwo Jima and Anzio; in Korea, Vietnam, Lebanon, the Persian Gulf and wherever else freedom's call has taken us.

So let us honor our fallen comrades this weekend. Let us remember the sacrifice of the 37 men of the U.S.S. *Stark*. They are the latest additions to our long and distinguished honor roll of heroes. We will never forget them.

CUBAN INDEPENDENCE DAY

Mr. DOLE. Mr. President, let me say a word about an important occasion which took place yesterday, May 20—Cuban Independence Day.

I am a day late in taking note of this event only because I was privileged to be in Miami yesterday, to speak to the annual Cuban-American "National Foundation Independence Day" celebration. It was a marvelous, and moving, event. The spirit I saw among the many Cuban-Americans who attended, and participated in the event, make clear why they have enjoyed so much success in this country; why they have made so many contributions to our country; and why—someday—Cuba again will be free.

As the Senate knows, the leader of the foundation is Jorge Mas, and he was one of the key speakers on the program yesterday. As always, he spoke with eloquence and energy. And I want to share his remarks with the Senate. I ask unanimous consent that the text of his remarks be included in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY JORGE MAS CANOSA

Welcome to Miami, Senator Dole. We thank you for visiting with us today. But it is not just those in this room who will hear your remarks. Through Radio Marti, the oppressed Cuban people will listen to your speech, and it will raise their spirits. I also want to offer my thanks to all of you here today for your continuing support.

Today we commemorate Cuba's National Independence Day. This is reason alone to celebrate. But today also marks another anniversary. Just two years ago, a basic Human Right was returned to the Cuban people on the Island. Two years ago, at five o'clock in the morning, the sound of "Buenos Dias, Cuba" over Radio Marti broke the silence in more ways than one. Since then, the sound of truth is heard daily in Cuba.

Twenty-seven years ago we arrived in Florida seeking refuge from tyranny and persecution.

Since then, Cuba has become a powerful Soviet Caribbean base used to subvert many other countries in the world. Now it threatens the vital interest of U.S. itself.

These unfortunate historical events place a great responsibility on the shoulders of Cuban-Americans. We must make Cuba free and promote freedom and democracy through all the Americas.

One way to meet our responsibility is to explain to others why we have done so well in the United States.

Indeed, many stories have been told how one million Cuban-Americans succeeded. This story is popular with the American media.

But the unanswered question is why do we prosper and succeed? The answer requires only one word: Freedom, absolute and unrestricted freedom. Freedom to choose our own destiny. Freedom to determine our own future, Freedom from fear, from grief and persecution.

This answer must be shared with all the people in the Western Hemisphere. Nothing is more important for us to do.

Yes, we Cuban-Americans have done well in the United States. But we owe it more to the system than to ourselves. And this fact, this beautiful fact, has to be told to the world.

We have the best and freest democratic system in the world. We must not apologize for it. And we shall not feel guilty because of it. And yet sometimes, it appears that Americans need to hear our message as much as anyone. Always being rich can make one indifferent about the danger of being poor. But the rich political legacy of this country is in danger.

Therefore, the Cuban-Americans must tell our story. It will strengthen the faith of the American people in their own remarkable institutions.

Therefore, let's talk to the American people about today's challenges. Let's tell them that we Cuban-Americans have succeeded because we have not taken freedom for granted.

Let's tell them that because we were not born free, we believe it is our moral duty to preserve freedom where it exists. And it is our duty to fight to restore it where it has been crushed.

That is why Cuban-Americans are on the side of freedom fighters in Angola and Nicaragua. We see history repeating itself again in Angola and Nicaragua. Twenty-seven years ago, we were victims of history. And today, just like in Cuba, communist dictators in Angola and Nicaragua deny their people elections, rule by force, and use repressive tactics against their democratic opponents.

We must share our experiences with our American brothers and sisters to avoid another Bay of Pigs in Angola and Nicaragua.

However, we see some American leaders are reluctant to confront reality. It seems they don't want to learn from the lessons of History. So, let us add these men and women to our list of Americans we must talk to about the value of freedom.

As we talk to national leaders, to the American people, and to our brothers in other countries, let us remember we Cuban-Americans have a date with destiny. We came to this country not only to feed ourselves but to keep the torch of freedom burning.

When this nation was founded, it was not intended to be only a land of riches. It was to be something more important. It was to be a land of freedom. This republic was born to serve as the beachhead for freedom in the world.

America, therefore, has a right to expect from us something more than adding to its economic success. We must invest back what American generosity has provided us with. We must support the dream of freedom every way we can. That is why we created the Cuban American National Foundation. Our contribution can and will make a difference.

It's true we came to America filled with pain but we also brought our ideas and our ideals. Therefore, let us invest in our ideas and ideals and participate in the democracy we celebrate, Let's fight on Capitol Hill to preserve freedom and to protect the national security of this great nation.

In closing, welcome to Miami, Senator Dole, Senator Symms, Vice President Chitunda, and members of the Nicaraguan Democratic Resistance. We love this city. It is a cross-road through which men and women seeking freedom and peace come to tell others about the value of democracy and liberty.

America's love for strangers and America's compassion for refugees can be seen here in Miami.

In this city we prosper and educate our children. But more inportantly we cherish real freedom.

Finally, we come together today to tell the world that we are going to keep America free. We also proclaim that democracy will come to the peoples of Cuba, Angola and Nicaragua.

The struggle for freedom is the most important human drama underway throughout the world.

It unites everyone here today, Americans, Cubans, Angolans, and Nicaraguans.

Therefore, today, let us forget about national borders and special interests. Instead, let us speak about the universal objectives we share of freedom and democracy. They form the mutual bond that brings all of us together.

Mr. DOLE. Mr. President, Cuban Independence Day is always a bittersweet occasion. The reality in Cuba today is bitter—and will remain that way until Castro's Communist regime is replaced by a Democracy of, by and for the people of Cuba. But the dream of a "free Cuba" is sweet—and it is a dream that will someday come true.

THE DEFENSE AUTHORIZATION BILL

Mr. WARNER. Mr. President, it has been over 1 week now since the Senate began extended debate on the motion to proceed to the defense authorization bill. In my judgment, the time has been well spent in articulating the views on both sides on the implications of the Levin-Nunn provision.

In the heat of debate about the negotiating record, about the role of the Senate and the Congress, about the impact on the SDI program, and about the national security implications of this amendment, we are always in danger of losing sight of the overarching reason for this extended debate.

The action taken by the House of Representatives yesterday in passing their version of the defense authorization bill underscores for me the reasons for this debate. The House passed by a vote of 239 to 177 a defense authorization bill that the ranking Republican member of the House Armed Services Committee called an all out assault by the House of Representatives, or at least the majority of the body, on the President's program for defense of the United States.

That assault by the Democratic majority in the House of Representatives took a number of forms. First, the House passed defense bill reduces the President's request by $23 billion, which could well result in a third consecutive year of defense funding that does not even keep up with inflation.

More to the point of the debate in this body are the arms control amendments included in the House bill.

By a vote of 245 to 181, the Democratic majority agreed to the Dicks amendment that prohibits the use of the 1988 funds for deployment or maintenance of any weapon that violates the numerical sublimits set by the SALT II treaty. The House provision would have us adhere to an unratified and expired treaty, key provisions of which the Soviets are violating.

The President just a few weeks ago instructed his negotiators in Geneva to offer a draft START treaty, on which there is already much common agreement between the two sides. In contrast to the unratified SALT II limits on launchers, which permitted and would continue to permit substantial increases in the number of Soviet warheads, the President proposes to negotiate real and substantial reductions.

For the Congress to impose upon the United States unilateral adherence to SALT II provisions would do nothing but undercut the U.S. negotiating team in Geneva, and ignore an area of commonality in the negotiations—the importance of weapons reductions.

By a vote of 234 to 187, the Democratic majority in the House passed the Schroeder amendment that prohibits the use of fiscal year 1988 funds for conducting nuclear explosions with a yield greater than 1 kiloton. The House amendment ignores the reality that so long as we continue to depend on nuclear weapons for deterrence, we will need to test to assure the continued reliability, safety, and effectiveness of our nuclear deterrent.

The House provision does not contribute to the reduction of nuclear weapons. Rather it would serve to undermine our confidence in our nuclear deterrence while at the same time undermining the efforts of the President to negotiate procedures whereby the two sides could more confidently verify the nuclear testing programs of the other.

By a vote of 229 to 188, the Democratic majority passed the Brown amendment that prohibits testing the space defense system Asat against objects in space through fiscal year 1988.

General Herres, the Vice Chairman of the Joint Chiefs of Staff recently wrote me of his concern that the maintenance of a constrained Asat program, despite the continued growth in Soviet military space capability, unilaterally disarms our forces in a critical area while ceding to the Soviets a sanctuary for space operations. As long as the Soviets alone possess an Asat capability to disable our critical space systems, the United States will remain hostage to potential loss of these systems. That is a situation that apparently does not cause the majority in the House the concern it causes this Senator, and I believe, this body.

By a vote of 219 to 199, the Democratic majority passed the Bennett amendment that reduces the SDI authorization level to $3.1 billion, a level $1.4 billion less than recommended by the Senate Armed Services Committee and almost half the level recommended by the President.

Mr. President, the SDI funding passed by the House is less than the amount approved last year by the Congress. At a time when this program is so central to the negotiations currently ongoing in Geneva, and so central to this Nation's hope of reducing our dependence on offensive weapons of mass destruction for deterrence, I can only hope that the voters will take notice of the actions of their representatives.

Finally, Mr. President, the Democratic majority passed a bill that included a limitation on SDI funding that would have the effect of forcing the so-called narrow interpretation of the ABM Treaty.

Mr. President, I have taken the Senate's time to highlight the actions of the House because those actions are germane to the actions taken by this side over the past week. Republicans simply cannot and will not support legislation, however attractive its other provisions might be, that ties the hands of the President at such a crucial stage in the arms control negotiations. Our colleagues in the House of a similar mind could only express themselves by voting against such harmful amendments—they could not procedurally stop consideration of the amendments. However, I would remind my colleagues that over one-third of the House voted against final passage of the defense authorization bill. That is the highest negative vote in that body against the defense bill in my memory, and importantly, sufficient to sustain a Presidential veto.

Mr. President, while Senate historians may check the records to compare this debate with others in the past, I would note a significant fact that may not emerge from such nostalgia. The defense authorization bill emerges each year from the Armed Services Committee only after extensive and often heated debate. This is entirely appropriate, given the importance of the issues involved, and the controversy that often surrounds them. Despite this fact, in 11 of the past 17 years, no members of the committee have voted against reporting the bill. In 3 years, only one member was opposed, in 1 year two opposed and in 1 year three opposed. Thus it is unprecedented that eight members of the committee would be opposed to reporting the bill out, and I believe underscores the significance of the issues before us.

Mr. President, my dear friend and former colleague John Tower articulated many times for this body and indeed for the Nation at large the important relationships between the executive and the legislative branches with respect to the conduct of foreign policy. Perhaps his arguments are best summed up in the impossibility of the President negotiating complex arms control agreements with the Soviets at the same time that he must negotiate with 535 Members of Congress. John Tower had the unique opportunity to witness the effect of congressional interference with arms control first hand as a negotiator, and has spoken many times of the undermining effect it had on his ability to negotiate.

Mr. President, the Senate has not yet gotten to the point of legislating a broad range of arms control provisions, as has the House of Representatives, that give to the Soviets what they are unable to obtain at the negotiating table. But the Levin-Nunn amendment turns our face in that direction, and starts us marching down that road. So long as Republicans can keep us off that legislative road, we will do so through any means available to us. In the end, both we, and our Republican colleagues on the House side, have the votes to sustain a Presidential veto of any legislation that transgresses the delicate balance between the executive and the legislative branches and attempts to legislate arms control.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

STARK TRAGEDY

Mr. MATSUNAGA. Mr. President, the attack on the U.S.S. *Stark*, an appalling tragedy, underscores how volatile is the path of the oil pipeline through the Persian Gulf. While we need a full explanation for it, this occurrence, however, unintentional it appears to have been, drives home the necessity for insulating this pipeline from the incendiary Iraqi-Iranian war. The only way to do this is to exert every effort to get the warring parties together at a conference table, where this drawn out and debilitating conflict so injurious to the peace process in the Middle East, can be settled. Its 6-year history suggests the only decisive course for resolving this war is the rational course of a negotiated settlement.

As a consequence of the *Stark* tragedy, I hope that the warring parties will consider the wider implications of their unfortunate conflict and that other nations also will be encouraged to press the combatants to the peace table.

I offer my heartfelt condolences to the families of all the men who died in the attack, one of whom, Operations Specialist Steven Edward Kendall, enlisted as a resident of Honolulu, HI. He grew up in Wahiawa, Oahu, was a graduate of Radford High School, class of 1975, and also attended Leilehua High School for 2 years before transferring to Radford, both central Oahu public schools. The present day principal of Radford, High School Wendell Staszkow, was a teacher at Leilehua when both my personal secretary, Shirley Dumlao, and Steven Kendall were students there. He remembers Steven as "an especially good student at science" who managed the soccer team which he coached. Another teacher also remembers him as "a very good communicator" who "when he had to talk in science class, could always make things very clear." This teacher remembers Steven Kendall as being "right on the ball * * * always very easy to talk to, very approachable and everybody liked him." His widow and children now live in Florida and his parents reside in Indiana. To them I extend in fervent prayer God's aloha and blessing, in behalf of the people of Hawaii whom I represent in the U.S. Senate.

I convey also Hawaii's best wishes for a speedy and complete recovery to all those who were injured in this completely unanticipated attack, this latest example of the unintended consequences and ultimate folly of warfare.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

NATIONAL TEST FACILITY

Mr. WIRTH. Mr. President, Tuesday, the General Accounting Office [GAO] reported to my office that, compared with other sites evaluated by the GAO, Falcon Air Force Station in Colorado Springs is the least costly site for the strategic defense initiative organization's [SDIO] national test facility [NTF].

Tuesday's determination comes as no surprise, given SDIO's thorough evaluation of available sites for the NTF. SDIO's own carefully selected task force—relying on topflight engineering expertise drawn from the Army and the Army Corps of Engineers in Huntsville, AL—found that the current vacant space at Falcon Air Force Station could provide immediately:

The amount of space needed to accommodate the NTF, without the delay or cost of an environmental impact study.

In-place and inexpensive utilities, plus back-up utilities.

Proximity to Peterson Air Force Base, and the headquarters of North American Aerospace Defense Command [NORAD] and Unified Space Command. This proximity allows for access to a major Air Force base, which is also the location of the Colorado Springs commercial airport and terminal. It also allows for access to Air Force and Space Command personnel, whose expertise in computerized tracking of space objects is well proven.

State-of-the-art security facilities at the Consolidated Space Operations Center [CSOC], to deter threats of vandalism, invasion or terrorism. The CSOC structure is also designed to provide maximum security for the electronic emission of signals transmitted by the supercomputers that would be employed by the test facility.

Additional buffered land which can be used to construct the autonomous building for the NTF, in close proximity to CSOC and to the Shuttle Operations and Planning Center [SOPC], tentatively scheduled to move into the CSOC structure in the early 1990's.

A community—Colorado Springs—which has a proven 40-year record of day-to-day cooperation with other military commands—including Fort Carson, NORAD, the U.S. Air Force Academy, Peterson Field complex, the U.S. Air Force Space Command, and the Unified Space Command—and defense-oriented contractors.

In addition to these outstanding assets, Mr. President, we now have the GAO's confirmation that Falcon Air Force Station is a cost-effective site for the NTF, compared with the other sites the agency evaluated.

Further, we have word from the commander of U.S. Space Command, Gen. John Piotrowski, that Falcon has the tremendous advantage of permitting colocation of the NTF with its principal user: USSPACECOM, located in Colorado Springs. What General Piotrowski is saying is that there is no more ideal location in our country for the National Test Facility than at Falcon Air Force Station in Colorado Springs.

Mr. President, the studies have been done and the verdict is in: Falcon Air Force Station is the best site for the National Test Facility.

SDIO has issued RFP's. Designs of the new NTF have been submitted. The entire project has reached the military construction milestone—a fact which the Senate Armed Services Committee has recognized by authorizing DOD's full funding request for NTF construction in fiscal 1988.

Let us get past the delays, Mr. President, and on with the project. The ground has been laid at Falcon. Let us take advantage of its outstanding qualities—recognized by DOD and the GAO—and start construction.

Mr. President, I ask unanimous consent to insert at this point in the RECORD, several documents—from SDIO and the U.S. Space Command—which substantiate Falcon's unequalled merits as the NTF site.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Department of Defense, Strategic Defense Initiative Organization,
Washington, DC, June 25, 1986.
Hon. G. (Bill) Hefner,
Chairman, Subcommittee on Military Construction, Committee on Appropriations, House of Representatives, Washington, DC.

Dear Chairman: This is to notify you of our intent to select Falcon Air Force Station as the site for the Strategic Defense Initiative's National Test Facility. Upon this notification, I request that you authorize the release of FY 1986 funds requested by the Strategic Defense Initative Organization for the purpose of initiating the development of a National Test Facility.

The National Test Facility site selection process, which began in October 1985, was structured in a three-phased screening effort to narrow the selection field from general areas of the country, to regions, and finally to specific candidate sties by a systematic process of evaluations. Three locations (Washington, D.C.; Pueblo, CO; Colorado Springs, CO) and six sites (Fort Belvoir, VA; Fort Ritchie, MD; Pueblo Army Depot Activity, CO; Fort Carson, CO; Peterson AFB, CO; Falcon AFS CO) appeared to have the greatest potential to satisfy all criteria. They were visited between March and May 1986 and evaluated.

Of the sites considered, the just-built Falcon Air Force Station clearly excels as the location for the interim and permanent facilities. It is isolated from electromagnetic interference; has a highly compatible mission; can provide the highest quality interim space which can be occupied immediately; and has excellent security features. Additionally, the building designs for the existing Falcon facilities appear to have the characteristics to allow relatively simple adaptation for the National Test Facility requirements. This will facilitate completion of the permanent National Test Facility by the required occupancy date of January 1989.

If I can be of further assistance please notify me.

Sincerely,
James A. Abrahamson,
Lieutenant General, USAF,
Director.

U.S. Space Command, Office of the Commander in Chief, Peterson Air Force Base, CO,
April 10, 1987.
Hon. Timothy J. Wirth,
Russell Office Building, Washington, DC.

Dear Senator Wirth: The following comments expand on our brief conversation regarding the efficiency and operational imperatives of locating the National Test Facility (NTF) at Falcon Air Force Station near Colorado Springs.

There are quantifiable factors favoring establishment of the NTF at Falcon that were most likely considered by the SDI site survey team. Some of these factors are: state-of-the-art security; buffer zone to preclude encroachment; Electro-Magnetic Interference (EMI)-hardened facility ready for occupancy; Electro-Magnetic Pulse (EMP)-hardened and multiple secure communications links; uninterrupted power supply system; adequate backup power; standing force of engineering and aerospace contractors; and a full range of military, administrative and engineering support services in place.

More importantly there is the unquantifiable benefit of collocating the NTF with the most likely user should a decision be taken to develop and deploy a ballistic missile defense system. As you are aware, the operational user's input is a key and vital input to the development and acquisition process. Clearly the operational requirement is the raison d'etre for any weapon system acquisition. In this regard, the following themes are very important:

Collocation with the United States Space Command (USSPACECOM) and its Air Force and Army components would ensure the intimate relationship between the developers/testers, principally SDIO/Air Force/Army, and users or owners/operators, which is absolutely essential to an efficient and successful program.

The USSPACECOM and subordinate units resident in the Colorado Springs area provide a ready pool of "Space" experienced personnel to exploit in the test process. For example, we can provide an entire shift of experienced personnel for extended periods with the ability for immediate recall in a crisis.

The SDI computer network and models can help improve and benefit from current integrated tactical warning and assessment capabilities. SDI/NTF would be able to access USSPACECOM and NORAD simulations, saving costly redundant developments.

SDIO's nationwide National Test Bed (NTB) will participate in complicated experiments, elements of which will be distributed all over the U.S. Many such experiments will use data from missile warning and space surveillance systems which are already closely connected with USSPACECOM. NTF can also provide a useful data logging function for USSPACECOM during these experiments.

Should elements of the technological research require on-orbit testing, the central hub of the DoD's telemetry, tracking and commanding system for satellites is located at Falcon AFS.

In the event of deployment, new capabilities must be integrated with existing systems. The operator must guide the phases of transition to ensure continuity of operations and strategic stability.

This close relationship can save millions (more likely hundreds of millions) of dollars by identifying conceptual as well as man/machine interface problems early on and throughout the initial developmental process.

There is much more that can be said to substantiate the wisdom of collocating the NTF with the potential user that extends far beyond the availability of top notch facilities and supporting services. At your call, I will make key members of my staff, who are intimately familiar with the concepts and operations of both the NTF and USSPACECOM, available for further discussions and assistance. In my view, the significant positive impact that collocation will have on cost, schedule, and operational suitability cannot be overstated.

Sincerely,
John L. Piotrowski,
General, USAF,
Commander in Chief.

NATIONAL TEST FACILITY

SITE SELECTION EVALUATION FACTORS

Proximity to:
Using Command (Unified Space Command);
National Military Command System;
Major Military Installation (Security/Guaranteed Support).
SDI integration potential:
Access to Major SDIO Experiment Locations.
Availability to US Government/Military Technical Support.
Site characteristics:
Space/Size.
Security.
Utilities (Electric, Water).
Transportation Network.
Availability of DOD Land.
Communications.
Electromagnetic Interference.
Environmental.
Technical/Commercial habitat:
Technical Labor Base/Universities.
Attractiveness to Industry.
Technical Support (i.e., computer repair).
Infrastructure (e.g, housing, hospitals, schools).

Note: Costs will not be rated. Costs associated with establishing the NTF will be separately considered. (i.e., construction costs, total 10-year life cycle costs, and operation and maintenance costs).

CHAPTER 1—SUMMARY AND RECOMMENDATIONS

This report contains the results of the site evaluation process to recommend a preferred alternative site for the Strategic Defense Initiative Organization's National Test Facility (NTF). This process, which extended from October 1985 through May 1986, supports a critical requirement for the NTF to begin operations in an interim facility as soon as possible and to have a beneficial occupancy date (BOD) of a permanent facility by January 1989.

Methodology

The evaluation process was structured as a three-phased screening effort to narrow the selection field from general areas of the country, to regions, and finally to specific candidate sites by a systematic process of evaluation and decisions.

Logical and specific facility location criteria were considered paramount to select the best site to recommend as the preferred alternative site for the NTF. To ensure consideration of all relevant factors, the criteria and site evaluation procedures were jointly developed by the SDIO; Office of the Secretary of Defense, Office of Economic Adjusment (OSD-OEA); and the Huntsville Division, U.S. Army Corps of Engineers (USAEDH). A site evaluation manual was prepared to guide the site evaluation team during field visits and to insure uniform application of evaluation criteria.

The criteria used included operational considerations, cost estimate studies, and environmental impact (in accordance with National Enironmental Policy Act and DoD regulatory guidance). Four broad operational criteria, Proximity, SDI Integration Potential, Site Characteristics, and Technical/Commercial Habitat were identified, defined, and ranked in descending order of importance. Proximity was the most important factor because it supports operational feasibility and security. SDI Integration Potential was important to maintain the schedule and to minimize cost and risk. Site Characteristics were important to insure specific site locations would facilitate construction and were environmentally sound. Technical/Commerical Habitat was desirable to ensure industrial support. Based on an application of all criteria, an initial list of candidate areas and regions was established. At this stage, a review by a panel of SDIO personnel and the Director, SDIO was conducted and a decision made to proceed to the next phase.

Initially, general areas and regions of the country with a high potential for the NTF were reviewed for location suitability, based on the broad criteria. Those areas not meeting these criteria were eliminated from the detailed site visit phase.

Three locations (Washington, D.C. region; Pueblo, CO; and Colorado Springs, CO) and six sites (Fort Belvoir, VA; Fort Ritchie, MD; Pueblo Army Depot Activity, CO; Fort Carson, CO; Peterson AFB, CO; and Falcon AFS, CO) appeared to have the greatest potential to best satisfy all criteria. They were visited between March and May 1986. The Fort Ritchie site was indentified as desirable during early screening, but was thought to be too small. Subsequent review determined sufficient space potentially was avaiable, and it was added for thorough evaluation.

The site evaluation criteria were used to rigorously evaluate the important facets of these locations and sites. Some sites had better features than others, while other locations had a superior commerical and technical community base. No site was without some deficiencies (some correctable at minimal cost); however, the recommended preferred alternative site was found to be clearly superior overall to the others.

Recommended preferred alternative site

The Colorado Springs area is considered to best satisfy all of the evaluation criteria. While several areas satisfied certain criteria about equally, the Colorado Springs area clearly satisfied the operational criteria of proximity to command and control facilities (especially the Unified Space Command and the National Military Command System). No other area in the country meets the critical requirements as well.

Of the three sites considered in the Colorado Springs area, the just-built Falcon AFS clearly excels as the location for the interim and permanent facilities. It is isolated from electromagnetic interference; has a highly compatible mission; can provide the highest quality interim space which can be occupied immediately; and has excellent security features. Additionally, the building designs for the existing Falcon facilities appear to have the characteristics to allow relatively simple adaptation to the NTF requirements allowing a shorter and less costly construction program. This will facilitate completion of the permanent NTF by the required BOD of January 1989. The preliminary cost estimate studies and the initial environmental impact assessment support from Falcon AFS as the proposed location for the NTF.

No other site can offer as many positive features responsive to the site selection criteria. No other interim facility can approach the qualities of the Falcon space.

Findings

Upon review of all evaluation results and a comparison of these results to the initially-established criteria, the Director, SDIO has selected Falcon Air Force Station, Colorado, as the proposed location for the SDI National Test Facility (subject to further analysis in accordance with the National Environmental Policy Act and DOD regulatory guidance). Alternative locations still under consideration are as follows: Fort Belvoir, VA; Fort Carson, CO; Peterson Air Force Base, CO; Pueblo Army Depot Activity, CO; and Fort Ritchie, MD. Only after the environmental impact analysis process is completed will a final decision be made on the location of the NTF.

CHAPTER 3—SITE EVALUATION METHODOLOGY AND CRITERIA

Methodology

The site evaluation process involved a three-phase screening effort that progressed from general areas of the country, to regions, and finally to candidate sites. The intent was to narrow the selection field by a systematic process of evaluation and decisions.

Logical and specific facility location criteria were considered paramount to select the best site to recommend as the preferred alternative site for the NTF. To ensure consideration of all relevant factors, the criteria and site evaluation procedures were jointly developed by the SDIO, OSD-OEA, and USAEDH. A site evaluation manual was prepared to guide the Site Evaluation Team during field visits.

The criteria used included operational considerations, cost estimate studies, and environmental impact (in accordance with National Environmental Policy Act and DoD regulatory guidance). Four broad operational criteria areas, Proximity, SDI Integration Potential, Site Characteristics, and Technical/Commercial Habitat were identified, defined, and ranked in descending order of importance. Proximity was the most important factor because it supports operational feasibility and security. SDI Integration Potential was important to maintain the schedule and to minimize cost and risk. Site Characteristics were important to insure specific site locations would facilitate construction and were environmentally sound. Technical/Commercial Habitat was desirable to ensure industrial support. An initial list of candidate areas and regions was established. At this stage, a review by a panel of SDIO personnel and the Director, SDIO was conducted and a decision made to proceed to the next stage.

Initially, general areas and regions of the country with a high potential for the NTF were reviewed for location suitability, based on the broad criteria. Those areas not meeting these key criteria were eliminated from the detailed site visit phase.

Three locations (Colorado Springs, CO; Pueblo, CO; and the Washington, D.C. region) and six sites (Fort Carson, CO; Falcon Air Force Station, CO; Peterson Air Force Base, CO; Pueblo Army Depot Activity, CO; Fort Belvoir, VA; and Fort Ritchie, MD) appeared to have the greatest potential. They were visited by the NTF Site Evaluation Team between March and May 1986. The Fort Ritchie site was identified as desirable during early screening, but was thought to be too small. Subsequent review determined sufficient space was potentially available, and it was added for thorough evaluation.

The site evaluation criteria were rigorously used to evaluate the important facets of these locations and sites. Some sites had better features than others, while other locations had a superior commercial and technical community base. No site was without some deficiencies (some correctable at minimal cost); however, the recommended preferred alternative site was found to be clearly superior overall to the others.

The site evaluation process described above is graphically depicted on the chart on the next page.

Site evaluation criteria

All candidate sites considered for location of the NTF were studied and evaluated based on all of the criteria selected specifically for the NTF. The operational criteria and responsibility for each area are identified (in order of importance) into four groups:

Criteria	Responsibility
a. Proximity	SDIO.
b. SDI integration potential	SDIO.
c. Site characteristics	USAEDH.
d. Technical/commercial habitat	OSD–OEA.

These criteria did not include a cost rating. Costs associated with establishing the NTF were separately considered. USAEDH was responsible for the cost studies.

The candidate site evaluations were qualitatively portrayed using the following color-coded assessment:

(a) Blue—Exception—Meets and exceeds desired performance and excess is beneficial to the SDIO; probability of success is high with no significant weaknesses.

(b) Green—Acceptable—Meets requirements specified in the Site Evaluation Procedures Manual; good probability of success; deficiencies are correctable at minimal or no cost to the Government.

(c) Yellow—Marginal—Meets most of the requirements in the Site Evaluation Procedures Manual; some risk and deficiencies which are correctable at some cost to the Government.

(d) Red—Unsatisfactory—Fails to meet explicit requirements in the Site Evaluation Procedures Manual; presents a serious risk to cost, schedule, or performance.

Categories

Proximity.—This category supports operational feasibility and security. It consists of proximity to the following: a Using Command (a command to provide operational user influence); the National Military Command System; and a Major Military Installation. Locating the NTF near an operational organization helps foster efficient communication between the operational and developmental communities.

The research-oriented SDIO is a separate component of the Department of Defense. There is no formal direct relationship between the Unified Space Command and the SDIO. Through the Joint Chiefs of Staff, The Unified Space Command has the responsibility to plan and develop requirements for ballistic missile defense systems. Nearness to this operational command gives the NTF a realistic technical awareness of the issues involved with BM/C^3 research. Proximity to an operational command enables the research-oriented NTF to maintain currency with real-world operational developments. The NTF's computer simulation models would research theoretical ideas vis-a-vis operational concepts.

It is important to be physically near a node of the National Military Command System to allow the SDIO research and technology personnel to draw on the considerable technical communications experience inherently available in this National Communications System. Security and guaranteed operational support are the major reasons for locating on a major military installation.

SDI integration potential

This criteria maintains the NTF schedule and minimizes cost and risk. It supports locating a site that keeps costs of establishing NTF and conducting experiments down while establishing an early capability and ease of transition.

This category includes the potential for an Interim Facility, Access to Major SDIO Experiment Locations, and the Availability of U.S. Government/Military Technical Support. A proposed interim facility was evaluated in accordance with the four major groups of siting criteria in addition to building-specific-criteria. The building-specific criteria included type of structure, construction, modification potential, available parking, utilities (electricity, fuel, water, sewerage), and architectural requirements. Several desirable characteristics of an interim facility were considered: sufficient capacity (100,000 square feet), a TEMPEST area (20,000 square feet), and the basic site criteria. Due to the wide variation of building structures, the potential for an interim facility was evaluated on a case-by-case basis. Communications access via commercial/private lines and satellite links to major SDIO experiment locations was an important factor. The availability of Government/military technical support is directly related to the compatibility of the mission orientation of the installation.

Site characteristics

Site Characteristics were important to insure specific site locations would facilitate construction and were environmentally sound.

This category evaluates Space/Size, Security, Utilities, Transportation Network, Availability of DoD Land, Communications, Electromagnetic Interference, and Environmental factors. The candidate site must contain a minimum of seventy-five acres. There should be easy provision of appropriate security for the site to protect from physical, electronic, communications, surveillance, or other threats. Existing physical protection (e.g., fences, vaulted space, on-base security forces) were considered highly advantageous. The candidate site should have adequate utility capacity including electric power, water, sewerage, and fuel. The site should be readily accessible from the local highway network, the interstate highway system, major rail/truck lines, and airports. In order to support an early Beneficial Occupancy Date and Initial Operating Capability, only sites on DOD land (which were readily available) were considered. Communications access via commercial or private lines and satellite links were important since the NTF will operate and maintain its own sophisticated communications systems. Candidate sites with excessive existing electromagnetic interference sources, such as frequent lightning strikes, close proximity of high voltage power lines, high noise RF environment, or close proximity to industrial power plants, were avoided.

The proposed and alternative NTF locations will be analyzed in accordance with the National Environmental Policy Act. Only after the environmental impact analysis process is completed will a final decision be made on the location of the NTF.

Technical/Commercial habitat.

Technical/Commercial Habitat was desirable to ensure industrial support.

This category assesses the Technical Labor Base, the Community's Attractiveness to Industry, Technical Support for Industry, and Community Infrastructure. There should be a local labor base available for construction and operation of the NTF so that relocation costs can be kept to a minimum. Technical and average wages were studied. A local university with computer science and electronics curricula at the graduate level was a desirable labor base and industry attraction consideration. A university could augment a technical labor base and provide additional research capabilities. Commercial industry should want to locate near the NTF location (e.g., community leadership, attitudes, and zoning codes should not present obstacles to industry). OSD-OEA evaluated the presence of technical resources available from the community. The community near the candidate site should be able to supply quality housing, education, public services, health, commercial/retail resources, and recreational facilities without major disruption or expansion. If not presently available in the community, it should have adequate planning processes and the financial ability to accommodate growth requirements related to the NTF.

Mr. WIRTH. Mr. President, I thank the generosity of my colleague from Idaho and I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, will the Senator yield.

Mr. SYMMS. I will be happy to yield.

Mr. BYRD. I ask unanimous consent that the Senator's remarks not show an interruption in the record.

The PRESIDING OFFICER. Without objection.

Mr. BYRD. What time is morning business closed?

The PRESIDING OFFICER. Seven fifteen.

Mr. BYRD. I want to accommodate the distinguished Senator from Idaho. How long does the Senator from Idaho wish to speak?

Mr. SYMMS. Thirty minutes should be adequate, I say to the majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the period of morning business be extended for 30 minutes and that the Senator may speak therein.

Mr. SYMMS. I thank the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I beg the indulgence of the staff and the people it takes to operate the Senate so that I might have this opportunity to make these brief remarks.

CUBAN INDEPENDENCE DAY

Mr. SYMMS. Mr. President, yesterday, May 20, I had the privilege of being in Miami to take part in the Cuban Independence Celebration sponsored by the Cuban-American National Foundation.

For me, it was an opportunity to renew some longstanding friendships in the Cuban-American community, and to make many new friends. And it was an occasion to marvel, again, at the enormous energy and spirit of that community, and to appreciate their enormous contributions to this country.

Most importantly, though, it was a reminder that Cuban independence is a goal—not a reality. The reality in Cuba today is oppression, poverty and, most tragically of all, a sell-out of national sovereignty to Soviet arms and money. It is a reality that has to be changed. And—judging by the determination I saw in Miami—a reality that will be changed.

Mr. President, the main speaker at the independence day celebration was our distinguished Republican leader, Senator DOLE. BOB DOLE knows what it is to fight for freedom. And he made it clear to the Cuban-Americans we met that he is as dedicated to helping Cuba regain its independence as he is to making sure that we in the United States keep ours.

As usual, what BOB told the Cuban-American gathering was right on the money: strong, reasoned, to-the-point and eloquent. And I should also add: moving. It makes clear what his goal is for Cuba—freedom. It is a goal I share.

I commend BOB's speech to all Senators, and I ask unanimous consent that the text of his remarks be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BOB DOLE

OUR GOAL: A FREE CUBA

I am pleased to be here with you today for many reasons—but most of all because, on this Independence Day, I share with you this goal: That Cuba be free.

I know this is a broad-based, non-partisan group. Your interests are varied; your views diverse. But because this is Cuban Independence Day, I want to spend most of my time today sharing with you my thoughts on what's going on in Cuba, and how to achieve our goal of a free Cuba.

During this next decade, we will make some critical choices on fundamental national security questions. Choices which will determine whether the world of the 21st century will see freedom on the offensive; and the frontiers of freedom expanding. Or a world where tyranny flexes its muscles; and extends its borders of steel and barbed-wire.

THE HEMISPHERIC CHALLENGE: NICARAGUA* * *

Many of the most important struggles over the next ten years will be fought out in this hemisphere. We will be tested, in our own backyard.

Right now, our attention is focused on the struggle in Nicaragua. There the Marxist Sandinistas are proceeding headlong on an exchange of national sovereignty for Soviet arms and rubles; on a war of subversion against their democratic neighbors; and on the establishment of a Communist police-state at home. Last week, Sandinista goons, arms drawn, again invaded the offices of La Prensa, the last vestige of the free media in the country. Communist tyranny again showed its true stripes.

Those of us in this hemisphere who cherish our own freedom, and want to see freedom for all—we cannot relent in our struggle until the people of Nicaragua have a fair shot at freedom. That's why we support the freedom fighters in Nicaragua. And that's why—despite odds which, quite candidly, are right now against us—I intend to persist in my efforts to win congressional approval for continued aid to the freedom fighters.

* * * AND CHILE

Nor—as a matter of consistency; a matter of what is right—can we ignore or accept the tyranny of the right that currently exists in Chile. The issues are different there. The twin threats of chaos and communism are very real; and require very effective counteraction.

But trying to fight off the tyranny of the left by imposing a tyranny of the right is not right. And in the long run, it will not be effective.

So let us work toward an end to oppression in both Nicaragua and Chile. And let us not rest until both countries are free.

OUR BIGGEST CHALLENGE: CUBA

But as I stand before you today, and ponder the occasion we are here to celebrate, I am reminded most of all that we have another problem to contend with here in this hemisphere.

A problem bigger than the ones in Nicaragua and Chile.

A problem closer to our shores.

A problem more central to our national security.

And a problem more tragic, in terms of the human suffering and indignity it has imposed upon a great and good people.

That problem is the Communist tyranny in Cuba.

It is time that we pulled our heads from out of the sand; took a good, hard look at what has happened to Cuba, and what is happening there now; and started doing what needs to be done.

START WITH CLEAR GOALS

The first step, is to be clear about—and to be proud of—our goals.

Containment of communism is fine—as a tactic. But it is not our goal.

Agreements with the Soviet Union are fine—if they serve our national interest. But I want no part of any agreement which says, in effect: What's our's is open to attack; and what's Moscow's is forever secure. As far as I am concerned, there is no sanctuary for tyranny—not in Havana; not in any corner of the globe. And, as far as I am concerned, I do not consider any agreement valid which involves dealing away the freedom of one people to bolster the security of another.

Our goal is a free Cuba. Let's say it proudly. Our pledge is to work with those who share that goal, whether they are in this room; inside Cuba; or anywhere else around the globe. And our hope is that, before this century is out, we can recognize—and work cooperatively—with a government of, by, and for the people of Cuba.

THE TRUTH ABOUT CUBA

So being clear about our goals is the first step. Being realistic about what is going on in Cuba is the second. And being realistic, in this case, means being neither naively optimistic; nor resolutely pessimistic.

Now let me say, at this point, that no organization has done more to keep all of us informed about what's really happening in Cuba than the Cuban-American Foundation. And, as a Washingtonian, I should also note that the Foundation can be very proud of its Washington office—Frank (Calzon) and his colleagues are doing a superb job keeping us on top of events.

So, with this organization's help, we deal with reality, good and bad. Castro is well-established. he is not going to disappear overnight. And the kind of regime he has built is not going to disappear in the short term.

And let me stress that I am not calling for direct American military action to make that regime disappear. Castro is buttressed by Soviet arms, and he is protected by Soviet commitments. Those are facts that none of us are happy about. But they are facts.

But they are not the only facts. So let's remember these facts, too.

THE ECONOMY IN SHAMBLES

The only reason Castro enjoys any security at all is because of the force of Soviet arms. His policies are failed. His charisma is a fast-fading myth. His domestic support is shrinking. And his government is virtually bankrupt.

The price of sugar, Cuba's main export, has collapsed. The price of oil—provided by the Soviets in aid, and sold on world markets to generate hard currency—remains soft. And what hard currency Cuba does get buys less, because—shut out of the U.S. market—Castro must shop in Europe and Japan, whose currencies have surged in value. Meanwhile, according to intelligence estimates, Soviet aid—which runs at an annual level of about $4.5 billion—will not be increased.

The result is a drastic drop in hard currency holdings. This year, Casto himself has announced that import levels must be pared more than a third, because no cash is available to pay for them. And this, in turn, has led to a substantial drop in living standards. This year the estimate is that the cash income of the average Cuban will drop about 5 percent.

More and more, Castro must try to substitute exhortation for incentives; rhetoric for rewards; excuses for results. He has not yet pushed his people to the breaking point. But events are inexorably moving in that direction.

The bottom line is this: Castro is vulnerable as he has never been before. And we cannot let him off the hook.

We have an opportunity to accelerate the process of self-destruction already underway in Castro's regime; to isolate him further from the democratic nations of the world and from the commerce which sustains us all; and to highlight—for the world and the Cuban people—the dangerous and inhumane policies of the Castro regime.

TURNING THE SCREWS

So the third step is forging a policy which exploits Castro's vulnerabilities.

Economically, it is time to tighten the screws of the economic embargo we have long had in place against Castro's regime.

Just yesterday, I joined with one of your Senators, Senator Chiles, and with others, to introduce legislation which, if enacted, will put major new sanctions into effect against Cuba.

Our bill calls for an end to the practice of American facilitation of Cuba's international commerce; by banning any ship which calls at a Cuban port from calling at an American port on the same voyage. It withholds American aid from any country which is buying Cuban sugar. It forces any country which receives loans from the United States to forego making any loans to Cuba. And it instructs our trade negotiators to make clear to all of our trading partners that we will no longer sit idly by, watching them support Castro's reckless and inhumane policies by trading with him on a "business as usual" basis.

Even if enacted this bill is not the final answer. But it is another step that we can, and should, take now. And you can be assured that I, Senator Chiles, and the other sponsors will be looking for every opportunity to move this legislation through the Congress, and to the President's desk, as soon as possible.

THE GULAG OF THE AMERICAS

But turning the screws economically is only half the challenge. We must also turn the spotlight on Castro's political and humanitarian failures, and the cost of those failures to the people of Cuba. Let us call Cuba what it is today: The Gulag of the Americas.

In some areas, the administration—sometimes with a very necessary push from the Congress—has made a commendable beginning.

The recent effort to put the question of Castro's human rights abuses on the agenda of the United Nations Human Rights Committee was long overdue. And the narrow vote by which that effort was turned back was all the more regrettable because the decisive votes were cast by some of our hemispheric neighbors.

There is no justification for the votes of Mexico, Venezuela, Colombia and Argentina to sweep Castro's human rights abuses under the rug. Those nations profess to be democratic; they have as much at risk as we do from the presence of a Soviet surrogate here in the hemisphere.

The votes they cast deserve to be condemned, as they were in a resolution which I introduced in the Senate on April 8. A dozen Senators have joined me as cosponsors, and—if the Foreign Relations Committee doesn't move the resolution soon—we will be looking for an available legislative vehicle on which to get floor approval.

Resolutions, of course, are not enough, whether they are in the U.N. or in the U.S. Congress. No matter how artfully worded, they cannot capture the human tragedy that is going in Cuba. Let me just quote to you from a letter that my wife, Elizabeth, recently received—about a particular family situation that I think many of you are already familiar with:

DEAR MRS. DOLE: My 62-year old father, Jose Pujals-Mederos, is in his 26th year of political imprisonment in Cuba. My brother, sister, and I have not seen him since 1961. Our seven grandchildren, all born in the U.S.A., are anxious to meet their "Grandpa." Even during recent illnesses, my mother in Cuba has not been allowed to see him at Boniato Prison, where he has been kept without visitors for the past six years."

The letter is signed by Mr. Pujals-Mederos' daughter, Gloria. Perhaps she or members of her family are here today. I don't know. But I do know that what she has written to Elizabeth is the true reality in Cuba. A reality that is not going to change until democracy is restored.

CUBA AS A SOVIET ALLY

And, finally, we must forge policies which will deal with Castro's international ties and international adventures. Because the problem of Castroism is twofold. We oppose him, surely, because of what he has done to Cuba. But we oppose him, as well, for what he has done for, and with, Soviet communism—in Central America, Southern Africa, and elsewhere around the globe.

As I noted earlier, keeping Castro in power costs the Kremlin $12-15 million dollars a day. You can be sure that Gorbachev and his crowd demand, and get, a lot in exchange for that kind of money. They get one of their most reliable and important political allies; a sure vote in the United Nations and the so-called non-aligned movement.

And, politically, the presence of Cuba is tantamount to a snub of the nose toward Uncle Sam. A demonstration for all the world to see that the Soviets can maintain a client right at the doorstep of the United States.

More concretely, the Soviets get a forward base, in our hemisphere, for their military machine. They get a jumping off point for subversion and infiltration throughout the Caribbean, Central and South America. The tragic story in Grenada had a happy ending; the one in Nicaragua, so far, just gets worse and worse. The first drafts of those stories are penned in Moscow; but the finishing touches are added in Havana.

And, in Cuba, the Soviets also get an incredibly valuable intelligence gathering and listening post, 90 miles off the coast of the United States.

Cuba is base for Soviet eavesdropping ships—disguised as fishing trawlers—which ply our coast day and night, year in and year out, gathering some of the most sensitive military and civilian communications intelligence.

And it is home for the largest single Soviet electronics eavesdropping site outside the U.S.S.R., at the town of Lourdes, near Havana. That single facility houses over 2,000 Soviet technicians—a number about half the size of the entire Foreign Service of the United States. From Lourdes, the Soviets have access to virtually all unscrambled communications—including private telephone conversations—emanating from anywhere in the Southeastern United States. The next time you pick up your phone here in Miami, think about the fact that one of the parties listening in might well speak Russian.

So the Soviets get a great deal of "bang"—in millitary and intelligence terms—for the billions of "bucks" they dump into Cuba.

CUBA AS AFRICAN ADVENTURER

And they get an equal return internationally, especially in Southern Africa, where Cuban troops serve as surrogates for direct Soviet involvement in the terrible war in Angola.

More than 35,000 Cuban troops occupy Angola. Just as Soviet might props up Castro, Cuban might props up the illegal, repressive, and bankrupt Marxist regime, the MPLA, in Luanda. And just as we will not be satisfied until the Soviet yoke is raised from Cuba, we will not be satisfied until all Cuban troops are out of Angola.

We in the Congress have taken a series of steps to provide Assistance to the freedom fighters in Angola, the UNITA forces led by Jonas Savimbi. And, ironically, we have also had to expend a great deal of energy keeping up the pressure on our own administration—especially our State Department—to keep our policy on the right track there.

Within the past 90 days alone, sometimes alone and sometimes with the close cooperation and support of Members of Congress—including your own outstanding Florida delegation—I have introduced a resolution condemning Angola for its human rights abuses and calling for economic sanctions. I hope that we can put that resolution to a Senate vote in connection with the supplemental appropriations bill or another legislative vehicle coming down the pike in the near future.

I have written to Secretary Shultz twice, urging continued aid to Angola and warning of the dangers of phone negotiations—with the wrong people and for the wrong goals.

I have written twice to Treasury Secretary Baker, once urging an end to American support for international loans to the MPLA; the other time pressing for the speed up in writing tax regulations that will strip benefits from American businesses operating to the benefit of the MPLA.

And, in the legislation I mentioned earlier, introduced yesterday by Senator Chiles and I, there are provisions which would put in place a total economic embargo of the MPLA, until the Cuban troops are sent home and real negotiations with UNITA are started.

In the audience today is the Vice President of the UNITA freedom fighters in Angola, Jerry Chitunda. I welcome him here today. And I pledge to him, and to you, to continue my efforts to sustain substantial, effective aid to UNITA. And to pressure our own State Department not to go back on the sound policy of support for a negotiated settlement in Angola, including the removal of all Cuban troops.

CUBA AS IT IMPACTS ON UNITED STATES-SOVIET RELATIONS

In sum, the Soviet-Cuban alliance represents a major challenge to America, to the Americas, and to freedom everywhere. We cannot tackle the problem of Cuba without keeping in mind its relationship with the Soviet Union. And, as far as I am concerned, the issue of Cuba ought to be high on our agenda, when we sit down with Gorbachev, with Shevardnadze, or with any of the other Soviet leaders.

Before his recent visit to Moscow, I wrote to Secretary Shultz, making just that point. Knowing of the many pressing matters he needed to raise—arms control, the espionage and "bugging" scandals which have rocked our Moscow Embassy, the problems of human rights in the Soviet Union—I nonetheless strongly urged the Secretary to raise the problem of Cuban adventurism around the world. And to make clear to Shevardnadze that it was one issue that would inevitably impact on our broader relationship and condition the prospects for other agreements.

WHEN THAT DAY COMES

Cuba is a challenge. A challenge with a Soviet angle, which must be considered. But it is a challenge we can meet.

So, in conclusion, let me make just one last point. And I hope this point will be transmitted to Castro and his crowd in Havana, as well as Gorbachev and his in Moscow:

When the day comes that the Cuban people have had enough of tyranny, poverty, and exploitation—and I believe that day will come—then it shall be up to the Cuban people alone to decide their own future. And I expect that many in this room will be there to play a direct part in that effort.

Cuba is not Hungary; it is not Czechoslovakia; it is not Poland. It's too late to argue whether we should have stood idly by and accepted successive Soviet invasions of those countries, as they struggled to be free. But it's not too early to declare that the United States will not tolerate that kind of Soviet intervention in a similar situation in Cuba.

Cuba is a nation of the Americas. It has the right, as do all the other nations in this hemisphere, to decide its own future. And, like the other nations of this hemisphere, when the time comes for the Cuban people to make their historic choices, the people of this country will be there. Not to interfere—but to help. Not to gloat over a Soviet failure—but to celebrate freedom's long overdue victory.

FREEDOM IN THE WESTERN WORLD AND THE GRASSROOTS EFFORTS TO PRESERVE IT

Mr. SYMMS. Mr. President, while millions of people around the world have lost their freedom to the oppressive yoke of communism, the Western World still enjoys a reasonable amount of liberty. But even so, that liberty has dwindled.

Why has freedom in the Western World dwindled, Mr. President? Because Marxism and its utopian socialist doctrine became the dominant creed of the Western intellectual community early in this century; it filtered down through academia and the media into virtually every institution in society.

During the past half century, Western colleges and universities became fertile breeding grounds for young socialists. Marxism's illusionary promise of the perfect society—complete with its government-imposed social and economic equality—captivated the minds of students from Oxford and Cambridge to Harvard, Yale, and Berkeley. And the thinking of those students who didn't embrace socialism directly was influenced greatly nonetheless. In addition to this, the revolutionary doctrine exported from the Soviet Union and its satellites into undeveloped countries has converted many of the uneducated of the Western World as well to the illusionary hope of a Communist utopia.

In all of this, Mr. President, the basic concepts of Western liberty were challenged. The individual's rights to privacy, to own and control property and to conduct one's legitimate business affairs without intrusive government intervention were challenged. The very fundamentals of freedom that made the American Republic possible were deemphasized in Western society, and the Marxist version of equality imposed by force rose to the forefront of attention.

Out of these events grew the modern welfare state, Mr. President, the society in which government offers a solution to every little problem that may come along—a government that has programs that claim to cure every social ill that arises—a government that claims the power to give the people whatever they may need—a government that has the power to take away everything the people have. Today, the welfare state is no stranger to the nations on either side of the Atlantic; it is no stranger to the English, it is no stranger to the French; and it is no stranger to Americans—we have experienced it for more than 50 years.

But fortunately, Mr. President, the trend toward socialism in the 20th century has met formidable opposition. While the universities and the national media seem to be dominated by the modern liberal mentality, there are those exercising their rights to teach, speak and publish who haven't abandoned the American heritage of freedom. They are those in traditional grassroots America who are busy spreading the ideas and principles that the American Founders spread to establish our Republic, which then kindled the fires of freedom around the globe. They are those who inspired the return to traditional American values that began during the last decade.

Two good examples of those exercising their right to speak out—and around the media establishment—are Harry Schultz and Larry Abraham. Messrs. Schultz and Abraham are international financial consultants who know that freedom is the only way to peace and prosperity. They are also two of the Western World's premier newsletter editors. The International Harry Schultz Letter and Larry Abraham's Insider Report do much more than provide their clients with useful information, they help keep alive the Western heritage of freedom—especially that of the United States.

In their commitment to preserve freedom, Messrs. Schultz and Abraham are organizing a grassroots effort called Freedom, Inc. Earlier this year they announced the formation of Freedom, Inc., in their own newsletters and in others around the world, soliciting support and funding. These two American patriots have committed $500,000 of their own money to get the organization off the ground and have also committed their time and talents without compensation.

Freedom, Inc., is designed to mobilize grassroots action in politics, media, education and other civic institutions for the promotion of the traditional values that gave birth to liberty in the Western World.

Mr. President, I would like to commend Messrs. Harry Schultz and Larry Abraham for their commitment to the principles that made America and for the formation of Freedom, Inc.

It was the pamphlets and broadsides published at the grassroots level during the 1770's that organized the American colonists and set the stage for independence. And it will take the same grassroots efforts to preserve freedom for the American posterity and give hope to the millions now enslaved by totalitarianism.

That is what Freedom, Inc., is all about. Through the international newsletter circuit, freedom-loving common men can have a voice. They can make an end run around the established media and get the simple but critical message of freedom out. American liberty has and will always depend on it.

Mr. President, I ask unanimous consent that these excerpts of the International Harry Schultz Letter and Larry Abraham's Insider Report be included in the RECORD following my remarks. And I encourage my colleagues and all other Americans to read them and consider the goals and objectives of Freedom, Inc. For those interested, the addresses for the newsletters are: The International Harry Schultz Letter, c/o FERC, P.O. Box 622, 1001 Lausanne, Switzerland. Larry Abraham's Insider Report 18000 Pacific Highway South, Suite 1115, Seattle, WA 98188.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INTERNATIONAL HARRY SCHULTZ LETTER

Is there any hope of *"legalizing freedom"*? Can you stop socialism—at home & abroad? Stop Big Brother? Roll back the collectivist tide & *regain* our lost freedoms? Maybe. My friend Larry Abraham & I are making the following announcement in our newsltrs & in a number of other newsletters around the globe:

"It *isn't enough* to simply do 'good work'. We've got to create a quasi political & propaganda machine with workers in every voting district of every nation. We need CLOUT to match our generously financed, foundationed, subsidized, entrenched opponents. We need 200,000 workers & $10 million to fight U.S. 'liberals', global socialists, the controlled left/wet press, oppressive taxation & enforcement, CFR, Soviet propaganda, & communist front organizations around the world.

"Mass media have *abandoned* their historic role as guardians of liberty. of 1-worlders, CFR, TriLaterals, mega bankers, *& staffed* by wets/liberals/leftists. *Newsletters* have become the alternative press, the only *remaining* free press. Via newsltrs we MAY have a chance. If newsltrs can unite to get out this message: we, who are freedom-lovers & who detest the Orwellian trend wherein Big Brother seeks to control our every move, must hang together or we'll most certainly hang separately. We must pool our talents, time & cash to create a global organization: *Freedom Inc.* Thru FI we can influence legislatures at the grass roots level everywhere; we can elect directors to media boards (NYT, FT, WP, LAT, ABC, NBC, CBS,): fund our own libertarian book publishing houses; fund & aid freedom fighters in Angola, Afghanistan, Nicaragua, Mozambique, Cambodia. We will press for an investigation of the U.S. State Dept. (Why has it acted against freedom for 40 yrs?) We'll critically influence elections. We'll create a groundswell via a network of both paid & volunteer workers in every voting district round the world. We'll expose ANC lies & tell the truth about SoAfrica & put an end to biased reporting. Where we can't influence or change media we'll *start our own.* We won't ask *permission* of Congresses & Parliaments to aid freedom fighters; we will *action* for freedom instantly. We'll counter-balance the overwhelming control the Left/Liberals have in our daily life. Our days of *always losing* to bureaucracy may B nearly over. The *centralized* govt trend has made scores of *civil* crimes into *criminal* offenses, has replaced *fines* with *jail* (eg insider trading, tax evasion); we plan to *change* those rules, & *slash* powers of taxmen.

"We need to work together, or else *admit* our present defeat by socialist rule is *terminal.* Each of U shud take a membership in FI at the highest cost figure U can possibly afford (& then a bit more). It certainly wont help to be rich in a global gulag. And we're almost there. We want your money but we also want your *body.* We want U to sign a pledge with your check that U will *work* for FI: eg circulating petitions, serving on media boards, writing *ltrs* to media, politicos, friends, speaking at service clubs about FI, lobbying. If we can mobilize a half million people & $10mil, we have a fighting chance. We propose to devote our time & talent to this cause without salary. We'll give this *6 months* to raise the war-chest. If we dont have $10mil in 6mos, we'll *throw in the towel &* return all contributions, on the grounds: if people are so unwilling to help save themselves, then it's too late in the civilization cycle to salvage it, so we'll order a brace of martinis & get a comfortable deck chair on the Titanic Globeship & go down along with CFR, TL, socialists, BigBrother, bureau-rats, & all the GOOD-people who *couldnt be bothered.* It may *already be too late. The firing of Ollie North* & Poindexter, & the emasculation of Reagan was perhaps the last nail in the coffin. Reagan is powerless. CFR *runs* USStateDept. It could already be lost. Are we trying to raise the dead or reverse a tide? Can we turn defeat to victory? It can probably be done, just, but ONLY if *everyone* on our side decides to *do* something & not just talk.

"Among the reasons FI can succeed where others have failed: we will *NOT* be asking for contributions all the time; this is a *1-off* appeal that thrives or dies after 6mos; capital will then *self-generate* thru investment, we'll spend only income&capital-gains. FI will NOT be restricted by committees, politicians, or campus academics; it'll operate with total exec control. HS&LA are both bizmen, w/successful track records in both biz & investment worlds. We plan for our succession but not dilution of strength thru controlling committees, tho we'll have exec advisors on *every continent.* We'll use techniques proven successful by political activists at both lobbying & grass-roots levels + media knowhow (having owned same). . . . . . . Man is *born* wanting to be free. We need only *channel* this power to overcome our controllers (socialistic power moguls, some of whom masquerade as capitalists). HS will be FI treasurer & investment mgr; LA, field operations chief. . We also have the *critical advantage of KNOWING who the enemy is.* Most have attacked the wrong targets. 2500yrs ago SunTzu wrote in The Art of War: 'If you know your enemy & yourself your victory is assured.'

"For a longtime it was thought anti-intellectual & simplistic to believe in the conspiracy theory. *We* thought to too! Until finally the proof of its reality was overwhelming. We were propagandized by them but now we'll turn the tables on the CFR & *TriLaterals,* the NY mega banks: all these appeasers of communism; lenders to USSR; creators of debt overhang; fosterers of govt control over the individual; advocates of high taxation & its brutal enforcement. . . . By the way, LA & HS will put up $5,000 for each $100,000 contributed: thus if $9.5mil comes in, we'll put up the last $½mil. We cud fund FI *alone* but we need to build an organization 200,000, not just raise a war chest. With luck we may raise much *MORE* than our goal. We realize we take a *life risk* in taking on the entrenched establishment. But as Jung said: 'The quality of the 2nd half of a person's life is in direct proportion to his willingness to *welcome death in the right pursuits.*' We're willing to take our chances but with specific warnings to be sent to the other side of precisely equal penalties to them if they act to take us out (& we have alternates on stand by). But there is *strength* in unity; if all newsltrs act together, then HS & LA are shielded in large measure.

"Chas Peguy once said: 'Tyranny is always *better organized* than freedom'. If U are *finally ready* to fight to resurrect freedom, to bring back liberty, *send a very large check* to Freedom Inc, POBox 5253, CH-8022 Zurich, Switzerland. Order one of the following mbrships: (the biggest U can afford & then some; mbrship application enclosed w/hsl) $400 'Minimal Token-support Mrship'; $1000 'Modest Support Mbrship'; $4000 'Earnest Supporter Mbrship'; $9000 'Serious Support Mbrship'; $20,000 'Major Contributor Mbrship'; $50,000 'Front Line Freedom Fighter Mbrship'; $100,000 'Inner Circle Mbrship'; $500,000 'Automatic Advisory Board Mbrship'; $1,000,000 'Supreme Sacrifice Mbrship'.

Refunds are always available, up to 90%, as we may spend from 1-10% of funds in creating this organization. We reserve the right to reject any contribution & terminate any mbrship & refund w/out explanation.

"PS: *At presstime:* Jim Blanchard has just agreed to throw the entire weight of his organization into this freedom fight, has accepted role of chairman of our Fl Advisory Council for the USA. JB has a 1-mil name mailing list & a marketing dept to back it. He recently formed group to help Renamo freedom fighters in Mozambique. We'll absorb this group. JB will produce 'freedom' coins to raise funds for Fl. We're on our way! He too sees the need as desperate. Also just signed on are Dr. Gary North, Dr. Antony Sutton (as Fl Director of Research, Senator H.L. Richardson, J.P. Laly of France's largest investment ltr, Chris Tame of UK, Bob Beckman's famed UK newsltr, & Dr. Mark Skousen. What will *YOU* do?"

LARRY ABRAHAM'S INSIDER REPORT

Q&A ABOUT FREEDOM, INC.

Our announcement of the formation of Freedom, Inc. attracted numerous questions, some have come from our colleagues as well as from subscribers. To shed additional light on the subject, let's take as many queries as space will allow.

Question: You and Mr. Schultz are to be congratulated for taking the steps to organize Fl. . . . I do have one thought on the matter, and that is your minimum amount of dollars necessary to join. Is this to be a freedom program for the upper-middle and wealthier classes or for all? C.C., Rosewell, Georgia

Answer: The desire for freedom is certainly not restricted to the middle or upper classes, nor is Freedom, Inc. When Harry and I sat down to work through the intricacies of financing our undertaking, we explored every method known to man. What we finally settled on was the dues structure described in these pages last month.

We also knew there would be those whose potential time and effort in the cause would outstrip their financial wherewithal. We set $400.00 as the minimum, knowing we would have people send in less, in the expectation of doing more later, as they could afford it. This we welcome and appreciated.

However, we do want to stress that this membership contribution is for a *lifetime* membership. What we wanted to avoid was the costly process of administering monthly dues. Also, we wanted people to understand that we were *not* going to be spending their valuable money constantly begging for more money.

In conclusion, *send what you can afford* whenever you can. We welcome and need your help.

Question: I don't necessarily agree with you about the "conspiracy theory," but certainly applaud your desire to get government off our backs. Should I join Freedom, Inc.? J.C., Sydney, Australia.

Answer: Of course you should! One of the hallmarks of freedom lovers is their sense of independence. But this strength has also been our weakness. If we all wait patiently to join forces *only* on the premise of total agreement, freedom will continue to perish, and we'll all wait forever.

None of us agrees about every dotted "i" or crossed "t." Even Harry and I have areas in which we don't see eye to eye. What *is* important is our commitment to the underlying principles of freedom and our mutual concerns about the threats to and erosion of those principles.

The scope of our program is going to be far-reaching enough to allow people to pick and choose. In fact, it will be broad enough to absorb all of a person's time, if he only chose to work in *one* of the thirteen fundamental areas of human activity we'll be addressing.

Question: I am 33 years old and would like to go to work for Freedom, Inc., as part of your full-time staff. Can I qualify for a position? F.F., San Antonio, Texas

Answer: You certainly might. Being businessmen, Harry and I know from our hard-earned experience that "people make the difference." We will need the best we can find. If you have had experience as an organizer, speaker, translator, or writer, we want to hear from you. But even if you don't become part of the full-time staff, your talents are going to be critical to the success of FI.

Question: I'm overjoyed to see what you and Mr. Schultz have started in Freedom, Inc. But why don't you take all of your experience and resources and *destroy the Federal Reserve system?* It is at the heart of the problem. . . . P.J., New York, New York

Answer: I can guarantee you that if by some wave of a magic wand, the Fed went out of business tomorrow, and if by another wave of that same wand, all paper money were fully convertible into gold, our problems would be reduced by a factor of $^1/_{13}$th. Any realistic examination of collectivism shows clearly how the forces of Big Brother are busily engaged in all thirteen areas of human activity. *All.*

If the Fed went away, the financing of socialism by the megabanks and their multinational friends would still continue. The World Council of Churches would continue to subvert religion, the state school system would continue to "dumb down" our kids and destroy traditional values.

I could go on for volumes, but I think you get the idea.

Question: Are you going to provide your membership with a monthly or bi-monthly publication on FI programs and how to implement them? P.L., Auckland, New Zealand

Answer: You bet we will. In fact, it is our intention to provide both national and *global* action programs. While most encroachments and threats to freedom are universal in character, there are certain national distinctions which must be recognized. This we intend to do. It is one of the reasons we will have knowledgeable and experienced people serving on *FI advisory councils from every quarter of the globe.*

But, it should also be noted that a critical aspect of our approach in Freedom, Inc. will be to get people in New Zealand to understand and act on events taking place half a world away. The organized and united-front activities of the CFR and Trilateral Commission are ample proof of the *effectiveness* of this type of concerted effort.

Question: You guys are on the right track, but until you have the guts to identify the real enemy—international Zionism—count me out! A.M., Detroit, Michigan.

Answer: This is obviously not a question, but it certainly requires an answer. Ever since man started to build social and ultimately political structures, ignorant prejudice has been used by power seekers to pit one group against another. We've seen this technique used again and again, to set Christian against Jew, Jew against Arab, white against black, and now even women against men.

No group, be it social, religious, or cultural, is immune to this insidious appeal. And while many people, both Jew and gentile, can sincerely oppose Zionism, too often this sentiment is simply a mask to disguise virulent hatred of Jews.

If you will not get involved, how can you expect others to? If you won't act on behalf of saving your own freedom and that of your loved ones, then who will?

Another application for Freedom, Inc. is enclosed. I hope you will use it.

Our studies on this subject (and they are voluminous) will prove to anyone who is willing to listen how these appeals to hatred are used to enslave everyone. Just one example of how natural differences have been used for decades to promote world communism can be found in Josef Stalin's book fifty years ago, *Marxism and the National Question.*

Then again, one doesn't need to study the subject, but simply to look to your own God-given common sense, to know that *hatred begets hatred.* We will have no part of it, and don't want the support of anybody who harbors these attitudes.

This is all the space we can devote to your questions at this time. But in closing, let me again urge you to join and support Freedom, Inc.

If you, the person reading these words, will not get involved, how can you expect others to? If *your* understanding (and it is far greater than most) doesn't cause you to get on behalf of saving your own freedom and that of your loved ones, then *who will?*

An application for membership in Freedom, Inc. is enclosed. I hope you will use it.

THE TREATMENT OF FORMER REPRESENTATIVE GEORGE HANSEN

Mr. SYMMS. Mr. President, 1 week ago Tuesday, our former colleague, Representative George Hansen, was returned to the Petersburg Federal Correctional Facility to serve the remainder of his term for ethics law violations. I have known George Hansen for many years and had the privilege of serving with him for 6 years in the House of Representatives. George is an honorable, compassionate man with unwavering commitment to his political principles and his deep religious faith. He is a patriot and he has always been a loyal friend.

In my opinion, George Hansen should never have been tried, convicted, or imprisoned for failing to list certain financial transactions on his Ethics in Government Act forms. At the appropriate time I will insert in the RECORD the case filed by the distinguished junior Senator from Utah [Mr. HATCH] with 128 members of Congress which gets to that matter. The House of Representatives cleared George of any impropriety in the transactions themselves, and I believe the Justice Department overstepped the bounds of its authority by prosecuting him for criminal code violations. But I am not here to argue the merits of George's court case; I am here to express to the Senate my strong concerns about the conditions of his parole and the treatment he has received since his recent arrest for parole violations.

On May 6, 1987, Senator THURMOND and I and 15 of our House colleagues wrote to the Attorney General asking him to review the circumstances of Congressman Hansens' recent arrest. We asked Mr. Meese to determine whether or not U.S. marshals or other Federal officials took unwarranted or abusive actions during the arrest proceedings. Our primary interest was to assure that George's constitutional rights were being protected and that no Federal officials were taking unwarranted action against George because of his well-publicized complaints about the coercive nature of certain Federal agencies.

The Attorney General's reply came recently in the form of a memorandum prepared by William J. Landers, a Deputy Associate Attorney General, with a cover letter from John Bolton, the Assistant Attorney General for Legislative Affairs. I will ask unanimous consent that our letter to the Attorney General and his response be printed in the RECORD following my remarks.

In the memorandum, Mr. Landers notes that George's application for parole included a request for either unsupervised parole or a waiver of the standard conditions concerning travel, association, and financial reports. However, when he was released on December 19, 1986, after serving 6 months of his 5- to 15-month sentence, George signed a temporary parole certificate indicating that he agreed to abide by all of the standard conditions of parole. After the Christmas holidays, George signed a permanent certificate or parole, noting that he did not accept those terms for which he had requested an exception.

As a public figure who represented absolutely no threat to society and a political consultant whose livelihood depends on constant travel, George Hansen believed he need not and should not be bound by restrictions on his travel and associates without prior approval. In addition, he asked for a waiver of the requirement that he report the source and amount of his monthly income. Mr. President, these requests should have been approved by the Parole Commission without delay. George is not, and has never been, a threat to society. It is ridiculous to impose on him the same restrictions on travel and association that we might impose on a convicted rapist or murderer. The income reporting requirement is the type of restriction we would impose on a convicted drug dealer or other common criminal. While one of the conditions of parole is that George continue to support his family, there is no reason to suspect that George might gain his income illegally.

Unfortunately, the Regional Commissioner denied George's request for a waiver, and George appealed to the Chairman of the Parole Commission for a review by the full Commission. In the meantime, George filed his monthly reports without completing the financial information section, and in February, he travelled to Idaho after his probation officer had denied permission for the trip. In his memorandum, Mr. Landers notes that "the Parole Commission took the position that travel by a parolee is a privilege and that in view of Hansen's willful violations of the monthly reporting requirement, he would not be allowed to travel until he fully complied with that condition."

Again, we're talking about a public figure whose livelihood depends on the ability to travel, who represents no threat to society, and who had made a legitimate request for a waiver of certain parole conditions, which request was awaiting consideration by the full Commission. The Parole Commission either should have granted permission for George's travel or should have waived that requirement while his request for a waiver of conditions was pending on the Commission calendar. Mr. Landers notes without comment that when George informed the Commission he could not simultaneously refrain from travel without restriction and maintain his employment—both of which were required under the parole conditions—". . . he was told that he should pursue other employment." I believe this response is an indication of the unreasonable, inflexible attitude adopted by the Parole Commission in George's case.

As a result of George's violation of the conditions for which he had requested a waiver, the Regional Commissioner issued a warrant for his arrest. When the U.S. Marshals arrived at George and Connie Hansen's apartment in Alexandria to serve the warrant, George was in Omaha, NE for a speaking engagement. Connie informed the officers that George was scheduled to return that night on a midnight flight to Dulles.

According to Mr. Landers' memorandum, the U.S. Marshals for Virginia contacted the U.S. Marshals for Nebraska and asked them to make sure George departed on his scheduled flight. This precaution was taken, according to Mr. Landers, ". . . because Mrs. Hansen was aware that the Marshal was looking for Hansen [and] the Marshal was concerned that she might tell Hansen and that he would then change his travel plans." When the U.S. Marshal for Nebraska learned that George was flying to Washington via Chicago, he apparently believed George was trying to evade arrest and decided to arrest him in Omaha.

Now, this story smells a little fishy to me. First, Connie Hansen did not know the marshals has come to arrest George. They only told her they needed to talk to him, and they gave some indication that they would pick him up at Dulles and drive him home. Their visit to the Hansen home was not cause for any particular concern. Second, George was always routed through Chicago on his return flight from Omaha, and there is no indication why the U.S. Marshal for Nebraska would have thought George had changed his travel plans. Third, according to Mr. Landers' memorandum, the U.S. Marshal Service knew who George was because of ". . . the notoriety about Hansen and his difficulties with the Federal Parole and prison systems." How could anyone who knows anything about George Hansen think even for a moment that this 6'6", outspoken former Congressman, who earns a living partly through speaking engagements around the country, would flee his arrest and thereafter become a fugitive of the law? It is not sufficient to say, on the one hand, that they knew who George was and, for that reason, thought his arrest required priority attention and, on the other hand, that they also thought he might become a fugitive of the law. Like so many other parts of this story, Mr. President, it does not make sense.

Continuing with the story as presented in Mr. Landers' memorandum, George was confronted at the Omaha airport by three Deputy U.S. Marshals as he approached the ticket counter. He was frisked and placed in handcuffs and a belly chain and leg irons ". . . pursuant to the standard arrest policy of the U.S. Marshals Service." The Deputy Marshals did not have a copy of the arrest warrant with them, and George did not receive a copy of the warrant until the next morning at the Omaha jail, more than 12 hours after his arrest.

In our letter to the Attorney General, we asked why George was not presented with a warrant upon his arrest, as required by Federal law. The answer presented by Mr. Landers is as follows: "The Marshals do not need a copy to effect a parole violation arrest. Hansen's attorney says that the Parole Commission Rules are to the contrary. I asked the Parole Commission about this, and they said the rules say that 'upon arrest' the officer shall give the parolee a copy of the warrant application, which is the document setting forth the violation allegations. What constitutes 'upon arrest' is subject to interpretation, especially when the arrest takes place in a district outside the district of supervision."

Now, Mr. Landers is a lawyer, and I am not. But from the perspective of this Idaho apple farmer, being stopped in an airport by U.S. Marshals, frisked, handcuffed, and secured with a belly chain and leg irons sounds like an arrest. More than that, it is reasonable to suspect that in their rush to get that outspoken critic of our criminal justice system, the U.S. Marshals forgot to take care of some of the legal niceties intended to protect the Constitutional rights of American citizens—including fiesty former Congressmen.

Subsequent to the arrest, the U.S. Marshal Service for Virginia chartered a Lear jet to bring George back from Omaha, although its own air transportation service would have been available in a few days.

As a matter of fact, had they waited only 3 or 4 hours, Congressman Hansen would have come at his own expense back to the Nation's capital.

Again, the U.S. Marshal Service apparently believed George's case warranted priority attention because of his notoriety; but he was subjected to standard arrest and confinement procedures established for the detention of criminals who pose a threat to society.

And I do not think he has ever asked for any special treatment nor am I asking for special treatment at this point, but I do think that we have to remember the punishment is supposed to have something to do with the crime.

In order to avoid public and media attention, the U.S. marshals went so far as to book George V. Hansen, former Congressman from Idaho, under the alias "Fred Smith" for his transport back to Washington and his booking at the Alexandria City Jail. In the booking room at the Alexandria City Jail, George was placed on a bench and handcuffed to a bar above and behind the bench. According to Mr. Landers' memorandum "This is how all inmates are detained in the booking room." I believe the detention procedures used by U.S. marshals should reflect the danger the inmate poses to the arresting officer and the risk that the inmate may attempt to escape. George's treatment during the arrest and confinement procedures was unwarranted and unreasonable.

We could have avoided these serious claims regarding the mistreatment of our former colleague. First, George's case warranted special consideration of the conditions of his parole. And second, the question of parole conditoins aside, the Parole Commission could have summoned George to appear at a revocation hearing and no arrest warrant would have been necessary. George had indicated repeatedly his willingness to return for a hearing or to return to prison if his request for a waiver of parole conditions was denied by the commission.

I want to repeat that. He had told them, "If I have to be limited to the area of Alexandria, VA, I then am unable to carry out my responsibilities," which part of the parole said that you have to earn a living because his ability to earn a living requires travel around the country because of the nature of the people he represents and that he speaks to, and he said then, "Take me back to prison because I cannot comply with this."

Mr. Landers tries to justify the commission's action as follows:

> The fact that he could have been summonsed does not mean that he should have been summonsed or that the decision to issue a warrant was unjustified or improper. From an institutional standpoint the Commission believes it is necessary to issue a warrant whenever there are egregious violations. This insures that parolees understand the seriousness of their misconduct. Because of the tremendous difficulties that the Parole Commission was having with Hansen, the Parole Commission apparently felt it had to convey this message to him in particular.

And in fact they felt so strongly about it that we, the taxpayers, got to hire a nine-passenger jet and three marshals and go to Omaha and pick him up and book him under the alias of Fred Smith, so other people might not find out that he was in a 130-year-old jail in Alexandria, VA.

I visited him there and it is a real jail. There is no question about it.

In other words, instead of issuing a summons and saving the time, expense, and trouble involved in issuing and executing an arrest warrant, the Parole Commission decided it needed to teach George Hansen a lesson. In fact, there is a lesson to be learned in this episode, but it is the officers of the Parole Commission, the U.S. Marshals Service, and the Department of Justice, rather than former Congressman Hansen, who stand to benefit most from that lesson. I hope the benefits to those Federal agencies will be worth the injustices suffered by this honorable and principled man.

Mr. President, I have contacted officials at the Justice Department and at the White House on numerous occasions about the conditions of George's parole and the treatment he has received during his incarceration. And while I appreciate receiving the memorandum drafted by Mr. Landers, it does not satisfy my concern about George's treatment or provide justification for his continued incarceration.

I take this opportunity to publicly encourage the Attorney General and the President to give this case their personal attention. I believe that even if one concedes the Justice Department's authority to prosecute George under title 18 of the United States Code, it is clear that he now has suffered enough. He has paid the price, and society has nothing more to gain from his further detention in a correctional facility.

Mr. President, Congressman Hansen has sold his home, sold his belongings that he could raise any money with. He spent 6 months in prison. He paid a $40,000 fine. And $40,000 from seeing some of the financial disclosures that we here in the Senate make may not sound like a large amount to some people, but to someone who has been imprisoned has no income, has no net worth, it is very large. He has given up everything in order to fulfill what it was that society asked of him.

I just would ask that the Justice Department would consider this case. Whether a pardon is in order I do not know. But it would appear to me that to commute the sentence would be the least that could be done if there is to be any meaning of the standard that the crime fits the punishment.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Washington Times, "Coddling Prisoners, Punishing Pols" at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, May 20, 1987]

CODDLING PRISONERS, PUNISHING POLS

Folks who complain loudly about coddling common criminals should be rowdy in their cheers for new procedures for punishing parole violators that federal marshals and the Department of Justice are using.

George Hansen is a convicted felon—and former Republican congressman from Idaho—who has spent six months in a federal penitentiary for not telling the proper congressional authorities that his wife received loans from oil and silver magnate Nelson Bunker Hunt. Once out on parole, he developed an intransigent and unrehabilitated attitude and defiantly went about making a living as a lecturer and consultant—after carefully telling his parole office where he would be traveling to make speeches.

Such interstate travel was taboo, so they seized him in Omaha, cuffed his hands behind his back, flew him secretly to Alexandria, Va., and denied him the right to make any phone calls. He was booked into the city jail under a fake name and put in a dark, dank basement cell. When the press found where he was, and 35 congressmen complained about his treatment, he was finally granted a meeting with federal officials—his prison garb enhanced with handcuffs, waist chains, and leg irons.

Questions linger on Hansen's prosecution and conviction for violating congressional ethics rules on financial disclosure. A careful reading of stacks of documents lend credence to his claims that he did, in fact, keep the House ethics committee informed of all his financial dealings and that politics kept that information from being presented in court. More than a faint aroma of vindictiveness wafts from the files, but reservations about the original case are not moot; the former lawmaker has availed himself of all legal opportunities, including a petition to the Supreme Court.

The more serious, and still valid, question is that of his current treatment. Hansen is not a physical threat to the public and did not try to flee the country. Throughout his career he was irascible, and he alienated many people in government. But merely being unloveable is not a valid reason for authorities to yank the civil liberties normally granted. An investigation by Justice officials is in order. If this is a common practice it should be stopped—and maybe those responsible should join Mr. Hansen as cellmates.

Mr. SYMMS. Then, Mr. President, I will ask unanimous consent to have printed in the Record an Orrin Hatch brief with 128 leaders and Members of the Senate and House, which clearly shows the congressional intent that the Ethics in Government Act was a civil matter and was never intended to be a criminal matter; an article here by Senator Hatch; the briefing that Senator Hatch filed with the names of the other Members of Congress attached to this; an article from Human Events from September 13, 1986; an article from the Washington Post, May 16, 1987; an article from the Wall Street Journal April 24, 1987; and Where Are the Real Ethics in Government? by none other than George Hansen, from the Washington Post, February 20, 1987. I ask unanimous consent that these be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Ethics Law Is Civil Not Criminal

(By U.S. Senator Orrin Hatch)

Even the most cursory of glances at the United States Constitution reveals that it is the province of the Legislative Branch to make federal laws. the executive may execute the laws, the judiciary may interpret them, but only Congress may decide what they should be. Article I says so.

Yet in the case of Honorable George V. Hansen—late of the United States House of Representatives—both the executive and judicial branches have thus far missed that elementary constitutional point. Collectively, they proceeded in federal criminal court against Mr. Hansen for allegedly violating an act of Congress that was never intended to subject any living soul to criminal prosecution.

The act in question is the Ethics in Government Act of 1978 which for the first time in history required high ranking government officials to file annual financial disclosure report forms. The idea was simple: let the public in on the financial affiliations of those people running the government. The punishment to be meted out for violations was also simple: in the case of an intentional and willful violation, the United States Attorney General could seek to impose a $5,000.00 fine.

As for the notion of imposing a criminal penalty, the idea was specifically discussed, debated and rejected by Congress. One of the early proposals of the act contained a criminal penalty, but it met with such widespread criticism that it was delelted from the final bill. There is virtually no disagreement on this point. Anyone who cares to take the time to talk to persons involved or simply to read the Congressional Record will find out with very little effort that Congress intended that the new Ethics Act would not subject government officials to criminal penalties.

Nevertheless, George Hansen was indicted. Regardless of the clarity of Congressional intent on the issue of criminality, the Justice Department went on undaunted, advancing a theory that Representative Hansen was criminally liable for violating the Ethics in Government Act because of a separate general section of the United States Code which makes it a felony to submit false documents to the Government. The Federal District Court of Washington, D.C. bought off on this theory amid a high-sounding discussion of esoteric legal concepts such as repeal of implication and statutory construction.

What they both forgot to do was simply to check article I and ascertain congressional intent. The result of this error is that the District Court, not the Congress, has enacted the law. The case is currently pending before the D.C. Circuit Court of Appeals. Hopefully, they will first and foremost attempt to ascertain what Congress intended the law to be when it passed the Ethics Act—and rule accordingly.

George Hansen has lost his recent re-election attempt by less than 100 votes, a loss undoubtedly attributable to his criminal trial. That is a tragic mistake. We certainly should not compound the error by unconstitutionally sending him to jail.

[In the U.S. Court of Appeals for the District of Columbia Circuit, No. 84-5377]

The United States of America, appellee, *v.* The Honorable George V. Hansen, appellant.

On appeal from the District Court for the District of Columbia.

Brief for United States Senator Orrin G. Hatch and other Members of the United States Congress, as *amici curiae.*

United States Senator Orrin G. Hatch, Counsel of Record, United States Senate, Washington, D.C. 20510, (202) 224-5251.

Members of Congress as *amici curiae*:

Daniel K. Akaka, Glenn M. Anderson, Robert E. Badham, Mario Biaggi, William S. Broomfield, Carroll A. Campbell, Jr., William Carney, Gene Chappie, Dick Cheney, William Clay, William F. Clinger, Jr., Larry E. Craig, Daniel B. Crane, Philip M. Crane, Dan Daniel, and William E. Dannemeyer.

Robert W. Davis, Michael DeWine, William L. Dickinson, David Dreier, John J. Duncan, Mervyn M. Dymally, Mickey Edwards, Bill Emerson, Walter E. Fauntroy, Harold E. Ford, Webb Franklin, Bill Frenzel, George W. Gekas, Newt Gingrich, William F. Goodling, Willis D. Gradison, Jr., Steve Gunderson, John Paul Hammerschmidt, James V. Hansen, Orrin G. Hatch, Augustus F. Hawkins, Charles A. Hayes, W.G. Hefner, Cecil Heftel, John Hiler, Larry J. Hopkins, Frank Horton, William J. Hughes, Carroll Hubbard, Jr., Duncan Hunter, Henry J. Hyde, and Andrew Jacobs, Jr.

Ed Jenkins, Nancy L. Johnson, James R. Jones, Walter B. Jones, Jack F. Kemp, Thomas N. Kindness, Marvin Leath, Richard H. Lehman, Mickey Leland, Norman F. Lent, Jerry Lewis, Tom Lewis, William O. Lipinski, Bob Livingston, Trent Lott, Mike Lowry, Manuel Lujan, Jr., James A. McClure, Bill McCollum, Bob McEwen, Connie Mack, and Edward R. Madigan.

Ron Marlenee, Dan Marriott, David O'B. Martin, Clarence E. Miller, Parren J. Mitchell, Guy V. Molinari, G.V. Montgomery, Carlos J. Moorhead, Sid Morrison, Austin J. Murphy, John P. Murtha, Howard C. Nielson, Michael G. Oxley, Ron Packard, Stan Parris, Ron Paul, John Edward Porter, Melvin Price, Carl D. Pursell, James H. Quillen, Nick Joe Rahall II, Thomas J. Ridge, Pat Roberts, Buddy Roemer, Harold Rogers, Eldon Rudd, Harold S. Sawyer, Dan Schaefer, James H. Scheuer, Richard T. Schulze, Norman D. Shumway, and Mark D. Siljander.

Joe Skeen, Denny Smith, Gerald B. H. Solomon, Arlan Stangeland, Charles W. Stenholm, Bob Stump, Don Sundquist, Steven D. Symms, Thomas J. Tauke, William M. Thomas, Esteban Edward Torres, Edolphus Towns, Guy Vander Jagt, Robert S. Walker, Vin Weber, Lyle Williams, Charles Wilson, George C. Wortley, Jim Wright, Don Young, and Ed Zschau.

[In the U.S. Court of Appeals, No. 84-5377]

The United States of America, appellee *v.* The Honorable George V. Hansen, appellant

On appeal from the district court for the District of Columbia.

Brief for United States Senator Orrin G. Hatch and other Members of the United States Congress, as *amici curiae.*

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, this brief is filed with the written consent of the Appellant and Appellee. Their original letters of consent have been filed with the clerk of this Court.

ISSUE PRESENTED FOR REVIEW

Are alleged violations of the Ethics in Government Act of 1978 subject to criminal prosecution under 18 U.S.C. Section 1001?

INTEREST OF AMICI

The *Amici* submitting this brief do so as members of the United States Congress. As such, they are required under the Ethics in Government Act of 1978 (hereinafter "EIGA"), 2 U.S.C. Sections 701-709, to file annual financial disclosure reports. They are also subject to whatever penalties may legally flow from any EIGA reporting violations they may commit.

The *Amici* have, therefore, a direct interest in the law of this case regarding whether criminal sanctions may be imposed for violations of EIGA. The decision of this Court will directly affect the potential criminal liability of each of the *Amici*, and all other members of Congress and other government officials whose task it is to file the annual reports.

Although the *Amici* are concerned about their fellow member, Congressman George Hansen, who finds himself at the center of this controversy, this brief does not necessarily address the matters of fact in his case below. Rather, the issues raised in this brief constitute matters of law.

Amici are of the firmly held and unanimous opinion that EIGA, as passed by Congress in 1978 and signed into law by the President, specifically does not allow criminal penalties to flow from its violations.

STATEMENT OF THE CASE

Congressman George V. Hansen, of Idaho's Second Congressional District, was criminally indicted for failing to disclose certain financial information on annual EIGA disclosure reports for the years 1978, 1979, 1980, and 1981. In his defense, Congressman Hansen, among other things, asserted that the information in question was not required to be reported because it pertained to his wife or other sources which, under the express terms of the Act, were not required to be disclosed.

* * * * *

3. Some members of Congress felt criminal penalties should be allowed (e.g., the original Senate bill and initial proposals of two House committees);

4. Others felt not even the possibility of criminal liability should flow from violations of the reporting requirements (e.g., the House Post Office and Civil Service Committee proposal and H.R. 13850);

5. In the final compromise, criminal sanctions were specifically deleted from the final bill, thereby allowing passage of the bill and expressing clear congressional intent that violators would in no event be in jeopardy of becoming criminals for violations of these reporting requirements.

The issue before this Court is not what the *Amici* now feel the appropriate sanctions under EIGA should be, nor what this Court or the lower court feels would be fair or desirable. The only issue is what did Congress intend in 1978 when the legislation was passed. On that subject, *Amici* submit to this honorable Court that the record is clear. The judgment of the lower court should be reversed.

Dated this 19th day of September, 1984.

Respectfully submitted,
ORRIN G. HATCH,
U.S. Senator, Counsel of Record, for himself and other Members of the United States Congress,—— as Amici Curiae.

WHY GEORGE HANSEN SHOULD BE PARDONED

(By M. Stanton Evans)

A newspaper campaign is under way to secure a pardon for Dr. Jean Harris, the society educator convicted of murdering Dr. Herman Tarnower of diet book fame in a 1980 lovers' spat.

Without presuming to judge the merits of Dr. Harris' case, I would suggest to my fellow journalists pursuing this crusade that there is another well-known American currently languishing in prison who is demonstrably more eligible than she for clemency. This is former Rep. George Hansen (R.-Idaho), presently incarcerated in federal prison at Petersburg, Va., on the most preposterous of charges.

Hansen is in prison, not because he was convicted of murdering anybody—or of any other crime against person or property—but because he allegedly failed to fill out a government form in proper fashion! For this asserted misdeed, he was sentenced to five to 15 years in jail, plus a fine of $40,000. That sentence was imposed, moreover, with less due process than would be afforded a common criminal off the streets.

The particulars of Hansen's case have been recited previously in this column ("The Railroading of George Hansen," Sept. 22, 1984; "Hanging Hansen, Whitewashing Ferraro," Dec. 29, 1984). In a nutshell, he is being punished because, in 1977, he and his wife executed a property division in the state of Idaho so that she could legally raise money, apart from his campaign finances, to pay some legal bills in another unrelated case. This division was reported to, and ratified by, the Ethics Committee of the House of Representatives.

Hansen was subsequently indicted on three of the four counts against him, for failing to report these legally separate dealing of his wife on disclosure forms mandated by the Ethics law. This despite the fact that he discussed the matter fully with the Ethics Committee, that there is no documented evidence that he was told to do otherwise, and that a ranking member of the committee at the time (former Rep. Charles Wiggins) attested in a deposition that Hansen's non-disclosure was approved by the committee. It is plain as day, on the available record, that the staff of the committee was out to get Hansen, and simply ignored the evidence in his favor.

On those data alone, the criminal conviction of Hansen for nondisclosure of his wife's transactions seems highly questionable. It becomes the more so when we note that scores of other members of Congress also failed to report the finances of their spouses—and other matters required by statute—on the disclosure forms, and rushed to amend their papers when the subject became a matter of national controversy. Yet none of these people has been sent to prison. Hansen, and Hansen alone, has been selected for prosecution.

By far the most notorious of these nondisclosing members of Congress was former Rep. Geraldine Ferraro (D.-N.Y.), Walter Mondale's 1984 running-mate, who failed to report the financial dealings of her husband, John Zaccaro, on the official forms.

Though Ferraro steadfastly declined to make the required disclosure—and though the House Ethics Committee concluded that she should have done so—she has been subjected to no legal penalty whatever for her refusal to comply with this provision of the law.

In fact, the Ethics Committee that savaged Hansen for his failure to disclose his spouse's dealings fell all over itself finding excuses for Ferraro, asserting that the law is "clouded with some amount of ambiguity," and that the practice of other members "has encouraged confusion as to the exemption's meaning." The committee therefore refused even to reprimand her for the violation.

Apologists for Ferraro argue that her cases and Hansen's are different—as indeed they are. He had legal grounds for not reporting his wife's financial dealings, the advice of two attorneys saying he should not report them, and the response from the committee attested by Rep. Wiggins saying this was proper conduct. Ferraro had none of this—only her continued stonewalling of the issue.

In other words, Hansen is obviously less culpable then Ferraro, not more so. Yet he is in prison while she—and countless others who have violated the disclosure rule and other portions of the statute—walk around scot free. The ineluctable conclusion is either that all these other people should be prosecuted and sent to jail, or else that Hansen should be let out.

That conclusion is the premise of a current effort by Hansen's wife, Connie, to secure a pardon for the former congressman. Hansen's attorneys have already filed a formal pardon application with the U.S. Pardon Attorney and Mrs. Hansen is asking citizens to call or write the White House, urging President Reagan to pardon her husband. Letters and calls are also being directed to Congressmen and Senators.

George Hansen is big, flamboyant, and outspoken, and has fought many battles for the taxpayers and little people of this country. In the course of doing so, he has made numerous enemies in the bureaucracy and elsewhere in the establishment. All too obviously, he is paying the price today for having done so. If there is any semblance of justice left in the United States, he should be pardoned forthwith.

(Those who would like to find out more about the Hansen case and pardon effort can do so by contacting the New Continental Congress, 400 First St., N.W., Suite 809, Washington, D.C. 20001. Phone: 202-737-3111. For those who would like to write George Hansen directly, his address is: Petersburg Camp, P.O. Box 1000, Petersburg, VA. 23804-1000.)

REAGAN: CAN'T RECALL ACTING ON RANSOM: PRESIDENT CONTRADICTS MCFARLANE, FITZWATER

(By Lou Cannon)

President Reagan said yesterday that he is "having some trouble remembering" whether he personally approved a plan to pay $2 million in bribes and ransom to free Americans held hostage in Lebanon.

Contradicting both his former national security adviser, Robert C. McFarlane, and his current spokesman, Marlin Fitzwater, the president told reporters that he did not remember whether he had authorized the payment.

McFarlane testifed Thursday before congressional committees investigating the Iran-Contra affair that Reagan had approved a June 1985 plan to free the hostages, using ransom money put up by Texas billionaire H. Ross Perot. Fitzwater said the president "did not know there was ever a plan for ransoming hostages."

Asked about McFarlane's testimony, Reagan replied, "I'm having some trouble remembering that, but then I want to tell you that there were so many things going on and so many reports, and some of this was during the time that I was laid up in the hospital and so forth. I don't recall ever anything being suggested in the line of ransom."

Reagan's comment about being "laid up" was a reference to his July 1985 surgery for colon cancer.

The president, in continuing his answer, said, "It's possible what we're talking about was use of money to pay people and hire individuals who could effect a rescue of our people there. And I've never thought of that as ransom. But, again, I'm having some trouble, just as Bud [McFarlane] has some trouble himself with some of the questions that were asked him. There was an awful lot going on, and it's awfully easy to be a little short of memory."

McFarlane testified that he had discussed the ransom operation with Reagan, Vice President Bush and "probably" with Donald T. Regan, then White House chief of staff.

The operation, which developed over an 18-month period in 1985 and 1986, involved using Drug Enforcement Administration officers and informers to locate Americans being held in Lebanon. According to a June 1985 memo written by fired National Security Council aide Oliver L. North, the operation was to culminate in bribing of guards and delivery of the hostages off the coast of Cyprus in May 1986 after the ransom has been paid.

Reagan yesterday met with representatives of southeastern television stations and newspapers for 22 minutes. He made a five-minute statement on budget and arms control issues, then answered seven questions.

The president minimized the political damage inflicted by the Iran-contra affair, saying that "I haven't seen any evidences that I've been mortally wounded, nor do the people seem to be unhappy about what we've been doing here."

When Tim Kent, from WRAL-TV in Raleigh, N.C., pointed out that national polls have shown a significant drop in Reagan's support, the president responded that his approval rating in a survey by his pollster, Richard B. Wirthlin, stood at 53 percent. Reagan said this equalled Dwight D. Eisenhower's rating during the sixth year of his presidency.

A spokesman for Wirthlin confirmed the 53 percent figure, in a survey of 600 people taken Wednesday to yesterday. But White House officials familiar with Wirthlin's findings said they also show that a majority of Americans do not believe Reagan's claim that he knew nothing about diversion of Iran arms sale proceeds to aid the contras fighting the government of Nicaragua.

A Washington Post-ABC News Poll taken in mid-April found that Americans by 2 to 1 believe that Reagan is generally honest but think he is not telling the truth about the diversion. Wirthlin's surveys have shown similar findings, sources said.

Reagan yesterday reiterated his statement that he knew nothing about the diversion before it was revealed to him by Attorney General Edwin Meese III. "I have been telling the truth," Reagan said.

At the same time Reagan said he "was very definitely involved in the decisions about support to the freedom fighters" in Nicaragua. "It was my idea to begin with," the president added.

While repeating that he had not solicited contributions from third countries such as Saudi Arabia, Reagan also said there was "nothing wrong" with individual Americans and other countries "that share our feelings about democracy" providing money for the contras.

The president made the same point in an interview Thursday with three weekly news magazines released yesterday by U.S. News & World Report. He also contended that the Boland Amendment, which prohibited aid to the contras, did not restrict him or his national security adviser from "asking other people" to help the rebels.

In the same interview Reagan defended his administration against charges of widespread misconduct.

"I think we have got as fine a Cabinet as has ever been appointed by any president," Reagan said. "Suddenly, are we somehow a den of thieves here? No, we're not. And I think we've got a very high moral limit." Reagan also said that former labor secretary Raymond J. Donovan, on trial for fraud in New York, is "a man of great integrity."

Reagan seemed to be contending that ethics laws for government officials are too stringent. He said there "ought to be quite a review of some of the restrictions that have been put on the appointment of individuals to government . . . and the restrictions that have been put on individuals when they leave the government."

THE ETHICS WEAPON

Former Idaho congressman George Hansen is on day nine of a hunger strike in the Alexandria, Va., jail. Mr. Hansen is behind bars for violating the terms of his parole, after serving six months in prison for being convicted of failing to disclose certain of his wife's financial transactions while in Congress. Mr. Hansen calls himself a "political prisoner" and says he is being jailed for criticizing the Internal Revenue Service.

That is nonsense, but Mr. Hansen is correct in one sense. Political games are routinely played with financial-disclosure laws. Moreover, the surge in hearings and prosecutions in recent years over ethical breaches has given us a basis of judging Washington's enforcement of correct political behavior. what we maintly find is a double standard.

Last week, the House Ethics Committee concluded that Rep. Fernand St Germain (D., R.I.), the powerful chairman of the House Banking Committee, violated a House rule by accepting transportation from a savings and loan. However, said the congressional panel, the violation involved a small amount of money and didn't suggest a "pattern of improper acceptance." The committee also confirmed "reporting deficiencies" in Mr. St Germain's financial disclosures, first reported by Brooks Jackson of the Journal's Washington bureau, including the undervaluing of restaurants he owned by more than $1 million. The committee chose to take no disciplinary action.

Last week, the Justice Department ratified earlier findings of the Senate Ethics Committee and closed its investigation of Sen. Mark Hatfield (R., Ore.) and his dealings with a Greek financier named Basil Tsakos. Sen. Hatfield had supported a trans-Africa oil pipeline promoted by Mr. Tsakos at the same time that his wife was accepting $55,000 in fees from Mr. Tsakos for real-estate and decorating advice. The Journal's Edward Pound reported last week that the Justice Department believed Mr. Tsakos intended to bribe Mr. Hatifield but that there was insufficient evidence of criminal intent by the senator.

After Geraldine Ferraro became the Democratic vice-presidential candidate in 1984, it was charged that for five years she had filed inaccurate disclosure forms stating that she had not benefited from or known about her husband's business. A House ethics committee found "approximately 10" reported violations, but held that they were not intentional and took no action. Mr. Hansen's conviction for similar violations that same year led then-Speaker Tip O'Neill to question the scope of congressional ethics laws.

A maverick congressman gets caught and convicted, but by and large Congress and official Washington become quite fastidious about standards of evidence when investigating—and exonerating—important or powerful members of Congress. Presumably affronted, however, by the unseemly behavior in the executive branch, Congress in 1978 enacted the Ethics in Government Act. It requires the attorney general, after an initial inquiry, to request that a panel of three federal judges appoint a prosecutor to investigate possible wrongdoing by executive branch employees. Ever since, prosecutions of presidential aides and appointees have been a booming business. For instance:

In 1980, Carter White House aides Hamilton Jordan and Tim Kraft were accused of cocaine use. Both men lived in legal limbo for nearly a year until they were cleared.

Former Assistant Attorney General Theodore Olson is enmeshed in a special prosecutor's inquiry over whether the Justice Department misled Congress over access to Environmental Protection Agency files in 1983.

Michael Deaver, a former aide to President Reagan, is under indictment for allegedly lying about his post-government lobbying activities. He will go on trial in June.

Separately, summations in the trial of former Labor Secretary Raymond Donovan and several co-defendants are scheduled to begin next Tuesday. They are accused of fraud predating Mr. Donovan's government service.

Serious malfeasance deserves vigorous investigation. The post-Watergate era, however, has created an atmosphere in which members of the executive branch are subjected to a degree of accusatory scrutiny from which Congress and the judiciary are exempt. No independent prosecutors are appointed to interrogate senators about misspent bank accounts. Such inquiries are passed on to their colleagues on the ethics committees. Why the double standard?

The persistence and increasing obviousness of this double standard undermines the legitimacy of demanding ethical behavior in public life. It exposes the Ethics in Government Act to charges that its primary purpose is merely to provide the legislature with a political weapon in its struggles with the executive branch.

WHERE ARE THE REAL ETHICS IN GOVERNMENT?

(By George Hansen)

As one of the "big three" who had the high profile over how to fill out an Ethics in Government Act report form, I must point out a flaw in "The Ferraro Investigation" [editorial, Feb. 25].

Edwin Meese, when he was White House counsel, and then-representative Geraldine Ferraro and I all got into legal hot water at about the same time over basically the same thing: *spouse disclosure.*

Meese said he forgot to report certain of his wife's financial transactions and was cleared by a "special counsel," who concluded, among other things, that it is not Justice Department policy to prosecute ethics cases when other higher charges such as fraud and bribery are not also involved.

Ferraro, as the editorial states, "claimed an exemption from this requirement, but the House Ethics Committee ruled that she was not entitled to the exemption," and "that her failure to file the required information was due to a mistaken understanding of the law."

I was working with the Ethics Committee regarding my finances two years before the Ethics in Government Act became law and had asked, with the assistance of not one but two attorneys, whether or not I should report my wife's finances in view of the financial arrangements between us already known to the committee. I actually requested a "special advisory" of the committee, and affidavits from key committee officials show the committee was well aware that I did not include my wife's financial affairs, yet never asked that it be included or that I amend my forms.

Neither Ferraro's case nor mine was "referred to the Justice Department for further study," as the editorial states. The matters were initiated by the Justice Department. An Associated Press article in The Post of Feb. 22 clearly states, regarding the Ferraro case, that "The department began the investigation following complaints from a private group. . . ." My case, as a matter of record, developed when I myself turned in a blackmail attempt to the attorney general's office and volunteered everything to assist in catching the extortionist.

Both Ferraro and I were cited by the committee for improper filing, but not for any criminal cover-up. But, even then, was it we and the other 300 members who were out of line, or was it a "laid-back" committee, which did not follow up and then pointed the finger at others when they were caught in failure to perform?

The irony in all this is that House Speakers Tip O'Neill and Jim Wright, along with scores of key members of the House and Senate, are on record protesting the Justice Department's criminal interpretation of the Ethics in Government Act's enforcement provisions, which are clearly stated in the law to be a civil matter.

A nagging question is how Meese, as attorney general, could not only defy the will of Congress but even allow the Justice Department to fly in the face of his own special counsel's conclusion selectively to prosecute me and drag out a civil and criminal investigation of Ferraro for 30 months, devastating her family, smashing her efforts at the vice presidency and sandbagging any other hopes for political or public service positions for years.

My penalty as a victim of this erratic justice system was even more severe than the personal and career damage to Ferraro, because I actually spent six months in prison for something that Speaker O'Neill and Senator President Pro Tempore Strom Thurmond both called improper or unfair application of law. The current confusion about the legality and jurisdiction of special prosecutors, combined with the shoddy performance of the Justice Department, has severely undermined the noble intent of the 1978 Ethics Act and left political careers and personal reputations largely at the mercy of "creative" lawyers.

In all this chaos, one has to ask: Where are the real ethics in government?

Mr. SYMMS. Mr. President, I just have a couple more comments I want to make, that George Hanson has been very strongly and firmly supported.

Mr. President, I ask unanimous consent that the letter to Hon. Ed Meese, signed by Senators Thurmond and Symms and others, the memorandum that I referred to in my remarks from William J. Landers that was returned back to me be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, May 6, 1987.

Hon. Edwin Meese, III,
Attorney General, U.S. Department of Justice, Washington, DC.

Dear Mr. Attorney General: On April 22, 1987, numerous Members of Congress expressed serious concern in a telephone conversation with you that the manner in which former Congressman George Hansen was arrested and treated while in custody for alleged parole violations was in many respects contrary to law and certainly contrary to recognized patterns of behavior expected from American law enforcement officials. We asked you to investigate the matter to be certain that Mr. Hansen was not being treated more harshly simply because he was a former Member of Congress.

On April 23, 1987, Assistant Attorney General for Legislative Affairs John Bolton met in the Capitol with a large group of Members to address these concerns. We were told by Mr. Bolton that you would be arranging for someone from the Department of Justice to meet with Mr. Hansen and investigate numerous complaints of mistreatment. The next day, Mr. Hansen and his attorney met with Deputy Associate Attorney General William Landers and United States Attorney Henry Hudson.

To date, we have received no formal report of the results of your investigation. A Justice Department spokesman was quoted in The Washington Post on April 30th as saying that "no evidence of abuse or mistreatment of Hansen since his arrest has been found." And yet, to our knowledge, none of the Members of Congress who met with Mr. Bolton has received any report from the Department of Justice. We certainly hope that this media comment is not intended to take the place of a direct response from you to the concerns we expressed, as it does not appear to be a responsible statement of the facts which we have reviewed from media reports and other sources.

Even more important, the spokesman's comment avoids the real issues we raised concerning Mr. Hansen's arrest and treatment—issues such as these five apparent outrages:

1. Unnecessarily Making Mr. Hansen a Fugitive At Large.

Why was Mr. Hansen arrested and placed in handcuffs as a public spectacle at the Omaha airport on April 15, 1987, while preparing to board his scheduled plane to his home in Virginia when it had been prearranged through Mr. Hansen's wife that he would meet federal marshals at the Dulles Airport that evening? (This apparent untruth by federal marshals was compounded by their additional assurance that Mr. Hansen would be given a ride home, not arrested and put directly into jail.)

How can federal agents justify their haste in arresting Mr. Hansen when there was no evidence to suggest that he would avoid service of the warrant for his arrest? Mr. Hansen has voluntarily appeared for all legal proceedings, appointments and even incarceration. In fact, Mr. Hansen had an agreement with his probation officer that he would voluntarily appear should his dispute with the Parole Commission reach the point of parole revocation proceedings.

If the federal marshals had waited a few more hours, they could have met Mr. Hansen at Dulles Airport where they knew he would be arriving home on his commercial flight at no cost to the taxpayers, and where he would have conveniently been in the proper jurisdiction for parole revocation proceedings.

This "fugitive" question is particularly disturbing considering the fact that the arrest in Omaha could only be accomplished by violating the parole statute and regulations which require that federal officers executing a warrant for returning a parolee be in possession of the warrant and service it upon the parolee at the time of the arrest. See 18 U.S.C. Section 4213(d) and U.S. Parole Commission Rules and Procedures Manual Section 2.46 (a) and (b). Mr. Hansen was not served with the warrant until the day after his arrest because the warrant was in the hands of the marshals in Virginia at the time of his arrest by marshals in Omaha.

Why were these statutory and regulatory requirements violated in Mr. Hansen's case? Does this fact expose the United States or the marshals involved to any potential liability for false arrest?

2. Unnecessarily Using a Lear Jet Costing the Taxpayers Thousands of Dollars.

The irrationality of the rush to arrest Mr. Hansen was further compounded by the fact that the next day, three federal marshals from the Eastern District of Virginia leased a private Lear Jet from National Airport, flew to Omaha and brought Mr. Hansen (who was shackled in chains—hand, waist and feet—during the entire flight) back to Virginia where, as previously stated, he would have arrived the preceding evening of his own volition and at his own expense.

It was also reported that a helicopter or helicopters were used in surveillance of traffic leaving the Little Baptist Church south of Omaha where Mr. Hansen had participated as a guest speaker.

What was the cost to the taxpayers of renting the Lear Jet and other special equipment? What was the cost of the salaries of the three marshals who spent a full work day (possibly with overtime) on the round trip to Omaha aboard the Lear Jet? Are parolees routinely transported between parole districts on Lear Jets? What alternative means of transporting Mr. Hansen were available and at what cost?

3. Unnecessarily Booking Mr. Hansen as an Alias, "Fred Smith," Admittedly to Avoid the Media.

Another overzealous action occurred when Mr. Hansen was returned to Virginia and booked by the federal marshals in the Alexandria City Jail under the alias of "Fred Smith." The official reason for this action, as stated in media reports, was to keep the press from knowing where Mr. Hansen was being transferred, an act which also hid Mr. Hansen's whereabouts from his attorney and his wife. It was reported in The Arlington Journal on April 21, 1987, that one of the National Directors of the American Civil Liberties Union, attorney Philip Hirschkop, called this action "grossly improper," and violative not only of the rights of the press, but of the rights of the person in jail—"You're entitled to public exposure if you want it," Mr. Hirschkop was quoted as saying, calling the possibility of news coverage one of the safeguards to which defendants are entitled.

Because of these and other apparent violations of Mr. Hansen's civil rights, nationally known civil rights leaders, such as the Rev. Joseph Lowery, have demonstrated their interest by contacting Howard Baker's office in the White House demanding corrective action.

What are the Justice Department's policies concerning the booking of defendants under an assumed name, and were those policies violated in Mr. Hansen's case? Do these violations of rights expose the United States or the marshals involved to any potential liability?

4. Unnecessarily Conducting Reckless Vehicle Maneuvers on a Public Parking Lot and Public Street in Alexandria to Hide Mr. Hansen From TV News Cameras.

Another example of extreme treatment in Mr. Hansen's case occurred immediately after his meeting in Alexandria, Virginia, with Mr. Landers and Mr. Hudson on April 24, 1987. Federal Marshals kept Mr. Hansen in a holding cell in the courthouse, where the meeting took place, for four hours following adjournment in an effort to outwait media television camera crews waiting on the public sidewalk to get pictures of Mr. Hansen being transferred back to the jail.

When it became clear that two of the cameras were not going to leave before Mr. Hansen was transferred, the marshals took Mr. Hansen in chains, but without the leg irons, so that he could be compelled to run to a car in an alley leading to a parking lot behind the courthouse. While this occurred, other marshals pulled a van in front of the television cameras in order to block their view. The car with Mr. Hansen then careened out of the parking lot, tires squealing and nearly colliding with the van. These reckless actions endangered the safety of the TV cameramen, nearby pedestrians, street traffic, the marshal who was trying to coordinate the vehicles in the parking lot, and Mr. Hansen himself. Enclosed is a video tape of the news coverage of this fiasco.

What possible reasons could the Department have for going to such extreme lengths to avoid camera coverage of Mr. Hansen in custody?

5. Unnecessarily Retaliating Against Mr. Hansen To Force His Incarceration For Over 13 Months On Charges Which Call For A Maximum Of 4 Months By The Parole Commission's Own Guidelines.

Mr. Hansen has already served six months and sold his home, family car, and personal possessions to fully and immediately pay a $40,000 fine in order to demonstrate good faith upon his release. And, Mr. Hansen is no longer in public office where repeat problems with the Ethics in Government Act can occur. Hence, why the harsh treatment on what clearly appears to be an honest and legal difference over parole requirements where Mr. Hansen, by his parole officer's own admission, has otherwise conducted himself in a forthright and model way?

We find it hard to believe that an ordinary parolee charged with the technical parole violations alleged in Mr. Hansen's case would have received the same extraordinary treatment. Mr. Hansen was convicted of failing to list certain financial transactions on his Ethics in Government Act forms, but the investigation by the House of Representatives cleared Mr. Hansen of any impropriety in the transactions themselves. See H.R. Rep. No. 98-891, Vol. 1, 98th Cong., 2d Sess. 326 n.14 (1984). Therefore, Mr. Hansen cannot be said to constitute a threat to the public welfare. He is not a murderer or a drug dealer; he was not a fugitive from justice (contrary to the bizarre actions of the federal marshals).

We can only conclude that Mr. Hansen was treated differently simply because he is a former Member of Congress. Obviously, the dangers presented to Mr. Hansen and others in the surprising and apparent illegal arrest procedure, the mysterious booking under an alias, and the high speed and reckless theatrical automobile maneuvering, all to avoid the media, is shocking and certainly demands corrective action without delay.

We request that we be given a direct and immediate, written explanation from the Department of Justice, particularly regarding the first four major points, which are your direct responsibilities as Attorney General, as to why this discrimination has occurred and what steps will be taken to ensure that the same overzealous actions will not be repeated.

Sincerely,

Steve Symms, Helen Delich Bentley, Bill Dannemeyer, Thomas Bliley, Denny Smith, Duncan Hunter, Jerry Lewis, Mickey Edwards, Strom Thurmond, Larry E. Craig, Philip M. Crane, Ron Packard, Barbara Vucanovich, Bill Frenzel, Joe Skeen, Trent Lott.

[Memorandum U.S. Department of Justice, Office of the Associate Attorney General, Washington, DC, April 30, 1987.]

To: Stephen S. Trott, Associate Attorney General.
From: William J. Landers, Deputy Associate Attorney General.
Subject: George Hansen.

HANSEN'S CONVICTION AND SENTENCE

On April 2, 1984, Hansen was convicted by a jury of four counts of false statements in violation of 18 U.S.C. 1001. The violations involved Hansen's failure to make certain disclosures on his financial report required to be filed under the Ethics in Government Act. The first count concerned a number of personal loans he received and which he failed to disclose on his report. The remaining three counts involved the failure to disclose certain loans and financial holdings of Hansen and his wife involving Nelson Bunker Hunt.

Hansen was sentenced on June 15, 1984, in the United States District Court for the District of Columbia to 5 to 15 months imprisonment on each count, with the sentences to run concurrently. He was also fined $10,000 on each count for a total $40,000. In 1985, the Court of Appeals affirmed the conviction. He served his sentence in the United States Prison Camp in Petersburg and was released on December 19, 1986, by the Parole Commission after serving six months of his sentence.

ADJUSTMENT OF PAROLE AND GROUNDS FOR REVOCATION

A. *The Conditions of Parole.*—In his application for parole, Hansen requested either unsupervised parole or a waiver of the standard conditions concerning travel, association and financial reports. However, at the time he was released from prison, Hansen signed a temporary parole certificate that indicated that he agreed to abide by all of the standard conditions of parole. Hansen was issued a temporary certificate because the decision to release him was reached so close of December 20, 1986—the date of his release [1]—that he might not have been released before Christmas if a temporary certificate had not been issued.

To make sure that Hansen had a clear understanding of his parole conditions, his probation officer reviewed a copy of the standard conditions of parole with him on January 7, 1987, after his release from prison. At that time, Hansen also signed a permanent certificate of parole, but he noted on the permanent certificate that he did not accept those terms for which he had requested an exception. The notation referred to Hansen's request on January 5, 1987, that the Regional Commissioner place him on unsupervised parole or grant him relief from the travel, reporting and association conditions.

No decision had been made concerning that request when the permanent certificate was issued. Hansen, therefore, was advised that until the Regional Commissioner ruled otherwise, he was required to abide by all the standard conditions. Nonetheless, he took the position—and still maintains—that the temporary certificate became inoperative when the permanent certificate was signed. Since he did not agree to all conditions in that certificate, he asserts that he was not bound by all conditions until the Regional Commissioner made a final decision rejecting his request for modification. The Parole Commission did not seek to revoke Hansen's parole at the time he "amended" the permanent certificate because they usually try to counsel and work with a parolee to resolve problems rather than immediately revoking parole.

The request for a modification of conditions subsequently was denied by the Regional Commissioner. Following the Regional Commissioner's denial, Hansen's attorney wrote a letter to Chairman Baer and made a similar request for a modification of conditions or for unsupervised parole. Chairman Baer considered the request as an appeal of the Regional Commissioner's decision and told Hansen that it would be considered by the full Commission on its April, 1987 docket. Chairman Baer again informed Hansen that he was subject to all conditions of parole while his appeal was pending. Thus, the Parole Commission consistently has maintained that Hansen is subject to all of the standard conditions of parole.

On April 22, 1987, the full Commission denied Hansen's request to have his conditions of parole modified. This decision was made after Hansen was arrested for violating the conditions of parole. The vote of the Parole Commission to leave in effect all the standard conditions of parole was 8 to 0. It was the full Commission's view that the conditions are reasonable and that Hansen is currently bound by them.

B. *The Violations.*—When Hansen submitted his monthly report for December, 1986, which was the first report he was required to file, he did not complete the financial information section. This section asks for information about the source and amount of monthly income. This occurred in January, 1987. Hansen advised his probation officer that he willfully did not complete the monthly form as he felt the Parole Commission was not entitled to the financial information since he had not agreed to provide it. He was advised that this failure to complete the monthly report was in fact a violation of his parole that would have to be reported to the Commission.

In February, 1987, after Hansen's initial request for modification of his parole conditions was denied by the Regional Commissioner, Hansen was given another opportunity to submit a completed December form. He was also asked to complete a form for January, 1987. However, he declined to do so. His failure to provide the required financial information in these monthly reports constitutes the first ground for the parole violation warrant.

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[1] Hansen was in fact released on December 19, 1986, because the 20th was a Saturday.

The second basis for the parole violation warrant is Hansen's continued unauthorized travel. The first unauthorized trip occurred in February, 1987, when he travelled to Idaho. Although Hansen requested his probation officer to permit him to make this business trip, his probation officer, after consultation with the Parole Commission, denied permission to travel. The Parole Commission took the position that travel by a parolee is a privilege and that in view of Hansen's willful violations of the monthly reporting requirement, he would not be allowed to travel until he fully complied with that condition. (It should be noted that up until this time Hansen did obtain prior approval of his out-of-district travel even though he believed he was not bound by this condition.)

On February 11, 1987, Hansen's probation officer explained to him that any future travel outside the jurisdiction would not be allowed until he filed complete reports. After being so advised, Hansen made numerous business trips outside the Eastern District of Virginia or the greater Washington, DC area without the approval of his probation officer, the first trip being the February trip to Idaho.

As a result of these reporting and travel violations, Hansen was sent an official letter of reprimand dated February 24, 1987. He also received a copy of this letter in person on March 3, 1987. After reviewing the letter of reprimand with Hansen, his probation officer requested that he submit a February, 1987, written monthly report. Hansen declined to fill out that report. He was advised that in view of the letter of reprimand, it was likely that a warrant would be issued for violation of parole. Thereafter, on April 2, 1987, Hansen again willfully submitted an incomplete monthly report for March, 1987. Additionally, he made another eight unauthorized trips as of April 3, 1987. It was these failures to complete the written monthly reports and these trips that precipitated issuance of the parole violation warrant by the Regional Commissioner.

C. *Hansen's Responses.*—Hansen claims that during all of this time he told the probation officer that he had an appeal pending for removal of the travel, reporting and association conditions and that if the conditions were not removed, he would just as soon be returned to prison to complete his sentence. In fact, the Commission did receive a number of letters in which Hansen said he would rather return to prison than comply with the travel and reporting conditions. Hansen says that the probation officer said that he would have to see if the conditions could be deleted. As Hansen understood it, this meant that it would be necessary to have the full Commission make that determination. Hansen apparently believed that no action would be taken to enforce the conditions until the Commission made its decision, and if it was a negative decision, he would simply be notified that the conditions were not modified and he would then return to prison voluntarily. However, as discussed above, he was consistently advised that despite his appeal, he was bound by the conditions. He was also told that the only way he could be returned to prison was if he was found to be in violation of parole.

With respect to the travel violations, Hansen also asserts that he had no choice but to violate the travel condition. Once the Commission withheld travel privileges as a means of extracting compliance with the reporting condition, Hansen claims he was not able to obey the condition that he maintain gainful employment. This is because his employment as a political consultant requires him to travel outside the Eastern District on a regular basis. Thus, he claims he chose to violate the travel condition and maintain his employment. When he informed the Commission of the dilemma he faced in simultaneously refraining from travel without permission and maintaining employment, he was told that he should pursue other employment.

THE CURRENT ARREST AND INCARCERATION

A. *The Arrest and Initial Detention in Omaha.*—After the Regional Commissioner issued the parole violation warrant, it was transmitted to the United States Marshals Service in the Eastern District of Virginia for execution. The United States Marshal for the Eastern District of Virginia attempted to serve the warrant by going to Hansen's apartment in Alexandria. When the Deputy United States Marshals arrived at Hansen's apartment, no one was at home. As they were leaving, however, Mrs. Hansen arrived and she told them that Hansen was in Omaha and would return that evening on a midnight flight to Dulles.

One of Hansen's complaints relates to the contact with Mrs. Hansen. He says that she was not told of the warrant and that the Deputy United States Marshals simply said they would meet him at the airport and "give him a ride home." Based on this comment, Hansen said that they both believed that a summons to have him voluntarily appear for a revocation hearing had been issued and that the Marshal was simply serving the summons. In short, he believes the Marshals lied to his wife in an effort to mislead both of them.

According to the Marshal, it is true that the Deputy United States Marshals did not tell Mrs. Hansen that they had a warrant for Hansen's arrest. They did not tell her about the warrant for fear that she would tell Hansen about it and make his apprehension more difficult. When Mrs. Hansen asked them if they were there about Hansen's parole problem, they simply told her that they "wanted to talk to him". They did indicate, or at least it could be inferred from the fact that they asked for his flight information, that they were going to meet him at the airport. However, they did not say what they would do when they met him other than talk to him. The Marshal also denies that Mrs. Hansen was told that they were going to bring him home. (In any event, even assuming that this was said, it could have been justified by the need to keep Hansen unaware of the warrant in order to keep him from evading apprehension.)

Because the United States Marshals believed that Hansen's flight was non-stop, he decided to wait until Hansen arrived from Omaha to execute the warrant. At the same time, because Mrs. Hansen was aware that the Marshal was looking for Hansen, the Marshal was concerned that she might tell Hansen and that he would then change his travel plans. Therefore, the United States Marshal for the District of Nebraska was contacted and asked to make sure that Hansen departed on his scheduled flight.

The United States Marshal for Nebraska, pursuant to the request from the Eastern District of Virgina, learned that Hansen was flying to Washington via Chicago, instead of flying non-stop from Omaha to Dulles. Although Hansen in fact was always routed through Chicago, the Marshal believed that Hansen had been ticketed on a non-stop flight. Thus, the Marshal believed that the flight via Chicago was a change in travel plans and indicated that Hansen was attempting to evade them. It was assumed that this had been done because Hansen's wife had told him that the Marshal was looking for him. Because of this and because it would be difficult to insure that Hansen took the connecting flight from Chicago to Washington, a decision was made to arrest him in Omaha.

It is clear that the United States Marshals Service arrested Hansen in Omaha because it believed he was to some extent a flight risk and that he was attempting to evade them. But, it is also equally clear that Hansen in fact would have returned to Washington on his own and could have been arrested when he arrived. This is what the Parole Commission would have advised had they been contacted by the Marshal. Moreover, the Parole Commission says that it did not treat Hansen's warrant as a priority item or give it special treatment, and it did not intend the Marshal to treat it as a priority matter either. In fact, it mailed the warrant to the Marshal, the same as it does with most warrants, and it felt that this would indicate to the Marshal that the warrant should be treated most routinely.

The subtlety of this communication was lost, however, in view of the notoriety about Hansen and his difficulties with the federal Parole and prison systems. Indeed, in view of the notoriety surrounding Hansen, it was shortsighted for the Parole Commission not to specifically tell the Marshal that Hansen was not a significant flight risk. Consequently, neither the Marshal's lack of consultation with the Parole Commisson nor his decision to arrest Hansen in Omaha was improper or unjustified based on the facts and circumstances known to him. No doubt, better communication from the Parole Commission to the United States Marshals Service could have avoided the Omaha arrest and the expenses incurred transporting Hansen, but that does not mean the Marshal's decision was improper.

At the Omaha Airport, Hansen was confronted by three Deputy United States Marshals as he approached a ticket counter. In order to effect the arrest in a less public place the Deputy United States Marshals asked him to come with them. According to Hansen, after taking a few steps, he said "this is far enough." Thus, his complaint that the arrest took place in view of the public is at least partly his own responsibility. Moreover, by his own admission, he was in the public area of the airport for not more than five minutes.

At the airport, Hansen was frisked and placed in handcuffs and a belly chain and leg irons pursuant to the standard arrest policy of the United States Marshals Service. With regard to these actions, his principal complaint is not that the Deputy United States Marshals treated him any differently than any other arrestee, but that they were following a policy which did not give them discretion to decide if handcuffs and leg irons should be used. In other words, he objected to the fact that all federal prisoners are treated as potentially violent in arrest situations. However, the policy of the United States Marshals Service not to delegate discretion to determine what security measures should be employed to individual Deputy United States Marshals in the field is a sound policy.

Another complaint about the arrest itself is that the Deputy United States Marshals did not have a copy of the warrant. However, the Marshals do not need a copy to effect a parole violation arrest. Hansen's attorney says that the Parole Commission Rules are to the contrary. I asked the Parole Commission about this, and they said the rules say that "upon arrest" the officer shall give the parolee a copy of the warrant application, which is the document setting forth the violation allegations. What constitutes "upon arrest" is subject to interpretation, especially when the arrest takes place in a district outisde the district of supervision. Hansen received a copy of the warrant and the application for warrant the next day at 10:15 a.m., a little more than 12 hours after his arrest. He was also given a second copy of the warrant application once he arrived in Alexandria.

Finally, Hansen complains that he was placed in the back seat of the vehicle when he was taken to the Omaha Jail and that because of his size and the fact that he was hand-cuffed behind his back, this was extremely uncomfortable. Additionally, he says that the Deputy United States Marshals were inconsiderate and rushed him into the back seat and did not move the front seat forward to allow him more leg room. All of these actions do not constitute improper or harsh treatment but are simply the natural consequences of the Deputy United States Marshals following the usual security measure of hand-cuffing and attempting to remove him from a public place as expeditiously as possible. Although Hansen complained he is experiencing numbness in his thumbs and believes this is a result of his hand-cuffing, he nonetheless said he was not subjected to any verbal or physical abuse by the arresting Deputy United States Marshals.

Hansen made two complaints about his initial period of detention in Omaha. First, he says he was not allowed a phone call while in the Marshal's custody. However, he was only in the Marshal's custody for about 45 minutes during which time they were completing the booking process. When he asked them if he could make a phone call, he was told he could do so as soon as he was booked. He in fact was allowed to make a phone call by the Omaha Sheriff as soon as the booking process was completed. Second, he complains that the Marshal violated his privacy by inventorying his personal effects. This, however, is standard operating procedure and its purpose is to provide a list of the arrestee's property which the arrestee then signs as proof of exactly what property he had in his possession when arrested. This measure is taken in an effort to eliminate future disputes about whether all property taken from an arrestee is returned to him when he is released. (Hansen refused to sign the inventory.)

Hansen was required to strip and shower and then dress in jail clothes. He was then placed in a single cell, which he described as "filthy" or "grungy." He was given one blanket and no pillow and had to sleep on a metal cot with a pad. In short, he was housed in a standard jail cell the same as all other inmates in that facility. He was housed in this facility only until 6:00 p.m. the next day, April 16, when he was moved to Washington from Omaha.

B. *The Transportation to Washington.*—The United States Marshal for the Eastern District of Virginia believed that the Parole Commission wanted Hansen back immediately. Moreover, there had been a demonstration at the Omaha jail protesting Hansen's arrest and the United States Marshal in Omaha thought it best to get him moved as soon as possible. Therefore, the United States Marshal for the Eastern District contacted the prisoner transfer center of the United States Marshals Service to arrange air transportation. Since the United States Marshals Service airplanes were unavailable for at least several days, the United States Marshal for the Eastern District of Virginia decided to charter a jet to transport Hansen. Normally, if not transported by air, Hansen would have been placed in a United States Marshal facility or Bureau of Prison facility in Omaha and transported to Alexandria with other prisoners by bus from one institution to another, a process that could take weeks.

Hansen complains that his removal from Omaha somehow involved some duplicity. He says that on April 16, the day he was moved, his attorney told him that he would not be moved until April 17. Hansen's attorney says he told Hansen this because the Parole Commission said it would take a couple of days to arrange transportation. In view of his attorney's statement, Hansen believes that he was purposefully moved a day early to cut off his access to the press. However, neither Hansen's attorney nor the Parole Commission were aware that a jet was being chartered. Yet, the fact that a jet was chartered is the sole reason he was moved on the 16th.

When he left the Omaha jail, Hansen was offered the opportunity to dress in the suit he was wearing when he was arrested. He refused and chose to remain in jail overalls. He claims this was because he was not allowed to use his belt and yet because of his weight loss during his prior confinement his pants will not stay up without one. For security reasons, the Marshals will not allow a transported prisoner to wear a belt. Thus, Hansen was again treated like any other prisoner in this respect.

Hansen was flown in a nine passenger Lear jet with three Deputy United States Marshals. The flight lasted three hours, and he was offered food and drink. Hansen has three complaints about the flight. First, he was upset that the Deputy United States Marshals did not speak to him during the flight. While this complaint has no substance to begin with, it also appears that he teased and goaded them. He says that when he saw the chartered jet at the airport, he realized he "had" everyone because it was stupid for them to spend a lot of money to return him to Washington when he would have come back on his own. He surmises that the Deputy United States Marshals may not have talked to him because he either said something about this or looked at them with a knowing smile.

Second, he complains that there was a catered gourmet luncheon aboard the plane. The Marshals Service informs me that box lunches provided by the charter service were on the plane and that Hansen was offered one but refused it. This complaint was brought up by Hansen principally as a way of illustrating the extent to which he believes unnecessary costs were incurred at the "taxpayers' expense" to bring him back to Washington.

Finally, he claims two of the three Deputy United States Marshals slept during the flight and hence were not doing their jobs. The United States marshals informs me that this is incorrect, that the three Deputy United States Marshals on the plane were watching Hansen, and he was cuffed and chained pursuant to standard policy.

The only serious issue raised about Hansen's transportation from Omaha to Washington is whether the expense of a chartered plane should have been incurred. Once Hansen was arrested in Omaha, the decision to return him to Washington as soon as possible was a wise decision. If Hansen had remained in Omaha for any substantial period of time or if he had been transported by bus from one institution to another, there would certainly be a greater number of complaints and allegations of misconduct made by Hansen. However, if there had been better communication between the Parole Commission and the Marshal and the Marshal had been made aware that a few days delay would not be a problem, Hansen could have been transported by air without chartering a jet.

C. *The Detention in Alexandria.*—Upon arrival in Washington, Hansen was taken to the Alexandria City Jail. At the jail, he was processed according to standard operating procedures for that jail. This is the normal procedure followed whenever the United States Marshal books a Federal prisoner or detainee into a local facility.

Hansen was transported and was booked under the name of "Fred Smith". The Deputy United States Marshal in charge of transporting Hansen did this in order to reduce the possibility that notice of his removal to Alexandria would be made known to the public. As mentioned above, there had been a demonstration at the jail in Omaha by Hansen's sympathizers. Moreover, if the press were present it was believed that Hansen would be more difficult to handle. It was hoped that any demonstration or press coverage could be avoided for at least enough time to book Hansen into the Alexandria Jail if he was not transported and booked under his true name.

Initially Hansen was placed in the processing cell block. This is standard procedure for the Alexandria City Jail. It is done so that new inmates can be evaluated and classified for further placement. This apparently gave rise to Hansen's complaint that he was held in the "drunk tank." In fact, he was placed in a separate cell, not a group cell, although there were other single cells adjacent to his cell. Some of the others held in these cells may have been alcoholics experiencing the DT's.

After 48 hours, Hansen was moved to general population, and this required him to shower and be deloused. This also is standard operating procedure for all jail inmates. Hansen complained that the shower he was going to have to use was so atrocious that he elected to stay in the processing cell block rather than use the shower. Ultimately, a sheriff at the jail made arrangements for Hansen to use the employee's shower. In this instance, Hansen was given special treatment not accorded other prisoners.

When Hansen was first placed in general population, he was assigned to single cell that opened on a common day area. He complained that the cell was not clean, smelled of urine and that he had to do a "GI" job on it. He also complained that some of those assigned to the other cells were screaming and yelling and were disruptive. This complaint, like many others, is simply a criticism of the conditions of a jail facility generally and does not constitute any complaint of mistreatment during his detention. The degree to which Hansen's claims are basically directed towards jail in general is underscored by his response to the question of how his treatment was different from that accorded other inmates at the Alexandria Jail. He responded that the Deputy Sheriffs were more "precise, snappy and rude" with him and that between the Deputy Sheriffs and him there is "no give and take like with the others."

The other thrust of Hansen's complaints about his incarceration is basically that he does not like being under the unfettered control of the jail authorities. For example, he complained about his subsequent removal from the single cell that he initially found so objectionable to a dorm-type facility. He objected to this move because he believes it was done to cut down his access to the press inasmuch as he now has to share the phone with 18 others and cannot call the press as frequently as before. In fact, he was moved because it was believed a dorm-type facility would be a more appropriate placement and generally is considered to be more desirable.

CURRENT STATUS

Hansen has been in the Alexandria City Jail since April 15, 1987. On Monday, April 20, Hansen had his preliminary interview. On April 24, 1987, the Regional Commissioner in Philadelphia found probable cause and a revocation hearing was held on April 29, at noon. This date was agreed to by Hansen's attorney.

The Regional Commissioner also denied Hansen's request to be released pending the revocation hearing and final decision. It is clear that the Regional Commissioner thoroughly considered the facts in making this decision and that it fully comports with the Commission's usual standards.

Now that the hearing has been held, the examiner will make a recommendation to the full Parole Commission. A decision will be made by majority vote of the full Commission. Since there is not a majority of Commissioners in Washington, the recommendation will have to be circulated to the Regional Commissioners. If Hansen is found to have violated his parole conditions, the Commission may either revoke parole and return him to custody with a later decision concerning further release or it may restore him to supervision and, if appropriate, modify the conditions of supervision or it may refer him to a residential community treatment center.

HANSEN'S OTHER COMPLAINTS

I was asked to investigate Hansen's claim that he was chained to a fence at some point. The United States Marshals Service has investigated and determined that he was not chained to any fence while he was in the custody of either the Alexandria Sheriff or the United States Marshal for the Eastern District of Virginia. The nearest he came in the interview to any allegation of being chained to a fence was his complaint that in the booking room at the Alexandria City Jail, he was placed on a bench and handcuffed to a bar above and behind the bench. I am informed this is how all inmates are detained in the booking room.

Another complaint raised by Hansen in his interview concerns his clothing. As noted above, Hansen was offered the opportunity to dress in his civilian clothes when he left Omaha but he declined to do so. When he was moved into the general population at the Alexandria jail, he was given a pair of jail overalls after his shower. However, because of his size, they did not fit and he had to wear the overalls given to him in Omaha. When I met with him, he complained that he had been wearing the same clothes for 10 days, although he had been given clean undergarments. (As a Mormon, he wears religious undergarments and arrangements were made for his wife to give him four pair.) The United States Marshals Service informed me that Hansen was told he could wear civilian clothes in the Alexandria Jail. I informed Hansen's attorney of this and told him that if Hansen's wife would take some clothes to the jail that the Marshal would insure that Hansen received them.

Hansen also stated that he looked very bad because he had not shaved since his arrest. He said that he had not done so because the procedure in jail was for the sheriff to make available each morning a "communal" razor. He did not want to use this because it was an old double edge razor and was unclean. I have been informed by the United States Marshal that there is no "communal" razor, and that Hansen was issued his own razor which is identified by a number. He is given the opportunity to use that razor each morning but is not allowed to keep it for obvious reasons.

Finally, Hansen must take a dosage of penicillin each day since he had rheumatic fever as a child and it could recur if he came down with a strep infection. He said that the nurses at the jail did not check with his doctor about the "type" of penicillin he must take and therefore he refused to take the medicine offered to him by the nursing staff. The Marshal said he would contact Hansen's doctor and obtain a prescription of the appropriate medication. Again, it is standard procedure not to allow inmates to keep their own medicine, so it will be given to the nurses to administer to Hansen. Whether he will take it under these circumstances is unknown.

CONCLUSIONS

1. *The decision to consider Hansen in violation of his parole conditions was justified.* The Parole Commission repeatedly warned Hansen that his on-going failure to abide by all conditions of parole would lead to a violation warrant. His contention that he did not agree to the travel and reporting conditions and that he was not bound by these conditions pending a decision on his request to remove these conditions was never acquiesced in by the Parole Commission. He was informed of this several times informally as well as in a letter from Chairman Baer and a letter of reprimand from the Regional Commissioner. Consequently, the Parole Commission was fully justified in considering Hansen's refusal to file monthly reports and his travel without approval of his probation officer as violations of his parole conditions.

2. *The decision to issue a warrant for Hansen and to hold him in custody pending a revocation hearing was fully consistent with Parole Commission procedures and policies.* The Commission has the authority to summons a parolee to a revocation hearing, but this is an extraordinary and unusual step. Without a full understanding of the Parole Commission's institutional concerns and collective experience in dealing with parolees, it could be concluded that it would have been appropriate to treat Hansen's case as the unusual case in which a summons could have been used. Among other things, Hansen was not considered a flight risk and he had said he would voluntarily return to prison if the travel and reporting conditions were not removed.

However, the fact that he could have been summonsed does not mean that he should have been summonsed or that the decision to issue a warrant was unjustified or improper. From an institutional standpoint the Commission believes it is necessary to issue a warrant whenever there are egregious violations. This insures that parolees understand the seriousness of their misconduct. Because of the tremendous difficulties that the Parole Commission was having with Hansen, the Parole Commission apparently felt it had to convey this message to him in particular. Thus, in view of the flagrant and repeated nature of Hansen's violations, the Parole Commission believed that if it issued a summons rather than a warrant, Hansen would have received special treatment not given to others.

This is also true with regard to the decision to keep Hansen in custody after his arrest and until disposition of the revocation hearing. A parole violator is normally held in custody pending a revocation decision if either (1) there is a risk of flight or a danger to the community, which Hansen is not, or (2) the violations themselves are particularly flagrant and egregious. In view of Hansen's repeated and admittedly willful violations, the commission believed he would be given special treatment if he was released pending disposition of his revocation hearing.

Of course, there is a danger that in being absolutely committed to not treating Hansen differently simply because he is an ex-Congressman, the Parole Commission may have overlooked some other unique facts which would legitimately justify different treatment. In discussions with the Parole Commission, however, I have been told that these facts were given full consideration. There is not any basis to believe otherwise. Nevertheless, in the future the Parole Commission should be extremely careful that in avoiding special treatment based on Hansen's former status, it does not overlook relevant facts which would legitimately justify different treatment.

3. *The procedures employed at Hansen's arrest and during his subsequent incarceration were standard and not improper.* The issuance of the warrant set in motion the usual procedures for executing it. In the absence of any information that Hansen was not a flight risk or any instruction that he should not have been arrested in Omaha, the Marshal's decision to arrest him there rather than to wait for his return to Washington was not improper. However, since it is clear that the Parole Commission thought that Hansen could have been arrested when he returned home, it should have informed the Marshal of this fact. This would have avoided an unnecessary escalation of the matter and the expense incurred in transporting Hansen from Omaha. In the future, the Parole Commission should take care with respect to parolees who have attained a certain degree of notoriety to notify the Marshal explicitly and directly as to what steps it believes may or may not be necessary in executing a parole violation warrant.

The actions of the United States Marshals Service in actually executing the warrant and taking Hansen into custody were according to standard policy and procedures and were clearly within the acceptable range of conduct for the treatment and handling of a prisoner. In his actual confinement Hansen has been treated the same as any other prisoner, with one exception. Thus, Hansen's complaints in virtually every particular come down to the fact that he does not like the way that any federal prisoner is treated. The sole procedure which was undertaken with respect to Hansen which is not common to all prisoners was his booking into Alexandria Jail under an alias. However, in view of the high visibility of Hansen's case and the fact that demonstrations had occurred at the Omaha jail, the Marshal's desire to the complete Hansen's booking and to have him fully secured in the jail without the interference of either the press or of Hansen's sympathizers was justified.

The PRESIDING OFFICER. Are these to follow sequentially?

Mr. SYMMS. Yes; as I give them.

Mr. President, in closing, I just wish to say, and this comes after those that have been in the record where I am now speaking, George Hansen has had the support of a very strong woman, Connie Hansen, during all of his years, and trials and tribulations of representing Idaho. For 14 years he represented the Second Congressional District of Idaho.

I have here a letter which has been sent to the White Hosue to President Reagan from Mrs. Hansen. I put this letter in the Record just because in my judgment Connie Hansen, as she has always been so able to do, has really summed up the entire case in about 10 cogent points.

So if colleagues want to know a little bit about the view of the woman who has been supportive of this Congressman and been his wife many years feels about it, I ask unanimous consent that this be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Arlington, VA.

President Ronald Reagan,
The White House,
Washington, DC.

Dear Mr. President: I respectfully ask, what does it take to get people in Washington, D.C. to wake up? The Congress, the Executive, and Judicial Branches, the press, and the public—all are Americans who should be outraged at the human rights violation going on right here under the dome of the Capitol. What I am referring to is the abuse of my husband, former Congressman George Hansen, who is a political prisoner suffering unduly harsh treatment at the hands of our government. And before you classify me as just a bitter wife who thinks her husband is a "political prisoner," I beg of you to first examine the facts listed below—and then to help him.

Fact One. While serving fourteen years in Congress, my husband was the most vigorous opponent and critic of several of our government's most powerful and over-zealous agencies, including the IRS and the Justice Department. George was always willing to battle these agencies on behalf of Americans who were having their individual rights abused. But as we've since learned, you don't fight these agencies without paying a price, the price of vendetta and selective prosecution. The picture of revenge is clear.

Fact 2. George is the only member of Congress who has taken the precaution to specially request, through legal counsel, an advance advisory to assure Ethics Committee agreement with his filings, and yet he is the only one singled out by the Department of Justice for prosecution under the Ethics in Government Act (EIGA) of 1978. Despite the fact that numerous members of Congress have found themselves appearing in the newspapers on a regular basis for apparent EIGA improprieties, no one but my husband has ever been found "worthy" of criminal prosecution by the "thought police" at the Justice Department.

Fact 3. Despite the fact that over 100 leaders in Congress (from both parties) have officially told the court and Justice Department that they never intended criminal sanctions to apply to EIGA, the Court and Justice Department pressed full speed ahead, not only for criminal sanctions against my husband, but for the harshest of criminal sanctions possible, an attitude they continue to demonstrate to this very day.

Fact 4. At the time White House Counsel Ed Meese was making headlines in Washington with his own EIGA problems, my husband attempted to get the Court and the Justice Department to agree to a change of venue in order that he might have a fighting chance in the courtroom. The Justice Department vehemently opposed the request and the Court sided with the Justice Department. A conservative Republican getting a fair trial in Washington, D.C., which is 90% liberal Democrat, is about as likely as a Republican candidate sweeping up the votes in the District. The Justice Department prosecutors knew this political situation and exploited it every chance they could during the trial by reminding the jury of the defendant's conservative political and religious attachments.

Fact 5. George was the only member of Congress not allowed to amend his EIGA forms, while hundreds of others were allowed to alter theirs, even after complaints were publicly made as noted in Washington Post article of 4-26-87.

Fact 6. The judge who sentenced George to prison initially granted him a stay and continued the stay pending a new appeal. This was done over the objectives of pouting prosecutors from the Justice Department. These prosecutors immediately gathered their forces and went to work on the Judge, showing her the "error of her ways:" and—surprise—within 48 hours she had reversed herself and sided with the Justice Department. My husband was immediately ordered to prison with little more than a day to get his personal effects in order. Our attorney asked for a little additional time, and of course, the Judge would not even consider it. Her decision to fast-track my husband to prison was supported whole-heartedly by the Justice Department.

Fact 7. A Senate hearing was held last year on legislation that would have amended EIGA and clarified its Congressional intent that criminal sanctions should not apply. Justice Department Officials testified that they had no position on the legislation. They did, however, make one position known to Congress: they were violently opposed to making the legislation retroactive to when EIGA was enacted in 1978. And they minced no words; the Justice Department didn't care whether Congress meant EIGA violations to be civil penalties only. The only thing these officials were concerned about, was that their longtime critic, George Hansen, be kept locked up in prison on criminal charges. It was only too clear that the Justice Department didn't care about the rest of Congress—as long as they got Hansen's head.

Fact 8. My husband has now served seven months in prison, and been totally under prison and parole officer control for nearly a full year, not to mention the fact that he reported weekly to a probation officer for over three years prior to incarceration. He lost his solidly held seat in Congress by less than 200 votes (out of over 200,000 votes cast) because of this inquisition. He is saddled with a massive legal debt. We sold our home and family car and personal possessions in order to pay the government $40,000 fine (the maximum penalty George could have gotten, which of course, was demanded by the Justice Department and rubber stamped by the Judge). After all of this, my husband came home from prison, not a bitter man, but a man more determined than ever to continue to work for individual liberty and fairness—all in hopes of making our great country even better. Yet his desire to help people whose individual rights are being violated by unfair and repressive government agency tactics continues to be a crime in some people's eyes, particularly the eyes of rule-minded bureaucrats who pursue the idea that government is to dominate, not serve the people.

Fact 9. George Hansen, the ultimate IRS critic, was recently arrested—without a warrant—on, of all days, April 15. He was in an airport in Omaha, Nebraska, preparing to board a plane scheduled for Washington, after just speaking to a Baptist Church gathering. How the government views such a speech or trip as a threat to society is amazing to me. The records show that the original request for a warrant for his arrest was because he was seen attending his own Mormon Church on a Sunday in our hometown of Pocatello, Idaho, while on a trip which had been originally approved by his parole officer. The Government agents unlawfully arrested him without a warrant for allegedly violating his parole in violation with their own arrangements with me and my husband. They shook him down, handcuffed him and whisked him off to a county jail. The next day, they brought in a rented Learjet from Washington and flew him back, in shackles, to National Airport and booked him under the alias, "Fred Smith," in Alexandria City Jail—all by the government's own admission to hide him from the media. This act has been publicly denounced by ACLU spokesmen and other prominent civil rights leaders as a blatant violation of the Constitutional rights of George Hansen, the media, and the public.

Fact 10. George has been fasting for over a month since his arrest, having decided that enough is enough. Many murderers, rapists and thieves fare better at the hands of our government than a man accused of committing a victimless crime. People who have killed and maimed are released early from our prisons due to such excuses as overcrowding, yet it seems the Justice Department will always have a cell for George Hansen, anywhere in the Country. My husband has let it clearly be known that he will not eat until the Congress, the Justice Department, or the White House gives positive indication that serious attention will be given to a legal system, tilted to the rich and the famous, which grinds to mulch the rights of the average citizen. His own fair treatment would be a good start. What ever did happen to the idea of the punishment fitting the crime, and treating people equally under the law?

I respectfully suggest, if the Department of Justice can answer that question, then maybe the Justice Department can answer these questions also: Why is the government so afraid of my husband? Is it because he refuses to become a beaten man and to discontinue his criticism of the heavy-handedness that some in our government exercise? The general fate of conscientious whistleblowers, like my husband, is grim. Is this how our government treats its critics? Can anyone say our government is so perfect that honest criticism must surely make a person a criminal who should be locked up. Would my husband have been prosecuted if he didn't rock the boat so much?

I never thought this sort of thing could happen in America. Not in this day of concern for civil rights. Not here in our own Nation's Capital. And how can our elected officials and members of this Administration continue to say, "there's nothing we can do?" When an American reporter was recently arrested in the Soviet Union and thrown into prison, every bargaining tactic and political strategy was used until he was free and back again on our own soil. Yet here at home in America, where we all should equally enjoy the protection of the Bill of Rights, an innocent man sits in jail because government officials continue to shrug off their legal and moral responsibilities, saying our hands are tied. Even in the Soviet Union, government dissidents are released from prison. Ironically, George stepped into his "parole trap" in America last December 19th, the very day Sakharov and Bonner were totally pardoned in Russia.

My husband needs your help. He must not continue to be persecuted for having the courage to serve his country and fight to bring fairness and justice to its people. This is why he is fasting and praying. His family pleads for him to eat. He says he has his trust in God, in America, and in his fellow countrymen. I implore you, in the name of justice and mercy, to become fully aware of his plight and to add your great office to the fight for his freedom. If people will not help George Hansen against this terrible injustice, then they will have no moral right to stand and criticize other injustice in America ever again.

The time for action and for justice is long past due. I pray that you will respond with all the righteous indignation of your great heart.

Sincerely yours,

Connie Hansen.

Mr. SYMMS. Mr. President, I thank the distinguished majority leader for indulging in this time for me tonight. I feel deeply about it. I do not pass judgment on whether justice was done or justice was not done. I do not ask my colleagues or the President of the United States or the Attorney General to cast judgment on anything.

But I would say whether we think Congressman Hansen had a fair trial or not a fair trial or any of those documents, I do not want to get into that, I just simply think that enough is enough. What more do we want to extract out of this man? He has paid his fine. He has spent over 6 months in jail. He has been treated as any other criminal would be treated in our system. He has had to face all the humiliations and I think it is time, no matter how big our Government may be.

Mr. President, I ask unanimous consent, to print in the Record, an article that just appeared in a recent Harry Schultz Newsletter that points out that around the country now people are starting to write about George V. Hansen as a political prisoner. I am not standing here on the Senate floor saying he is or is not a political prisoner. I do not think that is my decision to make. But I do think that the appearance is growing daily that that is the case and the article that I print in the Record is a sample that I hope people at the Justice Department will read what is written in the Harry Schultz Newsletter. These are showing up all over.

There being no objection, the article was ordered to be printed in the Record, as follows:

The International Harry Schultz Letter

1984

Unbelievably (altho very little is anymore) ex-Congressman (for 7 terms) Geo. Hansen, Idaho, was re-imprisoned for alleged parole violation. He is America's No. 1 political prisoner. His initial arrest & jailing was a travesty of justice beyond belief (that's how they can get away with it). His re-arrest reinforced what many of we freedom fighters charge that the IRS is out of control. His persecution was/is clearly related to his book exposing the IRS; his re-arrest related to his continued speeches against the criminal behavior of the US tax agency whom even Congress is afraid to restrict. A recent Bill (S.579) to rein in the IRS is floundering; despite 99% popular support. The Bureau-rats even dared to hold Hansen for 12 hours under an alias name so neither press, family or friends cud find him: another Constitutional violation. They also had no copy of the complaint, thus an illegal arrest on 3 counts. Hansen went on hunger strike to protest the new arrest. See what your local press sez about this, if anything. GH wants a presidential pardon. He had in fact not broken the law, but IRS construed it so. Justice is only occasionally available in the US anymore. Hslms shud demand RR pardon this FF. IRS, TL/CFR want GH dead. An arranged accident or mysterious illness/hospital/no autopsy is the usual tactic, ala McCarthy. National Coalition of IRS whistle blowers is trying to help GH. Big media avoiding story. . . . US hslm sez: "Client told me his bank filed a report on him becuz he cashed a $640 check. Privacy is gone!". . . . Europe heading that way unless stopped fast. Ministerial Comm, Council of Europe meets 6/18-26 to vote on Convention of mutual assistance in tax matters; a fiscal dragnet, Global Glasnost of Euro bank acnts& tax info. A few will vote no, or abstain. To defeat it, lobbying needed; costs money. Unless you want Europe to be a money gulag, send contribution. A freedom battle in any country involves us all. I'm sending $1K. Needs 100K Swfr. Send to Anton Keller, Swiss Investors Protection Asso, P.O. Box 3413, 4002 Basel, Switz. Euro citizens should tell their legislators to vote No. . . . . US bureaucracy came w/in a whisker of admitting the truth. New US postage stamp actually has words Big Brother on it! Is 22c stamp re the YMCA saying: Big Brother/Big Sisters. But it's getting closer to reality. . . . The epitome of how vicious Big Brother has become, & justification of the word Gestapo when referring to maggots of the SEC, IRS, IR, T-men, Customs, VAT men etc, is HOW they arrest people. Pre BB, an officer would just murmur quietly: please come this way, Sir. But now: when they arrested those stk brkrs, SEC thugs walked onto NYSE floor & handcuffed them! As if they would run away or pull a gun. The only one with guts enough to point to the "rude way alleged perpetrators were apprehended" was Alan Abelson (Barrons). And when ex Congressman Hansen was re-arrested recently they put him in handcuffs, leg irons & a chain around his waist, in a plane! If these men were murderers, such tactics would be ok. As white collar suspects, not yet proven guilty, cuffs R used to flaunt/prove the power of government agents to squash anyone. Sadistic? Power-mad? Intimidatory? Sick? Government too big? U decide.

Mr. SYMMS. Mr. President, I ask unanimous consent that I may extend my time for 5 minutes and then there will be time left for the morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I think that we in the Congress have a responsibility to encourage the Justice Department and others to not allow an excess to go on for too long an extended time where it only creates the illusion or the reality that it makes it more difficult to enforce the laws that are so important in this country such as having taxpayers voluntarily pay their taxes and people voluntarily cooperate to make this country the great society that it is, the great country that it is to live in.

I thank the distinguished majority leader and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

SANDINISTA HUMAN RIGHTS

Mr. WILSON. Mr. President, I take the floor briefly for the purpose of both publicly congratulating the Washington Post and more importantly for the purpose of drawing the attention of my colleagues to a story which the Post ran recently which is the reason for my commendation.

On Monday, May 18, 1987, the Washington Post on page A1 ran a very lengthy, exhaustively documented story by their correspondent William Branigan and his thorough and carefully documented report of the pattern of Sandinista human rights violations was such that I have sought to have it reprinted and will ask to have it inserted in the Record because I think the Post and Mr. Branigan have performed an extraordinary service in leading his readers to the ghastly truth that what we conceive of as human rights to be accommodated by any decent civilization have been consistently denied, that they are breached routinely with sickening cruelty and inhumanly by the Sandinista regime in Nicaragua.

Mr. President, let me just briefly excerpt from Mr. Branigan's story.

It will give something of the flavor of his very detailed account.

In citing the studies made by independent international human rights groups, he has cited the 211-page report published last July by the New

York-based International League for Human Rights.

> The study charges that the Sandinista government violates several international agreements it has signed, notably the International Covenant on Civil and Political Rights, through "arbitrary arrest and detention," use of "torture and cruel, inhuman and degrading treatment or punishment" of prisoners, failure to "comport with the minimum due process standards effective even in a state of emergency" and other practices.

Citing several other reports, let me just excerpt from this one, the report of the Nicaraguan Permanent Commission on Human Rights, which Mr. Branigan describes as:

> An independent body that began by denouncing violations under the former regime of Anastasio Somoza in 1977 and now documents charges against the Sandinistas.
>
> In a 26-page report published April 30, it charges that "the government uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."

Mr. President, I will not go on in the interest of time, but I most seriously commend the attention of my colleagues that they take the brief minutes required to read the three pages which the Post saw fit to run on the front page of last Monday's newspaper. I commend the Post for the placement and for the generous space which they accorded to this subject. They accorded it the space and the placement it deserves.

I sincerely hope that my colleagues will give the same wide readership and attention which the story deserves and which this very much misunderstood subject of rights in so-called democratic Nicaragua so desperately requires. If they do, Mr. President, I am convinced that they will reach the same conclusion that I did upon reading this story, and that is that only the hopelessly deluded can possibly read Mr. Branigan's chilling catalog of Sandinista atrocities against the Nicaraguan people and still find it possible to excuse or to rationalize them.

Mr. President, I ask unanimous consent that the text of Mr. Branigan's story in the Washington Post of Monday, May 18, 1987, be printed in the RECORD.

There being no objection, the article was ordered to be printed in RECORD, as follows:

[From the Washington Post, May 18, 1987]

PATTERN OF ABUSES LAID TO SANDINISTAS: DETAINEES, RIGHTS GROUPS CHARGE TORTURE, OPPRESSIVE CONFINEMENT

(By William Branigan)

TIPITAPA, NICARAGUA—Last month, two carloads of Sandinista secret police pulled up to Rosa Moreira Trana's rickety wooden shack here and arrested the 58-year-old widow and two of her 12 children: a 26-year-old son and a 22-year-old pregnant daughter.

So began 18 days of suffering and terror for one of the thousands of Nicaraguans who have passed through the Sandinista prison system. Moreira's story reflects a pattern of human rights violations—including arbitrary arrests and torture—under the Sandinista government as it wages an escalating war with U.S.-backed rebels, who also have been charged with widespread abuses.

According to Moreira, she and her children were taken to Managua's notorious El Chipote prison, where she was accused of being a rebel leader and placed in a tiny, stifling, lice-infested cell with a steel door, no light and only a hole in the ceiling to let in air.

Already at the facility operated by the secret police was another son, who had been picked up at work in Managua the day before. She said she was targeted as a suspected rebel because her family hails from a southern part of the country, where the insurgents enjoy support.

During her detention, Moreira said, guards deprived her of sleep, menaced her with a snake, gave her pills that made her sick and threatened to kill her children. At one point, she said, she heard a man being beaten and was told it was one of her sons.

Finally, ill and terrified after 18 days of solitary confinement in a dark cell, Moreira said, she signed a confession that she was not allowed to read and was released along with her daughter. Now, Moreira said, police have told her that she and her daughter are under indefinite "house arrest," although neither has appeared in court. Her two sons are still in El Chipote.

Nearby, in Tipitapa's state penitentiary known as the Model Prison, Isidora Zapata Zeledon, a 29-year-old nurse, is serving a 30-year sentence for what is officially described as an "offense against public order and security." A Sandinista official said she was the wife of a rebel task force chief. A human rights activist said she was accused of treating wounded rebels.

In a letter smuggled out of prison last year, Zeledon said that after her arrest in December 1982, when she was two months pregnant, she was beaten and sexually abused by guards, confined in a coffin-like cell, deprived of food and water for three days and locked in a toilet, where she was forced to sleep naked on a wet floor.

Zeledon wrote that she became so thirsty at one point that she drank slimy water from the toilet tank. She was interrogated with a pistol at her temple and eventually signed a confession that her interrogators said would lead to her release, Zeledon wrote. Instead, according to a human rights advocate, it was used as the only evidence against her when a Sandinista court sentenced her to 30 years in prison in 1984.

On Aprill 22, according to an Interior Ministry communique, three suspected "counterrevolutionaries," or contras, accused of blowing up utility pylons were shot to death after they were taken to point out an arms cache and allegedly tried to escape.

Three days later, Gen. Humberto Ortega, the Sandinista defense minister, said, "Now the government will get tough with terrorists and tower-dynamiters." He added, "The Army and the people have been directed to execute revolutionary justice against all those elements who are surprised while carrying out terrorist acts against civilian and economic targets," as well as "those who indirectly collaborate in such actions."

Interviews with former detainees, relatives of political prisoners and human rights activists, as well as reports by human rights investigators, suggest that Nicaragua's Sandinista government violates the human rights of its citizens on a large scale. The interviewees and the written reports cite instances of arbitrary arrest, psychological and physical torture, disappearances, trials by kangaroo courts, mysterious deaths of suspects under detention, forcible resettlement of peasants and aerial bombing of civilians in remote areas.

The government acknowledges that its military and security forces abuse some human rights, but insists these are isolated cases that result in severe punishment. Authorities generally deny or decline comment on the most serious violations. A governmental human rights commission focuses almost exclusively on abuses by the rebels, which have been documented and condemned as well by a number of foreign human rights organizations.

INTERNATIONAL FOCUS

These human rights violations by the contras—including the killing of civilians, kidnaping, torture, summary executions, attacks on non-military targets and indiscriminate use of land mines—also have been extensively reported by new media. Less has emerged about Sandinista violations, which generally have not attracted as much international attention as the contra abuses.

Reporting on Nicaragua's human rights situation takes place in a highly charged political atmosphere in which the built-in biases of groups that oppose the contras or the Sandinistas must be taken into account. None of the human rights groups operating in Nicaragua is generally recognized as impartial.

One of the first detailed studies by an independent international human rights organization was a 211-page report published last July by the New York-based International League for Human Rights. The study charges that the Sandinista government violates several international agreements it has signed, notably the International Covenant on Civil and Political Rights, through "arbitrary arrest and detention," use of "torture and cruel, inhuman and degrading treatment or punishment" of prisoners, failure to "comport with the minimum due process standards effective even in a state of emergency" and other practices.

In a 117-page report issued in February, the human rights group Americas Watch states, "The government of Nicaragua engages, as a matter of policy, in abusive interrogation tactics against prisoners, including psychological pressure and threats used to secure their confessions." It cites "the use of very small cells, sleep deprivation and food and water deprivation."

However, the organization, which says it opposes U.S. support for the contras, absolves the Sandinista government of the systematic use of torture, noting that cases it has found "represent isolated instances, not part of a deliberate policy."

Unlike some other non-Nicaraguan groups, Americas Watch does not see "a pattern of violations" of the laws of war, the right to life and physical integrity of detainees and forced disappearances. It says such cases that do occur "do not reflect a government policy to commit them or to tolerate them."

That view is disputed by Nicaragua's Permanent Commission on Human Rights, an independent body that began by denouncing violations under the former regime of Anastasio Somoza in 1977 and now documents charges against the Sandinistas.

In a 26-page report published April 30, it charges that "the government uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."

The report asserts that in the General Directorate of State Security's "operations centers," of which there are nine major ones, including El Chipote, political detainees are "subjected to all kinds of torture and mistreatment so that they sign declarations that in most cases they are not permitted to read and in which they incriminate themselves or implicate others in 'counterrevolutionary activities.'"

OBSERVERS EXCLUDED

These detention facilities are off-limits to all human rights organizations, including the government's own commissison and the International Committee of the Red Cross. The report also says that since October 1985, it has received complaints of 33 cases in which persons were killed upon or after being arrested. In addition, it says, the Permanent Commission is currently investigating 280 cases of persons who disappeared after having been captured by Sandinista authorities.

Another recent study by the Puebla Institute, a New York-based lay Roman Catholic human rights organization headed by a Nicaraguan critic of the Sandinista government, says that more than 300,000 Nicaraguans, at least 10 percent of the population, have left their country since the 1979 Sandinista takeover because of abuses including arbitrary arrest, torture and the bombing of homes in rural areas where contras are active.

In an interview, Interior Minister Tomas Borge denied most of these charges as "ridiculous." He said that "historically a large number of Nicaraguans have lived outside the country" and that they could amount to 300,000, "but only a minor part of them are refugees." He said that "probably there have been air attacks by planes or helicopters against counterrevolutionary units" in areas cited by the Puebla Institute report, but he denied that any civilian settlements had ever been attacked.

Borge denied that interrogators torture or "practice violence" against prisoners, but he indicated that state security prisons would continue to be off-limits to human rights groups. "We don't permit prisoners to be seen during interrogation because that would obstruct the investigations," he said.

The interior minister, one of nine *comandantes* on the Sandinista National Directorate that runs the country, also denied charges by a high-ranking Interior Ministry defector. Alvaro Jose Baldizon Aviles, that Borge had ordered "special measures," meaning summary executions, of certain political enemies of the Sandinistas. Borge called Baldizon a "traitor" who is "full of calumny for the revolution" and "invented this out of thin air."

"I am opposed historically to all types of abuses, and everyone in Nicaragua knows it," Borge said. "No leader of the revolultion has ever ordered a murder," he added. "I don't want to say that murders have not been committed, but those comrades who have committed murders have been prosecuted by courts and sentenced up to 30 years in prison."

Borge said that among the security forces, "hundreds have been punished" for various offenses, including abuse of prisoners.

According to figures released by Borge in the interview May 9, there were 10,293 prisoners in various Sandinista prisons, including 132 in State Security centers. He estimated that about 70 percent of the rest were jailed for "common crimes." He indicated that snags have delayed a plan to release about 600 former National Guardsmen jailed since 1979.

Vilma Nunez, the president of the National Commission for the Protection and Promotion of Human Rights, a government-sponsored group, gave somewhat different figures. She said there were about 9,500 prisoners, including 300 in State Security detention centers, 2,322 former National Guardsmen and 1,500 to 1,600 other "counter-revolutionaries."

However, according to Lino Hernandez, the head of the nongovernmental Permanent Commission on Human Rights, only the figure for the imprisoned National Guardsmen is not in dispute. In addition, he said, there are "no fewer than 7,000 political prisoners" in a total estimated prison population of about 14,000, including up to 1,500 held in State Security facilities.

In an interview, Hernandez criticized what he said were understated figures on political prisoners published by some international organizations, including Americas Watch, whose latest report gives figures for National Guard and "political prisoners" that total slightly less than the Sandinista commission's figures.

Hernandez also complained that anticontra U.S. groups such as Americas Watch, Witness for Peace and the Washington Office on Latin America tended to soft-pedal Sandinista human rights violations or explain them as "isolated cases" out of government control.

"They try to call attention to violations by the contras," Hernandez said. "They do work that is eminently political against the North American administration. We think these organizations have every right to oppose their government's policy of arming warring factions in any part of the world, but they don't have the right to distort our reality to achieve this."

A Witness for Peace spokesman in Managua countercharged that the Permanent Commission does "selective reporting" and takes a "biased view."

Hernandez mentioned the case of Sofonias Cisneros, president of the Nicaraguan Union of Christian School Parents' Associations, who was arrested May 14, 1985, at his home after making a speech denouncing what he said was the Marxist-Leninist orientation of the Sandinista education program.

In a written account, Cisneros said he was taken to El Chipote prison, where he was tortured and threatened with death by the chief of the General Directorate of State Security, Comandante Lenin Cerna. Later that night, Cisneros said, he was dumped naked in a Managua street. "You can't say it's a case out of control if it was handled personally by Lenin Cerna," Hernandez said.

"A KIND OF ABUSE"

Borge acknowledged that Cisneros was "subjected to a kind of abuse, but not to the extent he claimed," because he had "insulted" leading "martyrs of the revolution." But Borge denied that Cerna was involved and said "another comrade" had been punished in the case. Cerna did not respond to a request for an interview.

According to Hernandez and other Nicaraguan sources, Sandinista authorities recently have been cracking down on a new organization called the Jan. 22 Movement of Mothers of Political Prisoners. The group, founded in January to lobby for a general amnesty and better treatment for political detainees, says it numbers more than 150 active members and some 4,000 affiliated relatives of prisoners.

Several members interviewed said they had been threatened by State Security men recently and warned to quit the movement. At least five have been detained briefly by the secret police.

One member, Tomasa Hernandez, a former Sandinista militant who says her imprisoned husband was once a bodyguard for Daniel Ortega, said authorities had threatened to jail her for her activities and already had drafted her 16-year-old son in "reprisal." She said her husband had been jailed several times after falling out with the Sandinistas in 1980 and joining the Social Christian Party. He was sentenced in 1985 to three years for involvement in a contra "internal front."

"After the revolution, we saw that there wasn't democracy, that there wasn't the system we had been fighting for," Hernandez said. She said she would remain in the Jan. 22 Movement because "it's the only way we can face up to a totalitarian dictatorship."

Another member, Violeta de Rugama, said her 26-year-old son, Manuel Adan Rugama Suazo, was arrested in June 1984 shortly after graduating from medical school in Mexico and sentenced to nine years in jail for alleged involvement in the contra "internal front." She called the sentence "revenge" because a relative with a similar name, Manuel Adan Rugama Acevedo, also a doctor, is an active contra commander. She said her family's private hospital had been confiscated, her son had been punished in prison and a warden had warned her that the son would "disappear" if she continued in the movement.

In a separate interview at her shack in Tipitapa, Rosa Moreira Trana told of similar threats as she described her imprisonment last month in El Chipote with her sons, Marcial and Lorenzo, and a daughter, Maria Ignacia. At one point as she listened to the screams of a man she thought was a son, she said, a guard came and "told me, 'We're going to kill Lorenzo.' He said I had to say who were the contras among the people, that I was a leader of the counterrevolution, that my children and I were comrades of those who were blowing up pylons." She continued, "They told me I was a counterrevolutionary, that I was with the CIA, that I was in contact with Reagan. But I don't know the contras, and neither do my children."

Sitting on a stool in her yard as naked grandchildren played around her and chickens pecked in the dirt, Moreira sobbed as she recalled the terror of her interrogation:

"I'm afraid they're going to kill my children. They told me they were going to kill them . . . kill all my children and grandchildren."

Her daughter, Maria Ignacia, added, "They told us that if we talk about what they said to us, they were going to make me disappear. They were going to take my brother Lorenzo and me and make it look like we were killed in combat by the contras."

"This is the clean revolution that we have in Nicaragua," Rosa Moreira said when she had calmed down. "If I were younger and healthy, maybe I would be with the contras."

In Managua, Vilma Nunez, the head of the Sandinistas' rights commission, said she was not aware of such complaints and that her commission has not received "any denunciations of torture." Seated in her office, which is decorated by a large Sandinista flag, portraits and busts of revolutionary leaders and books by Fidel Castro, Nunez acknowledged she is a "Sandinista militant" and said she believes in being a "good Sandinista."

Of the mothers' movement, she said, "Officially we don't know of their existence. They haven't come to the commission." She added, "I don't know why these persons don't come here. If they would come and make a complaint, we would immediately attend to it."

Mr. WILSON. Mr. President, I thank the Chair and I thank the distinguished leader for his generosity at this late hour in according us the time to make these statements.

Mr. BYRD. Mr. President, the distinguished Senator is welcome.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extension of morning business for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I ask the distinguished acting Republican leader if the following calendar orders have been cleared on his side of the aisle: Calendar Order No. 130, Calendar Order No. 133, and Calendar Order No. 134. I believe that is it as far as the calendar of business is concerned.

Mr. SYMMS. Mr. President, I say to the distinguished majority leader, those items have been approved by the majority.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 130, 133, and 134.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTRACT DISPUTES ACT AMENDMENT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 345) to amend the Contract Disputes Act of 1978 to require that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative law judges of the Federal Government for certain administrative purposes.

The Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I wish to state my strong support for S. 345, the Contract Disputes Act Amendments Act of 1987. This bill, which I have cosponsored with my colleague, Senator COHEN, provides for an important change in the status of members of the boards of contract appeals of Federal Government agencies. This change will ensure that BCA judges, like other administrative law judges, are insulated from improper influence and control by other agency officials. The bill has been reported unanimously by the Subcommittee on Oversight of Government Management, which I chair, and by the full Committee on Governmental Affairs.

Currently, individual agencies select their BCA judges without any independent testing and remove them without independent review. Other Federal administrative law judges, by contrast, are selected from a Governmentwide register and can be removed only if "good cause" can be shown at a hearing before the Merit Systems Protection Board. S. 345 would ensure the independence of the contracts dispute process by extending these same selection and removal procedures to BCA judges.

In addition, the bill would enhance the independence of BCA judges by exempting them from agency performance evaluations and by guaranteeing periodic step increases in their salaries. These steps are essential to ensure the kind of "blind justice" that lies at the foundation of our judicial system. The bill has been endorsed by the national Conference of Boards of Contract Appeals Members and by the public contract law sections of both the American Bar Association and the District of Columbia Bar Association.

I wish to thank my colleague Senator COHEN, the ranking minority member of the Subcommittee on Oversight of Government Management, who has worked diligently to ensure that this bill will become law. I also wish to thank Senator GLENN and Senator ROTH, the chairman and ranking minority member of the committee on Governmental Affairs, for their support and expeditious handling of this bill. With this kind of bipartisan support, I hope that the S. 345 will soon become law.

The PRESIDING OFFICER. Are there amendments? If there are no amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (S. 345) was passed as follows:

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Act Amendment of 1987".

SEC. 2. Section 8(b)(1) of the Contract Disputes Act of 1978 (92 Stat. 2385, 41 U.S.C. 697(b)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking out "selected" in the first sentence and inserting in lieu thereof "in the competitive service, selected pursuant to the competitive examination process under subchapter I of chapter 33 of title 5, United States Code,";

(3) by inserting after the first sentence the following: "Such competitive examination shall be designed to demonstrate, among other appropriate qualifiations, the applicant's public contract law experience. A separate register shall be eablished and maintained for candidates eligible for appointment of such boards.";

(4) by striking out the second sentence;

(5) by designation the third sentence as subparagraph (B).

(6) by designating the fourth and fifth sentences as subparagraph (C); and

(7) by adding at the end thereof the following:

(7) by adding at the end therof the following:

"(D) For the purposes of sections 1104(a)(2), 3323(b)(2), 4301(2)(D), 5335(a), and 7521 of title 5, United States Code, a member of any agency board appointed under this paragraph shall be treated in the same manner as an administrative law judge.".

SEC. 3. Members of agency boards of contract appeals serving on the date of the enactment of this Act shall be considered to have been examined, selected, and appointed in accordance with section 8(b)(1) of the Contract Disputes Act of 1978, as amended by section 2 of this Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT

The PRESIDING OFFICER. The clerk will report Calendar Order No. 133.

The legislative clerk read as follows:

A bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1987".

SEC. 2. MATCHING AGREEMENTS.

(a) IN GENERAL.—Subsection (b) of section 552a of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (11),

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(13) to a recipient agency or non-Federal matching entity pursuant to a written matching agreement under subsection (o) of this section.".

(b) MATCHING PROGRAMS.—Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—Prior to disclosing any record which is contained in a system of records to a recipient agency or non-Federal matching entity for use in a computer matching program, a source agency and the recipient agency or non-Federal matching entity shall enter into a written agreement specifying—

"(1) the justification, purpose, and legal authority for conducting the program;

"(2) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(3) procedures for notifying upon application and periodically thereafter—

"(A) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(B) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, and holders may be subject to verification through matching programs;

"(4) procedures for verifying information produced in such matching program as required by subsection (p);

"(5) procedures for retention and destruction of records created by such matching program;

"(6) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(7) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal matching entity, unless authorized by the source agency with the terms of the authorization;

"(8) procedures governing the use of the records, provided by the source agency for use in a matching program including procedures governing return to the source agency or destruction of the records used in such program; and

"(9) information on assessments that have been made on the accuracy of the records that will be used in such matching program.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until such agency or entity has independently verified such information. Subject to the requirements of this subsection, such independent verification may be satisfied by verification requirements governing such Federal benefit program.

"(2) Independent verification required by paragraph (1) shall include verification of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until such individual has been notified by such agency or entity of its findings and has been given an opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program.

"(q) SANCTIONS.—Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal matching entity for a matching program if such source agency has reason to believe that the requirements of subsection (p) and any matching agreement entered into pursuant to subsection (o) are not being met by such recipient agency or entity.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal matching entity, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—Subsection (r) of section 552a of title 2(b)(1) of this Act, is amended by striking out "system of records" and inserting in lieu thereof "system of records or matching program".

(2) CLERICAL AMENDMENT.—The heading of such subsection (r) is amended by inserting "OR PROGRAMS" after "SYSTEMS".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, including any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairperson of the Data Integrity Board.

"(3) Each Data Integrity Board shall perform the following functions:

"(A) review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(C) review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures and for compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(D) compile an annual report to the head of the agency and the Office of Management and Budget on the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board; and

"(iii) the matching of records as a source agency or recipient agency under programs not covered by this section or described in subparagraphs (A) through (E) of subsection (a)(8);

"(E) serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) provide interpretation and guidance to agency components and personnel on the requirements of this section with respect to matching programs;

"(G) review agency recordkeeping and disposal policies and practices with regard to matching programs to assure compliance with this section; and

"(H) review and coordinate privacy training programs for the agency's personnel.

"(4) Each Data Integrity Board shall maintain such staff as necessary to carry out its functions specified by this subsection. Such staff shall include persons designated by the head of the agency as responsible for implementation of this section.

"(5) The Director of the Office of Management and Budget shall annually consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D).".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a stystem of records with a set of non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements, by applicants, recipients, beneficiaries, or participants for, or providers of services with respect to, financial assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with a set of non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which cannot be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed by a source agency in which no records are matched outside such source agency or any component thereof, unless those matches involve a comparison of the source agency's personnel or payroll records with the records of a federal benefit program administered by that agency;

"(iv) matches performed subsequent to the initiation of a specific law enforcement investigation by an agency or component thereof, which performs as its principal function any activity pertaining to the enforcement of criminal laws, for the purpose of gathering evidence for a prospective law enforcement proceeding against named individuals;

"(v) matches of tax information pursuant to section 6103(d) of the Internal Revenue Code of 1986; or

"(vi) matches performed to produce background checks for security clearance of Federal personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal entity' means any State or local government, or agency thereof, partnership, corporation, association, or public or private organization receiving records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency or any State or local government, or agency thereof, which discloses records contained in a system of records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Goverment of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1987

Mr. LEVIN. Mr. President, I am cosponsor and strong supporter of the Computer Matching and Privacy Protection Act of 1987, S. 496. This bill is before the Senate for final passage. It has received the unanimous support of the nine members of the Subcommittee on Oversight of Government Management which reported it, and has been approved without dissent by the Government Affairs Committee. The bill has also managed to satisfy a host of Government and private groups whose positions on computer matching range from violently opposed to violently in favor. It has managed this feat by successfully balancing competing concerns for efficiency, privacy and fairness.

I commend my colleague, Senator COHEN, for finding the common ground among these groups and developing this worthwhile piece of legislation. I know he has devoted considerable time to this project which also reflects the excellent work of his staff. I want to thank Senator GLENN, chairman of the Governmental Affairs Committee, and Senator ROTH, ranking Republican, for their support and expeditious handling of this bill. Their bipartisan effort to bring this measure to the floor is welcome and certainly helps the bill's prospects for enactment into law.

The Computer Matching and Privacy Protection Act creates a limited but reasonable statutory scheme which permits Federal agencies to engage in computer matching but requires them to proceed in ways which avoid a myriad of known problems. These problems include inaccurate databases, high error rates in "raw hits," data exchanges which threaten privacy rights, poor controls over records, and due process disasters which arise when needed Government benefits are wrongfully cut off due to computer foul-ups.

In our modern age, government computers store enormous amounts of information about individuals. Because of their record-searching capabilities, these computers have also become powerful tools to uncover hidden irregularities or program fraud. Computer matching programs, in particular, are designed to rapidly compare collections of data to crosscheck various facts. Such data comparisons, if properly managed, can be effective and efficient means of identifying potential problems.

At the same time, however, computer matching programs must be recognized as producing high error rates. Mistakes result from reliance on outdated or incorrect data, computer operators who mistakenly enter wrong information and faulty programs. Moreover, unrestricted matching projects threaten the privacy rights of individuals by making it possible for the Government to compile detailed computer files on individuals or to engage in improper release or use of personal information.

The bill before you today creates the necessary controls to ensure that computer matching's benefits are not offset by its potential problems. In essence, it forces Federal agencies to plan carefully for the matches they want to initiate. The bill requires participating agencies to enter into a "matching agreement" for each project, setting out the goals to be achieved, the records to be matched, and the procedures to be followed in conducting the match and using the data. The bill also requires participating agencies to create internal "Data Integrity Boards" to approve matching agreements, analyze the costs and benefits of matching programs, and implement the relevant statutory guidelines and privacy protections. Most importantly of all, the bill prohibits an agency from terminating any person's benefits or otherwise taking adverse action, without first verifying the relevant matching data and providing the person with a chance to respond.

These controls are comprehensive but flexible, permitting agencies to tailor their matches to their needs while requiring them to think through protections for the individuals involved.

Again, I commend Senator COHEN for his continuing efforts in this important area, and I am happy to join him in this bill.

Mr. ROTH. Mr. President, I am pleased to support passage of S. 496, the Computer Matching and Privacy Protection Act of 1987.

Automated data processing equipment, if used wisely and fairly, can assist Federal agencies in assuring that benefits of Federal programs go to those who are in fact eligible.

As we struggle to reduce the enormous annual Federal budget deficit, we have to consider reducing the level of Federal spending. But, as I said yesterday in connection with the introduction of legislation, S. 1244, to collect on defaulted student loans from doctors who had National Health Service Corps [NHSC] scholarships.

Before we reduce services or benefits to those presently entitled, we must assure that we are doing everything possible to eliminate program mismanagement, fraud, and abuse.

Computer matching is a tool which can help to eliminate program mismanagement, fraud, and abuse. It was a computer match performed by the Department of Health and Human Services which showed the extent to which doctors who had defaulted on NHSC scholarships were receiving Medicare and Medicaid payments from the Federal Government in excess of the amounts owed on their scholarship.

S. 496 permits computer matching subject to necessary safeguards which will prevent computer matches, themselves, from fostering mismanagement of agency programs by improperly terminating Federal benefits to those properly entitled.

This legislation has been thoroughly considered over the past several Congresses and merits enactment.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 496), as amended, was passed as follows:

S. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1987".

SEC. 2. MATCHING AGREEMENTS.

(a) In General.—Subsection (b) of section 552a of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (11),

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof, "; or", and

(3) by adding at the end thereof the following new paragraph:

"(13) to a recipient agency or non-Federal matching entity pursuant to a written matching agreement under subsection (o) of this section.".

(b) Matching Programs.—Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) Matching Agreements.—Prior to disclosing any record which is contained in a system of records to a recipient agency or non-Federal matching entity for use in a computer matching program, a source agency and the recipient agency or non-Federal matching entity shall enter into a written agreement specifying—

"(1) the justification, purpose, and legal authority for conducting the program;

"(2) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the project's starting and completion dates of the matching program;

"(3) procedures for notifying upon application and periodically thereafter—

"(A) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(B) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, and holders may be subject to verification through matching programs;

"(4) procedures for verifying information produced in such matching program as required by subsection (p);

"(5) procedures for retention and destruction of records created by such matching program;

"(6) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(7) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal matching entity, unless authorized by the source agency within the terms of the authorization;

"(8) procedures governing the use of the records provided by the source agency for use in a matching program including procedures governing return to the source agency or destruction of the records used in such program; and

"(9) information on assessments that have been made on the accuracy of the records that will be used in such matching program.

"(p) Verification and Opportunity To Contest Findings.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until such agency or entity has independently verified such information. Subject to the requirements of this subsection, such independent verification may be satisfied by verification requirements governing such Federal benefit program.

"(2) Independent verification required by paragraph (1) shall include verification of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal matching entity, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until such individual has been notified by such agency or entity of its findings and has been given an opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program.

"(q) Sanctions.—Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal matching entity for a matching program if such source agency has reason to believe that the requirements of subsection (p) and any matching agreement entered into pursuant to subsection (o) are not being met by such recipient agency or entity.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) Notice in Federal Register.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal matching entity, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such programs, publish in the Federal Register notice of such establishment or revision.".

(b) Report to Congress and Office of Management and Budget—

(1) In general.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended by striking out "system of records or matching program".

(2) Clerical amendment.—The heading of such subsection (r) is amended by inserting "or Programs" after "Systems".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) Data Integrity Boards.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, including any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairperson of the Data Integrity Board.

"(3) Each Data Integrity Board shall perform the following functions:

"(A) review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) review all matching programs in which the agency has participated during the year, either as a source energy or recipient agency, determine compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(C) review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures and for compliance with applicable laws, regulations, and agency agreements, and assess the cost-benefits of such programs;

"(D) compile an annual report to the head of the agency and the Office of Management and Budget on the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board; and

"(iii) the matching of records as a source agency or recipient agency under programs not covered by this section or described in subparagraphs (A) through (E) of subsection (a)(8);

"(E) serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) provide interpretation and guidance to agency components and personnel on the requirements of this section with respect to matching programs;

"(G) review agency recordkeeping and disposal policies and practices with regard to matching programs to assure compliance with this section; and

"(H) review and coordinate privacy training programs for the agency's personnel.

"(4) Each Data Integrity Board shall maintain such staff as necessary to carry out its functions specified by this subsection. Such staff shall include persons designated by the head of the agency as responsible for implementation of this section.

"(5) The Director of the Office of Management and Budget shall annually consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D).".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with a set of non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements, by applicants, recipients, beneficiaries, or participants for, or providers of services with respect to, financial assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with a set of non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which cannot be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed by a source agency in which no records are matched outside such source agency or any component thereof, unless those matches involve a comparison of the source agency's personnel or payroll records with the records of a federal benefit program administered by that agency;

"(iv) matches performed subsequent to the initiation of a specific law enforcement investigation by an agency or component thereof, which performs as its principal function any activity pertaining to the enforcement of criminal laws, for the purpose of gathering evidence for a prospective law enforcement proceeding against named individuals;

"(v) matches of tax information pursuant to section 6103(d) of the Internal Revenue Code of 1986; or

"(vi) matches performed to produce background checks for security clearance of Federal personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term' non-Federal entity' means any State or local government, or agency thereof, partnership, corporation, association, or public or private organization receiving records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency or any State or local government, or agency thereof, which discloses records contained in a system of records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL INTELLIGENCE COMMUNITY WEEK

The PRESIDING OFFICER. The clerk will now report Calendar No. 134.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 104) to designate the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week."

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 104) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

Whereas the work of the men and women of the Intelligence Community is essential to the national security of the United States and to the cause of freedom and democracy throughout the world;

Whereas the dedication of the men and women of the Intelligence Community to the service of their country in difficult and dangerous circumstances abroad, and in arduous, intellectually challenging assignments at home, is deserving of special recognition by the Senate and House of Representatives of the United States;

Whereas efforts should be made to foster an understanding and appreciation on the part of the American people that intelligence is the first line of national defense and that an effective intelligence capability is vital to the safety and well-being of the United States; and

Whereas it is particularly appropriate to recognize the continuing contribution of our intelligence officers during the week of the anniversary of the birth of Nathan Hale, an early patriot, hero, and practitioner of American intelligence, who symbolizes the selfless dedication of our Nation's intelligence personnel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 31, 1987, through June 6, 1987 is hereby designated as "National Intelligence Community Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 88 INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 88 on the calendar of Resolutions and Motions Over, Under the Rule be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

USTTA REAUTHORIZATION

Mr. PRESSLER. Mr. President, I am very pleased to be an original cosponsor of the reauthorization bill for the U.S. Travel and Tourism Administration. USTTA is necessary for the international promotion of U.S. tourism. As past chairman of the Senate Business, Trade, and Tourism Subcommittee and current member of the Senate Tourism Caucus, I have been very supportive of USTTA and will continue to be.

Tourism is a very important segment of our economy. It is the largest earner of export receipts among tradeable services and the second largest private employer in the Nation. USTTA, under the able leadership of Undersecretary Donna Tuttle, has been very successful in helping States work together to reap the benefits of international tourism.

I wholeheartedly support USTTA. The work of USTTA benefits all Americans and I believe that it is imperative that appropriations are provided for the necessary agency to continue its good work. The increased international tourism business resulting from USTTA's efforts helps to reduce our huge budget deficits, creates many new jobs and narrows our ever-widening trade deficit.

USTTA helps present the many wonderful attractions this country has to offer. Without it, international travelers might never discover the 90 percent of America that awaits them beyond the coastal States. I strongly encourage my colleagues to support this legislation and the U.S. Travel and Tourism Administration.

REFUGEES: A CONTINUING RESPONSIBILITY

Mr. PELL. Mr. President, the lead editorial in the New York Times May 20, entitled "The Nazis, and Other People's Guilt" reminds us of a subject in recent history that many of us find it all too easy to forget—and that is our own Government's responsibility in the failure to do more to resist the horrors of the Holocaust when it was underway, and our failure to do more to rescue the victims. The editorial calls attention to the careful scholarship of Prof. David Wyman of the University of Massachusetts, who in his book "The Abandonment of the Jews," and in other publications, including his earlier "Paper Walls," describes in penetrating detail the reluctance of America to help in what we now recognize was a humanitarian challenge of utterly devastating proportion.

Wyman, the descendent of Protestant clergy, sets forth the facts—as excerpted by the New York Times: Only 21,000 refugees were allowed to enter the United States during the war with Germany—just 10 percent of the total permitted. Conferences held at Evian in France in 1938 and in Bermuda in 1943 were marked by their failures to take action to rescue the refugees of Europe.

An earlier New York Times column by Flora Lewis on the Klaus Barbie trial entitled "The Guilt of Doing Nothing"—May 15—also recalls the reluctance of Western and neutral countries to help during World War II when action might have made a difference. The United States, Britain, Switzerland, and others—all had refugee policies marked by strictness and caution in the efforts to aid and rescue the Jews. The recurrent theme, as phrased by Ms. Lewis: "You must wait until your number comes up on the quota. We can do nothing until it is your turn."

As Americans we have a talent for forgetting the past and looking to the future. Our actions to aid refugees in the years since World War II testify to the continuing generosity of the American spirit when the facts are put before us. Nearly a million Indochinese, over 2 million altogether, have found refuge in our States and communities in the past 40 years. But there continue today to be others who need our help—refugees in Southeast Asia on the Cambodian and Lao borders with Thailand, "re-education camp" prisoners in Vietnam, Jews, and other persecuted minorities in the Soviet Union, Iran, and elsewhere, and refugees throughout Africa. We must stay on guard not to repeat the forgetfulness of the past.

I ask that the May 20 New York Times editorial and the May 15 Flora Lewis column also from the New York Times be printed in the RECORD.

The articles follow:

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 1987]

THE NAZIS, AND OTHER PEOPLE'S GUILT

Americans too young to remember World War II have recently been offered highly simplified reruns of Good and Evil. The question of Germany's war guilt was revived two years ago by President Reagan's stubbornly insensitive visit to the cemetery in Bitburg. What Kurt Waldheim really did during the war ignited angry argument before and after his election as President of Austria. Now the trial of Klaus Barbie in France inflames old questions about the guilt of French collaborators as well as of Gestapo torturers.

The implication is that Europeans have reason for soul-searching, whereas Americans, detached, can congratulate themselves on military valor during the war and Marshall Plan virtue afterward. In truth, there's reason for everyone to do some soulsearching, Americans included.

Rarely has evil faced the world so brazenly as during the Nazi horror. It must be measured on a unique moral scale; there is no comparing genocide with silence and passivity. Yet these offenses also need to be measured, and Americans shared in both. At the very peak of the slaughter this nation slammed its doors and folded its hands, as Flora Lewis observed in a recent column, "The Guilt of Doing Nothing."

How little was done to resist the slaughter and rescue the victims has been recounted by Walter Laqueur and others. In a devastating 1984 book, "The Abandonment of the Jews," David Wyman, a historian and grandson of two Protestant ministers, concludes that all segments of American society, including churches and the Jewish community, failed to take even minimum steps to help.

Only 21,000 refugees were allowed to enter the United States during the war with Germany—just 10 percent of the total that could normally have entered. The State Department, yielding to fear of a diplomatic backlash and domestic nativism, resisted pleas for saving large numbers of refugees. Only in 1945, with the war almost over, did Franklin Roosevelt establish a War Refugee Board.

A conference was held in Bermuda in April, yielding these headlines on successive days: "Refugees Are Warned to Wait"; "Conference Says Large Scale Rescue Not Possible Now"; "Scant Hope Seen for Axis Victims"; "Refugee Removal Called Impossible." In Mr. Wyman's judgment, Franklin Roosevelt's lack of response to the extermination of European Jewry was his worst failure.

Much has been said about Pope Pius XII's silence about Nazi war crimes. Austria's reluctance to confront its embrace of Hitlerism has magnified the controversy over President Waldheim's Nazi past. As for Poland, the failure of so many to lift a finger for imperiled Jews is examined at length in "Shoah," the French documentary film.

What question should Americans ask themselves? Mr. Wyman puts the matter justly: "The Holocaust was certainly a Jewish tragedy. But it was not only a Jewish tragedly. . . . The killing was done by people, to other people, while still other people stood by. . . . Would the reaction be different today? Would Americans be more sensitive, less selfcentered, more willing to make sacrifices, less afraid of differences now than they were then?"

To judge by American receptivity to the boat people, the answer is probably yes. What counts as much is that silence is no longer acceptable.

[From the New York Times, May 15, 1987]

THE GUILT OF DOING NOTHING

(By Flora Lewis)

LYONS, FRANCE.—The special courtroom arranged in the grand foyer of Lyons's Palace of Justice for the trial of Klaus Barbie makes clear that this is no routine affair. The French say it will probably be the last big war-criminal trial in the West, and many hope it will serve as a gripping history lesson for those too young to remember, those who have forgotten and those who never wanted to know.

But the procedure is tedious and most faces are expressionless. Mr. Barbie himself listened attentively, for two days. He showed no sign of remorse, and then quit the trial arguing that he was an "illegal hostage" subject to a "lynch atmoshpere." The haunting drama is not here.

It is in the absences, the many millions of absences of people who perished simply because of who they were, who their families were. The jury will judge Mr. Barbie on charges of crimes against humanity when he was an SS Obersturmfuhrer during the Nazi occupation of Lyons.

There is no dock for those who did nothing, and no charges against them. But they are the ones who come to mind as the bailiff drones on. It is hard to realize now how much there was of nothing done, of passivity, which, as Michel Thomas says, was also a form of collaboration.

Michel Thomas was born in Poland and grew up in France, where he joined the Resistance during the occupation. He was caught and held for deportation, but he managed to escape. When the Americans came, he joined the U.S. Army, eventually becoming a citizen. Now he says he feels himself "totally American, constitutionally, for everything America stands for. If my country is wrong, I can get up and speak out."

Still, he thinks of the bits of paper that didn't arrive and the people who departed, to death. Once, in the camp at Les Milles near Aix-en-Provence, he watched the nightly train with its cargo for the gas chambers. A few people ran alongside, waving a paper.

"The cattle cars were already sealed. But they had a note about a visa for a woman. They went from one car to another, and finally they found her. She was allowed out." Then the crowded train left, he says.

Hitler's plan, Mr. Thomas points out, was to rid Germany and then "his" conquered Europe of Jews. The Nazi phrase was "Judenrein," literally, cleansed of Jews. But the Nazis found there was nowhere to send the people.

American and other officials from countries still neutral, when they could be reached, kept saying: "You must wait until your number comes up on the quota. We can do nothing until it is your turn."

The British were very strict about how many might go to Palestine if they managed to flee German authority. The Swiss and others around the world were cautious and reluctant to admit people. There were only a few places and millions who needed refuge. "They were sacrificed on the altar of the quota," Mr. Thomas says.

So the Nazis turned to the "final solution." As Mr. Thomas puts it, "Since they couldn't throw the people out normally, they threw them out by the smokestack."

It does not diminish the guilt of the murderers and the torturers that there was so little hospitable compassion in the rest of the world, so much indifference. But it vastly diminished the number of survivors, of children who would be grandparents now, coming to the end of productive lives, of who knows what kind of geniuses, human beings, good or bad.

There were no boat people, no refugee camps. To most, haven was denied. It is true that the details and the vast scope of barbarism were not widely known until Allied troops came upon the concentration and death camps.

A young woman, telephoning to a radio call-in show in Lyons the day Mr. Barbie's trial opened, said she opposed going over all that because of one old man in the dock. "Besides" she said, "what about all the people who didn't do anything to help? The International Red Cross visited the camps and they know what was going on and they didn't care. What about them?"

That is nonsense. There were no Red Cross visits, no outside observers, no parcels. In a way, it is encouraging that postwar generations take it for granted that help and humanitarian attention are made available in times of great human distress. That was not the case under the Third Reich.

But people did know about the deportations, about the persecutions, about the desperate search for refuge. Most knew and shrugged. What, they said, could they do? One purpose of Mr. Barbie's trial is to keep memory alive so the crimes may never be allowed to happen again. It should also serve as a warning against the horror of doing nothing.

BALANCED BUDGET AMENDMENT

Mr. PRESSLER. Mr. President, we soon will take up the most uncomfortable task of raising the Federal debt ceiling. This has become a yearly ritual. Each year we raise the limit and each year we vow to take action which will ensure that we need not revisit this issue.

Well, Mr. President, here we are again. I would submit that if we are truly serious about balancing the Federal budget we must blow away the blue smoke, break the mirrors and take a serious step. We must enact a constitutional amendment requiring a balanced Federal budget.

Many in Congress seem to believe that Gramm-Rudman-Hollings or other measures designed to change the budget process are enough. They are not. Gramm-Rudman-Hollings mandated a budget deficit of $171.9 billion for fiscal year 1986. The actual deficit for the year was $221 billion—$49.1 billion over the target.

The Congressional Budget Office now estimates that the deficit for fiscal year 1987 will fall between $170 and $180 billion. This means we could miss the target for this year by $36 billion or more. It also means that, if we are to achieve the target for fiscal year 1988, we must make cuts of between $60 and $70 billion. As we all know, the first budget resolution recently passed by this body falls far short of this mark.

As if the numbers themselves are not proof enough that Gramm-Rudman-Hollings is not working, the Senate on April 28 by a vote of 50 to 46 ensured that it will never work again. Gramm-Rudman-Hollings mandated that the deficit targets it established could be overridden by 60 votes—the so-called supermajority. However, on April 28 an amendment was offered to the budget resolution which said, in effect, that even though the resolution does not honestly achieve a deficit of $108 billion, we will simply say that it does.

A point of order was raised against the amendment. The Chair ruled that the amendment did not violate the Budget Act. The decision of the Chair was put to the body. Under Senate rules, an appeal of the decision of the Chair requires only a simple majority to be defeated. Suddenly, a supermajority was no longer needed. Suddenly, a simple majority was all that was necessary to skirt Gramm-Rudman-Hollings. That amendment established a new precedent in the Senate and effectively killed Gramm-Rudman-Hollings.

Is it any wonder that the public does not trust the congressional pledge to balance the budget in 5 years? In January 1986, a CBS/New York Times poll found that 77 percent of its respondents did not think the budget would be balanced in 5 years. A Los Angeles Times poll conducted at about the same time found that 76 percent felt that it was not "likely" that the budget would be balanced in 5 years. These polls came within months after Gramm-Rudman-Hollings was signed into law. What would respondents to such a poll say today?

I do believe we will achieve additional deficit reduction this year. I also believe that we could balance the Federal budget in the coming years—but what then?

How many of us have gone on a diet and successfully lost the weight we set out to lose? We feel better. We look great. We vow never to gain back those extra pounds. A few months later we look in the mirror and, to our surprise and shock, discover we have gained back everything we lost and then some.

Well, the same thing occurs within the budget process. Deficit spending has been a persistent feature of Federal budgeting for much of this country's history. The budget has been balanced in only 9 of the 57 fiscal years since 1930. It has been balanced only twice in the last 26 years. The budget never has been balanced during the 1970's or 1980's.

An amendment to the Constitution is the most effective and serious medicine we can prescribe for the critical disease or deficit spending. It would create a constraint which could not be ignored, violated or skirted. I challenge my colleagues to commit their time and energy in this direction rather than in token gestures of changing the budget process. There have been many changes in the way we formulate the Federal budget. All sound great. None have balanced the budget. More importantly, none have insured that once a balanced budget is achieved such a policy will continue.

We have come close, Mr. President. On August 4, 1982, the Senate passed a joint resolution, of which I was proud to be an original cosponsor, which was the first step toward enacting a balanced budget amendment. Unfortunately, the House of Representatives failed to take action before the end of that Congress.

On March 25, 1986, the Senate again voted on the balanced budget amendment. Unfortunately, this effort failed by one vote. In the first 4 months of the 100th Congress, some 20 balanced budget joint resolutions have been introduced in the House and Senate. Are we serious about this? Or do we simply introduce and give lipservice to such legislation so that we can tell our constituents we are "doing something." If we truly want to "do" something, then let us pass one of the six Senate resolutions and send it to the House.

I agree with those who say that we must be slow to amend the Constitution of the United States. This great document, upon which our system of government is based, is the source of our individual rights. However, the document itself does not insure these rights. It takes a sound government to put the ideals it embodies into action. Continued deficit spending is severely undermining the soundness of our Government. Continued fiscal responsibility is tantamount to a violation of the rights of present and future generations of Americans.

What better way to celebrate the 200th anniversary of Congress and the Constitution than by putting our country's financial house in order? It would be most appropriate to mark the bicentennial of our hallowed Constitution by making its protection of democracy even stronger.

NATIONAL TOURISM WEEK

Mr. HECHT. Mr. President, the week of May 17 through 23, 1987, is National Tourism Week, a time set aside specifically to bring attention to the tourism industry's many contributions to our Nation's economic, cultural, and social well-being. Since the first observance of National Tourism Week in 1984, the varied activities promoted during this designated time of recognition have grown tremendously in size and importance. Inasmuch as one cannot deny the necessity of educating the public as to the value of the tourism industry, I rise today to express my earnest support for the many activities undertaken as a part of this observance.

Mr. President, I should like to, if I may, cite a few relevant statistics which demonstrate the significance of the tourism industry.

If viewed as a single retail industry, the travel and tourism sector is the third largest retail industry in the country, in terms of business receipts.

American and foreign travelers spent $269 billion in this country during 1986. This equals 6.6 percent of the gross national product.

Travel spending in America directly generated 5.2 million jobs in 1986, paying nearly $58 billion in wages and salaries and producing over $33 billion in Federal, State, and local tax revenue.

Mr. President, to point up the achievements of various groups working to increase public awareness of the importance of the tourism industry, let me share with my colleagues a few of the specific activities conducted in my State during last year's National Tourism Week. The Nevada Tourism Commission director and staff did a series of radio and television interviews and made appearances at service clubs to discuss the importance to tourism in Nevada. As well, special National Tourism Week travel sections were developed for local newspapers in the State, and a number of the State's tourist attractions offered free or significantly reduced admission during this week of commemoration.

Mr. President, tourism and travel are the lifeblood of Nevada, with those industries together representing the State's largest employer. Figures compiled by the Travel Industry Association of America for the year 1984, in fact, cite Nevada's tourism industry as employing a percentage of individuals statewide which is higher than the percentage of tourism industry employees in any other State. Further, Nevada ranked eighth nationally, in terms of number of workers employed in the travel and tourism fields—a figure all the more significant when one considers the relatively small population of the State.

Mr. President, I am pleased to be able to say that I have wholeheartedly advocated continued Federal support for the U.S. Travel and Tourism Administration of the Department of Commerce. Moreover, in addition to supporting the annual observance of National Tourism Week, I have been a participating member of the Senate Tourism Caucus since beginning my term as a Senator in 1983.

My personal commitment to the tourism industry notwithstanding, Mr. President, I believe we all realize, quite simply, that it is the year-round work of the various tourism commissions, visitors bureaus, and chambers of commerce across the country which are primarily responsible for the exemplary job of promoting tourism in their jurisictions. In recognition of this fact, Mr. President, I herewith wish to express my sincere appreciation and admiration for the untiring work of the many individuals employed and involved with the various tourism-related entities in my State, and additionally, would like to wish them continued success in promoting the many attributes of visiting the fine State of Nevada.

TOURISM WORKS FOR AMERICA

Mr. PRESSLER. Mr. President, as a member of the Senate Tourism Caucus, I rise today to remind my colleagues that this week we are celebrating National Tourism Week. This is the fourth year that Congress has set aside time to pay tribute to the travel and tourism industry in America. As we begin the 1987 National Tourism Week, we should take time to recognize the key role tourism plays in keeping our economy strong and healthy.

Travel and tourism is a very important sector of our Nation's economy. It is the second largest private employer in the Nation. In fact, it is the first, second, or third largest employer in 39 States and it contributed 460,600 jobs in 1985 alone. Over the past 10 years, the travel and tourism industry employment grew 60.4 percent. In 1986, the United States earned $15.5 billion from sales of tourism services and transportation to foreign visitors. Tourism is the largest earner of export receipts among tradeable services.

Observing National Tourism Week in May is quite appropriate because it is at a time when many Americans begin looking forward to summer vacations. However, I think it's necessary to keep in mind that while this week we are formally recognizing National Tourism Week, the importance of the industry continues year round. No matter what your interest or what time of year, travel and tourism is present. The real marvel is that the travel and tourism season never really ends.

At this time, I would also like to commend the U.S. Travel and Tourism Administration for its excellent work in promoting U.S. travel and tourism internationally. Recently, the Subcommittee on Foreign Commerce and Tourism held a hearing on the reauthorization of the USTTA. Donna Tuttle, Under Secretary of Commerce for Travel and Tourism, updated us on the many beneficial programs of the USTTA.

The USTTA has been very successful in helping States work together to reap the benefits of international tourism. For example, over the past year it has been working with the States of the Old West Trail Foundation, which includes my home State of South Dakota, to increase overseas visits and revenue to our area. Overall, the increased international business resulting from USTTA's efforts helps to reduce our huge budget deficits, creates many new jobs, and is one of the few positive factors in our ever widening trade deficit.

When the full Senate addresses the reauthorization for USTTA, I will be strongly supportive of its funding. USTTA's goal is to increase international toursim in the United States and to increase the number of U.S. exports and the U.S. share of the international travel market. Without USTTA, international travelers might never discover the 90 percent of America that awaits them beyond the coastal States.

I urge my colleagues to take time this week to appreciate the importance of the travel and tourism industry to their State and our Nation. The travel and tourism industry provides jobs for Americans and aids our balance of payments. The strength of the travel and tourism industry is crucial to the future prosperity of this country. Tourism really works for America.

U.S. CONTRIBUTIONS TO INTERNATIONAL HEALTH ORGANIZATIONS

Mr. KENNEDY. Mr. President, I would like to raise with my colleague, the distinguished chairman of the Senate Appropriations Subcommittee on State-Justice-Commerce, a concern which I expressed last year with respect to the deferral of the payment of the U.S. assessed contributions to international organizations.

The chairman will recall that last year the Senate adopted my amendment which he and other distinguished colleagues also supported to exclude from that deferral the Pan American Health Organization. In conference, the provision was not retained although the statement of managers did recognize the special merits of PAHO and urged special consideration of its situation.

I would note that the overall deferral of $130 of $385 million resulted in the State Department having to allocate the shortfall, with some consultation with the committees. The result, however, is that PAHO has had one-third of its assessed contribution deferred—$12 million. The World Health Organization, which already had suffered a significant reduction in the overall level of appropriations, had two-thirds of its 1987 U.S. assessed contributions deferred.

Both organizations represent the very best of the international organizations in terms of their focus on technical issues. They provide highly competent technical advice and cooperation in the field of health. They have been cited by both the Congress and the executive branch for having used their resources well and, I would add, for responding to U.S. budget reform concerns. In fact, they did so well before the current crisis.

Yet both are facing serious threats as a result of the deferral at a time when they are taking on the global and hemispheric leadership responsibility in coordinating the struggle against AIDS.

The administration has requested that the deferral be removed. The House of Representatives has agreed with that proposal. I would hope that the Senate in conference would accept that position. Clearly both the administration and the House believe that we can fulfill during this fiscal year our obligations to these organizations even within the current budget constraints. I hope, my chairman, that some way can be found to permit this to occur.

At the very least, I would hope, my chairman, that the assessed contributions of both PAHO and WHO could be fully paid by excluding them from the deferral.

Mr. HOLLINGS. I thank the distinguished Senator from Massachusetts. I know that as chairman of the Senate Labor and Human Resources Committee you have been following closely matters relating to international health. As you know, I share your concerns with respects to those two organizations and have joined with you in the past in seeking to assure continuing U.S. support for them. I also recognize the legitimate concern with respect to the overall issue of the deferral.

Obviously, we would have preferred to be able to fulfill U.S. commitments to provide those assessed contributions on time without any deferral. However, the constraints of the budget and the need to reduce the deficit have conspired to create this situation.

Let me say that we all hope that we will continue to review this matter closely here and in consultation with the administration and the House and, if there is any possibility in achieving our goals and ending the deferral, we would be delighted to be able to do so.

I also can assure the Senate that I will seek in every possible way to respond to the special situation of PAHO and WHO.

Mr. KENNEDY. I thank my distinguished colleague.

A TRIBUTE TO DR. LOREN GARY, JR.

Mr. HEFLIN. Mr. President, I was filled with deep sorrow and a great sense of loss when I learned of the death of my close friend, Dr. Loren Gary, Jr., of Tuscumbia, AL. Dr. Gary was a man who, throughout his life, demonstrated a tremendous care for the citizens of Tuscumbia, and Alabama. His work, his efforts, and his service touched and benefited many lives. Last year I rose to call to the attention of my colleagues Dr. Gary's many outstanding contributions and honors. He is now greatly mourned, and I know he will be missed in the years to come.

Dr. Gary was originally from Georgetown, GA, where his father was also a doctor and served for several years in the Georgia State Senate. He studied at the University of Georgia, and then received his degree in medicine from the University of Georgia Medical School. As I have said many times before, we in Tuscumbia were fortunate, indeed, when in 1947 he moved to Tuscumbia, purchased his first medical license, found an office, and began the practice of medicine.

Dr. Gary's practice of medicine was not just a profession—it was his life, as was his care for the entire welfare and happiness of the citizens of Tuscumbia and of Colbert County. He was a family physician in the old sense of the word. Last year, I described his practice as "country doctoring." He would see a patient, diagnose the symptoms, and then cure the affliction. He made house calls, and was available at any hour. He did not carry a paging beeper. To find him, you only had to call Mrs. Gary, and she would page him. After he had attended the appointments, house calls, and emergencies of his own patients, Dr. Gary would stop by the emergency room to see what assistance he could provide there. And if a prisoner at the jail was ever ill, Dr. Gary would often drive there to treat him. He was not concerned with many of the things that are important to some people—money, power, or notoriety. Rather, he derived warmth from caring, and he had the power to cure.

Through his life, Dr. Gary shared the pain, the sorrow, and the disappointment that was experienced by his many patients and their families during the times of hardship, illness, or grief. Yet, because of his knowledge, his tireless efforts, and his concern, he offered hope, comfort, and reassurance. Through his life, he also shared in the many joys of his patients—the happiness of birth, the joy of recovery, and the pleasures of strength and health. He shared the pain and sadness, the joy and the hope because he cared for the whole well-being of his patients. He delighted in seeing babies he delivered grow up and have their own children. And he mourned their untimely deaths.

Dr. Loren Gary was a great doctor. I believe that he possessed the rare and cherished gifts of healing, and of life, because he, himself, was so full of life, and because he deeply valued life.

Dr. Gary did not confine his energies to the world of medicine. He also served as chairman of the Tuscumbia Housing Authority since 1949. He was the first and was the only housing authority chairman. Last year he was honored with a certificate of appreciation by the Department of Housing and Urban Development for his 36 years of continued service. Several years ago I had the honor of serving on the housing authority with Dr. Gary, and I will always value the memories of our work together. Dr. Gary was a deeply religious man—a great contributor of his time and his energies to the First United Methodist Church in Tuscumbia. Finally, Dr. Gary was a humanitarian. There are numerous examples of times he anonymously helped others with financial problems or other worries.

The people of Tuscumbia and of Colbert County are deeply indebted to Dr. Loren Gary for his work, his care, and his involvement. His example and his memory will continue to live in the countless minds and hearts of those he touched. Dr. Gary lived a full life—full of love, of friendship and of healing. Perhaps his greatest talent and gift was the manner in which he helped others to live fuller, happier lives, themselves.

Mr. President, I ask unanimous consent that the attached article from the Florence Times-Daily be printed in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Times Daily, May 10, 1987]

Tuscumbia Doctor Loren Gary, Jr. dies

Tuscumbia.—The funeral for Dr. Loren Gary, Jr., 1004 E. 5th St., will be today at 2 p.m. at First United Methodist Church, Tuscumbia, with Dr. Ray Shubert and the Rev. Phil Hundley officiating. Burial will be in Tuscumbia Oakwood Cemetery, with Morrison Funeral Home, Tuscumbia directing.

He died Friday, May 8, 1987, at Humana Hospital, Muscle Shoals.

He was a native of Georgetown, Ga. He was the oldest of 12 children of Dr. and Mrs. Loren Gary, Sr. He was a member of the American Medical Association, the Southern Medical Association and the Colbert County Medical Association. He was a graduate of the University of Georgia and the University of Georgia Medical School. He had practiced medicine in Tuscumbia since 1941. He was chairman of the Tuscumbia Housing Authority since its inception. He was a member of the First United Methodist Church, Tuscumbia, where he was a member of the Fellowship Forum Sunday school class.

Survivors include his wife, Mrs. Ethel R. Gary, Tuscumbia; daughters, Mrs. David H. Simpson, Gastonia, N.C., Mrs. James B. Florey, Piedmont, Calif.; brothers, Henry H. Gary, Eufaula, Thomas E. Gary, Georgetown, Ga., Beall D. Gary, Birmingham; sister, Margaret G. Timm, Athens, Ga.; three grandchildren.

Bearers will be Kenneth Means, Walter Gullett, Marley Counts, John Marks, Stuart Chappell, Dr. Eugene Sample, Joe Ware, Dr. Joe W. Flippen, Dr. Mark McIlwaine, Lawrence C. Carmichael.

Honorary bearers will be members of the Colbert County Medical Society.

NATIONAL MISSING CHILDREN'S DAY—MAY 25

Mr. DOMENICI. Mr. President, this coming Monday, May 25, 1987, has been set aside as National Missing Children's Day.

This is a day in which we as a nation should give special attention to the national tragedy of missing children.

This is also a day in which we should recommit ourselves to improving the search for missing children and doing what we can to keep other children safe at home with their families.

Mr. President, conservative estimates suggest that several hundred thousand children are missing within the course of a year.

Many of us are all too familiar with the stories we hear on the news about young children that have been abducted by strangers and who have been subjected to horrible forms of abuse and exploitation.

While this form of abduction is often the first thing that comes to mind when we think about missing children, and is the form of abduction parents fear the most, abduction by strangers actually represents a small proportion of all missing children.

Among those children who are abducted, many are abducted by family members that do not have custody of the child—usually by a parent.

The vast majority of missing children are "runaways" or "throwaways"—children who voluntarily leave home or who are forced out of their homes by their parents or guardians.

Fortunately, most of the missing children that are not abducted return home on their own without being hurt.

The problem of missing children is a complex one that requires various types of efforts from many individuals and groups to solve.

I am happy to report that at least one of those efforts is succeeding.

The National Center for Missing and Exploited Children sponsors a nationwide project in which pictures of missing children are widely distributed through various media forms.

The hope is that someone, somewhere will recognize a youngster they happen to see in one of these pictures.

Many of us in Congress participate in this project by including pictures of missing children in mailings we send to constituents in our States.

I am pleased to say that due to this nationwide campaign, in which the U.S. Senate directly participates, more than 100 children have been found and reunited with their families.

I commend the National Center for Missing and Exploited Children for their efforts and the many individuals who have helped make this program so useful.

Mr. President, through better understanding of the missing children problem in America we can find ways to address this tragedy.

I urge my colleagues, and all Americans, to take time to learn more about this complex problem and to help find ways we can improve our search for missing children and assure that other children remain safely with their families.

REGGIE BEHL—NEW MEXICAN ARTIST

Mr. DOMENICI. Mr. President, today I want to commend Reggie Behl, a New Mexican artist who has been invited to Washington by the Resident Associate Program to teach a class on quick sketching for travel. Mrs. Behl is a resident of Albuquerque and teaches at the University of New Mexico. She has sketched her way through Spain, Mexico, Guatemala, Japan, Portugal, Greece, and throughout the Caukkean and the United States.

Mrs. Behl will be presenting an illustrated slide lecture and a demonstration of her two-pen system for travel sketching. the two-pen system is a style Mrs. Behl developed to encourage students to sketch the most important lines with a wide gray pen and the defining lines with a fine point.

Participants will be able to learn how to use a variety of drawing tools and techniques that will help them to expand on their adventures through drawing.

Because it is not always appropriate or permitted to take photographs while traveling, Mrs. Behl's sketching offers an enjoyable alternative. Participants will learn the basics of parallel, angular, and cylindrical perspectives and learn to use fine and wide line drawing instruments to sketch people, animals, and architecture.

Participants will enjoy working from booklets, slides, photographs in the studio, and on-site in Smithsonian museums and outdoors on the mall. Those interested in participating can call the Smithsonian Associates at (202) 357-4091. The workshop will take place May 30 and 31 (2 sessions).

Mr. President, I would like to congratulate Reggie Behl for being invited to share her expertise and experiences. I believe she will inspire many students with her sketchbooks, displayed at the workshop.

WILBUR JOSEPH COHEN A GREAT LOSS TO THE NATION

Mr. RIEGLE. Mr. President, the country has suffered a great loss this weekend with the death of Wilbur Cohen. Mr. Cohen was truly a dedicated public servant who served our Nation, both inside and outside the Government, for his entire adult life. He was a passionate advocate on behalf of senior citizens, the disabled and the less fortunate in our society and worked to make the Federal Government responsive to their needs, and those of all citizens.

As a young man, Mr. Cohen was a prime architect of our Nation's Social Security Program. Later, as Assistant Secretary and Secretary of Health, Education, and Welfare, he drafted the original Medicare Act. Over his lifetime, he worked tirelessly, even up until the very end, to create and improve programs to help the most urgent social problems facing this country. Millions of Americans have had access to the basic necessities of life because of his efforts. Both in and out of Government, Wilbur Cohen always cared—always spoke out—was a true leader. In recent years as the co-chair of SOS, he helped those of us in Congress fight the attempts to cutback vital Social Security benefits.

His expertise, foresight, and wisdom will be missed by many of us here in Congress who often looked to him for guidance. Even after he formally left Government to return to academia, the Congress rarely considered a substantial change in many of the programs he helped author without consulting with Mr. Cohen.

While Wilbur Cohen was a national figure and resource, he also had special ties to the State of Michigan. When he first left the Government during the 1950's, he taught at the University of Michigan in Ann Arbor, and returned there to teach during the summers after serving as Secretary of Health, Education, and Welfare. As an academic, both at the University of Michigan and at the LBJ School at the University of Texas, he passed along his knowledge and vision to new generations who, he hoped, would help maintain a Federal commitment to help those in our society most in need. For this reason, I think it is most fitting that the University of Texas has established a distinguished professorship in health and social policy in his name at the LBJ School of Public Affairs. This will be a living tribute to Mr. Cohen's contribution to society, his dedication as a public servant, and his lifelong commitment to improving the effectiveness of the Federal Government.

Mr. President, I know that I and my wife Lori are not alone in our sadness at the loss of Wilbur Cohen; countless others will also miss his guidance and counsel. We have lost a truly remarkable and dedicated individual, yet his vision lives on in the programs he created, the people that are helped by them, and those of us who remain who are determined to carry forward his values and his work.

INDIA ABOLISHES ELECTED PUNJAB GOVERNMENT

Mr. HELMS. Mr. President, yesterday I pointed out the disturbing signs of another India-China border conflict, initiated by India. But we should also be concerned about the recent action by the Indian Central Government to abolish the elected state government in the Punjab and to establish direct rule over the Punjab from New Delhi. This action is tantamount to our Federal Government abolishing the elected State government of Maryland or Virginia or Maine or Texas or California and so forth and directly running the State from here in Washington.

What does this action signal? Many observers believe it indicates that Rajiv Gandhi has taken the first step in ordering a nationwide emergency and the dissolution of additional or all state governments. There are indications that India is preparing to place itself on a war footing against neighboring Pakistan. Indeed, as I pointed out in a statement on this floor yesterday there are indications that India is preparing to place itself on a war footing against China.

Mr. President, often we are told that India is the world's largest democracy. I submit that if we carefully examine India's record since independence we might find it to be the world's largest dictatorship. Rajiv Gandhi's obliteration of the elected government of the Punjab state is the most recent of a long series of antidemocratic actions by the central government of India.

Mr. President, there is no end of talk about racial discrimination and the apartheid system in South Africa. But, I have yet to hear one word about the insidious caste system in India, still pervasive, under which over 100 million persons live in a social status that makes South Africa look like heaven.

Then, there is the question of state violence against minorities.

In June 1984, the world stood aghast when Indira Gandhi ordered the Indian military to massacre several thousand innocent men, women, and children attending religious ceremonies at the Amritsar Temple in the Punjab, which is the central holy place of the Sikh faith.

In August 1985, a civilian government was elected in the Punjab on the basis of the Gandhi-Longowal accord which promised a number of reforms. Surjit Singh Barnala and Balwant Singh were the closest advisers to Harcharan Singh Longowal, a leader of the Akali Party, in forging the accord. While a number of promises were made by the central government with respect to the settlement of outstanding problems between the Sikh community and the central government, the central government has yet to honor any of the terms of the accord. The issue of water rights has not been settled. The issue of Chandigar has not been settled. The issue of the special courts with extraordinary powers has not been settled. Guarantees for the safety of Sikh lives and property throughout India have not been honored.

Mr. Barnala was elected the Chief Minister of the Punjab and Mr. Balwant Singh was selected by him as the Finance Minister. According to a variety of Indian press reports, the police chief of the Punjab, Julio-Frances Ribeiro—a native of Goa—has estranged the feeling of the Sikh community in the Punjab by his reportedly brutal and overbearing manner. The Finance Minister, Mr. Bulwant Singh, had under these circumstances demanded his removal. This demand occasioned a strong and unprecedented censure from the central government home minister, Mr. Buta Singh, who in turn demanded the removal of the Punjab's Finance Minister.

The New York-based newspaper, "India Abroad" was critical of the central government's demand for the ouster of Punjab's Finance Minister stating, and I quote, "It was an unprecedented demand from a central home minister to an opposition party Chief Minister. . . . Buta Singh's terse letters made it clear to the Akali Dal party leadership that the central government would choose Ribeiro over the Barnala government if it was forced to make a choice."

Mr. President, for comparative purposes, I would point out the case of Mr. Simranjit Singh Mann, a member of the Sikh religion and the former Deputy Inspector General of the Indian police, who was arrested by the central government in 1984 following the Amritsar massacre. At the time, he was the Commandant of the Industrial Security Force in Bombay. He had written a personal letter to the President of India, Mr. Zail Singh, a fellow Sikh. In the letter, Mr. Mann reminded the President of his Sikh faith and called upon him to act in good faith in order to protect the human rights of Sikhs in India and to protect the sanctity of Sikh religious shrines throughout India. Apparently, the central government considers the request for the protection of Sikh human rights and religious freedom a crime.

The Punjab High Court, the Bombay High Court, and the Supreme Court of India have ruled that the central government has no case against Mr. Mann and have ordered that he be released from prison. Nevertheless, Mrs. Gandhi and then her son Rajav refused to release Mr. Mann from prison. The Sikh community in India is bitter about the central government's insistence on retaining Ribeiro in his position in the Punjab while at the same time refusing to give Mr. Mann his freedom.

Mr. President, the case of the repression of human rights and religious freedom in the Punjab is not an isolated one in India. Today, minorities are being oppressed as at no other time in Indian history. The situation in Kashmir, Assam, Bengal, Gurkhaland, and in a number of other areas is very tense.

Far from being a pluralistic multiethnic and multireligious democratic state, India in reality is an oppressive regime imposed by a narrow circle of high caste Brahmins who rule through what has evolved into the Nehru Dynsasty. In essence, India is a feudal rather than a democratic state.

Mr. President, the situation in India today is one of the disintegration of the legitimacy and authority of the central government. Mr. Gandhi's government is wracked by financial scandals and instability within the cabinet. A great number of minority ethnic and religious communities are harassed by the central government's repressive rule. There is a glaring lack of commitment to true democratic principles, to human rights, and to religious freedom in India today.

This Senator can only hope that the recent obliteration of the elected civilian government in the Punjab does not portend a collapse of internal order and democratic government within India or, even more darkly, preparations for hostilities against either Pakistan or China. History has shown that instability in the subcontinent can have a direct bearing on the balance of world power. The Soviet Union will gain and the Free World will lose if India undertakes a policy of war in the region and destroyed basic human rights and religious freedom within her borders.

THE CONTRACT DISPUTES ACT AMENDMENT OF 1987

Mr. COHEN. Mr. President, today the Senate is scheduled to vote on S. 345, a bill to enhance the independence of the administrative judges on the Boards of Contract Appeals [BCA's]. S. 345 was reported out unanimously by the Governmental Affairs Committee on May 19, 1987.

This measure, which Senator LEVIN and I introduced in the 99th Congress, was passed by the full Senate last year.

BCA's are authorized under the Contract Disputes Act of 1978 to serve as administrative forums for resolving contract disputes. The objective of this bill is to eliminate the perception that BCA judges are not sufficiently insulated from agency control. It would provide BCA judges with the same selection and removal protections as administrative law judges are afforded under the Administrative Procedure Act.

Mr. President, Congress enacted the Contract Disputes Act [CDA] of 1978 to govern the submission of contract claims to the Government and the resolution of disputes arising from those claims. Under the CDA, agency Boards of Contract Appeals [BCA's] are authorized to serve as independent, adjudicative forums for resolving contract disputes.

Government contractors and Government officials have raised concerns about the independence of the contract disputes process. Our bill is designed to address this concern.

The CDA provides that BCA judges shall be "selected and appointed to serve in the same manner" as administrative law judges [ALJ's] appointed pursuant to the Administrative Procedure Act. Implementation of the CDA, however, is inconsistent with this mandate.

Presently, BCA judges are selected by the individual agencies on whose boards they serve and, because the CDA is not specific on removal protections, may be dismissed without any independent review. ALJ's, by contrast, are selected from a Governmentwide register established by the Office of Personnel Management [OPM] and may only be removed for good cause after a hearing before the Merit Systems Protection Board.

This inconsistency, according to the General Accounting Office, contributes to the perception that BAC judges are not as independent as ALJ's. In a September 1985 report, the GAO found that:

> Because no independent body, like the OPM, issues Governmentwide regulations for the selection and appointment of board members, and because the [Contract Disputes Act] is unclear any removal protections, members of boards of contract appeals are not as insulated as they could be from agency control.

The selection and appointment procedures for BCA judges, while similar in many respects to the OPM procedures for ALJ's, has been a concern of the Governmental Affairs Committee. According to the legislative history underlying the CDA, the ALJ system was to be used as a model for developing and implementing a system to ensure the independence of the BCA judges.

The CDA, however, falls short of establishing an ALJ-like system because it does not contain an explicit requirement that a separate agency, such as OPM, select, administer, and maintain a register of persons qualified for appointment to the BCA's. The interagency registers, originally established and currently maintained by the Department of Defense and the General Services Administration, continue to be used by the agencies as the primary sources for filling their vacancies. Agencies select candidates for their boards under procedures that need only comply with the eligibility requirements of the CDA, thereby raising concerns about the independence of the judges who are charged with ruling on disputes between the agencies and their contractors.

Arbitrary removal is also of concern, since the threat alone could potentially compromise the independence of BCA judges. Arbitrary removal is by no means common practice, but a GAO report indicates that it has happened in the past.

To alleviate the perception that BCA judges are not sufficiently insulated from agency control, the GAO recommended that:

> The Congress may want to consider amending the Contract Disputes Act of 1978 * * * to give the Office of Personnel Management and the Merit Systems Protection Board roles in [the BCA judges' selection and removal] processes.

This bill effectively implements the GAO's recommendation by: First, providing the BCA judges, like ALJ's, would be placed in the competitive service, subject to the competitive examination conducted by the Office of Personnel Management, and selected from a Governmentwide register established by OPM; second, specifying that the competitive examination given to BCA judges be designed to demonstrate the applicant's 5 years public contract law experience; third, extending to BCA judges the full panoply of protections currently afforded ALJ's, including exemption from agency performance appraisals and removal only for good cause after a hearing before the Merit Systems Protection Board; and fourth, "grandfathering" present BCA judges.

Together, these provisions provide the security and independence needed to ensure that BCA judges are fully insulated from agency control in deciding contract disputes between the Federal Government and its contractors.

Mr. President, ensuring the independence of the BCA judges is a step that would strengthen the contract disputes process. Any criticism of the present BCA system should not, however, be interpreted as an indictment against those judges now serving on the various boards. Clearly, the decisional history of these boards demonstrates the integrity of the judges who serve on them.

I thank Senator LEVIN for his valuable help in attaining unanimous approval of S. 345 by the Governmental Affairs Committee and by the Subcommittee on Oversight of Government Management.

By providing BCA judges with statutory protections, I believe that public confidence in the independence and impartiality of these adjudicators would be enhanced. To this end, Mr. President, I urge the Senate to pass S. 345.

The Committee on Governmental Affairs will soon file a report to accompany this bill, which will constitute the official legislative history of S. 345.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1987

Mr. COHEN. Mr. President, I am pleased that the Senate is considering today S. 496, the Computer Matching and Privacy Protection Act of 1987. This bill, which I introduced with Senator LEVIN, was reported unanimously from the Committee on Governmental Affairs to ensure that the Government adequately respects the rights of individual citizens when conducting computer matching programs.

This legislation is the result of a long-term investigation of computer matching that has been conducted by the Subcommittee on Oversight of Government Management, of which I am past chairman and now ranking minority member. In matching programs, agencies routinely exchange and cross-check information from two or more data bases to find individuals common to both. Most often, matching programs are performed to detect fraud, abuse, or overpayments in Government programs. The Department of Education has, for example, crosschecked its limits of delinquent student loans with lists of Federal employees to determine whether any student loan defaulters work for the Federal Government, and soon each State agency administering AFDC, food stamp and other welfare benefit progams will be matching their lists of applicants and recipients with Internal Revenue Service files to search for unreported assets or earnings. A single matching program could exchange the records of thousands of citizens at one time.

The subcommittee's investigation and hearings revealed that, although most citizens do not even know that computer matching is, the expansion of matching programs over the past few years has been staggering. The Office of Technology Assessment recently estimated, for example, that the number of computer matches performed by the Federal Government tripled between 1980 and 1984, with over 2 billion separate records being exchanged during this period. Many of these matches involve very personal information, such as income and employment data, of individual citizens.

Mr. President, the Federal Government would be remiss if it did not take full advantage of advanced technology to ensure that it is spending tax dollars wisely. Ample testimony provided to the subcommittee showed that computer matching, when conducted properly, can be a useful, efficient tool to protect the integrity of Government programs. The President's Council on Integrity and Efficiency, which is comprised of inspectors general and which has an ongoing computer matching project, has reported that substantial savings to both the Federal Government and State government agencies can be realized through computer matching programs. The PCIE reported that in July 1985, for example, matching of the records of 4 million SSI recipients were matched with the unearned income files of the Internal Revenue Service identified $117.5 million in overpayments for which recovery action was instituted. The full cost of conducting the match, including the followup, was $6.4 million. If savings like these can be actually realized, then computer matching can be a useful tool in our ongoing battle against fraud, waste, and abuse.

In our pursuit of efficiency, however, we cannot become insensitive to the fundamental rights of our citizens. What is today seen as an ally against fraud and waste could grow into an enemy of the very liberties that we profess to cherish most.

The oversight subcommittee concluded that computer matching programs, unless properly conducted and controlled, can pose serious threats to the privacy and due process rights of individuals whose records are matched. The subcommittee's hearings and investigations have revealed tremendous potential for abuse in computer matching programs because there are no mandatory rules for agencies to follow when performing matches, little protection for the persons whose records are matched, and little oversight of how these programs are conducted.

In matching programs, individuals can have crucial Government benefits reduced or terminated solely on the basis of unverified information produced by a computer match—information that can be out of date, misleading, or just plain wrong. Citizens can be—and have been in the past—placed in the difficult position of having to defend themselves against information that has never even been reviewed by a human being for its accuracy. Anyone who has ever done battle with a computer for a billing error or some other problem knows how frustrating it can be to prove that the computer made a mistake. Much more than simple frustration is at stake when essential Government assistance, such as AFDC or food stamps, can be cut off because of faulty computer matching results.

Without statutory controls, the powerful tool of the computer can become a weapon that is easily abused. Unchecked disclosures and exchanges of personal records could result in "fishing expeditions" by overzealous Government officials who may be insensitive to the privacy and confidentiality rights of citizens and could expose sensitive personal records to computer security risks.

The legislation that is being considered by the Senate today attempts to strike the proper balance between the legitimate needs of Government efficiency and personal privacy. This bill is a revised version of legislation which I introduced last year, S. 2756, and incorporates many improvements that were recommended by witnesses, representing both the government and private interest groups, at hearings held by the oversight subcommittee last September.

First, S. 496 requires Federal agencies to enter into written agreements before disclosing records for use in matching programs. The legislation specifies several elements that must be addressed in these agreements, such as procedures agencies must follow in securing records used in matches and conditions governing return and destruction of data after a match has been completed. These agreements will force agencies participating in matches to establish and observe basic safeguards on information that they exchange and will facilitate oversight of matching by the Office of Management and Budget, the Congress, and the agencies themselves.

This legislation also remedies the lack of attention paid to the privacy implications of matches by establishing Data Integrity Boards in each agency that participates in computer matching programs. These Boards will have the responsibilities to review, approve, and maintain matching agreements, and to review all matches in which the agency has participated. I believe that the existence of these Boards will go far in enhancing privacy as a priority of each agency when changing records in matching programs.

Finally, this legislation ensures basic due process protections of individuals whose records are matched. Specifically, it prohibits agencies from reducing, suspending, or terminating Federal financial assistance on the basis of information produced by a matching program without first verifying the information for accuracy, providing notice to the individual involved, and providing individuals with an opportunity to refute the information produced by the computer match. These basic elements are not only principles of fairness, but are also good management practices for agencies to follow.

In establishing these new procedures, S. 496 places controls on the vast majority of matches involving Federal Government records. Specifically, it covers matches performed to check the eligibility of persons to receive benefits under a vast array of Federal benefit programs, ranging from direct cash payments to loan guarantees, and includes matches in which Federal Government records are matched with those of States or private sector entities, such as banks, for these purposes. It also covers matches conducted to recover payments or delinquent obligations under these programs. Finally, the bill covers matches involving the personnel or payroll records of both civilian and military Federal personnel. Coverage of this final category of matches is necessary and appropriate since Federal employees are frequent targets of computer matching programs, since the Federal Government has comprehensive files on these persons at its disposal. I want to point out that this bill includes appropriate exceptions for law enforcement matches, so that the legitimate law enforcement efforts of the Government will not be compromised. On this point, I want to specify that the law enforcement exception is a finely crafted one, which exempts matches pursuant to specific law enforcement investigations pertaining to named individuals.

Mr. President, we cannot—nor would we want to—revere the trends of computerization in our society. We must, however, pay adequate attention to the individual's side of the equation when reducing fraud in Government. In short, we must take care not to allow the beast of technology to overtake the values of our Democracy.

I want to thank my distinguished colleague, Senator LEVIN, chairman of the oversight subcommittee, as well as my distinguished colleagues, Senators ROTH and GLENN, ranking minority member and chairman of the Governmental Affairs Committee, for their assistance with this important legislation.

I specify that a report to be filed by the Committee on Governmental Affairs to accompany this bill will constitute the official legislative history of S. 496.

I ask unanimous consent that a summary of S. 496, as amended by the Governmental Affairs Committee, be inserted in the RECORD immediately before consideration of the bill.

SUMMARY OF S. 496, AS REPORTED BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COHEN. Mr. President, S. 496 attempts to strike the appropriate balance between the needs of Government managers to improve efficiency and the individual citizen's rights of privacy and due process. S. 496 does not prohibit or specifically mandate any type of matching program. Rather, the purpose of the legislation is to improve the oversight and controls on computer matching and to institute procedures to safeguard against abuse of the information being matched and wrongful actions being taken against individuals as a result of faulty results of computer matches. Specifically, the bill requires the following for computer matches covered by the bill:

A. REQUIRES MATCHING AGREEMENTS

Section 2 of the bill amends the Privacy Act of 1974 to require that before disclosing any record to another Federal agency, State agency, or private sector entity for use in a computer matching program, a Federal agency must enter into a written agreement with the other party specifying procedures that will be followed in conducting a match. The bill sets forth elements that must be provided for in the agreement, such as:

First, the justification, purpose, and legal authority for the match;

Second, a description of the match, such as the types of records, data, and identifiers used in the match;

Third, procedures for notifying individuals whose records are matched, upon application for Federal Government assistance or, in the case of Federal workers, upon application for such employment and periodically thereafter, that the information they provide to the government may be cross matched with other files;

Fourth, procedures for verifying information produced by the matching program;

Fifth, procedures for retaining and destroying records created by the matching programs;

Sixth, safeguards for security of records used in the match;

Seventh, prohibitions on duplication or redisclosure of records used in the match unless authorized by the source agency; and

Eighth, procedures for returning records used in the matching program to the source agency; and

Ninth, information on any checks that have been performed on the files used in the matching program to determine how accurate the files are.

The purpose of the matching agreements is to ensure that conditions on the use of data are established prior to the disclosure of the data by a Federal agency. The written agreements will provide each agency some flexibility to tailor matches to its own needs, while prohibiting certain uses of data involved in matches. The written agreements will also provide a concrete audit trail of matches performed, thus facilitating oversight of matching by agencies, the OMB, and the Congress.

B. NOTICE OF MATCHING PROGRAMS

Section 3 requires that Federal agencies which are recipients of records in matching programs, or which are source agencies for matching programs with non-Federal entities, publish a notice of the establishment or revision of the matching program in the Federal Register at least 30 days before conducting the match.

C. ESTABLISHES DATA INTEGRITY BOARDS

Section 4 amends the Privacy Act to require every agency that engages in matching programs to establish a data integrity board. These boards, which shall consist of senior officials designated by the agency heads, including the senior official responsible for implementation of the Privacy Act and the inspector general of the agency, if one exists, are given specific authorities with regard to computer matching. The boards are required to review, approve, and maintain all written matching agreements, and to review annually all matching programs in which the agency has participated to determine compliance with the agreements, applicable laws, and regulations, and to assess the cost-benefits of matching programs. The bill directs each board to submit annual reports to the head of the agency and to OMB on the matching activities of the agency. Moreover, the boards are responsible for providing interpretation and guidance to agency personnel on the requirements of the Privacy Act and to coordinate the agency's Privacy Act training programs. Each board is authorized to maintain staff necessary to carry out its functions under the bill.

D. REQUIRES VERIFICATION AND NOTICE

S. 496, requires that no Federal agency or State agency may suspend, terminate, reduce, or make a final denial of any financial assistance to any individual, or take any other adverse action against an individual, based on information produced by a computer match until the information has been independently verified. In order to avoid conflicting procedures in individual programs, the bill specifies that this verification requirement may be satisfied by verification requirements that already exist in Federal benefit programs.

The bill requires verification on the grounds that the burden should be on the Government to check the accuracy of information used in matching before taking adverse action against an individual.

The bill also requires agencies to provide the individual with an opportunity to refute the information produced by the match before any action is taken to suspend, terminate, reduce, or make a final denial of financial assistance under a Federal benefit program, or before any other adverse action is taken against an individual, in order to ensure that individuals are not wrongly hurt by the erroneous or out-of-date information. As with verification, this notice requirement can be satisfied by any notice, hearing, or appeals right already available under specific Federal benefit programs.

E. SANCTIONS

The bill specifies that no Federal agency can disclose any record for matching if it has reason to believe that notice and verification requirement of this bill, or that the terms of the matching agreements, are not being met by the agency or entity receiving the records.

F. COMPUTER MATCHES COVERED BY S. 496

Section 5 defines which categories of computer matches are subject to the requirements of S. 496. The following categories of matches are covered:

Any match of records between two Federal agencies, or between a Federal agency and state agency, for any component thereof, or a private entity that:

(a) Is for the purpose of establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements, by applicants, recipients, beneficiaries, or participants for, or providers of services with respect to, financial assistance of payments under Federal benefit programs;

(b) Is for the purpose of recovering payments or delinquent debts under Federal benefit programs; or

(c) Matches the personnel or payroll records of Federal personnel, defined as civilian or military employees or retirees.

G. COMPUTER MATCHES EXCLUDED FROM THE SCOPE OF S. 496

Section 5 also provides that certain types of matches are not covered by the bill, such as matches performed for statistical purposes, matches performed subsequent to the initiation of a specific law enforcement investigation, sharing of Federal income tax data with State tax agencies for tax purposes only, and background security checks on Federal personnel. Purely intragency matches, that is, these matches that are performed by a source agency in which no records are matched outside the source agency or a conponent thereof, are also excluded, unless such matches involve the comparison of personnel or payroll records of Federal employees with the records of Federal benefit programs administered by the agency.

ADOLFO CALERO—LEADER OF THE NICARAGUAN RESISTANCE

Mr. HELMS. Mr. President, on yesterday my good friend, Adolfo Calero, leader of the Nicaraguan resistance forces voluntarily testified before the select committee investigating the arm sales to Iran. As always, he was forthright and clear, and testified before the committee with great candor.

For several years, Mr. Calero has been president of the Nicaraguan Democratic Force, the largest group of Freedom Fighters fighting in Nicaragua. During these years, he has often been criticized unjustifiably by opponents of aid to the Freedom Fighters, and by U.S. officials who felt that he was too conservative. After his testimony, I am confident that even his critics will agree, albeit grudgingly, that he was more than cooperative in meeting all the requests and responding to all the questions of the committee.

Mr. President, perhaps the most startling revelation emerging from this investigation is that the Nicaraguan Freedom Fighters apparently have not received the millions of dollars supposedly diverted to them from the Iran arm sales. Furthermore, an additional $2 million intended for the Nicaraguan fighters from a foreign country appears to have disappeared.

Mr. President, it seems obvious that the Nicaraguan Freedom Fighters are the innocent victims of rumors, misinformation, and perhaps of some errors by others who were not associated with any of the Nicaraguan resistance organizations. There is no evidence that the Freedom Fighters have engaged in corruption or illegal activities.

Mr. President, the Nicaraguan Democratic Force [FDN] has recently been able to make significant military advances with the help of United States assistance. The FDN's overall troop strength inside Nicaragua now numbers about 13,000, with an additional 4,000 in the border areas. In the last 2 months, they have downed seven Sandinista Soviet-made helicopters. In 12 months last year, they engaged in over 1,000 combats against the Communist Sandinista troops. In the first 3 months of this year, they engaged in over 800 battles. Currently the freedom fighting forces are operating in 50 percent of the Nicaraguan territory.

Mr. President, I commend Adolfo Calero for his strong leadership in the Nicaraguan Democratic Force at a crucial time in history. It is because of his dedication to the cause of freedom that American troops have not been called upon to fight on Nicaraguan soil. The Freedom Fighters are innocent victims of the Iran matter, and I do hope this investigation will in no way diminish American support for those who are fighting and dying for freedom in Nicaragua.

DEPARTMENT OF EDUCATION ESSAY CONTEST

Mr. BOREN. Mr. President, the Department of Education announced earlier this year a project to celebrate the 200th anniversary of the U.S. Constitution, entitled "What the Constitution Means to Me and to Our Country." Elementary school students in grades one through eight were invited to write an essay citing the importance and meaning of the Constitution to the individual and to the country.

More than 600 students from 110 school districts in my home State of Oklahoma entered the contest by submitting their essays to the Oklahoma Department of Education. Only 16 essays were chosen to represent Oklahoma in the Department of Education's essay contest.

Mr. President, regardless of whether or not these essays are chosen by the Department of Education, each student who participated in the contest is to be commended for participating. Their participation indicates their strong belief in the Constitution and their deep sense of patriotism so important to our Nation.

One of the 16 essays chosen was written by Ryan Hunt, a second grade student at Grandfield Public Schools. I commend this essay to my colleagues and ask unanimous consent that the essay be included in the Record at this point.

The essay follows:

What the Constitution Means to Me

The Constitution means freedom, life and liberty for the whole United States of America, and it means happiness for our country. The most important thing: it means peace. We have the right to become what we want to be because we are free to do what we want to do. We can do that because thirteen little colonies fought a war against England so we could have freedom in the United States. That's why we need the Constitution. That's what the Constitution means to me. I love the U.S.A.—Ryan Hunt

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THE JENNINGS RANDOLPH FORUM SPEECH

Mr. BYRD. Mr. President, last week, I had the pleasure and privilege of addressing the sixth annual Jennings Randolph forum dinner at the Capitol Hill Club.

The Jennings Randolph Forum—named in honor of our retired colleague, Senator Jennings Randolph of West Virginia—is sponsored by the Council for the Advancement of Citizenship [CAC]. CAC is a national consortium of 53 organizations committed to promoting informed and responsible citizenship and citizenship education. Among the members of the council are the Boy Scouts of America, the American Association of Retired Persons, the National Council for Social Studies, the Daughters of the American Revolution, and the National Council of Christians and Jews, to name but a few.

The purpose of the Jennings Randolph Forum is to provide national decisionmakers, scholars, educators, and community leaders a setting in which to come together and exchange ideas on the national agenda in terms of their meaning for citizenship education programs in schools and communities.

The CAC was founded by Senator Randolph, who serves currently as its chairman. The president of the council is Hon. John H. Buchanan, former Member of Congress from the State of Alabama.

I commend Senator Randolph and former Congressman Buchanan for the outstanding work they are doing in the efforts of the Council for the Advancement of Citizenship, and I thank them and their individual members for inviting me to be a speaker at their recent banquet.

In line with the CAC's bicentennial-year examination of the U.S. Constitution, the subject of my address at the Jennings Randolph Forum was, "What Is the Meaning of Citizenship Today in Our Constitutional Democracy?"

I ask that the text of my speech to the Jennings Randolph Forum dinner be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech by Senator Robert C. Byrd

Jean Jacques Rousseau wrote, "Man is born free, and everywhere he is in chains."

How true that was in the 18th century.

In England, France, Prussia, Austria and Russia, monarchs ruled by divine right.

Where they existed at all, most parliaments had no power. Elections anywhere were rare, and universal suffrage was unheard of.

That was the world into which our Constitution and Bill of Rights were born.

The Constitutional Convention convened in Philadelphia in 1787. The members of that assembly arrived barely empowered to tinker with the Articles of Confederation.

But when the members of the Constitutional Convention adjourned, they took with them a document that has brought more liberty and opportunity to more people than has any other political document in history—a document that has bestowed on the American people the most enviable political status in the modern world—American citizenship.

That political status is one of the primary concerns of the Jennings Randolph Forum this year.

I especially commend you for sponsoring this year's examination of our Constitution, and for your ongoing efforts to promote the concept of citizenship in our country.

Ironically, our Constitution says little explicitly about the duties and responsibilities of a citizen. The Constitution is primarily about a strong but limited central Government—what that Government can and cannot do.

Implicitly, however, one concludes from the Constitution that American citizens are supposed to pay taxes, vote in elections, appear for military service, and obey the laws of the land.

But beyond that, the Constitution spells out nothing else about citizenship.

How does one explain that?

To the Founding Fathers, certain assumptions about mankind were as fixed as the axioms and postulates of geometry.

For example, one of the Founding Fathers' spiritual godfathers, Rousseau, had written:

"Where is the man who owes nothing to the land in which he lives. Whatever that land may be, he owes to it the most precious thing possessed by man, the morality of his actions and the love of virtue.

Again, in an 1813 letter to John Adams, Thomas Jefferson wrote:

"I agree with you that there is a natural aristocracy among men. The grounds of this are virtue and talents.

In other words, rational men, once loosed from the bonds of tyranny, would know and perform the duties of good citizens—those virtues did not need to be codified in the Constitution.

Of course, Jefferson did not expect that everybody would achieve that natural aristocracy of which he wrote.

But Jefferson and many of his generation believed that some men would strive for that excellence of which he wrote, and that free men of virtue and talent would go beyond the letter of the Constitution in order to meet the demands of citizenship that the Constitution made possible, and on which the Constitution's success depended.

Theodore Roosevelt, nearly a century later, perhaps said it better than anybody else:

"The first requisite of a good citizen in this Republic of ours is that he shall be able and willing to pull his weight."

American citizenship is, then, a conscious commitment to a civic and social role in this Nation—a role that a man or woman accepts and performs, with the realization of the stakes involved and the responsibilities expected.

Paying taxes? Yes. Voting? To be sure. Military service and obedience to laws? Certainly.

But our responsibilities as American citizens, as envisioned by the authors of the Constitution, go beyond that. A good American citizen shares his virtues and his talents with his country.

Many of you are already doing that, and addressing you on the subject of good citizenship is tantamount to preaching to the choir. For most of you here, going the extra mile—and more—is instinctive. Hold public office? Lead in your State or community? Serve on civic committees? In your minds, no questions lurk concerning those responsibilities. Nevertheless, I am concerned about a dual crisis that is today besetting our way of life and our concept of citizenship.

That crisis has an external dimension and a domestic dimension.

In an earlier, more innocent age, some of our forebears assumed that the American concept of citizenship—indeed, our way of life—would eventually become worldwide—that our democratic way of life was the model toward which history was progressively moving the whole world.

Twentieth century events have put that assumption on hold, however.

In this century, in their confusion and desperation, millions around the world have surrendered their freedom to a variety of tyrannies—or have had that freedom snatched away.

Those tyrannies—whether represented by Soviet Marxism-Leninism, Libya, Castro, or the Ayatollah—have no reverence for our way of life or for our idea of citizenship. In fact, those tyrannies hate everything that America stands for.

Worse, all of those tyrannies are conspiring to sweep our way of life from the face of the earth, and our ideas of citizenship with it. In their place, those external forces would put in place some form of totalitarian state and totalitarian concepts of subjection to replace our citizenship.

In the face of that threat, the American people need to be conscious that the way of life and the liberties that we enjoy in this country, are the fulfillment of thousands of years of Western man's hopes, struggles, and aspirations. If at some point, the United States is overwhelmed by her enemies, who can predict if mankind will ever again achieve the freedom and dignity that are ours as American citizens?

At that point, gone forever may be the visions of Socrates, Plato, and Aristotle; of Isaiah, Joel, and Jesus Christ; of Cicero and St. Augustine; of the renaissance and the enlightenment; of Washington, Jefferson, and Lincoln; and of all who have yearned and fought and died to make us free.

But the most serious threats to our way of life and our American citizenship may not be those outside forces, but a threat from within our own borders.

I do not speak of a conscious conspiracy or of a cabal of terrorists and traitors.

Instead, I speak of the apathy, the ignorance, and the carelessness of many of our fellow Americans.

Almost by accident of birth and calendar, we have been, in this country, the beneficiaries of one of the most unimaginable eras of material prosperity in human history.

Following World War II, except for American industry, the factories and workshops of most of the world were demolished. American goods were almost the only goods available. Our economy reaped the harvest of a world appetite for automobiles, machinery, technology, and services.

In that era, many Americans were lulled into thinking that prosperity and abundance were our endless right. In that era of prosperity, too, many came to take our privileges and our way of life as likewise endless and guaranteed.

Today, we are learning anew the meaning of competition. Some who took their jobs for granted and performed their work with mediocrity now have no jobs.

But other Americans are learning that quality and hard work are still the keys to survival and success in the world marketplace.

Good American citizenship today calls on us all to remember that lesson. And to remember, likewise, that nothing that makes up our American way of life was easily won, or can be retained without effort, or without our struggle, commitment, and hard work.

We need today a rebirth of American patriotism. I do not mean a jingoistic, saber-rattling chauvinism. I mean a rebirth in understanding the absolute uniqueness of this Nation, and a rebirth of a sense of the imperative that we keep America economically, politically, morally, and spiritually, as well as militarily, strong. I mean a rebirth of a commitment to our concept of citizenship—our sense of duty to America as citizens of this Nation—to do whatever we do to the best of our virtues and talents, and to accept no less a standard from ourselves than that.

That kind of patriotism will ensure our way of life and America's future. And that kind of patriotism will ensure that our children and grandchildren enjoy the privileges of American citizenship for decades yet to come.

TWO WEST VIRGINIANS SAFE FROM U.S.S. "STARK" ATTACK

Mr. BYRD. Mr. President, according to wire service reports and from information made available to my office, two West Virginia seamen—Gunner's Mate Mark Samples of St. Albans, and PO Clarence Joyner of Charleston—were aboard the Navy frigate U.S.S. *Stark* when it was attacked in the Persian Gulf, and both men are safe.

I want to express to the mothers of these two men—Mrs. Ruth Samples of St. Albans, and Mrs. Maxine Poindexter of Charleston—the relief that I feel in response to this good news, and the thankfulness that I share with them, in learning that their sons' lives were spared in this tragic incident.

I also want to share with the families and loved ones of those seamen who were killed aboard the *Stark*, my deep regrets, as well as my hope that a speedy investigation of this awful event will help us to find the means of preventing a like occurrence in the future.

America's role in world events has grown vastly since the end of World War II. The price exacted for that role—a role that most Americans believe is important for securing our country's international rights and for maintaining global peace—is sometimes painful, and even heartbreaking for many. So it has been in the *Stark* incident, and so it was so many months ago in the murder of our marines stationed in Beirut.

For whatever solace it may offer to the families of the dead of the U.S.S. *Stark*, I want those families to know that our country holds their lost sons, husbands, brothers, and fathers in deep reverence, and that in this hour of national mourning, our prayers and our love are with them.

MESSAGES FROM THE HOUSE

At 4:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1846) to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. *Stark*."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1269. A communication from the Secretary of State, transmitting, pursuant to law, a preliminary report on the attack on the U.S.S. *Stark* by an Iraqi warplane; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. Chiles, Mr. Danforth, Mr. Riegle, and Mr. Rockefeller):

S. 1251. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY (for himself and Mr. Lautenberg):

S. 1252. A bill to temporarily suspend the duty on certain chemicals; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. Hatch):

S. 1253. A bill to provide for comprehensive reforms and to achieve greater equity in the compensation of attorneys pursuant to Federal statute in civil and administrative proceedings in which the United States, or a State or local government, is a party; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. Glenn, Mr. Specter, and Mr. Rockefeller):

S. 1254. A bill to amend the Federal Unemployment Tax Act to provide additional limitation on the reduction on the credit applicable to employers in certain States which have outstanding loan balances, and for other purposes; to the Committee on Finance.

By Mr. ARMSTRONG (for himself and Mr. Wirth):

S. 1255. A bill to provide for the accelerated repayment of the Grand Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHILES (for himself, Mr. Boren, Mr. DeConcini, Mr. Evans, Mr. Graham, Mr. Hollings, Mr. Moynihan, Mr. Nunn, and Mr. Wilson):

S. 1256. A bill to amend the Internal Revenue Code of 1986 to provide for the reimbursement to State and local law enforcement agencies of costs incurred in investigations which substantially contribute to the recovery of Federal taxes; to the Committee on Finance.

By Mr. KERRY;

S. 1257. A bill to reaffirm national housing policy, to increase efforts to maintain and preserve existing housing stock for low- and moderate-income families, to assist States in establishing housing partnerships, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself and Mr. Pryor):

S. 1258. A bill to direct the Secretary of the Army to lease certain lands at Fort Chaffee, AR, to the city of Barling for use by the city for the construction of a waste treatment facility, and for other purposes; to the Committee on Armed Services.

By Mr. BUMPERS:

S. 1259. A bill to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS (for himself, Mr. Rockefeller, Mr. Reid, Mr. Wirth, Mr. Garn, Mr. Bingaman, Mr. Hecht, Mr. Metzenbaum, Mr. Baucus, Mr. DeConcini, and Mr. Wilson):

S. 1260. A bill entitled the "Federal Land Exchange Facilitation Act of 1987"; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1261. A bill to extend for 3 years the suspension of duty on hovercraft skirts; to the Committee on Finance.

By Mr. DURENBERGER:

S. 1262. A bill to amend the Internal Revenue Code of 1954 to modify the definition of a farmer for purposes of the capital gains preference item for the individual minimum tax; to the Committee on Finance.

S. 1263. A bill to amend the Internal Revenue Code of 1986 to treat church self-funded benefit plans as life insurance contracts; to the Committee on Finance.

By Mr. SANFORD (for himself, Mr. Pryor, Mr. Sasser, Mr. Fowler, and Mr. Trible):

S. 1264. A bill to place a moratorium on hostile foreign takeovers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. Weicker):

S. 1265. A bill to amend the Public Health Service Act and the Fair Labor Standards Act of 1938 to provide minimum health benefits for all workers in the United States; to the Committee on Labor and Human Resources.

By Mr. EVANS (for himself, Mr. Murkowski, and Mr. Hecht):

S. 1266. A bill to provide for the establishment of regional monitored retrievable storage facilities by the Secretary of Energy as a way to resolve the problem of high-level radioactive waste storage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself, Mr. Hollings, Mr. Inouye, Mr. Danforth, M. Trible, Mr. Pressler, Mr. Ford, Mr. Riegle, Mr. Gore, Mr. Adams, Mr. Sasser, and Mr. Warner):

S. 1267. A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 1268. A bill to amend the Foreign Agents Registration Act of 1938 (22 U.S.C.) by removing references to "political propaganda" and substituting "advocacy materials"; to the Committee on Foreign Relations.

By Mr. WIRTH (for himself, Mr. Gore, Mr. Rockefeller, Mr. Cohen, Mr. Mitchell, and Mr. Stafford):

S. 1269. A bill to improve hazardous materials transportation safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DeCONCINI (for himself, Mr. Bradley, Mr. Grassley, Mr. Humphrey, Mr. Helms, and Mr. Symms):

S. 1270. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM:

S. 1271. A bill to provide comprehensive Federal assistance for day care; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 1272. A bill to withdraw certain public lands in Eddy County, NM; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. Byrd):

S. 1273. A bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

By Mr. HEINZ:

S.J. Res. 137. A joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. *Stark*"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. Dole, Mr. Burdick, Mr. Leahy, Mr. Helms, Mr. McClure, and Mr. Inouye):

S. Res. 219. A resolution expressing the sense of the Senate with respect to the use of ethanol, methanol, and other oxygenated fuels as an accepted air pollution control strategy in nonattainment areas designed by the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. PRESSLER (for himself, Mr. Boschwitz, Mr. Conrad, Mr. Lugar, Mr. Ford, Mr. Symms, Mr. Grassley, Mr. Burdick, Mr. McClure, Mr. Nickles, Mrs. Kassebaum, and Mr. Kasten):

S. Res. 220. A resolution expressing the sense of the Senate regarding the need for the participants in the seven-nation economic summit in June to focus their attention on addressing agricultural issues in a coordinated manner; to the Committee on Foreign Relations.

By Mr. D'AMATO:

S. Con. Res. 60. A concurrent resolution recognizing the DARE Program for its contribution to the fight against drug and alcohol abuse; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. Chiles, Mr. Danforth, Mr. Riegle, and Mr. Rockefeller):

S. 1251. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services; to the Committee on Commerce, Science, and Transportation.

NATIONAL QUALITY IMPROVEMENT ACT

● Mr. GRAHAM. Mr. President, I am very pleased to be introducing, along with my colleagues Senators Chiles, Danforth, Riegle, and Rockefeller, the National Quality Improvement Act of 1987. This noncontroversial bill, introduced by Mr. Walgren and Mr. Boehlert in the House of Representatives, would establish a National Quality Award Program to encourage American business to improve the quality of its goods and services.

As important as encouragement is recognition of the innovative production and excellence which are traditional hallmarks of American business.

To celebrate American excellence and to promote the spirit of competition which leads to its achievement we should institutionalize a National Quality Award.

Although the United States has been in the leadership role in quality, that role has been minimized by an increasing strength in foreign competition and a concurrent decline in U.S. productivity.

Following World War II, prominent U.S. scholars Dr. Joseph Juran and Dr. Edward Deming promoted their concept of quality improvement in manufacturing. The United States, however, was prospering and believed that maintaining the status quo was the best route to take.

The Japanese were interested in methods of encouraging growth in productivity and higher standards of quality. They embraced the concept of a systematic program for excellence. Since that time, the Japanese have developed the prestigious annual Deming Prize for outstanding quality in products and management.

Other countries have followed the lead of Japan. For instance, Australia established the J.M. Juran Award in 1975, while the French have developed the Industrial Quality Prize. A British national quality campaign and a British Quality Award have been announced by Margaret Thatcher.

We are seriously grappling with the issue of competitiveness today. To regain our historic supremacy in the international marketplace we need to foster a renewed dedication to the highest criteria for quality.

Poor quality in American business and industry can cost companies up to 20 percent of national sales revenues. Our ability to compete in the international marketplace in an effective manner is essential to the health of our Nation's economy. We must commit ourselves to excellence in manufacturing and services through innovative quality improvement programs.

Florida Power & Light Co. is an example of one U.S. business which has taken positive steps through quality improvement initiatives. For the past 6 years, Florida Power & Light has been active in developing and practicing a quality improvement program, which has thus far resulted in such improvements as: a 93-percent reduction in incorrectly addressed mail and resulting overtime; recordsetting refueling of one of its nuclear powerplants; and the creation of inner-office teams to focus on quality improvement. Recognized as one of the leaders in quality improvement programs in the United States, Florida Power has shared its innovations with numerous U.S. businesses, and State and local governments. In June 1986, Florida Power was presented with the Edison Award, the highest honor within the electric utility industry.

My bill is intended to achieve a similar incentive to all U.S. industries to follow the example of companies such as Florida Power & Light, representing a significant step in making our Nation more competitive in the world marketplace.

The bill authorizes the Secretary of Commerce to present annual awards for quality improvement in each of the following categories: small businesses, companies or their subsidiaries, and companies which primarily provide services. No more than two awards in each category are to be given each year. A panel of private sector quality experts will be responsible for auditing applicants to determine the level of overall quality. The program may be expanded to the public sector and provides for the creation of new or expanded categories.

This legislation requires no Federal funds. Funding will come from private allocations, possibly supplemented by application fees for Quality Improvement Award entrants.

I urge my colleagues to give favorable consideration to this bill, which sends a clear signal to the American people and to our trading partners that the American commitments to excellence and achievement are stronger than ever.●

By Mr. THURMOND (for himself and Mr. Hatch):

S. 1253. A bill to provide for comprehensive reforms and to achieve greater equity in the compensation of attorneys pursuant to Federal statute in civil and administrative proceedings in which the United States, or a State or local government, is a party; to the Committee on the Judiciary.

LEGAL FEES EQUITY ACT

● Mr. THURMOND. Mr. President, I am introducing today, with Senator Hatch, the Legal Fees Equity Act of 1987 to modify the federally mandated attorney compensation schemes applicable in Federal administrative and judicial proceedings in which the United States, State or local governments are parties. The purpose of the legislation is to provide a statutory framework for a more equitable balance in compensation for legal services rendered in litigation involving the government.

To accomplish this goal, the bill would set a $75 per hour maximum attorney fee and eliminate the use of bonuses and multipliers which escalate fee awards. This rate will provide a reasonable incentive sufficient to attract competent counsel in actions against the government while limiting large fee awards.

Additionally, the bill allows recovery of attorney's fees only when the litigant has either prevailed on the merits or secured a favorable settlement agreement. The bill limits the recovery of fees to work on those issues on which the litigant prevailed. The court may reduce or deny the fee where the attorney has unreasonably protracted the litigation or performed services which were excessive with regard to the nature of the controversy.

Mr. President, I believe that this bill strikes a careful balance between the need to control escalating legal fees in suits against the government and the need to attract competent counsel to represent litigants in these suits.●

● Mr. HATCH. Mr. President, today, I join with my colleague, Senator Thurmond in introducing an administration proposal, the Legal Fees Equity Act. This legislation provides a statutory framework for a more equitable balance in the compensation of legal services under Federal fee-shifting statutes applicable to civil, criminal and administrative proceedings involving the United States and to civil proceedings involving State and local governments.

During the 97th Congress, the Constitution Subcommittee began a series of hearings to examine the degree to which recent Federal statutes and court opinions have subjected States and municipalities to growing liabilities for awards of attorney fees. Several leading State and local officials testified about the deleterious effects of these unanticipated liabilities. In his testimony before the Constitution Subcommittee on February 12, 1986, Roger Cutler, representing the National Institute of Municipal Law Officers [NIMLO], cited the pointed increase in cases filed against municipalities under fee-shifting statutes. Based on a 1985 survey conducted by NIMLO, Mr. Cutler estimated that about 9 cents of each dollar claimed in actions under 42 U.S.C. 1983, for which fee-shifting is authorized under 42 U.S.C. 1988, is ultimately paid by a municipality. Moreover, local governments throughout the country have paid a total of nearly 2 billion in taxpayer dollars to such plaintiffs.

In addition, officials in the Reagan administration undertook a review of the need for some standards to govern the award of attorney fees under numerous statutes which, under broadly defined circumstances, shift the entire expense of litigation to the State, local or Federal Government defendant. The Legal Fees Equity Act is the product of careful study to develop uniform standards for setting fees at levels sufficient to attract competent counsel without granting windfalls to lawyers.

This careful study has shown that standards for determining eligibility for, and the amount of, attorney fees awarded against government parties have varied widely within both courts and States, which often results in the award of excessive fees. For example, some courts have used "multipliers" to double or triple an attorney's customary hourly rate when computing the amount of a fee award.

These inconsistent and troublesome results are primarily due to the ambiguity of fee-shifting statutes which provide no uniform standards for the award of attorney fees to a litigant who prevails to some degree in litigation against a government. Judicial and administrative officers are simply left without adequate guidelines in the law to fashion uniform and fair awards. Thus, the Legal Fees Equity Act is needed to provide standards and procedures for awarding attorney fees in proceedings against the United States as well as State and local governments in cases where Federal statutes allow such awards.

BACKGROUND

Since first established by the Supreme Court in 1796, *Arcambel* v. *Wiseman*, 3 Dall. 306 (1796), the basic rule in America for the compensation of counsel has been that each party to a judicial proceeding is expected to bear the cost of his own litigation. The Supreme Court ruled in *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1974), that Federal courts lacked power to create exceptions to this rule by awarding fees to attorneys who undertook to enforce certain important rights. Alyeska makes it clear, however, that Congress may create exceptions to the traditional American rule by statute.

Since 1974 Congress has enacted over 129 fee-shifting statutes. These statutes authorize recovery of attorney fees in cases against Federal, State, and local government. Most of these statutes simply grant the court discretion to award reasonable attorneys' fees to the prevailing plaintiff in a suit against a government. These enactments offer little or no guidance as to the limits of judicial discretion, the standards for determining a reasonable fee or the degree of success necessary to satisfy the prevailing requirement. Accordingly, the amount and complexity of litigation to determine the amount of counsel fees under these fee-shifting statutes has increased dramatically. Since 1980, the Supreme Court has issued 24 opinions on the award of attorney fees.

The Supreme Court reacted to this veritable flood of litigation with the comment that "a request for attorneys fees should not result in a second major litigation." *Hensley* v. *Eckerhart*, 103 S. Ct. 1933, 1941 (1983). In that same case, Justice Brennan argued that litigation over attorney fees "serves no productive purpose, vindicates no one's civil rights, and exacerbates the myriad problems of crowded appellate dockets." (Id. at 1950.) A hint of the Supreme Court's frustration with the absence of adequate legal standards governing the award of reasonable fees emerged later in Justice Brennan's concurrence: "Ultimately—the fee shifting statute's—straightforward command is replaced by a vast body of artificial, judgmade doctrine, with its own arcane procedures, which, like Frankenstein's monster, meanders its well intentioned way through the legal landscape leaving waste and confusion—not to mention circuit splits—in its wake." (Id. at 1951.)

Not only has the absence of standards for the award of attorney fees clogged the courts, it has also led to exorbitant fees awards. A recent request for fees in Massachusetts is an example of this problem. A zoning law was declared unconstitutional after a lengthy series of appeals. The attorney, who is also a full-time law professor, requested $331,441 in fees at an effective hourly rate of $412.50 an hour for his services. The Washington Post issued the following commentary on that case:

> High-priced lawyers are just charging much too much—to the point of caricature—and the folks expected to pay their fees should put an end to the practice. Just because well-heeled private clients dole out huge sums doesn't mean that the public should be equally generous. The "prevailing wage" approach that government uses when it is buying services—which is the essence of Professor Tribe's claim—has a superficial appeal. But on closer inspection it reveals elements of a gigantic rip-off * * * Lawyers—even civil rights lawyers—need at least as much wage restraint as others when it comes to billing the government.

In the absence of adequate computation standards, attorney fees awards have also been subject to the criticism that the award is disproportionate to the degree of success achieved in the underlying case. For instance, in *Skoda* v. *Fontani*, 646 F.2d 1193 (7th Cir. 1981), the plaintiff was awarded $1 in damages, but the attorney fee award was awarded over $6,000. In *Rivera* v. *City of Riverside*, 679 F.2d 795 (9th Cir. 1982), the plaintiff was awarded $33,000 in damages, but the attorney fee award was nearly a quarter of a million dollars. The National Association of Attorneys General has completed an exhaustive report regarding fee awards under the fee-shifting statute most often employed against State and local governments. This report gives a comprehensive overview of the problems created by the lack of adequate standards and I would urge each of my colleagues to read this report.

The overall purpose of the Legal Fees Equity Act is to provide the courts and Federal agencies with greater guidance in implementing Federal fee-shifting statutes. This bill would not deny fees to prevailing attorneys, but would set standards and procedures to ensure that such fees are "reasonable." An important element of the standards proposed by this legislation is a cap of $75 per hour on attorney fees awarded against the government in civil judicial or administrative proceedings. This $75 per hour fee cap is the same rate established in the recently enacted Equal Access to Justice Act, 28 U.S.C. 2412(d) and 5 U.S.C. 504(b). The bill would, therefore, allow courts to compensate private attorneys at a level commensurate with, though still higher than, that received by the government attorneys they oppose.

In the absence of adequate statutory guidance, some courts have used bonuses and multipliers extensively to escalate awards. Multipliers are justified as compensation for litigating a particularly complex case as a reward for high quality work by the attorney, or to offset the riskiness or contingency of the case. In the recent Supreme Court case of *Blum* v. *Stetson*, 465 U.S. 866 (1984), found that these justifications for multipliers "do not withstand examination." The Supreme Court further restricted the use of multipliers in *Pennylvania* v. *Delaware Valley Citizens Council for Clean Air*. In this case, the Court found that "[b]ecause considerations concerning the quality of a prevailing party's counsel's representation normally are reflected in the reasonable hourly rate, the overall quality of performance ordinarily should not be used to adjust the lodestar, thus removing any danger of 'double counting.'" —— U.S. ——, 106 S. Ct 3088, 3099 (1986).

The complexity of a case will be reflected in the number of hours expended in preparation. The quality of an attorney's work will be reflected in the customary hourly rate used to compute his award. Contingency is an element of every case brought under these fee-shifting statutes because they require a litigant to prevail in order to qualify for an award. This "prevailing" requirement was enacted by Congress to discourage frivolous or meritless suits. Granting a bonus for risky cases would be at odds with Congress' intent to award fees only for meritorious suits. Thus, where bonuses are used to compensate attorneys who are handling complex or novel cases, the net result is to inflate compensation which has already been adequately provided. Bonuses for contingency defeats a primary purpose of only compensating litigants for meritorious suits. Consistent with the Stetson case, this bill would eliminate the use of multipliers and bonuses in an effort to avoid absurdly high awards.

This proposal's provisions apply to, and modify, all Federal fee-shifting statutes but do not supersede more restrictive criteria contained in other statutes. This includes awards made under the Equal Access to Justice Act, except certain specified provisions of that act.

Federal fee-shifting statutes generally contain language indicating that such awards are available only to "prevailing parties." Ambiguities have developed concerning when a party has adequately prevailed so as to come within the statutes. For example, *Nadeau* v. *Helgemoe*, 581 F.2d 275 (1st Cir. 1978), adopted a standard which held that a party prevailed if he had succeeded "on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit," while *Taylor* v. *Sterrett*, 640 F.2d 663 (5th Cir. 1981), held that a party must have been "successful on the central issue as exhibitied by the fact that he has acquired the primary relief sought."

The Legal Fees Equity Act, which I am proposing, clarifies this standard by requiring that a party prevail on the merits in order to obtain an award of fees. The bill's standard is neither as lenient as the "some benefit" test nor as strict as the "central issue" test. The relief sought must be significant," not merely of "some benefit." Moreover, an award of attorney fees may not be obtained prior to a final judgment. This latter requirement is not meant to be read so as to preclude interim awards where Congress has authorized them in the various fee-shifting statutes. Neither is the requirement of final disposition intended to preclude recovery of attorney fees where settlement is reached prior to judgment. Such settlements are generally desirable and so long as it can be shown that the party has prevailed on the merits of the relief sought an award of attorneys' fees may still be obtained.

Where a settlement offer is made by government officials and refused by the plaintiff who is unable thereafter to do any better at final judgment, this bill would deny the recovery of attorney fees for services peformed subsequent to the refused offer. Such a provision will encourage government officials to make responsible settlement offers and urge complainants to give those offers meaningful consideration. Of course, where refusal is reasonable under the circumstances this provision would not apply.

The bill also provides that the amount of any judgment awarded against the United States, or against a State or local government shall be reduced by the amount of the attorney fees, not to exceed 25 percent of the judgment. This provision ensures that prevailing parties will pay part of their legal expenses from any monetary award. This subsection of the bill is not applicable to specific sections of the Equal Access to Justice Act, to certain tax cases or where it would result in undue hardship to the party.

Due to the protracted nature of some litigation, a claim may be rendered moot by State and Federal legislation enacted prior to judicial resolution of the conflict. Under existing case law, such a turn of events would not preclude a recovery of attorneys' fees where a court determined that the case was a catalyst for the legislative change. See, for example, *Maher* v. *Gagne*, 448 U.S. 122 (1980). This judicial doctrine, however, involves the courts in the rather difficult and unpredictable process of determining that a particular court action was the catalyst for a legislative enactment. As my colleagues understand, legislators rarely have the same things in mind when voting for a particular bill. A judicial inquiry into legislative motives is difficult at best. The Legal Fees Equity Act provides a standard for determining when a case provides such a catalyst by requiring that the litigation be a "material factor" in the legislative change. This provision would permit legislators and other State officials to proceed with policy changes without fear of incurring costly litigation expenses because some pending suit peripherally relates to their actions.

Finally, the bill contains several other provisions for timely application and uniform procedures to be followed in seeking recovery of attorney fees. The provisions of this bill would apply to all cases commenced subsequent to enactment as well as to those commenced prior to enactment respecting that amount of the attorney fees and expenses incurred following the date of enactment.

Mr. President, the sparsity of guidance given by the terse language of the myriad fee-shifting statutes is perhaps itself sufficient evidence that some clear standards are necessary to govern the award of attorney fees. Moreover, the need to provide greater balance between the attorney fees policies applicable to lawyers representing indigent criminal defendants and those applicable to lawyers who sue governments civilly argues for the adoption of the Legal Fees Equity Act.

Mr. President, I ask unanimous consent that the section-by-section analysis of this bill be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

Section 1 provides that the Act may be cited as the "Legal Fees Equity Act."

SECTION 2—FINDINGS AND PURPOSES

Numerous federal statutes provide that parties to Civil suits and administrative proceedings against the United States, states, or local governments may, in appropriate circumstances, recover "reasonable attorneys' fees" from government defendants. These statutes have put a great burden on the courts because, for the most part, Congress has provided little or no guidance as to when an award of attorney's fees is appropriate, or as to what constitutes a reasonable award. As a consequence, courts have reached conflicting interpretations of these statutes—in some cases using "multipliers" and "bonuses" to double, and even triple, the normal hourly rates of the prevailing party's attorney. This has resulted in uncertainty at least the appearance of arbitrariness or unfairness to litigants. Litigation over attorney's fee awards frequently overshadows the case on the merits, and has led to the creation of a burgeoning area of practice for attorneys' fee litigators.

The problems evident in this area are in some respects even more serious with respect to the states and localities. Recent decisions of the Supreme Court have expanded greatly the liability of states and local governments to suits under various Federal statutes, and correspondingly to awards of attorneys' fees. As the liability of the states and localities has greatly expanded in recent years, the obligation of Congress to define more clearly the circumstances and extent to which they should be held liable for attorneys' fees under Federal statutes has also grown.

The purpose of the bill is to have Congress provide greater guidance to the courts and federal agencies for the award of attorneys' fees pursuant to federal statute, and to reduce the current uncertainties and disparties reflected in the present decisions. The bill is not intended to deny fees to attorneys for prevailing parties; only to set common standards and procedures that would apply to all awards of attorneys' fees against the United States, and against state and local governments. This will increase the fairness and equity of the current maze of fee-shifting statutes, and should increase public acceptance of these statutes which compensate private attorneys from the public treasury.

With respect to civil judicial and administrative proceedings, the bill is intended to provide guidance in the calculation of fee awards, and to limit the hourly rate of compensation to $75 per hour, which is the same rate established in the Equal Access to Justice Act, 28 U.S.C. § 2412 (d)(1) and (d)(3) and 5 U.S.C. § 504(b). This $75 per hour rate would also apply specifically to a fee award to a subject of an independent counsel investigation pursuant to 28 U.S.C. § 593(g). The bill would eliminate the use of bonuses and multipliers.

The bill is also intended to limit the recovery of attorneys' fees to those cases in which a party has prevailed on the merits of the complaint, and only for work performed on issue in the case on which the party prevailed. The bill also specifies several discretionary bases for reducing or denying fee awards that otherwise would be allowed under federal fee-shifting statutes—for example, where a party's conduct unreasonably protracted the litigation; or the requested fee award unreasonably exceeds the hourly salary of a salaried attorney—and provides, in any case where a party recovers a money judgment against a federal, state, or local government, for up to 25 percent of the judgment to be applied to the party's legal fees.[1]

Finally, the bill would amend the existing restrictions of 5 U.S.C. § 3106 to expand their coverage specifically to include the employment of outside private counsel by federal agencies.

SECTION 3—DEFINITIONS

Section 3 defines the terms used in the bill. "Attorneys' fees" are defined as fees attributable to professional legal services performed by a person, or persons, licensed to practice law, including enrolled tax practitioners who practice before the United States Tax Court. This definition is intended to limit awards to licensed practitioners, and not to allow awards to non-licensed, prose claimants or law students.[2] The definition applies to all fee-shifting statutes, and is intended to cover all awards of fees that in fact reflect compensation of attorneys, however denominated, including those designated as "costs" by the court or administrative agency.[3] "Attorneys' fees" includes "overhead expenses" but does not include "related expenses."

Expenses to be included as "overhead expenses" should be considered as such except in extraordinary circumstances. The list of overhead expenses is not exhaustive, and other appropriate expenses may be included as "overhead expenses." The list is intended to preclude considering these expenses as "related expenses," except in extraordinary circumstances.

"Related expenses" are those expenses that may be awarded pursuant to federal statute, are not "overhead expenses," and are actually incurred by the attorney as a result of judicial or administrative proceedings. The term is intended to be a generic term encompassing those expenses that can properly be awarded under federal law; it does not expand the types of expenses that may be awarded. "Related expenses" does not include "attorneys' fees."

This definition is not intended to affect case law under Title VII and 42 U.S.C. § 1988 which, in some instances, has authorized awards of costs beyond those specified in 28 U.S.C. § 1920 to include such items as lodging and travel expenses. See, e.g., *Northcross* v. *Board of Education*, 611 F.2d 624, 639 (6th Cir. 1979), cert. denied, 447 U.S. 911 (1980). However, as noted, the definition of overhead expenses precludes considering the items enumerated there as "related expenses." The definition also excludes costs enumerated in 28 U.S.C. § 1920, and the bill is not intended to affect the allocation of costs enumerated in that section.

Courts and administrative officers may include as "related expenses" actual costs incurred for the services of paralegals and law clerks who assist attorneys in representing their clients.

The definitions of "final decision" and "prevail on the merits" are discussed in connection with the provisions of section 5(1) of the bill, which requires that a party seeking an award of attorneys' fees must prevail on the merits.

SECTION 4—SCOPE AND APPLICATION; RELATIONSHIP TO OTHER LAWS

Subsection (a) provides that the provisions of this bill are intended to apply to all awards of attorneys' fees against the United States, or any state or local government, and to establish minimum criteria for such awards. In this way, this bill will provide greater uniformity in the application of the scores of fee-shifting statutes that authorize awards of attorneys' fees and related expenses against the federal, state, and local governments.

Subsection (b) provides the general rule that, notwithstanding any other provision of law, the provisions of this bill would apply to, and modify, all federal fee-shifting statutes, including the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412 (b) and (d). No award of attorneys' fees and related expenses could exceed the amounts determined under the bill.

Nothing in this bill is intended to overturn cases such as *Christiansburg Garment Co.* v. *Equal Employment Opportunity Commission*, 434 U.S. 412, 421 (1978), where the Supreme Court held that attorneys' fees may be awarded to a prevailing defendant if the plaintiff's claim is found to be "frivolous, unreasonable or without foundation, even though not brought in subjective bad faith." Moreover, 28 U.S.C. § 2412(b) presently provides a statutory basis for the award of attorneys' fees against the United States under certain established common law theories. However, any such awards would be governed by the provisions of this bill.

Subsection (c)(1) provides that the criteria for the award of attorneys' fees and related expenses established by this bill would not supersede more restrictive criteria contained in other statutes for making such awards. The provisions of this bill establish minimum criteria to be applied for determining and awarding attorneys' fees and related expenses or costs in judicial and administrative proceedings against the United States or against state or local governments.[4] Subsection (c)(2) provides that nothing in the bill shall be interpreted to create any right to an award of attorneys' fees of related expenses. Any right to such an award derives solely from the provisions of other laws. Where the underlying federal law does not provide authority for an award of attorneys' fees, see, e.g., *Webb* v. *Board of Education*, 105 S. Ct. 1923 (1985), there would be no basis for a fee award under this bill.

The bill does not affect the compensation of attorneys in suits against the government such as those under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, or involving National Service Life Insurance or United States Government Life Insurance, under 38 U.S.C. § 784(g). Those statutes are not federal fee-shifting statutes, because the final award of damages or proceeds is calculated without reference to attorneys' fees and there is no additional element of the award that is attributable to the prevailing party's attorneys' fees. However, the bill would apply to an award of attorneys' fees under any statute that requires the inclusion of a separate element in the damage award to account for attorneys' fees. See e.g., the Uniform Property Relocation Act, 42 U.S.C. § 4654(c).

Subsection (d)(1) is similar to provisions for determining attorneys' fees in the Alaska Native Claims Settlement Act, 43 U.S.C. § 1619(d)(2). Subsection (d)(2) is intended to protect a party intervening in defense of his own interests with respect to a governmental action but whose conduct did not give rise to the dispute at issue from the specter of liability through an automatic shift of attorneys' fees should be plaintiff prevail. Under the fee-shifting statutes generally, a plaintiff who does not prevail is ordinarily, a plaintiff who does not prevail is ordinarily not liable for the government's attorneys' fees. See *Christiansburg Garment Co.* v. *EEOC*, 434 U.S. 412 (1978). Similarly, an intervenor-defendant who defends his own rights under the challenged governmental scheme but whose conduct did not give rise to the controversy and did not violate the constitutional or statutory rights of the plaintiff also should not ordinarily be liable for attorneys' fees.

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[1] This 25 percent reduction would not apply to suits under certain provisions of the Equal Access to Justice Act, or to suits for recovery of disputed taxes under 26 U.S.C. § 7430.

[2] Most courts have ruled that pro se litigants generally are ineligible for attorneys' fees awards. See *Cofield* v. *City of Atlanta*, 648 F.2d 986 (5th Cir. 1981); *Owens-El* v. *Robinson*, 498 F. Supp. 877 (W.D. Pa. 1980); *Crooker* v. *Department of Justice*, 632 F.2d 916, 922 (1st Cir. 1980); and *Burke* v. *Department of Justice*, 559 F.2d 1182 (10th Cir. 1977), aff'g mem. 432 F. Supp. 251 (D. Kan. 1976). The D.C. Circuit, however, has awarded attorneys' fees under the FOIA to pro se prisoners and to law students who received 12 hours of course credit. See *Crooker* v. *Department of Treasury*, 663, F.2d 140 (D.C. Cir. 1980); *Jordan* v. *Department of Justice*, 691 F.2d 514 (D.C. Cir. 1982). The definition of "attorney," however, is not intended to affect judicial interpretations regarding whether individual statutes authorize awards of attorneys' fees to licensed attorneys appearing pro se. For example in *White* v. *Allen Realty & Development Corp.*, 614 F.2d 387 (4th Cir.) (per curiam), cert. denied, 447 U.S. 923 (1980), the Fourth Circuit denied an award of attorneys' fees to a plaintiff-attorney under the Truth-in-Lending Act.

[3] Generally, courts have followed the principle that attorneys' fees, which are authorized by various fee-shifting statutes, are distinct from costs, which are authorized by 28 U.S.C. §§ 2412(a) and 1920. However, some statutes, such as Title VII of the Civil Rights Act and 42 U.S.C. § 1983, have been interpreted to make attorneys' fees part of costs, See *Delta Air Lines* v. *August*, 450 U.S. 346 (1981) (Title VII). If left unaddressed parties could attempt to circumvent the $75 fee limitation and other provisions in this bill regarding attorneys' fees by seeking attorneys' fees as costs under these statutes.

[4] For example, 5 U.S.C. § 7701(g)(1) provides that attorneys' fees may be awarded if (1) the party has prevailed; and (2) the award of attorneys' fees would be "warranted in the interest of Justice. . . ." The second of these two criteria, which is not contained in the bill, would continue to apply.

Subsection (e) provides that, although the bill generally would apply to awards under the Equal Access to Justice Act ("EAJA"), the provisions of section 6(a)(1) (establishing a limitation of $75 per hour for attorneys' fees) and section 6(c) (reduction of fee awards in money damages cases) of the bill would not apply to awards made under 5 U.S.C. § 504(a)(1) and 28 U.S.C. § 2412 (d)(1)(A) and (d)(3) (as in effect for cases filed before October 1, 1984). Those provision of the EAJA provide for awards of attorneys' fees to eligible parties who prevail in litigation with the United States unless the government proves that its position in the litigation was substantially justified. Those provisions already have a general rule limiting fee awards to no more than $75 per hour. In addition, the factors listed for reduction of fee awards in paragraphs (3) and (4) of section 6(b) of the bill would not apply under those provisions of the EAJA.[5] The language and legislative history of those provisions of the EAJA reflect Congress's intent to award attorneys' fees to prevailing parties who meet the qualifications of the Act, unless the government's position was "substantially justified" or "special circumstances" would make an award of attorneys' fees unjust. The purpose of this subsection is to assure that the special characteristics of the EAJA in this respect will not be affected by this bill. The exceptions described in this subsection would not apply to attorneys' fee awards under 28 U.S.C. § 2412(b).

Subsection (f) provides that the provisions of the bill shall not apply in federal criminal proceedings or civil habeas corpus proceedings in the federal courts under the Criminal Justice Act, 18 U.S.C. § 3006A.

SECTION 5—ALLOWANCE OF ATTORNEYS' FEES

Section 5 of the bill establishes the prerequisites to an award of attorney's fees and related expenses against the United States, or against state or local governments, in any civil judicial or administrative proceeding to which a federal fee-shifting salute applies. The party seeking such awards must establish, and the court or administrative officer must determine, (1) that the party prevailed on the merits of its complaint in the proceeding; (2) that the work for which the award is sought was performed in the proceeding in connection with issues on which the party prevailed against the United States or a state or local government and was necessary to resolve the controversy; (3) that the application is submitted in compliance with the procedural requirements of Section 7 and does not exceed amounts authorized under Section 6; and (4) that the services for which attorney's fees are sought are not excessive, redundant, or otherwise unnecessary.

As set forth in section 4(c) of the bill, the requirements of this section for awards of attorney's fees, including the requirement that a party "prevail," are not intended to supersede other additional requirements established by law, such as those under 5 U.S.C. § 7701(g)(1) (where an award to a prevailing party must be "warranted in the interest of justice").

Nothing in this section is intended to change the burden of proof for determinations of "substantial justification" in applications for fee awards under the Equal Access to Justice Act, 5 U.S.C. § 504(a)(1) and 28 U.S.C. § 2412 (d)(1)(A) and (d)(3) (as in effect for cases filed before October 1, 1984). The burden remains in the government to prove "substantial justification" in connection with such applications.

Prevail on the Merits.—Paragraph (1) would preclude awards of attorneys' fees and related expenses against the United States and against state and local governments unless the party seeking the award prevailed on the merits of its complaint. The definition of "prevail on the merits" focuses on whether the party was successful on significant issues in the controversy and obtained significant relief in connection with these issues. This is intended to be a more flexible standard than some formulations of this term. CF. *Taylor* v. *Sterrett*, 640 F.2d 663, 669 (5th Cir. 1981) (a prevailing party for attorneys' fees purposes "has been successful on the central issue" in the case, and has "acquired the primary relief sought"). The relief sought need not be "central," but must be significant in terms of the result sought by the party. In this respect, the bill reflects the first part of the test enunciated by the Supreme Court in *Hensley* v. *Eckerhart*, 461 U.S. 424, 433 (1983) ("plaintiffs may be considered 'prevailing parties' for attorneys' fees purposes if *they succeed on any significant issue in litigation* which achieves some of the benefit the parties sought in bringing suit") (emphasis added).

This bill differs, however, from the second part of the *Hensley* formulation. The language of *Hensley* is subject to an overly expansive reading, as the district court did in *Laffey* v. *Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), rev'd, 746 F.2d 4 (D.C. Cir. 1984), cert. denied, 53 U.S.L.W. 3882 (U.S. June 17, 1985). There, the district court found the plaintiffs to be prevailing parties for all purposes even though they in fact failed to achieve the results sought in important respects.

The purpose of the bill is to state more precisely that the relief obtained by the party must be significant, not merely "some of the benefit" the party sought. The relief obtained should be significant in terms of the result sought by the party in bringing the suit. CF. *Hensley* v. *Eckerhart*, 461 U.S. at 440 ("A reduced fee award is appropriate if the relief, however significant, is limited in comparison to the scope of the litigation as a whole").

The requirement to show that the party has prevailed on the merits would also apply to statutes, such as the Clean Air Act, that authorizes the award of attorneys' fees "when appropriate."[6]

This paragraph provides that the party must prevail in a "final decision" of a court or a final disposition by an agency in an administrative proceeding. The Federal Rules of Civil Procedure generally define a final judgment as any order from which an appeal lies, including dismissals and default and summary judgments, and final judgments entered on less than all pending claims pursuant to Rule 54(b). In an adversary proceeding, the final decision is one which determines the rights of the parties and from which no further review is provided within the administrative process. The definition of "final decision" is limited to those final judgments in which the party establishes entitlement to relief on the merits. Thus, an award of attorneys' fees would not be appropriate for a party who has prevailed only on a motion for preliminary injunction or for a temporary restraining order, where the merits of the suit have not been resolved. However, the definition would permit the award of attorneys' fees where the party defending against a suit brought by the government obtains the dismissal of a groundless complaint.[7]

The bill would preclude so-called "interim awards" of attorneys' fees except where the text or legislative history of an applicable fee shifting statute indicates that Congress has authorized them, but such awards should be made only "to a party who has established his entitlement to some relief on the merits of his claims, either in the trial court or on appeal." *Hanrahan* v. *Hampton*, 446 U.S. 754, 757 (1980) (per curiam). In *Hanrahan*, the Supreme Court noted that the legislative history of 42 U.S.C. § 1988 cited, as examples of appropriate circumstances for interim fee awards, two cases,[8] in which the "party to whom the fees were awarded had established the liability of the opposing party, although final remedial orders had not been entered." Id. at 757. The Court found that the plaintiffs had not prevailed on the merits of any of their claims and reversed the award of attorneys' fees. Id. at 758. Further, the Court ruled that attorneys' fees are not to be awarded for nondispositive rulings regarding matters of discovery, evidence, or procedures, Id. at 759. See also *Smith* v. *University of North Carolina*, 632 F.2d 316, 350–51 (4th Cir. 1980).

Paragraph (1) is not intended to modify existing case law providing that attorneys' fee may be awarded in cases where the litigation is terminated by settlement agreement, as long as the party seeking fees has prevailed on the merits of the relief sought.[9] Nor is the provision intended to

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[5] These discretionary factors authorize a reduction of the attorneys' fee award based on findings that the time and legal services were excessive with regard to the nature of the controversy, or that the amount sought unreasonable exceeds the monetary result or injunctive relief achieved.

[6] The Supreme Court in *Ruckelshaus* v. *Sierra Club*, 103 S. Ct. 3274, 3281 (1983), held that the claimant must demonstrate that it enjoyed "some degree of success on the merits" in order to receive attorneys' fees under the Clean Air Act, which provides for such fees "when appropriate."

[7] See H.R. Conf. Rep. No. 96-1434, 96th Cong., 2d Sess. 21-22 (1980). See also *United States ex rel. Heydt* v. *Citizens State Bank*, 668 F.2d 444, 447 (8th Cir. 1982) (organization which successfully opposed IRS summons in order to protect the confidentiality of its members was a prevailing party under the EAJA; however, no attorneys' fees were awarded because the IRS position was substantially justified).

[8] *Bradley* v. *Richmond School Board*, 416 U.S. 696 (1974), and *Mills* v. *Electric Auto-Lite Co.* 396 U.S. 375 (1970), are cited in the legislative history of the Civil Rights Attorneys' Fees Awards Act of 1976. S. Rep. No. 94–1011, 94th Cong., 2d. Sess. 2, and H.R. Rep. No. 94–1558, 94th Cong., 2d Sess. 6(1976).

[9] *See e.g.*, *Ward* v. *Schweiker*, 592 F. Supp. 1193 (W.D. Mo. 1983). As the court stressed in *Parker* v. *Matthews, 411 F. Supp. 1059, 1054 (D.D.C. 1976), aff'd 561 F. 2d 320 (D.C. Cir. 1977), the settlement should be carefully scrutinized to determine if an award of attorneys' fees is justified:*

"[W]hether to award attorneys' fees where there has been a settlement of a title VII lawsuit must be preclude discussions between the parties of attorneys' fees, or the waiver thereof, before the decision on the merits by a court or the final disposition by an administrative officer, or to prevent the government from discussing liability for attorneys' fees in conjunction with liability on the merits as part of a settlement agreement, or from including in a settlement agreement provisions for attorneys' fees and related expenses or costs.

Necessary Work on Prevailing Issues.—Under paragraph (2), a prevailing party seeking an award of attorneys' fees and related expenses against the United States, or against state or local governments, must show that the work for which fees are sought was performed in connection with issues, substantive or procedural, upon which the party prevailed in the disposition of the controversy.[10] This provision is not intended to preclude awards of attorneys' fees and related expenses where a party's pleadings contain meritorious alternative grounds for relief, based on the same facts as those on which the party prevailed, on which a court or administrative officer did not rule because the party prevailed on other grounds. In such instances, awards of attorneys' fees and related expenses may include amounts attributable to time expended on such alternative pleadings, if the court or administrative officer determines that the alternative pleadings were reasonably directed to the resolution of the merits of the controversey. Of course, a party who seeks different types of relief under different statutory provisions is not entitled to fees for those claims where no relief was provided; nor are awards of attorneys' fees and related expenses to be made in cases where the specific statutory provisions construed in the case do not provide for the award of attorneys' fees.[11]

Paragraph (2) also requires the party seeking attorneys' fees to establish that the services for which fees are sought were not "excessive, redundant, or otherwise unnecessary"[12] Because prevailing intervenors are "parties" of the purposes of this bill, they may receive awards of attorneys' fees if they meet the requirements of the applicable fee-shifting statute and this bill, including the showing required by this paragraph.

Compliance with this Act—Paragraph (3) requires that applications for an award of attorneys' fees and related expenses be made in accordance with the provisions of this Act.

SECTION 6—AMOUNT OF ATTORNEYS' FEES

Civil fee-shifting statutes

Paragraph 6(a)(1) establishes a maximum hourly rate of $75 for attorneys' fees awards against the United States, states, and local governments under federal fee-shifting statutes.[13] This provision shall not apply to awards under the Equal Access to Justice Act. 5 U.S.C. § 504(a)(1) and 28 U.S.C. § 2412 (d)(1)(A) and (d)(3), because the EAJA has its own limit of $75 per hour, subject to specified exceptions.[14] In calculating the amount of any award of fees, section 6(a)(2) provides that multipliers or bonuses shall not be used.

The $75 per hour limit in subsection (a) is intended to assure that fees paid to private counsel in fee-shifting cases are brought somewhat more in line with the salaries of attorneys who represent the government in these case, while providing sufficient incentive to attract competent counsel. This is appropriate, because many federal fee-shifting statutes are presented on the theory that groups or individuals who sue the government for the public benefit are acting as "private attorneys general." Attorneys' fees paid by taxpayers to these "private attorneys general" should be generally commensurate with the salaries paid by taxpayers to federal "public attorneys general."[15] Even the rate of $75 per hour set in the bill is well above the compensation of government attorneys.

It is emphasized that this subsection establishes only a maximum hourly rate of compensation, and that prevailing rates may in fact be less than the maximum allowed under the bill. Courts should give due consideration to the fees normally received by the attorney for similar work and other relevant factors. Attorneys' fees may be awarded at hourly rates less than the maximum established by this bill.

Subsection (b)(1) provides that courts or administrative officers shall reduce or deny awards of attorneys' fees and related expenses against the United States, or against state or local governments, where it is determined that (A) the prevailing party unreasonably protracted the final resolution of the controversy; (B) the attorneys' fee unreasonably exceeds the hourly salary of the attorney; or (C) the time spent and legal services provided were excessive with regard to the nature of the controversy. Subsection (b)(2) also authorizes a reduction or denial of a fee award if (A) the award otherwise allowable would unreasonably exceed the monetary result or the value of injunctive relief achieved in the proceeding; or (B) the award would otherwise be unjust or inappropriate. The amount of any reductions pursuant to subsection (b)(2) shall be at the discretion of the court of administrative officer.[16]

Paragraph (1)(A) is patterned on the Equal Access to Justice Act, 28 U.S.C. 2412(d)(1)(C) and 5 U.S.C. 504(a)(3). Paragraph (1)(C) addresses the problem of a case that is overlawyered. It is derived from *Hughes* v. *Repko*, 578 F.2d 483 (3d Cir. 1978), where the district court was directed to determine whether it was reasonably necessary to spend the number of hours claimed by the attorneys in order to perform the legal services for which compensation was sought.

Paragraph (1)(B) provides that the court or administrative officer may consider, as a basis for reducing an otherwise allowable fee award, whether the award would unreasonably exceed the hourly salary of the party's attorney. This provision is intended to apply to all attorneys who are paid on a salaried basis, including in-house counsel and associates in a law firm. As a general guideline, an application for an award may be regarded as unreasonably high under paragraph (1)(B) if it is more than twice the attorney's hourly salary. Twice the attorney's hourly salary should, in general, provide reasonable compensation and cover normal overhead expenses. The bill in intended to encourage courts and administrative officers carefully to review applications for awards that would substantially exceed the actual cost of the litigation, and to reduce awards that would confer windfalls on attorneys or the organizations that employ them.

Paragraph (2)(A) is intended to address the anomalous result where attorneys receive far greater benefit from the litigation than their clients, such as in cases where $100,000 is awarded in attorneys' fee for $10,000 judgment, or where $22,000 in attorneys' fees is awarded for only a $500 award to each of three clients. In other cases, the injunctive relief actually achieved in the case might be so limited that it does not warrant the amount of attorneys' fees otherwise allowable. Cf. *Hensley* v. *Eckerhart*, supra, 461 U.S. at 435-36 & n.11 (The award of full attorneys' fees to a party who has achieved only partial or limited success would be "an excessive amount"). In determining whether reduction of an award is appropriate, courts or administrative officers should consider both the monetary judg-

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determined by a closer scrutiny of the totality of the circumstances surrounding the settlement, focusing particularly on the necessity for bringing the action and whether the party is the successful party with respect to the central issue—discrimination."

[10] *See Hensley* v. *Eckerhart*, supra, 461 U.S. at 435 ("[W]ork on an unsuccessful claim cannot be deemed to have been expended in pursuit of the ultimate result achieved." . . . [T]herefore no fee may be awarded for services on the unsuccessful claim.").

[11] *See Smith* v. *Robinson*, 104 S. Ct. 3457 (1984) (affirming court of appeals' reversal of district court's award of attorneys' fees where case was grounded on the Education for All Handicapped Children Act, which does not provide for the award of attorneys' fees, even though the plaintiff included allegations based on section 504 of the Rehabilitation Act of 1973 and 42 U.S.C. § 1983, which the courts did not reach). The Court agreed with the respondents' contention that "Whatever Congress' intent was in authorizing fees for substantial, unaddressed claims based on § 1988 or § 505. It could not have been to allow plaintiffs to receive an award of attorneys' fees . . . where Congress has made clear its intent that fees not be available." Id. at 3466. See also *Irving Independent School District* v. *Tatro, 104 S. Ct. 3371, 3379 (1984).*

[12] *See Hensley* v. *Eckerhart*, supra, 461 U.S. at 434 ("Cases may be overstaffed, and the skill and experience of lawyers may vary widely. Counsel for the prevailing party should make a good-faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission.").

[13] In determining the total award of attorneys' fees, courts and administrative officers should continue the practice of determining the number of hours reasonably expended in the preceeding, multiplied by a reasonable hourly rate not exceeding $75. In deciding whether the hours claimed were "reasonably expended" under any fee shifting statute, the Supreme Court has admonished that "(h)ours that are not properly billed to one's client also are not properly billed to one's adversary pursuant to statutory authority." *Hensley* v. *Eckerhart* supra, 461 U.S. at 434, citing *Copeland* v. *Marshall*, 641 F.2d 880, 891 (D.C. Cir. 1980) (en banc) (emphasis in original). In arriving at the total fee award, the factors set forth in section 6(b) and those identified by the Supreme Court in *Hensley* v. *Eckerhart*, supra 461 U.S. at 434-37, should be considered.

[14] The provisions of the Equal Access to Justice Act, unlike other fee-shifting statutes, predicate awards of attorneys' fees not only upon a finding that the party prevailed, but also that the government was not substantially justified in its position. In light of the latter requirement and the EAJA's existing fee limitation, it is unnecessary to apply the general fee limitation of this bill to the EAJA.

[15] Federal fee-shifting statutes "should not be implemented in a manner to make the private attorney general's position so lucrative as to ridicule the public attorney general." *Johnson* v. *Georgia Highway Express, Inc.* 488 F.2d 714, 719 (5th Cir. 1974).

[16] The factors set forth in paragraphs (1)(C) and (2)(A) would not apply to awards under 5 U.S.C. 504 and 28 U.S.C. 2412(d) of the Equal Access to Justice Act (as in effect for cases filed before October 1984). This exception is intended to maintain the status quo in the interpretation of the "special circumstances" provision of the EAJA, and not to affect the courts' construction of that term in the context of fees awards under the EAJA.

ment achieved and any significant injunctive or other equitable relief obtained by the parties in the proceeding.

Paragraph (2)(B) provides that the bases for reducing an award of attorneys' fees that are listed in this subsection are not meant to be exclusive, and courts and administrative officers should continue to consider other factors that are appropriate under existing law. See *Hensley* v. *Eckerhart*, supra, 461 U.S. at 436-37. For example, the legislative history of the Civil Right Attorney's Fees Award Act of 1976, 42 U.S.C. § 1988, provides that "special circumstances" are to be considered by courts in awarding attorneys' fees. Nothing in this bill is intended to preclude consideration of such "special circumstances" to reduce the amount of fee awards against the government.

Subsection (c) provides that, whenever a monetary judgment is awarded against the United States, or against a state or local government, a portion of the judgment (but not more than 25%) shall be applied to satisfy the amount of attorneys' fees allowed in the proceeding. If a fee award exceeds 25% of the judgment, the defendant government would be liable for the excess. On the other hand, if fee award is less than 25% of the judgment, the award would be satisfied from the amount of the judgment. Any amount not applied to attorneys' fees, of course, would be paid to the plaintiff.

The rationale for this offset is not to reduce the attorneys' compensation, but to provide that a prevailing party should pay part of its legal expenses from any monetary award recovered in a judicial or agency proceeding. This provision would not apply to attorneys' fee awards under the Equal Access to Justice Act, 5 U.S.C. § 504(a)(1) and 28 U.S.C. § 2412 (d)(1)(A) and (d)(3), where fee awards are available only where the government's position was not substantially justified. Cf. note 13, supra. It also would not apply to awards in cases brought for recovery of disputed tax payments under 26 U.S.C. § 7430, in order to avoid inconsistent adjudications under the Internal Revenue Code.[17]

The result of the 25 percent reduction in monetary awards to be applied toward attorneys' fees is similar to that under the Federal Tort Claims Act, 28 U.S.C. § 2678, and section 206 of the Social Security Act, 42 U.S.C. § 406, which provide for compensation of attorneys from any monetary awards recovered by the parties, except that the fee award under a fee-shifting statute would not be limited to 25 percent of the judgment.

Independent counsel investigations

As amended in 1982, the statute providing for the appointment of an Independent Counsel to investigate allegations of criminal wrongdoing by the President and other specified Executive officials now authorizes the court to award reimbursement to a subject of an independent counsel investigation for all or part of his or her attorneys' fees incurred in the course of such investigation if no indictment is brought against the subject and the attorneys' fees would not have been incurred but for the Independent Counsel investigation. 28 U.S.C. § 593(g). This statute, however, does not provide for a limitation on the amount of fees awarded.

New subsection 6(d) of the bill would impose a limit of $75 per hour on awards under the Independent Counsel provision, the same limit as for other civil fee-shifting statutes. This change is made expressly to avoid any uncertainty as to the reach of the statute. As provided in section 11 of the bill, this amendment would apply to all attorneys' fees incurred after the date of enactment of the bill.

Criminal Justice Act fees

As introduced in the 98th Congress (S. 2802 and H.R. 5757), the bill contained provisions that would amend the Criminal Justice Act, 18 U.S.C. § 3006A(d), to double the compensation rates for defense attorneys in criminal proceedings—from $30 per hour for time expended in court and $20 per hour for time expended out of court to $60 and $40, respectively—and also double the maximum total compensation to $2,000 per attorney for felony cases, $800 per attorney for misdemeanor cases, and $500 per attorney for post-trial and probation revocation proceedings.

Those provisions were enacted separately in the closing days of the 98th Congress as part of the Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473. Thus, the much-needed increase in the maximum hourly rates for attorneys who represent parties under the Criminal Justice Act has already been achieved. Accordingly, the bill presently focuses solely on attorneys' fee awards in the civil and administrative context. We see the enactment of this bill as just as significant a step in bringing about a better balance in civil fee awards as the Criminal Justice Act amendments were in the criminal context.

SECTION 7—TIMELY APPLICATIONS AND PROCEDURES

Subsection (a) establishes a jurisdictional requirement that a party seeking an award of attorneys' fees and related expenses submit an application for such award within 30 days of a final decision on the merits by a court or the entry of a final disposition by an administrative officer, from which no appeal is taken. A final decision on the merits is defined as the entry of judgment under the Federal Rules of Civil Procedure, and includes a dismissal of the suit and a dismissal pursuant to a settlement agreement. Parties may not be awarded attorneys' fees and related expenses by a court or administrative officer if the fee award application is made after the 30 day time limit.

This requirement is consistent with the jurisdictional time for filing fee applications pursuant to the Equal Access to Justice Act, and is responsive to the Supreme Court's recent observation that courts can adopt procedural rules setting reasonable time limits for applications for attorneys' fee awards. *White* v. *New Hampshire Department of Enforcement Security*, 455 U.S. 445 (1982).[18] Subsection (a) also requires the party seeking an award to submit such information as may be required by the court or agency.

Subsection (b) directs courts and agencies to provide guidance to parties regarding the information required to be filed. Courts and agencies should, at the least, require submission of the following information: a statement of the basis of the claim for attorneys' fees; a statement that attorneys' fees are awardable under applicable law; a statement of the amount sought; a copy of any written fee agreement; and an itemized accounting of the hours expended and the specific tasks performed by the attorney on each issue in the proceedings.[19] Further, courts and agencies should require the submission of information to assist them in making the findings under section 6(b) of this bill, with respect to the reduction of awards of attorneys' fees. Subsection (b) further requires courts and agencies to establish procedures regarding the timing of applications for attorneys' fees and supporting information, and the timing of judicial and agency rulings on these applications.[20]

To ensure that courts are consistent in issuing requirements for submission of information for fee applications, the bill anticipates that the Judicial Conference of the United States would prescribe guidelines for courts to follow in establishing these requirements. These guidelines would not supersede any requirements for submission of information required by law in conjunction with attorneys' fees applications. The bill also anticipates that agencies, when establishing requirements for submission of information in conjunction with fee applications, will follow the guidelines established by the courts.

Section 7(b) requires that these guidelines provide that attorneys' fees may be awarded only final decisions. The meaning of final decision, including dismissals and so-called "interim awards" in the circumstances outlined by the Supreme Court in *Hanrahan* v. *Hampton*, supra, are discussed in connection with section 5(1) of the bill.

SECTION 8—MOOTNESS AND SETTLEMENT DEFENSES

Under existing law, a party will be held to be a prevailing party and entitled to recover attorney's fees and related expenses or costs even if the claim has been mooted, if it is found that the suit was a "catalyst" for the change of policy that rendered the claim moot. *See, e.g., Maher v. Gagne,* 448 U.S. 122, 129-30 (1980). Subsection (a) would codify the standard by which pending litigation is determined to have been such a catalyst by requiring that the litigation be a "material factor" in the policy change. This is the standard that is currently being applied by most courts. See. e.g., *Morrison v. Ayoob,* 627 F.2d 669 (3d Cir. 1980), cert, denied, 449 U.S. 1102 (1981). This provision would ensure that courts do not place undue emphasis on chronology—that is, the fact that the plaintiff's case was pending when the government changed the policy that mooted the suit. Under this provison, governments would be encouraged to carry out planned policy reforms without fear of incurring liability for fees in pending suits, but would still be liable for attorney's fees unless the government could prove that the suit actually was not a "material factor" in the policy change.

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[17] Inconsistent adjudications could result because the tax laws permit taxpayers who contest many government tax claims either: (1) to pay the contested taxes and sue for a refund in a district court or in the Claims Court, or (2) to bring suit, without payment, in the Tax Court. A taxpayer who sued in the District or Claims Court and won would receive a monetary award. Presumably, 25% of this amount would otherwise be applied to reduce any attorneys' fees award. However, a taxpayer who sued in the Tax Court and won would not receive a monetary award but, instead, simply a determination that no liability existed. Thus, the 25% reduction would hinge entirely upon the taxpayer's choice of forum, an anomalous result that would otherwise channel many more cases to the already overburdened Tax Court.

[18] As noted by the Supreme Court in *White*, courts currently differ with respect to the time in which attorneys' fees awards must be sought. Id., 455 U.S. at 450 n.9. Before *White*, some courts allowed only 10 days from the time of entry of judgment for filing of fee applications under Fed. R. Civ. P. 59(e); other circuits have imposed no time constraints. The Eighth Circuit has recommended a rule for filing attorneys' fee requests within 21 days after entry of judgment. See *Obin* v. *District 9, Intl Ass'n of Machinists*, 651 F.2d 574, 583 (8th Cir. 1981).

[19] A requirement for this type of information is consistent with the District of Columbia Circuit's ruling in *National Ass'n of Concerned Veterans* v. *Secretary of Defense*, 675 F.2d 1319 (D.C. Cir. 1982), which required detailed documentation by a party seeking an award of attorneys' fees.

[20] For example, in some cases fee applications can be resolved immediately following the district court's decision on the merits in order to permit a simultaneous appeal on the merits and of the fee award. This would prevent piecemeal appeals, and might be appropriate where no disagreement existed over the calculation of the award or where the determination required complete familiarity with the record. See *White*, 455 U.S. at 454. In other cases, however, it might be preferable to defer attorneys' fees issues until all appeals have been completed and the plaintiff's entitlement to relief on the merits has been established with finality. This might be appropriate in cases where the determination of attorneys' fees is difficult and likely to consume more time than the appeal on the merits.

Subsection (b) would deny awards of attorneys' fees and related expenses for services performed after a written offer of settlement by the United States, or by state or local governments, if the party refuses the offer but is ultimately able to do no better when the case is resolved on the merits. The Supreme Court has already construed Rule 68 of the Federal Rules of Civil Procedure to reach this same result in cases under 42 U.S.C. § 1983. *Marek v. Chesny,* No. 83-1437 (U.S. June 27, 1985). This subsection would apply the Marek result to all fee-shifting statutes under which attorneys' fees are awarded against the government. This would provide an incentive for governments to make reasonable settlement offers, and encourage parties to give serious consideration to such offers. As the Supreme Court noted in Marek, slip op. at 9, "Section 1988 encourages plaintiffs to bring meritorious civil rights suits; Rule 68 simply encourages settlements. There is nothing incompatible in these two objectives."[21] This bill would make that construction uniform for all fee-shifting statutes to avoid the need for litigation over the construction of each such statute.

SECTION 9—COMPTROLLER GENERAL REPORT

Section 9 requires the Comptroller General of the United States to submit an annual report to the President and the Congress on the amount of attorney's fees and related expenses or costs awarded against the United States or against state and local governments under federal fee-shifting statutes in judicial and administrative proceedings. To assist the Comptroller General, courts and agencies should provide whatever information is needed. In preparing this report, the Comptroller General should use the reports prepared under the Equal Access to Justice Act by the Director of the Administrative Office of the United States Courts and the Chairman of the Administrative Conference of the United States, respectively, under 28 U.S.C. § 2412(d)(5) and 5 U.S.C. § 504(e).

SECTION 10-LIMITATION ON EMPLOYMENT AND COMPENSATION OF OUTSIDE PRIVATE COUNSEL

This section, a new provision in the bill, would impose upon the federal government the same fee cap—$75 per hour—that the bill would impose upon attorneys' fee awards to parties in litigation with the federal government or with the states.

Section 3106 of Title 5 of the United States Code currently requires that Executive departments must refer all litigation to the Department of Justice, unless otherwise authorized by law. The Department already has regulations governing the hiring of private counsel in litigaion under its authority, and it has consistently limited the payment of private counsel to $75 per hour. But the Department's regulations now do not reach agencies with independent litigation authority. Where agencies are authorized by law to employ attorneys to conduct litigation, there presently are not statutory restrictions upon the hiring to outside counsel as opposed to staff attorneys, or upon the hourly rates that may be paid. As a result, many agencies presently expend taxpayer dollars on private attorneys at a cost well in excess of the cost of staff attorneys. Other agencies, though, including those with large litigation caseloads such as the Securities and Exchange Commission and the Federal Trade Commission, rely entirely upon staff counsel and do not use outside private counsel.

As part of the overall reform effort of the Legal Fees Equity Act, the bill would make all agencies accountable to the Attorney General with respect to the hiring of outside counsel. This amendment would provide that, notwithstanding any other provision of law, no agency could retain private counsel at the expense of the taxpayers to conduct litigation except in accordance with regulations adopted by the Attorney General. The bill also sets a limit of $75 on the hourly rate of such attorneys retained by the government and paid from appropriated funds. This provision corresponds to the $75 limit on the hourly rate on all fee-shifting statutes, so that the taxpayers will pay private agency counsel a rate no higher than would be paid by those same taxpayers to a prevailing plaintiff in a fee-shifting case. (For attorneys directly employed by the federal government, of course, the effective hourly rate would be far less than $75 per hour.)

This section would amend 5 U.S.C. § 3106. The two existing sentences of § 3106 would be retained largely without change as subsections (a) and (e), respectively. The only change is that the first sentence of present § 3106, which refers to Executive departments and military departments, would be expanded to include a reference to all other agencies including independent agencies, boards, and commissions, to make subsection (a) consistent with the reach of the limitations of subsection (b). Of course, there are many independent agencies, boards and commissions that already have independent litigation authority, and they would not be affected by the change to subsection (a). They would, however, be affected by the limitations of subsection (b), which would apply to the hiring of private counsel at taxpayer expense by any agency, independent or not.

Subsection (b) states the general rule that no agency may retain private counsel at taxpayer expense to handle any litigation except as provided in regulations adopted by the Department of Justice, and that, in any event, such private counsel may not be paid more than $75 per hour from funds appropriated for agency litigation. This includes any funds appropriated to the agency for litigation or legal services, and the permanent, indefinite appropriation to the Judgment Fund under 31 U.S.C. § 1304. It is not intended to apply, however, to the compensation of counsel on a contingency-fee basis, rather than on an hourly basis, for the collection of debts owed to the federal government, should that practice be authorized by Congress.

Subsection (c) authorizes the Attorney General to promulgate regulations implementing the provisions of this section as amended. The regulations could not raise the overall limit of $75 per hour in subsection (b)(2) but, subject to that limit, they may take into account different types of litigation and the experience and skill of attorneys. The subsection also contemplates a procedure for an agency, in exceptional circumstances, to apply to the Attorney General for a certification of need to employ outside private counsel, for a particular case or a class of litigation, in circumstances that would not otherwise be permitted by the regulations. This will preserve a measure of flexibility in the hiring of outside counsel in response to unexpected demands. The regulations also provide that the Attorney General may act to coordinate the use and availability of the expertise of the some 17,000 attorneys presently employed by the federal government, in order to promote their more efficient use and to reduce the need for hiring more expensive outside counsel. The bill specifically precludes judicial review of the regulations adopted by the Attorney General under this subsection and the determinations and actions he takes pursuant to those regulations, because judicial review of the Attorney General's supervision of litigation involving the United States would be most inappropriate.

SECTION 11—EFFECTIVE DATE

Section 11 applies the provisions of the bill to any award of attorneys' fees and related expenses incurred subsequent to the enactment of the bill. Further, the provisions of the bill apply to actions commenced prior to enactment, but only for attorneys' fees and related expenses incurred after the date.●

By Mr. HEINZ (for himself, Mr. Glenn, Mr. Specter, and Mr. Rockefeller):

S. 1254. A bill to amend the Federal Unemployment Tax Act to provide additional limitations on the reduction on the credit applicable to employers in certain States which have outstanding loan balances, and for other purposes; to the Committee on Finance.

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[21] The contrary rule would provide little incentive for parties to settle cases early in the litigation. See Fioretti and Convery, "Attorney's Fees Under The Civil Rights Act—A Time for Change," 16 J. Mar. L. Rev. 261, 277-78 (1983) (discussing earlier cases that had failed to apply the approach of Marek v. Chesny):

"Aside from the 'prevailing party' issue, the present application of § 1988 results in a lack of incentive for plaintiff's attorneys to enter into pretrial settlements. The more hours the attorney spends on the case, the higher his potential fee award. The motivation then is not to settle, but to proceed to trial, where the hourly rates are even higher.

"Nor is such a result in the plaintiff's best interests. The purpose of the Civil Rights Act as a whole is to protect those who have suffered a constitutional tort. It naturally follows that if an early settlement is possible, the plaintiff, the protected party under the Act, should be compensated swiftly. However, a plaintiff's attorney, who during the early phase of the litigation has spent relatively few hours in preparation, may lack incentive to settle until compensable hours have reached a significant level. Thus, the overriding goal of the Civil Rights Act is thwarted and litigation is encouraged. The already crowded courts are further congested, so that the taxpayer suffers as well."

IMPROVING UNEMPLOYMENT INSURANCE DEBT COLLECTION

● Mr. HEINZ. Mr. President, today I am introducing legislation to provide badly needed reform to the method in which unemployment insurance debt is collected. I am delighted to be joined in this effort by the distinguished Senator from Ohio, Senator Glenn, my colleague from Pennsylvania, Senator Specter and my friend from West Virginia, Senator Rockefeller.

Our legislation is based entirely on fairness—States should not pay more than they owe to the Federal Government, and should not be placed at a competitive disadvantage with the rest of the Nation.

The need for this legislation is clear. During the recession of 1979 through 1983, States borrowed heavily from the Federal unemployment insurance trust fund in order to meet the demand for unemployment compensation. The amount of money involved is sizeable: Pennsylvania owes approximately $550 million as of today; as of November 30, 1986, the following States had outstanding debt to the U.I. trust fund:

Outstanding debt

State:	*Million*
Illinois	$889
Louisiana	737
Michigan	1,120
North Dakota	1
Ohio	472
Texas	245
West Virginia	215
Wisconsin	127

Each year, on November 10, the U.S. Department of Labor determines which States have outstanding debt to the Federal trust fund, and assesses a penalty tax. This tax thus increases the rate of taxation of employers in the affected States. The higher rate thus discourages new investment in hard-pressed States, and encourages existing businesses to go elsewhere.

Moreover, the penalty tax rate stays in effect for the entire year regardless of whether or not a State pays off its debt during the year.

Thus, next year the State of Ohio will most likely overpay its debt to the trust fund by $200 million. Pennsylvania will overpay by a similar amount the next year. West Virginia and others will also overpay in future years. This money will build up in State unemployment insurance trust funds needlessly, when instead they could be used to create new jobs, and expand opportunities in States which have been hard pressed by plant closings and job losses. Instead, the additional penalty tax will probably cost these hard-pressed States still more jobs—jobs which they cannot afford to lose.

Our legislation does two things.

It requires the Department of Labor to calculate the penalty tax for a debtor State at the level necessary to pay the debt, and not a penny more.

Second, the bill caps the rate of increase in debtor States which have fiscally sound unemployment insurance trust funds. In 1988 such States would be allowed a cap at 0.1 percent, and a full cap on the increase in 1989. This cap is only allowed in States which have taken no steps to reduce the solvency of their trust funds and have had a positive cash flow in their trust funds for the past 3 years. Thus, only those States which have clearly demonstrated a commitment to repay their debts would be eligible for the cap.

This is not debt-forgiveness. The States will have to pay every penny they owe. The legislation only provides an equitable level of taxation to States which are clearly taking steps to pay off their debts, instead of a punitive level of taxation.

Mr. President, I hope my colleagues will join with Senator Glenn, Senator Specter, Senator Rockefeller and me in moving this legislation quickly through the system, and providing for an equitable system of unemployment insurance debt repayment.

I ask unanimous consent that the bill, and an editorial in support of the legislation, appear at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL LIMITATION OF THE REDUCTION ON THE CREDIT APPLICABLE TO EMPLOYERS IN CERTAIN STATES WHICH HAVE OUTSTANDING LOAN BALANCES.

(a) In General.—Section 3302 of the Federal Unemployment Tax Act is amended by adding at the end thereof the following new subsection:

"(h) Limitation on Credit Reduction for Employers in Certain States.—

"(1) In General.—In the case of a State that meets the requirements of paragraph (2) with respect to taxable year 1987 or paragraph (3) with respect to taxable year 1988, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers subject to the unemployment compensation law of the State for the taxable year shall be reduced by 0.1 percent in case of taxable year 1987 and 0.3 percent in case of taxable year 1988.

"(2) Requirements for partial limitation on reduction.—The requirements of this paragraph are met by any State with respect to taxable year 1987 if—

"(i) as of January 1 of each of the preceding 3 taxable years the State had a balance of outstanding advances made to its unemployment account under title XII of the Social Security Act, and

"(ii) for the cumulative period of the preceding 3 taxable years the amount of employer contributions to the unemployment account of the State exceeded the amount paid out of the account as unemployment benefits.

"(3) Requirements for full limitation on reduction.—The requirements of this paragraph are met by any State with respect to taxable year 1988 if—

"(i) the State met the requirements of paragraph (2) for taxable year 1987,

"(ii) for the period of taxable year 1987 the amount of employer contributions to the unemployment account of the State exceeded the amount paid out of the account as unemployment benefits, and

"(iii) the Secretary of Labor determines (on or before November 10 of such taxable year) that the State satisfies the requirements of subparagraphs (A), (B), and (D) of subsection (f)(2).

"(4) Credit reductions for subsequent years.—If the credit reduction under subsection (c)(2) is limited by reason of paragraph (1) of this subsection for taxable year 1987 or 1988, for purposes of applying subsection (c)(2) to a subsequent taxable year (in which paragraph (1) does not apply), the taxable year for which the credit reduction is limited (and January 1 thereof) shall not be taken into account.

SEC. 2. SPECIAL RULE FOR LIMIT ON TOTAL CREDITS IN CERTAIN STATES WITH OUTSTANDING LOAN BALANCES.

(a) In General.—Section 3302(c) of the Federal Unemployment Tax Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding paragraph (2), if the Secretary of Labor determines on or before November 10 of a taxable year that the reduction in credits otherwise applicable to taxpayers of a State under paragraph (2) would result in the payment of additional taxes by taxpayers in the State in an amount that exceeds the balance (as of such date) of the outstanding advances made to the unemployment account of a State under title XII of the Social Security Act, the amount of reduction in total credits for taxpayers in such State for such taxable year shall be determined in accordance with subparagraph (B).

"(B) The total credits (after applying subsections (a), (b), and (c)(1) otherwise allowable under this section with respect to employers in a State to which subparagraph (A) applies for a taxable year shall be reduced by an amount that bears the same ratio to 100 as the balance (as of November 10 of such taxable year) of outstanding advances made to the unemployment account of the State bears to the total amount of wages (as defined in section 3306(b)) paid by employers during such taxable year which are attributable to such State.".

(b) Application.—The amendment made by this section shall apply with respect to any taxable year beginning on or after January 1, 1987.

Heinz Cut Penalty

While business and labor groups consider ways of avoiding payment of a $272 million penalty on borrowed unemployment compensation funds, U.S. Sen. John Heinz had proposed a solution of his own.

He plans to introduce legislation that would limit the penalty, rate, thereby reducing the penalty dollar amount. The state has been borrowing federal funds to finance benefits for jobless workers during the 1970s and 1980s. The debt, which once totaled $3 billion, will be paid off by 1989. The Casey administration wants to develop a method of paying the $591 million still owed in time to avoid having to pay the penalty. A one-time special tax is under consideration to complete the repayment by Nov. 10, 1988.

Heinz claims that Pennsylvania has already paid a price through plant closings and unemployment, and should not have to pay an excessive penalty on the debt. In a bit of fiscal sleight of hand, he would cut the penalty rate from 1.5 percent to 1.3 percent and direct the U.S. Labor Department to recalculate the final 1989 payment so the penalty tax does not exceed the amount actually owed.

Because of the debt, a Pennsylvania business pays $84 more per worker than a New Jersey business, Heinz noted. If his bill is approved, state businesses would save about $14 a worker in 1988 and $28 in 1989. But without the change, he said, business investment will be inhibited and companies already in the state will be at a disadvantage with those in other states.

The goal of both Heinz and the Casey administration is the improvement of Pennsylvania's business climate through lesser taxes. Heinz's plan has the advantage of changing the rules so that the debt may be paid off without a final penalty. It deserves serious consideration in both Harrisburg and Washington.●

By Mr. ARMSTRONG (for himself and Mr. Wirth):

S. 1255. A bill to provide for the accelerated repayment of the Grand Valley Project, and for other purposes; to the Committee on Energy and Natural Resources.

GRAND VALLEY POWERPLANT

● Mr. ARMSTRONG. Mr. President, today, on behalf of myself and Mr. Wirth, I am introducing legislation which will allow the Grand Valley Reclamation Project near Grand Junction, CO to eventually be acquired by the Grand Valley Water Users Association and the Orchard Mesa Irrigation District.

The Grand Valley Reclamation Project was built by the Bureau of Reclamation in 1923. The canal and diversion works of the project were built to accommodate power development. In 1931, a powerplant was built without Federal funds by the Public Service Co. of Colorado. However, because the plant was built on project lands under Federal authorization, the United States holds title to the powerplant. Despite the United States holding title to the powerplant, no Federal funds have been spent on the powerplant, and none will be. In addition, income from the powerplant has enabled water users to make accelerated debt repayment to the Federal Government for the Grand Valley Reclamation Project.

The 25-year contract of the Bureau of Reclamation with the Grand Valley Water Users Association, the Orchard Mesa Irrigation District and Public Service for operation of the project expired in January 1986. Currently, the parties are operating under a temporary 2-year contract which expires December 31, 1987.

This legislation will authorize a new contract not to exceed 25 years. It is similar to two previous pieces of legislation in 1931 and 1960 authorizing contracts among the parties in that it provides water users to lease the powerplant for the production and sale of hydroelectric power, and allows accelerated repayment of obligations to the United States. In addition, this legislation will provide that, once Federal loans for the building and rehabilitation of the Grand Valley Reclamation Project are repaid, title to the project, or any part thereof, including the powerplant, may be conveyed to Grand Valley Water Users Association and Orchard Mesa Irrigation District, the water users.

All parties to the new contract, including the Bureau, support this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the expiration of the contract between the United States, the Grand Valley Water Users Association (Association) and Orchard Mesa Irrigation District (District) (hereinafter jointly referred to as the Water Users), and the Public Service Company of Colorado, dated April 30, 1987, the Water Users, with the approval of the Secretary of the Interior, are authorized to enter into a contract or contracts for a cumulative total period of not to exceed twenty-five years for the sale or development of any power or power privileges under the Grand Valley Reclamation Project: *Provided,* That such sale or development of power or power privileges shall be without expenditure of funds by the United States.

Any such contract or contracts shall provide, among other things, that annual net power revenues shall be applied to the remaining indebtedness of the Association and the District to the United States in the following order and manner:

(1) such revenues shall be credited first to the final payments due in the oldest remaining contracts obligating repayment to the United States by each of the Water Users until such contracts have been repaid and then to the final payments due in the next oldest contracts until all such payments have been made under those and all successive existing contracts: *Provided,* That the District or the Association, as the case may be, shall continue to be liable for the annual payments due under each such contract in each year, until full repayment is made on all existing contracts; and

(2) thereafter, net power revenues shall be applied in accordance with the Act of December 5, 1924 (section 4, subsection I, 43 U.S.C. 501), as limited by the Act of July 1, 1946 (16 U.S.C. 825t): *Provided, however,* That any surplus net revenues not required for operation, maintenance, or replacement of the Grand Valley Reclamation Project irrigation or power facilities shall be paid into the Treasury of the United States as "miscellaneous receipts.".

Sec. 2. The Secretary of the Interior is authorized, upon reaching agreement with the Water Users and upon receipt of the final payment due under the applicable existing contracts, or any amendment or modification thereto, to the United States from the Water Users, or either of them, to convey some or all right, title, and interest of the United States in the corresponding portions, or all, of the Grand Valley Reclamation Project to the Water Users or either of them, or their successors in interest.●

By Mr. CHILES (for himself, Mr. Boren, Mr. DeConcini, Mr. Evans, Mr. Graham, Mr. Hollings, Mr. Moynihan, Mr. Nunn, and Mr. Wilson):

S. 1256. A bill to amend the Internal Revenue Code of 1986 to provide for the reimbursement to State and local law enforcement agencies of costs incurred in investigations which substantially contribute to the recovery of Federal taxes; to the Committee on Finance.

REIMBURSEMENT OF COSTS FOR INVESTIGATIONS RESULTING IN THE RECOVERY OF FEDERAL TAXES

● Mr. CHILES. Mr. President, our law enforcement officials need all the help they can get to fight the drug dealers who infest our neighborhoods.

These dealers often find ways to break our tax laws as they make millions from their illegal drug enterprises.

I want to help our police fight them on both accounts.

Nationwide, our law enforcement officials have been quite successful in pursuing drug traffickers, exposing them for prosecution and at the same time making it possible for IRS to recoup substantial dollars for the Federal Treasury.

Mr. President, the aim of this legislation is very simple. It would amend the Internal Revenue Code to allow reimbursement to State and local law enforcement authorities for the costs they incur while investigating drug offenses which contribute to the recovery of Federal taxes.

In my own State, the Florida Department of Law Enforcement has been a willing—and successful—ally of the Federal Government. They have pursued drug traffickers, tracked them down, exposed them for prosecution, and, at the same time, made it possible for the IRS to recoup substantial sources of revenue for the Federal Treasury.

But while States like Florida do so much of the field work, they do not even get back their investigative costs. As a result, the financial benefits accrue to the Federal Government, but the States suffer from a drain on their resources.

My proposal amends the Internal Revenue Code to provide for the recoupment of investigative expenses incurred by local law enforcement agencies when those agencies provide information to the IRS which substantially contributes to the recovery of Federal taxes. The amount reimbursed shall not exceed 10 percent of the sum ultimately recovered.

Reimbursement of investigative expenses as provided for in this bill in no way reduces IRS recoveries since such expenses would be paid from revenues not otherwise forthcoming without local law enforcement assistance. In fact, IRS recoveries are likely to increase since reimbursement would result in an increase in resources available to continue and perhaps expand the scope of these complex investigations.

State and local law enforcement departments routinely work in conjunction with Federal agencies such as the Bureau of Alcohol, Tobacco and Firearms, the Drug Enforcement Administration, and the IRS. These cooperative efforts range from the informal sharing of intelligence or investigative information to formal task force agreements.

Because targeted crime organizations often purchase property or other assets, or attempt to disguise profits and income from illegal sources, the IRS is frequently interested in information developed during the course of local or State investigations. In many instances, the major investigative expenses are borne by State agencies while the large money settlements belong to the Federal Government.

Often the greatest value of additional investigative effort is in the area of the tax impact for criminal activity. Understandably, local and State law enforcement agents are reluctant to devote their time and effort in developing information for the IRS since they will receive no compensation from the collected taxes to reimburse the expenses incurred.

Investigating the financial or economic aspect of criminal activity is time consuming, expensive, and is a task requiring investigative expertise. State and local agencies often leave such investigations undone. Frequently, the information obtained does not result in additional criminal charges or does not result in increased incarceration time for the subject, so local interest is limited. Therefore, to agencies with limited personnel and finances, the investigation of the financial dimension of a criminal operation is not worth the effort.

In States such as Florida or Washington, for example, where there is no income tax, the local interest in developing a tax evasion dimension of a case is limited. In California, where designer drug labs have flourished in recent years, efforts to investigate their financial illegalities have received little attention. These labs have no tangible assets to seize and interest in pursuing a possible tax case is minimal. Financial dimension investigations may develop significant information regarding Federal tax evasion or fraud charges but do not develop corresponding State charges. As a result, financial investigative efforts by local investigators may frequently be cut short because the end result is not worth the additional local effort.

There remains a desire, however, to "hit the criminal where it hurts"—in the pocketbook. The proposed legislation provides a guarantee to local and State law enforcement agencies of reimbursement for the expenses incurred in developing the financial dimension of criminal activity. If implemented, the proposal will allow local and State law enforcement agencies to devote efforts to trace funds and build the case—for local or Federal prosecution and for IRS collection activity. The additional effort would be valuable to local law enforcement because additional State charges might develop and in the least there would be a good chance of IRS investigation.

At a time when Federal revenues are falling short of needs, such a proposal could help generate additional revenue because it would provide the needed incentive to identify unreported or underreported revenues and allow the IRS to collect the funds. Since reimbursement to State and local agencies is paid only from that which is collected, and is capped at 10 percent of the collected tax amounts, the proposal has the dual effect of helping to deny criminals the benefits of their activity and to provide Federal revenues. The proposal provides a guarantee of reimbursement. This will serve as an incentive to local and State law enforcement agencies to expand their investigative efforts to include the financial dimension. The only loser in the proposal is the criminal.

Mr. President, I think law enforcement should be able to benefit from these successes by sharing in the tax recoveries. They can then use these funds to go after more druggers. During this time when revenues are tight, this is the kind of creative action we must take to fight drug dealers.

We'll take his drugs;
We'll take his money; and
We'll share it with those who helped.

It's the American way.

I would hope that my colleagues will join me in supporting this practical measure.●

● Mr. MOYNIHAN. Mr. President, I rise today to join my colleague from Florida, Senator CHILES, in introducing a bill which will enhance State and local drug enforcement efforts. I am sure most of my colleagues will recall the great fanfare with which the Congress passed the $1.7 billion Anti-Drug Abuse Act of 1986 in the 99th Congress. I was personally involved in drafting sections of this law as a member of the Democratic Task Force on Drug Abuse. At the time, some questioned whether this legislation was a one-time quick fix or whether it was indicative of a long-term commitment to fighting drug abuse on all fronts.

Today's action confirms that we are indeed committed to this fight. We are showing that we recognize the crucial role that State and local law enforcement agencies play in the efforts to stop illegal drug trafficking in this country. This bill will create the necessary incentives and resources for our law enforcement officers to conduct investigations which may lead to the recovery of Federal taxes.

The provisions of the bill are really quite simple: Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes, that agency will be reimbursed by the IRS for costs incurred in the course of the investigation. Reimbursement would not exceed 10 percent of the recovered amount.

When more than one State or local agency supplies information that leads to the recovery of Federal revenues, then the IRS would divide up to 10 percent of the money among the various organizations.

The amount of revenue generated by drug sales in this country is astounding. In 1985, over $50 billion in revenues was generated from the sale of marijuana, cocaine, and heroin, and $7 billion of this amount was profit. Those that violated our drug laws—and turn our children into drug addicts—made $7 billion in profit in 1985.

How do these drug kings shelter their money? Through money laundering, the process whereby money is hidden from government officials and "washed" clean by financial institutions. To recover this revenue takes time—and money. It is up to all government officials, Federal, State, and local, to assist in these efforts.

However, under current law, many of the major expenses of such efforts must be borne by the States and localities undertaking them. Partial reimbursement of these expenses would increase the ability and incentives to undertake such investigations. This bill will create additional incentives to undertake them. In doing so, we can retrieve some of the profit being made through these illegal transactions.

I ask my colleagues to give this bill their serious consideration. We must keep the momentum going in our war against drugs. This is one way to do it. ●

By Mr. KERRY:

S. 1257. A bill to reaffirm national housing policy, to increase efforts to maintain and preserve existing housing stock for low- and moderate-income families, to assist States in establishing housing partnerships, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOUSING PRESERVATION ACT

● Mr. KERRY. Mr. President, today I introduce legislation on the critical issue of housing. There is no issue more important to the quality of the lives of our people, of our families, and our future than the issue of providing affordable and decent housing for all Americans.

This legislation does not constitute the full measure of what we ought to be doing in this country on housing, because housing is a long-term problem, and it requires a long-term solution. But it is a step.

This Nation historically has made a commitment to decent housing for all Americans. Since World War II, that commitment has been codified in law, and we have moved closer to making that dream a reality. But in the last 6 years we have fallen behind in many ways.

After World War II, as our veterans came home from overseas, and began their families and their new careers, this Nation entered a new and exciting era of economic expansion. In that post-war period, this Nation recognized the need for adequate housing and, therefore, made a fundamental commitment to the American people—that we would make the dream of decent and affordable housing a reality for all Americans. We made a commitment that no American should be without adequate shelter—that in the richest nation on Earth, and the greatest democracy, decent housing should be a fundamental right for every American. That was our commitment then, and that is still our commitment today.

That dream was codified in the Housing Act of 1949, which established as national policy the goal of providing "a decent home and suitable living environment for every American." And that promise has been reiterated in every single housing act passed by the Congress since that date.

But, in order for that dream, that promise, to become a reality, it requires a continuing commitment from the Federal Government, without it, the dream dies—the promise becomes a fraud. And that is what this administration has engaged in over the past 6 years.

The reality is that the crisis in decent, affordable housing affects not only low-income families, but the elderly, the young family trying to buy their first home, and middle-income families as well. The housing crisis affects all Americans—and it is a crisis which cannot wait any longer for a solution.

Never in American history since World War II has any bedrock principle of American domestic policy been dealt such a severe blow as our housing policy has suffered under this administration. In the past 6 years, we have gone from a $33 billion annual Federal commitment to housing, to less than $9 billion, a cut of more than two-thirds. Under this administration, we have seen a massive disinvestment in housing, unprecedented in American history. We are paying the price today for that policy—and our children will pay an even greater price in the future.

In the last 6 years, funds for housing on the Federal level have been slashed by more than 65 percent, more than all other social programs combined. At the same time, the stock of affordable housing has continued to decline. The vacancy rates in economically prosperous areas of my State, like Boston, Worcester, Springfield, and virtually every other city and town in the Commonwealth, have fallen to new lows. Lower income people simply cannot find places to live—and when housing can be found, families often pay more than half of their income just for rent, often in conditions which are unsafe and overcrowded.

It is wrong that working families should be so strapped by housing costs that they must choose between decent housing in a good neighborhood, and education, food, and health care. That is simply not acceptable in the richest nation on Earth.

While there were over 8 million low income renters in 1985, there were less than 4 million units of affordable housing for those renters. There is simply not enough housing available in this country for those who need it.

Public housing fills a very critical gap in the housing market, where the limited resources of the poor, the near-poor, and the elderly collide with the upward spiral of the cost of housing. Public housing currently provides homes for more than 3 million people, with waiting lists reaching astronomical figures. There is no higher priority for this country or more urgent than that of creating affordable housing for all of those who are in need.

This administration's neglect and lack of commitment to housing can be summed up really by one incident. When President Reagan encountered Secretary of HUD Samuel Pierce at a conference of mayors a few years ago, he put out his hand and said, "How are you, Mr. Mayor?". He did not even recognize his own Secretary of Housing and Urban Development. That says it all about this administration's commitment to housing.

It is ironic that the housing crisis is felt most acutely in those areas, like Massachusetts, which are experiencing healthy economic growth. That growth is directly threatened by the labor shortages that result from the lack of affordable housing, and the production cost escalation when companies try to compensate workers for their high-cost housing.

In Boston, for example, the mean cost of a house is now $165,000. What does that mean to a young couple who are struggling to buy a first home—to share in that American dream? It means in too many cases that they are simply priced out of the market—and shut out of that dream.

A city with a shortage of affordable housing, with marginal transportation systems, a city where young couples cannot afford to buy homes, where people cannot live near their jobs, is a city which cannot continue to grow. And a city which cannot grow is a city which is slowly starting to die—in economic terms, and in human terms. That is the process which this administration's policies have set in motion. And that is what we have to change.

The fabric of social life is changing in this country. Increasingly, we see two-wage earner families—young couples who are starting careers and starting families—moving away from the cities, and into the suburbs, not because they want to, but because the housing market forces them to do so. Naturally, the jobs are moving to the suburbs as well. That places a strain on cities.

Increasingly, we see the development of new urban areas surrounding the core cities. First-time homebuyers cannot find affordable housing near these jobs—because they need to live so far away that transportation becomes an expensive and time-consuming process. That is not a healthy development for our cities. And it is not a healthy development for the American family.

In dozens of cities in Massachusetts and elsewhere, waiting lists for public housing are growing longer and longer. And while the stock of public housing is deteriorating, the quality of life in those public housing projects is threatened as well.

As we learned long ago there is a vital link between the quality of housing in this country and the quality of life. It will literally be impossible for us as a Nation to achieve the social goals we have set—universal education and literacy, a drug-free America, and a strengthening of the family unit—without recognizing the central and vital role that decent and affordable housing must play in that process.

Without decent housing, we cannot have a decent America—and we cannot have a healthy economy which can continue to grow. It's that simple.

The American people spoke on November 4. They said that they were not satisfied with policies which say that the role of the Federal Government is to do nothing. They said that they wanted to see a Congress which will take action—to reduce the deficit, to promote economic growth, and to take care of those who have been forgotten by this administration in the past 6 years.

This year, we passed a housing bill in the U.S. Senate. We are going to have a reauthorization of the Housing Act, and we are going to see a housing initiative coming from the U.S. Senate. I look forward to joining my colleagues in that effort. The legislation I am introducing today is a step in that effort. And, in a Democratic Senate, we are going to see a renewal of this Nation's commitment to decent and affordable housing for all Americans.

This bill reaffirms our national commitment to adequate, affordable housing for all Americans, and to support private home ownership.

It increases our efforts to maintain and preserve existing housing stock for low- and moderate-income families. It consolidates existing housing stock which has been constructed with direct or indirect support from the Federal Government.

It assists States in establishing housing partnerships, and would make the Boston and Massachusetts Housing Partnerships a model for the Nation. It provides support for joint efforts by cities, organized labor, nonprofit groups, and private developers.

It provides for full funding of public housing modernization and rehabilitation, to bring that stock up to top capacity within 6 years.

It helps rehabilitate dilapidated housing units, and use surplus urban lands to build new homes for low- and moderate-income people.

It proposes changes in the tax code which will encourage construction of low- and moderate-income rental units, and keep those existing 221(d)(3) and 236 units in that category wherever possible.

It encourages new initiatives, particularly the establishment of a Federal program administered by HUD to implement State and local programs, like the Boston and Massachusetts Housing Partnerships.

And it provides Federal funds to rehabilitate entrances to public housing units in order to prevent the sale and use of drugs on those premises. I believe this initiative will help drive the junkies and the drug pushers out of public housing.

Will it cost money? Yes, it will cost some money. The nationwide pilot program I am proposing would cost about $250 million a year for 2 years. And the bill would provide $3 to $4 billion a year for 6 years, for public housing. But that is a very small amount to invest in housing, when you consider the drop in Federal spending on housing in this administration.

The partnership which I am proposing assists with initiatives for housing construction at a time when Federal budget deficits and fiscal realities preclude the possibility of massive new Federal spending.

Cities like Boston have struggled to meet the increased needs for affordable housing during this time of Federal cutbacks. In Boston, we are fortunate to have an extensive network of community-based development organizations, labor unions, and a private sector interested in responding to those needs.

These groups have worked successfully, both individually and jointly through the Massachusetts Housing Partnership, which has brought these three sectors together to rehabilitate 700 units of vacant and deteriorating housing in its first project. Another successful model of partnership involves the Boston Bricklayers Union, which is developing affordable homeownership opportunities on city-owned vacant land.

Successful Federal housing policy requires that Federal programs respond to what is working successfully at the local and State level. It is time that we look at the partnership opportunities on the Federal level, with an eye toward changing Federal policy to be more supportive of partnership initiatives.

The Federal Government can also be more supportive of local initiatives in a number of other ways. Inventorying and making available surplus Federal property for affordable housing is one such strategy. Continuing and expanding our commitment to public housing, to increase low- and moderate-income rental housing, and meeting the needs of the homeless are all top priorities.

The legislation I introduce addresses these needs. I hope that it will be a step toward putting housing back at the top of the Federal agenda where it belongs.

Fifty years ago, in his second inaugural address, Franklin D. Roosevelt said "I see one-third of a nation ill-housed, ill-clad, and ill-nourished." In the past 6 years of this administration, we have taken a long step backward toward those days of deprivation and inequality.

But the strength of the domestic system in Amercia is that, ultimately, the wisdom and common sense of the American people must prevail. And the American people have shown once again that they want to see a Government that cares about people. They want to see a Government that takes an active role in providing decent housing for all Americans. And they want to see a Congress that, once again, strives to translate America's dreams into American's reality.

That is the challenge that lies ahead of us in the 100th Congress. We must bring about a renewal of the Federal commitment to decent housing for all Americans. And we must translate that commitment into legislative action.

The American home is not just a shelter, a source of capital, or a piece of real estate. The Amercian home is the focal point of American values. It represents not just where we live, but who we are. And our commitment to housing represents the kind of society we are, and the kind of people we are.

America has always been a nation of dreams. A fundamental part of the American dream has always been a decent home for every American family. That dream has been deferred, but it must never be allowed to die. Let us keep faith with our national commitment to decent housing for all Americans. In the coming year, let us renew that commitment. And together, let us keep the American dream alive.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this Act may be cited as the "Housing Preservation Act of 1987".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) every American has a fundamental right to shelter, and the right to rent or buy affordable, decent, safe, and sanitary housing has been a Federal responsibility for 50 years;

(2) the Nation faces a turning point in meeting the need for shelter in the wake of limited resources as demonstrated by the increasing rolls of homeless persons, growing waiting lists for public housing, limits on the use of vouchers and other rental assistance and curtailment of development of assisted housing in recent years;

(3) despite these needs, the national objective of providing affordable, decent, safe, and sanitary housing must remain uncompromised;

(4) cooperative public private partnership models have been successful at the State and local level in generating the development of affordable low- and moderate-income housing; and

(5) although most public housing is decent shelter in satisfactory environments, the Nation must—

(A) reconstruct and preserve its existing stock of low- and moderate-income housing built and supported by public funds or tax benefits as well as provide full funding for public housing operating subsidy and modernization funding; and

(B) promote the preservation of multifamily housing for low-income persons through adjustments to the tax laws designed to encourage the construction of low-income housing and maintain support for existing programs to protect and expand the private low- and moderate-income rental stock which faces the twin dangers of loss through deterioration and through unrestricted rents from prepayment.

(b) The purposes of this Act, therefore, are—

(1) to recommit the Nation to the goal of guaranteeing the right of every person to affordable, decent, safe, and sanitary housing for every person;

(2) to provide needed housing assistance for low- and moderate-income persons;

(3) to rehabilitate and utilize to maximum capacity the existing stock of low- and moderate-income housing; and

(4) to encourage the adoption of national legislation to foster partnerships between the Federal Government and State and local governments for the development of low- and moderate-income housing.

TITLE I—PRESERVATION OF EXISTING HOUSING

PRESERVATION AND IMPROVEMENT OF EXISTING SUBSIDIZED HOUSING STOCK

Sec. 101. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following:

"(8) During each of the 6 fiscal years beginning on and after October 1, 1987, the Secretary is authorized to reserve authority to enter into obligations pursuant to section 14 in an amount sufficient to assure that by October 1, 1992, all public housing meets current HUD modernization standards under such section.".

(b) It is the intent of Congress that available housing which is subject to a mortgage under section 221(d)(3) or section 236 should, subject to the terms contained in such mortgages and to the maximum extent practicable, remain available for occupancy by families of low and moderate income. For the purpose of the preceding sentence, the Secretary of Housing and Urban Development shall assure, wherever practicable, available assistance in any area is given on a priority basis to current tenants of such housing.

(c)(1) There is established a Commission on Low-Income Housing which shall consist of—

(A) five members appointed by the Majority Leader of the Senate;

(B) five members appointed by the Speaker of the House of Representatives; and

(C) five members appointed by the Secretary of Housing and Urban Development.

(2) Members of the Commission shall be especially qualified by virtue of education, training, or experience to do the work of the Commission.

(3) The Commission shall carry out a study of and shall report to the Congress not later than 6 months after the date of enactment of this Act on proposals for maintaining the availability of units in projects assisted under section 221(d)(3) and section 236 of the National Housing Act and section 515 of the Housing Act of 1949 for occupancy by lower-income families.

(d) Notwithstanding any other provision of law, any amounts of budget authority that become available as a result of the prepayment of mortgages insured under section 221(d)(3) or 236 of the National Housing Act or made under section 515 of the Housing Act of 1949 and any amounts prepaid on mortgages and loans held by the Secretary of Housing and Urban Development or the Secretary of Agriculture (including any amount of interest reduction payments or other subsidies recaptured) shall be held in a separate account in the Treasury of the United States to be used for housing for low- and moderate-income families.

NEW HOUSING INITIATIVES

Sec. 102. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following:

"(9) Of the funds available under this section for operation and modernization of public housing, the Secretary is authorized to set aside such funds as may be appropriate for the provision of adequate security forces to prevent the illegal sale and use of controlled substances in public housing common areas.".

(b) The Secretary of Housing and Urban Development is authorized to enter into a contract with one or more professional associations or associations of builders or public housing officials in order to conduct research into the development of improved design features for public housing in order to minimize the accessibility to such housing of nonresidents who do engage in or are likely to engage in the illegal sale or use of controlled substances on such property. To carry out the provisions of this subsection the Secretary is authorized to use funds made available pursuant to title V of the Housing and Urban Development Act of 1970.

(c) The Secretary of Housing and Urban Development shall conduct a study and report to the Congress not later than 120 days after the date of enactment of this Act on the feasibility of utilizing surplus Federal land and property for the development of low- and moderate-income housing either under existing Federal programs or under State and local programs for the development of such housing. In preparing such report, the Secretary shall consider the transfer of such land to units of State and local government and to private nonprofit organizations at an appropriate below cost level.

AMENDMENTS RELATING TO LOW-INCOME HOUSING AND REHABILITATION CREDITS

Sec. 103. (a) Income Test for Low-Income Housing Credit May Be Based on State Median Income.—Subparagraphs (A) and (B) of section 42(g)(1) of the Internal Revenue Code of 1986 (defining qualified low-income housing project) are amended to read as follows:

"(A) 20-50 test.—The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of the greater of—

"(i) area median income, or

"(ii) State median income.

"(B) 40-60 test.—The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of the greater of—

"(i) area median income, or

"(ii) State median income.".

(b) Interests In Low-Income Housing and Rehabilitation Project Not Treated As Passive Activities.—

(1) In general.—Section 469(c) of the Internal Revenue Code of 1986 (defining passive activity) is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by adding after paragraph (3) the following new paragraph:

"(4) Low-income housing and rehabilitation.—

"(A) In general.—For purposes of this section, the term 'passive activity' does not include any interest in—

"(i) any qualified low-income building (within the meaning of section 42(c)(2)), or

"(ii) any qualified rehabilitated building (within the meaning of section 48(g)(11)).

"(B) Income in subsequent years.—If any taxpayer has any loss or credit for any taxable year from an interest described in clause (i) or (ii) of subparagraph (A) which is not treated as a passive activity loss or credit by reason of subparagraph (A), then any net income from such property (or any property the basis of which is determined in whole or in part by reference to the basis of such property) for any succeeding taxable year shall be treated as income of the taxpayer which is not from a passive activity.".

(2) Conforming amendments.—

(A) Section 469(c)(5) (as redesignated by paragraph (1)) is amended to read as follows:

"(5) Material participation not required for paragraphs (2), (3), and (4).—Paragraphs (2), (3), and (4) shall be applied without regard to whether or not the taxpayer materially participates in the activity.".

(B) Paragraph (3) of section 469(i) (relating to phase-out exemption) is amended—

(i) by striking out subparagraphs (B) and (C), and

(ii) by redesignating subparagraph (D) as subparagraph (B).

(C) Subparagraph (A) of section 469(i)(5) (relating to married individuals filing separately) is amended—

(i) by inserting "and" at the end of clause (i),

(ii) by striking out the comma and "and" at the end of clause (ii) and inserting in lieu thereof a period, and

(iii) by striking out clause (iii).

(D) Paragraph (6) of section 469(i) (relating to active participation) is amended—

(i) by striking out subparagraph (B), and

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(E) Section 502 of the Tax Reform Act of 1986 (relating to transitional rule for low-income housing) is hereby repealed.

(c) Effective Date.—The amendments made by this section shall take effect as if included in provisions of (and amendments made by) the Tax Reform Act of 1986.

EXCLUSION OF GAIN FROM DISPOSITION OF USE RESTRICTED QUALIFIED LOW-INCOME HOUSING PROJECT

Sec. 104. (a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. EXCLUSION OF GAIN FROM DISPOSITION OF USE RESTRICTED LOW-INCOME HOUSING PROJECT.

"(a) In General.—If a taxpayer other than a corporation has a qualified low-income housing net capital gain for the taxable year, there shall be excluded from gross income an amount equal to the percentage of such gain (not in excess of 90 percent) certified by the Secretary of Housing and Urban Development as excludable from gross income under this section.

"(b) Qualified Low-Income Housing Net Capital Gain.—For purposes of this section—

"(1) In general.—The term 'qualified low-income housing net capital gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain or loss in connection with a qualified disposition of a qualified low-income housing project.

"(2) QUALIFIED DISPOSITION.—The term 'qualified disposition' means a disposition by the taxpayer of a qualified low-income housing project if—

"(A) such disposition is made to a tenant organization, a nonprofit organization (within the meaning of section 1039(b)(2)), or a unit of State or local government, and

"(B) the organization or governmental unit acquiring such low-income housing project enters into an agreement with the Secretary of Housing and Urban Development specifying—

"(i) that such low-income project shall continue to be used as a low-income housing project (within the meaning of section 42(g)) for a period of 15 years or more from the date of such acquisition, and

"(ii) such other terms and restrictions as the Secretary of Housing and Urban Development may require.

"(3) QUALIFIED LOW-INCOME HOUSING PROJECT.—The term 'qualified low-income housing project' means a housing project which—

"(A) during the 5-year period ending on the date of the qualified disposition—

"(i) has qualified as a federally assisted project within the meaning of section 42(d)(6)(B), and

"(ii) has qualified as a low-income housing project as defined in section 42(g)(1);

"(B) has been held by the taxpayer for the 5-year period preceding such disposition; and

"(C) has been identified by a State or local government as needed to meet the low-income housing requirements of such State or locality.

"(c) RELATED PARTY DISPOSITIONS PROHIBITED.—No exclusion under subsection (a) shall be allowed with respect to any disposition of a low-income housing project directly or indirectly between related persons (as defined in section 42(d)(2)(D)(iii)(II)).

"(d) REGULATIONS.—The Secretary shall, after consultation with the Secretary of Housing and Urban Development, prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section including regulations which—

"(1) specify standards for determining the extent to which a taxpayer may qualify for an exclusion,

"(2) specify standards for determining the percentage of gain to be excluded, and

"(3) provide standards for determining if a continuing need exists for the low-income housing being disposed of.".

(b) TREATMENT AS A PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS.—In the case of a taxpayer other than a corporation, an amount equal to the amount excluded from gross income for the taxable year determined under section 135.".

(c) CONFORMING AMENDMENTS.—

(1) Section 163(d)(4) of such Code (defining net investment income) is amended by adding at the end thereof the following new subparagraph:

"(F) NET CAPITAL GAINS EXCLUDED FROM GROSS INCOME.—The net gain described in subparagraph (B)(ii) shall be reduced by the amount excluded from gross income under section 135.".

(2) Section 170(e)(1) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "long-term capital gain" the second place it appears and inserting in lieu thereof "taken into account in computing qualified low-income housing net capital gain (within the meaning of section 135)".

(3) Paragraph (2) of section 172(d) of such Code (relating to modifications with respect to net operating loss deduction is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion for qualified low-income housing net capital gain provided by section 135 shall not be allowed."

(4)(A) Section 223 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 223. CROSS REFERENCES.

"(1) For exclusion from gross income of qualified low-income housing net capital gain in the case of a taxpayer other than a corporation, see section 135.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out "reference" in the item relating to section 223 and inserting in lieu thereof "references".

(5) Paragraph (4) of section 691(c) of such Code (relating to deduction for estate tax) is amended by striking out "For purposes of sections 1(j), 1201, and 1211" and inserting in lieu thereof "For purposes of sections 1(j), 1201, 1211, and 57(a)(8)".

(6) Paragraph (2) of section 871(a) of such Code (relating to income not connected with United States business) is amended by striking out the period at the end of the second sentence and inserting in lieu thereof "and such gains and losses shall be determined without regard to section 135 (relating to exclusion for qualified low-income housing net capital gain).".

(7) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"Sec. 135. Exclusion of gain from disposition of use restricted qualified low-income housing.

"Sec. 136. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made in taxable years beginning after the date of enactment of this Act.

TITLE II—HOUSING PARTNERSHIPS

HOUSING PARTNERSHIP DEMONSTRATION PROGRAM

SEC. 201. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to carry out a housing partnership demonstration program in accordance with the provisions of this title.

PURPOSE

SEC. 202. The purpose of the housing partnership demonstration program shall be—

(1) to establish State and local housing partnerships to combine the efforts and resources of the public to develop and implement initiatives and strategies to address the need for affordable housing, particularly for lower income families;

(2) to make funds available to States and to units of local government through the State partnerships to carry out activities that increase the supply of affordable housing for lower income families; and

(3) to retain wherever practicable the existing supply of housing and to enhance its affordability.

TYPES OF ASSISTANCE

SEC. 203. (a) The Secretary shall, in carrying out the demonstration under this title—

(1) make grants to States to assist in the establishment of State housing partnership programs, including grants to carry out feasibility studies and to finance technical assistance;

(2) make grants for use by units of general local government for the establishment of local housing partnership programs, subject to appropriate requirements to assure that maximum local efforts and resources are and will continue to be committed to the development of affordable housing;

(3) provide funds for the demonstration of programs creating initiatives in new housing construction (including community based nonprofit groups) to build permanent low-income housing and specialized housing for persons with special needs; and

(4) assist State and local housing partnerships—

(A) in reclaiming abandoned vacant property for the development and preservation of housing through targeted support programs;

(B) in establishing new funding vehicles for the development and preservation of housing; and

(C) in supporting tenant initiatives in the purchase of properties, particularly through the development of tenant cooperatives.

(b) Grants under subsection (a) may be made—

(1) to local housing partnerships that were in existence on the date of enactment of this Act;

(2) to State housing partnerships or other entities designated by States for the purpose of establishing State housing partnerships; and

(3) to local housing partnerships established after the date of enactment of this Act, with the approval of the State housing partnership.

GRANT PROCEDURES

SEC. 204. (a) To receive assistance under this title, a State or unit of local government shall submit to the Secretary of Housing and Urban Development an application (1) describing the housing partnership it has created or will create and the activities it intends to carry out, and (2) containing such other information as the Secretary may prescribe to assure that all partnership programs assisted under this Act are consistent with the purposes of the demonstration.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register final regulations to carry out this title.

AUTHORIZATION

SEC. 205. To carry out the demonstration program authorized by this title, there are authorized to be appropriated not to exceed $250,000,000 for fiscal year 1988, and not to exceed $250,000,000 for fiscal year 1989. Of such amounts, not to exceed $50,000,000 each year shall be available for the establishment of State programs.●

By Mr. BUMPERS (for himself and Mr. Pryor):

S. 1258. A bill to direct the Secretary of the Army to lease certain lands at Fort Chaffee, AR, to the city of Barling for use by the city for the construction of a waste treatment facility, and for other purposes; to the Committee on Armed Services.

LEASING OF CERTAIN LANDS ON FORT CHAFFEE TO THE CITY OF BARLING, AR

● Mr. BUMPERS. Mr. President, I am introducing today a bill along with my distinguished colleague from Arkansas, Senator David Pryor, to require the U.S. Army to allow the city of Barling to lease a portion of land on Fort Chaffee, AR, to the city of Barling, AR. This legislation is absolutely necessary for the city of Barling to construct and operate a long-awaited waste treatment facility, and I see no reason at this time for the Army to refuse this lease.

I offered legislation on this issue during the 99th Congress—S. 2357—and this bill is in part identical to that legislation. I say "in part" because a new section has been added to address the concerns of the Army expressed in a report on this matter as required by Senate Report 99-331. The report was wholly lacking in its analysis of all the options available to Barling, and concluded that the Army would not allow Barling access to either land or facilities on Fort Chaffee.

Officials of the city of Barling submitted a thorough rebuttal of the Army report which illuminated many factual and analytical errors in the Army report. I intend to share this report with the Armed Services Committee, and I believe members of that committee will agree that the Army did not fully address the issue.

The legislation we are introducing today gives the Secretary of the Army a clear choice: either lease the land on Fort Chaffee that has been identified as suitable, or allow Barling to build onto the existing lagoon at Fort Chaffee and share all of the costs associated with this option. In giving the Army a choice, we see no reason why the Army should refuse to accommodate the legitimate needs of the people of Barling.

The facts in this case are simple. The city of Barling, population 3,761, is completely surrounded by Fort Chaffee, the city of Fort Smith, and U.S. Corps of Engineers land along the Arkansas River. The corps land is unsuitable for the stated purpose, and the necessary size of parcel, soil composition, elevation, and many other Environmental Protection Agency and local health department requirements make it possible to construct a waste treatment facility inside the corporate limits of Barling or Fort Smith. All other possibilities have been exhausted, so there is no other place for Barling to construct such a facility except on Fort Chaffee land. The Army has consistently refused to negotiate a lease with the city of Barling.

Barling does not want something for nothing. They have offered to pay the going rate—$1,600 per year for 320 acres. The lease called for in section 1 of this bill would last 55 years, and would cover the northeast quarter and the northwest quarter of section 34, township 8 north, range 31 west. The city does not expect title or mineral rights to the land, nor do they expect to have exclusive use. Also necessary is a 40-foot wide strip of land from the above described 320 acres to allow an outfall easement from the northern line of the leased tract to the Arkansas River. The bill allows the Army to charge the city up to $1,600 per year.

Section 2 of the bill fully compensates the Army for any costs incurred in the use of the existing Fort Chaffee lagoon. It also includes a provision to allow the Army to lease the land on which a new or expanded treatment facility next to the present Fort Chaffee lagoon would occupy at the rate proscribed in section 1. The bill leaves the choice to the Secretary of the Army.

I would prefer to have this problem worked out voluntarily, but the Army, without sufficient justification in my judgment, has refused. The city of Barling simply has no other alternatives for a waste treatment facility. Now the city of Barling is willing to go the extra mile and give the Secretary of the Army a clear choice by which to minimize the inconvenience that may be caused to the Army at Fort Chaffee as a result of the Barling lease.

Mr. President, I urge the adoption of this legislation at the first possible opportunity.●

By Mr. BUMPERS:

S. 1259. A bill to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes; to the Committee on Energy and Natural Resources.

ACCESS ACROSS CERTAIN FEDERAL LANDS IN BUFFALO NATIONAL RIVER PARK, AR

● Mr. BUMPERS. Mr. President, today I am introducing legislation which would direct the Secretary of the Interior to permit access across a very small portion of the Buffalo National River Park in the State of Arkansas to a single private landowner living outside the boundaries of the park. This same piece of legislation was approved by the Senate late in the 99th Congress, but was not considered by the House of Representatives.

This bill would resolve a dispute about a roadway that runs 450 feet across a portion of the Buffalo National River Park. Eddie and Beverly Jones live in a home on lands adjacent to the park and must travel several miles around the park boundary along a very rough, steep road to reach their home. This road is often impassable during the spring due to heavy rains and during the winter because of ice and snow. The Jones simply would like the right to use 450 feet of roadway in the Buffalo National River Park for access to their home.

The legislation I am introducing today would direct the National Park Service to permit access to the Jones property across the Buffalo National River Park subject to such regulations as the Secretary determines necessary so as not to unnecessarily diminish the scenic, historic, or other values for which the park unit was established. This access would be for the private, noncommercial use of Mr. and Mrs. Jones and their family and is not intended to be a general access road through the national river.

The owners of the private residential property will be required to pay an annual fee to the Secretary of the Interior for the privilege of access across park lands. The fee will be set by the Secretary at a fair and reasonable amount and may not exceed $100 per year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Notwithstanding any other provision of law, the Secretary of the Interior shall permit access across the Buffalo National River (hereinafter referred to as "the park") to certain privately owned lands outside the park boundary along a route known locally as the "Old Springtown Road" as depicted on a map entitled "Old Springtown Road Access", dated April, 1987 and available for inspection in the Office of the Superintendent, Buffalo National River.

(b) The Secretary shall permit such access across the park solely for the purpose of providing to the owners reasonable ingress and egress to the private residential property depicted on the map referenced in subsection (a).

(c) The Secretary shall promulgate such regulations as he deems necessary to ensure that such access does not unreasonably diminish the scenic, historic, and other values for which the park was established.

(d)(1) The owners of the private residential property identified in subsection (c) shall pay an annual fee to the Secretary of the Interior for the access provided pursuant to this Act.

(2) Any fee collected shall be fair and reasonable and shall be in an amount necessary to cover the administrative costs associated with granting of such access, including the issuance of annual permits: *Provided,* That in no event shall the fee collected pursuant to this subsection exceed $100 per annum.●

By Mr. BUMPERS (for himself, Mr. Rockefeller, Mr. Reid, Mr. Wirth, Mr. Garn, Mr.

BINGAMAN, Mr. HECHT, Mr. METZENBAUM, Mr. BAUCUS, Mr. DECONCINI, and Mr. WILSON):

S. 1260. A bill entitled the "Federal Land Exchange Facilitation Act of 1987"; to the Committee on Energy and Natural Resources.

FEDERAL LAND EXCHANGE FACILITATION ACT

● Mr. BUMPERS. Mr. President, today I am introducing for myself and 10 cosponsors, legislation which would greatly streamline the land exchange procedures of the Forest Service and the Bureau of Land Management. This bill is identical to legislation introduced in the House earlier this year and is very similar to a measure that passed the House overwhelmingly last Congress.

The Forest Service and BLM enter into land exchanges with other Federal, as well as non-Federal landowners for many reasons. These exchanges often provide benefits to both parties as well as the public. In times of limited Federal funds for land acquisition, these exchanges have taken on special importance for Federal land managers and landowners alike.

A recently released GAO report found that from 1982 through 1985, the BLM and the Forest Service completed 706 land exchanges involving over 1.1 million non-Federal and 900,000 Federal acres. The GAO also found that an average Forest Service exchange took about 19 months while it took almost 41 months to complete all the steps in a BLM exchange.

The legislation I am introducing today would greatly enhance the efficiency of the procedures the BLM and Forest Service now follow to carry out land exchanges. Among other things, it would require the promulgation of new regulations governing land exchanges, which are to be as uniform as possible from agency to agency; it allows the use of a short-form appraisal for the exchange of small tracts; and it provides for the arbitration of land appraisal disputes if agreement on value cannot be reached within 6 months.

Mr. President, this legislation has broad-based and bipartisan support. Organizations as different as the National Forest Products Association and the Sierra Club are supporting this bill and I hope to begin work on it in the near future.

I would ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Exchange Facilitation Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolidation for both Federal and State land managers and private landowners;

(3) the Federal Land Policy and Management Act of 1976 and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedures and expedite exchange timetables.

(b) PURPOSES.—The purposes of this Act are to—

(1) facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards but which also reflect any differences between appraisals of lands and interests being considered for acquisition by the Federal Government and appraisals of lands and interests being considered for transfer out of Federal ownership;

(B) establishing procedures and timetables for the arbitration of appraisal disputes; and

(C) providing to the Secretary having jurisdiction over the Federal land involved unified surveying and other authority for land exchanges; and

(2) providing sufficient resources to the Secretaries of the Interior and Agriculture to ensure that land exchange activities can proceed consistent with the public interest.

SEC. 3. LAND EXCHANGES AND APPRAISALS.

(a) FLMPA AMENDMENTS.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) is hereby amended by adding the following new subsections:

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations providing that, unless it is mutually agreed otherwise prior to the expiration of ninety days after entering an agreement to initiate an exchange of land or interest therein pursuant to this Act or other applicable law, no later than ninety days after entering into such an agreement the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (g) of this section.

"(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

"(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to terminate the exchange. A decision to terminate the exchange may be made by either the Secretary concerned or the other party or parties involved.

"(4) After submission of an appraisal or appraisals for review by the Secretary concerned but prior to submission of an appraisal or appraisals to arbitration pursuant to paragraph (2) of this subsection, if both the Secretary concerned and the other party or parties involved in an exchange determine it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, they may mutually agree to employ a process of bargaining or some other process (instead of arbitration) to determine the values of the properties involved in the exchange, or they may mutually agree to suspend or modify any of the following:

"(A) The arbitration requirements of this subsection.

"(B) The deadlines for submission of an appraisal to arbitration.

"(C) The deadline for determinations subsequent to completion of an arbitration.

"(e) Notwithstanding any other provision of law, and unless the Secretary or Secretaries involved in an exchange of land or interests therein pursuant to this Act or other applicable law agree otherwise, the Secretary having jurisdiction over Federal land which would be included in such exchange is henceforth authorized to and shall have the responsibility to perform all necessary land surveys. All surveys shall be in accordance with the manual of surveying instruction of the Secretary of the Interior in effect at the time of survey and shall be filed with the Secretary of the Interior.

"(f) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or title to be issued for land or interests therein to be acquired by the Federal Government and lands or interests therein to be transferred out of Federal ownership shall be issued simultaneously.

"(g)(1) Within one year of the enactment of subsections (d) through (j) of this section, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to the Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (j) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

"(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Aquisitions: *Provided, however,* That the provisions of such rules and regulations shall—

"(A) ensure that appraisal standards henceforth cover both the acquisition and disposal of land by the Federal Government and adequately reflect any differences involved between appraising lands or interests therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

"(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

"(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

"(ii) also permit the Secretary concerned, where he determines it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values assigned to properties involved in an exchange in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

"As used in this subparagraph, the term 'costs or other responsibilities or requirements' shall include, but not be limited to, costs or other responsibilities or requirements associated with land surveys and appraisals, mineral examinations, title searches, archaeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes.

"(h) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (g) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the date of enactment of such subsections, the time deadlines and other provisions of subsections (d) through (j) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

"(i)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of lands or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

"(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

"(B) the Secretary concerned finds in accordance with the regulations to be promulgated pursuant to subsection (g) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a certification by a qualified appraiser; and

"(C) the definition of and procedure for determining 'approximately equal value' has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

"(2) As used in this subsection, the term 'approximately equal value' shall have the same meaning as it does in the Act of January 22, 1983 (commonly known as the 'Small Tracts Act').

"(j) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this subsection shall be subject to valid existing rights as of the date of such segregation.".

(b) CONFORMING AMENDMENT.—The first sentence of section 206(b) (43 U.S.C. 1716(b)) of the Federal Land Policy and Management Act of 1976 is hereby amended by inserting the word "concerned" after the words "the Secretary".

SEC. 4. LAND EXCHANGE FUNDING AUTHORIZATION.

In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed $4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy and Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.

SEC. 5. SAVINGS CLAUSE.

Nothing in this Act shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92-203, as amended) or the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts.

SEC. 6. NFMA AMENDMENT.

Section 17(b) of the National Forest Management Act of 1976 is hereby amended by deleting "$25,000" and inserting in lieu thereof "$250,000".

SEC. 7. ADDITIONAL AMENDMENTS.

The Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) is hereby amended as follows:

(a) The words "national forest lands" are hereby deleted wherever they occur, and the words "National Forest System lands" are inserted in lieu thereof.

(b) The words "a national forest" are hereby deleted in the first paragraph, and the words "a unit of the National Forest System" are inserted in lieu thereof.

(c) The following sentence is hereby added at the end of the second paragraph: "Lands interchanged under the authority of this Act shall be deemed to include interests in lands.".●

By Mr. DURENBERGER:

S. 1262. A bill to amend the Internal Revenue Code of 1954 to modify the definition of a farmer for purposes of the capital gains preference item for the individual minimum tax; to the Committee on Finance.

MODIFICATION OF THE DEFINITION OF FARMER FOR CERTAIN TAX PURPOSES

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would relieve some of our Nation's hardest pressed farmers from minimum tax liability when they have to sell or deed assets to a lender in order to reduce their farm debt.

In 1985, as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA], Congress amended the Tax Code to provide that an insolvent farmer who transferred his appreciated farm property to a third party under threat of foreclosure, would not be required to treat the capital gain on the transfer as an item of preference under the minimum tax. Under section 13208 of COBRA, the only individuals covered under this provision are people who received 50 percent or more of their average annual gross income from farming in the previous 3 years.

The legislation I am introducing today would expand the number of farmers eligible to take advantage of the provision adopted in COBRA so as to include farmers who received 50 percent or more of their average annual income from farming in 5 or more of the preceding 10 years.

I am offering this legislation because it has come to my attention that there are some farm families who cannot take advantage of this provision because, through no fault of their own, they tried unsuccessfully to work with their lenders to salvage some portion of their farm property instead of liquidating their entire property in a single year. These families cannot take advantage of the capital gain exclusion included in COBRA because they do not qualify under the 3-year farming rule.

Let me give you an example of the problem my bill seeks to address. In 1982, economic conditions in the agriculture community forced a farmer to end his farming operation. This farmer held an auction sale in 1982 and sold some of his real estate in 1983. This farmer tried to maintain some of his real property by selling some of his property on a contract for deed and maintaining some real estate in his own name. He intended to service the debt on the remaining real estate with contract payments and rents.

However, the depression in rural America over the past 7 years made it impossible for this citizen to survive under this arrangement. By 1986, the value of his real estate continued to plunge. The purchaser of the contract property defaulted and the rental payments decreased to the point that they could no longer service the remaining debt.

Since the owner of the property could not sell his real estate for an amount that would pay off his real estate debt, he was forced to deed the property over to the lender in exchange for retaining his building site and homestead. However, since the property owner had not been engaged in the business of farming since 1982, the capital gain on the transfer of the property does not come within the purview of the exemption included in section 13208 of COBRA.

Mr. President, the family described in this example is typical of many citizens in rural America. They have tried to hang on to some semblance of their way of life in the face of extraordinary odds. And some have just not been able to succeed. To penalize these citizens because they failed to dispose of their entire farming operation in a single year seems totally unfair and inconsistent with the spirit and purpose of section 13208.

This legislation addresses this problem by expanding the category of individuals eligible to claim the benefit of section 13208 by defining a farmer as a person who has received 50 percent or more of their average annual income from farming in 5 or more of the preceding 10 years.

I ask unanimous consent that the text of this legislation be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 57(a)(9)(E)(vii) of the Internal Revenue Code of 1954 (relating to definition of farmer) is amended by striking out "the 3 preceding taxable years" and inserting in lieu thereof "5 or more of the preceding taxable years in the period of 10 consecutive preceding taxable years".

(b) The amendment made by this section shall apply to transfers or sales or exchanges made after December 31, 1981, in taxable years ending after such date.●

By Mr. DURENBERGER:

S. 1263. A bill to amend the Internal Revenue Code of 1986 to treat church self-funded death benefit plans as life insurance contracts; to the Committee on Finance.

TAX TREATMENT OF CHURCH SELF-FUNDED DEATH BENEFIT PLANS

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would treat church self-funded death benefit plans as life insurance contracts for purposes of the Tax Code. This legislation is needed because section 7702 of the Internal Revenue Code, which was added by the Deficit Reduction Act of 1984, has raised a question as to whether benefits provided through church death benefit plans maintained through church pension boards are excludable from income under section 101(a) of the Code.

In adopting section 7702, Congress provided a statutory definition of "life insurance contract" because Congress was concerned about the proliferation of investment-oriented commercial life insurance products and other insurance-related tax shelters. In reviewing the legislative history of this section, I can find no hint that the longstanding employer-funded death benefit programs of the Nation's churches were the intended target of section 7702.

Because church death benefit programs are pure insurance and contain no investment or cash value element, they meet the section 7702 cash value accumulation test and the guideline/premium cash value corridor test. However, section 7702 also requires that an insurance contract must qualify as such under applicable—State or foreign—law. Thus, this provision requires that since church ministers and lay workers reside in all 50 States, the law of each State must be examined to determine if the church's death benefit program is treated as a life insurance contract under applicable law.

In some States, it is clear that church death benefit programs qualify as life insurance contracts. In other States, the law is not clear or is adverse. As a result of the under the applicable law requirement, there will surely be nonuniformity in the tax treatment of the proceeds payable from such programs.

Mr. President, the Federal tax treatment of church self-funded death benefit plans should be uniform and certain and should not turn on the vagaries of various State laws, producing different results—even with respect to the same program—depending upon the State where the insured or beneficiary happens to reside.

I can discern no policy goal that would justify taxing the death benefit proceeds provided by church death benefit plans funded through church pension boards. These programs have never been the subject of abuse and clearly have not been and are not used to shelter otherwise taxable investment income.

If this legislation is not adopted, it is clear that the proceeds of some church death benefit programs will be subjected to taxation. Several church denominations will be forced to consider dismantling their present programs and replacing them with commercially insured arrangements.

I see no purpose in forcing churches to enter into more costly commercial insurance arrangements. It is far from certain that commercial insurers would provide similar levels and types of coverage as are now provided by the church plans. And in some cases, affordable life insurance may just not be available for certain high-risk groups, such as missionaries, teachers, and medics serving in Central America and the Third World.

I ask unanimous consent that the text of this legislation be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE CONTRACTS.

(a) In General.—Section 7702 of the Internal Revenue Code of 1986 (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Treatment of Certain Church-Provided Plans.—

"(1) In general.—Notwithstanding any other provision of this section, for purposes of this title, the term 'life insurance contract' includes a plan or arrangement which provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, but only if such plan or arrangement—

"(A) is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii), and

"(B) satisfies the requirements of this section without regard to the requirement of subsections (a) and (g)(3) that such plan or arrangement be a life insurance contract under the applicable law.

A plan or arrangement treated as a life insurance contract under this paragraph shall be treated as a life insurance policy under section 79.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CHURCH.—The term 'church' means a church or a convention or association of churches.

"(B) EMPLOYEE.—The term 'employee' includes an employee described in section 414(e)(3)(B).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984.●

By Mr. SANFORD (for himself, Mr. PRYOR, Mr. SASSER, Mr. FOWLER, and Mr. TRIBLE):

S. 1264. A bill entitled the "Hostile Foreign Takeover Moratorium Act"; to the Committee on Banking, Housing, and Urban Affairs.

HOSTILE FOREIGN TAKEOVER MORATORIUM ACT

Mr. SANFORD. Mr. President, together with my colleagues, Senators PRYOR, SASSER, and FOWLER, I am today introducing the Hostile Foreign Takeover Moratorium Act. The act responds to a growing wave of hostile takeovers of American corporations through tender offers by foreign corporations, financed almost entirely by debt. These takeovers are pernicious and must be halted, at least temporarily, while we act to restore integrity to the securities markets and order to corporate America. While we will begin work soon in the Banking Committee on major reforms to our takeover laws, we must act now, to put a moratorium in place before important parts of our domestic economy are taken over by others.

FALSE PROMISES OF HOSTILE TAKEOVER

The wreckage left behind by the growing wave of debt-financed hostile tender offers is all around us. Corporate raiders use sophisticated takeover practices to put companies in play and reap the profits from the resulting volatility. If their tender offers succeed, the target company often is left with literal mountains of debt. If they fail, the raiders often resell their stock at handsome profits, having contributed nothing to the economy or the corporation in return.

Perhaps the most appalling part of this spectacle occurs when the hostile takeover is successful. In such cases, the corporate raider taps the assets of the corporation he acquires to pay off the huge debts he has incurred and often sells off whole divisions of the corporation. Plants are closed. Workers are laid off, and the remaining workers might find their salaries or pensions cut. Communities dependent on those jobs are weakened. New investment in plant and equipment is scaled back or eliminated entirely. Research and development, vital to restoring America's competitiveness as an industrial power, is limited. In the end, a once robust, competitive firm is reduced to a shell of its former self, vulnerable to sudden economic shock and to foreign and domestic competition.

THE THREAT FROM FOREIGN HOSTILE TAKEOVERS

This harm is only compounded when the hostile takeover involves foreign business interests. Foreign participation in these hostile takeovers poses a number of threats to American industry and our economy. First, many American companies are struggling bravely to compete effectively with foreign firms that often enjoy protected home markets. Now, those struggling American firms must also fight a rear guard action, to protect themselves from hostile takeovers by their foreign competitors. The cost of these protective steps only diminish competitiveness.

If the takeover by a foreign competitor is successful, the impact can reach far beyond the two firms involved into the pocketbooks of every American. such mergers can cause increased concentration of markets leading to lessened competition, lower output, and high prices. We all pay the cost when American firms lose markets to foreign firms.

Perhaps the most alarming problem posed by hostile foreign takeovers is the shift of productive resources, especially jobs, that occurs when a foreign company takes over an American firm. These foreign firms have no inhibitions about shifting jobs and manufacturing resources from American plants to their foreign operations, especially in industries where, for many reasons, excess capacity exists. It is unfortunate when one set of American workers loses its jobs in a takeover to another group of Americans; it is nothing short of tragic when those jobs leave this country for good. In such cases, the size of our domestic economy actually shrinks, job for job, plant for plant, dollar for dollar, as those resources go overseas. Experience teaches us they are not likely to return.

Jobs are lost not only in the blue-collar, production side of the assembly line, either. Management positions and critical positions in research and development are eliminated or filled by foreigners. Vital positions needed to train the next generation of American entrepreneurs and technical innovators thus evaporate.

A CASE STUDY—BURLINGTON INDUSTRIES

These problems are not just idle speculations. They are real and they are happening with growing frequency all across America right now, even as we speak. In my home State, Burlington Industries, our largest employer and an important and dynamic firm that contributes mightily to the Nation's economy is fighting for its life and the lives of the communities that depend on it. It is facing a vicious battle to stave off a hostile tender offer made by Dominion Textile, Inc., a Canadian firm, and American corporate raiders. The Burlington story is a clear example of the harm that will occur all across this country, if we do not act now to halt these debt-financed hostile tender offers by foreign firms.

The attack on Burlington demonstrates the harm such a bid can cause to even the strongest firms. Burlington, the Nation's largest textile maker, is known as an industry leader, able and willing to compete with any firm, foreign or domestic. Burlington employs almost 40,000 people nationwide. Over the last 10 years, Burlington has spent more than $2 billion to modernize its plants and arm itself to compete with a flood of cheap imports. According to one news report, the $125 million spent on modernization last year by Burlington represented one-quarter of the entire amount spent by publicly held textile companies in this country. This is precisely the kind of investment, which puts the long-term health of a business ahead of short-term profits, that American industry needs to regain its competitive preeminence. It is exactly the sort of investment that Congress has sought to encourage. It would be a disgrace if, as its reward for this farsighted strategy, firms like Burlington are sacrificed. We cannot send that sort of signal to American industry.

Nor can we allow firms like Burlington, which have a long history of commitment to the local community, to be taken over. From its earliest time, Burlington has been a vital part of the communities in which its plants are located.

Its contributions to North Carolina alone deserve our support:

Burlington has made major contributions to education. "Burlington Industries has been one of the key industries in the State helping to train principals," according to the North Carolina State Superintendent of Public Instruction. The superintendent of schools in Hoke County has noted that Burlington provided personal computers to the junior high school mathematics department, and over 15 years ago initiated a model vocational textile program there. Over the last 2 years, Burlington contributed about $10 million to North Carolina's colleges and universities.

In 1986-87, Burlington and its employees contributed more than $562,000 to the United Way. Since 1944, Burlington and the foundation it started has distributed almost $80 million to worthy causes across the Nation.

At a time of great racial unrest, Burlington took bold steps to reduce tensions. When one city closed its municipal swimming pools to avoid integration, J. Spencer Love, the founder of Burlington, arranged to have one pool reopened. "He was determined that black kids would have swimming even if the rest of the city didn't," David Morehead, former executive director of the Hayes Taylor YMCA, stated in a recent news report. Mr. Morehead added, "It would be a tremendous loss if we didn't have Burlington. I love that company."

That kind of community support is not unique to Burlington. It is reflected across this Nation, a tribute to the public mindedness of American businesses, large and small. Hostile foreign takeovers directly threaten that vital relationship. It is time that we, as representatives of the people, act to halt these takeovers, at least until comprehensive legislation to halt the worst abuses can be worked out.

THE HOSTILE FOREIGN TAKEOVER MORATORIUM ACT

That is why I have introduced the Hostile Foreign Takeover Moratorium Act today. The act recognizes that firms like Burlington, which compete vigorously, innovate boldly, and support their communities, are too valuable to be lost to corporate raiders, foreign or domestic.

The Hostile Foreign Takeover Moratorium Act attacks these harmful developments. The act establishes a temporary, 6-month moratorium on hostile takeovers of American corporations through tender offers by foreign corporations, if any part of the consideration for the tender offer is financed by a loan, a borrowing, or some other form of debt. The act also bars such takeovers, unless the party making the tender offer has sufficient cash in hand at the commencement of the tender offer to cover the cost of the offer. The act lifts these prohibitions where the tender offer is not hostile and has been recommended and approved by the directors of the American corporation.

The act permits the Securities Exchange Commission to enforce the moratorium in proceedings under section 27 of the Securities Exchange Act of 1934. The provisons of the act apply to any tender offer commenced or to be consummated during the 6 months after the date of introduction of the act.

No one should mistake the purposes of this bill. It is a temporary measure, aimed to preserve the status quo for a limited time, so that Congress can study and act upon proposals to halt the abuses of modern corporate takeover techniques. Nor is it protectionist: Foreign firms are not barred from making investments in American firms, and may even make tender offers to gain control of U.S. firms, if they receive the recommendation and approval of the American firm's board of directors.

SUMMARY

Hostile foreign takeovers that are financed by debt obligations hurt the American economy. They reduce the competitiveness of the target firm, cost jobs, and harm communities. On a national scale, all these effects are magnified. It is time that we take strong, responsible measures to protect the best interests of the American people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Hostile Foreign Takeover Moratorium Act."

SEC. 2. FINDING.

The financing of transactions to acquire control of United States corporations through tender offers and other forms of business acquisitions often involves loans, borrowings or the issuance of debt securities or other obligations, secured directly or indirectly, by the assets of the United States corporations proposed to be acquired, or expected to be paid in substantial part, directly or indirectly, from the sale of the assets of the United States corporations proposed to be acquired, which makes surviving corporations more vulnerable to foreign and domestic competitors, and can result in loss of jobs and massive dislocations to local and regional economies and to the national economy in general.

SEC. 3. TAKEOVERS: PROHIBITIONS.

Section 14 of the Securities and Exchange Act of 1934 is amended by adding at the end thereof a new section:

"(h)(1) Until six months after the date of enactment of this Act, it shall be unlawful to make, continue, or consummate, or acquire shares pursuant to, a tender offer for, or a request or invitation for tenders of, any equity securities by any person who is a foreign person on the date of introduction of this Act—

"(A) if any part of the consideration to be paid for any such equity security pursuant to such tender offer is cash, unless such person has or had in his possession, at the time of the commencement of the tender offer, cash or cash equivalents equal to the aggregate amount of such cash consideration or legally binding commitments in customary form to provide such cash consideration from recognized financial institutions or a combination of the foregoing; or

"(B) if any part of the consideration to be paid for any such equity security pursuant to such tender offer is to be financed by means of a loan, borrowing or issuance or debt securities or other obligation to pay money or money's worth.

"(2) The prohibitions contained in this subsection shall not apply if the acceptance of such offer has been recommended and approved by the directors (or persons performing a similar function) of the person to be acquired by the tender offer.

"(3)(A) 'Foreign person' means any person which is not a citizen of the United States, or any person the ultimate parent of which is owned or controlled by any person which is not a citizen of the United States.

"(B) A person or parent is 'controlled' by another person, if the second person directly or indirectly or acting through one or more other persons (i) holds 25 percent or more of the outstanding voting securities of the person or parent; (ii) holds securities of the person or parent equaling in face value, liquidation preference, book value or market value, whichever is higher, 25 percent or more of the book value of the assets of such person or parent; (iii) has contractural or other power, whether contingent or otherwise, to designate a majority of the directors (or persons having a similar function) of the person or parent; or (iv) has the power to veto, or has the right of prior approval of, material actions or omissions of the person or parent. Without limiting the generality of the foregoing, for purposes of this Act, a partnership shall be deemed to be controlled by each of its general partners, and by any limited partner that has any rights referred to in clause (iv) of this definition.

"(C) 'Person' means any corporation, partnership, limited partnership, syndicate, business trust, association or similar organization, or other group, or any two or more persons acting in concert or in a coordinated or consciously parallel manner (whether or not by express agreement).

"(4) The Commission is authorized to enforce the provisions of this Act in proceedings under Section 27 of the Securities and Exchange Act of 1934.

"(5) This Act shall be effective with respect to any tender offer commenced or to be consummated after the date of introduction of this Act by any person who is a foreign person on the date of introduction of this Act.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 1265. A bill to amend the Public Health Service Act and the Fair Labor Standards Act of 1938 to provide minimum health benefits for all workers in the United States; to the Committee on Labor and Human Resources.

MINIMUM HEALTH BENEFITS FOR ALL WORKERS ACT

● Mr. KENNEDY. Mr. President, I rise to introduce legislation to assure access to essential health care for every working family in America.

The sponsors of this bill share a common sense of urgency—because there is a worsening crisis in the ability of millions of Americans to obtain health care that is adequate for their needs and affordable for their pocketbooks.

According to the annual count of the Census Bureau, 37 million men, women, and children have no health insurance at all. Seventeen million more have health insurance that even the Reagan administration says is inadequate. Since 1980, the number of uninsured Americans has risen by more than 1 million citizens a year. According to a recent study by the Robert Wood Johnson Foundation, 1 million Americans every year are denied health care they seek because they cannot pay, and 14 million more do not even seek the care they need because they know they cannot afford it.

This shocking lack of access to health care has predictable consequences in human terms. Every American without health insurance is an American tragedy waiting to happen—and it can strike anyone at any age in any community.

Infants will die at birth or suffer lifetimes of pain and disability, because their mothers did not receive even minimal prenatal health care. The United States is first in the world in wealth, first in military power—and 16th in infant mortality. No baby in America should die because a mother was forced to choose between a visit to the doctor and food on the table.

Our children are the most precious gift bestowed on any parent. They are America's future, but we are doing far too little to make that future a healthy one. Twelve million American children have no health insurance, and they represent one-third of all Americans who are uninsured. No child in America should be denied the medical care they need to grow and thrive because their parents cannot afford to purchase it for them.

We all know that young parents today face a difficult challenge as they work to establish careers, purchase a home, and provide opportunity for their children. It is simply wrong for a family to find its hopes for the future dashed when serious illness drowns them in a tidal wave of debt.

Middle-aged workers have raised their children, purchased their homes, and built their careers. But the security of half a lifetime can be swept away by a single, serious, uninsured illness.

The vast majority of uninsured Americans are not freeloaders by even the most stringent definition. Almost 70 percent are workers or dependents of workers. Most work hard—40 hours or more a week, 50 weeks a year. But all their hard work does not buy them the access to essential health care that should be the entitlement of every American.

The proposal I am introducing today will require that every working American will have access to at least a minimum package of health insurance coverage. Employers have been required by law since 1938 to pay a minimum wage—and in 1987 it is time to insist that they provide at least minimum health insurance, too.

A minimum benefit package does not mean Cadillac plans or first dollar coverage of health expenses. It does not include many highly desirable benefits. But it does mean basic health insurance coverage of doctors' bills, hospital bills, and diagnostic tests and protection against the financial burden of catastrophic medical expenses.

The plan I am offering today is designed to provide this basic package of benefits in a way that interfaces minimally or not at all with the programs provided by the vast majority of businesses that already do a first-rate job of protecting their workers. It has the following components:

First, it covers all medically necessary hospital care, physician care, diagnostic tests, and prenatal and well-baby care.

Second, it provides catastrophic protection against serious illness. If family exceeds $3,000 in out-of-pocket costs for covered services, any additional costs must be fully paid by the insurance.

Third, it limits deductibles to $250 per person and $500 per family.

Fourth, it limits copayments to 20 percent of the cost of any service.

Fifth, it limits the worker's share to 20 percent of the cost of coverage and requires that the employer cover the full cost of the premium for very low-wage workers.

Sixth, the plan preempts existing State regulation of the content of health insurance. Existing law already preempts State regulation of self-insured plans, which constitute 50 percent of more of the health insurance market in many areas. It makes no sense to have duplicative and contradictory State and Federal regulation of the content of health insurance, particularly when the States are already barred from effective regulation of a large part of health insurance activity.

Finally, the plan includes the concept of actuarial equivalency in order to provide flexibility to employers in designing their plan. This means that a plan that has coverage that is better than the basic coverage can change the basic plan as long as the employer continues to make a contribution to the plan that is at least as valuable as the basic plan. For example, a plan that provided drug coverage could charge higher copayments or deductibles. A plan that had lower copayments for hospital care could charge higher copayments for physician services.

I do not pretend that this is perfect legislation. There may be additional benefits that need to be included consistent with essential needs and the current practices of most businesses currently providing care to their workers. The copayments, deductibles and stop-loss features may need adjustment. The methods proposed in this bill for reducing costs to small businesses need careful scrutiny to see that they in fact do the job in the most effective way possible. But I believe that, whatever adjustments in detail this legislation may require, there can be no convincing argument against the need to assure basic access to essential health care to all American workers and their families. And this legislation will assure that basic access. This will cover more than 24 million of our fellow citizens—two-thirds of all the currently uninsured.

As I talk to groups around the country about this program, people are excited about the opportunity to bring health care to so many Americans who have been left out—but two concerns appear again and again. People are worried about America's competitiveness in the international economic arena and they wonder about the impact the additional costs of the plan might place on small business.

I believe this plan will help, not hurt, American business as it struggles to compete in world markets. Seventy percent of all uninsured American workers are employed in businesses that are not generally involved in international trade competition.

Indeed, the manufacturing firms that are at the cutting edge of international trade competition almost universally insure their workers—and they pay too much today because other firms pay too little.

There is no free lunch in health care or in health insurance. When hospitals provide charity care for someone who cannot pay, that care is not free. It is paid for in the form of higher health care charges to paying patients and higher premiums to firms that provide insurance. Joseph Califano, the former Secretary of Health, Education, and Welfare, and now in charge of containing health care costs for Chrysler Corp., testified before the Labor and Human Resources Committee in January that a minimum health care bill would improve American competitiveness by taking the Nation's charity care burden off of the balance sheets of our internationally competitive business.

It is time to put those costs where they belong—on the shoulders of the minority of businesses that refuse to protect their workers' health. If we succeed in this endeavor, the country as a whole will be a winner, because a healthier America will also be a more competitive America.

What about the needs of the small businesses that have been seedbeds of job creation, innovation, and entrepreneurship? First, we have to set the record straight. Most small businesses already insure their workers. Even in businesses of 25 or less, almost 60 percent of employees work in firms that offer health insurance. In businesses of 100 or less, the proportion rises to almost three-fourths. And one quarter of all uninsured workers are employed not by businesses of 100 or less but 1,000 or more.

It is true that the smallest firms have the largest problems in providing health insurance. Typically their costs for such insurance are excessive. When businesses of 10 or less purchase commercial health insurance, they pay sales, profit, and administrative costs that can go as high as 50 percent of the total premium. By contrast, large firms pay administrative and sales costs of 6 to 8 percent.

And the problem of small business do not end there. The sad fact is that very small businesses cannot purchase adequate insurance for all their workers at any price. For firms this small, insurers insist on what is called medical underwriting. This means that workers who need insurance the most—those with health problems—are excluded from the plan or included only with long waiting periods covering the health conditions for which they are most likely to need insurance. Finally, the tax treatment of small businesses is unfair. When the manager of a large firm purchases health insurance from the business, the premiums paid on his behalf are not subject to taxation. When the owner-operator of an unincorporated small business wants to provide insurance for his workers and participate in the plan, he gets no tax break at all. That just isn't fair.

The plan we are offering today addresses these problems and establishes a program that small business cannot only live with—it can prosper under.

First, our plan establishes a competitive system to select large regional health insurance contractors who will offer a selection of standard plans—including economical preferred provider organizations and health maintenance organizations. The combination of competition and economies of scale can reduce the cost of insurance to small business dramatically, and, in a structured market with universal participation, we can end the pernicious practice of refusing to insure the sickest workers simply because they are sick.

Independent actuaries estimate that this structure can reduce sales and administrative costs for small businesses to 15 percent of total premium—a saving of up to 35 percent over the current system. But the savings do not end there. The actuaries also estimate that well-managed PO's and HMO's particularly those organized on such a large scale, can reduce costs an additional 15 percent.

In addition, our proposal contains two other special features for small business:

Businesses less than 2 years old with less than 10 employees will be permitted to provide only low-cost catastrophic protection for their workers. I recognize that small businesses are shakiest during their initial phases and that minimization of costs during this period is crucial.

I will soon introduce, as companion legislation, a bill to reform the unfair tax treatment of small businesses as well as of the self-employed. This legislation will allow a self-employed businessman with no employees to deduct 80 percent of the cost of his health insurance from his taxable income and it will allow a self-employed owner-operator of an unincorporated business to deduct the same percentage of the premium that he pays for his workers when he participates in the company health plan. The time is long overdue to treat the self-employed businessman as generously as the hired manager of a large corporation.

Well-qualified actuaries estimate the cost of the employer share of the minimum plan I am proposing, when delivered by a well-managed PPO or HMO, at about 40 cents an hour.

It is important to put the cost of this coverage in perspective. The package this bill provides would cost about 12 percent of what an employer is required to provide under the minimum wage. Past minimum wage increases far in excess of 10 percent have produced no significant unemployment increases. In 1949, the minimum wage was increased by 87 percent, and unemployment fell. In 1955, the minimum wage was increased by 33 percent, and unemployment fell. In 1961, the minimum wage was increased by 15 percent, and unemployment fell. The Minimum Wage Study Commission completed a $17 million study of the effects of the minimum wage in 1981, and concluded that the unemployment effects of the minimum wage are negligible. The old charge that providing decent compensation to workers will lead to unemployment is demonstrably false.

As against these specious risks, compare the certain result of this plan—it will provide decent coverage, better health care, protection against financial hardship and peace of mind for tens of millions of Americans.

The plan I have proposed today is a simple one. It creates no burdensome regulations. It requires no massive bureaucracy. It simply extends the current American system of employment-based private health insurance to millions of families that are now unfairly excluded. Unless ideology dominates debate, there is no good reason why the Federal Government should not facilitate access to health insurance by legislation such as this.

I believe there are few experiences in life that can match the emotional and physical burdens imposed by a severe illness in one's family. These unavoidable burdens are severe enough without the added unnecessary trauma of the financial devastation that being uninsured can bring and, even worse, the inability to find essential care that sometimes results. No American family should have to experience these tragic burdens. But today millions of our fellow citizens are vulnerable to just such devastating events.

This legislation will bring them both hope and help, and I urge its prompt consideration and passage in the 100th Congress.

I ask that the text of the bill and a letter from Gordon Trapnell of the Actuarial Research Corp. providing information on the cost of the minimum plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Minimum Health Benefits for All Workers Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Sec. 101. Minimum health benefits for employees and their families.

TITLE II—AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938 AND EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 201. Minimum health benefits for employees and their families.

Sec. 202. Preemption under Employee Retirement Income Security Act of 1974.

TITLE III—REQUIREMENTS FOR HEALTH BENEFIT PLANS FOR EMPLOYEES AND THEIR FAMILIES

PART A—REQUIREMENT AND DEFINITIONS

Sec. 301. Employer requirement to enroll employees in health benefit plans.

Sec. 302. Coverage of family members.

Sec. 303. Definitions.

PART B—REQUIREMENTS FOR HEALTH BENEFIT PLANS

Sec. 311. General requirements; permitting actuarilly equivalent plans.

Sec. 312. Requirements relating to covered items and services.

Sec. 313. Requirements relating to timing of coverage and prohibition of preexisting condition limitations.

Sec. 314. Requirements relating to premiums, deductibles, copayments, coinsurance, and limit on out-of-pocket expenses.

PART C—CERTIFICATION OF REGIONAL INSURERS

Sec. 321. Designation of health insurance regions.

Sec. 322. Periodic certification of regional insurers.

Sec. 323. Requirements of regional insurers.

Sec. 324. Miscellaneous provisions.

PART D—REGULATIONS AND ENFORCEMENT

Sec. 331. Regulations.

Sec. 332. Enforcement

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

Sec. 402. Policy respecting additonal benefits.

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 101. MINIMUM HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES.

(a) REQUIREMENT.—The Public Health Service Act is amended by redesignating title XXIII as title XXIV and by inserting after title XXII the following:

"TITLE XXIII—MINIMUM HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES

"HEALTH BENEFITS

"SEC. 2301. (a) Each employer shall, in accordance with title III of the Minimum Health Service Benefits for All Workers Act of 1987, enroll each of its employees and their families in a health benefit plan.

"(b)(1) An employer which is a State or political subdivision of a State or an agency or instrumentality of a State or political subdivision and which does not enroll each of its employees and their families in a health benefit plan as required by subsection (a) shall not be eligible to receive a grant, contract, loan, or loan guarantee under this Act.

"(2) Any employer which does not enroll each of its employees and their families in a health benefit plan as required by subsection (a) shall be subject to section 332 of the Minimum Health Benefits for All Workers Act of 1987.

"(c) The terms used in this section have the meanings prescribed for them by section 303 of the Minimum Health Benefits for All Workers Act of 1987.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2301 through 2316 of the Public Health Service Act are redesignated as sections 2401 through 2416, respectively.

(2)(A) Sections 217(c), 465(f), and 497 of the Public Health Service Act (42 U.S.C. 218(c), 286(f), 289(f) are each amended by striking out "2301" and inserting in lieu thereof "2401".

(B) Section 305(h) of such Act (42 U.S.C. 242c(h) is amended by striking out "2313" each place it occurs and inserting in lieu thereof "2413".

TITLE II—AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938 AND EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. MINIMUM HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES.

(a) HEALTH BENEFITS.—The Fair Labor Standards Act of 1938 is amended by adding at the end the following:

"TITLE II—MINIMUM HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES

"HEALTH BENEFITS

"SEC. 201. Each employer shall, in accordance with title III of the Minimum Health Benefits for All Workers Act of 1987, enroll each of its employees and their families in a health benefit plan.

"(b) any employer which does not enroll each of its employees and their families in a health benefit plan as required by subsection (a) shall be subject to section 332 of the Minimum Health Benefits for All Workers Act of 1987.

"(c) The terms used in this section have the meanings prescribed for them by section 303 of the Minimum Health Benefits for All Workers Act of 1987.".

(b) CONFORMING AMENDMENTS.—

(1) The Fair Labor Standards Act of 1938 is amended by striking out the first section and inserting in lieu thereof the following:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Fair Labor Standards Act of 1938'.

"TITLE I—WAGES AND HOURS"

(2) The Fair Labor Standards Act of 1938 is amended by striking out "this Act" each place it occurs and inserting in lieu thereof "this title".

SEC. 202. PREEMPTION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(2)) is amended—

(1) in subparagraph (A) by striking "subparagraph (B) and inserting "subparagraphs (B) and (C)", and

(2) by adding at the end the following:

"(C) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any provision of the law of any State to the extent that such provision regulates, or otherwise provides any requirement relating to, contracts or policies of insurance issued to or under a health benefit plan under title III of the Minimum Health Benefits for all Workers Act of 1987.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 3 of such Act (29 U.S.C. 1002(1)) is amended by adding at the end the following new sentence: "Such terms include a health benefit plan under title III of the Minimum Health Benefits for All Workers Act of 1987.".

TITLE III—REQUIREMENTS FOR HEALTH BENEFIT PLANS FOR EMPLOYEES AND THEIR FAMILIES

PART A—REQUIREMENT AND DEFINITIONS

SEC. 301. EMPLOYER REQUIREMENT TO ENROLL EMPLOYEES IN HEALTH BENEFIT PLANS.

(a) IN GENERAL.—The provisions of this title apply to employers required to enroll employees in health benefit plans under section 2301(a) of the Public Health Service Act or under section 201(a) of the Fair Labor Standards Act of 1938.

(b) TYPES OF PLANS PERMITTED.—

(1) IN GENERAL.—Except as required under paragraph (2), an employer may meet the requirement of this title through any health benefit plan.

(2) PROVISION OF HEALTH BENEFIT PLANS THROUGH REGIONAL INSURERS.—

(A) EMPLOYERS REQUIRED TO USE REGIONAL INSURERS.—

(i) EMPLOYERS WITHOUT A HEALTH BENEFIT PLAN.—Except as permitted under subparagraph (B)(ii), each employer, which does not have in effect a health benefit plan on the day before the effective date (as defined in paragraph (3)(A)), must meet the requirement of this title through any health benefit plan of a regional insurer under section 323(a).

(ii) SMALL EMPLOYERS CHANGING PLANS.—Each small employer which—

(I) does have in effect a health benefit plan on the day before the effective date, but

(II) changes the insurer through which the plan is offered or changes the plan from a self-insured plan to a plan of an insurer,

must then meet the requirement of this title through any health benefit plan of a regional insurer under section 323(a).

(B) CONTINUED USE OF REGIONAL INSURERS REQUIRED.—

(i) IN GENERAL.—If an employer meets the requirement of this title through any health benefit plan of a regional insurer under section 323(a), except as permitted under subparagraph (ii), the employer must continue to meet such requirement through such a plan.

(ii) EXCEPTION FOR CERTAIN LARGE EMPLOYERS.—A large employer (other than an employer which was a large employer on the day before the effective date) which meets the requirement of this title through any health benefit plan of a regional insurer under section 323(a) may elect to meet the requirement of this title other than through a health benefit plan of a regional insurer under section 323(a). If such an election is made and so long as the employer remains a large employer, the employer no longer has the right under part C to meet the requirement of this title through any health benefit plan of a regional insurer.

(3) DEFINITION.—In this paragraph (2):

(A) The term "effective date" means January 1 of the second year that begins after the date of the enactment of this Act.

(B) The term "large employer" means an employer that is not a small employer.

(C) The term "small employer" means, with respect to a calendar year, an employer which employs an average number of employees of less than 25. The provisions of section 607(4) of the Employee Retirement Income Security Act of 1974 shall apply in the determination under this subsection of whether an employer is a large or small employer.

SEC. 302. COVERAGE OF FAMILY MEMBERS.

(a) REQUIREMENT.—Except as permitted under subsection (b)—

(1) enrollment of an employee in a health benefit plan under this title includes enrollment of the employee's family in the plan, and

(2) enrollment of the employee or the employee's family in a health benefits plan may not be waived by the employee.

(b) EXCEPTIONS TO AVOID DUPLICATE FAMILY COVERAGE.—

(1) SPOUSE OR PARENT EMPLOYED.—An employee, at the employee's option, may waive enrollment in a health benefit plan under this title for the spouse or a child of the employee but only for such period as the employee demonstrates that such spouse or child, respectively, is actually covered under a health benefit plan because the spouse or the child's other parent, respectively, is also an employee.

(2) CHILD EMPLOYED.—A child who is employed may waive enrollment in a health benefit plan provided by the child's employer during any period in which the child is covered under a health benefit plan under this title due to the employment of the child's parent.

(c) NONDISCRIMINATION.—An employer may not fail or refuse to hire, or may not discharge or otherwise discriminate against, any individual because the individual has a spouse or child and such employer is required under this title to enroll the spouse or child in a health benefit plan.

SEC. 303. DEFINITIONS.

In this title:

(1) The term "child" means an individual who is—

(A) under 18 years of age, or

(B) under 23 years of age and a full-time student.

(2) The term "employee" means, with respect to an employer, an individual who performs 17½ hours of service per week for that employer.

(3) The term "employer" means, with respect to a calendar quarter—

(A) an employer which is required to pay those it employs the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay such wage but for section 13(a) of such Act); and

(B) any State or political subdivision thereof, or any agency or instrumentality thereof.

(4) The terms "family" and "family member" mean, with respect to an employee, the spouse and children of the employee.

(5) The term "health benefit plan" means a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974) which (except for purposes of sections 322(c)(3) and 401(b)) meets the requirements of section 311.

(6) the term "health insurance region" means such a region designated under section 321.

(7) The term "insurer" means an entity qualified under the law of a State to offer insurance or provide health benefits in that State.

(8) the term "nongovernmental employer" refers to an employer not described in paragraph (3)(B).

(9) The term "regional insurer" refers to an insurer certified as a regional insurer under section 322.

(10) The term "Secretary" means the Secretary of Health and Human Services.

(11) The term "State" includes the District of Columbia and, except for purposes of paragraph (7), also includes Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

Part B—Requirements for Health Benefit Plans

SEC. 311. GENERAL REQUIREMENTS; PERMITTING ACTUARIALLY EQUIVALENT PLANS.

(a) General Requirements.—Subject to subsection (b), in order for a health benefit plan to meet the requirements of this part, the plan must—

(1) provide benefits for items and services in accordance with section 312;

(2) provide coverage of employees and family enrolled in the plan in accordance with section 313; and

(3) provide for premiums, deductibles, copayments, and coinsurance only in accordance with section 314.

(b) Actuarially Equivalent Plans Permitted.—

(1) In general.—A health benefit plan also meets the requirements of this part notwithstanding that it—

(A) does not meet the requirement under section 312(a) that the plan provide benefits for the types of care described in paragraphs (1) through (3) of such section, or

(B) does not meet one or more requirements of section 314 (relating to premiums, deductibles, copayments, coinsurance, and limit on out-of-pocket expenses),

if the actuarial benefits under the plan (as defined in paragraph (2)) are not less than the actuarial benefits which would have applied if the plan met the requirements described in subsection (a). Nothing in this paragraph shall be construed as not requiring each plan to meet the requirements of sections 312(a)(4) and 313.

(2) Actuarial benefits.—For purposes of paragraph (1), a plan's "actuarial benefits" are the amount by which the total of the amounts payable as benefits under the plan exceed the amount of the premiums, deductibles, copayments, and coinsurance payable by the employee under the plan, as determined on an actuarial basis per enrollee for a plan year.

SEC. 312. REQUIREMENTS RELATING TO COVERED ITEMS AND SERVICES.

(a) In General.—Except as provided in subsection (b), a health benefit plan must include payment for—

(1) inpatient and outpatient hospital care (other than inpatient or outpatient mental health care);

(2) inpatient and outpatient physician services (other than mental health services);

(3) diagnostic and screening tests; and

(4) prenatal care and well-baby care.

(b) Exception.—Subsection (a) shall not be construed as requiring a plan to include payment for—

(1) items and services which are not medically necessary;

(2) routine physcial examinations or preventive care; or

(3) experimental services and procedures.

(c) Specification of prenatal care and well-baby care.—The Secretary shall be regulation prescribe, and annually revise, a schedule specifying the amount, duration, and scope of prenatal care and well-baby care required under subsection (a)(4). Subsection (b) shall not apply to such care provided in accordance with such schedule.

SEC. 313. REQUIREMENTS RELATING TO TIMING OF COVERAGE AND PROHIBITION OF PREEXISTING CONDITION LIMITATIONS.

(a) Date of Initial Coverage.—In the case of an employee (and family members) enrolled under a health benefit plan provided by an employer, the coverage under the plan must begin not later than the latest of the following:

(1) 30 days after the day on which the employee first performs an hour of service as an employee of that employer.

(2) The first day on which the employer is required to meet the requirements of this title.

(3) In the case of a health benefit plan which—

(A) has been provided by the employer since May 19, 1985, and

(B) is provided by an employer which provides interim coverage under subsection (b),

the earlier of (i) 6 months after the day on which the employee first performs an hour of service as an employee of that employer, or (ii) the date for initiation of coverage under the plan (as in effect on May 19, 1987).

(b) Interim Coverage Requirement.—Subsection (a)(3) shall only apply to an employer if the employer enrolls each employee, during the period the employee would otherwise be covered under a health benefit plan for subsection (a)(3), in an interim plan that would meet the requirements of section 311 except that—

(1) the interim plan requires a premium that on a monthly basis exceeds the premium otherwise permitted under section 314(b), so long as the premium on a monthly basis does not exceed the monthly actuarial rate defined in section 314(b)(1)(B); or

(2) the interim plan requires deductibles and coinsurance that exceed the amounts otherwise permitted under section 314(b) and subparagraphs (A) and (B) of section 314(c)(1), so long as the interim plan meets the requirement of section 314(c)(1)(C) (relating to limitation on out-of-pocket expenses).

(c) Prohibition of Pre-existing Condition Provisions.—A health benefit plan may not exclude or otherwise limit any individual from coverage under the plan on the basis that the individual has (or at any time has had) any disease, disorder, or condition.

SEC. 314. REQUIREMENTS RELATING TO PREMIUMS, DEDUCTIBLES, COPAYMENTS, COINSURANCE, AND LIMIT ON OUT-OF-POCKET EXPENSES.

(a) Enrollee Cost-Sharing Permitted.—A health benefit plan may require an enrollee to pay for premiums, deductibles, and coinsurance amounts for coverage under the plan, but only if the premiums, deductibles, copayments, and coinsurance do not exceed the limitations imposed under this section.

(b) Limitation on Premiums.—

(1) Monthly premium limited to 20 percent of actuarial rate.—

(A) In general.—A health benefit plan may not require an employee to pay a premium—

(i) for coverage for a period of longer than one month, or

(ii) the amount of which on a monthly basis exceeds 20 percent of the monthly actuarial rate defined under subpargraph (B).

(B) Monthly actuarial rate defined.—For purposes of this title, the term "monthly actuarial rate" means, with respect to a health benefit plan in a plan year, the average monthly per enrollee amount which the employer providing the plan estimates, for enrollees under the plan during the year, would be necessary to pay for the total benefits required under the plan (including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin) during the year.

(C) Application on basis of family status.—For purposes of this paragraph, a health benefits plan may provide for the premium to be applied, and the monthly actuarial rate—

(i) to be computed separately for employees without a family and for employees with a family, and

(ii) with respect to employees with a family, to be computed separately (I) for employees who have a spouse and any children, (II) for employees who have a spouse but no children, and (III) for employees who do not have a spouse but have children.

(2) No premium for low income employees.—

(A) In general.—A health benefit plan may not require a premium for an employee whose hourly wage rate is less than the hourly wage rate specified in subparagraph (B).

(B) Hourly rate.—The hourly wage rate specified in this subparagraph for premiums paid in a plan year beginning in—

(i) 1988, is $4.19, or

(ii) a subsequent year, is the hourly wage rate specified in this subpargraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the rate computed under clause (ii) is not a multiple of 1 cent it shall be rounded to the next highest multiple of 1 cent.

(3) Payment of premiums.—An employee enrolled under a health benefit plan is liable for payment of premiums required under that plan in accordance with this subsection.

(c) Limitation on Deductibles.—

(1) In general.—Except as permitted under paragraph (2), a health benefit plan may not provide, for benefits provided in any plan year, for a deductible amount—

(A) which exceeds—

(i) $250, with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, or (ii) $500, with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the plan and to the employee's family; or

(B) for prenatal care or well-baby care described in section 312(a)(4).

(2) WAGE-RELATED DEDUCTIBLE.—A health benefit plan may provide for any other deductible amount instead of the limitations under—

(A) clause (i) of paragraph (1)(A), so long as the amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year, or

(B) clause (ii) of paragraph (1)(A), so long as the amount does not exceed (on an annualized basis) 2 percent of the total wages paid to the employee in the plan year.

(d) LIMITATION ON COPAYMENTS AND COINSURANCE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a health benefit plan may not—

(A) require payment of any copayment or coinsurance for an item or service in an amount that exceeds 20 percent of the cost of the item or service;

(B) require payment of any copayment or coinsurance for prenatal care or well-baby care described in section 312(a)(4); or

(C) require payment of any copayment or coinsurance for items and services required under section 312 furnished in a plan year for an employee after the employee has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in paragraph (4)(B)).

(2) EXCEPTION FOR PREFERRED PROVIDERS.—If a health benefit plan establishes reasonable classifications of participating and nonparticipating providers of items and services, the plan may require payments in excess of the amount permitted under paragraph (1) in the case of items and services furnished by nonparticipating providers.

(3) EXCEPTION FOR IMPROPER UTILIZATION.—A health benefit plan may provide for copayment or coinsurance in excess of the amount permitted under paragraph (1) for any item or service which an individual obtains without complying with any reasonable procedures established by the plan to ensure the efficient and appropriate utilization of covered services.

(4) LIMIT ON OUT-OF-POCKET EXPENSES.—

(A) OUT-OF-POCKET EXPENSES DEFINED.—In this section, the term "out-of-pocket expenses" means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

(B) OUT-OF-POCKET LIMIT DEFINED.—In this section, except as provided in subparagraph (C), the term "out-of-pocket limit" means for a plan year beginning in—

(i) the first calendar year that begins more than 1 year after the date of the enactment of this Act, $3,000, or

(ii) for a subsequent calendar year, the out-of-packet limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the out-of-pocket limit computed under clause (ii) is not a multiple of $10, it should be rounded to the next highest multiple of $10.

(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health benefit plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the employee's family, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

PART C—CERTIFICATION OF REGIONAL INSURERS

SEC. 321. DESIGNATION OF HEALTH INSURANCE REGIONS.

The Secretary shall designate by regulation 6, 7, or 8 health insurance regions for purposes of this part.

SEC. 322. PERIODIC CERTIFICATION OF REGIONAL INSURERS.

(a) COMPETITIVE PROCEDURES.—The Secretary shall establish competitive procedures for the periodic certification of 2, 3, 4, or 5 regional insurers for each health insurance region for a defined period.

(b) APPLICATIONS.—No insurer may be certified as a regional insurer unless it submits to the Secretary an application for such certification in such form and at such time as the Secretary prescribes. Each such application shall include—

(1) specific descriptions of each of the health benefit plans the insurer proposes to offer under section 323(a) as a regional insurer; and

(2) such information needed for the Secretary to consider the items described in subsection (c).

(c) CONSIDERATIONS.—In reviewing applications for certification as regional insurers, the Secretary shall consider, with respect to each applicant—

(1) the price of health benefit plans proposed to be offered by the applicant,

(2) the quality and types of services to be provided under the plans,

(3) the experience of the applicant in providing and managing health benefit plans, and

(4) the financial stability of the applicant.

(d) CERTIFICATION.—Not later than one year after the date of the enactment of this Act, the Secretary shall first certify regional insurers for each health insurance region. The Secretary shall publish in the Federal Register a list of the regional insurers certified under this section. To the extent possible, the Secretary shall certify 5 regional insurers for each region.

(e) EVALUATION AND DECERTIFICATION.—The Secretary shall periodically evaluate the performance of regional insurers under this part. Where the Secretary finds that a regional insurer is not substantially meeting the requirements of this part, the Secretary, after notice and opportunity for a hearing, may terminate the certification of the insurer. In such a case, the Secretary may provided for certification, of another regional insurer for the health insurance region affected.

SEC. 323. REQUIREMENTS OF REGIONAL INSURERS.

(a) PLANS MUST OFFER.—Each regional insurer shall offer, to employers located in its health insurance region—

(1) 2 indemnity plans described in subsection (b)(1)—

(A) one of which provides only the minimum benefits required of a health benefit plan, and

(B) the other which provides benefits typical of the benefits offered under comprehensive health benefit plans offered in the region; and

(2) 2 managed-care plans described in subsection (b)(2)—

(A) one of which provides only the minimum benefits required of a health benefit plan, and

(B) the other which provides benefits typical of the benefits offered under comprehensive health benefit plans offered in the region.

In the case of plans described in paragraph (1)(A) or (2)(A), a regional insurer may provide optional, additional benefits for an additional premium.

(b) PLANS DESCRIBED.—

(1) INDEMNITY PLAN.—An indemnity plan described in this subparagraph is a health benefit plan—

(A) which makes payment with respect to items and services furnished by any provider licensed in the State to provide the items and services if—

(i) the provider is a type of provider covered under the plan;

(ii) the provider is not excluded from receiving payment under the plan on the basis of fraud, abuse, or incompetence (as determined under the rules and procedures of the plan); and

(iii) the plan does not differentiate in payment to providers under the plan based on a contractual arrangement (or lack thereof) between the plan and the provider; and

(B) under which an individual incurs an obligation or makes payment for covered item or service and the plan reimburses the individual or the provider of such services for the amounts payable for such item or service under the plan.

(2) MANAGED-CARE PLAN.—A managed-care plan described in this subparagraph is a health benefit plan under which items or services must generally be furnished either—

(A) by providers having a contractual relationship with the plan, or

(B) providers included on a list specified by the plan which consists of a group of providers in a State which is more restricted than all licensed providers in the State.

(c) COMMUNITY-RATED PREMIUMS.—Subject to section 324(b)(2), each regional insurer shall fix premiums for the plans required under subsection (a) under a community rating system for all employers. An insurer may not set or adjust such premiums based on the age or gender of employees (or their families) or on other factors relating to the projected or acual use of health services under the plan.

SEC. 324. MISCELLANEOUS PROVISIONS.

(a) SUBCONTRACTS.—Each regional insurer may enter into subcontracts with other entities in carrying out this part.

(b) ARRANGEMENTS WITH SMALL BUSINESSES.—

(1) IN GENERAL.—The Secretary shall encourage regional insurers to enter into appropriate arrangements with entities representing groups of small businesses (such as small business service bureaus and chambers of commerce) for the provision of administrative services with respect to small businesses enrolled in plans offered by the insurers.

(2) PREMIUM REDUCTION.—Each such insurer shall reduce the premiums otherwise charged for such plans to such small businesses by an amount which reflects the value of such administrative services.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and enrollment forms to employers required under section 301(b)(2) to provide health benefit plans of regional insurers. In carrying out this subsection, the Secretary shall, to the maximum extent feasible, enter into contracts (to the extent and in such amounts as may be provided in advance in appropriation Acts) with small business service bureaus, chambers of commerce, and other entities with experience in providing health insurance services to small businesses.

PART D—REGULATIONS AND ENFORCEMENT

SEC. 331. REGULATIONS.

Within 6 months after the date of the enactment of this Act, the Secretary shall publish a notice of proposed rule making to carry out this title. Within one year after such date, the Secretary shall promulgate final rules to carry out this title. Such notice and final rules shall be made in accordance with section 553 of title 5, United States Code.

SEC. 332. ENFORCEMENT.

(a) CIVIL MONEY PENALTY AGAINST PRIVATE EMPLOYERS.—

(1) 10 PERCENT OF TOTAL WAGES.—Any nongovernmental employer which does not comply with section 302(c) or the requirements of section 2301(a) of the Public Health Service Act or section 201(a) of the Fair Labor Standards Act of 1938 in any calendar year is subject to a civil penalty of not more than 10 percent of the total amount of the employer's expenditures for wages for employees in that year.

(2) ASSESSMENT PROCEDURE.—A civil money penalty under this subsection shall be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court. The Secretary shall not assess such a penalty on an employer until the employer has been given notice and an opportunity to present its views on such charge.

(3) AMOUNT OF PENALTY.—In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification of noncompliance by the Secretary.

(4) JUDICIAL REVIEW.—In any civil action brought to review the assessment of such a penalty or to collect such a penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of the penalty, unless in a prior action such a trial de novo was held on the assessment.

(b) LIABILITY TO INDIVIDUALS FOR DAMAGES.—Any nongovernmental employer that knowingly does not comply with section 302(c) or the requirements of section 2301(a) of the Public Health Service Act or section 201(a) of the Fair Labor Standards Act of 1938 shall be liable for damages (including health care costs incurred) to the employee or the employee's family resulting from such failure to comply.

(c) STATE INELIGIBILITY FOR PUBLIC HEALTH SERVICE ACT FUNDS.—For a provision making States and political subdivisions thereof ineligible for funds under the Public Health Service Act if they fail to enroll employees under health benefit plans, see section 2301(b)(1) of such Act.

(d) INJUNCTIVE RELIEF.—

(1) IN GENERAL.—Subject to paragraph (3), any individual injured or adversely affected or aggrieved by a violation of the requirements of section 302(c), section 2301(a) of the Public Health Service Act, or section 201(a) of the Fair Labor Standards Act of 1938 may bring an action in an appropriate district court of the United States to enjoin such a violation or to compel compliance with such requirement.

(2) COSTS AND FEES.—In any judicial proceeding under this subsection, the court, in its discretion, may allow the party bringing the action a reasonable attorney's fee as part of costs if the party substantially prevails.

(3) NOTICE.— At least 15 days before the date a party brings an action under this subsection, the party shall give notice by registered mail to the Secretary and the Attorney General. Such notice shall state the nature of the alleged violation and the court in which the action will be brought.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

(a) GENERAL RULE.—This Act, and the amendments made by this Act, shall take effect on January 1 of the second year that begins after the date of the enactment of this Act.

(b) SPECIAL TRANSITION.—In the case of an employer which, on the date of the enactment of this Act, has in effect a health benefit plan, this Act, and the amendments made by this Act, shall not apply until the first day of the second plan year that begins after the date of the enactment of this Act.

SEC. 402. POLICY RESPECTING ADDITIONAL BENEFITS.

(a) IN GENERAL.—After the date of the enactment of this Act, no employer will be required under title III to provide any health benefit in addition to the benefits required to be provided under section 312(a) (as in effect on the date of the enactment of this Act) unless—

(1) such additional health benefit is for a service which State medicaid plans (under title XIX of the Social Security Act) are required to cover for individuals receiving cash assistance under part A of title IV of such Act; and

(2) before the enactment of such requirement, the benefits and costs of requiring the provision of such additional health benefit have been analyzed and considered by the Congress.

(b) CONSIDERATIONS.—(1) In carrying out subsection (a)(2) with respect to the consideration of a proposed additional health benefit, the Congress shall request a report from the Office of Technology Assessment, the Institute of Medicine of the National Academy of Sciences, or a public or nonprofit entity with expertise relating to health benefits. Any such report shall—

(A) analyze and summarize such proposed additional health benefit; and

(B) contain an estimate of the economic and health impacts of such proposed additional health benefit.

(2) Any such report shall be prepared in consultation with interested members of the public and with individuals and entities having expertise with respect to such proposed additional health benefit.

ACTUARIAL RESEARCH CORP.,
Annandale, VA, May 18, 1987.
Senator EDWARD M. KENNEDY,
Hart Senate Building,
Washington, DC.

DEAR SENATOR KENNEDY: We have reviewed your proposal to require employers to provide a minimum package of health insurance coverage to employees and their dependents. Small employers (less than 25 employees) that do not now offer health insurance would be required to join regional pools, through which insurers would offer competing options. The choice of option would be made by the employees in annual enrollment periods. There would be no preexisting condition clauses or screening of applicants.

Based on our understanding of the proposal derived from meetings with your staff, we have derived estimates of the average cost to small employers to purchase the insurance through the regional pools.

Sources and Methods.—We have developed cost estimates using our general model of health expenditures by population group derived from the National Medical Care Expenditures Survey, the RAND Health Insurance Experiment, and the National Health Expenditures estimates of the Department of Health and Human Services. The techniques used in developing the ARC model are similar to those used by our firm to estimate the cost of National Health Insurance proposals in past years for both the Administration and Congress. We have also tested the techniques involved in preparing estimates of the cost of private health insurance programs for a number of private sector clients.

Cost of Package.—The proposal specifies that the minimum required package would consist of medically necessary physician care, hospital care, diagnostic tests, and pregnancy and well-baby care. Co-payments would be 20 percent on all services and deductibles would be a maximum of $250 per individual and $500 per family. There would be a required stop-loss "catastrophic" limit for covered services of $3,000 per family. In addition, prenatal and well-baby care would be provided without co-payments or deductibles. All benefits except prenatal and well-baby care would be subject to an actuarial equivalency test that would allow higher deductibles and co-payments to be applied if additional benefits were offered.

I estimate the annual per worker cost of an employer-provided insurance policy paying for services on an indemnity basis meeting these standards at $1,186 in 1988 (including all claims incurred and administrative expenses). Thirty-eight dollars of this total is for prenatal and well-baby care. This average cost is comprised of an individual cost we estimate at $642 annually and a family cost of $1,631. The cost is estimated over all employees of small employers and their dependents, excluding the self employed. Regional differences in the cost of medical care could cause these estimates to vary by 25% if census regions are used.

I believe that substantial savings can be made if this package is provided through an effective managed care system such as an HMO or PPO. HMOs have demonstrated the capacity to lower costs as much as 25% relative to fee for service care, and PPOs have obtained discounts that average as much as 10% to 15% from providers, and the prospect of additional savings from managed care and incentives to use efficient providers. If an average savings of 15% was obtained, the average cost per employee would be $1,008 per worker.

Small Business Savings.—The system of regional contractors described in your bill should reduce the cost of health insurance provided to small businesses with less than 25 employees compared to the average cost of purchasing comparable insurance under current market conditions. This reflects our projection that administrative costs would average around 13% of premiums under your proposed system of competitive offerings by regional contractors that eliminates screening of new applicants and the cost of agents' commissions and other sales and placement expenses. We estimate the average cost of administering small group cases under current conditions as over 20% of premiums (and up to 50% of premiums for the smallest groups). Additional savings may be obtained through participation by HMOs and PPOs in the regional offerings, and the incentive that employers have to minimize their outlays.

If you or your staff have any additional questions, please call on us.

Sincerely,

Gordon R. Trapnell, F.S.A.,
President.●

● Mr. WEICKER. Mr. President, I am pleased to join Senator KENNEDY this morning in cosponsoring minimum essential health care legislation.

The legislation is designed to bring a new era in American health care, one that will be constructed by Government and private-sector cooperation, not through expensive or experimental efforts by Government alone.

The legislation would require all employers to provide a basic minimum package of health insurance coverage to their employees and the dependents of their employees. The package would include basic hospital and physician care, diagnostic test, prenatal care, infant care and preventive care for children. Employers would have to pay at least 80 percent of the premiums. Workers' deductibles would be limited to $250 for an individual and $500 for a family. Each employee would not have to pay more than 20 percent of each medical bill or $2,000 of total out-of-pocket expenses.

By requiring that all employers offer a basic minimum package of health insurance coverage to workers and their dependents, this proposal addresses the potentially tragic situation 37 million uninsured Americans face every day in securing decent health care. As the health care market has become more competitive and Medicare and Medicaid have cut back, it has become increasingly difficult for community hospitals to finance the charity care that has traditionally been available to the seriously ill who cannot pay.

Mr. President, at a time when Government is engaged in vigorously assuring national security, the security of American health has never been as fragile. Lack of insurance translates to inability to obtain essential care and increased mortality, morbidity, and social costs. Last year alone, according to the Robert Wood Johnson Foundation, 1 million Americans sought health care, but were refused services because they could not pay; more than 13 million did not even seek care they needed because they could not afford it. How can we expect our businesses, indeed our Nation, to thrive, if the backbone of our work force itself is not thriving?

While many Americans already have health insurance coverage and most receive it through the workplace, the largest single group of those uninsured—a full two-thirds of the 37 million—are workers and their dependents. This proposal, then, is not a radical one. It simply extends the private insurance system that has served the majority of Americans so well, without extending the Federal bureaucracy or regulatory apparatus. Just as employees are guaranteed a minimum wage, participation in the Social Security and Medicaid programs, and unemployment and workman's compensation insurance, so, too, should they be entitled to the protection of health insurance on the job. Because more than half of uninsured Americans have a family member who works more than 35 hours a week, a mandatory coverage law would extend health insurance coverage to a minimum of 20 million Americans.

The businesses that are not providing health insurance to their workers are disproportionately—but not exclusively—small. Approximately 48 percent of the uninsured workers are employed by firms of 25 workers or less. Now I realize that small businesses fear they may not be able to absorb the costs of providing health insurance coverage without threatening their own survival. This legislation addresses that very real concern by establishing a structured choice system in each geographic region. Small businesses would be aggregated into larger insurance units to obtain the benefits of community rating, group purchasing power, and lower administrative costs. What we have to recognize is that all businesses—large and small alike—have a responsibility to shoulder the burden of affording their employees adequate access to health care. The proposal will essentially promote equity among businesses. Under the current system, medical costs uninsured Americans incur are passed on to businesses that do insure their workers in the form of higher hospital charges and insurance premiums.

Mr. President, we owe each and every American access to essential health care. This legislation takes an important first step toward securing that access. Without a commitment to adequate health care, this Nation cannot go forward in science or business or education or any other sector of society through which our progress grows. I urge expeditious consideration of this critically needed legislation.●

By Mr. EVANS (for himself, Mr. MURKOWSKI, and Mr. HECHT):

S. 1266. A bill to provide for the establishment of regional monitored retrievable storage facilities by the Secretary of Energy as a way to resolve the problem of high-level radioactive waste storage, and for other purposes; to the Committee on Energy and Natural Resources.

HIGH-LEVEL RADIOACTIVE WASTE STORAGE ACT

● Mr. EVANS. Mr. President, today I am introducing legislation that I believe is necessary and that is intended to help restore credibility to our national program of high level nuclear waste disposal and to help put the process back on track.

Knowing how this body works, I recognize that significant effort was expended in crafting the Nuclear Waste Policy Act [NWPA] passed in 1982. It should not have been easy fashioning a compromise considering that the subject matter of the legislation was so significant and that the views of the various parties were so strongly held.

Yet, events of the past year demonstrate to me that we need to reassess our nuclear waste policy. First, the Department of Energy has clearly flouted congressional intent as expressed in the NWPA. Their actions have resulted in fracturing a fragile compromise built around carefully balanced regional interests. The consequence of DOE's decision to indefinitely postpone efforts related to developing a second high-level waste repository is a clear rift between East and West in this emotionally charged issue.

Second, as I have studied the technical questions in detail during the past year, I have come to the conclusion that the basic approach of the NWPA is flawed. Under the act, we would first build a permanent, deep underground storage facility to house highly radioactive nuclear wastes, some of which are so hot that they lose their radioactivity at the rate of only 50 percent every 10,000 years. Only then—after we had so committed ourselves and future generations—would we develop a site for above-ground temporary storage of wastes.

Quite simply, the approach taken in the NWPA is the reverse of what logic tells us is appropriate. If we can store these extremely dangerous materials above ground for a reasonable period we will have an opportunity not only to continue to add to our relatively skimpy body of knowledge with respect to storage of nuclear materials, we also will have an opportunity to spend more time doing the kind of detailed work and study of potential permanent repositories which should be done before we can have confidence in long-term storage.

It is time for a mid-course correction. The legislation I am introducing today will, I believe, get us on track and allow us to deal effectively and responsibly with the nuclear wastes which continue to build up across the Nation.

Mr. President, along with the bill I am submitting a detailed section-by-section analysis which explains the various provisions. For the record, I would like to summarize briefly what is intended by this legislation.

First, the bill mandates an 8-year pause in the Permanent Repository Program established in the NWPA. The program would essentially be put on hold until January 31, 1998. During the pause, the Secretary of the Interior would be responsible for conducting a nationwide survey and identifying the most promising potential sites for a permanent repository without regard for whether the sites are on Federal lands.

Second, under the legislation the Secretary of Energy is authorized to build three monitored retrievable storage [MRS] facilities in addition to the single facility contemplated under current law. The facilities would be geographically dispersed in four regions, taking into account where the waste is produced. In general, the idea is to store the waste in the region where the waste is produced. This would reduce considerably the potential for transportation-related problems in moving the wastes from where they are created to the storage facilities. At the same time, the bill would provide all States with more authority than they now have to regulate the transportation of nuclear wastes within their borders.

Third, the bill would prevent siting a geologic repository in any State where an MRS facility is located. Another benefit to affected States is a provision in the bill providing $100 million each year for MRS States in compensation for the long-term use of the land and environment. This is a complementary provision to the proposal of Senator JOHNSTON's bill, S. 839, regarding payments to repository and MRS States.

Finally, the bill authorizes additional spending for research into alternatives to deep geologic storage such as subseabed disposal. Such research hasn't been carried out by the Department of Energy since passage of the act in 1982 and is now not being funded at all.

Mr. President, we must take bold steps now to refashion a national consensus on nuclear waste disposal. To do so will not require walking away from the efforts we have already made. I want to emphasize that the legislation that I am introducing today is not intended to divert us from the effort to develop a permanent repository for high level nuclear waste. Under the bill, we will build a permanent repository that would be operating by the year 2018. But between now and then, we would take what I believe are necessary steps first to contain current wastes in a way that will enable us to monitor them carefully and also make absolutely sure that the permanent site we select is the best site available.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 2

Section 2 amends the Nuclear Waste Policy Act of 1982 by adding at the end of Subtitle C of Title I of the Act legislation authorizing the development and construction of regional Monitored Retrievable Storage (MRS) facilities for the storage of the nation's high-level radioactive waste.

Sec. 145 *Findings.*

Sec. 146(a) *Suspension of Repository Program.*—Upon enactment of the Act, the Department of Energy's repository program is suspended until January 31, 1998.

Sec. 146(b) *Continuation of the Repository Program.*—During the suspension period, the Secretary of Interior is directed to conduct a national survey of potentially suitable sites for a deep geologic repository for high-level nuclear waste, without bias to federal sites. The Secretary of the Interior shall submit his list and recommendations of at least nine sites to the Secretary of Energy (hereafter referred to as "the Secretary") by January 1, 1996.

The Secretary shall conduct a study on the need for a second repository program based on estimates of the generation of spent fuel, effects of the MRS program, and other technological or policy changes. Such study shall be submitted to Congress by January 1, 1998.

By July 1, 1998, the President, upon the consultation with the Secretary, shall recommend at least one site for characterization as a repository. In addition, the Secretary shall submit a revised timetable for the licensing and development of the repository, including recommendations for changes in existing law.

If the Secretary concludes that a second repository is necessary, he shall recommend to the President at least one site for characterization as a second repository by July 1, 2003. Such a site shall be in a different geologic medium from the first repository.

Sec. 147(a) *Authorization of MRS Facilities.*—The Secretary of Energy is authorized to construct three regional MRS facilities, in addition to the facility already contemplated under existing law.

Sec. 147(b) *Siting Criteria.*—The sites for these facilities shall be selected through the application of the following criteria: (a) technical guidelines laid out in section 112(a) of the Nuclear Waste Policy Act of 1982; (b) proximity to the source and beneficiaries of nuclear power; (c) minimization of the distance from the nuclear powerplant to the MRS facility; (d) existing federal facilities shall be given priority over non-federal sites; (e) facilities licensed by the Nuclear Regulatory Commission shall also be given priority.

Sec. 147(c) *MRS Regions.*—The Secretary shall select one site in three of the four following regions which do not already contain an MRS facility. These regions reflect to the greater extent possible the regional distribution of the nation's nuclear power generation.

(1) *Northeast Mid-Atlantic:* Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, District of Columbia and Maryland.

(2) *Southeast:* Alabama, Florida, Georgia, Mississippi, North Carolina, Tennessee, South Carolina, Virginia, West Virginia, Louisiana and Arkansas.

(3) *Midwest North Central:* Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Illinois, Kentucky, Oklahoma, Texas, Iowa, North Dakota and South Dakota.

(4) *West Rocky Mountain:* all other states.

Sec. 148 *Guidelines.*—Within one year after enactment, the Secretary shall issue guidelines for the selection of the three additional MRS sites. The Secretary shall submit these guidelines to the Environmental Protection Agency and Nuclear Regulatory Commission for review. Their comments shall be incorporated into the final guidelines issued by the Secretary within two years after enactment.

Sec. 149(a) *Siting.*—Three years after the final guidelines are issued, the Secretary shall submit to Congress a list of potentially suitable sites for an MRS.

One year after issuing this initial list, the Secretary shall issue a final list recommending three sites for an MRS with an environmental assessment of each site. Additionally, he will submit to Congress proposals for the development and construction of an MRS facility at each of these sites, as well as a list of three alternative sites. The Secretary and other involved federal agencies shall also enter into consultation with affected states and Indian tribes.

Sec. 149(b) *Construction.*—Two years after recommending the three sites, the Secretary shall commence construction of three MRS facilities, to be completed and available for acceptance of waste by January 31, 2002.

Sec. 149(c) *Prohibition.*—No deep geologic repository may be constructed in any state in which a MRS is developed.

Sec. 149(d) *Within Region Storage.*—Upon beginning operations at each of the four MRS facilities authorized, any high-level radioactive waste generated or located in one of the four regions described in section 147 shall thereafter be stored within such region.

Five years after enactment, persons generating or holding title to any high-level radioactive waste shall either elect to store this waste in a MRS facility, or, subject to the approval of the Secretary and the Nuclear Regulatory Commission, provide for the storage of such waste at the site where it is stored or generated.

At the end of this period, the Secretary shall develop estimates for the volume of waste to be stored at MRS facilities in each region and volume of waste to be stored at the source of generation. Based on these estimates, the Secretary shall develop specific design and engineering criteria for the MRS facilities, however each facility shall: 1) have at least a 15,000 metric ton capacity, 2) be capable of storing waste for 50 years.

The Secretary may reduce the annual obligations for facilities electing on-site storage to a level consistent with the reduced need of the overall nuclear waste program, though not lower than 25 percent of the current 1 mil per kilowatt/hour fee. The Secretary shall also submit a new estimate of funding for nuclear waste program activities and utilities electing at-reactor storage in the annual fee adequacy report required under current law.

Sec. 150(a) *Impact Assistance and Grants.*—The Secretary shall make payments to affected States and Tribes under the provisions of sections 116(c), 118(b) and 141(f) of the Nuclear Waste Policy Act.

Sec. 150(b) *Long-Term Payments.*—In addition to payments authorized under current law, each affected state or Tribe shall receive $100 million annually from the Nuclear Waste fund. Payments will start upon acceptance of the first waste shipments. Any state receiving such payments shall direct not less than one-half of these funds to units of general local government affected by the MRS. Annual payments shall be made for the life of the MRS facility.

SECTION 3

Section 3 amends Section 222 of title II of the Nuclear Waste Policy Act of 1982 to authorize research into alternatives for the permanent disposal of high-level radioactive waste.

Sec. 222(a) *Alternative Disposal Research.*—The Secretary shall continue and accelerate research and development of alternative methods and technologies for disposing of high-level nuclear waste.

Sec. 222(b) *Subseabed Consortium.*—Within 60 days of enactment, the Secretary shall establish a university-based consortium of leading universities and research centers to investigate the feasibility of subseabed disposal of high-level waste. The consortium shall submit a final report on its research and activities by December 31, 1995.

Sec. 222(c) *Funding.*—$150 million is authorized for the subseabed consortium, and $50 million is authorized for research into other alternative disposal methods.

SECTION 4

Section 4 amends section 105 of the Hazardous Materials Transportation Act by providing additional authority to states to regulate the transportation of nuclear waste within their boundaries.

Sec. 105(d) *Permissible State Regulation.*—A state or political subdivision may regulate the transportation of hazardous materials by: (A) designating routes for the transportation of hazardous materials and restricting the use of such routes unless no practical alternative exists; (B) requiring transportation permits and imposing fees provided they are not shown to be unreasonable in relation to the costs incurred by that State for emergency response and other services; (C) requiring driver training; (D) requiring shippers to provide documentation on shipments moving through that State.

Such regulations shall not impose an unreasonable burden on interstate commerce.●

By Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. DANFORTH, Mr. TRIBLE, Mr. PRESSLER, Mr. FORD, Mr. RIEGLE, Mr. GORE, Mr. ADAMS, Mr. SASSER, and Mr. WARNER):

S. 1267. A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

U.S. TRAVEL AND TOURISM ADMINISTRATION AUTHORIZATION ACT

● Mr. ROCKEFELLER. Mr. President, today I rise to introduce legislation to authorize funds for the U.S. Travel and Tourism Administration [USTTA].

Located in the Department of Commerce, USTTA is our lead Federal agency in travel and tourism. Its primary mission is to promote the United States as an international travel destination. More precisely, this agency's job is to lure foreign tourists and foreign exchange into this country.

My experience with travel and tourism industry predates by many years my ascension to the chairmanship of the Subcommittee on Foreign Commerce and Tourism. More than a decade ago, when I was Governor of West Virginia, I became convinced that this was a growth industry that could have a substantial impact on the quality of life in our State.

I merely took a good look around me—at our renowned natural beauty, our white water rivers, our ski slopes, our rich history. These features were all part of a marketable product called travel and tourism—one which, if nurtured properly, could become a major employer in the State.

We instituted the "Travel West Virginia" program. We placed television ads in the major metropolitan areas of our region—Pittsburgh, Washington, Cincinnati, Baltimore, Philadelphia. We got the word out about this great vacation spot that is right on their doorstep.

It was a tremendous success. In 10 years we tripled the size of West Virginia's tourism industry. It is now the third largest employer in the State, providing paychecks for nearly 28,000 West Virginians. Tourists spend nearly $3.5 million per day in the State. And the various governmental entities around the State pick up a total of $128 million in annual tax revenues from this industry.

Various States and regions across the Nation have their own success stories to tell. In fact, tourism is now the first, second, or third largest industry in more than 40 States.

Nationally, the travel and tourism industry continues to experiences explosive growth. It has become our second largest private employer and our third largest retail industry, at nearly $270 billion a year in receipts and more than 5½ million jobs. More than 360,000 of those jobs were created just last year.

The vast majority of these travel dollars are generated by Americans. However, foreign travel to the United States is also showing steady growth. Last year, more than 22 million foreign visitors spent some $16 billion in the U.S. market. Those numbers are expected to grow by about 5 percent in each of the next several years.

At a time when our trade imbalance has soared to an unprecedented level, tourism takes on added importance as one of this country's top export items. In fact, it is our second largest export. We even have a $1 billion trade surplus with Japan. World economic development and advancements in technology are sure to bring about even greater expansion in the world travel market, which in turn means tremendous opportunities to increase foreign travel to the United States.

But it won't happen automatically. There are literally scores of nations out there fighting for their share of this expanding market. Many of them spend millions upon millions of dollars to promote themselves. If we in the United States are to maintain and perhaps increase our own share, we'll have to be right in there fighting for it.

If there's one thing I learned about tourism from my experience as a Governor, it is this: If you want to be a successful travel destination you have to actively promote—you have to get the word out.

That's why Congress, in 1981, created the U.S. Travel and Tourism Administration in the Department of Commerce and gave it the mission of promoting the United States as an international travel destination. Two weeks ago, I had the pleasure of chairing a Foreign Commerce and Tourism Subcommittee hearing on this reauthorization issue. We heard the testimony of this agency's very capable director, Under Secretary of Commerce Donna Tuttle, who told us about the exciting programs and initiatives she and her staff are currently undertaking.

Through a program called cooperative advertising, USTTA is able to transform minimal budgetary resources into a significant overseas marketing program. The lion's share of the funds to pay for this advertising actually comes from the private sector. USTTA provides the marketing expertise, and then coordinates various private businesses and State or local governments into promotional packages. In its most recent venture, USTTA is sponsoring a television advertising campaign in Great Britain aimed at luring travelers from that country to our New England States. This campaign represents USTTA's first attempt at television advertising and it certainly is an exciting development.

The U.S. tourism industry is highly diverse. It includes a number of large corporations, but the vast majority of it is comprised of small businesses—businesses which simply do not have the resources to reach out and attract foreign travelers. USTTA not only provides them access to foreign advertising markets, but it lends "official status" to these businesses when they advertise. That's very important, because travelers in other nations want to know that the U.S. Government stands behind its tourism industry before they'll make the decision to vacation here.

While the cooperative advertising program is central to USTTA's mission, the agency performs numerous other important functions. It collects and analyzes data on travel and tourism trends. It has coordinated the gathering and dissemination of information on safety conditions at overseas destinations. And USTTA acts as the American tourism industry's liaison to the many Federal and international agencies whose decisions effect the industry.

For these reasons, USTTA enjoys resounding support from the U.S. travel and tourism industry—support which was demonstrated at our hearing.

The Commerce Committee and the entire U.S. Senate also have a strong record of support—bipartisan support—for USTTA. The vast majority of us recognize that this is an agency which brings billions in foreign travel dollars into this country—and all on a relatively minuscule budget. The small Federal investment—less than $12 million in each of the last few years—has paid for itself many times over in the taxes we collect on these foreign travel expenditures.

Unfortunately, not everyone has realized the value of this investment. The administration, for instance, has tried to zero out USTTA in each of the past several years. This committee and the full Senate have responded by annually approving an authorization bill. However, each time the legislation has died in the other body, and the agency has been funded through the appropriations process.

This year, we've seen a change in what has become something of an annual ritual for the process of funding USTTA. The administration actually included funding for the agency in its budget for fiscal year 1988. However, it proposed that USTTA's activities be funded by a so-called user fee—a $1 ticket writing charge on international airline and cruise ship travel to the United States.

As we learned at our hearing, the proposal has stirred quite a controversy in the travel and tourism industry. The user fee is vehemently opposed by virtually all segments of the industry for a variety of reasons. Industry members point out that there are already a variety of fees charged on the international traveler, that it's unfair to say that airlines and cruise ships are the sole beneficiaries of USTTA, and that a portion of the collections will not go to travel and tourism but will be deposited in the Treasury.

Frankly, there is some appeal to the philosophy of levying user fees to fund certain governmental activities—especially in these times of fiscal austerity. But in order for a user fee to work properly, we must be able to establish beyond question who the users of these services are and that the fee structure is equitable. We must also determine that those who are assessed the fee are the actual beneficiaries of the services or activities for which they are paying.

In my mind, this user fee proposal for USTTA does not meet these criteria. Therefore, the plan is not included in this legislation, which authorizes appropriations from the Treasury for 3 years. In fiscal year 1988, USTTA would be authorized at $14 million, which is a real bargain when you consider the millions upon millions of tax dollars the Federal Government collects from international travelers who spend their money in this country.

I think I express the sentiment of a great number of my colleagues here in the Senate in hoping that this will finally be the year that a multiyear authorization bill for USTTA will clear both Houses and end up on the President's desk. I am pleased to have several of my colleagues from the Commerce Committee join me in introducing this legislation, and I urge other Senators to become cosponsors.

Travel and tourism has come a long way in the past two decades. Authorization of USTTA is one way this Congress can show its support for an industry which already employs more than 5½ million people in this country, and which shows great promise for further growth and development. I look forward to working with my colleagues to ensure its swift passage by this body and its eventual enactment.●

● Mr. HOLLINGS. Mr. President, I am pleased to join the chairman of our Subcommittee on Foreign Commerce and Tourism, Senator ROCKEFELLER, in the introduction of this important authorization legislation.

At a time when dozens of other nations are spending vast sums of public funds to capture their share of the growing international tourism market, it is vital that this Congress demonstrate its support for the U.S. Travel and Tourism Administration. If we want to maintain and perhaps increase our share of that lucrative market, we will have to fight tooth and nail for it. On a modest budget, USTTA coordinates the highly diverse American travel industry's effort in that regard.

The current Federal commitment to travel and tourism—particularly the National Tourism Policy Act of 1981 and USTTA—has its roots in the Senate Commerce Committee. Since passage of the act, the committee has fought vigorously to save USTTA from the budget ax.

It appears that fight will have to continue, for the administration has indicated that it will not support reauthorization of USTTA unless the agency is funded by a so-called user fee. We at the committee level have looked at this proposal and have determined that for a variety of reasons it's not the way to proceed. But our support for the agency itself is firm. And this bill reflects that support, a 3-year authorization at $14 million for fiscal year 1988, $15 million in fiscal year 1989, and $16 million in fiscal year 1990.

The agency deserves more. Tourism is now one of the largest industries in the country, as it is in a majority of the States. It is a growth industry, and USTTA will be playing a crucial role in its continued development.

I wholeheartedly support this legislation, and I pledge that we will move it swiftly through the Commerce Committee.●

By Mr. SIMON:

S. 1268. A bill to amend the Foreign Agents Registration Act of 1938 (22 U.S.C.) by removing references to "political propaganda" and substituting "advocacy materials"; to the Committee on Foreign Relations.

FOREIGN AGENTS REGISTRATION ACT AMENDMENTS

● Mr. SIMON. Mr. President, today, I am introducing amendments to the Foreign Agents Registration Act which will help increase the free trade of ideas into the United States. These amendments, which our long-time colleague Senator Mac Mathias and I orginally introduced in the 99th Congress, are relatively minor but will go a great length to strengthen our commitment to enabling all Americans to participate in the free flow of information.

Specifically, my amendment strikes the references in the Foreign Agents Registration Act to "political propaganda" and replaces them with "advocacy material." This amendment does not change the basic reporting provisions of the law; it only introduces a more neutral term to describe foreign-produced films and other materials. This is a change for which the administration has expressed support. In a 1983 correspondence with Congress, the Justice Department recommended that Congress consider replacing the broad definition of political propaganda and supported "the use of a more neutral term like political 'advocacy' or 'information' to denominate information that must be labelled."

Last week by a 5 to 3 vote the U.S. Supreme Court in Meese versus Keene (No. 85-1180) upheld the law and rejected arguments that the act's use of the term "political propaganda" put the foreign films in a negative light. The Court's description of that term as neutral ignores its everyday use. This provision of the Foreign Agents Registration Act of 1938 was added in 1942 largely in response to the proliferation of Nazi paraphernalia imported into the United States. Now, however, the act applies to all types of communications designed to influence viewpoints on our foreign relations and policies even those "that are completely accurate and merit the closest attention and the highest respect." To require all of these materials to carry the branding of "political propaganda" is unnecessary and unwarranted.

The Court also recognized that "in popular parlance many people assume that propaganda is a form of slanted, misleading speech that does not merit serious attention and that proceeds from a concern for advancing the narrow interests of the speaker rather than from a devotion to the truth." As the New Columbia Encyclopedia describes, "propaganda" is generally "restricted to the manipulation of political beliefs."

This is an onerous burden for the display, enjoyment and trade of ideas. My amendment replaces "political propaganda" with "advocacy materials," a neutral term which better describes the purpose and effect of the materials. Agents who were required to register under the act before this amendment will still be required to register. Materials covered by the act prior to this amendment will still be covered by the act. My amendment lets all Americans decide for themselves without the prejudice of a negative government label.●

By Mr. Wirth (for himself, Mr. Gore, Mr. Rockefeller, Mr. Specter, Mr. Cohen, Mr. Mitchell, and Mr. Stafford):

S. 1269. A bill to improve hazardous materials transportation safety; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY AMENDMENTS

Mr. WIRTH. Mr. President, today several of my distinguished colleagues and I are introducing legislation to reform the Nation's laws for transportation of hazardous materials.

Cities and States across the country need assistance in designating routes for safe transportation of these substances. They need Federal assistance to train the police and firefighters who are the first to respond to accidents. And they need rapid access to critical information about what hazardous materials are being shipped through their communities, so they know how to respond if there is an accident.

Countless studies have been done on this problem, Mr. President, and there is a growing consensus on the need for action. The Hazardous Materials Transportation Safety Amendments Act of 1987, which I am introducing today, will give Federal, State, and local officials the tools they need to reduce the risks of a serious accident on the Nation's highways.

I began to examine our hazardous materials transportation safety laws after a truckload of Navy torpedoes overturned on the busiest, most accident-prone intersection in the State of Colorado in August 1984. The city of Denver was tied up for nearly an entire day and many citizens feared for their health and welfare—because it was many hours before anyone knew whether or not the torpedoes would explode. Although Denver is a sophisticated city with comparatively well-trained emergency response capabilities, it could not get reliable information about the cargo, or the initial actions that should be taken to minimize the risk from the accident. What ensued was bureaucratic gridlock that, with a more volatile cargo, could have been a disaster.

The citizens of Denver were lucky, and the greatest harm on that occasion was only inconvenience. But the studies that followed that accident showed, as have many other studies, that our current truck safety laws are an accident waiting to happen. And in other cities, accidents are happening.

We cannot afford to rely on luck to steer us clear of catastrophe. These accidents point to the overwhelming need for a coordinated national policy to deal with hazardous materials transportation. But while the Federal Government has had the authority to regulate hazardous materials for years, the Office of Technology Assessment has found that "there have been no far-reaching regulatory reforms and no strategic changes to help the system cope with late 20th century technologies."

More than 1.5 billion tons of hazardous materials are transported in this country every year, more than half by truck. That works out to 250,000 shipments each day, and the Department of Transportation estimates that there will be double that amount—500,000 shipments per day—by the end of the decade. It is past time to apply modern techniques and current knowledge to assuring this transportation occurs with an absolute minimum amount of risk.

One of the most important steps we can take is to provide clear, coordinated regulations on routing truck shipments of hazardous materials. If hazardous materials shipments are carefully routed along the safest routes, we can significantly reduce the overall risk of an accident. Routing is a low-cost preventive measure that local police can enforce without additional training or equipment. The existing Federal regulations are ill-defined and are difficult to enforce.

The legislation I am introducing today will give State and local governments the resources they need to designate safe routes. At the same time, this legislation gives the Secretary of Transportation the authority to coordinate these decisions. Working together, State, local, and Federal agencies can develop a sound, low-cost system for safely routing these hazardous cargoes.

There is a clear need for an ounce—or maybe a pound—of prevention where hazardous materials training is concerned. Yet according to OTA, 75 percent of all police and firefighters—those most often first on the scene of an accident—are unprepared to deal with accidents involving hazardous materials. This is a problem for major cities like Denver, but the need for better training is even greater in many small communities like Vail, CO, which is located high in the Rocky Mountains near Interstate 70.

It must be an urgent priority for the Congress to ensure that our local officials can respond to a serious accident and protect us all from a disaster. The Hazardous Materials Transportation Safety Amendments Act that we are introducing today authorizes matching grants to State and local governments for training their emergency response personnel.

Finally, Mr. President, the Department of Transportation does not know how many shippers or carriers are subject to safety regulations, where they are located, or what routes are used for these shipments. The data are fragmented, incomplete, and poorly accessible to the local officials who need this information to plan and prepare for emergencies.

The Department of Transportation has had the authority to collect this vital information since 1974, but has not exercised its authority. The legislation we are introducing today makes DOT's discretionary authority mandatory and requires annual registration, as well as retention of routing records.

Mr. President, this legislation provides common sense answers to serious problems. It is a compreshensive approach to protecting our citizens from hazardous materials accidents, which has so far been lacking. This approach has broad support from shippers and carriers, who understand very well that safety is good business, as well as from the State and local governments that must deal with hazardous materials accidents every day. These reforms are badly needed and long overdue, and I urge the swift enactment of this legislation.

Mr. President, I ask unanimous consent that the text of the bill and the section-by-section analysis be included in the Record.

Mr. President, I also ask unanimous consent that a statement from Senator Cohen, who is a cosponsor of the bill, be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Hazardous Materials Transportation Safety Amendments of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) according to data of the Department of Transportation there were 37,800 accidents in 1984 involving regulated motor carriers, which resulted in 2,700 fatalities, 28,000 injuries, and $390,000,000 in property damage;

(2) the ratio of Federal safety inspectors to carriers has worsened substantially, as demonstrated by the fact that in 1975 there was 1 safety inspector for every 1,300 carriers, and in 1984 there was 1 for every 2,200 carriers or approximately 1 inspector for every 40,000 trucks;

(3) the Office of Technology Assessment has concluded that 75 percent of firefighters and police in the United States are inadequately prepared to respond to a hazardous materials transportation accident;

(4) the lack of designated routes for the motor carrier transportation of hazardous materials has hampered enforcement of Federal routing regulations and caused confusion among carriers and shippers;

(5) the Department of Transportation guidance to States and localities has lacked clear and concise methodology of the designation of routes for motor carriers transporting hazardous materials;

(6) since guidelines for the temporary storage of class A and B explosives and highway route controlled quantity radioactive materials are vague, few safe haven sites have been designated, and there is no official inventory of such sites, carriers are induced to improperly store such explosives and materials while they are in transit;

(7) the lack of an effective hazardous materials registration program for shippers and carriers has left the Department of Transportation with an incomplete inventory of those subject to its enforcement and has hampered effective targeting of enforcement;

(8) the Federal Government has not yet adequately assessed either the health, safety, or environmental risks of transporting high level radioactive waste and spent nuclear fuels or the transportation modes or routes that minimize such risks; and

(9) the training regulations of the Secretary of Transportation covering workers involved in the transportation of hazardous materials are vague and inadequate.

HAZARDOUS MATERIALS TRANSPORTATION ACT

SEC. 3. Section 115 of the Hazardous Materials Transportation Act is amended by striking out "and" after "1985," and by inserting before the period a comma and the following: "$10,000,000 for fiscal year 1988, and $10,000,000 for fiscal year 1989".

TRANSPORTATION ROUTES AND PARKING SITES

SEC. 4. (a) Title IV of the Surface Transportation Act of 1982 is amended by adding at the end the following:

"GRANTS FOR TRANSPORTATION ROUTES AND PARKING SITES

"SEC. 407. (a) The Secretary shall make grants to States and political subdivisions for—

"(1)(A) the designation of routes within and between the States for the safe transportation of hazardous materials,

"(B) determining the relative safety of each of the routes proposed to be designated, and

"(C) enforcement of the use of the designated routes by motor carriers transporting hazardous materials, and

"(2) the designation of sites for the parking of motor vehicles transporting hazardous materials in accordance with regulations established by the Secretary for the designation of such sites.

A State which receives a grant under this subsection shall carry out the designations described in paragraphs (1) and (2) after consultations with the political subdivisions within the State, motor carriers which transport hazardous materials through the State, and adjacent States. Designations by States and political subdivisions shall be completed within 2 years of receiving a grant under this subsection.

"(b) The Secretary shall establish guidelines to assist States and political subdivisions of States in the designation of—

"(1) routes for the safe transportation within and between their jurisdictions of hazardous materials, and

"(2) sites for the parking of motor vehicles transporting hazardous materials.

Guidelines under paragraph (2) shall include minimum safety criteria to be taken into account in the designation of parking sites.

"(c) The Secretary shall publish routes and parking sites which are designated by States and political subdivisions under grants under subsection (a) and ensure that such publication is available to motor carriers engaged in the transportation of hazardous materials.

"(d) For purposes of this section, the term 'hazardous materials' means hazardous materials designated under section 104 of the Hazardous Materials Transportation Act.".

(b) The Secretary of Transportation shall publish guidelines under sections 407(a)(2) and 407(b) of the Surface Transportation Act of 1982 (as added by subsection (a)) within 180 days of the date of the enactment of this Act.

(c) The first sentence of section 404 of the Surface Transportation Assistance Act of 1982 is amended by striking out "section 402" and inserting in lieu thereof "sections 402 and 407".

RECORD RETENTION FOR ENFORCEMENT OF ROUTES

SEC. 5. Section 106 of the Hazardous Materials Transportation Act is amended by adding at the end the following:

"(d) RECORD RETENTION.—Each person who is registered under subsection (b) shall maintain a description of the routes followed by such person in the transportation of class A or B explosives (as defined by the Secretary), hazardous materials designated under section 104, and highway route control radioactive materials. Each person required to maintain a description shall maintain it at the person's principal place of business for at least 6 months after the completion of the transportation to which the description relates.".

ANNUAL MANDATORY REGISTRATION

SEC. 6. (a) Section 106(b) of the Hazardous Materials Transportation Act is amended—

(1) by striking out "may be required by the Secretary to prepare" and inserting in lieu thereof "shall be required by the Secretary to annually prepare", and

(2) by striking out "not more often than once every 2 years".

(b) Section 106(b) of the Hazardous Materials Transportation Act is amended by adding at the end the following: "The Secretary may establish a fee for the annual registration required by this subsection to cover the cost of such registration.".

(c) The Secretary of Transportation shall establish a timetable (not to exceed 3 years from the date of the enactment of this Act) for the registration of persons under section 106(b) of the Hazardous Materials Transportation Act. The timetable shall establish a priority for the registration of persons under such section.

EMERGENCY RESPONSE

SEC. 7. (a) Section 116 of the Hazardous Materials Transportation Act is amended to read as follows:

"GRANTS FOR EMERGENCY RESPONSE TRAINING

"SEC. 116. (a) GRANTS.—The Secretary shall make grants in fiscal years 1988 through 1992 to States and political subdivisions to assist in the training of personnel to make such responses. No grant may be made for more than 75 percent of the cost of any training program.

"(b) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary.

"(c) The Secretary shall, in consultation with the Federal Emergency Management Agency, establish guidelines for training programs used under a grant under subsection (a).

"(d) To make grants under subsection (a) there are authorized to be appropriated out of the Highway Trust Fund $5,000,000 for fiscal year 1988, $10,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, $15,000,000 for fiscal year 1991, and $15,000,000 for fiscal year 1992.".

(b) The Secretary of Transportation shall publish guidelines under section 116(c) of the Hazardous Materials Transportation Act (as added by subsection (a)) within 180 days of the date of the enactment of this Act.

(c) Within one year of the date of enactment of this Act the Secretary of Transportation shall by rule require—

(1) the listing of relevant emergency response telephone numbers on all shipping papers required by the Secretary in connection with the transportation of hazardous materials,

(2) that motor carriers transporting hazardous materials carry the most current publication of the Secretary prescribing emergency response procedures, and

(3) that such publication be located at facilities involved in the transportation of hazardous materials.

MINIMUM TRAINING REQUIREMENTS

SEC. 8. (a) Section 106 of the Hazardous Materials Transportation Act, as amended by section 5, is amended by adding at the end the following:

"(e) TRAINING PROGRAM GUIDELINES.—The Secretary shall establish guidelines for training and retraining programs for personnel who load and handle explosives and hazardous materials designated under section 104. The guidelines shall include provisions that requires knowledge of—

"(1) the handling of such materials,

"(2) the operation of emergency equipment used in responses to emergencies arising out of the transportation of such materials,

"(3) the appropriate response procedures followed in such emergencies, and

"(4) familiarity with Federal motor carrier safety regulations and Federal safety regulations respecting the transportation of such materials.".

(b) The Secretary of Transportation shall publish qualifications and guidelines under subsection (e) of section 106 of the Hazardous Materials Transportation Act (as added by subsection (a)) within 180 days of the date of the enactment of this Act.

HAZARDOUS MATERIALS FLOW STUDY

SEC. 9. (a) The Secretary of Transportation shall conduct a continuing study of the flow of hazardous materials in the United States which under regulations of the Secretary are required to bear at least two placards (49 C.F.R. Part 172, Subpart F). Such study shall be conducted—

(1) to improve the targeting of Federal enforcement of Department of Transportation requirements respecting the transportation of hazardous materials,

(2) to improve the enforcement by States and localities of their requirements respecting such transportation, and

(3) to assist in the development of emergency response capabilities by States and localities.

The study shall identify the routes followed in the shipment of such materials and the types of accidents and incidents involving the shipment of such materials which have required Federal, State, or local emergency response services. The Secretary shall make a report to the Congress on the results of the study within one year of the date of the enactment of this Act and thereafter shall periodically report to the Congress any changes in the flow of hazardous materials identified by the study.

(b) For purposes of subsection (a), the term "hazardous materials" means a hazardous material designated under section 104 of the Hazardous Materials Transportation Act.

SHIPMENT OF NUCLEAR MATERIALS

SEC. 10. (a) The Secretary of Transportation, in consultation with the Department of Energy, shall complete an analysis of the risks to health, safety, and the environment associated with transportation of high-level nuclear waste and spent nuclear fuel—

(1) to the five potential geologic repository sites, to be nominated by the Secretary of Energy as suitable for site characterization pursuant to section 112(b) of the Nuclear Waste Policy Act—

(A) directly from civilian nuclear power reactors or Department of Energy facilities; and

(B) from any monitored retrievable storage site authorized pursuant to section 141 of the Nuclear Waste Policy Act; and

(2) to such monitored retrievable storage site from civilian nuclear power reactors or Department of Energy facilities.

(b) In addition, the Secretary of Transportation shall evaluate and compare routes and transportation modes that entail the least risk to human health, safety, and the environment for each of the cases listed above. In completing such analysis, the Secretary shall provide appropriate opportunity for public comment.

(c) The Secretary shall complete the analysis within one year of the date of the enactment of this Act and shall report the results of the analysis to the Congress and the Secretary of Energy.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 11. (a) Section 104(c) of title 49, United States Code, is amended by inserting "and" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(b) Section 104 of such title is amended by striking out subsection (d).

SUMMARY OF THE HAZARDOUS MATERIALS TRANSPORTATION SAFETY AMENDMENTS OF 1987

SECTION 1: SHORT TITLE

Entitles the bill "Hazardous Materials Transportation Safety Amendments of 1987".

SECTION 2: FINDINGS

Sets out a series of findings on the need for the legislation.

SECTION 3: AUTHORIZATION OF FUNDS

Authorizes funds under the Hazardous Materials Transportation Act of $10 million annually for fiscal years 1988 and 1989.

SECTION 4: TRANSPORTATION ROUTES AND PARKING SITES

This section amends the Surface Transportation Act of 1982 and adds to the Motor Carrier Safety Assistance Program (MCSAP) grants to States and localities for: (1) designation of hazardous materials routes, (2) determination of relative safety to the routes to be designated, and (3) enforcement of routing. MCSAP funds will also be provided to States and localities to designate parking sites ("safe havens") for hazardous and nuclear materials.

Subsection (a) requires the Secretary of Transportation to make grants to assist States and localities in determining the relative safety of routes, to enforce designated routes, and to designate safe havens.

Subsection (b) requires the Secretary to publish guidelines to assist States and localities in these designations and to provide minimum safety criteria for safe havens within 180 days. Each State receiving a grant must designate routes for hazardous materials and safe havens within two years.

Subsection (c) authorizes use of MCSAP funds for hazardous material transportation routes and parking sites.

SECTION 5: RECORD RETENTION FOR ENFORCEMENT OF ROUTES

This section adds a new subsection 106(d) to the Hazardous Materials Transportation Act (HMTA) to require persons involved in transporting hazardous materials to maintain a description of the routes followed at their principal place of business for at least 6 months. The purpose of this section is to aid Bureau of Motor Carrier Safety (BMCS) auditors in the enforcement of routing regulations.

SECTION 6: ANNUAL MANDATORY REGISTRATION

Subsection (a) amends section 106(b) of the HMTA to require annual registration of persons covered by the Act. This section makes the current discretionary registration by the Secretary of Transportation under HMTA mandatory. Under this section the following people must register with DOT:

Anyone who transports hazardous materials;

Anyone who causes hazardous materials to be transported or shipped in commerce;

Anyone who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packages or containers sold for use in transporting hazardous materials.

The purpose of this section is to provide DOT with vital information about the entities they are required to regulate. Currently DOT has no way of knowing who is involved in the transporting, shipping, or manufacturing of hazardous materials. Such information would also be valuable to States and localities.

Subsection (b) authorizes the Secretary to establish a fee to cover the costs of registration.

Subsection (c) requires the Secretary to establish a timetable to phase in the registration program over three years.

SECTION 7: EMERGENCY RESPONSE

Subsection (a) amends section 116 of the HMTA to require the Secretary of Transportation to make grants to States and localities for fiscal years 1990 through 1994 to train personnel who are likely to have to respond to hazardous materials accidents. Federal grants are to cover no more than 75% of the cost of any training program. (The Office of Technology Assessment estimates that over 75% of the nation's police and firefighters are ill-equipped to respond to a hazardous materials accident and therefore need this type of training.)

No grant may be made unless an application is submitted to and approved by the Secretary.

The Secretary shall consult with the Federal Emergency Management Agency (FEMA) to establish guidelines for training programs that use a grant provided by this section.

The Secretary shall make grants for training from the Highway Trust Fund at the following amounts: $5 million for FY 1988, $10 million for FY 1989, and $15 million for each of fiscal years 1990, 1991, and 1992.

Subsection (b) requires the Secretary to publish guidelines for training programs within 180 days.

Subsection (c) requires the Secretary to promulgate within one year Emergency Response Information Regulations to include: (1) the listing of emergency response telephone numbers on all shipping papers required for hazardous materials shipments; (2) a requirement that all motor carriers transporting hazardous materials carry the most current DOT publication on emergency response procedures; (3) a requirement that the publication be located at facilities involved in hazardous materials transportation.

SECTION 8: MINIMUM TRAINING REQUIREMENTS

Subsection (a) amends section 106 of the HMTA to require the Secretary of Transportation to establish guidelines for training and retraining personnel who load and handle hazardous materials. The guidelines include provisions for the handling of hazardous materials, knowledge and operation of emergency response equipment and appropriate emergency response procedures, and familiarity with federal motor carrier safety regulations and federal safety regulations affecting hazardous materials.

Subsection (b) requires the Secretary to publish guidelines within 180 days.

SECTION 9: HAZARDOUS MATERIALS FLOW STUDY

This section requires the Secretary to conduct a study on the flow on hazardous materials in the United States and report to Congress within one year. The study is to cover routes followed by those materials that are "double hazards" (ie., those requiring two placards during transport). The study must identify the routes followed and the types of accidents and incidents involving the shipment of hazardous materials which have required emergency response services. The Secretary must periodically update the study to identify major changes in routing or emergency response.

SECTION 10: SHIPMENT OF NUCLEAR WASTE

This section requires the Secretary of Transportation, in consultation with the Secretary of Energy, to conduct an analysis of the risks to health, safety, and the environment associated with the transportation of high-level nuclear waste and spent fuel to the five potential geologic responsitory sites to be nominated by the Secretary of Energy pursuant to the Nuclear Waste Policy Act. The analysis must also include shipments to and from any monitored retrievable storage site authorized under that Act. The Secretary is also required to evaluate and compare routes and transportation modes that entail the least risk to human health, safety, and the environment. The study shall provide an opportunity for public comment and must be completed within one year and submitted to Congress and to the Secretary of Energy.

● Mr. COHEN. Mr. President, I am pleased to join the Senator from Colorado, Senator WIRTH, and several of my colleagues, in cosponsoring the Hazardous Materials Transportation Safety Amendments of 1987. Last year, in the Superfund Amendments and Reauthorization Act, we made important improvements in our hazardous waste emergency cleanup procedures and signaled our commitment to protect the public from the dangers of toxic waste.

The legislation we are introducing today takes that commitment one step further by addressing an equally important issue: the transportation of hazardous materials. In 1982, the last year for which statistics are available, over 1.5 billion tons of hazardous materials, including petroleum and chemical products and byproducts, spent nuclear fuel and toxic waste, were transported by land, sea, and air in the United States. This figure does not include materials transported through pipelines, which would more than double the annual total. More than half of the 1.5 billion tons was moved by truck, creating a situation of immense risk.

Our bill addresses this situation in several ways. First, it provides grants to States and localities for the establishment of designated hazardous waste transportation routes and the enforcement of that routing. In addition, the bill requires the registration of all transportation of hazardous waste as well as anyone who manufactures waste packages or containers for transportation. Currently, the Department of Transportation has no information on who is involved in hazardous waste transportation and so has no handle on whom to regulate.

Another section of the bill provides grants to States and localities to train personnel in emergency response to hazardous materials accidents. The Office of Technology Assessment estimates that 75 percent of the Nation's police and firefighters are ill-equipped to handle such an emergency. Minimal training requirements are to be established by the Secretary of DOT.

In my own State of Maine, many of its towns rely on volunteer firefighters to handle emergencies. In the case of a hazardous materials spill, these brave volunteers may needlessly risk their lives because of a lack of training at the local level and the public's health and safety may be further endangered. It is crucial, then, that we provide the kind of assistance envisioned in the Hazardous Materials Transportation Safety Amendments, to ensure that we achieve greater control over the thousands of dangerous substances transported throughout our cities and small towns alike.

In the ideal world, we wouldn't have hazardous materials that threaten our health and environment. In reality, however, they are abundantly part of our world and so we must take whatever precautions are necessary to ensure that we minimize the risks associated with their use and transport. Mr. President, this bill goes a long ways toward ensuring a safer environment, and I urge the support of my colleagues.●

By Mr. DeCONCINI (for himself, Mr. BRADLEY, Mr. GRASSLEY, Mr. HUMPHREY, Mr. HELMS, and Mr. SYMMS):

S. 1270. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CREDIT MANAGEMENT AND DEBT COLLECTION IMPROVEMENT ACT

● Mr. DeCONCINI. Mr. President, today I am honored to rise as the cochairman of the Senate Grace Caucus and reintroduce what I believe to be one of the most important pieces of legislation which this historic 100th Congress could enact into law. I am speaking of the Federal Credit Management and Debt Collection Act of 1987.

This bill is a comprehensive revision of the Debt Collection Act of 1982 and is the cornerstone of the legislation resulting from the recommendations contained in the President's private sector survey on cost control, or the Grace Commission Report.

Last year, several colleagues and I introduced a package of 16 bills designed to make a significant, long-term contribution to the way the Federal Government does business. Of the bills we introduced, four of them—and part of a fifth—were approved by the 99th Congress. The remaining bills, one of which I am introducing with a number of my colleagues today, form the core of the Grace caucus' legislative package for the 100th Congress.

Mr. President, the legislation I am introducing today establishes specific nontax debt collection targets for the Government as a whole and includes a mechanism for setting debt collection targets for the individual agencies and departments with debt collection balances. It sets an overall target of $15 billion for the collection of nontax delinquencies over a period of 3 fiscal years.

The General Accounting Office estimates that the nontax delinquent debt balance as of May 1 of this year was $26.4 billion; including $3 billion in foreign loans, $13.8 billion in domestic loans, and $9.6 billion in other delinquent account receivables.

Because of the continuing crisis being experienced in this country's farm community, I have excluded a section of last year's bill dealing with loans made under the Consolidated Farm and Rural Development Act from the definitions of direct and guaranteed loans section. This should help to make the bill more acceptable to those Members whose constituents are suffering because of the farm crisis but who still wish to see this Government make a concerted effort at collecting long overdue obligations to the U.S. Government. If the goal of $15 billion is achieved, it would leave our farm debt outstanding and little else, while at the same time establishing wise business practices for this Government to follow.

Also established under this bill is the position of Under Secretary of the Treasury for Debt Collection and Credit Management. The Under Secretary would be the principal adviser to the President with respect to credit management and debt collection policy. He or she would collaborate with the Secretary of the Treasury to establish individual agency debt collection targets and report to Congress on the progress of these efforts. This would centralize the debt collection efforts of the Government within one Government agency and would facilitate the coordination of these efforts.

One of the unique aspects of this bill is the built-in incentive for agencies to collect outstanding debt. Those agencies that exceed their debt collection targets would be allowed to retain 15 percent of the excess amount collected, while those which fail to meet their targets would be penalized by a reduction in their annual appropriations by 15 percent of the shortfall of their goal.

This is a tough, but I feel, fair piece of legislation which deserves the immediate attention of and action by this Congress. At a time when we are desperately seeking ways to bring additional revenue into the Treasury by all manner of legislative sleight of hand without resorting to revenue enhancements, legislation such as this is indeed pertinent and necessary. Looking at the total amount owed the United States from all sources, including foreign governments, it should be no surprise that this Nation is now the world's largest debtor nation. While this bill will not address all the debt that is owed the United States, it will—if enacted—make a major dent in

the nontax side of our red ink ledger and put some muscle in our Federal debt collection efforts.

Mr. President, I hope that the Governmental Affairs Committee will promptly report out this important debt collection and credit management bill, either as free standing legislation or as part of its response to the budget resolution's reconciliation instructions. It is truly a bill whose time has come.

I urge my colleagues to seriously consider cosponsoring this legislation and, Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the Record at the end of my statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Credit Management and Debt Collection Improvements Act of 1987".

CREDIT MANAGEMENT AND DEBT COLLECTION

Sec. 2. Title 31, United States Code, is amended by inserting after chapter 35 the following new chapter:

"CHAPTER 36—CREDIT MANAGEMENT AND FEDERAL DEBT COLLECTION

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"3601. Purpose.
"3602. Definitions.
"3603. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management.
"3604. Functions of the Under Secretary.

"SUBCHAPTER II—CREDIT EXTENSION AND ADMINISTRATION

"3611. Subsidy statement.
"3612. Interest rates.
"3613. Loan origination and application fees.
"3614. Withholding of funds.
"3615. Prior default by applicant.
"3616. Default and acceleration clauses.
"3617. Notice to applicant.
"3618. Study on private sector participation.
"3619. Regulations and financial contract.

"SUBCHAPTER III—DEBT MANAGEMENT

"3621. Delinquency and default standards.
"3622. Audit of credit programs.
"3623. Regulation deadline.
"3624. Collection targets.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 3601. Purpose

"In order to strengthen the overall credit management and debt collection of the Federal Government, provide central direction to, and coordination of, Federal credit management and debt collection activities by consolidating such activities within a single organizational structure, and provide for the production of adequate, accurate, timely, and consistent financial data for the use of the executive branch and the Congress in the financing, management, and evaluation of Federal programs, this chapter establishes in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management.

"§ 3602. Definitions

"As used in this chapter:

"(1) The term 'executive agency' has the meaning given to the term 'agency' in section 552(e) of title 5.

"(2) The term 'obligation' means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest on the issuing executive agency.

"(3) The term 'direct loan' means a disbursement of funds by an executive agency (not in exchange for goods or services) under a contract that requires the repayment of such funds with or without interest. Such term shall also include an obligation guaranteed by an executive agency and purchased by the Federal Financing Bank. Such term shall not include any commodity price-support loan made by the Commodity Credit Corporation or any loan made or insured under the Consolidated Farm and Rural Development Act.

"(4) The term 'subsidy' means, with respect to a direct loan, the difference between—

"(A) the costs (including interest) which would have been incurred by a borrower to obtain the loan from private sources, minus

"(B) the costs (including interest) which were incurred by the borrower to obtain the loan from the Government.

"(5) The term 'debt' means an amount of money or property that has been determined by an appropriate official of an executive agency to be owed to the United States by any person, organization, or entity except another agency.

"(6) The term 'loan guarantee' means contingent liability of an executive agency. A guaranteed loan is—

"(A) any agreement in which an executive agency pledges to pay part or all of the amount due to a lender or holder in the event of default by the borrower; or

"(B) a direct Federal loan that an executive agency sold under a guarantee or agreement to repurchase.

Such term does not include a loan guaranteed under the Consolidated Farm and Rural Development Act.

"(7) The term 'credit extension' means that portion of the credit management cycle involving review and approval of requests for short-term or long-term credit.

"(8) The term 'financial contract' means any agreement or contract made by an executive agency, the primary purpose or results of which is to make private credit available, or available on more favorable terms than in the absence of the contract, to a non-Federal entity by indirectly or directly assuming the risk involved. Such term includes financial contracts such as an agreement to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), financial lease agreements for assets and project financing, and repayment arrangements.

"(9) The term 'creditworthy' means a favorable determination entitling an applicant to receive credit, which is based on—

"(A) the perceived ability and willingness of the borrower to repay the debt and the lending organization's level of acceptable risk; and

"(B) the consideration of other Federal obligations that could jeopardize, or be jeopardized by, the new debt under consideration.

"(10) The term 'receivables' means amounts owed the Government upon completion of the acts giving rise to claims, and includes amounts such as amounts due for taxes, loans, sales of goods and services, fines, penalties, forfeitures, interest, overpayments, fees, duties, rents, royalties, claims, damages, audit disallowances, and travel advances.

"(11) The term 'account servicing' means that portion of the credit management cycle dealing with monitoring the status of accounts of indebtedness, maintaining records of current debts, billing for amounts due, collecting amounts due, collecting past due amounts, handling debtor correspondence, performing followup functions, and providing accurate reporting of debt portfolios.

"(12) The term 'debt collection' means that portion of the credit management cycle dealing with recovery of amounts due after routine followup fails, and includes the assessment of the debtor's ability to pay, the exploration of possible alternative arrangements to increase the debtor's ability to pay, and other efforts to secure payment.

"(13) The term 'delinquency' means the status of any account which is 30 days past due.

"(14) The term 'default' means the failure to meet any obligation or term of a credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement, and for purposes of this chapter, default occurs—

"(A) in the case of a direct loan, when the account is past due over 180 days; and

"(B) in the case of guaranteed loan, when the Government repurchases the loan.

"(15) The term 'reschedule' means to establish new terms and conditions to facilitate repayment of a debt.

"(16) The term 'referral for litigation' means—

"(A) referral to the Attorney General for appropriate legal proceedings; or

"(B) in any case in which an executive agency has statutory authority to bring legal actions without referral to the Attorney General, referral to the organization within the executive agency that is responsible for litigation.

"(17) The term 'credit report' means any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability of an applicant or debtor.

"(18) The term 'Under Secretary' means the Under Secretary of the Treasury for Debt Collection and Credit Management appointed under section 3603 of this title.

"(19) The term 'agency head' means, with respect to an executive agency, the chief executive of the agency.

"(20) The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"§ 3603. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management

"There shall be in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management, who shall be appointed by the President, by and with the consent of the Senate.

"§ 3604. Functions of the Under Secretary

"(a) The Under Secretary shall—

"(1) be the principal advisor to the President with respect to Federal credit management and debt collection policy;

"(2) provide leadership, central direction, guidance, and monitoring of the executive agencies in credit management and debt collection and related financial reporting;

"(3) prepare and transmit to the Congress and the Comptroller General, within one year after the date of enactment of this chapter and in consultation with agency heads, comprehensive debt collection and credit management plans which comply with subsection (b) of this section;

"(4) review executive agency credit management and debt collection plans and policies in order to assure that—

"(A) such plans and policies are—

"(i) consistent with the overall objectives, structure, and information requirements of comprehensive debt collection and credit management plans prepared under paragraph (3) of this subsection; and

"(ii) applied uniformly across agencies to assure parity and consistency; and

"(B) in the case of any project for the development of new or improved financial management systems, such project does not duplicate efforts by other agencies;

"(5) ensure that the President and the Congress are kept fully and currently informed of the Federal Government's—

"(A) financial position and results of its operations;

"(B) financial management condition; and

"(C) requirements for financial resources to correct deficiencies and improve the effectiveness of accounting systems, financial systems, and systems of internal controls;

"(6) identify and establish financial management objectives and information requirements in order to define the data requirements of standards established by the Comptroller General for the use by all executive agencies in the development and operation of their financial management systems;

"(7) require each executive agency to submit comprehensive records describing in detail debt status and collection efforts, by program, project, or activity;

"(8) provide an annual summary of the activities conducted under this chapter to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, describing the progress made in improving debt collection and credit management, and recommending such changes in Federal law for the purpose of improving debt collection and credit management as the Under Secretary considers appropriate; and

"(9) promulgate such regulations as may be necessary to carry out this chapter.

"(b) The comprehensive debt collection and credit management plans required under paragraph (3) of subsection (a), shall, at a minimum—

"(1) establish credit management and debt collection practices, procedures, and regulations that implement and comply with this chapter and chapter 37 of this title, regulations of the Under Secretary, and all other relevant laws, regulations, rulings, and guidance;

"(2) define and assign debt collection and credit management responsibilities for each executive agency;

"(3) establish employee performance appraisal standards and bonus award programs that take into account employee contributions to improving the operation of credit management and debt collection programs;

"(4) establish accounting practices and procedures and automated management information systems to enable each executive agency to produce accurate financial reports on those programs that generate receivables, including reports such as operating statements, statements of financial position, and cash flow statements; and

"(5) require annual evaluations of credit management and debt collection operations and systems in order to identify areas in which such operations and systems could be improved and to initiate actions to correct any problems identified through such evaluations.

"(c) Within 60 days after receiving a plan under paragraph (3) of subsection (a), the Comptroller General shall prepare and transmit to the Congress a report which contains the analysis and comments of the Comptroller General with respect to the plan and the progress being made by executive agencies to strengthen credit management and debt collection.

"SUBCHAPTER II—CREDIT EXTENSION AND ADMINISTRATION

"§ 3611. Subsidy statement

"Any proposal by an executive agency for legislation to enact new credit programs or to amend existing credit programs shall contain an explicit statement of any subsidies in the direct or guaranteed loan program with which such proposal is concerned.

"§ 3612. Interest rates

"Interest rates in all new direct loan programs shall be related to market rates for comparable private sector loan programs, and the interest rates in such direct loan programs shall be adjusted annually to reflect changes in comparable private sector rates.

"§ 3613. Loan origination and application fees

"Loan origination and application fees shall be assessed on all loan or loan guarantee programs to defray administrative costs and costs of defaulted loans.

"§ 3614. Withholding of funds

"No executive or legislative agency shall directly or indirectly make available to any person any funds of the United States if the agency has notice that such person is delinquent in the payment of a debt owed the United States unless such person demonstrates that the debt is no longer delinquent or that arrangements satisfactory to the United States have been made for the repayment of such debt.

"§ 3615. Prior default by applicant

"Federal loan or loan guarantee funds may not be made available to any applicant who defaults on a Federal loan or loan guarantee made after the date of enactment of this chapter, unless—

"(1) the new loan or loan guarantee is necessary to protect the Government's interests;

"(2) the debt in default was discharged under Federal bankruptcy laws; or

"(3) the default has been cured.

"§ 3616. Default and acceleration clauses

"Loan and loan guarantee contracts shall contain default and acceleration clauses. Default clauses shall provide for interest from the date of default and at the greater of the interest rate due under the existing loan or loan guarantee contract or the rate prescribed by the Secretary of the Treasury under section 3717 of this title. Acceleration clauses shall provide that upon default the entire remaining principal balance shall be due and subject to collection at that time.

"§ 3617. Notice to applicant

"Each applicant for any extension of credit shall be provided a written notice specifying Federal debt collection policies and practices. Each such applicant shall be required to certify that such applicant has read and understands such policies and practices.

"§ 3618. Study on private sector participation

"The President shall provide for the conduct of a study to determine which existing Federal direct loan programs could be carried out, in whole or in part, by private lending institutions as direct loans without Government guarantees. Within one year after the date of enactment of this chapter, the President shall transmit to the Congress a report which describes the results of such study and contains such recommendations as the President considers appropriate, including recommendations for legislation.

"§ 3619. Regulations and financial contract

"(a)(1)(A) The Secretary of the Treasury shall establish Federal credit management policies and promulgate regulations implementing this subchapter. Such policies and regulations shall apply to—

"(i) direct loans, loan guarantees, loan insurance, financial contracts designed to support borrowing, and debts arising from contracts, grants, and other administrative arrangements; and

"(ii) all executive agencies and Government corporations unless specifically exempted from Federal control by other statutory authority.

"(B) The Secretary of the Treasury shall include in regulations promulgated under this paragraph regulations with respect to—

"(i) all credit practices necessary to make Federal credit practices substantially conform to the best established credit practices of the private sector;

"(ii) credit analysis of borrowers (including determinations with respect to creditworthiness, financial responsibility, financial statements, identification of collateral, and ability to repay);

"(iii) prescreening procedures (including the use of credit reports and records from the same or other executive agencies to identify applicants who are delinquent or in default on debt contracted under other Federal programs, projects, or activities);

"(iv) program eligibility;

"(v) alternative sources of credit;

"(vi) use of taxpayer identification numbers;

"(vii) establishment of regular repayment schedules;

"(viii) account servicing practices (including adequate recordkeeping and documentation, account review and loss estimates, followup procedures on delinquent accounts, and automation of loan servicing activities);

"(ix) debt accounting and reporting systems;

"(x) interest, penalties, and administrative costs;

"(xi) administrative offset;

"(xii) use of collection agencies;

"(xiii) referral for litigation;

"(xiv) calling guarantees;

"(xv) controlling and foreclosing on collateral;

"(xvi) Federal employee salary offset;

"(xvii) income tax refund offset;

"(xviii) rescheduling;

"(xix) writeoff and closeout procedures;

"(xx) portfolio sales;

"(xxi) management review; and

"(xxii) improvement plans.

"(2) Regulations promulgated under paragraph (1) of this subsection shall not apply to debt arising under the Internal Revenue Code of 1986, the Social Security Act, the tariff laws of the United States, or to debts owed by State or local governments.

"(b) The Secretary of the Treasury shall prescribe minimum requirements for contracts for all loans or loan guarantees governed by this chapter.

"SUBCHAPTER III—DEBT MANAGEMENT

"§ 3621. Delinquency and default standards

"Within one year after the date of enactment of this chapter, each executive agency operating credit programs shall—

"(1) develop delinquency and default rate standards for each loan and loan guarantee program; and

"(2) transmit a report to the Congress specifying such standards.

"§ 3622. Audit of credit programs

"(a) Within two years after the date of enactment of this chapter, the Comptroller General shall audit the credit management and debt collection systems and operating policies of each executive agency which administers credit programs.

"(b) Each audit conducted under subsection (a) shall determine whether the executive agency has complied with the requirements of this chapter, the requirements of subchapters I and II of chapter 37 of this title, and the related requirements of the Comptroller General, the Attorney General, and the Secretary of the Treasury. Copies of the audit report of each audit shall be provided to the Congress, the Under Secretary, and the agency head. With respect to any weaknesses disclosed by the audit, the agency head, within 60 days after receiving the audit report, shall furnish the Congress with an explanation of the reasons for such weaknesses and a plan of appropriate action to correct such weaknesses.

"§ 3623. Regulation deadline

"Within one year of the date of enactment of this chapter, each executive agency operating credit programs shall have promulgated all final executive agency regulations required by this chapter and subchapters I and II of chapter 37 of this title.

"§ 3624. Collection targets

"(a) The total amount of delinquent debts owed to executive agencies (other than debts arising under the Internal Revenue Code of 1986) shall be reduced by not less than $15,000,000,000 during the period beginning on October 1, 1987, and ending on September 30, 1990. For purposes of this section, the total amount of such debts shall be the total amount of such debts identified by the Comptroller General as of September 30, 1986.

"(b) The Secretary of the Treasury, after consulting with each agency head and receiving the proposals of each agency head for debt collection targets, shall develop and specifically establish debt collection targets for each fiscal year for each executive agency debt collection program. Such targets shall be established in conjunction with the provisions of the comprehensive debt collection credit management plans established pursuant to section 3604(a)(3) of this title and shall be designed to implement subsection (a).

"(c) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are exceeded by such agency, 15 percent of the amount by which such agency exceeds the targets for such fiscal year shall be made available to the executive agency as additional program funding for the particular program or activities involved in the debt collection activity. The balance of the delinquent debts collected under this section shall be returned to the Treasury of the United States and shall be used to reduce the public debt.

"(d) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are not met by such executive agency, the amounts that were appropriated for the programs or activities at the executive agency failing to meet such targets shall be reduced by an amount equal to 15 percent of the difference between the amount collected by the executive agency toward its debt collection target and the actual debt collection target established by the Secretary of the Treasury under subsection (b) of this section.

"(e) The Secretary of the Treasury shall promulgate regulations which prescribe standards for use by executive agencies in developing proposals for debt collection targets. Such standards shall require executive agencies to consider, for each program or activity, such factors as—

"(1) the characteristics of the debts and debtors involved;

"(2) the historical experience of the agency, other government agencies, and the private sector in the collection of similar types of debt;

"(3) the rates of delinquency and default;

"(4) planned improvements in the agency's debt collection programs; and

"(5) such other factors as the Secretary of the Treasury considers appropriate.

"(f) Officers and employees of executive agencies responsible for the management of debt collection programs shall be held accountable (as part of the performance standards to be established under section 3604 of this title) for establishing and periodically reviewing and revising procedures and targets that comply with the requirements of this section and the regulations of the Secretary of the Treasury.

"(g) Any reductions to executive agency appropriations under this section shall be reported in detail to the Congress by the Secretary of the Treasury and shall be included in detail in all budget justifications presented by the executive agency to the Congress.".

USE OF CREDIT BUREAUS

SEC. 3. Section 3711(f) of title 31, United States Code, is amended by—

(1) striking out "may" after "legislative agency" in paragraph (1) and inserting in lieu thereof "shall"; and

(2) striking out "may" after "system" in subparagraph (A) of such paragraph and inserting in lieu thereof "shall".

DEBT COLLECTION CONTRACTORS

SEC. 4. Section 3718(a) of title 31, United States Code, is amended by—

(1) inserting "to augment agency collection efforts" after "appropriate";

(2) striking out "may" after "head of the agency" and inserting in lieu thereof "shall";

(3) striking out "; and" at the end of paragraph (1);

(4) striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(5) inserting after paragraph (2) the following new paragraph:

"(3) the person will submit to the agency status reports on the success of such person in collecting such debts at least once every six months.".

ROUTINE ADJUSTMENTS OF PAY

SEC. 5. Section 5514(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) This subsection does not apply to intragency deductions for routine administrative overpayments which are the result of clerical or administrative error or delays in the processing of pay documents, and which are rarely controversial or disputed. With respect to these routine adjustments of pay, the agency should afford the individual reasonable opportunity to dispute the deduction. Such opportunity need not be provided prior to making the deduction.

"(6) No claim may be collected under the authority of paragraph (1) of this subsection at any time after 10 years after the claim first accrues.".

INTERNAL REVENUE SERVICE INFORMATION

SEC. 6. Section 6103(m)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by inserting before the period a comma and "or other statutory authorities granting agencies independent claims collection authority"; and

(2) by striking out "the Secretary may" and inserting in lieu thereof "the Secretary shall".

DEBT COLLECTION REPORTS IN THE BUDGET PROCESS

SEC. 7. (a) Section 3719 of title 31, United States Code, is amended—

(1) by striking out "the Director of the Office of Management and Budget" in subsection (a) and inserting in lieu thereof "the Under Secretary of the Treasury for Debt Collection and Loan Management";

(2) by striking out "Director" each place it appears in subsections (a) and (b) and inserting in lieu thereof "Under Secretary";

(3) by striking out "and the Secretary at least once each year" in subsection (a) and inserting in lieu thereof "in accordance with regulations issued by the Under Secretary under section 3603 of this title";

(4) by striking out "and" at the end of subsection (a)(1)(E);

(5) by inserting "and" after the semicolon in subsection (a)(1)(F);

(6) by inserting after subparagraph (a)(1)(F) the following new subparagraph:

"(G) the agency's progress in implementing chapters 36 and 37 of this title, and the agency's monetary and programmatic goals for improving collections and reducing delinquencies and writeoffs;"; and

(7) by striking out "and shall report annually to Congress on the management of debt collection activities by the head of each agency" in subsection (b) and inserting in lieu thereof "and shall prepare (for inclusion in the budget submissions required by section 1105 of this title) a detailed statement of the Under Secretary's evaluation of each agency's implementation of its debt collection and loan management responsibilities for each debt collection and credit program administered by the agency".

(b) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(26) a separate statement for each agency and program contains the information specified in section 3719(b) of this title.".

SELLING DEBTS OWED TO THE GOVERNMENT

SEC. 8. Section 3711 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The head of each agency shall investigate the feasibility and cost effectiveness of selling the debts which that agency is responsible for collecting (either before or after they become delinquent or in default), using competitive procedures, and shall establish procedures to facilitate such sales when it would be to the Government's advantage to do so.

"(2) Whenever feasible, sales of debt under this subsection shall be for cash and without recourse, repurchase, or other guaranty or warranty agreement by the Government.".

TIME LIMITATIONS FOR BRINGING LEGAL ACTIONS ON DEBTS OWED THE UNITED STATES

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) No provision of State law that would set an earlier deadline for filing suit shall apply to a suit filed for collection of a debt owed to the United States.".

DEFINITION OF DEBT AND CLAIM

SEC. 10. Section 3701(b) of title 31, United States Code, is amended to read as follows:

"(b) In subchapter II of this chapter, the terms 'debt' and 'claim' mean any amount owed to the Government, except that such term does not include any amounts owed by one agency to another agency, and except as otherwise provided by law.".

SECTION-BY-SECTION ANALYSIS OF THE DEBT COLLECTION BILL

Section 2: Amends Title 31 U.S.C. by adding a new chapter on Credit Management and Federal Debt Collection.

Calls for the appointment of a new Under Secretary of the Treasury for Debt Collection and Credit Management who will have major new responsibilities for improving the Federal debt collection and credit management effort. Appointed by the President and confirmed by the Senate. He will be the President's chief adviser regarding Federal credit management and debt collection policy.

Subsidy Statement: Bill calls for identification of any subsidy contained in new proposed credit programs.

Interest Rates: Bill calls for interest rates on new credit programs be related to market rates for comparable private sector loan programs.

Loan Organization and Application Fees: Bill calls for loan origination and application fees for defray administrative costs and costs of defaulted loans.

Withhold of Loans: Bill calls for no loans to persons delinquent in paying back government loans unless he or she can prove loan payments are not delinquent or that they have taken steps to repay:

Also no loans to those who have defaulted on prior Government loans made after enactment of this bill, with certain exceptions.

Loans will contain default and acceleration clauses.

Study on Private Sector Participation: Bill directs President to conduct a study of private sector alternatives to Federal loan programs.

Regulations and Financial Contract: Bill calls for the Secretary of the Treasury to establish certain procedures and regulations to implement this chapter and to improve both debt collection and credit management.

Delinquency and Default Standards: Bill calls for each executive agency operating credit programs to develop such standards within one year and report to Congress on them.

Audit of Credit Programs: Bill calls for complete audit of credit programs by GAO two years after enactment of the bill.

Regulation Deadline: Bill calls for each executive agency to promulgate final regulations within one year of enactment.

Collection Targets: Bill calls for collection of $15 billion over three years in non-tax debt delinquencies. Penalizes agencies who do not meet pre-determined debt collection targets (cuts their appropriations by 15% of the shortfall between actual collections and the target); and provides incentives for those agencies that exceed their pre-determined debt collection targets (15% of the excess over the target, agency can keep for programs.) Balance collected used to reduce the deficit.

Secretary of the Treasury sets the targets in consultation with executive agency heads.

Section 3: Use of Credit Bureaus; Mandates use of credit bureaus by executive agencies.

Section 4: Debt Collection Contractors: Mandates the use of private debt collection agencies by executive agencies;

Section 5: Routine Adjustments of Pay: Allows offset against salaries for debts owed and delinquent. Clarifies current law on this matter.

Section 6: Internal Revenue Service Information: Allows use of I.R.S. information to help in debt collection.

Section 7: Debt Collection Reports in the Budget Process: Directs that debt collection data be included in the Budget of the affected agencies and requires certain reports to Congress on debt collection performance by executive agencies.

Section 8: Selling Debts Owed to the Government: Calls for study of the feasibility of selling Government debts to the private sector as one means of debt collection.

Section 9: Time Limitations for Bringing Legal Actions on Debts Owed the U.S.: Addresses the issue of statute of limitations and conflict of laws with States that preclude collection action on Federal delinquencies.

Section 10: Definition of Debt and Claim: Clarifies definitions regarding debts and claims.●

By Mr. METZENBAUM:

S. 1271. A bill to provide comprehensive Federal assistance for day care; to the Committee on Labor and Human Resources.

DAY CARE WORKING FAMILIES ACT

● **Mr. METZENBAUM.** Mr. President, I am today introducing the Day Care for Working Families Act of 1987, legislation which will expand the availability of quality, affordable day care in this country.

On Friday, May 22, I will chair a day-care hearing of the Labor Subcommittee at Owens Technical College in Toledo, OH. The purpose of the hearing is to obtain grassroots testimony on the importance of day care to people's working lives.

Day care is not a luxury—it's a necessity. The majority of young couples today must both work to put food on the table and a roof over their heads. But increasingly, quality day care is hard to find at any price.

A national survey done in April found that 42 percent of the parents with children under 6 said the child care they need is not available, and 28 percent said the quality of their child's care was not as good as it should be.

In 1981, I introduced legislation to expand the day-care tax credit. At that time, I noted in the RECORD how far we had fallen behind in providing essential day-care services. I am sad to say that the situation has not improved very much over the last 7 years.

Mr. President, we have a challenge on our hands. The American labor force has been transformed over the past two decades, and the Federal Government has been asleep at the switch.

In America today, 51 percent of mothers with children under 3 are in the labor force. In 65 percent of married couple families with children, both the husband and wife work. By 1990, two-thirds of all new workers will be women, most of whom will become mothers at some point during their working lives.

It often takes two incomes to make it in America today. That's the reality. The problem is that the supply of quality, affordable day care has not kept pace with the changing American family.

The result is long waiting lists for day care, complex arrangements with family members and babysitters, and a lot of anxiety.

There is nothing more important to a parent than knowing their child is being cared for in a safe and loving environment. If you don't have that, you don't have peace of mind.

America needs quality day care and what we've got is a shortage—a shortage of crisis proportions for infants, for handicapped children and for kids after school.

The legislation which I am introducing today will help us to come to grips with that shortage.

First, the bill provides for a separate line item for title XX day-care services. A reserve fund is created and States must spend these funds for day-care services.

According to CBO, the title XX block grant currently includes $500 million for day care. My bill increases that amount by $200 million and does not reduce the funding for any other program within the title XX block grant. It is important that these services be held harmless since they are vital to the welfare of so many people in need in our society.

I believe that this increase for day-care services is long overdue. A study completed in Ohio by the children's defense fund has shown that $1 spent on day care saves $3 in welfare costs.

With all the attention currently being devoted to the reform of our welfare system, there is every reason to invest in day care for low-income families. It is the key to successful reform of the system.

The bill which I am introducing today will also provide demonstration grants for the establishment of employer-community day care councils. These councils will be made up of employers from the private and public sectors, as well as day care providers, parents, and other local community officials.

The demonstration grants, which will be administered by the Secretary of Labor, will be a 50-50 split between Federal funds and funds from State and local communities.

These grants can be used to provide startup and operating costs for day care resource and referral programs in local communities. Such programs have proven to be of enormous help in directing parents to the day care services which are best suited to their needs. In addition, they have helped expand the availability of day care by recruiting, training, and licensing family day care homes.

The grants can also be used to fund the startup renovation and expansion of day care facilities, and to support day care services for handicapped children.

There is a severe shortage of day care options for special needs children. Oftentimes the only option available is very costly in home care.

Finally, the grants under this section of the bill can also be used to provide financial assistance to low-income families who do not qualify for title XX day care services.

I believe that the employer-community day care councils will allow the maximum flexibility at the local level and provide businesses with incentives to get more involved in providing their employees with support in their search for quality and affordable day care services.

Mr. President, we need more day-care centers in this country. Toward this end, the legislation establishes a special SBA loan guarantee program for day care centers. The SBA will conduct an outreach program to provide advice and assistance to prospective providers of day care services.

Although day care providers can currently request SBA loans, they often encounter barriers since their loan amounts are typically much smaller than the SBA is used to handling.

In addition to establishing a $30 million loan fund exclusively for day care, the bill requires the SBA to report to Congress within 4 months on how the needs of day care providers are being addressed.

Finally, Mr. President, the Day Care for Working Families Act includes a minimum set of standards for day care which States must enforce if they are to avail of funds under the act.

States can and should go much further than these provisions to ensure that children are cared for in a clean and safe environment. However, these provisions establish some basic safeguards like regular and unannounced inspections; an open visiting policy for parents; training for day care center staff in child abuse prevention and identification; and a posting of a toll-free number to the State licensing authority.

Mr. President, as I said at the outset, the time has come to make day care a national priority.

I am hopeful that the legislation I am introducing today will be a significant contribution to that effort.

Mr. President, I ask unanimous consent that the full text of the Day Care for Working Families Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Day Care for Working Families Act of 1987".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) One of the most significant changes in the labor force in the last 20 years has been the increase in the number of mothers in the workforce.

(2) Half of American mothers return to work before their baby's first birthday.

(3) In 65 percent of married-couple families with children, both the husband and wife are in the labor force.

(4) In less than 10 years time, 3 out of every 4 school-age children and 2 out of 3 preschool children will have mothers in the labor force.

(5) Over 62 percent of all new jobs created since the mid-1970's were filled by women. One in every 5 American workers is a mother. By 1990, two-thirds of all new workers will be women.

(6) Working women have helped to maintain the standard of living for many American families.

(7) There is a serious shortage of quality day care services.

(8) A majority of working parents report difficulty in finding the kind of child care they need at a price they can afford.

(9) A recent national survey of working parents has revealed that 42 percent of those parents with children under 6 found that the child care they need is not available, and 28 percent said the quality of their child's care is not as good as it should be.

(10) The provision of day care services can be the key to returning many of those on public assistance to productive jobs in the labor force.

(11) Therefore, the expansion of affordable, quality day care services is a national priority given the current and projected needs of the American workforce.

SEC. 3. EMPLOYER-COMMUNITY DAY CARE COUNCILS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Labor shall establish a demonstration program under which matching grants are provided to employer-community day care councils to expand the availability of affordable, high quality day care services to individuals, particularly low-income families.

(2) FEDERAL SHARE.—The Federal share of a grant provided under this section shall be 50 percent.

(b) COUNCILS.—To be eligible to obtain a grant under this section, a employer-community day care council must be established that may consist of representatives of private employers, child care programs, parents, local governments, and other local community institutions.

(c) PURPOSES.—A council may use a grant obtained under this section to provide funds for—

(1) affordable, high quality day care services for individuals, particularly low-income families;

(2) the start-up and operation of day care resource and referral programs in local communities;

(3) the support of day care services for handicapped children;

(4) day care services required by low-income families that do not qualify for assistance under title XX of Social Security Act (42 U.S.C. 1397 et seq.); and

(5) the establishment, renovation, and expansion of day care facilities, with priority given to facilities in which a significant portion of children cared for are low-income children.

(d) AUTHORIZATION.—To carry out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1988.

SEC. 4. INCREASE IN TITLE XX AUTHORIZATION; RESERVATION FOR CHILD DAY CARE SERVICES.

(a) INCREASED AUTHORIZATION.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting in lieu thereof the following:

"(3) $2,700,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987; and

"(4) $2,900,000,000 for the fiscal year 1988 and each succeeding fiscal year.".

(b) RESERVATION FOR CHILD DAY CARE SERVICES.—

(1) Section 2003 of such Act is further amended by striking subsection (d) and inserting in lieu thereof the following new subsections:

"(d)(1) Of the amounts made available under subsection (c) for each fiscal year (beginning with fiscal year 1986), $700,000,000 shall be reserved by the Secretary for allotment under paragraph (2).

"(2) The amount reserved by the Secretary under paragraph (1) in any fiscal year shall be allotted among the States in the same proportions as their regular allotments determined under subsections (a) and (b) for such fiscal year.

"(e) The funds allotted to a State under subsection (d)—

"(1) shall be expended by the State only for the provision of child day care services;

"(2) shall be expended only to supplement the level of any funds that would, in the absence of such allotment, be available from other sources (including any amounts available under this title without regard to such subsection) for provision of child day care services, and shall in no case supplant such funds from other sources or reduce the level thereof;

"(3) shall be separately accounted for in the reports and audits provided for in section 2006; and

"(4) shall not be subject to the provisions of section 2002(d) (permitting a State to transfer up to 10 percent of its title XX funds for purposes authorized under other Federal block grant programs).".

(2) Section 2003(b) of such Act is amended—

(A) by adding "and further reduced by" after the comma at the end of paragraph (2); and

(B) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the amounts reserved by the Secretary for that fiscal year under subsection (d).".

SEC. 5. SBA CHILD CARE LOAN PROGRAM.

(a) In General.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following:

"(m)(1) The Administration is also authorized to make loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration determines to be necessary or appropriate to assist child care providers in constructing and renovating space to be used for child care. In providing assistance under this subsection, the Administration shall give a priority to proposed projects in areas with the greatest need and to organizations which serve or will serve significant numbers of children of low income families.

"(2) The amount of loans under this subsection in any fiscal year shall not exceed $30,000,000.

"(3) The Administration shall establish and carry out under this subsection an outreach program to provide advice and assistance to prospective providers of day care services.

"(4) Not later than 4 months after the date of enactment of this subsection, the Administration shall transmit to the Congress a report on the structure of the program under this subsection as it affects day care providers and particularly with respect to the means by which the Administration is addressing the needs of those providers for loan amounts which are smaller than those typically made by the Administration.".

(b) Conforming Amendment.—Section 4(c)(1) of such Act (15 U.S.C. 633(c)(1)) is amended by inserting "7(m)," after "7(l)".

SEC. 6. MINIMUM REQUIREMENTS FOR DAY CARE CENTERS.

(a) Effective after October 1, 1989, no State may receive financial assistance—

(1) under title XX of the Social Security Act with respect to the portion of the allotment of the State under such title XX available for day care;

(2) or under this Act;

unless the Secretary of Health and Human Services determines that the State has established the minimum requirements for day care centers described in subsection (b).

(b) The minimum requirements described in subsection (a) are—

(1) open visiting policy for parents;

(2) posting of a toll-free number to State licensing authority;

(3) a State plan for inspections, which provides for the posting at the day care center of the last date of inspection, and includes provision for unannounced inspections of day care centers;

(4) training for day care center staff in child abuse prevention and identification; and

(5) a State plan for meeting day care needs.

SEC. 7. DAY CARE SERVICES FOR SCHOOL AGED CHILDREN REPORT.

(a) The Secretary of Health and Human Services shall carry out a thorough study on the availability of and the need for day care services for school aged children in each State.

(b) The Secretary of Health and Human Services shall, within one year after the date of enactment of this Act prepare and submit a report on the study required by subsection (a) of this section, together with such recommendations, including recommendations for legislation as the Secretary deems appropriate.●

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 1272. A bill to withdraw certain public lands in Eddy County, NM; to the Committee on Energy and Natural Resources.

WITHDRAWAL OF CERTAIN PUBLIC LANDS IN NEW MEXICO

Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and my distinguished colleague from New Mexico, Senator Domenici, to introduce the WIPP Land Withdrawal Act of 1987. This legislation is a joint effort of Senator Domenici, myself and the other members of the New Mexico delegation. The legislation will provide for the permanent withdrawal of land in Eddy County, NM, for use by the Department of Energy to operate the Waste Isolation Pilot Plant [WIPP].

I am well acquainted with the WIPP facility. As attorney general, I litigated and negotiated limitations on the WIPP mission and project as authorized by Congress.

This legislation includes the important health and safety provisions that I fought for as attorney general to ensure that New Mexico's interests are considered and protected as we permanently withdraw the land. These include putting into statute the important mission limitations on the amount and type of wastes and activities at WIPP. I am proud to be associated with this legislation and feel that it meets the needs of our State and of the Nation.

The WIPP was authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980. (Public Law 96-164, 93 Stat. 1265) as a defense activity of the Department of Energy for the purpose of providing a research and development facility to demonstrate the safe disposal of radioactive waste resulting from defense activities. This legislation reasserts that the primary mission of WIPP is to include receipt, handling, and permanent disposal of defense transuranic waste and temporary storage for experimental purposes of a limited amount of high-level waste. All the high-level waste must be removed upon completion of the experiments.

The legislation provides compensation to the State of New Mexico for mineral royalties lost by reason of the land withdrawal in the amount of $10,091,233 for 5 years. This amount was necessary because the State will effectively be denied its share of rental, bonus, royalty, and severance tax revenues from the loss of energy and mineral resources underlying the WIPP site once the lands are permanently withdrawn.

The Secretary of Energy is required to consult with the State of New Mexico and develop a management plan for the lands and surface resources withdrawn. the plan will provide for grazing, hunting and trapping and protection of wildlife habitat. The Secretary will be required to dispose of salt tailings extracted from the site. Additionally, no surface or subsurface mining will be permitted on the lands to be withdrawn, including after decommissioning of the facility. With respect to the decommission of the facilities, the Secretary of Energy must submit a plan to the Congress and the State, for managing the facility after decommissioning and its plan must be consistent with applicable environmental standards.

The legislation requires the Secretary of Energy to encourage business and employment opportunities in the State, especially Eddy and Lea Counties, as a result of WIPP related activities.

Mr. President, the legislation also requires the Secretary of Energy to develop an economic impact plan in consultation with the State. This plan will include estimates of the social and economic impact of the WIPP project on community services in affected counties of southern New Mexico. It also authorizes the Secretary to make annual impact assistance payments to the State or local governments.

With regard to high-level wastes of the WIPP facility, the Secretary is required to report to Congress within 2 years after the enactment of this legislative report in the Department's plan to conduct high-level waste experiments. This report must address the needs, costs, benefits, risks, safe retrieval mechanisms, plans for the design and compliance with applicable regulations, and certification of the defense high level shipping cask for transporting and handling such wastes. The legislation clearly states that no high level waste can be brought to WIPP for experimentation unless and until the benefits from such experimentation significantly outweigh the risks.

Finally, the legislation requires compliance with EPA standards for the management and disposal of spent nuclear fuel, high level and transuranic wastes. It also requires the use of both engineered and natural barriers to isolate the radioactive waste after disposal in compliance with EPA regulation.

CONCLUSION

I think this is sound legislation that protects the vital interests of both the State of New Mexico and local communities affected by the WIPP facility. I look forward to working with my colleagues on the Energy and Natural Resources Committee in reporting out this bill. I urge the support of all Senators for this important legislation.

By Mr. ROCKEFELLER (for himself and Mr. BYRD):

S. 1273. A bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs; to the Committee on Environment and Public Works.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS

Mr. ROCKEFELLER. Mr. President, today I am proud to introduce, with the cosponsorship of the distinguished majority leader, Senator BYRD, legislation to reauthorize the Appalachian Regional Commission, better known as ARC.

In response to a 1981 administration proposal to eliminate this vital program, the ARC governors proposed a finish-up plan. This proposal recommended a 5-year plan for wrapping-up area development and an 8-year program for completing the Appalachian system of highways. The governors, and I was one of them, asserted that the work of ARC was not complete, that adoption and implementation of their recommendations would still leave much undone, but that the finish-up plan would provide for an orderly completion of ARC efforts already in progress. But, Mr. President, orderly completion has been impossible. Appropriations have been less than half of the 1981 recommended amounts. Funds that were requested for the finish-up were not provided. The reality is that the Appalachian Regional Commission has been unable to complete its program.

During the past two decades substantial progress has been made in fulfilling many objectives of the Appalachian Regional Commission. Jobs have been created, out-migration has slowed, infant mortality has been halved, substandard housing has been reduced, but the region is still not equal to the rest of the Nation. I'm afraid, however, the decisions to severely curtail funding for the ARC in recent years, have caused much of the region to slide backward. In fact, the massive recession which this country experienced in the early 1980's, hit Appalachia hardest of all. At the same time, the administration was trying to gut the very program whose purpose was to cushion the blows of economic uncertainty in this region. So, instead of catching up, we in Appalachia continued to slide backward.

A recent typology completed by the Appalachian Regional Commission has identified 272 distressed counties in the United States. The region encompassed by ARC included 88 of these counties. Nearly one quarter of Appalachia is distressed. This figure compares to 8 percent for the rest of the country. Other key indicators of economic and social welfare consistently continue to lag behind the rest of the Nation. Ideally we need a program targeted at all of these counties, and I am giving a lot of thought to this as well, but in ARC we have programs that are already on the books and ready to go now in this most hard hit of regions.

Rapidly changing national and global conditions have created new problems and challenges for rural areas, especially for the Appalachian region. These problems can be solved only if the industrial and commercial resources of the region become more competitive in national and world markets. We, in Appalachia, are better off than we were in 1965. The gap has been narrowed, but we must not allow the cuts of the past to endanger our hope of finally reaching parity with the rest of America. We must continue our efforts, until the gap between the Appalachian regional States and the rest of America has been completely bridged. The ARC has been and still is the instrument to accomplish this goal.

As I said before, the recession in 1981-83 hit Appalachia and my State more severely than the Nation as a whole. Due to the heavy concentration of coal-mining and manufacturing industries, the region is slower to recover from an economic downturn. Employment levels in these industries have not recovered. The high international value of the dollar which has encouraged imports has adversely affected Appalachian exports of coal, chemicals, textiles, primary and fabricated metals, apparel, and glass products. From 1982 to 1984 high interest rates, combined with low levels of manufacturing activity and excess plant capacity, retarded investments in plants and equipment and sharply lowered the rate of new construction in many parts of the region.

Actions taken so far by 100th Congress this year to reduce both the Federal budget and trade deficits will undoubtedly have a positive effect on some of these problems. I am especially optimistic that the trade bill just completed by the Finance Committee, of which I am proud to be a member, will help to stabilize the dollar and boost exports from the region. But even as this occurs, much will remain to be done in Appalachia.

The legislation being introduced today, will authorize the funding necessary to continue a mission that began in 1965 to bring the region into parity with the rest of the country.

Our bill will extend both the Commission's highway and nonhighway programs through 1992. It would authorize $319 million for fiscal year 1988, $335 million for fiscal years 1989 and 1990, and $356 million for fiscal years 1991 and 1992. Over 70 percent of these funds will be used to complete the Appalachian Highway System. The major goal of this system is to connect Appalachia with the more prosperous and highly developed regions that surround it through a system of highway corridors that will link isolated areas of the region to national markets. Within a 30-minute drive of these corridors, over 200,000 jobs have been added as a result of the establishment of 800 manufacturing plants. At the end of 1986, 2,045 miles of that 3,041-mile highway system were completed or under construction. Completion of these highways is vital to the development of the region. It has been said that in their current state of incompleteness, these corridors are half way to nowhere. I prefer to think that we are half way there. With a concerted regional effort and a proper level of funding such as this bill would provide, we can go all the way.

The nonhighway program will continue to assist Appalachian communities in their efforts to provide basic infrastructure necessary to attract industry, but will also encourage investment in strategic initiatives that will improve economic competitiveness.

The program of ARC are a partnership between the Federal, State, and local governments. It depends on an approach in which program initiatives start at the grassroots level, involving local and State governments, and are then reviewed by the States within the region and subsequently by the Federal Government. The Federal Government must not be allowed to walk away from its commitment to this partnership—and investment—because of a lack of funding. It is in part to this unique partnership, that life is better and opportunities are greater for the men, women, and children who live in the 397 counties of the 13 States of Appalachia. But the hopes and dreams of those people, especially the young ones, must not be left unrealized.

Mr. President, the Appalachian Regional Commission is a success story. The progress of 22 years needs to be sustained. We are getting there, but we are not there yet. My cosponsors and I are grateful to all the Members of Congress who have repeatedly demonstrated their understanding that the ARC Program is vital and working.

We hope that other Members will join us in securing the future of Appalachia by supporting the legislation that were introduce today.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this act may be cited as the "Appalachian Regional Development Act Amendments of 1987."

Sec. 2. Section 2 (a) of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 105) (hereinafter in this Act referred to as "the Act") is amended by striking out the period at the end of the sixth sentence and inserting in lieu thereof the following: "and in severely distressed and underdeveloped counties or areas lacking resources for basic services."

Sec. 3. Section 105(b) of the Appalachian Regional Development Act of 1965 is amended by inserting before the period at the end thereof a semicolon and the following: "and not to exceed $2,400,000 for fiscal year 1988; not to exceed $2,800,000 each year for fiscal years 1989 and 1990; and not to exceed $3,200,000 each year for fiscal years 1991 and 1992. Of amounts appropriated pursuant to the preceding sentence not to exceed $550,000 shall be available for each of the first three fiscal years and $600,000 for each of the next two fiscal years for expenses of the Federal co-chairman, alternate, and the Federal staff."

Sec. 4. Section 106 (7) of the Act is amended by striking out "1982" and inserting in lieu thereof "1992".

Sec. 5. (a) Section 201(g) of the Act is amended by inserting before the period at the end thereof a semicolon and the following: "$234,000,000 for fiscal year 1988; $250,000,000 for fiscal year 1989; $250,000,000 for fiscal year 1990; $270,000,000 for fiscal year 1991 and $270,000,000 for fiscal year 1992."

(b) Section 201 (h)(1) of the Act is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum." The amendment made by the preceding sentence shall apply to projects approved after March 31, 1979.

Sec. 6. Section 214 (c) of the Act is amended by striking out "December 31, 1980" and inserting in lieu thereof "September 30, 1992 in the first sentence and by inserting "authorized by title 23, United States Code" after "road construction" in the second sentence.

Sec. 7. Section 224 (a)(1) of the Appalachian Regional Development Act of 1965 is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services;".

Sec. 8. Section 224 (b) of the Appalachian Regional Development Act of 1965 is amended by striking clause (2) and renumbering clauses (3) and (4) as clauses (2) and (3) respectively.

Sec. 9. Section 302 (b)(1) of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) by striking the comma after "224 (b)(2)" and inserting in lieu thereof "or" and by striking "or (4),";

(2) by inserting "or economic after "energy" wherever it appears; and

(3) by striking the second sentence and inserting in lieu thereof: "Funds in energy enterprise development loan funds established with grants previously approved by the Commission pursuant to this subsection may, upon approval of the Commission pursuant to Section 303, after the date of enactment of these amendments, be made available for the purposes authorized by this Act.

Sec. 10. The second sentence of Section 401 of the Act is amended by inserting before the period at the end thereof a semicolon and the following: "$82,600,000 for fiscal year 1988; and $83,000,000 each year for fiscal years 1989, 1990, 1991, and 1992".

Sec. 11. Section 405 of the Act is amended by striking out "1982" and inserting in lieu thereof "1992".

Mr. BYRD. Mr. President, I am pleased to join today with my colleague, Senator Rockefeller, in offering legislation to reauthorize the Appalachian Regional Commission.

The Appalachian Regional Commission has played a vital role in the economic development of Appalachia. While much has been done since the 1960's, in the areas of health care and the development of the infrastructure of Appalachia, there is much that remains to be done. Of the 272 distressed counties nationwide, 88 are in Appalachia. The administration's economic policies of the 1980's have seriously eroded our manufacturing base. The doors of traditional industries in West Virginia, such as glass, shoe, textile, and steel have been closed. Further, the demand for coal at home has fallen because of cheap oil prices, and the demand for coal abroad has fallen because of the increased value of the dollar overseas. The end result has been high, long-term unemployment.

If Appalachia is to attract new industry, it must have continued support for the development of its infrastructure. One key to the development of other industries in Appalachia, and West Virginia in particular, is the completion of the Appalachian highway system, which is funded through the Appalachian Regional Commission.

For example, the construction of corridor G would greatly improve access to many of the tourist areas in West Virginia, including West Virginia's ski areas. West Virginia boasts some of the best white water rafting spots east of the Rockies. West Virginia is truly a beautiful State. However, what is unique to West Virginia and makes the State particularly attractive, also acts as a barrier to economic development. Access to many of those areas is limited due to the lack of a modern highway system. Unless there is some effort to improve access to those areas, Appalachia will remain economically depressed and its citizens will continue to be shut out from many of the advantages of the more urban areas of this country.

I have supported efforts that would help other States address problems that are unique to their particular area, and I will continue that support. However, Appalachia has its own unique set of difficulties, and I hope that my colleagues will recognize that uniqueness and support the reauthorization of the Appalachian Regional Commission.

ADDITIONAL COSPONSORS

S. 232

At the request of Mr. Wilson, the name of the Senator from Ohio [Mr. Metzenbaum] was withdrawn as a cosponsor of S. 232, a bill to permit placement of a privately funded statute of Haym Salomon in the Capitol Building or on the Capitol Grounds and to erect a privately funded monument to Haym Salomon on Federal land in the District of Columbia.

S. 407

At the request of Mr. Garn, the names of the Senator from Florida [Mr. Graham], the Senator from Utah [Mr. Hatch], the Senator from Alabama [Mr. Heflin], the Senator from Mississippi [Mr. Stennis], and the Senator from Idaho [Mr. Symms] were added as cosponsors of S. 407, a bill to grant a Federal charter to the Challenger Center, and for other purposes.

S. 422

At the request of Mr. Bradley, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 422, a bill to amend title XIX of the Social Security Act to permit States to provide Medicaid benefits to additional poor children and pregnant women.

S. 508

At the request of Mr. Levin, the names of the Senator from Washington [Mr. Adams], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 508, a bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

S. 618

At the request of Mr. Durenberger, the names of the Senator from Alaska [Mr. Stevens], and the Senator from Maine [Mr. Mitchell] were added as cosponsors of S. 618, a bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for therapeutic shoes furnished to individuals with severe diabetic foot disease.

S. 685

At the request of Mr. Quayle, the names of the Senator from Indiana [Mr. Lugar], the Senator from Mississippi [Mr. Cochran], and the Senator from Virginia [Mr. Trible] were added as cosponsors of S. 685, a bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to eduction loans.

S. 714

At the request of Mr. SPECTER, the names of the Senator from Maryland [Mr. SARBANES], the Senator from North Carolina [Mr. SANFORD], the Senator from Connecticut [Mr. DODD], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 747

At the request of Mr. HOLLINGS, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 747, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 808

At the request of Mr. MCCLURE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 808, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed by a title insurance company with State insurance departments or agencies.

S. 837

At the request of Mr. KENNEDY, the names of the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Connecticut [Mr. DODD], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 837, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

S. 860

At the request of Mr. BOREN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 860, a bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

S. 905

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 905, a bill to establish a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities.

S. 1007

At the request of Mr. HATFIELD, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1007, a bill to enable States located on a river or acquifer affected by the siting of a repository for high-level radioactive waste or spent nuclear fuel to participate effectively in the site selection, review, and approval process for such repository, and for other purposes.

S. 1017

At the request of Mr. GRASSLEY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1017, a bill to amend title 11 of the United States Code to make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of a violation of State laws.

S. 1027

At the request of Mr. HUMPHREY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1027, a bill to prohibit trade between the Soviet puppet regime in Afghanistan and the United States.

S. 1099

At the request of Mr. COCHRAN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1099, a bill to authorize the several States and the District of Columbia to collect certain taxes with respect to sales of tangible personal property by nonresident persons who solicit such sales.

S. 1116

At the request of Mr. EXON, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1116, a bill to establish the Office of Barter and Countertrade within the Department of Commerce.

S. 1141

At the request of Mr. HECHT, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1141, a bill entitled the "Nuclear Energy Waste Policy Act of 1987."

S. 1156

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1156, a bill to amend the Farm Credit Act of 1971 to provide Farm Credit System stockholder/borrowers with a multipoint program of relief and reform, and to assure the long-term health and stability of Farm Credit banks and associations through local control.

S. 1172

At the request of Mr. PRYOR, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1172, a bill to amend the Farm Credit Act of 1971 to provide a secondary market for agricultural mortgages, and for other purposes.

S. 1235

At the request of Mr. BYRD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponor of S. 1235, a bill to amend the National Security Act of 1947 to provide that the term of service of the Director of Central Intelligence shall be 7 years, and for other purposes.

SENATE JOINT RESOLUTION 14

At the request of Mr. HELMS, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Carolina [Mr. SANFORD], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 14, a joint resolution to designate the third week of June of each year as "National Dairy Goat Awareness Week."

SENATE JOINT RESOLUTION 44

At the request of Mr. DURENBERGER, the names of the Senator from Idaho [Mr. SYMMS], the Senator from North Carolina [Mr. SANFORD], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 44, a joint resolution to designate November 1987, as "National Diabetes Month."

SENATE JOINT RESOLUTION 48

At the request of Mr. HATCH, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 48, a joint resolution to designate the week of September 14, 1987, through September 20, 1987, as "Benign Essential Blepharospasm Week."

SENATE JOINT RESOLUTION 51

At the request of Mr. EXON, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Nebraska [Mr. KARNES], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 41, a joint resolution to designate the period commencing on July 27, 1987, and ending on August 2, 1987, as "National Czech American Heritage Week."

SENATE JOINT RESOLUTION 86

At the request of Mr. DECONCINI, the names of the Senator from California [Mr. CRANSTON], the Senator from Utah [Mr. GARN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 86, a joint resolution to designate October 28, 1987, as "National Immigrants Day."

SENATE JOINT RESOLUTION 98

At the request of Mr. HATCH, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 98, a joint resolution to designate the week of

November 29, 1987, through December 5, 1987, as "National Home Health Care Week."

SENATE JOINT RESOLUTION 99

At the request of Mr. DeConcini, the names of the Senator from Georgia [Mr. Nunn], the Senator from Alaska [Mr. Murkowski], the Senator from Florida [Mr. Graham], the Senator from North Carolina [Mr. Sanford], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of Senate Joint Resolution 99, a joint resolution to express the sense of the Congress that the Special Supplemental Food Program for women, infants, and children should receive increasing amounts of appropriations in fiscal year 1988 and succeeding fiscal years.

SENATE JOINT RESOLUTION 101

At the request of Mr. Cranston, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of Senate Joint Resolution 101, a joint resolution designating June 19, 1987, as "American Gospel Arts Day."

SENATE JOINT RESOLUTION 105

At the request of Mr. Lautenberg, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of Senate Joint Resolution 105, a joint resolution designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 108

At the request of Mr. Lugar, the names of the Senator from Arizona [Mr. DeConcini], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Joint Resolution 108, a joint resolution to designate October 6, 1987, as "German-American Day."

SENATE JOINT RESOLUTION 109

At the request of Mr. Durenberger, the names of the Senator from New Jersey [Mr. Lautenberg], the Senator from Ohio [Mr. Glenn], the Senator from South Dakota [Mr. Pressler], the Senator from Oklahoma [Mr. Boren], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 109, a joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week."

SENATE JOINT RESOLUTION 116

At the request of Mr. Durenberger, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of Senate Joint Resolution 116, a joint resolution expressing the sense of the Congress that Federal aid for refugee assistance programs should not be reduced, and for other purposes.

SENATE JOINT RESOLUTION 117

At the request of Mr. Lautenberg, the names of the Senator from North Dakota [Mr. Burdick], the Senator from Louisiana [Mr. Johnston], the Senator from Michigan [Mr. Levin], the Senator from California [Mr. Wilson], the Senator from Florida [Mr. Chiles], the Senator from West Virginia [Mr. Rockefeller], the Senator from Arkansas [Mr. Pryor], the Senator from Kansas [Mr. Dole], the Senator from Maryland [Mr. Sarbanes], the Senator from Utah [Mr. Garn], the Senator from New York [Mr. Moynihan], and the Senator from Vermont [Mr. Stafford] were added as cosponsors of Senate Joint Resolution 117, a joint resolution designating July 2, 1987, as "National Literacy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. Trible, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating August 11, 1987, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 126

At the request of Mr. Packwood, the names of the Senator from Indiana [Mr. Quayle], the Senator from South Dakota [Mr. Pressler], the Senator from Minnesota [Mr. Durenberger], the Senator from Washington [Mr. Evans], the Senator from South Carolina [Mr. Thurmond], the Senator from Arkansas [Mr. Bumpers], the Senator from Massachusetts [Mr. Kerry], the Senator from Michigan [Mr. Levin], the Senator from Mississippi [Mr. Stennis], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Arkansas [Mr. Pryor] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. Pressler, the names of the Senator from Oklahoma [Mr. Nickles], the Senator from New York [Mr. Moynihan], the Senator from Indiana [Mr. Lugar], and the Senator from Illinois [Mr. Simon] were added as cosponsors of Senate Concurrent Resolution 31, a concurrent resolution commending the Czechoslovak human rights organization Charter 77, on the occasion of the 10th anniversary of its establishment, for its courageous contributions to the achievement of the aims of the Helsinki Final Act.

SENATE CONCURRENT RESOLUTION 56

At the request of Mr. Durenberger, the name of the Senator from Maine [Mr. Mitchell] was added as a cosponsor of Senate Concurrent Resolution 56, a concurrent resolution expressing the sense of Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the Ninety-ninth Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 60—RECOGNIZING THE CONTRIBUTIONS OF THE DARE PROGRAM

Mr. D'AMATO submitted the following concurrent resolution;

S. Con. Res. 60

Whereas the Office of Substance Abuse Ministry in New York State and its action component, DARE (Drug, Alcohol, Rehabilitation and Education program) were formed in October 1980 and charged with the responsibility of coordinating, planning and directing the multifaceted programs of the Archdiocese of New York in its non-sectarian efforts against alcohol and other drug abuse, and this office has served as a model to address this national and international problem;

Whereas the mandate of DARE (Drug, Alcohol, Rehabilitation and Education program) establishes it as an action project with adult and youth components geared to the utilization of volunteers in prevention, education and early intervention;

Whereas DARE involves the total community, including youths and adults, churches, synagogues, public and non-public schools, health care agencies, service organizations, law enforcement and local chambers of commerce;

Whereas for the past seven years DARE has trained over 30,000 youths and adults who have generated more than 7.75 million volunteer hours, all of which has been accomplished under the direction of 15 regional coordinators covering 10 New York counties, providing models of DARE in urban, suburban and rural communities.

Whereas DARE has become a widely respected source of education, prevention and community organization, sponsoring among other programs "Natural High" events which are a part of the many anti-drug programs sponsored by the regional offices;

Whereas DARE has effectively used the television, radio and print media in its effort to alert, organize and inform local communities;

Whereas DARE has produced quality educational materials sensitive to various ethnic groups, including an outstanding quarterly newsletter, an award-winning national magazine, DARE, and a book entitled, "A Call to Action: Youth, Alcohol, and Other Drugs, A Community Approach, Education, Prevention and Intervention"; and

Whereas DARE has functioned along with various religious denominations as a consultant in the field of alcohol and drug abuse for the public and private sectors: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors the DARE program for the continuing contributions it has made both nationally and internationally in the fight against alcohol and other drug abuse, especially through education, prevention and the organization of local communities.

● Mr. D'AMATO. Mr. President, I rise today to submit a concurrent resolution recognizing and honoring the DARE Program for its dedication to drug- and alcohol-abuse prevention.

Drug alcohol rehabilitation education [DARE] is a nonsectarian, community-based program under the auspices of the office of substance abuse ministry of the archdiocese of New York. DARE grew out of Terence Cardinal Cooke's deep concern with the crippling effects of drugs and alcohol on this Nation's most precious resource: our young. Formed in 1980, DARE has attained national and international standing. It has been replicated in 10 States as well as in England, Ireland, Germany, and Malta. In 1984, DARE received the Presidential Award in recognition of its achievements.

DARE has 12 regional offices and 3 youth-volunteer offices throughout the 10-county area encompassing the New York archdiocese region. The trained volunteers mobilize community action against illicit sales of drugs and alcohol, establish parent- and youth-support groups, organize community events such as hotlines, and develop positive, alternative programs with community involvement and commitment.

DARE has trained over 30,000 young people and adults who, in turn, have worked more than 7.75 million volunteer hours. It has made over 12,000 referrals for rehabilitation and treatment. Volunteers have spent tireless hours building DARE into a widely respected community program.

DARE sponsors antidrug fairs, such as "Drug Liberation Day" which was held on August 3, 1986, to provide information and referrals to the people of Manhattan. It also publishes a periodical that focuses on a different drug-related topic in each issue. One issue, for example, entitled "Cocaine's Cheap Seduction," explored the many problems created by the cocaine epidemic.

DARE has proven effective in developing a national and international drug-awareness campaign. It is combating the scourge of youthful drug and alcohol abuse by harnessing the energies of the community. It is built upon a network of volunteers who are part of the fabric of their community. DARE is saving the lives of countless young people so in need of our support. Project DARE is challenging all the members of its community to reach out and restore someone in need.

For all these reasons, it deserves our recognition and gratitude, and I urge my colleagues to give this resolution their full support.●

SENATE RESOLUTION 219—ENCOURAGING THE USE OF ETHANOL, METHANOL, AND OTHER OXYGENATED FUELS

Mr. DASCHLE (for himself, Mr. DOLE, Mr. BURDICK, Mr. LEAHY, Mr. HELMS, Mr. MCCLURE, and Mr. INOUYE) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 219

Whereas the use of oxygenated fuels approved by the Environmental Protection Agency, particularly fuel alcohol blends, in gasoline reduces automobile tailpipe emissions of hydrocarbons (HC), aromatics, and carbon monoxide (CO) which is the primary contributor to excessive CO levels in the more that 80 urban areas around the country that are in "non-attainment" of national air quality CO standards;

Whereas the use of neat alcohols (ethanol, methanol, and other suitable alcohols) has been proven to reduce all types of automobile emissions, and is an effective control strategy for non-attainment areas;

Whereas the use of fuel alcohols as gasoline extenders and octane enhancers further benefits the environment by displacing amounts of aromatics, which convert into carcinogenic benzene during combustion and then escape into the atmosphere;

Whereas many large cities in the United States are currently unable to meet one, or in some cases both, of the CO and ozone standards imposed by the Clean Air Act, and the failure to comply before the end of the year could subject such nonattainment cities to substantial penalties and forfeiture of certain types of Federal program funding;

Whereas the domestic fuel alcohol industry is currently producing over one billion gallons of renewably derived ethanol, and methanol, for use as commercial gasoline additives, and is capable of displacing up to 10 percent gasoline by volume as blends;

Whereas in 1968, the United States fuel ethanol industry processed over 300 million bushels of surplus grain into fuel ethanol, and the National Corn Growers Association has established the goal of processing one billion bushels of corn into fuel ethanol annually by 1990;

Whereas methanol can be produced from resources that are abundant in the United States, such as coal, peat, trapped natural gas, forestry residues, and municipal waste, and the President of the United Mine Workers recently called for a major national initiative to convert up to 200 million tons of coal annually into methanol to replace up to 20 percent of United States gasoline consumption, and provide new jobs for 45,000 mine workers;

Whereas United States dependence upon imported oil has surged to 42 percent of its total petroleum needs, as compared to 32 percent a year ago, and some experts project that oil imports will exceed 50 percent of United States oil demand within the next several years;

Whereas crude oil imports to the United States (which consumes 25 percent of the world's production while holding less than 5 percent of its proven reserves), totaled over $37,000,000,000 in 1986, and over 5.7 billion gallons of finished gasoline were also imported, which put a further strain on the Nation's already hard-pressed refining industry;

Whereas the alternatives provided by an expanded use of fuel alcohols present to the Nation's taxpayers a unique blend of agricultural, environmental, economic, energy security, and regulatory benefits;

Whereas States which contain non-attainment areas are currently in the process of submitting State Implementation Plans (SIPS) outlining how they will bring these areas into compliance to the Environmental Protection Agency for its review and approval; and

Whereas the Environmental Protection Agency is currently preparing a notice of proposed rulemaking and will soon be inviting comments on a range of optional control strategies targeted at the 85 CO and 70 ozone non-attainment areas around the country: Now, therefore, be it

Resolved, That the United States Environmental Protection Agency should actively encourage the States to include in their State Implementation Plans (SIPS) the mandating of fuel alcohol and other oxygenate/gasoline blends in CO non-attainment areas, and neat alcohols or other clean burning alternative transportation fuels in commercial fleets in ozone non-attainment areas, as optional pollution control strategies in meeting Clean Air Act standards.

● Mr. DASCHLE. Mr. President, I rise today, to submit a resolution on behalf of myself, Mr. DOLE, Mr. INOUYE, Mr. BURDICK, Mr. MCCLURE, Mr. LEAHY, and Mr. HELMS, which encourages the EPA and the States to embrace the use of ethanol, methanol and other oxygenated fuels as an accepted air pollution control strategy.

A growing number of Members of Congress and administration officials are pointing to the potential of alcohol fuels for meeting a variety of important national policy objectives. I and others within Congress have extolled ethanol blends potential as a significant new outlet for surplus agricultural production, as a means of reducing our dangerous reliance on imported oil, and as an environmentally-safe alternative to lead as an octane enhancer in gasoline.

Considerable attention has been focused on the environmental benefits of ethanol blends in recent months as a result of the impending December 31, 1987, Clean Air Act deadline. Various studies have documented that increased use of higher oxygen-containing alcohol-blended gasoline leads to substantial reductions in automobile tailpipe emissions of hydrocarbons, carbon monoxide and aromatics, particularly the known cancer-causing agent benzene. This data has, in turn, generated interest in the increased use of alcohols to help mitigate this significant environmental and health hazard.

The time is right for actively promoting alcohol fuels as a pollution control strategy. First, individual States which are not in compliance with Clean Air Act standards are currently preparing State implementation plans [SIP's] for submission to EPA. These plans will outline the methods each State proposes to utilize to bring its nonattainment areas into compliance with Federal air pollution guidelines.

Second, an interagency working group appointed last month by the President's regulatory relief task force is considering air pollution reductions available through the greater use of alternative fuels. That working group is expected to file its recommendations shortly.

And third, the Environmental Protection Agency has acknowledged the value of alcohols as a pollution control device. On April 8, 43 Senators asked EPA Administrator Lee Thomas to give serious consideration to the option of mandating the use of alcohols in areas that do not meet the Clean Air Act standards for ozone or carbon monoxide. In his response, Mr. Thomas wrote that, "EPA believes that use of alternative fuels, such as methanol, compressed natural gas, or oxygenated gasoline blends could play a significant role in the effort to decrease hydrocarbon and CO emissions. It is also clear, however, that such fuels will not by themselves solve these environmental problems, and that EPA and the States must continue to assess, adopt, and implement a wide range of control measures."

Mr. President, the resolution we are introducing today complements Mr. Thomas' approach to the air pollution problem. It is not a mandate. It does not require the use of alcohol fuels. And it does not preclude other pollution control options. What it does do, however, is make clear the Senate's commitment to developing the environmental potential of this alternative fuel by urging EPA to actively encourage the States to include in their State implementation plans the mandating of: First, fuel alcohol and other oxygenate/gasoline blends in carbon monoxide nonattainment areas, and second, neat alcohols or other clean burning alternative transportation fuels in commercial fleets in ozone nonattainment areas.

I hope that this body will undertake timely consideration of this measure.●

Mr. DOLE. Mr. President, I am happy to cosponsor the resolution offered today by Senator DASCHLE encouraging the Environmental Protection Agency to more broadly use oxiginated fuels to meet the real threat to public health posed by increasing levels of carbon monoxide. EPA's support of these fuels, including the use of ethanol blends, would be particularly beneficial in encouraging the reduction of high monoxide levels in our more populous metropolitan areas.

Experience with ethanol blends in Colorado and California has demonstrated that they are an effective way to combat the carbon monoxide problem. I strongly encourage EPA to officially endorse the introduction of oxygenated fuels as a significant measure that can be undertaken by local and State authorities in their efforts to meet EPA standards and clean air requirements.

SENATE RESOLUTION 220—RELATING TO CONSIDERATION OF AGRICULTURAL ISSUES AT THE SEVEN-NATION ECONOMIC SUMMIT IN JUNE

Mr. PRESSLER (for himself, Mr. BOSCHWITZ, Mr. CONRAD, Mr. LUGAR, Mr. FORD, Mr. SYMMS, Mr. GRASSLEY, Mr. BURDICK, Mr. MCCLURE, Mr. NICKLES, Mrs. KASSEBAUM, and Mr. KASTEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 220

Whereas worldwide supplies of grain and other agricultural products are at or near record levels;

Whereas the cost of farm programs is at record levels in many nations;

Whereas the ongoing GATT negotiations will take time to resolve agricultural trade issues;

Whereas domestic agriculture and trade policies of the seven nations have a direct impact on other nations;

Whereas current agricultural policies of the seven nations encourage overproduction;

Whereas export subsidy programs increase protectionist pressures in competing nations;

Whereas the seven nations participating in the economic summit would all benefit from reduced grain and other agriculture products supplies and the elimination of agricultural export subsidies.

Whereas the most effective measure to address the global agricultural issues is through a coordinated effort: Therefore be it

Resolved, That the United States continue to aggressively pursue reaching an agreement on current international conflicts in agricultural trade policies;

That it is the sense of the Senate that the President should make discussions and a resolution of agricultural issues a primary priority during the seven nation economic summit in June.

That the seven nations participating should work in a coordinated fashion to effectively reduce global grain and other agricultural products supplies and eliminate agricultural export subsidies.

That the Secretary of the Senate will transmit copies of this resolution to the President, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Treasury, the United States Trade Representative and the Ambassadors of the six nations participating in the economic summit.

Mr. PRESSLER. Mr. President, today I am submitting a resolution expressing the Senate's support for including agricultural trade and agricultural subsidies as a priority topic for discussion at the seven nation summit June 10-12, 1987. Senators BOSCHWITZ, BURDICK, CONRAD, FORD, GRASSLEY, KASSEBAUM, KASTEN, LUGAR, MCCLURE, NICKLES, and SYMMS are cosponsoring this resolution.

The high cost of farm programs and unfair agricultural trade policies have created problems for all of the seven nations participating in the summit in Venice. The United States and the European Economic Community each spent approximately $25 billion last year on farm programs. Canada, Japan and other nations also spent an increasing amount to support their farmers. The increasing cost of farm programs and intense competition for limited export markets have resulted in international tensions.

We are all aware of the United States agricultural trade disagreements with the European Economic Community, Japan, Canada and other nations. The ongoing GATT negotiations have made little progress in addressing agricultural trade issues. These tensions not only deal with trade issues but also the domestic agricultural policies of the other nations. However, last week some positive news came out of the Paris meeting of the Organization for Economic Cooperation and Development. The members unanimously agreed to reduce agricultural production subsidies. The participants at the Venice summit should build on the agreement reached by OECD members in Paris. It is vital that agricultural problems be addressed on an international basis at the upcoming summit. All of the nations involved would benefit from the resolution of these problems.

Continued agricultural research advances and incentives created by domestic farm programs throughout the world have resulted in record surpluses of grain and other agricultural commodities. Governments have implemented various types of farm programs to maintain farm income and export their surplus agricultural production. Domestic farm programs continue to encourage farmers to increase production. The growing surplus of agricultural products puts additional pressure on nations to expand exports or protect domestic producers from foreign competition.

At the same time, agricultural production has increased in many food importing nations thus reducing world agricultural export markets. The result has been increased use of agricultural export subsidies or other export promotion programs and the imposition of trade barriers. The various nations involved are reluctant to take unilateral action to address this problem for fear of losing their export markets or harming their domestic producers.

In the past, agricultural programs were considered a domestic issue and were seldom discussed on an international basis. However, with increased agricultural production and trade, agriculture has moved from a domestic issue to an international issue. It is time to recognize this fact. The seven leading nations of the free world should discuss this important issue and try to agree on a rational policy that would be in everyone's best interest.

The resolution we are submitting today points out the common agricultural problems the seven nations face and emphasizes the need for agricultural trade and domestic policies to be a primary issue of discussion at the seven nation summit. The President has expressed his intention to include agricultural issues in the discussion. Passage of this resolution will send a clear signal to the other participating nations that the U.S. Senate places a high priority on agricultural issues and supports the President's efforts in this regard.

Mr. President, timely action on this resolution is in our Nation's interest, and I urge that it be considered as soon as possible.

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1987

HATCH AMENDMENT NO. 206

Mr. HATCH proposed an amendment to the bill (H.R. 1827) making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes; as follows:

On page 38, after line 13, add new paragraph (g):

(g) Of the funds specified for Honduras in paragraph (b), such amounts as may be necessary shall be made available only to compensate those citizens of the United States that have lost their property and businesses in Honduras as a result of the establishment and operation of the Regional Military Training Center. Such compensation shall be paid in U.S. dollars through a United States bank during the fourth quarter of fiscal year 1987.

HEINZ (AND OTHERS) AMENDMENT NO. 207

Mr. HEINZ (for himself, Mr. BINGAMAN, Mr. COCHRAN, Mr. MATSUNAGA, Mr. SIMON, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 62, between lines 8 and 9, insert the following:

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000.

For an additional amount for "Community service employment for older Americans", to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000.

LAUTENBERG (AND BRADLEY) AMENDMENT NO. 208

Mr. LAUTENBERG (for himself and Mr. BRADLEY) proposed an amendment to the bill H.R. 1827, supra; as follows:

At the appropriate place, insert the following:

URBAN RENEWAL LAND DISPOSITION PROCEEDS

SEC.   . Notwithstanding any other provision of law or other requirement, the City of Camden in the State of New Jersey is authorized to retain any land disposition proceeds from the financially closed-out Center City Urban Renewal Project (No. N.J. R.150) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Camden shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this section, all past and future earnings from such proceeds, including any interest.

BYRD (AND OTHERS) AMENDMENT NO. 209

Mr. BYRD (for himself, Mr. DOLE, Mr. SASSER, and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 1827, supra; as follows:

At the appropriate place, insert the following:

SEC.   . Prior to the implementation of any agreement between the government of the United States and Kuwait for United States military protection of Kuwaiti shipping, the Secretary of Defense shall submit a report to the Congress, in appropriate classified and unclassified form, which includes a plan which fully meets the security needs of our forces, in conjunction with the forces of our friends and allies in the Persian Gulf region, and specifically addresses, at a minimum:

(a) an assessment of the threats to American forces, to Kuwaiti interests and shipping, and otherwise impacting on the interests of the United States and its friends and allies in the Persian Gulf region;

(b) the Rules of Engagement, alert status and readiness conditions under which our military forces will operate under in the Persian Gulf, and when such conditions will be in force;

(c) cooperative arrangements entered into, being negotiated or contemplated with our European allies with a stake in the Persian Gulf, who have forces deployed or planned for deployment in the Persian Gulf region, and with states littoral to the Persian Gulf for a shared security system, including provision for air cover of those forces.

EVANS (AND ADAMS) AMENDMENT NO. 210

Mr. EVANS (for himself and Mr. ADAMS) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 61, after line 5, insert the following new provision:

GENERAL PROVISION

Notwithstanding the provisions of Public Law 99-663, which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the Refuge Administration Act by the U.S. Fish and Wildlife Service.

DANFORTH (AND BOND) AMENDMENT NO. 211

Mr. DANFORTH (for himself and Mr. BOND) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 67, between lines 6 and 7, insert the following:

IMPACT AID

The Secretary of Education shall make a grant pursuant to section 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) to the Winona R-III School District located in Winona, Missouri, pursuant to the application approved by the Department of Education, in an amount agreed upon by the Secretary and such school district, without regard to the provisions of section 14(c)(3) and (4) of such Act.

HELMS AMENDMENT NO. 212

Mr. HELMS proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 64, line 7, strike the period and insert in lieu thereof the following: ": *Provided*, That none of the funds appropriated under this heading shall be available for use in any State, the District of Columbia, or any territory of the United States unless such State, District, or territory requires, as a condition for the granting of a marriage license, testing negatively for infection with the human immunodeficiency virus: *Provided, further*, That section 212(a)(6) of the Immigration and Nationality Act is amended by inserting before the semicolon at the end thereof the following: 'or who test positively for infection with the human immunodeficiency virus'.".

DECONCINI (AND OTHERS) AMENDMENT NO. 213

Mr. DECONCINI (for himself, Mr. BINGAMAN, Mr. BUMPERS, Mr. CHILES, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GRAHAM, Mr. GORE, Mr. GRASSLEY, Mr. HATFIELD, Mr. HECHT, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. KASTEN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PRESSLER, Mr. PROXMIRE, Mr. RUDMAN, Mr. SHELBY, Mr. SYMMS, and Mr. THURMOND) proposed an amendment to the bill H.R. 1827, supra; as follows:

At the end of the bill, add the following:

SEC.   . (a). The Congress finds that—

(1) the people of Angola have suffered under colonial domination for centuries;

(2) the Portuguese promise of independence and free elections for Angola embodied in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") illegally and militarily seized power with the support of Soviet and Cuban troops;

(3) the Marxist regime in Angola has continually denied the most basic human rights to the people of Angola since 1975 culminating in one of the worst human rights records reported by the Department of State, as described in the report entitled

"Country Reports on Human Rights Practices for 1986";

(4) the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in southern Africa, including the expansion of a Soviet naval port, the presence of 35,000 Cuban troops, and the influx of $4,000,000,000 in Soviet weaponry;

(5) the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope;

(6) the Soviets and Cubans have engaged in the most blatant foreign intervention in post-colonial history of Africa, and the MPLA is hostage to these foreign forces as evidenced by the fact that the MPLA had the worst anti-United States voting record in the United Nations last year;

(7) the MPLA government of Angola in 1986 obtained 90 percent of its foreign exchange from the extraction and production of oil with the assistance of American companies;

(8) most of Angola's oil is extracted in Cabinda Province, where 65 percent of it is extracted by an American oil company;

(9) United States business interests are in direct conflict with overall United States foreign policy and national security objectives in aiding the MPLA government;

(10) the United States currently refuses to recognize the Marxist government of MPLA;

(11) representatives of the Government of Portugal's three main political parties have recently visited the liberated territory and will soon announce a commission to promote national reconciliation in Angola;

(12) the United States has an obligation to encourage peace, freedom, and democracy and to condemn tyranny where it may exist; and

(13) the growing intensity of war, the mounting suffering of the Angolan people, the growing presence of communist forces in Angola, and the failure of the MPLA to respond to diplomatic initiatives gives new urgency to efforts to reach a peaceful settlement.

(b) It is the sense of the Congress that the United States, so long as Soviet and Cuban military forces occupy Angola, should encourage peace and national reconciliation in Angola through a negotiated settlement to the eleven-year military conflict and stress the holding of free and fair elections as outlined in the 1975 Alvor Agreement through—

(1) continued multilateral initiatives designed to support Soviet and Cuban withdrawal and a negotiated peaceful settlement acceptable to the people of Angola; and

(2) consistent efforts by the President and the Secretary of State to convey to the Soviet leadership that continued military build-up and presence in Angola directly hinders future positive relationships with the American people and the United States Congress.

(c) The Congress hereby requests the President to use his special authorities under the Export Administration Act to block United States business transactions which conflict with United States security interests in Angola.

(d) It is further the sense of the Congress that the Secretary of State should—

(1) review the United States policy with respect to the United States refusal to recognize the Marxist MPLA government, the abysmal human rights record of the MPLA government (as reported by the Department of State), and the worst 1985 voting record supporting United States interests in the United Nations; and

(2) prepare and transmit to the Congress a report containing the findings of the review required by paragraph (1), together with a determination as to whether it is in the United States interest to continue under the current trade and business policy with respect to Angola.

LEAHY (AND KERRY) AMENDMENT NO. 214

Mr. LEAHY (and Mr. Kerry) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 120, between lines 7 and 8, insert the following:

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for grants to the National Railroad Passenger Corporation, $5,000,000, to be derived from unobligated balances of redeemable preference shares acquired by the Secretary of Transportation under the Railroad Revitalization and Regulatory Reform Act of 1976, to be available only for the rehabilitation, renewal, replacement, and other improvements on the line between Springfield and East Northfield, Massachusetts, and the line between Brattleboro and Windsor, Vermont, to bring the most severely slow-ordered segments to the speeds agreed to in the operating agreement between the National Railroad Passenger Corporation and the Boston and Maine Corporation, dated February 1, 1977, as amended.

LEAHY AMENDMENT NO. 216

Mr. LEAHY proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 78, strike line 16, insert the following: to remain available until expended and insert in lieu thereof "14,000,000: *Provided*, That of available funds under "Agricultural Stabilization and Conservation Service, Rural Clean Water Program," $6,000,000 are rescinded."

TRADE LEGISLATION

CRANSTON AMENDMENT NO. 215

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to omnibus trade legislation; as follows:

Section 15 of the Export Administration Act of 1979 (50 U.S.C. App. 2414) is amended by adding at the end thereof the following:

"(d) Western Regional Office.—The Secretary shall establish and maintain a western regional office which shall have the authority to issue licenses for the export of goods and technology from the United States.".

Mr. CRANSTON. Mr. President, on Tuesday the Committee on Banking, Housing, and Urban Affairs reported out its contribution to the omnibus trade bill. I am very pleased with the bill reported, particularly the title pertaining to export controls.

I firmly believe that the current export control system is an impediment to our country's overall competitiveness. At a time of record high deficits, we must take action to promote exports, not hamper them. Although the committee bill is a major reform which will enhance our trade performance without jeopardizing our national security, it does not go as far as I would like.

Mr. President, today I offer an amendment for consideration by my colleagues when the omnibus trade bill comes before the Senate this summer.

My amendment is a simple one: it calls for the establishment of a second Export Licensing Office to be located in the Western region to alleviate the enormous administrative procedures businesses must contend with. Our trading partners are much more efficient at processing licenses and we must do everything we can to expedite the process for our exporters. My amendment will allow licensing officials to be located on the west coast to process export licenses and respond to the needs of Western exporters. Currently, there is only one office—in Washington—to review over 111,000 license applications annually. With a staff of 280, the Office of Export Administration simply can not meet the demands we have placed upon it.

Recently we had to require that the Office of Export Licensing remain open to accomodate the time difference between the east and the west coasts. We should not have to legislate these changes. Nor should we place Western-based businesses at such a disadvantage that they must fly all the way to Washington to deal with a licensing snag. That expense is often prohibitive for small and medium-sized Western exporters.

With the Pacific rim as the fastest growing market for high tech exports, it is only logical to open a licensing office on the west coast. Last year, 27 percent of all license applications came from California alone. Moreover, since 1984, 41 percent of all export licenses by value have been from the three west coast States.

We can no longer afford to place our exporters at a competitive disadvantage. We need a western regional export licensing office.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY AMENDMENTS

STAFFORD (AND MITCHELL) AMENDMENT NO. 217

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. STAFFORD (for himself and Mr. Mitchell) submitted an amendment intended to be proposed by them to the bill (S. 1269) to improve hazardous materials transportation safety; as follows:

Section 7 of S. 1269, the Hazardous Materials Transportation Safety Amendments of 1987 is amended as follows:

1. Subsection (a) is amended to read as follows:

"Sec. 7. (a) Section 116 of the Hazardous Materials Transportation Act is amended to read as follows:

" 'GRANTS FOR EMERGENCY RESPONSE TRAINING

" 'Sec. 116. (a) There is authorized to be appropriated out of the Highway Trust Fund $5,000,000 for fiscal year 1988, $10,000,000 for fiscal year 1989, and $15,000,000 for fiscal year 1990, for making grants to support training programs of State and local governments which are designed to provide emergency planning, preparedness, mitigation, response and recovery capabilities. Such programs shall provide special emphasis with respect to emergencies associated with transportation of hazardous materials. Such grants may not exceed 80 percent of the cost of such programs; the remaining 20 percent of such cost shall be funded from non-Federal sources.

" '(b) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Director of the Federal Management Agency.

" '(c) Not later than 180 days after the date of enactment of this section, the Director of the Federal Emergency Managerment Agency shall, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, establish guidelines for training programs funded by a grant under subsection (a).

" '(d) Prior to the obligation of any funds under subsection (a), the Director of the Federal Emergency Management Agency, and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, shall submit to Congress a plan that, in order to achieve maximum benefits, demonstrates the coordination and integration of such funds with other Federal hazardous materials training activities, including those provided for under title III of the Superfund Amendments and Reauthorization Act of 1986.' "

2. Subsection (b) is deleted and subsection (c) is relettered accordingly.

● Mr. STAFFORD. Mr. President, today I joined Senator Wirth and other Senators as cosponsor of the Hazardous Materials Transportation Safety Amendments of 1987.

The bill addresses several deficiencies in the regulation of the transportation of hazardous materials in this county. It also contains provisions to improve training for State and local officials who will be called on to repond to accidents involving such materials.

I am in complete agreement with the objective of the bill to reduce the hazards to the public, including those who must act in the event that an accident occurs. Officials in my own State of Vermont agree that more needs to be done to provide adequate training to those who are likely to be the first line of defense against injury from releases of hazardous substances.

There is, however, one provision in the bill that I believe could be improved, and to that end I, together with Senator Mitchell, am introducing an amendment that I hope will be favorably considered by the committee of jurisdiction before the bill comes before the Senate.

A July 1986 report by the Office of Technology Assessment, "The Transportation of Hazardous Materials," notes the following:

> More often than not it is people problems—inadequately trained personnel, poor coordination and communication—or lack of information and advance planning, rather than technological shortcomings, that cause accidents, injuries or environmental damage. Yet, the roles of the many Federal agencies charged with meeting the complex problems are poorly coordinated and defined.

Title III of the Superfund Amendments and Reauthorization Act of 1986 [SARA] contains authority and funding for the Federal Emergency Management Agency to make grants to States and local governments to improve emergency response capabilities, including training of response personnel.

Even before passage of SARA, FEMA had been working with the Environmental Protection Agency and the Department of Transportation to develop a coordinated approach to preparedness planning and training. FEMA has had the lead in that effort, and the process has worked well, from all reports. It was for that reason that FEMA was given the lead role by SARA.

In order to continue rather than disrupt the work that is underway, the amendment that Senator Mitchell and I are proposing would give authority to FEMA to make grants to States and local governments.

Guidelines for the training programs to be funded by the grants would be developed by FEMA, in consultation with the Department of Transportation and with EPA. In addition, prior to the obligation of any funds, the three agencies would be required to submit to Congress a plan showing how the programs to be financed by grants under this bill will be integrated or coordinated with other Federal training activities.

Mr. President, Senator Mitchell and I have no pride of authorship in the precise provisions of the amendment we are proposing. We simply want to assure that the programs authorized in this bill will be coordinated with existing Federal efforts to achieve the best results for our investment.

The members of the Environment and Public Works Committee will be happy to work with Senator Wirth and the members of the Commerce Committee to arrive at what I believe will be a program that satisfies all concerns.●

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, May 28, 1987, at 9 a.m., to hold a hearing on and consider the request of the Committee on Agriculture, Nutrition, and Forestry for supplemental funding for 1987. The committee will also be receiving testimony from the Architect of the Capitol on the alternatives to the proposal to replace the Senate subway system.

For information on the Agriculture Committee's supplemental funding request, please contact Chris Shunk of the Rules Committee staff on 224-0277; for information on the Senate subway system, please contact John Swearingen of the Rules Committee staff on 224-0285.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on June 4, 1987 at 9:30 a.m. in room SR-332 to receive testimony on the extent and nature of foodborne illnesses in the United States.

For further information, please contact Ed Barron of the committee staff at 224-2035.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. METZENBAUM. Mr. President, I would like to announce for the public and my colleagues that the Subcommittee on Energy Regulation and Conservation has scheduled a hearing on the implications of S. 694, a bill to provide a comprehensive national oil security policy, for energy regulation and conservation and other areas of energy policy.

The hearing will take place at 2 p.m. on June 2, 1987, in room 366 of the Dirksen Senate Office Building.

Questions concerning the hearing should be addressed to Allen Stayman at 224-7865.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Wednesday, June 10, 1987, regarding the impact on small business of S. 79, a bill requiring notification to workers who are at risk of occupational disease. The hearing will commence at 10 a.m. in room 428-A of the Russell Senate Office Building. For further information, please call Nancy Kelley of the committee staff at 224-2809.

Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Thursday, June 18, 1987, on S. 437, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies. The hearing will commence at 9:30 a.m., in room 428-A of the Russell Senate Office Building. For further information, please call John Ball, staff director of the committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CHILDREN

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Children, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, May 21, 1987, at 2 p.m. to conduct a hearing on "Adoption Opportunities."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Land, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 21, 1987, at 1:15 p.m. to consider H.R. 799, a bill to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes; and H.R. 626, a bill to provide for the conveyance of certain public lands in Cherokee, De Kalb, and Etowah Counties, AL, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, May 21, 1987, at 10 a.m., to conduct oversight hearings on the financial condition of federally insured depository institutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, May 21, 1987 at 10 a.m. to receive testimony on the status of the farm program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 1987, at 8:45 a.m. for an open hearing on various veterans' health-care measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 21, 1987, at 2 p.m. to resume hearings on S. 1183, the Foreign Shipping Practices Act of 1987 focusing on title I, maritime and related international liner shipping laws and practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MEMORIAL TO JOHN PACHOLIK

● Mr. DIXON. Mr. President, I rise to pay tribute to an outstanding servant of Illinois. Joseph J. Pacholik passed away this last January 27, after a long career in service to his country, the State of Illinois, and his family.

John's commitment to working for the public good covered over 30 years of professional employment with the Federal Government, active involvement with the local library system and employment with the State of Illinois.

Prior to enlisting in the U.S. Army during World War II, Mr. Pacholik worked for the U.S. Employment Service. After the war, he returned to the Employment Service before working as a veterans' employment representative for Illinois.

John took advantage of the GI bill and went on to earn a bachelor's and master's degree. In 1955, he began working for the U.S. Social Security Administration. John rose rapidly through the ranks of the Social Security Administration. He was often called on to speak to organizations and schools and to reach those needy who were unable to visit the district Social Security office.

More importantly, in his free time, John was active in the public library system. For 16 years, he worked diligently for both the Peru and Starved Rock library systems, donating countless hours of his time. As a matter of fact, he was named "Illinois Library Association Trustee of the Year" in 1984 for his large contribution to the libraries of Illinois.

Last, Mr. President, I want to add that in 1954 John was diagnosed as having rheumatoid arthritis. In spite of severe pain and progressive crippling, especially in his later years, he remained active in library and civic affairs until his death. I salute Joseph J. Pacholik and appreciate the time of my colleagues.●

WCAU RADIO, PHILADELPHIA, PA

● Mr. SPECTER. Mr. President, 65 years ago, on May 22, 1922, WCAU Radio in Philadelphia signed on the air for the first time with 250 watts from a small backroom of an electrical shop at 19th and Market Streets. Ready-made radios were not on the market at the time, and crystal sets were used to receive the early broadcasts.

Mr. Herbert Hoover was Secretary of Commerce in 1922, and, as the Nation's chief executive 11 years later in 1933, President Hoover spoke at the dedication of WCAU's new broadcast facilities located at 1622 Chestnut Street.

William Paley, who founded the CBS network, was one of WCAU's first advertisers. As owner of the Congress Cigar Co., he promoted his product with a $50 investment in "the LaPalina Hour," named for one of the cigars produced by his company. This marked Mr. Paley's first venture in the world of radio. Later, he purchased a one-third share ownership of WCAU, and when he started CBS, WCAU was its first affiliate.

In its long and illustrious career, the station has numbered many prominent stars of the entertainment world among its alumni, including Ezra Stone, the original Henry Aldrich, Fred Allen, Paul Douglas, Kitty Kallen, Eddie Fisher, Frankie Avalon, and Roddy McDowell.

Many of the programs in which these stars performed have come full cycle—the same radio dramas that built the success of the fledgling CBS network are now broadcast to second and third generations of fans on nightly "Radio Classics" programming.

For the past 6 years, WCAU has broadcast the baseball games of the Philadelphia Phillies. In addition, it broadcasts Temple University football games and Temple and Villanova University basketball games. The station also devotes 4½ hours of programming to "sportstalk," during which fans can quiz the experts on their favorite sports.

In the six and one-half decades that have passed since WCAU first began to transmit from that small room on Market Street, there have been many, many changes in radio technology. Many adaptations in programming have been made to suit the ever-changing lifestyles of listeners in the Delaware Valley. For 65 years, however, the philosophy that has motivated WCAU management has remained the same: A steadfast commitment to outstanding broadcasting and to meeting the needs of the Delaware Valley community.

It is, then, altogether fitting that the Senate of the United States take notice of this momentous anniversary and extend its congratulations and its sincere wish that WCAU Radio will continue to serve its listenership with competence and fidelity.●

TRADE DEFICIT

● Mr. BINGAMAN. Mr. President, last week the Commerce Department announced that the U.S. merchandise trade deficit for March was $13.6 billion, down from $15.1 billion in February. At this rate, the annual deficit for 1987 would be $160 billion—$10 billion less than the record $170 billion for 1986. This announcement is a clear case of good news/bad news. The good news is that the trade deficit has declined. The bad news is that it has not declined as much as predicted nor has it begun to decline as much as it needs to.

During recent hearings of the Governmental Affairs Committee, Secretary of Commerce, Malcolm Baldrige, said he expected the trade deficit to fall by $30 billion this year. Other administration officials have predicted $20 billion. Now, we see that the deficit, if it continues at the March level, will decrease only $10 billion. The White House calls this good news. Yes, it is "good" news, but it is not "good enough" news. Even if the trade deficit declines by $30 billion this year, as earlier predicted, and by $30 to $40 billion next year, America is still left with an unacceptable trade deficit of $100 billion. And most experts agree that the trade deficit will not drop lower without specific action.

Mr. President, we cannot tolerate a $100 billion trade deficit indefinitely. America is now a debtor nation. We need to run a trade surplus simply to pay off our foreign debt. If we do not take positive action to bring about a reduction in this imbalance, economic forces will reduce the deficit for us. And the result will be a dramatic lowering of the standard of living for all Americans.

Yes, the decline in the trade deficit is welcome news. But if it gives rise to complacency and if it dulls the sense of urgency about our trade problems, then it is unwelcome news indeed. Last week, I introduced in the Governmental Affairs Committee a proposal to put in place long-range structural solutions to our trade and competitiveness problem, fashioned in part on the recommendations of the Democratic Working Group on Economic Competitiveness, which I chaired. The urgency of the problems facing America are no less today than when the Working Group made its recommendations last year, are possibly worse.

In New Mexico, we have seen firsthand how our lack of competitiveness has hurt our standard of living. Unemployment in March was 9.2 percent, compared to 6.9 percent nationally, and the growth of personal income in New Mexico declined dramatically in 1986. The predictions for 1987 are not much better. We must improve our ability to compete in international markets if we are to solve our economic problems.

My proposals are aimed at strengthening the policy making and coordination process in the Federal Government. Policymaking lies at the heart of our trade and competitiveness problem. Without an adequate process for making and implementing an overall strategy to improve our ability to compete in the world market, all our efforts may simply result in greater confusion.

The cornerstone of my proposal is the creation of two mechanisms for policymaking: one for policy review and one for policy coordination. A Council on Economic Competitiveness would be created as an independent agency to serve as a forum for the discussion of problems of economic competitiveness and as a source of external review and comment on policies of the Federal Government. The current Cabinet-level Economic Policy Council would be codified in statute with clear responsibility for trade and competitiveness policy so that it is better able to coordinate policy within the Federal Government. In addition, competitiveness impact statements would be required for administration proposals and for the Federal budget, which would be reviewed by the Council on Economic Competitiveness. The Council on Economic Competitiveness would also be given advanced notification of regulations, upon which they may comment if they so choose. To look at the long-range future of American trade, a 1-year study commission would be created to study and make recommendations on trade policy—the Commission on U.S. Trade in the 1990's.

The second portion of the proposal concerns improving the quality of information on trade and technology available to policymakers and industry. Improving our competitiveness requires improving our information. Currently, our information on trade and foreign technology is scattered. It needs to be consolidated. My proposal calls for an Office of International Technology Monitoring in the Department of Commerce to be created as a clearinghouse for information on foreign technology collected by the Federal Government. A National Trade Data Bank would be created to consolidate Government information on international economics, trade, and export promotion. An interagency committee would be created to coordinate the collection and dissemination of economic and trade information and to oversee economic and trade information policy.

The proposal also contains funding for State job banks to identify job openings and match them with job seekers, and a study on the feasibility of providing portable pensions and health benefits to displaced workers. I hope to move forward with this proposal and to press for action on all portions of the Working Group's recommendations.

At our meeting last week, the distinguished chairman of the Governmental Affairs Committee, Senator GLENN, and others discussed a bold plan for revitilizing and reinvigorating the role of government in the marriage of technology and commerce. I strongly support progress in this area.

These actions will not solve our trade and comeptitiveness problems overnight. Nor are they all that is necessary. Many other actions are needed and I commend the work of my colleagues on a number of other committees who are contributing to the Senate's competitiveness package. Yet, even these actions are but steps in the right direction. We will need sustained action over the long term to solve the problems. I urge my colleagues not to be dissuaded from this task.●

NATIONAL SECURITY CONTROLS INFORMATION AND COMMUNICATION

● Mr. SIMON. Mr. President, I noticed an article in the Government Information Quarterly that would interest my colleagues. Steven L. Katz's article, "National Security Controls, Information, and Communication in the United States," explores the effect of past legislation on national security controls.

Mr. Katz raises a critical issue for the 100th Congress to consider. That issue is the balance that must be struck between Government employee rights and individual civil liberties, and the need to keep certain information classified. Clearly, the balance has tipped too far toward excessive and unnecessary classification.

Mr. Katz also discusses information control policies which discourage free trade in ideas. Outdated laws like the McCarran-Walter Act, which allows the executive branch to deny visas to foreign nationals on the basis of their political and ideological beliefs, have been on the books too long. Happily, the Foreign Relations Committee recently passed legislation sponsored by myself, Senator MOYNIHAN, and Senator KASSEBAUM which repeals McCarran-Walter. I ask that Mr. Katz's article be reprinted in the RECORD.

The article follows:

NATIONAL SECURITY CONTROLS, INFORMATION, AND COMMUNICATION IN THE UNITED STATES

(By Steven L. Katz)

Exploring the nature of national security controls is an especially appropriate issue today. Shifting international tensions and the balance of world power require close attention to military capabilities and political alignments. At the same time, the United States is in the midst of an information age, when policies about information become decisions about the very nature of society itself.

National security controls on information and communication in the United States exist within a variegated frame-work of Executive Branch measures, statutes, and court decisions. These controls have a wide-ranging application to activities inside and outside of the Federal government. Access to information by citizens and by elected officials is carefully proscribed; Federal employees are subject to strict employment contracts requiring compliance with government censors and submission to polygraph testing; and university-based scientists are subject to prepublication review of papers, speeches, and publications. In addition, espionage law is being increasingly invoked to prosecute lapsed government employees who violate their secrecy obligations, and threats of prosecuting newspapers and magazines under espionage laws have occurred.[1]

An effort has been made in this discussion to construct a framework of the nature of national security controls on information and communication in the United States. To a significant extent, the subject matter is obscured by the controls themselves. Established secrecy procedures often impede the process of identifying and studying the myriad controls. To a degree, one is left with something resembling swiss cheese; there is just enough cheese to hold all the holes together. Nonetheless, it is possible to construct a framework of visible controls on information and communication, if not in shape, then at least in result.

WARNING SIGNS OF A NATIONAL SECURITY STATE

All recent American presidents have faced the reality of balancing world power. President Nixon ought to establish diplomatic and economic ties with the People's Republic of China and other nations while doing battle in Vietnam. President Carter pursued the improvement of human rights throughout the world, while forced to develop and apply military solutions to protect Americans abroad. President Reagan has made a particularly strong commitment to a vast military build-up, an aggressive anti-communist agenda, and challenging perceptible threats to the United States. He has pursued and, for the most part, has achieved these goals in the name of national security.

The Reagan Administration is certainly not the first to emphasize national security, or invoke it to establish government controls. Arguably, however, the current emphasis has created a new national security imperative in the United States involving significant controls on information and communication. Evidence of these developments has emerged from the U.S. military build-up, the 1983 invasion of the Caribbean island of Grenada, and the response to espionage activity. Questions regarding the propriety of such controls have led to deeper questions about the growth of a military democracy in the United States.

In a recent series of congressional hearings, entitled "1984: Civil Liberties and the National Security State," leaders and expert observers expressed fear that the warning signs of a national security state are visible in the United States.

In opening remarks at the hearings, Subcommittee Chairman Robert M. Kastenmeier stated:

"Since George Orwell penned his famous novel of life under "Big Brother," the year 1984 has had an ominous sound, threatening to ring in an era in which civil liberties would be crushed under the heels of the State.

"The very fact that we hold these hearings today is solid evidence that such a world has not yet arrived. But Orwell's "1984" was not intended to be a promise or even a prediction. It was a warning."

The warning signs may have been clearly perceptible to observers, but they were not self-enforcing upon the government. Recent statistics and events indicate that national security controls have increased.

Military build-up has been a direct cause of increased government secrecy. Defense spending authorization has increased $125 billion during the Reagan administration, increasing as a percentage of national budgetary outlays from 22.7% in 1980 to a projected 28.4% in 1987. In 1985, the director of the security classification policy enforcement office affirmed: "The build-up in the military program has led to a tremendous surge in derivative classification. Indeed, the government generated 22.3 million secret documents in fiscal 1985, a 14% jump over 1984. In 1984, 19,607,736 classifications took place, a 9% increase over 1983.

Government military action and the uncovering of espionage activity in the United States have been two additional causes of increased controls on the press. In October 1983, furor over national security controls on communication assumed its greatest level since Watergate and the Pentagon Papers when President Reagan ordered a news blackout during the invasion of Grenada. The threat was made to shoot any U.S. reporters who tried to reach the island on their own. Coverage of the initial states of the assault was selectively provided by the Defense Department's own news service.

Most recently, the government's heightened concern over espionage activity in the United States has increased controls on the press. During the past year, espionage agents for the Soviet Union, China, and Israel have been arrested in the United States.

CIA Director William J. Casey led efforts to resolve the espionage crisis and, in addition, to tightening security measures within the government, he has tried to control the press. In May 1986, Director Casey threatened to prosecute The New York Times, The Washington Post, The Washington Times, Newsweek, and Time magazine for publishing information about U.S. intelligence-gathering operations. He indicated that the news organizations had violated a section of the Espionage Act that was enacted in 1950, but has never been applied. Discussions between the Administration and the Washington Post in May 1986, was the sixth time in a twelve-month period that government officials had pressed the newspaper to withhold or alter an impending article.

Escalation of national security controls on information and communication stemming from a vast military build-up and the need to combat espionage have added to the list of warning signs of a security state. Perhaps, as stated recently by an American foreign correspondent, the question is one of determining rational parameters for national security: "A nation has a right, even an obligation, to make itself reasonably safe, but the United States now seems intent on becoming unreasonably safe. This is delusion. We have to go back to first questions. What, exactly, is it that we are afraid of, and why?"

HISTORICAL BACKGROUND OF NATIONAL SECURITY CONTROLS

National security controls on information and communication in the United States have been historically rooted in the military activities of the government. The purpose has been to ensure the secrecy of military capabilities, operations, and strategies. This is true whether the object of protection has been a wooden fort or the Pentagon, or whether the military objective has been to defeat the British in 1776 or the invasion of Grenada in 1983.

The purpose of national security controls has remained constant over time, but several changes have contributed to the modern dimensions of controls. These include development from rudimentary armed forces requirements to systematic security-secrecy regulations; parallel enforcement of such measures by military regulations and criminal laws; the extension of these practices beyond traditional defense matters; and, the relocation of the source of creating security-secrecy policy from the military to the Executive Branch of the government.

Many of these developments emerged with the international shifts and enormous waves of immigration which preceded World War I. The first complete system for the protection of national defense information was established in 1912. Congress enacted espionage laws in 1911 and 1917. Patent secrecy statutes placed controls on technological information in 1917.

Among the most significant developments has been the expansion of security controls to matters beyond traditional defense concerns, and transfer of the creation of security-secrecy policy from the military to the Executive Branch. The advent of World War II produced both these results.

In 1940, the President issued the first executive order on security classification policy for the Federal government. While the 1940 order was primarily concerned with military controls, it served as the basic for extending policy well beyond the scope of armed forces regulations. Since 1940, it has been the practice of each president to use an executive order prescribing a uniform system of classification, declassification, and safeguarding national security information.

Congress has also broadened the statutory framework, carving out important areas for protection against disclosures jeopardizing national security. Examples include the Atomic Energy Act, updating the Patent Secrecy and Espionage Laws, and creating new laws such as the Intelligence Identities Protection Act, and the CIA Information Act of 1984.

While most of the statutes limit access to information, one major swing of the pendulum in the other direction was marked by the Freedom of Information Act (F.O.I.A.) in 1966. The F.O.I.A. creates a judicially enforceable right of public access to records of the Federal government, subject to specific exemptions. The first exemption is national defense and foreign policy, and while not a flat prohibition, is subject to the executive order on classification policy. In 1974, amendments to the Act were adopted which improved the procedures for access to national security information.

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[1] Direct all correspondence to: Steven L. Katz, Legislative Counsel, People for the American Way, suite 601, 1424 16th Street, N.W. Washington, D.C. 20036.

Lastly, the third co-equal branch of American government, the Judiciary, has played an increasingly important role in national security controls on information and communication. On the one hand, such statutes as the Freedom of Information Act have increased litigation pursuant to rights of appeal, but the courts have also amplified the power of the Executive Branch to control the dissemination and publication of information.

The historical pattern of national security controls on information and communication in the United States, particularly the empowerment of the Executive Branch, has set the stage for the future. From a democratic standpoint, a most important question should be answered, preferably by the public: Which should be the controlling institution in establishing a balance between secrecy needs and the value of public debate about foreign and military policy—the Executive Branch, Congress, or the Judiciary?

THE MODERN FRAMEWORK OF NATIONAL SECURITY CONTROLS ON INFORMATION AND COMMUNICATION

The current framework of national security controls on information and communication is a variegated one comprised of Executive Branch measures, statutes, and court decisions. These controls influence activity within the government, between citizens and the government, and between government and specific sectors of society. These spheres of activity provide operational definitions of controls on information and communication in the United States today.

First, national security controls on information and communication entail, to a large extent, classification of information by the Federal government, and measures preventing past and present government employees from communicating information to the world at large.

Second, controls on information encumber attempts by citizens as well as by elected officials to obtain government records and documents. The controls include provisions in information disclosure laws such as the Freedom of Information Act, as well as specific withholding laws such as the Atomic Energy Act or the Patent Secrecy Act.

Third, there are specific controls on communication which apply to the press as well as the scientific and academic communities. These include executive directives, reinforced by court made law, and statutes ranging from export regulation to espionage law. In addition, related statutory prohibitions, applied on ideological grounds, prohibit foreign scholars, writers, and public speakers from obtaining visas to visit the United States.

INTERNAL GOVERNMENTAL SECRECY CONTROLS

Classification Policy

The greatest means for achieving government secrecy is the practice of classifying government information, documents, and records. As stated above, while the practice of security-secrecy markings such as "Top Secret," "Secret," and "Confidential," have been a function of the armed forces, one of the most significant developments was the centralization of security classification policy for the Federal government by executive order of the President. Since 1940, it has been the practice of each President to do so.

Current security classification policy for the Federal government is set by Executive Order 12356. Issued by President Ronald Reagan in 1982, it replaced Executive Order 12065 issued by President Carter in 1978. It is useful to compare current classification policy and its predecessors to gain a perspective on the operative requirements. A helpful measure of security classification policies includes such factors as the degree of openness with which the order was drafted, the degree of precision found in the purposes and limits of classification, and the relative emphasis on declassification.

Using the above measures, the current directive, Executive Order 12356, is calculably more restrictive than the executive orders of the Eisenhower, Nixon, Ford, and Carter Administrations. The differing patterns are most noticeable between the current Reagan Administration security classification order and its immediate predecessor.

The Carter Administration classification system was not perfect. It replicated several problematic provisions from the Nixon predecessor policy, and created a few new ones of its own. However, the Carter policy reflected the "open government" campaign theme which carried President Carter into the White House in 1976. The development of the Carter order was an open process characterized by public notice, comment, and participation, and many new changes gave disclosure equal emphasis.

In contrast, the process used by the Reagan Administration for consideration and adoption of its new executive order was a source of controversy. When he signed the order, the President said that it "reflects a coordinated effort involving officials of the executive branch, members of Congress, and representatives of concerned private organizations." However, as pointed out by a congressional oversight committee shortly after the order was issued, "the record demonstrates that with very few exceptions, the entire revision effort was carried on in isolation within the executive branch."

Other differences reflect the diametrically opposite goals of the Carter and Reagan policies. The Carter order was the first to explicity require a balancing of the public's interest in access to information against the national security justification against disclosure. The order was precise in defining classification by requiring that information had to fall within one of seven categories to be considered for classification. Furthermore, it established "identifiable damage" as the threshold standard for classification, eliminating the risk of arbitrary classification on the minimal basis of thinking of some potential "damage."

The Carter order also required that equal emphasis be given to declassification and classification. And it was the first to list specific categories of information subject to declassification; documents were ordered declassified as early as national security permitted, and a justification was required for the extension of classification beyond six years.

Following the issurance of the current Reagan order, a Justice Department overview described the changes between the Carter and Reagan orders as merely "based on litigative and administrative experience under that predecessor order." Examination of Executive Order 12356 suggests, however, that the Reagan Administration may have downplayed the substantive nature of changes from the Carter Executive Order 12065. The Reagan Administration has significantly reduced the emphasis upon public disclosure and declassification by eliminating the Carter "balancing of interests" requirement, and has removed the declassification schedule which established specific time limits for keeping information secret. In addition, the Reagan order has increased the opportunity for classification, and creates the risk of overclassification by decreasing the precision of classification requirements. The threshold standard triggering classification of information has been changed from "identifiable damage" to "damage," and when uncertainty exists as to the proper level of classification, information must be classified at a higher level pending final determination.

Furthermore, the Reagan order eliminates the long-standing prohibition against the reclassification of information previously declassified and released. The only conditions on this provision are that it be in the interest of national security, and that the information "may be reasonably recovered." Some surprising recovery authority was claimed by government representatives at a congressional hearing before issuance of the Reagan order. In response to questions about the meaning of reasonable recovery of declassified and publicly released information, one government spokesman refused to rule out either physical force or illegal entries, though another determined that this type of activity would be unreasonable. Neither would rule out the use of deception as a recovery technique.

Lastly, the Reagan order makes it easier to classify or reclassify a document after an agency has received a request for it. The Carter order prohibited such classifications unless authorized by the agency head or deputy. The Reagan order permits lower level officials to classify documents after a request for the documents is received.

Evidence that these changes have led to increased classification, as well as problems of overclassification, are reflected in recent government statistics. In its 1985 report, the Information Security Oversight Office, which enforces the executive order on classification, reported that in the three years since President Reagan issued E.O. 12356, the number of classification rulings has risen from 17.5 million to 22.3 million, or nearly a one-fourth increase. The report also said that government officials are increasingly marking documents "Top Secret" or "Secret," rather than the lowest level of classification, which is "Confidential." The higher classification reduces the distribution of documents within the government.

Members of Congress and legal scholars have been among those concerned that Executive Order 12356 raises questions about the separation of powers. In particular, they fear that, if the Executive can take the initiative in the absence of some clear congressional statement to the contrary, it can treat legislative inertia as empowering rather than power-limiting.

Keeping Secrets: Controls on Government Employees

The goals of the government's security classification policy are most directly accomplished by controls which prevent government employees from disseminating information to the outside world. These controls consist of a variety of measures which have "leap-frogged" one another as the courts and Congress have opened and closed avenues of prior restraint.

While the form and extent of these controls have varied, they share fundamental goals: subject past and present Federal employees to prepublication review of all speeches and writings; ensure compliance with government censors; and enforce obligations of secrecy. The result has been employee contracts setting forth these stipulations; further requirements of polygraph testing to enforce ongoing secrecy needs; and prosecution of lapsed employees under contract and espionage law. The most important forms which these controls have recently taken include: Form 4193, Executive Order 12356, and National Security Decision Directives 84 and 196.

Most important in the establishment of an administrative regimen of controls has been the growing role of the courts. In recent years, Federal district courts and the Supreme Court have upheld the constitutionality of Executive Branch measures which now serve as the backdrop for many government controls.

The Central Role of the Judiciary

In recent years, the third co-equal branch of American government, the Judiciary, has established new principles concerning secrecy controls. These decisions have primarily involved sanctioning controversial Executive Branch controls on publications, and there are strong signs that espionage law may soon be applied to the press in an unprecedented manner.

Proposed restraints on publication have traditionally been rejected by the courts under a "heavy presumption against its constitutional validity." Only narrowly focused government claims of national security during wartime have been allowable. The Supreme Court's decision in Near v. Minnesota held that publishing "the sailing dates of transports or the number and location of troops" would be the kind of publishing activity rightfully controlled in wartime circumstances. Times have changed, however, and the emphasis upon less controls has given way to a new principle: In the right circumstances, the courts will support the Executive Branch in asserting secrecy for national security reasons.

The seminal case for this principle, ironically, was the Pentagon Papers decision of 1971 in which the Nixon administration asked a Federal court to enjoin the New York Times from publishing government documents revealing U.S. operations in Vietnam. The Supreme Court denied the restraint, but only because the government had not met the standard of proof for injunctive relief. One expert observer has noted that:

"Far more important was the fact that at least six of the judges believed that given the right facts, the courts did have the authority to order a newspaper to stop printing information. . . . What was hailed at the time as a great victory for the First Amendment, in fact act set a dangerous precedent whose consequences we are only beginning to see."

In 1971, the government obtained a court order requiring a former CIA employee, writing a book using intelligence material, to show his manuscript to CIA censors in advance and permit them to purge any disclosures they considered secret. In 1972, the court upheld the government's right of prepublication review to prohibit classified information from being publishd. Since then, other cases have upheld the government's right of national security prepublication review, prior restraint, and censorship.

Administrative Controls

In the past, intelligence agencies have largely been the only ones using prepublication review, pursuant to statutory authority to "protect intelligence sources and methods from unauthorized disclosure." Employees involved in covert intelligence operations have routinely had their speeches and writings reviewed for content that discloses classified information without authorization. This practice was held constitutional in 1980, and the Supreme Court determined that even unclassified material could be kept secret.

Prepublication review at the CIA preceded by many years the issuance of President Reagan's executive order on security classification and operated under Form 4193 issued in 1981. Form 4193 reflected a CIA requirement that every employee with access to Sensitive Compartmental Information (SCI) sign a lifelong prepublication agreement. Form 4193 also takes on broader significance in the Federal government today. It has become the boilerplate prepublication review measure used by agencies other than the CIA. Since Form 4193 first appeared in 1981, approximately 156,000 military and civilian employees have been required to sign such agreements at the Defense Department alone. The General Accounting Office further reports that employees in 23 other Federal agencies have signed these agreements.

Then a controversial new measure, National Security Decision Directive (NSDD) 84, was released on March 11, 1983. Following on the heels of President Reagan's Executive Order 12356, NSDD 84 was part of a security program to prevent unlawful disclosure of classified information by Federal employees. It required more than 120,000 agency employees to sign nondisclosure agreements containing prepublication review clauses (for fiction, non-fiction, or speeches) as a condition for access to classified materials. In addition, it granted agencies the authority to order polygraph tests of personnel "when appropriate, in the course of investigations of unauthorized disclosures of classified information." Overall, the polygraph provision would apply to 2.5 million Federal employees, and to 1.5 million government contractors and their employees.

NSDD 84 was also significant for expanding the use of national security controls in another regard: It required each agency to promulgate regulations to "govern contacts between media representatives and agency personnel, so as to reduce the opportunity for negligent or deliberate disclosures."

Congress responded negatively to NSDD 84 just as it had to Executive Order 12356. Legislation entitled the Polygraph Limitation and Anti-Censorship Act was immediately introduced to prohibit polygraph testing and prepublication agreements by Federal agencies, excepting only a few entities such as those within the intelligence community. In separate actions, temporary restrictions were set on the use of both devices, as authorized by NSDD 84, through congressional amendments to Defense and State Department authorization bills. Although the Polygraph Limitation and Anti-Censorship Act did not receive final congressional approval prior to the adjournment of both Houses in 1984, President Reagan agreed to suspend enforcement of NSDD 84 provisions concerning polygraph examinations and post-employment application of the mandated secrecy agreements. The remaining portions of the directive have been implemented.

Next, President Reagan signed NSDD 196 on November 1, 1985, requiring thousands of Administration officials, and perhaps some Cabinet members, to submit to polygraph tests as part of a counter-espionage crackdown throughout the government. It applied to officials having access to "sensitive compartmented information," subjecting more than 182,000 Federal employees and contract personnel to tests.

In the spring of 1986, a Defense Department official and a State Department speech writer were fired for leaking classified information. At about the same time, a group of mid-level Executive Branch officials recommended in a secret memo to presidential national security adviser John Poindexter that the White House increase internal investigations of unauthorized disclosures of classified information by Federal employees. A group of top-level government lawyers also urged that strong disciplinary action be taken when the sources of leaks are identified. The press also reported that a proposal for an FBI unit to probe leaks had been discussed at the White House during this period.

The Supreme Court's 1980 decision in Snepp v. U.S. is the most powerful enforcement tool the government now possesses. The case involved a former CIA agent who published a book criticizing practices of the U.S. during the Vietnam War. The Court held that Snepp had violated his agreement by not providing the CIA "an opportunity to determine whether the material he proposed to publish would compromise classified information or sources." Furthermore, the Court awarded damages to the government in the form of a "constructive trust," into which Snepp was required to "disgorge the benefits of his faithfulness."

Federal intelligence agencies have taken national security controls one step further by threatening prosecution and actually prosecuting past and present employees under espionage law. In one case, the National Security Agency (NSA) has a warning delivered by the FBI to two former Air Force communications intelligence specialists who had written an article for The Denver Post challenging the Reagan Administration's account of the Soviet downing of Korean Air Lines Flight 007. In the warning, the NSA reminded one author "of his secrecy agreement with the agency," and told him that his "disclosure is technically a violation of the Espionage Act and any further disclosures should be cleared with the NSA."

Espionage law, however, is now clearly operational against misanthropic government employees, not only for disseminating information to foreign agents, but purely for disclosing information to the press. In the 1985 case of U.S. v. Morison, a government employee was convicted of violating espionage law by having "willfully" communicated to a British military journal, Jane's Defense Weekly, copies of photographs taken by reconnaissance satellite. He was also convicted of violating another provision of espionage law for having kept intelligence documents in his home.

Following the Morison decision, questions have arisen over the courts' rush to give the espionage statutes the broadest possible application, and whether or not Congress ever intended for the espionage statutes to extend to publications. However, the Executive Branch and the intelligence agencies seem secure in threatening prosecution of writers and publications under criminal laws. As noted earlier, CIA Director William Casey threatened to prosecute five major news publications in May of 1986 for publishing information about U.S. intelligence operations.

STATUTORY CONTROLS ON DISCLOSURE TO THE PUBLIC

National security controls on information pertain to not only the array of withholding laws and regulations, but also provisions and practices designed to disclose information to the public. These controls affect the ability of the American citizenry to obtain information about government activity, and also impact upon informed debate within Congress and between the Legislative and Executive Branches.

The Freedom of Information Act

The primary information disclosure law is the Freedom of Information Act (F.O.I.A.), adopted in 1966, amended in 1974, and celebrating its twentieth anniversary. The Act grants citizens a judicially enforceable right of access to records of the Federal government, subject to, specific statutory exceptions.

The F.O.I.A. was designed to replace an earlier section of law which allowed government agencies to withhold information from the public under whatever subjective standard could be articulated for the occasion. Most importantly, the Act set a standard for disclosure from which only deviations in well-defined areas would be allowed.

As enacted, the 1966 Act has several weaknesses. It mandated minimal cooperation from Executive Branch agencies which were able to unreasonably delay responses to requests and exercise broad administrative discretion to withhold information. In addition, as court cases demonstrated, statutory exemptions, particularly those involving national security, required clearer articulation of the intent of Congress. In 1974, in a bipartisan spirit, Congress addressed these concerns, and even overrode the veto of President Ford to pass amendments which are crucial to the value of the Act today. For F.O.I.A. disclosure, Congress authorized the in camera review and release of separable portions of even classified documents. It also instructed the courts to determine de novo whether or not information was properly classified according to procedures and criteria of the executive order on classification.

Two F.O.I.A. exemptions pertain to national security controls on information: Exemption 1 and Exemption 3. Exemption 1 protects from disclosure information concerning the national defense or foreign relations, provided that it is properly classified in accordance with the substantive and procedural requirements of the prevailing executive order. Exemption 3 protects from disclosure information explicitly safeguarded by other statutes. These might include, regarding national security, the Central Intelligence Information Act; The Foreign Intelligence Surveillance Act; or the Atomic Energy Act. It is virtually impossible to know the number of instances in which Exemption 3 is invoked at the agency level. However, as reported by the Justice Department, through 1985, approximately one-hundred cases have involved the dual application of Exemption 1 and Exemption 3 invoking national security as grounds for withholding information.

The most salient feature of Exemption 1 is that it is delineated by the prevailing executive order on security classification. Such orders, however, are the prerogative of the President. Moreover, they are probably the dominant force among national security controls on information and communication. To protect classified information, the Freedom of Information Act exempts from disclosure matters that are: "Specifically authorized by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order."

The differences between the Carter and Reagan executive orders on security classification policy demonstrates that public access to information may vary considerably with each presidential administration. Four principal areas of comparison indicate that the current executive order diminishes public access to information under the Freedom of Information Act. First, the underlying presumption of public access has been changed from disclosure and declassification to withholding and classification. This was primarily achieved by eliminating the Carter requirement of a "balancing test" placing the burden of proof against disclosure upon the government. Second, whereas President Carter established seven categories into which information must fall to be classified, President Reagan has added several new categories. Third, whereas the Carter order required that, even if information is within a stated category it must meet the narrow standard of "identifiable damage" to be classified, President Reagan has now broadened that standard to simply require a showing of potential cause of some "damage." Fourth, in the most dramatic reversal impacting upon citizens who have already acquired information through the F.O.I.A. in the past, President Reagan has authorized the reclassification of documents and records previously declassified and released to the public.

Congress has not been unaware of the broad impact of security classification executive orders on the F.O.I.A. However, during the development of the 1974 amendments, Congress specifically declined to legislate classification policy, and has not pursued the issue in subsequent proposals. While it is not clear that creating a statutory framework for classification would be practical, it seems capricious to subject the public right to access under F.O.I.A. to the changing winds of the presidency.

Congressional Access to Information

In addition to its role in shaping national security controls on information and communication regarding the public, Congress is itself subject to such controls. Technically, Congress has greater access than the average citizen because of its official status, and because agencies are not allowed to invoke exemptions of the Freedom of Information Act against either House to withhold information. The legislative history of the F.O.I.A. states that "Members of Congress have all the rights of access guaranteed to "any person" by [the Act], and the Congress has additional rights of access to all government information which it deems necessary to carry out its functions.

While members of Congress can and do exercise their official status to obtain information, national security issues pose particular problems of access. Sources of continual controversy between Congress and the Executive are statutes which require the executive to transmit information at the request of committees of Congress and place upon the executive the duty to keep Congress informed.

Executive opposition to cooperating with Congress erupts periodically and is usually resolved on an ad hoc basis. Particular battles have often followed over the assertion of "Executive Privilege" and the extent to which Congress can assert its rights to gain access to information. The experience of Watergate is the best illustration of cover-up by asserting "Executive Privilege," and remains a strong incentive for Congress to restrain the Executive Branch's attempt to keep information secret.

In areas of general debate about national security and intelligence issues, executive opposition to Congress is often fostered by the perceived inability of Congress, its committees, and members to safeguard sensitive information. Various procedures do exist, however, to protect sensitive information in the possession of Congress. General rules of the House and Senate are reinforced by more stringent rules of the House and Senate Intelligence Committees.

The rules and regulations prescribing the relationship between Congress and the Executive Branch reveal both the degree of care and the complexity involved in congressional review of national security. In many ways, the procedures add yet another complex layer of secrecy controls; however, they also allow for a degree of more informed debate by Congress.

Many members of Congress, however, whose responsibilities include oversight of Federal intelligence agencies, have continually remarked that existing procedures are inadequate to inform them of government policy and practice. In many ways, these feelings reflect the broader concern over an issue which affects members of Congress and the public: the ambiguity of American policy on national security and foreign affairs.

CONTROLS ON SCIENTIFIC AND ACADEMIC COMMUNICATION

National security controls requiring prepublication review of writings, sometimes resulting in the prohibition of publication, can extend outside government ranks, principally to scientists and academics. The specific controls include some of the same internal government regulations discussed above, to the extent that a scientist is funded by a government research grant, as well as other regulations and statutes restricting the flow of information between nations. Lastly, a corollary phenomenon is the use of immigration law to restrict the entry of foreign scholars and speakers traveling to the United States for public speaking engagements.

Atomic Energy Research

Perhaps the broadest authority, and most logical, for government controls over scientific communication pertains to atomic energy. The Atomic Energy Act regulates the "development, utilization, and control of atomic energy for military and all other purposes." [67] A 1981 amendment to the Act authorizes the Secretary of Energy, with respect to atomic energy defense programs, to "prescribe such regulations . . . as may be necessary to prohibit the unauthorized dissemination of unclassified information" Although the Act also sanctions "the dissemination of unclassified and technical information . . . so as to encourage scientific and industrial progress," such activities have been constrained by a Department of Energy regulation proposed in 1983. The regulation is entitled "Identification and Protection of Unclassified Controlled Nuclear Information" (UNCI), and would establish many hurdles to prevent unauthorized disclosure of information.

In a nuclear age, strict (though not unbounded) controls on the flow of information about atomic energy technology are logical to most. However, other government controls on scientific communication pose a direct threat to academic freedom. In particular, questions arise over the extent to which university-based researchers must sacrifice First Amendment rights to accept government funding or contracts.

Controls on Communication Spawned by Government Funding

The increasing need for research and development to achieve advancements in technology has led to extensive funding of basic scientific research by the Federal government. The funding is generally handled through contracts and grants between Federal agencies and individual academic institutions. The terms of a contract or grant are subject to the stautory mandate and regulations of the particular funding agency.

Scientists receiving Federal grants have recently been subjected to prepublication review requirements established by national security directives, and increasingly by Federal agencies inserting such clauses in university research contracts. Prepublication review of academic research originally arose from national security concerns about the illicit transfer of technology to unfriendly governments. However, both Executive directives and agency contract clauses have extended to control information which is either non-classified, non-technological, as well as material produced under social science research contracts.

It is important to note that, in some cases, members of the academic community have even been subjected to threats of prosecution from government officials seeking to restrict speeches and writings in other sectors of society. In one case of attempted prepublication censorship in 1984, two Air Force officials warned a professor of government at American University in Washington, D.C., of possible prosecution under espionage laws if he delivered a talk on "Limitations and Capabilities of U.S. Reconnaissance Satellites such as the 'KH (Keyhole)-11.'" The Air Force claimed that the professor "once had as security classification that had enduring obligations after it expired." The professor claimed that his paper was based on public sources.

Export Controls

Export regulations have been used with increasing frequcency to restrict the flow of scientific communication, both in writing and in the presentation of papers at conferences. These controls are imposed on basic research under definitions of "technological data" and "export." The scope of export controls includes both classified and unclassified information, so long as the material falls within the definition of "technological data" which will be "exported."

The Export Administration Regulations (EAR), promulgated under the Export Administration Act of 1978,[74] define "technolgical data" as: "Information of any kind that can be used, or adapted for use in the design, production, manufacture, utilization, or reconstruction of articles or materials. The data may take a tangible form, such as a model, prototype, blueprint, or an operating manual; or they may take an intangible form such as technical service.

An expanded definition of "technological data" to include "any technology which advances the state of the art or establishes a new art in the area of significant military applicability in the U.S." is established by the International Traffic in Arms Regulations (ITAR) promulgated under the Arms Export Control Act of 1968.

Although these regulations have historically exempted university researchers, a restriction on activities which relate "directly and significantly to design, production, or utilization in industrial processes has been applied, in particular, to foreign scholars researching at American universities.

In 1981, the Department of State sent a form letter to many universities inquiring into foreign scholarship in the U.S., and requesting completion of a questionnaire about current activities at U.S. universities. The requested information would have required reports on student activities including: "professional trips" taken by students;" specific experiments" conducted on campus; and specifics about "instruments or specialized equipment (e.g., laser measuring devices, automated analytical equipment, and computers) that may be used during the course of the study program." The government justified its inquiry on the basis of the Arms Export Control Act and the Export Administration Act. Harvard University and Stanford University, among others, refused to comply with the State Department request.

Perhaps the most extreme example of government interference with academic freedom has been the use of export regulations to restrict enrollment in a college course. In June, 1984, the University of California at Los Angeles (UCLA) restricted enrollment to "U.S. Citizens Only" in a course of study on "Metal Matrix Composites" offered through the UCLA Extension program. The enrollment restriction was set because the course material included unclassified technical data appearing on the Munitions Control List of the International Traffic in Arms Regulations and considered subject to export control.

Free Trade in Ideas: Ideology and National Security

Authority for restricting free trade in ideas between U.S. citizens and foreigners, and vice-versa, existed long before the State Department created its foreign scholar questionnaire in 1981. Since 1952, under the Immigration and Nationality Act, also known as the McCarran-Walter Act, foreign nationals have been denied entry into the United States because of their political and ideological beliefs. The restrictive provisions of the Act apply to "aliens who . . . engage in activities which would be prejudicial to the public interest", to "aliens who are members of the Communist Party" or "who advocate the economic, international, and government doctrines of world communism", and to "aliens who write or publish or cause to be written . . . printed matter . . . advocating or teaching . . . the economic, international, and governmental doctrines of world communism.

In 1972, the Supreme Court interpreted the McCarran-Walter Act to deny a visa to Ernest Mandel, a Belgian journalist and Marxist theoretician invited to speak at Stanford University in 1969. Mandel had described himself as "a revolutionary Marxist" on his visa application in 1969, as well as on two previous applications allowing successful visits to the U.S. in 1968 and 1962. The 1969 visa was denied on the grounds that his "1968 activities while in the United States went far beyond the stated purposes of his trip . . . represent[ing] a flagrant abuse of the opportunities afforded to him to express his views in this country." The Supreme Court rejected claims made by American university professors who claimed they had a right to hear and communicate with foreigners. Since Mandel, a disturbingly long list of visa denials have been implemented against visiting scholars and speakers. In addition, there have been deportation proceedings against foreign born tenured professors.

In recent years, the use of the McCarran-Walter Act has been so alarming as to finally spur members of Congress to consider amending the immigration law to prevent further injustices. The Senate Foreign Relations Committee recently held hearings, entitled "Free Trade in Ideas," on July 11, 1986.

Noted American author Kurt Vonnegut testified in support of amending the McCarran-Walter Act stating that:

"No other nation has a law like our First Amendment. But then again no other Western bloc country has anything quite like the McCarran-Walter Act. We have damaged our own reputation while gaining nothing with enforcement of this law. It is the free exchange of ideas, no matter how outrageous, that has made us strong. I don't think we have to be afraid of any idea. We are very good at testing them when given a chance."

During the 99th Congress, legislation to amend the McCarran-Walter Act was introduced by Senators Charles M. Mathias (R-MD) and Paul Simon (D-IL). Similar legislation was introduced in the House of Representatives by Congressman Barney Frank (D-MA). Increased public attention has been drawn to the need to change the law. The legislation to do so in the 100th Congress has been planned by Senator Paul Simon, Senator Daniel P. Moynihan (D-NY), and Congressman Barney Frank.

CONCLUSION: DEMOCRACY AND NATIONAL SECURITY IN THE U.S.A.

Americans take enormous pride whenever the United States is described as "the most powerful democracy in the world." Few people consider, however, the competing interests of achieving military superiority and maintaining a healthy democracy. National security controls on information and communication in the United States illustrate the fundamental tensions of this conflict.

Restrictions on informed debate and free expression strike at the very heart of a democracy, and challenge fundamental rights established in America's foremost legal document, the United States Constitution. As eloquently stated by one observer: "National security is what protects us from our adversaries, but the Constitution and the Bill of Rights are what distinguishes us from them."

First Amendment freedoms pose particularly difficult questions in the national security context. First Amendment law maintains a delicate balance between protected expression and unprotected conduct. "Under this view, the first amendment generally prohibits official restraints on the communication of ideas, but does not in any way prevent the state from restricting the acts of an individual that may cause physical harm to others." However, the expression/conduct distinction becomes blurred in the national security context. While such information confers enormous benefits on society, it is also the source of life-threatening conduct. The balancing of interests for national security purposes, therefore, takes on a gravity unique within the scope of the First Amendment.

The technological complexity of national security has, unfortunately, already removed the bulk of the subject from the arena of citizen debate. The spiraling need for technological advancement, and concomitant secrecy, has placed the information beyond the public's reach Still, "higher" strategic questions become political issues, and military action requires public support. If national security is an imperative in the United States, then informed debate about national security should be a parallel priority.

The greatest risk in the national security context is that policymakers will entirely forego the balancing of legal and democratic principles with national security needs. National security is a formidable justification to overcome by those fighting to resolve the conflict between civil liberties and ideology, preserve the role and responsibility of the press, ensure the free flow of information, and affirm the people's right to know in a democratic society.

U.S. Supreme Court Justice Oliver Wendell Holmes states that majorities are prone "to sweep away all opposition." Governments strongly prefer acquiescence to dissent, but the test of a democracy is not the ability of government to arrogate power to itself. National security controls on information and communication pose many questions for the people of the United States, the most important of which is whether or not American society will acknowledge the demands of a democracy.

MEMORIAL DAY AND THE NATION'S FOUNDING

● **Mr. ARMSTRONG.** Mr. President, this Monday, May 25, the people of the United States will commemorate Memorial Day.

Memorial Day's roots go back to the mid-1860's when veterans and local communities began setting aside a day to decorate the graves of the Civil War's dead. That 4-year fratricide had claimed more than 600,000 lives.

Memorial Day 1987 should be particularly significant to the people of the United States because May 25 is the day that the Constitutional Convention began its business in Philadelphia 200 years ago.

The Convention was to have begun on May 14 but when that day arrived only two States were represented. On the 25th, with seven States represented, the Convention got underway.

George Washington was elected president of the Convention, being escorted to the famous "rising sun" chair by Robert Morris of Pennsylvania and John Rutledge of South Carolina. Alexander Hamilton of New York then nominated William Jackson as secretary of the Convention, and Jackson won the position in a contest against Ben Franklin's nephew. The delegates' credentials were read. New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina were represented. Nicholas Weaver was appointed messenger and Joseph Fry, doorkeeper. George Wythe of Virginia, Hamilton, and Charles Pinckney of South Carolina were elected to a rules committee. And so passed the first day, May 25, 1787, of America's greatest political assembly.

In memory of the Constitution's framers I ask that an account of the Philadelphia Convention of 1787 be entered in the RECORD. This account was written by Lincoln Oliphant of the Republican Policy Committee staff. The Constitution of the United States, together with this history and other materials, is available on request from the Policy Committee.

May 25, 1987, Memorial Day, is an especially appropriate time to remember our most precious inheritance, the Constitution of the United States. John Adams, who was not in the Convention because he was our Ambassador to England, said the Philadelphia Convention was:

> If not the greatest exertion of human understanding, the greatest single effort of National deliberation that the world has ever seen. * * *

And Thomas Jefferson, who was not in the Convention because he was our Ambassador to France, said:

> The example of changing a Constitution, by assembling the wise men of the State, instead of assembling armies, will be worth as much to the world as the former examples we had given them. The Constitution, too, which was the result of our deliberations is unquestionably the wisest ever presented to men.

As on so many matters, Mr. President, the passage of years confirms the wisdom and judgment of the great men of the founding era.

The account of the Philadelphia Convention of 1787 follows:

THE CONSTITUTIONAL CONVENTION OF 1787

From the shipyards of Portsmouth, New Hampshire to the Plantations of Savannah, Georgia, the thirteen former colonies of the British Crown were now free and independent States. Linked together loosely by the Articles of Confederation, the States were more like sovereign nations than anything else. They regarded their militias as national armies, and nine States even had their own navies. They issued their own paper money, and several States had sent ministers abroad to attempt to borrow money. Virginia insisted on separately ratifying the 1783 treaty with Great Britain that officially ended the Revolutionary War. Congress under the Articles was not so much a legislative body as a diplomatic assembly—something like today's United Nations. Still, the Articles of Confederation provided the foundation of the Constitution and the framework for the Constitutional Convention of 1787.

THE AMERICAN CONFEDERATION

The Articles of Confederation were proposed in 1777, and adopted within two years by every State but Maryland. Ratification required the concurrence of every State, however, and Maryland did not sign until March 1781, after being nudged by the French. (The French refused the State's request for help in driving the British navy out of the Chesapeake Bay because Maryland had not adopted the Articles.) In October of 1781, the British surrendered at Yorktown.

Almost the entire war had been waged under the gentleman's agreement. General Washington complained that Congress could "merely recommend and leave it to the States afterwards to do as they please, which . . . is in many cases to do nothing at all." The Articles of Confederation were an improvement over the gentleman's agreement, but not by much. The States retained their "sovereignty, freedom, and independence, and every power, jurisdiction, and right" that was not "expressly delegated to the United States in Congress assembled." Among those powers not delegated were the powers to tax, to raise troops, and to regulate commerce.

The Articles of Confederation were inadequate, particularly for the conduct of the war, and Congress knew it. It took Congress less than a week after the adoption of the Articles to appoint a committee to determine how it could obtain "full and explicit powers for effectually carrying into execution in the several States all acts . . . passed agreeably to the Articles of Confederation." The States recognized the defects of the Articles, too, As early as 1782, the New York Legislature called for a general constitutional convention.

Frustrated by several failed attempts to acquire an independent source of revenue and tired of begging the States for money, Congress itself was ready for a convention by early 1787. The anarchy in Massachusetts, culminating in Shay's Rebellion, had just been quelled, but there remained a justifiable fear that riot and disorder would spread. A stronger central government would dispel this fear. Some States, notably Virginia, had already selected delegates for a consitutional convention.

On February 21, 1787, citing "experience [which] hath evinced that there are defects in the present Confederation," Congress called a convention "for the sole and express purpose of revision the Articles of Confederation" to "render [them] adequate to the exigencies of Government & the preservation of the Union." The convention was called to suggest amendments; actual amendment of the Articles of Confederation required the consent of Congress and ratification by every State legislature.

AWAITING A QUORUM

The convention was scheduled to begin on the second Monday in May, the 14th, at the State House in Philadelphia. The State House (now known as Independence Hall) looks out on Chestnut Street, just six blocks from the Delaware River. But on the appointed day, only Virginia and Pennsylvania were represented.

Greeted by some of his former officers and the city's light cavalry, Washington had arrived from Mount Vernon the day before. The bells were rung and people lined the streets for a glimpse of his horse and carriage. James Madison had come directly from Congress in New York City and had been in Philadelphia for ten days. Virginia's delegation also included George Mason, author of the Virginia Declaration of Rights (which Jefferson drew upon for the Declaration of Independence) and Edmund Randolph, Governor of the Commonwealth.

Pennsylvania had sent Robert Morris, the ingenious gentleman who had financed the war and signed both the Declaration of Independence and the Articles of Confederation. James Wilson and Gouverneur Morris, two distinguished lawyers and patriots with a long history of public service, were also Pennsylvania delegates. The President of Pennsylvania, Benjamin Franklin, was the host. This former printer, now in his 82nd year and chief executive of the State, was a world-renowned scientist and diplomat.

By Friday, an assortment of delegates had arrived, including the South Carolina and New York delegations. South Carolina had sent John Rutledge, its most influential lawyer and politician, and the bright, young Charles Pinckney, who was serving with Madison in Congress. Alexander Hamilton, Washington's former aide and an ardent nationalist, came from New York.

In Paris, the American Ambassador to France, Thomas Jefferson, cultivated his eager interest in the proceedings through a correspondence with several members. Jefferson's admiration for the delegates was unconfined: He wrote to John Adams, another Keen observer who was the ambassador in London, that the Convention "is really an assembly of demigods."

Members of the Virginia delegation met daily to work on their plan for national union. Their product—soon to be introduced at the Convention by Governor Randolph—was a group effort, but the theory and outline were Madison's.

Madison and Mason had rooms at the Indian Queen tavern, on Fourth Street just a block from the State House, and the Virginians may have met there. George Mason, accustomed to his handsome plantation house, was content with his lodgings, but came "to grow heartily tired of the etiquette and nonsense so fashionable in this city" of 30,000 inhabitants, the largest in the United States.

While they awaited a working majority, delegates met daily at the State House. There was little anxiety over the absentees, for travel was always slow and uncertain, and the roads were rutted and muddy from the spring rains. It had taken General Washington five days to travel from northern Virginia, and a trip from New England could take three times that long. On the other hand, no one knew how many delegates were on their way. Some twenty delegates had simply refused to serve. One of the more famous Patrick Henry of Virginia, succinctly explained his refusal. "I smelt a rat," he said.

Perhaps in one of these daily gatherings, when the conversation had turned to proposals for half-hearted half measures. Washington uttered his famous admonition: "If to please the people, we offer what we ourselves disapprove, how can we afterwards defend our work? Let us raise a standard to which the wise and honest can repair. The event is in the hand of God."

THE CONVENTION OPENS

On Friday, May 25, with quorums present from New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina, the Convention finally got under way. It may have been the greatest political assembly the world has ever known, but its sessions were modest. No more than eleven States ever voted. Rhode Island never sent delegates, and by the time New Hampshire arrived in late July, New York's quorum had already gone home. Fifty-five delegates attended the Convention at one time or another, but on any given day only about half that number were likely to be in attendance.

WASHINGTON AND MADISON

Washington was elected President of the Convention by unanimous vote. A dozen years earlier, in the same room, he had been chosen Commander-in-Chief of the revolutionary forces. Franklin was to have nominated Washington, but the rain and the gout kept Franklin at home. Washington thanked the delegates for the honor they had bestowed upon him, and asked their indulgence for any errors he might commit because of his inexperience. With but one exception, he did not address the convention again until its last day.

Washington was essential. Shortly after the Convention, Gouverneur Morris wrote, "I have observed that [Washington's] name on the new Constitution has been of infinite service. Indeed, I am convinced that if [Washington] had not attended the Convention, and the same paper had been handed out to the world, it would have met with a colder reception, with fewer and weaker advocates, and with more and more strenuous opponents." There have been many similar observations, both then and now, and their truth seems universally accepted. The more farsighted delegates had understood Washington's importance even before the Convention. Madison and Randolph, for example, had pleaded with the reluctant General to go to Philadelphia. One observer wrote of Washington that, "he is certainly a very good character—but the common people don't know how to admire without adoring him." And it was true. Washington was revered.

James Madison chose a chair in front of the President so that he could hear all that passed, and from that seat he managed the Constitution. Madison took the lead in every important debate and was the principal draftsman of the Virginia Plan, which was the blueprint for the Constitution. He also kept extensive notes of the proceedings and is responsible for most of what we know about the Convention. Another delegate described Madison as a "blend of the profound politican with the scholar" who "always comes forward the best informed man of any point in debate."

THE RULE OF SECRECY

Three of the Convention's rules are notable: first, a quorum could consist of just seven States, and a majority of a quorum could decide any question. This rule seems unexceptionable now, but it was considerably more liberal than the rule in Congress at the time where all major questions required the assent of nine States. Second, each State, whether large or small, had one vote, the same as in Congress. This important decision, made informally before the Convention began, probably kept the small States from leaving the Convention. Third, the proceedings were to be secret. In our day, when press releases are plentiful and leaks are routine, it is somewhat difficult to account for the Convention's rule (which was scrupulously obeyed).

Years later, Madison declared that no Constitution would have been possible without the rule of secrecy. "Opinions were so various and at first so crude," said Madison, "that it was necessary they should be long debated before any uniform system of opinion could be formed. Meantime, the minds of the members were changing and much was to be gained by a yielding and accommodating spirit. Had the members committed themselves publicly at first, they would have afterwards supposed consistency required them to maintain their ground, whereas by secret discussion, no man felt himself obliged to retain his opinions any longer than he was satisfied of their propriety and truth and was open to argument."

Shortly after the Convention got under way, a delegate lost some of his official papers which were found by another delegate and given to Washington. He waited until the day's debates were ended, then rose to admonish the members.

"Gentlemen," he said. "I am sorry to find that some one Member of this Body has been so neglectful of the secrets of the Convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this Morning. I must entreat, Gentlemen, to be more careful, least our transactions get into the News Papers, and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is"—and he threw the papers on his desk—"let him who owns it take it."

Washington then bowed, picked up his hat, and "quitted the room with dignity so severe that every Person seemed alarmed."

William Pierce, a delegate from Georgia who recorded this anecdote, was extremely alarmed to discover his own papers were gone. He stepped quickly to the table to inspect the lost papers and was relieved to discover they were in another handwriting. When he returned to his room at the Indian Queen, he discovered his own papers in the pocket of another coat.

Not surprisingly, no person ever claimed the lost papers.

THE VIRGINIA PLAN

Governor Edmund Randolph of Virginia opened the main business of the Convention on Tuesday, May 29, by detailing the defects in the present system of government and exhorting the delegates "not to suffer the present opportunity of establishing general peace, harmony, happiness and liberty in the United States to pass away unimproved." Since Virginia had taken the lead in obtaining a convention, the Virginia delegates supposed that the Convention would expect some plan from them and Randolph introduced fifteen resolutions, the "Virginia Plan." In less than 100 working days, this plan would be forged into the Constitution of the United States.

The Virginia Plan provided for a national legislature of two branches, the first to be elected by the people and the second to be elected by the first. The States were not to be represented equally, as they were under the Articles, but according to population or property. The national legislature was to "legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation." The legislature also was to be given power to veto "all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof." A national executive and a national judiciary were also part of the plan.

The next day, and for the next dozen meetings, the Convention resolved itself into a Committee of the Whole House, a parliamentary practice that allows a legislative body to work informally and expeditiously. (The United States House of Representatives regularly uses this procedure today.) When sitting in committee, Washington surrendered the chair and Nathaniel Gorham of Massachusetts presided. This day, Wednesday, May 30, the Convention agreed overwhelmingly to the radical proposition that "a national government ought to be established consisting of a supreme legislative, executive, and judiciary." Of that vote, Madison said there was less objection to the general merits of the idea "than on the force and extent of the particular terms 'national' & 'supreme'." Roger Sherman from Connecticut, having been seated just that morning and not having caught the fever for reform, cast the only dissenting vote.

The delegates worked until mid-June on the great issues of the Virginia Plan: Would the national legislature be bicameral? How would the legislature be chosen, and what would be its powers? Would it be supreme? How long would the executive serve? Would he have the veto? What powers would judges have, and who would appoint them? How would the new plan be ratified?

THE NEW JERSEY PLAN

On Friday, June 15, William Paterson of New Jersey laid before the Convention a plan to revise, correct and enlarge the Articles of Confederation without throwing them out. His "New Jersey Plan" was the first organized reaction to the Virginia Plan which Paterson and others believed was radical, against their charter, and wrong.

Paterson's plan did provide Congress with additional powers, such as the power to tax imports, but Congress' new powers could not be exercised without the consent of a certain number of States. (Paterson did not specify how many.) The New Jersey Plan was sympathetically received by delegates who were alarmed at the prospect of a national government and by many small-State delegates who feared their States would be swallowed up in any union with the large States.

The small States had always been apprehensive of their larger, more populous, and often wealthier, neighbors. Even in the Second Continental Congress the small States had initially opposed a wartime confederation because they feared that the large States would exploit the war to their own advantage.

The New Jersey and Virginia Plans were debated for three days. The New Jersey Plan was promoted not so much on its substance as on its practicality and modesty. To begin with, said John Lansing of New York, the Virginia Plan is illegitimate because this Convention is authorized only to propose amendments to the Articles of Confederation. Further, the people are not likely to approve changes as sweeping as the Virginia Plan proposes.

"When the salvation of the Republic is at stake," Governor Randolph replied heatedly, "it would be treason to our trust not to propose what we found necessary."

"With regard to the sentiments of the people," James Wilson added, "it is difficult to know precisely what they are. Those of the particular circle in which one moves are commonly mistaken for the general voice."

On Monday, June 18, Alexander Hamilton spoke at length on his own plan for a truly national union. Neither of the plans under discussion were adequate, he said. Paterson's meek suggestions were wholly incapable of solving the people's problems, and the Virginia Plan was "pork still with a little change of the sauce." Hamilton's plan was politely received, but ignored. "The gentleman from New York has been praised by everybody," noted one delegate, "he has been supported by none."

On June 19, the Virginia Plan survived Paterson's test by a vote of 7-to-3, with Maryland divided. Two weeks earlier the convention might have followed Paterson, but the delegates had been tutored by the federalists for a fortnight now, and they were persuaded to abandon the confederation and pursue the Virginia Plan.

A PLEA FOR DIVINE GUIDANCE

On June 27, the Convention began the great debate on the most fundamental points, the composition and selection of the two branches of the legislature. The subject had been discussed before, but never resolved. Both sides seemed unmovable: The small States were determined to maintain their equality in the national assembly and the large States insisted on proportional representation. "The fate of America," wrote Gouverneur Morris, "was suspended by a hair."

It was hot and the room was stifling because the windows were kept shut to help ensure secrecy. Luther Martin of Maryland chose this moment to deliver a rambling, though sometimes impassioned, two-day discourse on government that seems to have disgusted nearly everyone. After the first day, Robert Yates of New York wrote, "As his arguments were too diffused, and in many instances desultory, it was not possible to trace him through the whole." There was no improvement on the second day, for Madison made a similar comment at the conclusion of Martin's address.

Martin was the strongest opponent of the Constitution in Convention. He was dead set against it, and he was sure Maryland would be, too. Martin told a fellow Maryland delegate that he'd be hanged if Maryland ever agreed to the Constitution. "I advise you to stay in Philadelphia," came the reply, "lest you should be hanged."

Martin's speech so discouraged the Convention that Franklin was inspired to seek divine guidance:

"In this situation of this Assembly," Franklin told the Convention, "groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the Contest with Great Britain, when we were sensible of danger we had daily prayer in this room for the divine protection.—Our prayers, Sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a Superintending Providence in our favor. To that kind Providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? Or do we imagine that we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? . . . ."

Franklin then moved that a clergyman be found to offer morning prayers. The motion was seconded, but Hamilton and others were apprehensive. Legend says that Hamilton opposed the idea because the Convention should not take foreign aid. When someone pointed out that the Convention had no funds to employ a clergyman, the Convention adjourned without a vote on Franklin's motion.

IMPASSE, AND THE GREAT COMPROMISE

On June 29, by a vote of 6-to-4, with one State divided, the Convention agreed that representation in the first house of the legislature would not be according to the rule of the Articles of Confederation "but according to some equitable ratio." Oliver Ellsworth of Connecticut then moved that in the second house each State would be represented equally. "I confess," he said, "that the effect of this motion is to make the general government partly federal and partly national. This will secure tranquility, and still make it efficient; and it will meet the objections of the larger States."

On Monday morning, July 2, the crucial question was put to the Convention, shall each State have an equal vote in the second house? The question failed on a tie vote. The Convention was at a standstill.

In an effort to break the impasse, one member from each State was appointed to a committee to find a compromise. In order for the committee to meet, and to allow the delegates to celebrate the anniversary of their independence, the Convention adjourned until the 5th.

The delegates celebrated Independence Day in grand, Philadelphia style. Early on the morning of the Fourth, the militia drilled on the city common. The artillery fired the salute of the United States, i.e., three times thirteen rounds. (It was also customary to drink thirteen toasts on patriotic occasions, but that custom was observed later in the day.) The officers of the militia then marched to the State House for a meeting of the Society of the Cincinnati, a prominent organization of Revolutionary War officers. (Washington was their General President.) From there, the celebrants proceeded with accompanying martial music and ringing of church bells to the Reformed Calvinist Church where they heard an address on, "The Advantages Which Have Resulted to Mankind from the Independence of America." That evening, Washington dined with the Cincinnati at Epple's Tavern on Race Street.

Back in Convention on the 5th, Elbridge Gerry of Massachusetts presented the committee report. It proposed that the first branch of the legislature should have one representative for every 40,000 inhabitants and the power to originate all bills for raising or appropriating money, and that the second branch should provide each State with an equal vote but not have power to amend those measures that must originate in the first house. This compromise was suggested in committee by Franklin, the diplomat.

Large-state delegates promptly criticized the report because the plan for equal representation in the second house was inequitable. For ten days the debate raged. Was the plan fair? How many members would each State have? (A question twice referred to a special committee.) Who would determine population, and when? Would slaves be counted?

Then, on the morning of July 16, the Convention agreed to equal representation in the second branch. This was the Great Compromise of the Convention. It was the watershed of federalism, and of American constitutionalism, and it passed by the narrowest margin possible: Connecticut, New Jersey, Delaware, Maryland, and North Carolina voted for it. Pennsylvania, Virginia, South Carolina, and Georgia voted against it. Massachusetts, a large State that often voted with Pennsylvania and Virginia, was divided. New York had left the Convention. Had the Great Compromise not been adopted, the small States might have left, too.

For the next ten days the Convention hammered out details of the Virginia Plan. About one-half of this time was spent considering the executive, but many hours were also spent on the judiciary and the mode of ratification. The Convention agreed that each State would be represented by two Senators who would each have one vote, and that the legislative acts of the United States and any treaty would "be the supreme law of the respective States . . . and the Judiciaries of the several States shall be bound thereby." This latter provision eventually became the Supremacy Clause, sometimes called the linchpin of the Constitution.

THE COMMITTEE OF DETAIL

On July 26 the Convention referred the Virginia Plan, as amply amended, the Paterson Plan, and a Pinckney Plan to a Committee of Detail to be arranged and standardized. The committee comprised Rutledge of South Carolina, Randolph of Virginia, Gorham of Massachusetts, Ellsworth of Connecticut, and Wilson of Pennsylvania. So that the committee could complete its work, the Convention adjourned until August 6.

During the recess, Washington visited his camp at Valley Forge where, a decade before, he had kept an army through a bleak, bitterly cold winter. Washington also fished, reporting some success with perch but none with trout.

When the Convention reconvened, Rutledge gave the committee report. Surprisingly, it drew heavily on the Articles of Confederation for both organization and language. The committee had given names to the new units of government: The legislature was now "Congress"; the first house was the "House of Representatives" and the second, the "Senate"; the "Supreme Tribunal" was now the "Supreme Court"; and the executive was the "President of the United States of America". There was a preamble which began, "We the people of the States of New Hampshire, Massachusetts, Connecticut, . . . ," etc. The broad resolutions of the Convention were now drawn in detail.

SLAVERY, AND A KING

Now their work began again. The Convention started through the committee's report, point by point, and they continued for five weeks. These were the weeks when the Constitution was perfected and concluded. All of the major points were settled, but two were particularly difficult: regulating commerce (particularly, the importing of slaves and the taxing of exports) and electing the President. Both problems were solved with the help of committees specially appointed to reach a compromise.

The governance of imports and exports was vital to the States, and the debate was particularly sharp. Agriculture was divided from manufacturing; importers from exporters; the South from the North. If Congress was given power to exclude slaves, the Southern States would not agree to the Constitution. If Congress was empowered to regulate or tax exports, northern interests would dissent.

The debate was primarily commercial, not moral, but on August 22 George Mason launched a scorching moral attack on the "infernal traffic" of slavery which "brings the judgment of heaven on a Country." In prophetic voice he added, "As nations cannot be rewarded or punished in the next world they must in this. By an inevitable chain of causes and effects Providence punishes national sins, by national calamities."

The Convention finally determined that Congress would be forbidden to prohibit the importing of slaves until the year 1808 and forbidden to tax or levy duties on exports. This compromise was second only to the Great Compromise in securing a constitution.

On the last day of August, all parts of the constitution not yet finished were referred to a committee. The method of choosing the President remained a difficult point, and the committee recommended a unique system of electors. The electoral compromise has been confusing and controversial for 200 years—and within 20 years it had been changed by the Twelfth Amendment—but it solved one of the last sticking points of the Convention.

At about this same time, there were frequent rumors about the Convention's work, particularly with respect to an alleged monarchy. The Convention seems to have authorized its members to quash these rumors, for similarly worded rebuttals appeared in the press and private correspondence. On August 22, 1787, for example, the *Pennsylvania Journal* reported, "We are informed, that many letters have been written to the members of the federal Convention from different quarters, respecting the reports idly circulating, that it is intended to establish a monarchical government, to send for the [second son of George III], etc.—to which it has been uniformly answered, 'tho' we cannot, affirmatively, tell you what we are doing, we can, negatively, tell you what we are not doing—we never once thought of a king.'"

James Madison's father may have been responsible for suggesting this backhanded explanation. On August 1, he wrote his son to suggest a scheme for evading the rule of secrecy. "If you cannot tell us what you are doing, you might at least give us some information on what you are not doing. This would afford us a clue for political conjecture, and perhaps be sufficient to satisfy present impatience."

COMMITTEE OF STYLE

The document was now nearly ready. It needed only to be honed and polished. William Samuel Johnson of Connecticut, Hamilton, Gouverneur Morris, Madison, and Rufus King of Massachusetts were appointed to a Committee of Style. The chief responsibility of the final draft fell to Morris, and it was from his pen that the Constitution came. Madison said of Morris, "A better choice could not have been made."

Gouverneur Morris spoke more than any other delegate at the Convention, although one of his colleagues thought him "fickle and inconstant—never pursuing one train of thinking." He was brilliant and witty and arrogant, and with his wooden leg he created quite a sensation in Philadelphia society. He was popular with the ladies, and it was whispered that he had lost his leg in a leap from a balcony to escape an angry husband. More likely, the leg was lost in a carriage accident.

According to Morris's own exuberant version of the story, immediately after the accident a friend rushed to his bedside to console him. The loss of the leg would have a good effect on Morris, the friend assured him, for it would reduce the impulses toward "the pleasures and dissipations of life, into which young men are too apt to be led." "My good sir," Morris was said to have replied, "you argue the matter so handsomely, and point out so clearly the advantages of being without legs, that I am almost tempted to part with the other."

On Wednesday, September 12, the Committee of Style made its report. The preamble now read, "We, the People of the United States. . . ."

During the next few days the draft was perfected, and on Saturday, about six o'clock in the evening, the Convention adopted the Constitution. Saturday night and Sunday, the Constitution was written out on parchment, probably by the assistant clerk of the Pennsylvania Assembly.

A RISING SUN

On Monday, September 17, the Convention met for the last time. Three members—Randolph, Mason, and Gerry—had said they would not sign, and Gouverneur Morris contrived a form of execution to disguise their dissent. The Constitution was to be adopted "by the unanimous consent of the States present." By this form, neither opposed individuals nor absent States were mentioned. One final change was made: At the urging of Washington, the number of citizens represented by a member of the House was changed from 40,000 to 30,000. The secretary erased "forty" and squeezed in "thirty".

The members then signed the document. Washington first, and the other delegates in the traditional order of States from north to south. Thirty-eight members signed, and the signature of a thirty-ninth who was absent was added at his request.

While the last members were filing forward to sign, Benjamin Franklin directed their attention to the President's chair, which had on its back a carved sun, painted in gold. Franklin observed that painters had found it difficult to distinguish in their art a rising from a setting sun, and that he had often during the vicissitudes of the Convention looked at that chair without being able to tell whether it showed a sun rising or setting. "But now at length," he said as the last names were being signed, "I have the happiness to know that it is a rising and not a setting sun."

The Great Convention then adjourned.

That night, the Founders dined at the City Tavern. Washington bid his colleagues a cordial farewell, then retired to his room "to meditate on the momentous work which had been executed." Within two years he would be President of the United States of America.●

PUBLIC CHOICE AND PUBLIC SPIRIT

● **Mr. MOYNIHAN.** Mr. President, I take this opportunity to urge my colleagues to take note of a trenchant article on the battle politicians wage between self-interest and public policy.

Authored by Steven Kelman, "'Public Choice' and Public Spirit" appears in the spring edition of the Public Interest, a bright publication upon whose publication committee I have the honor to sit.

The article, an adaption of Mr. Kelman's recently published book, "Making Public Policy," marks a sorely needed addition to the body of discussion on political process.

I ask that the text of the article be included as part of the RECORD.

The article follows:

"PUBLIC CHOICE" AND PUBLIC SPIRIT

(By Steven Kelman)

James Buchanan has been awarded the 1986 Nobel Prize in Economics. In one sense, the prize is richly deserved. Buchanan has pioneered a new way of thinking about the political process that now comes naturally to academic economists and has made important converts among political scientists. Among his pupils and disciples in government he can count Senator Phil Gramm and Office of Management and Budget director James C. Miller III. In another sense, though, the award is a sad event. It features economists themselves applauding efforts to extend the reach of economic analysis far beyond the area where it is useful—in the analysis of the economy—into areas where the marketplace paradigm is inapposite and pernicious.

Some economists, such as Gray Becker of the University of Chicago (who may himself be up for a Nobel Prize soon), have specialized in escapades such as the economic analysis of romantic love. Others, like Buchanan and his followers, have specialized in economic analysis of the operation of the political process, an approach known within academia as "public choice." These efforts have one thing in common: They all start with the assumption that there is no difference between economic man and romantic man or political man. People act everywhere as they do in the marketplace. They are out only for themselves, and typically in relatively gross, moneyseeking ways like the "pigs at the trough" David Stockman once talked about. Do you want to understand why government officials behave the ways they do? All you need to know is that they are trying to maximize the budgets of their agencies. Do you want to understand what drives politicians? All you need to know is that they want to be reelected. Do you want to understand legislation? Just see it as a sale of the coercive power of government to the highest bidder, like a cattle auction.

My own views is that this account of the operation of the political process is a terrible caricature of reality. It ignores the ability of ideas to defeat interests, and the role that public spirit plays in motivating the behavior of participants in the political process. (By "public spirit," a somewhat old-fashioned term that I consciously choose to use, I mean behavior motivated by the desire to choose good public policy.)

The "public choice" argument is far worse than simply descriptively inaccurate. Achieving good public policy, I believe, requires the presence of a significant public spirit in the veins of the body politic. Furthermore, one of the roles of government, separate from any specific substantive policies it produces, is to provide people with a forum where they may display a concern that they want to show for others. In addition, if the political process functions as it should, the process will serve as a school that helps mold character. For all these things to happen, a norm of public spiritedness in political action—a view that people should not simply be selfish in their political behavior—is crucial. The public choice school is part of the assault on that norm.

THE SELF-INTEREST VIEW

The view that political behavior is dominated by self-interest has come to achieve prevalence in academic discussions through the extension of the assumptions of microeconomic theory into the analysis of the political process. Beginning with the assumption that people's choice are motivated by self-interested maximization (the effort to get as much as one can of the things one wants for oneself), economics has, in the centuries since Adam Smith, developed a remarkable body of theoretical propositions about the production and exchange of goods in the marketplace. These propositions have been powerful enough and (not unimportantly for scholars) often counterintuitive enough to earn economics the title of "queen of the social sciences"—and to generate a powerful urge among economists to apply the tools of economics to the analysis of institutions outside the marketplace. Thus "public choice" was born.

These efforts emerged with the publication in 1957 of *An Economic Theory of Democracy* by Anthony Downs and of *The Calculus of Consent* by James Buchanan and Gordon Tullock in 1962. Downs began his account with what he called "the self-interest axiom," that is, the view that political behavior is "directed primarily toward selfish ends." Following this general axiom, politicians, Downs assumed:

"Act solely inorder to attain the income, prestige, and power which come from being in office. . . .[They] never seek office as a means of carrying out particular policies; their only goal is to reap the rewards of holding office per se. They treat policies purely as a means to the attainment of their private ends."

Buchanan and Tullock began with the same behavioral assumptions as Downs. "The average individual," they wrote, "acts on the basis of the same overall value scale when he participates in a market activity and in political activity."

Common to all public choice writing is the important conclusion that, while pursuit of self-interest in the marketplace maximizes social welfare, pursuit of self-interest in the political process creates catastrophe. Different public-choice scholars have reached this common conclusion in different ways. Buchanan and Tullock, in *The Calculus of Consent*, argue that problems arise from simple majority rule, where the majority often gangs up on the minority to steal its property.

Another strand within public choice theory has emphasized the baleful effect of interest groups. The Chicago economist George Stigler argued that the propensity to organize will increase the greater the benefit each member has at stake and the smaller the size of the group. Producer interest, for example, which are often rather small in size and in a position to capture enormous benefits from government, will generally be better organized than consumer interests, since the number of consumers is enormous and the loss per consumer resulting from government policies aiding producers is generally tiny. A benefit of one hundred thousand dollars a year to a producer, if divided among one hundred thousand consumers, will cost each consumer only a dollar. The specific interest will thus win out in the political process over the general interest, even though it may be smaller in numbers.

The force of Stigler's argument applies to the influence of special interests, compared with the more diffuse interests of citizens or consumers. For earlier political science critics of pluralism, "special interests" generally meant the wealthy. The public choice analysis, emphasizing the benefits and costs of organization rather than the sociological status of the rich or the poor, sees the danger of special interests winning out over the public at large in many contexts, and not only when the special interests are wealthy. Special interests may include auto workers winning restrictions on foreign cars or even rifle enthusiasts winning relaxation of gun control. In all these cases, though, the political process will tend to produce inefficient subsidies for the organized at the expense of individually small (but cumulatively large) costs to the unorganized. In the jargon this is often called "rent-seeking" behavior.

Public choice scholars have also applied the self-interest assumption to the behavior of bureaucrats working for government, with similarly grim results. In his book *Bureaucracy and Representative Government*, William Niskanen saw bureaucrats as "budget maximizers." Niskanen argued that bureaucrats are in a good position to obtain large budgets. They are monopoly suppliers of public services that people want, and they have much more information than their legislative overseers about how much it really costs to supply those services. This allows them to claim they need a larger budget than they in fact do. The result of all this is that "all bureaus are too large." Buchanan and Tullock, in separate writings, have followed a somewhat different tack regarding bureaucrats and the size of government. Government grows, writes Tullock, "to a very large extent because the factor suppliers"—that is, people who work for the government—"are permitted to vote." They are a constituency for larger government and will inevitably elect politicians supporting a government that is larger than the median nonbureaucrat citizen would want.

OUR "SINGLE-MINDED" CONGRESSMEN?

The public choice approach to the study of the political process began to migrate in a serious way from economics into political science during the 1970s with the publication of two of the most widely praised and influential political science books of the decade, *Congress: The Electoral Connection* by David Mayhew and *Congress: Keystone of the Washington Establishment* by Morris Fiorina.

Mayhew began with the view that members of Congress are "single-minded seekers of reelection." In a world where the connection between the behavior of individual congressmen and final legislative results is difficult to pin down, and where voters generally have little information about the behavior of their representatives, the single-minded concern with reelection produces two kinds of behaviors. One is what Mayhew called "credit claiming," which he defined as "acting so as to generate a belief" among voters that "one is personally responsible for causing the government" to do something voters like. A second is what Mayhew called "position taking," which he defined as "the public enunciation of a judgmental statement" on issues voters care about.

Both these behaviors have negative consequences for the results of the political process. First, it is easier to take credit for obtaining particularized benefits for one's district, such as a new federal building, since the claim that a congressman is responsible for, say, beating back inflation lacks plausibility. Second, congressmen suffer little disadvantage electorally if what legislation constituents want fails to pass, as long as the member is clearly identified in public with its support. This produces a government that is not necessarily too big or too small, but ill-proportioned. There is too much particularized legislation and too few laws dealing with general problems. Meanwhile, congressmen themselves are windbags, making impassioned statements in order to demonstrate to constituents that they "care" about issues important to them, while displaying an utter lack of interest in actually accomplishing anything.

Fiorina's book presented a portrait of politicians that is even more devastating, if that is possible. Central to Fiorina's argument was the view that congressmen can turn unhappiness with government programs to their own advantage by servicing the problems constituents have with the bureaucracy. Members of Congress have increased their ability to get reelected, Fiorina argued, by voting new government programs that created bureaucratic nightmares—and then helping constituents deal with those problems! Fiorina's analysis, unlike Mayhew's, does produce a government that is too large, for an activist government is required to generate the complaints from constituents that congressmen can then deal with and use for reelection advantage.

It is interesting to note the progression of brazenness that occurs from The Calculus of Consent in 1962 to Congress: Keystone of the Washington Establishment in 1977. Buchanan and Tullock, in their first book together, adopted a tone that was almost apologetic about their use of the self-interest assumption for the political process. Certainly, they regarded themselves as idiosyncratic; earlier theorists, they noted, had generally assumed that the average political participant "seeks not to maximize his own utility, but to find the 'public interest' or 'common good.'" This tone of humbleness, however, disappeared in later works. In an article published in 1979, Gordon Tullock noted that "the traditional view of government has always been that it sought something called 'the public interest'" but that, "with public choice, all of this has changed." (Tullock adds, with a bit of contempt, that "the public interest point of view still informs many statements by public figures and the more old-fashioned students of politics.") By the time Fiorina writes, what might have once been seen as conspiratorial speculation had become scholarship that is not only respectable but highly acclaimed. Times, and academic fashions, have changed.

In arguing for the extension of the self-interest assumption from the marketplace to political behavior, James Buchanan notes that otherwise—

"Man must be assumed to shift his psychological and moral gears when he moves from the realm of organized market activity to that of organized political activity . . . [One must demonstrate that there is] something in the nature of market organization, as such, that brings out the selfish motives in many and something in the political organization, as such, which in turn suppresses these motives and brings out the more "noble" ones . . . "

This is exactly what an alternate view of the wellsprings of political behavior maintains: There are features of public life that make it an appropriate forum for public spirit. In this alternative view, self-interest does not by any means disappear from political life—it is a far too powerful motivating force in human behavior for that. But public spirit has a pride of place that translates into an important role in the political process.

PUBLIC SPIRIT AND POLITICAL BEHAVIOR

The best test of the importance of public spirit in the political process is the ability of ideas to overcome interests in determining political outcomes. If self-interested behavior, whether or popular majorities or of interest groups, would have dictated one kind of outcome, and general ideas about good public policy another, then the extent to which political choices reflect the ideas rather than the interests will constitute a strong test of the importance of public spirit.

Does self-interest in fact turn out to dominate the political process? It is not trick to come up with countless specific examples of situations where political choices have been crucially determined by participants furthering quite narrow selfish interests. Everyone has a favorite story of the highway that got built because a powerful member of Congress wanted it in his district or of a tax loophole an interest group sneaked through with few in Congress knowing anything about it. Certainly there is no lack of straightforward self-interested behavior in the political process.

As a general rule, however, the more important a policy is, the less important self-interest is in determining the policies we get. Self-interest helps explain the location of a new federal building in Missoula. When all is said and done, however, it does little to help us understand the major policy upheavals of the past decades.

How could a self-interest account of the political process explain, except through the grossest of contortions, the vast increases in spending for the poor that occurred in the 1960s and early 1970s? The poor were not an electoral majority, nor were they well organized into interest groups. (Public choice theorists sometimes point to the power of interest groups representing providers of services to the poor. The hypothesis that an invincible lobby of social workers overwhelmed a defenseless political system is, to put it diplomatically, idiosyncratic.) What about the growth of health, safety, and environmental regulation during the late 1960s and early 1970s? These programs were adopted against the wishes of well-organized producers. They were intended for the benefit of poorly organized consumers and environmentalists. (Much of the organization of environmentalists into interest groups followed environmental legislation, rather than preceded it.)

In addition, biases in the political process that public choice advocates believe produce a bloated government can hardly explain the growth of government in the 1960s and 1970s unless one can successfully argue that the level of bias increased during the period when the growth took place. Otherwise, the bias should have already produced larger government in the earlier period. Furthermore, the big increases in government spending since the 1950s have not been in grants to localities, which provide particularistic constituency benefits for members of Congress, but in various general transfer programs that do not allow members to demonstrate that they have gotten something special for their districts.

The self-interest model of politics does equally poorly in accounting for rollbacks in governmnent programs during the late 1970s and 1980s. In the late 1970s, the greatest victories for industry deregulation were won in exactly those industries, such as trucking and airlines, where well-organized producers benefited from regulation and the consumers who would benefit from deregulation were largely unorganized. By contrast, little occurred in areas such as environmental policy where well-organized producers supported deregulation. In other words, the pattern of deregulation was exactly the opposite of that predicted by the self-interest model.

It is, furthermore, hard to see any one-to-one correspondence between the economic difficulties the country faced during the 1970s and the program of reduced government intervention adopted to deal with these problems. Economic difficulties in the 1930s had produced a growth in the role of government in managing the economy, not a rollback. Economic distress itself neither made government grow nor shrink. What made it grow or shrink was the force of ideas linking the problems everyone perceived with solutions that government could adopt. Furthermore, well-entrenched interest groups fought to retain each government program President Reagan sought to cut. Often only the diffuse interest of taxpayers in general stood on the other side. And, of course, President Reagan's success with tax reform is the latest example of the ability of ideas to overcome even the most entrenched of special interests.

The story of government growth in the 1960s and of its limitation in the 1980s, then, are both stories of the power of ideas. They powerfully reinforce the message that ideas have consequences and that persuasiveness is the most underrated political resource.

BETWEEN CYNICISM AND POLLYANISM

The self-interest theories not only have a difficult time explaining most of what has been important in American politics over the past twenty years, they also give, at best, an incomplete feel for the process itself.

To be sure, the naive observer expecting public-spirited deliberation unsullied by parochial perspectives and even by some dirty trickery would hardly be prepared for Washington. But neither would the hard-boiled, street-wise cynic or his public-choice counterpart in academia. The self-interest view has no sense for the importance of being able to make a good argument, of having the facts on one's side, of being able to present an appealing public vision, or of having a reputation for seriousness and commitment. Yet all this clearly appears in descriptions of the process by close observers. For example, two journalists spent significant time following Senators Edmund Muskie and John Culver in the late 1970s, each to observe what the life of a senator was like. What is especially significant about their accounts is that journalists normally are inclined to expect sleaziness from politicians, and yet both these accounts found mostly substance. (Bernard Ashball, who wrote the book on Muskie, was apparently surprised enough by what he saw to title his book *The Senate Nobody Knows.*) Both volumes are filled with accounts of senators, mostly in committee settings and hence on issues about which they are knowledgeable, seriously debating the merits of proposed legislation. The accounts of committee markup sessions (where committee members craft actual legislative language) on Clean Air Act amendments, which take up much of Ashball's account, include surprisingly sophisticated arguments about philosophical and practical questions involved in the design of environmental policy.

The books both emphasize how important the ability to make a credible and convincing argument is for congressmen. "Real power" in the Senate, Muskie is quoted as saying, "comes from doing your work and knowing what you're talking about. . . . The most important thing in the Senate is credibility." Along similar lines, a group of freshmen congressmen, discussing their experiences for political scientists in the book *Congress Off the Record*, "made frequent allusions to the importance of knowledge and expertise" in determining "who wielded real power in committees and in the House."

The view that self-interest is key to understanding how the political process works is also belied by the influence of the media. On superficial examination, the influence of the media might be seen as consistent with the view that people in government are out only for adulation or reelection, since the way one is treated in the media certainly has an impact on attaining either goal. It is necessary to remember, however, that what generates good (or bad) attention in the media are generally actions where one either has sought to do the right thing or instead acted selfishly. If neither people in government themselves nor the voters who select elected officials thought that it was important to try to do the right thing in politics, media brickbats would be a matter of indifference to their intended victims. Sticks and stones could break their bones but names would never hurt them. The great influence of the media suggests, however, that failure to show public spirit indeed can hurt these people, in their own eyes and in those of others.

THE POCKETBOOK AND THE BALLOT BOX

Moving now from the level of the system as a whole to the behavior of individual citizens and government professionals, how important is self-interest and how important is public spirit in describing their actions? The classic view in the early empirical voting studies of the 1950s was the voting behavior of individual citizens was mostly guided by self-interest. This view was developed in works appearing in the 1970s on the link between economic conditions and election results. With the modern techniques of social science, these studies confirmed something most politicians already knew intuitively namely, that incumbents do well in times of economic prosperity and poorly during times of economic distress.

In what has probably been the most interesting body of empirical political science research done in the last decade, extensive evidence has now been uncovered that questions this view. The connection between economic conditions and overall electoral results is indeed a very clear one. What scholars have now done is to move from the aggregate level of *overall* economic conditions and *overall* electoral results to the level of *individual* economic conditions and *individual* voting decisions. When they do so, the results are surprising. If voters vote their personal pocketbooks, one would expect those who have themselves become better off to favor the incumbents. Those not personally sharing in the prosperity would not be expected to display such a tendency. Likewise, in times of economic distress one would expect the individual victims of bad times to punish the incumbents. However, a series of tests by the political scientists Donald Kinder and Roderick Kiewiet, using individual-level survey data, has devastatingly shattered this hypothesis. Respondents' answers to a question about whether their personal financial situation has improved, worsened, or stayed the same over the previous year show essentially *no* connection to changes in voting behavior. By contrast, though, there are substantial correlations between a voters' view of economic conditions in society *as a whole* and the individual's voting behavior. This relationship holds even when one controls the effects of a personal economic situation on the ability to judge the overall economic condition. The observed connection at the aggregate level between the economy and the electoral success of incumbents results not from self-interested rewards or punishments from voters who have personally done well or poorly. The connection comes instead from judgments by voters about whether the economy *as a whole* is doing well, independent of how the voter is doing *personally*.

A conceptually similar body of research has been conducted by the political scientist David Sears and his colleagues at UCLA who have investigated how personal self-interest in a political issue accounts for attitudes on the issue. Thus, for example, these scholars have examined the extent to which attitudes towards the war in Vietnam were influenced by whether one had family or close friends fighting there. The findings are dramatic. Regarding attitudes on Vietnam, having a relative or close friend actually fighting in Vietnam had far less effect on views of what American policy should be than the respondent's self-anchoring on a liberal-conservative scale or his attitudes toward communism. Likewise, in another study, liberal or conservative ideology did a considerably better job predicting a respondent's views on government national health insurance or guaranteed jobs programs than whether the respondent himself was covered by health insurance or had recently been unemployed. In other words, conservatives who themselves had no health insurance protection were less likely to favor national health insurance than liberals who had coverage of their own. As part of a study on business and American foreign policy, the political scientists Bruce Russett and Elizabeth Hanson did a survey of the attitudes of corporate executives on foreign policy issues. They found that respondents' views on domestic liberal-conservative issues such as civil rights did a far better job predicting their foreign policy views than whether their company had lots of defense contracts or investments overseas.

One possible response to these data would be to suggest that politics is not crucially important for most people and that, therefore, it's easy to display public spirit in one's political attitudes because it doesn't cost much. On issues that really are important to people, including political issues, one might, according to this view, expect self-interest to hold sway.

I don't think this argument is incorrect, but I do think it is somewhat off the point. Certainly the evidence is overwhelming that most people are far less than obsessively interested in politics. Significant numbers of citizens have weakly held opinions, or no opinions at all, on many political issues. The point is not that people are saints, willing to sacrifice all for the sake of others. Having political opinions based on general views that the best public policies may indeed often be a low-cost form of altruism (although the cost in taxes may not be insignificant at least in the case where such views lead to government programs that cost money). Nor are most people philosophers or professional policy analysts. Views can be based on general conceptions of right and wrong without being particularly sophisticated. Nonetheless, in a world of many political issues and of an overall modest level of interest in politics, one can expect to find a strong reservoir of political input based on general ideas of what policy would be right. Such input is likely to be an important factor in the process.

I also agree that in situations where people have substantial personal interests at stake, interests that can be perceived fairly clearly and directly, and where some clear government policy will affect those interests, the role of self-interest in the political behavior of individuals is likely to increase. Interest groups such as the Synthetic Organic Chemical Manufacturing Association, the National Association of Dredging Contractors, the Society of American Travel Writers, or the National Association of Scissors and Shears Manufacturers, which are everywhere in Washington, would hardly seem to have been brought into existence by public spirit. The behavior can be held in check by public-spirited norms in the system, which affect the way interest groups present their demands and the nature of the demands they can make on the political system. Certainly, the political behavior of many interest groups constitutes the most important exception to the argument that public spirit is important in accounting for the viewpoints that citizens take in the political process.

WHY PUBLIC SERVANTS SERVE

Turning to the behavior of professional participants in government—elected officials, officials of government agencies, judges—a number of comments are in order. These people receive rewards and bear costs far more significant than those of individual citizens casually participating in politics. For example, politicians get their names in the newspapers and on television. They may frequently be the objects of deference and adulation. And all those who possess formal political authority experience some of the feeling of power that comes from the ability to establish public policies with the force of law. But politicians also work very long hours, much of it on the road away from their families, for salaries that are relatively low for work with the responsibilities and time demands their jobs make.

What are the distinctive advantages that might draw people to government? It is hard to see the lust for power, in a general sense, as a distinctive advantage of a career in government. Business leaders, within their own firms, doubtless exercise greater power, with fewer checks, than do participants in the political process of a democratic society. "The search for the jugular of power," notes the Yale political scientist Robert Lane, "may very likely lead to the world of finance, journalism, or industry instead of politics." This does not mean that the power-hungry will avoid politics, only that there is no reason to expect that a particularly disproportionate number of such people will participate.

There are two motivations that are, I think, relatively distinctive to government. One (much more so for elected officials than for civil servants or even political appointees) is the desire for attention and adulation. Anyone who has dealt with politicians knows how important media attention can be to them. A second motivation is the desire to participate in the formulation of good public policy. People who go into politics for this reason may be seen as "seeking power," but of a special sort—influence over public choices.

The sparse literature on the topic of why people go into careers in government is not very enlightening, both because of the problems of relying on the self-reports of respondents and because of a tendency on the part of many authors to psychoanalyze their subjects. But the literature does at least suggest that public spirit is an important reason many people go into politics. The largest group in Duke political scientists James David Barber's sample of Connecticut legislators fits into the category he calls "lawmakers"—those who derive satisfaction from producing good legislation. The reasons top federal appointed officials give for going into government heavily emphasize the unique vantage point government service gives for making the world a better place. In a 1984 survey of senior civil service managers in the federal government, respondents were asked, "To what extent are the following reasons to continue working for the government?" Only 18 percent said that their salary was a strong reason for staying (or more of a reason to stay than leave), and only 10 percent said that about their promotional opportunities. Seventy-six percent, however, responded that the "opportunity to have an impact on public affairs" was a reason to stay. A study by Edward Lawler III, a professor of management, comparing the importance of pay for different kinds of managers concluded that "managers in industrial organizations place the most importance on pay; people who work in government agencies place less emphasis on pay; and people who work in hospitals and social service organizations place the least emphasis on pay." The political scientists Dean Mann and Jameson Doig report that recruiters trying to persuade people to take jobs as assistant secretaries, many of whom would be serving at considerable financial sacrifice, make heavy use of arguments about serving one's country. Likewise, they report that the ability to influence policy in the direction of one's policy views was a strong reason why candidates offered these positions accepted them.

Vocational guidance tests provide some interesting insight here. These help young people determine what careers might be appropriate for them through a battery of questions that test their interests and inclinations. The most widely used test does not include "politician" as a possible occupation, but it does include "public administrator." The cluster of occupations in which public administration is included, based on similar responses to the battery of questions, also includes the occupations of rehabilitation counselor, YMCA general secretary, social worker, and minister.

Also, it is worthwhile to note that the desire for adulation and attention does not necessarily work against public spirit, and, in fact, it often works in the same direction. Certainly, people driven by their self-interest are not likely to get far in the estimation of others, who have no particular reason to value the self-interest of another person. Indeed, the type of person who seeks the admiration of others to an unusual degree is one who is unusually likely to realize that others are important.

NURTURING PUBLIC SPIRIT

Clearly, government has become, for many, an appropriate forum to display their concerns for others. Why? That political decisions involve the community as a whole—and often future generations as well—encourages people to think about others when taking a stand. This is in contrast to personal decisions involving mainly oneself, which encourage people to think mainly of themselves when making them. Furthermore, political choices in a democratic society do not only involve others, they also require the consent and participation of others in order to get made in the first place. This requirement for cooperation reminds people of the need to involve others if they want to achieve their goals. Also, the requirement for the consent of others means that political argument inevitably must be formulated in terms broader than that of the self-interest of the individual or the group making the claim, since their is no reason for others to support a claim simply based on my self-interest. Even when making a claim that asks for something one personally wants (such as, say, a poor person demanding increased welfare payments or a journalist demanding freedom from censorship), the claims must be formulated in terms of general ethical arguments.

It is hard, however, to imagine that public spirit could be sustained simply by an accidental agglomeration of individual decisions to regard public spirit as the appropriate motivation for political action. Crucial to any ability to maintain public spirit is the continuing existence of a social norm that declares it appropriate for people to try to do the right thing in public behavior and inappropriate for them simply to seek to advance their personal interests.

Norms are crucial. They can also be fragile. Cynical descriptive conclusions about behavior in government threaten to undermine the norm prescribing public spirit. The cynicism of journalists—and even the writings of professors—can decrease public spirit simply by describing what they claim to be its absence. Cynics are therefore in the business of making prophecies that threaten to become selffulfilling. If the norm of public spirit dies, our society would look bleaker and our lives as individuals would be more impoverished. That is the tragedy of "public choice."●

FRANK J. ZAPPALA, SR. 90TH BIRTHDAY

● Mr. HEINZ. Mr. President, I rise today to honor Frank J. Zappala, Sr. on his 90th birthday. Mr. Zappala was born on May 14, 1897 in the Republic of Italy. He immigrated to the United States at the age of 6, and moved to Pittsburgh in the early 1920's where he has lived ever since.

After graduating from Duquesne University and then the Duquesne University School of Law in 1926, he established himself as one of the most respected members of the local and Pennsylvania bars. He was elected to the General Assembly of Pennsylvania in 1934 where he served two terms, and he later served as a magistrate in the city of Pittsburgh. Mr. Zappala has been the recipient of numerous awards for his tireless efforts in civic and community affairs at the city, the county, and the State level.

Perhaps the most important moment in Frank Zappala's life occurred on July 10, 1930 when he married his wife, Josephine. Frank and Josephine will celebrate their 57th anniversary this July with their four sons. All of the Zappala sons have carried on their father's commitment to excellence and service, including Stephen A. Zappala, a justice of the Supreme Court of Pennsylvania. The Zappala's also have 13 grandchildren, one of whom is a lawyer, following in his grandfather's footsteps as the third generation of attorneys in the Zappala family.

Mr. President, I am pleased to recognize an outstanding Pennsylvanian, and an outstanding American on his 90th birthday.●

ALFRED L.C. ROBBS—FOR FLINT, MI, AN OUTSTANDING CITIZEN AND COMMUNITY LEADER

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to Rev. Alfred L.C. Robbs, an outstanding citizen and community leader in the city of Flint, MI. Reverend Robbs will be honored by the Flint community on Saturday, June 6, 1987. Reverend Robbs' accomplishments are many and varied, and his service to his community is an example which all American citizens would do well to follow.

Reverend Robbs' life is the story of how one determined individual overcame adversity in order to pursue a distinguished career. He was born in Little Rock, AR, in 1914 and subsequently moved with his family to Terre Haute, IN. Like so many others, the Robbs family experienced economic adversity during the Great Depression. The financial hardships of that era forced Reverend Robbs to leave Garfield High School in the 11th grade to seek employment.

During this difficult time, Reverend Robbs found strength and support in his marriage to Mrs. Margaret (Rose) Robbs. Since they were joined in matrimony in 1932, Mrs. Robb has provided love and encouragement to her husband in addition to rearing six children. This 55-year union has been the foundation of Reverend Robbs' success in life.

When the opportunity availed itself, Reverend Robbs acted on his desire for knowledge and returned to school. In 1950, 18 years after leaving Garfield High school in Terre Haute, he returned to graduate with his daughter, Betty. Reverend Robbs subsequently attended Indiana State Liberal Arts School, as well as Moody Bible Institute in Chicago, IL. He received a scholarship to Western University to study clergy economics, and also attended the Institute of Advanced Pastoral Studies in Bloomfield Hills, MI. The culmination of Reverend Robbs' academic career occurred on May 31, 1972, when he received an honorary doctor of divinity degree from the Tennessee Baptist School of Religion.

Reverend Robbs went on to apply his scholastic achievements to the pursuit of a distinguished ministerial career. He began with his ordination before the congregation of the Mount Olive State Convention in Terre Haute in 1946. Other pastorships he has held include Broyles Chapel, Sullivan, IN; St. John Baptist Church, Beloit, WI. Reverend Robbs became a resident of Flint in 1957, when he accepted the pulpit of Canaan Baptist Church the largest black congregation in Flint.

For the past 30 years, Reverend Robbs has been a distinguished member of the Flint community. He has always responded to issues which concern him by working in partnership with the public in efforts to meet spiritual, human, and environmental needs through his affiliation with the following organizations: Genesee County Board of Commissioners; County Law Enforcement Commission; official chaplain for Genesee County; Board of Human Relations; Community Civic League; Democratic Minority Caucus; Urban Coalition; vice president for the Urban League; board of directors-NAACP; Genesee Area Skill Center, advisory committee; Concerned Pastors of Greater Flint; Baptist Ministers Alliance; Great Lakes District Baptist Association (former moderator and present moderator emeritus); dean of Wolverine State Council for Christian Education; chairman of Ministers Retreat of the Wolverine State Council; chairman of Education Community of Concerned Pastors; past president of State Congress of Baptists and past vice president of the Council of Churches of Terre Haute.

Reverend Robbs is truly an inspiration to all citizens who hope to contribute to their city, State, and Nation. As a native of Flint, I am especially grateful to Reverend Robbs for his three decades of participation in civic affairs in our mutual hometown. It is indeed a privilege to enter into the RECORD sincerest thanks to Reverend Robbs for his invaluable contributions to Flint, to Michigan, and to the Nation.●

ACHIEVEMENTS OF ALDO LEOPOLD

● Mr. KASTEN. Mr. President, I ask unanimous consent that a copy of a recent article from Wisconsin Alumnus describing some of the achievements of Mr. Aldo Leopold be printed in the RECORD.

Aldo Leopold was one of the foremost figures in the shaping of American environmental policy. To commemorate the 100 anniversary of Mr. Leopold's birth, I have introduced Senate Joint Resolution 40.

In addition, I ask to print in the RECORD a list of additional cosponsors of Senate Joint Resolution 40.

The article and list of cosponsors follows:

LIST OF COSPONSORS

The Senator from Colorado, Mr. Wirth. The Senator from North Dakota Mr. Burdick. The Senator from North Carolina, Mr. Sanford. The Senator from Virginia, Mr. Warner and the Senator from Washington Mr. Evans.

[An excerpt from the forthcoming biography.]

GREAT POSSESSIONS

(By Curt D. Meine MS'83

Leopold realized now that there were no miracle cures for the symptoms of "land pathology." The only effective treatment was preventive: the long, laborious task of teaching the public, professional, and layman, to appreciate the dynamics of land. As a teacher himself, he addressed this challenge of conservation education time and time again, beginning in earnest in 1936.

Leopold's approach to education was closely tied to his broadening conception of "land" in the late 1930s. In a book review that appeared in the Audubon Society's Bird Lore magaine in early 1937, he wrote, "We are embarked on two large-scale experiments. One is premised on the notion that conservation is something a nation buys. The other is premised on the notion that conservation is something a nation learns." Learning conservation meant something more than learning the names of plants and animals. He drew a distinction between "static" natural history and "dynamic" ecology. I his view, a conservationist who knew only the names and habits of species was akin to a politician or economist who had a wide circle of acquaintances but no knowledge of business: "Both lack an 'inside' picture of the struggle for existence. Ecology is the politics and economics of animals and plants. The citizen-conservationist needs an understanding of wildlife ecology not only to enable him to function as a critic of sound policy, but to enable him to derive maximum enjoyment from his contracts with the land." As he struggled to define his own sense of the land, Leopold was always striving for realism. He resisted the nationalistic appeals that he had witnessed in German conservation. He made no sentimental references to "the heartland." Conflict, paradox, and irony were part of conservation's "authentic human drama"; without them, he said, conservation "falls to the level of a mere Utopian dream." Education was the necessary means of conveying this reality to the citizenry.

In his own field of wildlife, the rise of interest around the nation was threatening to inundate what few competent training programs existed. Leopold warned that the boom market for wildlife managers was liable to dilute the quality of instruction. Already universities were rushing into the field with hastily built programs and with personnel who, as he put it, "arrived on the previous train." If the trend continued, the likely result would be an oversupply of mediocre managers, a shortage of well-trained researchers, and a neglected nonprofessional public.

This situation was doubly dangerous in view of the ecological complexity revealed a new field evidence. At the Second North American Wildlife Conference in March 1937, Leopold cautioned that "selling professional training without a research base is like selling securities without a property base. The right to teach must be earned, not seized." He argued for scientific investigations that were more intensive and less concentrated on farm game. He told those at the conference that "no advance ever attains an even front, but good generals remove kinks when they can. Our front is full of kinks, especially in the nongunpowder sections."

Leopold deemed nonprofessional education to be just as important as professional training, and perhaps more important in the long run. At the conference he warned that "we face a future marked by a growing public zeal for conservation, but a zeal so uncritical—so devoid of discrimination—that any nostrum is likely to be gulped with a shout. . . . Under these conditions is it wise for our universities to focus their teaching on overstocking the market with professionals? Should they instead stock their farms and offices with citizens who know what it is all about?"

Within the University of Wisconsin, Leopold was working to establish an interdisciplinary instructional program, the purpose of which was to "build up a critical comprehension of conservation problems in the public at large." As chairman of an inter-university committee that included Leon Cole, Norman Fassett, and Chauncy Juday, he wrote in early 1937 a report on "The University and Conservation of Wisconsin Wildlife." It recommended that three new professorships be created in fields that dovetailed with his own program. (Only one of these was quickly filled, by botanist-ecologist John T. Curtis.) The University, the report stated, ought to encourage students with an interest in natural history "to develop that interest as a field of personal scholarship and as a source of personal recreation."

Beyond the universities, Leopold noted the need for educational materials that combined "sound science, sound policy, and sound pedagogy." This, he admitted, "is a task calling for very uncommon mental powers, not to mention time and funds. It is a task at least as exacting as the scientific fact-finding which underlies it." The Dust Bowl had stimulated public schools nationwide to introduce conservation into their curricula. The Wisconsin state legislature passed a law in 1935 mandating the teaching of conservation in schools, but materials were scarce and instructions for teachers virtually nonexistent. Teachers from around the state regularly wrote to Leopold for ideas. He invariably responded with a letter and a list of references (specifically suggesting, for school use, Paul Sear's topical classic *Deserts On the March*). He recommended in particular that students be exposed to the literature of all sides in conservation disputes, "as illustrations of how divergent conclusions can be drawn from identical facts." He wanted them to confront these differences and, in essence, to formulate their own conservation ethic in response. "The end result of conservation teaching must be, I think, to show the prospective citizen that conservation is impossible as long as land-utility is given blanket priority over land-beauty. In short, it is his personal philosophy of land use, as well as his vote and his dollar, which will ultimately determine the degree to which conservation is converted from preachment into practice."

As much time and effort as Leopold dedicated to the progress of conservation education, he realized that the effort had its inherent limitations. A healthy interest in the workings of nature could not be injected from without; it had to well from within. Staid teachers, reform-minded evangelists, and overspecialized academics were as likely to douse an interest as to fuel it. "An understanding of ecology," he would write, "is by no means co-extensive with 'education'; in fact, much higher education seems deliberately to avoid ecological concepts." Thinking back, perhaps, on his own class-dodging days at Burlington (Iowa) High and Lawrenceville, he wrote in 1939, "Prudence never kindled a fire in the human mind; I have no hope for conservation born of fear. The 4-H boy who becomes curious about why red pines need more acid than white is closer to conservation than he who writes a prize essay on the dangers of timber famine," For Leopold's tastes, a good scholar, like a good area of land, had to be part tame, part wild.

Leopold tried to retain these values in his own classroom. He always came to class well prepared, organized, attired in his neat, tailor-made tweed sportjackets. He was a polished lecturer, and spoke in an informal voice quite distinct from his carefully honed literary prose. He was a great advocate of audiovisuals in class and used his sizable catalog of slides from the field to illustrate his lectures.

His students remember, above all, his endless questions. In class, he masterfully applied Socratic methods to situations one might encounter in the field, drawing on the students' unsuspected powers of reason, training them to think in terms of interrelationships as well as objects. "He kept asking questions! Sometimes he didn't really want the students to answer them," his daughter Estella has recalled. "He would begin to reason out the answers for us. He would present material that way: he'd frame the question first, then go after specifics." Once, there arose the topic of overbrowsing of shrubs by deer. After ten minutes of delicate questioning by the professor, a perplexed student discovered that deer do not browse with their eyes, but with their mouths.

Leopold was not the sort of guide who tried to reveal God in Nature. His aim was to teach others how to take a given field situation, recognize and weigh the variables on display, and connect those variables in time and space. His method was not to stuff students with facts, but to use facts to entice their curiosity. It was reading sign in the woods, on a glorified scale. He showed his class a gully. How old was it? Over fifty years, judging from the age of the cottonwood growing in it . . . probably made while the loess bluffs were still being cropped exclusively for wheat. How high was this lake before drainage ditches drew it down? A line of birches marked the old shore. Why are there long-eared owls here? Because there are pines here. Why are there pines in such an isolated area? Because the native sandstone is exposed above the glacial drift. Only by mulling over these "mental whetstones," Leopold felt, could students get beyond the type of conservation teaching that lined up statistical horrors end-to-end and told the student "what has happened, but now how or why." At its best, conservation teaching taught the pupil to think independently; it addressed "the social causes for misfortune, rather than merely describing the misfortune or feeling sorry about it."

Leopold kept a relatively loose rein on his graduate students. By the spring of 1937, six were under his tutelage. Logistics alone demanded their self-reliance. In the early years, he required them to live on and assume responsibility for a demonstration area, acting as game managers while conducting research. At any given time, half of them were away at Faville Grove, or the Riley farms, or Prairie du Sac, or at Elkhorn. Once a semester, more often if necessary, Leopold met each one individually, in his campus office, to offer suggestions, encourage interpretation, and bring up deficiencies in their data.

Every so often Leopold visited them in their study areas. Art Hawkins remembered this as "a high point in the scholastic life of his students." Leopold often brought along other students and professors on these outings, "which were, more than anything else, a contest in perception. . . . The field trip became a test of observational skills among all participants. There were no losers; everyone learned through this process."

He was concerned foremost with the accuracy of his students' data and its clear exposition in well-written scientific papers. Every student was required to produce a publishable thesis, and most came away with stories of the dozen revisions these went through before Leopold deemed it publishable. In the spring of 1937, Leopold's first four students received their degrees. Leonard Wing earned a doctorate for his work on wildlife cycles and went to work for the Tennessee Valley Authority. Harry Anderson took a master's in zoology and game management after studying the avifauna of the UW Arboretum. Ellwood Moor, a forester on leave from the New Jersey Conservation Department, finished his master's and returned east. Art Hawkins took his master's and decided to stay with Leopold for further research into game foods.

As an educator, Leopold was facing a disconcerting but challenging dilemma: the need for education was increasing even as the subject matter was growing more complicated. In a report to WARF, filed in June 1937, he confessed that, while his program was making headway, "if anyone hoped for research to produce a set of simple formulae which could be blindly followed by laymen, that hope is gone glimmering." He pointed out, though, that wildlife management was opening up "entirely new vistas of cultural value," and predicted that "the time is coming when education which omits to picture man's indefinitely delicate symbiosis with land will not be considered education."●

WILBUR COHEN

● Mr. LEVIN. Mr. President, on May 17, former Secretary of Health, Education, and Welfare Wilbur Cohen died suddenly in Seoul, Korea. I did not know Secretary Cohen well, although my brother, SANDER, shared a friendship with him that went back over the last 15 years.

Like millions of other Americans, I primarily knew Wilbur Cohen through his accomplishments. From the early days of the New Deal right through the days of the Great Society—30 years later—Wilbur Cohen played a major part in building the social welfare system that transformed life in this country for tens of millions of our people.

In 1935, at 22, Wilbur Cohen was there helping to draft the Social Security Act. He then moved over to the Social Security Administration where he served first as technical adviser, then as Director of research and statistics. In those posts he worked to expand Social Security benefits and the categories of Americans eligible to receive them—including domestics, farm workers, and the disabled.

During the Eisenhower years, Wilbur Cohen taught at the University of Michigan and at UCLA. It was during that time that Cohen was able to enjoy the satisfaction of seeing the landmark social legislation of the New Deal era accepted by a Republican administration. The beloved Social Security—once controversial—was now an integral part of American life. But Wilbur Cohen was determined to improve it.

He had his chance in the 1960's when President Kennedy appointed him Assistant Secretary of HEW for legislation. During 4½ years in that post, Cohen helped enact and implement 65 different proposals in the areas of Social Security, mental health, child welfare, civil rights, and vocational training and rehabilitation. Finally, Assistant Secretary Cohen was the founding father of the Medicare system. In 1968, he was appointed Secretary of the Department of Health, Education, and Welfare by President Lyndon Johnson. He stayed in that post until Johnson left office.

In the years since, Wilbur Cohen returned to teaching and to speaking out for the Nation's elderly, its poor, and its children. He died while attending a conference on aging.

Wilbur Cohen was a great American and a great man, a man whose life and achievements touched and improved the lives of millions. An ancient Jewish saying says that to live in the hearts of those you leave behind is never to die. In that sense, Wilbur Cohen will always be with us.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, for over a year I have made a daily statement on behalf of Naum Meiman. Naum is a Soviet refusenik who has been denied permission to emigrate for over 10 years. At first I appealed to the Soviets to allow Inna Meiman, Naum's wife, to come to the West to receive sophisticated cancer treatment. After continuous delay, Inna was finally released, but it was too late. She passed away in February of this year.

As he adjusts to life without Inna, Naum still desires to live in the West. Yet the Soviets continually deprive him of this wish. The Soviets contend that Naum possesses government secrets. These secrets, however, have been published in Soviet journals, and Naum's former supervisor has made a written statement clearing him of any such knowledge.

I will continue to appeal to the Soviet Government to end the inhumane treatment of Naum Meiman. Despite apparent reforms, the Soviet Government refuses to release Naum. In fact, OVIR recently informed Naum that he will never be released. Nevertheless, we must continue our work on behalf of Naum Meiman and all other Soviet citizens who wish to emigrate.

I implore the Soviet Government to issue Naum Meiman an exit visa.●

NATIONAL TOURISM WEEK

● Mr. DOMENICI. Mr. President, I would like my colleagues to join me in recognizing "National Tourism Week." The purpose of this week is to increase awareness among Government officials and the public of the important role tourism and travel plays in the social, cultural, and economic welfare of America.

Travel and tourism is the third largest service industry, and the second largest employer in America. The U.S. Department of Commerce reports that by the year 2000, tourism will be America's No. 1 industry.

In my home State of New Mexico, tourism has produced $3 billion in yearly wages and salaries, and employs 1 out of every 11 workers, either directly or indirectly.

In addition to the obvious economic benefits, New Mexico also profits from the many different kinds of people who visit our State. Each year 151 million Americans travel in the United States to experience different geographical settings, cultures, and people. From Santa Fe to the Carlsbad Caverns to Taos Pueblo, New Mexico is a vacation spot unlike any other for people of all interests. A visitor in New Mexico has the opportunity to ski the Rocky Mountains and then, after a 2-hour drive, view a breathtaking sunset over the mesas of Acoma Pueblo.

New Mexico's diverse landscape and culture encompasses parts of the four main physiological provinces of the United States: the Rocky Mountains, Colorado Plateaus, Basin and Range Province, and the Great Plains. The heritage of the Anglo-American, Indian, and Spanish-American cultures have attracted tourists, archeologists, and sportsmen alike from all over the world.

This year, New Mexico is proud to celebrate its 75th anniversary of statehood. Although it is one of the youngest States in the Union, it has experienced an exciting history. New Mexico is part of the "old West" of cattle drives, cowboys, and clashes between pioneers and Indians. Ancient customs among Indians and rural Spanish Americans live on in New Mexico.

I urge my colleagues to recognize New Mexico during National Tourism Week. At this time, I would like to submit some articles about the State of New Mexico for the RECORD.

The articles follow:

NATIONAL TOURISM WEEK

(By Kathleen Teltsch)

Las Vegas, N.M. is the original Vegas, not to be confused with the gambling town in Nevada. New Mexico's Las Vegas was settled in 1835, years before its glitzy namesake. Local residents like to press their earlier land claim because history is important here. And residents of Las Vegas are counting on their history—particularly the city's diverse architectural history—to lure visitors to see its landmarks: There are more than 700 properties on the National Register of Historic Places.

Las Vegas, a city of 15,000, is easily walked, map and guidebook in hand, especially the Old Town west of the Gallinas River. The Citizens' Committee for Historic Preservation furnishes a walking-tour guide that covers 14 of the buildings in the historic district of the old town; such a tour can be made in about two hours.

The tour takes in one of the few remaining adobes, Our Lady of Sorrows Parish Hall on the plaza, which retains lintels over its windows that were an architectural detail of the territorial period. The Dice Apartments, a group of one-story adobes was built before 1846. It was from the roof of one of these adobe structures that Gen. Stephen Keamy declared New Mexico part of the United States. Other structures include commercial building such as the Veeder Building built in 1880 in a flamboyant Italianate style, then remodeled with Moorish touchs and the addition of a Tudor Revival carriage house. Elsewhere, building styles range from the Mexican-style adobe of the early settlers to structures of the late Victorian and early Edwardian period that still look very much as they did in the 1880's when prosperous merchants benefiting from the Santa Fe railroad's traffic, tried to recreate the elegance of Eastern cities.

Later, Las Vegas suffered economic reverses because railroad trade shifted elsewhere, crops failed during a series of droughts and the city never recovered from the Depression. In other cities, building booms altered the architectural landscape but not so in Las Vegas, where buildings became shabbier and stores were boarded up but left essentially intact.

"Poverty is the preservationist' friend," said Tom W. Merlan, the state's historic preservation officer, pointing out that Las Vegas, like Charleston, S.C., is a preserved, not a restored, city. A few years ago, the state and city administrations invested in architectural studies of the historic districts. Now private business interests have initiated a series of rehabilitation projects that give visitors a close-up look at a substantial preservation undertaking.

Ellen Threinen, who was the state's architectural historian, regards the Las Vegas preservation as having wide appeal, "Las Vegas's architectural heritage provides a sense of place, a sense that many Americans are searching for, a sense that mass-produced buildings cannot supply," she said. A side trip to Las Vegas could be included easily in a visit to its better-known neighboring cities, Sante Fe and Taos, each an hour away by car. Motorists wearied by too many desert landscapes, especialy in the summer, can find respite at Storrie Lake State Park; a lake resort just outside of town, it is a favorite with windsurfers. In winter, there is skating and downhill and cross country skiing at Montezuma Ice Pond, one ot the largest outdoor rinks in the state.

On the town's outskirts are hot mineral springs that once attracted the socially and politically prominent to the area; now the springs area is part of the property of Armand Hammer's United World College.

Las Vegas, most of whose residents are Hispanic, has the hospitable appeal of a small town, attached to old customs and simple pastimes. It is the kind of town where, a few Julys back, someone suggested a picnic for everyone born in July; scores turned up for the event and so another Las Vegas tradition was born.

Unlike other cities and towns in the region, the traditional plaza laid out by early settlers is a place to sit, not shop. There are no Indian vendors spreading jewelry on the pavement as in Santa Fe, no smart boutiques or eating places as in Albuquerque. The closest Las Vegas comes to such commercialism is Kenny's junk store of 10,000 items, from spitoons to sausage stuffers, that the owner calls his "antiques for the next century."

In the Old Town, Joseph and Diana Stein run Los Artesanos, a bookstore that gives away free reading material, usually broadsides about some bit of Las Vegas lore, and offers possibly the widest range of literary items concerning the Southwest region.

The Carriage House, a popular bed-and-breakfast establishment run by Kera Anderson has guest rooms with furnishings that change frequently because visitors are invited to buy the antique beds on which they sleep or to challenge the proprietor to Scabble, a nightly event. "We're all ex-hippies who've become laid-back yuppies," Ms. Anderson said of the many young business people and professionals who have chosen Las Vegas as a place to live. She added: "I like being able to dress as I please. I want my children to grow up here, I don't need to be rich if I can live in Vegas."

Much the same sentiment prompted Kak and Wid Slick to come from Dallas, to settle in the community, and to become leaders in current building preservation efforts. The Slicks are part-owners of the Plaza Hotel, a three-story Italian-style edifice built in 1882 with iron columns; it looks out on the Old Town Park and serves as anchor for the rebuilding of the Park and Bridge Street Historic District.

The Slicks made friends with Lonnie and Dana Lucero, who owned the property and had been operating it as a restaurant and bar—the upstairs rooms had been boarded up and its twin staircases enclosed. The two couples completed a $2 million renovation of the Victorian hostelry in 1983. (They were able to take advantage of the historic rehabilitation tax credit worth 25 percent of the restoration costs, and to get a $25,000 grant from the state historic preservation office for planning and a $42,000 grant to help restore the ground-floor facade.)

The rehabilitation uncovered a stenciled Victorian frieze, hidden by a dropped ceiling but now a focal point in the dining room. The Slicks added an atrium where meals are served.

Kak Slick says only some of the furnishings in the 39 bedrooms are period pieces, but historical integrity of the building has been preserved. The Slicks have also preserved a legend that the Plaza is haunted by the gentle beer-drinking ghost of Byron T. Mills, once its owner.

The Slicks spent $150,000 refurnishing the park plaza, replacing a decaying gazebo and adding plants. The park is a favorite with elderly residents of the town who come to sit on the benches.

Wid Slick is directing the $2.5 million Plaza Vieja Partnership, the financial backing for the restoration of 19 buildings in the Plaza area over the next three years.

The partnership, which has five general partners who manage the business, also numbers more than 50 limited partners who include the children of early Las Vegas business leaders who live elsewhere but have invested money in the restoration. The buildings include examples of most of the major Western architectural styles of the late 19th and early 20th centuries.

Many Las Vegans say they want to avoid having their town become like Santa Fe, which, they maintain, has been rebuilt to please tourists architecturally; they insist the diversity as well as the integrity of architectural styles in Las Vegas must be protected in the redevelopment of the historic buildings.

THE ENCHANTED CIRCLE: TAOS, RED RIVER AND ANGEL FIRE

(By Don Laine)

There are two kinds of people who live in Northern New Mexico's Enchanted Circle—those who were born and raised here and wouldn't leave for anything, and those from somewhere else who somehow discovered this magical land, and also wouldn't leave for anything.

"You either love Taos or hate it," comments Taos real estate broker Norris Romero. "It's never been easy but there's not another place we would want to live."

The Enchanted Circle is primarily three communities—Taos, Red River, and Angel Fire—plus several other villages, ski resorts, small ranches and farms, all in a 100-mile circle around Wheeler Peak, the state's highest mountain at 13,161 feet.

Taos, Ranchos de Taos, Questa, and Red River are part of Taos County, while Angel Fire and Eagle Nest are in Colfax County. In some ways the communities are as different as night and day, but they share the rugged terrain and breathtaking scenery of the Sangre de Cristo Mountains, a dependence on tourism as the main source of private employment, and a determined spirit to hang tough in the face of adversity.

The year 1986 will be remembered in the Enchanted Circle as a time of change and decision. It is the year Molycorp Inc., a molybdenum mining and milling operation between Questa and Red River, and the area's largest private employer, shut down.

It is also the year the village of Angel Fire incorporated, and its mayor and council, all businesspeople, learned a few quick lessons about local government. Mayor James Butts comments, "I didn't realize bureaucracies move so slowly."

While some Americans are happy with low fuel and food prices, the depressed oil and agriculture industries of Texas and Oklahoma have hurt the Enchanted Circle's most loyal vacationers.

Red River's economy "was a disaster" through much of 1986 according to Ralph Gill, a town councilman who works in the family business of Texas Reds Steak House and Saloon. But with much improved skiing for the 1986–87 season and at least a feeling in Texas and Oklahoma that things will not get worse. Gill says he has been seeing more visitors.

"People have to take a break." Gill says. "Some say recreation is not important in hard times—we're seeing the opposite."

Red River Ski Area general manager Drew Judycki comments that the 1986–87 ski season was turning out about average, but others in the business community add that although people were skiing many of them were cutting back on the extras such as souvenirs and new ski clothing.

Although business has been down in Red River, the tight-knit community of 350 to 400 year-round residents has had far less unemployment than the overall Taos County rate which hit 33.1 percent in April 1986, according to Red River mayor Harold Young. The mayor said he hopes Red River can hold its own this year and then he sees a turnaround in 1988 and the beginning of slow, steady growth.

The biggest single factor affecting the economy of much of the Enchanted Circle was a worldwide glut of molybdenum, a steel-hardening agent and lubricant. Three layoffs over an 18 month period cut the Molycorp Inc. workforce from close to 800 to 15 by late 1986.

Company spokesman LeRoy Apodaca says Molycorp was forced to initiate the layoffs when the selling price of the steel-hardening agent fell considerably below production costs. Apodaca adds however, that Molycorp and its parent company Unocal have not given up on the molybdenum industry, but will not re-open until the company can operate profitably and there is no indication when that might occur.

The layoffs had the greatest effect on Questa, where about half the company's employees lived, according to mayor John Gaillour Jr., who says that since late 1985 when the layoffs began about a half-dozen local businesses have closed down. Gross receipts tax collections have dropped by almost half. Gaillour said, forcing a reduction of village employees and a 20 percent pay cut for those remaining.

But the layoffs also affected the town of Taos, 26 miles to the south and the major shopping area for the Enchanted Circle. Businesspeople who catered primarily to local residents saw their receipts dropping from five to ten percent, and several simply shut their doors.

Preliminary figures show that Taos County had an unemployment rate of 27.4 percent during 1986, according to Eddie Martinez, director of the Taos County office of the New Mexico Employment Security Department, who adds that he sees little improvement this year. Unemployment insurance applications came from all sectors of the economy, Martinez said, and particularly from retail industries.

But Martinez points out that the area has traditionally had high unemployment—the average rate from 1975 to 1985 was 16.0 percent. "Our only industries," Martinez comments, "have been skiing, tourism, and Moly Mine, and now we don't have Moly."

Many laid-off Molycorp workers, whose families have lived in the Taos and Questa areas for generations, vowed to say and do anything necessary to earn a living, but most of those who had come for the high-paying jobs—average annual salary at Molycorp. had been $29,000—simply packed up and left, leaving a glut of homes that created a buyers' market.

"Sales volume was up but prices in some segments of the market were lower," according to Mark Cowan of Taos, whose company, Mark Cowan and Associates, Real Estate Appraisers and Consultants, tracks the area's real estate market.

Prices for tract homes fell the most. Cowan says, while pueblo-style houses lost less. In 1985 the average selling price of a Taos area home was $55.52 per square foot. It had 1,766 square feet and sold for $92,700. By the following year, Cowan says, the average selling price had increased slightly to $55.98 per square foot. That house had 1,848 square feet and sold for $101,900.

Taos area condominium selling prices decreased from an average of $115.89 per square foot in 1985 to $109.63 per square foot in 1986, according to Cowan. The 1985 average sale was 705 square feet, for a selling price of $81,700, and in 1986 the average condominium sold was 654 square feet, and the price was $71,700.

Joel Schantz, broker with Rio Grande Realty of Taos, says the price drop was really a correction, adding. "This is the first time in the 16 years I've been in Taos that you can buy an existing home for less than the cost of building."

While those who purchased houses three or four years ago might have trouble getting their money back, Schantz says that local working people, forced by inflated prices to rent or live with relatives, have been returning to the home market because of the combination of lower prices and low interest financing.

Schantz's company is selling about half full-time residences and half second homes, he says, with his out-of-town clients "a widespread cross-section of people from all parts of the country."

Real estate broker Norris Romero, of Century 21 Norris Romero Realty Inc. of Taos, says one-third of the buyers and sellers she dealt with in 1986 were from out of town, with one-third of those from other parts of New Mexico. A number of others, she said, came from California, Kansas, Nebraska, and Illinois.

While existing homes are selling well, although sometimes at lower prices. Cowan sees a serious housing glut in Angel Fire, especially in the condominium market.

Average selling price of an Angel Fire area condo in 1985 was $105.27 per square feet, Cowan says, but in 1986 average selling price was $89.14 per square foot. The 1985 average sale was for a 968-square-foot condominium at $101,900, while in 1986 the average condo sold was 884 square feet with a price of $78,800.

For single-family homes in the Angel Fire area, average selling price in 1985 was $66.30 per square foot. That home was 1.781 square feet and sold for $121,000. In 1986 the average selling price was $60.28 per square foot, Conway says, for a 1,711-square-foot home costing $102,900.

As economics in Texas and Oklahoma suffered, the demand for vacation homes in Angel Fire dropped, Cowan says, but construction continued. He adds that the problem was compounded by a large number of resale properties on the market.

Don Borgeson, executive director of the Angel Fire Resort Chamber of Commerce, comments that the excess number of homes and condominiums currently on the market has pretty much stopped the Angel Fire construction industry in its tracks, and he does not expect to see any speculative home building this year.

And Borgeson, along with Angel Fire mayor James Butts, sees the drop in construction as being the main cause of a population decline in that community.

When Angel Fire officially became New Mexico's ninety-ninth municipality in July 1986, its official population was 176, just 26 more than the 150 required for incorporation. But this spring Butts estimated that there were only about 120 full-time residents on the village's 167 acres.

Butts, a pharmacist and owner of the Angel Fire Mini-Mart, says that although his store's sales are up about ten percent over previous years, beer sales are off 20 to 25 percent, which he attributes to business lost by construction workers who would pick up a six-pack on the way home.

Although construction workers may be hard to find in Angel Fire, there were plenty of skiers this past winter.

"Skiers-wise we're having a terrific year," said John McIntosh, president of Angel Fire Corporation, a resort development that recently sold to Gary Plante of Corrales and Ronald Evans of Dallas. McIntosh says that while northern New Mexico has been having difficult times, Angel Fire has been doing well, which he attributes in part to improvements to the ski area—last year snowmaking was increased from 20 percent of the trails to 60 percent—and because of a major emphasis on treating visitors right.

"There's a positive feeling about Angel Fire's economy," Borgeson says, "and early figures bear it out." Borgeson adds that a good ski season is usually followed by a good summer, so local businesspeople are optimistic.

Meanwhile in Questa, Mayor Gaillour comments, "Questa is physically in the Enchanted Circle but not economically." He says that in the past the community has wanted to diversify its economy and begin tourist-related businesses, but not much happened. "With the closure of Molycorp," he adds, "we're being forced into it."

First step, Gaillour says, will be construction of a basic utility airport, scheduled to begin this spring, which would serve Questa, Red River, and Rio Costilla Ski Area at the northern edge of Taos County. Gaillour says the community can also capitalize on its proximity to the Red River Fish Hatchery, Rio Grande Wild and Scenic River, and the rest of the scenic and recreation attractions of the area.

Comparison of gross receipts figures show that Colfax County, Taos County, Red River, and Questas are all down for 1986, compared to 1985, but the Town of Taos showed a $3 million increase. Local officials say they cannot yet pinpoint the precise cause but they believe a Wal-Mart discount store, opened in March 1986, may be a factor.

Although small businesses have been hurt by competition from Wal-Mart—one Taos appliance and furniture store blamed Wal-Mart when it shut its doors last summer—the store is believed to be bringing shoppers into the area.

Wal-Mart salesclerks say they serve people from all over northern New Mexico and southern Colorado, as well as tourists from across the United States, and store manager Ernest Garcia comments that Wal-Mart's draw is that it carries merchandise normally limited to much larger communities than Taos, and at very low prices.

In addition to luring shoppers to Taos, the store pumps money directly into the community. Garcia says, with 127 full- and part-time employees collecting about $600,000 in annual wages.

The store's first year in the Enchanted Circle has been good, Garcia said, with officials continuing to fine-tune the specific merchandise selection to this market. "I see so much potential," he adds. "It can't help but get better."

Taos mayor Lawrence Santistevan says the town had held back on spending plans last year because of predictions of falling revenues, but it now appears "the town is solvent," and he hopes to go ahead with several important projects, aimed at least partly at improving the economy.

A study is being done this year on proposed improvements at the Taos Municipal Airport. Santistevan said, adding that he hopes a longer runway can be in place within four years. The town is also taking action to improve traffic flows, not only to help local people get around, but also to boost tourism and encourage other businesses to locate in Taos.

Town government is working with the Taos County Economic Development Corporation. Santistevan says, and the Main Street Project, which is a joint effort by the town, county government, and local businespeople. The Main Street opened in January, and director Tom Trujillo says he had begun working with local business owners, and those considering starting new businesses, to help these enterprises prosper.

In addition to providing architectural and techincal help at improving appearance of the downtown business district, Trujillo says he has begun work on a data bank to compile economic and demographic information that will be available to business people who want to start or improve businesses.

"We need to recapitalize on our tourist industry," Trujillo comments, "but we don't want an overabundance of any certain type of business—our goal is to make wholesale and retail trade as strong or stronger than the service industry."

Martin Romero, president of Centinel Bank of Taos and also president of the Taos County Economic Development Corporation, describes the Taos area economy as "critically ill," although not terminal, with continued problems expected at least through the summer.

"It's going to get a bit worse before it gets better," Romero says, but adds that although he is seeing savings and business reserves dwindling, people are surviving by going back to subsistence farming, bartering, and doing whatever is necessary to get by.

Marsha Eckstrom, executive director of the Taos County Chamber of Commerce, says that while overall gross receipts in the Enchanted Circle are sliding, tourism remains up, with Taos County accommodations showing a 32 percent increase in receipts from 1985 to 1986. The word from Taos art galleries, she says, is that although Texans are still coming to the Enchanted Circle, as a group they have cut back on their buying.

Fortunately, though, visitors from California and the East Coast have been filling the gap, and Ms. Eckstrom expects that Californians will soon be the biggest spenders visiting the area.

Angel Fire's McIntosh says increased marketing has helped bring tourists from California, Arizona, and even Florida to the resort, and he adds that heavy promotion in Albuquerque is paying off.

Although Red River is joining the rest of the Enchanted Circle in trying to lure tourists in from outside its traditional markets, most Red Riverites have roots in Texas or Oklahoma, according to Red River Chamber of Commerce manager Katy Wallace.

"New Markets are great," Ms. Wallace says, "but we'd be making a big mistake if we abandoned our friends and families back home."

Still, she says, the chamber is looking carefully at how it spends its annual $70,000 to $85,000 promotional budget, and wants to target southern California, Arizona, and Albuquerque, as well as its traditional markets. "Texans know we're here," she adds. "There are people in Albuquerque who don't."

Informal surveys indicate that Californians and visitors from the East Coast have different spending habits. Ms. Eckstrom says, with a Californian perhaps buying ten lithographs while the Easterner spends the same amount of money on one original.

Dave Showalter, a former Taos County Chamber of Commerce president who with his wife Liz operates three small Taos businesses, credits promotion in new markets with keeping tourism healthy.

His Coyote Pottery shop and Tesoros de las Americas are doing well compared to previous years, Showalter says, but his Kentucky Fried Chicken, which derives about 60 percent of its business from visitors, was flat from 1985 to 1986. However, Showalter says he is seeing more people stopping for a bucket of chicken to take back to their motel rooms, sometimes to go with a bottle of expensive champagne.

The ski industry has a tremendous effect on the entire Enchanted Circle, and local ski areas have made large investments the past few years in snowmaking equipment to keep the skiing good even when nature does not cooperate.

Taos Ski Valley's Ernie Blake says his resort, with an annual payroll of about $2.5 million, provides from 350 to 400 jobs during the ski season and about 70 at other times. There are also from 250 to 300 additional jobs at Taos Ski Valley lodges, shops, and restaurants not connected to Taso Ski Valley, Inc. Angel Fire Corporation has an annual payroll of $3.5 million, and Red River Ski Area pay more than one-half million dollars in wages annually.

With an estimated 35 to 50 art galleries in the Taos area, plus several museums and active performing arts groups, art is big business.

The non-profit Taos Art Association, now in its thirty-fourth year, operates the Taos Community Auditorium and Stables Art Center. During 1986 more than 16,000 people attended events at the auditorium and an equal number viewed exhibits at the Stables, according to TAA Board of Directors president Stan Crawford. In addition to 58 live performances in the auditorium, just over one per week, there were 66 movie showings during the year.

The 1986 budget was $140,000, of which more than $46,000 went for staff salaries. Much of the rest was also kept in the community as artistic and production costs. Crawford adds, and this does not count commissions paid to artists on the sale of their works and admissions income of those renting the auditorium.

"Arts organizations don't have to take a back seat to anyone in terms of monetary contributions to the community," according to Millicent Rogers Museum director Art Wolf.

Specializing in Native American and Hispanic art and artifacts, Millicent Rogers Museum has an annual budget of $350,000, according to Wolf, with annual payroll for its 14 employees of about $250,000.

Tisa Gabriel, executive director of the New Mexico Arts Division, comments that there is not another community in the state that has as many art galleries for its size as Taos, but she adds that the art business cannot be taken for granted.

"Communities like Taos which have historically had a significant arts colony need to work to create an atmosphere which supports and cares for that artistic resource," she says, adding that for a community such as Taos, "investing in the arts can be one of the most cost-effective ways to improve the local economy."

Although tourism is the main source of private employment throughout the Enchanted Circle, there are a few other industries, including Heavenly Creations Manufacturing of Angel Fire, which makes gift items that are shipped around the West, and Mountain Top Tee's of Red River.

Blaine Ross says his Mountain Top Tee's, which wholesales screen-painted tee shirts throughout the United States with an emphasis on New Mexico, Colorado, and Arizona, sold over 100,000 shirts last year and grossed $440,000.

Now in its fourth year, the company has ten employees, excluding Ross and his wife. Six work in Red River and he has four salesmen covering three states. His biggest headache, Ross says, is finding the proper workforce, but he adds, "That would be true in any small town."

Enchanted Circle business and government leaders agree that hard work is going to be needed to put their economics on strong footings, but they also say they are optimistic they will be seeing results of their labors within the next few years.

Gradual growth is predicted for Taos by Mayor Santistevan, who said that planning for that growth will be critical for Taos' future. Consultant Cowan sees the Taos area attracting a greater number of retirees, and developing an older population than the national average.

In Angel Fire, Mayor Butts comments. "Our major industry is tourism and it's going to remain that way," and he adds that he sees a great potential for increasing the summer tourist trade.

Red River mayor Harold Young sees steady growth for his community, and despite physical limitations on its size set by National Forest boundaries Young says Red River has the potential and resources to double in population. However, he adds that he and other businesses and government leaders are paying close attention to the results of a three-year survey of Red River visitors. Young says, "The general consensus was to keep Red River the nice little western town it is."

Cooperation the Key to Economic Improvement

(By Don Laine)

Maybe it took the shutdown of the Enchanted Circle's major employer, maybe it was that bad snow year when skiers stayed home, or maybe it was hard times in Texas and Oklahoma that cut into the Red River, Taos and Angel Fire tourist trade.

Whatever it took, the Enchanted Circle is not only looking ahead and hoping for better times, it is doing something to guarantee that it happens.

"There is more cooperation in the business community than I've ever seen in Taos," comments Martin Romero, a Taos native who is president of Centinel Bank and also leads the Taos County Economic Development Corp. One major goal of the corporation is to unify the many groups and government bodies that have been striving to improve the Taos area's economy, and have sometimes looked upon each other as rivals rather than partners.

The Smith's Supermarket chain had a large vacant building after construction of a new store, and late in 1986 agreed to lease it to the Economic Development Corp. for five years, at $1 per year. Romero says early plans call for using the building to house an incubator program, to help small local businesses get off the ground, and he hopes this includes at least one small manufacturing firm.

The corporation is also working with Taos County and Town of Taos governments on the Main Street Project, a downtown revitalization program designed to not only improve the physical appearance of the downtown business district, but also help businesspeople operate more efficiently, and in the long run increase their profits.

All three Enchanted Circle chambers of commerce have been cooperating as never before to lure tourists to the Circle, and all three are trying to expand their promotion bases to attract tourists from diferent geographic areas.

Local ski resorts have all dramatically increased snowmaking equipment, to carry them through dry years, and this past winter began a new program offering skiers a package price on skiing Taos, Angel Fire, and Red River. Angel Fire Corp. president John McIntosh comments that this gives skiers a chance to experience each of the ski resorts during a one-week visit, and he adds, "Our goal has to be increasing the number of skiers coming to northern New Mexico."

A free shuttle bus takes skiers around the Enchanted Circle, and McIntosh says this will help all the communities by giving visitors a more varied and enjoyable ski vacation. There is also talk of making the bus a year-round venture.

Angel Fire Corp. has gross revenues of $18 to $20 million annually, McIntosh says, and hopes for growth of 10 to 12 percent per year. He adds, "Once the Texas market comes back, I think we'll really boom."

Taos Ski Valley, which always has the most snow in the Enchanted Circle because of its elevation, has been fine-tuning its operation, according to operator Ernie Blake, and this summer plans to work on day skier facilities. Blake commented that TSV, now in its thirty-third year, is not looking for grand development at this point, but he is confident of slow steady growth.

Another 40 acres of skiing will be available at Red River Ski Area within the next year or two, according to manager Drew Judycki, who said the section being opened is higher than anything now available at Red River and will have absolutely great snow.

Red River, already a mecca for winter and summer tourists, is working to increase business in the fall, according to chamber manager Katy Wallace, who said more special events are being planned and the beauty of a northern New Mexico fall emphasized. She also sees the new White Wind Golf Course, scheduled to open in late summer 1988, as attracting more visitors.

Bill Gill, who was president of the Red River golf course committee that helped get the plans rolling, says the 250-acre project, located at 9,960 feet elevation, will be the highest golf course in the United States. There will be nine holes, he says, but 18 separate tee boxes. Developers are selling 250 home sites, and a pro shop and club house are also in the works.

Golf is also on the minds of business leaders in Taos, with several projects in the planning stages. A feasibility test is being done this spring to see if enough people are interested in buying lots around an 18-hole championship course just southwest of Taos, according to project developer Steve Natelson. Lots, which will be from .6 to .7 acreas each, will sell for $40,000, Natelson said, adding that he hopes construction can begin early in 1988.

Golfers throughout the Enchanted Circle have been traveling to Angel Fire, the nearest local course, and developers say golf courses in Taos and Red River will help each of these communities attract conventions and additional tourists. Angel Fire's McIntosh adds that new courses will not be competition for Angel Fire, but will attract a greater number of golfers who, like skiers, want to experience all the Enchanted Circle has to offer.

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5 DO-IT-YOURSELF CITY TOURS

SANDIA MOUNTAINS TOUR

(4–8 hours, 45–165 miles)

Picnic spots, hiking trails, and scenic vistas abound in the Sandia Mountains cast of Albuquerque. Load your camera and grab a jacket; the mountains average 10–15 degrees cooler than the city.

Begin by driving east on I–40 into Tijeras (Scissors) Canyon. Over this historic route passed Indian traders, '49ers, and scores of early settlers. The early inhabitants of Albuquerque had many anxious moments during the full moon in September (the "Comanche Moon") when fierce Comanche raiding parties would sweep down from this canyon to attack the valley settlements and carry off the harvest.

The mountains on your left (north), are the Sandia (Watermelon) Mountains. On your right are the Manzano (Apple) Mountains. The Spanish gave the Sandias their name because of the watermelon-pink glow the mountains take on at sunset.

The main mass of the Sandia Mountains is granite, with layers of limestone on top. Many fossils can be seen in the limestone, which was once the bottom of a shallow sea that covered the entire United States. The Sandias now represent only about 20 percent of their original size, the rest having eroded away over millions of years.

Leave I–40 at exit 175, labeled Cedar Crest and Tijeras. The exit forks. For hiking maps and other information about the national forest lands in the Sandias, follow the arrow leading to Tijeras and NM 14 South. The Tijeras ranger station will be on your left about a mile south of the exit and is open 8:30 a.m.-5 p.m. daily.

If you do not wish to stop at the ranger station, follow the exit's left fork which curves under I–40. You are now heading north on NM 14.

As you drive north, you will pass through Cedar Crest, a small community nestled among pinon and juniper-covered hills. Many Cedar Crest residents work in Albuquerque, returning to the peace and quiet of the mountains in the evening.

Continue north on NM 14 to its junction with NM 165. Turn left (west) on NM 165 and start watching for your perfect picnic spot. Many spots have grills and tables and are visible from the road. Don't be afraid to turn off the highway onto the numerous side roads. The majority are well maintained and usually lead to more sheltered picnic spots.

As you enter the Cibola National Forest, you will notice a change in vegetation. Pine, aspen and mountain maple blend with Douglas fir and spruce. Albuquerque is in the Upper Sonoran Desert, where rainfall averages less than 10 inches per year. The Sandias provide a welcome contrast, and you will find four of the earth's seven life zones here. The Hudsonian Forest Zone with its spruce and fir trees is the highest and wettest life zone in the Sandias. Annual precipitation there is 38–40 inches, and snowfall averages 111 inches.

Continuing west on NM 165, you will soon reach the Sandia Peak Ski Area. NM 165 continues to NM 536 and Sandia Crest (10,678 feet). The road to the Crest is well-paved. On a clear day, you can easily see for a radius of 100 miles from Sandia Crest. The total viewing area covers about 15,000 square miles.

If driving to the crest of the Sandias is not your idea of fun, ride to the top of 10,360-foot Sandia Park during the summer months (Memorial Day to Labor Day) on the chairlift at Sandia Peak Ski Area. The lift is 7,000 feet long, and it takes about fifteen minutes to reach the top. There is fine dining at the peak, with a spectacular view of the city. The peak restaurant can only be reached by taking either the chairlift from the eastern slope of the mountain or the Sandia Peak Tram from Albuquerque on the western slope of the mountain. The Sandia chairlift only operates until 4:30 p.m., however, so if dinner at the peak is what you had in mind, you should plan to get there by taking the Sandia Peak Tram from Albuquerque.

Many kinds of animals live in the Sandias: Rocky Mountain bighorn sheep, mule deer, black bear, mountain lion, coyotes, skunks, porcupines, squirrels, chipmunks, bats, shrews, and close to 200 different kinds of birds. Hiking trails lead along the Crest ridge. In spring, summer, and fall the wildflowers are heavenly.

You can return to Albuquerque the same way you came, or you can take one of two side trips. The first alternative, if your vehicle is suitable, is to return to the junction of NM 165 and NM 536. There you will take the dirt portion of NM 165 north to Las Huertas picnic ground. En route, you will pass Sandia Cave, where the artifacts of Sandai Man (20,000 B.C.) were found. The cave is visible from the road as a large hole with yellow stain around it high in the limestone cliff to the right. NM 165 intersects with I-25 west of Placitas.

The second alternative is to return to the junction of NM 165 and NM 14 North (left) through the gold and silver mining ghost towns of Golden, Madrid, and Cerrillos. NM 14 joins I-25 just five miles south of Santa Fe.

NATIVE AMERICAN CULTURE TOUR

(4-6 hours, 40-60 miles)

New Mexico was home to some of the most ancient people in North America (Sandia Man—20,000 B.C., Folsom Man—8,000 B.C.). By 1000 A.D. the Native American people of New Mexico had developed complex cultures with multistoried dwellings, solar observatories, a system of roads, and extensive trade.

Albuquerque offers a marvelous tour opportunity that follows the development of Native American culture in the Rio Grande Valley from pre-history to the present. Start at the Indian Petroglyph State Park on Albuquerque's west side, where five extinct volcanos stand silhouetted against the sky.

For thousands of years, hunting parties camped at the base of the lava flow, chipping more than 10,000 petroglyphs into the rocks in their spare time. No camping is allowed, but picnic shelters and water are available. Four walking trails, from easy to moderately difficult, wind through the petroglyphs.

Petroglyph Park is on Unser Boulevard NW, at the foot of the lava flow. The park is open from 9 a.m. to 5 p.m. September through March, and from 10 a.m. to 6 p.m. April through August. Closed Tuesday and Wednesday. No admission charge.

From Petroglyph Park, continue north on Coors Road past the lovely campus of the Southwest Indian Polytechnic Institute and through the farming community of Corrales to Coronado State Monument. The Monument preserves the ruins of Kuaua Pueblo, where the Spanish explorer Coronado is thought to have spent the winter of 1540-41 while looking for seven fabled cities of gold, which he never found.

In addition to extensive ruins and an excellent interpretive trail, visitors can enter a restored kiva (sacred ceremonial chamber—normally off limits to non-Indians). This kiva is unusual because of many layers of paintings discovered on its walls. Some of these are reproduced in the kiva, while the originals hang in the Visitors Center. Here the Sandia Mountains and the majestic Rio Grande offer their best profile to photographers.

Coronado Monument is open 9 a.m.-5 p.m. daily, closed on state holidays. Admission: $1 adults, 50¢ children ages 7-18.

Return to Albuquerque via US 85 and NM 194. Much of this route follows the *Camino Real* (Royal Road), linking the pueblos and their attendant Spanish settlements with Chihuahua in Old Mexico. The route leads through some of the loveliest of Rio Grande Valley real estate beneath which some 15 pueblos lie unexcavated. Back in Albuquerque, visit the striking Indian Pueblo Cultural Center (2401 12th Street NW). The Center, echoing the design of Pueblo Bonito—high point of Chaco culture architecture (1100 A.D.)—exhibits the best arts and crafts from all of New Mexico's 19 pueblos, along with interpretive displays. Indian dances are held on many weekends during the summer. The Center also houses a gift shop and a delightful restaurant specializing in Native American-style cooking.

The Indian Pueblo Cultural Center is open Monday-Saturday from 9 a.m. to 6 p.m., Sunday from 10 a.m. to 6 p.m. during the summer. Closed Sundays in winter. Admission: $2.50 adults, $1.50 senior citizens, $1 students.

Optional: Finally, for a visit to a contemporary, living Indian pueblo take I-25 south to Isleta Pueblo. Isleta has one of the oldest mission churches in the Southwest, the church of San Antonio (1613-1630 A.D.). The Pueblo also runs a thriving water recreation area, Isleta Lakes.

Picture-taking is restricted to buildings (not people in the plaza area, which can be approached from either NM 47 or NM 85. Isleta Lakes Water Recreation Area is approached by NM 47 only (take the Broadway exit from I-25). Picinc and camping facilities are available at very reasonable rates. State fishing licenses are not required if a Pueblo fishing permit is purchased.

Isleta Pueblo is open during daylight hours, and Isleta Lakes Water Recreation Area is open from 6 a.m. to 9 p.m. daily.

SCIENCE/TECHNOLOGY TOUR

(5 hours, 30 miles)

Explore an Ice Age cave, stand inside a volcano, or ride a dinosaur all at the New Mexico Museum of Natural History, 1801 Mountain Road NW. The Museum is open 10 a.m.-5 p.m. daily, extended hours during the summer. Admission: $2 adults, $1.50 seniors, $1 children ages 3-12.

When you leave the Museum of Natural History, follow Mountain Road east to Lomas. A right on University and a left on Grand puts you on the University of New Mexico campus.

Hundreds of colorful minerals, meteorites, and fossils are on display at UNM's Museums of Geology and Meteoritics. Located in Northrup Hall on Yale Boulevard, UNM campus, the museums are open 8 a.m.-5 p.m. Monday-Friday, Meteoritics Museum closed noon-1 p.m. There is no admission charge.

Next, follow Central Avenue east to Wyoming Boulevard and the gate of Kirtland Air Force Base. Kirtland Base is home for the National Atomic Museum. In addition to displays on the development of atomic energy, the Museum demonstrates the latest in all kinds of energy research.

One of the most impressive energy experiments is the nearby "Power Tower" south of the Museum—an enormous solar collector using acres of mirrors trained on a point at the top of a concrete tower. A chamber of molten salt receives the light focused there, converting it to heat.

The National Atomic Museum is open 9 a.m.-5 p.m. daily. Tours of the Power Tower are available from 1 to 3 p.m. Monday-Friday. There is no admission charge for either facility.

Proceed east on Central Avenue to Tramway Road and turn north (left). Tramway Road will take you to the world's longest continuous tramway, the Sandia Peak Tram. Built with the aid of helicopters, the tram boasts the world's longest unsupported span over Domingo Baca Canyon.

A ride on the Sandia Peak Tram whisks you 2.7 miles up to 10,360-foot Sandia Peak, passing through four of the earth's seven life zones on the way. In biologic terms, this is the equivalent of going from Mexico to Alaska in 20 minutes. The Sandia Peak Tram operates from 9 a.m. to 10 p.m. every day from Memorial Day to Labor Day. After Labor Day, hours are from 9 a.m. to 9 p.m. Monday, Tuesday, Thursday, and Sunday, 9 a.m.-10 p.m. Friday and Saturday, and 5-9 p.m. Wednesday. For more information, call 298-8518.

NATURE TOUR

(5 hours, 25 miles)

Start at the Rio Grande Zoological Park, 903 Tenth Street SW. The Rio Grande Zoo is the largest zoo in New Mexico and features many naturalized habitats, including an African savannah, a tropical rain forest, primate island, lobo woods, and an experimental birds of prey aviary.

The Zoo is open from 9 a.m. to 5 p.m. daily. Admission: $4 adults, $1.50 seniors and children ages 3-11.

After visiting the Zoo, follow Tenth Street north to Lead and turn left. A right on 14th Street and a left on Mountain Road bring you to the New Mexico Museum of Natural History. The Museum is open 10 a.m.-5 p.m. daily, extended hours during the summer. Admission: $2 adults, $1.50 seniors, $1 children ages 3-11.

The next stop is the Rio Grande Nature Center State Park. Located on the east bank of the Rio Grande off Candelaria Road, the Nature Center preserves the wildlife of the *bosque*, or cottonwood groves along the river. The Visitor's Center, built partially under ground, houses exhibits on the ecology, geology, and history of the Rio Grande Valley. Outside, nature paths beckon.

The Rio Grande Nature Center is open from 10 a.m. to 5 p.m. daily. Admission: $1 per vehicle.

From the Rio Grande Nature Center, follow Rio Grande Boulevard north to Corrales Road. Watch for New Mexico's state bird, the roadrunner. Roadrunners are frequently seen crossing Rio Grande Boulevard or running along the ditches.

Proceed east past the Bien Mur Indian Market to the foot of the Sandia Mountains for a ride on the Sandia Peak Tramway. The 2.7-mile tram ride takes you through four of the earth's seven life zones. In biologic terms, this is the equivalent of going from Mexico to Alaska in 20 minutes. Wildlife such as mule deer and and Rocky Mountain bighorn sheep can sometimes be seen on the slopes below the noiseless tram car.

The Sandia Peak Tram operates from 9 a.m. to 10 p.m. daily from Memorial Day to Labor Day. After Labor Day, the Tram operates from 9 a.m. to 9 p.m. on Monday, Tuesday, Thursday, and Sunday, 9 a.m.–10 p.m. Friday and Saturday, and 5–9 p.m. Wednesday, Money-saving packages are available which include dinner at the excellent High Finance restaurant on Sandia Peak. For more information, dial 298–8518.

SHOPPING TOUR

(4–8 hours, 11 miles)

Albuquerque's first "shopping center" was Old Town Plaza, where the Spanish Villa de San Felipe de Alburquerque was founded in 1706 (the first "r" in Alburquerque has since been dropped). The 19th century abode buildings surrounding the Plaza abound with restaurants, boutiques and galleries. Unique, handcrafted jewelry, clothing, fine art, and folk art are found in abundance. Most shops in Old Town open at 10 a.m. daily. The larger shops on the Plaza stay open until 9 p.m., although many of the smaller shops away from the Plaza close earlier.

The beautiful, subterranean First Plaza Galeria at Third Street and Tijeras Avenue is another delightful shopping environment. Fine clothing, intriguing gifts, imported arts, crafts, and food items, as well as excellent restaurants line the airy galleries. Most shops in the First Plaza Galeria are open from 10 a.m. to 5 p.m. Monday–Saturday.

New Mexico's two largest shopping centers are located along Louisiana Boulevard, between I–40 and Menaul Boulevard NE. Winrock Center, located next to I–40, houses 100 stores of all kinds, including J.C. Penney, Montgomery Ward, and Dillard's. A fine hotel, two banks, a movie theatre, and a wide range of restaurants are all adjacent to Winrock. Most stores are open 10 a.m.–9 p.m. Monday–Friday, 10 a.m.–6 p.m. Saturday, and noon–5 p.m. Sunday.

Coronado Center, at the corner of Louisiana and Menaul houses 147 specialty shops, fashion boutiques, restaurants, and department stores, including Broadway Southwest, Goldwaters, Mervyn's, and Sears. Most stores are open 10 a.m–9 p.m. Monday–Friday, 10 a.m.–6 p.m. Saturday, and noon–5 Sunday.

These are by no means the only attractive shopping areas in Albuquerque. There are hundreds more interesting shops and shopping areas spread throughout the city. For more information call the Albuquerque Convention and Visitors Bureau, 243–3696.●

PRINCE GEORGES COUNTY IS "ALL AMERICAN" COMMUNITY

● Mr. SARBANES. Mr. President, each year only a few of our Nation's truly outstanding communities are chosen for the prestigious designation of "All-American" by the National Civic League. This year eight communities won this coveted award, including only one county, Prince Georges County, MD.

Located adjacent to the Nation's Capital, Prince Georges County is Maryland's most populous county and includes some of our State's most historic locations as well as some of our Nation's most exciting technological facilities. Home to the University of Maryland as well as small farmers and commuters, Prince Georges County truly represents the great diversity of Maryland and the United States. It is a great place to live.

Prince Georges countians should take great pride in this national honor. County Executive Parris Glendening, the members of the county council, all the mayors, and city council members have worked closely with community, civic, religious, business, and labor leaders to insure that the county continues to grow and prosper and provide all the people of the county with a wonderful place to live and work.

Mr. President, I know all Marylanders are proud of Prince Georges County's recognition as an "All American Community." I ask that an editorial from the Washington Post noting this accomplishment be printed in the RECORD.

The editorial follows:

[From the Washington Post, May 20, 1987]

ALL-AMERICAN PRINCE GEORGES

Maybe now—having won a coveted national award as one of the best places to live in the country—the great county of Prince Georges will get the respect it deserves from all its neighbors around the region. Prince Georges is one of eight communities around the country, and the only county, to be named "All-American" by the National Civic League (formerly the National Municipal League). Though there's no money for winning, county officials hope this finally will curb any negative stereotyping of Prince Georges by residents of the rest of the region. We hope, too, that any inferiority complexes that have remained with some Prince Georgians will vanish. As longtime county council member Sue V. Mills said, "All they're doing is recognizing what I've always known: Prince Georges County is a great place to live."

The award is more than just nice words about a county's physical amenities; the sponsors cited the county for its "citizen-championed fiscal turn-around, a business-financed public relations and marketing campaign and a privately led revitalization of county economic growth and development." This "renaissance" began in 1984, the league points out, with a resident-led rollback of a tax-freeze initiative called TRIM. With increased revenue, the county could work to improve police, fire and education services.

Credit must go as well to County Executive Parris N. Glendening, who campaigned hard for relief from TRIM, and to the council members, for a generally smooth legislative act. Mr. Glendening said of the award, "I suspect, with all candor, that some in the metropolitan area will say, 'Really? Prince Georges won?' But after they say that, I hope they go on to say, 'Let's investigate this and see what's happening over there.' "●

MAYOR RODGERS MAKES HISTORY

● Mr. LAUTENBERG. Mr. President, I would like to bring to my colleagues' attention an extremely important and historic day for the mayor of Harrison, NJ, Mr. Frank E. Rodgers.

On May 29, Mayor Rodgers will become the longest-tenured mayor in the history of our Nation. On that day, he will have served as mayor of Harrison for 40 years, 4 months, and 29 days consecutively. That is 1 day longer than the mayor of Albany, NY, Erastus Corning, who passed away in office in 1983.

Mayor Rodgers' record of service to the people of Harrison, New Jersey, is truly outstanding. Back in 1937 he was sworn in as a councilman in Harrison. He held that office until he successfully ran for mayor in 1946. Having served as Harrison's mayor since then, Mayor Rodgers is now serving his 20th consecutive term.

During his 50-year career of public service Mayor Rodgers has served the people of New Jersey through a number of elected and appointed positions at the municipal, county, and State levels of government. In addition to serving as Harrison's mayor, Mr. Rodgers was elected to the Hudson County Board of Chosen Freeholders, served as the clerk to the board of freeholders, and as the Hudson County clerk. He served two terms in the New Jersey Legislature as a State Senator, and he received a number of gubernatorial appointments to State positions.

But Mayor Rodgers has not limited himself to government service. By sitting on various boards and participating as a member of a number of business, fraternal, religious, and charitable organizations, Mayor Rodgers has demonstrated a genuine understanding of the importance of community service. An understanding that building a better and stronger community requires hard work and dedication both inside and outside the sphere of government.

Mr. President, the people of Harrison, NJ, have organized a grand festival to honor Mayor Rodgers on May 29. The town council has approved the day a town holiday, and a day of ceremony and activity have been organized.

I join the townspeople of Harrison in saluting our Nation's longest serving mayor, Mayor Rodgers. I join them in honoring him on this historic day for his remarkable record of public service. For his dedication to the people of Harrison. And for his service to the State of New Jersey.●

DEATH OF JAMES ANGLETON

● Mr. McCLURE. Mr. President, in the dark days of the early 1970's, our country's intelligence system was under assault. This attack was particularly shocking because it was spearheaded by Members of the U.S. Congress, the very individuals charged with protecting our national security. As a result of this undoing, we have seen the collapse of friendly governments and the death of our own agents. To this day, our ability to glean knowledge of our enemies' machinations has been seriously crippled.

The business of intelligence is not simple. It presents ambiguities to the examination of naive inquisitors. James Angleton was the epitome of ambiguity and complexity, and a victim of the purges of the early 1970's. Born in Boise, ID, he was a citizen of the world, and the very symbol of the mysterious world of counterintelligence. His death marks the end of a living legend. The following articles delve more deeply into the intriguing life and character of this man, and I know that my colleagues will find them thought provoking.

Mr. President, I ask that the following articles from the Washington Times and the Washington Post be inserted in the Record.

The articles follow:

[From the Washington Times, May 12, 1987]

Legendary CIA Counterspy James Jesus Angleton Dies

(By Bill Gertz)

James Jesus Angleton, celebrated CIA masterspy and one of the most colorful figures in U.S. intelligence, died yesterday at Sibley Memorial, Hospital. He was 69.

Mr. Angleton, the first U.S intelligence official to reveal the Soviets' use of strategic deception and "disinformation," died at 10:23 a.m., according to his daughter, Lucy Angleton. The death was attributed to lung cancer, she said.

Mr. Angleton developed and later ran the CIA's counterintelligence section between 1954 and 1973, at a time when counterintelligence—detecting and exploiting enemy spies—played a major role in U.S. intelligence.

Former CIA Director Richard Helms, who worked alongside Mr. Angleton for many years, yesterday praised the counterspy chief as "a great patriot" who played a pivotal role in the developing CIA capabilities against hostile spying.

"James Angleton was to American counterespionage what Thomas Edison was to the development of electricity," Mr. Helms said.

At the CIA, agency spokeswoman Kathy Pherson issued a statement calling Mr. Angleton "a longtime intelligence professional who gave many years of service to his country."

"We regret his passing," Ms. Pherson said.

N. Scot Miler, an Angleton protege at the CIA until 1974, praised his former boss as a "renaissance man" who attempted to build a national counterintelligence program in the face of rigid bureaucratic resistance.

"He was a global thinker, who was the first to recognize the dangers of Soviet disinformation," Mr. Miller said in an interview. "From about 1965 on, he tried to educate people to the fact the disinformation was more than just propaganda: It is part and parcel of the communist program of political, strategic and military subversion of the West."

A major character in both contemporary spy fiction and non-fiction, Mr. Angleton coined the term "wilderness of mirrors" in describing the business of spy vs. spy, where perceptions and deceptions were not to be accepted at face value.

Tall and angular, Mr. Angleton departed from the agency in December 1974 following a clash with William Colby, who was then director of the CIA, over policies and efforts to root out Soviet spies within the agency and among Soviet bloc defectors.

Mr. Angleton became the target of agency opponents and critics who opposed his counterintelligence methods. He was investigated and later cleared by the Senate Intelligence Committee that probed CIA activities in the mid-1970s.

Within a year of his departure from the CIA, the counterintelligence staff he built had been drastically reduced from about 300 specialists to about 80. According to some intelligence professionals, the reductions led to a government-wide backlash against counterintelligence that persists to this day.

Sen. Malcolm Wallop, Wyoming Republican, called Mr. Angleton "the architect of the best counterintelligence program the United States ever had."

"In the mid-1970s, Mr. Angleton went out of fashion, but he lived long enough to see time and events vindicate him and how little his accusers understood the difficult and inherently thankless business of counterintelligence," Mr. Wallop said. "Today we can be grateful for the lessons of skepticism and intellectual honesty for which James Angleton should always be remembered."

Mr. Angleton told friends privately that the current Moscow embassy scandal, involving U.S. Marine guards charged with allowing Soviet agents inside secret sections of the U.S. Embassy in Moscow, was a vindication of sorts since he believed it was a direct result of the counterintelligence cutbacks of the late 1970s.

He once described penetration agents—"moles," spying covertly for the Soviet Union from within the U.S. government—as "a way of life" for Soviet intelligence activities directed against the West. He believed five such moles were left in place when he left the CIA.

He was born in Boise, Idaho, on Dec. 9, 1917, and grew up in Milan, Italy, where his father, Hugh Angleton, was a representative of the National Cash Register Co. He received his early education at Malvern College in England before attending Yale University, where he graduated in 1941.

At Yale, Mr. Angleton edited a literary journal, Furioso, that was known for publishing such poets as Ezra Pound, William Carlos Williams, E.E. Cummings and Archibald MacLeish. Through his interest in poetry he also came to know the British poet T. S. Eliot.

He attended Harvard University law school, was drafted in the Army into 1943 and joined the Office of Strategic Services, the wartime predecessor of the CIA.

With the OSS, Mr. Angleton learned the difficult task of counterintelligence, once described by a practitioner "as the most difficult intelligence area since it deals with the dark side of human nature—betrayal, revenge and lust."

He learned the counterspy business in London under the Soviet mole in British intelligence, H. A. R. "Kim" Philby, who spied secretly for the Soviets in Britain until he defected to the Soviet Union in 1963. As a second lieutenant, Mr. Angleton was placed in charge of OSS counterintelligence in Italy, where he succeeded in exposing a double agent spying inside the Vatican.

After the war, he continued in intelligence work as an operations executive until the CIA was formed in 1947, when he went to work in the agency's counterintelligence section.

Mr. Angleton spent his last years in retirement defending former intelligence agents who were persecuted by the U.S. government during the anti-intelligence backlash of the late 1970s. Along with other former CIA officials, he established the Security and Intelligence Fund, initially a legal defense fund that became the Security and Intelligence Foundation.

At his Northern Virginia home, Mr. Angleton raised orchids and harvested honey from a bee hive. He was also known as a master fly fisherman and an avid duck hunter.

He is survived by his wife, Cicely d'Autremont Angleton of Arlington; a son, James Charles Angleton of Los Angeles; two daughters, Guru Sangat Kaur of Great Falls, Va., and Lucy Angleton of New Mexico.

Funeral services will be held Friday at 1:30 p.m. at Rock Spring Church United Church of Christ, 5010 Little Falls Road, Arlington. The family asks that expressions of sympathy be in the form of contributions to the American Cancer Society.

[From the Washington Times, May 12, 1987]

James J. Angleton

The deaths of living legends are always occasions for reflection, and the death yesterday at Sibley Hospital of one whose passion for anonymity did not prevent his transformation into a legend comes at a time strangely, and disturbingly, appropriate. James J. Angleton, former chief of counterintelligence for the CIA. became a character in at least four spy novels during his long career and, depending on which ones you read, epitomized either all that was best or all that was worst in the American intelligence community.

Mr. Angleton cut his teeth in tradecraft during World War II, when he worked for the counter-intelligence branch of the Office of Strategic Services and, after the war, set up its successor within the CIA as a highly compartmentalized and (some would say) virtually autonomous unit. Among his greatest coups in his early years was the pilfering of Nikita Khrushchev's secret speech denouncing Stalin to the Soviet Communist Party in 1956. But by the early 1970s, his habitual distrust of the Soviets—and of Westerners who gurgled over them—was out of step with the times.

His insistence on the need for the secret arts of the spy became famous, and indeed despised, in many quarters, and in 1974 he was forced to resign from the CIA after witnessing the evisceration of his counter-intelligence staff. Not until the Reagan administration began to reconsider the need for counter-intelligence and the imperative for covert action in the early 1980s did the CIA again redevelop the capacity that Angleton's skills had constructed, and even today it still lacks what the United States should have in this respect.

Mr. Angleton, to be sure, was not without flaw, and the suspicion and secrecy that he deliberately cultivated, and which go with the profession he had chosen, alienated and frightened many who knew less but talked more than the cryptic spymaster—who did not write his memoirs, did not appear on television, and who cultivated his orchids in very private retirement.

Yet Congress even now is trying to crank up the high dudgeon of a weary nation for yet another inquisition into the intelligence community. Last week Gen. Richard Secord, asked how he thought the world was reacting to the hearings in which he was the first witness, frankly stated his opinion in the laconic style he affected throughout the week. The world, he said, "is laughing at us," and other countries cannot take seriously a nation that periodically hauls its own secrets before national television to wallow in an odd synthesis of guilt and glamor. What ally now would take the chance of sharing intelligence or cooperating in counter-intelligence operations when the prospect is appallingly good that in a year or two years, a congressional committee will broadcast every jot and tittle to a bemused world?

James Angleton would have understood what Gen. Secord meant. It is tragic that more congressmen do not.

[From the Washington Post, May 17, 1987]

POET, FLORIST, ANGLER, SPY

(By Aaron Latham)

Master spy James Jesus Angleton's favorite poet was Thomas Stearns Eliot. He knew him personally and corresponded with him. "Eliot was simply monumental," Angleton once told me. "But Eliot killed poetry."

A lot of people feel the same way about Angleton. Before his involuntary retirement in 1974, he was a monumental force within the Central Intelligence Agency. But many believe he came close to killing the CIA—or at least gravely wounding it.

And now Angleton himself is dead of lung cancer. He fought that disease the way he once fought another carcinoma—international communism. But the last of a breed inevitably lost his last battle.

Angleton died last week shortly before a scheduled meeting with Sen. David Boren, the chairman of the Senate Intelligence Committee and a member of the Iran-contra investigating committee. Boren wanted to ask the old master about American intelligence lapses from Moscow to Tehran. Angleton would have had a lot to say.

So Angleton, 69, died just as the United States government, which had rejected him, was about to take an interest in him and his ideas once again.

I first made contact with Angleton a dozen years ago, shortly after he was forced out of the agency. I got his number out of the Arlington phone book—he was listed—and called him. When I identified myself as a reporter, he asked me to hold on a moment, and I heard a lot of clunking and clanking that I assumed was his attaching his tape recorder to his phone. I didn't have to clunk and clank because my recorder was already hooked up.

Then the spy and I had a long, rambling discussion about poets ("I go to the writers I like. I don't find any new ones I like. I think that Eliot killed it.") . . . and orchids ("The lady slipper is my favorite because it's the hardest to grow.") . . . and the CIA's deeds and misdeeds ("The way the president designs the hat is the way people wear it.") . . .

The conversation went on so long that my ear began to ache, and I was late for dinner with my girlfriend (who is now my wife). So I started trying to get off the phone, but he wouldn't let me go.

Finally, after exactly 90 minutes when my tape ran out, Angleton said, "Well, I guess that's about it." And he hung up. I'm sure his tape had just run out, too. He had been too fastidious to stop talking sooner and leave a few minutes of empty tape at the end of the reel.

Shortly after I published my interview with Angleton, I received a large manila envelope in the mail. Opening it, I found an 8-by-10 photograph of E.E. Cummings. The accompanying letter, which bore Angleton's minuscule micro-dot signature, explained that he himself had taken the picture of the poet. It went on to describe and give the history of every object in the photo—all the knickknacks on the mantlepiece, the painting on the wall, on and on. The last line of the letter invited me to lunch.

Angleton and I met face to face for the first time at La Nicoise restaurant, his favorite, where the waiters wear roller skates. He ordered a kir. He was incredibly thin and chain-smoked Virginia Slims.

He talked about one of his agents who used to write lyrics for Marlene Dietrich in Vienna. He talked about why he hadn't pursued a literary career after the war. "Because I found out the war wasn't over."

He talked about how vulnerable America was to penetration by Soviet spies. "The United States is going through a period now which is analogous to a period the British went through 20 or so years ago when their young men wouldn't fight for the empire. It was during this period in British history that the Soviets recruited Guy Burgess and Donald Maclean and Kim Philby to spy for them."

In the years since that lunch, I have seen how right he was, as we have caught our own lower-level versions of Burgess-Maclean-Philby one after the other.

He talked about T. S. Eliot, whose poetry he took to be the real thing, and Ezra Pound, whose works he considered to be the poetic equivalent of a spy's "cover stories."

"Eliot is my favorite without any doubt, but Pound probably had the finest ear as far as the English language is concerned. But he never stayed with one style and developed it. He was an innovator, but his philosophy didn't really hang together. The fact that he called one book 'Personae' or 'Masks' is reflective of his poetry and the different facades he had.

"I don't think anyone ever took Pound's politics seriously. It was another mask. I think it was a part of that kaleidoscopic side of Pound. I don't think he was an integrated man.

"Eliot was a whole man. Good sense of humor. Fairly dry but very good."

But much of the time he didn't talk about anything at all. I would ask a sensitive question and wait for an answer. I usually have no trouble enduring silence and can outwait anyone. But I couldn't outwait Angleton. He would simply pass the time by using one fork to toy with another fork—linking the prongs the way some people knit their fingers.

When lunch was over, Angleton folded his napkin carefully into a triangle, as if it were the American flag.

I was so fascinated by James Jesus Angleton that I decided to write a book about him, a novel. I reasoned that the CIA was itself in the fiction business since it was always making up cover stories to cloak its true intentions—and one way to fight fiction was with fiction. I called it "Orchids for Mother" in deference to one of Angleton's several obsessions.

The hero/anti-hero of the book, whose code-name was Mother, thought Eliot had been fatal to verse.

Angleton claimed he never read the book.

Angleton believed Eliot "killed poetry" by rendering it so complicated that it tied itself in incomprehensible knots. The author of "The Waste Land" turned poetry into an art form that was so difficult that only he was smart enough to practice it.

As I researched my book on Angleton, I came to the conclusion that he had had a similar effect upon the spy business. He transformed spying into such an involuted, convoluted, labyrinthine maze that the CIA often got lost in its own intricacies. . . .

. . . Just like modern poetry.

Angleton's complications derived from his inability to trust anyone or anything. As a spy, he saw the visible world as nothing but cover stories and disinformation.

For example, when China's relations with the Soviet Union seemed to cool, Angleton fervently believed that the two countries were playing a trick so America would lower its guard.

As head of the powerful counterintelligence staff—a position he held for 20 years—Angleton regarded everybody as a potential Soviet spy. He saw all his brother intelligence officers at the CIA as possible "moles." When the CIA recruited spies in communist countries, he denounced them as counterspies who were actually passing us nothing but disinformation. When defectors came over from the other side, he accused them of coming to tell us lies.

Viewed through Angleton's disbelieving eyes, the world became as confusing as "The Waste Land." In this poem, Eliot wrote of the "Unreal City," but Angleton found the whole world unreal. Eliot wrote, "One must be so careful these days," but perhaps Angleton was too careful. Eliot wrote, "Bin gar keine Russin"—"I am not at all a Russian"—but Angleton would have demanded proof. And then he still might not have believed him.

Angleton was so worried that a Soviet mole might find out what the CIA was doing that he often kept the CIA from doing very much at all. . . .

. . . Just as Eliot was so worried about writing cliches that he virtually stopped writing in any known language.

But Thomas Stearns Eliot was a great poet—and James Jesus Angleton was in many ways a great spy.

Perhaps he was too suspicious, but as we have seen, his successors have often not been suspicious enough. His faithless vigilance might well have prevented United States marines—semper fidelis—from giving KGB agents guided tours of the American Embassy in Moscow. He probably would have gotten on everyone's nerves until someone checked the typewriters in that embassy—which were bugged. He certainly would have been ungenerous enough to suspect that the Soviets might try to wire the new American embassy now nearing completion in Moscow—a building that turns out to be one huge KGB microphone. Since American officials got tired of listening to Angleton, the Soviets were able to listen to American officials.

The eternally paranoid Angleton might also have been able to spare his country the embarrassment of having a Soviet defector—whom we had embraced—slap us in the face and redefect to the other side. Sometimes paranoia is just what the doctor ordered.

Of course, one can easily imagine the fuss Angleton would have raised over putting any faith in the Ayatollah Khomeini or Iranian rug-and-arms merchants in a missiles-for-hostage deal. He would no more have trusted the ayatollah than he would trust, say, William Colby, his archenemy in the CIA, who finally fired him.

James Jesus Angleton was the son of James Hugh Angleton, who once rode with Gen. John "Black Jack" Pershing and chased Pancho Villa back into Mexico. Angleton fils chased spies across Europe during World War II as a member of the Office of Strategic Services—the legendary OSS—the forerunner of the CIA. Gen. Williams "Wild Bill" Donovan, the head of the OSS, called him the service's "most professional counter-intelligence officer." Of course, Donovan may well have called Angleton some other things, too, since he must have been a constant—if invaluable—nag.

In 1947, Angleton joined and helped organize the new Central Intelligence Agency.

Soon he began building an agency—what might be called the Angleton Agency—within the agency. His empire was officially called the counterintelligence staff, but it always did more than its name implied.

One of the counterintelligence staff's extra duties was running the Israeli desk. Angleton won this "account"—one of the most valuable in the CIA—by befriending various Jewish leaders shortly after the war. He was especially close to such leaders in Italy, where his assignment was to rescue the young Italian democracy from the communists, and where Zionists were busy loading Jewish settlers onto ships bound for Palestine. He was trying to save a country, they to found one. And they worked together.

Later, after the founding of Israel, this cooperation became more and more important, in part because Israel was able to recruit agents in Eastern Europe and the Soviet Union while America was not. So in effect Angleton had lots of spies while the rest of the CIA had very few.

"I probably had more successes than anybody at that time," Angleton told me. "It was one of the most successful single endeavors in the business."

In the old days, perhaps because he was so powerful, Angleton got along well with the larger-than-life men who ran the invisible agency. He was close to Allen Dulles, arguably the greatest director of central intelligence of them all. And Walter Bedell Smith, an earlier DCI, made Angleton one of his heirs—bequeathing him his beloved fly-tying equipment.

So Angleton was linked to the great names of America's spying past—Donovan, Smith, Dulles.

He was linked to the glories of the past in another way, also. And to other great names.

"I knew Carlos Williams, Eliot, MacLeish, Wallace Stevens, Frost," Angleton told me. "The whole group."

He first made contact with many of these poets while he was editing a literary magazine—the Furioso—at Yale. He persuaded some of these legends to contribute poetry to his periodical and paid them with neckties.

"When I was at Yale, I was very near Wallace Stevens and used to visit him," he recalled. "No one would have ever known that he was a vice president of Hartford Life and Fire except that if you tried to smoke a cigarette in his house, he wouldn't let you. I had to walk outside and smoke and then come back in."

Angleton was always a heavy smoker.

"No one would have ever known to look at the man," he added, "that he wrote the poems."

And no one would have ever known to look at Angleton that he had done what he had done. No one would have known that his agents smuggled a historic speech out of the Soviet Union—Nikita Khrushchev's denunciation of Stalin at the 20th Party Congress. No one would have known that he helped capture such enemy spies as Rudolf Abel (who operated in the United States for a decade) . . . George Blake (a senior officer in the British Secret Service) . . . George Paques (a NATO official whose activities found their way into the book and movie "Topaz") . . . among other unfortunates.

No one would have ever known because James Angleton didn't look like James Bond. He looked like T. S. Eliot. The same three-piece suits. The same grave air. The same English manner and mannerisms from years spent in England—some of them war years—during which he met Eliot.

Angleton was always as elegant and eccentric and deadly as an Eliot line.●

THE SHULTZ MANSION

● Mr. HUMPHREY. Mr. President, last night while some Senator spoke of starving children in Africa, the Senate voted to funnel another $257 million of taxpayer funds into the World Bank. The Senate did so at the behest of the Department of State and over the objections of our distinguished colleague from North Carolina, Mr. HELMS, who sought to delete this hidden ripoff buried in the fine print of the so-called urgent supplemental appropriation.

The World Bank has set aside $150 million primarily for the severance pay of approximately 600 employees. That amounts to close to a quarter of a million per employee. I voted with Senator HELMS against the World Bank funds because it seemed to me that this portion of the urgent supplemental was designed more to fill the bellies of bankers than malnourished babies.

It also occurred to me last night that if the starving of Africa is so much on the minds of the Department of State that perhaps George Shultz' proposal that the taxpayers of this country build a mansion for him ought to be reviewed to see if that money might be best spent in one of the many nations of Africa suffering from famine.

I am sure the bureaucracy at the Department of State will have some clever reason why my logic does not suit them; however, I believe that it will suit the American people when the issue of the Shultz mansion is brought fully to their attention.

In that effort, I again applaud Senator HELMS' work. I agree in particular in this case with the comments of syndicated columnist Ernest B. Furgurson who is not particularly noted for his conservative views but who can recognize the Government extravagance for what it is.

Mr. President, I ask that the May 11 column by Mr. Furgurson entitled "Helms in Right in Panel Dispute Over Mansion," be printed in the RECORD.

The article follows:

[From the Raleigh (NC) News and Observer, May 11, 1987]

HELMS IN RIGHT IN PANEL DISPUTE OVER MANSION

(By Ernest B. Furgurson)

WASHINGTON.—Let's hear it for . . . Jesse Helms!

Yes, the Tar Heel terror is on not only the right, but also the correct, side of the latest controversy in the Senate Foreign Relations Committee.

In its questionable wisdom, a slim committee majority has approved construction of a permanent mansion for this and future secretaries of state. Helms is still resisting.

His passion might be related to his lack of love for George Shultz, who has been urging the special residence for years. The senator thinks Shultz is not tough enough on communism. But on the mansion issue, Helms could forget old and unbridgeable differences of ideology and make his case on common sense alone.

Shultz maintains that in this age of terrorism, he, as point man of the nation's foreign policy, is too conspicuous to be living in an ordinary, vulnerable private house in the capital's suburbs.

True, he has a departmental protection detail there and basic security devices. But accommodating those officers is a problem. His and their presence makes the neighbors nervous. Like the president and, in recent years, the vice president, he needs a home with high fences, high-tech security screens and comfortable quarters for a full-time force of agents.

He is not asking a personal favor; he expects to depart his job in less than two years. He is not asking a budget appropriation; this residence would be built with private contributions.

And his argument would be persuasive, if we had only three officials whose visibility and possession of top secrets made their safety mandatory. But in real life, we have several, even dozens, whose murder or kidnapping would be a fancy coup for terrorists.

There is the secretary of state, and there also is the secretary of defense. There is the director of the CIA and the director of the FBI. There is the attorney general, and the president's chief of staff, and his national security adviser. There are the secretaries of 10 other departments—not to mention the speaker of the House, the chief justice and others outside the executive branch.

Once this housing project starts, where does it stop?

When we decided in the '70s to provide a house for the vice president, an estate was there waiting: All we had to do was kick the chief of naval operations out of his mansion at Observatory Circle on Massachusetts Avenue. After that bill passed, then-Vice President Nelson Rockefeller declined to move in, preferring his own snug digs in the woods off Foxhall Road. But Walter Mondale and George Bush have been glad to have the mansion.

Such estates exist, but they are rare and expensive. Perhaps one could be found for Shultz and his successors but hardly for the whole list of those who should be protected. The only solution might be a VIP compound, something like the Kremlin, although much of that old walled fortress in Moscow is open to strolling tourists these days.

For the moment, the committee has voted 8-7 to order just the State Department to find a residence for its chief. The measure still has a way to go to become law—and on the way, Helms intends to ambush it.

Having barely failed to block it in committee, he plans now to amend it on the floor. He is a skilled hand with li'l old amendments like this one, which would have the effect of burning the bill on the Mall at high noon.

His amendment would set a price limit of $400,000 and a floor limit of 3,500 square feet, plus 500 feet for security staff. The secretary would have to furnish, decorate and maintain it himself and pay fair market rent plus utilities. No government employees could help run it. The secretary would have to return it to new condition on moving out.

You can just hear Helms and his staff cackling as they made up this list of conditions. He lives rather modestly across the river in Virginia, but out in Westmoreland Hills where Shultz dwells now, they ask that kind of money for an average bungalow.

No more than $1,000 could come from any one private contributor, the Helms amendment says. None could come from anyone having business interests directly or indirectly affected by the State Department.

Most hilarious of all, from the Helms viewpoint, is that "the house must be located in the city of Washington and in a census tract whose population reflects the racial diversity and balance of the city."

Westmoreland Hills is not in the city but just across in the Maryland suburbs. Washington is a 70 percent black capital. That balance is not reflected along Embassy row or anywhere else in the part of town where a secretary of state would be likely to look for a mansion site.

Not surprisingly, the State Department says meeting Helms' conditions is impossible. Actually it isn't impossible at all, just undesirable—not exactly what the secretary had in mind. Helms is offering Congress a way to correct the committee's mistake with a chuckle, instead of a grumble.●

MRS. MARY G. WINSTON OF INDIANAPOLIS—SMALL BUSINESS PERSON OF THE YEAR

● Mr. LUGAR. Mr. President, I would like to recognize one of my distinguished constituents, Mrs. Mary G. Winston of Indianapolis. Mrs. Winston is president of Winston Janitorial Services, Inc., and has the distinct honor of having been selected as the Indiana "Small Business Person of the Year."

Mary and her husband started the firm in 1953 and worked out of their basement with one desk and a chair. When her husband died in 1977, she continued the business on her own. At that time, there were 10 workers and annual sales of $100,000. By 1986, the firm had neared the $3 million mark in sales and employed 270 individuals. This is the largest female-owned Janitorial Service in Indiana, and her company serves as a Department of Defense prime contractor. In April of last year, her firm was given a 5-year service contract for Fort Harrison in Indianapolis. The length of the contract shows the confidence clients have in the company's work.

Mary is truly a remarkable person and provides a living example for all of us in her commitment to her work, the community, and the church. The oldest of 25 children, she has helped put 5 brothers and sisters through college, as well as numerous nieces, nephews and neighbors. As further evidence of her love and support for other people, she started the Mary Winston scholarship fund. The fund commences in the near future with a kick off in Indianapolis in which Governor Orr and Mayor Hudnut will participate.

I was given the distinct privilege of meeting with Mary on Friday, when she was in Washington for Small Business Week. Indiana is fortunate to be represented by a businesswoman with her remarkable talents. At the time of our meeting, Mary shared her belief that it is not what other people can do for her that is important, but what she can do for others. Her life provides a living example of this statement.●

STAFF REPORT ON BOLIVIA FOR THE SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

● Mr. D'AMATO. Mr. President, yesterday, my good friend, Senator DeConcini, introduced into the Record a report prepared by our staffs concerning narcotics control in Bolivia. I urge my colleagues to study that report carefully.

Members of our staffs were part of a congressional staff delegation that spent 5 days in Bolivia last month. They carefully examined current anti-narcotics efforts in Bolivia, which produces tens of thousands of metric tons of coca leaf every year for the illicit international cocaine traffic.

The report pulls no punches. It discusses in great detail the corruption, inefficiency, and other flaws that frustrate progress against narcotics in Bolivia.

The report also recognizes the significant cooperation between Bolivia and the United States, and the work of the dedicated people throughout Bolivia who are deeply committed to fighting narcotics.

Bolivian and American anti-narcotics forces are struggling against truly enormous obstacles:

First, there have been several missed opportunities to seize cocaine labs because Bolivian Air Force pilots have refused to fly the helicopters used on these missions. There are strong suspicions that the pilots have been paid off to prevent missions from taking place.

Second, the Bolivian economy is, in many respects, a "coca economy." Coca provides a lifelihood for about 50,000 peasant families and accounts for about 60 percent of the value of Bolivia's annual exports.

Third, as recently as March, Fernando Barthelmy, the Minister of the Interior responsible for the anti-narcotics effort, was forced to resign because of widespread complaints he was corrupt.

Fourth, the Roman Catholic Church has been driven out of several coca cultivation areas, and threats have been made against the lives of Catholic priests.

In all the bleak picture, there is some good news and reason for hope. Despite hyper-inflation, Bolivia turned to democracy, not totalitarianism. The Bolivian Senate has passed an anti-narcotics law. The Bolivian police forces known as UMOPAR in the Santa Cruz Department are working hard to destroy cocaine laboratories.

The experience with operation blast furnace has emboldened the Bolivians. Blast furnace resulted in no major unrest, and the economy weathered the drop in cocaine revenues.

The next several months will be crucial ones. By the end of this year, we shall see whether the forces of cooperation and progress, or those of exploitation and corruption, will prevail. The test will come during the debate on the proposed new anti-narcotics law and coca eradication campaign.

The Report Senator DeConcini and I are submitting for the Record is a helpful introduction to these most important issues. I urge my colleagues to give this report their careful attention.●

THE PSYOPS RENAISSANCE—12 PROGRAMS

● Mr. WALLOP. Mr. President, in the wake of such predominant issues as the narrow versus the broad interpretation of the ABM Treaty, authorizations for the coming year's defense budget, and the recent Iraqi bombing of a United States vessel in the Persian Gulf, other, equally important national security topics are often overlooked. One such neglected area is the omnipresent Soviet Psychological Warfare Program.

The Soviets have developed a successful psywar program which cuts to the heart of United States vulnerabilities. I submit for the Record, Mr. President, a speech given by Frank Barnett, president of the National Strategy Information Center, entitled, "The Psyops Renaissance—12 Programs," which outlines the ongoing

Soviet active measures program, and illustrates the need to reinvigorate United States policy to deal with this threat.

Interest in U.S. political warfare activities needs to be resurrected to the levels reached during the golden era of U.S. political warfare programs present during the world wars. Low level issues, such as those encompassed by the integrated Soviet Psywar Program, directed at the United States and its allies, are just as important as are the more publicized national security issues. And, the need for the United States to combat a Soviet program designed to weaken the United States will by exploiting the very fabric of our Nation and its people, is definitely an issue which needs examination.

The United States must not only acknowledge the severity and all-encompassing nature of the Soviet Psywar Program, but, in the name of promoting the security of our citizens and allies, we must begin to work toward a renaissance in the badly-neglected United States Political Warfare Program.

The speech follows:

THE PSYOPS RENAISSANCE—12 PROGRAMS

(By Frank R. Barnett)

Welcome to the second NDU meeting of "The Defense Waif and Orphan Society." I'm happy to see so many dauntless den mothers rallying to the aid of the long-neglected "Urchin on the Doorstep," psychological operations. Three and a half years ago, many of you attended our first welfare assembly; its parallel aim was to rehabilitate other undernourished stepchildren—counterinsurgency and special warfare.

That 1983 seminar resulted in a book entitled "Special Operations in U.S. Strategy."

Owing to the superior quality of the contents—plus its publication by the NDU Press—a few ideas from that volume have entered the policy mainstream. Hopefully we now stand on the eve of a renaissance for our specialized arts, with Congress showing positive interest.

Although many men in this room share credit for this renaissance, let me pay special tribute to five leaders whose persistent support have created the momentum that brings us together today.

Since they are all executives who put the *cause* above protocol, let me also disregard both rank and the alphabet by saluting as knights of equal valor; Dick Stilwell, Jack Marsh, Bill Casey, Fred Ikle, and Bill Yarborough. Much credit also goes to NSC staffers who are with us for this conference and are doing superior work. I also want to thank especially General Bradley Hosmer and his immediate predecessors at NDU—General Lawrence and General Pustay—for hosting and co-sponsoring the three-year effort. The case for special warfare and psyops has a far better chance for a fair hearing when afforded the hospitality of this highly respected forum.

It's a singular privilege for me now to introduce the President of NDU, formerly Vice Director of the Joint Staff Organization of Joint Chiefs of Staff. Lt. Gen. Bradley Hosmer earned degrees from the Air Force Academy and Oxford University. He is also a graduate of the Air University Squadron's Officers' School, the Naval War College C and A Staff Course, and the National War College. He is a command pilot with 160 combat missions in Vietnam. His military decorations include the Distinguished Flying Cross and the Legion of Merit. General Hosmer—we are grateful to be guests at your great University.

In the next 36 hours, you will hear much about military psyops, NSC steering groups and Pentagon reorganization. Some may think it odd that a conference on those sensitive matters, in a War College Hall, should be co-sponsored by civilians.

To me, the valid reason for private sector concern is that the primary target for Soviet psywar is public opinion. Anti-tank weapons hurt soldiers; but Moscow's psyops bombs disorient civilians.

As we meet today—in time of so-called "peace"—inside our own democracy—and in the equally vulnerable societies of Mexico, New Zealand, the Philippines, Europe, Japan and South Korea—ideological "radiation" is already inflicting casualties among civilian opinion-makers. So the private sector must study Soviet psywar to help protect itself. The private sector has already produced films on Soviet "active measures," and is publishing books on Soviet disinformation in five languages. It can and must do more.

Well—by this time next year, we hope everyone here will have earned the Order of Sun-Tsu with oak leaf transistors; but, as of now, most of the hard jobs lie ahead: and lessons from the past engender prudence.

I am old enough to recall the psyops "Golden Era." In World War II, together with the British, the teams of Elmer Davis and Wild Bill Donovan played a professional game versus the Nazis. At wars' end, Washington and New York City were home to hundreds of alumni of OWI and OSS. Stalin was almost as effective as Hitler in creating a consensus to oppose him. Gordon Grey lent his patrician prestige to the chairmanship of the Psychological Strategy Board, which had direct access to the President. I remember lunch with the legendary C.D. Jackson, Publisher of *Fortune,* Ike's top wartime advisor on psywar. He was busy setting up Radio Free Europe and Radio *Liberty*—in those exhilarating days called Radio *Liberation.*

In the presidential campaign of 1952, candidate Eisenhower and his future Secretary of State, Foster Dulles, promised to abandon the wimpish policy of "containment" in favor of a "roll-back" of the Iron Curtain from Eastern Europe. In auditoriums in Chicago, Detroit, Pittsburgh and New York, tens of thousands of Americans—with Czech, Hungarian, Polish, Baltic and Ukrainian origins—cheered Senators from both parties who spoke in honor of "Captive Nations Week." Rhetoric was underlined with legislation. In the Mutual Security Act of 1951, a bi-partisan vote authorized $100 million to create—from Iron Curtain exiles of military age—a Legion of *Freedom* to be attached to NATO for paramilitary and psyops objectives.

The Congress for Cultural Freedom financed hundreds of European scholars and journalists who supported NATO. In 1951, I myself worked for the "American Friends of Russian Freedom," a private committee set up by a young Wall Street lawyer named William J. Casey. Its non-profit aims were to promote the defection of Russian troops in Berlin and drive a propaganda wedge between the Russian people and their Leninist bosses.

That congenial climate for American psyops was polluted in the 17 years that followed 1956; not until President Reagan's Westminister speech was there again much sunshine. The theme of "liberation" was consigned to the dustbin by the crushing of the Hungarian Revolution, the "winterizing" of the Prague spring, and the building of the Berlin Wall. The brutal mismatch between raw Soviet power and ineffectual diplomatic protest was plain to see. And how could commitment to the eventual freedom of captive nations survive the Bay of Pigs, the Soviet share of the Helsinki Accords and illusions of detente?

So—as we re-emerge for the second half of the psyops game—the rules of history put the ball in play on our own ten-yard line.

Moreover owing to our passivity in the 60's and 70's, the Soviets have created among Third World students and politicians a Pavlovian antipathy toward capitalism, the Pentagon, the CIA and American imperialism. Even inside the NATO citadel, Red Army massacres in Afghanistan and the fate of Russian dissidents are minimized by the German Social Democrats and British Laborites who reserve their most ferocious disapproval for SDI and Pershings.

Moreover, under Gorbachev, we face the "modernization" of the war of ideas.

Just as the hardware of missiles can be modernized, so can the software of psywar. Stalin's primitive propaganda bombs were aimed at the "working masses" of America (and blacks!) in a crude effort to foment revolution against Wall Street. Today, new Soviet psyops warheads are precision-guided and independently targeted not on the "masses" but on the elite: scientists, lawyers, physicians, businessmen, Congressmen. From blatant polemics in the *Daily Worker* to low-key, plausible KGB lobbyists on Capitol Hill is a disquieting evolution in psywar software.

Also, Soviet "Twilight War" in the Third World is coordinated with an umbrella of "active measures" in Europe and the U.S. Moscow seeks to interdict the battlefield—not with air strikes—but with political warfare that discredits anti-communist resistance and dries up its logistical support from natural allies.

Gorbachev's new psyops advisors—Dobrynin, Yakovlev and Arbatov—are "cultural anthropologists" who have shrewd insights into the mores of the American media and the vanities of the American establishment. They are aided by Soviet market research and opinion polling, (unthinkable in Stalin's era). With up-to-date analysis of our societal delusions, they no longer need to rely solely on forcing alien concepts into our system. Now, they troll our mainstream for useful bits of idiocy—and simply repackage them. For example, the "nuclear winter" hobgoblin, so exploited by peace groups, was not invented by Moscow, but recycled.

Now, let me say a word about moral passion.

In the Third World—but also in Europe—Leninist agitators incite emotional frenzy—not just intellectual dissent—versus the military-industrial complex, and alleged American "crimes" in Vietnam and Nicaragua.

Communist psyops, in short, does not simply reach for "hearts and minds;" it activates envy, fear and anger.

In that subsoil of hatred, Soviet active measures take easy root and gain nutrients. How easy it is to believe something sinister about someone we already hate!

Let me make clear I do not suggest that America borrow the tactics of Goebbels or Suslov. We should not manufacture lies—and hatred is scarcely democracy's export product. But, one of the hallmarks of Western civilization has been the capacity of its peoples for "moral indignation" towards dictators who choke human freedom and squash self-determination for small nations. It is neither uncivilized nor anti-democratic to mobilize moral revulsion against tyrants.

Let us agree to detest apartheid and hate Hitler's holocaust. But where is the equivalent, emotional disgust for the communist Guleiters who supervise today's holocausts in Cambodia, Ethiopia and Afghanistan? Why need we smother outrage about today's concentration camps in Cuba and Vietnam?

Effective psyops must arouse the passion that generates commitment. We are entitled to righteous wrath.

So—in the psyops combat with Moscow, we need to add Szechwan spice to our insipid semantics. We refer to the Politburo gang as "adversaries" or "competitors." Such terms are more suitable to the context of the Olympic Games.

The men whose underlings have severed Europe with 1100 kilometers of barbed wire and mine fields—from the Baltic to the Adriatic—are not "opponents." They are barbarians. And Red Army troops who drop booby-trapped toys in Afghanistan as lethal gifts for children are "savages" and war criminals.

If we gloss over communist atrocities, we should not be surprised that much of the world adopts the posture of moral neutrality between Moscow and Washington.

We will not animate many audiences by observing that "East German security personnel collaborate in assisting the Soviet mission in Africa." We could, however, put the case more bluntly by saying that "The reborn Gestapo is alive and well, and enlarging Moscow's colonies in Africa." This is crude by racquet club standards—but it's true and may stir somebody's adrenalin. (By the way, I don't think the President or Secretary of State should use that language—but Senators and lawyers and labor leaders are not strangers to waspish slogans.)

How will we know when we begin to redress the balance in the psyops balance? The creative elan in this room will generate 100 specifics. Let me, as a agent provocateur, list twelve. We will begin to succeed:

(1) When the curricula of our staff and war colleges—plus those of our allies in Europe—include adequate instruction in ideology, psyops and subversive war. (In the military arts, Lenin is as relevant as Clausewitz.)

(2) When career foreign service officers and USIA professionals are "sensitized" to the same subject matter in their own institutes and training programs. Perhaps up to 70% of the official psyops mission should be the responsibility of civilian agencies.

(3) When DOD contracts to a task force of Russian scholars and East European specialists, together with psychiatrists and carefully screened Iron Curtain defectors to prepare sophisticated audio-cassettes for clandestine distribution—in time of crisis—to diverse national troops in the Warsaw Pact. The same expertise—based on a discriminating knowledge of Polish history, Hungarian culture, Ukrainian national pride, etc.—should be available for messages on black radio and Samizdat Underground Video. (The substance and uncertain delivery system of army leaflets need to be upgraded to become state-of-the-art psyops.)

(4) When professional U.S. psywar specialists attend future Helsinki, Geneva, Vienna, and Reykjavik-type conferences, to neutralize the current Soviet psyops edge ensured by the presence of Dobrynin, Yakovlev and Arbatov.

(5) When, on a NATO-wide basis, as there are now periodic meetings of Foreign and Defense Ministers, there will be annual meetings of Information and Education Ministers to discuss "Psychological Defense," including joint subsidies for the translation and distribution of important books. (In the battle of books the West is outgunned at least 12 to 1 by Moscow.)

(6) When the defunct Institute for Propaganda Analysis—set up in the late 1930's to monitor Nazi themes—is reconstituted to study and expose Soviet psywar gambits.

(7) When, in Paris or Rome, European intellectuals schedule "War Crimes Trials" for the Soviet empire, charging the Red Army and its Spetsnaz units with at least 40 Mai-Lai-scale massacres in Afghanistan.

(8) When American college students—in addition to building shanty-towns to protest racial apartheid—also erect Gulag prison huts to protest the abuse of dissident Soviet writers doomed to drug-induced psychosis by the wardens of Soviet clinics. And when American "Physicians for social responsibility" show social outrage against the Politburo for this unspeakable perversion of medicine.

(9) When more American schools of journalism and communication emulate Boston University and offer courses on how to safeguard U.S. media against Soviet active measures.

(10) When another dozen or so of our professional societies form their own "in-house committees" to mobilize private sector talent for the psyops game. The American Bar Association and the International Confederation of reserve officers have taken that step. The officers have a committee on "Psychological Defense" with a program focused on European public opinion. The ABA has a Blue Ribbon Committee of Lawyers which has trained thousands of teachers in communist propaganda strategy and refutes Soviet disinformation about SDI and Central America.

(11) When—if the Warsaw Pact assaults NATO—the U.S. Army—and perhaps our German and British allies—can quickly deploy trained specialists for "deep strike" missions athwart Red Army supply lines in Eastern Europe—their aim being to incite sabotage, defeatism and revolt among Poles, Czechs, Hungarians and East Germans who despise Russian hegemony.

The necessary "prelude" to such a contingency plan could be a variety of subtle, "Peace-Time" psyops targetted on a selected handful of East European military and political elites. That job would require finesse, cultural empathy and linguistic skills—talents which lie in America's melting-pot society.

(12) Finally, we can claim some success when American psyops—both private and governmental have together created an "opinion climate" that will permit, even applaud, the reversal of the Brezhnev doctrine.

Grenada was too small to be decisive. Afghanistan may be too close to the USSR and too invested with Red Army divisions to allow for a complete reversal. (Of course we should try even there, especially owing to the impact of Afghanistan's fate—one way or the other—on the future of Iran, Pakistan and the Persian Gulf).

Other opportunities for nullifying the Brezhnev fallacy that "the tide of tyranny is irreversible"—lie in Ethiopia, Angola, Nicaragua, Mozambique and Libya.

All those prison states are distant from Mother Russia. All have seaports vulnerable to blockade or quarantine. None have armed forces up to the quality or numbers of those in Vietnam or North Korea. In every case there is a substantial resistance potential.

Morally, each is an "outlaw" nation whose leaders specialize in everything from terrorism to Stalin's old technique of genocide thru forced starvation. (Mengistu, for example.)

It will not be casually-free to liberate even one of those outer islands of the Gulag Archipeligo.

But if we do, it may spare us blood and treasure, elsewhere in the third world, whence lie the oil, cobalt, chrome and manganese that underpin the productivity of Europe, Japan and the US.

Some place, we need to put the Soviet bandwagon of proxy warfare in the ditch. Some place, we must prove to wavering Third World leaders—fearful of Moscow's juggernaut—that the future no more belongs to the dogma of Brezhnev than it belongs to disproven Marxist economics.

Moreover, there is a strategic bonus to be derived from helping to liberate Angola or Libya, Nicaragua or Ethiopia, Mozambique or Afghanistan.

Even one such success would send seismic, political shockwaves back into Poland, the Ukraine, Lithuania and Mongolia.

The Politburo and Red Army marshals would be even more unsure of Warsaw pact allies. The liberation of a Third World satellite—plus vigorous psyops in both West and East Europe—would be another "deterrent" in another dimension. He who cannot trust the troops in his unstable coalition is less likely to put things to the test in the fog of war.

Thus endeth the Sermon.

Now to the Business Session.●

UNACCEPTABLE AIRLINE DELAYS

Mr. LAUTENBERG. Mr. President, for some time now, the problems of airline delays have been the focus of public attention. Delays are only one of the problems facing air travellers today. Unexplained cancellations, overbookings, lost baggage and generally poor service are among the difficulties plaguing commercial aviation today.

On Monday, the Wall Street Journal carried a disturbing piece, and I ask that this article be printed in the RECORD. This article shows that, contrary to the assertions of many in the industry, delays among our major carriers are not getting better. In fact, the problem is widespread and of great magnitude.

According to information filed by the airlines with the Department of Transportation, between March 1986 and March 1987, the on-time performance of many major carriers was dismal.

A flight is considered on-time if it arrives within 15 minutes of its scheduled time. This data does not indicate how long the delays were on average—just that the flight was at least 15 minutes late. For many passengers these days, that's almost considered early.

Piedmont led the pack of six carriers cited, with an on time percentage of only 70.2 percent. Continental was on time 67.4 percent in the same period. USAir arrived on-time 65.9 percent of the time. Eastern, American, and Northwest on-time percentages were only 62.3 percent, 59.9 percent, and 55.3 percent respectively.

For some of the carriers, the picture for March 1987 alone was even worse. Continental flights arrived within 15 minutes of their scheduled times only 56.9 percent. Eastern's average was only 56.6 percent, and Northwest's only 50.5 percent.

Mr. President, when an average passenger only stands slightly better than a 50-50 chance of arriving on-time on a major carrier, something is seriously wrong with the system.

To be certain, weather and legitimate technical problems can be a factor in delays. But statistics like this show the problem to be much larger than fog, snow, or thunderstorms.

Airlines are routinely scheduling more flights in a given time period than airports can handle. The airlines know they can't deliver, but still schedule and advertise those flights. It's deception, pure and simple.

Consumers are sold a product—a seat on an advertised flight, with a scheduled departure and arrival. They have a right to expect that what they bought will be delivered as promised—and that they'll get where they're going on time.

I have introduced legislation to address this issue. On March 17, I introduced S. 757, the Air-Carrier On-Time Reporting Act. This bill would require the regular reporting of on-time performance for air routes by airlines. That reporting would include information the average length of delays and number of cancellations on routes. This information would be made available to the public.

On April 23, I introduced S. 1088, the Airline Consumer Protection Powers Transfer Act. This legislation would transfer the authority for regulating misleading, deceptive, or anticompetitive practices in the airline industry from the Department of Transportation to the Federal Trade Commission.

It would also prevent airlines from engaging in deceptive advertising, requiring disclosure of seat limitations, policy on nonrefundability, and on-time performances for advertised flights. S. 1088 would also protect the rights of frequent fliers, preventing airlines from unfairly changing the rules in the middle of the game.

Such responsibility would clearly fall within the scope of the mission of the FTC. It's clear that we need a watchdog. The airlines need to know that there's somebody looking over their shoulder—and looking out for the consumer. The FTC should be that watchdog.

The evidence is clear. The airlines need supervision. This latest article gives graphic proof of this. Without it, consumers are being taken for a ride. And the DOT has not provided that needed supervision to date.

I hope my colleagues will take a good, hard look at what's going on in the airline industry. When they do, they'll see that something's gone wrong. And that something must be done. My legislation would take a giant step in the right direction. I hope my colleagues will support it.

The article follows:

LATE ARRIVALS: NEW FIGURES REVEAL AIRLINES' DISMAL ON-TIME RECORD

(By Jonathan Dahl and Francis C. Brown III)

In March, only 56.9% of all Continental Airlines' flights arrived within 15 minutes of schedule. During the same month, Piedmont Airlines Flight 17 from Boston to Newark left precisely on time just once. And USAir canceled 494 March flights.

For several years, airlines haven't released such performance figures. But partly because of an airline slip-up, some revealing on-time figures have become available at the Department of Transportation. Although incomplete, the data suggest the industry's troubles with delays are more widespread than previously thought—and more severe.

Even airlines that tout their on-time performance have less-than-stellar records; at American Airlines, only 59.95 of all flights from the beginning of March 1986 through March 1987 arrived within 15 minutes of scheduled arrival—the industry's standard for being on time. In fact, of the six carriers whose figures for that 13-month period were released, none had an on-time arrival performance exceeding 70.2%.

"The numbers are extremely poor," says Chris Witkowski, director of the Aviation Consumer Action Project, a Ralph Nader affiliated group. "It is pretty shocking that delays are that widespread."

INSIGHTS INTO CANCELLATIONS

The new documents, along with interviews with airline executives, also provide insights into the industry's scheduling practices and the causes behind cancellations and delays. Airlines have traditionally blamed weather, the air-traffic control system, and mechanical breakdowns. But in many cases, the airlines are at fault.

At USAir, for example, crew scheduling caused more delays than maintenance foulups in March, the latest month for which figures are available. Piedmont says up to a quarter of its delays are within its control; some flights, for instance, are held up by slow baggage transfers and ticket processing or by late-arriving passengers.

What's more, the documents show what many travelers have long suspected: Airline schedules are consistently wrong on many flights. That happens partly because scheduling is subject to so many variables; American's filing calls it "as much an art form as it is an exacting computer printout." But some carriers also admit they distort schedules to stay competitive.

Many airlines are taking steps to improve performance—and they say those efforts are paying off. Piedmont formed a special committee last fall to address delays; it says its on-time performance has improved 20% this year. And this month, American added 150 hours of daily scheduled flight time to make its schedules more reliable.

Such improvements can't come soon enough. Airline delays rose 25% last year and passenger complaints about delays nearly tripled last month from a year ago, says the Transportation Department. Several Congressmen have proposed bills that would make on-time records public. And the transportation agency launched a sweeping probe into the industry's delays.

The latest disclosures are an outgrowth of that probe. Already, the Department of Transportation has accused Delta Airlines and Eastern Airlines of engaging in "unrealistic" scheduling at Atlanta's Hartsfield Airport. The carriers deny this, but the government has expanded its probe. It has asked several other airlines to turn over their on-time records at Dallas-Fort Worth, Chicago's O'Hare and Boston's Logan Airports.

Much of that data is sealed, or buried in computer tapes that aren't readily accessible to the public. But Piedmont and USAir provided performance records for thousands of their flights out of Boston and some other cities.

And to the dismay of competitors, USAir released a monthly survey comparing its punctuality with that of five other carriers during a 13-month period through this past March. Piedmont also disclosed a weekly survey of the on-time performances at eight carriers in a recent six-week period. Competitors say they shared such data on a confidential basis, but USAir says it thought it couldn't seal the information; a Transportation Department official says it could have. Piedmont, meanwhile, concedes its survey slipped into the public record by mistake.

"It's a big screw-up," says Gordon Bethune, senior vice president of operations for Piedmont. (No airline disputed the data, although Eastern, Northwest and Trans World Airlines wouldn't publicly confirm it.)

In any case, the results from both surveys are hardly flattering—particularly during some weeks. For the seven days ended March 4, five of the eight airlines were late on at least 49% of their arrivals. Northwest met its schedule only 43% of the time that week. And for the seven days ended March 25, TWA's on-time reliability fell to 49% from 62% the prior week.

The performance records at USAir and Piedmont provide further evidence that schedules for some flights bear little resemblance to reality. USAir Flight 42 from Pittsburgh to Boston arrived at least 15 minutes late 76 out of 81 times in the first quarter this year—and was more than a half-hour late 56 times. In March, 81% of the departures on Piedmont Flight 14 from Charlotte, N.C., to New York's La Guardia Airport wre more than 15 minutes late.

But what's causing the industry's delays? Clearly, mergers are playing a dramatic role. The performance of both Northwest, whose parent, NWA Inc., bought Republic, and for Texas Air Corp.'s Continental, which merged with People's Express, New York Air and Frontier, fell 13 percentage points in March from the year-ago month. Those carriers acknowledge that combining their complex operations caused temporary delays.

Moreover, weather and an overburdened air-traffic control system accounted for many delays. Piedmont, for example, says air-traffic delays contribute to about half of its delays.

But seemingly small things play a big role too. Many travelers know that flights are more likely to be delayed in the winter and in certain crowded airports. But customer-service functions—like ticket writing and boarding procedures—are important too. Piedmont classifies many of the functions as "station controllable," and says that category accounts for 20% to 25% of its delays.

"These are thing that we should be able to do something about," says Mr. Bethune.

The category also includes baggage transfers—which American, in its filing, calls "a major and contributing factor to delays" at some airports. When travelers make connections, airlines have to transfer their luggage too. And that can sometimes take up to a half-hour, particularly at so-called hub airports where hundreds of flights connect each day.

"People can walk off their plane and get on a connecting flight a lot faster than baggage crews can work," says Melvin Olsen, vice president of capacity planning for American.

Airlines also routinely hold the last flight of the day to a certain city for connecting passengers. That's so those passengers won't be stuck in a city all night. While the practice obviously benefits many flyers, it means that certain flights will always be prone to delays.

"It's easier to tell people they have to wait two hours for the next flight, than to tell people they have to stay overnight," says a Piedmont spokesman.

Even the type of plane can affect delays. In March, USAir's 737-300 plane was on time 58% of its arrivals, compared with 72% on the airline's DC9-30. USAir officials say the 737 seats 28 more people, so passenger loading times are longer. They also say some aircrafts' baggage compartments are slightly better designed for faster loading and unloading.

But one of the most critical reasons for delays is simply the industry's scheduling practices. Critics charge that many carriers bunch flights at desirable times even when they know the airports can't handle them. The airlines deny this. But some carriers admit in the filings that they sometimes use in-air flight times that they can't meet on a consistent basis.

This happens, they say, because they are matching competitors' in-air times to stay competitive. Unless the matching stops, "some flights will have a published schedule which is not accurate," says American in its filing.

The time airlines estimate for taxiing may also be inaccurate in some cases. In March, USAir blamed half of its delays on taxiing-related problems. Most taxiing-out delays are a result of air-traffic controllers holding up planes before takeoffs. And some taxiing-in delays are caused by congestion and bad weather. But USAir officials also concede that some timetables for taxiing need updating.

BOSTON TO SYRACUSE

Aside from delays, the Department of Transportation filings also shed light on cancellations. Although airlines cancel only a small percentage of flights—USAir's 494 cancellations, for instance, represented less than 2% of its total March flights—those percentages add up to a lot of flights. On its Boston-Syracuse route, for example, Piedmont canceled 64 flights from last July through March.

The carriers say most cancellations are related to the weather. Still, several airline executives concede in interviews that when a plane on a heavily traveled route goes out of service, they may divert a plane with fewer passengers.

"We try to disrupt the travel of the fewest number of people possible," says Mr. Olsen at American.

Meanwhile, airlines are starting to attack their delay problems. Piedmont says it is more willing to leave late-arriving passengers behind to stay on schedule. It is also forcing pilots to arrive one hour before the first flight each day; apparently some were oversleeping, officials say.

Following Piedmont's lead, American says that next month it will abandon the practice of matching the fastest flight time "in favor of actual flight times" system-wide.

These and other measures, airlines insist, are improving their performance. American says for a seven-day period ended May 11, 75% of its arrivals, and 89% of its departures were within 15 minutes. Although they wouldn't provide figures, Continental and Northwest say their on-time performance has significantly improved in April and May.

But critics say it's too early to tell if delays will improve for the long term. They also say—and some airline officials concede—that many of the industry's steps so far are only Band-Aid solutions and that both the industry and the air-traffic control systems need more dramatic changes.

"Delays are still mounting," says Representative Nick Rahall, a West Virginia Democrat who introduced a bill that would require airlines to report their on-time performance records. "It's going to get worse before it gets better."

HAZARDOUS MATERIALS TRANSPORTATION LEGISLATION

● Mr. MITCHELL. Mr. President, today I join my colleagues in introducing legislation that provides needed training to emergency response personnel who must respond to a hazardous substances transportation accident. This legislation augments title III of the 1986 Superfund amendments that provided training for nontransportation incidents. The Resource Conservation and Recovery Act also provides protection from these substances.

Responding to transportation accidents involving hazardous substances is unlike responding to a normal traffic accident. The local fire or police departments are usually the first to respond. They need to be able to reliably identify the hazardous substances involved and the proper procedures for containing the substance. An inappropriate response may increase the risk to individuals responding to the accident, to the surrounding community, and to the environment.

The chances of a hazardous materials accident are significant, as are the chances of exposure. Over 1.5 billion tons of over 30,000 different hazardous materials were transported in the United States in 1982, according to the Congressional Office of Technology Assessment. In the same year, we transported hazardous materials 784 billion ton-miles using 467,000 trucks, 115,600 railroad tank cars, 4,909 tanker barges, and 3,772 commercial planes.

Unfortunately, Federal recordkeeping is so inadequate that the OTA was unable to provide reliable estimates on the percentage of transportation accidents involving hazardous substances. However, in Maine, our Department of Environmental Protection investigated 44 spills between 1984 and 1986, classifying 23 as serious. For the policeman or firefighter, even one accident that causes unnecessary injury due to poor training, equipment, or labeling is one accident too many.

It is usually the local policeman or firefighter who arrives first at the site of a release and is asked to make an instant determination as to the proper means of controlling or removing the contamination. There are approximately half a million State and local sheriffs and police personnel and 1.2 million firefighters in this country.

Each of them should be adequately trained and have proper equipment for handling hazardous materials. Labeling of hazardous materials needs to be accurate and easily identified so emergency response personnel can be sure of the characteristics of the waste.

Rural policemen and firefighters are most in need of training and equipment to respond effectively to these spills. It is often the case that the most experienced and well-trained personnel are those in urban areas. Rural personnel often have little training and equipment to respond safely to the situation. The more experienced hazardous materials response teams will often be unable to arrive at the site until hours after the release. In the case of air emissions in particular, the delay can be critical in providing a fully protective response to an accident.

We can solve this problem by assuring that all emergency response personnel—not just those in or near urban areas—receive the training and equipment they need to protect themselves and others from hazardous materials. We can also assure that these materials are clearly and accurately labeled so identification of the hazardous substance can be quickly and correctly made.

The legislation also provides grants to States and localities to designate hazardous materials routes, their relative safety, and enforcement of the routing system. Records on hazardous materials transportation will also be required to provide information for enforcement.

Those who ship hazardous materials or manufactures or repairs containers must register with the Department of Transportation. This is currently discretionary, but the legislation makes it mandatory. The Secretary of Transportation may establish a fee to cover the costs of legislation.

Each of the provisions of this bill is designed to help the State and local governments. The bill is not preemptive. So governments may continue to establish systems on their own, including fees, reporting requirements, and penalties. While some support preemption of State and local regulations in this area, I could not support any preemptive hazardous material transportation scheme.

This legislation, when coupled with title III of Superfund and RCRA, is another needed step in protecting the public and those who place themselves at risk when they respond to a hazardous materials release.

Even these steps, however, are only remedial in nature. The key to this problem is preventing accidental releases of hazardous substances. We need to do more to prevent hoses from leaking, tank cars from being punctured, and trucks from being in accidents. The reduction in the number of releases is the most effective response we can have, but it is not easily accomplished.

Today we take another step to assure the safety of our emergency response personnel. I will continue to address this issue, so the risks faced by workers, residents, and emergency response personnel are reduced because fewer hazardous substances are released into the environment.●

THE BIGEYE BOMB—NEW DATA, OLD PROBLEMS

● **Mr. PRYOR.** Mr. President, I do not know whether the Senate is ever going to get on to the business of considering the defense authorization bill, but while we wait to find out, I would like to talk about the Bigeye chemical bomb, whose planned production has been called into question by recent field testing results.

Our defense bill contains $5 million for Bigeye production—not much compared to the entire defense budget, but it is a lot for a bomb that is flunking its final series of tests and has been criticized for years.

What is more, Mr. President, approving this $5 million would be like letting the camel's nose into the tent. You see, there is close to $35 million of previous year budget authority that could become available for Bigeye production this fall.

The tests that prove the Bigeye unworthy of production began in January at the Dugway Proving Grounds. These hands-on, operational tests are the last chance to stop a bad weapon before it goes into production.

The results at Dugway were so appalling that the program manager decertified the Bigeye and suspended tests in March. Decertification means that problems were so severe that the bomb is no longer fit for testing.

Before I discuss the unclassified results of the Bigeye tests this spring, let me say that systems like the Bigeye must meet a reliability standard that can range from 80 or 85 percent to the high 90's. That means if 100 bombs are dropped, well over 80 of them must work properly or the bomb will go back to the drawing board.

According to DOD's Office of Operational Testing and Evaluation, the Bigeye was tested 10 times this spring before it was decertified. It appears to have completely failed 3 tests, succeeded in only 6, and the 10th test is being called a no test because of questionable data.

No wonder the Navy decertified its own weapon. Mr. President, the tests this spring give the Bigeye a miserable 60-percent reliability rating. These results will frighten the pilot who must carry the bomb more than the enemy on whom it will be dropped.

Furthermore, to date the test successes have been based on the basic mechanical functions of the bomb, which testers call its reliability. We do not yet have the results of the tester's effectiveness evaluation, which may well turn up more failures. In short, this analysis will review the six bomb drops that passed the reliability criteria to determine whether the binary chemicals mixed correctly and reached the intended target with adequate saturation.

I applaud both the Operational Testing and Evaluation Office and the GAO for their very good oversight and monitoring of the Bigeye Program. Without them I believe that the Congress and the Secretary of Defense would have a blurred picture of the Bigeye.

However, I am concerned by reports that the GAO has raised questions about the scope and adequacy of recent Bigeye tests. Unfortunately, the GAO is unable to brief most Senate offices on their observations at this time.

Even without the benefit of GAO's input, it should be clear to all in this Chamber that the Bigeye is far from ready for production and much less deserving of more production funding.

During the Bigeye debate last year, some of my colleagues claimed that earlier tests of the Bigeye were successful, that the GAO's longstanding concerns about the bomb were misdirected, and that the bomb was just about ready for production. That is clearly not the case.

Today the bomb has succeeded in, at most, 6 of its 10 tests. GAO's old concerns have been borne out. The new data clearly compel Congress to prevent production, if not to kill the program outright.

Mr. President, I will offer an amendment to the defense bill to prevent the obligation of any funds for Bigeye production—at least until we have a bomb that works. My amendment also will add $5 million to research and development accounts for the study of deep-strike chemical alternatives to the Bigeye bomb.

There are many problems with the Bigeye that we will discuss during debate on the DOD bill. But at the heart of the discussion will be our responsibility as keepers of the Public Treasury and trust to weed out wasteful and ineffective programs, like the Bigeye bomb, and move on to programs with more promise.●

MENTAL HEALTH MONTH—MAY 1987

● **Mr. DOMENICI.** Mr. President, since the beginning of the 100th Congress, we have worked hard to shape legislation for the homeless people of America. Studies show that about 40 percent of the street people in this country are mentally ill.

We called our legislation urgent. The House and the Senate passed versions of an Urgent Relief for the Homeless Act more than 6 weeks ago. Then we fell into a state of inaction. More than 1 month passed before conferees were named.

In the meantime, the 1987 supplemental appropriations bill began its tedious trip through the process. The funding for the urgent relief bill for the homeless is in this supplemental appropriations bill. The homeless who need our immediate help must wait until we resolve the budgetary and political difficulties inherent in this year's supplemental funding bill.

While many believe that the problems of homelessness are only cold weather problems, the truth is that mental illness knows no seasonal barriers. Whether it is cold or hot, schizophrenia takes its toll.

The month of May traditionally marks the completion of the full flowering of the beautiful azaleas and dogwoods in and around our Nation's Capital City. The trees are in full foliage and summer is around the bend. Life seems to call out its full glory in this beautiful city.

For the schizophrenic, the month of May means that many of us will ask more questions about the disease. During Mental Health Month we will hold conferences, seminars, hearings, and special events to raise the awareness of the plight of those with serious mental illness.

The sad truth is that our proclamations and good intentions have little bearing on the day-to-day suffering of the person suffering the confusion, isolation, and dangers of serious mental illness. Psychotic behavior scares away friends. Manic episodes can result in episodes of personal danger as the victim tries to direct traffic or otherwise overstep his or her abilities and/or responsibilities.

Most of us have seen a street person talking to the sky or to a tree. Some of them lecture us on politics, racism, religion, or doomsday. Others are shy and afraid. Some sing and dance and make us laugh by their carefree acts. A few seem menacing and even dangerous. They have all the faces of humanity, and most are in obvious need of help.

It is appropriate, Mr. President, to remind my friends and colleagues during Mental Health Month that our own view of ourselves as a nation looks back at us through these street people. We wonder why their friends do not take them home. We wonder if they have any friends or family still able to cope with them. We feel responsible, but we are not sure what to do.

We want to do something. Many are doing much. Shelters across this country have been started by Americans who see the problem and want to help these most helpless of Americans. They provide food, a bed, clothes, conversation, and health care. Yet, for all these efforts, many of the street people simply cannot be reached. The difficult cases are passed over to reach the more responsive ones.

Shelter workers are human too and are often amazed at the animosity or resistance that they meet. Burnout is a common shelter volunteer phenomenon.

Not all the homeless want our help. Many scoff at our attempts to do something for them. The problems of mental illness have spilled over onto our streets.

During Mental Health Month, Mr. President, I believe it is appropriate to reflect on the magnitude of this modern day leprosy. Witnesses before the Senate Appropriations Labor Subcommittee, while I was chairing earlier this month, told me that there are 30 to 45 million Americans suffering with some form of mental illness requiring professional help. Less than one-third of these ever receive any form of treatment.

Let me give that number in a different context. One out of six or seven Americans is suffering from some mental disorder or addiction at any given time. Among our 63 million children, 12 percent or 7.5 million have clinical disorders leading to drug or alcohol abuse, educational and social dysfunctioning, and even suicide. The suicide rate among our children has tripled since 1950. Among the aged, 15 to 25 percent have mental disorders with serious symptoms.

The social costs are enormous. Schizophrenia alone accounts for one-half of all the hospital beds for the mentally ill and one-quarter of all hospital beds. Schizophrenia, with over 1.5 million afflicted, is an especially large source of health care costs. There are, in addiction, over 9 million people struggling with manic-depression. Their hospital costs may not be as high, but the whiplash effects of this disease are unpredictable and can lead to crimes or totally passive behavior.

The total direct and indirect costs of mental illness and additions in the United States of America is estimated to be about $250 billion per year. Of this total, about $200 billion is in indirect costs such as lost productivity and the costs of service and income support programs.

In general, our Government responds to this problem of mental illness by providing various levels of community care and treatment. We also lead the world in research activity. Yet the problems persist.

A few months ago, we were all treated to the good news about the success of researchers at the National Institute of Mental Health. They identified a specific gene as a cause of manic-depressive illness and, thereby, opened a whole new era in the application of genetics to psychiatric disorders. Similar good news came about the genetic structure of Alzheimer's disease.

This is an exciting time in mental health research. New brain imaging techniques allow the charting of abnormal chemical and metabolic changes. The potential for this new tool is tremendous. There are more physiological links to psychiatric disorders than previously believed.

One witness stated that mental illness is "not a problem of will or a failure of self-control, but a medical condition like heart disease or high blood pressure."

The schizophrenia initiative at the National Institute of Mental Health "will focus on identifying the genetic and development aspects of schizophrenia and uncovering its neurogenetic base," according to another committee witness.

The amazing scientific techniques that allow the study of chemical substances involved in communication between nerve cells may lead to new treatment responses, drug dosage requirements, and the identification of high risk individuals.

Mr. President, there is a lot of news in the world of mental health. I started this statement by discussing our most obvious mental health problem—the homeless who are mentally ill. While estimates of homeless populations range between 350,000 and 3,000,000, their numbers do not reveal the depth of their problems. For official estimating purposes, the Congressional Budget Office uses the figure of 1,000,000 homeless people. If this is accurate, then we can expect about 400,000 to 500,000 of them to be mentally ill as well.

It would be most fitting, Mr. President, for the Congress to complete its homeless authorizing and appropriations legislation during this month of May, a period set aside as Mental Health Month.

I would like my colleagues to know that the conference agreement for the health and mental health components of the Urgent Relief for the Homeless Act of 1987 will incorporate my modified block grant approach to serving this desperate population.

While we may not yet know the full causes and consequences of mental illness, we must not delay our efforts to offer the homeless mentally ill at least some hope of easing their pain.

The key ideas for my bill came from a small pilot effort of less than $2 million at the National Institute of Mental Health. They tested different approaches to this fragile population in nine different cities. Their findings led to the principle service elements in my bill, cosponsored by Senator SIMON and others.

We offered, and the Congress accepted, a basic and commonsense approach to expand the efforts of local shelters in serving this difficult population. We have learned that there is a dual disenfranchisement among the homeless who are mentally ill. Busy shelter staff cannot and often will not spend valuable time on the mental cases. The community mental health centers do not want them. Their problems are too severe, and available resources can be used up by others.

This leads to the conclusion that the first step is to reach out to them. Outreach is the first and critical phase of the bill that will come to us for final approval. We will pay for a new national effort to find and treat the homeless mentally ill. Part of their treatment will be case management, or help in their daily living skills. A friend and social stabilization can be as important as psychiatric stabilization. Our bill does both.

To increase their chances of recovery, we call for a stable living environment or transitional living—transition from the street to some form of stability. Finally, we provide for staff training to help them identify and refer those who have the added burden of serious mental illness.

By completing this bill this month and providing the necessary funding, we can look back at Mental Health Month in 1987 as the month of new hope. We are all proud of our wonderful citizen responses to the homeless, but we have learned that the mentally ill among the homeless need more help. Our National Government can and should provide this help.

I view our efforts to reach out and help the homeless mentally ill as the hallmark of a new era. America will be able to say she is healthy and resilient enough to make needed changes in our government programs. We might have to give up something else that is not so timely, not so vital. But we must not ignore our responsibility to do what cries out for our immediate attention—the beginning of a new national effort to apply our scientific knowledge and social support to those in greatest need.

It will mean a lot to our own image of ourselves to be able to say that we are doing all we can for those who are clearly least able to do for themselves.●

THE JAPAN PROBLEM

● Mr. CHILES. Mr. President, last winter, an article appeared in Foreign Affairs called "The Japan Problem." It was written by the European journalist, Karel G. van Wolferen, who has lived in Japan for 35 years. It is perhaps the most insightful and compelling analysis of Japan that I have seen.

The article describes how the Japanese economy is fundamentally different from those of the Western democracies. It says that the Japanese economy is run through a partnership between central bureaucrats and entrepreneurs in which the overriding objective is industrial expansion. To quote the author:

> Freedom of the market is not considered a desirable goal in itself, but only one of several instruments for achieving the ultimate goal of industrial expansion. The economy is structurally protectionist in the sense that all kinds of informal, if not official, barriers to imports must ensure that foreign competition will not undermine its aim.

He tells us that we are merely deceiving ourselves in thinking that our market-opening initiatives have had a major impact. He says:

> International trade legislation of the most general kind is unlikely to have enough effect on Japan. Only action that specifically singles out Japan, in a carefully measured dose, will imbue the Japanese system with the sense that the situation has become intolerable for the United States.

I hope that my colleagues, and all Americans, will carefully read this article. It sends both a warning about our current course, and offers a sensible approach to dealing with the Japan problem.

I ask that the article be printed in the RECORD.

The article follows:

[From Foreign Affairs]

THE JAPAN PROBLEM

The relationship between the world's two greatest economic powers is in serious trouble. With a frightening momentum economic disputes between Japan and the United States are growing into a political conflict. Still, attempts by both sides to create a situation they can live with are unpromising. The Reagan Administration gives the impression of preferring to avoid thinking about it. Although the "Japan problem," as the fundamental conflict has become known, is already many years old, what must pass for a Japan policy in Washington is so unrealistic that it may make the situation considerably worse.

There is much more at stake that America's growing trade deficit with Japan. If present trends are allowed to continue they will eventually lead to a gradual loss of industrial capacity in the United States. At some point an irate Congress is likely to apply the brakes to these trends by passing undifferentiated trade legislation that is even tougher than what is being contemplated today. Uncontrollable consequences in Japan, including political instability and a xenophobic reaction, could follow.

What makes conflict between Japan and the United States so menacing is that the two countries do not know how to cope with each other. The United States does not understand the nature of the Japanese political economy and thus cannot accept the way it behaves. Americans can hardly be blamed for this, as the Japanese themselves present their country as simply another member of the community of democratic nations committed to the free market Japan is largely unaware of the threat posed by America's unwillingness to accept it for what it is. Never having experienced its wrath, Japan does not believe in the powers of the American legislature. The Japanese make things worse with ritualistic arguments and empty promises that only convince congressman, businessmen and other Americans that they are being deceived.

I believe that two fictions are central to the outsiders' inability to come to grips with Japan.

II

First there is the fiction that Japan is a sovereign state like any other, a state with central organs of government which can both recognize what is good for the country and bear ultimate responsibility for national decision-making. This illusion is very difficult to dispel, since diplomacy must take it for granted.

In fact, statecraft in Japan is quite different from that in the rest of Asia, Europe and the Americans. For centuries it has entailed the preservation of a careful balance between semiautonomous groups that share power. Today, the most powerful components of what I will call the Japanese System are certain groups of bureaucrats, some political cliques and clusters of industrialists. There are lesser ones, such as the agricultural cooperatives, the police, the press and the gangsters. These semiautonomous components, each endowed with great discretionary powers, are not represented in one central ruling body.

It is crucial to distinguish Japan from other nations with governments that are besieged by special interest groups or that cannot make up their minds because of interdepartmental disputes. We are not dealing with lobbies but with a structural phenomenon not encompassed by the categories of accepted political theory. A hierarchy, or rather a complex of overlapping hierarchies, is maintained, but it has no top. There is no supreme institution with ultimate jurisdiction over the others. Thus there is no place where, as Harry Truman would say, the buck stops. The buck keeps circulating.

Senate Majority Leader Robert J. Dole (R-Kan.) has written that he does not accept the excuse that "the career bureaucrats who run the government in Tokyo just listen politely and ignore the instructions of their political superiors." He finds it difficult to imagine "a political system in which the elected officials cannot get something done if it's sufficiently important." [1] Yet Prime Minister Yasuhiro Nakasone can imagine such a thing very well. He is a victim of it. He regularly finds himself in the classic Japanese situation in which he is ritualistically criticized for not showing enough leadership, and simultaneously rapped over the knuckles by the press and his peers in the ruling Liberal Democratic Party (LDP) for interfering in bureaucratic decision-making: A Japanese prime minister, in fact, has less power than the head of government of any Western country.

Although Japanese history has known experiments with centralized political power, they did not result in lasting patterns of government. The most recent and most important experiment was the famous Meiji Restoration in the second half of the 1880s when, after centuries of nearly total isolation, Japan was suddenly confronted with the turbulent community of world powers. But political power was subsequently dissipated, giving competing military groups the opportunity to hijack the nation and putting Japan on a course that led to Pearl Harbor and from there to Hiroshima and Nagasaki.

General Douglas MacArthur and his team of Occupation reformers arrived in 1945 to dismantle what was widely imagined to be the remnants of a solid dictatorship. The idea that it could have been the absence of strong leadership which had allowed Japan to contemplate its suicidal attack did not occur to anyone at that time.

After the postwar industrial reconstruction, which as an obvious choice for the nation hardly required strong centralized political control, the political assumption emerged that unlimited industrial expansion must be Japan's first priority. No politician made an issue out of this. The bureaucracy, which had been left almost entirely intact during the Occupation, was to administer this policy. The de facto one-party system of Japan, dominated by the LDP, guaranteed that there would be no disturbing confusion from messy parliamentary processes. But it also meant that the politicians abdicated responsibilities that the Western democracies are crucial for major policy adjustments.

No essential political decisions to change the priority of unlimited industrial expansion have been made since this period. Indeed, the political mechanism for such a momentous decision does not exist. The bureaucrats tinker with the economy by making adjustments that enable its further growth. Even though the Diet technically controls the national budget and finances, most of the time the politicians and everyone else keep out of the bureaucrats' way. The industrialists carry on expanding their market shares, enter new markets with the help of the bureaucrats, and are kept in line by their peers. As these different components make sure that none of the others become too powerful, this system guarantees an orderly state of affairs in Japan. The problem, however, is that looked at from an international perspective it is an anachronism, for its finely meshed all-Japanese components are glaringly deficient in providing the country with an effective foreign policy.

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[1] "We've Nothing More to Say to Japan but Open the Door," Los Angeles Times, March 31, 1985.

One major reason for nations to create and accept relatively strong central ruling bodies is that these are needed to deal with other nations. But after 1945, foreign policy requirements were no longer felt in Japan. In the late 1940s and 1950s, Tokyo discovered that all those activities by which a state is known and recognized externally could be carried out by American proxy. Japan is not only totally dependent on the United States for its defense, but also ultimately for its diplomacy in all its problematic international relationships. In effect, the United States provided the diplomatic shield behind which Japan could build its economy by neomercantilistic trade practices. Japan's so-called omnidirectional diplomacy (which, before Yashiro Nakasone became prime minister, presented to the world as an idealistic peaceful innovation in diplomacy) was an attempt to be all things to all men who bought Japan's products and sold it raw materials—that is, to the extent that America would tolerate.

So far there has been no reason to speculate about a Japanese "Gaullism" in foreign policy. Although it seemed that independent approaches to Beijing and Moscow were developing, these also were soon enough shown to be waiting for cues from Washington. This is not because the Japanese have an overriding desire to coordinate their foreign policy with that of their American ally, but because the bureaucrats in the Ministry of Foreign Affairs and other Japanese institutions are not in a position to accept the consequences of genuine shifts in policy or to deliver on promises made. Nakasone's rise to the prime ministership in 1982 has not led to any dramatic change. If Japan were ever to go it alone, it would first have to create a political center, and that would require the overhaul, if not the overturning, of its entire political-economic system.

III

The second fiction that hampers the formulation of an effective policy toward Japan is the premise maintained by the United States and Europe that Japan belongs with them in that loose category known as capitalist free-market economies. Although the Japanese economy is very extensively commented upon in the West, it still causes tremendous conceptual difficulties for foreigners and Japanese alike. Japanese officials usually bristle with indignation at the suggestion that their country is something other than advertised. Yet Japanese economists I talk with often remind me that Westerners writing on Japan commonly exaggerate the function of the market mechanism. On the other hand Western academic economists, including current presidential advisers, appear horrified at the suggestion that Japan does not in fact belong in the club of capitalist free-market nations. For many of them, the idea that there can be a successful economy which is not based on the free play of market forces is tantamount of heresy.

As Japan also clearly does not belong in the category of the centrally controlled Soviet-type economies, does it then belong to a category of its own, as quite a few commentators have implied? The rapid rise of South Korea and Taiwan as industrial states suggests that is is not the case: even when shorn of its cultural and psychological specifics, the Japanese "economic miracle" constitutes a model that can be pursued by at least some others. South Korea and, to a lesser extent, Taiwan—both states having a strong central government—have economies that appear to be driven by a phenomenal force similar to that of Japan, even in the absence of Japanese-style "harmony," lifelong employment, management techniques—all of which are often cited as reasons for the Japanese success. Analysis shows that a third category of political economies can exist, besides the Western type and that of the communist world. Chalmers Johnson of the University of California, Berkeley, has isolated this category of industrial nations and has labeled the type of Capitalist Development State.[2]

The strength of the CDS is a partnership between central bureaucrats and entrepreneurs. The bureaucrats never attempt to gain absolute power over the nongovernmental corporations. They guide the economy while using the entrepreneurs as antennae. The central planners of the CDS know what is happening at the periphery through constant monitoring of the experiences of capitalists trying to find new ways of making money. The mistakes the planners undoubtedly make are more than compensated for by the unified forces they bring to bear on industrial development. The economy prospers because promising areas of industry are stimulated by central policies favoring investment. Those that appear to have reached a dead end are more easily abandoned through policies forcing reorganization. In other words, it is a partnership that has an industrial policy and a trade strategy. Freedom of the market is not considered a desirable goal in itself, but only one of several instruments for achieving predetermined effects that are totally subordinated to our ultimate goal of industrial expansion.

The CDS is structurally protectionist in the sense that all kinds of informal, if not official, barriers to imports must ensure that foreign competition will not undermine its aims. It has to remain so if it wants to continue enjoying the proven benefits of this model. But, as is becoming abundantly clear, in the long run this causes political problems in its relations with other states. The question is whether the bureaucratic-entrepreneurial partnership will continue to flourish after its industries face market saturation at home and inhospitable markets overseas. Related to this is the even more important question of whether the international free trade system, made up of countries without a trade strategy, can survive as it struggles to accommodate the CDS.

It is not likely that the partnership between the state and private enterprise in Japan will break up. The official line is that the various forms of governmental guidance (if acknowledged at all) now carry much less weight with the private sector than in the past. This contention is habitually accompanied by a demonstration that current tariff regulations make Japan about the freest market in the world. In Japan, quite often—and always more frequently than in the West—what is true on paper is not true in practice. Japanese spokesmen widely advertise the fact that a number of foreign firms that have tried hard enough have been successful in their market. These firms are well known because they belong to the same small sample always mentioned in this context. A select few foreign firms receive assistance to serve as fresh examples of Japanese openness. What we should look at, however, are distribution systems in a few controlling hands, regulations dictated by Japanese competitors, new product standards, and other barriers that a potentially powerful foreign competitor faces in the Japanese market. The bureaucrats in Tokyo are extremely inventive when it comes to subtle controls and euphemisms for rendering them more palatable to foreigners.

Morever, what has given the Japanese CDS system durability is the obliteration of the line dividing private and public sectors. Japanese power relationships have evolved into something far more intricate than a "bureaucrats-businessmen partnership." In South Korea one can distinguish the government from the entrepreneurs; in Japan, however, it is not only impossible to locate a center, it is also not possible to separate the realms of public and private business. In the higher reaches of Japanese economic activity, bureaucrats, former bureaucrats in top business positions, and bureaucratically inclined leaders at the top of the business heirarchies are as one as they mingle with each other busily monitoring the economy. Antagonisms exist in the higher reaches of the system—quite a lot in fact—but they rarely, if ever, pit the formal organs of state against the industrial organizations. The great rivalries and territorial wars between the different ministries are significant and publicized, whereas genuine confrontations between the bureaucrats and recalcitrant corporations are almost never heard of. Only much lower down, among the newer firms and especially the vitally important sectors of small subcontracting firms, can one find more traditional entrepreneurs without strong ties to the bureaucracy.

Because it is impossible in Japan to extricate the state from the socioeconomic system, monumental communication problems arise when foreign businessmen or government representatives at the higher levels attempt to negotiate with what they think are their Japanese counterparts. The confusion is made even worse by the peculiarly Japanese institution of the "buffer," the person who is entrusted with the task of making contracts with foreigners as smooth as possible. Resident foreign through an intermediary community of English-speaking, "internationalized" Japanese who absorb the shocks that an unpredictable outside world might deliver to their institutions. These buffers can be amazingly frank, can convey genuine understanding of the foreigner's difficulties and create the impression of willingness to cater to his wishes.

Japan has a handful of super buffers who spend much time traveling the globe troubleshooting and explaining the Japanese case at international conferences. Two of them, Saburo Okita and the late Nobuhiko Ushiba, were even made ministers for external economic affairs. This increased the confusion further because they had no actual mandate to decide or negotiate anything. Ministers more influential than these two, or leaders of economic federations, and even the prime minister himself, often play the buffer role when speaking with foreign trade envoys. The foreign negotiator who arrives home yet again with the news that this time he has *really* talked with the proper authorities, who have impressed him with their readiness to take effective action, is deceiving himself. Such persons with the necessary board authority simply do not exist in Japan.

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[2] See, for example, his *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975*, Stanford (Ca.): Stanford University Press, 1982.

IV

Thus the communication gap appears as unbridgeable as ever, and Japan problem grows worse all the time. It is generally summed up by record-breaking trade surpluses: $45 billion in 1984 and $61 billion in 1985. For 1986, the Organization for Economic Cooperation and Development has projected a Japanese surplus of up to $85 billion; more than $50 billion of that will show up as a bilateral trade deficit with the United States. Japanese competitiveness and the inhospitality of its own market to foreign products are helping to bring about further de-industrialization in the United States and Europe. After the virtual loss of motorcycle and consumer electronics sectors in the United States, the Japanese are gaining leverage over such crucial industries as semiconductors, machinery and telecommunications equipment.

The number of trade bills introduced in Congress demonstrates that Americans think this is intolerable and that patience is wearing thin. But protestations from Washington, accompanied by demands that the Japanese market be opened wider, are met by little more than Japanese rhetorical assurances of their commitment to free trade. Efforts by the bureaucracy to ameliorate the situation are designed to keep the Americans quiet. They do not get to the root of the problem, for as things stand nothing can. As far as the politicans are concerned, many, if not most, have a stake in what is euphemistically known as *boeki masatsu*, or trade friction. They want to keep it from doing too much damage, and they instruct bureaucrats accordingly, but if *boeki masatsu* disappeared so would a lucrative source of income. This is because the sectors of the business community that most fear foreign competition at home through liberalization measures urged by the United States are also the most generous with political donations. As the various ministries involved in "liberalizing" blame each other for being the bigger obstacle to effective measures, they come up with minute compromises, presented together as "market-opening packages." The effect of the half dozen of these presented thus far has been practically nil. In mid-1985 much propaganda accompanied a so-called Action Program, but the nature of that effort was succinctly characterized by Foreign Affairs Minister Shintaro Abe, who called it a table of contents without contents.

To be sure, Nakasone has made quite a difference when compared to his four predecessors. He has continued a campaign, begun by former Prime Minister Kakuei Tanaka, to increase the leverage of the LDP politicians over the bureaucrats. For this, he has utilized the talents of the experts whom Tanaka had collected in his group, the largest and unquestionably the most powerful of the *habatsu*, or political cliques, of which the ruling party is a coalition. He has been helped by the circumstance that bureaucratic territorial wars over newly developing industrial sectors, like telecommunications, have given the politicians a relatively new function as arbiters. Nakasone has also found a new use of the *shingikai*—advisory committees expected to present high-minded schemes, long on abstract ideals and short on concrete proposals, which previous prime ministers could pass off as policy. He has handpicked *shingikai* chairmen and key members and does not leave it to their imagination as to how he expects to be "advised." But all this falls very much short of what Japan needs in the way of centralized power to cope with the problem of its economic relations with Europe and the United States.

V

Increased congressional pressure on the Reagan Administration has brought to the fore a double formula to help reduce the trade imbalance; push up the value of the yen and make Japan stimulate its economy.

Nakasone has shown his willingness to cooperate by directing an advisory committee under the chairmanship of former Bank of Japan Governor Haruo Maekawa to present guidelines for making domestic demand, rather than exports, the main engine for economic growth. However, the final version of the Maekawa report has been picked clean of the originally suggested concrete proposals by eminences grises from the important ministries, notwithstanding the fact that an angry Nakasone had ordered it rewritten in order to reflect an awareness of the hostile international situation that the Japanese economy was faced with.

While Nakasone was presenting this most recent token of Japanese goodwill in Washington last April, his countrymen were pulling the rug out from under him. LDP politicians said that they could not accept the Maekawa report. Top bureaucrats leaked their worries that Nakasone was misleading Reagan. The *Nihon Keizai Shimbun* (Japan's version of *The Wall Street Journal*) tore the report to pieces. And the *Asahi Shimbun* commented in an editorial, "Every time a political leader says one thing abroad and something else at home, distrust of Japan in the world community grows. It is ironic that Nakasone, who is proud of his diplomatic prowess, now repeats the same mistake."[3] Finally, the Ministry of Foreign Affairs weighed in with a statement that the report did not represent Japanese policy.

All this did not deter President Reagan, Secretary of State George P. Shultz, *The New York Times* and others from praising it. But suppose the Maekawa report were a truly serious blueprint for a campaign to stimulate the domestic economy of Japan, what good would it do America? The idea that Japan can help tow the world's less powerful economies has become untenable after all the years in which its domestic growth has not had any significant influence on the level of imports from the United States or Europe. When things are booming, raw materials find their way to Japan, of course, but not the finished products that America wants to sell there.

Perhaps in no other area is the inapplicability of conventional economic theory as blatantly obvious as in the case of the yen-dollar exchange rate. The current Administration in Washington is probably like no other recent government in its firm conviction of the healing powers of the free market. It is therefore no wonder that its favorite theory as to why Japan is competitive in America but America is not competitive in Japan revolves around prices. If only those Japanese goods in American shops could be made expensive enough, and American goods in Japanese shops cheap enough, everything would fall back into place again. Or at least the incredibly lopsided trade balance could be brought to proportions that one could live with.

Japanese officials and economic commentators had for years been pleased enough with the conclusion that the yen was undervalued, as this meant that the dollar was worth too much, which put the ball in America's court. Thus it was difficult for the Japanese monetary authorities to object when, in September 1985, the finance ministers and central bank governors of the five largest economies of the Western community agreed in New York to manage a decline in the value of the dollar. Nine months later the Japanese currency had appreciated by roughly 40 percent against the dollar, much more than either side had anticipated. This currency realignment is said to be a better reflection of fundamental economic realities.

Is achievement of American aims in sight with more expensive Japanese goods in American shops? Only in cases where higher prices will not endanger the market share that Japanese firms have in the United States. In some areas there is no longer any competition. In others, it is possible for Japanese exporters to subsidize vulnerable items with surplus funds from highly profitable company divisions.

Or, if need be, domestic prices will go up in order to offset losses in the overseas market. Cheaper American goods in Japanese shops? Japan's newspapers and magazines have been searching for months for instances where the benefit of the strong yen has been passed on to the consumer. Their findings all show that the effect is marginal at best and that in some cases prices of imported goods have actually gone up. Nakasone has repeatedly told his ministers to instruct those below them to see to it that not only the importers but the whole nation profits from the lower import prices. But the bureaucracy itself sets a bad example: officials who administer the government import programs of beef and wheat use their exchange gains to help subsidize the highly inefficient domestic agricultural sector.

In some industries the high yen is causing an acceleration of the shrinking that has been going on for years. In others, plans to move simpler production lines to the much cheaper labor markets in other parts of Asia have been accelerated.

But from the viewpoint of Japan's Western trade partners the most important thing that is happening is that the subcontracting firms are being forced to streamline. These are the hardworking, often tiny, outfits that occupy a key position in Japan's dual economy. They form a shock-absorbing cushion underneath the large conglomerates. They are currently being asked to absorb much of the exchange rate losses, and are therefore trimming their costs as never before. While more automation is introduced in these small- and medium-sized subcontracting firms, the larger Japanese manufacturers are buying parts in South Korea and Taiwan. Both measures enable them to continue exporting to the United States at roughly the old dollar prices.

In short, the Japanese System continues to shield the home market against imports, and Japanese firms are going to extremes in order to hang on to overseas market shares. There is a good chance that when the American effort to "talk the yen upwards" runs out of steam, the value of the yen will drop to the lower, fluctuating levels desired by the system. At that point the workers who were dismissed from the subcontracting firms, who have spent some time in the parasitic distribution system (which is a large reservoir of the would-be unemployed) or who have cultivated a few square yards of heavily subsidized rice paddy, will return to help make new cheap export products. With more efficient subcontractors, Japan will be commercially more battle-ready than ever. An intensification of the conflict appears inevitable as many billions of dollars are added to the bilateral trade deficit, as expectations in connection with new unrealized Japanese plans are frustrated, as Japanese attitudes begin to grate on members of Congress, and as new moral shortcomings are discovered of the kind conveyed by Nakasone's recent remark that America's minorities have lowered the nation's average intelligence level.

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[3] April 21, 1986.

VI

Anti-Japanese sentiment in the United States could conceivably surge, not the least because a great deal of criticism today is defused by the artificial means of Japanese money. No country has ever spent as much on officially recorded lobbying as Japan spends in Washington today. The Japanese government and corporations hire the best lawyers and former Administration officials to defend their position. A large proportion of academic research by American scholars of Japan is funded by Japanese institutions. For many real and supposed specialists who hold forth at seminars or conferences organized to improve "mutual understanding," defending Japan is their bread and butter. A large number of foreign businessmen and system in order to function in it, cannot risk alienating themselves from it by critical analysis.

In this context it is useful to know what in Japan is meant by "understanding." The Japanese connotation of this term is acceptance or tolerance. You show true understanding of people or things by accepting them the way they are if you are not strong enough to change them. If you have strength, the other party will show understanding by a certain degree of adaption to your wishes. Foreigners who keep on protesting about Japanese trade methods in spite of the many Japanese explanations demonstrate their lack of understanding. Europeans, who are less powerful than Americans, are also considered less capable of understanding Japan.

It has often been pointed out that Japanese are uncomfortable with the idea that they might actually be understood. The uniqueness and the spiritual dimension of being Japanese, which by definition cannot be grasped by foreigners (as Japanese constantly persuade themselves in schools and via the media), is too important an ingredient of Japanese self-esteem. In practice, therefore, "mutual understanding" implies that foreigners should accept the picture of Japan presented by its spokesmen.

With regard to the Japan problem, the bureaucracy, the business world, some politicians and many editorial writers routinely confirm the need for structural adjustments, for breaking through the traditional isolation and for a more responsible global role. On the other hand these same groups wage a rather successful campaign to portray Japan as the victim of unreasonable demands and criticism by less hard-working foreigners.

Some respected authors see an alleged American racism at the root of the problem, an interpretation that finds takers in the United States as well. There are echoes, too, of Japanese wartime imagery in which an American loss of will is contrasted with the strength and dynamism of a Japan where collective hard work is still valued. The United States is chastised for believing that its norms are universal by authors who may be oblivious to European protests (or indeed, those of China, Southeast Asia, Pakistan, and nearly everyone else). America is even taken to task for not appreciating the Japanese contributions to world peace.

Official American remarks are not always helpful in sorting out the Japanese confusion. It is hard for an observer in Tokyo to assess praise from Washington for measures that informed Japanese understand to be ineffective from the start. The Reagan Administration has eagerly presented Japanese financial "liberalization" measures as a fundamental breakthrough, when in fact they were designed to make Japanese financial institutions mored internationally competitive rather than to give foreign financial institutions a larger share of the Japanese market. In the area of market-opening packages, Washington announced success in sector-specific trade talks in the field of communications equipment while its negotiator on the spot was telling me that he had not yet finished negotiating. The Department of State and Defense still appear to believe that trade sanctions would endanger the status of American military bases in Japan. The different departments in Washington speak with different voices, not unlike the Japanese ministries.

Taking a longer view of the conflict, it seems pointless to apportion blame. In the eyes of the Japanese, it is the United States that wants to change things. As far as they are concerned the relationship is like a common-law marriage. No papers were signed, no firm arrangements established, but force of habit has forged something that is not less established and should not be less reliable than if a formal treaty had spelled out all the advantages that Japan today enjoys. In American eyes Japan does not perform commensurately with its wealth, in any field, so it is time for Japan to grow up and play a responsible role in the international community. Japan is all the more obliged to do this, according to the American perception, after four decades of American nurture, help and protection. The United States, of course, has helped create the current situation by providing diplomatic and military shelter for Japan, by discouraging strong central rule and by accepting, at least initially, Japan's postwar economic practices. But how could Washington have known what the results of all that would be?

VII

What does make sense, however, is for the United States to decide quickly on measures constituting a Japan policy, to stave off an otherwise seemingly inevitable confrontation that would harm the non-communist world and destroy what remains of the international free trade system.

A Japan policy must necessarily contain ingredients that diverge widely from accepted diplomatic practices between countries at peace. To see that clearly, it is useful to recognize how the Japanese System itself handles conflict. In Japanese society conflict is avoided, ignored, denied, exorcised by ritual, but rarely solved. There is no tradition of appealing to universal principles or of using legal procedures to keep order in society. Individuals and groups accept their positions and their lot because a stronger power holds them in place, although subtle acts of sabotage are expected and condoned. The ins and outs of the grand balancing act among the semiautonomous components of the system are not finally determined by reason, but by power. Conflicts between parties that have no hierarchical relationship with each other and refuse to accept subordinate positions fester and cannot be resolved. Conflicts with the outside world are comparable, as Japanese groups will not subordinate themselves voluntarily to foreigners, while the reasoning that outsiders bring to bear can never be convincing enough. The situation is insoluble unless, of course, the other country adopts the means of the system and forces recognition of proper positions.

If he listens carefully, the foreigner will quite often hear his contacts in Japan say that there will be no essential shift in policy until relentless and consistent outside pressure forces the change. The Japanese political-economic system fosters inwardlooking attitudes. It is incapable of selfless gestures, but it can react with alacrity once it is imbued with a pervasive sense of crisis. In the growing conflict with America no significant Japanese adjustments can be expected until the entire establishment has been thoroughly imbued with the idea that there is a new reality to which it must adjust, like the reality created by OPEC. No verbal threats serve this purpose, because they have for many years proved quite empty.

International trade legislation of the most general kind is unlikely to have enough effect on Japan. Only action that specifically singles out Japan, in a carefully measured dose, will imbue the Japanese System with the sense that the situation has become intolerable for the United States. The Reagan Administration could usefully give up its efforts to remind Japan of the teachings of Adam and jettison the fiction that Japan has a free-market economy similar to those of the West. It is one thing to fight the growth of government control over one's own economy but quite another to blind oneself to the Japanese reality of a highly controlled economy. To make the point perfectly clear it is necessary for the United States to stop agreeing diplomatically with the Japanese argument that American companies also must try harder to penetrate the Japanese market.

When the Japanese system has become fully alerted to the new reality, a modus vivendi must be arranged with it. One part of the new set of conditions could be direct fixed commitments between Western and Japenese economic institutions for an international division of labor. The "voluntary" quotas on car exports demonstrate the feasibility of such agreements. The cartelization that they necessitate is nothing new to the Japanese System, and would even be preferred by some of its components. Yoshihiro Inayama, the former chairman of Keidanren (the most influential club of Japanese industrialists), has actually stated that it would be better if the United States decided unilaterally to restrict the import of Japanese products until the trade imbalance is rectified.

It must be remembered that the essence of the problem is not that Japan exports much more than it imports, but that its exports systematically undermine Western industries. Peter Drucker calls this adversarial trade, as distinct from competitive trade whereby a country also imports manufactures of the same kind as it exports. Germany's trade surpluses are very large too but Germany practices such competitive trade, as does the United States.

The important thing for the American government to realize is that in order for the relatively free international trade system to survive, the world needs a different kind of discipline. The increasing impact of Japan's imitators and the possibility that China will in the future develop a CDS apparatus make it all the more urgent. The hue and cry in Japan that almost inevitably will follow such American measures may give the impression that the Japanese are being punished. But that will not be the case at all. Quite the contrary, by preventing waves of uncontrollable retaliatory protectionism, these measures will most probably preserve the health of the Japanese economy, considering how dependent it is on exports, and thereby promote continued political stability.●

DEATH OF GUNNAR MYRDAL

● Mr. MOYNIHAN. Mr. President, in February of last year, I brought to the attention of the Senate the death of Alva Myrdal, the Swedish diplomat, Cabinet Minister, and winner of the Nobel Peace Prize. Her accomplishments were an inspiration to me and to many others who knew her and followed her work.

Senators will by now have heard that Gunnar Myrdal, Alva Myrdal's husband of more than 60 years, died this past Sunday in Stockholm. Mr. President, in 1985, I gave the Godkin Lectures at Harvard University. I spoke on the subject of "Family and Nation"—the problems of the decline of the American family. This was nearly a half century after Gunnar Myrdal gave the Godkin Lectures at Harvard, in 1938. His lectures were later published as "Population: A Problem for Democracy." This led to his 1944 book "An American Dilemma," in which he wrote "America is free to choose whether the Negro shall remain her liability or become her opportunity." These works reflected Gunnar Myrdal's abiding concern for the plight of poor people, especially poor children, in his country and ours, and for the growing problems of race relations in America, which was to him a second home. These are issues that have occupied me for more than a quarter century now, and so Gunnar Myrdal, scholar and social reformer, has been—as Alva Myrdal was—a tremendous inspiration to this Senator. He was a visionary writer and thinker, truly one of the great public men of the 20th century. With his death and that of Alva Myrdal last year, one cannot help but think that we have seen the passing of an era. Such people come along perhaps only once in a century. We know that Gunnar Myrdal will not ever be forgotten; he will be hugely missed.

Mr. President, the New York Times of May 18 carried a lengthy obituary for Gunnar Myrdal. I ask that the obituary along with a similar article from yesterday's Washington Post be printed in the RECORD.

The obituary follows:

[From the New York Times, May 18, 1987]

GUNNAR MYRDAL, ANALYST OF RACE CRISIS, DIES

Gunnar Myrdal, the Swedish economist and sociologist whose 1944 book, "An American Dilemma," helped to destroy the "separate but equal" racial policy in the United States, died yesterday in a hospital in Sweden. He was 88 years old.

Reports from the Swedish capital said he had been hospitalized for more than two months. At his bedside were his daughter Kaj Folster and a grandson, Janken Myrdal, who said Mr. Myrdal had "died naturally of old age."

Mr. Myrdal, the 1974 Nobelist in economics, was the widower of Alva Myrdal, cowinner of the Nobel Peace Prize in 1982 for her efforts to promote world disarmament. She died in 1986.

A FOOTNOTE TO HISTORY

Mr. Myrdal has been called the leading economist and social scientist of his epoch. Statesman, reformer, dissenter, pacifist and foe of inequality, an architect of the Swedish welfare state, he literally left his mark in a footnote to history—the famous footnote 11 to the United States Supreme Court's 1954 ruling that segregation in public schools was unconsitutional. Listing sources to prove that schools could not be "separate but equal" because separation implied and enforced inferiority, the Court said, "See generally Myrdal, An American Dilemma 5/81944)."

The work appeared in two massive volumes in 1944, in an edition of only 2,500 copies; there have been about 30 editions since, but all have been small, with sales totaling 100,000. Nonetheless, the work has often been compared with Toqueville in its importance as a study of the United States.

"An American Dilemma: The Negro Problem and Modern Democracy" was Mr. Myrdal once said, "not a study of the Negroes but of the American society from the viewpoint of the most disadvantaged group." The predicament, he wrote, was the conflict between the ideals that white Americans proclaimed and their betrayal in daily life. He held that this was particularly true in the South, where, he argued, discrimination was due less to bias than to a failure of the courts and the police to enforce the Constitution.

Though segregationists protested that the Court had fallen under the influence of a radical foreigner, the Myrdal study was highly optimistic about America's ability to solve its racial problem—over-optimistic, as Mr. Myrdal would acknowledge. The study was infused with admiration for this country, which he called his second home. He had no doubt that the conflict between American idealism and the reality of racism would be resolved in a reasonable time. "No social utopia can compete with the promise of the American Constitution and with the American creed which it embodies," he wrote.

Above his desk in Stockholm hung two framed documents, the Declaration of Independence and a citation from Lincoln: "To sin by silence when they should protest makes cowards of men."

Explaining his views, an American friend, the economist Paul A. Samuelson, said, "He's always lecturing us like a Dutch uncle because he loves us." Mr. Myrdal, talking with a reporter in 1972 about his long campaign against the Vietnam War, remarked, "I don't say it's a pleasure, but for my conscience I could not say no."

"I've always been optimistic about America," he continued. "Why? Why do I sit here when I could spend my time with wine and girls, Because ideals mean something. They mean something special in America."

LEFT DEEP MARK ON HOMELAND

He also left his mark on Sweden, where he helped draft many social and economic programs, and to a smaller extent on South Asia, where he vigorously preached land reform. Furthermore, as a United Nations official he promoted East-West détente before it became fashionable, and as an economist he criticized orthodox patterns of thinking and pioneered new ones.

Born on Dec. 6, 1898, in the rural parish of Gustafs, in central Sweden, the son of Karl Adolf Myrdal, a railroad employee, he was christened Karl Gunnar but eventually dropped the first name. He studied law and then economics at Stockholm University, so impressing his teachers that on graduation he was named to the faculty.

He was also a brash young man, as later he was called a brash old man. The story was told that Gustav Cassell, the great Swedish economist, warned him, "Gunnar, you should be more respectful to your elders, because it is we who will determine your promotion." "Yes,," the young man is said to have replied, "but it is we who will write your obituaries."

In 1924 Mr. Myrdal married a fellow student, Alva Reimer, who became a leading feminist, pacifist and diplomat. They have three children: Jan, a writer and anthropologist; Sissela Ann Bok, an author and authority on ethics who is the wife of Derek C. Bok, president of Harvard University, and Kaj Folster, who is a sociologist, as her mother was.

Friends remark that the career of Mrs. Myrdal was wrongly overshadowed by that of her husband. Eleanor Roosevelt, meeting Sissela, said, "You're the daughter of Gunnar Myrdal, aren't you?" "Yes," she replied, "and of Alva, too."

AN ADVOCATE OF FEMINISM

Mr. Myrdal shared his wife's feminism. She accompanied him on a Rockefeller Foundation fellowship to the United States in 1929-30. Long afterward, he recounted, he told another grantee that he had persuaded the foundation to pay for wives, too, and the young man grumbled: "So it was you. I'd been looking forward to that holiday for years."

A classicist, Mr. Myrdal held that ideals, cultural attitudes and social structures were primordial in shaping economic ideas. But he was at first fascinated by the abstract mathematical models coming into fashion in the 1920's and helped found the Econometric Society, based in London.

Later, however, he accused the movement of ignoring the problem of distribution of wealth in its obsession with economic growth, of using faulty statistics and substituting Greek letters for missing data in its formulas and of flouting logic. "Correlations are not explanations," he wrote, "and besides, they can be as spurious as the high correlation in Finland between foxes killed and divorces."

Similarly, Mr. Myrdal was early in supporting the theses of John Maynard Keynes, maintaining that the basic idea of adjusting national budgets to slow or speed an economy was first developed in Sweden. But when the doctrine became orthodox he was well ahead of such other liberal Keynesians as John Kenneth Galbraith in abandoning it, on the ground that it ignored social justice and was used primarily to support inflationary policy; the brakes were seldom applied, and then they hurt the weak.

"I am often considered almost not a part of the profession of Establishment economists," he observed in an essay. "I am even referred to as a sociologist. And by that economists usually do not mean anything flattering. Another, in some respects likeminded, rebel, Galbraith, who in addition writes a beautiful and forcible English, is often handled even more rudely by being classified by his colleagues as a journalist."

DEFENDERS OF STATUS QUO DERIDED

As early as 1929 Mr. Mrydal unsettled the dovecotes of the profession with a book, "The Political Element in the Development of Economic Theory," that charged that orthodox economists distorted theory and logic to defend the status quo. Two years later his "Monetary Economics" called for government spending to combat the Depression.

He held later that such policies arrived in Sweden more by circumstance than intent. But with the accession of Swedish Socialism to power, he and his wife helped shape the welfare state. Their 1934 book "Crisis in the Population Question," diagnosed the declining birth rate in Sweden and prescribed family planning, sex education, public housing and child care.

As one result of their name became a household word: a Mrydal house is designed for large families; a Mrydal bicycle has two or more seats; a Mrydal sofa is a very long one; a Mrydal is a community of unwed couples; "to Mrydal" even become ironic slang for the act of procreation.

Mr. Mrydal occupied posts involving housing, population and banking, and served in the Senate from 1936 to 1938 and again after World War II. The Swedish economy recovered more quickly from the Depression than most others, and aided by the country's neutrality during the war, it grew to be the most prosperous, per capita, in the world, witnessing the virtual elimination of poverty and slums.

SWEDISH EXPERIENCE DEFENDED

This was often cited by Mr. Mrydal as disproving the common argument of economists that social change that raised wages and reduced the profits needed for investment would slow industrial growth. In later years he was scornful of suggestions that affluence and security had made Swedes neurotic and even suicidal (it was widely but erroneously believed that Sweden had the highest suicide rate in the world). "This is a fantastic lie," he said in a 1976 interview. "Why in the hell should the protection of your life from economic disasters and from bad health, the opening of education for your people, pensions for old people, nursery care for children—which should that make you frustrated?"

The comment illustrated a characteristic once described by Professor Samuelson: "Dr. Myrdal is anything but the taciturn, unemotional Swede; his volubility would do credit to any Viennese coffeehouse."

With the changes in Sweden well under way by 1938, Mr. Mrydal accepted an invitation from the Carnegie Corporation to direct a two-year, $250,000 study of Negroes in the United States. He liked to tell friends that he had been chosen because he "could play the innocent, dumb Swede."

This was never the view of the 48 writer-scholars he recruited, including such luminaries as Ralph J. Bunche and Kenneth B. Clark. "He drove himself," Dr. Clark once recalled. "He was enthusiastic, opinionated but stimulatingly so, constantly searching for answers and usually the first to find the. He was the optimist and I was the pessimist. Now we've shifted almost 100 percent.

FROM HOPE TO DISILLUSIONMENT

Mr. Mrydal predicted that American idealism and the Constitution would gradually assert themselves and discrimination would fade out in a generation. Gradually he became disillusioned.

In recent years he freely confessed to errors in "American Dilemma": It had underestimated the degree of bias in the North; it has predicted that unions would support Negro rights; it had failed to forecast the civil-rights upheaval in the South. He said he could not have foreseen the way technology would drive blacks from the farms and squeeze them out of factories, nor that the country would have permitted its cities to decay while whites fled to the suburbs.

"Any scholar expects to have errors," Professor Samuelson observed. "The point is to have interesting errors. I think that in 'American Dilemma' he did."

When riots flared in the ghettos in the early 1960's, Mr. Myrdal was still hopeful. He said the fact that blacks were fighting for their rights reflected their progress in jobs and education. But he warned that no solution would be achieved unless the country eliminated slums and poverty for all, poor whites included. He came to doubt that it would do so.

As the study was completed in 1940, the Nazis were overrunning Denmark and Norway. Mr. Myrdal returned to Sweden, where he helped shape an economic policy intended to finance an arms buildup in defense of neutrality. But he made no bones about where his sympathies lay. He publicly vowed that Sweden would not yield to the Nazis armies; with his wife he wrote a best seller, "Contact With America," in praise of its democratic institutions, and he spent part of the war years in this country as an economic advisor to the Swedish Embassy.

ERROR IN POSTWAR PROGRAM

Toward the end of the war Mr. Myrdal occupied himself with postwar planning. Like most economists he expected peace to bring on a depression. That view led to policy errors for which, according to colleagues, he received an unfair share of blame because his brash ways made him an inevitable target.

One measure was a trade-and-credit agreement with the Soviet Union, which Mr. Myrdal negotiated after his appointment as Minister of Commerce in 1945. In the event, money became tight, markets were not lacking and the deal was officially protested by the United States.

Though Mr. Myrdal was criticized by the Communists as a bourgeois reformist, he steadfastly favored exchanges with the East, and he spent the decade 1947-57 promoting them as Secretary General of the United Nations Economic Commission for Europe. In Geneva, Mr. Myrdal assembled what was regarded as a brilliant and pragmatic staff, but the realities of the cold war and Western embargoes limited its effectiveness. They also help explain why he was passed over as a successor to Secretary General Trygve Lie at the United Nations.

Toward the end of the tour in Geneva Mr. Myrdal became obsessed with the problem of poverty in the third world. He wrote a preliminary thesis, "Rich Lands and Poor: the Road to World Prosperity" (1958), in which he stressed his concept of "circular causality"—that backwardness in education and social structure worsens proverty, and vice versa.

At the same time he went to India, where his wife had preceded him to become Swedish Ambassador, and began a 10-year study financed by the 20th Century Fund. It culminated in the three-volume "Asian Drama: An Inquiry Into the Poverty of Nations" (1968). Here he was more pessimistic than in "American Dilemma." Exploring the societies of South Asia, he argued incessantly that land reform and a narrowing of social inequalities were prerequisites for eradicating poverty. Without them, he predicted, industrial expansion would only aggravate unemployment, while the "green revolution"—the modernization of agriculture—would serve to drive the poor off the land to the cities, where they would languish on foreign aid.

He described the governments of the poorer countries as "soft states," corrupt structures that, although tyrannical, were incapable of enforcing the social disciplines needed to effect reforms, spur growth and curb population. (Later, he observed that advanced Western societies were not all that different in this regard.) Critics were quick to point out that his assessment offered little hope for a solution.

"Asian Drama" also repeated Mr. Myrdal's warning that the United States was heading for a fall in Vietnam. It predicted that pacification and American-imposed land reform would fail, held that the United States had become a hostage of its client in Saigon and urged that it open negotiations with the Communists.

Returning to Sweden, Mr. Myrdal became a co-chairman of the International Commission of Inquiry Into U.S. War Crimes in Indochina and head of the Swedish Vietnam Committee, which helped inspire hospitality for American draft evaders and deserters. He also presided over the Stockholm International Peace Research Institute, a Government-financed agency that has been an important source of information on the arms trade.

He commuted to the United States, where he spoke at conferences and Congressional hearings and taught at the Center for the Study of Democratic Institutions in Santa Barbara, Calif., and at the City University of New York. Everywhere, he preached peace, reform and racial justice.

'DEFENSIVE SELF-CENSORSHIP'

Commenting on the fact that his war-crimes hearings had been ignored in this country, he said: "That is a defensive self-censorship. You are defending yourselves against knowing too well what the world thinks of you." Appealing before a Senate hearing for Government planning and spending to fight poverty, he said: "A strong America is a wise America. You are not very good losers. Every time you are losing, an element of insanity enters your thinking that is very dangerous. What you really need is not more private consumption but help for the poor."

Before a House subcommittee in 1969 he declared that the new Federal poverty programs were "spurious, badly administered and underconceived." He called instead for a "Marshall Plan" to help the cities and the poor, at a cost of a trillion dollars over a generation. "I don't think America can stand a defacto apartheid to much longer," he warned. "It is against the vision of America."

In 1974 the Swedish Academy of Sciences rendered a verdict of Solomon by splitting the Noble Memorial Prize in Economic Science, awarding half to Mr. Myrdal, the radical reformer, and half to Friedrich A. von Hayek, the conservative Austrian economist. Both recipients are said to have been annoyed by the pairing.

Two years later Mr. Myrdal said he had been caught off guard by the prize and should have refused it. He called for its abolition on the ground that economics was a "soft" science, loaded with value judgments.

The Noble citation read: "For their pioneering work in the theory of money and economic fluctuations and for their pioneering analysis of the interdependence of economic, social and institutional phenomena." The first part referred to Dr. Hayek, the second to Mr. Myrdal, who had done considerable work on monetary problems. He had popularized the word "stagflation" to describe the situation unforeseen by the orthodox: inflation combined with business stagnation.

THE PROBLEMS ARE COMPLEX

For nearly 40 years, Mr. Myrdal argued his thesis that economists reflect their own social biases and tended to err by reducing economics to abstract numbers. "In reality, there are no 'economic' problems," he wrote. Above all in the area of race and poverty issues, he accused his colleagues of underestimating moral forces.

"The Negro problem, like all other political problems, is fundamentally a moral issue," he said. "This is realism, not idealism. Those of my colleagues who believe that they are particularly 'hard boiled' because they overlook the fact that human beings are struggling for the consciences are simply unrealistic."

Interviewed in New York on news of the Nobel award, he was gloomy about the Ford Administration's program on inflation and the energy crisis. "I'm very scared at what's happening now," he said. "The trend at present is leading to hell. America is the one rich country with the biggest slums, the least democratic and least developed health system and the most niggardly attitude against its old people."

After their many years of marriage, Gunnar and Alva Myrdal were separated by illness in 1984, when Alva became permanently hospitalized. From then until her death, Mr. Myrdal reportedly visited her every week and called daily to check on her condition.

Mr. Myrdal is survived by his son, Jan, of Mariefred, Sweden; his daughters, Mrs. Folster of Gottingen, West Germany, and Dr. Bok of Cambridge, Mass.; eight grandchildren and two great-grandchildren.

Funeral arrangements were incomplete last night.

[From the Washington Post, May 18, 1987]

GUNNAR MYRDAL, SWEDISH ECONOMIST WHO SHARED NOBEL PRIZE, DIES AT 88

By Richard Pearson

Gunnar Myrdal, 88, a writer, social reformer, retired university professor and former Swedish cabinet minister, who shared the 1974 Nobel Prize in Economics, died May 17 at a hospital in Stockholm. The cause of death was not reported.

Dr. Myrdal was the author of the classic 1944 study on race relations in this country. "An American Dilemma: The Negro Problem and Modern Democracy," in which he described the oppressed condition of black Americans and the conflict between racial discrimination and the American ideals of equality and justice. The book has run through more than two dozen editions.

A Social Democrat, he was a former member of the Swedish parliament and was commerce minister from 1945 to 1947. He then spent 10 years as executive secretary of the United Nations' Economic Commission for Europe before returning to teaching.

After leaving the United Nations, he studied South Asia for 10 years. That research project resulted in his 1968 book "Asian Drama," a 2,400-page examination of the problems of economic development of the area, which voiced skepticism that they would ever be solved through western-style democracy.

His other books included "American Dilemma Revisited," "Beyond the Welfare State" and "Challenge to Affluence."

A lawyer and economist by training. Dr. Myrdal and his wife Alva became outspoken proponents of social reform and the welfare state in Sweden, advocating a planned economy that included state care for children, the poor and the aged. Mrs. Myrdal, who also had served in the Swedish cabinet and was a longtime diplomat, was co-winner of the 1982 Nobel Peace Prize. The Myrdals were married 61 years before her death in 1986.

The Royal Swedish Academy of Sciences, in the Nobel Award citation, hailed Dr. Myrdal and Austria's Friedrich von Hayek for "their penetrating analysis of the interdependence of economic, social and institutional phenomena."

The academy also recognized Dr. Myrdal's "pioneering work in the theory of money and economic fluctuations."

Karl Gunnar Myrdal was born in central Sweden's Dalecarlia province. His father was a railroad worker and his mother a homemaker. He grew up a small village in Dalecarlia, a province once regarded by many Swedes as the very center of provincialism. He later said that he spent half his youth in a village and half on a farm, a background that helped him acquire a political philosophy based on a combination of Jeffersonian liberalism and Swedish peasant democracy.

He entered Stockholm University at the age of 21, received a law degree there in 1923, and in 1927 received a doctorate in economics from that institution. Also that year, he published a book on price theory and took a job teaching economics at Stockholm. In 1929 and 1930, he traveled in this country as a Rockefeller fellow, then in 1933 was named a professor of political economy and financial science at Stockholm University.

In 1934, he and his wife published "Crisis in the Population Question," which looked at Sweden's declining birth rate in the midst of the Great Depression. It argued for greater state support for children. Dr. Myrdal was named to Sweden's new housing and population commissions where he was able to implement many of the social reforms he had advocated as leading theorist.

Before World War II, he served as a junior member of the board of the National Bank of Sweden and as a member of the Swedish senate. In 1938, he delivered the Godkin lectures at Harvard University, later published as "Population: A Problem for Democracy," and undertook the socio-economic study that was to become "American Dilemma" for the Carnegie Corp.

"American Dilemma," published in two volumes in 1944, became a classic in its field. An examination of "the least clean corner of the national household," it achieved enormous, and steady, sales.

It also achieved an influential readership. It was cited in the U.S. Supreme Court's historic 1954 decision in *Brown* v. *Board of Education*, which struck down de facto school segregation. One critic wrote that with this book, Dr. Myrdal had gained the reputation as the most perceptive critic of this country since France's Alexis de Tocqueville.

At the time it was published, "American Dilemma" was a controversial work. Dr. Myrdal's later criticisms of Americans' aversion to economic planning and the United States' involvement in the wars in Southeast Asia earned him scathing remarks.

In the 1970s, he criticized this country for its policies in agriculture, health and child care and its treatment of the aged and the poor. He said the cure of these ills might be found in a domestic Marshall Plan, named for the highly successful American effort in rebuilding Europe after World War II. He said the cost of the domestic plan would be not less than a trillion dollars.

But when he became chairman of a Swedish committee for Vietnam in 1968 and helped organize anti-war demonstrations, he stressed that he was protesting a war, not expressing anti-Americanism.

He told a Washington Post reporter in 1974 that he had spent so much of his time in this country over the years that he felt American. "I feel it in many ways," he said. "Nowhere else are the ideals of democracy so explicit. In that way, I feel American."

Dr. Myrdal did relish intellectual combat, and perhaps the Swedish stage was not large enough to contain him. He had a towering intellect, enormous curiosity and a tenacious belief in his own opinions. As a young economics teacher in Stockholm, he welcomed students with the statement that they had the rare opportunity to "watch all the old theoretical garbage being torn down and swept away."

After his Asian studies, Dr. Myrdal returned to Stockholm University, where he was professor and director of its Institute for International Economic Studies, and he often came to this country as a visiting professor. He was teaching in New York when notified that he won the Nobel Prize.

Dr. Myrdal and his wife were married on Oct. 8, 1924. She had a career as remarkable as her husband's. In addition to their joint work on social welfare reform, Mrs. Myrdal was ambassador to India and received her Nobel for work she performed while Sweden's minister of disarmament. During the 10 years her husband worked for the United Nations in Geneva, she worked for the U.N. in New York. At one point, she became its highest ranking woman.

Shortly before her death, she was asked how two such strong individuals could live together for so many years. She replied: "Gunnar and I are like ships in a convoy. Two different vessels, but we sail together."

Dr. Myrdal recalled in the 1974 Post interview that he had met his wife five years before their marriage when they were students at Stockholm University. Their first date was a bicycle outing.

"I remember that day and that date," he said. "It was the sixth of June 1919, not long ago."

Dr. Myrdal's survivors include a son, the radical and author Jan Myrdal, and two daughters, Kaj Foelster, the wife of a

German researcher, and Sissela Bok, the wife of Harvard University President Derek Bok.●

DEATH OF THE HONORABLE WILBUR J. COHEN

● Mr. MOYNIHAN. Mr. President, Wilbur J. Cohen, the distinguished former Secretary of Health, Education, and Welfare, died Sunday in Seoul. He had traveled there to speak at a symposium on aging and welfare, the issues that concerned and occupied him throughout his half-century career as a public servant and educator.

Wilbur Cohen's role in drafting the Social Security Act of 1935 and in virtually every American social welfare program is well-known, as is the enthusiasm and expertise he brought to those efforts. He was a tireless and inspired advocate for the needy, forever speaking out for those who could not speak for themselves. An editorial in today's Washington Post says "* * * Wilbur Cohen cared not only about 'the people,' but about individual people." Just one day before his death, the New York Times carried an op-ed he authored with Arthur S. Flemming, also a former Secretary of Health, Education, and Welfare, arguing convincingly for expanded Medicaid coverage.

Wilbur Cohen was a friend to this Senator for a quarter century. I knew him, as others in this body did, as a man of limitless energy and deep and sincere compassion. He was one of the great public men of the 20th century, and he will be hugely missed.

Mr. President, I ask that the obituary from Monday's Washington Post, the editorial from today's Washington Post, and the op-ed article by Wilbur Cohen and Arthur Flemming from the New York Times of May 16 be printed in the Record.

The material follows:

[From the Washington Post, May 18, 1987]

EX-HEW CHIEF WILBUR J. COHEN DIES IN KOREA

(By Martin Weil)

Wilbur J. Cohen, 73, Secretary of Health, Education and Welfare in the Johnson administration and a principal architect of the nation's social welfare programs, died yesterday in Seoul, where he had gone to make a speech.

From Franklin D. Roosevelt's New Deal to Lyndon Johnson's Great Society, from the original Social Security Act of 1935 to the Medicare Act that came 30 years later, Mr. Cohen was credited with playing a key role in creating the social legislation that transformed American life.

His death yesterday in Korea, where he was to speak at a symposium on aging and welfare for the aging, was attributed to a heart attack. Associates here said he died in his sleep.

As a young man who had just completed his studies at the University of Wisconsin, he came here and helped draft the landmark Social Security Act, which was one of the most enduring monuments of the Roosevelt administration and its efforts to bring the nation out of the Great Depression.

Mr. Cohen worked in the Social Security Administration for years, serving first as technical adviser, then as director of research and statistics. In these posts, he helped to expand both the benefits provided by Social Security and the numbers of individuals who were eligible.

"A Social Security expert is a man with Wilbur Cohen's telephone number," a U.S. senator once said.

Medicare, another of the mainstays of the nation's so-called social "safety net," also owed much to Mr. Cohen's ideas and his advocacy. It was seen as fruition of efforts in which he had been engaged since the 1950s to create a medical care program for the aged.

It was adopted by Congress in 1965, the year Mr. Cohen was named by President Johnson to be undersecretary of Health, Education and Welfare.

Although he spent decades in government, Mr. Cohen never appeared to adopt the image of the cautious, hesitant bureaucrat. A zestful, enthusiastic man, his warmhearted nature found expression in his work.

In response to the obvious zeal Mr. Cohen showed before a House committee in championing Medicare, a coauthor of the bill called "one of those government officials ready to risk their reputations and their professions to do their duty as they see it."

In recent years, Mr. Cohen was on the faculty of the Lyndon B. Johnson school of government at the University of Texas and was cochairman of the "SOS" coalition, a group created during the Carter administration that has argued against cutbacks in Social Security protection.

Mr. Cohen was born in Milwaukee on June 10, 1913. He studied economics at the University of Wisconsin, graduating in 1934. He came here afterward to work as research assistant to Edwin E. Witte, one of his professors, who headed the committee that drafted the Social Security Act.

"It was a heady atmosphere for a 21-year-old," Mr. Cohen said years later.

Over the years, as a Social Security official, Mr. Cohen helped put into effect provisions such as those that extended benefits to domestics, farm workers and the disabled.

During the 1950s, he left government for the academic world, teaching at the University of Michigan and at UCLA. He also served on a number of government advisory committees.

After he served in John F. Kennedy's 1960 presidential campaign in an advisory role, he was appointed in 1961 as assistant secretary for HEW for legislation, and in 4½ years in the post helped put into effect about 65 proposals in areas including not only Social Security but also civil rights, mental health, child welfare and vocational training and rehabilitation.

He became Secretary of HEW in the last year of the Johnson administration.

After leaving government, he returned to the academic world, first at Michigan, and then in Texas.

In addition to his wife, Eloise, survivors include three sons, Christopher, Bruce and Stuart, and five grandchildren.

[From the Washington Post, May 19, 1987]

WILBUR JOSEPH COHEN

It is rare for someone to come to Washington at the age of 21, spend decades in the bureaucracy and rise to a position in the Cabinet. It is even rarer for a high political appointee to be widely admired for his expertise and renowned for his amiable nature. This was Wilbur Cohen, who died last weekend at the age of 73 while traveling in Korea.

Mr. Cohen was secretary of Health, Education and Welfare in the Johnson administration. He served in government during the years when federally funded social programs were expanding rapidly. He had arrived in Washington when the Social Security Act was being drafted and was here through the heady days of the New Deal. In 1961 President Kennedy named him assistant secretary of HEW for legislation, and it was an ideal choice. He knew Capitol Hill and how it worked, and he was a strong advocate for the disadvantaged, whose needs were the primary responsibility of that department. It was a time when people in government were very optimistic about their ability to lift afflicted Americans out of poverty, ignorance and illness, and Wilbur Cohen was right in the middle of the action.

When civil rights laws were discussed, he was there. When legislation to protect farm workers was considered, his views were sought. He shaped training programs, child welfare standards and policies to aid the aging and the handicapped. He supported federal aid to education, health insurance and medical research. And when he left government formally, he did not withdraw from public life but continued to teach and to serve on countless congressional advisory panels, presidential task forces and social welfare advisory commissions. Through it all he took the time to know the working bureaucrats and staffers—he had been there himself, after all—and to express respect and gratitude for the contributions of others.

Like his friend Hubert Humphrey, Wilbur Cohen cared not only about "the people," but about individual people. Through a lifetime of working to improve the lot of others, he never lost his enthusiasm or his largeness of spirit.

[From the New York Times, May 16, 1987]

MEDICAID FOR ALL POOR NEW YORK FAMILIES

(By Arthur S. Flemming and Wilbur Cohen)

WASHINGTON.—On a recent afternoon in Albany, N.Y., we listened to the stories of a number of New Yorkers who are among the 37 million Americans—a number that grows by about one million a year—who do not have health insurance for themselves or their families. In Albany, as in other places around the nation, we heard of the terrible dilemmas faced when illness or accident strikes a family that is not protected by health coverage.

New York, however, has a particularly cruel wrinkle—a provision so restrictive as to exclude Medicaid coverage for families whose members are working but whose wages are nonetheless below the poverty level.

Jane Doe—a pseudonym for a Genesco, N.Y., woman who is rearing two children by herself—is one victim of the state's policy. After three years on the welfare rolls, during which she earned an associate's degree in accounting, she recently took three part-time jobs and is also studying for a bachelor's degree. She could not find any jobs in accounting, and none of her part-time jobs provide health insurance. Ms. Doe has high blood pressure, her 16-year-old son requires treatment twice a year for curvature of the spine and her 9-year-old daughter has asthma.

But Ms. Doe's family is about to lose its health coverage under Medicaid because her income of $9,700 a year, which is below the poverty level, is above New York's earnings limit. She cannot afford the $2,000 it would cost to purchase health insurance through one of her employers.

Ms. Doe could quit her jobs and go back on welfare where she would qualify for Medicaid, but she wants to work, even though it puts her and her family in jeopardy. Ms. Doe's predicament is all too common.

New York State's policy for qualifying people for Medicaid makes matters worse by discriminating against families. In New York, a family of two—say, a mother and child—can qualify for Medicaid if they are at the poverty level. But a family of four will not qualify for Medicaid if the family earns more than two-thirds of the poverty level. The bigger the family, the worse it gets. A working family of six that earns more than 51 percent of the poverty level salary loses access to Medicaid.

The result of this policy is that some 700,000 New Yorkers, including 300,000 children, who are living below the poverty level, do not qualify for Medicaid. Some 75 percent of these people live in families in which at least one member is working but at a job that is not covered by health insurance.

New York can take immediate measures to provide access to health care for these families struggling to stay above the economic brink. James R. Tallon Jr., chairman of the Health Committee in the New York Assembly, has introduced legislation that would assure that all New York families below the poverty line, without regard to fmaily size, qualify for Medicaid. Passage of this bill would correct a particularly egregious wrong in the health care system.

But New York's system, like that of the entire nation, will continue to be only a torn quilt, which we try to patch with measures that only go half way. As important as these intermediate steps are to many people, we need to build our nation's health care system out of a whole cloth, through a national health care program.

During our years in Government service, we both saw a steady increase in Americans' access to health care. In the last several years, there has been little concern for those who are losing health care insurance.

We believe that the tide is again turning. We sense a growing recognition that the United States can no longer afford a health system that commits huge amounts of its national resources in order to supply care to a shrinking proportion of our people.

We fully expect Congress to adopt comprehensive national health care coverage in the next few years. In the meantime, we hope that Governor Cuomo and the people of New York will provide health care to Ms. Doe and the hundreds of thousands of other New York families who, while living below the poverty line, do not now receive Medicaid.●

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 1928(a)-1928(e), as amended, appoints the Senator from Idaho [Mr. McClure] and the Senator from Pennsylvania [Mr. Specter] as members of the Senate delegation to the North Atlantic Assembly spring meeting during the first session of the 100th Congress, to be held in Quebec, Canada, on May 22-25, 1987.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendation of the majority and minority leaders, in accordance with Public Law 99-498, appoints the following individuals from private life to the Joint Study Commission on Postsecondary Institutional and Programmatic Recognition Process: E. K. Fretwell, of North Carolina; Sterling Provost, of Utah; Dr. Carol Guardo, of Rhode Island; Salvatore Rotella, of Illinois; and Francis J. Kerins, of Montana.

Mr. BYRD. Mr. President, does the Chair have further announcements?

The PRESIDING OFFICER. No.

ORDER THAT COMMITTEES MAY REPORT ON FRIDAY, MAY 22 BETWEEN 10 A.M. AND 3 P.M.

Mr. BYRD. Mr. President, while the distinguished acting Republican leader, Mr. Symms of Idaho, is on the floor, I ask unanimous consent that the committees may report on Friday, May 22, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF ORDER OF PROCEDURE ON WEDNESDAY

Mr. BYRD. Mr. President, earlier I entered an order which was agreed to by the Senate under which Mr. Pell would have been recognized in the second position in the lineup of amendments and points of order, and so on, on Wednesday when the Senate returns. I ask unanimous consent that the order of business be modified so that the Pell point of order occur last in the sequence following the Dixon amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXTENSION OF TIME FOR CONSIDERATION OF S. 795

Mr. BYRD. Mr. President, I ask unanimous consent that the period during which the Energy Committee may consider S. 795, an Indian water rights bill, be extended to June 30, 1987, under the same terms and conditions as provided for in the original referral consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on Wednesday next the call of the calendar under rule VII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO RESOLUTIONS OR MOTIONS OVER, UNDER THE RULE COME OVER

Mr. BYRD. Mr. President, I ask unanimous consent that on Wednesday next that no resolutions or motions over, under the rule come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR MORNING BUSINESS ON WEDNESDAY NEXT

Mr. BYRD. Mr. President, I ask unanimous consent that on Wednesday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of morning business not to extend beyond the hour of 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that during that period for the transaction of morning business, Senators be permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if he has any further business that he wishes to transact.

Mr. SYMMS. Mr. President, I would say to the distinguished majority leader that the acting Republican leader has no further business and wishes the distinguished majority leader a good weekend.

Mr. BYRD. The distinguished Senator from Idaho is a very gracious and courteous Senator. I thank him.

THE MEMORIAL DAY RECESS

Mr. BYRD. Mr. President, I also wish the Senator and all of our colleagues on both sides of the aisle a very restful period. It is a period for reflection, the Memorial Day holiday, in remembrance of the men and women who have given their lives in the service of our country in all wars. And during those days, of course, we remember others, those who did not wear the uniform of their country but who are near and dear to the hearts of their loved ones. I hope that Senators can return on next Wednesday with their strength replenished and their spirits lifted and we can have a full day of Senate business.

Mr. President, those wishes which I have expressed for Senators, of course, I express for all the officers and employees of the Senate, the pages and the representatives of the press, everyone who works to make this an institution that efficiently operates to get the business of the American people done.

ADJOURNMENT UNTIL 11 A.M. WEDNESDAY, MAY 27, 1987

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 127, that the Senate stand in adjournment until 11 a.m. Wednesday next, May 27.

The motion was agreed to, and at 8:01 p.m. the Senate adjourned until Wednesday, May 27, 1987, at 11 a.m.

EXTENSIONS OF REMARKS

THE CONSTITUTION: OUR QUEST FOR A MORE PERFECT UNION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. PICKLE. Mr. Speaker, it is my pleasure to offer for inclusion in the RECORD this speech given by you at the Smithsonian's symposium celebrating the bincentennial of our Constitution. I commend this speech to my colleagues, particularly at this time in our history, when as we celebrate the 200th anniversary of the Constitution, there is renewed emphasis upon the indispensable provision in which the Constitution reminds us of the role of our lawmakers.

THE CONSTITUTION: OUR QUEST FOR A MORE PERFECT UNION

[Remarks of Hon. Jim Wright, Speaker, U.S. House of Representatives]

"We the people of the United States, in order to form a more perfect union". That's the way they began it. And there is something in those words peculiarly fitting to our experience.

Tonight, as I welcome you here to this historic Statuary Hall, where the only other such ceremony as this occurred when the Queen of England brought the Magna Carta for our keeping during our bicentennial—I invite us to think together upon that unusual phrase: "A more perfect union." The grammarian may ask, "If the word 'perfect' is a superlative, how can a thing be 'more' perfect?"

And therein lies the clue. The society which gave birth to the Constitution was not perfect. It was far from perfect, and the founding fathers knew it. Perhaps they did not dare to dream that we ever would attain the goal of social perfection. But they dared to aim at the goal and to create an instrument which succeeding generations of imperfect creatures might use to work toward that goal of "a more perfect union."

America in 1787 was trouble. Times were hard. The Articles of Confederation were breaking apart. States levied taxes on one another's goods, and nobody paid taxes to the central government. It was deeply in debt and could not maintain an army. The British blockaded our ports, if a merchant seaman were able to run the blockade, he likely would be kidnapped by Barbary pirates who sold Americans into slavery in Algiers. Our national debt was so bad, so nearly insoluble, that there was talk of selling some of the states, Spain owned Florida, and was interested in buying the Carolinas. That was America in the year they wrote the Constitution.

We Americans are prone on such commemorations as this to engage in an orgy of self-congratulation. Perhaps it is well that a Justice of the Supreme Court has interrupted our monody of praise with a discordant criticism. Mr. Justice Marshall suggests that the Constitution was "defective from the start" since it required amendments and upgrading to attain the individual freedoms and human rights which he says "we hold as fundamental today." Of course the Constitution was imperfect, as were those who wrote it, and the culture it was designed to serve.

It was in fact an implement created expressly for the use of a society of morals, with all our faults and flaws and temptations to selfishness, in our collective efforts at self government.

The political history of the United States can be written in the steady continuous expansion of civil rights, of economic opportunity, and of social equality. None of these is yet perfected, but how very far we've come! And all of it has been done under the Constitution, using its procedures and its protections. It is true enough that its 55 authors compromised and temporized with moral absolutes and that in one such compromise they formally counted each slave as three-fifths of a person. The very fact that we now can be horrified at that is testimony to our growth and a tribute to the vitality of our charter document.

No, the Constitution did not ordain instant utopia. It was a creature of its time. But it was not bound to the mores of its time, and therein is its genius. It set in motion the machinery for achievement in each succeeding age of a continuous social revolution through peaceful means.

It was in the use of the Constitution that we established the Bill of Rights, validated universal manhood suffrage, abolished slavery, adopted the 13th, 14th and 15th Amendments, gave the vote to women and extended women's rights, provided direct election of Senators, enacted voting rights laws and opened the public schools to all without discrimination. Some of this was done by Constitutional Amendment, some of it by statute, some by Presidental proclamation, some by court order. But all of it was done under the rubric of the Constitution.

Rather than condemn those 55, therefore, for lacking the vision to foresee for the courage to decree in their own time all the 200 years of hindsight have enshrined in our modern acceptance, we should embrace them for providing internally in this document the mechanisms for lawful change and growth. To condemn the authors for lack of social conscience would be like questioning the geometric credentials of Pythagoras because he did not foresee the relativity of matter, or to disparage Copernicus because he failed to discover that $E=MC^2$.

The Constitution was not a static document. It is not anchored in time. It has tensile strength and contains its own-righting gyroscope. That's why it has endured for these 200 years.

Thomas Jefferson understood this. He said, "We might as well require a man to wear yet the cloak which fitted him when a boy as [to require] civilized society to live forever under the regimen of . . . ancestors."

The Constitution is an organic, living thing which must be fertilized, cultivated, pruned and watered by the nurturing genius and enlightened care of each succeeding generation.

Sometimes a moral absolutist or an ideological purist will be shocked upon learning that the founding fathers compromised. Indeed they did. Compromise was the soul of their offering. One cannot read Madison's notes on the Constitutional Convention, nor Elliott's debates, which record the trials of its ratification, without being acutely aware of compromise on every page, conciliation in every paragraph.

That they conciliated until they found consensus does not mean that they lacked conviction. To the crucible full of conviction that men should be free, they applied the pestle of their collective experience and the lubricant of mutual tolerance for one another's differences, their fear of too great a central power, their scorn of one too weak. They had lived fretfully through both and they wanted neither.

What they wrought was a legal framework within which succeeding generations have been able to synthesize and compromise our way to successive plateaus of social and economic betterment for plain people.

John Adams wrote: "I must study politics and war that my sons may have the liberty to study mathematics and philosophy . . . in order to give their children the right to study painting, poetry and music."

Those words set a theme for what has come to be called the American Dream. In an important sense, they describe the heart of the American experience. Throughout almost all of our history, each generation has been able to do a little better than its parents. For as long as anyone can remember, the American people have followed a path of upward mobility—not just for the few, but for the average American—for all of us.

The path has not always been smooth, nor the journey comfortable. We've progressed somewhat sporadically, in fits and starts, sometimes lurching, sometimes stopping. We have moved forward in great bursts of creative energy, followed by periods of assimilation and even social and economic retrenchment. Sometimes progressives have been ascendent, followed by conservatives, and then by progressives. Neither has destroyed the other, and we owe that to the Constitution.

During the 1960's, for example, we marched liltingly through an era of great social concern and governmental activism—as we had done in the 1930's. For the past 15 years or so we have paused to catch our breath, to enjoy our comforts and bask in our freedoms. Now we may be poised at the starting gate of a new epoch of social change.

In "The Angry Young Man" a young woman intercedes in an argument between her father and her husband. "Father, don't you see? " she pleads, "You are both angry! You are angry because the world is changing so fast, and he is angry because the world is changing so slowly." Just so, the Constitution contains and controls the anger of both conservative and liberal. It guarantees that each may have his say, but does not guarantee that either will get his way.

Toward the end of the Constitutional Convention in 1787, Ben Franklin pleaded that each delegate "would with me, on this

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

occasion, doubt a little of his own infallibility."

Yes, they were imperfect, as human nature is imperfect. Precisely because it is imperfect, they developed a system capable of accommodating its imperfections and of curbing its excesses. In their delicately contrived balance of powers and their careful delineation of the bounds of each branch of government, the founders of our system fashioned a kind of political flood control project, erecting streambanks and levees and dams to ensure that no one power could overflow its banks to overrun and destroy the rights of others.

Those powers, too, have waxed and waned. There has been an ebb and flow. Sometimes—as in the days following the civil war—Congress has been overreaching and over-assertive. From time to time the ambition and popularity of a charismatic leader in the Executive branch have raised the water line of his authority to a threatening level, sometimes spilling out over its banks. But the flood control system has worked. Soon the levees are reinforced and the streams of political power return to manageable channels. All of that is because of the Constitution.

It has worked, in the final analysis, because we have wanted it to work. With exceptions so rare that they only make the point, we have observed and respected the rule of law. No man and no power—not the President, not the Congress, no, nor in the final analysis, not even the Courts—may be above the law. Each must comply. That is the central message of the Constitution.

It is the responsibility of Congress to write laws. The Constitution commands the President to "take Care that the Laws be faithfully executed . . ." The founding fathers were most of all concerned that this nation be a democracy, not a monarchy, that we have a President under the law, not a reigning monarch above the law.

The first 10 Amendments to the Constitution are integral to it. Without them, it would not have been ratified. Since their adoption in 1791, it has been amended only 16 times. And since the 18th and 21st are self-cancelling the remarkable durability and lasting relevance of this document comes through in the fact that after the Bill of Rights, the Constitution bears only 14 Amendments for these 200 years.

Imperfect? Yes, it is imperfect. The action it set in motion is imperfect. We still strive for the "more perfect union" it promises. It is good enough, however, that William Gladstone 100 years ago described it as the "most wonderful work" ever created by the "brain and purpose of man." I am persuaded that the Union it formed, with all its human faults and flaws and mortal imperfections still is, just as Abraham Lincoln pronounced it in his day—and may it ever remain—the last, best hope of earth.

NATIONAL MARITIME DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BIAGGI. Mr. Speaker, National Maritime Day is the day set aside each year to recognize the American merchant marine and the seamen who serve on our vessels. It is also a day we remember those merchant mariners who gave their lives in the defense of this great Nation.

I can recall those days in 1942 and 1943 when our coastal waters were lit by the flaming remnants of U.S. ships destroyed by enemy submarines. I can recall the relief convoys that resupplied our European allies, and traveled the treacherous Murmansk route to rebuild the Russian defense. I can recall the Pacific campaigns and the support missions that were conducted by a proud and ever-present merchant marine. I remember seeing hundreds of vessels anchored off City Island, NY—an area I currently represent—preparing for convoy duty across the Atlantic. We must never forget those dedicated individuals who sailed into the unknown with little or no protection. It is most fitting for a grateful nation to remember the valiant efforts of those who died and those who are still with us.

Unfortunately, all the oratory in the world cannot atone for the 40 years during which we have ignored the needs of our merchant mariners who served in the war. Our civilian and military leaders, both then and now, praised merchant mariners, yet offered nothing beyond words.

It is my fervent hope that 1987 will be the year we change that by passing H.R. 1235, the Merchant Seamen's Benefit Act, and H.R. 1430, the Merchant Marine Decorations and Medals Act. H.R. 1235 will grant the few remaining merchant marine veterans of World War II medical and other veterans' benefits, comparable to those currently available for World War II armed services veterans. H.R. 1430 will assure merchant mariners are recognized with medals and other docorations for service to our Nation.

Today, we are in the midst of a battle as crucial as the great battles of World War II—the battle to save our merchant maine. Recalling the essential role of commercial shipping and the merchant mariner in past wars should renew our firm resolve to insure that when we are again called to defend freedom we will have a strong and healthy merchant fleet.

A viable U.S.-flag fleet capable of meeting the demands of war is the offspring of a competitive industry capable of meeting the challenges of peace.

There are numerous bills before Congress that reject the view that the decline of our merchant marine is part of the natural evolution of life.

We in Congress must give our operators the tools necessary to defend themselves against the unfair practices of their foreign competitors.

We in Congress must make certain that the cost of vessels and cargo-handling equipment parallels our competitors.

We in Congress must provide an operating-differential subsidy that is equitable and will permit our operators to compete against state-supported cartels.

We in Congress must insure that our merchant fleet has cargo, its lifeblood, to keep it alive. This can only be achieved through cargo preference and bilateral agreements.

In recent months, Congress has taken the first steps in this journey. We are moving legislation to make our liner operators more efficient and operating subsidy more realistic. Important bills that will provide the cargo our U.S.-flag operators need for survival are progressing. The House included in the trade bill provisions that will enhance our ability to fight unfair maritime trade practices.

We must recall the historical reasons for a strong U.S. merchant marine, and resolve to reserve the present decline in our fleet. The words of Santayana are so very appropriate for today: "Those who cannot remember the past are condemned to fulfill it."

There is no question we have far to go. We must overcome the shortsighted policy that will sacrifice our national fleet. We must recommit ourselves to an invigorated fleet—able to meet our peacetime needs and defend our Nation in time of war.

ARNOLTA WILLIAMS BRINGS DOWN THE HOUSE AT KENNEDY CENTER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BENNETT. Mr. Speaker, I have the distinct honor of representing Mrs. Arnolta Williams in Congress. She is a distinguished American and a treasured friend. We all talk a lot here in Washington of sacrifice, courage, and compassion. I know of no one who embodies those virtues more than Mrs. Williams. Mrs. Williams was recently given the United Way of America's Alexis de Tocqueville Award for outstanding voluntarism for Florida. Mrs. Williams is an exceptional human being whose light shines as brightly now as when she began her volunteer work some 67 years ago.

I submit for the RECORD first an article that appeared in the April 27 edition of our local newspaper, the Florida Times Union, which sums up the life of the lady we know as "Mamma" Williams. And then I include another article from the same newspaper's May 10 edition.

ARNOLTA WILLIAMS TO ACCEPT AWARD FOR UNITED WAY

(By Carol L. Lewis)

Listening to Arnolta Williams recount the highlights of a typical day gives you a hint of why she is affectionately called "Mamma" around Jacksonville.

One day last week she showed some land to prospective buyers, paid some bills, received a telephone call from a prisoner (someone she'd known since he was a child) who called to say that he had been transferred to Jacksonville, and visited a bank president to show the resume of a "clean-cut" young man who had been unable to secure a banking job.

As she moves around the city, it's obvious that Mrs. Williams, who turned 90 in December, has the interests of others at heart.

It is perhaps most obvious through her volunteer work, which began in 1920. Mrs. Williams is a founder and lifetime member of the Jacksonville Urban League; she is a founding member and president of the Gateway Nursery and Kindergarten; and she has worked with countless United Way Agencies through the years. And that's just a sampling of her volunteer jobs.

Tonight she will be at the Kennedy Center in Washington, D.C., to accept the

United Way of America's Alexis de Tocqueville award for outstanding voluntarism for Florida during United Way of America's Centennial Volunteer Leaders Conference. Past winners of the national award have included comedian Bob Hope and Vernon E. Jordan Jr., a civil rights lawyer and a past president of the National Urban League.

Although volunteer service is an important part of her life, Mrs. Williams mixes well in political circles, too. Besides serving as inspector of Precinct 10 (Martin Luther King Jr. Elementary School) for the supervisor of elections office for the past 40 years, she has supported the campaigns of politicians including Sen. Bob Graham and Mayor Jake Godbold and former President Jimmy Carter. Former first lady Rosalynn Carter is a friend of hers.

"I had a reception for Rosalynn Carter right here, the only house in Jacksonville that she visited when she was here. You should have seen all of those security guards out back," she said.

Although Mrs. Williams knows many politicians on a first-name basis, she thinks her endorsement of a candidate means little.

She has no power in controlling a person's vote, not even that of her own daughter, she said.

"The voting process and the black voter have become very sophisticated. There is no such thing as a black block vote," Mrs. Williams said.

As she paused to watch the local evening news during a recent interview, she recognized some of her "boys."

"That's my boy," Mrs. Williams said as she watched a Jacksonville mayoral candidate on the newscast. "If they are doing something, I call them my sons. White, black, blue or green. I tell them they are my integrated sons," she said a sparkle in her eyes. "I say to them, 'I'm your mamma.' "

In return, politicians, leaders and some blacks and whites affectionately call her "Mamma."

The youngest of three children, Mrs. Williams was reared in Charleston, S.C., by her father and grandmother. Her mother died when she was 9 months old.

"My grandmother was devoted [to the family.] I did not know that she was not my mother until we had grown up. It was a very close-knit family," she said.

Her father, a contractor, who remarried when Mrs. Williams was 13 years old, was a "dear, dear, gentleman," she said.

After she graduated from Benedict College, Columbia, S.C., in 1917 with a bachelor's of arts in education, Mrs. Williams became dean of girls for one year at the Americus (Ga.) Institute. In June 1918, she married Dr. I. E. Williams, a practicing physician, and moved to Jacksonville. Her only child, Hortense W. Gray, was born the following year. She is now a counselor at Florida Community College at Jacksonville. She has one granddaughter, Charlene, who is a junior in Winthrop College, Rock Hill, S.C.

Mrs. Williams' husband, a native of Trinidad, practiced at the old Brewster Hospital. When the hospital evolved into Methodist Hospital, Williams was named chairman of internal medicine.

Williams didn't approve of his wife working outside of the home. After she moved to Jacksonville, she taught for one week at Oakland High School, before her husband asked her to resign.

"He was very brilliant, very thorough and very businesslike. He did not believe in giving money to the wife. He set up accounts for me all over town," she said.

For years, Mrs. Williams wrote The Passing Throng, a column about blacks, for the weekly Florida edition of the Pittsburgh Courier. She did so without her husband's knowledge because she knew that he wouldn't approve.

Since her husband's death in 1970, she has become more involved in volunteer work and community functions.

"I've continued to go, and I like people. I'm very active, completely uninhibited," she said.

Saying that Mrs. Williams is active is an understatement. Her other volunteer service to the community has included work for the Boys Club, the American Red Cross, the Council on Aging, Volunteer Jacksonville and the YWCA. She is a former president of the Ladies Auxiliary of the Jacksonville Medical, Dental and Pharmaceutical Association. She also has served on the foundation boards of Methodist and University hospitals and Florida Community College at Jacksonville. She has been a member of the Mayor's Commission on the Status of Women, the executive committee for the Democratic Party and was a Florida delegate to the White House Council on Aging in 1981.

Her awards have included the Golden Rule Award for outstanding senior volunteer, a finalist for the Times-Union's EVE Award in 1984 and a certificate from the U.S.O. for 5,000 hours of service. On May 9, she will receive an honorary doctorate of humane letters from Edward Waters College.

Dr. Cecil Cone, president of the college, described Mrs. Williams as one of the college's strongest financial supporters. She has also been successful in getting others to donate funds to the college.

Mrs. Williams, who credits God for her longevity, continues to drive and is an avid reader of daily newspapers and the Bible. Her hobbies include writing, crocheting afghans and watching movies. Occasionally, she exercises on her daughter's exercise bike.

Mrs. Gray, who shares the home with her mother on Ribault Scenic Drive, said she has never felt pressure to walk in either of her parents' footsteps.

"I've always been encouraged to create an image of my own and to make a contribution. I'm a person and I'm not a clone," she said. "I wanted to be known as Hortense Gray, the person and not the daughter of. Both of my parents have motivated me. I can't say enough about all the advantages. I have accomplished enough to feel important and proud as a daughter. I'm grateful."

Mrs. Williams said she is enjoying life and can't think of anything that she would change.

When Mrs. Williams is asked to speak at community functions, she often shares one of her favorite quotes with the audience: "To know how to grow old is the masterpiece of wisdom and one of the most difficult chapters in the art of living."

ARNOLTA WILLIAMS BRINGS DOWN THE HOUSE AT KENNEDY CENTER AWARDS CEREMONY

(By Wini Rider)

"All of Washington fell in love with 'Mamma' Williams," said Darleen Unger, about Arnolta Williams' recent appearance on the Kennedy Center stage.

Both women were in the nation's capital for the United Way of America's Centennial Volunteer Leaders Conference. Mrs. Unger was there as chairman of Northeast Florida's United Way 1987 Centennial Celebration, and Mrs. Williams was there to receive special recognition as Florida's winner of the 1987 Alexis de Toqueville Award. Former President Gerald Ford and actor Gregory Peck were co-hosts for the evening.

Mrs. Williams, 90 known to many in Jacksonville simply as "Mamma," was selected from hundreds of nominees across the state to receive United Way's highest tribute to voluntarism. She, with other volunteers from every state and some territories, were presented their awards by Peck.

"Gregory Peck introduced her and she brought down the house," Mrs. Unger said. "She walked on stage with her hands clasped over her head like a champion prize fighter."

The Alexis de Toqueville Award was created in 1972 by United Way of America to recognize volunteers. The award was named in honor of de Toqueville, the French philosopher and historian, who admired the spirit of voluntary effort for the common good that he observed during a nine-month visit to America in 1831. He recorded his thoughts on the subject in his book "Democracy in America."

Said the Washington Post in a write-up of the event: "If [de Toqueville] were writing "Democracy in America" today, you can bet he would write about people like Arnolta J. Williams.

"Mrs. Williams, a volunteer for more than 70 years is president of Gateway Nursery and Kindergarten, a center providing care for 90 underprivileged children in Jacksonville, Fla.

"Only by the good will of the citizens of the city and the state can the country survive,' Mrs. Williams declared."

Others who have won the award have been Pete and Carrie Rozelle, George Meany, Vernon E. Jordan Jr., Henry Ford II, and Bob Hope.

INTRODUCTION OF THE FEDERAL INDUSTRIAL EXTENSION ACT OF 1987

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BOEHLERT. Mr. Speaker, today I am introducing the Federal Industrial Extension Act of 1987, which I urge my colleagues to cosponsor. I expect a Senate counterpart to the measure to be introduced shortly.

This bill aims to solve the conundrum that lies at the heart of our economc dilemma: The Unites States continues to lead the world in research as it continues to fall behind in international trade. Simply put, other nations are better at applying our scientific and technological breakthroughs than we are. Particularly serious is the glacial pace at which many small- and medium-sized manufacturers take advantage of new technology and management practices.

Experts of varied background and political stripe have concluded that State industrial extension programs hold out the best hope of overcoming this obstacle to economic progress. In these programs, experts—usually from universities—work directly with individual companies to improve their ability to compete.

This is not a new idea. It is based, of course, on our venerable cooperative extension system, which has helped make American agriculture the envy of the world. And the Federal Government has made sporadic attempts at applying the concept to the industrial sector. The State Technical Services Act of the mid-1960's was the most recent and probably the most successful effort to foster State technology transfer programs.

A 1969 review of that act for the Nixon administration by Arthur D. Little, Inc., concluded, "Field services which are oriented toward problem solving should receive increasing emphasis through increased budgets and more personnel." A study by the National Governors Association reached similar conclusions.

Twenty years later that advice is still worth following. The Federal Industrial Extension Act would apply that counsel through two initiatives.

First, the bill would establish an Office of Extension Services at the National Bureau of Standards to provide technical assistance to State extension programs. The Office would act as a single point of contact for State programs to ensure that they had access to all the Federal and federally funded research they needed to help their businesses.

Second, it would establish a 3-year demonstration grant program to help 15 States or regional consortia create, improve or expand, as well as evaluate, industrial extension programs. While many States have recently established such programs, they tend to be too small to provide a full-blown test of the idea. The demonstration grants would fund a variety of extension programs throughout the country, so at the end of the 3 years, States would have diverse, fully tested models to choose among and adapt to their needs.

This programs established under this bill would not give States any marching orders, but would rather encourage and support experimentation and innovation by the States. The States and universities tell us they need this kind of assistance from the Federal Government to give industrial extension the solid, permanent backing that has made the Federal-State partnership in agricultural extension such a success.

Our economic lethargy is a national problem. The modest programs this bill would establish would help energize the economy by using States to help businesses apply the results of research, paticularly federally funded research.

I hope my colleagues will join Congressman MacKay and I in promoting this idea.

AT&T ACCESS BLOCKED BY FRENCH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. FLORIO. Mr. Speaker, I would like to insert in the Record an article that recently appeared in the New York Times concerning the recent decision of the French Government to reject AT&T's offer to purchase a French switch manufacturing firm.

This recent action came after it looked like AT&T's offer was going to be accepted 2 years ago and after French engineers indicated they considered AT&T's switch technology to be superior to either of the two other competing firms.

This episode points out the need for a new tough approach on trade. Either U.S. companies are going to be granted greater access to foreign markets, or access of foreign firms to the U.S. market must be restricted.

Mr. Speaker, the text of the article follows:

TALKING DEALS: FRENCH DEFEAT FOR A.T.&T.

(By Steven Greenhouse)

PARIS.—When A.T.&T. lost out to L.M. Ericsson of Sweden last week in its two-year effort to buy the second-largest telephone switching company in France, it learned quickly that deal-making in Europe is even more unpredictable than it is in the United States.

In the three-way competition to get French Government approval for the acquisition, the American Telephone and Telegraph Company learned that technological superiority is not necessarily enough to win. A.T.&T. also learned that despite all the talk in Europe about privatization and free enterprise, politics continues to play a powerful role in a sector as important as telecommunications. In addition, the company got some first-hand knowledge of European chauvinism.

It was an unexpected turnabout for A.T.&T. when the French Government selected the Ericsson group to buy Compaignie Générale de Constructions Téléphoniques. A.T.&T. had long been considered the favorite to be chosen. Indeed, a year ago the A.T.&T. consortium, which included some French companies and N.V. Philips of the Netherlands, was on the brink of signing a contract to buy C.G.C.T., which controls 16 percent of France's switching market.

The Government was looking for a strong foreign manufacturer to buy the concern, a weak player in the switching market, so that the French telephone company would have an alternate source to Compaignie Générale d'Electricité, France's other big switching manufacturer.

Just when France was about to approve A.T.&T. for the acquisition, Siemens A.G. of West Germany got wind of it, and the Germans turned up the heat. Compagnie Générale d'Electricité had just grabbed a large share of the West German switching market after it took over ITT's European subsidiaries, so the Germans thought the French should reciprocate by allowing Siemens to get some of the French market by buying C.G.C.T.

Siemens also made another argument. "Siemens was saying Europe has to strengthen forces by keeping the Americans out of the market and promoting a European solution," said an official from the Netherlands, which was backing the A.T.&T.-Philips bid.

Top German officials lobbied heavily for Siemens, and even Jacques Delors, a former French Finance Minister who is now president of the European Commission, spoke out on Siemen's behalf, asserting that the German company should be chosen because that would strengthen the European Community. To heighten the pressure, the Germans threatened to drastically cut purchases from C.G.E. if Siemens were left out in the cold.

Suddenly, the Americans did not like the way things were going. "We always believed we had the best offer from a technology and business viewpoint," said Wilma Mathews, spokesman for A.T.&.T. Network Systems. "When Siemens came in, it became a political football. It became an American decision or a European decision."

Not surprisingly when Edouard Balladur, France's Finance Minister, announced that the Swedish-French group led by Ericsson was the winner, A.T.&.T., expressed outrage. According to A.T.&.T. and Phillips officials, just days before the Ericsson announcement, the French had assured A.T.&.T. that French engineers had found its technology better than Ericsson's or Siemens'. The Americans also protested that the French had reportedly asked Ericsson to sweeten its bid after the deadline to submit offers had passed.

In promoting Ericsson's selection, Mr. Balladur, according to French officials, was trying to pursue a neutral course. He recognized that if he chose A.T.&.T., the Germans would be riled, and if he chose Siemens, the Americans would be. That he chose Ericsson instead of Siemens provided some solace to the Americans. One trade official in Washington said he would have been far angrier if Siemens had won because France would then have been brazenly bowing to German pressures and to calls for a European solution.

A few days after Mr. Balladur made his announcement, the rancor had somewhat subsided. "A.T.&.T. wants to do business in Europe in the future, and it might not help it if it pushed Washington to take reprisals," said one official in the American Embassy in Paris.

On Capitol Hill, however, some people think there might be reprisals. "Many people here will see the French move as underscoring the need for tougher trade legislation," said Stephen Hilton, a spokesman for Senator John C. Danforth, the Missouri Republican who is sponsoring a bill that would allow the United States to respond in kind to the trade restrictions of other countries.

THE AMERICAN DREAM RESTORED

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. McEWEN. Mr. Speaker, the "American Dream" is back. For the first time in nearly a decade, the typical American family is now able to afford the typical American home.

That's good news for our overall economy and good news for millions of American families looking to buy homes.

Recently, I had the pleasure of speaking to homebuilders in Ohio who are participating in this national revitalization.

It a pleasure to be with you this afternoon to address the Northeast Ohio Homebuilders Association. There are few industries in this country that reflect the free market ideals, the respect for property ownership, and the vigorous devotion to individual freedom as yours. We share a philosophy of freedom that has served America well for more than 200 years.

And what a time it is for that philosphy and for our Nation.

What at time for the home building industry.

Just look at your business today.

You and your industry are living proof that our Nation works best when the people get back to work.

We have unleased the entrepeneural spirit of Americans. Now Americans are doing what they do best—build, produce, sell.

Since 1982, 12 million new jobs have been created in America. Just last year, more jobs were created in our Nation than Europe, Africa and Japan created in the past decade. And we continue creating new jobs at the rate of 250,000 a month for the past 60 consecutive months.

Together, we have gotten America back to work: restoring pride in our Nation, confidence in ourselves, hope for the world community, and, to be sure, enhancing the prospects of a better tomorrow for our children.

Members of the Northeast Ohio Homebuilders Association, you and the people of America are going strong.

Nowhere is the American resurgence more evident than in the housing industry. New home sales are skyrocketting. New building permits are at record levels. Construction is booming.

But this was not always the case. We need look back only seven short years ago.

As we entered the 1980's, the American dream of home ownership was in jeopardy.

Prior to 1977, nearly one-third of U.S. families could afford to buy a home. By 1980, four short disastrous years later, that share plunged to less than five percent. So we went from one in every three American families being able to afford a home to less than one in every 20.

The "Affordability Index" compiled by the National Association of Realtors, which as you know, measures the factors required to purchase and maintain a new home, stood at 125.8 in January of 1977. Forty-eight months later it plummeted to 63.9.

Conventional mortgage rates on existing homes stood at 8.5 percent in 1977. After four years they rose to 17 percent.

Today, the American dream of home ownership has been restored. In fact, Americans are on a home-buying spree.

Conventional home mortgage rates have dropped from over 17 percent to 9 percent. The FHA/VA mortgage rate, which reached a high of 17.5 percent before the program for economic recovery began to take effect, is now at 8.5 percent.

New home sales for all of 1986 were at their highest rate in nearly a decade and were 20 percent higher than 1985, which was another record setting year.

Home mortgage activity for last year, in both conventional and Government financed was an unprecedented $400 billion in mortgages written. This compares with $250 billion in activity in 1985.

Why the surge?

Last year, for the first time in more than a decade, the typical American family could afford to buy the typical American home.

That's great news for our Nation's families and its great news for you. In fact, the affordability index that I mentioned before has climbed back over 100 and stayed there.

I know what that means to you. And, we both know what this means to families all across our great land—the opportunity to buy, live and raise children in their very own homes.

I'm sure you get a great sense of satisfaction from the happiness you bring home owners.

You're helping to create a secure environment for the family—helping to foster a healthy, nurturing community—adding new strength to the American economy.

Although this certainly sounds good for the housing industry, we must not be complacent and rest on our laurels. We must recognize that the industry is still recovering from the mistaken policies of the last decade. The National Association of Home Builders is projecting about 1.6 million housing starts in 1987. That's almost 600,000 more than were started during the depths of the recession, but it is 200,000 less than last year as well.

As you know, FHA has played a major role in the resurgence of the past couple of years. This is a continuation of a long and illustrious history for FHA. During its 52-year existence, FHA has helped more than 15 million American families achieve the dream of home ownership. In doing so, FHA has been instrumental in raising the nation's homeownership rate from 40 percent in the thirties to more than 63 percent today.

As these figures indicate, FHA has been very successful. This does not mean I favor an expanded role for FHA, but in certain areas, the FHA presence is definitely desireable—especially in areas where private mortgage insurance companeis are incapable of filling that role.

In addition, in certain areas of the Nation which were hard hit by energy and agriculture downturns, FHA was the only game in town. Without FHA there would have been no housing market.

I am opposed to any attempts to increase the current 3.8 percent FHA mortgage insurance premium. With a surplus of close to $4 billion, the FHA fund made approximately $500 million last year after settling all claims. Moreover, HUD sources, as well as industry analysts, agree that the FHA fund is actuarially sound and that the current 3.8 percent "user fee" is more than sufficient to maintain the actuarial integrity of FHA.

I am not in favor of the Government losing money on Government programs although sometimes it is necessary and that is why we pay taxes. On the other hand, I don't believe the Government should be in the business of being a profit making institution either. If we want to follow a policy of having user fees to maintain programs, that is one thing, but to establish user fees at a level where the Government makes money, it seems to me we crossed over into the area of taxation. And that is what this proposal to increase the insurance fee is—a tax on future homebuyers.

Last year, it was proposed that the mortgage insurance premium not be permitted to be financed through the mortgage. Thankfully, that ill-advised idea was dropped and it was recognized that requiring the prospective homebuyers to pay the premium in cash at closing would force many out of the market.

Another misguided proposal which seems to pose a contradiction to homeownership is the suggestion to increase the minimum downpayment for households earnings more than $40,000 a year. We do not yet know the impact of such a change would be, but on the surface it appears it would be harmful to the industry.

The deregulation of the FHA interest rate and the direct endorsement program, keeping pace with changing economic times, have enhanced FHA's program structure rather than restricting its effectiveness. These changes have greatly strengthened FHA's public/private partnership as many of FHA's operating functions have been shifted to the private sector and other aspects of FHA's operating functions have been deregulated.

I would hope that any future proposals to change FHA will be carefully structured to preserve FHA's financial strength and to maintain its long-standing commitment to low and moderate income households.

Finally, let me tell you the status of our "war of points" with the Internal Revenue Service.

As most of you are aware, the Internal Revenue Service is again trying to legislate itself some extra revenues out of the recent drop in home interest rates. In fact the tax forms for 1986, include a "red flag" for IRS auditors who want to stop taxpayers from deducting points when they refinance a mortgage.

As you'll remember, last may the IRS shocked millions of homeowners with the news that the deduction for refinancing-related "points" must be taken over the life of the loan (which often, as you know, is up to 30 years), not in the first year.

This was even though the points on a new mortgage or home improvement loan are dedictible up-front, and Congress has never—I repeat never—expressed its intent that refinancing points are to be treated any differently.

I have sponsored legislation, along with Congressman SHERWOOD BOEHLERT of New York and RICHARD STALLINGS of Idaho which would present the IRS from going forward with this unfair practice.

I should point out that our bill would cause no major revenue loss—the Treasury has never seen that revenue since taxpayers have routinely deducted home mortgage points for years. It's also worth noting that the Treasury already nets more revenue when homeowners refinance because smaller interest payments mean smaller interest deductions.

The IRS ruling, besides needlessly complicating the alternative minimum tax, is a nasty swipe at the two million Americans who welcomed a dropping interest rate last year by refinancing their homes. The action is an inappropriate and confusing revenue grab that runs against every principle of the newly reformed Tax Code.

We have also contacted Secretary Baker to stop the IRS. Our bill had nearly 200 cosponsors last year, but there simply was not enough time left in the session to complete action. We are optimistic this year and are aiming at an April 15th deadline.

I will keep you apprised of our progress over the next several weeks.

I would like to make a few observations on the Administration's 1988 budget request for the Department of Housing and Urban Development. The fiscal year 1988 HUD budget reflects a cut in budget authority from the $15.2 billion available in 1987 to a $10.2 billion request for 1988—that's a 30 percent decrease.

Compared to the last HUD budget of the Carter administration, this represents a 70 percent cut. Certainly in view of these figures, Federal spending for low and moderate income housing has had more than its fair share of cuts.

Although I am not in total agreement with the administration's budget request for HUD, I also do not believe that the funding authorization levels contained in Congressman GONZALEZ's housing bill, H.R. 4, is the proper route to take. On the one hand, the Administration's budget request does not fully reflect the unfulfilled housing needs of the elderly and handicapped and the homeless.

On the other hand, the Housing and Community, Development Act (H.R. 4), with funding levels reflecting a 40 percent increase over the 1987 appropriated levels, does not acknowledge that the number one domestic issue facing the Congress is the Federal deficit. I would suggest that a freeze at last year's levels would be more appropriate.

I remain optimistic, however, that during the 100th Congress we will pick up where we left off in 1986 and draft a federally assisted housing program which establishes a new set of priorities in order to provide the greatest amount of assistance for the least amount of money. I base this contention on a three-tiered approach:

Affordability, housing preservation, and limited involvement in new rental housing construction. This approach is premised on the belief that housing vouchers, coupled with a concerned rental rehabilitation program and a small supplemental new construction program, could meet our unfulfilled housing needs—and could do so at far less cost than emphasizing costly project-based new construction programs.

TAX REFORM RULE ON INSTALLMENT SALES

As you know, the Tax Reform Act significantly altered the rules dealing with the recognition of gain on installment sales of real property. The new rules "impute" phantom income to sellers which has no relationship to any actual payment made by the buyer.

These rules are particularly unfair for investment property and small business sales by nondealers.

Not only are the new rules unnecessarily complex, but in many instances they will result in an immediate tax liability far in excess of the cash received from the buyer. As you remember, prior to the tax bill, sellers could take back financing and pay tax on the gain as the installment payments were received. That was a logical, rational approach that should not have been changed.

I have cosponsored legislation with Congressman ED JENKINS that would return the rule to pretax reform language. The bill, H.R. 567 returns nondealers to the installment sales rules which existed prior to tax reform. Gain on sales will continue to be taxed, of course, but only as payments are actually received.

THE HOUSING SAVINGS ACCOUNT

I have sponsored legislation which creates a unique opportunity for first-time home buyers to establish a tax-deductible housing savings account. the housing savings account would be similar to individual retirement accounts in that tax deductible contributions to a trust account would accumulate tax free for a period of time and then would have to be used to finance the purchase of a first home.

The bill, H.R. 94, allows a maximum accumulation in the housing account of $15,000 for individuals and $30,000 for married couples. That constitutes a reasonable downpayment. These funds can be accumulated over a 10-year period.

I believe that the housing savings account can establish an important new program to help young couples achieve the American dream of home ownership.

DEDUCTIBILITY OF INTEREST ON LAND CONTRACTS

There has been some concern expressed over the ambiguities in the Tax Reform Act on this matter. Most homeowners now deduct the interest on their mortgages on their annual tax returns. However, the IRS has raised the issue of whether this deduction applys to those homeowners who purchased their houses on a land contract.

The Joint Committee on Taxation is currently preparing a report which is expected to clarify this particular issue, along with several others, where the IRS is seeking to apply their own interpretations. This report is expected to be released during this session of Congress.

THE FAIR HOUSING AMENDMENTS ACT

Under the provisions of this proposal, the Department of Housing and Urban Development would be required to utilize administrative law judges to adjudicate discrimination complaints against landlords. HUD opposes this particular section of the bill, and so do I.

It appears to me that this provision would only add another layer of bureaucracy. In my view, these complaints should be considered and resolved in the courts and not by HUD. This legislation has been referred to the Judiciary Subcommittee civil and constitutional rights. There will be hearings held on this proposal within the next few weeks.

But now is the time for us to act and act decisively. We must effectively communicate our concerns over this provision to every Member of the Congress. Fortunately, this is one thing which the Ohio realtors has done well in the past and must do on this issue.

All in all, I believe the future of your industry is bright. Certainly things are going well now—in spite of the IRS.

But you have always prevailed. Sure, like many other industries, you've had your cycles, but the American dream of homeownership is so strong, so deeply inbedded in our family tradition that the real estate industry will always thrive.

That is a tribute to you and that is a tribute to your honorable profession.

Thank you.

INTRODUCTION OF INDIAN GAMING LEGISLATION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. UDALL. Mr. Speaker, today I am introducing another bill on the subject of gambling in Indian country. Since I had earlier introduced a bill on this subject, H.R. 1079, I felt I should explain to the members my reasons for developing this new legislation.

In 1981, the Fifth Circuit Court of Appeals handed down its decision in the case of Seminole Tribe of Florida versus Butterworth. In that case, the Seminole Tribe sued the sheriff of Broward County, FL, to enjoin him from arresting persons playing bingo at the tribal bingo hall for violation of Florida's gaming laws. Florida had been granted criminal and civil jurisdiction on Indian reservations by Congress in Public Law 83-280.

The court first held that, while Public Law 280 had granted criminal and civil jurisdiction to the State on Indian reservations, it did not make applicable to the Indians the civil/regulatory laws of the State. The court then distinguished between the criminal/prohibitory and civil/regulatory laws of a State. The court found that, where a State permits an activity under its laws and regulates that activity, those laws and regulations are a part of its civil/regulatory laws and, therefore, not applicable on an Indian reservation even though criminal penalties are associated with a violation of those laws.

The court then analyzed Florida's gaming laws and found them to be civil/regulatory in nature since the State law did permit certain forms of gaming, including bingo, even though that activity was stringently regulated. The court held that, as a matter of Federal-Indian law, an Indian tribe may engage in, or license and regulate, a gaming activity within its reservation free of State licensing and regulation where the State permitted that activity. The court enjoined the sheriff from interfering with the Seminole tribal bingo. The Supreme Court denied a petition for a writ of certiorari.

After the Seminole decision, numerous Indian tribes joined the Seminole in turning to gambling as a means of generating tribal revenues. As the members of the House are aware, there is nowhere in this country where poverty is more rampant and crushing than on the Indian reservations. With the severe cutback in Federal appropriations supporting programs on the reservations, Indian tribes began a desperate search for revenues to replace those dollars. Most tribes lack economic resources and there is little economic activity on reservations which tribal governments can tax.

Over a hundred tribes have developed gaming enterprises, primarily bingo, as a means of generating badly needed tribal revenue. With any profits, the tribes support their tribal governments and a wide variety of educational, health, social, and economic programs for their members.

In this, they are not unlike their non-Indian brethren. Several States and the District of Columbia run lotteries as a means of generating revenue and other States are considering it. Many States permit and tax parimutuel betting on horse racing, dog racing, and jai alai. Almost all States permit charitable bingo to support charitable works within their States. Two States, Nevada and New Jersey, derive substantial governmental revenues from casino gambling. In fact, Mr. Speaker, the 1976 report of the Commission on the Review of the National Policy Toward Gambling notes that more than 60 million adult Americans gamble, both legally and illegally, and in 1974, $24 billion was wagered. It states that, in 1976, 33 States had some form of legal gambling and others were considering legalization.

As tribal gaming, primarily bingo, became more widespread in Indian country after the Seminole case, concerns and fears began to be raised by State officials, the gaming industry, and the tribes themselves. Fears about the infiltration of Indian gaming by organized crime and other undesirable elements were expressed by State officials and others. Some tribal leaders became concerned about their ability to deal with opportunistic outside management contractors. And the non-Indian gaming industry has become concerned about a new source of economic competition.

These concerns spawned new litigation in the lower courts. In almost every case, the courts have upheld tribal gaming free of State regulation under the Seminole rationale. And, increasingly, the parties looked to the Congress for legislative protection and relief.

In response to these concerns, I introduced a bill in the 98th Congress. My committee held a day of hearings and no further action was taken on the legislation pending further developments and a further definition of the positions of the various parties.

I and other Members reintroduced legislation in the 99th Congress. During the course of 1985, my committee conducted extensive hearings on the legislation, including a field hearing in San Diego, CA. Those hearings crystalized the positions of the interested parties.

Some Indian tribes strongly and forthrightly opposed any legislation as an intrusion upon their rights of tribal self-government.

Those tribes engaged in or interested in gaming reluctantly supported legislation as a vehicle to protect gaming as a source of revenue. However, they strongly opposed any provision which might subject their governments to State jurisdiction.

Those opposed to tribal gaming indicated their support for legislation only if it did grant jurisdiction to the States over certain forms of gaming.

As the sponsor of a gaming bill and as the chairman of the Interior Committee, I made clear my position that Federal legislation was necessary, but that I could not support any provision which unilaterally imposed State jurisdiction over the activities of tribal governments.

On December 11, 1985, the committee ordered my bill, H.R. 1920, reported with certain amendments. These amendments were offered and accepted in the spirit of compromise in an attempt to reconcile the conflicting interests of the opposing parties. I believe the bill we reported was generally a good bill in light of the then-existing legal circumstances. The committee report, House Report 99-488, was filed on March 10, 1986.

In order to secure passage of the bill under suspension of the rules, I agreed to a further compromise on the legislation. I agreed, reluctantly, to a further amendment which imposed a moratorium on class III gaming, primarily parimutuel betting, with a study provision and a submission to Congress. With that further compromise, the bill passed the House on April 21, 1986.

On April 29, 1986, the Supreme Court docketed the appeal of the State of California in the case of California, et al. versus Cabazon Band of Mission Indians, et al. On June 10, 1986, the Supreme Court granted review in the Cabazon case. This action of the Supreme Court greatly altered the course of the legislation in the 99th Congress and the positions of the parties. The Cabazon case drew squarely into issue before the Supreme Court the rationale of the Seminole case and the right of tribes to engage in gaming free of State regulation.

Many of the Indian tribes, fearful of an adverse ruling by the Court, became more willing to compromise their positions in the Senate in order to secure the enactment of protective legislation.

The opponents of tribal gaming activity, fully expecting the Court to render a decision favorable to their interests, became more insistent that the legislation subject tribal governments to State jurisdictions in the area of class III gaming.

Negotiations were ongoing in the Senate when the 99th Congress adjourned sine die and the legislation died.

As the 99th Congress opened, oral argument had already been had in the Supreme Court on the Cabazon case and a decision was expected within months. The sense of legislative urgency among some of the gaming tribes was still felt and I still felt that, whatever the outcome, some Federal regulation was necessary in the interests of the tribes and the public if tribal gaming was to continue.

As a consequence, on February 10, 1987, I reintroduced legislation, H.R. 1079, providing for Federal standards and regulation of tribal gaming. This bill was patterned on the legislation which was reported from my committee in the 99th Congress. It still reflected my position that, notwithstanding the impending decision of the Supreme Court in the Cabazon case, I could not support legislation which would unilaterally impose State jurisdiction over tribal governments. At the strong urging of the gaming tribes, I scheduled hearings on the bill for early March.

On February 25, 1987, the Supreme Court handed down its decision in the Cabazon case. The Court's ruling came as a great surprise to both the tribes and the opponents. The Court essentially upheld the Seminole rationale which had been applied by the Ninth circuit in the decision below.

As the decision of the Supreme Court to review the Ninth circuit decision in the Cabazon case clearly impacted on the legislative process in the 99th Congress, so did the ruling of the Court in the case impact on the legislation in this Congress.

Those gaming tribes which have consistently opposed any kind of legislation have only strengthened their resolve.

Those gaming tribes which had previously sought legislation have begun to question the need or desirability for legislation.

Despite the victory of the tribes in the Cabazon case, I still feel that it is in the interests of the Indian tribes, the States and the non-Indian gaming industry, and the general public to secure the enactment of some legislation which will provide Federal standards and regulations to protect the Indians and the public in the conduct of gaming on Indian reservations.

It is for these reasons that I have redrafted legislation and which I introduce today. This bill seeks to recognize the rights of tribal self-government in the area of gaming which were upheld by the Supreme Court while accommodating the legitimate concerns of others in that activity. I have tried to strike a delicate balance to maintain the support of the tribes for legislation and to secure the support of others who have concerns.

Mr. Speaker, it is my intention to schedule hearings later this year to see if there has been any further crystalization of opinion after the Cabazon decision which will permit us to act in a reasonable, consensual matter. Nevertheless, I must, again, restate my position that I cannot support the enactment of legislation which will impose upon the Indian tribes in their government function State jurisdiction. If accommodations retaining that essential feature cannot be achieved, we may have to forgo legislation.

A TRIBUTE TO BRIAN CLINEFELTER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LEWIS of California. Mr. Speaker, during the last few days we have keenly felt the loss of the fine young men serving aboard the U.S.S. *Stark*. However, no one is feeling that sacrifice more than the families of those who have lost loved ones who committed their lives to serving their country. Today, I share the grief with Sandra Clinefelter and her family in the community of Barstow, CA.

Boatswain Mate Brian Clinefelter made the decision to continue an admirable naval tradition in his family by following in the footsteps of his brother, uncle, father, and both grandfathers by joining the U.S. Navy. This week, Brian was listed among those missing after his ship was struck by an Iraqi missile in the Persian Gulf. Brian last spoke with his family on Mother's Day when he telephoned his mom from Bahrain. He told her that he was enjoying his tour of duty and told her not to worry.

Brian was born on December 15, 1967 in New London, CT. He attended junior and senior high school in Barstow, where he lettered in wrestling and junior varsity football. Like many teenagers, Brian also worked at the local pizzeria. Brian enlisted in the Navy last December and in January completed his boot training at the Naval Training Center in San Diego.

I have always been impressed by the level of dedication exhibited by those who commit their lives to the service of our Nation. Today, I ask my colleagues to join me today in remembering and recognizing the ultimate sacrifice made by Brian and his crewmates. Let us never forget Brian or those who serve us all so very well.

DR. SAMUEL M. GENENSKY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LEVINE of California. Mr. Speaker, I am very pleased to have this opportunity to recognize the contributions and work of Dr. Samuel M. Genensky, founder and executive director of the Center for the Partially Sighted.

The Center of the Partially Sighted, in my district, has achieved tremendous successes assisting legally blind and partially sighted people fully utilize whatever remaining eyesight they and live independently in a sight-oriented society.

Dr. Genensky is himself partially sighted, and has been since birth when someone in the hospital in which he was born mistakenly put the wrong chemical in his eyes. More than 70 percent of the legally blind see better than Dr. Genensky. Yet, he has always been sight-oriented, earning a bachelor's degree in physics magna cum laude from Brown University, a master's degree in mathematics from Harvard, and a Ph.D. in applied mathematics from Brown. He was designated a Francis Wayland scholar for academic excellence by Brown University and held a university fellowship there.

Dr. Genensky joined the staff of the Rand Corp. in 1958, and began research on the problems of the partially sighted in 1965. He and his colleagues at Rand pioneered the development of the first practical closed circuit television system for partially sighted persons.

Dr. Genensky is a member of the Society of Sigma Xi, the American Association for the Advancement of Science, and the American Mathematical Society.

Dr. Genensky has received numerous honors and awards including the honorary degree of "Doctor of Humane Letters in Optometry" from the Illinois College of Optometry and an award for distinguished services in human relations from the National Conference of Christians and Jews. He has also received the Paul Yarwood award from the California Optomertic Association for his contributions to visual research.

In 1978 Dr. Genensky established the Center for the Partially Sighted, and has provided assistance to thousands of partially sighted and legally blind individuals of all ages. The programs offered by the Center for the Partially Sighted enable partially sighted students to attend regular classrooms and use ordinary printed material rather than Braille, working-age patients to compete in challenging sight-oriented careers, and retirees to live independently and avoid institutionalization.

Under Dr. Genensky's leadership, the Center for the Partially Sighted has contributed to the success, happiness, and freedom of thousands of people across the country. I am very enthused about the work of the Center for the Partially Sighted, and of its founder, Dr. Samuel Genensky. I have been privileged to know Sam for several years, and I know him to be a man of extraordinary talent and courage, a man whose work I know and respect. I am very pleased to commend Dr. Genensky and the Center for the Partially Sighted for the fabulous work they are doing.

ARMENIAN INDEPENDENCE DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. ANNUNZIO. Mr. Speaker, on Thursday, May 28, 1987, Americans of Armenian descent throughout the United States and their compatriots all over the world will pause to celebrate the 69th anniversary of Armenian Independence.

After 600 years of foreign domination, the courageous Armenians, although small in number and limited in resources, threw off the yolk of their oppressors and declared their independence from the Ottoman Empire. But this precious independence was destined to be short lived, for the new born Armenian Republic was brutally partitioned less than 2 years later by Russia and Turkey. Today, historic Armenian lands are in the hands of Turkey and Communist Russia, and the independence of Armenia remains an unresolved question.

The gallant Armenians have struggled unceasingly and have died willingly over the turbulent centuries to preserve their nation and their Christianity, and to keep alive the hope for a free and independent Armenia. Their struggle shall continue unabated until the territorial integrity of Armenia is restored, and Armenian Independence is recognized and upheld by the freedom-loving nations of the world.

The late Archbishop of Boston, His Eminence Richard Cardinal Cushing, delivered an address in 1966 on the occasion of the 51st anniversary of Armenian Memorial Day. At that time Cardinal Cushing recognized the Armenian claim as the "oldest unresolved grievance on the agenda of world business" and charged the United Nations to effect a just solution for the Armenians in order to right the wrongs of the past and to demonstrate to the world that international justice is not merely an empty, meaningless phrase.

Cardinal Cushing's words ring as true today as they did 21 years ago. It is, therefore, my pleasure to include in the CONGRESSIONAL RECORD the full text of Cardinal Cushing's remarks which follow:

ADDRESS OF HIS EMINENCE, RICHARD CARDINAL CUSHING, ARCHBISHOP OF BOSTON AND HONORARY PRESIDENT OF THE AMERICAN COMMITTEE FOR THE INDEPENDENCE OF ARMENIA, ON THE OCCASION OF ARMENIAN MEMORIAL DAY, APRIL 24, 1956

April 24th is Armenian Memorial Day. On this day in 1915 the Turkish Government began the first genocide in modern times, massacring one million Armenian civilians and driving out of their historic homeland five hundred thousand more under incredibly inhuman conditions. These numbers become all the more appalling when one realizes that this represented virtually the entire Armenian population in Turkey proper. When we add to this wanton sacrifice of human life the billions of dollars of Armenian property confiscated or destroyed, including the invaluable contributions of the oldest Christian civilization in the world, the true enormity of this horrendous crime is revealed.

But April 24 is more than a day of mourning and remembrance. It is the day on which the Armenian people remind the world that its legal and historic right to sovereignty remain violated. The Treaty of Sevres, signed by Turkey on the one hand and by Armenia and their Allied powers on the other, recognized the independence of the Republic of Armenia within the boundaries therein defined by President Woodrow Wilson.

In 1920 the combined military forces of Communist Russia and Turkey, in violation of this Treaty, overthrew this outpost of democracy. Today a portion of Armenia remains a captive nation under Communist Russian domination and the remainder is illegally retained by Turkey.

As Pope John the XXIII said in his Encyclical Pacem in Terris, "The rights of men and governments stem not solely from human consent but from the design of the Creator." Therefore, the crime of 1915, further compounded by the crime of 1920, stand in violation of the design of the Creator and the inalienable rights of the Armenian people.

The United Nations was established as an international instrument to create a climate for world peace through international justice. The United Nations cannot fulfill its world mission unless it encourages the hopes of mankind by proving that it is truly a forum providing a peaceful redress on the legitimate grievances of all people.

The Amenian claims as the oldest unresolved grievance on the agenda of the world business stands today as a test case, the just solution of which will enhance the prestige of the United Nations and encourage all peoples to seek a peaceful consideration of world problems.

It is my earnest hope and prayer that the United Nations, and all people of good will, will join to bring a justice long delayed to the Armenian people, the worthy descendants of an ancient and noble civilization.

Now is the time for all nations of good will to prove that international justice, self determination, and peace are more than words, that they form the sound and sincere foundation of each government's international policy.

TRIBUTE TO NANCY HILFIKER

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BOSCO. Mr. Speaker, it is with great sorrow that I rise today to honor Nancy Hilfiker, a dear friend and community activist in Eureka, CA, who last week succumbed to cancer following a long and courageous battle with that treacherous disease. I would like to call to my colleagues attention the many outstanding contributions Nancy made to the people of California as I join with her family and friends in mourning this great loss. In our deep sadness we draw closer and remember with pride that Nancy's many achievements and her uplifting spirit far outdistance the tragedy of her untimely death.

A devoted wife, a loving mother, a steadfast friend, and a tireless community leader, Nancy was an inspirator to all who had the good fortune to know her. A native of Eureka, Nancy held a bachelor's and a master's degree in education from Humboldt State University where she also earned a teaching credential. Nancy taught elementary school at Freshwater, Warren Creek, and Grant School. At Hilfiker Pipe Co., where she was vice president, Nancy worked alongside her husband Bill and played a major role in the business' successful operation. Over the years, Nancy was active in a variety of local organizations and was president or chairman of the following groups: Grant Parent-Teacher Association, Humboldt Ski Club, Eureka League of Women Voters, Board of Governors to the Humboldt Area Foundation, Eureka Park and Recreation, the Zoo Advisory Committee, and the Library Construction Committee. In recognition of her hard work and dedication to community service, Nancy was the recipient of a variety of awards including: the Zoological Society's Good Egg Award, the Quota Club's Women of Achievement honor in 1979, the Northern California Park and Recreation Achievement

Award, and the Eureka Mayor's Distinguished Citizen Award.

Nancy Hilfiker was a woman of unique character, talent, and ability. Even when struggling with the physical and psychological pain of cancer Nancy was kind, thoughtful, and filled with good will. Mr. Speaker, Nancy was a very special person and the north coast was fortunate to have been the home of such an exemplary citizen. We will miss her dearly and remember her always.

RAY T. PARFET, JR.: A TRIBUTE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. WOLPE. Mr. Speaker, in 1947, the Upjohn Co. in Kalamazoo, MI, hired a young man from the eastern Michigan town of Port Huron to work in the firm's financial area. At the time, this hardly seemed like a remarkable event. Of course, Upjohn was a respectable firm with its facilities pretty much confined to a one block square area in downtown Kalamazoo. And of course, the man they hired had a promising resume: He had just received an A.B. in business administration from the University of Michigan and, during the war, he had been a B-25 pilot with the 12th Air Force. But neither the Upjohn officials who hired him—nor he himself—could have had the vaguest idea of where the next 40 years would lead them. For both, it has been a most impressive time, far better than anything they could have dreamt of.

The name of the young veteran was Ray T. Parfet, Jr., after starting in the company's financial area, he steadily rose through the ranks at Upjohn. Eleven years after being hired, Ray was named a vice president and member of the board of directors of Upjohn, then executive vice president in 1960. He became Upjohn's president and general manager in 1962, and finally chairman of the board and chief executive officer in 1969.

Anyone who thinks the American dream of success is dead should look at Upjohn and Ray Parfet, Jr.—the man and the corporation are virtually synonymous. Thanks to the leadership provided by Ray and colleagues like Ted Cooper, Preston Parrish, and Larry Hoff, that modest firm in one block of downtown Kalamazoo has grown to be a $2.3 billion concern, one of the largest and most respected multinational corporations anywhere. Ray Parfet's Upjohn is a leader in health care, in veterinary care, and in agriculture. It has marketing operations in 45 foreign countries and sales in about 150 countries.

The company that Ray Parfet, Jr., leads has, in a literal sense, made the world a healthier place to live by its contributions to medical science. People who have next heard of Ray Parfet, Jr., or of Upjohn are better off because of Upjohn's development of the first oral antidiabetes agent; its application of fermentation techniques to production of steroid hormones; its discovery and development of useful broad-spectrum antibiotics; and its development of nonsteroidal anti-inflammatory agents.

A few days ago, Upjohn had its annual meeting, Ray and other Upjohn leaders could report that the company is, as one newspaper put it, "poised for a period of significant growth." But the most important news of the meeting was the announcement of Ray Parfet's retirement from Upjohn on July 1, which is several months before he reaches the company's mandatory retirement age of 65.

What will happen to Upjohn after Ray's retirement? Fortunately, the company has a wealth of administrative talent in its ranks, so it should continue to prosper. Ray will be succeeded by Upjohn Vice Chairman Theodore Cooper, who will become the chairman and chief executive officer; and by Upjohn President Lawrence Hoff, who will become chief operating officer. I am privileged to know both Ted Cooper and Larry Hoff as personal friends, and I also know that they will provide Upjohn with the same gifted leadership and vision that have been Ray Parfet's hallmark. As Ray himself told cheering stockholders at his last annual meeting, "I leave my position extremely optimistic about the future of this great company."

At the same time, Ray Parfet, Jr., has a special place in Upjohn's history that no one else can ever fill. He has guided it with a steady and wise hand for many years. He will be very much missed.

I know my colleagues join me in paying tribute to one of the most successful and capable business people of this generation, and in wishing him the enjoyable and fulfilling retirement that he so richly deserves.

LEST WE FORGET

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BIAGGI. Mr. Speaker, I rise today to offer to the families and friends of those who gave their lives in the line of duty aboard the U.S.S. *Stark* (FFG-31), my most sincere condolences. The loss of a loved one is always terribly difficult to understand, however, in this case, the loss of these young, vital men is unfathomable. My heart goes out to the parents, wives, and children who now must adjust to the tremendous pain the events of the last few days have brought about.

Although none of the 37 casualties are from New York's 19th Congressional District, many of my constituents are currently on active duty, or have loved ones who are. Whether the attack on the U.S.S. *Stark* (FFG-31) was an honest error or an act of aggression, the results have, and will continue to affect the lives of all Americans.

Traditional Memorial Day is celebrated with parades and backyard barbecues. I believe that this year each of us should set aside a few moments to remember all who have fallen in the line of duty, but particularly the crew of the U.S.S. *Stark* (FFG-31). Their sacrifice should serve as a permanent reminder of our country's constant struggle for peace and harmony. In the celebration of this weekend, let us not forget those whom we have lost as well as the surviving members of the ship's crew; men who remain a credit to themselves and to the U.S. Navy.

THE AIRLINE PASSENGER PROTECTION ACT OF 1987

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BOEHLERT. Mr. Speaker, today I am introducing the Airline Passenger Protection Act. This legislation would require airlines to provide seating on an availability basis to persons holding tickets issued by bankrupt airlines. Reimbursement to the airlines or passengers would be funded from an account established within the aviation and airline trust fund. 88 percent of which the consumer currently funds through the 8 percent passenger ticket tax.

Since deregulation in 1979, over 160 airlines have gone bankrupt or terminated operations. One quarter of the airlines listed by the Civil Aeronautics Board as national or regional airlines have gone bankrupt.

People who held tickets on these airlines lost valuable time. Now you may shrug and say: "That's the way it goes." But put yourself in their shoes. You've spent several hundred to several thousand dollars planning a trip. The airline goes bankrupt. Your ticket is now worthless. What can you do?

Consumers are among the largest creditors of the airlines, directly holding obligations on the industry of approximately $3 to $4 billion in unused and prepaid tickets. As creditors, they are a disorganized group of individuals that will most likely never have their day in court.

Today when a bankruptcy occurs, the consumer is sometimes fortunate to find another airline that will offer transportation. But this is not the standard. Airlines may not decide to offer transportation until days later, sometimes only in certain cities. Sometimes only one or two airlines will offer transportation at an airport serviced by many.

The aviation trust fund has $5 billion in unobligated funds. The airline passenger account represents only 2 percent of this trust fund. Payments from this passenger protection account would be capped at $100 million in any fiscal year and the Government would become a creditor of the bankrupt airline, thus reducing—if not eliminating—any cost to the Treasury. It is important to note that there are no new costs in this plan to U.S. taxpayers.

Deregulation of the airline industry has benefited the consumer in many ways. But this problem of "bad tickets" created by bankruptcies must be solved. I urge my colleagues to support this bill.

ALLEN BILDNER, APPOINTED CHAIRPERSON OF FMI BOARD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. FLORIO. Mr. Speaker, on May 17, 1987, the Newark Star-Ledger named Allen I. Bildner of New Jersey as the "Jerseyan of the Week." The award honors Mr. Bildner's service to the community and yet another one of his achievements. At its annual convention held recently in Chicago, the Food Marketing Institute installed Mr. Bildner as the chairperson of the FMI.

The Food Marketing Institute is a trade association with over 1,500 members from the food retailing and wholesaling world. The members of this organization have demonstrated an appreciation for the customer and a willingness to make the extra effort necessary to gain the trust of the consumer and to bring nutrition to homes throughout the country.

Allen Bildner, the chairman of Kings Super Markets, Inc., of West Caldwell, NJ, has devoted with enthusiasm and fervor almost 30 years of his life to what began as a family store in Summit, NJ, and has blossomed into a 15-store corporation with plans to expand and a continuing desire to give that tailored touch to the hometown customer.

In his added position as the chairperson of the Food Marketing Institute, Mr. Bildner will be bringing his ideas and innovative approaches to the way that supermarkets operate and meet the demands of the consumer.

Among the many fresh approaches that he is bringing will be building further not only the trust of the consumer in the products of the supermarket but also the role that the supermarket as a business plays in the community.

With the same dedication that he and his family have brought to making Kings Super Markets a successful contributor to the community, Mr. Bildner at the helm of the FMI will also look at ways that the supermarket can deal with unemployment in urban areas by bringing jobs to support the community through recruitment and training programs.

At the same time, the FMI will be developing programs to help employees of supermarkets deal with alcohol and drug abuse, stress, and the growing demands of the marketplace. Through employee assistance programs, the employee will be better served to, in turn, better serve the consumer.

Mr. Bildner's aims are high. But he has demonstrated before that through determination and ideas, a person can, indeed, go far. He began in his parents' store in Summit and gradually progressed through the family business and the FMI.

A theme that Mr. Bildner has repeated is that the "FMI is on the cutting edge of change."

In his new role, Mr. Bildner will bring to the FMI and to the food retailing and wholesaling industry the spirit of determination and innovation that has made his company so successful. His qualities will be an asset to the FMI even as his qualities today are an asset to his own company and the State of New Jersey.

As he assumes the responsibilities of chairperson of the FMI, I applaud him for continuing the cooperation between the employers, the employees, and above all, the consumers who depend on them both.

OHIO'S CONSERVATION DISTRICTS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. McEWEN. Mr. Speaker, I recently had the opportunity to address the members of the Ohio Soil and Water Conservation Districts at their annual meeting. It was a pleasure to discuss issues of concern to all Americans with this distinguished group.

For the past five decades, conservation districts have played a critical role in protecting and improving our natural resources. In addition to the work these members do to preserve our Nation's agricultural lands, they have been instrumental in programs that include applying conservation technology to problems of water quality, urban expansion, waste disposal, highway and utility planning and maintenance, building construction, recreational facilities, and beautification.

The key to the great success of conservation districts has been the fact that they are managed by local citizens and landowners who know and understand local problems. Today there are over 17,000 men and women involved in this noble pursuit. And while in the beginning virtually all of them were farmers and ranchers, today they have been joined by bankers, housewives, sportsmen, businessmen and many other citizens concerned about our natural resources. This has worked to broaden participation and assure that all local issues are addressed.

Mr. Speaker, the accomplishments and growth of conservation districts during the past 50 years are an impressive testament to America's traditional belief in representative action at the grassroots level. The work they have done in Ohio has been particularly impressive and I applaud our members on their achievements.

At this point, I would like to insert in the RECORD my remarks before the Ohio Soil and Water Conservation Districts:

REMARKS BY HON. BOB McEWEN BEFORE THE OHIO FEDERATION OF SOIL AND WATER CONSERVATION DISTRICTS

Thank you.

A little more than 50 years ago, Congress passed legislation establishing for the first time a new and desperately needed national policy. It was a simple declaration of policy brought on by mounting soil erosion, floods and sky-blackening dust storms that swept across our Nation.

That policy?

Simply put was that soil and water conservation and wise land use should be national goals of the United States. Congress passed Public Law 46 in 1935 without a single dissenting vote. It was not only an idea whose time had come, but a policy that once implemented, would work to protect and preserve for generations to come our most precious natural resources.

Two years after enactment of the law, President Franklin Roosevelt wrote to the Governors and recommended State legislation permitting landowners to form soil and water conservation districts. Today—at nearly 3,000 strong—conservation districts are the primary source of assistance to private landowners in their resource conservation and development work in the 50 States, the Virgin Islands and the District of Columbia.

You, as members of the Ohio Soil and Water Conservation Districts, form the foundation of a simple idea that has been working for all of us for 50 years now. You can be proud of your rich heritage and tradition and be secure in the knowledge that the work you do will serve Americans not only today, but future generations as well.

During the waning days of your 50th anniversary year—in December of 1935—Congress passed another landmark measure reaffirming the strong commitment of our Nation toward the conservation of our soil and water resources.

The Food Security Act of 1985—commonly referred to as the 1985 farm bill—contains the strongest mandate concerning the conservation of our natural resources in the history of our great Nation. The package of major new resource conservation initiatives enacted in the 1985 farm bill represent some of the most innovative and effective conservation legislation passed into law since the historic legislation of 1935.

Let me briefly review some of the key conservation provisions in the bill:

1. Highly erodible land conservation—this provision will require a soil and water conservation plan to be prepared on land determined to be highly erodible by 1990 and implemented by 1995 as a prerequisite to participation in commodity price support programs, Federal crop insurance programs, eligibility to receive certain Farmers Home Administration loans, and other farm program benefits.

2. Conservation Reserve Program—this program will provide a landowner with the financial support necessary to convert land which is suffering excessive soil erosion to a land use which better protects the resource base. The new law requires 40 million acres to be contracted under this program during the next five years. Nationwide, the total value of the contracts signed to date equals $4 billion with a total of 8.8 million acres now under contract.

The Department of Agriculture moved quickly following passage of the bill, to implement the reserve. An environmental assessment was released the next month—in January 1986—which estimated that the cost of the program would be $5 billion over five years, but would result in a savings of about $8 billion because of reduced CCC payments over the same time period.

As many of you recall, results from the very first signup for the crop year 1986 program in March of last year were not significant. The Department received bids on 4.8 million acres, but was able to accept them on only 838,000 acres, a small fraction of the 5 million acre goal established for last year.

One big reason for the low participation level was the fact that the interim rules were published in the Federal Register on March 13th, just one day before the end of the signup period. Many producers in some areas of the country were justifiably confused about aspects of how the program would impact on them.

A second sign-up was then held in May. This time the Department received bids on

4.6 million acres, but accepted them on 3 million. (1.3 million were for the 1986 crop year and the remainder for 1987.)

A third sign-up, solely for the 1987 crop year, was held in August. The Department received bids on 6.4 million acres and accepted them on 5.1 million. So after three signups, the conservation reserve now includes 8.8 million acres. States with the largest amounts of enrolled acres were Texas with 1.3 million and Colorado with 1.1 million.

In Ohio, of the 891,000 acres estimated to be eligible in our State for the program, only 33,000 were accepted and that works out to 786 participants out of a potential pool of 12,000. Dates for the next sign-up, expected to take place in February, will be announced in the very near future, perhaps even this week.

3. A third important farm bill provision was one establishing the acreage conservation reserve. Last year there were 43.6 million acres put into conservation use as a prerequisite to participation in the commodity programs. This idled land provides a real opportunity for the application of proper soil and water conservation practices.

4. Conservation easement—the farm bill established several "help" type programs for Farmers Home Administration borrowers who have delinquent loans. The principal objective is to keep land in private ownership and to return the land to a wildlife or conservation land use. Although not yet fully implemented, these programs can serve a dual purpose: first and foremost, to keep current landowners on the land and, second, to improve conservation of the land.

5. Another Farmers Home conservation program in the farm bill says that any land taken into their inventory must have a conservation plan developed which will outline the necessary conservation practices to be installed. In addition, as you know, anyone who rents this land from the Farmers Home Administration, must implement the conservation practices called for in the conservation plan.

And yet another significant feature of the farm bill is language which reaffirms the need for a strong Soil Conservation Service within the Department of Agriculture.

The basic concept on which the Soil Conservation Service was founded was to provide technical assistance to landowners in an effort to conserve the natural resources. These new conservation initiatives in the farm bill have certainly set the direction for the soil conservation effort and will require a great deal of continued creativity and commitment of resources to accomplish. I believe Congress has sought to give support to conservation that is consistent with and supportive of your mission here in Ohio.

BUDGET

There is good news and there is bad news in the budget submitted to Congress by the President earlier this month. The good news is that funds to implement the crucial farm bill conservation programs have been increased but some existing programs, in effect prior to passage of the farm bill, have been reduced or eliminated. Let me briefly go over some of the budget highlights.

I know that many of you have expressed concern that the 1988 budget would not support the goals of the farm bill and allow proper implementation of its conservation programs to go forward. Quite frankly, I share your concern.

The budget provides $476 million and 10,542 staff years for the Soil Conservation Service for fiscal year 1988. It reflects the high priority given to implementing the provisions authorized by the conservation title of the farm bill. In addition to increasing the direct appropriations for the Soil Conservation Service technical assistance and related programs, direct appropriations for use by the Commodity Credit Corporation during the third year of the Conservation Reserve Program are requested at nearly $1.4 billion. The total level for soil and water conservation is proposed to more than double from 1985 levels.

The Conservation Reserve Program was authorized in December of 1985 with CCC borrowing authority to be used during the first two years and appropriations thereafter. This budget represents the first year for an appropriation request. The $1.4 billion will be used for rental payments on contracts signed prior to 1988; part of the costs of technical assistance; and, cost-sharing to establish vegetative cover during 1988.

During 1987, the Soil Conservation Service will be providing technical assistance through a nationwide system of direct offices. The 1988 budget proposed a four percent reduction in staff years (330), but that is a direct result of the elimination of funding for programs such as the great plains conservation program and others I'll name later.

The budget demands are such that it is clear—the needs for servicing requests associated with the Conservation Reserve Program and other 1985 farm bill conservation title provisions will take precedence over other work.

For example, project mapping on a county or area basis will be accelerated further with priority given to counties where the soils information is most urgently needed. Without this information, determinations for conservation compliance become more costly. An additional $10 million is proposed.

That's the good news. Now for the other.

Funding for the traditional conservation cost sharing programs of ASCS and SCS are proposed to be rescinded for the remainder of fiscal year 1987. These include: Agricultural Conservation Program ($164.4 million); Water Bank Program ($8.2 million); Burial Clean Water Program ($6.0 million); Emergency Conservation Program ($10.0 million); and Great Plains Conservation Program ($8.0 million).

No funds for these programs and the Colorado River Salinity Control Program were requested by the Secretary for 1988. These reductions are similar to those proposed in prior years due to fiscal policy reasons.

In addition, watershed planning and construction programs, including river basin surveys, flood protection and resource conservation and development will be terminated in 1988 following a rescission of financial assistance in 1987 of $101 million. The justification given by the administration is that these programs have a lower priority for Federal funding in the conservation area because their benefits accrue primarily at the local level and therefore they are most appropriately financed with non-Federal resources.

I'm not sure I agree with that rationale, but rest assured that each of these budget proposals will come under the close scrutiny of the Congress over the course of the next several months. If you feel strongly about any of these proposals, be sure to contact your Congressman and our Senators.

You know better than most that of absolute necessity to a strong conservation ethic is an effective conservation education program. An education program which will instill in each generation a sense of commitment to the conservation of our soil and water resources.

In Ohio, I know that you have been active on the county level sponsoring workshops, clinics and field days as well as working closely with the county extension office, schools and municipalities to get your important message across.

These public awareness projects have served a good purpose in generating public support for soil and water conservation principles. With this renewed public support and the new conservation authorities as outlined in the 1985 farm bill, one could say that the "ball is now in your court." I know you will continue the good work that marks your past.

Let me leave you with these words spoken by one of our world's great leaders. Eight years ago, in 1979, Pope John Paul II traveled to Iowa. He surveyed the rolling fields of Autumn, and he spoke of the future.

At a farm museum near Des Moines, he was greeted by 350,000 people who opened their arms to that man of peace and hope. And he told them of the importance of agriculture and how with agricultural abundance comes special responsibilities to human needs.

He said, "conserve the land well, so that your children's children will inherit an even richer land than was entrusted to you."

That is your noble pursuant. That is what is entrusted to you. For the sake of all of us, I wish you continued success.

Thank you.

INTRODUCTION OF A BILL CLARIFYING CERTAIN RIGHTS OF THE TOHONO O'ODHAM TRIBE OF ARIZONA

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. UDALL. Mr. Speaker, today I have introduced a bill which clarifies the right of the members of the Tohono O'odham Tribe to pass and repass the border between the United States and Mexico.

The aboriginal territory of the Tohono O'odham Nation, formerly known as the Papago Indian Tribe, was a large area in the Sonoran Desert. Prior to the Gadsden Treaty of 1953, all of that territory lay within the Republic of Mexico. With the inclusion of the Gadsden Purchase area in the United States, the new boundary between the United States and Mexico split the Tohono O'odham Nation and its people in half.

At the time of the original boundary survey, the Tohono O'odham were assured by Maj. W.H. Emory, U.S. Commissioner for the Border Commission, that they would be allowed to visit back and forth across the border and carry on the usual relations between the villages as though the boundary was nonexistent.

In a journal prepared pursuant to article I of the treaty, Emory wrote:

> I have informed the (chiefs of the Pimas) that, by the terms of the treaty, all rights that they possessed under Mexico are guaranteed to them by the United States.

Among those rights was the right to carry on their intratribal relations freely without hindrance.

When the original boundary fence was constructed, it included gates at all of the places habitually used by the Tohono O'odham and they continued to exercise their aboriginal right of freely moving across their native land.

In recent years, the promise of Major Emory and the rights of the Tohono O'odham have been broken. Incidents have been reported in which members of the tribe were prohibited from entering the United States at the Lukeville port of entry in order to meet hospital appointments at the Indian Health Service Hospital in Sells, AZ, and their hospital appointment records and tribal membership cards were confiscated.

The bill I have introduced will clarify and reaffirm the right which the Tohono O'odham people had aboriginally and which was promised to them in the treaties of Guadalupe Hidalgo and the Gadsden Purchase.

MICHAEL O'KEEFE: A HERO

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LEWIS of California. Mr. Speaker, I take great pride in speaking in the House of Representatives today, for I would like to share a truly moving and inspiring act of heroism with my fellow Members of Congress. Mr. Michael O'Keefe was responsible for saving many officers' lives in the aftermath of the tragic attack on the U.S.S. *Stark* on May 17, 1987.

In a telephone call to his family to assure them of his safety, Mr. O'Keefe reported that he was "cut, bruised, burned and broken, but OK." It was through a television broadcast that the family learned that Michael had injured himself by risking his own life in efforts to save others.

Capt. Glenn Brindel, commander of the guided-missile frigate, introduced Mr. O'Keefe as a hero of the attack which killed 37 men and wounded 21. He said that O'Keefe helped many of his shipmates to safety. Mr. O'Keefe, an engineer from Palmdale, CA, said that his concern after the attack was survival, not heroism.

Mr. Speaker, Michael O'Keefe is a truly outstanding individual, and his heroic act deserves the highest recognition. It is reassuring to know that our Nation's defense is in the hands of such dedicated soldiers. It is with great respect that I recognize today Michael O'Keefe, an American hero.

IN HONOR OF KEN SCHONLAU

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to pay honor to a good friend and renowned Los Angeles leader and westside community activist, Ken Schonlau. On May 28, 1987, Ken will celebrate his 16 year contribution as chief executive of CLARE Foundation.

As tribute to this man of compassion and determination, I would like to share some of the milestones in the life of this community activist, Ken Schonlau.

Ken was a key participant in protesting LAC/USC Hospital's policy not to admit alchololics for alcoholism. This protest, in 1965, changed the county medical policy resulting in the first LAC-USC alcoholism unit. At the same time, he participated in the initial development of Project ACTION, a Venice poverty project that later became a major developer of Venice low income housing.

Ken served as a member of the board of directors of the largest poverty program in Los Angeles County, the Neighborhood Adult Participation Project (NAPP) during the period of 1969 through 1976. He was president of the board of directors from 1970–71. In 1969, Mr. Schonlau developed the first West Los Angeles/Los Angeles County Alcoholism Resource Directory with support from the State Venice Service Center.

In 1970 he played a major role in the legal action against Los Angeles County, challenging the practice of sending general relief applicant unattached men to county indigent camps. This action resulted in changing general relief policy and the camps were subsequently converted to alcoholism rehabilitation centers. Also at that time, he developed the first all-alcoholics general relief case load of 120 persons, while employed as a Los Angeles County social worker.

The year 1970 was an important year for Ken, at this time he was instrumental in the initial development of CLARE Foundation, a community alcohol program. Ken served as CLARE's first president and as its executive manager for 16 years. In 1971 Ken started the first Alcoholic Recovery Home in Santa Monica and participated in changing a Santa Monica City Zoning Code that prohibited treatment of animals, alcoholics and drug addicts. The next year, he participated in the development of the California Association of Alcoholic Recovery Homes [CAARH], where he served as the associations first president for 3 years. He coauthored the CAARH State position paper, and was instrumental in assembling the first State recovery home certification guidelines.

Under his leadership, the Western Los Angeles Alcoholism Coalition, an active group in indentifying needs for community alcoholics and developing alcoholism resources was initiated. He adapted the Phoenix, Arizona drive education classes for Los Angeles County, and organized the first drinking driver education committee in Los Angeles County. In 1974, Ken initiated a women's recovery home committee of the Western Alcoholism Coalition that resulted in Felicity House, a recovery home for women alcoholics. Also at that time, he participated in the development of the Western Los Angeles Health Service Council and was chairman from 1979–86.

In 1976, Mr. Schonlau defied the National Institute of Alcohol Abuse and Alcoholism [NIAAA], by not adopting its Case History Management Treatment Data Collection Systems [NAPIS]. This action resulted in a special NIAAA research project on social model alcoholism programs. The next year, he initiated a movement with the Association of Half-way House Alcoholism Programs of North America, to discontinue its participation in the joint commission accreditation of hospitals in validating its halfway houses/recovery homes. He served 10 years on the AHHAP board of directors and as president from 1982–84. In 1983 he organized and chaired the Los Angeles County Alcoholism Program directors committee for 2 years.

Throughout his career, Ken has been guided and strengthened by his wife, Maria, who has worked with him as a partner on so many endeavors. Their proud terrier, Elke, serves as CLARE Foundation's unofficial mascot.

It is a pleasure to share Ken Schonlau's accomplishments with my colleagues in the U.S House of Representatives. I ask that they join me in wishing Ken the best of luck in all his future endeavors.

ILLEGAL ALIENS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BEREUTER. Mr. Speaker, recently, Salvadoran President Jose Napoleon Duarte requested the administration to permit nearly a half million Salvadoran illegal aliens to remain in this country, in exception to the immigration reform law passed during the 99th Congress.

I commend to my colleagues President Reagan's difficult decision not to permit such a waiver of the law. I know that every Member of this body shares my concern for the plight of illegal aliens from Central America residing in this country, many of whom have come here fleeing overpopulation, grinding poverty, and war in their homeland. No doubt some also seek political refuge as well. Of the latter group, we should render every benefit provided under the laws for asylum.

However, as Georgie Anne Geyer in her commentary attached below said, "the clear intent of the law was to maximize compassion, but in the context of absolute fairness. When you start to create special treatment and special interest . . . you erode that fairness." If we are to preserve our national sovereignty, we must resist the temptation to create exceptions in the newly passed legislation.

I commend to my colleagues' attention the Geyer article, published in the Lincoln Journal of Lincoln, Nebraska on May 4, 1987, and to a similar editorial concerning Guatemala's request for exemption published in the Omaha World Herald on May 21, 1987.

IMMIGRATION LAW: NO EXCEPTIONS

WASHINGTON.—The request itself was startling: El Salvador's President Jose Napoleon Duarte was asking the United States not to respect its new immigration law in order to keep some half a million Salvadorans here illegally.

Duarte's argument, made in an April 10 letter to President Reagan, admitted that 400,000 to 600,000 Salvadorans had entered the United States illegally since 1982 and

that to send them back could be economically and politically deadly for the already overpopulated and war-torn country.

Even more startling is what this watershed plea symbolizes. It shows us starkly that we are living in a new world we had better understand—a world in which the most dangerous geopolitical issues are not nuclear missiles but overpopulation, massive illegal movements of peoples and the breakdown of borders and culture itself.

Duarte, a noble man and great democratic leader, has struggled with all the devilish problems of his country except the most important one: its astonishing overpopulation. That tiny country has a greater population density than India.

Even El Salvador's horrendously brutal civil war can be traced to overpopulation. When the several hundred thousand Salvadorans living in neighboring Honduras were thrown out after the infamous "Soccer War" in 1969, they settled in the slums around the Salvadoran capital, creating grist for revolution's mill in the uprooted young boys who went to the Marxist guerrillas for hope. The relationship of massive unemployment and hopelessness to a tiny land base held by a few was unquestionably the single major reason for the particular horror of the Salvadoran civil war.

History will show in large part that El Salvador was the century's first, but surely not last, "population war."

It is tempting to want to help Duarte, because he has struggled valiantly and successfully. It is tempting to nod one's head understandingly when he argues that Salvadoran illegals send home $350 million to $600 million in remittances to relatives each year and that this should be regarded as another kind of "aid" to Salvador.

But the temptation must be resisted. Too much is at stake. With the passing of the U.S. immigration bill, one of the best and most just pieces of legislation in modern history, the United States has declared to the world that it will not be a population patsy for countries that will not rationally control their own populations.

President Duarte's request, sadly, must be turned down. The first reason is that, having declared immigration control in our law, we must observe it as law—no ifs, buts, or exemptions. Ironically, in the face of these small and impassionedly nationalistic countries' demands, it is now a superpower that must declare some nationalism in its concern for sovereignty.

"The United States is a sovereign nation," Roger Conner, head of the Federation for American Immigration Reform, said last week. "By demanding and getting immigration reform legislation, the American people sought to send out the message that the decision as to who will come to the United States will be made in Washington, D.C., not San Salvador or Lagos, Nigeria."

As well, the clear intent of the law was to maximize compassion, but in the context of absolute fairness. When you start to create special treatment and special interests (don't we have enough of them within the United States?), you erode that fairness.

Furthermore, Duarte is asking, in effect, for an "aid program" to Salvador paid for by the poor of this country, whose jobs are being taken.

And, finally, a refugee subsidy program would discourage what is necessary in more and more countries today: for them to take a hard look at their population policies and do what is necessary within moral limits to measure their populations to their land masses.

Every successful newly developed country—from Taiwan to South Korea to Singapore—has done just that. Without such restraints, there will quite simply be no development and no hope, in particular for a country such as El Salvador. And we will aid them most by helping them to realize it before it is too late.

A Bad Idea From Guatemala

The new U.S. immigration law has barely taken effect and already someone wants its teeth pulled. The White House was right, in our opinion, to ignore a request from Guatemala to go easy on enforcement.

Vincio Cerezo Arevalo, the country's president, said he doesn't think his country's economy could stand an influx of Guatemalans returning from the United States. He suggested that the United States exempt Central Americans from the law for two years.

Such an exemption would have rendered the new law almost meaningless. Illegal aliens who were in the country before 1982 could still use the amnesty, but efforts to deport others and to close the borders to illegal immigration would have lost much of their force. The law says that people who entered the country illegally in the past five years are subject to being deported, and the Americans who give them jobs can be fined.

It's not as if the law caught Guatemala by surprise. The need to control the U.S. borders has been debated in Congress for several years. The new law was passed only last fall, but similar legislation came close to passage in 1984 and 1985. Guatemalan officials should have foreseen the possibility of tougher U.S. immigration laws and made preparations sooner.

Furthermore, the amnesty program is generous. Not all of the estimated 300,000 Guatemalans who are illegally in the United States will have to leave. U.S. officials said that a significant percentage will qualify for residency and remain in the United States.

The United States already provides aid to Guatemala. For Guatemala to suggest, in effect, that the immigration law be neutralized for its benefit is too much to ask.

BENJAMIN LINDER

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LOWRY of Washington. Mr. Speaker, I wanted to let my colleagues know about some statements from my home State on the death of Benjamin Linder, the U.S. citizen who was recently murdered by Contra forces in Nicaragua. Many people in Washington State knew Ben from his student days at the University of Washington, which is located in the congressional district I represent.

Over the past couple of weeks, I have heard from many of Ben's friends. They tell me that he was deeply committed to using his skills to make the world a better place. I believe that this kind of idealism is the best our Nation's young people have to offer. It is a powerful source of good and a great gift that we can give to the world. When U.S.-backed forces kill one of these fine young Americans, there can be no clearer illustration of the tragic waste caused by the Reagan administration's Nicaragua policy.

It is sickening that our government is funding this kind of activity. The United States should stand for something much better than this. The example of Ben Linder—what he was trying to do for other people—shows us that there is a better way.

It is too bad that Ben's parents and friends have had to put up with the recent efforts to cast doubt on his motives and actions. When we reach the point at which Contra supporters find it necessary to attack the character of someone who was building a hydroelectric dam, I think that shows how morally and intellectually bankrupt thay are. At this time, I would simply like to share a couple of statements that remind us of the human values that are lost when someone like Ben Linder is murdered.

Statement From a Memorial Service for Benjamin Linder Held in Seattle, WA

Ben Linder died on April 28, 1987 in the sovereign country of Nicaragua. Ben was a unicyclist, a clown, an engineer, and a deeply committed believer in society. He brought humor and light to the serious task of protest against the recklessness of the U.S. nuclear power industry. He asserted the necessity for world peace as he rode his unicycle from Washington to California. And finally Ben took his skills as engineer and clown to Nicaragua, where he devoted himself to bringing life and hope to a country he so strongly believed in, against the horror inflicted there by his own country.

As Ben once wrote from Nicaragua, "I plan to keep working in progressive third world countries for a while longer, like many years. Even though I often want to throw in the towel, overwhelmed with the problems of work and life, it is not often that one can say one is doing the right thing. I know I am."

To all of us Ben Linder gives the courage to live in a world where truth and goodness exist only as we stand up to injustice.

Washington State House of Representatives

House floor resoluton No. 87-4690, by Representatives McMullen, Spanel, Moyer, Wineberry, Brooks, Cole, Fuhrman, Cantwell, Lewis, Sprenkle, Bumgarner, Kremen, Jacobsen, Gallagher, Vehich, Brekke, K. Wilson, Locke, Scott, Todd, Leonard, R. King, Heavey, Pruitt, Sayan, Cooper, Haugen, Madsen, Grant, Rust, Wang, Unsoeld, Lux and Ebersole

Whereas, Benjamin Ernest Linder was raised and educated in the Pacific Northwest, graduated from the University of Washington School of Engineering and lived most of his life in the Pacific Northwest; and

Whereas, Ben Linder worked with the Nicaraguan Energy Institute on geothermal energy and low-head hydroelectric projects designed to provide energy for the rural poor in Nicaragua; and

Whereas, Ben Linder worked as a volunteer in the town of El Cua on the Bocay River in Jinotega Province of Nicaragua to develop a low-head hydroelectric facility for an area without electricity, to train the Nicaraguan people to use the facility to develop economic self-sufficiency, and to provide an economic base to bring together peasants in the region suffering attacks in isolated areas; and

Whereas, For nearly four years, Ben Linder worked in this poor and remote rural area of Nicaragua on community development projects designed to assist local residents to utilize the electricity generated from hydroelectric projects, such as the establishment of power lines to bring the first electric power to peasant villagers and to establish a lumber mill to provide work for war refugees; and

Whereas, Benjamin Ernest Linder was killed on the Bocay River in Jinotega Province of Nicaragua while working in a restricted military war zone to provide electric power to poor people in rural areas; and

Whereas, Ben Linder was the first American volunteer to be slain while working with the Nicaraguan government to provide community development and humanitarian service to the people of Nicaragua; Now, therefore, be it

Resolved, That the House of Representatives extend its sympathy and condolences to the family, friends and colleagues of Benjamin Ernest Linder, and recognize and honor the courage, integrity, compassion and accomplishments of Ben Linder; and be it further

Resolved, That the House of Representatives deplore the continuing violence that ended the life of Benjamin Ernest Linder; and be it further

Resolved, That copies of this Resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the family of Benjamin Ernest Linder, including his parents, David and Elisabeth, his sister, Miriam, and his brother, John.

TRIBUTE TO MELISSA WILSON

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. SYNAR. Mr. Speaker, it is a pleasure for me to pay tribute to Melissa Wilson, a young lady in my district who recently won the Oklahoma VFW Voice of Democracy Scholarship. Melissa's words speak out loudly for the "Voice of Democracy." The title of her essay is "The Challenge of American Citizenship."

THE CHALLENGE OF AMERICAN CITIZENSHIP

American citizenship is like a precious family heirloom which has been carefully tended, lovingly used, and passed from generation to generation. Throughout the history of our nation, many forces have challenged the security of our treasure and every generation has, in some way, been faced with its defense. It is a thing so valuable that many have willingly sacrificed their lives that it might be passed on to their children and grandchildren.

At Lexington and Concord, in the trenches of France, on the beaches of the Pacific, and on the frontiers of space, Americans have faced challenges because they value their citizenship and the freedom it represents.

The treasure is about to pass to my generation, and, with it, the responsibility for its care. We must consider the challenges we face in the safe-keeping of the American heirloom. For, with the benefits of citizenship come immense responsibilities. Assuming these responsibilities is the greatest challenge of our citizenship.

Today, as in the past, Americans have problems to solve. Our country's image abroad has been distorted, productivity and quality of workmanship have declined, and we face a growing trade imbalance. The national debt continues to soar, and we are in the grips of a war against illegal drugs.

The difference today, is that, like a piece of silver which has been left unattended, our nation's attitude toward challenge and responsibility has tarnished. Americans seem to have fallen into the dangerous habit of taking for granted that our government will solve all of the problems facing our nation. The fallacy of that attitude is that the government was not conceived to solve problems. It was designed to function for citizens who were problem-solvers.

A recent poll showed that Americans believed the reduction of the national debt to be the most important problem facing our country. At the same time, every effort to cut the federal budget meets outraged protest from one or more special interest groups. Yes, we all worry about the national debt, but in the end we, not our leaders in Washington, must take responsibility for its reduction. We must each be willing to make sacrifices, and in some cases to fulfill functions of expensive government programs on a personal level.

The same poll reported that we consider illegal drugs to be almost as great a challenge as the national debt. Drug programs are being instituted at every level of government, and millions of dollars are being channeled into the cause. Yet, the responsibility for winning the drug battle lies in the hands of the ordinary citizen. Illegal drugs will continue to find their way to the street as long as there are citizens who want to buy them.

These and other challenges our country faces are more than shadowy evils outside our reach and control. They are my challenges, my own personal problems and yours. They are problems which threaten our nation's heirloom, and they can only be solved when met with personal involvement by every individual.

In this, the 200th year of the United States Constitution, my generation is about to assume the job of tending our nation's most valuable treasure, American citizenship and the freedom it represents. It has been preserved for us at great cost, and we receive it in excellent condition. Like fine old silver which has been properly used and cared for, it has increased in character and value.

Yes, our citizenship comes to us with many responsibilities. But, I am optimistic that we will overcome the challenges facing us. After all, Americans have traditionally been at their best and most determined when faced by the greatest challenges. And I believe my generation will do no less.

TRIBUTE TO THE LATE HONORABLE WILBUR J. COHEN

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 18, 1987

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in the House of Representatives in paying tribute to the Honorable Wilbur J. Cohen, former Secretary of the Department of Health, Education, and Welfare and architect of the Social Security system, whose untimely death is a tremendous loss to the people of the United States.

Wilbur Cohen, who was my good friend for so many years, dedicated over 50 years of his life in service to our country, maintaining an unwavering commitment to the health and welfare of our Nation's elderly, disabled, poor, and disadvantaged. He was one of the most knowledgeable and creative people in the field of social welfare, and his accomplishments contributed significantly to the strength of our country's programs to improve the lives of our citizens.

Serving on the technical staff of the Committee on Economic Security created by President Roosevelt to resolve the problems of the Depression, at age 21 Wilbur Cohen was instrumental in the design of the Social Security Program. He became the first permanent employee of the Social Security Board, and was the director of the Division on Research and Statistics for 21 years.

Wilbur Cohen temporarily left Federal service in 1956, and became a full professor in the School of Social Work at the University of Michigan. However, he returned to Government service in President Kennedy's administration as the Assistant Secretary for Legislation at the Department of Health, Education, and Welfare.

When I began my congressional service in 1965, Wilbur Cohen was serving as Undersecretary of HEW, and in 1968 President Johnson appointed him Secretary of HEW. During these years, Wilbur Cohen played a key role in the formulation of virtually every important piece of social legislation, in such areas as civil rights, child welfare, and vocational training. He also played a major role in the creation of the Medicare and Medicaid Programs.

After serving as Secretary for HEW, Wilbur Cohen became the dean of the School of Education at the University of Michigan, and also held a distinguished chair as professor at the L.B.J. School of Public Affairs in Austin, TX.

Wilbur Cohen was an outstanding public servant and teacher, and a man who embodied the spirit and the social conscience of our country. He devoted his life to improving the social welfare of all of our citizens, and his vision has left an indelible mark on our country in the form of the Social Security, the Medicare, and the Medicaid Programs.

Mr. Speaker, Mrs. Annunzio and I extend our deepest sympathy to his wife, Eloise, his three sons, Christopher, Bruce, and Stuart, and the other members of his family who survive him.

PROFESSOR PROPOSES TAX ON ARBITRAGE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. FLORIO. Mr. Speaker, takeover fever is rampant. Speculators intent on short-term profits spend their time trying to destroy productive companies. The employees and the communities that depend on these companies are the losers. Incentives for long-term investment are destroyed and our Nation's competitiveness suffers.

Congress must examine ways to discourage unproductive, short-term stock speculation.

What follows is an article by Prof. Lawrence H. Summers of Harvard University, which recently appeared in the Philadelphia Inquirer, suggesting a tax on the purchase or sale of financial instruments:

The article follows:

[From the Philadelphia Inquirer, May 9, 1987]

TO DISCOURAGE ARBITRAGEURS: TAX 'EM

(By Lawrence H. Summers)

What is chic in American business changes through time. Major manufacturing concerns were the glamour business of the 1950s and 1960s, drilling for oil was the business to be in during the 1970s, and arbitrage is the darling business of the 1980s.

Huge trading profits have transformed investment banks from cozy partnerships with a few hundred employees into ruthless businesses with thousands of workers. Graduates of leading business schools flock to Wall Street in search of six-digit salaries and dream of the seven-digit incomes pulled down by many an arbitrageur.

The fall of Ivan Boesky, and of his cabal too, has dampened spirits a bit, but the game of short-term trading goes on at all the major investment banks and dozens of smaller firms. This is unfortunate—arbitrageurs are economic parasites. Their existence undermines our prosperity and reduces our ability to meet foreign competition.

The securities traded on financial markets are complex and their prospects are often difficult to evaluate. But the markets themselves are simple—buying and selling stocks is much like playing poker or betting on horses. Those who guess right win and those who guess wrong lose.

Like gambling on cards, horses or anything else, trading on financial markets redistributes wealth between winners and losers, but it does not create wealth. It is a zero-sum game—the gains of the Wall Street winners must be exactly offset by the public's losses.

How does this happen? The pros are in a position to respond more rapidly to new information than is the public. When good news comes, they move into the market and buy from the public. Eventually, when enough investors become aware of the good news, prices rise and those who learned the news first profit: When bad news comes, the pros unload their holdings before others realize that prices must fall. Either way, the public loses.

Trading on illegal insider information, as Ivan Boesky did, is different in degree but not in kind from the standard activity of arbitrageurs. The entire arbitrage business depends on trading on the basis of information that others lack. And it depends on trading with people who do not know that they are being exploited, and would not trade if they knew who they are trading with. This sort of thing is certainly unsavory—by some lights it is theft.

Morality apart, theft and arbitrage impose parallel economic costs. By working at taking things rather than making them, thieves reduce the economy's potential output. Unlike honest workers, their profits come directly at the expense of others.

In the same way, arbitrage is a drain on the economy. Research that enables a Wall Street firm to predict four hours early what will be in GM's quarterly earning report may help it trade profitably but it surely will not do much for society. Whomever the Wall Street firm trades with will lose as much as the firm gains.

On the other hand, research that produces a better mousetrap yields a real social benefit and the profits of the inventor do not come wholly at the others' expense. If present business school graduates started applying as much ingenuity to creating new assets as they do to valuing old ones, we would all be much better off.

Theft also burdens society because the fear of theft causes people to spend money on locks and security systems that they would rather be spending on goods and services. A further burden comes when persons do not buy valuable objects that they would otherwise enjoy for fear of their being stolen.

In just the same way, the response of Wall Street professionals burdens the capital markets. Outside investors decide that the best defense against being exploited is not to trade. They take their money out of the stock market and put it somewhere else.

To understand this consequence of unbridled arbitrage, imagine a bar where strangers meet to play poker each night. Some win and others lose but a good time is had by all. Suppose word gets out that an extremely skilled professional may enter the game at any time. The poker game will fold up as people recognize that by playing they are more likely to lose than to make money.

Inhibiting a poker game is not very serious. But when Wall Street hotshots deter the public from investing in the stock market, grave consequences ensue. Companies must draw from a smaller pool of capital and so their costs increase and their investment declines. Ultimately, lower investment translates into slower economic growth, reduced American competitiveness and lower standards of living.

What should be done to mitigate these pernicious effects of arbitrage? Wall Street firms claim that no action is appropriate since their activities help information to be reflected in prices and help to allocate risk efficiently. Certainly, investors who carefully study economic conditions and then make long-term capital commitments perform an important social function. And speculators who enable others to hedge against risks grease the wheels of commerce.

But these arguments are absurd as a defense of arbitrage activities that usually involve trades with a horizon of hours or even minutes. Information on which firm will be the target of a takeover bid an hour hence is more privately profitable but socially useless just like information on about who will win next year's Kentucky Derby. When the program-trading activities of arbitrageurs move the value of the entire stock market by several percent within a few hours, economic risks are increased and not decreased.

Some members of Congress have called for restrictions on takeover bids in order to prevent further episodes like the Boesky affair. The merits of restricting takeover bids are arguable, but restricting them in order to curb insider trading abuses makes no more sense than stopping the sale of jewels in order to inhibit jewel thieves.

Almost everyone supports a crackdown on insider trading. This is a good idea, but it does not go far enough. From an economic point of view, trading on inside information leaked by a company executive is not very different from trading on information gleaned locally by posting spies in corporate airports. Both exploit the unwary public and deter it from trading and investing.

One possible solution to the arbitrage dilemma warrants further consideration. A tax of one-half percent on the purchase or sale of financial instruments would have only a negligible effect on long-term investors looking for income and growth. But it would severely and justly burden those turning over their investment every hour in response to new information.

It would thus discourage arbitrage activities and so improve the functioning of the securities markets. And at a time when the federal government desperately needs revenue it would raise up to $10 billion from people who can certainly afford to pay.

SERMONS OF PASTOR RUSSELL F. BLOWERS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BURTON of Indiana. Mr. Speaker, one of the finest ministers in Indianapolis and I believe in America is Russell F. Blowers of the East 91st Street Christian Church. He just also happens to be my pastor.

He has given numerous sermons and speeches which are outstanding, but today I'd like to draw your attention and the attention of the House to two of them.

The first one deals with Mother's Day and "What is a Mother," The second one he gave last year on Memorial Day.

I hope everyone in America has an opportunity to read these two fine presentations.

WHAT IS A MOTHER?

Mothers come in various sizes: skinny, filled-out, and "oops!" They are found everywhere: in maternity wards, over ironing boards, teaching 3-year olds "Jesus Loves Me", up and around while the rest of the family is down with the flu, championing causes, turning right out the left lane, kissing where it hurts, perspiring over income tax forms, changing her husband's mind, looking daggers at the umpire who has just called her little boy out on strikes, popping corn at the school festival, on her knees with an open Bible, taking away privileges, giving back privileges, pushing piano practice, and sitting in a pew crying while her little girl is being married.

Mothers worry about everything: her daughter's first date, bike riding in the street, her first gray hair, the baby's fever, first day at school, her husband's cholesterol level, her first gray hair, her son's solo drive in the family car, report cards, warmed over suppers, abused children, her first gray hair, and too much sex and violence on TV.

A Mother is happiness with tears in its eyes; love with a firm paddle in its hand; joy watching Dad and the kids devour chicken and noodles; sacrifice taking the neck and wings and leaving the breast and drumsticks; foresight stashing away a little extra for college; faith singing in the choir, herding primaries, serving the church dinner, keep-up the pledge, making a call, and writing a letter to the missionaries.

Being a Mother is such a demanding task that God has entrusted it only to females. There is no experience so costly, so rewarding, so aging, and so exciting as being a Mother.

The day can be a fabulous flop complete with a dented bumper, a collapsed cake, a 6-stitch cut, an upset bowl of chocolate ice cream on the new carpet, daughter emerging from the bathroom with a new hair shade, and the husband coming home and asking "What have you been doing today?"

But when all is quiet at 4991 Shady Rest, when Dad is home and the baths are over and the homework done and the prayers are said, Mother takes that one last peek into every bed, and seeing the sweet innocent faces asleep, says guiltily: "How could I have screamed at her today?" "How could I have spanked him?"

And full of faith, hope, and love she looks out the window through misty eyes at the night-sky and prays—

"Thank you, Father, thank you
For the privilege of being a mother.
By Your grace and wisdom help me to
Teach them to love You as I do.
In the Name of Your Child, Jesus Christ, I ask
Amen.

FIVE HUNDRED MEMORIAL SERVICE—MONUMENT CIRCLE

On the 40th anniversary of D-Day, a British couple had a plaque attached to the grave of their only son who died to free Fortress Europe. It reads: "Into the mosaic of victory, this priceless piece was set."

Those priceless pieces of America's wars we remember and honor today.

I have lingered among the lines of white crosses in Arlington; hovered in a plane over the beaches of Normandy where channel winds caress more crosses; scanned all 58,000 names etched in black marble at the Vietnam memorial, knelt beside a battered, flaking tombstone in Crown Hill to read the name of an Indiana boy who fell in the War between the States.

I always feel I am on holy ground in those places. But then it's so easy to forget these who wanted so much to live. Forgetfulness is a national pastime.

Television has created in our time a familiar ritual. A bomb explodes in Lebanon. An air force plane goes down in Newfoundland. A billion dollar house made with hands disintegrates in the Florida skies. There is the temporary interruption or regular programming. There are weeping families, the President embracing widows and children, the spit and polish military contingent and the flag-draped caskets. There is the service band and Eternal Father Strong to Save. A quick benediction, then fade out and into the Oxydol commercial. And it is back to normal. It has always been so. A Presidential proclamation tells us to remember, so in May we leave our lawn parties, put our 33 pampered machines away till Sunday, do our memorial thing, them fade out into the commercial.

Is this all there is to our remembering? Can't we leave this place after all the oratory and the music and the prayers to remember more frequently these priceless pieces in the great mosaic of freedom?

I am not here to exalt war. It is a futile process of attempted problem solving. A temporary and extravagant fix. War was hell long before Sherman came to that conclusion. Ask any of us soldiers in tight uniforms with a flag in our hands. General Patton may have felt good standing over a bloody, burning battlefield and saying, "God, I love it" but for most of the world's peoples who have been terrorized by war, it is ugly and unproductive.

Neither am I up here to lecture humanity on easy solutions to human conflict. As long as man's heart is unredeemed and deceitful there will indeed be wars and rumors of wars. As long as this is Satan's turf, military defense systems will be as indispensable as police and fire departments. Politicians, preachers, priests and poets can turn phrases like "a just and lasting peace" but until the rebellious human heart surrenders unconditionally, to the God who is love, peace is only a brief moment between wars.

We are here to give thanks to the living God for the men and women whose lifeblood was the costly grace that permitted us to stand here free—the Goldbergs, the O'Briens, the Smiths and Rodriquez'—all those priceless pieces, precious stones, set into the mosaic of America.

Let us commend them to God, and praise Him that He has given us the love, and the grace, to remember, today and always.

To all those white crosses at home and abroad, let us say as Mark Twain inscribed on the grave of his little daughter:

"Warm summer sun, shine kindly here;
Warm southern breeze, blow lightly here;
Green sod above, lie light, lie light;
Good night, dear heart, Good night, good night."

MEMORIAL DAY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. HEFLEY. Mr. Speaker, the first big weekend of summer. It's time for the pools to open in the parks, the clubs and the apartments. Get the boat out, dig out the golf clubs, plant the garden, it's Memorial Day!

Memorial Day! Like so many other holidays this special day has mostly lost its meaning and become just another day when we're off from work, a day for recreation, relaxation, and time with our families. All of these activities are good ways to spend the day but what about the reason for the "day off."

Memorial Day is for remembering. Remembering the important contributions of the millions of patriotic Americans whose service to our country has had a profound effect on history. In the spring of 1866, in the midst of one of our Nation's darkest hours, memorial associations began to be formed throughout our divided Nation. The purpose of these organizations was to care for the graves of both Union and Confederate soldiers.

On April 29, 1866, the citizens of Carbondale, IL, conducted an all-day observance, including a parade, a barbecue, speeches, and the decorating of graves of some 20 Union soldiers. The principle speaker on this first formal "memorial" celebration was Gen. John Logan, the first Commander-in-Chief of the Grand Army of the Republic. On May 5, 1886 northern cities began paying respect by closing businesses, flying the flag at half-mast and decorating the graves of fallen soldiers. On May 5, 1868, after 2 additional years of some of the bloodiest and most brutal conflicts this Nation has ever endured, General Logan declared May 30 as the official day for nationwide remembrance of our Nation's war dead. In 1971, Congress changed the day to the last Monday in May.

The United States has always been a nation that cares for its warriors and this is a true gauge of a nation's price and strength. Memorial Day is one way we can express the appreciation of and pride in what America's soldiers have accomplished over more than 200 years of our Nation's history.

More than 1 million Americans have fallen, never to rise again, in the service of the their country. Let's look at the numbers: American revolution; 4,000; War of 1812; 2,000; Mexican War; 13,000; Civil War; 134,000 (Confederate) 365,000 (Union); Spanish-American War; 11,000; World War I; 116,000; World War II; 405,000; Korean conflict; over 58,000 in Southeast Asia; post Vietnam; 11,000; recent attack on U.S.S. *Stark* 37.

These fell in order to ensure the values of a civilized and free society, values which they placed higher than their own lives. It is our responsibility to remember them by further strengthening the values for which they fought; by exercising the rights and liberties for which they died; and by carrying these values into the future for our children and grandchildren.

Remembering and honoring our veterans is not only kneeling before a white marker to plant a tiny flag, donning an old uniform for the annual parade, delivering an eloquent speech or singing a stirring anthem. While all of these are important traditions, remembering is much more. It is family and morals; it is participation, voting and speaking out for our beliefs; it is unchecked movement and unrestricted worship and voice; it is committing to freedom and peace everywhere.

In addition to remembering those who gave their lives so that we may breath free, let's not forget those who came back, many of which need our help now. Unlike many other countries, the United States enjoys the security of peace and freedom. This security did not come easily or cheaply, however. Part of the cost has already been paid by Americans who answered the call to military duty when their country needed them. They served in nine wars from the Revolution to Vietnam, earning the special distinction "veteran."

But another part of freedom's cost must continue to be paid long after the guns of war have been silenced. This debt is owed America's veterans.

Some need their country's help, even as their country once needed theirs, to readjust, recover from wounds, and hardships of age and infirmity. Let us reach out to these veterans with the greatest possible compassion and efficiency.

And for those who have no real urgent needs and ask no special thanks, we can best pay tribute to them this day by recognizing what they have achieved and joining them in their resolve to keep America strong and free.

Abraham Lincoln once said in the fall of 1863: "It has seemed to me fit and proper that they should be solemly, reverently, and gratefully acknowledged as with one heart and one voice by the whole American People * * *"

It seems only appropriate that we remember these people on Memorial Day with one heart, one voice, and as one people.

MINIMUM HEALTH BENEFITS FOR ALL WORKERS ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. CLAY. Mr. Speaker, to join my distinguished colleague from California, Congressman HENRY WAXMAN, as an original cosponsor of H.R. 2501, the Minimum Health Benefits for All Workers Act. I want to commend both Congressman WAXMAN and Senator TED KENNEDY, who today introduced a companion measure in the Senate, for their leadership in developing this legislation.

The Subcommittee on Labor-Management Relations, which I chair, has already begun to lay out groundwork for a bipartisan comprehensive and long-term look at our health care delivery system and the critical role played by employer-sponsored health plans. We will be examining several approaches to solving the problem of how best to expand our health care system to cover 37 million Americans who today lack health insurance. We intend to work closely with the Subcommittee on Labor Standards, chaired by my distinguished colleague from Pennsylvania, Congressman AUSTIN MURPHY, who is also an original cosponsor of the bill, as well as Congressman WAXMAN and Senator KENNEDY. We also intend to work in our usual bipartisan manner.

The bill that we are introducing today would require all employers to provide a minimum package of health insurance to all full-time workers and their dependents. Full-time workers would be defined for this purpose as anyone working at least 17.5 hours a week.

Of the 37 million Americans without health insurance coverage in 1984, nearly 30 million were workers or spouses and dependents of workers. Two-thirds of these families had at least one person in the family working 17.5 hours or more for the same employer. Although the provisions of the bill as written will go a long way toward closing the insurance gap for the working uninsured, the bill does not address the problem of the part-time worker who may have several jobs, none of which involve at least 17.5 hours of work. A number of approaches have been discussed to deal with this question as well as the whole issue of part-time workers and access to health insurance. We would appreciate any input on how best to structure a system that provides the necessary access for workers but limits the burden for employers.

I am sure that a good deal of debate will be heard about what is the appropriate minimum benefit package that all employers should be required to provide. The bill takes one approach—obviously there are many other types of packages that could be developed. As the discussion unfolds, we should not lose sight of the fact that this is a package that is supposed to be "bare-bones"—just the core coverages. Although employers are strongly encouraged to provide more than the minimum and today many do, if Congress mandates that every employer provide a plan, the cost of that plan must be reasonable and cannot contain every services or coverage that might be desirable.

The bill recognizes that one of the major obstacles that many small employers face in offering health insurance is cost. Currently employer-sponsored health insurance is simply not affordable for many small businesses. Many small businesses are marginal: they have a short life span and low profitability. Insurance costs small businesses anywhere from 20 to 40 percent more than large business. These costs frequently reflect administrative charges for overhead, marketing, and medical underwriting. In addition, small businesses must buy insurance; it is neither feasible nor prudent for them to self-insure. And the insurance contracts they buy are subject to State mandated benefit laws that also add to the cost.

At the same time that the bill imposes a requirement on all employers to provide a health plan, in order to keep the cost of this requirement down for small employers, the bill would establish a series of regional group health plans. Under these plans, several competitively selected health insurers would offer packages that complied with the minimum benefit requirement and well as more generous packages. Each insurer would be required to offer both a managed care plan and an indemnity plan. Small businesses could buy insurance from these group health plans at a lower cost than is currently available because, among other things, administrative savings could be realized, the size of the pool would make it feasible to negotiate substantial provider discounts, state mandates would not apply to the plans, and no medical underwriting would be allowed.

In addition to the group plan structure proposed in the bill, several alternative methods are being discussed to implement this type of arrangement. We would like comments on how best to structure the group health arrangement for small employers in order to assure the most efficient and effective system while at the same time keeping the cost of the plan as low as possible.

Finally, the overall goal of the bill is to broaden access to affordable health care. In so doing, we do not want to disrupt unduly the existing plans of employers, provided that the plans are in fact delivering good medical coverage. Therefore, the bill permits the use of the concept of actuarial equivalence to demonstrate that the minimum package is being provided. Frankly, I realize there are problems in trying to define what is an actuarially equivalent plan. I recognize it will be difficult for actuaries to establish the necessary procedures to demonstrate actuarial equivalence. We would like more information as to how this can be done and whether there are any other approaches we might consider to reach our goal of broad coverage without seriously disturbing existing health plans.

As the Subcommittee on Labor-Management Relations considers the bill and the broader question of access to affordable health insurance, we will be focusing on several key issues.

First, we are examining the problems of the uninsured: who they are, why they have no coverage, and how best to assure access to affordable coverage.

Second, we are concerned about the effect of State-mandated benefit laws on the growth of employer-sponsored health plans. Part of our focus will be on the effect of the preemption of State laws under the Employee Retirement Income Security Act of 1974 [ERISA]. Despite ERISA's broad preemption language and the intention of its drafters to preclude the States from regulating employee benefit plans generally, the Supreme Court has interpreted ERISA to preclude State regulation only if the plan is self-funded. Thus States can and do regulate contracts of insurance purchased by employee benefit plans. Higher costs for some plans and confusion for all plans has resulted.

Third, we are concerned about how best to reduce the necessary costs of required group health coverage on small employers. We will continue to refine the concept of regional group health plans as well as consider alternative mechanisms for bringing down the cost of compliance for small employers.

Fourth, we must begin to explore solutions to the growing crisis concerning employer-sponsored retiree health plans. Although the bill introduced today does not address that issue, retiree health plans will be an important part of the overall health policy debate.

For several months, the staff of the Subcommittee on Labor-Management Relations has been discussing all of these issues within the framework of a health policy working group. The group was put together by our distinguished colleague from Pennsylvania, Senator JOHN HEINZ, and I as an outgrowth of our joint efforts in the pension area. In addition to majority and minority congressional staff of both the House and the Senate, the group consists of private sector individuals representing the divergent views of large and small buisness, organized labor, retiree groups, the insurance industry, health policy analysts, and the Financial Accounting Standards Board. These people have participated in the working group as concerned citizens, and do not necessarily speak for their respective constituencies. The group has also been fortunate to have been able to draw upon experts from the executive branch representing the Departments of Health and Human Services, Labor, and Treasury, as well as the Small Business Administration. Senator HEINZ' staff and my subcommittee staff have prepared a series of working papers and are in the process of developing a comprehensive concept paper summarizing the recommendations of the group that will touch on each of the areas identified above. We expect to have both the working papers and recommendations available for distribution and discussion by early July.

H.R. 2501 should be viewed as a beginning. As Congress considers the critical issue of how to assure universal access to affordable health care, many other helpful proposals will emerge. Although we still have work to do in refining its provisions, the introduction of this bill is an important step forward. I applaud Senator KENNEDY for his leadership and I look forward to working with all interested parties to improve upon the bill and to work toward its enactment.

"REFORMED TAX COULD BACKSLIDE"

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. CRANE. Mr. Speaker, I would like to call your attention to a recent article, "Reformed Tax Could Backslide," by Louis Rukeyser. Mr. Rukeyser eloquently explains that the Tax Reform Act of 1986 has not proved to be as rosy as originally planned. Both Mr. Rukeyser and Mortimar M. Caplin, Commissioner of Internal Revenue under Presidents John Kennedy and Lyndon Johnson, concur that the Tax Reform Act of 1986 has brought many problems with its solutions. Both envision a failure in the ultimate goals set originally in the act: a 28-percent top tax rate for individuals—by 1988—and a cutback in the number of loopholes and deductions that taxpayers may make.

Just last week, LLOYD BENTSEN, chairman of the Senate Finance Committee, was quoted in the Wall Street Journal as saying that "the tax rates are still on the table * * * [and] nothing is off limits." Speaker JIM WRIGHT has also suggested the same. We do not need taxes increased. Taxpayers already ante up too much, and get too little from it. The problem is that there has not been enough "reform" in the 1986 Tax Reform Act. I vociferously believe that we need more tax reform. Recently, I introduced H.R. 111 which would amend the Internal Revenue Code Act of 1954 making a flat rate tax of 10 percent for all individual earned income. While the reduced tax rates in the 1986 Tax Act went in the right direction, the increased burden on business, the elimination of many savings incentives, and reduced incentives for capital formation moved the Tax Code further away from reform and toward a more complex, inefficient, and inequitable code. A bill is thus needed to give guidance to those who truly wish to reform the code and establish a code which does not give lip service to the President's goals of "fairness, growth, and simplicity," but actually achieves these goals. This article, which follows, raises these fears. I strongly urge my colleagues to read, "Reformed Tax Could Backslide."

[From the Chicago Tribune, Jan. 27, 1987]

REFORMED TAX COULD BACKSLIDE

NEW YORK—Whoops! If there was one issue that united the entire Washington establishment—from Reagan to Rostenkowski—last year, it was the drive for what they called "tax reform." Now, with the highly touted new law in place less than a month, the issue threatens to degenerate into what we may have to start calling . . . Taxscam.

Both sides of the alleged great bargain, lower rates versus closing "loopholes," are in trouble. The most immediate threat, though, is to the bill's chief selling point: The 28 percent top tax rate on income.

No less than an authority than Mortimer M. Caplin, commissioner of internal revenue under Presidents John Kennedy and Lyndon Johnson, confessed in an interview that the prospects of that benefit being delivered as promised in 1988 "are getting shakier and shakier."

Caplin, who said that such reneging by Congress would "undercut" the premise of the 1986 law, noted recent weasling on the 28 percent rate by the two most powerful Democrats in the House: Speaker Jim Wright of Texas and Ways and Means Chairman Dan Rostenkowski of Illinois. Both have suggested coyly that the 38.5 percent "transition" top in effect this year might have to be extended. By pure coincidence, of course, that was the rate favored in 1985 by the tax-happy House—and rejected by the White House and Senate.

Other parts of the supposed bargain also seem to be in deep trouble; some, deservedly so. Legislators are bracing, for example, to see how much outcry they get from ordinary taxpayers over what may be the most grotesque bookkeeping nightmare in the law: The 80 percent limit on deductions for business meals and entertainment.

As Caplin put it to me: "This is a very complicated way of doing what they want to do. It doesn't hit just the fat cats. It creates tremendous problems for the little guy out there in the streets, trying to earn a living as, say, a salesman."

Business travelers typically put hotel bills in one category, for example. Now, they are faced with the necessity to break out the meals separately, and then do arithmetic on the result.

Congressmen are beginning to hear stiff complaints from ordinary voters on that one and also are being flooded with objections concerning the *ex post facto* rules disallowing large parts of promised writeoffs on real estate and similar limited partnerships.

Those who believed the stories that this law would be set in concrete should be aware that the new chairman of the Senate Finance Committee, Lloyd Bentsen, a Texas Democrat, has indicated [in a letter to 140 Texas real estate executives] that he intends to seek changes in the new rules retroactively attacking the so-called passive losses on partnership investments.

The political appeal of "tax reform" was that it would bring fairness and simplicity to a convoluted code. Instead, the realization is growing that many ordinary citizens are being treated woefully unfairly and that the law is more complicated than ever.

Meanwhile, though, keep a close eye on the 28 percent top that's supposed to arrive in 1988. This could turn out to be the litmus test of whether the new law was a conventionally oversold tax revision or something more shameful, Taxscam—a scandal that, in its impact on the average American's pocketbook, could make Abscam and Iranscam look like nickel poker.

"REAGAN CLAIMS INNOCENCE BY PLEADING GUILT"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. MILLER of California. Mr. Speaker, the Reagan administration's explanation of its actions in the Iran-Contra scandal was radically altered last week.

After months of vigorous denials, the President unexpectedly announced that he had, in fact, known of the secret, private funding of aid to the Nicaraguan Contras notwithstanding congressional action restricting that aid. In fact, the President boasted, that the surreptitious aid was his own idea.

The President and his supporters would have the American people believe that there was nothing illegal about this private funding of American foreign policy. Now, after months of clandestine machinations, they are proud of their role.

The duplicity of this strategy is self-apparent. If there was nothing illegal, why was the solicitation of foreign contributions and the channeling of private funds all carried on in secret?

If these actions by the President's staff were not restricted by law, why not conduct them openly and inform the press, the Congress, and the American people of their decisions? Why all the code names, and secret trips to Chinese groceries, and shredded documents?

If they were proud of their actions, why the months of denials of any knowledge or involvement?

All the President's men obviously believe that by pleading guilty to involvement in the Iran-Contra activity, they sidestep the nagging question of whether, and when, the President knew: he knew all along. He thought it up.

But that is not the key question in this very disturbing and constitutionally explosive case. The issue is the circumvention of the constitutional explosive case. The issue is the circumvention of the constitutional process, the sidestepping of both the letter and the spirit of the law, and the undermining of official policy and the credibility of the United States which comes of dealing with terrorists and using the proceeds to finance private wars.

Two columns in this week's New York Times focus on the history of the President's denials, and the dramatic impact of his confession on the entire scandal. They deserve the attention of all Members of the House.

The columns follow:

[From the New York Times, May 20, 1987]

REAGAN'S CONTRA-AID LINE: NEW SHIFT

(By Joel Brinkley)

WASHINGTON, May 18.—President Reagan's new assertion that he was "very definitely involved" in the covert program to aid the Nicaraguan rebels is only the latest in a string of White House reversals on the question.

For the last several months Mr. Reagan and his aides have professed to know little about the private aid to the rebels, known as contras. "I had no detailed information," Mr. Reagan said when asked about covert military aid to the contras just two weeks ago.

Since then, Congressional testimony has demonstrated that Mr. Reagan knew far more than he had been saying, and on Friday Mr. Reagan did an about-face. "I've known what's going on there, as a matter of fact, for quite a long time now, a matter of years," he said, adding that private aid to the contras "was my idea to begin with."

A study of the record shows that during most of the period starting in 1984 when Government assistance to the contras was restricted the White House issued unambiguous denials of any involvement, almost always accompanied by promises that the President and his aides were carefully abiding by the letter and the spirit of the law.

ACTIONS CALLED LEGAL

But each time evidence has been presented showing that the Administration had in fact been aiding the contras in one manner or another, the White House has shifted its ground, saying it was perfectly legal.

The latest reversal of the White House position has effectively short-circuited a central theme of investigation in the special Congressional Iran-contra hearings that began early this month and resume on Tuesday.

Behind almost every line of inquiry at the hearings so far has been the general question: What did the President know, and when did he know it? Now Mr. Reagan has said, in effect, that he knew all about it from the very outset.

That development is likely to make any further questioning on this theme anti-climatic.

FOCUS SHIFTS TO PROSECUTOR

Mr. Reagan's assertion that he did not violate the law, even though he was heavily involved, because the law did not apply to him, also moves the focus of the investigation away from the public hearings, where the purpose is to find out what happened, to the special prosecutor, whose job is to determine if the actions were legal.

Through 1984 and most of 1985, the Administration steadfastly denied any involvement with programs to aid the contras. A statement by John Hughes, the State Department spokesman, in late 1984 was typical. He said private individuals were entitled to help the contras if they wanted, but he added: "Obviously there was consideration of options or alternatives in the Government, but the decision was taken not to play an active role in soliciting either private funding or third-country support. And the fact is, the United States has not done that."

The Administration maintained that position until August 1985, when news reports showed that Lieut. Col. Oliver L. North had been directly involved in raising money for the contras and offering them tactical assistance during the period when Government assistance was the most severely restricted.

Then the White House did its first about-face. Larry Speakes, the White House spokesman at that time, said: "The President was fully aware of the extent of the relationship between N.S.C. members and members of the democratic resistance group, and he has been aware all along." Asked about that then, the President said: "We're not violating any laws."

LINK TO PLANE DENIED

The issue came back to the forefront of public attention again last October, when one of the private contra supply planes managed by Colonel North and Richard V. Secord crashed inside Nicaragua. Then, officials from almost every branch of Government went to great lengths to deny any Government connection to the plane.

"Absolutely not," Mr. Reagan said when asked if there was any United States involvement. "While they're American citizens" on the plane, he said, "there is no Government connection with it at all."

Then for the first time the President used the argument that the White House maintained until Mr. Reagan changed his stance again on Friday. "We've been aware that there are private groups and private citizens that have been trying to help the contras," he said, "but we did not know the exact particulars of what they're doing."

But on Friday, Mr. Reagan said "I was kept briefed" on the private aid program, adding, "It was my idea."

DIVERSION OF PROFITS

Today both Administration and Congressional officials said the new White House position does leave one area where the facts remain unresolved: the question of whether Mr. Reagan was aware that profits from the Iran arms sales were among the funds that went to the contras. Mr. Reagan continues to maintain that he did not know.

Mr. Secord, the former Air Force major general who was the chief operative behind both the Iran arms sales and the contra supply network, said two weeks ago that only $3.5 million from the Iran arms sales was diverted to the contras.

Many members of the Congressional investigating committees have said they are less concerned by the diversion than by the larger picture: that the Administration set up an elaborate, foreign policy apparatus to carry out covert programs that the Congress was unwilling to accept.

But from the moment the Iran-contra arms deals swelled from a problem to a scandal last November, Mr Reagan has pinned his defense on not knowing about the diversion. That promoted the diversion issue to one of great significance.

REAGAN IGNITES A CONSTITUTIONAL CRISIS

(By Laurence H. Tribe)

After President's Reagan's former national security adviser, Robert C. McFarlane, testified that he had briefed the President "dozens" of times about the steps that he and various aides were taking to raise funds for the contras' military operations, the White House defense began edging away from the increasingly implausible "factual" claim of no Presidential involvement and toward an even more troubling legal claim of Presidential immunity.

This latest position continues to hold that the President played no role in diverting profits from the Iran arms sale to the contras—a claim that remains to be explored in further hearings.

But the White House also insists that however active a role the President played in efforts to encourage private and foreign assistance to the contras from sources outside the Iranian arms deal, no law passed by Congress either attempted to, or could, restrict his freedom to deploy his own office, or the offices of his National Security Council, to obtain third-party support for the contras.

This was not the Administration's expressed understanding of the Boland Amendment of October 1984 when the Assistant Secretary of State for Inter-American Affairs, Langhorne A. Motley, testified before the Senate Foreign Relations Committee shortly after Saudi Arabia's King Fahd had met with President Reagan and doubled the Saudis' clandestine aid to the contras, to $2 million a month.

At that time, Mr. Motley testified that soliciting aid from third countries would violate the amendment's prohibition against "direct or indirect" support for the contras. The Administration was right then; it is wrong now.

First, the Boland amendment bars support for the contras drawn from any "funds available to * * * any * * * agency or entity of the United States involved in intelligence activities."

This amendment's legislative history makes clear that this includes Government revenues devoted to paying the salaries and expenses of intelligence operatives whenever their actions—such as the solicitation of contributions—"would have the effect of supporting" the contras "directly or indirectly," in the amendment's words.

Second, even if the costs of paying agents were not covered, the funds that such agents raised were indirectly made "available to" agencies that became "involved in intelligence activities," as the National Security Council had certainly become by 1985.

Having covertly turned the National Security Council into an operational intelligence unit in order to sidestep Congressional restrictions on, and oversight of, the Central Intelligence Agency, the White House cannot now invoke the view held by Congress, the Tower Commission and many others that the N.S.C. was not intended to serve as an intelligence agency.

That the funds obtained from domestic and foreign sources circumvented agency coffers and may have gone straight into the contras' hands cannot obscure their availability for intelligence agency purposes and projects.

Third, it is irrelevant whether the Presidential office is deemed an "entity of the United States involved in intelligence activities," because the President—if his latest "recollections" are accepted—either encouraged entities involved in intelligence to circumvent the amendment of, at the very least, did not "take Care that the Laws be faithfully executed" by such entities, as Article II, Section 3 of the Constitution requires.

In other words, if the puppets are subject to the law and violate it, the puppet master cannot escape accountability.

Therein lies what appears to be the most serious breach of duty by the President—a breach that may well entail an impeachable abuse of power, however politically unlikely impeachment of this affable officeholder may be.

The Constitution is, after all, indifferent to popularity and blind to personality. Yet, stripped of its technical camouflage the latest White House position ultimately reduces to the claim that this President, being somehow outside the Government, is above the law.

Our entire constitutional system—not to mention common sense—rebels at any such notion.

The carefully crafted requirement of Article I, section 9, that all funds raised by the Government or its agents must enter and leave the federal treasury, and must do so only pursuant to laws passed by Congress, would be rendered utterly meaningless if the President, seeing himself not as an agent of the Government but as an outsider, could preside freely over the creation of a shadow treasury designed to aid his shadow intelligence network in pursuit of his private schemes.

Congress's control over the purse would be rendered a nullity if the President's pocket could conceal a slush fund dedicated to purposes and projects prohibited by the laws of the United States.

When Ronald Reagan was elected on an antigovernment platform, pundits smiled. When incumbent Present Reagan was reelected on such a platform, political scientists were puzzled. But when the President's status as a perpetually bemused and patriotic outsider is transformed from a political stance into a shield against the rule of law, a constitutional crisis is at hand.

AGING IN AMERICA

HON. BRIAN J. DONNELLY

OF MASSASCHUETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DONNELLY. Mr. Speaker, I am submitting for the RECORD an excellent article entitled "Coming of Age" from Healthcare Forum magazine. This article addresses the serious problems our country will be facing in the next century as America gets older, and provides suggestions for change.

Key to this article is the theory that we need more attention focused on issues relating to long term health care. The article notes, for example, that: "The pace and rhythm and economics of a hospital are keyed to people under 50" and that hospitals are "structured to deal with acute, infectious diseases * * * which are not the diseases of the old."

Mr. Speaker, this article is especially timely as the House prepares to consider the catastrophic health legislation recently reported from the Ways and Means Committee. It shows that we need to focus on the problems the elderly in America will be facing in the next century. I urge my colleagues to read the article carefully.

COMING OF AGE

(By Joe Fowler)

Age is coming of age. More Americans are living longer. And they are spending those extra years happier, healthier, and wealthier.

Few who study history closely have missed being overwhelmed at some point in their career by the power of the Marxist claim that history is driven by economics. Few who pursue it further can fail to be stunned by the realization that economics is but a small part of the much larger history-driving engine of demographic change.

Individuals make a profound difference in the acute phases of history. It is unlikely that France and Germany would have conquered Europe without Napoleon and Hitler, that Spain would have conquered the Aztecs without Cortez, or Ptolemy become Pharaoh without Alexander. But the broad sweep of history, the stage that brings forth these leaders, has as much or more to do with the population at large—who they are, how old, how educated, how rich, how satisifed, how healthy.

We are in the middle of such a great demographic change. It is frightening, but on one level reassuring, since parts of it can be predicted much more clearly than anything else in the future. The cohorts that will become elders in the next 20 years are not projections. They are living people. As they age, America will age.

America expresses itself in its popular culture—and the signs indicate that aging is "in." Consider the avalanche of articles on aging in the past two years. Joan Collins in her late fifties being voted sexiest woman in America in a Reader's Digest poll, the success of "Dynasty," the sudden rise of walking as the "in" fitness sport.

Consider just this one phenomenon: McCall's recently named the ten sexiest American men over 60. They were Paul Newman, 60; Lee Iacocca, 61; Norman Mailer, 62; John Forsythe, 67; Frank Sinatra, 69; Joe DiMaggio, 70; Ronald Reagan, 74; John Huston, 79; and Isaac Bashevis Singer and Cary Grant, both 81.

Could such a list have been published in a major popular magazine even ten years ago? Would anyone have been interested? Would the editors have thought that it would help sell the magazine? All of these men would be admired in any time. But sexy is something different. Sexy is weak in the knees. Sexy is come fly with me. Sexy is be still, my heart. Some of them—Newman, DiMaggio, Grant—would be sexy in any decade. But Iacocca? Or Singer, the bespectacled, gnomish, vulture-headed Yiddishist?

That rumbling is the moving of the demographic earth.

CATALYST FOR CHANGE

Every such change has its prophets and profits. Ken Dychtwald, PhD, has been one of the prophets of this one. Author, president of Dychtwald and Associates consulting firm, national director of the Institute on Aging, Health and Work, he gets some fifty speaking requests a week from everyone who could be affected by the change, which is to say everyone. He has spoken to associations of home designers, underwear manufacturers, and car companies. His closing address at the 1985 AWH Convention was widely praised. The U.S. Commission on Aging has signed him on to train its entire staff.

Now Dychtwald is turning his knowledge into real changes in the healthcare field, starting at one institution. Over the past two years he has worked with one of the country's most progressive hospitals to see how it can profit from the change by serving it.

Neilson Buchanan is CEO of the 164-bed El Camino Hospital in Mountain View, California, deep in crowded, affluent, and future-oriented Silicon Valley. He estimates that some one-third of the hospital's resources go to people over 65. Under his leadership El Camino has already put in place a string of programs for the elderly, and is currently building a 535-unit "continuing care" retirement center. But until recently it had no comprehensive plan for the shift to an older population.

Several years ago, after hearing him speak at a Health Management Services luncheon, Buchanan asked Dychtwald to help him redirect El Camino to meet this new future. "We had already identified the issue," he says. "In 20 years things are going to be very different. It's impossible to say just how, but there are enough winds blowing out there to give some idea. Medicare won't be the same. Social Security won't be the same. It's an obvious issue in strategic planning. The challenge is to recognize the forces operating. We needed to know a lot more about it. Several of us had met Ken. We asked him to be the catalyst."

It was a challenge for Dychtwald. He had spoken to many hospital groups, but he had little experience in the day-to-day workings of a modern medical complex. He didn't know an MIA from a tax-exempt bond. Once the youngest instructor at Esalen, he is firmly rooted in the New Age exploration of alternatives to traditional medicine.

Dychtwald's critique of medicine goes beyond marketing problems to the very structure of its institutions: "The hospital, as it has grown up in this century, is structured to deal with acute, infectious diseases. These are not the diseases of the old, who must deal with chronic, degenerative illness often rooted in lifestyle. If you break your leg skiing, insurance will pay; but it will not pay for healthcare for a chronic problem. The pace and rhythm and economics of the hospital are keyed to people under 50.

"The elderly are being poorly treated by people who are not properly trained. Many mental deficiencies are not properly diagnosed, such as Alzheimer's or dementia. Sometimes the problem is polypharmacy, the overuse of drugs. Many of the drugs most commonly prescribed to the elderly have never been tested on people over 60."

It's a challenge that many hospitals are already faced with, but that most have avoided. Dychtwald cites a discussion he had with one hospital CEO: "I asked him the percentage of his patients over 65. He estimated 65 percent. How many geriatric specialists did he have on staff? None. How many programs specifically aimed at older people? None. It's like having no Toyota repairmen in a town where almost no one drives anything else.

"There are lots of top guys that will say, "This sounds important. Let's get a task force together. We'll meet Thurdsay and Friday, and make recommendations Monday.'"

Buchanan's approach was different. He decided to attack the problem full force. He asked Dychtwald how much time it would take to do it right, and told him, "I really want you to provoke these people."

MAKING IT HAPPEN

Buchanan appointed a task force of 20 people. It included himself, the head of nursing, half a dozen doctors, people from patient education, strategic planning, psychiatry, public relations, education and training, health management services, the auxiliary, and the foundation.

Mary Wallace "Mickey" Wheat, executive director of the hospital's foundation, says, "One of the things that made this work was that Neilson gave it his total commitment, without looking for any specific result, and without any specific time limit.

Patricia Aalgaard, the task force coordinator, agrees: "It takes leadership by the CEO. He was very receptive and responsive to information from within the hospital and from the community. I've never known a planning project styled like this. It's not usually appropriate or possible. Here there was time, and commitment. It helps the process if people come regularly. We've met at least one full day each month for a year, and out of the 20 [task force members] we have had 15 to 17 each time."

"It's not my management style to just say this is the way it's going to be," says Buchanan. "A hospital is one of the more complex organizations in which to try to solve problems. So the other way—dictating policy—will get you through quickly. But you may not be where you want to go. Or you may get there, but not have anyone with you."

Being on the task force was not an easy assignment.

The first stage was what Dychtwald called "Consciousness Raising." Dychtwald was concerned that "people often do planning without knowing who they are planning for." The four-month curriculum was prodigious. Besides the monthly full-day seminars, the task force members read some 300 pages each month. They did role-playing as older people. They went into the community to identify bits of daily life that are more difficult for an older person, such as driving, standing in line, getting on escalators, and negotiating "walk" signals timed for quicker people.

They conferred with "key service providers" in the community, professionals from nursing homes, home healthcare organizations, senior centers, hospices, respite care providers, and the American Association of Retired Persons, to discover "what works and doesn't work." Mickey Wheat says, "We are not out for personal glory, or to reinvent the wheel. We wanted to find out what is being done. We can envision all manner of networks, consortia, and information sharing with these people."

They commissioned a demographic study from Roger Mack, a Stanford economist. They listened to psychiatrist Carl Eisdorfer, then president and CEO of Montefiore Medical Center in New York City, and 79-year-old Gray Panther founder Maggie Kuhn.

Besides the reading that every task force member was asked to do, each member was given customized research packets in his or her area of expertise and interest, pulled by Dychtwald's staff from his extensive reseach library on aging. According to Dychtwald, what he was attempting with the task force was to "make them all experts." Says Mickey Wheat, "If we had done nothing else, it still would have been extremely valuable."

The process moved synergetically. "If you had asked me what the ideal hospital of the future formed around the aging population would look like," says Dychtwald. "I wouldn't know. I did their homework. They did mine."

Once the homework was done, they started brainstorming. For three months they came up with ideas. "I told them," says Dychtwald. "to forget what the hospital is now. Just ask yourselves what you think elder people need. What do you think they want? What can be done? How do we help these people be as functional and independent as possible?" It was, he says. "a blue-sky session, a skunk works. There was no judgment on the ideas just get them up there."

And gotten up they were, everything from elder dating services to "live" information lines to travel centers. "Some of these things." says Mickey Wheat, "are things that should be done, but not by a hospital." When some 400 ideas had been thrown on the table says Dychtwald. "we began to put them together to ask ourselves how they cluster. It was like trying to outline a book written by a four-year-old."

In the third stage they began to weigh the possibilities to pare the list to the items that they would go after in the coming years as they reshaped their mission to ask how each thing could be done, where the money would come from, what organizations would be appropriate.

SPREADING THE NEWS

While the task force moved through the process itself, it also educated both the hospital staff and the community. Dychtwald spoke to special gatherings of the staff. The task force invited the public to presentations by Dychtwald, Kuhn and Aalgaard, so that the changes in the hospital's mission and operations would not seem to rise out of some Aladdin's lamp. The press was invited, and feature articles appeared that outlined the coming demographic changes, and what El Camino was doing about them.

El Camino took out ads in local publications geared to seniors that spotlighted a fit-looking sixtiesh couple announced the task force and some of its proposed programs then touted the long list of senior programs the hospital already sponsored from health counseling and stress management training to Roadrunners, a volunteer group running free transportation to and from the hospital.

The hospital's quarterly magazine, Quest, featured articles by Buchanan and Dychtwald. Its cover story spotlighted an 80-year-old couple talking about their hobbies—jogging and weightlifting.

The most difficult group to reach if only because they are so busy turned out to be the hospital's own doctors. Buchanan went out of his way to see that they were informed. Dychtwald addressed a medical staff meeting. Dr. Diana Koin a gerontologist had meetings with groups of doctors. Aalgaard held regular lunches with doctors on the task force to keep them up to speed. "In retrospect." she says. "we should have had more meetings with the doctors. We can also use questionnaires and brief their office staffs. We need the doctors' input. We need to know what they want and need. We need to know what the hospital can do to help them treat the elderly.

"It's a problem." she says. "How do you communicate basic things like this to 450 doctors? Eisdorfer did an afternoon seminar on his demographic study of our population base. Only 30 doctors signed up and only 15 came. When he did it for middle management almost everyone came."

Many professionals in the hospitals see the coming change as profound.

The task force included five nurses. Mary Smithwick, assistant administrator for nursing at El Camino, says, "Nurses see a trend like this first, and it will have a lot of impact on nursing, on nurses' training and continuing education, and on research. Just to take one instance, we know that pediatric doses are quite different from adult doses. We have to look at the other end, at the effect of multiple drugs on the elderly."

Thomas Havel, MD, medical director of psychiatric services at El Camino, feels the challenge to psychiatry is particularly powerful. "Already as much as 25 to 30 percent of our psychiatric patients are over 65. Some 30 percent of patients with multisystem breakdowns have accompanying depression. We are seeing more evolutional melancholia, the depression of old age, and more organic brain syndromes, such as Alzheimer's and drug problems. As you age you lose your reserves that help you fight stress.

"We need a greater sensitivity to elders, everything from making our signs bigger to paying closer attention to drug-drug interactions and nosocomial (hospital-generated) disease. The elder patient is more complex, less flexible. More things are going on medically. The senses are more impaired.

"You have to weigh these things as an administrator. How you face them is likely to set the tenor of the whole organization for the next ten or 15 years. Our possibilities here in psychiatry include a special unit for organic brain syndrome, a special geriatric unit, a special geriatric outpatient capacity, and preventive psychiatric medicine—by which I mean attention to lifestyle problems."

TOUCHING A NERVE

These professionals demonstrate a fascinating effect of the process: Expertise rooted in a group dynamic has a different sense of aliveness from expertise picked up in journals or lectures.

A typical recent all-day session took place a mile from the hospital in a comfortable hotel conference room with Spanish-style glass doors opening onto a mission-like arcade paved in big reddish-brown flags. Inside, ivy and arrowhead hang in wall baskets. Jackets are off, phones outlawed (except for the always-and-everywhere beepers of the MDs who pop in for an hour or two). Coffee, sodas, and juice sit on a table to one side, sandwiches come at noon.

A market researcher reports on 18 hours of focus group sessions, in which a total of 90 people talked issues while researchers and some members of the task force watched from behind one-way mirrors. The groups were male or female, separated into age groups. The 42-to-54-year-old males, says the researcher, were mostly "high tech, low touch, very busy, very interested in mechanical solutions that do not involve them, nonaccepting, defensive, even fearful.

"Sounds like a doctor," someone says.

Dr. Dychtwald leaps forward and says. "Aging is a very loaded issue for them. We've touched a nerve here." He goes on to describe a recent seminar he had given for a group of 400 CEOs, men whose lives were about being in charge, making things work. He confronted them with something they could not fix.

"In the middle of my slide presentation I did a series of images about Mom, about Mom getting old and dying. These were very tough, busy men. Half of them were crying. Some of them were running from the room. There was a tornado of emotions let loose."

The marketing research suggests a range of possible programs from skills assessment testing for elders to "Caregiver" programs, from a Citizens Advisory Board on aging to a hearing impairment clinic to a weekend "spa" program that would combine routine physicals, tests, and health classes with social activities.

Over lunch, Aalgaard comments on hospitals' image problem: "When you ask (the focus groups) about hospitals, they respond with comments about physicians."

After lunch, it's down to business, working over the hundreds of suggestions for action produced by the months of brainstorming. One pass has winnowed them considerably, to 179 long-term items. Some, such as hiring a medical director of geriatrics, sensitizing staff and patients to the needs of the aging, and expanding case management, were deemed essential to be developed by management over time. Other items—a mail-order catalog, dental care, a special transportation system, a line of health and exercise clothing—were judged to be too far afield, too expensive, or duplicating other efforts.

Now the question is how to winnow them again, and how to act on them, how to pull some items forward for immediate action and defer others for studies or funding, how to turn live topics into budget lines, how to weave them together into a living part of the hospital. The discussion goes on far into the afternoon.

BUT WILL IT LAST?

Too often, when a corporate body finishes a strategic reassessment, it breathes a collective sight of relief and goes back to whatever it had been doing before the interruption.

Whether this will happen at El Camino remains to be seen—at this writing the process has just ended. But there are a number of signs that the impact will be lasting. One is local demographics. Already 9 percent of the population of its service area in northern Santa Clara County is over 65.2 percent more than the rest of the country. In the next 25 years, the county's over-65 population is expected to double, its over-85 population to triple. A hospital concerned with maintaining and expanding its market share will have to pay attention to this cohort.

The length of the process will probably contribute to the permanence of the results. This was no weekend retreat. The meetings themselves spread over a year. For many of the top people in the hospital, the issue has been explicitly on the front burner for nearly two years now. That is long enough to change patterns of thought and behavior.

Buchanan has given the project the kind of enthusiastic involvement that will give it continuing life, and he appears to have communicated that interest to key department heads.

Finally, the deep educational process has created a substantial shared body of knowledge and a cadre of experts across many departments. When people "own" knowledge drawn from such an exhaustive process, they are more likely to carry it into their own professional agendas than if they had simply read it somewhere.

When the exhaustive process is finished, what is El Camino left with? The most obvious single result is a Center on Aging, with Patricia Aalgaard as director, and the task force meeting quarterly as what Buchanan calls a "scanning-planning-steering group." It will be both a resource center, for the community and for professionals, and a catalyst for broad future action. If such a broad program can be put into a nutshell, the shell is a "workplan" of 70 specific items already in place, coming online, or projected for the coming two years.

Programs already in place include, for instance, a geriatric core curriculum for the nursing staff, nutrition and dietary counseling, and an Alzheimer's Support Group. Those coming on line include regular liaison with nursing homes through discharge planning, a live non-crisis information and referral phone service, and a public awareness campaign.

The first-year-out list shows line items like a full-time nurse educator for continuing clinical education on gerontology across all departments and staff levels and a scholarship fund for El Camino employees studying geriatrics. Other "high-priority" items—like a CommuniCall emergency response system, a chronic illness management program for older and retired workers, and in-house video patient education programming aimed at older adults—are still looking for funding at this writing.

The second year out includes feasibility studies of home healthcare, hospice care, respite care, and adult daycare services, and health promotion projects in such areas as hypertension, vision, Alzheimer's, and mental depression.

Buchanan's approach to business considerations—to market share and product lines—is slow and deep. "We are part of this community. We're not going to pick up the hospital and move it to Bend, Oregon. What we are doing now is investing in information. It's a slow, organizational phase. Starting in 1986 we will evaluate specific product lines. That's when we will start putting the apples on the trees."

How this "workplan" will change over time, and how many of its projects will turn into people and actions, we shall see. But the plan itself is only a bubbling to the surface of much deeper attitudes shifting with the moving of the demographic earth. The training of key personnel as a cadre of experts in the theory and practice of modern aging, and the knitting of networks with providers in the community will have a more profound effect than any possible list of projects and budgets.

THE BLACK BUDGET

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. GUARINI. Mr. Speaker, the following article by Tim Weiner "Planning for World War IV," is the second in a series of three articles on the Pentagon's black budget:

[From the Philadelphia (PA) Inquirer, Feb. 9, 1987]

PLANNING FOR WORLD WAR IV

(By Tim Weiner)

On Dec. 4, an Atlas-Centaur rocket blasted off from Cape Canaveral. It carried the first space test of Milstar, a multibillion-dollar satellite system funded by the Pentagon's secret "black budget."

Milstar is the centerpiece of a $40 billion plan to prepare for World War IV.

Four?

Four. Since 1981, shortly after President Reagan took office, the fundamental U.S. defense strategy has been to be able to fight and win a 6-month nuclear conflict—World War III—and remain strong enough afterward to strike again.

Long after the White House and Pentagon are reduced to rubble and much of civilization is destroyed, the strategy would call for computers to run a war no human mind could control, orchestrating space satellites and nuclear weapons over a global battlefield.

The strategy envisions generals huddled in underground bunkers, aloft in converted 747s and speeding down interstate highways in lead-lined tractor-trailers. These nuclear-war command posts would harbor computer-terminals linked to space satellites that would help direct nuclear missiles from silos and submarines.

The key to this strategy, the Pentagon maintains, is to build a computerized communications network that can command and control the nation's nuclear forces during and after World War III.

The Pentagon calls this network "C^3I" (pronounced see-cubed-eye), shorthand for command, control, communications and intelligence. Part of a $222 billion plan to modernize the nation's nuclear forces, C^3I would become America's central nervous system for nuclear war, the brain that controls the brawn of missiles, bombers and submarines.

Increasingly, major components of the nuclear C^3I system, such as Milstar, have been hidden in the black budget, the Pentagon's secret funds for classified projects. Naturally, this has severely limited congressional oversight and public awareness of the new network.

And as billions and billions for C^3I disappear into the black budget, less and less is known about the ultimate cost and structure of the nation's nuclear strategy.

New C^3I systems hidden in the black budget include:

The Milstar system of satellites, orbiting 70,000 miles above the earth, receiving and relaying commands to launch nuclear weapons.

Satellite sensors designed to track nuclear missiles in flight, track their progress and report back on the damage they inflict.

Tractor-trailers hauling nuclear command posts, dodging Soviet attacks on the open road.

The ultimate cost of these three black budget programs alone may exceed $30 billion.

C^3I projects still in the unclassified Pentagon budget include:

Robots that can gallop like horses and walk like men, carrying out computerized orders as they roam the radioactive battlefront.

A nationwide network of 500 radio stations that could broadcast orders to nuclear-missile silos and underground bunkers.

A search for ways to protect crucial computers from the effects of nuclear weapons.

Take Milstar, just one component, although a crucial one, of C^3I. For years the Milstar project gathered dust in the Pentagon's files, it was considered impossibly expensive.

But the Reagan administration's military buildup has brought it from the drawing board to the launching pad.

Since 1984, the administration has spent at least $1.5 billion to develop the space satellites and other communications equipment for Milstar. Military analysts estimate the ultimate cost of Milstar at between $15 billion and $20 billion.

The true cost will remain a secret. Last year, the Milstar satellites disappeared in the Pentagon's black budget, where they are less likely to face scrutiny from Congress and critics.

Milstar would work like this, if it works at all, in a nuclear war:

Imagine two networks, one in space, one on earth. The first is a constellation of eight satellites, strategically placed in orbits around the earth, 70,000 miles or more in space. The satellites connect with the second network, thousands of radios and computer terminals in underground bunkers, missile silos, submarines, tractor-trailers and airborne command posts.

Milstar would be the global nuclear communications switchboard, connecting all the command stations during and after World War III, receiving and relaying the launch orders for nuclear weapons.

This concept—"connectivity"—is the buzzword for the 1980s at the Pentagon and the basis for the C^3I network.

All commanders dream of wars to pierce the fog of war, to obtain intelligence fresh from the battlefield, to give orders that will be carried out instantly, to communicate with fellow officers. To command. As Gen. Thomas Power, the legendary head of the Strategic Air Command in the 1950s, put it: "Without communications, all I command is my desk."

Pentagon officials have told Congress that Milstar's satellites and terminals will provide "connectivity" for months after nuclear war erupts.

Milstar would connect the nation's military leaders with the commander-in-chief. If the president escapes from Washington in the doomsday plane," a converted 747 intended to evacuate the president from Washington, he could use Milstar to order nuclear-submarine commanders thousands of miles away to hit Soviet targets in Moscow or Vladivostok.

If Washington is destroyed and the president, vice president and secretary of defense are killed, the new nuclear commander-in-chief will be an Air Force general already aloft in a modified 707 (Continuously, in peacetime or in conflict, a general and battle staff from the Strategic Air Command are in flight over the Midwest in one of several planes code-named Looking Glass.

Messages sent through Milstar would tell the Looking Glass commander-in-chief if Washington was gone. He would then use Milstar to coordinate the nation's nuclear missiles and bombers.

The Pentagon still has not solved one problem that might prevent the "doomsday" and Looking Glass planes from playing their crucial roles throughout a six-month nuclear war: The planes cannot remain aloft for more than 72 hours before their lubricants run out and their engines die.

If the airborne command posts fall, Milstar would transmit that information to generals in the Pentagon's alternative command center, deep underground in the Catoctin Mountains near Raven Rock, Pa. Then these generals could take control, using the satellites to transmit orders telling troops to evacuate cities, or to fire MX warheads from silos in Wyoming.

When it is completed, Milstar will join two other nuclear-war-fighting systems in space.

Navstar, also known as the Global Positioning System, was canceled by the Carter administration, but resurrected in 1982. It is expected to be completed by 1990 at an estimated final cost of $8 billion to $12 billion.

Navstar's 18 satellites will play a crucial role in a nuclear war. Their computer systems will help nuclear weapons hit bull's-eyes. According to congressional testimony, the satellites can guide nuclear missiles and fix them on their targets with accuracies of 50 feet or closer.

How will the U.S. military commanders know if the missiles have accomplished their missions? A set of sensors that will ride piggyback on Navstar satellites will tell them.

The sensors are called IONDS, for Integrated Operational Nuclear Detection System. Pentagon officials have told Congress, that the sensors are designed to survey the global battlefield, pinpoint nuclear explosions, assess the damage and report the results back to commanders in airborne posts and underground bunkers.

Like Milstar satellites, the nuclear detection technology for IONDS is being developed mostly under black-budget financing. Its ultimate cost is unknown.

While much about the C^3I technology's role in nuclear policy remains classified, several aspects seem clear:

The new generation of C^3I satellites is a step toward the militarization of space. The C^3I network gives computers an evergrowing power over nuclear forces. The technology remains uncertain until tested in nuclear war And the multi-billion-dollar projects hidden in the black budget still represent only a small down payment on a C^3I system that can endure a long nuclear war.

"One reason the black budget is growing so fast is the Reagan administration believes it can win a nuclear war," said Gene LaRocque, the retired Navy admiral who directs the watchdog group Center for Defense Information in Washington. "We've moved away from a policy of deterrence, where you want your enemy to know what you've got. If you want to win a nuclear war, you've got to keep your capabilities a secret."

Defense Secretary Caspar W. Weinberger has told Congress that the C^3I network is "perhaps the most urgently needed element" in the Reagan administration's trillion-dollar military buildup. The urgency stems from a shift in the nation's nuclear war-fighting strategy.

Shortly after President Reagan took office, in October 1981, he signed a secret "finding" called National Security Decision Directive 13. While the text of NSDD-13 remains a secret, its meaning is not. The strategy it proclaimed has been repeated in the testimony of Pentagon officials before Congress and in scores of published works by military analysis.

That strategy says the idea of a one day nuclear war is outmoded. It says that 20 million or more Americans can die in World War III, and the United States will still survive as a nation. It says the United States should have the power to control the escalation of a long drawn-out nuclear war and force a Soviet surrender. And it says the new C^3I network must then control a reserve of nuclear forces large enough to allow the nation to fight again.

The strategy relies heavily on space-based C^3I platforms such as Milstar and Navstar, international treaties forbid the military use of space. Congress has asked Pentagon officials whether their plans violate these agreements. The Pentagon has replied, in a statement with Orwellian overtones, that the United States interprets "the right to use space for peaceful purposes to include military uses of space to promote peace in the world." And Congress has funded the satellites.

Back on earth, the Pentagon's C^3I plans depend on ways to keep commanders alive.

In an all-out nuclear war, Pentagon planners realize, few major command posts would avoid direct nuclear hits. The Soviet Union knows where to find crucial nerve centers such as the Pentagon and the Strategic Air Command headquarters in Nebraska.

Figuring that a moving target is harder to hit, the Pentagon has a $3 billion investment in mobile command posts under way. The idea, the Pentagon has told Congress, is to have a large number of C^3I centers that the Soviets cannot target. This is the thinking, behind a project code-named Island Sun.

It is a plan to create convoys of tractor-trailers in which generals could operate computerized command posts after nuclear war begins, according to congressional testimony by Defense Secretary Weinberger. Just how the trucks would operate—for example, where they might refuel or change a flat tire—is unknown, because the project is classified. However, the Pentagon budget shows that Island Sun has absorbed $165 million in research and development funds over the past four years.

Island Sun is one of many related C^3I projects to create mobile ground terminals, linked through Milstar, that in effect would be tiny Pentagons coordinating the nation's nuclear forces as they dodge Soviet intercontinental ballistic missiles on the highways, on freight trains and aboard merchant ships at sea.

But Milstar and its ground terminals are not the only way to coordinate the nuclear arsenal. The Pentagon plans to spend nearly $1 billion on creating an enduring conventional communications system, one so large and containing so many parts that the Soviet Union could never eliminate it.

The system is called GWEN, the Ground Wave Emergency Network. GWEN is planned as a network of up to 500 unmanned radio towers. At least 50 are already in place near towns and cities including Aurora, Colo; Mahattan, Kan; Fayettville, Ark., and Gettysburg, Pa. Each status has a range of several hundred miles and can relay messages to sister stations, creating a national network, Radio GWEN.

GWEN's programming would include orders to launch nuclear weapons. It would link early-warning radars, missile silos, air bases, submarines, underground bunkers. Strategic Air Command headquarters and the Pentagon.

The genius of GWEN, according to Pentagon planners, is that the Soviets cannot possibly destroy all 500 towers. There will be so many GWEN relay stations and switching routes that the systems should endure during and after a nuclear attack. And if it falters, balloons, carrying compatible radio antennas could be inflated and sent aloft.

Another question the Pentagon is grappling with as it tries to create a nuclear-war-fighting network is the human factor. Would soldiers carry out their roles in the heat of nuclear battle? The Pentagon is researching ways to educate soldiers to "understand the impact of enemy nuclear firepower and to prepare them to cope with operations on the nuclear battlefield," according to congressional testimony.

And where the human mind and body cannot cope with nuclear war, the Pentagon's planners tell Congress, computers will. They will play a very large role in the command and control of nuclear forces.

Thinking machines can supplant privates and generals alike in wartime, according to the Pentagon's Defense Advanced Research Projects Agency (DARPA), which note in its 1987 budget that "computers can assist, advise and/or relieve military personnel in complex decision-making tasks [which are] dangerous or rapidly changing."

"Computers are extremely important," the Pentagon's former director of ballistic missile defense, Jacob Gilstein, has told Congress, 'No human being can enter the real-time decision-making loop and control the system, it has to be preprogrammed with logic so the computer can make the decision and run the game."

Just as computers will have to do the thinking in nuclear war, computer-controlled robot soldiers may have to do the grunt work in the nuclear battlefield.

DARPA is working on a variety of robots—"hexapod" that move with a tank's agility and speed, "quadrupeds." that gallop and trot, "walking vehicles," and robot hands and fingers. It is using increasing amounts of money and manpower to develop robot intelligence, focusing on "flexible software systems that show unique promise for solving complex military problems" Commanders will communicate with robots through "a state-of-the-art man-machine interface called IRUS," according to DARPA's budget.

DARPA envisions a robot soldier of the future that takes orders "but does not generate discourse"—no back talk or balking. The new generation of ruled soldiers eventually will give commanders the ability to have their commands carried out in "an enhanced nuclear environment"—the Pentagon's language for a lethally radioactive battlefield.

A multibillion-dollar effort is under way to protect everything from underground bunkers to airborne command posts against the varied effects of nuclear explosions. But the most immediate danger to C^3I is not the radiation of nuclear weapons, or the blast, or the firestorm. It is a much-discussed, little-understood phenomenon called the electromagnetic pulse, or EMP.

Nuclear experts disagree emphatically on the effects of EMP, and the possibility of defending against it. They only agree that it is a real phenomenon.

A nuclear blast high in the atmosphere creates an enormous electromagnetic charge, a wave of intense lightning bathing the land below in an electric storm. This pulse was experienced in Hawaii in 1962, when the U.S. exploded three high-altitude nuclear weapons over the Pacific. Although the test took place 800 miles away, street lights went off across Oahu and burglar alarms went haywire in Honolulu.

The implications for C^3I are far more serious. The entire structure of C^3I rests on computers. If the computers cannot function during nuclear war, almost nothing will. Those who consider EMP a grave threat say it could disrupt every computer chip in the system, overloading low-voltage circuits with a tremendous burst of high-voltage energy. In theory, the network could be undone by a single nuclear bomb.

Realizing that every minute counts in nuclear war, the Pentagon is seeking ways to prevent C^3I from being temporarily disconnected by the electromagnetic pulse.

The cables that connect Minuteman missile silos to their launch centers are encased in six inches of lead. At Kirkland Air Force Base in New Mexico, Pentagon scientists shoot 10 million volts of electricity through aircraft and electronic equipment, testing ways to protect them. The president's "doomsday plane" has $100 million worth of EMP shielding. Every C^3I satellite will have some form of EMP armor.

All the parts of C^3I—the computers, the Milstar satellites, the mobile ground stations and the rest—appear technologically feasible to the Pentagon. The trick will be in weaving them all together into one durable war machine.

As of now, the Pentagon has told Congress it has "high confidence" that the C^3I network will "endure through stress and post-attack phases of a Soviet nuclear strike."

But nobody really knows if the C^3I system will work. And no one will, until a full-scale nuclear war erupts.

Skeptics inside and outside the military say neither the tens of billions dollars already spent nor the tens of billions needed to complete what has begun will buy the C^3I network the Pentagon wants.

They say the Pentagon's vision of the ultimate nuclear-war machine is an illusion.

The goal of a durable C^3I system—one that would last for weeks and months during a long nuclear war—"will cost tens of billions of dollars over and beyond what we are spending today . . . and it is not clear how long such a system would endure," warned Charles A. Zraket, executive vice president of the Mitre Corp., the nation's premier C^3I think tank.

The Pentagon is undaunted. "They've consistently sent the signal: They want an enduring system. They've told the weapons and systems designers to do it. And they've driven the designers crazy," said John Steinbruner, a C^3I expert at the Brooking Institution in Washington.

"The designers don't know how to do it, even spending tens of hundreds of billions of dollars." Steinbruner said, "We do not know how to build a system that could endure a large-scale attack. But the money's being spent, no question about it."

Upon his retirement in 1982, the chairman of the Joint Chiefs of Staff. Gen. David Jones, told Congress that the military was throwing money into a "bottomless pit" by planning for a nuclear war of controlled scale and duration.

"I don't see much chance of nuclear war being limited or protracted," he said.

Very little unclassified information exists about the Pentagon's post-World War III plans. But the question was addressed many years ago by the man who discovered the power of the atom. Albert Einstein once was asked what weapons would be used to fight a third world war. Einstein replied that he really didn't know, but he had an idea what weapons would be used in world war IV.

"Sticks and stones," Einstein said.

INTRODUCTION OF "THE BETTER USE OF HOSPITAL FACILITIES ACT"

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. WYDEN. Mr. Speaker, in 1985, $167 billion was spent on hospital care in this country, much of it to finance the capital costs hospitals incur to add beds, new high-technology equipment and other facilities. These investments are being made even though 40 percent of hospital bed-space is unused. This percentage has been increasing as powerful new forces have emerged to discourage lengthy hospital stays, including new reimbursement policies, advances in outpatient medical services and other factors.

Fueling the growth of unused hospital facilities is Medicare, which pays hospitals depreciation and interest on capital expenses incurred for buildings and equipment that serve Medicare patients. These payments are made on a cost-based philosophy. The hospitals purchase equipment, the Government pays the bill.

Once the equipment is purchased, payments are made at the same rate whether equipment—such as beds—is used or not. Everyone knows that unused equipment, whether a bed or a CT scanner, doesn't depreciate at the same rate that used equipment does. Yet current Federal policy reimburses both equally.

This outmoded reimbursement philosophy diminishes true need as a factor in hospital purchases. As Douglas Hawthorne, president of Presbyterian Healthcare System in Dallas, said recently, "Need is often secondary in decisions about CT scanners, transplant centers and similar forms of expensive technology."

With the Federal deficit at record levels, hospital capital costs cannot grow indefinitely. Yet projected growth under current policies is enormous. In 1986, according to F.W. Dodge Division of McGraw-Hill, hospitals and other health care facilities awarded $7.8 billion in building contracts. Other independent analyses project this amount will grow to $9.2 billion by 1991.

I believe that a hospital's decision to expand should be based on need, not on the Government's willingness to pay. To promote this philosophy, along with Congressman DONNELLY, I'm introducing legislation to link a small portion of each hospital's Medicare depreciation payment to the facility's occupancy rate.

Our legislation reduces capital payments for depreciation expenses if the hospital fails to meet occupancy rates established in the legislation. Hospitals with 50 to 200 beds must have occupancy of 55 percent. Those with 200 to 400 beds must have 65 percent of their beds full and hospitals with more than 400 beds must have 72 percent occupancy rates. If the facility fails to meet its target, depreciation payments will be reduced by a proportionate amount. Hospitals with under 50 beds and sole community provider hospitals are exempted.

In addition, the bill allows hospitals to take unused beds out of service for a specified period of time—bank them, so to speak—and save part of their depreciation payments and maintenance costs on the beds. Finally, the bill gives hospitals the right to use occupied beds in a more efficient manner—by preempting state regulations that prevent moving beds between wards.

The Congressional Budget Office estimates this legislation could save the Government $100 million to $200 million a year, depending on how many beds hospitals retire.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 23, 1987.
Hon. RON WYDEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: In response to your request, we are providing you with budget estimates for your proposal to tie Medicare capital reimbursement for depreciation to hospital occupancy rates. Under current law, Medicare reimburses hospitals for a portion of their capital related depreciation expenditures. Your proposal would reduce this reimbursement for hospitals which do not meet a target minimum occupancy rate. Under certain conditions, hospitals which agree to retire beds could have their reduction offset as much as 50 percent. In addition, the Secretary of Health and Human Services could exempt hospitals from this reduction. Based upon discussions with your staff, we assumed the exemption process would be very restrictive.

In order to provide you with an estimate of the potential savings of this proposal, we looked at 1984 data from the Medicare cost reports on capital reimbursement, as well as 1985 data from the American Hospital Association [AHA] on hospital occupancy rates. Based on this data, we estimate that your proposed reduction could lower Medicare depreciation reimbursement by about 7 percent in 1988. This would yield estimated savings of $200 million in 1988 if no excess beds were retired. If all of the excess beds were retired, estimated savings would be reduced by one-half, or $100 million. Finally, this estimate assumes that only a minimal number of hospitals would be exempt from the reduction. However, savings would be further lowered if the Secretary chose to make the exemption process less restrictive.

If you have any questions, please call me, or have your staff contact Hinda Ripps Chaikind (266-2820).

With best wishes.

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

Mr. Speaker, a 1982 study by Arthur D. Little, Inc., showed that for every dollar of capital expenses incurred, hospitals pay $1.84 over a 10-year period. Under current law, Medicare picks up 40 percent of that $1.84. These extra costs are passed along—ultimately to health care consumers.

It's time Medicare policy caught up with the market forces that are a major factor in the emptying of our hospitals. I urge my colleagues to join Mr. DONNELLY and myself, the American Hospital Association, and the American Association of Retired Persons in examining this proposal closely as an alternative to the present capital costs payment system.

American Hospital Association,
Washington, DC, May 20, 1987.

Hon. Ron Wyden,
House of Representatives,
Washington, DC.

Dear Ron: Thank you for the opportunity to comment on your proposal to help solve the problem of unoccupied hospital beds through a method of reimbursement for capital under the Medicare program.

Your concept of providing an incentive for hospitals to bank unused beds for a period of time through Medicare's capital reimbursement structure is indeed innovative and merits further discussion by the hospital field and Congress.

Any approach that provides a positive incentive to close unused hospital beds when occupancy rates fall is of interest to hospitals which must continue to pay debt service on many of these beds. The proposal is of equal interest to patients who pay for hospital services. Our concern about any legislation of this type is that it not become a method for penalizing hospitals for making capital decisions under different rules and regulations.

Capital payments have been the focus of congressional attention for a number of years. These discussions have usually focused on incorporating capital payments in the DRG system. The AHA believes a better approach is possible. Though your bill requires careful study, it should be examined as one alternative to capital payment reform legislation now being discussed.

We look forward to working with you as this legislation progresses.

Sincerely,

Jack W. Owen,
Executive Vice President.

Mr. Speaker, the 100th Congress must look at ways to encourage the efficient use of our health care facilities through Medicare. The Better Use of Hospital Facilities Act will do that.

American Association of Retired
Persons, Legislation, Research
and
Public Policy Division,
Washington, DC, May 21, 1987.

Hon. Ron Wyden,
Longworth House Office Building,
Washington, DC.

Dear Representative Wyden: I am writing to state the Association's appreciation for our introduction of The Better use of Hospitals' Facilities Act today. This legislation identifies issues that are crucial to the administration of Medicare and to the efficient functioning of our health care system.

The Association appreciates your proposals to broaden the debate on payment for capital under Medicare. The debate to date has had a very limited focus on capital payment rates and phase-in dates. The issues raised by capital payment, however, are much broader. Your proposal to encourage hospitals to close unoccupied beds adds important new considerations to the capital debate. AARP would like the opportunity to discuss with you how Medicare capital payments might be partially targeted towards hospitals needing it most.

Again thank you for your leadership on these important issues. AARP looks forward to working with you to address these difficult problems.

Sincerely,

John Rother,
Director,

DISTRIBUTE THE SURGEON GENERAL'S REPORT ON AIDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. STUDDS. Mr. Speaker, this past Monday I sent House and Senate offices a dear colleague letter explaining that I am using the congressional franking privilege to distribute the Surgeon General's Report on AIDS to each of the 268,000 households in the Tenth District of Massachusetts. I am taking this opportunity today to ask other Members to consider mailing the Surgeon General's Report to their own constituencies, and to join in a concerted effort to press for a nationwide mailing of the report.

The 13-page report, published last October, is a frank and comprehensive explanation of what AIDS is and how it spreads. It ought to be in every home in the country. If public health officials cannot distribute their own report, I believe we are obliged to do it for them.

I welcome comments on these materials. It is my hope that, after reviewing them, Members will give serious consideration to mailing the report in their own districts and that our joint efforts may help pressure the administration to initiate a national mailing of this crucial report.

Following are editorial comments in response to our mailing from four daily newspapers which cover my congressional district.

[From the New Bedford (MA) Standard Times, May 20, 1987]

Studds Puts AIDS Report Where It Belongs: In the Public's Hands

For all the talk about educating the public about the risks of AIDS, the federal government hasn't done much about it. Practically nothing, in fact—until now. U.S. Rep. Gerry Studds, D-Mass. broke the impasse this week by mass-mailing copies of the Surgeon General's Report on AIDS to each and every household in his district.

Using his franking privilege and an automatic envelope-stuffing machine, Rep. Studds did what the government should have done months ago. He distributed accurate, readable, and straightforward information in the form of a well-publicized report by this nation's chief medical official. And he's encouraged his colleagues to do the same thing.

The reaction has been far from the uproar that some in the Reagan administration had feared. Just as in England, Sweden, and Switzerland where similar mailings have taken place, people in the United States take serious information seriously. Rep. Studds' action has been widely acclaimed with good reason. It's high time our government leaders acted like leaders when it comes to acquired immune deficiency syndrome.

It's not too surprising that Surgeon General C. Everett Koop's excellent balanced report should have gathered dust for so many months on government shelves. The track record of the federal government regarding AIDS has been extremely poor.

In fact, the surgeon general himself risked political doom by producing this document last year. Dr Koop, a highly regarded anti-abortion conservative, knew full well that AIDS was a back burner topic at the Reagan White House and there were high-ranking officials there who would have preferred to keep it that way. They thought Dr. Koop would keep his blinders on just as they had.

But Dr. Koop could not ignore that peril and wrote a report that is not just a description of AIDS and how it is transmitted, but a prescription for a sane, clear-headed personal and public policy about it. Perhaps his policy recommendations—in favor of confidentiality and against mandatory, across-the-board AIDS testing—have something to do with the administration's refusal to distribute the report. There is after all, a sharp debate going on in the White House and Dr. Koops ideas have their detractors including Education Secretary William Bennett.

But while we may debate Dr. Koop's ideas about public policy toward AIDS, that is scarcely reason enough to withhold the vital information contained in this pamphlet.

With all the worry and talk about AIDS, it is incredible that the government would prefer that the public get fragmented and often mistaken information about it wherever they might find it—or, worse not get any information at all because someone thought they might be offended by it.

Rep. Studds mass mailing not only was the right thing to do, it broke the information logjam caused by the federal government's inexplicable near paralysis on the AIDS disaster.

[From the Quincy (MA) Patriot Ledger, May 20, 1987]

Getting the AIDS' Message Out

If you live in the 10th Congressional District, you will have accesss to information about AIDS that ought to be in every home.

Rep. Gerry Studds is mailing copies of a 36-page report from the U.S. surgeon general to every home in his district. It is a step he says the Reagan administration has refused to take. And the information is too important not to get out.

AIDS, acquired immune deficiency syndrome, has no cure. Prevention through education is the most effective way to deal with the spreading epidemic. Accurate data is also the only way to combat the hysteria and misinformation that surrounds this terrible disease.

Surgeon General C. Everett Koop proposed sending the booklet to every home at a cost of $20 million. The Reagan administration ignored the idea.

So Studds, using free mailing privileges available to all congressmen, is mailing out 226,000 copies. He has also urged his colleagues in the House and Senate to follow his lead.

He wants to generate enough requests so that Congress will require a nationwide mailing.

Arguably, distribution of such sensitive sex-related material should be left to individual states. But many states would likely avoid the issue since the booklet frankly discusses safe-sex practices among the ways of avoiding the disease.

Logically, the federal government should send out the booklet. By not providing the information. Studds charges that the administration has "failed to fulfull its basic responsibilities, in the face of a public health epidemic, to let people know what AIDS is and how it spreads."

If you live in the 10th District, you will find the booklet in your mailbox soon. We suggest you read it and share this information with your family.

You may, of course, choose to toss it in the trash. But you have a choice—one not readily available to other U.S. citizens.

If you live outside Studds district and want a copy, we suggest you call him. Or better, still, call your own congressman and find out why he's not providing the information on AIDS.

[From the Hyannis (MA) Cape Cod Times, May 20, 1987]

THE AWESOME SPREAD OF AIDS

With its male homosexual population estimated at 70,000 and hospitals there coping with 3,500 diagnosed cases of Acquired Immune Deficiency Syndrome, San Franscisco is rightly called the AIDS capitol of the United States.

But the crisis in San Francisco may well be a preview of what lies ahead for the rest of the nation in the near future, as AIDS spreads into the heterosexual population and other cases develop from sexual contacts made years before the disease even had a name.

The spread of the thus far incurable disease borders on the incredible. Based on current trends of infection, the Centers for Disease Control estimates that confirmed cases in the United States will increase from the 35,518 known to exist on May 11 to 324,000 by the end of 1991. According to a story in Monday's Wall Street Journal, 1.5 million Americans are presently infected by the AIDS virus. Of that number, between a third and a half will come down with the disease, and will die unless a cure is found.

And medical costs, which are borne by the private sector and state and Federal governments, are expected to increase eightfold by 1991, to $8.5 billion Research, blood screening and AIDS-related education costs are predicted to reach another $2 billion during that same period.

Much of the blame for this startling increase in AIDS can be placed on the paucity of accurate information—until very recently—about the disease, how it spreads, and methods (abstinence, "safe sex," clean needles by which the virus can be avoided.

Just a few years ago, for example, public safety employees of one Cape town were orderd to wear disposable gloves, protective clothing and masks when dealing with an AIDS patient. Other communities have been sued to keep children with AIDS from attending school. Touching an AIDS victim was thought to be a means of becoming infected.

We were, then, about the same level of knowledge about AIDS as were our ancestors who believed that smallpox could be contracted from buried bodies of its victims, and thus ordered special graveyards (there's one on the Lower Cape) for those who died during epidemics of that disease.

Such misconceptions are natural when a population is faced with the inexplicable. As reliable information is developed, panic decreases and common sense returns. This is the role of education, in this case as practiced by government and the medical profession. Education about AIDS, certainly one of the most fearsome plagues in history is absolutely essential.

And because this is true, the people of this congressional district should feel indebted to Rep. Gerry Studds, who in an unprecedented step this week mass-mailed 268,000 copies of Surgeon General C. Everett Koop's report on AIDS to every household in the district. The small booklet which includes a two page directory of agencies that can offer further information—is an easy read, and is about as close to being required reading as anything in print today. Studds has taken the lead in mailing this information to his constituents. He has urged his congressional colleagues to do the same. They should.

And Congress has another duty, because dealing with AIDS can't be limited to education. That obligation is to join with Senator Kennedy and a group of his colleagues in pressuring the administration to assume the leadership role in the war against a disease that threatens to take hundreds of thousands of lives, instead of floundering in "idealogical bickering and paper policies."

A concerned federal effort is called for, including unified research, improved health care, and the development of a vaccine to stop the spread of the epidemic. A bill filed in the Senate calls for the creation of a $900 million federal program to address the issue. There should be no question in the minds of Congress that this threat to national health must be met with a far greater sense of urgency.

Finally, that sense of urgency must change the American people. Many will have to become less promiscuous; many will have to become more compassionate. The AIDS epidemic was not caused by dollars, and dollars alone will not make it go away.

[From the Boston (MA) Globe, May 21, 1987]

FEUDS THAT DELAY THE AIDS BATTLE

(By Ellen Goodman)

Imagine for a minute that you are a citizen of Australia. Population: 16 million. Number of AIDS cases: 442. Turn on the telly down under and you'll be greeted with a government-sponsored ad that shows the Grim Reaper knocking down AIDS victims as if they were pins in a bowling alley.

Imagine next that you are a citizen of Great Britain. Population 55 million. AIDS cases: 750. Just last January, the postman would have dropped you a leaflet from the government. One that warned: "AIDS: Don't Die of ignorance."

But what if you are a citizen of the United States? Population 243 million. AIDS cases: 35,500. If so, you have seen no federally sponsored television ads and received no national mailings. Indeed, in all likelihood you have heard more from Washington about AIDS feuds than AIDS facts.

In our nation's capital, AIDS and information, health and education, go together about as well as the surgeon general and the secretary of education, C. Everett Koop and William J. Bennett. The people who regard AIDS as a medical disease and those who regard it as a moral dilemma have fought each other and progress to a standstill.

The proposal for a mailing to every household is currently stuck in a holding pattern. The piddling $1 million that's slotted for national television ads has yet to find its way to an ad agency. The federal government is dealing with AIDS as if the virus was a problem that didn't travel along interstate highways and was none of its business.

It's this lethal national inertia in the face of the most devastating epidemic of the late 20th century that finally prompted one congressman to strike out on his own. Gerry Studds has begun to treat his constituents like foreigners—in the best way. The 268,000 households in his congressional district of Massachusetts are about to receive the first mass mailing of the "Surgeon General's Report on Acquired Immune Deficiency Syndrome."

Studds' action came out of deep frustration—his own and that of Koop, who authored the report that has been languishing since its fall publication. "When I talked with Koop," said Studds, "he was despairing of ever getting a national mailing out of this administration. Furthermore, if we did get one out of this bunch of ideologies, it would probably be such mush it wouldn't be worth mailing.

"Given the fact that the only defense we have against AIDS at the moment is public education. I can't understand how there is any debate in any national mind about putting the best information in the hands of people. I think its unconscionable, criminally negligent. I get so angry I'm out of adjectives.

Studds asked himself if there wasn't something one member of Congress could do besides dream up new adjectives of outrage. "It occurred to me that we have one tool that is uniquely ours. The franking privilege." It's the way that elected representatives routinely mail newsletters to each "postal patron" in their district, at taxpayers' expense.

The report that each postal patron in the New Bedford and Cape Cod area will get has been alternately described as "frank" or "explicit." It doesn't have zippy copy or catchy phrases. It is not a graphic designer's delight. It is not a reader-grabber. It's unlikely to be as effective as a serious and hip television campaign.

But the report does answer basic questions about AIDS in an intelligible and direct fashion. Is even that likely to be a problem? "Someone asked me," says Studds, "what if it's lying around the house and children read it? Well, I hope they do."

Studds willingness to take on the AIDS-education issue and be out front with this mailing may come in part from his own open identification with the gay community. But he is convinced that others underestimate the public's willingness to accept the "frank" and the "explicit."

His aim is not just to inform one district, but to break the federal logjam. Or portage around it. Studds this week sent a letter to his congressional colleagues asking that they follow suit. If only 50 or 60 of the 435 members do so, the pressure will build for a national mailing.

On June 5, it will be exactly six years since the first report of the disease we now call AIDS. Since then, the surgeon general has said repeatedly that "our only weapon is education." But the administration has spent most of this time fighting about AIDS instead of fighting the disease itself. Now at least some New Englanders will be getting their defense lessons through the mail slot.

WEST FLORIDA ELECTRIC COOPERATIVE CELEBRATES 50 YEARS OF SERVICE

HON. BILL GRANT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. GRANT. Mr. Speaker, a 50th anniversary is called "golden" because it is seen as a symbol of something very special, something particularly valued because it has endured.

And the reason things endure is because they prove their worth.

Golden anniversaries are most often associated with weddings; however, this golden anniversary doesn't have anything to do with that subject. It is rather the anniversary of an electric cooperative which brought rural northwest Floridians into the 20th century. It is a 50th anniversary of electric service for the members of West Florida Electric Cooperative.

In the beginning, long before there was a cooperative called West Florida Electric, another organization existed, directly connected to the Rural Electrification Program. This organization was born on May 11, 1935. It was on this date that President Franklin D. Roosevelt took the first major step in bringing electricity to the rural sections of our country. Roosevelt signed Executive Order 7037 creating the Rural Electrification Administration REA. That order would change the lives of rural people forever. The Government Department, commonly known as REA would be headquartered in Washington, DC, as a branch of the U.S. Department of Agriculture. The purpose of the REA was to provide funds for low interest loans so rural people could organize cooperative electric power companies.

Back in the early 1930's the investor-owned power companies would not build lines into the sparsely populated rural areas because it was not profitable and economically feasible to do so. The cry of rural residents for electricity fell on deaf ears. President Roosevelt, however, did listen. On May 30, 1936, Roosevelt signed the Rural Electrification Act. This act established a loan program to finance electric cooperatives willing to provide electric service in rural areas with emphasis on nonprofit enterprises. The way was now paved for groups all over the country to form their own electric cooperative utility. A group of 712 dynamic, hard working, rural people in the Graceville, FL, area wasted no time in doing just that. In May of 1937, within 1 year from the time that Roosevelt signed the Rural Electrification Act, these individuals got together and borrowed $194,000 from REA. This money built the original 262 miles of line. West Florida Electric Cooperative Association was born. It was also during this time that the cooperative incorporated. Most of the original line was erected within a 30-mile radius of Graceville. The town of Marianna was the first headquarters for this new organization.

The cooperative elected its own board of trustees chosen from its ranks. The rural residents that West Florida served in the beginning became "members" of the organization and that term is still used today. These 712 people went out door to door all over the countryside to sign up more members.

The activities of the cooperative during the early years at times is vague because of poor recordkeeping in those days. A considerable amount of information, however, was obtained on the first trustees. These men were willing to go out and collect the names along with various others who helped. They contacted prospective members anytime, anyplace. They did not have a great deal of spare time because most were farmers and the chores were long and strenuous. The men who promoted this dream of electricity sometimes left jobs undone or shifted the responsibility to another family member.

The membership fee was set at $5. In the 1930's many banks had closed, and many people had lost their money and land. This caused them to be skeptical of new ventures, and some were very much opposed to paying a membership fee for something they would have to wait a year or perhaps longer to receive. Rural people were under great economic strain and in some cases the men collecting the fee had to loan the prospective member the money.

It was a tremendous undertaking, and at times they had so little success, it became very discouraging. They created enough interest to call a special meeting which was held at the old Jackson County Courthouse in Marianna. The project was explained to those who attended and the people who came were encouraged to help in collecting fees. REA required that a certain number of people be signed up for service. After the quota was reached, the next step was the acquisition of right-of-ways. The organizers ran into all kinds of opposition on where the lines and poles would go. A lot of time was lost because of this. However, the great dream of electricity in the country became an obsession with the organizers and they worked even harder than before. In some instances the lines went around farms because the people would not grant right-of-way across their land.

After several months of hard work their dream came true. In the spring of 1939 some members began receiving electricity. It was a day they would never forget. The cooperative at this time began to have an annual meeting. Trustees were elected and a meal was served. The cooperatives original trustees in the late 1930's were a strong-willed, hearty bunch. They all came from different backgrounds but each one had a common goal of bringing electricity to the country. It is important to mention these individuals because they were all pioneers, looking for a better life for everyone. The original board trustees were: Mr. A.J. Crutchfield, president; Mr. Andrew Andreasen, vice president; Mr. William Powell, secretary; Mr. Wendell Spence, Mr. A.L. Williams, Mr. Lee Mathews, and Mr. W.H. Leonard.

The cooperative has come a long way since the early days of these pioneers. In the present as of March 1987 the cooperative has over 14,000 members with 21,400 meters in place. There are over 3,700 miles of energized line in the counties of Calhoun, Holes, Jackson, and Washington. The cooperative now has substations in Alford, Altha, Bascom, Bonifay, Campbellton, Chipley, Dellwood, Graceville, Grand Ridge, Pittman, and Westville FL. The organization is governed by nine board trustees representing nine districts. The office locations are in Bonifay. Graceville, and Sneads. The average number of members per mile of line is 4.5. The majority of the power is supplied by Alabama Electric Cooperative. Power also comes from Gulf Power and the Southeastern Power Administration. The number of employees now total 98, with a payroll of over $2 million a year. West Florida has 55 vehicles which travel an average of 58,000 miles per month. The total value of the utility plant is over $21 million. The annual meeting date is always the second Saturday in October.

What is on the horizon for this people-oriented organization? Plenty. The printing shop offers so much for the future. In addition to doing all the in-house printing the cooperative hopes to do printing tasks for many of the local organizations in the area.

The telecommunications project, when in place, will offer a wide assortment of TV programs to co-op members who have satellite dishes. This project will afford rural people the same benefits that city dwellers have enjoyed. The satellite system will give the co-op the capability to do a wide variety of things involved with rural electric affairs. The possibilities are endless.

The construction of the new Sneads District Office should be finished by the end of 1987. This will mean better service for the members in that area.

West Florida Electric could play a big part in a joint venture with the five local counties in our area of northwest Florida. The project involves the possibility of building a garbage waste incenerator.

Economic development is a top priority for the cooperative in the future. There are several possible industries on the table. The cooperative intends to be more aggressive in helping locate more industry in our area.

The cooperative plans to make its good employees even better through course instruction and hands-on training. A well-educated employee will do a better job and help to provide the best service for the members.

These are but a few of the plans West Florida Electric is working on for the future.

The cooperative has come a long way since its inception in 1937. West Florida Electric must never forget its heritage and history. The members and employees, young and old alike, must always remember the courage, vision, and hard work of those 712 individuals who started the cooperative. Because of them electricity came to many rural people, and their lives as well as the lives of future generations were changed forever.

It is important that we recognize the trustees presently serving on the West Florida board. These men have the awesome responsibility of governing West Florida Electric Cooperative now and in the years to come. The trustees include:

William Ben Floyd, Jr., President, District 3; Woodrow W. Paul, Vice President, District 8; Roy H. Young District 2; Billy Williams, Sec. Treasury, District 4; Henry Prescott, District 9; Amos H. Morris, District 5; Elbert Franklin, District 7; Lamar Shelton, District 1; and John E. Worthington, District 6.

The Trustees listed above are committed to making West Florida Electric a better organization for the members and employees.

WELFARE REFORM

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. ROWLAND of Connecticut. Mr. Speaker, at some point in the near future, the House will take up the issue of welfare reform.

When this happens, I believe we should give credit where credit is due—and that is to President Reagan for singlehandedly bringing this important issue to the fore of public debate.

I also believe that the House should consider any welfare reform measures in the context of how effective they will be in reducing dependence on the system by recipients. While there are a number of elements to welfare reform such as demonstration projects and child support, my personal belief is that the most important issue relates to work and education programs for recipients in the Aid to Families With Dependent Children [AFDC] Program.

There are a number of proposals floating around which relate to this issue. Specifically, we have the major Democratic vehicle for welfare reform—H.R. 1720, the Family Welfare Reform Act of 1987—as well as a proposal put forth by the Ways and Means Committee Republicans—H.R. 1985, the AFDC Employment and Training Act of 1987.

In this same area, I have introduced H.R. 1880, the Greater Opportunities Through Work Act of 1987 [GROW], which was developed by the Reagan administration and the Department of Health and Human Services.

GROW is very simple. State welfare agencies would be required to implement work and education programs for AFDC recipients who are deemed to be able to participate in such activities. Special intensive emphasis is placed on those recipients who traditionally have a tendency to become long-term dependent such as teenage mothers.

Under GROW State welfare agencies would be required to have 60 percent of the nonexempt AFDC caseload enrolled in job training, education or job readiness programs within 5 years. For the traditionally long-term dependent—teen mothers—the minimum participation levels are significantly higher—80 percent—and would generally equate to a requirement that the teenage parent be enrolled in school.

To facilitate the participation of AFDC recipients in the work or education programs, I would point out that the needed support services like day care and transportation must be provided for by State welfare agencies. So, the usual rhetoric and hoopla about how recipients aren't able to participate in activities and gain skills to move off welfare, doesn't apply here.

Quite frankly, if welfare reform means setting up a new system which emphasizes how welfare recipients can become self sufficient and self reliant, then GROW is pure welfare reform.

In contrast, the Democratic welfare proposal—H.R. 1720—is more fraud than reform. Under that bill, work and education programs for AFDC recipients are doomed to fail given the fact that the legislation exempts from participation the very categories of AFDC recipients who should be required to participate. Add to this the fact that no standards or goals are placed on State welfare agencies to make these programs work, the Democratic AFDC proposal—nicknamed Network—is more net than work.

What is worse, however, are the smoke and mirrors which have been employed by the advocates of H.R. 1720. It should be noted that taken together, all of the mandated benefit increases and program expansions in the bill were estimated originally by the Congressional Budget Office to cost $12 billion over 5 years.

Now, the bill is purported to cost only $5 billion. How did this happen? It's very simple. Supporters of H.R. 1720 simply pushed back the initial effective dates of the various benefit increases so that the real costs would not be reflected. I would suggest that those who favor the type of welfare expansions as are embodied in H.R. 1720 should be upfront about its true impact on the budget deficit.

Recently, the Department of Health and Human Services outlined the administration's position on the democratic proposal and I will submit the letter at this point in the RECORD.

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, May 15, 1987.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: There is pending before your Committee H.R. 1720, as amended by the Subcommittee on Public Assistance, a bill entitled the "Family Welfare Reform Act of 1987," on which the Department would like to express its views. In addition to the following general comments, we have enclosed a section-by-section summary and analysis of the bill.

I wrote to you on April 2 to express our concerns about H.R. 1720 as introduced. Although the bill's costs appear to have been reduced substantially in this amended version, many of the most costly provisions merely have been deferred to later years. These unreasonably high costs are particularly troublesome because the bill will greatly increase welfare dependency while failing to help families become independent of welfare.

We note that there have been a number of improvements in the bill since our earlier comments—such as revoking changes to the 100-hour rule and making mothers with children ages three to five subject to participation requirements in NETWORK. However, these changes fall short of producing a cost-effective welfare reform program which will result in decreased welfare dependency.

The two areas of greatest concern continue to be the broad changes in the standards for treating eligibility and income and the design of the National Education, Training and Work program (NETWORK). The establishment of minimum benefit levels, provision of more generous income disregards, mandating of AFDC Unemployed Parent (UP) program, and extension of substantial services to former recipients will in greatly expand benefits, primarily for those with other sources of income while limiting the States' ability to target their resources to those most in need.

Under NETWORK, the extensive exemptions from participation, optional treatment of teen parents, and heightened emphasis on voluntary participation, result in a work program which fails to establish a firm commitment to serving a large number of teen parents and other potential long-term recipients—those for whom participation is most critical. Even worse, requiring States to serve volunteers first whenever there are insufficient funds to provide work and training opportunities for their entire eligible population virtually precludes States from focusing on the potential long-term recipient even though they judge it best for their welfare population. Finally, numerous revisions made by the Subcommittee, such as the restrictions on assignments to work experience programs and the required use of a burdensome conciliatory process, further constrain State flexibility to design programs which best reflect their economic situation and the needs of their welfare population.

With respect to the child support provisions in the bill, we support the broad policy objectives pertaining to mandatory guidelines and performance standards for States. However, we object to the specifics of these provisions because they will not accomplish our common goals effectively. Current Department efforts in setting performance standards are more likely to result in improved State efforts.

In closing, we reiterate our position that the Administration's approach to welfare reform is more effective and more prudent. The Low-Income Opportunity Improvement Act, introduced as H.R. 1288, would encourage State-sponsored and community-based demonstration projects to test innovative welfare reform approaches. Our innovative work and education program for welfare recipients, known as Greater Opportunities through Work (H.R. 1880) and a year-round program for youth under the Job Training Partnership Act (H.R. 1155), would better ensure that potential long-term welfare recipients participate in activities leading to economic self-sufficiency. Because of these advantages, we recommend their enactment, and we oppose adoption of H.R. 1720.

The President has clearly stated his strong commitment to welfare reform legislation that includes authority for State and community based demonstrations to test new approaches to the welfare system. We would recommend against the enactment of any new legislation that does not also authorize broad-based experiments, as would be allowed under H.R. 1288.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report and that enactment of H.R. 1720 would not be in accord with the program of the President.

Sincerely,

____ ____,
Acting Secretary.

ANTITERRORISM SANCTIONS ACT OF 1987

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. BARTON of Texas. Mr. Speaker, the bill amends 15 U.S.C. 1281 and 1282, approved September 13, 1961, which prohibits the destruction or injury or certain property moving in interstate or foreign commerce.

Section a: Any nation that is listed by the State Department, under provisions of the Export Administration Act of 1979, as a country that repeatedly provides support for international terrorism will be subject to the following actions:

First. Termination, withdrawal, or suspension of any treaty which relates to the most-favored-nation trade status;

Second. The products of that country will be subject to the high rates set forth in column 2 of the Tariff Schedules of the United States;

Third. Nonapplication of the Generalized System of Preferences on imports;

Fourth. Nonapplication of the provisions of the Caribbean Basin Economic Recovery Act;

Fifth. Nonapplication of the provisions of the International Travel and Tourism Act of 1961, instructing the Secretary of Commerce to take action to promote tourism and travel.

Section b: The President may waive all or part of these provisions if the President determines that it is in the national interest. The waiver will take effect 30 days after the President submits written notice of this waiver to Congress.

The complete text of the bill is as follows:

H.R. 2489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Terrorism Sanctions Act of 1987".

SEC. 2. The Act entitled "An Act to prohibit the destruction of, or injury to, certain property moving in interstate or foreign commerce, and for other purposes", approved September 13, 1961 (15 U.S.C. 1281 and 1282), is amended by adding at the end thereof the following new section:

"SEC. (a) Notwithstanding any other provision of law, with respect to any foreign country while it is listed pursuant to section 6(j) of the Export Administration Act of 1979 as a country that repeatedly provides support for international terrorism—

"(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty that relates to the provision of nondiscriminatory (most-favored-nation) trade treatment to such country;

"(2) such country shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of such country shall be subject to the rates and duty set forth in column number 2 of the Tariff Schedules of the United States;

"(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of such country;

"(4) the provisions of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.) shall not apply with respect to the products of such country, during the period in which such identification is in effect; and

"(5) the Secretary of Commerce may not consult with the government of that country under section 3 (a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) regarding international travel and tourism.

"(b)(1) The President may waive all, or any portion of, the provisions of subsection (a) with respect to any foreign country if the President determines that such a waiver would be in the best interests of the United States. The President shall submit to the Congress written notice of any waiver granted under this paragraph.

"(2) Any waiver granted under paragraph (1) may be revoked by the President at any time.

"(3)(A) Any waiver granted under paragraph (1) shall take effect only after the close of the thirty-day period that begins on the date on which the President submits to the Congress written notice of such waiver.

"(B) The following days shall be excluded in determining the thirty-day period described in subparagraph (A)—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die; and

"(ii) any Saturday and Sunday, not excluded under clause (i) when either House of Congress is not in session.".

THE PARENTAL ASSISTANCE FOR TUITION INVESTMENT ACT OF 1987

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. WILLIAMS. Mr. Speaker, today I am joined by a bipartisan group of my colleagues in introducing the Parental Assistance for Tuition Investment Act of 1987. This bill creates a national program to enable parents to invest in a fund that would pay a significant portion of the future tuition and fees and other related educational costs of attendance at a postsecondary institution. This national program is not affected by State boundaries. Thus, students may apply to any postsecondary educational institution in the country; it affords complete portability. Further, since the many State plans currently being developed may provide different levels of tax treatment or educational coverage, this national plan will ensure that all citizens are treated the same with respect to the tax status of their investment, and also this national plan will encourage American families to save more.

This legislation authorizes the establishment of the national postsecondary education trust as a public body, governed by a board of five postsecondary representatives and five members from the general public, with the Secretaries of Education and of the Treasury serving as ex officio.

The board is responsible for holding the funds, establishing necessary policy and procedures for operating the trust, paying money directly to postsecondary institutions, collecting necessary fees for its operation, imposing reasonable time limits on use of tuition benefits, and for other related administration matters.

This legislation also authorizes the establishment of the advance tuition payment fund into which are deposited payments received from purchasers on behalf of qualified beneficiaries.

The Secretary of the Treasury acts as managing trustee and is charged with investing the moneys in the fund in either interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Interest earned on the fund's investments becomes a part of the fund.

A parent may elect to participate by entering into an agreement with the trust. The contents of this agreement will determine the amount of money to be periodically invested in the Trust on behalf of a child.

Upon acceptance by an eligible postsecondary educational institution of an eligible beneficiary, and upon receipt of appropriate documentation, the trust will forward money to that institution to pay as much of the eligible educational costs as is allowed by the terms of the agreement.

Such agreements may be terminated and the moneys returned if the qualified beneficiary, first, dies, second, certifies to the trust upon reaching the age of majority that he or she has decided not to attend a postsecondary institution, or third, certifies that he or she has completed as much of the course of postsecondary education as he or she intends but has not used up all the accrued tuition benefits. The trust may identify other circumstances that warrant a refund. In all cases of such termination, the returned funds are treated as taxable income. Also, in all cases except termination due to death, a 10-percent penalty is added.

This legislation authorizes a "such sums" appropriation to provide for the costs of setting up and operating the trust until such time as it becomes self-supporting. These costs are difficult to predict and will likely decline as the number of participants increases.

The legislation provides for favorable tax treatment of funds invested in the trust. Payments of up to $2,000 per year per beneficiary will be treated as a deduction from income; the maximum amount for all taxable years is $48,000 per eligible beneficiary. However, in the case of certain individuals with high levels of adjusted gross income—$100,000 for an unmarried individual—this tax benefit shall be reduced by 10 percent of the excess amount. Also, the interest earned on this investment will be tax free as long as the terms of the agreement are followed.

Mr. Speaker, this legislation is needed; it will provide a useful supplement to our existing student aid programs. All of us are aware of the problems our students face when they leave college with high debt. This debt alters their career goals and their ability to plan for a family of their own; it also likely affects the economy in a negative way since funds tied up in student loan repayment will not be available for other purposes.

I urge my colleagues to join with me in supporting this legislation.

INTRODUCTION OF THE MINIMUM HEALTH BENEFITS FOR ALL WORKERS ACT OF 1987

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. WAXMAN. Mr. Speaker, I am pleased to join with my colleagues, Mr. CLAY, Mr. HAWKINS, and Mr. MURPHY today in introducing legislation that will at long last assure that nearly every American worker will have health insurance. We developed this bill jointly with Senator KENNEDY, who is introducing an identical companion bill in the other body. Senator KENNEDY deserves our gratitude for his leadership and dedication in developing this legislation.

The past 40-odd years have been a time of great improvements in health care coverage. The cornerstone of that expansion has been the private sector providing health insurance related to employment. This approach has been very successful. Collective bargaining agreements and tax incentives have led many employers to offer excellent health insurance packages to their workers.

Unfortunately, many people have been left uncovered even as benefits for most workers have expanded.

We always knew that two large groups would be left out when health insurance was linked to employment—persons 65 and over, and people unable to work because they had disabilities or were single parents with small children. The Federal Government recognized this problem over 20 years ago, and enacted Medicare and Medicaid. Neither program has been perfect, but both have provided millions of people with needed health care.

Now we are increasingly aware that there is a rapidly growing number of other people who have no health insurance—37 million by most recent estimates. What comes as an unhappy surprise is how many of these are people with jobs, and their families.

Nearly two out of every three people without health insurance are from families where the head of the household is employed.

It turns out that health insurance coverage is to some extent a matter of luck. If you're fortunate enough to work for a large, unionized, manufacturing firm, you're also likely to have good health insurance coverage. But if you work just as hard and have just as many responsibilities, but happen to work for a smaller company you are more likely to have no insurance.

Being without health insurance is a very serious matter these days. When people without insurance get sick, they get to a doctor and get into a hospital barely half as often as people with insurance. And worst of all, they are more likely to get sick in the first place and then put off seeking care until their illness gets serious.

This situation is intolerable. It is bad health policy and equally bad economic policy. Unless the Congress acts, more and more people will find themselves without adequate health insurance.

The legislation that we are introducing today will go a long way toward correcting these inequities. This legislation builds upon our strong private sector tradition of employment-related insurance.

Nearly all workers will be guaranteed basic health insurance coverage for themselves and their families. Employees and employers will share the costs. The most important preventive services—prenatal and well-baby care—will be fully covered. And every worker and family member will be protected against the costs of catastrophic illness.

Even under this proposal, not every American will yet have adequate health insurance. Some people will still have to be incorporated into federally funded programs, and we will continue our efforts to see that they have access to appropriate health care.

This bill has many important features, but several provisions will need to be developed further as it is considered in this Congress. Because we sought to define a minimum, affordable package, not every needed health service is required to be provided in the basic plan. In particular, mental health services and outpatient care by professionals other than physicians are not mandated. While such services are very likely to be incorporated into many plans through the actuarial equivalence option, we will nevertheless want to see what can be done about adding them to the basic package as we consider this bill.

Mr. Speaker, this is a modest proposal. But, it is a critically important step for the country to take. Its time has long since come. I ask all my colleagues to join with us to assure that all workers and their families will finally be confident that they are covered for medical care when they need it.

HONORING OUR NATION'S VETERANS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. HOYER. Mr. Speaker, "let no ravages of time testify to coming generations that we have forgotten as a people the cost of a free and independent nation." In proclaiming May 30, 1868, as a time for veterans of the Civil War to salute their fallen comrades, Gen. John A. Logan, the commander in chief of the Grand Army of the Republic, delivered these remarks. Today, these words seem no less appropriate, even in a country that is not at war.

Out of respect to the more than 1.1 million Americans who died while wearing the uniforms of the armed services of the United States and the 14 million veterans who died after military service, it is fitting that we honor these fallen Americans. There is a special honor, a special meaning, and a special sacrifice associated with those who wear their country's uniform.

Earlier this week, a missile or missiles fired by an Iraqi F-1 Mirage fighter-bomber slammed into the U.S.S. *Stark,* a frigate patrolling in international waters in the Persian Gulf. The ensuing devastation and resulting loss of life reinforce particularly the point about sacrifice. An unfortunate event, thousands of miles from our shores, in the Persian Gulf, clearly demonstrates that defending our Nation's freedoms and interests makes perpetual demands on American lives.

There is no evidence that this is anything but an "accident," and this terrible calamity occurred during "peacetime." However, no one should ever forget that defending our freedom, protecting our liberties, and safeguarding our values does not permit those wearing our Nation's uniform to consider themselves at peace or enable them to relax their vigilance.

Normally, service in the "peacetime" Army, Navy, Marine Corps, or Air Force does not include the most serious risks taken for granted when our Armed Forces are engaged directly in combat. Nonetheless, all too clearly the tragedy that suddenly and violently struck the *Stark* illustrates that for our Nation's servicemen and servicewomen danger is never too far removed.

On Memorial Day, as we commemorate and honor our Nation's fallen, let us resolve to help, to comfort, to uplift the living. The millions of living veterans are no less deserving than our fallen heroes of the respect and gratitude of their countrymen.

Thus, I have worked for several years in the successful drive for funding to construct a modern Veterans' Administration [VA] hospital in downtown Baltimore. This is a facility needed to serve the burgeoning population of veterans in the State of Maryland. I eagerly await the ground breaking ceremony to be held on June 22 at the site of the future Baltimore VA hospital. In addition to offering first-rate services, the hospital will provide an outstanding opportunity for teaching and practical instruction because of its affiliation with the University of Maryland School of Medicine. Last year, the Congress provided $101.2 million to begin construction of the hospital. I will continue my efforts through the House Committee on Appropriations to ensure that the ground breaking is only just one more milestone toward the completion of this project.

Further, I am pleased that the House of Representatives, as part of a supplemental appropriation for fiscal 1987, has approved $20 million for the aid of homeless veterans. If this measure is approved by the Senate and signed by the President, the money will be used to establish up to 700 additional domiciliary beds at VA medical centers located in large urban areas across the country, including Little Rock, AR; Palo Alto, CA; Denver, CO; Bronx, Brooklyn, and Manhattan, NY; Cleveland, OH; Pittsburgh, PA; and Tacoma, WA. Unfortunately and tragically, in some areas of this country, veterans comprise up to one-third of the homeless population. Many are the victims of mental illness or substance abuse.

At the same time, let us never forget the fallen—the marines who sought to restore a semblance of peace and stability to embattled Beirut; the airmen who plucked fleeing civilians from the rooftops of Saigon and from the storm-tossed and pirate-infested seas of Southeast Asia; the infantrymen who fought, often hand-to-hand and without ammunition, along the frozen perimeter of the Chosin Reservoir; the cavalrymen who raised the siege of the encircled American garrison at Bastogne, who spearheaded the Allied advance against the Siegfried Line, and who liberated the doomed of the concentration camps; and the "doughboys" who led the Allied advance at Chateau-Thierry and Belleau Wood and ended the hopeless, bloody deadlock along trench-crossed France. In honoring our Nation's war dead, we can and must remember back through the more than 200 years of our history to the rag-clad and starving men of the Continental Line who emerged from the hardships of winter at Valley Forge to defend American independence.

Mr. Speaker, let us honor the dead by helping the living. On this Memorial Day, let us pledge to continue working for strong and effective programs for veterans and their dependents. Continuing to care for the living is among the best ways for a thankful country to demonstrate its gratitude to the sailors lost aboard the *Stark*.

INTRODUCING THE "SCHOOL LUNCH, CHILD NUTRITION, AND OLDER AMERICANS COMMODITY IMPROVEMENT ACT OF 1987"

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. FORD of Michigan. Mr. Speaker, I am pleased to introduce today, on behalf of myself and Mr. GOODLING, my distinguished colleague from Pennsylvania, a bill entitled "School Lunch, Child Nutrition, and Older Americans Commodity Improvement Act of 1987".

Mr. Speaker, in one form or another, the U.S. Government has been distributing agriculture commodities and their products, including farm surplus items, to needy families, institutions, schools and other eligible recipients since 1935. Since 1946, when the National School Lunch Program was enacted, donations of commodities of all kinds have gone to the school lunch, and later the school breakfast programs, as well as to other eligible child care and older Americans programs.

Currently, the National School Lunch Progam receives two forms of Federal support from the U.S. Department of Agriculture: First, cash subsidies; and second, donated agricultural commodities purchased under price support and surplus removal legislation. During fiscal year 1985, schools in the NSLP served 3.9 billion meals, received Federal cash support of $2.2 billion, and received commodities donated and valued at $796 million.

It would appear, Mr. Speaker, that for more than 50 years the Government has been interested in and concerned about the nutritional well-being of needy people in this country, and particularly its children and its older Americans, who are at higher risk than others.

As the ranking majority member of the authorizing Committee on Education and Labor, I have had occasion to hear, more often than I have liked to over the years, testimony to the effect that all is not well with USDA's distribution program for entitlement and bonus commodities.

As my colleagues know, a few years ago there were scandals across the country having to do with stale, spoiled and contaminated commodity food products in warehouse facilities serving the school lunch and breakfast programs. We have heard severe criticism over the past several years due to the expenses involved in transporting, storing, handling and processing donated commodities into usable products, that the cost of donated foods may actually be higher than the cost of comparable, locally acquired products; that donated foods are difficult to use in preparing meals and increase the cost of operating a food service program; that uncertainty of delivery dates and bunching of deliveries during the school year overloads storage capacity, increases costs and makes menu planning difficult; that donated foods are often packaged in ways that are difficult to use by schools and include items that children simply will not eat, resulting in plate-waste; that foods often arrive in damaged condition; that serving donated commodities lowers student participation and increases waste; that current regulations impose excessive burdens on school districts; and that the agricultural support provided to the American farmer by the commodity program might be achieved by other systems that are better for schools and children.

Such complaints have often led to various proposals for program improvements ranging from small incremental changes to a major overhaul of the existing program.

Mr. Speaker, I will not go into complete detail on the difference of opinion, complaints or recommendations for improvements to the commodity program the Education and Labor Committee has received over the years. If I may, I will just reiterate recommendations made most recently.

About 2 years ago, the U.S. Department of Agriculture was sent a list of 32 ways in which their commodity distribution could be improved to serve these programs better. The list was compiled by a joint task force comprised of representatives of the American School Food Service Association [ASFSA] and the Association of National Frozen Food Products [NFFA], the later being an association involved in processing bulk commodities, such as 100 pounds of frozen hamburgers or other forms of beef, into processed, easily used end products. I wholeheartedly supported the Task Force's action to join together in an effort to encourage and assist the USDA in making needed improvements in its commodity distribution program so that schools and other institutions could continue to enjoy the assistance available through commodity donations, but in a manner that was safe, timely, more efficient, and less costly for recipient agencies. It was our belief that within the 2-year period after USDA received the task force's recommendations, that significant progress would have been made in improving the system, and that such progress would be tangible, easily recognized, and evaluated. Regrettably, such has not been the case.

Mr. Speaker, after 50 years of being in the business of distributing commodities to needy families/children, and older Americans through the various feeding programs it administers, the USDA recently advised the joint task force representatives—but not the Congress—that it now finds it does not have, and never did have, a statutory base for its commodity distribution program.

What a surprise it is to learn that USDA believes it might have had implicit authority to distribute commodities to the various programs over the past several decades, it now believes that before it can even begin to make administrative improvements in its commodity distribution program, it would require explicit statutory authority to do so.

That, Mr. Speaker, is what the bill we introduce today will provide. It will give explicit authority to the USDA to improve its commodity distribution program that it has had 50 years to perfect. Not only does this bill give the statutory base that USDA desires and claims to need, it also has enforcement mechanisms in it to require the USDA to implement and begin to operate under these new authorities within specific time frames designed to improve the program quickly and effectively. We do not have another 50 years for USDA to do its job, and do it well, in the service of the children, adults and families, the Congress intends to benefit from commodity distribution programs.

The bill we introduce today contains some other features which we are pleased to offer. Briefly, they include: First, a "Buy America" requirement that all recipient agencies use and purchase only food products produced or manufactured in the United States; second, that the Secretary take into consideration the sizes and forms of packaged commodity and noncommodity foods so that recipients receive commodities in quantities and in forms readily usable to them; third, that the USDA consider recipient ability to store and/or transport commodities received; fourth, that the Secretary provide recipes consistent with dietary guidelines published by USDA and HHS to recipient agencies; fifth, that the Secretary provide to recipient agencies commodity specifications—size/quantity—including nutrient content information with respect to fat, salt, and sugar content of foods USDA intends to purchase for their use; sixth, that the Secretary monitor the State distribution agencies and establish procedures for replacing stale, spoiled or contaminated commodities delivered to recipients; seventh, that the Secretary constantly monitor the condition of commodities stored by or for the Secretary and intended for donation to recipients as to its wholesomeness and fitness for human consumption; eighth, that the Secretary must deliver State orders for commodities within 90 days of the order date—unless a longer period is requested by the State; ninth, that State distribution agencies utilize normal channels of trade for warehousing and distributing commodities, and that systems used will be most cost effective; tenth, that national field testing of products take place to assure that processed bulk commodities are acceptable to recipient agencies; and eleventh, that the USDA survey recipient agencies to determine their preference for package sizes, forms, and quantities of noncommodity foods they use in preparing and delivering meals.

All of these improvements required of USDA have time-frames imposed, by which times the USDA must have implemented, or must have issued regulations to implement, the program improvements.

Finally, Mr. Speaker, the bill requires that within 12 months after enactment, that local recipient agencies be given the option of using the commodity-letter-of-credit method of delivering school lunches and breakfasts, older Americans' meals, and child care nutrition services. The commodity letter of credit, which has been tested through a congressionally sponsored pilot project since 1981, means a system that provides recipient agencies with letters of credit equivalent to the USDA-assigned value of the donated commodities to which they are entitled. The letters of credit must be spent on the same type of domestically produced commodities that are donated by USDA under the commodity donation program. Further, Mr. Speaker, the letters of credit, while in lieu of entitlement commodities, does not disrupt the USDA program of donating bonus of surplus commodities such as milk, cheese, butter, honey, and other products as they become available under farm surplus removal conditions. Letters of credit may be used to purchase the commodity locally, and in a form most suitable to the recipient agency's needs.

Mr. Speaker, this bill not only gives specific direction to the USDA for improving the commodity distribution program serving the school lunch, breakfast, child care, and Older Americans Act nutrition programs, it also contains enforcement mechanisms to assure that the improvements called for are carried out quickly, efficiently and effectively. I urge my colleagues to cosponsor this measure and to assist in facilitating its enactment into law.

HUMAN RIGHTS ABUSES CONTINUE IN SOVIET UNION

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. SMITH of Florida. Mr. Speaker, last month we learned with great relief that Anatoly Koryagin, a man of great courage and principle, was recently allowed to leave the Soviet Union. For standing up for his belief that psychiatry should not be abused for political ends, Koryagin suffered through 6 brutal years in the Soviet gulag.

But while Koryagin is now out of the Soviet Union, the political abuse of psychiatry sadly continues. This is precisely the point made in a chilling column written for the Miami Herald by my good friend and colleague, STENY H. HOYER.

In this article, Mr. HOYER describes how psychiatric punishment, which includes crippling drug treatments, has been used to stifle political dissent and crush the will of any political opposition. As he points out, "the Soviet Union stands alone in its widespread use of psychiatry as a tool of political represssion." For reform to be meaningful in the Soviet Union, he writes, it must include an end to this terrible practice. As Mr. HOYER puts it, "A medical science meant to open the mind should not be used to close it."

As we know, Mr. HOYER serves as Chairman of the Commission on Security and Cooperation in Europe—the Helsinki Commission. Under his Chairmanship the Commission has maintained its strong and deep commitment to human rights.

I commend this article to my colleagues, and reprint it in full for the RECORD.

[From the Miami Herald, Apr. 25, 1987]

SCARS OF SOVIET PSYCHIATRIC ABUSE

(By Steny H. Hoyer)

Soviet psychiatrist Anatoly Koryagin has finally been allowed this month to leave the Soviet Union after six years in prison, to the great relief of the human-rights community. But his release should not divert attention from the cause that made him a dissident in the first place: the continuing Soviet abuse of psychiatry for political purposes. Few things better reveal the underside of the new Soviet spirit of "openness."

Among the nations of the world, the Soviet Union stands alone in its wide-spread use of psychiatry as a tool of political repression. Experts believe that there are at least 1,000 political prisoners forcibly confined to Soviet psychiatric hospitals. Over 100 cases have been documented by the West. The recent well-publicized release of 140 dissidents included very few psychiatric inmates.

The political abuse of psychiatry in the Soviet Union has little to do with mental illness. Former patients who have been examined by Western psychiatrists are uniformly declared sane. The problem is their politics, or what one Soviet psychiatrist called their "incorrect attitude toward Soviet authority."

In an article written before his 1981 arrest, Koryagin noted that dissidents are presented with a bleak alternative: renounce their views and activities, or face internment in a psychiatric hospital. The KGB, he added, will often influence the diagnosis and the terms of confinement.

KORYAGIN'S RELEASE A PAINFUL REMINDER

As the ultimate weapon of a system bent on conformity, psychiatric incarceration enables the Kremlin to silence and demoralize opponents without risking the potential embarrassment of a political trial. Thus the Soviets can better hide the scope of repression—particularly useful in this time of "openness." As the head of Moscow's notorious Serbsky Institute of Forensic Psychiatry once put it, "What do we need political trials for if we have psychiatric hosptials?"

To justify their actions, Soviet psychiatrists have created a broad category of "socially dangerous acts" that could land a dissident in a psychiatric hospital. In most nations, individuals can be forcibly confined only after they are shown to be physically dangerous to themselves or others. Not so in the Soviet Union.

Examples of punishable acts include independent trade-union activity, religious activism, writing complaints to government authorities, or trying to emigrate from the Soviet Union. Patients are diagnosed as suffering from "reformist delusions" or "nervous exhaustion brought on by the search for justice." In short, Soviet citizens are committed for taking part in activities that we in the West simply take for granted.

Once forced into the psychiatric system, the prisoner faces a protracted nightmare, sometimes lasting for years. Untrained personnel administer drugs that cause severe, crippling side effects. A favorite is Sulfazin, which causes raging fevers, painful joint inflammations, and high blood pressure—"like a drill boring into your body," said a former victim.

Other "treatments" include prolonged solitary confinement, immobilizing straps, needless spinal punctures, or insulin-shock therapy to induce hypoglycemic comas. Those considered "especially dangerous" have been sent to prison hosptials for the criminally insane, where they are often subjected to beatings by ordinary criminals working off their probation terms.

To avoid such punishments, dissidents are told they must renounce their political or religious views. But even after recantations they are never fully trusted or forgiven. Once released, all bear a stigma—and many are placed on a psychiatric register as mentally unstable, which frequently results in job discrimination and other legal restraints. Nor is it a coincidence that former victims are often warned to "voluntarily" commit themselves before international conferences, state visits, or events such as the 1980 Moscow Olympics.

In 1983 the Soviet psychiatric union withdrew from the World Psychiartic Association rather than face its expected expulsion. Since then, little has changed except for fewer internments in prison hospitals. In his recent attempts to restructure Soviet society, General Secretary Gorbachev seems to be purging many professional organizations. But he has yet to tackle the leaders of the psychiatric union, many of whom are implicated in the abuse issue.

We in the West should make it clear that meaningful reform in the Soviet Union must include measures to prevent psychiatric abuse and punish its perpetrators. A medical science meant to open the mind should not be used to close it.

THE FRIENDSHIP BETWEEN THE SOVIETS AND INDIA

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DREIER of California. Mr. Speaker, I rise to call my colleagues' attention to an article commemorating diplomatic relations between the Soviet Union and India which appeared in the Soviet Communist Party paper Pravda. This article extols the close friendship between these two countries over the last 40 years. The legacy of Mahatma Gandhi has many Americans believing that India is a natural friend of the United States and the Western democracies. To the contrary, India, the world's largest democracy, has the closest of relationships with the world's most notorious Communist dictatorship.

At a time when we are increasingly asking who our friends are in this region, I think it is critical to note the history of closeness between India and the Soviet Union. I would especially draw my colleagues' attention to the 1971 friendship agreement between the two countries. Although this treaty contains the word "peace" in its title, this document is the basis for extensive military cooperation in southwest Asia. This treaty enabled India to be the first recipient of the Soviet Mig 29 high-performance jet fighter outside the Warsaw Pact. This treaty has also served to deter

India from condemning the Soviet invasion of Afghanistan. In spite of the havoc and death created by the Soviets' 7-year-old invasion, the Indian Government has stood alone in the region by refusing to condemn this war of aggression.

Again, I urge my colleagues to take note of the following Pravda article and keep it in mind as we debate the issues of U.S. foreign policy in southwest Asia.

[From Pravda, Apr. 13, 1987]

Our Friend India

Diplomatic relations between the Soviet Union and India were established 40 years ago. Here is a story about this and several other truly landmark events in the chronicle of friendship between the two great peoples.

SOURCES

In Paris on September 28, 1946, Indian diplomat and political figure Krishna Menon presented USSR Foreign Affairs Minister V.M. Molotov with a letter from J. Nehru. The letter expressed India's desire to "exchange diplomatic and other representatives with the USSR." In a letter of response three days later, the Soviet side reported its agreement, and on April 13, 1947 an official announcement was made regarding the establishment of diplomatic relations between the Union of Soviet Socialist Republics and India.

This happened back before India became fully independent. The colonizers were maneuvering at the time. In March of 1946, the government of Great Britain announced that it had granted India the status of a dominion, and in August an interim government was formed, in which Jawaharlal Nehru became vice premier, while the vice regent remained as head of the government. At this stage, the establishment of diplomatic relations with our country, which supported full sovereignty for India, undoubtedly was among the important factors promoting both the success of the national liberation struggle in the country and the fact that only four months later, on August 15, 1947, India was proclaimed an independent state.

COOPERATION

The experience of independent development insistently dictated to the young republic the need to create its own industrial sector, the basis of an independent economy. However, the country did not have enough money, and there was no modern technology or skilled personnel. The Indian government turned to the Soviet Union.

On February 2, 1955 an agreement to the effect that our country would help India build a metallurgical plant in Bhilai was signed. Thus the foundation was laid for Soviet-Indian economic cooperation. Since then, over 60 industrial and other facilities in very important sectors of the economy have been built with assistance from the USSR, and 40 more are in the construction, design, and coordination stages.

Enterprises built with our help produce 36 percent of all Indian steel, 32 percent of the aluminum here, 77 percent of all metallurgical equipment, 47 percent of all power production equipment, 43 percent of all mining equipment, almost a tenth of the country's electricity, extract 23 percent of the oil here, and refine 47 percent of it. Over the years, more than 165,000 Indian engineers, technicians, and workers have been trained.

Last year the USSR and India signed a new agreement on economic and technical cooperation, the most extensive such agreement in the entire history of our relations.

A FIRM FOUNDATION

In 1971, international ties between the Soviet Union and India were raised to a qualitatively new level as the Treaty of Peace, Friendship, and Cooperation was signed on August 9.

"An important landmark in Indian Foreign policy," "A treaty that reflects the will of the Indian people," and "An important day in the history of India"—that is how deputies to the Indian Parliament characterized the signing of the treaty. The treaty, wrote *Pravda* in a lead editorial devoted to the event, is not aimed against any third party and has no other goals besides the further development of friendly cooperation between the two states and imparting dynamism to their joint peaceful efforts.

This document successfully performs its role and serves as a reliable foundation for the entire complex of diverse Soviet-Indian relations, which have become a factor in the everyday lives of our people.

APPEAL TO MANKIND

"On behalf of the more than one billion men, women, and children in our two friendly countries, who make up one-fifth of all humanity, we appeal to the peoples and leaders of all countries to take immediate actions, which must lead us to a world without weapons of mass destruction and without wars," states the Delhi Declaration on Principles of a World Free from Nuclear Weapons and Violence, which was signed in November of last year during CPSU Central Committee General Secretary M.S. Gorbachev's official friendly visit to India.

It is no coincidence that this historic document, which sets down the noblest of ideas, responding to the hopes of all people on Earth, comes from the USSR and India. In many ways, relations between our countries set an example of the practical embodiment of these ideas. They represent a vivid manifestation of the policy of peaceful coexistence by states with different socio-political systems and a model for international ties in the future.—V. Shurygin.

Verbatim

"It (Soviet Russia) is today the greatest fighter against imperialism, and the things it has done for the peoples of the East are just and magnanimous. Russia approaches the East as an equal, and not as a conquerer or a higher race. It is hardly surprising that the country is being welcomed."—Jawaharlal Nehru. (1928)

"If I had not gone to Russia, the pilgrimage of my life would have been incomplete. . . The call of the Russian revolution is also the call of the entire world. At least this nation is the only one out of the nations in today's world that is thinking of the interests of all mankind and considering them above their own national interests"—Rabindranath Tagore. (1931)

"The Soviet Union helped us create a heavy industrial sector at a time when other countries weren't helping us . . . It has stood with us in periods of trials and difficulties, during aggression against us, during times of drought, and so on. And nothing has been asked of us in return except friendship."—Indira Gandhi. (1976).

GIANTISM DOESN'T EQUAL COMPETITIVENESS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. CARR. Mr. Speaker, I rise today to submit an op-ed piece written by Prof. Walter Adams and Prof. James W. Brock in the April 27, 1987 New York Times. Mr. Adams, a distinguished economist, is the former president of Michigan State University and a leader in antitrust economic theory. He, along with Mr. Brock, an economist at Miami University in Ohio, have written this piece relating to megamergers and corporate bigness in the American economy. I ask that it be reprinted in the Record for my colleagues' consideration.

[From the New York Times, Apr. 27, 1987]

Giantism Doesn't Equal Competitiveness

(By Walter Adams and James W. Brock)

East Lansing, Mich.—In the face of America's declining competitiveness in international markets and the successive accumulations of record foreign trade deficits, antitrust laws are again under fire.

The critics—ranging from Secretary of Commerce Malcolm Baldrige and Attorney General Edwin Meese 3d on the right to the economist Lester Thurow on the neo-liberal left—charge that our antimerger statutes block desperately needed efficiency and innovation-enhancing corporate consolidations. They say that euthanasia of the antimerger laws—by nonenforcement or by outright repeal—would cure America's competitiveness malaise.

Nonsense.

A growing body of evidence suggests that megamergers and corporate giantism undermine good economic performance and retard, rather than advance, the United States' competitiveness in world markets.

It is not true that antitrust laws have done anything to stem the merger mania. Since 1980, the annual number of mergers has more than doubled and the annual dollar value of mergers has more than quintupled. Every year, new records are set in the number and size of corporate acquisitions. All told, 75 of the 100 largest mergers in American history have occurred since 1981.

Academic studies and the media have indicated that megamergers and the bloated bureaucracies that follow in their wake undermine production efficiency. For example, Business Week has carried cover stories titled "Small Is Beautiful in Manufacturing" and "Do Mergers Really Work? Not Very Often."

There is evidence that more often than not elephantine corporate size significantly retards, rather than advances, technological innovation. A multitude of acquisitions of small high-tech firms by giants such as Exxon and Burroughs have ended in disaster, primarily because layers of bureaucracy paralyze entrepreneurship in the acquired concerns.

Corporate bigness more generally seems to have sabotaged—not promoted—international competitiveness in key industries such as autos and steel. Indeed, if merger-induced giantism were truly conducive to world-class performance, General Motors and U.S. Steel (USX)—originally created through mergers and acquisitions—should be the efficiency and innovation marvels of the world. Clearly, they are not.

Giant firms like I.T.T. and Gulf & Western, which gorged themselves on conglomerate acquisitions in the 1960's and 1970's, today are divesting scores of previously acquired businesses and operations. They are concentrating on what they know best and jettisoning the rest—and significantly boosting their financial and economic performance. As Martin S. Davis, president of Gulf & Western, was recently quoted as having said: "Bigness is not a sign of strength. In fact, just the opposite is true." His observation is corroborated by the fact that upward of 40 percent of all corporate marriages of the 1960's and 1970's have ended in divorce.

Megamergers impose an enormous, ultimately debilitating "opportunity cost" on the economy. The $190 billion spent on mergers and acquisitions last year is $190 billion not invested in new plant and equipment, new technology or new product research and development. In 1984, corporate America spent two and one half times more on mergers and acquisitions than on research and development—a dubious priority if reindustrialization and international competitiveness are national aims.

Meanwhile, as the Federal Reserve chairman, Paul A. Volcker, has warned, the staggering debt loads built up during the merger madness are a ticking time bomb, waiting to explode when the next recession inevitably rolls around.

In sum, megamergers and corporate bigness are not the answer to our woes. If efficiency, innovation and world-class competitiveness are national goals, we should revitalize our antimerger policy to combat what Richard G. Darman, former Under Secretary of the Treasury, calls "corpocracy." By that, he means "largescale corporate America's tendency to be like the Government bureaucracy that corporate executives love to malign: bloated, risk-averse, inefficient and unimaginative."

Walter Adams and James W. Brock are professors of economics at Michigan State University and Miami University (Oxford, Ohio), respectively.

HEALTH BENEFITS FOR AMERICA'S WORKERS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. MURPHY. Mr. Speaker, I rise in strong support of the legislation being introduced today to provide minimum health benefits for America's workers.

The fact that there are over 37 million people in the United States with no public or private health coverage is a sad commentary on this Nation's priorities. For these people, financial ruin will compound any common medical problems and result in personal tragedy.

It is absolutely unacceptable, however, that many of these people are working Americans, contributing to this country's growth and prosperity. Fifty-five percent of the uninsured, 19 million Americans, worked but had no health coverage in 1985. Most of these workers had jobs in the low-wage service industries where the majority of jobs have been created. While 8 million service sector jobs have been created in the Reagan administration, 2 million manufacturing jobs have been lost.

The former steelworkers and former coal miners in my district understand fully the myth of the Reagan economic recovery. While jobs have been created, the American economy has shifted employment from manufacturing industries to service industries. American workers have paid the price for a failed trade and economic program in lower wage jobs with no benefits or medical security.

All American workers are entitled to the very basic protections that health insurance provides. These people, trying to support their families on low wages in the first place, should not be forced to choose between a trip to the doctor or food on the table.

ORGANIZATION FOR INTERNATIONAL COOPERATION SOVIET-AMERICAN PEACE PRIZE

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. HOWARD. Mr. Speaker, I rise to bring to your attention an organization located in my congressional district which is committed to promote peace and support the objectives of the United Nations.

The Organization for International Cooperation is a New Jersey-based, non-profit group established in 1984. The organization's projects thus far have included public seminars and media interviews on various peace initiatives. Currently the OIC is developing a project for the purpose of demonstrating the importance of resolving international conflicts through peaceful means.

The Shore Area Soviet-American Peace Prize is intended to be an annual competition for high school students living in Monmouth and Ocean Counties in the shore area of central New Jersey. The students will be asked to create innovative projects to enhance Soviet-American friendship. The competition will be based on creativity, life of the project, originality, and the degree of success it achieves in promoting the qualities of appreciation, compassion, understanding and magnanimity. By the promotion of this project OIC hopes to accomplish, along with the students, parents, and community businesses involved, a strong commitment at the grassroots level to peaceful coexistence and Soviet-American friendship.

The peace prize is also intended to provide benefits for the participating students, namely a greater appreciation of their academic subjects, a new understanding of friendship and peacemaking, new interests in world affairs, a greater sense of public responsibility and patriotism, a deeper sense of personal peace, and a chance to impact their community. These benefits would extend throughout the community, and hopefully strengthen the dedication Americans have to achieving a lasting peace the world over.

I commend Mr. Arnie Keiser, founder and president of OIC, for his commitment to these goals. I wish the OIC a successful project, and anticipate that this work will become even more important as we forge ahead to improve relations with the Soviet Union.

WIPP LAND WITHDRAWAL ACT OF 1987

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. SKEEN. Mr. Speaker, today I am introducing legislation along with my distinguished colleague, MANUEL LUJAN, to permanently withdraw certain Federal lands located in New Mexico from the operation of certain public land laws. This withdrawal is necessary before the waste isolation pilot plant [WIPP] becomes operational.

This legislation is of extreme importance to the Federal Government. The State of New Mexico supports this bill and Senator JEFF BINGAMAN along with Senator PETE DOMENICI of New Mexico will offer similar legislation in the Senate. It is one of my top legislative priorities during the 100th Congress.

WIPP, located near Carlsbad, NM, has been designated to become the Nation's first permanent repository for defense-generated transuranic waste, and is scheduled to receive the first shipment of transuranic waste in late 1988. The WIPP Land Withdrawal Act of 1987 not only addresses the need to withdraw certain lands, but careful considertion has been given in this legislation to ensure the safety and welfare of the public and to address the concerns of the State of New Mexico.

The legislation would withdraw approximately 10,240 acres of land—approximately 8,960 acres are federally owned and the remaining 1,280 acres are State owned—and reserve them for the continued construction, operation and maintenance of the WIPP project. Administrative jurisdiction over the 10,240 acres would be transferred from the Secretary of the Interior to the Secretary of Energy.

Because the State of New Mexico will not be able to receive mineral royalties due to the withdrawal of Federal lands, this legislation provides for the compensation of lost royalties. After estimating the total of risked royalties, bonuses and taxes, adjusted to net present value, that would be lost, it was determined the Department of the Interior will be authorized to pay the State of New Mexico a sum of $10,091,233 for each of the next 5 years.

The legislation establishes the procedure by which the Secretary of Energy may acquire non-Federal lands and interests in lands within the boundaries of WIPP. Management responsibilities of the land have been established to ensure that grazing will be allowed, wildlife habitats on the land are maintained and sportsmen will continue to have access to certain areas.

Sections have been included in this legislation to ensure proper safety and environmental guidelines are followed. The Secretary of Energy will be required to submit a plan on how the WIPP project will be managed after decommissioning, report to the State of New Mexico detailing plans to conduct experiments with high level waste at WIPP and ensure that certain Environmental Protection Agency standards are followed.

Finally, the mission of WIPP, both the permanent storage of defense-generated transuranic waste and the temporary storage of high-level defense waste for research and development purpose, is outlined.

The process of finding an adequate method of disposing of radioactive waste has led to the authorization of WIPP. After years of study, scientists concluded that deep salt beds can provide one method for the safe, permanent isolation of radioactive waste. The WIPP site was selected as having the geologic characteristics thought suitable for the project. The waste will be disposed of in salt approximately 2,200 feet below ground, located near the center of a salt bed that is between 1,750 and 2,000 feet thick.

This facility was authorized by Congress in the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980. This act authorized WIPP for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from defense-related activities and programs exempted from regulation by the Nuclear Regulatory Commission. The Department of Energy's plans for WIPP are consistent with the project's authorization. Those plans include providing for the initial retrievability and the eventual permanent placement of low-level transuranic waste and to provide a research and development facility for defense high-level waste.

For this important project to proceed the land withdrawal must be finalized. Congress has committed itself to the WIPP project, and I ask that my colleagues join me in seeing that this legislation moves quickly through the House.

LIBRARIAN EMERITUS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Ms. OAKAR. Mr. Speaker, I am proud to join with my distinguished colleagues; Chairman FRANK ANNUNZIO, Congressman BILL CLAY, Congressman AL SWIFT, Congressman BILL FRENZEL, Congressman NEWT GINGRICH, Congressman ED JONES, and Congressman PAT ROBERTS, to introduce a joint resolution conferring the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

Dr. Boorstin, a historian, educator, and author, was sworn in as the 12th Librarian of Congress on November 12, 1975. He had previously been the Director of the National Museum of History and Technology, and Senior Historian of the Smithsonian Institution in Washington, DC. And, prior to both these prestigious positions, Dr. Boorstin was the Preston & Sterling Morton distinguished service professor of history at the University of Chicago where he taught for 25 years.

Dr. Boorstein's tenure as Librarian, which he sees more as a cultural post than as a technical job, has been marked by several departures. He has made an effort to make the Library more inviting to the public and counteract the image of stuffiness by opening the long-locked doors to the entrance of the Library's main building, by promoting lunchtime concerts on the Library's plazas, and by putting on exhibits about everything from the Apollo Moon mission to a retrospective on Disney animation.

Dr. Boorstin has set up many special programs, including a council of scholars to help the Library spot weaknesses in its collections, and a center for the book to promote reading among the general public.

The position of Librarian of Congress is one of distinction; one that requires the highest leadership and political insights. As the Nation's ambassador of culture, the Librarian must also have strong diplomatic skills. Dr. Boorstin is a man of many talents, along with the above mentioned he has also been a dynamic and charismatic leader, one who has inspired knowledge, as well as given of his own. He has provided intellectual stamina to the Library that will carry on for generations to come.

Dr. Boorstin will be missed indeed when he retires. But, by making him Librarian of Congress Emeritus, we can minimize the loss. Passage of this simple and straightforward resolution will provide Dr. Boorstin with the much needed access to resources that will allow him to continue his outstanding work as a historian and an author. The bill simply creates the position—no salary or additional funds are required. This is a well-merited reward, allowing the Congress to thank Dr. Boorstin for his outstanding accomplishments to the Library and consequently to the Nation and the world of literary sciences.

Dr. Boorstin once said, "You hope to grow and develop as long as you're alive. You can't fondle your past. The best book is always the next book."

With these words in mind, I am certain that the next Librarian of Congress will fill the position with the same professionalism as the present. And that Dr. Boorstin will move on, gracefully into the future, onto the next book.

I urge my colleagues to support this resolution.

NEAL HANSEN PRESENTED THE PRESIDENT'S "E" AWARD

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DAUB. Mr. Speaker, in conjunction with "World Trade Week," I am honored to have this opportunity to commend the efforts of a constituent of mine from Nebraska's Second Congressional District. Mr. Neal Hansen, the president of Omaha-based Applied Communications, Inc., was presented the President's "E" Award for excellence in exporting at a White House ceremony on Monday.

Applied Communications develops, markets, and installs software for electronic funds transfer systems. The company tried both the wholly owned subsidiary and distribution approach to foreign market penetration and found distributorship agreements the most profitable approach. Distributorships were established in Australia, Singapore, Argentina, Venezuela, Peru, Mexico, Taiwan, France, and the United Kingdom. As a result, the exports of Applied Communications increased from 6 percent of total sales in 1982 to 35 percent in 1986. Exports are now shipped to 34 countries around the world.

Mr. Speaker, as the 100th Congress debates legislation to address the trade deficit, I cannot think of a better time to recognize the exemplary efforts of American entrepreneurs who have been successful through hard work and ingenuity. It is absoutely essential for American businesses to adapt to the ever-evolving world marketplace, and the actions of Applied Communications is a shining example in this regard.

I want to congratulate Mr. Hansen and the workers at Applied Communications. Their business is an example for Nebraskans—and for the Nation—to emulate with respect to penetrating foreign markets.

A CONGRESSIONAL SALUTE TO CLYDE E. DODSON, SOUTHERN CALIFORNIA PORTS COUNCIL AFL-CIO MARITIME TRADES DEPARTMENT'S "MAN OF THE YEAR" FOR 1987

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding labor leader in my district, Clyde E. Dodson. Clyde is being honored as the Southern California Ports Council AFL-CIO Maritime Trades Department 1987 "Man of the Year" on June 5 at S.S. *Princess Louise Pavilion* in San Pedro. Clyde currently serves as the secretary-treasurer of the National Maritime Engineers Beneficial Association [NMEBA], AFL-CIO, and as executive vice-president, District No. 1—Pacific Coast District of the NMEBA.

Born in Philadelphia, PA, in 1923, Clyde graduated from the Fort Trumball Officer Candidate School in New London, CT, May 1945. He then amassed over 20 years sailing experience before joined Local 13 of the NMEBA as business manager in 1960.

Clyde's career with NMEBA would prove to be a long and distinguished one. From 1961 to 1982, he served as branch agent in the ports of Philadelphia, Norfolk, and Los Angeles for NMEBA's District No. 1—Pacific Coast District. During these years of service, Clyde was also elected vice-president of the Los Angeles Federation of Labor [AFL-CIO], and served in that capacity from 1981 to 1986. Clyde effectively merged these duties with others he had assumed as president of the Maritime Trades Department of Southern California from 1979 to 1982.

Clyde continued his climb up the ladder of union leadership. In 1982, he was elected executive vice president of the union's largest district, District No. 1—Pacific Coast District, which represents licensed engineering and deck officers in the ocean-going U.S.-flag fleet. To cap an illustrious career of service in and around my district, he won the election for NMEBA secretary-treasurer. In addition, he has selflessly lent his time and experience in service as a member of the District No. 1 negotiating committee and as Trustee of the four MEBA benefit plans. His considerable skills in administration and leadership are known throughout the maritime labor community through his service as executive director of the MEBA affiliate, Engineers and Scientists of California, and as chairman of the South West Marine Pension Plan. Cofounder of MEBA's training program, Clyde currently serves on the executive committee of the board of governors for the Association for the Restoration of the Presidential Yacht *Potomac.*

Mr Speaker, it gives me great pleasure to recognize the achievement and civic spirit of Clyde E. Dodson on the occasion of his receipt of MEBA's "Man of the Year" award. My wife, Lee, and I congratulate and thank Clyde for all he has done for our community, and wish him and his wife, June, their children, Harry, Clyde Jr., James, June and Sharon, their grandchildren, Harry, Greg, Kathleen, Liane, and Monique Dodson, and Jennifer Pratt, and their great-grandchildren, Rachel Dugan, and Amy and Anthony Dodson all the best in the years ahead.

CONGRATULATIONS MATTHEW T. SAMPSON

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. KENNEDY. Mr. Speaker, I rise today to recognize Matthew T. Sampson on the occasion of his graduation from the U.S. Naval Academy yesterday.

Mr. Sampson is a long-time resident of Watertown, MA. He graduated from Watertown High School in 1980. During his high school career, he received a varsity letter for football. Throughout his youth he was active in the Watertown Chapter of De Molay and received the honor of master counselor. He attended the Naval Academy Preparatory School in Newport, RI.

Mr. Sampson served active duty in the U.S. Marines from September 1980 to July 1983 and achieved the rank of sergeant. His primary assignment was with the Marine detachment, U.S.S. *Independence* (CV-62). During his enlistment in the Marines he was awarded a good conduct medal.

He will achieve the rank of second lieutenant in the U.S. Marine Corps Officer's Basic School in Quantico, VA, and from there go on to pilot training at the Naval Air Station in Pensacola, FL.

I congratulate Matthew on his assignment and his academy career and I look forward to his accomplishments in the future which will make Watertown and the Eighth District of Massachusetts proud of him.

TRIBUTE TO REV. RAYMOND J. JASAITIS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. ROE. Mr. Speaker, on Sunday, May 31, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of St. Stephen's and Rev. Raymond J. Jasaitis in celebration of the 25th anniversary of his consecration into the sacrament of holy orders.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding—ever caring and respecting the individual religious beliefs of our fellow man has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purpose in fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to Rev. Raymond J. Jasaitis whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, good will, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

Reverend Jasaitis has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many, many, friends, and parishioners in the distinguished achievements, so unselfishly dedicated to the betterment of mankind. There is so much that can be said of the love, affection, and reverence with which Reverend Jasaitis is held by all who have had the good fortune to know him.

Mr. Speaker, we are so proud to have Reverend Jasaitis with us in Paterson, NJ. He is the co-pastor of St. Stephen's Church. Preceding his pastorate at St. Stephen's his parish assignments were at: St. Christopher's, Parsippany; St. Cecilia's, Rockaway; Holy Rosary, Passaic; Sacred Heart, Dover; and St. Joseph's, Passaic.

Reverend Jasaitis was born in Paterson, NJ, the son of Joseph and Mary Jasaitis. He completed his theology studies for the Diocese of Paterson at the Immaculate Conception at Darlington, NJ. He received his B.A. degree from Seton Hall University.

As a priest, he extends his love to all and is particularly devoted to the land of his parents, namely Poland. He is proud of his heritage, a supporter of Free Poland, and most of all a proud and staunch American.

In St. Stephen's he was instrumental in setting up a Senior Citizen Nutrition Center. He is a moderator of St. Stephen's Home School Association and various church affiliated organizations. A naval veteran, he is a member of the American Legion, Veterans of Foreign Wars, and Knights of Columbus.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life's purpose and fulfillment to helping others and guiding them in the pathway of life. The quality of his leadership is mirrored in the security and dignity that his parishioners have found in the comfort and aid he unselfishly and willingly gives to those who seek his helping hand and spiritual guidance.

Mr. Speaker, as Reverend Jasaitis celebrates the 25th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to the church, our Nation, and all mankind. We do indeed salute an esteemed pastor, exemplary clergyman, and great American—Rev. Raymond J. Jasaitis, pastor of St. Stephen's Church, Paterson, NJ.

PERSONAL EXPLANATIONS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes 122 through 126 Monday, May 18. Had I been present on the House floor, I would have cast my votes in the following manner:

Roll No. 122: "Yea," Journal approval.
Roll No. 123: "Aye," Schumer amendment
Roll No. 124: "Aye," Boxer amendment.
Roll No. 125: "No," Boxer amendment.
Roll No. 126: "Aye," Callahan amendment.

BEST WISHES AND SINCERE THANKS TO MS. SUMIYE KOMURA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. MATSUI. Mr. Speaker, I rise today to offer my best wishes and sincere thanks to Ms. Sumiye Komura upon her retirement after 27 years of service to the State of California. Ms. Komura's hard work, dedication and compassion in a variety of capacities has earned her the respect and admiration of friends and colleagues.

Ms. Komura began her long career in State service in 1960 with the Department of Public Works, Division of Highways. After contributing her time and talents to agencies such as the Department of Navigation and Ocean Development and the Department of Consumer Affairs, Ms. Komura assumed the position of personnel assistant with the Department of Parks and Recreation in 1976.

Recognizing that the success of an organization is, in part, measured by the level of employee morale and satisfaction, Ms. Komura's tenure as a personnel assistant appropriately enabled her to utilize her greatest assets—patience, compassion and understanding. Not only have these qualities proven Ms. Komura to be a consummate professional dedicated to serving the public, but also, endeared her to her associates. I am certain that her presence will be sorely missed.

Ms. Komura's compassion and genuine concern for others has also benefited Fujinkai, an organization of the Sacramento Buddhist

Church, of which she is a member, which devotes its resources to community services, especially in assisting ill members of the Asian community.

Mr. Speaker, while it is not possible to adequately thank Ms. Komura for her exemplary service to the people of the State of California, I would like to take this opportunity to extend my sincere thanks as well as my warmest wishes for a happy and successful future.

A TRIBUTE TO KROTZ SPRINGS

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. HOLLOWAY. Mr. Speaker, I pay tribute today to a distinguished Louisianian, public official and community leader called to God's side earlier this month.

Robert Moran served as mayor of Krotz Springs, LA, for less than 6 months, but his record of service to family, church, community, and State extends over many years. For many years a successful merchant and businessman, Mr. Moran served as a church deacon and civic leader. Likewise, Robert Moran unselfishly served his country as a member of the Louisiana National Guard.

In the final months of his life, Mr. Moran demonstrated particular courage, character, and distinction. Despite the debilitating illness which ultimately took his life, Mayor Moran took bold and aggressive actions to prepare the town of Krotz Springs, LA, for the future.

Robert Moran was unafraid of facing death. His spirit, dignity, and grace inspired everyone who knew him. His passing is indeed our loss.

ENGLISH IS THE OFFICIAL U.S. LANGUAGE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. SHUMWAY. Mr. Speaker, today I am introducing a resolution, expressing the sense of the Congress that English is the official language of the United States. Thirteen of my colleagues have joined as original cosponsors.

Earlier this year, I again introduced legislation (H.J. Res. 83) providing for a constitutional amendment to designate English our national language. That measure now has more than 50 cosponsors. Diversity and tolerance have typified America's history, and have made our Nation great. As a nation of immigrants, we have made a common commitment to freedom from many backgrounds, and have witnessed individuals from all walks of life and all ethnic backgrounds work together for worthy, common goals.

Strength has been forged from our rich, cultural diversity by common bonds; perhaps the most critical of these is our language in common, English.

My resolution is not intended to discourage linguistic or ethnic differences. I strongly support preservation of one's cultural heritage, and also encourage all Americans to learn at least a second language. However, preserving the past and preparing for the future do not preclude the need to read, write and speak English. Newcomers to our shores cannot hope to avail themselves of America's many opportunities without fluent knowledge of English.

I strongly urge my colleagues to join with me in supporting this measure.

AIR CARRIER PASSENGER PROTECTION ACT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. ROTH. Mr. Speaker, today I am pleased to join Mr. BOEHLERT in introducing the Air Carrier Passenger Protection Act. This legislation would help restore confidence in airlines by establishing an account to reimburse consumers for "bad tickets."

Instability in the airline industry has put the traveling public at great financial risk. Today's air traveler stands to lose both money and time when an airline goes bankrupt.

Consumers, namely, traveling businessmen and tourists, are among the largest creditors of the airlines, directly holding an estimated $3 to $4 billion in prepaid tickets. Before deregulation of the airline industry it was common practice for an airline to honor tickets from a bankrupt airline. Today, with keener competition in the airline industry, the consumer is left with little recourse in the event of a bankruptcy.

As creditors, consumers are ill-situated to press claims in the event of an airline financial collapse. The Air Carrier Passenger Protection Act would establish a fund from which airlines providing seats to individuals holding tickets on bankrupt airlines will be reimbursed. An amount not exceeding $100 million would be transferred from the airport and airway trust fund to an air carrier ticket account. Solvent airlines honoring tickets from airlines who have filed for bankruptcy or terminated operations would be compensated from the air carrier ticket account.

While the magnitude of "bad ticket" losses is difficult to determine, the best estimates are that of the 16 largest carriers which went bankrupt between 1981 and 1985, there were outstanding liabilities of $151 million.

As we celebrate "National Tourism Week," it is important to note the benefits of the Air Carrier Passenger Protection Act for the travel and tourism industry. This legislation provides a vital safeguard to the consumer, and is essential to preserve the growth in our domestic tourism industry.

The travel and tourism industry is the third largest retail industry in the United States, generating in excess of $220 billion annually. tourism directly employs 5.9 million Americans, including 107,000 people in my home State of Wisconsin. In 1984, Wisconsin received $100 in State tax revenues for every dollar budgeted for tourism promotion.

Domestic air travel has increased dramatically from 62 million people flying in 1960 to a projected 450 million in 1987, 55 percent of whom are tourists. With 160 airlines having terminated operations or gone bankrupt since 1979, stories of passengers stranded between destinations have become commonplace.

To continue to expand our travel and tourism industry in the United States, greater efforts must be made to ensure adequate consumer protection. The Air Carrier Passenger Protection Act ensures that the air traveler will get what he pays for in good faith. As a frequent flyer myself, I commend the efforts of Mr. BOEHLERT and urge my colleagues to join me in cosponsoring this needed legislation.

TRIBUTE TO THE TURKISH AMERICAN SOCIETIES

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to pay tribute to the Turkish-American community and to the Federation of Turkish American Societies.

On Saturday, May 23, Americans of Turkish heritage will be holding their sixth annual Turkish-American Day Parade in New York City. The parade will bring together thousands of people from the United States and Canada to celebrate a day of friendship and unity, and to help to foster a feeling of warmth, goodwill and brotherhood in our towns and cities.

Mr. Speaker, I have often talked about the many wonderful contributions the Turkish people have made; not only to America, but around the world. Their pride and strong ethnic ties are easily witnessed on the faces of the many Turkish people who have come to America to enrich our country's strong ethnic melting pot.

Turkey has been an invaluable NATO ally for many years and I ask you, Mr. Speaker, to join me today in honoring our close ties with this beautiful country.

OLDER AMERICANS MONTH

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. GRANDY. Mr. Speaker, I am pleased to recognize May as Older Americans Month, a time to express gratitude for our senior citizens and to honor them for the significant accomplishments they continue to make in our society.

Senior citizens make invaluable contributions to our communities by volunteering in our schools, assisting in the growing field of child day care, contributing to community beautification, or volunteering in a host of other community improvement projects.

In addition, many senior citizens continue to contribute to our economy by remaining on the job for many years beyond age 65. They have a wealth of practical knowledge from which we can all benefit if we only listen.

This is also a time for Congress to commit itself to resolving the many problems older Americans face in maintaining their health and independent living to the fullest extent possible. It is imperative that we explore alternatives to premature institutionalization and enable our senior citizens to maintain their independence. The development of in-home health services, particularly in rural areas, must be explored even further.

We have taken a great step forward by exploring catastrophic health care. However, it would be a serious oversight on our part if we ignored the great need in financing the growing costs of long-term care. We cannot continue to ignore this program.

The most fitting way to honor our senior citizens is to address the issue of greatest importance to them, namely, protecting their income and ensuring access to health care.

Senior citizens have given so much to their children, and now it is time to return the favor.

HUMAN RIGHTS IN SOUTH KOREA, MAY 21, 1987

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mrs. BOXER. Mr. Speaker, last year on a visit to South Korea, I had the opportunity to meet with Kim Dae Jung at his home in Seoul to discuss the problem of human rights and democracy in South Korea. Were I to visit there today however, the police would not allow me into Kim Dae Jung's home. He has now been under tight house arrest for the past month.

Nothing better dramatizes the problems in South Korea than the wall that the South Korean Government has constructed outside of Kim Dae Jung's home. The wall symbolizes the growing polarization between the people of South Korea, who want true democracy to go along with their economic emergence, and President Chun, who wants to assure that a new president will not be directly elected by the people.

The United States thus far has refused to challenge the status quo and weigh in on the side of democracy. Last year, we witnessed with joy the triumph of democracy in the Philippines. The United States played an important role in that triumph. Let us play the same role in South Korea, by encouraging President Chun to speak with his opponents and listen to his people. President Chun must be made to realize that throwing people in jail does not extinguish but only nurtures their yearning for democracy.

REPRESSION OF CIVIL AND POLITICAL RIGHTS IN SOUTH KOREA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. LANTOS. Mr. Speaker, last February the opposition to the Government of the Republic of Korea launched a petition campaign to support its demand that the Constitution be amended to provide for direct popular election of the next President. President Chun Doo Hwan, however, revoked his promise to revise the Constitution before February of 1988.

His government has misused the criminal justice system to suppress the growing calls for political reforms. In doing so, it has violated internationally recognized human rights of assembly, expression and association, fair public trial, and freedom from torture.

Mr. Speaker, the people of South Korea yearn for democratic change. This was particularly evident in 1980 after the assassination of Park Chung Hee when one survey reported that 90.8 percent of the people desired democracy even if it meant slowing down economic growth and 69.1 percent wanted a new constitution while only 13 percent favored the current one.

In an attempt to stifle demand for reform, the South Korean Government has taken harsh action against members of popular reform movements and against opposition party [NKDP] efforts to build a political alliance with the Government.

Existing law provides for "protective surveillance," "residential restriction," and "preventive custody" of certain persons considered "likely" lawbreakers. In response to opposition movements the Government has violated provisions that require arrest warrants. On many occasions warrants have not been produced at the time of arrest in politically related cases. Opposition leader Kim Dae Jung has been placed under house arrest, and it will not be lifted apparently until he forswears politics. He has been confined 53 times since he returned from exile in the United States in February 1985.

The South Korean Constitution prohibits torture, and the Government insists that it has issued and strictly enforces injunctions against it. The death by torture of South Korean student Park Chung-chul in January is clear evidence of a policy that was designed to stifle, through brutal means, political opposition to the Chun regime.

Clearly, the most convincing evidence of political oppression has been the student uprisings that have occurred within the last few months. By citing increased radicalism and violence, the Government continues to take a hard line toward dissident political activists, and students in particular.

Mr. Speaker, the United States has a strong and continuing interest in the Republic of Korea. We have 40,000 troops stationed in that country as a reflection of our commitment to defend democracy and freedom in Korea.

It is essential that officials of South Korea understand that our commitment to democracy includes a firm and unshakable commitment to democratic rights for the Korean people. A climate of reconciliation will only be a beneficial step in restoring civil and political rights to Koreans.

LAZARD FRERES' CONTRIBUTION TO THE CONRAIL SALE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DINGELL. Mr. Speaker, I want to thank my distinguished friend and colleague from Washington, AL SWIFT, for his thoughtful remarks in yesterday's RECORD regarding the sale of Conrail. While I appreciate his kind words directed at me, he correctly and more importantly noted the invaluable assistance rendered to the Energy and Commerce Committee by its financial adviser, Lazard Freres & Co. I believe that without Lazard's help, the Conrail public offering would never have occurred.

The privatization of Conrail was a very complex transaction. The many proposals considered by the committee required the analysis of enormous volumes of data and the sorting out of conflicting financial claims in an atmosphere charged with intense political pressures. Lazard Freres and its senior partner Frank Zarb, his colleagues Josh Gotbaum, Gene Keilin, and Michael Carmody, and Lazard associate Ron Bloom and analyst Tom Kissinger, enabled the committee to understand the facts and to reconcile the claims.

Their professional approach and technical competence provided us with the financial advice and analysis essential to making a successful sale possible. For more than a year, they met with the interested parties, toured the railroad, consulted outside experts, and studied the numbers. When they were done, they offered their conclusions in a comprehensive presentation to the Members, both majority and minority. They shared their work with Members of the Senate and with the administration. They spent days with other members of the investment banking community, arbitrating differences that could have been damaging not only to the sale but to the prospects for passing the needed legislation.

Lazard Freres put the success of this transaction and the best interests of the Nation above all other considerations. I am sure that I speak for the entire Congress and not only my colleagues on the Energy and Commerce Committee when I say that the Nation owes Lazard Freres & Co. a special thanks.

NATIONAL MARITIME DAY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. HOCHBRUECKNER. Mr. Speaker, 168 years ago tomorrow, the SS *Savannah* left America on the first successful steam powered voyage across the Atlantic Ocean. This trip ushered-in the era of modern shipping. Today we honor our maritime heritage by commemorating that voyage on this, the 55th Annual Maritime Day.

In the 19th century, international commercial shipping helped the United States to become a world industrial power. Throughout our history, the merchant marine has protected these vital national interests around the world. In addition, the maritime industry has promoted our economic well-being and our ability to defend ourselves. With our country virtually surrounded by water, sealanes are in effect economic lifelines. The merchant marine has helped keep these lifelines open for over 200 years.

American merchant seamen have a distinguished history of service. They assisted the armed forces in the American Revolution and in every war thereafter. In World War II, these men and their ships were called upon to perform dangerous missions. The U.S. Government recognized that the merchant marine was protecting vital American interests. Accordingly, merchant vessels were placed under the command of the U.S. Navy. The bravery displayed by these men in active war zones is testimony to the seriousness of this mission. I and other Members of the 100th Congress are now promoting legislation to appropriately recognize and honor the merchant seamen who served in the U.S. merchant marine during wartime. This legislation is more than 40 years overdue.

Mr. Speaker, the future will present new challenges on the seas for our Nation. The competitiveness of American business is a concern of all who serve in this body. The merchant marine will have a vital role in improving our competitiveness. We cannot hope to retain our standing in international trade without the continued vigilence of the maritime industry. One need look no further than the tragic story of this week, involving the death at sea of 37 American heroes, to understand that oceans remain forums of critical international concern.

Today we honor all those who have served America in the merchant marine. These men and women are patriots in every sense of the word. We owe them our respect and our gratitude. We also owe the maritime industry our continued support. It is only by keeping our maritime service strong in times of peace that we will be able to depend on its effectiveness in times of war. Today, let us honor a distinguished past and look to a future that will continue this proud tradition.

CHINABERRY CUP RETAINED BY MARIETTANS

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1987

Mr. DARDEN. Mr. Speaker, for still another year the city of Marietta, GA, has retained one of the most coveted prizes of amateur tennis, the Chinaberry Cup. At the 10th Annual Chinaberry Cup Tennis Tournment at prestigious Litchfield Racket Club near Myrtle Beach, SC, the Mariettans once more displayed their winning form and established their tennis superiority. The final competition was held Saturday, April 25, 1987.

The Cheraw, SC team, coached by industrialist W. Glen (Bud) Anderson, and textile manufacturer Malloy Evans, never were a serious threat to win the trophy although they won occasional sets. While the Cheraw team had marginal ability, they lacked the discipline and determination required to recapture the cup. In short, they were ill prepared for the competition. The list of losers in addition to Messrs. Anderson and Evans, consists of the following players: Frank Andrews, injured, did not play; Dr. Walter Crosby; W.F. (Ricky) Baker, disqualified; Jackie Furr; Fred Craft; Jimmy Spruill, Esq., disqualified; M.B. Godbold, C.L.U.; Dr. B.E. Coggeshall, Jr.; Ted Thompson; and Frank Exum.

Marietta's team hosted by the venerable and durable A.D. Little was coached by Dr. Dan Norris. This winning Marietta team exhibited its usual good sportsmanship in congratulating the losers from Cheraw.

Other members of this year's winning team were Terry Segars, D.R. Shamblin, Charlie Waters, Ron Francis, Jon Burke; Buddy Darden, Paul (Matty) McCabe (Agent Orange), and the aging Wallace Montgomery, who was unable to play due to injury. Many spectators observed that had Mr. Montgomery been able to play, the margin would have been even greater.

Mr. Speaker, once again we congratulate the fine, determined team from Marietta, who were able to provide this winning effort. To the losers from Cheraw, we say "better luck next year."

SENATE—*Wednesday, May 27, 1987*

The Senate met at 11 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

"I will lift up mine eyes unto the hills, from whence cometh my help.

"My help *cometh* from the Lord, which made heaven and earth."

"Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou *art* with me."

Eternal God, merciful Father, seven simple words—behind which a fresh wave of grief assails wives, fathers, mothers, brothers and sisters, and friends. "Thirty-six more of the *Stark* come home." How heavily those words impact the hearts of loved ones.

We pray, Father, for those for whom unrelieved grief is awakened again. God of all comfort, give those families Your gracious peace, love, and compassion.

In the name of the Lord who never leaves us nor forsakes us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 27, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

BICENTENNIAL MINUTE

MAY 27, 1919: FIRST OPEN PARTY CONFERENCE

Mr. DOLE. Mr. President, on May 27, 1919, 68 years ago today, Senate Republicans held the first open party conference in the history of this institution. Republican Members who gathered for that meeting also reaffirmed their commitment to the seniority system for choosing committee chairmen.

For most of the half-century after the Civil War, Republicans had held both the White House and majorities in Congress. During the "progressive era," at the beginning of this century, the party split between its progressive and conservative wings. The Presidential race for Theodore Roosevelt against William Howard Taft in 1912 not only enabled Woodrow Wilson to win the Presidency, but gave both Houses of Congress to the Democrats. In 1918, Republicans reunited and won back their congressional majorities.

But when the Republican conference drew up its committee assignments, progressives objected to Pennsylvania Senator Boies Penrose becoming chairman of the Senate Finance Committee. For a while, a small band of progressive Republicans threatened to call for a separate vote for each committee chairman, and to throw their support behind the ranking Democrat on the Finance Committee. To forestall such a possibility, Republican majority leader Henry Cabot Lodge, Sr., called an "open party conference" to give the progressives the chance to voice their opposition to Penrose; and to cast their votes against him, on the condition that all sides would abide by the conference decision. That is what occurred on this date, when the Republican conference voted 34 to 8 to seat Senator Penrose as chair of the Finance Committee. One Republican Senator could not resist the opportunity to quote the incumbent Democratic President Woodrow Wilson's "14 points," and to describe the Republican conference as "open covenants, openly arrived at."

MEMORIAL DAY ADDRESS BY SECRETARY OF THE NAVY JAMES WEBB

Mr. DOLE. Mr. President, on Memorial Day, Secretary of the Navy James Webb delivered an address at Arlington National Cemetery. It was an excellent statement by this young Secretary of the Navy, 44 years of age, who is an outstanding young man with combat experience. He is an American hero. I was privileged to be there, and I think my colleagues will appreciate reading his remarks.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY HONORABLE JAMES H. WEBB, JR., SECRETARY OF THE NAVY

Ladies and gentlemen, it is an honor to be among you on this very special day of remembrance. It is a tribute to all who have ever served our country that so many of you chose to gather in this historic place and collectively honor our fallen comrades from so many battlefields in too many wars.

The ceremony at the Tomb of the Unknown Soldier is, I think, the most touching and appropriate way of remembering sacrifice that one can imagine. By honoring these nameless Americans whose branch of military service we do not know, whose unit we cannot discern, whose rank and whose manner of death will always remain a mystery, we honor the greatness of the sacrifice of all Americans who have faced terror and died young so that others might live in peace.

Listening to my friend Pete Joannides read General John Logan's General Order which created Decoration Day filled me with mixed emotions, which as a Son of the Confederacy, it always has, but it also gave me an appreciation for the paradox that so often attends the aftermath of war. General Logan had in mind a day that would honor the soldiers of the Union after the War Between the States. We continue to carry out his custom, properly broadened, on the family grounds of the most revered soldier of the Confederacy.

And how ironic it must have seemed in 1950, when in May the Congress passed a law asking the President to proclaim Memorial Day a day of prayer for permanent peace, and then scarcely a month later our soldiers were dying on the battlefields of Korea. And that irony continues. Every year on this day, we pray for permanent peace, and yet we know, even as we pray, that the time given us on this earth has been, at its most optimistic, one of volatility and frequent violence. The events of only a week ago tragically remind us of this, but so do many, many others. While the major powers have avoided direct confrontation

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

throughout my lifetime, more than 100,000 Americans have given their lives in other places, the blood of our young citizens continuing to remind us that we cannot avoid the world's problems and at the same time hope that they will go away.

And so on this day when we remember the valiant dead from the battlefields that scar our history, we also should contemplate what it has been, exactly, that Americans have fought and died for over the course of our existence. In this context, it is hardly a day for remembering old enemies. We fought the British, now a major ally. We fought the Mexicans, now our friends. We fought each other, and, in fact, the greatest takers of American lives in all our wars have been other Americans. We fought the Spanish, now our allies, and the Germans and Italians and Japanese, now close friends whom we help defend. We fought the North Koreans and the Chinese to a stalemate that our country has wrongly forgotten, and the North Vietnamese in a war where our soldiers were too frequently criticized by their own countrymen for their efforts.

I would suggest that there is a consistency, even a rightness, in the wake of all this paradoxical tragedy. These fallen men and their compatriots fought for something, rather than simply fighting against an ephemeral foe. They fought, rather, for the values that have made our own country preeminent in the world. We are not a country that seeks war, and we are not a country that seeks enemies. We are a society founded on the greatness of individual effort, whose power has been used so that other powers might flourish: the power of the unfettered mind. The power of a multicultural society in free debate. The creative power of the dynamic entrepreneur. The inner power of spiritual belief.

And in a society which treasures the individual, there can be no greater tragedy than the loss of individual life. The markers which surround us on these rolling hillsides remind us that weakness, miscalculation, failed diplomacy, and naive isolationism can ask a costly price.

This is not a new dilemma. Alfred Thayer Mahan, the principal architect of American naval strategy, used to worry about our democratic system's lack of foresight, and unwillingness to pay the price of the very naval power that would guarantee its international stability. He once wrote that "It behooves countries whose genius is essentially not military, whose people, like all free people, object to paying for large military establishments, to see to it that they are at least strong enough to gain the time necessary to turn the spirit and capacity of their subjects into the new activities which war calls for."

And I would say to you that, unlike in Mahon's day, time is what we no longer have. Today, in this era of what we have come to call a "violent peace," there are no other countries between ourselves and our obligations. The lesson that should be apparent from the very magnitude of the names surrounding us, the names that speak to us from the silence of their graves, is that it is better to spend dollars for readiness than it is to spend lives because unpreparedness invites the hostile acts of an aggressor.

There is another consistency that speaks to us from the memory of wars fought and forgotten. The one constant in all of this is not the constancy of a particular enemy, but the greatness of the unique set of values that formed our nation. And the one consistency among our generations has been the willingness of our best citizens to place their lives at risk in order to further the greater good of our way of life.

Too often, I fear, we regard this willingness as phenomenon of wartime. In the aftermath of the tragedy aboard U.S.S. *Stark* last week, it is important for all of us to remember that those serving today exhibit the same dedication, sacrifice, and love of country as has been found in any wartime period. Their lives are at risk every day, on the cutting edge of Americans security needs around the world. While their peers languish in college or pursue carefree careers, these young, dedicated soldiers, sailors, airmen and marines have become the quiet heroes of their generation.

And, unfortunately, they, too, know the bitter pain of losing comrades and loved ones. Last Friday, I was with the President in Mayport, Florida, at the memorial service for the crewmen of the *Stark*. I watched families awash in grief; parents clutching pictures of departed sons, children in uncomprehending shock, wives, brothers and sisters crying uncontrollably. I was reminded of a frequent epitaph on the tombstones of Confederate soldiers: "How many dreams died here?"

It is a question parents, wives and children have asked too often in the course of our history, a question that creates a double duty in those of us who care enough to remember such sacrifices today.

The first duty is to remember. William Gladstone, former British Prime Minister, once said, "Show me the manner in which a nation or a community cares for its dead, and I will measure exactly the sympathies of its people, their respect for the laws of the land, and their loyalty to high ideals." I would say that this is especially true for soldiers who perished because of their own loyalty to law and ideals. Those of us who have seen war's ugliness know that a battlefield does not honor its dead. It devours them without ceremony. Nor does a battlefield honor heroes. It mocks their sacrifice with continuing misery and terror. It is for those who survived to remember sacrifice, and to honor our heroes.

The second duty is to keep this country strong. Wars are not prevented, nor are dreams preserved, because one side is more logical, more illuminated, or more kind. This country is great because it has been strong. It has been strong because its individual citizens have believed in its uniqueness so strongly that they have been willing to provide for the common defense and, if necessary, to take up arms on its behalf. So has it always been, and so must it ever be.

So, as we remember those who have fallen, let us also remember that peace is bought, not with a wish, but at the price of dedicated service. And let us, on this special day, be thankful for the dedicated service of those who are at this moment, quietly and without fanfare, defending our interests throughout the world.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I reserve the reminder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business, for not to extend beyond 12 o'clock noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

FIFTEEN-MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, at 11:08 a.m. the Senate recessed until 11:23 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

WHY SDI DEPLOYMENT WILL KILL NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, does the United States proposition that both sides agree to reduce offensive missiles while the United States continues to progress with a star wars defense offer a realistic basis of agreement with the Soviets? Answer: The Russians will almost certainly never accept it. Would we accept it if we were in their position? No way!

Gorbachev made an astonishingly bold proposal when he said he would agree to negotiate a 50-percent reduction in offensive nuclear missiles on both sides. Why did he then toss a monkey wrench into the negotiations? Gorbachev did exactly that when he stubbornly insisted that his offer was conditioned on an agreement by the United States to abide indefinitely and strictly by the Antiballistic Missile Treaty. U.S. compliance with that treaty—signed by the President in 1972 and ratified by the U.S. Senate by an 89-to-2 vote—would mean that this country would not push star wars beyond laboratory research. The treaty's terms give the United States the right to renounce the treaty on 6 months notice. Gorbachev insisted that the United States agree to abide by this treaty indefinitely.

Gorbachev's strong implication is that if the star wars program should progress, in his judgment, it could possibly provide some protection for U.S. command centers, missile sites, bomber bases and submarine pens—if not for American cities. Because United States technology has been consistently ahead of the Soviets, this advantage could mean that for some years the United States deterrent would have a far more credible survivability than the Soviet deterrent. Gorbachev could be right. He would be decisively and visibly right if both sides sharply reduced their offensive capability. And it would be even more evident as negotiations subsequently progressed and the reduction of U.S.S.R. offensive missiles declined to 50 percent of its present strength and then further down to 25 and 10 percent. The Soviets know they cannot possibly match the United States star wars capability either in technology or in available economic resources. So the Soviet ABM defense is sure to be weaker and more slowly deployed.

The Soviets may understand that the possibility that SDI could work is remote and the chances it would work perfectly are nonexistent. But the one development that would be most critical for at least some degree of success for star wars would be a reduction of Soviet strategic warheads. The bigger the Soviet reduction the more likely SDI could provide a significant degree of protection.

On the other hand, a Soviet star wars even if it precisely duplicated the American SDI could not be nearly as effective against the American deterrent. Here's why: Less than 25 percent of the American nuclear deterrent is deployed in stationary land-based launchers. More than 75 percent of the Soviet nuclear deterrent is deployed in this mode. And what might star wars—as designed and planned by the DOD stop? It might stop land-based stationary ICBM's. The present SDI program would orbit battle stations so that they could catch these Soviet ICBM's in their initial boost phase—as they slowly rise from their launch pad and before they greatly accelerate in midcourse. Could the U.S.S.R. use this against the United States deterrent, 50 percent of which is deployed in submarines and 25 percent in bombers? Obviously SDI in the hands of the Soviet Union would be helpless to meet a nuclear strike from the American submarines and bombers that carry 75 percent of the American deterrent. Here's why: The submarine launched ballistic missile has a far shorter flight path, uses a depressed trajectory and is fired from a mobile base. The bomber launched missiles emerges from an even more rapidly moving launcher.

So what would you do if you were Gorbachev? Would you agree to negotiate to start the process of reducing the offensive missiles on both sides when you know that the ultimate effect of this process could be to provide some protection for America's deterrent against a Soviet or counterstrike but give no significant protection for the U.S.S.R. even if they succeed in precisely duplicating the American SDI? What do you think?

CITIBANK'S DRAMATIC HIT AND TRUTH TELLING BY ALL BANKS

Mr. PROXMIRE. Mr. President, the biggest bank in the country has suddenly revealed the most convincing way to tell the truth about loans to Third World countries. Citibank has admitted many of its third country loans are not sound. It has conceded that the bank will suffer an inevitable loss on many of these loans. It has done so, not in a statement. It has been even more convincing. It has exposed the extent of the deterioration of these loans by taking a $3 billion hit in reporting the results of its operation for the latest quarter. That means CitiBank will not report a $500 million profit for the quarter. Instead it will report a stunning $2½ billion loss! In view of the sharp focus by the investment community on quarterly profits that was quite a decision by Citicorp. A breathtaking decision. But sometimes it pays to tell the truth. And this time it sure did. The stock of Citicorp did not fall with the bad news of a multibillion-dollar quarterly loss. It rose. John Reed the chairman of the Citicorp's board that unanimously agreed to take the hit is being hailed as a hero. Citicorp was strengthened. More important, other banks will more or less follow suit. It is not expected that most banks will go as far as Citicorp. Certainly not in one quarter! Over time, they all could. They should. Regardless of when or how they increase their reserves as a cost of doing business, when a bank does this, it will mean a reduction in their reported profits. If they do it—as Citicorp has done it—in one quarter, the reduction will be fully understood, by the public. The market will discount it. As in the case of Citicorp the bank's stock may even rise in price. If the bank's resources are less robust than Citicorp, it may have to take the hit over a period of years. In that case the profit reduction reported in each quarter will be much less, but there will be little or no discounting by the market.

While the Citicorp action does result in more honest financial reporting, it will not require the bank to increase its real capital. Even though the bank reduced its equity capital by $2.5 billion, it will not have to increase its regulatory capital by 1 penny! Why? Because the bank regulators allow the banks to include loan loss reserve in their definition of regulatory capital. As Martin Mayer, a distinguished author of banking books observed, if any other business counted a loss reserve as an item of capital, its accountants would be sent to jail.

Bank regulators measure a bank's capital adequacy according to its "primary" capital which consists of equity capital plus loan loss reserves. Before Citicorp increased its loan loss reserve, its ratio of primary capital to total assets was about 7 percent. After the loan loss reserve increase, it had the same 7 percent primary capital ratio. All that really happened was that its primary capital was shifted from one pocket to another. From a regulatory point of view, Citicorp is no stronger today than it was last week.

If banks with large LDC loans are to become truly stronger, they need to increase their regulatory capital ratios to provide a cushion against the possibility of a major default. That is why the Congress needs to adopt something like the Gramm-Proxmire proposal for increasing the capital position of banks with large amounts of troubled LDC loans.

Regulators now require a minimum primary capital ratio of 5.5 percent. Most money center banks exceed that ratio, but many would fall below it if loan reserves were not counted. Our money center banks must have real capital, not paper capital, if they are to insulate themselves from the potential shocks of an international debt crisis.

PAYING FOR THE SUPERCONDUCTING SUPER COLLIDER

Mr. PROXMIRE. Mr. President, whenever the Federal Government makes a decision to pursue, with Federal dollars, a major new scientific initiative, there is intense competition among the States. Construction of the super collider certainly is a case in point. With an estimated cost of $3.2 billion in fiscal year 1988 dollars and an additional $1.2 billion for research, development, detectors, computers, and preoperating activities, this is an enormous economic plum for any State or region.

Under these circumstances, it is important that any siting decision be made with regard to the best interests of the entire Nation. That means the interests of all the taxpayers of the Nation and not just those of a specific location.

The first step in this decision is to insure that any given location is consistent with the scientific requirements of the project. An open competition is essential. And part of the open competition is the economic cost sharing offered by local communities.

Why should cost sharing be an important consideration? Because the taxpayers from all other areas of the country should not be asked to subsidize a Federal project if local economic interests will support part of the costs. That is why I would have voted against the Domenici amendment to the supplemental appropriations bill had it come to a recorded vote. Local cost sharing is important—to all the taxpayers of the Nation since it lowers the subsidized Federal cost.

HOW SHOULD CONGRESS AWARD GRANTS FOR SCIENTIFIC FACILITIES?

Mr. PROXMIRE. Mr. President, the most highly respected universities in this country have spoken out loud and clear in favor of awarding congressional grants for scientific facilities strictly on the basis of merit, determined by competitive review. How have they spoken out? Not in empty rhetoric.

They have spoken out with what might turn out to be painful and risky action. Forty-three of the fifty-five universities belonging to the Association of American Universities have agreed that they will not accept congressional grants awarded without competitive review.

Now, Mr. President, some Senators and Congressmen will resent this. Indeed, the vice president of one of the distingusihed universities objected to this ultimatum for merit selection on the grounds that it would constitute an affront to the Congress. Will it? Sure it will and on this score some Members of both this body and the House deserve the affront. But is the rejection of noncompetitive congressional grants right? It sure is. Is it in the national interest? You betcha. Will it determine the award over the years of billions of dollars for scientific facilities on the basis of quality and value per dollar? Of course, it will. Have some of these awards been made over the years based on strictly political considerations? That's precisely the problem.

As a member of the Senate Appropriations Committee for 25 years, I have seen these congressional awards grow enormously. These multimillion dollar grants can be immensely valuable to the universities that receive them. They are also terrific trophies for a Senator or Congressman to feature in his reelection campaign. Time and time again in the year or the year before a Senator is up for reelection he will go to bat for a scientific facility in his State. He will seek to skip the competitive review based on merit. Time and time again he will win. He will persuade the committee to finesse the review. He will persuade it to give good old Senator Joe or Jim or Jack the equivalent of a fat political contribution. So the Congress will direct that the multimillion dollar facility by pass merit review. They will direct that it be located in Senator J's State.

Now, Mr. President when we have this kind of a gravy train running for us as Senators, only a spoilsport would want to derail it. Senators can and do dream up all kinds of alibis to keep that generous gravy train on the track. Consider some of those alibis. First, they claim that competitive review keeps too much Federal money in the hands of a few prestigious institutions like Harvard and Stanford. Second, they claim it overlooks the contributions to economic development that the awarding of a scientific facility can bring to a university in a community suffering heavy unemployment. Third, they argue that the board that reviews the quality and capability of competing universities is as biased as Members of the Congress. They say it only differs in that Members of the Congress are elected by the American people. The board is not.

How about these objections? Do they have merit? The answer is an emphatic and loud: "No." If the board that reviews universities for merit selection is biased or incompetent, whose fault is that? Answer: That is the fault of the Congress. Just ask: Who determines the legislative basis on which these boards are selected? Who does? The Congress does. That's who. We in the Congress can and should provide for balance on the board. We can require relevant competence on the board. It is up to us to determine whether or not economic development should be a selection criteria.

The basic fact is that these decisions on allocating Federal grants for scientific facilities among our universities are critical for the scientific future of our country. We know that none of us in the Congress have the scientific expertise to make these decisions wisely. An expert board can do the job we cannot do. So, yes, we can and should strengthen legislation to be sure that the administration follows guidelines that assure the appointment of merit selection panels that have the balance and the competence to make the selections based on merit and the overall scientific interests of our country. We can decide whether or not economic development should be a criteria. We can spell out in legislation the weight if any for economic development in these decisions. But it should be absolutely clear that a scientifically competent board, not a scientifically incompetent Congress, should make the final decisions on where the grants go. It should also be crystal clear that the reelection of our dear colleague, good old Senator Joe or Jim or Jack, should not be—as it's becoming—the prime criterion. It should be no criterion at all.

Mr. President, I ask unanimous consent that an article from the New York Times of May 22, 1987, by Leslie Maitland Werner, headlined "40 Universities Agree To Reject Disputed Grants" be printed in the RECORD.

I also ask unanimous consent that a list of the 55 universities that are members of the Association of American Universities and who voted for or against rejecting these disputed grants be printed in the RECORD.

I also ask unanimous consent that a copy of the resolution adopted by the Association of American Universities on funding for scientific research facilities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

40 UNIVERSITIES AGREE TO REJECT DISPUTED GRANTS

(By Leslie Maitland Werner)

WASHINGTON, May 21.—More than 40 prominent research universities have agreed not to accept direct Congressional grants for scientists facilities if the grants involve projects whose scientific merits have not been evaluated through competitive review.

Because such grants bypass established scientific review procedures and are often awarded as a result of politicking by lobbyists hired by universities, they have been attacked as a potential danger to American research.

The universities voting against the grants make up most of the memberhip of the Association of American Universities, which was polled by mail over the past few weeks on the question of a moratorium on accepting such grants.

54 U.S. AND 2 CANADIAN SCHOOLS

The vote, by secret ballot, approved a resolution that was drafted in response to a report last March by a special panel representing six higher education associations, including the A.A.U. The A.A.U.'s membership of 54 American and 2 Canadian universities includes many of the nation's most prestigious research universities, including Harvard, Yale, the Massachusetts Institute of Technology, and Columbia.

Robert M. Rosenzweig, president of the A.A.U., declined to identify which members had voted in favor of the moratorium. But he said that at least one of the universities that agreed not to accept such special grants from Congress in the future had previously been awarded and accepted them.

A GROWING RELIANCE

The issue addressed by the report centered on universities' growing reliance on grants from Congress, earmarked for special purposes, as the only significant source of Federal funds for building or renovating research facilities. The report warned that university-based research would face "serious and lasting damage" if Congress continued the practice of awarding universities such earmarked grants.

On the other hand, universities that have favored such grants maintain that they are merely righting an imbalance that has kept Federal money in the hands of prestigious schools in the Northeast and California.

They contend that in bypassing competitive scientific review procedures, Congress is rightly taking into account other considerations, such as economic development.

The Reagan Administration and numerous scientific agencies oppose earmarked grants, but opinion in Congress is divided. Congressional awards grew to $137 million in 1985 from $3 million in 1982, putting increased pressure on members of Congress to fight for special funds for universities in their districts.

PRESSURE ON CONGRESS URGED

The Association of American Universities was the first of the six academic organizations sponsoring the report on earmarked grants to act on it. Among its 54 American members, the vote was 43 universities in favor of the moratorium, 10 opposing and 2 abstaining. The president of the University of California system accounted for the extra vote.

Mr. Rosenzweig, the association president, has told its members he does not think sanctions should be imposed on those who do not abide by the moratorium. He said the A.A.U. would urge the other organizations to join the moratorium and to push for Congressional passage of a program for financing the construction and renovation of scientific facilities.

In the interim, Mr. Rosenzweig added, the association will fight any effort to extend earmarking to cover funds for scientific projects but will not engage in "vain efforts" to oppose specific earmarked grants for research buildings, once they come up in Congress.

A DEFENSE BY COLUMBIA

Columbia University, which voted against the moratorium, regarded it as a potential affront to Congress, according to Gregory Fusco, vice president for governmental relations.

"Our concern was that the resolution as crafted would be interpreted in Congress as not giving sufficient recognition to the role of Congress in determining the uses of Federal funds," Mr. Fusco said. "We think Congress's consideration of economic development in addition to scientific merit is a valid one. It's valuable and appropriate."

But he added that Columbia agreed with that portion of the A.A.U. resolution that called for seeking for creation of new Federal programs to help support university research facilities.

"We do need a big facilities program on the Federal level," he said. "Government should not pay for every facility in the country, but it should take a bigger responsibility than it has been. That's the main thing, and within the A.A.U. there's no dispute on that."

THE MEMBERS OF THE AAV

Univ. of Arizona, Brandeis U., California Inst. of Tech., Univ. of Cal.—System, Univ. of Calif.—Berkeley, Univ. of Cal.—Los Angeles, Univ. of Calif.—San Diego, Carnegie-Mellon U., Case-Western Reserve U., Catholic Univ., Univ. of Chicago, Clark U., U. of Colorado, Columbia U., Cornell U., Duke U., U. of Florida, Harvard U., Univ. of Illinois, Univ. of Indiana, Univ. of Iowa, Iowa State U., Johns Hopkins U., Univ. of Kansas, Univ. of Maryland, Massachusetts Inst. of Tech., Univ. of Michigan, Michigan State U.

Univ. of Minnesota, Univ. of Missouri, Univ. of Nebraska, New York U., Univ. of North Carolina, Northwestern U., Ohio State U., Univ. of Oregon, Pennsylvania State U., Univ. of Pennsylvania, Univ. of Pittsburgh, Princeton U., Purdue U., Rice U., Rochester U., Univ. of Southern California, Stanford U., Syracuse U., U. of Texas—Austin, Tulane U., Vanderbilt U., Univ. of Virginia, Univ. of Washington, Washington U., Univ. of Wisconsin—System, Yale U.

AAU RESOLUTION ON FUNDING FOR SCIENTIFIC RESEARCH ACTIVITIES

We have received the Langenberg Committee report and intend to discuss it further among ourselves and with other associations. While we have some concern with its first recommendation, we support its call for an immediate and sustained effort to bring the higher education community, the Congress, and the federal agencies into discussion to resolve the issues surrounding the federal funding of scientific research facilities. We intend to engage fully in those discussions in the hope that common ground can be found and the processes that do not best serve the long-term quality and capacity of U.S. science can be put behind us. In the meantime, however, we:

(1) Reaffirm our support for the following propositions:

(a) Decisions about funding scientific research projects should be made on the best available judgments of the importance of their probable contributions to scientific theory and practice.

(b) The current practice of earmarking scientific facilities construction on the basis of criteria unrelated to their scientific merit is not in the interests of either the nation or its institutions of higher education.

(2) Instruct the president of the AAU to rely on these propositions as the basis of his representations to the Congress on this policy issue.

(3) Agree to observe a moratorium on earmarked funding for scientific facilities while seeking, in cooperation with other higher education associations and the Congress, the creation of federal programs to assist the nation's colleges and universities in meeting their facilities needs for research.

Mr. SANFORD. Mr. President, I thank my colleague, the Senator from Wisconsin, for pointing out the action taken by a number of universities to maintain the integrity of scientific grants. I am pleased that my university, Duke University, continues to be a part of that body of universities that feel that the competitiveness of this country is going to be determined by the amount of research and the kind of research that is done. I think this is a very significant comment at a time when we are so concerned with competitiveness.

Mr. PROXMIRE. Mr. President, will my good friend yield briefly?

Mr. SANFORD. Yes.

Mr. PROXMIRE. I would just like to say that I neglected to make the most important point of all. The University of Wisconsin was one of those universities, also. The University of Wisconsin, of course, voted in favor of rejecting any grant which was not based on competition.

TECHNOLOGY: A KEY TO COMPETITIVENESS

Mr. SANFORD. Mr. President, to stay competitive in the world market, the United States must stay on the cutting edge of new technologies. We must recognize that what we call high technology is important to more than just the semiconductor industry. Advanced technology rules growth in all our basic manufacturing industries. From textiles to autos, industries must employ up-to-date computer technology and robotics in order to keep up in a competitive world market.

In testimony at a recent Senate Budget Committee field hearing, Donald S. Beilman, president of the North Carolina Microelectronics Center, outlined the steps the United States must take to keep our high technology industries competitive. He focused on several factors: Education, research and development, Federal and State legislation, effective allocation of resources, and leadership. Of special interest to my colleagues will be Mr. Beilman's specific recommendations for Federal action to promote industrial competitiveness, I ask unanimous consent that Mr. Beilman's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF DONALD S. BEILMAN, PRESIDENT, MICROELECTRONICS CENTER OF NORTH CAROLINA

I appreciate the opportunity to address this Committee on the important issue of the international competitiveness of United States industry. This issue is receiving considerable attention with the continuing erosion of our foreign trade position which last year soared to $140.6 billion, an all time high, and which was 19.5 percent above the previous high of the year before.

Industrial competitiveness is also receiving considerable attention at the federal and state levels of government because it is important to the long-term health of our economy at the regional and national levels. Many studies and recommendations have already been made with respect to government and private action for improving our international competitiveness position. The President's Commission on Industrial Competitiveness chaired by John A. Young is just one of the groups that has presented recommendations that address this critical issue.

In my testimony today, I will not repeat a lot of statistics or reference former studies, but will concentrate on the basic principles that are affecting the U.S. international competitiveness position. The observations and recommendations I make will not provide a simple answer to a very complex situation, but I hope they will provide the basis for reversing a situation that our universities, government and industry cannot tolerate for the future. The views I will express today are my own and reflect my experience as a business executive for thirty years and as president of the Microelectronics Center of North Carolina.

INDUSTRY SITUATION

The industry sector which I will concentrate on today is what is referred to as high technology. This includes such industries as semiconductors, telecommunications, materials, biotechnology and robotics. The U.S. high technology industry, up until recently, experienced a very favorable position internationally. High technology in the past few years, however, has joined core industries in experiencing trade deficits in the global economy.

In 1986, for example, the United States experienced a $13.1 billion trade deficit in electronics worldwide and an even more severe deficit with Japan, $20.5 billion. This is particularly of concern since high technology manufacturing, such as, electronics, is a crucial factor in maintaining a balanced economy in the United States between service and manufacturing.

There are several factors which contribute to the international competitiveness of high technology industry. These factors are education; university, government, and industry research and development; federal and state legislation; effective allocation of resources; and leadership.

While all of these factors are important to competitiveness in all industries, my comments today will focus on their impact on high technology.

High technology is particularly important for world leadership in the global economy because it provides growth to manufacturing industries, such as, electronics and materials. In addition, high technology industries, such as, materials and electronics, provide the basis for future competitiveness and leadership in many manufacturing core industries.

Modern electronics, for example, is a major high technology industry that has experienced tremendous growth worldwide. The electronics industry has surpassed $500 billion in annual production and could surpass $1 trillion by the year 2000, making it the largest industry other than agriculture. In addition, electronics provides important technology advances that increase productivity in all industries.

A manufacturing based economy is the key to maintaining a healthy economy and high standard of living. There is a strong interrelationship between high technology, electronics, and manufacturing because of the continuing necessity to increase productivity in manufacturing.

To support continuing improvements in productivity, the technology dynamics of industries such as electronics require access to substantial capital for productivity improvements and manufacturing competitiveness. Technology leadership and manufacturing capital are critical for competitiveness in a manufacturing based economy; in order to maintain technology leadership, the United States must find a way to maintain top quality education and better funded research and development.

RESEARCH AND DEVELOPMENT SITUATION

It is forecast that the United States will spend approximately $125 billion in 1987 on research and development. Of this total, approximately two-thirds will be spent on development and one-third on basic and applied research.

The federal government plays a major role in the research and development infrastructure of the United States. There are approximately 700 national laboratories with significant technical personnel resources that spend an estimated $18 billion annually. These laboratories are mission-oriented and concentrate on investigations related to such areas as defense, space and energy. The efforts of the national laboratories are heavily weighted to defense and contribute to the basic science and research infrastructure but not to commercial technology.

The National Science Foundation (NSF) also plays an important role in supporting a strong university infrastructure. It has been suggested that the current NSF budget request of $1.7 billion be doubled to $3.4 billion in the next five years. While these investments are critical to the long-term science and research infrastructure, technology development is not NSF's role or mission.

The Department of Defense (DOD) receives the major portion of the Federal research and development budget—approximately $47 billion of the total $65 billion Federal budget for the current year. This effort is heavily concentrated on the development of military weapons and provides only limited short-term derivatives for commercial applications. DOD's efforts are not oriented to commercial technology.

Thus, while the Federal investment in research and development is substantial, its orientation is on defense and the development of the research and development infrastructure, and does not directly address industrial competitiveness.

State governments have a primary role in providing the university infrastructure for education and basic research. The development of this long-term infrastructure is critical but does not directly address the requirements for commercial technology. States, however, are developing a shorter-term interest in commercial technology through new partnerships with industry. States are an evolving force and a new partner with a vested interest in economic development and the maintenance of a healthy manufacturing economy.

Industry emphasis is on applied research and technology development. To maintain competition, industry emphasizes the processes and manufacturing technology required for adaptation to today's technology dynamics. Industry not only focuses on the short-term results required for positive financial performance, but also recognizes the necessity for long-term research investment essential for continuing success.

While substantial resources are now being directed to research and development, at least half of this $125 billion is not directly contributing to industrial competitiveness. We need dramatically to capitalize on existing investments in research and development and selectively to reallocate key resources to support commercial technology for increased competitiveness of U.S. industry.

UNIVERSITY/GOVERNMENT/INDUSTRY RESPONSIBILITIES

Universities, government (state and federal), and industry are mutually responsible contributors to research and development. In the aggregate, the United States outspends all other nations in research and development. The existing human and capital resources of these three sectors must provide the necessary base for U.S. leadership and international competitiveness.

Our universities are considered to be the leading education and basic research institutions in the world, educating both domestic and foreign scientists and engineers for support of the global economy. While this leading role provides key long-term education and basic research, universities must change more rapidly to meet the escalating educational requirements to support high technology industries. While universities are critical contributors to basic research, they are not a major source of commercial technology in support of international competitiveness.

Government has the primary responsibility for supporting the state and national infrastructure requirements for education and basic research as well as providing the economic environment for industrial competitiveness. In the research and development domain, government supports the research and development requirements for defense, space, health and other special national requirements. It has the primary responsibility for maintaining the necessary services and engineering infrastructure but is not a major source of technology that is commercially relevant. In the economic domain, government can provide the fiscal and legislative conditions conducive to capital formation and international competitiveness.

Industry has always had and should continue to have primary responsibility for commercial technology application and production. Short-term financial performance must continually be balanced against longer-term research and technology expenditures. The capital and human resources required to meet the dynamics of today's technology dictate the continuous training of technical personnel and the shared responsibility with government for capital formation. As the sector primarily responsible for international competitiveness and most familiar with commercial technology requirements, industry should be given a shared responsibility to determine the national research and technology agenda and should be directly involved with extracting commercially-relevant research and technology from non-industry efforts.

In short, industry must be effectively involved in the allocation of these national research and development resources if industry is to continue to provide leadership for commercial application of technology for industrial competitiveness.

NEW CREATIVE APPROACHES FOR RESEARCH AND TECHNOLOGY

With intensive support from industry and government, commercial research-coordinating organizations can be structured to coordinate unviversity and national laboratory resources. Such coordination is essential if we are to increase substantially the relevance of education and research within these key, high technology areas. The Semiconductor Research Corporation, or SRC, located here in Research Triangle Park, is one such research-coordinating organization concentrating on microelectronics. There are similar opportunities in telecommunications, materials, optics, textiles and other strategically important industries.

Another major new opportunity is the establishment of national-level commercial technology centers. Directed and managed by industry in key technology areas, these centers would work in conjunction with the research-coordinating organizations to accelerate substantially the transfer of non-industry research into commercial technology. Such centers would evaluate and develop the commercial technology potential of relevant research at our universities and national laboratories. These technology centers could also capitalize on evolving state participation and investments in selected key areas of industry technology.

These commercial technology centers could be jointly financed by sharing the cost among states, industry, and the Federal government where appropriate. the Federal share could be financed through reallocation of current resources from the Federal laboratories to facilitate their contributions to international competitiveness. Industry participation would assure commercial relevance and ownership by the primary sector responsible for competitiveness.

Funding of the centers could be an equal match of approximately $15 million per year or $45 million total per center. Eight to ten centers in key industry areas would provide $500 million of highly focused technology opportunities, leveraging the over $30 billion spent annually at our universities and national laboratories on research and development. An annual investment of approximately one half billion dollars to help correct a national problem which resulted in a $140 billion trade deficit last year would appear to make good economic sense.

Additionally, industry should be encouraged to pursue creative new joint initiatives for establishment of commercial manufacturing centers. These industry funded and managed programs could be established in key technology areas and would concentrate on manufacturing technology for international competitiveness. Funding by DOD would be appropriate to support related supplier industries that are crucial to national defense and security.

In summary, the Federal government and industry have an opportunity, through prudent reallocation of resources, to capitalize substantially on the enormous national research and development efforts to restore U.S. competitiveness in the global economy.

RECOMMENDATIONS FOR FEDERAL ACTION ON COMMERCIAL COMPETITIVENESS

The Federal government has the responsibility to help provide a total economic environment necessary to U.S. industry competitiveness. The following recommendations fall into three types of action: fiscal policy, legislation, and financial support.

In the area of fiscal policy:

(1) New financial incentives to recognize industry's increasingly important role in training and retraining technical personnel for high technology manufacturing.

(2) A permanent industry tax credit to encourage increased expenditures in external and internal research and development for manufacturing.

(3) Investment tax credits specifically for manufacturing equipment and facilities to encourage availability to capital for meeting requirements caused by technology dynamics.

(4) An aggressive long-term (5-years) capital gains credit to encourage investments in the long-term manufacturing industry.

(5) Encourage personal saving to create the increased capital required for industrial competitiveness.

(6) And, of course, the need to reduce dramatically the Federal deficit ($211 billion in 1986) to bolster general long-term economic growth.

In the area of legislation:

(1) Provide a competitive and equitable trade environment for U.S. manufactured products to help reduce deficit of $170 billion in manufactured products in 1986.

(2) Encourage cooperative industry efforts in manufacturing research and technology to balance aggressive international cooperative initiatives.

In the area of direct financial support:

(1) Support new state and industry technology centers with reallocated funds from national laboratories to increase commercial technology contributions from non-industry sources.

(2) Directly support related commercial and defense requirements through DOD to reinforce U.S. competitiveness in selected manufacturing equipment industries.

(3) Encourage long-term support of basic education and research infrastructure at our universities by doubling the NSF budget to $3.4 billion in the next five years.

CONCLUSION

There are no actions that ensure that U.S. competitiveness will immediately be revitalized. One thing is becoming more clear: with continuing erosion of high technology manufacturing as well as core industry manufacturing, significant changes by universities, government, and industry to solve the short- and long-term competitiveness problem will be required.

Universities must upgrade their educational program in the basic disciplines in order to prepare scientists and engineers to meet increasing demands in the U.S. manufacturing economy.

Government must reallocate research and development resources to increase the commercial value of current national research and development expenditures. Longer-term major reallocation of funds and technical personnel to commercial technology development is essential. In addition, governments in their enabling role for industry must take action to support specific legislation and fiscal policies that provide a competitive environment for manufacturing.

Industry must be actively involved in planning national research and development programs as well as in the management of the technology transfer initiatives undertaken by universities and government.

Ultimately, industry individually and collectively is responsible for providing the primary leadership for industrial competitiveness. Universities and government, however, must also take aggressive action to provide the talent and the environment to make industry's job possible.

AL UNSER—WINNER OF THE INDIANAPOLIS 500

Mr. DOMENICI. Mr. President, today I am very proud and pleased to recognize that on Sunday the father-son team of Al Unser, Sr., and Al Unser, Jr., from Albuquerque, NM, took two top places in America's greatest automobile race, the Indianapolis 500.

Al Unser, Sr., 48 this Friday, became the oldest driver to win the Indianapolis 500, a record previously held by his brother Bobby. He also tied A.J. Foyt's record for most Indianapolis 500 victories, with four.

Just a few cars back Al Unser, Jr., continued the tradition by placing fourth.

The Unser family has become America's premier racing family and obviously New Mexico and their home city of Albuquerque are extremely proud. Their determination and skill are truly an inspiration to all of us.

Al Unser, Sr., went to Indianapolis, as everyone now knows, without a car, and he came out taking the checkered flag.

So I rise today to compliment Al Unser, Sr., and his son, Al Unser, Jr., and, in a very real sense, the magnificent tradition of the entire Unser family.

Incidentally, I called early the following morning after the victory to congratulate him. He was already in a car driving home. So I assume he truly loves to drive. I thought perhaps I would catch him there or that he would be in the air, but in the great tradition of his family he took to the road and headed back to New Mexico.

U.S. PRESENCE IN THE PERSIAN GULF

Mr. McCAIN. Mr. President, I rise to speak about an issue of great concern to me, the American people, and to other Members of this body: The United States military presence in the Persian Gulf and the recent decision on the part of this administration to provide United States naval protection for 11 Kuwaiti tankers.

Mr. President, the United States has had a military presence in the Persian Gulf since 1949. We have an important role to play there. It is also clear that the Carter doctrine, which says the United States will take whatever measures necessary to preserve United States national security interests in the Persian Gulf, is more valid today than when it came into being in 1980.

Mr. President, we are faced with a situation far different than in the past in the Persian Gulf. We are today, faced with Iranians who have articulated time after time their desire to sink United States warships and kill American citizens.

I fully understand why the administration chose to announce that they provide protection for 11 Kuwaiti ships. This action was precipitated by an understandable concern about Soviet penetration into the Persian Gulf, an ambition that the Soviets have held since before the days of the Czars. I understand the concerns of the administration, that in return for protection of their tankers, the Kuwaitis might provide bases and refueling agreements to the Soviets, allowing Moscow to penetrate the Persian Gulf and be a force in that region. Obviously, that would not be in the U.S. interests.

It is also clear that while just 7 percent of the United States oil comes from the Persian Gulf, some 30 percent of the European oil, and some 60 percent of Japanese oil originates in that area.

So we are not the only ones who have vital national security interests in the gulf. In fact, our European allies and the Japanese are more dependent than we upon an uninterrupted flow of oil from the Persian Gulf.

It is incumbent upon the administration that they explain to the American people what our policy is in the Persian Gulf. Do we, for example, have the military capability to protect 11 tankers as they proceed from Kuwait through the Persian Gulf.

Mr. President, some military experts believe we do not have that capability. Some people believe the reason why our naval forces have maintained themselves only in the southern part of the gulf, and the reason why aircraft carriers have not ventured into the Persian Gulf is because they would be extremely vulnerable in that very narrow body of water.

Mr. President, the American people need to be told what is planned, in response to an Iranian attack on either a Kuwaiti tanker flying an American flag or an American warship. If we are going to respond militarily, the American people must be told what is at stake. The American people must know that there is, indeed, a possibility of further loss of American lives. There is also the possibility of more Americans being held captive, as Lieutenant Goodman was after the raids that were made in Lebanon.

The only way to get the support of the American people is to explain clearly what our interests are in the gulf. I would also suggest that there is no time like the present to urge our

European allies to involve themselves militarily to pick up this burden. Mr. President, we have an All Volunteer Force. The most difficult task for any young man or woman in the military today is duty on board a ship in the Persian Gulf. It has an impact on our ability to retain the young people needed to maintain and man the very expensive equipment provided in the extensive military buildup of the Reagan administration. European allies must understand that the United States alone cannot defend the Persian Gulf indefinitely. It is time we made some arrangements for a West German, French, and British naval presence in the Persian Gulf so the United States does not have to bear the entire burden.

I would also like to address for a moment the question of U.S. military bases in the region. Some have suggested that this country should enter into agreements with the Saudis, Omanis, and others leading to the establishment of United States military air bases in the area so we can better protect our ships. Mr. President, I would like to remind you that although this may seem a good idea on the surface, we are having enormous difficulty renegotiating our base agreements throughout the world—in Greece, in Turkey, and in the Philippines, for example. In Indochina, we left behind bases such as Tuy Hoa, Bien Hoa, Pleiku, Da Nang, and most of all Cam Ranh Bay, which now serve as very useful bases for our adversaries. In fact, as we know, Moscow has turned Cam Ranh Bay into one of the finest reconnaissance and naval bases in the world.

So before we enter into an agreement which would entail the expenditure of billions of dollars of taxpayers' money, we must ensure that the host nations are stable, that we can depend on long-term agreements, and that we can depend on those countries not to close the bases in case of external disturbance, as the Prime Minister of Greece did to one of our bases when Athens had some difficulties with the Turks. Finally, we must be very sure that those bases can be defended from terrorist attacks.

Mr. President, I think that American people are deeply concerned about the escalation of our involvement in the Persian Gulf. I am concerned that the administration has not consulted sufficiently with the Congress for support of this action. Just last week the Senate passed overwhelmingly a resolution stating that before the United States Government started protecting Kuwaiti ships, they should consult with the Senate and the House of Representatives. So far as I can see, they have not done so.

Mr. BYRD. Mr. President, there is not order in the Chamber. May we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCAIN. Mr. President, I appreciate the attention of the majority leader on this very important issue. He was a prime cosponsor last week, along with the Republican leader, of the measure to which I just referred. The majority leader has a deep and abiding interest in U.S. policy in the Persian Gulf. I appreciate very much his involvement in the resolution.

Mr. President, this administration must tell the American people of the stakes involved, so that in case of an attack by the Iranians, the American people will be willing to make the sacrifices necessary to preserve our access to the gulf.

Why is the U.S. presence in the gulf vital to interests of the United States? Because we, along with our allies, must preserve the uninterrupted flow of oil from the Middle East. To do otherwise would have a devastating impact on the economies of the Western World.

NEW LEGISLATION MANDATING ADDITIONAL BANK RESERVES ON TROUBLED THIRD WORLD DEBT IS UNNECESSARY

Mr. DIXON. Mr. President, there has been considerable comment on Citicorp's announcement last Tuesday that it was making a $3 billion addition to its loan loss reserve. That same day, by a vote of 15 to 5, the Banking Committee decided not to impose additional reserve requirements on banks based on their troubled Third World debt exposure.

As the author of the amendment ensuring that no additional statutory reserve requirements were placed on banks' international debt exposures, I want to take this opportunity to comment briefly on the committee's decision and the Citicorp announcement.

First, I want to make it clear that the committee's decision does not represent a head in the sand attitude about our banking system or about Third World debt issues. Rather, it represents the committee's judgment that the banks have taken and are continuing to take the steps necessary to protect their depositors and their safety and soundness. It represents the committee's view that the existing statutory framework, including the International Lending Supervison Act of 1983, provides the banking regulators with all the authority they need to ensure bank capital adequacy against all risks, including troubled Third World debts.

Citicorp's announcement, while dramatic, is simply the latest demonstration that our banks have done and are doing what Congress asked them to do in 1983. They have increased their capital; they have reduced their Third World debt exposure; and they are taking the other steps necessary to resolve their problems.

In 1983, for example, U.S. banks held $94.2 billion in loans to 18 troubled foreign debtor nations, including Brazil, Mexico, and the other leading debtors. The capital ratios of the top 15 U.S. banks averaged only 5.46 percent. By the end of 1986, however, U.S. bank loan exposure to the 18 debtor nations I previously cited had dropped to $87.1 billion, and the capital ratios of the top 15 U.S. banks increased to an average of 7.17 percent.

In 1983, the nine largest money center banks had over 209 percent of their capital exposed to troubled foreign debtors. By 1986, their exposure had dropped to 147 percent of capital. Similarly, the exposure of the next 14 largest banks dropped from 153 percent of capital in 1983 to 87 percent of capital by the end of 1986.

The Third World debt problem has proven to be very difficult and complex, and much more persistent than many at first estimated. There may be additional legislative tools that are necessary or desirable in helping the Treasury, the banking regulators, and the banks themselves work through this problem. As the basis of the factual experience of the last 4 years, however, there is no demonstrated need for additional legislative capital and reserve requirements, which is why the banking regulators opposed them. In this area, Congress can make the greatest contribution by recognizing that additional capital and reserve requirements could actually have adverse impacts on banks' ability to cope with troubled Third World loans and therefore could actually hurt, rather then help, banking system safety and soundness.

While Third World loans are significantly different from troubled energy, agriculture, real estate, and other bank domestic lending, the approach we are using to help the banking system cope with its domestic lending problems is equally applicable to the foreign loan situation.

We are trying to give banks flexibility and time to deal with troubled domestic loans, and Congress has consistently urged the regulators to give banks that can work out of their problems the room they need to restructure loans. That same approach makes sense in the foreign loan area. We need to be concerned about ensuring that the banks have sufficient capital and reserves—and as I stated earlier, our banks have been increasing their capital and reserves—but that concern must be balanced against the need to give them sufficient flexibility to work through this serious problem.

Before I close, Mr. President, I would like to make a few points about the Citicorp announcement. First, it is worth remembering that, while Citicorp increased its reserves by $3 billion, its overall capital ratio increased by only five one-hundredths of 1 percent, from 7.05 percent to 7.10 percent. Citi's action was less a major addition to capital and reserves, considered in total; it was more in the nature of a transfer from the capital account to the reserve account.

Second, it is important to note that Citicorp is much more heavily exposed in Brazil than our other money center banks, and therefore, it does not automatically follow that the rest of our banks should be required to make similarly dramatic additions to reserves.

Each individual major banks situation is different, and a legislative attempt to micromanage each bank's capital and reserve position cannot be effective. I was pleased to see that the Federal banking regulators share this view and are not requiring other banks to make similar additions to reserves simply on the basis of the Citicorp action. Rather, the regulators appear to be continuing on the course that continues to encourage banks to improve their overall capital and reserve positions, while keeping in mind each individual bank's unique problems and circumstances.

Finally, the Senate should know that the Citicorp decision is not without risk. On the one hand, it can be argued that the addition to reserves strengthens the bank's hand as it deals with its troubled foreign loans. Having made the addition to reserves, the bank may be a much tougher bargainer in restructuring negotiations because it seems more willing to take necessary losses.

On the other hand, however, Brazil and other foreign borrowers may well attempt to argue that, since CITI has already made the addition to its reserves in an amount roughly equal to 25 percent of its Third World debt exposure, they should be forgiven some percentage of that debt. If debtors do take this kind of approach, it could significantly increase the problems for the U.S. banking system. It has become apparent that banks will be taking some losses on Third World loans, but how large those losses need to be, and over what period of time they should be taken are still open questions.

CITI's action may help minimize the degree of loss and spread that loss over time. However, if the action has the effect of magnifying the degree of loss, and particularly if it causes the losses to have to be recognized in a shorter period of time, then our banking system would be under even more serious strain than it already is.

Citicorp's decision was not an easy one, Mr. President. I urge my colleagues to see it for what it is—Citicorp's best judgment on how to address the problems it is facing with its portfolio of loans. It does not argue for the rest of the major banks holding troubled Third World loans to take identical actions. However, it is another indication that the existing system is responding to the Third World debt problems and that our banks are taking the hard actions necessary to preserve their safety and soundness.

As I stated before, I do not believe that we need additional legislation to try to micromanage individual banks' capital and reserves positions. Last week's announcement shows that the banking industry and the banking regulators are working well to manage a difficult and complex problem. Last week's vote in the Banking Committee, though it occurred before the announcement, was the right response.

WILBUR J. COHEN

Mr. DIXON. Mr. President, I rise to pay tribute to a great American, an outstanding public servant and a man of unquestionable integrity. On May 17, former Secretary of Health, Education, and Welfare Wilbur Cohen died in Seoul, Korea.

I know Wilbur Cohen through his many great accomplishments and his devotion to public service from the earliest days of the new deal to his outspoken criticism of unfair welfare reforms in the 1980's.

In 1935, at the remarkably young age of 22, Wilbur Cohen played a role in the drafting of the Social Security Act. Later he moved over to the Social Security Administration as a technical advisor and as director of research and statistics. While working in these capacities he worked to expand Social Security benefits to include domestic workers, farm laborers, and disabled Americans.

During the 1950's Wilbur Cohen taught at the University of Michigan and University of California at Los Angeles. Although the Social Security system was then enjoying great success, he wanted to continue his efforts to improve and perfect a welfare system to provide protection and aid to every needy American.

In 1961, President John F. Kennedy brought Wilbur Cohen back to public service and appointed him assistant Secretary of Health, Education and Welfare in charge of legislation. During his 4½ years at this post, Wilbur Cohen helped enact over 60 separate proposals for Social Security, mental health, child welfare, vocational training, and civil rights. Most importantly, Wilbur Cohen successfully proposed and sheparded the Medicare system despite great opposition in Congress. In 1968, President Lyndon Johnson appropriately rewarded Wilbur Cohen by appointing him to be Secretary of Health, Education, and Welfare where he remained an active advocate to the final moment of the Johnson administration.

Although he returned to his second profession as educator, he continued his pursuit of social justice as a professor and dean of the School of Education at the University of Michigan.

Wilbur Cohen served as president of the American Public Welfare Association. He continued to lecture, teach and rally support in the name of a coalition of elderly, labor, blacks, poor, students and churches to protect the programs he had worked so hard to create and design.

Mr. President, Wilbur Cohen was a great American, a great public servant, a great man, whose life and achievements have touched the lives of millions of Americans. His memory will live on in the social programs he worked to create and improve.

Mr. President, I ask that an obituary from the Chicago Defender of May 19, 1987, be printed in the Record.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

[From the Chicago Defender, May 19, 1987]

SET CAPITOL, NATIONAL RITES FOR W.J. COHEN

Wilbur J. Cohen, a champion of Social Security and the only person to hold three top positions in the U.S. Department of Health, Education and Welfare (HEW) while serving under three presidents, was eulogized yesterday by members of Congress in a special memorial session in the House of Representatives.

Other memorial services across the country are planned for Mr. Cohen, 73, who died Sunday in Seoul, Korea, where he had gone to deliver a paper on how to start Social Security at a Third World conference on aging.

According to his son, Chris, a lawyer with the Chicago firm of Holleb and Coff, and himself a former HEW midwest regional director, Mr. Cohen had flown from his home in Austin, Tex, to Chicago's O'Hare Airport Saturday to pick up others making the trip before continuing on to Seoul.

"I went to the airport and brought his grandchild to see him, and he looked well. Twenty-four hours later he was dead," said the son. "It was quite a shock. Although he'd had several heart attacks, he'd been in good health."

A distinguished educator, Mr. Cohen earned a bachelor of science degree in economics from the University of Wisconsin in 1934. The same year, his economics professor, Edwin Wittee, selected him to join the staff of a "blue ribbon" Committee on Economic Security, which was responsible for writing the Social Security law, then called the Social Security Act. He was the first employee of the Social Security Board now known as the Social Security Administration.

Mr. Cohen was appointed assistant secretary of HEW by President Harry Truman; undersecretary by President Dwight Eisenhower; and secretary by President Lyndon Johnson. Before that he had been a career employee with the agency from 1935 to 1956.

Mr. Cohen, who founded the Save Our Security (SOS), an advocacy group, was asked by then Sen. John F. Kennedy to serve as a consultant on a committee dealing with Medicare, which was never developed. In 1961 President Kennedy named him assistant secretary of legislation of HEW, now called the Department of Health and Human Services (HHS).

Additionally, Mr. Cohen was a professor of social work at the University of Michigan in Ann Arbor, where he moved in 1946. In 1978, he instructed summer classes at the University of Michigan and taught during remaining months at the University of Texas at Austin, which is establishing an endowment fund to create the Wilbur J. Cohen Professorship in Health and Social Policy.

Said Penny Joiner, an administrative associate of Mr. Cohen at the University of Texas: "I worked with him since 1960, and he was one of the most special persons I've met. He changed my entire perspective in life. He was the most giving person I've ever known . . . he was unique. This isn't easy for me, for this is a tremendous loss not only to those who know him but to the nation as well. There's a big void in our lives."

Other survivors include his wife, Eloise, of Austin; two sons, Bruce, an organizer of peasants in Central America, and Stewart, Ph.D in engineering at the University of Michigan; plus his brother, Darwin Huxley, of Milwaukee; and five grandchildren.

The family requests that in lieu of flowers, donations be sent to the endowment fund in care of Dean Max Sherman, LBJ School of Public Affairs, Austin, Tex. 78713.

TRIBUTE TO WILBUR COHEN

Mr. SANFORD. Mr. President, when a young man, at age 21, becomes one of the principal architects of the Social Security system, it would be easy for him to say, "I have done my part for my country; now I am going to see to my own affairs." If Wilbur Cohen had taken that route, we would all still remember him with respect and admiration and mourn his death.

But after helping President Roosevelt create the Social Security retirement system, Wilbur Cohen devoted another 50 years of his life to public service. Through the years, he had a hand in shaping just about every government effort to improve people's lives, from Medicare and Medicaid to vocational education, civil rights, child welfare and education for the handicapped. His compassion made compassion a public policy.

At the Department of Health, Education and Welfare, he helped Presidents Kennedy and Johnson create the social legislation that transformed American life. He was a leader in the War on Poverty and Great Society efforts to put a safety net under all Americans. He stood up for migrant farmworkers, and he helped create the Social Security Disability Program. Right up until his recent death, he was speaking out for the 37 million Americans who have no health insurance. He died in Korea, where he had gone to speak on welfare for the aging.

In addition to serving in the Social Security Administration and HEW, Wilbur Cohen taught social work and was the dean of education at the University of Michigan and was professor at the L.B.J. School of Public Affairs. All his life, he was shaping social programs, or shaping the leaders who would carry on these programs.

Wilbur Cohen was a valued personal friend of mine for more than two decades. He was as generous to and concerned for his friends and for the people around him as he was for the millions of people his life was devoted to helping. My heart and best wishes go out to his widow, Eloise, and his sons and grandchildren.

ALLIED SUPPORT

Mr. DECONCINI. Mr. President, last year I spoke on the floor of this Chamber after the United States retaliated against Libya for Colonel Qadhafi's exportation of terrorism. American pilots flew from Great Britain around Portugal and Spain and then back to Great Britain. They were refueled in the air and forced to make a dangerous and hazardous missing even longer due to conspicuously mission allied support. Quickly forgotten was the U.S. role in World War I, World War II, and the Marshall plan. Where were our allies?

Now, after the tragic bombing of the U.S.S. *Stark* and the loss of 37 American sailors, the allies have yet another chance to protect freedom and democracy. This time it is the Persian Gulf. I am certain that the Reagan administration would welcome allied support in protecting this crucial geostrategic area. This might mean additional allied warships in the gulf, cooperation in providing air coverage, and assistance with infrastructure needed to sustain U.S. ships in the region.

Last week this body passed by an overwhelming margin a request for the Department of Defense to issue a report demonstrating United States security plans for Kuwaiti oil vessels. It appears that these ships will be hoisting the American flag. If we are demanding a tighter definition of U.S. military commitments, it is only fair that our allies express their cooperation and commitment to this region. After all, the allies have a considerable interest in maintaining access to the area's oil at reasonable prices, both now and in the future. As I understand, Kuwaiti oil goes primarily to Japan and Europe. This by itself warrants allied cooperation and not unilateral United States action in the Persian Gulf.

Mr. President, our allies have asked us to raise the Stars and Stripes in defending Europe in world wars, in rebuilding Europe, and in spending defense moneys to pursue the peace and freedom of the last 40 years. They are now asking for more commitment on base rights agreements in the area. Let us see where our allies are in this latest crisis. It is definitely in U.S. interests to keep international shipping lanes open in the gulf. It is also in European interests. It is also in world interests. I am hopeful we will see a joint command of allied cooperation in the gulf, including British, French, and German forces in the region. The stakes are too high for a unilateral American presence in the gulf. We must be able to depend on our allies. Members of Congress should pay careful attention to who helps and to what degree as they vote on foreign assistance in the next few months.

The majority leader is recognized.

Mr. BYRD. Will the Chair lay down the unfinished business.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If there is no further morning business, morning business is now deemed closed

SUPPLEMENTAL APPROPRIATIONS, 1987

The ACTING PRESIDENT pro tempore. The clerk will now report the unfinished business.

The assistant legislative clerk read as follows:

> A bill (H.R. 1827) making supplemental appropriations for fiscal year ending September 30, 1987, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Heinz Amendment No. 207, to provide an additional $10,000,000 for title V of the Older Americans Act of 1965, relating to community service employment for older Americans.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. The pending business is H.R. 1827.

Mr. HEINZ. What is the pending amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania is to offer the first amendment.

AMENDMENT NO. 207, AS MODIFIED

Mr. HEINZ. Mr. President, I am about to send to the desk a modification of my amendment, and I will ask unanimous consent that I be allowed to modify my amendment. I want to explain what the modification is.

It contains an offset in the amount of the $2 million that is the cost of the amendment; and, other than that, the substance of the amendment on the Older Americans Act is the same.

I ask unanimous consent that I may be allowed to amend the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is modified, and the clerk will report the amendment.

The assistant legislative clerk read as follows:

Amendment No. 207 is modified—

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, reads as follows:

On page 40, beginning on line 19, strike out "$38,000,000" and all that follows through "Kenya" on line 22 and insert in lieu thereof the following: "$36,000,000 of which not more than $25,000,000 shall be available only for the Philippines, not more than $10,000,000 shall be available only for Morocco, and not more than $3,000,000 shall be available only for Kenya".

On page 62, between lines 8 and 9, insert the following:

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000.

For an additional amount for "Community service employment for older Americans", to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000.

Mr. HEINZ. Mr. President, I think I can be brief in describing this amendment. I described that portion of it that deals with the Older Americans Act. I described that when I offered the original versions of the amendment last week. But, in order to refresh recollections, I will simply state once again that what the substance of the amendment does is to give a cost-of-living increase, in effect, to that portion of the Older Americans Act, title V, which is the one portion of the act which has not received a similar increase.

Title V, of course, is the so-called senior employment title of the act. It employs poor—that is to say, senior citizens with less than 125 percent of poverty-level income—in doing what is often community service work. Many of them work providing services in senior centers and other ways, usually benefiting other senior citizens.

As I noted, I gave a lengthy explanation of that portion of my amendment last week, and I will not further detain the Senate by restating what I said then.

What I do wish to explain is that the modification of this amendment that I sent to the desk contains an offset equal to the cost of the amendment. The offset would have the effect of reducing by $2 million an appropriation for foreign aid that is found on page 40, beginning on line 19. At the present time, a total of $38 million is requested for three countries—the Philippines, Morocco, and Kenya.

And that $38 million is apportioned among those three countries, $25 million, $10 million, and $3 million, respectively.

What my amendment does is not to reduce the amount that might be allocated to any one of those countries but we reduce the $38 million overall total for those three countries by $2 million and the result will be that one or two or three of those countries will receive ultimately that much less money under this supplemental proposition.

That is the offset and I think with that offset the amendment will pay for itself, be revenue neutral and not be subject to a point of order.

I reserve the remainder of my time.

Mr. BINGAMAN. Mr. President, I support the amendment being offered by Senator HEINZ to reinstate in the Senate supplemental appropriations bill $10 million that was included by the House for the title V Employment Services Program authorized under the Older Americans Act.

This amount represents an inflationary increase for fiscal year 1987. Title V is the only program under the Older Americans Act that did not receive an inflation increase for fiscal year 1987. The increase would be the program's first real growth since 1985.

It is estimated that 1,960 new jobs will be created if the Senate approves this amendment. While this does not sound like a significant number of new jobs, the pay-back is substantial in two important respects. First, at least half of these senior workers are in the community providing needed support services to other elderly—by working in senior centers, at congregate meal sites, in home care, in outreach, and in transportation. Second, these senior workers, who are already low income, are able to supplement their livelihood with gainful part-time employment. This means we have seniors helping seniors, while at the same time, helping themselves live a better quality of life.

In New Mexico, our State Agency on Aging through title V, funds 85 low-income senior workers. However, the majority of our positions—which is true nationally—are filled by national contractors. Two major contractors, the National Forest Service and the American Association for Retired Persons offer 193 slots in New Mexico.

While I am pleased that this increase will generate more employment, I support broadening the allocation of these funds. The majority of title V funds goes to a total of eight national employment contractors who have traditionally received these moneys.

What has come to my attention has been the underrepresentation of minority groups in this program, particularly American Indians. A survey conducted by the National Indian Council on Aging shows that only 1.6 percent of the total positions now available through national contractors and state agencies on aging were filled by older Indians. Older American Indians of all ethnic groups have the lowest rate of access to employment services under title V, yet they live in perhaps the greatest poverty—from 33 to 83 percent, depending on the particular reservation or pueblo. I have introduced legislation, S. 1069, to strengthen current provisions for older Indians under the Older Americans Act. These changes include increasing their participation under title V.

Mr. President, I support this increase in funding that will employ seniors in greatest economic difficulty. And I urge my colleagues to seriously consider broadening employment opportunities to those groups seriously underrepresented, such as American Indian elderly.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi controls the time. Does he yield or not?

Mr. STENNIS. Mr. President, if you indulge me a minute here, we do not have someone here yet from the subcommittee who would handle this matter.

Mr. President, do we have a time agreement on this amendment?

The PRESIDING OFFICER. The Chair will state there is a 30-minute total time agreement for both sides.

Mr. STENNIS. Do we have an actual agreement that the time is controlled?

The PRESIDING OFFICER. The Senator is correct. There is a 30-minute agreement on time to be equally divided.

Mr. STENNIS. All right.

Mr. HATFIELD. Mr. President, will the Senator yield for 1 minute?

Mr. STENNIS. Yes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 minute.

Mr. HATFIELD. Mr. President, may I inquire of the Senator from Pennsylvania, did I understand him to say that the offset that he has now modified his amendment to incorporate is a $2 million offset from the foreign aid chapter of the appropriation?

Mr. HEINZ. The Senator is correct.

Mr. HATFIELD. And the Senator's amendment is to add $10 million to the Older Americans Act?

Mr. HEINZ. I would say to the Senator that the authorization level is for $10 million, but I am advised by the Budget Committee staff that the cost of the amendment, the outlay, is only $2 million.

Mr. HATFIELD. And the $2 million in the offset is for budget authority in the foreign aid chapter?

Mr. HEINZ. Yes. But I am also advised by the Budget Committee the spendout is sufficiently fast on that that it is an equivalent cash offset.

Mr. HATFIELD. So the scoring has been cleared from the Budget Committee?

Mr. HEINZ. I am advised that is the case.

Mr. HATFIELD. Mr. President, from the minority side, I would inform the comanager of the bill if that had been cleared from the budget scoring perspective, we have no indication of opposition on our side.

Mr. HEINZ. Will the Senator yield?

Mr. HATFIELD. I would like to also inform the Senator from Pennsylvania that we have informed the foreign operations subcommittee ranking member where we had earlier understood the Senator from Pennsylvania was going to offset this by reduction savings from the job training and research appropriations. So we had gone that route upon that information.

We will have to have some few moments as the Senator from Mississippi has indicated.

Mr. HEINZ. The Senator from Pennsylvania would like to suggest that both sides reserve the remainder of their time.

Mr. HATFIELD. I would suggest that we have a quorum call for just a few moments to be equally divided.

Mr. STENNIS. Mr. President, before you start the quorum call, if I may say a word. Senator CHILES is chairman of the subcommittee that handles this legislation. We expect him to show up, but he is not yet here. We cannot say that he will be here for certain. We will look for other members of that subcommittee to appear in lieu of Senator CHILES. If it is agreeable, we could just pass matter over until someone can come and respond.

Senator METZENBAUM is here and he is ready to proceed. It will help that much.

Senator CHILES is here. He is in the building and is expected in within a couple of minutes. If we could have the quorum call, if you wish to see if he shows up.

Mr. METZENBAUM. I wonder if the Senator from Pennsylvania would mind if I temporarily set aside his amendment as well as the other pending committee amendment and offer my amendment. I do not think there is any controversy about it. I would not do so unless the Senator from Pennsylvania was comfortable with that procedure.

Mr. HEINZ. The Senator from Pennsylvania has no objection to that.

Mr. METZENBAUM. Pardon?

Mr. HEINZ. I have no objection to what the Senator proposes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the amendment of the Senator from Pennsylvania be set aside as well as all other pending committee amendments, none of them to lose their place as they are at the present moment.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. I object, Mr. President, for the time being. I am anxious for the Senate to be accommodating in every way we can with his amendment and we will get it where we can proceed with it as soon as possible. I am told that Senator CHILES is here in the building and we expect him to show up here in the Chamber within a couple of minutes. That was at least 2 minutes ago. Let us see if we cannot proceed with this since we started it and then I do not want to throw the Senator out of anything but see if we can consummate this now. If not we will come back to him.

The PRESIDING OFFICER. Objection is heard to the Senator's request.

Mr. STENNIS. I do not object to it getting started.

The PRESIDING OFFICER. Who yields time on the Heinz amendment?

Mr. STENNIS. Mr. President, if I may make a suggestion more or less out of order, if the Senator wants to go on and make his argument now and then suspend then for the other when Senator CHILES is here.

Mr. METZENBAUM. Certainly, I think it might be a wise use of time.

Mr. STENNIS. Very well.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my understanding is there is no objection.

The PRESIDING OFFICER. Without objection, the Senator is recognized to offer an amendment.

AMENDMENT NO. 218

(Purpose: To add $500,000 for grants and contracts under section 5 of the Orphan Drug Act and to reduce appropriations for travel expenses of the Department of Health and Human Services)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator HATCH, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. HATCH, proposes an amendment numbered 218.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) Notwithstanding any provision of this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Food and Drug Administration, Salaries and expenses", which shall be available for grants and contracts under section 5 of the Orphan Drug Act, $500,000.

(b) Notwithstanding any provision of this Act, the total amount of appropriations for travel, transportation, and subsistence expenses under chapter 57 of title 5, United States Code, for each program, project, activity, or account of the Department of Health and Human Services under this or any other Act for fiscal year 1987, are reduced by a total amount of $500,000.

Mr. METZENBAUM. Mr. President, the Federal Government spends billions of dollars every year on thousands of different programs, from student loans to star wars.

Everyone agrees that we spend far too much on some programs and far too little on others.

No one seems to agree, however, on which programs are worthy and which are worthless.

There is at least one program that enjoys the support of Members on both sides of the aisle, and on each end of the philosophical spectrum.

The Metzenbaum-Hatch amendment having to do with the Orphan Drug Program is just such an amendment.

In the United States, we know of more than 5,000 different rare diseases that afflict over 8 million Americans.

Over half of these attack our children.

While we all are aware of Government-sponsored research in the battle against cancer, heart disease, AIDS, Alzheimer's disease, and others that are on the front burner, we do not hear much about the fight against diseases that strike relatively few people.

That is what the Orphan Drug Program is all about.

It puts some of the Nation's most talented minds to work on the maladies that we do not hear about everyday.

They have odd sounding names, names like Tourette syndrome, Wilson's disease, Marfan syndrome, leukodystrophy, sickle cell, Gaucher's, and thousands more.

At this point, Mr. President, I ask unanimous consent that I may have printed in the RECORD a list of all of those organizations, each one of which is concerned with some particular malady, some particular illness.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

American Narcolepsy Association.
Amyotrophic Lateral Sclerosis Association.
Association for Glycogen Storage Disease.
Cornelia de Lange Syndrome Foundation, Inc.
Cystic Fibrosis Foundation.
Cystinosis Foundation, Inc.
Dysautonomia Foundation.
Dystrophic Epidermolysis Bullosa Research Association.
Ehlers-Danlos National Foundation.
Epilepsy Foundation of America.
Families of Spinal Muscular Atrophy.
Friedreich's Ataxia Group in America, Inc.
Guillain-Barre' Syndrome Support Group International.
Hemochromatosis Research Foundation.
Hereditary Disease Foundation.
Huntington's Disease Foundation of America, Inc.
Immune Deficiency Foundation.
International Joseph Diseases Foundation.
International Rett Syndrome Association, Inc.
Interstitial Cystitis Association.
Mucopolysaccharidoses Research Funding Center.
Narcolepsy Network.
National Association for Sickle Cell Disease, Inc.
National Ataxia Foundation.
National Foundation for Ectodermal Dysplasias.
National Gaucher's Foundation.
National Head Injury Foundation.
National Huntington's Disease Association.
National Ichthyosis Foundation.
National Marfan Foundation.
National Multiple Sclerosis Society.
National Neurofibromatosis Foundation, Inc.
National Retinitis Pigmentosa Foundation.
National Tay-Sachs & Allied Disease Association.
National Tuberous Sclerosis Association, Inc.
Osteogenesis Imperfecta-NCA, Inc.
Paget's Disease Foundation, Inc.
Parkinson's Disease Foundation.
Parkinson's Educational Program (PEP-USA).
Polycystic Kidney Research Foundation.
Prader-Willi Syndrome Association.
Scleroderma Info Exchange.
Scleroderma Society.
Sjogren's Syndrome Foundation.
Tourette Syndrome Association, Inc.
United Leukodystrophy Foundation, Inc.
United Parkinson Foundation.
United Scleroderma Foundation, Inc.
Williams Syndrome Association.
Wilson's Disease Association.
Associate Members:
American Spasmodic Torticollis Association.
Good Samaritan Medical Center, Neurological Coalition, Portland, OR.
National Addison's Disease Foundation.
National Chronic Epstein-Barr Virus Syndrome Association.
Ohio Tourette Syndrome Association.
Research Trust for Metabolic Diseases in Children.

Associations are joining continuously. For newest listing contact the NORD office.

Mr. METZENBAUM. All of these groups unanimously support this amendment. There is a large list of them.

Americans who suffer from rare diseases also suffer from a harsh economic reality.

No pharmaceutical company will make an investment to research and develop a cure for a rare disease when they cannot recover that investment.

Drugs that treat rare diseases do not turn a profit.

Therefore, they do not get developed, and as a consequence those children and those adults who have those illnesses suffer without hope of finding a cure.

In 1983, we began to change all that. Congress passed the Orphan Drug Act. The law is twofold. First, it gives drug companies a tax credit to offset costs of R&D. Second, it set up a special grant program to fund rare disease research. The grant program was authorized at a modest $4 million a year, not much money by Washington standards. Yet even that small amount has never been fully appropriated.

Since 1984, I have offered amendments to bring the grant program up to its full authorization. Gradually, we have brought it close. The program is currently at $3.5 million.

Our amendment will bring the program to the full $4 million.

This relatively minor increase, Mr. President, could make a major difference—maybe even the difference between life and death.

This year, the FDA Orphan Product Board received 40 excellent grant applications. They only have enough money to fund 15.

Our $500,000 amendment will fund seven more programs this year. Researchers are anxious to begin work on these terrible disorders, but they must have our help.

And the 8 million Americans who are suffering from rare diseases today also need our help, and I urge my colleagues to provide it by adopting this amendment.

I might say that the $500,000 expenditure does not have budgetary impact because it is provided in the bill that those funds will be recouped from other funds of the HHS which are used as provided in the amendment.

Mr. President, I am not certain as to whether or not the chairman and ranking member are prepared to accept this amendment. Sometimes I have a yes and sometimes no. I am perfectly cooperative and willing to set it aside or prepared to have you accept it at this point.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. METZENBAUM. Certainly.

Mr. HATFIELD. I would like to ask the Senator if he has received from the CBO—not from the Budget Committee, but from the CBO—the assurance that his proposed offset makes this amendment deficit neutral.

Mr. METZENBAUM. We do not have that advisory from the CBO. I think they wanted some further cuts in the program. We will be glad to explore the subject. I do not think there is any question about the mathematical aspects because, under the amendment, as the Senator knows, it specifically provided that the total amount of appropriations for travel, transportation, and subsistence expenses under chapter 57 shall be reduced by a total amount of $500,000. So we do not try in this amendment to extend the budget.

Mr. HATFIELD. As the Senator knows, we have traditionally scored the appropriations process on the Senate side with budget authority. We are now really into scoring budget outlays. So there is a difference, as the Senator knows, between budget authority and budget outlay.

Since the Senate has been forced in this particular new scoring, this amendment would have to be budget neutral on the basis of outlays or it is subject to a point of order which would require waiving the Budget Act.

Now, I have had a colleague or two indicate that any amendment that violates the budget deficit neutral concept would be challenged on the point of order. Therefore, to ask the question of the comanagers of the bill whether we can accept an amendment, I do not think we are freed up in a sense to accept any amendment unless there is evidence presented with the amendment that the CBO has scored the amendment as budget neutral, deficit neutral.

So I would not be in a position to accept this or any other amendment short of that assurance, because, otherwise, we face the responsibility of this whole appropriation measure either ultimately having a budget waiver passed, which we failed to do initially, or that there are offsets sufficient to cover the question of deficit neutral.

Mr. METZENBAUM. I fully understand the point my colleague is making, but I want to say that I have not gone that route of trying to mix authorizations and appropriations.

The language of the amendment specifically provides that the total amount of appropriations for travel, transportation and subsistance are reduced by a total amount of $500,000. I skipped some language because it specifically refers to where the money is coming from.

So I do not think there can be any question at all about it that we have covered the very point that the Senator from Oregon is making; that is, we are reducing the appropriation. We are not reducing the authorizing fund.

We are reducing appropriations and it is budget neutral.

Mr. HATFIELD. But I would say to the Senator, if he would let me respond, that again all outlays do not spend out at the same rate, as the Senator knows. Reducing appropriations by equivalent amounts to what you want to add to another program may have a different impact on the outlay purely on the basis of the spendout. Some outlays spend out faster than other outlays. So that, as far as my recollection of the traditional scoring by the CBO, the scoring does not happen on the basis of the reduction or the increase in appropriations per se, as that would represent authorization, but rather more precisely on the rate of spendout of the program that you are now wanting to add to as contrasted to the program that you are deducting from.

So I would think it would be required again to have the CBO give us a precise spendout rate to see wherein we maintain the deficit-neutral character of this amendment.

Mr. METZENBAUM. May I make a parliamentary inquiry of the Chair?

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. METZENBAUM. Does the Chair feel that, in the way the amendment is drafted, it indeed would be subject to a point of order?

The PRESIDING OFFICER. The Chair would have to have the point of order made to be able to rule on the point of order.

Mr. METZENBAUM. Is the Chair not in a position to advise a Member as to whether, as drafted, it would be subject to a point of order?

The PRESIDING OFFICER. The Chair states to the Senator from Ohio that in making that ruling the Chair will be relying on the assertions of Budget Office to the Budget Committee, as to whether the amendment meets the Budget Committee's authorization level, and further states that we will be relying on the Budget Committee to determine whether the Senator's amendment would result in an increase in outlays.

Mr. METZENBAUM. The Senator from Ohio appreciates the advice of the Chair but must point out to the Chair that I do not believe that is the responsibility of the Chair to turn to the Budget Committee for a determination or response on a parliamentary inquiry. If the legislation on its face is budgetarily neutral, as this legislation is, then it seems to me that the Chair has no alternative but to rule that it is in order and not subject to a point of order and that the Chair is not in a position to turn to some committee of the Senate and ask them for an interpretation as to what is or is not in order. Is the Chair about to advise me to something in the statute that so provides?

The PRESIDING OFFICER. The Chair would respond further to the Senator from Ohio by reading to the Senator section 311(c) of the Budget Act itself, which states:

> Determination of budget levels. For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

Mr. METZENBAUM. Well, I can understand that. But I still do not believe that where the legislation on its face says that it shall be neutral and says that you pick up the same amount of money—I have difficulty, but I am not going to press the point further. I am prepared to offer the amendment and set it aside until we see what the CBO says or, if necessary, to take it to a vote later today.

Mr. CHILES. If the Senator will yield, I suggest that would be the proper thing. Let us see if we can get a ruling as to whether it is neutral or not.

Mr. METZENBAUM. I ask unanimous consent that the amendment be temporarily set aside and retain its place in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator's amendment is temporarily set aside.

The pending business is the amendment of the Senator from Pennsylvania to which the majority has 9 minutes remaining and minority has 11 minutes.

Who yields time?

AMENDMENT NO. 207

Mr. STENNIS. Mr. President, is it correct to say that this brings us back to the Heinz amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, Senator CHILES is here and desires to be heard on this matter. He represents our subcommittee.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I had understood that Mr. CHILES, a member of the subcommittee, was going to be in the Chamber and wanted to be heard. He does not seem to be here just now. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, it appears to me that we can go forward now with the Melcher amendment. I ask unanimous consent that we temporarily set aside the Heinz amendment and proceed with the Melcher amendment, and, following the disposition of the Melcher amendment, that the Senate return to the consideration of the Heinz amendment.

The PRESIDING OFFICER. Without objection, it is so so ordered. The Chair recognizes the Senator from Montana.

AMENDMENT NO. 219

(Purpose: To require the Secretary of Labor to develop a consumer price index which reflects the impact of inflation on elderly Americans from amounts appropriated to the Department of Labor for fiscal year 1987)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 219.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 62, after line 26, insert the following:
>
> BUREAU OF LABOR STATISTICS
>
> From amounts appropriated under the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-500 and Public Law 99-591) and available to the Department of Labor, the Secretary of Labor shall develop data for and publish, an index of consumer prices which accurately reflects the distribution of expenditures on goods and services, and the inflation rate within these goods and services, which are purchased by older Americans, and the Secretary shall furnish the Congress with the data and index within 90 days after the date of adoption of this Act.

Mr. MELCHER. Mr. President, this amendment I am offering today has to do with the Department of Labor statistics, specifically the Consumer Price Index. There is a disparity on what the Consumer Price Index reflects as the correct purchases of Americans of all ages and what older Americans have to—I repeat, Mr. President, have to—purchase. The amendment is simply this: The amendment directs the Bureau of Labor Statistics to look at what older Americans purchase and develop an index for older Americans.

Why? Well, I will tell you why. Because last January when older Americans on Social Security and other retirement programs found out that the cost-of-living adjustment was 1.3 percent, they looked at what they had spent in 1986 and they found out that it had gone up a great deal more than 1.3 percent. So they thought some way, somehow they had been rooked, they had been abused. I think I can agree with that.

What do older Americans buy and what would the amendment do that would look at this problem, directing the Department of Labor through their Bureau of Labor Statistics to develop?

Well, I would want them to take into consideration what health care costs are, what doctor's fees are, what hospital fees are, whether they had gone up and how much, and how much prescription drugs had gone up.

I might say to my colleagues, just taking health care costs including those items, they went up about 8 percent in 1986. Of course, that is what older Americans are faced with. They have to buy these kinds of services. They have to buy prescription drugs. They have to go see the doctor.

Then they are also involved in public transportation. That is their form of transportation, rather than buying a new car. Financing a new car in 1986 went down because interest rates were lower. But older Americans are not buying too many new cars, or financing a new house. That financing also went down in 1986 because interest rates went down. But how many older Americans are buying a new house?

On public transportation, that is important to them, and that went up between 6 and 7 percent.

Then, of course, they are buying supplemental health insurance premiums to go along with Medicare. That also went up much higher than 1 or 2 percent.

Finally, something we do not think of very often but older Americans think of it: funerals. Funeral costs went up between 6 and 7 percent in 1986.

What I am saying in this amendment to the Bureau of Labor Statistics is to look at this to reflect what the differences are between the CPI you get, produce, develop and publish, between what it is for the average Americans of all ages and what it is for older Americans on the average. There are hundreds of components in the CPI, the Consumer Price Index, and then those components are weighted and there is a formula. Over the course of time, the Bureau of Labor Statistics has tried to constantly improve on them. But the idea is, in the amendment, that sometimes for older Americans those cost-price increases, whether it is for goods or services that they buy, are not properly reflected in the CPI, and that indeed was the case in 1986.

I hope the terms of the amendment are not too rash. I do not think they are. It directs the Bureau of Labor Statistics to look at this for the next 90 days after this bill becomes law and to use funds that are available to them now rather than appropriating new funds which we were told by the Congressional Budget Office might be in the neighborhood of $200,000.

As we all know, the Social Security COLA is tied to the Consumer Price Index. The CPI, like most any other figure released by the Government, is an ambiguous number that really does not exist. It is an average. However, when computing this average rate of inflation, I believe it is essential to make certain that the categories of different goods and services are properly weighted.

There are hundreds of components which are included in the development of the Consumer Price Index. All of these components are given different weightings according to useage, costs, adjusted inflation rates, and other variables. The CPI is the index that is used to formulate the Social Security COLA. The seven major categories and their associated current weightings on the CPI's 100 point scale are:

1. Housing	40.492
2. Food and beverages	19.733
3. Transportation	19.094
4. Apparel and upkeep	6.362
5. Personal care, education, tobacco	5.768
6. Medical care	4.469
7. Entertainment	4.082

These weightings were recently revised, as they are done every 10 years, to make adjustments for high inflation and reduced consumption. The idea is that as prices increase, consumption decreases. As a result of the medical inflation rate and a number of other factors, the weight of the medical component of the index was reduced from 6.129 to its current 4.469.

While the tendency to reduce consumption as costs go up applies to most goods and services, the elderly—or anyone else for that matter—cannot, and certainly should not, significantly alter consumption of needed medical care just because inflation has increased costs. Moreover, 11 percent of the elderly's expenses—not even close to the CPI's 4.469—go to medical care. Prescription drugs alone rose 9 percent from 1985 to 1986. There is no question in my mind that these figures should be better reflected in the CPI.

In my mind, and those of many older Americans, the CPI does not adequately reflect the inflation rate in medical and other certain key services which are essential to the elderly. To address this situation, I am directing the Department of Labor to develop an inflation index for the elderly which accurately reflects the inflation they face for those goods and services that they spend their fixed incomes on.

My amendment provides that the Department would furnish its findings to the Congress within 90 days after the enactment of the supplemental appropriations legislation. I believe this amendment is important because it will enable the Congress to have a more accurate picture of the true impact of inflation on the lives of older Americans. I urge my colleagues to join me in supporting this amendment.

I believe that the amendment is entirely justified. The Bureau of Labor Statistics, not just looking at the items that the elderly purchase, but also on a weighting formula that would be reflective of what inflation means to older Americans, looking at both the weighting and the items, goods, and services that the older Americans purchase, I believe they can come up with a more fair, more honest Consumer Price Index for the elderly. We would like to have that reported back to us in 90 days under the wording of the amendment.

The PRESIDING OFFICER. The time of the Senator from Montana has expired, being 10 minutes equally divided. Who seeks recognition?

Mr. CHILES. Mr. President, we have had an opportunity to look at this amendment and it would be my feeling that this study is to be done within available funds and so therefore would be revenue neutral. There would not be a requirement on this as far as the waiver. This money basically does come out of the subcommittee on appropriations of which I am in charge. This study is certainly something we could look at and see whether it could be made as the Senator from Montana has requested. It would be my feeling that we could accept this amendment.

The PRESIDING OFFICER. Does the Senator from Oregon seek recognition?

Mr. HATFIELD. Mr. President, the amendment has been cleared on the minority side.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I thank both Senator Hatfield and Senator Chiles.

I ask unanimous consent that Senator Pressler be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on or in relation to this amendment occur today at 5 o'clock p.m. and that no amendment to the amendment be in order at that time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. STENNIS. What is the pending business?

AMENDMENT NO 207, AS MODIFIED

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Pennsylvania [Mr. HEINZ].

Mr. CHILES. We still do not have the official word back from CBO so I would think we should temporarily pass it.

Mr. STENNIS. Mr. President, as I understand there was certain information desired by both sides. The understanding was that we would try to get it, and it has not been reported back yet. But presumably it will be shortly. I hope the Chair would indulge us timewise.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I am advised by the Budget Committee that the amendment which I sent to the desk and which I showed to the Budget Committee last week and which they assured me was budget neutral is now no longer budget neutral. I want to apologize to the Senate for this. It, you might say, is a circumstance beyond my control, but the estimators have to do what they have to do. And so I would like to send to the desk a modification of my amendment. I am going to need unanimous consent to send this modification to the desk, which is in effect a replacement for the amendment that is at the desk, and I will take a moment to describe it so that everybody knows what it is.

The part regarding title V, the Older Americans Act, is the same. That is the part that spends money. The offset in this case is derived from page 15, line 24 where we would strike $70 million and insert instead $68 million, and this time I am told this particular offset will spend out at a rate where it will offset the cost of our amendment.

So I ask unanimous consent to modify my amendment as I have described it.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. STENNIS. Mr. President, I am not sure the Senator is correct, but I understood the request was for a modification of his amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. The Senator is correct.

Mr. STENNIS. I understand it is a serious modification and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HEINZ. Mr. President, I was wondering if the Senator from Mississippi would reconsider his objection for this reason: today there are only four or five amendments in order—one of them is mine—and later on there will be no unanimous consents and I will be able to offer this precise amendment, and we will vote on it.

If the Senator wants more time to study it, that is one thing. But I do not know what he gains by objecting to this amendment because although he can preclude me, quite properly, from modifying my amendment now, if this is the amendment that I want to have a vote on, we will eventually be able to have a vote on it.

Although the Senator may have some concerns about part of the amendment, I do not know whether it makes much difference whether he objects.

Mr. STENNIS. Mr. President, I was not necessarily trying to defeat the original amendment of the Senator. But I have before me what purports to be the modification which is proposed to strike out the figure $70 million and insert in lieu thereof the figure $68 million.

Mr. President, that relates to an item for the U.S. Navy which is already in the bill.

Now, I am not trying to just merely defeat this amendment. I think it raises a very serious and very grave question.

We bring in these great numbers of bills totaling many millions of dollars, even hundreds of millions of dollars, and take it out of a fund, with no chance to very well cover or make understood now, and take it over to another fund that is smaller and can be partly explained.

It is unthinkable, it seems to me, for a vast proposal like this bill, the supplemental, and when others which are much larger come in, that, without any relationship between the different projects that are represented by these funds, we switch from one to another. It is not only bad precedent; it is an intolerable practice to cultivate and permit to grow.

So, with all deference to the author of the amendment, it seems to me that we should not think of trying to go that route and thereby set a precedent. That is the trouble with the whole thing—setting a precedent whereby we can throw these matters around from place to place.

The PRESIDING OFFICER (Mr. GRAHAM). The Chair observes that an objection has been heard, and the time of the Senator from Mississippi, the manager of the bill, has expired.

Who yields time?

The Senator from Pennsylvania has 5½ minutes remaining.

Mr. HEINZ. Mr. President, I reserve the remainder of my time.

I ask for the yeas and nays on the Heinz amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CHILES. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. CHILES. The Senator from Florida is confused as to whether the Senator from Pennsylvania has further modified his amendment or not.

Mr. HEINZ. No. The Senator from Pennsylvania has not modified his amendment.

I did send a modification to the desk, but there was an objection. That modification, therefore, is not a part of the Senator's amendment. I did send an earlier modification to the desk, roughly an hour ago. That was agreed to by the Senate, and that is what is pending. That modification has an offset.

Mr. CHILES. My understanding from CBO is that that offset does not totally cover the outlays.

Mr. HEINZ. That is correct. You might put it down as a good-faith effort that worked last week and falls somewhat short of the mark this week.

Mr. CHILES. Then, I have to say to my good friend, reluctantly, that when he asks for the yeas and nays, I will ask for a point of order.

Mr. HEINZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I raise a point of order on the amendment.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the point of order cannot be raised until all time has expired on the amendment. There is 1 minute and 30 seconds remaining on the time for this amendment.

Mr. HEINZ. Mr. President, in order to expedite matters, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania yields back his time.

All time has expired.

Mr. CHILES. I make the point of order, Mr. President.

Mr. HEINZ. Mr. President, I move that the Budget Act be waived.

The PRESIDING OFFICER. The question is on the motion to waive the Budget Act.

Mr. CHILES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote—which will be a rollcall vote—on the waiver of the Budget Act occur immediately following the disposition of the amendment by Mr. MELCHER later today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The vote on the point of order will occur immediately after the vote on the Melcher amendment.

Mr. BYRD. Mr. President, following in the train of that vote, there could ultimately be a vote on the amendment by Mr. HEINZ. In that event, I ask unanimous consent that no amendment to that amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now recurs on amendment No. 218. Is there further debate?

Mr. BYRD. Is that the Metzenbaum amendment?

The PRESIDING OFFICER. It is the amendment offered by the Senator from Ohio.

Mr. HATFIELD. Will the Chair define the amendment?

The PRESIDING OFFICER. Will the Senator from Oregon repeat the question?

Mr. HATFIELD. Will the Chair describe the amendment that the Chair has placed before the body?

The PRESIDING OFFICER. It is the amendment offered by the Senator from Ohio [Mr. METZENBAUM]. It is amendment No. 218.

Does the Senator wish the amendment to be reported again?

Mr. HATFIELD. What is the question?

AMENDMENT NO. 218

The PRESIDING OFFICER. The question recurs on the consideration of this amendment.

Mr. HATFIELD. Mr. President, does the Chair have the information as to the question of the scoring on this amendment that was raised by myself earlier on, for which this amendment was temporarily laid aside?

The PRESIDING OFFICER. The scorekeeping information has not yet been made available.

The amendment was to be set aside for consideration of the Heinz amendment; and, that consideration having been completed, the business before the Senate is the Metzenbaum amendment.

Mr. HATFIELD. Mr. President, I raised the question earlier, and I will raise it again if that matter has not been resolved.

As I indicated, the Gramm-Rudman-Hollings amendment to the Budget Act designated the Budget Committee as the responsible authority to score such amendments as this in our appropriations process; and inasmuch as a point of order was just raised about the Heinz amendment, until we get this information, this amendment also would be subject to a point of order, which I will not make, because I believe that the Budget Committee was in the process of determining the outlay impact.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while the managers are here this would be a good time for Senators to call up their amendments. No rollcall votes will occur today until 5 o'clock. I think this is probably a pretty good example of what happens when rollcall votes on the day after a break have been scheduled not to occur before 5 o'clock. It shows how things can be stalled. Senators know there will not be rollcall votes until 5 o'clock. Some Senators who have amendments do not show up to call them up. As a consequence, the managers sit here and a lot of time passes when the Senate does nothing.

Mr. President, I hope Senators will avail themselves of this opportunity to call up amendments.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

AMENDMENT NO. 220

(Purpose: To provide an additional $100,000,000 and a method of distributing these supplemental funds for the Summer Youth Employment and Training Program under title II-B of the Job Training Partnership Act)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The question to the Senator from Illinois is, Is the amendment which has been submitted the amendment contemplated under the unanimous-consent agreement previously entered?

Mr. DIXON. Yes, Mr. President, this is the summer youth amendment that is contemplated in the unanimous-consent agreement. I think it is in line with the advance information given to the distinguished managers of the bill.

The PRESIDING OFFICER. It will require unanimous consent to set aside the pending amendments in order that this amendment might be considered.

Mr. DIXON. I thank the Chair. Mr. President, I ask unanimous consent that the existing presently contemplated amendments be set aside in order to take up the question of the amendment I have sent to the desk.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not expect to object, what is the agreement timewise?

Mr. DIXON. May I say, Mr. President, I am not sure, but I am very amenable to any decent agreement or a short time period.

The PRESIDING OFFICER. The time agreement has 30 minutes per side on the amendment which the Senator from Illinois is now posing to offer under the unanimous-consent agreement.

Mr. STENNIS. I do not object.

The PRESIDING OFFICER. Without objection, the previous business is temporarily set aside and the clerk will read the amendment offered by the Senator from Illinois.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself and Mr. METZENBAUM, proposes an amendment numbered 220.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 13 strike out "$207,476,749" and insert in lieu thereof "$107,476,749".

On page 61, between lines 21 and 22, insert the following:

"For an additional amount for 'Training and employment services' for the Summer Youth Employment and Training Program for program year 1986, $100,000,000, which shall be allotted promptly to the States so that each service delivery area receives, as nearly as possible, an amount equal to its prior year allocation for this program.".

Mr. DIXON. Mr. President, I rise today to offer an amendment on an issue many of my colleagues know is dear to my heart, saving the Summer Youth Program. I originally came here, Mr. President, with the intention of offering a simple amendment, an amendment to transfer $50 million from next year's budget and apply it to this year's budget. The problem that we face, however, is even with a $50 million transfer, this program will still be $96 million below last year's level.

Taking $50 million in a transfer only puts a little patch on the problem. So I say, let us try to solve the problem with a solution, not with a patch.

A $100 million offset in this year's supplemental appropriations bill, however, will go a long way to solve this problem.

I ask you, Where can the Senate cut $100 million that can be used by the Summer Youth Program? The answer is, take $101 million in the severance plan being proposed for the World Bank.

How can the Senate, Mr. President, in good conscience, support a severance plan that would give up to $200,000 per individual in severance pay, in addition to any already earned pensions, to World Bank employees? Now listen to this: $200,000 per person in severance pay over and above grand salaries and over and above earned pensions for World Bank employees when we are cutting 140,000 youths from the Summer Youth Program at $1,067 a month.

Mr. President, I do not think of any right offhand, but I am sure there are many good things that the World Bank performs, but $200,000 per person is not one of them. Further, what do we, as Senators, say to those youths that need help in getting a summer job and are denied it because of lack of funding, when we are giving over $200,000 in individual severance pay to World Bank employees?

Mr. President, to point out the problem our youth have in getting summer jobs, I ask unanimous consent that an article that appeared in today's Washington Times be printed in the RECORD at this point. I might observe, Mr. President, that the Washington Times is not known as one of the more liberal publications in the United States of America. This particular publication points out the very serious emergency situation with respect to the lack of summer jobs in the country for youths.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

URBAN JOB BOOM REMAINS A BUST FOR YOUNG BLACKS SEEKING WORK

(By Isaiah J. Poole)

BOSTON.—On the surface, Boston—with an idyllic 3.1 percent unemployment rate—is a job hunter's paradise.

Yet in Roxbury, a predominately black section of the city, youth unemployment is about 50 percent, says Lyn Nicholson, executive director of ADAPT, a private youth training program.

"The young people are constantly asking us for jobs," he said. "We don't have jobs for them."

That view is echoed at Franklin Field, a neatly manicured but troubled black housing project in Dorchester, another Boston neighborhood. "The unemployment rate here statistically has to be about 70 percent of the youth," says Thomas Jenkins, a counselor with the Franklin Field Task Force youth jobs program.

City officials and regional federal employment statisticians say they cannot even estimate what the black youth unemployment rate is in Boston as a whole, but they do not dismiss the reports of youth employment workers and community leaders.

Boston is not the only city experiencing this odd dichotomy. In many metropolitan areas, youth unemployment, particularly among blacks, has increased or remained stagnant in the midst of a job boom in the entry-level wage service sector.

Nationwide, at least 1.4 million youths who want jobs cannot get them. In April, the youth unemployment rate was 17.4 percent, compared to 5.5 percent for adults, according to the Bureau of Labor Statistics. For black teen-agers, the rate was 38 percent.

"If you look at the numbers in our central cities, they are terrifying," said Secretary of Labor William Brock in a recent interview. "Whereas the rate overall might be 18 percent across the board, in some of our central cities it is running 30, 40 or 50 percent."

High black youth unemployment rates are a relatively recent phenomenon, most private and government economists say. As late as 1954, black youth unemployment was 13.4 percent, lower than the white rate of 14 percent, the Department of Labor reported.

But by the mid-1960s, black youth unemployment rates began consistently running double the white rate, peaking at 47.3 percent in 1983 when the white rate reached 22.6 percent.

Many point fingers at the educational system as a major reason. "The performance of our educational system is just miserable," Mr. Brock said.

When the National Alliance of Business, a trade association specializing in employment issues, predicted last year that youth unemployment will increase through the end of the century, it blamed "continuing ineffective vocational counseling and job placement and lack of basic literacy skills of youth, particularly minorities."

In Boston, the school dropout rate is the critical factor in keeping youth unemployment rates high, said Gary Kaplan, director of Jobs for Youth-Boston, a private program that offers training and counseling for teen-agers and young adults. In the 1985-86 school year, 2,900 students graduated from high school. Another 3,500 dropped out. For those who drop out, job opportunities have all but vanished.

"Nine out of 10 jobs in Boston now require a high school diploma," Mr. Kaplan said.

In recent years, businesses have sought closer linkages to school systems. Major corporations and the school system in Boston formed the "Boston Compact" in 1982, with businesses agreeing to provide youth jobs and scholarship funds and schools committing themselves to improving student academic performance and job readiness.

The results of these efforts so far have been mixed.

Still, Pierce A. Quinlan, executive vice president of the National Alliance of Business, says his organization is encouraging the expansion of such efforts nationwide. "It's not a silver bullet, but it is one way the private sector is getting involved," he said.

Social, business and political leaders say the youth unemployment problem also has been exacerbated by lagging economic growth and difficult social conditions in low-income areas.

But the leaders also have more hope than ever that they can make a dent in the problem.

In addition, the White House hopes to modify the federal summer youth jobs program this year so that states can, if they choose, offer a year-round job training program for welfare-dependent youth. The proposal has been approved by the Senate, but House Education and Labor Committee Chairman Augustus Hawkins, California Democrat, has denounced it as "just a gimmick" and predicts House rejection.

The bill, if passed, would increase spending on the summer youth jobs program by $50 million, to $850 million.

But the subminimum or "youth opportunity" wage is expected to be the major youth unemployment fight this year.

While Democrats in Congress seek to gradually increase the minimum wage—currently $3.35 and hour—to $3.85 next year and to $4.65 an hour by 1990, the Reagan administration plans to resurrect its subminimum wage proposal.

"If we just succeed on that, I think we would see a major improvement for minority youth," said Gary Bauer, White House assistant to the president for policy development.

The Labor Department has estimated that a youth subminimum wage could help create some 400,000 summertime jobs.

Yet in the last five years, the administration had made little significant progress in winning congressional support for a subminimum wage, despite a 1986 endorsement from the National Conference of Black Mayors. The conference backed a limited test of it for first-time summer-job seekers.

But this year, with the introduction of bills to raise the minimum wage by the chairmen of the Senate and House Labor committees—Sen. Edward Kennedy, Massachusetts Democrat, and Mr. Hawkins—the White House sees a way to force the issue.

"We want to make Mr. Kennedy and the others answer publicly why they come down on the side of big labor at the expense of those who need jobs," Mr. Bauer said.

Many economists suggest that, based on historical trends, each 10 percent increase in the minimum wage results in the disappearance of 100,000 jobs.

Black conservative economist Walter Williams of George Mason University believes the minimum wage is responsible for the disappearance of such unskilled entry-level jobs as theater ushers, service station attendants and supermarket baggers.

Rick Berman, a Dallas-based restaurateur who owns 450 Steak and Ale and Bennigan's restaurants and heads a coalition against a minimum wage increase, thinks the Kennedy-Hawkins proposal could eliminate as many as 300,000 entry-level jobs.

The last series of minimum wage hikes, which ended in 1981, meant a loss of 2,000 jobs through attrition in his chain alone and has led to a decline in service in other restaurant chains, Mr. Berman said.

Mr. Hawkins agreed that there will be some "displacement" of youth as a result of a minimum wage increase. But he said the minimum wage needs to be increased for the approximately 30 percent of persons working at that wage who are supporting families.

A person working full time at the minimum wage today earns $6,968 a year, $15 under the poverty line for a family of two and $1,309 under the poverty line for a family of three.

"The way to help those youth [who are displaced] is to target programs to help them, and not to depend on the wage," Mr. Hawkins said. "It's a question of providing a livable wage for the parent so they can keep their kid in school."

If Congress is determined to raise the minimum wage despite administration and business concerns, "the least we can do is exempt those who have never had a job or those under 21 with nothing but entry-level skills, so we don't deprive them of any job at all," Mr. Brock said.

Some directors of youth employment programs also think a subminimum wage for youth is a bad idea. For one thing, labor shortages have bid up wages above the minimum, making the subminimum wage issue irrelevant, they say. And, they add, some youth do not think the current wage is worth working for.

"In a city like New York or Washington, D.C., by the time you factor in the cost of transportation to and from the job and other expenses, a youngster might come out with only $20 a week. They'll say it's not worth the aggravation," said Albert McIntosh, director of the Community Services Council of Greater Harlem, a New York City program that offers youth employment programs and other social services.

But Mr. Williams said youth leaders should encourage teen-agers to change their attitudes toward such job opportunities.

"If I'm honest and compassionate with them and taking the long-range view," he said, "I would tell them to take a job they can qualify for. Take them around to some 30- to 40-year-old people who have been on drugs or something, and let them see whether that's the way out."

While the minimum versus subminimum wage debate rages in Washington, the Franklin Field Task Force in Boston is tackling the local unemployment problem with a job fair next month. As many as 60 companies are expected to attend.

"These companies say that they want to do anything they can to help the community," said Wayne Rutledge, activities coordinator for the task force. "We say give us jobs."

YOUTH UNEMPLOYMENT

[Average estimates, 1986; in percent]

	Official overall rate	All youth ages 16 to 19	Black youth ages 16 to 19	White youth ages 16 to 19
New York	7.4	26.3	33.3	22.9
Los Angeles	7.1	23.1	[1] 34.6	19.9
Chicago	13.1	36.0	61.2	18.7
Philadelphia	7.2	23.5	[2] 33.3	[2] 20.8
Detroit	21.7	51.5	57.1	[2] 33.3
Boston [3]	3.1	7.7	[2] 25.0	7.1
Houston	12.0	25.2	[2] 36.3	20.5
Dallas/Ft. Worth [3]	8.4	18.7	[2] 31.5	15.5
Washington	7.7	27.7	31.1	[4] NA
Miami [3]	6.9	23.3	[2] 41.6	16.1
St. Louis	9.5	[1] 23.7	[1] 35.5	[4] NA

[1] Estimated from data provided by State employment agencies.

[2] Estimated from BLS data: the margin of error is outside range of Federal statistical standards but is confirmed by anecdotal reports.

[3] Includes metropolitan statistical area.

[4] Data not available.

Source: Bureau of Labor Statistics except as noted.

Mr. DIXON. Mr. President, we should not be funding $200,000-per-person severance plans for World Bank employees when we have serious problems right here at home, in America. Let me remind my colleagues that there is a human cost borne by our youths and a financial cost borne by our businesses that must train these youths associated with the summer youth program. According to the report "Reconnecting Youth: The Next Stage of Reform," a report from the Business Advisory Commission of the Education Commission of the States, business and industry are spending $40 billion annually to train employees. The employees of the next decade will be even more expensive to train. Increasingly, the private sector will find itself teaching them remedial reading, writing, and mathematics. By 1990, education and training in the public and private sectors may constitute the largest industry in America.

In our major cities—Chicago, Los Angeles, New York, Philadelphia, Houston, Miami, Cleveland, Baltimore, Boston, and many others—the estimate is that half of the high school population is at risk.

We have a chance with this amendment to help these people. By accepting this amendment, the Summer Youth Program will assist more than 93,700 youths. We will also be letting the World Bank know that we object to this outrageous raid on the U.S. Treasury.

And it is, Mr. President, an outrageous raid on the public treasury, and I believe most Senators here do not even know about it.

In Chicago, we are faced with a $7.1-million cut in the 1987 Summer Youth Program. Without this amendment, over 8,000 disadvantaged youth, ages 14 to 21, would be denied gainful summer employment in the city of Chicago, in my State.

I sent a letter to every Senator outlining the severe impact this year's level would have on your State. Forty-eight of the fifty States in the Union are losers if we do not adopt this amendment. Further, there are at least 26 States that will receive at least a 19 percent cut from last year's funding without this amendment.

The States are: Alabama, a cut of 23.5 percent; California, 19.7 percent; Connecticut, 26.9 percent; Florida, 26.9 percent; Hawaii, 22.3 percent; my home State of Illinois, a cut of 24.9 percent; Indiana, 26.9 percent; Kansas, 26.9 percent; Maine, 26.9 percent; Maryland, 26.9 percent; Massachusetts, 26.9 percent; Michigan, 23.9 percent; Minnesota, 24.5 percent; Missouri, 26.9 percent; New Hampshire, 23 percent; New Jersey, 26.9 percent; New York, 26.9 percent; North Carolina, 26.9 percent; Ohio, 22 percent; Pennsylvania, 26.9 percent; Rhode Island, 26.9 percent; Utah, 26.9 percent; Virginia, 26.9 percent; Washington, 21.8 percent; West Virginia, the State of the distinguished majority leader, 21.4 percent; Wisconsin, 24 percent.

The 140,000 kids in America, Mr. President, young people who want to work, affected by this cut cost $1,067 per person to both train and enter into the work force. On the other hand, the World Bank reorganization plan—the World Bank—affecting 390 people, costs $200,000 per person to leave the work force.

I wish every Senator were on the floor, Mr. President, one of the grievous things, sadly—I mean this sincerely—about the way we do business here is that many Senators will not hear this. I believe I would win on this amendment 100 to 0, Mr. President, if they heard. I want to say again 140,000 poor kids in America, 140,000 at $1,000 each against 390 people nobody in this room knows at the World Bank, $200,000 apiece because they are leaving a job. I wish, Mr. President, that everyone could know that.

I say let us put our kids back to work. Let us let those 390 workers at the World Bank find other work.

Mr. President, at this point, I rest my case so that others may be heard on this issue. Let me simply say in conclusion that I wish the managers could consider this. I believe it is a meritorious amendment. We are cutting summer youth this year if we do not adopt this amendment down to $638 million. Next year, $750 million is provided—that is next year. Last year, or rather the year we are in, $782 million. So this year, we are spending $782 million on summer youth. If we do not adopt this amendment, we are cutting it to $638 million this year, then jumping it back up to $750 million next year. So all I am trying to do with this amendment, Mr. President, is hold it kind of close, roughly the same, for this year and next, and the next out year, after the coming year, that begins October 1. I do not think that is an unreasonable request, Mr. President, and I cannot think of a better way to do it than to take this money from the World Bank where they want to give $200,000 a head to 390 people.

I yield back my time, Mr President, subject to an opportunity to respond to those who may wish to oppose the amendment.

THE SUMMER YOUTH EMPLOYMENT PROGRAM—A GOOD INVESTMENT IN THE FUTURE

● Mr. RIEGLE. Mr. President, I rise as a cosponsor and strong supporter of the amendment proposed by the Senator from Illinois.

The Summer Youth Employment Program, title II-B of the Job Training Partnership Act, puts disadvantaged youth to work during the summer. In recent years, the funding for this program has been drastically cut, from $825 million in 1985, to $725 million in 1986, and now only $636 million for this summer. Little by little, we are cutting the number of jobs available for the poorest young people in our Nation's cities—from 803,000 jobs in 1985, to 775,000 in 1986, and now only 635,000 for this summer.

Without this restoration, most States across the country will receive a cut in funding and a cut in the number of summer jobs which can be provided for underprivileged kids this summer. The biggest losers are: California, which will lose an estimated $15.1 million; New York will lose $14.8 million; Illinois, $11.3 million; Pennsylvania will be short $10.7 million and Michigan which will lose $9 million.

Often we debate preventing problems that face our youth, such as drug abuse and teenage pregnancy. But a problem which affects many more of these young people is the problem of teenage unemployment. In April, the unemployment rate was 17.5 percent for teenagers and 38 percent for black teenagers. These figures are an outrage. But instead of trying to do something about them and help our young people we continue to whittle away at this jobs program and whittle away at the future of our young people. Last year 48,000 summer jobs were lost due to cuts in this program and over three times that, 159,000 will be lost this summer if we fail to act.

While this amendment would restore some funds for the program, it is only a partial restoration and does not even meet last year's levels of funding. The amendment will provide approximately 90,000 additional jobs, for a total of 725,000 jobs this summer still far fewer than have been provided in many years.

By putting these young people to work, we move against many problems they face and accomplish many positive things. We need to prevent many other problems they might otherwise face. We keep them busy and out of mischief. But most important, we begin to build character and responsibility and provide valuable job training experience.

Not only do our teenagers lose out but so do our cities. The cities lose because this is where youth unemployment hits us the hardest. But also because these jobs have been providing our cities and their residents with services which they would not otherwise be able to provide for themselves.

A good example comes from the city of Detroit. Last summer the city of Detroit employed 7,000 young people in a number of city departments. Not only did these 7,000 young people benefit but the whole city benefited because these young people were put to work cleaning parks, planting trees and flowers, assisting the elderly, assisting with clerical work in hospitals and generally making the city of Detroit a better place in which to live.

I urge my colleagues to vote for this amendment because it is necessary, it is money well spent, and it contributes on many levels to the future of our country.●

● Mr. METZENBAUM. Mr. President, I rise as a cosponsor and enthusiastic supporter of the amendment offered by my distinguished colleague from Illinois, Mr. DIXON. This amendment is of great importance to America's young people and to America's cities. It would transfer $100 million to the 1987 Summer Youth Employment and Training Program.

Summer is nearly upon us and millions of young people soon will be looking for summer jobs. In past years, thousands of economically disadvantaged high school students, many of whom live in our Nation's urban centers, were employed through the Summer Youth Employment and Training Program. This program is a part of the Job Training and Partnership Act of 1982.

But this summer, because of an unexplained shortfall in funding for the program, tens of thousands of poor youngsters likely will have no jobs and will be forced to languish on the streets. According to the Department of Labor, last summer we appropriated $724 million to this program and next summer the administration intends to conduct a $750 million program.

This summer, however, there is only $636 appropriated for summer youth jobs. That means in a few weeks more than 120,000 poor youngsters across the country who want and need summer jobs and who expected to have productive summer months could be frustrated and bitter because they will be turned away. In my State of Ohio, for example, over 8,000 summer jobs will be lost.

I do not need to tell Members of this body what an explosive situation this could create. Unemployment breeds other problems like crime and drug and alcohol abuse. Unemployed, bitter young people are a seething cauldron waiting to boil over. Those trapped in the streets of our inner cities may lash out unless we channel their energies into productive activities.

The Summer Youth Employment and Training Program channels that energy and provides more than just a job—it builds selfesteem and confidence. Remedial education and training services provided through the program also help academic performance when youngsters return to school.

The Dixon amendment closes the unexplained gap in funding for this summer's program. Without this amendment, cities will face major summer job cutbacks. In Cleveland, for example, this summer's program will have 29 percent fewer jobs than in 1985. But these cutbacks are not limited just to large cities. In Toledo, there will be a staggering 44 percent fewer summer jobs than in 1985.

Local officials and groups dedicated to serving young people strongly endorse this effort. I urge my colleagues to join with me in supporting the Dixon amendment as well.●

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, if there is any Senator present who wishes to use some time on this matter, why, I will be glad to yield to them. Senator CHILES is the chairman of the subcommittee, as I have said, that handles this legislation, along with others. He is available but is not in the building as of right now, as I am told.

Mr. DIXON addressed the Chair.

Mr. STENNIS. We have been in touch with him.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Mississippi yield?

Mr. STENNIS. I will yield to the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I am advised, not having been advised of it until during the course of my remarks, that the amendment I am offering amends a section on a piror occasion, that it would require unanimous consent to do that. I ask at this point unanimous consent that I may proceed on the merits.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, will the Senator restate the request, please.

The PRESIDING OFFICER. Will the Senator from Illinois restate his unanimous-consent request.

Mr. DIXON. I ask unanimous consent to proceed with this amendment notwithstanding the fact that that section has been amended on a prior occasion, as I am now informed by staff.

Mr. STENNIS. Mr. President, I am advised by someone representing the other side of the aisle that objection is made to this amendment so I have to object.

Mr. DIXON. I regret very much, Mr. President, the meritorious aspects of this amendment would be objected to by the other side, it appears. If that is the case, Mr. President, it will be necessary for me to recraft an amendment, I expect, and offer it at a later occasion today. I had not been informed before undertaking this amendment that it did amend a section amended on a previous occasion. Does the distinguished minority manager, who is not even on the floor, persist in objecting to the merits of this on the obvious grounds that there is a technical problem?

The PRESIDING OFFICER. An objection having been heard to the request, the request is not granted. The amendment is not in order.

Mr. DIXON. Mr. President, I will have to recraft an amendment and offer it at a later time. I regret very much taking the time of the Senate. Obviously, I had not been informed of the circumstances. I am surprised, however, that the ranking minority member would persist in an objection where there is no reasonable dispute about the merits of the amendment. However, I will withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 221

(Purpose: To prevent the Bureau of Indian Affairs from transferring certain Bureau schools to tribal, State, or local control)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment at this time?

Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 221.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, line 17 before the period, insert the following:

SEC. . (a) Provided further, that no school operated by the Bureau of Indian Affairs may be transferred to the control of any tribal, State, or local government until the Secretary of Interior has submitted to the Congress, or to the appropriate committees of the Congress—

(1) a report on the studies and surveys required under section 1121(a) of Public Law 95-561 (25 U.S.C. 2001(a)), and

(2) the report required under section 1136(a) of Public Law 95-561 (25 U.S.C. 2016(a)) for fiscal year 1986.

(b) Subsection (a) shall not apply with respect to any transfer of a school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer.

Mr. BINGAMAN. Mr. President, I offer this amendment to the supplemental appropriations bill for fiscal year 1987 to prohibit the Bureau of Indian Affairs from implementing its proposal to transfer Bureau of Indian Affairs schools to tribes or to States, until the Bureau complies with the study requirements mandated in Public Law 95-561, the Indian Education Amendments of 1978, relative to the quality of Indian education.

Mr. President, I am troubled by the fact that the Bureau has never sent to the Congress studies mandated under Public Law 95-561, the Indian Education Amendments of 1978. In this law, the Congress required that the Bureau, under section 2001, submit to it studies and surveys to establish and revise education standards for Bureau and contract schools. This law also required, under section 2016, that the Bureau submit an annual report to Congress on "the state of education" within the Bureau's education programs. According to both House and Senate authorizing committees, the Bureau has never submitted either report to the Congress. I originally intended to include in my amendment a requirement that the Bureau submit a study on the status of Indian education, but was told this had already been mandated in 1978. I find it a serious breach of responsibility that the Bureau has never told the Congress how its schools are doing in educating Indian children. Although it makes little sense to again add statutory language to require the Bureau to submit these studies, my amendment does specify that before the Bureau implements its plan that these studies be completed and submitted to Congress pursuant to Public Law 95-561. My amendment in no way changes the general prohibition language now in the supplemental bill regarding the Bureau's proposed initiatives.

I have been working with the tribes in New Mexico and the State department of education and the general consensus among these two parties is that there is a serious lack of information about and a general distrust of the BIA proposal to transfer control of the schools. My amendment merely assures that no action will be taken by the Bureau to allow this initiative to go into effect until and unless the Congress reviews it, ample guidance is developed, and the Bureau responds accordingly. This is all contingent on the Bureau giving to Congress the previously authorized studies.

Although the supplemental appropriations bill contains general language that broadly disallows the Bureau from implementing "proposed initiatives," I'm not convinced that this is sufficient. Therefore, I am specifying in my amendment that the BIA transfer proposal make the congressional intent clear that this "proposed initiative" will not be implemented until Congress has had the opportunity to review relevant reports associated with the status of Indian education. My amendment, however, still allows an Indian tribe, at its prerogative, to operate a school under a contract pursuant to the Indian Self-Determination Act.

Even more importantly, this amendment should allow those parties most directly involved—Indian tribes and State educators—to be included in shaping their own educational policies. In order to accomplish this goal, I hope that the Bureau will do an analysis of the current quality of education provided by Bureau, contract, and public schools serving Indian children in order to give us some baseline information. Also, I have asked that the Bureau actively solicit input from tribes and local and State education officials. I believe that unless we require a comprehensive factfinding and decisionmaking process, we will continue to fail to improve Indian education.

I am encouraged by the constructive activity undertaken by interested parties in my State. The State legislature recently appointed a legislative study committee to look at this issue. New Mexico Indian tribes are also debating the pros and cons of State versus tribal control over Indian education in their public forums and in council chambers. Many questions remain unanswered and I believe rather than rushing ahead blindly, we must carefully weigh the opportunities and the pitfalls of this proposal.

I have directed several of these questions to Mr. Ross Swimmer, Assistant Secretary for Indian Affairs. I just received his response May 20 and I ask unanimous consent that my letter to Mr. Swimmer and my questions to him, as well as his response, be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BINGAMAN. Mr. President, this correspondence best illustrates the types of issues that I feel can more appropriately be included in a study. I encourage the Bureau to follow it as a basic guideline. I intend to raise these same issues back in New Mexico and am in the process of organizing a public forum to discuss the "proposed BIA initiative."

I wish to thank Senator BYRD and Senator MCCLURE for their support of this amendment, and I commend it to my colleagues.

I also note, Mr. President, that I have joined as a cosponsor to Senator MELCHER's amendment to delay final implementation of regulations relating to the Bureau of Indian Affairs Higher Education Grant Program. By joining Senator MELCHER, I agree with him that Congress should review the effects of the proposed changes and make clear that postsecondary educational opportunity for Indian students will not be undone through regulations.

Mr. President, I believe this amendment has been cleared by both the majority and minority sides. I, therefore, urge my colleagues to adopt the amendment. I believe it will bring a more responsible course of action from the BIA than we have seen to date. I believe this amendment is currently reasonable.

EXHIBIT 1

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, May 20, 1987.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: This is a followup to my letter of April 2, 1987. I am forwarding to you answers to the questions raised in your letter of March 17, 1987.

It is my desire to improve the quality of Indian education and put forth my initiatives with this single purpose in mind. Hopefully, the answers to these questions will allay any misunderstanding about my initiatives.

I hope the delay in answering these questions have not inconvenienced you.

Sincerely,

Ross Swimmer,
Assistant Secretary, Indian Affairs.

RESPONSE TO SENATOR BINGAMAN

Question 1: How do you define the federal responsibility for Indian education?

Answer: The Synder Act of November 2, 1921, Public Law 65-85, authorized funds to provide for the general support of Indians along with other responsibilities to assure the welfare of Indian people. In carrying out this responsibility, the Bureau, in its mission statement for Indian Education (25 CFR Part 32), states as its goal the provision of comprehensive education programs and services for Native Americans as a function of the unique government-to-government relationship of Indian tribes with the Federal Government. The goal includes the provision of quality education from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being, in keeping with the wide diversity of Indian Tribes as distinct cultural and governmental entities. It further states that the Bureau shall manifest consideration of the whole person within the family context. In carrying out its policy of Self-Determination for Native Americans, the Bureau committed to the facilitation of Indian control of Indian Affairs in all matters relating to education (25 CFR Part 33.2(a)).

Question 2: Some tribes, such as the Navajo, have education defined in their treaty as an obligation the federal government will carry out on their behalf. Has the Bureau and/or the Solicitor's Office distinguished and analyzed the proposal in light of direct treaty language? Do you plan to, and if so, how? How do you feel such language would influence your proposal?

Answer: Again, the Synder Act of November 2, 1921, (25 U.S.C. 13) is the basic authority under which the Secretary provides services, including education, to Federally-recognized Indian tribes. In carrying out its policy of self-determination for Native Americans, the Bureau is committed to the facilitation of Indian control of Indian Affairs in all matters relating to education. We have determined that this initiative is entirely consistent with the existing law and should not be construed as the aberration of Indian treaty rights, or federal responsibility to provide education services to the Indian tribes.

Question 3: Your handout on BIA budget intiatives makes reference to the Gould Report by a statement that "the quality of education on this reservation is poor" and "school administration is badly fragmented." Yet, this report also states: "Parents on reservations are particularly incompetent" and "The reservation is virtually a community of alcoholics". According to New Mexico educators, this report does not accurately portray Indian education and has little credibility among them as a basis to justify change.

Consequently, what other reports or proposed reports do you have in mind to assess and determine the more precise state of Indian education? How would you include the input and participation of tribal governments, tribal educators, state representatives, and local school districts? If you answered no to my initial question, why didn't the Bureau conduct a study or plan that would focus on such key issues as governance, funding, educational program content, and facilities?

Answer: We have met and talked with state leaders to explore their willingness to provide an alternative delivery system if tribes opt not to contract. We have met across the country with many tribal leaders to discuss the various BIA initiatives. The points raised in those meetings are already becoming part of the initiative. In addition, we are pursuing a consultation program that will continue to seek tribal involvement. The initiatives were a result of a widespread belief that change is needed in Indian education. This initiative was proposed as part of the BIA's fiscal year 1988 budget request in order to allow time for consultation before implementation. Because the initiatives are part of the President's budget request, certain restrictions are placed on the release of budget details until the President delivered the request to Congress. The FY 1988 budget request was released on January 5, 1987. Since that time, we have met individually and in area meetings with tribal leaders across the country. We have sent numerous letters to tribes, held press conferences, and briefed Congressional members and staff. The BIA has no plans to conduct further studies.

Question 4: How do you know that you are doing such a bad job in educating Indian children? Is this based on any qualitative and quantitative data to measure the academic progress of Indian children (apart from the Gould report and the McGraw-Hill test scores)? Please explain.

Answer: In some public schools, Indian students academically outperformed their counterparts in BIA schools, as evidenced by the 1985 McGraw-Hill study of Indian students in New Mexico. In other schools, the BIA students outperform their counterparts in public schools. More importantly, improvements in Indian education are needed in every system. Differences in academic performance, however, are not the main justification for this initiative. We think student's tend to perform better when the local community assumes more responsibility in the management of the school.

Question 5: If a tribe chose to enter into an education contract with the state, it obviously changes the tribe's relationship with the state on many levels. What analysis, if any, has been done to look at the possible implications, such as applicability with other federal statutes, land title and transfer questions, maintenance and construction of facilities, transportation costs, and the like? If no analysis has been done, will the Bureau conduct such an analysis? If so, when might you begin and complete this analysis? Will the tribes and the states be involved? If so, how?

I have read that the BIA wants tribes to contract schools or enter into "cooperative agreements" with states. What is a cooperative agreement?

Answer: We are aware that we will need to review many items prior to the implementation of any initiative. Prior to entering into a contract with any organization other than a tribal organization under Public Law 93-638, we will perform the necessary analyses to determine the entity best able to provide the services. This activity will occur throughout Fiscal Year 1988. A cooperative agreement is an arrangement whereby a school is operated jointly by a state school district, tribes and/or the BIA under specific terms which are mutually agreed upon. Shared facilities, programs, personnel, support services or division of grades are generally the basis for such an agreement. A cooperative agreement is cost effective and creates good community relations.

Question 6: In a letter of January 28 addressed to you from Alan D. Morgan, State Superintendent of Public Instruction for New Mexico, he expressed that "the proposal was conceived without benefit of discussion with the affected entities, including state education officials from New Mexico." He further stated, "I am reluctant to take a position on this matter until the State Board of Education, the tribes, Governor Carruther, and other state agencies have been consulted and provided full information." Clearly, the states will need to be informed of the details and costs of your proposal. Other than a state forming its own task force to study the matter and to be a liaison for your office, as New Mexico is planning to do, what will you do to keep a state informed and involved? Also, as Mr. Morgan's letter states, he will not make any decision regarding the state assuming contract responsibility until both the State Board of Education and the New Mexico tribal governments are consulted and involved. How will you assure him that this will happen and in what way will these two groups be involved to address his concern?

Answer: We have met individually and in area meetings with many tribal leaders across the county to discuss the various BIA initiatives. In addition, meetings have been held with state leaders to explore their willingness to be an alternative delivery system if tribes opt not to contract. The points raised in those meetings have become a part of the initiative. As mentioned before, we are developing a consultation program that will continue to seek tribal involvement. We, of course, cannot and will not attempt to impose on states or others the obligation to operate BIA schools. The remainder of FY 1987 will be devoted to consulting with Indian tribes and organizations in order to develop a detailed tribal plan of action for this initiative.

Question 7: There is a better than fifty percent chance that a state will decline to accept Bureau or contract schools within their system, either due to lack of funding, lack of adequate facilities, lack of staff, or a lack of any definite plan. What happens at that point? Please describe. And who is then responsible for education of those Indian children. The Bureau or the tribes?

Answer: In all instances, the Bureau recognizes that it has an obligation to provide a good education for Indian children within its responsibility. One option may be for the Bureau to enter into an agreement with an independent school system. If this is not possible or desirable, the Bureau would continue to fund and operate the school. The Bureau would ensure that an education program is made available to eligible Indian students. We hope, however, that the tribe would assume an integral role in the operation of any education program serving its members.

Question 8: There may be an equally good chance that the tribe will decide against transfer of BIA schools either to 638 status or to the public schools. In that case, what is the Bureau's position? Will this option for maintaining the status quo be available to the tribe? Or will the Bureau unilaterally decide for the tribe what will be the educational arrangement? What redress is provided for the tribe if it disagrees with the Bureau?

Answer: The purpose of our proposal to contract the management of BIA schools is this: local control of a school is essential to the creation of an environment that fosters academic and cultural growth among its students. We believe this growth will be enhanced if schools are managed by local people rather than far-removed policymakers in Washington, D.C. Public Law 93-638, the Indian Self-Determination and Education Assistance Act, gives Indian tribes and Indian organizations the right to contract BIA services and thereby bring about local control. Under the initiative, we are proposing that management of BIA schools be transferred to local tribal governments. Federal funding for the schools will continue but management would move from the national level to the local level. In some cases, tribes may decide not to contract the local BIA school. The BIA would seek to provide for the education services by the best means available. This could involve an agreement with the state, local school or an independent school system or other entity that might be appropriate. Finally, the BIA would encourage cooperative agreements between BIA, tribes and the public school system. In the last analysis, if the tribe will not contract to operate their school—if they insist the Bureau must provide the education for the children, then it is the Bureau's obligation to provide the best education it can. In some cases the best may be a Bureau-operated school. The Bureau is committed to carry out its responsibilities.

Question 9: What is the time frame for your proposal? Do you have a date by which tribes have to initially respond by? Will you please describe and outline the steps required in order to effect a transfer, either to the state or to the tribe, or to maintain the status quo? If you are unable to answer these questions with any specific dates, what are your general target dates? May I have a copy of the general time line that the BIA develops?

Answer: Fiscal Year 1987 will be devoted to consulting with Indian tribes and organizations in order to develop a detailed tribal plan of action for this initiative. The Bureau anticipates that all elementary and secondary schools whom the tribes intend to contract would be contracted by the school year beginning in the Fall of 1989.

Question 10: My fear with your 638 contracting option is that tribes are having enough difficulties surviving under that process. If a tribe chose to undertake a school under a 638 contract, what will be the indirect cost rate? What if a tribe started pursuant to a 638 contract, but was then unable to continue? How would the BIA assist the tribe, if at all? Would the 638 contract revert back to the Bureau, and if so, how and under what arrangements would the Bureau plan to continue that school?

Answer: All Bureau of Indian Affairs contracts receive some form of administrative support. This rate, of course, varies from tribe to tribe. The Bureau through the Indian Self-Determination and Education Assistance Act has the authority and procedures to reassume a 638 contract. If that were to occur, the Bureau would ensure that an education program was made available (See 25 CFR Section § 271.71 through § 271.77). This education program could be operated by the Bureau or through another arrangement, such as with a public school district. Each case would have to be reviewed individually. The Bureau would provide for the best quality education program available.

Question 11: You have stated your overall proposal is prefaced on improving Indian eduation. How will the Bureau monitor that this is being achieved by schools that are 638 or state contracted? What educational/academic standard will be used? If the Bureau has no standard, then it is a standard proposed by the tribe or by the state? What about any enforcement of that standard—whose responsibility is that?

Answer: The BIA will maintain oversight over all programs and monitor the contracts for compliance in accordance with applicable contracting requirements. In consultation with tribes, contracts will be developed to ensure that the academic and cultural needs of Indian children are met. Through contract monitoring, strict adherence to the negotiated contract will be enforced. In fact, the BIA will retain staff in the field to monitor the contracts.

When schools are not properly operated according to the negotiated contract, the BIA will have several options to bring contractors into line with the defined standards. These options include: (1) to provide technical assistance to help bring the contractor into compliance; and (2) to revoke the contract and enter into an agreement with another contractor.

Presently, Bureau-operated schools have elected school boards that usually are comprised of parents and/or community members. The school board provides the majority of local involvement. Nevertheless, final decisions on policy and operations in Bureau-operated schools can be appealed to the BIA's central office in Washington, DC. If a tribe decides to contract, the tribal council immediately becomes involved, along with its education committee and its education staff. The tribe must stay involved at all levels—both at the council level and the community level—to ensure that the contract is awarded and implemented. This ownership of a community school goes beyond having only the school board involved. A contract school becomes the education focal point for ensuring local input and control.

Question 12: All the Indian tribes in New Mexico have gone on record against your proposal, a state memorial was introduced in the New Mexico legislature against it, and the State Department of Education has expressed its reservations about it. By using the budget process to push your proposal, it appears you have alienated all significant parties. In order to bring a working group together to work toward improving Indian education, would you welcome a Congressionally-authorized task force to study the ways of improving Indian education? Please explain. If not, what do you propose as an alternative? Please explain.

Answer: The aim of the Bureau's initiatives is to improve the quality of Indian education. We welcome the input and participaton from Congressional and any other sources in our effort to move toward this goal. We do not believe, however, that it is necessary to convene a Congressionally authorized task force in order to study ways of improving Indian education.

We are meeting with tribal government representatives, tribal organizations, and interested individuals to discuss not only the initiatives but also ways to improve the Bureau's education program. This effort is currently under way and will continue throughout the summer. In addition, we are continuously reviewing our regular and supplemental education programs in order to improve our delivery system. Through our school board training project, we provide school board members the opportunity to receive training which will assist the movement of schools toward quality education programs. The Bureau also has convened task forces and work groups to explore academic programs, gifted and talented projects, professional development programs, and other administrative concerns, such as personnnel, funding, and procurement. The Bureau is continuously searching for ways to improve its education system.

Mr. **CHILES**. Mr. President, we have looked over the amendment. I do not think we have any objection to it. I think it has been cleared on our side.

Mr. **HATFIELD**. Mr. President, we have yet to clear it on our side.

Mr. **BINGAMAN**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **DIXON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **DIXON**. Mr. President, prior to the time that you assumed the Chair, I had made a speech regarding an amendment I offered which is pending at the desk concerning an additional $100 million being authorized in this supplemental for the next fiscal year beginning October 1 for summer youth employment in which I had taken that $100 million from the World Bank funds in connection with a severance pay at $200,000 a head for 390 World Bank employees. I was going to give $1,000 to kids that are starving and want jobs and take $200,000 a head away from 390 World Bank people.

An objection was made by the managers originally that my language was unacceptable in the amendment because it amended a section amended on a prior occasion. I now understand that, while that would be technically correct and we will agree it is technically correct, the probabilities are that in a moment that the managers will withdraw that objection so that we can go to the fundamental issue on my amendment without redrafting the amendment which would cause a lot of time to be expended and would ultimately result in a very convoluted amendment from the standpoint of the language.

I believe as soon as the distinguished manager on our side returns, Mr. President, my friend, the ranking manager, having already given his approval, that we can proceed on the merits. I see the distinguished manager appearing now. Should that be the case, I would like to make some brief remarks before another objection is raised, Mr. President.

Do I have the unanimous consent to waive any objection on the language on the technical aspects of the amendment?

Mr. CHILES. Yes.

Mr. DIXON. I thank very much my friend, the manager on our side, and the ranking manager. I understand the objection on the amendment's language has been now withdrawn.

May I ask how much time I have, Mr. President?

Mr. CHILES. Did the Senator ask for unanimous consent?

Mr. DIXON. I had asked for unanimous consent and understood it was granted.

The PRESIDING OFFICER. The Chair is unclear as to exactly what the unanimous-consent request is.

Mr. DIXON. Mr. President, I now understand it is agreed by the managers that the amendment is in order.

The PRESIDING OFFICER. First, the Chair would like to say to the Senator from Illinois that we are now on the amendment offered by the distinguished Senator from New Mexico. That is the pending amendment at this point.

Mr. DIXON. Mr. President, I ask unanimous consent that we may set aside the pending amendment by my distinguished colleague from New Mexico, which is being discussed at this time, and revert to my amendment previously offered.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from New Mexico? Hearing none, it is so ordered.

Mr. CHILES. Mr. President, I wanted to say to my good friend from Illinois, my understanding was—so that we are clear—that the point of order was going to be waived or the Senator was going to ask unanimous consent that his amendment be in order, that portion of the amendment which amends part of the text that has already been amended, which would, therefore, be subject to a point of order, that his amendment would be in order for that. I do not think he was asking that it be in order on the budget point of order.

Mr. DIXON. My friend is correct.

Mr. CHILES. Because that is the point. I just wanted to make sure the unanimous consent does not include that. I think we were in agreement I would make that point when his time has expired.

Mr. DIXON. May I say, that is correct.

The PRESIDING OFFICER. The Chair would like to say to the Senator from Illinois that when the amendment fell on a technical point, the Senator from Illinois had 14 minutes 33 seconds remaining. The manager had 29 minutes 19 seconds remaining.

Is there objection now to that amendment being considered? Is there objection now to that amendment being in order at this time?

Without objection, it is so ordered. Who yields time on the amendment?

Mr. DIXON. Mr. President, I would like to proceed very briefly now on the amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I understand the amendment is in order. The distinguished manager will proceed at some point in time, Mr. President, to raise a further objection to this amendment on budgetary grounds. At that time, I understand, and he may want to express a different view, the objection will be that while I am taking $100 million from the World Bank at $200,000 per head for 390 employees for severance pay and giving it to disadvantaged youth in America, that it is the position of the General Accounting Office, or somebody, that from an outlay standpoint, the outlays would not take place for the World Bank in the same years as the outlays would take place for the disadvantaged summer youth.

I think that is an oversimplification of what my friend the manager will suggest at that time when the opponents are heard.

First, may I say that Senator HEINZ of Pennsylvania would like to join me as a cosponsor, along with Senator METZENBAUM of Ohio. Senator RIEGLE of Michigan and my friend Senator BINGAMAN of New Mexico would like to join as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I realize this is somewhat complicated; the whole budgetary process is. But I want to make it this simple for everybody so that they ultimately understand it: Sometime, if not in this next year, in the next out year, but sometime soon, under this supplemental, Mr. President, this bill, we will authorize the payment of $200,000 per head for World Bank employees in severance pay, bankers that have big jobs, a lot of them driven around in limousines, with superpensions. Sometime, maybe under the gobbledygook of the budget process, and it is gobbledygook, sometime we are going to give $200,000 per head to banker-type people who do not need the dough. If we do not adopt this amendment, Mr. President, we are going to deny hundreds of thousands of kids in this country who are disadvantaged summer jobs, 8,000 of them in the city of Chicago and in my State.

I just want that understood.

You can cut this baloney any way you want. Somebody we do not known, some obscure person never elected to public office with a green eyeshade somewhere, is saying that for some reason they are going to be able to cop out this $200,000 apiece for World Bank employees who are bankers making all kinds of money and deny summer jobs to kids of America.

This is crazy.

This year, we are spending $700 million for these summer kids. The year after next we are again spending $700 and some million for kids. But for this year, and I do not know who figured this out, we are spending $100 million less for those same summer kids. Why? It is not because those jobs are not needed, Mr. President. You can see them standing on every street corner in America wanting jobs. No matter how you do it, no matter how much you talk about authorization and budget outlay, believe me when I tell you this, and everybody in America knows it is so, those World Bank people are going to get 200 grand cash for nothing, and all these kids want to do is work.

So, I say to you, I am going to need 60 votes on this, Mr. President, because of the goofy process involved, and because some person someplace with a green eyeshade on his brow said something. I understand all that. Those kids' bellies are going to be as empty, and those World Bank employees are going to be as fat. You understand, Mr. President. I can tell you. You have a hungry day or two in your life, I will bet.

All I want to say is it takes 60 votes to take $200,000 from World Bank people and put a little food in the bellies of hungry kids. I hope I can get 60 votes on that. Sometime, Mr. President, when it is all over, I hope I find the guy with the eyeshade that makes these rulings that gives $200,000 to the rich and takes summer jobs from hungry kids.

In the meantime, I tell my colleagues in the Senate, everybody who wants to give $200,000 to World Bank employees vote no; anybody who wants to give a little food to hungry kids, vote aye later on this evening.

In the meantime, I want to thank my friends, the managers, for waiving another technical objection that did not mean much either, so that we can eventually vote on the question of whether these kids get jobs, Mr. President. If they get the jobs this year, the year after this they will get a job, but for some crazy reason I do not understand, when they vote on this bill they take them out of the jobs for this coming summer, 8,000 in Chicago, hundreds of thousands in America. They would certainly thank everybody if they take the money away from the rich bankers and give it to the poor kids. I want to thank the Presiding Officer.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, I yield back the remainder of my time unless there are some kind of objections on the other side. That will save us some time.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time runs equally on both sides.

Mr. CHILES. If the Senator from Illinois is prepared to yield back his time, I think we will yield back our time.

Mr. DIXON. If there is no further discussion at any time, Mr. President—do I understand there will be future discussion, a brief discussion, at the time the amendments are voted on later this evening? I do not understand what the process is.

Mr. CHILES. I do not think there is any time set aside. There will just be automatic votes beginning at 5 o'clock.

Mr. DIXON. Then I want to thank my distinguished friends, the manager and the ranking manager for their cooperation and consideration of my request. They have been very kind. I do, Mr. President, yield back the remainder of my time.

Mr. HATFIELD. I want to make just one remark. Have I any time?

The PRESIDING OFFICER. The managers of the bill have 28 minutes 9 seconds.

Mr. HATFIELD. I yield myself 2 or 3 minutes.

Mr. President, I want to share the general reservation the Senator from Illinois has expressed concerning the subject matter of his amendment. I certainly empathize fully and am very supportive of the essence of the amendment and the program that it represents. But I would only have to say to the Senator from Illinois that his amendment is an example of precisely what the Gramm-Rudman-Hollings amendment to the Budget Act developed. It creates this situation.

We have not, in the appropriations process, created obstacles nor have we attempted to frustrate Senators from offering amendments to be decided on their merit and argued and debated out on their merit. But I would have to remind the Senators after the many years we did function here on the Senate side in the appropriations process against budget authority. Now as a consequence of the amendments to the Budget Act, to which I have referred, we are having to measure every amendment against the measurement of budget outlay.

Mr. DIXON. Will my friend yield, Mr. President?

Mr. HATFIELD. Yes; I yield.

Mr. DIXON. Mr. President, just for the edification of the people of America, who probably wonder how this place could be so fouled up, I ask my friend a question. He is the distinguished ranking member of the Appropriations Committee, whom the rest of us have great respect for. If I understand this correctly, in the next fiscal year, beginning October 1, my amendment providing an additional $400 million for summer youth, kids who need jobs, would be a budget outlay for that year but in fact, the $200,000 apiece for the fat cats of the World Bank may not be spent as an outlay next year. Is that what the green eyeshade man says?

Mr. HATFIELD. If I understand it correctly, it will add to the outlay of the current fiscal year, 1987. This is a supplemental to the current fiscal year.

I also add that the Senator is aware that we are, at this present time, over $13 billion in excess of the cap established when we set the continuing resolution into operation last fall.

Mr. DIXON. What I am trying to find out, if I may say so, and I do understand that part, is are those who are raising this objection—I understand the difficulty the managers have. I hope the Senator understands that I am sympathetic. The problem is as much his as mine or anybody else's. So I am not railing at him and I hope he understands that.

But he is saying while the outlay will take place in this year for the kids, it will take place next year for the fat cats. The money is still going to get spent. America should understand that. The fat cats will still spend it.

Mr. HATFIELD. I still do not in any way differ with the Senator on his observation of the importance of this program, our summer youth program, and the inadequate funding of that program as we may measure it against the need. I am merely commenting that we are now in a constraint, through the amendment that the Senate and the House adopted some time back.

As a consequence, let the Senator also be aware that the whole supplemental bill is vulnerable to the same point of order, because we did not have the offsets to offset the outlays that we have represented in this bill. As the Senator knows, we tried a vote on a budget waiver to bring this bill to the floor and that failed. We are now in that situation where the bill is before us, vulnerable as it is. At any point in time, any Senator could raise a point of order against this entire supplemental. But also, until that is raised, any amendment is vulnerable as well.

We are hoping that we do not make a number of amendments that will then raise a point of order against the entire bill. I just have a very strong feeling that if we can put this bill through pretty much as it is, there will not be a point of order raised against the entire bill, hopefully, and the White House has already indicated the President will sign this bill.

Mr. DIXON. May I say to the distinguished ranking manager if my amendment fails, that $200,000 to those 390 World Bank employees, who do not need it—and I think most Americans will agree with that—is still in this bill. I think at some point in time later on, we ought to talk about that. Because if we make the case to America that we are doing the right thing around here, I can think of a lot of Illinoisans who are going to ask why we are giving 390 people, none of whom I know, $200,000 each.

Mr. HATFIELD. The Senator is quite correct in this fact that he could add an amendment to strike anything in this bill as well as add anything. For that matter, the Senator could offer an amendment to strike, so any part of this bill is open to any amendment either by deleting or by adding. He can raise that point for discussion at any time he wishes.

Mr. DIXON. May I ask the distinguished manager this: I thought we were on a unanimous-consent list, of which the Senator's amendment was one, a list of amendments on the unanimous-consent list.

Mr. HATFIELD. The Senator is right.

Mr. DIXON. Is the Senator saying to me when we dispose of the unanimous-consent list, there will still be further opportunities to amend this bill?

Mr. HATFIELD. Yes.

Mr. DIXON. I am delighted to hear that. I want to say if I am defeated, I shall weep for the hungry kids of America who are hurt by the procedure, but I shall still come back to the $200,000 apiece from the 390 people.

Mr. HATFIELD. The Senator has not yielded any of his rights by offering this amendment.

Mr. DIXON. I thank the Senator.

Mr. CHILES. Mr. President, does the Senator wish for the yeas and nays on his amendment?

Mr. DIXON. I thank the manager. I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, I raise the point of order under section 311 of the Budget Act that the amendment is not in order.

Mr. DIXON. I move to waive the Budget Act, Mr. President.

The PRESIDING OFFICER. The point of order has been raised. Does the Senator from Illinois make the motion to waive the Budget Act?

Mr. DIXON. I do.

Mr. CHILES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive the Budget Act? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the vote on this budget waiver be stacked with the votes to begin at 5 o'clock on behalf of the Senate leadership, not the bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that the vote on the motion to waive the Budget Act be postponed and stacked with the other votes to occur beginning at 5 p.m.? Without objection, it is so ordered.

AMENDMENT NO. 221

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I ask unanimous consent before we conclude debate on the amendment I have offered, that my colleague [Mr. DOMENICI] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment offered by the Senator from New Mexico? If not, the question occurs on the amendment offered by the Senator from New Mexico.

The amendment (No. 221) was agreed to.

AMENDMENT NO. 218

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Ohio [Mr. METZENBAUM]. Is there further debate on the amendment offered by the Senator from Ohio?

Mr. HATFIELD. Mr. President, again I make inquiry of the Chair, has the Chair been informed on the matter of the Budget Committee's determination on the outlay impact of this amendment? That is why it was set aside originally.

The PRESIDING OFFICER. The Chair has been advised that the amendment of the Senator from Ohio would cause an increase in the aggregate level of outlays, in violation of section 311.

Mr. HATFIELD. May I inquire further, as I understand the description of this impact by the Chair, the amendment then would be subject to a point of order?

The PRESIDING OFFICER. The Senator is correct. The amendment would be subject to a point of order under section 311(a) of the Budget Act.

Mr. JOHNSTON. Would the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. JOHNSTON. I have just been advised by staff that Senator METZENBAUM's staff is working with CBO and would like the matter to be set aside for a short period of time so we can see if that ruling is final or if we can renegotiate.

Mr. HATFIELD. Mr. President, I would have no objection. The Chair put the question to us on the matter of the Metzenbaum amendment without the information having been made available at least to the minority side. I would not want to foreclose the Senator from Ohio reaching some kind of accommodation with the Budget Committee on the scoring of his amendment. Also, if that is not possible, I would think that the Senator from Ohio should be on the floor in order to make a motion to waive the Budget Act, if he wished to do so, because that would be his right. I am not in any way attempting to foreclose anyone's right. I merely wanted to make sure that we had received information and, therefore, I would ask unanimous consent that the amendment by the Senator from Ohio [Mr. METZENBAUM] be temporarily laid aside for consideration of other amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that an amendment that I have be in order now.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 222

(Purpose: To amend the fiscal year 1987 supplemental appropriations bill to impose a moratorium on the approval and issuance of oil shale patents)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself and Mr. WIRTH proposes an amendment numbered 222. At the appropriate place insert the following:

Notwithstanding any other provision of law, no oil shale mining claim located pursuant to the General Mining Law of 1872, as amended (30 U.S.C. Sec. 22, *et seq.*, 17 Stat. 91) shall be eligible for patent, nor shall any oil shale patent be issued, after the date of enactment of this provision, until Congress directs otherwise. This provision shall not apply to Patent Application Serial Nos. C-012327 and C-016671.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I am offering this amendment to impose a moratorium on issuance of any patents except the two identified on outstanding oil shale claims on Federal lands.

These are some oil shale claims that cover approximately 270,000 acres in Colorado, Utah, and Wyoming.

The reason this amendment is necessary is simply this: The Department of the Interior had a self-imposed moratorium which ends on June 1, 1987. After that time, Interior plans once again to begin processing oil shale patents.

Simply put, Mr. President, I believe that is very unwise on the part of the Department of the Interior, and this amendment will stop their actions until Congress acts on this matter.

Let me explain what this is all about. In 1872 the mining law was adopted by Congress and it said if you can locate a valuable mineral you can file a claim, anybody, any citizen, and if you show that you have done some work to get at that valuable mineral to produce it, then you can eventually get full title to the land. How much land? Generally speaking, under the 1872 mining law, that was about 20 acres of land per claim and if you did the necessary work each year for a series of years, generally about 5, 6, 10, sometimes it stretched out to 15 or 20 years, to get at that valuable mineral, and then if you could demonstrate that you could produce that valuable mineral for the benefit of the country you receive full title to the land on the oil shale.

In 1872, nobody thought that there was any value to oil shale lands, but a few years later prior to 1900, some people got the idea you could extract oil out of oil shale and, therefore, let them claim it. There were thousands of claims made out in Colorado, Wyoming, and Utah, by people who said they wanted to develop oil shale land and they were going to produce a valuable mineral—oil.

Nothing happened, even though there were thousands of claims until over a period of time somebody else bought up those claims from the individual citizens who initiated a specific oil shale claim.

In 1920 Congress did the right thing and said well, oil and gas is different, it is a very valuable mineral, but rather than having a claim under the 1872 Mining Act the lands that people wanted to explore and develop oil and gas from would not be subject to that act, the 1872 act, but would be subject to this new law, and you would not get title to the land. All you would get is the right to explore and develop and the land itself would remain under title to the United States; in other words, it is still part of the public domain and we all as citizens own it.

The 1920 act, however, did not go back to these old oil shale claims and say, well, your claim is no longer any good under the 1872 act. It just left that point open. Perhaps that was a mistake on the part of Congress in 1920 and since then because what happened to those thousands of oil shale claims filed by individuals from across the country who thought they might develop something worthwhile, they were willing to take some risk and make some efforts to develop it. Those claims were bought up by oil companies. They bought them up and found the individuals and they said, "Are you willing to sell your oil shale claim?" And the typical individual said, "well, it has no value; let us see where that paper is."

So they were bought up for little or nothing. Some of them might have had some value paid for by an oil company.

The oil companies have in these oil shale claims then approached the Department of Interior and said, "We want to do whatever is necessary so that we can have title to the land; in other words, the patent to the land."

It was litigated for years, 50 years, as a matter of fact. And the judge out in Colorado said, "Well, they have some claim there and maybe they are right," and issued a finding that several of these companies were right and perhaps they had done everything that was necessary and therefore they should have title to the land.

Mr. President, I mean no disrespect to the judiciary and to this particular Federal judge who made this finding, but to put it bluntly, I do not agree with his finding at all. I think his ruling was wrong. I believe as thousands of other people in this country believe who have been following this tortuous series of cases that were brought during the past 50 years, like thousands of other people who have examined them, I believe that this land ought to remain property of the U.S. Government and that, if oil shale is going to be developed, it has to be developed on terms and conditions established by the Interior Department now.

The solicitor for the Interior Department decided on his own that he would not appeal this case to take it up to the Court of Appeals, the Supreme Court if necessary; he would just let it go and advise the Secretary of Interior to go ahead and issue the patents, that is, give title to the land on the basis and the criteria that have been established by these oil companies.

What would the oil companies pay? Well, there is the rub. They paid $2.50 an acre—$2.50 an acre. Now, admittedly, that is not a fair price for this land, but that is what the 1872 Mining Act and any amendments thereto left it at—$2.50 an acre.

When the Department of the Interior decided some 6 months ago to impose a 6-month moratorium on any further consideration of granting title to the oil companies for this land, it did so to give Congress a chance to look at it and see whether they wanted to pass new legislation. I suspect that perhaps 6 months was not long enough, because the subcommittee that would consider this matter I now chair. And while I have every intention, and have so notified the Department of the Interior and anybody else that requested it, to indeed open hearings this summer on this point, perhaps I could be accused of being dilatory.

Well, I think maybe there is some credibility to that, because, frankly, I believe we should have set up the hearings for sometime this spring. So I plead guilty to being slow. But the hearing will be this summer and out of it I expect legislation to be developed to handle this problem.

What I would seek in that legislation would be to establish a system whereby the 1872 mining law would be lived up to. Because there is an obvious feature, an obvious part of the 1872 mining law that really has not been met in this instance, and that is the requirement under that old law that you have located a valuable mineral. Oil is valuable. But the second part of it is that you can demonstrate that you are going to produce that valuable mineral to be used by the public in the public's interest. And that is a part that has not been met. No one has demonstrated that this valuable mineral, oil, will be produced out of oil shale to be available for the public good; in other words, be on the market.

If we could do that, under the current economic conditions, I think there would be some merit into going ahead and saying to these oil companies: "Boy, that is good for the country. Produce some more oil."

There are some pilot plans that have been attempting to do this and they can successfully extract oil from oil shale. The problem is it costs a lot of money. I am not sure what it costs because figures vary, but I suspect that it costs more than $100 a barrel to produce oil out of oil shale. Well, that is not marketable. That is not merchantable.

On that point, I do not understand why the solicitor for the Secretary of the Interior said that the 1872 Mining Act seemed to have been complied with. As a matter of fact, I do not understand the Federal judge's interpretation of the act that says go ahead and issues the patent or title to the land to these oil companies because they have complied with the law. I do not think that case has been made at all.

There is one other point. Not only must they produce the oil from the shale but, under subsequent law that has been passed by Congress and must be complied with, they are going to have to demonstrate what they are going to do with the oil shale refuse that is left over. What happens to that? Is it just going to be piled up in huge piles bigger than this Chamber? Have they got some useful purpose for it? That has not been demonstrated yet.

So, on those two points, I believe we do need some legislation. I think it is appropriate that the Energy Committee, and in particular the subcommittee on which I serve and Chair, should address that problem. And so I approach my colleagues here in the Senate with some trepidation on this amendment, because it clearly demonstrates that the facts are that we ought to be taking care of this in the appropriate committee as an authorizing committee and to develop the solution there rather than coming to the floor on an appropriation bill and say, "Well, nothing is going to be done until Congress acts."

Having admitted all of that, I can tell you Mr. President, that the best solution we have at this moment is just to adopt this amendment and to hold it in abeyance until we have acted properly on it.

I hope that there will be serious consideration by all Members of the Senate looking at this, because of the public policy that ought to be addressed and it is public land that belongs to all of us in this land and we want to treat it right and to do the proper thing with it.

And the two points that I mentioned—I do not believe the oil companies can comply with the 1872 act—that is, have they done the proper amount of work, which is doubtful, to comply with the act, and, second, have they demonstrated that they can produce this valuable mineral—that is, oil—and make it commercially available for the public good of all of us here in this country? They have not so far because the cost is so great that nothing looks practical.

The third point, which has nothing to do with the 1872 act, has to do with subsequent laws that we have enacted and put into our laws; and that is, what are you going to do with all of this land that you have disturbed? After you have worked through the shale, what is going to happen to the refuse; that is, the land itself? That has to be clearly demonstrated, also.

Mr. President, I yield the floor.

The **PRESIDING OFFICER**. The Senator yields the floor.

The Senator from Wyoming.

Mr. **WALLOP**. Mr. President, I rise to oppose the amendment of my friend from Montana. There are a couple of good reasons why the amendment should not be enacted. Those reasons are both procedural and substantive.

Procedurally, beyond any doubt and beyond any question, this is legislation on an appropriations act. And it is, in fact, the statement in the Dear Colleague letter of the Senator from Montana that it is legislative action that must be taken. It was the letter that Senator MELCHER and Senator WIRTH wrote on the 26th of May.

But, further, the amendment places an indefinite moratorium on any further activity with respect to unpatented oil shale claims, including the eight pending patent applications. This moratorium would last forever, or until or unless Congress were to subsequently enact some unspecified legislation and some unspecified criteria. There is no reason why people who hold legitimate claims should have to be punished by the Senator from Montana's amendment.

This is a matter for the proper committee of jurisdiction, the Energy and Natural Resources Committee, as the Senator has said, on which the Senator from Montana serves, and its subcommittee of specific jurisdiction, which the Senator chairs.

He rightly said, as well, that he could be charged as being dilatory for not having held a hearing on his own legislation, which was introduced early this year, in February. It is not because there has not been sufficient time. Clearly, there has been sufficient time to hold such a hearing.

In fact, that subcommittee already has that legislation pending before it, the same legislation introduced by the Senator from Montana and the chairman of the committee. No action has occurred on that legislation. There is no need, no imminent, ponderous, national threat which would require resorting to a floor amendment not discussed or considered by the Appropriations Committee.

There simply is no catastrophe waiting in the wings to justify this extraordinary avoidance of the authorizing committee.

Stripped to its essential, this amendment would place an indefinite moratorium on all oil shale claims until the Senator from Montana decides to consider legislation in the subcommittee which he chairs.

Would we all not like to be able to take on the law with which we found ourselves in momentary disagreement? This is not the way the process has worked traditionally around here and ought not to be the way the process begins to operate around here.

This is not the situation where a Senator has come to the floor on a matter of overriding concern because the supplemental is the only vehicle open to him. This is not a situation where a Senator has been denied consideration of legislation which he believes is critical to the welfare of the Nation.

If any consideration has been denied, it has been denied the Senator from Montana by the Senator from Montana.

Enactment of this amendment would accomplish just the reverse. It would allow the Senator from Montana to block any, and I would repeat any, legislation to undo the moratorium unless he were satisfied with it. He would be in a position to object that the process was being ignored, that there had been no hearings, that the proper subcommittee, much less committee, had been ignored.

It is a very artful position into which the Senator from Montana seeks to insert himself.

The substantive concerns are equally as great, which may explain the resort to offering this amendment here. Despite all the dire predictions we heard last year when the Tosco settlement was reached, there has been no rush to patent. There are only eight patent applications pending. I would like to emphasize that number—eight. Of those eight, only four have gone to final certificate and are likely to have patents issued in the near future. If this still sounds like a massive giveaway, let us focus on one of those claims, that of Frank Wineger. This application has now been in the process for 30 years.

Is it not as though judgment ever has been or is ever likely to be rushed into.

You may ask, why is an administration so bent on wholesale giveaways taking so long? Why, you may ask, is the crisis suddenly here? The answer is that this claim was challenged, and challenged, and challenged. This claim even went to the Supreme Court. At long last, with a Supreme Court opinion, Mr. Wineger will get his patent. Why does Mr. Wineger not have his patent now, you may ask? Well the Department has had a self-imposed moratorium in place while they investigate how to deal with all the unpatented claims. Incidentally, all the other claims which went to the Supreme Court with Mr. Wineger now have their patents, not through any largesse from the Department, but because the applicants had to resort to mandamus. Can you imagine the scene up here if the Department of Justice decided on a self-imposed moratorium on paying claims it lost, or if EPA decided to initiate a self-imposed moratorium on enforcement actions? This amendment would put Mr. Wineger into yet another limbo.

Surely this is not the kind of justice our country has been famous for and rightly prides itself in the year of the 200th anniversary of its Constitution.

There is a simple element of fairness which the public has a right to expect from its Government and this amendment violates that element. Once to the Supreme Court should be enough.

Mr. MELCHER. Will the Senator yield at that point?

Mr. WALLOP. I will yield for a question without losing my right to the floor.

Mr. MELCHER. I thank my friend for yielding.

As my friend knows, we have exempted two patents that the Department of the Interior said they thought were meritorious. Is he suggesting perhaps the third one, which I believe involved 320 acres, the Wineger patent, should be exempted from the moratorium?

Mr. WALLOP. Mr. President, my answer to that question is absolutely not. Mr. Winger has been 30 years seeking this patent and has gone all the way to the Supreme Court, paid his legal bills, and is now entitled to it. Three hundred twenty acres seems scarcely likely to bankrupt the United States of America.

A second of the pending applications also demonstrates why this amendment should not be approved. The Department is challenging one claim on the basis of res judicata. This claim had previously been disallowed and there is now an attempt to resurrect it based on the latest court decisions. The Department has challenged that attempt. Whatever the merits of either side, this amendment would halt the Department's efforts. This does not sound to me like a department bent on trying to give away the public lands, but it would be interesting if the effect of the amendment were to prevent the Department that we now seek to restrain from challenging the claim and allowing it to be resurrected through default.

Mr. President, there has been a lot of rhetoric about the administration seeking to give away the public lands. There simply is no evidence to support the hysteria. There is no rush to patent. There has been no flood of applications. There has been, in fact, a totally illegitimate self-imposed moritorium which has only served to frustrate an applicant who won in the Supreme Court. The moritorium apparently did not apply to challenges to applications. The record of the administration, in fact, has been to process applications in exacting detail.

Mr. President, there is simply no reason for this amendment. procedurally, it is the worst form of legislation on an appropriations bill. I say again there is no emergency. I say again there is no imminent threat to be dealt with. I say again, there is not even the situation of the sponsor being frozen out from having his concern dealt with in the proper committee. Substantively, the amendment would invest the sponsor with a personal veto over the operation of law. It is almost unconscionable with respect to one application which should have proceeded to patent long ago, and it is counterproductive with respect to another which the Department is challenging precisely as the Senator from Montana would wish. A final concern would be whether the courts would consider this sort of permanent moratorum to be a legislative taking whenever the Department refuses to accept or process an application. There is a right which now exists which would be taken away by this amendment, not a very artful thing for the Senator to do. I submit that the cost of this amendment, if enacted, could be very high. If we are to attempt something like this, it should not be in this fashion or on this bill.

It should be after appropriate hearings. It should be in a circumstance which would not allow one Senator to determine the course of oil shale patents for the rest of time.

It should be through the committee process, which has had ample time to work, which has yet ample time to work because there is no rush to judgment, no rush to patent, and certainly no rush on the Department of Interior's side to approve. The emergency does not exist. It is, in fact, legislation on an appropriations bill. At the appropriate moment in time, Mr. President, I shall make that point of order.

Mr. MELCHER. Mr. President, I think my friend from Wyoming is absolutely right in this respect, that indeed, the committee should examine this situation and find out what needs to be done.

Second, I think my friend from Wyoming [Mr. WALLOP] is exactly right in saying to me, "Why haven't you done something about it prior to now?" I concede that. I admit that during the past 4 or 5 months, we should have started the process. I think we probably should have started it last year and the year before also, becaue what has been coming down out of this whole process has been something that officials and professionals in the Department of Interior are privately deploring.

What are they deploring? They are deploring the fact that under the 1872 mining law, through interpretations and judgments by courts, the law is not clearcut and therefore, the courts are making these decisions that it is all right to get some public land, get the title to it, for $2.50 an acre; if you have bought up some oil shale claims and have pursued through the courts as Tosco did in arriving at the decision that was rendered in the Colorado case, they should not be subject to the 1872 Mining Act.

The point my friend from Wyoming [Mr. WALLOP] makes about the Winegar claim, I think, has some merit. The amendment does exempt two claims where the patents have proceeded to the point where the Department of the Interior says they ought to be granted and should be granted. I think perhaps that also applies to the third one, the Winegar claim.

If, at the appropriate time, that would resolve the debate, I would certainly modify my amendment to include the Winegar claim because I think there is real merit, as the Senator from Wyoming has described, in not holding it up anymore.

As to what is happening in Congress this summer or the balance of the year, we will certainly get into it in the Energy Committee, a subcommittee I chair. I promise that. What will be the best wisdom in changing the statutes to take out the opportunity to gaining title to public land at just $2.50 an acre will depend upon my colleagues in the Energy Committee and by the balance of our colleagues on the Senate floor and in the other body also. But I think something is needed.

I think we need to hold up the process while that goes on. To the extent that the Winegar claim for 320 acres has been processed to the stage it has, I think perhaps the Senator from Wyoming is correct on that one claim. But I do believe that a moratorium, a delay, is necessary.

I point out to my friend from Wyoming that the Department itself imposed on itself a 6-month delay, a moratorium, without accepting any new processing of claims than they had in front of them at the time which, I believe, instead of eight, is about a dozen, if I am not mistaken. And there could be another hundred, I suspect. Perhaps that is too large a number; another score of claims will be started this summer and some of them involve thousands of acres.

That is what prompts me to offer the amendment. I do not think it is good public policy to allow thousands of acres of public land to be sold from the United States or title given for $2.50 an acre.

Mr. President, I am about to yield the floor. Before I do, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. GARN. Mr. President, I rise to oppose in the strongest terms the amendment offered by the Senator from Montana. The amendment before the Senate is neither urgent nor necessary. It should be ruled out of order on this urgent supplemental appropriations bill. In the 12 years I have been in the Senate, if there were ever a clear case of legislating on an appropriations bill, this is it. The Senator from Montana has introduced a bill which is nearly identical to this amendment. To date, as subcommittee chairman, he has held no bearings on this own bill, and no substantive action has been taken by the authorizing committee. This puzzles me because normally, in the time I have been here as a member of the Appropriations Committee for the last decade, when someone comes to the floor and tries to authorize on an appropriations bill, the excuse is that their subcommittee chairman has not held any hearings, it is being bottled up in committee, and this is their only alternative. That is what puzzles me about the Senator from Montana. He is the subcommittee chairman. He can schedule hearings. He can move his own legislation.

I think this is the first time in my career I have seen someone come to the floor and authorize on an appropriations bill when he was chairman of the subcommittee or full committee, in full control of the process, then tell us this is urgent. So on a procedural matter, it makes no sense at all. Whatever the issue is, it makes no sense for us to be considering this on what is called an urgent supplemental. That means emergency funds. This is no emergency.

I hope my good friend from Montana would hold back his amendment and exercise his authority as chairman of the subcommittee that has jurisdiction over this and hold hearings. Many of us who oppose this amendment would certainly be willing to work with him and see if we could come up with legislation that solves the problem.

The amendment would put into place an indefinite moratorium on the Department of Interior's ability to process patent applications on oil shale claims. It is a blatant end run, as I have said, around the authorizing process.

The effect of this amendment on oil shale claimants in Utah could be devastating because there are more than 700 unpatented claims which would be hit.

For example, a 63-year-old woman in Salt Lake City holds 40 such claims. She has spent her own funds to conduct the required annual assessment work of $100 per claim or $40,000 a year on her holdings. Like everyone else who is interested in oil shale, she continues to hope that one day America's huge quantities of shale can be developed. She would like to have her claims be part of that contribution to our oil needs.

But, Mr. President, if the amendment of the Senator from Montana becomes the law of the land, the result may be that she can not patent her claims. It may also be the beginning of a legislative process which takes away her claims altogether without compensation. This is likely to be an unconstitutional taking. But, that is an argument which should be made in the authorizing committee, not on this supplemental appropriations bill.

There are some problems here that need to be addressed. We need to hold those hearings and find the answers rather than do it in the middle of an urgent supplemental appropriations bill. I hope my colleagues will see this for what it is, reject it, rule it out of order as authorization on an appropriations bill. I hope my friend from Montana will withdraw his amendment and let those of us who are from oil shale States see if we can be of assistance in developing some legislation that is not hurried.

This bill is not the time or the place for that discussion. Certainly, the hearings in the authorizing committee are—and subsequently action on this floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I again call to the attention of Senators that this would be an excellent time for Senators to call up amendments.

The Senate is just going through a quorum call. I hope Senators will come to the floor.

As I said earlier, this is a good example of the problem the leadership has when it tries to accommodate Senators by setting the time of 5 o'clock to start the voting. Many Senators who have amendments do not get back into town until 5 o'clock. Others who are here do not seem to be in a hurry to get to the floor to call up amendments. It makes it pretty hard to do business.

Senators know there will not be any rollcall votes until 5 o'clock, and they will wait until the next day to call up their amendments and manage to get back into town to have votes.

I hope Senators will answer the call to duty here and call up amendments. The managers have been here today and others have been here, trying to get Senators to call up their amendments. I think we have had one amendment called up on the other side of the aisle, and there have been a few called up on my side of the aisle.

I hope that Cloakrooms on both sides will bestir themselves in urging Senators who have amendments to come to the floor and call them up.

We will continue to stack amendments for a little while yet. There should be several votes beginning at 5 o'clock.

While I have the floor I should ask the Chair, what was the order entered with respect to the waiver on the amendment by Mr. DIXON, may I ask the Chair?

The PRESIDING OFFICER. The order was that vote occur after the votes that have already been ordered stacked at 5 o'clock.

Mr. BYRD. Mr. President, I ask unanimous consent to change that order to provide that upon the disposition of the amendment by Mr. HEINZ then the vote on the waiver of the Dixon amendment occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote which was to occur today at 5 p.m. occur at 5:15 p.m. and that the other votes stacked subsequent to that be accordingly changed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:24 P.M.

Mr. BYRD. Mr. President, since no Senators seem to be in the mood for the moment to call up amendments, I ask unanimous consent that the Senate stand in recess for 10 minutes. In the meantime, we will try to stimulate a little interest.

There being no objection, the Senate, at 4:14 p.m., recessed until 4:24 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BURDICK].

The PRESIDING OFFICER. The pending business is the Melcher amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that the Senator from New York may be recognized for an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 223

(Purpose: To extend the availability of previously appropriated but undisbursed economic development funds for 1 fiscal year, or 2 fiscal years after such funds have been obligated, whichever date is later)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk for myself, Mr. DIXON, Mr. D'AMATO, and Mr. SIMON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself, Mr. DIXON, Mr. D'Amato, and Mr. SIMON, proposes an amendment numbered 223.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 46, at the end of line 26, insert the following: *Provided further*, That any funds appropriated and available for obligation and expenditure under Section 108(a) (1) and (5) of P.L. 99-190 as amended, shall remain available for obligation and expenditure through September 30, 1988, or during the two year period following the date by which all such funds have been obligated, whichever date is later.

Mr. MOYNIHAN. Mr. President, this is a simple matter that has no budgetary impact of any kind. In the course of the 1970's, the Congress funded a local Public Works Program. In two States, New York and Illinois, the process of finishing up programs and then accounting for the programs left a small surplus, some $15 million or thereabouts in New York City, some little under $1 million in Illinois. This amendment would simply provide those funds would remain available. No additional fund of any kind would be appropriated and the States and cities involved would be most grateful.

I am most grateful to the distinguished chairman of the Subcommittee on Commerce of the Appropriations Committee, who has made this possible and who I understand is agreeable to this amendment.

Mr. HOLLINGS. Mr. President, if the distinguished Senator from New York would yield, I do agree. The committee has extended it once before and we want to extend the availability of the funds granted to those States of Illinois and New York by EDA until September 30, 1988, or 1 year after the funds are obligated. It has already been allocated. It has been appropriated. We want to just keep that appropriation and go ahead with the original intent of this particular appropriation for the projects in New York and Illinois.

Mr. MOYNIHAN. I express great appreciation on behalf of all four Senators.

In 1985, Congress extended the availability of these surplus funds for 2 additional years—through fiscal year 1987—however, the closeout process has taken longer than expected and EDA has not yet obligated funds for critical New York City projects.

This amendment would allow for the obligation and expenditure of all such surplus funds—about $10 to $20 million—through the end of fiscal year 1988, or until 2 years after all such funds have been obligated. This arrangement is intended to result in the timely obligation and expenditure of these funds.

New York has several projects in mind, and has submitted three applications totaling $8.8 million, and four preapplications totaling $4.7 million. An eighth application is currently being prepared.

The proposed projects include: Development of the Atlantic terminal site in Brooklyn; renovation of the Brooklyn Army terminal; rebuilding the farmers market in Jamaica; revitalization of the 125th Street corridor in Harlem; and, upgrading the Brooklyn Navy Yard's ship repair facility.

Illinois is the only other State that would be affected by this amendment. it has about $800,000 of surplus funds.

I thank Senators Dixon, D'Amato, and Simon for their assistance in this effort, and once again I express our appreciation to Senator Hollings and the managers.

Mr. DIXON. Mr. President, I rise in support of the amendment being offered by the senior Senator from New York, which would extend the period for obligation of certain funds for the Economic Development Administration.

This amendment clarifies the intent of Congress to extend the period of time that the EDA should have money available for obligation.

Specifically, Illinois has two projects that were authorized and appropriated in 1985 that total $820,000. The project's sponsors have been diligent and responsive. Unfortunately, the money from the EDA has not been forthcoming. Without any additional action from Congress, this money will be lost by the end of this fiscal year.

Since November 25, 1986, these projects have been set to go. The money has been appropriated and the project sponsors have worked to meet the deadlines, the agency has not released the funds, therefore Congress must do the right thing and extend the deadline for these projects.

I am glad that my colleagues on the Appropriations Committee understand this problem and are willing to extend the deadline.

To my colleagues that are rightfully concerned with the adding to the outlays of this bill, let me assure you that by extending the deadline the Congressional Budget Office has determined that there will be no additional outlays to the supplemental appropriation bill.

Mr. President, I ask unanimous consent that a copy of a letter sent to me by the treasurer of the Will County Development Co., Mr. Lawrence Zeeb, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Will County
Local Development Co.,
Joliet, IL, May 6, 1987.

Memo To: Senator Dixon's Washington D.C. Office; Congressman Davis' Washington D.C. Office; Governor Thompson's Washington D.C. Office.

From: Lawrence J. Zeeb, Sr., Treasurer.

Re: EDA $400,000 Grant to the Will County Local Development Company (LDC) for a Revolving Loan Program (RLF).

As a result of phone calls yesterday, from Kevin Gillogly and Mike Lincoln, and following a phone conversation with Jim Wheeler, I transmitted 32 pages of documents to Kevin Gillogly from Congressman Jack Davis' Joliet office via the Telefax.

Essentially, initial inquiry for a grant from EDA for the RLF was in May of 1983, when the availability of funds was made public in the Wednesday, May 11, 1983 Federal Register (pp. 21173 and 21174).

Through the direct efforts of the late Congressman George O'Brien, specific legislation and appropriation § 470.221: ". . . 819,650: the conferees intend that $400,000 will be for a grant to the Will County Local Development Company and the balance of these funds will be allocated to the Illinois and Michigan Canal Commission . . ." This was further delineated in the Congressional Record: ". . . (ii) a $400,000 grant to the Will County Local Development Company for the establishment of a revolving loan fund."

On December 19, 1985, the continuing resolution for fiscal year 1986 (H.J. Resolution 465 passed the House by a vote of 261-137, with $400,000 for the LDC and $419,650 for IMNHC.)

On May 8, 1986, the House passed the Urgent Supplemental bill for FY 1986 (H.R. 4515) by a vote of 242 to 132, included in the Commerce section of the bill, with a total of $820,354 to fund the $400,000 LDC and $419,650 I & M National Heritage Corridor grants. These figures had already been adjusted for Gramm-Rudman-Hollings and ". . . the full amounts should therefore be available."

The President signed the bill (H.R. 4515) on July 2, 1986, which became Public Law 99-349. This information was transmitted to us, by letter from Dorothy L. Powell, dated August 7, 1986.

After completing all documentation and application details for EDA, we were informed by phone conversation from Mr. Edward Jeep, Regional Director, Chicago, that ". . . we should be able to consummate the grant agreement and receive drawdown approval November 14, 1986."

As of today, May 6, 1987, this has not been accomplished, and I do not know why. Our matching funds have been encumbered, by us, since November 25, 1986.

Copies of documents to support the above were transmitted yesterday.

Please advise.

L.J. Zeeb, Sr.,
Treasurer.

Mr. JOHNSTON. Mr. President, as I understand it, this amendment would have no budgetary impact.

Mr. MOYNIHAN. None.

Mr. JOHNSTON. It has been cleared by the distinguished chairman of the subcommittee, Mr. Hollings. I am also advised that this has been cleared on the Republican side by their counsel.

So, Mr. President, we are pleased to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 223) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the managers.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the pending amendment, the Melcher amendment, be temporarily set aside so that I might offer an amendment that has been cleared with both managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 224

Mr. DeCONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini), for himself, Mr. Domenici, and Mr. D'Amato, proposes an amendment numbered 224.

Coast Guard

operating expenses

(transfer of funds)

For an additional amount of "Operating Expenses", $4,120,000, to be derived by transfer from "United States Customs Service, Operation and Maintenance, Air Interdiction Program".

Mr. DeCONCINI. Mr. President, this is an amendment that will not take a long period of time. There is a little history that I want to lay out for the Senate to tell what we are doing here. Sometime ago, the Commissioner of Customs agreed to transfer $8 million from the Customs Air Interdiction Program to the Coast Guard to purchase a number of helicopters that would be used in the Bahamian-United States Drug Interdiction Task Force. That transfer did not come about, however, because the Coast Guard, we learned, was able to get some helicopters from other resources, specifically from the Department of Defense. The Coast Guard nevertheless still wanted this $8 million for operation and maintenance and for buying certain additional equipment for use in the United States-Bahama Drug Interdiction Task Force.

Without the specific permission of the Customs Service, a transfer of funds was made from the Customs account to a Coast Guard account. This Senator and a number of others objected to that transaction and the money was replaced. Actually, the physical transfer of the funds took place by computer system and the accounting actually took place. So we had one agency drawing on another agency's account without the permission of the Appropriations Committee. We do not know if OMB had signed off. We could find nothing that indicated that. And certainly the agency that the money had been appropriated to—Customs—had not agreed to such transfer for this purpose. That was reversed. The money was transferred back to the proper account.

This particular amendment now transfers $4,120,000 of the $8 million to the Coast Guard account. And I ask unanimous consent that the table of how this money will be spent also be printed in the Record.

Now the balance of the $8 million, if it is still needed, we will anticipate putting that in the 1988 budget of the Coast Guard, transferring the $3.880 million from Customs in that year, if approved by the committee.

The reason I want to go through this, Mr. President, is because it is very important, it seems to me, that those who have the authority and responsibility to appropriate money not be usurped by an executive agency that decides that their interpretation of a consent to transfer money for one purpose can be interpreted by that single agency that it now grants them authority to transfer that money for another purpose. And that is the whole purpose of this amendment.

I think it is important that we go on record that the disgraceful turf battles among any agencies and certainly law enforcement agencies, do nothing to enhance the effectiveness and the credibility of our law enforcement. These agencies have to work together.

We had a good case here where the Commissioner of Customs, Mr. von Raab, was willing to transfer this money to the agency that was going to buy helicopters in the drug enforcement effort. That is a cooperative effort with Customs and Coast Guard in the Bahamas. The Coast Guard in this case changed its position regarding the use of these funds. The reason it changed its position is it got some helicopters and did not need to buy them. It then elected, on its own, to take that money from the Customs anyway and use it for other purposes. I violently object to that. I have to say that the Customs people, the Commissioner, was willing to overlook it, reluctantly, but I objected to it as I know many members of the Appropriations Committee did also.

Mr. President, this amendment is offered on behalf of myself, Senator Domenici, and Senator D'Amato.

Mr. President, my amendment will allow for the transfer of $4,120,000 in Customs air drug interdiction funds to the U.S. Coast Guard to bolster our helicopter drug interdiction effort in the southeast and in support of the newly established United States-Bahamas Drug Interdiction Task Force. These funds will allow the Coast Guard to upgrade a number of its existing helicopters in the Southeastern United States and to establish a command, control, and communications center in the Bahamas as part of the task force effort. Coast Guard is coordinating its efforts in the task force with the Customs Service; the Drug Enforcement Administration; the State Department; and the Government of the Bahamas.

Mr. President, I ask unanimous consent that a table outlining exactly how the $4,120,000 would be used by the Coast Guard be printed in the Record, as well as a letter to the Comptroller General.

There being no objection, the table was ordered to be printed in the Record, as follows:

COST ESTIMATES: FISCAL YEAR 1987 ESTIMATED GUARD COSTS

			Costs allocated to USCS transfer
Secure comms (C3I)		$1,000,000	$1,000,000
H-3 ballistic seats		270,000	270,000
TAD expenses		108,000	
Transfer of two HH-3F from Astoria to Clearwater:			
OG-20 (PCS transfer of 40 personnel)		120,000	
OG-30/41 (transfer of aircraft and equipment)		60,000	
Aircraft upgrades:			
NVG helmets	$30,000		
NVG (ANVIS 6)	150,000		
NVG training	25,000		
NVG cockpit mods	300,000		
Body armor	20,000		
Helo parts and Deploy kits	475,000		
Ground support equipment	150,000		
Flir	1,500,000		
Omega	200,000		
Subtotal		2,850,000	2,850,000
Total		4,408,000	4,120,000

Mr. DeCONCINI. Mr. President, it is this Senator's sincere hope that this amendment will help to put to rest once and for all, the disgraceful turf battle that has been raging for months between Customs and Coast Guard. This amendment, coupled with the decison of the National Drug Enforcement Policy Board this week to make Customs the lead drug interdiction agency and give Coast Guard increased drug interdiction responsibilities, will finally put the war against each other on the table, and allow us to make war against the narcotics smuggler.

Mr. President, as you may know, last month the truf battle reached a low point when the Coast Guard, without specific authorization from Customs, transferred $8 million from the Customs air program account into the Coast Guard operating expense account. The Coast Guard has since been forced to return the money once it was found that proper procedures had not been followed by all parties. Senator Domenici, ranking member on the Treasury, Postal Service Subcommittee, and I have asked GAO to examine this particular transaction and to look at the larger potential problem of unauthorized interagency or interdepartmental transfers of appropriated funds. I ask that a copy of our request to the Comptroller General be included in the Record at this point.

U.S. Senate,
Committee on Appropriations,
Washington, DC, May 12, 1987.

Mr. Charles A. Bowsher,
Comptroller General of the United States, General Accounting Office, Washington, DC.

Dear Mr. Bowsher: Information brought to the attention of the Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government indicates that on or about April 2nd the U.S. Coast Guard transferred $8,000,000 from the U.S. Customs Service Operation and Maintenance, Air Interdiction Program account into the Operating Expenses account of the Coast Guard. The transfer of appropriated funds between two Departments, either with or without authorization from the Customs Service, without any Congressional input, is of deep concern to us and the Committee.

In this particular instance, two separate letters were sent from the Chairman of the Treasury, Postal Service, and General Government Subcommittee rejecting a proposed transfer of funds from the Customs Service to the Coast Guard.

The purpose of this letter is to request the General Accounting Office to conduct a full review of this particular transaction between the Coast Guard and the Customs Service, to determine the circumstances surrounding this transaction, and the propriety of such transfer of funds. We would ask that in examining this particular transaction, you would broaden your review to include an investigation of the generic problem within the Federal government regarding the ability of agencies and Departments to implement such inter-agency, or inter-Departmental fund transfers without formal approval by one of the parties and without Congressional approval. We are also deeply concerned that such inter-Departmental transfers of funds could be conducted in contravention of Congressional mandates under current law, regardless of formal agreement between two agencies or Departments.

In this regard, your assistance would be helpful in resolving a number of issues, including but not limited to the following:

What are the specific facts involving this particular transfer of funds from the Customs Service to the Coast Guard, including the roles that each agency played in the transaction, and who authorized the transaction;

What was the legal basis for initiating the transfer and were any Federal laws or regulations violated;

To what extent do such transfers of appropriated funds occur between agencies or Departments and what specific procedures are required before such transfers can occur;

What role does the Department of the Treasury play in implementing the transfer of funds betwen Federal agencies and Departments; what was the Department's role in this particular transfer; and, if such transfers are proper and legal, are additional procedures and safeguards needed to control them and make the agencies and Departments accountable to Congress; and

Should inter-Departmental or inter-agency transfers of appropriated funds be subject to Congressional approval, especially in such instances where the transfer could run counter to recommendations; directives; funding earmarkings; or mandates contained in current statutes, including appropriations acts and their accompanying reports.

We would hope that you would be in a position to act promptly on this request and provide us with at least an interim report prior to completion of Committee action on the Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1988. We would further ask that you work with Bobby Mills (224-6280) and Becky Davies (224-7219) of the Appropriations Committee staff during the course of your review.

Thank you for your prompt and thoughtful consideration of this request.

Sincerely,

DENNIS DECONCINI,
Chairman, Subcommittee on Treasury, Postal Service, and General Government.

Mr. President, the reason I decided to make this transfer by amendment to the supplemental appropriation bill is to establish the clear, unmistakable precedent that such transfers of appropriated funds should be done only through the normal appropriations process, and not merely by memorandum of agreement between agencies. In fact, I intend to include language in the Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1988 that would preclude such transfers unless they are approved through the normal appropriations process. I note that the Department of Defense authorization bill includes a similar provision that allows the transfer of funds between agencies but only under very strict conditions. I believe that we need to scrutinize these transfers and tighten up the procedures by which such transfers are made.

Mr. President, I hope the Senate will accept this amendment. It will allow us to increase our helicopter antidrug fleet in the Southeast where the flow of drugs continues to be a devastating problem. It will resolve a longstanding dispute between two great drug interdiction agencies, Customs and Coast Guard. And it will establish the clear precedent in the Senate that transfers of appropriated funds between agencies and departments shall only be handled through the normal appropriations process. With this amendment I also send one final admonition to both Coast Guard and Customs: stop fighting each other; work together; and fight the drug smuggler with even greater vigor than before. I can assure this body that I will stand foursquare in support of providing both agencies the tools that they need to meet this challenge. For all of these reasons, I urge that the amendment be adopted.

Mr. CHILES. Mr. President, I join Senator DECONCINI in sponsoring this amendment which basically gives congressional approval for an agreement made between the Customs Service and the Coast Guard concerning support of the United States Bahamian Drug Interdiction Task Force.

Last year in the AntiDrug Abuse Act, Public Law 99-570, the Congress approved $10 million for the U.S. Bahamian Task Force, primarily for three additional helicopters to be used for drug interdiction. In the continuing resolution, Public Law 99-591, Congress appropriated the $10 million for the task force to the Customs Service.

Early this year, the Commandant of the Coast Guard and the Commissioner of the Customs Service agreed to a transfer of a portion of these funds from Customs to the Coast Guard for the purpose of supporting the acquisition, operation, and maintenance of helicopters to be used for drug interdiction in the Bahamas. It is my understanding that this agreement was formally approved by the Customs Service, the Coast Guard, and the Department of State.

Mr. President, this agreement has merit. The agreement would allow for a more efficient use of Bahamaian Task Force dollars because the Coast Guard would be able to upgrade and operate at least nine helicopters from its inventory and from helicopters from the Air Force. In other words, we would be getting nine upgraded helicopters for the task force instead of three new helicopters as specified in the Drug Act.

This enhancement of helicopter support for the United States Bahamian Drug Task Force will also assist the Coast Guard in its role as the lead agency in the interdiction of drugs on the seas and in the air, especially in the area of the Bahamas. The location of these many islands is key to drug transshipment to our shores and strengthening the United States Bahamain Task Force will hopefully result in more effective interdiction.

Mr. President, this agreement is exactly the type of cooperation and wise use of our taxpayers dollars that the Congress encourages in our drug policy. I know this Senator has been urging such cooperation for a long time. I would hope that we will see more such cooperative endeavors from these agencies and their fellow drug enforcement counterparts in the future. Some of my colleagues and I have been more than disturbed at the turf battles which have taken place over the past few years amongst the drug enforcement agencies and would hope that this cooperative spirit is contagious and will continue as the rule and not the rare exception.

Mr. President, I know that the Senator from Arizona agrees with me that it is the prerogative of the Congress to transfer funds between appropriations accounts. I also know that the agencies involved in this transfer believe they have the authority to provide goods or perform services for other Federal agencies under reimbursable agreements under the Economy Act, Public Law 98-216. It is my understanding that this amendment does not address the matter of reimbursements under the Economy Act, but merely shows congressional approval of transferring the $4.1 million from Customs to Coast Guard. The Senator from Arizona has requested the GAO to study the issue of reimbursement agreements and report to the Congress on this matter. I believe it is appropriate for the Congress to review the GAO's analysis before there is discussion of any interpretations under the authorities of the Economy Act.

Mr. President, I urge my colleagues to support this transfer of funds which will hopefully result in coordinated and efficient drug enforcement policy for the United States.

Mr. LAUTENBERG. I have no objection to this amendment.

I support the Senator's intent of underscoring the oversight prerogatives of the committee with respect to interagency transfers of funds.

I would note for the record, however, that the Department of Transportation's position is that the original electronic transfer from the Customs Service to the Coast Guard was properly authorized and went through the usual clearances for routine reimbursable transactions.

I have here a chronology of this episode and ask unanimous consent that it be printed in the RECORD.

There being no objection, the chronology was ordered to be printed in the RECORD, as follows:

COAST GUARD/CUSTOMS REIMBURSABLE AGREEMENT CHRONOLOGY OF EVENTS

Anti-Drug Abuse Act of 1986, (P.L. 99-570), directed establishment and operation of U.S.-Bahamas Task Force. Membership includes Coast Guard and Customs. Directs that members enter into negotiations with government of the Bahamas for joint operation and maintenance of any drug interdiction assets used by new Task Force. Authorized $10M. $9M for three drug interdiction pursuit helicopters and $1M for enhanced communications capabilities.

Title II of the Continuing Resolution, (P.L. 99-591), provided in "Operations and Maintenance, Air Interdiction Program" account of Customs, $10M for the U.S. Bahamas Task Force. Presumably, although not specifically mentioned, this was funding authorized by the Anti-Drug Abuse Act.

24 Dec 1986, Commissioner von Raab sent letter to Adm Yost detailing Customs plans for Bahamian Task Force. Specifically, letter discussed the purchase of three commercially available helicopters.

2 Jan 1987, Adm Yost letter to Commissioner von Raab stated strong concerns about Customs service straying farther and farther from U.S. shores. Emphasized funds were for Task Force, not Customs. Recommended the Task Force in coordination with NDPB determine how $10M should be expended.

5 Jan 1987, Adm Yost letter to Ann Wrobleski, Assistant Secretary of State for International Narcotics, expressed concern about Customs impending purchase of helicopters for $6M dollars. Recommended no money be spent until Policy Board acts. Reiterates that nothing in the legislation requires that funds be spent for Customs assets.

9 Jan 1987, Commissioner von Raab to Adm Yost letter. $8M would be transferred from Customs to Coast Guard. $7M for acquisition, operation, and maintenance of helicopters to be used in drug interdiction efforts in the Bahamas. $1M for design, development, and installation of the C31 for Bahamas task force. In return CG agrees: $2M of the $10M would remain with Customs for Customs Aerostat enhancements, give open-minded and objective review of

Customs need to patrol between Bimini and Florida, and Adm Yost "acknowledgment of Customs gracious offer and cooperative spirit before the Drug Policy Board."

12 Jan 1987 letter Adm Yost to Ann Wrobleski. Applauded Customs $8M transfer agreement. Recommend agreement be taken to the NDPB. One Coast Guard H-3F dedicated to mission at this time.

Proposed reimbursable agreement with Customs worked out between Coast Guard and Customs budget offices on 4 Feb 1987.

Customs proposed changes to the reimbursable agreement just prior to scheduled signing. Changes regarding Congressional directions voiding agreement were unacceptable to Coast Guard. Would put Coast Guard in position of having to obligate funds without assurances of being reimbursed. Could result in violation of Anti-Deficiency Act.

11 Feb 1987 final signed reimbursable agreement. When Customs was appraised of our concerns they removed the objectionable language.

By using a reimbursable agreement, the head of an agency has the power to procure services from another agency if determined: 1. funds are available, 2. order is in best interest of United States, 3. agency to fill order able to provide, 4. ordered goods or services cannot be provided by contract as conveniently or cheaply by commercial enterprise. "Payment shall be made promptly on the request of the agency filling the order. Payment may be made in advance . . . and shall be for any part of the estimated cost as determined by the agency filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of the payment".

27 Mar 1987 letter, Commissioner von Raab to Adm Yost. Raised concern that Senator DeConcini stated he still expects Customs to use funds to purchase helicopters. Raised concern about state of communications at OPBAT headquarters and questions about Coast Guard pilots flying "blacked-out" at night. Did not suggest canceling agreement.

22 Apr 1987 letter, Adm Yost to Commissioner von Raab. Shared concerns of 27 Mar 1987 letter, discussed Coast Guard commitment of $4.4M in FY 1987 and our future plans. Thanked Customs for providing funds expeditiously.

CHRONOLOGY OF FISCAL TRANSACTIONS

Fiscal transactions followed procedures identified in official Treasury Fiscal Requirements Manual. CG began using Treasury's electronic system called On-line Payment and Collection (OPAC) in November 86. Under this system, all civil agencies on system have their account numbers published in a directory. CG and Customs both on system. System allows agencies to directly bill and collect automatically.

Prior to 2 Apr 1987 official OPAC contact of Customs was called and informed of intention to bill. Although not a requirement, CG policy is to call an agency beforehand.

2 Apr 1987: CG billed Customs through OPAC for $8M. Electronic bill included language from Memorandum of Agreement (MOA), CG accounting data, and a CG point of contact.

8 Apr 1987: After the billing, CG decided to reduce bill to $4.4M which was anticipated obligations for FY 87. CG called Customs again and told them that we would process a $3.6M credit. Credit was automatically processed on 8 Apr.

10 Apr 1987: CG received a phone call from Customs requesting some documentation on the bill. A copy of the MOA and supporting legislation was telefaxed that day. Individual was also given the name of person in Customs budget office in Wash., D.C. with whom CG had negotiated agreement.

24 Apr 1987: Customs Indianapolis accounting office, advised that they wanted to reverse the billing. Told by CG budget office that this was signed agreement by their Commissioner on which obligations had been made. Could not agree to return of funds without approval of Commandant who was in Europe. Suggested Commissioner discuss with ADM Yost when he returned on 30 April.

28th of each month: Treasury "closes the books" on all transactions and produces a statement of months transaction. This was apparently not done. As of that date, Customs' had not billed back.

30 Apr 1987: The Deputy Commissioner Treasury Management Systems, Mr. M. Page, called CG Chief of Acounting and advised him that the billing transaction had been reversed.

4 May 1987: CG received documentation that the billing had been reversed because it was "erroneous".

Mr. LAUTENBERG. Mr. President, in any case, the GAO inquiry that has been requested will determine the legal validity of the Department of Transportation's position.

In the meantime, I support this amendment.

Mr. DeCONCINI. Mr. President, I move the adoption of the amendment.

Mr. JOHNSTON. Mr. President, as I understand it, this, of course, has been cleared by the subcommittee of which the Senator from Arizona is the chairman. Also, Senator CHILES, the chairman of the Budget Committee, is also a coauthor and continues to be an enthusiastic supporter of this amendment.

Mr. DeCONCINI. If the Senator will yield, let the record show that the Senator from Florida is no longer a coauthor, but he does not object to this amendment. He has assured us of that as of 5 minutes ago.

Mr. JOHNSTON. But he has no objection to the amendment?

Mr. DeCONCINI. He supports the amendment, but his name does not appear as a coauthor.

Mr. JOHNSTON. And there is a dollar-for-dollar transfer from the Customs to the Coast Guard?

Mr. DeCONCINI. The Senator from Louisiana is absolutely correct.

Mr. JOHNSTON. Mr. President, we, therefore, have no objection to the amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would like to indicate my support for this amendment. In early April of this year, $8 million in funds appropriated in the fiscal year 1987 continuing resolution to the Air Interdiction Program, operations and maintenance, account of the U.S. Customs Service were transferred to the U.S. Coast Guard operating account. This transaction has now been reversed. However, I am highly disturbed over the circumstances which permitted such a transfer of funds to occur in the first place.

As the ranking member of the Treasury-Postal Service-General Government Appropriations Subcommittee with jurisdiction over the Customs Service, I have joined my distinguished chairman, Mr. DeCONCINI, in a request to have the General Accounting Office not only explore and report on the facts with respect to this particular transaction but to advise us as to the extent to which such shifting of appropriated moneys from one account to another is occurring as a result of interdepartmental or interagency agreements.

Until the GAO results are in, on the face of it, it appears to me that this movement of appropriated funds, without approval by the Appropriations Committee and the Congress, is inappropriate. If this is not the case, those of us on the committee and in this body are wasting a lot of effort and time authorizing the use of funds for specific purposes and deciding what level of funding is appropriate and where those funds should be placed. I submit to you that those are the responsibilities assigned to the Congress. If subsequent to congressional action, new circumstances arise which would permit appropriated funds to be spent in a more efficient manner, then there are procedures in place to obtain congressional approval of such proposals.

This amendment reflects such a procedure—congressional approval to transfer previously appropriated funds to another account. I am certain that neither the Customs Service nor the Coast Guard acted in bad faith in attempting to accomplish this transfer by interagency agreement. In recognition of this, we are officially providing for such a transfer of funds. However, we will be exploring this general issue more fully and intend to address it in the fiscal year 1988 appropriations bill.

Mr. President, obviously, the distinguished Senator from Arizona has indicated that I am a cosponsor. I sit on his subcommittee as his ranking member. I obviously support the amendment.

I am informed, I say to my friend from Arizona, that the distinguished ranking member, Senator HATFIELD, asked to reserve judgment on this, He will be here shortly. I understand he is getting a reading as to the outlay impact. I assume because of consistency, he wants to make sure there is no outlay impact and that others have been required to waive the Budget Act if, indeed, there are. A preliminary reading on it is that, indeed, it may have an outlay impact. I am not aware of that. I do not understand how that can be. But I have not studied it in terms of the outlay as compared to the outlays under the previous usages.

Senator HATFIELD had indicated that he had objection to it on the same basis that he objected to previous amendments that had outlay disparity.

Mr. DECONCINI. I am not aware of that.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the DeConcini amendment be temporarily set aside pending the arrival on the floor of the distinguished Senator from Oregon, and that I be permitted to offer an amendment for immediate consideration.

The PRESIDING OFFICER (Mr. SANFORD). Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 225

Mr. HOLLINGS. Mr. President, on behalf of Mr. RUDMAN and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. RUDMAN, proposes an amendment numbered 225.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, after line 11 insert the following:

Funds appropriated or otherwise made available to the Department of Commerce and the National Oceanic and Atmospheric Administration shall be available for the procurement of launch services for geostationary weather satellites I, J, and K, to be conducted only by the National Aeronautics and Space Administration: *Provided*, That such procurement may be conducted by the Department of Commerce upon written certification to the appropriate Committees of the Congress prior to July 1, 1987, that the conduct of such procurement by the Department of Commerce will not delay the availability of launch services compared to the availability of launch services conducted by the National Aeronautics and Space Administration.

Mr. HOLLINGS. Mr. President, I am offering this amendment on behalf of myself and the distinguished junior Senator from New Hampshire [Senator RUDMAN], the ranking minority member of the Commerce, Justice, State Subcommittee. We believe that the Department of Commerce in rushing to directly procure launch services for geostationary weather satellites, I, J, and K, endangers the Weather Satellite Program. We fear that shifting the contracting responsibilities from NASA to NOAA could delay the availability of launch services for up to 1 year and offer this amendment to slow this down before we find ourselves in a bad situation. Last year we lost a geostationary weather satellite at the launch, so there is already concern about the sustainability of a two-satellite system until the next scheduled launch in late 1989. Even under the current procedures we fear that we may be down to one satellite coverage by that time, so that the Pacific areas could be deprived of information on severe storms and hurricanes, if launch services are delayed or if we have a failure by the satellite launched a few months ago.

The Department of Commerce has been moving along on this without any consultation with the Commerce Committee or the Appropriations Committee until after they made their decision. Why, I do not know—as I believe the Commerce Department requires legislative authority in order to directly procure launch services.

Mr. President, our amendment gives the Commerce Department the benefit of the doubt if they can certify that the change in contracting procedures will not result in a delay in the availability of launch services. Therefore, the amendment includes a proviso to allow for such a certification in consultation with the Administrator of the National Aeronautics and Space Administration.

Mr. President, I urge adoption of this amendment.

Mr. RUDMAN. Mr. President, I am cosponsoring this amendment with my good friend from South Carolina due to my concern that the Department of Commerce is overlooking public safety considerations in its decision to directly procure launch services for geostationary weather satellites I, J, and K. Normally I would enthusiastically support efforts to commercialize government activities; however, in this case the shift in contracting procedures could delay the availability of launch services for up to 1 year. Given the loss on launch of a geostationary weather satellite last spring, there is justifiable concern about the sustainability of a two-satellite system until the next launch in late 1989. It is quite possible we will be down to one satellite coverage by that time, which means that the Pacific will not be adequately covered due to the need to monitor storms and hurricanes in the South Atlantic and the Gulf of Mexico. If launch services are delayed and during that period of time the most recently launched satellite fails, hurricane coverage would be eliminated.

I would also like to point out that this decision was made without any consultation with the Commerce Committee or the Appropriations Committee. This is particularly troubling due to the subsequent realization that the Commerce Department will probably require legislative authority in order to directly procure launch services.

Mr. President, I'm willing to give the Commerce Department the benefit of the doubt if they can certify that the change in contracting procedures will not result in a delay in the availability of launch services. Therefore, the amendment includes a proviso to allow for such a certification in consultation with the Administrator of the National Aeronautics and Space Administration.

Mr. President, I am pleased to be a cosponsor of this amendment and urge its adoption. I also ask unanimous consent that an options list prepared by the Department of Commerce in preparing for their decision be printed in the RECORD, as well as a letter from the National Oceanic and Atmospheric Administration to the National Aeronautics and Space Administration informing them of the Commerce Department decision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, DC, March 2, 1987.

Dr. BURTON I. EDELSON,
Associate Administrator for Space Science and Applications, National Aeronautics and Space Administration, Washington, DC.

DEAR BURT, I would like to thank NASA for completing the planning for procurement of ELV-based launch services for GOES I-K as I requested last fall. The NASA team, led by Lewis Research Center, has prepared an excellent solicitation and evaluation package. It is consistent with guidance provided by our staff.

The Department of Commerce has made a policy decision that Commerce/NOAA should conduct this procurement for ELV-based launch services. NOAA intends to build on the solicitation and evaluation package that has been completed by NASA and to issue a solicitation as quickly as possible. We would welcome having NASA technical staff participate in the evaluation of proposals and in the follow-on contract monitoring. Our staff will be making every effort to have launch services available to meet our current schedule, with the launch of GOES I in late 1989.

We look forward to continuing our productive and collegial working relationship with NASA in the development of the GOES I-M spacecraft, the development of NOAA's future polar metsats, and in planning for future data management, instruments, and operations for the 1990s.

Sincerely,

THOMAS N. PYKE, Jr.

OPTIONS CONSIDERED FOR GOES I-M LAUNCH PROCUREMENT

OPTION 1.—DOC TO COMPETITIVELY PROCURE LAUNCH SERVICES DIRECTLY WITH TECHNICAL ASSISTANCE FROM AIR FORCE

Pros

Direct procurement (rather than through NASA) is substantive Fed vote of confidence in building a competitive commercial launch services industry.

Maximum DOC control over procurement decision.

Experienced USAF staff for guidance.

Lowest cost available to Government: will use fewer full-time staff than NASA services require.

Cons

Need to schedule USAF support around USAF "peak loads", and familiarize DOC/NOAA procurement personnel with launch service procurement procedures.

Delay of 4-12 months.

OPTION 2.—NASA CONTINUES PROCUREMENT OF LAUNCH SERVICES ON BEHALF OF DOC

Pros

Experienced staff.

No delay; ongoing procurement process continues.

DOC participates in selection.

Cons

Continues reliance on NASA as go-between with private sector.

Limits DOC control over selection. Contract still NASA's responsibility; DOC would have "veto" authority.

Higher staff costs (NASA maintains large full-time team).

OPTION 3.—FORD AEROSPACE, THE GOES SPACECRAFT CONTRACTOR TO PROCURE LAUNCH SERVICES ON BEHALF OF DOC

Pros

Strongly supports commercialization; by providing less Federal oversight, relies more on contractor.

Cons

No DOC control over selection.

DOC must justify large sole-source contract to Ford; protest is likely.

Delay of 2-10 months, longer if major protest of sole-source.

Ford would need to staff up with launch vehicle experts.

Greatly reduced Federal oversight, resulting in increased risk.

Higher cost due to middleman: would have to pay Ford general administration plus fee, estimated at 16 percent.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, I just wanted to ask my friend, Senator HOLLINGS, does this amendment have any budgetary impact?

Mr. HOLLINGS. No, it does not. It could at a later time. That is what we are concerned about. We do not want to start a budgetary impact by establishing a new launching service within NOAA when we just provide the service through NASA. Of course, we have the military launches at the Pentagon. We do not want to start a third one without any knowledge. We wanted to avoid any such impact.

Mr. DOMENICI. Mr. President, I have been informed by the distinguished floor manager on our side that, based upon the fact that it has no budgetary impact, we have no objection to the amendment on this side.

Mr. HOLLINGS. I thank the distinguished Senator from New Mexico.

Mr. JOHNSTON. Mr. President, Senator HOLLINGS is chairman of the subcommittee, and I also see the chairman of the Budget Committee here on the floor who is, I think, familiar with this amendment. I think I can definitely say on behalf of Senator STENNIS that the committee has no objection.

Mr. HOLLINGS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 225) was agreed to.

Mr. HOLLINGS. I thank the distinguished Senator from Louisiana and the distinguished Senator from New Mexico.

AMENDMENT NO. 226

(Purpose: Provided for continuation of disaster loan making activities)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk on behalf of myself and Senator BUMPERS and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment temporarily? Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. HOLLINGS] for himself and Mr. BUMPERS, proposes an amendment numbered 226.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 13: restore the matter stricken on line 7 and insert:
>
> SALARIES AND EXPENSES
>
> For an additional amount for "Salaries and Expenses", $8,000,000 for disaster loan making activities, derived by transfer from the "Business Loan and Investment Fund": *Provided*, that of the funds made available under the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987, as included in Public Laws 99-500 and 99-591, for Small Business Development Centers, an amount not to exceed $2,000,000 may be transferred for disaster loan making activities.

Mr. HOLLINGS. Mr. President, on behalf of myself and Senator BUMPERS I offer an amendment which provides an additional $10 million to the Small Business Administration for the necessary salaries and expenses for employees involved in the Agency's disaster loan making [DLM] activity. We are advised that at the current level of operation, the current availability for the disaster loan activity of $20 million will run out in mid-July. It is currently estimated that if SBA continues the same level of service to disaster victims, and provides the required support to the Federal Emergency Management Agency [FEMA], a total of $30 million will be required this fiscal year. Without these additional funds, the disaster loan making employment level of 470 personnel would have to be drastically reduced and possibly eliminated entirely in the fourth quarter, and yield a double whammy to the victims of disaster and to the budget later on because we would have to supplant it at a later time.

Between October 1 and March 25, SBA declared a total of 69 disasters. Similarly, during the same period of fiscal year 1986, SBA declared 61 disasters. In addition, the last half of fiscal year 1986 shows another 49 disasters declared by the SBA. Based on the actual number and type of physical disasters declared in the last 5 years, SBA expects to declare major physical disasters resulting from 2 fires, 16 floods, 3 hurricanes, 3 major storms and 11 tornadoes between the months of March and September. The total disasters declared as of May 5, 1987 is 83 disasters, and I ask unanimous consent to print a listing of these 83 disaster declarations in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1987—DISASTER DECLARATIONS

Declaration date	State	Physical declaration number	Economic injury number	Physical termination date	E.I. termination date	Interest rate				
						HCE [4]	HNCE [5]	BCE [6]	BNCE [7]	Nonprofit
1. Oct. 6, 1986	Pennsylvania	(S) [1]	6446 01		June 1, 1987				4	9½
2. Oct. 6, 1986	Iowa	(S)	6447 01		June 1, 1987				4	9½
3. Oct. 8, 1986	Kansas	(S)	6448 01		June 3, 1987				4	9½
4. Oct. 8, 1986	Wisconsin	(P) [2] 2253 06	6449 00	Dec. 8, 1986	July 7, 1987	8	4	7½	4	9½
5. Oct. 8, 1986	Illinois	(P) 2254 06	6450 00	Dec. 8, 1986	July 7, 1987	8	4	7½	4	9½
6. Oct. 15, 1986	Missouri	[3] 2255 06	6451 00	Dec. 15, 1986	July 15, 1987	8	4	7½	4	9½
7. Oct. 15, 1986	Kansas	2256 06	6452 00	Dec. 15, 1986	July 15, 1987	8	4	7½	4	9½
8. Oct. 15, 1986	Minnesota	(S)	6453 01		June 8, 1987				4	9½
9. Oct. 15, 1986	Wisconsin	(S)	6454 01		June 8, 1987				4	9½
10. Oct. 15, 1986	Montana	(P) 2257 06	6455 00	Dec. 15, 1986	July 14, 1987	8	4	7½	4	9½
11. Oct. 15, 1986	Missouri	(P) 2258 06	6456 00	Dec. 15, 1986	July 14, 1987	8	4	7½	4	9½
12. Oct. 15, 1986	Oklahoma	(P) 2259 06	6457 00	Dec. 15, 1986	July 14, 1987	8	4	7½	4	9½

FISCAL YEAR 1987—DISASTER DECLARATIONS—Continued

Declaration date	State	Physical declaration number	Economic injury number	Physical termination date	E.I. termination date	Interest rate				
						HCE [4]	HNCE [5]	BCE [6]	BNCE [7]	Nonprofit
13. Oct. 22, 1986	Minnesota	(S)	6458 01		June 15, 1987				4	9½
14. Oct. 22, 1986	Kansas	(S)	6459 01		June 17, 1987				4	9½
15. Oct. 24, 1986	Kansas	(P) 2260 06	6461 00	Dec. 22, 1986	July 22, 1987	8	4	7½	4	9½
16. Oct. 27, 1986	Missouri	(S)	6460 01		June 22, 1987				4	9½
17. Oct. 28, 1986	Alaska	(P) 2261 06	6462 00	Dec. 26, 1986	July 27, 1987	8	4	7½	4	9½
18. Nov. 3, 1986	Idaho		6463 00		Aug. 3, 1987				4	9½
19. Nov. 7, 1986	Minnesota	(S)	6464 01		June 30, 1987				4	9½
20. Nov. 7, 1986	Missouri	(S)	6466 01		July 3, 1987				4	9½
21. Nov. 7, 1986	Missouri	(S)	6465 01		July 1, 1987				4	9½
22. Nov. 19, 1986	Ohio	(S)	6468 01		July 7, 1987				4	9½
23. Nov. 19, 1986	Pennsylvania	(S)	6467 01		July 7, 1987				4	9½
24. Nov. 24, 1986	Arkansas	(S)	6469 01		July 14, 1987				4	9½
25. Nov. 24, 1986	Michigan	(S)	6470 01		July 14, 1987				4	9½
26. Nov. 24, 1986	Kansas	(S)	6471 01		July 17, 1987				4	9½
27. Nov. 24, 1986	Arkansas	(S)	6472 01		July 20, 1987				4	9½
28. Nov. 25, 1986	Arkansas		6473 00		Aug. 25, 1987				4	9½
29. Nov. 25, 1986	Kentucky	(S)	6474 01		July 20, 1987				4	9½
30. Dec. 8, 1986	Michigan	(S)	6475 01		July 27, 1987				4	9½
31. Dec. 11, 1986	Trust Territories	(P) 2262 06	6476 00	Feb. 9, 1987	Sept. 10, 1987	8	4	7½	4	9½
32. Dec. 16, 1986	Washington	(P) 2263 06	6477 00	Feb. 13, 1987	Sept. 15, 1987	8	4	7½	4	9½
33. Dec. 16, 1986	Nebraska	(S)	6478 01		Aug. 10, 1987				4	9½
34. Dec. 17, 1986	Texas	(S)	6479 01		Aug. 12, 1987				4	9½
35. Dec. 23, 1986	Illinois	(S)	6480 01		Aug. 17, 1987				4	9½
36. Dec. 23, 1986	New York	(S)	6481 01		Aug. 17, 1987				4	9½
37. Jan. 7, 1987	Minnesota	(S)	6482 01		Aug. 24, 1987				4	9½
38. Jan. 7, 1987	Louisiana	(S)	6483 01		Aug. 24, 1987				4	9½
39. Jan. 7, 1987	Idaho	(S)	6484 01		Aug. 31, 1987				4	9½
40. Jan. 7, 1987	Texas	(S)	6485 01		Aug. 31, 1987				4	9½
41. Jan. 7, 1987	New York	(S)	6486 01		Aug. 31, 1987				4	9½
42. Jan. 14, 1987	Oklahoma	(S)	6487 01		Sept. 8, 1987				4	9½
43. Jan. 14, 1987	Iowa	(S)	6488 01		Sept. 8, 1987				4	9½
44. Jan. 14, 1987	New Mexico	(S)	6489 01		Sept. 9, 1987				4	9½
45. Jan. 20, 1987	Idaho	(S)	6490 01		Sept. 9, 1987				4	9½
46. Jan. 20, 1987	Kentucky	(S)	6491 01		Sept. 9, 1987				4	9½
47. Jan. 20, 1987	Michigan	(S)	6493 01		Sept. 9, 1987				4	9½
48. Jan. 20, 1987	Texas	(S)	6494 01		Sept. 9, 1987				4	9½
49. Jan. 20, 1987	Texas	(S)	6495 01		Sept. 9, 1987				4	9½
50. Jan. 28, 1987	South Carolina	2264 06	6496 00	Mar. 30, 1987	Oct. 28, 1987	8	4	7½	4	9½
51. Jan. 29, 1987	American Samoa	(P) 2265 08	6497 00	Mar. 25, 1987	Oct. 26, 1987	8	4	7½	4	9½
52. Feb. 3, 1987	New York	(S)	6492 01		Sept. 9, 1987				4	9½
53. Feb. 3, 1987	New York	(S)	6498 01		Sept. 15, 1987				4	9½
54. Feb. 3, 1987	Texas	(S)	6499 01		Sept. 16, 1987				4	9½
55. Feb. 4, 1987	South Dakota	2266 05	6500 00	April 6, 1987	Nov. 4, 1987	8	4	7½	4	9½
56. Feb. 9, 1987	Maine	(S)	6501 01		Sept. 29, 1987				4	9½
57. Feb. 9, 1987	Mississippi	(S)	6502 01		Sept. 29, 1987				4	9½
58. Feb. 9, 1987	Texas	(S)	6503 01		Sept. 29, 1987				4	9½
60. Feb. 9, 1987	Michigan	(S)	6504 01		Sept. 29, 1987				4	9½
61. Feb. 10, 1987	Micronesia	(P) 2267 06	6505 01	April 3, 1987	Nov. 2, 1987	8	4	7½	4	9½
62. Feb. 17, 1987	New Mexico	(S)	6506 01		Sept. 30, 1987				4	9½
63. Feb. 17, 1987	Texas	(S)	6507 01		Sept. 30, 1987				4	9½
64. Mar. 5, 1987	California	2268 05	6508 00	May 4, 1987	Dec. 7, 1987	8	4	7½	4	9½
65. Mar. 6, 1987	Mississippi	(P) 2269 05	6510 00	May 4, 1987	Dec. 7, 1987	8	4	7½	4	9½
66. Mar. 11, 1987	Mississippi	(S)	6509 01		Oct. 27, 1987				4	9½
67.		2270 00	6511 00							
68. Mar. 25, 1987	Texas	(S)	6512 01		Nov. 17, 1987				4	9½
69. Mar. 25, 1987	Virginia	(S)	6513 01		Nov. 19, 1987				4	9½
70. Mar. 25, 1987	Texas		6514 00		Dec. 28, 1987				4	9½
71. Apr. 3, 1987	Massachusetts	2271 06	6515 00	June 2, 1987	Jan. 4, 1988	8	4	7½	4	9½
72. Apr. 7, 1987	Mississippi	2272 12	6516 00	June 8, 1987	Jan. 7, 1987	8	4	7½	4	9½
73. Apr. 7, 1987	Alabama	(S)	6517 01		Nov. 25, 1987				4	9½
74. Apr. 7, 1987	Massachusetts	2273 05	6518 00	June 8, 1987	Jan. 7, 1988	8	4	7½	4	9½
75. Apr. 9, 1987	Maine	(P) 2274 06	6520 00	June 8, 1987	Jan. 11, 1988	8	4	7½	4	9½
76. Apr. 10, 1987	Louisiana	2275 12	6521 00	June 9, 1987	Jan. 11, 1988	8	4	7½	4	9½
77. Apr. 10, 1987	Texas		6519 00		Jan. 11, 1988				4	9½
78. Apr. 21, 1987	New Hampshire	(P) 2276 06	6522 00	June 15, 1987	Jan. 18, 1988	8	4	7½	4	9½
79. Apr. 21, 1987	Massachusetts	(P) 2277 06	6524 00	June 18, 1987	Jan. 18, 1988	8	4	7½	4	9½
80. Apr. 22, 1987	Texas	(S)	6523 01		Dec. 15, 1987				4	9½
81. Apr. 23, 1987	New Jersey	2278 06	6525 00	June 22, 1987	Jan. 25, 1988	8	4	7¾	4	9½
82. Apr. 27, 1987	California	(S)	6526 01		Dec. 17, 1987				4	9½
83. May 5, 1987	Minnesota	(S)	6527 01		Dec. 28, 1987				4	9½
84. May 5, 1987	Texas	(S)	6528 01		Dec. 30, 1987				4	9½

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[1] Secretary of Agriculture.

[2] Presidential.

[3] Small Business Administration.

[4] Home—Credit Elsewhere.

[5] Home—No Credit Elsewhere.

[6] Business—Credit Elsewhere.

[7] Business—No Credit Elsewhere.

Mr. HOLLINGS. Mr. President, as I indicated previously, if additional funds are not provided, there would be a significant fall off in service to all disaster victims all over the country. The work required by these disasters consists of processing loans, verifying damages and losses, and disbursing loans. The disbursement of a loan is a long process in which loan funds are disbursed as each borrower completes replacement or repair of damaged or destroyed property. Actual full disbursement can occur in as little as 1 month or as long as over 1 year, depending upon how long the borrower takes to complete and return legal documents and market the necessary repairs. If no additional disasters occur during the rest of the fiscal year, most of the workload for the year would consist of closing—existing—loan approvals. In addition, the agency is required to participate in manning the various disaster assistance centers. Currently there are 25 active centers. These centers are established by FEMA in response to a Presidential disaster declaration and require three or four SBA employees along with employees from other departments and agencies. Without the additional funding, SBA will be forced to reduce significantly, and in some cases entirely, our participation in these centers.

Finally, Mr. President, in accordance with the requirements to keep amendments outlay neutral, we have offset the increase by transferring $8 million from the business loan and investment funds and $2 million from the amount currently appropriated for the small business development centers. While I would rather not make those transfers, continuation of disaster loan making must have the higher priority and we must conform to the overall fiscal constraints.

In addition, SBA has advised of additonal receipts of $3.5 million than was projected for 1987.

Mr. HOLLINGS. Mr. President, we have made this revenue neutral, I say to the distinguished chairman and acting manager of the bill.

I move adoption of the amendment.

Mr. HATFIELD. Mr. President, we have gone along with a fairly uniform procedure, I would say to the Senator from South Carolina. Under Gramm-Rudman-Hollings the Budget Committee is assigned the task of scoring these amendments. I would like to make a legislative record that we are being consistent with our management procedures by asking the chairman of the Budget Committee if the amendment has been scored by the Budget Committee and, if it has been, what is its budgetary impact.

Mr. HOLLINGS. I will repeat, we have offset the increase by transferring $8 million from the business loan and investment fund and $2 million from the amount appropriated for small business development centers. That can be checked with both Senator BUMPERS and Senator WEICKER, the chairman and the ranking member on the authorizing side, as well as the appropriations Committee.

Mr. HATFIELD. I wonder if the Senator would agree to a quorum call for a few moments to give the Budget Committee an opportunity to give a formal statement. I would say to the Senator from South Carolina I want to make it very clear we have had about five amendments this morning and on each one—Senator HEINZ, Senator DIXON, and others—we have gotten the formal ruling in order to carry out the procedure that is imposed upon us by the Gramm-Rudman-Hollings amendment to the Budget Act, and we feel as appropriators we should abide by that procedure. And so we have asked for that formal ruling from the Budget Committee in conjunction with their consultation with the CBO. If the Senator from South Carolina would be willing to temporarily lay this aside for the possibility of entertaining other amendments, it would be done without prejudice of any kind against his amendment. Will the Senator agree to temporarily laying aside his amendment?

Mr. HOLLINGS. I am delighted to agree. I have stated what it is. I do not know what the scorekeeper is waiting on. But that is why we drew the amendment as we did, in order to comply with the procedure that the committee has adopted. I agree with that procedure and that is why the amendment is drawn accordingly. I do not know who the scorekeeper is, but I know who the author of the amendment is. That is why we have it written that way.

Mr. HATFIELD. I say to the Senator that I understand the wording of his amendment and what it purports to do. At the same time, I know as well that there are many different accounts, that some accounts spend out faster than other accounts, and so that a total figure oftentimes as an offset does not represent a real offset for budget deficit neutrality; it takes more than the round figures. I am not that well acquainted with all of the various accounts and that is why the Budget Committee and the CBO have provided us with this service.

Mr. President, I would then with the assent of the Senator from South Carolina ask unanimous consent to temporarily lay aside his pending amendment without any prejudice to that amendment for the possibility of entertaining other amendments.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

AMENDMENT NO. 227

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] proposes an amendment numbered 227.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

"SEC.   . None of the funds made available by this or any other Act for fiscal year 1987 for Health Care Financing Administration Program Management activities shall be used to promulgate or enforce any rule, regulation, instruction, or other policy having the effect of establishing a mandatory holding of Medicare claims processing or payments."

Mr. CHILES. Mr. President, this amendment will prevent the Health Care Financing Administration from establishing a mandatory holding of Medicare claims for processing and payment. We have recently learned that the Health Care Financing Administration is planning to slowdown the payment of electronic media claims to 10 days in July of 1987 and to 18 days in September of 1987. These actions are absolutely contrary to the intent of Congress in establishing the prompt payment legislation for Medicare claims. Congress enacted the prompt payment legislation so that the claims could be paid in a timely manner. Congress clearly intended to set a ceiling and not a floor for the payment of Medicare claims. There was never any intention to buildup backlogs or to hold claims for payment.

There are several reasons why setting a mandatory floor for the payment of claims is a very bad idea.

If payments to providers, especially physicians, are slowed down and delayed, we are going to be discouraging those physicians from taking assignment. Those doctors will insist the beneficiary pay the additional cost between the Medicare-approved fee and the physician's fee and that reduced cash flow is going to make it more difficult for them to meet payroll and pay their bills in a timely manner. And that is another additional disincentive to accept assignment.

For physicians on 1-year contract, it is unfair to change the rules in the middle of the year. Actions of this type will again discourage physician participation in the future.

In addition to the increased cost of computer system changes and increased computer storage, there is going to be increased costs for handling more inquiries and for duplicate claim submission. Furthermore, doctors and providers will be discouraged from automating their processing. As a result of that, the administrative cost for processing paper claims is going to increase.

The 1986 reconciliation bill provides that participating physicians will be paid within 19 days as of October 1, 1987, but by holding on to electronic media claims for 18 days in September the intermediaries will be most unlikely to meet that standard. The proposed floors could result in the inability of the intermediaries to meet prompt payment standards and, if that happens, the periodic interim payment, the PIP program will be reinstated. Under that system, payments are made more frequently than under the prompt payment system and that will result in increased trust fund outlays.

Mr. President, this amendment does not require any additional funding. It has been cleared by the Congressional Budget Office in that regard.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHILES. Both the manager of the bill and the ranking minority member have been given copies of the amendment.

Mr. JOHNSTON. Mr. President, we have examined the amendment and we have no objection to the amendment.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

Mr. CHILES. I yield back any time I might have.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 227) was agreed to.

Mr. MELCHER addressed the Chair.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I will yield to my friend from Arizona in just a moment. We have pending an amendment on oil shale claims that started, I believe, around 3 o'clock. I believe we have worked it out now satisfactorily to both sides of the aisle. At the appropriate time I would like to go back to that, get the amendment modified, and then get the modified amendment accepted.

Mr. BINGAMAN. Will my friend yield?

Mr. MELCHER. Yes, I do yield to my friend from Arizona for a statement or question or whatever.

Mr. DECONCINI. Mr. President, I ask the distinguished Senators from Wyoming and Montana if they would let me make a unanimous-consent request to set aside their amendment for less than 1 minute. The amendment that was pending, the DeConcini amendment, has now been cleared by CBO, has no budgetary effect whatsoever, and is ready to be accepted, and I could get that one out of the way if the Senator will yield.

Mr. MELCHER. Mr. President, I ask unanimous consent that the Senator from Arizona be recognized on his amendment and that immediately following that I would be recognized on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

AMENDMENT NO. 224

Mr. DECONCINI. Mr. President, the arguments have been made on behalf of this amendment. We have now been advised by CBO that it is revenue neutral and that there is no budget impact whatsoever and the majority and minority I understand have been so advised and have cleared the amendment. It is ready for adoption, I believe.

Mr. JOHNSTON. Mr. President, the amendment has been cleared.

Mr. HATFIELD. Mr. President, the amendment has been cleared on our side of the aisle.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Florida appear as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 224) was agreed to.

Mr. DECONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the distinguished Senators from Montana and Wyoming and also the managers of the bill for their cooperation, and also the Budget Committee.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 222 AS MODIFIED

Mr. MELCHER. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), proposes an amendment numbered 222, as modified.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

None of the funds in this or any other Act shall be available prior to March 31, 1988, to issue a patent for an oil shale mining claim located prior to enactment of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181, et seq., 41 Stat. 437) as provided for under the General Mining Law of 1872, as amended (30 U.S.C. Sec. 22, et seq., 17 Stat. 91) except for patent applications C-012327, C-016671, C-023661, C-41836, C-43354, C-39464, C-38579, C-38402, C-35080, C-36293:

Mr. MELCHER. Mr. President, this amendment as now modified is not an unlimited time that the Department of the Interior would be prevented from issuing patents on these oil shale claims. The amendment as I offered it earlier this afternoon simply stated that nothing would be done on these claims, with the exception of two, until Congress acted. Senators WALLOP and GARN have appropriately pointed out, "Well, can we be sure Congress is going to act? Why hasn't the Senator from Montana done something about it prior to now? Why come to the floor on an appropriations bill?"

Mr. President, I have to concede that that is a fair criticism of myself.

The PRESIDING OFFICER. Can we have order in the Chamber so that Senators may be heard.

Mr. MELCHER. Thank you, Mr. President. The points that Senator WALLOP and Senator GARN made were very valid points. Now, in the past hour, hour-and-a-half, we have been discussing this with particularly my colleague from Colorado, Senator WIRTH, and this compromise has been worked out to put the date that nothing be done on issuing patents for oil shale mining claims until March 31, next spring, and there will be more than two of these claims that are now being processed being exempted. In fact, there is a total of 10 in this amendment as modified, each of them identified. I think it takes care of the difficulties that the Senator from Wyoming, the Senator from Utah, and others found with the amendment I proposed.

I welcome this modification. I believe this will give us enough time in the Energy Committee to consider the matter and to lay out whatever corrections there should be in the statute.

Mr. WALLOP. Mr. President, I thank the Senator from Montana and the Senator from Colorado. I appreciate that Senator MELCHER has clarified that the modified amendment does not affect the eight pending patent applications, not does it attempt to affect final processing of the two remaining claims involved in the Tosco settlement.

This amendment would not affect new applications in their processing but would block any issuance on any new applications until March 31, 1988, except for the eight pending and the two Tosco applications.

That is my understanding, and I believe it is the understanding of the Senator from Montana, and I believe that in his statement that was as he stated it.

Mr. JOHNSTON. Mr. President, this is an excellent solution to a difficult problem.

I congratulate the Senator from Montana [Mr. MELCHER], the Senator from Colorado [Mr. WIRTH], and the Senator from Wyoming [Mr. WALLOP]. If no one else is on the floor, they do not deserve congratulations.

Mr. President, this is an excellent solution, and we accept the amendment.

Mr. WALLOP. Mr. President, I believe the Senator from Wyoming still has the floor. I thank the Senator from Louisiana. I was just seeking affirmation from the Senator from Montana as to my question.

Mr. MELCHER. The Senator from Wyoming [Mr. WALLOP], my friend, has correctly stated that there are 10 exemptions of oil shale mining claims that are not covered, not restricted, by the language of this amendment. They are identified by those numbers.

Mr. WALLOP. I thank the Senator from Montana. That would not block any processing, just the issuance of patents.

Mr. WIRTH. Mr. President, I commend and thank the Senator from Montana and the Senator from Wyoming.

Senator ARMSTRONG is particularly concerned that we not try to breach the patent applications already filed. The compromise worked out took care of the concerns of the senior Senator from Colorado.

Mr. President, this amendment will not take away anyone's mining claims. This amendment will do no more than give the Congress a chance to review this whole issue. It merely instructs the Department of the Interior not to issue patents for additional oil-shale mining claims until the Congress has had a chance to review the situation and decide if substantive legislation is needed.

This Senator believes that the Congress ought to take a look at this problem. As a member of the Energy and Natural Resources Committee, along with the distinguished Senator from Montana, I intend to do that. And once the committee has acted, the entire Senate will have a chance to be heard on this issue.

This amendment will give the Senate the time to take a look at the problem—it does no more than that.

Last year, the Department of the Interior decided not to appeal a district court decision, and settled one of the many lawsuits on this issue. The result was that 82,000 acres of Federal land in my own State of Colorado ended up in private hands. The selling price for these lands—for mining claims filed more than 60 years ago—was $2.50 an acre.

The Department has told the Congress that this was a great deal.

But the Department would not let the lawyers who worked on this issue testify before a House committee last year. Those lawyers said that the Department should challenge the mining claims.

The Department would not let the BLM's State director testify last year—even though the State director's predecessor had pleaded with the Department to continue its challenge to these claims.

Mr. President, the Denver Post said that the Government should never have given up its lawsuit—and counseled a long, hard look at these claims.

The Rocky Mountain News said this deal looked a lot like a land grab.

And many Coloradans told me that they thought this was a lousy deal.

I have to agree with them. This Senator believes that the Congress should take a long, hard look before we let the Interior Department sell any more public lands for $2.50 an acre.

A great deal is at stake here. Another 100,000 acres of public lands in my State alone could be sold because someone filed a mining claim more than 60 years ago; 116,000 acres in Utah are on the auction block. And 54,000 acres in Wyoming could be sold for $2.50 an acre.

This looks like a land grab to me. I believe it is wrong.

But the Senate does not have to decide that question today. All that this amendment does is tell the Interior Department not to issue any more patents for public lands, until the Congress has had a chance to consider this issue.

The House is scheduled to take up legislation on this issue tomorrow. As a member of the Senate Energy Committee, I intend to work with the distinguished Senator from Montana in scheduling hearings.

This amendment will give the Senate the time it needs to consider these oil shale claims and decide what ought to be done.

This amendment is needed to protect the public lands in the West, Mr. President. It is needed to protect habitat for mule deer, antelope, and elk. And it is needed to make sure that there are no more bargain basement sales of the public lands.

Mr. President, I urge the adoption of this amendment.

I ask unanimous consent to have printed in the Record two editorials in connection with this matter.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Rocky Mountain (CO) News, Aug. 6, 1986]

Valuable Colorado Land Going, Going and Gone

Great land grabs of the past usually brought a circling of the wagons and a fight to the finish. The latest one in Colorado is ending with barely a whimper.

Where were the heroes to save about 190,000 acres of Colorado's richest territory from oil companies who long ago filed claims for mineral rights and are winding up carrying off the whole shebang? Where was 3rd District Congressman Mike Strang who it seems, actually blocked a review by Congress that would at least have forestalled selling this land for $2.50 an acre? Strang must have been off studying law books and deciding that once something has gone to court, Congress should keep its paws off. That kind of thinking has never stopped our national legislature before, as witness the proposed school prayer and right-to-life amendments.

It's true the claims case is an old one, limping along for 25 years or more. Unfortunately, there seems to be more incentive to end it than to end it properly. It may be a long time for a case to gather spiders, but it's not long enough unless the interests of the public prevail.

In all, the settlement affects some 360,000 acres in Colorado, Utah and Wyoming—about 2,200 claims for oil shale and other minerals. Some of the claims were filed before the 1920s but never developed. Some of the mineral leases went for a few cents an acre. Unfortunately, during that time government didn't do much to see that claims were kept up to date and records properly filed.

The drawn-out case brought by Tosco Corp. and other claimants came to a conclusion in May 1985 in the U.S. District Court of Judge Sherman G. Finesilver, who ruled that the claims of Tosco and the others were valid. The Interior Department and Justice Department filed an appeal. It would not be the first time such a case had gone to the U.S. Supreme Court. But suddenly, in what appears to be a political decision rather than a legal one, the government decided to settle.

In the agreement, which becomes valid when signed by Finesilver, the oil companies will have not only mineral rights to federal land but full title—for the paltry sum of $2.50 an acre. During the oil shortage of the 1970s, the government sold leases in this area for up to $40,000 an acre. Something's been sold, all right. And someone's been sold out.

Among the latter are taxpayers, who will see no revenues from minerals taken from this land, ranchers who now graze cattle there under grazing permits that, once expired, will sell for whatever the new owners charge. Water rights are to be given up by the federal government and will have to be negotiated with the states.

It's the grandest sell-out in many years—360,000 acres of public land turned over to private interests. Recreation, mining, farming, hunting all will be permitted with the good grace of the land owners. It may be true that the case had become a colossal bore. It may be that Finesilver should be congratulated for bringing it to an end. That's not how it looks from here.

[From the Denver (CO) Post, Aug. 7, 1986]

Land for Sale—Cheap

Interior Secretary Donald Hodel is due to visit Colorado over the next few days. The trip should give him ample opportunity to explain why the federal government just agreed to let go of 82,000 acres of oil-shale land on the western slope for a measly $2.50 an acre.

Mike Strang, the Republican congressman who represents the area, characterized the agreement as "the best that could be expected." But his colleague, Morris Udall, House Interior Committee chairman, described it as "morally wrong" and an "abdication of the public trust."

It's true that the adbsurdly low price was fixed by Congress more than a century ago, and that the new owners—mainly Tosco, Exxon, Union Oil and the family that once owned the Lake Eldora ski resort—sought title under long-established mining laws. It's also true that the agreement, will give the government the rights to any coal, oil and natural gas that may underlie the properties.

But on the other hand, it's possible that the original claims may have been fraudulently filed, and that the oil-shale deposits may never prove valuable enough to dig up and turn into fuel—and thus many never justify the decision to turn over the surface land to private interests to do with as they please.

So it's hard to understand why the Reagan administration chose to settle the longstanding legal dispute over the claims, rather than to appeal an adverse ruling handed down by a federal district judge in Denver last year. And in view of the far-reaching implication of the case, it's especially hard to figure out why Hodel and his forces negotiated the deal in such a surreptitious manner.

Udall has scheduled a hearing next Tuesday to seek answers to these questions. He and Hodel's other critics in Congress may not be able to overturn the settlement reached this week, of course. But they may be able to keep some 280,000 additional acres of public land in Colorado, Utah and Wyoming from being forfeited in the same way.

It's important to realize that while the tracts are not all contiguous, they together represent an enormous amount of public domain. The 280,000 acres that still could be lost, for instance, total more than the entire Dinosaur National Monument.

At the very least, any further deals should bring a far higher price and prove much stronger guarantees that public access would not be denied. Putting such real estate in private hands not only deprives the federal and state governments of possible mineral royalties, but also limits use of the land for grazing, water storage or recreation—particularly deer hunting, an economic mainstay in western Colorado.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, whose amendment is now before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Montana [Mr. MELCHER].

Mr. BYRD. I ask unanimous consent that the vote occur on the Melcher amendment immediately following the disposition of the amendment by Mr. DIXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, whose amendment now is before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from South Carolina [Mr. HOLLINGS].

Mr. BYRD. Mr. President, what amendment is backed up behind the amendment by Mr. HOLLINGS?

The PRESIDING OFFICER. The amendment of the Senator from Ohio [Mr. METZENBAUM].

Mr. BYRD. I thank the Chair.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside in order that the Senator from North Carolina [Mr. SANFORD] may propose an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

AMENDMENT NO. 228

(Purpose: To provide that funds made available to carry out the emergency disaster assistance program may also be used to make additional payments required by the Farm Disaster Assistance Act of 1987)

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] for himself and Mr. HELMS and Mr. BOREN proposes an amendment numbered 228:

On page 80, line 19, insert after "claim" the following: "and to make additional payments required by the amendments to such section made by the Farm Disaster Assistance Act of 1987".

Mr. SANFORD. Mr. President, I am today introducing an amendment that would correct an oversight in the 1987 supplemental appropriations bill relating to farm disaster assistance. My amendment would simply clarify that the $135 million appropriated in this bill will be used to provide relief to all eligible producers under section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act for 1987.

We all know that this is a difficult period for our farmers. And we all know that many agricultural producers suffered greatly from natural disasters in 1986—disasters such as drought, flood, or freeze that only added to considerable stress already present in our farm economy.

The Congress acted promptly to provide assistance, and in so doing has without a doubt kept many farmers in business. But last year's disaster assistance program, effective though it was, inadvertently excluded some producers. We have corrected such oversights in passing H.R. 1157, the Farm Disaster Assistance Act of 1987, which I am advised the President has just signed into law. H.R. 1157 means a great deal to many farmers—not just those who were unable to receive full payment on last year's claims, but also those producers of cotton, rice, sugar beets, apples, and other crops who were left out in 1986.

My amendment would simply ensure that the disaster assistance funds we are appropriating today can be used to relieve all producers eligible under section 633(B) of last year's appropriations bill, including the new programs set up under H.R. 1157. The amendment will add no new funding. It does not specify a particular allocation between new and old programs. It would simply extend the philosophy we expressed in H.R. 1157—if producers left out of last year's programs by oversight have now been made eligible for relief, it stands to reason that they should be eligible for a portion of the funds we are now appropriating.

This amendment would allow relief to go where it is desperately needed. In my State of North Carolina, our apple growers have suffered through three severe freezes in the last 5 years—the worst of which was last year's. We are normally one of the top six or seven apple-producing States, with production of around 10 million bushels a year. Last year we produced just 2 million bushels, due to the severe freeze and drought conditions experienced in western North Carolina.

Our apple farmers need relief now—they cannot afford to wait for a later appropriation. And I am advised that many of the other farmers whose problems were addressed in H.R. 1157 need relief now—including cotton producers in the South, sugar producers in the West, producers in the State of Maine, and others. My amendment will ensure they can get much-needed assistance.

Mr. President, this amendment is cosponsored by Senator HELMS, and we will determine whether or not we have approval from the minority manager.

Mr. JOHNSTON. Mr. President, as I understand it, this amendment is debt neutral, in that it does not increase the pot from which these claims are paid, but simply recognizes that legislation signed into law by the President earlier today, which adds some additional crops—I believe apples is one—can be paid from moneys already appropriated and in the pot.

Therefore, it is deficit neutral, and I understand that it has the support of the distinguished chairman of the Agricultural Appropriations Committee, Mr. BURDICK, who is on the floor at this time.

Am I correct?

Mr. SANFORD. That is my understanding.

Mr. JOHNSTON. Mr. President, we accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON. Mr. President, I understand that Senator Hatfield would like a moment's delay. So, if the Senator from North Carolina has no further debate at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 228) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SANFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we have about 5 minutes left until the first vote starts. If anyone in the Chamber has another amendment at this time, we can handle one more before the vote starts.

If not, I suggest the absence of a quorum.

Mr. HATFIELD. Mr. President, will the Senator withhold a moment?

Mr. JOHNSTON. I withhold.

Mr. HATFIELD. May I inquire of the Chair if we have had a report back from the Budget Committee on the scoring on the Metzenbaum amendment and/or the Hollings amendment?

The PRESIDING OFFICER. It appears that the Metzenbaum amendment would cause the appropriate level of total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for fiscal year 1987 to be exceeded by the amount of $500,000.

Mr. HATFIELD. I thank the Chair. Is there a report on the Hollings amendment?

The PRESIDING OFFICER. The Chair has not been informed on the Hollings amendment.

Mr. HATFIELD. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT—PAGE 23, LINES 14–20

Mr. BENTSEN. Mr. President, I ask unanimous consent that the language on page 23, lines 14 through 20, be deemed a committee amendment and that that amendment be deemed tabled. This action will allow important language regarding the Battleship *Texas* to be restored. My amendment has been cleared with the managers of the bill.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BENTSEN. Mr. President, last year the Congress approved spending $5 million to help match private contributions to restore the battleship *Texas.* That proud ship was in a shocking condition of disrepair. It needed immediate structural repairs to avoid complete deterioration. The Congress agreed that it would be appropriate to help restore that historic ship for current and future generations to visit and admire.

My amendment today adds no additional money to this project, but rather sets conditions so that the intent of Congress can be carried out without additional delays or complications. Those conditions are that none of the funds may be given for remuneration for fundraising activities for this project and that the restoration grant should go to the Texas Parks and Wildlife Department rather than the original designee, the Battleship *Texas* Advisory Board.

Without those conditions, there is a possibility of a continuing dispute over the payment of Federal funds for remuneration of fund raising, something which I do not believe Congress wants or intended. Recently the Texas Parks and Wildlife Commission formally adopted a resolution pledging to devote all of the Federal grant to the restoration project.

The House of Representatives has already adopted this clarifying language. My amendment would put the Senate on record in support of the same conditions so that this worthy project can move ahead at full speed.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, what is the question on which the Senate will be voting?

The PRESIDING OFFICER. The Senate will first be voting on the Melcher amendment No. 219.

Mr. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum, and I suggest that the cloakrooms advise Senators that votes are about to begin.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 219

The PRESIDING OFFICER. The hour of 5:15 p.m. having arrived, the Senate will now proceed to vote on the Melcher amendment No. 219. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. Evans] and the Senator from Alaska [Mr. Murkowski] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—5

Biden
Evans
Gore
Kennedy
Murkowski

So the amendment (No. 219) was agreed to.

The PRESIDING OFFICER. The question now occurs on the Heinz motion to waive the Budget Act for consideration of the Heinz amendment No. 207.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

The managers and some of the rest of us have had a rather difficult time today trying to get amendments up and a good bit of time went by in quorum calls and so on. I hope we do not have a repeat of this tomorrow.

ORDER OF BUSINESS TOMORROW

Mr. BYRD. I understand Mr. Dole and Mr. Grassley have an amendment. I talked to Mr. Dole a while ago and he said it would be all right for me to get consent for that amendment to be in order immediately tomorrow morning, after the vote which will occur, I believe, at 10 a.m. I, therefore, make that request now that the amendment by Mr. Dole and Mr. Grassley be the pending amendment following the vote on tomorrow morning which is scheduled already.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. BYRD. Mr. President, I hope that other Senators will work with our staffs during the remainder of the afternoon and I hope that staffs will contact Senators in an attempt to get Senators lined up for amendments on tomorrow.

Mr. CRANSTON. If the leader will yield, I would like to call up my homeless funding amendment tomorrow. It passed the Senate by an overwhelming majority. If we could work that out, I would be delighted to have that taken up tomorrow.

Mr. BYRD. I thank the able majority whip.

Mr. President, I ask unanimous consent that the amendment by Mr. CRANSTON follow the amendment by Mr. DOLE and Mr. GRASSLEY tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEN MINUTE ROLLCALLS

Mr. BYRD. Mr. President, this request has been cleared with Mr. DOLE. I ask unanimous consent that all remaining rollcall votes today be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

VOTE ON BUDGET WAIVER—AMENDMENT NO. 207

Mr. BYRD. Mr. President, would the Chair state the question so the Senators will know what the question is?

The PRESIDING OFFICER. The question now occurs on the Heinz motion to waive the Budget Act for consideration of the Heinz amendment No. 207.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 21—as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—74

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Johnston
Karnes
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Thurmond
Wallop
Weicker
Wilson
Wirth

NAYS—21

Armstrong
Bradley
Chiles
Conrad
Exon
Garn
Gramm
Helms
Humphrey
Inouye
Kassebaum
Kasten
Lugar
Nickles
Nunn
Proxmire
Rudman
Stafford
Symms
Trible
Warner

NOT VOTING—5

Biden
Evans
Gore
Kennedy
Murkowski

So the motion to waive the Budget Act was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 21. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the point of order is waived and the question is on the amendment.

The yeas and nays have been ordered.

Mr. HEINZ. Mr. President, the Senate has voted overwhelmingly to waive the Budget Act on this amendment, the Heinz amendment. I ask unanimous consent to waive the yeas and nays on the amendment.

Mr. KASTEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

VOTE ON AMENDMENT NO. 207, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—88

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—7

Armstrong
Gramm
Helms
Humphrey
Proxmire
Rudman
Symms

NOT VOTING—5

Biden
Evans
Gore
Kennedy
Murkowski

So the amendment (No. 207) was agreed to.

VOTE ON BUDGET WAIVER—AMENDMENT NO. 220

The PRESIDING OFFICER. The question is on the motion to waive section 311(a) of the Budget Act in response to the point of order against the amendment of the Senator from Illinois. The yeas and nays have been ordered.

Mr. CHILES. Mr. President, I ask unanimous consent to be able to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. May we have order so that Senators may listen to Mr. CHILES.

Mr. CHILES. Mr. President, in the recent action that we took, we voted to waive the Budget Act. I just want to point out I raised the budget point of order on the Heinz amendment because the Congressional Budget Office had told us it was not deficit neutral; it did cause an outlay of expense.

I just want to point out that we are dealing in a situation now in which we have already exceeded, before this bill came to the floor, we exceeded our budget resolution by $13.3 billion in outlays. This bill, as it came out of committee, added another $2.9 billion in outlays.

Based on what I felt was the job the committee had tried to do and that there were some emergency items in the bill, I had agreed to seek a budget waiver on that figure as it came out of the committee. I carefully said that I did not include that to be if we added amendments on the floor.

I just think that everything we vote on in the way of an appropriation is good. I never voted for a bad one. It all helps somebody. They all have a constituency.

The whole thing of trying to pass the Budget Act to start with, and then Gramm-Rudman-Hollings after that, which contained these kinds of provisions, was that at some stage we were going to say we only have so many dollars in the store and we have to set those dollars and how we are going to go about doing that. That is what I thought we were trying to do.

The reason for the waiver is so that the body, by 60 votes, can decide if it wants to do that. I am not trying to say they cannot do that. They can.

The Senator from Florida has made the waiver, required the point on all of the bills that were offered. I intend to try to continue doing that if they are materially over at all.

But I will not support a waiver on the overall bill if it is going to continue to grow. Then I guess everybody makes up their minds on that. But I just wanted to raise that point.

The PRESIDING OFFICER. The question is on the motion to waive. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 62, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—33

Adams
Bingaman
Bradley
Bumpers
Burdick
Cochran
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Ford
Harkin
Heinz
Kerry
Lautenberg
Levin
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Reid
Riegle
Rockefeller
Sarbanes
Shelby
Simon
Specter
Wilson

NAYS—62

Armstrong
Baucus
Bentsen
Bond
Boren
Boschwitz
Breaux
Byrd
Chafee
Chiles
Conrad
Danforth
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Leahy
Lugar
McClure
McConnell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Roth
Rudman
Sanford
Sasser
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NOT VOTING—5

Biden
Evans
Gore
Kennedy
Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 33, the nays are 62. Three-fifths of the Senators duly chosen not having voted in the affirmative, the waiver motion is not agreed to. The point of order is well taken. The amendment falls.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, the Senate has just refused to appropriate moneys for summer youth jobs and take the money from the World Bank, which is going to give $200,000 a head to 390 people of the World Bank who do not deserve the money and have adequate salaries. I want to tell my colleagues I shall offer an amendment tomorrow to take out the $78 million for $200,000-golden parachutes for people at the World Bank.

Mr. GRAMM. Mr. President, I ask unanimous consent to speak out of order for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, had the distinguished Senator from Illinois been serious about this amendment, he would not have cut a program that is spending out. Instead, by claiming to take $100 million out of the World Bank when no outlays were coming out of that program and adding it to a program where $85 million out of the $100 million would have been spent this year, the effect of that amendment was to raise the deficit of $85 million. I submit to our colleague if he is serious about this program, cut some real program that is going to spend out and there will be no point of order on it. Then Members can decide on the merits of the two programs. This is simply playing games and raising the deficit in the process. That is why it failed and richly deserved to fail.

AMENDMENT NO. 222 AS MODIFIED

Mr. BYRD. Mr. President, this will be the last rollcall vote today. I urge Senators to be here at 10 o'clock tomorrow morning, because there is a rollcall vote that will occur at 10 o'clock tomorrow morning. I hope we do not have to hold that vote for 35 minutes. I urge Senators to be here and ready to vote.

I thank all Senators.

The PRESIDING OFFICER. The question is on agreeing to the Melcher amendment (No. 222). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1—as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Symms

NOT VOTING—5

Biden
Evans
Gore
Kennedy
Murkowski

So the amendment (No. 222), as modified, was agreed to.

Mr. LEVIN. Mr. President, I voted in favor of waiving the point of order on the Dixon amendment because the amendment makes a good-faith effort to be deficit neutral by seeking an offset for funding for the World Bank. The fact that it does not comply with the Budget Act in a very technical sense must be weighed against the very real benefit of this program for thousands of young people in our country. Unless additional funds are provided for this program the allocation for my State of Michigan will be almost 30 percent less than last year. In the city of Detroit, this cutback would result in 2,500 fewer summer youth jobs. The unemployment situation in our Nation has not improved so much that we can afford to sit back.

Mr. ARMSTRONG. Mr. President, I commend the efforts of Senators for reaching a compromise on the amendment (No. 222) concerning a moratorium on the issuance of patents for oil shale claims.

The proposed amendment would have imposed a moratorium on the issuance of patents on outstanding oil-shale claims on Federal lands. In part, amendment proponents question whether proper assessment work could have been done by the oil-shale claimholders on their claims, and feel that claimholders have not demonstrated they can actually produce shale oil and make it commercially available.

Opponents of the amendment state that it's a matter of law that claimholders with oil-shale claims held under the 1872 Mining Act have a right to apply for patent. Claimholders acquired equitable title to the land when they located and maintained their claims under the prevailing law. There is no requirement that they seek legal title, which they do when they apply for a patent. However, they should not have that right to receive a patent suddenly denied.

In the spirit of compromise, Senators agreed to modify this amendment so that the eight currently pending oil-shale patents will continue to be processed by the Bureau of Land Management according to law, and patents will be issued as the BLM determines.

In addition, nothing in this amendment shall affect or be construed to affect, either directly or indirectly, any patent application covered by the settlement agreement of August 4, 1986 in *Tosco* v. *Hodel* (611 F. Supp 1130) and related cases.

Those oil-shale claimholders who have yet to apply for patents may still apply. The BLM may process new patent applications, but not issue patents for those new applications until after this amendment expires on March 31, 1987.

This amendment as modified is not intended to prejudice the property rights of oil-shale claimholders, and patents still must be issued in conformance with current laws and regulations. Therefore I support the compromise amendment.

THE PENNSYLVANIA STATE UNIVERSITY AGRICULTURE SCIENCE AND INDUSTRY CENTER

Mr. SPECTER. Mr. President, I would like to address Senator BURDICK, in his role as chairman of the Appropriations Subcommittee on Agriculture, and Senator COCHRAN, the ranking minority member.

The House version of H.R. 1827, fiscal year 1987 supplemental appropriations, carries an earmark of $16,200,000 for the construction of the new agricultural science and industry facility to be located at the Pennsylvania State University.

Since agriculture is Pennsylvania's largest industry, this project is extremely important to the Commonwealth. Penn State's current facilities were constructed in the 1930's and the school is often forced to use equipment significantly inferior to that found on medium-sized private farms in Pennsylvania today.

Congress has recognized the need for this new facility. In the fiscal year 1987 continuing appropriations bill, the committee provided $1,800,000 for the planning costs associated with this facility. For fiscal year 1986, the committee provided $50,000 for a feasibility study, which produced a highly supportive report.

Because of his prior standing as ranking minority member of the subcommittee, I know that the chairman has been supportive of this project, and recognizes its importance. The same is true for Senator COCHRAN, as former chairman of the subcommittee. I have not offered an amendment to the current legislation in the hope that the Senate will recede to the House on this issue. I wonder if the chairman and ranking minority member would share their thoughts on this matter with me.

Mr. BURDICK. Mr. President, I thank the Senator from Pennsylvania for his description of the need for the construction of the agriculture center at the Pennsylvania State University. This project does appear to address important concerns of Pennsylvania and the Nation, and I hope we will be able to include it in our final bill.

Mr. COCHRAN. I appreciate the Senator from Pennsylvania's remarks and sympathize with his concerns. I will also keep his views in mind in conference and hope to be able to accommodate him.

Mr. SPECTER. Mr. President, I thank the Senators for their remarks and look forward to working with them on this urgent matter in conference.

Finally, I should point out that the Senate has allocated funds for this project that are awaiting this Federal match.

ECONOMIC DEVELOPMENT ADMINISTRATION SECTION

Mr. D'AMATO. Mr. President, I am pleased to join the senior Senator from New York and my colleagues from Illinois in offering an amendment to the fiscal year 1987 supplemental appropriations bill. The amendment would ensure the availability of previously appropriated but undisbursed local public works [LPW] funds under the Economic Development Administration [EDA] for title I projects in New York City and in Illinois.

In the case of New York City, under title I of the Local Public Works [LPW] Capital Development and Investment Act of 1976, as amended by the Public Works Development Employment Act of 1977 (Public Law 94-369), EDA awarded the city of New York $295.6 million in grant funds to cover up to 100 percent of the cost of completing 131 specific public works projects. To date, the city has expended approximately $281.5 million of these LPW funds to complete these projects. The surplus LPW funds of approximately $14.1 million are attributable in part to the fact that a number of the 131 projects were completed at a lower cost than originally planned. However, Mr. President, due to EDA's established audit close out process and New York City's right of appeal in the event of any disallowance of cost concerning a specific project subject to an audit of the original 131 projects, the total amount of surplus LPW funds previously authorized and appropriated under title I of Public Law 94-369 has not been finally determined. This means that the $14.1 million figure may not represent the final total amount of eligible undisbursed funds available to New York City.

Mr. President, under section 108(a) of Public Law 99-190, the Congress clearly indicated that any title I funds currently obligated and not disbursed shall remain available for reobligation and expenditure in the city of New York. Furthermore, Public Law 99-500 extended from September 30, 1977, until March 31, 1988, the deadline for obligation and expenditure of any funds authorized and appropriated under title I of Public Law 94-369. This 6-month extension applies in the event that the total amount of eligible undisbursed funds was not finally determined by October 15, 1986. Since the city received closeout letters for a number of the LPW project grant audits as late as November 29, 1986, and since approximately $4.2 million in disallowed costs was still under appeal through January 2, 1987, clearly no final amount was determined by October 15, 1986.

The proposed amendment being offered today to the supplemental appropriations bill would ensure that the surplus funds are obligated and expended for new title I projects in New York City. It also would clarify the spending deadline and allow sufficient time to establish the actual amount of surplus funds available to the city under the law. The amendment would provide the city with the needed flexibility to ensure that the intent of Congress in initially authorizing these funds is finally realized.

The city of New York has invested considerable effort, funds and other resources in these title I projects. They depend on the availability of critical EDA grant funds. I am pleased to support this amendment that will assist in providing vitally needed funds for job creation and local economic development. I urge the Senate to support this amendment and I commend my colleagues from Illinois and New York for their support in this effort.

Mr. NICKLES. The House-passed supplemental appropriations for fiscal year 1987 provides for $3 million for the Red Ark Development Authority. My colleague from Oklahoma [Mr. BOREN] and I support efforts such as this to provide much needed assistance to this economically depressed area of our State.

Mr. BOREN. These funds will be used for the Choctaw Regional Rural Industrial Park which will help alleviate some of the high unemployment in a five-county area. As a consequence of these funds the rural electric co-op will be able to lower its costs of providing electricity to people in the area, a cost that has risen substantially in recent years due to outmigration of people and industry. Thus a vitally important project rests on this grant.

Mr. NICKLES. Recognizing that the chairman of the subcommittee wishes to keep amendments off this bill and respecting that desire, Senator BOREN and I approach him at this time.

Mr. BOREN. Can the chairman give Senator NICKLES and me assurances that he will make every effort to retain this funding during the conference between the House and Senate?

Mr. BURDICK. I thank the Senators for their remarks made to me here, as well as those made privately, and I appreciate the strong commitment that they have to this project as well as their understanding the difficulty I have in accepting any amendments to the bill at this time. I will certainly do what I can to see that this is seriously considered during the conference.

Mr. METZENBAUM. Mr. President, I would like to direct the chairman's attention to four small projects in Ohio.

The conference report of the Fiscal Year 1987 continuing resolution directed the U.S. Army Corps of Engineers to undertake these projects: To complete engineering and design work to stabilize the shoreline at Maumee State Park; to complete a study of the Ohio riverfront; to complete a boat launch in Sheffield Lake; and to restore the Century Park Bathing Beach at Lorain.

The administration refuses to spend the money for these projects—even though Congress has already provided the money.

The supplemental, as passed by the House, directed the corps, specifically, to undertake two of these projects.

However, that language was struck from the bill in the Senate committee.

I am prepared to offer an amendment today that would direct the administration to move these projects forward. But I understand the chairman's predicament, given the fact that there are many other projects in other States on which the administration also refuses to move.

Therefore, I would inquire of the Senator from Louisiana whether he will accept the House language with respect to the two Ohio projects in conference. And further, will he support the inclusion of the other two Ohio projects in the fiscal 1988 energy and water appropriations bill.

Mr. JOHNSTON. I appreciate the Senator's inquiry, and his restraint in withholding the amendment.

I would like to assure the Senator from Ohio that I will urge that we recede to the House position on the two projects in the supplemental, and will make every effort to include the other two projects in the fiscal year 1988 bill.

Mr. METZENBAUM. I thank the Senator for his assurances in this most important matter.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while Mr. KARNES is the acting leader, I ask if these two resolutions have been cleared on his side for immediate consideration.

Mr. KARNES. I say to the majority leader that they have been cleared on our side.

Mr. BYRD. I thank the distinguished Senator.

RESOLUTION AUTHORIZING TESTIMONY OF SENATE EMPLOYEES

Mr. BYRD. Mr. President, I send to the desk a resolution, by myself and Mr. DOLE, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 221) to authorize testimony of Senate employees.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, on April 1, 1987, Keykavous Hemmati was arrested by the Capitol Police on the charge of unlawful entry when he refused to leave Senator BYRD's Hart Senate Building office after he had been requested to do so several times. The United States, which is prosecuting the case, requires the testimony of two employees in Senator BYRD's office, Joan Drummond and Carol S. Kiser. The resolution would authorize that testimony.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 221) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 221

Whereas, in the case of *United States* v. *Keykavous Hemmati*, Crim. No. 3927-87, pending in the Superior Court of the District of Columbia, the United States has obtained subpoenas for the testimony of Joan Drummond and Carol S. Kiser, two employees of the Senate;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Joan Drummond and Carol S. Kiser are authorized to testify in the case of *United States* v. *Keykavous Hemmati*.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. KARNES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPEARANCE OF SENATE AS AMICUS CURIAE IN SUPPORT OF CONSTITUTIONALITY OF INDEPENDENT COUNSEL LAW

Mr. BYRD. Mr. President, I send to the desk a resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in defense of the constitutionality of the independent counsel law, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 222) to direct the Senate Legal Counsel to appear as amicus curiae in In re *Sealed* Case.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, on March 6, 1987, the Senate agreed to Senate Resolution 160 to direct the Senate legal counsel to appear as amicus curiae in two civil actions in the name of the Senate to defend the constitutionality of the independent counsel law, 28 U.S.C. sections 591-598. The two actions were brought by Lieutenant Colonel North and Michael Deaver against the independent counsels who were appointed to investigate them. Both lawsuits were dismissed as premature.

Lieutenant Colonel North has now initiated a new challenge to the independent counsel law which is scheduled to be heard on an expedited basis in the U.S. Court of Appeals for the District of Columbia Circuit on June 2, 1987. The underlying events in this matter are sealed because they relate to the proceedings of the grand jury. The court of appeals has ordered, however, that it will receive unsealed briefs on Lieutenant Colonel North's challenge to independent counsel Lawrence E. Walsh's authority to proceed with his investigation before the grand jury.

The following resolution will authorize the Senate legal counsel to present to the court of appeals, as a friend of the court, the reasons for sustaining the law's constitutionality.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 222) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 222

Whereas, in *In re Sealed Case,* No. 87-5168, pending in the United States Court of Appeals for the District of Columbia Circuit, the constitutionality of Title VI of the Ethics in Government Act of 1978, as amended, 28 U.S.C. §§ 591-598, which provides for the appointment, duties, and removal of independent counsels, has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a) (1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *In re Sealed Case* in support of the constitutionality of Title VI of the Ethics in Government Act of 1978, as amended, 28 U.S.C. §§ 591-598.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. KARNES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of May 21, 1987, the Secretary of the Senate, on May 26, 1987, during the adjournment of the Senate, received a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received on May 26, 1987, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on May 22, 1987, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. Stark".

Under the authority of the order of the Senate of February 3, 1987, the enrolled joint resolution was signed on May 22, 1987, during the adjournment of the Senate, by the President pro tempore [Mr. STENNIS].

MESSAGES FROM THE HOUSE

At 1:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1846. An act to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. STENNIS].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1270. A communication from the Assistant Secretary, Conservation and Renewable Energy, Department of Energy, transmitting, pursuant to law, an annual report of Federal Activities and programs in geothermal energy; to the Committee on Energy and Natural Resources.

EC-1271. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1989; to the Committee on Finance.

EC-1272. A communication from the Assistant Secretary, Legislative and Intergovernmental Affairs, U.S. Department of State, transmitting, pursuant to law, a travel advisory for the Philippines; to the Committee on Foreign Relations.

EC-1273. A communication from the Records Officer, U.S. Postal Service, transmitting, pursuant to law, a Federal Register notice of a computer matching program between the Postal Service and Department of Labor; to the Committee on Governmental Affairs.

EC-1274. A communication from the Commissioner, U.S. Sentencing Commission, transmitting, pursuant to law, his dissenting view on the promulgation of the sentencing guidelines and amendments submitted to Congress by the Commission; to the Committee on Judiciary.

EC-1275. A communication from the Chairman, U.S. Sentencing Commission, transmitting, pursuant to law, the Commission's guidelines and policy statements for the Federal courts; to the Committee on the Judiciary.

EC-1276. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, four draft bills, Statements of Need and Purpose, and Section-by-Section Analyses; to the Committee on Small Business.

EC-1277. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, a draft of proposed legislation to amend the National School Lunch Act and Child Nutrition Act of 1966; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1278. A communication from the Director of Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; pursuant to the order of August 4, 1977, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1279. A communication from the Acting Director of the Defense Security Assistance Agency, U.S. Department of Defense, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed Letter(s) Offer to Honduras for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-1280. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the Selected Acquisition Reports for the quarter ending March 31, 1987; to the Committee on Armed Services.

EC-1281. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, notification of the recent discovery and emergency disposal of a suspected chemical bomblet at Dugway Proving Ground, UT; to the Committee on Armed Services.

EC-1282. A communication from the General Counsel, U.S. Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commission officers of the reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

EC-1283. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on how the Department has administered sections 408, 409, 412, and 414 of the Federal Aviation Act of 1958; to the Committee on Commerce, Science, and Transportation.

EC-1284. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1985 Annual Report regarding information on highway accidents which will permit evaluation or comparison of highway safety performance of the States; to the Committee on Commerce, Science, and Transportation.

EC-1285. A communication from the Deputy Associate Director for Royalty Management, U.S. Department of Interior, transmitting, pursuant to law, notification of the Department's intention to make refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1286. A communication from the Secretary of Energy, transmitting, pursuant to law, a second report, which supplements the earlier summary report, analyzes the technologies that were addressed in earlier submittals, and also contains the Project Summary Forms; to the Committee on Energy and Natural Resources.

EC-1287. A communication from the Acting Director of the Defense Security Assistance Agency, U.S. Department of Defense, transmitting, pursuant to law, information regarding military assistance to Chad; to the Committee on Foreign Relations.

EC-1288. A communication from the Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State, transmitting, pursuant to law, a report on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking; to the Committee on Foreign Relations.

EC-1289. A communication from the Acting Assistant Attorney General for Administration, U.S. Department of Justice, transmitting, pursuant to law, three copies of a report including copies of the "Federal Register" notice; to the Committee on Governmental Affairs.

EC-1290. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled Final Regulations for the Income Contingent Loan Program; to the Committee on Labor and Human Resources.

EC-1291. A communication from the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the activities of the Committee during the fiscal year ending September 30, 1986; to the Committee on Labor and Human Resources.

EC-1292. A communication from the Secretary of Education, transmitting, pursuant to law, a document entitled Notice of Final Funding Priorities—Handicapped Children's Early Education Program; to the Committee on Labor and Human Resources.

EC-1293. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, the annual report for fiscal year 1986 of the Administration on Aging; to the Committee on Labor and Human Resources.

EC-1294. A communication from the Chairman of the National Council on Educational Research, U.S. Department of Education, transmitting, pursuant to law, the fiscal year 1986 report of the National Council on Educational Research; to the Committee on Labor and Human Resources.

EC-1295. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on smokeless tobacco; to the Committee on Labor and Human Resources.

EC-1296. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting, pursuant to law, a draft of proposed legislation to amend section 1007 of title 37, United States Code, to authorize the collection of moneys owed to service relief societies from the pay of members of the uniformed services; to the Committee on Armed Services.

EC-1297. A communication from the Deputy Director of the Contracts Division, U.S. Department of the Navy, transmitting, pursuant to law, notification of findings and determination regarding the construction of a parallel runway at Clark Air Base, Philippines; to the Committee on Armed Services.

EC-1298. A communication from the Assistant Secretary, U.S. Department of Defense, transmitting, pursuant to law, an interim report describing preliminary facility requirements for construction, repair, and rehabilitation of dependent educational facilities on military installations in the United States; to the Committee on Armed Services.

EC-1299. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report regarding operations of the Board during calendar year 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-1300. A communication from the Director of the National Bureau of Standards, transmitting, pursuant to law, a technical report entitled "Structural Assessment of the New U.S. Embassy Office Building in Moscow;" to the Committee on Commerce, Science and Transportation.

EC-1301. A communication from the Secretary of Transportation, transmitting, pursuant to law, annual report of Accomplishments under the Airport Improvement Program; to the Committee on Commerce, Science, and Transportation.

EC-1302. A communication from the Secretary of Commerce, transmitting, pursuant to law, an annual report on the activities of the U.S. Travel and Tourism Administration for fiscal year 1986; to the Committee on Commerce, Science, and Transportation.

EC-1303. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the Federal Air Marshal Program; to the Committee on Commerce, Science, and Transportation.

EC-1304. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation entitled "Trucking Productivity Improvement Act of 1987," which would further enhance the productivity gains achieved by the Motor Carrier Act of 1980 by eliminating the remaining economic controls on the trucking industry and by providing additional incentives to increase the efficiency and competitiveness of motor carrier operations; to the Committee on Commerce, Science, and Transportation.

EC-1305. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a draft of proposed legislation to authorize appropriations to the Department of Energy for civilian energy programs for fiscal year 1988 and fiscal year 1989, and for other purposes; to the Committee on Energy and Natural Resources.

EC-1306. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual revised comprehensive program management plan under section 4 of the Wind Energy Systems Act of 1980; to the Committee on Energy and Natural Resources.

EC-1307. A communication from the Chairman of the National Drug Policy Board, U.S. Department of Justice, transmitting, pursuant to law, a report on the subject of narco-terrorism; to the Committee on Foreign Relations.

EC-1308. A communication from the Acting General Counsel and Congressional Liaison, U.S. Information Agency, transmitting, pursuant to law, the 1987 independent evaluation of the Radio Marti Programming of the Voice of America; to the Committee on Foreign Relations.

EC-1309. A communication from the Executive Director of the District of Columbia Retirement Board, transmitting, pursuant to law, notification that the report for fiscal year 1986 will be submitted on May 29, 1987; to the Committee on Governmental Affairs.

EC-1310. A communication from the Chief of the Insurance and Employee Benefits Executive Secretariat Air Force Welfare Board (Retirement Plan Administrator), U.S. Department of the Air Force, transmitting, pursuant to law, the annual report on the Air Force Nonappropriated Fund Retirement Plan for Civilian Employees; to the Committee on Governmental Affairs.

EC-1311. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a copy of a proposed notice amending a continuing computer matching program submitted on May 13, 1987, to the Office of Federal Register for publication; to the Committee on Governmental Affairs.

EC-1312. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, three copies of a new record system submitted by the Department of the Navy; to the Committee on Governmental Affairs.

EC-1313. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, three copies of the two new record systems submitted by the U.S. Marine Corps; to the Committee on Governmental Affairs.

EC-1314. A communication from the Secretary of the U.S. Postal Rate Commission, transmitting, pursuant to law, a final rule entitled "amendment to Domestic Mail Classification Schedule," which was adopted as Commission Order No. 757; to the Committee on Governmental Affairs.

EC-1315. A communication from the Executive Director of the District of Columbia Retirement Board, transmitting, pursuant to law, submissions of personal financial disclosure statements by each board member for calendar year 1986; to the Committee on Governmental Affairs.

EC-1316. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a draft of proposed legislation entitled the "Federal Property and Procurement Management Improvement Act of 1987;" to the Committee on Governmental Affairs.

EC-1317. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, a semiannual report of the Inspector General covering the period October 1, 1986, through March 31, 1987; to the Committee on Governmental Affairs.

EC-1318. A communication from the Clerk of the District of Columbia Circuit, United States Court of Appeals, transmitting, pursuant to law, notification regarding the appointment of Independent Counsels; to the Committee on the Judiciary.

EC-1319. A communication from the Commissioner of the Immigration and Naturalization Service, U.S. Department of Justice, transmitting, pursuant to law, a copy of a decision granting defector status in the case of an alien who has been found admissible to the United States; to the Committee on the Judiciary.

EC-1320. A communication from the National Legislative Commission of the American Legion, transmitting, pursuant to law, financial statements as of December 31, 1986; to the Committee on the Judiciary.

EC-1321. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the fiscal year 1985 Alcohol Abuse, Drug Abuse, and Mental Health Services [ADMS] Block Grant; to the Committee on Labor and Human Resources.

EC-1322. A communication from the Secretary of the U.S. Department of Transportation, transmitting, pursuant to law, the 1987 annual report on highway safety improvement programs; to the Committee on Commerce, Science, and Transportation.

EC-1323. A communication from the President of the United States, transmitting, pursuant to law, fiscal year 1987 appropriations requests for the Veterans Administration, the Department of Transportation, and the White House Conference on Drug Abuse and Control; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-143. A concurrent resolution adopted by the Legislature of the State of South Carolina favoring continuation of the National Agricultural Pesticide Impact Assessment Program and the Interregional Project 4 Program for fiscal year 1988; to the Committee on Agriculture, Nutrition, and Forestry.

"A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO ENACT LEGISLATION THAT WILL CAUSE THE CONTINUATION OF THE NATIONAL AGRICULTURAL PESTICIDE IMPACT ASSESSMENT PROGRAM AND THE INTERREGIONAL PROJECT 4 PROGRAM FOR FISCAL YEAR 1988

"Whereas, the National Agricultural Pesticide Impact Assessment Program (NAPIAP) and interregional Project 4 (IR-4) are cooperative programs between the United States Department of Agriculture, United States Environmental Protection Agency, Clemson University Cooperative Extension Service, and South Carolina Agriculture Experiment Station; and

"Whereas, pesticides are vital to continued production of traditional crops and forests, revitalization of agriculture in the State, and development of alternative enterprises in agriculture, forestry, and natural resources; and

"Whereas, the purpose of NAPIAP is to ensure continued registration of pesticides necessary for the production of agricultural and forestry commodities/products in the State of South Carolina; and

"Whereas, the purpose of the IR-4 program is to register pesticides for use on minor crops and for minor uses on major crops; and

"Whereas, both programs have benefited the agricultural and forestry industries in South Carolina for over fifteen years; and

"Whereas, the President of the United States elected not to include both programs in the administration's budget request for fiscal year 1988; and

"Whereas, Congress enacted legislation to continue both programs in each of the past three years. Now, therefore,

"Be it Resolved by the House of Representatives, the Senate concurring:

"That the General Assembly of the State of South Carolina memorializes Congress to enact legislation that will continue the NAPIAP and IR-4 programs for fiscal year 1988.

"Be it further Resolved that a copy of this resolution be forwarded to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and to each member of the Congressional Delegation from South Carolina."

POM-144. A petition from the Governor of the State of Washington urging congressional approval of an Interstate Mutual Aid Compact between Washington and Idaho; to the Committee on Armed Services.

POM-145. A joint resolution adopted by the Legislature of the State of California relative to air traffic control facilities at Whiteman Airport; to the Committee on Commerce, Science, and Transportation.

"Whereas, Whiteman Airport, located in the community of Pacoima in the San Fernando Valley area of the County of Los Angeles, has experienced a substantial increase in use by general aviation aircraft in recent years, and this increased use is likely to continue; and

"Whereas, The San Fernando Valley area has become increasingly urbanized, resulting both in congested air traffic corridors and a need to better control air traffic to protect the safety of the more than one million residents of the valley; and

"Whereas, Whiteman Airport is the only airport in the San Fernando Valley without a control tower; and

"Whereas, Recently the pilot of a Continental Airlines jetliner confused Whiteman Airport with nearby Burbank-Glendale-Pasadena Airport, nearly landing at Whiteman Airport, thus barely avoiding what could have been a major catastrophe; and

"Whereas, On another occasion, a private plane crashed into a warehouse near Whiteman Airport, resulting in one fatality and substantial property damage; and

"Whereas, The approach patterns to Whiteman Airport and Burbank-Glendale-Pasadena Airport overlap, contributing to this confusion; and

"Whereas, A control tower at Whiteman Airport staffed by Federal Aviation Administration air traffic controllers is needed to properly guide aircraft and ensure the safety both of the pilots and the residents of the San Fernando Valley; now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to establish and staff an airport control tower at Whiteman Airport in the San Fernando Valley area of Los Angeles County; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Federal Aviation Administration."

POM-146. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION NO. 256

"Whereas, The Superconducting Super Collider is a project supported by the Reagan Administration which would be the largest and most powerful particle accelerator in the world; and

"Whereas, Accelerating particles of matter around a 52-mile ring to nearly the speed of light and then forcing them to collide, the Superconducting Super Collider would be the world's premier center for research in high energy physics; and

"Whereas, The estimated $4-6 billion cost for the Superconducting Super Collider project could be reduced by at least $350 million if the Fermi National Laboratory in Batavia, the world's most powerful accelerator, were used to inject protons and the highly trained Fermi National Laboratory staff could be used as the core of the Superconducting Super Collider staff; and

"Whereas, Extensive environmental and geological studies have been done by the Illinois Department of Energy and Natural Resources and the results show that the Femi National Laboratory in Batavia would be a prime location for the collider; therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Fifth General Assembly of the State of Illinois,* that we urge the Illinois Congressional Delegation to support the Superconducting Super Collider and that we ask that they make an extra effort on behalf of the State of Illinois to promote this State as the site for the project; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to each member of the Illinois Congressional Delegation."

POM-147. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Commerce, Science, and Transportation:

"JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REQUEST A PROMPT RULING FROM THE INTERSTATE COMMERCE COMMISSION REGARDING RAILROAD EMPLOYEE PROTECTION IN THE CASE OF THE SPRINGFIELD TERMINAL, NEW YORK DOCK

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the One Hundred and Thirteenth Legislature, now assembled, most respectfully present and petition the United States Congress, as follows:

"Whereas, the Maine Central Railroad owned by Guilford Transportation Industries has made application to the Interstate Commerce Commission for an exemption to lease certain trackage rights; and

"Whereas, this exemption is to lease Maine Central Railroad trackage rights on Maine Central branch lines to the Springfield Railway Company, another Guilford Transportation Industries wholly-owned subsidiary; and

"Whereas, the proposed transaction has raised considerable concern in Maine for the rights of employees affected by the transfer and continued safety compliance on the branch lines; and

"Whereas, that concern has raised important questions concerning the opportunity for a public hearing on the application and whether *Mendocino Coast* or *New York Dock* labor protection provisions apply if the application is approved; and

"Whereas, affected Maine citizens are entitled to a prompt ruling on the Interstate Commerce Commission's review of this application; now, therefore, be it

"*Resolved:* That We, your Memorialists, do hereby respectfully urge the Congress of the United States to use the power within their authority to obtain not only a prompt ruling on the review of this application by the Interstate Commerce Commission, but also an assurance that the *New York Dock* labor protection provisions will apply if the application is approved, to relieve the concerns of the Maine Legislature and those citizens, especially our rail workers; and be it further

"*Resolved:* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-148. A resolution adopted by the West Texas County Judges' and Commissioners' Association opposing the location of a high-level nuclear waste repository in

Deaf Smith County, Texas; to the Committee on Energy and Natural Resources.

POM-149. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources.

"SENATE RESOLVE NO. 9

"Be it Resolved by the Senate:

"Whereas, Gulf Canada Corporation, the Government of Canada, and the Governments of the Yukon Territory and the Northwest Territories have worked together to find and develop the oil reserves in the Mackenzie Delta and the Beaufort Sea; and

"Whereas, it is estimated that 11 wells have been drilled in the Beaufort Sea and at least three wells have been drilled east of the Firth River in the Procupine caribou habitat area with no apparent harm to the herd or to the subsistence users of the herd; and

"Whereas, this commitment to the development of oil reserves in the Arctic has put Gulf Canada Corporation in a position to be in full production of oil in the Beaufort-Mackenzie area in six to seven years, at a time when Canada, along with the rest of North America, is expected to be short of oil; and

"Whereas, in an effort to develop a market for the oil produced in the Beaufort Sea, Gulf Canada Corporation has shipped the oil west through the Beaufort Sea to Japan, exhibiting a tenacity unequaled in the oil industry;

"Be it Resolved that the Alaska State Senate sends its hearty congratulations and expresses its deep admiration to Gulf Canada Corporation, the Government of Canada, and the governments of the Yukon Territory and the Northwest Territories for successfully developing a leading edge in Arctic oil production for the international petroleum industry."

POM-150. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Environment and Public Works:

"A CONCURRENT RESOLUTION

"Whereas, the United States currently depends on oil imports for nearly forty percent of United States demand, with imports possibly making up fifty percent or more of domestic supplies in three to five years if current trends continue; and

"Whereas, such heavy reliance on oil imports undermines national security, weakens the United States economy, costs American jobs, and worsens the trade deficit; and

"Whereas, such overdependence on foreign oil is particularly dangerous at a time of continuing political turmoil and terrorism throughout the Middle East; and

"Whereas, the Organization of Petroleum Exporting Countries (OPEC) could regain its control over world oil prices and subject United States consumers to sharply rising prices and a return to the severe energy disruptions of the 1970's; and

"Whereas, it is in the nation's economic and security interests to take steps now to encourage increased domestic energy production and reduced dependence on oil imports from insecure foreign sources; and

"Whereas, in its recent draft report to Congress, the United States Department of the Interior stated that the Arctic National Wildlife Refuge (ANWR) coastal plain "is clearly the most outstanding oil and gas frontier remaining in the United States, and could contribute substantially to our domestic energy supplies" and proposed that the coastal plain be opened to leasing; and

"Whereas, development of the Alaskan North Slope oil fields has clearly demonstrated that petroleum operations are compatible with the Alaskan arctic environment and wildlife; and

"Whereas, should petroleum development occur, less than one-tenth of one percent of the total ANWR area would be affected; and

"Whereas, the area of over two hundred forty-two thousand acres in the southeastern part of the section 1002 area that is the calving area of the Porcupine Caribou heard can be reserved to the last area for leasing; and

"Whereas, Congress can and should provide the authority and the Department of Interior can exercise such authority to impose any restrictions to ensure that unnecessary adverse effects are avoided and to require compensation in the event of significant unavoidable losses of habitat quality; and

"Whereas, Congress can and should provide the authority for the Department to issue regulations that will ensure environmental integrity in all oil and gas operations in that area; Now, therefore be it

"*Resolved*, That the General Assembly of the State of South Carolina, by this resolution, expresses its support for development of the resources of the Arctic National Wildlife Refuge (ANWR) coastal plain to provide for future United States energy needs and to reduce the dangerous overdependence on oil imports and urges Congress to act expeditiously to enact ANWR development legislation and to reject proposals providing for permanent bans on oil and natural gas leasing on the coastal plain.

"*Be it further resolved*, that a copy of this resolution be forwarded to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of South Carolina's congressional delegation in Washington, DC."

POM-151. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"A CONCURRENT RESOLUTION

"Whereas, the protection of the nation's environment is of grave importance and concern to its citizens, as reflected by the enactment of legislation creating the United States Environmental Protection Agency; and

"Whereas, in Louisiana this concern was manifested by passage in 1979 of the Louisiana Environmental Quality Act, a comprehensive and far-reaching program for environmental protection; and

"Whereas, the Legislature and the people of Louisiana gave even greater recognition to the need for stringent environmental regulation by centralizing environmental jurisdiction in a new Department of Environmental Quality in 1983; and

"Whereas, the people of this state demand clean air and water, free from contamination and pollution; and

"Whereas, Louisiana is striving diligently to regulate the dumping within the state of garbage and other waste products so as to keep Louisiana environment wholesome; and

"Whereas, the dumping or disposal of garbage or waste of any origin in the Gulf of Mexico will necessarily impact the waters, marshes, estuaries, and lands of adjacent states, adversely affecting not only water quality but also human health and fish and wildlife resources; and

"Whereas, such dumping would undermine state efforts to protect and enhance environmental quality; and

"Whereas, as a recent example, a barge load of potentially infectious supplies from New York was denied access to Louisiana based on regulatory requirements and was subsequently returned to federal waters offshore Louisiana where it remains aimless and a potential hazard to the state's environment; Therefore, be it

"*Resolved* that the Legislature of Louisiana memorializes the Congress of the United States and federal agencies having related jurisdiction, including the United States Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the United States Coast Guard, to prohibit the dumping or disposal of garbage or waste of any origin in federal waters of the Gulf of Mexico.

"*Be it further resolved* that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation, as well as to the secretary of the United States Environmental Protection Agency, the undersecretary of the National Oceanic and Atmospheric Administration within the United States Department of Commerce, the commander of the United States Coast Guard, and any other federal agency having related jurisdiction."

POM-152. A resolution adopted by the House of Representatives of the State of Oklahoma; to the Committee on Finance:

"RESOLUTION

"Whereas, thousands of senior Oklahomans are Medicare program beneficiaries each year; and

"Whereas, Oklahoma is divided into five geographic localities for Medicare reimbursement to physicians and for durable medical equipment; and

"Whereas, locality reimbursement differentials affect the availability, accessibility, quality and cost of health care to Oklahomans; and

"Whereas, current policies have created an increasing reimbursement differential between urban and rural localities, resulting in:

"1. higher out-of-pocket costs to rural elderly,

"2. a requirement of physician visits in rural areas to meet the deductible, and

"3. reimbursement discrimination against rural physician practices; and

"Whereas, according to the 1980 Federal Decennial Census, 52.4% of persons over the age of 65 live in the predominantly rural locality, and 57% of the state's primary care claims originate from physicians located in that locality; and

"Whereas, all Medicare beneficiaries are subject to the same deductible and premium payments regardless of which reimbursement locality they live in, which forces rural beneficiaries to receive less for their tax dollar than those in urban localities; and

"Whereas, senior citizens in rural localities have reported traveling to urban localities in order to receive needed medical care in a reimbursement area which allows less out-of-pocket costs for them; Now, therefore, be it

Resolved by the House of Representatives of the 1st session of the 41st Oklahoma Legislature: That the Oklahoma State Legislature does hereby petition the President of the United States, the Congress of the United States and the Secretary of the United States Department of Health and Human Services to take immediate and appropriate action to convert Oklahoma from the existing five reimbursement localities to a single-statewide Medicare reimbursement locality based upon the most recent statewide prevailing rates.

"That copies of this resolution be distributed to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, the Oklahoma Congressional Delegation and the Secretary of the United States Department of Health and Human Services."

POM-153. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Finance:

"A RESOLUTION

"Whereas, The Tax Reform Act of 1986 reduced the maximum corporate tax rate from 46% to 34%; and

"Whereas, For many years, telephone, electric, gas, water, and sewer utilities have been allowed to depreciate plant and equipment over different lengths of time for income tax and ratemaking purposes. Therefore, utilities may collect, through today's rates, taxes that will not be due to the United States Treasury for 20 or 30 years. Together, utilities have collected and are now holding approximately $60 billion towards future tax obligations. The Office of Consumer Advocate estimates that Pennsylvania's major electric, gas, and telephone utilities are alone holding over $700 million in excess deferred taxes which will not have to be paid to the Federal Government; and

"Whereas, when the maximum corporate tax rate was reduced, $15 billion in taxes which had been collected in advance under the higher tax rate was forgiven. It is not due to the United States Treasury now or ever; and

"Whereas, Section 203(e) of the new tax law requires each utility to flow through these excess taxes to ratepayers over the entire remaining book life of the asset which originally enabled the company to defer the tax obligation, and bars utility regulators from ordering speedier refunds; and

"Whereas, The result is that ratepayers may have to wait as long as 30 years to be reimbursed. By that time, each dollar of overcollections will be worth only 23; therefore be it

"Resolved (the House of Representatives concurring), That the General Assembly of Pennsylvania urge that section 203(e) of the Tax Reform Act of 1986 be repealed to give State regulators the flexibility they had after the 1978 tax cut to prescribe the return rate on a case-by-case basis; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania, with the request that this action by the General Assembly of the Commonwealth of Pennsylvania be promptly published in the Congressional Record."

POM-154. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION NO. 5014

"Whereas, Members of the House of Representatives and the Senate of the Kansas Legislature deplore the apartheid system of racial segregation in South Africa; and

"Whereas, There should be universal application of the principle that all people are created equal and endowed with certain inalienable rights of life, liberty and the pursuit of happiness; and

"Whereas, South African apartheid is in direct contradiction of the basic principles of fundamental human rights and violates all aspects of democratic process; and

"Whereas, All of our states demand the democratic principle that guarantees all citizens the right to participate in the electoral process which determines their destiny, their form of government, and their election of political leaders at all levels; and

"Whereas, Racial apartheid in South Africa denies Black South Africans participation in the political process and indeed denies them fundamental human rights; and

"Whereas, On a continuing basis Blacks and other opponents of apartheid in South Africa are detained, arrested, imprisoned, beaten and killed without cause or due process of law; and

"Whereas, The system of apartheid not only represses public participation but also violates the principles of private enterprise by restricting equal access to the market place and to the extensive resources of the South African land and society; and

"Whereas, The continued oppression in South Africa threatens all Black South Africans, compromises the dignity, integrity and humanity of Coloured, Asian and White South Africans, and also threatens the peace and political, economic and social well-being of southern Africa, the entire continent and, indeed the entire world: Now, therefore,

"Be it resolved: That the House of Representatives and the Senate of Kansas urge that the State Legislatures increase actions to end apartheid in South Africa; and

"Be it further resolved: That the House of Representatives and the Senate of Kansas urge an increased level of activity by the states including, but not limited to, statements, personal testimony and actions by individual legislators, legislative resolutions and statutes condemning apartheid, calling for increased divestment of state funds in companies doing business in South Africa and any other actions to bring about a rapid end to apartheid in South Africa; and

"Be it further resolved: That the House of Representatives and the Senate of Kansas call for the end of the state of emergency, release of Nelson Mandela and all other political prisoners, the dismantling of apartheid and establishment of elections free and open to all South Africans without regard to color, race or creed; and

"Be it further resolved: That the House of Representatives and the Senate of Kansas call upon the President and Congress of the United States to utilize increasingly strong and effective measures to bring about an end to apartheid; and

"Be it further resolved: That the House of Representatives and the Senate of Kansas note and commend the House of Representatives of the Congress for its recent passage of the Anti-Apartheid Act of 1986 and we further note and commend the Senate Foreign Relations Committee of the Congress for its approval of Senator Lugar's "Comprehensive Anti-Apartheid Act of 1986 with the support of the Senate leadership; and

"Be it further resolved: That in light of continuing injustice, despite current United States' Policies, the House of Representatives and the Senate of Kansas call upon the President and Congress of the United States to increase pressure on South Africa including support for divestment, application of economic sanctions, and resisting renewal of bank loans to South Africa; and

"Be it further resolved: That the Secretary of State is hereby directed to send enrolled copies of this Concurrent Resolution to the President, the presiding officers of each House of Congress, the Secretary General of the United Nations, the President of the Republic of South Africa, the Ambassador to the United States from the Republic of South Africa, the leadership of the African National Congress, the Archbishop of Capetown, and the presiding officers of each legislative body of each state."

POM-155. A resolution adopted by the Senate of the State of Michigan; to the Committee on Foreign Relations:

"SENATE RESOLUTION NO. 45

"Whereas, The present record-high water levels of the Great Lakes are ravaging the vast shoreline of Michigan. It is predicted by most experts that the lakes will continue to rise in the spring of 1987, and no one foresees a lessening of the record levels that have existed over the past year. The cost of the damages from land erosion and flooding has been estimated by the Army Corps of Engineers at 100 to 150 million dollars for 1986 and 1987 to the United States and Canada. The eight states and two provinces which border these natural wonders teem with major population centers, manufacturing sites, and scenic vistas. Since Michigan possesses more shoreline than any other state or province in the Great Lake Basin, we are well aware of the numerous dangers that the high levels create; and

"Whereas, Although this problem is a natural disaster of emergency proportions, the federal government has yet to recognize it as such. As a result, we have not been allocated the financial help necessary for adequate protection. In the last two and one-half years, the State of Michigan has spent several million dollars to preserve homes and communities, but we need federal aid for increased short-term protection measures; and

"Whereas, The climatic causes of the problem are beyond our control. However, many experts have outlined courses of action that can be taken to alleviate this danger. Since the issue threatens the economic well-being and quality of life of Great Lakes shoreline residents, we recommend that all possible solutions be examined; and

"Whereas, The governments of Canada and the United States should begin immediate negotiations on the closure of the Ogoki and Long Lac diversions which transfer water from the James Bay Basin in Canada to Lake Superior. It is also possible to construct channels and gates which would increase the flow from Lakes Erie and Ontario out the St. Lawrence Seaway. By decreasing the levels in these three lakes, the levels of all the Great Lakes will be decreased. However, these steps alone will not solve the problem. The government's of Canada and the United States must also examine other long and short-term methods to improve the situation. The International Joint Commission undertakes studies and makes recommendations, but it is the governments of both nations which must enact the necessary solutions; and

"Whereas, While this natural disaster is the cause of very real human, economic, and environmental hardships, the gravity of the situation lies in the fact that the current situation may only be the beginning of even greater danger; now, therefore, be it

"Resolved by the Senate, That we urge the Congress of the United States and the International Joint Commission to take decisive and affirmative action regarding the dangerously high levels of the Great Lakes; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan Congressional delegation, and the International Joint Commission."

POM-156. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary:

"A CONCURRENT RESOLUTION

"Whereas, the people of the State of Arizona, in the interest of protecting the religious freedom of their children, wish to encourage the enactment of legislation guaranteeing the right of voluntary prayer in public schools; and

"Whereas, guaranteeing these rights requires that the Constitution of the United States be amended so that it clearly and definitely asserts the right to voluntary prayer in public schools; therefore be it

"Resolved by the House of Representatives of the State of Arizona, the Senate concurring:

"1. That the Congress of the United States propose to the people an amendment to the Constitution of the United States to add to the Constitution of the United States an article that clearly and definitely asserts the right to voluntary prayer in public schools.

"2. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM-157. A resolution adopted by the Senate of the State of Kansas; to the Committee on the Judiciary:

"SENATE RESOLUTION NO. 1908

"Whereas, It is imperative that Congress take action in passing House Resolution 1242 which relates to the collection of sales and use taxes on out-of-state mail order sales; and

"Whereas, A hearing will be held May 13, 1987, on the issue, and the Kansas Congressional Delegation is urged to attend the hearing and support the changes; and

"Whereas, The present system is ineffective and has serious enforcement problems. State tax administrators have no way of assessing or collecting use taxes on many mail order purchases. As a result the integrity of the states' tax bases are being undermined and severe damage is being done to the perceived equity of the tax system; and

"Whereas, In-state merchants are at a competitive disadvantage under the present system. These merchants cannot legally avoid the collection of state and local sales and use taxes as out-of-state vendors can; and

"Whereas, As the volume of mail order sales rises, revenue losses to state and local governments from uncollected taxes are rising. The Advisory Committee and Intergovernmental Relations estimates that in 1986 state and local revenue losses ranged from $1.6 to $1.7 billion; and

"Whereas, Estimated 1986 state revenue loss from mail order and direct marketing sales in Kansas totaled $11,705,900; and

"Whereas, The out-of-state mail order problem will worsen because of the substantial growth in mail order sales, the use of television advertising, "800" telephone numbers for placing orders, and other technological innovations such as the use of home computers for shopping and purchasing; and

"Whereas, State and local governments have become increasingly dependent on sales and use taxes; they constituted 24 percent of all tax revenues for state and local governments in 1982, an increase of 19 percent since 1967. From 1979 to 1985, the number of local jurisdictions levying sales and use taxes grew by 22 percent from 5,448 to 6,668; and

"Whereas, Additional state and local sales and use tax revenues in excess of $1.1 billion would be possible if states and localities were able to collect the taxes owed. As the mail order industry continues to grow, revenues also will increase: Now, therefore,

"Be it resolved by the Senate of the State of Kansas, That we urge the Congress of the United States to take action on House Resolution 1242 relating to the collection of sales and use taxes on out-of-state mail order sales; and

"Be it further resolved; That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States; to the President of the United States Senate; to the Speaker of the United States House of Representatives; and to each member of the Kansas Congressional Delegation."

POM-158. A petition from the Director of the Legislative Counsel Bureau of the State of Nevada proposing amendments to the Tahoe Regional Planning Compact between the States of California and Nevada; to the Committee on the Judiciary.

POM-159. Joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary.

"HOUSE JOINT RESOLUTION NO. 1019

"Whereas, Mining has been and continues to be a vital industry in the development of the state of Colorado; and

"Whereas, Minerals are a key raw material for numerous industries in our nation and an economic lifeblood that can only be obtained by the toil and diligence of the dedicated men and women who find, extract, and process these vital elements; and

"Whereas, The economic growth, quality of life, and military strength of our country would not have been possible without the sacrifices and hard work of the American miner; and

"Whereas, Mining and miners have played a colorful and fascinating role in the history of Colorado; and

"Whereas, It is fitting that we should honor the men and women of the mining industry by establishing a place where the people of this state and nation may learn of the achievements of America's miners; and

"Whereas, Colorado, with its rich heritage of mining history, would be an unsurpassed location for an institution that celebrates and teaches the accomplishments of the mining industry; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-sixth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the General Assembly hereby supports the establishment of the National Mining Hall of Fame and Museum, to be located in Leadville, Colorado, and commends the founders of the museum for their efforts.

"(2) That the Congress of the United States is urged to enact legislation establishing the National Mining Hall of Fame and Museum.

"(3) That each member of Congress from the state of Colorado is urged to give full support to such legislation.

"Be it further resolved, That copies of this Resolution be sent to each Member of the United States Senate and the United States House of Representatives from the state of Colorado, and to the Speaker of the United States House of Representatives and the President of the United States Senate."

POM-160. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Labor and Human Resources:

"HOUSE CONCURRENT RESOLUTION

"Whereas, Alzheimer's disease and related disorders afflict a substantial number of older Americans; and

"Whereas, These disorders result in a lengthy degenerative process requiring a wide array of medical and social services throughout the course of the disease; and

"Whereas, The type of length of care needed by Alzheimer's patients can be emotionally, physically, and financially devastating to the victims and their families; and

"Whereas, Patients with Alzheimer's disease suffer progressive behavioral changes, cognitive decline, and increasing functional disabilities and display other characteristics that necessitate constant care and supervision; and

"Whereas, To continue providing quality care for an Alzheimer's victim, it is necessary for family members to remove themselves periodically from the day-to-day hardships of caring for a loved one who may have become unmanageable; and

"Whereas, Respite care provides the means for family members to take some much-needed time off, while knowing that the Alzheimer's patient is still receiving optimum care and attention; and

"Whereas, As our country's elderly population increases, so, too, will the number of Alzheimer's patients, resulting in an increased demand for respite care and related programs; now, therefore, be it

"Resolved, That the 70th Legislature of the State of Texas hereby request the Congress of the United States to raise respite care for Alzheimer's disease victims and their families to a higher priority under the Older Americans Act programs; and, be it further

"Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives, and to the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress, with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States."

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of May 21, 1987, the following reports of committees were submitted on May 22, 1987, during the adjournment of the Senate:

By Mr. PELL, from the Committee on Foreign Relations:

S. 1274. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international development and security assistance programs and Peace Corps programs for fiscal year 1988, to authorize payments to certain multilateral development banks, and for other purposes (with additional views) (Rept. No. 100-60).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD:

S. 1275. A bill to advance the national leadership in semiconductor technology, to establish a National Advisory Committee on Semiconductors, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. KASSEBAUM (for herself, Mr. Ford, and Mr. Reid):

S. 1276. A bill to amend the Federal Aviation Act of 1958 to provide for improved reliability of airline flight schedules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. Hollings):

S. 1277. A bill to amend the Communications Act of 1974 regarding the responsibilities of broadcasting licensees, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TRIBLE:

S. 1278. A bill to permit certain payments under the Act of September 30, 1950 (Public Law 874, 81st Congress) based on incorrect determinations under section 2(a)(1)(C) of that Act; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. Hatfield, Mr. Adams, Mr. Baucus, Mr. Bumpers, Mr. Chiles, Mr. Danforth, Mr. Fowler, Mr. Gore, Mr. Karnes, Mr. Lugar, and Mr. Sasser):

S. 1279. A bill to extend the Renewable Resources Extension Act of 1978; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. QUAYLE:

S. 1280. A bill to increase the sale of U.S.-made auto parts and accessories to Japanese markets for original and after-market equipment in Japan, in the United States and in third markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 221. Resolution to authorize testimony of Senate employees; considered and agreed to.

By Mr. BYRD:

S. Res. 222. Resolution to direct the Senate Legal Counsel to appear as amicus curiae in "In re Sealed Case"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 1275. A bill to advance the national leadership in semiconductor technology, to establish a National Advisory Committee on Semiconductors, and for other purposes; to the Committee on Governmental Affairs.

NATIONAL ADVISORY COMMITTEE ON SEMICONDUCTOR RESEARCH AND DEVELOPMENT ACT

Mr. SANFORD. Mr. President, I am today introducing legislation that I believe will help restore this Nation to its rightful place of leadership in high technology. It addresses the critical need for a national strategy on semiconductors, recognizing that the semiconductor industry has a crucial role to play in enhancing our industrial competitiveness and strengthening our national defense. It also recognizes the importance of Federal intervention to buffet the serious and, in many cases, unfair challenges this industry is facing from foreign competitors.

This legislation would create a National Advisory Committee on Semiconductors that would identify and prioritize the needs and capabilities of the industry, the Federal Government, and the scientific and research communities. The committee would identify the components of a national semiconductor strategy and recommend roles for public and private participants in that strategy.

The committee would be composed of 13 members, including the Secretaries of Defense, Commerce, and Energy, and the Directors of the Office of Science and Technology Policy and the National Science Foundation, or their designees. The President would appoint four members from the industry and four from the fields of technology, defense, and economic development. Provisions are made for staff support and for regular reporting to the Congress and the administration.

Mr. President, the U.S. semiconductor industry is in real danger of losing its technological leadership and market share to Japan and other competitors aided by their governments. The rate of decline has been nothing short of precipitous. Less than a decade ago, there was little challenge to U.S. leadership in this industry. Now, we are clearly behind in many of the key technologies and are being challenged in practically all of the others. The world market share of U.S. manufacturers is decreasing. Given this state of affairs, this decline can only be expected to accelerate and extend to allied industries whose end products depend on advanced semiconductor components for high-end performance. If we do not act very soon, we will most assuredly become an also-ran in the high technology sweepstakes.

Many activities that seek to address the semiconductor problem are under way, being planned, or have been proposed by the industry, by the Federal Government, and by our great universities and research laboratories. All of these programs and proposals, while good and rational in isolation, are uncoordinated and overlapping when viewed as part of an overall plan to address a problem of this magnitude. A coherent strategy that ties the many programs and players together is essential if our Nation is to make the most effective use of the limited resources we have available.

The National Advisory Committee on Semiconductors will develop and articulate goals for a national semiconductor strategy, the implementation of which would assure the continued leadership of the United States in semiconductor technoloy. The national strategy that will evolve from this committee will provide the technological underpinnings for a strong economy and a strong national defense.

I invite my colleagues to join me in cosponsoring this bill, and I ask unanimous consent that the text of the measure be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Advisory Committee on Semiconductor Research and Development Act of 1987."

SEC. 2. PURPOSES.

(a) General Findings.—The Congress finds and declares that—

(1) our future economic status is firmly wedded to leadership in the high technology industries that depend upon semiconductors;

(2) the leadership position of this country in high technology areas is threatened by the changing nature of foreign competition, which is often strongly supported by the national governments involved;

(3) our national defense is highly dependent upon the availability of leading edge semiconductor devices, and it is counter to the national interest to be dependent upon foreign sources for this technology;

(4) government actions to address these issues are fragmented in many Federal departments and agencies; and

(5) responses to these challenges require concerted actions of industry and government.

(b) Specific Purposes.—The purposes of this Act are—

(1) to establish the National Advisory Committee on Semiconductors; and

(2) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

SEC. 3. ESTABLISHMENT OF THE NATIONAL ADVISORY COMMITTEE ON SEMICONDUCTORS.

There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereinafter referred to as the "Committee").

SEC. 4. FUNCTIONS OF THE COMMITTEE.

(a) In General.—The Committee shall—

(1) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(2) identify the components of a successful national semiconductor strategy in accordance with section 2(b)(2);

(3) analyze options, establish priorities, and recommend roles for participants in the national strategy; and

(4) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(b) Specific Functions.—In fulfilling this responsibility, the Committee shall—

(1) monitor the competitiveness of the United States semiconductor technology base;

(2) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(3) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(4) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(5) recommend appropriate actions that support the national semiconductor strategy.

SEC. 5. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS.

(a) Membership.—

(1) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(2) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

(3) The President shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(4) One of the members appointed under paragraph (3), as designated by the President at the time of appointment, shall be chairman of the Committee.

(b) Staff Support.—Administrative support for the Committee shall be provided through an arrangement with an appropriate agency or organization designated by the Committee. The funds necessary for such support shall be provided to the designated agency or organization, from sums available to the Committee to carry out the purposes of this Act, in accordance with a memorandum of understanding entered into between them.

(c) Expenses.—Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from the home or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) First Meeting.—The Chairman shall call the first meeting of the Committee not later than 90 days after the date of enactment of this Act.

(e) Reports.—At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under section 2(b)(2). Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of this Act such sums as may be necessary for the fiscal years 1988, 1989, and 1990. Appropriations for any fiscal year pursuant to the preceding sentence shall be made through a specific line item in the Act making appropriations to the National Science Foundation for that year.

By Mrs. KASSEBAUM (for herself, Mr. Ford, and Mr. Reid):

S. 1276. A bill to amend the Federal Aviation Act of 1958 to provide for improved reliability of airline flight schedules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL AIRLINE FLIGHT SCHEDULING PRACTICES

Mrs. KASSEBAUM. Mr. President—I am today, along with the Senator from Kentucky [Mr. Ford], and the Senator from Nevada [Mr. Reid], introducing legislation to address the need for improved accuracy and reliability in commercial airline flight scheduling. I believe optimistic scheduling is the single most serious cause of the myriad of problems being experienced by airline consumers today.

Serving as the ranking member on the Aviation Subcommittee which Senator Ford chairs, I have listened to hours of testimony from DOT, the FAA, and commercial air carriers about the nature and causes of consumer complaints. I have also reviewed the correspondence I have received from the traveling public expressing concern over the recent deterioration in airline performance. To a large extent, I have concluded the delayed arrivals and departures, missed connections, canceled flights, and even lost baggage, are a result of optimistic scheduling.

Flight schedules by nature tend to be optimistic for a number of reasons. Airlines realize that passengers generally try to book the most convenient flight that shows the shortest elapse time. The computer reservation systems used by all scheduled airlines and travel agents display such flights prominently, which in turn, constitutes a significant marketing advantage. The result is a computer full of flight times for every major airline between major U.S. cities that represents an industrywide "wish list."

Air carriers are presently locked into a vicious cylce where no single carrier, or group of carriers, can afford to drop optimistic scheduling because of the advantage such scheduling gives competitors. When combined with flight delays resulting from a lack of capacity in the existing airports and airways system, this tendency toward optimistic scheduling becomes a nightmare for airline consumers.

The legislation that Senator Ford, Senator Reid, and I are introducing today is designed to improve greatly the reliability and accuracy of published airline schedules. Our bill would require airlines to publish actual flight-time data as experienced over the immediate past, rather than the optimistic times that airline scheduling departments currently provide. These actual flight times would be published in the Official Airline Guide and in the computer reservation systems used by travel agents and airlines when ticketing passengers.

The published flight times would be based on a 12-month rolling average. For example, a departure from Washington National that is presently scheduled to leave at noon and arrive at Chicago O'Hare at 2 p.m. would be reprinted in the OAG to reflect actual experience. If, on average, over the past 12 months the flight arrived at 2:25 p.m. the carrier would be required to publish an arrival time of 2:25 p.m. until, based on the rolling average, the company got the time back to 2 p.m.

Under this proposal it makes no difference whether the delay is caused by a delayed departure or waiting for a gate after arrival. The total travel time builds in the average delay regardless of where the delays occur. Because the published time will be based on 365 days of experience, only those flights that are truly "never on time" will require scheduling adjustments. Occasional lengthy delays caused by mechanical or flight cancellations—which would be treated as an hour delay—should not unduly skew the times because of the large number of flights in the sample.

I believe this proposal offers a number of advantages over the current system of scheduling. First, information is provided to airline consumers that is, on average, more accurate and, therefore, more useful than data that is presently provided by commercial airlines. Second, delays are greatly reduced because consistently bad performance is reflected in the schedule. Third, the proposal avoids the need to attribute "causality" in airline delays. And finally, real incentives are created for the airlines to improve performance and reduce total elapsed travel times.

The benefits of this proposal are further outlined in a very informative oped article of Elizabeth Bailey and David Kirstein, published in today's New York Times. Dean Bailey and Mr. Kirstein both contributed significantly to the formulation of this legislative proposal and their efforts are truly appreciated. I ask unanimous consent that their article be reprinted at the end of my remarks.

Because the information required to implement this proposal is currently generated by commercial airlines for their internal use, the cost to airlines should be minimal. For that reason, and because of the favorable impact this proposal would have on the lives of air travelers, I am hopeful that this body can act on this, or similar legislation, in the near future.

I ask that the text of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1501 et seq.) is amended by adding at the end the following:

INFORMATION REGARDING AIRLINE SCHEDULES TIMES OF ARRIVAL

Sec. 1119. (a)(1) No air carrier or foreign air carrier shall, directly or indirectly, make any representation to any person regarding the anticipated time of arrival in the United States for any interstate or foreign air transportation, unless such representation reflects the average actual time of arrival for such transportation.

(2) As used in this subsection, the term "average actual time of arrival" means the average time at which particular air transportation or foreign air transportation arrived in the United States during the twelve-month period immediately preceding the month in which any such representation is made.

AUDIT AND EXAMINATION

(b) The Secretary shall conduct an ongoing review of compliance with the provisions of subsection (a) of this section. As part of such review, the Secretary shall establish a system for inspecting any records of an air carrier or foreign air carrier upon which any such representation was based. The Secretary shall, on the Secretary's own initiative, investigate any representation made by an air carrier or foreign air carrier where there is a reasonable basis for questioning the accuracy of such representation. The Secretary shall have access for the purpose of audit and examination to any records of air carrier or foreign air carrier which the Secretary determines necessary or appropriate.

FINES

(c) In order to carry out the purposes of this section, the Secretary shall assess such fines as the Secretary determines to be appropriate, considering the nature and severity of the violation.

(b) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately after the item relating to section 1118 the following:

"Sec. 1119. Information Regarding Airline Schedules."

[From the New York Times, May 27, 1987]

Require Airline Truth in Scheduling

(By Elizabeth E. Bailey and David M. Kirstein)

Airlines could help to ease air traffic congestion and reduce the danger of collisions by telling consumers the truth about expected arrival times of their flights. But since some airlines will not share this information voluntarily, Congress should make it Federal policy to require truth in scheduling. That would reduce the number of flights in highly congested areas at peak periods and ease the burden on air traffic controllers.

True information on flight schedules provides strong economic incentives, to moderate the problems of flight delays and airport congestion, which have now become common for virtually every air traveler.

The truth-in-scheduling approach would require airlines to publish a rolling average of actual flight times rather than the optimistic times they currently provide. If a flight regularly suffers from lengthy delays—whatever the cause—the public has a right to know.

Because people value their own time and wish to avoid delay, they would use the information to shift their flights away from peak periods and select times of day, airlines and airports that minimize travel time.

The problem of persistently inaccurate flight schedules has been discussed by the aviation subcommittee of the Senate Commerce, Science and Transportation Committee. A member of that committee, Nancy Kassebaum, Republican of Kansas, said she planned to introduce legislation next week that would require the airlines to provide accurate flight schedules.

Under the plan, carriers would face fines if they continued the deceptive practice of listing optimistic rather than actual arrival times in computer reservations systems and published flight schedules.

The approach would be less intrusive to airline operations and more effective in improving performance than other legislative proposals, such as one that would compel airlines to post each quarter the percentage of their overall on-time flights. This information is too general to help consumers. They want specific information about the flights available for particular trips.

For example, if a consumer plans to travel from New York City to Chicago on an early morning flight, he might want to know that one from Newark airport is regularly delayed an hour or more, while a later flight from the satellite airport in White Plains, N.Y., tends to arrive on time.

It would not cost the airlines any more money to provide correct information. They already generate accurate delay tables for internal use. Moreover, travel departments at large corporations have access to this information, published in a guide sold by an air traffic controller for more than $3,000 a year. Congress should make this information freely available to all consumers.

The truth-in-scheduling proposal would require that consistently bad performance be reflected in flight schedules. It thus offers a solution to the peak-load problem, which airlines now address by charging higher prices for peak flights. With accurate information, consumers could continue to enjoy the benefits of a variety of low air fares resulting from deregulation while also benefiting from improved performance, such as fewer missed connections.

The plan avoids placing blame for delays. Indeed, there are many causes for delays, as the airlines will attest, including weather conditions, insufficient numbers of air traffic controllers, antiquated air traffic control systems, reliance by some airlines on hub-and-spoke operations, labor and other problems at recently merged airlines and inadequate numbers of satellite airports.

Under truth in scheduling, travel time would include the average delay regardless of how it occurred. Because the rolling averages would be derived from a large number of flights, only flights that are consistently late would need adjusting.

Occasional lengthy delays caused by mechanical problems or flight cancellations (these might be treated as an hour's delay) should not unduly skew the flight times because many flights are included in the average.

The schedules could provide leeway. If an arrival is scheduled at 2 p.m., and the average arrival is 2:10 p.m., the scheduled time could remain at 2. But customers would have to be told that arrival times are generally only accurate to within 10 minutes. Similarly, the rolling averages could reflect actual arrival times over one month or longer periods.

This system would create real incentives for the airlines to improve their performance. Carriers could use the truth of their better performances to attract customers from their less effective rivals. Moreover, the Federal Aviation Administration could use the averages to match staffing levels to peak traffic periods.

The policy would offer a valuable supplement to the F.A.A.'s air traffic display systems that soon will enable traffic managers to predict, alleviate, and perhaps forestall traffic congestion across the country. Even as controllers use this new air traffic display to reduce congestion, consumers could do their part by making use of new schedules to minimize their own travel time and frustration.

By Mr. INOUYE (for himself and Mr. Hollings):

S. 1277. A bill to amend the Communications Act of 1934 reading the responsibilities of broadcasting licensees, and for other purposes; to the Committee on Commerce, Science, and Transportation.

BROADCASTING IMPROVEMENTS ACT

● Mr. INOUYE. Mr. President, over the past decade, we have seen the Federal Communications Commission react to changes in the broadcast marketplace by altering or eliminating many traditional regulatory requirements. From the first efforts to remove certain requirements for radio broadcasters to "postcard renewal" to the repeal of the 3 year antitrafficking rule to the ability to own more broadcast stations, the Commission—particularly in the past five years—has been on a clear deregulatory course. I have supported many of these Commission actions because our regulatory oversight must change to fit actual market conditions. At the same time, I have believed that we need to retain the bedrock public interest requirements since the broadcast market has yet to become fully competitive. So long as the public does have genuine alternatives to the broadcast media, it is imperative that broadcasters continue to be required to act in the best interests of the public.

We are now seeing the effects of these deregulatory actions, and there are definite problems. It is not surprising that broadcasters are paying more attention to the bottom line. What is surprising and most disconcerting is that many broadcasters are making this an exclusive goal. Public service—as opposed to the mere catering to commerical desires—has little meaning for these broadcasters. This fact can be demonstrated by looking at two headlines in the recent issue of the RTNDA Communicator: "News Staffs Trimmed in Major-Market Radio and Independent TV" and "Broadcast Editorials in Decline." Such stories are not unusual and are becoming more frequent. We can also see evidence of this by examining the frequent flipping of broadcast stations over the past few years. Broadcast licenses are not like other commodities. Because broadcast licensees use a limited public resource and because they are not subject to full competition, they need to act as public trustees so that the larger interests of the American public can be served.

It is because of the problems caused by the sum of these deregulatory actions that I am joining with my colleague, Senator HOLLINGS, to introduce the Broadcasting Improvements Act of 1987. Our objective here is to impose selected requirements to strengthen the incentives of broadcasters to serve the public interest. We do not intend in any way to return to the days of extensive Government oversight of the broadcast industry. That is simply not warranted. We also seek in this legislation to balance these requirements by alleviating certain regulatory burdens where costs have proven to outweigh the benefits.

The main provisions of this legislation that provide incentives for greater public service are:

One, the reinstatement of the 3-year antitrafficking rule; and

Two, the requirement that a broadcaster's overall programming—and for a television broadcaster, its nonentertainment programming and programming directed toward children—is meritorious and responds to the interests and concerns of the local community.

This legislation also seeks to maintain certain requirements that we believe are necessary to ensure our system of broadcasting serves the entire American public. It is for that reason that this bill codifies the minority and female preference policy, the distress sale and tax certificate policies, the restrictions on owning multiple broadcast licenses, and the assignment of key VHF channel to public broadcasters.

The provisions that ease regulatory burdens are the elimination of the comparative hearing requirement for license renewals and the restrictions on financial settlements. This legislation also contains language eliminating the "sunset" that the FCC has placed on its newly adopted must carry rules.

I expect there to be much discussion about this legislation and plan to hold hearings in about a month. I can assure all parties that we are open to their comments and will work with them to pass legislation that is properly balanced.

I ask unanimous consent that the bill be printed in the RECORD as well as a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Broadcasting Improvements Act of 1987".

TITLE I—RENEWAL OF BROADCAST LICENSES

RENEWAL OF A LICENSE

SEC. 101. (a) Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following:

"(j)(1) In any case in which a radio broadcasting station licensee submits to the Commission an application for renewal of its licensee, the Commission shall grant such application if it finds that, during the preceding term of its license—

"(A) the licensee's programming, as a whole, has been meritorious and has responded to the interests and concerns of the residents in its service area, including through the coverage of issues of local importance;

"(B) the operation of the station by such licensee has been free of willful or repeated failure to observe any provision of this Act or any rule or regulation promulgated under this Act; and

"(C) the licensee continues to meet the qualifications prescribed under section 308(b) of this Act.

"(2) In any case in which a television broadcasting station licensee submits to the Commission an application for renewal of its license, the Commission shall grant such application if it finds that, during the preceding term of its license—

"(A) the licensee's programming, as a whole, and the non-entertainment programming and the programming directed towards children have been meritorious and have responded to the interests and concerns of the residents in its service area, including through the coverage of issues of local importance;

"(B) the operation of the station by such licensee has been free of willful or repeated failure to observe any provision of this Act or any rule or regulation promulgated under this Act; and

"(C) the licensee continues to meet the qualifications prescribed under section 308(b) of this Act.

"(3) The Commission shall randomly select ten percent of the television applications for renewal of a broadcast license in each calendar year for review under this paragraph. Each licensee submitting an application selected for review shall submit to the Commission the records maintained under section 102 of the Broadcasting Improvements Act of 1987 with regard to a period of one month during each year since the most recent renewal of such license, or since the date the station commenced operation, whichever is longer. The Commission shall review each renewal application selected, including the records and materials submitted, in order to ensure compliance with the standards specified in paragraph (2) of this subsection.

"(4) In making the determinations required by paragraphs (1) and (2) of this subsection, the Commission shall not consider whether the public interest, convenience and necessity might be served by the grant of a license to a competing applicant for the facilities involved.".

(b) The amendment made by subsection (a) of this section shall take effect six months after the date of enactment of this Act, and shall apply to applications filed on or after such date.

IMPLEMENTATION OF REVISED BROADCAST LICENSE RENEWAL PROCEDURES

SEC. 102. The Federal Communications Commission shall, not later than six months after the date of enactment of this Act, promulgate rules and procedures implementing the standards set forth in section 309(j) of the Communications Act of 1934, as added by section 101 of this title, and requiring every broadcast licensee to maintain records indicating the issues of interest and concern to the residents in its service area, and the meritorious and responsive programming broadcast by such licensee, including the coverage of issues of local importance and including, for television broadcast licensees, the non-entertainment programming and the programming directed towards children. Each such licensee shall annually place copies of such records in the public files of the station. Such records shall be in addition to the materials required under sections 3526 and 3527 of part 73 of title 47 of the Code of Federal Regulations (47 CFR 73.3526 and 3527).

LIMITATIONS ON FINANCIAL SETTLEMENTS

SEC. 103. (a) Section 309 of the Communications Act of 1934, as amended by section 102 of this title, is further amended by adding at the end the following:

"(k)(1) If an application for a broadcast license filed under subsection (a) or an application for renewal filed under subsection (j) of this section is pending before the Commission, it shall be unlawful for the applicant who filed such application and any other person to enter into any agreement under which such other person withdraws or withholds from filing a petition to deny or informal objection with regard to any such application in exchange for the payment or promise of money or any other thing of value by or on behalf of such applicant, unless the consideration for such withdrawal or withholding is an agreement involving no monetary consideration and the agreement is approved by the Commission.

"(2) In accordance with such regulations as the Commission may prescribe, the prohibition specified in paragraph (1) of this subsection shall not apply to amounts legitimately and prudently expended or to be expended in connection with preparing, filing or advocating any such petition to deny or formal objection.

"(3) For purposes of this subsection, an application shall be deemed to be pending before the Commission until an order of the Commission is no longer subject to rehearing by the Commission or review by any court.".

(b) The amendment made by subsection (a) of this section shall take effect 90 days after the date of enactment of this Act, and shall apply to applications filed on or after such date.

TITLE II—BROADCAST OWNERSHIP STABILITY

PERIOD OF OWNERSHIP

SEC. 201. Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by adding at the end the following:

"(f) If, upon examination of an application for consent by the Commission to an assignment of a broadcast construction permit or license or the transfer of control of a corporate permittee or licensee, the Commission finds that the station involved has been operated on-air by the current licensee or permittee for less than three years, the application shall be denied unless—

"(1) the application involves only an FM translator station or FM booster station;

"(2) the application involves a pro forma assignment or transfer of control;

"(3) the assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, that establishes that, due to death or disability of station principals, or unavailability of capital or other materially changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit, consent by the Commission to the proposed assignment or transfer of control will serve the public interest, convenience and necessity; and

"(4) the permit or license was authorized in accordance with any rule, regulation, or policy referred to in section 402 of the Broadcasting Improvements Act of 1987.".

TITLE III—MANDATORY CARRIAGE OF BROADCAST SIGNALS

EXPIRATION OF MANDATORY CARRIAGE

SEC. 301. (a) The Federal Communications Commission shall, not later than 10 days after the date of enactment of this Act, amend rules promulgated by the Commission requiring the mandatory carriage of qualified television broadcast signals to delete the expiration of such requirement contained in section 64 of part 76 of title 47, Code of Federal Regulations (47 CFR 76.64). Such amendment shall take effect on the date on which such amendment is made.

(b) The federal Communications Commission shall undertake a study to determine the impact of the rules regarding mandatory carriage of qualified television signals contained in part 76 of title 47, Code of Federal Regulations, on cable and over-the-air television. Such study shall be completed and transmitted to the Congress not later than December 31, 1992.

TITLE IV—DIVERSIFICATION IN OWNERSHIP OF BROADCAST STATIONS

CONSIDERATION OF CERTAIN APPLICANTS

SEC. 401. (a) Section 309 of the Communications Act of 1934, as amended by this Act, is further amended by adding at the end the following:

"(l)(1) Except as provided in subsection (i) of this section, in the granting of authorization to construct and operate broadcast stations for which there is more than one application, the Commission shall award—

"(A) a substantial enhancement credit to any applicant which is wholly owned or controlled by one or more women who will be integrated into the daily management of the broadcast station; and

"(B) an enhancement credit, greater than the credit provided under subparagraph (A) of this paragraph, to any applicant which is wholly owned or controlled by one or more members of a minority group who will be integrated into the daily management of the broadcast station.

"(2) For purposes of this subsection, the term 'minority group' has the meaning given to such term in subsection (i)(3)(C)(ii) of this section.".

GRANTS OF CERTAIN CERTIFICATES AND DISTRESS SALES

SEC. 402. The Federal Communications Commission shall not eliminate any rule, regulation or policy in effect on May 1, 1987—

(1) with respect to the granting of certificates under section 1071 of the Internal Revenue Code of 1986 for the sale or exchange of broadcast properties to entities owned or controlled by one or more members of a minority group; or

(2) with respect to the sale, prior to commencement of a hearing, or a broadcast station by a licensee whose license has been designated for a hearing regarding revocation or renewal to an entity wholly owned or controlled by one or more members of a minority group at a price substantially below its fair market value.

MULTIPLE OWNERSHIP OF BROADCAST STATIONS

SEC. 403. The Federal communications Commission shall not repeal or in any way alter the rules regarding multiple ownership contained in section 3555 of part 73 of title 47, Code of Federal Regulations (47 CFR 3555), as in effect on May 1, 1987.

TITLE V—MISCELLANEOUS PROVISIONS

EXCHANGE OF BROADCAST STATIONS

SEC. 501. The Federal Communications Commission shall take no action to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments contained in section 606 of part 73 of title 47, Code of Federal Regulations (47 CFR 73.606).

BROADCASTING IMPROVEMENTS ACT: SECTION-BY-SECTION ANALYSIS

TITLE I

Renewal of Broadcast Licenses (Section 101)

Subsection 101(a) amends section 309 of the Communications Act to add a new subsection (j). Subsection (j)(1) establishes the criteria a licensee must meet in order for the Commission to renew a radio broadcast license. Licensees will have to demonstrate that they have broadcast programming that is meritorious and responsive to the interests and concerns of the residents in their service area, including local programming on important issues. In addition, the Commission must find that a licensee has not intentionally or repeatedly violated the Communications Act or the Commission's rules and regulations and meets the requirements of section 308 of the Act. Subsection (j)(2) establishes the criteria a licensee must meet in order for the Commission to renew a television broadcast license. The criteria are the same as for the renewal of radio licenses except that a television licensee must demonstrate in addition that its non-entertainment programming and its programming directed towards children have been meritorious and responsive to the interests and concerns of the residents in the service area. Except as provided in subsection (j)(3) of this Act, the Commission may continue to permit licensees to use the "postcard" renewal process to demonstrate compliance with these new standards. The current "petition to deny" process remains in effect.

Subsection (j)(3) provides that each year 10 percent of the television renewal applications will be randomly selected for additional scrutiny by the Commission. Each licensee selected shall submit to the Commission program records maintained under Section 102 for one month for each year since their last renewal or since the date the station went on the air, whichever is longer. The Commission shall review each renewal application selected, including records and materials submitted, to ensure compliance with the renewal standards set forth in (j)(2).

Subsection (j)(4) provides that the issue of whether the public interest would be better served by the grant of a competing application shall not be a factor in deciding if a particular license should be renewed. The effect of this provision is to preclude the Commission from accepting or considering applications from other parties for authorization to operate on the licensee's frequency unless the Commission denies the licensee's renewal application.

Subsection 101(b) provides that subsection (a) shall take effect six months after the date of enactment.

Implementation of Revised Procedures (Section 102)

Section 102 directs the Commission to promulgate rules and procedures implementing the new renewal standards and requiring that licensees maintain records of the programming on important local issues, and on the meritorious and responsive programming broadcast, including, in the case of television stations, non-entertainment and children's programming. This subsection also provides that the new information to be maintained or submitted to the Commission is in addition to the recordkeeping requirements contained in the Commission's present rules.

Limitations on Financial Settlements (Section 103)

Subsection 103(a) amends Section 309 of the Communications Act to add a new subsection (k)(1) to prohibit the payment or promise of payment of any consideration in return for the withdrawal or promise to withhold the filing of a petition to deny a renewal application. Agreements entered into by the renewal applicant and another party are permitted provided that no monetary consideration is involved and the Commission approves the agreement.

Subsection (k)(2) provides that the challenging party may receive reimbursement for its legitimate and prudent expenses incurred in connection with the submission of a petition to deny or formal objection.

Subsection (k)(3) provides that an application shall be considered as pending before the Commission until it is no longer subject to review by the Commission or any court.

Subsection 103(b) provides that this provision shall take effect 90 days after the date of enactment.

TITLE II

Broadcast Ownership Stability (Section 201)

Subsection 201(a) amends section 307 of the Communications Act. It prohibits the assignment or transfer of control of any broadcast station if the licensee or permittee has not owned the facility for at least three years, except in four instances: (1) the sale of only an FM translator or FM booster station; (2) a pro forma assignment or transfer of control, where there is no change in the individuals who control or have the power to influence the operation of the station, for example, where the name of the corporation changes; (3) the sale is necessitated by the death or disability of station principals, financial distress, or other materially changed circumstances; and (4) the station is being transferred to an entity controlled by one or more members of a minority group under the policies set forth in Section 402 of this Act.

Subsection 201(b) provides that this provision shall take effect 90 days after the date of enactment.

TITLE III

Must-Carry (Section 301)

Subsection 301(a) instructs the Commission to eliminate the sunset provision of the cable mandatory carriage rules (which terminates the requirement that cable systems carry local television stations after 1992) within 10 days of enactment of this Act.

Subsection 301(b) requires the Commission to conduct a study by 1992 on the impact of the mandatory carriage rules on cable and over-the-air television.

TITLE IV

Diversification in Ownership (Section 401)

Section 401 amends Section 309 of the Communications Act to add subsection (l) to codify the preferences awarded to minorities and females in comparative proceedings for new broadcast facilities. Subparagraph (l)(1)(A) requires the Commission to award a substantial enhancement credit to any applicant controlled by one or more women who propose to work in the daily management of the station. Subparagraph (l)(1)(B) requires the Commission to award an enhancement credit greater than the credit provided in subparagarph (A) to any applicant controlled by one or more members of a minority group who propose to work full-time in daily management of the station.

Subsection (l)(2) defines "minority group" as having the same meaning set forth in Subsection (i)(3)(C)(ii) of Section 309.

Grants of Certain Certificates and Distress Sales (Section 402)

Section 402 prohibits the Commisison from eleminating its current policy of awarding tax certificates pursuant to Section 1071 of the Internal Revenue Code for the sale of broadcast facilities to entities controlled by one or more members of a minority group and its policy of permitting distress sales of broadcast stations to entities controlled by one or more members of a minority group.

Multiple Ownership (Section 403)

Section 403 prohibits the Commission from eliminating or altering its multiple ownership rules: the 12-12-12 rule (which prohibits the ownership of more than twelve AM stations, twelve FM stations and twelve television stations by one entity or individual); the duopoly rule (which prohibits the ownership of two stations in the same service in the same market, i.e. two AM's in the same community); the one-to-a-market rule (which prohibits the ownership of more than one broadcast station in a particular service in the same market, i.e. an AM and TV); and the newspaper crossownership rule (which prohibits the ownership of a daily newspaper and a broadcast station in the same community).

TITLE V

UHF/VHF Swaps (Section 501)

Section 501 prohibits the Commission taking any action that would diminish the number of VHF channels allocated to noncommercial educational television stations in the Table of Assignments.●

● Mr. HOLLINGS. Mr. President, we are finally seeing the return of common sense. A few years ago, it seemed that virtually everyone around here was chanting the sacred mantra: "deregulation, deregulation, deregulation." Our policymakers were mesmerized by its ring and placed great faith in it. Now, we are seeing that all of deregulation's great promises have not come to pass, and that any benefits we derived have been accompanied by problems.

Common sense now returns to correct what has gone wrong. Early in the year, the Commerce Committee reported legislation dealing with transportation safety and drug use. Just last week, we reported legislation on the matter of airline safety. Here today, we continue our work—begun with the Fairness Doctrine bill—to address problems in the broadcast industry.

The recently departed Chairman of the FCC, Mark Fowler, used to say that policymakers should treat broadcast stations just like they do toasters. He used to say that we shouldn't worry, the marketplace will protect everyone. Well, the facts demonstrate otherwise.

Broadcasters used to be the epitome of the local citizen dedicated to serving the community. Many still are. But lately we have seen the emergence of a new generation of broadcasters—the post deregulation breed—who seem to care only about the bottom line on their balance sheets. The dollar philosophy of these broadcasters is beginning to dominate the industry. Even those dedicated to public service have felt its effects. It is sort of like Gresham's law—bad broadcasters drive good broadcasters out of the market.

We now see that Government oversight is absolutely essential to the public interest. I know many broadcasters belive this to be so. The public trust requirement benefits them.

That is why Senator INOUYE and I have introduced the Broadcasting Improvements Act. This bill will provide some meaning to the broadcaster's public trust requirement. It will also reduce some burdens on broadcasters that are no longer warranted. What it represents is a return to common sense.

We all know what to do when your toaster keeps burning the toast. You fix it. And that's just what we aim to do by this legislation. I hope we can move forward to pass it as expeditiously as possible.●

By Mr. TRIBLE:

S. 1278. A bill to permit certain payments under the act of September 30, 1950 (Public Law 874, 81st Congress) based on incorrect determinations under section 2(a)(1)(C) of that act; to the Committee on Labor and Human Resources.

BATH AND CRAIG COUNTIES SCHOOL DISTRICTS LEGISLATION

Mr. TRIBLE. Mr. President, I am introducing legislation to provide desperately needed relief for Virginia's Bath and Craig County School Districts and I urge my colleagues to join with me in this effort.

Since 1972, Bath County and Craig County School Districts had been receiving moneys under the Federal Government's Impact Aid Program. This program provides funds to school districts which have a significant amount of nontaxable Federal land under their jurisdiction.

However, both Bath County and Craig County were recently informed by the Department of Education that they did not qualify for all amounts of Federal impact aid moneys received. As a result of bureaucratic bungling, these school districts have apparently been receiving the Federal subsidy although they did not meet the eligibility requirements.

Payments to Bath County School District have suddenly been cut off. Bath County must now find a way to continue meeting the needs of its school system without the Federal funding.

Not only have payments suddenly stopped, but the Federal Government is now demanding that Bath County repay all moneys it received under the Impact Aid Program for the last 15 years.

Craig County just learned that—although it was originally deemed eligible to receive impact aid—the Department of Education has determined that it was actually ineligible to receive payments from 1972 to 1977. Now, the Federal Government wants this money back.

Mr. President, these demands are intolerable. Both school districts cooperated fully with the Department of Education when the original determination of eligibility was made and during reviews of their eligibility status. Through no fault of their own, and certainly without any attempt to mislead the Federal Government, these school districts have learned that mistakes were made in the original assessments.

Bath County and Craig County should not be required to pay for mistakes made by the Federal Government. Moreover, attempts to comply with the Government's request would be devastating.

The Federal Government should bear the burden of its own mistake rather turning to there school districts which acted in good faith reliance on Government eligibility determinations. Bureaucratic errors should be borne by those departments which committed them, not by the school districts.

I urge my colleagues to assist Bath and Craig Counties.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the amount of any payment made to a local educational agency, for fiscal years prior to 1986, that is attributable to an incorrect determination under section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall be deemed to have been made in accordance with such section.

(b) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount of payments made pursuant to this Act.

By Mr. LEAHY (for himself, Mr. Hatfield, Mr. Adams, Mr. Baucus, Mr. Bumpers, Mr. Chiles, Mr. Danforth, Mr. Fowler, Mr. Gore, Mr. Karnes, Mr. Lugar, and Mr. Sasser):

S. 1279. A bill to extend the Renewable Resources Extension Act of 1978; to the Committee on Agriculture, Nutrition, and Forestry.

RENEWABLE RESOURCES EXTENSION ACT AMENDMENTS

● Mr. LEAHY. Mr. President, on behalf of myself and the distinguished senior Senator from Oregon, Senator Hatfield, I am introducing legislation today to reauthorize the Renewable Resources Extension Act of 1978. We are pleased to be joined by Senators Adams, Baucus, Bumpers, Chiles, Danforth, Fowler, Gore, Karnes, Lugar, and Sasser in sponsoring this important legislation.

I am particularly pleased to be introducing this reauthorization with my distinguished colleague from Oregon, with whom I worked in authoring this legislation in 1978. At that time, we envisioned the Renewable Resources Extension Act [RREA] as a means of expanding and encouraging natural resources programs within the Cooperative Extension System. And I believe we can be proud of its accomplishments to date.

Since the program was first funded in fiscal year 1982, RREA funds have been used in all 50 States for natural resource education programs. The funding has been used in a variety of different ways: Annually, about 70 percent is used for forest management and wood utilization programs, between 9 to 15 percent is spent on range management programs, and between 9 to 12 percent is used for fish and wildlife programs. The program has been extremely successful in generating State and county natural resource extension activity as well. Every dollar of Federal investment through RREA has generated at least three times that in State and local investment in renewable resource extension activities.

In the State of Vermont, RREA funding has been particularly valuable in promoting forestland management. While more than 80 percent of Vermont is forested, less than 30 percent of this land is under management. In fiscal year 1985, RREA funds were used to add two natural resource specialists to the Extension Service staff, in order to encourage forest management by educating landowners in basic forest management skills. Funds have also been used to educate landowners in forest products marketing—education that should led to increased timber and fuelwood sales.

Other States have developed educational programs designed to fit their State's resource base and needs. Some have focused on rangeland restoration and improvement, others have developed environmental education programs for youths. Many States have expanded management and marketing skills training. The value of the RREA program is further enhanced by its flexibility. Under the guidance of the Cooperative Extension System, States have been able to tailor their RREA program to fit the unique needs and ongoing work of State and local extension offices.

The need for the Renewable Resources Extension Act is as great now as it was in 1978. Seventy-one percent of the commercial forest land and 64 percent of the rangelands in the contiguous United States are privately owned. These lands represent the greatest potential source of the future supply of renewable natural resources in this country. Yet the lack of knowledge of management alternatives among private landowners and managers continues to limit the potential of our private forests and rangelands to provide these resources.

In addition, the economic opportunities possible from improved management and marketing of renewable resources have become increasingly important to farmers and ranchers looking to augment their income from traditional agricultural operations. The RREA Program, by maintaining a strong extension education delivery system, has helped—and can continue to help—increase these opportunities.

An integral goal of the RREA is to promote sound natural resource stewardship. As evidenced from the increasing concern over ground water quality, nonpoint source pollution and pesticide use, proper land management practices have become critical to the health of our land and water resources. For this reason, a continued commitment to promoting sound resource management practices among landowners and users is surely a wise long-term investment.

The Renewable Resources Extension Act is scheduled to expire on September 30, 1988. My bill would reauthorize the RREA through 1998, at its currently authorized annual funding level of $15 million. While appropriations for the RREA have not exceeded $3 million in any fiscal year, I believe that a $15 million annual investment in resource management education and training programs is certain to return many times that in future dividends.

Mr. President, as public debate increases over the best use of our public lands throughout the remainder of this century and into the next, we must focus on the potential of this country's private lands to provide many of our future renewable resources. It makes sense to continue the commitment we made in 1978 to provide sound resource management education to the owners and users of these private lands. For by doing so we will not only be expanding the economic opportunities of rural Americans, we will also be ensuring that these lands will contribute to the future wealth and needs of Americans well into the next century.

Mr. President, I hope my colleagues will consider giving their support to this valuable legislation, and I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Renewable Resources Extension Act Amendments of 1987".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "There are authorized to be appropriated to implement this Act $15,000,000 for fiscal year 1988, and $15,000,000 for each of the next 10 fiscal years.".

SEC. 3. EXTENSION PROGRAMS.

Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note) is amended by striking out "1988" and inserting in lieu thereof "1998".●

● Mr. HATFIELD. Mr. President, I am delighted to join my colleague from Vermont in bringing this important legislation before the Senate. The Renewable Resources Extension Act has been a valuable tool in developing and conserving our most precious resources.

When Congress first authorized the Renewable Resources Extension Act in 1987, it was with the hope that progams could be developed which would increase our understanding of our forest, range, and wetland areas that yield renewable resources. This is an important task because these lands cover 70 percent of the surface area of the United States. Since the program was first funded in fiscal year 1982, RREA has met its congressional mandate and continues to function as intended.

During fiscal year 1985, the most recent year for which complete statistics are available, $2.5 million was utilized by RREA in 43 States to meet the program goals of developing and delivering educational programs that enhance our understanding of forest and rangeland. What may be most important, the various States which received RREA funding were able to develop programs without excessive Federal interference. Under the guidance of the Cooperative Extension Service, individual States can tailor programs to meet the needs of its citizens and resources.

My own State created a coordinated extension service which concentrates on four areas: forest land management, rangeland management, fish and wildlife management, and outdoor recreation. Each of those areas is very important to the economic health of Oregon and the long term economic health of this Nation. Some States have used funds to educate financially troubled farmers about how to supplement their incomes by utilizing effective wildlife and forest land management.

Like other Extension Service programs, the RREA is a cooperative program involving Federal, State, and local governments. In addition to paid staff members who plan programs to meet the needs of local areas, a large group of volunteers tirelessly gives of their time and talents. Extension has proven to be a valuable Federal program because it translates a national need, education, into local action and solutions. After all, national problems are no more than local problems which persist in various locations.

One of the initial goals of RREA was to focus attention upon the need to preserve our resources. Measured within the framework of the Extension Service, that is precisely what has happened. During fiscal year 1980, prior to the funding of RREA, only 1.8 percent of all extension funding was used for renewable resource education. With the leverage provided by RREA, this figure had rose to nearly 3 percent by fiscal year 1985.

As our Nation begins to run short of its finite resources, it becomes even more important for us to understand, utilize, and enhance our renewable resources. By reauthorizing the Renewable Resources Extension Act, Congress can take an important step to ensure that we will be able to produce the food, fiber, industrial materials, wildlife habitat, clean air, and recreational opportunities our citizens will need in the next century. I urge all of my colleagues to join the effort to reauthorize this important program.●

By Mr. QUAYLE:

S. 1280. A bill to increase the sale of U.S.-made auto parts and accessories to Japanese markets for original and after-market equipment in Japan, in the United States and in third markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FAIR TRADE IN AUTO PARTS ACT

● Mr. QUAYLE. Mr. President, today I am introducing legislation designed to improve sales of U.S.-made automotive parts and accessories to Japanese markets in Japan, in the United States and in other countries.

I plan to offer my initiative as an amendment to S. 490, the Omnibus Trade Act of 1987, which the Senate is scheduled to take up within the next few weeks.

My bill, the Fair Trade in Auto Parts Act of 1987, is intended to help address the serious inequity that now exists between the United States and Japan in auto-parts trade.

Of the $58.6 billion U.S. trade deficit with Japan in 1986, $33.3 billion was in automotive-related commerce, including $3.6 billion in auto parts alone, according to the U.S. Department of Commerce.

American manufacturers supplied less than 1 percent of the $55 billion worth of original and after-market parts and components used in vehicles assembled and serviced in Japan last year—and no more than 40 percent of the parts used in vehicles assembled at Japanese auto plants here in the United States.

The health of this basic American industry is critical to the health of our Nation's economy. Nationwide, 3,300 auto parts and accessories manufacturers employ over 370,000 workers. In Indiana, the heart of the automotive-component manufacturing industry, there are more than 115 parts-makers with a total work force of nearly 32,000 employees.

The gross imbalance in United States-Japan auto-parts trade cannot be blamed on inferior American-made products. Nor is it due to any failure of United States parts manufacturers to deliver price-competitive and quality components and accessories to Japanese automakers on time.

No, the problem is that Japanese car companies have developed very close ties to Japanese parts suppliers, and American companies have been unable to break those bonds and gain the fair access to the Japanese parts market they deserve.

Since last August, the United States and Japan have been engaged in negotiations—the Market Oriented, Sector-Specific [MOSS] Talks on transportation equipment—that are focusing on opening Japanese markets in Japan and the United States to American-made original equipment and after-market auto parts.

But to date, despite the concerted efforts of the American delegation, which is led by Under Secretary of Commerce for International Trade S. Bruce Smart, the MOSS talks on auto-parts trade have produced only marginal gains. For that reason, and because the year-long negotiations are scheduled to conclude this August, I believe legislation is needed to press Japanese automakers further to increase their purchases of American-made parts.

Our negotiators at the MOSS talks have made several suggestions that deserve attention and support. One important United States objective is the development of a system for the monitoring of Japanese purchases of American-made parts. In order to measure any improvement in sales accurately, we must have a credible system of accounting. I support this initiative as long as the United States and Japanese Governments supervise its implementation, and I stressed this point in a February meeting in my office with Japanese Vice Minister of Trade Makato Kuroda. While I have been disappointed with the progress of the MOSS talks on this point to date, I remain hopeful that the Japanese will cooperate in the development of a responsible and reliable system of monitoring.

The monitoring of sales is essential after the fact, but on a more fundamental level, I believe the key to stimulating increased commerce between United States suppliers and Japanese automakers is accelerated industry-to-industry contact and education. The MOSS talks have already led to increased communication, new business opportunities and a better mutual understanding of the situation facing U.S. parts companies seeking access to the Japanese market.

For example, last September, I was pleased to announce a $464,000 Trade Adjustment Assistance [TAA] grant by the U.S. Commerce Department to the Motor and Equipment Manufacturers Association [MEBA] for the establishment of an office in Japan to promote sales of U.S.-made auto parts and accessories.

Another constructive outgrowth of the MOSS Talks is taking place today and tomorrow in Indianapolis, where the U.S. Commerce Department, Senator LUGAR and I are sponsoring a national conference on selling auto parts to the Japanese. Designed to bring American auto-parts manufacturers together with Japanese auto executives and United States trade experts in an effort to open Japanese markets, this 2-day conference is featuring panel discussions and workshops led by senior official of the United States Commerce Department and senior personnel of eight top Japanese automakers.

Proof that there is a recognized need for further bilateral exchanges of this sort can be found in the number of people who registered for the Indianapolis Conference on Selling Auto Parts to the Japanese. It attracted more than 425 individuals representing over 250 American parts manufacturers from 26 States—including 96 registrants from 56 parts-makers in Indiana alone.

The conference is also welcome evidence that the Japanese delegation to the MOSS Talks is beginning to understand that that their willingness to resolve this dispute has implications for United States-Japan trade relations in areas well beyond that of auto parts and accessories. The Indianapolis Conference on Selling Auto Parts to Japan is being held in cooperation with the Japanese Ministry of International Trade and Industry [MITI] and the Japanese Automobile Manufacturers Association [JAMA].

But while the MOSS talks have helped curb the Japanese bias against purchasing American-made parts to a modest extent, our efforts to open Japanese markets must not end when the auto-parts trade talks conclude in August.

It is essential that we establish a framework for continued industry-to-industry communication and sales promotion, monitoring and reporting to sustain and capitalize on government-to-government pressure our negotiators have brought to bear during the MOSS Talks.

That is the purpose of the Fair Trade in Auto Parts Act I am introducing today.

My bill would direct the Secretary of the United States Department of Commerce to establish within that agency a program to increase the sale of American-made auto parts and accessories to Japanese markets in Japan, in the United States and in other countries. The bill clearly and simply details the steps the Commerce Secretary should take in implementing this initiative. In addition, my bill would require the Secretary to report annually to Congress on sales of United States-made auto parts in Japanese markets.

The Fair Trade in Auto Parts Act also would direct the Commerce Secretary to appoint and chair a special industry advisory committee on auto parts sales in Japan. Although the size and membership of this panel would be left to the Secretary's discretion, it is my expectation that it would be comprised of senior management and labor representatives of the American auto-parts and accessories industry and senior officials of the Federal Government. The special industry advisory committee on auto-parts sales in Japan would be charged with monitoring auto-parts sales data, reporting to the Commerce Secretary on barriers to Japanese markets, counseling him during consultations on auto-parts trade issues with the Japanese and reporting to Congress annually on progress achieved through the Commerce Department's auto-parts sales-promotion program.

Mr. President, I am a staunch advocate of free trade, but I insist on fair trade. The bill I am introducing today provides for a nonprotectionist but aggressive Federal initiative to help remedy the intolerable situation now faced by American auto parts and accessories manufacturers, who are being denied access to Japanese markets because Japanese automakers are engaging in wholly inappropriate, collusive procurement practices.

The adopting of the Fair Trade in Auto Parts Act will send an unmistakable message to both Japanese automakers and the Japanese Government that the United States fully intends to extend and expand its efforts to open Japanese markets to American-made parts long after the MOSS talks on auto-parts trade conclude this summer.

I invite my colleagues who share my commitment to fair trade in auto parts to cosponsor this bill—and to back my proposal when I offer it as amendment to the Senate's omnibus trade bill.

I ask unanimous consent that the text of the Fair Trade in Auto Parts Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Fair Trade in Auto Parts Act of 1987."

SEC. 2. ESTABLISHMENT OF INITIATIVE ON AUTO PARTS SALES TO JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall establish an initiative to increase the sale of U.S.-made auto parts and accessories to Japanese markets in Japan, in the United States and in third markets.

(b) FUNCTIONS.—In carrying out this Section, the Secretary shall—

(1) foster increased access for U.S.-made auto parts and accessories to Japanese companies, including specific consultations on access to markets in Japan,

(2) increase the exchange of information between United States auto parts manufacturers and the Japanese automobile industry,

(3) collect data and market information on the Japanese automotive industry regarding needs, trends and procurement practices, including the types, volume and frequency of parts sales to Japanese automotive companies located in Japan, in the United States and in third markets,

(4) establish and identify contacts with Japanese automotive companies in order to facilitate contact between United States auto parts manufacturers and Japanese automotive companies,

(5) report on and attempt to resolve disputes which result in barriers to increased commerce between United States auto parts manufacturers and Japanese automotive companies,

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of U.S.-made auto parts in Japanese markets,

(7) submit annual written reports or otherwise report annually to Congress on sales of U.S.-made auto parts in Japanese markets.

SEC. 3. ESTABLISHMENT OF SPECIAL INDUSTRY ADVISORY COMMITTEE ON AUTO PARTS SALES IN JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the U.S. automotive parts industry in carrying out the intent of this Act.

(b) STRUCTURE OF COMMITTEE.—The Secretary of Commerce shall select and establish a Special Industry Advisory Committee for purposes of carrying out this Act.

(c) FUNCTIONS.—The Special Industry Advisory Committee established in this Act shall—

(1) report to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets,

(2) review and consider sales data collected,

(3) advise the Secretary of Commerce during consultation with the Government of Japan on issues concerning sales of U.S.-made auto parts in Japanese markets,

(4) establish goals for and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of Section 1 above, and

(5) report to Congress annually on the progress in sales of U.S.-made auto parts in Japanese markets.

(d) AUTHORITY FOR SPECIAL INDUSTRY ADVISORY COMMITTEE.—The Special Industry Advisory Committee shall, to the extent possible, draw upon the resources of the Department of Commerce as the Secretary may determine necessary to carry out the purposes of this Act.

SEC. 4. EXPIRATION DATE.—The authority for this act shall expire on December 31, 1993.●

ADDITIONAL COSPONSORS

S. 124

At the request of Mr. INOUYE, the name of the Senator from Massachusetts [Mr. KERRY], was added as a cosponsor of S. 124, a bill to amend title XVIII of the Social Security Act to provide that certified nurse-midwife services are covered under part B of Medicare.

S. 178

At the request of Mr. RIEGLE, the name of the Senator from Connecticut [Mr. WEICKER], was added as a cosponsor of S. 178, a bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services determined under such act to be under a disability, and for other purposes.

S. 220

At the request of Mr. SYMMS, the names of the Senator from Nebraska [Mr. KARNES], and the Senator from Nevada [Mr. HECHT], were added as cosponsors of S. 220, a bill to require the voice and vote of the United States in opposition to assistance by international financial institutions for the production of commodities or minerals in surplus, and for other purposes.

S. 274

At the request of Mr. HUMPHREY, the name of the Senator from Oklahoma [Mr. NICKLES], was added as a cosponsor of S. 274, a bill to restrict the use of federal funds available to the Bureau of Prisons to perform abortions.

S. 419

At the request of Mr. SIMON, his name was added as a cosponsor of S. 419, a bill to require specific congressional authorization for certain sales, exports, leases, and loans of defense articles, and for other purposes.

S. 530

At the request of Mr. HEINZ, the name of the Senator from North Dakota [Mr. BURDICK], was added as a cosponsor of S. 530, a bill to delay for 1 year the changes made by the Tax Reform Act of 1986 in the taxable years of certain entities, and for other purposes.

S. 567

At the request of Mr. DECONCINI, the name of the Senator from Missouri [Mr. DANFORTH], was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 675

At the request of Mr. MITCHELL, the names of the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH], were added as cosponsors of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 715

At the request of Mr. HARKIN, the name of the Senator from Hawaii [Mr. MATSUNAGA], was added as a cosponsor of S. 715, a bill to prohibit any active duty, commissioned officer of the Armed Forces of the United States from serving as the Assistant to the President for National Security Affairs, and for other purposes.

S. 769

At the request of Mr. JOHNSTON, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 769, a bill to amend the Public Health Service Act to authorize assistance for centers for minority medical education, minority pharmacy education, minority veterinary medicine education, and minority dentistry education.

S. 780

At the request of Mr. REID, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 780, a bill to amend the enforcement provisions of the Federal Election Campaign Act of 1971.

S. 784

At the request of Mrs. KASSEBAUM, the names of the Senator from Nebraska [Mr. KARNES], the Senator from Indiana [Mr. LUGAR], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 784, a bill to provide that receipts and disbursements of the Highway Trust Fund and the Airport and Airway Trust Fund shall not be included in the totals of the budget of the United States Government as submitted by the President or the congressional budget.

S. 926

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 926, a bill to amend the Development Disabilities Assistance and Bill of Rights Act to provide grants for the operation of the National Information System for Health Related Services.

S. 998

At the request of Mr. DECONCINI, the names of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act".

S. 1069

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as cosponsor of S. 1069, a bill to revise and extend the older American Indian grant program under the Older Americans Act of 1965, and for other purposes.

S. 1070

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1070, a bill to increase the amount authorized to be allotted under title XX of the Social Security Act.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1981, a bill to establish a coordinated National Nutrition Monitoring and Related Research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1194

At the request of Mr. DOMENICI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1194, a bill to transfer jurisdiction over certain lands in Bernalillo County, New Mexico, from the General Services Administration to the Veterans' Administration.

S. 1203

At the request of Mr. GRASSLEY, the names of the Senator from Indiana [Mr. QUAYLE], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

SENATE JOINT RESOLUTION 14

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Utah [Mr. GARN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 14, a joint resolution to designate the third week of June of each year as "National Dairy Goat Awareness Week."

SENATE JOINT RESOLUTION 38

At the request of Mr. Dole, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of Senate Joint Resolution 38, a joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

SENATE JOINT RESOLUTION 40

At the request of Mr. Kasten, the names of the Senator from Minnesota [Mr. Boschwitz], the Senator from Nebraska [Mr. Exon], the Senator from Tennessee [Mr. Sasser], the Senator from North Dakota [Mr. Conrad], the Senator from Utah [Mr. Garn], the Senator from Oklahoma [Mr. Boren], the Senator from Arkansas [Mr. Bumpers], the Senator from Arizona [Mr. DeConcini], the Senator from Kansas [Mr. Dole], the Senator from Nevada [Mr. Reid], the Senator from Florida [Mr. Chiles], the Senator from Michigan [Mr. Riegle], the Senator from Washington [Mr. Evans], the Senator from Minnesota [Mr. Durenberger], and the Senator from Vermont [Mr. Stafford] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to give special recognition to the birth and achievements of Aldo Leopold.

SENATE JOINT RESOLUTION 51

At the request of Mr. Exon, the names of the Senator from California [Mr. Cranston], the Senator from Iowa [Mr. Grassley], the Senator from Illinois [Mr. Simon], the Senator from Michigan [Mr. Riegle], the Senator from Ohio [Mr. Glenn], the Senator from Kansas [Mrs. Kassebaum], and the Senator from Wisconsin [Mr. Kasten] were added as cosponsors of Senate Joint Resolution 51, a joint resolution to designate the period commencing on July 27, 1987, and ending on August 2, 1987, as "National Czech American Heritage Week."

SENATE JOINT RESOLUTION 72

At the request of Mr. Gore, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week."

SENATE JOINT RESOLUTION 76

At the request of Mr. Quayle, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of Senate Joint Resolution 76, a joint resolution to designate the week of October 4, 1987, through October 10, 1987 as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 86

At the request of Mr. DeConcini, the names of the Senator from Virginia [Mr. Trible] and the Senator from Oklahoma [Mr. Boren], were added as cosponsors of Senate Joint Resolution 86, a joint resolution to designate October 28, 1987, as "National Immigrants Day."

SENATE JOINT RESOLUTION 87

At the request of Mr. Riegle, the names of the Senator from Tennessee [Mr. Gore], the Senator from Utah [Mr. Hatch], the Senator from New Hampshire [Mr. Humphrey], and the Senator from Indiana [Mr. Lugar], were added as cosponsors of Senate Joint Resolution 87, a joint resolution to designate November 17, 1987, as "National Community Education Day."

SENATE JOINT RESOLUTION 105

At the request of Mr. Lautenberg, the name of the Senator from Maryland [Ms. Mikulski], was added as a cosponsor of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 121

At the request of Mr. Trible, the names of the Senator from New York [Mr. D'Amato], the Senator from Tennessee [Mr. Gore], and the Senator from Arizona [Mr. DeConcini], were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating August 11, 1987, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 133

At the request of Mr. DeConcini, the names of the Senator from Illinois [Mr. Dixon] and the Senator from New York [Mr. D'Amato], were added as cosponsors of Senate Joint Resolution 133, a joint resolution prohibiting the sale to Saudi Arabia of 12 F-15 aircraft.

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. Heflin, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of the Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE RESOLUTION 174

At the request of Mr. DeConcini, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of Senate Resolution 174, a resolution expressing the sense of the Senate condemning the Soviet-Cuban build-up in Angola and the severe human rights violations of the Marxist regime in Angola.

AMENDMENT NO. 207

At the request of Mr. Heinz, the name of the Senator from South Dakota [Mr. Pressler], was added as a cosponsor of Amendment No. 207 proposed to H.R. 1827, a bill making supplementary appropriations for the fiscal year ending September 30, 1987, and for other purposes.

SENATE RESOLUTION 221—AUTHORIZING THE TESTIMONY OF CERTAIN SENATE EMPLOYEES

Mr. BYRD (for himself and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 221

Whereas, in the case of *United States* v. *Keykavous Hemmati*, Crim. No. 3937-87, pending in the Superior Court of the District of Columbia, the United States has obtained subpoenas for the testimony of Joan Drummond and Carol S. Kiser, two employees of the Senate;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Joan Drummond and Carol S. Kiser are authorized to testify in the case of *United States* v. *Keykavous Hemmati.*

SENATE RESOLUTION 222—DIRECTING THE SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE IN A CERTAIN CASE

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. Res. 222

Whereas, in *In re Sealed Case*, No. 87-5168, pending in the United States Court of Appeals for the District of Columbia Circuit, the constitutionality of Title VI of the Ethics in Government Act of 1978, as amended, 28 U.S.C. §§ 591-598, which provides for the appointment, duties, and removal of independent counsels, has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *In re Sealed Case* in support of the constitutionality of Title VI of the Ethics in Government Act of 1978, as amended, 28 U.S.C. §§ 591-598.

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1987

METZENBAUM (AND HATCH) AMENDMENT NO. 218

Mr. METZENBAUM (for himself and Mr. HATCH) proposed an amendment to the bill (H.R. 1827) making supplement appropriations for the fiscal year ending September 30, 1987, and for other purposes; as follows:

At the end of the bill, add the following new section:

SEC. . (a) Notwithstanding any provision of this Act, there are appropriated, out of the money in the Treasury not otherwise appropriated, for an additional amount for "Food and Drug Administration, Salaries and expenses", which shall be available for grants and contracts under section 5 of the Orphan Drug Act, $500,000.

(b) Notwithstanding any provision of this Act, the total amount of appropriations for travel, transportation, and subsistence expenses under chapter 57 of title 5, United States Code, for each program, project, activity, or account of the Department of Health and Human Services under this or any other Act for fiscal year 1987, are reduced by a total amount of $500,000.

MELCHER (AND OTHERS) AMENDMENT NO. 219

Mr. MELCHER (for himself, Mr. PRESSLER, Mr. INOUYE, and Mr. MATSUNGA) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 62, after line 26, insert the following:

BUREAU OF LABOR STATISTICS

From amounts appropriated under the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-500 and Public Law 99-591) and available to the Department of Labor, the Secretary of Labor shall develop data for, and publish, an index of consumer prices which accurately reflects the distribution of expenditures on goods and services, and the inflation rate within these goods and services, which are purchased by older Americans, and the Secretary shall furnish the Congress with the data and index within 90 days after the date of adoption of this Act.

DIXON (AND OTHERS) AMENDMENT NO. 220

Mr. DIXON (for himself Mr. METZENBAUM, Mr. HEINZ, Mr. RIEGLE, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 35, line 13, strike out "$207,476,749" and insert in lieu thereof "$107,476,749".

On page 61, between lines 21 and 22, insert the following:

"For an additional amount for 'Training and employment services' for the Summer Youth Employment and Training Program for program year 1986, $100,000,000, which shall be allotted promptly to the States so that each service delivery area receives, as nearly as possible, an amount equal to its prior year allocation for this program.".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 221

Mr. BINGAMAN (for himself and Mr. DOMINICI) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 55, line 17 before the period, insert the following:

SEC. . (a) Provided further, that no school operated by the Bureau of Indian Affairs may be transferred to the control of any tribal, State, or local government until the Secretary of the Interior has submitted to the Congress, or to the appropriate committees of the Congress—

(1) a report on the studies and surveys required under section 1121(a) of Public Law 95-561 (25 U.S.C. 2001(a)), and

(2) the report required under section 1136(a) of Public Law 95-561 (25 U.S.C. 2016(a)) for fiscal year 1986.

(b) Subsection (a) shall not apply with respect to any transfer of a school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer.

MELCHER (AND OTHERS) AMENDMENT NO. 222

Mr. MELCHER (for himself, Mr. WIRTH and Mr. BUMPERS) proposed an amendment to the bill H.R. 1827, supra; as follows:

At the appropriate place insert the following:

Notwithstanding any other provision of law, no oil shale mining claim located pursuant to the General Mining Law of 1872, as amended (30 U.S.C. Sec. 22, *et seq.*, 17 Stat. 91) shall be eligible for patent, nor shall any oil shale patent be issued, after the date of enactment of this provision, until Congress directs otherwise. This provision shall not apply to Patent Application Serial Nos. C-012327 and C-016671.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 223

Mr. MOYNIHAN (for himself, Mr. DIXON, Mr. D'AMATO, and Mr. SIMON) proposed an amendment to the bill H.R. 1827, supra; as modified:

On page 46, at the end of line 26, insert the following:

Provided further, that any funds appropriated and available for obligation and expenditure under section 108 (a) (1) and (5) of P.L. 99-190 as amended, shall remain available for obligation and expenditure through September 30, 1988, or during the two year period following the date by which all such funds have been obligated, whichever date is later.

DECONCINI (AND OTHERS) AMENDMENT NO. 224

Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. D'AMATO) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 86, after line 17 but before line 18, insert the following:

COAST GUARD

OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount of "Operating Expenses", $4,120,000, to be derived by transfer from "United States Customs Service, Operation and Maintenance, Air Interdiction Program".

HOLLINGS (AND RUDMAN) AMENDMENT NO. 225

Mr. HOLLINGS (for himself and Mr. RUDMAN) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 3, after line 11 insert the following:

Funds appropriated or otherwise made available to the Department of Commerce and the National Oceanic and Atmospheric Administration shall be available for the procurement of launch services for geostationary weather satellites I, J, and K, to be conducted only by the National Aeronautics and Space Administration: *Provided*, That such procurement may be conducted by the Department of Commerce upon written certification to the appropriate Committees of the Congress prior to July 1, 1987, that the conduct of such procurement by the Department of Commerce will not delay the availability of launch services compared to the availability of launch services conducted by the National Aeronautics and Space Administration.

HOLLINGS (AND BUMPERS) AMENDMENT NO. 226

Mr. HOLLINGS (for himself and Mr. BUMPERS) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 13: restore the matter stricken on line 7 and insert:

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $8,000,000 for disaster loan making activities, derived by transfer from the "Business Loan and Investment Fund": *Provided*, That of the funds made available under the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987, as included in Public Laws 99-500 and 99-591, for Small Business Development Centers, an amount not to exceed $2,000,000 may be transferred for disaster loan making activities."

CHILES AMENDMENT NO. 227

Mr. CHILES proposed an amendment to the bill H.R. 1827, supra; as follows:

At the end of the bill, add the following new section:

"SEC. . None of the funds made available by this or any other Act for fiscal year 1987 for Health Care Financing Administration Program Management activities shall be used to promulgate or enforce any rule, regulation, instruction, or other policy having the effect of establishing a mandatory holding of Medicare claims processing or payments."

SANFORD AND OTHERS AMENDMENT NO. 228

Mr. SANFORD (for himself, Mr. HELMS, and Mr. BOREN) proposed an amendment to the bill H.R. 1827, supra; as follows:

On page 80, line 19, insert after "claim" the following: "and to make additional payments required by the amendments to such section made by the Farm Disaster Assistance Act of 1987".

HELMS (AND OTHERS) AMENDMENT NO. 229

(Ordered to lie on the table)

Mr. HELMS (for himself, Mr. SYMMS, Mr. WALLOP, Mr. GARN, Mr. HUMPHREY, and Mr. MCCLURE) submitted an amendment intended to be proposed by them to the bill H.R. 1827, supra; as follows:

On page 16, at line 3, insert before the period the following: "of which $5 million shall be available only for continuing the previously authorized retrofitting of stockpiled Minuteman III Inter-Continental Ballistic Missiles (ICBMs) into existing Minuteman II ICBM silos".

● Mr. HELMS. This amendment is intended to assure the continuation of a program that is essential to the defense of the people of the United States. I am talking about retrofitting 100 stockpiled, MIRV'd Minuteman III missiles in existing single-warhead Minuteman II ICBM silos.

I would remind Senators that the present ICBM force structure consists of 450 Minuteman II's deployed, 536 Minuteman III's, and 14 MX's deployed, for a U.S. total of 2,198 ICBM warheads. This compares with a Soviet deployment of 6,500 to 8,000 ICBM warheads.

When we began the deployment of the Minuteman III's, the original intent was to complete deployment at the level of 1,000. By 1975, 550 Minuteman III's had been retrofitted into Minuteman II silos, and it was necessary to stockpile more Minuteman III's for retrofitting. One hundred had been stockpiled before the Carter administration stopped the production of Minuteman III's and broke up the machine tools and production lines in 1978 in anticipation of SALT II.

In 1979, the Soviets invaded Afghanistan, and the Senate Armed Services Committee declared that SALT II was "not in the national security interest of the United States."

The 100 Minuteman III's are still stockpiled. In 1980, Congress in the fiscal year 1981 defense authorization bill authorized the retrofitting the 100 stockpiled missiles into the Minuteman II silos. In 1981, $5 million was appropriated by Congress to begin this retrofitting. A total of only $50 million would have been required for the complete retrofitting of this stockpile. Most of the $50 million, however, was intended to install so-called functionally related observable differences [FROD] required under SALT II to differentiate MIRV'd Minuteman III silos from non-MIRV'd Minuteman II silos under SALT II counting rules. The FROD's involved were for distinctive antennas, which are now no longer necessary now that SALT is dead, and can be eliminated, saving considerable funding.

Mr. President, the retrofitting program moved forward in 1981, and in 1982 the Air Force requested $20 million more out of the total of the $45 million additional funding that was necessary for the whole project. However, the Soviet Union complained to the United States through diplomatic channels that actual United States retrofit of any of these 100 stockpiled Minuteman III MIRV'd ICBM's would place the United States in violation of the unratified SALT II Treaty by 1985. Nevertheless, the administration stood by its request to continue the retrofit. Unfortunately, Congress decided not to fund the program for fiscal year 1983.

Now, however, it is exactly 1 year since, on May 27, 1986, the administration decided to end its unilateral compliance with the unratified SALT II Treaty. That decision was based on 22 separate Soviet violations of SALT II confirmed to the Congress by the President. Therefore the only reason for delaying this retrofit is finally gone.

Mr. President, my amendment does not cost any additional funding under this bill. It merely fences $5 million of Air Force operations and maintenance funds to continue a program previously requested by the Reagan administration and authorized and appropriated by the U.S. Congress.

Upon completion of the retrofitting, the U.S. force deployment will have 200 net additional warheads, for a total of 2,398 U.S. ICBM warheads. This is an extremely modest increment, in the light of the Soviet force structure of 6,500 to 8,000 ICBM warheads. It would cost billions of dollars to start up the Minuteman III production line and build new ICBM's; but for very modest funding we can deploy these 100 stockpiled ICBM's and make sure that they can be used to improve significantly our deterrence of any attack on the American people.

Mr. President, I urge my colleagues to vote in favor of this amendment. There are several reasons.

First, the United States is no longer unilaterally complying with the unratified and expired SALT II Treaty, which the President has confirmed to Congress that the Soviets had previously violated in 22 instances.

Second, this amendment would resume a process of retrofit that would add 100 MIRV'd Minuteman III ICBM's to the American retaliatory force, for the very low cost of only $50 million. This would be the lowest cost strategic deployment by far in the history of American strategic deterrent forces. The cost would be only about $250,000 per additional deployed warhead, compared to about $43 million per deployed MX ICBM warhead, about $10 million per deployed B-1B bomber warhead, and about $8 million per deployed Trident warhead. If the SALT FROD antennas were not added to each silo, then the cost could be considerably less than $50 million and considerably less than $250,000 per additional deployed warhead.

Third, this very cheap retrofit would add a net of 200 U.S. ICBM warheads, increasing U.S. hard target kill capability by about 10 percent, and U.S. ICBM warhead survivability by about 15 percent.

Mr. President, I rest my case. If the U.S. Senate will not vote to continue a previously requested, authorized, and appropriated U.S. strategic deployment program that is extremely cost effective and militarily effective, but that was delayed only because of U.S. unilateral compliance with the unratified, expired, and Soviet violated SALT II Treaty, then unilateral disarmament has truly become the rule in the U.S. Senate. I do not believe the people want the U.S. Senate to embrace United States unilateral disarmament, especially in the face of Presidentially confirmed Soviet break out violations from SALT I, SALT II, and from the ABM Treaty.

Mr. President, this vote is an important signal of our will or lack of will to defend our country. It is crucial that the Senate vote to support this extremely cost effective deployment which will bolster the U.S. strategic deterrent posture.●

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing on the need for a new Consumer Price Index [CPI] which would accurately reflect the inflation rate that the elderly face and the process by which the Department of Labor should develop such an index.

The hearing will take place on Monday, June 29, 1987, at 10 a.m., in room 628 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Max Richtman, staff director, at 202-224-5364.

ADDITIONAL STATEMENTS

NATIONAL COUNCIL OF NEGRO WOMEN RECOGNIZES NEW JERSEY LEADERS

● Mr. LAUTENBERG. Mr. President, I am pleased to bring to the attention of my colleagues a very important event that will take place this Saturday in New Jersey. On May 30, 1987, the National Council of Negro Women will present its Mary McLeod Bethune recognition awards to outstanding women and men in business who represent the spirit of achievement and pride exemplified by Mrs. Bethune.

Recognizing a need for black women to speak with a unified voice, in 1935, Mary McLeod Bethune organized a meeting of women representing the many black women's organizations across the country at the 137th Street branch of the YWCA in New York City. At that meeting the idea for the National Council of Negro Women was born. Its goals were then in the words of Mrs. Bethune what they are today: "to sustain our growth, broaden our vision and extend our service."

Mrs. Bethune's leadership in the drive to expand the voice of black women has become a continuing source of inspiration for the National Council of Negro Women. All her life she worked to secure opportunities for black women, men and children: as a pioneer in education, as an organizer, and as an effective spokeswoman for civil rights in the public and private sectors.

Today, following Mrs. Bethune's legacy, the NCNW reaches out to black women of all social and economic levels. The NCNW operates a number of programs to create opportunities for black women. These include job training, educational programs and career development, and child care for disadvantaged women and working mothers.

In 1944, Mrs. Bethune so eloquently spoke for black Americans when she hoped to answer those who cynically asked, "What does the black American want?" Her reply, "He wants only what all other Americans want. He wants opportunity to make real what the Declaration of Independence and the Constitution and the Bill of Rights say, what the four freedoms establish. While he knows these ideals are open to no man completely, he wants only his equal chance to obtain them." As we celebrate the bicentennial of our Constitution, the words of Mrs. Bethune remind us that we still have much work to do to bring these grand ideals into reach for all Americans.

Those individuals who have exemplified Mrs. Bethune's commitment to excellent include New Jerseyans Bertha Griffen, Sue Wilson, Gail A. Davis, Audrey Clark, William Franklin, Rev. William D. Watley, Mary E. Singletary, and Blonnie Wiltshire.

I would like to welcome NCNW President Dorothy I. Height and extend my best wishes to Dr. Annette Kearney, NCNW general chairperson for New Jersey.

Congratulations to those New Jerseyans and others who have earned the Bethune recognition awards. I ask that an excerpt from an article in the Newark Star-Ledger about the awards ceremony be printed in the RECORD.

The article follows:

COALITION WILL HONOR ACHIEVERS

Black men and women in education, business and industry will be saluted May 30 when the National Council of Negro Women Inc. stages the Mary McLeod Bethune Recognition Luncheon in the grand ballroom of the Meadowlands Hilton Hotel, 2 Harmon Plaza, Secaucus.

The luncheon hails the advancement of men and women in the corporate community and gives recognition to all "who exemplify achievement in the Bethune manner" and who "translate into action our underlying concepts of commitment, unity and self-reliance," an NCNW official said.

The program will be attended by NCNW president Dorothy I. Height, as well as representatives of the 11 New Jersey sections of the organization and the New Jersey Life Members Guild.

This year's awards recipients include Bertha Griffen, president of Porterhouse Cleaning and Maintenance Co. of Edison; Sue Wilson, a chemist at Colgate-Palmolive Corp. of Piscataway; Gail A. Davis, community affairs representative at Public Service Electric & Gas Co. and Audrey Clark, district administrator-elementary education, Long Branch Board of Education.

Also honored will be William Franklin, president of the Franklin Planning Group in Asbury Park, and Rev. William D. Watley, pastor of St. James AME Church in Newark.

A special award will go to Mary E. Singletary, director of the division of women in the state Department of Community Affairs and an outstanding service award will be given to Mrs. Blonnie Wiltshire of NCNW's North Shore Area section.●

TRIBUTE TO ESTELLE R. ROBINSON

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to a remarkable member of the New Jersey educational community, Estelle R. Robinson. Ms. Robinson is retiring this year after 18 years of service to Rutgers University, the State University of New Jersey. In recognition of her many contributions to the health and well-being of New Jersey's young people, her many colleagues and friends will be honoring Ms. Robinson on June 5, 1987.

A resident of Trenton, Estelle Robinson is a professor of social work at Rutgers. She is currently the director of the Center for Community Education at the Rutgers School of Social Work. She came to Rutgers in 1968 as a Ford Foundation fellow at the Rutgers Urban Studies Center. She has served as the university's title I project director; chair of the department of community education in the division of continuing education; and assistant to the dean of continuing education for instructional planning.

While at Rutgers, Ms. Robinson has become an authority on human services community planning and "networking." She has developed many programs to help professionals reach out to the problems of today's youth. In response to community need, she developed both the New Jersey Network on Adolescent Pregnancy and the New Jersey Network for Family Life Education. She has also chaired statewide conferences on youth issues such as ethnic differences, juvenile justice, adolescent pregnancy, and youth suicide.

Mr. President, Estelle Robinson's devotion to solving the problems of New Jersey's young people has earned her praise from human services professionals around the State as well as the Rutgers community. Ann Levine, the director of the New Jersey Family Planning Forum said that for Ms. Robinson, "networking is as natural as breathing." Rutgers President Edward Bloustein said she "epitomizes the dedication to the public good, which is one of the central purposes of this State University." I am pleased to be able to honor her many important contributions to New Jersey.●

A CHANCE FOR ARMS CONTROL

● Mr. KERRY. Mr. President, during the past 2 years since the ascent of Mikhail Gorbachev, many significant changes have taken place in the Soviet Union. Some of the most significant changes in terms of United States interests have taken place in the Soviet approach to arms control.

A recent article in the Bulletin of the Atomic Scientists analyzes Gorbachev's moves in the area of arms control and their significance for American policy. The author is Jonathan Dean, the former head of the U.S. delegation to the Mutual and Balanced Force Reduction Talks.

Dean points out that in the past 2 years, Gorbachev "has made over 25 major moves, largely unilateral and unreciprocated, toward the U.S. position on arms control, with the United States making relatively few countermoves." And as he points out, "The record of these 25 or more major Soviet moves in 2 short years is both remarkable and positive. * * * For the first time in the nuclear era, they bring large-scale negotiated reduction of nuclear weapons within reach".

In the area of strategic reductions, the Soviets have made a series of concessions to United States positions. In September 1985, they accepted the earlier U.S. proposal for a 50 percent reduction of strategic delivery systems. In effect, they agreed to the deep cuts proposed by the Reagan administration, to a limit of 6,000 warheads on each side.

In June 1986, Gorbachev dropped the Soviet insistence on banning submarine-launched cruise missiles with more than a 600-kilometer range, and dropped the Soviet demand that United States nuclear-capable aircraft be included in the count of United States strategic delivery systems.

At Reykjavik, in October 1986, the Soviet made three additional concessions. They agreed to a counting rule by which each aircraft equipped for carrying nuclear bombs and short-range attack missiles would be counted as a single warhead. They agreed to take sea-launched cruise missiles out of the count of U.S. strategic armaments. And they agreed to make substantial cuts in heavy SS-18 missiles.

As Dean points out, "the net effect of these important Soviet moves is United States-Soviet agreement on the main headings of an epoch-making strategic reduction, bringing an agreement in principle—or, with luck, even a completed agreement—within reach during Reagan's remaining term of office.

The Soviets have also made important concessions toward the United States position on space weapons. In June 1986, Gorbachev put aside the Soviet proposal to prohibit all space-strike weapons in favor of a proposal to apply the ABM treaty strictly and not to withdraw from it for a period of 15 to 20 years. At Reykjavik, he cut back this period to 10 years. Two weeks later, the Soviets agreed that the ABM treaty did permit fixed ground-based testing of ABM weapons, including those based on new technology, and sought to set up a working group with the United States at Geneva to determine which high-tech SDI devices could be tested in space under the treaty.

Dean states that "with this suggestion, the Soviet Union finally withdrew from the extreme proposal it had made in 1985 to ban all space-based weapons, and was offering what may be the only possible approach to reaching a practical compromise on SDI. Washington's first reaction was to instruct U.S. negotiator Kampelman not to negotiate on the subject."

On intermediate-range nuclear forces, the Soviets have also moved their position considerably. As a result, this is now the most promising area for an arms control agreement. Gorbachev agreed to a separated INF agreement at the 1985 Geneva summit, then revoked it after Reykjavik, then agreed to it again at the end of February of this year. This is a concession to the U.S. insistence on a separate INF agreement.

The Soviets have also agreed to exclude United States INF missiles in the overall count of strategic missiles and to drop INF aircraft in Europe from the INF talks. They have also agreed to drop British and French nuclear armaments from an INF agreement.

The Soviets have also agreed first to freeze their SS-20's in Asia, and then, at Reykjavik to reduce them to 100 warheads. They have also agreed to a heavily asymmetrical zero-zero reduction, under which they would reduce four Soviet warheads for every one American warhead, for a total of over 1,000 more Soviet than United States reductions in total.

They have also proposed to remove all of their short-range INF missiles from Europe without any corresponding reductions by the United States. And they have agreed to U.S. concepts for verifying an INF accord, including an exchange of data, on-site monitoring of destruction of missiles, and monitoring of production facilities.

In other areas of arms control, the Soviets have also made concessions. They have maintained a moratorium on testing antisatellite weapons, and also maintained a unilateral moratorium on underground nuclear testing from August 1985 to February 1987. During this period, the U.S. conducted 26 nuclear tests. The Soviets also permitted a team of American scientists to set up seismic monitoring devices near the Soviet test sites during the moratorium. In March 1987, the Soviets dropped their insistence on a test moratorium, in favor of lowering the threshold and number of nuclear tests.

In April of this year, Gorbachev proposed that each country carry out a nuclear test at the test site of the other country. Dean states that "This ingenious proposal should meet administration requirements for additional verification before finally ratifying the Threshold Test Ban Treaty signed in 1974."

While the Reagan administration has renounced the SALT II Treaty and exceeded its limits, the Soviets have unilaterally continued to abide by the SALT limits. The Soviets have also agreed to U.S. proposals that destruction of chemical weapons stocks be supervised, and that there be inspection of declared production and storage sites. They have also indicated a willingness to accept the British proposal on demand inspection of undeclared chemical weapons sites.

The Soviets have also made concessions in the area of conventional forces. They offered in the spring of 1986 to negotiate on reduction of NATO and Warsaw Pact conventional forces covering an area from the Atlantic to the Urals, 1,200 miles into Soviet territory. This is a major change in their position. They also made a number of concessions in order to achieve the Stockholm agreement of East-West confidence building measures, which was reached in September 1986.

The significance of all of these Soviet concessions, and others, on arms control issues is that there is now a real chance to reach meaningful arms control agreements with the Soviet Union. This is particularly true with respect to an INF agreement. But it is also possible to make serious progress on reducing long-range missiles, reaching an agreement on SDI testing, and strengthening the ABM treaty, if this administration is willing to bargain seriously in good faith. The recent United States-Soviet agreement on the establishment of risk reduction centers proves that even the Reagan administration can reach agreements with the Soviet.

But time is running out for the Reagan administration on an arms control agreement. President Reagan has only a year and a half left in office, and we are only a few months away from the 1988 Presidential campaign. Unless the President reaches an agreement soon, history will judge him not only by the massive Federal budget deficits he created, but by the opportunities for arms control he squandered.

I ask that an article by Jonathan Dean, entitled "Gorbachev's arms control moves", be printed in the RECORD.

The article follows:

GORBACHEV'S ARMS CONTROL MOVES

(By Jonathan Dean)

In the two years since Mikhail Gorbachev became General Secretary of the Communist Party of the Soviet Union he has made over 25 major moves, largely unilateral and unreciprocated, toward the U.S. position on arms control, with the United States making relatively few countermoves. Of course, Gorbachev's moves stemmed from earlier Soviet positions, many of which were considered by American negotiators to reflect a desire for Soviet advantages. But each original Soviet position had some rational basis and the moves away from them are notable.

These Soviet concessions to the U.S. position (Soviet officials, sensitive to domestic charges of excessive accommodation to the United States and apprehensive lest the "Reagan approach" to negotiation be adopted as standard practice in the West, prefer to call them "moves", "shifts," or "indications of flexibility") are unparalleled in the postwar history of U.S.-Soviet arms control negotiations. They document a compelling Soviet desire to conclude arms control agreements with the Reagan administration and have brought an agreement on reducing intermediate-range missiles, and possibly an agreement in principle on strategic reductions, in range this year. It is probable that, at least in the short term, Moscow will continue its pattern of flexibility. Whether the resulting opportunity is converted into actual accords depends largely on Washington's interest in concluding an agreement with the Soviet Union.

So far, the Reagan administration, divided within itself over arms control, has been consistent only in its intransigence. In the face of Soviet moratoriums on testing of nuclear warheads and antisatellite weapons, the United States has tested both. It has renounced and exceeded the SALT II ceilings on strategic delivery systems. It seems intent on dismantling the Anti-Ballistic Missile Treaty through the testing in space of ballistic missile defense weapons on the basis of an arbitrary reinterpretation of the treaty.

A Soviet regime of past temper would probably have responded in kind to such actions, bringing anarchic, unregulated competition in weapons of offense and defense. But Gorbachev's moves toward the U.S. position have continued. Later, I shall explore the question of whether a deliberately unyielding Reagan administration strategy has elicited this flow of Soviet concessions or whether they are generated mainly by policy change in the Soviet Union itself. But first, it is necessary to look at the actual record of Soviet arms control moves of the last two years, dividing them into the major areas of reducing strategic nuclear forces; space weapons; reducing intermediate-range nuclear missiles (INF); and a fourth category comprising arms control in Europe, nuclear testing, and control of chemical weapons.

THE RESUMPTION OF NEGOTIATIONS

In the fall of 1983, at a time of unsteady leadership arising from the long illness and death of longtime leader Leonid Brezhnev and his brief succession by Yuri Andropov, himself on the verge of mortal illness, the Soviet Union made a major blunder in arms control. Perhaps expecting that public resistance would block deployment in Europe of intermediate-range U.S. Pershing II and ground-launched cruise missiles, it withdrew from the Geneva talks on reduction of intermediate-range and strategic armaments, and from the long-standing Vienna negotiations on reduction of conventional forces. As deployment of the intermediate-range nuclear missiles proceeded virtually unimpeded, and questions and criticism of the Soviet withdrawal from negotiation on the most important international issue of the age mounted, both within the Soviet Union and from Western Europe, the United States, and the world over, the Soviet leadership realized the extent of its error in leaving the arms control field to a U.S. administration that blandly reiterated its willingness to continue negotiation.

One of the first actions of the new Soviet leader Konstantin Chernenko after he came to power in February 1984 was to state the Soviet Union's desire to return to arms control negotiations if the United States would demonstrate by specific actions its interest in serious negotiation. In his February 1984 speech as candidate for the Supreme Soviet, Chernenko listed examples of U.S. actions that would meet Soviet conditions, among them commitments on non-use of force, no first use of nuclear weapons, an agreement limiting antisatellite weapons, and an agreement to limit military budgets. Restricting the Strategic Defense Initiative (SDI) was one of these items, but Soviet leaders told Maine Republican Senator William Cohen, on his visit to the Soviet Union in March 1984, that a U.S. move on any one of these topics would bring the Soviet Union back to the negotiating table. Clearly, Soviet motivation was to return to negotiations rather than to continue, through absence, to incur heavy penalties against Moscow's claim to a leading role in arms control. This, rather than concern over SDI, was the decisive factor. The specific timing of the Soviet return to the negotiating table was established by President Reagan's reelection; Soviet leaders were waiting out the elections, probably hoping for another outcome.

President Reagan, in a speech in Dublin in June 1984, indicated willingness to undertake a commitment on non-use of force in the context of a satisfactory agreement on confidence-building measures at the recently begun Stockholm Conference on Disarmament in Europe—a commitment later honored in the agreement reached in September 1986. But otherwise, the Reagan administration declined to make unilateral gestures.

It was only in the summer and fall of 1984 that the Soviet Union began to focus its public statements on opposition to SDI. Directly following Reagan's reelection, Foreign Minister Andrei Gromyko signaled readiness to resume negotations. He met with Secretary of State George Shultz in January 1985 at Geneva and the two leaders agreed on conditions under which the Soviets considered it feasible to return to Geneva:

The sides agree that the subject of the negotiations will be a complex of questions concerning space and nuclear arms, both strategic and intermediate range, with all the questions considered and resolved in their interrelationship. The objective of the negotiations will be to work out effective agreements aimed at preventing an arms race in space and terminating it on earth, at limiting and reducing nuclear arms and at strengthening strategic stability.

From the Soviet viewpoint, this communiqué established the linkage between nuclear reductions and ballistic missile defense on which the Soviets have since insisted, intermittently regarding intermediate-range missiles, and consistently regarding strategic missiles. The restructured Geneva negotiations resumed in March 1985, just as Chernenko died. The day after, he was replaced by Mikhail Gorbachev.

STRATEGIC REDUCTIONS

In the first weeks of the resumed Geneva talks, Soviet negotiators, under Viktor Karpov, focused on a procedural effort to assure acceptance by the U.S. negotiating team, led by Max Kampelman, of the linkage between the space weapons component of the talks and the START (Strategic Arms Reduction Talks) and INF components. By mid-June 1985 the Soviets had returned to negotiating on the basis of their 1983 proposal for a 25 percent cut in strategic delivery systems, which would have resulted in a ceiling of 1,800 on strategic missiles and aircraft.

Soviet officials told visiting Congressman Stephen Solarz, Democrat of New York, in July 1985 that the 25 percent reduction would cover warheads as well as delivery systems. This was a shift from the 1983 position and a move toward the Reagan administration's claim that SALT II had been "fatally flawed," in part because of its failure to prevent a huge increase of warheads in both countries, mainly in the form of MIRVs (multiple independently targeted reentry vehicles).

Soviet proposals, however, still did not provide for subceilings on Soviet heavy missiles like the silo-busting SS-18, as the United States wished. Moreover, the proposed ceilings would include both nuclear-capable long-range U.S. bombers and nuclear-capable U.S. forward-based systems in Europe and the Far East, as well as British and French nuclear weapons.

The Soviet definition, familiar from the SALT II talks, would have added together all U.S. and allied nuclear delivery systems capable of reaching Soviet territory and matched them with an equal number of Soviet strategic systems capable of reaching U.S. territory, omitting from the count all shorter-range Soviet systems, including those aimed at Japan and Western Europe. This would have resulted in a large preponderance of Soviet over U.S. strategic delivery systems. In SALT II, the United States had for this reason insisted on "equal aggregates" of the strategic forces of the two countries.

Late in June 1985, agreement was reached to hold a Reagan-Gorbachev summit in mid-November of that year—and the series of Soviet moves on arms control began. In September Gorbachev, in a letter delivered to President Reagan by newly appointed Soviet Foreign Minister Eduard Shevardnadze, accepted the earlier U.S. proposal for a 50 percent reduction of strategic delivery systems—to 1,600 for the United States. He also proposed a warhead ceiling of 6,000, the same overall figures as finally agreed upon in Reykjavik a year later, plus a limit of 3,000 warheads on land-based ICBMs, in return for U.S. agreements to relinquish the SDI program. At last the Soviets had agreed to the deep cuts proposed by the Reagan administration. But, although Moscow was willing to limit its own delivery systems to about 1,200, the Soviet proposal continued to include in its totals for delivery systems and warheads all U.S. systems capable of reaching Soviet territory, including the warheads of intermediate-range missiles, other forward-based systems, and the United States' large stock of aircraft-delivered nuclear bombs and short-range attack missiles.

U.S. reductions on this basis would again have resulted in the Soviets having a far larger number of strategic warheads on intercontinental ballistic missiles (ICBMs) and submarine-launched ballistic missiles (SLBMs) than the United States. Much of the U.S. total would have consisted of less deliverable aircraft bombs and of warheads for shorter-range missiles, plus the British and French systems. The Soviets also proposed a ban on all sea-launched cruise missiles of over 600-kilometer range, a new area of emerging U.S. superiority.

In October 1985 the United States presented its own summit reduction proposal, also a 50 percent cut in delivery systems and a limit of 6,000 warheads. This U.S. limit on strategic warheads covered only those for strategic ICBMs, SLBMs, and air-launched cruise missiles. It did not include aircraft bombs, short-range attack missiles, or warheads for the shorter-range delivery systems counted by the Soviets. The U.S. proposal also called for a drastic reduction in throw-weight—the payload of strategic ballistic missiles.

The get-together summit at Geneva, in which the focus was on Reagan's fireside presentation of his views on the desirability of SDI, produced little specific agreement on any aspect of arms control. With respect to reduction of strategic armaments, the two leaders confirmed that there was common ground on "the principle of fifty pecent reduction in the nuclear arms of the U.S. and the U.S.S.R., appropriately applied." The last phrase reflected continuing disagreement on what should be covered by the 50 percent reduction.

Preparations for a follow-on summit in 1986 were delayed when Foreign Minister Shevardnadze cancelled a scheduled meeting with Secretary Shultz following the "antiterrorist" raid on Libya by U.S. aircraft. But in June 1986 Gorbachev, in an address to the Central Committee of the Soviet Communist Party, dropped the Soviet insistence on banning submarine-launched cruise missiles with more than a 600-kilometer range. And he made an even more important concession: he dropped the long-standing Soviet demand that U.S. nuclear-capable aircraft, including carrier aircraft within flying range of the Soviet Union, be included in the count of U.S. strategic delivery systems. Also in June, Soviet negotiators at Geneva informally presented views on verification of mobile strategic armaments in which, borrowing from Washington's position on verifying INF reductions, they indicated agreement in principle that mobile missiles could be restricted to specified deployment areas, that missiles could be monitored as they left the factory, and that rail-based SS-24s could be provided with visible identifying characteristics.

At the hastily convened October 1986 Reykjavik summit, called at Moscow's initiative, the Soviets made three further important concessions on strategic nuclear reductions:

They agreed to a counting rule for aircraft bombs and short-range attack missiles by which each aircraft equipped for carrying such weapons would be counted as a single warhead. The rule overlooks U.S. superiority of well over 1,000 in this class of weapons.

They agreed to take sea-launched cruise missiles out of the count of U.S. strategic armaments and to treat this issue separately.

They agreed to make "substantial" cuts in heavy SS-18 missiles. Soviet negotiators at Geneva subsequently stated that there would be a 50 percent reduction in Soviet SS-18s.

At Reykjavik, Reagan and Gorbachev endorsed a 50 percent reduction in strategic nuclear weapons to 6,000, including those carried on ICBMs, SLBMs, air-launched cruise missiles, and bomber aircraft; and a limit on these delivery systems at 1,600.

Theoretically at least, the net effect of these important Soviet moves in U.S.-Soviet agreement on the main headings of an epoch-making strategic reduction, bringing an agreement in principle—or, with luck, even a completed agreement—within reach during Reagan's remaining term of office. The Soviets progressively relinquished their efforts to achieve coverage and reductions important to them and agreed to deep cuts, using the U.S. definition of strategic delivery systems and warheads. The remaining unresolved issues on strategic reductions are to reach agreement on subceilings specifying how many delivery systems of each type will be reduced by each country and the composition of the residual force, the throw-weight issue, and verification of a strategic reduction agreement. The U.S. administration has not yet presented specific proposals on verification.

SPACE WEAPONS

From the outset of the resumed Geneva talks, as discussed above, the Soviet leadership placed primary stress on the connection between ballistic missiles and defenses against them. While Soviet leaders have sometimes linked ballistic missile defense with reducing intermediate-range missiles, this particular linkage appears to have been tactical, raised and suppressed at the negotiating convenience of Soviet leaders. But with respect to strategic reductions, Soviet leaders made this link a condition of resuming the Geneva talks. And, from the beginning, Soviet leaders have treated the link between strategic missile defense and strategic offensive arms as indissoluble, although they may show some flexibility about how this principle is reflected in an agreement.

The direct connection made by the Soviet Union between strategic weapons and the weapons designed to destroy them is well founded. The Johnson and Nixon administrations adopted an identical stance in the negotiations that culminated in the ABM Treaty. No country, including the United States, would enter an agreement to reduce its strategic weapons without at the same time insisting on agreed limits on defenses against these weapons. The only alternative to an agreement limiting both types of weapons is costly and dangerous competition in both.

Since the beginning of the resumed Geneva talks the main goal of the Soviet position on space weapons has been the prevention of testing and deployment of space-based ballistic missile defense devices. Gorbachev and his colleagues have given clear evidence of their desire to focus Soviet economic and technological resources on making the Soviet domestic system work better. And it is evident that they see in this aspect of the SDI program the most exacting economic and technological demands on the Geneva system. Clearly, they wish to avoid competition in this area.

At the resumed Geneva talks, Soviet negotiators identified this central concern by concentrating on efforts to gain U.S. agreement to an accord prohibiting testing and development of all "space-strike" weapons, offensive or defensive. Such an agreement would have been more restrictive than the ABM agreement because it would also have banned both antisatellite weapons and space-based testing of ABM subcomponents, neither of which is prohibited by the ABM Treaty. Its acceptance, as Reagan administration officials correctly pointed out, would have meant the end of all aspects of the SDI project except the fixed ground-based defenses on which the Soviet Union itself continues active research.

But, step by step, this Soviet position too has been relinquished. Early in 1985 Soviet space-arms negotiator Yuli Kvitsinsky presented in plenary session a letter from Gorbachev to the Union of Concerned Scientists in which Gorbachev, while reiterating the Soviet proposal to ban all space-strike weapons, also urged a formal reaffirmation and strenthening of the ABM Treaty. But a year later, in his June 1986 address to the Central Committee of the Soviet Communist Party, Gorbachev put aside the proposal to prohibit all space-strike weapons in favor of a proposal to apply the ABM agreement strictly and not to withdraw from it for a period of 15 to 20 years for the purpose of deploying ABM systems.

At the Reykjavik summit, which ultimately broke down over SDI, Gorbachev ill-advisedly and incorrectly claimed that under the ABM Treaty, SDI research would be confined to the "laboratory." Reagan, however, claimed the right, under his reinterpretation of the treaty, to full testing and development of ABM devices in space. But Gorbachev agreed to cut back to 10 years the period in which neither country could withdraw from the treaty, although he also vainly attempted to obtain agreement that, at the end of that period, the two countries would be bound by the treaty as it stands, including the six-month withdrawal clause. On this point U.S. officials argued that, when the 10-year period elapsed, the United States would have the automatic right to deploy an SDI system. The ABM Treaty would, in practice, be abrogated.

Two weeks later, at the otherwise unproductive Shultz-Shevardnadze meetings in Vienna, Soviet representatives explained that the ABM Treaty did after all permit fixed ground-based testing of ABM weapons, including those based on new technology, at the test sites designated for both countries in the treaty. They sought U.S. agreement to establish a special working group at Geneva, charged with establishing which high-tech SDI devices could be tested in space under the established version of the treaty.

With this suggestion, the Soviet Union finally withdrew from the extreme proposal it had made in 1985 to ban all space-based weapons, and was offering what may be the only possible approach to reaching a practical compromise on SDI. Washington's first reaction was to instruct U.S. negotiator Kampelman not to negotiate on the subject. Some change will have to be made in this administration position, or agreement on space weapons and on deep reductions in strategic forces—even if only agreement in principle—will not be achieved in Reagan's term of office.

INTERMEDIATE-RANGE NUCLEAR FORCES

For the United States, the issue of intermediate-range nuclear-tipped missiles in Europe has been mainly political. Washington decided on the deployment mainly to meet apprehensions of its NATO allies about the decreasing credibility of the existing U.S. nuclear deterrent in the face of Soviet achievement of parity with the United States in strategic nuclear arms, and of the rapid deployment from 1977 on the Soviet triple-warhead SS-20 missile. Even after the SS-20 deployment began, Carter administration officials argued that, militarily, already deployed U.S. delivery systems provided adequate coverage of Warsaw Pact targets. For the United States, the ensuing large-scale antinuclear demonstrations in Western Europe once again made the INF issue primarily a political competition with the Soviet Union over the loyalty of NATO and the capacity of NATO governments to make defense decisions.

For the Soviet Union, the issue was not only political but also strategic. In the late 1950's the Soviets had reacted strongly—by threatening to turn access to Berlin over to the East Germans, and ultimately, by deploying their own intermediate-range missiles in Cuba—to the deployment of U.S. intermediate-range Thor and Jupiter missiles in Western Europe. They had also reacted strongly to the multilateral force project for deploying additional sea-based missiles with integrated NATO crews, and to the planned deployment in Europe of U.S. intermediate-range nuclear missiles.

The reason was in each case the same—that the new missiles could strike Soviet territory, permitting the United States to launch a nuclear attack on the Soviet Union while keeping all its strategic armaments in reserve. Although the projected deployment of 572 Pershing II and ground-launched cruise missiles was relatively small, the Soviets saw the accuracy of the Pershing II as constituting the capability for a "decapitating" strike against their command and control installations.

Soviet leaders came only slowly to realize that their own decision to deploy the mobile, solid-fuel SS-20 had resulted in a qualitative improvement over its obsolescent predecessor SS-4 and SS-5 missiles and thus had caused real concern in Western Europe. Nonetheless, the Soviet negotiators at Geneva were not long in making concessions to the U.S. position on INF.

Although the January 1985 Gromkyo-Shultz communiqué established that the INF issue was to be dealt with as a single package with strategic and space weapons—and this was justified by Soviet views on the strategic significance of U.S. INF missiles—Soviet officials early on informally hinted that a separate INF agreement might be possible. The ups and downs of this issue of a separate agreement are complex: Gorbachev agreed to it at the 1985 Geneva summit, only to revoke it in the aftermath of the breakdown at Reykjavik, and then to revalidate it at the end of February 1987. But it is a concession to U.S. insistence on a separate agreement.

Under Gorbachev, the Soviets also moved further toward the substance of the Reagan administration's position in agreeing to exclude U.S. INF missiles from the overall count of U.S. strategic missiles and in dropping INF aircraft stationed in Europe (where the United States has a qualitative lead)—first from the count of strategic American armaments and then from the INF talks themselves. Furthermore, although at least British nuclear assets are cooperatively aimed at Soviet targets in U.S. strategic nuclear planning, and although both Britain and France are U.S. allies, Gorbachev agreed to drop British and French nuclear armaments from an agreement on INF (as well as from an agreement on strategic reductions), and confirmed this at Reykjavik.

In addition, although the Soviets insisted that the scope of the INF talks be confined to Soviet SS-20 missiles deployed in Europe to the Urals, they agreed, under U.S. pressure, first to freeze their SS-20s in Asia and then, at Reykjavik, to reduce them to 100 warheads. Beyond this, the Soviets moved from proposing that the United States have zero INF in Europe and the Soviets from 150 to 200 warheads, to a heavily asymmetrical zero-zero reduction, under which they would reduce at a ratio of four Soviet warheads to one U.S. warhead. As of December 1986, the United States had 316 warheads deployed in Europe, while the Soviet Union was credited with at least 729 warheads on 243 SS-20 launchers, plus about 100 remaining SS-4s. In Asia, the Soviets are credited with about 510 warheads, to be reduced to 100, against which the United States would have the right to deploy 100 warheads on U.S. territory, for a total of over 1,000 more Soviet than U.S. warhead reductions over all.

Like linkage, another issue on which the Soviet position has switched back and forth to culminate in an important concession has been that of shorter-range missiles. Since 1981, the United States has, at the instigation of European NATO countries, proposed that, to avoid circumvention of an agreement on longer-range INF missiles—Soviet SS-20s and SS-4s, and U.S. Pershing IIs and ground-launched cruise missiles—the initial INF agreement must include collateral constraints on shorter-range missiles in the 300-600-mile range (that is, Soviet SS-23 and SS-12 missiles).

In the INF negotiations from 1981 to 1983, the Soviets accepted the concept that there should be collateral constraints on the short-range missiles. They then rejected these constraints in the resumed Geneva negotiations, but at Reykjavik, they offered a freeze on each side's current level. Then, in late February 1987, they proposed to take up the whole issue in separate negotiations.

Despite these shifts, Gorbachev in February definitively offered to withdraw Soviet SS-12 missiles deployed forward in East Germany and Czechoslovakia. During Shultz's Moscow visit in April of this year, the Soviets informally offered to eliminate SS-23s and SS-12s altogether. If they take this unilateral step, it would be one of Gorbachev's most striking arms control concessions.

And, at Reykjavik, the Soviets agreed in principle to U.S. concepts for verifying an INF accord including an exchange of data, on-site monitoring of destruction of missiles, and monitoring of production facilities. The United States presented an actual text of its INF verification proposals at Geneva for the first time in March 1987, and it is already clear that this detailed proposal, which goes further than the points discussed at Reykjavik or described to the Soviets orally in general terms, will, together with the issue of shortrange missiles, be the make-or-break issue for an INF agreement under the Reagan administration.

OTHER ARMS CONTROL ISSUES

On other issues, the Gorbachev leadership has taken unilateral action to maintain a moratorium on testing Soviet antisatellite weapons in the face of a U.S. ASAT test in September 1985 and related testing activity in 1984 and 1986. Gorbachev maintained a unilateral moratorium on Soviet underground testing of nuclear weapons from August 1985 to February 1987 and permitted a team of U.S. seismologists from the Natural Resources Defense Council to set up seismic devices near the Soviet nuclear testing site—although not, unfortunately, to register the Soviet tests when they were resumed in February 1987. In March 1987, following resumption of Soviet nuclear tests, Soviet negotiators dropped their insistence on a test moratorium in favor of an approach focused on lowering the threshold and number of nuclear tests. In April, Gorbachev proposed to Shultz that each country carry out a nuclear test at the test site of the other. Doing so would permit each to calibrate its verification instruments in the different rock structures of the test sites. This ingenious proposal should meet administration requirements for additional verification before finally ratifying the Threshold Test Ban Treaty signed in 1974.

During the Soviet test moratorium, the United States performed 26 nuclear tests and refused to permit a delegation of Soviet scientists invited to the United States by American members of the Natural Resources Defense Council to erect their seismic devices.

While the Reagan administration renounced—and exceeded—SALT II ceilings, the Soviet Union has thus far unilaterally refrained from increasing the overall level of its strategic delivery systems. Reacting to U.S. criticism of the Krasnoyarsk radar array as a violation of the ABM Treaty, Soviet officials in October 1985 offered at Geneva to suspend construction if the United States would suspend construction of radar arrays at Fylingdales Moor in the United Kingdom and Thule, Greenland, which the Soviets claim are ABM violations. Each country has continued to raise these claims of violations, but the Reagan administration has declined to bargain on the subject, arguing that the Krasnoyarsk array was a clear violation, as most U.S. experts agree, while the U.S. arrays were not—a more debatable proposition.

At the Geneva negotiations of the U.N. Conference on Disarmament, the Soviet Union has moved to agree to U.S. proposals that destruction of chemical weapons stocks be supervised and that there be inspection of declared production and storage sites. Moscow has not accepted the U.S. proposal for demand inspection of undeclared sites or, for that matter, formally accepted the less far-reaching British proposal backed by most European NATO members. Gorbachev, however, indicated informal agreement with that proposal during British Prime Minister Margaret Thatcher's Moscow visit at the end of March. If the Soviet Union does formally agree to the British proposal, a worldwide agreement prohibiting chemical weapons and destroying existing stocks will have moved closer, although the Reagan administration so far has rejected the proposal.

In the spring of 1986, the Soviets offered to negotiate on reduction of NATO and Warsaw Pact conventional forces covering an area from the Atlantic to the Urals beyond Moscow—1,200 kilometers into Soviet territory, the area where the Soviet mobilization base for conflict in Europe is located. This is an important move; in the long-stalled Mutual and Balanced Force Reduction (MBFR) talks in Vienna, the Soviets for over a decade have refused to include any of their home territory in the area of coverage. Under Gorbachev, the Soviet Union also made numerous individual concessions to achieve, in September 1986, the Stockholm agreement on East-West confidence-building measures. For example, Gorbachev acted to drop naval exercises from the scope of the agreement, even though there is a good case for including this activity, worrisome as it is from both the Soviet and general viewpoint. He accepted the NATO proposals for prenotification of military activities in the area from the Atlantic to the Urals and for obligatory observers at larger exercises. He also agreed to the West's requirement for onsite, demand inspection of Soviet territory, the first such specific obligation to be undertaken by the Soviets. The agreement entered into effect in January 1987, with positive compliance by Warsaw Pact states during the first months of implementation.

THE SIGNIFICANCE OF SOVIET CONCESSIONS

The record of these 25 or more major Soviet moves in two short years is both remarkable and positive. As a possible summit this fall approaches, there may be even more of them. The significance of individual concessions can be debated, but cumulatively their intrinsic significance is very large. For the first time in the nuclear era, they bring large-scale negotiated reduction of nuclear weapons within reach, a shift of direction that could have important positive effects both in reducing the possibility of a Soviet disarming first strike on the United States and in bringing considerable improvement in political relations.

These Soviet actions have in part reversed the pattern of postwar U.S.-Soviet arms control negotiations, where Washington took the initiative and Moscow followed with slow, grudging concessions. Today, the direction of initiative has been reversed. The concepts remain for the most part American, but the pace and extent of Soviet concessions have greatly increased.

Two major questions arise from this development: What has caused it? What does it really mean for the longer-term U.S.-Soviet relationship?

Some Reagan administration supporters claim that the stream of Soviet concessions over the past two years has been the result of deliberate U.S. tactics. This interpretation will surely become more audible if the present administration does conclude some arms control agreements with the Soviets. It is a recognized part of the U.S. political process to raise claims of this kind; as Reagan has reminded us with respect to Iran, in the U.S. system both success and failure are ascribed to the leader whose watch it is.

Such claims would be more convincing if they reflected a deliberate and consistent line of U.S. foreign policy. But the current administration has been negative toward arms control since Richard Perle and Fred Iklé (later to have senior roles in the administration) publish hostile criticisms during Reagan's first election campaign, and since the administration designated three leading opponents of SALT II—Eugene Rostow, Edward Rowny, and Paul Nitze—to be its senior arms control officials.

Quite aside from the fundamentally negative views of most of this group, no one who has closely followed the complete disarray on arms control policy within the Reagan administration can believe that the U.S. arms control position has been the result of a deliberate, conscious strategy or tactic. Witness Reagan's sporadic, short-term attention to the subject matter; the diametric opposition of the State and Defense Departments on nearly every specific issue; and the incapacity of a weak National Security Council staff either to provide leadership to the interagency process or to suggest workable compromises.

True, the administration has been unyielding in negotiation. Its intransigence is documented in its insisting on continued nuclear testing in the face of a Soviet moratorium; in renouncing the SALT II ceilings and exceeding them; in implying that it would withdraw from the ABM Treaty as soon as the state of SDI research justifies this action, as the president suggested last August; and, in the meanwhile, in acting to move toward space-based testing of ABM devices on the basis of a self-serving interpretation of the ABM Treaty that would fundamentally distort the original sense of that agreement.

This intransigence, backed by the continued buildup of U.S. armed forces, probably has had considerable effect on the nature of the concessions advanced by the Soviet leadership. These concessions—for example, those on SDI or on INF—are, after all, designed to meet specific U.S. positions. If President Reagan had not been so immovable on SDI, Gorbachev would probably not have come so far to meet him, both on SDI and on nuclear reductions.

For its part, the United States finally agreed to include bombers in the count of strategic delivery systems of each country and, reluctantly, to seek some agreed limits on sea-launched cruise missiles. It also agreed not to deploy a new SDI-type missile defense system for a total of 10 years—since cut to five—not an important sacrifice since no new system would be available within either period. Washington did stick to its earlier offer to eliminate its INF missiles from Europe, despite strong criticism from some quarters in Europe and the United States, based on the conviction that some U.S. missiles should be left in place. The United States also agreed to confine deployment of its remaining INF missile warheads to the continental United States, where they would have limited military significance, rather than deploying them in Asia, a theoretical possibility.

Yet the weight of these American moves does not begin to approach that of the Soviet concessions. And the administration's lack of unity on positive arms control moves, along with its insistence on negative moves, raises important questions about its capacity to show the singleness of purpose, presidential follow-through, rapidity of decision, and flexibility necessary to achieve an agreement this year. There is a wide gap between generating leverage through an uncooperative position and converting that leverage to actual agreement.

Beyond these factors, there is a larger issue. The disadvantage of intransigence is that it can elicit competive stubbornness. Under a different Soviet leadership, the Reagan lead on SDI and on exceeding SALT II limits might have given rise to an all-out anarchic competition in strategic and space weapons—an outcome not yet excluded. That events have thus far not taken this direction is not because of deliberate administration policy, but because of the nature of the new Soviet leadership, whose selection Washington neither influenced nor forecast. It is the result of Gorbachev's urgent desire to reform the Soviets system; of most Soviet citizens' desire to see a let-up in the arms race; of Gorbachev's own need to expand his base of domestic support through a rapid arms control success, in the difficult internal struggle that all foreign experts agree he confronts. These are the main generating forces behind Gorbachev's arms control moves.

Even so, it would be a mistake to believe that such moves will continue indefinitely. As American experts have pointed out, Gorbachev may lose momentum within the Soviet Union. Indeed, U.S. rigidity on SDI appears to have nearly precluded any completed agreement on reduction of strategic arms, the topic of greatest interest to the American public, during the present administration; indeed, it may preclude even agreement in principle on this subject. And, of course, the Soviet Union has not only resumed nuclear testing; it is also free from SALT II constraints on strategic missiles, in which its potential for rapid buildup is far greater than that of the United States.

What about the significance of Gorbachev's arms control moves for long-term U.S.-Soviet relations? Many skeptical Americans are already worried over the effects of a possible period of improved East-West relations, in which the West relaxes its defenses and the Soviet industrial and technological base increases. These Americans fear later renewal of the East-West military confrontation under conditions more favorable to the Soviets. Indeed, it is not unlikely that these are the terms in which the Gorbachev leadership is explaining its conciliatory arms control policy to its own domestic critics. But judged on the most cold-blooded basis, such prospects are less fearsome than those of the present U.S.-Soviet nuclear arms race and the risk that it will spill over into space.

Americans should be confident about the long-term prospect of economic and technological competition with the Soviet system if agreement can be reached now to reduce the military component of that continuing competition, and to decrease the danger of war inherent in the nuclear confrontation between the two countries.

WASTEFUL SPENDING

● Mr. ARMSTRONG. Mr. President, on May 6 the Senate passed the first budget resolution for fiscal year 1988. It called for a $1,061.4 billion in spending, $927.8 billion in taxes and other revenues and a deficit of $133.6 billion.

The budget plan was a travesty in many respects. We haven't seen so many bookkeeping gimmicks and legislative gimcrackery in the Senate in a long time. To listen to our Democratic friends, the time had come to loosen the belt a notch or two and live a little. The Nation's taxpayers were invited to come along on a year-long spending spree, and to foot the bill for all manner of luxury items we could well do without.

But to listen to the anguished debate on the Senate floor, you would have thought that we had already done all the budget-cutting the Republic could stand. We had cut away all the fat, they said, and all that was left in the Federal budget was muscle. We had to miss the Gramm-Rudman deficit reduction target by a whopping $25.6 billion, they said, because you can't get blood out of a turnip or more savings out of this Federal budget. More cuts would lead only to widespread unemployment, perhaps a calamitous recession, and certainly human misery on a colossal scale.

Well, Mr. President, I am not buying it. More to the point, the average American is not buying it either. It is laughable to say there is no further waste in the Federal budget and it is pathetic to miss the deficit target for the year by $25.6 billion. That is just not close enough, in my opinion, even for Government work. Every American could name a few areas where we could look for more budget savings. Just in recent months, I have been keeping track of some of the more interesting ones that have been written about in the Nation's newspapers. Here are some examples of our tax dollars at "work"; each American should be the judge of whether these are good uses of our increasingly scarce tax dollars.

The National Institutes of Health recently funded a variety of activities that merit a closer look. According to Dr. Marcia Angell, deputy editor of the New England Journal of Medicine, NIH grants have generated "a huge and unwieldy literature that is difficult to evaluate because of its size and the clutter of repetitious and often trivial reports." Here are some of them:

A 2-year Columbia University study of the formation process of Haitian ethnic organizations. Cost: $260,401.

A study of the lessons learned from older persons saving abandoned buildings. First year cost: $14,975.

A study of the food-foraging habits of the Ache people in eastern Paraguay. Cost: $163,254.

A study of late marriage in a village in Spain from 1873 to 1983. Cost: $74,561.

A study of how children cope with the stress of having their tonsils removed. A group of 80 children will be studied before, during, and after the operation to compare different "coping styles." Cost: $85,780.

A $242,508 2-year study to track the development of political attitudes of women who graduated from Bennington College in the 1930's.

In these days of Gramm-Rudman belt-tightening, the State Department is proposing to build 10 new residences for 10 foreign service officers in Canberra, Australia, at a cost of $6.5 million, or an average of $650,000 apiece. That's known as high living down under.

The State Department spends $131,000 a year, or $11,000 a month, for rent on the New York apartment of Ambassador Herbert Okun, the Deputy U.S. Representative to the United Nations. That is on top of the $20,000 the Department pays for Okun's government-provided servant, plus additional funds for entertainment.

The Interior Department has failed to collect about $3 billion in royalties on oil and gas payments produced on Federal and Indian land since 1979, according Congressman SIDNEY R. YATES. This is the conclusion of an 8-member panel of the House Appropriations Subcommittee on the Interior.

A recent report by the Inspector General of the Department of Health and Human Services details how $2 billion was squandered during the first 6 months of the 1986 fiscal year. Here are some highlights:

A Medicare carrier was bilked out of $850,000 from an employee who used her position to mail fraudulent checks to different addresses.

A Texas ophthalmologist was convicted on a 74-count indictment for billing Medicaid for work not performed and passing along inflated costs of goods bought from a fictitious corporation.

Fifteen people in Chicago claimed enrollment in various colleges in order to obtain more than $75,000 in student-aid benefits.

In a nursing home scam in Iowa and Texas, three podiatrists were convicted of submitting phony Medicaid or Medicare bills for services never performed in the amount of $120,000.

In two California cases, a man collected his dead mother's Social Security benefits for 6 years, defrauding the Government of $25,000, while a woman cashed $40,000 of her dead aunt's checks over 10 years.

In New York, $235,000 worth of Social Security checks were cashed by 23 people, even though the intended recipients of the checks had long since died.

A Medicaid scam in Illinois cost the program $20 million as a number of doctors and pharmacists were found to have been prescribing and selling codeine-containing sedatives and cough medicine to drug addicts.

When the Treasury Department's Bureau of Alcohol, Tobacco and Firearms seizes anything, it is required by law to place notices in local newspapers in case someone has a valid claim to the property. When the Bureau seized six rounds of .22-caliber ammunition, they spent $20 in newspaper advertisements in a New Mexico paper telling any person interested in the property to mail a petition into the Bureau and post a bond for $50. All for six bullets!

Meanwhile, back at the State Department, here are some examples of the recent track record of its Foreign Buildings Office, which builds our embassy facilities around the world:

A planned 20-story chancery building in Cairo estimated to cost $27 million and to be finished in January is only one-third completed, although $16 million has been spent.

A 26-unit housing facility for diplomats in Hong Kong has had such extensive leaks that it probably will need completely new exterior walls.

The agency has requested $10 million to buy 40 acres for a construction site in Uganda, even though nobody is sure what the price is based on.

We are building a new embassy, including seven residences, in Georgetown, Guyana—a poor South American country of only 775,000 people—at a cost of $3.2 million.

We are likewise building a new embassy in the Central American country of Belize at an estimated cost of $33 million. The entire GNP of Belize, which has a population of only 158,000, is only $143 million.

A new $25 million embassy in the oil rich monarchy of Oman on the Arabian peninsula.

Planned projects include new embassies in Jamaica costing $53.6 million; in Geneva costing $56.2 million; in Vienna costing $90 million; and $65 million in Panama.

The Smithsonian Institution spent $700,000 on a radio-controlled, life-like model of a prehistoric Pterosaurus. The winged mechanical creature was destroyed in a crash in its first demonstration flight before the public.

According to data released this year by the Office of Personnel Management, premium pay for overtime, holidays, hazardous duty, incentive pay, and Sunday and evening work is costing the Government over $15.3 million every day. The data are based on Government costs for fiscal years 1983 and 1984 and indicate that the Postal Service is the single biggest spender, chalking up $1.9 billion in overtime pay in 1984.

A report issued by the Government Accounting Office in October, 1985 found 102 instances of travel by government officials on riverboats and ocean liners during the 4 years ending September 1984. Investigators said ship travel between this country and foreign assignments cost taxpayers over $556,000, compared with the approximately $160,000 it would have cost if the officials traveled by air.

According to an audit by the Inspector General of the Department of Housing and Urban Development, about 30 percent of long distance telephone calls at the Department headquarters were illegal personal calls.

The Army had a year-long fireworks party in 1985, when it wasted over $750 million in ammunition by budgeting far more than needed and then urging soldiers to use as many of the bullets, explosives and grenades as possible in training, according to auditors. Army units in Europe were allotted from 2 to 6 times more small arms ammunition in 1985 than in 1984, as reported in January, 1986.

The GAO cites these examples of the misuse of funds provided by the Agency for International Development:

March, 1985 audit—only 12 percent of emergency food sent to Somalia reached the needy; 30 percent intended for sale to urban area residents was sold to Government institutions, including Somalia's Armed Forces; and 58 percent was not distributed at all.

September, 1985 audit—U.S. rice sold to Zaire was subject to profiteering by politically connected businessmen. The rice was being resold at markups as high as 400 percent, well beyond the means of the average citizen in Zaire. Also found were instances where U.S. rice was sold on the black market by Government officials.

Spring 1986 audit—flour was sold to Somalia with the proceeds to be used to help a local development project. It was instead intercepted by Somalian Government officials who sold the flour to their friends at about 17 percent of its market price, and the friends in turn resold it for a hefty profit.

The Government spend over $336 million for public relations in fiscal year 1985. According to a study released by the GAO in February of 1986, expenditures for public affairs by the various agencies ranged from $401,000 at the National Labor Relations Board to over $56 million at the Department of Health and Human Services. These figures do not include expenditures on congressional relations, which amounted to an additional $99.6 million for the Government as a whole, and enabled Federal agencies to lobby Congress.

A federally financed sewage system is on the drawing board in Franklin County, PA that would cost $12 million. Despite the fact that an adequate alternative system of the type that the EPA is now promoting would cost only $2 million, residents are discovering that "the only thing tougher than getting a slice of the Federal pie is trying to give a piece of it back," as one observer put it. A prime roadblock to changing designs is the fact that the engineering firm which designed the plant and stands to gain an estimated $3 million fee when it is constructed.

About one-third of the trips made by Government cars and drivers assigned to the Environmental Protection Agency executives were to go to lunch and cost $45 a trip on average, according to a report by the agency's inspector general. The report, covering April through August 1984, recommended more use of taxis at a cost of about $5 a trip, but the agency decided not to implement the recommendation.

In 1984, some 16,000 households with incomes of $75,000 or more were recipients of either cash public assistance or supplemental security income [SSI]. And 199,000 households with an annual income of $35,000 or more received such payments.

One of the Federal Government's specialties is studying things. Here is a checklist of studies funded recently by the National Science Foundation: $58,464 to study the social impact of television in rural Brazil $42,832 for an analysis of private banking institutions in London between 1720 and 1800; $18,000 for a study of agriculture and economic development in Russia between 1750 and 1860; $46,500 for a cultural analysis of Ghandian ideology; $49,971 for a study of children's television viewing behavior; $55,000 to study aggressive behavior in Siamese fighting fish; $37,982 to study urban growth, daily life, and biography formation in Stockholm between 1880 and 1910; $74,850 to study the multidimensional functions of nonmarket forms of exchange among Mexican Chicanos in Tucson, AZ; $42,930 to study the dynamics of spatial voting games and games on graphs.

The mandate of the Economic Development Administration [EDA] is to generate new jobs, help protect existing jobs, and stimulate commerical and industrial growth in economically distressed areas of the country. Here are some of the projects in "disadvantaged" areas listed in EDA's annual report for 1986: $4 million for the development of a state-of-the-art fiber optics/medium power cable research and development facility in Lexington County, SC, with unemployment rates averaging only 4.3 percent over the last 24 months; $4.5 million for the rehabilitation and development of commerical facilities at the stockyards in Fort Worth, TX, which had unemployment rates averaging at only 5.6 percent over the prior 24 months; $15 million for Dartmouth College's Thayer School of Engineering in Hanover, NH, with unemployment rates averaging only 3.8 percent over the prior 24 months; $5.7 million for the relocation of railroad tracks in Columbia, SC, with unemployment rates averaging only 5 percent over the prior 24 months; $19 million for the renovation and expansion of Boston University's Science and Engineering Complex in Boston, MA, with unemployment rates that averaged only 5 percent over the prior 24 months.

The National Endowment for the Humanities, Public Broadcasting Service, and the Corporation for Public Broadcasting provided a combined $1.1 million for the production of a film favorably portraying Mu'ammar Qadhafi, the Libyan strongman and terrorist. The film, called "The African," was broadcast by PBS in October 1986. Touting Qadhafi as an idealist who has used his oil wealth not to finance terrorism and subversion, but "for the greater glory of Africa, as well as Islam," the film equates the United States retaliation against Libya with Qadhafi's terrorist activities. The narrator says that "Americans' bombs dropped from the air killed children as surely as terrorist bombs left in an airport."

The Federal Reserve Board has just spent $3,500 to recondition the tennis court at its lavish headquarters in Washington, DC—Rocky Mountain News, Denver, CO, September 10, 1986, p. 46.

The Farmers Home Administration, which has outstanding loans of $12 to $30 billion that congressional economists say may never be paid back, has acknowledged that its lending practices have been sloppy. For example, FHA approved a $3.8 million loan in Maricopa County, AZ, to a business executive who was not a farmer and also approved a $581,000 loan to a person who was serving time in a Federal prison for bank fraud.

The Defense Department is not the only agency that gets taken to the cleaners on Federal contracts. According to the Environmental Protection Agency's Inspector General's report, markups that went as high as several thousand percent over market prices on equipment and 100 percent on labor have been common under EPA's program to meet toxic waste emergencies.

The U.S. Postal Service is giving air mail a bad name. A recent congressional report revealed that the Post Office top brass operate a $1.9 million Cessna Citation II jet that costs the taxpayers $820 every hour it is flown. It was used 21 times just for trips to New York; the round trip cost $1,400 by the private jet, but would have been only $150 on the convenient commercial shuttle that leaves every hour.

The Department of Housing and Urban Development has a program called the urban development action grants [UDAG]. It costs American taxpayers $225 million a year and here are some current examples of what we are getting for our money:

A $1.5 million UDAG went to the Corning Glass Works in Charleroi, PA, to upgrade one of its melting furnaces. Corning took in nearly $1.7 billion last year;

A $15 million grant went to Detroit to help clear a site for a new $540 million Chrysler Corp. plant there. Chrysler earned $21.2 billion last year;

An $8.9 million grant was also awarded to help renovate Detroit's Book Cadillac Hotel. When the project is finished the hotel will have 471 rooms, "class A" office space and 600 parking spaces;

Real estate developers in Philadelphia are being helped by a $10 million grant to build a "festival market mall" that will include a string of shops and boutiques, restaurants, and movies theaters;

A $9.7 million grant was awarded to help construct a seven-story office building in Memphis, TN, that will include a spacious retail mall, department stores, 1,200 parking spaces and a convention center;

A $10.6 million UDAG went to New Haven, CT, for the development of 530 housing units, office and retail space and parking facilities. Officials say only 20 percent of the newly built and remodeled units will be available to low- and moderate-income residents;

In St. Petersburg, FL, a $3.4 million UDAG grant is helping the Harbour View Hotel Corp. renovate a 337-room Hilton Hotel that will have a swimming pool and tennis courts;

A $1.4 million UDAG is helping the Lighthouse Landings Co. put up a 175-room lakefront hotel development, including a 110-seat restaurant, on a three-acre tract in Lorain, OH.

Mr. President, these examples are taken from a fairly casual reading of the popular press over the last 12 months or so. I believe they indicate that we still have a long way to go before we eliminate all the wasteful spending from the Federal budget.●

THE 75TH ANNIVERSARY OF SENATOR HENRY JACKSON'S BIRTH

● Mr. BRADLEY. Mr. President, May 31, 1987, marks the 75th anniversary of the birth of Senator Henry M. Jackson of Washington. I call upon my colleagues to join me in paying tribute to a man whose outstanding public service career has left an important mark on history.

Senator Jackson was a man of integrity, a true statesman who showed wisdom and skill throughout his 43 years as an elected official. He was at the forefront of efforts to create a sound national energy policy and to protect America's wilderness areas. He was an articulate spokesman on the need for a strong national defense and an effective foreign policy. He was thoroughly committed to the cause of human rights, and he was a true champion of the homeless and oppressed.

With the death of Senator Jackson in 1983, at the age of 71, America lost a powerful political leader, whose leadership, dedication, compassion, and unbending pride in the principles of democracy has made our country a better place to live.

The Washington State Legislature has designated May 31 as "Scoop Jackson Day," and the Henry M. Jackson Foundation has planned a day of events in Seattle to celebrate Senator Jackson's 75th birthday. As one who had the special privilege of working with Senator Jackson, I join the citizens of Washington State on this very special occasion in honoring a great American.●

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

● **Mr. D'AMATO.** Mr. President, law-abiding citizens in this country are concerned about the pervasiveness of crime in our society. We worry for our own safety. Our immediate response is, and should be, to turn to the criminal justice system for protection. But with roughly 250 million Americans to be protected against crime, there simply are not enough law-enforcement officials to be everywhere at once.

People often react by buying a stronger door lock, a better burglar alarm, or even a gun. They end up isolating themselves in their homes, afraid to walk the block for fear of becoming a victim.

But bigger locks won't stop crime. We all must work together to ensure the safety of our streets, to send a clear message to would-be criminals that their crimes will not go unnoticed.

This message is carried by citizens who have gathered together to take responsibility for themselves, their neighbors, and their communities. Because of their justifiable concern for their own and their neighbor's safety, they offer their eyes and ears as extra help for local law-enforcement officials.

These eyes and ears belong to members of neighborhood crime watch organizations working in communities across the country. For example, civilian patrols equipped with noisemakers and sometimes two-way radios walk or drive through neighborhood streets at all hours of the day or night. They report anything suspicious to the police and alert neighbors and passersby.

Other groups include tenant patrols which also help prevent crime. The New York City Housing Authority has more than 13,000 volunteers patrolling in 700 of its buildings. And in Battle Creek, MI, police train senior citizens, housewives, and others as silent observers who have reported crimes and received awards for valuable information since 1970.

All it takes is a small group of individuals, each sharing an appreciation and concern for the community in which they live, each deciding to help tip the scales in favor of safer communities.

Neighborhood watch organizations deserve our recognition. On behalf of these dedicated individuals, as well as for those they protect, I urge my colleagues to join me in lending support to Senate Joint Resolution 121, designating August 11, 1987, as "National Neighborhood Crime Watch Day."●

SENATOR PHIL HART

Mr. RIEGLE. Mr. President, on May 20, 1987, we dedicated the Hart Office Building in memory of Senator Phil Hart who was my predecessor here in the Senate. The decision to honor him with this dedication reflects our deep yearning and aspiration that we somehow infuse this building and the work that goes on here with some special measure of grace and goodness.

In his own special self-effacing way Phil Hart embodied the finest qualities that we hope to find in citizen government. His integrity, decency and commitment to justice were a great moral force within the Senate. No matter how turbulent the legislative storms that raged in the Senate, he was always a calming, civilized and clarifying force. His quiet passion became a force of reason and leadership of remarkable strength. His decency and goodness helped the Senate find a way to a higher level of reason and conduct.

He profoundly loved his family and often ached about the relentless demands of the job and the necessary time away from family. He always advised the younger members to take time to be with their families.

There is on Mackinaw Island in Northern Michigan a small cemetery in a grove of pine trees where Phil Hart was laid to rest. It is a place of quiet beauty, where the clamorous sounds of modern life are far removed. That setting and this one express so well the two sides of this wonderful man. We are fortunate that he walked among us.

The following article in the Washington Post provides an excellent account of the dedication ceremony on May 20. I ask that it be printed in the RECORD.

The article follows:

A GOOD MAN'S IMMORTALITY

(By Mary McGrory)

The other two Senate office buildings are named for men of conspicuous consequence. When Richard Brevard Russell deposed on military matters, his word was law. Everett McKinley Dirksen was an orator—and operator—on the grand scale. Philip Hart of Michigan was a good man, and the wonder is that Washington knew it and put his name on a great marble pile.

Much has been written about the disparity between the structure and the senator. The Hart Office Building is as grandiose and pretentious as millions in cost overruns could make it. Hart was a quizzical, questing, gentle soul, forever on guard against self-righteousness and self-importance.

His son, Walter, speaking at last Wednesday's dedication, quoted one of Hart's most characteristic statements: "One thing you learn in politics is the need to avoid absolutism, especially the notion that your own conclusions must be correct or whatever you finally decide is what God would do if He were here." Walter Hart told about his father's famous question to George C. Wallace: "Do you think Heaven will be segregated?" At recollecting this typical metaphysical approach, the speaker broke down, and the audience with him.

Hart is dead for 10 years, but his name summons unanimity about smiling decency, conscience and honor. His causes were civil rights and antitrust reform. He understood, as Sen. Edward M. Kennedy (D-Mass.), the chief speaker at the dedication, said, "that there is no limit to what you can accomplish in this city, if you are willing to give someone else the credit."

For reporters, who covered him in his 18 years in the Senate, Hart was a phenomenon. He admitted he was wrong—not in off-the-record dinner party murmurings or from the privileged sanctuary of memoirs long after the fact, but at the time, and in public.

He served on the Church Committee, which uncovered the grave abuses of the CIA and the FBI during the Vietnam war. His wife, Janey, a vigorous critic of the war, reports that he came home one night and said, "Well, Janey, your wildest raving were the truth."

At a memorable hearing on FBI harassment of dissenters, Hart said emotionally that he had thought his children were paranoid in their suspicions and charges. He apologized to them on the spot, before the world.

"He was the best spokesman the voiceless and the voteless ever had in this country," said Sen. Daniel K. Inouye (D-Hawaii), an unexpected speaker at the tearful occasion.

Inouye, a man of much ceremony, volunteered to appear when he found that the two Democratic leaders of the Senate, Robert C. Byrd (D-W.VA.) and Alan Cranston (D-Calif.), could not make it. They were embroiled in a nasty floor fight on the defense bill. The Republicans were filibustering against the measure that would arm the Republic because the Democrats had added disarmament amendments that they feel will hamper the president's peace efforts.

Inouye met Hart in another life. They were both patients at the Percy Jones Veterans hospital in Battle Creek, Mich. Hart, an infantry captain who was wounded on D-Day, was ambulatory. According to Inouye, "You would have thought he was a ward boy. He did errands for the others. He bought cigarettes at the PX. He never flaunted his wounds or his decorations. I thought at the time he might go home and manage a grocery store. The next thing I knew he was a senator."

Another fellow patient, Senate Minority Leader Robert J. Dole (R-Kan.), could not be there. He was off in Florida furthering his presidential ambitions. Over a telephone connection, which took some time to arrange, he spoke of Hart's kindnesses, organizing trips to baseball games, helping with the chores—and of their comradeship in the Senate, despite poles-apart political beliefs.

Ann Hart, oldest of the senator's eight children, is now a concert singer. She sang "America the Beautiful," and brought more tears. Kennedy was overcome when he said, "He was like a brother to me." During Hart's long, slow painful death of cancer, he was at home, tended around the clock by his family. Kennedy came at any hour of the day or night when Janey Hart called him.

Hart was told about being the first living senator to have a building named after him one day in October 1976, just after he learned he was dying. He was working on the last mile of laboriously fought antitrust legislation, when he got an urgent summons to the Rules Committee room in the Capitol. Complaining, he went, and found 99 colleagues gathered there to tell him of his imminent immortality. He was greatly pleased.

If tourists and visitors in time to come ask who he was, anyone who knew Phil Hart can answer: He was a good man, and everyone knew it.●

TRIBUTE TO GARFIELD ELEMENTARY SCHOOL

● Mr. McCAIN. Mr. President, at a White House ceremony on May 20, 1987, Secretary of Education William Bennett praised the academic achievements of the bilingual education program at Garfield Elementary School in Phoenix, AZ. One of twenty-one schools in the Nation to be singled out in the Department of Education's handbook, "Schools That Work: Educating Disadvantaged Children," Garfield Elementary School is proof that given the proper motivation and educational opportunity many students, regardless of their economic background, can achieve excellence.

Working under the premise that the opportunity to acquire English language skills is the deserved right of every student, the administrators at Garfield have devised and implemented several innovative programs to address the needs of those who are limited English proficient. Noteworthy, are those programs that utilize the use of computers in developing vocabulary and writing skills, and the success Garfield has enjoyed in encouraging parental and community involvement in their student's educational experience. But despite these accomplishments the school officials at Garfield are not resting upon their laurels. Garfield's staff is continually working to improve and enhance the learning experience of their students.

A review of the Garfield program confirms that disadvantaged students learn best when they are offered clear standards of behavior, a rich and challenging curriculum, and vigorous teaching. And it is quite apparent that parents, communities, and local and State governments can help to instill values, supervise progress and supplement school resources.

It is safe to predict that the subject of bilingual education will remain controversial into the foreseeable future. But as the debate continues on which methodology should be implemented in a given situation, let us not lose sight of what we are attempting to accomplish. Our objective is to teach limited English proficient children English, our language of commerce. A solid grasp of the English language is vital to succeed in today's society, and it is incumbent upon all of us to ensure that we provide every child the opportunity to acquire the tools needed to attain their aspirations. This we owe to our Nation's children, but perhaps more importantly, this is what they deserve. And, Mr. President, this is what is being accomplished at Garfield Elementary School.

HELP STUDENTS LEARN ENGLISH—GARFIELD ELEMENTARY SCHOOL, PHOENIX, ARIZONA

Located in a declining inner-city neighborhood in Phoenix. Garfield Elementary enrolls 800 students, 99 percent of whom are from low-income families. The majority of the students are Hispanic, with 40 percent of the student body receiving bilingual instruction.

Camerino Lopez, principal of Garfield Elementary for the last 5 years, believes that "Education is founded on respect for knowledge, and respect is always a two-way street." That is why Garfield's bilingual programs respect the value of a student's original language and culture, while emphasizing the need for the students to become proficient in English.

To ensure that all Garfield students have an opportunity to increase their abilities, Garfield includes the following programs:

Kindergarten students receive the majority of instruction in their native language, with a gradual introduction of English. All students study English as a Second Language (ESL) each day.

Bilingual kindergartners attend an English writing-to-read program, which uses an IBM computer with a digitized voice to help children learn to write, using the words that they know.

In the transitional bilingual lab, all students in second through sixth grades receive intensive English instruction for 55 minutes each day for 10 weeks. Instruction cover 10 weeks, 80 percent of the students master the program and are able to use an English reader at the appropriate grade level.

An intramural sports program was established to encourage social interaction between bilingual and other students.

Many of Garfield's special activities reflect the culture of its bilingual students. For example, Las Posadas Christmas Pageant is a great success with the entire community.

An English class was started for parents of bilingual students. In addition to learning English, parents learn the importance of having their children master English quickly.

Parent and community participation is high. For example, the parent-teacher organization purchased 18 computers for individual classrooms to assist children in their English oral development. Many Phoenix businesses have partnerships with the school.

Results: Bilingual students are able to leave Garfield proficient in English. Garfield's attendance rate of 96 percent is the highest in the district. The February 1987 achievement scores reflect the effort of the school and students: sixth graders scored at grade level—at the 61st percentile in reading, 53rd percentile in math, and 46th percentile in grammar.

TWO ANNIVERSARIES FOR RABBI LEO JUNG

● Mr. MOYNIHAN. Mr. President, on Monday evening, June 8, 1987, the Jewish Center in New York City will be celebrating the double anniversary of Rabbi Leo Jung's 95th birthday and his 65 years of service to their congregation. The Jewish Center is one of New York City's leading synagogues but Rabbi Jung's remarkable record of accomplishment should be celebrated by all Americans who cherish spiritual leadership.

Rabbi Leo Jung has served American Jewry and our Nation for over three-quarters of a century. Rabbi Jung was born in Moravia and raised in London. At the age of 18, he headed the Sinai League, the youth movement of London's Federation of Synagogues under the leadership of his father, Chief Rabbi Meir Zvi Jung, and edited its literary journal, "The Sinaist." In 1920 he accepted the position of rabbi of the Knesseth Israel Congregation in Cleveland, OH, and since 1922 has served with great distinction as the rabbi, senior rabbi, and rabbi emeritus of the Jewish Center. Rabbi Jung received rabbinic ordination from the Berlin Hildesheimer Seminary, a M.A. from Cambridge University, a Ph.D. from London University, a D.H.L. from New York University and an honorary doctor of divinity degree from Yeshiva University. He has been a prolific writer, publishing 35 volumes—32 in English and 3 in Hebrew—with 2 more presently in press. In addition, he has authored hundreds of articles on matters of Jewish life and lore, many of which have been translated into other languages. He is the editor of the Jewish Library and was the only American rabbi to participate in the historic Soncino translation of the Talmud into English. Rabbi Jung also lectured on Jewish ethics at Yeshiva University for 45 years.

Even more impressive than his literary output is his tireless and influential communal activity. The following represents only a small number of his achievements in this area: In 1925, Louis Marshall invited him to join the Joint Distribution Committee of which he became national chairman in 1941 and subsequently served in that capacity for 40 years; in 1935 he persuaded the Governor of New York State to establish the first State advisory board for kosher law enforcement, the chairman of which he remained for 30 years; from 1928-36 he was president of the Rabbinical Council of the Union of Orthodox Jewish Congregations of America; in the 1930's he established the first school for mohalim—ritual circumcizers—in New York under the auspices of Mount Sinai Hospital. Rabbi Jung has played leadership roles in the New York Family Organization and the Jewish Board of Reconciliation. During the Second World War, Rabbi Jung served as a leader of the Jewish Welfare Board, was honored by a congressional medal for his travels to the Far East to promote the spiritual welfare of American soldiers in the Army and Navy. After the war he was instrumental in helping thousands of Hitler's victims to settle in America and begin a new life. In more than seven decades of active communal activity, Rabbi Jung has raised many millions of dollars and has been personally responsible for supporting countless institutions in America, Israel, and across the world.

Throughout his long and distinguished career, Rabbi Jung has been honored on numerous occasions for his many achievements and an entire settlement in Israel bears his name. Some of the more recent honors include: A 50,000 tree forest planted in Israel under the auspices of the Rabbinical Council of America in 1982; Shaarei Zedek Hospital in Jerusalem, which he chaired for 50 years, established a professorship in medical ethics in his name in 1982 and he was honored with a Statue of Liberty Medal by Mayor Edward Koch of New York City last year.

I am confident that Members of the Senate join me in saluting Rabbi Leo Jung on this latest milestone and wishing him a very happy 95th birthday and many more years of productive and fruitful service to his beloved synagogues, our Nation and world Jewry.●

CLARENCEVILLE SCHOOL DISTRICT SESQUICENTENNIAL

● Mr. RIEGLE. Mr. President, I rise to salute Michigan's Clarenceville School District as it celebrates its 50th anniversary June 25-28, 1987. Coincidentally, Clarenceville is sharing its sesquicentennial this year with the State of Michigan.

The Clarenceville community, originally the Indian village of Pojomoka, was organized as the Fractional School District No. 5 on January 26, 1837. At that time their sole facility was a small one-room schoolhouse of the type that figures so prominently in the popular stories and folklore of America's past. In the 1850's the original building was replaced by a log structure with backless benches for the students and pieces of smooth lumber painted black serving as blackboards. Even back then night classes were held for anyone who wished to attend and was willing to bring their own school candle.

Today, the Clarenceville School District bears little resemblance to that one-room schoolhouse. With a staff of more than 100 teachers and more than 200 nonteaching employees, the district now serves its 2,000 students from two elementary school buildings, one junior high, and one senior high. Geographically, the district takes in parts of the cities of Farmington Hills and Livonia, as well as part of Redford Township.

What has not changed since those early days is Clarenceville's commitment to the highest educational standards. Always striving to expand and improve the educational opportunities for students from kindergarten through adult, Clarenceville also ensures the continuing effectiveness of its existing programs by means of comprehensive evaluation procedures.

New this school year is the Academic Letter Program—clear evidence of Clarenceville's commitment to excellence. Students who earn an accumulated grade point average of 3.0 or above in math, English, social studies, and science will receive an academic letter similar to the athletic letters awarded for outstanding achievement in sports programs.

Even before they start kindergarten, Clarenceville students get off to a good start through a program that assists parents in preparing their preschoolers for a successful school career. On the other end of the age spectrum, Clarenceville's adult education program continues to grow and expand, with more adults than ever taking advantage of the opportunities the district offers. Almost 600 adults attended classes through the program last fall, in both the academic—high school completion—and the leisure time programs. Opportunities offered by Clarenceville include career counseling, vocational training, English-as-a-second language classes, and senior citizen services.

Many of the Clarenceville's former students will be returning to join in the sesquicentennial celebration which includes a parade, dinner-dance, golf tournament, athletic events, and many more activities.

Please join me in congratulating the Clarenceville School District's Board of Education, its administration, staff, and students, its returning alumni, and the entire Clarenceville community for its very successful 150 years and to offer our best wishes for the future.●

ORDERS FOR THURSDAY

ORDER FOR ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the call of the calendar be waived and no resolutions or motions over under the rule come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF TIME FOR LEADERS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the time of the two leaders be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, morning business not extend beyond 9:30 a.m. and that Senators may speak therein for not to exceed 1 minute each.

The PRESIDING OFFICER. Without objection it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 9:15 tomorrow morning.

The time of the two leaders will be reduced to 5 minutes each, a total of 10 minutes.

Following the two leaders, there will be a brief period for morning business, not to exceed beyond 9:30 a.m. Senators will be permitted to speak during that period for not to exceed 1 minute each.

At 9:30 a.m., the Senate will begin 30 minutes of debate on the Harkin motion to table the DeConcini motion to reconsider the vote by which the committee amendment dealing with illegal alien employer sanctions—vote No. 124—was adopted. That will be a rollcall vote.

The rollcall has already been ordered. Am I not correct?

The PRESIDING OFFICER. The rollcall has been ordered.

Mr. BYRD. I thank the Chair.

Upon the disposition of the question, Mr. President, the Senate will proceed to take up an amendment by Messrs. Dole and Grassley.

Upon the disposition of the Dole-Grassley amendment, the Senate will proceed to take up the amendment by Mr. CRANSTON. These are all by orders previously entered.

So there will be rollcall votes tomorrow. I urge both cloakrooms, respectively, to call Senators to remind them that there will be a rollcall vote beginning at 10 o'clock tomorrow morning. I hope that Senators will not wait until 10 o'clock tomorrow morning to leave home for the vote. This very often occurs, and we have to drag out the first vote of the day because Senators get a late start leaving home.

So I urge that we try to save the time of the Senate and try to accommodate the convenience of our colleagues as well. The vote will begin at 10 o'clock a.m. There will be several rollcall votes tomorrow.

I hope the Senate will be able to complete action on the supplemental appropriation bill tomorrow. If it does not, it will resume consideration of the bill on Friday. I do not intend to stay in late tomorrow evening. If we finish this bill at all, it will have to be finished by 5 o'clock or thereabouts tomorrow. We will be back in on Friday. Whether or not we finish this bill tomorrow, there will be votes on Friday.

Mr. President, I want to be sure that I am not misunderstood.

The amendment by Mr. DOLE and Mr. GRASSLEY will come up tomorrow after the disposition of the committee amendment, whatever that entails—one or more votes.

The PRESIDING OFFICER. The Chair understands the majority leader.

Mr. BYRD. I thank the Chair.

I thank all Senators.

Mr. PELL. Mr. President, I do not intend to raise my point of order. I want to clear the deck of that item.

I do reserve my position to offer an amendment, perhaps an amendment in the form of a substitute, tomorrow.

The PRESIDING OFFICER. The Senator will have the right to offer an amendment.

Mr. BYRD. Mr. President, if the distinguished acting Republican leader does not have any further statement or business that he wishes to transact, the Senate will go over until tomorrow.

Mr. KARNES. I have no further business.

Mr. BYRD. Mr. President, I thank the Senator.

ADJOURNMENT TO 9:15 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in adjournment until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 7:10 p.m., the Senate adjourned until tomorrow, Thursday, May 28, 1987, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate May 26, 1987, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF STATE

Willard Ames DePree, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Leonard Grant Shurtleff, of New Hampshire, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of the Congo.

HOUSE OF REPRESENTATIVES—*Wednesday, May 27, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, as we have been reminded during these recent days of suffering and death through the remembrance of Memorial Day and the loss of loved ones at sea and in other tragedies, we recall in this moment of prayer Your abiding love for us and for all Your people. At every time of sadness, we gain strength from Your promises of the triumph of life over death.

May Your spirit of comfort and grace be with the families of those that mourn, and may Your benediction never depart from them. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 345. An act to amend the Contract Disputes Act of 1978 to require that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative law judges of the Federal Government for certain administrative purposes;

S. 496. An act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes; and

S.J. Res. 104. Joint resolution to designate the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week."

The message also announced that pursuant to Public Law 99-498, the Chair on behalf of the President pro tempore upon the recommendation of the majority leader and the minority leader, appoints, from the private sector, E.K. Fretwell of North Carolina, Sterling Provost of Utah, Dr. Carol Guardo of Rhode Island, Salvatore Rotella of Illinois, and Francis J. Kerins of Montana, to the Joint Study Commission on Postsecondary Institutional and Programmatic Recognition Process.

The message also announced that pursuant to section 1928(a)-1928(e), of title 22 of the United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. McCLURE and Mr. SPECTER as members of the Senate delegation to the North Atlantic Assembly Spring Meeting during the 1st session of the 100th Congress, to be held in Quebec, Canada, May 22-25, 1987.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

> OFFICE OF THE CLERK,
> *Washington, DC, May 22, 1987.*
>
> Hon. JIM WRIGHT,
> *The Speaker, House of Representatives, Washington, DC.*
>
> DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:15 a.m. on Friday, May 22, 1987, the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 290.
>
> With great respect, I am,
> Sincerely yours,
> DONNALD K. ANDERSON,
> *Clerk, House of Representatives.*
> By W. RAYMOND COLLEY,
> *Deputy Clerk.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, May 22, 1987:

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the victims of the U.S.S. *Stark*."

SARAGOSA WILL REBUILD

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, the Nation and the American people shared the grief of the survivors of the tornado that struck Saragosa, TX, last Friday night, killing 29 people and injuring over 100.

Now the task of rebuilding must begin.

It will not be an easy task. Virtually the entire town was devastated by the tornado that struck without warning, just as a preschool graduation was taking place. The short-term needs of the people are overwhelming. Temporary housing, crisis counseling, and other forms of immediate assistance are necessary. Given the poverty of the area, long-term assistance will be necessary as well.

But the people of west Texas are not quitters. They are not going to give up on the dream of rebuilding their community. It is their town, a real town, not a hamlet or a migrant worker's camp as the news media mistakenly reported.

After some initial delays, Federal assistance is beginning to flow. The American Red Cross and the Catholic Diocese of El Paso have made invaluable contributions. The Federal Emergency Management Agency is setting up an office in Saragosa to process Federal assistance, and the joint Federal-State emergency plan is being implemented.

No, it won't be an easy task. But I am confident that the people of Saragosa will succeed in rebuilding their shattered lives and carrying on into the future.

LET THE PRESIDENT RUN OUR FOREIGN POLICY IN THIS COUNTRY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, yesterday's New York Times carried a picture and story of our good friend and distinguished colleague, the gentleman from Indiana [Mr. HAMILTON], a member of the Iran-Contra hearing panel, riding in a parade back in his hometown in Indiana.

Mr. HAMILTON was quoted as saying that "virtually no one had asked him his views about the congressional Iran-Contra investigations." It goes on to say that certainly one of the messages that Mr. HAMILTON is likely to take back to Washington is that his constituents are rather bored with the stream of disclosures about the administration's foreign policy machinations.

Mr. Speaker, I not only got that message from my constituents back home, I got the message that the U.S. Congress ought to get off the back of the President of this country and let him run the foreign policy which he is authorized and required to do under the Constitution of this country.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, in spite of the political charade—that is, the Iran/Contra, hearings—its great to know "red blooded Americans" by the millions still admire, respect, and love our President, Ronald Reagan.

I hope you all watched the "Bob Hope Special" on his 84th birthday the other night because there was President Reagan out there addressing 4,000 U.S. Air Force service men and women at Polk Air Force Base and, I am going to tell you, it was great to see those young patriotic men and women stand up and give our President standing ovations time after time.

They are frontline Americans that are out there doing their duty for their country. They know the value of a strong national defense they appreciate a President like Ronald Reagan who stands for them and with them in defense of this great Nation.

JAMES KING'S DEDICATION IN HONORING AMERICA'S FIGHTING FORCES

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, as we resume our duties today, we bring back the memories of Memorial Day celebrations from across the land. I participated in a 3-day celebration in Lame Deer, MT, the homeland of the Northern Cheyenne Indian Tribe.

Mr. Speaker, we regularly celebrate the memory of our fallen service people, but rarely consider the unsung individuals who provide the leadership at those memorials. In Lame Deer, the person who for over four decades has provided that leadership is Mr. James King, Jr. Mr. King received an honorable discharge from the 318th Fighter Group of the 7th Air Force in 1945. Since that time, James King has led American Legion Post 77. This post, made up entirely of American Indian veterans from WWII, the Korean conflict, and the Vietnam war, is considered one of the most active and patriotic posts in the State of Montana.

As a member of this unit, I am proud to know these veterans and express my heartfelt thanks to James King for his continued dedication in honoring America's fighting forces.

THE ADVANTAGES OF A BROAD-BASED CONSUMPTION TAX

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, as our Nation staggers under massive trade and budget deficits, I urge my colleagues to contemplate the advantages of imposing a broad-based tax on consumption, including imported goods. Foreign nations raise billions of dollars by placing consumption taxes on our products. We have no border tax and thus allow our competitors to subsidize their economies with taxes on our products.

A well-designed tax on consumption would increase our national savings rate, reduce the budget deficit, and improve our standing in the global economy. Such a tax could be made progressive, could be imposed without undue paperwork, and could effectively be limited from easy rate increases.

Mr. Speaker, I am now more convinced than ever that we must closely examine proposals to impose a broad-based consumption tax in the United States. At the very least, we should be aware of the likely imposition of new border taxes by our two largest trading partners—Japan and Canada.

☐ 1210

FUTURE OF PTL AND BAKKERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, today Reverend Falwell preempted the Iran-Contra hearings. He said he did not steal PTL. In fact, he said he was concerned about the future of Jim and Tammy Bakker; and he asked them what he could do for them. They sent him a list.

They wanted paid hospitalization for life. They wanted $400,000 in lifetime salaries. They want the house by the lake and all the furniture in it. They want two cars. They want the rights to all the books and the records.

They further want a maid, and they want a secretary, and they want PTL, that is busted, to provide for their legal fees in dealing with the IRS.

What a soap opera this is—drugs, politics, now corporate raiders.

Recently a TV preacher went on the air and said that God appeared to him in his sleep and asked him to run for President.

I now must confess, Mr. Speaker, that God appeared to me in my sleep and asked me not to vote for that preacher.

PROPOSAL FOR UNITED STATES REGISTRATION AND DEFENSE OF KUWAITI OIL TANKERS

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, the executive branch recently publicized a proposal to register Kuwaiti oil tanker ships under U.S.-flag registry and to provide United States naval protection for them in the Persian Gulf. The proposal is designed to protect the vital interests of United States allies in Western Europe and Japan, whose economies depend upon Middle Eastern oil for their energy needs.

Protecting energy supplies vital to American allies is clearly an important U.S. foreign policy objective. However, the means chosen to achieve that objective potentially involves commitment of U.S. naval forces to hostilities. Accordingly, the executive branch should only undertake the proposal to reregister Kuwaiti tankers under the United States flag after full consultation with leaders in Congress and achievement of a clear national consensus in support of the proposal. This has not been done yet.

One of the lessons of the covert Iran arms sales is that the absence of prior congressional consultation may spell disaster for a high-risk foreign policy action. The decision to expand the United States naval role in the Persian Gulf entails serious risk of United States combat involvement, given the air and naval combat between Iraq and Iran in and over the gulf. The executive branch needs to make the case for its proposal to the Congress and the American people.

One of the issues on which the Congress might seek more information is the role of America's European and Japanese allies in ensuring their continued access to Middle East oil. Since continuation of that access is the primary purpose of the proposal to bring Kuwaiti tankers under United States naval protection, it would seem appropriate for our European and Japanese allies to play a significant role in providing such protection.

I would urge the President and the Secretary of Defense to consult closely with the Speaker, the minority leader, and the chairmen and ranking members of the Armed Services and Foreign Affairs Committees and their counterparts in the Senate. The President should then make a televised national address explaining why freedom of the Persian Gulf sealanes and maintenance of an uninterrupted flow of oil from the Middle East to our European and Japanese allies are vital to United States interests.

The proposal to register Kuwaiti tankers under the United States flag and to guarantee them United States naval protection may lead to United States involvement in combat. In such a situation, the American people and their representatives in Congress should understand the importance of the interests to be safeguarded and the accompanying risks. We succeed best in foreign policy when we all stand together.

TRIBUTE TO BILL RASCO

(Mr. FLIPPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLIPPO. Mr. Speaker, at the end of this month my administrative assistant Bill Rasco will retire after 25 years of congressional service to the people of Alabama.

An outstanding individual's value to a congressional office is difficult to put into words for fear of leaving something out, especially when the individual is Bill Rasco. When you combine Bill's intellect, creativity, and sense of purpose with his long institutional memory, you begin to see why certain people are called invaluable staff members. Speaker O'Neill summed it up well when he said: "There are very few things that happen around here that haven't happened at least once before." Having Bill Rasco to depend on means you are prepared for whatever happens.

Bill and Sally Rasco came to Washington in 1965 when he joined the staff of Congressman Bob Jones, my predecessor from the Fifth District of Alabama. Before joining Mr. Jones' staff, he worked as an editor for the Mobile Press-Register and the Alabama Journal in Montgomery. A native of Cullman, AL, his roots have always remained firmly planted in Alabama.

During the 13 years Bill worked as a legislative and press assistant to Congressman Jones, he built a reputation as a dedicated servant of the people of north Alabama. He worked closely with the Public Works Committee and served as a professional staff member of the Government Operations Committee where he became an expert on the Tennessee Valley Authority, Appalachian Regional Commission, the Federal Aid Highway System, and other programs which have contributed so much to the development of our State and Nation.

Over the past 20 years, he has been a witness to and a part of the tremendous changes the Congress and the Government have undergone. He has seen the Fifth District of Alabama grow and change and has served to assure that this office adapted well to those changes.

When I was elected to the Congress in 1976, I was fortunate to have Bill Rasco there to provide his patient guidance and counsel while I learned the ways of Congress. He has been a good teacher, good friend, and trusted advisor for the past 12 years. If there is one individual who can be rightly credited with the service this office has rendered over the past 20 years, it is Bill Rasco.

Humor, hard work and dedication, compassion, and a strong sense of public service: Bill Rasco incorporated all these characteristics in his work. Most importantly, he instilled in all of us who have worked with him over the years a sincere and unwavering belief in the workings of our democratic system and in the continual need for vigilance to ensure the process works for all people.

I know that Bill and Sally are looking forward to a slower pace and a little more time to enjoy life. But perhaps for Bill and those few like him, we should create a new word to replace "retirement," because I know that his plans call for everything but that.

I want to wish Bill and Sally the very best, and even though he may not be in the office every day, I look forward to a long and productive relationship in the future.

EXTEND FILING DEADLINE FOR NEW W-4 FORM

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, on Friday, May 22, I wrote Treasury Secretary Baker and asked him to delay for at least 30 days the "good faith" filing deadline for the new W-4 withholding allowance form.

In my letter, I said "thousands" of taxpayers still haven't filed. That's an understatement. In my own State of New Jersey alone, it's been reported that 2 million taxpayers still haven't filed the form.

The point is that after much earlier confusion over the new form W-4 and the even newer form W-4A, millions of taxpayers are now being suddenly confronted with a fast-approaching June 1 deadline. Failure to meet this deadline could result in tax penalties.

Our constituents will have many adjustments to make under the new tax reform laws. And they shouldn't face penalties for failure to meet a deadline which, until the past week, received little publicity.

Give your constituents—and mine—a chance to comply. Contact Secretary Baker today and ask for at least a 30-day extension of the form W-4 filing deadline.

THE BLUE RIDGE PARKWAY

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, on September 11 of this year the final segment of the Blue Ridge Parkway will be dedicated. This marks the completion of the entire 470 miles of the parkway 52 years after its beginning in 1932.

The final link of the parkway will be completed by a dramatic 1,243-foot curved bridge, the Linn Cove Viaduct, on the side of Grandfather Mountain. This unique viaduct has been constructed so that it will not disturb the ecosystem of the mountain below.

The Blue Ridge Parkway, connecting Virginia's Shenandoah National Park with the Great Smoky Mountains National Park in North Carolina and Tennessee, is one of the great recreational assets of Eastern America. It stays close to the crest of the Blue Ridge Mountains for much of its 470-mile distance until it brings visitors alongside Mount Mitchell—the highest mountain in Eastern America—and then goes west to the Great Smoky Mountains at Cherokee in the Cherokee Indian Reservation.

The parkway is within a day's drive of some 20 States and more than half of America's population. It has numerous points of access and exit. Last year more than 21 million visitors, including thousands of foreign tourists, traveled all or parts of this scenic highway.

I invite all Americans to enjoy the beauty and majesty which can be seen from this wonderful Blue Ridge Parkway, whose completion we celebrate proudly this year.

RURAL COMMUNITIES COULD BENEFIT BY MORE LIBERAL LOAN BUY-BACK PROVISIONS

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, a few weeks ago I introduced H.R. 2059 to provide an opportunity for thousands of rural communities across our Nation to save substantial sums of money by requiring the Farmers Home Administration to offer to these communities the opportunity to buy back loans they have with the Farmers Home Administration for various community improvement purposes before offering those loans for sale to financial institutions.

A few days after the introduction of this bill we thought that perhaps victory had been achieved because the Farmers Home Administration announced that indeed it had changed its policy and they would offer these loans back to the rural communities first. But as time has progressed, we fear that in fact the conditions that the Farmers Home Administration has set upon the sale of these loans back to the communities will frustrate that offer and in fact the communities will not be able to take advantage of that opportunity. The Farmers Home Administration plans to offer the loans back at discount rates which are too high and do not reflect the true market value of those loans. The Farmers Home Administration also is requiring that the refinancing of these loans come from cash reserves or from taxable borrowing sources, which will also prevent many communities from considering this alternative.

Mr. Speaker, I hope very much that the Farmers Home Administration will reverse its thinking along these lines and come forward with plans that will truly make it possible for the 10,000 rural communities across our Nation that could possibly benefit from the sale of these loans to take advantage of that opportunity.

TRACKING THE EVENTS OF THE CONSTITUTIONAL CONVENTION 200 YEARS AGO

(Mr. PACKARD asked and was given permission to address the House for 1 minute).

Mr. PACKARD. Mr. Speaker, 200 years ago this past Monday, an event of historic proportion began in Philadelphia. This event was destined to change immeasurably the history of our Nation and of the world. On May 25, 1787, the Constitutional Convention, which was called by Congress to amend the Articles of Confederation, formally convened with delegates from seven States in attendance.

On that day Robert Morris, a delegate from Pennsylvania, proposed that Gen. George Washington be chosen President of the Convention. This was seconded by John Rutledge of South Carolina and General Washington was unanimously elected to that position. Other business of the day consisted of the electing of "the committee of three" to draw up the rules for conducting of the Convention's business. This committee consisted of George Wythe of Virginia, Alexander Hamilton of New York, and Charles Pinckney of South Carolina.

It is my intention each day we are in session, to enter into the CONGRESSIONAL RECORD the important events that occurred in the Constitutional Convention of 1787. With the help of Susan Carleson and others at the Commission on the Bicentennial of the U.S. Constitution, I will seek to identify events, debates and historic moments that still have significance and which can give us insight as we debate the issues of this historic 100th Congress. I recommend to all of my colleagues that they study the events of that historic summer to gain the insight and wisdom that is as much needed today as it was in 1787.

REAUTHORIZATION OF THE OLDER AMERICANS ACT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, later today we will begin consideration of H.R. 1451, the Older Americans Act Amendments of 1987, which are so important to the elderly of our Nation.

I am proud to be an original cosponsor of this bill. This represents the 12th time the act has been reauthorized. I am proud to have participated in 10 of them. I believe H.R. 1451 is one of the finer reauthorization bills we have developed.

It is appropriate that we consider this bill as we end our national celebration of Older Americans Month. Passage of this bill will ensure that at least 10 million of our elderly will continue to have their quality of life improved by the services provided daily by the Older Americans Act.

I was pleased to author more than eight different amendments to this legislation at subcommittee and full committee levels. Overall the bill would reauthorize the act for 4 years, provide modest but meaningful increases in funding and create a new program to meet the need for in-home services for our frail elderly.

One of my amendments would expand the funding and responsibilities of the Long-Term Care Ombudsman Program under the act. Most critical to this amendment are its provisions giving ombudsmen greater access to nursing home residents.

One of these amendments I was proud to sponsor would provide specific coverage for Alzheimer disease victims and their families under the new part D of title III. This builds on the commitment that began with language I developed in the 1984 bill to provide these vital community services for this growing problem.

I was also pleased to have an amendment passed which expands and clarifies the all-important advocacy responsibilities for all those in the aging network funded by the Older Americans Act. This includes language that says that no other directive shall be deemed to supersede these responsibilities.

H.R. 1451 is more than a reauthorization bill. It is a reaffirmation by Congress that maintaining the independence of seniors in their community is a key public policy goal. The Older Americans Act for the past 22 years has played a key role in advancing this policy and with passage of H.R. 1451 it will continue for 4 more years.

□ 1225

SHAME ON YOU, JAPAN!

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, do you know how the Japanese kill whales? The harpoon rips a hole in the giant creature and simultaneously the explosives in its tip go off. If the whale is lucky, the explosion destroys vital organs and death is instantaneous. If the aim of the harpooner is not accurate, the death is an agonizing struggle against the inevitable while the sea around the whale is turned red as the animal's lifeblood drains away.

It is then towed to a processing ship where workers with axes and long knives strip flesh, which is still warm, from the whale's bones. In less than an hour it is possible to convert one of the most magnificent animals on Earth into steaks.

That is the reality of whaling. Japan continues this process and justifies it by putting out the fiction that their harpooners have been magically transformed into scientists. Shame on you, Japan. Shame on you, Japan.

OLDER AMERICANS ACT AMENDMENTS OF 1987

(Mr. BRUCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRUCE. Mr. Speaker, as proud cosponsor of H.R. 1451, I rise in support of the Older Americans Act Amendments of 1987. This important piece of legislation would extend the Older Americans Act for 4 additional years.

With the enactment of the Older Americans Act in 1965, Congress created an innovative Federal program specifically designed to meet the social service needs of older people in the United States. Today, Older Americans Act programs provide many older individuals with a vital lifeline that enables them to live independently in their communities.

Through transportation services, homemaker services, congregate or home-delivered meals, participating in senior center activities, or finding employment through the Community Service Employment Program, the Older Americans Act provides our senior citizens with the opportunities to continue to be active and productive participants in their communities.

I am pleased to note that H.R. 1451 contains an important new initiative that would provide certain in-home services to the frail elderly who may not have extensive health care needs, but who require assistance with activities of daily living to remain independent. As the number of people beyond the age of 75 increases so does the number who are at risk of entering an institution. This new initiative would provide essential services for the frail elderly making it possible for them to maintain an independent lifestyle longer than otherwise might be possible.

I am also extremely pleased that this legislation would exclude wages earned by seniors from title V part-time community service jobs from consideration for the purpose of determining eligibility or monthly rents for federally assisted senior citizen housing. This is particularly important to my own district. Last year, 15 of the 69 participants in the Older Americans Community Service Program in Champaign, IL, which I represent, had their rent payments nearly tripled by HUD because of the part-time minimum wage "income" they earned through the community services program had been considered in determining monthly rents. H.R. 1451 will ensure that this significant barrier to participation in title V community services programs is effectively removed.

The Older Americans Act and the programs it authorizes are among the most successful of any Federal programs currently operating. H.R. 1451 would fund the Older Americans Act programs through 1991 at higher levels which recognize the growing demand for services these programs are facing. It also authorizes several important new initiatives, including a White House Conference on Aging in 1991. I am proud to support H.R. 1451, which will assist our senior citizens with their efforts to maintain independent lifestyles, and I urge my colleagues to offer their support as well.

A PROUD MEMORIAL DAY IN MARYLAND

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, let me say that all of us have been off on the Memorial Day recess and many of us spent Monday talking with our veterans' groups, meeting and greeting a lot of veterans' organizations.

In Maryland I had the great pleasure of joining with the Lieutenant Governor, who is the Acting Governor, or comptroller and a large number of veterans' organizations in renaming a section of Maryland Route 81 as the Maryland Veterans' Memorial Highway.

I think the fact that we have taken this time not only to reflect on our veterans, but also to name this section of the interstate, speaks well for the Maryland delegation.

Let me say also that we have just recently passed the transportation bill. We are beginning to see already the fruits of that legislation.

Following the dedication of the veterans' highway, we moved west and went up to Alleghany County and began the final 18-mile link of the National Freeway. This is an issue that has been festering, that we have been working on since 1965, and finally with the help of our secretary of transportation in Maryland, that vital link is going to be completed and the National Freeway will take the traffic from the port of Baltimore out to the Midwest.

So by and large, it was a very big day in western Maryland, with five dedications of road projects. The transportation bill is a vital part of that linkage to western Maryland.

COMMENDING WESTERN SAMOA ON ITS 25TH YEAR OF INDEPENDENCE

(Mr. SUNIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNIA. Mr. Speaker, I rise to call attention to a resolution I am introducing in the House of Representatives today to commend the people of the government of Western Samoa on the celebration of their 25th year of independence.

Mr. Speaker, Western Samoa will achieve an historic landmark in the South Pacific Ocean this coming Monday. Twenty-five years ago on that day, Western Samoa became the first nation in the region to gain its independence. Following years of colonial rule by various powers it forged out on its own, and while the road since then has not always been smooth, arrival at the first quarter century is indeed a triumphant accomplishment.

Also noteworthy is Western Samoa's firm commitment to democratic principles. For the dozens of small nations throughout the Pacific, it has served as a sterling example of how to build for the future. That love of freedom will be cause for celebration as well.

Mr. Speaker, as the Member of Congress from American Samoa, I know how important this 25th anniversary is to my neighbors. I offer this resolution to emphasize the ties between the people of both Samoas and the United States, and I urge my colleagues to support it.

PERMISSION FOR SUBCOMMITTEE ON SELECT EDUCATION OF COMMITTEE ON EDUCATION AND LABOR TO SIT ON THURSDAY, MAY 28, 1987, DURING THE 5-MINUTE RULE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on Select Education of the Committee on Education and Labor be permitted to sit to mark up H.R. 1900 on Thursday, May 28, 1987, while the House is in session.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Veterans' Affairs; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, May 13, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On April 23, 1987, I forwarded to you the major construction resolution of the Committee on Veterans' Affairs for Fiscal Year 1988. This resolution is required by Section 5004, Title 38, United States Code.

The Administrator of Veterans' Affairs recently requested authorization by the Committee of a lease prospectus for the Veterans' Administration independent outpatient clinic in Los Angles, California, as the current outpatient clinic lease expires on July 31, 1987. The Administration also requested that we add it to our previously adopted construction resolution.

In accordance with this request and pursuant to Section 5004, Title 38, United States Code, I transmitted the lease prospectus and cost estimate to the Members of the Committee on May 4, 1987. The majority of the Committee Members have approved the addition of the lease prospectus to the April 23rd resolution transmitted to you. There is, therefore, attached a copy of the resolution of the Committee on Veterans' Affairs as well as a copy of the lease prospectus.

Sincerely yours,
G.V. (SONNY) MONTGOMERY,
Chairman.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

RELEASING REVERSIONARY INTEREST IN CERTAIN LANDS IN PUTNAM COUNTY, FL

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1205) to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida, as amended.

The Clerk read as follows:

H.R. 1205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—The Secretary of Agriculture shall take such actions as are necessary to release the restriction described in subsection (b) if, in consideration of such release, the State of Florida agrees to transfer to the United States a vested future interest, similar to such restriction, in the land identified as "Lands Subject to Future Vested Interest" on the map referred to in subsection (c).

(b) RESTRICTION.—The restriction referred to in subsection (a) is a reversionary interest of the United States in the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in subsection (c) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to the State Board of Education of Florida,

(B) dated October 19, 1954, and

(C) recorded at page 337 of book 224 of the record of deeds for Putnam County, Florida.

(c) MAP AND LEGAL DESCRIPTION.—The lands and interests in lands that are subject to this Act are those lands identified as "Lands Subject to Future Vested Interest" and "Lands Divested of Reversionary and Mineral Interests" as generally depicted on a map entitled "Wilcox Exchange, Putnam County, Florida", dated February 27, 1987, numbered page 1 of 3, and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture.

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to the State of Florida all of the undivided mineral interests of the United States in the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in section 1(c) as soon as practicable after the date of the compliance by the State of Florida with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in section 1(c); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) The State of Florida shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to the State of Florida, including the costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests, or

(ii) $1, in the case of mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1205, a bill to release a reversionary interest of the United States in certain land located in Putnam County, FL, and for other purposes.

H.R. 1205 was introduced by the Honorable BILL CHAPPELL on February 24, 1987, and was referred to the Committee on Agriculture. The bill was reviewed by the Subcommittee on Forests, Family Farms, and Energy and reported, with technical amendments, to the full committee. Subsequently the Agriculture Committee considered H.R. 1205, as amended, and ordered it reported on April 1, with a recommendation for passage of the measure.

H.R. 1205, as amended, would direct the Secretary of Agriculture to release a reversionary interest of the United State in 1.1 acres of land in Putnam County, FL, that is currently owned by the State of Florida. This reversionary interest, which stipulates that the land be returned to the United States if it is no longer used for public purposes, is contained in the deed which granted the land to the State of Florida in accordance with the Bankhead-Jones Farm Tenant Act.

H.R. 1205 would also direct the Secretary of the Interior to convey the mineral rights of the property to the State of Florida for their fair market value or $1, if the mineral rights have no value. As I understand it, the Forest Service has made a preliminary determination that the value of minerals on this tract is minimal.

The State of Florida seeks release of this reversionary interest, as well purchase of any mineral rights associated with the property, in order to provide for an exchange of the tract for another parcel of equal value that is currently in private ownership. The release is necessary to permit the land to be transferred to private ownership with clear title. The exchange will benefit both the private landowner who seeks to acquire the land for access to other lands in his ownership and the State of Florida, which will acquire a tract of land that is adjacent to a larger parcel currently administered by the University of Florida.

To protect the interests of the United States, H.R. 1205 would require the State of Florida to agree to place a similar reversionary restriction on the parcel of land that it will acquire in this land exchange. According to the USDA Forest Service, this represents a reasonable and efficient approach to conveying Bankhead-Jones lands to a third party. Accordingly, the administrator has indicated that he has no objection to H.R. 1205.

The Congressional Budget Office reports that H.R. 1205 will result in no cost to the Federal Government if enacted.

Mr. Speaker, I do not believe that there is any controversy regarding H.R. 1205 and I recommend its immediate passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the bill before us today which I have sponsored to transfer a Federal reversionary interest from one piece of land in Putnam County, FL, to another. This transfer would facilitate the exchange of lands between the University of Florida and Dr. C. Paul Wilcox, a resident of Florida's Fourth District. The exchange would serve to benefit the university while protecting the interests of the Federal Government.

The land in question to be acquired from Dr. Wilcox is adjacent to 400 acres of grazing lands presently held by the university. The additional land would serve to enhance the school's holdings in the area, improving the university's research resources without cost to the State or Federal Government.

On the land to be acquired by Dr. Wilcox, a road will be constructed to access the prized Mount Royal Indian Mound, a most generous gift to the State from Dr. Wilcox. This historic property includes ancient artifacts of generations of Indians who settled in Florida hundreds of years ago.

Further, I would like to express my sincere gratitude to Chairman VOLKMER and the Agriculture Subcommittee on Forests, Family Farms, and Energy as well as to the full Agriculture Committee for their expedient efforts on behalf of this bill.

I hope that my colleagues will agree that this bill, being noncontroversial and beneficial to all affected parties, is worthy of support, and I urge its approval.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 1205, legislation releasing a reversionary interest of the United States in 1.1 acres of land in Putnam County, FL, and conveying mineral interests of the United States in that land to the State of Florida.

The land was deeded to the State Board of Education of Florida in 1954 under authority of the Bankhead-Jones Farm Tenant Act of 1937. This statute provides that Federal lands could be sold, exchanged, or granted to public authorities for public purposes only. If used for any other purposes, ownership of the land reverts back to the U.S. Government.

Through H.R. 1205, the State of Florida seeks release of this reversionary interest, as well as purchase of any mineral rights associated with the property, to provide for an exchange of the tract for another parcel of equal value currently in private ownership. The release is necessary in order to permit the land to be transferred with clear title to a private party.

The exchange will benefit both the private landowner—who wants to acquire the 1.1 acres for access to other land in his ownership—and the State of Florida—which will acquire in the trade a tract adjacent to the University of Florida for future use by that institution.

In addition, H.R. 1205 directs the Secretary of the Interior to convey future mineral interests in this parcel to the State of Florida. In return, Florida will pay a fair market value, plus any administrative costs, for the mineral interests, or $1 if the mineral rights have no value and are under no active mineral development or leasing.

Mr. Speaker, the Congressional Budget Office estimates that enactment of this bill will not result in significant additional costs to the Federal, State, or local governments.

The administration had no objection to the enactment of H.R. 1205.

This legislation was passed by the House last year on October 14, 1986, and could not be considered by the Senate during the closing days of the 99th Congress. The Subcommittee on Forests, Family Farms, and Energy undertook a thorough evaluation of this bill last year. Both the subcommittee and the full Committee on Agriculture passed this legislation this year without objection and I urge my colleagues here in the House to do the same.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

Mr. MORRISON of Washington. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1205, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONVEYING CERTAIN NATIONAL FOREST SYSTEM LANDS TO UNICOI COUNTY, TN

Mr. de la GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1004) to direct the Secretary of Agriculture to convey certain National Forest System lands to Unicoi County, TN, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture, hereinafter referred to as the "Secretary," shall convey by quitclaim deed to Unicoi County, Tennessee, all right, title, and interest of the United States in and to a tract of land comprising approximately one hundred twenty-one acres as described in subsection (b) of this section, upon payment into the Treasury of the United States the fair market value thereof as agreed to by the Secretary and Unicoi County: *Provided,* That the Secretary shall convey title to the tract in portions, as agreed to with Unicoi County, as described in section 2(b) of this Act: *Provided further,* That any portion of the tract that remains unconveyed to Unicoi County after five years from the date of enactment of this Act shall no longer be subject to conveyance under this Act.

(b) The tract referred to in subsection (a) is located in the Cherokee National Forest, Unicoi County, Tennessee, as generally depicted on a map entitled "Land Conveyance, Unicoi County, Tennessee", dated August 1986, which shall, together with the legal description of the tract, be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and in the appropriate field offices of the Forest Service. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture.

SEC. 2. (a) The Secretary shall accept payment for the tract in five equal payments. The first such payment shall be due and payable one year after the date of enactment of this Act, and subsequent payments shall be due and payable annually thereafter: *Provided,* That accelerated payments may be made at any time during the five-year period. Interest shall accrue monthly on the unpaid principal balance at the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturity periods on the installments.

(b) Title to the tract shall be conveyed in up to five conveyances, each such conveyance covering a portion of the tract. Each such portional conveyance shall be made upon a proportional payment of the purchase price by Unicoi County under subsection (a). The Secretary shall designate, in consultation with Unicoi County, what portion of the total tract may be conveyed when only a portion of the purchase price has been paid. The Secretary may require that appropriate terms and conditions be placed in the conveyance documents that will ensure that the interests of the United States are fully protected.

□ 1240

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1004, a bill to convey certain national forest land to Unicoi County, TN, and for other purposes. This bill was introduced by our colleague, the gentleman from Tennessee, Mr. JIM QUILLEN, on February 4, 1987, and referred to the Committee on Agriculture.

H.R. 1004 directs the Secretary of Agriculture to convey at fair market value a 121-acre tract of land in the Cherokee National Forest to Unicoi County, TN. This conveyance is necessary in order to permit Unicoi County to expand its tax base through residential development of the tract.

Unicoi County is a small, rural county with a population of 16,000 people. Nearly half of the county's total land area is administered by the Forest Service. Of the remaining lands in the county, much is steeply sloped, rugged, and inaccessible. With the exception of the 121-acre tract, the county generally lacks lands suitable for development. This parcel, which is approximately 1,000 feet deep and 1 mile long, lies adjacent to a county road just outside the town of Unicoi. It is amidst existing residential development and would be developed by the county in a similar manner.

Last year when the Tennessee Wilderness Act of 1986 was being considered by the House, Mr. QUILLEN made known the interest of Unicoi County in acquiring this parcel. The matter was specifically addressed by the Committee on Interior and Insular Affairs during consideration of H.R. 5166, later enacted as the Tennessee Wilderness Act. That committee noted in its report on H.R. 5166 (Rept. 99-853, part 1) that the 121-acre tract was "not essential for the Forest Service's purposes, but * * * of great potential value to the county." The Forest Service was directed to work with Unicoi County to arrange for either purchase of the parcel by the county or exchange for other lands, "in order to make this parcel available for private development to increase the county's tax base."

Based upon discussions between the Forest Service and Unicoi County, H.R. 1004 was drafted to provide for the sale of this 121-acre tract to the county. Conveyance of the tract would be made on the county's payment of fair market value to the Forest Service. The bill provides that the county may purchase the tract over 5 years. If done in this manner, the county would pay interest on that portion of the purchase price that remains unpaid. The county could receive title for parcels of the tract subdivided such that the amount of land conveyed to the county is equal in value to the amount of payment received.

Mr. Speaker, the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture held a public hearing to consider H.R. 1004 on March 3, 1987. On March 24, 1987, the subcommittee favorably reported the bill to the full committee. The Committee on Agriculture voted to favorably report the bill to the House on April 1, 1987. The administration stated in its testimony before the subcommittee that it has no objection to enactment of the bill. Furthermore, the Congressional Budget Office has indicated that the bill will increase Federal receipts by approximately $160,000 over the next 5 years.

H.R. 1004 is necessary because the Forest Service is not authorized, except under very limited circumstances, to sell national forest lands. The Small Tracts Act provides such an exception to this rule. The committee recognizes the value of limiting the authority to sell national forest lands and does not intend to broaden this authority with enactment of H.R. 1004. However, the committee does recognize the unique nature of the situation affecting Unicoi County.

I also point out, Mr. Speaker, that the Committee on Agriculture has recommended to the Secretary of Agriculture that certain terms and conditions be included in the conveyance documents in order to protect the interests of the United States.

Specifically, the Forest Service should not subdivide the tract in a manner that would isolate any parcels remaining in U.S. ownership from access to the adjacent county road; the tract should be divided into parcels containing topographic features that are representative, to the extent possible, of the topography of the entire tract; the sale of one parcel should not negatively affect the value of any parcel remaining in U.S. ownership; the sale of the tract should not diminish the value of the national forest lands that are adjacent to it; and an easement should be provided that allows the Forest Service to use roads on the tract to access adjacent national forest lands. Also, to further protect the interests of the United States, the fair market value of the tract is to be determined based on its potential for development and not solely upon its current use as forest land. Any costs associated with transferring title of the tract or parcels thereof to the county, such as the cost of land surveys, are to be borne by the county.

Mr. Speaker, I believe that this is an effective and equitable measure for dealing with the unique situation affecting Unicoi County, and I recommend its immediate passage.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1004, legislation directing the Secretary of Agriculture to convey certain National Forest Systems lands in Unicoi County, TN.

Unicoi County is a small, rural county of 118,400 acres with a population of less than 16,000. The Forest Service, and therefore the citizens of the United States, owns 55,168 acres, or 46.5 percent, of the land in the county. Unicoi County would like to purchase a 121-acre tract which is now part of the Cherokee National Forest. Except for this parcel, no land along the county highway is federally owned. This conveyance would complete a corridor of private land adjacent to the highway. Enactment of this legislation would allow the county to dispose of the land to private parties for much needed residential development to expand the county's tax base and assist in providing public utilities and services to existing homes on land adjacent to the tract.

This parcel is not identified in the Cherokee National Forest land management plan as being critically needed for forest management purposes, and the legislation provides for the retention of easements and other conditions necessary to assure access to the remaining national forest land.

In keeping with the policy established by the Subcommittee on Forests, Family Farms and Energy last Congress, the bill requires that the tract be transferred at fair market value based on its potential for development and not solely upon its current use as forest land. That value for this 121-acre tract is $1,250 per acre, for a total of $152,150. Unicoi County has agreed to this amount.

Because Unicoi County is a relatively poor county, the bill allows the county to purchase the tract in five equal annual installments, with interest, as determined by the Secretary of the Treasury, to accrue on the unpaid balance. The entire tract must be conveyed within 5 years of enactment of this legislation and H.R. 1004 authorizes accelerated payments to the United States at any time during the 5-year period. The Secretary of Agriculture, after consulting with the county, will be required to designate which portion of the tract will be conveyed when a proportional amount of the purchase price has been paid. Any costs associated with transferring title of the tract will be borne by the county.

The legislation also authorizes the county to convey acquired portions of the parcel before payment for the entire 121-acre tract is complete.

Mr. Speaker, the administration has no objection to the enactment of H.R. 1004. Further, the Congressional Budget Office estimates that enactment of this bill would result in no cost to the Federal Government and would increase Federal receipts by approximately $160,000 over 5 years.

My colleague, the gentleman from Tennessee [Mr. QUILLEN], has worked diligently on this legislation since last Congress when this transfer was recommended during consideration of the Tennessee wilderness designation legislation. He has been a strong advocate for this transfer for his constituents—it is in their interest and that of the country as a whole—and I support him. My colleagues on the Committee on Agriculture have supported him by sending this bill to the floor today and I ask that we all support him by passing this legislation.

Mr. QUILLEN. Mr. Speaker, this is my bill and I ask for Members to vote for its passage today.

I want to express my sincere thanks to the gentleman from Missouri [Mr. VOLKMER], the chairman of the Subcommittee on Forests, Family Farms and Energy and to the gentleman from Washington [Mr. MORRISON], the subcommittee's ranking Republican member. They have been most courteous and responsive to me in regard to this bill and they and their fine staff have cooperated fully in helping me advance this bill to the House floor today. Likewise, the chairman of the full committee, Mr. DE LA GARZA, and the ranking Republican member, Mr. MADIGAN, have assisted me in this matter and for this they have my thanks.

H.R. 1004 directs the Secretary of Agriculture to convey approximately 121 acres of Forest Service land to Unicoi County, TN, located in my district. The bill is not complicated.

It transfers from the Forest Service to the county a parcel of land along a main county road just outside the small town of Unicoi. The land is situated amidst residential development along this road and the county intends to use this parcel for similar residential development.

Conveyance of title would be made upon the county's payment of fair market value to the Forest Service, and the bill provides that the county may pay for the land over a period of 5 years.

As the Forest Service testified, the bill sets no precedent, and the land in question is not essential to the Forest Service. The Forest Service has no objection to the bill since it has no real need for the land. Unicoi County does have a genuine need for the land and will pay a fair market price for it as required by this bill.

The small parcel of land involved in this bill is not suitable for hunting, fishing, hiking, camping, or any other use by the Forest Service and it lies along a heavily traveled county road. There is other land throughout my district, however, which could be acquired by the Forest Service which would enhance the Cherokee National Forest and would increase the public's opportunity for a wide variety of outdoor activities. I would encourage the Forest Serivce to acquire such suitable land for the benefit of the people and for the protection of our beautiful mountains and forestlands.

The small parcel in question here is not suitable for the Forest Service's mission because of its location. However, Unicoi County has a real need for it.

Mr. Speaker, I ask for passage of the bill.

Mr. MORRISON of Washington. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1004, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two bills just considered, H.R. 1205 and H.R. 1004.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Texas?

There was no objection.

VETERANS' ADMINISTRATION STATE HOME PROGRAM AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1659) to amend title 38, United States Code, to increase the per diem rates for payments by the Veterans' Administration to States for domiciliary care and nursing home care provided to veterans in State homes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1659

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. PAYMENTS TO STATE HOMES.

(a) PER DIEM RATES.—Section 641(a) of title 38, United States Code, is amended by striking out "$7.30", "$17.05", and "$15.25" and inserting in lieu thereof "$9.00", "$20.35", and "$20.35", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to hospital care, domiciliary care, and nursing home care furnished in State homes after September 30, 1987.

SEC. 2. TRANSITION TO PRIORITY-LIST SYSTEM FOR STATE HOME CONSTRUCTION GRANTS.

(a) AUTHORITY TO MAKE TRANSITION-YEAR GRANTS IMMEDIATELY.—Notwithstanding the second sentence of section 5035(b)(4) of title, 38, United States Code, the Administrator of Veterans' Affairs may award transition-year grants at any time after July 1, 1987. Such grants shall be awarded in the order of their priority on the transition-year list.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "transition-year grants" means grants under subchapter III of chapter 81 of title 38, United States Code, for projects on the transition-year list.

(2) The term "transition-year list" means the list of approved projects established by the Administrator of Veterans' Affairs as of July 1, 1987, pursuant to the first sentence of section 5035(b)(4) of such title.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Last October we received a report from the Veterans' Administration which clearly indicated to us that we needed to increase the daily payments to States which provide nursing home care and domiciliary care to veterans. The VA projected that the Federal Government's share of State nursing home costs would decline from 26 percent in 1985 to 22 percent in fiscal year 1988. Put another way, while costs were increasing almost 25 percent, the Federal share of these costs was not increasing at all.

Because the United States depends on this program to provide nursing home and domiciliary care to almost 13,000 veterans each day, we had to do something about sharing the increased cost of health care.

I want to thank the ranking minority member of the Subcommittee on Hospitals and Health Care, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for his assistance in bringing this bill to the floor. I also want to thank the ranking minority member of the full committee, the gentleman from New York [Mr. SOLOMON], for his cooperation on this bill.

Mr. Speaker, I will yield time now to the gentleman from Minnesota [Mr. PENNY], the author of the bill, to explain this legislation further, but first I want to commend him for his foresight in introducing this important piece of legislation, and thank him for the excellent work that he does on the committee. He has been a very strong advocate for veterans in Minnesota as well as in the Nation, and he has certainly earned the respect of the committee as well as of the chairman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank my distinguished chairman for yielding and for his leadership and guidance on this issue, as well as for his steady hand on the helm of the Veterans' Affairs Committee that always keeps us on the right course for our Nation's veterans. I would also add my thanks to the ranking member of the Hospitals and Health Care Subcommittee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and to the ranking member of our full Committee, [MR. SOLOMON], for their support as original cosponsors of this legislation. I want to express my sincere appreciation to the 55 cosponsors of H.R. 1659, and particular gratitude to my colleague, the gentleman from Georgia, [Mr. ROWLAND], who will also speak on behalf of this bill.

H.R. 1659, which I introduced on March 17, is a straightforward bill that has two purposes: First, it increases the per diem reimbursement rate paid by the Veterans' Administration for care of veterans in State veterans' nursing homes, hospitals, and domiciliaries. Second, it contains a provision that allows the awarding of State home construction grants to continue as Congress had intended during the last quarter of fiscal year 1987.

The Veterans' Administration State Veterans' Home Program assists States in care of veterans through direct reimbursement for veterans' care and through grants for construction or acquisition of facilities for veterans' long-term care. The per diem program payments cover up to one-half the cost of a veterans' care in recognized State veterans' homes. The State home construction grant program provides up to 65 percent of the cost of constructing or acquiring domiciliary or nursing home care facilities, or remodeling existing buildings for the provision of domiciliary, nursing home, or hospital care in State homes.

For over 100 years, the States and the Federal Government have cooperated in a partnership that has been beneficial to all concerned. As the demand for long-term care for elderly veterans increases, we are at the same time asking our State partners to bear greater responsibility for the program, with the expectation that States will furnish 30 percent of the needed long-term care beds, as opposed to the 20 percent previously expected by the Veterans' Administration.

The State Veterans' Home Program, which today provides extended care in State nursing homes, hospitals, and domiciliaries for over 20,000 veterans, has proved its effectiveness. Testimony presented in hearings before the Hospitals and Health Care Subcommittee in April Confirmed the fine job of delivery of long-term care services provided by our State facilities and supported sustaining the State Home Program.

Since 1984, the VA per diem reimbursement rates to State facilities have been set at $17.05 for State homes, $15.25 for State hospitals and $7.30 for domiciliaries. When these rates were set in 1984, they reflected a VA cost-share of 25 percent of the cost of operating State home nursing beds. During the past 3 years, the nursing home VA cost-share has dropped to an effective rate of 22.54 percent. Obviously, we cannot continue to ask more of State homes unless we are willing to keep reimbursement rates at a more consistent level. While our committee could have recommended adopting a 30-percent target share for the State Home Program—a share that would more accurately reflect cost increases—we have instead recommended a more modest increase that is within budget targets.

As recommended by the full committee in its report to the House Budget Committee in February, and confirmed by the unanimous favorable report of H.R. 1659 by the full Veterans' Affairs Committee on April 23, this legislation increases the nursing home reimbursement rate from $17.05 to $20.35, the hospital reimbursement rate from $15.25 to $20.35, and the domiciliary rate from $7.30 to $9. Within this reimbursement formula, States are providing quality, cost-effective care to veterans. The nursing home rate, for example, is still far below the average daily cost to the Federal Government in 1986 of $118.24 to maintain that same veteran in a Veterans' Administration nursing home or the $64.13 paid by the VA for a veteran's care in a community nursing home. In these tight budgetary times, it makes good sense to put additional resources into programs that allow us to serve the greatest number of veterans at the lowest cost.

The second part of H.R. 1659 clarifies that awards for State veterans' home grants may be made between July 1 and September 30, 1987. It is the second part of the bill that requires our quick action.

Last year the Congress changed the order in which State home grants are awarded. Previously they were awarded on a first-in/first-out basis. The new order gives priority to States which have appropriated the State portion of the grant funds, to States which have no State homes and then to State on the basis of need. This should have the effect of directing limited VA moneys to States with a relative scarcity of homes.

However, there was a technical problem which the VA's general counsel thought would prohibit the award of State home grants between July 1—which is the date of the first new priority list—and the end of fiscal year 1987. This bill States that awards can be made during that time period. The bill provides that the new priority list established on July 1 will govern the order of grant awards through the end of this fiscal year.

My association with the State Veterans' Home Program extends from my first term in Congress when I sponsored a bill, later adopted through amendment into other health care legislation, that allowed conversion of existing buildings, not just new construction, to qualify under the State Home Construction Grant Program. This provision is currently being used in my home State of Minnesota where plans are underway to convert a former State hospital into a long term care facility for veterans.

I'm a firm believer in the State Veterans' Home Program and am pleased to have positively contributed to the program in the past, and to again participate in enhancing the State Home Program by offering this bill to increase the per diem reimbursement rate.

We have just celebrated Memorial Day, recognizing those who gave the ultimate sacrifice on behalf of our Nation. Today we have the opportunity to honor other veterans who now have a need for care in our State veterans' nursing homes, hospitals, and domiciliaries. I urge my colleagues to honor these veterans by adopting this legislation, which will enable State facilities to continue to provide quality, cost-effective care to our veterans.

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Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I rise in very strong support of H.R. 1659. As ranking member of the Veterans' Affairs Committee, I am delighted to cosponsor this needed legislation to increase per diem rates paid by the Veterans' Administration to States for Veterans' domiciliary and nursing home care. Additionally, the legislation will clarify the authority for transition year grants under the new priority-list system.

Mr. Speaker, this legislation has broad bipartisan support. While recognizing the preeminent Federal responsibility for care of our Nation's veterans, Congress and the President have agreed on the desirability of an active program of veterans' homes which are owned, operated and maintained by the States. These veterans' homes provide cost-effective hospital, nursing and domiciliary care for veterans, and demonstrate the gratitude of the various States for the sacrifices of the men and women who have defended our precious freedoms.

If the States are to be encouraged to continue operation of their veterans' homes and to construct veterans' homes, the reimbursement rates the Veterans' Administration pays for care must be adequate. The rates have not been raised since 1984, and we all know, as a matter of common knowledge, that inflation in health care costs has been high over the past several years, despite the administration's notable success in bringing down overall inflation. H.R. 1659 would raise the per diem rates only a modest amount, and its cost is already planned in the fiscal year 1988 budget. The amounts and types of the increases have already been discussed, and, in the interest of brevity, I will not repeat them, but I do want to emphasize that they should be raised now, before they become grossly inadequate.

Also, Mr. Speaker, the bill would remedy a technical problem with Public Law 99-576 which has resulted from an unforeseen interpretation of that law. For the transition year, which is the current year, Public Law 99-576 did not specify what system of awarding grants for construction of State veterans' homes was to be used during the period of July 1, 1987 to September 30, 1987. The original drafters of the legislation agree that it should have made the new priority list system effective on July 1, 1987. However, the VA's general counsel has ruled that the old "first-in/first-out" system should be applied, rather than the new one. I cannot say that the VA's interpretation is clearly wrong, but it unnecessarily delays implementation of the fairer, more desirable system we established last year. Therefore, the committee has advanced a clarifying provision which leaves no doubt about the date when the priority list system would be in effect. It would be in effect on July 1, 1987. I might add that the provision would cost nothing.

Mr. Speaker, Mr. PENNY, who is an active and highly regarded member of the Veterans' Affairs Committee, deserves our commendation for introducing H.R. 1659. Mr. MONTGOMERY, who everyone knows is the distinguished chairman of our committee, also chairs the Subcommittee on Hospitals and Health Care, and he recognizes a good bill when he sees it. He supported H.R. 1659 and, under his leadership, the bill was reported out of the committee. Mr. HAMMERSCHMIDT, ranking member of the subcommittee, supported the bill as well, and contributed greatly to its unanimous committee approval.

Mr. Speaker, I urge my colleagues to consider favorably H.R. 1659 and to send it on to the other body, so that State veterans' homes programs will have adequate reimbursement for their operation, and so that the highest priority projects will receive their funding sooner.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT], the distinguished former ranking member of the full committee and the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 1659 which provides for an increase in per diem reimbursement rates to State veterans' homes from $7.30 to $9 for domiciliary care, $17.05 to $20.35 for nursing home care, and $15.25 to $20.35 for hospital care.

This increase in the per diem rates represents an appropriate level of participation by the Federal Government to the State Home Program. This program has proven itself as a cost-effective addition to the direct provision of care in Federal facilities which lack sufficient capacity to serve the needs of eligible veterans.

Thus, the State home program plays a critical role in the overall scope of providing long-term care to America's veterans.

The VA's nursing homes are focusing their efforts increasingly on the short-term rehabilitation of hospitalized veterans, and care in community homes is limited to a period of 6 months in most cases. It is the State Home Program which has largely filled the vacuum of providing long-term care for our sick and disabled veterans. Without an adequate Federal financial commitment, as reflected by H.R. 1659, long-term quality health care for our Nation's deserving veterans will simply begin an unacceptable decline.

This legislation recognizes the important role State veterans' homes play in providing quality and cost-effective medical care to our Nation's veterans. It deserves the support of every Member of this House.

I congratulate Mr. PENNY for initiating this legislation and also thank Chairman MONTGOMERY and ranking member SOLOMON for their cosponsorship and their expeditious handling of H.R. 1659.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. ROWLAND], a member of our committee.

Mr. ROWLAND of Georgia. Mr. Speaker, I rise in strong support of H.R. 1659, a bill which would increase the per diem reimbursement rate to the State veterans' nursing homes, hospitals, and domiciliaries.

I want to commend the gentleman from Minnesota [Mr. PENNY] for the work he has done on this bill and for our veterans. I also want to thank the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee, for the expedient manner in which this bill was brought to the floor, and my colleagues on the other side of the isle for all they have done.

As you know, our aging veteran population is growing at a tremendous rate. The long-term health care needs of these veterans is an issue which greatly concerns me, for as the demand for services such as nursing home care increases, the pressures which are already at work on our VA medical facilities will only be exacerbated. It is comforting to know that programs like the State Veterans' Home Program are there to ease some of this work load.

The veterans' homes around the country provide an essential function with respect to the care of our veterans and in the process, save the Federal Government money. Without the State Home Program, the veterans in the home system would have to rely solely on the VA medical facilities in their State. As it stands now, the States which participate in the program share in the costs of caring for the veteran.

My home State of Georgia participates in this program and I am particularly proud of the quality of care that the Georgia War Veterans Home in Milledgeville, GA, provides to our veterans.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of this bill to benefit American veterans, particularly those who are ill, disabled, or aging.

Our Nation owes a great debt to the men and women who have sacrificed to defend the national security through service in the U.S. military forces.

The people of my home State of Arkansas have a long and proud tradition of supporting our Nation's freedom, liberty, and values through military service. In fact, of all the people who are over 16 years old in First District, which I represent, more than 14 percent are veterans of U.S. military forces.

Others continue to serve, as members of the Active, Reserve, and National Guard services.

Studies by service organizations and Government agencies concerned with veterans show that this population is an aging one.

In this bill, the Committee on Veterans' Affairs has recognized the special needs represented by this population. By proposing raises in the per diem rates of payment, by the Veterans' Administration, to the States for domiciliary and nursing home care provided to veterans in State homes, the committee underscores the Federal responsibility to support benefit programs in this area.

By proposing language to clarify congressional intent in the area of grant funding for State veterans' home construction, the committee is moving to insure that veterans in every State receive fair and equitable Federal response when the various States produce their share of the cost of constructing new, or renovating existing, domiciliary and nursing home care facilities.

I urge passage of this bill.

Mr. Speaker, I congratulate the gentleman from Minnesota [Mr. PENNY] for taking this initiative, and I acknowledge with appreciation the leadership of the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from New York [Mr. SOLOMON], the chairman and ranking member of the committee, for steering this much needed bill through the House of Representatives.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such times as I may consume.

Mr. Speaker, in closing the debate, let me say some 39 States are participating in the program now. We have just started to build a State veterans' nursing home in Mississippi. I am quite proud of that. We hope to begin receiving patients there within 16 months.

In order for States to participate in the program it is necessary that we continue to increase the per diem rates. I am happy to support this legislation and again, commend the gentleman from Minnesota for introducing the bill and getting it to the floor of the House.

I urge my colleagues to support this legislation.

Mr. AuCOIN. Mr. Speaker, I rise in strong support of H.R. 1659, legislation that would increase the per diem rates paid to State nursing homes, domiciliaries, and hospitals.

The State care program is a vital link in our efforts to meet the growing health care needs of older veterans. By raising the per diem rates for the first time since 1984, Congress will be sending a message to State that the Federal Government is committed to seeing these much-needed health care programs flourish.

In my home State of Oregon, this legislation is particularly timely since Governor Goldshmidt has appointed a five-person commission to study the feasibility of establishing a State veterans home in the vacant Callaghan Center in Wilsonville.

Formerly the home of the Oregon State Vocational Rehabilitation Center, the Wilsonville facility has been empty for the past few years, but requires $200,000 a year in maintenance costs.

There is a great need for such a facility to augment the VA domiciliary in White City. While the domiciliary is quite adequate in most respects, it's just not accessible to the mobility-impaired veteran. This legislation is added ammunition for a program that makes good fiscal sense.

Federal and State Government must work together to promote programs that will reach the greatest number of people at the lowest possible cost. State veterans' facilities across the Nation have proven to be successful, cost-effective, quality care centers for the increasing health needs of our older veterans.

For this reason I rise in strong support of H.R. 1659 to raise the per diem rates paid to State nursing homes, hospitals, and domiciliaries.

Mr. GILMAN. Mr. Speaker, I rise in support of the measure currently pending before the House, H.R. 1659, increasing the per diem rates of pay for payments by the VA to State nursing homes, domiciliaries, and hospitals. I would like to commend the gentleman from Minnesota [Mr. PENNY] for introducing this measure and the Committee on Veterans' Affairs, for bringing it before the House in such a timely manner.

Since its creation after the Civil War, the VA medical system has now grown to include 172 hospitals, 228 outpatient clinics, 119 nursing homes, and 16 domiciliaries and hospitals. As extensive as this system may appear, there are many veterans who receive their long-term and nursing home care from alternate facilities. To offset some of the expense of caring for these veterans, the VA currently reimburses State facilities, per veteran, per day. H.R. 1659 would increase the reimbursement rates paid to the aforementioned facilities and would help to keep pace with rising health care costs. This bill increases the VA reimbursement rate per veteran, per day, for care from $15.25 to $20.25; for nursing home care, from $17.05 to $20.35; and for domiciliary care, from $7.30 to $9. In addition the bill permits VA to award grants in priority order for the construction, acquisition, or remodeling costs for State veterans' homes.

As the various congressional committees on both sides of the Capitol continue to examine the affordability and accessibility of long-term health care, we cannot ignore areas where we can facilitate change immediately. Accordingly, I strongly urge my colleagues to join me in support of H.R. 1659, increasing the per diem rates for payments to State nursing homes, domiciliaries, and hospitals.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1659, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to increase the per diem rates for payments by the Veterans' Administration to States for hospital care, domiciliary care, and nursing home care provided to veterans in State homes, and for other purposes." A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1659, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SMALL BUSINESS ACT AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2166) to amend the Small Business Act and the Small Business Investment Act of 1958.

The Clerk read as follows:

H.R. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Small Busines Act is hereby amended as follows:

(a) by striking from paragraph (4) of subsection (y) "$1,142,000,000" and by inserting in lieu thereof "$1,250,000,000";

(b) by striking from subsection (z) "$409,000,000" and by inserting in lieu thereof "$393,000,000"; and

(c) by inserting after "1958;" in subsection (z) the following; "$16,000,000 shall be available to carry out the provisions of sections 404 and 405 of the Small Business Investment Act of 1958;".

SEC. 2. Section 504 of the Small Business Investment Act of 1958 is amended as follows:

(a) by striking "and" at the end of subsection (a)(1);

(b) by striking "$295,000,000." and by inserting in lieu thereof "$425,000,000; and"; and

(c) by adding the following new paragraph at the end of subsection (a):

"(3) of the program levels otherwise authorized by law for fiscal year 1988, an amount not to exceed $425,000,000.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2166, a bill which would implement three items in the President's budget request by making minor amendments in SBA programs and SBA authorizations.

First, it would increase the authorized amount of surety bond guarantees from $1.142 to $1.250 billion, an increase of $108 million. However, this is a program level increase and does not amount to an expense of an equivalent amount. In only about 2 percent of the cases is a claim made against the bond guarantee, and thus the gross cost of this program probably will be about $2 million and it can be accommodated within existing budget authority.

Second, it would require that all of the debentures issued by certified development companies and guaranteed by the SBA be sold to private investors. Basically, this provision would continue and expand through fiscal year 1988 a pilot program began last year. The administration has requested this change for 1988 and all we are doing is advancing it to the remainder of 1987. This will reduce outlays by the amount of sales shifted from the Federal Financing Bank to private investors, about $35 to $40 million.

Third, and finally, the bill would authorize the appropriation of $16 million to pay losses under the pollution control bond guarantees program. These are claims which are being made against guarantees issued in prior years and must be paid.

Although unrelated to this bill, I want to note that claims on SBA guaranteed loans have been reduced from levels of several years ago and thus we are able to reduce the budget authority for this fund. As a result, the $16 million authorized for the pollution program is being offset by an equivalent reduction in the loan fund. This bill does not increase budget authority.

The items included in this bill also are included in the administration's budget for fiscal year 1988, and the administration favors taking action on these three issues. However, by some curious logic, OMB does not support H.R. 2166 because it fails to make several major and very controversial changes in SBA programs for which there is little or no support in the Congress, such as the elimination of direct loans to minorities and handicapped. We first learned of these general proposals when the administration's budget was released in January.

For 4 months we sought, but did not receive, a specific legislative package from the administration. Finally, we decided that we could wait no longer to consider the noncontroversial matters contained in this bill.

On a bipartisan basis, the committee overwhelmingly approved this bill.

At the time of the committee's consideration, the SBA noted that:

> * * * we applaud the Committee's efforts to address some of the provisions in the Ad-

ministration's budget recommendations * * *.

> * * * while a step in the right direction, (the bill) does not go as far as the budget proposal submitted by the President last January.

I believe that the House is also ready to approve the noncontroversial matters contained in the bill before us today. In fact, I believe that we have an obligation to move this legislation. Passing this bill today will facilitate consideration of it by the other body. Hopefully, they also will move promptly so that the Appropriations Committee can consider these changes which, I repeat, are noncontroversial.

I, and my colleagues on the Small Business Committee, are prepared to consider other changes but we could not do so until the administration itself decided what it wanted and followed the usual procedure of submitting its legislative proposals to the Speaker. Finally, on May 14 we received the administration's proposals, and we will consider them. However, we should not delay passage of this bill, H.R. 2166, but rather, we should go forward today and approve three items which the administration has indicated it wants done.

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Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the bill before us, H.R. 2166, which amends the Small Business Act and the Small Business Investment Act of 1958. I want to commend Chairman **John LaFalce** and members of the committee for their diligence in delivering this bill today in good order.

H.R. 2166 has three major provisions. The first provision contains language that would increase the surety bond guarantee level by $108 million in fiscal year 1988 to approximately $1.25 billion. This increase was requested by the President in his fiscal year 1988 budget. The Surety Bond Program has been one of the most successful of all SBA programs in that it has enabled small business contractors and subcontractors who seek public—and some private—construction jobs to obtain surety bonds necessary to perform such work. This program has been cost effective because losses have been extremely low. In only about 2 percent of the cases does the small business ever default, resulting in a gross cost of this program of about $2 million.

The second change concerns the sale of guarantees issued by certified development companies and guaranteed by the SBA be sold to private investors. Development companies are an effective instrument organized primarily by local communities for the purpose of enhancing development and effecting improvements in the local economy. Typically, development companies, with the help of SBA-guaranteed loans of up to $500,000, become involved in projects to acquire land and construct new plants, purchase needed machinery and equipment or assume, expand or convert existing plants to new small business uses. The Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA] authorized the SBA to guarantee bank loans to development companies and/or guarantee debentures issued by certified development companies in a maximum amount of $400 million in fiscal year 1986 and $450 million in each of fiscal years 1987 and 1988.

In an effort to reduce outlays, COBRA (Public Law 99-272) also established a pilot program to sell debentures to private investors instead of the Federal financing bank. Because there exists a 1-year delay between the obligation of funds and the time the certified development company debentures actually are sold, the pilot program would facilitate the private sale of debentures. The purpose of this amendment is to continue the pilot program and to provide that all debenture sales approved during fiscal years 1987 and 1988 be shifted from the Federal financing bank to private investors.

The SBA provides long-term, low-interest loans to small concerns to facilitate compliance with federally-mandated pollution control laws. SBA is authorized to guarantee payments due under qualified contracts with respect to the planning, design, financing, or installation of pollution control facilities. Presently, all guarantees being approved under this program are taxable issues. However, claims are being made on previous SBA guarantees, and the bill seeks to authorize $16 million to pay losses sustained under the program.

I support this measure which is needed to continue existing programs such as the Surety Bond Program which helps small contractors and subcontractors compete for construction work. This measure will also preclude increases in Federal outlays that could result unless certified development company debentures are sold to private investors. Finally, this bill authorizes the necessary payment of losses incurred in the Pollution Control Contract Guarantees Program. I urge my colleagues on this side of the aisle to adopt this measure.

Mr. Speaker, I do want to point out that the CBO estimates that enactment of H.R. 2166 will result in a net outlay reduction of $28 million in fiscal year 1988 and $398 million in fiscal year 1989 and outlays of $47 million in fiscal year 1990 and $46 million in fiscal year 1991 and $45 million in fiscal year 1992.

Mr. Speaker, I reserve the balance of my time.

Mr. LaFALCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. **Alexander**].

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of this bill to amend the law relating to important Small Business Administration programs. Assistance of the Small Business Administration has contributed to the success of thousands of small businesses in the State of Arkansas.

Arkansas is the home of some of the Nation's largest business corporations. And, it is truly the land of opportunity for small businesses.

Small businesses have been, are, and, I believe, will continue to be a major force in the economy of Arkansas and the Nation.

Historically, small businesses have represented more than 90 percent of the Nation's business community. Small businesses have generated the majority of the new jobs, the new inventions and the new technology.

It is my belief that Government decisionmakers, whether they work at the local, State, or Federal level, must be conscious of and concerned about how decisions affect small businesses.

In bringing this bill to us for consideration, the Committee on Small Business is making good on the commitment of our leadership to cooperate with the Presidential administration wherever that cooperation is clearly in the interest of the people. The changes in the SBA programs the committee is recommending to us were requested by President Reagan as a part of his 1988 budget.

One change would affect the SBA Surety Bond Guarantee Program. A small business can have the best bid, the most skilled workers, and an unblemished reputation for performance; but, if it can not get the surety bond it needs on a bid, payments or performance—or all three—it could fail to get the business that is its reason for being.

Without the necessary surety bonds small businesses would be shut out of participating in the projects they need to develop the capability they need to qualify for commercial surety bonds. Thus, all to frequently, if small businesses were forced to be dependent on the private surety underwriting industry, they would be trapped in the classic catch-22. And, competition in the private and public sector would be harmed.

The SBA Surety Bond Guarantee Program helps small businesses break out of this cycle. It provides guarantees against losses and helps make surety bonds more easily available to small businesses so they can get business. And, by doing so, it helps promote competition.

Under this bill, the surety bond program level would rise from $1.142 billion in available guarantees to $1.250 billion. At the same time, it is expected that there is enough budget authority already available to pay the claims anticipated against the entire program in 1988.

Another change affects certified development companies [CDC]. These are companies organized by local people for the purpose of improving the economy of their communities by providing financial assistance to small businesses. CDC's, when they have met the requirements of the SBA, are permitted to issue debentures for which the SBA guarantees the repayment of the principal and interest.

Income from the debentures is then lent to small businesses to finance plant acquisition, construction, conversion, or expansion, including land purchases.

This program is a partnership between the Federal Government, commercial lenders and the small businesses being helped.

In the last Congress, as a means of aiding small businesses get financing and encouraging private investors to lend to small businesses while, at the same time, helping cut the Federal deficit, a pilot program promoting the sale of the SBA-guaranteed, CDC debentures to private investors was authorized. In the period from November 1986 through April 1987, 68 million dollars' worth of these debentures were sold to private investors.

The interest rates required to sell these in the private capital market averaged about 1 percent above the rate which would have resulted from selling the same debentures to the Federal Financing Bank.

At this point, the private capital market clearly seems willing to support small business with dollar-loan investments. Passage of the bill before us would expand this pilot program test to cover all sales resulting from CDC-debenture supported business loan projects approved through fiscal 1988.

Like major corporations, small businesses face substantial expenditures in working to comply with Federal, State, and local laws governing pollution control. But, small businesses frequently have far greater problems than the larger competitors in the marketplace, in obtaining financing for pollution control facilities on the long-term, low-interest loan terms they need.

SBA is authorized to guarantee payments due under qualified contracts for planning, designing, financing, or installation of small business pollution control projects. In the period from 1980 through 1986, a total of $302 million in such payments have been guaranteed. Another $75 million is expected to be guaranteed by September 30, 1987.

The administration reports that $16 million in claims against the guarantees are expected to be due and payable in fiscal 1988. This would range between 4 and 5 percent of the value of the guarantees made during the 1980-87 period. This bill would authorize the appropriation of the money to pay those claims.

I believe this bill serves the interests of small businesses and, thus, the whole national economy. I urge a vote for its passage.

Mr. McDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise in opposition to H.R. 2166. When the Small Business Committee considered this legislation on May 12, it did so under the guise that it was requested by the administration as part of its fiscal year 1988 budget request. But that, as we all know, is not exactly the case.

It is a fact that the administration requested the proposed amendments. Unfortunately, the committee chose to select only those provisions which seek to expand the programs within the SBA. Then the committee simply decided to ignore the rest.

For instance, H.R. 2166 provides $16 million for the Pollution Control Guarantee Program. Yes, the administration did request the additional funds to cover the loss of fee income in previous years. But the administration also requested that the program be eliminated because the demand for pollution control financing is too low to make the program viable.

In addition, H.R. 2166 calls for an authorization of $393 million for the business loan and investment fund [BLIF] to accommodate the so-called administration-requested changes in the surety bond and pollution control bond programs. It's $16 million less than currently authorized, but $272 million more than was actually requested. Since it was the intent of the Small Business Committee to represent this legislation as having been requested by the administration, then I believe the bill should reflect their complete request.

Also, despite CBO claims mentioned by my friend from Pennsylvania that H.R. 2166 will result in a net outlay reduction over the next 2 years, the bill will actually add several million dollars to the deficit during that period, and over $138 million over 5 years. That's because the savings are fictitiously arrived at by selling development company debentures on the private market, rather than to the Federal Financing Bank. The real cost of H.R. 2166 comes from provisions to increase by $108 million the Surety Bond Guarantee Program authority.

Mr. Speaker, I support efforts to improve the efficiency of SBA programs, but I must insist that it be done at no additional cost to the taxpayers. There is a lot of waste in the SBA budget. If it is the intention of the Small Business Committee to pursue reforms in the SBA to improve the efficiency of its programs, I suggest that it begin with H.R. 1266. I urge the defeat of this bill.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume to comment briefly on the remarks made by the gentleman from California [Mr. DREIER].

During the deliberations of the Committee on Small Business, a vote was taken, and the vote to report the bill was 40 to 1. We have now heard the remarks of the one person who voted against the bill.

Basically, the administration has requested each and every item that is contained within this bill. They are noncontroversial. They did not request a number of additional items which are extremely controversial, and we decided not to take up the controversial items on the Suspension Calendar. We will be pleased to take up those controversial items some other time, but not on the Suspension Calendar.

We are moving today with the noncontroversial items and that is why we are able to get a vote out of the committee of 40 to 1.

I want to thank my friend and colleague, the ranking minority member, the gentleman from Pennsylvania [Mr. McDADE], for his tremendous cooperation in facilitating prompt consideration of this measure.

I would urge all Members to join with the 40 or 41 members of the Committee on Small Business who voted for it in supporting this bill.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time, I insert into the RECORD a letter from the Administrator of the Small Business Administration, requesting the action that the committee has taken as evidence.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, May 12, 1987.

Hon. JOSEPH M. McDADE,
Committee on Small Business, House of Representatives, Washington, DC.

DEAR CONGRESSMAN McDADE: I understand that H.R. 2166, an authorization bill affecting the Small Business Administration's credit programs, will be marked up by your Committee today. While we applaud the Committee's efforts to address some of the provisions in the Administration's budget recommendations, i.e., an increase in the surety bond level, privatization of 503 funding, and providing authorization for funding of claims resulting from existing contracts; this bill, while a step in the right direction, does not go as far as the budget proposal submitted by the President last January. We would hope that the Committee would act on additional budget savings by considering the following proposal made by the Administration:

(1) Section (b) which addresses the amount authorized to be appropriated has $393 million as a total for BLIF. This figure should be $121 million which reflects the assumptions for eliminating direct loans

except MESBICs and includes additional revenues from user fees.

(2) Section (c) provides for $16 million for the Pollution Control Program, which is the Administration's request to liquidate existing obligations. But this section does not address the budget proposal which would eliminate the program in FY 1988.

(3) In addition, Section 2 of the Small Business Investment Act concerning the Development Company Loan Program provides a total of $425 million in program level instead of $373 million as provided in the FY 1987 Appropriations Act. If the $373 million to be authorized for fiscal year 1987 and 1988, $35 million should be made available for the Section 502 guarantee loan program.

I hope that I may count on your support in this matter.

Sincerely,

JAMES ABDNOR,
Administrator.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 2166, the Small Business Act amendments. I commend my colleague from New York, the chairman of the Small Business Committee [Mr. LAFALCE], and the gentleman from Pennsylvania [Mr. MCDADE], the ranking minority member, for their leadership in bringing this measure before us today.

Much attention has been paid during the 100th Congress to the issue of "competitiveness." Keeping our major companies and corporations competitive in world markets is indeed important, but we should not forget the important role of small businesses in our economy. Our Nation is dependent on the vitality of our small businessmen, and I believe that the Federal Government should help create a favorable economic climate for small business.

H.R. 2166 assists small businessmen in several ways. This legislation increases the authorization level in the Small Business Administration [SBA], Surety Bond Guarantee Program. Small business contractors and subcontractors seeking construction jobs often are required to furnish surety bonds. However, because of surety industry underwriting standards, many small contractors are unable to obtain bonding and thereby are precluded from participating in the very projects which would help them develop the capability to obtain necessary bonding. SBA is authorized to help a small business concern break out of this cycle by guaranteeing a surety against losses in order to make bonding more easily available.

The SBA often is irreplaceable in creating a favorable investment climate. The SBA guarantees loans of up to $500,000 to development companies, community groups formed primarily to improve the local economy, for projects to acquire land and construct new plants, purchase necessary machinery and equipment, or acquire, expand, or convert an existing plant to benefit a specific, identifiable small business. This bill bolsters the SBA, and also requires the sale of all SBA-guaranteed debentures issued by development companies to private investors rather than to the Federal Financing Bank.

H.R. 2166 is also protective of the environment in that it requires the SBA, in cooperation with commercial banks and State agencies, to make available long-term, low-interest financing to small businesses for required pollution-control facilities. These moneys are to be made available through sale of State or municipal revenue bonds. The SBA guarantees payments due under qualified contracts with respect to the planning, design, financing, or installation of pollution-control facilities.

The committee has drafted this legislation in a bipartisan manner. It will enhance the opportunities and operation of small businesses throughout the country. Accordingly, I urge my colleagues to join in support of H.R. 2166, the Small Business Act amendments.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2166.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

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GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2166, the bill just considered.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

SELECTION OF COURT FOR MULTIPLE APPEALS

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1162) to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order.

The Clerk read as follows:

H.R. 1162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SELECTION OF COURT FOR MULTIPLE APPEALS.

Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the following shall apply,

"(1) If within ten days after issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in at least two courts of appeals, the agency, board, commission, or officer shall proceed in accordance with paragraph (3) of this subsection. If within ten days after the issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in only one court of appeals, the agency, board, commission, or officer shall file the record in that court notwithstanding the institution in any other court of appeals of proceedings for review of that order. In all other cases in which proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency, board, commission, or officer concerned shall file the record in the court in which proceedings with respect to the order were first instituted.

"(2) For purposes of paragraph (1) of this subsection, a copy of the petition or other pleading which institutes proceedings in a court of appeals and which is stamped by the court with the date of filing shall constitute the petition for review. Each agency, board, commission, or officer, as the case may be, shall designate by rule the office and the officer who must receive petitions for review under paragraph (1).

"(3) If an agency, board, commission, or officer receives two or more petitions for review of an order in accordance with the first sentence of paragraph (1) of this subsection, the agency, board, commission, or officer shall, promptly after the expiration of the ten-day period specified in that sentence, so notify the judicial panel on multidistrict litigation authorized by section 1407 of this title, in such form as that panel shall prescribe. The judicial panel on multidistrict litigation shall, by means of random selection, designate one court of appeals, from among the courts of appeals in which petitions for review have been filed and received within the ten-day period specified in the first sentence of paragraph (1), in which the record is to be filed, and shall issue an order consolidating the petitions for review in that court of appeals. The judicial panel on multidistrict litigation shall, after providing notice to the public and an opportunity for the submission of comments, prescribed rules with respect to the consolidation of proceedings under this paragraph. The agency, board, commission, or officer concerned shall file the record in the court of appeals designated pursuant to this paragraph.

"(4) Any court of appeals in which proceedings with respect to an order of an agency, board, commission, or officer have been instituted may, to the extent authorized by law, stay the effective date of the order. Any such stay may thereafter be modified, revoked, or extended by a court of appeals designated pursuant to paragraph (3) with respect to that order or by any other court of appeals to which the proceedings are transferred.

"(5) All courts in which proceedings are instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals.".

SEC. 2. CONFORMING AMENDMENT.

Section 509(b) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act take effect 180 days after the date of the enactment of this Act, except that the judicial panel on multidistrict litigation may issue rules pursuant to subsection (a)(3) of section 2112 of title 28, United States Code (as added by section 1) on or after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this piece of legislation comes unanimously from the Committee on the Judiciary, and with the endorsement of Attorney General Meese.

It may be the last piece of legislation that I am able to so describe that I thought I would get that out right at the beginning.

We have a situation in the country today which is unseemly, and in the judgment of the subcommittee, the Committee on the Judiciary, and the Justice Department detracts in a marginal way, but nonetheless, detracts from the administration's justice.

Orders are issued by various Federal agencies which can be appealed into any of a number of circuit courts of appeal. The appeal from an order of a Federal agency will often go into the circuit court, and because of the nature of our economy, business being conducted in various parts of the country, the order may be appealable in any of several circuits.

There is a phenomenon known as forum shopping. While the ideal is that all judges will decide all issues presumably identically, based on their cool and dispassionate reading of the facts, reality is different.

Human beings with different orientations sit on courts. Ultimately major questions will be decided by the U.S. Supreme Court, but they cannot and should not decide everything.

Important issues may turn on which of several possible circuit courts are able to decide a case, so we now have literal races to the courthouse.

There now exists situations where messengers, short-wave radios, walkie-talkies, an elaborate network of communications, personnel and paraphernalia, are put in motion at the instant that a decision of an agency is filed. Like the old races in the 19th century that we have seen in the movies to get the land, off they go with the notion that the party that first files his or her papers in a particular circuit court in a particular part of the country that is, therefore, determined where this particular dispute will be heard.

That really does not make any sense. An awful lot of energy and time is wasted. Suits are filed in several districts, in several circuits.

Arguments can be made as to who got where when first. It favors those with the greatest resources as opposed to those who cannot afford to hire the great machinery to get there.

What we propose is this simple. It is where papers have been filed to appeal such a decision in more than one circuit court, random selection will be used. Assuming all circuits are equally at first instance competent to hear the appeal, random selection process will take place.

That circuit which comes out of the random selection process will be the circuit that first hears this issue. I say first hears the issue, because there are in our law a number of doctrines, none of which I am familiar enough to talk about, which allow parties to argue for a removal of a case from one circuit to another on the grounds that a particular circuit would be a more appropriate forum for determining the issue.

Nothing in the legislation before the House today detracts in any way, shape or form from the force of those doctrines; that is, whatever court you are first into, whether you are there because of random selection as our bill proposes, or because you were the guy with the fastest bicycle and you got to the courthouse first. All parties are free then to argue the various legal doctrines which would say no, it should not be here, it should be in this circuit or that circuit, so we change no substantive law.

We change no rights that people have to argue for moving the case. What we do is to provide a far less unseemly way of resolving the dispute as to who should be where first.

There was some reluctance on the part of some Members when this was first proposed to follow a method of random selection. Many members kept thinking there must be in a better way.

None of the Members on the subcommittee, on the full Committee on the Judiciary, the Administrative Conference, the Justice Department, none of the groups that I just mentioned can think of a better way, because we have preserved all the substantive rights that people would have to argue once an initial circuit is designated to move that from one place to another.

Mr. Speaker, under leave to include extraneous matter, I submit a memorandum prepared by the gentleman from Maryland [Mr. CARDIN], a member of our subcommittee, who at my request made a particular study of whether or not there was an alternative forum:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 23, 1987.

Re H.R. 1162.

Hon. BARNEY FRANK,
Chairman, Subcommittee on Administrative Law and Governmental Relations, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Following the markup of the above captioned bill on March 12, I did some further investigation, per your request, as to whether there is a preferable alternative to random selection in determining venue in multiple appeals cases. I must tell you that when I first started to look into this matter, I was convinced that we could find a better way than random selection to solve the "race to the courthouse" problem. As a result of my investigation, I am now convinced that the approach taken in H.R. 1162 is the best approach and should be enacted.

In reaching this conclusion. I did speak with Craig Baab from the American Bar Association, Marshall Breger, Chairman of the Administrative Conference of the United States and Bill Burchill, General Counsel to the Administrative Office of the U.S. Courts. Everyone agreed that the current situation should be changed in the interest of justice. There is also concensus that an expedited process needs to be developed so that a circuit can assume control over the litigation. The only objection to using random selection seems to be that it is arbitrary and it does not sound very judicious.

Random selection is not new. It is used by many circuits in the determination of the three judge panel, as well as in determining which jurists will hear particular cases. Quite frankly, there really is no other feasible alternative to random selection. Both Mr. Baab and Mr. Breger indicated that we could use a process that would allow the courts to establish by rule which circuit would hear the appeal. By doing this, though, the rule that would be chosen by the courts would be another form of random selection. It seems to me that we should address the issue directly, rather than confusing the issue even more. Furthermore, as you pointed out during the hearing, there is the protection in the legislation that provides for a change in venue in instances of inconvenience to the litigants or in the interest of justice.

The committee might find of interest, the case of Mobile Oil Exploration Company versus Federal Energy Regulatory Commission, #86-4940 (5th Circuit filed January 27, 1987), (copy of opinion attached), in which two circuits could not determine which appellant reached the court house steps first. Please note that the court resolved this issue by flipping a coin. Clearly, random selection in an orderly way is much preferred to the current system.

Also enclosed is a copy of a law review article written in a University of Pennsylvania Law Review that was made available to me by Mr. Breger.

If I can be of any further assistance to the committee, please let me know.

Very truly yours,

BENJAMIN L. CARDIN.

Recommendation 80-5: Eliminating or Simplifying the "Race to the Courthouse" in Appeals from Agency Action

(Adopted December 11, 1980)

Many agency actions subject to direct review in the courts of appeals involve more than one private party that may legitimately consider itself aggrieved by the agency action. In most cases, a single court of appeals is not specified by statute as the reviewing court, and venue may lie in more than one such court. Many lawyers believe that one court of appeals is likely to be more receptive than another to their clients' arguments in an agency review proceeding. The choice of the reviewing court has therefore assumed large importance in the review of some actions of some agencies.

A statute, 28 U.S.C. § 2112(a), provides that, when petitions for appellate review of the same order are filed in two or more courts of appeals, the record of the agency proceeding is to be filed by the agency in the court in which the first petition was filed, and that court then has jurisdiction of the review proceeding to the exclusion of others. This provision has become less and less useful as the choice of forum has become more significant in lawyer's minds, and races to the courthouse have proliferated and methods of conducting the races have become more refined. Races are now sometimes decided by seconds or fractions of seconds, if they can fairly be said to have been decided at all. (There is no single finish line to cross or tape to break; time stamping machines in clerks' offices are not synchronized.) Moreover, races will be even harder to judge as agencies adopt regulations, designed to make the races fairer and more civilized, specifying the date and time at which agency orders are deemed to have been issued.

The spectacle of the race to the courthouse is an unedifying one that tends to discredit the administrative and judicial processes and subject them to warranted ridicule. It will require Congressional action to bring the final curtain down on the spectacle. Our first and principal recommendation is addressed to Congress. It calls for simple random selection of the reviewing court when a race ends in a dead heat or near dead heat. Pending Congressional action, there are actions that the agencies and the courts themselves can take to ameliorate the present sorry situation, and we also make recommendations addressed to the agencies and to the Judiciary for such interim actions.

PART A. RECOMMENDATION TO CONGRESS

Congress should amend 28 U.S.C. § 2112(a) to provide that, if petitions to review the same agency order have been filed in two or more courts of appeals within ten days after the order was issued, the agency is to notify an appropriate official body, such as the Administrative Office of the United States Courts, of that fact; that the appropriate official body, on the eleventh day after the issuance of the order, is to choose from among the circuits in which petitions have been filed according to a scheme of random selection and notify the agency of that choice; and that the agency is then to file the record of the proceeding in the court so chosen, which will take jurisdiction and conduct the review proceeding, subject to the existing power, which would not be changed, to transfer the case to any other court of appeals for the convenience of the parties in the interest of justice.

The amended Section 2112(a) should provide further that a court of appeals in which a petition for review has been filed that has jurisdiction to entertain the petition may, in a case of pressing need, issue a stay of the agency order during the period in which no court has been chosen to take jurisdiction of the proceeding, the stay to remain in effect for no more than 15 days, unless extended by the chosen court or a transferee court, and subject to revocation or modification by the chosen court or a transferee court; and that, if the court in which the record is filed determines that it lacks jurisdiction or venue is improperly laid but that jurisdiction and venue may be proper in another circuit, the court is to notify the official body administering the system of random selection of that fact, and the body then will choose from among the remaining courts in which petitions have been filed according to the same scheme of random selection.

PART B. RECOMMENDATION TO THE AGENCIES

In the absence of legislation, those agencies whose actions have resulted or are likely to result in races to the courthouse should specify in advance a time at which their orders are to be deemed issued or their actions are otherwise ripe for judicial review. Such agencies should do this by generic regulation if possible, and if that is not possible, by specifying times of issuance or ripeness case by case.

PART C. RECOMMENDATION TO THE JUDICIARY

In the absence of further legislation, the Supreme Court should promulgate a rule under which, if petitions to review the same agency order are filed in two or more courts of appeals simultaneously (for example, within one minute of one another), the Administrative Office of the United States Courts is to be informed of that fact, and the Administrative Office is then to choose one court, according to a scheme of random selection, from among the circuits in which such simultaneous petitions are pending, which court shall then determine where the record is to be filed pursuant to 28 U.S.C. § 2112(a).

Mr. CARDIN concluded quite correctly after a serious and thorough analysis that this makes the most sense, so we have this proposal for doing away with these races to the courthouse which detract rather than add to the administration of justice.

We substitute a random selection which is as likely as anything to be fair to pick the court of first instance, and in that court people can then argue for changes if they want to change, and make a good case that a different circuit is better suited legally.

It is unanimously supported by the subcommittee and the Committee on the Judiciary and by the Attorney General.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1162, more popularly known as the "Race to the Courthouse Bill." The bill provides an excellent, and I believe a practical, solution to the current problem of appellate court selection for multiple appeals to agency rulings. It is obviously not in the best interest of our legal system or of the American public to leave a situation like we presently have, unaddressed. Litigants currently spend months litigating simply to determine who filed first under the current first-to-file rule.

H.R. 1162 is a head-on solution to the current situation and I think it represents good curative legislation. H.R. 1162 offers a more civil alternative to the current system of filing an appeal. H.R. 1162 was unanimously approved by the Subcommittee on Administrative Law and Governmental Relations and by the full Judiciary Committee and is supported by the Department of Justice, the Administrative Office of the U.S. Courts, the Administrative Conference and the American Bar Association.

I would like to point out to the Chairman, the gentleman from Massachusetts, that I feel we are going to turn out some good legislation before the end of this year that Attorney General Meese will certaintly support, and I look forward to joining with him in this effort.

I would like to commend the former chairman of our subcommittee and the author of the bill for his hard work on the bill, and I would like to commend the new chairman of our subcommittee, the gentleman from Massachusetts for his work in moving this bill from our subcommittee through full committee and to the floor of the House. I strongly support the bill and urge my fellow colleagues to pass it.

Mr. FRANK. Mr. Speaker, I yield myself 2 minutes.

First, Mr. Speaker, I want to acknowledge the cooperation and help we received on this bill from the ranking minority member. He and I are both new in our jobs on this particular subcommittee, and we are pleased that we have been able, as he has pointed out, to move a number of pieces of legislation, most of them with very broad support.

I want to join him in acknowledging the work of the former chairman of this subcommittee, the gentleman from Kansas [Mr. Glickman], who has moved on to different things, if not bigger ones, in his work on his new subcommittee. He was the sponsor of this bill, having responded in his capacity as chairman of the Administrative Conference in proposing it.

Finally, Mr. Speaker, I would like to include in the Record at this point a correction to the Ramseyer set forth in the committee report on this bill.

"Ramseyer" is a new word I learned which describes changes made in the bill. It is named after Mr. Ramseyer. I say that so Members will not think I have mispronounced another word and that is why they do not know what I am talking about. I said it right. This is a new word for me. Ramseyer is a former Member who came up with this method of showing these different things in the bill.

Mr. Speaker, I would like to include in the Record at this point a correction to the Ramseyer set forth in the committee report on this bill, House Report 100-72. This report Ramseyer should have shown the repeal of section 509(b)(3) of the Federal Water Pollution Control Act which contains a provision for the selection of the court of appeals when multiple challenges to an agency order is filled. This corrected Ramseyer sets forth the portion of the Federal Water Pollution Control Act that would be deleted by H.R. 1162.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 509 OF THE FEDERAL WATER POLLUTION CONTROL ACT

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 509. (a) * * *

(b)(1) * * *

* * * * *

[(3) Venue.—

[(A) Selection procedure.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

[(B) Administrative provisions.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

[(C) Transfers.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.]

[(4)] *(3)* Award of fees.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and pass the bill (H.R. 1162).

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONTINUING INTERPRETATION OF THE CONSTITUTION IN APPROPRIATE UNITS OF THE NATIONAL PARK SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1939) to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and for other purposes.

The Clerk read as follows:

H.R. 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORITY.

In recognition of the United States Constitution's profound impact on the political, economic, and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall interpret the origins and subsequent development of the United States Constitution at those units of the National Park System associated with the Constitution.

SEC. 2. SPECIFIC DIRECTIVES TO SECRETARY OF THE INTERIOR.

(a) Independence National Historical Park and Other Units.—The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution of this country at Independence National Historical Park and at such other units of the National Park System as are closely associated with the Constitution. Independence National Historical Park shall serve as the focal point of the National Park System's celebration of the Bicentennial of the Constitution.

(b) Memorial.—The Secretary shall establish at Independence National Historical Park a memorial to the United States Constitution as a key document in our Nation's history. The Secretary shall appoint an advisory committee consisting of two scholars on the history of the United States Constitution, an architect, a landscape architect, and a sculptor to advise on the nature and location of the memorial. It is the sense of the Congress that the memorial should be established within 3 years of the enactment of this Act.

(c) Public Material.—The Secretary shall develop and make available to the public interpretive and educational material related to sites, both within and outside the National Park System, which are especially significant in their association with the Constitution and its history.

(d) Cooperative Agreements.—The Secretary shall enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution, pursuant to which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

(e) Research and Education.—The Secretary shall contract with qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry our the provisions of this Act.

SEC. 3. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 1987 marks the beginning of the bicentennial of the U.S. Constitution. We have all been concerned at the lack of knowledge the American people have about this critical document that was so shaped—and been shaped by—this Nation for 200 years. We would not be standing here today in the House of Representatives without it.

The historic sites and parks of the National Park System preserve key elements of the origins, subsequent development, and effects of the U.S. Constitution. Our Nation's parks thoroughly document the history of the U.S. Constitution in its diverse political, economic and social aspects. These historic sites can provide us with a superb means of learning these various aspects of our Constitution's history, using the actual places where it was written, tested, fought for, revised and lived. Park sites appropriate to the bicentennial of the Constitution include Independence Hall where it was written, the Presidential Homes illustrating article II, and the Civil War battlefields documenting its greatest test. The Frederick Douglass Home provides insight into the post-Civil War 13th and 14th amendments. Salem Maritime National Historic Site with its custom home illustrates Federal revenue gathering before the 26th amendment on income taxes. Fort Smith National Historic Site in Arkansas tells of article III, the judiciary. Edison National Historic Site with Thomas Edison's many inventions would not have been possible without the protection of patents and copyrights afforded under the Constitution.

Millions of Americans visit parks each year, parks which are well equipped and experienced in teaching about our Nation's past. H.R. 1939 directs the National Park Service to utilize these historic resources in ways appropriate to both the bicentennial of the Constitution and to the National Park System.

Specifically, H.R. 1939 provides for continued interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior. H.R. 1939 directs the Secretary of the Interior to celebrate the bicentennial of the Constitution at Independence National Historical Park, at other national park sites closely related to the Constitution and at those historic sites outside the National Park System that preserve and interpret the U.S. Constitution. It provides for the development of educational and interpretive materials on the Constitution, it directs the Secretary of the Interior to enter into cooperative agreements with administrators or owners of historic sites closely associated with the Constitution. It also directs the Secretary to contract with qualified institutions of higher learning for research and similar activities to carry out the provisions of this act.

Mr. Speaker, I believe that this bill would help us celebrate the bicentennial of the Constitution in a fashion both appropriate and useful. Mr. Speaker, I urge adoption of this measure.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation to provide for continuing interpretation of the Constitution in appropriate units of the National Park System. As you know, 1987 marks the year of the bicentennial of the U.S. Constitution, a document which affects our lives on a daily basis. Numerous activities are being planned across the country to celebrate the 200th anniversary of this significant and historic document. Therefore, I believe it is fitting and appropriate that the story of this important document be told in our national park units associated with its origin and development.

H.R. 1939 directs the Secretary of the Interior to interpret the origins and development of the Constitution at those National Park System units closely associated with this document focusing on Independence National Historical Park which will serve as the focal point of the National Park System's celebration of the bicentennial of the Constitution. Accordingly, the bill requires the establishment of an appropriate memorial to the U.S. Constitution within Independence Park. The Secretary is also directed to develop and make available to the public interpretive and educational materials related to those sites associated with the Constitution both within and outside of the National Park System. The Secretary is directed to contract with institutions of higher learning concerning research and the distribution of such materials. In addition, the Secretary is required to enter into cooperative agreements to provide technical assistance to owners or administrators of historic sites associated with the Constitution.

Mr. Speaker, while I recognize the important work the National Park Service is doing in terms of the bicentennial of the Constitution, including preparation of a brochure on national parks and the Constitution, republication of a book on the Constitution and presentation of an interpretive musical drama celebrating the Constitution, I believe it is also important to encourage additional work in this area. Such efforts are needed to further enhance the public's understanding of the history of our Constitution not only during this year of the bicentennial, but in the future as well. According to the national historical landmarks theme study prepared by the National Park Service, there are over 165 existing landmarks and units of the National Park System that reflect one or more aspects of constitutional history. Utilizing these sites as public classrooms is certainly appropriate, as well as exciting.

In closing, Mr. Speaker, I want to commend the subcommittee chairman, Mr. VENTO, for introducing H.R. 1939 and working with me to move it forward. I believe that this legislation can serve as an important tool to expand the public's awareness of the bicentennial of the U.S. Constitution, as well as provide for continuing public education concerning the U.S. Constitution in our National Park System. What we do now regarding the Constitution will be important for generations to come.

□ 1330

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1939.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone River in West Virginia for the benefit of present and future generations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

Sec. 1. Short title and table of contents.

Sec. 2. Findings and purposes.
TITLE I—NEW RIVER GORGE NATIONAL RIVER
Sec. 101. Boundary modification.
Sec. 102. Cooperative agreements with State.
Sec. 103. Improvement of access at Cunard.
Sec. 104. Flow management.
TITLE II—GAULEY RIVER NATIONAL RECREATION AREA
Sec. 201. Establishment.
Sec. 202. Administration.
Sec. 203. Miscellaneous.
Sec. 204. Authorization of appropriations.
Sec. 205. Special conditions.
Sec. 206. Advisory committee.
TITLE III—MEADOW NATIONAL WILD RIVER
Sec. 301. Designation of Lower Meadow River.
TITLE IV—BLUESTONE NATIONAL SCENIC RIVER
Sec. 401. Designation of Lower Bluestone River.
TITLE V—GENERAL PROVISIONS
Sec. 501. Coordination among recreational resources.
Sec. 502. Special provisions.
Sec. 503. Public awareness program.
Sec. 504. Consolidated management.
Sec. 505. New spending authority subject to appropriations.
TITLE VI—GREENBRIER NATIONAL SCENIC RIVER
Sec. 601. Designation of Greenbrier River.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the national park system.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation experience. The lower section of the Bluestone River, the lower section of the Meadow River, and various segments of the Greenbrier River all possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Additional national river park units in the region would foster economic development activities associated with tourism and recreation that have resulted from the establishment of the New River Gorge National River.

(6) Segments of several of the New River tributaries, the Gauley River, the Meadow River, the Greenbrier River, and the Bluestone Rivers are suitable for inclusion in the national park system of the wild and scenic rivers system.

(7) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, Greenbrier, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) Purpose.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, Greenbrier, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventative agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

"(a) Development and Improvement.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) Interim Measures.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the use of motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is below 3,000 cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT.

"(a) Findings.—The Congress finds that adjustments in the management by the Secretary of the Army of flows from Bluestone Lake Project during periods of low flow is necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) Report to Congress Required.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Congress not later than December 31, 1988. Before submission of the report to the Congress, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

"(c) Contents of Study.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake Project during periods when flows from the lake are less than 3,000 cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

"(d) Test Procedures.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake Project during 24-hour periods during the summer of 1988 when flows are less then 3,000 cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake Project which permit flows higher than the 24-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than 1700 cubic feet per second and no test shall reduce flows below that level.".

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

SEC. 201. ESTABLISHMENT.

(a) In General.—In order to protect and preserve the scenic, recreational, geologic, and fish and wildlife resources of the Gauley River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referred to as the "recreation area").

(b) Area Included.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000 and dated January 1987. Such boundaries may be modified as provided in this Act. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) Boundary Modifications.—Within 5 years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

SEC. 202. ADMINISTRATION.

(a) In General.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1-4).

(b) Hunting and Fishing; Fish Stocking.—The Secretary shall permit hunting and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, such activities will not permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area.

(c) Cooperative Agreements With State.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventative agencies.

(d) Application of Other Provisions.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) Recreational Access.—

(1) Existing public roads.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would preserve or enhance the scenic and natural values of the area.

(2) Facilities adjacent to dam.—In order to accommodate visitation to the recreation area, the Secretary of the Interior shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not required pursuant to section 205. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) Other locations.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands and construct such parking and related facilities at other appropriate locations outside the boundaries of, but in close proximity to, the recreation area as may be necessary and appropriate.

(f) Properties and Facilities of Federal Agencies.—After consultation with any other Federal agency managing lands and waters within or adjacent to the recreation area, the Secretary of the Interior shall enter into a memorandum of understanding with such other Federal agency to designate those lands and waters within the recreation area which are (1) under the administrative jurisdiction of such other agency (2) directly related to the operation of the Summersville Project and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

SEC. 203. MISCELLANEOUS.

(a) Lands and Waters.—The Secretary of the Interior may acquire land or interests in land within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) Transfers.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United States and which are not designated under section 202 as directly related to the Summersville Project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior.

(c) Protection of Existing Project.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville Project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary of the Interior to facilitate and enhance whitewater recreational use and other recreational use of the recreation area. For purposes of enhancing springtime recreational use of the national recreation area and the Summersville Lake, the Summersville Lake shall be filled at the earliest practicable date during each year, taking into consideration meteorological forecasts and without impairing the ability of any department or agency to carry out the other purposes of the Summersville Project.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 205. SPECIAL CONDITIONS.

If, after the enactment of this Act, any dam, water conduit, reservior, powerhouse, transmission line or other project commences construction at or in conjunction with the Summersville Project, the department agency, or instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary of the Interior deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction. If any such new project will adversely affect access to the recreation area immedicately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the judgment of the Secretary. The terms and conditions referred to in this subsection shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the 4-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summerville Dam as proposed by the City of Summersville, or by any competing project applicant with a permit or license application on file as of May 13, 1987, if such project complies with this section. If such project is licensed within such 4-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point 550 feet downstream of the existing valve house and 1,200 feet (measured along the river bank) upstream of U.S. Geological Survey guage No. 03189600.

SEC. 206. ADVISORY COMMITTEE.

(a) Establishment.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of 15 members appointed by the Secretary of the Interior to serve for terms of 2 years. Any member of the Committee may serve after the expiration of his term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) Management and Development Issues.—The Secretary, or his designee, shall meet on a regular basis and consult with the advisory committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) Expenses.—Members of the committee shall serve without compensation as such, but the Secretary of the Interior may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) Membership.—The Secretary shall appoint members to the Committee as follows:

(1) 1 member to represent other departments or agencies of the United States administering lands affected by the national recreation area, to be appointed from among persons nominated by the head of such department or agency.

(2) 2 members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia.

(3) 1 member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of the State of West Virginia.

(4) 3 members to represent the commercial whitewater rafting industry in West Virginia.

(5) 1 member to represent noncommercial whitewater boating organizations.

(6) 1 member to represent conservation organization in West Virginia.

(7) 1 member to represent individuals engaged in game fishing in West Virginia.

(8) 1 member to represent the Nicholas County Chamber of Commerce.

(9) 1 member to represent the Fayette County Chamber of Commerce.

(10) 1 member to represent recreational users of Summersville Lake.

(11) 2 members to represent local citizens or citizens groups which are concerned with the Gauley River or with lands included within the boundaries of the recreation area.

(e) Termination; Charter.—The Committee shall terminate on the date 10 years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Committee.

TITLE III—MEADOW NATIONAL WILD RIVER

SEC. 301. DESIGNATION OF LOWER MEADOW RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(62) Meadow, West Virginia.—The segment from the bridge at Route 19 downstream approximately 4.5 miles to its confluence with the Gauley River, as generally depicted on the boundary map entitled 'Meadow Wild and Scenic River', numbered WRS-MEA/20,000 and dated January 1987; to be administered by the Secretary of the Interior as a wild river. After consultation with State and local governments and the interested public and within one year from the enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section, except that the acreage limitations specified in subsection (b) and in subsections (a) and (b) of section 6 shall not apply to the land and waters within the boundaries of such map. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph, and the Secretary shall permit such activities pursuant to section 13(a) of this Act.".

TITLE IV—BLUESTONE NATIONAL SCENIC RIVER

SEC. 401. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(63) Bluestone, West Virginia.—So much of the segment in Mercer and Summers Counties, West Virginia from a point approximately 2 miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (1,410 feet above mean sea level) of Bluestone Lake as generally depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. After consultation with State and local governments and the interested public and within one year from the enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section, except that the acreage limitations specified in subsection (b) shall not apply. Nothing in this Act shall preclude the improvement of any existing road or rights-of-way within the boundaries of the segment designated under this paragraph. All lands owned by the United States within the boundaries of the segment designated under this paragraph are hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph, and the Secretary shall permit such activities pursuant to section 13(a) of this Act. Nothing in this Act shall affect or impair the management by the State of West Virginia or other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph. If requested to do so by the State of West Virigina, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone Project or the authority of any department, agency, of instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE V—GENERAL PROVISIONS

SEC. 501. COORDINATION AMONG RECREATIONAL RESOURCES.

The Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier and Mercer Counties, West Virginia, for the purpose of providing for coordinated development and promotion of recreational resources of regional or national significance which are located in southern West Virginia and managed by State or Federal agencies, including State, local and national park system units, State and national forest system units, and historic sites.

SEC. 502. SPECIAL PROVISIONS.

(a) State Authority.—Subject to this subsection and to existing law and regulations, the Secretary administering any unit of the national park system subject to this Act and the Secretary administering any component of the national wild and scenic rivers system designated by this Act shall cooperate with the State on pest management practices that directly or indirectly impact lands or waters within any such unit or component. During a 3-year trial basis, the Secretary administering any such component or unit shall enter into a cooperative agreement with the State of West Virginia for the purpose of establishing a program which provides for the control of the insect simulium jenningsi on such units or components. Such program shall provide for continuous monitoring of any State activity to control such insect to determine the effect of such activity on the non-target organisms and on the other biological resources of such units. If, at any time, such activities of the State are shown to have a substantial adverse effect on the fishery resources of such river units, such activities shall immediately be ceased.

(b) State Regulations.—The Secretary administering any unit of the national park system subject to this Act and the Secretary administering any component of the national wild and scenic rivers system designated by this Act shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on river units and components subject to this Act.

SEC. 503. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the national wild and scenic river system of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August of 1983 but which were not designated by this Act as units of such system. By December 31 of the third calendar year which begins after the enactment of this Act, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31 of the third calendar year referred to in the preceding sentence.

SEC. 504. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the national park system units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

SEC. 505. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation acts.

TITLE VI—GREENBRIER NATIONAL SCENIC RIVER

SEC. 601. DESIGNATION OF GREENBRIER RIVER.

(a) Designation.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"(64) Greenbrier, West Virginia.—The East Fork from its origin in Blister Swamp downstream to its confluence with the West Fork, the West Fork from its origin at Wildell downstream to its confluence with the East Fork, the segment of the main stem from the confluence of the East and West Forks near Durbin downstream to Deer Creek, near Cass, and the segment of the main stem from Stony Creek, near Marlinton, downstream to the I-64 Bridge near Caldwell, as generally depicted on the boundary map published by the Secretary of Agriculture entitled 'Greenbrier National Scenic River' and dated May, 1987; to be administered by the Secretary of Agriculture."

(b) Flood Protection Studies.—Nothing in this Act shall prevent the United States Army Corps of Engineers from conducting flood protection studies for any segment of the Greenbrier River which is not designated under subsection (a) as a component of the national wild and scenic rivers system. If Congress does not authorize construction of a flood control reservoir by the United States Army Corps of Engineers on the segment of main stem of the Greenbrier River between Deer Creek, near Cass, and Stony Creek, near Marlinton, within 3 years following the enactment of this Act, at the expiration of such 3-year period that segment shall be included as a component of the national wild and scenic rivers system, by operation of law, to be administered by the Secretary of Agriculture.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House, H.R. 900, the West Virginia National Interest River Conservation Act. This legislation would modify the boundaries and provide several specific management directives for the New River Gorge National River, as well as authorize the establishment of the Gauley River National Recreation Area and the designation of segments of the Meadow, Bluestone, and Greenbrier Rivers as components of the National Wild and Scenic Rivers System.

As a statewide rivers bill, H.R. 900 is a major initiative for the proper care and utilization of the nationally significant resources contained in the rivers of West Virginia. The gentleman from West Virginia (Representative Rahall), the bill's sponsor, is to be commended for his significant work in developing this legislative proposal, with the support of the West Virginia House delegation.

The rivers cited in H.R. 900 are among the finest scenic and recreational streams in the eastern United States. The New River Gorge National River is already a component of the National Park System, having been authorized by Public Law 95-625 in 1978. The Gauley, Meadow, and Bluestone Rivers are all tributaries of the New River. Segments of all three rivers were authorized for study and found eligible for inclusion in the National Wild and Scenic Rivers System. The creation of the 24.5-mile Gauley River National Recreation Area and the establishment of a 4.5-mile segment of the Meadow River and 10.6-mile segment of the Bluestone River as components of the Wild and Scenic River System recognizes the nationally significant values these rivers hold and will further their prevention and use for generations to come.

H.R. 900 is a comprehensive rivers proposal for West Virginia. The designations, boundary adjustments, and management directives provided for the rivers in H.R. 900 were drafted to further recreational opportunities while maintaining or enhancing their natural and scenic qualities. The committee was also careful to place restrictions on the cooperative agreements authorized in H.R. 900 for road access to the Gauley River and control of the black fly on all river segments, to assure that the value for which these rivers are designated will not be degraded.

At the request of Representative Staggers, and with support from local citizens and State and national conservation organizations, H.R. 900 has been amended to designate as a wild and scenic river all but 22 miles of the 144-mile segment of the Greenbrier River from its origins to the Interstate 64 bridge near Caldwell, WV. The Greenbrier has been authorized for study under the Wild and Scenic Rivers Act and the draft Forest Service report has found the river eligible for inclusion within the System. The 22-mile segment left out is being studied for a possible flood control project but remains protected under the section 7(b) study provisions of the Wild and Scenic Rivers Act. If Congress does not authorize the flood control project within 3 years, the bill provides that the 22-mile segment is designated part of the Wild and Scenic Rivers System. While this course of action on designation is somewhat unusual, I believe we have been responsive to the interests involved.

Mr. Speaker, H.R. 900 is a worthy, national river conservation initiative and I urge its adoption.

Mr. Speaker, I am happy to yield to the gentleman from West Virginia [Mr. Rahall], but before I yield, let me say that the gentleman from West Virginia has been the principal sponsor of this measure. I want to commend the gentleman for the actions that he has taken. He has really been masterful in dealing with this issue. He is the ranking member of the Interior Committee and certainly a valued member of my subcommittee and has really put together I think a significant piece of conservation and environmental legislation affecting his State.

I know that it has been a difficult path for the gentleman, but he has been diligent in his work, and without the gentleman's efforts and the support of his colleagues, this measure would not be here today.

Mr. Speaker, I commend the gentleman and yield such time as he may consume to the gentleman from West Virginia [Mr. Rahall].

Mr. RAHALL. Mr. Speaker, let me say first to my distinguished colleague from the State of Minnesota and the chairman of the Subcommittee on National Parks that I deeply appreciate the gentleman's patience and his help on this issue. It is a very important bill to our State of West Virginia. It will mean a lot to our economy in the future and the willingness of the gentleman to spend the many hours that he has in committee hearings and in the markup process, both in the subcommittee and in the full committee, is deeply appreciated by all of us in the West Virginia congressional delegation.

Likewise, I extend my support and thanks to our full committee chairman, the gentleman from Arizona, Mr. Mo Udall, for his help.

Mr. Speaker, before I present my remarks on the bill itself, I would also like to say to my distinguished colleagues on the Public Works Committee, the committee on which I also serve, the gentleman from New York [Mr. Nowak] and the full committee chairman, the gentleman from New Jersey [Mr. Howard], that I appreciate their support of this effort also and the fact that they have not asked for sequential referral, despite the fact that one portion of this may very well come under the Public Works Committee jurisdiction. I do appreciate that.

Mr. Speaker, the West Virginia National Interest River Conservation Act of 1987 seeks to incorporate the major tributaries of the New River into an integrated network of federally protected river park units that will compliment the existing State parks in the region and other recreational developments being planned for the future.

The backbone of this system is the mighty New River Gorge, designated as a national river in 1978, and managed as a unit of the National Park System. The New River is the second oldest river in the world and within its deep gorge are some of the finest whitewater and bass fishing in the East as well as many historic sites of significance to West Virginia's heritage.

The New River Gorge National River is 52 miles in length. Flowing into the southern portion of the river are the Bluestone and Greenbrier Rivers. The northern segment of the New is intersected by the Gauley River and its Meadow River tributary.

The legislation before us today would establish the Gauley River National Recreation Area on a 24.5-mile segment of the river from the Summersville Dam to the vicinity of Swiss. It would also designate the State's first national wild and scenic rivers on a 4.5-mile segment of the Meadow from the Route 19 bridge to its confluence with the Gauley; a 10.6-mile segment of the Bluestone from the vicinity of the Mercer and Summers County line to a point upstream of the Route 20 bridge; and a 122-mile segment of the Greenbrier from its headwaters to the Route 64 bridge near Caldwell.

The rugged Gauley River is the premier whitewater run in the Eastern United States while the misty Bluestone Gorge offers a more serene recreational experience. The Meadow is pristine and extremely wild, and the Greenbrier is one of the longest unencumbered free-flowing rivers in the country.

These tributaries coupled with the existing New River Gorge National River would establish the largest network of federally protected rivers in the country. The natural, scenic, cultural and recreational values of these river segments are of national significance and their raw beauty is unsurpassed in the East.

H.R. 900 would also make certain boundary modifications to the New River Gorge National River, pursuant to recommendations made by the National Park Service, as well as provide certain management directives for this unit.

The West Virginia National Interest River Conservation Act of 1987 seeks to preserve these river segments for the benefit and enjoyment of current and future generations. In southern West Virginia, we are looking to tourism and recreational opportunities to supplement our regional economy—whether it is fishing, camping, hunting, hiking, canoeing or whitewater rafting. In effect, these rivers offer more benefits to the economy and society as a whole in their natural condition and should be managed for their recreational values.

I would like to thank the chairman of the Subcommittee on National Parks and Public Lands, BRUCE VENTO, as well as the chairman of the Committee on Interior and Insular Affairs, MO UDALL, for their support of this most important initiative.

It should be noted that this is a West Virginia House Delegation bill and I want to commend my colleagues, HARLEY STAGGERS, JR., BOB WISE, and ALAN MOLLOHAN, for their support of this legislation. Representative STAGGERS, especially, is to be recognized for his leadership on the Greenbrier River provision of the bill.

Finally, I would also like to express my deep appreciation to those individuals and organizations in West Virginia who have worked with me over the past year and a half in formulating this proposal. While they are too numerous to name, special recognition must be given to the West Virginia commercial whitewater outfitters, the West Virginia Highlands Conservancy and the Fayette County Chamber of Commerce.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 900, to protect the values of segments of the New, Gauley, Meadow, Bluestone, and Greenbrier Rivers in southern West Virginia.

As the subcommittee chairman has explained, H.R. 900 would revise the boundaries of the New River Gorge National River, established in 1978, resulting in a net addition of 639 acres. It would also direct the Secretary of the Interior to improve access to the New River and conduct a study with the Secretary of the Army regarding the feasibility of specified flow releases from the Bluestone Lake for recreational purposes.

Title II of H.R. 900 would establish a 10,000-acre Gauley River National Recreation Area and an advisory Committee to assist with the development of a management plan for the recreation area. However, it is important to note that the bill does not prohibit licensing of a water development project adjacent to Summersville Dam and the recreation area. During committee consideration, an amendment was adopted to apply equal treatment to competing project applicants with a permit or license application on file as of May 13, 1987, as long as certain terms and conditions within the act are met. I believe this amendment improves the legislation and I am pleased it was adopted.

H.R. 900 also designates as components of the Wild and Scenic River System approximately 4.5 miles of the Meadow River, 10.6 miles of the Bluestone River and 122 miles of the Greenbrier River.

Finally, H.R. 900 provides for coordination between the Federal Government and the State and local authorities regarding development of the recreational resources of the area through minor technical assistance by the National Park Service. As a compromise on disagreement concerning control of the black fly, H.R. 900 provides for a 3-year trial control program by the State which includes monitoring of the resources to determine the effect, if any, of the control activities.

Mr. Speaker, I believe it is important to reiterate that this legislation directs the Secretary of the Interior to permit hunting and fishing under the management of the State in the Gauley River NRA and within the segments of the Meadow and Bluestone Rivers designated as wild and scenic by the bill. Although concern was expressed that such activities could be prohibited, the provisions of H.R. 900 and the Wild and Scenic Rivers Act make it very clear that congressional intent is to permit these activities to continue under State management within these newly established National Park Service Units, as well as within the newly designated Greenbrier River segment which will be managed by the Forest Service under the Secretary of Agriculture.

In addition, I would like to comment on title VI of H.R. 900 which allows the Corps of Engineers to conduct flood control studies for the segment of the Greenbrier River not designated as wild and scenic. This section provides that if Congress does not authorize a flood control reservoir for this segment within 3 years after enactment of the legislation, the segment becomes a component of the Wild and Scenic Rivers System. Rather than an automatic designation if the flood control project is not authorized, I believe it would be preferable for Congress to revisit this issue after the 3-year period has elapsed and determine if wild and scenic designation is appropriate at that time. This is the usual and, I believe, most appropriate method of such a designation. However, the gentleman who represents this area, Mr. STAGGERS, has assured the committee that the corps studies are expected to be completed in December. Therefore, I understand that in this special case, this provision will provide the flexibility needed to protect the interests of both sides of the issue. However, it is my hope that this will remain a unique situation and that this method will not become standard practice for Federal designations of this nature.

I would like to commend the author of H.R. 900, my colleague on the Interior Committee, Mr. RAHALL, for his diligent work on this legislation and his cooperation in accommodating the earlier concerns expressed with regard to H.R. 900. In addition, the subcommittee chairman, Mr. VENTO, is to be commended for working with the minority members on this legislation and addressing our concerns in a fair and equitable manner.

Mr. Speaker, since the establishment of the New River Gorge National River, southern West Virginia has realized a substantial increase in recreation and tourism activities. This economic activity has been extremely important for an area which suffers from continued high unemployment. H.R. 900 will provide benefits in two ways by protecting and preserving the natural, scenic, cultural, and recreational values of certain segments of the rivers in southern West Virginia while fostering additional economic development activities sorely needed in this area. Therefore, I urge all of my colleagues to support and approve H.R. 900.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK]. The Committee on Public Works and Transportation and specifically the gentleman from New York with his subcommitte have been extremely cooperative as we have dealt with this issue. From time to time there is overlap in terms of responsibilities, and I am pleased to have had the cooperation of the gentleman from New York.

Mr. NOWAK. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, this bill contains provisions relating to the water resources program of the Corps of Engineers which is under the jurisdiction of our Committee on Public Works and Transportation. These provisions concern a study and report by the Secretary of the Army on the feasibility of adjusting the releases from Bluestone Lake to improve recreation, a direction to fill Summersville Lake as early as practicable each year to enhance springtime use, and a provision for changing the administrative jurisdiction over some of the lands from the Secretary of the Army to the Secretary of the Interior where those lands are not needed for the corps projects. There is also a provision which would designate a portion of the Greenbrier River as a scenic river if an ongoing corps study does not result in an authorized project within 3 years.

We have no objection to any of these provisions, but I do wish to seek clarification of the provision relating to the Bluestone Lake. Is it intended that this report to Congress be referred to the Committee on Interior and Insular Affairs for its information, and to the Committee on Public Works and Transportation as the committee with legislative jurisdiction over Corps of Engineers projects?

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, the gentleman's observation is correct. It is the intent that the report that is produced be referred to both the Committee on Public Works and Transportation and to the Committee on Interior and Insular Affairs.

I again thank the gentleman for his support and cooperation in this matter. It is appreciated.

Mr. NOWAK. I thank the gentleman.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from West Virginia [Mr. STAGGERS] a cosponsor of this measure, has all of these rivers located in the district which he represents. He has been very forthright and worked very hard to bring these measures to fruition.

Mr. Speaker, after the hearing at which we discussed the New River and its tributaries and the recreation area, a great many of the witnesses who came forth talked about the Greenbrier River, this 144-mile segment which is an absolutely magnificent resource that is wholly in Mr. STAGGERS' district. He went back and reviewed this issue and brought forth and supported an amendment which was eventually offered by a committee member, the gentleman from West Virginia [Mr. RAHALL], to include most of the 144-mile segment in this measure.

I just cannot underline enough to this body the importance that these rivers have in terms of their closeness and proximity to population areas here in this eastern seaboard. These resources are astounding in that they still persist, and it is because of the leadership of people like Representative STAGGERS that they are going to continue to exist and be available for future generations.

I wish to commend the gentleman for his foresight, and for his willingness to work on this, to take this issue on. All who work on these issues know that it is especially difficult for Members who represent these areas. I think that because of the foresight and leadership that he is showing in this matter, it is possible to do something that will last well beyond whatever our service is in this body. I want to commend the gentleman for that courage and for that leadership he has demonstrated concerning this total West Virginia conservation measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 900, the West Virginia National Interest River Conservation Act of 1987.

Mr. Speaker, this bill is the result of countless hours of work by my good friend and colleague, the gentleman from West Virginia, Mr. NICK RAHALL. Few times have I seen such dedication and determination go into a bill. Congressman RAHALL has worked for several years with all the parties involved, and his patience and willingness to involve everyone in the process has made for an excellent final product. I am especially grateful to Congressman RAHALL for adding the Greenbrier River to this bill, on my behalf.

Also, Mr. Speaker, I would like to thank the committee chairman, the gentleman from Arizona [Mr. UDALL], and especially the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO]. Mr. RAHALL and Mr. VENTO have been instrumental in working out the details and bringing the bill to the floor.

This is an important piece of legislation for West Virginia, especially during a time when we are making sincere attempts to diversify our economy and create jobs. The developments of the past 10 years offer resounding evidence that travel and tourism must play a large role in our economy.

While H.R. 900 is a gateway to economic development, through travel and tourism, it has the double advantage of providing protection for our State's natural beauty. I am very proud that we have fashioned a bill that gains ground without losing ground, in that we will both create jobs and protect the environment. In addition, H.R. 900 is cosponsored by each of West Virginia's congressional representatives, and it has the support of groups representing a diverse body of opinion, from various chambers of commerce to the United Mine Workers.

With respect to the Greenbrier River, this designation covers over 120 miles of the river. The designation covers two segments of the river. The first segment begins with the East and West Forks and runs downstream to Deer Creek, near Cass. The second segment begins at Stony Creek, near Marlinton, and runs downstream to the I-64 Bridge, near Caldwell.

You will notice that there is a 22-mile segment between Cass and Marlinton that is not currently included. This was done because flood control is a serious concern for both me as a representative, and for my constituents who live there. There are various and strongly held points of view by the people living in the affected areas. Some feel that a flood control dam is the only adequate protection, while others feel that alternative methods of flood control better serve the need.

The Army Corps of Engineers is conducting a study to determine the best method of flood control, which is due to be finished in December; therefore, it was decided that we should wait until the study is finished. However, many people fear that the corps will automatically recommend a dam. To help calm those fears, I will ask the West Virginia delegation to join me in a letter to the corps insisting that all possible methods of flood control receive full consideration.

In drafting the amendment to include the Greenbrier as part of H.R. 900, carefully chosen language was used that will automatically include the 22-mile area of the Greenbrier if the Congress does not authorize a flood control reservoir within 3 years following the enactment of H.R. 900. This allows adequate time for public participation and debate. However, if no solid evidence or consensus develops indicating the necessity for a dam, then the "trigger" language becomes effective and the 22-mile segment is automatically designated. I sincerely believe that this provides adequate protection to all parties.

Again, Mr. Speaker, I want to extend my gratitude and congratulations to Mr. RAHALL for his hard work and to the subcommittee chairman, Mr. VENTO. Their hard work will pay great dividends for West Virginia for years to come.

□ 1355

Mr. VENTO. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, the West Virginia delegation under the leadership of the gentlemen from West Virginia [Mr. STAGGERS and Mr. RAHALL] has done a remarkable job with this legislation. We hope the other body will act on it in a timely fashion.

Mr. YOUNG of Alaska. Mr. Speaker, during consideration of H.R. 900 in committee, an amendment was debated which would have retained an authorization and direction that trapping should be allowed to continue in these areas designated by the legislation.

Although the committee did not adopt the amendment, I would like to remind our colleagues that this issue will be looked at closely by the Members on our side of the aisle on all future bills to foreclose hunting and trapping in federally designated conservation areas. Where hunting and trapping have been allowed prior to Federal designation, they should be allowed to continue after designation. As regulated under State game laws, hunting and trapping are necessary and proper tools for effective game management. These management techniques should not be foreclosed without a thorough review by this body and adoption of an express cancellation of hunting and trapping authority. Unless such a conscious decision is made by the Congress, it should not be inferred by the judiciary.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 900, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MAGISTRATES' RETIREMENT PARITY ACT OF 1987

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1947) to amend title 5, United States Code, to provide enhanced retirement credit for United States magistrates, as amended.

The Clerk read as follows:

H.R. 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Magistrates' Retirement Parity Act of 1987".

SEC. 2. ANNUITIES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) by amending paragraph (22) to read as follows:

"(22) 'bankruptcy judge' means an individual—

"(A) who is appointed under section 34 of the Bankruptcy Act (11 U.S.C. 62) or under section 404(d) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549, and—

"(i) who is serving as a United States bankruptcy judge on March 31, 1984; or

"(ii) whose service as a United States bankruptcy judge at any time in the period beginning on October 1, 1979, and ending on July 10, 1984, is terminated by reason of death or disability; or

"(B) who is appointed as a bankruptcy judge under section 152 of title 28;";

(2) by striking out "and" at the end of paragraph (23);

(3) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new paragraph:

"(25) 'magistrate' or 'United States magistrate' means an individual appointed under section 631 of title 28.".

(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and" after "Member" and inserting in lieu thereof ", a United States magistrate,"; and

(B) by inserting a comma after "Military Appeals"; and

(2) in subsection (c), by inserting at the end of the table the following:

"United States magistrate	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948,
	6	July 1, 1948, to October 31, 1956,
	6½	November 1, 1956, to December 31, 1969,
	7	January 1, 1970, to September 30, 1987,
	8	After September 30, 1987.".

(c) IMMEDIATE RETIREMENT.—Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge or United States magistrate who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge or United States magistrate, is entitled to an annuity.".

(d) COMPUTATION OF ANNUITY.—Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a bankruptcy judge or United States magistrate is computed, with respect to service as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2½ percent of the individual's average pay by the years of that service.".

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987, and shall apply to bankruptcy judges and United States magistrates in office on that date and to individuals subsequently appointed to such positions to whom chapter 83 of title 5, United States Code, otherwise applies.

The SPEAKER pro tempore. Is a second demanded?

Mr. BURTON of Indiana. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] will be recognized for 20 minutes and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial bill originally proposed by the Administrative Office of the U.S. Courts. It is supported by the minority and similar legislation passed the Senate during the waning hours of the last Congress. It is not costly. The bill ensures that civil service retirement benefits for U.S. magistrates will be equal to those provided bankruptcy judges.

There are today 292 full-time and 165 part-time magistrate positions authorized by the Judicial Conference.

Those magistrates appointed before January 1, 1984—about 211 full-time and 137 part-time magistrates—are covered by the civil service retirement system [CSRS]. These magistrates perform a wide-range of judicial duties to assist district judges. This assistance is one of the reasons the Federal district courts have been able to cope with the dramatic caseload increase which has occurred.

Traditionally, magistrates and bankruptcy judges have received comparable benefits. However, as part of the general reorganization of the bankruptcy court system in 1984, Congress provided enhanced CSRS benefits for bankruptcy judges. These benefits were justified in view of the circumstances surrounding service as a bankruptcy judge.

Substantially the same reasons which justify enhanced retirement credit for bankruptcy judges apply equally to magistrates. Both bankruptcy judges and magistrates are appointed for terms of years rather than "during good behavior." As judicial officers, and unlike the vast majority of Government employees, magistrates tend to be appointed later in life, after acquiring significant experience in private practice. The average age of all presently sitting full-time magistrates at the time of their original appointment was 43 years. Thus, magistrates do not have the same opportunity to accumulate credit under the civil service retirement system as do most employees. This bill provides magistrates, as a matter of fundamental equity, the opportunity to accrue a meaningful retirement income comparable to the amount typical career civil servants are able to accumulate.

The bill increases the CSRS retirement contribution factor for magistrates to 2.5 percent per year. The 2.5-percent computation factor will apply to service as a magistrate, bankruptcy judge, U.S. commissioner, and up to 5 years of military service, performed before, on, or after the date of enactment of the bill. In return for the higher computation factor, magistrates' retirement contributions will increase from 7 percent of pay to 8 percent. The computation factor and contribution rate are identical to those applicable to bankruptcy judges. The Congressional Budget Office estimates that the increased retirement contributions required by the bill will result in a net deficit decrease in fiscal year 1988, and that any costs of the bill in the out years will be insignificant.

Mr. Speaker, I urge my colleagues to support H.R. 1947.

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 19, 1987.

Hon. William D. Ford,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1947, a bill to provide enhanced retirement credit for United States magistrates as introduced and referred to the Committee on Post Office and Civil Service on April 6, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Edward M. Gramlich,
Acting Director.

Congressional Budget Office—Cost Estimate

1. Bill number: H.R. 1947.

2. Bill title: Magistrates' Retirement Parity Act of 1987.

3. Bill status: Introduced and referred to the Committee on Post Office and Civil Service, April 6, 1987.

4. Bill purpose: To amend Title 5, United States Code, to provide enhanced retirement credit for United States magistrates.

5. Estimated costs to the Federal Government:

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992
Civil service retirement trust fund:					
Estimated revenue increase	0.2	0.2	0.2	0.2	0.2
Estimated outlay increase	(1)	.1	.2	.3	.4
Estimated increase or decrease (−) in the deficit	−.1	(1)	.1	.2	.3
Agency budgets: Estimated increase in agency operating expenses (budget authority) [2]	.2	.2	.2	.2	.2

[1] Estimated at less than $50,000.

[2] Estimates represent the increase in agency operating expenses that derive from higher retirement contributions. Higher agency contributions presumably would result in larger appropriations.

Note.—Detail may not add to total because of rounding.

Basis of estimate: Under current law U.S. magistrates hired prior to January 1, 1984, participated in the Civil Service Retirement System: contributing 7 percent of salary and receiving benefits equal to average salary for the highest three years of earnings times a stipulated percentage that grows with years of service. The stipulated percentage includes 1.5 percentage points for each of the first 5 years of service, 1.75 points for each of the second 5 years of service, and 2 points for each year thereafter. If enacted, H.R. 1947 would increase current retirement contributions to 8 percent of salary and increase retirement benefits to 2.5 percent of average salary for each year of past and future service as a U.S. magistrate, bankruptcy judge or referee, or U.S. commissioner, and for certain years of military service. In addition, H.R. 1947 would liberalize retirement eligibility criteria by allowing magistrates to retire at age 60 with 10 years rather than the usual 20 years of service.

This estimate assumes that beginning October 1, 1987 approximately 330 full and part time magistrates would be affected by the provisions of this bill. The estimated revenue gain would result from the increased retirement contribution averaging $500 annually per magistrate. The estimated increase in budget authority reflects the annual matching contribution required from the employing agency.

Based on discussions with the Administrative Office of the U.S. Courts, this estimate assumes that approximately 10 magistrates will retire each year during the five-year period. On average, the retiring magistrates are estimated to have 15 years of service and thus an annual increased retirement benefit of approximately $8,000 each. The magistrates affected by this bill are assumed to remain in the Civil Service Retirement System.

H.R. 1947 also clarifies the definition of bankruptcy judge contained in current law. This provision is assumed to result in no significant cost to the federal government.

6. Estimated cost to State and local governments: None.

7. Estimate comparision: The Administrative Office of the U.S. Courts estimates that enactment of this bill would generate, over the five year period 1988 through 1992, a net deficit increase of $0.5 million.

8. Previous CBO estimate: None.

9. Estimate prepared by: Sherri Kaplan.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director Budget Analysis.

Committee on Post Office
and Civil Service,
Washington, DC, May 5, 1987.

Mr. Edward M. Gramlich,
Acting Director, Congressional Budget Office, U.S. Congress, Washington, DC.

Dear Mr. Gramlich: Enclosed is a copy of H.R. 1947, a bill to provide improved civil service retirement benefits for certain United States magistrates. I expect the bill, with the enclosed amedments, to be approved at the Committee's next regularly scheduled meeting.

Please furnish an estimate of any additional costs that would result from the enactment of H.R. 1947, with proposed amendments, together with the other budget scorekeeping information required by section 308(a) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Your staff may contact Pierce Myers (x-54054) for any additional information.

With kind regards,

Sincerely,

William D. Ford,
Chairman.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, as the distinguished chairman of the Post Office and Civil Service Committee has pointed out, H.R. 1947 is a bill designed to correct the disparity which exists in the treatment of U.S. magistrates and bankruptcy judges under the civil service retirement system.

Traditionally, magistrates and bankruptcy judges have received comparable benefits, but that parity was broken in 1984 when additional benefits were provided for bankruptcy judges as part of the general reorganization of the bankruptcy court system.

Specifically, the legislation before us increases the CSRS retirement contribution factor for magistrates to 2.5 percent a year, and the retirement contribution rate from 7 percent of pay to 8 percent of pay. This means that magistrates will receive slightly larger retirement benefits and will pay 1 percent of pay more for those benefits.

This bill is endorsed by the Judicial Conference of the United States. Similar legislation was passed in the Senate at the close of the 99th Congress.

The administrative office of the U.S. courts estimates that the annual first year costs of this legislation will be offset by the added contributions to the civil service retirement fund, and that any costs in the outyears will be insignificant.

I urge my colleagues to support H.R. 1947.

Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of the passage of H.R. 1947. The bill would resolve what I and many others, including the Judicial Conference of the United States, believe to be an inequity in the retirement program for U.S. magistrates.

In 1984 Congress considered the overall structure of the bankruptcy court system. As part of that consideration, and in recognition of the limited tenure of bankruptcy judges, the legislation ultimately enacted provided for a retirement system similar to the congressional system, with 2.5 percent credit granted for each year of service.

Passage of this legislation left the magistrates in a disadvantageous position as compared to the bankruptcy judges. Given that both positions involve high level judicial officers attached to the U.S. district courts, this disparity of treatment is unjustified.

Legislation was introduced in the 99th Congress to correct this disparity. Late in the Congress the Senate passed that legislation. However, when the matter reached the House in a bill—Criminal Justice Act Improvements—processed by my subcommittee, certain technical and procedural problems arose and consideration of the retirement issues were deferred.

One of the problems was that the House Post Office and Civil Service Committee wanted to take a look at the legislation. The committee has done so, and indeed, H.R. 1947 is its work-product. I commend the full committee Chairman, Mr. FORD, for his expeditious consideration of the matter.

The workload of magistrates is demanding. In 1984–85 the 292 full-time and 165 part-time magistrates conducted nearly 12,000 criminal and civil trials. In addition, they conducted almost 120,000 proceedings on matters such as search warrants, arrest warrants, bail reviews, arraignments and initial appearances.

They conducted pretrial conferences in more than 36,000 cases and issued reports on 20,000 prisoner and civil rights cases as well as 14,000 social security cases.

Their workload and efficiency are truly impressive. I think it fair to say that without the quality of magistrates we have today, the Federal courts would be experiencing intolerable delays in the administration of justice.

Yet given their short tenure in office, attracting qualified people remains a challenge. Experienced trial lawyers with high income potential and at an age when housing and educational expenses are at their peak, have been reluctant in some instances to accept or retain article III judgeships. Yet such positions offer vastly better salaries, tenure, and retirement programs.

Indeed, because of the increasing difficulty in retaining both magistrates and bankruptcy judges, I will shortly be introducing legislation to overhaul the retirement system for both groups completely. In the meantime, though, I believe that H.R. 1947 stands on its own merits as needed to place these fixed-term judicial officers on a parity with each other.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. FORD] that the House suspend the rules and pass the bill, H.R. 1947, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1947, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 1205, de novo;
H.R. 1004, de novo;
H.R. 2166, de novo;
H.R. 1162, de novo;
H.R. 1939, de novo; and
H.R. 900, de novo;

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RELEASING REVERSIONARY INTEREST IN CERTAIN LANDS IN PUTNAM COUNTY, FL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1205, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1205, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 0, not voting 58, as follows:

[Roll No. 144]

YEAS—374

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett

Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—58

Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Coleman (MO)
Coleman (TX)
Conyers
Craig
Crane
Daub
Derrick
Dingell
Dorgan (ND)
Edwards (CA)
Flake
Ford (TN)
Frenzel
Gray (IL)
Houghton
Ireland
Jeffords
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
Martin (NY)
McCandless
McCurdy
McGrath
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Nielson
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Saiki
Schaefer
Skeen
Skelton
Stallings
Tauzin
Thomas (CA)
Vucanovich
Wise
Wortley

□ 1410

Mr. LEHMAN of Florida changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NIELSON of Utah. Mr. Speaker, I inadvertently missed rollcall vote No. 144, the Florida land and mineral rights conveyance. Had I been present I would have voted "aye."

□ 1425

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

CONVEYING CERTAIN NATIONAL FOREST SYSTEM LANDS TO UNICOI COUNTY, TN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1004, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SMALL BUSINESS ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2166.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2166.

The question was taken.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 337, noes 41, not voting 54, as follows:

[Roll No. 145]

AYES—337

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mica
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—41

Archer
Badham
Bartlett
Barton
Bliley
Boulter
Brown (CO)
Burton
Callahan
Cheney
Dannemeyer
DeLay
Dornan (CA)
Dreier
Fields
Gallegly
Gekas
Gregg
Hansen
Holloway
Hunter
Kemp
Kyl
Lagomarsino

Latta
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
McCollum
Michel
Moorhead
Nielson
Packard
Shumway
Slaughter (VA)
Smith, Robert (NH)
Stump
Taylor
Walker

NOT VOTING—54

Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Conyers
Craig
Crane
Daub
Derrick
Dingell
DioGuardi
Dorgan (ND)
Edwards (CA)
Espy
Flake
Ford (TN)
Frenzel
Gray (IL)
Houghton
Ireland
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
McCandless
McGrath
Mfume
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Nowak
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Saiki
Schaefer
Skeen
Skelton
Stallings
Tauzin
Vucanovich
Wortley

The Clerk announced the following pair:

On this vote:

Mr. Mfume and Mr. Craig for, with Mr. Armey against.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1435

SELECTION OF COURT FOR MULTIPLE APPEALS

The SPEAKER pro tempore (Mr. Montgomery). The pending business is the question of suspending the rules and passing the bill, H.R. 1162.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. Frank] that the House suspend the rules and pass the bill, H.R. 1162.

The question was taken.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 379, noes 0, not voting 53, as follows:

[Roll No. 146]

AYES—379

Ackerman
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—53

Akaka
Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Conyers
Craig
Crane
Daub
Derrick
Dingell
Dorgan (ND)
Edwards (CA)
Flake
Ford (TN)
Frenzel
Gray (IL)
Houghton
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
McCandless
McGrath
Mica
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Nowak
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Saiki
Schaefer
Skeen
Skelton
Stallings
Swift
Tauzin
Vucanovich
Wortley

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONTINUING INTERPRETATION OF THE CONSTITUTION IN APPROPRIATE UNITS OF THE NATIONAL PARK SYSTEM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1939.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 1939.

The question was taken.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 370, noes 10, not voting 52, as follows:

[Roll No. 147]

AYES—370

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger

Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Courter
Coyne
Crockett
Daniel
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—10

Badham
Bilirakis
Burton
Dannemeyer
Dornan (CA)
Henry
Holloway
Lungren
Mack
Michel

NOT VOTING—52

Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Campbell
Conyers
Coughlin
Craig
Crane
Daub
Derrick
Dingell
Dorgan (ND)
Edwards (CA)
Flake
Ford (TN)
Frenzel
Gray (IL)
Harris
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
McCandless
McGrath
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Saiki
Schaefer
Skeen
Skelton
Stallings
Tauzin
Vucanovich
Wilson
Wortley

□ 1450

Mr. BILIRAKIS changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I missed several rollcall votes, Nos. 144, 145, 146, and 147.

Mr. Speaker, had I been here I would have voted "aye" on all four rollcall votes.

I just returned from my district and the funeral, in Corning, NY, of a dear friend, Francis Hillman, one of the great citizens I know, a friend of 60 years.

WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 900, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 900, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote ws taken by electronic device, and there were—yeas 344, nays 39, not voting 49, as follows:

[Roll No. 148]

YEAS—344

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Atkins
AuCoin
Baker
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Biaggi
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hiler
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)

Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—39

Archer
Badham
Ballenger
Barton
Bentley
Bilirakis
Burton
Callahan
Coble
Dannemeyer
Davis (IL)
DeLay
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Fields
Goodling
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hyde
Inhofe
Kyl
Lott
Lungren
Mack
Michel
Shumway
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Tauke
Walker

NOT VOTING—49

Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Bunning
Conyers
Craig
Crane
Daub
Derrick
Dorgan (ND)
Edwards (CA)
Flake
Ford (TN)
Frenzel
Gekas
Gray (IL)
Houghton
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
McCandless
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Saiki
Schaefer
Skeen
Skelton
Stallings
Tauzin
Vucanovich
Wortley

The Clerk announced the following pair:

On this vote:

Mr. Pepper and Mr. Daub for, with Mr. Craig against.

Mr. COBLE and Mr. TAUKE changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, I want to note for the Record that had I been able to cast my vote when H.R. 900 was being considered, I would have voted "no." I happened to be in a meeting in the Rayburn room at the time.

COMMEMORATING 40TH ANNIVERSARY OF THE MARSHALL PLAN

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 70) commemorating the 40th anniversary of the Marshall plan, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, I do not object, but simply would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, futher reserving the right to object, I yield to the gentleman from Virginia [Mr. Olin], who is the chief sponsor of House Joint Resolution 207, commemorating the 40th anniversary of the Marshall plan.

Mr. OLIN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in full support of this resolution. Gen. George C. Marshall is one of the foremost figures of our time.

Mr. Speaker, I want to let the body know that I will be taking out a special order very shortly when those of us who want to recognize the achievements of General Marshall will have a chance to say something on the House floor.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I rise in strong support of Senate Joint Resolution 70.

Mr. Speaker, I am honored to say a few words commemorating the 40th anniversary of the Marshall plan.

When George C. Marshall, then Secretary of State, delivered the commencement address at Harvard 40 years ago, he put into motion a policy which would initiate European recovery after the devastation of World War II. He stressed that there would be no peace or political stability unless there was normal economic health throughout the world. The Marshall plan brought tremendous relief throughout the nations it touched.

Though Mr. Marshall was a career military person he was awarded the Nobel Peace Prize in 1953, the first professional soldier to ever receive this coveted award.

Mr. Speaker, in continuation of the peaceful projects initiated by the Marshall plan, I had the opportunity to meet with the German Bundestag. I was honored to be part of a program where there was a free exchange of ideas encouraging German-American good will and understanding; this was arranged through the association of former Members of Congress and I am deeply grateful.

Thank you, Mr. Speaker, for letting me have this opportunity to express my appreciation of a great American whose name is synonymous with U.S. leadership during peacetime.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 70

Whereas 1987 marks the fortieth year since the European Recovery Program or what came to be called the Marshall plan was first conceived and proclaimed by George Catlett Marshall;

Whereas the Marshall plan has been hailed by leaders of friend and foe alike in World War II as the most magnanimous act by Americans in history;

Whereas the Marshall plan uniquely symbolizes the bold and creative promise inherent in the thought of all free peoples;

Whereas the Marshall plan made possible new measures of trans-Atlantic cooperation through the North Atlantic Treaty Organization and other institutions;

Whereas these institutional developments have profoundly enhanced the security, freedom, and prosperity of the United States and the Atlantic Community generally;

Whereas new challenges have arisen which call for recommitment to and reinvigoration of these institutions and for their continued viability;

Whereas creative thought and rededication to the ideals and principles undergirding the Marshall plan are now required to assure the preservation of these institutions; and

Whereas the occassion of the fortieth anniversary of the Marshall plan provides a fitting opportunity for rededication of commitments to these instructions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress acknowledges the magnanimity of the Marshall plan, the dedication to public service and integrity of its author, and the effort by the Marshall Foundation in Lexington, Virginia, to continue in American life the values for which he stood.

That the Congress calls upon all Americans to rededicate themselves to the ideals of public service, hard work, integrity, and compassion which George Catlett Marshall represents to this day in American society.

That the Congress remembers that it approved a special congressional medal for General Marshall to honor his service to the Nation.

That the Congress welcomes with great anticipation the publication on June 5, 1987, of the fourth and final volume of the official biography of George Catlett Marshall.

That Congress believes that principles that inspired the initiation of the Marshall plan should continue to be cherished by our people.

That the month of June, 1987, is designated as "George C. Marshall Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1505

RECOGNIZING THE SERVICE AND CONTRIBUTIONS OF THE HONORABLE WILBUR J. COHEN

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 283) recognizing the service and contributions of the Honorable Wilbur J. Cohen, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, I do not object, but would simply like the House to know that the minority has no objections to the legislation now being considered.

Mr. ROYBAL. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from California, who is the chief sponsor of House Joint Resolution 283, recognizing the service and contributions of the Honorable Wilbur J. Cohen.

Mr. ROYBAL. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in honor of the memory of the Honorable Wilbur J. Cohen. Last week we were saddened to hear of the death of this man, who was a public servant in the truest sense of the word. A special order in tribute to Wilbur Cohen's service and dedication to the American people was given by the gentleman from Florida [Mr. PEPPER]. A joint resolution was also introduced by myself, Congressman PEPPER, and the gentleman from California [Mr. LEVINE] to honor this man. It is this resolution which we vote on today.

I wish to thank the gentleman from California, Mr. DYMALLY, and the gentleman from Michigan, Mr. WILLIAM FORD, for moving this resolution to the floor so quickly. Passage of this resolution in tribute to Wilbur J. Cohen recognizes his accomplishments and all that he did for this Nation.

However, Wilbur J. Cohen should not be just recognized for his accomplishments, he should be honored. During last week's special order mention was made of naming a building after Wilbur Cohen. I agree with this proposal. We should honor a man of commitment such as Wilbur Cohen by naming a Federal building after him, so that future generations will always remember this man and his accomplishments which benefited the entire Nation.

I had the privilege, Mr. Speaker, of dealing directly with Mr. Cohen during these last few years as chairman of the Committee on Aging. I know of his dedication not only to the aging population of the United States but to the American people. If anyone really deserves recognition, if anyone really deserves to be honored by this Congress and this Nation, it is my opinion that it is this man, who has done so much not only for his generation but for generations to come.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support of the resolution on behalf of Wilbur Cohen, former dean of the University of Michigan School of Education and also Secretary of Health, Education, and Welfare under Lyndon Johnson.

I think that Members should know, aside from the gentleman from Kentucky, our great Mr. WILLIAM NATCHER, with his great historical record of voting here in the House, that Wilbur Cohen testified before our House subcommittee on appropriations in respect to Medicare and health and Social Security issues 54 straight consecutive years without a miss, and that was an outstanding record which included this year, just recently.

So I, too, want to support this great resolution recognizing a famous, outstanding American who has led the fight for health for senior citizens throughout this Nation.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I would like to compliment the gentleman from Michigan [Mr. PURSELL] for his tribute.

Ms. OAKAR. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentlewoman for yielding.

Mr. Speaker, I want to compliment the chairman of the Committee on Aging for introducing this resolution along with others like the gentleman from Michigan [Mr. PURSELL], et cetera.

One of the things that I would like to mention about Wilbur Cohen is that he was a career civil servant employee. We do not have that caliber of person very often, thinking in terms of civil service to their country. Maybe it is because we do not often say thank you to our Government employees.

He was a person who began his career at age 21, worked for the Roosevelt administration and worked on the Social Security Act, and worked his way up through the ranks working on things like child welfare, civil rights, certainly aging issues. He is the father in many ways of Medicare, which was promulgated in 1965.

He worked his way up and ultimately became a Cabinet member, the Secretary of HEW. I think that sometimes we ought to go back to that kind of idea where we reward people who serve their country instead of just politically appointing people, whether it is a Democratic administration or a Republican administration.

He was one of the most distinguished individuals that I have ever met. I had the pleasure of serving with him on the Unemployment Compensation Commission for 2 years. He was one of the most knowledgeable people. I consider him in many ways to be a mentor of mine and a teacher, and we will really miss him, but the legacy that is left behind us has affected and will continue to affect millions and millions of Americans. So today we say, "Thank you and God bless you, Wilbur Cohen."

Mr. Speaker, I rise in strong support of House Joint Resolution 283, a resolution introduced by my distinguished colleagues EDWARD ROYBAL, CLAUDE PEPPER, and SANDER LEVIN, recognizing the service and contributions of the Honorable Wilbur J. Cohen. On May 17, 1987, Mr. Cohen, an outstanding servant of all American workers and a gracious family man, passed away in Seoul, Korea.

Ex-HEW Chief, Wilbur J. Cohen, was one of that very small and unique group of Government officials who, as retired Congressman King of California once said, are "ready to risk their reputations and their professions to do their duty as they see it."

Wilbur Cohen was one of the top authorities in the United States on social welfare. Cohen succeeded John W. Gardner as Secretary of Health, Education, and Welfare in the Cabinet of President Lyndon B. Johnson on May 16, 1968. Since beginning his Government career as a research assistant in 1934, Cohen played a key role in the formulation of virtually every important piece of social legislation in the United States, including the original Social Security Act of 1935 and the Medicare Act of 1965.

Those who worked with Mr. Cohen, regarded him as one of the most coolly efficient, pragmatic, and persistent innovators Washington has ever seen. He was viewed as a man committed to social justice, one who knew his way through the Capital's jungle of politics and bureaucracy. Everyone had an abiding respect for the breadth and precision of his technical and sociological experience.

From 1978 through 1980, I had the distinct priviledge of working under the chairmanship of Mr. Cohen, on the Unemployment Compensation Commission. Under his enthusiastic guidance and supervision, the Commission studied every conceivable aspect of unemployment compensation. The Commission provided a framework and organization for a research agenda on topics relating to Social Security.

It was truly an honor to work with such an intelligent, resourceful, and incredibly energetic man. I am proud to have known Wilbur Cohen, and I am deeply saddened by his passing. It is my belief that his contributions to the people of this country will allow his memory to be etched into American history.

Mr. PICKLE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentlewoman for yielding.

Mr. Speaker, last Friday our Speaker, the gentleman from Texas, Mr. JIM WRIGHT, addressed the graduates of the Lyndon Baines Johnson School of Public Affairs. He gave them a very provocative, indepth message. But the entire graduation ceremonies turned out in effect to be a tribute to Wilbur Cohen, who was a professor there at the LBJ school.

He is recognized by the faculty and by the students as one of the sharpest minds on the subject of Social Security, indeed, in any field of health care delivery services, that we have ever had in America.

The suggestion was made last week on the floor that we name a building here at HHS or a room or a building in Baltimore or somewhere in honor of Wilbur Cohen, because if anybody of our time deserves recognition for being a pioneer for over 50 years in the field of health services, it would be Wilbur Cohen.

□ 1515

I think he is due that honor, and I am sure the House will carry forward on that suggestion.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 283

Whereas the Congress mourns the loss of the Honorable Wilbur J. Cohen, a great humanitarian who was a compassionate spokesman, advocate, and champion of the poor and the common people;

Whereas Wilbur J. Cohen was a participant and author in the creation of all social legislation in this country over the past five decades;

Whereas Wilbur J. Cohen had a distinguished career in the Federal Government from 1935–1956, including being the 1st employee of the Social Security Board and the director of the office of research and statistics;

Whereas Wilbur J. Cohen held the posts of the Assistant Secretary, Under Secretary, and Secretary of the Department of Health, Education, and Welfare under the Kennedy and Johnson Administrations;

Whereas Wilbur J. Cohen had an additional distinguished career as a professor, while only holding a Bachelor's degree, at the University of Michigan at Ann Arbor and at the University of Texas at Austin;

Whereas Wilbur J. Cohen was the principal architect of the Medicare/Medicaid amendments of 1965;

Whereas, in the last weeks of his life, Wilbur J. Cohen saw pending catastrophic legislation as a vehicle for expanding all aspects of health care, including prevention, home care, and nursing home coverage, in addition to long-term hospitalization coverage; and

Whereas, in the last 52 years as a public and private citizen, Wilbur J. Cohen effectively advocated for expansion of social insurance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Honorable Wilbur J. Cohen, champion of social insurance, architect of Social Security, disability insurance, Medicare and Medicaid, mental health legislation, children's programs, and civil rights legislation, is recognized for outstanding service and contributions for the development of a social insurance system that provides vital health and social services to all Americans regardless of their age, sex, race, creed, or national origin.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 0, not voting 49, as follows:

[Roll No. 149]

YEAS—383

Ackerman
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—49

Annunzio
Armey
Aspin
Barnard
Bevill
Boner (TN)
Bonior (MI)
Bosco
Conyers
Craig
Crane
Daub
Derrick
Dorgan (ND)
Edwards (CA)
Ford (TN)
Frenzel
Gray (IL)
Horton
Jones (NC)
Lewis (FL)
Livingston
Lloyd
Lujan
Martin (IL)
McCandless
Miller (CA)
Mollohan
Morrison (CT)
Mrazek
Myers
Ortiz
Parris
Pepper
Ray
Ritter
Roemer
Roukema
Sabo
Saiki
Schaefer
Shuster
Skeen
Skelton
Stallings
Tauzin
Vucanovich
Williams
Wortley

□ 1530

Mr. MARLENEE changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent earlier today when the House considered H.R. 1205, H.R. 2166, H.R. 1162, H.R. 1939, H.R. 900, and House Joint Resolution 283, honoring Wilbur Cohen. Had I been present I would have voted in favor of passage on each occasion.

GENERAL LEAVE

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

TRIBUTE TO POLICE OFFICER ROBERT REMINGTON

Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, this past Friday, the entire Washington area mourned as Police Officer Robert Remington was buried in Montgomery County with full honors. Officer Remington, an 18-year veteran of the D.C. Police Force was shot to death in the predawn hours of Tuesday, May 19, as he struggled with an intruder in a Georgetown clothing store. Officer Remington had responded to a burglary alarm that sounded just 15 minutes before he was to go off duty that night. Officer Remington lived in Montgomery Village with his wife Kathleen and their two sons, Matthew and Kevin. But, he was more than a constituent. He was a dedicated servant of the entire community—and his devotion is attested to by the 19 letters of commendation he received. He received a special citation in June 1984 for his part in capturing three criminals wanted for rape, robbery and murder. We all are the poorer for the loss of Officer Remington, and I know that my colleagues join me in extending our deepest sympathies to his family.

OLDER AMERICANS ACT AMENDMENTS OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 171 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 171

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 171 is the rule providing for the consideration of H.R. 1451, the older Americans amendments of 1987. It is an open rule which provides for 1 hour of general debate and which makes in order as original text for consideration of amendments the amendment in the nature of a substitute reported from the committee on education and labor. The rule waives all points of order against the substitute for failure to comply with clause 7 of rule XVI and clause 5(a) of rule XXI.

Clause 7 of rule XVI, Mr. Speaker, is the provision which prohibits the consideration of amendments that are not germane to the matter under consideration. In this case, the education and labor committee substitute includes several provisions that are unrelated to H.R. 1451 as it was introduced. An example, Mr. Speaker, is the inclusion by the committee of the reauthorization of the native American programs act in its substitute. No similar provision was included in the introduced version of the bill.

Clause 5(a) of rule XXI prohibits the consideration of amendments containing appropriations to bills not reported from the appropriations committee. The waiver of this provision is required because the committee substitute contains provisions specifying how appropriations authorized by the bill are to be allocated. While these provisions would probably be in violation of the rule, the rules committee recommends the waiver in order to allow for the bill's expeditious consideration. None of the provisions which would technically be considered appropriations on a legislative bill provide actual budget authority.

Mr. Speaker, H.R. 1451 would reauthorize Older Americans Act programs for fiscal years 1988 through 1991. These popular and effective programs are known throughout the nation for the value they add to the quality of life for hundreds of thousands of American senior citizens. Among the services offered under the act are the congregate meal program—under which residents of senior housing can share a nutritious meal; the Meals-on-Wheels Program—which ensures that those seniors who are unable to cook for themselves or leave their homes are provided with nourishment; and for the operation of drop-in centers and the provision of legal services for the elderly. The older Americans act also facilitates the provision of community service employment opportunities so that low-income senior citizens can receive a living wage to supplement their resources.

The Education and Labor Committee also recommends the addition of a new program to the Older Americans Act that is designed to meet the special needs of older Americans afflicted with the condition of frailty. Under this new program, grants would be made to States for the provision to frail senior citizens of services such as bathing, dressing, and feeding. Given the past success of Older Americans Act programs and the manner in which this new program is patterned, I am certain that it will be important and efficacious.

Mr. Speaker, it has been my experience—and I know it has been the experience of many of my colleagues—that the Older Americans Act has been uniquely effective in serving the needs of millions of elderly Americans. As our population ages, the needs of our seniors become more evident and the challenge to meet them more and more difficult. Because of the talent and innovative imaginations of our colleagues serving on the Education and Labor Committee, we can be sure that the challenge will be met.

Mr. Speaker, it is indeed appropriate that we consider this legislation at a time when the important issue of catastrophe health insurance is being considered in the appropriate committees. The particular needs of the elderly—and the subject of their health most importantly—demands our immediate and concentrated attention. The Older Americans Act deserves to be at the forefront of the debate because of the role it plays in meeting the nutritional and mental health needs of senior citizens who might otherwise suffer from neglect. I urge adoption of the rule and passage of the bill so that we might do our part in the delivery of important and effective services to the benefit of the elderly of our Nation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained. The Older Americans Act of 1965 is one of the outstanding measures passed by the Congress then in session. It has done a world of good for the elderly. This bill also extends the Native American Programs Act which helps Indians at every level. I think the 4-year extension which is before us now deserves our support. This rule deserves your support. Mr. Speaker, we all know that Americans are living longer than in the past and for that reason special emphasis should be given to our elderly to see that they receive medical care and are properly fed. Likewise our Native Americans should be helped because they were the first Americans and we all owe them a debt of gratitude.

□ 1545

Mr. Speaker, I urge the adoption of the rule and the measure when it is before us.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in opposition to the rule.

This is a flawed rule. This rule is being brought to us as one of two rules that will be required in order to consider the bill.

This rule should contain a budget waiver, a budget waiver to allow entitlement authority contained within the bill to move forward. This rule does not contain that language, and instead, we will have to have a second rule brought to us that will contain that budget waiver authority.

Given that circumstance, I think that the House should turn down this rule and get the right kind of rule out here with all the appropriate clearances having been made before moving ahead.

Also, I would point out that we are, in fact, under this rule, waiving provisions of the House rules that relate to appropriations in an authorization bill. In other words, once again we are taking an authorization bill and we are saying, "Go ahead and spend the money," without going through the appropriate appropriations process.

I think that is a bad procedure. It is once again one of the ways in which we mount deficits in this country. This rule will help contribute to a little more deficit building at the expense of the American taxpayer.

I would hope that the House would turn down the rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in answer to the gentleman from Pennsylvania [Mr. WALKER], when the Committee on Rules heard the bill, the Committee on the Budget did not have the proper documents before it so we were not notified a waiver was necessary. We since have found out, at the conclusion of the rule today, the Committee on Rules will meet to cure that defect.

The gentleman is correct, we will need a rule by the time we get to the amendment process, but the general debate can go on without changing the rules.

The rule will be in effect by the time we come to the substitute in this measure tomorrow.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, could the gentleman tell me what the circumstance will be if the House decides to have the wisdom of turning down the second rule on this bill that would not grant the budget authority, and therefore, we would be in the position of considering a bill that would be out of keeping with the Budget Act of the country?

Mr. MOAKLEY. Mr. Speaker, I think the gentleman knows well that if that is so, the committee substitute will not be able to come up.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, at that point, if the House turns down tomorrow's rule, the committee substitute would not be eligible to be brought to the floor; is that correct?

Mr. MOAKLEY. That is right.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding to me in response to whether or not the cured bill will be voted down by the House subsequently.

I would suggest that that vote could only be interpreted as being hostile to all of the concerns of the elderly of our Nation. I would challenge the most courageous of us, not the most foolhardy, to support that kind of bill. In any event, if that is the occasion, I will be certain to vote for it, and I am sure the vast majority of my colleagues will do likewise.

When you are talking about the welfare of the elderly of our Nation, we are not supposed to be persnickety about minor technical situations that can be cured in good faith. We are supposed to be talking about what is in the best interests of these elderly citizens in our land.

Today we are talking about a rule supporting a reauthorization bill. It is the 12th such reauthorization bill that the Congress has dealt with. I have been privileged to participate in 10 of them.

This Older Americans Act is the keynote, is the benchmark for the elderly. There have been many other benefits, and rightfully so, but since 1965, since the Older Americans Act, the concern and focus on the elderly of our Nation has accelerated in a befitting fashion.

Yes, we have not measured up as yet to our rightful responsibilities, but we are moving in the correct direction. This bill will ensure that at least 10 million elderly will continue to have an improved quality of life.

It will be a full year of authorization that has modest increases in each of those 4 years. What is important is to know that we are moving in the right direction to meet the growing and unmet needs of the elderly of our Nation.

There are any number of provisions here that make this the finest reauthorization bill in the history of the Older Americans Act. Two of them, one of which was introduced by Chairman KILDEE, deals with the frail elderly. The frail elderly will undoubtedly be the focus of the future, given the increased number of senior citizens we have who continue to increase in their longevity and continue to be in good and vigorous health.

The frail elderly will be a portion of that population whose concern must be met. The Alzheimer's disease provision has been expanded. I have been privileged to do that.

The original language of the Alzheimer's disease provision, which would provide supportive services for the families and the victims of Alzheimer's disease, was introduced by me in 1984.

Clearly, this Older Americans Act is one which we can be proud of and support and go back to our folks at home and say, "This is another step in that direction. Have faith. We will do better next time."

As far as the rule is concerned, it really should be passed in unanimous fashion.

I commend the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], for his support and his expeditious reporting of this legislation and his unabiding concern and unflagging commitment for the Older Americans Act.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

In reference to what the gentleman from New York [Mr. BIAGGI] was saying, if the rule is not corrected, we would not be able to allow elderly people to avail themselves of the child care food program. That is the flaw in the bill which I think Members should know about.

Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the Older Americans Act Amendments of 1987. Since 1965, the Older Americans Act has served the needs of thousands of elderly Americans. Although older persons receive services under other Federal programs, the act is the major vehicle for the organization and delivery of social and nutrition services to this group, and for the development of community service employment opportunities for low-income elderly. I am particularly pleased with this year's reauthorization because of the strides made to include a greater number of older American Indians into this important program.

Mr. Speaker, I represent the largest Indian population in the country. With this comes a special responsibility to these individuals. But my responsibility is not singular—the Federal Government has an obligation to assist these Americans. For many years the Indian population has been overlooked or clearly left out of many important programs. This bill, and the amendments that Congressman BIAGGI and I will offer tomorrow, provide for modest increases to rectify these oversights and to recognize the special needs of elderly native Americans. More than 60 percent of American Indians over 60 years of age live in poverty. On average, they live 8 years less than the general population. Their unemployment rate is more than 80 percent.

The number of Indian elderly is expected to increase from about 175,000 this year to over 200,000 by 1990. Title VI of the Older Americans Act provides funding specifically for the Indian elderly. But this part of the act, while well-intentioned, only serves about one-eighth of elderly Indians in the United States. These amendments will, for the first time, allow elderly Indians to receive funding under title III of the original act. This is clearly in line with the original intent of the Older Americans Act.

My amendments will create an office of tribal programs, which would administer and oversee the title VI program. It also calls for an Associate Commissioner on Indian Aging who would establish an interagency task force on older American Indians to produce a study on the availability and quality of services for older American Indians. I am confident that this task force will uncover the special needs and problems of the availability and quality of services for older Americans.

Other important provisions of the bill include inhouse services for frail elderly under the Older Americans Act, including victims of Alzheimer's disease and other neurological and organic brain disorders, and their families. These inhome services are intended as a preventive measure to enable older individuals with functional difficulties to remain in their homes instead of being institutionalized. A recent study by the Department of Health and Human Services found that 4.6 million elderly had some kind of functional limitation. The availability of this service has been a long time in coming, and is much welcomed upon its arrival. A new authorization has been created for the long-term care ombudsman program. The ombudsman programs have effectively investigated and resolved complaints and problems on behalf of residents of nursing homes and other long-term care facilities. A number of entities, including the Institute of Medicine, in its congressionally mandated study "improving the quality of care in nursing homes" issued in 1986, strongly recommended major improvements in the OAA Ombudsman Program. This legislation concurs with these recommendations and strengthens the program specifically targeted to meet the needs of long-term care facility residents.

I urge my colleagues to support this legislation and to remember the words of the late Vice President Hubert H. Humphrey:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 171 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1451.

□ 1555

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, since its creation in 1965, the Older Americans Act has been considered to be the major vehicle for the organization and delivery of social services to meet the needs of older persons. H.R. 1451 would reauthorize the Older Americans Act for 4 years at levels which recognize the growing demand for the vital services the act enables.

Whether it be transportation services, homemaker services, congregate or home-delivered meals, participating in senior center activities, or finding employment through the community service employment program, the Older Americans Act successfully provides opportunities that enable the elderly to continue to be active participants in their communities.

The reauthorization bill includes a new initiative I introduced to authorize additional funds for certain nonmedical, in-home services to the frail elderly.

This is intended as a preventive measure to enable frail older persons to remain in their homes instead of being institutionalized. The nonmedical services would be available for those who require assistance with activities of daily living but who do not have the extensive health care needs that would allow them to qualify for Medicare.

Providing for these services is morally responsible because it helps frail older persons stay in their homes and maintain their individual dignity. It is also fiscally sound to support these community-based services as an alternative to institutionalization.

My colleagues have heard me say many times that the role of Government is to promote, protect, defend, and enhance human dignity.

As the number of Americans over the age of 75 increases, so does the number who face the loss of their ability to remain independent and become at risk of entering an institution. I can think of no better way to promote and protect human dignity than to provide the kinds of services that make it possible for frail individuals to maintain their independence.

H.R. 1451 also contains a number of other provisions designed to strengthen and improve the Older Americans Act. These include provisions—

To establish a separate authorization for a long-term care ombudsman;

To authorize funds for a one-time outreach effort to inform low income seniors of their eligibility for SSI, food stamps, and Medicaid; and

To authorize new funds for States to address special needs.

H.R. 1451 also provides for the reauthorization of a second program which, like the Older Americans Act, is administered by the Department of Health and Human Services.

The Native American Programs Act seeks to promote the economic and social self-sufficiency of reservation and nonreservation based Indian tribes and organizations, native Hawaiians, and Alaskan Natives. H.R. 1451 would extend this act for additional 4 years at such sums as may be necessary.

Mr. Chairman, the House of Representatives is very fortunate to have a number of Members on both sides of the aisle who are recognized for their leadership and advocacy on behalf of the elderly. H.R. 1451 has benefited from the input of many of these Members, and the bill reflects a great deal of consultation and cooperation.

This bill was reported out of committee unanimously, not just a unanimous vote, but with the hard work of Members on both sides of the aisle.

The care and concern for those who helped build this country has been one of the most nonpartisan programs that this Congress has seen.

I would like to thank all those Members who have been working with us on this, the gentleman from Iowa, [Mr. TAUKE] the ranking member of the committee who has been sterling in his efforts, and the gentleman from New York, [Mr. BIAGGI], who has brought to the House time and time again some particular needs of people who need special help.

I urge all the Members to support this bill, and I would reserve the balance of my time at this point.

Mr. TAUKE. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me begin by congratulating the gentleman from Michigan, as well as all of the other Members who have played such key roles in the shaping of this bill. Their foresight is to be admired, and their efforts deserve our strongest support.

I always find it interesting to follow the course of the demographic debate in this country. So many articles are written about the explosion of the "yuppie" class, the baby-boomers, and the like. Yet all too often one fundamental fact is overlooked. America is growing older. This bill is important because it is, in fact, designed to meet the needs of an aging America.

The "old-old" population in this country, or those 85 years of age and beyond, is the fastest growing population in the country. The size of this group is expected to triple between the years of 1980 and 2020, and increase seven times between 1980 and 2050. Life expectancy rates are also increasing. All of these trends have clear public policy implications, and we can begin to make those policy decisions by supporting this bill.

There are many vital components to this legislation: Funding for Meals-on-Wheels programs, support for senior centers, and community service employment programs are just a few. There are also new provisions, and they deserve our special attention.

It is no secret that, due to the advent of the Medicare prospective payment system, the demand for community based senior services has taken a quantum leap. Seniors are being forced to leave hospitals "sicker and quicker," and so they are becoming more reliant upon outside services. A new addition to the Older Americans Act will provide money for in-house services for the frail elderly. These nonmedical services will make it easier for the frail elderly to cope with everyday activities like shopping, cooking, and getting dressed in the morning. On the surface, this may not seem like much, but for someone 90 years old and perhaps, recently out of the hospital, this kind of support could be the difference between making it on his or her own and being placed in a nursing home.

I would bet that at one point in time, all of us have heard from a grandparent that we will understand this or that when we are "old and wise." Well, we're all getting older. I hope that today we will demonstrate a certain sense of wisdom by supporting this very important bill.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. Mr. Chairman, I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of H.R. 1451, the Older Americans Act Amendments of 1987 and to commend my colleagues, the gentleman from Iowa [Mr. TAUKE] and the gentleman from Vermont [Mr. JEFFORDS], for the fine leadership they have shown in bringing forward this reauthorization bill.

The services authorized by the Older Americans Act Amendments of 1987 are vital to the well-being of millions of elderly Americans. I know that in the Sixth Congressional District of Missouri, the Area Agencies on Aging provide nutritionally balanced meals to hundreds of older citizens. The value of these meals is enhanced by the sense of caring and community at the local nutrition site or the friendly smile of the Area Agency representative who delivers a meal to the home of a shut-in. I am certain that without this daily contact, many of my older constituents would be alone, and, perhaps, malnourished.

H.R. 1451 contains several new services that will enhance the lives of older Americans throughout this country. For instance, the new part D of title III, emphasizes in-home services to homebound and frail elderly. These services could include the assistance of homemaker and home health aides, visiting and telephone reassurance, in-home respite care for families, including adult day care, or in-home supportive services for older individuals who are victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type, as well as support services for the families of such victims. I strongly support this new initiative which will provide desperately needed services to the most needy of our elderly and their families.

The bill also contains a directive to the Area Agencies on Aging to conduct a survey of postsecondary schools in their areas and to summarize and disseminate materials detailing what tuition-free or low-cost educational opportunities are available to older individuals. The desire to learn should be encouraged at every stage in life and I support this new outreach service.

I believe that a nation's humanity can be judged by the way in which its older citizens are treated. Congress has long been dedicated to serving the needs of our older Americans. H.R. 1451 is one more step forward to preserve and protect the interests of our older citizens.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 1451, the Older Americans Act Amendments of 1987.

The bill before us today extends for 4 years, or through fiscal year 1991, the major titles now included in the expiring Older Americans Act of 1965. Activities and services authorized under title III, including supportive services, congregate and home-delivered nutrition services, are extended. Similarly, title IV which provides funding for training, research and demonstration projects related to the field of aging, and title V which promotes part-time community service employment opportunities for low-income senior citizens are continued.

Finally title VI, which provides a wide range of services to Indian tribes is extended through fiscal year 1991. H.R. 1451 incorporates a number of minor changes of a fine tuning or perfecting nature.

In addition to providing a multiyear reauthorization of expiring titles, H.R. 1451 creates some new and important authorities which reflect the changing needs of our elderly population. Let me briefly touch upon several of these new activities and policy changes.

H.R. 1451 provides for a new authorization under title III to provide in-home services to frail older individuals, to older persons who are the victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type, and to the families of such victims. Among the services to be provided are those typically provided by homemaker and home health aides, chore maintenance, visiting and telephone reassurance services, and in-home respite care for families, and in-home supportive services for victims of Alzheimer's disease and similar disorders and for members of their families. Generally speaking, these are nonmedical in nature and are focused on providing basic personal services that will enable a frail person to remain at home and avoid being institutionalized. For this new initiative, $25 million is authorized for fiscal year 1988 with subsequent authorizations providing for a 5-percent annual increase in funding levels.

Title III also contains a new part E which assists the States in providing services that are tailored to meet the special and unmet needs of a State's elderly population. States are given maximum flexibility in utilizing these resources to provide services to their seniors that are not now being satisfied through other titles of the act and that are compatible with the goals and objectives of the act. In rural States like my own State of Vermont, we find that transportation services consume an inordinate share of program dollars. With the unearmarked new resources authorized under part E, Vermont might well wish to invest some of its dollars in bringing more services to seniors or more seniors to services. Similarly, at one of the Human Resources Subcommittee's field hearings in Montpelier, we heard much testimony to the effect that there is a need for additional outreach efforts to advise our senior citizens of the availability of services. Again, under the terms of the new part E, Vermont might opt to use some of its funds for special outreach efforts—making a concerted effort to better inform those in greatest need and often in greatest isolation of the availability of a wide range of service programs. Surely, other States' priorities will differ. Part E recognizes these differences among the States and allows each to identify unmet needs, and develop and implement programs that will best serve its senior citizens.

I am pleased that H.R. 1451 includes language that will disallow earnings and benefits received by senior citizens participating in the title V Community Service Employment Program from being counted for purposes of determining eligibility for or computing monthly rents in federally assisted housing programs. Once again, this recommendation comes to us from the field. Clearly, it makes no sense to require low-income elderly persons whom we are trying to train for minimum wage community service employment—and eventually for unsubsidized employment—to have this training adversely effect their housing arrangements in federally assisted housing programs.

On balance, I believe that we have a sound bill before us that builds on and strengthens those programs which have demonstrated their effectiveness in meeting the social service needs of our senior citizens over the 22 years since the act was initially signed into law. Moreover, we have included changes which reflect the ever-changing needs of the growing numbers of elderly within our society.

Mr. Chairman, I would be remiss if I did not commend the chairman of our Human Resources Subcommittee, the gentleman from Michigan [Mr. KILDEE], and our ranking Republican member of the subcommittee, the gentleman from Iowa [Mr. TAUKE], as well as our distinguished chairman, the gentleman from California [Mr. HAWKINS], for their untiring efforts to bring to the floor a bill that represents a bipartisan consensus. H.R. 1451 represents such a consensus and a strong commitment to continuing to meet the changing social service needs of our most deserving seniors. I urge my colleagues on both sides of the aisle to join me in voting for H.R. 1451.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in strong support of H.R. 1451, the Older Americans Act Amendments of 1987. I do so with a degree of pride in that the concept of the Older Americans Act resulted from the Green Thumb Program, which was the idea of an Arkansan named Lewis Johnson, who was very active in this program until his retirement several years ago. So I followed the program with great interest and participation.

Mr. Chairman, older Americans are an important part of the population of Arkansas' First District, which I am privileged to represent, of our whole State and of our Nation. These older Americans were the leaders, builders, and workers in local communities, States, and our Nation during our growing-up years. In fact, they filled these roles in the years before some of the Members of this House were born.

Almost 30 percent of the people living in First Congressional District of Arkansas are 65 years old or older.

The Older Americans Act first became law 4 years before I was elected to the Congress. During the years of my service, I have been privileged to participate in the passage of 10 separate actions to renew and improve the programs under the act.

We have all heard the term "the graying of America." It is a reference to that fact that, with improved health care and knowledge of the aging process and the needs of our senior citizens, Americans are being privileged to live longer. More and more Arkansans and Americans are 65 years old and older.

By bringing this bill to us for action today, the Committee on Education and Labor gives us an opportunity to renew our recognition of the commitment and service our senior citizens have given and of the responsibilities that service lays on our Nation.

It also gives us the opportunity to acknowledge that our senior citizens have needs not met by Social Security and Medicare programs.

The Older Americans Act, as it was originally envisioned, and as it has been amended over the last two decades, is directed at helping State and local governments meet many of those needs.

There are several programs provided for under this bill which I am sure various of my colleagues will discuss. I would like to take the time to mention a few of these.

Fifteen years ago, the Congress saw the potential for helping match the skills and income needs of senior citizens with the service needs of local and State governments and nonprofit organizations. The result was the establishment of a part-time, community services employment opportunities program for unemployed, low-income Americans who are 55 years old and older.

In Arkansas, about 28 percent of our people who are 65 years old or older have incomes at or below the poverty level.

The Senior Community Services Employment Program under the Older Americans Act is operated in Arkansas by Green Thumb. It involves 620 men and women senior workers. These older workers provide services to 256 sponsoring organizations including city and county governments, school districts, senior centers, nursing homes, parks, recreation areas, and camping grounds.

The average age of the Arkansans working under this program is 73 years. Willing and able as they are to work, and needful as they are of the small income which can be earned under this program, the current, Presidential administration is holding a draconian ax over their economic future.

The prospects of these older senior citizens for winning unsubsidized, private or public sector employment are slim to nonexistent, especially in this era of continuing, severe unemployment. Yet, the current Presidential administration is annually pushing upward the "nonsubsidized employment" transition goals for the operators of the senior citizen, community service employment program.

Informally, the word has gone out from the administration that the private, not-for-profit contractors operating these programs will lose their contracts if they do not meet the arbitrary goals it has set for transitioning senior citizens out of the program and into unsubsidized employment.

This is blatant bias against the most senior of our older citizens. It exceeds the provisions of the law. It is not in compliance with the intent of Congress. The Older Americans Act, itself, requires that persons who are 60 years old or older be given priority for work assignments.

If the administration is allowed to get away with its underhanded attack, the operators of the senior citizens, community services employment program will be forced to concentrate on younger, eligible workers. They will have no choice but to turn away from the upper range of our senior citizens regardless of their need, ability, and willingness to work. The Presidential administration's own studies show that the average age of senior citizen workers entering the program has dropped as the administration's unsubsidized employment placement goals have increased.

The administration is in the wrong. And, the Congress should make clear that the administration must administer the law as it was intended to operate.

At the same time that it was providing for the senior citizens, community services employment program in 1972, the Congress created another vital, heavily used Older Americans Act service. It established the National Nutrition Program for the Elderly. This supports such activities as Meals-on-Wheels and meal service in multipurpose senior centers.

These programs have a special importance to many of our older citizens who wish to continue to live, or must live, independently in their own homes. They help senior Americans be sure of getting at least five nutritious meals each week.

Other provisions of the act help support periodic in-home care programs which make it possible for independent-minded Arkansans and Americans to chose to continue to live their senior years in their own homes. This bill proposes to allow expansion of the nonmedical, in-home care programs.

Additionally, the senior centers provide an opportunity for continued social and recreational contacts with people in their own age groups which might not otherwise be available.

In community after community in Arkansas and across the Nation, the senior centers have provided a home base for projects organized by senior citizens for senior citizens and for pooling senior citizen expertise to provide services to their home communities.

Senior citizens are important to local communities, States and the Nation. The Older Americans Act is important to senior citizens. I urge the passage of this bill to reauthorize and improve the Older American Act.

Mr. Chairman, I would request a colloquy with the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], in order to attempt to clarify one of the provisions that is being administered by the administration, and I will yield to the subcommittee chairman for that purpose.

Mr. KILDEE. Mr. Chairman, I would be pleased to participate in a colloquy with my colleague.

Mr. ALEXANDER. Mr. Chairman, I am receiving very disturbing reports from around the country about the way the administration is implementing the nonsubsidized employment goals of the Older Americans Act title V, Community Service Employment Program.

As I understand it, the title V program was enacted by the Congress with the primary goal being to provide community service employment opportunities to jobless low-income persons 55 years old and older who are able and willing to work, but cannot find jobs.

Now, the administration is imposing higher and higher nonsubsidized employment transition goals on the operators of the title V programs. The informal word has gone out throughout the country that if these contractors do not meet the administration's nonsubsidized employment transition goals, their contracts will not be renewed.

The administration's transition goal is for people who are employed in this title V program and find employment outside the program after having been employed by the program, and I am led to believe that induces the administration to encourage persons of younger and younger ages to come within the program rather than older workers, as the program was originally intended.

If the administration is permitted to get away with that, it means that older Americans are going to be dropped in favor of younger ones with a better prospect of being transitioned into the nonsubsidized employment.

Mr. Chairman, let me ask the gentleman, is there any provision in the Older Americans Act that requires or even permits the administration to behave in such a way as to force a contractor to favor employment of younger senior workers in the title V program so as to increase the prospects of meeting this administration's nonsubsidized employment goal?

Mr. KILDEE. Mr. Chairman, if the gentleman will yield, let me reply in this fashion:

There is nothing in the existing law, or in the proposed amendments in this bill, which either requires or permits the administration to refuse to renew a contract solely on the basis of failure to meet goals for placing older workers in nonsubsidized employment.

Title V proposed regulations, which have never been finalized by the Department of Labor, set as a "goal" the transition of 20 percent of title V employment positions into unsubsidized jobs. I think it is important to recognize this proposed regulation is a goal, not a mandate.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for this clarification and for upholding the purpose of this law, and I certainly support the chairman's efforts to reauthorize the Older Americans Act. I congratulate the gentleman upon his leadership.

Mr. KILDEE. Mr. Chairman, I thank the gentleman from Arkansas [Mr. ALEXANDER].

I would advise my colleague further that there is nothing in the act, or in this bill, which would either require or permit the administration to pursue policies that favor employment of younger workers. In fact, although persons 55 and over are eligible under title V, persons age 60 and over have priority for employment opportunities under the act.

Mr. ALEXANDER. Mr. Chairman, if I may make one further inquiry, do I understand, then, that older Americans of 60 years or older are favored regardless of the so-called transition goals of the administration?

Mr. KILDEE. Mr. Chairman, that is my clear understanding.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. KILDEE].

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Mr. TAUKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1451, the Older Americans Act Amendments of 1987, and I commend the chairman of the Subcommittee on Human Resources, the gentleman from Michigan, for his efforts to bring a bipartisan bill before the House.

I would also like to recognize the ranking Republican of the full committee, the gentleman from Vermont, for his contributions to stengthen the act. Both gentlemen have a strong commitment to improve services to the elderly, which they have demonstrated as we have considered this bill.

The Older Americans Act provides the framework for an "aging network" that works to coordinate and provide a wide variety of services to the elderly. These nutrition and supportive services enable many elderly to remain independent and in their own homes, rather than being institutionalized. At a time when our elderly population is growing and demand for services is increasing rapidly, it is critical to reauthorize this act.

I recently visited a congregate meal site in my district in Iowa and was impressed by the quality of service and the number of senior citizens participating in this important program.

The Subcommittee on Human Resources also held a hearing in Algona, IA, in April. The testimony there provided the subcommittee with important insight into the operation of the aging network at the State and local level. In particular, those individuals implementing the Older Americans Act urged that we maintain sufficient flexibility in the act to enable those at the local level to meet their unique needs. Local representatives are concerned about excessive burdens being placed on the network and encouraged us not to "dilute the mission" of the Older Americans Act by adding unrelated responsibilities. I believe it is essential that we maintain the focus of this act on the nutrition and social services that it is designed to provide.

We also heard enthusiastic support for the new initiative on in-home services to the frail elderly that is included in this reauthorization. While not adding medical services to the Older Americans Act, this initiative focuses attention on the growing need for services to the frail, homebound elderly, who without some assistance would be institutionalized, often at a much higher cost to the government.

While I strongly support reauthorizing the Older Americans Act, I do have some reservations about H.R. 1451. At the appropriate time, I will offer amendments to address these concerns.

I am particularly disturbed by the authorization levels set in this bill and the piecemeal approach that has resulted from creating separate authorizations for several new initiatives. There are currently 13 separate authorizations in this bill. I question the wisdom of this piecemeal approach.

The authorization levels for fiscal years 1988 through 1991 set in this bill increase, in general, by 5 percent each year above the previous year's authorization. While a 5-percent increase may in itself not seem excessive, because the authorizations are set in relation to prior authorization levels, the figures are in many cases meaningless. It is unrealistic to believe that appropriations for Older Americans Act programs will come anywhere close to the levels authorized in this bill.

Moreover, this bill provides no direction to the Appropriations Committee regarding priorities among the programs being authorized. Testimony presented to the committee clearly demonstrated that demand for in-home services and meals is growing much more rapidly than demand for congregate meals, for instance. The across-the-board 5-percent increases in authorization levels do not reflect this fact.

This bill should provide realistic targets for appropriations and set priorities among the programs being authorized. I will offer an amendment tomorrow to accomplish these goals. My amendment will not require cuts in any programs—in fact, many of my colleagues may believe that I am too generous in this amendment.

In addition, I am concerned about the number of studies mandated by this bill. The Congressional Budget Office estimates that these studies will cost $1 million in fiscal year 1988. I cannot justify that expense for these studies, which may be worthy, but which should not be conducted at the expense of services.

Finally, I believe that title VII of the act, Personal Health Education and Training Program, should be repealed. This title has never been funded, and reauthorizing it now is unnecessary.

With these changes, H.R. 1451 would have my full support. I encourage my colleagues to consider these amendments and the bill carefully. Again, I commend the gentleman from Michigan for his diligence and his willingness to report a bipartisan bill. I look forward to continuing to work with him on this legislation.

Mr. KILDEE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I would first like to commend the gentleman from Michigan, DALE KILDEE, chairman of the Human Resources Subcommittee, and the gentleman from Iowa, TOM TAUKE, ranking minority member, for bringing to the floor a measure that not only meets the needs of our country's senior citizens, but does so in a fiscally responsible manner. As a member of the subcommittee, I was privileged to participate in the comprehensive hearings on this measure and can attest to its bipartisan, unanimous support, both at subcommittee and full committee.

With the passage of the Older Americans Act in 1965, Congress created a new Federal program specifically designed to meet the social needs of senior citizens. Although they may receive services under many other Federal programs, the Older Americans Act is the primary vehicle for the organization and delivery of social services to our mature citizens. The bill before us retains the basic structure of the act but makes several important adjustments.

Among the bills improvement are new funds for much needed in-home care for the frail elderly and a one-time outreach program to inform older individuals of the availability of benefits under other Federal programs.

Additionally the measure contains two amendments which deal with minority participation and client/attorney privileges for those seekings legal assistance.

The purpose of the minority participation measure is to reemphasize to State and area agencies that Congress originally intended minority participation to be an important component of the act. It requires area aging agencies to write provisions into contracts that detail how the provider will "satisfy the service needs of low-income and minority senior citizens." Furthermore, these plans must identify the number of low income and minorities in the service area and describe the methods to be used to satisfy their needs.

Minority participation in some Older American Act programs has dropped as much as 25-percent during the 1980's, despite the fact that the act requires services to be targeted to low income and minority individuals, this provision addresses this concern.

The second amendment assures that the client/attorney privilege is extended to those providing legal assistance and their clients under the Older Americans Act. Some area agencies, in order to evalaute the use of title 3(b) funds, have required that contracted legal assistance providers make available the names and addresses of the clients served. I fear that many senior citizens might avoid seeking legal assistance if they believed others would discover that they used publicly funded legal services. Under H.R. 1451, this possibility is greatly diminished.

I urge my colleagues to join me in supporting this measure.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. VISCLOSKY. I yield to the gentleman from Washington.

Mr. BONKER Mr. Chairman, I would like to commend the chairman, the gentleman from Michigan [Mr. KILDEE], and his fine committee for the great work they have done with this bill.

Mr. Chairman, it is with great pleasure that I join my colleagues today in support of H.R. 1451, which will reauthorize the Older American Act [OAA] through fiscal year 1991. It is appropriate that we will enact this legislation during the month of May, which is annually recognized as Older Americans Month.

I would like to take this opportunity to express my appreciation to the members of the Education and Labor Committee for their hard work in developing this legislation. Mr. KILDEE and Mr. HAWKINS, together with Mr. TAUKE and Mr. JEFFORDS, have provided bipartisan leadership in creating reauthorization legislation that both strengthens those programs that have proven remarkably effective for many years and improves efforts targeted to the special needs of several particularly vulnerable groups of older Americans.

I would also extend special recognition to several of my esteemed colleagues from the Select Committee on Aging—including our chairman ED ROYBAL, as well as CLAUDE PEPPER and MARIO BIAGGI—with whom I have worked closely on issues pertaining to H.R. 1451. Mr. BIAGGI should be congratulated for effectively advocating for a number of important amendments as a member of the Education and Labor Committee in his own behalf as well as in behalf of the Select Committee on Aging. I particularly thank Mr. BIAGGI for successfully offering an amendment at the full committee markup which was based on my legislation, H.R. 2042, to improve the long-term care ombudsman program.

Since its enactment in 1965, the OAA has been one of the most popular and effective programs enacted to assist the elderly. Under the act, a series of programs have evolved to meet the many needs of this diverse population. The OAA has been instrumental in the development of such crucial services as congregate and home-delivered meals, transportation, and legal assistance—especially with public entitlement problems. Furthermore, the OAA has developed a network of programs at both the State and local levels that are flexible and responsive to the needs of their particular jurisdictions.

The 1987 reauthorization has provided the opportunity to make improvements in the OAA needed to reflect the changing needs of older Americans. First, the authorization levels needed to be increased to respond to the significant increase in the numbers of people reaching their elderly years. This is especially dramatic for those who are 85 years of age and older. Because of the rapid growth in the numbers of the very old, the OAA must more effectively address the increased frailty, vulnerability, and poverty that characterizes this segment of the aging population.

I am pleased that ombudsman programs, which investigate and resolve problems of older Americans living in nursing homes and board and care facilities, will be strengthened considerably under H.R. 1451. This program is the only service in the OAA specifically devoted to assisting residents of long-term care facilities, who are among our society's most frail and vulnerable citizens.

Despite the important changes to the Older Americans Act contained in H.R. 1451, there is more to be done before we pass this legislation tomorrow. Therefore, I intend to join several of my colleagues in offering amendments to complete the improvements essential to this reauthorization.

In the first place, we must do more to focus efforts on serving minorities under the OAA. It is tragic that minority participation has actually declined over the past several years. We must reverse that trend. In addition to increasing the authorization levels for title VI of the OAA, which provides grants for services to Indian tribes, several other substantive changes are needed to improve the delivery of services to Indian elders. The Administration on Aging must place increased emphasis on the special needs of this population.

This reauthorization provides us the opportunity to test different approaches to resolving compliants and problems of consumers of home care services. Over the past year, much attention has been focused on problems in the home care field. Unfortunately, there are few programs in place to effectively assist consumers with these concerns. Our amendment would provide a national demonstration program in fiscal years 1989 and 1990.

We must also ensure that the local network of area agencies on aging [AAA's] remain a visible and effective focus to serve the elderly in their communities. In some places, these AAA's are diffused in larger umbrella agencies, with the various functions of AAA's spread among different units that may serve a variety of populations. In some cases, this allows the use of OAA money for other administrative purposes. I will offer an amendment to ensure that the AAA's are identified as a distinct unit, even if administratively located in a more comprehensive organization.

Finally, this reauthorization provides us the opportunity to address the special needs of other populations. Tomorrow I also intend to support an effort to address the needs of elderly victims of abuse, and to provide for greater recognition of those who suffer from some form of mental illness.

H.R. 1451 is a significant piece of legislation. Our actions tomorrow will mark an important milestone in the history of OAA. I urge my colleagues to support those amendments that I will support and to vote for final passage of this legislation.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I rise in support of H.R. 1451, which would reauthorize and expand the Older Americans Act.

I am especially pleased to note the inclusion, the title IV, of the Volunteer Service Credit demonstration project. This provision in the bill is similar to legislation introduced by Mr. WYDEN, Mr. WILLIAMS, and myself to provide older individuals services in return for certain volunteer services provided to other individuals. Some notice should be given to individuals who spend tireless hours donating their time and energy to others in need. The concept of rewarding those individuals by providing them with assistance when they are in need is one which should be explored and I commend my colleagues on the committee for supporting the inclusion of this language in the bill.

There is another provision of this bill which I believe is worthy of special attention. Section 42 of the bill would make certain adult day care centers eligible for USDA meal assistance under the Child Care Food Program. Although adult day care centers do not provide round-the-clock services to elderly and disabled persons, they do provide enough care to enable recipients to remain in the community and not be placed in a nursing home or other long-term care facility. As I am sure you will agree, we would all like to see our parents remain at home and independent as long as possible. Adult day care centers help make this desire a realilty and this provision will help insure that the frail and disabled individuals who attend adult day care centers—the majority of whom are women with incomes below the poverty line—are provided with nutritional meals.

I work closely with the area agencies on aging in my district, and have seen the benefits of this law firsthand. I can assure you we are reauthorizing programs which are greatly needed and certainly appreciated by our senior constituents.

I urge the support of my colleagues for this legislation.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I want to commend the gentleman from Michigan for a superb job on this legislation. The Older Americans Act provides a lifeline for America's elderly citizens. Before coming to Congress, I was the executive director of the Oregon Gray Panthers, and that's where I saw first hand the excellent projects and results that the Older Americans Act has made possible. From Meals-on-Wheels to legal services to advocacy, the Older Americans Act serves seniors superbly.

In my home State of Oregon, thousands of seniors participate in meal programs funded by the Older Americans Act. The Oregon Department of Senior Services estimates that 1,553,601 congregate meals will be served in Oregon this year. In addition, 1,102,603 meals will be delivered to the homes of disabled seniors in 1987. The legislation we're considering now provides a 5-percent increase in the $4.8 million Oregon currently receives under the Older Americans Act for meals. Oregon has one of the fastest growing elderly populations in the country and these extra funds are greatly needed.

In fiscal year 1987, the Older Americans Act provided $3.1 million for support services and senior centers in Oregon. This bill increases that amount by 5 percent. These funds include transportation services provided by community and State organizations. The services are invaluable to Oregonians who rely on this transportation to get to and from their homes and senior centers. This year 539,860 rides will be provided. And the additional money will also help finance senior centers and serve older Oregonians.

Moreover, H.R. 1451 provides new services that will also benefit Oregon greatly. For example, approximately $250,000 that will go towards providing in-home services to the many needy seniors who do not qualify for Medicaid and Medicare.

In addition, the bill authorizes new services first proposed in the Volunteer Service Promotion Act that I introduced earlier this year. My bill permits volunteers in selected programs to earn credits for helping older people in their homes, which chores, or other assistance that allows them to stay in the community. This Older Americans Act reauthorization gives the Administration on Aging the authority to make annual grants for each of the next 4 years to promote the volunteer service credit concept.

We must approve H.R. 1451 today to strengthen the Older Americans Act. H.R. 1451 is essential for the State of Oregon and all senior Americans. It reauthorizes the programs that have served our senior community well and it initiates new programs crucial to dealing with their—and our—needs in the future. Without it, we simply can't meet the legitimate needs of our older population.

So again, I want to commend the gentleman from Michigan. It is a pleasure to work with the gentleman developing the service credit portion of this legislation, and I urge my colleagues to support the bill.

Mr. TAUKE. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE], the distinguished ranking member of the Appropriations Committee, with the assumption that he will treat the authorization kindly when it gets to his committee.

Mr. CONTE. Mr. Chairman, at the outset, I want to thank my good friend, the gentleman from Iowa [Mr. TAUKE] for giving me this opportunity to speak. I promise the gentleman that we will treat it kindly. Last year, if I remember correctly, we appropriated about $1 billion for the act. In fact, in 1981 I stood on the floor of this House when the appropriations bill was vetoed.

□ 1625

We worked very diligently with the help of a lot of Members in this House and overrode that veto.

Mr. Chairman, I rise in support of H.R. 1451. This act is one of the most successful, I think, and appropriate pieces of legislation that we have enacted here in the Congress; it is both necessary and it is very timely.

It is necessary because it improves and strengthens the basic legislation. It provides a vital part of the Federal effort on behalf of the senior citizens of America.

Although many of our older Americans depend on the benefits provided under the Social Security Act for their support, and the help that they receive in meeting their medical costs provided by Medicare and Medicaid, the programs of the Older Americans Act help to improve their quality of life.

It is timely because more and more Americans are reaching the age of 65, including myself, and they require support through programs that enhance their quality of life. We are facing an aging here in our American society which is unprecedented in our history and unprecedented in the needs which must be met.

By the time we reach the next century, the year 2000, just under 13 years from now, 1 in 7 Americans will be over the age of 65, as compared with 1 in 25 at the start of the 20th century. Not only will their numbers be greater as we finish out this century, but their needs are going to be greater in terms of their quality of life.

Mr. Chairman, 22 years ago I voted for the original Older Americans Act, together with 393 of my colleagues; only 1 Member voted against that bill.

As I said, last year my committee provided in excess of $1 billion for the programs authorized under the Older Americans Act. I believe that all of that money was well spent, and I hope that we can sustain that level of commitment in fiscal year 1988.

I would like to commend the members of the authorizing committee—particularly the chairman, the gentleman from Michigan [Mr. KILDEE], and the ranking Republican, a very able member of the subcommittee, the gentleman from Iowa [Mr. TAUKE]—for their good work on this legislation, and I urge its passage so that we in the Committee on Appropriations can get on with the task of providing the necessary funds.

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the chairman of the Select Committee on Aging, the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in strong support of this important legislation to reauthorize the Older Americans Act for an additional 4 years. I particularly wish to commend the gentleman from Michigan [Mr. KILDEE] and the gentleman from California [Mr. HAWKINS] for their dedicated and able leadership in bringing to the floor a bill which is greatly improved and strengthened in a number of key areas. I also wish to commend the gentleman from New York [Mr. BIAGGI] who has done an excellent job of including the recommendations of the House Select Committee on Aging during markup of the Older Americans Act.

Hearings before my Select Committee on Aging clearly reveal that the Older Americans Act is generally considered to be one of the most successful of all Federal programs. Overwhelming agreement was expressed at these hearings that the act is not in need of major revisions, such as the establishment of a means test for services, or a raising of the eligibility age. Rather, what was made clear in testimony throughout the country was a desire to strengthen the act in ways which ensure that those who are underserved by the current delivery system have better access to vital program supports.

This bill carefully reflects these sentiments and recommendations, while taking into consideration the difficult budget constraints under which we currently operate. While I would have liked to have seen increases in authorization levels and a commitment of resources which more accurately reflect the demands of our rapidly growing aging population, this bill makes significant improvements in a number of important areas, including: low income and minority participation, the long-term care ombudsman program, the delivery of in-home services, advocacy, allowable administrative costs, food stamp and SSI outreach, and the delivery of services to Indian tribes.

Additionally, I will be joining several of my colleagues from the Aging Committee in sponsoring an amendment to provide greater focus on the needs of minorities, the frail, and the mentally impaired. Specifically, this proposal: increases targeting to low income minority elderly individuals more in proportion to their need for services; establishes pilot projects to test alternative approaches to protecting home care consumers; strengthens the act's role relative to persons with mental health needs; and clarifies area agencies on aging as single organizational units. These provisions are designed to build upon and further clarify the fact that all elderly Americans—regardless of race or physical and mental abilities—have a basic right to have equal access to Older Americans Act programs and services.

It is particularly fitting that this legislation which is so vital to the health and well-being of millions of elderly Americans is being considered during May, which is Older Americans Month. As one of the original cosponsors of H.R. 1451, I firmly believe that the provisions of this bill will enhance the aging network's ability to fulfill the critical role it now plays, and will increasingly play, in the lives of millions of older Americans and their families. I urge my colleagues to strongly support this important legislation and the amendment I will be introducing tomorrow with my distinguished colleagues on the Committee on Aging.

Mr. TAUKE. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY], a member of the subcommittee, who has done great work on this legislation.

Mr. GRANDY. Mr. Chairman, I rise in support of this bill reauthorizing the Older Americans Act.

With passage of the Older Americans Act in 1965, Congress made a commitment to uphold the dignity of the Nation's senior citizens by providing a host of programs specifically designed for this unique population in our society. Over the past two decades, much progress has been made toward ensuring equal opportunities for the elderly in securing adequate health care, housing, meaningful retirement activities, employment opportunities, and long lists of other benefits.

One of the most visible and successful programs we are reauthorizing is the Congregate Meal Program. Nearly 240 million meals will be served this year—a number that has been steadily growing since the program began. These meals provided an invaluable service to our Nation's elderly who might not otherwise receive proper nutrition.

At a field hearing in Algona, IA, I, along with my colleague the gentleman from Iowa [Mr. TAUKE] heard the expert testimony of several individuals, both providers and senior citizens, who all spoke highly of the Older Americans Act as it relates to the various services our elderly are dependent on. Witnesses clearly indicated that the act has been highly successful in improving the lives of our elderly.

Included in the bill is an initiative for addressing the needs of in-home services for the growing population of frail elderly. Iowa's population has one of the Nation's highest percentage of elderly citizens, and ranks first among all States in the 85 and over population. In-home services are desperately needed, and I heartily endorse this initiative.

It is also important to note that H.R. 1451 provides a great deal of flexibility to State and local agencies in providing authorized services. This flexibility, I believe, is one of the major reasons for the success of the act, and I want to thank my colleagues for their efforts in maintaining local control of the programs.

Mr. Chairman, I urge my colleagues to support this legislation and recommit this body to the goals it set forth 22 years ago.

□ 1635

Mr. KILDEE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, today I rise as a cosponsor of the Older Americans Act Amendments of 1987, to commend Chairman HAWKINS, and other distinguished members of the Education and Labor Committee on both sides of the aisle for the excellent job they have done on H.R. 1451.

I particularly want to thank the chairman, the gentleman from Michigan [Mr. KILDEE], the gentleman from Iowa [Mr. TAUKE], the gentleman from California [Mr. ROYBAL], and the gentleman from New York [Mr. BIAGGI].

The Older Americans Act programs expire at the end of fiscal year 1987. This important law provides in-home services, home delivered meals, part-time jobs for unemployed low-income people, training, and research and demonstration programs.

This legislation has bipartisan support and is a result of much hard work not only by committee members but by many experts out in the field who have contributed their thoughts and ideas in order to provide more responsive social services for our Nation's elderly. The bill improves and strengthens the act by adding a new section which emphasizes in-home services to the frail elderly, it targets low-income and minority individuals as well as clarifies language for older native Americans.

H.R. 1451 also reauthorizes the Native American Programs Act which provides grants for training and assistance, research and demonstration programs to promote economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives.

I believe that the programs under the act are accomplishing their objectives of providing social and nutritional services to the elderly which will assist them in maintaining their independence and dignity in their home and their communities.

Somehow I think it fitting that we are considering this legislation during a month designated to honor older Americans across the Nation who have contributed so much to our country.

I, therefore, urge my colleagues to vote for this legislation.

Mr. TAUKE. Mr. Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of H.R. 1451, the Older Americans Act Amendments of 1987, and I commend the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], and the ranking minority member, the gentleman from Iowa [Mr. TAUKE] for introducing this significant legislation and for their leadership in expanding and improving senior citizen programs.

The House Education and Labor Committee unanimously approved this 4-year renewal of the Older Americans Act, which boosts the authorization levels for most programs by approximately 5-percent per year. This legislative package broadens programs designed to meet various needs for the elderly by including in-home services for the frail elderly; outreach activities to SSI and food stamp recipients; assistance for older individuals with special needs; greater emphasis on coordinating activities run at State, local, and Federal levels; increased nutritional services; more emphasis on improving service delivery; and greater efforts toward evaluating unmet needs of older individuals.

Congress must make certain that we provide adequate social services for the elderly, including meals-on-wheels, adult day care, senior citizens centers, legal services, preretirement counseling and transportation. The Older Americans Act of 1965 has provided these services for our senior citizens to help enable them to adapt to the rising cost-of-living. Also included in this legislation is a provision making eligible those persons with Alzheimer's disease and their families to receive the new in-home services for the frail elderly. This would provide significant help for our senior citizens enabling them to meet their financial burdens while coping with their trauma at home with their loved ones.

I would also like to thank my fellow colleague from New York [Mr. BIAGGI] for introducing an amendment which would require the Administration on Aging to conduct a study of the effects that Medicare's Prospective Payment System [PPS] has had on the adequacy and availability of community-based services that assist Medicare patients discharged from hospitals. There is evidence that because of PPS, some hospitals are sending patients home sicker and quicker and more in need of services provided under the Older Americans Act. This benefits neither the individual or society.

Accordingly, Mr. Chairman, I urge my colleagues to join me in supporting H.R. 1451, the Older Americans Act amendments, and to continue providing adequate programs to meet the growing needs of our senior citizens.

Mr. KILDEE. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. BIAGGI] one of the original cosponsors of the bill and a dedicated ally in writing this bill.

Mr. BIAGGI. Mr. Chairman, as an original cosponsor of H.R. 1451, I rise in enthusiastic support of this key bill.

This represents the 12th time that the Older Americans Act has been reauthorized. I am proud to have participated in 10 of them. I believe H.R. 1451 is one of the finest reauthorization bills in the history of the act.

The bill before us effectively respects the tradition and history of the act while also setting us on a path of future progress.

I wish to pay a special tribute to chairman KILDEE for his absolute commitment and dedication to this legislation. He has displayed great leadership as well as a willingness to work closely with all subcommittee and full committee members for a better bill. I also wish to pay tribute to Chairman HAWKINS, ranking minority member JEFFORDS and Mr. TAUKE, the ranking minority member of the subcommittee, as well as their respected staffs.

Appropriately, we consider this legislation as we end our national celebration of older Americans month. Passage of this bill will ensure that at least 10 million of our elderly will have the quality of their lives improved by the services provided daily under the Older Americans Act.

H.R. 1451 is more than a reauthorization bill. It is a reaffirmation by Congress that maintaining the independence of seniors in their communities is a key public policy goal. The Older Americans Act for the past 22 years has played a key role in advancing this policy.

We emerged from committee and subcommittee with a basic "fine tuning" of the act. We wisely rejected certain misguided efforts to make more radical changes in the act. These would have included raising the eligibility age from the current 60—and converting title III into a mini-block grant.

The bill before us features a 4-year reauthorization of all the programs in the act and provides for a modest but meaningful increase in authorizations for each year to allow us to better address the very real and growing unmet need among millions of seniors.

We create several new programs in this legislation. Under title III there is a new part D authored by the chairman to provide in-home services to the frail elderly. During subcommittee I was proud to offer an amendment to ensure that among those given specific attention in this section would be victims of Alzheimer's disease and their families.

This expanded commitment to Alzheimer's disease victims and their families is an outgrowth to language I was proud to insert in the last reauthorization which directed part B funds into programs to provide supportive services to Alzheimer's disease victims and their families. I am proud to note that my home city of New York, in part with older Americans act funds, established the Nation's first Alzheimer's resource center. Funds from the city and the Brookdale Foundation as well as Federal funds have allowed this program to provide key services to this segment of the population.

I am especially pleased that my amendment to H.R. 1451 will direct additional Federal resources into this vitally important program.

I was also proud to author an amendment which was adopted in full committee to expand the long term care ombudsman program in the act. The program which aims to investigate and resolve complaints of abuse made by residents of long term care facilities, has been hindered by a lack of adequate resources. My amendment guarantees a realistic funding level based on current appropriations. It also authorizes separate and additional funding levels for the future to address anticipated needs. In addition the amendment would provide ombudsmen with new direct access to nursing home residents as well as those in board and care facilities. It would also provide for improved training of ombudsmen and would provide new language to prevent reprisals.

H.R. 1451 also contains an amendment I authored to expand and clarify the all important advocacy responsibilities for those in the so-called aging network funded by the Older Americans Act. These include specific responsibility to monitor and comment on Federal, State and local laws, policies and regulations which affect older persons. My amendment says that advocacy also includes being able to make recommended changes. Perhaps the most important feature is the provision that says that no directive shall be deemed to supercede the advocacy responsibilities under the act.

I was also proud to author an amendment to mandate a first time study to examine the impact of the Medicare DRG system on community based programs such as the Older Americans Act. Every member of this House has heard reports of elderly patients being discharged quicker and sicker from hospitals. The question is where do they go. More often than not they end up in programs funded with Older Americans Act dollars. This study would seek to quantify these new demands on these programs. It would also work to identify savings which may have been accumulated under DRG's and how they might be applied to programs such as the Older Americans Act.

H.R. 1451 makes improvements in all six titles of the act. It would upgrade the status of the commissioner on aging, expand the title VI program on behalf of older Indians, mandate that long term care gerontology centers be funded and freeze administrative costs under title V.

I also strongly support the provisions in this bill which will ensure that we spend some funds on legal assistance services. During subcommittee consideration I was pleased to sponsor an amendment to address this important issue. Legal assistance services are important and oftentimes involve basic survival issues for seniors by addressing eligibility for Federal programs they may need to survive.

Finally, let me address one other key issue in this bill, namely the improvements we make in the area of targeting. Under the bill we clearly state that all services under the act are to be directed on a priority basis to those elderly "with the greatest economic or social need with particular attention to low income minority." That is the way we must go to improve on targeting. We do not need a means test, or sliding scale fees, or cost sharing. However we need to closely monitor our progress in this area in each of the next 4 years.

Mr. TAUKE. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise with many of my colleagues today in support of H.R. 1451, the reauthorization of the Older Americans Act. First let me commend the work of the Subcommittee on Human Resources for crafting an excellent piece of legislation which speaks directly to the social and economic needs of America's elderly. I would also like to especially thank the sponsor of this bill, my distinguished colleague from Michigan, for his leadership on this vital issue.

It has always been a mystery to me that older citizens are not accorded the highest levels of service and respect in the United States. After years of working raising families, building communities, and contributing in many other ways, America's senior citizens are too often pushed aside, ignored, or even discriminated against. And if they happen to be poor and a minority, the conditions are much worse.

While it is true that older persons may receive services under many other Federal programs, the Older Americans Act has come to be recognized as the major vehicle for providing social services to the elderly.

In the course of my travels and discussions with senior citizens in my own home district in Baltimore, I am convinced that without the comprehensive range of services made possible through the Older Americans Act, the lives of many senior citizens would be immeasurably diminished. Services like meals on wheels, adult day care centers, and senior centers offering recreational and social sustenance add greatly to the quality of life for our Nation's senior citizens.

Any discussion of America's elderly would not be complete without focusing on the special health care needs faced by this population. In 1984, 32 percent of older persons assessed their health as fair or poor (compared to 8 percent for persons under 65). Most older persons have at least one chronic condition and many have multiple conditions. In the face of these facts, many elderly Americans are hard pressed to cope with the well documented skyrocketing of health care costs in recent years.

This legislation recognizes that programs such as Medicare and Medicaid support a range of in-home services for the functionally impaired elderly. However, these programs do not respond to the social service needs of the chronically impaired elderly.

H.R. 1451 wisely seeks to expand nonmedical services for frail elderly individauls including victims of Alzheimer's disease. These in-home services such as help with bathing, dressing, cooking, cleaning, and shopping would serve as a preventive measure to enable older individuals with functional difficulties to remain in their homes instead of being institutionalized. I applaud this new emphasis and feel that it adds a much needed dimension to the Older Americans Act.

H.R. 1451, which reauthorizes the Older Americans Act for 4 years, recognizes the growing demand for services facing America's senior citizens. It is both compassionate and wise that we vote to keep this legislation in place. I urge my colleagues to join with me today in a "yes" vote on the reauthorization of the Older Americans Act.

Mr. KILDEE. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. JOHNSON].

□ 1650

Mr. JOHNSON of South Dakota. Mr. Chairman, I would like to thank the chairman and members of the Education and Labor Committee for their leadership on this reauthorization of the Older Americans Act. I rise today to give my full and enthusiastic support of H.R. 1451, a bill which I am proud to cosponsor. This authorization legislation represents American government at its best—a reflection of what our priorities should be, at a time when we so often as a legislative body seem to confuse our priorities. Through this legislation, we send the message to our Nation's elderly that out of great respect, we wish to provide the maximum quality of life for the older American, and will make available the resources to do so.

No one can question the growing needs of the elderly when we examine the trends of our changing population. Since 1900, the percentage of Americans age 65 or over has tripled, from 4 percent in 1900 to 12 percent in 1985. In my own State of South Dakota, in the 1970's alone, the elderly population increased 13 percent, and the trend has continued today, 17 percent of South Dakota's population is age 65 or older, while the national average is only 11 percent. Of these elderly in South Dakota, 41 percent who are age 75 and older live below the poverty level.

The many services and programs that this bill authorizes moneys for are of great importance in light of these numbers. I am particularly supportive of the addition of part D to title III which authorizes grants to the States for nonmedical in-home services for frail older persons. These in-home services and programs serve as a preventive measure to enable older individuals to remain in their homes longer, instead of being institutionalized. This separate authorization further demonstrates the act's commitment to home-based social services and will help focus on new resources with regard to these types of services.

H.R. 1451 also reemphasizes the Older Americans Act's commitment to improve the quality of life of the elderly Native American. The bill authorizes the administration for Native Americans to award multiyear grants to those attempting to operate projects which require more than 1 year of funding. This will help to sidestep difficulties that arise when grantees' projects are unnecessarily impeded simply because they must reapply and compete yearly, which can significantly reduce the project's effectiveness.

Mr. Chairman, I urge my colleagues to vote in favor of this legislation and display Congress' strong support for our Nation's elderly, as well as remind them of their high standing on our list of legislative priorities in the 100th Congress.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia. [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding.

Mr. Chairman, the Older Americans Act is a crucial piece of legislation that is a major legislation for delivery of social services and nutritional services to our Nation's senior citizens, vitally important to those of us in West Virginia where we have one of the highest populations, per capita, of senior citizens in the country.

You do not have to drive very far, go very long without seeing the benefits of the Older Americans Act in our State. Visit a senior citizen center and see the joy that it brings to people who socialize and also see the very real nutritional benefits as people sometimes sit down to their only hot meal that they are going to have that day, and then have a chance to exchange information, both social as well as necessary information with their friends and neighbors. See somebody benefit from the Meals on Wheels Program, a program that brings meals to people who are homebound, cannot get out.

Visit those confined to their homes, homebound and see the importance of the home services to senior citizens.

This is what the Older Americans Act is all about. A significant part of this act is an amendment that was included in the Committee on Education and Labor that would authorize up to $25 million for a 1-year, one-time outreach effort to work through the State area agencies on aging to determine senior citizens eligible for either supplemental security income, SSI, Medicaid, or food stamps. We have studies that show that at least half, up to one half of the citizens who could be eligible for these programs are not receiving the benefits and are forced to live lives they would otherwise not have to live.

So for food stamps, Medicaid, and SSI this $25 million 1-year, one-time effort would reach out across the States and bring in those senior citizens who are being denied that which they are entitled to and which could make their last years much better ones.

I urge adoption of the Older Americans Act. It is an important bill for all senior citizens in this country.

The CHAIRMAN. The Chair would like to inform the gentleman from Michigan [Mr. KILDEE] that he has 1 minute remaining.

Mr. KILDEE. Mr. Chairman, I yield 30 seconds the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I rise in strong support of H.R. 1451, the Older Americans Act Amendments of 1987.

The Older Americans Act is one of the best and most effective Federal programs ever initiated by Congress. It provides a full range of programs and services to assist persons 60 or older to live independently in their own homes and helps remove barriers to economic and personal independence for our senior citizens.

I know that numerous older Americans have benefited from the nutrition programs, the homemaker services, the social services, the housing provisions of the act and from the employment opportunities made available. All of these elements are essential for maintaining and improving the quality of life for our elderly population. The programs under the Older Americans Act are sound investments and are working well.

Our vote to reauthorize the Older Americans Act reaffirms our commitment toward the well-being of this very deserving segment of our population, the elderly. H.R. 1451 is a needed measure which will continue to help the increasing numbers of senior citizens in this country. I urge my colleagues to support passage of H.R. 1451.

Mr. KILDEE. Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Let me first of all say that as a member of the Special Committee on Aging, and one who represents a rural district with a large number of senior citizens, I do not know of any program that has helped my senior population any more than the Older Americans Act. But above and beyond that, the only other program that would even come close would be the Social Security system. It is that important to those senior citizens.

I urge unanimous support of the reauthorization.

Mr. HAWKINS. Mr. Chairman, I rise in strong support of the bill, H.R. 1451, the Older Americans Act Amendments of 1987.

This legislation reauthorizes the vital programs under the Older Americans Act for the next 4 years. Many elderly Americans and their families rely on these programs for nutrition services, health care, transportation, employment, and other essential services. These Older Americans Act programs enhance the quality of life for millions of the Nation's elderly.

The bill is a strong reauthorization proposal with bipartisan support. Chairman KILDEE and his subcommittee staff are to be commended for bringing this bill before us today.

Since it was created in 1965, the Older Americans Act has undergone extensive changes, which have resulted not only in expanding the programs under the act, but also in strengthening the act. Over the past 22 years, the act has been amended 11 times and each time it has been reauthorized overwhelmingly with strong bipartisan support.

In 1965, the Older Americans Act was created out of concern about the social and economic needs of older Americans. At that time, approximately 9.5 percent of the population was over 65. By the year 2030, more than 21 percent of the population will be over the age of 65.

As life expectancy increases to age 80 and above, the numbers of elderly who suffer from impairments will also increase. Because the committee is concerned about preventive action, the bill creates a new part D in title III which authorizes services for the frail elderly. Chairman KILDEE is to be commended for including this new provision in the reauthorization proposal as an alternative which will enable older individuals with functional impairments to remain in their homes instead of being institutionalized.

The Older Americans Act provides essential services to millions of Americans which enable them to maintain their independence and remain in their own homes. Many, many elderly depend on such essential services as the congregate or home delivered meals, health screening and education, special transportation, home repair, senior centers, and other supportive and social services provided by this act.

The act also provides part-time employment opportunities in community services activities for unemployed low-income persons under the community service employment programs. For more than two decades, I have been concerned about the employment needs of young and older Americans alike. I know how important a job can be to an elderly person who wants to retain a sense of self-worth. For many of the elderly, this program provide more than a paycheck, it provides a sense of usefulness. The Community Services Employment Program supports approximately 64,000 job slots. Participants are employed in a variety of community services activities including senior centers, health and home care, nutrition programs, and other services for the elderly.

The Community Service Employment Program is an effective program with a long history of benefiting not only many communities across the Nation, but also many older workers who are able to remain self sufficient.

I urge my colleagues to support H.R. 1451, to reauthorize the vital programs under the Older Americans Act for 4 more years.

Mr. PEPPER. Mr. Chairman, I rise in strong support of H.R. 1451, the Older Americans Act Amendment of 1987. I would like to commend my colleagues, the Honorable AUGUSTUS HAWKINS, distinguished chairman of the Committee on Education and Labor, the Honorable DALE KILDEE, chairman of the Human Resources Subcommittee of the Committee on Education and Labor, the Honorable MARIO BIAGGI of New York, the honorable EDWARD ROYBAL, chairman of the Select Committee on Aging, the Honorable DON BONKER, chairman of the Subcommittee on Housing and Consumer Affairs and the many other members of the Education and Labor Committee and the Select Committee on Aging, for the excellent work they have done in drafting this important legislation which means so much to so many people.

Mr. Chairman, the Older Americans Act, enacted by the Congress in 1965, has proved to be one of the country's most effective pieces of legislation. The act provides for a wide range of services and programs that fill the needs of older Americans in their own communities. From senior centers to nutrition centers, from employment opportunities for the low-income to home delivered meals for the homebound, Older American Act programs provide invaluable help to millions of senior citizens.

I am proud to have authored the nutrition program under the Older Americans Act. This year over 200 million meals will be served to the elderly in senior centers, nutrition centers, and their own homes. Before this program, thousands of seniors simply starved, forced to make the choice between paying for needed medical care, paying the rent and utilities, or eating. We must maintain and strengthen this program as well as the many other important elements of the act. I am happy to say that H.R. 1451 achieves this goal.

Mr. Chairman, several components of the bill before us deserve special commendation and support. First, H.R. 1451 greatly strengthens the Long-Term Care Ombudsman Program. These improvements, contained in legislation recently introduced by Congressman DON BONKER, myself, Congressman EDWARD ROYBAL and Congressman MARIO BIAGGI and based on the recommendations of the Landmark Institute of Medicine study, "Improving the quality of nursing homes," would greatly enhance the protections afforded our Nation's 1.5 million nursing home residents.

Second, I would like to commend the committee and particularly subcommittee chairman, the Honorable DALE KILDEE, for providing additional assistance to homebound elderly. This provision, which will provide additional home care services to frail and dependent elderly is greatly needed. I am pleased to see that the committee has also recognized the special needs of the victims of Alzheimer's disease and related disorders. I am hopeful that this Congress will take positive action on a comprehensive catastrophic health care plan that would meet the elderly's need for long-term care.

I am also pleased that the committee bill will require improved outreach services to make certain that the very need elderly receive the services to which they are entitled. The committee rejected an idea to test imposing costs on certain seniors to receive meals and other important services. I, too, strongly oppose this type of cost sharing requirement or any other form of means testing of these services. We simply cannot allow that to happen.

Finally, I would like to mention that I will be offering an amendment, with the support of many of my distinguished colleagues, to improve our efforts in combating what is truly a national tragedy—the abuse, neglect, and exploitation of our elderly people. Such assistance is greatly needed and long overdue.

I would again like to commend my colleagues for the excellent work they have done in formulating this legislation and urge its passage.

Mr. SMITH of Florida. Mr. Chairman, I rise in support of H.R. 1451, to extend the Older Americans Act for an additional 4 years. As a cosponsor of this bill, I recognize that programs authorized under this legislation play a vital role in the lives of our older Americans. The Older Americans Act is the major vehicle for the organization and delivery of social services to older people. Many of these services prevent the premature institutionalization of the growing number of frail senior citizens, allowing them to continue to live independently and participate actively in their communities.

Reauthorizing this legislation, which makes such a difference in the lives of our older Americans, would demonstrate that Congress continues to understand the needs of older Americans and the vital contributions that senior citizens have made and continue to make to our country. They are involved in projects to meet every type of our Nation's need, ranging from community beautification to athletic programs for youngsters.

Older Americans are the foundation of our Nation's contemporary life and reflect our past, present, and future. Now is the time to ensure that they remain such a positive force in our society. I urge my colleagues to support this measure.

Mrs. MORELLA. Mr. Chairman, I am pleased to join many of my colleagues in support of H.R. 1451, the Older Americans Act Amendments of 1987. I commend the chairman and members of the Committee on Education and Labor for their efforts to improve and strengthen the services provided to our elderly through programs in the Older Americans Act.

The legislation we are considering today increases funding for important nutrition services to the elderly, and expands in-home services to the frail, such as shopping, cooking, and other daily tasks, to allow these individuals to remain in their homes and avoid institutionalization. The bill provides a vital one-time outreach effort to ensure that eligible elderly are receiving necessary food stamp, medicaid, and SSI benefits. It also improves the coordination of programs for older Americans at the Federal, State, and local levels of government. Finally, the legislation places a greater emphasis on improving service delivery to the elderly and strengthens the Long-Term Care Ombudsman Program.

These additions to the Older Americans Act provide important initiatives for serving homebound elderly Americans, a growing part of our population. As a member of the Select Committee on Aging, I am very pleased with these improvements in our Federal services to the elderly, and I urge my colleagues to support H.R. 1451.

Ms. OAKAR. Mr. Chairman, I rise in strong support of H.R. 1451, a bill which authorizes appropriations of the Older Americans Act of 1965 for fiscal years 1988 through 1991. The Older Americans Act is the primary vehicle for the organization and delivery of social nutrition services to senior citizens, and for the development of community service employment opportunities for low-income elderly. H.R. 1451, of which I am a cosponsor, creates a new part D in title III authorizing funds for in-home services to the frail elderly, a new part E authorizing funds for special needs, a separate authorization for the Long-Term Care Ombudsman Program and authorizes a White House Conference on Aging in 1991. Each new proposal to the OAA will continue to play a vital role to the success of the act and the implementation of its programs in each State.

Today's senior citizens built this Nation and shaped our society. They are our parents, our grandparents, our living history, for all their contributions, they deserve our respect. For the social contracts they've entered into, they are entitled to our support. And, for the sake of equity and justice, we owe it to them to preserve the important programs that serve them, so that no American need fear of growing old.

Older Americans have special needs that must be met. Whether they live in neighborhoods, or in senior citizens' centers, the elderly find it difficult to maintain a high quality of life that they had hoped for during their retirement.

My district contains the second largest population of seniors 65 and older, in the State of Ohio. So, you can imagine how integral and important this act is to my constituents and to me.

Mr. Chairman, I would like to make a number of points that are quite important to the new proposals made to the Older Americans Act. The bill proposes the expansion of nonmedical services for frail elderly individuals under the Older Americans Act, including victims of Alzheimer's disease and other neurological and organic brain disorders and their families. These in-home services are intended as a preventive measure to enable older individuals with functional difficulties to remain in their homes instead of being institutionalized.

H.R. 1451 adds a new part D to title III, authorizing grants to States for nonmedical in-home services for frail older persons. These services include assistance in areas such as bathing, dressing, eating, mobility, or performance of daily duties such as shopping, cooking, cleaning, or managing money. In-home respite care for families and visiting and telephone reassurance are additional examples of allowance services. This new proposal is necessary in order to expand the act's commitment to home-based social services and focus new resources in this area.

Programs such as Medicare and Medicaid support a range of in-home services for the functionally impaired elderly. However, these programs, as currently structured, are limited in their ability to respond to the social service needs of the chronically impaired elderly. Many frail elderly persons who are not poor enough to qualify for Medicaid and who do not meet the Medicare's medical related criteria need in-home services to live independently. Older American Act services are targeted strictly on the elderly and may be provided without the health-related restrictions of Medicare and without the income tests of Medicaid.

Also included in the bill is a new part E in title III, which authorizes the Commissioner on Aging to make grants to States to assist them in meeting special needs of older individuals. New resources provided through part E are unearmarked, giving the States maximum flexibility and discretion in their use. Allowance activities include those which would advance the goals and objectives of the act for a State's senior citizens. Under the terms of this bill, $25 million is authorized to be appropriated annually of fiscal years 1988 and 1989 and such sums in fiscal years 1990 and 1991.

Mr. Chairman, the State of Ohio received over $30 million for fiscal year 1987 specified by the allotment of the Older Americans Act. These title III allotments have contributed to supportive services, congregate nutrition services, and home-delivered nutrition services. I know that the seniors in my district benefited tremendously to the services that were available to them through this act. By providing services to these elderly citizens, at the Federal and State levels, the elderly will get the support they need and younger Americans will be able to experience firsthand the knowledge and wisdom that older Americans can give.

Mr. MANTON. Mr. Chairman, I rise today in strong support of H.R. 1451, the Older Americans Act Amendments of 1987. As a member of the Select Committee on Aging and a cosponsor of H.R. 1451, I urge my colleagues to join me in supporting this important legislation. H.R. 1451 reauthorizes the Older Americans Act and authorizes several new programs which are responsive to the needs of our senior citizens.

The Older Americans Act is the major vehicle for the organization and delivery of social and nutrition services to our Nation's seniors. The Older Americans Act was first enacted in 1965 and its programs, including supportive services and senior centers, congregate and home delivered meals, and the Community Service Employment Program, have helped to improve the lives of millions of seniors. H.R. 1451 reauthorizes these successful programs through fiscal year 1991.

The Committee on Education and Labor has also created a new part D in title III which authorizes funds for in-home services to the frail elderly. Part D expands nonmedical services for these individuals. These in-home services can include assistance for bathing, eating, mobility, shopping, cooking, cleaning, and money management. Providing assistance for these important day-to-day activities will make it possible for many seniors who have functional difficulties to remain in their own homes.

The bill also contains a specific authorization for ombudsman programs in nursing homes and other long-term care facilities. The Ombudsman programs are specifically targeted to meet the needs of long-term care facility residents. Furthermore, H.R. 1451 provides for a one-time outreach effort to ensure that low-income seniors are aware of other Federal program benefits for which they may be eligible.

Mr. Chairman, our Nation's seniors are responsible for the continuing strength of our Nation. They deserve the right to enjoy the fruits of their labors. Legislation before us today helps to ensure that older Americans can live their lives with dignity, freedom, and independence. I commend the Committee on Education and Labor for their excellent work on this legislation and urge my colleagues to support it.

Mr. SAWYER. Mr. Chairman, I rise in strong support of H.R. 1451, which reauthorizes the Older Americans Act.

The Subcommittee on Human Resources heard testimony from numerous persons and organizations, and one theme ran constant—this act is vitally important to millions of Americans in this country, providing services which may help many older Americans enjoy their retirement years. The programs authorized under the act have been very effective, and participating levels continue to remain extremely high. Moreover, services such as home-delivered meals, homemaker services, transportation, and work opportunities are vital to many older persons who would otherwise be unable to conduct productive, normal lives.

I want to commend Chairman HAWKINS for his fine work in moving this legislation, and to Chairman KILDEE for his superb efforts toward attaining his heartfelt goal of helping older Americans live their lives gracefully and with dignity. I know we all share this dream with him, and it has been a pleasure and an honor to work with him on this legislation.

In addition to strengthening existing programs and creating a new program for the frail elderly, our report language has given the Area Agencies on Aging guidance in developing their area plans, urging them to coordinate with various State and local groups which represent the needs of handicapped and disease-stricken elderly.

For example, in my district Dr. Ruth Roberts of the University of Akron runs a project called "Community Access for the Elderly Mentally Retarded Persons," which strives to include elderly retarded persons in the mainstream of services for all aged individuals. Dr. Roberts has been able to fund some of the activities in her program through titles IV and V of the act, specifically to hire and train persons to work wtih the older retarded individuals.

If you've ever seen any of the Older Americans Act programs in action in your district, you know that the joy and assistance they bring to our elderly citizens are immeasureable. I strongly support this reauthorization and urge my colleagues to support it as well.

Mr. FAZIO. Mr. Chairman, as a cosponsor of H.R. 1451, the Older Americans Act Amendments of 1987, I strongly urge the support of my colleagues for this important measure.

The Older Americans Act and the programs which comprise it have been instrumental in allowing a number of older Americans the opportunity to maintain their independence through the services it provides. Although many seniors may receive services under a multiplicity of their Federal programs, the Older Americans Act is the major vehicle for the organization and delivery of social services to seniors and is a proven success in meeting many of their needs.

H.R. 1451 reauthorizes all of the current Older American Act programs, including supportive services; congregate and home-delivered meals; the Community Service Employment Program; training, research, and demonstration grants; and Indian Elderly Programs. In general, the measure increases the authorization for these programs by 5 percent each year through fiscal year 1991. In addition, the measure authorizes several new programs.

Under one such new program, States would be eligible for grants for nonmedical in-home services for frail seniors to assist them with such daily activities as bathing or shopping. The availability of this program will enable many older individuals with functional disabilities the opportunity to remain in their homes instead of being institutionalized.

Another important program included in H.R. 1451 would make certain adult day care centers eligible for USDA meal assistance. The approximately 1,300 adult day care centers nationwide generally provide services which allows certain senior citizens the opportunity to remain in their communities. Over two-thirds of the participants are women whose incomes average $458 per month, which is well below the poverty line. The expansion of the program to disabled adults utilizing adult day care centers should help to provide them with more nutritious meals.

Another important program included in H.R. 1451 is the Community Service Jobs Program that provides part-time jobs for unemployed low-income persons 55 years and over. This program has been especially important to a number of seniors in my congressional district. The California unit of Green Thumb, Inc., which administers this program in a number of rural northern and central California communities, including some in my district, has been instrumental in reaching and meeting the needs of rural seniors. Many Green Thumb workers find that they no longer have to rely on public assistance as a result of the modest supplement to their income provided by Green Thumb wages.

With the population over age 65 steadily increasing, the demand for social services for senior Americans is expected to grow. Approval of H.R. 1451 will allow us to continue to provide assistance to seniors who otherwise might be isolated and removed from vital social services. Approval will demonstrate the Federal commitment to these important citizens as well as provide them the opportunity to preserve their independence.

Mr. TAUKE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLAND), having assumed the chair, Mr. FLIPPO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1451.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1451, OLDER AMERICANS ACT AMENDMENTS OF 1987

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-109) on the resolution (H. Res. 175) providing for the further consideration of the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SUIT TO DECLARE BOLAND AMENDMENT UNCONSTITUTIONAL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN of California. Mr. Speaker, the Boland amendments and the discussions which are surrounding it which are here in Washington and around our country, thanks to the electronic media, is, I believe, an unconstitutional common law that infringes upon the constitutional duties given to our Commander in Chief.

This Boland amendment has placed the President of the United States in an untenable position of having to choose between obeying the law or upholding our Constitution.

To do something about it, the gentleman from Indiana, Congressman DAN BURTON, and the gentleman from New York, Mr. SOLOMON, the gentleman from California, Mr. BADHAM, and myself have decided to sue to prove the unconstitutionality of the Boland amendments.

The suit has been designated Civil Action 87-1414. It was filed yesterday. It has been assigned to U.S. District Judge Gerhard Gesell.

What we are seeking is to relieve from voluntary compliance the White House, the Department of Defense, or the Department of State, and I am quoting from our suit now, "with unreasonable restrictions imposed by Congress" on the President's "freely exercised discretion under article II to support" the democratic resistance in Central America.

It requests a judgment enjoining the President and his agents from further compliance with such "Boland-type" restrictions.

[In the U.S. District Court for the District of Columbia, Civil Action No. 87-1414, May 26, 1987]

U.S. CONGRESSMAN ROBERT K. DORNAN, 301 CANNON HOUSE OFFICE BUILDING, WASHINGTON, DC 20510; U.S. CONGRESSMAN DAN BURTON, 120 CANNON HOUSE OFFICE BUILDING, WASHINGTON, DC 20510; PLAINTIFFS *v.* U.S. SECRETARY OF DEFENSE, THE PENTAGON, WASHINGTON, DC 20301; U.S. SECRETARY OF STATE, 2201 C STREET NW., WASHINGTON, DC 20503; DIRECTOR, CENTRAL INTELLIGENCE AGENCY, CENTRAL INTELLIGENCE AGENCY HEADQUARTERS, WASHINGTON, DC 20505; RONALD W. REAGAN, 1600 PENNSYLVANIA AVENUE, NW., WASHINGTON, DC 20500; DEFENDANTS.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION

1. Plaintiffs allege:

This case arises under Article II, Section 1(7) and Article II, Section 1(1) of the United States Constitution and Sections 206-209, Title II of the Military Construction Appropriations Act, 1987, incorporated in the further continuing resolution for FY 1987 (Public Law 99-500); Section FY 1987 (Public Law 99-569); Section 9045 of the Department of Defense Appropriations Act, 1987 incorporated in the further continuing resolution for FY 1987 (Public Law 99-500); Section 1351(a) of the National Defense Authorization Act, 1987; and Section 722 (d) and (e) and International Security and Development Co-Operation Act of 1985 (Public Law 99-83) and is an actual controversy within the meaning of 28 U.S.C. 2201 as appears more fully herein.

2. The matter in controversy exceeds, excluding interest and costs, the sum of $10,000.

3. Plaintiffs Dornan and Burton are duly elected members of the U.S. House of Representatives and its Foreign Affairs Committee. Congressman Dornan represents the 38th Congressional District of California. Congressman Burton represents the 6th Congressional District of Indiana.

4. Defendants U.S. Secretary of Defense, Secretary of State, and Central Intelligence Agency Director are agents of the President

and officers within their respective Departments of the U.S. Government.

5. Ronald W. Reagan, President of the United States, is the official constitutionally bound to "faithfully execute the office of President" and to "preserve, protect and defend the Constitution of the United States." (Article II, Section 1, Clause (7)).

6. Plaintiffs allege as material facts the matters set forth in paragraphs 6 through 16 herein:

7. The following statutory provision adopted by Congress unreasonably nullify President Reagan's duly established determination as commander-in-chief by restricting United States Government support for paramilitary operations in Nicaragua:

(a) Title II of the Military Construction Appropriations Act, 1987, incorporated in the further continuing resolution for FY 1987, (Public Law 99-500) (restrictions concerning $100 million program of aid to the Nicaraguan resistance);

(b) Section 106 of the Intelligence Authorization Act for Fiscal Yar 1987 (Public Law 99-569) (restrictions concerning Central Intelligence Agency, Department of Defense, and other intelligence agency or entity support for paramilitary operations in Nicaragua during FY 1987);

(c) Section 9045 of the Department of Defense Appropriations Act, 1987 incorporated in the further continuing resolution for FY 1987 (Public Law 99-500) (restrictions concerning Central Intelligence Agency, Department of Defense and other intelligence agency or entity support for Nicaraguan democratic resistance during FY 1987);

(d) Section 1351(a) of the National Defense Authorization Act, 1987, (restrictions on use of certain appropriation accounts to assist Nicaraguan democratic resistance);

(e) Section 722(d), International Security and Development Cooperation Act of 1985 (Public Law 99-83) (restrictions on use of certain foreign aid funds to assist any person or group in rebellion against government of Nicaragua).

8. Section 203 (e) of the Military Construction Act, 1987 (Public Law 99-500) prohibits any member of the U.S. armed forces from engaging in combat against the government of Nicaragua and is an unreasonable restriction on the constitutional right, duty, and responsibility of the President and his agents faithfully to execute the office of President of the United States and preserve, protect and defend the Constitution in his capacity as commander-in-chief of the army and navy of the United States.

9. Section 106 of the Intelligence Authorization Act, 1987 (Public Law 99-569) restricts the CIA, Department of Defense, or any other agency or entity of the U.S. involved in intelligence activities from providing funds, material or other assistance to "the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua" and thus unreasonably interferes with the President's established national defense determination in accordance with his constitutional obligation to defend America from the Soviet/Cuban threat in Central America is referred to in paragraph 8 above.

10. Section 9045 of the Department of Defense Appropriations Act, 1987, (Public Law 99-500) similarly restricts the CIA, Defense Department, or "any other agency or entity of the United States" from providing funds, materiel or other assistance "to the Nicaraguan democratic resistance" and thus unreasonably limits the right and duty of the President and his agents who are defendants herein from freely exercising their unrestricted best good faith judgment and discretion as to how, where, when and in what manner the President will meet the Soviet threat in Central America in carrying out his constitutional obligations under Article II, Section I (7) and Article II, Section 2 (1) of the U.S. Constitution.

11. Section 106 of the Intelligence Authorization Act, 1987 (Public Law 99-569) and Section 9045 of the Defense Department Appropriations Act, 1987 (Public Law 99-500) unreasonably restrict the Defense Department, Central Intelligence Agency, and other U.S. intelligence agencies and entities from providing assistance to the Nicaraguan resistance to support paramilitary operations, thus interfering unreasonably with the right and duty of the President and his agents to continue exercising their sound and unfettered judgment and discretion in meeting their Article II constitutional duties as referred to herein above in paragraphs 7 through 10.

12. The President has publicly announced and, until the above actions by Congress, pursued and executed a national defense policy of support for and assistance to paramilitary and military operations of democratic resistance forces in Nicaragua opposing the Soviet and Cuban backed campaign of the Sandinistas to "Sovietize" Nicaragua and establish a Soviet military base there similar to that in Cuba.

13. By voluntarily observing the above pattern of "Boland Amendment" type (Public Law 99-377, December 21, 1982) limitations on his official national defense policy in Nicaragua, the President has unreasonably abdicated his duly adopted program of support for paramilitary operations in Nicaragua opposing a Soviet-backed takeover of that country in favor of a legislative judgment by Congress overriding his "contra" policy and substituting a Congressional policy of restrictions on such support.

14. By acquiesing in the above alleged unreasonable legislative restrictions on his executive judgment the President and his agents have abdicated in substantial part the President's obligations to continue to exercise his best judgment as commander-in-chief of the armed forces, and carry out his officially determined national defense policy of support for the "contra" forces opposing Sovietization of Nicaragua and thereby deprived plaintiffs Congressman Robert K. Dornan (38th Congressional District, California) and Congressman Dan Burton (6th Congressional District, Indiana) of their right and duty under Article I of the Constitution to participate and vote as individual and collegial members of Congress, representing the constituents in their Congressional districts, on legislative proposals supporting the President in meeting his constitutional right and duty to enforce his policy, not that of Congress, to oppose Soviet/Sandinista control of Nicaragua, and such related matters as regulation of foreign commerce, raising and supporting armies, defining and punishing offenses against the law of nations, providing and maintaining a navy and making rules concerning captures on land and water, and laws necessary and proper for carrying into execution the foregoing powers in support of the President's Nicaragua policy.

Wherefore, plaintiffs request a judgment of this court declaring that voluntary compliance by the President and his agents with unreasonable restrictions imposed by Congress on his freely exercised discretion under Article II to support the "contras" is an unconstitutional abdication of duty and responsibility, and further request a judgment enjoining the President and his agents named as defendents herein from further abdication of said duty, and such other relief as to the court seems meet and proper.

Respectfully submitted,

Carl L. Shipley

Marion H. Smoak

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Wednesday, May 20. I ask unanimous consent to insert this statement concerning how I would have voted in the permanent Record for that day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Wednesday, May 20.

If I had been present:

On rollcall No. 134, on voting to approve the Journal, I would have voted "yea."

On rollcall No. 135, the Mrazek and Brennan amendment to bar military maneuvers by U.S. forces in Honduras or Costa Rica from being conducted within 20 miles of the Nicaraguan border, I would have voted "yea."

On rollcall No. 136, the Boxer amendment to require the President to certify to Congress that facilities constructed as part of any U.S. military exercise in Central America will not be used in support of the Contras unless specifically authorized by Congress, I would have voted "yea."

On rollcall No. 137, the Foglietta amendment to delete $4.1 million for military construction in Honduras, I would have voted "yea."

On rollcall No. 138, the Davis amendment to express the sense of Congress that the President should withdraw recognition of the current Nicaraguan Government and recognize the Contras as the legitimate government, I would have voted "nay."

On rollcall No. 139, the separate vote on the Lujan amendment, I would have voted "nay."

On rollcall No. 140, on the motion to recommit, I would have voted "nay."

On rollcall No. 141, on final passage, I would have voted "yea."

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Tuesday, May 19. I ask unanimous consent to be excused for that absence and to insert this statement concerning how I would have voted in the permanent RECORD for that day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BRUCE. Mr. Speaker, because of an illness that required a brief hospitalization, I was unable to attend the session of the House on Tuesday, May 19.

If I had been present:

On rollcall No. 127, on voting to approve the Journal, I would have voted "yea."

On rollcall No. 128, the Brown and Coughlin amendment to bar the testing of Asat's against objects in space, I would have voted "yea."

On rollcall No. 129, the Aspin amendment to prohibit the withdrawal of existing unitary chemical weapons from Europe, I would have voted "yea."

On rollcall No. 130, the Fascell amendment to prohibit use of funds for the final assembly of binary chemical weapons, I would have voted "yea."

On rollcall No. 131, a quorum call, I would have voted "present."

On rollcall No. 132, the Broomfield amendment to permit nuclear tests with a yield greater than 1 kiloton, I would have voted "nay."

On rollcall No. 133, the Schroeder and Gephardt amendment to prohibit the use of fiscal year 1988 funds for conducting nuclear tests with a yield greater than 1 kiloton, I would have voted "yea."

PERSIAN GULF POLICY

The SPEAKER pro tempore (Mrs. BYRON). Under a previous order of the House, the gentleman from New York [Mr. GREEN] is recognized for 5 minutes.

Mr. GREEN. Madam Speaker, in the wake of the U.S.S. *Stark* tragedy, I strongly feel that the United States must examine its role and its obligations in the Persian Gulf. At the same time, I believe such an examination must include the role of other nations in this region, particularly European countries, Japan, and Saudi Arabia.

Protection of the free world's supply of Mideast oil has been an important part of American policy under both the Carter and Reagan administrations. I regret the failure of the Reagan administration to pursue efforts to reduce dependence on Mideast oil, and have sought to preserve those efforts in the face of the administration's indifference. In the HUD and Independent Agencies Appropriations Subcommittee, I have fought to keep alive the Solar Energy and Energy Conservation Bank in the face of administration efforts to defund it. However, it is a fact that the free world is dependent on Mideast oil.

Thus, it is critical that we prevent Iranian efforts to stop the flow of that oil, and it is appropriate that American naval vessels and aircraft participate in that effort. Nonetheless, certain principles should undergird any such action:

First. While oil is a largely fungible product, so that any reduction of world supplies affects the United States adversely, it should also be noted that the United States actually derives only 6 percent of its oil from the Persian Gulf. Thus, in the short run, though an interruption of supplies may drive up the price of Mexican and Venezuelan oil to the United States, we share the pain of short supply, as opposed to higher prices, only because of our agreements with the European countries and Japan to do so. In turn, they have an implicit obligation, by their participation in the International Energy Agreement, to assist us in maintaining the flow of Mideast oil.

The cost of maintaining a sufficient U.S. presence in and about the Persian Gulf will be considerable. In addition, our efforts may involve landing rights in Europe as well as drawdown of military supplies we have there for NATO. We have a right to ask Europe and Japan to share the burden of our efforts to keep the supply of Mideast oil flowing. If they refuse, then we should withdraw from our agreements with them to share supplies should Mideast oil be cut off.

Second, Saudi Arabia and the other Mideast countries that have been opposing Iran's efforts to interdict Mideast oil supplies and that derive the bulk of their revenues from oil exports also have a vital interest in the United States effort to assure the flow of Mideast oil. Such Mideast nations, with their obvious economic interest in oil exports, should be expected to contribute to the costs of our efforts to keep their exports flowing.

Moreover, the failure of Saudi Arabia to use United States supplied aircraft to assist the U.S.S. *Stark,* when requested to do so by the United States, with the resultant tragic loss of life of American Servicemen, must be roundly condemned. Surely it must lead us to question why we are supplying arms to the Saudis.

In summary, the U.S. interest in the Persian Gulf is not to "show the flag." It has very specific economic purposes. The economic risks of a halt to Mideast oil flows apply even more severely to Europe, Japan, and the Mideast oil exporters themselves than to the United States. While we have reason to protect the flow of Mideast oil, we have every reason to expect Europe, Japan, and the Mideast oil exporters to share fully with us the cost of that protection.

ESTABLISHMENT OF OUTPATIENT MEDICAL CARE AT THE VETERANS OUTREACH CENTER IN MARINA, CA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Madam Speaker, I rise today to introduce a bill to provide outpatient medical services at the Vietnam-era veterans outreach center in Marina; CA. Presently, the outreach center provides psychological services to help Vietnam veterans readjust to civilian life. The Center has been very successful in providing these services, however there is a great need for expanded services in this area.

Marina, CA, is located centrally between Monterey and Santa Cruz Counties and is adjacent to Fort Ord. The center in Marina is capable of providing services to the 22,000 veterans in Santa Cruz Country, as well as, the over 35,000 who reside in Monterey County. This large veteran population is very remote from the closest VA facility, the medical center at Palo Alto, making it very difficult for many veterans to obtain VA health care, particularly elderly and disabled veterans. Further, as you know on April 13 of this year the VA changed the regulations for reimbursement of travel expenses to VA medical facilities. It is becoming increasingly difficult for veterans to receive the medical services to which they are entitled.

The establishment of outpatient medical care would help take the burden off both the veterans who reside in Monterey and Santa Cruz Counties and the Palo Alto Medical Center. This legislation would provide for the establishment of prehospital assessments, prescription renewal service, prescreening for hypertension, diabetes, cancer, alcohol/drug dependency, followup care for veterans, and general medical counseling.

The cost of providing these services would be minimal. Presently, the outreach center has three unoccupied rooms where the medical treatment could be housed. The cost would come only in providing a doctor for the facility. However, cost can be justified by the savings that would occur in the reduction of trips made to the center in Palo Alto.

I urge my colleagues to support this legislation so that these much needed services can be provided at an already established center that is easily accessible to over 57,000 veterans. And in addition would cut down on the burden presently endured by veterans who must travel to Palo Alto and also to reduce the travel reimbursements that the VA provides to veterans for services that are easily dispensed at the outreach center.

We cannot turn our backs on the promises that were made to these veterans when they entered the military. In my view, the most expensive of weapon systems is of little avail to us without competent, highly motivated service people. Unless we are willing to stand by our past commitment to those who have served our country, I am afraid we will do irreparable damage to our present active forces. Thus, not only from a moral standpoint, but from a practical standpoint as well, it is essential that we stand by those who have served in our Nation's defense. The establishment of outpatient medical care at the Marina outreach center will allow the VA to provide these necessary services and not create an unmanageable situation for veterans of Monterey and Santa Cruz Counties to receive all the benefits to which they are entitled.

H.R. 2526

A bill to direct the Administrator of Veterans' Affairs to provide certain health-care services at the Vietnam Veterans Outreach Center in Marina, California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. PROVISION OF HEALTH CARE SERVICES AT THE VIETNAM VETERANS OUTREACH CENTER IN MARINA, CALIFORNIA.

The Administrator of Veterans' Affairs shall direct that the excess capacity at the Vietnam Veterans Outreach Center in Marina, California, be used to provide the following outpatient health care services to veterans eligible for such services under chapter 17 of title 38, United States Code:

(1) Pre-hospital admission assessments.

(2) Pre-screening for hypertension, diabetes, cancer, and alcohol or drug dependency.

(3) Follow-up services for inpatient care.

(4) Medical consultations.

(5) Prescription renewal services.

(6) Laboratory services (to be provided through contracted laboratory facilities).

TAX REDUCTIONS, NOT TAX INCREASES, GAIN POPULARITY INTERNATIONALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr LUNGREN] is recognized for 5 minutes.

Mr. LUNGREN. Madam Speaker, as the congressional leadership dashed to drop an $18 billion tax burden on the shoulders of hardworking Americans, I hope my colleagues will consider startling news from across the Atlantic. The Government of Sweden, long Europe's principal bastion of democratic socialism, may soon forswear the gospel of high taxes.

For decades, Stockholm has legislated the free world's highest tax rate to subsidize a panoply of social services. A Swedish worker who receives a salary of $35,000 per year must pay an income tax rate of 78 percent.

The May 12 edition of the New York Times reported that Sweden's Finance Minister, Kjell Olof Feldt, has proposed a radical program of tax reform that includes a lowering of rates, a broadening of the tax base, and simplification of tax requirements. "The very high level of progressive taxation just doesn't work," Mr. Feldt told the Times. "The Social Democratic Party (of Sweden) has to recognize that high taxes, which reduce efficiency and stimulate inflation, slowdown growth and ultimately undermine social equity." Other Swedish critics of high taxes have expressed their concern over the emigration of talented individuals and prosperous companies in order to avoid Sweden's tax rates. "IKEA," the Times notes, "Sweden's most rapidly expanding retail chain, has moved its headquarters to Denmark for tax reasons, and a large community of wealthy Swedes lives in Britain. One of them is Erik Penser, one of the most successful and influential individual investors in Swedish corporations. Swedish tennis stars routinely move to Britain or Monte Carlo as soon as they begin to pile up large earnings on the international circuit."

Additional complications generated by the present tax system include widespread tax dodging and the growth of an underground economy. Nils Lundgren, senior economist at one of Sweden's largest banks, told the Times that tax avoidances has become a favorite topic at dinner parties and over cocktails. Mr. Roger Akelius became a best-selling author in Sweden thanks to his helpful tips on the best ways to escape from tax obligations. Finally, Swedish analysts estimate that underground economic activity constitutes as much as 20 percent of the gross national product.

The Times' article observes that tax reduction has gained popularity in other industrialized countries, such as Australia, New Zealand, and Britain. The affinity of both Conservative and Socialist governments for tax cuts is significant. "Some economists," the Times reports, "suggest that tax systems have life cycles and what is occurring around the world today is the death of the postwar generation of tax structures."

Madam Speaker, I find it distressing that some Members of this body seem more wedded to the failed tax policies of the past than even the most committed Socialists of Europe. Not satisfied with the mammoth $77 billion a year increases in income taxes mandated by current law for the next 5 years, the House leadership now demands billions more from the pocketbooks of American taxpayers. Most dispiriting of all, these same leaders proclaim that Americans must accept higher taxes in order to combat the deficit. Yet a new study by economist Chris Frenze and Profs. Lowell Galloway and Richard Vedder of Ohio University for the Joint Economic Committee demonstrates that such claims have no basis in historical experience. From 1966 to 1972, these scholars observe, the average tax rate was 17.25 percent. It rose to 18.48 percent during the 1972-79 period, and then jumped again during the 1980-86 timeframe to 19.80 percent. Yet the Federal deficit's share of the gross national product ballooned during these two decades. On average, the percentage of the gross national product stood at 0.92 percent from 1966 to 1972. During the 1980 to 1986 period, however, the deficit's share of the GNP quadrupled to 4.06 percent. Messrs. Galloway, Vedder, and Frenze rightly conclude on the basis of this data that the use of taxes to combat the deficit has no empirical justification. In fact, their own econometric research shows that in the postwar era, each dollar of additional taxes has generated $1.58 in additional spending.

Mr. Speaker, it's bad enough that some Socialist governments appear to have a more modern vision of the economics of high taxes than the U.S. Congress. It's bad enough that the congressional thirst for taxation will ruin the financial planning and aspirations of millions of Americans. But the use of tax increases for counterproductive ends brings the absurdity of current fiscal initiatives from Capitol Hill to intolerable levels. I hope that the Congress will defuse the multibillion-dollar tax bomb before it levels both economic growth and hopes for fiscal solvency.

TRIBUTE TO DR. ARTHUR SACKLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 5 minutes.

Mr. BOLAND. Madam Speaker, this morning's newspapers carried the sad news of the death yesterday in New York City of Dr. Arthur Sackler.

While he may not have been a well-known figure to the American public, Dr. Sackler was a man possessed of uncommon generosity and an extraordinary desire to share the treasures of other cultures with all people.

He was one of the world's foremost collectors of Asian art. But rather than restricting access to the priceless objects in his collections, he made it his life's work to ensure that they could be widely seen and enjoyed.

Educational institutions in my own State of Massachusetts benefited from Dr. Sackler's beneficence, as did many others throughout the country.

This fall, in Washington, the Smithsonian Institution will open the splendid Sackler Gallery of the Quadrangle Museum of Asian and African Art.

The quadrangle project, which my colleagues have heard discussed in recent years in the context of various appropriations bills, will be another gem on the Mall.

While funding for the quadrangle came from many sources, including Congress, I think it is safe to say that it would not be nearing completion today without the active interest and financial support of Dr. Sackler.

Dr. Sackler will not be present when the facility is dedicated.

But his spirit and example will forever live in the Sackler Gallery and throughout the quadrangle.

The Smithsonian has as its purpose the increase and diffusion of knowledge.

Dr. Sackler's life embodied that mission.

I know I speak for the other members of the Smithsonian's Board of Regents in extending sincere condolences to his family on his passing.

[From the New York Times, May 27, 1987]

DR. ARTHUR SACKLER DIES AT 73; PHILANTHROPIST AND ART PATRON

(By Grace Glueck)

Dr. Arthur M. Sackler, a research psychiatrist, entrepreneur and philanthropist who became one of this country's leading art collectors and patrons, died of a heart attack yesterday at Columbia-Presbyterian Medical

Center. He was 73 years old and lived in Manhattan.

Dr. Sackler's collecting ranged over many cultures, from China and India to the Middle East; from pre-Columbian and Renaissance periods through the School of Paris. His holding numbered in the tens of thousands.

The physican, who made his fortune in medical advertising, medical trade publications and the manufacture of over-the-counter drugs, gave much of the art away, along with museums and galleries to house it. His latest benefaction is the Arthur M. Sackler Gallery at the Smithsonian Institution, a museum of Asian and Near Eastern art based on the gift of 1,000 items from his collections and a contribution of $4 million. The museum is to open in Washington next September.

BENEFACTOR TO HARVARD

Dr. Sackler was also the principal donor of the museum at Harvard that opened two years ago bearing his name, built to contain works from Asia, the Middle East and the Mediterranean. With his brothers, Raymond and Mortimer, he helped to finance the construction and installation of the Sackler Wing at the Metropolitan Museum of Art, which houses the Temple of Dendur and the Met's new Japanese galleries. And last September, he attended ground-breaking cermonies for the Arthur M. Sackler Museum on the grounds of Beijing University; an archaeological facility supported by Dr. Sackler and his wife, Jill, it will also teach museology to students.

The sciences and humanities also benefited from Dr. Sackler's largess. Contributions of more than $2 million to Long Island University, where he established a laboratory for therapeutic research at the school of pharmacy made him one of the largest donors to that institution. An $8 million contribution to Clark University in Worcester, Mass., helped to establish the Arthur M. Sackler Sciences Center there. And with his brothers, he helped set up biomedical institutions at Tufts University and New York University, as well as the Sackler School of Medicine in Tel Aviv.

MORE THAN 140 RESEARCH PAPERS

Known in the scientific field as a pioneer in biological psychiatry, Dr. Sackler published, with his physician brothers and other collaborators, more than 140 research papers, most dealing with how alterations in bodily function could affect mental illness.

He was the first to use ultrasound for medical diagnosis, and among other pioneering activities, identified histamine as a hormone and called attention to the importance of receptor sites, important in medical theory today.

His art interests were eclectic, and he preferred the purchase of entire collections to that of individual pieces. He liked to think himself as "more of a curator than a collector."

"I collect as a biologist," he once said. "to really understand a civilization, a society, you must have a large enough corpus of data. You can't know 20th-century art by looking only at Picassos and Henry Moores."

STUDIES AT N.Y.U.

Dr. Sackler, born in Brooklyn on Aug. 22, 1913, to Isaac and Sophie Sackler, took a premedical course at New York University. He also studied art history at N.Y.U. and at the Cooper Union. To finance his medical studies at N.Y.U. he joined the William Douglas MacAdams advertising agency, a medical advertising concern, and eventually became its principal owner.

In 1960, he began publication of Medical Tribune, a biweekly newspaper for doctors, which expanded into an international publishing organization with offices in 11 countries. In 1958, he founded the Laboratories for Therapeutic Research, a nonprofit basic research center at the Brooklyn College of Pharmacy of Long island University, and served as its director until 1983. With his two brothers, Dr. Sackler also had an interest in the Purdue-Frederick drug company.

Dr. Sackler's art collecting began in the mid-1940's. Picking his way from field to field, he went from pre-Renaissance to post-impressionism to the School of Paris, and also supported contemporary American painters.

He made the acquaintance of Oriental art by happening on a small Chinese table at a cabinetmaker's. "I came to realize that here was an esthetic not commonly appreciated or understood," he said.

Later, advised in the Chinese paintings field by the chairman of the Metropolitan Museum's Far Eastern department, Wen Fong, and in other areas by trusted dealers, he wound up with what Mr. Fong has called "by far the largest and most important collection of ancient Chinese art in the world."

His collection became a subject of controversy at the Metropolitan Museum, which had provided him in the 1960's with a small enclave that housed thousands of the Chinese works.

Material from the enclave was to be used for an exhibition of masterpieces from the Sackler. But, though discussed by him and the Met for years, the show never took place.

Dr. Sackler is survived by his wife; his two brothers, both of New York; and four children: Dr. Carol Master of Boston; Elizabeth Sackler and Arthur F. Sackler, both of New York, and Denise Marica of Venice, Calif., and seven grandchildren.

□ 1705

UKRAINIAN HUMAN RIGHTS AWARENESS DAYS

The SPEAKER pro tempore (Mrs. BYRON). Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 60 minutes.

Mr. GILMAN. Madam Speaker, I rise to call to the attention of my colleagues the plight of ethnic Ukrainians living in the Soviet Union, whose rights are endangered by Communist ideology and suffocation by the domination of the Government of the U.S.S.R.

Madam Speaker, I have taken this special order today in observance of "Ukrainian Human Rights Awareness Days," established by the Ukrainian Human Rights Committee of Philadelphia, PA, and also by the Congressional Ad Hoc Committee on the Baltic States and the Ukraine, chaired by the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from Ohio [Mr. HERTEL].

I am proud to have been involved, over a number of years, in the struggle for the human rights of the Ukrainian people. That involvement has increased in the past year, especially, because I have been given the honor of serving on the U.S. Commission on the Ukraine Famine. The work of our Commission has brought me into contact with scores of national leaders of the Ukrainian-American community—in addition to the many Ukrainian-Americans in my own constituency, all or whom are universally, vitally committed to the welfare of their brethren behind the Iron Curtain. They are usually in close touch with conditions there, and are both appalled and anxious to bring conditions in the Ukraine to the attention of the larger American community.

Although the glasnost policy of Soviet Communist Party General Secretary Gorbachev has attracted much attention in the United States and abroad, it is by no means clear that it is more than a rationalization of the current Soviet system. Whether it portends a long-term, significant change or not, it has clearly done little or nothing for the average Ukrainian; Ukrainian party boss Scherbitsky has been identified as a leading opponent of glasnost within halls of the Kremlin. Certainly, glasnost has done nothing for Mykola Rudenko, the decorated war veteran who is the head of the Ukrainian Helsinki monitor group, who languishes in exile, deprived of the writing materials that are as important to him as food or water. Nor has the glasnost policy helped the four Ukrainian political prisoners who have died in Soviet prisons over the past 2 years.

It is with a heavy heart that we reflect on the state of events in the Ukraine. We need to heighten awareness of the repression of the political, religious, ethnic, and cultural struggle underway there. I urge my colleagues to observe these "Human Rights Awareness Days" by contacting Ukrainian-American organizations in their own districts and hearing their stories, by contacting the Helsinki Commission here on Capitol Hill, or by contacting the Ad Hoc Committee on the Baltic States and the Ukraine. I would like to close my remarks by paying special tribute to Mrs. Ulana Marzukevich of the Ukrainian Human Rights Committee of Philadelphia, and a member of the Ukraine Famine Commission, for inspiring and leading the coordination of these special days of awareness.

Mr. PORTER. Madam Speaker, I commend my colleague and executive committee member of the Congressional Human Rights Caucus, BEN GILMAN, for his continual leadership in the House of Representatives on human rights issues, and especially for his organization of today's special order honoring "Ukranian Human Rights Awareness Days." I would also like to bring to my colleagues' attention the efforts expended by DON RITTER and DENNIS HERTEL, cochairs of the Congressional Ad Hoc Committee on the Baltic States and Ukraine, and the Ukranian Human Rights Committee in Philadelphia, for their coordination of the events being sponsored throughout the week in conjunction with this important observation.

The people of the independent Republic of the Ukraine have always held their religious, cultural, and national identities dearly. Since the Soviet occupation of their republic in 1921, there has been numerous efforts by the Soviet regime to squelch any expression of Ukrainian identity.

Little is heard of the jailings of Ukrainian church leaders of all denominations—including Mykola Rudenko, head of the Ukrainian Helsinki Monitor Group, and 4 of the group's members, currently imprisoned in notorious camp 36-1 where 10 persons died recently as a result of administrative maltreatment.

Not many persons speak of the attempt to Russify all aspects of Ukrainian daily life either. The occupation of the Ukrainian nation has been brutal and painful for its people. The existence of Ukrainian identity today is a tribute to the people's strength and their will to overcome Soviet occupation of their land. Their land may be Soviet-controlled, but never their soul.

The persecution of individuals expressing an Ukrainian identity has been stepped up in recent months, in contrast to the policy of openness so eloquently professed by the leadership in the Kremlin. Is glasnost a policy entrenched in the walls of the Kremlin or will it also seep out toward the people in the republics?

As cochairman of the Congressional Human Rights Caucus and a member of the Helsinki Commission, I will continue to work with my congressional colleagues to end the ruthless persecution that continues in the Ukraine today. Mykola Rudenko and the others will not be forgotten.

Mr. RITTER. Madam Speaker, time and time again, we have heard from Soviet political prisoners that publicizing their plight significantly improves their chances of being released. It appears that when the Soviets are confronted with the facts, they are sometimes willing to back down rather than risk the further deterioration of their world image.

This gives us, as Members of Congress and I believe especially the members of the Helsinki Commission, a particularly important role. If the Soviets are willing to act to protect their international reputation when confronted with the facts, we have a solemn responsibility to do so, and to do so vociferously. Our outcries, and those of the Ukrainian-American community, become invaluable links in the chain of events that has for some, ultimately meant freedom. The following is a list of 10 brave Ukrainians who are serving harsh prison terms for no other reason than they talked freely about Soviet human rights violations.

There are currently 20 political prisoners in the special regime section of Perm Camp 36. Out of those, 10 are Ukrainian and another is a member of the Ukrainian Helsinki Monitoring Group.

UKRAINIAN PRISONERS

Lev Lukyaneko, Ukrainian Helsinki Monitoring Group cofounder; Ivan Kandyba, Ukrainian Helsinki Monitoring Group cofounder; Mykola Horbal, Ukrainian Helsinki Monitoring Group member; Vasyl Ovsienko, Ukrainian Helsinki Monitoring Group member; Vitaly Kalynychenko, Ukrainian Helsinki Monitoring Group member; Mart Niklus (Estonian), Ukrainian Helsinki Monitoring Group member; Ivan Sokulsky, Ukrainian Helsinki Monitoring Group member; Mykhailo Horyn, Semem Skalich, Petro Ruban, and Vasyl Prikahodko.

I also note with sadness, four leading Ukrainian Human Rights Activists who have died in the last 4 years; Oleksa Tykhy, Valery Marchenko, Vasyl Stus, Yuri Lytvyn. The moral crusaders for peace with freedom understand and were willing to make the ultimate sacrifice for that they believed in. I can think of no better way to honor their memory than to continue their work.

As we consider the plight of these valiant men, I can only wonder how many more are willing to speak out because of fear. The Ukrainian nation is enduring one of its harshest tests. Our solidarity with them, could mean the difference.

Mr. WALGREN. Madam Speaker, today has been designated Ukrainian Human Rights Awareness Day, a day that should make us all stop to think about the many Ukrainian dissidents who have committed their lives to the struggle for human rights in the Soviet Union.

The world community should be especially concerned about the welfare of Mykola Rudenko and his wife, Raisa. The Rudenkos are currently imprisoned in the Soviet Union for their involvement in the Ukrainian Public Group To Promote Implementation of the Helsinki Accords. Formerly a widely read poet and war hero of the Red Army, Mr. Rudenko's human rights activities ultimately have cost him his job, his position in Soviet society, and his freedom along with that of his wife. Mykola is currently on a hunger strike because Soviet authorities have denied him any access to books or papers, the staff of life for a poet—let alone the human spirit.

The Rudenkos have been imprisoned for speaking out against the treatment of Ukrainian dissidents in the Soviet Union. Human rights practices, like those suffered by Mr. Rudenko, the deep violations of the spirit and terms of the Helsinki Final Act, of which the Soviet Union is a signatory.

The Rudenkos' cause is a noble and courageous one. But it is but one of a great number that, taken together, represent a tragic situation that compels us to observe Ukrainian Human Rights Awareness Day. Those of us who are free to speak out on behalf of those who cannot have an obligation to do so. We must continue pressuring the Soviet Government for the release of the Rudenkos and other Soviet political prisoners until basic human rights are recognized and granted for all. We should remember that history will be on the side of human rights in the long run, and even the most intransigent governments cannot stand in the way over the long run.

Mr. COUGHLIN. Madam Speaker, I rise today to join Mr. GILMAN and others in saluting Ukrainian Human Rights Awareness Day.

Madam Speaker, I am sure it comes as no surprise to anyone in this body that the Soviet authorities have visited upon Ukraine the same kind of repression and injustice that they have perpetrated on the people of Estonia, Lithuania, Latvia, Soviet Jewry, and many, many others over the years.

In many ways, in fact, the fate that has befallen the people of Ukraine has been even more harsh. Despite declaring independence and becoming a free nation earlier this century, Ukraine was absorbed into the Soviet Union in the course of the Bolshevik power drive. Collectivized by force, starved into submission, brutalized by war, and denied their cultural, political, and religious rights, the people of Ukraine today stand proud and tall nevertheless. Recent efforts to crush Ukraine's national spirit by condemning her sons Vasyl Stus, Oleksa Tykhy, Valery Marchenko, Yury Lytvyn, and others to death in the Gulag have not been any more successful than the previous efforts. The official Soviet silence surrounding the Chernobyl disaster has only heightened Ukrainians' awareness and sense of community.

Madam Speaker, now we are faced with the new Soviet leadership, one which many say is committed to reforming the Soviet Union, and with it Ukraine. In April 1987 I traveled to the U.S.S.R. to observe firsthand the nature of Soviet "perestroika," or reformation, and the accompanying glasnost, or openness, policies.

Our first stop was Kiev, the capital of Ukraine, where we held a meeting with Ukrainian party boss Vladimir Shcherbitsky. Both the people and the environment of Kiev were clearly different from those in Moscow, which I had visited a year and a half before. Although our delegation could only stay a short while, Ukraine's unique character clearly impressed the group. Though signs of Soviet encroachment were obvious, Ukraine has her own personality.

After Kiev, our group traveled to Moscow, where we met with General Secretary Gorbachev, Politburo No. 2 man Yegor Ligachev, Foreign Minister Shevardnadze, President Gromyko, and others. In addition to trying to assess the real level of Soviet commitment to genuine reform, we spoke out on behalf of Ukrainian and other prisoners of conscience at every appropriate opportunity. As a member of the delegation's human rights working group, I personally provided the General Secretary with a list of cases of special concern, which included 11 Ukrainians detained at the infamous Perm Special Regime Labor Camp No. 36. I also sought full human rights, including the right to emigrate, for Yosyp Terelya, Danylo Shumuk, and Mykola Rudenko. I was told that these cases would be reviewed. In what is perhaps a positive sign, Danylo Shumuk was informed in the aftermath of our trip that he would be allowed to emigrate to Canada.

Madam Speaker, the conclusion I reached from my meetings and trip is that glasnost is real. It reflects, however, a difference only of degree, and not of kind. While we should not discourage the Soviets from making improvements, however limited, in their human rights policies, neither can we be satisfied with half measures or the continued detention of political, human rights, or religious activists.

Madam Speaker, we must continue to speak out for human rights in the U.S.S.R. regardless of limited improvements which may occur. In that context, I congratulate the gentleman from New York for bringing this special order before the House, and appreciate the opportunity to join him in addressing this issue.

Mr. HOYER. Madam Speaker, today marks Ukrainian Human Rights Awareness Day, a day dedicted to calling attention to the plight of Ukrainian political prisoners in the Soviet Union. I would like to commend my colleagues Ben Gilman, Don Ritter, and Dennis Hertel for their truly dedicated leadership in the human rights area and for organizing this special order and related events to recall the severe repression of the cultural, religious, and other human rights of the Ukrainian people, and to honor those Ukrainians currently imprisoned for attempting to bring these violations to light.

Despite the ongoing repression, for the first time in many years, we can point to at least some forward movement in the situation of Ukrainian political prisoners, who constitute an estimated 40 percent of all Soviet political prisoners. Just last week, 73-year-old Ukrainian Helsinki monitor Danylo Shumuk, who has spent almost half his life behind bars, was permitted to join his nephew in Canada. We have also recently received word that leading Ukrainian dissidents Mykola and Raisa Rudenko have been released from internal exile. Mykola Rudenko had been serving a 12-year sentence for his efforts, as founder of the Ukrainian Helsinki Group, to call attention to the abuse of human rights in Ukraine.

These positive steps, however, must be seen within the context of an overall situation which remains bleak. Unfortunately, Madam Speaker, there still is little indication that glasnost has caused any significant change in the situation of Ukrainian human rights activists. Many Ukrainian political prisoners remain in labor camps, psychiatric hospitals, and internal exile. During my recent visit to the Soviet Union as a member of Speaker Wright's delegation, I had occasion to present to Politburo member Volodymr Shcherbitsky, first secretary of the Communist Party of Ukraine, a list of 153 individuals from Ukraine still imprisoned for their human rights activities. These individuals were also part of a larger list of 532 prisoners of conscience presented to Soviet Foreign Minister Shevardnadze in Moscow, I remain particularly troubled by the fate of 11 leading Ukrainian human rights activists, currently incarcerated in Perm Camp 36. Notorious for its brutal conditions, Perm Camp 36 is the worst category of camp incarceration for political prisoners. Within the last 5 years, 10 political prisoners have died while serving terms there.

Another area of grave concern is the plight of the Ukrainian Catholic Church, the largest banned religious denomination in the Soviet Union. Possible revisions in the present Soviet law on religion apparently will not affect the status of Ukrainian Catholics. Konstantin Kharchev, chairman of the Council of Religious Affairs in the U.S.S.R. Council of Ministers, has stated that in the case of the Ukrainian Catholic Church, no changes are possible. The Soviet Government's treatment of Ukrainian Catholics as well as of Ukrainian political prisoners, is in clear violation of its commitments under the human rights provisions of the Helsinki Final Act. I assure you that the Helsinki Commission, on which I serve as chairman, will continue to raise these issues both here and at the ongoing Vienna CSCE followup meeting.

Mr. BONIOR of Michigan. Madam Speaker, I wish to commend the gentleman from New York [Mr. Gilman] for his diligence and forethought in calling for this special order today. He has devoted much time and energy to the human rights cause of the Ukrainian people over the years. His organization of this special order today is yet another symbol of his dedication to the human rights of individuals all over the world.

As a Member of the House who has long been involved in human rights issues and as a descendant of Ukrainian stock, I believe it is fitting that we take time to observe and call attention to Ukrainian Human Rights Awareness Days. It is our duty as representatives of a democratic, open, and free society to focus the attention of our Nation on the absence of liberty in many parts of the world.

In particular today, Madam Speaker, we are devoting time to the very severe repression of the Ukrainian people. The Soviet Union has systematically deprived the people of Ukraine of their basic human rights. Of the many violations, the most abhorrent has been an all-out effort to rob Ukrainians of their cultural identity and their right to self-determination. In spite of this enormous effort on the part of the Soviet bureaucracy, the dream of freedom lives on in the hearts of the Ukrainian people. No event symbolizes that thirst for freedom more than the Miroslav Medvid affair in October 1985.

I had the pleasure of addressing the members of the Ukrainian Self-Reliance Detroit Federal Credit Union in March. The dedication of this Ukrainian community in Warren, MI, to ending Soviet repression in Ukraine was a great inspiration to me. I wish to include in the Record a copy of the remarks I made that afternoon:

Remarks of Hon. David E. Bonior at the Ukrainian Cultural Center, March 29, 1987

We've come together today to celebrate our common Ukrainian background. We are also here because we share a common concern for the well-being of our homeland—our homeland which is a captive of the Soviet Union.

In the 66 years since being invaded by Soviet Russia, our Ukrainian brothers and sisters have been denied their most fundamental rights. They are discriminated against for speaking their native language. They are forced to practice their religion in hiding. They are denied all political rights and are harassed and imprisoned for the slightest connection to political activity.

One Ukrainian has been in prison or internal exile for 35 years simply because he refused to renouce his father who was the former commander-in-chief of the Ukrainian Insurgent Army. The prisoner himself has never been involved in any political activity.

The Soviet Union may be able to control the territory of Ukraine. And, it may be able to dictate tenor of the daily life in Ukraine. But, it has never been able, and it never will be able to win the hearts and minds of a people fiercely devoted to winning their freedom!

I don't think any event more dramatically illustrates this devotion to freedom than the Miroslav Medvid Affair. In October of 1985, two weeks before the U.S.-Soviet Summit in Geneva, a young Ukrainian sailor, Miroslav Medvid, jumped from a Soviet grain freighter waiting to be filled in New Orleans harbor.

In the bleakness of the night, Medvid swam the dark and difficult waters of the Mississippi. He was swimming for his freedom—a clear expression of his desire to stay in this country and leave his oppressed homeland.

Upon reaching the shore, Medvid was brought to the border officials who did not grasp the significance of Medvid's escape. For still unknown reasons, Medvid was brought back to his ship where he once again plunged into the Mississippi and attempted again to swim ashore.

This time, however, Soviet officials followed him and dragging him forceably back to the freighter. One can only guess what punishments he was subjected to.

These events became of great concern to me and many of my colleagues in Congress. Why was Medvid returned to the ship when it was apparent to many witnesses, and a Ukrainian speaking woman in New York that Medvid was seeking political asylum in the U.S.?

An outcry from the public and from Congress over the fateful mishandling of Medvid resulted in Administration threats to use force if Medvid was not released from the ship to be reinterviewed by U.S. officials. Under the close guard of his Russian commanders, a shaken Medvid insisted that he had changed his mind from a few days earlier. Under pressure, Medvid said that he did want to return to the Soviet Union.

There are lingering doubts about this whole affair. There is now some evidence to suggest that the real Medvid was not reinterviewed by American officials. The Russians are said to have pulled a switch. Physical descriptions differ among eyewitnesses who saw one or the other Medvid. The first Medvid spoke fluent Ukraine, while the second Medvid spoke Ukrainian haltingly and preferred to be interviewed in Russian.

If in fact a switch took place, the outcome of this mishandled affair is undoubtedly tragic. Medvid has not been heard from since the Soviet ship sailed from New Orleans in October of 1985. My colleagues and I in Congress continue to send messages to Medvid to signify our resolve that Medvid's thirst for freedom is never forgotten by Soviet officials.

I am pleased to tell you that an extensive Congressional investigation is being undertaken to clear up some of these mysteries. We must determine what went wrong so that future defectors are not returned to face life imprisonment or death.

Why was Medvid returned to the Soviet freighter to begin with?

Did our government make certain that they were interviewing the same Medvid that had jumped ship days earlier?

Why was Medvid subjected to questioning in front of his Soviet supervisors?

And most importantly, was our government so absorbed with orchestrating summitry in Geneva, that it dismissed a cry for liberty when it reached our own shores?

If our government preferred to abandon Medvid and his heroic attempt to stand up for his freedom, we must know who is to blame. We cannot let anyone with such flawed judgment stay in a decision-making capacity any longer.

If our government sacrificed Medvid to achieve some higher purpose, then we sacrificed much more than Medvid. We have sacrificed our moral authority and we must make certain that such fateful errors do not happen in the future.

The link between a country's respect for human rights and its international behavior is fundamental.

If a country is a threat to its own citizens, can it fail to present a threat to peoples beyond its borders?

If a country is distrustful of its own citizens, how can it be trusting of other countries?

If a country does not have the trust of its citizens, how can it inspire the trust of other countries?

Respect for human rights must be a tenant of every nation's foreign policy if there is ever to be true and lasting peace in the world. Multi-national and bi-national agreements cannot be negotiated and upheld if the countries involved have basic differences over what is right and what is wrong.

Compliance with human rights accords signed by many countries including the United States and the Soviet Union is now being studied by the Conference on Security and Cooperation in Europe.

Specifically, I am speaking of the 1975 Helsinki Final Act and the Madrid Concluding Document. These international pacts bind the signatory nations to guaranteeing respect the basic rights of their citizens.

These agreements recognize the importance of upholding the rights of the individual. The right to privacy. The right to work to change injustices in society. The right to a job of one's own choosing. The right to be free from arbitrary imprisonment. The right to marry and raise a family. The right to have a national and cultural identity. The right to private communication with friends and family down the street and across the world. The right to be re-united with loved ones in far off lands. The right to self-determination of peoples. And, the right to be an equal of fellow citizens.

In short, these agreements affirm the right to be. They affirm the basic rights of being a human—to pursue those things we naturally strive to achieve because of our humanness.

Can it be of little surprise to anyone to find that the Soviet Union has failed miserably in living up to these agreements?

The Soviets have historically tried to break the will of the Ukrainian people. Mass exterminations, an induced famine in the early 1930's, the Stalinist terror of the 1930's and 1940's, the war with Hitler's Germany, and the suppression of the Ukrainian liberation movement by Nazi Germany and Soviet armies cost the Ukrainian nation no less than 17 million lives. Every fourth inhabitant of Ukraine perished.

We often hear of the six million Jews who perished at the hands of Hitler during World War II. But what about Ukraine which has lost nearly three times as many lives since its capture by the Soviet Union? Has Soviet repression in Ukraine stopped?

Though Ukrainians account for 20 percent of the Soviet population. 40 percent of Soviet political prisoners are Ukrainian.

Ukraine is reportedly a "testing ground" of punitive actions against dissenters. If police actions succeed in containing the Ukrainian will for freedom, Soviet officials figure it will work in quashing dissent in other captive nations.

We have heard much about the new "openness" or "glasnost" in the Soviet Union. 140 political prisoners were recently released in the Soviet Union. But there are many more where they came from. And, one must ask the basic question: Why were they there in the first place?

While we should encourage the continuing movement toward easing repression, we must still be skeptical and vigilant. Attention must continue to be paid to areas where the movement toward reform is glacial. And there are many such areas.

Russification of Ukraine.—Russians comprise barely half of the total population of the U.S.S.R. Because they dominate the Soviet Communist apparatus, they are trying to mold a "Soviet Man" who would essentially be a "Russian man," speaking Russian and identifying with Russian culture, customs and mentality.

In Ukraine, the Soviets have undertaken a ruthless campaign to wipe out the Ukrainian culture. Eighty percent of television available in Ukraine is in Russian. Russian is used in schools and in places of employment. Workers who speak Ukraine or speak poor Russian are discriminated against and harassed.

Libraries full of Ukrainian literature have been burned. And, Ukrainian scholars have been harassed and imprisoned for trying to preserve the rich language and literature of the Ukrainian culture.

In the United States and in Western Europe diversity is seen as a blessing and a strength, not as a challenge or a threat. Why not everywhere?

Religious Persecution.—In 1988, Ukrainians throughout the world will be celebrating the millenium of Christianity in Ukraine. Despite the Ukraine being the craddle of Christianity in Eastern Europe, the two traditional faiths in Ukraine—Ukraine Orthodox and Ukrainian Catholic—are not recognized.

The Ukrainian Orthodox Church was forced to liquidate itself in 1930 by government pressure. The Ukrainian Catholic Church was forced to incorporate itself into the Russian OIrthodox Church in 1946.

The Soviet Government has made a valiant effort to convert Ukrainian Catholics to the state religion. Almost half of all the Russian Orthodox Churches in the Soviet Union are in Ukraine.

Yet, while the Soviets try to covert Ukrainian Catholics they conduct services in Russian depriving Ukrainians of the right to worship their God in their own language.

In an effort to preserve their Catholic faith, many Ukrainian Catholics worship in catacombs as it was in the days of Ancient Rome. While priests are being arrested and maltreated in prisons and labor camps, the faithful continue to keep their faith alive and resist the imposition of state sponsored religion.

Family Contacts and Information.—Of the more than 2 million Westerners of Ukrainian descent, many have close relatives in Soviet Ukraine. When the news of the Chernobyl nuclear disaster first appeared in the West, many attempts by Ukrainians in this country to contact their family in Ukraine were frustrated by the Soviet government. Communication by mail and telephone, which are always difficult, were cut-off.

But the government did not only deprive the west of information on the disaster, it failed to adequately inform its own citizens about the disaster. This led to panic and great confusion.

Western radio broadcasts which could have helped clear up some of this confusion were jammed in keeping with the Soviet's long-standing policy of restricting Western information in their country.

Four months after the disaster, the Soviets finally gave a public accounting of the technical reasons for the accident. To this day, nothing has been said about the dimensions of the human suffering caused by the tragedy.

The first anniversary of the Chernobyl Disaster will take place on April 22. That day will cause many to remember their fear as they tried to contact relatives, and their frustration in sending parcels of food, medicine and emergency supplies only to learn that they were refused entry into the Soviet Union.

Many other violations of basic human rights continue to befall our Ukrainian brothers and sisters. We can't help but think of the situation of our homeland with a heavy heart at times. But we must remember that the yearning for freedom is in the hearts and minds of the Ukraine people. No amount of repression, humiliation and indecency can rob our Ukrainian sisters and brothers of their desire for liberty.

That keeps them going, and it must keep us going as we continue to raise our voices against the violations and abuses perpetrated against Ukraine by the Soviet government.

There is a story dissident Yuri Orlov told. Despite his nine years in a Soviet labor camp and internal exile, he said he never felt himself a prisoner. He said that a person's freedom cannot be defined by others, because a person's freedom is what is inside himself.

I would like to close with a verse of a poem called "A Prisoners Song." It has often inspired and re-energized me in my efforts on behalf of the struggle of the Ukrainian people. The poem was written by a French woman who was held prisoner in the age of Louis the Fourteenth. In it she said:

"But though my wing is closely bound
My heart's at liberty.
My prison walls cannot control
The flight, the freedom of the soul."

GENERAL LEAVE

Mr. GILMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MARYLAND COMMISSION ON PHYSICAL FITNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BYRON] is recognized for 30 minutes.

Mrs. BYRON. Mr. Speaker, first of all, let me say that I rise today in recognition of the Maryland Commission on Physical Fitness, which is in its 25th year. I think it gives us a very good opportunity to stop and take a little time to reflect on what the President's Council on Fitness has meant to us.

Maryland, as some of you may know, was the first commission ever organized. I was delighted to say that I served on that commission for several years. I have been the chair of that commission for the last 10 years.

I ask, first of all, if there are any Members who wish to participate in that to please interrupt at any time.

The Maryland Commission was created in 1961 at the request of President Kennedy, who recognized the need for more than just the President's Council on Fitness.

President Eisenhower had formed the President's Council in 1956 because he was aware of the alarming number of citizens who were in poor physical condition.

In 1961, the Commission started out with 25 members and was the first one of any State. It has now been joined by 36 other States.

First of all, when it was originally conceived, there were 24 male members and 1 female member. That was the case for quite some time. If you will look now, there is a female chairman of the Commission and a majority of the members of the Maryland Commission are females.

The Commission is basically the same today as it was when it was originally conceived as far as its goals. We have been very concerned about the area of fitness on our young people. We have been concerned about the area of fitness on our senior citizens.

Many of the programs that started out in this Commission in 1964, we were involved in the use of hiking and biking trails, using the abandoned railway rights-of-way for those two issues.

In 1968, the initiation of the Governor's Youth Track and Field Meet, which has still continued. In the fall and spring, there were hikes that were attended and one of the fall hikes was led by Chief Justice William O. Douglass, and as many of you know, he was very involved in fitness.

In 1970, the Employees Fitness Program in Maryland of the Maryland State Employees was joined with a jogging and exercise, walking program that revolved around the Gilman School in Baltimore.

We then developed a TV show with a trimnastics, which at that time was the going rage.

In 1972, with the running craze that we have seen throughout our Nation, the Maryland marathon was begun and has, to this day, continued with the guidance and the Commission's approval.

We have seen over 1,000 participants in that Maryland marathon.

The family track meets were started in 1976 and the Commission worked closely with the American Heart Association on programs of cardiovascular fitness and danger of smoking and heart disease.

Currently, we are very much involved in a senior olympic program that began several years ago and has grown by leaps and bounds over the last 7 years.

For the children in the school system, a program called Superfit, which is an assessment of the capabilities of our younger people, has been developed by the Maryland Commission.

□ 1715

We are just beginning to see the fruition of a program that we have been looking toward and looking forward to, and that is the Maryland State Games. They are going to be held the third weekend in June at the University of Maryland, and the Governor is very much involved in that.

Not to diminish any of our fitness for the handicapped programs, we are working toward and have been funding and supporting the wheelchair games which are held on the Eastern Shore.

We have done health and fitness screenings of the Maryland General Assembly, and over 125 people were involved in the screening program this year.

The Commission does not just look at people on fitness. We go out and seek those individuals who, in their own way and in their communities, have been involved in fitness programs. The Commission's awards and citations are presented annually at an Orioles ball game with national recognition.

Mr. Speaker, 25 years ago the Maryland Commission was founded to carry out President Kennedy's goals, and those things are still true today. Its 25 members are still very active throughout the State in that program. We are delighted that the other 31 States have joined us, and we extend to those States that are not covered by a Commission an invitation to look at what we have done and take a leaf from our book and move forward with this.

While the Commission has been involved in the fitness of individuals from all walks of life, to understand not only the needs to be mentally fit but physically fit, we have looked at children and at adults. Recent studies have shown that an alarming number of youngsters are opting for the more sedentary activities such as being in front of the television set rather than going out and, as we used to see them, playing ball, walking, and riding bikes. One study we have documented indicates that 40 percent of the children aged 5 through 8 already show signs of being overweight and having elevated blood pressure and high cholesterol levels.

I think those factors that we have seen documented, coupled with inactivity, are bad enough in adults, but it is very, very frightening to me as a parent and frightening to me as a grandparent of four to see that our young people are setting such a dangerous course for themselves before even getting started in their lives.

As far as my concern for this program is concerned, the Maryland Commission has played a very important and critical role in seeing that all children, including the handicapped, receive some type of physical fitness training in the school system. It has not always been easy to get that message across. I can remember one time advocating a fitness day for Maryland and talking about the elementary schools having the school children just really run around the block near their local school systems, and I can remember being contacted by parents who were horrified that I would make Johnny or Betsy or Mary go and run around and exert themselves in that manner. There was the one comment also that the children did not have the proper equipment to be involved in any physical activity.

I have yet to understand or to find a young boy or a young girl who does not have a pair of sneakers who cannot go in on 1 or 2 days a week and just do a walking program around the school yard. Very rarely do we find where that would be a difficulty. And, of course, for those children for whom it would be difficult, they can find some other type of physical exercise to be involved in.

The Commission's concern with involvement in fitness does not really stop with children. We have been involved, as I said, through the entire scope in the program that we have for our senior citizens. We have just finished an hour of general debate on the Older Americans Act. There are many programs that our senior citizens are involved in, in fitness programs.

Mr. Speaker, I see that one of my colleagues, the gentleman from Maryland [Mr. DYSON], has joined me here this afternoon, and I welcome the gentleman from the Eastern Shore, which is, as I said, the home of the Wheelchair Program.

Mr. DYSON. Mr. Speaker, will the gentlewoman yield?

Mrs. BYRON. I am glad to yield to the gentleman from Maryland.

Mr. DYSON. Mr. Speaker, I rise today to commemorate the 25th Anniversary of the Maryland Physical Fitness Commission. Since its establishment in 1961, the Commission has performed an invaluable service to the Maryland community.

The Commission was established to fulfill the goals of the President's Council on Physical Fitness and Sports. Maryland was the first to form a State Commission on Physical Fitness. The Commission originally consisted of 25 board members and a chairman. The first chairman was

Harry D. Kaufman, who presided over the Commission until 1978, when my distinguished colleague, Hon. BEVERLY B. BYRON, replaced him. The goals of the Maryland Commission remain the same: working cooperatively with the Maryland Department of Education towards the promotion of physical fitness for all Maryland citizens. While the Commission's primary focus is on school children, adults also benefit from Commission programs. Finally, the Maryland Commission on Physical Fitness works cooperatively with various private groups in the promotion of physical exercise programs.

Throughout the years, the Commission has created a variety of different programs to help Marylanders of all ages to get in shape. The Commission established the "Five Point Program," which established minimum exercise standards for all Physical Education programs in county schools. The Maryland commission also converted old railroad right-of-ways into new hiking and biking trails. In 1967 the "Active People Over 60" Program was initiated, encouraging elderly citizens to join in a physical exercise program especially designed to keep them fit.

Mr. Speaker, in these and innumerable other ways, the Maryland Physical Fitness Commission has enriched the physical health and well-being of all Marylanders. For this reason, Mr. Speaker, on this occasion of its 25th Anniversary, on behalf of all Marylanders, I would like to express our heartfelt gratitude for the outstanding work the Commission has done throughout the years.

Mr. Speaker, I might add that certainly a great deal of appreciation goes to the gentlewoman from western Maryland [Mrs. BYRON]. I think that because she represents the great mountains of our State, and have the ability to climb up and down them, that she has become probably one of the most active proponents of physical fitness in our State. We are very proud of that, and I think, just as our colleague, the gentleman from Mississippi, is known as "Mr. Veteran," this gentlewoman from Maryland should probably be known as "Ms. Physical Fitness" for the State of Maryland and for this country. I applaud her for what she has done to help not only the schoolchildren but all the people of Maryland to achieve better health through physical fitness.

Mrs. BYRON. Mr. Speaker, I thank the gentleman very much.

Let me touch on a couple of programs that I think are very interesting to note. We may recall back 25 years ago when President Kennedy made a strong commitment to this Nation on fitness, there was a 50-mile hike that was started. It became the rage at one time. I am delighted to say that in Maryland the JFK 50-mile hike is celebrating its 25th anniversary this year.

I am also delighted to say that we have developed a large group of corporate sponsors for fitness programs throughout this country. Just this morning the walking program, which is sponsored by Sanka, was giving out awards and holding a 1-day symposium.

We have developed a large awareness by many of our military men and women, and there is no group that I think speaks better for fitness than our military leaders, because theirs is a strong commitment to further physical fitness programs.

The Maryland commission has made many important contributions to the daily lives of Marylanders of all ages on fitness, and yet at the same time, when we are talking about honoring the Maryland Commission on Fitness, I think we have to look at this body and my colleagues here, because, as we are continuously reading, the Nike challenge race, which is one that pits the House and the Senate against the news media and against the executive branch, we have a large number of participants that come from this body to run in that race.

We have just recently read of Congressman BONIOR and Congressman DELLUMS and a team going down to develop the elderly superfit category, and they have done extremely well in that program.

So our message is getting across. I would like to look back 25 years and see where we have come in that 25 years and at the same time commend the Maryland Commission on Physical Fitness for its outstanding track record during that period. Since it was the first commission, the fact that it has been joined by 31 commissions in the meantime leads us to say that things are moving forward. We can all learn from one commission to another, and hopefully the pace that we have set for ourselves in Maryland will be not only matched but even surpassed by the work that the President's Council has done through the local State commissions and then down on the local level through the various county commissions that we have operational.

□ 1725

Mr. Speaker, let me say that I think we have talked a little about fitness in the Nation, talked a little bit about fitness in Maryland, and looked at where we have gone.

I think the fact that there are a large number of very dedicated people that have made this come about, made this commission still alive after 25 years and very vital and very vibrant in the State, and I take this time in this special order to commend those individuals for their time, their dedication, and their efforts.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, we, in the State of Maryland, are all grateful to our colleague, Congresswoman BEVERLY B. BYRON, the chairwoman of the Maryland Commission on Physical Fitness. This year the State of Maryland marks the 25th anniversary of the creation of the Maryland Commission on Physical Fitness. In addition, this is the eighth year in which Congresswoman BYRON has served as the chairwoman of the commission.

I am grateful that my friend, BEV BYRON, has given me an opportunity to speak today. On behalf of my constituents, the citizens of Prince George's County, I want to extend to you our congratulations and our best wishes on the commission's anniversary.

Maryland, I am quite pleased to note, was the first State to establish a State commission to address the physical fitness and physical well-being of its residents. The creation of the Maryland commission was a direct outgrowth of President John F. Kennedy's interest in fully implementing the goals of the President's Council on Physical Fitness and Sports, an organization established by President Dwight D. Eisenhower in 1956.

The basic goals of the commission in the early 1960's and its goals today, in the late 1980's, remain similar: to work with the Maryland State Department of Education to promote physical fitness for all schoolchildren. In addition, the commission has been active in encouraging adult physical fitness programs, including programs that are focused directly on teenagers, young adults, the middle aged, senior citizens, and the handicapped. Much has been accomplished, but much more remains to be done.

American athletes continue to receive an impressive number of gold, silver, and bronze awards at international sporting events. But, the health and physical fitness of the average American is of continuing concern to us all. Most Americans, even after years of public service announcements, of physicians' warnings, of appalling rates of heart disease and other infirmities, of disconcerting medical warnings, still continue to smoke, to eat too much, to drink too much, and, unfortunately, to exercise too little.

To its credit, the Maryland Commission on Physical Fitness has taken the lead in arguing that good health, vitality, and fitness are things for which we all should work, throughout our lives. Good health and physical fitness are just as important for preschoolers as for senior citizens, for the young as for the old.

Through the efforts of the Maryland Commission on Physical Fitness, was well as the endeavors of other

State commissions, physical fitness is no longer viewed as a passing trend or something only for the young. Physical fitness should not be viewed as a fad or as a passing fancy. Physical fitness is much more than the purchase of expensive running shoes or the joining of exclusive exercise clubs.

Much as the ancient Greeks and Romans, we should always view a fit physique as just as important as an educated mind. Juvenal, the Roman poet, in his "Tenth Satire," wrote "mens sana in copore sano," which has been translated as "a sound mind and a sound body." Juvenal was describing a body not wracked by illness and disease and a mind not corrupted by mental decline and sickness. Today, we also realize the important role played by physical fitness in the prevention of physical as well as mental diseases and problems. Avoiding physical and mental decomposition leads necessarily to a lifelong commitment to physical and mental conditioning.

Mr. Speaker, we should all pursue a life of physical fitness and well-being. For its work in this regard, we should applaud the work of the Maryland Commission on Physical Fitness. In closing, I would again like to compliment Congresswoman BYRON for her efforts as chairwoman of the Maryland Commission on Physical Fitness. Again, I extend my heartiest congratulations to the Maryland Commission on Physical Fitness on its 25th anniversary.

Mrs. MORELLA. Mr. Speaker, in 1956, President Eisenhower formed the President's Council on Physical Fitness and Maryland became the first State to form a commission on physical fitness 5 years later. Since that time, there have been two chairmen—Harry D. Kaufman, an attorney, who served until his death in 1978, and the current chairman, our colleague, Representative BEVERLY BYRON.

The commission, of course, promotes good health through physical fitness. One of its earliest projects back in 1964 was reminiscent of a project now in motion in Montgomery County and the District of Columbia. Based on the concept of using an abandoned railroad right-of-way for hiking and biking trails, an effort was made to develop a trail through Baltimore and Harford Counties. Today, hiking and biking enthusiasts are endeavoring to utilize the old Georgetown spur and rail line from Bethesda to Silver Spring. We are reminded on this 25th anniversary year that physical fitness is still a need for our citizens.

The Maryland Commission on Physical Fitness has worked tirelessly to encourage both young and old to exercise and participate in sports. My first experience with the commission was while I was serving in the Maryland State Legislature. An annual health screening project tested our strength, endurance, and overall good health.

I want to thank my colleagues, BEVERLY BYRON, for the time and effort she has shown in serving as commission chairman over these last 10 years. Many Marylanders have benefited from her dedication and are now in better physical and mental health. The State, too, should be proud of its record in forming the first commission, and it is an honor and privilege to salute the Maryland Physical Fitness Commission today.

Mr. CARDIN. Mr. Speaker, 25 years ago in Maryland a special commission was formed to carry out the goals of President Kennedy's Council on Physical Fitness and Sports. The Maryland Commission on Physical Fitness, with its 25 members, became the first such commission of its kind in the country. While the commission initially started with 24 men and one female member, it has since grown to include individuals from all walks of life who understand the need to be not only mentally fit but physically fit as well—that includes children and adults.

Recent studies have shown that an alarming number of youngsters are opting for more sendentary activities in front of the television rather than going outside and playing ball or even walking or riding a bike. One study has indicated that 40 percent of children ages 5-8 are already showing signs of being overweight—including elevated blood pressure and high cholesterol levels. Those factors coupled with their inactivity are bad enough in adults but it is frightening to think that such young people are setting a dangerous course for themselves before they ever really get started in life.

Maryland's Commission on Physical Fitness has played an important and critical role in seeing that all children—including the handicapped—receive some kind of physical fitness training in school. It's hoped that early good health habits can be developed to carry these youngsters through their adult years.

But, the commission's concern and involvement with the physically fit doesn't stop with children. The commission has been instrumental in the creation of hiking and biking trails in Maryland for both children and adults. The commission has also helped in developing employee fitness programs. And, the commission has been a key player in the Senior Olympics and State Games.

As you can tell, the Maryland Commission on Physical Fitness has made many important contributions to the daily lives of Marylanders of all ages. I would like to commend the Maryland Commission on Physical Fitness for its outstanding track record during the past 25 years. Hopefully, the pace it has set for itself will be matched—or even surpassed—during the next 25 years to come.

Mr. ALEXANDER. Mr. Speaker, I want to thank my colleague from Maryland [Mrs. BYRON] for the invitation to participate in this special order recognizing the service provided to the people of Maryland by the Maryland Commission on Physical Fitness.

It is particularly appropriate that she lead this special order today for she has long been actively involved in promoting physical fitness. I, personally, benefited from her family's commitment to this program for it was her husband, our late colleague Goodloe Byron who encouraged me to broaden my own fitness activities to include running. And, as a result, for many years now, I have enjoyed this sport as a competitive and recreational activity.

In 1961, Maryland established its Commission on Physical Fitness, the first State-sponsored commission. Over the years commission members have included a cross-section of Marylanders ranging from concerned private citizens, business people, educators, professional athletes, and health professionals.

The commission's primary focus is on youngsters in secondary and elementary schools, but its programs encourage physical fitness for people all ages including senior citizens. Its programs use in-school activities, television and radio programs, conferences, seminars, and recreational and competitiveness competitions.

Both Maryland and the gentlelady from Maryland can take justifiably pride in the accomplishments of the Maryland Commission on Physical Fitness.

Mr. MAVROULES. Mr. Speaker, I would like to congratulate the Maryland Commission on Physical Fitness for its 25 years of service. Created in 1961, at the request of President John F. Kennedy, the Maryland Commission was the first State physical fitness commission. President Kennedy recognized that State commissions were necessary to carry out the goals of the President's Council on Physical Fitness and Sports.

The President's Council was formed in 1956, when President Eisenhower felt it was necessary because of what he saw to be an alarming number of American citizens who were in poor physical shape. Since then, through State commissions and physical education and recreation programs, great progress has been made toward a heightened awareness of physical fitness in the United States.

However, these efforts must not be abandoned. Increases in the standard of living, and added luxuries and comforts that may not have been possible in the past, have made it increasingly easy to lead a life with relatively little physical activity.

The basic goals of the Maryland commission over the years have been to work with the State Department of Education to promote physical fitness for all school children, as well as to promote adult fitness programs.

The importance of physical fitness in our society is essential. Numerous medical reports have touted the great advantages of physical fitness, particularly in a society where people work long hours under stressful conditions. It is critical that our children be taught from a very early age that their level of physical fitness directly corresponds to their level of mental alertness, and their overall sense of well-being.

I commend the Maryland Commission for all of its worthwhile efforts over the past 25 years, and I extend my best wishes for the next 25. I want to thank the gentlewoman from Maryland for allowing me the opportunity to express my strong support for the admirable goal of a physically fit society.

Mrs. BYRON. Mr. Speaker, as we close this special order, if there is any message we need to get out to the American people, the young people and our senior citizens, and everyone in between, very few of us can be a Sugar Ray Leonard.

The gentleman from Maryland [Mr. HOYER] and I have had our discussions back and forth on Mr. Leonard who happens to be a constituent of mine, but had formerly been a constituent of the gentleman from Maryland.

Very few of us can be an Olympic basketball star, such as the gentleman from Maryland, Tom McMillen, who is one of our colleagues here.

We have a large number of Olympic champions throughout this Nation. What we really have more than that is an awful lot of Archie Bunkers that certainly need to be aware of the fact that they need to be kept physically fit, so I want to commend all of those—and I hate to say "arm chair fitness buffs" out there—but anybody only needs to look out on the street and see the tennis courts full, the golf courses filled, the bicycle trails filled up, and the number of running shoes sold in this Nation, and knows there is certainly a strong commitment to fitness throughout our country.

Along with fitness goes the nutritional programs that we have seen and developed over the years, so I want to thank the Members very much for joining me today in this special order.

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Jones of North Carolina (at the request of Mr. Foley), for today and tomorrow, on account of official business.

Mr. Bevill (at the request of Mr. Foley), for today and tomorrow, on account of illness.

Mr. Lloyd (at the request of Mr. Foley), for today, on account of illness.

Mr. Houghton (at the request of Mr. Michel), today until 3 p.m., on account of attendance at funeral in Corning, NY.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lungren) to revise and extend their remarks and include extraneous material:)

Mr. Green, for 5 minutes, today.

Mr. Lungren, for 5 minutes, today.

Mr. Lungren, for 5 minutes, on May 28.

(The following Members (at the request of Mr. Kildee) to revise and extend their remarks and include extraneous material:)

Mr. Panetta, for 5 minutes, today.

Mr. Boland, for 5 minutes, today.

Mrs. Byron, for 30 minutes, today.

Mr. Pease, for 5 minutes, on May 28.

Mr. Stratton, for 60 minutes, on June 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Lungren) and to include extraneous matter:)

Mrs. Morella in two instances.

Mr. Archer.

Mr. Hansen in two instances.

Mr. Badham in two instances.

Mr. Broomfield in two instances.

Mr. Schuette in two instances.

Mr. Gilman in two instances.

Mrs. Saiki.

Mr. Rowland of Connecticut.

Mr. Fields.

Mr. Courter in two instances.

Mr. Lagomarsino.

Mr. Gekas in two instances.

Mr. Weldon.

(The following Members (at the request of Mr. Kildee) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Stark in two instances.

Mr. LaFalce.

Mr. Dyson in two instances.

Mr. Price of Illinois.

Mr. Florio in two instances.

Mr. McMillen of Maryland.

Mr. Stark in two instances.

Mr. Rangel.

Mr. Gordon.

Mr. Vento.

Mr. Dixon.

Mr. Ackerman in two instances.

Mr. Conyers.

Mr. Edwards of California.

Mr. Levine of California in two instances.

Mr. Matsui in two instances.

Mr. Feighan.

Mr. Sharp in two instances.

Mr. AuCoin.

Mrs. Schroeder.

Mr. Hall of Ohio.

Mr. Hamilton.

Mrs. Boggs.

Mr. Guarini.

Mr. Kanjorski.

Mr. Mavroules.

Mr. Berman.

Mr. Lantos.

Mr. Morrison of Connecticut.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 345. An act to amend the Contract Disputes Act of 1978 to require that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative law judges of the Federal Government for certain administrative purposes; to the Committee on the Judiciary.

S. 496. An act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes; to the Committee on Government Operations.

S.J. Res. 104. Joint resolution to designate the week of May 31, 1987, through June 6, 1987, as "National Intelligence Community Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1846. An act to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes, and

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. *Stark*."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On May 22, 1987:

H.J. Res. 290. Joint resolution designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. *Stark*."

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 34 minutes p.m.) the House adjourned until tomorrow, Thursday, May 28, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1459. A letter from the Chairman, National Research Council, transmitting a prepublication copy of the National Research Council report, "Rethinking Quality Control: A new System for the Food Stamp Program," pursuant to 7 U.S.C. 2025 nt.; to the Committee on Agriculture.

1460. A letter from the Director, Federal Emergency Management Agency, transmitting a report on the implementation and planning activities for the National Defense Stockpile during the April-September 1986 period, pursuant to 50 U.S.C. 98th-2(b); to the Committee on Armed Services.

1461. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 308 of title 37, United States Code, to eliminate the statutory minimum lump-sum payment for selective reenlistment bonuses; to the Committee on Armed Services.

1462. A letter from the Auditor, District of Columbia, transmitting the Comprehensive Annual Report, a 6-year review of fiscal years 1981-86, pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

1463. A letter from the Secretary of Energy, transmitting the quarterly report of the strategic petroleum reserve covering the period January 1, 1987, through March 31, 1987, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

1464. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Pakistan for defense articles and services estimated to cost $44 million (transmittal No. 87-21), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1465. A letter from the Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State, transmitting the seventh 90-day report on the Camarena investigation, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421), to the Committee on Foreign Affairs.

1466. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1467. A letter from the Comptroller General, General Accounting Office, transmitting a list of the reports issued by the General Accounting Office during the month of April 1987, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1468. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the annual report of the Commission's activities under the Government in the Sunshine Act during calendar year 1986, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1469. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notification of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1470. A letter from the Director, U.S. Information Agency, transmitting the first semiannual report of the agency's Office of Inspector General covering the period October 1, 1986, through March 31, 1987, pursuant to Public Law 95-452, as amended; to the Committee on Government Operations.

1471. A letter from the Director of Civilian Personnel, F. Edward Hebert School of Medicine, Uniformed Services University of the Health Sciences, transmitting the 1986 pension report for the University, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1472. A letter from the Chairman, Federal Election Commission, transmitting proposed rules and regulations governing public financing of Presidential primary and general election candidates, pursuant to 26 U.S.C. 9039(c); to the Committee on House Administration.

1473. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the 1986 annual report of the Corporation, pursuant to 40 U.S.C. 880(a); to the Committee on Interior and Insular Affairs.

1474. A letter from the Comptroller General, General Accounting Office, transmitting, the report and recommendation concerning the claim of Ms. Bibianne Cyr to be relieved of liability for repayment of travel expenses that were erroneously paid to her by the Department of the Air Force, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

1475. A letter from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend the Saltonstall-Kennedy Act and the Fish and Seafood Promotion Act of 1986 to allow use of moneys in the Saltonstall-Kennedy fund solely for marine fishery resource programs; to the Committee on Merchant Marine and Fisheries.

1476. A letter from the Secretary of Commerce, transmitting, a draft of proposed legislation to promote marine fisheries conservation programs and for other purposes; to the Committee on Merchant Marine and Fisheries.

1477. A letter from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend the Coastal Zone Management Act of 1972, as amended; to the Committee on Merchant Marine and Fisheries.

1478. A letter from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend title 5, United States Code, to change the position of the Director of the Census Bureau to level IV from level V in the executive schedule; to the Committee on Post Office and Civil Service.

1479. A letter from the Director, National Bureau of Standards, Department of Commerce, transmitting a copy of the technical report, "Structural Assessment of the New U.S. Embassy Office Building in Moscow," which supplements the summary report transmitted in April 1987, pursuant to Public Law 99-591; jointly, to the Committees on Appropriations and Foreign Affairs.

1480. A letter from the Acting Director, Central Intelligence Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Armed Services and the Permanent Select Committee on Intelligence.

1481. A letter from the Administrator, Environmental Protection Agency, transmitting an interim report on the "Review of Emergency Systems" which presents the planned approach and scope as well as the status of the 18-month technology review, pursuant to Public Law 99-499; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

1482. A letter from the Secretary of Commerce, transmitting the monthly report on imports during January 1987 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

1483. A letter from the Comptroller General, General Accounting Office, transmitting the financial audit of the Federal Savings and Loan Insurance Corporation's 1986 and 1985 financial statements, report on the Corporation's system of internal accounting controls and on its compliance with laws and regulations, pursuant to 31 U.S.C. 9106(a) and 3512(f); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

1484. A letter from the Comptroller General, transmitting a report on the evaluation of the Immigration and Naturalization Service's (INA) trial preinspection program at Shannon International Airport, pursuant to Public Law 99-500, Public Law 99-591; jointly, to the Committees on Government Operations and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 19, 1987, the following report was filed on May 22, 1987]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2470. A bill to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes (Rept. No. 100-105, Pt. 1). Ordered to be printed.

[Submitted May 27, 1987]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 900. A bill to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gualey, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; with amendment (Rept. No. 100-106). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1939. A bill to provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and for other purposes (Rept. No. 100-107). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1934. A bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance (Rept. No. 100-108). Referred to the Committee of the Whole House on the State of Union.

Mr. PEPPER: Committee on Rules. H. Res. 175. A resolution providing for further consideration of H.R. 1451. A bill to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes (Rept. No. 100-109). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT:

H.R. 2512. A bill relating to the tariff treatment of loganberries and raspberries; to the Committee on Ways and Means.

By Mr. BOSCO:

H.R. 2513. A bill to require that a study be undertaken regarding the fishery resources and habitats of the Russian River (California) basin; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. COBLE (for himself, Mr. Ballenger, Mr. Clarke, Mr. Hefner, Mr. Lancaster, Mr. McMillan of North Carolina, Mr. Montgomery, Mr. Neal, Mr. Jones of North Carolina, Mr. Daniel, Mr. Quillen, Mr. Rose, Mr. Valentine, and Mr. Price of North Carolina):

H.R. 2514. A bill to amend the Securities Exchange Act of 1934 to establish a moratorium on hostile foreign takeovers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CONYERS:

H.R. 2515. A bill to amend chapter 215 of title 18 of the United States Code to allow assistance of counsel in connection with grand jury proceedings; to the Committee on the Judiciary.

By Mr. FLORIO (for himself, Mr. Gilman, Mr. Howard, Mr. Mrazek, Mr. Bates, Mr. Torres, Mr. Scheuer, Mr. Saxton, Mr. Foglietta, Mr. LaFalce, Mr. Kostmayer, Mr. Dwyer of New Jersey, Mr. Richardson, Mr. Molinari, Mr. Smith of New Jersey, Mr. Hughes, Mr. Waxman, Mr. Vento, Mr. Sikorski, Mr. Roe, and Mr. Borski):

H.R. 2516. A bill to amend the Clean Air Act to control emissions of certain air pollutants from municipal waste incinerators; to the Committee on Energy and Commerce.

H.R. 2517. A bill to amend the Solid Waste Disposal Act to reduce the hazards associated with municipal incinerator ash, and for other purposes; to the Committee on Energy and Commerce.

By Ms. KAPTUR:

H.R. 2518. A bill to require the Secretary of Housing and Urban Development to provide grants to public housing agencies to assist such agencies in providing child care services for lower income families; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LANTOS (for himself and Mr. Smith of New Jersey):

H.R. 2519. A bill to require a report on security arrangements in the Persian Gulf prior to implementing any agreement for United States military protection of Kuwaiti shipping; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. DORNAN of California:

H.R. 2520. A bill to repeal certain provisions of law which violate the doctrine of separation of powers and to eliminate certain restrictions on the authority of the executive branch; jointly, to the Committees on Foreign Affairs; Armed Services; Banking, Finance and Urban Affairs; Veterans' Affairs; Interior and Insular Affairs; and Science, Space, and Technology.

By Mr. LEVINE of California (for himself, Mr. Waxman, and Mr. Lowery of California):

H.R. 2521. A bill to amend the Clean Air Act to control air pollution from sources on the Outer Continental Shelf, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEVINE of California (for himself and Mr. Leach of Iowa):

H.R. 2522. A bill to prohibit private assistance for military or paramilitary operations in a foreign country if the Congress has prohibited the use of covert assistance for such operations; to the Committee on the Judiciary.

By Mr. McMILLEN of Maryland:

H.R. 2523. A bill to amend the Export Administration Act of 1979 to require that an export license application for the export of refined petroleum products include an affidavit stating that the products are not (destined) (intended) for reimportation into the United States, with or without blending in another country; to the Committee on Foreign Affairs.

By Mr. MOLINARI (for himself and Mr. Shaw):

H.R. 2524. A bill to amend the Public Buildings Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capital region; to the Committee on Public Works and Transportation.

By Mr. DORNAN of California:

H.R. 2525. A bill to repeal the War Powers Resolution; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H.R. 2526. A bill to direct the Administrator of Veterans' Affairs to provide certain health-care services at the Vietnam Veterans Outreach Center in Marina, CA; to the Committee on Veterans' Affairs.

H.R. 2527. A bill to direct the Administrator of the Environmental Protection Agency to conduct a study of possible solutions to certain problems associated with disposal of nonbiodegradable plastics, and to control pollution of the environment caused by the discarding of plastics on the land and in water; jointly, to the Committees on Energy and Commerce; Merchant Marine and Fisheries; Public Works and Transportation; and Science, Space, and Technology.

By Mr. PEPPER:

H.R. 2528. A bill to authorize the seizure of any vessel that makes a call on any port in the United States within 6 months after making a call on any port in Cuba, and for other purposes; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. RANGEL:

H.R. 2529. A bill to direct the Administrator of General Services to construct a Federal building at 125th Street and Lenox Avenue in the city of New York, NY; to the Committee on Public Works and Transportation.

By Mr. VENTO (for himself, Mr. Frenzel, Mr. Oberstar, Mr. Stangeland, Mr. Sabo, Mr. Weber, Mr. Sikorski, and Mr. Penny):

H.R. 2530. A bill to provide for the establishment of the Mississippi National River and Recreation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DELLUMS:

H.J. Res. 292. Joint resolution designating the week beginning February 1, 1988, as "National VITA Week"; to the Committee on Post Office and Civil Service.

By Mr. INHOFE (for himself, Mr. Edwards of Oklahoma, Mr. Montgomery, and Mr. Hammerschmidt):

H.J. Res. 293. Joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. VALENTINE (for himself, Mr. Hefner, Mr. Bustamante, Mr. Lewis of Florida, Mr. Traficant, Mrs. Collins, Mr. Lantos, Mr. Hayes of Illinois, Mr. Scheuer, Mr. Stangeland, Mr. Leland, Mr. Rahall, Mr. Horton, Mr. Mrazek, Mr. Kostmayer, Mr. Bryant, Mr. Lipinski, Mr. Roe, Mr. Richardson, Mr. Levine of California, Mr. Fazio, Mrs. Roukema, Mrs. Boxer, Mr. Jones of North Carolina, Mr. Lagomarsino, Mr. Gray of Illinois, Mr. Bennett, Mrs. Kennelly, Mr. Owens of New York, Mr. Hochbrueckner, Mr. Lancaster, Mr. DeWine, Mr. McGrath, Mr. Kolter, Mr. Frost, Mr. Schuette, Mr. Hutto, Mr. Schaefer, Mr. McMillen of Maryland, Mr. Espy, Mr. Fish, Mrs. Patterson, Mr. Miller of Ohio, Mr. Lewis of Georgia, and Mr. Buechner):

H.J. Res. 294. Joint resolution designating September 1987 as "National Teenage Suicide Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H. Res. 176. Resolution directing the Secretary of Energy to provide to the House of Representatives documents relating to certain contractor and national laboratory activities performed for the purpose of informing Congress on nuclear testing; to the Committee on Armed Services.

By Mr. SUNIA (for himself, Mr. Blaz, and Mr. Akaka):

H. Res. 177. Resolution expressing the sense of the House of Representatives regarding the silver anniversary of the Independent State of Western Samoa; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

85. By the SPEAKER: A memorial of the legislature of the State of Minnesota, relative to the Farmers Home Administration's relationship with the Farmer-Lender Mediation Program; to the Committee on Agriculture.

86. Also, memorial of the legislature of the State of Maine, relative to the lockout of employees at Simplex Wire and Cable; to the Committee on Education and Labor.

87. Also, memorial of the Second Olbiil Era Kelulau, Palau National Congress, Republic of Palau, relative to the late former Congressman Antonio Borja Won Pat; to the Committee on Interior and Insular Affairs.

88. Also, memorial of the legislature of the State of Minnesota, relative to posthumously awarding the Presidential Medal of Freedom to certain individuals; to the Committee on Post Office and Civil Service.

89. Also, memorial of the legislature of the State of Minnesota, relative to the Veterans' Administration system of health care

facilities; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Dreier of California and Mr. Barton of Texas.

H.R. 51: Mr. Yatron, Mr. Lehman of California, Mr. Berman, and Mr. Roybal.

H.R. 80: Mr. Gray of Illinois, Ms. Slaughter of New York, Mr. Price of North Carolina, Mr. English, Mr. Hochbrueckner, Mr. Staggers, Mr. McMillen of Maryland, and Mr. Owens of New York.

H.R. 236: Mr. Lancaster.

H.R. 300: Mrs. Bentley, Mr. Borski, Mr. Davis of Michigan, Mr. Dellums, Mr. DioGuardi, Mr. Dyson, Mr. Kolter, Mr. Lent, Mr. Lewis of Georgia, Mr. Manton, Mr. Owens of New York, Mr. Quillen, Mr. Solarz, Mr. Torricelli, and Mr. Towns.

H.R. 543: Mr. Lowry of Washington.

H.R. 544: Mr. Packard, Mr. Leland, Mr. Savage, Mr. Wolpe, and Mr. Scheuer.

H.R. 575: Mr. Penny.

H.R. 579: Mr. Waxman, Mr. Hochbrueckner, and Mr. Panetta.

H.R. 593: Mr. Hunter, Mr. Madigan, Mr. Michel, Mr. Packard, Mr. Pursell, Mr. Quillen, Mr. Taylor, Mr. Whittaker, Mr. Stenholm, Mr. Sisisky, Mr. Anthony, Mr. Barnard, Mr. Brown of California, Mr. Daniel, Mr. Dingell, Mr. Edwards of California, Mr. Hubbard, and Mr. LaFalce.

H.R. 612: Mr. Ackerman, Mr. Vento, Mr. Hochbrueckner, Mr. Gunderson, Mr. Wolpe, Mr. Bates, and Mr. Waxman.

H.R. 692: Mr. Huckaby.

H.R. 789: Mr. McMillan of North Carolina.

H.R. 792: Mr. Davis of Michigan, Mr. Solomon, Mrs. Byron, and Mrs. Morella.

H.R. 898: Mr. Traxler and Mr. Ford of Michigan.

H.R. 951: Mr. Stenholm and Mr. Packard.

H.R. 954: Mr. Morrison of Connecticut, Mr. Conyers, Mr. Dellums, Mr. Chapman, Mr. Fauntroy, Mr. Roybal, Mr. Fuster, Mr. Campbell, Mr. Spence, Mr. Coble, Mr. Kennedy, Mr. Traficant, Mr. Sunia, and Mr. Murphy.

H.R. 1018: Mr. Stark.

H.R. 1048: Mr. Swindall, Mrs. Boxer, Mr. Erdreich, and Mr. Saxton.

H.R. 1088: Mr. Foglietta.

H.R. 1161: Mr. Ackerman, Mr. Boehlert, Mr. Boland, Mr. Borski, Mr. Bosco, Mrs. Boxer, Mr. Brown of California, Mr. Campbell, Mr. DeFazio, Mr. Dorgan of North Dakota, Mr. Feighan, Mr. Frank, Mr. Gallo, Mr. Horton, Mr. Jacobs, Mr. McHugh, Mr. Mrazek, Mr. Quillen, Mr. Skelton, Ms. Slaughter of New York, Mr. Torricelli, and Mr. Weiss.

H.R. 1172: Mr. Ford of Tennessee, Mr. Ravenel, and Mr. de Lugo.

H.R. 1200: Mr. Stark, Mrs. Roukema, Mr. Traficant, Mr. Wolpe, and Mr. de Lugo.

H.R. 1231: Mr. Williams, Mrs. Patterson, and Mr. Eckart.

H.R. 1241: Mr. Shaw, Mr. Lantos, Mr. Robert F. Smith, Mr. Edwards of Oklahoma, Mr. Fauntroy, Mr. Gekas, Mr. Mavroules, Mr. Ackerman, Mr. Chandler, Mr. Rowland of Connecticut, Mr. Gilman, Mr. Denny Smith, Mr. Gallo, Mr. Hiler, Mr. Hyde, Mr. Young of Alaska, Mr. Donald E. Lukens, Mr. Rhodes, Mr. Parris, Mr. Fish, Mr. Madigan, Mr. Smith of New Jersey, Mr. Sweeney, Mr. Coble, Mr. Traficant, Mr. Leland, Mr. Gingrich, Mr. McDade, Mr. Lujan, Mr. McEwen, Mr. Solomon, Mr. Emerson, Mr. Bustamante, and Mr. Packard.

H.R. 1327: Mr. Leland and Mr. Yatron.

H.R. 1342: Mr. Feighan.

H.R. 1346: Mr. Edwards of Oklahoma.

H.R. 1398: Mr. Espy.

H.R. 1517: Mr. Towns, Mr. Torricelli, and Mr. Owens of Utah.

H.R. 1566: Ms. Slaughter of New York, Mr. Murphy, Mr. Mrazek, Mrs. Lloyd, and Mr. Hyde.

H.R. 1606: Mr. Stump, Mr. Badham, Mr. Shumway, Mr. Swindall, Mr. Crane, Mr. Bliley, and Mr. Craig.

H.R. 1614: Mr. Duncan, Mr. Dowdy of Mississippi, and Mr. Holloway.

H.R. 1620: Mr. Jontz.

H.R. 1636: Mr. Fascell, Mr. Berman, Mr. Atkins, Mr. Dellums, Mr. Fish, Mr. Weiss, Mr. Howard, Mr. Owens of Utah, Mr. Feighan, Mr. Garcia, Ms. Oakar, Mr. Martinez, and Mr. Foglietta.

H.R. 1654: Mr. Dorgan of North Dakota.

H.R. 1662: Mr. Campbell, Mr. Schaefer, Mr. Wortley, Mr. Cheney, and Mr. DeFazio.

H.R. 1707: Mr. Young of Florida, Mr. Scheuer, Mr. Rowland of Georgia, Mr. Lipinski, Mr. Smith of New Jersey, Mr. Staggers, Mr. Stenholm, Mr. Mica, Mr. Robinson, Mr. Perkins, Mr. Sunia, Mr. Fauntroy, and Mr. Hayes of Illinois.

H.R. 1713: Mr. Edwards of Oklahoma and Mr. Roberts.

H.R. 1738: Mr. Edwards of Oklahoma.

H.R. 1770: Mrs. Boxer.

H.R. 1782: Mrs. Boggs and Mr. Roemer.

H.R. 1834: Mr. Torricelli, Mr. Dixon, and Mr. Annunzio.

H.R. 1857: Mr. Wilson, Mr. Lagomarsino, Mr. Towns, Mrs. Johnson of Connecticut, Mr. Atkins, Mr. Kastenmeier, Ms. Kaptur, Mr. Owens of New York, Mr. Kolbe, Mr. Sundquist, Mr. Howard, Mr. Hubbard, and Mr. Borski.

H.R. 1860: Mr. Owens of Utah.

H.R. 1885: Mr. Gallegly and Mr. Thomas of Georgia.

H.R. 1924: Mr. Dornan of California.

H.R. 1934: Mr. Conte, Mr. Crane, and Mr. de Lugo.

H.R. 1950: Mr. Bustamante, Mr. Clarke, Mr. Dicks, Mr. Dorgan of North Dakota, Mr. Gonzalez, Mrs. Johnson of Connecticut, Mrs. Kennelly, Mr. Kostmayer, Mr. Levine of California, Mr. Martin of New York, Mr. Olin, Mr. Panetta, Mr. Pursell, Mr. Roe, Mr. Roemer, Mr. Tauzin, Mr. Torricelli, Mr. Towns, Mr. Traficant, Mr. Udall, Mr. Williams, Mr. Foglietta, Mr. Mineta, and Mr. Walgren.

H.R. 1960: Mr. DeLay, Mr. DioGuardi, and Mr. Lungren.

H.R. 1975: Mr. Skelton, Mr. Udall, and Mr. Walgren.

H.R. 1987: Mr. Atkins, Mrs. Bentley, and Mr. Regula.

H.R. 2038: Mr. Hochbrueckner.

H.R. 2048: Mr. Lagomarsino, Mr. Sunia, Mr. Wolf, Mrs. Boxer, Mr. Porter, Mr. Goodling, Mr. Levin of Michigan, and Mrs. Bentley.

H.R. 2051: Mr. Dornan of California and Mr. Lagomarsino.

H.R. 2062: Mr. Perkins.

H.R. 2063: Mr. Crane.

H.R. 2065: Mr. Morrison of Connecticut, Mr. Owens of New York, Mrs. Boxer, and Mr. Bates.

H.R. 2116: Mr. Barton of Texas, Mr. Davis of Michigan, Mr. Oberstar, Mr. Robert F. Smith, Ms. Snowe, and Mr. Wilson.

H.R. 2117: Mr. Wortley, Mr. Combest, Mr. Daub, and Mr. Barton of Texas.

H.R. 2138: Mr. Rahall.

H.R. 2146: Mr. Moakley and Mr. Robinson.

H.R. 2148: Mr. Penny, Mr. Daub, Mrs. Smith of Nebraska, Mr. Hamilton, Mr. Neal, and Mr. Ballenger.

H.R. 2191: Mr. Nelson of Florida.

H.R. 2205: Mr. Lipinski, Mr. Lagomarsino, Mr. Martinez, Mr. Dornan of California, Mr. Daub, Mr. Nielson of Utah, and Mr. Donald E. Lukens.

H.R. 2216: Mr. Guarini, Mr. Clay, Mr. Berman, Mr. Levin of Michigan, Mr. Owens of New York, and Mr. Williams.

H.R. 2246: Mr. Manton, Mr. Ackerman, Mr. Ortiz, Mr. Frost, Mr. Frank, Mr. Wilson, Mr. Smith of Florida, Mr. Leland, Mr. Feighan, Mr. McEwen, Mr. Savage, Mr. Lancaster, Mr. Rodino, Mr. Kanjorski, Mr. Ford of Michigan, Mr. Traficant, Mr. Mrazek, and Mr. de Lugo.

H.R. 2248: Mr. Young of Florida.

H.R. 2249: Mr. Sunia, Mr. de Lugo, Mr. Rangel, Mr. Price of Illinois, Mr. Mineta, Mr. Gejdenson, Mr. Morrison of Connecticut, Mr. Hayes of Illinois, Mr. DeFazio, Mr. Roybal, and Mr. Scheuer.

H.R. 2284: Mr. Solarz.

H.R. 2307: Mr. Schumer, Mr. Savage, Mr. Martinez, and Mr. Owens of New York.

H.R. 2312: Mr. Feighan and Mr. de Lugo.

H.R. 2318: Mr. Daub, Mr. Bereuter, Mr. Martin of New York, Mr. Montgomery, Mr. Marlenee, and Ms. Snowe.

H.R. 2320: Mr. Frank and Mr. Vento.

H.R. 2337: Mr. Martin of New York and Mr. Solarz.

H.R. 2371: Mr. Lagomarsino, Mr. Boehlert, Mr. Dorgan of North Dakota, Mr. Sundquist, Mr. Gallo, Mr. Florio, Mrs. Bentley, Mr. Spence, Mr. Porter, Mr. Quillen, and Mr. Lancaster.

H.R. 2383: Mr. Ackerman, Mr. Kolter, Mr. Lagomarsino, Mr. Applegate, Mr. Dymally, Mr. Mrazek, Mr. Frost, Mr. Swift, Mr. Levin of Michigan, Mr. Skelton, Mr. Owens of New York, Mr. Horton, Mr. Hughes, and Mr. Hawkins.

H.R. 2491: Mr. Roth and Mrs. Bentley.

H.J. Res. 50: Mr. Yates, Mr. de la Garza, Mr. Volkmer, Mr. Morrison of Connecticut, Mr. Walgren, Mr. Emerson, Mr. Hochbrueckner, Mr. Kanjorski, Mr. Owens of New York, and Mr. Horton.

H.J. Res. 52: Mr. Clay, Mr. Barnard, Mr. Swindall, Mr. Ireland, Mr. Bateman, Mr. Henry, Mr. Smith of New Jersey, and Mr. Boulter.

H.J. Res. 55: Mr. Wolpe, Mr. McHugh, Ms. Oakar, Mr. Atkins, Mr. Waxman, Mr. Bates, Mr. Fish, Mr. Martinez, Mr. Hoyer, Mrs. Meyers of Kansas, Mr. Harris, Mr. Campbell, Mr. Hertel, and Mr. Shumway.

H.J. Res. 62: Mr. Herger.

H.J. Res. 90: Mr. Madigan.

H.J. Res. 106: Mr. Mineta, Mr. Hayes of Louisiana, Mrs. Bentley, Mr. Emerson, Mr. Weiss, Mr. Callahan, and Mr. Hawkins.

H.J. Res. 111: Mr. Dowdy of Mississippi, and Mr. Mazzoli.

H.J. Res. 112: Mr. Feighan.

H.J. Res. 134: Mr. Cardin, Mr. Gray of Pennsylvania, Mr. Wylie, Mr. Yatron, Mr. Whittaker, Mr. Panetta, Mrs. Johnson of Connecticut, and Mr. Valentine.

H.J. Res. 137: Mr. Kildee, Mr. Broomfield, Mr. Murtha, Mr. Ireland, Mr. Morrison of Connecticut, Mr. Matsui, Mr. Annunzio, Mr. Hyde, Mr. Anderson, Mr. Sunia, Mr. Gonzalez, Mr. Chapman, Mr. Kostmayer, Mr. Rowland of Georgia, Mr. Mineta, Mr. Bates, Mr. Dyson, Mr. Kleczka, Mr. Gordon, Mr. Thomas of California, Mr. LaFalce, Mr. Blaz, Mr. Pickle, Mr.

Conte, Mr. Synar, Mr. Hefner, Mr. Weldon, Mr. Burton of Indiana, Mr. Mfume, Mr. Sisisky, Mr. Hansen, Mr. Michel, Mr. Dingell, Mr. Rhodes, Mr. Madigan, Mr. Frost, Mr. Schulze, Mrs. Vucanovich, Mr. Perkins, Mr. Young of Florida, Mr. Whittaker, Mr. Young of Alaska, Mr. Frenzel, and Mr. Roe.

H.J. Res. 195: Mr. Fuster, Mr. Lagomarsino, Mr. Foley, Mr. Wyden, Mr. Dymally, Mr. Solarz, Mr. Levin of Michigan, Mr. Hayes of Illinois, Mr. Dixon, Mr. Fauntroy, Mr. Mrazek, Mr. Lewis of California, Mr. Conyers, Mr. Tallon, Mr. Kostmayer, Mr. Fazio, Mr. de la Garza, Mr. Smith of Florida, Mrs. Boxer, Mr. Wolf, Mrs. Lloyd, Mr. Lancaster, Mr. Dwyer of New Jersey, Mr. Dornan of California, Mr. Vento, Mr. DeWine, Mr. St Germain, Mr. Brown of California, Mr. Frost, Mr. Clinger, Mr. Owens of New York, Mr. Schaefer, Mr. Atkins, Mr. McMillen of Maryland, Mr. Akaka, Mr. Fish, Mrs. Kennelly, Mr. Boner of Tennessee, Mr. Flippo, Mr. Duncan, Mr. Lantos, Mr. Yates, Mr. Espy, Mr. Lipinski, Mr. Young of Florida, Mr. Horton, Mr. Staggers, Mr. Callahan, Mr. Brown of Colorado, Mr. Martinez, Mr. Lehman of Florida, Mr. Bevill, Mr. Sabo, Mr. Robinson, Mr. Barnard, Mrs. Saiki, Mr. Savage, Mr. Leland, Mr. Gregg, Mr. Morrison of Connecticut, Mr. Campbell, Mr. Jones of Tennessee, Mr. Leach of Iowa, Mr. Hoyer, Mr. Johnson of South Dakota, Mr. Hall of Texas, Mr. Anthony, Mr. Gallegly, Mr. Boucher, Mr. Rogers, Mr. Burton of Indiana, Ms. Oakar, Mr. Traxler, Mr. Perkins, Mr. Gunderson, Mr. Alexander, Mr. Anderson, Mr. McCloskey, Mr. DioGuardi, Mr. Rhodes, Mr. Hughes, Mr. Annunzio, Mr. Yatron, Mr. Rodino, Mr. Gonzalez, Mr. Pursell, Mr. Fascell, Mr. Murphy, Mr. Scheuer, Mr. Gordon, Mr. Pashayan, Mr. Parris, Ms. Kaptur, Mr. Sisisky, Mr. Jontz, Mr. Bateman, Mr. Henry, and Mr. Emerson.

H.J. Res. 206: Mr. DioGuardi, Mr. Stark, Mr. Martinez, and Mr. Badham.

H.J. Res. 227: Mr. Fazio, Mr. Hochbrueckner, Mr. Frost, Mr. DeWine, Mr. McGrath, Mr. Coats, Mr. Schuette, Mr. Yates, Mr. Livingston, Mr. Lungren, Mr. Donald E. Lukens, Mr. Hughes, Mr. Stark, and Mr. Levine of California.

H.J. Res. 243: Mr. Morrison of Connecticut, Mr. Owens of New York, and Mrs. Boxer.

H.J. Res. 246: Mr. Feighan, Mrs. Johnson of Connecticut, Mr. Levin of Michigan, Mr. Traxler, Mr. McDade, Mr. Hoyer, and Mr. LaFalce.

H.J. Res. 256: Mr. Fuster, Mr. Fazio, Mr. Valentine, Mr. Udall, Mr. Wortley, Mr. Erdreich, Mr. Levin of Michigan, Mr. Inhofe, Mr. Dannemeyer, Mr. Lipinski, Mr. Blaz, Mr. Conte, Mr. Volkmer, Mr. Hughes, Mr. Clay, Mr. Lancaster, Mr. Horton, Mr. Lagomarsino, Ms. Oakar, Mr. Atkins, Mr. Burton of Indiana, and Mrs. Bentley.

H.J. Res. 261: Mr. Fazio and Mrs. Boxer.

H.J. Res. 268: Mr. Kastenmeier, Mr. Vento, Mr. Kennedy, Mr. Emerson, Mr. Erdreich, Mr. Horton, Mr. Levine of California, Mr. Kildee, Mr. Bonior of Michigan, Mr. Dyson, Mr. Hughes, Mr. Wortley, Mr. DeWine, Mr. Fish, Mr. Kasich, and Mrs. Johnson of Connecticut.

H.J. Res. 271: Mr. Hansen, Mr. Hughes, Mr. Stark, Mr. Coyne, and Mr. Udall.

H.J. Res. 283: Mr. Pursell.

H. Con. Res. 19: Mr. Gregg.

H. Con. Res. 35: Mr. Henry.

H. Con. Res. 66: Mr. Martinez, Mr. Eckart, Mr. Lehman of Florida, Mr. Feighan, Mr. Fish, and Mr. Lantos.

H. Con. Res. 68: Mrs. Bentley, Mr. Bereuter, Mr. Cardin, Mr. Carper, Mr. Chandler, Mr. DioGuardi, Mr. Eckart, Mr. Feighan, Mr. Fish, Mr. Kennedy, Mr. Kolbe, Mr. Roe, Mr. Walgren, and Mr. Williams.

H. Con. Res. 75: Mr. Bliley.

H. Con. Res. 110: Mr. Lagomarsino.

H. Con. Res. 113: Mr. Bates, Mr. Sikorski, Mr. Fish, Mr. Hughes, Mr. Thomas A. Luken, Mr. Martinez, Mr. Studds, Mr. Levin of Michigan, Mrs. Boxer, and Mr. Walgren.

H. Con. Res. 128: Mr. Coelho, Mr. Lehman of California, Mr. Wolpe, and Mr. Ford of Michigan.

H. Res. 110: Mr. Coble and Mr. Ravenel.

H. Res. 146: Mr. Solarz and Mr. Feighan.

H. Res. 166: Mr. Upton, Mr. Lagomarsino, Mr. Barton of Texas, Mr. Swindall, Mrs. Vucanovich, and Mr. Henry.

H. Res. 168: Mr. Jones of North Carolina, Mr. Ravenel, Mr. Brooks, Mr. Dornan of California, Mr. Lagomarsino, Mr. Oxley, and Mr. Emerson.

H. Res. 169: Mr. Denny Smith, Mr. Lagomarsino, Mr. Lewis of California, Mr. Roberts, Mr. Dannemeyer, and Mrs. Johnson of Connecticut.

PETITIONS, ETC.

Under clause 1 of rule XXII,

40. The SPEAKER presented a petition of the City Council, New York, NY, relative to amending the Pure Food and Drug Act; which was referred to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

VENTO INTRODUCES LEGISLATION TO ESTABLISH THE MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. VENTO. Mr. Speaker, I am pleased to reintroduce today major legislation to designate the 80-mile segment of the Mississippi River through the St. Paul-Minneapolis metropolitan area as the "Mississippi National River and Recreation Area."

This legislation was originally introduced late in the 99th Congress. Since that time I have been pleased with the input I have received from public officials and private individuals concerned with the care and utilization of this magnificent river resource.

The Mississippi as it flows through the Twin Cities metropolitan area is truly a national asset, containing a diversity of resources found in no other stretch of this great river. The river itself undergoes a transformation in its passage through the Twin Cities area—going from a wild and shallow river to channel cutting through a deep scenic gorge before breaking out into a broad floodplain overlooked by magnificent bluffs.

It was because of the diversity of natural resources that man was drawn here. Former Indian sites abound along the river, and when whites entered the area they drew upon the river's natural features to establish the major miltiary post of the upper Midwest, Fort Snelling, along the Mississippi's bluffs.

The river further spurred the economic life of the area, an important role it still plays today. At St. Anthony Falls in Minneapolis, the only significant waterfall along the entire Mississippi, commerce boomed through the development of sawmills and flour mills and the operation of the first hydroelectric dam on the Mississippi. As with the river's early history, the Twin Cities today still serve as the terminus for commercial navigation on the upper Mississippi.

The unique historic, cultural, recreational, economic and other values of the river through the seven-county metropolitan river corridor make the Mississippi a special national resource. However, the value of this resource is, unfortunately, not being fully realized. The preservation and utilization of the river is impeded by the lack of a coordinated plan for the river's management. A large number of Federal, State, and local agencies have jurisdiction over various aspects of the river, with the result that there are conflicting and overlapping policies in the land and water management of this magnificent resource.

The legislation I am introducing today recognizes the national significance and interest in the river. It builds upon that to develop a framework that draws upon the ideas and expertise at the Federal, State, and local levels. The effective care and management of this river segment needs to be a cooperative effort. For too long, Federal, State, and local plans and policies have run in different directions—the result of this being that the river environment has suffered.

Following a National Park Service reconnaissance study in 1980 which I requested, I offered legislative language that became law, creating the Metropolitan River Corridor Study Committee. The committee's report submitted to Congress in 1986 has provided further impetus for the need for a comprehensive effort to address the Mississippi River's future management and use.

The legislation I am introducing also contains provisions authorizing Federal participation in a Tri-Rivers Board, which will provide a forum for consultation and cooperation in the management of the Mississippi, St. Croix, and Minnesota Rivers within the Twin Cities metropolitan area. By working with State and local governments, we can significantly improve the management of these rivers.

The recent public and private efforts to enhance the river are evidence of the emergence of a community consensus that recognizes what an outstanding physical feature the Mississippi River is, its important role in the development of the region, as well as the important role it continues to play today in the recreation and economic life of the community.

I believe my legislation can build upon this recognition to define the appropriate national role and implement a cooperative plan that recognizes the valued historical, cultural, natural, recreational and economic resources which the Mississippi has to offer.

The text of the bill follows:

H.R. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(A) FINDINGS.—The Congress finds that:

(1) The Mississippi River Corridor within the St. Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State and local comprehensive planning and management effort.

(b) PURPOSES.—The purposes of this Act are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the St. Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide management framework to assist the State of Minnesota and its units of local government in the development and implementation of the integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this Act.

SEC. 2. ESTABLISHMENT OF NATIONAL RIVER AND RECREATION AREA.

(a) ESTABLISHMENT.—There is hereby established the Mississippi National River and Recreation Area (hereinafter in this Act referred to as the "Area") which shall consist of that portion of the Mississippi River and adjacent lands generally within the St. Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, D.C., and in the offices of the Metropolitan Council of the Twin Cities Area in St. Paul, Minnesota.

(b) BOUNDARIES.—The Secretary of the Interior (hereafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act a detailed description and map of the boundaries established under subsection (a).

SEC. 3. MISSISSIPPI RIVER COORDINATING COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 2. The Commission shall consist of the following 18 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) 3 individuals, nominated by the Governor of Minnesota, to represent the interests of the State of Minnesota.

(5) 1 individual, nominated by the Governor of Wisconsin to represent the interests of the State of Wisconsin.

(6) 1 individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) 2 individuals, to represent the cities of St. Paul and Minneapolis.

(8) 2 individuals, nominated by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) 1 individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) 1 individual, nominated by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) 4 individuals, nominated by the Governor of Minnesota, to be chosen from the general public.

(b) Terms.—(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of 3 years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a):

(i) 1 shall be appointed for a term of 1 year.

(ii) 1 shall be appointed for a term of 2 years.

(B) Under paragraphs (7) and (8) of subsection (a), one shall be appointed for a term of 1 year.

(C) Under paragraph (11) of subsection (a):

(i) 1 shall be appointed for a term of 1 year.

(ii) 1 shall be appointed for a term of 2 years.

(iii) 1 shall be appointed for a term of 4 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) Compensation.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) Chairperson.—The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission to serve for a term of 3 years.

(e) Quorum.—7 members of the Commission shall constitute a quorum.

(f) Meetings.—The Commission shall meet at the call of the Chairman or a majority of its members.

(g) Development of Policies and Programs.—As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, utilizing existing site plans, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreational Area.

(h) Staff.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

(i) Plan.—Within 3 years after enactment of this Act, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall utilize existing site plans but shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels.

(3) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the purpose of this Act.

(4) A program for the consolidation of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) Development of Plan.—

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) Approval of Plan.—The Commissions plan shall be submitted to the Secretary and the Governor of Minnesota, for their review. The Secretary shall act on the plan within 90 days. In determining whether to approve or disapprove the plan, the Secretary shall consider any comments submitted by the Governor. In reviewing the plan the Secretary shall also consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him.

(l) Interim Program.—Prior to the adoption of the Commission's plan, the Secretary shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this Act, and shall consult and cooperate with the State of Minnesota and its political subdivisions to minimize adverse impacts on the values for which the Area is established.

(m) Commission Review.—The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the Secretary's approval, as set forth in subsection (j), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this Act.

(n) Termination of Commission.—The Commission shall terminate on the date 10 years after the enactment of this Act.

SEC. 4. FEDERAL LANDS AND DEVELOPMENTS.

(a) Lands.—Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 2, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this Act, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of the enactment of this Act) shall not be transferred under this subsection without the concurrence of the administering agency.

(b) Federal Agency Activities.—

(1) In general.—Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 3. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. Unless the Secretary determines that the proposed facility or undertaking is compatible with the plan, or that such proposed facility or undertaking is essential for the protection of public health or safety or is necessary for national security or defense, no license or permit may be issued by a department, agency, or instrumentality of the United States for the facility or undertaking and no such depart-

ment, agency, or instrumentality may commence the undertaking or provide Federal assistance for such undertaking.

(2) WATER RESOURCES DEVELOPMENTS.—The authority of the Secretary of the Army, through the Corps of Engineers, to undertake or contribute to water resources developments, including shore erosion control and navigation improvements on lands and waters within the Area shall be exercised in accordance with plans that are mutually acceptable to the Secretary and the Secretary of the Army. Such authority shall be exercised in a manner consistent with the purposes of this Act and the purposes of existing statutes dealing with water and related resources development.

SEC. 5. ADMINISTRATION.

(a) AUTHORITIES.—The Secretary shall administer the Area in accordance with this Act, and in accordance with the provisions of law generally applicable to units of the national park system. In the case of any conflict between the provisions of this Act and such generally applicable provisions of law, the provisions of this Act shall govern.

(b) STATE AND LOCAL AUTHORITIES.—In administering the Area, the Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) LAND ACQUISITION.—Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2).

(d) REVIEW OF LOCAL PLANS.—

(1) AUTHORITY.—For the purpose of protecting the integrity of the Area the Secretary shall review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 3. Additionally the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

(2) PURPOSE.—The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this Act. Following the approval of the plan under section 3 and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in such manner as will carry out the purposes of this Act (as determined by the Secretary), and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) ACQUISITION.—In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 3, or are not being enforced in such manner as will carry out the purposes of this Act (as determined by the Secretary), the Secretary shall notify the local government authority concerned. Unless, within 60 days after the date of such notice, the plan, law, or ordinance, amendment, or variance is modified to conform with the plan or enforced in such manner as will carry out the purposes of this Act (as determined by the Secretary), the Secretary may acquire land or interests in land without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) USE AND OCCUPANCY OF ACQUIRED IMPROVED PROPERTY.—(1) The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this Act to retain a right of use and occupancy of the property for noncommercial residential uses not incompatible with the plan approved under to section 3. Except as provided in this subsection, such rights shall before a definite term ending not more than 25 years from the date of acquisition or a term ending at the death of the owner. The owner shall elect the term to be reserved, except that if the owner is a corporation, trust, partnership or any entity other than an individual, the term shall not exceed 25 years. Unless the property is wholly or partially donated, the Secretary shall pay to the owner reserving a right of use and occupancy under this section the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(2) The Secretary may terminate at any time a right retained pursuant to this subsection if it is being exercised in a manner incompatible with the plan approved pursuant to section 3.

(3) As used in this subsection—the term "improved residential property" means a single-family dwelling, the construction of which began before January 1, 1987, together with such land on which the dwelling and appurtenant buildings are located as is in the same ownership as such dwelling and as the Secretary designates is reasonably necessary for the owner's continued use and occupancy of the dwelling.

SEC. 6. STATE AND LOCAL ASSISTANCE AND JURISDICTION.

(a) GRANTS.—Upon approval of the plan under section 3, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, for the acquisition within the Area of lands and waters or interests therein in a manner consistent with the purposes of this Act.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized and directed to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) TECHNICAL ASSISTANCE.—To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) STATE AND LOCAL JURISDICTION.—Nothing in this Act shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

TITLE II—TRI-RIVERS MANAGEMENT

SEC. 201. TRI-RIVERS MANAGEMENT BOARD.

(a) FEDERAL REPRESENTATIVES.—In furtherance of the integrated management of those portions of the Mississippi, St. Croix, and Minnesota Rivers within the St. Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereafter referred to as the "Board"), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers.

(b) PERSONNEL.—Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to carry out the purposes of this section the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

THE MARYLAND PHYSICAL FITNESS COMMISSION

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. DYSON. Mr. Speaker, I rise today to commemorate the 25th anniversary of the Maryland Physical Fitness Commission. Since its establishment in 1961, the commission has performed an invaluable service to the Maryland community.

The commission was established in order to fulfill the goals of the President's Council on Physical Fitness and Sports. Maryland was the first to form a State commission on physical fitness. The commission originally consisted of 25 board members and a chairman. The first chairman was Harry D. Kaufman, who presided over the commission until 1978, when my distinguished colleague, the Honorable BEVERLY B. BYRON, replaced him. The goals of the Maryland Commission remain the same: working cooperatively with the Maryland Department of Education toward the promotion of physical fitness for all Maryland citizens. While the commission's primary focus is on school children, adults also benefit from commission programs. Finally, the Maryland Commission on Physical Fitness works cooperatively with various private groups in the promotion of physical exercise programs.

Throughout the years, the commission has created a variety of different programs to help Marylanders of all ages to get in shape. The commission established the "Five Points Program," which established minimum exercise standards for all physical education programs in county schools. The Maryland Commission also converted old railroad right-of-ways into new hiking and biking trails. In 1967 the "Active People Over 60" program was initiated, encouraging elderly citizens to join in a physical exercise program especially designed to keep them fit.

Mr. Speaker, in these and innumerable other ways, the Maryland Physical Fitness Commission has enriched the physical health and well being of all Marylanders. For this reason, Mr. Speaker, on this occasion of its 25th anniversary, on behalf of all Marylanders, I would like to express our heartfelt gratitude for the outstanding work the commission has done throughout the years.

WHY IT'S GOOD BUSINESS TO SUPPORT EMPLOYEE HEALTH BENEFITS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. STARK. Mr. Speaker, I would like to call the attention of the House to some especially fine testimony on the need for adequate health care for all workers.

Following is the statement of Mr. Robert L. Crandall, chairman and president of American Airlines, before the Ways and Means Health Subcommittee on May 12.

Mr. Crandall's statement was a refreshing, encouraging explanation of why our entire society would be better if we enacted "legislation that will require employers to provide basic health benefits for all employees and retirees."

As this leading corporate executive points out, mandatory employer-paid health benefits will "keep responsibility for health care in the private sector, where it can be administered on the most cost-effective basis * * * provide a more equitable distribution of health care costs * * * eliminate the practice of reducing benefits for competitive reasons * * * [and] ultimately lower total health care costs as more employers attach importance to maintaining the good health of their employees."

The Ways and Means Health Subcommittee is working on legislation in this area, and I expect that we will develop a bill which will have strong support throughout our society.

The statement follows:

STATEMENT OF ROBERT L. CRANDALL, CHAIRMAN AND PRESIDENT OF AMERICAN AIRLINES, INC.

My name is Robert L. Crandall. I am Chairman and President of American Airlines. I welcome this opportunity to testify because I believe it is time for American business to take a fresh look at the costs and equities of health care for employees.

I am here to encourage the Committee to enact legislation that will require employers to provide basic health benefits for all employees and retirees. I am convinced—considering the alternatives—that other businesses will soon join us in supporting such legislation. Let me tell you why.

Our current voluntary system has left millions of Americans without any health coverage whatsoever, and millions more inadequately covered. Unforeseen health care expenditures—even ones that normally aren't classified as catastrophic—can have a devastating impact on the economic well-being of families. Health care insurance can prevent families from having a health tragedy compounded by economic ruin—and everyone needs that protection.

If for no other reason, we should have a goal of universal health care coverage because it is the right thing to do. There is, of course, a more pragmatic side of the issue. I would argue that for most U.S. firms, a policy of mandatory health benefits would be good business. Let me explain why.

Everyone knows that there is no such thing as a free lunch. In fact, being in the airline business, I can assure you that there is not even such a thing as a free bag of peanuts. Companies that believe they are avoiding health care costs by not offering employee or retiree benefits are simply wrong. They, like the rest of us, are in fact paying—in one way or another—for the health care costs of the roughly 37 million Americans who are without insurance. Unfortunately, those employers that do not offer their employees coverage probably are avoiding paying their fair share.

That leads us to the problem, which is that companies like ours pay twice—once for our own employees and then again, via taxes and inflated health insurance premiums—for the employees of those businesses who don't provide benefits for their own people.

While tens of millions of Americans do not have health care insurance, only a very few actually go without health care. Some of the uninsured pay their own way, but the majority rely either on public health programs or charitable services.

Let me make it clear that American Airlines does not object to paying its fair share of the health care costs of low income individuals and senior citizens. But we do object to paying for the health care costs of individuals employed by or retired from other businesses, some of whom may even be our competitors. And that is precisely what is happening today. It is absolutely inequitable to allow some businesses to shift these costs to others.

Indeed, I fear that we may be seeing the start of an unhappy trend by which employers will avoid providing health care benefits as a means of obtaining advantages over their competitors. It has already happened in the airline industry. In fact, I think this is one of many factors accounting for the much discussed decline in the service standards of our industry.

Let me give you one concrete example of how this problem will get worse if we don't take appropriate action. When Continental Airlines declared bankruptcy a few years ago, it abrogated its labor contracts and eliminated, among other benefits, medical benefits for many of its retirees. From a business perspective, the bankruptcy was an extraordinary success. Continental has since emerged from bankruptcy and its parent—Texas Air—is now the nation's largest airline company. But from a public point of view, it is a different question. As a result of the bankruptcy, Continental's labor costs are now about half those of many other airlines.

You don't have to be a business genius to figure out that when a company has labor costs twice that of a larger competitor, something has to give. Consider the question of medical coverage for retirees as a single example. I have included a chart in my testimony that shows that in less than 10 years American's costs for retiree medical coverage will be over $120 million annually. Continental does not provide medical benefits for retirees. Thus, unless something changes, we'll have to collect $10 million a month more from our passengers than Continental Airlines does—and that's only about 20% of the problem. Overall, Continental's wage and benefit costs give it an annual advantage of more than $600 million a year—or about $50 million a month.

In the airline business most costs do not vary much from one company to another. There really isn't much to the "no frills" idea; we all pay about the same for fuel, equipment, food, interest rates, and so on. The only significant difference between carriers is their respective labor costs and if we must cut our labor costs to match Continental, we and our employees have some painful times ahead.

In my view, permitting companies to scrimp on employee and retiree benefits like fair pensions and adequate medical insurance is simply not sound public policy. If this is the beginning of a trend, our nation is in deep trouble—and now is the time to put a stop to it.

Our current international trade problems have made us all particularly sensitive to competition from Japan; among other characteristics of Japan's industrial strength is the commitment of its businesses to the basic needs of workers. There is something here we can learn from the Japanese—a decent regard for the health of our nation's workers is both good business sense and good public policy.

We should also recognize that when an employer has a stake in the health of its employees, it is much more inclined to provide a working atmosphere that encourages fitness and good health. Progressive companies in America work with their employees to reduce illness and accidents—not only because it is the right thing to do, but also because it is cost-effective. That incentive is substantially less if employers have no direct financial stake in the cost of health care. If every company pays its fair share of health costs, I believe that workplace health programs will expand and that the nation's total health care costs will fall.

Throughout these remarks, I have referred to both employee and retiree benefits. I want to make a special appeal that you include retiree health care benefits in whatever package you put together. In my view, every company ought to provide a full range of retiree benefits and no company should be allowed to withdraw benefits already promised to retirees. Retirement should be a time of reduced anxiety and uncertainty. It is nothing less than outrageous to withhold or withdraw benefits from those most in need of them.

In summary, legislation prescribing mandatory employer-paid health benefits for employees and retirees will accomplish four important objectives: First, it will serve to keep responsibility for health care in the private sector, where it can be administered on the most cost effective basis. Second, it will provide a more equitable distribution of health care costs. Third, it will eliminate the practice of reducing benefits for competitive reasons. Fourth, it will ultimately lower total health care costs as more employers attach importance to maintaining the good health of their employees.

ASSEMBLYMAN DAVID SCHWARTZ OF NEW JERSEY PROPOSES HOUSING POLICY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. FLORIO. Mr. Speaker, recently in the Christian Science Monitor, Assemblyman David Schwartz of New Jersey proposed a 10-point policy that would revitalize the housing in the United States.

Currently, as the cost of a typical home increases each year, more and more individuals are left cold, outside the housing market. In many instances, the lack of affordable housing for rent or for purchase results in the displacement of thousands of people. Unable to afford even a modest roof over their heads, more families are turning to the streets and to shelters for the homeless.

Assemblyman Schwartz proposes a policy that is, in part, modeled after policies that have already been put into effect in New Jersey with successful results.

The proposals also go further in addressing the problem of housing in our country. On the national and on the State level, there are ways that programs can be tailored to meet the housing crunch: renovation of old and abandoned buildings and a housing finance program to create more rental housing, among others.

As we in Congress address the situation of the homeless and focus on ways to make housing affordable for everyone through reauthorization of FHA mortgage programs and housing assistance, I am including Assemblyman Schwartz's editorial below in the hope that we can find new ideas in this proposals:

10 STEPS TO A BETTER US HOUSING POLICY

(By David Schwartz)

Now that congressional action is underway on the Housing and Community Development Act of 1987, it is timely, as well as necessary, to assess housing conditions in America and to redesign our national housing policy to improve these conditions. Many parts of the nation suffer from a shortage of affordable housing, steadily rising rents, and the scourge of homelessness. After six years of federal neglect, Congress now has a fine opportunity to prove once again that wise government policy literally begins at home.

Today, too many of our fellow citizens are discovering that the door to homeownership is locked, and that government has helped hide the key. While the Reagan administration has generally ignored the problem, the average working American is finding that housing prices are rising far faster than income. The costs of homeownership are now 300 percent higher than they were in the late 1970s. Consequently, homeownership in this country has actually declined since 1980, following 35 years' steady increase. Despite recent, and most likely temporary, drops in mortgage rates, many people are excluded from the housing market.

An important study conducted by the Joint Center for Housing Studies of the Massachusetts Institute of Technology and Harvard University related the decline in homeownership almost entirely to the inability of young families to enter the current housing market. The study indicated that since 1981, the percentage of homeowners in the 25 to 29 age group fell by almost 1 percent each year. Similarly for those between 30 and 34, homeownership has dropped from 59.3 to 54.7 percent in the past five years.

Thus the "average" American family can no longer afford to buy the "average" American home. A family earning the nation's median family income of about $28,000 falls short of the income needed to carry the mortgage on today's median-price home.

The percentage of annual income required of first-time home buyers for down payment has risen from about 33 percent in 1978 to 50 percent in 1985. Likewise, the annual income percentage for mortgage payments went from 21 percent in 1973 to about 44 percent in 1986. Little wonder that mortgage default rates are at their highest levels in a decade and that the foreclosure rate has nearly doubled since 1980.

Clearly, we need a bold yet prudent national housing program to facilitate homeownership, increase the amount of affordable rental housing, and rid the country of homelessness. I suggest a 10-point plan to accomplish these goals, a practical and humane program already proven in many of our states.

We could establish a national lease-purchase homeownership program, perhaps one modeled after our successful program in New Jersey. Here, our state housing agency makes attractive loans to builders and nonprofits. Lease-purchasing families make a monthly payment, part of which goes toward a down payment that is paid off within 24 to 36 months.

A second program which could ease down payment burdens is a national housing investment corporation, which could administer a shared equity or co-investment mortgage fund. This corporation would have an equity interest in a diversified, high-quality portfolio of appreciating housing assets. It would make the government a housing partner, investing in families and housing stock.

A third way to help young families accrue a down payment would be to create a national employee homeownership program: Employers would provide down payment assistance to employees in a way that is tax-advantageous to both.

Individual housing accounts, patterned after individual retirement accounts, would also help first-time home buyers save for a down payment.

In addition, we should return to the states the full capacity to issue necessary levels of tax-free mortgage revenue bonds. The recently enacted tax reform act severely limits this capacity, but it should be restored.

To build and rehabilitate affordable rental units, four major national programs are needed.

We need a program to stimulate the construction of hundreds of thousands of affordable rental units every year. An urban and balanced housing finance act, similar to the program I helped establish in New Jersey, can meet the need. Our program provides an upfront, one-time subsidy which is sufficient incentive to the shelter industries and to nonprofits that units are being produced. Municipalities compete for the funds and are required to make cost-saving contributions like donations of land or tax abatements. A modest tax on luxury housing and commercial realty provides a self-replenishing source of revenue.

We need an old buildings, new communities law to co-venture the production of affordable apartments through rehabilitating empty buildings. This bill would differ from existing programs by emphasizing a partnership with nonprofit community and religious groups and labor unions, concentrating on empty and abandoned buildings to eliminate displacement effects, and encouraging mixed use projects to include neighborhood stores and service businesses.

We must restore favorable tax treatment to builders who will construct affordable apartments and to state governments that wish to use tax-free bonds for low-income housing.

Furthermore, our national government should recommit itself to a decent, expansive public housing policy. We should fully fund the adequate upkeep of public housing and constrain efforts at privatization so that public housing occupants are not forced to buy unsound apartments at unfair prices. And we should fund the construction and maintenance of new public housing, at least when and where local communities are ready to welcome and support them.

We simply must act decisively to pass a homeless persons survival act. Most homelessness can be prevented in a cost-effective way, and we have a moral obligation to find shelter for those who are already homeless. We need to preserve, not separate, families and help promote dignity and independence through jobs training, counseling, and community support.

This plan is neither perfect nor complete, but it is a basis for discussion and action. After years of neglect, it is time to deal with the housing crisis before it cripples our spirit and corrupts our dreams.

COMMEMORATING PAT CLARK FOR HIS OUTSTANDING SERVICE TO NEVADA

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding Nevadan and Las Vegas community leader, Pat Clark. On Saturday, May 30, Pat will be honored by the Help Them Walk Again Foundation for his many activities that have benefited each of the citizens of Southern Nevada.

Pat Clark came to Nevada from New York in 1938 and through his hard work quickly established himself as a prominent businessman in Las Vegas. After serving as the local agent for Signal Oil and owning the El Rio Garage, Pat opened a soon-thriving Pontiac dealership during the darkest days of World War II. This rapidly expanding business provided employment for up to 80 workers, while at the same time serving the transportation needs for a booming southern Nevada.

That operation led Time magazine and the National Automobile Dealers Association to choose Pat as one of 60 Time magazine quality dealers in the United States in 1975. Seven years later, the Nevada Safety Council—an organization which he helped found—named him "Man of the Year," and General Motors honored him for being a GM dealer for 40 years.

And yet, Mr. Speaker, Pat's business success was not limited to this alone. Pat is a founder of the Nevada Beverage Co., one of the outstanding beverage wholesalers of the United States. He also helped found one of southern Nevada's first home-owned banks, the Nevada State Bank.

The community service record of Pat Clark is long and distinguished. Throughout the 1940's, Pat was a Las Vegas city commissioner, helping to attract new industry and improve the quality of life for citizens of southern Nevada. His efforts to improve city services—especially as police commissioner and health-board chairman—was a key to the growth of Las Vegas. Pat and his dealership have been active in such groups as the Boy Scouts, the Girl Scouts, the Lions Club, the Benevolent and Protective Order of Elks, the Jaycees, and the Help Them Walk Again Foundation. Other civic organizations he has helped found include the Las Vegas Junior Chamber of Commerce, the Salvation Army in southern Nevada, the Nevada Safety Council, and the Nevada New Car Dealers Association. Pat Clark has given generously of his time in serving as a Catholic layman and has greatly aided the parochial schools of Las Vegas.

It is often said that the truest measure of a man is his contributions to his community. By that exacting standard, Mr. Speaker, few can match Pat Clark's outstanding record of accomplishment.

"ASIA BUSINESS NEWS" PROJECT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ACKERMAN. Mr. Speaker, like most Americans, I am concerned about the staggering economic and trade issues between Japan and the United States.

Despite the current efforts on both sides to deal with these issues, the gaps are deep rooted and just won't go away through assurances, patch-work actions or through simplistic "solutions." The more economic the aspects of the problem becomes, the more the confusion and frustration on the part of the American public. The reports we receive through the media, both print and electronic, are presented in such a way that may make some sense to certain economists, international financial analysts and business academicians, but are almost undecipherable, no less understandable, to the average American.

Let's face it, Mr. Speaker, even though we are all affected one way or another by these issues, too few American taxpayers and consumers are knowledgeable of the causes and effects here resulting from economic development in other parts of the world, especially in Japan and other Pacific Rim nations.

Despite the sophistication of today's communications, there remains a wide gap of clear and factual information between the United States and Japan as well as between the United States and other industrialized Asian nations. This woeful lack of clarity in communication is largely responsible for the confusion, unawareness, misconceptions and speculations, all of which affect our own economic and consumer markets.

The current reports we get from Asia, usually out of Tokyo, are too general and too incomprehensible for the average public. The coverage is mostly confined to financial news pages, business publications, economic journals and occasional television spots. Despite the crying need for better understanding and broader knowledge, there is virtually no concentration or focus on day-to-day financial developments in order to provide a realistic perspective for American business, for the investor, for the consumer and yes, Mr. Speaker, for officialdom on all levels of government.

The thing that concerns me, Mr. Speaker, in regard to Japan in particular, is that we're not just talking about autos, semi-conductors, oranges, beef or dollars and yens. We're talking about Japan and our relationship with that nation. We're talking about foreign policy as well as trade in its broadest and most serious implications. I believe we have to come to grips with these issues; otherwise, the whole relationship is in jeopardy—a most important relationship for Japan, for the United States and for the world.

That is why I feel we must emphasize the broad implications of wide trade imbalances and currency fluctuations. Since trade and finance are integral ingredients of industrialized nations, the United States and Japan must act together to bring sanity, clarity and understanding in mutually dealing with the many intricacies of these issues.

With the need for better understanding of complex international finance and trade issues being more timely now than ever before, what better way to reach all segments of the American public than through the magic of television?

That is why, Mr. Speaker, I am particularly pleased to learn of a proposed television project, "Asia Business News," being initiated by a New York constituent, Michael Cooper, president of Cooper & Company, a United States-Japan business consulting organization. Mr. Cooper, who has had long experience in virtually every phase of television production and telecommunications, together with his associates here and in Japan, has put together a Tokyo-based project which, when implemented, will be the first and only daily live English language televised program to emanate from Japan and satellited to the United States concentrating solely on interrelated business news and financial developments between our two countries as well as between the United States and the Pacific Rim nations.

The "Asia Business News" program will be an up-to-the moment half hour presentation, continuing daily and initially beamed at a networked national audience of at least 26 million American viewers. The program will have an eye-catching and unique format, segmenting spot economic news, emerging situations, expert analysis, inside stories and special features. It will report on intergovernmental activities, investment opportunities stock and currency trends and new markets. It will offer simplified explanations of developments, visual examples of effects on consumers and, of particular significance, exchange of views between recognized American spokespersons and their Asian counterparts.

Mr. Speaker, as business and government information needs to expand with the mammoth growth of the cross-cultural Pacific market, and as we become more and more aware of Asia becoming the fastest growing economic focus of the United States, I ask what could be more opportune than a continuing televised financial program such as projected in "Asia Business News?"

Michael Cooper and his associates are to be highly complimented on their foresight and are deserving of much success in this commendable venture.

IRRELEVANT WEEK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BADHAM. Mr. Speaker, the Green Bay Packers need help badly to return to the form of the Vince Lombardi years, so as a key to return to eminence, they have drafted Norman Jefferson, a defensive back from Louisiana State University, one who sat out a good deal of the 1986 season with injuries and who was the 335th—and last—draft pick in the National Football League this year.

But such little problems never worry Paul T. Salata and his band of zanies from Newport Beach, who will honor Jefferson on Father's Day, June 21, during Irrelevant Week XII, for being the last person picked in the NFL draft. Since Newport Beach is in California's 40th Congressional District, I take this opportunity to explain to my distinguished colleagues in this body what Irrelevant Week is all about.

It means doing something nice for someone for no reason, emphasizing at the same time that it is irrelevant if one is picked first in the draft or last in the draft or in the middle of the draft, for that person made a name for himself and did the best he could. Maybe even gave 110 percent.

Norman Jefferson will be feted, wined, dined, honored, interviewed, given all sorts of trivial gifts and otherwise be King for a Day in Newport Beach during Irrelevant Week. It will be a week he will never forget, although he might like to.

Of the 11 honorees who have preceded him, one player skipped to the Canadian League, another made the squad of an NFL powerhouse, but broke his collarbone halfway through the season and the rest haven't been heard of since. But that's irrelevancy for you.

Jefferson had a pretty good year as a sophomore at LSU but his record has been pretty spotty since, primarily due to a knee injury last year. The Green Bay Packers hope that his late-season recovery will continue and he will be able to play this year.

Jefferson is from Marrero, LA, one of the thriving metropolises of the State, has a mother, three brothers and two sisters. He is an expert tackler, runs punts back quite well and was a preseason pick for all Southeast

Conference honors last year until his knee was wrecked against Georgia.

Nevertheless, I take this opportunity to salute Norman Jefferson and all of the last picks of the world. For, after all, it's better to be picked last than not to be picked at all.

TRIBUTE TO ERIC JOHNSON

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. SCHUETTE. Mr. Speaker, today I have the privilege of commending an outstanding individual from the 10th District of Michigan whose achievements and service have recently been recognized with a Vocational Instructional Program Advisory Committee Award. Eric Johnson, was presented the award during a Salute to America's Volunteers in Vocational-Technical Education on May 6 at a ceremony in our Nation's Capitol.

After a most successful career in teaching at two Michigan high schools, Eric resigned to manage the family farm implement business in Ithaca, MI. But Eric went further than simply running a business—he teaches students from the local high schools and Michigan State University the work of his trade and business. In addition, he has been most generous in inviting agriculture students to participate in open houses he holds at Johnson & Sons, the family business.

His list of other community service projects is most impressive, including a heavy emphasis on agricultural programs. On numerous occasions, Eric served as a judge for the Future Farmers of America, and has been a resource speaker for Michigan State University, and served on a committee for his hometown agriculture production program. Under his rule, Johnson & Sons has provided equipment to teach area students to set up the equipment and how to operate machinery safely.

In the past, Eric was chairman of the Alma High School Vocational Education Task Force. Presently, he is serving as chairman for the shared time agriculture program at Alma, in addition to serving as director of the Michigan Farm Dealers Association and serving on the executive board of the Michigan Farm Power Association.

This list, though most impressive, does not begin to accurately describe the commitment Eric has shown to his fellow citizens of the Ithaca and Alma areas. In times when so many youngsters in rural areas are turning to larger, urban cities for their future, it is indeed refreshing and encouraging to learn of individuals with such outstanding service as Eric Johnson who have dedicated much of their lives to helping children develop their talents and ambitions. Mr. Speaker, I hope you and our colleagues will join me in saluting Eric Johnson for his outstanding service to the people of a rural community and their way of life.

LEGISLATION BANNING PRIVATE ASSISTANCE FOR MILITARY OR PARAMILITARY OPERATIONS IN A FOREIGN COUNTRY IF THERE IS A STATUTORY PROHIBITION ON COVERT GOVERNMENT ASSISTANCE FOR SUCH OPERATIONS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LEVINE of California. Mr. Speaker, JIM LEACH and I are today reintroducing legislation to amend the Neutrality Act to prohibit private assistance for military or paramilitary operations in a foreign country if Congress has acted to prohibit U.S. Government involvement in such operations.

We first introduced this legislation in March of 1985, in response to reports circulating at that time that private groups and individuals were supplying military aid to the Nicaraguan Contras. Had our bill been enacted at that time, our Nation could have been spared the trauma of the greatest scandal since Watergate.

There is no doubt than many, both in and out of the current administration, believe that a congressional ban on military aid to the Contras did not limit the ability of private citizens and Government officials to continue to wage their own private war to overthrow the Nicaraguan Government.

We do not share that view. That is why we are introducing this bill, and why we introduced similar legislation 2 years ago.

When President Reagan signed into law the bill which contained the Boland amendment, it became official U.S. foreign policy, regardless of his or anyone else's views about its merits. As a result of the House-Senate hearings on this matter, we now know that the administration sought to circumvent the provisions of the Boland amendment essentially from the moment of its enactment, by enlisting private citizens and foreign leaders to carry out its foreign policy agenda.

This "privatization" of foreign policy flies in the face of international law, American law, and the Constitution.

The Neutrality Act, which was enacted into law in 1793, reflects a premise central to American law for two centuries—that war should be a Government function. Especially in the case of covert operations, it undermines U.S. foreign policy to have private citizens financing foreign military operations after Congress has cut off funds for such operations.

The Constitution grants Congress a mandate to share control over the Nation's foreign policy with the executive branch. Yet this administration, when its desired course of action on foreign policy had been denied by Congress, simply moved its foreign policy operations outside of the traditional policymaking circles.

Enactment of this legislation in 1985 would have meant one of two things for the foreign policy debacle now facing us: either we would be dealing with an unequivocal breach of the law, or the private aid network would have been shut down 2 years ago. In either case, this legislation would have removed all doubt about the legality of such actions.

There is no doubt in my mind that actions by private citizens aimed at providing military aid to guerrillas working to overthrow a government with whom we are technically at peace is a violation of the Neutrality Act. However, Richard Secord's view which was apparently shared by others in the administration, that the Neutrality Act sanctions such actions makes it clear that legislation is needed to eliminate any ambiguity in the law.

This legislation should make it explicitly and unequivocally clear that the Neutrality Act prohibits private citizens from conducting their own individual wars against other nations when those actions are in conflict with official U.S. foreign policy. As the President so frequently reminds us, our domestic foreign policy debate must stop at the water's edge: We cannot tolerate a public and a private foreign policy any more than we can have an executive and a congressional foreign policy. Our country should have 1 foreign policy, not 200 million of them.

Our legislation would make it clear that efforts to ignore or undermine the will of Congress will not be tolerated, and that, no matter how repugnant individual Americans may find the internal and foreign policies of other nations, no one, no matter how rich or powerful, has the right to take the making of foreign policy into their own hands. And, finally, our legislation will spare the Nation a rerun of the sordid affair which is now being played out in the hearing rooms of the House and Senate.

TRIBUTE TO THE JAPANESE-AMERICAN CITIZENS LEAGUE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. MATSUI. Mr. Speaker, I am honored to rise today to bring to my colleague's attention the work of a distinguished public service organization, the Japanese-American Citizens League, in Sacramento, CA.

The league has, over the years, dedicated itself to the improvement in the quality of life for all members of the Sacramento community. Through their commitment, the league has assisted many young students further their education by offering scholarships to distinguished college-bound students.

The Japanese-American Citizens League is most deserving of our thanks and our praise for their efforts and compassion. There are few causes more worthwhile than assisting our young people in their efforts to further their education and contribute in a meaningful way to society. Given the unprecedented challenges arising from the vast and significant changes which are taking place in our society, the importance of an advanced education is greater now than ever before.

I wish to commend the league on this act of public service, and extend my personal congratulations to each of these students for their academic excellence. Being honored with scholarships are:

Ms. Sandra Kawamura of Delta High School, Ms. Kimberly A. Ohara of J.F. Kennedy High School, Ms. Mary Jane Nakamura of C.F. McClatchy High School, Ms. Stacy Wong of J.F. Kennedy High School, Mr. Stephen K. Baishiki of Cordova High School, Ms. Jolie M. Yamada, Ms. Jane M. Furukawa, Mr. Geary M. Noguchi, Ms. Laura A. Nishina, and Ms. Fonda H. Watanabe of J.F. Kennedy High School, Mr. Ulysses M. Nishi of Rio Vista High School, Ms. Jayna M. Toyama of C.K. McClatchy High School, Ms. Wendy M. Hirai of Hiram Johnson High School, Mr. Todd Imura of J.F. Kennedy High School, Ms. Cindy Nishio of C.K. McClatchy High School, Mr. David S. Onodera of Sacramento High School, Ms. Dianne C. Miyao, Ms. Colleen Montgomery, and Ms. Lynwood Montgomery of Hiram Johnson High School. Also receiving scholarships were Ms. Kristl Honda and Mr. Robert M. Nakagawa of Sacramento City College.

RETIRED COLONEL WRITES ON MOSCOW EMBASSY CONTROVERSY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mrs. MORELLA. Mr. Speaker, a constituent in Maryland's Eighth District, retired Air Force Lt. Col. Charles M. Perkins, has written the following provocative article raising questions about some widely held beliefs concerning our controversial new Embassy in Moscow.

The article was printed recently in U.S. News & World Report under the "Rostrum" section.

The article follows:

MOSCOW EMBASSY CONTROVERSY

U.S. counterintelligence has been given an undeserved black mark over security problems at our new embassy in Moscow. Our security services are pictured as hopelessly inadequate and no match for the Soviet KGB. These claims are shocking, embarrassing and distressing to anyone who expects U.S. counterintelligence to earn its keep—protecting our secrets from the theft, our facilities and equipment from compromise and our citizens from subversion.

Fortunately, all of these assertions are quite wrong. I know because I was there—as the Defense Intelligence Agency representative on the Security Advisory Group, Moscow, from 1976 through 1981. The chairman of this group was from State Department security, and the CIA, FBI, National Security Agency and National Security Council also were represented. Our job was to solve the security problems for the embassy, chancery, living quarters and the grounds around the complex.

The group drew on the wealth of experience and technical expertise of its members and came up with safeguards for the research and development, fabrication and assembly stages of the project. Included were:

Tamperproof sealing, escorting and monitoring of all materials being shipped; warehousing under guard of all materials arriving in the Soviet Union from overseas; the fabricating of all building components on site; continuous and spot inspections of all construction activities during the working day—and after hours as well when deemed appropriate.

In addition, our plan called for random and unannounced demolition of fabricated materials at the job site to search for concealed devices.

And these were only the standard, garden-variety measures. There were others that still must remain secret.

As an Air Force security officer for more than 20 years, I saw this project as the capstone of my career—and I think my colleagues did, too. Here was a chance for us to focus our knowledge and strengths on a critically important project right in the back yard of our main adversary and make the complex safe for our diplomats, support personnel and families for years to come.

Of course, we knew we were starting literally in a hole. The site itself was on very low ground with drainage problems and—when I first saw the location near the Moskva River in 1976—what appeared to be a sewer pipe emptying into the center of it.

The site selection had been a political decision—the result of trade-offs and compromises—and it was not our job to criticize or moan about it. We had to come up with ways to work around it. Also, we were well aware of the physical and mental stresses that go along with building a major project in a closed society like the Soviet Union. There was no arrogance on our part. We knew we had a devil of a job to do. But we were determined to prevail.

If the press reports and congressional statements about our new embassy are to be believed, then something has gone seriously awry. Clearly, our recommendations were either selectively employed, used piecemeal, compromised or rejected entirely. We were short-circuited by our own people.

Probably, as with the site selection, concessions were made for politically expedient reasons.

The resulting scandal cannot begin to be measured by the $192 million price tag on the project. U.S. counterintelligence has been subjected to undeserved question and ridicule, and the damage may last for years. My professional lifetime, and those of my partners on the working group, has been squandered. And the heritage of freedom that we tried to secure for our country has been jeopardized.

To those decision makers who put the rest of us in this box—whoever they are—I only hope the fruits of your compromises were worth the sacrifice of our energy, our work and our trust, which you frittered away. We were due better than this.

DR. JOHN D. MILAM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ARCHER. Mr. Speaker, one of my constituents, Dr. John D. Milam from Houston, TX, was recently elected president of the American Blood Commission. Dr. Milam is the director of pathology at St. Luke's Episcopal Hospital and a recognized expert in this field. I'm sure that he will make an outstanding contribution during his tenure.

I would like to share with my colleagues his keynote address to the American Blood Commission in which he outlines the challenges facing our Nation's blood service system.

KEYNOTE ADDRESS, AMERICAN BLOOD COMMISSION

(By John D. Milam, M.D.)

It is indeed an honor and a privilege to become the seventh president of the American Blood Commission. As I look at the list of presidents who have served the ABC since its inception, I am aware of the leadership expected of me as ABC president. With the support and understanding of the board, the executive director, my fellow officers, the ABC committees, and our many constituents, I shall endeavor to fulfill my fiduciary and organizational responsibilities.

As we approach a new commission year, we face significant challenges. The public has never been more concerned about the safety of blood transfusion. In light of this fact, we have a great opportunity to serve our country's patients and blood donors. Americans are increasingly being faced with the impact of infectious agents on their lives. One area of particular concern to the ABC is the impact of the evolving epidemiology on blood donors and recipients and on the ability of blood service agencies to maintain a safe, adequate supply of blood and blood products. The ABC's forum has a great potential for accommodating many different points of view and for providing comprehensive, thoughtful, and even diverse types of support for America's blood services by addressing ethical, responsibility, and relationship issues.

Of course, the ABC's most valuable asset is its members. With respect to our organization's purpose and function, I would like to emphasize that the members are invited to the Commission's table, present their views, discuss common interests and concerns, initiate collective action, and identify issues that deserve further attention. We will need commitment from all our members in order to fulfill our mission, as well as assist our member organizations in discharging their responsibilities. Together, we should be able to accomplish our goals. I look forward to working with the board, the committees, and the executive director and her office staff, as well as with other organizations with whom we share mutual concerns and problems.

All of the ABC's committee members deserve a great deal of credit for their hard work. The Planning Committee will be asked to consider the following charges for the new commission year:

(1) To address transfusion safety since this issue weighs heavily on the minds of the public.

(2) To investigate and recommend basic research areas that deserve critical attention.

(3) To develop and implement a program agenda for the annual meeting.

(4) To consider the relationship between blood and other tissue and organs.

(5) To monitor the evolving reorganization of blood source delivery systems.

(6) To consider establishing an ongoing relationship with a biomedical ethicist.

(7) To consider the need for promoting appropriate transfusion practices in line with current scientific information and to consider possible mechanisms for accomplishing this goal.

GROUPS WORK TO SUSPEND MOST-FAVORED-NATION STATUS TO ROMANIA

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. HALL of Ohio. Mr. Speaker, on April 30, 1987, the House adopted the Wolf-Hall amendment to H.R. 3, the omnibus trade bill. This amendment provides for a 6-month suspension of most-favored-nation [MFN] trade status for Romania because of that nation's failure to respect human rights.

The intent of this amendment is to put the Ceausescu government on notice that Congress expects to see genuine improvements regarding religious rights, labor rights, emigration, treatment of ethnic minorities, and overall human rights as a condition for the continuation of trade benefits. The amendment has the support of a number of organizations that are concerned about these human rights issues.

The amendment has the support of Helsinki Watch and the International Human Rights Law Group. Both of these organizations expressed concern about the overall state of human rights in Romania.

The temporary MFN suspension for Romania also is supported by Christian Response International, CREED, and the Romanian Missionary Society. These groups are especially troubled by religious repression in Romania. Their particular concern is the harassment of the Christian churches in Romania.

While not specifically endorsing the amendment, the Union of Councils for Soviet Jews and the National Jewish Coalition have expressed their approval of the amendment's effort to spotlight human rights abuses in Romania. These organizations are concerned about the well-being of the Jewish community throughout the Eastern bloc, and are troubled by any efforts to suppress the free exercise of religion.

The repression of ethnic minorities in Romania, particularly the 2.5 million Hungarians living in Romania, has been the special concern of several groups. Dr. Michael Szaz, representing the National Confederation of American Ethnic Groups, the American Hungarian Action Committee, and the Transylvanian World Federation, is among those actively supporting the Wolf-Hall amendment. His organizations, along with the Hungarian Human Rights Foundation of Laszlo Hamos, have been working for many years to bring to the attention of the Congress and the administration the human rights violations prepetrated against the Hungarians in Romania by the Ceausescu government. The Hungarian Human Rights Foundation also endorses and is working for the adoption of the 6-month suspension of Romania's MFN trade status.

In addition, the Committee for Human Rights in Romania and the Freedom Federation are among the other groups that support the Wolf-Hall amendment.

Although the Heritage Foundation does not lobby for legislation, it has provided ongoing research information about human rights abuses in Romania. The Heritage Foundation also has documented how Romania supports international terrorism and works against United States interests around the world.

Within the next few days, President Reagan must decide whether the United States will continue MFN for Romania for another year. I would urge him to follow the advise of these organizations and make a strong stand for human rights by temporarily suspending MFN for Romania.

UNITED STATES-FRENCH COOPERATION IN CHAD

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. HAMILTON. Mr. Speaker, I wish to bring to my colleagues attention correspondence I have had with the Department of State concerning United States-French cooperation in Chad. My letter to the Secretary of State on April 28, 1987, was the result of a report in the Washington Times on April 24 that indicated the French were refusing to share intelligence they had gathered on Soviet military equipment captured in Chad for retreating Libyan forces.

The State Department reply of May 22 shows that the reports were not true. In early April, France and the United States had reached a general agreement on the investigation of Soviet military equipment, pending the approval of the Chadian Government. This operation is now going ahead.

This State Department letter also provides an explanation of current United States aid to Chad and how it corresponds with assistance to Chad from France. I believe Members will find the Department of State's response to be informative. The Washington Times article and the exchange of letters follow:

[From the Washington Times, Apr. 24, 1987]

U.S. BARRED FROM CHAD INTELLIGENCE

(By James Dorsey)

France has refused to share with the United States intelligence gleaned from Soviet military equipment abandoned by Libya in Chad, according to administration officials.

The French government, the officials said, has been unresponsive so far to repeated U.S. requests for briefings on what French officials may be learning from the vast arsenal Libya's defeated troops left behind in Quadi Doum, formerly Libya's main airbase in northern Chad.

"The French have not been very forthcoming," one official said.

With only three military experts in the Chadian capital of Ndjamena, which is hundreds of miles away from the battlefield, the United States has little opportunity of its own to take a close look at the abandoned Soviet equipment.

Following the decisive loss of Quadi Doum last month, Chadian forces captured a vast array of Soviet equipment. It includes L-39 ground support jets, MI-24 attack helicopters, 200 T-55 and T-62 tanks, multiple rocket launchers, entire missile batteries, radar installations, a revolutionary laser guidance system for the SA-6 missile, Russian instruction manuals for their weaponry and log books of aborted air reconnaissance missions.

French intelligence and ordnance experts are reported to be scouring the 10,000-square-mile battlefield looking at the equipment.

U.S. officials acknowledged that France is the leading Western power in its former African colony and said the French would eventually share what they may have learned from the capture. But they added that they did not expect to discover much that had not been known before.

The Reagan administration sent $15 million worth of military equipment to Chad to bolster President Hissene Habre's successful campaign to oust Libyan troops from the north of his country. The administration last month approved an additional $10 million in military supplies to Chad.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 28, 1987.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: There have been recent press reports that the United States has asked for French cooperation in sharing intelligence obtained from Libyans captured in Chad and from the Soviet military equipment the Libyans abandoned in Chad and that the French have resisted such cooperation.

I would like to know precisely what we have asked for and what, if anything, has been denied or delayed. I would also like to know about the degree of French-American cooperation in Chad.

I appreciate your prompt response attention to this matter.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC., May 22, 1987.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: I am replying to your letter of April 28 to the Secretary, which requested information on the degree of cooperation between France and the United States in assisting Chad. I am pleased to report that cooperation among Chad, France and the United States is excellent.

Since the beginning of this year, Chadian troops under Chadian leadership have inflicted the worst ever military defeats on the Qadhafi regime and driven Libyan troops almost entirely out of northern Chad, which Libyan military forces had occupied since their invasion in 1983.

France, the former colonial power, has the leading Western assistance role in Chad. France provides substantial security aid, both in the supply of military equipment and in the training of Chadian troops. Further, at the request of the Chadian Government, France, since February, 1986, has maintained French military forces in southern Chad to help defend the country against any Libyan attacks south of the 16th parallel. These French forces have not engaged in ground combat. Last week, the French Government announced that French military forces will deploy into northern Chad in a "humanitarian role"—clearing Libyan land mines, and helping with food, health, and education for Chadian refugees returning to their homes in the liberated north. France also provides substantial economic and developmental aid to Chad, which has been hard hit by the cumulative ravages of war, drought, locust, and the collapse of the world market price for cotton, Chad's prime export product.

United States assistance to Chad is designed to complement, not duplicate, the leading French efforts. U.S. security aid has included provision of small arms, ammunition, vehicles, C-130A transport aircraft, Redeye anti-aircraft missiles, light anti-tank weapons, medical supplies, and individual equipment. Small, temporary-duty U.S. military training teams provide training to Chadian personnel on this U.S.-supplied equipment. The training is done in the vicinity of the capital city, N'Djamena, hundreds of miles south of the area of the fighting. The U.S. does not have any combat personnel in Chad. We also provide economic, developmental, and humanitarian assistance to Chad, one of the world's poorest countries.

In their decisive victories at Fada, on January 2, and Ouadi Doum, on March 22, Chadian troops captured large quantities of Soviet-origin military equipment (SOVMAT) from the defeated Libyan forces. This equipment is, of course, Chadian property.

Chad, France, and the United States have had numerous discussions concerning the recovery and exploitation of this captured SOVMAT. In early April, France and the U.S. reached general agreement on joint SOVMAT exploitation operations and sought the approval of the Chadian Government. These operations are now going ahead and information obtained is being shared between France and the United States. We are continuing to work very closely on this and other issues with both Chad and France.

With best wishes,

Sincerely,

J. Edward Fox,
Assistant Secretary, Legislative and Intergovernmental Affairs.

A TRIBUTE TO FRANCES KITCHING

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. DYSON. Mr. Speaker, I rise today in honor of Mrs. Frances Kitching, who recently retired after nearly 35 years of fine service and down home hospitality to visitors of Maryland's eastern shore.

Mrs. Kitching is not only known for her inn keeping, however. For approximately 35 years she has cooked for hungry passersby and workers on Smith Island, delighting them with traditional eastern shore specialties as well as her own creations such as crab loaf and oyster puffs. The spreading word of her fabulous cuisine led to the publishing of "Mrs. Kitching's Smith Island Cookbook."

Her fame has spread to more distant shores as well. Since she appeared on a National Geographic television special about the Chesapeake Bay, people from all over the world have come to know her by name and through their visits.

Unfortunately, due to unforeseen health problems, Mrs. Kitching's restaurant and inn on Smith Island are now closed. From the first days when she cooked for the workers bringing electricity to Smith Island up to the present day, Mrs. Kitching has added a special flavor to the eastern shore. This savory presence, I assure you, Mr. Speaker, will be sorely missed by all in Maryland's First Congressional District.

THE $600 ENEMA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. STARK. Mr. Speaker, I've long been critical of the Department of Defense for some of its crazy, wasteful expenditures, such as the $600 toilet seats.

After 2½ years as chairman of the Ways and Means Health Subcommittee, I'm utterly convinced that there are similar layers of waste in the Nation's health care system—a system which now consumes almost 11 percent of our gross national product.

Medicare, Medicaid, and taxpayer/citizens are paying for way too many $600 enemas—the equivalent of the Department of Defense's $600 toilet seat.

For any Member who doubts that there cannot be enormous savings in the physician reimbursement and hospital payment system, I urge them to consider the following article from Medical Economics, March 2, 1987, entitled, "We're Pocketing Money That Belongs to Our Patients."

[From Medical Economics, Mar. 2, 1987]

We're Pocketing Money That Belongs to Our Patients

(By C. Basil Williams, M.D.)

It's the conventional wisdom that advances in medical technology drive up the cost of health care. In some cases they do—and the benefits to patients are often worth the cost. Sometimes, though, technological advances *save* money. The trouble is that hospitals and doctors don't pass these savings along to patients and health insurers, and our failure to do so is a fine example of the wrong-headed thinking that's pushing control of medicine into non-medical hands.

We're working in an increasingly competitive environment these days, and I think we'd be wise to admit that we've got a lot to learn about pricing from the manufacturers of consumer products.

Twelve years ago, I bought a calculator. It was small enough to be held in one hand, and ran on either battery power or current. It could add, subtract, multiply, divide, and extract square roots—it even had a memory. Its only drawback was that the battery had a relatively short life and soon became depleted if the switch wasn't turned off. For its day, it was an electronic marvel—and it cost a fairly hefty $79.95.

Last week I bought a replacement for that calculator. It's half the size, hardly bigger than a credit card. It has all the same functions, with the added advantage of an automatic turnoff. The battery is expected to last for several years. But the most amazing thing about this new electronic wonder was its price—only $5.95. Just imagine—a 13-fold decrease in 12 years.

Our family's first videocassette recorder cost $2,000 a few years ago. The replacement I just purchased—a much more advanced design—was priced at $599. Our new television set is far superior to the 10-year-old model it replaced, and cost a little less. Our new toaster and blender are both better and cheaper than their predecessors.

When it first comes on the market, a technologically advanced product often carries a high price tag. Then, as research and development costs are recovered, mass production lowers unit costs, more competitors enter the market, and the price comes down. And the design continues to improve, so the consumer gets a better product for less money.

That's the way it works in a lot of industries—but not in ours. The prevailing philosophy in health care seems to be that a technological advance justifies a higher charge to the patient even when the new test or procedure is cheaper, easier, or less time-consuming than the one it replaces. And when a once-esoteric procedure becomes commonplace, the charge doesn't go down—if any thing, it goes right on creeping up.

Our hospital used to charge $24 for a 12-channel multiphasic biochemical screen. The cost to the hospital was under $10, so the markup was pretty high. But even so, you could argue that the patient was getting a real bargain—all that detailed information for little more than the price of three chemistry tests, if they were run separately. Recently, we chipped in with several neighboring institutions and bought a highly advanced new sequential multiple chemistry analyzer. We can now obtain a 20-item screen—the original 12 channels plus electrolytes and some additional goodies. The medical staff wasn't surprised when the hospital announced that the fee for this new service would be $27. But then we learned that the cost of running the test is just $4.97—several dollars less than the 12-channel set. Even though there's some additional cost involved in collecting the samples from the participating hospitals, separating the serum, and delivering the results, I really wonder how that 82 percent markup can be justified.

Blood gas analysis used to be a tedious procedure, and the hand labor it required certainly explained the $33 fee our hospital charged. But our new blood gas analyzer gives answers in seconds with far greater accuracy. Despite the dramatic decrease in labor costs, the lab hiked its charge to $55 before protests by the medical staff forced a rollback to the original $33.

When I've confronted the hospital administrator with these numbers, he mumbled that the lab is a profit center that must subsidize the departments that lose money. But our markups were high enough all along. Are we really entitled to charge more when our costs go down? Shouldn't some of the cost benefits of new technology be passed on to the patient?

And hospitals aren't the only guilty parties.

I've been reading how neurosurgeons and orthopedists—in a rare display of collegiality—are jointly sponsoring one-day courses to teach practitioners the new process of dissolution of herniated intervertebral disks by chemonucleolysis. This procedure requires half the hospital stay that a lumbar laminectomy does, with lower morbidity and mortality rates. What's more, it takes the surgeon half the time to perform.

Obviously, the patient is going to save plenty on hospital costs. But what about the physician's fee? Shouldn't the patient get a break there, too? Certainly a procedure that can be mastered in a single day, that takes half the time a laminectomy does and requires half the number of post-op visits, shouldn't command the same fee. But apparently the orthopods and neurosurgeons don't see it that way. Charges for this new procedure, like those for laminectomy, still range from $1,200 to $3,000.

I've asked about this, and gotten some pretty dubious answers: "We have to charge that much because the patient still hurts when he goes home and he needs to know we've done something," or "We use a global fee system that threats the disease as a whole—how we manage it is immaterial." Maybe so, but I don't think any of these doctors would have the nerve to charge $2,500 for treating the same problem with 10 days of bed rest.

Reflect for a minute on the total hip replacement. This significant breakthrough in orthopedics was pioneered at a few research centers by a handful of superspecialists. Practitioners who wanted to learn the procedure had to take several weeks away from their practices. It was understandable, then, that the fee was much higher than those charged for earlier, less complicated hip repairs. As the procedure became commonplace, all teaching hospitals incorporated it into their training programs and all new residents became skilled in it. But fees never came down—on the contrary, they get higher every year. Why?

Another example is radial keratotomy. This surgical treatment for nearsightedness is sweeping the country. We're told that it's only one-tenth as risky as a cataract operation, takes half the time to do, and can readily be learned in just a few days by a competent eye surgeon. One might think, then, that it would carry a lower price tag than cataract surgery. It doesn't—at least, not in our community, where the going rate is $2,000.

As a cardiologist, I'm ashamed to state that some cardiac specialists are also guilty. When the fee schedule for pacemaker implantation was first developed years ago, the procedure involved a thoracotomy with direct embedding of the electrodes in the epicardial surface. Now that transvenous techniques have been developed, it's considerably less time-consuming, as well as being less painful and hazardous for the patient. With the development of a subclavian needle-introduction technique, one doesn't even have to do a painstaking dissection of the vein. And yet the price for pacemaker implantation performed by a thoracic surgeon remains the same as it used to be in the days of thoracotomy. This is just plain wrong!

The orthopedist, the ophthalmologist, the thoracic surgeon—all are charging what the traffic will bear, with no concern for fairness to the patient. Some of my colleagues may argue that it's unrealistic to ask them even to hold the line on charges, much less roll them back, when inflation has depleted the value of the dollar in recent years. I'd answer that the fees I'm talking about were so high to begin with that even when you factor in the impact of inflation, they're still too high today—especially when you consider how common most of these procedures have become.

It's obvious that medicine, at least procedural medicine, seems to be immune to the pressures of the marketplace. If American manufacturers can pass on their cost-savings to the consumer, why can't doctors and hospitals do the same? Moreover, if we're not willing to pass along those savings, who's going to force us to do so? And how?

AGENTS CONCERNED ABOUT INSURER INSOLVENCIES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. FLORIO. Mr. Speaker, in recent months I have on several occasions called the attention of the House to the growing problem of insolvent insurance companies. The article I am inserting today in the RECORD quotes the president of the National Association of Professional Insurance Agents as saying that, "Insurance company failures loom as the next crisis for consumers." The threatening situation described in the article must be addressed, and I have made the issue a priority for investigation by the Subcommittee on Commerce, Consumer Protection, and Competitiveness.

The article follows:

INSURANCE FAILURES PREDICTED

ANAHEIM, CALIF. (AP).—The cost to consumers of a wave of insurance company failures over the past three years may reach more than $3 billion by 1990, the head of an insurance agent group said yesterday.

In addition, more than one-third of the remaining insurers may be on shaky ground, raising the specter of billions of dollars more in costs, said Nick A. Verreos, president of the Washington-based National Association of Professional Insurance Agents.

"Insurance company failures loom as the next crisis for consumers," Verreos warned at the annual meeting of Professional Insurance Agents of California and Nevada, an affiliate of the national group.

The national group represents more than 43,000 insurance agents across the country.

Verreos called for tighter oversight by regulators.

"The sheer number of insurance insolvencies, and the debt they spread to millions of insurance buyers, has put severe strain on state guaranty funds," Verreos said.

Such funds, which cover insurance claims and other losses for which bankrupt insurers are liable, are supported by levies on healthy insurers. Those levies, in turn, could force some marginally healthy insurers into financial problems.

Verreos cited the bankruptcy of Mission Insurance Co. in Los Angeles as a recent example of the dangers that may lie ahead for the industry.

Since 1984, 58 liability insurance companies have gone bankrupt nationwide. The five biggest of those are expected to cost insurance consumers more than $3 billion by 1990, mostly in higher rates, Verreos said.

Verreos' statistics came from a recent study by the industry research firm of Conning & Co. of Hartford, Conn., which found that 37 percent of the nation's 300 largest insurers failed four or more tests of financial soundness.

THE GRADUATING CLASS OF 1987

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to the outstanding graduates of southern Nevada high schools. The valedictorians and salutatorians of these schools represent the finest in America's youth.

Mr. Speaker, I commend these fine students for their accomplishments and look forward to their continued successes. I ask that their names be included in the RECORD:

MOAPA VALLEY HIGH SCHOOL

Valedictorian: Sean McMurray.

Salutatorian: Christie McCune.

ELDORADO HIGH SCHOOL

Valedictorian: Alan Robert Peltier.

Salutatorian: Patrick Kelly O'Bryan.

SOUTHERN NEVADA VOCATIONAL TECHNICAL CENTER

Valedictorian: Gayla Sparks.

Salutatorian: Marco J. Arnhold.

VALLEY HIGH SCHOOL

Valedictorians: Karen K. Bartlett, Jonathan I. Golberg, Marla L. Kessler, Kristin J. Kulm, Renee Y. LiButti, Theta P. McLeroy, Robin K. Sakahara, Ashish Sharma, Claudia I. Verzilli, Aimee S. Weisnor.

Salutatorian: Suzanne E. Bliven.

SUNSET HIGH SCHOOL

Valedictorian: Kyong Suk Lyerly.

Salutatorian: Mike Chung Kim.

VIRGIN VALLEY HIGH SCHOOL

Valedictorians: Kelly Frehner, Russell K. Bowler.

BONANZA HIGH SCHOOL

Valedictorians: Marc Fenster, Millie Gong, Derk Hoskin, Nicole McCoy.

Salutatorian: Catherine Utley.

BOULDER CITY HIGH SCHOOL

Valedictorians: Robert Chapman, Cheryl Shopshire, Sandra Umeno, Colin Windham.

INDIAN SPRINGS

Valedictorian: Donald Theodore Huddleston.

Salutatorian: Antoinette R. Harkess.

CHAPPARRAL HIGH SCHOOL

Valedictorians: Dara L. Caplan, Andrew M. Eisen, Kimberly L. Ludwig, Julie A. Saxton, Melanie R. Wallace.

Salutatorian: Andrea D. Gibbons.

WESTERN

Valedictorians; K. Spenser Ballif, Leah A. Gillman, John P. Hagen, Kimberly L. Vasconi, Gina L. Vaughan, Inga M. Vaughan.

Salutatorians: Kathy L. Dresden, Shawn P. Lee.

LAS VEGAS HIGH SCHOOL

Valedictorians; Rajesh Patel, Andrew K. Song, Dai C. Tran.

Salutatorian; Rhoda A. PeBenito.

RANCHO HIGH SCHOOL

Valedictorian: Nicole M. Wagner.

Salutatorian; Bobbi J. Hanshew.

BASIC HIGH SCHOOL

Valedictorians: Robert Fuller, Denette Gonzales, Linnae Greenhalgh.

BISHOP GORMAN HIGH SCHOOL

Valedictorians: John Ameriks, Eddie Ayoob, Kyla Duckworth, Madalene Fisher, Matt Foley, Eva Liang, Timothy Lovell, Tessie McCullough, Nicole Pinkus, Stephanie Tayengco, Omid Tofigh, Juliet Vestal, Anastasia Warpinski, Michele Wildeveld, Gillian Wynn, Liza Yballe, and Cindy Zurawski.

ONE THOUSAND YEARS OF CHRISTIANITY IN BYELORUSSIA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ACKERMAN. Mr. Speaker, on May 31, the congregation of Saint Cyril of Turov American-Byelorussian Greek Orthodox Church, in Richmond Hill, Queens County, NY, will gather to celebrate a millennium of Christianity in Byelorussia-Whiteruthenia.

One thousand years is indeed a long time, and it is a good time to stop and reflect on the past and to look to the future. In honor of this observance, I would like to relate a brief history of Byelorussian Christianity. The recognized date of the introduction of Christianity to Rus and all Slavic lands is the year 988, when the Prince of Kiev, now Saint Vladimir, became an Orthodox Christian. Saint Vladimir then declared the Christian faith an official religion in the state of Kiev-Rus, including the present territory of Byelorussia-Whiteruthenia.

For centuries, the church not only became entrenched, but actually thrived throughout Russia. This situation quickly changed after the Russian revolution. With the Leninists in power, all religions began to suffer. To this day, Christians in Byelorussia endure suppression by the Soviet authorities. The Government has tried to eliminate the religious expression, national characteristics, and cultural traditions of these proud people. The Byelorussian dissidence to this oppression began in the 1920's and continues today, and will continue until religious freedom and human rights are restored to all citizens of Byelorussia.

During 1987 and 1988, the millennium of Christianity in Byelorussia will be observed not only by the members of Saint Cyril of Turov, but also by Americans of Byelorussian descent as well as by Byelorussians throughout the free world. Mr. Speaker, I ask all of my colleagues to join me in this observance, first of all as a celebration, and second, as a signal to the entire world that we support freedom of religion and freedom of conscience for all people.

HOOSE MARKS MILESTONE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BADHAM. Mr. Speaker, today I would like to honor a man who is a long-time resident of my district and a long-time friend. Mr. Clint Hoose has served the people of Orange County and the people of California well in public office for a decade and a half and has been a leading citizen in Newport Beach, CA, for much longer than that.

Clint, who will celebrate his 50th birthday Friday, was born May 29, 1937, in Kansas City, MI. He moved to California in 1948. He is a product of, and a tribute to, Ensign Junior High School and Newport Harbor High School. Within 5 years of graduating from high school, he owned his own hardware business and he soon became immensely successful.

He retired in 1979, but has continued to serve his fellow residents in other ways. In 1973, he was appointed by then Gov. Ronald Reagan to the Fair Board of Directors. He has been reappointed every 4 years since then. Many people forget that agriculture remains one of California's most important businesses, but Clint has been in Orange County long enough to remember how the county got its name.

Nearly 30 years ago, I had the opportunity to meet Clint when he was just starting out in business. In fact, he was a valued customer of my wholesale company and was a neighbor in my community. It is with the most sincere appreciation and respect that I tell my colleagues about Clint's work and service and I wish him a very happy 50th birthday.

STUDENTS HONORED DURING MATHEMATICS AWARENESS WEEK

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. SCHUETTE. Mr. Speaker, I am proud to take this opportunity to commend several outstanding mid-Michigan area high school students for their excellent academic performance in the area of mathematics. The following students were recently honored at an award ceremony during Mathematics Awareness Week:

Steven Gibson, Carlos Rozas, James Vanderbeek (Alma High School).

Matt Fox, Theresa Straus (Beal City High School).

Rodney Laurenz, Tammy Neitzke, Shane Plaxton (Breckenridge High School).

Jill Durfee, Barry Narnick, Jeremy Praay (Bullock Creek High School).

Rocky Jensen, Annette Martin, Tonya Staines (Central Montcalm High School).

Jennifer Couillard, Shaun Grannis, Brian Krulicki (Chippewa Hills).

Debra Fleethan, Karen Horwood, Robert Pope (Clare High School).

Aaron Campbell, Scott Schmus, Dennis Weihl (Coleman High School).

April Ellis, Jai Iserhoth, David Kedrowski (Farwell Area High School).

Dana Dumont, David Keenan, Brian Woodcock (Freeland High School).

Tonya Anderson, Chris Winarski (Gladwin High School).

Ron Fitch, Alan Linton, Todd Otter (Hemlock High School).

Tom Brandal, Rowland Ebright, Tim Strong (Ithaca High School).

Wendy Brasseur, Terri Dishong, Bryan Harvey (Lakeview High School).

Kerry Dittenber, Deb Lefevor, Scott Lindgren (Meridian High School).

David Hyatt, Heather Hyatt, Glen Pettigrove (Merrill High School).

Michelle Gornowicz, Thomas Li (Midland, H.H. Dow High School).

John Kanuch, Alan Kiley, Andrew Wernette (Midland High School).

Ian Kabell, Sigrid Names, Pete Wood (Mt. Pleasant High School).

Diana Barbour, Stacey McGarva, Tom Trombley (Mt. Pleasant Sacred Heart).

Anne Meyer, John Ruddell, Patti Westphal (Shepherd High School).

Michelle Bradley, Rene Fisher, Lisa Morris (St. Louis High School).

I congratulate them on their fine academic performance and feel that each and every one of us in this body should feel confident that mid-Michigan, and America's future, are in good hands. I wish them all the best in their future academic pursuits.

CLEAN AIR ACT AMENDMENT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LEVINE of California. Mr. Speaker, today I introduced legislation to protect air quality in southern California, and in other coastal States. My concern specifically arises from the poor air quality in southern California. Los Angeles, a portion of which I represent, has the worst air quality in the Nation. Los Angeles is in violation of the Clean Air Act standards a minimum of once every 2 days.

The bill amends the Clean Air Act to require any activities regulated by the Outer Continental Shelf Lands Act, as well as vessels engaged in oil and gas development activities in State waters, to comply with all Clean Air Act provisions. Additionally, the bill amends the Clean Air Act to strengthen certain provisions when applied to these activities.

Specifically, the legislation applies to such facilities and equipment as: Offshore oil and gas platforms, offshore storage and treatment facilities, oil tankers, and oil and gas crew and supply boats. In addition, while onshore power generation for platform use, et cetera, is already covered under the Clean Air Act, the controls are strengthened by applying all provisions of this legislation as well.

In the case of new sources of pollution, control technologies would be required to arrive at the lowest achievable emission rate, commonly referred to as LAER. Any remaining emissions would have to be offset by reducing emissions in other polluted areas. Operational limits would be required in addition to LAER, such as in the case of vessels, slowing down vessel speed and trip consolidation.

For existing sources of pollution, LAER would be required to the extent technically feasible. Operational limits would be required as well.

LAER itself would be strengthened by adding specific performance standards to its definition and by adopting a "rebuttable presumption" such that if any Government agency submits an emission control that they believe will achieve LAER, there is a rebuttable presumption that they are correct.

This legislation wil help prevent further degradation of air quality and will actually serve to improve such for both southern California and the rest of the United States.

CONGRATULATIONS ANGELO AND SOPHIA TSAKOPOULOS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. MATSUI. Mr. Speaker, I rise today to offer my sincere congratulations to two close friends of mine, Angelo and Sophia Tsakopoulos, on the baptism of their beautiful daughter, Chrysanthy Panagiota. The baptismal ceremony will take place this Sunday, May 24, 1987, at the Greek Orthodox Church of the Annunciation in Sacramento.

I know that the baptism of their daughter will be a very special day for the entire family, and I wanted to take this opportunity to extend my very wishes for a memorable and enjoyable ceremony.

NATIONAL TEENAGE SUICIDE PREVENTION MONTH

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. VALENTINE. Mr. Speaker, I rise to introduce a resolution designating September, the beginning of the school year, as "National Teenage Suicide Prevention Month."

Many Americans have been shocked to learn that suicide is the second leading killer of youths in the 15- to 19-year-old age group. Approximately 1,700 troubled teenagers take their lives every year. This is an increase of about 300 percent since the 1950's.

There have always been many problems that can confuse young people who are in a vulnerable stage between childhood and adulthood. But the emergence of new problems has made this period even more difficult and dangerous. A high divorce rate shakes their confidence in parents and the family. The increasing prevalence of drugs and peer pressure to experiment is clouding their judgment.

Unfortunately, little scientific research has been conducted to determine why some teens feel compelled to kill themselves. If we do not understand the problem better, we will not be able to solve it.

According to recent surveys, the best way to reduce teenage suicide is by implementing programs designed to raise public consciousness about how to deal with this problem.

Mr. Speaker, I strongly believe that designating September as "National Teenage Suicide Prevention Month" will enable many troubled teens to get help at the onset of the academic year, before their problems snowball. This resolution will certainly focus public awareness on this devastating problem.

Joining me in the introduction of the resolution as original cosponsors are Representatives Bill Hefner, Albert Bustamante, Tom Lewis, James Traficant, Cardiss Collins, Tom Lantos, Charles Hayes, James Scheuer, Arlan Stangeland, Mickey Leland, Nick Rahall, Frank Horton, Bob Mrazek, Peter Kostmayer, John Bryant, William Lipinski, Robert Roe, Marge Roukema, Mel Levine, Bill Richardson, Vic Fazio, Barbara Boxer, Walter Jones, Robert Lagomarsino, Ken Gray, Charles Bennett, Martin Lancaster, Michael De Wine, Raymond McGrath, Joe Kolter, Martin Frost, Bill Schuette, Earl Hutto, Dan Schaefer, Tom McMillen , Mike Espy, Hamilton Fish, Elizabeth Patterson, Clarence Miller, and John Lewis.

I urge my colleagues to join us to commemorate the month of September as "National Teenage Suicide Prevention Month."

The text of the resolution follows:

NATIONAL TEENAGE SUICIDE PREVENTION MONTH

Whereas the Suicide rate for youths between the ages of 15 and 24 has tripled since the 1950's with 12 out of every 100,000 taking their own lives;

Whereas suicide has become the second most frequent cause of death among 15- to 19-year-olds with an estimated 1,700 occurring annually;

Whereas alcohol and drug abuse, changing social mores, and greater access to firearms, the most common means of suicide, have contributed to the increase of suicide;

Whereas recent studies have found that teen suicide attempts increase as a result of adverse publicity;

Whereas, according to a study sponsored by Who's Who Among American High School Students, 31 percent of high-achieving teenagers have contemplated suicide and four percent have attempted it;

Whereas 71 percent of the respondents said teenage suicide would be reduced most effectively through awareness programs involving teens and their parents;

Whereas parents, communities and schools across the nation have played a vital role in organizing suicide-prevention hotlines, counseling services, awareness programs which would make options other than suicide available to troubled youths;

Whereas despite government efforts, there remains little basic research from which scientists can determine what makes a teenager prone to suicide: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That September, 1987 is designated as "National Teenage Suicide Prevention Month," and the President of the United States is authorized and requested to issue a proclamation calling upon Federal, state and local government agencies and the people of the United States to observe such week with appropriate ceremonies and activities.

WILLARD BUTCHER ADDRESSES TULANE BUSINESS SCHOOL GRADUATES

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mrs. BOGGS. Mr. Speaker, on May 15, Willard C. Butcher, chairman of the Chase Manhattan Corp., addressed the graduating class of the A.B. Freeman School of Business at Tulane University in New Orleans. For his commencement address, Mr. Butcher selected the very timely topic of ethics in our society.

Given the recent turmoil in government, business, politics, and religion over real or perceived breaches of the standards we have set for ourselves, I think Mr. Butcher's address to these Tulane graduates on "The Need for Ethical Leadership" is timely and instructive. I would like to take this opportunity to share it with my colleagues.

THE NEED FOR ETHICAL LEADERSHIP

The topic I've chosen is not easy to talk about. On the one hand, it is a subject about which it is easy to generalize—where one's comments become nothing more than platitudes. On the other hand, it is one where being specific often means getting into details so minute that its significance is obscured. And finally, it is a topic which, once broached, tends to lapse into preaching.

For my part today, I wish to be neither too general, nor too specific. Nor, in particular, too pontifical.

But I can make no promises. It is said about General Robert E. Lee, "He preached oh so gently, but nonetheless—he still *preached.*"

And so having excused myself for what I'm about to say—I invite you to sit back, relax, and enjoy the sermon.

My topic is "ethics" and more specifically, the decline of ethical behavior not only in American business but across our society.

Most of you receiving your degrees today will be entering the business world. Indeed my own perspective on "Ethics" is, by definition, that of a businessman. But whether you aspire to business or any other calling, my message is the same; that ethical behavior and effective leadership are intertwined and inseparable.

In fact, meaningful leadership—leadership that in the long-run counts for something—cannot be accompanied by moral collapse. The leader who acts ethically will ultimately succeed. The leader who lacks an ethical foundation will ultimately fail.

A spot check today of the American landscape indicates that something is terribly wrong with ethics in our nation. One could argue—and I would—that the principal cause is the maelstrom of change taking place in society. Rarely have times been more turbulent.

In periods of upheaval, people cut loose from their moorings—and thus lose their bearings. And when you combine this with today's appalling lack of historical perspective—little wonder that some among us have forgotten who we are and what we ought to stand for.

Thus the recent avalanche of ethical abuses—in cutting corners—in bending rules—in cheating.

On Wall Street, insider trading scandals have converted Phi Beta Kappa graduates of the finest business schools into convicted felons.

In *Government,* shocking disclosures at all levels—from the Iranian crisis in Washington to municipal payoffs in New York—call into question the ethical standards of government leaders.

And even in the pristine halls of academia, embarrassing revelations of rule-breaking in amateur athletics have caused commentator George Will to label some leading universities as "schools for scandal."

While all of this is most disturbing, such breaches of ethics are not a new phenomenon in America.

Ethical abuses have been with us since the Grant Administration and Teapot Dome scandals in government . . . . . through the Black Sox of 1919 in sports . . . . . to the Salad Oil and Equity Funding scams in business.

Often throughout our history, "doing wrong" has been a shortcut to "making good."

So why you may ask should we be overly concerned about the current crop of ethical abuses?

Well, as the British diplomat who urgently cabled back to London put it, "The gravity of the situation here is impossible to exaggerate—but I'll try!"

I am concerned that today's attitude toward ethics reflects a "graver" situation than in the past.

"Graver" because in many cases the abusers themselves either won't acknowledge or can't understand that they have done anything wrong.

"Everyone does it," they say. "And besides, our lawyers will get us off."

"Graver" because ethical abusers often are treated more like celebrities than pariahs. According to the New York Times, the best way to ensure the success of your next dinner party is to invite Ivan Boesky, Dennis Levine, or the Mayflower Madam to join you! The attitude seems to be, "If you're indicted—you're invited!"

And "Graver" too because the average citizen today has almost become inured to such behavior. People are starting to accept ethical abuse as the societal norm. As comedienne Lily Tomlin says, "No matter how cynical you become, it's never enough to keep up!"

And it's this cynicism, ladies and gentlemen, that frankly is most alarming. To quote an old aphorism, "How can I trust a man not to lie—when I know I would lie in his place." The point is we will never rid ourselves of ethical abuse until we first reject categorically the notion abroad in the land that ethics today just aren't very important.

In business, the emphasis is on making a quick buck.

The "new business order," the Times tells us, "eschews loyalty to workers, products, corporate structure, businesses, factories, communities, even the nation.

"All such allegiances are viewed as expendable under the new rules. With survival at stake, only market leadership, strong profits, and a high stock price can be allowed to matter."

High premiums are paid today not particularly for quality service or long-term building of a business but rather for making money quickly, getting rich, and getting out.

And that's wrong.

Put another way, the issue isn't whether Mr. Boesky eventually does time in prison. Frankly, I don't particularly care. But what I do care about is that society condemns the kind of unacceptable conduct of which Mr. Boesky was found guilty—and condemns it to the point that a would-be ethical violator will forever be an outcast in this nation.

By the same token, in education—particularly higher education—we have started to lose sight of the reasons schools were built in the first place . . . . . to teach values and to promote scholarship. As one college president said tongue-in-cheek recently, "We're trying to build a university that our football team can be proud of!"

Gallows humor to be sure. But nonetheless a chilling indicator of how far in the wrong direction the educational pendulum has swung.

U.S. Education Secretary Bill Bennett has suggested that all universities ought to teach ethics in a serious way. Not just with a course or two but with a comprehensive program.

We seem to have lost sight of the fact that there are fundamental "rights and wrongs" in our society. And I agree with Secretary Bennett that these precepts need to be reinforced to students. Indeed, the occasional inspirational speaker who gives students what someone once labeled, "The equivalent of a quick dunk in a morality bath," simply won't suffice anymore.

Beyond formal classwork in ethics, colleges also must take more of a stand on ethical issues—particularly those in their own backyard. All too often, a university is more willing to deal with moral issues that have little local relevance . . . . . rather than confront issues of more immediate concern on its own campus.

We need more examples of the kind of courage that this university showed in the face of an athletic scandal a few years ago—and thus reasserted its academic leadership.

Likewise, we need to reassert, throughout society, the importance and urgency of making decisions in an ethical way. Ethical decision-making isn't an option today. It's an obligation—in business, in education, in government, in our daily lives.

For example, my own company, like most others, has a Corporate Code of Conduct—a blueprint that spells out the value standards we expect our employees to live up to. But having a written document is no guarantee that decisions will be made in an ethical way.

We must constantly work at making our Code of Conduct a "living document" and the practice of corporate ethics, a "living spirit" throughout the Chase organization.

Stated another way, "Church on Sunday, Sin on Monday" ethics will not cut it. We must practice what we preach and incorporate ethics into every decision we make.

Now ladies and gentlemen, I doubt seriously that anyone in this graduating class aspires to be a convicted felon. On the contrary, I suspect that most of you aspire to be leaders.

Very soon now, you will get your opportunity—to be one or the other.

What standards will you adhere to?

What principles will you embrace?

What values will you practice yourselves and instill in your co-workers?

Let me suggest a point of departure.

Michael Novak, an eminent scholar at the American Enterprise Institute, has said that, "The fundamental motive of democratic capitalism—to produce greater well-being for the world's people—is, at base, a moral motive."

I agree.

Despite what some may argue, the primary responsbility of business is much more than simply using resources to engage in activities to increase profits.

Profits, to be sure, are critical. You don't live long if you have air to breathe tomorrow but none today. And if a business intends to be around for the long-term, it must make profits in the short-term as well.

But profits alone are not the answer.

Andrew Sigler, the chairman of Champion International, has put it, "Things that affect free enterprise affect the whole society. The underlying issue isn't the shareholders of the business—it's the society."

And it's this kind of framework that you should consider as you begin to make your own way in the business world.

Forty years ago, when I sat where you do today, I received some simple advice that has stayed with me from a family friend named Marion Folsom, the architect of our nation's social security system and then a top executive of the Eastman Kodak Company.

"Bill," Mr. Folsom said, "You're going to find that 95 percent of all the decisions you'll ever make in your career could be made as well by any reasonably intelligent high school sophomore.

"But they'll pay you for the other 5 percent.

And it's those 5 percent ladies and gentlemen that will be the most difficult—the kind of subjective 51-49 decisions that will call into play your own long-term vision—your corporate ideals—the discipline and constancy of your character.

If, in making these decisions, you rely on clear ethical principles—a firm commitment toward ethical behavior—and an inflexible standard of what's right and what's wrong—then your track record will be very good indeed.

Moreover, if you use such personal standards to set corporate standards—you will exemplify the kind of business leader that seems in such short supply today.

Leaders like Reg Jones at General Electric, Irving Shapiro at DuPont, and David Rockefeller, my predecessor at Chase—who rightfully saw their responsibilities extending beyond quarterly profit statements and into areas of broader public policy and societal concern.

Or a leader like John Shad, our newly-named Ambassador to the Netherlands, who has battled corruption as chairman of the Securities and Exchange Commission and is the principal donor and prime mover behind a program at the Harvard Business School—if you'll forgive that blasphemy—to make the study of ethics an integral part of the curriculum.

Or a leader like Jim Burke, the chairman of Johnson & Johnson, who, when faced with the sabotaging of its largest consumer product, immediately removed Tylenol from the shelves.

As costly as that decision was, Jim Burke never hesitated. Johnson & Johnson had developed a tradition over decades for integrity. And that tradition stood it well in its moments of crisis.

Stated another way, when Jim Burke asked the American people to "Trust him"—they did just that.

So, too, will they trust you if you lead in a way that clearly indicates that at your business as well, "Ethics is spoken here."

Business leaders today can't shrink from their obligation to set a moral example for those they lead. They must draw the line between on the one hand, the perpetual push for higher profits and on the other, actions antagonistic to the values of the larger society.

Put another way, ethical business leadership requires not only harvesting the fruit we can pluck today . . . not only investing in the small trees and experimental hybrids that won't yield a thing in this quarter or the next . . . but also caring for the soil that allows us to produce such a rich harvest in the first place.

Today's painful headlines coming out of our counting houses and our court houses remind us that ethical standards are not monuments, but living ideals. They thrive and wither as our commitment to them waxes and wanes.

Mature people who aspire to leadership in the days ahead must begin to grapple much more meaningfully with this whole issue of ethical standards. They must consistently work at it and instill its importance in others.

If they do—if you do—I am confident that you will become the kind of responsible leaders that our Republic so desperately needs.

Thank you.

SANTA CLARA COUNTY CELEBRATES "ITALIAN WEEK"

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. EDWARDS of California. Mr. Speaker, on June 1, the people of Italy as well as our many Americans of Italian descent, will celebrate the 41st anniversary of the founding of the Italian Republic.

The county of Santa Clara, much of which I represent here in the House of Representatives, plans to celebrate that historic event as well as to honor the many contributions Italian-Americans have made to Santa Clara Valley.

In recognition of the important role Italian-Americans have played in the rich history of the Santa Clara Valley, the Santa Clara County Board of Supervisors has adopted a resolution proclaiming the week of June 1-8, 1987, as "Italian Week." I'm pleased to share that resolution with my colleagues today.

The resolution follows:

Whereas, on June 1st the Italian community of Santa Clara County will celebrate the Anniversary of the Founding of the Republic of Italy; and

Whereas, almost forty years ago the people of Italy were faced with the decision to become a kingdom or a republic; on June 2, 1946, the citizens of Italy voted to form a republic; and

Whereas, the citizens of Italian ancestry can look with deep pride and conviction on their heritage; the struggles, achievements and growth Italy has endured have created a unity among its citizens few other nations enjoy; and

Whereas, the Italian-American citizens of the Santa Clara Valley number in the thousands; Santa Clara County is proud of the significant contributions made by its citizens of Italian descent, and commends the Italian-Americans for their determination and belief.

Now, therefore, be it resolved, that the Board of Supervisors of Santa Clara County does hereby declare the week of June 1-8, 1987 Italian Week in honor of the contributions, sacrifices and advancement made by citizens of Italian descent in the Santa Clara Valley.

Passed and adopted by the Board of Supervisors of Santa Clara County, State of California, this Nineteenth Day of May, Nineteen Hundred and Eighty-Seven.

GRAND JURY REFORM BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. CONYERS. Mr. Speaker, I am introducing a bill permitting counsel to accompany a witness into the grand jury room.

The complex and important legal issues which confront a witness testifying before the grand jury makes the presence of defense counsel critical. For example, a witness is subject to self-incrimination and imprisoment for contempt. A witness may also inadvertently lose a right to claim a privilege by operation of the doctrine of waiver. Pressure and nervousness may make it difficult for a witness to remember an attorney's instructions.

Grand jury witnesses who wish to consult with counsel are now put in the awkward position of having to ask the prosecutor's permission to go outside the grand jury room, try to repeat the question to his attorney, and then return and try to remember the attorney's instructions. This process is inefficient and ineffective, as well as prejudicial to the witness. It annoys grand jurors and raises speculation in their minds regarding the purposes of the consultation. Moreover, some courts have placed a limit on how frequently the witness can leave the grand jury room to consult counsel.

The Department of Justice has argued that the presence of counsel inside the grand jury room will disrupt the grand jury's investigation. Yet, under my proposal, the lawyer's role would be strictly limited. The lawyer could only advise the client, not take part in the proceedings. The lawyer would only be present while the client is testifying. Moreover, the court could order the removal of a disruptive counsel.

The Department of Justice has also argued that permitting counsel to accompany a witness before a grand jury would result in a loss of spontaneity in the testimony. The goal, however, should not be spontaneity, it should be fairness. Requiring a witness to get up and go outside the grand jury room to consult with counsel is so prejudicial to grand jury witnesses that it undermines one of the primary functions of the grand jury, to shield persons from unwarranted prosecutions. The American Bar Association, while testifying last session before my subcommittee on the presence of defense counsel in the grand jury room, noted that 20 States permit counsel to acccompany witnesses into the grand jury room with no adverse effect on the grand jury process.

The grand jury is a longstanding part of our legal and constitutional tradition. However, it needs the same attention every other part of our criminal justice process has received. This bill will help to restore the grand jury to its intended role as a people's watchdog against overzealous prosecutors and governmental corruption.

IN HONOR OF RABBI ALLEN I. FREEHLING

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LEVINE of California. Mr. Speaker, I ask you and my distinguished colleagues to join me in saluting a fine and compassionate man, an outstanding Los Angeles leader and a close personal friend, Rabbi Allen I. Freehling.

On June 5, 1987, Rabbi Freehling will celebrate the 15th anniversary of his service as spiritual leader of University Synagogue, a renowned center for Jewish education. To mark this occasion, I would like to share a few of his numerous accomplishments.

Allen was born in Chicago, IL, on January 8, 1932, to the late Marian and Jerome Freehling. His family moved to Miami, FL, in 1938, where he attended Miami's Coral Way Elementary School, Shenandoah Junior High School and Miami Senior High School. He attended the University of Miami and graduated with an A.B. degree in 1953. Allen also attended Hebrew Union College in Cincinnati, OH, and received a B.H.L. degree in 1965. He continued on to earn a masters degree and was ordained as a rabbi in 1967. Rabbi Freehling received his Ph.D. degree from Kensington University in 1977.

Rabbi Freehling has held many leadership positions with many outstanding secular and nonsecular organizations of Los Angeles County, including: president of the American Jewish Congress; chair, Regional Synagogue Council; board member, Jewish Federation Council and member of several committees and commissions. He held the office of vice president of the Westside Ecumenical Council, and was chaplain of the Los Angeles Police Department from 1974 to 1986.

Allen Freehling has touched all those he knows with his generous nature and kind spirit. He served as a member of the Committee on Ethics, Medicine, and Humanity at Santa Monica Hospital; he is an adjunct professor at Loyola-Marymount University and St. Mary's College. He is a board member of the Israel Bonds Organization and the National Jewish Fund; he has often been a guest on the radio show "Religion on the Line." He was a commissioner on the Los Angeles County Commission on Public Social Services and is currently a member of the city of Los Angeles Task Force on the Diversity of Families. Rabbi Freehling is a cochair of the AIDS Interfaith Council and a board member of AIDS project Los Angeles.

Rabbi Freehling keeps his journalistic talents sharp as a guest columnist for the Los Angeles Herald Examiner; he was awarded a "Silver Angel" by Religion in Media for a recent column. On a personal note, Allen and I have worked closely together on numerous projects almost from the moment he arrived in Los Angeles.

Allen is married to the former Dale Crown Silver and has three children, Shira, David, and Jonathan.

It is a pleasure to share some of the accomplishments of Rabbi Allen I. Freehling with my colleagues in the U.S. House of Representatives at this time of celebration.

CAM AND DOROTHY ELLIOTT CELEBRATE A MILESTONE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. FEIGHAN. Mr. Speaker, I am pleased to say that Cleveland can lay claim to a very special couple, a couple who made a commitment to each other which has lasted now for 50 years.

Cam and Dorothy Elliott met as young people in St. Louis, were school sweethearts, and married on January 30, 1937. To celebrate this long-lasting union, the Elliotts arranged to return to St. Louis on their 50th anniversary for a 3-day celebration. Joined by family and friends from all across the country, they exchanged vows a second time. Their two sons George and Michael, who live in Cleveland Heights, and their daughter, Mary Frances of California, were there to witness the event.

Campbell and Dorothy have lived in Cleveland for over 30 years. Cam is the vice president of Public Affairs for Van Dorn Co. He is the former president of the Greater Cleveland Growth Association and the American Shipbuilding Co. He was also the senior vice president of Midland Ross.

Both the Elliotts have been generous with their time and talents. Dorothy is a long time volunteer at the University Hospital. Campbell has given his time to the St. Benedictine Order, John Carroll University and Gilmour Academy. When they are not engaged with good works, they spend as much time golfing as they can.

Mr. Speaker, this couple has brought much joy to each other, their three children, seven grandchildren and everyone who knows them. It is my distinct pleasure to be able to offer them my sincerest good wishes. I hope that the next 50 years will be as full as the last.

BOARDER BABIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I would like to bring to my colleagues' attention a recent news column, entitled "The New Lost Generation." This new lost generation are the babies being left in city hospitals; the so-called boarder babies.

Why are these babies left in the hospital? They have been abandoned by their mothers, who are addicted to drugs and cannot care for them.

The boarder babies are presenting a serious problem for the hospitals. Some stay only for a few weeks and can be placed in foster care. For others, for example those with AIDS, foster care is not readily available. They may remain in the hospital for months.

The number of boarder babies is growing. The problem is one which policymakers at all levels of government are confronting and for which solutions must be found.

The column by Earl Caldwell appeared in the Daily News on May 13. It highlights the problem of boarder babies. The complete text of the article follows:

[From the New York Daily News, May 13, 1987]

THE NEW "LOST GENERATION"

(By Earl Caldwell)

It's the same at all the hospitals. They've taken the little space that could be found and they've scrubbed and polished it and that's what they use.

"For our babies, "they say.

In the City of New York, where the incredible happens on a daily basis, nothing is more shocking than to see these infants left in hospital cribs. And it's that way because their mothers are so addicted to drugs they can't be trusted to take their babies home.

For close to two years, these infants have been collecting in city hospitals. They are known as boarder babies. And they are the clearest reflection yet of the kind of damage that drugs are inflicting on people at the bottom.

At the start, the belief was that the boarder baby problem would be shortlived. But it's not happening that way. Instead of getting better, the situation could be getting worse.

"It's frightening," said Dr. David Bateman, chief of the neonatal unit at Harlem Hospital. "It's got to be frightening," he explained. "We have almost no tools to deal with the situation and we know so little."

In New York, the municipal hospitals are huge, monstrous places. But by law, they cannot turn anybody away. They take it as it comes, and so they are noisy and crowded and often dangerous places. It would seem that these hospitals would be all wrong for the boarder babies. But that hasn't been the case. In caring for the infants, these hospitals, in a way, have achieved their finest hour.

You go into the hospitals and see the long rows of white metal cribs that hold these babies. And you are struck by two things: Almost all the babies are black and almost all of them are smaller than they ought to be.

The mothers are not only addicted to drugs, many are also heavy smokers, and Dr. Bateman says those two things account for the low birth weight. Some of the infants stay in the hospitals a few weeks. But others stay for months before foster homes are found.

"Nobody knows what happens when a baby is let alone like that," Dr. Bateman says. "What happens when an infant misses the bonding that takes place between a baby and the mother."

At Kings County, they have paid workers who come into the hospital and rock or just pick up and hold the babies. They also have senior citizens who are volunteers, and they come to the nurseries and they do the same jobs. And it's not just at Kings County. At Harlem Hospital and others, they have the same programs. None of the babies is left alone.

Janet Wise has been involved in social work for 17 years. At Harlem Hospital now, she is social work supervisor. "It is scary," she says. "So much is needed but we're living in times where human services are not a priority. Poor people need so much. Education is so important. At what age do you begin to reach youngsters?"

"But shouldn't the young women know by now that they risk losing their babies if they continue on drugs while they are pregnant?" she is asked.

"But they don't know. On the streets, we here people say, 'They're taking people's babies. You'll lose your baby if you go there (to Harlem Hospital).' So instead of coming here early and letting us help them get care and advice, they stay away. By the time they come to deliver, it's too late. By then, the drugs are in the baby's system too."

"Is it just the young teenagers?"

"Actually, it's not the teenagers. A lot of the women are 25, and some are older. Some of them are homeless and they have gotten into a situation that is so stressful, they use cocaine. They say it's just recreational, but they come here addicted."

"But what about their families?"

"A lot of these families are just overloaded. There are already too many babies and there's been a great deal of breakdown. In a lot of cases, grandma would like to help, but she has limited resources and there is only so much a person can do."

"What does it mean?"

"It means we all need to work together and put pressure where it's needed. Our future as black people is definitely at stake here. We're losing a generation of children."

"Is it already too late?

"I'm an optimist but to do what has to be done is going to take a lot of work. But we don't have a choice. We're being destroyed from within."

MEAT EXPORTS TOUTED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mrs. SCHROEDER. Mr. Speaker, the Denver-based U.S. Meat Export Federation is working hard to promote meat sales around the globe. I would like to share with my colleagues a recent Denver Post article detailing the federation's efforts.

The article follows:

[From the Denver Post, May 11, 1987]

FEDERATION PROMOTES U.S. MEATS IN JAPAN

(By Bartell Nyberg)

A helicopter-borne camera zeroes in on a family gathered for a barbecue dinner on the deck of a ranch house amid the cattle-dotted green hills of California. Playing in the background are the soft, melodic tones of "Blueberry Hill," the 1940s favorite popularized by Gene Autry.

Unmistakably American.

A remote video camera zooms down on a blonde woman and her companion enjoying an elegant beef dinner in a cosmopolitan San Francisco setting. Again the notes of "Blueberry Hill" are heard in the background.

Unmistakably American.

$6.5 MILLION PROMOTION

Those distinctively American scenes were recorded on Japanese cameras as part of a $6.5 million promotion touting beef in Japanese newspaper, magazine and television campaigns. And not just anybody's beef. American beef.

The promotion is part of a global effort by the Denver-based U.S. Meat Export Federation to build markets for American red meat. Even though Japan already is by far the biggest importer of U.S. beef, meat industry experts think Americans have scarcely scratched the surface so far.

Figures from the National Cattlemen's Association peg Japan's beef consumption at just under 10 pounds a person annually, perhaps one pound of it from the United States. Each American last year ate some 78 pounds of beef.

STRICT QUOTAS

The problem is that Japan regulates imports of high-quality U.S. beef via strict quotas. Last month, two Reagan administration officials, Agriculture Secretary Richard Lyng and Special Trade Representative Clayton Yeutter, returned home from Tokyo disappointed after 12 days of talks didn't alter Japan's protectionist stance.

Current trade agreements, which will allow the sale of about 177,000 metric tons of beef to Japan this year, expire in March 1988.

While MEF has been working to build meat exports since its founding in 1976, the current $6.5 million program in Japan and a companion $500,000 promotion in Hong Kong is just a month old.

Those promotions are financed under the U.S. Department of Agriculture's five-year, $1 billion Targeted Export Assistance program established by the 1985 farm bill. All exportable agricultural products qualify for the export aid. Among other organizations awarded funds so far are such diverse groups as the California Prune Board, $4.5 million, and the Denver-based National Potato Promotion Board, $2.55 million.

MEF's $6.5 million promotion in Japan is one of the largest export assistance programs. And, because of those unfruitful initial quota negotiations, it may be at least another year before American cattlemen know if the campaign will pay off in higher sales.

"The USDA is targeting this program toward countries that limit agricultural imports from the United States," said Alan "Bud" Middaugh, MEF president. "In Japan, what we're gambling on is that trade negotiations will be successful in increasing import quotas."

For their part, Japanese agricultural officials point out that they already are the No. 1 overseas customer of American livestock products. MEF figures show that in 1986 American exports of beef, pork and variety meats topped $1 billion for the first time, and some two-thirds of those products went to Japan.

"About 81 percent of U.S. exportation of beef in 1986 went to Japan," not counting beef shipped abroad under the U.S. dairy herd reduction program, said Hiroshi Nishimura, chief representative for Japan's Livestock Industry Promotion Corp. LIPC's North American headquarters is in Denver.

Americans supplied 31.3 percent of all Japanese beef imports in 1985, said Nishimura, while Australia provided 61.9 percent and New Zealand 3.9 percent.

One of the biggest exporters of beef to Japan is Greeley-based Monfort of Colorado. "Japan is our principal export market," said company President Kenneth Monfort. He estimated the company's fiscal 1986 sales to Japan at some $75 million.

"The bulk of their business is chucks, briskets—our lower-priced cuts that we would use in stirfried products," he said. "We do sell them some strips and tenderloins, but primarily it is the cheaper items."

And that isn't all bad, from Monfort's point of view: "What they are importing are the items we have trouble moving in this country."

MEF's Asian director, Phil Seng, said one problem for Japanese consumers is that in supermarkets all foreign beef is lumped together. Consumers aren't told which is grass-fed Australian beef and which is grain-fed American meat.

"All we're trying to do with this campaign is notify the Japanese consumer that there is U.S. meat available," said Seng in a telephone interview from his Tokyo office. "It is marketing and informational campaign as opposed to just an advertising campaign.

"It's almost guerrilla warfare. We're creating demand for U.S. products. Then if the market is opened up some day, we'll be ready."

Currently, most of Japan's American beef is sold in restaurants rather than supermarkets, said Seng. Because of government controls, he noted, Japanese restaurant customers must pay anywhere from two to five times more for beef than do U.S. restaurant patrons.

Those "delicious American beef television commercials," filmed in this country by Tokyo's Dentsu Advertising Agency, will be aired on Tokyo and Osako stations until May 18. Advertising in five or six major national newspapers, 25 magazines and 36 local newspapers will continue through September.

RECIPE BOOK

MEF is working on a recipe book, restaurant promotions, supermarket point-of-sale materials and a "mook"—a combination magazine-book for consumers that explains the U.S. beef industry from conception to consumption. While beef gets most of the attention, Seng's campaign also touts U.S. pork and lamb.

"I think we've accomplished our point," said Seng. "We've not had one negative phone call. We get 80 to 100 phone calls per day. The questions are always the same: 'Where can we get the product? Where can we get the product?' "

It won't be just American beef producers that benefit if quotas are liberalized, Seng added. "There is tremendous pent-up demand for beef in Japan. There is potential for Japanese producers to produce to their potential, for the United States to sell more and for the Australians to sell more. Even if the price remains the same."

NEW ZEALAND PREPARES TO ENACT U.S. SHIP BAN INTO LAW

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BROOMFIELD. Mr. Speaker, Prime Minister David Lange of New Zealand recently announced that New Zealand soon will enact into law his government's policy that bans U.S. Navy ships from entering New Zealand ports. The decision of the Government of New Zealand to enact its policy into law bodes ill for the future security relationship of the United States and New Zealand.

Since New Zealand refused to accept the visit of the U.S.S. *Buchanan* in February 1985, New Zealand steadfastly has refused to permit U.S. Navy ships to enter New Zealand ports because they might carry nuclear weapons. New Zealand's policy demands that the United States identify which of its ships carries nuclear weapons, and permits only those ships that do not carry such weapons to enter New Zealand ports.

The United States has only a single, unitary Navy. It does not have one nuclear Navy and one non-nuclear Navy. Moreover, to protect the security of the United States and its allies, and to protect naval personnel at sea, the United States must maintain a firm policy of declining to confirm or to deny whether any particular U.S. Navy ship carries nuclear weapons. Thus, the New Zealand policy effectively bans U.S. Navy ships from New Zealand ports.

The United States exercised a great deal of patience in responding to New Zealand's breach of its security obligations under the Australia-New Zealand-United States [ANZUS] Treaty with the ship ban policy. The ANZUS Treaty arrangement is a critical Pacific element in the Western alliance system whose global defense strategy has successfully deterred major warfare in the four decades since the Second World War. Under this arrangement, the United States naval fleet constitutes an important deterrent to hostile action by the Soviet Union and other countries that might threaten United States and allied security interests and block vital Pacific sea lines of communication.

With the hope that New Zealand might abandon its ship ban policy and resume its security obligations, the United States chose to leave the treaty regime and mutual military support arrangements intact. By August 1986, however, New Zealand's intransigence became clear, and the United States suspended its security obligations to New Zealand in response to New Zealand's breach of its ANZUS Treaty security obligations.

New Zealand remained committed to its policy banning U.S. Navy ships from its ports. In February 1987, the United States informed New Zealand that it would not renew or renegotiate the expiring United States-New Zealand Memorandum of Understanding which provided for mutual military support arrangements.

In an April 30, 1987 address to the New Zealand Institute of International Affairs, Prime Minister Lange announced that the New Zealand Parliament will enact in June 1987 the "New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act." That act makes all New Zealand territory, waters, and airspace a nuclear free zone; prohibits the entry of nuclear-powered ships; and prohibits the entry of foreign military aircraft and ships unless the Prime Minister is satisfied that they will not be carrying any nuclear explosive device.

In his address, the Prime Minister stated:

> New Zealand cannot be defended by nuclear weapons and does not wish to be defended by nuclear weapons. We have disengaged ourselves from any nuclear strategy for the defence of New Zealand . . . The exclusion of nuclear weapons from New Zealand will become a matter of law in June this year. . . People in New Zealand must be satisfied that the ships and aircraft of other countries which visit New Zealand are not armed

with nuclear weapons or not engaged in the transport of nuclear weapons.

The effect of the New Zealand Disarmament Act is to place in law the ban on U.S. Navy ships entering New Zealand ports. The prohibition will no longer simply be the policy of the Prime Minister; it will be the law of New Zealand, duly adopted by the representatives of the People in Parliament and assented to by the Governor-General for the Crown.

The decision of the Government of New Zealand to enact its U.S. ship ban into law constitutes a major turning point in the United States-New Zealand security relationship. The decision reflects a more permanent New Zealand national commitment to the ship ban.

New Zealand has every sovereign right to exclude U.S. Navy ships from is ports, but that decision has consequences. New Zealand cannot expect to enjoy the benefits of close defense alliance with the United States without accepting the burdens that go with it. New Zealand has made its national decision to shift its security relationship with the United States from one of close alliance to one of mere friendhship.

After waiting with patience and hope for New Zealand to change its mind, the United States must now accept New Zealand's sovereign decision about the course of its future. The time has come to adjust U.S. law to reflect the existing reality of the new relationship.

In February 1987, I introduced H.R. 85, the New Zealand Military Preference Elimination Act. The bill eliminates New Zealand from the list of allies (NATO countries, Japan, Australia, New Zealand) entitled to preferential treatment under various provisions of the Foreign Assistance Act of 1961 and the Arms Export Control Act. The bill would shift New Zealand's status under those statutes from that of an allied country to that of a friendly country, reflecting the new security relationship to the United States that New Zealand has chosen for itself.

The bill is a measured and proportionate response to New Zealand's decision to enact into law its U.S. ship ban. The bill does not impose any economic or other sanctions on New Zealand. The United States and New Zealand enjoy, and should continue to enjoy, close economic, political and cultural ties, even though close security cooperation has ended by New Zealand's choice.

The United States greatly regrets the choice New Zealand has made to leave the group of America's security allies. Nevertheless, New Zealand has made its choice and soon will enact it into law. Accordingly, the Congress should adjust U.S. law to reflect the new, diminished relationship, by enacting H.R. 85.

IN HONOR OF EVERETT ASCHER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LEVINE of California. Mr. Speaker, I rise to salute Everett Ascher, who will be honored on June 16, 1987, for his year of dedicated leadership of the Los Angeles West Chamber of Commerce. To mark this occasion, I would like to share with my colleagues some of the accomplishments of Everett Ascher during his chairmanship year—1986-87.

The Los Angeles West Chamber of Commerce continued to prosper and grow under his leadership. It increased both its membership and revenues. The chamber developed the concept for a "Leadership LA" program, the first in the Los Angeles area, which will train business leaders to take an active leadership role in the community.

The Los Angeles West Chamber of Commerce the planned growth and development task force into a permanent standing committee to deal with the problems of growth throughout the community.

The chamber developed a public education campaign to cope with problems of crime on the westside. It established a health care task force to keep members and the community apprised of developments in the health-care industry.

It gave its support to an updated Westwood Village specific plan, which is designed to restore this unique air to one of our city's main shopping, walking and entertainment centers.

The Los Angeles West Chamber undertook its fourth reaccreditation process, which will make this the only chamber in the State of California to have earned the 20-year seal of approval from the U.S. Chamber of Commerce. It held a 1-day retreat, which redefined the chamber's mission and established goals and priorities for the coming year.

The west chamber sponsored two highly successful Westwood art shows and awarded purchase prizes in excess of $10,000 to outstanding artist/participants. It also celebrated its 17th Annual Beautification Awards presentations, recognizing the commercial, residential and landscaping projects which have contributed to enhancing the beauty of the community.

Chairman Ascher personally represented the Los Angeles West Chamber of Commerce at the annual U.S. Chamber of Commerce meeting the Washington, DC.

As Everett Ascher steps down from his successful year as chairman, it is a pleasure to join with the community and congratulate him on a job well done.

SALUTE TO A GREAT AMERICAN

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. HANSEN. Mr. Speaker, I rise today to pay tribute to a great American; Charles D. McElhanon, who will retire on June 1, 1987, with over 45 years of dedicated Federal service.

"Mr. Mac," as he is known to his many friends, has a record of achievement that won't quit. He enlisted in the Army Air Corps in 1940, and rose to the position of first sergeant in 1942—at that time, he was the youngest first sergeant in the Army. Upon completion of Maintenance Officer School, he was assigned to the B-24 Bomber Wing where he served until 1943. From there, he went to India to support the P-51's and C-46's. At the end of World War II, Mr. Mac returned to the States for duty in PT-19 and AT-6 maintenance squadrons in Texas. From 1949 to 1951, he was assigned overseas with the 19th Bomb Wing, maintaining B-29's. Then, his career took him back to California, until 1953, as an RB-36 maintenance squadron commander. Back overseas, Mr. Mac served as a staff maintenance officer in Japan until 1956.

In August 1956, Mr. Mac was assigned to the Directorate of Maintenance Engineering, Headquarters USAF as a maintenance programmer. He served in that capacity until August 1960. He was then assigned to the 21st Air Division as Director of Materiel, Forbes AFB, KS, with responsibilities for the B-47, RB-47, KC-97, and Atlas E missile systems. He returned to the Air Staff in the Directorate of Maintenance Engineering in 1963, and served there until his retirement as a colonel in September 1965. While in the military, he was awarded the Bronze Star, Commendation Medal with one Oak Leaf Cluster, American Defense Service Medal, Asiatic Pacific Campaign Medal, and the United Nations Service Medal.

Mr. Mac returned to Federal service in 1967 with the Directorate of Maintenance Engineering, USAF and later transferred to the Directorate of Logistics Plans and Programs as Chief, Modification and O&M Programs Division. Since entering the civil service, he has received seven outstanding performance awards, four sustained superior performance awards and the Meritorious Civilan Service Award. He also was nominated for the Thomas P. Gerrity Memorial Award for Logistics Management in 1980. His numerous contributions are all crowns that cap a distinguished career.

As his distinguished career exemplifies, Mr. Mac's personal commitment to his country is his way of life. Throughout his career, he has extended the richness of his wisdom and experience—always giving willingly and unselfishly of his time—in helping others. I know, because I have come to rely heavily on him over the years. He possesses an exhaustive grasp of Air Force logistics issues, but his incredible knowledge goes well beyond the logistics arena. Mr. Mac is a true walking library.

I applaud the knowledge, training, hard work and personal commitment that has enabled him to win the friendship, trust and loyalty of so many people. Thanks to dedicated individuals such as Mr. Mac, our country is second to none among nations throughout the world. I'll miss him, but I know the Air Force will miss him evern more. I wonder how we will get along without him!

I know that his many friends join me in extending the sincerest and heartfelt wishes for a long, prosperous, healthy, and rewarding retirement.

THE TROUBLES OF OUR TURKISH FRIENDS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. COURTER. Mr. Speaker, sometimes Americans imagine that a foul government is in one sense deserved by the people enduring its rule: "If they will not overthrow it, they must suffer its depradations." Or, as notable Englishmen said six and a half decades ago in response to requests by Winston Churchill to support an intervention that would break the Bolshevik stranglehold on the Russian people: "Let them stew in their own juice." But that is a cynical view, and a flawed one. Its flaw is in the staggering underestimation of the police powers of a totalitarian state.

Today we can see these slow, quiet, and methodical police powers at work in the Communist State of Bulgaria. Agents of the state are doing what they do in all Communist countries, which is labor at the near-total subjugation of indigenous culture, politics, language, learning, and religion, relegating them to the status of historical curiosities preserved only for tourists and for old people unsusceptable to "reeduction." All these indigenous and heartfelt things are disturbing sources of conflicting loyalties; therefore they are to be replaced with the uniform "proletarian internationalism" that satisfies the souls on none but Communist Party members and their Soviet overseers.

I think the American people should be aware of the fact that, as one witness has said, the Bulgarian regime "has systematically been taking various measures to obliterate the national, cultural, and religious identity of more than one and a half million Turks in Bulgaria," even to the extent of taking away their names. Does this not fit the United Nations definition of genocide? Yet, even now, our own State Department has been working for closer relations with the Soviet satraps in Sofia.

Mr. Speaker, Turkey is a republic, a close NATO partner, and an ally of inestimable value. In an age when we are concerned about the insubstantial defense spending by some Europeans, the Turks' contribution remains worthy. In 1983, for example, they were devoting about 5 percent of their GNP to their armed forces, while our friends in Canada spent only 2.2 percent, and our allies in Belgium and The Netherlands were only a little over 3 percent.

Some Americans forget that an ally like Turkey is spending for our mutual defense, while a state like Bulgaria is doing all that it can to undermine our defenses and those of Europe. So I put the question to our State Department: which of these sets of bilateral relations deserves our efforts?

Mr. Speaker, what follows is the testimony of Halil Ibisoglu, a refugee from Bulgaria, who spoke before the U.S. Commission on Security and Cooperation in Europe—Helsinki Commission—here in Washington DC, on February 3, 1987. It is reprinted as it appeared in the Bulletin of the Assembly of Turkish American Associations, spring 1987.

TESTIMONY OF HALIL IBISOGLU BEFORE THE U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I am honored to testify before the U.S. Congressional Commission on Security and Cooperation in Europe, which monitors the Helsinki Accords and in this context follows cases of violations of human rights in Eastern Europe. I wish to discuss with its esteemed members the present situation of the Turkish minority in Bulgaria which is subjected to inhumane persecution and assimilation policies.

Why did I flee from Bulgaria? For many years, the Bulgarian regime has systematically been taking various measures to obliterate the national, cultural, and religious identity of more than one and a half million Turks in Bulgaria. First, Turkish religious schools were abolished. Then, the Turkish schools were merged with the Bulgarian schools. Later on, Turkish language classes were totally eliminated. The forced Bulgarization of the Turkish minority started in December 1984, in the Province of Kurdzhali. This campaign was conducted at gunpoint. I have learned from very reliable sources that there have been many incidents of murder, exile, and imprisonment.

As a member of the Bulgarian National Assembly, I requested documentation of the decision of the Bulgarian Communist Party Central Committee on the Bulgarization issue from the Party and the police. In response, I was told this decision was not documented and that I should not persist in requesting the document. Otherwise, they told me my life would be in jeopardy, noting that I was young and had children. They added that those who opposed the decision of the Party would be murdered or imprisoned. The civil police then attempted to accuse me without specifying an actionable offense. The police wanted to imprison me for setting up a protest meeting which was organized by the Turkish minority.

In January 1985, the Bulgarian authorities forced me to change my name to Lubomir Alekseev Avdjiev. I subsequently was asked to make a presentation on television declaring that we, members of the Turkish minority in Bulgaria, had changed our names voluntarily and that we were originally Bulgarians. I refused to make this declaration. This time, the civil police asked me to help them. They wanted me to continuously report to them the private communications and actions of my Turkish brothers. I did not accept this either.

The Bulgarian authorities later summoned Assembly members of Turkish origin, as well as teachers, physicians, journalists, famous athletes, certain muftis, and intellectuals of the Turkish community. The authorities read a protest letter addressed to Turkish Prime Minister Turgut Ozal which they forced us to sign.

Prior to this, an official from the Varna District Committee had given me a serious threat. He warned that if I opposed the decisions of the Party I would not only lose my membership in the Assembly, but also would never be able to see my spouse and children. I signed the letter along with the others because of fear of losing my family. The letter stated that we changed our names voluntarily and we were converted Bulgarians, and that Turkey should not interfere with our internal affairs. They also summoned the Turkish intellectuals in Varna and made them sign a similar declaration. Furthermore, intellectuals of Turkish origin were forced to make similar declarations at meetings and workplaces, before workers and students, in journals and magazines, and on television and radio. Those who failed to comply with these orders were dismissed from their jobs, imprisoned, and exiled. Some of them were murdered.

Turkish teachers in Turkish villages were replaced by Bulgarian teachers who were also acting as police agents. They closely monitor the Turkish minority and report to the police.

The Bulgarians forcibly impose their own policies while publicly describing compliance as voluntary. Since I had witnessed the facts and truth, I could not stand this oppression. Hence, in order to be able to openly express the plight of the 1.5 million Turkish minority, I left Bulgaria for my Motherland, Turkey.

In Bulgaria, Turks are usually employed in the harshest jobs such as building and road construction, agriculture and forestry, manufacturing of toxic materials, etc. When drafted, Turkish youth are employed as labor soldiers (trudovak) and they perform the hardest jobs. Turkish young men are not allowed to join the army as officers. There are no Turkish employees at security and police offices. There are very few, if any, Turkish students at the universities.

During the forced name-changing campaign, villages populated by the Turkish minority were surrounded by the military and police forces including tanks, military, and fire vehicles. Nobody was allowed to move around. The military and the police monitored telephone conversations. A number of Turkish families were relocated to areas densely populated by Bulgarians. Circumcision was banned. Circumcisers, as well as many parents of circumcised children, were imprisoned.

Speaking Turkish is strictly forbidden. A fine is imposed on individuals who address each other by their Turkish names. Even signing in Turkish or singing Turkish folk songs is forbidden. Radio broadcasts in Turkish are terminated. It is even forbidden to listen to the Turkish radio or to read Turkish books and magazines. Moreover, publishing in the Turkish language is not allowed. Any kind of communication with relatives in Turkey is forbidden. Those who want to emigrate to Turkey are not permitted to do so. Mosques in most places are demolished and tombstones are obliterated. Funeral ceremonies according to Islamic practices are banned. Muslim-Turks are buried in the same cemeteries as Bulgarians.

Although many Bulgarians are against this policy of oppression and ethnic persecution, they cannot speak up for fear of being punished. The reason the Bulgarian government does not allow the foreign press to visit Turkish villages is because it does not want the truth to be revealed. The main reason behind the gun-point Bulgarization of the Turkish minority is to stop the rapid population growth among the Turkish minority because the growth rate among Bulgarians has stabilized. The Bulgarians fear the possibility of becoming a minority in the course of time. The annual population growth rate among the Turks is about two percent.

The Turkish minority in Bulgaria seeks help from countries of the Free World, especially from the U.S. The only possible way to free those people from Bulgarian cruelty is to put heavy pressure on Bulgarians to respect human rights and to secure the right of the Turkish minority to emigrate to Turkey.

The Bulgarian Government is undoubtedly hoping this issue will be forgotten. Therefore, we should continue to put the Bulgarian regime under pressure until it reevaluates its present position and begins to seek solution to the problem.

While I am certain the U.S. Administration and the Congress support efforts to help the Turks in Bulgaria, much more can be done in the critical period ahead. Congressional advocacy on behalf of the Bulgarian Turks can make the critical difference in one person's life. This advocacy can take the form of letters and resolutions, as well as public statements and actions.

I wish to take this opportunity to ask you to actively support passage of House Joint Resolution 262 and Senate Joint Resolution 126 condemning the brutal treatment of the Turkish minority by the Bulgarian Government. Your support will clearly convey to the Bulgarian Government the deep concern of the U.S. Congress about the fate and future of the Turks in Bulgaria.

Thank you.

TRIBUTE TO THE MUNCY COMMUNITY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GEKAS. Mr. Speaker, Saturday, May 30, 1987, will be a very important day for the residents of Muncy, PA. That is the day officials and residents of this community will rededicate the Muncy Post Office Building after 50 years of service.

It has been said that the biggest thing in America is the small town with its red chimneys, church spires, school towers, smokestacks, windowed stores, busy organizations, neat streets, and local government. It is the spirit behind these visible features that makes the small American community great, for just as a pile of lumber and paint is not a home, a collection of people and houses is not a community. The necessary ingredients are a common spirit of interest, mutual confidence and good neighborliness.

The borough of Muncy is a typical example of one such town. With a population of less than 4,000, Muncy has two distinctive characteristics which might easily escape notice of the causal passerby. These are the town's rich historical background and its unusual completeness.

The Muncy Post Office, like many small town post offices, performs many important functions besides performing its officials duties of providing mail service. The post office is a place where citizens gather to meet and talk with their neighbors. It is a place where favorite stories are told and retold. It is a place where good times and bad times are reminisced. So when the Muncy Post Office celebrates its 50th anniversary, the Muncy community celebrates as well.

During the past 50 years, the Muncy community has experienced change and growth. But Muncy is as pleasant a community today as it was in 1937. Within the county of Lycoming, Muncy is recognized for a certain degree of uniqueness that has enhanced and set the community apart from the other boroughs: A high concentration of historic homes and buildings in a small area along Main Street has helped contribute charm to the town; the borough has the only local newspaper remaining, thereby giving its residents the best local newspaper coverage in the county; the Ritz movie theatre is the last theatre in a Lycoming County borough; and the business district has the widest variety of stores and businesses of any borough or shopping center in the county.

Mr. Speaker, I would like to ask my colleagues in the U.S. Congress to join me in paying tribute to the Muncy community and congratulating them on the Muncy Post Office's 50th anniversary.

U.S. PROTECTION OF PERSIAN GULF SHIPPING

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BROOMFIELD. Mr. Speaker, on May 20, 1987, Secretary of State George Shultz advised the House by letter of the Iraqi Air Force attack on the U.S.S. *Stark* in the Persian Gulf. The Secretary's letter also addressed the need for United States naval protection of United States-flag merchant vessels in the gulf, including Kuwaiti tankers applying for United States registry.

The Secretary's letter did not receive wide distribution within the House, despite its importance as a statement of the administration's position on a major foreign policy and national security issue. I urge my colleagues to read the letter:

THE SECRETARY OF STATE,
Washington, May 20, 1987.

Hon. JIM WRIGHT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: For nearly 40 years, the United States has maintained a limited naval presence in the Persian Gulf for the purpose of providing for the safety of U.S. flag vessels in the area and for other reasons essential to our national security. This has been done pursuant to the authority of the President under the Constitution as Commander-in-Chief, and the duty to provide protection for U.S. forces and U.S. vessels that are engaging in peaceful activities on the high seas. Congress has been fully and repeatedly advised of our policy.

Our naval presence in the Gulf has been fully within our rights under international law, and we have respected all the relevant international rules of conduct. We have remained neutral in the Iran-Iraq war, and our vessels have taken no action that could provide any basis for hostile action against them by either country. Until this past Sunday, no U.S. warship or other U.S. flag vessel in the Gulf had been the object of any attack from any source.

Shortly after 2 p.m. (EDT) on May 17, an Iraqi Air Force F-1 Mirage launched an Exocet missile, which struck the USS *Stark*, causing heavy damage. Within the hour, the USS *Stark* was stopped and listing, but damage control parties were able to stabilize its condition, and the vessel has now returned to port. At this time, a total of 37 members of the crew are reported dead or missing, and two more are seriously injured.

The United States immediately contacted the Iraqi Government through diplomatic channels, to protest in the strongest terms and demand an explanation of the incident and appropriate compensation. President Saddam Hussein sent a letter expressing deepest regret over this tragic accident and his condolences and sympathy to the families of the victims, explaining that Iraqi forces had in no way intended to attack U.S. vessels but rather had been authorized only to attack Iranian targets. A joint U.S.-Iraq review had been agreed upon to determine more precisely the circumstances surrounding the Iraqi attack, and to ensure that there is no recurrence.

Our naval forces in the area have been instructed to assume a higher state of alert readiness in carrying out the standing Rules of Engagement. Ship commanders continue to have the authority to take such steps as may be necessary to protect their vessels from attack. However, we have no reason at this time to believe that Iraqi forces have deliberately targeted U.S. vessels, and no reason to believe that further hostile action will occur.

Our forces are not in a situation of actual hostilities, nor does their continued presence in the area place them in a situation in which imminent involvement in hostilities is indicated, although we are mindful of recent Iranian statements threatening United States and other ships under protection. In accordance with this desire to keep the Congress fully informed, the President nonetheless has asked that I provide this account to the Congress of what has transpired, and has directed that the relevant committees and leadership of Congress be fully briefed on these events.

Quite apart from the Iraqi attack on the USS *Stark*, Iran continues publicly and privately to threaten shipping in the Gulf. It is this basic Iranian threat to the free flow of oil and to the principle of freedom of navigation which is unacceptable. The frequent and accelerating Iranian attacks on shipping have spread the war geographically to the lower Gulf and have heightened the risk to all littoral states. The *Stark* incident provides no reason for altering the policy which we have adopted in the Gulf area of being prepared to defend U.S. vessels and U.S. interests when necessary. We intend to proceed with plans to provide protection for ships flying the U.S. flag in the Gulf, including certain Kuwaiti tankers which have applied for U.S. registry. It is not our intention to provoke military action, but to deter it. Sunday's incident, although regrettable and tragic for our courageous seamen aboard the USS *Stark*, does not suggest that either of the countries involved in the war have decided to attack U.S. vessels in the Gulf.

At the same time that we are taking these steps, we want to assure you that the administration is actively pressing for comprehensive and effective international action, including at the United Nations, to bring this bloody, wasteful and dangerous war to an end. We will of course keep the Congress fully informed of any further developments in these matters.

Sincerely yours,

GEORGE P. SHULTZ.

A CONGRESSIONAL SALUTE TO JIM HAWKINS—PRESIDENT OF THE HARBOR CITY CHAMBER OF COMMERCE, HARBOR CITY, CA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ANDERSON. Mr. Speaker, I am honored today to pay tribute to Jim Hawkins, president of the Harbor City Chamber of Commerce in Harbor City, CA. Jim will be honored at a dinner by the Harbor City Chamber of Commerce at the Ports O' Call Restaurant in San Pedro, CA, on June 19, 1987.

Jim Hawkins was born in Santa Monica, CA, and raised in Torrance. Jim's outstanding athletic prowess enabled him to attend the University of Redlands on a baseball scholarship. Jim pursued a political science degree, and upon graduation attended Loyola Law School. While at Loyola, Jim worked his way through school at a variety of jobs: bailiff, taxi cab driver, and law clerk. After graduating from Loyola Law School, and subsequently passing the bar exam, Jim went to work with the Los Angeles City Attorney's office. He opened his own private law practice in 1973, and presently has a law office in Torrance.

In 1971, Jim married the former Julie Lang who was also a graduate of Redlands. They have two sons, Jamie age 9, and Jeff age 10. The boys are following in their father's athletic footsteps, both participating in Little League baseball and soccer. The Hawkins presently live in San Pedro, CA.

Jim is active in the Rotary Club of Torrance—past president, 1981—the San Pedro Chamber of Commerce, Councilwoman Flores' Community Advisory Council—CAC chairman—and the Harbor City Chamber of Commerce, president, 1985-87.

Mr. Speaker, Jim Hawkins has done much over the years in helping make the Harbor City-San Pedro area a special place to live and work. His commitment to his family and community will never go unnoticed, as Jim feels it is important to "give service above self." My wife, Lee, joins me in congratulating Jim on this special occasion and we wish him and his wife, Julie, and their two sons, Jamie and Jeff, continued success and happiness in all their future endeavors.

THE SCHOOL IMPROVEMENT ACT: SERVING ALL OF AMERICA'S CHILDREN

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GEPHARDT. Mr. Speaker, H.R. 5, the School Improvement Act, passed overwhelmingly by the House last week, represents a step in the right direction toward one of our most important national goals: Providing a quality public education for all America's students.

Today's students will live and work in a new world: A world characterized by rapid change and strong competition from other nations. It is our obligation to prepare them well—and nothing is more important than giving them a firm foundation in the basic skills of reading, writing, calculating, and reasoning.

As we face the challenges of the 21st century, it is more imperative than ever before in our history that we honor our traditional commitment to providing all our citizens with the basic tools to become productive and responsible members of society. We simply cannot afford to allow a first rate education to become the prerogative of a privileged few.

That is why I attach special importance to the provisions in the bill concerning chapter I, the program designed to provide special help in basic skills to those students who need it.

Basic skills are the key to hope and opportunity. It has been clearly demonstrated that without them, young people are all too likely to fall into the traps of dropping out of school, teen pregnancy, and poverty. Eighteen-year-olds with weak basic skills are seven times more likely to have dropped out of school before graduation, four times more likely to be both out of work and out of school, eight times more likely to bear children out of wedlock, and four times more likely to need public assistance for basic support.

Chapter I is effective in providing disadvantaged students with the basic skills they need to finish high school successfully. Studies and evaluations have shown that chapter I programs do raise the basic reading and mathematics skills of program participants.

Despite this record of success, funding levels have not kept pace with increasing need for chapter I services, or with inflation. In constant dollars, funding for chapter I has been cut by 17 percent since fiscal year 1980. With 8.8 million poor children between the ages of 5 and 17, this just is not good enough. Right now, only one-half of the eligible student population is being served by chapter I. This isn't fair—and it isn't smart.

I therefore strongly support the declaration of policy contained in the School Improvement Act that calls for a planned incremental approach to full funding of chapter I by 1993. The goal of increasing chapter I funding by $500 million a year is a realistic and responsible one. It is consistent with budgetary constraints, yet at the same time recognizes the need to make extra educational help available to all students who qualify for it. As we move into a future when we will need all our citizens to be strong and productive, we can do no less.

ELLA GRACE WHITE CAMPBELL

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. MFUME. Mr. Speaker, every so often we are fortunate to meet individuals who exhibit extraordinary concern and service for their communities. I am extremely proud to recognize just such an individual who has worked tirelessly in my district to improve the quality of life for her neighbors. Ms. Ella Grace White Campbell has devoted her life to service and her accomplishments are numerous. I offer the following history of her service to Maryland's Seventh Congressional District as an example of true volunteerism and community activism:

ABOUT THE HONOREE . . .

Ella Grace White Campbell is an alumnus of Morgan State University, Johns Hopkins University and the University of Maryland. She holds degrees in Music Education, History/Social Science and Administration. Her employment experience includes Recreation Leader, Recreation Directory, Senior Recreation Director, English Teacher, Department Head of English, Educational Specialist of Girls Activities—Community College of Baltimore, Professor—Coppin State Teachers College, Administrative Consultant and Assistant Principal. She has received awards for outstanding service to the Gwynnvale and Cherry Hill Communities, and to the Delta Sigma Theta Sorority, Inc.—Baltimore, Maryland Alumnae Chapter, the Second Mile Award from the Minister of Tourism of Grand Bahama Island. She is listed in current editions of Who's Who in the East, Who's Who in America and Community Leaders of the world (1985). Ella has served as a board member of the Pikesville Community Growth Corporation, Baltimore Neighborhoods, Inc., and the NAACP. She is a board trainer for the United Way of Central Maryland, Third Vice President of the YWCA—Central Maryland. A member of the School Board Nomination Committee—Baltimore County, and chairperson of the Administrative Board of Epworth United Methodist Church.

As former president of the Gwynnvale Civic Association, she was the catalyst for developing meaningful activities for youths and various other community projects. She led the fight for flood control and represented the association in its Adjudicatory Hearing in Annapolis. She was instrumental in getting the MTA to provide sound barriers along the subway route through the Gwynnvale community. She served as editor of the community newsletter for a number of years, and she still types and prints the bi-monthly newsletter.

While president of the Liberty Road Community Council, Inc., Ella paved the way for fiscal accountability and responsiveness to neighborhood concerns. Under her administration, LRCC broadened communication channels, lessened neighborhood tensions and promoted inter/intra-group relations; fostered a better understanding of local and state-wide issues; served as a mutual support system for groups; served as a mechanism for defining concerns, planning problem-solving strategies and coordinating common concerns; and provided a public forum to effectively address issues. LRCC dealt effectively with flooding, housing, health, crime, zoning, and community organizing. LRCC fought for the availability of the Campfield School as a community center, focused attention on the need for improvements at the Woodmoor Shopping Center, fought for improvements in traffic conditions, promoted participation in ancillary programs and neighborhood activities. Through the Liberty Neighbors Project, the format and circulation of the Liberty Neighbors Newsletter were improved upon. Plans for the Liberty Assistance Center were inaugurated; free concerts for neighbors and families to enjoy positive cultural interchange were held; and arrangements were made for the clean-up and betterment of the Valley Forge and Oakland Park communities. LRCC held its first successful Leadership Training Workshop and its first Recognition Night for community leaders. During Ella's two-year tenure as president of LRCC, the organization spanned new horizons, climbed treacherous mountains and swam the deep oceans in order to better living conditions for people in the Liberty Road corridor.

Mr. Speaker, I think you and my colleagues will agree that the Nation could use a few more people like Ella Grace White Campbell. Her selfless leadership and love for her neighbors and community deserve the attention of a nation that could only gain in pride and inspiration from such an example of excellence and service.

SALUTE TO DISTINGUISHED PUBLIC SERVANT

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. IRELAND. Mr. Speaker, today marks the retirement of Mr. Kenneth L. Pierson, Director of the Office of the Motor Carrier Standards of the Federal Highway Administration after 32 years of distinguished service with the Federal Government. Ken and I became good friends several years ago when I held the first hearing ever conducted which covered the concerns of the Nation's independent truckers. At that time I realized our Nation was honored to have such a dedicated public servant who during his life had actually worked in the field his Federal duties covered.

Tonight his many friends are having a surprise dinner farewell in the banquet rooms of the Rayburn House Office Building. The evening is aptly named "Salute to Ken Pierson. "I would now like to take just a few moments to join this salute and wish him nothing but the best, which he so richly deserves in retirement.

Mr. Pierson began his career in the transportation industry as a road driver for an Ohio-based motor carrier of general commodities. He left this employment to enter the University of Maryland, from which he graduated cum laude in 1958, earning a bachelor of science degree in business and public administration, with a major in transportation. While in college, Mr. Pierson was employed in the operations office of a class I common carrier on a part-time basis. Upon graduation from college, he accepted an appointment with the then Bureau of Motor Carriers of the Interstate Commerce Commission, as a field investigator, and was promoted to increasingly responsible positions with that agency.

On May 28, 1987, 2 months after the transfer of the motor carrier safety functions to the new Department of Transportation, Mr. Pierson was appointed Special Assistant to the Director in the Bureau of Motor Carrier Safety. On June 30, 1969, Mr. Pierson was designated as Acting Director, Bureau of Motor Carrier Safety, and served in this capacity until April of 1970 when he was appointed Director, Bureau of Motor Carrier Safety. In that capacity, he was responsible for the administration of the National Motor Carrier Safety Program.

Pierson is a member of the American Society of Safety Engineers, the National Committee on Uniform Traffic Laws and Ordinances, the National Committee of Motor Fleet Supervisor Training, the Hazardous Materials Committee of the Transportation Research Board, and other professional organizations. He served in the Ordinance Corps of the U.S. Army during the period 1950-53, primarily in heavy maintenance operations, in Korea and Germany. He resides with his family in Glenn Dale, MD.

A SPECIAL THANKS TO LT. COL. JAMES E. NEU

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. HANSEN. Mr. Speaker, I would like to take this opportunity to say a special thanks to Lt. Col. James E. Neu, U.S. Air Force, for his many kindnesses to me while serving in the Special Projects Branch, USAF.

Jim Neu's excellent grasp of issues as well as the competent manner in which he expresses himself have elevated my level of knowledge of Air Force programs. In every request I have made of him, he would constantly strive to assist and provide me with the best possible answers to my questions. He exemplifies the highest qualities, and is, in every respect, a true professional.

Jim has always been a leader. He has received numerous awards and recognitions, such as the Daughters of the American Revolution Award, and the Military Training Award. He was nominated for the Daedalian Trophy, the Jabara Award, and the Sijan Leadership Award. While at Holloman AFB, he was the F-4 RTU outstanding academic graduate and outstanding aircraft commander. In Italy, he was recognized as the distinguished graduate of the U.S. Army Jumpmaster Course, as well as the 17th Air Force Outstanding ALO of the Year, 1978.

I am pleased to have had the privilege of working with this outstanding officer, and I wish him every success as he leaves the Pentagon for an assignment with the 475th WEG at Tyndall Air Force Base.

JIM HACKETT RAISES LEGITIMATE INF VERIFICATION QUESTIONS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. COURTER. Mr. Speaker, with all the giddy euphoria surrounding a possible arms control agreement on intermediate range nuclear forces [INF], the following essay on verification by Jim Hackett of the Heritage Foundation is like a cold slap in the face. An INF/SRINF arms reduction agreement, according to Mr. Hackett, may very well be unverifiable. The sooner we realize this fact, the better it will be for United States and NATO security interests.

Reduced to its essence, the INF/SRINF verification problem boils down to a Western inability to effectively monitor the activities of the Soviet police state. We can never have high confidence that meaningful INF limitations are being observed by the Soviet Union. Onsite inspection can only improve this situation if such inspections are on an unlimited, surprise basis. There is no indication that the Soviet Union will accept this type of unprecedented verification regime. Accordingly, it is difficult to see how an INF agreement will be fundamentally different from the fatally flawed arms control agreements of the 1970's. I commend Mr. Hackett's essay on this subject to my colleagues' attention.

VERIFICATION: THE IMPOSSIBLE DREAM

(By James T. Hackett)

Ronald Reagan and Mikhail Gorbachev are close to an arms-control agreement that would eliminate short- and intermediate-range nuclear missiles in Europe. On the surface this sounds desirable, but there are several serious problems. One of the most serious is verification.

Simply stated, it is impossible to verify how many mobile missiles an adversary may have—or where they are. This is a given and must be recognized before any agreeement is signed because an unverifiable agreement would be based on little more than trust.

The Reagan administration, to its credit, says it will insist on strict verification, including direct inventory control of the weapons covered by the agreement and on-site inspection by suspect sites (not just the ones the Soviets say the U.S. may inspect). This means U.S. inspectors would need ready access to Soviet missile fields, test ranges, production facilities and destruction centers.

Can you imagine that? One of the world's most tightly controlled police states, which treats even the Moscow telephone book as a classified document, is going to let U.S. inspectors poke around freely in their most secret facilities? Who's kidding whom?

Even the most optimistic arms-control enthusiasts concede that effective verification is essential. But don't worry; the State Department says it can all be worked out. That must be gratifying to the Kremlin's experts in arms-control cheating, who know that verification presents enormous problems. For example:

No one knows how many missiles the Soviets have. The numbers the U.S. uses are its own estimates; the Soviets never provide figures. What is the point in the U.S. carefully monitoring reductions when it doesn't know how many missiles there are in the first place?

The missiles are mobile. The missile "launchers" the U.S. tries to count are wheeled vehicles that can be driven on roads or over open country. They can travel hundreds of miles under the cover of darkness and even farther on cloudy or rainy days when U.S. satellites cannot see them. Consequently, the U.S. doesn't actually count missiles or launchers, but the sheds it thinks they are parked in. This means the U.S. doesn't really know where the launchers are from day to day, or how many there are.

The U.S. can't verify production. The Soviets could, of course, show U.S. inspectors a former missile plant that now produces toasters, but how do we know they don't have another missile factory somewhere else that they're not telling us about? And what's to keep them from starting a new missile production line next week?

We can't see through roofs. Mobile missiles don't sit in fixed silos. The launchers can be driven from their sheds into bunkers, hangars, factories, tunnels, garages, or anything else that has a roof over it—and U.S. satellites can't see or count them.

The launchers can be reloaded. U.S. figures are based on missile launchers, not the missiles themselves. A single launcher can be reloaded and reused over and over again. So even if the U.S. could count the launchers accurately, it still wouldn't know how many missiles there were.

The missiles can be converted. The main Soviet intermediate-range missile, the SS-20, has two rocket stages. Add a third stage and it becomes a long-range SS-16 intercontinental ballistic missile. Would the Soviets dare dismantle their SS-20s under the proposed agreement and then convert them to SS-16s that are not prohibited? What do you think?

Replacements can be built. The short-range Soviet missiles that are supposed to be eliminated are effective against targets 300 to 600 miles away. Even if such missiles were outlawed, battlefield missiles with a range of as much as 240 miles still would be permitted. The Soviets have an aging battlefield missile called the "Scud B" with a range of 180 miles. If short-range missiles are banned, might Moscow then produce an "improved" version of the Scud B with a longer range? Want to bet?

Other things can do the same job. Moscow is churning out its new mobile ICBM, the SS-25, like sausages. Is Europe more secure if SS-20s are removed while a little farther from the target dozens of new SS-25s take their place?

Improved cameras on U.S. reconnaissance satellites can take excellent pictures of even small objects—if they know where to look. But the Soviet land mass is enormous. It is virtually impossible to find something in such a large area if the other side wants to hide it.

How can the U.S. have a verifiable agreement under such conditions? It can't. So why do some U.S. officials claim that verification of mobile missiles is possible? Apparently they believe that Moscow wants an agreement so badly it will let U.S. inspectors prowl unannounced around the Soviet Union.

We should put Moscow to the test. The administration must not retreat from its insistence on ironclad verification provisions, including inspection on demand of suspect sites.

OUTSTANDING YOUNG ADULTS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GEKAS. Mr. Speaker, on Wednesday, June 3, 1987, I will be hosting a luncheon in the Gold Room of the Rayburn Building to honor the young men chosen from my congressional district to attend our four U.S. service academies. Accompanied by family members, these outstanding young adults will be greeted by representatives of their respective academies, providing insight and moral support for the difficult, yet exciting 4-year program that awaits them.

I would like the CONGRESSIONAL RECORD to reflect my own personal best wishes and those of my districtwide Service Academy Committee to this fine group of young people and ask that my colleagues in the U.S. Congress to join me in recognizing their great accomplishment. The names and hometowns of those who will attend our service academies are as follows:

Air Force Academy—Michael Reiner, Rebuck.

Military Academy—Lance Kohler, Muncy; David Reardon, Harrisburg; Robert Wenzel, Montoursville; Joseph Kremer, Northumberland; Richard Shipe, Northumberland; Michael Bogovich, Northumberland; and Robert Ash, Hershey.

Naval Academy—John Chilson, Millersburg; John Patterson VI, New Bloomfield.

Merchant Marine Academy—Robert Carr, Millmont.

MR. HERBERT A. SCOTT, RETIRING EDUCATOR AND CIVIC LEADER

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ESPY. Mr. Speaker, I wish to share with my colleagues a few words about one of the finest community contributors in my district. Mr. Herbert Scott is closing-out another chapter in his long career of public and civic service. Mr. Scott is retiring on Thursday, May 28, after more than 38 years as a teacher and civic leader.

Mr. Scott, a resident of my district and a native of my hometown, Yazoo City, has been an educator for almost 39 years. He has been a teacher and principal, and served as assistant superintendent of in the same school system, Yazoo County Schools.

During his long career in community and civic service, Mr. Scott has been Director of Federal programs for Yazoo County, President of the Federal Directors for the State of Mississippi, and is currently serving as president of the Yazoo County Fair and Civic League, and organizational sponsor of senior citizens housing.

Mr. Scott was the first black to serve on the State Welfare Board and served on the board with distinction. He is now a church deacon at Beulahland Baptist Church and remains active in a number of civic organizations and activities.

Mr. Speaker, Mr. Scott has inspired and nutured a clear understanding of commitment to family, community, and church. He is a true leader and model citizen; the kind every community must have.

HOSTILE FOREIGN TAKEOVER MORATORIUM ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. COBLE. Mr. Speaker, a frenzy has gripped our Nation and it is being fueled by greed. Too many publicly held companies are being threatened with hostile takeovers, often by foreign companies and investors. This takeover frenzy is costing us thousands of American jobs.

Many of these takeovers require huge amounts of borrowed funds in order to succeed or be repelled. Once the dust settles, portions of the target company must be sold in order to pay off those massive debts. Little thought is given to the ramifications of a hostile takeover by the greedy investor who is out to make a quick buck. He cares little about the people who work for the company he seeks to control. His only question is: what's in it for me?

Because of the need to call a temporary "time-out" to this frenzy, I am introducing the Hostile Foreign Takeover Moratorium Act. The measure will provide for an amendment to the Securities and Exchagne Act to provide for a 6-month moratorium on hostile takeovers of American corporations through tender offers by foreign corporations.

The measure is a reasonable, short-term solution to the problem of hostile foreign takeovers. During the moratorium, we can take a deliberate, thoughtful approach to addressing the issues that arise in this situation. The atmosphere is too heated to make sound decisions during the takeover frenzy which has gripped Wall Street.

Mr. Speaker, I speak with some degree of urgency about this matter because such a hostile foreign takeover is occurring in my own backyard. I represent the Sixth District of North Carolina, which includes Greensboro, the corporate home of Burlington Industries, the Nation's leading textile manufacturer. As you may know, Burlington Industries is being threatened with a possible takeover by a New York investor and a Canadian textile company. Because of the many people employed by BI, I have followed this situation since first news of a possible takeover surfaced.

I believe many of you share my concern that a hostile takeover of Burlington Industries at this time could have an adverse impact on thousands of jobs. In fact, those involved in the takeover attempt, specifically Mr. Asher Edelman, have made it clear that a successful takeover could result in the sale or closing of plants. These possibilities are indeed threatening to an industry already weakened by massive imports.

Moreover, there is serious and legitimate concern regarding the concentration of economic power in the textile industry. We face the prospect of a U.S. firm with more than 23 percent of the U.S. denim market being purchased by a Canadian firm which also has a significant share of he U.S. denim market. Serious issues are raised by the possibility of a foreign takeover of a major U.S. manufacturing company engaged in the production of a product essential to our economy.

I am introducing the Takeover Moratorium Act despite the Burlington Industries announcement of a tentative agreement to be purchased by Morgan Stanley Group, Inc. This purchase would not have happened without the threat of a hostile takeover by Asher Edelman and Dominion Textile.

Thousands of jobs are at stake when a hostile takeover occurs because, no matter who wins, the debt incurred is so great that portions of the company must be sold in order to pay off that debt. When that happens, jobs are likely to be sacrificed. Since the textile industry employs thousands of people in our district and State, we will do whatever we can when foreign corporate raiders threaten our jobs.

TRIBUTE TO MANCHESTER HIGH SCHOOL DEBATE TEAM

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. MAVROULES. Mr. Speaker, I rise today to recognize the Manchester High School debate team for its impressive performance at the National High School Tournament of Champions held on May 7-11 at the University of Kentucky in Lexington. I commend debate coach Tim Averill and the entire team for bringing such distinction to the Commonwealth of Massachusetts.

I extend my heartiest congratulations to Sarah Gannett and Zach Leber for winning this premier tournament. It is indeed an honor to represent the No. 1 team in our Nation. I also commend Kirsten Bolten and Andrea Marston for their fine performance, as well as Gretchen Crosby, Craig Chew, and Amy Spence for distinguishing themselves in the Lincoln-Douglas competition.

The success of the Manchester debate team is the result of an unyielding commitment to excellence. This most recent accomplishment, in particular, represents years of dedication, effort and intellectual growth. Tim and his team have worked extremely hard to claim the title of the very best in America. It is a distinction in which all of us from Massachusetts can take great pride.

Mr. Speaker, there has been a great deal of discussion in this Chamber recently about America and our quest for excellence. Whether in the context of debate over international trade policy or our national defense budget, we continually emphasize our desire to reach America's potential to be the very best.

The Manchester debate team has reached this potential. These young men and women exemplify a dedication and spirit that is the backbone of our great Nation. We should all take a moment to reflect on their commitment and pride. Their achievement serves as an inspiring example to all young Americans dedicated to achieving academic excellence and intellectual growth.

IDENTICAL TWIN SISTERS MAKE WEST POINT HISTORY

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. DIOGUARDI. Mr. Speaker, I would like to bring to the attention of my colleagues the unique achievements of two individuals who reside in the congressional district which was represented by our former colleague, the late Stewart McKinney. I know that if Stew were here today, he would want to acknowledge these two outstanding people, Tracy and Tara Miller of Stamford. Tracy and Tara are the first female identical twins to attend the U.S. Military Academy at West Point. Following is an article on the Miller twins which appeared in the May 15, 1987 New York Times:

IDENTICAL TWIN SISTERS MAKE WEST POINT HISTORY

(By Jack Cavanaugh)

Whenever Brig. Gen. Roy R. Flint encounters Cadets Tara or Tracy Miller on the grounds of the United States Military Academy at West Point, N.Y., he plays it safe. They are identical twins, and he is never sure which is which.

"I've know them since they were plebes, but I still can't tell the difference," said General Flint, who taught the twins in his course "The History of the Korean War and Vietnam." "Their name tags don't help, since they both read 'Miller.' So when I meet them, I just smile and say, 'Hello, Miss Miller.' They're delightful women—very cheerful, very thoughtful and very talented."

The brown-eyed, dark-haired Miller sisters are 23 years old. Each weighs about 125 pounds, but Tara, at 5 feet 8 inches, is a quarter-inch taller than Tracy. In their military uniforms, they are virtually indistinguishable.

The Millers are the first identical female twins to attend the academy. Academy officials said that although other female twins have attended or are attending West Point, none of them were identical. Two sets of female twins have graduated, and another set, Sigrun and Ellen Denny of Katonah, N.Y., are in their second year. An academy spokesman said that no records had been kept on the number of male twins, identical or otherwise, who have been enrolled.

Though women have been accepted at West Point since 1976, the academy is still essentially a male domain. On May 27, 933 men are scheduled to graduate, and 119 women.

But the twins said that this milieu has served as an incentive for them to work harder academically.

"When you put twins into such a highly competitive environment—particularly female twins in what is basically a male environment—the competition is definitely enhanced," Tracy said during an interview at her parents' home in Stamford, Conn., where she and her sister were spending a recent weekend. "I think we've both thrived on it. And even though women are in the minority at the academy, we don't feel we've been at any disadvantage. Cadets are cadets."

At West Point, the Miller sisters have produced remarkably similar academic records. After seven semesters, they were within one one-hundredth of a point of each other in their class standings. Tara's academic concentration is in history, while Tracy's is in national security and public affairs.

The twins first visited West Point as high-school sophomores. "We were both emotionally stirred during our one-day visit," Tracy said.

Tara added: "We're from a very patriotic family, and because of our upbringing and the type of parents we have, we believe in a calling that is going to help others. When we went to the academy for a visit, we had just got back from India. The trip made us appreciate our country all the more. And I think we had become convinced that we wanted to become both leaders and servers."

THE PLACE FOR ME

Tracy said she was more hesitant about the academy: "I was a little intimidated by the practically all-male environment. And I didn't have the confidence level that Tara did. But after going back a second time, I became convinced and said, "This is the place for me.' "

Both parents said they were surprised the twins decided to go to West Point. Their father, Charles Miller, is retired and was a vice principal at Westhill High School in Stamford. Their mother, also named Tara, is a personnel consultant in Stamford.

"We found it difficult to understand why women would want to put themselves through such a tough grind," Mrs. Miller said. "But we also knew they liked the academy from the time they first saw it and that they were intrigued by the honor code. When they did make up their minds, we were behind them 100 percent."

Both the twins are athletic. Tara, who was named to the all-state field hockey team as a senior in high school, became the first women to play on the soccer team at the United States Military Academy Preparatory School at Fort Monmouth, N.J., which the twins attended for a year before enrolling at the military academy itself. There, Tara has played women's varsity softball, and Tracy, women's lacrosse.

The sisters, who are to be commissioned as second lieutenants next month, will attend the six-month Army intelligence program at Fort Huachuca, Ariz. Then, for the first time in their lives, they will go separate ways: Tara to Fort Campbell, Ky., and Tracy to Fort Monmouth.

"It's going to be strange being apart, not only because we're identical twins, but also because we're best friends," Tracy said. "We've always been able to turn to each other. For example, when I came back from a bivouac, I told Tara all about it, and she knew that since I had done it, she could, too. And it worked the same way when Tara got back from a chemical-warfare training program and told me about it. We both always knew that if one of us could do something, so could the other."

TRIBUTE TO MAYOR FRANK E. RODGERS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GUARINI. Mr. Speaker, on Friday, May 29, 1987, there will be a special event in Harrison, NJ, one of the communities in the 14th Congressional District I represent, honoring Mayor Frank E. Rodgers.

On that day this community's chief executive will have served 40 years, 4 months, and 29 days consecutively as mayor.

On that day, Rodgers a vibrant 77-year-old, will enter the Guinness Book of World Records beating the record set by Erastus Corning, former mayor of Albany, NY, who died in office in 1983.

To mark the occasion, the Harrison Town Council has declared Friday, May 29 "Frank E. Rodgers Day," which is to be commemorated by all the citizens of our town with a daylong celebration.

It is my distinct honor and pleasure to have my friend Frank Rodgers' illustrious career made a part of the CONGRESSIONAL RECORD for all to witness and appreciate. On May 29, municipal offices and buildings will close at 11 a.m. A Mass of Celebration will be held at Holy Cross Church, whose pastor is the beloved Monsignor Hugh O'Donnell. Archbishop of Newark Theodore McCarrick has been asked to preside.

Gov. Thomas H. Kean is expected to arrive for a formal ceremony at 1 p.m. when Mayor Rodgers, who served as a New Jersey State senator, will be honored by Federal and State lawmakers. It shall be my privilege to participate in this function.

A litany of Mayor Rodgers' community service has extra significance in this year of 1987, the 200th anniversary of the U.S. Constitution which is being celebrated in every State, community, and hamlet in our Nation.

Frank E. Rodgers has dedicated his life to serving people through government. His career as a public servant has been long and distinguished, and has included elected and appointed positions on the municipal, county, and State levels.

Frank Rodgers' political career began in 1937 when he was sworn in as councilman representing the fourth ward, an office he held until he became mayor. In 1946, Rodgers and his veterans slate ousted the incumbents, and he and his ticket assumed office January 1, 1947. Rodgers, Harrison's mayor since then, is currently serving his 20th consecutive term and is seeking reelection in November 1986.

In Hudson County, Rodgers has held several offices, both appointed and elected. He was elected to the Hudson County Board of Chosen Freeholders. Later, he was appointed clerk to the Board of Freeholders, a position he held from 1964 through 1982. In January 1984, Rodgers assumed the position of Hudson County clerk, having been elected on November 8, 1983, for a 5-year term of office.

In addition to serving on the local and county levels, Rodgers served two terms in the New Jersey Legislature. In 1977, Rodgers defeated incumbent State Senator Anthony Imperiale and became the 30th District's—Harrison, Kearny, East Newark, Seacaucus, Bellville, and parts of Newark—representative in the senate. Following the constitutionally manadated redistricting, Rodgers represented the 32nd District—Harrison, Kearny, East Newark, Seacaucus, North Bergen, and parts of Jersey City. Rodgers has also received various gubernatorial appointments to State positions over his 50-year career. In 1963, Gov. Richard Hughes appointed him as secretary to the New Jersey Racing Commission. In 1976, Gov. Brendan Byrne appointed him as commissioner of the New Jersey Highway Authority. Most recently, Gov. Thomas Kearn apointed him commissioner of the New Jersey Turnpike Authority, a post in which he is presently serving.

Besides performing his governmental duties, Rodgers has served on boards and been a member of numerous business, fraternal, religious, and charitable organizations. He has been a director of the Metropolitan Federal Savings & Loan Association since 1969. In 1983, he became a member of the board of St. Michael's Heart Research Institute. He is a parishioner of Holy Cross Church in Harrison and a member of its Holy Name Society and Knights of Columbus Council. He also belongs to the American Legion, the Ancient Order of Hibernians, the B.P.O.E., Loyal Order of the Moose, the Lions Club, and Counter Intelligence Corp. Association.

On November 21, 1986, St. Peter's College in Jersey City presented Rodgers with an honorary degree of doctor of humane letters, honoris causa. The citation read on the occasion by Father Edward Glynn, S.J., president of St. Peters College, is as follows:

> Mayor Frank E. Rodgers: The word "politics" which has its origin in the Greek word polis (city) and polites (citizen)—originally meant whatever had to do with the rights and status of a citizen. Gradually the word politics came to be defined as "the art or science of government." You, Frank E. Rodgers, are both a skilled artisan and an expert scientist in government, recognized recently by the Newark Star Ledger as the "Perpetual Politician". As the longest tenured mayor in New Jersey, your service to the residents of Harrison, the people of Hudson County and the citizens of New Jersey began a half-century ago with your election to the Town Council of Harrison.
>
> That service, to date, has included 20 terms as mayor of Harrison, two terms as a state senator, and election as county clerk of Hudson County, a position you will retain. By the appointments of three different governors, you have also served the state as secretary of the New Jersey Racing Commission and as a member of both the New Jersey Highway Authority and the New Jersey Turnpike Commission.
>
> Over the course of this impressive career you have been political advisor to a host of elected officials of the local, state, and national levels. It has not been unusual for governors or members of the United States Senate or Congress to seek your advice and support. Your success in politics, however, is built around your interest in the everyday people of your community. You pride yourself on giving people the personal attention, service and care to which they are entitled. This commitment to personal caring has served you well throughout your career. We at St. Peter's college admire you for this characteristic since our Jesuit educational tradition is rooted in the ideal of "cura personalis" the Latin phrase for personal care and concern.
>
> The French scientist and Jesuit priest, the late Teilhard de Chardin, once wrote that the spiritual success of the universe is bound up with the correct functioning of every aspect of that universe. We rightly apply to you and your life's work the words of Teilhard: "Because your enterprise is going well, a little more health is being spread in the human mass, and in consequence a little more liberty to act, to think and to love." In short, Frank E. Rodgers, you are doing what is yours to do in building a better world.
>
> For one-half of a century, St. Peter's College has observed your success as a people's mayor, a people's legislator, a people's public official. Tonight, therefore, we salute you, Mayor Rodgers, for this lifetime of distinguished service and a personal caring for the citizens of Harrison, of Hudson County and the State of New Jersey. St. Peter's College is proud to welcome you warmly into its college family and to confer upon you the Degree of Doctor of Humane Letters, honoris causa.

Officials of the Guiness Book of World Records will reflect Mayor Rodgers' service record in their 1988 edition. It is my understanding that Mayor Rodgers' record of 40 years, 4 months, and 29 consecutive days, was closely matched by the record of Hawthorne's Mayor Louis Bay II, who retired on May 19 of this year after 40 years as mayor of the Passaic County, NJ, community.

Mayor Rodgers has been described as a beneficent "task master" during his governmental career. Beneficent to the people he served and as a task master to those who worked with him and under him. His outstanding record as councilman, mayor, New Jersey State senator, New Jersey Turnpike commissioner, clerk of Hudson County, is best echoed by the words of our late President John F. Kennedy who said:

> It is when the politician loves neither the public good nor himself, or when his love for himself is limited and is satisfied by the trappings of office, that the public interest is badly served. And it is when his regard for himself is so high that his own self respect demands he follow the path of courage and conscience that all benefit.
>
> Let every public servant know whether his post is high or low, that a man's rank and reputation in this Administration will be determined by the size of the job he does, not by the size of his staff, his office or his budget.

I am sure my colleagues here in the Congress would like to join me in this salute to Mayor Frank E. Rodgers which is so well deserved.

SIDESTEPPING THE CONSTITUTION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. HUBBARD. Mr. Speaker, I was recently contacted by my constituent, Rouse B. Hawes of Paducah, KY, who sent me an editorial that appeared in the April 20, 1987, issue of the Paducah Sun—a respected daily newspaper published in my district of western Kentucky. The editorial written by Editorial Page Editor Don Pepper follows:

> Having decided that they disagree with President Reagan's management of foreign policy and national defense, the anti-defense wing of the House of Representatives has decided to take it over.
>
> That's the only conclusion we can draw from a couple of items the House Appropriations Committee has tacked onto a supplemental appropriations bill.

One of these mischievous items would require the government to comply with certain limits set by SALT II, the second strategic arms limitation treaty of 1979.

The other would prohibit all but the smallest nuclear tests.

These are preposterous efforts to assume control of policy which the Constitution gives to other parts of the government, the president and Senate.

It is dismaying in this bicentennial of the Constitution to see congressmen displaying such ignorance of and disregard for what that remarkable document requires of them.

Both these provisions deal with subjects of negotiation between our country and the Soviet Union.

The first thing to remember about the SALT II treaty is that it wasn't ratified. The Constitution calls for the Senate—not the House—to ratify treaties. When SALT II was submitted, it refused to ratify it because it was found not to be in the security interests of this country. It shouldn't be necessary to point out, but it probably is, that the Senate that refused to ratify the treaty was controlled by Democrats.

That's the way treaties become the law of the land. The executive branch negotiates them, and the Senate ratifies them. If the Senate had done this in 1979, SALT II limits would be the law, not only for this country but for the Soviet Union.

For the House to attempt to impose the limits unilaterally, against the judgment of the president, the State Department and the Senate, is just irresponsible.

The nuclear-testing limitation which the House committee seeks to impose is of the same kind. It attempts to take over direction of the defense and foreign policy of the United States, which are the duty of the president and the Defense Department.

Congressmen have been making this kind of mischief for some time lately. When President Reagan went to Reyjavik summit with Premier Gorbachev, the anti-defense people in the House tried to enact similar limitations on the president. The superior wisdom of the Senate persuaded them that it would be folly to tie the president's hands, to attempt to tell him what he could offer and what he could not in negotiating with the Russians.

House members can't make foreign policy, and they can't make defense policy. No foreign nation could negotiate with 435 little secretaries of state of defense. That's the reason the Constitution gives the responsibility of making and conducting foreign and defense policy to the executive branch.

What the Constitution does require of the House is wise budgets. That's not as glamorous as foreign policy, but it's just as important. And the House hasn't shown great aptitude for it in recent years.

LOOKING BEYOND THE RHETORIC ON SUBSCRIBER LINE CHARGES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. FIELDS. Mr. Speaker, legislators don't often have an opportunity to prevent an increase in their constituents' local telephone bills. But, when the chance comes around, it is certainly tempting.

In 1983, the House of Representatives voted to block the Federal Communications Commission's [FCC] first telephone "subscriber line charge." The Commission modified its plan and a $2 per month residential subscriber line charge went into effect.

The 100th Congress is once again faced with a tempting political proposition. Blocking the Federal Communications Commission's plan to increase the monthly subscriber line charge by $1.50 over the next 3 years might garner praise from constituents in the short term, but I urge my colleagues to look beyond the superficial appeal of such an action.

The last 10 years have been tumultuous for the telecommunications industry: The AT&T divestiture, long-distance competition, new technologies, and a host of less publicized but equally profound changes have been the catalysts for the revolution. Consumers, regulators, industry and legislators are all adapting to these changes and analyzing the consequences.

The question of increasing subscriber line charges is a direct result of this dramatically altered industry mosaic. Historically, local telephone service was priced below its true cost and long-distance service was priced above its cost, through an arcane and often bizarre set of revenue separations that few understood. While complex and confusing, the system did accomplish its purpose—keeping local rates down, but only at the expense of higher long-distance rates. In today's world of long-distance competition and ever increasing customer choice, however, the old system could not be sustained.

Long-distance customers in today's marketplace simply will not continue to pay subsidies to keep local rates below their cost. Doing so would defy economic rationality, common sense and maybe even the job of the telecommunications manager of a large corporation.

This ticking timebomb had to be defused before millions of dollars in telephone company revenues were lost because of large customers engaging in a mass exodus of the public telephone system. This would have left the average customer holding the bag and paying a bigger share of the bill.

Enter the FCC. The Commission's recent decision to increase subscriber line charges correctly conforms telephone pricing policies to the new realities of the telecommunications industry. Without these changes, it is likely, and perhaps even probable, that many long-distance customers would find alternatives to the local telephone company network to originate and terminate their long-distance calls. Such an outcome would have the effect of raising local rates much more over the next 3 years than the proposed $1.50 increase in monthly subscriber line charges. Let me explain.

A telephone company's cost of providing its customers access to the local and long-distance network is broken down into two categories: Nontraffic sensitive costs, which encompass all equipment—poles, wires, and so forth—between a customers home or office and a telephone company's local switching facility. And, second, traffic sensitive costs, which are costs associated with providing a long-distance carrier access to the local customer.

Historically, all of these costs were recovered through long-distance rates paid by AT&T and, more recently, other long-distance companies. The FCC first began to eliminate this subsidy in 1984 by shifting some of the nontraffic sensitive costs to residential and business customers in the form of a $2 monthly subscriber line charge and correspondingly decreasing the amount of these costs recovered from long-distance companies and their customers.

The results have been dramatic: a reduction in long-distance rates of approximately 30 percent over the last 3 years and a significant increase in the amount of long-distance usage. In the Southwestern Bell Telephone Co. region alone, the average residential customer's long-distance bill went down $4.34 per month. So when you factor in the $2 monthly subscriber line charge that led to this long-distance rate reduction, the average customer is better off by about $2.34 per month. These benefits hold true for other subgroups such as senior citizens and low-income people who also realized net savings on their telephone bills when local- and long-distance expenditures are combined.

The shift of some of the non-traffic-sensitive costs called for by the first FCC decision in 1984 has not reduced the subsidy enough. So the FCC has recently decided to shift another portion of these costs to residential customers. The Commission has now decided to cap the portion of non-traffic-sensitive costs paid by residential customers at $3.50, phased-in in three stages over 3 years beginning in July 1987 and ending in April 1989.

Let me underscore the point that after this last phase of the subscriber line charge is phased in, that's it. The FCC has made that commitment in hearings before the Telecommunications Subcommittee.

These three moderate increase—60 cents in July 1987, 60 cents in December 1988, and 30 cents in April 1989—when added to the $2 monthly charge already in place will stimulate even more reductions in long-distance rates. This, in turn, will make long-distance calling more accessible to all Americans, especially those with low incomes.

The record of what happens when the subsidy is removed is clear: Overall, the average customer is better off; net monthly expenditures on telephone service for the average customer have declined; and usage of the public switched network has increased. In fact, Census Bureau numbers confirm that the percentage of households with telephones has increased, not decreased, since the FCC implemented the first $2 of the subscriber line-charge plan. Given this track record, and the clearly unacceptable alternative of large customers bypassing the network, Congress should reject any legislation aimed at blocking the FCC plan.

Finally, the FCC plan also includes provisions for low-income subscribers who today cannot afford telephone service. Through the link-up America plan, low-income individuals can receive additional financial assistance to make telephone service more affordable.

Blocking the subscriber line charge may seem attractive on its face, but when you cut through all the smoke and political rhetoric on the issue, the FCC's plan is a sound compromise that balances the interests and realities of today's telephone industry and its customers. A decision by the House to derail the FCC plan could have disastrous consequences for universal telephone service and the long-run viability of the public telephone network. The FCC decision has not only garnered the support of the local telephone industry, but it is also endorsed by the Communication Workers of America, representing tens of thousands of workers in this country. I urge my colleagues to reject any efforts to block the FCC's plan.

TRIBUTE TO JOHNS HOPKINS UNIVERSITY LACROSSE TEAM

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, I rise to pay tribute to a great university and a great lacrosse team. Yesterday, at Rutgers Stadium in New Jersey, the Johns Hopkins University demonstrated its dominance over the sport of lacrosse once again an 11 to 10 victory over Cornell in the NCAA championship.

Yesterday's win was Johns Hopkins' third NCAA championship in the last 4 years. Since 1971, when the tournament was established to determine the college lacrosse champion, Johns Hopkins has emerged victorious seven times. Occasionally we have witnessed challenges from such alien sites as Chapel Hill or Ithaca to Maryland's dominance as a State over lacrosse, but these have been quickly and decisively dispatched. Pretenders may come and go, Mr. Speaker, but those of us from Maryland know there is one and only one rightful heir to the NCAA lacrosse crown and that is Johns Hopkins.

No school in the history of intercollegiate athletics, not UCLA in basketball, not Notre Dame in football, not even Indiana in swimming has so dominated a sport as Johns Hopkins has lacrosse. Mr. Speaker, we can all take great comfort and rest easier in knowing that the NCAA lacrosse trophy is now returning to its rightful home at the Homewood campus of Johns Hopkins in Baltimore

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WHAT THE U.S. CONSTITUTION MEANS TO ME AND OUR COUNTRY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. WELDON. Mr. Speaker, I rise today in order to share an essay written by a student from my district. Tham Thu Thi Nguyen, a seventh grade student from the Beverly Hills Middle School, won the Pennsylvania, U.S. Constitution Essay Competition with this piece. I am proud to present these inspiring words which eloquently express the feelings so many Americans share.

This young lady expresses the spirit of freedom and how the U.S. Constitution reflects that spirit. Who better to describe the significance of our Constitution than someone whose family has lived under deprivation and oppression in their own country. The freedoms this student refers to, are most basic, yet unfortunately taken for granted by many Americans. Children have a great capacity for honesty of emotions; let us take these words to heart, and be thankful for the freedoms we as Americans enjoy. The essay follows:

WHAT THE U.S. CONSTITUTION MEANS TO ME AND OUR COUNTRY

When asked what does the U.S. Constitution mean to me, I'd say freedom. Yes! It was the love of freedom that bound the people of the United States together two hundred years ago; they were determined to fight for one common cause, the right to pursue liberty and happiness. It was also for this love of freedom that my family and I moved to this country, seven years ago, despite the hardship we faced on the dangerous high seas.

To me, freedom is a fulfillment of a dream; it is a reason for hope, and above all, it offers opportunities, and the rights to individualism.

Let's travel back in time to the year 1787. We are just in time to celebrate the birth of the U.S. Constitution. Although America is still an infant, compared to other well established countries, she rose above the rest with the establishment of her written constitution. It was written to protect rights and freedom. Many often take the constitution for granted. But our everyday life would not be the same without it.

To sum it all up, the constitution can be compared to the universal sun which always shines ever brightly, leading us out of the darkness, and spreadlng its radiant rays toward all, just like the guaranteed justices in the constitution that secures the rights of all U.S. citizens.

PASTOR GIVES CINCINNATI 45 YEARS OF THOUGHTFUL DEDICATION

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, on Sunday, June 7, 1987, friends and parishoners will celebrate the retirement of one of my long-time friends, Father Robert E. Hungling. Father Hungling has an illustrious 45-year career as a high school teacher and as pastor of the Church of the Assumption, located in Mount Healthy, OH, in my district for 16 years. However, we not only honor the length of Father Hungling's service to the church, the Mount Healthy community, and Greater Cincinnati, but the quality of that service as well. His contributions of talent, leadership, and responsibility have fostered significant and lasting improvement in the community.

Father Hungling was ordained a priest in 1942. In 1944 he received a masters in education from Catholic University in Washington, DC. From 1944 and 1960 he taught English at Purcell High School in Cincinnati. He first served Assumption parish as an associate pastor from 1947 to 1953, while he was still teaching high school. Father Hungling served brief pastorates in Waynesville and Blanchester, OH, before being transferred to Resurrection Church in the community of Price Hill, where he served from 1965 to 1971. Father Hungling became pastor of Assumption Church in 1971. He's greatly loved by his parishioners to whom he has ministered untiringly and whom he has supported to become involved in the work of the church.

Aside from his pastoral duties, Father Hungling served his community in many different ways. He has been Chaplain of St. Isaac Jogues General Assembly, fourth degree Knights of Columbus, from 1967 to the present. From 1969 to 1971 he served as president of Seton High School Board of Education. In the archdiocese of Cincinnati he served as a member of the Priests Senate from 1969 to 1970 and from 1972 to 1974 he was a member of the Archdiocesan Pastoral Council. Following that he was dean of St. Margaret Mary Deanery for 4 years.

Father Hungling is a man who personifies kindness and love. His service to our community indicates that we all can make a difference and help improve our world by care, dedication, and hard work. I thank him for his years of unselfish time and effort; his contributions have a resounding effect on our community.

TRIBUTE TO MARVIN PESKIN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. TRAFICANT. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to an outstanding constituent of mine, Mr. Marvin Peskin. Mr. Peskin is being honored this Sunday at the Squaw Creek Country Club in Vienna, OH. He is being given the prestigious Guardian of the Menorah Tribute.

The Guardian of Menorah Tribute is given each year to an outstanding member of the community who has exhibited dedicated and excellent service to local youth and the community. No one deserves this honor more than Marvin.

Marvin is currently the president of the Akiva Academy and a member of the boards of the Commission for Jewish Education, the Youngstown Area Jewish Federation, and Temple El Emeth. Marvin has lived in Youngstown since 1930 and is president of the Peskin Sign Co., Inc. He is presently serving as chairman of the Civic Awards Committee of the Youngstown Area Chamber of Commerce.

Throughout his career, Marvin has dedicated himself to the sacred principle of serving others. He cares deeply for his community and for the future of our young people. He is a man of deep faith and conviction. We in the Youngstown area are lucky to have a person like Marvin in our community.

Mr. Speaker, I am honored to pay tribute to Marvin Peskin and I wish him and his family the best of luck.

ECONOMIC RECOVERY IS ALIVE AND KICKING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of the American people an article in the May 22, 1987, issues of the Washington Times by Donald Lambro entitled, "No Letup in Our Economic Recovery." As the article points out the jobless rate fell last month to 6.3 percent, its lowest since the beginning of this decade.

Mr. Speaker, I urge my colleagues and the American people to review the following article on the health of our national economy:

[From the Washington Times, May 22, 1987]

NO LETUP IN OUR ECONOMIC RECOVERY

(By Donald Lambro)

Politicians and pundits alike were stunned earlier this month by the sharp drop in the unemployment rate for April, although—given the robust rate of new business growth in this country—they shouldn't have been.

The jobless rate fell to 6.3 percent, its lowest since the beginning of this decade, providing further proof that the national economic recovery begun at the end of 1982 is still alive and kicking. A record 112 million Americans are now employed.

Many economists consider an unemployment rate between 5.5 percent and 6 percent to be tantamount to full employment, because a large part of today's jobless rate is made up of workers who are temporarily in transition from one job to another or are new entrants into the labor force.

America is in the fifth year of the current economic expansion, one of the longest recoveries in postwar history, and virtually no economist is predicting that it's going to end any time soon.

The 6.3 percent rate, the lowest since April 1980, represented a much larger decline than most economists expected. In fact, many economists were confidently predicting that the jobless rate would remain unchanged.

They were supported by an army of gloom-and-doom politicians who have whipped themselves into a protectionist frenzy, crying that a "flood" of imports is costing the United States thousands of jobs.

Just how they reconcile this view with the well-documented fact that the U.S. economy has created 13 million new jobs since 1982 is a mystery, because they never mention America's job-creation record in their diatribes.

Still, we should all be thankful that America's entrepreneurs aren't listening to these professional naysayers.

These businessmen and women just keep plugging away—creating new enterprises, inventing new production and marketing innovations and selling their goods and services both here and abroad.

The happy result is that the Great American Job Machine keeps humming along, producing nearly half a million jobs last month alone, more than twice the number many economists were predicting.

What's happening here?

Well, what's happening is the continuing growth in new business formation, more than 650,000 newly incorporated businesses per year, resulting in the creation of most of those 13 million new jobs.

The engine driving this incredible job machine is largely made up of small to mid-sized businesses that have been producing up to 80 percent of all the new jobs being created in the United States.

Indeed, most new jobs are coming from enterprises employing fewer than 100 people, while the big Fortune 500 corporations have shown little job growth in recent years.

Where is the job picture headed?

Unemployment will very likely continue to decline throughout the rest of this year, as new business formation continues to expand at a robust rate in the Age of the Entrepreneur.

The 1986 tax-reform law is going to channel the nation's investment resources more efficiently into business expansion and new venture-capital enterprises. And a continuing decline in the deficit under Gramm-Rudman-Hollings is going to result in less future borrowing by the U.S. Treasury, leaving more private capital in the nation's economy.

The decline in the dollar and the Commerce Department's relaxation of excessive federal export licensing regulations are going to increase export sales in the coming months, and that's also going to help the job picture here.

But Congress can help to lower the still unacceptable jobless rates in areas suffering from economic depression.

Among the steps it can take: Enactment of President Reagan's "Enterprise Zones" legislation to stimulate economic growth in poor inner cities; liberalization of tax breaks under Individual Retirement Accounts and other savings plans to boost available investment capital; and elimination for counterproductive labor regulations—such as the Labor Department's "home worker rules"—which keep an underclass of workers out of the nation's economic mainstream.

But perhaps the most important step Congress can take is a further reduction in spending.

Every dollar that is not taxed away and spent by Washington is another dollar that will be saved, invested, or spent by business or consumers, nourishing greater economic growth and helping to raise the ladder of opportunity for all Americans.

THE RETIREMENT OF MR. JOHN SWAFFORD

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GORDON. Mr. Speaker, our public education system is a precious resource that holds the key to our Nation's future. A good education opens the doors of opportunity for our young adults. The educational community in Murfreesboro, TN, has been fortunate to have Mr. John Swafford, an outstanding educator, who has given unselfishly to our young adults for many years.

Mr. Swafford, a veteran teacher, coach, and principal will retire at the end of this academic year, taking with him the memories of 36 years in public education.

During his tenure, Mr. Swafford taught and coached football and basketball at Polk County High School and Murfreesboro's Central High School. Later he was a principal and superintendent in Warren County. Since 1972, Mr. Swafford has held the leadership role at Oakland High School and during that time the school has had 31 National Merit Scholarship finalists. For both academic and athletic achievement the school is well known throughout our State.

While we all have a sense of great loss as we watch Mr. Swafford retire, we know that many students and teachers have gained a great deal from his presence and his influence will be felt long into the future. I wish Mr. Swafford many happy years of retirement and hope he continues to lend his knowledge and leadership to our community in coming years.

ANGELES MESA BRANCH OF THE LOS ANGELES YWCA HONORS DR. ANN SHAW

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. DIXON. Mr. Speaker, I want to congratulate Dr. Ann Shaw who will be recognized at the Angeles Mesa Branch of the Los Angeles YWCA's gala awards dinner on Friday, June 5, 1987. The theme of the affair is "The Pride of Womanhood," and the leadership awards to be presented will spotlight several women who have made significant contributions to the Los Angeles community. The awards dinner is in honor of Dr. Shaw, an outstanding citizen who has held leadership positions in numerous civic and political organizations.

Dr. Shaw is currently president of the Wilfandel Club of Los Angeles and a member of its corporate board; she sits on the region V board, the awards and recognition committee, and the Underserved Committee of United Way, Inc. She also serves on the board of visitors of the UCLA Medical School, Loyola Law School, and as a trustee emeritus of the University of Redlands. She previously served as chair of the Board of Founders' Savings and Loan Association.

Over the years, Dr. Shaw has been an active crusader for women's rights. She has served on the Board of the Women's Council of the Los Angeles Chamber of Commerce, Church Women United, Women For, and American Women for International Understanding. Her involvement with the YWCA spans 30 years. She is a past president of the Los Angeles YWCA, a former member of the YWCA National Board, and is at this time serving as a member of the YWCA World Service Council.

Ann Shaw became a part of California history when she was the first woman and first black person appointed and reappointed to the State commission on judicial performance. She has received numerous merit awards for community service and involvement, including the Los Angeles Times Woman of the Year, the Gold Key Award—United Way's highest honor—the 1985 Black Woman of Achievement Award—from the NAACP Legal Defense of Educational Fund—the Los Angeles Sentinel Woman of the Year Award, and the 1986 award from the Big Sisters of Los Angeles.

Dr. Shaw, who was educated at the University of Redlands, Ohio State University, and the University of Southern California, has worked as both a university teacher and a social worker. A mother of four and the widow of the late Leslie N. Shaw—former postmaster of Los Angeles and Great Western Financial Corp. executive—she has still found time to serve the community in many capacities.

Dr. Shaw provides a role model for all women to continue to work diligently to improve themselves and society. I am pleased to have this opportunity to call attention to her many accomplishments, and proud to inform my colleagues of the well-deserved honor that is being bestowed upon her. The community of Los Angeles has benefited greatly from her presence.

A TRIBUTE TO THE GRAY PANTHERS OF GREATER ROCHESTER

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LAFALCE. Mr. Speaker, I rise today to call to the attention of my colleagues the good works of a community organization in my district: the Gray Panthers of Greater Rochester.

Consisting of 200 members, the Gray Panthers of Greater Rochester are actively involved in meeting the needs of Rochester's senior citizens. They have published a series of studies and directories, including one which offers Medicare beneficiaries important guidance and assistance in selecting physicians. In addition, the Gray Panthers of Greater Rochester interview and evaluate candidates for public office, thereby allowing seniors to make informed political decisions on election day.

Ultimately, the goal of the Gray Panthers of Greater Rochester is to demonstrate that seniors are, and should be, creative and productive members of society. The Panthers see it as their role to dispel the myth which says that once a person reaches 65 years of age, he or she no longer has anything to contribute to the larger community.

This myth needs dispelling, and on the occasion of Older Americans Month, I wish to extend my congratulations to the Gray Panthers of Greater Rochester for doing just that. Mr. Speaker, I commend the Gray Panthers of Greater Rochester for their contributions to our community and wish them continued success in the years to come.

TOWN OF FORESTBURGH, NY, SESQUICENTENNIAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. GILMAN. Mr. Speaker, 150 years ago this week, a new President of the United States, Martin VanBuren, was still getting settled in the White House. Washington, DC at that time was a city of wide, muddy roads with great vistas, but few buildings. Congress had recently voted to abolish the charter of the Bank of the United States, and one result of that momentous decision was the "Panic of 1837," our Nation's first major depression. The total population of the United States was somewhere between 13 and 18 million, with a density of 7.4 people per every square mile of land, as opposed to the 64 people per square mile who live here today.

The United States, isolated from Europe by the Atlantic Ocean, did not involve itself much in foreign affairs in 1837. Queen Victoria was just beginning her long reign on the British throne. Germany and Italy had not yet united as cohesive nations, and the polar regions were still unexplored. In fact, the diplomats of most nations considered assignment to embassies in Washington, DC to be "hardship" assignments, and were offered extra pay to accept such a thankless position.

There were only 26 States in our Union in 1837, and the MIssissippi River was considered the Western Frontier. The great chronicler of that frontier—Mark Twain—was only 2 years old, California, New Mexico, Arizona, and Texas were all still a part of the newly independent Republic of Mexico, and the vast mineral resources of this region were still unknown. The great waves of immigration which washed American shores—the Irish, the Italians, the Germans, and Eastern Europeans—were still in the future.

America was a vastly different nation in 1837.

It was in this vastly different nation, on May 30, 1837, that the town of Forestburgh, in Sullivan County, NY, held its first town meeting. It was only a few weeks earlier that the New York Legislature adopted legislation creating the town, and the residents were prompt to exert their responsibilities under our form of government.

Although American life has changed during the subsequent 150 years to an extent that none of the town fathers could have foreseen, the town of Forestburgh still enjoys the model type of local government and community activity that would make those Founding Fathers proud. Led by Town Supervisor, Paul A. Rausch, town historian Elsie B. Winterberger, and the entire town government, the town of Forestburgh is embarking on an ambitious series of celebrations marking their sesquicentennial. The Forestburgh Founders Day calls to the attention of all of us the foundation upon which the town was established. It is impressive to note that, during the course of these celebrations, the town of Forestburgh is paying proper homage to the veterans who, throughout the years, dedicated their lives in our armed services to ensure that not just their townspeople but all Americans could continue to enjoy the fruits and benefits of our free society.

As part of the celebrations, the town of Forestburgh will display examples of the log cabins which were built by the original settlers. Company H, 143d New York Volunteer Infantry will set up an encampment, identical to those occupied by their brave predecessors in this highly distinguished company. The Forestburgh Post Office will mark the occasion with a special cancellation stamp, and a traditional bonfire and fireworks display will put the perfect capstone on what promises to be a memorable Founder's Day.

Later in the year, additional social and historic activities are planned, which will be climaxed by the burial of a time capsule dedicated to the future of the town of Forestburgh.

Mr. Speaker, I invite my colleagues to join with me in commending the town of Forestburgh for remembering that only by knowing our past can we chart our course for the future, and for putting a high premium on preserving our heritage for future generations.

AN ARTISTIC DISCOVERY

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. PRICE of Illinois. Mr. Speaker, I am proud to submit for the RECORD, the winner of the Sixth Annual Congressional Art Competition for High School Students in the 21st District of Illinois is Debbie Hilger. Honorable mentions were awarded to: Kimberly A. Miller and Jill Dugger. All of the works submitted were winners in my book and I wish we could have awarded them all. I would also like to thank all of the teachers for their encouragement of the talents of these young people.

THE 25TH ANNIVERSARY OF WESTCHESTER-PUTNAM SCHOOL BOARD ASSOCIATION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. FISH. Mr. Speaker, I rise on this occasion to announce to this Chamber that on June 4, 1987, the Westchester-Putnam School Boards Association, Pleasantville, NY, will celebrate a quarter century of service to the school boards of Westchester and Putnam Counties.

The Westchester-Putnam School Boards Association is comprised of 55 individual school boards in the two counties. These separate boards are responsible for educating nearly 130,000 of the young people I represent.

I salute the dedication and efforts of all the members and past members of the association for the high level of education they have brought to so many children. They have made a lasting effect on the lives of those who pass through their schools by giving them the freedom to use their minds to meet their potentials.

I will be in my home district speaking before a group of literacy volunteers from Dutchess County. I am reminded of the handicap endured by those without the tools of learning and education. Our education is continually reflected in the quality of our lives.

Knowledge is freedom. I thank the Westchester-Putnam School Boards Association for the 25 years it has served public education. I extend all my best wishes for a happy anniversary and continued performance.

TWO HUNDRED YEARS AGO TODAY AT THE CONSTITUTIONAL CONVENTION—MAY 25

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. SHARP. Mr. Speaker, on May 25, 1787, 29 delegates from 9 States took their places in the Pennsylvania State House for the start of the Constitutional Convention.

Ahead of them lay a long summer of debate which would ultimately determine the fate of a nation.

General George Washington was unanimously chosen as President of the Convention. His acceptance speech modestly asked the assembled gentlemen to forgive his inexperience.

Many State delegations saw their task as making improvements in the Articles of Confederation—the existing weak National Government. The delegation from Virginia, however, saw the need for an entirely new Government and they presented their case to the Convention 200 years ago:

"The crisis has arrived at which the good people of America are to decide the solemn question whether they will * * * reap the just fruits of that Independence * * * or whether * * * they will * * * furnish our enemies with cause to triumph."

TRIBUTE TO GAR HIGH SCHOOL BAND

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. KANJORSKI. Mr. Speaker, it is my great pleasure to bring to your attention the Grand Army of the Republic High School Jazz Band of Wilkes-Barre, PA, which will perform in two recitals in Washington on Friday, May 29, 1987.

The GAR High School Jazz Band will give their first performance on the east front House steps of the Capitol Building at 11:30 a.m., and again will perform at the Pavilion at the Old Post Office at 5:30 p.m.

This special group of musicians range in age from grade 9 through grade 12. They have performed at a number of civic and social events on both a local and State level, including a benefit for the American Red Cross. The GAR Jazz Band has achieved many outstanding awards for their efforts, and its members are particularly looking forward to their Washington performances. The members of the band will be accompanied by Brian Fischer, the band director.

Mr. Speaker, it is indeed an honor for me to take this opportunity to draw the attention of my colleagues in the House of Representatives to the many impressive accomplishments of the GAR High School Jazz Band, and to encourage them to take a moment of their time on Friday morning to enjoy the work of these fine musicians.

TRIBUTE TO JOSEPH REGIS DOLAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. BERMAN. Mr. Speaker, I ask my colleagues today to join me in honoring a valued and respected member of my community, Joseph Regis Dolan. Joe is retiring from the California Department of Motor Vehicle after 19 years of outstanding service.

Joe Dolan's pleasant personality and ready willingness to be helpful has endeared him to both his colleagues in the DMV and to the public that he served so well. In his kind and friendly way, he epitomized the true concept of public service. Always ready to go the extra mile, he created a true fan club of people that he helped with difficult problems.

Joe is extremely well-known for his activities to promote safety and awareness. Groups ranging from senior citizens to high school students have honored him for his contributions to the well-being of his community. He is active in the chamber of commerce and in local government.

I invite you all to join me in wishing Joe the greatest of joy in his retirement. I hope that he will take some time for relaxation and recreation, although I know that he will find many new ways to continue his tradition of service to his many friends, neighbors, and fans.

DERBY-SHELTON AND THE AHLEN, GERMANY, FIREFIGHTERS

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to recognize a 9-year fellowship between the Derby/Shelton, CT, and Ahlen, Germany, Fire Fighters Friendship Force.

The Derby/Ahlen Fire Fighters Friendship Force was initiated in 1978 when Ann and Manfred Muenz, members of the Derby East End Hose Co. No. 3, took part in an exchange program with the Ahlen Volunteer Fire Department in Germany. This June will mark the fifth of such exchanges as 20 members of the Derby/Shelton Volunteer Fire Department join in the Ahlen's 85th anniversary celebration. In addition to the scheduled parade and presentations, the East End Hose Co. representatives plan to travel through Europe for 2 or 3 weeks.

I commend the joint efforts of the Derby/Shelton and the Ahlen, Germany, firefighters for their continued friendship. I know my colleagues will join me with honoring the Fire Fighters Friendship Force and in wishing them continued good will and brotherhood.

A JOB WELL DONE—SAN MATEO ELEMENTARY AND SECONDARY SCHOOLS IMPROVE STANDARDS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 27, 1987

Mr. LANTOS. Mr. Speaker, I am pleased to share with my distinguished colleagues news of recent academic progress in California's Eleventh District elementary schools. The State superintendent of public instruction, Mr. Bill Honig, recently provided me with results of annual statewide math and reading tests of students in the third, sixth, and eighth grades.

At all three grade levels, approximately half of the schools met both the math and reading target goals, as set by committees of personnel from school districts, universities, and the State department of education. In addition, district elementary schools scored consistently higher than the statewide average for the sixth and eighth grades.

Administrators, teachers, students, and parents alike, are to be commended for these encouraging results. Student display of fundamental knowledge and skills in math and reading echos the county schools' commitment to excellence in education.

The importance of a sound education cannot be stressed too highly—education is the key that unlocks a world of boundless opportunities. On this occasion, I would like to congratulate San Mateo County elementary schools for a job well done.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 28, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 29

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affairs.
2172 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on U.S. policy in the Persian Gulf.
SD-419

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

JUNE 1

2:30 p.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on S.J. Res. 128, prohibiting the sale to Honduras of certain defense articles and related defense services, focusing on the sale of F-5 aircraft.
SD-419

JUNE 2

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

9:30 a.m.
Energy and Natural Resources
To hold hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.
SD-406

Judiciary
To hold oversight hearings on certain provisions of the McCarran-Ferguson Act, which provides exemptions from the antitrust laws for the insurance industry.
SD-226

10:00 a.m.
Foreign Relations
Business meeting, to mark up S.J. Res. 128, prohibiting the sale to Honduras of certain defense articles and related defense services.
SD-419

11:00 a.m.
Foreign Relations
Business meeting, to consider S. Res. 176, calling for the immediate release of all the children detained under the state of emergency regulations in South Africa, and pending nominations.
SD-419

2:00 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume oversight hearings to review rail safety issues.
SR-253

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings to review the implications of certain provisions of S. 694, to provide a comprehensive national oil security policy, for energy regulation and conservation and other areas of energy policy.
SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 3

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

9:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on issues concerning the performance of a certain member of the Nuclear Regulatory Commission.
SD-406

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on the transportation of radioactive materials.
SD-406

2:00 p.m.
Judiciary
To hold hearings on the nominations of James T. Turner, of Virginia, to be a Judge of the United States Claims Court, Robert F. Kelly, to be United States District Judge for the Eastern District of Pennsylvania, Philip M. Pro, to be United States District Judge for the District of Nevada, and Robert H. Bell, to be United States District Judge for the Western District of Michigan.
SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 4

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review the extent and nature of foodborne illnesses in the United States.
SR-332

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 492, Construction Industry Labor Law Amendments of 1987.
SD-562

10:00 a.m.
Foreign Relations
Business meeting, to resume consideration of proposed legislation to better facilitate U.S. trade with developing countries by promoting opportunities for exports of goods and services from the United States.
SD-419

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 373, authorizing funds for fiscal years 1988 through 1993 for elementary and secondary education assistance.
SD-430

2:00 p.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 5

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

9:30 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on current water-related programs of the U.S. Geological

Survey, focusing on quantification and analysis of groundwater resources.
SD-366

10:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on tax incentives to increase energy security.
SD-215

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 8

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on pending clean air proposals.
SD-406

JUNE 10

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on pending clean air proposals.
SD-406

Small Business
To hold hearings to review the impact on small business of certain provisions of S. 79, to require notification to workers who are at risk of occupational disease.
SR-428A

JUNE 11

9:30 a.m.
Energy and Natural Resources
To resume hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on clean air proposals.
SD-406

JUNE 12

9:30 a.m.
Energy and Natural Resources
To continue hearings on oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Finance
Health Subcommittee
To resume hearings on the quality of long-term health care.
SD-215

JUNE 16

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

JUNE 17

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the implementation of the Veterans Administration loan guaranty program, and on proposed legislation relating to the VA loan guaranty program.
SR-418

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

JUNE 18

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

9:30 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To resume hearings on current water-related programs of the U.S. Geological Survey, focusing on quantification and analysis of groundwater resources.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To resume oversight hearings on the Department of Energy's high level waste program, including a proposal for the authorization of a monitored retrievable storage facility.
SD-406

Small Business
To hold hearings on S. 437, to revise certain provisions of the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.
SR-428A

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
2172 Rayburn Building

JUNE 23

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 24

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 25

9:00 a.m.
*Veterans' Affairs
To hold hearings on S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 453, Veterans' Ionizing Radiation Compensation Improvements Act, S. 1002, Veterans' Radiation Exposure Disability and Death Benefits Act, and other related measures.
SR-418

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

2:00 p.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

JUNE 26

9:00 a.m.
Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

JULY 16

9:30 a.m.

*Veterans' Affairs

Business meeting, to consider S. 6, Veterans' Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 917, to authorize a headstone allowance for prepurchased grave markers and to modify eligibility requirements to the plot allowance, S. 1090, Veterans Administration Insurance Amendments, and related proposals, and proposed legislation providing for disability payments based on nuclear-detonation radiation exposure.

SR-418

POSTPONED

May 28

2:00 p.m.

Governmental Affairs

To hold hearings on S. 1233, Economic Competitiveness, International Trade, and Technology Development Act of 1987.

SD-342

June 1

9:30 a.m.

Governmental Affairs

To resume hearings on S. 1233, Economic Competitiveness, International Trade, Technology Development Act of 1987.

SD-342

June 3

10:00 a.m.

Governmental Affairs

Business meeting, to mark up S. 1233, Economic Competitiveness, International Trade, and Technology Development Act of 1987.

SD-342

June 4

9:30 a.m.

Governmental Affairs

Business meeting, to continue markup of S. 1233, Economic Competitiveness, International Trade, and Technology Development Act of 1987.

SD-342